

Agenda

Council Meeting
Wednesday 22 February 2023 at 7pm
Gisborne Administration Centre
40 Robertson Street, Gisborne

Table of contents

1	Acknowledgement of Country	4
2	Recording of live streaming of this Council meeting	4
3	Present	4
4	Apologies	4
5	Conflicts of interest	4
6	Petitions	5
6.1	Petition in Relation to a Bitumen Upgrade to Adamson Street, Malmesbury	5
7	Deputations and presentations to Council	6
8	Adoption of minutes	6
9	Mayor's report	7
9.1	Mayor's Report - December 2022 to February 2023	7
10	Record of meetings of Councillors and Council staff	11
10.1	Record of Meetings of Councillors and Council Staff - December 2022 to February 2023	11
11	Director Planning and Environment reports	19
PE.1	Application for Planning Permit PLN/2013/349/B - Two Lot Subdivision - 12 Morrow Road East, New Gisborne - (Amendment Sought to Alter Access to Lot 1)	19
PE.2	PLN/2022/243 - 78 Old Lancefield Road, Woodend North - Use and development of the site for a Respite Day Care Centre, Caretakers House and associated building	57
PE.3	Feasibility and Options to Remove Development Plan Overlay 24 - Lancefield Development Plan Areas	87
12	Chief Executive Officer reports	93
CX.1	Recognition of Australia Day Honours Recipients	93
13	Director Corporate reports	94
COR.1	Updated Instruments of Delegation and Terms of Reference - Planning Delegated and Submitters Delegated Committees	94
COR.2	Contracts to be Awarded February 2023	109

COR.3 Quarterly Report for period ending 31 December 2022 and Mid-Year Budget Review.....	111
COR.4 Instrument of Appointment and Authorisation	114
COR.5 Delegated Committee Meeting Dates	123
COR.6 Motions for the Municipal Association of Victoria State Council and the National General Assembly of Local Government	125
14 Director Community reports.....	132
Nil	
15 Director Assets and Operations reports	133
AO.1 Public Toilet and Barbecue Strategy.....	133
AO.2 Capital Works Monitoring.....	138
16 Notices of motion and rescission	145
No. 1/2022-23: Notice of Motion - National Feral Deer Action Plan	145
No. 2/2022-23: Notice of Motion - Ash Wednesday Fires 40th Anniversary	146
No. 3/2022-23: Notice of Motion - Ukraine War	147
17 Urgent business	148
18 Confidential reports	148
Nil	

1 ACKNOWLEDGEMENT OF COUNTRY

Macedon Ranges Shire Council acknowledges the Dja Dja Wurrung, Taungurung and Wurundjeri Woi Wurrung Peoples as the Traditional Owners and Custodians of this land and waterways. Council recognises their living cultures and ongoing connection to Country and pays respect to their Elders past, and present.

Council also acknowledges local Aboriginal and/or Torres Strait Islander residents of Macedon Ranges for their ongoing contribution to the diverse culture of our community.

2 RECORDING OF LIVE STREAMING OF THIS COUNCIL MEETING

This meeting is being recorded and streamed live on the internet, in accordance with Council's 'Live Streaming and Publishing Recordings of Meetings' policy, which can be viewed on Council's website.

3 PRESENT**4 APOLOGIES****5 CONFLICTS OF INTEREST**

6 PETITIONS

6.1	PETITION IN RELATION TO A BITUMEN UPGRADE TO ADAMSON STREET, MALMSBURY
Officer:	Lucy Webb-Wilson, Senior Governance Officer - Council Business
Council Plan relationship:	4. Delivering strong and reliable government

Summary

A petition has been received from Brendan Graham a resident of Malmsbury on behalf of 11 residents of Adamson Street, Malmsbury stating:

We, the residents of Adamson Street, Malmsbury request bitumen upgrade works in Adamson Street between Mollison and Drake Streets (as attended in Orr Street) to address the dust issues, potholes, and subsequent noise.

Constant grader workers are ineffective, lasting only days before potholes reappear. It is becoming not only intolerable but dangerous with Adamson Street traffic crossing to the wrong side of the road at the Mollison Street intersection to avoid the potholes affecting traffic turning from the highway into Adamson Street. In addition, motor vehicle damage has become an issue.

We the undersigned are prepared to negotiate a reasonable contribution towards this upgrade similar to the neighbouring Orr Street bitumen.

Residents are keen to attend on onsite meeting to discuss further action.

Recommendation**That Council:**

- 1. Notes the petition from the residents of Adamson Street, Malmsbury requesting bitumen upgrade works in Adamson Street between Mollison and Drake Streets;**
- 2. Notes that the petition has been circulated to all Councillors confidentially as it contains personal information; and**
- 3. Requests the Director Assets and Operations to prepare a report in response to this petition to be presented to Council by the April 2023 Council Meeting.**

7 DEPUTATIONS AND PRESENTATIONS TO COUNCIL

8 ADOPTION OF MINUTES

Recommendation

That Council confirms the minutes of the Scheduled Council Meeting of Macedon Ranges Shire Council held on 14 December 2022, as circulated.

9 MAYOR'S REPORT**9.1 MAYOR'S REPORT - DECEMBER 2022 TO FEBRUARY 2023****Summary**

This report provides an update from the Mayor on recent Council activities and initiatives of a shire wide nature.

Recommendation

That Council receives and notes the Mayor's report.

Mayor's report

Welcome to the first scheduled meeting of Macedon Ranges Council for 2023.

It has been a busy and productive start to what is set to be a big year. There have also been significant announcements for our shire.

We have been very excited to see progress of the Macedon Ranges Sports Precinct project. If you have recently travelled past the site, you will have noticed that framing of the building is underway, including construction of the stadium walls. The earthworks have also started on the sports pavilion site, following the lengthy delays accessing the area due to wet weather conditions in late 2022. For progress updates and the latest information, please visit council's website: <https://www.mrsc.vic.gov.au/About-Council/Projects-and-works/Projects-and-initiatives/Macedon-Ranges-Regional-Sports-Precinct>

Benetas and Intereach have been awarded contracts by the Australian Government to transition delivering aged care services currently provided by Council. Council's priority is to ensure existing clients and council staff are fully supported throughout the transition. Councils Transition Project Officer will be available to assist with any queries.

Another significant announcement is the proposal to upgrade existing seniors housing in Lancefield. This consists of 12 new unit developments in partnership with Homes Victoria and Wintringham Housing Limited. This project is funded by the Homes Victoria \$5.3billion Big Housing Build. It is aligned with our Council Plan and is also a key priority in Councils' Advocacy Strategy. As cost-of-living pressures are increasing, this is an opportunity to provide a safe home to residents potentially in need of assistance. Council is advertising a Notice of Intention to Lease the site to Wintringham for a 20-year term and welcomes feedback from the community on this initial proposal.

We were also thrilled to see Woodend ranked the most liveable town in regional Victoria. The analysis by PwC used a range of liveability metrics from employment and transport to entertainment and family amenities. Woodend showcases much of what is also present in the rest of the shire: a vibrant centre, well supported community events like the Woodend Winter Arts Festival, regular markets showcasing the best of local produce and of course the beautiful surrounds of the natural environment to enjoy. Clearly this formula works well in the Macedon Ranges – as we had three towns in the top 20 with Riddells Creek at number 9 and Mount Macedon at 14. We welcome any visitors and potential new residents to explore these towns and all the Macedon Ranges has to offer.

I would like to report to our community that the budget process is in full swing. Councillors are already undertaking workshops based on work by the executive leadership and officers throughout January and February. There are many considerations for the 23/24FY budget

with escalating costs and ongoing storm and flood recovery management. The draft budget is scheduled to be considered in April for endorsement for community consultation and input.

Thanks to those that have already provided submissions during the community consultation process in late 2022.

I would like to take this opportunity to highlight some of the most recent happenings around the shire.

- **Australia Day Celebrations**

Communities across the shire gathered together to mark Australia Day with a range of special events. I was pleased to celebrate the achievements and contributions of some of our well-deserving residents and groups at the Australia Day Award Ceremony held at the Kyneton Town Hall. Like all of those in attendance, I was inspired by the significant achievements and voluntary contributions of this year's award recipients.

Prior to this special event, 29 residents made a formal pledge to become Australian citizens. Together with my fellow Councillors and the CEO, I welcomed the new citizens who now take on the privileges and responsibilities of being an Australian citizen.

We acknowledge this is a difficult day for many in our community, especially our First Nations residents. Our Reconciliation Action Plan is due for review this year and as part of that, we'll consider how we mark this day in future years in consultation with Traditional Owners, relevant First Nations communities and the community more broadly.

- **2023 Youth Holiday Program**

Many of our young residents participated in Council's 2023 Youth Holiday Program during the school holidays. As part of the program, YMCA hosted a skate/scooter/BMX competition at the Gisborne Skate Park on 21 January. Other events throughout the month included pool parties at Lancefield and Woodend, BBQs at Romsey and Kyneton skate parks, and a live music event in Riddells Creek.

- **School Holiday Activities**

Council hosted numerous activities over the school holidays to keep our young residents engaged. Activities included:

- Inflatable pool fun sessions and intensive swim lessons at both the Gisborne and Kyneton aquatic centres;
- Pool parties at the Lancefield and Woodend swimming pools;
- Story Walks - a fun and educational activity that places a children's story along a popular walking route in the community;
- Riddells Creek Youth Stage featuring live music from local artists; and family interactive workshops in the Kyneton Town Hall.

- **Events**

Councillors were pleased to be invited to the following events/meetings in January and February:

Commemoration of the 40th anniversary of the Ash Wednesday bushfires

The Mount Macedon Uniting Church held a service on Thursday 16 February to commemorate this significant event for the Macedon Ranges. This church was one of 628 buildings destroyed across the region from East Trentham to Mount Macedon. Locally, seven people died with a total of 75 across Victoria and South Australia.

Woodend Campaspe Park Run – 100th Event

On Saturday 11th February, Woodend's Campaspe Park run celebrated its 100th event. Council is pleased to have provided initial funding when this event began in 2019. It has taken longer than usual to reach this milestone due to Covid lockdowns and flooding damage over the course. Thank you to: council staff who maintain the path and surrounding land, Landcare for their weed management along five-mile creek, and all the volunteers who have made park run (now called 'Park Run and Park Walk' held every Saturday at 8am), such a success.

Woodend Golf Club

I was really pleased to attend one of Woodend Golf Club's major events on Saturday February 11 and to congratulate Woodend on being the 2022 Club of the Year against Victoria-wide opposition.

We have plenty of drawcard golf courses in the Macedon Ranges, and council acknowledges the great job volunteers do in keeping them operating so well.

There's plenty of reasons for golfing enthusiasts to come to our area and see what Woodend and the other courses have to offer. With renovations to the golf clubhouse to begin, the upgrades will generate not only a great venue for members but for our community too.

Other events and meetings attended by Councillors included:

- Community health and support event at Lancefield Neighbourhood House on 24 January
- General meeting of the Macedon Ranges Rural Australians for Refugees in Woodend on 2 February
- Welcome to Country ceremony at the Kyneton Police Station on 7 February
- Workspace Australia Board Meeting in Bendigo on 9 February
- Community celebration of the completion of the Romsey Ecotherapy Park on 12 February
- Macedon Ranges Accessible Art exhibition as part of Victoria's pride in Kyneton on 12 February
- Councillor Listening Post at Riddells Creek Farmers Market on 18 February
- 1st Riddells Creek Scout Group launch event on 7 February

Current consultations

- Customer Service Charter: Submissions close at 5:00pm on 28 February 2023.
The purpose of the Charter is to explain how we provide and maintain a high standard of customer service and to define processes; timeframes; expectations; management of requests for service consistently; recording and analysis of data to identify trends and to improve services and how we communicate with you.
- New social housing development for Lancefield. Submissions close at 5:00pm on 28 February 2023.

I encourage residents to have their say in these important community consultations.

Mayor Death

Macedon Ranges Shire Council

10 RECORD OF MEETINGS OF COUNCILLORS AND COUNCIL STAFF**10.1 RECORD OF MEETINGS OF COUNCILLORS AND COUNCIL STAFF - DECEMBER 2022 TO FEBRUARY 2023****Summary**

Rule 66(d) of Council's Governance Rules requires the written record of meetings is, as soon as practicable, reported at a scheduled meeting of Council and incorporated in the minutes of that Council meeting. This report provides a summary of meetings of Councillors and Council staff held since the last Council Meeting.

Recommendation

That Council receives and notes the record of meetings of Councillors and Council staff, as outlined in this report.

Record of meetings

Type of meeting	Councillor Briefing
Date and time	13 December 2022 9:00am
Venue	Gisborne Administration Centre
Present - Councillors	<ul style="list-style-type: none"> • Cr Annette Death (Mayor) • Cr Jennifer Anderson (Deputy Mayor) • Cr Dominic Bonanno • Cr Rob Guthrie • Cr Anne Moore • Cr Geoff Neil • Cr Janet Pearce • Cr Mark Ridgeway • Cr Bill West
Apologies - Councillors	NIL
Present - officers	<ul style="list-style-type: none"> • Bernie O'Sullivan, Chief Executive Officer • Rebecca Stockfeld, Director Planning and Environment • Adele Drago-Stevens, Director Corporate • Maria Weiss, Director Community • Shane Walden, Director Assets and Operations • Evert Grobbelaar, Manager Statutory Planning • Travis Harling, Manager Finance and Reporting

	<ul style="list-style-type: none"> • Lauren Wall, Manager Communications and Engagement • Colin Marshall, Manager Facilities and Operations • Patricia Clive, Coordinator Governance • Awais Sadiq, Coordinator Statutory Planning • Leanne Khan, Coordinator Strategic Planning • Bodey Dittloff, Coordinator Communications • Lucy Webb-Wilson, Senior Officer Governance (Council Business) • Dannielle Orr, Heritage Planner
Apologies officers	<ul style="list-style-type: none"> • Rob Ball, Manager Strategic Planning and Environment
Presenters	<ul style="list-style-type: none"> • Luke Heine (KPMG) • Dina Shehada (KPMG) • Michael Sandbach (KPMG) • James Walsh (Macedon Ranges Agriculture Alliance) • Daniel McKenna • Peter Matthews (Chair of Audit and Risk Committee)
Items discussed	<ul style="list-style-type: none"> • CEO & Councillor only session • Budget 2023/24 • Policy Plans & Strategies Update KPMG • Presentation by Macedon Ranges Agriculture Alliance & Victorian Farmers Federation • Final Draft Thematic Environmental History • Planning Matters including: -PLN/2015/204 2-4 Davy Street Woodend -PLN/2017/314/A – 1041 Ashbourne Road, Woodend • Councillor Only Briefing with Peter Matthews • Councillor Engagement Program • Bluestone Bridges & Culverts – Long term financial plan renewal gap • Confidential discussion • Agenda Review for 14 December Council Meeting • Other business
Conflicts of interest declared by Councillors and record of them leaving the meeting when the matter	<p>Cr Anderson declared a general conflict with 2-4 Davy Street in planning matters.</p> <p>Did they leave the meeting? Yes – 12:22pm-12:30pm</p>

about which they declared the conflict of interest was discussed	
Conflicts of interest declared by officers	NIL Did they leave the meeting? N/A

Type of meeting	Councillor Briefing
Date and time	31 January 2023 9:00am
Venue	Gisborne Administration Centre
Present - Councillors	<ul style="list-style-type: none"> • Cr Annette Death (Mayor) • Cr Jennifer Anderson (Deputy Mayor) • Cr Dominic Bonanno • Cr Rob Guthrie • Cr Geoff Neil • Cr Janet Pearce • Cr Mark Ridgeway • Cr Bill West
Apologies - Councillors	<ul style="list-style-type: none"> • Cr Anne Moore
Present - officers	<ul style="list-style-type: none"> • Bernie O'Sullivan, Chief Executive Officer • Rebecca Stockfeld, Director Planning and Environment • Adele Drago-Stevens, Director Corporate • Maria Weiss, Director Community • Shane Walden, Director Assets and Operations • Evert Grobbelaar, Manager Statutory Planning • Lauren Wall, Manager Communications and Engagement • Eng Lim, Manager Engineering and Resource Recovery • Simon Finlay, Manager Open Space and Recreation • Emma Orchard, Manager Children, Youth and Family Services • Rob Ball, Manager Strategic Planning and Environment • Patricia Clive, Coordinator Governance • Leanne Khan, Coordinator Strategic Planning • Awais Sadiq, Coordinator Statutory Planning

	<ul style="list-style-type: none"> • Leanne Khan, Coordinator Strategic Planning • Dean Frank, Coordinator Recreation • Hayley Drummond, Coordinator Property and Valuations • Christo Crafford, Coordinator Statutory Planning • Lucy Webb-Wilson, Senior Officer Governance (Council Business) • Michelle Nolte, Project Officer - Recreation PPT • Asok Rao, Strategic Planner • Daniel Hall, Graduate Strategic Planner
Apologies officers	<ul style="list-style-type: none"> • NIL
Presenters	<ul style="list-style-type: none"> • Richard Simon (Simon Leisure Consulting)
Items discussed	<ul style="list-style-type: none"> • CEO & Councillor only session • Road Safety & Mobility Strategy for Consultation • Introduction to Master Plans • Gilbert Gordon Oval Master Plan for Endorsement • Romsey Recreation Master Plan for Endorsement • Kyneton Showground Master Plan for Endorsement • Capital Works Monitoring Update • CFA proposal Riddells Creek Recreation Reserve • Ross Watt Children's Hall • Planning Scheme Amendment C145macr – Environmental Significance Overlay Schedule 4 – Consideration of Submissions • DPO24 • Planning Scheme Policy Translation • Planning Matters including: -PLN/2022/410 – 78 Mullallys Road Bolinda -PLN/2022/3 – Jennings Street Kyneton • Planning Delegated Committee Meeting Agenda Review • Other business • Group meetings between Ward Councillors and Lauren Wall to discuss listening post dates
Conflicts of interest declared by Councillors and record of them leaving the meeting when the matter about which they declared	<p>Cr Anderson declared a general conflict with item 8.5 (2-4 Davy Street) in Planning Delegated Committee Meeting Agenda review.</p> <p>Did they leave the meeting? Yes – 2:23pm-2:24pm</p>

the conflict of interest was discussed	
Conflicts of interest declared by officers	NIL Did they leave the meeting? N/A

Type of meeting	Councillor Briefing
Date and time	7 February 2023 8:30am
Venue	Gisborne Administration Centre
Present - Councillors	<ul style="list-style-type: none"> • Cr Annette Death (Mayor) • Cr Jennifer Anderson (Deputy Mayor) • Cr Dominic Bonanno • Cr Rob Guthrie • Cr Anne Moore • Cr Geoff Neil • Cr Janet Pearce • Cr Mark Ridgeway • Cr Bill West
Apologies - Councillors	NIL
Present - officers	<ul style="list-style-type: none"> • Bernie O'Sullivan, Chief Executive Officer • Rebecca Stockfeld, Director Planning and Environment • Adele Drago-Stevens, Director Corporate • Maria Weiss, Director Community • Shane Walden, Director Assets and Operations • Evert Grobbelaar, Manager Statutory Planning • Rob Ball, Manager Strategic Planning and Environment • Travis Harling, Manager Finance and Reporting • Patricia Clive, Coordinator Governance • Awais Sadiq, Coordinator Statutory Planning • Sean Morley, Coordinator Accounting • Lucy Olson, Senior Officer Governance (Council Business) • John Perry, Statutory Planning Officer
Apologies officers	<ul style="list-style-type: none"> • NIL
Presenters	<ul style="list-style-type: none"> • Andrew Gray (Anglican Aged Care Service Group)

	<ul style="list-style-type: none"> • Bruce Webb (Anglican Aged Care Service Group) • Michael Jefferson (Anglican Aged Care Service Group) • Nick Mason (Anglican Aged Care Service Group)
Items discussed	<ul style="list-style-type: none"> • Monthly Councillor Only Session • Councillor & CEO Only Session • Mid-Year Budget Review • Macedon Ranges Shared Trail Project • Planning Delegated Committee Meeting Agenda Review • Council Endorsed Recognition Days • Presentation by Anglican Aged Care Service Group (Benetas Retirement Village) • Proposed Amendment C148macr – Amess Road Precinct Structure Plan and Development Contributions Plan • Planning Matters including: -PLN/2022/338 Hollywood, Trentham Road Kyneton • Agenda Review for 22 February Council Meeting (2 weeks prior to the meeting) • Other business
Conflicts of interest declared by Councillors and record of them leaving the meeting when the matter about which they declared the conflict of interest was discussed	<p>NIL</p> <p>Did they leave the meeting? N/A</p>
Conflicts of interest declared by officers	<p>NIL</p> <p>Did they leave the meeting? N/A</p>

Type of meeting	Councillor Briefing
Date and time	14 February 2023 9:00am
Venue	Gisborne Administration Centre
Present - Councillors	<ul style="list-style-type: none"> • Cr Annette Death (Mayor) • Cr Jennifer Anderson (Deputy Mayor) • Cr Dominic Bonanno • Cr Rob Guthrie • Cr Anne Moore

	<ul style="list-style-type: none"> • Cr Geoff Neil • Cr Janet Pearce • Cr Mark Ridgeway • Cr Bill West
Apologies - Councillors	NIL
Present - officers	<ul style="list-style-type: none"> • Bernie O'Sullivan, Chief Executive Officer • Rebecca Stockfeld, Director Planning and Environment • Adele Drago-Stevens, Director Corporate • Maria Weiss, Director Community • Shane Walden, Director Assets and Operations • Rob Ball, Manager Strategic Planning and Environment • Evert Grobbelaar, Manager Statutory Planning • Travis Harling, Manager Finance and Reporting • Sarah Annells, Manager Safer Communities • Allie Jalbert, Coordinator Local Laws • Louise Dewberry, Acting Coordinator Strategic Planning • Isobel Maginn, Senior Strategic Planner • Lucy Olson, Senior Officer Governance (Council Business) • Damien Hodgkins, Senior Statutory Planning Officer • Jack Wiltshire, Strategic Planner
Apologies officers	<ul style="list-style-type: none"> • Patricia Clive, Coordinator Governance
Presenters	NIL
Items discussed	<ul style="list-style-type: none"> • CEO & Councillor only session • Budget 2023/24 Workshop 1 • Gisborne Futures Update #2 • Monthly Capex Monitoring Report • Planning Matters including: -Ross Watt Road Development Plan -Mount Gisborne Communications Tower -106 Edgecombe Road Kyneton - PLN/2022/421 85 Harpers Lane Kyneton - 46 James Patrick Way • Consultation of Local Law Review • Kyneton Saleyards Financial Assessment

	<ul style="list-style-type: none">• Other business
Conflicts of interest declared by Councillors and record of them leaving the meeting when the matter about which they declared the conflict of interest was discussed	<p>Cr Guthrie declared a general conflict 89 Ross Watt Road in Planning Matters. He previously advised the Chief Executive Officer in writing of the conflict of interest as he lives opposite the site.</p> <p>Did they leave the meeting? Yes – 12:22pm-12:44pm</p> <p>Cr Ridgeway declared a general conflict with 85 Harpers Lane in Planning Matters because he is friends with two of the objectors to the application.</p> <p>Did they leave the meeting? Yes – 1:09pm-1:33pm</p>
Conflicts of interest declared by officers	<p>NIL</p> <p>Did they leave the meeting? N/A</p>

11 DIRECTOR PLANNING AND ENVIRONMENT REPORTS

PE.1	APPLICATION FOR PLANNING PERMIT PLN/2013/349/B - TWO LOT SUBDIVISION - 12 MORROW ROAD EAST, NEW GISBORNE - (AMENDMENT SOUGHT TO ALTER ACCESS TO LOT 1)
Officer:	Christo Crafford, Coordinator Statutory Planning
Council Plan relationship:	3. Improve the built environment
Attachments:	1. Locality/Aerial plan ↓ 2. Existing and Proposed plans ↓ 3. Arborist report ↓
Applicant:	Terrence Komarnicki
Date of receipt of application:	25 July 2022
Trigger for report to Council	Councillor call in

Summary

The application is to amend the original 2 lot subdivision permit. The proposal will reduce the access width from 20 metres to 10 metres. This will result in Lot 1 size of 7844m² (previously 9222m²) and Lot 2 size of 1.25 hectares (previously 1.124 hectares).

No other aspect of the proposal would be changed including the retention of the building and effluent envelopes on Lot 1 exactly as before and the 3m wide landscaping strip along the western and northern boundaries would remain as before.

Key issues to be considered relate to the appropriateness of the proposal under the Low Density Residential Zone while considering the surrounding landscape.

The application was advertised. One (1) objection has been received to date.

The application has been assessed against the Macedon Ranges Planning Scheme and is considered appropriate. It is recommended that a Notice of Decision to Grant a Permit be issued.

Recommendation

That a Notice of Decision to Amend Permit PLN/2013/349/B be issued for the land at 12 Morrow Road East, New Gisborne being CA M Section 34 TP 523282H P/Gisborne subject to the following amended conditions:

Conditions to be included on Planning Permit

- Before the plan of subdivision is certified under the Subdivision Act 1988, three copies of 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 this permit. The plan must show:**

- (a) The area along the western and northern property boundaries of Lot 1 must be landscaped with appropriate species to provide screening and minimise any loss of amenity to the adjoining neighbours from the proposal.
 - (b) A 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.
 - (c) Timing of planting.
 - (d) Maintenance schedule.
 - (e) All species must be to the satisfaction of the Responsible Authority.
2. The subdivision allowed by this permit and shown on the plans endorsed to accompany the permit shall not be amended for any reason unless with the prior written consent of the Responsible Authority.
3. Before the plan of subdivision is certified under the Subdivision Act 1988, the owner of the lot must enter into an amended agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act 1987. The amended agreement must provide for:
- (a) Make reference in all instances to Planning Permit number PLN/2013/349/B instead of PLN/2013/349.
 - (b) The two (2) plans forming part of the agreement must be replaced with the endorsed plans to Planning permit PLN/2013/349/B.
- Prior to a Statement of Compliance being issued:
- (a) Application must be made to the Registrar of Titles to register the amended Section 173 Agreement on the title to the land under Section 181 of the same Act.
 - (b) The owner/s must pay all costs (including Council's costs) associated with the preparation, execution, registration and (if later sought) cancellation of the amended Section 173 Agreement.
4. Before the issue of a Statement of Compliance for the subdivision under the Subdivision Act 1988, a development contribution of \$410.35 per additional allotment (as at July 2013) must be paid to the Responsible Authority in accordance with the Gisborne Development Contributions Plan, July 2013. Prior to payment of the contribution, the amount payable will be adjusted on 1 July each year in accordance with Schedule 2 of Clause 45.06 of the Macedon Ranges Planning Scheme.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas, and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
6. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

- 7. 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.**
- 8. Prior to a dwelling on Lot 1 being occupied, the landscape works shown on the endorsed plans must be carried out, completed and thereafter maintained to the satisfaction of the Responsible Authority.**

Melbourne Water Conditions

- 9. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.**
- 10. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.**

Greater Western Water Conditions

- 11. Payment of new customer contributions for each lot created by the development, such amount being determined by Western Water at the time of payment;**
- 12. Provision of reticulated water and associated construction works to each allotment, at the developer's expense and to the satisfaction of Western Water;**
- 13. Any existing water service which crosses any of the proposed allotment boundaries within the proposed development must be disconnected and relocated at the developer's expense, to be wholly within one allotment only and to the satisfaction of Western Water;**
- 14. The operator under this permit shall be obliged to enter into an Agreement with Western Water relating to the design and construction of any water works required. The form of such Agreement shall be to the satisfaction of Western Water. The owner/applicant shall make a written request to Western Water for the terms and conditions of the agreement.**

Mandatory Telecommunications Conditions

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

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

Powercor Conditions

17. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
18. The applicant shall:-
 - Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor.
 - Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria's Electrical Safety System.
 - The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.
 - Any buildings must comply with the clearances required by the Electricity Safety (Network Assets) Regulations.
 - Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.

MRSC Engineering Conditions

19. Before the plan of subdivision is certified under the Subdivision Act 1988, Engineering Plans must be submitted to and approved by Responsible Authority including payment of plan checking and supervision fees. The plans must include:
 - (a) All necessary computations and supporting design documentation for any structure, civil and drainage infrastructure and geotechnical investigation report.
 - (b) Details of any cut and fill earthworks.
 - (c) A new vehicle crossing for Lot 1. Crossings are to be a minimum of 10.0m from any intersection, 1.0m from any power pole, sign or service pit and an absolute minimum of 3.0m from any street tree. Crossings must be sealed when connecting to a sealed road.
 - (d) Provision for all services and conduits (underground) including alignments and offsets.
 - (e) Stormwater drainage to Lot 1 in the subdivision.

