AGENDA
Council Meeting

Monday, 14 December 2020 commencing at 6:00 PM

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

VENUE:
www.bendigo.vic.gov.au/councilmeeting

NEXT MEETING:
Monday 25 January 2021
Livestream

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This Council Meeting is conducted in accordance with the Local Government Act 2020 as amended by the COVID19 Omnibus (Emergency Measures) Act 2020 and Local Law Process of Municipal Government 2020

Council Vision

Greater Bendigo - creating the world's most liveable community.

Council Values

Six values inform everything we as Council do in working together to be the best we can for all of our community.

Seeking to achieve the best value for our use of the community's public funds and resources, by:

- We Lead;
- We Learn;
- We Contribute;
- We Care;
- We Respond;
- We Respect.

Goals

- Presentation and Managing Growth
- Wellbeing and Fairness
- Strengthening the Economy
- Environmental Sustainability
- Embracing our Culture and Heritage
- Lead and Govern for All

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3. OPENING STATEMENT

4. MOMENT OF SILENT REFLECTION

5. ATTENDANCE AND APOLOGIES

6. SUSPENSION OF STANDING ORDERS

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

7. COMMUNITY RECOGNITION

8. PUBLIC QUESTION TIME

9. RESUMPTION OF STANDING ORDERS

That Standing Orders be resumed.

10. CR EVANS' REPORT

11. DECLARATIONS OF CONFLICT OF INTEREST

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

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

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

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

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

12. CONFIRMATION OF PREVIOUS MINUTES

12.1. Confirmation of Minutes

Purpose

The following items were considered at the Ordinary Council meeting held on Wednesday 21 October 2020 at 6.00pm and a Meeting of Council held on Thursday 19 November 2020 at 7.30pm:

Summary

Wednesday 21 October 2020

Report No.	Item	Recommendation
1.1	City of Greater Bendigo Annual Report 2019/2020	That Council receive the City of Greater Bendigo 2019/2020 Annual Report.
2.1	Recognition of Retiring Councillors	That Council recognise and acknowledge the commitment and achievements of retiring Councillors Matt Emond who has served as a Councillor for Lockwood Ward for since 2016 and James Williams who has served as a Councillor for Whipstick Ward since 2012.
4.1	Planning Scheme Amendment C235 (Bendigo City Centre Heritage Study 2020) Consideration of Submissions and Request a Panel be Appointed	That Council request the Minister for Planning appoint an Independent Panel to consider the submissions received during the formal exhibition period.
4.2	Planning Scheme Amendment C255 - La Trobe University Rezoning of Surplus Land, Submission to Government Land Planning Service	That Council make a submission regarding Planning Scheme Amendment C255 to the Government Land Planning Service based on the position outined in this report.
4.3	Planning Scheme Amendment - Authorisation for Permanent Heritage Controls (C268) for 5-7 Shakespeare Street, Spring Gullly	That Council: 1. Request the Minister for Planning to authorise Councill to prepare an amendment to the Greater Bendigo Planning Scheme to appy a permanent Heritage Overlay to 5-7 Shakespeare Street, Spring Gully. 2. If authorisation is granted, exhibit the permanent amendment to the Greater Bendigo Planning Scheme giving notification as required for the minimum

Report No.	Item	Recommendation
		statutory exhibition period of one month.
4.4	524 Heathcote-Redesdale Road, Heathcote - Use and Development of a Dwelling, including Outbuilding, Removal of Native Vegetation and Creation of Access to a Road in a Road Zone Category	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 a dwelling, including outbuildings, removal of native vegetation and creation of access to a road in a Road Zone - Category 1 at 524 Heathcote-Redesdale Road, HEATHCOTE 3523 on the following grounds: 1. The proposal is contrary to the purpose and decision guidelines of the Rural Conservation Zone. 2. The proposal is contrary to the Rural Dwellings Policy at Clause 22.02, as well as State and Local policies that seek to direct rural residential development to appropriately zoned areas. 3. The proposal will result in an unacceptable environmental outcome for the land, having regard to the Rural Conversation Zone, Environmental Significance Overlay and Vegetation Protection Overlay applying to the land. 4. The design, scale and location of the built form will have unacceptable impact in its rural context.
4.5	252 Tandarra Road, Dummartin - Two Lot Subdivisions of Land (Dwelling Excision)	Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Refuse to Grant a Permit for two lot subdivision of land (dwelling excision) at 252 Tandarra Road, DRUMMARTIN 3570 on the following grounds: 1. The proposal is inconsistent with planning policy regarding rural subdivisions and agricultural land. 2. The lot to be excised is larger than that prescribed in the City's Rural Subdivisions Policy (being over 2 hectares in size). 3. The excision would create a second dwelling 'right' with the balance lot being over 40ha in size.

Report No.	Item	Recommendation
		4. The proposal is inconsistent with the purposes of the Farming Zone. 5. The proposal presents an unacceptable outcome with regards to the fragmentation of agricultural land and does not support or enhance agricultural production.
5.1	Healthy Greater Bendigo	That Council note the report on the Healthy Greater Bendigo initiative.
5.2	Healthy Heart Victoria and Active Living Census - Update	That Council note the report on the Healthy Heart of Victoria initiative and the 2019 Active Living Census.
8.1	World Heritage Recognition of the Central Victorian Goldfields Region	That Council note the progress towards the bid for World Heritage recognition of the Central Victorian Goldfields region.
9.1	Record of Assemblies	That Council note the record of assemblies of Councillors as outlined in this report.

Thursday 19 November 2020

Election of the Mayor for 2020/2021

Election of the Deputy Mayor for 2020/2021

Report No.	Item	Recommendation
9.1	Recording of Oaths and Affirmation of Office	That Council: 1. Acknowledge the taking of the oath or making an affirmation of office, and the signing and dating of each before the Chief Executive Officer on Tuesday November 10, 2020. 2. In accordance with the Local Government Act, incuding a record of the ceremony in the minutes of this meeting of Council.
9.2	Mayor's and Councillors' Allowances 2020/2021	That Council: 1. In accordance with the advice received from the Minister of Local Government, approve to set the allowance for the Mayor at $100,434 and the allowance for the Deputy Mayor and Councillors at $31,444 per annum 2. Note that these allowances are the same rate paid to the Mayor and Councillors in the 2019/2020 term. 3. Approve for tax to be withheld from the allowance at

Report No.	Item	Recommendation
		the appropriate rate. 4. Note that equivalent of the current Superannuation Guarantee Contribution (currently 9.5%) also applies 5. That a review of these allowances take place within 6 months of the election if the Minister does not refer to the Victorian Independent Remuneration Tribunal prior to this date.

RECOMMENDATION

That the Minutes of the Ordinary Meeting of Council held on Wednesday 21 October, 2020 and the Meeting of Council held on Thursday 19 November, 2020, as circulated, be taken as read and confirmed.

13. PETITIONS AND JOINT LETTERS

Nil

14. PRESENTATION AND MANAGING GROWTH

14.1. Planning Scheme Amendment C243 - Implement the Heathcote Flood Study 2016 - Consider Panel Report and Adoption of Amendment

Author	Frank Casimir - Planner Amendments
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Purpose

The purpose of this report is to seek Council resolution to accept the Independent Panel's recommendations for Greater Bendigo Planning Scheme Amendment C243 and to adopt the Amendment.

Summary

The Amendment proposes to implement the recommendations of the Heathcote Flood Study 2016, which was commissioned by the North Central Catchment Management Authority and the City, into the Greater Bendigo Planning Scheme.

Generally, the Amendment makes changes to the extent of the existing Urban Floodway Zone in Heathcote, updates the Land Subject to Inundation Overlay and introduces the Heathcote Local Floodplain Development Plan, October 2019. It also makes changes to the Municipal Strategic Statement to state that flooding is a risk in Heathcote.

Submissions made to the Amendment during its public exhibition process were forwarded to an Independent Panel appointed by the Minister for Planning, for a recommendation. The Panel recommended that the Amendment be adopted with minor changes.

RECOMMENDATION

That Council:

1. Accept the Independent Panel's recommendations except recommendation No.3.
2. Adopt Amendment C243 to the Greater Bendigo Planning Scheme with the minor changes to the mapping of the Urban Floodway Zone and to the Land Subject to Inundation Overlay.
3. Forward the adopted amendment to the Minister for Planning for approval, together with the prescribed information pursuant to Section 31(1) of the *Planning and Environment Act* 1987.

Policy Context

City of Greater Bendigo Community Plan 2017-2021:

Goal 4 Presentation and managing growth

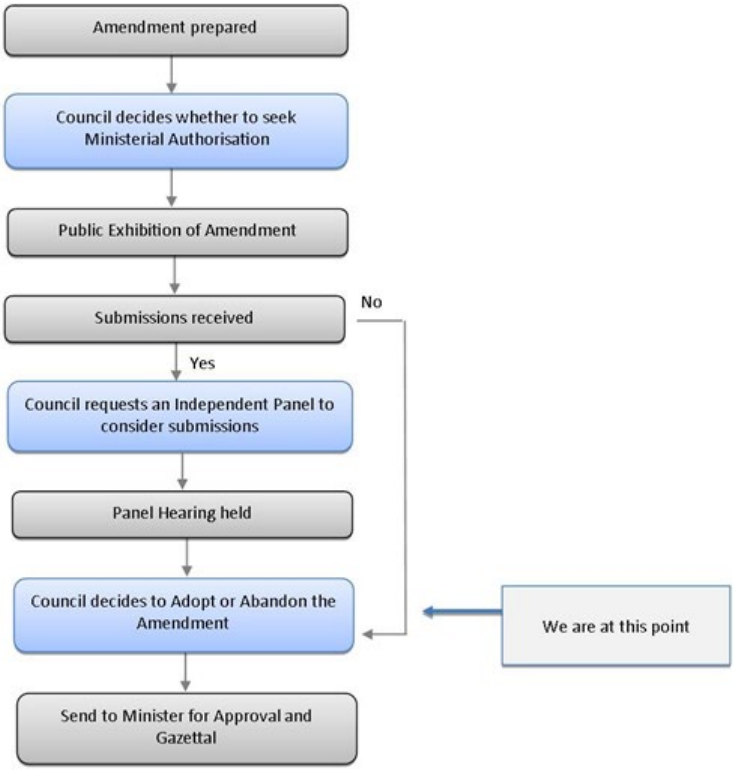
- Planning, developments and infrastructure that increase our liveability and pride in where we live

Goal 5 Environmental sustainability

- Protect and enhance our environment, conserve our resources and increase resilience to a changing climate.

Background Information

The key steps in the Amendment process are summarised below:



Previous Council Decisions

On 29 November 2019 Council resolved to:

1. Adopt the Heathcote Flood Study, 2016.

2. Request the Minister for Planning to authorise Council to prepare amendment C243 to the Greater Bendigo Planning Scheme.

3. When authorised by the Minister, exhibit Amendment C243 to the Greater Bendigo Planning Scheme, giving notification as required for the minimum statutory exhibition period of one month.

On 17 June 2020, council resolved to:

1. Accept the late submissions and request the Minister for Planning to appoint an Independent Panel to consider all outstanding submissions in regard to Planning Scheme Amendment C243.

Report

The attached Explanatory Report details the purpose and effect of the Amendment and provides the strategic justification for the amendment. Key issues identified in the Explanatory Report are discussed below.

Land affected by the Amendment

The Amendment affects approximately 320 properties across the township of Heathcote. These properties are located on either side of the McIvor Creek, which is the primary waterway that traverses the township in a general north-south direction. Some of the affected land will either be removed from the Urban Floodway Zone or have the existing extent of the Urban Floodway Zone increased or decreased.

Other affected land parcels are currently covered by the Land Subject to Inundation Overlay Schedule 3 which will be deleted and replaced by either the Land Subject to Inundation Overlay Schedule 1 or Schedule 2, which will also be extended to new properties. For some of the land parcels, the Land Subject to Inundation Overlay Schedule 3 will be deleted and not replaced by any new flooding overlays.

What the Amendment does

The Amendment proposes to:

- Rezone part of the land at 3 Barrack Street, Heathcote from Special Use Zone (Schedule 8) to Urban Floodway Zone.
- Rezone part of the land at 27 Caldwell Street and CA at 6D Forest Drive, Heathcote from Low Density Residential Zone to Urban Floodway Zone.
- Rezone part of the land at 31 Heathcote-Nagambie Road, Heathcote from Rural Living Zone to part Urban Floodway Zone.
- Rezone part of the land at 7 and 8 Fairy Dell Court, 2 High Street, 114-120, 120, 122-132, 134-136, 138-158 and 160-164 Kilmore Road, 3 and 4-6 McMahon Street, CA 13 Turner Street, Heathcote from General Residential Zone to Urban Floodway Zone.
- Rezone approximately 2.33 hectares of land at Crown Allotment 1, Northern Highway, Heathcote and part of the land at CA 6, 2-20, 22-36, 38-60, 62-76, 88 and 90-108 Kilmore Road, Heathcote from Mixed Use Zone to Urban Floodway Zone.
- Rezone part of land at 19 Ambers Drive, Heathcote from Urban Floodway Zone to Low Density Residential Zone.
- Rezone part of the land at CA 21 Forest Drive Heathcote from Urban Floodway Zone to Public Conservation and Resource Zone.
- Rezone land at CA 3 Bennett Street, Heathcote from Urban Floodway Zone to Rural Living Zone.
- Rezone part of the land at 273 High Street, 2-4 Mitchell Street, 1 and 5 Robinson Street, 2-6, 5 and 8 Routledge Street, and at 14 Thomas Street, Heathcote from Urban Floodway Zone to General Residential Zone.
- Insert new overlay maps 35LSIO and 37LSIO

- Delete the Land Subject to Inundation Overlay Schedule 3 (Heathcote and rural areas) from all land in the township of Heathcote (approximately 320 properties).
- Apply the Land Subject to Inundation Overlay Schedule 1 (depth of flooding up to and including 350 millimetres) to approximately 81 properties in the township of Heathcote.
- Apply the Land Subject to Inundation Overlay Schedule 2 (depth of flooding greater than 350 millimetres) to approximately 10 properties in the township of Heathcote.
- Apply both the Land Subject Inundation Overlay Schedule 1 and Schedule 2 to approximately 85 properties in the township of Heathcote.
- Apply simultaneously the Urban Floodway Zone, the Land Subject to Inundation Overlay Schedule 1 and Schedule 2 to approximately 94 properties in the township of Heathcote.
- Amend Clause 21.08 of the Municipal Strategic Statement to refer to the Heathcote Local Floodplain Development Plan, October 2019 to guide development and subdivision in areas that are subject to flooding.
- Amend Clause 21.10 of the Municipal Strategic Statement to include the Heathcote Flood Study, 2016 as a reference document in the Greater Bendigo planning scheme.
- Amend Schedules 1 and 2 to Clause 44.04 (Land Subject to Inundation Overlay) to add new permit exemptions, reword some of the existing permit exemptions for more clarity, and include reference to the Heathcote Local Floodplain Development Plan, October 2019.
- Amend Schedule 3 to Clause 44.04 to change its title by deleting the word “Heathcote”.
- Amend the Schedule to Clause 72.03 to update the list of maps in the Planning Scheme.
- Amend the Schedule to Clause 72.04 to insert the Heathcote Local Floodplain Development Plan, October 2019 as an incorporated document in the Greater Bendigo Planning Scheme.

The Panel Hearing

The Minister for Planning appointed an Independent Panel to consider all submissions made to the amendment. A Directions Hearing was held by video conference on 18 August 2020 to discuss preliminary matters prior to the main Hearing. At this Directions Hearing (among other directions), the Panel directed that City Statutory Planning officers and North Central Catchment Management Authority officers carry out further consultation with all five opposing submitters to try to resolve their concerns. The table below provides some details about the outcomes of this further consultation.

	Submitter	Property address	Date of meeting	Outcome
1.	Dewhurst Properties	CA 1 Northern Highway,	9 September 2020	The meeting was attended by the submitter's representative,

		Heathcote		North Central Catchment Management Authority officers and City Statutory Planning officers. The discussion evolved around what would be the most appropriate flood planning controls that should be applied to this property given that the *Heathcote Flood Study*, 2016 has identified the site as being within an area where the risk is high for humans in the event of a major flood. The submitter's representative argued that if the existing Land Subject to Inundation Overlay Schedule 3 is replaced with the land Subject to Inundation Overlay Schedule 2 whilst retaining zoning of the property, this will be adequate as flood planning controls to manage development on the property. North Central Catchment Management Authority officers and City Statutory Planning officers disagreed and maintained that the property should be rezoned to Urban Floodway Zone because of the level of the risk. Submission maintained.
2.	Department of Environment, Land, Water and Planning	Crown land generally located along the McIvor Road and part of 32 Heathcote-North Costerfield Road, Heathcote	2 September 2020 by video conference.	The meeting was attended by the Department of Environment, Land, Water and Planning representatives, North Central Catchment Management Authority officers and City Statutory Planning officers. Department of Environment, Land, Water and Planning representatives advised that they believe there is no requirement to rezone Crown land to the Urban Floodway Zone and instead, the Land Subject to Inundation Overlay Schedule 2 should be

				applied. North Central Catchment Management Authority officers and City Statutory Planning officers changed the original position and decided to agree with this and remove the Urban Floodway Zone from Crown land accordingly. City Statutory Planning officers also advised that the property at CA29 Ambers Drive, Heathcote, was erroneously identified by the Department of Environment, Land, Water and Planning in its submission as private land and the Public Conservation and Resource Zone should not be applied. Department of Environment, Land, Water and Planning officers agreed that this was a mistake and as a result, the site may be rezoned to Public Conservation and Resource Zone as proposed. Submission withdrawn on 15 September 2020.
3.	D F & N F Fitt and S & A Meagher	CA 13 Turner Street Heathcote	2 September 2020 by video conference	The meeting was attended by the submitters, North Central Catchment Management Authority officers and City Statutory Planning officers. The main argument of the submitters was that the extent of the Urban Floodway Zone should be reduced from their property to allow them to construct a dwelling on it in the future. Following an updated survey of the property, as requested by the Panel, North Central Catchment Management Authority officers agree that the extent of the Urban Floodway Zone can be reduced as requested by the submitters. The amendment map showing the submitters'

				property was subsequently changed accordingly. Submission withdrawn on 14 September 2020.
4.	S McDonald	96 Bennett Street Heathcote	4 September 2020 by video conference	The meeting was attended by the submitter's representative, North Central Catchment Management Authority officers and City Statutory Planning officers. This submitter also requested that the extent of the Urban Floodway Zone be decreased on their property. A fresh survey of this property as requested by the Panel was also carried out following which, North Central Catchment Management Authority officers agree that the extent of the Urban Floodway Zone can be reduced as requested by the submitter. The amendment map showing the submitters' property was subsequently changed accordingly. Submission withdrawn on 4 September 2020.
5.	Bev Place	23 Thomas Street Heathcote	2 September 2020 by teleconference	The meeting was attended by the submitter, North Central Catchment Management Authority officers and City Statutory Planning officers. This submitter requested that the extent of the Land Subject to Inundation Overlay Schedule 1 and 2 be reduced on their property. After a careful analysis of the data provided by a fresh survey of the property, as requested by the Panel, North Central Catchment Management Authority officers agreed that the Land Subject to Inundation Overlay Schedule 1 and 2 could be reduced from this property specifically because of the unique characteristics of

				this site. The amendment map showing this submitter's property was subsequently changed accordingly. Submission withdrawn on 11 September 2020.

Table 1: Outcome of further consultation with submitters following the Panel directions

As shown in the table above, only one submission was maintained following this further consultation and the remaining four were resolved and withdrawn.

The main Panel Hearing was held on 22 September 2020 by video conference and was attended by the Panel Chairperson, City Statutory Planning officers, North Central Catchment Management Authority officers and the representatives of Dewhurst Properties. Both the City, jointly with the North Central Catchment Management Authority officers, and the representative of Dewhurst Properties called in expert witnesses. The Panel considered all written and oral submissions and material presented to it by the different parties in connection with the Amendment.

The Panel Report and Recommendations

The Panel Report was received on 6 October 2020 and contained four (4) recommendations. Under Section 26 of the *Planning & Environment Act,* 1987, the panel report was automatically released to the public on 4 November 2020, 28 days following its receipt.

The Panel made the following recommendations:

1. Adopt Amendment C243 to the Greater Bendigo Planning Scheme as exhibited.
2. Amend the extent of the proposed Urban Floodway Zone and the Land Subject to Inundation Overlay as shown in Appendix B to the Panel Report.
3. Remove the Public Conservation and Resource Zone from CA 29 Ambers Drive, Heathcote.
4. Council to discuss with the Department of Environment, Land, Water and Planning (Planning) the best mechanism to include more transparent reference to the *Heathcote Local Floodplain Development Plan* 2019 in the Schedules to the Land Subject to Inundation Overlay.

In summary, the Independent Panel supported the Amendment as exhibited. In its concluding remarks, the Independent Panel states that it is satisfied that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework and is consistent with the relevant Ministerial Directions and Planning Practice Notes. The Independent Panel also added that the Amendment is well founded and strategically justified and that the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the table below.

Recommendation. No.	Panel Recommendation	Officer recommendations
1.	Adopt Amendment C243 to the	Accept the Panel's

Recommendation. No.	Panel Recommendation	Officer recommendations
	Greater Bendigo Planning Scheme as exhibited.	recommendation.
2.	Amend the extent of the proposed Urban Floodway Zone and Land Subject to Inundation Overlay as shown in Appendix B to this report.	Accept the Panel's recommendation. At Appendix B to the Panel report, there are (four in total) maps of the submitters' properties to show the decrease in the extent of the Land Subject to Inundation Overlay Schedules 1 and 2 and of the Urban Floodway Zone as agreed during the further consultations following the Directions Hearing.
3.	Remove the Public Conservation and Resource Zone from CA 29 Ambers Drive, Heathcote.	In its submission opposing the Amendment, Department of Environment, Land, Water and Planning (and subsequently City Statutory Planning officers) erroneously believed that CA 29 Ambers Drive, Heathcote was private land. Following further investigation, it was found that this property is public land owned by the City. As the Public Conservation and Resource Zone can be applied to public land, this property can be rezoned from Urban Floodway Zone to Public Conservation and Resource Zone as originally proposed by the amendment, consistent with the adjoining Crown land. No change to the amendment.
4.	Council discuss with the Department of Environment, Land, Water and Planning the best mechanism to include more transparent reference to the *Heathcote Local Floodplain Development Plan*, 2019 in the Schedules to the Land Subject to Inundation Overlay.	This is a matter that only the Department of Environment, Land, Water and Planning (Planning) can resolve because it will need changes to the existing format and contents of the Victoria Planning Provisions. City Statutory Planning officers will discuss the matter with the Department of Environment, Land, Water and Planning when

Recommendation. No.	Panel Recommendation	Officer recommendations
		it is sent to the Minister for Planning for approval. Accept the Panel's recommendation.

Table 2: Officers response to the Independent Panel recommendations

Importantly, the Panel agreed with the City's Statutory Planning officers and the North Central Catchment Management Authority officers that the property of the one remaining submitter who took their submission before the Panel, should be rezoned to Urban Floodway Zone. The Panel made its recommendation after hearing both verbal and written evidence from the City and North Central Catchment Management Authority officers and from the representatives of the property owner (the submitter).

The main arguments put forward by City and North Central Catchment Management Authority officers to apply the Urban floodway Zone are:

- The flooding characteristics (deep and fast flowing) of the site and lack of safe access.
- The absence of an effective and reliable flood warning service in Heathcote.
- Potential for adverse offsite impacts.

In their evidence to the Panel, the submitter's representatives were unable to convince the Panel that these issues could be satisfactorily addressed. The Panel agrees with City and North Central Catchment Management Authority officers that the risks associated with the development of the site would be high for humans. The Panel is particularly concerned about safe access to the site in the event of a major flood as it has not been demonstrated that safe access could feasibly be provided without prohibitive financial costs. Further, the Panel advises that even if an engineering solution is found that provides safe access to the site, there would still be substantial issues in managing flood flow paths around the site to prevent on-site and upstream flooding. The flood modelling for the site and projected flood depth and flow velocity contained in the *Heathcote Flood Study*, 2016 was not disputed by any of the parties at the Panel.

Apart from some minor mapping changes, the recommendations from the Independent Panel do not require any other change to any of the other exhibited documentation for the Amendment.

Consultation/Communication

Exhibition Procedures

The Amendment was exhibited for one month from 12 March 2020 to 20 April 2020. The formal exhibition of the Amendment started just before the State Government restrictions came into place due to COVID-19. The only change to the exhibition procedure was that from 18 March 2020, City Statutory Planning officers were unable to meet face to face with the affected landowners and occupiers and the public drop-in information session scheduled for 31 March 2020 in Heathcote was cancelled. City officers and officers of the North Central Catchment Management Authority remained

available to answer any queries from affected landowners and occupiers by email and telephone. A post was also put on Facebook on 8 April 2020 to encourage the public to comment on the Amendment.

Notice was also provided in the following manner:

- Individual notices were sent to all affected owners and occupiers. The notice also included an information bulletin (see attached) on the Amendment and told each affected landowner and occupier individually what the Amendment does to their land.
- Notices to prescribed Ministers under Section 19(1)(c) of the *Planning and Environment Act,* 1987
- Notices to all authorities materially affected under Section 19(1)(a) of the Act
- Public notice of the Amendment in the *Bendigo Advertiser* on 11 March 2020 and 14 March 2020 and in the *McIvor Times* on 25 March 2020
- Publication of the notice of the Amendment in the Government Gazette on 12 March 2020.
- Access on-line via the City webpage at www.bendigo.vic.gov.au and via the Department of Environment, Land, Water and Planning web page at www.planning.vic.gov.au/publicinspection.
- Facebook post on 8 April 2020, which attracted 2 responses and 3 likes.

Submissions

Seven (7) submissions were received during the exhibition period (including 5 late submissions). Two (2) of the submissions supported the Amendment and 5 opposed it.

The five submitters who opposed the Amendment were contacted and offered an opportunity to discuss their concerns with officers from the City and North Central Catchment Management Authority. Due to State Government COVID-19 restrictions prevailing at the time, officers were unable to meet face to face with the submitters and their concerns were discussed either on the phone or via exchanges of emails.

All five opposing submissions remained unresolved and were referred to the Independent Panel for a recommendation.

The key issues raised by the submitters included:

- The social and economic impacts of the Amendment on the Heathcote community have not been properly assessed.
- The Amendment would not provide for the fair, orderly, economic and sustainable use and development of land, including limiting opportunities for subdivision and development.
- The widespread application of the Urban Floodway Zone is generally inconsistent with Planning Practice Note 12 -Applying the Flood Provisions in Planning Schemes.
- The existing Land Subject to Subject to Inundation Overlay schedules are adequate to manage the impacts of flooding.
- Lack of consultation.

All submitters will be notified of Council's decision resulting from this report.

Conclusion
It is recommended that Council adopt the Amendment in its current form and forward the adopted Amendment to the Minister for Planning to approve. This will complete the Amendment process and the zone and overlays will be changed as proposed by the Amendment.

Options
Council has the option of:

- Adopting the Amendment in accordance with the above Officer Recommendations and sending to the Minister for Planning for Approval.
- Adopting the Amendment in part.
- Abandoning the Amendment under the Planning and Environment Act 1987 there is no right of review of a council's decision not to support the Amendment.

It is recommended that Council adopt the Amendment in accordance with the above Officer Recommendations and send the Amendment to the Minister for Planning for Approval.

Resource Implications

Officer time will be required to prepare the Amendment documentation for adoption and liaise with the Minister for Planning.

The Amendment is not expected to have any adverse effects on the resources and administrative costs of the City of Greater Bendigo.

Attachments

1. Panel Report
2. Explanatory Report

Attachment 1

Planning and Environment Act 1987

Panel Report

Greater Bendigo Planning Scheme Amendment C243gben Heathcote Flood Study

6 October 2020

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How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment. [section 27(1) of the *Planning and Environment Act 1987* (the Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Greater Bendigo Planning Scheme Amendment C243gben

Heathcote Flood Study

6 October 2020



Trevor McCullough, Chair

VICTORIA State Government | Planning Panels Victoria

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Glossary and abbreviations

AEP	Annual Exceedance Probability
CA	Crown Allotment
CFA	Country Fire Authority
Council	Greater Bendigo City Council
DELWP	Department of Environment, Land, Water and Planning
GMW	Goulburn-Murray Water
LiDAR	Light Detection and Ranging
LSIO	Land Subject to Inundation Overlay
MUZ	Mixed Use Zone
NCCMA	North Central Catchment Management Authority
PCRZ	Public Conservation and Resource Zone
PPF	Planning Policy Framework
PPN12	Planning Practice Note 12
UFZ	Urban Floodway Zone
VPP	Victoria Planning Provisions

Overview

Amendment summary	
The Amendment	Greater Bendigo Planning Scheme Amendment C243gben
Common name	Heathcote Flood Study
Brief description	The Amendment proposes to implement the findings of the *Heathcote Flood Study* 2016, by updating flooding controls to properties in Heathcote to ensure that flooding is considered in future development proposals
Subject land	The Amendment affects approximately 320 properties on both sides of the McIvor Creek in Heathcote.
The Proponent	Greater Bendigo City Council is the proponent for the Amendment. The Amendment has been prepared in conjunction with North Central Catchment Management Authority (NCCMA).
Planning Authority	Greater Bendigo City Council
Authorisation	Conditional authorisation was given under delegation from the Minister for Planning on 3 February 2020. The (mainly procedural) conditions were met prior to exhibition.
Exhibition	12 March to 20 April 2020
Submissions	Number of Submissions: 7 Opposed or requesting changes: 5 Submitters are listed in Appendix A

Panel process	
The Panel	Trevor McCullough
Directions Hearing	18 August 2020, by video conference
Panel Hearing	22 September 2020, by video conference
Site inspections	Due to Covid-19 restrictions no site inspections were possible. The Panel has relied on Google Maps and Google Earth and other material supplied by submitters.
Parties to the Hearing	**Council and NCCMA** represented by Alison Kiefel and Camille White respectively and calling expert evidence from: - Phillip Pedruco of Jacobs on Hydrologic and Hydraulic Modelling **Dewhurst Properties** represented by Andrea Tomkinson of the Tomkinson Group and calling expert evidence from: - Matthew Elliot of the Tomkinson Group
Citation	Greater Bendigo PSA C243gben [2020] PPV
Date of this Report	6 October 2020

Executive summary

Greater Bendigo Planning Scheme Amendment C243gben (the Amendment) seeks to implement the findings of the *Heathcote Flood Study* 2016, by updating flooding controls to approximately 320 properties on both sides of the McIvor Creek in Heathcote.

The Amendment has been prepared by Greater Bendigo City Council in conjunction with the North Central Catchment Management Authority (NCCMA).

Heathcote is affected by riverine or mainstream flooding from the McIvor Creek. Flooding within Heathcote is considered flash flooding, and there is little to no warning before flood waters impact on the township.

Heathcote has experienced a number of major flood events since settlement, the most notable flood events include September 1870, September 1906, April 1939 and May 1974.

The Urban Floodway Zone (UFZ) is proposed to be applied where the flood velocity and depth are projected to cause Significant or Extreme risk in a 1 per cent AEP flood event. The Land Subject to Inundation Overlay (LSIO) is proposed to be applied to areas inundated to a lesser extent. Changes are proposed the LSIO Schedules and the Amendment introduces the *Heathcote Local Floodplain Development Plan* 2019 as a guide to development in the floodplain. The Amendment proposes to retain, remove or apply the UFZ and LSIO to properties based on data from the *Heathcote Flood Study* 2016.

Council and the NCCMA submitted that in Heathcote the UFZ has historically been applied to public land as well as to freehold land on either side of the McIvor Creek which are exposed to high flood risks. The findings of the *Heathcote Flood Study* 2016 have confirmed that some of these sites are still in high hazard flood areas and the NCCMA is of the view that the UFZ should be retained on these sites.

The use of the UFZ (in preference to the Floodway Overlay) was examined by the Panel in relation to Planning Practice Note 12 - Applying the Flood Provisions in Planning Schemes.

The Panel accepts the arguments put forward by Council and the NCCMA for use of the UFZ in preference to the Floodway Overlay for higher risk areas in Heathcote. The Panel notes that the use of the UFZ is well established in Heathcote and replacement of the UFZ by the Floodway Overlay on some lesser risk properties would be problematic, both in terms of the logistics of mapping any changes and in terms of the wrong message it might send that some land is suddenly suitable for development.

DELWP submitted that it supported the Amendment, but suggested the following modifications:

- The land at CA 29 Ambers Drive, Heathcote is not rezoned to PCRZ because it is privately owned.
- Any Crown land managed by Parks Victoria or the department remains zoned Public Conservation and Resource Zone to ensure the highest level of protection from development is in place.

Four individual landowners raised site specific issues. The key issues by submitters were:

- The social and economic impacts on the Heathcote community have not been properly assessed

- The Amendment would not provide for the fair, orderly, economic and sustainable use and development of land, including limiting opportunities for subdivision and development
- The widespread application of the UFZ is generally inconsistent with Planning Practice Note 12 -Applying the Flood Provisions in Planning Schemes
- The existing LSIO schedules are adequate to manage the impacts of flooding
- Lack of opportunity to be consulted.

The Panel directed that further consultation be carried out with DELWP and other submitters and, where appropriate, further ground surveys should be undertaken to determine site specific topography more accurately.

Further consultation was carried out and four of the five submissions, including that of DELWP, were resolved. The Panel accepts the resolution agreed in each case and has recommended the agreed changes be adopted.

The one remaining unresolved submission is from Dewhurst Properties Pty Ltd, the owner of the land at CA 1 Northern Highway, Heathcote.

Dewhurst Properties submitted that the proposed imposition of the UFZ on the site would render the site undevelopable. It proposed that the site remain subject to the LSIO which would allow for development options to be explored and ensure any proposal is referred to the NCCMA. The submitter provided expert evidence that, while that development of the site is restricted by flood risk, this can be managed by engineering solutions and some development of the southernmost portion of the site is still possible.

Council and the NCCMA submitted that the UFZ should be applied and the Panel, on balance, agreed, concluding that:

- The application of the Floodway Overlay or LSIO to the site at CA 1 Northern Highway, Heathcote would not provide sufficient control of flood risk.
- Given the substantial to extreme flood risk modelled on the site and the fact that the site is surrounded by extreme high-risk areas, the Panel is satisfied that it is appropriate to apply the UFZ to 1 Northern Highway, Heathcote as exhibited.

Recommendation

Based on the reasons set out in this Report, the Panel recommends that Greater Bendigo Planning Scheme Amendment C243gben be adopted as exhibited subject to the following:

1. **Amend the extent of the proposed Urban Floodway Zone and Land Subject to Inundation Overlay as shown in Appendix B to this report.**
2. **Remove the Public Conservation and Resource Zone from CA 29 Ambers Drive, Heathcote.**
3. **Council discuss with the Department of Environment, Land, Water and Planning the best mechanism to include more transparent reference to the *Heathcote Local Floodplain Development Plan* 2019 in the Schedules to the Land Subject to Inundation Overlay.**

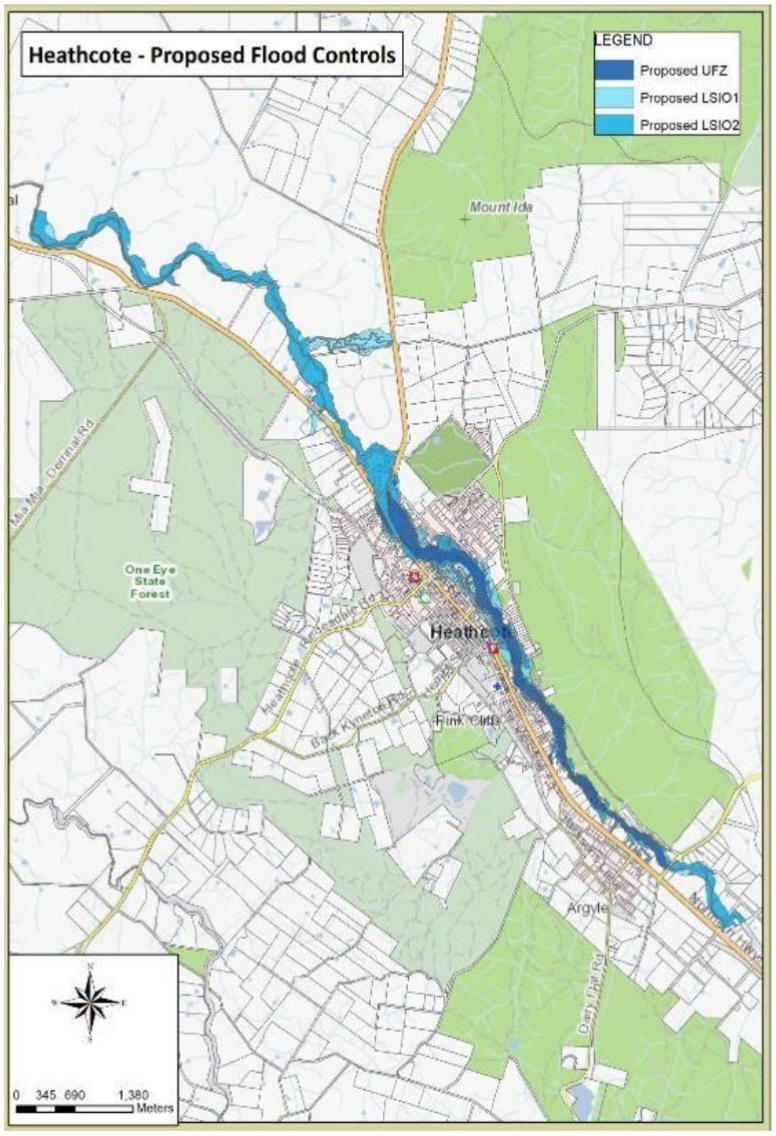
1 Introduction

1.1 The Amendment

(i) The subject land

Heathcote is located approximately 45 kilometres south-east of Bendigo and 120 kilometres north of Melbourne. The Amendment affects approximately 320 properties on both sides of the McIvor Creek in Heathcote as shown in Figure 1.

Figure 1 Extent of proposed Amendment



(ii) Amendment description

The Amendment implements the findings of the *Heathcote Flood Study* 2016, by updating flooding controls to properties. The Amendment conditionally exempts planning permit requirements under the Land Subject to Inundation Overlay (LSIO) Schedules and introduces guidelines for development within flood prone areas by incorporating the *Heathcote Local Floodplain Development Plan* 2019.

Specifically, the Amendment proposes to:

- Rezone part of the land at 3 Barrack Street, Heathcote from Special Use Zone (Schedule 8) to Urban Floodway Zone (UFZ).
- Rezone part of the land at 27 Caldwell Street and CA at 6D Forest Drive, Heathcote from Low Density Residential Zone to UFZ.
- Rezone part of the land at 31 Heathcote-Nagambie Road, Heathcote from Rural Living Zone to part UFZ.
- Rezone part of the land at 32 Heathcote-North Costerfield Road, Heathcote from General Residential Zone and Public Conservation and Resource Zone (PCRZ) to UFZ.
- Rezone part of the land at 7 and 8 Fairy Dell Court, 2 High Street, 114-120, 120, 122-132, 134-136, 138-158 and 160-164 Kilmore Road, 3 and 4-6 McMahon Street, CA 15A Pianta Street, CA 13 Turner Street, Heathcote from General Residential Zone to UFZ.
- Rezone approximately 2.33 hectares of land at CA 1, Northern Highway, Heathcote and part of the land at CA 6, 2-20, 22-36, 38-60, 62-76, 88 and 90-108 Kilmore Road, Heathcote from Mixed Use Zone (MUZ) to UFZ.
- Rezone part of land at 19 Ambers Drive, Heathcote from UFZ to Low Density Residential Zone.
- Rezone part of the land at CA 29 Ambers Drive and CA 21 Forest Drive Heathcote from UFZ to Public Conservation and Resource Zone.
- Rezone land at CA 3 Bennett Street, Heathcote from UFZ to Rural Living Zone.
- Rezone part of the land at 273 High Street, 2-4 Mitchell Street, 1 and 5 Robinson Street, 2-6, 5 and 8 Routledge Street, and at 14 Thomas Street, Heathcote from UFZ to General Residential Zone.
- Insert new overlay maps 35LSIO and 37LSIO.
- Delete the LSIO Schedule 3 (LSIO3) (Heathcote and rural areas) from all land in the township of Heathcote (approximately 320 properties).
- Apply the LSIO Schedule 1 (LSIO1) (depth of flooding up to and including 350 millimetres) to approximately 81 properties in the township of Heathcote.
- Apply the LSIO Schedule 2 (LSIO2) (depth of flooding greater than 350 millimetres) to approximately 11 properties in the township of Heathcote.
- Apply both the LSIO1 and LSIO2 to approximately 85 properties in the township of Heathcote.
- Apply simultaneously the UFZ, the LSIO1 and LSIO2 to approximately 94 properties in the township of Heathcote.
- Amend Clause 21.08 of the Municipal Strategic Statement to refer to the *Heathcote Local Floodplain Development Plan* 2019 to guide development and subdivision in areas that are subject to flooding.
- Amend Clause 21.10 of the Municipal Strategic Statement to include the *Heathcote Flood Study* 2016 as a reference document in the Greater Bendigo Planning Scheme.

- Amend Schedules 1 and 2 to Clause 44.04 (Land Subject to Inundation Overlay) to add new permit exemptions, reword some of the existing permit exemptions for more clarity, and include reference to the *Heathcote Local Floodplain Development Plan* 2019.
- Amend Schedule 3 to Clause 44.04 to change its title by deleting the word "Heathcote".
- Amend the Schedule to Clause 72.03 to update the list of maps in the Planning Scheme.
- Amend the Schedule to Clause 72.04 to insert the *Heathcote Local Floodplain Development Plan* 2019 as an incorporated document in the Greater Bendigo Planning Scheme.

1.2 Background

Heathcote is located on McIvor Creek within the catchment of the Campaspe River. McIvor Creek eventually flows into Lake Eppalock. Heathcote is affected by riverine or mainstream flooding from the McIvor Creek. Flooding within Heathcote is considered flash flooding, and there is little to no warning before flood waters impact on the township.

Heathcote has experienced a number of major flood events since settlement, the most notable flood events include September 1870, September 1906, April 1939 and May 1974.

The May 1974 flood event is estimated to be equivalent to a 3.33% AEP flood event (1 in 30 year Average Recurrence Interval). The September 1906 and April 1939 flood events are estimated to be in excess of the 1% AEP flood event.

In July 2014, the North Central Catchment Management Authority (NCCMA) received funding through the Natural Disaster Resilience Grants Scheme to lead the development of the *Heathcote Flood Study* 2016.

The Panel received information from Council and the NCCMA on the methodology adopted for the Heathcote Flood Study, including on the accuracy of modelling, calibration of the data, use of information obtained from local consultation and the potential impact of climate change. Mr Pedruco provided expert evidence on the methodology and findings of the *Heathcote Flood Study* 2016. He advised the Panel that the Study had been prepared using contemporary practices and was independently reviewed by two technical advisors. No submitters raised concerns about the Study methodology or general findings of the Study. (Submissions were limited to site specific interpretation of flood data and topographical issues.) The Panel is satisfied that the Study methodology is sound, well tested and has appropriately considered the impacts of climate change. Given the absence of any issues raised in submissions, the Panel does not discuss these issues any further in this report.

1.3 Summary of issues raised in submissions

(i) Planning Authority

The key issues for Council and NCCMA were:

- Strategic justification for the Amendment
- Methodology of the *Heathcote Flood Study* 2016, including accuracy, consultation and consideration of climate change
- Resolution of the majority of submissions
- Response to the one remaining unresolved submission.

(ii) Relevant agencies

DELWP

DELWP submitted that it supported the Amendment, but suggested the following modifications:

- Any Crown land managed by Parks Victoria or the department remains zoned PCRZ to ensure the highest level of protection from development is in place.
- The freehold CA 29 Ambers Drive, Heathcote is not rezoned to PCRZ because it is privately owned.

Council advised the Panel that, following a further meeting with DELWP, it was agreed that the Crown land at 32 Heathcote North Costerfield Road, Heathcote that was proposed to be rezoned in this Amendment from PCRZ to UFZ, could be retained in its current zoning and apply the LSIO2.

Council submitted that application of the PCRZ and LSIO2 will have no material change to the use or development potential of the land given the ownership, zoning and vegetated state.

The relevant map change showing the change from the exhibited version of the Amendment is included in Appendix B.

DELWP submitted that the PCRZ should not be applied to private land. Council agreed that the PCRZ had mistakenly been applied to one privately owned allotment (CA 29 Ambers Drive, Heathcote). The Panel recommends this change be adopted (see Chapter 5).

Country Fire Authority

The Country Fire Authority (CFA) supported the Amendment but noted that

> While the exact locations (of properties affected by the Amendment) may not be within the higher risk Bushfire Management Overlay, proposals that site buildings/ development closer to higher bushfire risk, or to increase vegetation quantities (thus bushfire risk) must be carefully considered and referred to CFA where appropriate.

Goulburn-Murray Water

Goulburn-Murray Water (GMW) raised no objection to the Amendment, noting:

> GMW's areas of interest are surface water and groundwater quality, use and disposal. GMW requires that development proposals do not impact detrimentally on GMW's infrastructure and the flow and quality of surface water and groundwater. Applicants must ensure that any required water supplies are available from an approved source.

(iii) Individual submitters or groups of submitters

Four individual landowners raised site specific issues. The key issues by submitters were:

- The social and economic impacts on the Heathcote community have not been properly assessed
- The Amendment would not provide for the fair, orderly, economic and sustainable use and development of land, including limiting opportunities for subdivision and development
- The widespread application of the UFZ is generally inconsistent with Planning Practice Note 12 -Applying the Flood Provisions in Planning Schemes
- The existing LSIO schedules are adequate to manage the impacts of flooding
- Lack of opportunity to be consulted.

Council advised that all but one of the submissions was resolved following further discussion. The nature of the agreed positions on resolved submissions is discussed in Chapter 4. The unresolved submission from Dewhurst Properties is discussed in Chapter 3.

(iv) Panel assessment

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment and submissions, evidence and other material presented to it during the Hearing.

This Report deals with the issues under the following headings:

- Planning context
- Unresolved submission - Dewhurst Properties
- Resolved submissions
- Form and content of the Amendment.

2 Planning context

2.1 Planning policy framework

Council and the NCCMA submitted that the Amendment is supported by various clauses in the Planning Policy Framework (PPF). The Panel has summarised the most relevant of these below. The summary is drawn from the Explanatory Report and Council's Hearing submission.

Victorian planning objectives

Council submitted that the Amendment would implement the objectives of planning in Victoria by:

- Providing for the fair, orderly, economic and sustainable use, and development of land by identifying areas that are subject to flooding and introducing appropriate guidelines for new development.
- Providing for the protection of natural and man-made resources by ensuring that development occurs in ways that will maintain flood storage and active flow paths.
- Securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria by establishing a planning framework that will minimise risks to life and property.
- Protecting public utilities and other assets by ensuring that development does not exacerbate flood risks to these assets.
- Facilitating development by establishing clear provisions that allow for different solutions to address flooding issues.

Clause 11 Settlement

Council submitted that the Amendment supports Clause 11.02-1S Supply of urban land because the implementation of the *Heathcote Flood Study* 2016 as part of this Amendment will enable improved planning of urban areas by showing limitations of natural hazards, service limitations and environmental quality.

Clause 13 Environmental Risks and Amenity

Clause 13.03-1S (Floodplain management) has an objective to assist the protection of life, property and community infrastructure from flood hazard.

The Amendment supports this objective by implementing the findings of the *Heathcote Flood Study* 2016 into the Greater Bendigo Planning Scheme.

Clause 14 Natural Resource Management

Clause 14.02-1S (Catchment planning and management) has an objective to assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.

The Amendment supports this objective by updating the existing flood related planning controls which will assist in the protection of catchments and water bodies including wetlands.

Clause 21 (the Municipal Strategic Statement)

Clause 21.02 (Managing risk) Managing environmental risk is a challenge when planning for growth in Greater Bendigo. Key risks are predominately around bushfire, flooding and public health issues.

Clause 21.08-5 (Flooding) has the objectives to minimise the risk to life, health and safety from the effects of flood waters, to minimise the potential damage to new buildings and works from

flood waters and to preserve the natural function of floodplains, including their inherent wetland values.

Council submitted that the Amendment supports these objectives by updating the existing planning controls in Heathcote to:

- better manage urban development in areas of lower hazard flooding risks
- discourage development in these areas unless the likely effects of flooding can be minimised to acceptable levels
- prohibit urban development in the higher hazard portion of the floodplain, where deep and fast flowing floodwater can be expected.

2.2 Other relevant planning strategies and policies

(i) Heathcote Township Plan

Council adopted the *Heathcote Township Plan* 2019 in July 2019. This Plan determines that Heathcote has a sufficient supply of commercial and residential land to satisfy the town's medium-term growth and includes a strategy of directing development away from areas subject to flooding. An Amendment to implement the *Heathcote Township Plan* 2019 is listed in Council's forward planning program.

The Township Plan notes that flooding and bushfire risk are constraints on the development of Heathcote, and makes the following comments on residential land supply:

> The land supply assessment determined that there were potentially up to 380 lots available for development in Heathcote and Argyle.
>
> The projected growth rate for Heathcote and District (which includes the rural areas surrounding Heathcote and the small towns of Redesdale and Mia Mia) is for an additional 2644 dwellings until 2036.
>
> Given the forecast demand for housing and the level of land supply there is no need at this stage to create additional residential land in Heathcote.

In relation to commercial land supply the Township Plan states[1]:

> There is currently over 9,000 square metres of vacant or under-developed land in the town centre, including one site of 5,800 square metres as well as a number of houses and other buildings that could be converted to a commercial use. There is no need to create additional commercial land in the short to medium term however this will be monitored on a regular basis.

In its' Hearing submission, Council submitted that:

- The Heathcote Township Plan 2019 identified that there is currently 150 years supply of commercial land, vastly oversupplied. Residential land is also well provided, as there is approximately 23 years supply (380 lots at 16 lots per year).
- The Amendment is anticipated to reduce supply of residential lots by approximately 46 lots, reducing overall supply to approximately 20 years, which is greater than the generally recommended of 15 years supply.

Council concluded that "*it is anticipated that the Urban Floodway Zone will therefore have no significant effect on land use and development in Heathcote*."

[1] Heathcote Township Plan 2019 p40

(ii) Heathcote Flood Study

The Amendment updates flood controls based on modelling from the *Heathcote Flood Study* 2016 which was adopted by Council on 20 November 2019.

The Panel received information on the development of the Study, consultation undertaken and the findings of the Study. This is discussed briefly in Section 1.2 of this report.

2.3 Planning scheme provisions

The following zones and overlays are utilised in the Amendment.

(i) Zones

The purposes of the Urban Floodway Zone (UFZ) include:

> To identify waterways, major flood paths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.
>
> To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.
>
> To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989.
>
> To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

The UFZ is proposed to be applied where Velocity x Depth is greater than or equal to 0.6 square metres per second and/or depth of flow is greater than 0.5 metres in a 1 per cent ARI flood event. The Amendment proposes to retain, remove or apply the UFZ to properties following these principles based on data from the *Heathcote Flood Study* 2016.

Council and the NCCMA submitted that in the urban area of Heathcote the UFZ has historically been applied to public land as well as to freehold land on either side of the McIvor Creek which are exposed to high flood risks. The findings of the *Heathcote Flood Study* 2016 have confirmed that some of these sites are still in high hazard flood areas and the NCCMA is of the view that the UFZ should be retained on these sites.

The use of the UFZ (in preference to the Floodway Overlay) is further discussed below in relation to Planning Practice Note 12 - Applying the Flood Provisions in Planning Schemes.

(ii) Overlays

The purposes of the Land Subject to Inundation Overlay (LSIO) include:

> To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
>
> To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
>
> To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
>
> To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

> To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The LSIO has been used for areas subject to inundation, but with lower risk.

The LSIO1 generally denotes the edge of the floodplain where flooding is shallower and slower moving where depth is less than or equal to 0.35 metres during the 1 per cent AEP design flood event.

The LSIO2 is a higher hazard portion of the floodplain where flooding is slightly deeper and faster flowing floodwater can be expected. It contains the balance of the floodplain where the depth of flooding is greater than 0.35 metres that is not covered by the UFZ.

The Amendment updates the mapping of the LSIO in accordance with the *Heathcote Flood Study* 2016 and proposes changes to the Overlay Schedules as follows:

- Amend Schedules 1 and 2 to Clause 44.04 (Land Subject to Inundation Overlay) to add new permit exemptions, reword some of the existing permit exemptions for more clarity, and include reference to the Heathcote Local Floodplain Development Plan, October 2019.
- Amend Schedule 3 to Clause 44.04 to change its title by deleting the word "Heathcote".

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Planning Practice Note 12 - Applying the Flood Provisions in Planning Schemes (PPN12)

Council and the NCCMA submitted that PPN12 specifies that the Urban Floodway Zone applies to flooding in urban areas where the primary function of the land is to convey active flood flows. It applies to urban floodway areas where the potential flood risk is high due to the presence of existing development or to pressures for new or more intensive development. The NCCMA and Council agree that this applies to areas of Heathcote.

Council submitted that removal of the Urban Floodway Zone is not supported as it would potentially facilitate development of additional dwellings and buildings in high hazard flood areas.

Council and the NCCMA submitted that PPN12 specifies that the Floodway Overlay applies to mainstream flooding in both rural and urban areas. These areas convey active flood flows or store floodwater in a similar way to the UFZ, but with a lesser flood risk. The Floodway Overlay is suitable for areas where there is less need for control over land use, and the focus is more on control of development. Council and NCCMA submitted that the Floodway Overlay is not appropriate for Heathcote study area.

2.5 Discussion and conclusion

The Panel is satisfied that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment

should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel accepts the arguments put forward by Council and the NCCMA for use of the UFZ and not the Floodway Overlay for higher risk areas in Heathcote. The Panel notes that the use of the UFZ is well established in Heathcote and replacement of the UFZ by the Floodway Overlay on some lesser risk properties would be problematic, both in terms of the logistics of mapping any changes and in terms of the wrong message it might send that some land is suddenly suitable for development. Having said that the Panel is of the view that, if the flood mapping and application of controls was being done from scratch, it would be more appropriate to apply each of the UFZ, Floodway Overlay (with appropriate schedule) and LSIO to better define the different levels of risk apparent from the Heathcote Flood Study. The benefits of doing that as part of this Amendment would, however, be marginal (given the existing controls) and this approach is therefore not recommended.

3 Unresolved submission – Dewhurst Properties

3.1 Background

Dewhurst Properties Pty Ltd is the owner of the land at CA 1 Northern Highway, Heathcote, which comprises 8 adjoining lots fronting High Street as shown on Figures 2 and 3.

The site is approximately 2.26 hectares in area and is located on the eastern side of High Street, directly south of the Northern Highway and McIvor Highway junction and within the Heathcote township. McIvor Creek runs adjacent to the site's eastern boundary.

Amendment C243 proposes rezoning the site from the Mixed Use Zone (MUZ) to UFZ.

Figure 2 Site location



Figure 3 Aerial photograph



3.2 Evidence and submissions

Ms Tomkinson, appearing on behalf of Dewhurst Properties, submitted that the imposition of the UFZ will render the site undevelopable. She proposed that the site remain subject to LSIO and be included under the proposed LSIO2, which will allow for development options to be explored and ensure any proposal is referred to the NCCMA.

Ms Tomkinson submitted that the value of the site will be reduced from $328,000 to virtually zero and provided a recent valuation. She submitted that the Amendment would be inconsistent with the objectives of planning in Victoria as it would not 'provide for the fair, orderly, economic and sustainable use, and development of land.'

Ms Tomkinson submitted that the Amendment does not give due consideration to how the use of the UFZ will influence strategic aims for housing and economic growth within the Greater Bendigo Planning Scheme, including Clause 21.05 - Compact Greater Bendigo which seeks to direct development into urban growth boundaries, support development in small towns and increase housing density and diversity. She noted that her client's site, being MUZ and a gateway location, has clear potential for such development. She also submitted that development of the site as a 'gateway site' is consistent with the objectives and strategies of the *Heathcote Township Plan* 2019.

Ms Tomkinson submitted that the MUZ should be retained with an LSIO applied and this would provide adequate control of flood risk on the site. As an alternative she submitted that a Floodway Overlay (in conjunction with the MUZ) may be more appropriate rather than the more restrictive UFZ. She submitted that the widespread application of the UFZ to the Heathcote township is generally inconsistent with Planning Practice Note 12 (PPN12 - Applying the Flood Provisions in Planning Schemes). PPN12 states:

> The UFZ is not widely used due to its restrictive nature. As an alternative, a flood overlay can be used in conjunction with an appropriate zone (such as the Floodway Overlay and the Public Park and Recreation Zone) to enable the primary use of the land to be recognised at the same time as acknowledging its flooding characteristics.

She further submitted that the application of the UFZ is not consistent with the approach to flood mitigation in other towns across the City of Greater Bendigo where she submitted that UFZ has not been used.

