

Planning and Development Committee

Agenda

Date: Wednesday 3 February 2021

Time: 6pm

**Venue: Civic Centre (Council Meeting Room)
13 Mair Street, Benalla**

Due to COVID-19 social distancing requirements, members of the community are encouraged to watch a live broadcast of the meeting at www.benalla.vic.gov.au

Any person wishing to make a submission under Section 7.3 of the *Governance Rules 2020* should contact the Council by emailing council@benalla.vic.gov.au or telephoning Acting Governance Coordinator Tracey Beaton on 03 5760 2600.

In accordance with the *Governance Rules 2020* clause 6.4 an audio recording will be made of proceedings of the meeting.

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Agenda

Chair	Councillor Bernie Hearn	
Councillors	Councillor Danny Claridge Councillor Peter Davis Councillor Don Firth Councillor Punarji Hewa Gunaratne Councillor Justin King Councillor Gail O'Brien	
In attendance	Dom Testoni	Chief Executive Officer
	Robert Barber	General Manager Corporate
	Nilesh Singh	Manager Development
	Joel Ingham	Planning Coordinator
	Tracey Beaton	Executive Assistant to General Manager Corporate

Acknowledgement of Country

We acknowledge the traditional custodians of this land and pay respect to their elders and the elders from other communities who may be here today.

We also acknowledge all other peoples who have contributed to the rich diversity of this Country.

Apologies

Recommendation:

That the apology/ies be accepted and a leave of absence granted.

Confirmation of the Minutes of the Previous Meeting

The minutes have been circulated to Councillors and posted on the Council website www.benalla.vic.gov.au pending confirmation at this meeting.

Recommendation:

That the Minutes of the Planning and Development Committee meeting held on Wednesday 9 December 2020 be confirmed as a true and accurate record of the meeting.

Governance Matters

This Committee Meeting is conducted in accordance with the *Local Government Act 2020* and the Benalla Rural City Council *Governance Rules 2020*.

a) Recording of Council Meetings

In accordance with the *Governance Rules 2020* clause 6.4 meetings of Council will be audio recorded and made available for public access, with the exception of matters identified as confidential items in the agenda.

b) Behaviour at meetings

Members of the public present at a meeting must remain silent during the proceedings other than when specifically invited to address the Committee.

The Chair may remove a person from a meeting for interjecting or gesticulating offensively after being asked to desist, and the chair may cause the removal of any object or material that is deemed by the Chair to be objectionable or disrespectful.

The Chair may call a break in a meeting for either a short time, or to resume another day if the behaviour at the Council table or in the gallery is significantly disrupting the meeting.

c) Disclosures of Conflict of Interest

In accordance with the *Local Government Act 2020*, a Councillor must declare any Conflict of Interest pursuant to Section 130 of the Act in any items on this Agenda

At the time indicated in the agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:

- the item for which they have a conflict of interest;
- whether their conflict of interest is general or material; and
- the circumstances that give rise to the conflict of interest.

Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor must indicate to the meeting the existence of the conflict of interest and leave the meeting.

Business**1. Public Submissions on any matter**

A person wishing to address the Committee on a matter not listed on the agenda must submit a 'Request to be heard' form by 10am on the day of the meeting. At the time of registering to speak persons must provide a summary of the matter on which they will be speaking. It must not be in contravention of the *Governance Rules 2020*.

Requests to speak will be registered strictly in the order of receipt of the request at the Customer Service Centre.

A total of 12 minutes will be allocated for public submissions with a maximum of three minutes to each speaker.

Recommendation:**That the submission(s) be received.**

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2. Petition To Remove Naturestrip Trees At 10 Shawbrook Avenue, Benalla

SF/816

Dean Steegstra – Operation Coordinator Parks
Dom Testoni – Chief Executive Officer

PURPOSE OF REPORT

This report discusses a petition requesting the removal of naturestrip trees at 10 Shawbrook Avenue, Benalla.

BACKGROUND

A 16 signature petition (refer **Appendix 1**) to remove 10 trees from the naturestrip at 10 Shawbrook Avenue, Benalla was presented to the Council on 7 October 2020, where it was resolved:

1. *That the report be received.*
2. *That the matter be referred to the Planning and Development Committee for report.*

Petitioners and other community members were invited to speak to the Planning and Development Committee on 9 December 2020. The Council at its meeting on 16 December 2020 subsequently resolved:

1. *That submissions be received.*
2. *That submissions and the Shawbrook Avenue, Benalla Road Safety Audit be considered at the Planning and Development Committee meeting on 3 February 2021.*

Prior to the lodgment of the submission, complaints had been received from Shawbrook Avenue residents regarding the danger the trees posed to drivers who were unable to see oncoming traffic and had difficulty backing out of driveways.

A summary of events subsequent to the complaints can be found in the table below:

Date	Event
13 August 2020	Following investigations by Council officers, the owners of 10 Shawbrook Avenue were directed to remove 11 of the thirteen trees and to restore the Council's road reserve to its previous state within 21 days. With reference to the aerial photo of 10 Shawbrook Avenue below, permission was given for trees two and eight to remain.
23 August 2020	The owners of 10 Shawbrook Avenue requested the Chief Executive Officer review the direction from Council officers to remove the trees.
30 September 2020	The CEO advised the owners that the decision detailed in the Council letter of 13 August remained in force. The date for the site to be restored to its previous state was extended to 23 October 2020.

Date	Event
7 October 2020	Petition presented to Planning and Development Committee.
22 October 2020	Further extension granted on date to remove trees while Freedom of Information request in relation to the matter was finalised. FoI request remains open.

Aerial photograph 10 Shawbrook Avenue, Benalla



DISCUSSION

To provide an independent assessment of the danger posed by the trees, consultants Trafficworks were engaged to undertake a road safety assessment. The report is attached as **Appendix 2**.

As detailed in the report (page 5) the trees impact sightlines for oncoming vehicles and vehicles departing driveways. The report recommends the removal of all trees to ensure satisfactory stopping sight distances.

COUNCIL PLAN 2017-2021 (2020 REVIEW) IMPLICATIONS**Connected and Vibrant Community**

- *Encourage community members to be healthy, safe and active.*

Engaging and Accessible Places and Spaces

- *Develop and maintain infrastructure so that it meets community need.*

High Performing Organisation

- *We are compliant with our legislative and risk management responsibilities.*

FINANCIAL IMPLICATIONS

The cost of the initial traffic safety audit was \$2,680 (GST exclusive). Costs associated with the proposed removal of trees will be met from existing budget allocations.

CONCLUSION

To ensure driver and pedestrian safety, it is recommended that the 13 trees be removed from the road reserve at 10 Shawbrook Avenue, Benalla in accordance with the road safety assessment.

The matter has highlighted a policy deficiency in relation to plantings in nature strips, which will need to be addressed. Given the lack of a policy and to expedite the removal of the trees it is recommended that the trees are removed by Council staff.

Recommendation:

- 1. That the report be noted.**
- 2. That in accordance with the road safety assessment, the Council removes 13 trees planted in the road reserve adjacent to 10 Shawbrook Avenue, Benalla.**
- 3. That a Benalla Rural City Council planting in and maintaining naturestrips policy and guidelines be developed and presented to the Council for adoption.**

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Petition Benalla Rural City - Shawbrook Ave Benalla**Appendix 1**

To Councillor Claridge (Mayor) and the Councillors of Benalla Rural City

The following residents of Shawbrook Ave, Benalla wish to express their concern regarding the planting of 13 trees on the nature strip at 10 Shawbrook Ave, Benalla.

Road users will have impeded vision of oncoming traffic as the trees continue to grow, therefore creating a dangerous road safety issue.

The following petition requests that 10 trees be removed. (7 trees on the south side and 3 trees on the west side)

The original petition was submitted in the correct form as required by the *Governance Rules 2020*, signed by 16 Signatories.

Project No. 200420

27/01/2021

Appendix 2

Dean Steegstra
Operations Coordinator Parks
Benalla Rural City Council
PO Box 227
Benalla VIC 3671

Dear Dean,

10 Shawbrook Avenue, Benalla Road Safety Assessment – Trees Planted in Road Reserve

I refer to your email dated 11 November 2020 requesting a road safety assessment in relation to 13 trees (refer Figure 1) that have been planted within the road reserve, adjacent to 10 Shawbrook Avenue in Benalla.

A road safety assessment, including on-site observations, has been conducted at the location of the planted trees, for assessment against relevant standards as discussed below.

Figure 1: No 10 Shawbrook Avenue, with the location of the 13 planted trees



It is important to provide sufficient sight distance for drivers to perceive and react to a hazardous situation on all roads, increasing road safety and reducing the risk of a collision with another vehicle or an object.

Stopping Sight Distance (SSD) - Driveway

AS/NZS 2890.1 is the normal standard used to establish minimum sight distance criteria at domestic driveways. Figure 3.2 of the standard stipulates that measurements are to be taken from a driver's position at 2.5 m from the edge of frontage road looking to a point at the edge of the frontage road for a distance 'Y' along the frontage road (refer Figure 2 below). The sight distance established in this manner is intended to replicate a line of sight from eye height (1.1 m) of the entering driver, to eye height (1.1 m) of the driver of the approaching vehicle.

The table contained in Figure 3.2 provides minimum distance values for 'Y' corresponding to the posted speed limit on the frontage road (refer Figure 3 below). The applicable minimum criterion for a 50 km/h speed zone is a Stopping Sight Distance (SSD) value for 'Y' of 40 m.

Figure 2: Sight Distance Requirements at Access Driveways (Source AS/NZS 2890.1 Figure 3.2).

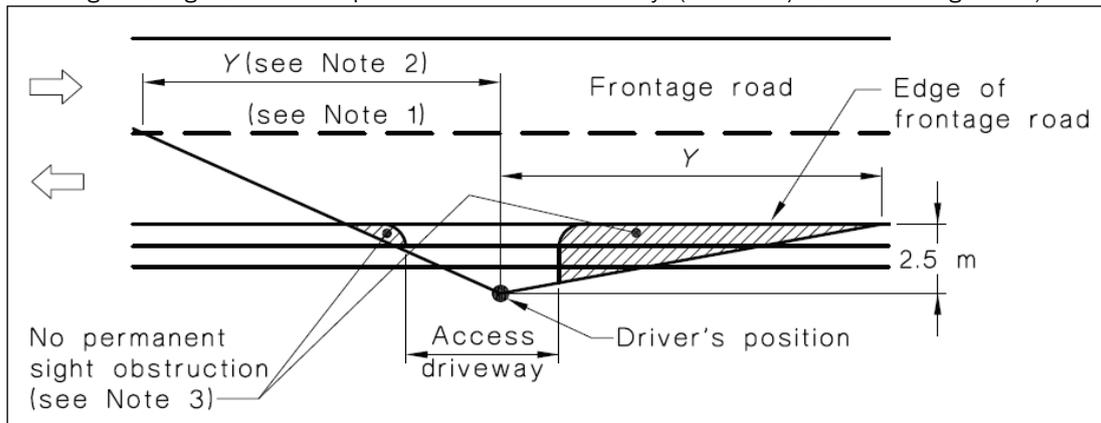


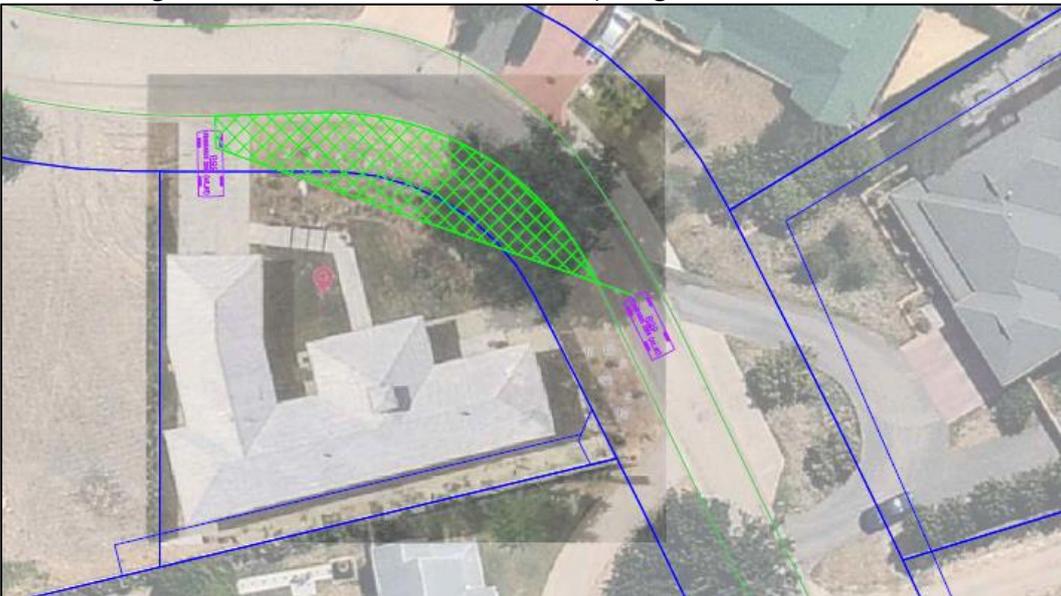
Figure 3: Sight Distance Values 'Y' (Source AS/NZS 2890.1 Figure 3.2).

Frontage road speed (Note 4) km/h	Distance (Y) along frontage road m		
	Access driveways other than domestic (Note 5)		Domestic property access (Note 6)
	Desirable 5 s gap	Minimum SSD	
40	55	35	30
50	69	45	40
60	83	65	55
70	97	85	70
80	111	105	95
90	125	130	Use values from 2 nd and 3 rd columns
100	139	160	
110	153	190	

Figure 4: Visualisation of the SSD for a car departing No 12 Shawbrook Avenue



Figure 5: Visualisation of the SSD for a car departing No 10 Shawbrook Avenue



As shown in Figures 4 and 5, Stopping Sight Distance (SSD) for drivers departing either of No 10 or No 12 Shawbrook Avenue may be affected by the recently planted trees. The trees could form a screen that will impede visibility of oncoming vehicles for drivers approaching the properties when negotiating the bend in Shawbrook Avenue.

Although there is an established tree within the road reserve, on the inside of the curve in Shawbrook Avenue, this appears to have been in place since the road was constructed, and review of available crash data for this location indicates that there have been no casualty crashes in the last five years.

To maintain Stopping Sight Distance through the curve, the recently planted trees should be removed.

SSD was checked in both directions for all the driveways accessing No 7, 9, 10, 11 and 12; copies of these can be found in Attachment A.

Stopping Sight Distance (SSD) - Road

Section 5.3 of the Austroads *Guide to Road Design, Part 3: Geometric Design (AGRD3)* describes this measure as being the distance to enable a normally alert driver, travelling at the design speed on a wet pavement, to perceive, react and brake to a stop before reaching a hazard on the road ahead. SSD is considered a mandatory design condition for all roads.