Prior to issue of a Statement of Compliance, all works shown on the approved Engineering Plans must be constructed or carried out all to the satisfaction of the Responsible Authority.

20. The subdivision is to be provided with a drainage system to a design approved by the Responsible Authority and such that:
- (a) The subdivision as a whole is provided with legal point/s of discharge approved by the Responsible Authority and any other statutory authority from which approval must be received for the discharge of drainage.
 - (b) All drainage courses within the subdivision must pass through easements.
 - (c) All drainage courses or outfall drainage lines required to the legal point/s of discharge and which pass through lands other than those within the boundaries of the subdivision shall be constructed at the cost of the applicant and the applicant shall secure adequate easements for such drainage to be constructed within. All new drainage is to be connected via underground piping into Council's existing drainage network.
21. Prior to any development works being undertaken, an 'Asset Protection Permit' must be obtained from Council for any of the following:
- (a) Works within Council road reserves or on Council assets including crossover construction;
 - (b) Construction access into a building site from a Council road with a motor vehicle having a gross weight exceeding two tonnes.
22. The subdivision is to be constructed in accordance with Macedon Ranges Shire Council's Policy Engineering Requirements for Infrastructure Construction (June 2010).
23. The applicant/owner shall restrict sediment discharges from any construction sites within the property in accordance with Construction Techniques for Sediment Pollution Control (EPA 1991) and Environmental Guidelines for Major Construction Sites (EPA 1995).

MRSC Health Conditions

24. Prior to the occupation, the dwelling on proposed Lot 1 shall be fitted with a package wastewater treatment plant or a system that could produce water quality equivalent to the 20/30 standard for BOD and Suspended Solids. The septic tank system shall be of a design approved by Council's Health Officer and shall be operated, maintained and replaced where necessary to the satisfaction of Council's Health Officer. A separate permit must be obtained from Council's Health Department prior to its installation.

Tree Protection Conditions

25. All the tree protection requirements as stipulated in the arborist report prepared by Nuleaf Tree Services dated 30th May 2022 endorsed and forming part of this permit must be implemented before, during and after construction of the subdivision as recommended by the report.

Permit Expiry:

26. This permit will expire if one of the following circumstances applies:
- (a) The plan of subdivision is not certified within two years of the date of this permit.
 - (b) The plan of subdivision is not registered at Land Registry within five years of the certification of the subdivision.

In accordance with Section 69 of the Planning and Environment Act 1987 an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Permit Note:

- Future owners of the land must be made aware of the existence of this permit.

Melbourne Water Note:

- If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9679 7517, quoting Melbourne Water's reference 234607.

Existing conditions and relevant history

Subject land

The subject site is located on the northern side of Morrow Road East, approximately 1km north-east of Gisborne Township. It is located on the southern slope of Magnet Hill on the eastern side of the Calder Freeway.

The subject site is 2.03 hectares in size and rectangular in shape with a frontage of approximately 101m to Morrow Road East. It is largely clear of significant vegetation (excluding planted garden plants around the existing dwelling). There is a single storey brick dwelling and associated outbuildings to the south-east part of the site. The dwelling is well setback from property boundaries and surrounded by trees and a garden. The northern portion is clear of vegetation, with vehicular access is gained via an existing gravel driveway and crossover off Morrow Road East.

Surrounds

The immediate area to the north and east are similarly zoned Low Density Residential Zone. The nearby lots range from 0.5 to 2 hectares in size and developed with dwellings associated with the rural context of the area. Land to the west are zoned Rural Living Zone Schedule 2, similarly developed with low scale dwellings on lots of approximately 2 hectares in size.

Registered restrictive covenants and/or Section 173 Agreements affecting the site

The title provided with the application shows the property is encumbered by a Section 173 Agreement Details of the encumbrances' registered on title are as follows:

7. Owner's covenants

The Owner covenants and agrees as follows:

7.1 Buildings and works

No buildings and works shall be constructed outside the building envelope of Lot 1 shown on the endorsed plans unless with the prior written consent of the Council.

7.2 Effluent treatment

All effluent treatment shall be carried out within the effluent disposal envelope shown on the endorsed plans and in accordance with the endorsed Land Capability Assessment, unless with the prior written consent of the Council.

The proposal does not contravene the covenant. No buildings or works are proposed as part of this application and any future works are to remain consistent with the marked effluent disposal area and endorsed land capability assessment report.

The Section 173 Agreement would have to be updated though so that the plan that forms part of the agreement reflects the amended driveway width.

Previous planning permit history

A search of Council's records has found the following permit history:

Permit No.	Description
PLN/2013/349	2 Lot Subdivision
PLN/2013/349/A	Increase the existing two (2) lot subdivision to three (3) lots

Proposal

The application proposes the reduction of the access for proposed Lot 1 from 20m to 10m wide. This will result in Lot 1 size of 7844m² (previously 9222m²) and Lot 2 1.25 hectares (previously 1.124 hectares).

Relevant Macedon Ranges Planning Scheme controls

Section 46AZK of the Planning and Environment Act 1987

Section 46AZK of the Planning and Environment Act 1987 and Clause 51.07 of the Macedon Ranges Planning Scheme require Council as a Responsible Public Entity to not act inconsistently with any provision of the Statement of Planning Policy (SOPP) in exercising decision making powers. Attachment 1 contains the officer assessment against the SOPP.

Planning Policy Framework

Clause no.	Clause name
11	Settlement
12	Environment and Landscape Values
15	Built Environment & Heritage
16	Housing
16.01-4	Housing Diversity

Local Planning Policy Framework

Clause no.	Clause name
21.04	Settlement
21.08	Built environment
21.09	Housing
21.13-1	Gisborne and New Gisborne
22.05	Battle axe lot

Zoning

Clause no.	Clause name
32.03	Low Density Residential Zone

Overlay

Clause no.	Clause name
45.06	Development Contributions Plan Overlay Schedule 2

Particular provisions

Clause no.	Clause name
56	Residential subdivision

General provisions

Clause no.	Clause name
65.02	Approval of an application to subdivide land

Cultural Heritage Management Plan assessment

	Assessment criteria	Assessment response
1	Is the subject property within an area of cultural heritage sensitivity as defined within the cultural heritage sensitivity mapping or as defined in Part 2 Division 3 or 4 of the <i>Aboriginal Heritage Regulations 2018</i> ?	No
2	Does the application proposal include significant ground disturbance as defined in Part 1 Regulation 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	No
3	Is the application proposal an exempt activity as defined in Part 2 Division 2 of <i>Aboriginal Heritage Regulations 2018</i> ?	Yes
4	Is the application proposal a high impact activity as defined in Part 2 Division 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	No

Based on the above assessment, a cultural heritage management plan is not required in accordance with Part 2 Division 1 of *Aboriginal Heritage Regulations 2018*.

The process to dateReferral

Authority (Section 55)	Response
N/A	

Authority (Section 52)	Response
MRSC Engineering	Consented without stipulating conditions
MRSC Health	Consented without stipulating conditions
Melbourne Water	No response received.
Greater Western Water	No response received.
Powercor	No response received.

Advertising

The application was advertised to all adjoining owners and occupiers and one submission was received.

The submission raised the following concerns:

- The 20m wide width for the access was approved by Council and VCAT and should be retained.
- The amendment will impact on the street trees and result in a traffic safety issue.
- Lot 1 is likely to be used by heavy vehicles and operated as an earth moving business.

Officer comment on the concerns raised is provided further below.

Officer assessment

Proposal

The application proposes the reduction of the access for proposed lot 1 from 20m to 10m wide. This will result in Lot 1 size of 7844m² (previously 9222m²) and Lot 2 1.25 hectares (previously 1.124 hectares).

An amendment is required as condition 1 of the original permit states the following:

1. Before the plan of subdivision is certified under the Subdivision Act 1988, three copies of 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 this permit. The plans must be generally in accordance with the Proposed Subdivision plan dated 19 February 2014 prepared by Eric Salter Pty Ltd but modified to show:
 - a) The accessway shaft of Lot 1 must be a minimum of twenty (20) metres wide to avoid a 'gun barrel' effect and allow provision of landscaping along the western boundary.

Therefore as part of the amendment, and if approved, this condition would be removed with new plans reflecting the reduced access size for Lot 1 to be endorsed under the permit. This condition will be replaced with a condition requiring that Annexure A of the relevant Section 173 Agreement must be amended to be consistent with the plans to be endorsed.

It is understood that the purpose of the reduction in width is to reduce the "wasted" space in the driveway and instead allow for more usable space around the dwellings.

It is not proposed to alter the previously approved building or effluent envelopes. The building envelope on Lot 1 remains at 50m X 22.31m and at over 1100m² in size it is already sufficiently large to accommodate a large dwelling and shed.

No building has occurred on Lot 1 yet. No dwelling construction is permitted on Lot 1 until the subdivision receive Statement of Compliance and a separate title is issued.

Application history

The original application was for a 2 lot subdivision which was approved and is still valid. A subsequent application was then lodged to amend the permit to allow a 3 lot subdivision.

This application is to amend the original 2 lot subdivision permit as approved by Council rather than the subsequent 3 lot proposal considered and refused by Council & VCAT.

Zoning

The property is zoned Low Density Residential Zone (LDRZ) and covered by the Development Contribution Overlay Schedule 2 (DCPO2). The original permit trigger was under Clause 34.02-3 (for two lot subdivision) with the LDRZ and Clause 56 containing the

relevant assessment considerations. Only condition 1 of the original is to be amended and there are no new additional permit triggers. The proposal is considered to be still consistent with the LDRZ and relevant Clause 56 provisions.

Referrals

The main consideration here are the land and infrastructure impacts flowing from the proposed amendment to the Lot 1 accessway (which in turn impacts the sizes of the lots). Officers referred the application to both MRSC Engineering & MRSC Health. The Engineering Unit consented without stipulating any new, additional or amended infrastructure conditions and noting that the existing infrastructure conditions would be retained. It is noted that drainage issues were previously raised however the Engineering unit raised no concerns in relation to drainage matters. It is noted that the 2 lot subdivision permit to be amended does include drainage conditions which will all be retained.

The Health Unit consented without stipulating amended conditions.

Impact on character

With regards to the reduction in the width of the driveway from 20m down to 10m it is current officers' view that the proposed 10 metre wide driveway is still sufficiently wide enough to not have a detrimental impact on the "rural character" of the immediate area. The land is zoned Low Density Residential which is a residential zone rather than a rural zone – although it is acknowledged that the land immediately to the west is in the Rural Living Zone.

Although the Battle Axe policy in Clause 22 in the Planning Scheme is not applicable to land in the LDRZ it is noted that the standard driveway width required under this policy is 6 metres wide which allows for a 3 metre wide central driveway and 1.5 meter wide landscaping strips on either side.

It is officers' view that the proposed change in width from 20m to 10m wide for the access way would still allow for significant and meaningful landscaping in the driveway.

Concern regarding impact to neighbouring trees along driveway

The 3m wide landscaping strip along the western and northern boundaries will remain as contained in the current permit. During the application process officers raised concerns about potential impacts to neighbouring trees on the western side of the driveway. An arborist report was submitted as part of the application and contains recommendations to protect the neighbouring trees along the side of the driveway. An additional condition would be added requiring implementation of the arborist report recommendations.

Advertising and submission

The application was advertised to all adjoining owners and occupiers and one submission was received.

Below is a response to the submission received:

<u>Concern</u>	<u>Officer Response</u>
The 20m width was approved by Council and VCAT.	The 20m width was previously required by officers and not VCAT.
Impact on street tree and safety issue.	<p>The location of the street trees are such the reduction in the width of the driveway would not alter where the cross over should be constructed to minimise impact on the street trees.</p> <p>The Engineering Unit has raised no concerns with regards to access safety issues.</p>

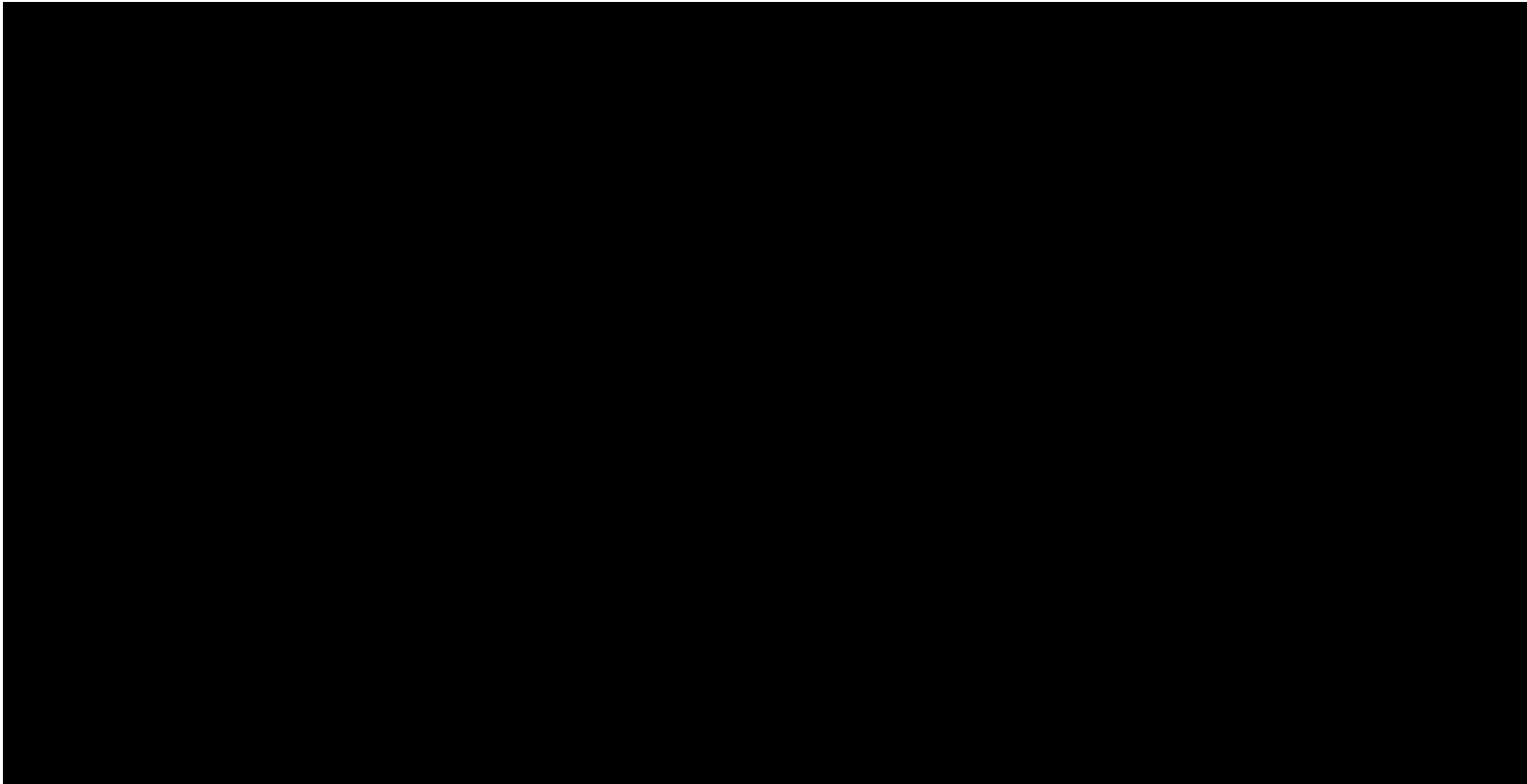

	<p>Detailed design may require the street tree furthest to the west to be removed/trimmed. The current permit is however still valid and changing the width of the accessway does not alter this requirement.</p> <p>There are other additional street trees further to the east as to what is shown on the objector's submission, so the location of the cross-over can realistically not be altered without impacting on more street trees.</p>
Lot 1 is likely to be used by heavy vehicles and operated as an earth moving business.	<p>This concern raises issues about the potential future use of Lot 1 rather than the reduction in width of the subdivision which is currently under consideration and is therefore not considered a valid objection.</p> <p>An earth moving business would nevertheless not be permitted to operate from the site in any event given its residential zoning.</p>

Conclusion

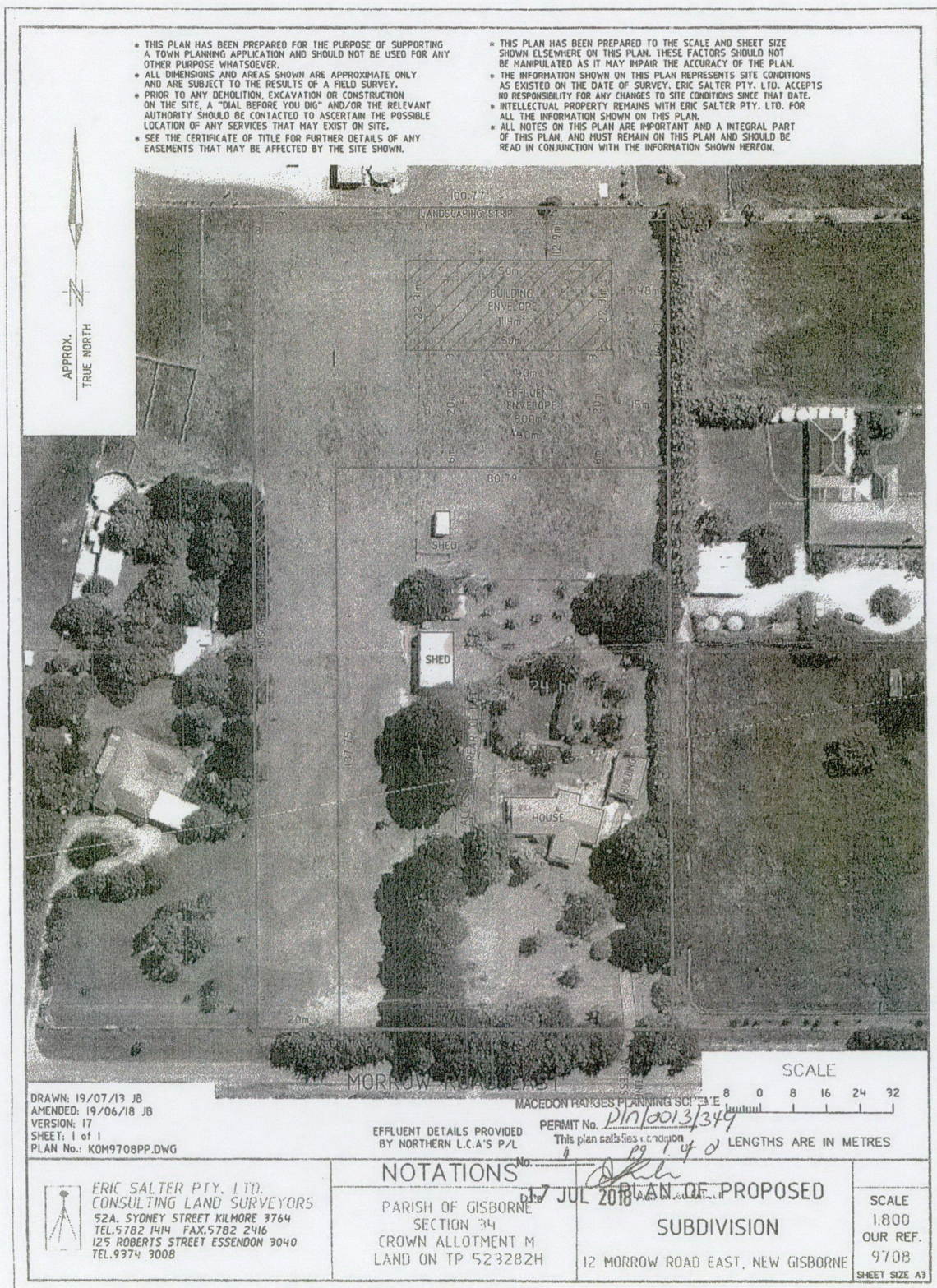
Therefore Officers conclude that in land and infrastructure terms, the proposal is considered acceptable and an amended permit should issue.

Officer declaration of conflicts of interest

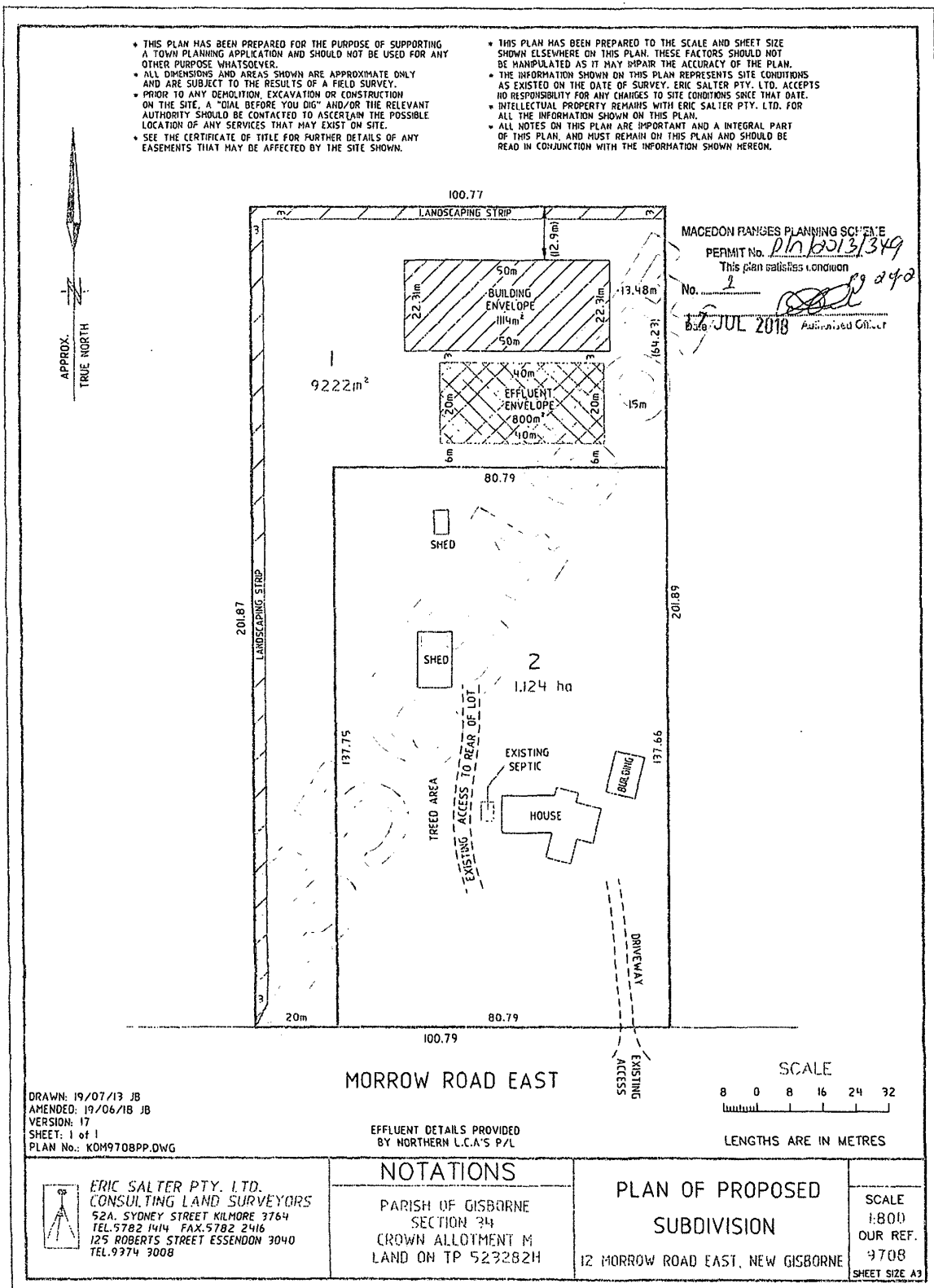
All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

			
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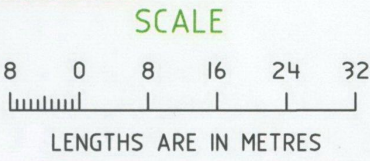
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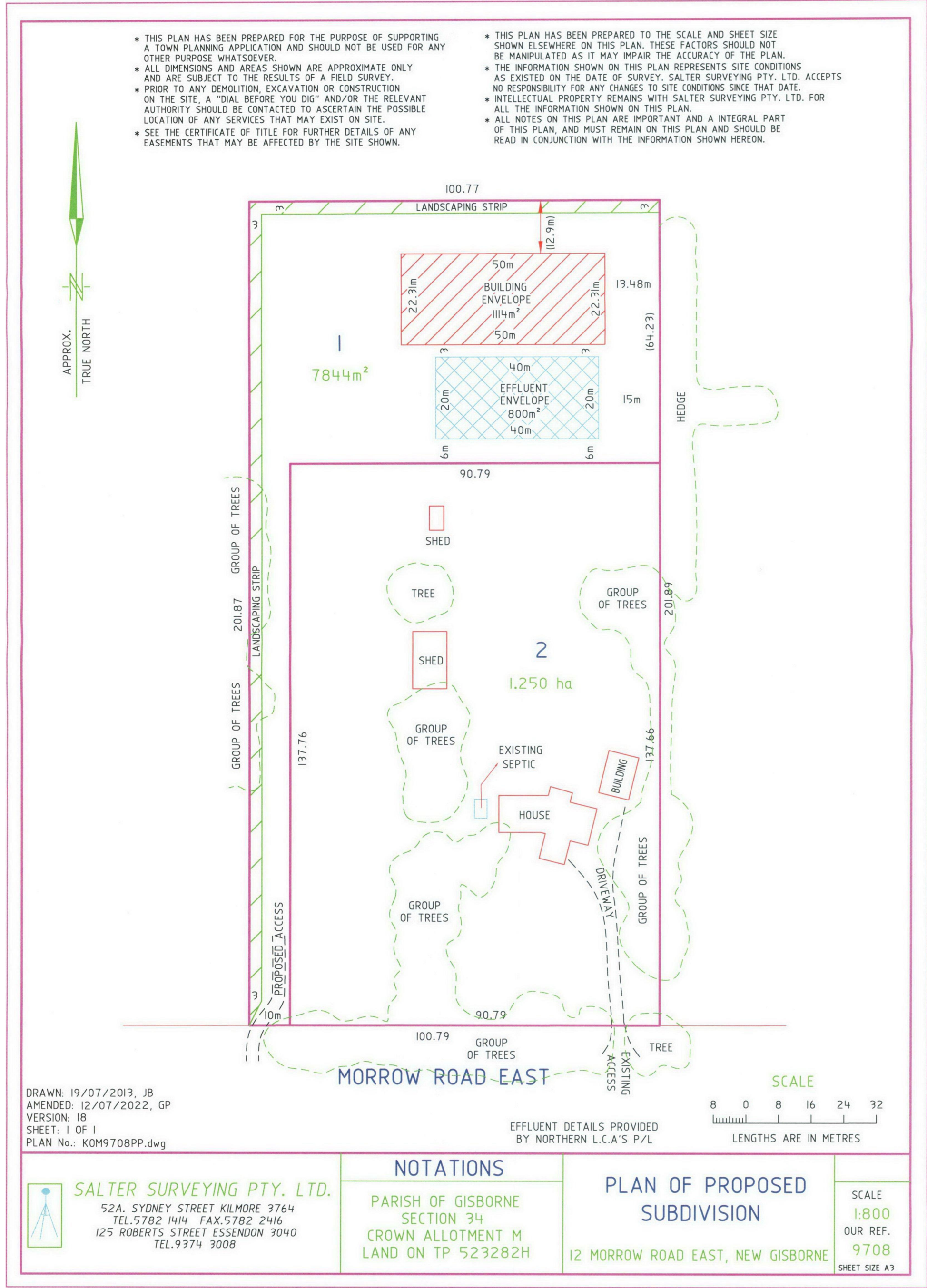
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AMENDED: 12/07/2022, GP
VERSION: 18
SHEET: 1 OF 1
PLAN No.: KOM9708PP.dwg

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**Tree Assessment
12 Morrow Road East Gisborne**

For

Terry Komarnicki

Prepared by

Nuleaf Tree Services
P.O Box 227
Gisborne 3437

Prepared for

Terry Komarnicki
12 Morrow Road East
Gisborne

Consulting Arborist

Craig Lockens

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30th May 2022



Page 1

INTRODUCTION.....	3
OBJECTIVES.....	3
.....	3
METHODOLOGY.....	4
OBSERVATIONS.....	4
DISCUSSION.....	6
EVALUATION OF THE TREE RESOURCE	6
TREE ROOT PHYSIOLOGY	7
CONSTRUCTION IMPACTS ON TREES	8
TREE PROTECTION ZONES.....	8
<i>Variations to Tree Protection Zones</i>	<i>8</i>
BLOCK DIMENSION REQUIREMENTS FOR TREE PROTECTION	9
CONSIDERATIONS AND TREE PROTECTION PLAN.....	11
<i>Pre-construction planning.....</i>	<i>11</i>
<i>During development protection</i>	<i>11</i>
<i>Post construction works.....</i>	<i>11</i>
RECOMMENDATIONS	12
CONCLUSION	12
REFERENCES	13
TPZ AND SRZ MEASUREMENTS	16
TREE DESCRIPTORS.....	17
ASSUMPTIONS AND LIMITING CONDITIONS	20
GLOSSARY	21
TREE LOCATIONS	22



Introduction

A 2-lot subdivision has been approved at 12 Morrow Road East, New Gisborne. The property owner would like to amend the permit. I have been asked to undertake an Impact Assessment on trees located at the neighbouring property. Advice to protect retained vegetation on the neighbours' block will be provided.