Ms Tomkinson called expert evidence from Mr Elliot, an engineer with the Tomkinson Group. Mr Elliot's evidence was that, while that development of the site is restricted by flood risk, this can be managed by engineering solutions and some development is still possible.

Mr Elliot gave evidence that it may be possible to develop the southernmost portion of the site which is subject to shallower inundation and could be filled to allow some forms of commercial activities. The balance of the site could be used to provide flood storage and ensure water flows around the site.

In support of this, Mr Elliot provided extracts from the *Heathcote Flood Study* 2016 which showed that flood depth on much of the southern part of the site was less than 0.25 metres. He noted that the *Heathcote Flood Study* identified the southern portion of the site as 'Low' flood hazard as shown in Figure 4 extracted from the *Heathcote Food Study* 2016.

Mr Elliot acknowledged that safe access to the site is a challenge but, in his opinion, not impossible or impractical to overcome. He concluded that there are development opportunities that could meet typical flooding/inundation criteria. He opined that changing

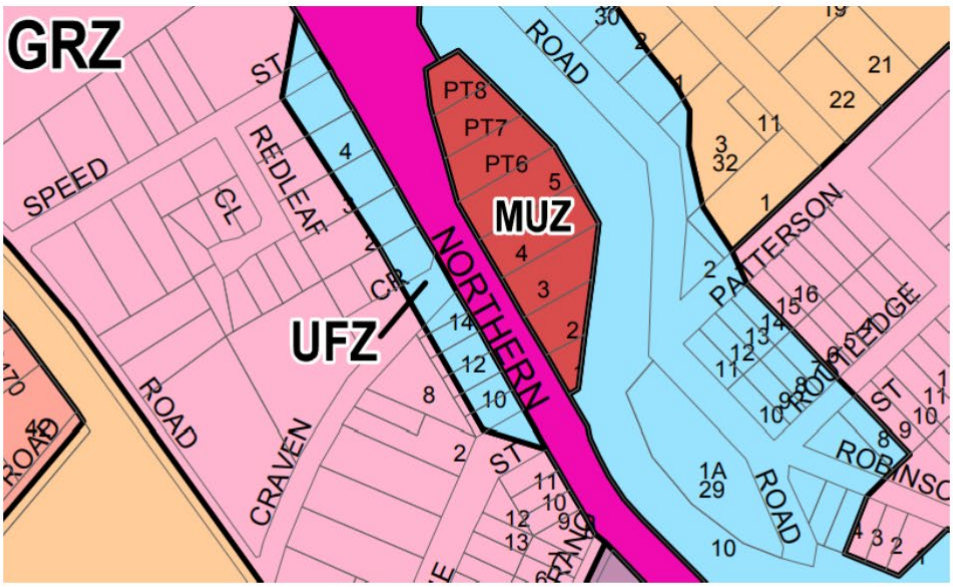
the zoning of this land from MUZ to UFZ will exclude most useful development opportunities and retaining the MUZ with an LSIO would be a more suitable planning control.

Figure 4 **Figure 8-11 from the Heathcote Flood Study Final Report**



In response, Council and the NCCMA noted that the site is fully surrounded by land in the UFZ and submitted that the MUZ zoning for the subject site is anomalous. See Figure 5.

Figure 5 **Existing zones around the subject site**



Council noted that two previous planning permit applications for a service station and an industrial use had not been supported by Council or the NCCMA on the basis of flood risk.

Council and the NCCMA acknowledged that there is a small portion at the southern end of the site that is subject to shallower inundation but submitted that the UFZ is the most appropriate planning control for the site for three reasons:

- the flooding characteristics of the site and access to the site
- the absence of an effective and reliable flood warning service
- potential for adverse offsite impacts.

Council and the NCCMA noted that the Flood Study modelling indicates that the majority of the site is inundated in a 10 per cent event and in a 1 per cent AEP event depth of flooding ranges from 0.1 to 1.3 metres. The velocity of floodwaters across the site are generally less than 1 metre/second, however along the Northern Highway the velocity of flooding can reach up to 1.8 metres/second. Modelling concludes that the risk rating for most of the site is Significant to Extreme[2] and that the Northern Highway presents an Extreme hazard and would be dangerous to all people trying to access or leave the site.

Council and the NCCMA submitted:

> Safe access to the site in smaller flood events may be possible, however in flood events larger than a 5 per cent AEP flood event (1 in 20 year ARI), access to the site will inaccessible to all vehicles including emergency services vehicles.
>
> The time for which the Northern Highway will be unpassable during the 1 per cent AEP flood event is in the order of 15 hours.
>
> For this reason, the City and the NCCMA considers that the use and development of this site will pose an unacceptable risk to humans.

Council and the NCCMA submitted that there is currently no flood warning service for Heathcote and it is not possible for the Bureau of Meteorology to provide a flood level prediction service due to the speed at which flood waters rise and peak within Heathcote.

Council and the NCCMA submitted that due to the length of inundation and the potential flood hazard on and surrounding the site, sheltering in place is not an option for occupants of the site.

Council and the NCCMA submitted that managing the extreme flood hazard of the site and egress to and from the site would require extensive civil works that, in the view of the NCCMA, are likely to have detrimental impacts on surrounding properties and the health of the adjacent waterway. It submitted that if development was to occur on the highest land on the site and the highway raised to achieve safe access as suggested by Mr Elliot, this has the potential to block or concentrate the fast flowing waters that breakaway from McIvor Creek, which has the potential to impact neighbouring properties. While Council and the NCCMA acknowledged that a development proposal for the site may be able to achieve a balance of cut and fill to ensure that there is no loss of floodplain, this does not resolve the access issues and potential impact on neighbouring properties.

In Council's cross examination of Mr Elliot, Ms Kiefel questioned the feasibility of engineering solutions for the development of and access to the site. Mr Elliot acknowledged the difficulties and the potential high cost of engineering solutions but opined that there were feasible solutions. He also responded that VicRoads may be prepared to upgrade the Northern Highway which may reduce costs to the developer.

[2] The metrics for classifying the potential flood risk is set out in Section 7.2, Book 6 of Australian Rainfall and Runoff, 2019

Mr Pedruco was also questioned about his expert opinion of whether the site could be feasibly developed. He gave the opinion that there might be solutions that could be compatible with flood risk but that there would be potential upstream flood risks. In response to a question from Ms Tomkinson about whether a Floodway Overlay or LSIO on the site might be more appropriate, Mr Pedruco replied that development options would likely be expensive and may not be feasible.

In conclusion, Council and the NCCMA submitted that the current MUZ with LSIO is insufficient to control development on the site and the UFZ should be applied, consistent with other areas of Heathcote of similar flood risk.

3.3 Discussion

The Panel agrees with Ms Tomkinson that the application of the UFZ to this site would effectively prevent most commercial, industrial or residential uses on the site. The Panel does not, however, agree that applying the UFZ would be inconsistent with the application of flood controls in other areas of Bendigo and nor is it inconsistent with PPN12, given the flood risk of the site. The Panel notes that while the UFZ is used elsewhere in the Greater Bendigo Planning Scheme, the Floodway Overlay is not.

The flood modelling for the site and projected flood depth and flow velocity is not disputed. The question is whether the level of flood risk on the site justifies the application of the more restrictive UFZ.

As stated in section 2.5, the Panel is of the view that there can be merit in applying the Floodway Overlay in locations of lower risk, rather than the more restrictive UFZ. In this case, the Panel agrees that there may be a small portion of the site that, when looked at in isolation, could be developed. The Panel however accepts the arguments put forward by Council and the NCCMA that the risks associated with such development would be high. The Panel is particularly concerned about safe site access. It has not been demonstrated that safe access could be feasibly provided without prohibitive costs. Even if it is accepted that an engineering solution could be found that provides safe access there would still be substantial issues in managing flow paths around the site to prevent on-site and upstream flooding.

3.4 Conclusion

The Panel concludes:

- The application of a Floodway Overlay or LSIO to the site would not provide sufficient control of flood risk.
- Given the substantial to extreme flood risk modelled on the site and the fact that the site is surrounded by extreme high-risk areas, the Panel is satisfied that it is appropriate to apply the UFZ to the land at CA 1 Northern Highway, Heathcote as exhibited.

4 Resolved submissions

The Panel directed that further consultation be carried out with submitters and, where appropriate, further ground surveys should be undertaken to more accurately determine site specific topography.

Further consultation was carried out and four submissions have been resolved. One of those four was DELWP, and the nature of that resolution is discussed in section 1.3.

This Chapter records the agreed position between the remaining three landowner submitters, Council and the NCCMA.

4.1 CA 13 Turner Street, Heathcote

(i) Submissions

The landowners submitted that the site conditions had not been accounted for in the *Heathcote Flood Study* 2016, resulting in the proposed UFZ unreasonably limiting the ability to construct dwellings on the land. The submitters requested a change to the extent of the UFZ mapping, noting that the site would need to be modified anyway to make safe historic mining works on the site.

The NCCMA carried out a more detailed survey of the site and agreed to a small alteration to the extent of the UFZ as requested by the submitters and as shown in Appendix B to this report.

(ii) Discussion and conclusion

The Panel notes the agreed position and supports the proposed change as shown in Appendix B.

4.2 96 Bennett Street, Heathcote

(i) Submissions

The landowner submitted that the proposed increased extent of the UFZ on the property would limit the potential to develop and subdivide the property.

Council and the NCCMA acknowledged that the change may limit subdivision potential. The NCCMA carried out a more detailed survey of the site and concluded that while the land level survey aligned reasonably well with the LiDAR information for the site, the depression on which the UFZ was proposed to be extended was associated with flow from the local catchment and not the major flow path from McIvor Creek.

The NCCMA agreed that the extent of the UFZ could be scaled back to its original extent and agreed to a small alteration to the extent of the UFZ as requested and as shown in Appendix B to this report.

(ii) Discussion and conclusion

The Panel notes the agreed position and supports the proposed change as shown in Appendix B.

4.3 23 Thomas Street, Heathcote

(i) Submissions

The landowner submitted that the LSIO2 boundary proposed for this property is inaccurate.

The NCCMA carried out a site survey and confirmed that the LiDAR levels were inaccurate on part of the site and agreed to refine the mapping. The NCCMA amended the LSIO1 and LSIO2 based on the survey as shown in Appendix B.

The NCCMA noted that this issue with land levels was unique to this site and submitted that it should not undermine the confidence in the application of overlays and zones for the balance of Heathcote.

(ii) Discussion and conclusion

The Panel notes the agreed position and supports the proposed change as shown in Appendix B.

5 Form and content of the Amendment

5.1 Final form of the Urban Floodway Zone and LSIO schedules

(i) Resolved submissions

The proposed changes to the exhibited flood mapping for CA 13 Turner Street, 96 Bennett Street and 23 Thomas Street, Heathcote are as shown in Appendix B.

(ii) DELWP submission

As noted in section 1.3, it was agreed that the Crown land at 32 Heathcote-North Costerfield Road, Heathcote that was proposed to be rezoned in this Amendment from PCRZ to UFZ, could be retained in its current zoning and apply the LSIO2. The relevant map change is included in Appendix B.

Council agreed that the Public Conservation and Resource Zone had mistakenly been applied to one privately owned allotment (CA 29 Ambers Drive, Heathcote). The Panel agrees and has made a recommendation accordingly.

(iii) Recommendation

The Panel recommends that Amendment C243gben be approved as exhibited subject to the following changes:

1. **Amend the extent of the proposed Urban Floodway Zone and Land Subject to Inundation Overlay as shown in Appendix B to this report.**
2. **Remove the Public Conservation and Resource Zone from CA 29 Ambers Drive, Heathcote.**

5.2 General drafting issues

(i) Proposed Incorporated Document

In the UFZ, LSIO and Floodway Overlay parent provision reference is made to local floodplain development plans. One of the decision guidelines in the parent provision is that a local floodplain development plan needs to be considered.

The Amendment proposed to incorporate the *Heathcote Local Floodplain Development Plan* 2019 into the planning scheme.

The Panel has some concerns that the proposed LSIO Schedules do not refer to the *Heathcote Local Floodplain Development Plan*, except in reference to one specific permit requirement. This means a reliance on the planner and applicant thinking to look in Clause 72.04 to see if there is a plan, then determining whether it is relevant to the property in question. There is considerable potential, in the view of the Panel, for this to be overlooked.

The Panel believes that a clause should be added to each of the LSIO schedules to identify that the *Heathcote Local Floodplain Development Plan* 2019 may apply.

(ii) Recommendation

It is recommended that:

3. **Council discuss with the Department of Environment, Land, Water and Planning the best mechanism to include more transparent reference to the *Heathcote Local Floodplain Development Plan* 2019 in the Schedules to the Land Subject to Inundation Overlay.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Dewhurst Properties Pty Ltd
2	Department of Environment, Land, Water and Planning
3	N F and D F Fitt and A and S Meagher
4	Ms S McDonald
5	Ms B Place
6	Goulburn-Murray Water
7	Country Fire Authority

Appendix B Recommended changes to the exhibited Amendment

Figures 6 to 9 show Panel recommended changes to the Amendment as exhibited.

Figure 6 Recommended change to UFZ at CA 13 Turner Street, Heathcote

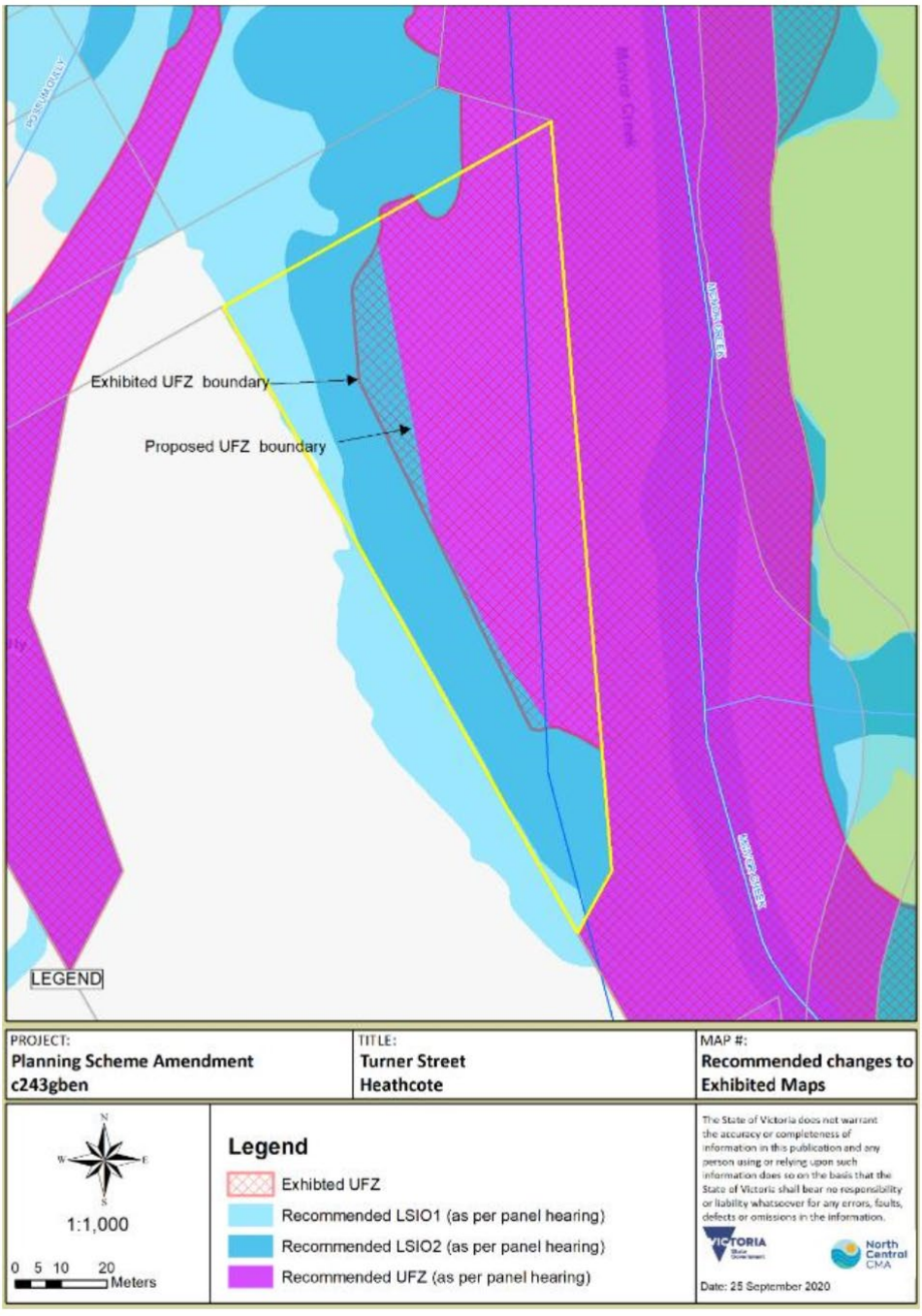


Figure 7 Recommended change to UFZ at 96 Bennett Street, Heathcote

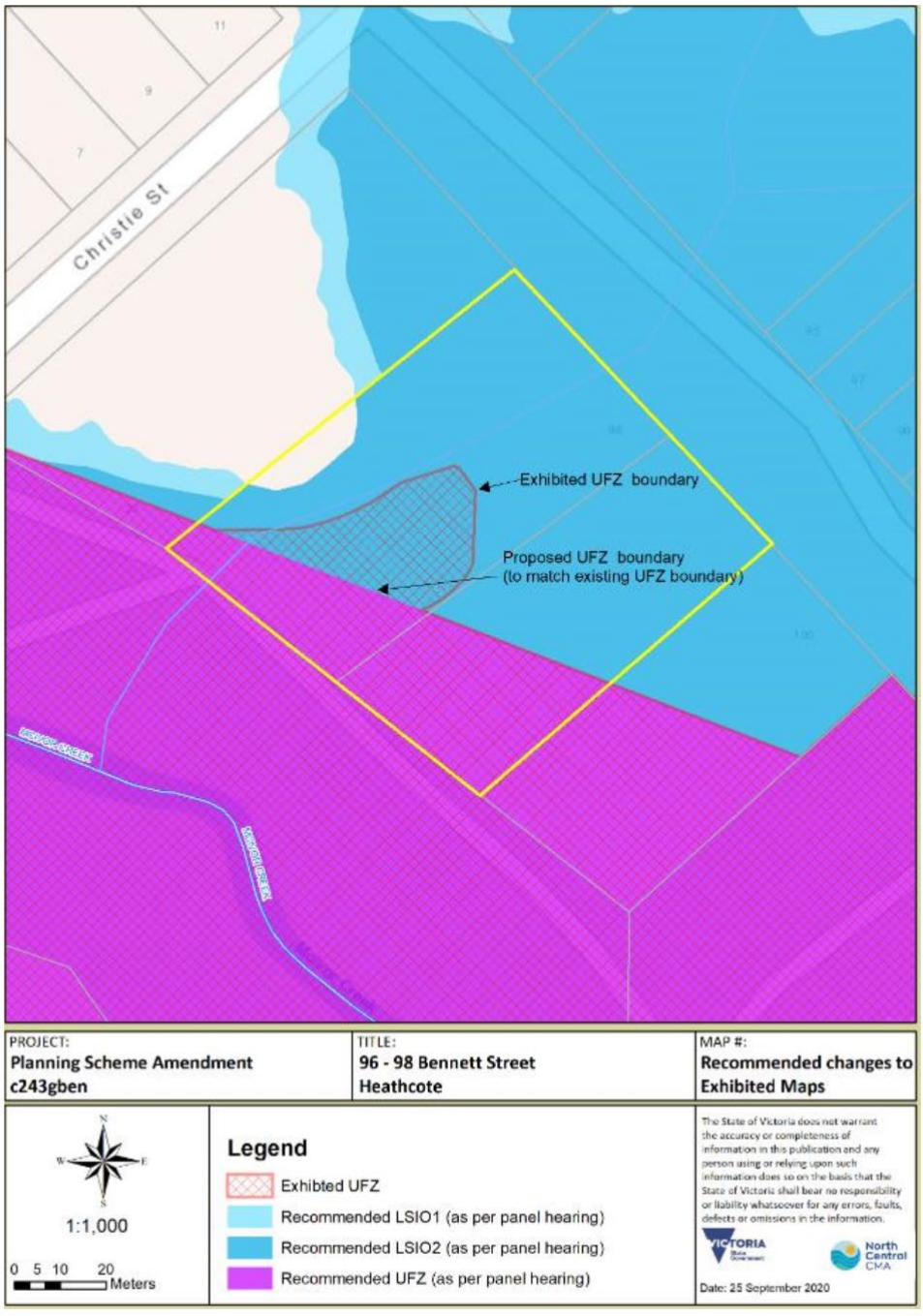


Figure 8 Recommended change to LSIO1 boundary at 23 Thomas Street, Heathcote

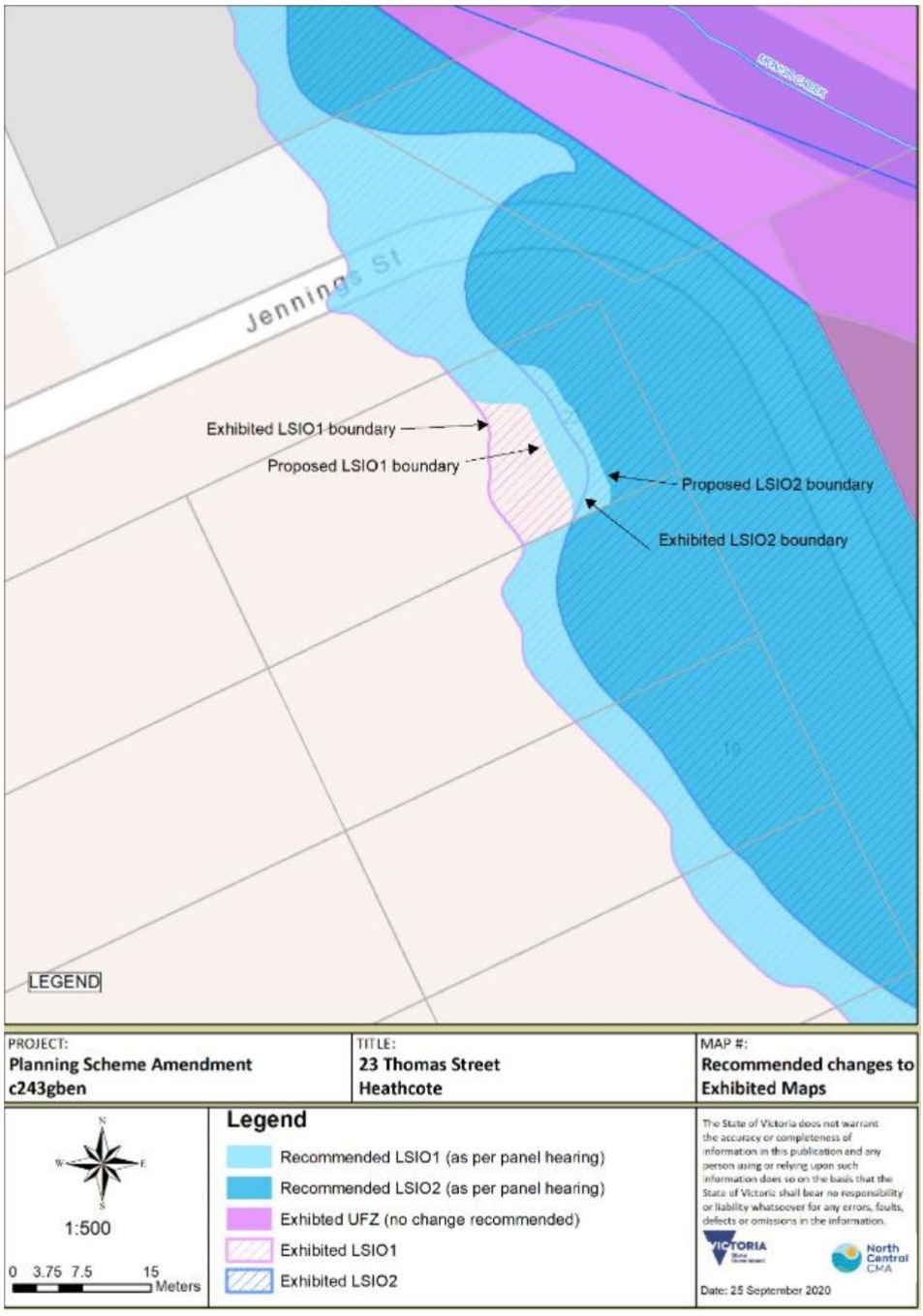
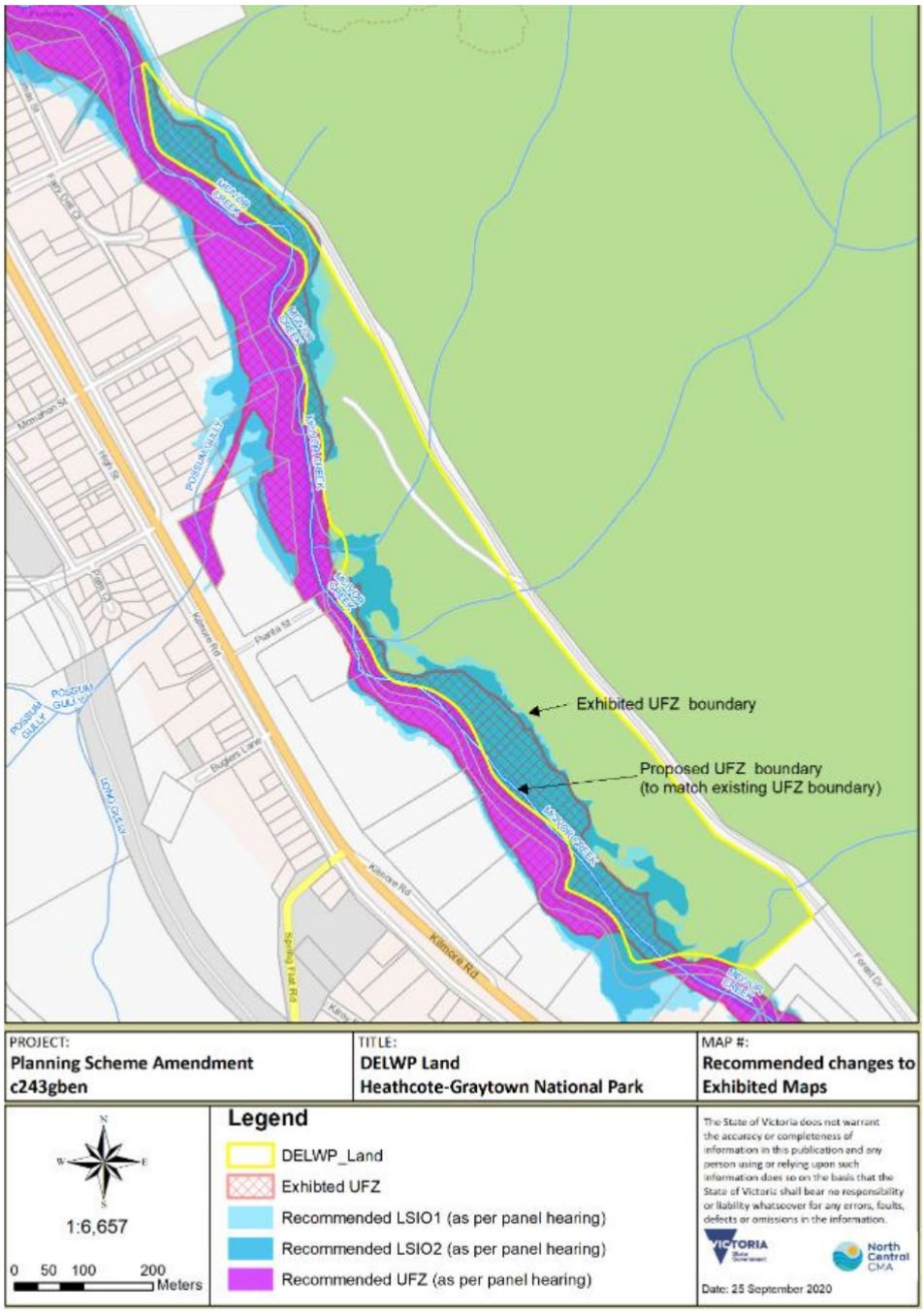


Figure 9 Recommended changes to UFZ on DELWP owned land



Attachment 2

Planning and Environment Act 1987

GREATER BENDIGO PLANNING SCHEME AMENDMENT C243

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Greater Bendigo City Council which is the planning authority for this amendment. The amendment has been prepared in conjunction with North Central Catchment Management Authority.

Land affected by the Amendment

The amendment updates flood controls based on modelling from the *Heathcote Flood Study,* 2016 which was adopted by Council on 20 November 2019. The amendment will affect approximately 320 properties near the McIvor Creek in Heathcote, as per attachment 1 and Figure 1 below. These properties will either have existing flood controls removed or amended, or new flooding controls applied.

The type of flood control proposed has been determined by the predicted depth of flooding X the velocity:

- Land where flooding risk is assessed to be the greatest (depth of flooding X velocity is greater than 0.6 metre^2/second and the depth of flooding is generally greater than 0.5 metres deep) will be zoned Urban Floodway Zone.
- Land with predicted flooding up to 350mm deep will be covered by Land Subject to Inundation Overlay Schedule 1.
- Land with predicted flooding greater than to 350mm deep will be covered by the Land Subject to Inundation Overlay Schedule 2.

The Land Subject to Inundation Overlay Schedule 3 will be removed from properties within the *Heathcote Flood Study* area and replaced with updated controls.

The amendment also proposes to make minor changes to the wording and permit exemptions of the Land Subject to Inundation Overlay Schedules 1 and 2. This will affect all land within the municipality where these two schedules apply, including much of urban Bendigo.

The amendment also technically affects land in the rural areas of the municipality and Heathcote where the Land Subject to Inundation Overlay Schedule 3 currently applies, as it proposes to make a minor administrative change to the title of the overlay to remove the word Heathcote.

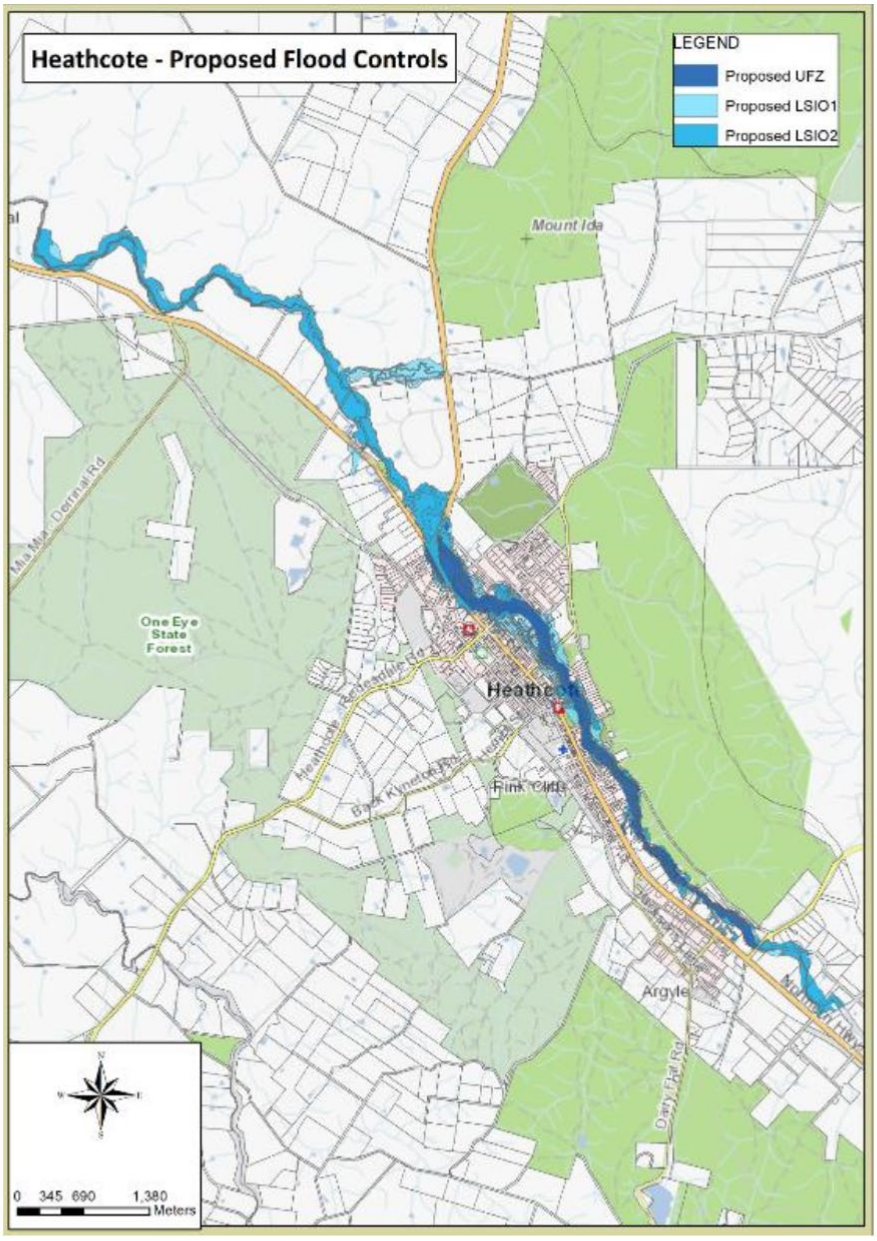


Figure 1: The land affected by the amendment

What the amendment does

The amendment implements the findings of the *Heathcote Flood Study* (2016), which was commissioned by the North Central Catchment Management Authority (NCCMA) and the Greater Bendigo City Council. The amendment updates flooding controls to properties to ensure that flooding is considered in future development proposals.

Existing flood controls will be removed from land where the Study has identified that neither the depth nor the depth combined with the velocity of the flooding requires their application. Land that is currently zoned Urban Floodway Zone but not considered to be at this risk any longer, will be rezoned to the adjoining land zone, usually General Residential or Low Density Residential Zone.

The amendment also proposes to apply the Urban Floodway Zone to the whole of one property and in part to several other properties, which the Study has identified as being in high hazard flood areas. The application of the Urban Floodway Zone to the whole or to part of some properties, will provide greater restriction for the use and development of the land which is considered proportionate to the flood risk.

The amendment will also conditionally exempt planning permit requirements under the land subject to inundation overlay schedules and introduce guidelines for development within flood prone areas.

The Amendment proposes to amend the Greater Bendigo Planning Scheme in the following ways:

- Rezones the following land to reflect the flood hazard mapping which forms part of the findings of the *Heathcote flood Study*:
  - Rezone part of the land at 3 Barrack Street, Heathcote from Special Use Zone (Schedule 8) to Urban Floodway Zone.
  - Rezone part of the land at 27 Caldwell Street and CA at 6D Forest Drive, Heathcote from Low Density Residential Zone to Urban Floodway Zone.
  - Rezone part of the land at 31 Heathcote-Nagambie Road, Heathcote from Rural Living Zone to part Urban Floodway Zone.
  - Rezone part of the land at 32 Heathcote-North Costerfield Road, Heathcote from General Residential Zone and Public Conservation and Resource Zone to Urban Floodway Zone.
  - Rezone part of the land at 7 and 8 Fairy Dell Court, 2 High Street, 114-120, 120, 122-132, 134-136, 138-158 and 160-164 Kilmore Road, 3 and 4-6 McMahon Street, CA 15A Pianta Street, CA 13 Turner Street, Heathcote from General Residential Zone to Urban Floodway Zone
  - Rezone approximately 2.33 hectares of land at Crown Allotment 1, Northern Highway, Heathcote and part of the land at CA 6, 2-20, 22-36, 38-60, 62-76, 88 and 90-108 Kilmore Road, Heathcote from Mixed Use Zone to Urban Floodway Zone.
  - Rezone part of land at 19 Ambers Drive, Heathcote from Urban Floodway Zone to Low Density Residential Zone.
  - Rezone the land at CA 29 Ambers Drive and CA 21 Forest Drive Heathcote from Urban Floodway Zone to Public Conservation and Resource Zone.
  - Rezone land at CA 3 Bennett Street, Heathcote from Urban Floodway Zone to Rural Living Zone.
  - Rezone part of the land at 273 High Street, 2-4 Mitchell Street, 1 and 5 Robinson Street, 2-6, 5 and 8 Routledge Street, and at 14 Thomas Street, Heathcote from Urban Floodway Zone to General Residential Zone.
- Insert new overlay maps 35LSIO and 37LSIO
- Delete the Land Subject to Inundation Overlay Schedule 3 (Heathcote and rural areas) from all land in the township of Heathcote (approximately 320 properties).
- Apply the Land Subject to Inundation Overlay Schedule 1 (depth of flooding up to and including 350 millimetres) to approximately 81 properties in the township of Heathcote.
- Apply the Land Subject to Inundation Overlay Schedule 2 (depth of flooding greater than 350 millimetres) to approximately 10 properties in the township of Heathcote.
- Apply both the Land Subject Inundation Overlay Schedule 1 and Schedule 2 to approximately 85 properties in the township of Heathcote.
- Apply simultaneously the Urban Floodway Zone, the Land Subject to Inundation Overlay Schedule 1 and Schedule 2 to approximately 94 properties in the township of Heathcote.
- Amend Clause 21.08 of the Municipal Strategic Statement to refer to the *Heathcote Local Floodplain Development Plan,* October 2019 to guide development and subdivision in areas that are subject to flooding.
- Amend Clause 21.10 of the Municipal Strategic Statement to include the *Heathcote Flood Study (BMT WBM, 2016*) as a reference document in the Greater Bendigo planning scheme.
- Amend Schedules 1 and 2 to Clause 44.04 (Land Subject to Inundation Overlay) to add new permit exemptions, reword some of the existing permit exemptions for more clarity, and include reference to the *Heathcote Local Floodplain Development Plan,* October 2019. (See Attachment 2 for track changes to these clauses).
- Amend Schedule 3 to Clause 44.04 to change its title by deleting the word “Heathcote”.
- Amend the Schedule to Clause 72.03 to update the list of maps in the Planning Scheme.
- Amend the Schedule to Clause 72.04 to insert the *Heathcote Local Floodplain Development Plan* (October 2019) as an incorporated document in the Greater Bendigo Planning Scheme.

Strategic assessment of the Amendment

Why is the Amendment required?

The amendment is required to implement the findings of the *Heathcote Flood Study* as adopted November 2019.

Heathcote has a comprehensive suite of existing flooding tools in the planning scheme comprising of the Urban Floodway Zone and the Land Subject to Inundation Overlay Schedule 3.

The *Heathcote Flood Study* which was conducted in consultation with the local community and the relevant government agencies, provides up-to-date flood related planning information for Heathcote and options to reduce flood risks.

This amendment is proposed in conjunction with North Central Catchment Management Authority (the CMA). Following completion of the Study the Greater Bendigo City Council and the CMA determined that the Floodway Overlay as recommended in the Study should not be utilised. Instead the Urban Floodway Zone has been proposed. The Urban Floodway Zone adequately defines the flood risk, will achieve the intent of the Study, prevents intensification of development which may not be achieved with an Overlay, and is a known planning tool in the Heathcote community.

The amendment rezones land which has the greatest flood risk to Urban Floodway Zone and is proposed where the product of depth and velocity being greater than 0.6 metre^2/second and the depth of flooding is greater than 0.5 metres.)

The amendment applies the Land Subject to Inundation Overlay Schedules 1 and 2 where the flood risk can be managed, and the depth is below 0.5m.

The amendment is also required to remove land which the Study has identified as being in areas where the flood hazard has reduced or is of lower risk. Areas where the flood risk is no longer considered extreme, that are within the Urban Floodway Zone will be rezoned to the adjacent zoning as appropriate, including General Residential Zone and Low Density Residential Zone. The amendment has considered the bushfire risk in these areas.

The amendment is required to delete the Land Subject to Inundation Overlay Schedule 3 from all land in Heathcote study area, and to replace it with one or combination of: no Overlay, the Land Subject Inundation Overlay Schedule 1 or Schedule 2 depending on the depth of flooding as mapped by the Study.

The amendment also implements the objectives of planning in Victoria by introducing the *Heathcote Local Floodplain Development Plan,* October 2019 as an incorporated document in the planning scheme to guide decision-making for development on land that have been identified as being at risk of flooding in Heathcote.

Land use planning is recognised as being the best means of avoiding future flooding problems. Through careful planning, flood risks to life, property and community infrastructure can be minimised and the environmental significance of floodplains protected.

How does the Amendment implement the objectives of planning in Victoria?

The amendment will implement the objectives of planning in Victoria by:

- Providing for the fair, orderly, economic and sustainable use, and development of land by identifying areas that are subject to flooding and introducing appropriate guidelines for new development.

- Providing for the protection of natural and man-made resources by ensuring that development occurs in ways that will maintain flood storage and active flow paths.

- Securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria by establishing a planning framework that will minimise risks to life and property.

- Protecting public utilities and other assets by ensuring that development does not exacerbate flood risks to these assets.

- Facilitating development by establishing clear provisions that allow for different solutions to address flooding issues.

How does the Amendment address any environmental, social and economic effects?

Environmental effects

The amendment will have a positive effect on the natural environment because it will provide for the protection of the natural flow path of flood waters and will ensure that areas that are liable to extreme flooding are not developed.

As the amendment will help protect the flow path of flood waters which feed into wetlands or other water bodies downstream, it is expected that this will be beneficial for the natural environment. The diversion or blocking of flood waters may result in isolating wetlands or drying up of water channels downstream and subsequently the destruction of natural habitats.

The amendment will therefore have a positive effect on the natural environment because it will ensure that the appropriate planning decision guidelines are in place for the development of land that have been identified are being liable to flooding.

The amendment will help prevent inappropriate development from occurring in areas that are subject to flooding, that could reduce the capacity of the floodplain to store and convey water or divert floodwater to other land not normally inundated by floodwater. The amendment will help to prevent blockages of flood ways that can have adverse environmental impacts, such as isolating wetlands, destroying natural habitats, eroding stream channels and increasing siltation (Planning Practice Note 12).

Social effects

Flooding can have significant consequences for individuals and for local communities. The effects can include loss of life, loss of property and of other significant personal belongings and temporary or permanent displacement.

The amendment seeks to protect life and property in areas that have been earmarked and mapped as being at risk of flooding. The amendment proposes to apply planning controls to these areas to reduce risks to life and property in the event of floods. The new planning provisions will create more certainty for a safer living and working environment for the residents of Heathcote.

Economic effects

Flooding can have significant adverse economic impacts because of the damage it can do to private properties and to public infrastructure such as roads and other public utility services.

The *Heathcote Flood Study March2016* has made an assessment to determine the average cost in dollars per year that would occur in Heathcote as a result of flooding. The assessment found that these damages may result in significant financial costs for the local community and public authorities including Council. Although the Study based its calculation of these costs on a combination of factors like the probability of having a flood and its intensity, it is undisputable that flood events always leave behind a financial cost for the affected community.

The amendment will address these potential adverse economic effects by providing for up-to-date planning decision guidelines on how areas that are liable to flooding should be developed so to minimise property loss or damage in the event of a flood. The amendment also proposes to restrict the use and development of areas that are exposed to extreme flood hazard.

Does the Amendment address relevant bushfire risk?

A bushfire risk assessment report (*Bushfire Planning Assessment Heathcote Flood Controls Report, July 2019*), has been prepared to determine whether the amendment will result in any increase in the risk to life, property, community infrastructure and the natural environment from bushfires. The findings of the assessment demonstrate that the proposed amendment complies with the VPP provisions for bushfire, particularly Clause 13.02 Bushfire Planning.

Landscape considerations

The report has determined that the primary risk to the land affected by the amendment is from the extensive forested areas around Heathcote. These forested areas have the potential to impact on the affected land in a number of ways.

The southern part of the affected land directly interfaces with forested land and in case of a bushfire, it can be expected that the bushfire will penetrate into the area affected by the amendment. This area is however already covered by the Bushfire Management Overlay.

The whole area will also be exposed to ember attack in case of a bushfire and it is expected that the attack will be extreme and prolonged. Areas located along the McIvor Creek and riparian corridors particularly have the potential to increase the likelihood for localised bushfires within the area.

Despite these elevated landscape risks (Type 3), the Report concludes that the affected land is within an environment where there is good proximity and access to locations where human life can be protected from the harmful effects of bushfires including to a designated Neighbourhood Safer Place and areas of low BAL in the centre of Heathcote.

Alternative locations for development

The land affected by the amendment has been assessed as being located in an area of elevated landscape risks. However, the amendment will not cause any significant growth to be directed to Heathcote because it only proposes to change the existing flood planning controls to address flooding risks. According to the assessment report, the land is either already developed with dwellings (the risk is established) or where the land is still vacant and being rezoned to a residential use, its development can achieve the planning scheme exposure requirements of no more than 12.5kw by providing the appropriate setback.

Due to the nature of this amendment and because it affects land at various locations within Heathcote, there are also no better alternative locations for development.

Availability of safe areas

The report has assessed that in addition to the urban areas of Heathcote, the land generally located along High Street between Herriot Street and Mitchell Street is capable of being assessed as BAL-low because it is located at more than 100 metres from areas of vegetation. These areas can therefore provide enhanced protection for people from the harmful effects of bushfire.

Apart from the urban areas of Heathcote being assessed as safe areas, the Holy Rosary Primary School site located at 18 Pohlman Street, Heathcote is a Designated Neighbourhood Safer Place. The site is easily accessible from any land affected by the amendment.

Site based exposure

The report confirms that the bushfire risk at the site scale is moderate based on the exposure benchmarks in the planning scheme and the separation distances that are required between development and bushfire hazards. Therefore, no future dwelling (or any other development) will need to be exposed to more than that required under the planning scheme as a result of this amendment.

Risk Change

It has been assessed that on balance, and because of the nature if this amendment, the potential risk increase is small to none. This is because the affected land has favourable features including good access to safe areas which will significantly reduce bushfire risks. This was confirmed by the Country Fire Authority in their advice in response to the draft bushfire risk assessment report that was referred to them for comments and feedback prior to the report being finalised.

Views from the relevant fire authority

The views of the Country Fire Authority have also been sought and obtained on this amendment and considered in the bushfire risks assessment. In its comments, the Country Fire Authority has advised that they agree that Heathcote is a town which is exposed to significant bushfire risk, primarily from ember attack. The CFA has also stated that while the amendment will marginally increase potential for further building expansion including new dwellings, it would not significantly increase the overall risk exposure within the township. To conclude, the CFA has stated that they do not believe that this amendment would compromise State bushfire policy.

Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes, as required by section 7(5) of the *Planning and Environment Act* 1987. The amendment and new provisions have been written in plain English. The new schedules and provisions have been prepared in accordance with the requirements of this direction.

The amendment has been considered against Minister's Direction No. 11 Strategic Assessment of Amendments in this explanatory report, as required by section 12(2)(a) of the Act. Minister's Direction No.15. The Planning Scheme Amendment Process also applies to the amendment.

How does the Amendment support or implement the Planning Policy Framework and any adopted State policy?

Clause 11.02-1S Supply of urban land with the objective: To ensure a sufficient supply of land available for residential, commercial, retail, industrial, recreation, institutional and other community uses.

The amendment supports this objective because one of its strategies is that urban growth should consider the limits of land capability and natural hazards and environment quality.

Clause 13.02-1S Bushfire planning with the objective: To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

The Amendment supports this objective because despite its nature, a bushfire risk assessment has been prepared which concluded that the amendment will not cause an increase in bushfire risks.

Clause 13.03-1S Floodplain management with the objective: To assist the protection of life, property and community infrastructure from flood hazard.

The amendment supports this objective by implementing the *Heathcote Urban Flood Study (March 2016)* into the Greater Bendigo Planning Scheme.

Clause 14.02-1S *Catchment planning and management* with the objective: To assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.

The amendment supports this objective by updating the existing flood related planning controls which will assist in the protection of catchments and water bodies including wetlands.

Clause 14.02-2S *Water quality* with the objective: To protect water quality.

The amendment supports this objective because it will discourage incompatible land use activities in areas that are subject to flooding to ensure minimum impact on downstream water quality or flow volumes.

Clause 19.03-3S *Integrated water management* with the objective: To sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.

The amendment supports this objective because it will contribute to sustainably manage stormwater to minimise flood risks.

How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The objectives of *Clause 21.08-5 Flooding* are to minimise the risk to life, health and safety from the effects of flood waters and to minimise the potential damage to new buildings and works from flood waters, to preserve the natural function of floodplains, including their inherent wetland values.

The amendment supports these objectives by updating the existing flood planning controls (Urban Floodway Zone and the Land Subject to Inundation Overlay) in the Township of Heathcote. The amendment also supports these objectives by introducing the *Heathcote Local Floodplain Development Plan* as an incorporated document and the *Heathcote Flood Study* as a reference document into the Greater Bendigo Planning Scheme. By updating the existing flood planning controls and introducing these new documents into the planning scheme, it is expected that the amendment

will improve the planning decision making process for the use and development of land which are subject to flooding in Heathcote.

Does the Amendment make proper use of the Victoria Planning Provisions?

The Victoria Planning Provisions contain a range of provisions for responsible authorities to identify and manage flooding, which have been derived based on the type of flooding and the potential level of risk to life and property. The amendment makes proper use of these provisions and has been prepared with consideration of *Planning Practice Note 12. Applying the Flood Provisions in Planning Schemes - A guide for councils (June 2015)*.

In choosing planning scheme tools, consideration was given to:

- The level of flood risk.
- The depth and velocity of flood waters.
- The best planning tools to protect the community, life and property from the effects of flood.
- The historical use of the Urban Floodway Zone in the urban areas of Heathcote.

  In the urban area of Heathcote, the Urban Floodway Zone has historically been applied to public land as well as to freehold land on either side of the McIvor Creek which are exposed to high flood risks.

  The findings of the *Heathcote Flood Study* 2016 have confirmed that some of these sites are still in high hazard flood areas and the North Central Catchment Management Authority is of the view that the Urban Floodway Zone should be retained in these sites.

- The purpose of the Urban Floodway Zone.

  Planning Practice Note 12. specifies that the Urban Floodway Zone applies to flooding in urban areas where the primary function of the land is to convey active flood flows. It applies to urban floodway areas where the potential flood risk is high due to the presence of existing development or to pressures for new or more intensive development. The Catchment Management Authority and council agree that this applies to areas of Heathcote.

  Removal of the Urban Floodway Zone is not supported as it will potentially facilitate development of additional dwellings and buildings in high hazard flood areas.

- The purpose of the Floodway Overlay

  Planning Practice Note 12. specifies that the Floodway overlay applies to mainstream flooding in both rural and urban areas. These areas convey active flood flows or store floodwater in a similar way to the Urban Floodway Zone, but with a lesser flood risk. The Floodway Overlay is suitable for areas where there is less need for control over land use, and the focus is more on control of development. It is considered that the Floodway Overlay is not appropriate for Heathcote study area.

- The purpose and operation of the Land Subject to Inundation Overlay;

- The recently approved Greater Bendigo planning scheme amendment C221 which developed the new Schedules 1 and 2 to the Land Subject to Inundation Overlay.

- The experience of the North Central Catchment Management Authority in working with flood planning controls in different municipalities in the region;

- Other relevant technical guidance prepared by authorities or government agencies.

How does the Amendment address the views of any relevant agency?

The amendment has been prepared in close consultation with the NCCMA, which supports the content of the amendment. Consultation has also taken place with the Department of Environment, Land Water and Planning (Forest Fire Regions) and the Country Fire Authority.

The preliminary consultation that occurred with DELWP (Planning) was to ensure that the amendment satisfactorily addresses any bushfire risks. In response, a bushfire risk assessment report was prepared to support the amendment.

The consultation with DELWP (Property) was to seek agreement on which zone should be applied to public land identified as being affected by flooding to a depth greater than 0.5m. Consistent with the Planning Practice Notes, it was agreed that the Urban Floodway Zone should be applied.

Extensive consultation also occurred with key stakeholders and government agencies as part of the development of the *Heathcote Flood Study* including engagement with the Heathcote local community in 2015 in relation to the flood mapping.

Does the Amendment address relevant requirements of the Transport Integration Act 2010?

This amendment is not likely to have a significant impact on the transport system, as defined by the *Transport Integration Act 2010*.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The new planning provisions will not have an adverse impact on the current resource and administrative costs of the responsible authority because there are already extensive flood controls in Heathcote, and this amendment seeks to refine these. The amendment will also assist decision making through extra permit exemptions for minor works and guidance through the floodplain development plan. The amendment will enable the resources of the responsible authority to be focused on forms of development that are likely to be most vulnerable to flooding.

Where you may inspect this Amendment

The Amendment is available for public inspection, free of charge, during office hours at the following places:

- City of Greater Bendigo, Statutory Planning Department
  Hopetoun Street Office, 15 Hopetoun Street, Bendigo and at the Heathcote Service Centre, 125 High Street, Heathcote.

- On our webpage at www.bendigo.vic.gov.au

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.

Attachment 1- Mapping reference table

Location	Land /Area Affected	Mapping Reference	What the amendment does
Heathcote	19 Ambers Drive CA 29 Ambers Drive 3 Barrack Street CA 3 Bennett Street 27 Caldwell Street 7 Fairy Dell Court 8 Fairy Dell Court CA at 6D Forest Drive CA 21 Forest Drive 32 Heathcote-North Costerfield Road 273 High Street 22-36 Kilmore Road 38-60 Kilmore Road 62-76 Kilmore Road 88 Kilmore Road 90-108 Kilmore Road CA 6 Kilmore Road 3 McMahon Street 4-6 McMahon Street 2-4 Mitchell Street CA 1 Northern Highway CA 15A Pianta Street 1 Robinson Street 5 Robinson Street 2-6 Routledge Street 5 Routledge Street 8 Routledge Street 14 Thomas Street CA 13 Turner Street	Greater Bendigo C243gben znMap 44 Exhibition	Applies the Urban Floodway Zone to the whole of the land at CA 1 Northern Highway, Highway, Heathcote and in part to a number of other properties. Removes the Urban Floodway Zone from the land at 8 Routledge Street and from a number of other properties.
Heathcote	31 Heathcote-Nagambie Road 2-20 Kilmore Road	Greater Bendigo C243gben znMap 45 Exhibition	Applies the Urban Floodway Zone to part of these two properties.
Derrinal	4005-4007 McIvor Highway	Greater Bendigo C243gben lsioMap35 Exhibition	Applies the LSIO1 or LSIO2
Heathcote	4005-4007 McIvor Highway 4291 McIvor Highway 4327 McIvor Highway	Greater Bendigo C243gben lsioMap37 Exhibition	Applies the LSIO1 or LSIO2
Heathcote	39 Ambers Drive	Greater Bendigo lsioMap 44	Applies either the

Location	Land /Area Affected	Mapping Reference	What the amendment does
	3 Barrack Street 7 Barrack Street 12 Barrack Street 1/33 Beauchamp Street 2/33 Beauchamp Street 3/33 Beauchamp Street 5-7 Beauchamp Street 11 Beauchamp Street 13 Beauchamp Street 15 Beauchamp Street 17 Beauchamp Street 19 Beauchamp Street 20-24 Beauchamp Street 21 Beauchamp Street 23 Beauchamp Street 25 Beauchamp Street 26-28 Beauchamp Street 29 Beauchamp Street 30 Beauchamp Street 31 Beauchamp Street 32 Beauchamp Street 34 Beauchamp Street 35 Beauchamp Street 36 Beauchamp Street 38 Beauchamp Street 39 Beauchamp Street 40 Beauchamp Street 41 Beauchamp Street 42 Beauchamp Street 43 Beauchamp Street 45 Beauchamp Street 47 Beauchamp Street 49 Beauchamp Street 51 Beauchamp Street 53 Beauchamp Street 55 Beauchamp Street 95 Bennett Street 97 Bennett Street 99 Bennett Street 100 Bennett Street 101 Bennett Street	Exhibition	LSIO1 or LSIO2 or both.