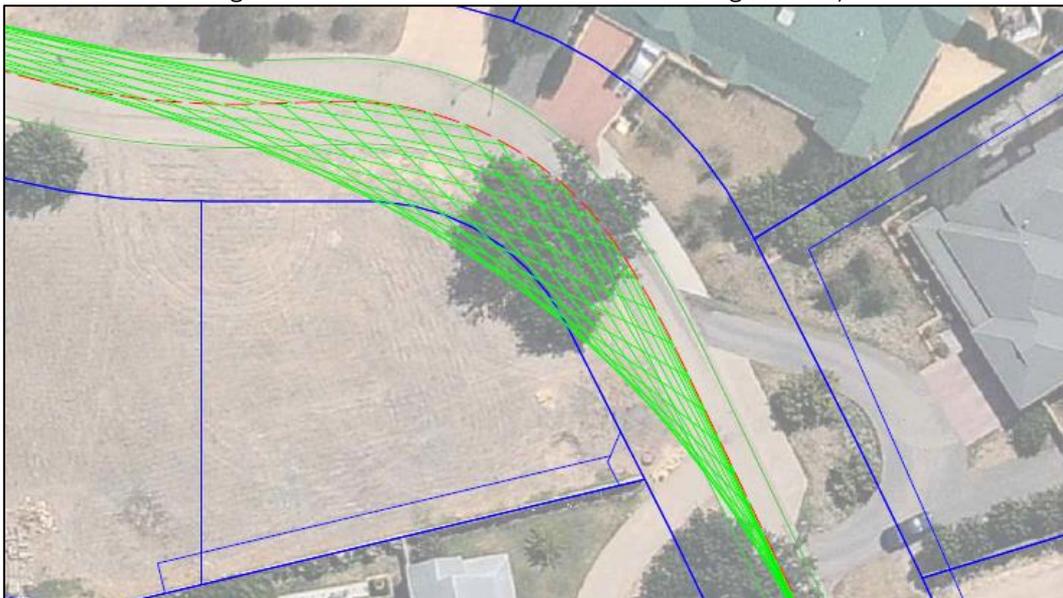
Assessment Criteria

The following criteria is specific to this site:

For cars:

- design (85th percentile) speed in Shawbrook Avenue is 50 km/h (current speed limit)
 - typical driver reaction time (R_r) is 2.0 seconds¹
 - car driver eye height is 1.1 m
- equates to an SSD of 49 m

Figure 6: Visualisation of the SSD for a car travelling at 50 km/h



As shown in Figure 6 (Refer also to Attachment B), Stopping Sight Distance (SSD) for drivers travelling in either direction along Shawbrook Avenue may be affected by the recently planted trees. The trees may form a screen that will impede visibility of oncoming vehicles for drivers approaching the bend in Shawbrook Avenue.

Furthermore, the road width reduces from 7.5 m (to the west) to 4.0 m (to the east) at the bend in the road, exacerbating the risk of low speed head-on collisions due to reduced visibility by the planted trees.

As noted earlier, although there is an established tree within the road reserve, on the inside of the curve in Shawbrook Avenue, this appears to have been in place since the road was constructed,

¹ For absolute minimum values, applicable to lower volume/speed urban roads

and review of available crash data for this location indicates that there have been no casualty crashes in the last five years.

To maintain Stopping Sight Distance through the curve, the recently planted trees should be removed.

Conclusion

The review concluded that the planting of the trees would have the following impact on sight lines:

- the planted trees may impact visibility of:
 - oncoming vehicles through the curve in the road
 - vehicles departing the driveways at No 10 and No 12 Shawbrook Avenue (oncoming vehicles for drivers approaching the properties when negotiating the bend).
- desirable SSD criteria is not satisfied in any direction under the prevailing 50 km/h speed environment for a driver:
 - travelling along Shawbrook Avenue
 - departing No 10 and No 12 Shawbrook Avenue.

Therefore, the recently planted trees should be removed from the road reserve to ensure the desirable SSD criteria is satisfied.

Please feel free to contact me if you require clarification on any of the matters discussed.

Yours sincerely,



Stuart Redman
Associate

ATTACHMENT A - STOPPING SIGHT DISTANCE (SSD) - DRIVEWAY

Figure A1 – Stopping Sight Distance (SSD) – Driveway No. 7



Figure A2 – Stopping Sight Distance (SSD) – Driveway No. 9

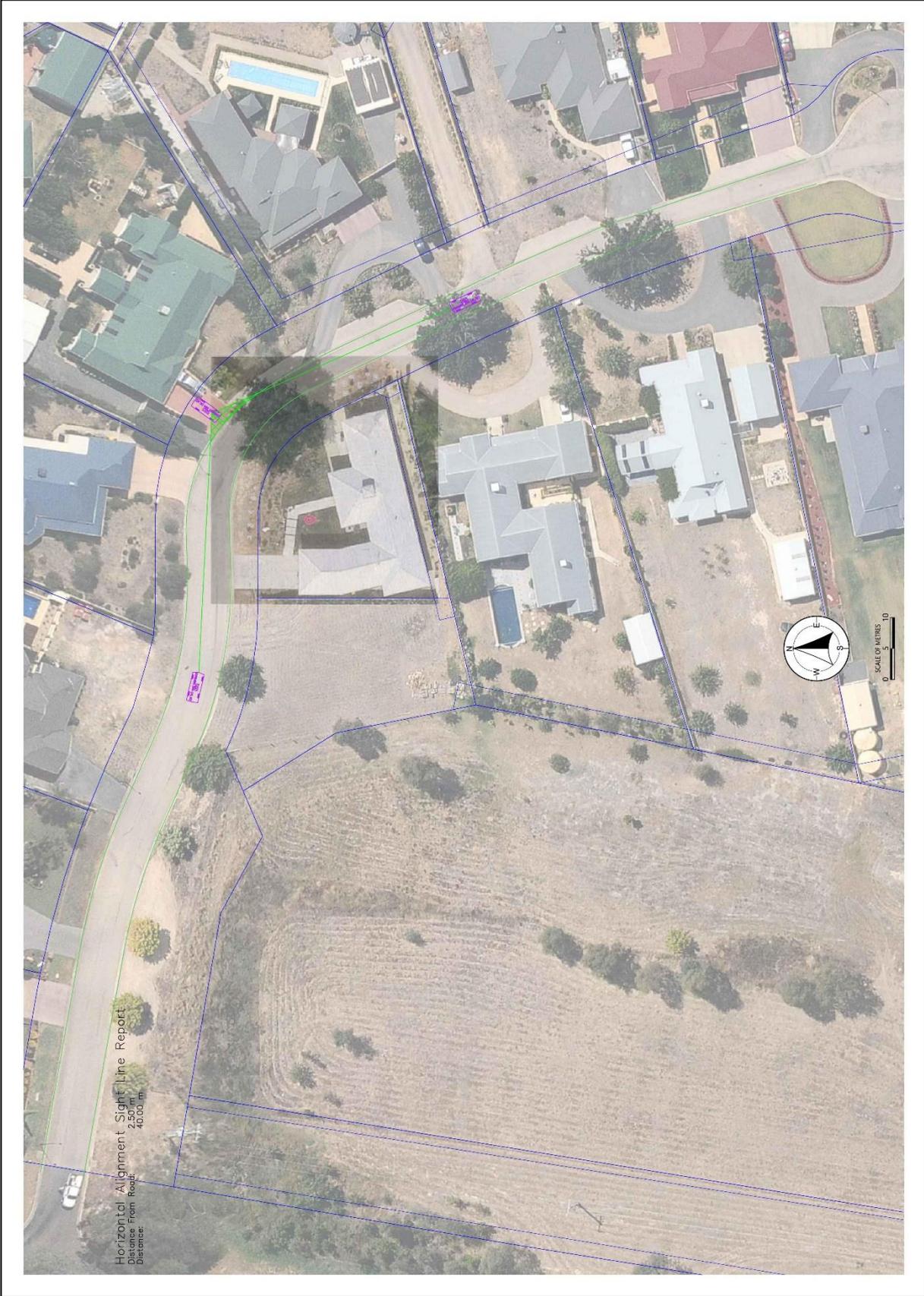


Figure A3 – Stopping Sight Distance (SSD) – Driveway No. 10

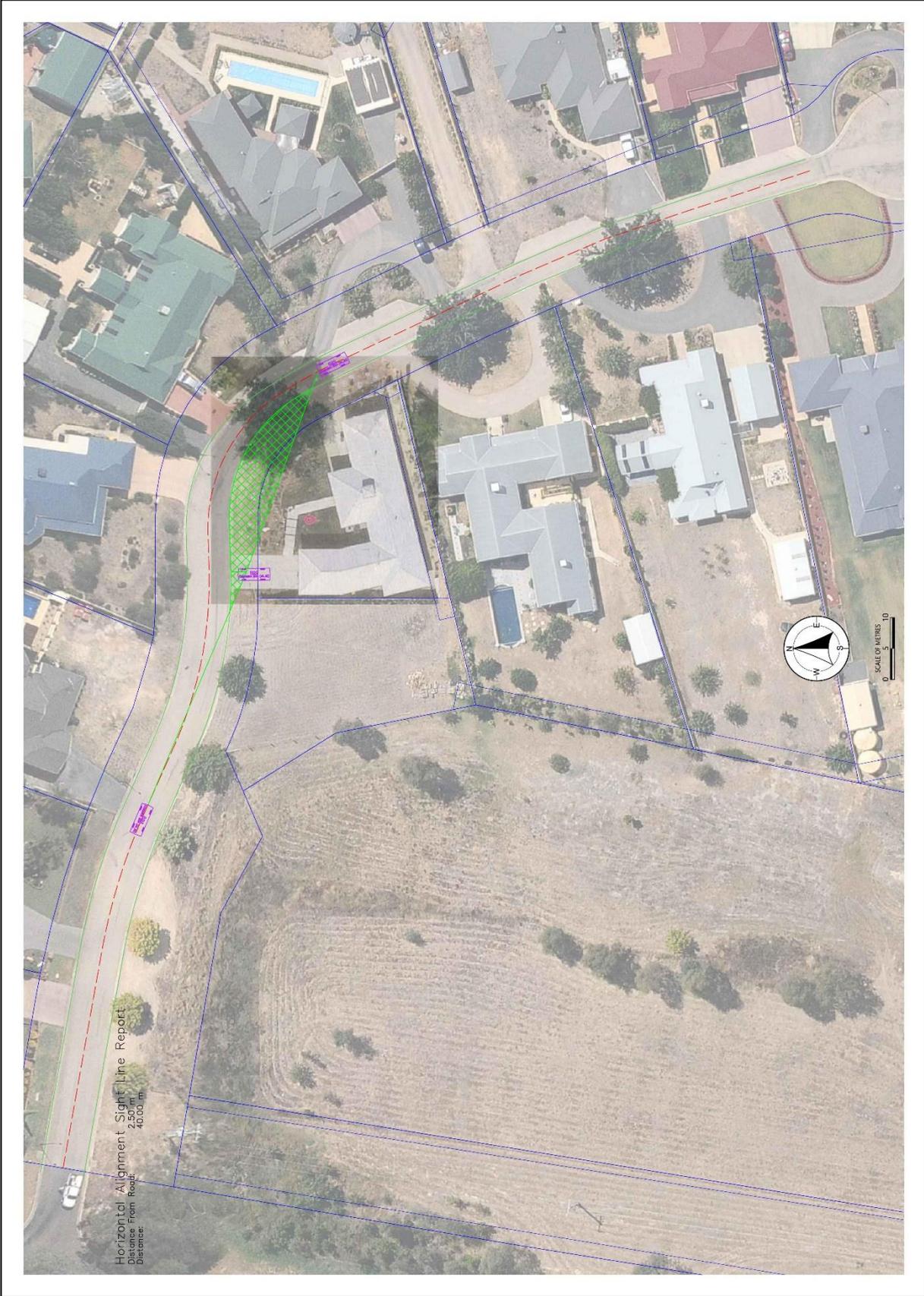


Figure A4 – Stopping Sight Distance (SSD) – Driveway No. 11 (1 of 2)



Figure A5 – Stopping Sight Distance (SSD) – Driveway No. 11 (2 of 2)

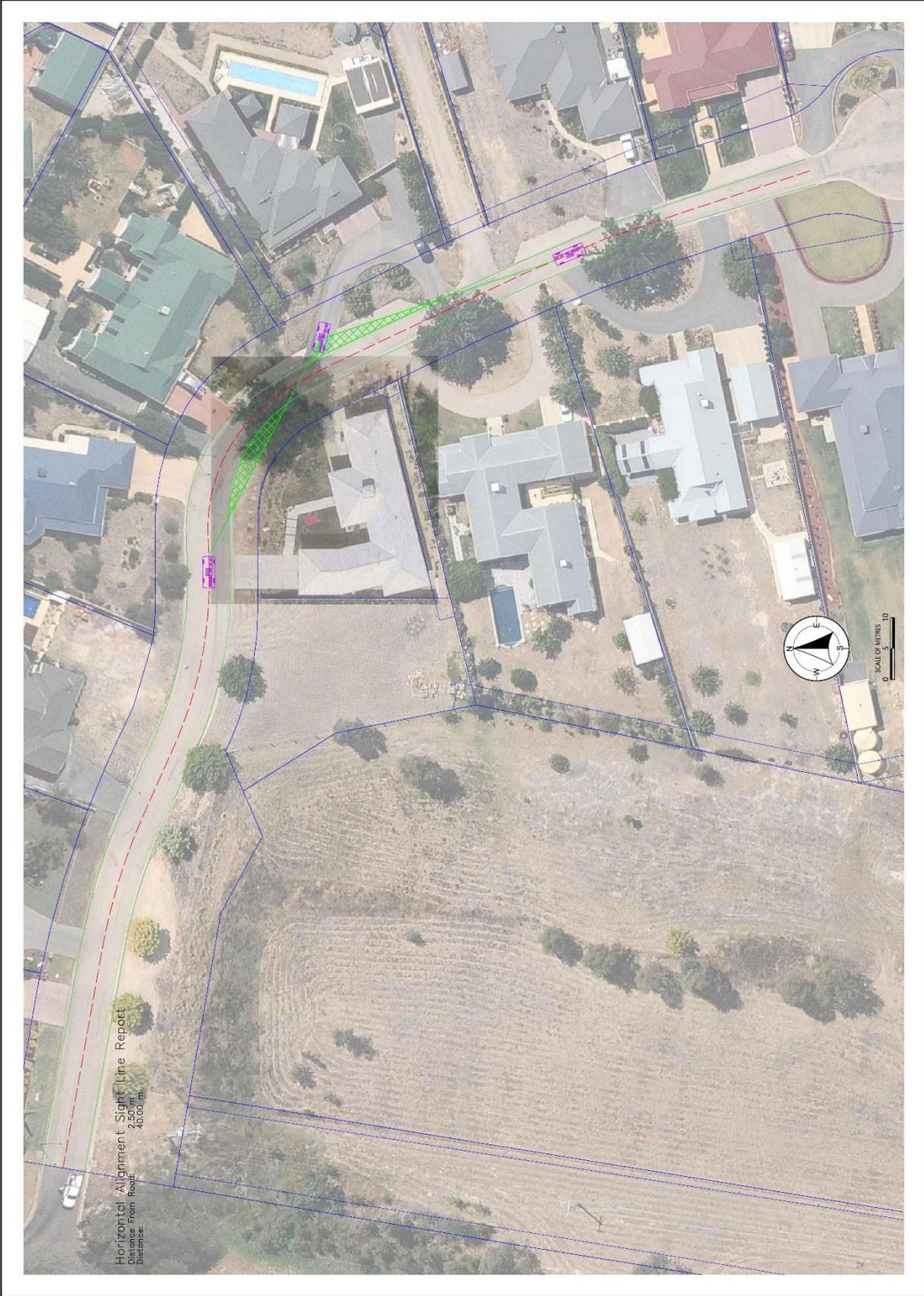


Figure A6 – Stopping Sight Distance (SSD) – Driveway No. 12 (1 of 2)