The main objective of this report is to assess the trees on the neighbor's property, calculate Tree Protection Zones (TPZ), and determine if the width of the 'axe-handle' part of the block can be reduced. I will also discuss design and construction issues that will further reduce the likelihood of tree damage.

This report will include details of the trees, including species, health, DBH, and structure. An outline of the possible impact of the proposed development to the trees at the property will be provided.

This report will discuss the trees, and proposal, and recommendations will be provided. The objective of the report is to ensure tree preservation and protection is adequately considered.

Objectives

- Inspect and assess the trees.
- Inspect and assess the site.
- Provide information about the trees
- Review proposed subdivision plans
- Provide recommendations to assist with decision making.



1. The neighbouring trees that should be retained and protected. Driveway and service locations and construction to factor in tree protection



Methodology

Craig Lockens conducted a site inspection on Friday 27th May 2022.

Information that was collected includes

- Botanical name
 - Common name
 - Diameter at breast height (DBH)
 - Height
 - Width
 - Health
 - Structure
 - Useful life expectancy
 - Comments
- Photos were taken and have been included in this report.
- Assessments were VTA (Visual Tree Assessments) from ground level.

Observations

- The trees are mostly exotic
- The trees are 3rd party ownership (neighbour)
- Tree age is mixed from young to semi-mature
- All the trees have been planted (not indigenous)
- The trees are small-large in size.
- Amenity value of the tree population is low-moderate
- The existing 'axe-handle' portion of the block is 20m wide. The owners are hoping to reduce this, subject to tree protection requirements.
- One (1) nature strip tree is located close to the proposed driveway crossover
- A row of small native trees has been planted along the boundary of 12 Morrow Road East.
- An existing permit exists for the property, although I'm not sure if it is current (PLN/2013/349)
- The tree canopies are extending up to 5m over the fence. Low limbs can be pruned without affecting tree health, if required.



Page 4



1. The trees along the western boundary (3rd party ownership)



2. A small and suppressed gum tree (planted)



3. Looking north along the fence line – showing the extent of the canopy overhang. Uplift pruning required.

Discussion

Evaluation of the tree resource

Matheny and Clark, in their book titled *Trees and Development* – a technical guide to Preservation of Trees during Land Development state the following, *'Stands, species, and individual trees vary in their suitability for preservation, both on the basis of their innate characters and their responses to potential construction impacts. Trees that are structurally unstable, in poor health, or unable to survive construction impacts are a liability to a project rather than an asset. A realistic tree preservation program acknowledges that conflicts between trees and development may sometimes result in the removal of some trees and recognises the detrimental effect to the project and community when trees die after construction is completed.'*

The trees at the site provide moderate amenity to the area and the owner is happy to protect the trees by minimising construction or future impacts. Any development of the site should fully consider the trees to ensure construction impacts are avoided, or minimised.



Page 6

Tree root physiology

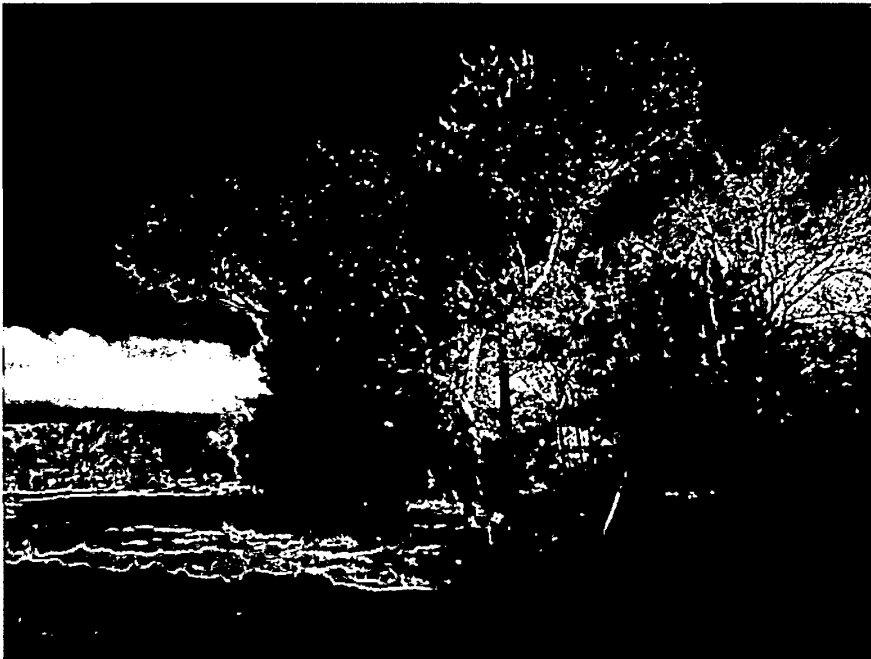
Tree roots provide several important functions. These include;

1. Anchorage
2. Water uptake
3. Nutrient absorption
4. Storage of food reserves
5. Synthesis of certain organic materials

In order to grow, roots need the following ingredients.

1. Water
2. Aeration (gaseous exchange)
3. Food and nutrients
4. Soil free of contaminants
5. Space to grow

The most favourable location for tree root growth is in the topsoil. The topsoil is generally fertile, has suitable soil moisture, has organic matter and nutrients, and allows for gaseous exchange. Therefore, the majority of tree roots grow in the top 1000mm of soil, even in very large trees. Most of the small absorbing roots will be located in the top 250mm of soil if suitable conditions are available (i.e. mulch, moisture).



4. Tree # 8 – Sugar gum. Retain and protect, minor prune of overhanging limb required.



Construction Impacts on trees

Construction impacts to trees often include some degree of root damage, foliage loss due to pruning, compaction of soil, alterations in soil moisture levels and loss of root space. (Harris, Matheny, Clark 1999) Construction impacts are often deemed to be too high and tree removal is the recommended action. If a tree is to be retained the objective should be to limit the impacts to a minimum that the tree can tolerate (Harris, Matheny, Clark, 1999). Tree protection zones are calculated to provide the maximum amount of protection to trees during construction. If construction works must encroach into the TPZ then root disturbance should be kept to an absolute minimum. Structural root zones are considered to be the minimum zone of protection required during construction.

Tree Protection Zones

Australian Standard 4970-2009 *Protection of Trees on Development sites* defines a Tree Protection Zone as 'the principal means of protecting trees on development sites. The TPZ is a combination of the root area and crown area requiring protection. It is an area isolated from construction disturbance, so that the tree remains viable' (AS 4970-2009).

Determining the TPZ – the **radius** of the TPZ is determined by multiplying the trees DBH (diameter at breast height measured 1.4m above ground) x 12.

Therefore, the TPZ for a tree with a DBH of 35cm is $.35 \times 12 = 4.2\text{m}$

The Structural Root Zone (SRZ) – is the area required for tree stability. A larger area is required to maintain a viable tree (AS 4970-2009). The following calculation will determine the SRZ.

SRZ radius = $(D \times 50)0.42 \times 0.64$

Therefore, SRZ for a Tree with a Diameter (measured just above the buttress) of 35cm
 $= (.35 \times 50)0.42 \times 0.64$
 $= (17.5)0.42 \times 0.64$
 $= \mathbf{2.11\text{m}}$

TPZ (Tree protection Zones) are used to determine an area within a construction zone in which no grading or construction activity should occur (ideally) (Harris, Clark, Matheny 1999). It is thought that a healthy tree can lose up to 33% of its roots without leading to tree health problems or tree decline (Helliwell, 1985). Helliwell also suggests that a healthy vigorous tree could withstand losing up to 50% of its roots without dying, although this could create issues with tree stability.

Variations to Tree Protection Zones

It is possible to make variations to Tree Protection Zones under certain circumstances. AS4970-2009 states the following '*If the proposed encroachment is less than 10% of the area of the TPZ and is outside the SRZ detailed root investigations should not be required. The area lost to this encroachment should be compensated for elsewhere and contiguous with the TPZ. The project arborist considering relevant factors listed in Clause 3.3.4 must make variations of AS4970-2009.*



Major encroachment into a TPZ is possible provided the project arborist can demonstrate that the tree would remain viable. Additional information would be required prior to allowing encroachment beyond 10%. If trenching or major excavation is required close to a tree, then encroachment into TPZ's will have to be minimised.

Block dimension requirements for Tree Protection

The approved block has a long and narrow section that opens to a wider and main portion of the block where the building envelope is located. The width of the 'axe-handle' part of the block is currently 20m. The owners of the property would like to reduce the width of this to retain as much of their land as possible.

The main objective of this report is to assess the trees on the neighbor's property, calculate Tree Protection Zones (TPZ), and determine if the width of the 'axe-handle' part of the block can be reduced. I will also discuss design and construction issues that will further reduce the likelihood of tree damage.



5. Red area showing approved 'axe-handle' section of block – currently 20m wide. Tree protection Zones and construction recommendations may allow this to be narrower S.T.C.A.

Please consider the following points to progress the permit application for the project.

1. Read this report carefully and consider its content.
2. Protect retained vegetation from construction impacts by following the Tree Protection Plan below.
3. Install TPZ fencing around retained trees and TPZ's (minimum star pickets and orange bunting) prior to the commencement of any works associated with the construction portion of the job, including delivery of equipment and/or materials.
4. Any pruning works undertaken at the site, now or in the future, should be done by qualified Arborists using techniques as outlined in AS 4373-2007 *Pruning of Amenity Trees*.
5. Tree protection measures should be followed to prevent damage to retained vegetation (see below).
6. The driveway cross-over at the front of the block should consider the Oak tree (19) to minimise construction impacts, unless MRSC has agreed to have the tree removed.
7. From the distance where tree # 2 is located up to the end of the 'battle-axe', the tree protection measures will begin and setbacks from the boundary should be adhered to for the driveway, excavation, soil disturbance, or trenching.
8. I have made a uniform TPZ based on DBH measurements for the largest trees. All trees that don't have a DBH measurement have a TPZ smaller than the requirement (i.e. protections are greater than required).
9. The Town Planner or surveyor should plot the proposed TPZ on the plan, so it is clear. Activities that can occur in this area include landscape plantings, mulching, tree planting, grass, lawn, permeable surfaces etc. Major excavation, trenching, non-permeable surfaces should be avoided.



Considerations and Tree Protection Plan

Pre-construction planning

It is advisable that consideration is given to the following points.

- Ensure that where possible all development occurs outside the TPZ and SRZ.
- All service corridors should be designed and located prior to final approval and should be located outside the TPZ's where possible.
- Consideration should be given to the tree canopies. Any pruning works undertaken at the property, now or in the future, should be done by qualified Arborists using techniques as outlined in AS 4373-2007 *Pruning of Amenity Trees*.

During development protection

It is recommended that the owner/builder/supervisor enforce the following conditions before and during development.

1. The project Arborist should supervise any work that occurs within the TPZ.
2. No fuel, oil dumps or chemicals are to be stored within the TPZ.
3. No open trenching for service line installation is to occur within the accepted TPZ.
4. No fixtures of any sort shall be attached to the trees for any reason.
5. No connected root with a diameter greater than 25mm is to be torn from the ground using machinery – even outside the TPZ.
6. No building materials (i.e. stones, dirt etc.) should be placed in the TPZ.
7. No machinery or equipment should enter the TPZ
8. No part of the tree is to be damaged – no pruning or removal of limbs is to occur without the consent of the project Arborist.
9. No fires within the TPZ.
10. No soil level changes within the TPZ, unless authorised by the project Arborist.

Post construction works

- At the completion of the works the project Arborist will inspect the trees. The inspection should evaluate things such as tree health, vigour, structural stability and integrity, and construction impacts.
- The inspection should also identify any works that are required as a result of construction impacts.



Recommendations

1. Read this report carefully and consider its content.
2. Follow the Tree Protection Guidelines outlined in this report before, during, and after construction.
3. Modify the block so the 'axe-handle' section is 10m wide to allow for service installation and driveway construction **outside** of the TPZ.
4. Locate all service corridors to the east of the driveway so they are outside the TPZ and as far away from the trees as possible. No trenching is to occur to the west of the proposed driveway. Tree protection measures should be followed in the TPZ.
5. The actual driveway should be located and constructed outside of the TPZ of all trees. Based on TPZ measurements, and distance of trees from the property boundary – the extent of the TPZ into the proposed 'battle-axe' part of the block along the western boundary should be **5.7m**.
6. The driveway surface, and all service locations should be located, at minimum, 5.8m away from the western boundary, from at least 5m south of Tree #3, and 5m past Tree #18.
7. The 5.7m area between the western boundary and the extent of the proposed TPZ should be considered a TPZ – and should therefore have TPZ restrictions placed on it.
8. The crossover design and construction should consider Tree #19 (oak) located on the road reserve.

Conclusion

The trees have moderate amenity value and landscape contribution. The trees are mostly exotic, and all have been planted (not indigenous). The trees are third party ownership (neighbours and/or council). The amended design, from a Tree protection perspective, is suitable based on my assessment provided TPZ measures are followed.

If you have any queries regarding this matter, I can be contacted at your convenience on 0419 323 261.

Kind Regards

Craig Lockens – Arborist.



Page 12

References

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- Standards Australia. Protection of Trees on Developments Sites. AS 4970-2009. NSW 2009.
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- BCS Consulting Engineers – House Drain and Crossover Plan



Tree Inspection Chart

#	SPECIES	COMMON NAME	HEIGHT (m)	CANOPY WIDTH (m)	DBH (cm)	STRUCTURE	HEALTH	HABITAT	ULE (yrs)	COMMENTS
1	Fraxinus angustifolia	Desert Ash	6	4	20	Good	Good	No	Long	Small tree. 3m from fence
2	Fraxinus angustifolia	Desert Ash	5	4	15	Good	Good	No	Long	Small tree. 3m from fence
3	Pinus radiata	Monterey pine	21	7	-	Good	Good	No	Medium	Retain and protect
4	Pinus radiata	Monterey pine	21	8	73	Good	Good	No	Medium	Retain and protect. 4.5m inside fence
5	Pinus radiata	Monterey pine	19	7	-	Good	Good	No	Medium	Retain and protect
6	Pinus radiata	Monterey pine	19	6	-	Good	Good	No	Medium	Retain and protect
7	Pinus radiata	Monterey pine	19	7	-	Good	Good	No	Medium	Retain and protect
8	Eucalyptus cladocalyx	Sugar gum	12	10	47	Fair-Good	Good	No	Medium	Prune overhanging limb. 2m from fence
9	Pinus radiata	Monterey pine	20	11	63	Good	Good	No	Medium	Retain and protect.



10	Pinus radiata	Monterey pine	20	7	-	Good	Good	No	Medium	Retain and protect
11	Pinus radiata	Monterey pine	20.5	6	-	Good	Good	No	Medium	Retain and protect
12	Pinus radiata	Monterey pine	20	7	-	Good	Good	No	Medium	Retain and protect
13	Eucalyptus botryoides	Southern mahogany	5	8	15	Poor	Poor	No	Short	Prune overhanging limbs. Poor specimen
14	Pinus radiata	Monterey pine	21	6	49	Good	Good	No	Medium	Retain and protect
15	Pinus radiata	Monterey pine	20	7	-	Good	Good	No	Medium	Retain and protect
16	Pinus radiata	Monterey pine	20	6	-	Good	Good	No	Medium	Retain and protect
17	Pinus radiata	Monterey pine	20	6	-	Good	Good	No	Medium	Retain and protect
18	Pinus radiata	Monterey pine	19	11	43	Good	Good	No	Medium	Retain and protect
19	Quercus robur	English oak	14	10	32	Good	Good	No	Long	Council tree. Uplift low limbs. Retain and protect



TPZ and SRZ Measurements

Tree number	TPZ (Tree Protection Zone)	SRZ (Structural Root Zone)
1	2.4m	<3m
2	2m	<3m
3	N/A	<3m
4	8.76m	2.9m
5	N/A	<3m
6	N/A	<3m
7	N/A	<3m
8	5.64m	<3m
9	7.56m	<3m
10	N/A	<3m
11	N/A	<3m
12	N/A	<3m
13	2m	<3m
14	5.88m	<3m
15	N/A	<3m
16	N/A	<3m
17	N/A	<3m
18	5.16m	<3m
19	3.84m	2.05m

NOTE – The largest trees were measured for TPZ requirements. All other trees have lower TPZ requirements (i.e. the TPZ along the driveway has been calculated on the largest trees, so smaller trees have been given a greater TPZ allowance than required.



Tree descriptors**Age**

Young	Tree has been recently planted or is juvenile.
Semi-Mature	Tree is actively growing.
Mature	Tree has reached the expected size for the growing situation.
Senescent	Tree is over mature and starting to show signs of decline.

Health

Good	The tree is displaying excellent or outstanding growth. Foliage of tree is entire with good colour and tree is pest and disease free.
Fair	Tree is displaying good growth. Foliage of tree is entire. Minor pest and disease problems are present.
Poor	Tree is showing signs of decline and not growing to its full capacity. Canopy dieback/thinning may be seen. Large amounts of deadwood present. Substantial pest and disease problems.
Dead or Dying	Tree is in severe decline or dead. High amounts of deadwood, very little foliage, substantial pest and disease problems.

Structure

Good	The tree is well defined with a balanced crown. Trunk and scaffold branches show good taper and attachment with minor or no structural defects. Tree is a good example of the species, displaying no obvious root, pest or disease problems.
Fair	Tree displays minor structural defects or branch unions showing minor structural faults. The tree might be on a slight lean or show minor structural root damage. Tree could be seen as showing typical traits for the species.
Poor	Tree displaying major structural defects or damage to trunk. Branch unions may be poor or faulty at the point of attachment. Tree may have suffered root damage. Tree is structurally problematic.
Failed or Hazardous	Tree is an immediate hazard with potential to fail.



Useful Life Expectancy (ULE) Barrell tree care UK

Long	<p>Trees that appear to be retainable with an acceptable level of risk for more than 40 years.</p> <ol style="list-style-type: none"> 1. Structurally sound trees located in positions that can accommodate future growth. 2. Storm damage or defective trees that could be made suitable for retention on the long term by remedial pruning. 3. Trees of significance for historical, commemorative or rarity reasons that would warrant extraordinary efforts to secure their long-term retention.
Medium	<p>Trees that appear to be retainable with an acceptable level of risk for 15-40 years.</p> <ol style="list-style-type: none"> 1. Trees that may only live between 15-40 years. 2. Trees that may live for more than 40 years but would be removed to allow the safe development of more suitable individuals. 3. Trees that may live for more than 40 years but would be removed during the course of normal management for safety and nuisance reasons. 4. Storm damage or defective trees that can be made suitable for retention in the medium term by remedial work.
Short	<p>Trees that appear to be retainable with an acceptable level of risk for 5-15 years.</p> <ol style="list-style-type: none"> 1. Trees that may live for 5-15 years. 2. Trees that may live for more than 15 years, but would be removed to allow the safe development for more suitable individuals. 3. Trees that may live for more than 15 years but would be removed during the course of normal management for safety and nuisance reasons. 4. Storm damaged or defective trees that require substantial remedial work to make safe and are only suitable for retention in the short term.
Remove	<p>Trees with a high level of risk that would need removal within the next 5 years.</p> <ol style="list-style-type: none"> 1. Dead trees. 2. Dying or suppressed and declining trees through disease or inhospitable conditions. 3. Dangerous trees through instability or recent loss of adjacent trees. 4. Dangerous trees through structural defects including cavities, decay, included bark, wounds or poor form. 5. Damaged trees that are considered unsafe to retain. 6. Trees that will become dangerous after removal of other trees for the above reasons.



Significance/Retention Value

Low	Trees that have little or no contribution to the future landscape, due to poor health, noxious, poisonous or weed species, poor structure, unacceptable growth habit or useful life expectancy. These trees should be considered for removal.
Medium	Trees with some beneficial attributes that may be of benefit to the site in relation to botanical, horticultural, historical or local significance, but may be limited to some degree by future growth potential. Should be considered for retention if possible within the development design. They may be modified to allow for construction.
High	Trees with the potential to positively contribute to the site due to their botanical, historical, or local significance along with good health, structure and future potential. Should be considered for inclusion within development plans.



Assumptions and Limiting Conditions

- Any legal description provided to the consultant is assumed to be correct. Any titles and ownerships to any property are assumed to be good. No responsibility is assumed for matters legal in character.
- It is assumed that any property/project is not in violation of any applicable codes, ordinances, statutes or other government regulations.
- Care has been taken to obtain all information from reliable sources. All data has been verified in so far as possible; however, the consultant can neither guarantee nor can be responsible for the accuracy of the information provided by others.
- The consultant shall not be required to give testimony of attend court by reason of this report unless subsequent contractual arrangements are made, including payment of the additional fee for service.
- Loss or alternation of any part of this report invalidates the entire report.
- Possession of this report or a copy thereof does not imply right of publication or use for any purpose by anyone but the person whom it is addressed, without the prior written consent of the consultant.
- Neither all nor any part of the contents of this report, nor any copy thereof, shall be used for any purpose by anyone but the person whom it is addressed, without the written consent of the consultant, nor shall it be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales, or other media, without the written consent of the consultant.
- This report and any values expressed herein represent the opinion of the consultant and the consultant's fee is in no way contingent upon the reporting of a specified value, a stipulated result, the occurrence of a subsequent event, nor upon any findings to be reported.
- Sketches, diagrams, graphs and photographs in this report being intended as visual aids, are not necessarily to scale and should not be constructed as engineering or architectural reports or surveys.
- Unless expressed otherwise: 1) Information contained in this report covers only those items that were examined and reflect the condition of those items at the time of inspection; and 2) The inspection is limited to visual examination of accessible components without dissection, excavation, probing or aerial inspection. There is no warranty or guarantee, expressed or implied, that the problems or deficiencies of the plants or property in question may not arise in the future.



Glossary

Bifurcation- The natural division of a branch or stem into two or more stems or parts.

Canker- Localised diseased area on stems, roots and branches, caused by fungal or bacterial organisms. Often shrunken and discoloured.

Cavity- An open wound, characterized by the presence of extensive decay and resulting in a hollow.

Co-dominant- Equal in size and relative importance, usually associated with either the trunk/stems or scaffold limbs/branches in the crown.

DBH- Diameter of the trunk, measured at breast height.

Decay- Process of degradation of woody tissues by fungi and bacteria through decomposition of cellulose and lignin.

Defect- Any structural weakness or deformity.

Dieback- Condition in which the branches in the tree crown die from the tips towards the centre.

Exotic- The species originates in a country other than Australia.

Gall- Abnormal swelling of plant tissues caused by gall wasps, mites and various insects and less commonly fungi or bacteria.

Included Bark- Bark that becomes embedded in a crotch (union) between branches and trunk or two dominant stems. It is known to cause a weak structure.

Indigenous- The species originates within the local environs.

Mitigation- Reducing, alleviating, or minimizing the risk of harm.

Mulch- Usually composed of chipped ground or shredded material such as bark. Mulch placed on the soil surface to reduce weed growth, retain moisture in the soil, reduce erosion, and moderate temperatures.

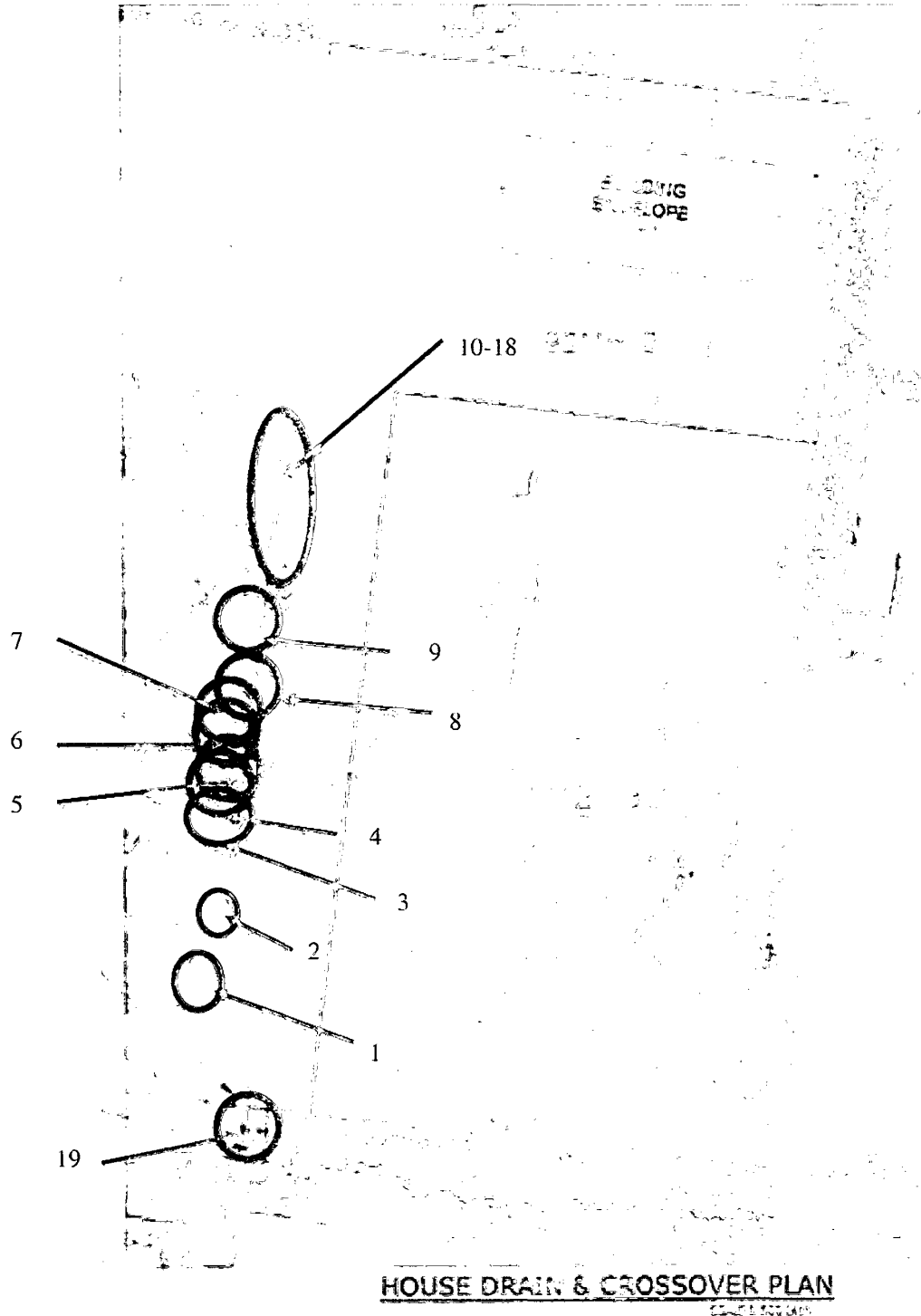
Native- The species originates within Australia.

Reduction- Pruning to decrease height or the spread of a tree.

Thinning- Selective removal of live branches to provide light, air penetration through or lighten the weight for remaining branches



Tree locations



Page 22

PE.2	PLN/2022/243 - 78 OLD LANCEFIELD ROAD, WOODEND NORTH - USE AND DEVELOPMENT OF THE SITE FOR A RESPITE DAY CARE CENTRE, CARETAKERS HOUSE AND ASSOCIATED BUILDING
Officer:	Nicole Wadden, Senior Statutory Planning Officer
Council Plan relationship:	3. Improve the built environment
Attachments:	1. Aerial Map ↓ 2. Proposed Plans ↓ 3. SOPP Response ↓
Applicant:	Banon Consulting
Date of receipt of application:	20/06/2022
Trigger for report to Council	Policy Interest

Summary

The proposal is for the use and development of the land for a respite day care centre, caretaker's house and associated buildings and works.