Location	Land /Area Affected	Mapping Reference	What the amendment does
	CA 18 Bennett Street		
	2 Caldwell Street		
	4 Caldwell street		
	5 Caldwell Street		
	8 Caldwell Street		
	10 Caldwell Street		
	12 Caldwell street		
	14 Caldwell street		
	16 Caldwell street		
	18 Caldwell street		
	20 Caldwell street		
	22 Caldwell street		
	24 Caldwell street		
	26 Caldwell Street		
	27 Caldwell Street		
	28 Caldwell street		
	30 Caldwell street		
	31 Caldwell Street		
	40 Caldwell Street		
	60 Caldwell Street		
	62-64 Caldwell Street		
	66-74 Caldwell Street		
	103 Caldwell Street		
	105 Caldwell Street		
	107 Caldwell Street		
	109 Caldwell Street		
	111 Caldwell Street		
	119 Caldwell Street		
	9 Campbell Lane		
	3-5 Christie Street		
	7 Christie Street		
	9 Christie Street		
	1-5 Clouston Court		
	7 Clouston Court		
	6 Craven Crescent		
	7 Craven Crescent		
	10 Craven Crescent		
	12 Craven Crescent		
	17-19 Craven Crescent		
	4 Fairy Dell Court		
	5 Fairy Dell Court		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	6 Fairy Dell Court		
	7 Fairy Dell Court		
	8 Fairy Dell Court		
	81 Forest Drive		
	250 Forest Drive		
	30 Heathcote-Nagambie Road		
	31 Heathcote-Nagambie Road		
	40 Heathcote-Nagambie Road		
	48 Heathcote-Nagambie Road		
	52 Heathcote-Nagambie Road		
	2 Herriot Street		
	6 Herriot Street		
	8 Herriot Street		
	2 High Street		
	8 High Street		
	10 High Street		
	12 High Street		
	16 High Street		
	66 High Street		
	70 High Street		
	76 High Street		
	78 High Street-		
	80 High Street		
	82 High Street		
	84 High Street		
	88 High Street		
	90 High Street		
	92 High Street		
	106 High Street		
	136-138 High Street		
	142 High Street		
	144 High Street		
	146 High Street		
	150 High Street		
	154-156 High Street		
	158 High Street		
	160 High Street		
	245 High Street		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	246 High Street 253 High Street 255 High Street 257-259 High Street 258 High Street 261-263 High Street 267 High Street 269 High Street 271 High Street 273 High Street 2 Jennings Street 2-20 Kilmore Road 22-36 Kilmore Road 38-60 Kilmore Road 62-76 Kilmore Road 78 Kilmore Road 82-86 Kilmore Road 88 Kilmore Road 90-108 Kilmore Road 114-120 Kilmore Road 120 Kilmore Road 122 Kilmore Road 134-136 Kilmore Road 138-158 Kilmore Road 160-164 Kilmore Road 1 Last Street 221 McIvor Highway 4291 McIvor Highway 4327 McIvor Highway 4377 McIvor Highway 4393 McIvor Highway 4413 McIvor Highway 4439 McIvor Highway 4406 McIvor Highway 4413 McIvor Highway 4440 McIvor Highway 4470 McIvor Highway 4493 McIvor Highway 4517 McIvor Highway 4550 McIvor Highway 4552 McIvor Highway		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	Lot 1 McIvor Highway 3 McMahon Street 4 McMahon Street 5 McMahon Street 1/8-10 Mitchell Street 2/8-10 Mitchell Street 3/8-10 Mitchell Street 4/8-10 Mitchell Street 5/8-10 Mitchell Street 221 Northern Highway 6290 Northern Highway 6308 Northern Highway 6360 Northern Highway CA 13 Northern Highway CA 1 Northern Highway CA 11 Northern Highway CA 13 Northern Highway Lot 2 Northern Highway 5-23 Patterson Street 2-14 Patterson Street CA 15 Pianta Street 4 Pohlman Street 8 Pohlman Street 9 Pohlman Street 7 Robinson Street 11 Robinson Street 12 Robinson Street 20 Robinson Street CA 2 Robinson Street 2-6 Routledge Street 5 Routledge Street 8 Routledge Street 9 Routledge Street 10 Routledge Street 11 Routledge Street 12 Routledge Street 13 Routledge Street 14 Routledge Street 15 Routledge Street 16 Routledge Street 18 Routledge Street		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	5 Shakespere Street		
	6 Shakespere Street		
	11 Shakespere Street		
	38-40 Shakespere Street		
	40 Shakespere Street		
	42 Shakespere Street		
	44 Shakespere Street		
	2-14 Speed Street		
	8 Thomas Street		
	10 Thomas Street		
	11 Thomas Street		
	15 Thomas Street		
	19 Thomas Street		
	23 Thomas Street		
	13 Thomas Street		
	15 Thomas Street		
	19 Thomas Street		
	23 Thomas Street		
	CA 13 Turner Street		
	3 Wright Street		
	7 Wright Street		
	9 Wright Street		
	11 Wright Street		
	13 Wright Street		
	15 Wright Street		
	17 Wright Street		
	35-37 Wright Street		
	38 Wright Street		
	39 Wright Street		
	41-43 Wright Street		
	42 Wright Street		
	44 Wright Street		
	46 Wright Street		
	48 Wright Street		
	52 Wright Street		
	54 Wright Street		
	4 Wright Street		
	60 Wright Street		
	62 Wright Street		
	64 Wright Street		
	66 Wright Street		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	68 Wright Street 70 Wright Street 72 Wright Street 74 Wright Street 76 Wright Street 78 Wright Street 80 Wright Street 82 Wright Street 84 Wright Street 85 Wright Street 86 Wright Street 87 Wright Street 88 Wright Street 89 Wright Street 90 Wright Street 91 Wright Street 92 Wright Street 93 Wright Street 94 Wright Street 95 Wright Street, 96 Wright Street 99 Wright Street 100 Wright Street		
Heathcote	30 Heathcote-Nagambie Road 31 Heathcote-Nagambie Road 40 Heathcote-Nagambie Road 48 Heathcote-Nagambie Road 52 Heathcote-Nagambie Road CA 40E Heathcote-Nagambie Road CA 2081 Heathcote-Redesdale Road 5 Heenans Lane 35 Heenans Lane 43 Heenans Lane 66 Heenans Lane CA 9 Northern Highway 6290 Northern Highway 6308 Northern Highway	Greater Bendigo IsioMap 45 Exhibition	Applies either the LSIO1 or LSIO2 or both

Location	Land /Area Affected	Mapping Reference	What the amendment does
	6360 Northern Highway		
Heathcote	39 Ambers Drive 3 Barrack Street 7 Barrack Street 12 Barrack Street 1/33 Beauchamp Street 2/33 Beauchamp Street 3/33 Beauchamp Street 5-7 Beauchamp Street 11 Beauchamp Street 13 Beauchamp Street 15 Beauchamp Street 17 Beauchamp Street 19 Beauchamp Street 20-24 Beauchamp Street 21 Beauchamp Street 23 Beauchamp Street 25 Beauchamp Street 26-28 Beauchamp Street 29 Beauchamp Street 30 Beauchamp Street 31 Beauchamp Street 32 Beauchamp Street 34 Beauchamp Street 35 Beauchamp Street 36 Beauchamp Street 38 Beauchamp Street 39 Beauchamp Street 40 Beauchamp Street 41 Beauchamp Street 42 Beauchamp Street 43 Beauchamp Street 45 Beauchamp Street 47 Beauchamp Street 39 Ambers Drive 3 Barrack Street 7 Barrack Street 12 Barrack Street 1/33 Beauchamp Street 2/33 Beauchamp Street 3/33 Beauchamp Street	Greater Bendigo d-lsio-fo Map 44 Exhibition	Deletes the LSIO3

Location	Land /Area Affected	Mapping Reference	What the amendment does
	5-7 Beauchamp Street 11 Beauchamp Street 13 Beauchamp Street 15 Beauchamp Street 17 Beauchamp Street 19 Beauchamp Street 20-24 Beauchamp Street 21 Beauchamp Street 23 Beauchamp Street 25 Beauchamp Street 26-28 Beauchamp Street 29 Beauchamp Street 30 Beauchamp Street 31 Beauchamp Street 32 Beauchamp Street 34 Beauchamp Street 35 Beauchamp Street 36 Beauchamp Street 38 Beauchamp Street 39 Beauchamp Street 40 Beauchamp Street 41 Beauchamp Street 42 Beauchamp Street 43 Beauchamp Street 45 Beauchamp Street 47 Beauchamp Street 10 Craven Crescent 12 Craven Crescent 17-19 Craven Crescent 4 Fairy Dell Court 5 Fairy Dell Court 6 Fairy Dell Court 7 Fairy Dell Court 8 Fairy Dell Court 81 Forest Drive 250 Forest Drive 30 Heathcote-Nagambie Road 31 Heathcote-Nagambie Road 40 Heathcote-Nagambie Road 48 Heathcote-Nagambie		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	Road 52 Heathcote-Nagambie Road 2 Herriot Street 6 Herriot Street 8 Herriot Street 2 High Street 8 High Street 10 High Street 12 High Street 16 High Street 66 High Street 70 High Street 76 High Street 78 High Street- 80 High Street 82 High Street 84 High Street 88 High Street 90 High Street 92 High Street 106 High Street 136-138 High Street 142 High Street 144 High Street 146 High Street 150 High Street 154-156 High Street 158 High Street 160 High Street 245 High Street 246 High Street 253 High Street 255 High Street 257-259 High Street 258 High Street 261-263 High Street 267 High Street 269 High Street 271 High Street 273 High Street 2 Jennings Street		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	2-20 Kilmore Road 22-36 Kilmore Road 38-60 Kilmore Road 62-76 Kilmore Road 78 Kilmore Road 82-86 Kilmore Road 88 Kilmore Road 90-108 Kilmore Road 114-120 Kilmore Road 120 Kilmore Road 122 Kilmore Road 134-136 Kilmore Road 138-158 Kilmore Road 160-164 Kilmore Road 1 Last Street 221 McIvor Highway 4291 McIvor Highway 4327 McIvor Highway 4377 McIvor Highway 4393 McIvor Highway 4413 McIvor Highway 4439 McIvor Highway 4406 McIvor Highway 4413 McIvor Highway 4440 McIvor Highway 4470 McIvor Highway 4493 McIvor Highway 4517 McIvor Highway 4550 McIvor Highway 4552 McIvor Highway Lot 1 McIvor Highway 3 McMahon Street 4 McMahon Street 5 McMahon Street 1/8-10 Mitchell Street 2/8-10 Mitchell Street 3/8-10 Mitchell Street 4/8-10 Mitchell Street 5/8-10 Mitchell Street 221 Northern Highway 6290 Northern Highway		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	6308 Northern Highway		
	6360 Northern Highway		
	CA 1 Northern Highway		
	CA 11 Northern Highway		
	CA 13 Northern Highway		
	Lot 2 Northern Highway		
	5-23 Patterson Street		
	2-14 Patterson Street		
	CA 15 Pianta Street		
	4 Pohlman Street		
	8 Pohlman Street		
	9 Pohlman Street		
	7 Robinson Street		
	11 Robinson Street		
	12 Robinson Street		
	20 Robinson Street		
	CA 2 Robinson Street		
	2-6 Routledge Street		
	5 Routledge Street		
	8 Routledge Street		
	9 Routledge Street		
	10 Routledge Street		
	11 Routledge Street		
	12 Routledge Street		
	13 Routledge Street		
	14 Routledge Street		
	15 Routledge Street		
	16 Routledge Street		
	18 Routledge Street		
	5 Shakespere Street		
	6 Shakespere Street		
	11 Shakespere Street		
	38-40 Shakespere Street		
	40 Shakespere Street		
	42 Shakespere Street		
	44 Shakespere Street		
	2-14 Speed Street		
	8 Thomas Street		
	10 Thomas Street		
	11 Thomas Street		
	15 Thomas Street		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	19 Thomas Street		
	23 Thomas Street		
	13 Thomas Street		
	15 Thomas Street		
	19 Thomas Street		
	23 Thomas Street		
	CA 13 Turner Street		
	3 Wright Street		
	7 Wright Street		
	9 Wright Street		
	11 Wright Street		
	13 Wright Street		
	15 Wright Street		
	17 Wright Street		
	35-37 Wright Street		
	38 Wright Street		
	39 Wright Street		
	41-43 Wright Street		
	42 Wright Street		
	44 Wright Street		
	46 Wright Street		
	48 Wright Street		
	52 Wright Street		
	54 Wright Street		
	4 Wright Street		
	60 Wright Street		
	62 Wright Street		
	64 Wright Street		
	66 Wright Street		
	68 Wright Street		
	70 Wright Street		
	72 Wright Street		
	74 Wright Street		
	76 Wright Street		
	78 Wright Street		
	80 Wright Street		
	82 Wright Street		
	84 Wright Street		
	85 Wright Street		
	86 Wright Street		
	87 Wright Street		

Location	Land /Area Affected	Mapping Reference	What the amendment does
	88 Wright Street 89 Wright Street 90 Wright Street 91 Wright Street 92 Wright Street 93 Wright Street 94 Wright Street 95 Wright Street, 96 Wright Street 99 Wright Street 100 Wright Street		
Heathcote	30 Heathcote-Nagambie Road 31 Heathcote-Nagambie Road 40 Heathcote-Nagambie Road 48 Heathcote-Nagambie Road 52 Heathcote-Nagambie Road CA 40E Heathcote-Nagambie Road CA 2081 Heathcote-Redesdale Road 5 Heenans Lane 35 Heenans Lane 43 Heenans Lane 66 Heenans Lane CA 9 Northern Highway 6290 Northern Highway 6308 Northern Highway 6360 Northern Highway	Greater Bendigo d-lsio-fo Map 45 Exhibition	Deletes the LSIO3

14.2. 24 Cannon Lane, Kangaroo Flat - 2 Lot Subdivision of Land

Author	Peter O'Brien, Planning Coordinator
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Summary/Purpose

Application details:	2 lot subdivision of land
Application No:	DS/109/2020
Applicant:	Chris Brown & Associates Pty Ltd
Land:	24 Cannon Lane, KANGAROO FLAT 3555
Zoning:	General Residential Zone
Overlays:	Nil
No. of objections:	12
Consultation meeting:	No
Key considerations:	• What does Planning Policy say about infill subdivisions in the General Residential Zone; • Is the subdivision consistent with Neighbourhood character; • The proposed and future access arrangement; • Is there the need for an Open Space Contribution; and • Issues raised by the objections.
Conclusion:	The site is in a good location to provide a new lot in terms of accessibility to employment opportunities, leisure (Bendigo Creek Trail/proximity to Crusoe Number 7), shopping (Kangaroo Flat Central Activity and Lansell Square) and public transport. The proposal provides for a new lot which can accommodate a single dwelling comfortably. This report considers the permit application and concludes that the proposal represents an orderly and acceptable planning outcome under the Planning Scheme, subject to the conditions contained in the recommendation. It is recommended that the Greater Bendigo City Council issues a Notice of Decision to Grant a Planning Permit.

RECOMMENDATION

Pursuant to section 61 of the Planning and Environment Act (1987), Council resolve to issue a Notice of Decision to Grant a Permit for 2 lot subdivision of land at 24 Cannon Lane, KANGAROO FLAT 3555 subject to the conditions at the end of this report.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Report

Subject Site and Surrounds

The application site is a single, irregular shaped lot of 9,482 square metres with road abuttal to Cannon Lane, Sandpiper Grove and Alluvial Place.



Figure 1: Location map showing subject site. Objectors' properties (those proximate to the site) marked with a star.

A dwelling and associated outbuilding are located on land and features of the application site include: a tennis court in the northern end of the site; a lagoon in the eastern part of the site; and several trees located in the south west corner.

As can be seen, the site abuts undeveloped land zoned Low-Density Residential to the west and developed land zoned General Residential to the north, south and east. The General Residential Zone land has developed progressively since 2010.

Recreational opportunities such as the Crusoe Reservoir and bushland, Bendigo Creek Trail and shopping at Lansell Square are walkable from the site (within 1.4 kilometres of the site) to the west and north east respectively.

The application site is less than 200 metres from bus stops located on the corner of Cannon Lane and Furness Street. The frequency of service peaks during weekdays at between 26 and 30 minutes, with hourly services operating on weekends and public holidays. All bus services are wheelchair accessible.

Proposal



Figure 2: Preliminary Plan of subdivision.

The subdivision features two lots as follows:

- Lot 1 will have an area of 5,203 square metres;
- Lot 2 will have an area of 4,279 square metres
- The existing dwelling, associated outbuilding and the lagoon will be retained on Lot 1.
- Lot 1 will *continue* to take access from Cannon Lane, while access to Lot 2 is *proposed* from Sandpiper Grove.
- The lots to be created by the subdivision are already fully serviced by water, sewerage, electricity, telecommunications and gas supply systems.

Planning Controls - Greater Bendigo Planning Scheme

Permit Triggers

The need for a planning permit is triggered by:

- Clause 32.08-3 of the General Residential Zone, which states that a permit is required to subdivide land.

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

Planning Policy Framework

- Clause 11 Settlement
- Clause 11.01-1 S Settlement
- Clause 11.01-1 R Settlement – Loddon Mallee South
- Clause 11.02-1 S Supply of urban land
- Clause 11.03-1 S Activity centres
- Clause 13.02-1 S Bushfire planning
- Clause 13.04-1S Contaminated and potentially contaminated land
- Clause 15.01-3S Subdivision design
- Clause 15.01-5S Neighbourhood character
- Clause 16.01-2S Location of residential development
- Clause 16.01-3S Housing diversity

Local Planning Policy Framework

- Clause 21.02 Key Issues and Influences
- Clause 21.05 Compact Greater Bendigo

Local Planning Policies

- N/A

Zone

- Clause 32.08 General Residential Zone

Other Provisions

- Clause 56 Residential Subdivision
- Clause 65.02 Approval of an application to subdivide land
- Clause 66 Referrals

Consultation/Communication

Referrals

The following internal departments have been consulted on the proposal:

Referral	Comment
Traffic & Design	No objection subject to conditions
Drainage	No objection subject to conditions

Note: a two-lot subdivision is exempt from referral to the servicing authorities and the Planning Scheme prescribes set conditions which must be included in a permit. The prescribed conditions form part of the conditions recommended in the Notice of Decision.

Public Notification

The application was advertised by way of letters to adjoining and nearby owners and occupiers. As a result of advertising, 12 objections were received, with the grounds of objection being:

- The single entry/exit point to the lot from Barnett Drive/Sandpiper Grove;
- Concerns about the increase in traffic resulting from the subdivision;
- Concerns about impacts on character and the tranquil nature of the estate.

The planning merits and objections are discussed below.

Planning Assessment

What does Planning Policy and the Planning Scheme say about infill subdivisions in the General Residential Zone?

In short, Planning Policy is supportive of infill development in appropriately zoned locations, without unreasonable bushfire risk and where all urban services exist. Whether a Planning Permit should be granted or not is settled by whether the proposal is orderly and responds appropriately to site and context.

Planning policy through Clauses 11, 11.01-1S, 11.03-1S, 16.01-2S, 16.01-3S and 21.05 support an intensification of development on sites which have the locational attributes of the application site. Whilst the lot is larger than the predominant lot sizes in the General Residential Zone to the north, south and east, policy does support outcomes which will result in a diversity in housing stock.

Clauses 21.05-2 and 21.05-3, support increased housing in locations within 10 minutes of a range of services and facilities. The application site clearly has these attributes.

The proposal meets planning policy objectives in terms of being an appropriate location for housing and infill residential development and is located within a 10-minute neighbourhood. The proposal would provide a large lot to contain a single dwelling which meets the City's policy direction of providing diverse housing choice.

The Planning Scheme and General Residential Zone directs responsible authorities to consider whether an application complies with clause 56 of the Scheme which relates to Residential Subdivision.

For a subdivision that proposes two lots only, the following clauses apply which are listed and responded to in turn:

Clause/Standard	Description	☑ Complies; ☒ Does not comply N/A Not applicable
Clause 56.03	**Liveable and Sustainable Communities**	
Standard C6	Neighbourhood character	☑ This issue is considered in the following section of this report.
Clause 56.04	**Lot Design**	

Standard C8	Lot area and building envelopes	☑ A new lot needs to be able to demonstrate it is of a size and configuration where a 10 x 15 metres building rectangle/envelope can be fitted. The size and orientation mean this clause/standard is easily complied with.
Standard C11	Common area	N/A – No common property is proposed.
Clause 56.06	**Access and Mobility Management**	
Standard C21	Lot access	☑ The merits of the proposed access to the lot (from Sandpiper Grove) are discussed later in this report.
Clause 56.07	**Integrated Water Management**	
Standard C22	Drinking water supply	☑ Reticulated drinking water is available and will be connected to the new lot.
Standard C23	Reused and recycled water	N/A - A recycled water supply is not available in the area.
Standard C24	Waste water management	☑ Reticulated services (sewer) in accordance with Coliban Water's requirements. Historically 24 Cannon Lane relied on onsite effluent disposal, however the site is fully serviced.
Standard C25	Urban run-off management	☑ Subject to the detailed requirements of the City's Engineers and review of the requisite drainage plan, this Standard will be met.
Clause 56.08	**Site Management**	
Standard C26	Site management	☑ Given the sensitive existing residential interface, a requirement for the preparation, submission and approval of a Construction Management Plan is considered warranted and forms one of the Notice of Decision recommended conditions.
Clause 56.09	**Utilities**	
Standard C27	Shared trenching	☑ Shared trenching will be used for underground services wherever possible.
Standard C28	Electricity, NBN and Gas	☑ Electricity will be supplied to the newly created lot in the subdivision. ☑ Telecommunications will be supplied to the newly created lot (via NBN). ☑ Gas will be supplied if available.

Is the subdivision consistent with Neighbourhood character?

'Character' was an issue raised by several objections. The application site is not within a Residential Character Policy Precinct. Dwellings in the immediate surrounds of the site have been constructed since 2010 onwards and the lots containing these dwellings range generally between 300 and 800 square metres. The only exception to this is the dwelling on the application site at 24 Cannon Lane which appears to have been constructed in the 1980s or 1990s and is on a substantially larger parcel of land being 9,482 square metres.

In considering character it is relevant to have regard to the character of existing dwellings which have been developed 'as of right' since the land was subdivided.

Being a newly developed area, all the new dwellings assume a similar form, being single storey with attached garages and hipped roofs. Some of the dwellings have a wall constructed on the boundary and these walls are generally garage walls.

The application proposes to retain a large lot for the substantial existing dwelling on the land. The newly created lot at 4,279 square metres in size raises no issues in terms of being able to accommodate a dwelling, and such a dwelling would not require Planning approval from the City.

If the newly created lot was proposed to be further subdivided (though it is important to note this is *not* the application before Council), such an application would go through the usual process and further notice / consultation on any subsequent subdivision or multi-dwelling development would occur.

In some ways two large lots in this context could now be viewed as being contrary to character, however on its merits the creation of larger lots than that which presently exist in the area present less issues in terms of character than if the opposite were the case.

Are the proposed and future access arrangements for the lots appropriate?

The access to the subdivision is one of the most contentious aspects of the application and all 12 objections mentioned the access (and to a lesser extent) traffic as being key concerns.

It is clear there are three ways the newly created lot could be lawfully accessed, however for the following reasons access from Sandpiper Grove is preferred.

Cannon Lane and Alluvial Drive are two roads which provide for legal access to the site. Neither of these two options is preferred as native vegetation would be impacted for access to be provided.

In the case of Cannon Lane, a 'paper' road exists from the entrance to 24 Cannon Lane through to Sandpiper Grove. If access to the newly created lot was proposed, this would necessitate the construction of a section of Cannon Lane and an obvious consequence of this would be that native vegetation in Cannon Lane would be lost.

It is also relevant to note that to impose a requirement to access the lot / construct Cannon Lane related to a subdivision proposal of this scale would not be a lawful requirement and unlikely to survive scrutiny if challenged at the Victorian Civil and Administrative Tribunal (VCAT). A condition requiring Cannon Lane to be constructed would not be valid as it would have the effect of transforming the application by requiring a second permit for vegetation removal for the subdivision permit to be acted upon. A construction requirement for Cannon Lane would not be able to demonstrate a nexus between the proposal and the requirement with respect to consideration of fairness, equity and proportionality.

If access from Alluvial Drive was pursued, a very significant Eucalypt tree, which appears to be in good health, would be impacted and require removal to access the lot.

One of the desirable qualities from the broader subdivision is that it is close to the Bendigo Creek and the creek reserve contains mature canopy vegetation which is viewable throughout the estate. The remnant canopy trees on the application site provide a similar amenity.

The concerns of the objectors are acknowledged, however the impacts of vehicle access from Sandpiper Grove (and by extension Barnett Drive) for a single additional lot have been overstated by objectors in the view of the assessing officer. A single lot will generate a modest increase in traffic (the accepted standard being 10 vehicles movements per lot per day), and the advice that Planning has received from the City's Engineers is that a single lot accessing from Sandpiper Grove does not represent a 'tipping point' where some type of upgrade or reconstruction of the Grove is required.

Is there the need for a Public Open Space Contribution?

The City has discretion to require that an applicant/owner make a Public Open Space Contribution when land is subdivided. Council at its 16 September 2020 Ordinary Meeting considered a report with respect to the *Public Open Space Contributions Policy* that the City's Regional Sustainable Development Unit has undertaken.

A contribution can be, depending on the scale of the subdivision and principles derived from the City's adopted *Greater Bendigo Open Space Plan 2019*, either a cash or land contribution.

Generally, subdivision applications where only two lots are proposed are exempt from the Open Space requirement, however an exception exists if one (or both) the resultant lots have the potential to be further subdivided. Such an outcome cannot be discounted.

The other exception (and the one which is relevant to the conclusions drawn on the issue) is that the City can only levy an Open Space contribution *once* i.e. if one has not been levied in the past.

In this case, a review of the subdivision history of the land found that the Open Space contribution has been satisfied previously, thus it would be unlawful to levy the requirement a second time.

Conclusion

The site is in a good location to provide a new lot in terms of accessibility to employment opportunities, leisure (Bendigo Creek Trail / proximity to Crusoe Number 7), shopping (Kangaroo Flat Central Activity Centre, Lansell Square) and public transport. The proposal provides for a new lot which can accommodate a single dwelling comfortably.

This report considers the permit application and concludes that the proposal represents an orderly and acceptable planning outcome under the Planning Scheme, subject to the conditions contained in the recommendation. It is recommended that the Greater Bendigo City Council issues a Notice of Decision to Grant a Planning Permit.

Options

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

Proposed Notice of Decision Conditions

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

2. PROVISION OF SERVICES
   The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

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

4. REFERRAL OF PLAN
   The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with section 8 of that Act.

5. DETAILED DRAINAGE PLANS
   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 runoff.
   (b) Underground drainage
   (c) A point of discharge.
   (d) Drainage easements
   (e) Stormwater quality
   (f) Stormwater detention.

6. 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) Underground drainage.

7. SECTION 173 AGREEMENT
Should the applicant opt to install an on-site stormwater detention system or water quality treatment system then, prior to the issue of statement of compliance, the applicant/owner must enter into an agreement under section 173 of the Planning and Environment Act 1987. Such agreement must covenant that:
(a) The owner will maintain each system and not modify without prior written approval from the responsible authority.
(b) The owner shall allow duly authorised officers of the responsible authority to inspect the system at mutually agreed times.
(c) The owner will pay for all costs associated with the construction and maintenance of the system.

8. 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.

9. 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 site-specific plan showing proposed erosion & sedimentation control works,
- Techniques and intervention levels to prevent a dust nuisance,
- Techniques to prevent mud and dirt being transported from the site to adjacent streets and
- The protection measures taken to preserve vegetation identified for retention.

During construction of works associated with the subdivision, the must employ and provide the protection methods contained in the CMP to the satisfaction of the Responsible Authority.

10. TELECOMMUNICATIONS
(a) The owner of the land must enter into an agreement with:
- A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time.
- A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical

fibre.

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

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

11. EXPIRY OF THE PERMIT

The permit will expire if:

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

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

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.

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.

14.3. 38 Hicks Lane, Ladys Pass 3523 - Use And Development Of The Land For A Place Of Worship, Including Storage, Offices, And Associated Works

Author	David Burrow, Planner
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Summary/Purpose

Application details:	Use and development of the land for a place of worship, including storage, offices, and associated works.
Application No:	DU/879/2019
Applicant:	A Nguyen
Land:	38 Hicks Lane, LADYS PASS 3523
Zoning:	Rural Living Zone
Overlays:	Environmental Significance Overlay – Schedule 1
No. of objections:	2
Consultation meeting:	Nil
Key considerations:	Land use compatibility and impact on rural amenity.
Conclusion:	The application is recommended for refusal on the grounds that it represents an unacceptable impact on the amenity of the adjoining and nearby residential uses within the Rural Living Zone.

RECOMMENDATION

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 place of worship, including storage, offices, and associated works at 38 Hicks Lane, LADYS PASS 3523 on the following grounds:

1. The proposal is incompatible with adjoining and nearby uses and will have an unacceptable impact on the amenity of surrounding residents through generation of noise and disturbance.
2. The proposal cannot satisfy the purpose and decision guidelines of the Rural Living Zone or the decision guidelines of Clause 65.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Report

Subject Site and Surrounds

The subject site is located at 38 Hicks Lane, Ladys Pass and is wholly within the Rural Living Zone. A watercourse traverses the subject site from south to north, affected by an Environmental Significance Overlay – Schedule 1 (ESO). The proposal is not situated within the ESO, and is sited near to the existing dwelling, outbuildings and vineyard, all of which are located in the north-western corner. North of the subject site is Farming Zone. The closest dwelling is located to the east of the subject site within 300 metres of the proposal.

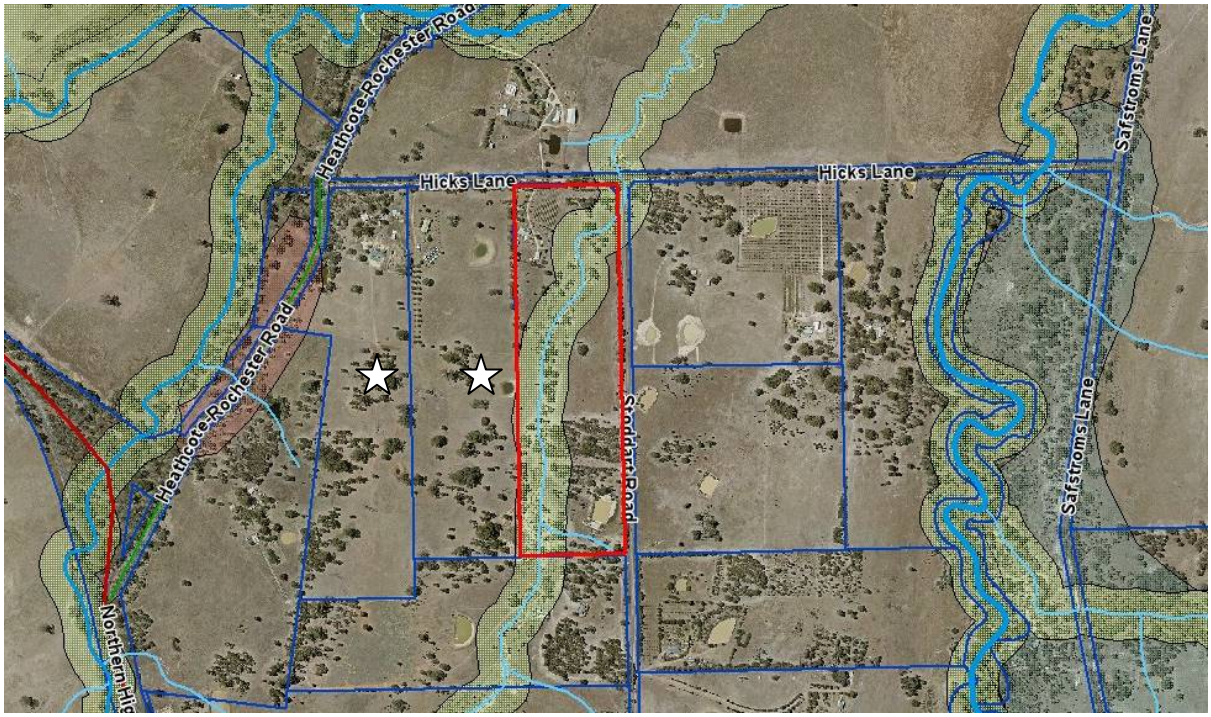


Figure 1: Aerial mapping showing subject site. Objectors' properties marked with a white star.



Figure 2: Photo from entrance to subject land.

Proposal

The proposal is to use and develop the land for a place of worship, including storage, offices and associated works. The application proposes construction of a new storage building and car park, as well as conversion of an existing shed into a building for the purpose of worship.

The proposed place of worship would operate on weekends between 9am and 5pm for a maximum of 35 patrons. Further aspects of the use are discussed throughout the report.

Plans of the proposal are provided below.

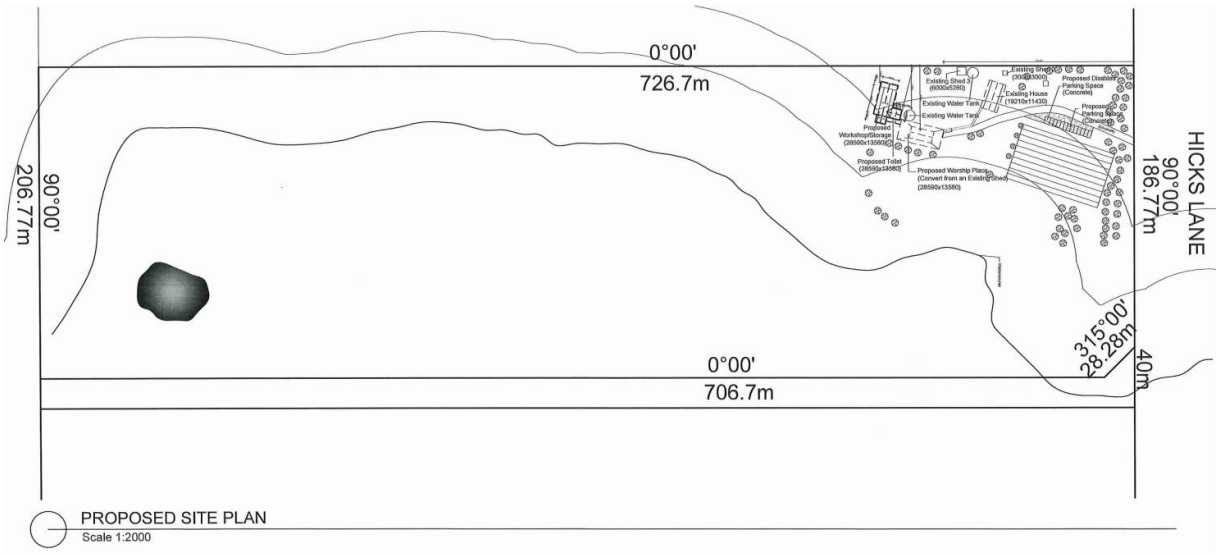


Figure 3: Site plan.

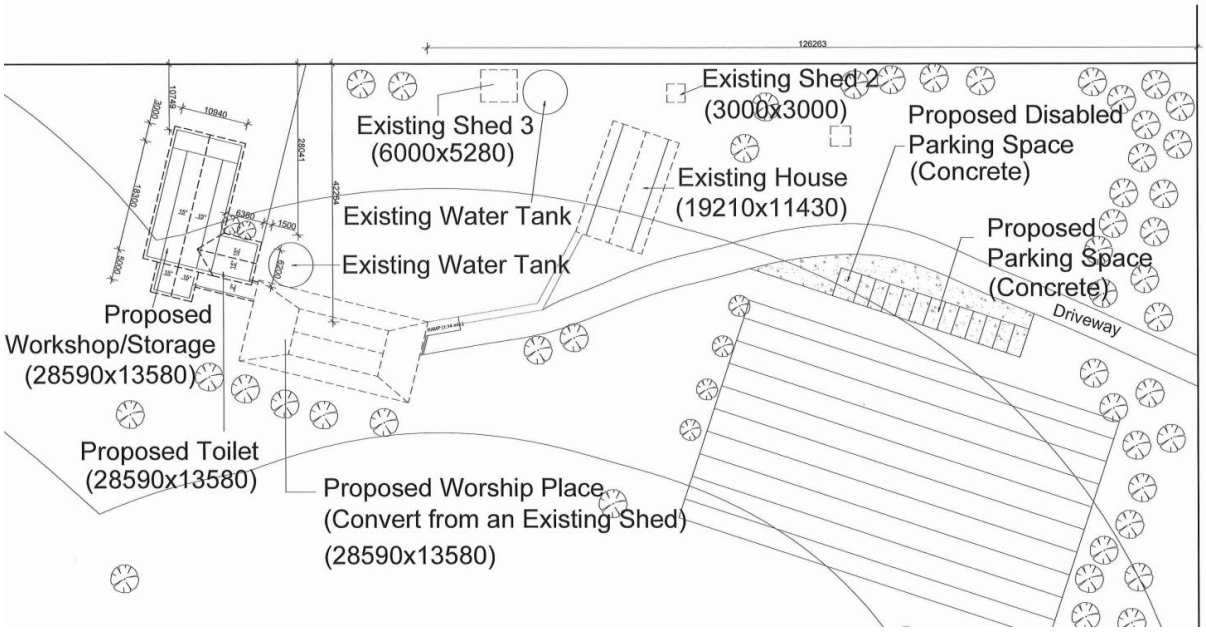


Figure 4: Proposed site detail plan.

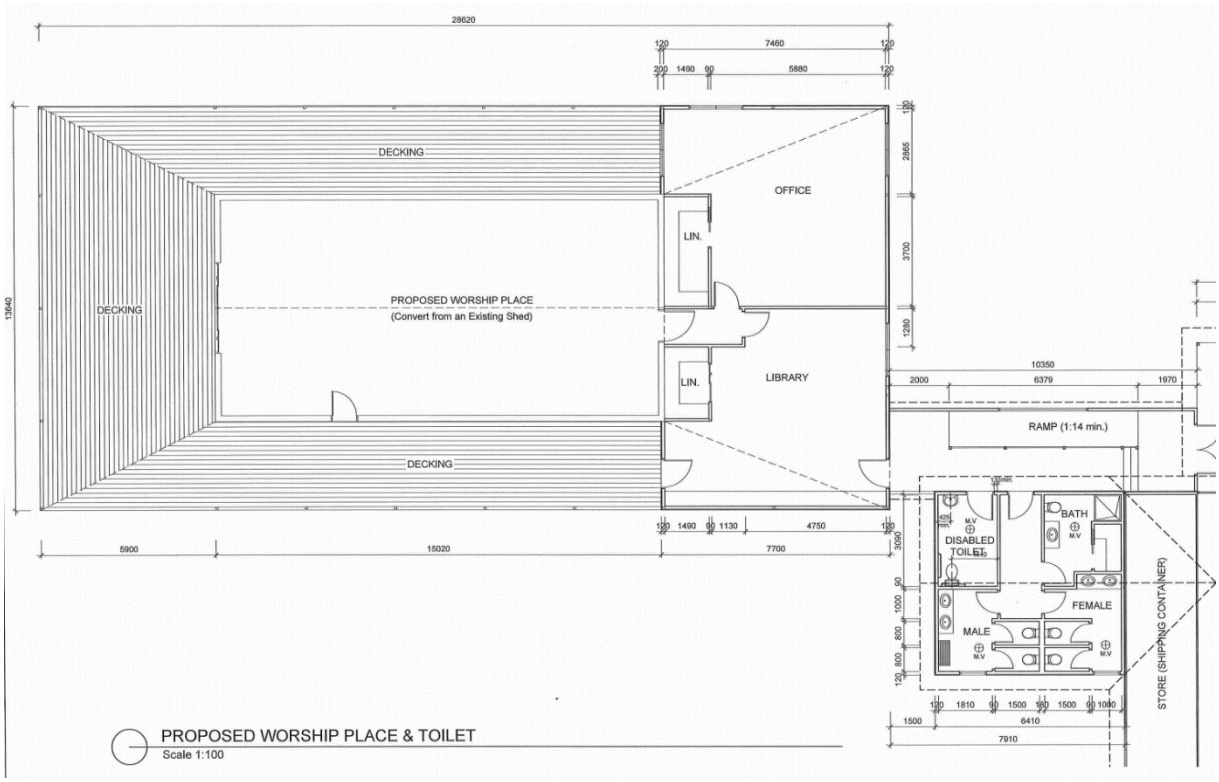


Figure 5: Proposed worship building.

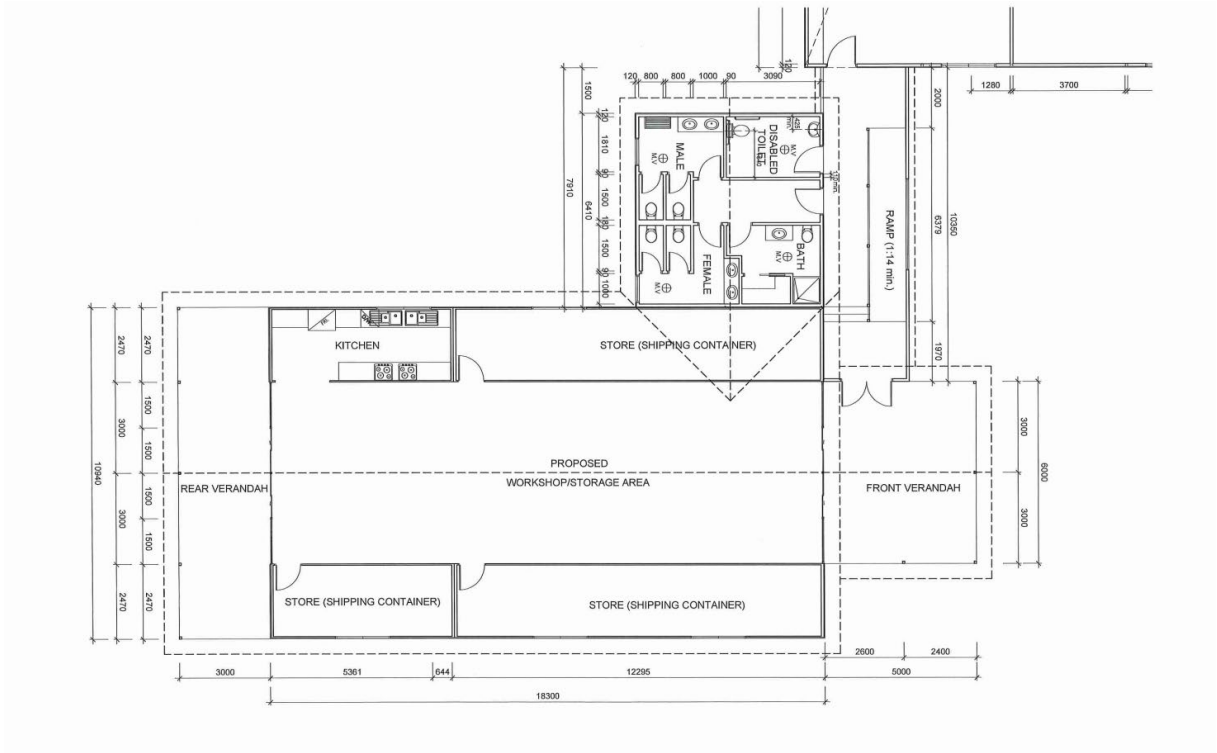
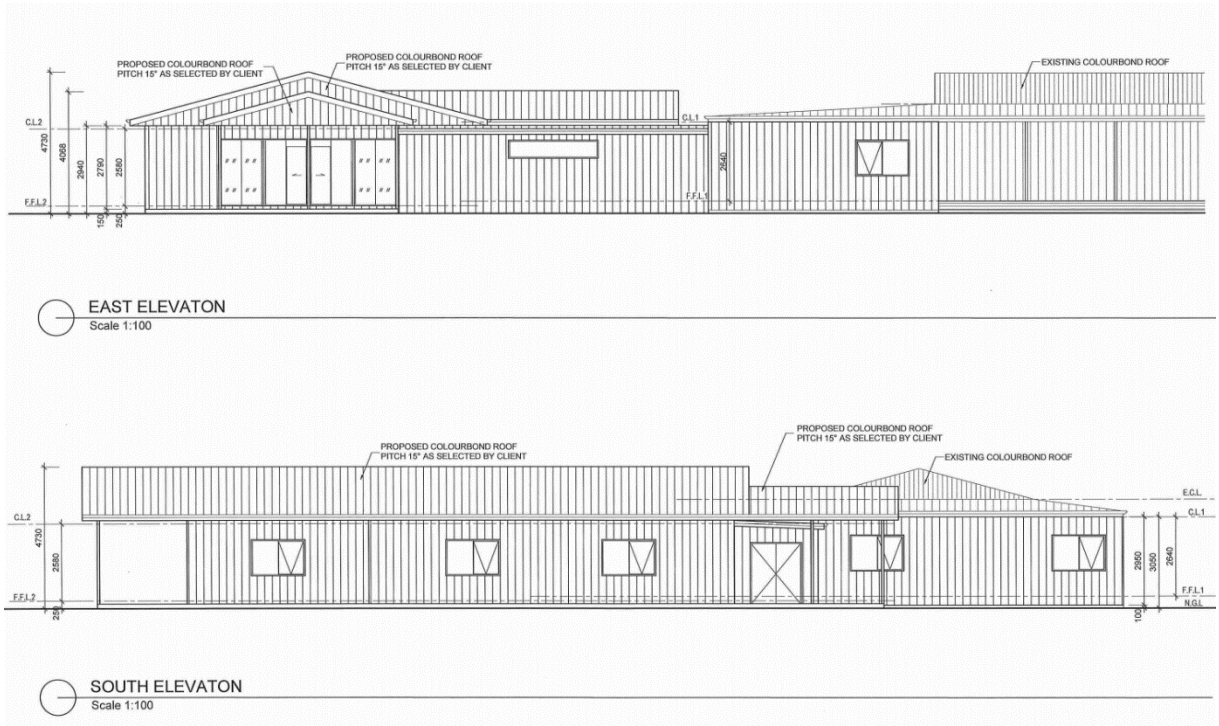


Figure 6: Proposed workshop / storage building.



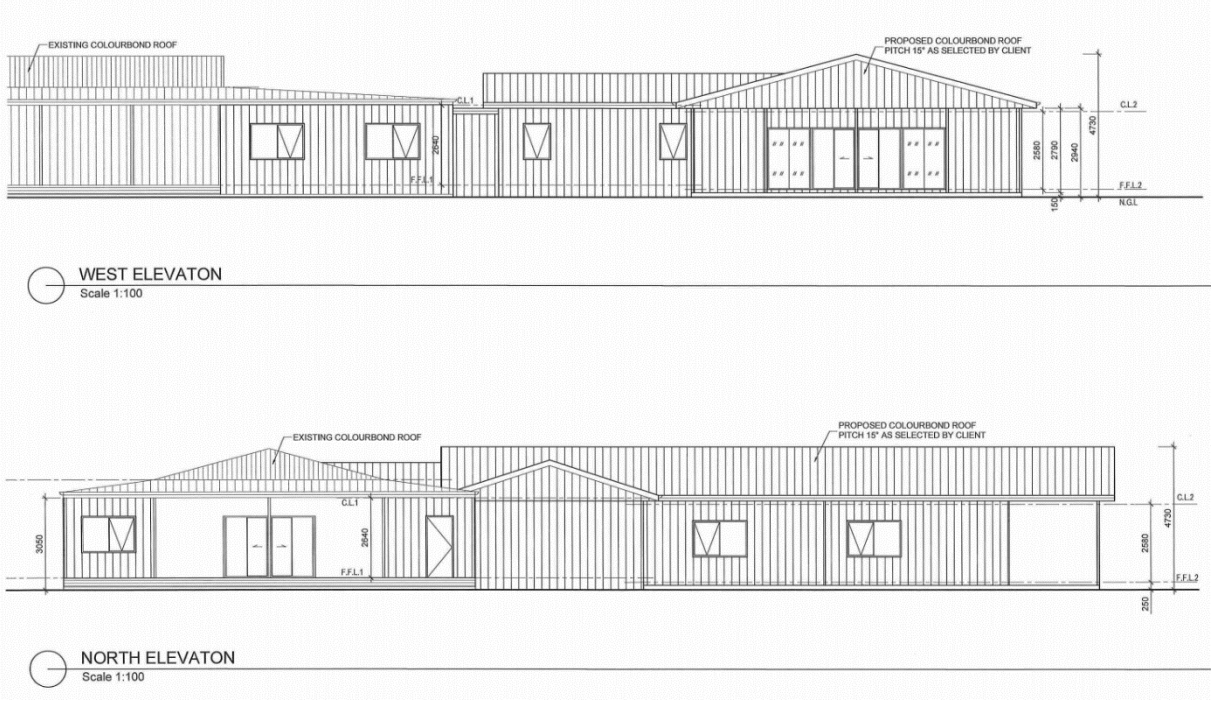


Figure 7: Elevations.

Planning Controls - Greater Bendigo Planning Scheme

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

State Planning Policy Framework

- 12.03-1S River corridors, waterways, lakes and wetlands
- 13.02-1S Bushfire planning
- 13.05-1S Noise abatement
- 13.07-1S Land use compatibility
- 14.01-1S Protection of agricultural land
- 14.02-1S Catchment planning and management
- 14.02-2S Water quality
- 15.01-6S Design for rural areas
- 18.02-4S Car parking
- 19.02-3S Cultural facilities
- 19.02-4S Social and cultural infrastructure

Municipal Strategic Statement

- 21.01 Municipal profile
- 21.02 Key issues and influences

Local Planning Policies

- Nil

Other Provisions

- 35.03 Rural Living Zone

- 52.06 Car parking
- 53.02 Bushfire planning

Consultation/Communication

Referrals

The following internal departments have been consulted on the proposal:

Referral	Comment
Environmental Health	No objection subject to conditions
Traffic & Design	No objection subject to conditions
Drainage	No objection subject to conditions

Public Notification

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

As a result of advertising, 2 objections were received, with the grounds of objection being:

- The commercial nature of the proposal
- Noise
- Traffic
- Hour of operation
- Parking
- Dust
- Biodiversity

The applicant provided a written response to these concerns, received on 30 June 2020. In particular, the applicant reduced the proposed hours of operation from every day to only on weekends between 9am and 5pm.

The written response from the applicant was circulated to the objectors. Both objectors responded (received 21 July 2020) considering the changes in hours of operation to be irrelevant as the weekend is when they most desire to enjoy their own properties.

No objections were withdrawn and are discussed further below.

Planning Assessment

Introduction

The proposal is for the use and development of a Place of Worship for religious activities related to the Buddhism religion and associated facilities at 38 Hicks Lane, Ladys Pass. A planning permit is required for the use and development of the land for a place of assembly (worship) within the Rural Living Zone, pursuant to Section 2 of Clause 35.03. The proposal would convert an existing shed into a place of assembly and construct a storage area including ancillary kitchen, office, library, workshop and other amenities. The proposed structures would have a maximum height of 4.73 metres and would be clad in Colourbond. The hours of operation would be 9am to 5pm on weekends for a maximum capacity of 35 patrons.

This assessment focuses on the appropriateness of the proposal within the locality and whether it can suitably mitigate its impacts on the amenity of the locality through siting, design, noise, and access. No removal of native vegetation is proposed and the statutory requirement for car parking has been provided pursuant to Clause 52.06.

Two (2) objections were received during the public notice period. Both objectors raised concerns regarding its potential impact on amenity, citing previous instances of the owner conducting events on-site, similar but not identical, to the use which is proposed.

Land Use Compatibility

The proposed land use is defined as a Place of Worship under the Planning Scheme.

The purposes of the Rural Living Zone include;

- *To provide for residential use in a rural environment.*
- *To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.*
- *To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

The objective of Clause 13.07-1S Land use compatibility, is *"to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts."* Given that the purpose of the Rural Living Zone is to provide for residential and agricultural uses, any proposal which is not for a residential or agricultural use must demonstrate that it will sufficiently protect the amenity of other residential uses and mitigate any impacts on biodiversity.

The proposal does not include the removal of native vegetation and is set back from any watercourse by over 50 metres. During the public notification period it became evident that some of the neighbouring allotments had concerns about the impacts of the proposal. Their main concerns were based on the commercial nature of the proposal, along with descriptions of adverse experiences of events being undertaken at the subject site (in association with worship practices). The previous events are not considered relevant to this assessment. However, the Rural Living Zone requires the responsible authority to consider *"whether the proposal is compatible with adjoining and nearby land uses."* Clause 13.07-1S recommends to *"avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use*

separation, siting, building design and operational measures." These items are discussed throughout the remainder of the report.

Land Use Separation and Siting

The proposal would be situated in the north-western corner of the subject site, to the rear of an existing dwelling with all access from Hicks Lane. The place of worship would be located within an existing shed and an additional structure would be constructed to the southwest of the existing shed, 10.7 metres from the western allotment boundary. The centre of the main Place of Worship would be between 200 and 300 metres from the closest dwelling not within the same ownership. The owner of the closest dwelling has objected to the proposal. The proximity of the proposal to other dwellings within 400 metres demonstrates a lack of separation from residential uses. Subsequently, the application must rely upon other minimising factors to avoid undue impact on off-site dwellings.



Figure 8: Aerial mapping, white circles showing 100 metre distances from the centre of the existing shed (proposed place of worship), and red squares identify existing dwellings, not including the subject land.



Figure 9: Photo from the access to the closest dwelling: closest dwelling shown to the right of frame and structures located on subject site visible from between the trees to the centre-left of frame.

Rural Design

The subject site is located within the Rural Living Zone and adjacent to a Farming Zone. Subsequently, the proposal must respect the rural character of the area. Despite the proposal increasing the amount of built form within the subject land the design of the proposal is generally compatible with the rural landscape for the following reasons:

- The proposed siting adheres to all setbacks for the Rural Living Zone, aside from the setback from a watercourse;
- All structures within the subject land are grouped within 100 metres of each other which will consolidate any impact on the landscape and potential agricultural use; and
- The profile, materials, and scale of the structures are consistent with other structures found within the rural locality, even to the point of utilising an existing shed.

Given the above design considerations, the 'built form' aspect of the proposal is not considered at odds with the rural character of the locality and would constitute a generally acceptable design. Notwithstanding this design, the applicant's suggestion of providing additional landscaping along the western allotment boundary could be employed to further mitigate the impacts of the proposed use if a permit were to be granted. Such landscaping can be conditioned as part of any subsequent permit if granted.

Noise

The objectors raised concerns regarding noise. Noise generation is proposed to include the use of a PA system at certain times of the day, including 'call to prayer'. The applicant acknowledges that there could be a potential impact on the amenity by noise,

however considers that this can be reasonably regulated by way of the *State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.*

The concerns regarding noise from the PA system travelling across to adjoining owners could technically be managed via EPA policy and though placing restrictions on the hours of use (eg. between 10am and 5pm under N-2). However, the consideration of noise guidelines for public premises is not generally something envisaged by the Rural Living Zone. The zone seeks to advance residential and agricultural uses, and as such a landowner in this zone would not reasonably expect to hear PA announcements or large gatherings of people and associated vehicle movements as a regular weekly occurrence. The existing dwellings are likely to be inhabited at the times in which the proposed place of worship is intended to operate (Saturday and Sunday), and indeed those days of the week are associated with recreation and respite.

It is therefore not considered reasonable for residents to be impacted by noise as regulated for public premises, within a Rural Living Zone.

Access

Hicks Lane between the Heathcote-Rochester Road and Stoddart Road currently services 4 access points to 4 dwellings including the subject site. The proposal would provide 13 car parking spaces to accommodate for the 35 patrons. Subsequently, it is reasonable to assume that there will be a substantial increase in traffic at the beginning and end of the proposed hours of operation on weekends. However, the impact on the road is unlikely to be significant except during this short amount of time and distance. The matter was referred to the City's Traffic and Infrastructure Engineer who did not object to the proposal, subject to conditions. Subsequently, the impact on dust, noise, and safety is likely to be strictly limited and not unreasonable.



Figure 10: Photo from near intersection of Hicks Lane and Stoddart Road looking west. Subject land to the left of frame.

Conclusion

In summary:

- The Rural Living Zone provides for residential use in a rural environment.
- The Rural Living Zone allows for an assessment of the use of the land for a Place of Worship provided it is compatible with adjoining and nearby land uses.
- The proposed place of worship intends to accommodate 35 people, on weekends between 9am to 5pm. It would include the generation of noise through the use of a PA system.
- The proposed place of worship would be approximately 200 metres from a sensitive use (dwelling).
- The existing surrounding dwellings are likely to be inhabited at the times in which the proposed place of worship is intended to operate. Those days of the week could be said to have a higher expectation of amenity.

Subsequently, the proposed use of the land for a Place of Worship cannot be supported due to its incompatibility with adjoining and nearby uses and inconsistency with the purpose of the Rural Living Zone.

It is therefore recommended that the application be refused.

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.

14.4. 37 Barrell Street, California Gully 3556 - Construction Of 5 Dwellings, Associated Outbuildings, And Alterations To A Vehicle Cross-Over

Author	David Burrow, Planner
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Summary/Purpose

Application details:	Construction of 5 dwellings, associated outbuildings and alterations to a vehicle cross-over.
Application No:	DR/257/2020
Applicant:	Rankin Holdings (Vic) Pty Ltd
Land:	37 Barrell Street, CALIFORNIA GULLY 3556
Zoning:	General Residential Zone
Overlays:	Heritage Overlay - Precinct 310
No. of objections:	7
Consultation meeting:	Nil
Key considerations:	Whether the subject site is suitably located for, and capable of, accommodating the additional dwelling density. Whether the proposal protects or enhances neighbourhood character.
Conclusion:	The proposal represents an increase in dwelling density which is generally supported within the Bendigo Urban Growth Boundary. Native vegetation is a key element within Eaglehawk Residential Character Precinct 7. However, the removal of vegetation does not require a permit and the relevant clauses allow for the vegetation removal provided the vegetation is replaced with suitable landscaping. It is recommended that a Notice of Decision to Grant a Permit be issued, subject to conditions, particularly regarding landscaping (including landscaping endemic to the locality.)