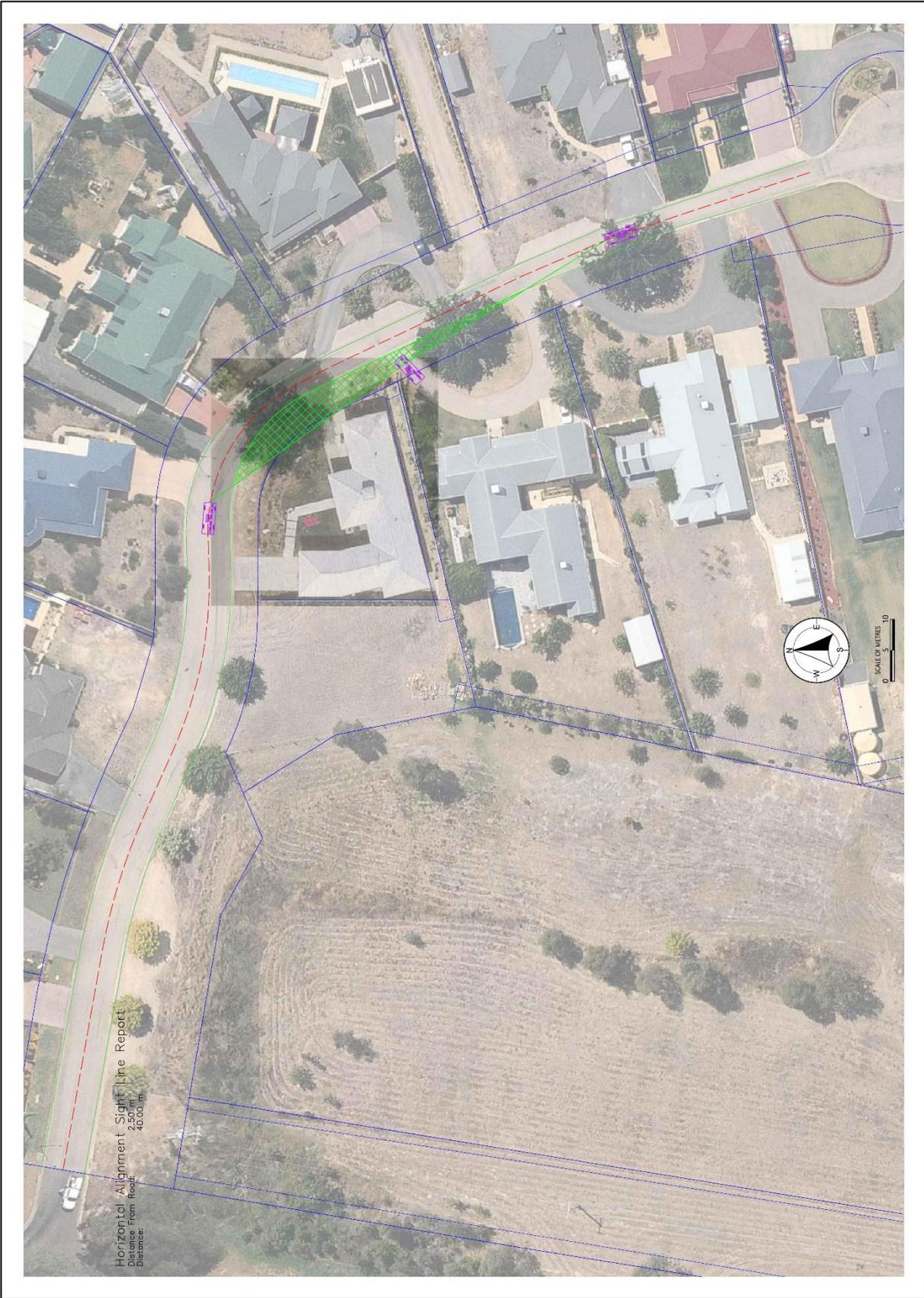
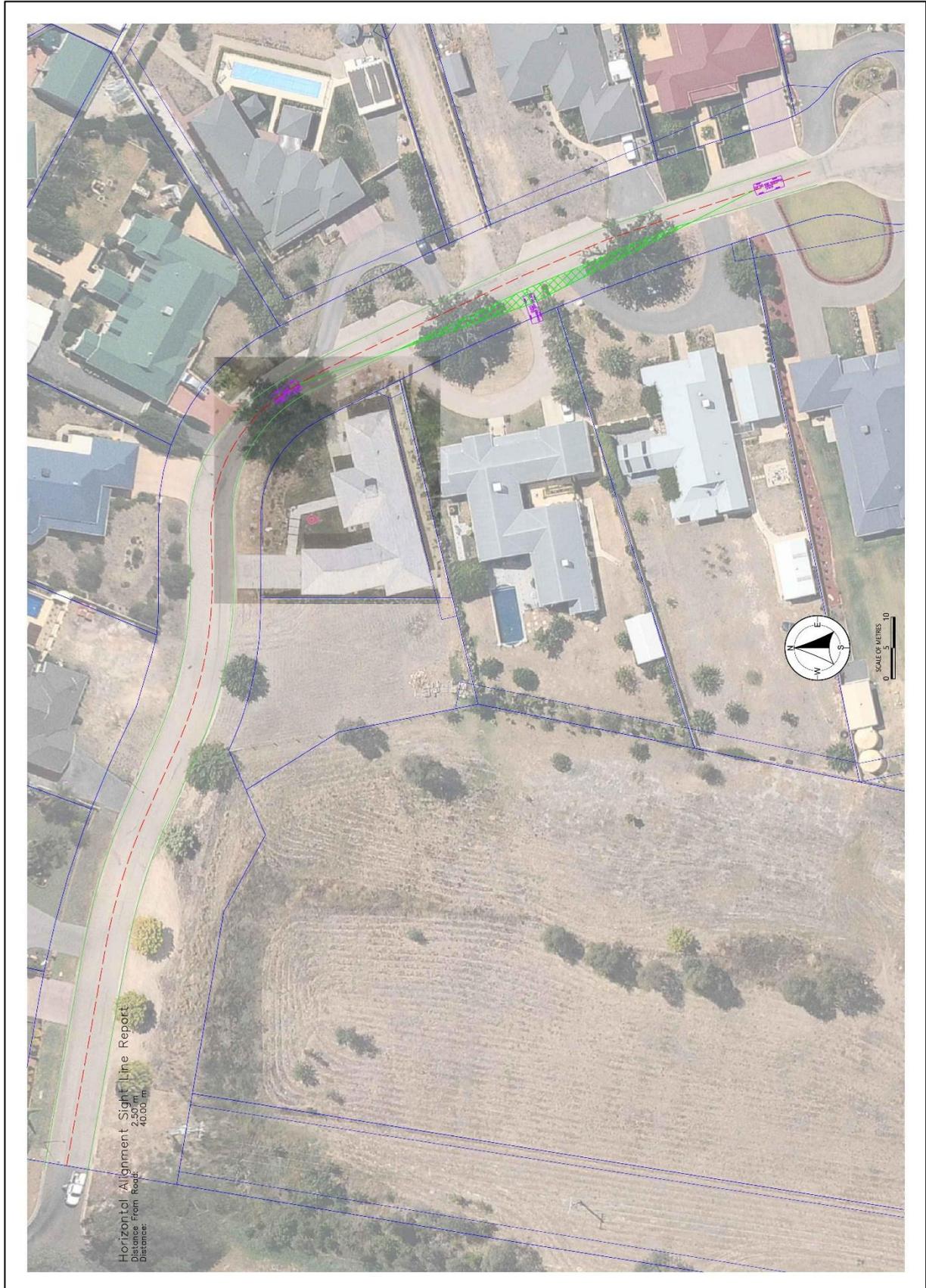
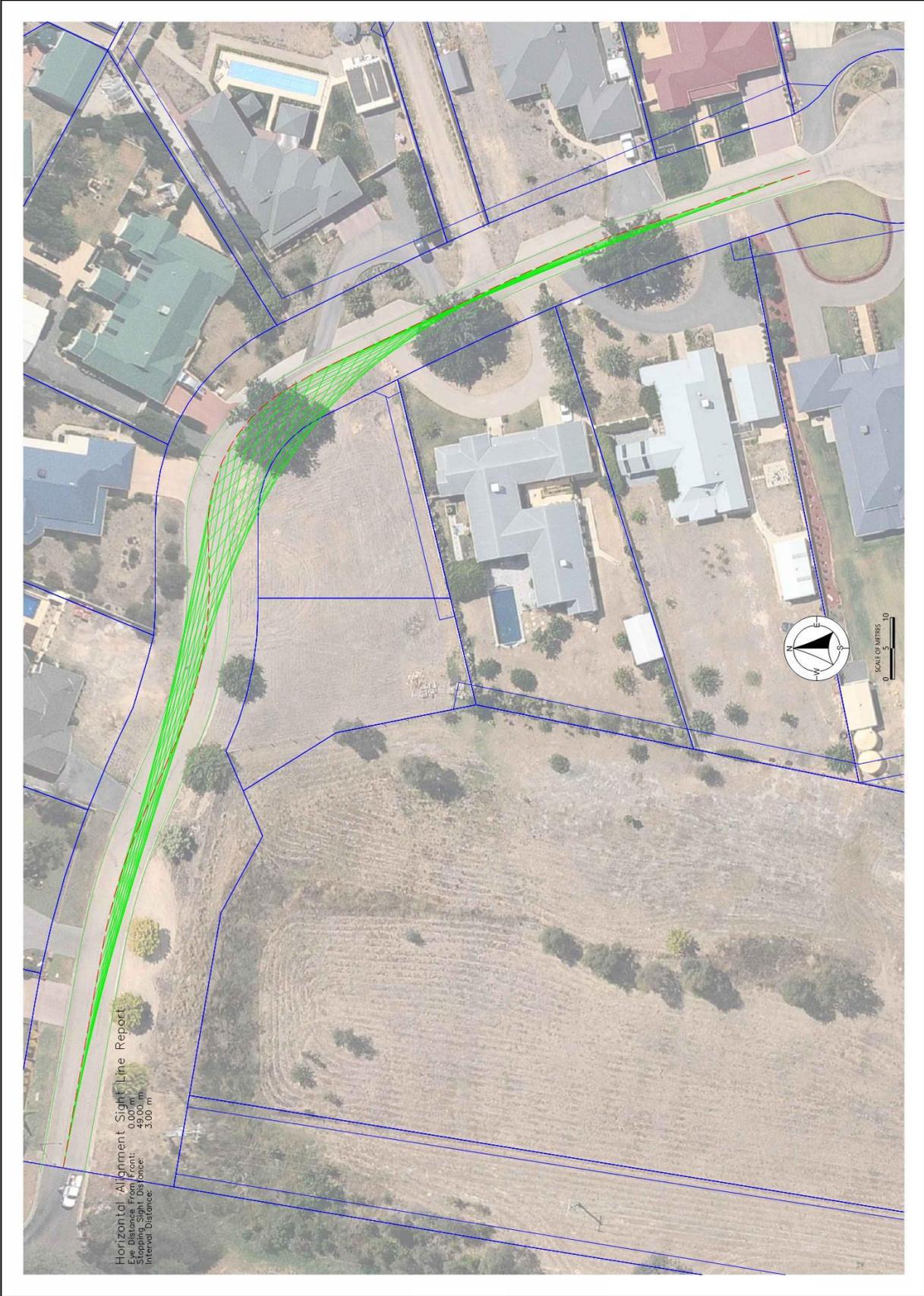


Figure A7 – Stopping Sight Distance (SSD) – Driveway No. 12 (2 of 2)



ATTACHMENT B - STOPPING SIGHT DISTANCE (SSD) - ROAD

Figure B1 – Stopping Sight Distance (SSD) - Road





1st Floor 132 Upper Heidelberg Rd Ivanhoe Vic 3079
PO Box 417 Ivanhoe Vic 3079
ABN: 59 125 488 977
Ph: (03) 9490 5900
www.trafficworks.com.au

3. Planning Application No P0083/20 To Use and Develop Land For A Dog Breeding Facility - 38 Barrs Lane, Benalla

DA4026

Joel Ingham – Planning Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses a planning application received for the use and development of the land for a dog breeding facility at 38 Barrs Lane, Benalla.

BACKGROUND

Site Address	38 Barrs Lane, Benalla
Existing Use	Existing dwelling with associated outbuildings within the west portion of the site
Proposal	To use and develop the land for a dog breeding facility for up to 10 dogs
Applicant	Dr Daniel Gixti
Zone	Farming Zone (FZ)
Overlays	Bushfire Management Overlay (BMO)
Referrals	Environmental Health, Engineering

PROPOSAL

The applicant seeks to undertake a dog breeding facility from the site. The proposal will have the following characteristics:

- The dog breeding facilities will be located to the west and south west of the existing dwelling on the land.
- The breeding facilities will include a food storage and veterinary check room in a converted garage to the west of the dwelling.
- Whelping pens in proximity to the dwelling.
- A dog yard and exercise yard to the south west of the dwelling.
- The facilities will house 8 fertile females and 2 fertile males.
- The dog yard bedding area will be fully enclosed with and insulated with besser brick walls.
- The dog yards will also be enclosed on the north and south side with acoustic panel to a height of 1.8m.
- Dogs will be restricted to their bedding area from 6pm to 9am.
- Feeding of the dogs will be performed between 7am to 6pm.

- Exercise of the dogs will take place from 9am to 5pm.
- Access to the kennels will be restricted to staff only.
- It is expected that pups will leave the property from 10 weeks of age.

SITE AND SURROUNDS

The subject site is located at the western end of Barrs Lane, approximately 350m east of the intersection with Mansfield Road. The site is rectangular in shape with an overall site area of 8.19ha. The site contains an existing dwelling and associated outbuildings located within the western portion of the site. A dam also exists in proximity to the west boundary. The land is also grazed with sheep within the agricultural area of the property.

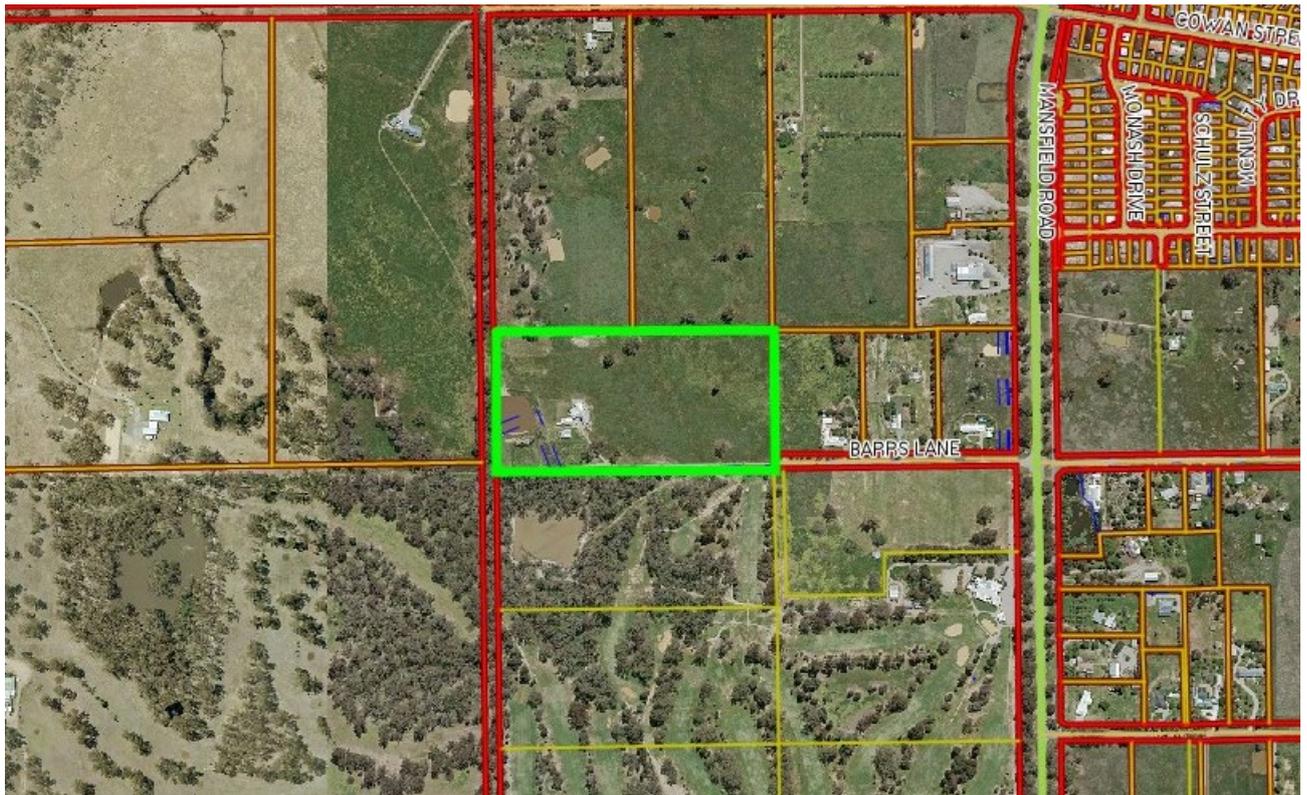
Most of the surrounding area is zoned Farming with the exception of land to the south west of the site which is zoned Public Park and Recreation. Land to the north and east of the site generally contain single dwellings on what can be described as either hobby farms or rural residential lots. The land sizes of these lots vary from 2ha to 9ha in area.