The application was advertised. No objections have been received to date.

Key issues to be considered relate to the impact of the proposal on the agricultural land and the genuine need for the proposed respite day care centre within the community.

The application has been assessed against the Macedon Ranges Planning Scheme and is considered appropriate. It is recommended that a Planning Permit be issued.

Recommendation

That a Planning Permit is granted for Use and development of the site for a Respite Day Care Centre, Caretakers House and associated buildings and works for the land at CA E Section 87 TP 277359R P/Woodend, 78 Old Lancefield Road, Woodend North subject to the conditions below:

- 1. Before development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and an electronic copy must be provided. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the decision plans, but modified to show:**
 - (a) Landscape Plans in accordance with condition 7.**
 - (b) Bin and waste management details and turning radius for emergency vehicles in accordance with condition 10.**
- 2. The use and development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.**
- 3. Before the use or development commences, the owner/s of the lot must enter into an agreement with the Responsible Authority and in accordance with**

Section 173 of the Planning and Environment Act 1987. The agreement must provide for:

- (a) The Caretakers House must be removed from the property in the event that the property is sold or the use of the land changes, unless with the prior written consent of the responsible authority.
 - (b) Prior to the commencement of use, landscaping works shown on the endorsed landscape plan under Planning Permit PLN/2022/243 must be carried out, completed and thereafter maintained to the satisfaction of the Responsible Authority.
 - (c) Application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the same Act prior to the commencement of the use or development.
 - (d) The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration and (if later sought) cancellation of the Section 173 Agreement.
4. The amenity of the locality must not be adversely affected by the activity on the site to the satisfaction of the Responsible Authority, including from noise impacts, activity or disturbance, the appearance of the subject land or otherwise.
5. The Caretakers House must only be occupied by a supervisor of the site and must not be privately tenanted at any time to the satisfaction of the Responsible Authority.
6. All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land.
7. Before the development commences, Landscape plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and an electronic copy must be provided. When approved, the plans will be endorsed and will then form part of this permit. The Landscape Plan must show:
 - (a) A minimum of five (5) metres wide landscaping screen along the north and western boundaries and a minimum of three (3) metres wide landscaping screen along the southern and eastern boundaries. The screen must include a mix of locally indigenous trees, shrubs and other plants with the inclusion of understorey species to 'fill out' the screen chosen from the Ecological Vegetation Class (EVC) for the site (Victorian Volcanic Plain Plains Grassy Woodland).
8. Unless with the prior written consent of the Responsible Authority, before the use commences, the landscaping works shown on the endorsed plans must be carried out, completed and thereafter maintained to the satisfaction of the Responsible Authority.
9. All external windows for both the Respite Day Care Activities Cottage and Caretakers Cottage are to be provided with double glazing to the satisfaction of the Responsible Authority.
10. No more than 15 patients may attend the site at any one time.

MRSC Engineering Conditions

11. Prior to the commencement of works, amended plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be

endorsed and will then form part of this permit. The plans must be generally in accordance with the submitted plans but modified to show:

- (a) Bin location and waste management vehicle collection swept paths.
 - (b) Turning radius for emergency vehicles at the end of the driveway.
12. Before the commencement of works, an “Asset Protection Permit” must be obtained from Council for any of the following circumstances:
- (a) Entering a building site by means of a motor vehicle having a gross weight exceeding two tonnes.
 - (b) Occupying a road for works.
 - (c) Connecting any Council land to a stormwater drain.
 - (d) Opening, altering or repairing a Council road.
 - (e) Opening, altering or repairing a Council drain.
 - (f) Accessing a building site from a point other than a crossover.
 - (g) Construct/repair/widen/remove any crossover.
13. No polluted and/or sediment-laden run-off is to be discharged directly or indirectly into drains or watercourses. Soil erosion control measures must be employed throughout the works to the satisfaction of the Responsible Authority.
14. Storm water runoff from the buildings must be dissipated as normal un-concentrated overland flow clear of property boundaries and buildings in adjacent properties.
15. Prior to the commencement of use, a new crossover must be constructed within Bakers Road for the development to the satisfaction of the Responsible Authority.
16. Prior to the commencement of the use, the driveway to the development must be constructed to meet the following requirements to the satisfaction of the Responsible Authority:
- (a) The driveway, including any waterway crossing, must be constructed to a standard so that it is accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
 - (b) The driveway must have a minimum trafficable width of 3.5m, be clear of encroachments 4 metres vertically and have no obstructions within 0.5m on either side of the formed width of the driveway.
 - (c) Curves must have a minimum inner radius of 10 metres.
 - (d) The average grade must be no more than 1 in 7 with a maximum of no more than 1 in 5 for no more than 50 metres.
 - (e) Dips must have no more than a 1 in 8 entry and exit angle.
17. At least 14 days prior to commencement of works, a Site Management Plan must be submitted to and approved by the Responsible Authority. The Site Management Plan must contain the following:
- (a) Name and contact details of appointed Civil Contractor and Superintendent.
 - (b) Existing condition survey of all existing assets including private properties
 - (c) Construction Management Plan

- (d) **Traffic Management Plan**
 - (e) **Environmental Management Plan**
 - (f) **Occupational Health & Safety and Job Safety Analysis Plans**
 - (g) **Council issued Asset Protection Permit**
 - (h) **Council approved Engineering Plans All works must be carried out generally in accordance with measures set out in the above documents approved by the Responsible Authority.**
- 18. Prior to commencement of the use, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:**
- (a) **Constructed to the satisfaction of the Responsible Authority.**
 - (b) **Properly formed to such levels that they can be used in accordance with the plans.**
 - (c) **Drained and maintained.**
 - (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. Car spaces, access lanes and driveways must be kept available for these purposes at all times.**
- 19. All land to be filled and compacted must be in accordance with Australian Standard AS3798:2007.**
- 20. Prior to the commencement of works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The management plan must show:**
- (a) **Measures to control erosion and sediment and sediment-laden water runoff including the design details of structures.**
 - (b) **Dust control.**
 - (c) **Where any construction wastes, equipment, machinery, and/or earth are to be stored/stockpiled during construction.**
 - (d) **Where access to the site for construction vehicle traffic will occur.**
 - (e) **The location of any temporary buildings or yards. Development works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.**

MRSC Environmental Health Conditions

- 21. All wastewater producing fixtures must be connected to the reticulated sewerage system.**
- 22. An application must be made to Council's Health Department for Registration of a Food Premises under the provisions of the Food Act 1984.**

Goulburn Murray Water Conditions

- 23. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).**
- 24. No buildings are to be constructed within 30 metres of the waterway and associated dam that run through the north of the site.**

25. All wastewater from the proposed buildings must be disposed of via connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.

Permit Expiry

26. This permit will expire if one of the following circumstances applies:
- (a) The development is not commenced within 2 years of the date of this permit.
 - (b) The development is not completed within 4 years of the date of this permit.
 - (c) The use is not commenced within 2 years of the completion of the development

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

Permit Note:

- Future owners of the land must be made aware of the existence of this permit.

Existing conditions and relevant history

Subject land

The subject site is located north east of the intersection of Old Lancefield Road and Barkers Road. The subject site is square in shape and measures approximately 3.940 Hectares.

The subject site is a vacant lot with an east and western boundary of 200m long and a north and south boundary of 195m.

The subject site contains a waterway which is shown to be an upper tributary to the Upper Coliban Reservoir and dam, both of which are present in the northern half of the site. The site is predominately clear of vegetation with the exception of some planting along the northern property boundary.

Surrounds

Surrounding properties within proximity of the site contain a mix of uses. To the west of the site land is zoned industrial and currently serves as the depot for the Macedon Ranges Shire Council. North of the site the land also sits within the Farming Zone and is currently used and owned by the Macedon Ranges Shire Council and serves as an organic materials holding site. East and South of the site land is predominately vacant and within the same zone as the site. Within a wider context land to the south and south west of the site land is predominately developed with single dwellings and is used for rural residential lifestyle properties.

Registered restrictive covenants and/or Section 173 Agreements affecting the site

The title provided with the application shows that the property is not encumbered by any restrictive covenant and/or Section 173 Agreement.

Previous planning permit history

The site has no planning permit history:

Proposal

The proposal is for the use and development of the land for a Respite Day Care Centre, Caretakers House and associated buildings and works.

The proposal is to provide short-term day respite care for persons suffering the early stages of dementia where patients are primarily being cared for in their home. The respite care will provide care during the day with no overnight stay. The centre will provide care for up to 15 patients at a time providing care in a 'farm style' rural setting.

The development of a caretaker's house is also proposed which will provide accommodation for a permanent volunteer on site.

All proposed development is as follows:

Respite Day Care Activities Cottage:

The development will have two bedrooms (rest rooms), two kitchenettes, one kitchen, and six bathrooms, sitting area, meeting room, office and store. The activities cottage will feature a large veranda that will cover the outside of most of the north, east and western side of the structure. It will have a total length of 32.860m and a total width of 15.130m, and rise to an overall height of 6.195m. The development will be sited 23m from the southern boundary and 58m from the eastern boundary. The cottage will have a total floor area of 482m². Materials proposed include weatherboard cladding in a pearl grey colour and Colorbond roofing in a Dune colour.

Caretakers House

The caretaker's house will have a single bedroom and bathroom and contain a kitchen, living and dining area in addition to a walk in wardrobe, laundry, and single car garage. The development will have a total length of 12.540m and a width of 8.550m, rising to an overall height of 4.3m. The development will be sited 8m from the southern boundary. The development will be constructed of weatherboard cladding and colorbond roofing to match the respite day care activities cottage.

Maintenance Shed

The shed will have a length of 10m and a width of 6m rising to an overall height of 3.9m. The development will have a total floor area of 60m² and will be sited 4m from the eastern boundary and 100m from the southern boundary. The development will be constructed of Colorbond cladding to match the previously discussed structures.

Relevant Macedon Ranges Planning Scheme controls

Planning Policy Framework

Clause no.	Clause name
13.07-1S	Land use compatibility
14.01-1S	Protection of Agricultural Land
14.02-1S	Catchment Management Planning
14.02-2S	Water Quality
15.01-2S	Building Design
15.01-6S	Design for Rural Areas

Local Planning Policy Framework

Clause no.	Clause name
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21.02-8	Community Development and Infrastructure
21.07-1	Agriculture
21.07-2	Sustainable Rural Land Management
21.07-3	Water
21.08-3	Built Environment
21.13-3	Local Areas and Small Settlements - Woodend

Zoning

Clause no.	Clause name
35.07	Farming Zone (FZ)

Overlay

Clause no.	Clause name
42.01	Environmental Significance Overlay (ESO) – Schedule 4 (ESO4)

Particular provisions

Clause no.	Clause name
51.07	Macedon Ranges Statement of Planning Policy
52.06	Car Parking

General provisions

Clause no.	Clause name
65.01	Approval of an application or plan

Cultural Heritage Management Plan assessment

	Assessment criteria	Assessment response
1	Is the subject property within an area of cultural heritage sensitivity as defined within the cultural heritage sensitivity mapping or as defined in Part 2 Division 3 or 4 of the <i>Aboriginal Heritage Regulations 2018</i> ?	No.
2	Does the application proposal include significant ground disturbance as defined in Part 1 Regulation 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	N/A
3	Is the application proposal an exempt activity as defined in Part 2 Division 2 of <i>Aboriginal Heritage Regulations 2018</i> ?	N/A
4	Is the application proposal a high impact activity as defined in Part 2 Division 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	N/A

Based on the above assessment, a cultural heritage management plan is not required in accordance with Part 2 Division 1 of *Aboriginal Heritage Regulations 2018*.

The process to dateReferral

Authority (Section 55)	Response
Goulburn Murray Water	No objection to granting a permit, subject to conditions.
Greater Western Water	No objection to granting a permit.

Authority (Section 52)	Response
MRSC Environment	No objection to granting a permit.
MRSC Health	No objection to granting a permit, subject to conditions.
MRSC Engineering	No objection to granting a permit, subject to conditions.
MRSC Operations	No objection to granting a permit.
MRSC Strategic Planning	<p>Raised concerns regarding;</p> <ul style="list-style-type: none"> • Location being outside of settlement boundary. • Inconsistent with other similar decisions (retirement villages etc.) outside of the township areas and in the farm zone. • Proximity to services and support networks. • Inconsistent with rural policy protecting agricultural/farming land. • Could create a precedence for dwellings and retirement villages on similar lots.

Advertising

Pursuant to Section 52 of the Planning and Environment Act 1987, the application was advertised by sending notices to the owners and occupiers of surrounding/adjoining land and by requiring a notice to be erected on the land for a period of 14 days.

No objections for the application have been received to date.

Summary of submissions

A total of seven (7) submissions of support were received for this application. They are summarised as follows:

<u>Submissions of support regarding application</u>
<ul style="list-style-type: none"> • The proposal responds to a need for specialised dementia respite day care in the community.
<ul style="list-style-type: none"> • The proposal allows for additional essential services within the shire
<ul style="list-style-type: none"> • The proposal utilises a farm style setting to provide therapeutic care which is responsive to the rural environment within the Macedon Ranges.

Officer assessment**Planning Policy Framework & Local Planning Policy**

Relevant PPF provisions that apply to this application include:

The relevant planning policies aims to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts. Policy seeks to protect the state's agricultural base by preserving productive farmland, assisting in the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and achieving building design outcomes that contribute positively to the local context and enhance the public realm and rural setting.

Clause 13.07-1S *provides strategies that seek to ensure that use or development of land is compatible with adjoining and nearby land uses, and seek to avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.*

Confirming viable land use compatibility is fundamental and in the case of this application has been a key consideration to ensure the future use of the site does not conflict with existing land uses in the area, specifically the industrial land to the west of the site.

Setbacks from each of the proposed developments to the boundary of the Macedon Ranges depot are approximately 150m. This setback distance is far greater than some of the residential developments found in the surrounding area, which have as little as a 45m setback to the industrial land, which is considered to be generally aligned to industrial buffering policy.

To further ensure adequate buffering between the sites, a condition of this planning permit would include substantial vegetated screening along the western property boundary to a depth of 5m to provide an additional buffer from the existing industrial land use. Additionally, as a secondary measure, all windows to the habitable developments on site will be required to have double glazed windows to further mitigate any potential noise spill from surrounding sites.

Clause 14.01-1S *sets out to identify areas of productive agricultural land, including land for primary production and intensive agriculture, consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity and avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors. This policy also seeks to protect productive farmland that is of strategic significance in the local or regional context and protect strategically important agricultural and primary production land from incompatible uses.*

It is noted that agriculture remains an important part of the character and economy of the Shire. For this reason, any application for a non-agricultural use on farming land should be carefully considered with regard to how the application could impact the makeup of agricultural land on both a state and local scale. However, in the case of the subject site's agricultural capabilities, key constraints have been noted.

In relation to the viability of the site as a productive agricultural lot, the site contains some significant limitations. Lots in the direct vicinity of the site are relatively small for farming zone lots with the largest lot being just over 5 hectares. The site as it stands, has limited farming capabilities due to its size and location, with minimal opportunities available for consolidation of titles that would result in a viable and productive agricultural lot. Land to the west and north, as discussed previously, are owned and/or operated by the Macedon Ranges Shire Council and contain existing development. Land to the east is owned and operated by Barker Trailers and is currently vacant. These lots are the only viable abutting lots that could be considered for consolidation to form a larger lot, however due to their size, would not result in a significant increase in lot size. These lots also have notable environmental constraints with tributaries to the Upper Coliban Reservoir traversing the lots.

Anecdotally the site has not been in productive agricultural use for over 15 or more years, an occurrence that reflects the site's limited suitability for productive agricultural use and the minimal contribution the site makes to the locality's agricultural land base.

Additionally, due to the mix of uses existing in the surrounding area, no significant farming productions can be seen in the direct surrounding area that could be impacted from the approval of such an application.

For the reasons mentioned above, the site is seen to have limited farming capabilities and its potential for future use as a productive agricultural site is considered bleak. The proposal is therefore not seen to result in the permanent removal of productive agricultural land from the state's agricultural base.

Clause 14.02-1S ensures the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities and considers the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments. **Clause 14.02-2S** aims to protect reservoirs, water mains and local storage facilities from potential contamination and discourage development in flood prone areas while also encouraging siting and design considerations to ensure reduced impacts to ground and surface water.

The subject site is currently located in the Eppalock Proclaimed Catchment which functions as a major source of water for irrigation, stock and domestic and urban water supplies for towns within the municipality. The site features a dam and a waterway which are located in the northern half of the site. All development on site has been proposed to be located with setbacks of greater than 100m from any waterway and to further reduce issues that could result in impact to water quality in the area, will connect to reticulated sewer on site. No vegetation is proposed to be removed from site and additional revegetation has been proposed which will help with the distribution of ground and surface water on site.

Clause 15.01-2S consider a comprehensive site analysis a key starting point of the design process and provides the basis for the consideration of height, scale, massing and ensures building design responds and contributes to the strategic and cultural context of its location. Similarly, **Clause 15.01-6S** seeks to ensure that rural setting is a consideration in a buildings siting, scale and appearance.

The proposal is considered to be appropriately designed for the site. The scale of the development is minor when compared to the size of the site with the total building area being approximately 620m². Additionally, when compared to the smaller sized lots within the area with greater total building coverage such as 132 Kronks Lane and 77 Old Lancefield Road Woodend North, the proposed site coverage is considered to be reasonable.

The height and bulk of the development is also considered to be reflective of surrounding built form on other Farming Zoned lots with a modest roof height of just over 6m for the day care cottage and a lower height of 4.3m for the caretaker's house. Selected materials are also further reflecting of the character of the surrounding area through the use of Colorbond roofing and simply designed weatherboard cladding in muted tones.

Relevant LPPF provisions that apply to this application include:

Clause 21.03-2 (Vision – Strategic Framework Plan) of the Local Planning Policy Framework states that development and land use planning will be guided by the following vision:

- The Shire remains predominantly rural, with a hierarchy of settlements set in an attractive and productive rural environment.

- Agriculture remains an important part of the character and economy of the Shire, especially the high quality soils in the east of the Shire and in the north where there has been less land fragmentation. Effective land management is a key priority.
- Protection of water quality, especially potable water supply, is fundamental. Land use and development, particularly un-serviced development in open water supply catchments, is minimised and managed to ensure water quality is not compromised.
- Development occurs in an orderly and sustainable manner, maintaining clear distinctions and separations between settlements.

The vision is supported by specific policy objectives which aim to:

- Protect agricultural land. *(21.07-1 – Objective 1)*
- Protect the quality soils of land with high capability for agriculture *(21.07-1 – Objective 3)*
- Maximise benefit from high value agriculture. *(21.07-1 – Objective 4)*
- Encourage the development of alternative agricultural activities in appropriate parts of the Shire. *(21.07-1 – Objective 5)*
- Facilitate productive agricultural activity and ensure new development is related to the ongoing, productive use of the land for agriculture. *(21.07-1 – Objective 6)*
- Ensure land in rural areas is managed in a sustainable manner to improve the condition of the environment. *(21.07-2 – Objective 1)*
- Retain and improve water quality and yield in the Special Water Supply Catchments, waterways and groundwater. *(21.07-3 – Objective 1)*
- Ensure the development and use of agricultural land does not adversely impact water quality in the catchments. *(21.07-3 – Objective 2)*
- Promote development that respects the rural character and high landscape values of the municipality. *(21.08-3 – Objective 1)*
- Ensure development and built form occurs in a sustainable manner. *(21.08-3 – Objective 3)*

The proposal is considered to be aligned with the policies and strategies of the Local Planning Policy Framework. It is noted that within the Shire, agriculture predominates in the northern parts of the shire as a productive, broad acre farming with the area's high quality agricultural land, large productive properties, and areas of fragile soils. Clause 21.07-1 provides strong policy guides for the continued use of this part of the Shire for stock raising (including sheep, cattle and horses) and intensive and extensive cropping. However, as mentioned previously, the site is not well located for productive agricultural use due to its size, environmental constraints and limited opportunities for consolidation of abutting lots. For this reason the land is considered to be extremely limited in its contribution to the makeup of economically viable agricultural land in the Shire. Nonetheless, small scale livestock raising and seed raising has been proposed which will provide therapeutic opportunities for the residents of the proposed respite day care centre while also resulting in although low in scale, an increase to the current agricultural practices which is considered to be a reasonable outcome for the site.

Clause 21.07-2 seeks to provide for sustainable management of rural areas. The application has made significant efforts to implement sustainable land management practices in the form of a farm plan/land management plan which allows for weed and pest animal control in

additional to waterway protection works and revegetation to the site which is considered to be a good, sustainable land management outcome for the lot.

Protection of water quality is a significant issue in the Shire with extensive areas of the Shire including the subject site falling within proclaimed local and regional water catchments (Special Water Supply Catchments) which supply drinking water. Clause 21.07-3 provides strategies to ensure water quality is not affected by the proposed new use and developments. As mentioned previously the application site features a tributary to the upper Coliban reservoir which traverses the northern half of the site. Considerable efforts have been made to ensure that siting is avoidant of any waterway impacts with the development located more than 100m from the waterway on site. Further vegetation, which is recognised as a contributor to the distribution of ground and surface water has also been retained with additional revegetation works included with the application.

Additionally, within the Shire, high quality landscapes are a valued asset. Clause 21.08-3 provides strong guidance on the development of built form, ensuring that future development is sustainable and respectful of the existing character of the area. The design of the proposed developments on site is considered to be simple and reflective of that which can already be seen in the surrounding environment. The use of muted and natural materials ensures the proposed development on site is harmonised with the surrounding environment and considerate of both the existing built form and natural landscape. The proposed buildings on site have been sited with considered setbacks to existing waterways on site, with good north-west solar access and with ample space for parking for both visitors and staff of the organisation, ensuring a sustainable and well considered built form.

Farming Zone

The site is located within the Farming Zone (FZ)

The purpose of the FZ includes:

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

The Table of uses at Clause 35.07-1 categorises 'Any other use not in Section 1 or 3' as a 'Section 2 – Permit required' use.

The proposal seeks to introduce a new use into the Farming Zone. As the proposed use is innominate, a planning permit is required for the "Respite Day Care Centre" and additionally the Caretakers House. The proposal also includes the development of associated structures such as a Respite Day Care Activities Cottage, Caretaker's House and storage shed which will be ancillary to the use of the site.

This use is innominate as it differs from any use found in the planning scheme. It may be considered that the proposed use has similarities to a community care facility which typically would be better suited to a residential zone and which is defined in the planning scheme as:

'Land used to provide accommodation and care services. It includes permanent, temporary and emergency accommodation. It may include supervisory staff and support services for residents and visitors'

There are however key differences between the proposed use and a Community Care Facility. The proposed Respite Day Care Centre features at its core a therapeutic centre that provides its patients with a calming farm style setting with outdoor interactive activities such as a livestock paddock, vegetable garden and open space. Additionally, the application will differ from community care facility in that it will not provide accommodation for its patients in any form and will only provide 'day care'. Therefore, due to the specialised nature of the proposal, planning scheme provisions which encourage Community Care Facilities and even Aged Care Facilities in residential zones are of limited assistance when making a decision about this proposal.

The purpose and decision guidelines of the Farming Zone require (among other things) consideration as to whether the proposed use and development will support and enhance agriculture, whether it will limit or detract from agriculture on other land, whether it is compatible with adjoining and nearby land uses, whether it will permanently remove land from agricultural production, and the agricultural qualities of the land including soil quality.

As mentioned previously, the site as it stands, has limited farming capabilities due to its size and location, with minimal opportunities available for consolidation of titles that would result in a viable and productive agricultural lot. Anecdotally the site has no significant farming history from the last 15 years and is seen to have significantly limited opportunities to increase its productivity as mentioned previously in this report. Furthermore, there are no significant agricultural practices being undertaken within the direct vicinity of the site that could be impacted by the proposal. For this reason the land is considered to be extremely limited in its contribution to the makeup of economically viable agricultural land in the shire.

Although the site does have limited agricultural prospects, the applicant has still proposed some small scale livestock raising and seed raising which although low in scale will increase the current agricultural practices that have been operating on the site for many years, which is considered to be a reasonable outcome for the site.

The lot sits within an area featuring a mix of land uses with the primary being both industrial and residential. The application proposes reasonable setbacks from any habitable buildings on site to the boundary of the industrial lots. Further protection measures to ensure adequate buffering between the sites could also be required through permit conditioning such as extensive vegetated buffering, and requiring additional treatments to the proposed development's windows to ensure optimal noise reduction which is considered appropriate. Surrounding residential uses are also seen to have compatibility with the site with minimal noise, odour, or dust generated from the site itself that could affect surrounding residences.

The inclusion of the use as a discretionary, Section 2 use in the Farming Zone is recognition that within the Farming Zone, there will be circumstances where a non- agricultural use can be accommodated without that use having an unacceptable impact on the agricultural features of the locality that are sought to be protected.

Importantly, when making a decision about a discretionary use, Clauses 65 and 71.02-3 of the planning scheme require the responsible authority to decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines, relevant planning policies and objectives of the planning scheme. Decisions are to be made in favour of net community benefit and sustainable development.

This is further supported by Section 4(2)(d) Planning & Environment Act which sets out the objectives of the planning framework including "to ensure that the effects on the environment

are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land”.

In the case of this proposal this is a key aspect in the consideration of the appropriateness of this application within the farming zone. The proposed use is in response to a gap in the community care industry where there has been an identified need on a local scale for a respite centre, where care can be provided throughout the day for patients suffering from dementia. The centre will provide for therapeutic care in a ‘farm setting’ where residents are able to interact with a range of outdoor features such as a livestock paddock, various vegetable and fruit gardens and resting areas. The proposed use will be run by a not for profit organisation that is largely volunteer based. No similar services are offered in the Shire specifically for dementia patients in this ‘day care’ rural farm style setting.

It this case it is considered that the proposal does demonstrate net community benefit by providing vulnerable members of the community who are affected by dementia with a place that will support them and their families through respite day care. This is also reaffirmed through the petition submitted with the application which over 700 participants have signed which clearly demonstrates the need for facilities such as the one proposed.

Importantly it should be noted that due to the nature of the facility as a day care facility which has no accommodation properties with the exception of the Caretakers House and with the added net community benefit that this proposal would result in, it has key differences to the allowance of dwellings on small farming lots in that it is advantageous to the community as a whole. It will therefore will not support the proliferation of inappropriate accommodation uses in the farming zone such as dwellings.

To ensure that no future residential use would be considered on site, a Section 173 Agreement would be conditioned in this planning permit to ensure if sold, the Caretakers House be removed from site or decommissioned if the use is to end. Additionally, a condition of the planning permit would ensure the Caretakers House is only occupied by a supervisor of the proposed Respite Day Care Facility.

It is noted that the application indicates a proposed phase 2 (which is not currently being progressed/considered and would be subject to a future planning permit application) which would include facilities for overnight care. Officer’s note that had the application included the overnight care a different assessment would have been made, with a range of officer concerns that would need to be addressed by the applicant.

Development of Land

The proposal also includes the development of associated structures on site such as a Day Care Cottage, Caretaker’s House, and Storage Shed. The proposed caretaker’s house will have a reduced setback of 8m to the southern property boundary and the proposed storage shed will have reduced setback of 4m to the eastern property boundary. The day care cottage meets all setback requirements for a building and works under the zone.

Development on site has been sited to the far-east on the site to mitigate any conflict with the industrial land to the west of the site. Planting would be required as a condition of this permit with heightened density along the western site boundary to help minimise not only the visual impact of the proposed development but soften any noise or dust that may travel from surrounding lots.

As mentioned previously the design of the proposed developments on site is considered to be simple and reflective of that which can already be seen in the surrounding environment with the height, scale, massing being comparable to that which is found on surrounding lots. The use of muted and natural materials ensures the proposed development on site is harmonised with the surrounding environment and considerate of both the existing built form

and natural landscape. The proposed buildings on site have been sited with considered setbacks to existing the waterway on site, with good north-west solar access and with ample space for parking for both visitors and staff of the organisation, ensuring a sustainable and well considered built form.

Taking into account the above considerations, the proposal is considered to be suitable to the site and the zone.

Clause 42.01 – Environmental Significance Overlay – Schedule 4 (ESO4)

The purpose of the ESO includes:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Pursuant to Clause 42.01-2, a planning permit is required for any works associated with a dwelling which is not connected to reticulated sewerage. As the development will be connected to reticulated sewerage, no permit is triggered under the overlay.