RECOMMENDATION

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for the construction of 5 dwellings, associated outbuildings, and alterations to a vehicle cross-over at 37 Barrell Street, CALIFORNIA GULLY 3556 subject to the conditions at the end of this report.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Report

Subject Site and Surrounds

The subject site is identified as 37 Barrell Street, California Gully, which is wholly located within the General Residential Zone. The subject site is not affected by any overlays. However, the Barrell Street road reserve which directly adjoins the subject site is covered by a Heritage Overlay. The subject site incorporates a dwelling, associated outbuildings and native vegetation. Three mine shafts have been identified within the subject site. The locality is predominantly characterised by single detached dwellings, wide roads and native vegetation including several substantially sized trees, primarily in the form of Box Ironbark trees. However, there are some low profile units on individual allotments of less than 300 square metres, adjacent to the subject land.



Figure 1: Location map showing subject site. Objectors' properties marked with a red dot. Two objectors are contained in the one dot to the south of the subject land and the 7th objector is from Kennington.



Figure 2: View from Barrell Street

Proposal

The proposal is for the construction of 5 dwellings, associated outbuildings and alterations to a vehicle cross-over.

The dwellings are all proposed to be single-storey. External cladding materials will primarily be brick and concrete tiles. Access will be provided by a single driveway running parallel to the northern allotment boundary. Alterations to the vehicle crossover will likely be required.

The existing vegetation on-site is proposed to be removed.

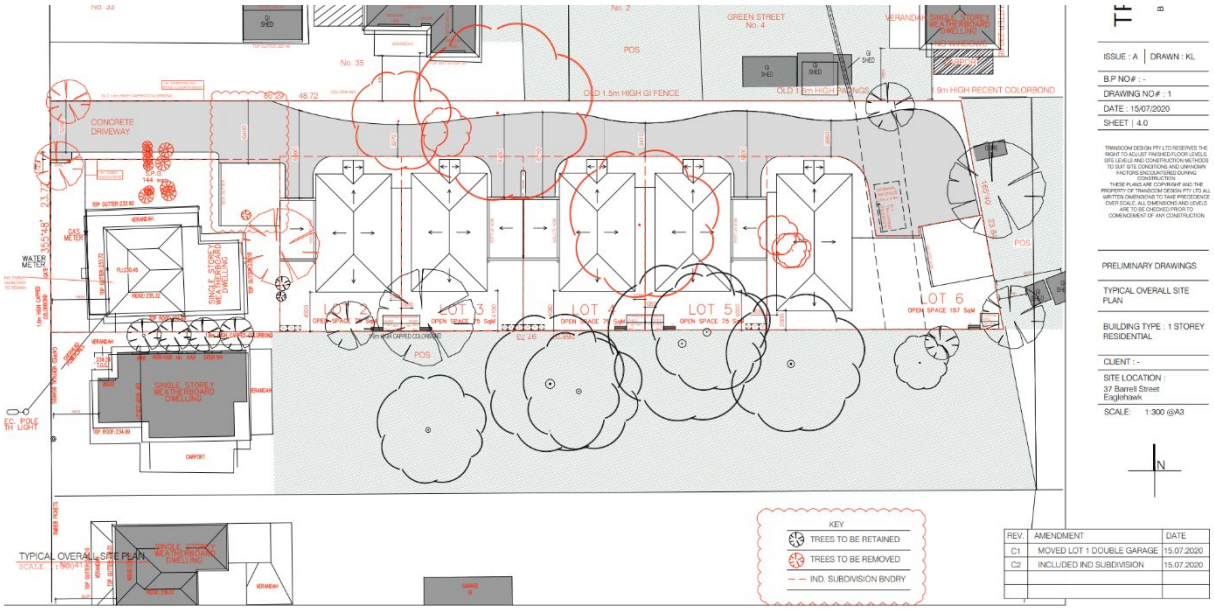


Figure 3: Site layout plan.

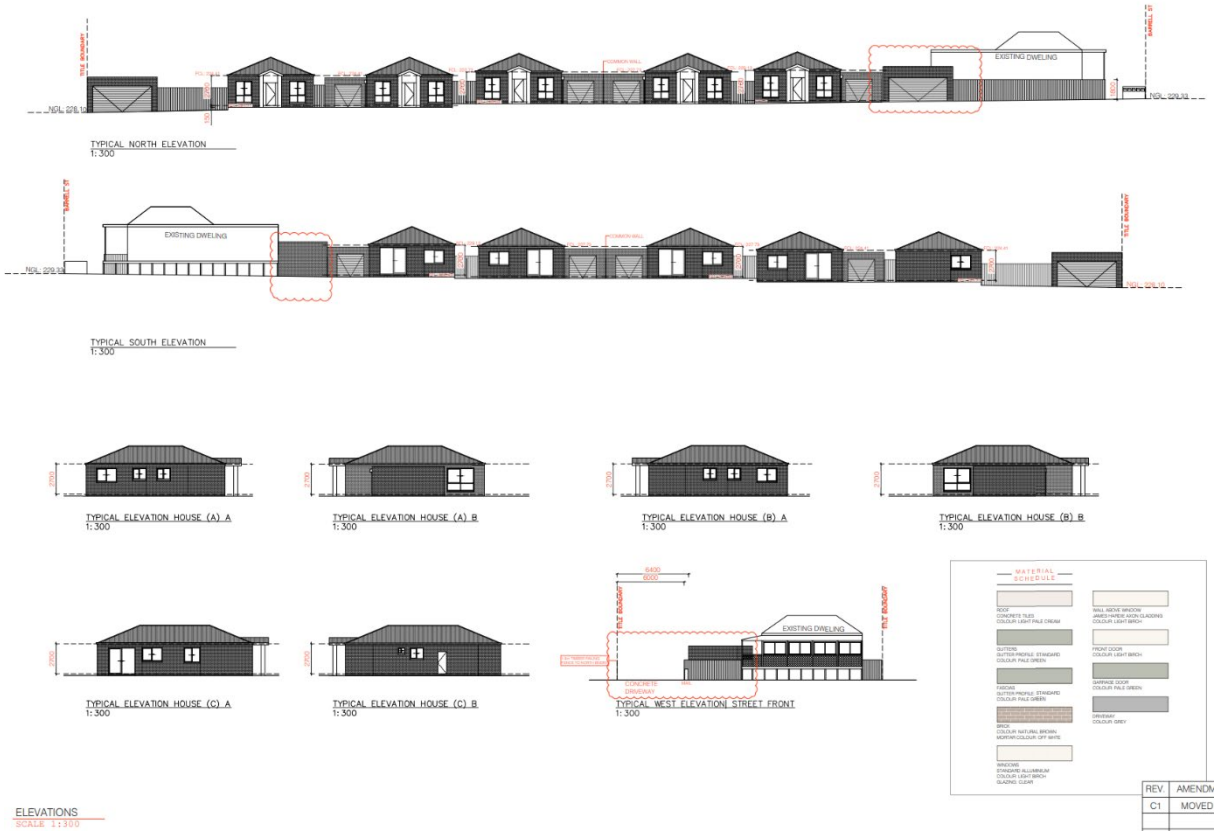


Figure 4: Elevations.

Planning Controls - Greater Bendigo Planning Scheme

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

State Planning Policy Framework

- 13.04-1S Contaminated and potentially contaminated land
- 15.01-1S Urban design
- 15.01-2S Building design
- 15.01-5S Neighbourhood character
- 15.03-2S Aboriginal cultural heritage
- 16.01-1S Integrated housing
- 16.01-2S Housing diversity
- 18.02-2S Public transport
- 18.02-4S Car parking

Municipal Strategic Statement

- 21.01 Municipal profile
- 21.04 Strategic directions
- 21.05 Compact Greater Bendigo
- 21.08 Environment
- 21.09 Integrated Transport and Infrastructure

Local Planning Policies

- 22.13 Eaglehawk Residential Character – Precinct 7

Zone and Overlays

- 32.08 General Residential Zone
- 43.01 Heritage Overly (for road reserve only)

Other Provisions

- 52.06 Car parking
- 55 Two or more dwellings on a lot and residential buildings

Consultation/Communication

Referrals

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

Referral	Comment
Environmental Protection Authority	No objection subject to conditions.
Traffic	No objection subject to conditions.
Drainage	No objection subject to conditions.
Environmental Sustainable Design	Condition 1 plans in accordance with Sustainable Design Assessment requested.
Heritage Advisor	Officer's summary interpretation of advice dated 28 May 2020: • Recognised that the subject land was not affected by the Heritage Overlay. • Concluded that this may have been a possible error in the identification of the trees of significance identified in the 1993 Eaglehawk and Bendigo Heritage Study. • In the absence of a heritage precinct the demolition of the existing dwelling could be supported if requested.

Public Notification

The application was advertised by way of notice via letters to adjoining and nearby owners and occupiers. No sign was required due to COVID19 restrictions.

As a result of advertising, 7 objections were received, with the grounds of objection being:

- Impact on neighborhood character
- Increased density

- Removal of trees
- Increased traffic
- Encroachment on privacy
- Impact on amenity
- Safety concerns
- Lack of car parking on-site
- Exacerbation of inadequate stormwater drainage
- Historic and heritage concerns
- Increased noise
- Damage and dust from construction
- Historic mining

On 2 July the applicant was offered the opportunity to respond to objections and/or partake in a consultation meeting, however, advised on 9 July 2020 that they did not wish to respond or partake in a consultation meeting.

Planning Assessment

Introduction

The proposal is for the construction of 5 additional dwellings and associated outbuildings to the rear of an existing dwelling at 37 Barrell Street, California Gully, which is wholly located within the General Residential Zone. The proposal will result in 6 dwellings within the subject land with access via a driveway along the northern allotment boundary. The subject site is within an area identified as having Cultural Heritage Significance and three identified mine shafts. Subsequently, a Cultural Heritage Management Plan has been provided and potential site contamination has been considered within this report.

The General Residential Zone supports "a diversity of housing types…" and new housing with higher densities are encouraged within established areas with access to employment, services and integrated transport, pursuant to Clauses 16.01-1S to 4S of the Planning Policy Framework. The subject site is located within the Bendigo Urban Growth Boundary, with access to services and public transport, and therefore warrants consideration for increased dwelling density.

However, the subject site is also located within the Eaglehawk Residential Character Precinct 7. Subsequently, the issue at hand is whether the proposal can accommodate all the requirements of Clause 55 *Two or more dwellings on a lot…* in particular the clauses regarding neighbourhood character and landscaping.

Cultural Heritage

The subject site is located within an area identified as having cultural heritage significance. A Cultural Heritage Management Plan (CHMP) was provided which has

been approved by the Dja Dja Wurrung Clans Aboriginal Corporation, dated 12 March 2020. The CHMP includes specific cultural heritage management conditions and a contingency plan. Subsequently, the proposal is considered to adhere to the strategies of Clause 15.03-2S Aboriginal Cultural Heritage as follows;

- *Identify, assess and document places of Aboriginal cultural heritage significance, in consultation with relevant Registered Aboriginal Parties, as a basis for their inclusion in the planning scheme.*
- *Provide for the protection and conservation of pre-contact and post-contact Aboriginal cultural heritage places.*
- *Ensure that permit approvals align with the recommendations of any relevant Cultural Heritage Management Plan approved under the Aboriginal Heritage Act 2006.*

Potential Contamination

The subject site has three identified mine shafts located within it. A preliminary site and soil evaluation was requested by the City's Planning officers and provided by Geotechnical Testing Services (GTS). The preliminary study found the presence of arsenic concentration above the acceptable residential health limit. The removal of such arsenic concentrations will need to occur. This information was referred to the Environmental Protection Authority (EPA) for advice who indicated that the EPA does not object to this application and recommends the following condition: "*All soil is to be handled in accordance with EPA Publication IWRG621 Soil Hazard Categorisation and Management 2009 or as amended".* Higher levels of arsenic are not uncommon within Bendigo due to historic mining. The GTS report stated *"Although somewhat overzealous for this development proposal, a Soil Management Plan is often deemed appropriate in governing the future disturbance/displacement, reuse, removal and disposal of soil at and/or from the site during any future construction stage, where contaminants are detected to exist above permissible limits."* Subsequently, with the inclusion of conditions relating to soil management, the proposal is considered to adhere to the strategies of Clause 13.04-1S *Contaminated and potentially contaminated land* as follows;

- *Require applicants to provide adequate information on the potential for contamination to have adverse effects on future land use if the subject land is known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel.*
- *Facilitate the remediation of contaminated land, particularly on sites in developed areas with potential for residential development.*

Neighbourhood Character and Landscaping

Clause 55.02-1 seeks to ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character. The subject site is located within a General Residential Zone and Eaglehawk Character Precinct 7. The character description for Eaglehawk Precinct 7 is as follows:

In this area there is a mix of building eras, styles and materials, with some variations in block size and shape, siting and front boundary treatment of houses. It exemplifies the sporadic way in which parts of Bendigo and Eaglehawk developed, starting with miner's cottages and covering most subsequent periods of development, although in this case fifties architecture predominates. Mature trees in reserves or private gardens often

dominate the skyline. Front gardens often form part of the street scene because of the low or transparent front fences.

The statement of desired (preferred) character is as follows:

The particular character of individual streetscapes will be maintained.

The proposal is assessed against the objectives and design responses listed below:

Objectives	Design responses	Officer comments
To encourage consideration of the landscape setting of new dwellings by planting of appropriate indigenous species.	Prepare a landscape plan to accompany all applications for new dwellings. Retain large, established trees and provide for the planting of new trees wherever possible.	• The applicant has provided a landscaping plan. • The proposal includes the removal of all existing trees which have trunks within the subject land. • Internal advice indicates that the retention of existing trees is unlikely to be achievable even if the proposal was reconfigured. • Amendments to the landscaping plan to include the planting of larger canopy trees is advised.
To maintain the consistency, where present, of building front setbacks.	The front setback should be not less than the average setback of the adjoining two dwellings.	• The front setback to Barrell Street is existing.
To reflect the existing rhythm of dwelling spacing.	Buildings should be setback 2 metres from at least one side boundary.	• The existing rhythm will be maintained through the retention of the existing dwelling.
To ensure that buildings and extensions do not dominate the streetscape.	Respect the predominant building height in the street and nearby properties. The height of the dwelling at the front of the dwelling should match the typical single storey wall height.	• The existing dwelling will remain, facing Barrell Street and all proposed dwellings are single storey in nature.
To use building materials and finishes that	Incorporate timber or other non-masonry cladding	• The existing dwelling facing Barrell Street will

Objectives	Design responses	Officer comments
complement the dominant pattern within the streetscape.	materials where possible.	remain. • The proposed dwellings will be constructed of brick. However, this is consistent with dwellings constructed to the north of the subject land.
To maintain the openness of the streetscape.	Provide low or open style front fencing up to a maximum of 1.2 metres. Front fences should not exceed 1.2 metres other than in exceptional circumstances.	• No new fencing is proposed.

As shown within the table above, the primary concern regarding neighbourhood character for the proposed development is landscaping and its ability to "retain large, established trees and provide for the planting of new trees wherever possible." The retention of the existing native trees was a concern raised by all 7 objectors. For clarity, while a Planning Permit for the removal of native vegetation within the allotment is not required, an assessment of the neighbourhood character would still require that the prospective removal of trees be considered as part of this assessment.

The consideration of landscaping is raised within Clause 55.03-8 Landscaping objectives, which are:

- *To encourage development that respects the landscape character of the neighbourhood.*
- *To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.*
- *To provide appropriate landscaping.*
- *To encourage the retention of mature vegetation on the site.*

The applicant has demonstrated within the plans that:

- Existing vegetation within the allotment will be removed;
- Existing vegetation on adjoining allotments will be retained with some encroachment within the Tree Protection Zone being managed by construction techniques; and
- Revegetation can occur in the manner set out by the Landscaping Plan.

Whilst the retention of mature native vegetation is preferable, the removal of vegetation does not require a permit and the City is somewhat limited in terms of what it can do to prevent its removal. Some of the objectors suggested that a reduction in the number of dwellings in order to retain some of the trees would reduce their concern. However, it is uncertain as to how the retention of any native trees could be achieved given the trees being positioned toward the front or centre of the subject site. Advice from City of Greater Bendigo's Native Vegetation Officers suggest that retention of the trees is unlikely to be achieved even with a reconfiguration of the proposal due to subsequent impact on the tree protection zones. The location of the proposed driveway is the most efficient location for access to any additional dwellings to the rear of the existing dwelling. Due to their proximity to the northern allotment boundary, trees 8, 9, and 10 are therefore unlikely to be retained unless no further development was permitted to occur on-site.

Trees 5, 11, 12, 13 and 14 are central to the allotment and it is uncertain how the reduction of dwellings would allow for the retention of these trees. Tree 15 is located on the driveway, further to the rear, but it is within an easement, and is exotic with a maximum height of 6 metres.



Figure 5: Excerpt from arborist report



Figure 6: Excerpt from Landscaping Plan

The landscaping plan submitted by the applicant provides for 'replacement' trees. However, the landscaping plan appears to lack larger trees with canopies consistent with those existing and found within the area.

The municipal profile states the following:

"Bendigo is known as the "city in the forest" with an urban area that is virtually encircled by box ironbark forest that is both publicly and privately owned. This physical setting has constrained growth in certain areas and directed growth into a number of distinct corridors. This has led to a focus on infill as a solution to accommodating growth."

Subsequently, it is recommended that if a planning permit is issued that it include an amended landscaping plan to include the planting of larger trees, in particular Ironbarks (*Eucalyptus tricarpa*).

Clause 55: Two or more dwellings on a lot and residential buildings

The relevant sections of Clause 55 have been considered within the table below:

Title and objective	**Standard**	**Comments where applicable.** ☑ **Complies** ☒ **Does not comply**
Clause 55.02	**Neighbourhood Character**	
B1 – Neighbourhood Character Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.	Appropriate design response to the neighbourhood and site.	**Please refer to the discussion elsewhere within this report.**
	Design respects the existing or preferred neighbourhood character and responds to site features.	
B2 – Residential Policy Residential development is consistent with housing policies in the SPPF, LPPF, MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.	Application to be accompanied by written statement that explains consistency with relevant housing policy in SPPF, LPPF, MSS and local planning policies.	☑ An acceptable statement has been provided.
B4 – Infrastructure Provides appropriate utility services and infrastructure without overloading the capacity.	Connection to reticulated sewerage, electricity, gas and drainage services.	☑ All dwellings will be appropriately serviced.
	Capacity of infrastructure and utility services should not be exceeded unreasonably.	
	Provision should be made for upgrading and mitigation of the impact of services or infrastructure where little or no spare capacity exists.	
B5 – Integration with the Street	Development orientated to front existing and proposed streets.	☑ Dwellings front streets.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
Integrate the layout of development with the street.	Vehicle and pedestrian links that maintain and enhance local accessibility.	☑ Accessibility is maintained.
	High fences in front of dwellings should be avoided if practicable.	☑ No high front fences are proposed.
Clause 55.03		
B6 – Street Setback The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.	Walls of building should be set back from streets at least the distance specified in the schedule to the zone; or: • If no distance is specified in the schedule to the zone, setbacks should be as set out below. *Porches, pergolas and verandahs less than 3.6m high and eaves may encroach not more than 2.5m into the setbacks of this standard.*	☑ The street frontage is existing. No changes will be made to the front dwelling.
B7 – Building Height Building height should respect the existing or preferred neighbourhood character.	The maximum building height should not exceed that specified in the zone, schedule to the zone or any overlay that applies to the land.	☑ Building height does not exceed maximum allowable and heights are graduated where appropriate.
B8 – Site Coverage Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.	The site area covered by buildings should not exceed: • The max. site coverage specified in the schedule to the zone; or • If no max. site coverage, is specified 60%.	☑ Total coverage = 36%
B9 – Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	At least 20% of the site should not be covered by impervious surfaces.	☑ 37% of the site will be permeable and the standard is therefore complied with.
B10 – Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Orientation of buildings should make appropriate use of solar energy.	The orientation of the proposed dwellings cannot meet this standard. Subsequently, the following points are made; • The private open space and adjoining living areas are located to the
	Siting and design of buildings should not reduce the energy efficiency of buildings on adjoining lots.	
	If practicable the living areas and private open space are to be located on the north side.	

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
	Solar access for north-facing windows should be maximised.	south of the proposed dwellings. • The proposed dwellings on indicative Lots 2, 3, 4 and 5, are setback 4 metres from the southern allotment boundary to ensure some solar access is achieved. • The Environmental Sustainable Design (ESD) Officer has requested Condition 1 Plans to amend the proposed development to meet ESD principles. • All proposed dwellings will have north facing windows in 'Bed 1 and 2.'
B12 – Safety Layout to provide safety and security for residents and property.	Entrances to dwellings and residential buildings should not be isolated or obscured from the street and internal accessways.	☑ The layout does not create any concerns regarding safety and security.
	Planting should not create unsafe spaces along streets and accessways	
	Good lighting, visibility and surveillance of car parks and internal accessways.	
	Protection of private spaces from inappropriate use as public thoroughfares.	
B13 – Landscaping To provide appropriate landscaping. To encourage: • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site.	Landscape layout and design should: • Protect predominant landscape features of the neighbourhood • Take into account the soil type and drainage patterns of the site • Allow for intended veg. growth and structural protection of buildings • In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals. • Provide a safe, attractive and functional environment for residents	**Please refer to the discussion elsewhere within this report.**
	Development should: • Provide for the retention or planting of trees, where these are part of the character of neighbourhood. • Provide for the replacement of any significant trees that have been removed in the 12 months prior to the application being made.	
	Landscape design should specify landscape themes, vegetation location & species, paving & lighting.	

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
B14 – Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Accessways should provide: • Safe, convenient and efficient vehicle movements and connections to the street network • Designed to ensure that vehicles can exit in a forward direction if the accessway serves more than 5 car spaces, 3 or more dwellings or connects to a road in a Road Zone. • A width of at least 3m. • An internal radius of at least 4m at changes of direction. • A passing area at the entrance that is at least 5m wide and 7m long if the accessway serves 10 or more car spaces and connects to a road in a Road Zone.	☑ Access has been provided in accordance with the standards.
	The width of the accessways or car spaces should not exceed: • 33% of the street frontage; or • 40% if the width of the street frontage is less than 20m.	☑ Accesses are less than the standard.
	Access points to a road in Road Zones to be minimised.	☑ Only one access is proposed.
	Access for service, emergency and delivery vehicles must be provided.	☑
B15 – Parking Location Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Car parking facilities should be: • Close and convenient to dwellings. • Secure. • Designed to allow safe and efficient movements. • Well ventilated if enclosed. • Broken up with trees and buildings or different surface treatments (applicable to large parking areas.)	☑ Car storage is located to the rear and safe, efficient and convenient.
	Shared accessways, car parks of other dwellings/ residential buildings should be at least 1.5m from the windows of habitable rooms. This setback may be reduced to 1m, where there is a fence at least 1.5m high or window sills are at least 1.4m above the accessway.	☑
Clause 55.04	**Amenity Impacts**	
B17 – Side and Rear Setbacks Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.	A new building not on or within 200mm of a boundary should be setback from side or rear boundaries: • At least the distance specified in the schedule to the zone, or • 1m+ 0.3m for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres. (refer Diagram B1 for more detail and information about minor encroachments).	☑ All setbacks exceed the recommended standard.
B18 – Walls on Boundaries Ensure the location, length and	A new wall constructed on or within 200mm of a side or rear boundary of a lot or a	☑Complies.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.	carport constructed on or within 1m of a side or rear boundary of a lot should not abut the boundary for a length of more than: • 10m plus 25 % of the remaining length of the boundary of an adjoining lot. or • Where there are existing or simultaneously constructed walls or carports abutting the boundary of an abutting lot, the length of the existing or simultaneously constructed walls or carports - whichever is the greater. • A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in effective height of the wall or carport being less than 2m on the abutting property boundary. • A height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1m of a side or rear boundary should not exceed an average of 3m with no part higher than 3.6m unless abutting a higher existing or simultaneously constructed wall.	
B19 – Daylight to Existing Windows Allow adequate daylight into existing habitable room windows.	Buildings opposite an existing habitable room window should provide a light court of at least 3sqm and a minimum dimension of 1m clear to the sky (this can include land on the adjoining lot). Walls or carports more than 3m in height opposite should be setback from the window at least 50% of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.	☑ There are no affected existing windows.
B20 – North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	Buildings should be setback 1m if an existing north-facing habitable widow is within 3m of the abutting lot boundary. (Add 0.6m to this setback for every metre of height over 3.6m and add 1m for every metre over 6.9m.) Refer to 55.04-4 for further clarification (a diagram is included).	☑ There are no affected existing windows.
B21 – Overshadowing Open Space Ensure buildings do not significantly overshadow existing secluded private open space.	Where sunlight to a private open space of an existing dwelling is reduced, at least 75%, or 40sqm with min. 3m, whichever is the lesser area, of the open space should receive a min. of 5 hours of sunlight between 9 am and 3pm on 22 Sept. If the existing sunlight to the private open space of an existing dwelling is less than these requirements, the amount of sunlight should not be reduced further.	☑ There will be some minor overshadowing of two adjoining properties by the proposed dwelling and garage on indicative Lot 6, but this has been shown to be fully compliant with the standard.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
B22 - Overlooking Limit views into existing secluded private open space and habitable room windows.	A habitable room window, balcony, terrace, deck or patio should be designed to avoid direct views into the secluded private open space of an existing dwelling within 9m (see clause for details) should have either: • A minimum offset of 1.5m from the edge of one window to the other. • Sill heights of at least 1.7m above floor level. • Fixed obscure glazing in any part of the window below 1.7m above floor level. • Permanently fixed external screens to at least 1.7m above floor level and be no more than 25 % transparent.	☑ Overlooking within the 9m arc does not impinge of habitable rooms or private open space.
B23 – Internal Views Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Windows and balconies should to be designed to prevent overlooking of more than 50% of the secluded private open space of a lower level dwelling or residential building within the same development.	No overlooking will occur within the development.
B24 – Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Noise sources should not be located near bedrooms of immediately adjacent existing dwellings.	☑ No noise sources are located near bedrooms.
	Noise sensitive rooms and private open space should consider noise sources on immediately adjacent properties.	☑ There are no noise sources on immediately adjacent properties.
	Noise levels should be limited in habitable rooms in dwellings and residential buildings. Dwellings and residential buildings should be designed to limit noise levels in habitable rooms close to busy roads, railway lines or industry.	☑
Clause 55.05	**On Site Amenity and Facilities**	
B25 – Accessibility Consider people with limited mobility in the design of developments.	Dwelling entries of the ground floor of buildings should be accessible or able to be easily made accessible to people with limited mobility.	☑ Dwelling entries are accessible or able to be made accessible.
B26 – Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Entries are to be visible and easily identifiable from streets and other public areas.	☑ The dwelling entries are visible and identifiable from the street and internal access way.
	The entries should provide shelter, a sense of personal address and a transitional space.	☑ Shelter and/or personal address is provided.
B27 – Daylight to New Windows Allow adequate daylight into new habitable room windows.	Habitable room windows to face: • Outdoor space open to the sky or light court with minimum area of 3sqm and a min. dimension of 1m clear to the sky or; • Verandah, provided it is open for at least one third of its perimeter or; • A carport provided it has two or more open sides and is open for at least one third of its perimeter.	☑ Daylight to habitable room windows is provided to comply with the standard.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
B28 – Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Unless specified in the schedule to the zone, a dwelling should have private open space consisting of: • 40sqm with one part at the side or rear of the dwelling/residential building with a minimum dimension of 3m, a minimum area of 25sqm and convenient access from a living room or; • Balcony - minimum 8sqm, minimum width 1.6m and accessed from living room or; • Roof-top – minimum 10sqm, minimum width 2m and convenient access from living room.	☑ Each dwelling has at least 64m^2 of private open space.
B29 – Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	The private open space should be located on the north side of the dwelling if appropriate.	☒ The constraints of the site make solar access difficult to provide and a variation to the standard is required.
	Southern boundary of open space should be setback from any wall on the north of the space at least (2+0.9h) h= height of wall.	☑ The boundary of the open space is setback accordingly, being 4 metres.
B30 – Storage Provide adequate storage facilities for each dwelling.	Each dwelling should have access to a minimum 6m^3 of externally accessible, secure storage space.	☑ Storage is provided in the garages/garden.
Clause 55.06	**Detailed Design**	
B31 – Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Design of buildings should respect the existing or preferred neighbourhood character and address: • Façade articulation & detailing. • Window and door proportions. • Roof form. • Verandahs, eaves and parapets.	**Please refer to the discussion elsewhere within this report.**
B32 – Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	The front fence should complement the design of the dwelling or any front fences on adjoining properties.	☑ No front fence is proposed.
B33 – Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.	Should be functional and capable of efficient management. Public, communal and private areas should be clearly delineated. .	☑ No common property is proposed within this planning permit application, however, as per the indicative subdivision plans the common property is considered to be reasonably capable of efficient management, and clearly delineated.
B34 – Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.	Dwelling layout and design should provide for sufficient space and facilities for services to be installed and maintained.	☑
	Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and should blend in with the development.	☑

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
	The site facilities including mailboxes should be located for convenient access. Bin and recycling enclosures located for convenient access. Mailboxes provided and located for convenient access as required by Aust. Post.	☑

Traffic and Drainage

The application was referred to the City's Engineers who have reviewed the proposal. They have proposed conditions which require sight lines, cross-over construction and drainage plans.

Conclusion

The proposal is for the construction of 5 dwellings, associated outbuildings and alterations to a cross-over within a serviced site within Bendigo's Urban Growth Boundary. The proposal generally meets the requirements of Clause 55 for two or more dwellings on a lot and residential buildings. The removal of the existing mature trees is not desirable, however, an acceptable landscaping plan, subject to additional requirements for trees with similar canopies generally meets the requirements of Clause 55. Further information regarding Environmental Sustainable Design is necessary and will be conditioned as such.

It is therefore recommended 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.

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) Revised BESS report addressing the following and achieving a minimum 50% overall score and at least the minimum requirements for IEQ, storm water, energy and water efficiency:
      i. Classifying all dwellings as exposed on 4 sides (not 3 sides)
      ii. Delete the points claimed for a building user guide (BUG) or alternatively

provide detailed around what will be included in the BUG

iii. Delete reference to non-potable water (tanks) being connected to washing machine or notate on plan tanks to be connected to washing machines.

iv. Revise the tank size capacity to 20kl total to reflect the 4kl tanks proposed in the STORM report

v. Revise BESS report to reflect SDA commitment for heating and cooling to be within 1 star of the best available system.

(b) All commitments stated in the SDA, BESS and STORM report to be indicated on plan including:

i. Detail on plan the area of driveway to be constructed of permeable paving and provide a sample of the proposed material to be used.

ii. All non-permeable areas to be included on plan and in a revised STORM report if required.

iii. Details of proposed water tanks, including:

a) Location
b) Use (i.e. toilet flushing)
c) Volume
d) Area of connected roof, including a roof plan.
e) Independency from any detention requirement

iv. Notation on the relevant plans stating:

a) Hot water heating units to be minimum 6 star gas instantaneous
b) Water taps 5 star and toilets 4 star WELS rating or greater
c) Heating and cooling units to be with 1 star of the best available system on the market for the area to be heated and cooled
d) All habitable room windows to be double glazed

v. Fixed or adjustable external sun shading devices to all north facing habitable room windows/glazed doors where not located directly under an eave or overhang.

vi. External operable sun shading devices to all east facing habitable room windows to the proposed dwelling on lot 6.

vii. Where external sun shading devices are being utilised a dimensioned section diagram must be included to demonstrate their effectiveness.

2. SUSTAINABLE DESIGN ASSESSMENT

(a) All works must be undertaken in accordance with the endorsed BESS report to the satisfaction of the responsible authority. No alterations to the BESS report may occur without the prior written consent of the responsible authority.

(b) Prior to the commencement of occupation or issue of Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report must be submitted to the responsible authority. The report must be to the satisfaction of the responsible authority and must confirm that all measures specified in the Sustainable Design Assessment (SDA) including the BESS report have been implemented in accordance with the approved plan. The report must include the final NatHERS certificates (or alternative NCC compliance methodology documentation) for the dwellings in the development. The report must also provide a copy of the building user guides if proposed.

3. 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.

4. 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.

5. SOIL MANAGEMENT PLAN
(a) Prior to the commencement of any works on site, a Soil Management Plan must be submitted to and approved by the responsible authority. The Plan must address the findings of the Phase 1 Environmental Site Assessment prepared by Geotechnical Services that was submitted with the permit application, and in particular must provide for the removal and off-site disposal of the tailings sand found on the site.
(b) The recommendations of the Soil Management Plan must be implemented to the satisfaction of the Responsible Authority prior to the commencement of any works on site (or alternatively at the timing approved within the Soil Management Plan.)

6. ENVIRONMENTAL PROTECTION AUTHORITY
All soil is to be handled in accordance with EPA Publication IWRG621, Soil Hazard Categorisation and Management 2009 or as amended.

7. DETAILED DRAINAGE
Prior to the commencement of works, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn to scale with dimensions. The plans must include
- Direction of stormwater run off
- A point of discharge for each lot;
- Independent drainage for each lot
- Drainage easements as required
- Stormwater detention
  - Allowable Discharge:
    - $Q_{10\%}$ = 14 l/s
- Stormwater quality

8. 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) Drainage

9. SECTION 173
Prior use of the dwellings the applicant/owner must enter into an Agreement under Section 173 of the Planning and Environment Act 1987.

Such Agreement must covenant that;
- The owner will maintain each on-site treatment system and/or detention system and not modify without prior written approval from the responsible authority.
- The owner shall allow duly authorised officers of the responsible authority to inspect the systems at mutually agreed times.
- The Owner will pay for all costs associated with the construction and maintenance of each on-site treatment and detention system.

10. 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 & 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.

11. CONSENT FOR WORK ON ROAD RESERVES
The applicant must comply with;
- The Road Management Act 2004,
- Road Management (Works and Infrastructure) Regulations 2005 and
- Road Management (General) Regulations 2005

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

12. VEHICLE ACCESS
Vehicular access to the subject land from any roadway or service lane (and vice versa) must be by way of a vehicle crossing(s) constructed at right angles to the road, to suit the proposed driveway(s) and vehicles that will use the crossing. 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.

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

14. LANDSCAPE PLAN
Before the development starts, an amended 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 and two copies must be provided. The landscaping plan must in accordance with the landscape concept plan dated 24 July 2020 prepared by Land Concepts with the following variations;
(a) At least four (4) of the canopy trees must be either Ironbark (*Eucalyptus tricarpa*) or Grey Box (*Eucalyptus micrcarpa*).

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

15. TREE PROTECTION ZONES
Any structure which encroaches on a Tree Protection Zone (TPZ) must employ the mitigation measures identified in item 3.6 of the Development Impact Report: Assessment of Trees at 37 Barrell Street, Eaglehawk, by Axiom Tree Management Pty Ltd, dated 20 September 2019. In particular, the mitigation measures must include:
a. TPZ specifications are adhered to in accordance with AS4970-2009;
b. Alternative construction techniques are utilised within the TPZ area of the dwelling and garage (waffle pod, pier and beam) with no excavation greater than 150mm;
c. Specifications are adhered to for erection of lightweight structures such as fencing, paths and landscaping in TPZ areas.

16. TREE PROTECTION ZONE
Before the development starts, a tree protection fence must be erected around the tree protection zones of the remaining trees in accordance with AS 4970-2009 Protection of trees on development sites. The fence must be constructed of chain mesh or similar to the satisfaction of the responsible authority. The tree protection fence must remain in place until construction is completed. Before the development starts, the ground surface of the Tree Protection Zone must be covered by a 100 mm deep layer of mulch. The Tree Protection Zone must be watered regularly to the satisfaction of the responsible authority.

17. 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.

18. 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.

19. EXPIRY

This permit will expire if the development permitted by this permit is not completed within 4 (four) 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.

14.5. 50 Arnold Street, Bendigo 3550 - Demolition of Outbuildings, Removal of Trees, 3 lot Subdivision, and Construction of 2 Dwellings, Fencing and a Carport

Author	David Burrow, Planner
Responsible Director	Bernie O'Sullivan, `Director Strategy and Growth

Summary/Purpose

Application details:	Demolition of outbuildings, removal of trees, 3 lot subdivision, and construction of 2 dwellings, fencing and a carport
Application No:	DSD/323/2020
Applicant:	Penno Drafting & Design
Land:	50 Arnold Street, BENDIGO 3550
Zoning:	General Residential Zone
Overlays:	Design and Development Overlay – Schedule 25 and 26 Heritage Overlay – Schedule 2 Land Subject to Inundation Overlay – Schedule 2 Neighbourhood Character Overlay – Schedule 1
No. of objections:	1
Consultation meeting:	Nil
Key considerations:	• Is the locality suitable for increased density? • Will the proposal have an adverse impact on the neighbourhood character? • Does the proposal comply with the City of Greater Bendigo's Heritage Policy and Design Guidelines? • Does the proposal comply with the requirements of ResCode (Clauses 55 and 56)?
Conclusion:	It is considered the proposal represents an unacceptable planning outcome, taking into considerations the relevant requirements of the Greater Bendigo Planning Scheme.

RECOMMENDATION

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Refusal to Grant a Permit for demolition of outbuildings, 3 lot subdivision, and construction of 2 dwellings, fencing and a carport at 50 Arnold Street, BENDIGO 3550 on the following grounds:

1. The bulk, form, rhythm and appearance of the proposed development will have an adverse impact on neighbourhood character within Central Bendigo – Precinct 1.

2. The proposal represents an unacceptable response to ResCode as follows:

- The bulk and massing of the proposed development does not comply with Clause 55.04 (Standards B17 and B18), with unreasonable impacts on the rhythm of development in the street, neighbourhood character and onsite amenity for future residents.
- The proposal does not meet the objectives for private open space as indicated under Clause 55.05-4, with unreasonable impacts to onsite amenity for future residents.

3. The proposal represents an overdevelopment of the site.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Background Information

Previous Planning Permit DSD/920/2015 for a 3 Lot subdivision, construction of 2 dwellings, demolition of outbuildings and removal of vegetation, was approved on 10 May 2016. There is no Certified Plan of subdivision on the City's records, therefore the Planning Permit has expired, pursuant to Condition 28 of the Planning Permit.

It is worth noting that this earlier application is similar to the current application and the plans were also drafted by the same company.

However, Condition 1 of Planning Permit DSD/920/2015 required the *"upper levels of new dwellings on Lots 2 and 3 to be separated by a minimum of 2.0m."* No amended/endorsed plans were provided to address this condition.

The previous proposal highlights that there have since been changes in the overlays which affect the subject land as follows:

2015	2020
Neighbourhood Character Overlay – Schedule 1 (NCO)	Neighbourhood Character Overlay – Schedule 1 (NCO)
Environmental Significance Overlay – Schedule 1 (ESO)	Land Subject to Inundation Overlay – Schedule 2 (LSIO)
	Heritage Overlay - HO2
	Design and Development Overlay – Schedule 25 (DDO)
	Design and Development Overlay – Schedule 26 (DD0)

The Design and Development Overlays listed above refer to the 'hospital emergency medical services helicopter flight path protection.' The proposal will not exceed the referral height of 235.9 AHD and therefore no planning permit is triggered under Clause 43.02 Design and Development Overlay.

Since the previous approval of Planning Permit DSD/920/2015 the following matters are relevant to this assessment;

- Whilst a permit was granted, further separation was required between the two proposed dwellings;
- The area is now under a Heritage Overlay;
- The neighbourhood character remains relevant despite introduction of a Heritage Overlay;
- The focus has moved from the protection of water quality to the threat of inundation from flooding (as shown by the change from ESO to LSIO).

Report

Subject Site and Surrounds



Figure 1: Location map showing subject site. Objector's property marked with a star.



Figure 2: Photo of subject land, looking up Joseph Street, from Arnold Street. Existing dwelling in foreground.



Figure 3: Photo of subject land, showing area to the rear of the existing dwelling, from western side of Bendigo Creek on Joseph Street.

The subject land is identified as 50 Arnold Street, Bendigo, wholly located within the General Residential Zone, Land Subject to Inundation Overlay – Schedule 2, Neighbourhood Character Overlay - Schedule 1, Heritage Overlay, and covered by Design and Development Overlay – Schedules 25 and 26. The subject land is located adjacent the Bendigo Creek on the corner of Arnold and Joseph Streets. The subject land contains a dwelling of heritage value and associated outbuildings. The existing dwelling is situated on the allotment boundary of the southwestern portion of the subject land. This leaves the remainder of the subject land relatively vacant. The total area of the subject land is 562 square metres.

Proposal

The proposal is for the following:

- The demolition of outbuildings and fencing;
- Removal of trees;
- Subdivision of land into 3 lots;
- Construction of 2 dwellings;
- Construction of one carport to be ancillary to the existing dwelling; and
- Erection of fencing.

The following table is provided to assist in understanding the proposals proportions.

Proposed Lot	Total Area	Floor Area	No. of Bedrooms	No. of storeys	Secluded private open space
1	231m^2	107m^2	3	1 (existing)	59.88m^2
2	161m^2	170.07m^2	3	2	9.30m^2 (balcony)
3	170m^2	164m^2	3	2	10.67m^2

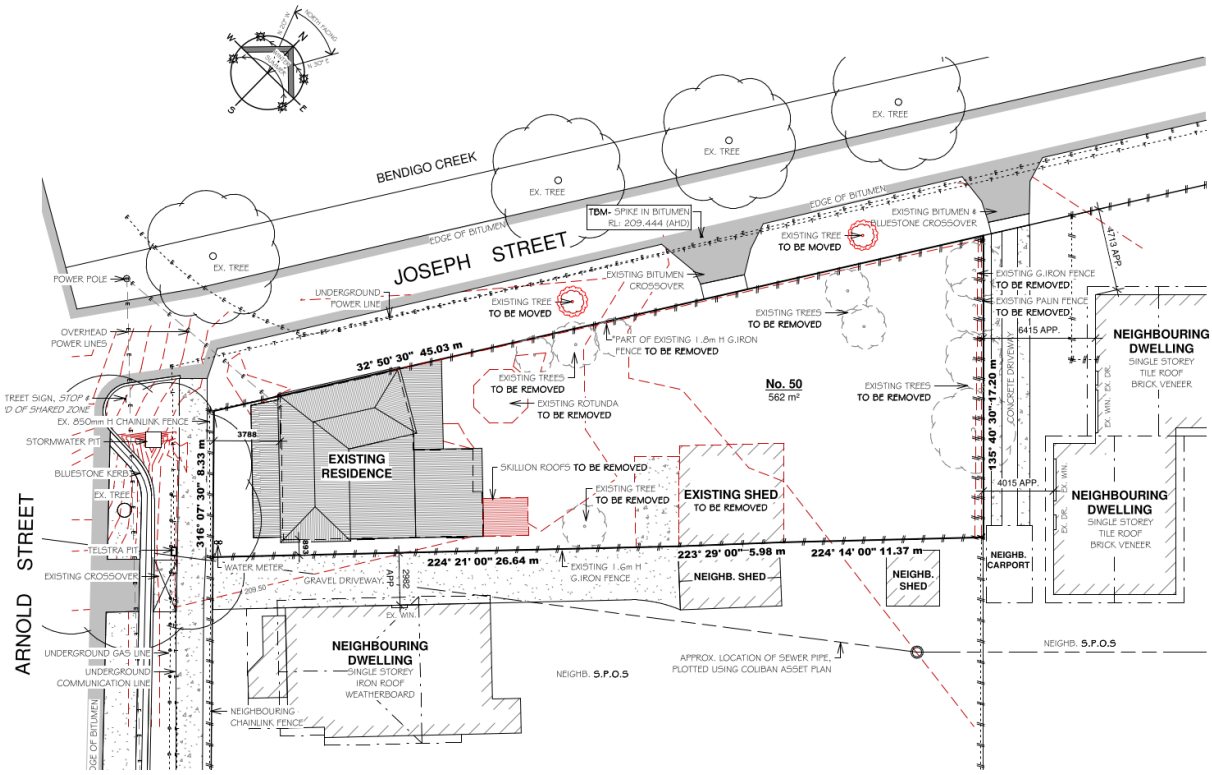


Figure 4: Existing site and demolition plan

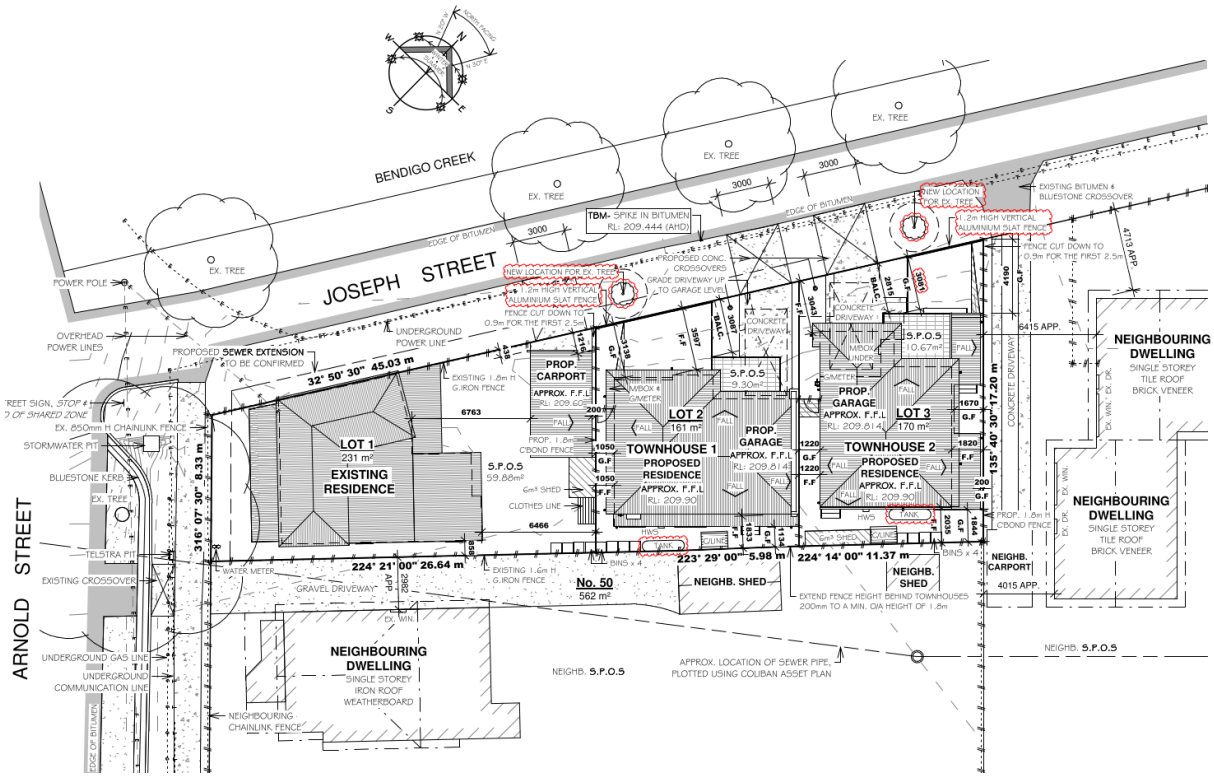


Figure 5: Proposed site plan.

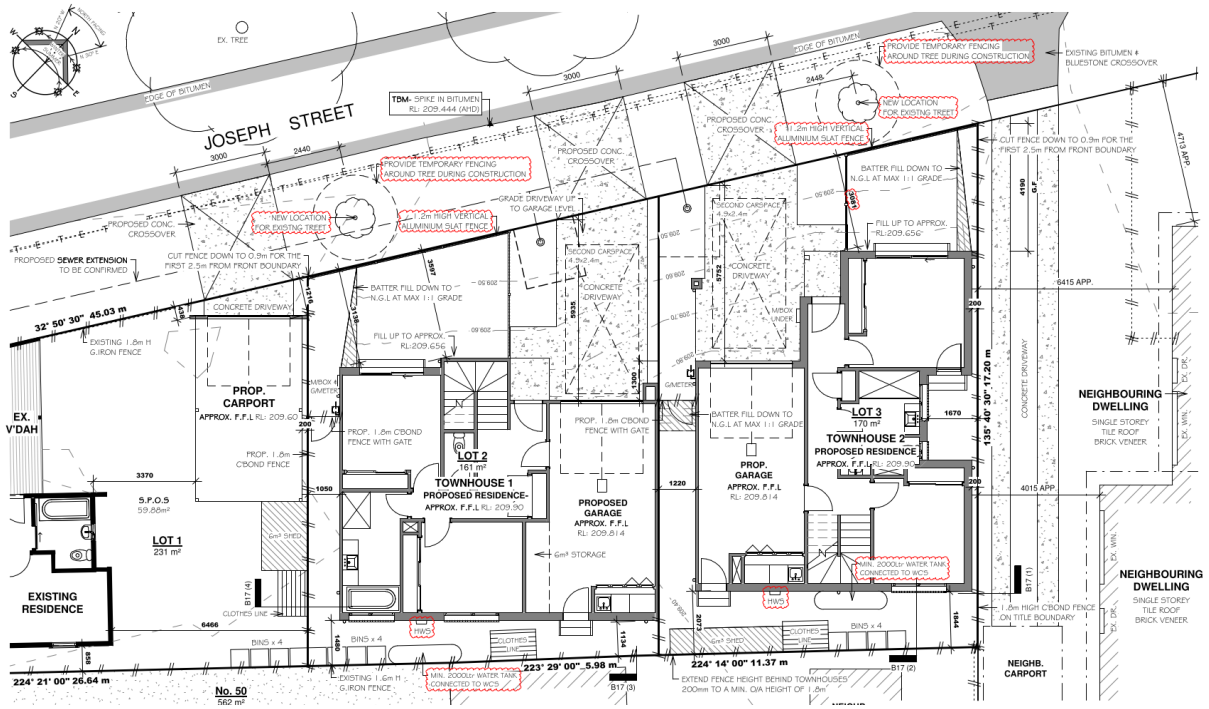


Figure 6: Ground floor plan.

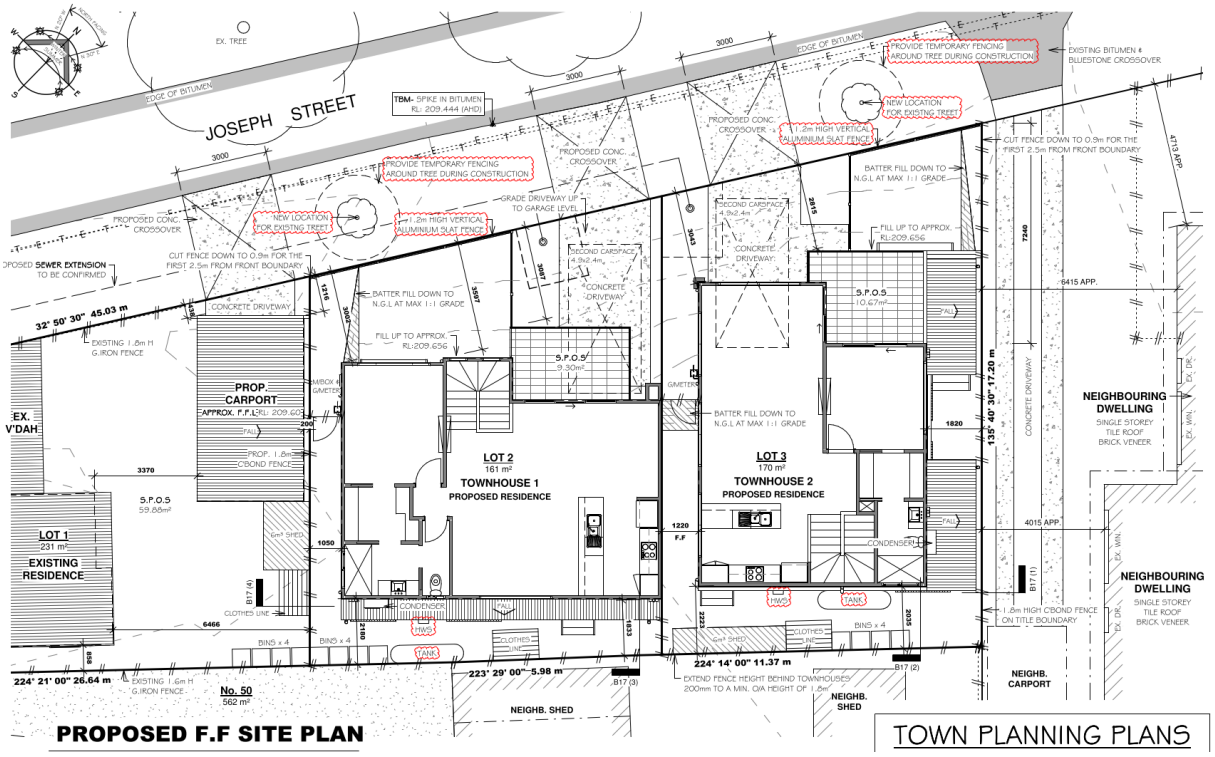


Figure 7: First floor plan.



Figure 8: Streetscape (Joseph Street) plan.

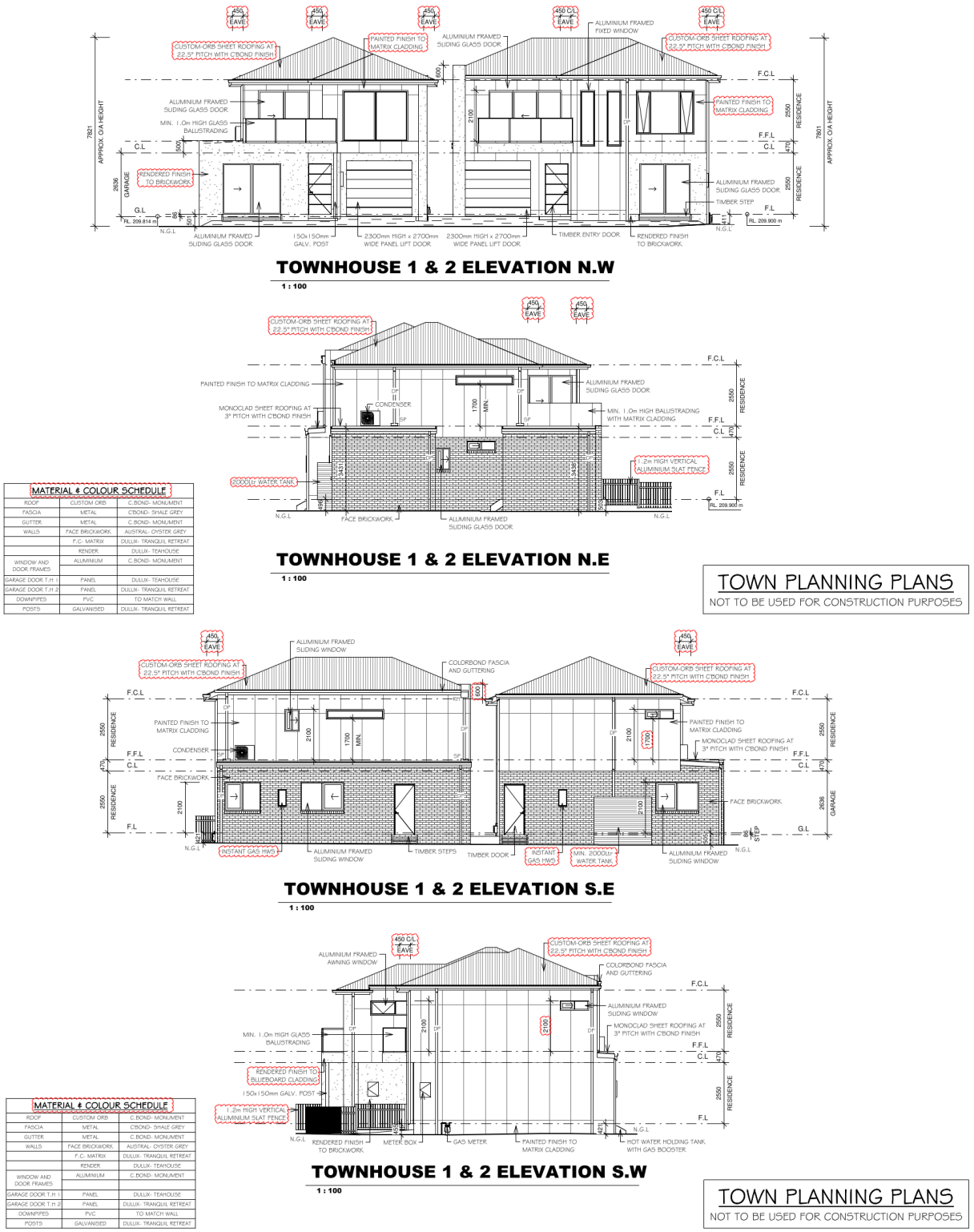


Figure 9: Elevation plans.