Land to the south and south east of the site is occupied by the Benalla Golf Course and contains large stands native vegetation mixed in with some golfing activities such as a golf driving range and golfing fairways and greens.

Land to the south-west of the site also contains a golf course fronting onto Golden Vale Road. Land to the west is located within a Farming Zone on 19.5ha which contains a dwelling and is currently used for agricultural purposes (grazing). Barrs Lane is a gravel road.

The land forms part of an area which has been envisaged for future residential growth which extends from the north side of Barrs Lane to Goomalibee Road to the north on the west side of Mansfield Road. Further investigation is being undertaken and funding has been received from the Victorian Planning Authority to pursue this area as a future growth area. The investigation is still in its preliminary stages.

LOCALITY MAP



A planning application for the dog breeding facility was received on 1 July 2020. This application detailed the location of the facilities for the dogs on the north west side of the dwelling. In addition, the applicant proposed 10 fertile female dogs and 2 fertile male dogs on the site at any one time.

The proposal was advertised and five objections were received. The objections generally related to noise, traffic, dust and devaluation issues. As a result of the objections the applicant revised their plans to try and alleviate the issues raised by the objectors.

The plans were amended as follows:

- Reducing the number of fertile female dogs on the site by two.
- Moving the dog breeding facility from the north west side of the dwelling to the south west side.
- Engaging an acoustic consultant to provide input into the design of the kennels and to advise that the noise levels would comfortably comply with all criteria.

The amended plans were readvertised to adjoining properties. No objections have been withdrawn as a result of the notification.

PLANNING SCHEME PROVISIONS

Planning Policy Framework

Clause 13.05-1S of the Planning Policy Framework relates to Noise abatement. The objective of this clause is as follows:

To assist the control of noise effects on sensitive land uses.

Clause 13.07-1S of the Planning Policy Framework relates to land use compatibility. The objective to this clause is as follows:

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Clause 14.01-1S of the Planning Policy Framework relates to protection of agricultural land. The objective to this clause is as follows:

To protect the state's agricultural base by preserving productive farmland.

Clause 14.01-2S of the Planning Policy Framework relates to sustainable agricultural land use. The objective of this clause is as follows:

To encourage sustainable agricultural land use.

Local Planning Policy Framework

Clause 21.05-1 of the Local Planning Policy Framework relates to agriculture. The objectives to this clause are as follows:

- *To protect agricultural areas from inappropriate and unsustainable housing development.*
- *To protect agricultural areas from inappropriate subdivision.*
- *To protect agricultural areas from inappropriate and unsustainable development.*
- *To consider amenity impacts that may arise from intensifying agricultural practices.*

Although dog breeding facilities are not a usual form of agricultural production, the larger size of the allotments in a Farming Zone makes it more amenable to this use. The reduced density of housing in Farming Zone areas also reduces the potential for amenity impacts to adjoining properties. It should be noted that dog breeding and domestic animal husbandry are both nested under the definition of agriculture.

Zone

Pursuant to Clause 35.07 of the Benalla Planning Scheme the subject site is located within a Farming Zone. The following objectives apply to this zone:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *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.*

A dog breeding facility is nested under the definition of Domestic Animal Husbandry under the definitions section of the Benalla Planning Scheme. Domestic Animal Husbandry within a Farming Zone is a Section 2 - Permit required use under the provisions of the Farming Zone if the number of animals exceeds five. As the proposal exceeds five dogs on the site at any one time the proposal requires a planning permit for the use and any associated buildings and works.

Overlay

Pursuant to Clause 44.06 of the Benalla Planning Scheme the subject site is located within a Bushfire Management Overlay. The following purpose applies to this overlay:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

Buildings and works associated with dog breeding do not trigger the need for a planning permit under the provisions of this overlay.

Notification of the application

In accordance with Section 52 of the *Planning and Environment Act 1987* notice of the application was given by notifying all adjoining landowners and occupiers. In addition, a notice was displayed on site.

A total of five objections received. The grounds of objection can be summarised as follows:

- *The proposal will result in unreasonable noise to adjoining properties.*
- *The proposal will cause an increase in traffic which will negatively impact on the road surface.*
- *The proposal will have a negative impact to effluent discharge to into the dam or waterway.*
- *The proposal will result in visual bulk to adjoining properties.*
- *The proposal will result in removal and modification of native flora and fauna.*
- *Dust from the road will contaminate residents water supply*
- *The proposal will result in devaluation of adjoining properties.*

Referral Responses

Internal Council Referrals	Advice/Response/Conditions
Environmental Health	No objection subject to conditions.
Engineering	No objection subject to conditions.

OBJECTORS CONCERNS

The proposal will result in unreasonable noise to adjoining properties

The applicant has amended plans and engaged an acoustic consultant in support of the application. The plans detail the relocation of the dog breeding facilities to the south west of the dwelling, reducing the number of fertile female dogs by two and introducing acoustic measures to the construction of the breeding facilities.

Relocating the dog breeding facilities to the south west side of the dwelling will locate the facilities further away from properties in Gunn Lane. The existing dwelling and outbuildings will further buffer the location of the breeding facilities to this area reducing noise emission.

The acoustic treatments to the dog breeding facilities include:

- The dog yard bedding area will be fully enclosed with and insulated with better brick walls.
- The dog yards will also be enclosed on the north and south side with acoustic panel to a height of 1.8m.

The acoustic report outlines that undertaking these measures will allow the use to comfortably comply with all criteria during each period of the day. As a result, it is considered that the use will not cause unreasonable noise impact to surrounding properties.

The proposal will cause an increase in traffic which will negatively impact on the road surface

The proposal will result in an increase in traffic on Barrs Lane. The applicant has outlined that the approximately 64 dogs will be picked up from the site per year. The additional traffic movements can easily be accommodated on the existing road network and in the event that road improvements need to be undertaken due to the additional traffic this should be undertaken within Council's existing road maintenance program.

The proposal will have a negative impact to effluent discharge into the dam or waterway

A condition of any permit can require the submission of an adequate drainage and effluent disposal plan to the satisfaction of Council. The plans will require that all effluent drainage is contained to the site and disposed of in a suitable manner.

The proposal will result in visual bulk to adjoining properties

The proposed dog breeding facilities in their built form are not large structures that would dominate the surrounding area. As a result, the built form will not cause visual bulk to adjoining properties.

The proposal will result in removal and modification of native flora and fauna

The construction of the dog breeding facilities will not result in a loss of native vegetation from the site.

Dust from the road will contaminate residents water supply

The applicant has advised that they are willing to undertake a traffic management plan for the use that reduces any potential amenity impact to residential properties. A condition of any permit issued can require a traffic management plan that addresses potential advisory speed limits, dust signage and no through road signage to reduce dust from traffic affecting adjoining properties. Subject to this outcome it is considered that the proposal will reduce dust emission from vehicles to residents on Barrs Lane.

The proposal will result in devaluation of adjoining properties

Devaluation of property is not a valid planning consideration.

There are concerns with the health management plan

Concern has been raised that the health management plan lacks detail in the areas of water supply, cleaning, chemicals, deceased animals, quarantine and filtration systems. This area is generally dealt with when the landowner seeks domestic animal business registration through Council's Compliance unit. The documents were referred to Council's Compliance unit who advised of no issues with the proposal.

DISCUSSION

General Assessment

The subject site is located within a Farming Zone. Domestic Animal Husbandry is a Section 2 - Permit required use under the provisions of the zone which indicates that if the land is situated in a suitable area for Domestic Animal Husbandry than the site may be appropriate to conduct such a use.

In this instance, it should also be considered that if a dog breeding facility cannot be established within a Rural/Farming Zone, then where else could it be established? It is considered that a Farming Zone, Rural Conservation Zone or Industrial Zone in the area around Benalla Rural City Council are the only such zones that can entertain such uses due to these areas having large expanses of land and less densely populated areas. A dog breeding facility in a Farming Zone will therefore have less potential to cause amenity impact to surrounding properties.

Activities within a Farming Zone also should not be expected to be quiet and peaceful. In fact, most agricultural uses in areas zoned Farming contain environments that provide for different types of noise including, tractors, irrigation pumps, generators, animal sounds and other machinery sounds. The proposed dog breeding facility may cause some noise to the surrounding area; however it is considered that subject to conditions that reduce the level of noise emitted, the noise will be in keeping with the surrounding noise generated by agricultural activities and will not be unreasonable to adjoining properties.

The subject site is located within an investigation area for land to be rezoned for general residential purposes. The investigation and preliminary work is currently being undertaken with State Government funding through the Victorian Planning Authority. As the work is in its initial stages it is not known how long it may take to ascertain whether rezoning of this site is feasible or how long it may take for rezoning will occur. In the event that rezoning to general residential occurs and the land is developed the dog breeding facility may have an unreasonable amenity impact to residential areas.

As a result, the applicant has agreed to a condition that indicates that the use must cease operation within 10 years to the date of the permit with the option of two-year extensions in the event that the land is not rezoned at that time. This is considered to be a valid and practical condition that will prevent amenity impact to any potential future development of the surrounding land.

Noise

Noise from barking dogs has the potential to cause unreasonable levels of noise to adjoining properties. There are three dwellings on adjoining properties within 500m of the proposed dog breeding location to the east and north of the site. There are measures that can be undertaken can reduce the noise levels so that they do not cause an unreasonable level of noise to adjoining properties.

Noise from dog breeding facilities can be reduced to adjoining properties. If a permit were to issue all of these measures would be included as a condition of the permit. The measures outlined above take three different forms of management which include; building design, operational management and landscaping.

With regard to acoustic measures the applicant has engaged an acoustic consultant to advise on measures to prevent unreasonable noise emission to surrounding residents. The measures of the acoustic consultant have been implemented into the design and as a result of the measures the consultant advises that noise emitted from barking dogs will comfortably comply with EPA requirements.

With regard to management principles all measures must be undertaken to ensure that dogs are not enticed to bark through visual stimuli. This includes not exercising dogs in front of other dogs, making sure that dog owners do not come into the kennel area and ensuring that a staff member is on site at all times. It is considered that such management practices will reduce the amount of noise emitted to adjoining properties.

It is common practice to plant lemon trees in proximity to kennel areas to reduce the amount of barking from dogs. The lemon trees mask the scent of other odours into the dog kennels that may start the dogs barking. A condition any permit issued can require a landscape plan for the site which show the provision of lemon trees.

Waste Management

The proposal has been referred to Council's Environmental Health Unit who advise of conditions relating to effluent treatment and stormwater provision. Documentation must be shown detailing effluent treatment including cut-off drains that direct stormwater around the kennels' and exercise yards. Any effluent or stormwater discharge must not be directed to adjoining properties. Furthermore, a condition of the permit will require that solid waste is disposed of within an existing approved waste water treatment area on-site or off-site.

Site Management

The applicant has provided details of how the site will be managed with the planning application. However, more detail is required in order to ensure that the use is conducted in an appropriate manner that does not disturb the neighbourhood and provides for an appropriate use of the land. A Site Management Plan can be required as a condition of any permit issued. The Site Management Plan should address the following aspects:

- An incident register for complaints arising from the conduct of the business.
- Standard measures for the disposal of faeces.
- Measures for exercising dogs within the site.
- Maintenance of drainage and waste treatment equipment and infrastructure.

The Site Management Plan must be submitted prior to the use commencing on the site and will be endorsed to form part of the planning permit.

COUNCIL PLAN 2017-2021 (2020 REVIEW) IMPLICATIONS**Places and Spaces**

- *Develop and maintain infrastructure so that it meets community need.*

High Performing Organisation

- *Provide good governance and responsible management and planning.*
- *We are compliant with our legislative and risk management responsibilities.*

LEGAL IMPLICATIONS

In the event that Council decides to issue a Notice of Decision to Grant a Permit the objectors have a right of appeal against Council's approval and the applicant has the right of appeal against conditions of the permit. Should the application be refused the applicant has the right of appeal against Council's decision.

FINANCIAL IMPLICATIONS

Council in its capacity as the responsible authority under the *Planning and Environment Act 1987* must determine the permit application.

If the Council decision is appealed by any party to VCAT, Council has a statutory role in being a party to the appeal and informing and assisting VCAT. Costs associated with the assessment of the application and any likely appeal will be met from project budgets.

CONCLUSION

The applicant has recently advised that he is in the process of obtaining further information regarding this proposal and has requested that consideration of the application be deferred.

Recommendation:

That debate on this matter be deferred until the Planning and Development Committee meeting on Wednesday 3 March 2021 to enable the applicant to obtain further information in support of Planning Application No. P0083/20.

4. Planning Application No PO145/20 For A Two Lot Subdivision – 8 Bond Street, Benalla

DA7079

Joel Ingham – Planning Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses planning permit application P0145/20 for a two lot subdivision at 8 Bond Street, Benalla.

BACKGROUND

Site Address	8 Bond Street, Benalla
Existing Use	Single storey weatherboard dwelling
Proposal	Two lot subdivision.
Applicant	Scottsdale Homes C/- Oxley and Company
Zone	General Residential Zone
Overlays	Nil
Referrals	External: Section 55 Referrals Nil Internal: Engineering
Date Received	29 September 2020

PROPOSAL

The applicant is seeking to subdivide the land into two lots. The proposal will have the following characteristics:

Lot 1

Lot 1 will be a battle axe lot with a frontage to Bond Street of 5.56m. The 'axe handle' will have a length of 25.81m and the 'axe head' will have dimensions of 22.53m x 20.12m. The lot will have an area of 610m². An existing garage and carport will be removed to create a vacant site. An indicative building envelope of 15m x 10m has been shown on the site. The size of this lot will allow a dwelling without further planning approval.

Lot 2

Lot 2 will contain the existing dwelling. It will be a rectangular shaped lot having a frontage of 14.56m to Bond Street with a depth of 27.76m, resulting an area of 402m². A new crossover will be provided within the south west corner of the site to Bond Street and a carport will be constructed along the west side of the existing dwelling.

A site plan of the proposal is attached in **Appendix 1**.

Site and Surrounds

An inspection of the site and the surrounding area has been undertaken.

The site is located on the north side of Bond Street, Benalla, approximately 60m west of the intersection with Margaret Street. The site is rectangular in shape, having a frontage to Bond Street of 20.12m and a depth of 50.29m yielding an overall site area of 1012m². The site is occupied by a single storey dwelling and outbuildings and forms part of an established residential area. Vehicle access to the site is via a crossover to Bond Street within the south east corner of the site. A driveway exists along the east boundary of the site leading to a garage and carport.