Clause 52.06 – Car Parking

The purpose of the car parking clause is to ensure appropriate car parking is provided to a new proposed use. Clause 52.06-5 table 1 sets out the parking requirements for listed uses.

The proposal is for an innominate use and therefore is not listed in table 1. Where a use of land is not specified in Table 1, car parking spaces must be provided to the satisfaction of the responsible authority.

The closest use listed in table 1 appears to be a Childcare Centre or a Place of Assembly. For childcare the number of spaces is 0.22 per child, which would equate to 3.3 spaces for 15 patients. For a Place of Assembly, it is 0.3 spaces per person. This equates to 5 spaces for 15 patients.

The applicant has proposed 11 parking spaces, which is considered to be sufficient in terms of providing car parking that will cater to both staff, visitors and family. This is further supported by MRSC Engineering Unit.

Section 46AZK of the Planning and Environment Act 1987

Section 46AZK of the Planning and Environment Act 1987 and Clause 51.07 of the Macedon Ranges Planning Scheme require Council as a Responsible Public Entity to not act inconsistently with any provision of the Statement of Planning Policy (SOPP) in exercising decision making powers. Attachment 3 contains the officer assessment against the SOPP.

It noted that the subject is located outside of the approved settlement boundary for the township of Woodend. Typically, more urban uses are encouraged to be located within the settlement boundary so as to afford them good access to services. In the case of this application however, the applicant is seeking to draw upon the site's rural and farming features to provide therapeutic care to its patients in a 'farm style' rural setting. The application's linkages to its rural 'farm style' setting distance it from more urban uses such as Residential Aged Care or Community Care Facility in which would typically be better suited in residential zones. Additionally, the application does not propose any overnight accommodation on site. The location outside the approved settlement boundary is therefore supported in this instance.

VCAT

Notably, in the case of *Mark's Country Place Ltd v Macedon Ranges SC [2022] VCAT 1131*, VCAT approved the Use and Development of the land within the farming zone for an Outdoor

Recreation Facility (Community Recreational Space). Approval grounds were primarily based on two key points. Firstly was the net community benefit that would result from the proposal. The second key point in supporting the proposal was based upon the proposal site's limitations to provide for productive agriculture due to its size being 3.9 hectares and location being segregated from the wider agricultural area which was also reflected through the lack of history of agriculture on site for many years previously.

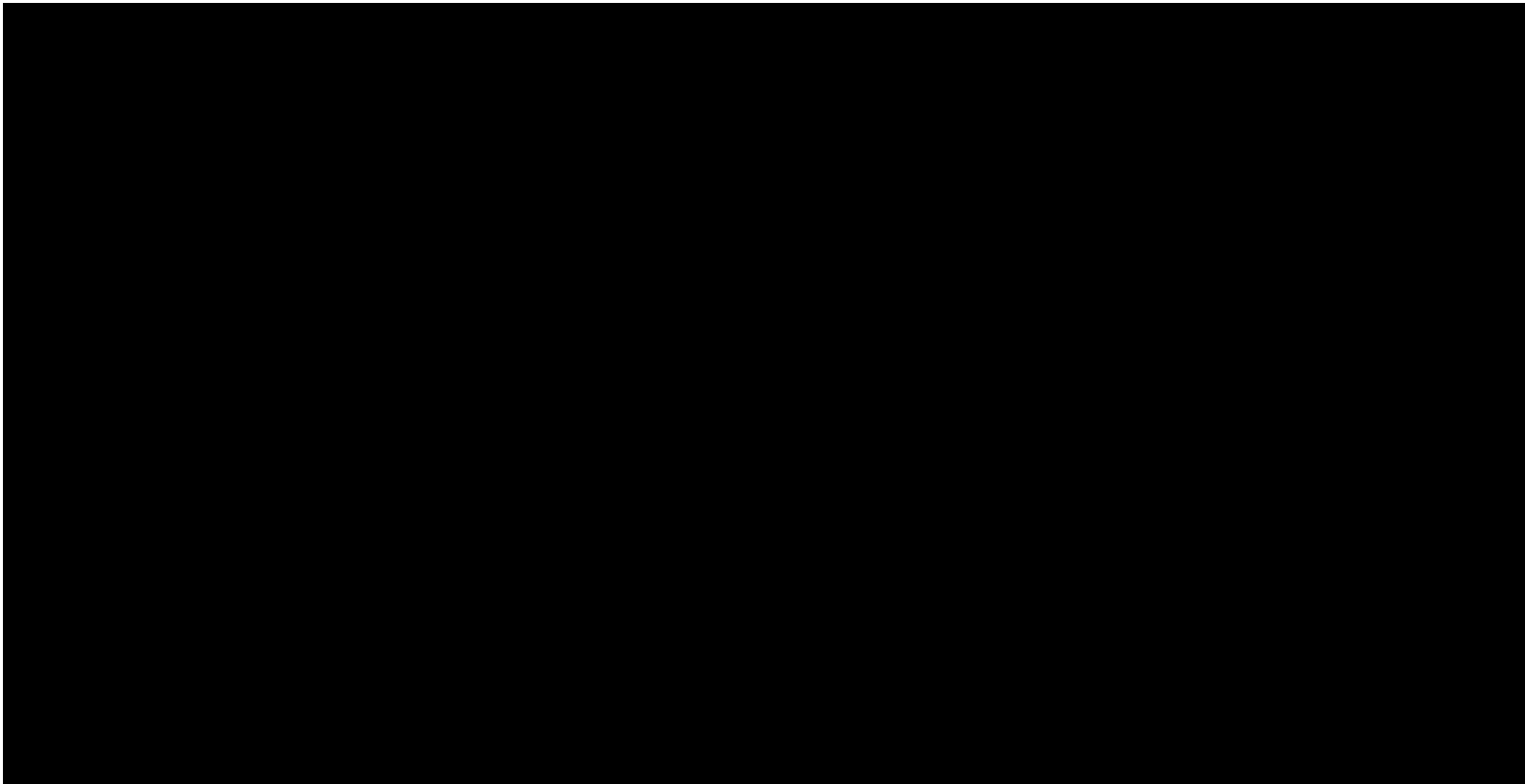


Support of the subject application is in line with the Tribunal's findings in the above case.

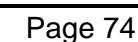
Officer declaration of conflicts of interest

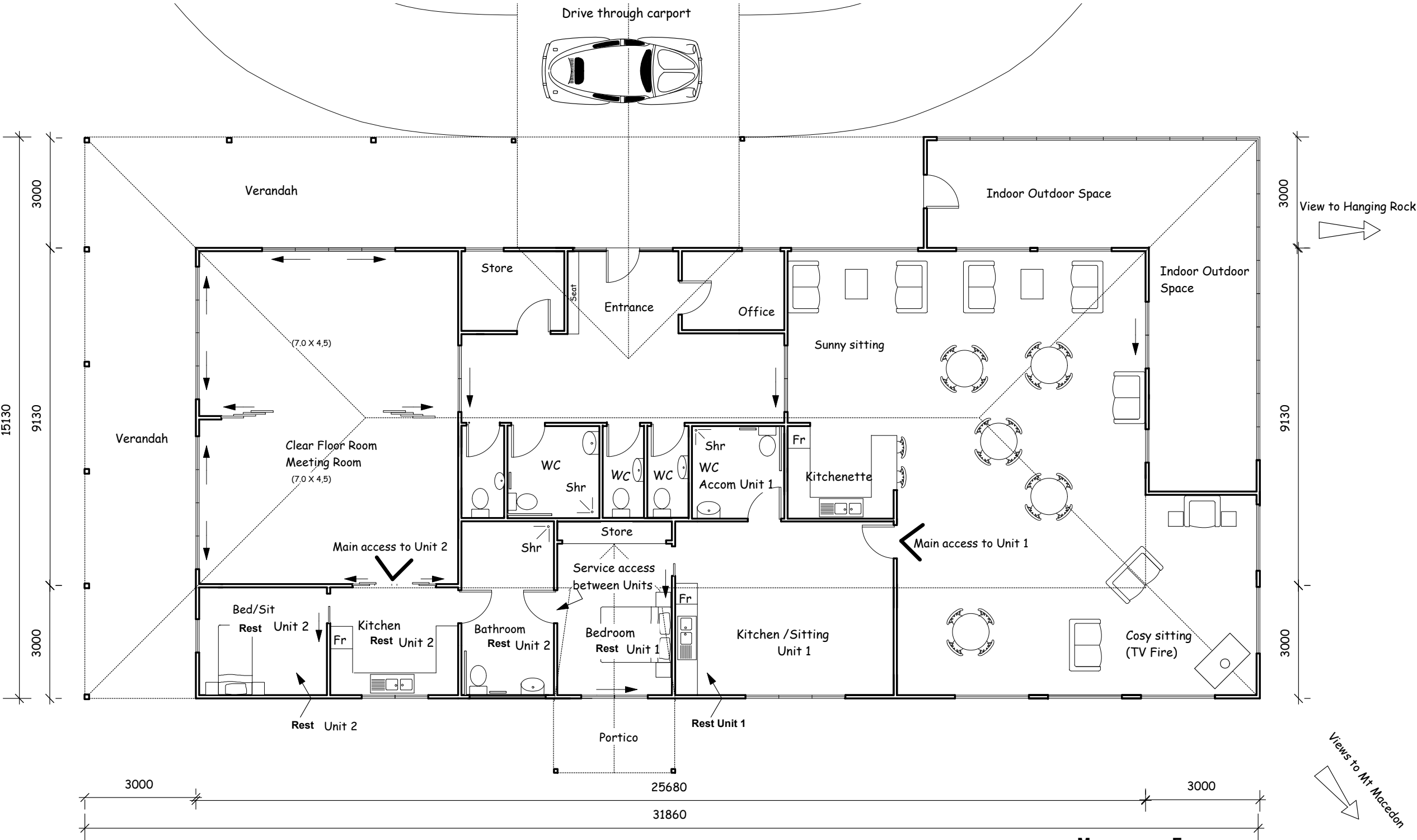
All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

Conclusion

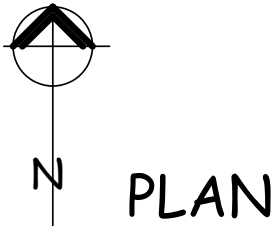
Agriculture is a valued industry within the Macedon Ranges and as such, agricultural land and its protection as a valued economic asset to the shire is vital. A key component of this application has been to evaluate and balance the potential loss of productive farmland and the compatibility of the use with surrounding land uses, against the net community benefit that could result from the proposal. On balance, it is considered that with the limited farming capabilities available to the site and compatibility with surrounding land uses balanced against the enormous advantages that this application could bring to the community and added support to the aging population, that this application should be supported.

			
 Macedon Ranges Shire Council	While every care has been taken to ensure the accuracy of this data, the Macedon Ranges Shire Council, Councillors and Employees make no representation nor warranties concerning the accuracy, reliability, completeness or suitability of the data for any particular purpose and disclaim all responsibility and all liability including without limitation, liability in negligence for all expenses, losses, damages or injury (including indirect or consequential) and costs which may be incurred as a result of the data being inaccurate or incomplete in any way and for whatever reason. No person or organisation should rely solely upon this data for the purpose of making business, investment or real estate decisions.	17/01/2023	
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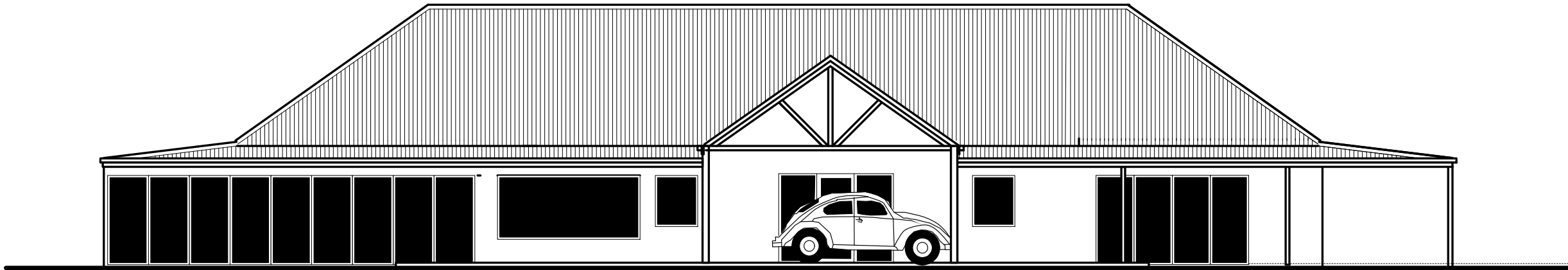
DAY CARE/ACTIVITIES COTTAGE



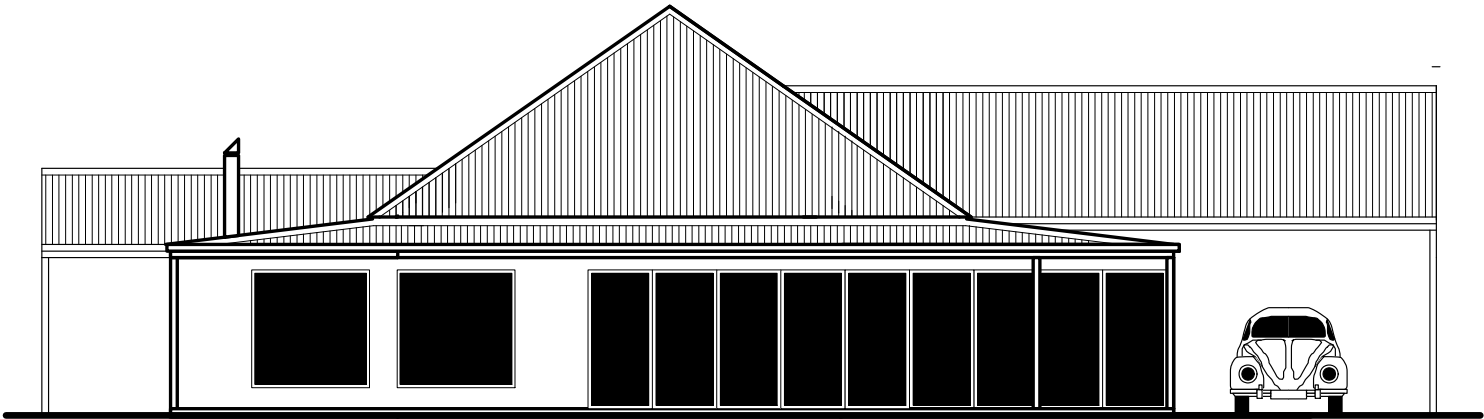
Macgregors Farm
Woodend Lifestyle Carers Group Inc
78 Old Lancefield Road Woodend North

MARCUS WARD - ARCHITECT
PO BOX 757 KYNETON 3444
PH (03) 5423 5254

Drawing SP 1 28/9/20
Scale: 1:100 Revised 16/7/21



NORTH ELEVATION



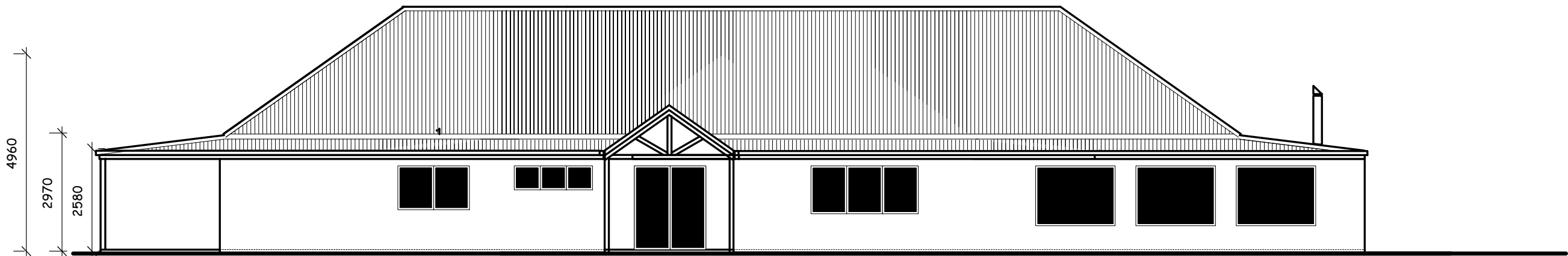
EAST ELEVATION

DASY CARE/ACTIVITIES COTTAGE

Macgregors Farm
Woodend Lifestyle Carers Group Inc
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Drawing SP 2 28/9/20
Scale: 1:100



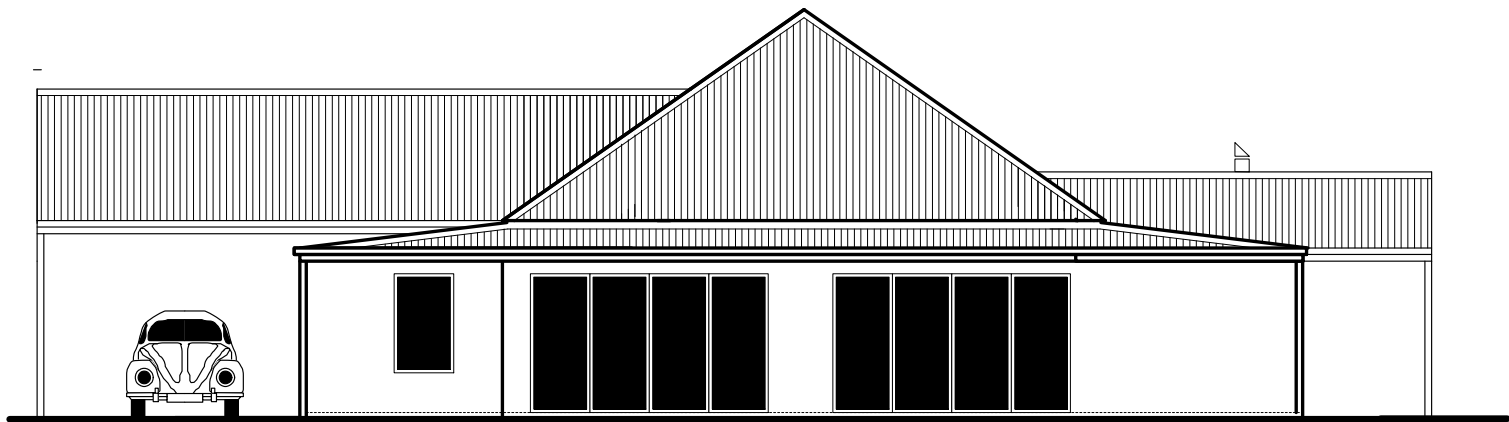
SOUTH ELEVATION

PEARL GREY
WALL CLADDING
HARDIE PLANK
WEATHERBOARDS



SHALE GREY
ROOF CLADDING
COLORBOND





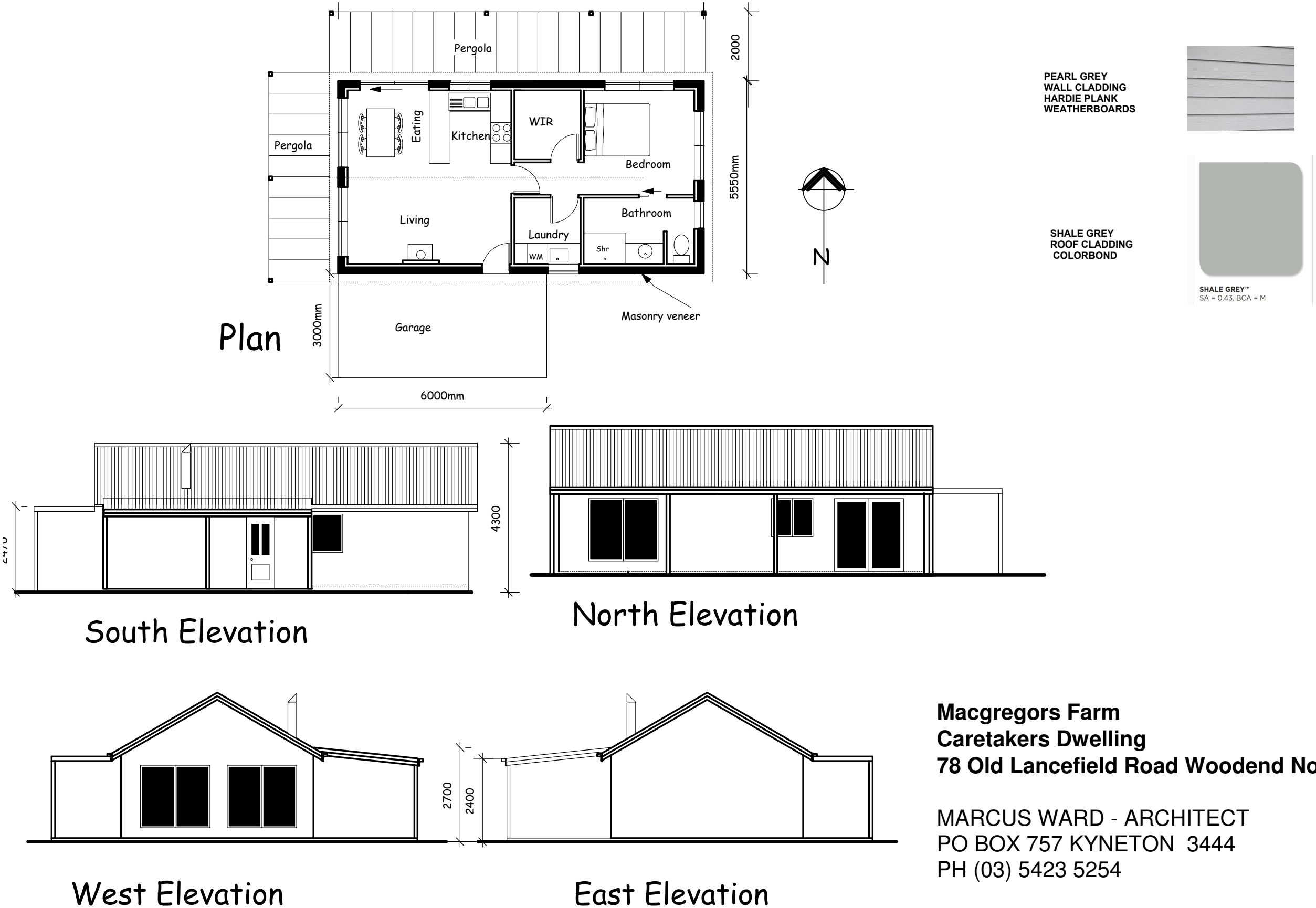
WEST ELEVATION

DAY CARE/ACTIVITIES COTTAGE

Macgregors Farm
Woodend Lifestyle Carers Group Inc
78 Old Lancefield Road Woodend North

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PO BOX 757 KYNETON 3444
PH (03) 5423 5254

Drawing SP 3 28/9/20
Scale: 1:100

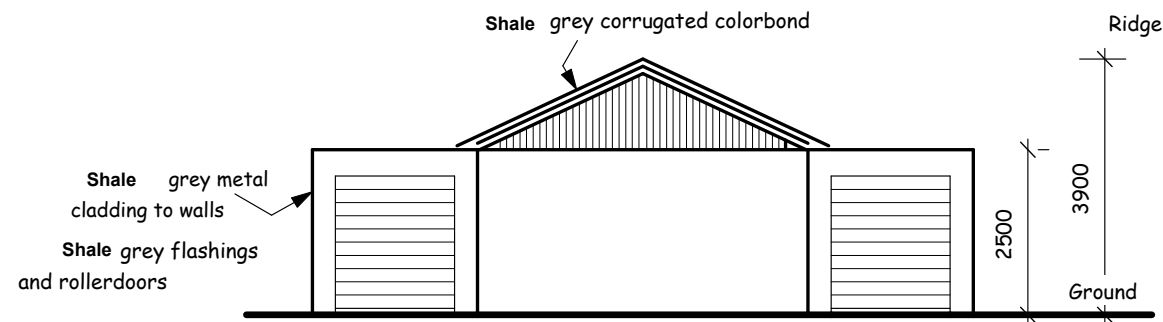


CARETAKER'S DWELLING

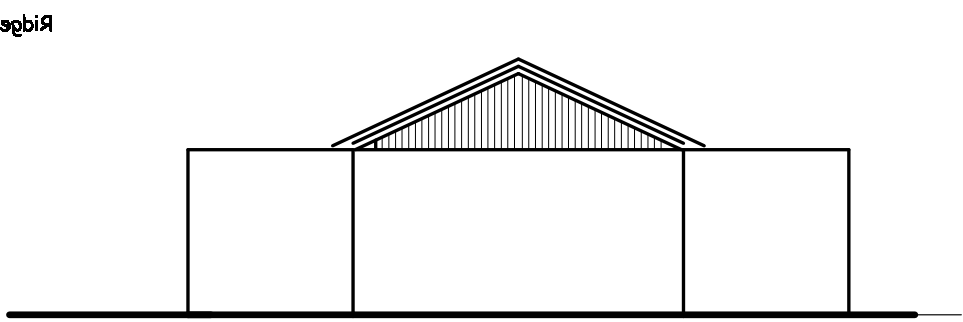
Macgregors Farm
Caretakers Dwelling
78 Old Lancefield Road Woodend North

MARCUS WARD - ARCHITECT
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PH (03) 5423 5254

Drawing No: SP : 1:15/1/20
Scale: 1:100 Revised 16/7/21



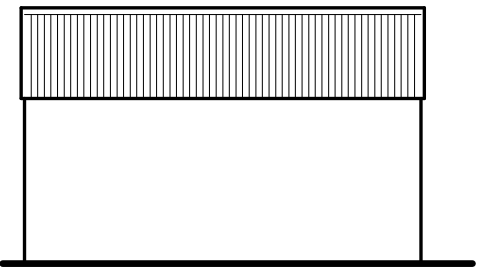
SOUTH ELEVATION



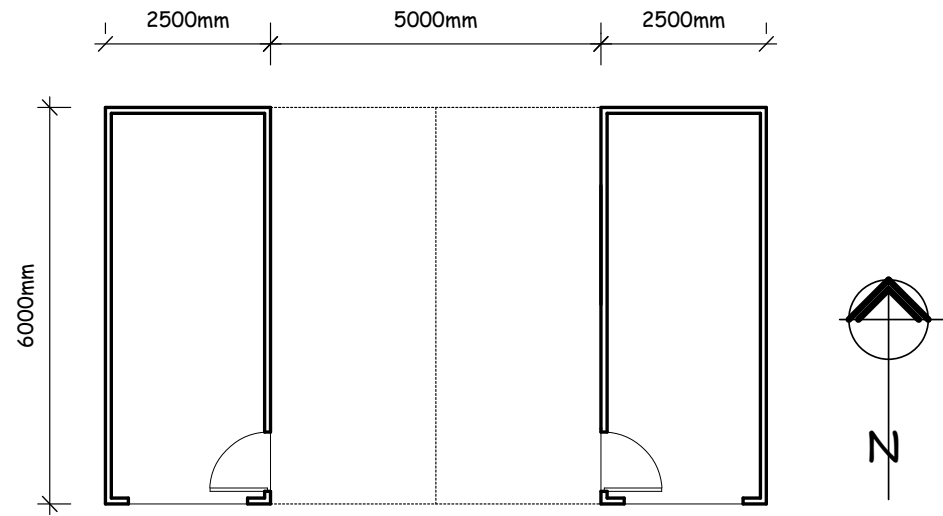
NORTH ELEVATION



ROOF COLOUR



EAST & WEST ELEVATIONS



PLAN

MAINTENANCE SHED

Macgregors Farm
Maintenance Shed
78 Old Lancefield Road Woodend North

MARCUS WARD - ARCHITECT
PO BOX 757 KYNETON 3444
PH (03) 5423 5254

Drawing No: SP : 1:17/11/21
Scale: 1:100

Consistency of the proposal with the Statement of Planning Policy (SOPP):