Planning Controls - Greater Bendigo Planning Scheme

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

State Planning Policy Framework

- 13.03-1S Floodplain management
- 15.01-1S Urban design
- 15.01-2S Building design
- 15.01-3S Subdivision design
- 15.01-4S Healthy neighbourhoods
- 15.01-5S Neighbourhood character
- 15.03-1S Heritage conservation
- 15.03-1S Aboriginal cultural heritage
- 16.01-1S Integrated housing
- 16.01-2S Location of residential development
- 16.01-3S Housing diversity
- 16.01-4S Housing affordability
- 18.02-2S Public Transport
- 18.02-4S Car parking

Municipal Strategic Statement

- 21.05 Compact Greater Bendigo

Local Planning Policies

- 22.11 Central Bendigo Residential Character Policy

Other Provisions

- 32.08 General Residential Zone
- 43.01 Heritage Overlay (HO)
- 44.04 Land Subject to Inundation Overlay – Schedule 2 (LSIO)
- 43.05 Neighbourhood Character Overlay – Schedule 1 (NCO)
- 52.06 Car parking
- 55 Two or more dwellings on a lot and residential buildings
- 56 Subdivision site and context description and design response

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
Downer	No objection subject to conditions

Referral	Comment
North Central Catchment Management Authority	No objection subject to conditions
Traffic & Design	No objection subject to conditions
Drainage	No objection subject to conditions
Heritage	Objects

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, 1 objection was received, with the grounds of objection being:

- Financing of fencing.

Given that the financing of a fence is a civil matter between owners and not a planning matter, no further assessment will be discussed within this report.

Planning Assessment

Introduction

The proposal is for the demolition of outbuildings and removal of trees to the rear of an existing dwelling to make way for the construction of 2 additional dwellings on individual lots with associated works at 50 Arnold Street, Bendigo. The subject land is wholly located within the General Residential Zone, Heritage Overlay, Neighbourhood Character Overlay, Land Subject to Inundation Overlay, and two Design and Development Overlays. A planning permit is required for all zones and overlays except the Design and Development Overlays for the removal of buildings and trees, subdivision, construction of dwellings and associated works.

The use of land for dwellings within the General Residential Zone is 'as of right' and is encouraged "in locations offering good access to services and transport." The subject land is well located to make use of integrated transport, infrastructure, public open space, and the Central Bendigo Activity Centre. Therefore, increased density is supported. However, development should respect the neighbourhood character of the area. Subsequently, this assessment will focus on the following:

- Flood mitigation;
- Heritage and Neighbourhood Character;
- Construction of two or more dwellings on a lot, pursuant to Clause 55; and
- Residential subdivision, pursuant to Clause 56 of the Greater Bendigo Planning Scheme.

Flood mitigation measures

The subject land is wholly affected by a Land Subject to Inundation Overlay – Schedule 1, due to its proximity to Bendigo Creek. The North Central Catchment Management Authority (NCCMA) has reviewed the plans and indicated that it has no objection, subject to the following conditions;

1. *The finished floor level of the proposed Lot 1 dwelling extension must be constructed a minimum of 0.3 metres above the 1% AEP flood level of 209.8 metres AHD, i.e. no lower than 210.10 metres AHD.*
2. *The finished floor level of the proposed townhouses 1 and 2 must be constructed a minimum of 300 millimetres above the 1% AEP flood level of 209.6 metres AHD, i.e. no lower than 209.9 metres AHD.*
3. *Unless otherwise agreed in writing by North Central CMA the finished floor level of the proposed garages for townhouses 1 and 2 must be constructed a minimum of 150 millimetres above the 1% AEP flood level of 209.6 metres AHD, i.e. no lower than 209.75 metres AHD.*

In addition, the City's Engineers have requested conditions indicating detailed drainage plans to be provided for endorsement. It is evident that this is a concern from both the NCCMA and the City. However, it appears to be a matter that can be resolved through conditions and further review of any proposed drainage plans.

Heritage and Neighbourhood Character

The subject land is affected by both Heritage and Neighbourhood Character overlays. A planning permit is required for the demolition and construction of a building and associated works including the removal of trees. The subject land is located within the Central Bendigo Residential Character Precinct 1. The character description is as follows;

"The area forms part of the inner ring of suburbs that exemplify the distinctive character of early Bendigo. Most of the housing is from Victorian, Edwardian and Inter-war periods, and much of it is weatherboard with picket fences creating a modest 'cottage' character, which lends an attractive consistency to the area. Most houses are closely spaced and close to the street, providing an intimate, pedestrian-friendly environment. The grid street pattern has adjusted to the alignment of two creeks, which are prominent features of the landscape. Much of the area has heritage significance."

The statement of desired future character is as follows;

"The cottage feel and heritage qualities of the streetscapes will be maintained and strengthened."

An assessment of the objectives and design responses are as follows;

Objectives	Recommended Design Response
To retain buildings that contribute to the valued character of the area.	Retain and restore wherever possible, intact Victorian, Edwardian, Federation and Inter-war era dwellings.

Objectives	Recommended Design Response
	Alterations and extensions should be appropriate to the building era.
Comment: The existing dwelling is retained and alterations are acceptable.	
To encourage the consideration of the landscape setting of the dwelling.	Prepare a landscape plan to accompany all applications for new dwellings. Minimise paved areas, particularly in front of dwellings.
Comment: A landscaping plan was provided. Some of the area in front of the dwelling will be lawn.	
To maintain the consistency, where present, of building front setbacks.	The front setback should be not less than the average setback of the adjoining two dwellings.
Comment: The proposed dwellings are setback a minimum of 2.815 metres from Joseph Street. However, the area does entertain reduced front setbacks where appropriate. Whilst the minimum setback may be less than 3 metres, this is only for corners of the buildings due to the orientation of buildings to the street. Therefore, given the existing dwelling has no setback to Joseph Street, and other dwellings in the street have a reduced setback, it is reasonable to consider brief portions of the proposed dwellings within 3 metres of Joseph Street, and the proposal is considered to generally maintain the consistency of front setbacks within Joseph Street.	
To maintain the rhythm of dwelling spacing.	Buildings should be setback from at least one side boundary by a minimum of 2 metres.
Comment: Given that the proposed dwellings have side setbacks of 1.05 metres and 1.22 metres, or are located on the boundary, the proposed dwellings do not meet the resign response.	
To minimise the dominance of car storage facilities.	Locate garages and carports behind the line of the dwelling. Use rear access where available.
Comment: The proposed carport sits in front of the existing dwelling facing Joseph Street.	
To respect the identified heritage qualities of the streetscape or adjoining buildings.	Where the streetscape contains identified heritage buildings, reflect the dominant building forms in the street, including roof forms, in the new building design.
Comment: The proposal employs a roof form which reflects the dominant built form.	

Objectives	Recommended Design Response
To ensure that buildings and extensions do not dominate the streetscape.	Respect the predominant building height in the street and nearby properties. Where there is a predominance of single storey, the height of the dwelling at the front of the dwelling should match the typical single storey wall height.
Comment: The street and nearby properties includes two storey buildings. The height is not dissimilar albeit the proposal is slightly higher. However, within the locality the typical height is single storey, and therefore the design must seek to reduce the dominance of the second storey on the streetscape.	
To use building materials and finishes that complement the dominant pattern within the streetscape.	In streetscapes where weatherboard predominates, use timber or other non-masonry cladding materials where possible, and render, bag or paint brick surfaces.
Comment: The pattern of building materials is mixed. However, Matrix cladding panels do represent a significant divergence from the existing dwelling.	
To ensure front fences are appropriate to the era of the dwellings and maintain the openness of the streetscape.	Provide open style front fencing appropriate to the building era. Front fences should not exceed 1.2 metres other than in exceptional cases.
Comment: Open style fencing to a height of 1.2 metres is provided	

Further to the above assessment, the proposal appears to vary from the objectives of the character precinct by way of:

- Not maintaining the 'rhythm' of the streetscape by way of side setbacks.
- Not minimising the dominance of car storage.
- Not ensuring that the second storey does not dominate the streetscape.
- Not using building materials and finishes that complement the dominant pattern within the streetscape.

Given that there are some variances in materials, prominence of car storage and side setbacks within the precinct, it is reasonable to allow some variance for these factors provided the proposal does not dominate the streetscape and therefore unreasonably dictate the desired future character of the precinct. However, in this instance the culmination of the proposal incorporating a metallic sheet cladding (matrix), with reduced or non-existent side setbacks and a reduced front setback (previously accepted), causes the proposal to appear unbalanced and therefore unacceptable to the desired future character of the Central Bendigo Residential Character Precinct 1.

A previous Planning Permit for a similar application conditioned the plans to be amended to show: *"upper levels of new dwellings on Lots 2 and 3 to be separated by a minimum of 2.0m."* This appears to be the type of variance sought for the proposed development to resolve the issues of upper level build form dominance and the rhythm of dwelling spacing. Furthermore, as shown within an assessment under Standard B17 of Clause 55 (below), the upper floor level of the proposed dwelling on proposed Lot 2 encroaches on the setback by 934mm, this encroachment plus the current proposed setback of 1.05 metres comes to 1.939mm. Subsequently demonstrating that setback on the upper level of 2 metres would likely assist the proposal in meeting both Clause 22.11 and Clause 55.

The City's Heritage Advisor does not support the proposal due to the dominance of the upper level of the buildings. However, the demolition of outbuildings and remove of trees was supported. A request to reduce the scale and dominance of the proposed dwellings was sent to the applicant. However, the applicant has declined to consider any further reduction in scale, citing the project's viability.

Construction of two or more dwellings on a Lot, pursuant to Clause 55

The following is a table addressing each of the objectives and standards of Clause 55, with the officers comments on the right hand side.

Title and objective	**Standard**	**Comments where applicable.** **☑ Complies** **☒ Does not comply**
Clause 55.02		**Neighbourhood Character**
B1 – Neighbourhood Character Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.	Appropriate design response to the neighbourhood and site.	**☒ Does not comply, please refer to discussion earlier within this report.**
	Design respects the existing or preferred neighbourhood character and responds to site features.	
B2 – Residential Policy Residential development is consistent with housing policies in the SPPF, LPPF, MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.	Application to be accompanied by written statement that explains consistency with relevant housing policy in SPPF, LPPF, MSS and local planning policies.	☑ An acceptable statement has been provided.
B4 – Infrastructure Provides appropriate utility services and infrastructure without overloading the capacity.	Connection to reticulated sewerage, electricity, gas and drainage services.	☑ All dwellings will be appropriately serviced.
	Capacity of infrastructure and utility services should not be exceeded unreasonably.	
	Provision should be made for upgrading and mitigation of the impact of services or infrastructure where little or no spare capacity exists.	
B5 – Integration with the Street	Development orientated to front existing and proposed streets.	☑ Dwellings front streets.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
Integrate the layout of development with the street.	Vehicle and pedestrian links that maintain and enhance local accessibility.	☑ Accessibility is maintained.
	High fences in front of dwellings should be avoided if practicable.	☑ No high front fences are proposed.
	Development next to public open space should be laid out to complement the open space.	NA
Clause 55.03		
B6 – Street Setback The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.	Existing building on both the abutting allotments facing the same street and site is not on a corner. • Min front setback - average setback of existing buildings on abutting allotments facing the front street or 9m, whichever is the lesser.	☑ Complies – The adjoining existing dwelling at 4/17 Havelock Street, Bendigo is setback 4.713 metres, and the existing dwelling within the subject land has no setback, therefore the average setback would be 2.3565. The proposal comlies with this by having a minimum front setback of 2.815 metres.
B7 – Building Height Building height should respect the existing or preferred neighbourhood character.	The maximum building height should not exceed that specified in the zone, schedule to the zone or any overlay that applies to the land.	☑ Building height does not exceed maximum allowable and heights are graduated where appropriate.
B8 – Site Coverage Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.	The site area covered by buildings should not exceed: • The max. site coverage specified in the schedule to the zone; or • If no max. site coverage, is specified 60%.	☑ Total coverage = 60% max.
B9 – Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	At least 20% of the site should not be covered by impervious surfaces.	☑ Complies with 27% of the subject land being permeable. *However, the following is noted;* • *19% of the Proposed Lot 2 will be permeable and would not comply with the standard if considered in isolation.* • *16% of the Proposed Lot 3 will be permeable and would not comply with the standard if considered in isolation.*
B10 – Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Orientation of buildings should make appropriate use of solar energy. Siting and design of buildings should not reduce the energy efficiency of buildings on adjoining lots. If practicable the living areas and private open space are to be located on the north side.	☑ The development has been designed to make appropriate use of solar energy and meets the energy efficiency objective. *However, it is noted that the only private open space which is accessible from the living areas is located in front of the dwelling*

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
	Solar access for north-facing windows should be maximised.	*facing the street.*
B11 – Open Space Integrate layout of development with any public and communal open space provided in or adjacent to the development.	Public open spaces should: • be substantially fronted by dwellings. • provide outlook for dwellings. • be designed to protect natural features. • be accessible and useable.	☑ Complies
B12 – Safety Layout to provide safety and security for residents and property.	Entrances to dwellings and residential buildings should not be isolated or obscured from the street and internal accessways.	☑ The layout does not create any concerns regarding safety and security.
	Planting should not create unsafe spaces along streets and accessways	
	Good lighting, visibility and surveillance of car parks and internal accessways.	
	Protection of private spaces from inappropriate use as public thoroughfares.	
B13 – Landscaping To provide appropriate landscaping. To encourage: • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site.	Landscape layout and design should: • Protect predominant landscape features of the neighbourhood • Take into account the soil type and drainage patterns of the site • Allow for intended veg. growth and structural protection of buildings • In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals. • Provide a safe, attractive and functional environment for residents	A landscaping plan has been provided. *Existing trees in the nature strip are proposed to be relocated.*
	Development should: • Provide for the retention or planting of trees, where these are part of the character of neighbourhood. • Provide for the replacement of any significant trees that have been removed in the 12 months prior to the application being made.	
	Landscape design should specify landscape themes, vegetation location & species, paving & lighting.	

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
B14 – Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Accessways should provide: • Safe, convenient and efficient vehicle movements and connections to the street network • Designed to ensure that vehicles can exit in a forward direction if the accessway serves more than 5 car spaces, 3 or more dwellings or connects to a road in a Road Zone. • A width of at least 3m. • An internal radius of at least 4m at changes of direction. • A passing area at the entrance that is at least 5m wide and 7m long if the accessway serves 10 or more car spaces and connects to a road in a Road Zone.	☑ Accesses meet required standards.
	The width of the accessways or car spaces should not exceed: • 33% of the street frontage; or • 40% if the width of the street frontage is less than 20m.	☑ Accesses are less than the standard.
	For each dwelling fronting a street, only one single width crossover should be provided.	☑
	The location of crossovers will maximise the retention of on-street car parking spaces.	☑
	Access points to a road in Road Zones to be minimised.	N/A
	Access for service, emergency and delivery vehicles must be provided.	☑
B15 – Parking Location Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Car parking facilities should be: • Close and convenient to dwellings. • Secure. • Designed to allow safe and efficient movements. • Well ventilated if enclosed. • Broken up with trees and buildings or different surface treatments (applicable to large parking areas.)	☑ Car storage is located to the rear and safe, efficient and convenient.
	Shared accessways, car parks of other dwellings/ residential buildings should be at least 1.5m from the windows of habitable rooms. This setback may be reduced to 1m, where there is a fence at least 1.5m high or window sills are at least 1.4m above the accessway.	N/A
Clause 55.04		**Amenity Impacts**
B17 – Side and Rear Setbacks Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.	A new building not on or within 200mm of a boundary should be setback from side or rear boundaries: • At least the distance specified in the schedule to the zone, or • 1m+ 0.3m for every metre of height over 3.6 metres up to 6.9 metres,	☒ **Does not comply, the proposed dwellings encroach on the western allotment boundaries for both proposed Lot 2 and 3. Therefore, the proposal is not considered to respect the preferred/desired**

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
	plus 1 metre for every metre of height over 6.9 metres. (refer Diagram B1 for more detail and information about minor encroachments).	**neighbourhood character.** *Further discussion is undertaken after the table.*
B18 – Walls on Boundaries Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.	A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1m of a side or rear boundary of a lot should not abut the boundary for a length of more than: • 10m plus 25 % of the remaining length of the boundary of an adjoining lot. or • Where there are existing or simultaneously constructed walls or carports abutting the boundary of an abutting lot, the length of the existing or simultaneously constructed walls or carports - whichever is the greater. • A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in effective height of the wall or carport being less than 2m on the abutting property boundary. • A height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1m of a side or rear boundary should not exceed an average of 3m with no part higher than 3.6m unless abutting a higher existing or simultaneously constructed wall.	☒ **Does not comply, the proposed dwelling on proposed Lot 2 includes a wall located on the boundary between proposed Lots 2 and 3 which exceeds 3.6 metres in height, with a height total height of 6.17 metres.**
B19 – Daylight to Existing Windows Allow adequate daylight into existing habitable room windows.	Buildings opposite an existing habitable room window should provide a light court of at least 3sqm and a minimum dimension of 1m clear to the sky (this can include land on the adjoining lot). Walls or carports more than 3m in height opposite should be setback from the window at least 50% of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.	☑ There are no affected existing windows.
B20 – North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	Buildings should be setback 1m if an existing north-facing habitable widow is within 3m of the abutting lot boundary. (Add 0.6m to this setback for every metre of height over 3.6m and add 1m for every metre over 6.9m.) Refer to 55.04-4 for further clarification (a diagram is included).	☑ There are no affected existing windows.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
B21 – Overshadowing Open Space Ensure buildings do not significantly overshadow existing secluded private open space.	Where sunlight to a private open space of an existing dwelling is reduced, at least 75%, or 40sqm with min. 3m, whichever is the lesser area, of the open space should receive a min. of 5 hours of sunlight between 9 am and 3pm on 22 Sept. If the existing sunlight to the private open space of an existing dwelling is less than these requirements, the amount of sunlight should not be reduced further.	☑ There will be some minor overshadowing of two adjoining properties but this has been shown to be fully compliant with the standard.
B22 - Overlooking Limit views into existing secluded private open space and habitable room windows.	A habitable room window, balcony, terrace, deck or patio should be designed to avoid direct views into the secluded private open space of an existing dwelling within 9m (see clause for details) should have either: • A minimum offset of 1.5m from the edge of one window to the other. • Sill heights of at least 1.7m above floor level. • Fixed obscure glazing in any part of the window below 1.7m above floor level. • Permanently fixed external screens to at least 1.7m above floor level and be no more than 25 % transparent.	☑ Overlooking within the 9m arc does not impinge of habitable rooms or private open space.
	Obscure glazing below 1.7m above floor level may be openable if there are no direct views as specified in this standard.	☑
	Screens to obscure view should be: • Perforated panels or trellis with solid translucent panels or a maximum 25% openings. • Permanent, fixed and durable. • Blended into the development. See Clause 55.04-6 for instances where this standard does not apply.	☑
B23 – Internal Views Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Windows and balconies should to be designed to prevent overlooking of more than 50% of the secluded private open space of a lower level dwelling or residential building within the same development.	Overlooking will not exceed over 50% of a dwelling's private open space within the development.
B24 – Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Noise sources should not be located near bedrooms of immediately adjacent existing dwellings.	☑ No noise sources are located near bedrooms.
	Noise sensitive rooms and private open space should consider noise sources on immediately adjacent properties.	☑ There are no noise sources on immediately adjacent properties.

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
	Noise levels should be limited in habitable rooms in dwellings and residential buildings. Dwellings and residential buildings should be designed to limit noise levels in habitable rooms close to busy roads, railway lines or industry.	☑
Clause 55.05		**On Site Amenity and Facilities**
B25 – Accessibility Consider people with limited mobility in the design of developments.	Dwelling entries of the ground floor of buildings should be accessible or able to be easily made accessible to people with limited mobility.	☑ Dwelling entries are accessible or able to be made accessible.
B26 – Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Entries are to be visible and easily identifiable from streets and other public areas.	☑ The dwelling entries are visible and identifiable from the street.
	The entries should provide shelter, a sense of personal address and a transitional space.	☑ Shelter and/or personal address is provided.
B27 – Daylight to New Windows Allow adequate daylight into new habitable room windows.	Habitable room windows to face: • Outdoor space open to the sky or light court with minimum area of 3sqm and a min. dimension of 1m clear to the sky or; • Verandah, provided it is open for at least one third of its perimeter or; • A carport provided it has two or more open sides and is open for at least one third of its perimeter.	☑ Daylight to habitable room windows is provided to comply with the standard.
B28 – Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Unless specified in the schedule to the zone, a dwelling should have private open space consisting of: • 40sqm with one part at the side or rear of the dwelling/residential building with a minimum dimension of 3m, a minimum area of 25sqm and convenient access from a living room or; • Balcony - minimum 8sqm, minimum width 1.6m and accessed from living room or; • Roof-top – minimum 10sqm, minimum width 2m and convenient access from living room.	☑ Each dwelling has at least 9.3m2 of private open space on a balcony. *However, whilst the proposal complies through the provision of a balcony. Neither of the proposed dwellings can provide any more than 35m^2 to the rear of the dwellings. Therefore, the private open space is located solely within the balcony of each proposed dwellings.*
B29 – Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	The private open space should be located on the north side of the dwelling if appropriate.	☑ Complies as balconies are located to the north. *Further discussion is undertaken after the table.*
	Southern boundary of open space should be setback from any wall on the north of the space at least (2+0.9h) h= height of wall.	☑ Complies as balconies are located to the north. *Further discussion is undertaken after the table.*
B30 – Storage Provide adequate storage facilities for each dwelling.	Each dwelling should have access to a minimum 6m^3 of externally accessible, secure storage space.	☑ Storage is provided in the garages/garden.
Clause 55.06		**Detailed Design**

Title and objective	Standard	Comments where applicable. ☑ Complies ☒ Does not comply
B31 – Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Design of buildings should respect the existing or preferred neighbourhood character and address: • Façade articulation & detailing. • Window and door proportions. • Roof form. • Verandahs, eaves and parapets.	**☑ Please refer to the discussion earlier within this report.**
B32 – Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	The front fence should complement the design of the dwelling or any front fences on adjoining properties.	☑ The front fence is considered to be complimentary to the design of the dwelling and the street.
	A front fence within 3m of the street should not exceed the maximum height specified in the schedule to the zone or if no max. specified, the front fence should not exceed: • 2m if abutting a Road Zone, Category 1. • 1.5m in any other streets.	☑
B34 – Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.	Dwelling layout and design should provide for sufficient space and facilities for services to be installed and maintained.	☑
	Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and should blend in with the development.	☑
	The site facilities including mailboxes should be located for convenient access. Bin and recycling enclosures located for convenient access. Mailboxes provided and located for convenient access as required by Aust. Post.	☑

As shown above, the proposed dwellings on proposed Lots 2 and 3 are not considered to align with the objectives of Clause 55 in the following ways:

- The proposal encroaches on its side allotment boundaries which in some instance exceed the allowable exemption of 0.5 metres. Subsequently, the proposal does not “ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character…” pursuant to Clause 55.04-1.
- The proposal includes a wall located on a boundary which exceeds 3.6 metres in height. Subsequently, the proposal does not “ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character.”

In addition, the proposal’s two additional dwellings appear to be of a scale which is generally out of character with the locality and unreasonable to the needs of potential residents, as follows:

- The proposal meets the standards for permeability as the whole of the subject land. However, Proposed Lot 2 and 3 will both result in less than 20% of the allotment being permeable. Subsequently, the proposal is not considered to "Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration."
- The proposal meets the requirements for Private Open Space by way of providing a balcony with a total area >8m^2. However, each proposed dwelling has 3 bedrooms, with the only useable private open space being a balcony facing Joseph Street, with less space than the smallest bedroom on either of the dwellings. As Standard B28 *Private Open Space* suggests, there is a case for balconies to be the sole private open space where it is "reasonable (to the) recreation and service needs of the residents." The scale of the proposed private open space appears to anticipate occupants who do not require much private open space and can independently access public open space. Although not without exception, this type of private open space does favour a family composition which does not include children. Alternatively, the more likely family composition for a dwelling with only a balcony for private open space are individuals or couples. However, each proposed dwelling includes 3 bedrooms which suggests that it could be used for a family composition larger than this. Subsequently, there appears to be disconnect between the intended residents and their potential recreation and service needs, pursuant to Clause 55.05-4.

Subsequently, the issues raised by the abovementioned assessment suggests that the proposal is of an inappropriate scale and/or design for the neighbourhood. This mirrors the concerns raised as part of an assessment of neighbourhood character.

Clause 56 – Residential Subdivision

Below is an assessment against Clause 56. Given that the impact of the proposal lies in the built form, the subdivision is not considered to be material to the assessment of this application.

Clause/Standard	Description	Comments where applicable ☑ Complies; ☒ Does not comply
Clause 56.03		**Liveable and Sustainable Communities**
Standard C3	Activity centre	☑ The subdivision is supported by an existing activity centre.
Standard C4	Planning for community facilities	☑ There are no policies or plans set out in the Planning Scheme for the provision of community facilities on sites within the subdivision.
Standard C6	Neighbourhood character	☑ The subdivision is generally supported.
Clause 56.04		**Lot Design**
Standard C7	Lot diversity and distribution	☑ The subdivision will achieve an average net residential density of 3 dwellings within 562 square metres which is acceptable for the area. ☑ The subdivision will provide a range and mix of lot sizes including lots suitable for the development of conventional single dwellings and medium density housing. ☑ The site is serviced by the No. 5 bus route and the nearest existing bus stop is located 240 metres away on McCrae

Clause/Standard	Description	Comments where applicable ☑ Complies; ☒ Does not comply
		Street. ☑ Lots will be distributed so that 95% of dwellings will be located within walking distance of the nearest existing or proposed bus stop.
Standard C8	Lot area and building envelopes	☑ The proposed subdivision is associated with the construction of a dwelling on each of the allotments and will be assessed under clause 55.
Standard C9	Solar orientation of lots	☑ The existing street orientation results in more than 30% of lots having sub-standard solar orientation.
Standard C10	Street orientation	☑ The subdivision will increase visibility and surveillance of the public realm. ☑ Lots will front all roads and streets. ☑ Street and houses will look into public open space.
Standard C11	Common area	N/A The subdivision will not create common property land.
Clause 56.05		**Urban Landscape**
Standard C12	Integrated urban landscape	☑ A landscape design is not necessary because the subdivision will not create any streets or public open space.
Clause 56.06		**Access and Mobility Management**
Standard C15	Walking and cycling network	☑ The subdivision can be linked to an existing pedestrian and/or cycling network.
Standard C17	Neighbourhood street network	N/A The subdivision does not include any new streets or roads.
Standard C18	Walking and cycling network detail	☑ A new walking and cycling network is not required for the subdivision.
Standard C20	Neighbourhood street network detail	N/A The subdivision does not include any new streets or roads.
Standard C21	Lot access	☑ The design and construction of new crossovers can meet the requirements of the Infrastructure Design Manual.
Clause 56.07		**Integrated Water Management**
Standard C22	Drinking water supply	☑ Reticulated drinking water will be supplied to all the lots in the subdivision.
Standard C23	Reused and recycled water	N/A A recycled water supply is not available in the area.
Standard C24	Waste water management	☑ A reticulated waste water system will be provided to all the lots in the subdivision in accordance with Coliban Water's requirements.
Standard C25	Urban run-off management	☑ The approved stormwater system for the subdivision will be designed to restrict flows discharged from the site to pre-development levels (ie. using a stormwater detention system). ☑ The approved stormwater system for the subdivision will include water sensitive urban design features to treat run-off in streets and public open space. ☑ The developer may pay a contribution instead of providing a stormwater detention system. ☑ The developer may pay a contribution instead of providing water sensitive urban design features.
Clause 56.08		**Site Management**

Clause/Standard	Description	Comments where applicable ☑ Complies; ☒ Does not comply
Standard C26	Site management	☑ A construction management plan (CMP) is required. ☑ There is vegetation on the site or in the road reserve that must be protected during construction. ☑ Sedimentation flows discharged from the site must be managed.
Clause 56.09		**Utilities**
Standard C27	Shared trenching	☑ Shared trenching will be used for underground services wherever possible.
Standard C28	Electricity, telecommunications and gas	☑ Electricity will be supplied to each lot in the subdivision. ☑ Telecommunications will be supplied to each lot in the subdivision. ☑ Gas will be supplied to each lot in the subdivision.
Standard C29	Fire hydrants	☑ There are existing fire hydrants that are no more than 120m from the rear of each lot and no more than 200m apart.
Standard C30	Public lighting	☑ There is existing public lighting that is adequate for the subdivision.

Further discussion

The proposal represents an increase in density within the General Residential Zone, which is generally encouraged. However, the proposal fails to meet the objectives of the Neighbourhood Character Overlay and Heritage Overlay by virtue of its scale and design, particularly on the upper floor level. In addition, the proposal does not meet the objectives of Clause 55, in particular Clause 55.04-1 Side and rear setbacks, "to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwelling."

The applicant has indicated that "reducing the size would make the project unviable." In what way that the proposal would become unviable is uncertain. Given that the cause of unviability is based on a reduction in scale, it is assumed that the applicant believes that a reduction in scale could cause the proposal to be unusable by any subsequent occupiers or financially unviable based on cost to develop and the ability to recoup costs.

As a responsible authority, City of Greater Bendigo cannot make its determination on the commercial viability of the proposal for an applicant, but rather must concern itself with whether the proposal represents an acceptable development outcome. Furthermore, there is no reason to presume that a reduction in scale would make the proposal unusable for subsequent occupants. Therefore, the proposal has been assessed based on whether the proposal is a good design outcome with respect to the existing and/or preferred neighbourhood character and has been found to be disproportionate in scale and design.

Conclusion

The proposal is for the demolition of outbuildings, removal of trees, 3 lot subdivision, and construction of 2 dwellings, fencing and a carport, at 50 Arnold Street, Bendigo.

Whilst the increase in density is supported due to its proximity to services and Bendigo City Centre, the proposal represents an unacceptable scale and design outcome due to its impact on the neighbourhood character and heritage value of the locality.

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.

14.6. 46A Nolan Street, North Bendigo 3550 - Construction of Two Dwellings on One Lot

Author	Beth Lavery, Planner
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Summary/Purpose

Application details:	Construction of two dwellings on one lot
Application No:	DR/426/2020
Applicant:	Plans In Motion
Land:	46A Nolan Street, NORTH BENDIGO 3550
Zoning:	General Residential Zone
Overlays:	Nil
No. of objections:	12
Consultation meeting:	Consultation was undertaken by way of a formal written response to the objections from the applicant, which was then circulated to objectors. Two objectors made further submissions following this response. No issues were resolved through this consultation process.
Key considerations:	• Whether the proposal is consistent with relevant planning policy surrounding residential infill development; • Whether the proposal will result in adverse amenity impacts for surrounding land owners, occupiers, and visitors to the site; • Whether the proposal is consistent with the objectives and standards of Clause 55 (ResCode); and • Whether the proposed development is an appropriate response to the site in terms of the existing and preferred neighbourhood character of the area.
Conclusion:	The proposed development of two dwellings on the site is consistent with planning policy which seeks to promote increased residential density and the development of high-quality housing stock on underutilised and well serviced and located land within Greater Bendigo. Further, the proposal is consistent with the requirements and standards of Clause 55 of the Greater Bendigo Planning Scheme and as such is unlikely to result in unacceptable amenity impacts on adjoining property owners, and also represents an appropriate response to the site in neighbourhood character terms. Approval of the application is recommended.

RECOMMENDATION

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for construction of two dwellings on one lot at 46A

Nolan Street, NORTH BENDIGO 3550 subject to the conditions at the end of this report.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Background Information

The site has been the subject of two previous applications, which both received objections; were recommended for conditional approval by the Statutory Planning Unit; however the recommendations were not adopted by Council; and subsequently appealed to VCAT for review. In both instances the decisions to the refuse to grant a planning permit was upheld by VCAT.

Each of these applications is discussed briefly below, with further commentary on the VCAT decisions included later within this report.

DSD/273/2012 – Subdivision of land into 5 lots and construction of 5 two storey dwellings and waiver of visitor car parking requirements

Comprising both parcels of land now known as 46 and 46A Nolan Street, this application sought to subdivide the land into 5 lots and construct 5 two storey dwellings on the land. Three crossovers were proposed to access the five dwellings, with the dwellings themselves comprising a flat roof form and essentially being built from boundary to boundary with minimal landscaping proposed within both the front and rear setbacks.

A site plan and elevation plan of this proposal is shown below.

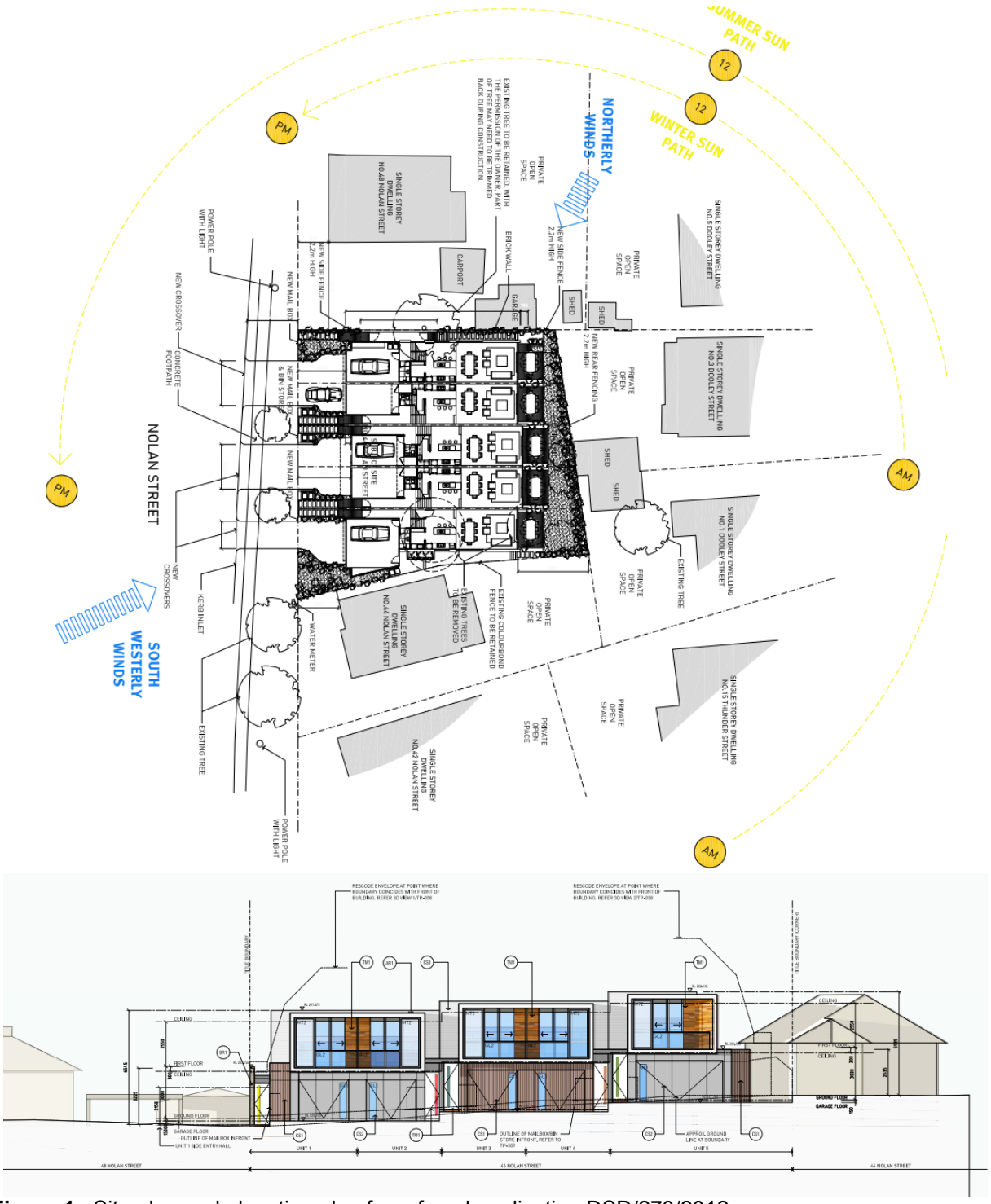


Figure 1: Site plan and elevation plan for refused application DSD/273/2012

DSD/840/2013 – Construction of four dwellings and four lot subdivision

Once again comprising both 46 and 46A Nolan Street, this application followed on from the previously refused application and revised the development to the construction of four dwellings and a four-lot subdivision of the land.

As with the 2012 application, the proposed dwellings were two storey, however the form of the roofline was replaced with more traditional pitched/skillion roof design and the dwellings were grouped in two, with a gap between each pair. Both side and rear setbacks were also marginally increased and two double crossovers proposed to access the dwellings.

A site plan and elevation plan of this proposal is shown below.

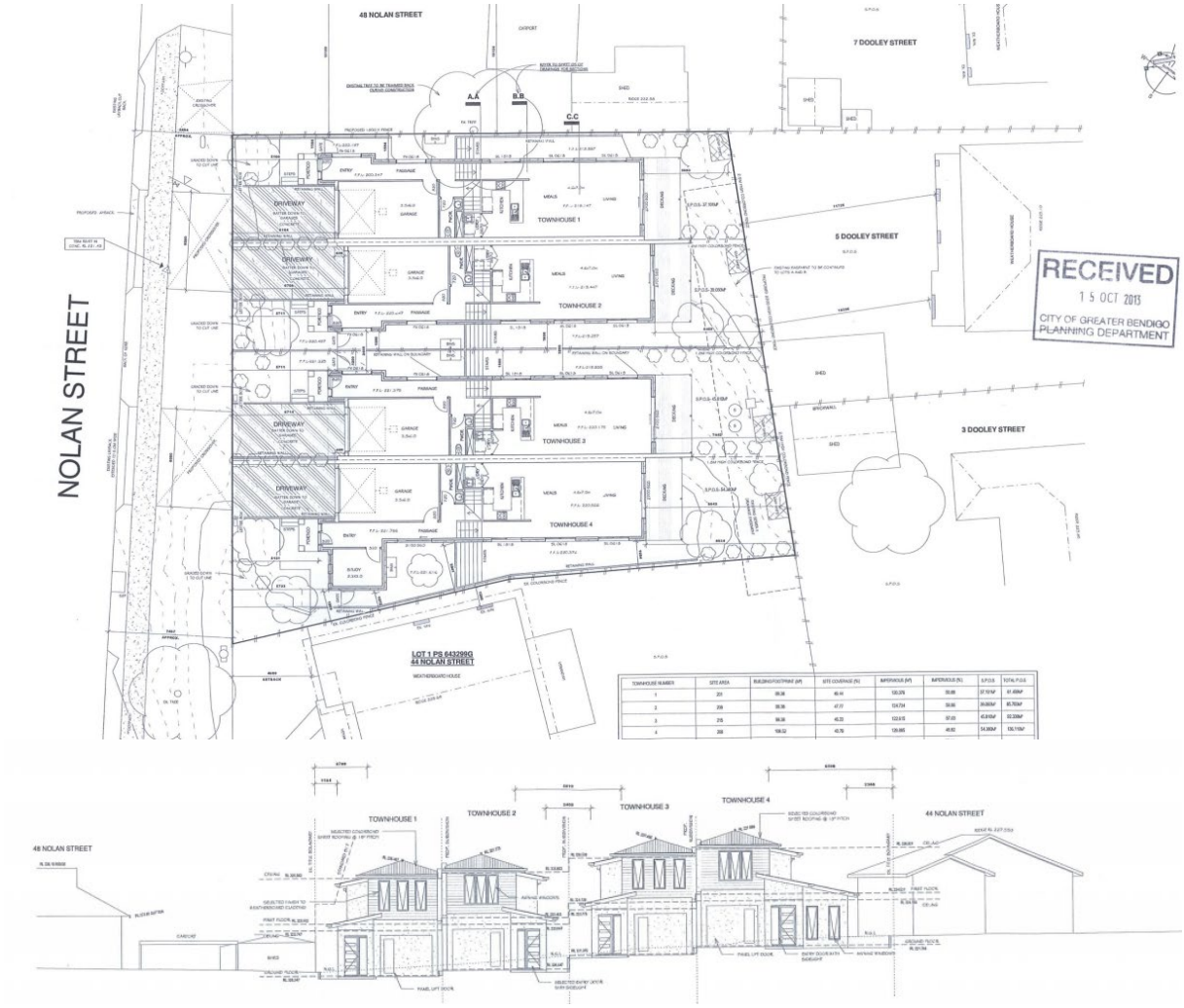


Figure 2: Site plan and elevation plan for refused application DSD/840/2013

In the intervening period between the refusal of these applications and the submission of the current planning permit application, a single storey dwelling has been constructed on the land at 46 Nolan Street, and a double storey dwelling to the rear of the land at 5 Dooley Street.

Report

Subject Site and Surrounds

The subject land is generally regular in shape with an overall lot size of 470m^2, a frontage of 15.24m to Nolan Street, and a depth of between 29.7m and 32.04m. The

site is currently vacant, with no significant vegetation present on site. The land falls from Nolan Street to the rear of the site.

The site is located 450m north west of Lake Weeroona, 540m north east of the Bendigo Hospital and 1.5km north of the Bendigo City Centre. The Bendigo Creek Trail is also located nearby to the site, running alongside the Bendigo Creek past Lake Weeroona, into the City Centre and beyond.

Nolan Street itself is predominantly a single sealed carriageway for much of its duration, however splits into two sections with a 6.5m wide median strip directly in front of the subject land, where the elevation of the land increases significantly. This change in road conditions has resulted in some residential lots on the western side of Nolan Street being significantly more elevated than those on the eastern side of the road.

A bus stop is also located directly in front of the site.



Figure 3: Location map showing subject site. Objector's properties marked with a star (Note: 6 of the 12 objectors do not live nearby to the subject site)



Figure 4: Street view of subject site



Figure 5: View of Nolan Street, looking towards the north

The site is immediately surrounded by existing dwellings at 48 Nolan Street, 5 Dooley Street and 46 Nolan Street. Each of these properties is described in further detail below:

- *48 Nolan Street*

  48 Nolan Street is located immediately north of the site and contains a single storey dwelling with a dutch gabled roof, constructed circa 1920. The dwelling is located centrally on the allotment, with the site also containing a number of associated outbuildings and extensive established landscaping. A high fence is located along the property boundary with Nolan Street, obscuring views of the existing dwelling.



Figure 6: Existing dwelling at 48 Nolan Street

- *5 Dooley Street*

  Adjoining the site to the east is a two-storey dwelling, constructed in 2016. The dwelling is modern in appearance with a flat roof, a colour pallete of dark greys and timber, with no front fencing and limited landscaping within the front setback.



Figure 7: Existing dwelling at 5 Dooley Street

- *46 Nolan Street*

  46 Nolan Street adjoins the site to the south and contains a single storey brick dwelling with a hipped colorbond roof, constructed in 2015. The garage of the dwelling adjoins the northern boundary, however is set back from the southern boundary. There is some landscaping in front of the dwelling, with perforated metal screens running along the front boundary acting as a front fence.



Figure 8: Existing dwelling at 46 Nolan Street

Beyond the immediately surrounding dwellings, nearby development is generally single storey with varying overall roof heights, constructed of brick or weatherboard, with a mix of low and high fencing. The undulating nature of the area results in a range of overall building heights within the street.

Proposal

The application proposes the construction of two, two storey dwellings on the subject land.

The proposed dwellings will be sited in a side by side arrangement and will each comprise four bedrooms, two bathrooms, a rumpus room, along with an open kitchen, study, dining and living area. An alfresco area is located to the rear of each dwelling, along with a single garage and tandem parking space. The dwellings will be separated by a central party wall extending both storeys, with a maximum overall height of 8.065m above natural ground level. A verandah will extend along the length of both dwellings on the Nolan Street frontage.

The dwellings will take a contemporary form, with the front façade featuring brick walls, areas of render and weatherboard garage doors. The remainder of the dwellings will be predominately weatherboard walls, with small sections of brick. The roof form, while appearing in elevation as having a flat roof, also incorporates skillion roof elements.

The dwellings will be set back 5.7m from the Nolan Street boundary, with landscaping comprising of new trees, grass, permeable paving and garden beds proposed within the front setback. No front fencing is proposed. Garages of both dwellings will adjoin the boundary, with the remainder of the dwelling footprint set back between 1.3m – 1.7m from side boundaries and between 4.1m -5.4m from the rear boundary.

Two new crossovers will be provided to allow access to each dwelling, each with a width of 2.7m.

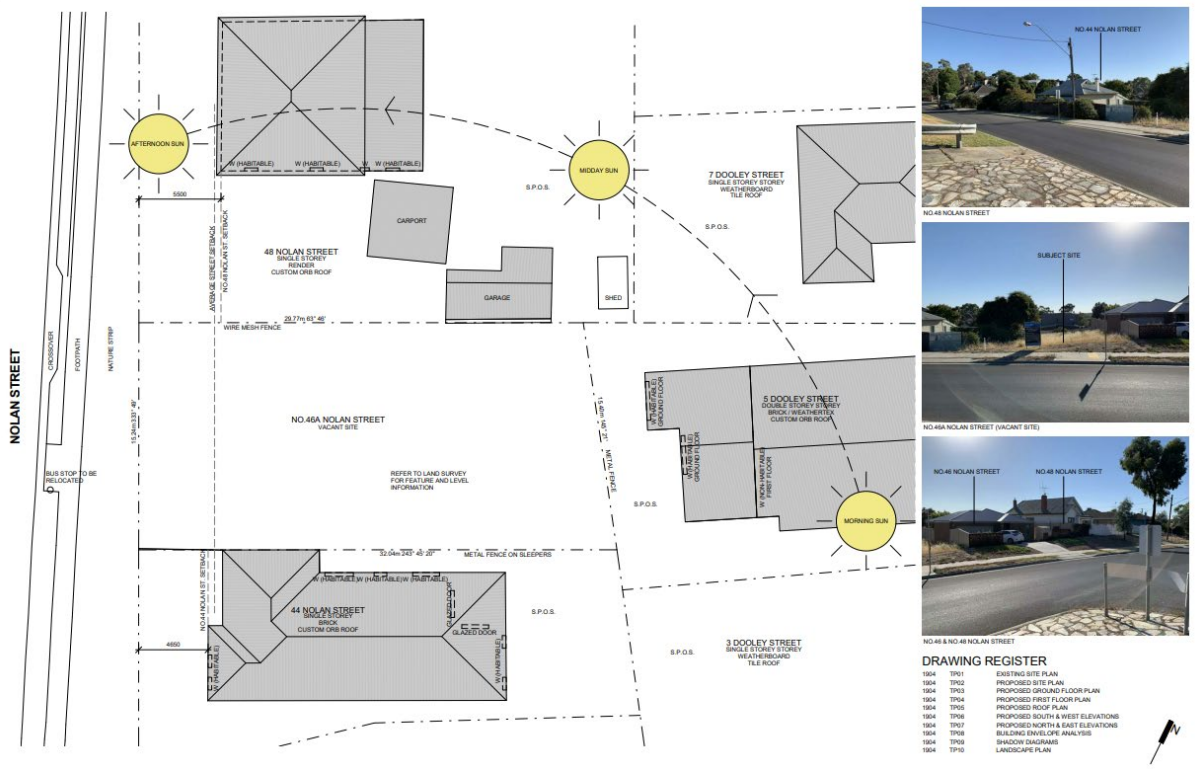


Figure 9. Existing site plan

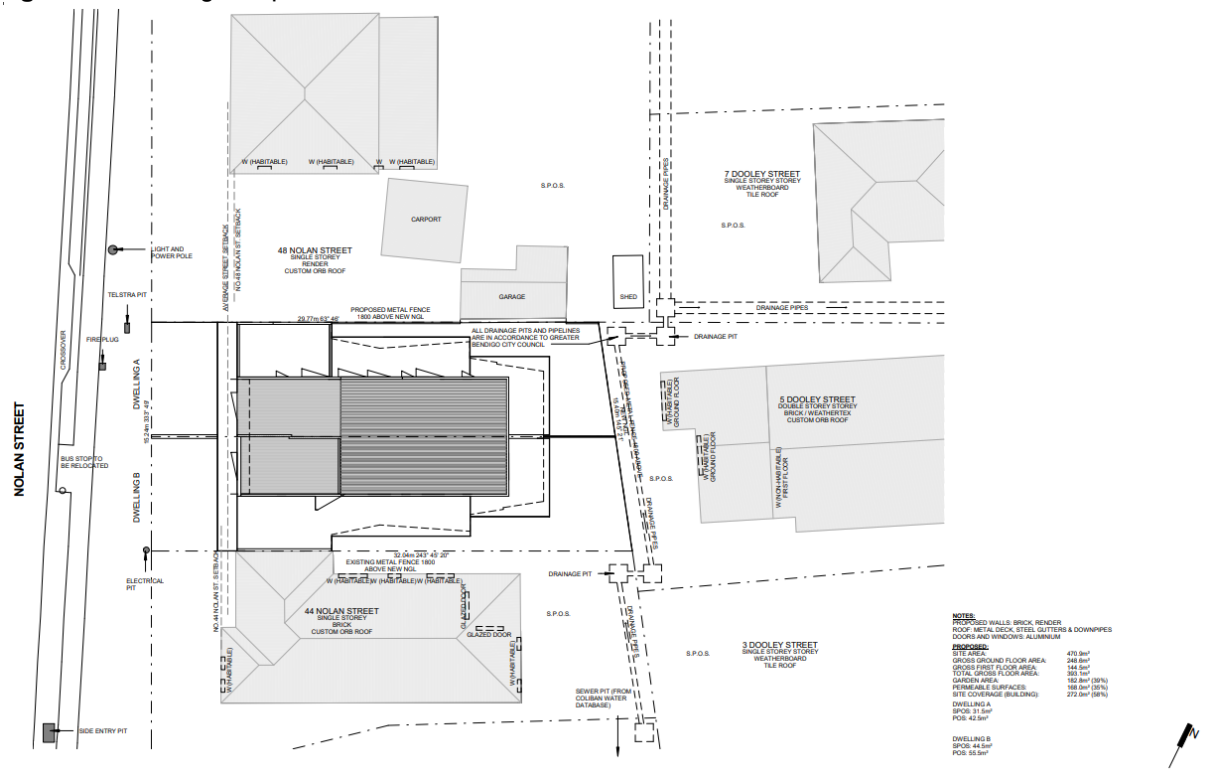


Figure 10: Proposed site plan

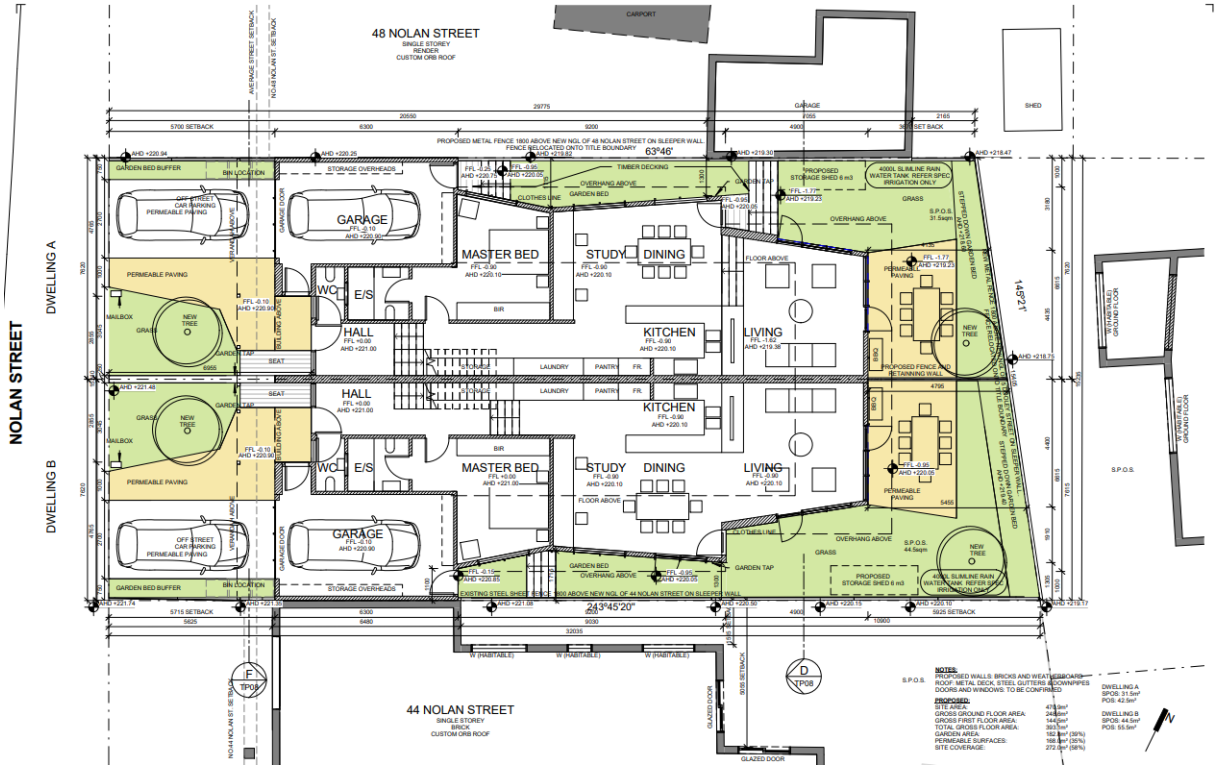


Figure 11: Proposed floor plan – ground floor

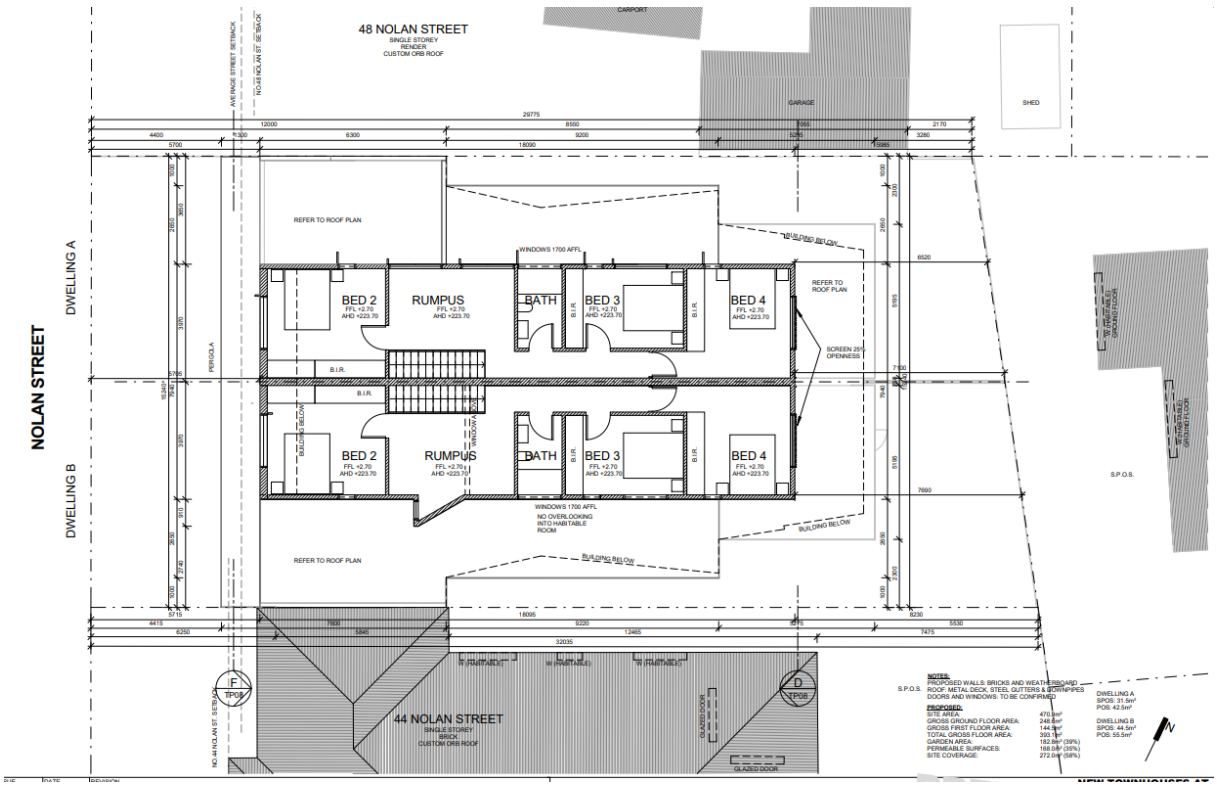


Figure 12: Proposed floor plan – first floor

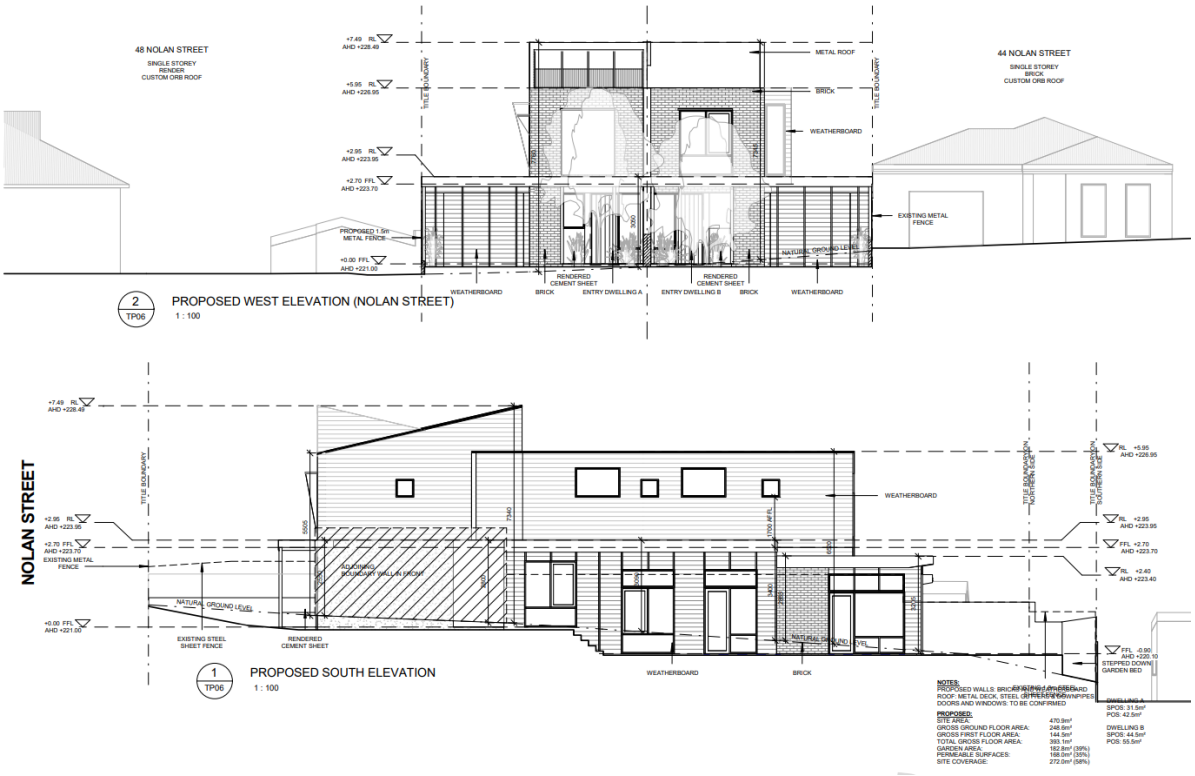


Figure 13: Proposed elevations – west (Nolan Street) and south

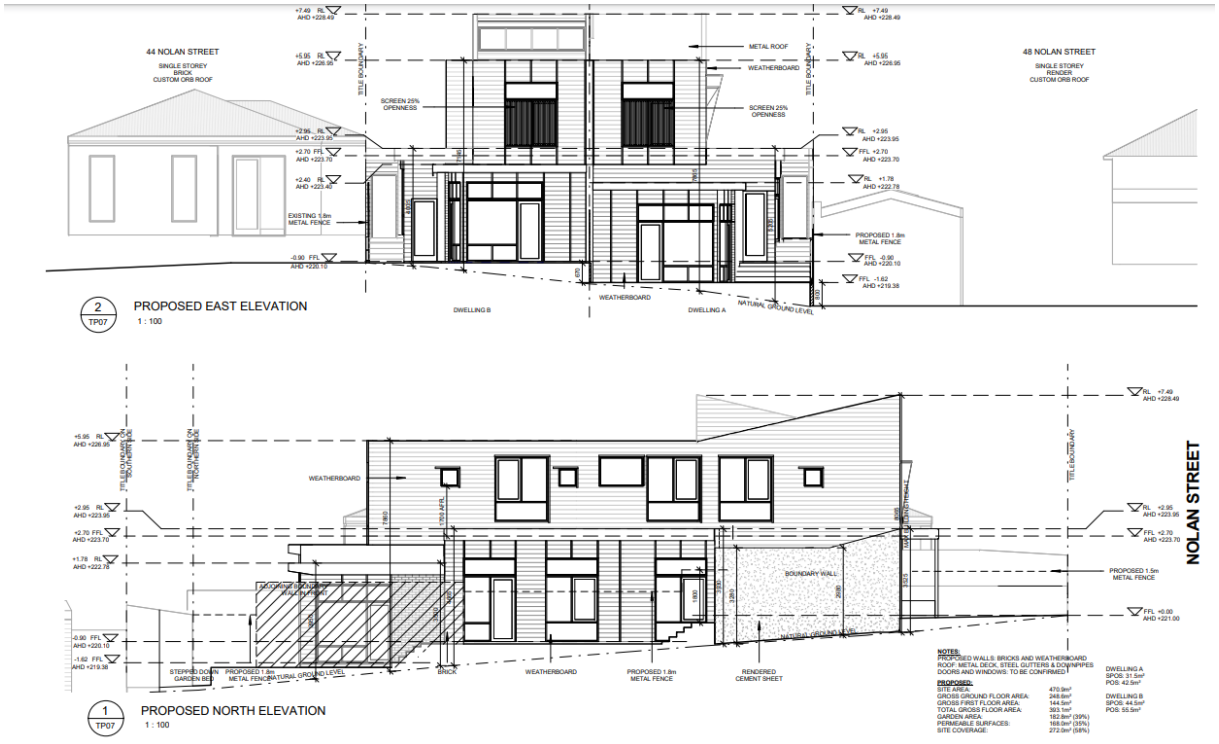


Figure 14: Proposed elevations – east and north

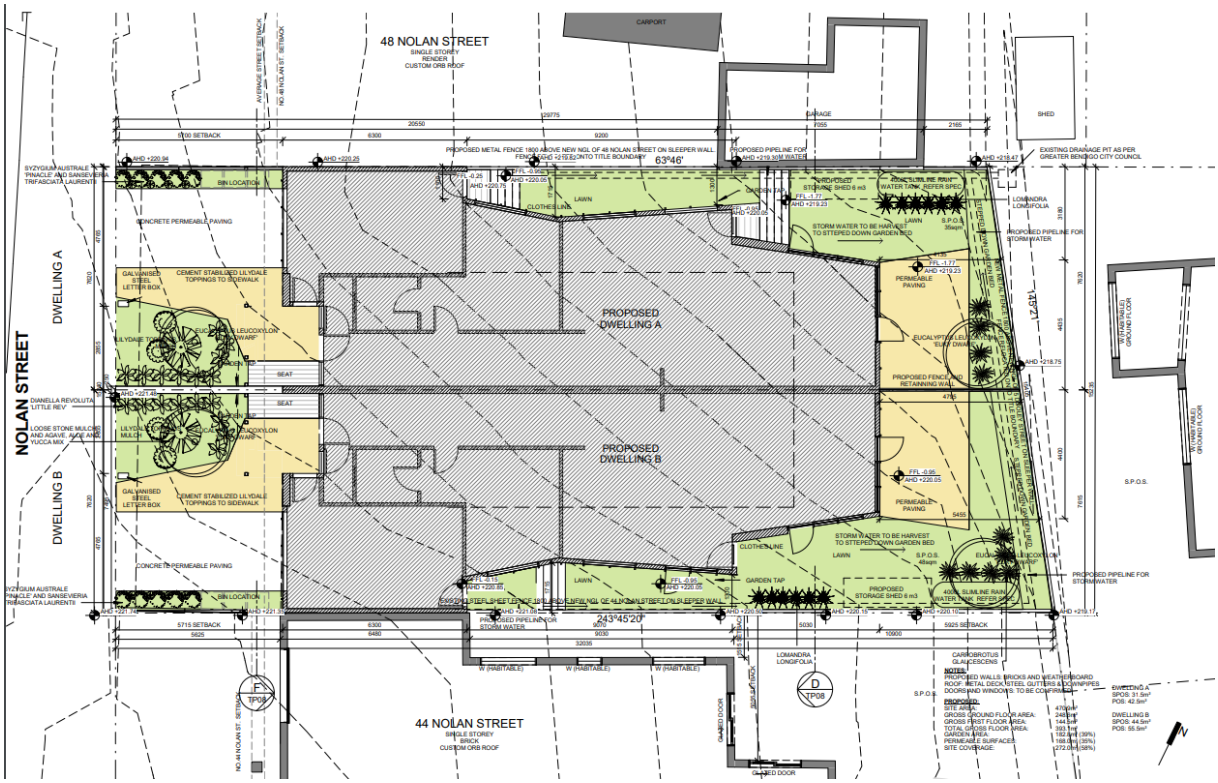


Figure 15: Proposed landscape plan

Planning Controls - Greater Bendigo Planning Scheme

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

State Planning Policy Framework

- 11.01-1S – Settlement
- 11.01-1R – Settlement – Loddon Mallee South
- 15.01-1S – Urban design
- 15.01-2S – Building design
- 15.01-5S – Neighbourhood character
- 16.01-1S – Housing supply