The surrounding area is generally located within a General Residential Zone and is generally characterised with single storey dwellings constructed from brick and timber containing pitched roofing. Land to the south and south west of the site contains a large recreation area (Churchill Reserve). Directly opposite the site to the south are existing netball courts. Bond Street is a sealed and contains all day angled car parking on the south side of the road.

LOCALITY MAP



Public Notification

The planning application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* by way of the following:

- placing a sign on the Bond Street frontage of the site
- sending notices to all adjoining and opposite landowners and occupiers.

Five objections were received to the application. The issues raised in the objections can be summarised as follows:

- The proposal is not in keeping with the neighbourhood character of the surrounding area.
- The houses in the area are all 1950's style which have been renovated and suit the street and streetscape.
- The existing large size lots in the street are designed for families.
- There are other areas for small lots.
- To divide the lot could encourage the wrong type of person to the area.
- Loss of privacy to the backyards of the adjoining properties.
- Drainage is a problem in the area.

Planning Scheme Provisions

Planning Policy Framework (PPF)

Clause 15.01-3S (Subdivision design) of the Benalla Planning Scheme has the objective:

- *To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.*

Clause 15.01-5S (Neighbourhood character) of the Benalla Planning Scheme has the objective:

- *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

This clause includes the following strategies:

Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:

- *Pattern of local urban structure and subdivision.*
- *Underlying natural landscape character and significant vegetation.*
- *Neighbourhood character values and built form that reflect community identity.*

Clause 16.01-1S (Housing Supply) of the Benalla Planning Scheme has the objective:

- *To facilitate well-located, integrated and diverse housing that meets community needs.*

This clause includes the following strategies:

- *Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
- *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*

The proposal is consistent with the objective and strategy in that promotes higher density living in a site well located in terms of services.

Clause 16.01-2S (Housing Supply) of the Benalla Planning Scheme has the following objective:

- *To deliver more affordable housing closer to jobs, transport and services.*

This clause also includes the following strategy:

- *Improve housing affordability by ensuring land supply continues to be sufficient to meet demand.*

The proposed development is consistent with this objective and strategies.

Local Planning Policy Framework (LPPF)

Clause 21.02-1 (Urban Growth) of the Benalla Planning Scheme has the objective:

- *To provide for the orderly development of urban areas.*

This clause also includes the following strategy:

Encourage infill housing development to provide a diversity of choice provided the prevailing character is maintained.

The proposal is considered to be consistent with this objective and strategy.

Clause 21.02-2 (Housing Diversity) of the Benalla Planning Scheme has the objective:

- *To provide a diversity of fully serviced housing opportunities.*

This clause also includes the following strategy:

- *Provide a variety of residential opportunities including medium density housing, traditional residential development (500 to 1000 square metres), low density residential and rural living development.*

The proposal is considered to be consistent with this objective and strategy.

Clause 21.02-4 (Neighbourhood Character) of the Benalla Planning Scheme has the following objective:

- *To promote development that respects the inherent character of the municipality.*

This clause also includes the following strategy:

- *Ensure that new development responds to the prevailing character and heritage values of an area and is consistent with the precinct controls identified in the Benalla Neighbourhood Character Study 2002.*

The proposal is considered to be consistent with this objective and is generally consistent with the strategy.

Zone

The subject site is located within a General Residential Zone. The purpose of the General Residential Zone is:

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

Pursuant to Clause 32.08-3 of the Benalla Planning Scheme, a planning permit is required to subdivide land.

The proposal is required to be assessed against the objectives and standards outlined in Clause 56 of the Benalla Planning Scheme.

Overlays

Nil

Particular Provisions

Clause 56 – Residential Subdivision

A development:

- Must meet all the objectives.
- Should meet all the standards

A table outlining this assessment is detailed below:

	√ - Compliance X - Non compliance	Objectives	Standards	Comments
C6	Neighborhood Character	✓	✓	There are no neighbourhood objectives specified in the zone however the proposed subdivision is designed to achieve the neighbourhood character objectives of Clause 21.02 Settlement, Housing and Character.
C8	Lot area and building envelopes	✓	✓	The proposed lot is in excess of 500m ² and is able to contain a 15m x 10m building envelope. It is considered the lot is capable of supporting a dwelling and garage whilst providing adequate open space.
C9	Solar orientation	✓	✓	Due to the north south access of the existing lot the subdivision design enables appropriate solar exposure for each lot.
C11	Common area	✓	✓	The proposed subdivision does not contain any common area.
C21	Lot Access	✓	✓	Direct street access is available to Lot 1 and Lot 2.
C22	Drinking Water supply	✓	✓	The subject site will be connected to reticulated water.
C23	Reused and Recycled water	✓	✓	This objective is not relevant in an area where a reused and recycled water supply system is not a requirement of the relevant water authority. All lots are of sufficient size to accommodate rainwater tanks for the collection of stormwater for re-use for non-drinking purposes.
C24	Waste Water Management	✓	✓	Reticulated sewer will be connected to all lots.
C25	Urban Run-off management	✓	✓	Stormwater runoff from both allotments will be directed to the existing drainage network.
C26	Site management	✓	✓	This will be a condition of the permit.

	√ - Compliance X - Non compliance	Objectives	Standards	Comments
C27	Shared trenching	✓	✓	Shared trenching will be utilized where appropriate.
C28	Electricity, telecommunications and gas	✓	✓	New allotments will be connected to electricity, telecommunications and gas.

The proposal meets all the objectives of Clause 56.

Referrals

External Referrals/Notices required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	
Nil	

Internal Council Referrals	Advice/Response/Conditions
Engineering	No objection subject to conditions

ASSESSMENT

The applicant seeks to subdivide the land to create a new lot at the rear of the existing dwelling as well as a lot for the existing dwelling. The development will result in a density of approximately one dwelling per 506m². The layout of the subdivision will allow for a single dwelling development to the rear of the site that can easily comply with the requirements to Clause 54 of the Benalla Planning Scheme. In addition, the lot created for the existing dwelling complies with the siting, open space provision and parking provision requirements of the planning scheme.

The proposal has been assessed against Clause 56 (Rescode) of the Benalla Planning Scheme and found to be fully in compliance.

Objectors' Concerns

The proposal is not in keeping with the neighbourhood character of the surrounding area

The surrounding area is characterised with single dwellings on larger sized allotments constructed from brick or weatherboard and containing pitched roofing. The houses are generally all older style dwellings, many have been renovated with additions at the rear.

The proposed subdivision will allow a new dwelling to be constructed at the rear of the existing dwelling. The proposal when completed will present as one single dwelling to the frontage with a partial view of the dwelling to the rear of the site. The main presentation of the existing dwelling to the street will be characteristic of the surrounding area, the dwellings to the rear of the site will be partially screened to the frontage and will not have an unreasonable impact to the streetscape.

The houses in the area are all 1950's style which have renovated and suit the street and streetscape.

As stated above, because the new lot and future dwelling will be located behind the existing dwelling and mostly obscured, the impact on the existing streetscape will be limited.

The existing large size lots in the street are designed for families.

The lot sizes proposed by the subdivision are in excess of the lot size permitted in the General Residential zone. According to Clause 21.02-2 of the Benalla Planning Scheme traditional residential lots vary in area of between 500m² to 1,000m². The size of the vacant lot to the rear of the site is in excess of 500m² (610m²) which is consistent with land sizes in newer residential estates that contain family homes.

There are other areas for small lots.

As above, the lot sizes of the proposed subdivision are considered to be normal sized residential lots. The proposal allows for a dwelling on the rear lot that can easily comply with the siting, open space and parking requirements to Clause 54 of the Benalla Planning Scheme and the lot for the existing dwelling has also been designed to comply with siting requirements.

To divide the lot could encourage the wrong type of person to the area.

The type of dwelling tenure is not a matter that can be considered under planning. There is no basis for this claim.

Loss of privacy to the backyards of the adjoining properties.

The proposal does not seek to construct a dwelling on the land. Any future development of the land will require compliance with the siting requirements of the building regulations which take into account overlooking issues. The subdivision lot sizes meet the requirements for the zone and clause 56.

Drainage is a problem in the area.

The application has been referred to Council's engineering section for assessment. No objection was offered to drainage subject to meeting design standards which will be included as conditions of the permit.

LEGAL IMPLICATIONS

A decision by the Council to determine that a permit should be granted for the proposal may be appealed to VCAT by:

- the applicant against conditions of the permit; and/or
- the objectors against the decision made.

In the instance that the Council decides to refuse to grant a permit the applicant also has a right of appeal to VCAT.

COUNCIL PLAN 2017-2021 (2020 REVIEW) IMPLICATIONS**Thriving and Progressive Economy**

- *Facilitate population growth.*

High Performing Organisation

- *We are compliant with our legislative and risk management responsibilities.*
- *Provide good governance and responsible management and planning.*

Recommendation:

That the Council having caused notice of Planning Application No P0034/20 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Notice of Decision to Grant a Permit under the provisions the Benalla Planning Scheme in respect of the land known and described as 8 Bond Street, Benalla for a two lot subdivision, in accordance with the endorsed plans, with the application dated 7 April 2020, subject to the following conditions:

- 1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.**
- 2. The owner of the land must enter into an agreement with:**
 - **a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
 - **a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

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

 - a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 5. 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.**
- 6. 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.**
- 7. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Responsible Authority. Before the development starts, a construction management plan shall be submitted to and approved by the Responsible Authority. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise. Management measures are to be in accordance with EPA guidelines for Environment Management, 'Doing It Right On Subdivisions' Publication 960, September 2004.**
- 8. Before construction works start or prior to the certification of the plan of subdivision, the access and construction plans must be provided showing detailed layout plans demonstrating compliance with AustRoads Publication 'Guide to Traffic Engineering Practice : Part 11 Parking' 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. Before the use starts or prior to the issue of a Statement of Compliance, the access as shown on the endorsed plans must be:**

 - a) surfaced with reinforced concrete;
 - b) constructed and completed to the satisfaction of the Responsible Authority;

- c) drained in accordance with an approved drainage plan;
- d) measures taken to prevent damage to fences or landscaped areas of adjoining properties and to prevent direct vehicle access to an adjoining road other than by a vehicle crossing;

The areas must be constructed and drained to prevent diversion of flood or drainage waters and maintained in a continuously useable condition to the satisfaction of the Responsible Authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

9. Before the use begins or prior to the issue of a Statement of Compliance the vehicular crossings must be constructed in accordance with the endorsed plan(s) to the satisfaction of the Responsible Authority, and shall comply with the following:
- a) standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways in accordance with IDM, and any existing redundant crossing shall be removed and replaced with concrete (kerb and channel);
 - b) any proposed vehicular crossing shall have satisfactory clearance to any side-entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense;
10. No additional vehicle crossing may be constructed apart from those endorsed on the approved plan.
11. Before any of the development starts or before the plan of subdivision is certified, a properly prepared drainage discharge plan with computations to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of three copies must be provided. The information submitted must show the details listed in the council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.
- The information and plan must include:
- a) details of how the works on the land are to be drained and retarded.
 - b) computations including total energy line and hydraulic grade line for the existing and proposed drainage as directed by Responsible Authority
 - c) independent drainage for each lot.
 - d) underground pipe drains conveying stormwater to the legal point of discharge for each allotment.
 - e) measures to enhance stormwater discharge quality from the site and protect downstream waterways including the expected discharge quality emanating from the development (output from MUSIC or similar) and design calculation summaries of the treatment elements;

- f) a maximum discharge rate from the site is to be determined by computation to the satisfaction of Council.
- g) documentation demonstrating approval from the relevant authority for the legal point of discharge.
- h) the details of the incorporation of water sensitive urban design designed in accordance either “Urban Stormwater Best Practice Environmental Management Guidelines” 1999.
- i) maintenance schedules for treatment elements.
- j) each unit including open space areas independently drained to the satisfaction of the Responsible Authority.
- k) discharge from the site to be retarded on site to the satisfaction of the Responsible Authority, to ensure a maximum discharge rate off-site as specified in the Infrastructure Design Manual unless otherwise approved by the Responsible Authority.
- l) underground drains for each unit including open space areas wholly contained within the fenced area pertaining to the unit. The outfall be located in or under the common vehicle driveway and shall not cross under or be located within any of the unit’s fenced areas.

Before the use begins or prior to the issue of a Statement of Compliance all works must be constructed in accordance with those plans to the satisfaction of the Responsible Authority

12. Before the development starts or subdivision works commences, the owner or developer must submit to the Responsible Authority a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb & channel, footpath, seal, street lights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to the Councils assets/Public infrastructure caused as a result of the development or use permitted by this permit.
13. In accordance with the *Planning and Environment Act 1987* a permit for the development and subdivision expires if:
- (a) the development is not commenced within two years after the issue of the permit;
 - (b) the development is not completed within four years after the issue of the permit;
 - (c) the plan is not certified within two years of the issue of the permit; or
 - (d) the development or any stage is not completed within five years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.

The Responsible Authority may extend the commencement date if a request is made in writing by the owner or the occupier of the land to which the permit applies before the permit expires or within six months afterwards.

The Responsible Authority may extend the time within which the development is to be completed if the development has commenced and a request in writing is made by the owner or the occupier of the land to which it applies within 12 months after the permit expires.

General Notes:

- **The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.**
- **An asset protection permit is required prior to the commencement of any works on site.**
- **A consent to work within a road reserve must be obtained from the Responsible Authority prior to the carrying out of any vehicle crossing works.**
- **This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.**

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Appendix 1



- LEGEND**
- GRZI ZONING OVERLAY
 - SITE BOUNDARY - SEE NOTES
 - EASEMENT
 - NOMINAL DCMB BOUNDARY
 - INDICATIVE BUILDING ENVELOPE
 - TREE
 - ACCESS
 - GARDEN
 - DWELLING WALL
 - EAVELINE
 - FENCE
 - NEIGHBOURING WINDOWS
 - PROPOSED DRIVEWAY
 - GARDEN AREA
- LEGEND | SERVICES**
- W EXISTING WATER MAIN
 - S EXISTING SEWER MAIN
 - T EXISTING UNDERGROUND TELECOMMUNICATIONS CABLE
 - EXISTING OVERHEAD ELECTRICITY CABLE
 - G EXISTING GAS SERVICE

GARDEN AREAS:

LOT No.	TOTAL AREA	GARDEN AREA	% GARDEN AREA
1	612m ²	360m ²	58.8%*
2	400m ²	231m ²	57.8%

* USING INDICATIVE BUILDING ENVELOPE OF 150m² FOR LOT 1. A MINIMUM GARDEN AREA OF 30% FOR LOT 1 & 25% FOR LOT 2 WILL BE ACHIEVED IN FINAL DESIGN

- NOTATIONS-**
- SEE TITLE FOR BOUNDARY AND EASEMENT DETAILS
 - DIMENSIONS AND AREAS ARE APPROXIMATE ONLY AND SUBJECT TO FINAL SURVEY
 - UNDERLYING AERIAL PHOTOGRAPHY LOCATION IS APPROXIMATE AND FOR ILLUSTRATIVE PURPOSES ONLY
 - BUILDING ENVELOPE SHOWN ON LOT 1 IS INDICATIVE ONLY AND WILL BE CONFIRMED IN FINAL DESIGN
 - THE PROPOSAL SHOWN IS SUBJECT TO COUNCIL & AUTHORITY APPROVAL (AS APPROPRIATE)
 - LOCATION OF TITLE BOUNDARIES IS APPROXIMATE ONLY AND SUBJECT TO FINAL SURVEY

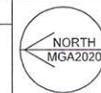


REFERENCE: S8998
VERSION: 4
DATE: 22/09/2020

PROPOSED SUBDIVISION
8 BOND STREET, BENALLA 3672

SUBJECT LAND:

TITLE DETAILS: VOL 7529 FOL 115
PLAN: TP060291V (LOT 1)
PARISH: BENALLA
TOWNSHIP: BENALLA
SECTION: 3
CROWN ALLOTMENT: 4 (PART)
AREA: 1012m²



SHEET 1 OF 1 SHEETS

SCALE
0 2.5 5 7.5
LENGTHS ARE IN METRES

SCALE SHEET SIZE
1:250 A3

5. Planning Application No PO131/20 For The Construction Three Double Storey and Two Single Storey Dwellings - 17 Mary Street, Benalla

DA7063

Joel Ingham – Planning Coordinator
Nilesh Singh- Manager Development

PURPOSE OF REPORT

The report assesses planning permit application P0131/20 for the construction of three double storey and two single storey dwellings at 17 Mary Street, Benalla.