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
1	To ensure the declared area's natural and cultural landscapes are conserved and enhanced.				N/A	
		Manage land use, development and infrastructure to ensure that significant landscapes, views and vantage points are conserved and enhanced.				
		Encourage retention of native vegetation and revegetation that contributes to significant landscapes, particularly on escarpments and ridgelines and along riparian areas.				
		Manage development around significant landscapes of visual, scientific or education value, including along ridgelines and at vantage points.				
		Manage development and infrastructure provision to ensure sequences of views from key road and rail corridors are maintained for current and future users.				
2	To ensure the significant biodiversity, ecological and environmental values of the declared area are conserved and enhanced				N/A	No native vegetation will be removed to facilitate the proposal.
		Conserve and enhance high-value native vegetation and biodiversity and their ecological integrity by undertaking responsible environmental management, planning, procedures and practices.			N/A	
		Utilise appropriate historical ecological knowledge and practices from Traditional custodians of the land in the management of biodiversity and ecological and environmental values.			N/A	
		Encourage ecological restoration works in areas of identified state, regional and locally significant biodiversity value			N/A	
		Establish and improve bio links to connect high-value ecological areas, including areas along waterways and areas within and between towns.			N/A	
		Minimise the effects of weeds and pest animals on biodiversity values by establishing and implementing best practice land management plans.			N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
3.	To prioritise the conservation and use of the declared area's water catchments to ensure a sustainable local, regional and state water supply, and healthy environment.		✓			The subject site is located with a Special Water Supply Catchment Area. The application was referred to relevant water authorities and no objection has been raised. The site will also be connected to reticulate water supply to lessen any impact to surrounding water supplies.
		Protect water quality and natural systems by discouraging development that contributes to the degradation of water quality and quantity.	✓			
		Manage land use and development, including dams, in Declared Water Supply Catchments to retain and improve water quality and improve yield to support regional water needs and to increase system-wide capacity to Respond to demand.	✓			
		Reinforce the role of waterways as biodiversity Linkages and as corridors for native plants and animals.	✓			
		Ensure water supply and land use planning policies are integrated, to realise efficiencies in regional catchment management and best practice, water-sensitive urban design.	✓			
		Address the expected impacts of climate change, including changes in the duration and frequency of rainfall events and changes in the intensity and frequency of bushfire events.			N/A	
		Review and improve regulation and monitoring of groundwater licences and surface water diversions.			N/A	
4.	To recognise, protect, conserve and enhance the declared area's Aboriginal cultural and spiritual heritage values and work in partnership with Traditional Owners in caring for Country.				N/A	The subject site is not located within area of Aboriginal cultural sensitivity.
		With Traditional Owners, identify, protect, conserve and enhance sites, landscapes and views of Aboriginal cultural significance, consistent with the Aboriginal Heritage Act 2006 and Cultural Heritage Management Plans.				
		With Traditional Owners, acknowledge, protect, promote and interpret tangible and intangible Aboriginal cultural values, heritage and knowledge				

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		when planning and managing land use and development, water and other environmental resources.				
5.	To recognise, conserve and enhance the declared area's significant post-contact cultural heritage values.				N/A	
		Conserve and enhance the character of state and/or nationally significant post-contact cultural heritage values (including aesthetic, historic, scientific, social and spiritual values) in the declared area's heritage places, precincts and landscapes, including sequences of views along main road and rail routes.				
		Acknowledge, promote and interpret significant post-contact cultural heritage values in the planning, design, development and management of land uses, including infrastructure.				
6.	To support and encourage agricultural land uses that strengthen the declared area's economy and contribute to the rural landscape.		✓			It is considered that the site has limited farming capabilities due to its size and location, with minimal opportunities available for consolidation of titles that would result in a viable and productive agricultural lot. Anecdotally the site has no significant farming history from the last 15 years and is seen to have significantly limited opportunities to increase its productivity. For this reason the land is considered to be extremely limited in its contribution to the makeup of economically viable agricultural land in the shire. The proposal retains the rural feel of the area by proposing low scale farming practices on site.
		Encourage the use of rural-zoned land for agricultural purposes and encourage the use of high-quality soils for soil-based agriculture.			N/A	
		Encourage and support innovations in agricultural practices (such as sustainable farming, water reuse, technologies to enable farming to adapt and respond to emerging and niche markets).			N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Support agricultural practices that improve soil health and respond to and encourage adaptation to climate change.	✓			
		Encourage measures to ensure agricultural practices protect and enhance soil quality, water quality, biodiversity and native plants and animals.	✓			It is considered that the land management plan/farm plan provided with the application propose low scale agriculture in accordance with sustainable land management practices that include maintaining clear area around onsite watercourses, weed and pest animal control, revegetation and vegetation retention on site.
		Manage the effects of rural land use and development on important environmental and cultural values.	✓			
		Restrict the supply of rural-living-zoned land to conserve and protect agricultural practices.			N/A	
		Protect strategic extractive resource areas and existing quarry operations from encroachment from inappropriate development.			N/A	
		Proposals to establish an extractive industry must adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.			N/A	
7.	To provide for a diverse and sustainable visitor economy compatible with the natural and cultural values of the area.				N/A	
		Support and facilitate sustainable and responsible tourism and recreation-related land uses and developments (such as agritourism) in keeping with the declared area's significant landscapes, environmental and cultural values.				
		Facilitate tourism-related land use and development that encourages people to recognise and understand Aboriginal and post-contact cultural heritage.				
		Ensure the conservation and enhancement of Declared Water Supply Catchment Areas of regional or state significance in the planning of tourism and recreational land uses.				
		Protect the unique rural character of towns in the declared area.				

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
8.	To plan and manage growth of settlements in the declared area consistent with protection of the area's significant landscapes, protection of catchments, biodiversity, ecological and environmental values, and consistent with the unique character, role and function of each settlement.		✓			
		Direct urban development to a hierarchy of settlements identified for growth, through clearly defining long-term settlement boundaries.	✓			The proposal seeks to introduce a new use into the Farming Zone. The use may be likened to Residential Aged Care or Community Care Facility that would be suited to residential land located within the settlement boundary. There are however key differences between the proposed use and the above mentioned land uses. The proposed Respite Day Care Centre features at its core a therapeutic centre that provides its patients with a farm style setting with outdoor interactive activities such as a livestock paddock, vegetable garden and open space. Additionally, the application will differ from the above mentioned uses in that it will not provide accommodation for its patients in any form and will only provide 'day care'. Therefore, due to the specialised nature of the proposal, it cannot easily be likened to uses such as Aged Care or Community Care Facility that are urban uses and are better suited to land within the settlement and township boundary.
		Direct rural residential development to rural-living-zoned land as provided for in the Macedon Ranges Council's rural living strategy, In the Rural Living Zone – Strategic Direction (2015).			N/A	
		Encourage infill development that respects the townships' character.			N/A	
		Limit the expansion of settlements in high risk locations, actively reducing the risks associated with natural hazards.			N/A	
		Encourage a range of housing types within settlement boundaries to support a diverse range of housing needs.			N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Encourage provision of an adequate supply of well-serviced employment land within settlement boundaries to support local and regional jobs and services.			N/A	
		Encourage the use of voluntary Cultural Heritage Management Plans.			N/A	
9.	To manage the provision of infrastructure consistent with protection of the area's significant landscapes and protection of environmental values to support the social and economic needs of communities and increase resilience to climate change effects.				N/A	The site is not located adjacent to any significant landscape.
		Provide timely infrastructure and services to meet community needs in sequence with development.				
		Maintain and enhance transport connections that provide links between and within regional communities and to major cities.				
		Reduce use of fossil fuels and reduce greenhouse gas emissions by prioritising active transport and public transport modes.				
		Maintain view lines of state-significant landscape features from the main road and rail transport corridors.				
		Ensure the future operation and development of major transport linkages and rail corridors and upgrading and improved management of freight routes are considered when managing the growth of settlements.				
		Ensure equitable access to community infrastructure.				
		Encourage the use of active and public transport by planning infrastructure and facilities in accessible locations, and improve walking and cycling routes.				
10.	Respond to the challenges and threats of climate change and natural hazards with careful planning and mitigation strategies.				N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Support community and government planning for disaster preparedness and climate resilience.			N/A	
		Manage bushfire risks while also retaining valued biodiversity and landscape character.				
		Plan for more renewable energy generation and distribution.			N/A	
		Ensure proposals to establish renewable energy facilities adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.			N/A	
		Ensure planning for future use and development of land prone to flooding minimises the consequences of inundation.			N/A	

PE.3	FEASIBILITY AND OPTIONS TO REMOVE DEVELOPMENT PLAN OVERLAY 24 - LANCEFIELD DEVELOPMENT PLAN AREAS.
Officer:	Leanne Khan, Coordinator Strategic Planning
Council Plan relationship:	3. Improve the built environment
Attachments:	Nil

Summary

This report outlines the feasibility and options to remove Development Plan Overlay Schedule 24 – Lancefield Development Areas, as required by the Council resolution made at the 23 November 2022 Scheduled Council Meeting.

Recommendation

That Council notes the advice provided in this report regarding the feasibility of removing Development Plan Overlay Schedule 24 – Lancefield Development Areas.

Background

This report responds to the Council resolution made at the 23 November 2022 Council Meeting:

“That Council requests a report within two (2) scheduled Council meetings regarding the Development Plan Overlay, Schedule 24 (DPO24) that applies to three areas within Lancefield. The report will examine the feasibility and options of removing DPO24, including any indicative timelines, costs and resources associated with each option.”

The Development Plan Overlay, Schedule 24 (DPO24) that applies to three areas within Lancefield was introduced into the Macedon Ranges Planning Scheme in January 2020 through Amendment C117.

At the 28 July 2021 Scheduled Council Meeting, Council considered a report titled ‘Options for Development Plan Overlay 24 – Lancefield Development Plan Areas’ where Council resolved that it:

“Requests the Chief Executive Officer to engage an external facilitator to assist Council with a meeting with interested landowners who are within the Development Plan Overlay Schedule 24 area in Lancefield. The purpose of the meeting is to enable a discussion about Development Plan Overlay Schedule 24 and enable landowners to seek clarity on any matters regarding the Development Plan Overlay. The meeting will be run by an external facilitator and attended by the Chief Executive Officer, planning staff and Councillors as appropriate. Minutes from the meeting will be recorded and presented to Council at a future Councillor briefing session. The meeting to be held within 3 months of 28 July 2021.

Notifies all landholders within the Schedule 24 to the Development Plan Overlay of this decision.”

Due to COVID-19 restraints at the time, the meeting was eventually held online on 20 December 2021. Council’s presentation, minutes of the meeting and questions on notice were all published on Council’s website at <https://www.mrsc.vic.gov.au/Build-Plan/Planning-For-Our-Future/Town-planning-projects/Lancefield/Development-Plan-DPO24>

To date, one development plan has been approved under DPO24 in Area 1. The approved development plan is available on Council's website at <https://www.mrsc.vic.gov.au/Build-Plan/Planning-For-Our-Future/Development-Plans>

Discussion

A change to the Macedon Ranges Planning Scheme can only occur through a planning scheme amendment. The *Act* allows for changes the planning scheme to occur in a number of different ways including:

- Ministerial intervention (Option One)
- Council seeks authorisation from the Minister for Planning to prepare a planning scheme amendment with limited notice to affected owners and occupiers and referral authorities (Option 2a)
- Council seeks authorisation from the Minister for Planning to prepare a planning scheme amendment with full public exhibition. (Option 2b)

The following summarises the feasibility and options available to Council regarding the removal of DPO24.

Option One: Remove DPO24 through a Ministerial Amendment

Application could be made to the Minister for Planning to amend the planning scheme.

In certain circumstances the Minister for Planning will consider using their powers to expedite the planning scheme amendment process which can include their powers to exempt themselves from the normal notice requirements under section 20(4) of the *Planning and Environment Act, 1987 (the Act)*.

Planning Practice Note 29 'Ministerial Powers of Intervention in Planning and Heritage Matters' identifies the circumstances under which the Minister for Planning might intervene including:

- The matter is of regional significance;
- The matter will give effect to an outcome where the issues have been reasonably considered and the views of affected parties are known;
- The matter will be the introduction of an interim provision or requirement and substantially the same provision or requirement is also subject to a separate process of review (such as the introduction of permanent controls in a planning scheme).
- The matter requires co-ordination to facilitate decision-making by more than one agency; or
- The matter will raise issues of fairness or public interest, where:
 - the mechanisms of the planning process have created a situation that is unjust, unreasonably causes hardship or is clearly in error;
 - anomalous provisions apply and the valid intent is clearly evident or simple inconsequential correction is required;
 - there is a need for urgency and the public interest would be served by immediate action;
 - the matter is unlikely to be reasonably resolved by the processes normally available.

Process

Council would need to apply to the Minister for Planning to progress a planning scheme amendment using their powers under section 20(4) to exempt themselves from notice. This process has an application fee of \$4128.30.

An application requires the preparation of amendment documentation, including:

- An explanatory report;
- Maps;
- Ordinances; and
- Justification of why the Minister for Planning should intervene

This process will require a minimum of 30 hours of officer time to prepare the amendment documentation including liaising with officers from the Department of Transport and Planning (DTP).

It is possible a decision from the Minister for Planning could be made within three to six months of lodgement of the application.

Challenge

It is the opinion of officers that this pathway to remove the DPO24, is the most feasible, cost effective and resource efficient option for Council to consider, should Council wish to proceed.

This option would require a clear strategic justification for the change in direction given the relatively recent approval of Amendment C117macr.

In recommending the approval of Amendment C117macr the independent planning panel concluded:

“... that the Amendment is strategically justified. The application of a Development Plan Overlay in an area where new urban development is permitted (even if some current landowners do not have development aspirations) is prudent and sensible. The Panel notes that DPO24 calls for a range of reports. Whether the preparation of these reports will be an onerous requirement will depend in part as to whether a commonsense approach is taken to their preparation.”

Since gazettal of Amendment C117macr, a number of landowners located in the DPO24 areas have either raised their concerns with the imposition of DPO24. Despite this evidence it is unlikely to be sufficient to meet the test for Ministerial intervention or be supported by DTP. Informal advice from the Department has indicated the amendment would only receive support if there was clear strategic justification for it.

It is unlikely that the strategic position outlined by the independent planning panel has changed since Amendment C117macr was approved, particularly in the absence of additional work prepared by Council to demonstrate that the development plan is no longer considered necessary or the appropriate tool to manage development of these three locations.

Option 2a & b: Remove DPO24 through a Planning Scheme Amendment

A Council planning scheme amendment process could be progressed to remove DPO24.

Ministerial Direction 11 - Strategic Assessment of Amendments requires a planning authority preparing an amendment to evaluate and include in the explanatory report a discussion about how the amendment addresses the following strategic considerations:

- Why is an amendment required?
- How does the amendment implement the objectives of planning in Victoria?
- How does the amendment address any environmental, social and economic effects?
- How does the amendment address any relevant bushfire risk?
- Does the amendment comply with the requirements of any other Minister's Direction applicable to the amendment?
- How does the amendment support or implement the Planning Policy Framework and any adopted State policy?
- If the planning scheme includes a Local Planning Policy Framework, how does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?
- If the planning scheme includes a Municipal Planning Strategy, how does the amendment support or implement the Municipal Planning Strategy?
- Does the amendment make proper use of the Victoria Planning Provisions?
- How does the amendment address the views of any relevant agency?
- Does the amendment address the requirements of the Transport Integration Act 2010?

Planning Practice Note 46 - Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments, provides more information about what is required to justify a planning scheme amendment. An amendment seeking to remove DPO24 would require a detailed assessment against the strategic considerations, as the area is not fully developed making it a major change in policy. As the Planning Practice Note indicates, Council will be required to prepare the strategic justification to undertake an amendment to remove the DPO24 that satisfies the Minister for Planning.

Process

The application requires amendment documentation to be prepared including:

- An explanatory report;
- Maps;
- Ordinances;
- Adopted strategic work; and
- Assessment against Strategic Assessment Guidelines

The preparation of the required strategic work and planning scheme amendment could not be undertaken without approval of funding through Council's budget process and allocating officer time to prepare and progress the amendment. If full exhibition of a planning scheme amendment is required, which is most likely, it is anticipated that 0.4EFT over three financial years would be required.

It is estimated that this option would require Council to allocate \$280,000, consisting of \$120,000 in staffing requirements and \$160,000 to support the strategic work and planning scheme amendment costs.

This option is likely to take two and half years from inception to gazettal and removal of the DPO24 consisting of

- 12-18 months for strategic work to be adopted by Council

- 18 months for a Planning Scheme Amendment to be gazetted.

Challenge

If Council chooses to submit an amendment with little or no strategic justification it is highly likely the amendment will not be supported or granted authorisation with conditions to undertake some strategic work to justify the amendment. This strategic work would be in the form of a structure plan, neighbourhood character study or some other study that demonstrates that DPO24 is no longer necessary to guide development of the three areas currently covered by the overlay.

As per option one, this option is unlikely to be authorised by the Minister unless there is clear justification to remove the DPO24 particularly given how recently Amendment C117 was approved and in the absence of an alternative planning tool to manage development of these three areas.

Other Options:

In the report presented to Council on 28 July 2021 officers outlined a range of options open to Council in relation to DPO24 beyond those outlined above. Some of these options included:

- Modify DPO24
- Replace DPO24 with an incorporate plan overlay
- Prepare a development plan for Areas 1, 2 and 3 under DPO24
- Prepare technical reports for Areas 1, 2 and 3 under DPO24 that could support the preparation of development plans.
- Retain the status quo and continue to consider development plans under DPO24.

As part of the 28 July 2021 report officers recommended the option to prepare development plans for Areas 1, 2 and 3 as the preferred option, this option as well as the others listed here remain available for Council's consideration although most, beyond retaining the status quo have significant costs, risks and timeframes associated with them.

Officer Recommendation

Beyond maintaining the status quo, Option One outlined in this report could be progressed in the shortest timeframe and with the least impact on the current Strategic Planning work program and budget. As outlined in this report however, a request to the Minister for Planning to prepare an amendment to remove DPO24 is unlikely to gain support from DTP or the Minister unless sufficient justification for the amendment can be provided by Council.

Consultation and engagement

No community consultation has been undertaken regarding this report.

All options outlined within this report would involve engagement with affected landowners, occupiers and the community.

Collaboration

Advice has been sought from the Department of Transport and Planning in regard to the options to change or modify the Macedon Ranges Planning Scheme in regard to DPO24 which supports the advice of this report.

Innovation and continuous improvement

This report is consistent with the principles outlined in the *Local Government Act 2020*.

Relevant law

The *Planning and Environment Act 1987* outlines the statutory process to undertake a planning scheme amendment.

This report does not have any direct or indirect human rights implications.

Relevant regional, state and national plans and policies

The proposal is consistent with regional and state planning policies including:

- Plan Melbourne 2017
- Loddon Mallee South Regional Growth Plan 2014

Relevant Council plans and policies

Council's relevant plans and policies are:

- Macedon Ranges Statement of Planning Policy 2019;
- Macedon Ranges Settlement Strategy 2011; and
- Lancefield Township Framework Plan and Small Towns Study 2006.

Financial viability

If Council seeks to progress a planning scheme amendment to remove DPO24 or any of the other options outlined in this report beyond maintaining the status quo, additional funding and staff resources would be required and would likely require a change to the current Strategic Planning work program to enable.

Sustainability implications

There are no sustainability implications and risks of note.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter.

12 CHIEF EXECUTIVE OFFICER REPORTS

CX.1	RECOGNITION OF AUSTRALIA DAY HONOURS RECIPIENTS
Officer:	Lucy Webb-Wilson, Senior Governance Officer - Council Business
Council Plan relationship:	1. Connecting communities
Attachments:	Nil

Summary

The 2023 Australia Day Honours Awards included two people from the Macedon Ranges Shire Council Community— Emeritus Professor Bruce John Tonge of Woodend and Mrs Elaine Therese Murphy of Gisborne.

Emeritus Professor Bruce John Tonge is a recipient of the Officer (AO) of the Order of Australia, in recognition of his distinguished service to psychiatric medicine and research, to tertiary education, to youth, and to the community.

Mrs Elaine Therese Murphy is a recipient Medal (OAM) of the Order of Australia in the General Division for service to education and to the arts.

Recommendation

That Council writes a letter of congratulations to Emeritus Professor Bruce John Tonge and Mrs Elaine Therese Murphy in recognition of their 2023 Australia Day Honours Award.

13 DIRECTOR CORPORATE REPORTS

COR.1	UPDATED INSTRUMENTS OF DELEGATION AND TERMS OF REFERENCE - PLANNING DELEGATED AND SUBMITTERS DELEGATED COMMITTEES
Officer:	Lucy Webb-Wilson, Senior Governance Officer - Council Business
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	<ol style="list-style-type: none"> 1. Instrument of Delegation - Planning Delegated Committee - 22 February 2023 ↓ 2. Planning Delegated Committee Terms of Reference ↓ 3. Instrument of Delegation - Submitters Delegated Committee - 22 February 2023 ↓ 4. Submitters Delegated Committee Terms of Reference ↓

Summary

The adoption of new Governance Rules at the 14 December 2022 Council Meeting necessitates the updating of the Instruments of Delegation and Terms of Reference for Council's delegated committees—Planning Delegated Committee and Submitters Delegated Committees—to ensure alignment.

Recommendation**That Council:**

1. Resolves the Instrument of Delegation for the Planning Delegated Committee (attachment 1) and revokes all previous Instruments;
2. Authorises the signing of the Instrument of Delegation.
3. Endorses the Terms of Reference for the Planning Delegated Committee (attachment 2) and revokes all previous versions effective from 23 February 2023;
4. Resolves the Instrument of Delegation for the Submitters Delegated Committee (attachment 3) and revokes all previous Instruments;
5. Authorises the signing of the Instrument of Delegation; and
6. Endorses the Terms of Reference for the Submitters Delegated Committee (attachment 4) and revokes all previous versions effective from 23 February 2023;

Background

New Governance Rules were adopted by Council at the meeting on 14 December 2022. As a result the Instruments of Delegation and the Terms of Reference for both the Planning Delegated Committee and the Submitters Delegated Committee have been reviewed and updated to ensure compliance with the new Governance Rules.

Discussion

The changes made to the Terms of Reference for the Planning Delegated Committee allow for improvements in the running of the meetings. The changes include:

- Alignment to the new Governance Rules;
- Reduction of speaking time for joint submissions to bring this in line with single submitters and the speaking times in the Governance Rules;
- Clarification on submitters representatives attending Committee meetings;
- Simplification on the ability of the Chairperson to reduce speaking time allocations when a meeting has a large number of submitters; and
- Refinement of the timing of the decision-making process to allow for prompt decision making on planning matters at both Council Meetings and Planning Delegated Committee Meetings.

The changes made to the terms of reference for the Submitters Delegated Committee allow for improvements in the running of the meetings. The changes include:

- Alignment to the new Governance Rules;
- Reduction of speaking time for joint submissions to bring this in line with single submitters and speaking times in the Governance Rules;
- Clarification on submitters representatives at Committee meetings; and
- Simplification on the ability of the Chairperson to reduce speaking time allocations when a meeting has a large number of submitters.

The Instrument of Delegation for Submitters Committee, which previously heard from submitters on planning matters, has been updated to reflect the establishment of the Planning Delegated Committee. The Instrument of Delegation for the Planning Delegated Committee is being remade in line with best practice.

Consultation and engagement

No public consultation or engagement was required on these documents. Council's Governance team has worked closely with the Planning team to ensure the Terms of Reference for the Planning Delegated Committee are fit for purpose. Officers from across the organisation have contributed to the preparation of this information.

Collaboration

There has been no collaboration with other councils or agencies in the preparation of this report.

Innovation and continuous improvement

The adoption of these document reflects Council's commitment to continuous improvement in the governance space, delivering strong and reliable government.

Relevant law

The Local Government Act 2020 provides that Council can establish and maintain delegated committees.

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

There are no regional, state, or national plans or policies, which are applicable to the preparation of this report.

Relevant Council plans and policies

The subject matter of this report is in alignment with the Council Plan strategic objective *Delivering strong and reliable government*.

Financial viability

The current resourcing and support for the operations of these Committees are included in Council's 2022/23 Budget.

Sustainability implications

There are no sustainability implications as a result of the preparation of this report.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.



C5 Instrument of Delegation (Planning Committees)

Macedon Ranges Shire Council Instrument of Delegation Planning Committee

Macedon Ranges Shire Council (**Council**) delegates to each person who is from time to time appointed as a member of the committee established by resolution of Council passed on 22 February 2023 and known as the "Planning Committee" (**the Committee**), the powers, discretions and authorities set out in the Schedule, and declares that:

1. this Instrument of Delegation is authorised by a resolution of Council passed on 22 February 2023;
2. the delegation:
 - 2.1.1 comes into force upon execution of the Instrument;
 - 2.1.2 remains in force until Council resolves to vary or revoke it; and
 - 2.1.3 is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with the guidelines or policies which Council from time to time adopts; and
3. all members of the Committee have voting rights.

Signed

Mayor / Councillor

Date:

Signed

Chief Executive Officer

Date:



SCHEDULE

Purpose

1. To exercise Council's powers, discretions and authorities to perform Council's functions under the *Planning and Environment Act 1987* in accordance with relevant policies and guidelines of the Council and to do all things necessary or convenient to be done for or in connection with the performance those functions, duties and powers.
2. To exercise all Council's powers, duties, discretions and functions to hear from:
 - a. persons who have made an objection or submission to a planning application in accordance with the *Planning and Environment Act 1987*;
 - b. planning permit applicant and/or landowners in relation to a planning permit application submitted in accordance with the *Planning and Environment Act 1987*;
 - c. persons who have made submissions to Council about a planning scheme amendment of which notice has been given under section 19 or in accordance with section 20(2)(b) of the *Planning and Environment Act 1987*.

Exceptions, conditions and limitations

The Committee is not authorised by this Instrument to:

1. exercise the powers which, under s 11(2) of the *Local Government Act 2020* or s 188 of the *Planning and Environment Act 1987*, cannot be delegated to the Committee.



Terms of Reference – Planning Delegated Committee

The Planning Delegated Committee (Committee) is a delegated committee of Council in accordance with section 63 of the *Local Government Act 2020* to hear from applicants/land owners and objectors/submitters (all hence forth know as speakers) on statutory and strategic planning matters including planning applications and to determine planning matters.

The committee comprises all nine Macedon Ranges Shire Councillors.

Introduction

Council receives written submissions on a variety of planning matters which need to be considered by Council during the decision-making process. The Committee provides people who have made a submission with a specific opportunity to appear in person to expand on their submission, if they wish to do so, for the nominated matters as outlined in the instrument of delegation.

Privacy

In accordance with Council's Governance Rules, the agenda for each meeting of the Committee will be published on Council's website at least five (5) days before a meeting is scheduled. Written submissions received by the deadline will be included as attachments to the agenda and will therefore be publicly available.

Prior to publication, contact details of individuals (such as email addresses, postal/home addresses and telephone numbers) will be redacted from written submissions in order to protect the privacy of submitters. However, the names of submitters and the content of their submissions will be published in the meeting agenda and may also be reproduced in the meeting minutes.

Speakers who elect to present in person at a Committee meeting in support of their written submission should also note that meetings will be recorded and streamed live on the internet in accordance with Council's Livestreaming and Publishing Recording of Meetings Protocol, which can be viewed on Council's website. By electing to present to the Committee, it is assumed consent is given by submitters if their image is inadvertently broadcast, as per the protocol.



1. Making a submission

- 1.1 Submissions must be provided by the deadline specified in the public notice/advertisement. A submission may comprise a submission made by an individual, two or more persons, a company or organisation or the organiser of a petition. The acceptance of late submissions will be at the discretion of the Chairperson.
- 1.2 Submissions should be lodged in the prescribed format where possible.
- 1.3 Only a speaker who has made a submission and indicated in their submission that they wish to appear in person, will be permitted to address the Committee, unless they have nominated a representative to appear on their behalf.
- 1.4 Reference to the making of submissions at Section 1.1 - 1.3 of these guidelines relates to those speakers who wish to be heard at the relevant Committee meeting only. It is acknowledged that submissions (including objections) may be made to Council regarding a planning application after the notice period has finished, up until a decision is made on the application.

2. Late Speakers

- 2.1 For submissions made in relation to matters being considered by the Committee, requests to speak to a submission not identified at the time of making the submission may be accepted up to 5pm on the day prior to the Committee meeting (the meeting).
- 2.2 Where speakers have not requested to speak either via their formal submission or via the late speakers process outlined in 2.1 they will only be heard at the meeting at the discretion of the Chairperson.
- 2.3 Requests for speakers who have not complied with deadline to speak will only be considered by the Committee at the conclusion of all other scheduled speakers.

3. Time Limits

- 3.1 Speakers will be allocated a maximum of three (3) minutes to speak.
- 3.2 In the case of joint submissions, a maximum of three (3) minutes will be allocated and one person should be nominated to speak on behalf of the submitters.
- 3.3 In the case where multiple individual submitters/objectors designate a single representative to present on their behalf the representative will be allocated a maximum of five (5) minutes.
- 3.4 Where a person (i.e., the "head petitioner") has organised a petition comprising more than 500 signatures, a maximum of five (5) minutes will be allocated to the head petitioner, or the representative, to speak to the Committee if they wish.
- 3.5 In circumstance/s which the Chairperson considers to be 'special', a speaker will be given more than three (3) minutes to speak up to a maximum of five (5)



minutes.