Municipal Strategic Statement

- 21.02-1 - Compact Greater Bendigo
- 21.05 – Compact Greater Bendigo
- 21.05-3 – 10 minute neighbourhoods
- 21.05-4 – Housing density and diversity
- 21.05-7 – Design quality

Local Planning Policies

- 22.20 – North Bendigo Residential Character Policy

Other Provisions

- 32.08 – General Residential Zone

- 52.06 – Car parking
- 55 – Two or more dwellings on a lot
- 65 – Decision guidelines

Consultation/Communication

Referrals

The following internal departments have been consulted on the proposal:

Referral	Comment
Traffic	No objection subject to conditions. Some modifications to uncovered parking spaces were required to ensure that vehicles would be located entirely within the boundaries of the land, and not overhanging footpath. The plans were subsequently amended to show this change
Drainage	No objection subject to conditions

Public Notification

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

As a result of advertising, 12 objections were received, with the grounds of objection being:

- Height of proposed buildings and potential for overshadowing of solar panels and internal and external areas of the dwelling.
- Dominance of the site over adjoining dwellings, height will be significantly higher than nearby dwellings.
- Height and building form is not respectful to predominant building height in the street.
- Overlooking into adjoining properties and impacts on privacy.
- Adverse impacts on amenity.
- Overdevelopment of the site.
- Relocation of the bus stop will be inconvenient.
- Inconsistency with existing neighbourhood character in terms of height, setbacks, and prominence of single storey dwellings.
- Inconsistency with Residential Character Policy for this precinct (North Bendigo Precinct 6).
- Unacceptable impacts on streetscape.
- Inappropriate and insufficient landscaping and garden areas.
- High density development not appropriate.

- Boundary to boundary development with no setbacks between dwellings.
- Insufficient car parking, particularly for visitors to the site.
- Traffic concerns due to busy nature of Nolan Street and higher concentration of vehicles accessing site, and potential traffic hazards resulting from existing road conditions and slope.
- Construction impacts.
- Potential fire risks.
- Unacceptable owing to previous site history and similarities to previous applications.
- Incorrect location of boundary fencing shown on plans and adverse possession claims.

Due to COVID-19 restrictions, no formal consultation meeting was held, with consultation undertaken by way of a formal response to the objections by the applicant, with a right of reply to the objectors. During this process, two of the objectors provided further written submissions to the proposal.

No issues were resolved through this consultation process. The objections are discussed further below within the planning assessment.

Broadly, the themes of objection centre around the suitability of the proposal in terms of neighbourhood character, overdevelopment of the site and impacts upon amenity.

Planning Assessment

Consistency with planning policy

There is significant planning policy contained within the Planning Scheme relating to infill development and the need to increase residential density within urban areas, particularly in areas with good connection to existing services, transport options and other social infrastructure.

These policies, including Clause 11.01-1R (Loddon Mallee South regional growth), Clause 16.01 (Residential development), Clause 21.02 (Key issues and influences) and Clause 21.05 (Compact Greater Bendigo), as well as encouraging development on underutilised land within urban Bendigo, also promote diversity in housing types, and encourage the development of well-designed housing that provides a high level of internal and external amenity.

10 minute neighbourhoods are also an important part of Compact Greater Bendigo policy at Clause 21.05-2, which encourages support for proposals for well designed higher density development, which are accessible to existing activity centres (containing shops, schools and employment), and public transport.

Given the site's proximity to central Bendigo; to recreational options such as Lake Weeroona and the Bendigo Creek Trail which lead into the City Centre; and to other community infrastructure such as shops and schools, the proposal is consistent with many of the objectives contained within these policies.

Consistency with Clause 55

A number of objections refer to overlooking and overshadowing and the proposal's general consistency with the objectives and standards of ResCode. The proposal has been assessed against the requirements of Clause 55 and is consistent with all required objectives and standards, nonetheless, the issues of overlooking, overshadowing and boundary setbacks raised by objectors are discussed further below:

- *Building height*

  Standard B7 sets out that the maximum building height should not exceed the maximum set out in the zone, or any schedule to the zone or overlay that applies to the land. The General Residential Zone specifies that a building must not exceed 11 metres in height. With a maximum building height of 8.065 metres the proposed dwellings satisfy this standard.

- *Height and length of walls on boundaries*

  Standard B18 refers to walls on boundaries, with the objective being to ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impacts on amenity of existing dwellings.

  The Standard sets out that where a new wall is constructed on, or within 200mm of a side or rear boundary, it should not abut the boundary for a length of more than 10 metres, plus 25% off the remaining length of a boundary on an adjoining lot.

  The maximum allowable wall length for each, based on the length of both boundaries is 14.94m (northern boundary) and 15.51m (southern boundary). With the garages for each dwelling to each adjoin the boundary for a distance 6.30m, this standard is achieved.

  The remainder of the dwellings will be set back from all boundaries.

- *Overshadowing*

  The objectives of Standard B21 are to ensure that buildings do not significantly overshadow existing secluded private open space. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September. The plans submitted with the application show that the existing sunlight to the secluded private open space of 46 Nolan Street will continue to receive the minimum five hours of sunlight during the above times.

- *Overlooking and loss of privacy*

  The objectives of Standard B22 seek to limit views from new development into existing secluded private open space and habitable room windows. Habitable room windows should be designed and located to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres of the window. Any proposed new windows within this 9 metres should be either offset, have sill heights of at least 1.7 metres above floor level, have fixed obscure glazing in any parts of the window below 1.7 metres, or have permanently fitted external screens to at least 1.7 above floor level, with transparency no more than 25 percent. The standard does not apply however where there is a visual barrier of at least 1.8 metres high.

  The proposed dwellings are compliant with this standard through the provision of 1.8m boundary fencing, the provision of windows with sill heights of 1.7m, and appropriate fixed screenings on windows below this height within the 9m radius.

  While there may be a perceived loss of privacy due to the double storey form of the proposed development, all habitable room windows have demonstrated compliance with this standard.

What has VCAT previously said about:

- The site and previous development proposals; and
- 'Repeat' applications?

In *DJAM Holdings Pty Ltd v Greater Bendigo CC & Ors [2013] VCAT 1131 (2 July 2013)* which related to permit application DSD/273/2012 as outlined earlier within this report, Member Bennett made the following observations in affirming Council's decision to refuse the application:

> *'…as decision makers we are not assessing an architectural competition or that a design must be ideal. Rather we are obliged to consider the proposal on its merits, guided by the planning scheme which asks whether the proposal will produce acceptable outcomes in terms of the strategic directions and statutory controls of the Greater Bendigo Planning Scheme'*
>
> '…*what is important is whether the proposed development (at least in terms of this one part of the Planning Scheme) is acceptable having regard to the objectives and design responses'* (of the residential character policy).

In this regard, Member Bennett was not satisfied the development before the tribunal, appearing as one long building when viewed from the east or west was appropriate having regard to the design responses set out within the character policy, noting:

> '…*the building components should be separated to better reflect the rhythm of existing dwelling spacing and result in building(s) less dominant in the streetscape. A building with greater boundary setbacks, less paving, and fewer crossovers and driveways would provide more opportunities for landscaping and the planting of trees within the site. Greater articulation and a different roof design would also provide a proposal more consistent with the desired future character set out in Clause 22.20 - of a garden suburb character where the horizontality and articulation of the dwellings and the openness of streetscapes will be maintained'.*

In *DJAM Holdings Pty Ltd v Greater Bendigo CC [2014] VCAT 732 (19 June 2014),* which followed from the subsequent planning application DSD/840/2013, Member Bennett made the following comments on the revised development in determining whether the proposal for four dwellings was acceptable:

> '*Although….these changes have responded to the specific criticisms of the previous proposals, in my opinion the changes do not address the fundamental problems with both of these applications which concerns the number of dwellings, the basic layout of the site, the physical relationships between dwellings and the extent of paving, crossovers and car storage within the front setback'.*

and

> *'one of the major problems with repeat appeals is that the applicant often tries to tick off each of the specific criticisms of the earlier proposal without addressing the more fundamental design concept. So it is with this proposal'.*

As such, it is evident from these previous proceedings that any development of the site in question must be responsive to the objectives and design guidelines set out within the precinct character policy and be a sympathetic response to the area in terms of neighbourhood character. Further, any development must not seek to simply respond to the previous comments and criticisms from the Tribunal, and instead seek to provide a site responsive design.

The dwellings proposed as part of this application have noted these comments handed down by Member Bennett in both decisions and have sought to respond through a revised design with greater attention to the elements referred to within, such as the importance of landscaping within the front setback, extent of hard surfaces within same and overall dominance of the building within the streetscape.

It is noted that the existing streetscape has been somewhat altered since both of these proceedings were before VCAT, with both the dwellings at 5 Dooley Street and 46 Nolan Street being constructed within the intervening period, introducing a newer, more modern element into the streetscape.

Planning legal principles with reference to 'repeat' applications

There are numerous Tribunal cases dealing with repeat appeals and the factors which should be taken into account when considering such applications. One such decision is *Batsis Nominees Pty Ltd v Hobsons Bay CC [2009] VCAT 928 (25 May 2009)*. That decision outlines four factors/principles that should be considered as justifying a departure from an earlier determination.

Unless a compelling case can be made about one or more of these factors, then there is no reasonable justification for departing from the basic findings in the previous application.

The factors/principles are listed and responded to in turn:

Principle:
Significant or material changes to the application itself which address the primary reasons for the previous proposal being refused.

Assessment:
The elements of what has been applied for have changed significantly, insofar as part of the previous development site has in the interim been developed with a single dwelling, and as a result, the application under assessment refers to the construction of two dwellings only (as opposed to four, or five, as was the case in previous applications).

The current proposal, from new land owners and a new architect, seeks to respond to previous criticisms of Council and the Tribunal, and overall provides a more site responsive design which the previous applications did not.

Principle:
Significant or material changes in the circumstances of the land or its surrounds.

Assessment:
Since the appeals, the adjoining site at 46 Nolan Street (which formed part of the previous application site) has been developed with a single storey brick dwelling, while land to the rear of the subject land has been developed with a two storey dwelling. .

Principle:
Significant or material changes in planning controls and policy.

Assessment:
Since the original decisions, the Greater Bendigo Residential Strategy has been adopted and incorporated into the Greater Bendigo Planning Scheme. This strategy provided new policy direction for settlement and housing within the municipality, particularly with regard to infill development.

Principle:
Significant or material changes in the interpretation of the facts or law relevant to the Tribunal's consideration.

Assessment:
There are no directly relevant material changes.

Having regard to the repeat appeal principles, three of the four factors are met, which means that there is justification to depart from the original decision to refuse an application that was seeking similar planning permission as this application.

Is the proposal consistent with neighbourhood character?

In Planning Practice Note 43 (January 2018) neighbourhood character is defined as:

> '…*essentially the combination of the public and private realms. Every property, public place or piece of infrastructure makes a contribution, whether great or small. It is the cumulative impact of all these contributions that establishes neighbourhood character.*

The Practice Note goes on to say:

> '…*Identifying the features and characteristics of the neighbourhood ... does not mean producing an exhaustive list of features in the neighbourhood. …Understanding the relationship between the features and characteristics of a neighbourhood is important…The key is to consider the interaction between features and characteristics.'*

The North Bendigo Residential Character Policy is contained within Clause 22.20 within the Planning Scheme, with the subject land falling within North Bendigo Precinct 6. This purpose of this policy is to assist in achieving State Planning Policy Framework objectives, particularly in relation to responding to neighbourhood character and urban design principles. The policy implements the findings of the *City of Greater Bendigo Residential Character Study 2001*, which identifies the key existing characteristics and desired future character of residential areas of North Bendigo

Precinct 6 is described as:

> *An area of mostly post-war housing, in which consistency of setbacks within streetscapes is important. Roof shapes are also important as they are prominent in streetscapes and provide a consistent theme. Front fences are low in height or transparent, creating an open feel to the streetscape.*

The Statement of desired future character for the precinct is for '*The open qualities of the streetscapes will be maintained'*, with this to be achieved by the following objectives and design responses. Each objective and recommended design response is listed below, along with an assessment of the proposal against each.

Objectives	**Recommended Design Response**
To maintain and strengthen the garden settings of the dwellings.	Prepare a landscape plan to accompany all applications for new dwellings. Retain large, established trees and provide for the planting of new trees wherever possible.
Comment: An acceptable landscaping plan has been submitted which indicates landscaping within the front setback, including new trees and understorey plantings, as well as garden beds adjoining side boundaries to act as a buffer between the proposed driveways and adjoining properties. The plans also show appropriate plantings within the backyards. The site does not contain any existing large established trees.	
To minimise site disturbance and impact of the building on the landscape.	Buildings should be designed to follow the contours of the site or step down the site.
Comment: The proposed dwellings will follow the natural contours of the site and have been stepped down in parts to follow these contours, in order to minimise disturbance.	

To maintain the consistency, where present, of building front setbacks.	The front setback should be not less than the average setback of the adjoining two dwellings.
Comment: The proposed 5.7m setback (4.4m with pergola/verandah) is appropriate in terms of the setbacks of 46 Nolan St (4.65m) and 48 Nolan St 5.5m.	
To reflect the existing rhythm of dwelling spacing.	Buildings should be setback between 1 and 3 metres from both side boundaries, based on the predominant pattern in the streetscape.
Comment: The proposed garages of each dwelling will adjoin the property boundaries to the north and south, with the remainder of both dwellings set back from the side and rear boundaries between 1.3m to 4.7m. This will result in the dwelling facades appearing to be built 'boundary to boundary' when viewed from Nolan Street. The predominant pattern in the streetscape is for dwellings to be offset from at least one side boundary, however there are instances where structures such as a carport or shed are sited within this side setback.	
To ensure that buildings and extensions do not dominate the streetscape.	Respect the predominant building height in the street and nearby properties. Use low pitched roof forms
Comment: Being double storey in form, the proposed dwellings will have an overall building height higher than many dwellings within the streetscape, however the topography and mix of dwelling types and roof forms has meant that dwelling heights are not uniform. The proposed dwellings have utilised mainly flat roof forms to minimize potential dominance, however have also introduced skillion roof elements so as to complement the dominant roof forms within the streetscape.	
To use building materials and finishes which complement the dominant pattern within the streetscape.	In streetscapes where weatherboard predominates, render, bag or paint brick surfaces.
Comment: The streetscape contains a mix of building materials, with most surrounding dwellings being of weatherboard construction, with brick dwellings also present. The proposed dwellings are to contain a mix of materials to complement surrounding dwellings.	
To maintain the openness of the streetscape	Provide low or open style front fences
Comment: Although this is a design objective for the precinct, and the proposed dwellings are compliant having no front fencing proposed, it is noted that a majority of surrounding dwellings have high fencing present.	

From the assessment above, it is evident that the proposal is generally in accordance with the requirements of the North Bendigo Character Policy (Precinct 6). While there are some areas of non-compliance (namely dwelling spacing and potential dominance within the streetscape), it is important to note Member Bennett's comments in *DJAM Holdings Pty Ltd v Greater Bendigo CC & Ors [2013] VCAT 1131 (2 July 2013)* where he stated:

> '…*these are not mandatory requirements, or any suggestion that they must be slavishly followed, they ... provide guidance as the type of built form outcome that is being sought for this part of Bendigo'.*

Taking this into account, the final question becomes whether these areas of non-compliance are acceptable in terms of a neighbourhood character outcome for this area within North Bendigo.

The lack of setback from the side boundaries along the property frontage is potentially at odds with the dominant pattern within the street, where most dwellings appear to have generous setbacks from at least one side boundary. As noted in the assessment above, there are instances where carports have been constructed within this side setback area, giving a sense of boundary to boundary development for those allotments. The adjoining dwelling at 46 Nolan Street also has a garage on the boundary directly abutting the subject land.. As such, this element is not necessarily fatal to the application, particularly when the proposed landscaping within the front setback will also soften the visual impact of the two dwellings.

The two storey nature of the proposed dwellings also leads to the potential for the dwellings to dominate the existing streetscape, particularly given the majority of nearby dwellings are single storey only.

This also need not necessarily be fatal to the proposal. In *Allison v Kingston CC & Ors [2010] VCAT 1361 (13 August 2010*) Member Potts emphasises that respecting neighbourhood character does not mean duplication:

> '…*Subject to how the design responds to its context, an increase in built form by one additional storey is in principle, accepted as being respectful of surrounding lower scale. Therefore the fact that there are no other two storey dwellings in the street is not of itself a reason to reject .. proposal'*.

With this in mind, it is important to not dismiss the proposal as inappropriate in neighbourhood character terms simply because they will be some of the few double storey dwellings in the nearby vicinity of the land. The design of the dwellings has taken into account the potential for the buildings to dominate, and has added design elements to reduce this impact, such as articulation, mixed elements with regard to roof design, as well as the landscaping and lack of a front fence.

Further, double storey form in its own right is also not unacceptable as an outcome for the site – a two storey dwelling could be constructed in its own right on the land without the need for planning approval if only a single dwelling were proposed, subject to the same Rescode requirements and without consideration for neighbourhood character.

Boundary concerns

Two of the objections note that there is some dispute as to the property boundaries between the subject land and 48 Nolan Street and 5 Dooley Street. In both instances the objectors indicate that the current fences are in the correct position, and they object to any alteration of fence position to accord with surveyed property boundaries. Further, they also indicate that they intend to claim the portion of land in dispute by adverse possession.

The applicant has noted that a survey plan was prepared by Spiire Consultants in 2019, and the proposed development plans have been prepared based on this survey plan.

Fencing issues between neighbours are a civil matter, and as such no assessment as to the correct location of the boundaries will be made as part of this assessment of the planning application. It would be expected that all parties will take steps to resolve these issues prior to any development commencing on site, if the application were to be approved.

Other objector issues

- *Bus stop relocation*

  Any relocation of the bus stop will be required to gain approval from Public Transport Victoria. It is expected that the applicant would undertake these negotiations. While it is acknowledged that any relocation of the bus stop may inconvenience public transport users in the area, the location of bus stops is outside of the realm of jurisdiction of the City.

- *Car parking and potential traffic impacts*

  Car parking will be provided in accordance with Clause 52.06, with two car spaces to be provided to each dwelling (one within the garage and one undercover in a tandem arrangement). The functionality of the proposed car spaces and the traffic movements in and out of the proposed driveways has been assessed by the City's Traffic Engineer as being appropriate. It is not expected that the dwellings would cause unreasonable impact on the flow of traffic within Nolan Street much beyond that which would already exist from dwellings in the area.

- *Construction impacts*

  Any potential impacts from construction of the dwelling can be managed through the inclusion of a condition on any permit granted, requiring a Construction Management Plan to be prepared and submitted.

Conclusion

It is important to note that given the site's complex planning history, the continued interests of surrounding landowners in the site and its development, and the subjective nature of neighbourhood character, that making a final recommendation on the proposal has required much consideration.

Taking into account these factors, consistency with the Planning Scheme and planning policy which seeks to increase residential density in appropriate locations, it is the assessing officer's opinion that the proposed dwellings represent an acceptable response to the site in terms of neighbourhood character, and approval is therefore recommended.

Options

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

Attachments

- Objections
- Previous VCAT Decisions.

Proposed Notice of Decision Conditions

1. 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.

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

3. 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.

4. 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.

   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.

The protection measures taken to preserve any vegetation identified for retention.

5. DETAILED DRAINAGE
Plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit.
The plans must be drawn to scale with dimensions. The plans must include
(a) Underground drainage
(b) A point of discharge
(c) Water quality
(d) Stormwater detention
- Allowable Discharge: $Q_{20\%}$ = 4.5 l/s.

6. SECTION 173 AGREEMENT
Prior to the occupation of the development, the applicant/owner must enter into an Agreement under Section 173 of the Planning and Environment Act 1987.
Such Agreement must covenant that;
- The owner will maintain each on-site treatment system and/or detention system and not modify without prior written approval from the responsible authority.
- The owner shall allow duly authorised officers of the responsible authority to inspect the systems at mutually agreed times.
- The Owner will pay for all costs associated with the construction and maintenance of each onsite treatment and detention system.

7. 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

8. VEHICLE CROSSINGS
Vehicular access to the subject land from any roadway or service lane (and vice versa) must be by way of a vehicle crossing(s) constructed at right angles to the road, to suit the proposed driveway(s) and vehicles that will use the crossing. 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.

Any existing kerb layback not used must be removed and the kerb reinstated.

Any existing driveway not used must be removed and the nature strip reinstated.

9. SEALED CAR PARK
Areas set aside for the parking of vehicles together with the aisles and drives must be properly formed to such levels that they can be utilised in accordance with the endorsed plan and must be drained and provided with an impervious all weather seal coat. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the responsible authority.

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

11. PEDESTRIAN SIGHTLINES
    The minimum sight line for pedestrian safety must be provided at the exit lane frontage so as to accord with Clause 52.06-8 of the City of Greater Bendigo Planning Scheme.

12. 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.

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. 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.

15. 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.

16. EXPIRY
    This permit will expire if the development permitted by this permit is not commenced within 2 years and completed within 4 years of the date of this permit. 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.

Engineering Note:

CONSENT FOR WORK ON ROAD RESERVES
The applicant must comply with;
(a) The Road Management Act 2004,
(b) Road Management (Works and Infrastructure) Regulations 2005 and
(c) Road Management (General) Regulations 2005
with respect to any requirements to notify the Coordinating Authority and/or seek consent from the Coordinating Authority to undertake “works” (as defined in the Act) in, over or under the road reserve. The Responsible Authority in the inclusion of this 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.

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).

14.7. CA 9 Sec 3 - 170 Bradford Road, Shelbourne - Use and development of the land for a dwelling and outbuilding

Author	Adele Hayes, Planner
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Summary/Purpose

Application details:	Use and development of the land for a dwelling and outbuilding
Application No:	DR/105/2020
Applicant:	Shane Muir Consulting Engineers Pty Ltd
Land:	CA 9 Sec 3 - 170 Bradford Road, Shelbourne
Zoning:	Farming Zone
Overlays:	Bushfire Management Overlay Environmental Significance Overlay 1 Vegetation Protection Overlay 2
No. of objections:	0
Consultation meeting:	N/A
Key considerations:	• Whether the proposal would result in an acceptable planning outcome having regard to the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land. • Whether appropriate justification has been provided in support of the proposal.
Conclusion:	The application is not in accordance with the Greater Bendigo Planning Scheme. 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.

RECOMMENDATION

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 outbuilding at CA 9 Sec 3 - 170 Bradford Road, Shelbourne, 3515 on the following grounds:

1. The proposal is inconsistent with the purpose and decision guidelines of the Farming Zone by:
    a. Causing the fragmentation of agricultural land; and
    b. Encouraging the proliferation of dwellings in the rural landscape.
2. The proposal is inconsistent with local planning policy (Clause 22.02) regarding the use of unplanned lots for rural residential purposes.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Background Information

Preliminary concerns were raised with the applicant with regards to the proposal not being in accordance with planning policy relating to rural dwellings and the protection of agricultural land. It was unclear from the information provided as to the exact nature of the intended agricultural land use, whether the land use is actually proposed or rather 'could potentially' be undertaken on the site, and why a dwelling is required in order to support this agricultural land use. Concerns were raised that the proposal did not illustrate a genuine agricultural land use or clear relationship between the dwelling and agricultural land use.

The applicant provided additional justification in support of the application, in the form of further details surrounding the proposed agricultural activity. This justification is considered to be insufficient to substantiate the need for a dwelling on the site, as discussed below.

Report

Subject Site and Surrounds

The site is formally referred to as CA9, Sec 3, Parish of Shelbourne and is part of an overall larger agricultural property consisting of five separate land parcels, all of which are old Crown Allotments. The site is located on the western side of Bradford Road, and is irregular in shape with an area of 21.09 hectares. The site has an eastern frontage to Shelbourne Road of 402.34m and a depth of 529.10m - 613.60m.

The site has historically been used for agricultural practices (cropping and grazing) in conjunction with the adjoining lots. The site currently contains an agricultural shed in the north-west corner of the land. The site is largely clear of vegetation, with the exception of vegetation located along the western boundary in proximity to Spring Creek. Informal access is currently derived from the unmade government road adjoining the northern boundary of the site.

The site is located within the Farming Zone and is partially affected by a Bushfire Management Overlay, Environmental Significance Overlay and Vegetation Protection Overlay. Surrounding land is located within the Farming Zone, with the exception of pockets of State Forest (zoned PCRZ) to the east and west. Some surrounding lots are used for agricultural purposes (primarily cropping and grazing), and many of the surrounding lots contain dwellings.

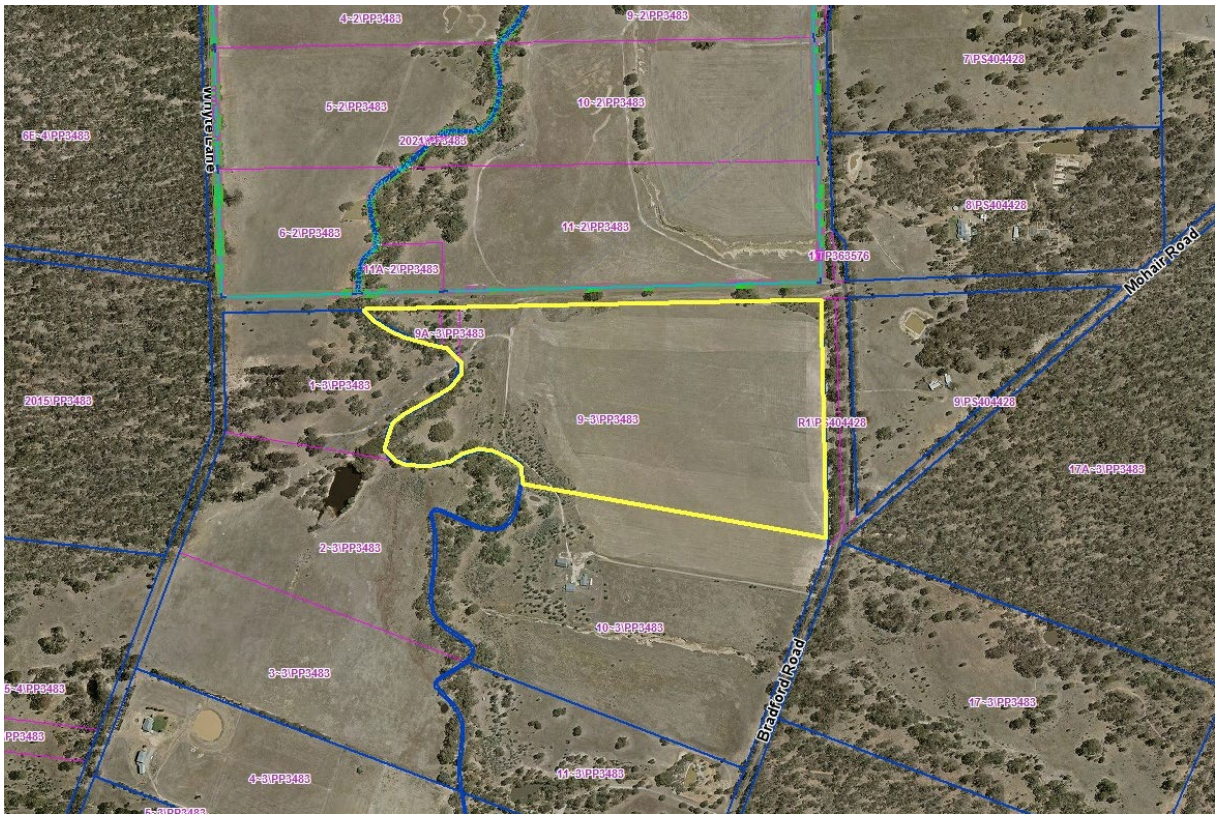


Figure 1: Aerial map showing subject site.

Proposal

The application proposes the use and development of the land for a dwelling and outbuilding.

The dwelling would be located 142.5m from the northern boundary, and 202m from the western boundary (Shelbourne Road).

The dwelling would comprise of 4 bedrooms; an open plan kitchen, living and dining area; and an attached double garage. The dwelling would be constructed of selected non-combustible cladding with a Colourbond roof.

The outbuilding would be located 160.5m from the northern boundary, and 25m west of the dwelling.

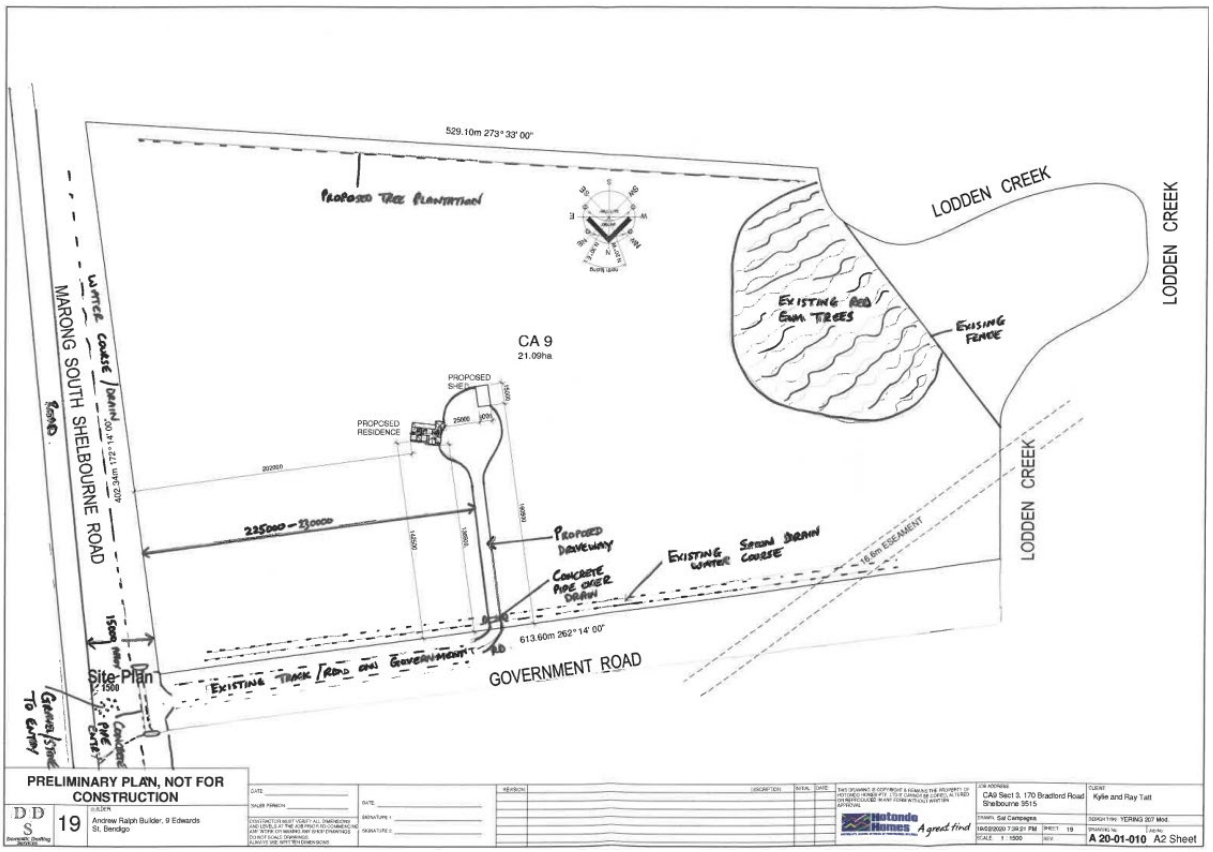


Figure 2: Proposed Site Plan.

The application material states that the dwelling is proposed in order to support the following agricultural use of the land:

- Pastures and crops (Oats at the top end of the site, pasture grass hay throughout the middle section, and Lucerne at the bottom end of the site).
- Stock management (initially 10 horses, with a plan to introduce 15-20 Black Angus Beef Cattle once the paddocks have had time to reproduce and settle).

An Integrated Land Management Plan was also provided which detailed the following:

- Over 25 years of farming experience with stock management and grazing (sheep and cattle), equine breeding and training and pasture management and production (Lucerne and pasture hay);
- A detailed intention to undertake the following agricultural land uses (in stages) on the site:
  - Pastures and crops (Oats at the top end of the site, Pasture grass hay throughout the middle section, and Lucerne at the bottom end of the site).
  - Stock management (initially 10 horses, with a plan to introduce 15-20 Black Angus Beef Cattle once the paddocks have had time to reproduce and settle).
- Land improvement measures (soil rejuvenation and land management).
- Why a dwelling is required (care and monitoring of animals, management and rotation of stock, feeding schedules, security purposes, intensive equine training programs, and property management).

An Environmental Management Plan was also provided as part of the application material.

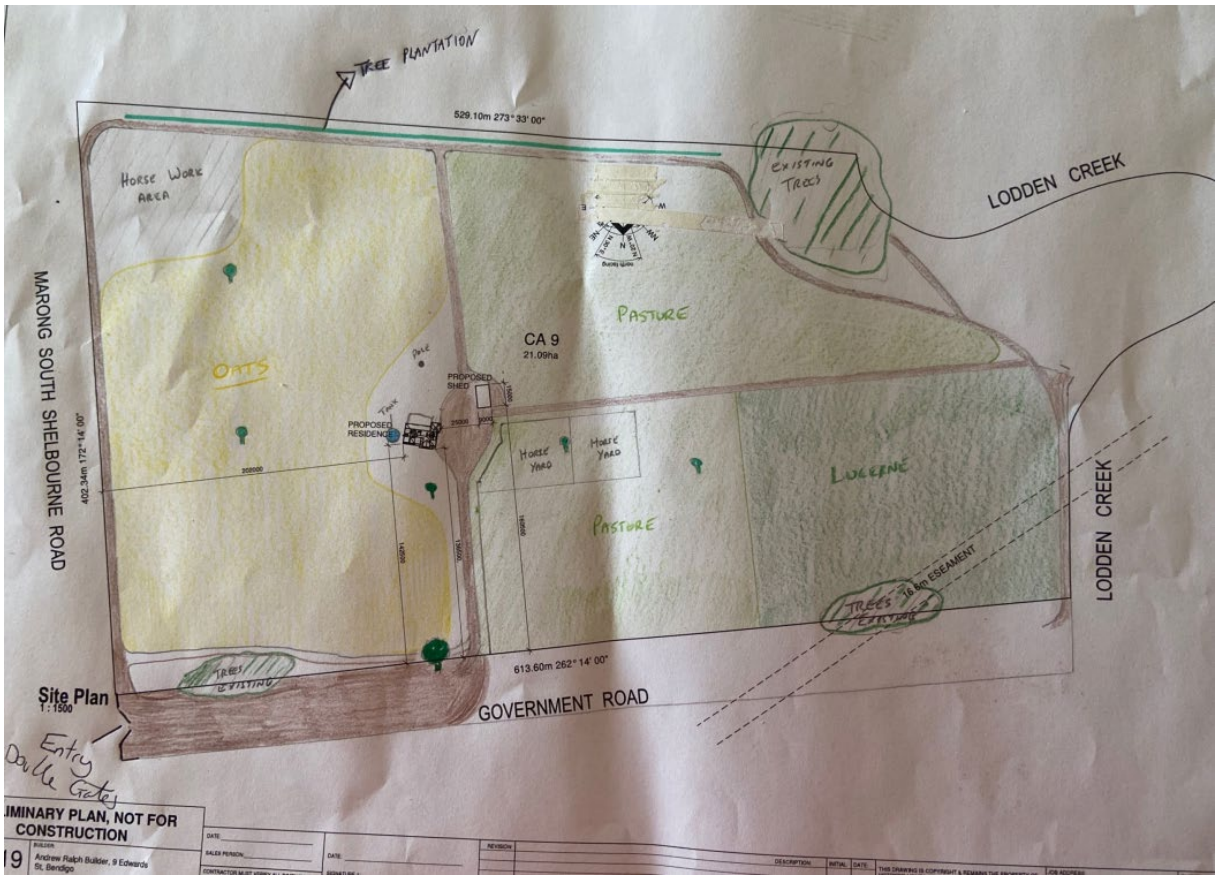


Figure 3: Plan showing proposed agricultural land use (for which no planning approval is required)

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Planning Controls - Greater Bendigo Planning Scheme

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

State Planning Policy Framework

- Clause 11 Settlement
- Clause 11.01-1R Settlement – Loddon Mallee South
- Clause 13.02-1S Bushfire planning
- Clause 13.07-1S Land use compatibility
- Clause 14.01-1S Protection of agricultural land
- Clause 15.01-6S Design for rural areas
- Clause 16.01-5S Rural residential development
- Clause 17.01-1-S Diversified economy

Municipal Strategic Statement

- Clause 21.02 Key Issues and Influences
- Clause 21.07 Economic Development

Local Planning Policies

- Clause 22.02 Rural dwellings policy

Other Provisions

- Clause 35.07 Farming Zone

Consultation/Communication

Referrals

The following internal departments have been consulted on the proposal:

Referral	Comment
Traffic & Design	No objection subject to conditions relating to the construction of the driveway and access.
Environmental Health	No objection subject to a standard note being included on the permit requiring a permit to install an on-site wastewater management system, prior to a building permit being issued.
Property Services	Advice was sought with regards to the proposed access from the unmade government road adjoining the site to the north. It was confirmed that access from the un-made government road could be supported.

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, 0 objections were received.

Planning Assessment

Introduction

Planning in rural areas can be challenging given the legacy of decisions made in the past. The first Crown subdivisions were undertaken in a time where closer-settlement strategies were often pursued by governments. Further subdivisions then occurred through past decades when the concept of hobby farming or lifestyle lots was not as prevalent and the cumulative impacts of subdivision were not as evident.

Many farms are now comprised of multiple parcels of land, which are only effective in aggregate. Once the lots are separately developed and disposed ('fragmented'), the productive capacity of the land can be diminished. Once individually developed with dwellings, lots are unlikely to ever be re-aggregated due to the increased costs involved.

A further issue is the visual effect on the rural landscape arising from the cumulative development of dwellings, and how this in turn impacts on amenity and local identity.

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 Dwellings Policy at Clause 22.02 of the Greater Bendigo Planning Scheme has been developed for this purpose of managing the large number of vacant rural parcels that exist across this municipality. This Policy will be further discussed in the sections below alongside the State-wide Farming Zone provisions.

Will the proposal result in an acceptable planning outcome having regard to the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land?

The purposes of the Farming Zone encompass the following relevant matters:

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

The use of the land for a dwelling and outbuilding requires planning approval in this instance due to the subject site being located within the Farming Zone and on a lot of less than 40 hectares in size.

The provisions of the Farming Zone direct that consideration must also be given to a number of decision guidelines under the Farming Zone which consider the question of how rural dwellings fit within these purposes. The decision guidelines provide a means by which to assess such applications, and require consideration to be given to matters such as "*whether the use or development will support and enhance agricultural production, whether the use or development will permanently remove land from agricultural production, whether the dwelling will result in the loss or fragmentation of productive agricultural land,* and *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."*

Common to the purposes of the Farming Zone and the decision guidelines is the question of whether the proposal is consistent with the planning policy framework.

At a State-wide planning level, Clause 14.01-1S relating to the protection of agricultural land has the objective to "*protect the State's agricultural base by preserving productive farmland".* Some of the main strategies in response to this objective seek to ensure the State's agricultural base is protected from the unplanned loss of productive land, prevent inappropriately dispersed urban activities in rural areas, and to limit new housing in rural areas.

At a local planning level, Clause 22.02 relating to Council's Rural Dwellings Policy draws together these themes to provide a consistent basis for considering the use of rural land for dwellings, and has the following relevant objectives:

- *To discourage the fragmentation of rural land, or land with significant environmental values.*
- *To ensure that existing agricultural enterprises in the Farming Zone are not placed under pressure from the encroachment of residential activities.*
- *To limit the subdivision, use or development of land to that which is compatible with the utilisation of the land as a sustainable agricultural resource.*
- *To discourage the construction of dwellings on existing small lots within the Farming Zone.*

This clause has the following relevant policies on rural dwellings:

- *Protect existing land zoned Farming Zone from fragmentation by the use of land for residential purposes.*
- *Discourage dwellings on existing small lots (lots smaller than the schedule minimum) in all rural areas except if:*
  - *Subdivisions have been created since the introduction of planning controls;*
  - *Substantial infrastructure works have been completed; or*
  - *The land has no agricultural potential and native vegetation will be retained and managed.*

It is evident that the relevant policy framework seeks to ensure that agricultural land is carefully managed in order to prevent adverse impacts on agricultural production, 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 are not disadvantaged or prejudiced by ad hoc and unplanned residential development.

It should also be noted that 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. The *Rural Areas Strategy, September 2009,* highlights that when considering the protection of agricultural land, consideration must also be given to the oversupply of rural living land which currently exists within Greater Bendigo. The Strategy suggests that there is up to 80 years supply of land already zoned for rural-residential purposes within the Rural Living Zone. By any measure, the conclusion is that there is a gross over supply of land for rural living purposes within the municipality, and as such rural residential development should be directed to existing planned areas for this purpose.

The determinative issue to consider in this application is whether the proposed use and development of the subject land would result in an acceptable planning outcome when having regard to the purposes of the Farming Zone and the relevant planning policy that deals with the use and development of rural and agricultural land. In short, is a dwelling required on the land in order to support agriculture? For the following reasons, it is concluded that the proposal would not be acceptable when considered against these matters.

The subject site is one of 16 Crown allotments in this location and is considered to be an 'undersize lot' within the Farming Zone with an area of 21.09 hectares. Whilst it is acknowledged that all 16 lots are 'undersize' and 11 of the 16 lots already contain dwellings, in cases such as *Bennett v Greater Bendigo CC [2018] VCAT 1486 (24 September 2018)* and *Russell Smith Town Planning Services v Mount Alexander SC [2018] VCAT 58 (11 January 2018)* VCAT determined that the presence of dwellings and smaller lot sizes within the surrounding area does not mean it has become a 'de-facto' rural living area with no agricultural production capacity or potential.

Approving a dwelling on the site would be contrary to the City's Rural Dwellings Policy at Clause 22.02 which states that it is policy to discourage dwellings on existing small lots (lots smaller than the schedule minimum) in all rural areas, created before planning controls.

As outlined earlier in this report, the site is part of an overall larger agricultural property in common ownership consisting of five separate land parcels, all of which are old Crown allotments. If approved, the proposal would essentially break up a larger land tenement of approximately 69 hectares, which already contains a dwelling on CA10, resulting in the fragmentation of rural land. Further, it would invite the fragmentation of the remaining lots within the common ownership in the same manner.

Current planning scheme policy seeks to ensure that new dwellings in the Farming Zone are only approved in instances where they support agriculture. In making such a determination, consideration should be given to why there is a need to live on site and how that would enhance agricultural use, whether agriculture would remain the primary land use, whether it is likely that the land would remain in agricultural use into the future following development of the dwelling and so on.

Whilst the applicant has provided a considerable amount of detail of the proposed agricultural land use in order to demonstrate a genuine intent to farm the land, the proposed agricultural land use does not substantiate the need for a dwelling on the site. The site has historically been used for agricultural practices (cropping and grazing), and the proposed agricultural activities do not indicate any intensification of land use or increased agricultural output as the result of an additional dwelling. In other words, the proposed agricultural activities could be undertaken without the need for a dwelling on the site.

Furthermore, the refusal of the application for the use and development of the land for a dwelling and outbuilding would not hinder the ability for the land to continue to be used for agriculture in accordance with the purposes of the zone, but would rather avoid the potential for a permanent change in land use to occur that was not in accordance with planning policy.

Conclusion

The application proposes the use and development of the land for a dwelling which runs contrary to planning policies relating to the rural dwellings and the Farming Zone. The proposal is for a dwelling on an undersize lot within the Farming Zone and has failed to demonstrate a genuine need for a dwelling on the site in order to undertake the proposed agricultural land use. If approved, the proposal would likely result in a reduction in agricultural land area and contribute to the incremental shift towards rural living. Such rural living opportunities could result in a net loss to agriculture due to permanent land use changes.

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: grant a permit, grant a permit with conditions, or refuse to grant a permit.

14.8. 175-177 & 179 Midland Highway, Epsom 3551 - Use And Development Of A Convenience Restaurant, Including Display Signage, Associated Works, And The Creation/Alteration Of Access To A Road In A Road Zone - Category 1

Author	David Burrow, Statutory Planner
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Summary/Purpose

Application details:	Use and development of a convenience restaurant, including display signage, associated works, and the creation/alteration of access to a road in a Road Zone - Category 1
Application No:	DU/807/2019
Applicant:	Appley Close Pty Ltd
Land:	175-177 & 179 Midland Highway, EPSOM 3551
Zoning:	Commercial 2 Zone Road Zone – Category 1
Overlays:	Special Building Overlay – Schedule 2
No. of objections:	15
Consultation meeting:	28 July 2020
Key considerations:	Whether the use of the land is compatible within the Commercial 2 Zone, based on its ability to mitigate its impacts on amenity. The appropriateness of the proposed signage, pursuant to Clause 52.05. The proposal's ability to mitigate any potential flooding. Whether the proposal can provide safe access and egress to the subject site.
Conclusion:	The proposal is generally in accordance with the purposes of the Commercial 2 Zone and relevant Planning Scheme provisions. It is recommended that a Notice of Decision to Grant a Permit be issued.

RECOMMENDATION

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for use and development of land for a convenience restaurant, display signage, associated works, and the creation/alteration of access to a road in a Road Zone - Category 1 at 175-177 & 179 Midland Highway, EPSOM 3551 subject to the conditions at the end of this report.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Attachments

1. Planning Assessment Report

Attachment 1

PLANNING ASSESSMENT REPORT

Background Information

Two pre-application meetings were conducted on 11 February 2016 and 29 November 2018 respectively. The 2016 advice indicated that:

- *Use is generally appropriate for the locality and zone.*
- *Building design is generally acceptable.*
- *Major design advice given is to have the building sited at the front (preferably presenting to the corner), with car parking vehicle access located to the rear.*

The 2018 advice indicated that:

- *The plans for this pre-application did not respond to the previous advice and the applicant was informed that the proposal would not be supported unless the building had a street presentation.*
- *The applicant was advised that the proposal would most likely involve road works on Howard Street to create a right turn.*

The above pre-application advice is discussed within this following report.

Report

Subject Site and Surrounds

The subject site is identified as 175-177 & 179 Midland Highway, Epsom and is located wholly within the Commercial 2 Zone and the Special Building Overlay – Schedule 2. The subject land adjoins Midland Highway which is a road in a Road Zone – Category 1, and Howard Street which is a road in a Road Zone - Category 2. The subject site is otherwise surrounded by Commercial and Industrial zones. However, dwellings continue to exist within some commercially zoned allotments despite their zoning. This includes the subject site which currently accommodates two dwellings on separate allotments with access via Midland Highway. The Epsom Village Shopping Cente is located adjacent to the subject site to the east.

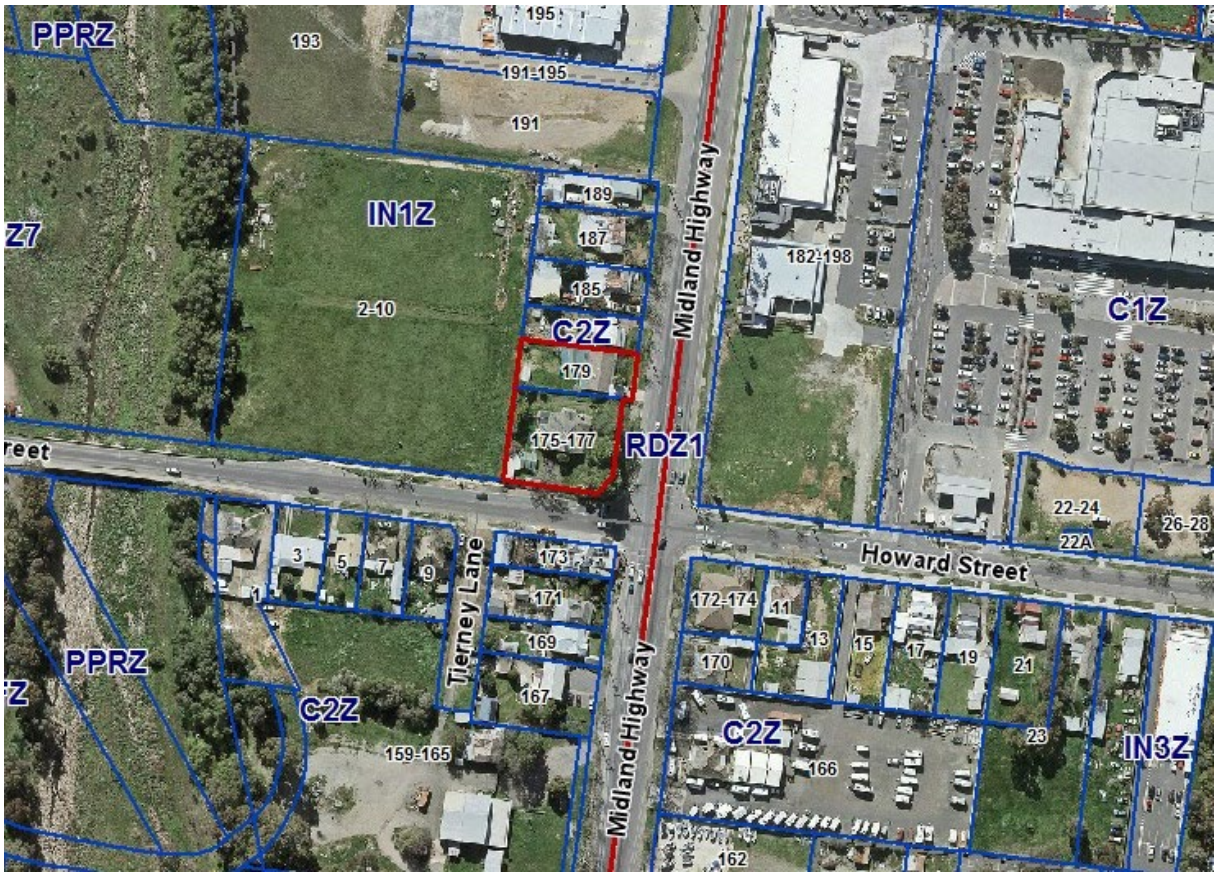


Figure 1: Aerial imagery showing subject site.