BACKGROUND

Site Address	17 Mary Street, Benalla
Existing Use	Single storey rendered dwelling with a tiled roof
Proposal	Construction of three double storey and two single storey dwellings.
Applicant	QA Constructions Pty Ltd C/- Beyond Design Group
Zone	General Residential Zone (GRZ)
Overlays	Design and Development Overlay Schedule 1 (DDO1)
Referrals	Internal: Engineering
Date Received	9 September 2020

PROPOSAL

The applicant is seeking to use and develop the land for three double storey and two single storey dwellings. The proposal will have the following characteristics:

Dwelling No.	Ground Floor area m ²	First floor area m ²	No Bedrooms	Secluded Private Open space area m ²	No Car spaces
1	58	70	3	52	2
2	53	59	2	42	1
3	53	59	2	49	1
4	80	-	2	42	1
5	84	-	2	82	1

- Dwelling 1 will have an open kitchen, living and meals area, laundry, toilet and double garage at ground floor level and three bedrooms, ensuite, toilet and bathroom at first floor level.
- Dwellings 2 and 3 will contain an open kitchen, dining and meals area, laundry, toilet, and single garage at ground floor level and two bedrooms, ensuite and bathroom at first floor level.

- Dwellings 4 and 5 will contain an open kitchen, dining and meals area, two bedrooms, laundry, bathroom and a single garage.
- All dwellings will be accessed via a crossover within the south-west corner of the site and a common property accessway along the southern boundary.
- The dwellings will be constructed from a mixture of materials including face brickwork at ground floor level and a rendered finish at first floor level. The dwellings will contain pitched tiled roofs.
- The dwellings will have a maximum wall height of 6m and an overall height of 7.7m above ground level.

Floor and site plans for the proposed development are provided in **Appendix 1**.

LOCALITY MAP



Site and Surrounds

An inspection of the site and the surrounding area has been undertaken.

The site is located on east side of Mary Street, approximately 135m north of Bridge Street East. The site is rectangular in shape, having a frontage to Mary Street of 16.16m and a depth of 66.92m with an overall site area of 1,122m². The land currently contains a single storey rendered dwelling with a pitched tiled roof. A shed exists to the rear of the dwelling. Vehicle access into the site is obtained by a crossover and driveway along the north boundary.

Land to the north, east and west of the site is located within a General Residential Zone. Land in this area generally contains single dwellings on relatively large residential lots ranging in area from 900m² to 1,100m². Construction materials in the area vary from brick, weatherboard and render with a mixture of pitched metal or tiled roofing.

Land to the south, south east and south west of the site is located within a Commercial 1 Zone. Land to the south of the site contains ten single storey dwellings. Land to the south west contains a for auto electrician business with two associated buildings and land to the south east is vacant commercial land on the corner of Witt Street and Bridge Street East.

Public Notification

The planning application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* by way of the following:

- placing a sign on the Mary Street frontage of the site
- sending notices to all adjoining and opposite landowners and occupiers.

Three objections were received to the application. The issues raised in the objections can be summarised as follows:

- There are too many dwellings for the size of the lot.
- The proposal will result in cars parking on the street.
- The proposal will result in a lack of privacy to adjoining properties.
- Construction noise will affect the amenity of adjoining properties.
- The proposal will not be in keeping with the existing neighbourhood character.
- The proposal will result in overshadowing of adjoining properties.
- The height of the north boundary fence being 1.65m is not high enough to protect privacy from ground floor level.
- The proposal will increase stormwater flow which will impact on the existing drainage infrastructure.
- The proposal will place added stress on existing services such as water and sewer provision.
- A footpath may be required in order to facilitate additional pedestrian movements as a result of the development.

Planning Scheme Provisions

Planning Policy Framework (PPF)

Clause 11.01-1R (Settlement - Hume) of the Benalla Planning Scheme has the strategy:

- *Facilitate growth and development specifically in the regional cities of Shepparton, Wangaratta, Wodonga and Benalla.*

Clause 15.01-1S (Urban Design) of the Benalla Planning Scheme has the objective:

- *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

Clause 15.01-2S (Building Design) of the Benalla Planning Scheme has the objective:

- *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

Clause 15.01-5S (Neighbourhood Character) of the Benalla Planning Scheme has the objective:

- *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

Clause 16.01-1S (Housing Supply) of the Benalla Planning Scheme has the objective:

- *To facilitate well-located, integrated and diverse housing that meets community needs.*

Local Planning Policy Framework (LPPF)

Clause 21.02-1 (Urban Growth) of the Benalla Planning Scheme has the objective:

- *To provide for the orderly development of urban areas.*

This clause also includes the following strategy:

- *Encourage infill housing development to provide a diversity of choice provided the prevailing character is maintained.*

The proposal is considered to be consistent with this objective and strategy.

Clause 21.02-2 (Housing Diversity) of the Benalla Planning Scheme has the objective:

- *To provide a diversity of fully serviced housing opportunities.*

This clause also includes the following strategy:

- *Provide a variety of residential opportunities including medium density housing, traditional residential development (500 to 1000 square metres), low density residential and rural living development.*

The proposal is considered to be consistent with this objective and strategy.

Clause 21.02-4 (Neighbourhood Character) of the Benalla Planning Scheme has the following objective:

- *To promote development that respects the inherent character of the municipality.*

This clause also includes the following strategy:

- *Ensure that new development responds to the prevailing character and heritage values of an area and is consistent with the precinct controls identified in the Benalla Neighbourhood Character Study 2002.*

The proposal is considered to be consistent with this objective and is generally consistent with the strategy.

Zone

The subject site is located within a General Residential Zone. The purpose of the General Residential Zone is:

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

Pursuant to Clause 32.08-6 of the Benalla Planning Scheme, a planning permit is required for the construction or extension of two or more dwellings on a lot.

The proposal is required to be assessed against the objectives and standards outlined in Clause 55 of the Benalla Planning Scheme.

Overlays

The subject site is located within a Design and Development Overlay Schedule 1. The design objectives of this overlay are as follows:

- *Protect Benalla aerodrome, an important asset from development that may affect the safe flying environment of the aerodrome and approaches.*
- *Protect the approaches to the Benalla Aerodrome by regulating the construction and height of buildings or works or natural vegetation.*
- *Specify the height limitations which apply to the area around the Benalla Aerodrome and along the flight path approaches to the runways.*

A planning permit is required for buildings and works under the provisions of this overlay.

Particular Provisions

Clause 55 - Two or more dwellings on a lot

A development:

- Must meet all the objectives.
- Should meet all the standards.

A table outlining this assessment is detailed below:

	✓ - Compliance x- Non compliance	Objectives	Standards	Comments
B1	Neighbourhood Character	✓	✓	<p>The surrounding area is characterised with a mixture of building types ranging from commercial buildings, to single dwelling developments to multi-unit developments. In addition, building materials vary from metal shed construction to weatherboard, brick and render construction. Roofing in the area is generally pitched and constructed from metal or tiles.</p> <p>The proposed dwellings will contain forms and materials that will be in keeping with the existing neighbourhood character through providing a mixture of brick and rendered materials and pitched tiled roofing. The double storey height of the dwellings will also be comparable in height to existing commercial buildings facing Bridge Street East which are located in proximity to the site.</p> <p>As a result, it is considered that the proposal will be in keeping with a much varied neighbourhood character.</p>
B2	Residential Policy	✓	✓	See discussion above under State Planning Policy Framework and Local Planning Policy Framework.
B3	Dwelling Diversity	✓	✓	Not applicable as there are less than ten dwellings.
B4	Infrastructure	✓	✓	The development will be connected to all reticulated services.
B5	Integration with the Street	✓	✓	The development is provided with a common property accessway in which every proposed dwelling fronts. The front dwelling will be orientated to front the street and the frontage of the site will not be enclosed with a high front fence.

	✓- Compliance x- Non compliance	Objectives	Standards	Comments
B6	Street setback	✓	X	<p>The front setback of the adjoining dwellings average 7.65m to the street. The proposed setback is 7.5m which does not comply with the standard by 150mm.</p> <p>It is considered that 150mm encroachment will be barely noticeable to the street. In addition, the proposed setback provides an adequate transition between the setback of the adjoining properties to the south and north of the site which contain a setback of 6m and 9.3m respectively.</p>
B7	Building Height	✓	✓	The height of the proposed buildings is 7.7m which complies with the 11m height limit.
B8	Site Coverage	✓	✓	Complies as it is less than 60 per cent.
B9	Permeability	✓	✓	Complies as permeability is greater than 20 per cent.
B10	Energy Efficiency	✓	✓	Living areas at ground floor level including the dining area have access to north facing windows. Open space areas are predominantly located to the north of the proposed dwellings.
B11	Open Space	NA	NA	NA: The subject site does not provide for communal open space and does not abut an area of public open space.
B12	Safety	✓	✓	All dwellings proposed are provided with adequate surveillance to the proposed common access within the property and the front dwelling will be orientated to front Mary Street.
B13	Landscaping	✓	X	A landscape plan has not been provided with the submission and will be required as a condition of the permit.

	✓- Compliance x- Non compliance	Objectives	Standards	Comments
B14	Access	✓	✓	The applicant proposes to have one crossover into the site. This complies with the standard and reduces the amount of hardstand area within the frontage of the site.
B15	Parking Location	✓	✓	Complies
B17	Side and Rear Setbacks	✓	✓	All side and rear setbacks comply.
B18	Walls on Boundaries	✓	✓	The garage for Dwelling 5 will be located on the south boundary. The wall height will not exceed an average height of 3.2m which complies with the standard.
B19	Daylight to Existing Windows	✓	✓	The development is adequately setback from adjoining dwellings to allow light into adjoining property windows in accordance with the standard.
B20	North-Facing Windows	✓	✓	The proposal is adequately setback from adjoining dwellings north facing windows to comply with the standard.
B21	Overshadowing Open Space	✓	✓	Shadow diagrams submitted with the application show that the proposed development complies with the overshadowing requirements.
B22	Overlooking	✓	✓	All first floor habitable room windows that face north and south towards adjoining properties will be screened to a minimum height of 1.7m above floor level. As a result, it is considered that there will be no unreasonable overlooking caused to adjoining properties.
B23	Internal Views	✓	✓	Complies
B24	Noise Impacts	✓	✓	Complies
B25	Accessibility	✓	✓	Complies

	✓- Compliance x- Non compliance	Objectives	Standards	Comments
B26	Dwelling Entry	✓	✓	Each dwelling will be provided with its own sense of identity to the street of internal common accessway.
B27	Daylight to New Windows	✓	✓	All habitable room windows meet or exceed minimum requirements.
B28	Private Open Space	✓	✓	Each dwelling is provided within an area of in excess of 40m ² of private open space with a minimum dimension of 3m that can be accessed from a living area within the dwelling
B29	Solar Access to Open Space	✓	✓	A majority of the open private open space areas for each dwelling will be located to the north of the dwellings and will be able to achieve an adequate level of solar access.
B30	Storage	✓	✓	Complies.
B31	Design Detail	✓	✓	The design of the proposed dwellings which will include a mixture of colours and materials and a variance of dwelling setbacks from the ground floor to first floor will provide interest to the built form. It is considered that this built form will enhance the appearance of the development within its streetscape setting.
B32	Front Fences	✓	✓	No front fences are proposed.
B33	Common Property	✓	✓	The only common property is the internal access road.
B34	Site Services	✓	✓	Complies.

In summary, the proposal is considered to generally address the objectives and requirements of Clause 55 as follows:

- The proposal is considered to complement the existing character of the area.
- A landscaping plan has not been provided. This can be required as a condition of approval.
- The site will not cause any unreasonable detriment to adjoining properties.
- The site will provide appropriate on site amenity for future occupants.

- Car parking and access is functional.
- The proposal achieves acceptable solar orientation.
- The site can be provided with all site facilities and services.

Referrals

Internal referrals/notices required by the Planning Scheme:

Internal Council Referrals	Advice/Response/Conditions
Engineering	No objection subject to conditions

Objectors’ Concerns

There are too many dwellings for the size of the lot.

The number of dwellings that can be accommodated on a lot is not defined by the lot size. The number of dwellings on a site is based on its design in complying with the siting, open space, neighbourhood character, and parking provisions of the Benalla Planning Scheme. As above, it is considered that the proposal meets the requirements of Clause 55 of the Benalla Planning Scheme and is therefore able to accommodate five dwellings on the land.

The proposal will result in cars parking on the street.

Pursuant to Clause 52.06 of the Benalla Planning Scheme a dwelling with one or two bedrooms must provide one on site car space and a dwelling with three or more bedrooms must provide two on site car spaces. A dwelling proposal comprising of five or more dwellings must also contain an onsite visitor car space.

The proposed development meets the requirement above through providing a double garage for dwelling one which is a three-bedroom dwelling and single car spaces of the remaining two bedroom dwellings. A visitor car space is also located centrally on the site. The proposal meets the parking requirements to Clause 52.06 of the Benalla Planning Scheme which will therefore reduce the potential for vehicles to park on-street.

The proposal will result in a lack of privacy to adjoining properties.

Dwelling 1 to 3 will be double storey and all habitable room windows at first floor level facing north and south to adjoining properties will be obscured to the minimum height of 1.7m above floor level. Obscuring windows to this height complies with the overlooking requirements to Clause 55 of the Benalla Planning Scheme and will reduce any overlooking potential to adjoining properties to a reasonable level.

Construction noise will affect the amenity of adjoining properties.

Conditions of any permit that may issue will require the submission of a construction management plan. The construction management plan will require that noise from construction is undertaken within the hours as allowed under the EPA standards. It is deemed that normal construction activity during

The proposal will not be in keeping with the existing neighbourhood character.

The neighbourhood character of the existing area is varied. To the south west and south of the site is land zoned commercial. Land to the south of the site contains a single storey 10 dwelling development and land to the south west of the site contains a former auto electrician use with associated buildings. Further to the south of the site are commercial buildings that front onto Bridge Street East which have a height similar to the proposed double storey dwellings.

Land to the north of the site in Mary Street is zoned General Residential and is also characterised with a mixture of building forms including single dwellings, two unit developments and a disused commercial premises built to the front boundary.

The mixture in built form surrounding the subject site does not lead to a uniform streetscape and the construction of double storey dwellings will not be out of place within the streetscape.

In addition, the design of the dwellings which incorporates a first floor setback from the ground floor footprint provides interest to the built form. The building design will enhance the appearance of the development in its streetscape setting.

The proposal will result in overshadowing of adjoining properties.

The proposed double storey dwellings are located on the north side of the proposed driveway. The shadowing from the dwellings therefore falls over the driveway area. Overshadowing diagrams show that there will be minimal impact to adjoining properties to the south of the site. The proposal will therefore not cause unreasonable overshadowing to adjoining properties.

The height of the north boundary fence being 1.65m is not high enough to protect privacy from ground floor level.

Boundary fencing is considered to be a civil issue between two adjoining property owners. In the event that the fence height needs to be increase this can be negotiated between the two existing landowners.