- 3.6 Where there are more than 25 speakers who wish to speak at the meeting, the Chairperson may reduce the time allocated to speakers in order to achieve an efficient and timely meeting.

4. Attendance

- 4.1 A speaker (or their nominated representative) needs to appear in person to speak to their submission.
- 4.2 If a speaker on the RSVP List for the meeting, is no longer able to attend they can provide a written statement, for circulation via email to Councillors, which will not be read out at the meeting or be recorded in the meeting minutes.
- 4.2.1 This written statement should seek to provide further supporting information that expands upon issues raised in the original submission.
- 4.3 Where the meeting is held electronically speakers can attend via online video call or by telephone call.
- 4.4 If connection is lost by the speaker during an online video call, they may reconnect to the meeting via telephone call.
- 4.4.1 In order to maintain the efficiency of the meeting while they are reconnecting the Committee may hear from other speakers with the reconnected speaker heard at the conclusion of all the speakers on the matter.

5. Addressing the Committee

- 5.1 Recognising that all Committee members will have already received the complete written submission, submitters should seek to provide further supporting information and comment in a manner that expands upon issues raised in the written submission or enables this to be conveyed in a more personalised manner.
- 5.2 A PowerPoint presentation or other form of digital media is permitted, if previously arranged with a member of Council staff. Such arrangements must be made at least two (2) business days in advance of the meeting.
- 5.3 Additional supporting documentation may be tabled at the meeting for circulation to Councillors via email, these documents will not be recorded in the minutes.
- 5.4 A speaker's comments will not be recorded in the minutes of the meeting.
- 5.5 Members of the Committee may ask questions of the speaker at the end of each presentation. The speaker's responses should be brief and to the point.
- 5.6 Questions by members of the Committee and corresponding responses by the speaker or their representative will not be recorded in the minutes of the meeting.
- 5.7 Other than 5.5, no speaker has a right of reply unless the Chairperson asks questions or expressly invites further comment. Such answers or comments are



to be brief and to the point and will not be recorded in the minutes.

6. Representatives

- 6.1 A speaker may request to be represented by a nominated person (who is not a member of Council staff or a Councillor) at the meeting in accordance with these guidelines.
- 6.2 A representative assumes the opportunity to speak on behalf of, and in place of, the submitter or applicant and must adhere to the time limit.
- 6.3 A representative must speak to the specific issues relevant to the submission they are representing.

7. Timing of decision making

- 7.1 The Committee will not hear from speakers to a planning matter and decide that planning matter at the same Committee meeting, unless there is a compelling reason (such as a timeframe required by VCAT) to do so. The decision will occur at a subsequent meeting of Council or the Committee.

8. Public Behaviour

- 8.1 Any speaker addressing the Committee must extend courtesy and respect to the Committee and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- 8.2 The Chairperson, may ask for the removal from the meeting room any person who acts in breach of these guidelines or the Governance Rules.
- 8.3 Each speaker has the right to an uninterrupted presentation and no interjections will be tolerated from the gallery.

9. Application Generally

- 9.1 Rule 69 of the Governance Rules outlined the rules applicable to Delegated Committees.
- 9.2 As the purpose of the Planning Delegated Committee is to hear from community members, the Committee should, where possible operate without undue formality.
- 9.3 Requests for variations to the process outlined above in clauses 1 to 7 shall be decided by the Chairperson to ensure efficient and effective meetings.

**Macedon Ranges Shire Council
Instrument of Delegation
Submitters Delegated Committee**

1. this Instrument of Delegation is authorised by a resolution of Council passed on 22 February 2023;
2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
3. the delegation:
 - 3.1 comes into force upon execution of the Instrument;
 - 3.2 remains in force until Council resolves to vary or revoke it; and
 - 3.3 is to be exercised in accordance with the guidelines or policies which Council from time to time adopts; and
4. all members of the Delegated Committee will have voting rights on the Delegated Committee.

Date:

SCHEDULE**Powers and functions**

To exercise Council's functions and powers to perform Council's duties in relation to the management of the Submitters Delegated Committee, and for those purposes:

1. people in support of written submissions lodged in accordance with s 223 of the Local Government Act 1989 (Vic) (LGA); and
2. people in support of written submissions lodged in accordance with those matters specified in Council's Community Engagement Policy as matters that will be subject to a Submitters Delegated Committee hearing.

Exceptions, conditions and limitations

The members of the Delegated Committee are not authorised by this Instrument to make any decisions under any Act, including, but not limited to, the LGA or P&E Act.



Terms of Reference - Submitters Delegated Committee

The **Submitters Delegated Committee** has been established to hear from:

- Persons who have made a submission to Council in accordance with Section 223 of the *Local Government Act 1989*; and
- Persons who have made submissions to Council pursuant to its *Community Engagement Policy*.

The committee is made up of all Councillors.

Introduction

Council receives written submissions on a variety of matters which need to be considered by Council during the decision-making process. The Submitters Delegated Committee affords people who have made a submission a specific opportunity to appear in person to expand on their submission, if they wish to do so, for the nominated matters above as outlined in the instrument of delegation.

Privacy

In accordance with Council's Governance Rules, the agenda for each meeting of the Submitters Delegated Committee will be published on Council's website at least five (5) days before a meeting is scheduled. Written submissions received by the deadline will be included as attachments to the agenda and will therefore be publicly available.

Prior to publication, contact details of individuals (such as email addresses, postal/home addresses and telephone numbers) will be redacted from written submissions in order to protect the privacy of submitters. However, the names of submitters and the content of their submissions will be published in the meeting agenda and may also be reproduced in the meeting minutes.

Submitters who elect to present in person at a Submitters Delegated Committee in support of their written submission should also note that meetings will be recorded and streamed live on the internet in accordance with Council's *Livestreaming and Publishing Recording of Meetings Protocol*, which can be viewed on Council's website. By electing to present to the Committee, submitters consent to their image being inadvertently broadcast, as per the protocol.



1. Making a submission

- 1.1 Submissions must be provided by the deadline specified in the public notice/ advertisement. A submission may comprise a proposal made by an individual, two or more persons, or a company or organisation. The acceptance of late submissions will be at the discretion of the Chairperson.
- 1.2 Submissions should be lodged in the prescribed format where possible.
- 1.3 Only a person who has made a submission (the submitter) and indicated in their submission that they wish to appear in person, or have a nominated representative appear in person, will be permitted to address the Submitters Delegated Committee (the Committee).
- 1.4 Reference to the making of submissions at Section 1.1 – 1.3 of these guidelines relates to those submitters who wish to be heard at the relevant Submitters Delegated Committee only.

2. Late Speakers

- 2.1 For submissions made in relation to matters being considered by the Submitters Delegated Committee, requests to speak to a submission not identified at the time of making the submission may be accepted up to 5pm on the day prior to the Committee meeting (the meeting).
- 2.2 Where submitters have not requested to speak either via their formal submission or via the late speakers process outlined in 2.1 above they will only be heard at the meeting at the discretion of the Chairperson.
- 2.3 Requests for submitters who have not complied with deadline to speak will only be considered by the Committee at the conclusion of all other scheduled speakers.

3. Time Limits

- 3.1 Submitters or their representative/s will be allocated a maximum of three (3) minutes to speak to their submission.
- 3.2 In the case of joint submissions, a maximum of three (3) minutes will be allocated and one person should be nominated to speak on behalf of the submitters.
- 3.3 In the case where multiple individual submitters designate a single representative to present on their behalf the representative will be allocated a maximum of five (5) minutes.
- 3.4 In circumstance/s which the Chairperson considers to be 'special', a speaker will be given more than three (3) minutes to speak up to a maximum of five (5) minutes.
- 3.5 Where there are more than 25 speakers who wish to speak at the meeting, the Chairperson may reduce the time allocated to speakers in order to achieve an efficient and timely meeting.



4. Attendance

- 4.1 A submitter (or their nominated representative) needs to appear in person to speak to their submission.
- 4.2 If a speaker on the RSVP List for the meeting, is no longer able to attend they can provide a written statement, for circulation via email to Councillors, which will not be read out at the meeting or be recorded in the meeting minutes.
 - 4.2.1 This written statement should seek to provide further supporting information that expands upon issues raised in the original submission.
- 4.3 Where the meeting is held electronically speakers can attend via online video call or by telephone call.
- 4.4 If connection is lost by the speaker during an online video call, they may reconnect to the meeting via telephone call.
 - 4.4.1 In order to maintain the efficiency of the meeting while they are reconnecting the Committee may hear from other speakers with the reconnected speaker heard at the conclusion of all the speakers on the matter.

5. Addressing the Committee

- 5.1 The content of a submitter's presentation should not be simply a verbatim repeat of the written submission, recognising that all Committee members will have already received the complete submission. Submitters should instead seek to provide further supporting information and comment in a manner that expands upon issues raised in the written submission or enables this to be conveyed in a more personalised manner.
- 5.2 A PowerPoint presentation or other form of digital media is permitted, if previously arranged with a member of Council staff. Such arrangements must be made at least two (2) business days in advance of the meeting.
- 5.3 Additional supporting documentation may be tabled at the meeting for circulation to Councillors via email, these documents will not be recorded in the minutes.
- 5.4 A submitter's comments will not be recorded in the minutes of the meeting.
- 5.5 Members of the Committee may ask questions of the submitter at the end of each presentation. The speaker's responses are to be brief and to the point.
- 5.6 Questions by the members of the Committee and corresponding responses by submitters or their representative will not be recorded in the minutes of the meeting.
- 5.7 Other than 5.5, no submitter has a right of reply unless the Chairperson asks questions or expressly invites further comment. Such answers or comments are to be brief and to the point and will not be recorded in the minutes.



6. Representatives

- 6.1 A submitter may request to be represented by a nominated person (who is not a member of Council staff or a Councillor) at the meeting in accordance with these guidelines.
- 6.2 A representative assumes the opportunity to speak on behalf of, and in place of, the submitter or applicant and must adhere to the time limit.
- 6.3 A representative must speak to the specific issues relevant to the submission of the submitter whom they represent.

7. Public Behaviour

- 7.1 Any speaker addressing the Committee must extend courtesy and respect to the Committee and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- 7.2 The Chairperson, may ask for the removal from the meeting room any person who acts in breach of these guidelines or the Governance Rules.
- 7.3 Each speaker has the right to an uninterrupted presentation and no interjections will be tolerated from the gallery.

8. Application Generally

- 8.1 Rule 69 of the Governance Rules outlined the rules applicable to Delegated Committees.
- 8.2 As the purpose of the Submitters Delegated Committee is to hear from community members, the Committee should, where possible operate without undue formality.
- 8.3 Requests for variations to the process outlined above in clauses 1 to 7 shall be decided by the Chairperson to ensure efficient and effective meetings.

COR.2	CONTRACTS TO BE AWARDED FEBRUARY 2023
Officer:	Corinne Farley, Coordinator Contracts
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	Nil

Summary

This report provides details of contracts proposed to be awarded under a delegation from Council, from the date of the last report. Although this report recommends noting the power delegated to Council officers, Council has the power to:

- a) direct that the Chief Executive Officer (CEO) award the contract under the direct delegation from Council; or
- b) specifically delegate the power to the CEO.

Recommendation

That Council:

1. **Notes that the following contracts will be awarded by Council officers under delegated authority:**
 - (a) **C2023-28 Kyneton Landfill – Biofilter Construction and Civil Works.**
 - (b) **C2023-29 Design and construct Synthetic Green Gisborne Bowls Club.**

Background information

Council's delegated authority to its officers to award a contract is controlled by the financial value of the contract. The various financial limits of the authority are specified in Appendix 6 of the Procurement Policy.

Opportunity to review delegated authority

This report provides Council with a brief summary of proposed contracts, which are being advertised and also indicates whether or not delegated authority to award the contract exists.

C2023-28 Kyneton Landfill Biofilter Construction and Civil Works

This contract is for the construction of a bio filter and civil works at the closed Kyneton Landfill site located at 140 Redesdale Rd, Kyneton VIC 3444. The site was rehabilitated in 2020, with two passive landfill gas vents connected to an under-cap landfill gas collection system. The site currently acts as a transfer station.

The CEO has delegated authority to award this contract.

C2023-29 Design and Construct Synthetic Green Gisborne Bowls Club

This contract is for the replacement of the existing turf Bowling Green. The contract is design and construct contract. A new synthetic green will provide environmental benefits by

eliminating the need to water, fertilize and use chemicals on the green, thereby reducing operating costs.

The CEO has delegated authority to award this contract.

Consultation and engagement

The nature of this report does not require any consultation or community engagement.

Collaboration

The nature of this report does not require collaboration with other councils, governments or statutory bodies.

Innovation and continuous improvement

Council reviews its Procurement Policy regularly, in accordance with the *Local Government Act 2020*. These reviews consider options for innovation and are part of continuous improvement processes.

Relevant Law

The *Local Government Act 2020* provides for Council to delegate powers to staff, including the power to award contracts.

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

There are no regional, state or national plans and policies that are relevant to the subject matter of this report.

Relevant Council plans and policies

The awarding of contracts is undertaken in accordance with the provisions of Council's Procurement Policy.

Financial viability

Funds for all contracts to be awarded, as listed above, have been provided in the operational and capital works budget and future annual budgets.

Sustainability implications

Council's Procurement Policy requires staff to procure goods, services and works from suppliers who actively employ sustainable practices in their operations.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

COR.3	QUARTERLY REPORT FOR PERIOD ENDING 31 DECEMBER 2022 AND MID-YEAR BUDGET REVIEW
Officer:	Travis Harling, Manager Finance and Reporting
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	Council Quarterly Report - Q2 2022-23 (under separate cover)

Summary

The Quarterly Report for the period ended 31 December 2022 is presented for Council's consideration and information. This report includes the following:

- Section 1 – Quarterly financial statements, including the mid-year budget position
- Section 2 – Capital works statement
- Section 3 – Council plan actions – progress report
- Section 4 – Customer service
- Section 5 – People Risk and Wellbeing Report
- Section 6 – Implementation of council resolutions
- Section 7 – Governance schedule
- Section 8 – Councillor expenditure
- Section 9 – Councillor activities in the community

The report also provides a high-level summary of the organisation's performance to 31 December 2022.

Recommendation

That Council:

1. **Notes the Quarterly Report for the period ended 31 December 2022; and**
2. **Endorses the budget changes identified as part of the mid-year budget review.**

Background

The Quarterly Report is provided in accordance with Section 97 of the *Local Government Act 2020* (Vic) ensuring that a statement comparing budgeted and actual revenue and expenditures is presented at an open Council Meeting.

Discussion

Section 1 and 2 - Financial performance to 31 December 2022

The Income Statement reports an operating surplus of \$31.7m for the first six months of the 2022-23 financial year, which is \$3.6m favourable to budget. This is largely due to higher levels of interest received on financial investments and the recognition of June 2021 storm cost recovery grant, most other line item variances to budget are immaterial. Capital expenditure totalled \$9.1m for the first six months, which was \$1.4m under budget.

Section 3 to 9 – Quarterly Report to 31 December 2022

Sections 3 to 9 of the report provide Council an update on the progress of completing various Council Plan actions for the 2022/23 financial year and includes reports relating to People Culture and Performance and Risk Management. The report also includes a Governance Schedule and several other reports relating to Councillor Expenses and activities.

Mid-Year Budget Review

In January each year, a review of the actual financial performance for the first half of the year is undertaken and variances to the annual budget are identified. Generally there will be a range of budget variances both favourable and unfavourable as the budget is based on assumptions made prior to the commencement of the financial year.

The 2022/23 Mid-Year Budget Review (MYBR) has evaluated a number of variations that have occurred in the first 6 months, and those forecast to occur in the second half of the financial year.

- Council's decision to discontinue the provision of home support services
- The shortage of skilled arborists leading to an increase in the need to engage contractors
- The net cost to Council resulting from the 7 October 2022 Flood
- Salary savings from vacant positions throughout the year
- Budget coverage for Enterprise Bargaining Agreement negotiations
- Increased funding for maintenance of Fire Access tracks
- Confirmation of Grants Commission funding, resulting in a higher amount to be received
- The financial impact of State Government funding for 3 and 4-year-old kindergarten
- Increased revenue from investment interest due to higher interest rates
- Revised draw down dates for budgeted new borrowings in line with project progress
- Recognition of new, unbudgeted grants received by Council.

Councillors have been briefed in detail on variances in the Operating and Capital budgets.

The MYBR Cash result after Capital expenditure, Reserve Transfers and Loan adjustments reports a cash deficit of \$91,986. The 2022/23 adopted budget reported a surplus of \$23,000.

Council staff will continue to work diligently during the remaining months of the financial year to improve the forecast cash position and reduce the forecast cash deficit of \$91,986.

The carry forward deficit from the 2021/22 financial year \$4,776,744 is being closely managed. The large deficit is due to the costs incurred from the 9 June 2021 storm that impacted the shire. Claims relating to the expenditure have been submitted for approval and are being paid to Council when finalised. Officers are confident that the remaining amounts to be reimbursed will meet the deficit carry forward recognised at 30 June 2022.

Consultation and engagement

Officers from across the organisation have contributed to the preparation of the Quarterly Report.

Collaboration

Collaboration with other councils, governments and/or statutory bodies was not required in relation the Quarterly Report.

Innovation and continuous improvement

The Quarterly Report forms part of a legislative requirement, which assists Council to deliver on its priority of strong and reliable government, whilst achieving its vision by following good governance processes and providing transparency to the community.

The Quarterly Report is reviewed by the Executive and incorporates feedback from various levels of management to enhance readability and allow for continuous improvement.

Relevant law

This report has been prepared in accordance with Section 97 of the *Local Government Act 2020 (Vic)* and is compliant with the requirements. The financial statements have been prepared in accordance with Australian Accounting Standards.

There are no human rights implications resulting from the completion of the Quarterly Report.

In accordance with the Gender Equality Act 2020, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

There are no regional, state or national plans or policies to be considered in relation to the subject matter of this report.

Relevant Council plans and policies

Sections 1 and 2 of the Quarterly Report, report on the financial status of Council with relation to the Council Budget. Section 3 of the Quarterly Report, reports Council's progress against each of the actions set out in the Council Plan.

Financial viability

The Quarterly Report provides information on Council's operating and financial performance for the quarter ending 31 December 2022. The financial statements within the report indicate that Council remains in a sound financial position.

Sustainability implications

In terms of financial sustainability, the financial statements within the report indicate that Council remains in a sound financial position.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

COR.4	INSTRUMENT OF APPOINTMENT AND AUTHORISATION
Officer:	Patricia Clive, Coordinator Governance
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	Attachment 1 – Instruments of Appointment ↓

Summary

This report seeks Council's approval to appoint authorised officers under the *Planning and Environment Act 1987* (the Act) by an Instrument of Appointment and Authorisation. Under the Act only Council, by a resolution, can appoint authorised officers who must be employees of Council. In addition, Council is required to revoke any appointments for authorised officers who are no longer employees of Council.

An Instrument of Appointment and Authorisation is required for a number of staff who have recently commenced with Council. In addition, several Instruments are required to be revoked as the authorised officer no longer works for Council or has moved to a position that does not require an Instrument.

Recommendation

That Council

1. resolves that in the exercise of the powers conferred by section 147(4) of the *Planning and Environment Act 1987*:
 - (a) the Instrument of Appointment and Authorisation of Nakita Thomson, Koko Cheng and John Nix be revoked;
 - (b) Council Officers named in the Instruments of Appointment and Authorisation provided at Attachment 1 be appointed and authorised;
 - (c) any previous Instruments issued to the officers in Attachment 1 by Council are revoked;
 - (d) the Instruments of Appointment and Authorisation come into force upon signing and remain in force until Council determines to vary or revoke these; and
 - (e) the Instruments of Appointment and Authorisation at Attachment 1r be signed.

Background

The appointment of Authorised Officers allows certain Council staff to act on behalf of the Council in the administration and enforcement of various Acts, regulations or local laws in accordance with the powers granted to them. Under the *Planning and Environment Act 1987* staff represent the Council in enforcing the provisions of that Act.

Discussion

The following officers are required to be authorised officers under the *Planning and Environment Act 1987*:

- Abdullahi Jama, Statutory Planning Officer
- Amy Swan, Statutory Planning Officer
- Rebecca Stockfeld, Director Planning and Environment
- Sarah Annells, Manager Safer Communities
- Zoe Li, Statutory Planning Officer

The list of authorised officers includes staff new to Council; staff previously appointed whose Instruments have not been reviewed for considerable time; and staff who need to be reissued with Instruments as they were on a jointly issued Instrument being revoked due to staff changes.

All previous authorisations issued by Council to these people are to be revoked with the issuing of the new Instruments. Each authorised officer will receive an individual instrument as this is administratively efficient when authorised officers leave Council or transfer to another role. Council cannot partially revoke an Instrument so each time there is a change of staffing an Instrument issued to several officers has to be re-issued to continuing staff. Individual Instruments will reduce the regular re-issuing of Instruments.

The Instrument of Appointment and Authorisation for the following officers are to be revoked as they are either no longer employed by Council or have transferred to a role that does not require an authorisation or are on extended leave:

- Nakita Thomson
- Koko Cheng
- John Nix

This will be achieved with the revocation of the previous Instrument of Appointment and Authorisation that authorised these people.

Consultation and engagement

Not applicable

Collaboration

Not applicable

Innovation and continuous improvement

Not applicable

Relevant law

This report has been prepared in accordance with Local Government Acts 2020 and the Planning and Environment Act 1987.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian *Government's Charter of Human Rights and Responsibilities Act 2006*.

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

Not applicable

Relevant Council plans and policies

This recommendation allows Council to maintain the Council Plan 2021-2031 requirement to deliver strong and reliable Government.

Financial viability

Not applicable

Sustainability implications

Not applicable

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.



Macedon Ranges
Shire Council

Attachment 1 – Instruments of Appointment



Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)

In this instrument "**officer**" means -

Abdullahi Jama – Statutory Planning Officer

By this instrument of appointment and authorisation Macedon Ranges Shire Council -

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This instrument is authorised by a resolution of the Macedon Ranges Shire Council on 28 September 2022

Signed:

Mayor, Councillor
Date: ##insert

Signed:

Chief Executive Officer
Date: ##insert



Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)

In this instrument "**officer**" means -

Amy Swan – Statutory Planning Officer

By this instrument of appointment and authorisation Macedon Ranges Shire Council -

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This instrument is authorised by a resolution of the Macedon Ranges Shire Council on 28 September 2022

Signed:

Mayor, Councillor
Date: ##insert

Signed:

Chief Executive Officer
Date: ##insert



Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)

In this instrument "**officer**" means -

Rebecca Stockfeld – Director Planning and Environment

By this instrument of appointment and authorisation Macedon Ranges Shire Council -

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This instrument is authorised by a resolution of the Macedon Ranges Shire Council on 28 September 2022

Signed:

Mayor, Councillor
Date: ##insert

Signed:

Chief Executive Officer
Date: ##insert



Instrument of Appointment and Authorisation
(*Planning and Environment Act 1987*)

In this instrument "**officer**" means -

Sarah Annells – Manager Safer Communities

By this instrument of appointment and authorisation Macedon Ranges Shire Council -

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This instrument is authorised by a resolution of the Macedon Ranges Shire Council on 28 September 2022

Signed:

Mayor, Councillor
Date: ##insert

Signed:

Chief Executive Officer
Date: ##insert



Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)

In this instrument "**officer**" means -

Zoe Li – Statutory Planning Officer

By this instrument of appointment and authorisation Macedon Ranges Shire Council -

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This instrument is authorised by a resolution of the Macedon Ranges Shire Council on 28 September 2022

Signed:

Mayor, Councillor
Date: ##insert

Signed:

Chief Executive Officer
Date: ##insert

COR.5	DELEGATED COMMITTEE MEETING DATES
Officer:	Lucy Webb-Wilson, Senior Governance Officer - Council Business
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	Nil

Summary

The March 2023 Planning Delegated Committee (PDC) meeting is currently scheduled for Wednesday 8 March 2023 at 7pm as per the Council resolution at the 23 November 2022 Council Meeting. This is also the date of International Women's Day 2023. There are events happening across the Shire that Councillors are invited to attend. It is therefore proposed to reschedule the PDC meeting to Thursday 9 March at 7pm.

Community consultation has been ongoing for the Notice of Intention to Lease the site known as 3 and 5 Noel Street, Lancefield to Wintringham Housing Limited for a 20-year term for development and continued use for social housing. As Council has received submissions to this consultation, it is proposed to hold a Submitters Delegated Committee (SDC) meeting online on Wednesday 15 March 2023 at 7pm.

Recommendation

That Council:

- 1. Reschedules the March 2023 Planning Delegated Committee Meeting from Wednesday 8 March 2023 at 7pm to Thursday 9 March 2023 at 7pm; and**
- 2. Schedules a Submitters Delegated Committee meeting online for Wednesday 15 March 2023 at 7pm, to provide an opportunity for any person who wishes to make a verbal presentation in support of their submission on the Notice of Intention to Lease the site known as 3 and 5 Noel Street, Lancefield to Wintringham Housing Limited for a 20-year term for the development and continued use for social housing.**

Background

In accordance with Council's Governance Rule 13(a) *the dates, times and places of scheduled meetings will be fixed by the Council from time to time*, at the Council meeting on 23 November 2022, Council approved Wednesday 8 March at 7pm as a PDC meeting date. The PDC was established by Council on 23 June 2021 as a delegated committee under section 63 of the Local Government Act 2020 (LG Act 2020) to hear from applicants/landowners and objectors/submitters on statutory and strategic planning matters including planning applications and to determine planning matters and is made up of all nine Councillors.

SDC meetings are scheduled as required by Council. The submissions received for the Notice of Intention to lease the site known as 3 and 5 Noel Street, Lancefield to Wintringham Housing Limited for a 20-year term for the development and use for social housing, requires a SDC meeting to be scheduled to allow submitters to address Councillors directly.

Discussion

The current date for the March 2023 PDC meeting is shared with International Women's Day 2023. On this recognition day, several Councillors are invited to attend events as representatives of Council. To allow Councillors to attend these events while also ensuring the March PDC meeting can achieve a quorum and allow all Councillors to hear from the speakers at the PDC prior to making decisions on the items, it is proposed to move the date of the meeting by one day, to Thursday 9 March 2023 at 7pm. This reschedule should cause as little inconvenience as possible to Council staff and Councillors.

It is proposed that the Council holds an SDC meeting online on Wednesday 15 March 2023 at 7pm. This is as soon as reasonably possible following the closing date for submissions of 28 February 2023 at 5pm. This date was selected to avoid conflict with other meetings of Council.

Consultation and engagement

Not applicable.

Collaboration

Not applicable.

Innovation and continuous improvement

Not applicable.

Relevant law

All Council meetings are held in accordance with the requirements of the Local Government Act 2020 and Council's Governance Rules.

In accordance with the Gender Equality Act 2020, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Approving the schedule of meetings for 2023 provides members of the municipal community the opportunity to participate in the conduct of public affairs in line with section 18 of Charter of Human Rights and Responsibilities Act 2006.

Relevant regional, state and national plans and policies

Not applicable.

Relevant Council plans and policies

Not applicable.

Financial viability

Not applicable.

Sustainability implications

Not applicable.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

COR.6	MOTIONS FOR THE MUNICIPAL ASSOCIATION OF VICTORIA STATE COUNCIL AND THE NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT
Officer:	Lucy Webb-Wilson, Senior Governance Officer - Council Business
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	1. Disaster Recovery and Resilience Support for Local Government - MAV Motion ↓ 2. Disaster Recovery and Resilience Support for Local Government - ALGA Motion ↓

Summary

This report is seeking Council's support to submit a motion for disaster recovery and resilience support for local government to the upcoming meeting of Municipal Association of Victoria State Council in May and the National Assembly of Local Government in June. This motion is seeking to raise awareness and seek support from other Councils for changes to funding arrangements from State and Commonwealth governments to address the impacts of natural disasters more sustainably.

Recommendation

That Council:

- 1. Endorses the motion in Attachment 1 for consideration at the Municipal Association of Victoria State Council meeting on 19 May 2023;**
- 2. Endorses the motion in Attachment 2 for consideration at the 2023 National General Assembly of Local Government on 13 – 16 June 2023;**
- 3. Authorises the Chief Executive Officer to submit the motion in Attachment 1 to the Municipal Association of Victoria State Council through the appropriate administrative processes; and**
- 4. Authorises the Chief Executive Officer to submit the motion in Attachment 2 to the 2023 National General Assembly of Local Government through the appropriate administrative processes.**

Background

Multiple disasters have affected many Councils recently. Arguably Victoria has the most complex and demanding evidence collection process for Disaster Recovery Funding Agreement (DRFA) of all states. This requires non-claimable administration by multiple staff and is impacting multiple Councils.