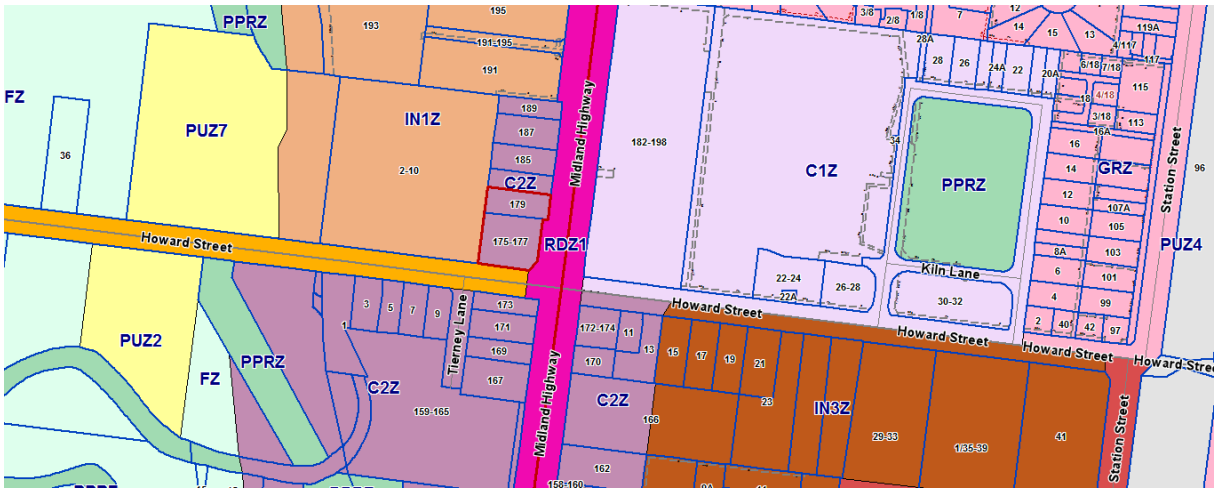


Figure 2: Zoning map showing subject site.

Proposal

The proposal is for the use and development of a convenience restaurant, including the display of signage (including a pylon sign), associated works and the creation/alteration of access to a road in a Road Zone – Category 1.

The proposed hours of operation for the convenience restaurant are 10am to 10pm Sunday to Thursday and 10am to 12 midnight Friday to Saturday. The maximum number of patrons is listed at 65. The pylon sign will be a maximum of 7 metres above

natural ground level. Access and egress are proposed on both Midland Highway and Howard Street. However, right turn from Howard Street into the subject land is not permitted as directed by the Department of Transport.

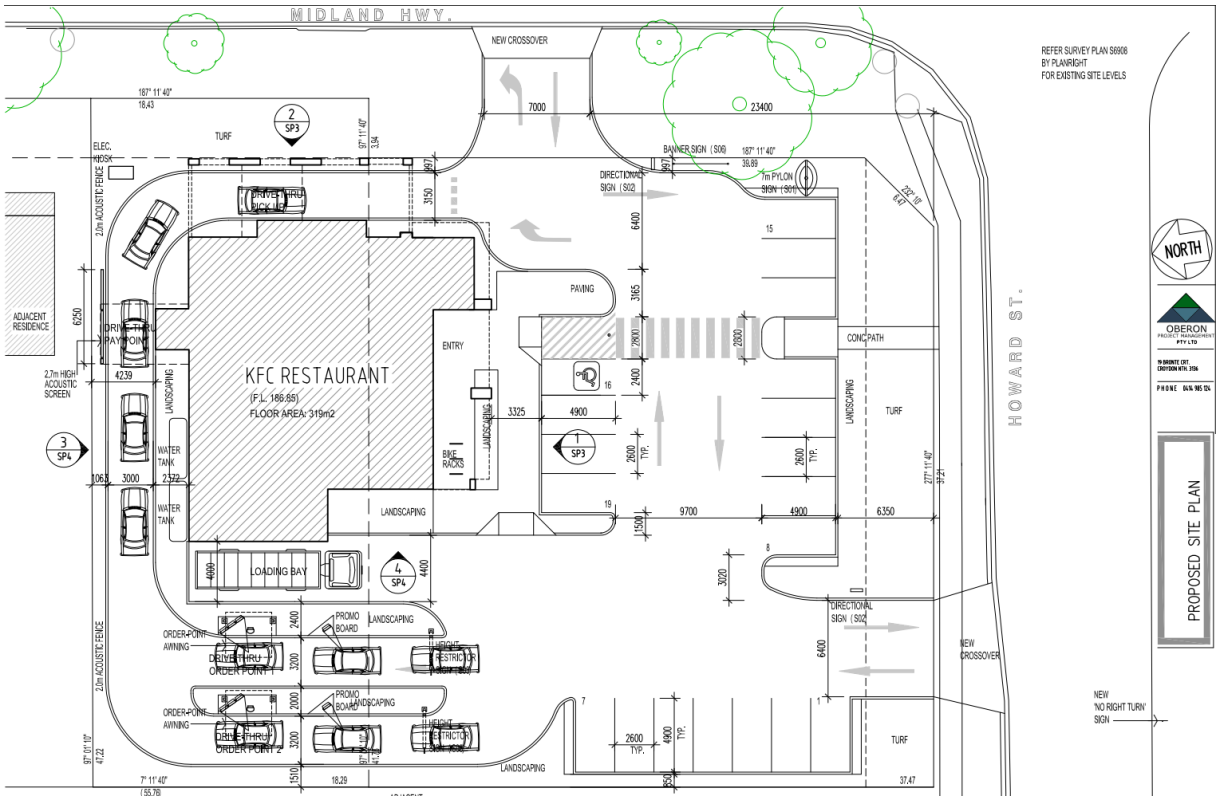


Figure 3: Site plan.

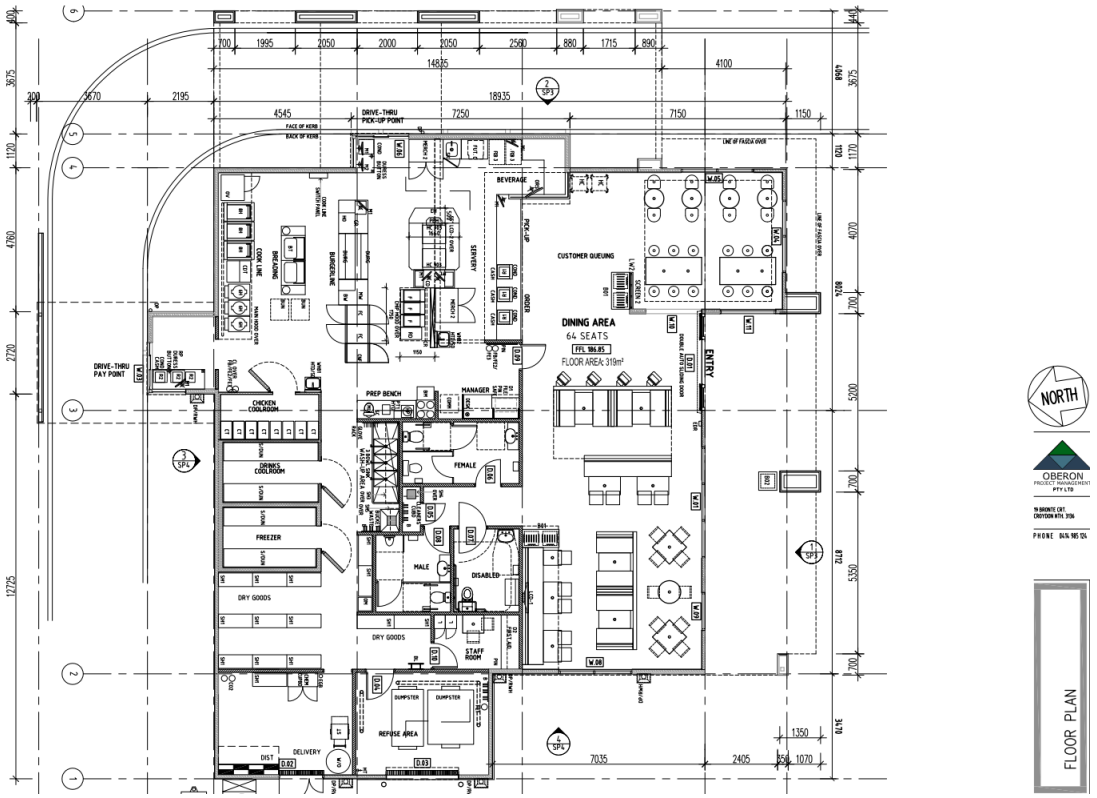


Figure 4: Internal layout plan.



Figure 5: Elevations.

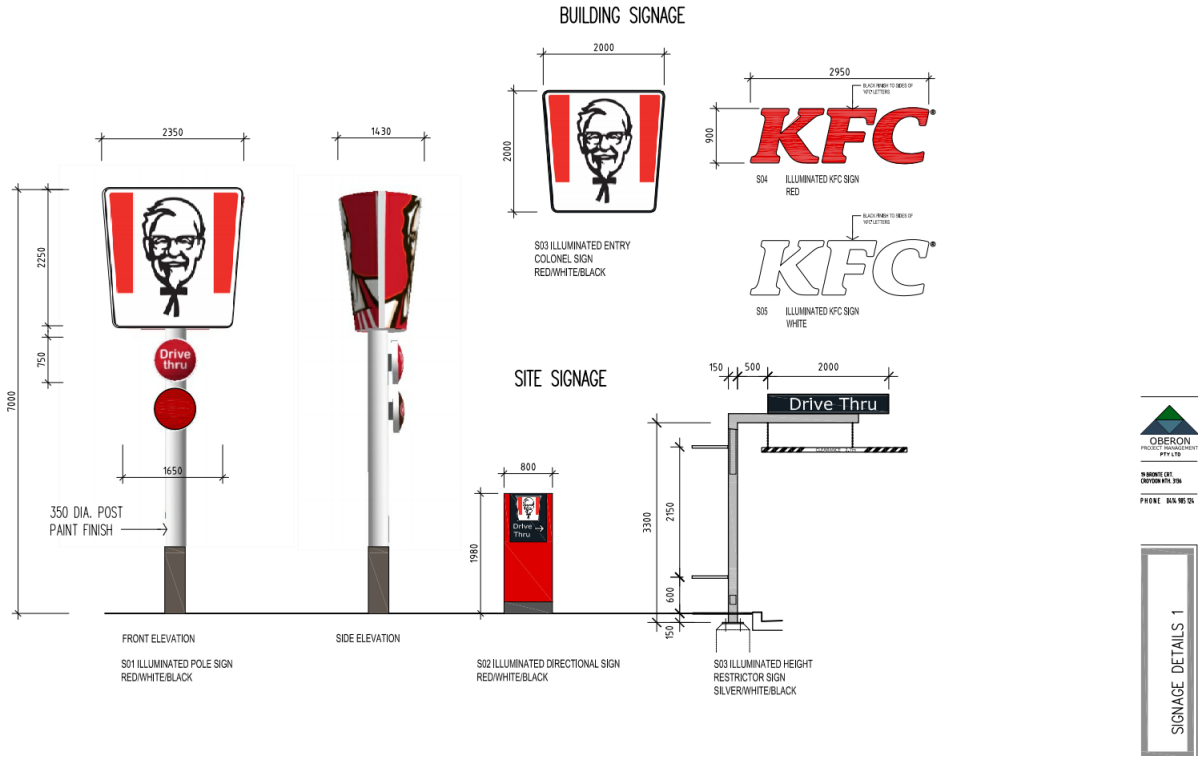


Figure 6: Proposed signage.

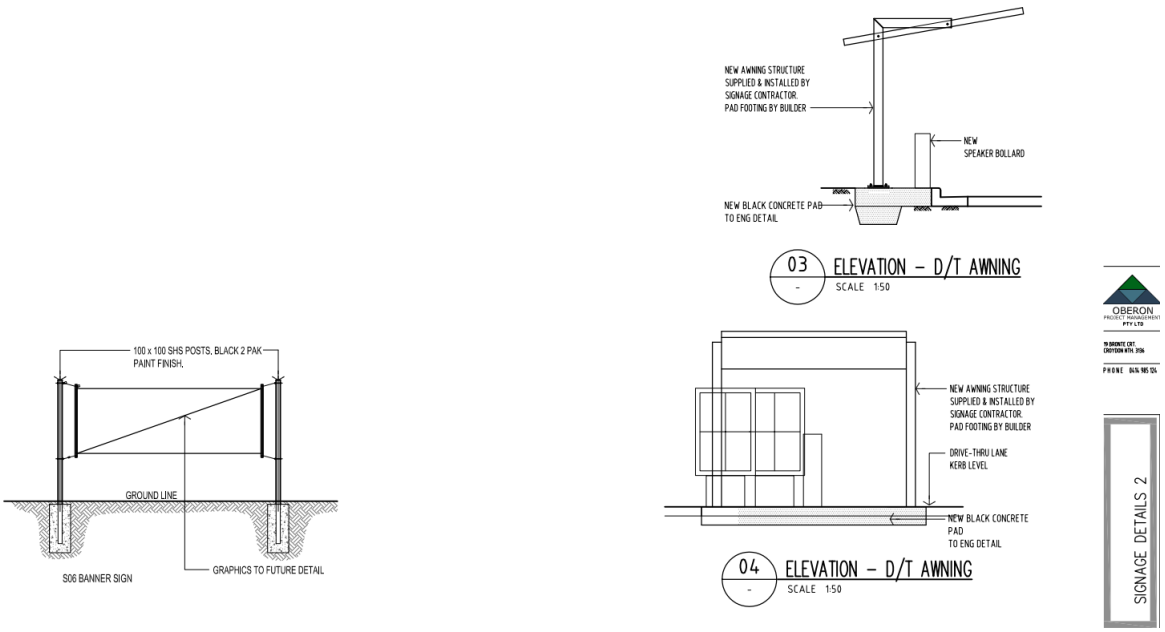


Figure 7: Signage elevations.

Planning Controls - Greater Bendigo Planning Scheme

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

<u>State Planning Policy Framework</u>

- 11.03-1S Activity centres
- 13.03-1S Floodplain management

- 13.05-1S Noise abatement
- 13.06-1S Air quality management
- 13.07-1S Land use compatibility
- 15.01-1S Urban design
- 15.01-2S Building design
- 15.01-4S Healthy neighborhoods
- 15.01-5S Neighborhood character
- 15.03-2S Aboriginal cultural heritage
- 17.01-1S Diversify economy
- 17.02-1S Business
- 18.01-1S Land use and transport planning
- 18.02-2S Public transport
- 18.02-4S Car parking

Municipal Strategic Statement

- 21.01 Municipal profile
- 21.02 Key issues and influences

Local Planning Policies

- 21.07 Economic development
- 21.09 Integrated transport and infrastructure
- 22.08 Highway entrances and boulevards policy
- 22.29 Advertising and signage policy

Other Provisions

- 34.02 Commercial 1 Zone
- 36.04 Road Zone
- 44.05 Special building overlay – Schedule 2
- 52.05 Signs
- 52.06 Car parking
- 52.29 Land adjacent a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road

Consultation/Communication

Referrals

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

Referral	Comment
North Central Catchment Management Authority	No objection subject to conditions
Department of Transport	No objection subject to conditions

Referral	Comment
City's Traffic Engineers	No objection subject to conditions
City's Drainage Engineers	No objection subject to conditions
City's Environmental Health Officers	No objection subject to conditions

Public Notification

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

As a result of advertising, 15 objections were received, 13 of the objectors objected solely on the grounds of traffic

The remaining 2 objectors, also objected on the grounds of traffic along with:

- Noise;
- Odour; and
- Hours of operation.

The remaining 2 objectors above were part of a consultation meeting held via phone on 28 July 2020. At the meeting the applicant advised that the hours of operation would be reduced, and the objectors agreed verbally that the applicant had reasonably responded to their concerns regarding noise and odour. However, concerns regarding traffic remained and no objections were withdrawn.

The objections are discussed below.

Planning Assessment

The primary interests of this assessment will be the proposal's compatability within the locality, ability to mitigate any potential flooding, appropriateness of the proposed signage, building design and the ability to provide safe access and egress.

Consultation

The application received a total of 15 objections: 14 objections were received during the public notification period and 1 objection after the public notification period had ended. The applicant provided a written response to these objections which was circulated for the objectors' consideration. Those objectors who wished to take part in a consultation meeting were granted the opportunity to do so on 28 July 2020 via phone and video conferrences. During these meetings the applicant resolved to reduce their proposed hours of operation from 24 hours 7 days a week, to 10am to 10pm Sunday to Thursday and 10am to 12 midnight Friday to Saturday. Whilst most concerns were resolved, concerns regarding traffic remained and no objections were withdrawn.

Land use compatibility

The Commercial 2 Zone *"encourage(s) commercial areas for… retail uses,"* provided the *"uses do not affect the safety and amenity of adjacent, more sensitive uses."* The Greater Bendigo Planning Scheme recommends locating retail and convenience shopping facility within, or immediately adjacent to, existing commercial centres, pursuant to Clause 11.03-1S and 17.02-1S. The subject site is located adjacent to the Epsom Activity Centre on Midland Highway. Therefore, it can be reasoned that the subject site supports the use of the land for a Convenience Restaurant, subject to the proposal's ability to ensure that the safety and amenity of the area is protected and/or enhanced. The convenience restaurant will have a greater impact on amenity than the existing dwellings. Subsequently, the proposal must reasonably address any concerns regarding noise, odour, lighting and traffic. Due to its complexity, the matter of traffic and access has been considered under the heading 'Access' later within this report.

Noise

The objective of Clause 13.05-1S *Noise abatment* is *"to assist in the control of noise effects on sensitive land uses."* The applicant provided an assessment conducted by Clarity Acoustics Pty Ltd. It is noted that the assessment was conducted with the understanding that the proposal would be operated 24 hours a day, 7 days a week. The assessment concluded that the relevant noise criteria for the site can be met by implementing the following noise controls:

- *Construction of a 2.0 m high acoustic fence to the northern site boundary as per the specifications detailed within this report*
- *Construction of a full height acoustic barrier to the north of the drive-through Pay Point canopy as per the specifications detailed within this report. The barrier will need to extend to the underside of the canopy and will also need to extend past the canopy to the east for an extra length of 2.6 m*
- *Restricting waste collection from the subject site to the service station to the NIRV day and evening periods (0700-2200 hours)*
- *Scheduling deliveries to the convenience restaurant to only occur via Light Rigid Vehicles (LRVs) during the night period (2200-0700 hours)*
- *Designing all mechanical plant associated with the proposed development to be compliant with the NIRV RMNLs in conjunction with all other noise sources associated with the subject site.*

Given that the subject site is located within a Commercial 2 Zone on 'Midland Highway,' it is reasonable to consider noise emissions of a greater degree than that found within a zone which supports more sensitive uses. However, the acoustic report's controls will further protect the current local sensitive uses and are therefore supported. The above listed noise controls will be conditioned as part of any planning permit.

Odour

The objective of Clause 13.06-1 *Air quality management* is *to "assist the protection and improvement of air quality*." The applicant has indicated that they will incorporate mitigation measures in accordance with Australian Standards. Subsequently, the proposal is considered to assist in the protection of air quality.

Lighting

The applicant has provided lighting specifications and design to demonstrate that they will prevent direct light spill beyond the boundaries of the site to avoid unreasonable amenity impacts on existing dwellings in the vicinity of the site. The design shows 173 Midland Highway as the only dwelling potentially affected by the lighting proposal with a maximum lux level of 15 extending into the neighboring allotment. Given that this boundary will also have a 2 metre high acoustic wall and is located within a Commercial 2 Zone, the impact on this allotment is considered to be negligible and acceptable.

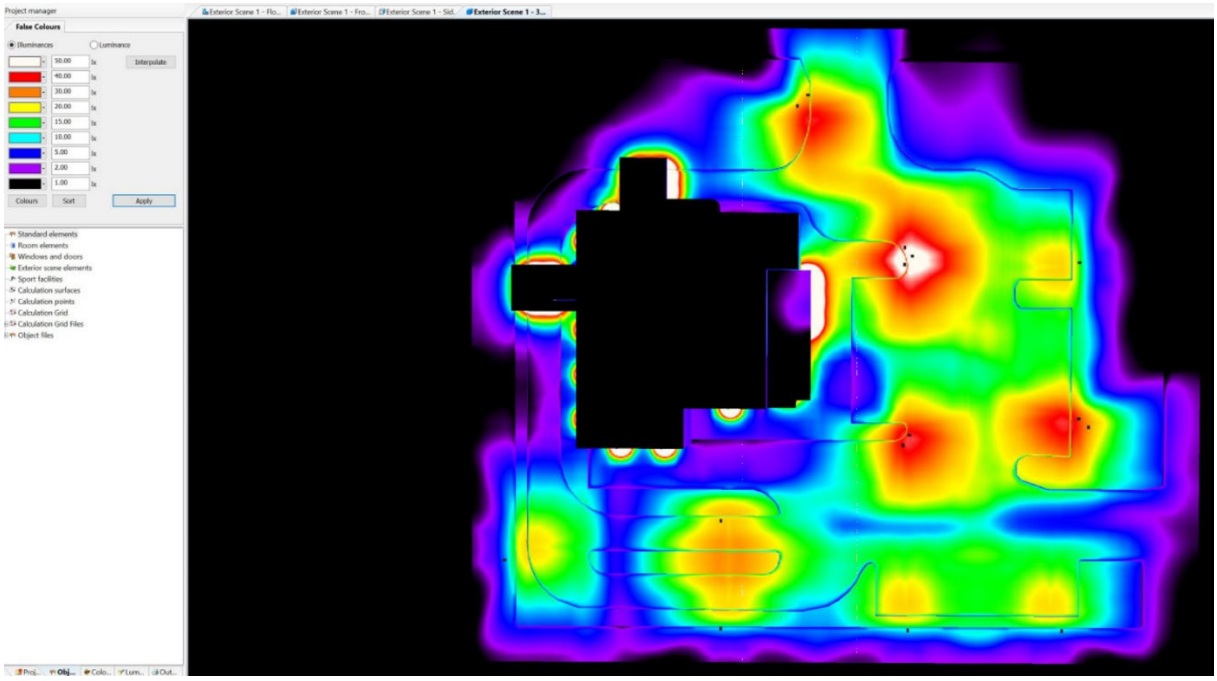


Figure 8: Excerpt from lighting specifications, showing lux levels.

Floodplain management

Clause 44.05 Special Building Overlay's purpose is *"to identify land in urban areas liable to inundation by overland flows from the urban drainage system."* The application was referred to the City's engineers and the North Central Catchment Management Authority (NCCMA). The NCCMA indicated *"that the location described … is not subject to flooding from any designated waterway based on a flood level that has a probability of occurance of 1% in any one year"* and therefore had no objection, subject to conditions. The City's engineers have recommended conditions relating to detailed design for drainage works. Subsequently, it is reasonable to consider that acceptable flood mitigation measures can be implemented on the subject land in accordances with the puposes of Clause 44.05 Special Building Overlay.

Signs

Clause 52.05 seeks *"to regulate the development of land for signs and associated structures."* The subject land is located within a Commercial 2 Zone which is in Category 1 for the purposes of the sign requirements listed within Clause 52.05. Category 1 does not require a planning permit for business identification signs and internally illuminated signs subject to conditions. However, the proposed signage does not meet the conditions of Category 1, as it exceeds 8 square metres of business identification signage and exceeds 1.5 square metres of internally illuminated signage. The signage includes:

- Two 'illuminated entry colonel sign' with a total area of 4 square metres each.
- One 'illuminated KFC sign' dimensioned 2.95 metres by 0.9 metres, with a total area of 2.655 square metres.
- One two sided 'illuminated pole sign' with a total area of approximately 4.8 square metres each side, with a maximum width of 2.35 metres and 7 metres in height.
- Directional signage does not require a planning permit.

The signage would be in 'corporate colours,' being red, white and black. An assessment under Clause 52.05-8 Decision guidelines is as follows.

Character, vistas and streetscape

The Midland Highway and segments of Howard Street directly adjoining the Midland Highway accommodate existing display pylon signs, some of which are illuminated. According to the endorsed plans for Planning Permit DU/99/2017 the existing pylon sign on the corner of Midland Highway and Howard Street has a total height of 9 metres and a minimum width of 2.4 metres. This pylon sign is located within a Comercial 1 Zone which has the same signage requirements as the subject site.



Figure 9: Google street view looking north along Midland Highway at the Howard Street intersection with the existing pylon sign to the right of frame and subject land to the left of frame.

Given that no portion of the proposed signage will exceed the height of the signage within the adjacent Epsom Village Precinct it is resonable to consider the proposed signage unlikely to unduly impact the character, skyline, or public views within the Epsom Activity Centre or Midland Highway. At the very least it will be consistent with that which has previously been installed along Midland Highway.

Relationship to the site and building

The proposed building will have a miaximum height of 5 metres, making the pylon sign 2 metres higher than the remainder of the built form on-site. However, the signage will be aesthetically tied to the building through corporate colours. The signage and proposal as a whole will require the removal of vegetation and plans will include revegetation of the subject site.

Illumination and logo box

The internal illumination is considered unlikely to unduly impact the safety of pedestrians and vehicles. The proposed logo box is of a typical scale and nature to that of other convenience restaurant signage.

Given the above assessment the propsed signage is considered generaly acceptable within the zone and locality.

Access

Clause 52.29 'Land adjacent to a Road Zone…' seeks *"to ensure appropriate access to identified roads."* In addition, the decision guideline for the Commercial 2 Zone requires the Responsible Authority to consider *"the effect of traffic to be generated on roads."* The applicant engaged Trafficworks to undertake a traffic impact assessment for the proposal.

The traffic impact assessment obtained data from the VicRoads website dated Thursday 20 June 2019 and Saturday 22 June 2019 regarding peak hours, which appeared to record that there were:

- 1,573 vehicular movements between Midday and 13:00 on Thursday 20/06/2019;
- 2,493 vehicular movements between 16:30 and 17:30 on Thursday 20/06/2019;
- 2,173 vehicular movements between 11:30 and 12:30 on Saturday 22/06/2019; and
- 1,613 vehicular movements between 17:00 and 18:00 on Saturday 22/06/2019

at the intersection of Howard Street and Midland Highway.

In adition, the traffic impact assessment noted that within the last five years four (4) casualty crashes had been recorded in the vicinity on the VicRoads Open Data website.

The traffic impact assessment used the *RTA Guide to Traffic Generating Developments 2002* which, based on the use being defined as a "Drive-in takeaway food outlet," estimated that the proposal is likely to increase the number of vehicles per day by 100.

The applicant states that they undertook meetings with VicRoads now referred to as the Department of Transport (DoT), prior to the submission of this application. The pre-application response (reference # 03600/18) apparently stated that:

"At some future time RRV will need to undertake capacity upgrades of this section of the Midland Highway, including the signalised intersection of the Midland Highway and Howard Street. This upgrade will include additional approach lanes on all approaches to the Midland Highway and Howard Street and is likely to require land acquisition at a future time.

For the purposes of planning your development, whilst RRV does not have final completed plans for the upgraded intersection, it advises of the following estimated land requirements to be set aside for any future land acquisition, thereby minimising any future impacts to the proposed development:

- *Howard Street frontage – 4.5 metres; and*
- *Midland Highway – the title boundary of 179 Midland Highway (and any further land to the north) must align with the arterial boundary of 175-177 Midland Highway."*

Furthermore, the application was referred to the Department of Transport (DoT) who responded on 23 December 2019, indicating that if the City regards the proposed development favorably it would require conditions:

- Restricting delivery vehicle entrance to Howard Street only;
- Restricting access from Midland Highway to left-in and left out;
- Restricting access from Howard Street from the east (no right-turn from Howard Street);
- The provision of a functional layout plan prior to works commencing;
- Removal of existing vehicular crossings, signs and line marking;
- Footpaths to be constructed within the subject land for the length of the subject land;
- A Memorandum of Authorisation to permit the use of a pedestrian crossing facility within the subject land.

As mentioned previously, the proposal received 15 objections, all of which referenced concerns regarding traffic. One objection received by the owner of 179 Midland Highway (Epsom Village) indicated that they considered a condition requiring *"an implied costs requirement on the permit holder associated with future Midland Highway / Howard Street intersection works,"* to be fair and equitable. This was allegedly referring to Condition 28 VICROADS of Planning Permit DU/99/2017. However, there does not appear to be any reference to the applicant providing any costs to the Midland Highway / Howard Street intersection within Condition 28 of Planning Permit DU/99/2017. There is reference to a requirement for an update to the Midland Highway / Howard Street traffic signal plan. However, such a requirement was not included in a response from DoT regarding the current Planning Permit Application 'at hand.' It is uncertain as to why this is the case. However, this is at the discretion of the DoT as the determining authority.

Other objections related to the existing state of the intersection being inadequate, particularly during school 'pick up' and 'drop off' for Epsom Primary School. This

appears to be a consistent theme in most of the objections. To properly address these concerns a capacity upgrade will need to be undertaken as eluded to within the DoT's pre-application advice. However, in the meantime the applicant has addressed this concern through the traffic impact assessment indicating the relatively minor increases in traffic caused by the proposal and the proposal's adherence to the wishes of the DoT to set aside future land for upgrades to the intersection.

Access and egress from Tierney Lane are of concern to those objectors who utilize the lane for access to their properties. During consultation, the matter of potential conflicts/accidents occurring between Tierney Lane and the proposed egress to Howard Street were raised. The traffic consultant advising the applicant considered any increase in risk to be negligible. However, the objectors remain unconvinced. The DoT has conditioned the restriction of right turning access from Howard Street to the subject site but has not required any restriction for the right turn onto Howard Street. Given that the DoT are responsible for the area leading up the intersection, the proposed egress from the subject site is considered acceptable.

Given that the above concerns regarding traffic at the intersection of Howard Street and Midland Highway have been addressed; the proposed access and egress is considered to be worthy of support for the following reasons:

- The proposal is unlikely to unduly increase the number of vehicles per day; and
- The proposal at the direction of the Department of Transport recognises the future need to upgrade the intersection and has set aside land with the understanding that such upgrades will occur at the discretion of the Department of Transport.

The proposed parking design meets the statutory requirements of Clause 52.06 Car parking.

Building design

The proposal was discussed at 2 pre-application meetings prior to submission. Both of these meetings encouraged the applicant to provide greater street presentation. The objective of Clause 15.01-12S Building design is "*to achieve building design outcomes that contribute positively to the local context and enhance the public realm."* In addition, an objective to Clause 22.08 Highway entrances and boulevards policy is *"to encourage an appropriate scale, intensity, design, appearance and presentation of land uses and developments along highways and main roads."* Despite some changes to the plans submitted as part of the first pre-application advice, the proposal has not fully aligned itself with the recommendations of the City's pre-application advice to have the building site at the front with the car parking area at the rear. Whilst the siting of the proposal in the 'front' of the subject site is not achieved, it does address both Midland Highway and Howard Street, locating the 'drive through' section and loading bay at the rear of the allotment. The proposed building is of a form, scale and appearance which has become a characteristic along highways, and as such is acceptable and can be supported. A landscaping plan has not been provided and will be conditioned as a requirement before construction commences.

Conclusion

The proposed use and development of a convenience restaurant will have a greater impact on the amenity than that which is existing. However, the proposed use is consistent with the intent of the relevant provisions of the planning scheme and the proposal seeks to mitigate its impact on the amenity through:

- The provision of noise attenuation structures;
- Restrictions in its operations;
- Odour mitigation devices;
- Restrictions on light spill; and
- Traffic management in accordance with the relevant authorities requirements.

It is also noted that the proposal has been designed to set aside land for future upgrades to the Midland Highway / Howard Street Intersection. Any further attempts to address existing concerns regarding the current intersection are considered outside the scope of this application.

The signage, building design and car parking are also generally accordance with the relevant provisions of the Planning Scheme.

Therefore, it is recommended that a Notice of decision to Grant a Permit with conditions be granted.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to:

- Issue a Notice of Decision to grant a permit with conditions; or
- Issue a Notice of Decision to refuse to grant a permit, subject to specified grounds

Proposed Notice of Decision Conditions

1. NO LAYOUT ALTERATION
   The use and/or development permitted by this permit as shown on the endorsed plan*(s)* and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

2. HOURS OF OPERATION
   Except with the prior written consent of the responsible authority, the use permitted by this permit must operate only between the following times:
   - Sunday to Thursday 10am to 10pm
   - Friday to Saturday 10am to 12 Midnight

3. GENERAL AMENITY
   The use permitted by this permit must not, in the opinion of the responsible authority, adversely affect the amenity of the locality.

4. 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.

5. 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 and two copies must be provided.

The plan must show:
(b) A survey (*including botanical names*) of all existing vegetation to be retained and/or removed
(c) Details of surface finishes of pathways and driveways
(d) 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
(e) Vegetation must be indigenous to the region.

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

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

7. 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.

8. WASTE COLLECTION HOURS
Deliveries and waste collection for the subject land must only occur between 7am and 10pm on any day.

9. DELIVERY VEHICLE RESTRICTION
Deliveries during the night period (22:00 to 07:00) only occur via Light Rigid Vehicles.

10. NOISE CONTROL
Noise levels emanating from the premises must comply with the recommended levels as set out in the guidelines for Noise from Industry in Regional Victoria (major urban centres) (which follow State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade No. N-1 procedures) to the satisfaction of the responsible authority.

11. ACOUSTIC FENCING
    Before the use commences an acoustic fence must be erected along the northern allotment boundary of the site in accordance with the Endorsed Plans. The design of the fence must be prepared in consultation with/by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the responsible authority.

12. DEPARTMENT OF TRANSPORT – ACCESS RESTRICTIONS
    a. All delivery vehicles must access the subject land via Howard Street only.
    b. Access to the subject land from:
        i. The Midland Highway is left-in, left-out only.
        ii. Howard Street is all movements except for right turn entry from Howard Street.

13. DEPARTMENT OF TRANSPORT – FUNCTIONAL LAYOUT
    Prior to the development hereby approved by this permit commencing use:
    a. A functional layout plan (FLP) must be submitted and approved by VicRoads showing (but not restricted) to the following:
        i. The swept path analysis of the 8.8 meter and 12.5 metre length design vehicles using the Howard Street access only and must do so from the left-hand side of each respective approach to the access and must not cross into the opposing lane of Howard Street.
        ii. A No Right Turn sign (code: R6-2(R), B size) located on both sides of Howard Street located east of the access.
        iii. The removal of all redundant vehicle crossings and the location of all proposed crossovers.
        iv. A footpath on the Midland Highway front of the subject land for the length of the subject land.
        v. All existing and proposed relocated or removed signs, line marking, vegetation and other road assets etc.
    b. All works must be completed to the satisfaction of and at no cost to VicRoads.
    c. A Memorandum of Authorisation (MOA) must be submitted and approved by VicRoads permitting the use of the pedestrian crossing facility within the subject land. The MOA must be returned and date the installation date prior to the development coming into use.

14. CAR PARK CONSTRUCTION
    Before the occupation of the development, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be constructed to meet the following requirements and standards:
    a. Properly formed to such levels that they can be used in accordance with the plans;
    b. Surfaced with an all-weather-seal coat;
    c. Drained;
    d. Line marked to indicate each car space and all access lanes;
    e. Clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the responsible authority;
    f. Provided with public lighting;
    g. Provided with disabled persons parking bays where required by the Building Code of Australia;
    h. Provided with appropriate signage for one-way traffic. eg one way; no entry;

left only.

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.

15. FURTHER REQUIREMENTS FOR ACCESS RESTRICTIONS
Prior to the development hereby approved by this permit commencing use:
    a. The traffic island on Howard Street must be designed so as to prevent right turning traffic entering the property.
    b. No Right Turn sign is to be installed in the traffic island.
    c. The No Entry sign at the Howard Street entrance must be located on the west side of the driveway and angled away from vehicles making a left entry into the property.

16. SIGNS NOT BE ALTERED
The location and details of the sign(*s*), and any supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the responsible authority.
    a. The signs including appurtenances such as lighting must be erected within the property line and must not obstruct a drivers' line of sight at a corner or bend or between roads at a junction or any point of egress;
    b. The signage must not be animated, flashing or reflective; and
    c. The signage lighting (internal or Floodlit) must be installed and maintained to ensure there is no glare towards motorists or spillage of light onto the roadway or neighbouring properties.

17. DETAILED DRAINAGE
Before the commencement of works plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn to scale with dimensions. The plans must include;
    a. Stormwater drainage plans;
    b. Stormwater quality;
    c. Stormwater detention
        - Allowable Discharge
            - $Q_{10\%}$ = 25 l/s
            - Q_{1EY}= 9 l/s

18. CONSTRUCTION OF WORKS
Prior to the commencement of use, 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. stormwater drainage;
    b. stormwater quality;
    c. 1.5m paved path on the Midland Highway frontage.

19. CONSENT FOR WORK ON ROAD RESERVES
The applicant must comply with;

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

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

20. NORTH CENTRAL CATCHMENT MANAGEMENT AUTHORITY
Finished floor levels of the building must be constructed no lower than 0.45 metres above the natural surface level at the location of the proposed building.

21. EXPIRY OF USE AND DEVELOPMENT
This permit will expire if the use and development permitted by this permit is not commenced within 4 years from the date hereof. The time within which the use must commence may, on written request made before or within 6 months after the expiry of this permit, be extended by the responsible authority.

DEPARTMENT OF TRANSPORT NOTES:

- The increase in discharge of any concentrated drainage onto the Midland Highway road reserve from the subject land is not permitted unless approved in writing by VicRoads.
- Separate consent for 'works within the road reserve' and the specifications of these are required under the Road Management Act 2004. For the purposes of this application the works will include provision of:
    - Removal and construction of new crossovers;
    - Line marking; and
    - Any other works in the arterial road reserve

  Please forward details to: nr.mailbox@roads.vic.gov.au

  Further information regarding VicRoads' consent to work within the road reserve can be found on the VicRoads website:

  https://www.vicroads.vic.gov.au/business-and-industry/design-and-management/working-within-the-road-reserve

  or by telephoning (03) 5434 5078.

ENVIRONMENTAL HEALTH NOTES

- The food premises must be constructed and maintained in accordance with the Food Act 1984 and the Food Standards Code. It is strongly recommended that a plan of the proposed food premises be submitted to Environmental Health and Local Laws for assessment prior to the commencement of construction and/or fit out. Information on the construction and fit-out of a food premises can be downloaded from City of Greater Bendigo webpage http://www.bendigo.vic.gov.au/Services/Food-businesses or by contacting

Environmental Health Services on (03) 5434 6333.The food premises must be registered with Greater Bendigo City Council under the provisions of the Food Act 1984.

- The business shall not commence trade until an Environmental Health Officer has conducted the final inspection of the premises and registration under the Food Act 1984 has been granted.
- Coliban Water should be contacted to determine whether the premises requires a grease trap. Environmental Health and Local Laws must be consulted in regards to the appropriate location of a grease trap to ensure compliance with the Food Standards Code.

Additional Notes:

- The food premises must be constructed and maintained in accordance with the Food Act 1984 and the Food Standards Code.
- Prior to building consent being granted, a plan of the proposed food premises must be submitted to Environmental Health and Local Laws for assessment. *Information on the construction and fit-out of a food premises can be downloaded from City of Greater Bendigo webpage http://www.bendigo.vic.gov.au/Services/Food-businesses or by contacting Environmental Health Services on (03) 5434 6333.*
- The food premises must be registered with the City of Greater Bendigo under the provisions of the Food Act 1984.
- The food premise must not commence trade until an Environmental Health Officer has conducted the final inspection of the premises and registration under the Food Act 1984 has been granted.
- Coliban Water should be contacted to determine whether the food premises requires a grease trap.

15. WELLBEING AND FAIRNESS

15.1. Municipal Baths Redevelopment - Concept Design

Author	Karoline Klein
Responsible Director	Brian Westley, Presentation & Assets

Purpose

This report presents the concept design for the redevelopment of the Municipal Baths, gives an overview of consultation outcomes and seeks formal adoption of the overall concept to proceed to design development.

Summary

The Municipal Baths Redevelopment project will return this part of Rosalind Park to public use.

The concept design for these works - prepared by the consultancy firm Spiire - features removal of fences and the existing island, two shelter hubs and associated lawn areas for socialising and nature appreciation (incl. BBQ facilities on the northern side), a boardwalk on the eastern perimeter, low level water play, terraced seating and native tree planting.

The draft concept design has been widely publicised. Overall the public and internal response to the concept has been positive.

The construction budget is $2.5 million and will be funded through the Community Infrastructure Loans Scheme (CILS) . Detailed design and documentation work has been scheduled to be finalised by May 2021, with construction works anticipated to start in Oct. 2021.

RECOMMENDATION

That the Municipal Baths Redevelopment concept design be adopted by Council and design development commence.

Policy Context

The design and subsequent construction works at the Municipal Baths site responds to the following strategic recommendations:

Greater Bendigo Community Plan 2017 - 2021

Goal 4: Presentation and managing growth.

- Community Plan 2017-2021, Goal 4. “Presentation and managing growth” Actions: *“Ensure open spaces are accessible and fit for purpose”*

Rosalind Park Master Plan & Management Framework 2014

Under 7.6, p. 98 – precinct design principles:

“Improve quantity and quality of pedestrian access routes between Gaol Road and Barnard Street.

Return the Former Municipal Baths water body to a high-quality park feature providing user amenity."

Under master plan proposals:

Creation of a parkland water body feature

Opening the Former Municipal Baths site to public access, including the provision of boardwalks, barbecue shelters, pathways, trees and lawn.

Barnard Street parkland frontage

Finding a suitable alternative home for the swimming club to allow their clubrooms to be demolished, which -combined with realignment of the Aquatic Centre fencing-

opens up a 50 metre wide parkland frontage to Barnard Street and views to the water body."

Greater Bendigo Public Space Plan 2019

Part 4: Precinct Plans, p. 106, item 3 **Rosalind Park** recommends

"Continue to implement the Rosalind Park Recreation Reserve Precinct Master Plan 2014".

Background Information

The Municipal Baths site refers to the wetland and surrounding vegetation within the upper Rosalind Park, flanked by Barnard St, Gaol Rd, the Faith Leech Aquatic Centre and the dam wall lane.

Dating back to the 1910's the Municipal Baths site was the primary swimming location in Bendigo until the development of the adjacent aquatic centre. Originally part of the swimming pool, the site has been fenced off in recent years and is currently not accessible to the public. Dense, non-native vegetation surrounds the wetland and an Ibis colony has moved in, causing water quality and odour issues.

The Municipal Baths draft concept design has been prepared by the consultancy firm Spiire with the objective to return the site to the public in the form of a high-quality parkland with complementary uses to the historic gardens in lower Rosalind Park.

The Municipal Baths Redevelopment project addresses the recommendations of the Rosalind Master Plan listed above .

Concurrently with the design for the future parkland engineering investigations into potential upgrade works to the dam wall that supports the water body are being undertaken in order to lift its presentation to a level commensurate with the future redeveloped Municipal Baths. Whilst spatially connected to the Municipal Baths area, the design for potential improvement works to the dam wall are a separate project.

Report

The Municipal Baths Draft Concept proposes a series of works to integrate the currently inaccessible area into the wider Rosalind Park.

KEY DESIGN ELEMENTS

Under the guiding design vision statement of "*Being in the Water's Landscape"* the design suggests the following key elements:

- Opening and visual integration of site on three sides to Barnard St, Gaol Rd and the dam wall lane way by removing fences and dense vegetation around the wetland. Note, any works to the dam wall and associated lane way are currently out of scope.
- Excising the northern area between Barnard St and the water's edge from the Aquatic Centre site by extending the boundary fence between the centre and the Municipal Baths site to Barnard St. This will allow access and visual connection to Barnard St.
- Removal of the island by reshaping the basin floor and using soil material for safety benching around the banks. This will require moving the Ibis on by providing alternative, suitable nesting sites. DELWP (Department of Environment, Land, Water & Planning) has been informed and will provide assistance.
- Creation of a perimeter path that will form part of a broader 2 km exercise loop around the wider Rosalind Park precinct as per the master plan recommendation.
- Construction of a boardwalk (as part of the perimeter path) on the western side in order to create a curated natural experience by alternating immersion in dense riparian vegetation with views onto open water.
- Creating a northern (Barnard St side) community hub – the "Paddling Paddock" (titled after an annotation on the historic Municipal Baths plans) - including a shelter, BBQ facilities, simple water play, access to the water's edge and extensive seating. This hub will facilitate gathering, picnicking, family meetings, nature observation and informal socialising.
- Gaol Road vantage point: For the southern part of the site the design suggests an elevated open lawn area affording views across the length of the water body, a shelter and wooden platforms with direct access to the water as a secondary destination.
- Gaol Road: It is proposed to reduce the carriageway to 4 m to further pedestrianise the road and to extend the lemon-scented gum avenue. To achieve a continuing alignment from the existing trees along the western section of Gaol Road undergrounding of the power supply to the school would have to occur. Under grounding power lines is currently not included within the current project estimate and it is unclear at this stage whether this can be accommodated within the allocated project budget.
- General considerations:
    - Universal access has been considered and achieved for most experiences
    - CPTED (Crime Prevention through Environmental Design) principles have been adhered to (removal of dense vegetation, way finding lighting and providing good surveillance)
    - Water Sensitive Urban Design: The geo-morphology of the site creates an almost self-sustaining water body. Some additional recycled water use will be required to occasionally top up the water level which will be in the order of 0.5% of the current water use for the Rosalind Park precinct.

NEXT STEPS

The design will be further developed to greater detail in preparation for technical documentation over the coming months once adopted by Council.

Town planning proceedings have been initiated .

Priority/Importance:

The Municipal Baths Redevelopment project was a high priority item of the previous Council. As part of the CILS funding arrangements the CoGB has entered a project delivery agreement with DELWP.

Options/Alternatives:

N/A

Timelines:

• Sign-off on Concept Design – Ordinary Council Meeting: 30 November 2020

• Design Development: Dec 2020 – Jan 2021

• Construction Documentation: Jan 2021 – May 2021

• Construction Procurement: June 2021 – Sept 2021

• Construction: Oct 2021 – Sept 2022

Progress:

Design delivery has occurred largely on schedule, with the official adoption of the concept by Council slightly delayed due to the Council election process.

Risk Analysis:

The dam wall is currently outside of the construction scope of the Municipal Baths project and CILS funding. A separate dam wall investigation and design project has commenced and will determine what works are required to realise the Municipal Baths concept for the dam wall of removing vegetation, replacing the asphalt pavement, installing lighting and replacing fencing.

A 2021/22 budget bid has been submitted for construction of the dam wall remediation works. If this budget bid is not supported then there is a reputational risk to the City of how the two projects interface as the current dam wall is overgrown and unsightly. In its current state the dam wall lane way offers limited passive surveillance and has no lighting which creates a potential safety risk to users, particularly outside of daylight hours.

Consultation/Communication

Internal Consultation:

Internal consultation undertaken includes:

- Initial combined PCG (project control group) and working group inception meeting
- 3 x PCG meetings
- 2 x Working group meetings

- 2 x EMT presentations
- 1 x Councillor briefing
- 1 x Public Space Committee presentation
- Regular design reviews by the Public Space Design team

Advice received as part of internal consultation has been incorporated into the concept.

External Consultation:

The draft concept design was approved for release by Council on 17 July 2020 for public consultation.

CONSULTATION ACTIVITIES

Consultation activities were undertaken between 24 Aug. and 21 Sept. 2020.

Activities included:

- 4 x Facebook posts, receiving close to 2,900 post clicks
- Publication in the City's e-newsletter, with around 4,000 subscribers
- 14 x direct emails to adjacent stakeholder including sporting clubs, schools, advisory committees, Dja Dja Wurrung Aboriginal Corporation and other organisations
- 3 x Saturday newspaper ads
- 2 x on-site poster boards
- 2 x Webinar sessions – with only one session eventuating due to lack of interest
- On-line sessions with DIRC (Disability Inclusion Reference Committee) and the Youth Council respectively

56 written/phone call comments were received, excluding comments during group discussions and "like-clicks" on Facebook.

However, issues raised during group sessions where recorded and included in the assessment.

KEY CONSULTATION OUTCOMES

In order of precedence the key themes during consultation were:

- General positive comments, with encouragement to construct the works in a speedy fashion
- Children's water play area
- Interpretation
- Active use of the water body
- Request for toilets
- Concerns for disturbing the natural environment
- Request for lighting/CCTV
- Universal access principals

General positive comments

More than a third of the comments received welcomed the design and expressed support.

Children's water play area

The concept proposes water play elements within the northern gathering hub - the "Paddling Paddock" - in the form of low water flow across ornamented paving. These elements will be different and much smaller compared to a splash park in regards to the volume of water used and will not involve chlorination and a pumping system.

There were mixed reactions to the proposal of the water play; key comments involved location, proximity to the Aquatic Centre, and sustainability in regards to the water use.

Response: The location of the water play has been consciously chosen to combine activities around the BBQ shelter at the northern end and to create a lively hub atmosphere by combining shelter, picnic facilities, seating terraces and play.

Interpretation

Several submissions suggested the inclusion of interpretation of the most recent history of the last 100 years. Signage, naming of the northern shelter hub and stronger references to the historic change room structures were requested. The Dja Dja Wurrung Aboriginal Corporation suggested initiating a conversation about possible naming of the broader Rosalind Park precinct.

Response: The consultants will be requested to provide an interpretation strategy for the project. Public Space Design will formally initiate the Land Use Activity Agreement (LUAA) process with the Dja Dja Wurrung following Council adoption of the draft concept.

Active use of the water body

Inquiries involving the active use of the water body were made. These included rowing boats for hire, providing a launching spot for radio-controlled model sailing yachts and allowing bathing and swimming.

Response: None of the above suggestions fit the intended use of the site. The water quality will be improved substantially and will be safe for incidental, short term exposure, but will not meet swimming safety standards. The profile of the water body will not be suitable for launching remote control boats.

Request for toilets

The absence of toilets nearby was queried by residents. The closest toilet is the new QEO toilet block at the corner of View Street opposite Rowan St. Walking distances are 260m or 4 mins from the southern shelter and or 400m or 6 mins from the northern shelter area. The QEO toilets are not accessible during ticketed events at the QEO.

Response: It will be investigated if existing toilets at the Aquatic Centre, netball change rooms or the Frank McCaig grandstand at the Park Rd/Barnard St intersection can be utilised. Signage will be installed on site to direct people to the nearest toilet facilities.

Concerns for disturbing the natural environment

Some respondents were concerned about impacts to bird life in general. There were no direct objections to removing the ibis.

Response: After a period of disturbance during construction bio-diversity values will be increased through the substantial riparian plantings and native trees. There may also be an opportunity to re-introduce native fish.

Request for lighting/CCTV

The issue of lighting for the dam wall lane way, the shelter areas and the boardwalk – as part of the future 2 km jogging loop - was raised. Installation of CCTV cameras was asked to be considered.

Response: The importance of lighting for the dam wall lane way as a main thoroughfare from Barnard St to the southern areas of Rosalind Park is understood and will be central to the dam wall remediation designs.

Illumination of the shelter areas can have a double-edged effect of extending hours of intended use as well as attracting unsocial behaviour during hours of lesser visitation by the general public. The detail design phase will further investigate opportunities and costs.

CCTV is not currently included in the project scope of works or budget as it is not supported for this location as per the draft *CCTV in Public Places* policy.

Activation and lighting will contribute to general surveillance of the site.

Universal access principals

A range of comments requested universal access elements to be considered, incl. wheelchair access, tactile surface indicators and sufficient visual contrast for 3-dimensional features.

Response: The design will include best practice universal access principles. The consultancy team includes an access auditor, which has reviewed the current concept and will be involved throughout detailed design and documentation.

Resource Implications

The allocated project budget is $2.75 million, which includes $250,000 for consultant design fees and $2.5 million for construction.

This amount will be borrowed through the CILS (Community Infrastructure Loan Scheme) from the Treasury Victoria Corporation at a low interest rate.

An initial cost estimate projects construction costs of ~ $2.65m. The design will be amended during the detailed design phase to ensure the tender estimate meets the available construction budget of $2.5 million. This may involve removing the Goal Road narrowing works from the proposed scope of works.

Any works associated with the dam wall (structural, lighting, vegetation management, fencing, pavement or blue stone pitcher preservation) are not within the scope of the current project budget allocation. A 2021/22 budget bid of $500,000 has been prepared for all of the required dam wall works. This value was based on a very early quantity surveyor estimate that was undertaken prior to the dam wall structural investigation and design project commencing. The budget bid will be will be informed by the findings from the dam wall investigation and design project and if required will be amended accordingly.

Attachments

Municipal Baths Draft Concept Design, 12. August 2020 by Spiire

15.2. Public Space Advisory Committee Appointment

Author	Fraser Neele, Recreation and Open Space Strategic Planner
Responsible Director	Vicky Mason, Director Health and Wellbeing

Purpose

This report recommends the appointment of community representatives to the Public Space Advisory Committee, and an amendment to the Terms of Reference that were previously adopted to accommodate the outcomes of the selection process and the realities of COVID.

Summary

The formation of a Public Space Advisory Committee (PSAC) is an action in the Public Space Plan adopted by Council in 2018. In October 2019 Council adopted the Terms of Reference (hereafter ToR) for the committee which required the formation of a committee that included five community representatives.

Officers advertised for expressions of interest in March 2020, however due to the worsening COVID19 pandemic insufficient public interest was received. Officers then determined to readvertise in August with 18 expressions of interest being made.

A selection panel formed from Councillor and Officer representatives assessed the submissions against defined criteria as required by the ToR. This resulted in a shortlist of nine applicants who were then interviewed. The Selection Committee considered the outcomes of these interviews in selecting six candidates for appointment to the committee. The increase from five to six community representatives is a result of the universally high quality of those interviewed, and will increase community representation on the committee to allow for absences.

This report also recommends the amendment of the previously adopted ToR. This is to accommodate an increase in Community Representatives from five to six, and to allow flexibility in meeting practices in order to allow meetings to be undertaken in a COVID safe manner.

RECOMMENDATION

That Council:

1. Appoint the recommended candidates, as listed in this report, to the Public Space Advisory Committee for a 3-year term;
2. Adopt the amended Public Space Advisory Committee Terms of Reference; and
3. Write to all applicants thanking them for submitting an expression of interest and informing them of the outcome.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

Goal # 1	Lead and govern for all
Objective # 1	Engage with all communities
Goal # 2	Wellbeing and fairness
Objective # 2	Promote positive wellbeing across Greater Bendigo community
Objective # 3	Promote community connections
Goal # 4	Presentation and managing growth
Objective # 4	Keep Greater Bendigo attractive with good quality public facilities and places
Goal # 5	Environmental sustainability
Objective # 1	Drawing on the One Planet Living framework to connect the health of the natural environment to the health and prosperity of our community
Objective # 2	Demonstrate leadership in sustaining the rich biological diversity of the Greater Bendigo region that sustains healthy ecosystems
Goal # 6	Embracing our culture and heritage
Objective # 1	Celebrate our unique heritage
Objective # 2	Build pride in and shared responsibility for our public spaces

Greater Bendigo Health & Wellbeing Plan 2017 – 2021

Goal # 1	**Healthy and well.**
Objective	The Greater Bendigo Community has good physical and mental health supported by healthy lifestyles.
Goal # 5	Liveable
Objective	The Greater Bendigo community is adaptable and resilient and has access to sustainable natural, built, social and economic environments that support and enhance health and wellbeing.

Strategy Reference:

Greater Bendigo Public Space Plan 2018 and Public Space Plan Implementation Framework 2019

Action 3.8 (page 87): Investigate options for the establishment of a public space advisory committee with a broad remit to provide oversight for the implementation of public space-related planning, design and management, and to provide recommendations to the City of Greater Bendigo Council. Representatives of various agencies, the community and Council should form the core of the committee. An adaptation of the highly successful City of Melbourne's Parks and Gardens Advisory Committee model should be considered. Such a committee should preferably absorb existing space-specific committees such as the Rosalind Park Advisory Committee.