The proposal will increase stormwater flow which will impact on the existing drainage infrastructure.

The proposal has been referred to Council's Engineering Unit who advise of no objection to the proposal subject to conditions. The conditions will require stormwater to be retained on the land before discharge into the existing drainage network in accordance with the Infrastructure Design Manual provisions. The proposal will therefore not have an unreasonable impact on existing stormwater infrastructure.

The proposal will place added stress on existing service such as water and sewer provision.

The purpose of the planning provisions is to provide for multi unit development in areas that contain existing services. The subject site is provided with existing water, sewer and electricity provision. The connection to these services will be to the requirements of the service providers at the time of connection.

A footpath may be required in order to facilitate additional pedestrian movements as a result of the development.

It is not considered justifiable to require the developer to provide a footpath for the development to Bridge Street East when the adjoining property containing 10 dwellings was not required to provide a footpath. As a result, the provision of the footpath will not be required as a result of this planning application.

Design and Development Overlay Schedule 1

The subject site is affected by a Design and Development Overlay which relates to the flight path of the Benalla Airport. The flight path height of the Benalla Airport in this area is approximately 25m. The overall height of the proposed development will be 7.7m which easily complies with the flight path requirements. The proposal will therefore be in keeping with the objectives of the overlay.

LEGAL IMPLICATIONS

A decision by the Council to determine that a permit should be granted for the proposal may be appealed to VCAT by:

- the applicant against conditions of the permit; and/or
- the objectors against the decision made.

In the instance that the Council decides to refuse to grant a permit the applicant also has a right of appeal to VCAT.

COUNCIL PLAN 2017-2021 (2020 REVIEW) IMPLICATIONS

Thriving and Progressive Economy

- *Facilitate population growth.*

High Performing Organisation

- *We are compliant with our legislative and risk management responsibilities.*
- *Provide good governance and responsible management and planning.*

Recommendation:

That Council having caused notice of Planning Application No P0131/20 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Notice of Decision to Grant a Permit under the provisions of the Benalla Planning Scheme in respect of the land known and described as 17 Mary Street, Benalla, for the construction of three double storey and two single storey dwellings in accordance with the endorsed plans, with the application dated 9 September 2020, subject to the following conditions:

Development Conditions

1. The development and/or use permitted by this permit as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.
2. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
3. Before the development starts a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority and be in accordance with the requirements of the Infrastructure Design Manual. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
 - (a) a survey of all existing vegetation and natural features showing plants to be removed and retained;
 - (b) all trees planted as part of the landscape works shall have a minimum height of 2.0 to 2.5m at the time of planting.
 - (c) a planting schedule of all proposed trees, shrubs and ground cover, which will include the location, number and size at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface materials as specified;
 - (d) the method of preparing, draining, watering and maintaining the landscaped area;
 - (e) landscaping and planting within all open areas of the site
 - (f) all landscaped areas proposed to be used for stormwater retardation;

All species selected must be to the satisfaction of the responsible authority. The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas. Before the use/occupation of the developments starts or by such a later date as is approved by the responsible authority in writing, landscaping works shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority.

The landscaping shown on the endorsed plans must be maintained for a period of three months from the date of practical completion of the works to the satisfaction of the responsible authority. Any dead, diseased or damaged plants are to be replaced within 12 months of the date of practical completion for the works.

4. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Responsible Authority. Before the development starts, a construction management plan shall be submitted to and approved by the Responsible Authority. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise. Management measures are to be in accordance with EPA guidelines for Environment Management, 'Doing It Right On Subdivisions' Publication 960, September 2004.
5. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Responsible Authority.
6. Before construction works start, the provision of carparking and accesses lane, construction plans must be provided showing detailed layout plans demonstrating compliance with AustRoads Publication 'Guide to Traffic Engineering Practice : Part 11 Parking' 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. Before the use starts or prior to the issue of a Statement of Compliance, the area(s) set aside for parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) surfaced with reinforced concrete;
 - b) constructed and completed to the satisfaction of the Responsible Authority;
 - c) drained in accordance with an approved drainage plan;
 - d) measures taken to prevent damage to fences or landscaped areas of adjoining properties and to prevent direct vehicle access to an adjoining road other than by a vehicle crossing;
 - e) Provision of traffic control signage and or structures as required;The areas must be constructed and drained to prevent diversion of flood or drainage waters and maintained in a continuously useable condition to the satisfaction of the Responsible Authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
7. Before the use begins all vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Responsible Authority, and shall comply with the following:

- a) **standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways in accordance with IDM, and any existing redundant crossing shall be removed and replaced with concrete (kerb and channel);**
 - b) **any proposed vehicular crossing shall have satisfactory clearance to any side-entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense.**
- 8. No additional vehicle crossing may be constructed apart from those endorsed on the approved plan.**
- 9. Before the use begins all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe drains to the satisfaction of the responsible Authority. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.**
- 10. Before any of the development starts, a properly prepared drainage discharge plan with computations to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of three copies must be provided. The information submitted must show the details listed in the council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.**
- The information and plan must include:**
- a) **details of how the works on the land are to be drained and retarded.**
 - b) **computations including total energy line and hydraulic grade line for the existing and proposed drainage as directed by Responsible Authority**
 - c) **underground pipe drains conveying stormwater to the legal point of discharge for each allotment.**
 - d) **measures to enhance stormwater discharge quality from the site and protect downstream waterways Including the expected discharge quality emanating from the development (output from MUSIC or similar) and design calculation summaries of the treatment elements;**
 - e) **a maximum discharge rate from the site is to be determined by computation to the satisfaction of Council.**
 - f) **documentation demonstrating approval from the relevant authority for the legal point of discharge.**
 - g) **the details of the incorporation of water sensitive urban design designed in accordance either 'Urban Stormwater Best Practice Environmental Management Guidelines' 1999.**
 - h) **maintenance schedules for treatment elements.**

- i) each unit including open space areas independently drained to a single point of discharge for the whole development to the satisfaction of the Responsible Authority.
- j) discharge from the site to be retarded on site to the satisfaction of the Responsible Authority, to ensure a maximum discharge rate off-site as specified in the Infrastructure Design Manual unless otherwise approved by the Responsible Authority.
- k) underground drains for each unit including open space areas wholly contained within the fenced area pertaining to the unit. The outfall be located in or under the common vehicle driveway and shall not cross under or be located within any of the unit's fenced areas.
- l) all dwellings to be erected must be provided with a rainwater tank for the collection and re-use of roof collected stormwater for toilet flushing and garden irrigation and for the dwelling to be plumbed accordingly.

Before the use begins all works must be constructed in accordance with those plans to the satisfaction of the Responsible Authority

11. Before any drainage or landscaping works associated with the development or subdivision start, detailed construction plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit.
All works constructed or carried out must be in accordance with those plans and must be completed prior to the commencement of the use.
12. Before the use commences a payment to the Responsible Authority of an amount up to 2.5 per cent of the actual cost of work, being for costs of the Responsible Authority supervision of the works must be paid.
13. Before the use commences a payment to the Responsible Authority of engineering design checking fee of an amount up to 0.75 per cent of the value of documented works.
14. Before the development starts the owner or developer must submit to the Responsible Authority a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb and channel, footpath, seal, street lights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to the Councils assets/Public infrastructure caused as a result of the development or use permitted by this permit.
15. Before works commence onsite, a construction management plan must be provided for the development. The following items must be satisfied (but not limited to);
 - Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.

- Identify local traffic routes to be used by construction vehicles.
- Identify ways to manage construction works to address impacts on local traffic routes.
- Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Management Plans (TMPs) prepared by an appropriately qualified person.
- Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- Provide for the standing of vehicles during construction.
- If trucks are to be accommodated on the site, provide a scaled drawing showing where the construction vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Management Plans (TMPs) prepared by an appropriate qualified person.
- Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion. (Note: Oversize vehicles are vehicles longer than 7.5m or heavier than 4.5T).
- Show the location of any proposed excavation and estimated volumes.
- Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

An on-site meeting with the responsible authority, the contractor and the developer or the developer's consultant to discuss matters such as, roadside management, construction techniques and tree protection zones to be barricaded off prior to and during construction must be conducted prior to commencement of construction.

16. Before the development starts, a tree protection fence must be erected around the street trees at the dripline of the existing trees to define a 'Tree Protection zone'. The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the relevant authority. The tree protection fence must remain in place until construction is completed.

The ground surface of the Tree Protection Zone must be covered by a 100mm deep layer of mulch before the development starts and be watered regularly to the satisfaction of the responsible authority.

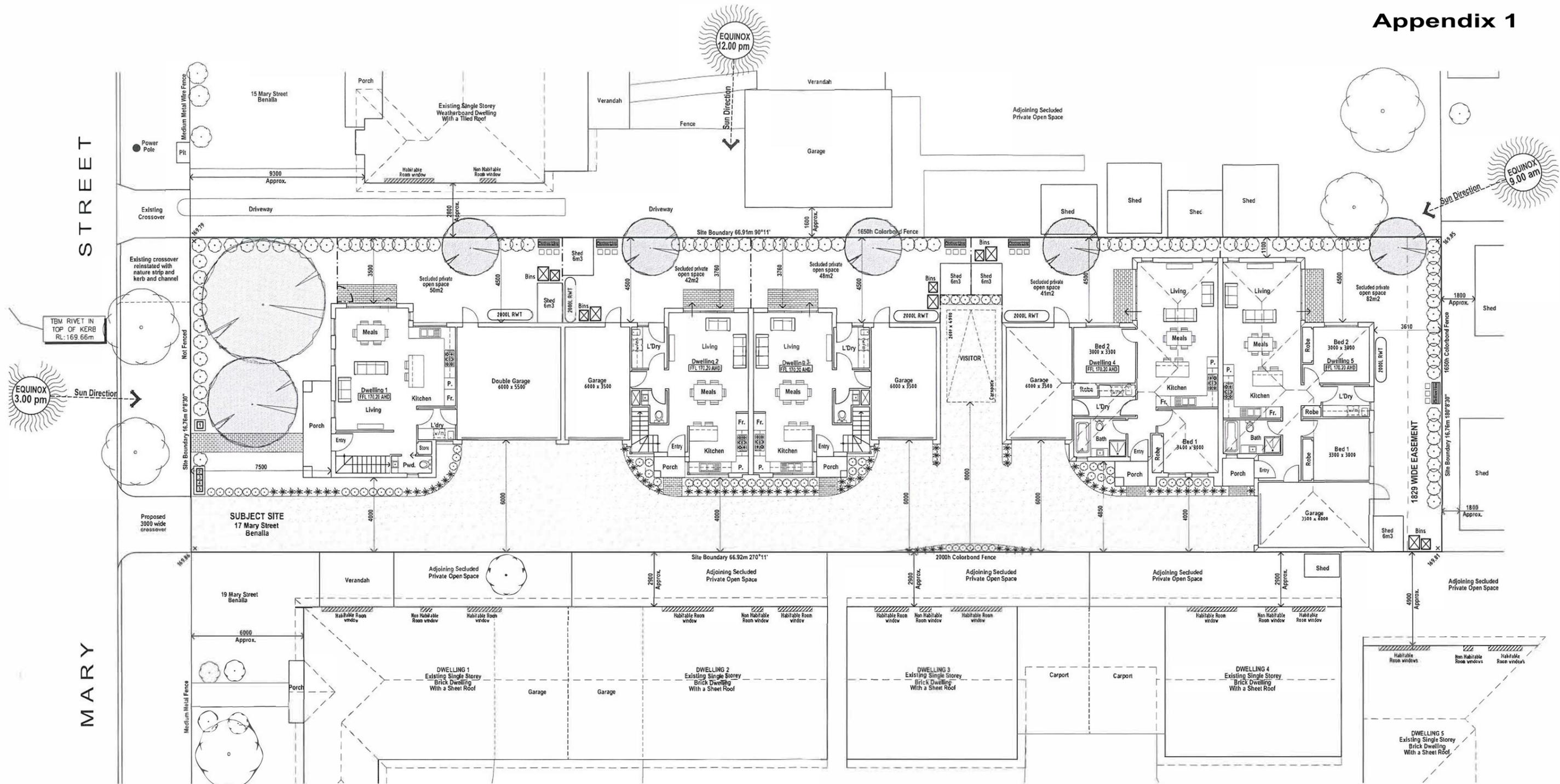
17. In accordance with the *Planning and Environment Act 1987* a permit for the development expires if:
- (e) the development is not commenced within two years after the issue of the permit;
 - (f) the development is not completed within four years after the issue of the permit.

The Responsible Authority may extend the commencement date if a request is made in writing by the owner or the occupier of the land to which the permit applies before the permit expires or within 6 months afterwards.

The Responsible Authority may extend the time within which the development is to be completed if the development has commenced and a request in writing is made by the owner or the occupier of the land to which it applies within 12 months after the permit expires.

Advice Notes:

1. The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.
2. A asset protection permit is required prior to the commencement of any woks on site.
3. A consent to work within a road reserve must be obtained from the Responsible Authority prior to the carrying out of any vehicle crossing works.
4. This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.



Ground Floor & Site Plan
Scale 1:100

AREA ANALYSIS

Dwelling	GROUND FLOOR	FIRST FLOOR	PORCH	GARAGE	TOTAL
Dwelling 1	58 m ²	70 m ²	7 m ²	37 m ²	172 m ²
Dwelling 2	53 m ²	59 m ²	2 m ²	23 m ²	137 m ²
Dwelling 3	53 m ²	59 m ²	2 m ²	23 m ²	137 m ²
Dwelling 4	80 m ²	N/A	3 m ²	23 m ²	106 m ²
Dwelling 5	84 m ²	N/A	3 m ²	23 m ²	110 m ²

Dwelling	PRIVATE OPEN SPACE	SECLUDED OPEN SPACE	TOTAL
Dwelling 1	104 m ²	52 m ²	156 m ²
Dwelling 2	9 m ²	42 m ²	51 m ²
Dwelling 3	9 m ²	49 m ²	58 m ²
Dwelling 4	10 m ²	42 m ²	52 m ²
Dwelling 5	3 m ²	82 m ²	85 m ²

SITE AREA	SITE COVERAGE		SITE COVERAGE		GARDEN AREA 650m ² + 35%
	Building Area	%	Total Impervious Surfaces	%	
1122 m ²	Proposed 457 m ²	40.7 %	Proposed 736 m ²	65.6 %	Proposed 393 m ² 35.0 %

SITE LEGEND

- DENOTES EXISTING TREES & SHRUBS
- DENOTES CANOPY TREE
- DENOTES NARROW CANOPY TREE
- DENOTES NARROW EVERGREEN SCREEN VEGETATION TO 3m HIGH.
- DENOTES SHRUBS & GROUNDCOVERS
- DENOTES SELECTED SKYLIGHT
- DENOTES 1800 HIGH PALING FENCE (U.N.O.)
- DENOTES SELECTED CONCRETE TO DRIVE WAY & CARSPACES
- DENOTES SELECTED CONCRETE PAVING