This burden is applied when stretched councils are engaging in a broad range of recovery and relief activities, and often when the disaster may be impacting local staff. It is understood that this degree of information is not required in other states.

Discussion

When submitting evidence for DRFA the information required includes:

- Recent proof of pre-disaster asset condition;
- Before and after photographs – not all Council's have in field cameras;
- Details of the people and plant resource use on individual tasks – even where contractors work on day rates instead of hourly rates; and
- Considerable administration to collate this information

This burden is applied when stretched Councils are engaging in a broad range of recovery and relief activities, and often when the disaster may be impacting local staff. It is understood that this degree of information is not required in other States.

The recent disasters have confirmed the need for asset betterment. The MAV recognises this in its position paper, 'Role of Local Government in Emergency Management', noting:

"More robust preparedness activities will be far more effective in dealing with the changing climate and associated increase in emergency events. Continued growth in response investment at the expense of resilience building is no longer sustainable."

Councils receive gifted assets through growth and grant-funded projects. Rates income renew assets replacing like-for-like with small alterations, including for legislative requirements, new technologies and obsolescence – however, the intent is not radical asset upgrade.

To achieve necessary and responsible asset betterment, Councils need additional funding.

The Australian Government has stated that restoring assets to their previous standard is sometimes counter-intuitive and that betterment funding has demonstrated that rebuilding damaged assets to a higher standard makes communities more resilient to future disasters and is more cost-effective for all levels of Government.

Consultation and engagement

Not applicable

Collaboration

Not applicable

Innovation and continuous improvement

Not applicable

Relevant law

The Council is a financial member of the Municipal Association of Victoria establish under the *Municipal Association Act 1907*.

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

Not applicable

Relevant Council plans and policies

Delivering strong and reliable governance.

Financial viability

Not applicable

Sustainability implications

Not applicable

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

Disaster Recovery and Resilience Support for Local Government

Motion to be submitted for the Municipal Association of Victoria (MAV) State Council meeting on Friday 19 May 2023.

That the Municipal Association of Victoria (MAV) calls on the Victorian and Australian Governments to:

- 1. Simplify the methodology and data inputs required in Victorian to prove Council's eligibility for Disaster Recovery Funding, bringing it in line with other States and ahead of any national unification of claims processes.**
- 2. Financially support Local Government to ensure post-disaster funding programs enable betterment to improve assets beyond the 'previous condition' to provide resilience against future damage resulting from disaster events.**
- 3. Financially support Local Government with an ongoing betterment program to upgrade existing public infrastructure in readiness for increased exposure to future disaster events.**

MAV Strategic Outcome: Well-planned, connected and resilient built environment

Rationale

Multiple disasters have affected many Councils recently. Arguably Victoria has the most complex and demanding evidence collection process for Disaster Recovery Funding Agreement (DRFA) of all States. This requires non-claimable administration by multiple staff and is impacting multiple Councils.

Information required includes:

- Recent proof of pre-disaster asset condition
- Before and after photographs – not all Council's have in field cameras
- Details of the people and plant resource use on individual tasks – even where contractors work on day rates instead of hourly rates
- Considerable administration to collate this information

This burden is applied when stretched Councils are engaging in a broad range of recovery and relief activities, and often when the disaster may be impacting local staff. It is understood that this degree of information is not required in other States.

The recent disasters have confirmed the need for asset betterment. The MAV recognises this in its position paper, 'Role of Local Government in Emergency Management', noting:

"More robust preparedness activities will be far more effective in dealing with the changing climate and associated increase in emergency events. Continued growth in response investment at the expense of resilience building is no longer sustainable."

Councils receive gifted assets through growth and grant-funded projects. Rates income renew assets replacing like-for-like with small alterations, including for legislative requirements, new technologies and obsolescence – however, the intent is not radical asset upgrade.

To achieve necessary and responsible asset betterment, Councils need additional funding.

The Australian Government has stated that restoring assets to their previous standard is sometimes counter-intuitive and that betterment funding has demonstrated that rebuilding damaged assets to a higher standard makes communities more resilient to future disasters and is more cost-effective for all levels of Government.

Disaster Recovery and Resilience Support for Local Government

Motion to be submitted for the 2023 National General Assembly of Local Government (NGA) on 13 - 16 June 2023.

That the Australian Local Government Association (ALGA) calls on the Victorian and Australian Governments to:

- 1. Simplify the methodology and data inputs required in Victorian to prove Council's eligibility for Disaster Recovery Funding, bringing it in line with other States and ahead of any national unification of claims processes.**
- 2. Financially support Local Government to ensure post-disaster funding programs enable betterment to improve assets beyond the 'previous condition' to provide resilience against future damage resulting from disaster events.**
- 3. Financially support Local Government with an ongoing betterment program to upgrade existing public infrastructure in readiness for increased exposure to future disaster events.**

ALGA Priority Area: Natural Disasters

Rationale

Multiple disasters have affected many Councils recently. Arguably Victoria has the most complex and demanding evidence collection process for Disaster Recovery Funding Agreement (DRFA) of all states. This requires non-claimable administration by multiple staff and is impacting multiple Councils.

Information required includes:

- Recent proof of pre-disaster asset condition
- Before and after photographs – not all Council's have in field cameras
- Details of the people and plant resource use on individual tasks – even where contractors work on day rates instead of hourly rates
- Considerable administration to collate this information

This burden is applied when stretched Councils are engaging in a broad range of recovery and relief activities, and often when the disaster may be impacting local staff. It is understood that this degree of information is not required in other States.

The recent disasters have confirmed the need for asset betterment. The MAV recognises this in its position paper, 'Role of Local Government in Emergency Management', noting:

"More robust preparedness activities will be far more effective in dealing with the changing climate and associated increase in emergency events. Continued growth in response investment at the expense of resilience building is no longer sustainable."

Councils receive gifted assets through growth and grant-funded projects. Rates income renew assets replacing like-for-like with small alterations, including for legislative requirements, new technologies and obsolescence – however, the intent is not radical asset upgrade.

To achieve necessary and responsible asset betterment, Councils need additional funding.

The Australian Government has stated that restoring assets to their previous standard is sometimes counter-intuitive and that betterment funding has demonstrated that rebuilding damaged assets to a higher standard makes communities more resilient to future disasters and is more cost-effective for all levels of Government.

14 DIRECTOR COMMUNITY REPORTS

Nil

15 DIRECTOR ASSETS AND OPERATIONS REPORTS

AO.1	PUBLIC TOILET AND BARBECUE STRATEGY
Officer:	Carina Doolan, Coordinator Facilities Management
Council Plan	1. Connecting communities
relationship:	2. Healthy environment, healthy people
Attachments:	Public Toilet and Barbecue Strategy (under separate cover)

Summary

At the 28 September 2022 Scheduled Council Meeting, Council endorsed the release of the draft *Public Toilet and Barbecue Strategy* for four weeks of community consultation. Input from the public consultation has been reviewed and presented to Council, and the final *Public Toilet and Barbecue Strategy* (PTBS) has been completed and is presented for adoption.

Recommendation

That Council adopts the Public Toilet and Barbecue Strategy.

Background

Council manages 52 public toilets and 45 barbecues across the shire, supporting residents using open space and recreation areas. These facilities vary in age, condition and compliance, with the oldest asset built in the early 1960s and the most recent the 2019 Gisborne 'Changing Places' toilet. Recently Council replaced public toilet facilities at Darraweit Guim and Racecourse Reserve, Woodend. Barbecue facilities also vary in age and condition, with five (5) facilities ranked as "very good" and two (2) facilities ranked as "very poor".

The PTBS will address all Council public toilet facilities and barbecues within the shire, except for public toilets within Council buildings such as public libraries, maternal and child health care centres, and customer service centres. The existing public toilet and barbecue facilities comply with the varying standards of the time, with many of those superseded by newer standards, legislation and requirements. The new standards are not retrospective, and any facility upgrades will occur over time.

At the Scheduled Council Meeting of 25 August 2021 (item 4 of the resolution below) Council requested Officers present the draft Public Toilet and Barbecue Strategy (draft strategy) at the February 2022 Scheduled Council Meeting, as below:

'That Council:

- (1) Requests a business case be prepared for consideration in the 2022/23 financial year budget to design and plan a new toilet block providing a unisex All Abilities toilet and two other toilets with services and connecting pathways at St Agnes Place Kyneton.***
- (2) Requests a business case be prepared for consideration in the 2022/23 financial year budget to design and plan a new toilet block providing a unisex DDA toilet and two other toilets, services and connecting pathways at Quarry Reserve Kyneton.***

- (3) *Requests a business case be prepared for consideration in the 2022/23 financial year budget for sealing Campaspe Crescent, Kyneton to address the expected increase of traffic to the park, due to recommendation 2 above.*
- (4) *Requests the presentation of the draft Public Toilet Strategy to Council at the February 2022 Scheduled Council Meeting for consideration, noting this will inform recommendations 1, 2 and 3 above.'*

The draft strategy was delayed, and at the Scheduled Council Meeting of 27 July 2022 Council resolved:

'That Council notes the presentation of the draft Public Toilet and BBQ Strategy for consultation is deferred until the October 2022 Scheduled Council Meeting.'

The draft Public Toilet and Barbecue Strategy (PTBS) has been completed and is now ready for review.

Discussion

Councils across Victoria typically provide one public toilet block for every 2000 - 4000 residents. The Macedon Ranges Shire Council currently provides one toilet block for every 980 residents. The shire has a high supply of public toilets and barbecues, with many complementing the variety of passive and active open spaces, recreational and tourism areas available to residents and visitors. The 52 public toilets and 45 barbecues are located across the shire.

Officers engaged a consultant in June 2021 to audit and review existing facility services, conditions and locations relevant to each township to provide data for developing a holistic PTBS Strategy applicable to the shire.

The project had several stages, outlined as follows:

- Stage 1: Project inception & develop methodology - Complete
- Stage 2: Public Toilet & BBQ audit - Complete
- Stage 3: Community consultation - Complete
- Stage 4: Public Toilet and Barbecue Strategy – Draft Complete

The consultant undertook a thorough audit of the condition, design and provision of all Public Toilet and Barbecue facilities to inform the Community consultation. The audit process included determining each toilet's capacity to service users, the toilet provision density within a township, all abilities access, compliance to current standards and overall condition.

The PTBS:

- Establishes a vision clarifying the need and outcomes in providing toilets and barbecues,
- Clarifies the Council's role in the provision of public toilets and barbecues,
- Provides guidelines for the provision, design, and operations of public toilets and barbecues,
- General design principles and guidelines to inform the consideration of new facilities,
- Sets out a strategic framework to guide planning for upgrades, installations, and demolition of existing facilities,
- Safety and inclusive access recommendations, and

- Identifies opportunities for improving efficiencies.

Consultation and engagement

Utilising the audit outcomes, community consultation on the PTBS involved an online survey advertised via the Council's website, social media and posters in all toilets. The community and shire visitors provided feedback over six weeks during September and October 2021. 285 responses related to public toilets and 110 responses related to barbecues. Officers used this information to guide the overall approach to the draft PTB Strategy.

The draft version of the Strategy was released in October 2022 for community consultation with 9 submissions received. Common feedback themes from the consultation process relate to the provision of new public toilets, fixtures within public toilets and Gender orientation and layout. One response received suggesting barbecues should consider shade.

The objectives of community engagements were to:

- Inform the community and stakeholders of the purpose PTBS.
- Provide community and stakeholders with the opportunity to identify issues and opportunities relating to the provision and design of public toilet and barbecue facilities to inform the development and preparation of the PTBS.

Collaboration

Officers did not collaborate with other parties in relation to this report. However, officers reviewed various other municipalities' policies.

Innovation and continuous improvement

In 2020, Officers identified the need to review the Council's Public Toilets and Barbecues to:

- (1) Set service provisions in appropriate locations.
- (2) Ensure financially sustainable operations, maintenance and renewal.

The draft PTBS:

- Establishes a vision clarifying the need and outcomes in providing toilets and barbecues,
- Clarifies the Council's role in the provision of public toilets and barbecues,
- Provides guidelines for the provision, design, and operations of public toilets and barbecues,
- Sets out a strategic framework to guide planning for upgrades, installations, and demolition of existing facilities,
- Identifies opportunities for improving efficiencies.

Relevant law

In accordance with the *Gender Equality Act 2020*, officers will complete a Gender Impact Assessment as a parallel activity to the community consultation on the draft PTBS.

Relevant regional, state and national plans and policies

There are no relevant regional, state and national plans and policies applicable to the subject matter of this report. Council's existing public toilet and barbecue facilities comply with the relevant standards that were applicable at the time of construction, with many superseded by newer standards (e.g. AS148), legislation (DDA, Building Regulations 2018) and other requirements.

Relevant Council plans and policies

Officers identified the following documents as important to the development of the PTBS; these include:

- *Council Plan 2017-2027 (Year four)*
- *Asset Plan 2022*
- *Community Engagement Policy 2021*
- *Engineering Requirements for Infrastructure Construction Policy 2010*
- *Open Space Policy 2014 Policy*
- *Visitor Economy Strategy 2019*

Financial viability

Council allocated funds in the 2020-2021 capital work building design program to implement a review of the shire's public toilets and barbecues.

The table below summarises the facilities and includes the indicative cost of ownership information.

Facility	Number of Facilities	Avg. annual maintenance cost per facility	Avg. annual cleaning cost per facility	Avg. annual consumable cost per facility	Avg. annual depreciation cost per facility	Total Avg. annual cost of ownership per facility
Public Toilets	52	\$1,800	\$2,504	\$840	\$12,500	\$17,644
Barbecues	45	\$ 420	\$1,500	N/A	\$ 700	\$ 2,620

The total average annual cost of ownership for Public Toilet and Barbecue facilities within the Shire is \$1.03M.

Council receives many requests from the public for additional public toilet and barbecue facilities.

The PTBS guides Council decision-making by articulating the provision, design and operational levels whilst ensuring fair and equitable access for the community and visitors. The audit provides Council with an evidence-based priority list of public toilet facilities and barbecues requiring investment. It also guides the consideration of when and where new facilities are built or demolished.

This guidance enables Council to plan for future work, reliably inform Council's Financial Plan, and manage community expectations.

Sustainability implications

The PTBS outlines how high levels of sustainability can be achieved for new and existing facilities across all asset lifecycle stages.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

AO.2	CAPITAL WORKS MONITORING
Officer:	Jeetendra Dahal, Manager Assets and Project Management Office
Council Plan relationship:	4. Delivering strong and reliable government
Attachments:	Nil

Summary

This report provides transparency on cost escalations on infrastructure projects and seeks further funding, cancellation or the scope reduction of the projects to manage the projects within the allocated annual capital works program budget.

Recommendation

That Council :

1. **Adopts the following changes to the FY22/23 budget relating to the following infrastructure projects:**
 - (a) **Purchase and installation of 2 x level 2 EV smart-chargers and 1 x level 3 smart-chargers at each office site (Gisborne, Woodend and Kyneton)– increase the Council co-contribution for this project by \$50,331 from \$67,500 to \$117,831**
 - (b) **Ash Wednesday Park Improvement– increase the budget for this project by \$10,912 from \$26,234 to \$37,146**
 - (c) **Woodend Landcare Footbridge– increase the budget for this project by \$20,000 from \$218,181.82 to \$238,181.82**
 - (d) **Gisborne GAC Plant and Boiler Design – cancel this project and transfer its budget of \$40,000 to the Kyneton KSAC Plant and Boiler Design as the Gisborne plant has a few years of remaining useful life**
 - (e) **Kyneton KSAC plant and boiler Design– increase the budget for this project by \$40,000 from \$40,000 to \$80,000**
 - (f) **Chessy Park Drive Traffic Island Improvement– The project has been completed. Return the saving of \$81,000 to the consolidated capital works budget.**
 - (g) **Bolithos Road footpath- The project has been completed. Return the saving of \$11,500 to the consolidated capital works budget.**
 - (h) **High Street, Lancefield Footpath- increase the budget for this project by \$43,775 from \$105,000 to \$148,775**
 - (i) **The Crescent, Lancefield Footpath- increase the budget for this project by \$31,650 from \$170,500 to \$202,150**
 - (j) **Jennings Street, Kyneton Reconstruction- increase the budget for this project by \$153,940.50**
 - (k) **Bitumen Resurfacing Program- Transfer \$153,940.50 from the remaining balance of \$700,000 to cover the shortfall of \$153,940.50 on Jennings Street (item i above)**

- (l) **Bitumen Resurfacing Program- Transfer \$253,897.75 from the remaining balance of \$700,000 to the consolidated capital works program budget**
- (m) **Barkly Square- increase the budget for this project by \$186,850**
- (n) **Kyneton Springhill Road- increase the budget for this project by \$206,990.56**
- (o) **Romsey Road (Monument Section)- Transfer the surplus of \$221,941 to the consolidated capital works program budget**
- (p) **Sheedy Road, Gisborne –Section 1 Reconstruction- increase the budget for this project by \$ 375,719.75**
- (q) **Hamilton Street– Transfer the surplus of \$121,822 to the consolidated capital works program budget**

Background

During Financial Year 2021/2022, there were significant price rises across many building materials. The Master Builders Association reports that between March 2020 and March 2022, steel products increased by over 40% and timber products by over 20%. In addition, labour increased significantly.

The Council budget build process begins in October of the previous year. This means pricing is already outdated by nine months before the budget year starts. Some infrastructure projects will not be tendered until over twelve months after the initial estimates were set. Officers allow a reasonable cost escalation on project costs; however, the cost increases experienced were outside this estimate.

Some tenders are coming as high as 30% over budget. This is not sustainable, and there is no budget to cover these unexpected increased costs.

The other impact of the current construction-led recovery is a shortage of contractors. Council has experienced tenders with either one response or zero responses and/or non-compliant tender responses.

The combination of cost increases and contractor availability require Council critically review all project impacted by these factors.

Discussion

Each year, Council announces a commitment to expend a defined amount of money to deliver specific infrastructure projects through the budget. In real terms, our dollar purchases less than forecasted. This presents three potential actions to remain within budget:

- (1) value managing the project to deliver the expected outcome within the provided budget;
- (2) over-expending the budget; or
- (3) reducing the number of infrastructure projects delivered.

The second potential option is unacceptable within Council's legislative and moral responsibilities. The last is achievable by critically reviewing over-budget infrastructure projects and determining which must proceed and which must be cancelled.

The concept is that in critically reviewing which infrastructure projects are funded and which are not funded, the intent is to have the unfunded infrastructure projects cover the increase in costs for the project determined to continue.

In determining which project proceeds, even though over budget, the following items need to be considered:

- Associated grant funding with acquittal requirements
- Immediate asset reliability and functionality

Officers will attempt to 'value manage' the project to deliver the expected outcome within the provided budget – this will generally occur before going to tender or if a tender response is above budget. This will happen as part of normal council operations.

This month, officers identified the following over-budget infrastructure projects or projects they may be cancelled to balance the budget.

Infrastructure Project	Progress with Construction	Reason for Progression or Non-progression	Change to the Budget - () is an additional cost to the budget
Financial Position following previous decisions	NA	Bring forward a balance of \$52,150.98 resulting from the resolution of the December 2022 SCM	\$52,150.98
Purchase and installation of 2 x level 2 EV smart-chargers and 1 x level 3 smart-chargers at each office site (Gisborne, Woodend and Kyneton)	Yes	Based on the feasibility study report, the project was originally estimated at \$135,000. The short grant opportunity lead time did not allow the completion of a detailed design and an accurate estimate. Following design and tender, the costs are \$117,831 over budget with DELWP content for this construction cost to be shared 50-50, therefore, council funds need to increase by \$50,331 to Council's total of \$117,831.	(\$50,331)
Ash Wednesday Park	Yes	As part of the staged Ash Wednesday Park improvement program following the site master plan, a new path is planned to provide access to the upgraded play area, the newly replaced bridge, and a link towards the railway line. Allocated Budget is \$26,234.00 and the received quoted amount is \$37,146.00	(\$10,912.00)
Woodend Landcare Footbridge	Yes	These works are undertaken via an MOU with the Landcare group as per a bequeath. Council officers agreed on the	(\$20,000.00)

		<p>location and need for the bridge. There were COVID-related delays in delivering the bridge.</p> <p>Budget: \$218,181.82</p> <p>Quote: \$252,663.73</p> <p>Shortfall \$34,481.91</p> <p>Officers are suggesting that the Contingency amount of \$20,423.98 be reduced to \$5,941, resulting in a shortfall of \$20,000. Officers are comfortable with this plan as the contractor has provided three similar bridges recently, and none have needed to use any contingency funds. Therefore it is a low risk to go into delivery with reduced contingency.</p>	
Gisborne GAC Plant and Boiler Design	No	<p>Officers recommend cancelling this project and transferring its budget to the Kyneton KSAC Plant and Boiler Design as the Gisborne plant has a few years of remaining useful life. The works at Kyneton are urgent. The ELT approved the use of a heat pump system for Kyneton. Rollover of funds would assist in the design fees for the heat pump proposed at Kyneton.</p>	\$40,000.00
Kyneton KSAC plant and boiler Design	Yes	<p>The current budget allocation of \$40,000 is inadequate for the design works. As discussed above the Gisborne GAC Plant and Boiler Design project, \$40,000 should be transferred to the Kyneton project providing a total budget of \$80,000. It should be noted that this work has not been to the market yet and the price may still change.</p>	(\$40,000.00)
Chessy Park Drive Traffic Island Improvement	Project completed	<p>The project is complete, and savings are being returned to the consolidated capital works budget.</p>	\$81,000.00
Bolithos Road footpath	Project completed	<p>The project is complete, and savings are being returned to</p>	\$11,500.00

		the consolidated capital works budget.	
High Street, Lancefield Footpath	Yes	This is a carry-forward project from the last financial year. Due to the price escalation, the received quotes exceeded the allocated budget. This project should not be cancelled or deferred due to its prime location-Lancefield Town Centre.	(\$43,775.00)
The Crescent, Lancefield Footpath	Yes	This is a carry-forward project from the last financial year. Engineering identified drainage issues during the design and investigation. Due to the twofold effects of scope increase and price escalation, the received quotes exceeded the allocated budget.	(\$31,650.00)
Jennings Street, Kyneton Reconstruction	Yes	This project was carried forward from the last financial year and is of high community interest, due to its location within Kyneton town centre	(\$153,940.50)
Bitumen Resurfacing Program	Progressing as planned	Currently this program has a remaining balance of approximately \$700,000 (out of the total overall budget of \$2 million) and \$153,940.50 can be reallocated into the surplus pool to fund the shortfall for the Jennings Street project above.	\$153,940.50
Bitumen Resurfacing Program	Progressing as planned	Currently this program has a remaining balance of approximately \$700,000 (out of the total overall budget of \$2 million) and \$253,897.75 can be reallocated into the CAPEX Program Budget; in addition to the above.	\$253,897.75
Barkly Square	Yes	Project was delayed due to weather, resulting in sprigging no longer being a viable treatment. Recommendation is to lay sod (roll turf) at an additional cost of \$186,850.	(\$186,850.00)

Kyneton Springhill Road	Yes	This is a Road To Recovery funded project and must be delivered to acquit the funding.	(\$206,990.56)
Romsey Road (Monument Section)	Progressing	A budget surplus of \$221,941 has been identified	\$221,941.00
Sheedy Road, Gisborne –Section 1 Reconstruction	Yes	This project is a LRCI (Phase 3) funded project with construction deadline by 30 June 2023. Therefore we must proceed with this.	(\$375,719.75)
Hamilton Street	Progressing	A budget surplus of \$121,822.00 has been identified, however as it is LRCI it can only be moved to an already approved project (Sheedy Road).	\$121,822.00
Total			(\$183,916.58)

The above changes result in a budget deficit of **\$183,916.58**. Officers are confident that the program can carry up to a \$200,000 deficit as low risk. This is based on projects due for completion in this quarter with the likelihood of returning unspent contingencies to the consolidated program budget..

Consultation and engagement

Within individual infrastructure projects, there will be identified stakeholders. Project Sponsors will liaise with stakeholders of projects that are the subject of this report.

This report is an initiative to ensure transparency in decision-making for infrastructure projects. By publically providing this report in the Scheduled Council Meeting agenda, the community can understand the decisions being made promptly and without the need to await a quarterly, six monthly or annual report.

Collaboration

Council officers share initiatives across many neighbouring Councils – all report similar challenges and impacts from current economic conditions.

Innovation and continuous improvement

This is an innovative approach to the problem of unprecedented infrastructure project price increases. Council would typically address project budget issues via the mid-year budget review. An agile response is required in response to the current economic environment. Preparing a report such as this, for presentation to Scheduled Council Meetings throughout this financial year, provides resolutions with minimal lost time.

Relevant law

There is not a specific law relating to the information provided within this report.

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

Not Applicable

Relevant Council plans and policies

The Council plan relevant to this report is delivering strong and reliable government. Transparently providing timely information for the community should provide confidence in how Council is adapting its infrastructure project delivery within budget.

Financial viability

The processes described in this report detail how Council is adapting its infrastructure project delivery to ensure it is within budget.

Sustainability implications

There are no direct sustainability impacts resulting from this report.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest relating to the subject matter.

16 NOTICES OF MOTION AND RESCISSION**No. 1/2022-23: NOTICE OF MOTION - NATIONAL FERAL DEER ACTION PLAN**

The Victorian State Government estimates there are one million feral deer roaming in Victoria, which have an impact on this region's significant landscapes, agricultural productivity and biodiversity.

The National Feral Deer Action Plan aims to limit further spread of feral deer into new areas and reduce the impacts of large populations of feral deer on the environment, primary production and communities. The Plan will raise awareness of feral deer impacts and control options to encourage early action on all small, isolated populations, as well as large populations in priority areas. The Plan also promotes the need to develop and trial new tools, and to build capacity to detect, cull and prevent further spread of feral deer.

I, Councillor Jennifer Anderson, give notice that at the next Meeting of Council to be held on 22 February 2023, I intend to move the following motion:

That Council requests the Chief Executive Officer to lodge a submission on behalf of Council to the draft National Feral Deer Action Plan outlining the following:

- 1. Macedon Ranges Shire is a peri-urban Council that contains significant landscapes and biodiversity, and high quality agricultural land that is recognised under the State Government's Distinctive Area and Landscape legislation.**
- 2. The impact of pest animals, including an increase in feral deer, on the environment and agriculture within the shire is an ongoing concern to Council.**
- 3. Council recognises the importance of the need for a coordinated approach to the control of feral deer and supports the development of the National Feral Deer Action Plan.**
- 4. Supports an integrated national approach to the control of feral deer, including the Victorian State Government declaring deer a pest species rather than their current status as a game species.**
- 5. Looks forward to the release of the final Action Plan and an increased focus on the control of feral deer across Victoria and the Macedon Ranges from National and State authorities.**

No. 2/2022-23:	NOTICE OF MOTION - ASH WEDNESDAY FIRES 40TH ANNIVERSARY
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I, Councillor Geoff Neil, give notice that at the next Meeting of Council to be held on 22 February 2023, I intend to move the following motion:

That Council:

- 1. Recognises the 40th Anniversary of the Ash Wednesday Fires which occurred on Thursday 16 February 2023;**
 - 2. Recognises the untiring and unwavering intent of essential services personnel, with residents, to minimise loss of life and property damage, selflessly and literally putting their lives on the line to protect our community. Where, by their action, the fires ferocity and extent was eventually contained;**
 - 3. Acknowledges those members of our community who were affected by this event and commends the community's efforts to work together to recover from the disaster; and**
 - 4. Recognises the legacy of this event, which still impacts our community to this day.**
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No. 3/2022-23: NOTICE OF MOTION - UKRAINE WAR

I, Councillor Anne Moore, give notice that at the next Meeting of Council to be held on 22 February 2023, I intend to move the following motion:

That Council as a sign of our continued support and respect to Ukraine and its peoples:

- 1. Approves the lighting of the Kyneton Town Hall in Ukrainian colours for a period of 7 days from Friday 24 February 2023, this date being one year since their unprovoked invasion by Russia; and**
- 2. Acknowledges local groups, residents, and Council for their ongoing assistance to Ukrainian refugees in the Macedon Ranges**

17 URGENT BUSINESS

18 CONFIDENTIAL REPORTS

Nil