Background Information

Council adopted the Public Space Plan (hereafter the PSP) at its meeting of 18 July 2018. The Public Space Plan recommended the investigation of options "for the establishment of a public space advisory committee with a broad remit to provide oversight for the implementation of public space-related planning, design and management, and to provide recommendations to the City of Greater Bendigo Council.

Representatives of various agencies, the community and Council should form the core of the committee." It further recommends that such a committee "should preferably absorb existing space-specific committees such as the Rosalind Park Advisory Committee".

Previous Council Decision(s) Date(s):

18 July 2018 – Council adopts the Greater Bendigo Public Space Plan.

16 October 2019 – Council adopts the Terms of Reference for the Public Space Advisory Committee

Report

Following the endorsement of the Public Space Plan and the subsequent adoption of the Public Space Advisory Committee terms of reference, a call for Expressions of Interest to join this committee was published. Initially this call was published in March of 2020. Due to this period coinciding with the initial COVID19 lockdown period, minimal response was received from the public with two submissions.

It was determined to re-issue the call for Expressions of Interest in August of 2020. The opportunity was advertised in local media (The Bendigo Advertiser and McIvor Times) as well as through social media, a media release and dissemination through Council contact lists as appropriate. A total of eighteen submissions were received.

These responses were compiled and shared with a selection panel comprised of the three Councillors nominated to the committee, Vicky Mason, Debbie Wood, Paul Gangell and Fraser Neele. All EOIs were considered, discussed and assessed against the criteria defined in the terms of reference. Based on written submission, a shortlist of nine applicants was selected for interview.

A series of interviews were undertaken by a condensed panel of Cr Andrea Metcalf, Paul Gangell and Fraser Neele, who then discussed their findings with the remainder of the selection committee in making decisions. Through this process it was determined to expand the number of community members on the committee to six. This was in order to accommodate the high calibre of applicants as well as to increase the number of community representatives to aid in accommodating absences.

Members of the Selection Panel

- Cr Andrea Metcalf
- Cr Jennifer Alden
- Cr Susie Hawke
- Vicky Mason (Director Health and Wellbeing)
- Debbie Wood (Director Presentation and Assets)
- Paul Gangell (Manager Parks and Open Space)
- Fraser Neele (Recreation and Open Space Strategic Planner)

Recommended Committee Members (in no particular order)

- Meg Caffin
- Sam Kane
- Diana Mitchell née Badcock

- Andrew Seiter
- Amy Bell
- Lynda Newton

Committee Composition

From this process there is required to be a change to the PSAC terms of reference. This change will affect Clause 4.4, increasing the community representation to six places. This will result in the following committee composition:

- Three Councillors (including the Chair)
- Six community representatives
- Director Health and Wellbeing (or delegate)
- Director Assets and Presentation (or delegate)
- Youth Council representative
- Dja Dja Wurrung representative
- Department of Environment, Land, Water and Planning representative
- Parks Victoria representative

An Executive Officer from the Active and Healthy Lifestyles Unit will support the Committee.

Terms of Reference Amendments.

Minor changes are to be made to the terms of reference. These additions to Clauses 8a and 8b increase flexibility in meeting scheduling, and formalise the ability to conduct meetings electronically. These are minor changes that will enable the committee to meet in a manner that is safe for all members, allowing flexibility to adapt to the current environment. There has been no other changes made to the terms of reference.

Priority/Importance:

Formation of this committee is a high priority to ensure the timely and appropriate implementation of the Public Space Plan and improve planning outcomes for the City's public open spaces.

Options/Alternatives:

Option 1: Do nothing

Following Option 1 would result in no action and no PSAC would be selected. This would impact The City's ability to implement the Public Space Plan and would be in opposition to previous decisions by Council requiring the creation of the Committee.

This option is not recommended.

Option 2: Reject the recommendation of the Selection Committee

Option 2 would require a new process to call for expressions of interest and interviews, substantially extending the time for the formation of the committee and would reject the findings of the selection process undertaken.

This option is not recommended

Option 3: Accept the Selection Committee recommendation, do not amend the Terms of Reference

Option 3 would require the reduction of committee membership to 5. This would also limit PSAC meetings to face to face in accordance with the ToR. This would limit the ability of the committee to perform its role in the current environment and weaken the skill base and depth of the committee.

This option is not recommended.

Option 4: Accept the Selection Committee recommendation and amend the Terms of Reference

Option 4 is for the appointment of the six recommended selections to the committee as well as the amendment of the ToR to expand the committee by one seat and enable electronic meetings and other measures to accommodate COVID. The expansion would result in the expansion of the committee's skill set while allowing greater flexibility in meetings and more ability to accommodate absences, retaining a sizeable core of community representation. The amendment of the ToR would allow this to occur and will accommodate the changes made necessary by COVID to keep staff and committee members safe.

This option is recommended.

Timelines:

The endorsement of the nominated membership of the Public Space Advisory Committee will enable the first meeting to be held in late January or early February 2021. Thereafter the committee would meet on a bimonthly basis for the first year before reviewing meeting frequency.

Consultation/Communication

Internal Consultation:

The subcommittee tasked with selecting the final participants included the three Councillors who where appointed to the Public Space Advisory Committee and officer representatives from the Health and Wellbeing and Presentation and Assets Directorates.

The internal Public Space Committee was regularly briefed and kept up to date with the progress of the committee selection.

This implements previous Council Decisions and actions of the Public Space Plan and adopted Public Space Advisory Committee Terms of Reference. Substantial consultation was undertaken through these processes and further consultation was not necessary.

External Consultation:

Advertisements with a call out for committee members appeared in the Bendigo Advertiser and McIvor Times, with Expressions of Interest accepted for a 4-week period. A media release and Facebook post also advertised the opportunity. Information regarding the committee and the EOI process was available on the City's website and all individuals involved in the City's open spaces or resident within the City were invited to apply to join the Committee.

Resource Implications

The Committee is supported by the Active and Healthy Lifestyles Unit. There are no resource implications associated with the ongoing operation of this volunteer committee other than administration and ongoing committee support. It is expected that this committee will support the most strategic, efficient and transparent use of public funding to improve public spaces in Greater Bendigo.

Attachments

Amended Public Space Advisory Committee Terms of Reference

Attachment 1

DRAFT Public Spaces Advisory Committee

TERMS OF REFERENCE and associated matters

1. Introduction

The City of Greater Bendigo Council has adopted a Public Space Plan at its meeting of 18 July 2018. At the heart of this plan are five 'headline' strategies which provide an overall sense of the scope, ambition and direction of the plan. These are:

- City-defining public space
- City in a forest
- People and bike-friendly public space
- City-wide network of public space corridors
- Quality public space

The Public Space Plan recommended the investigation of options "for the establishment of a public space advisory committee with a broad remit to provide oversight for the implementation of public space-related planning, design and management, and to provide recommendations to the City of Greater Bendigo Council. Representatives of various agencies, the community and Council should form the core of the committee." It further recommends that such a committee "should preferably absorb existing space-specific committees such as the Rosalind Park Advisory Committee."

The City of Greater Bendigo believes the establishment of a Public Spaces Advisory Committee combining various specialist skills from within the City of Greater Bendigo and with the expertise, knowledge and interest of technical experts and community-based participants will provide the strategic directions to deliver quality outcomes for the City's public spaces.

2. Terminology

The public space of Greater Bendigo encompasses parks, gardens, creek corridors, bushland and sporting reserves as well as its streets and road reserves, urban spaces such as squares, malls and plazas, and rail corridors and easements. It also includes extensive areas of public land, which are often managed by organisations other than the City of Greater Bendigo.

3. Purpose

The Public Spaces Advisory Committee (the Committee) is a high level strategically focused advisory group. The purpose of the Committee is to provide the best high level advice, guidance and strategic representation to Council with respect to matters concerning public spaces in order to ensure the best quality outcomes for public spaces.

The Committee will support Council and CoGB in the development of relevant strategy, policy and action plans and assist with community engagement and discussion around these issues.

The Terms of Reference are provided to clarify the roles and responsibilities of the Committee. Key roles of the Committee include:

a. Providing oversight for the implementation of public space-related planning, design and management.

b. Providing advice to Council on current and emerging issues for public spaces, including issues related to, but not limited to, leisure, education, economic, cultural, social and environmental aspects.

c. Providing advice on matters strategically relevant to public spaces as required by Council including, but not limited to, implementation of the Public Space Plan.

d. Participating in consultative forums initiated by the CoGB for the purpose of informing and seeking feedback from the community.

e. Assisting in the development of partnerships and communication networks to ensure effective dissemination of information, coordinated advice and feedback to Council.

f. Harnessing the opportunities that CoGB's community engagement meetings afford to profile issues relevant to the progression of the Public Space Plan.

g. Providing recommendations for research or investigations into strategic issues impacting on public space.

h. Providing clear recommendations based on skills, knowledge and experience of the members.

i. Identify relevant funding opportunities.

Council will take the advice of the Public Spaces Advisory Committee into consideration as part of its deliberations, with the City of Greater Bendigo's appointed officer generally the primary liaison between the Committee and Council.

4. Membership

To ensure a balanced and comprehensive base for advice, the Committee should collectively have a diversity of relevant expertise and experience. Ideally there should be a balanced representation of genders and culturally diverse representation.

Membership to the Committee shall comprise:

4.1 Three (3) Greater Bendigo City Councillors representing the three wards, with one Councillor to be the Chair and another the Deputy Chair.

4.2 One Greater Bendigo Youth Councillor

4.3 Three (3) technical expert members, one each from:

- Dja Dja Wurrung
- Department of Environment, Land, Water and Planning
- Parks Victoria
- Other technical experts will be by invitation and may include, but not limited to, North Central Catchment Management Authority, Taungurung, Coliban Water, Department of Transport, and others.

4.4 Six (6) community based representatives.

Representatives should demonstrate a general interest in public open spaces, rather than one specific site or aspect, with the capacity to consider the views of the wider community and to consider issues strategically and impartially. Community representatives will be chosen by an expression of interest process.

4.5 Two (2) City of Greater Bendigo representatives at a Director or Manager level with one (1) from the Health and Wellbeing Directorate and one (1) from the Presentation and Assets Directorate. An officer from the Active and Healthy Lifestyles Unit shall be appointed as the Executive Officer to the Committee.

4.6 If a Committee member misses more than two meetings in succession without informing the Committee Chair or Vice Chair, that person will be contacted and their membership of the Committee may be revoked.

4.7 The roles and responsibilities of the Committee members are:

a. To be familiar with the relevant council strategies, including the Public Space Plan 2018; the Walking and Cycling Strategy (in preparation); Greening Greater Bendigo strategy (in preparation); and the Greater Bendigo Environment Strategy 2016-2021.

b. To be familiar with the site specific Master Plans available for relevant public spaces.

c. To be fully prepared for meetings

d. To agree to participate in a collaborative meeting format

e. To bring expertise, local knowledge and broad community experience to the table

f. To consider and raise issues, proposals and ideas; and

g. To provide informed advice and guidance.

4.8 Members may be nominated by two methods:

a. All government or government appointed authorities or agencies listed in 4.3 will be formally approached and invited to nominate a suitable delegate.

b. The Greater Bendigo community will be invited to participate as individuals in an Expression of Interest and interview process.

5. **Expressions of Interest**

5.1 Expressions of Interest for Committee membership will be sought through a public call seeking a diversity of skill sets and experience.

5.2 Expressions of Interest for Committee membership must include responses to a set of Key Selection Criteria/Questions. All Expressions of Interest received for Committee membership will be considered by a Selection Panel.

5.3 The Selection Panel will comprise the 3 Councillors appointed to the Committee and along with the Director or their delegate from the Health and Wellbeing Directorate and the Director or their delegate from the Presentation and Assets Directorate and the Executive Officer to the Committee.

5.4 The role of the Selection Panel shall be to assess all Expressions of Interest received, develop a shortlist for interview and, following interview, make recommendations to Council as to the preferred Committee membership.

5.4 The new Committee will be formally appointed by Council and members will serve in a voluntary capacity.

6. Term of Appointment

6.1 Delegates (section 4.3) shall remain on the Committee for their term so long as they represent the authority referred to or until such time as Council or the relevant government authority chooses to replace them.

6.2 Community representatives on the Committee are to be appointed for 3 years. Councillor appointments shall be for a 12 month term.

6.3 Retiring Committee members may apply for further terms of office up to a maximum of 3 terms.

6.4 The Committee shall make recommendations to the Chief Executive Officer or their delegate to fill any vacancy on the Committee and the term of office of the newly appointed Committee member shall expire at the same time as the Committee member being replaced.

7. Chairperson

A Councillor is to be appointed by Council to chair the meetings. If the Chair is absent, the other Councillor or Council delegate present is to chair.

8. Conduct of Meetings

Committee meetings will be conducted as follows:

a. Committee meetings are to be held on a regular cycle bi-monthly for the first 12 months with a review of frequency at the end of this time. Additional meetings may be required from time to time. The time and place of meetings will be determined by the chair in consultation with committee members.

b. Meetings will be held electronically via Microsoft Teams or Zoom (or other platform as necessary) or in person at a City of Greater Bendigo office, with occasional meetings requiring site visits.

c. A quorum will consist of 3 or more community members of the Committee.

d. The Committee will endeavour to reach decisions by consensus. Where this is not achievable, voting rights extend to community members. Voting rights do not extend to Councillors or City of Greater Bendigo officers

e. There is no provision for proxy attendees or proxy voting. In the event that a committee member is unable to attend but wishes to cast a vote of an agenda item, the committee member must submit their vote in writing by midday on the day of the meeting and be responsible for ensuring that it is received by the Chair.

f. The Committee, by resolution or through the Chair, may invite any CoGB staff member, individual, interest group, or agency representative to attend a meeting as a delegation or to submit or present information that will assist the Committee in carrying out its functions.

g. Minutes of each Committee meeting will be recorded and distributed to all Committee members. The minutes shall also be made available to all Councillors, City of Greater Bendigo staff and to the public by request.

h. The Committee, by resolution or through the chair, may formulate issue-specific or site-specific sub-committees. The terms of these sub-committees will be set by the Committee.

i. Performance of the committee and frequency of meetings will be reviewed by Council once it has been operating for 12 months.

9. Conflict of Interest

Committee members should declare a conflict of interest if they are to discuss an item that, if supported by Council, could result in a direct or indirect benefit or loss to them as opposed to a large sector of the greater Bendigo community. The provisions of the Local Government Act 1989 apply to Councillor Members.

10. Dismissal of Members

The Chief Executive Officer retains the right to revoke the membership of any person the CEO considers to be acting outside the interests of the City of Greater Bendigo and the communities / sectors that the Committee is charged with representing.

11. Insurance

11.1 Public Liability Insurance: Members of any Committee established by the Council under the Local Government Act or any other enabling legislation or, whilst acting in that capacity within the scope of their duties for and on behalf of the Council, are provided with cover under the LMI Broadform Public and Products Liability and Professional Indemnity Insurance, subject to the LMI policy terms, conditions, endorsements, exclusions and deductible and the like.

11.2 Council appointed Committee members, whilst acting in that capacity within the scope of their duties for and on behalf of Council, are covered within the terms and conditions of the Council's LMI Public and Products Liability Insurance Policy for third party personal injury or damage to property (as defined) caused by an occurrence, and where applicable for breach of professional duty, in connection with the Business of the Council.

11.3 The City of Greater Bendigo's insurance policies provide indemnity for personal injury, property loss, products liability and claims for breach of professional duty, subject at all times to the Policy "Conditions and Exclusions".

12. Dissolution

12.1 The Committee may, at any meeting, agree to disband.

12.2 The Council may - for any reason - resolve to disband the Committee and, upon written notice to that effect being given to Committee members, the Committee shall be disbanded.

13. Implementation and Review

Sections of these Terms of Reference (Sections 5 - 16) are standard for Advisory Committees to Council and are only subject to review by Council or the City of Greater Bendigo. The Committee will undertake a review of the other sections of the Terms of Reference every three (3) years prior to the conclusion of its term.

14. Resources provided by City of Greater Bendigo

14.1 Provide administrative and technical support for the Committee's meetings.

14.2 Provide a suitable venue for the Committee's meetings, generally of 1-2 hours duration.

15. Communication

Minutes of each meeting will be recorded and distributed to the Committee and Council.

15.1 The Chairperson will report to Council regularly.

15.2 A delegation from the Committee will present annually to Council Briefings on the Committee's activities and initiatives in the previous year.

15.3 Responding to media requests or making public comment on behalf of the Committee is the responsibility of the Chairperson, Chief Executive Officer or an authorised City of

Greater Bendigo officer. In some circumstances it may be appropriate for a Committee member to speak publically about the work of the Committee. In these instances, Chairperson approval must be sought.

16. Confidentiality and Conflict of Interest

16.1 The Committee will, from time to time, deal with matters subject to confidentiality. Items of confidentiality will be specifically identified and Committee members are expected to observe this provision for the period that the provision applies. Committee members will be expected to sign a Conflict of Interest and/or Confidentiality Agreement.

16. STRENGTHENING THE ECONOMY

16.1. Bendigo Airport Lease of Lot IX23 and Lot O7

Author	Vicki Bayliss, Senior Business Services Officer
Responsible Director	Bernie O'Sullivan, Director Strategy and Growth

Purpose

City officers are seeking approval to commence the statutory procedures under section 190 and 223 of the Local Government Act 1989 for the proposed grant of a lease of Lot IX23, of Lot 3 on Plan PS 422204F, being land at Bendigo Airport (premises) to Community Two Way Radio Systems Pty Ltd (lease proposal) and of Lot O7, of Lot 3 on Plan PS 422204F, being land at Bendigo Airport (premises) to Phoenix Aviation Pty Ltd (lease proposal).

Summary

Community Two Way Radio Systems Pty Ltd is a current tenant and would like to take out another lease on Lot IX23 at the Bendigo Airport. The company would like a lease term of seven (7) years with a seven (7) year option to renew the lease. The site is approximately 440 square metres of land. In line with Council's lease policy the annual market rental for the site has been assessed at $2,400 per annum, plus GST.

Phoenix Aviation Pty Ltd is also a current tenant of the Bendigo Airport and would like to take out a new lease on Lot O7 at the Bendigo Airport. The company would like a lease term of 25 years. The site is approximately 216 square meters of land. In line with Council's lease policy the annual market rental for the site has been assessed at $1,680 per annum, plus GST.

RECOMMENDATION

That Council:

1. Acting under section 190 and section 223 of the Local Government Act 1989 (the Act):
    a. Resolve that the statutory procedures be commenced to consider a proposal to lease the land comprising approximately 440 square metres of land, being part of the land in certificate of Title Part Lot 3 PS 422204F, Volume 10557, Folio 954, known as Lot IX23 at the Bendigo Airport situated on 35 Victa Road, East Bendigo, (Land) for the purposes of an airport hangar (Lease Proposal);
    b. Resolve that the statutory procedures be commenced to consider a proposal to lease the land comprising approximately 216 square metres of land, being part of the land in certificate of Title Part Lot 3 PS 422204F, Volume 10557, Folio 954, known as Lot O7 at the Bendigo Airport situated on 35 Victa Road, East Bendigo, (Land) for the purposes of an airport hangar (Lease Proposal);
    c. Directs that under section 223 of the Act public notice of the Lease Proposal be given in the Bendigo Advertiser and on Council's website;

d. Authorises the Manager Business Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to the Lease Proposal;

e. Directs that any submissions received under section 223 of the Act about the Lease Proposal will be considered by the Council at its February ordinary meeting to be held at the Bendigo Town Hall;

2. Directs that a further report to Council in respect of the Lease Proposal include an assessment of all submissions received and of any submissions heard pursuant to section 223 of the Act.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

Goal 3: Strengthening the economy

Objective 3.1 Support our businesses and industry to be strong, vibrant and to grow and develop

Strategy Reference:

Bendigo Airport Strategic Plan

Strategic Direction 2: Effectively Manage and Maintain Bendigo Airport Assets

Background Information

Community Two Way Radio Systems has been a tenant at the Bendigo Airport since 2004 and has constructed a hangar on Lot IX23 to operate a recreational aviation school. The lease for this site expired in 2018 and has been in overholding since this time.

Phoenix Aviation Pty Ltd is also a current airport tenant and has held a lease on four other lots since 2017.

Report

The Bendigo Airport is located at 35 Victa Road, East Bendigo (being part of the land in certificate of Title Part Lot 3 PS 422204F, Volume 10557, Folio 954 (Land).

The Bendigo Airport has ten (10) vacant hangar sites available to lease. The uptake has been very strong over the last few years with 13 leases commencing in the last two years.

Community Two Way Radio Pty Ltd is seeking another lease on a part of the Land at the airport which is known as Lot IX23. Lot IX23 is approximately 440 square metres and based on the current market rental will be leased for $2,400 per annum plus GST.

Community Two Way Radio Systems Pty Ltd proposes to continue to use the premises for the purposes of an airport hangar and space to operate their recreational aviation school, over a lease term of seven (7) years with another seven (7) year option to renew the lease.

Phoenix Aviation Pty Ltd is seeking a lease on a part of the land at the airport which is known as Lot O7. Lot O7 is approximately 216 square metres and based on the current market rental will be leased for $1,680 per annum plus GST.

Phoenix Aviation Pty Ltd proposes to use the premises for the purposes of an airport hangar over a lease term of 25 years.

Timelines:

If Council intends to consider the lease proposal, then Council officers will place a public notice in a local newspaper (and on the City's website) in accordance with section 190 and 223 of the Local Government Act 1989 calling for submissions from the public about the lease proposal and allow at least 28 days for submissions to be received. Council must then consider any submissions received and conduct hearings for anyone that wishes to be heard in support of their decision, before Council can consider and then make a final decision about whether to grant the lease proposal. Once submissions have closed, City officers will provide another report in February to Council outlining the submissions received (if any) and making a recommendation about whether to approve the lease proposal, for Council's consideration.

Consultation/Communication

Resource Implications

The costs associated with the negotiation and development of the lease documentation can be absorbed in the Business Services operations budget. There will not be an increase in ongoing maintenance or operational expenses as a result of this lease.

If Community Two Way Radio Systems Pty Ltd's lease is approved there will be an additional $2,400 per annum, plus GST revenue to the City.

If Phoenix Aviation Pty Ltd's lease is approved there will be an additional $1,680 per annum, plus GST revenue to the City.

The revenue will increase annually as per the Bendigo Airport Lease Policy.

Attachments

1. Bendigo Airport Site Locations
2. Bendigo Airport Lease Policy

Attachment 1

Bendigo Airport Sites O-G



Attachment 2

4. STRENGTHENING THE ECONOMY

4.1 BENDIGO AIRPORT LEASE POLICY

Document Information

Author **Ben Devanny – Manager Business Services**

Responsible Director **Bernie O'Sullivan – Director Strategy and Growth**

Purpose

The purpose of this report is to recommend the adoption of the Lease Policy for the Bendigo Airport.

Summary

The proposed Airport Lease Policy changes will provide greater clarity on the calculation of rent values and reduce ambiguity for current and prospective tenants.

Currently, the use of determined market value and site value on the rates notice have some variables which cause frustration from tenants and result in rental queries.

RECOMMENDATION

It is recommended that Council:

1. Resolve with respect to future leases of land at Bendigo Airport:

    a. To change the way that rent is calculated to Site Value on Rates Notice x Airport Rental Rate. The proposed airport rental rate for serviced sites is 10% and un-serviced sites is 6%. This rate would be increased annually by CPI, as a part of Council's fees and charges; and
    b. To remove provision for a licence fee to use the Airport infrastructure.

2. Resolve that Council's decision made on 16 February 2011 with respect to leasing of land at Bendigo Airport is set aside to the extent that it is inconsistent with Item 1.

3. Note that the matters contemplated in Items 1 and 2 constitute operational issues and direct that any future decisions regarding leasing policy at Bendigo Airport be approved by Council's Executive Management Team (or equivalent) without requirement for Council resolution.

RESOLUTION

Moved Cr Williams, Seconded Cr Pethybridge.

That the recommendation be adopted.

CARRIED

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Policy Context

Community Plan Reference:

Goal 1:	Lead and Govern for all
Objective 1.3	Actively seek more funding opportunities from Federal, State and private investors.
Goal 3	Strengthening the economy
Objective 3.3	Ensure Greater Bendigo is a welcoming place for new business and industries and supports creativity and innovation and visitor attraction.
~~~~~~~~~~~~~~~~~~~~~~~~

Strategy Reference (include weblink as applicable):

Bendigo Airport Strategic Plan 2017

Background Information

The current Airport Lease Policy was adopted in February 2011.

Currently the Policy calculates the rent using the following formula.

Market Value x 6%

That value is then multiplied by 50% for un-serviced sites and 65% for serviced sites.

The policy also includes a Licence Fee which is the tenant's contribution towards the common area expenses.

Regularly the determined market value and site value on the rates notice have variables which cause frustration from tenants and result in rental queries.

Report

It is recommended to change the way that rent is calculated to Site Value on Rates Notice x Airport Rental Rate. The proposed airport rental rate for serviced sites is 10% and un-serviced sites is 6%. This rate would be increased annually by CPI, as a part of Council fees and charges.

This methodology should provide greater clarity on the process to contest Market Value and reduce ambiguity for current and prospective tenants on how airport rentals are calculated.

Current tenants will be given the opportunity to renegotiate a new lease. The City will waive all fees associated with renegotiating a lease if tenants request this prior to 31 December 2020.

Consultation/Communication

Internal Consultation:

Manager Financial Strategy and Coordinator Legal Services have been consulted on the proposed changes to the Lease Policy. They have confirmed that this is the best approach to provide a simple calculation for leased sites at the airport.

External Consultation:

The first consultation period for the proposed introduction of fees and charges and changes to the lease policy commenced on 18 October 2019 for a four-week period. During the consultation, the period was extended by 1 week until 22 November 2019.

The proposal was presented to the Airport Users Group and then distributed to the known users of the airport through an email which included FAQs.

Officers held a drop-in session on Monday, 22 October 2019 from 3pm – 6pm. Approximately 30 airport users attended this session to provide their feedback on the proposal. Officers also met with the Bendigo Flying Club, RMIT and two individuals and received 32 written submissions.

The second consultation period was for four weeks, commencing on 11 February 2020. The proposal was emailed to known users of the airport. During this consultation period 13 written submissions were received.

The feedback the City has received on the changes to the lease policy has been favourable. Those that have provided feedback on this component agree that it will simplify lease calculations and take away the ambiguity.

Resource Implications

The City currently receives approximately $120,000 per annum in rental revenue from tenants at the airport. This amendment in policy will see minimal change in the current rental figures.

Tenants will have the option to change over to a new lease. There are four tenants who have leases that will expire in the next five years. These tenants will notice an increase in their rental if they remain on the current policy due to the limited market reviews and no CPI increases over a number of years.

Attachments

Nil

17. ENVIRONMENTAL SUSTAINABILITY

Nil

18. EMBRACING OUR CULTURE AND HERITAGE

Nil

19. LEAD AND GOVERN FOR ALL

19.1. Community Plan 2017-2021 - Q1 Annual Plan Quarterly Summary Report

Author	Melissa Mazzarino, Executive Assistant to Director Corporate Performance
Responsible Director	Andrew Cooney, Director Corporate Performance

Purpose

To report to Council progress on the implementation of Annual Plan initiatives for the first quarter 2020/2021.

Summary

The Greater Bendigo Community Plan contains Council's vision, values and direction for 2017-2021, which underpin the way the City manages and conducts its operations. The Annual Action Plan 2020/2021 supports this and details initiatives for the financial year. This document provides the highlights from the first quarter.

RECOMMENDATION

That Council acknowledge the progress of implementing Annual Plan initiatives for 2020/2021, and receive the Annual Plan quarterly summary report.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

Goal 1 - Lead and Govern for all

Background Information

Greater Bendigo - creating the world's most liveable community is the vision to guide the work of the Greater Bendigo City Council over four years. How Council will achieve this is outlined in the Greater Bendigo Community Plan 2017-2021 which was adopted by Council on June 21, 2017.

Report

The Community Plan is a key strategic Council document to inform the community and council officers of Council priorities and commitment to six key goals. The six Community Plan goals are:

1. Lead and govern for all
2. Wellbeing and fairness
3. Strengthening the economy
4. Presentation and managing growth
5. Environmental sustainability
6. Embracing our culture and heritage

The Community Plan is supported by the Annual Plan developed each year and the Annual Plan is reported on quarterly. This report is the first quarterly update for the Annual Plan 2020/2021.

Consultation/Communication

Council used a range of information to help decide on key directions, priorities and budget allocations. These include:

• Feedback from community members
• Councillor priorities
• Evidence about our population and their needs
• What was previously undertaken as part of adopted plans and strategies
• State and Federal Government priorities and directives
• The size of the available budget

Community input into the Community Plan

This council has a very strong commitment to:

• Talking with and listening to community members
• Using community priorities to guide their decision-making
• Being transparent in their decision-making, and
• Documenting what the community has said and providing feedback to them

Community consultation that has been used in developing this plan has included:

• An online survey (also available via Facebook and in hard copy)
• Postcards with a short survey delivered at a range of community venues and events
• Face-to-face meetings with groups with special knowledge of an area
• Community engagement results received during community engagement for other recent plans and strategies
• Personal communication given to Councillors and staff members in person and via email
• Two public discussion sessions where the first draft statements were ‘tested’ with community members

A full report of the processes and findings from the community engagement activities has been published on the City of Greater Bendigo website.

Resource Implications

Nil

Attachments

1. Annual Plan Summary Report - Q1

Attachment 1

September 2020 update

***Greater Bendigo** – creating the world's most liveable community.*



A liveable community is one that enables people to live healthy, safe, harmonious lives in attractive and affordable settings. Liveable places have an excellent range of services for children and adults of all ages and facilities that are accessible to all. They don't make unsustainable demands on the environment.

Council has set the following six goals to guide its decisions and actions over the next four years:

Goal 1

Lead and govern for all

Effective community engagement will guide well informed, responsive decision-making and financially responsible resource allocations which are transparent and accountable.

Goal 2

Wellbeing and fairness

Inclusive policies, partnerships and projects that increase access, improve health and learning opportunities, by building better connections and quality of life for all.

Goal 3

Strengthening the economy

Advocacy, innovation and support to grow jobs, attract visitors and diversify the local and regional economy.

Goal 4

Presentation and managing growth

Planning, development and infrastructure that increases our liveability and pride in where we live.

Goal 5

Environmental sustainability

Protect and enhance our environment, conserve our resources and increase resilience to a changing climate.

Goal 6

Embracing our culture and heritage

Recognise and celebrate our unique history and diverse cultures.

CITY OF GREATER BENDIGO

Goal 1: Council will lead and govern for all

Effective community engagement will guide well informed, responsive decision-making and financially responsible resource allocations, which are transparent and accountable.

Objectives

- Engage with all communities
- Explain the reason for its decisions
- Be innovative and financially responsible
- Be accountable and efficient in its use of the community's money
- Take a leadership role in regional planning and advocacy and work in partnership with regional councils

September 2020 update

- The first 'Bendigo's Big Build' newsletter was released to provide updates to residents and traders in the northern end of the city centre on the progress of the major projects within the precinct
- The State Government's Bendigo GovHub project is progressing. The City finalised the sale of the Lyttleon Terrace site and demolition and site preparation is underway



Goal 2: Wellbeing and fairness

Inclusive policies, partnerships and projects that increase access, improve health and learning opportunities, by building better connections and quality of life for all.

Objectives

- Create a much healthier Greater Bendigo
- Promote positive wellbeing across the Greater Bendigo community
- Promote community connection
- Support participation and development for residents of all ages and abilities
- Create safe and resilient communities

September 2020 update

- Marong Pool improvements have been completed
- Strathfieldsaye pavilion design is 80% complete
- Scoping has been undertaken with the community reference group for the Peter Krenz Leisure Centre redevelopment
- Project planning for several actions from Greater Bendigo's Food System Strategy has commenced
- Draft action plan for the Greater Bendigo Coalition for Gender Equity has been completed
- Development of CONNECT Greater Bendigo has been completed ready for implementation



Goal 3: Strengthening the economy

Advocacy, innovation and support to grow jobs, attract visitors and diversify the local and regional economy.

Objectives

- Support local businesses and industry to be strong, vibrant, and to grow and develop
- Make it easier for people to transition from education to employment
- Ensure Greater Bendigo is a welcoming place for new businesses and industries and supports creativity and innovation and visitor attraction

September 2020 update

- Draft concept plans for stage 1 of the Bendigo Airport terminal expansion have been finalised
- Council endorsed an action plan to implement the UNESCO Creative City of Gastronomy designation
- The draft International Relations Strategy has been endorsed and released for public consultation



Goal 4: Presentation and managing growth

Planning, development and infrastructure that increases our liveability and pride in where we live.

Objectives

- Plan for a growing population
- Plan to meet future housing needs
- Continue to implement strategies that increase the capacity of transport networks to better move people and goods and encourages walking, cycling and the use of public transport
- Keep Greater Bendigo attractive with good quality public facilities and places
- Provide and maintain urban and rural infrastructure to support the liveability of our community

September 2020 update

- Consultants have been appointed for the investigation of the Kennington Reservoir dam wall
- Axedale-Goornong Road reconstruction has been completed
- In conjunction with other Councils, the upgrade of streetlighting to energy efficient lamps for major roads has been funded for stage 1



Goal 5: Environmental sustainability

Protect and enhance our environment, conserve our resources and increase resilience to a changing climate.

Objectives

- Drawing on the One Planet Living framework to connect the health of the natural environment to the health and prosperity of our community
- Demonstrate leadership in sustaining the rich biological diversity of the Greater Bendigo region that sustains healthy ecosystems

September 2020 update

- The specification for the Eaglehawk landfill rehabilitation will be advertised by the end of November with commencement of works in 2021
- Funding has been secured to establish a Bendigo Drawdown Alliance
- 1,703 trees have been planted as part of implementation of Greening Greater Bendigo



Goal 6: Embracing our culture and heritage

Recognise and celebrate our unique history and diverse cultures.

Objectives

- Celebrate our unique heritage
- Build pride in and shared responsibility for our public spaces
- Offer and support a diverse range of events that attract and connect people
- Embrace diversity
- Advance reconciliation

September 2020 update

- Capital Theatre external painting completed
- Bendigo Town Hall restoration works 85% completed
- Concept design and community consultation has been completed for the redevelopment of the Old Municipal Baths in Rosalind Park
- The new Reconciliation Plan has been developed and endorsed by Council



Council has continued to endorse a vision for improved liveability for the whole population. Knowing where we are making progress towards this vision requires us to set some measures or benchmarks where Greater Bendigo can be compared with other locations.

Twenty four liveability indicators have been chosen that relate to the following areas:

- A much healthier Greater Bendigo
- A fairer and more inclusive Greater Bendigo
- A more resilient Greater Bendigo
- A planned Greater Bendigo
- A proud and safe Greater Bendigo
- A sustainable Greater Bendigo
- A more creative, productive, innovative, adaptive and engaged Greater Bendigo



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CITY OF GREATER BENDIGO

19.2. Appointment of Representatives on Council and Community Committees

Author	Jessica Clarke-Hong, Manager Governance
Responsible Director	Andrew Cooney, Director Corporate Performance

Purpose

The purpose of this report is to endorse the Councillor representatives on various Council and community committees for the 2020/2021 Mayoral term.

Summary

Councillor representation on various Council and community committees is an important community engagement process

RECOMMENDATION

That Council endorse the appointments to the Council and community committees as outlined in the report, effective from December 15, 2020.

Policy Context

Involvement with committees provides Councillors with an opportunity for community engagement. Advisory committees to Council also have the opportunity to provide input into the strategic direction of the Council and guidance to staff working on Council initiatives.

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 1 Lead and govern for all

Background Information

The appointment of Councillor representatives on council and community committees is reviewed annually.

Previous Council Decision(s) Date(s): November 2019

Report

Council Representatives for 2020/2021:

Committee	**Councillor(s)**
Audit and Risk Committee	Cr Alden Cr O'Rourke Cr Metcalf Cr Sloan (observer only)
Delegated Committee	
Bendigo Maubisse Friendship Committee	Cr Alden

Committee	Councillor(s)
	Cr O'Rourke
Advisory Committees	
Arts and Creative Industries Advisory Committee	Cr Fyffe Cr Sloan Cr Evans
Creative City of Gastronomy Committee	Cr Alden Cr O'Rourke Cr Metcalf Cr Sloan (observer only)
Farming and Agribusiness Advisory Committee	Cr Fyffe Cr Metcalf Cr O'Rourke
Heritage Advisory Committee	Cr Fyffe Cr Metcalf (deputy)
Positive Ageing Advisory Committee	Cr Fyffe Cr Penna
Public Spaces Advisory Committee	Cr Alden Cr Fagg Cr Evans
Sustainability and Environment Advisory Committee (SEAC)	Cr Alden Cr O'Rourke Cr Sloan
Legislated Committee for CoGB	
Finance Committee	All
Integrated Municipal Emergency Management Planning Committee	Cr Metcalf
Municipal Fire Management Committee	Cr Fagg
Strategic Planning Governance	
Affordable Housing Action Plan Project Steering Committee	Cr Fagg Cr Williams
Cultural Diversity and Inclusion Plan Steering Committee	Cr Evans Cr O'Rourke Cr Sloan
Economic Statement and Strategy Steering Committee	Cr Alden (Mayor)
Gender Equity Coalition (External)	Cr Alden

Committee	Councillor(s)
	Cr Sloan Cr Evans
Industrial Land Development Steering Committee	Cr Alden (Mayor)
Independent Community Group / Organisation	
Bendigo Agricultural Show Society	Cr Fyffe
Bendigo Manufacturing Group	Cr Williams Cr Fagg Cr Penna Cr O'Rourke Cr Metcalf Cr Sloan * All Crs welcome but attend as observers only
Bendigo Safe Community Forum	Cr Alden (Mayor)
Calder Highway Improvement Committee	Cr Penna Cr Fyffe (deputy)
Municipal Association of Victoria	Cr Fyffe Cr O'Rourke (deputy)
Rail Freight Alliance	Cr Fyffe
Community Group/Organisation Integrated with City of Greater Bendigo	
Bendigo Invention and Innovation Festival (BIIF) Executive Committee	Cr Evans Cr Williams
Bendigo Regional Archive Centre (BRAC) Committee of Management	Cr Fyffe
Loddon Mallee Waste and Resource Recovery Group Forum	Cr Metcalf Cr Sloan (deputy)
Greater Bendigo Pandemic Relief and Recovery Committee	Cr Alden (Mayor) Cr Metcalf (Deputy Mayor) Cr Sloan (deputy)
Community Advisory or Reference Group to Council	
Bendigo Airport Stakeholders Committee	Cr Penna (Chair) Cr Williams
Bendigo Easter Festival Reference Group	Cr Fyffe Cr Evans

Committee	Councillor(s)
Bendigo Livestock Exchange Stakeholders Group	Cr Williams (Chair) Cr Fyffe (deputy) Cr Sloan
Disability Inclusion Reference Committee (DIRC)	Cr O'Rourke
Rural Communities Committee	Cr Fyffe Cr O'Rourke Cr Metcalf
Boards	
Bendigo Art Gallery Board	Cr Fyffe
Bendigo Stadium Limited Board	Cr Metcalf
Bendigo Tourism Board Incorporated	Cr O'Rourke Cr Evans (deputy)
Bendigo Trust Board (Bendigo Heritage Attractions)	Cr Metcalf
Central Victorian Greenhouse Alliance (CVGA) Board	Cr Alden
Goldfields Library Corporation Board	Cr Fyffe
National Chinese Museum of Australia Limited trading as Golden Dragon Museum	Cr O'Rourke

Consultation/Communication

Discussions were held with Councillors as part of the Councillor Induction process.

Resource Implications

N/A

Attachments

Nil

19.3. Quarter 1 Finance and Capital Management Report

Author	Nathan Morsillo, Manager Financial Strategy
Responsible Director	Andrew Cooney, Director Corporate Performance

Purpose

The purpose of this report is to provide Council with a report on the financial position of the City of Greater Bendigo (CoGB) to 30 September 2020 for the 2020/2021 financial year.

Summary

The Finance and Capital Management Report to 30 September 2020 provides an update on actual financial performance against the 2020/2021 adopted budget. The report also provides a summary of rate debtors; cash and investments; borrowings and grants.

RECOMMENDATION

That Council receive the report comparing budgeted and actual revenues and expenses to 30 September 2020, in accordance with the requirements of the Local Government Act 2020.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 1 Lead and govern for all

Background Information

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

This report provides an update on the financial performance in comparison to the budget for the 2020/2021 financial year for the period 1 July 2020 to 30 September 2020.

The City approved an amended budget in July 2020, which resulted in a reduction in estimates for revenue. COVID-19 and the more extended lockdown has impacted further on revenue and expenditure for the first quarter actuals in 2020/2021. Unfavourable impacts are partially offset by a combination of savings or delayed expenditure. There are also additional costs such as increased cleaning, which have to date been offset by lower salary and other expenditure in the first quarter. Being definitive about the financial impacts of COVID-19 is not straight forward as the impacts

flow throughout the City's services. The best measure of impacts year to date can be found in the City's YTD profit and loss statement discussed below – where there is currently a small net surplus compared to budget. Adjusting for additional grant income and one-off revenue items reduces this surplus further.

Significant impacts continue to be monitored for revenue and expenditure for Rates, Leisure Centres, Parking, Bendigo Venue and Events, Tourism and Major Events, Bendigo Art Gallery, and certain Council supported entities.

Council continues to provide relief to those experiencing financial hardship by halting debt collection and significantly extending payment terms across the business for fees and charges, in many cases to 30 June 2021 where requested for affected businesses.

This provides cash flow relief (via deferral) where possible. Council strongly encourages anyone needing assistance to make early contact by calling our customer service desk on 5434 6000 or by emailing our rates team ratesenquiries@bendigo.vic.gov.au.

Actual Financial Performance

Operating Results - YTD Actual vs YTD Budget

	YEAR TO DATE				FORECAST			
	YTD Budget 2020 $'000	YTD Actual 2020 $'000	YTD Variance $'000	YTD Variance %	Annual Budget 2020 $'001	Full Year Forecast 2020 $'000	Forecast Variance $'000	Forecast Variance %
REVENUE								
Rates and Charges	126,592	125,349	(1,243)	-1%	126,592	126,592	-	0%
Statutory Fees and Fines	1,034	849	(185)	-18%	4,479	4,349	(130)	-3%
User Fees	4,824	3,970	(855)	-18%	24,655	19,976	(4,679)	-19%
Government Grants - Operating	7,572	9,342	1,770	23%	30,395	33,001	2,606	9%
Government Grants - Capital	1,803	3,332	1,529	85%	7,212	15,133	7,921	110%
Contributions - Cash	1,153	723	(430)	-37%	3,363	3,359	(4)	0%
Contributions - Assets	-	-	-	0%	15,000	15,000	-	0%
Interest on Investments	294	105	(189)	-64%	1,174	600	(574)	-49%
Internal Revenue	6,680	7,204	524	8%	26,737	28,206	1,469	5%
Share of NCGRLC	23		(23)	-100%	94	94	-	0%
Total Revenue	**149,976**	**150,873**	**897**	**1%**	**239,701**	**246,310**	**6,608**	**3%**
EXPENSES								
Employee Benefits	18,011	16,807	1,204	7%	75,777	74,397	1,380	2%
Materials and Services	19,312	16,717	2,595	13%	72,786	72,822	(36)	0%
Equipment Expenses	2,180	1,741	439	20%	7,619	7,619	(0)	0%
Depreciation and amortisation	10,283	10,124	158	2%	41,131	41,087	44	0%
Borrowing Costs	462	474	(11)	-2%	1,849	1,849	-	0%
Loss/Profit on PPEI	-	(262)	262	0%	4,857	(893)	5,750	118%
Bad Debts	67	11	55	83%	268	268	-	0%
Internal Expenses	6,689	7,012	(323)	-5%	26,828	28,593	(1,765)	-7%
Total Expenses	**57,004**	**52,625**	**4,379**	**8%**	**231,115**	**225,743**	**5,372**	**2%**
Operating Result	**92,972**	**98,249**	**5,276**	**6%**	**8,586**	**20,567**	**11,981**	**140%**
Other Comprehensive Income								
Net asset revaluation increments	48,223	-	48,223	100%			-	0%
Comprehensive Result	**141,195**	**98,249**	**53,499**	**38%**	**8,586**	**20,567**	**11,981**	**140%**

Council's operating result as at 30 September 2020 is $5.3M favourable to budget. The result is due to the receipt of unbudgeted operational and capital grants, lower than anticipated employee benefits and underspend compared to timing in the budget for materials and general expenses - predominantly as a result of changes to services impacted by COVID-19.

Operating Result is a measure for accounting for an organisation's profit or loss for a given period. An Operating Result recognises all revenue and operating expenditure; it

includes non-cash expenditure such as depreciation and non-cash revenue of donated assets.

YTD Budget 30 September 2020 Surplus/(Deficit)	YTD Actual 30 September 2020 Surplus/(Deficit)	Variance
$92.9M	$98.2M	$5.3M Favourable

Major variances that contribute to the result include:

Area	Fav / Unfav	Main Contributing Factors	Variance
User Fees	Unfavourable	User Fees and Charges are unfavourable due to COVID-19 restrictions forced closure of the Bendigo Art Gallery, Bendigo Venue and Events and Bendigo & Heathcote Visitors centres. This is partly offset by the favourable result in Materials and Services. Business Services is experiencing lower than expected sheep/cattle sales and Safe & Healthy Environments have receipted lower parking and health registration income due to COVID-19.	$855K
Government Grants – Operating	Favourable	Operating Grants is currently favourable due to grants being brought forward from 2019/2020 financial year for RSD, Community Wellbeing, Art Gallery and Bendigo Venue and Events.	$1.7M
Materials & Services	Favourable	The current favourable result is mostly due to the forced closure of Bendigo Art Gallery, Bendigo Venue and Events and Bendigo & Heathcote Visitors centres because of COVID-19 restrictions. Tourism and Major Events has also been unable to run several larger events such as White Night, reducing expenditure to date. Other units such as Parks and Works are underspent due to timing of invoices being received by external suppliers. This favourable result offsets, in part, the unfavourable result in User Fees and Charges.	$2.6M
Government Grants – Capital	Favourable	The favourable result is due to additional funding, higher than what was budgeted earlier this year, having been received for road safety projects such as Blackspot and STILS.	$1.5M

Balance Sheet

YTD September 2019 vs YTD September 2020

	Annual Budget 2020 $'000	YTD Previous Actual 2019 $'000	YTD Actual 2020 $'000	Year on Year Variance $'000	%
Current Assets					
Cash and Cash Equivalents	46,761	80,038	75,122	(4,916)	-6%
Trade and Other Receivables	22,488	104,269	105,851	1,582	2%
Inventory	-	427	416	(12)	-3%
Other Assets/Prepayments	199	1,484	617	(867)	-58%
Total Current Assets	**69,448**	**186,219**	**182,006**	**(4,213)**	**-2%**
Non-Current Assets					
Investments in Associates	3,339	3,272	3,392	120	4%
Trade and Other Receivables	142	11,649	9,369	(2,280)	-20%
Forestry Plantations	-	83	105	22	27%
Intangible Assets	2,482	216	244	28	13%
Plant, Equipment and Infrastructure	1,711,935	1,597,340	1,614,376	17,037	1%
Total Non-Current Assets	**1,717,898**	**1,612,559**	**1,627,486**	**14,927**	**1%**
TOTAL ASSETS	**1,787,346**	**1,798,778**	**1,809,492**	**10,714**	**1%**
Current Liabilities					
Trade and Other Payables	15,856	20,595	14,817	5,778	28%
Provisions	16,311	16,492	18,631	(2,139)	-13%
Interest Bearing Liabilities and Borrowings	4,552	5,505	5,750	(245)	-4%
Trust Funds	3,372	3,338	2,947	391	12%
Total Current Liabilities	**40,091**	**45,930**	**42,145**	**3,785**	**8%**
Non-Current Liabilities					
Provisions	10,745	10,842	12,665	(1,824)	-17%
Interest Bearing Liabilities and Borrowings	35,939	50,796	44,346	6,450	13%
Total Non-Current Liabilities	**46,684**	**61,638**	**57,011**	**4,626**	**8%**
TOTAL LIABILITIES	**86,775**	**107,568**	**99,157**	**8,411**	**8%**
NET ASSETS	**1,700,571**	**1,691,211**	**1,710,335**	**19,126**	**1%**
Equity					
Accumulated Surplus	736,349	848,856	874,377	25,521	3%
Reserves	941,639	817,156	816,384	(772)	0%
Other Reserves	22,583	25,200	19,574	(5,626)	-22%
TOTAL EQUITY	**1,700,571**	**1,691,211**	**1,710,335**	**19,124**	**1%**

Cash and Cash Equivalents is $4.9M lower than the previous year. The City committed to several initiatives to support residents and local businesses during the COVID-19 pandemic, which has had an impact on cash. Examples include waiving rent and various fees and charges, expediting payments to suppliers, relaxing debt collection and offering several payment plan options for Rates. The City also held off borrowing in the past year. It is forecast that borrowings will increase in coming years to support future Development Contribution Plans (new development and Capital commitments.

Cash holdings overall remain well above minimum levels deemed necessary. A continued balance of carry-forwards in the capital works program, operational impacts of COVID-19 and additional grant funds being received have supported cash balances. As at mid-October, rates collections overall are relatively similar to prior years. Whilst there continue to be a number of rate deferrals in place in response to COVID-19

related financial hardship, there has also been a higher take up of the option to pay rates in full than previous years. This will continue to be monitored for the coming quarterly payments, as the City has paused the majority of debt collection activities.

Trade and Other Payables decreased by $2.2M compared to the previous year. The level of payables varies significantly, particularly with significant invoices owing for capital works projects. In the prior year at the same time, there were a number of larger invoices awaiting payment for some major projects.

Forecast Results

Overall, adjusting for grants and rate deferrals, the City continues to forecast a cash deficit for the year. Adjustments will be addressed in future quarterly reports and budgets as required. Overall the City remains low risk for the majority of the key VAGO financial sustainability indicators, with the exclusion of the adjusted underlying result ratio. Long term financial sustainability to resource current service delivery will require efficiencies, which will be worked through as part of future budgets.

Consultation/Communication

Internal Consultation:

A review of the financials for the period 1 July 2020 to 30 September 2020 was undertaken by Council's Finance Committee on 1 December 2020.

Resource Implications

N/A

Attachments

N/A

19.4. Council Meeting Dates 2020/2021 Mayoral Term

Author	Jessica Clarke-Hong, Manager Governance
Responsible Director	Andrew Cooney, Director Corporate Performance

Purpose

The purpose of this report is to put forward proposed Council Meeting dates for the 2020/2021 Mayoral Term.

Summary

It is proposed that the Council meeting dates for January 2021 to November 2021, as detailed in this report be confirmed and advertised.

RECOMMENDATION

That the Council Meeting dates for January 2021 through to November 2021, as detailed in this report be confirmed and advertised.

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

Goal 1 Lead and govern for all

Background Information

Previous Council Decision(s) Date(s): November 2019

Report

It is proposed that the following Council Meeting dates for January 2021 through to November 2021 be adopted. The dates are based on Council Meetings being held on the third Monday of every month at 6:00pm at the Bendigo Town Hall (except for the first meeting for 2021, which will be held on the fourth Monday of the month - January 25, 2021).

The consistent monthly meeting day and time is considered by the 2020/2024 Council to continue to have a number of advantages:

- more certainty for the community and all other interested parties;
- the opportunity to ensure meeting agendas are available in a timely manner to the community; and
- increased opportunities to meet with the community between formal Council Meetings

2021

January 25

February 15

March 15

April 19

May 17

June 21

July 19

August 16

September 20

October 18

November 15

Consultation/Communication

N/A

Resource Implications

Conduct of Council Meetings and associated advertising can be accommodated within the current budget.

Attachments

Nil

19.5. Contracts Awarded Under Delegation

Author	Lee Taig, Contract and Procurement Officer
Responsible Director	Andrew Cooney, Director Corporate Performance

Purpose

The purpose of this report is to provide information on contracts recently awarded under delegation.

Summary

N/a

RECOMMENDATION

That the contracts awarded under delegation, as outlined in this report, be acknowledged by Council.

Policy Context

Delivery of programs, projects and services that respond to community needs.

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021

Goal 1 : Lead and govern for all

Objective: 1.2 Be innovative and financially responsible

Background Information

N/a

Report

See attachment

Consultation/Communication

N/a

Resource Implications

N/a

Attachments

Contract Table

Attachment 1

CONTRACTS AWARDED UNDER DELEGATION

Andrew Cooney, Director Corporate Performance

Contract No	Project	Successful Contractor	Delegated Officer	Date Signed
Capital Contracts				
CT000527	Supply and Delivery of one (1) Rear Loader and two (2) Side Loaders	Ron Poyser Motors Pty Ltd	Craig Niemann	21 Septembe r 2020
	Price $1,109,381.24	**Practical Completion:** 30 June 2021		
	Budget: 80892 Plant & Equipment			
CT0005 37	Supply and Delivery of one (1) Front End Loader / Backhoe Combination	UK AG Pty Ltd Trading as JCB Ballarat	Debbie Wood	19 October 2020
	Price $190,850.00	**Practical Completion:** 30 December 2020		
	Budget: 80892 Plant & Equipment			
CT0005 39	Supply & Delivery of One (1) Tipper Truck	Ron Poyser Motors Pty Ltd	Debbie Wood	29 October 2020
	Price: $189,146.59	**Practical Completion:** 18 March 2021		
	Budget: 80892 Plant & Equipment			
Service Contracts				
Contract Number	**Project:**	**Successful Contractor:**	**Delegated Officer:**	**Date Signed**
CT000524	Installation and Maintenance of Various Steel Guard Fencing and Wire Rope Barrier	Panel • Barrier Design Pty Ltd • DDC Pty Ltd • Denholm Constructions • Roadside Services & Solutions Pty Ltd	Debbie Wood	12 July 2020
	Price: Schedule of Rates	**Initial Term:** 3 Years	**Extension Options:** 2 Years (1 X 2)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $500,000.000			
CT000518	Provision of biannual environmental monitoring and update of LFGRAP and EMP for Eaglehawk landfill	ADE Consulting Group (Vic) Pty Ltd	Debbie Wood	21 August 2020

	Price: Schedule of Rates	**Initial Term:** 3 Years	**Extension Options:** 2 Years (1 + 1)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $500,000.00			
CT000520	Provision of Sanitary Clearance Services for Various Public Buildings and Public Toilets	Flick Anticimex Pty Ltd	Debbie Wood	24 August 2020
	Price: 30,445.87	**Initial Term:** 3 Years	**Options:** 2 years (1 X 2)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $35,000.00			
CT000525	Processing of Timber and Green Waste for the City of Greater Bendigo	Bullmore Pty Ltd	Paul Gangell (Acting Director)	1 October 2020
	Price: Schedule of Rates	**Initial Term:** 2 Years	**Extension Options:** 2 Years (1 + 1)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $200,000.00			
CT000523	Provision of Tree Management and Maintenance Services	Panel of Providers Wood4Good Pty Ltd WM Environmental United Arboricultural Services Tree Tactics Pty Ltd Tree Business Total Tree Solutions Joeys Tree Services Homewood Consulting Pty Ltd Hickmans Pty Ltd Electrical Resource Providers Pty Ltd ENSPEC Pty Ltd Arborspray Pty Ltd	Craig Niemann	10 September 2020
	Price: Schedule of Rates	**Initial Term:** 3 Years	**Extension Options:** 2 Years (1 + 1)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $1,400,000.00			
CT000519	Provision of Infrastructure Design and Survey Services	Panel of Providers 360 Degree Surveying Pty Ltd Afflux Consulting Pty Ltd Alluvium Consulting Australia CardnoTMG Engeny Water Management Ground Science Pty Ltd Landform Civil Design Pty Ltd Regional Management Group Pty Ltd Rural Works Pty Ltd Safe System Solutions Pty Ltd SGP Consulting Engineers Pty Ltd Sheldon Consulting Engineers Pty Ltd Spiire SPORTENG Terraco Pty Ltd Tomkinson Group Total Property Developments Trafficworks Water Technology Pty Ltd	Debbie Wood	23 September 2020

	Price: Schedule of Rates	**Initial Term:** 3 Years	**Extension Options:** 2 Years (1 + 1)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $150,000.00			
CT000526	Provision of EPA Approved Environmental Auditors	Panel of Providers Tonkin & Taylor Pty Ltd EHS Support Pty Ltd Cardno Victoria Pty Ltd Australian Environmental Auditors Pty Ltd Golder Associates Pty Ltd Environmental Resources Management	Debbie Wood	14 October 2020
	Price: Schedule of Rates	**Initial Term:** 5 Years	**Extension Options:** 2 Years (1 + 1)	
	Current annual Council Budget for the goods/services contracted via this schedule of rates is $100,000.00			

20. URGENT BUSINESS

21. NOTICES OF MOTION

22. COUNCILLORS' REPORTS

23. MAYOR'S REPORT

24. CHIEF EXECUTIVE OFFICER'S REPORT

25. CONFIDENTIAL (SECTION 66) REPORTS

That Council close the meeting to members of the public pursuant to Section 66(2)(a) of the Local Government Act 2020 to consider a report relating to Council business information.