NOTE:
ALL PROPOSED LANDSCAPING TO BE FULLY SPECIFIED ON A LANDSCAPE PLAN



Project
Multi-Dwelling Development

Client
QA Construction Pty Ltd

Rev.	Date	Description	Initial

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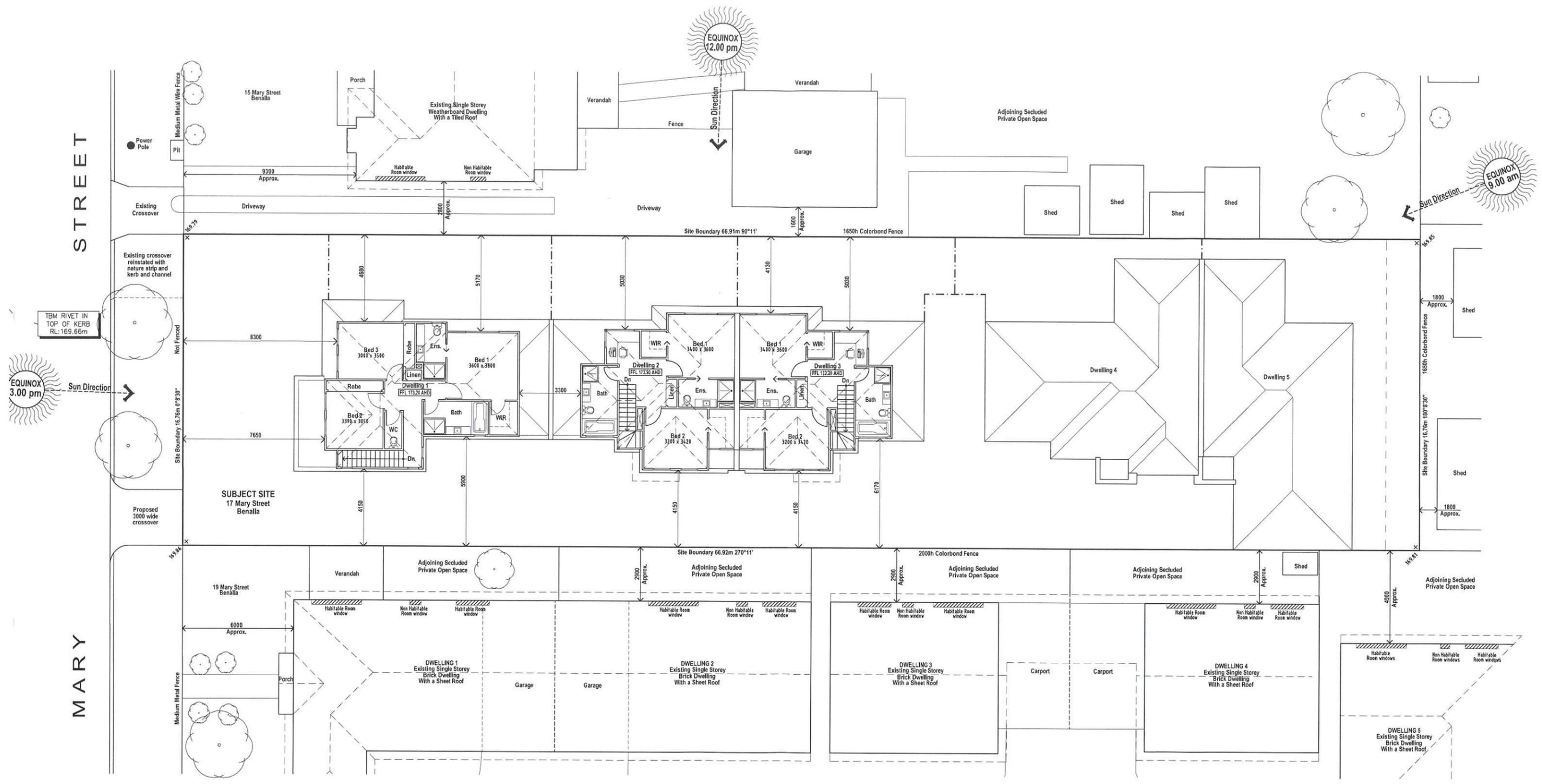


Scale 1:100
Checked P.S.
Date 04.07.20
Drawn J.R.B.

Drawing
Ground Floor & Site Plan
Address
At 17 Mary Street, Benalla
Ref No. **20-1717** Sheet No. **TP1**

Designer
Beyond Design Group Pty Ltd
42 Chancellor Ave, Bundoorra
Melbourne Victoria Australia
Ph: (03) 9470 1144
www.beyonddesign.com.au
A.B.N. 75 095 127 307





First Floor & Site Plan
Scale 1:100

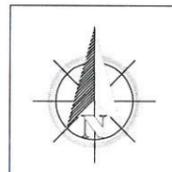


Project
Multi-Dwelling Development

Client
QA Construction Pty Ltd

Rev.	Date	Description	Initial

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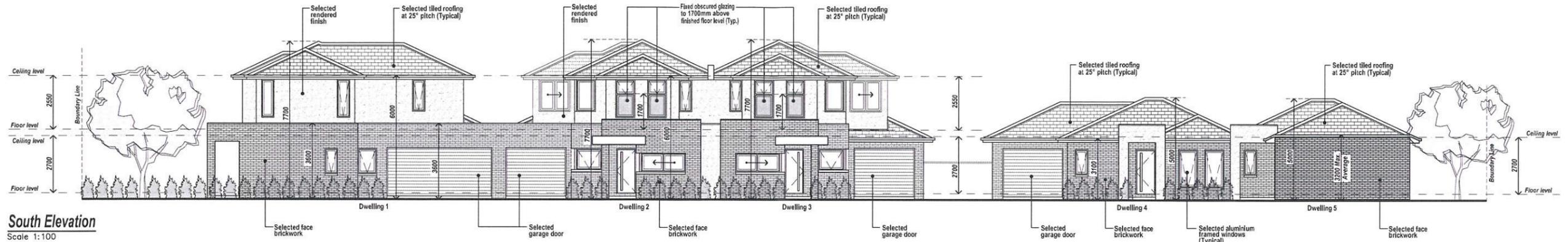
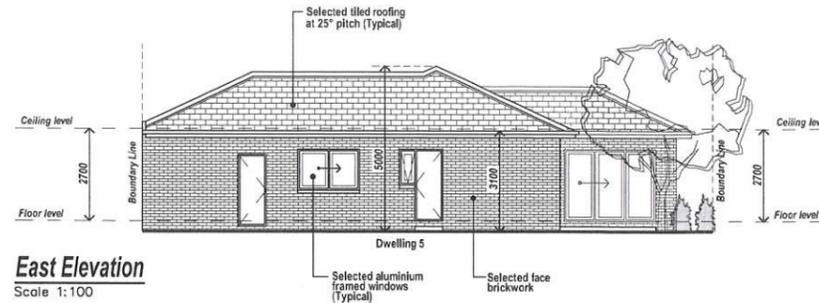
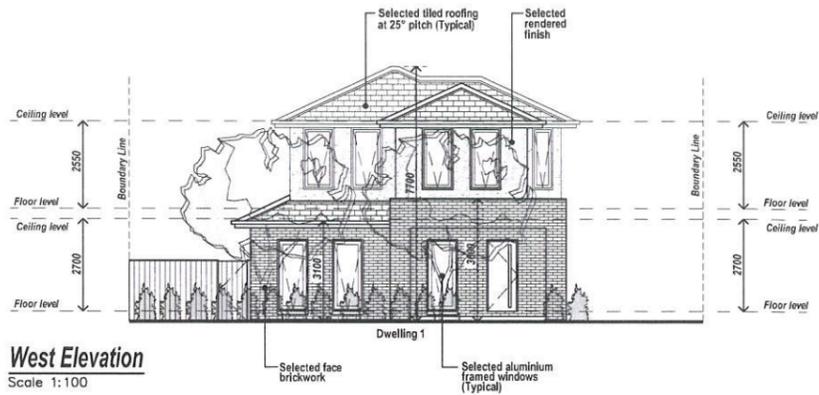


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Date 04.07.20
Drawn J.R.B.

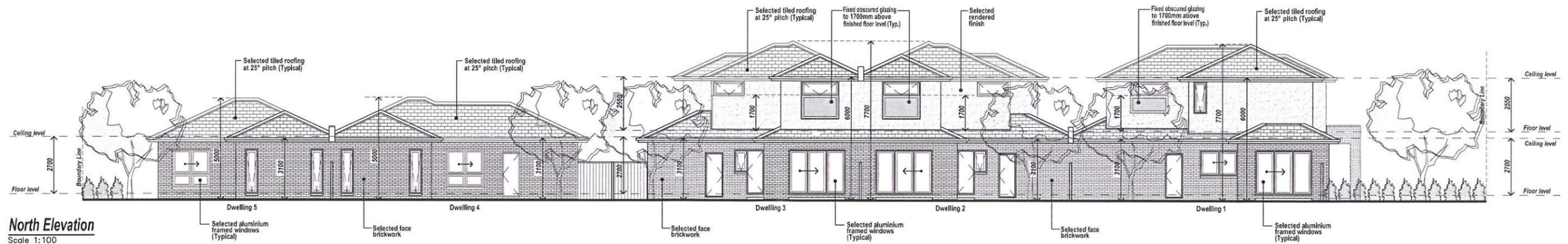
Drawing
First Floor & Site Plan
Address
At 17 Mary Street, Benalla
Ref No. 20-1717 **Sheet No.** TP2

Designer
Beyond Design Group Pty Ltd
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South Elevation
Scale 1:100



North Elevation
Scale 1:100



Streetscape Elevation - View From Mary Street
N.T.S



Project
Multi-Dwelling Development

Client
QA Construction Pty Ltd

Rev.	Date	Description	Initial

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Scale 1:100
Checked P.S
Date 04.07.20
Drawn J.R.B

Drawing
Elevations
Address
At 17 Mary Street, Benalla
Ref No. **20-1717** Sheet No. **TP3**

Designer
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6. Planning Application No PO180/20 To Use Land For A Restricted Recreation Facility (Health and Fitness Centre) at 41 - 43 Church Street, Benalla

DA4813

Joel Ingham - Planning Coordinator

Nilesh Singh - Manager Development

PURPOSE OF REPORT

The report assesses planning permit application P0180/20 to use the land for a health and fitness centre at 41–43 Church Street, Benalla.

BACKGROUND

Site Address	41–43 Church Street, Benalla
Existing Use	Existing commercial building previously used as a retail premises
Proposal	To use land for a restricted recreation facility (Health and Fitness Centre).
Applicant	Mr James Mawson (Tribe MVMNT)
Zone	Commercial 1 Zone (C1Z)
Overlays	Design and Development Overlay Schedule 1 (DDO1) Land Subject to Inundation Overlay (LSIO) Parking Overlay Schedule 1 (PO1)
Referrals	Nil

PROPOSAL

The applicant is seeking to use the land for a health and fitness facility. The proposal will have the following characteristics:

- The facility will provide for group classes not exceeding 10 participants with one coach.
- The proposal will also provide for personal one to one training (one participant and one coach) and nutrition consults.
- There may be up to two coaches and one admin site on site in addition to the group classes.
- All activities on the site area by appointment only and the facility will not be open to the public to walk in off the street.
- Group classes will be run at the times of 6am, 9.15am, 5.15pm and 6.15pm.
- Music will be played within the existing building.
- The proposal will utilise the existing building and will not require buildings and works to be undertaken.

- Car parking for the use will be provided to the within the rear north east corner of the site for staff (three car spaces) and five within the front setback of the site to Church Street for patrons.

Site and Surrounds

An inspection of the site and the surrounding area has been undertaken.

The subject land is located on the north east corner of Carrier Street and Church Street, Benalla. The land is generally rectangular with the exception to the north-east corner of the site which extends 7.68m to the north. The land has a frontage to Carrier Street of 30.74m and a frontage to Church Street of 39.78m yielding an overall site area of 1,283m². The land contains an existing vacant commercial building which was previously used as a retail premises and before that a bottle shop.

The existing commercial building on the site has an overall area of 344m². A large open undercover area with dimensions of 19m x 13m exists within the Carrier Street frontage of the site. Vehicle access to the site is obtained with one crossover onto Carrier Street and two crossovers onto Church Street. Informal however sealed car parking and accessways areas are located within the west and south portions of the site. A chain wire mesh fence along Carrier Street encloses the western portion of the site to the street.

All surrounding land to the subject site is located within a Commercial 1 Zone. Land to the east of the site contains a single storey residential dwelling. Land to the north of the site contains a restricted recreation facility (gym). Land to the south of the site across Church Street contains a supermarket (Coles) and land to the west across Carrier Street contains a veterinary centre and chiropractic facility.

LOCALITY MAP



Site and building plans are attached as **Appendix 1**.

Public Notification

The planning application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* by way of the following:

- placing a sign at the Carrier Street and Church Street frontages of the site.
- sending notices to all adjoining and surrounding landowners and occupiers.

Four objections were received to the application. The objections can be summarised as follows:

- The proposal will result in unreasonable noise impact to adjoining properties.
- The proposal does not provide for adequate on site car parking which will impact on the availability of on-street car parking.
- On the plan there is a 5m and 19m external wall, will this be constructed?
- The current patron numbers could expand in order to keep the business viable.
- The proposal in conjunction with other uses could see an influx of cars at the one time increasing pressure on parking in the area.

Planning Scheme Provisions

The Planning Policy Framework (PPF)

Planning Policy Framework

Clause 11.01-1R of the Planning Policy Framework relates to Settlement. A strategy of this clause is as follows:

- *Support improved access to a range of employment and education opportunities, particularly in key urban locations such as Benalla, Seymour, Shepparton, Wangaratta and Wodonga.*

Clause 13.07-1S of the Planning Policy Framework relates to Land Use Compatibility. The objective of this clause is as follows:

- *To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.*

Clause 17.01-1S of the Planning Policy Framework relates to Diversified Economy. The objective of this clause is as follows:

- *To strengthen and diversify the economy.*

Clause 17.02-1S of the Planning Policy Framework relates to Business. The objective of this clause is as follows:

- *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

Clause 18.02-4S of the Planning Policy Framework relates to Car Parking. The objective of this clause is as follows:

- *To ensure an adequate supply of car parking that is appropriately designed and located.*

Local Planning Policy Framework

Clause 21.06-2 of the Local Planning Policy Framework relates to Retail and Commercial. The objective of this clause is as follows:

- *To provide for retail and commercial development that meets the needs of the community.*

Zone

Pursuant to Clause 34.01 of the Benalla Planning Scheme the subject site is located within a Commercial 1 Zone. The purpose of this zone is as follows:

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

A restricted retail premises is a Section 2 – Permit required use under the provisions of this zone (34.01-1).

Overlays

Pursuant to Clause 43.02 of the Benalla Planning Scheme the subject site is affected by a Design and Development Overlay Schedule 1. The design objectives of this overlay are as follows:

- *Protect Benalla aerodrome, an important asset from development that may affect the safe flying environment of the aerodrome and approaches.*
- *Protect the approaches to the Benalla Aerodrome by regulating the construction and height of buildings or works or natural vegetation.*
- *Specify the height limitations which apply to the area around the Benalla Aerodrome and along the flight path approaches to the runways.*

A planning permit is not required for a use under the provisions of this overlay.

Pursuant to Clause 44.04 of the Benalla Planning Scheme the subject site is affected by a Land Subject to Inundation Overlay. The purpose of this overlay is as follows:

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

A planning permit is not required for a use under the provisions of this overlay.

Pursuant to Clause 45.09 of the Benalla Planning Scheme the subject site is affected by a Parking Overlay Schedule 1. The car parking objectives of this overlay are as follows:

- *To achieve a balanced outcome with respect to the provision of public and private car parking facilities throughout the Benalla Central Business Area.*
- *To identify appropriate car parking rates for various land uses within the Benalla Central Business Area.*
- *To provide for the collection of financial contributions to contribute to the construction of shared car parking facilities.*
- *To provide the future orderly development of the Benalla Central Business Area and its environs, and improvements to public amenity.*

A planning permit is not required to reduce the number of car spaces on site as the proposed use has less parking demand than the previous use of the site.

Particular Provisions

Clause 52.06 of the Benalla Planning Scheme relates to car parking. The purpose of this provision is as follows:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*

- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

A planning permit is not required to reduce the number of car spaces on site as the proposed use has less parking demand than the previous use of the site.

ASSESSMENT

Objector's Concerns

The proposal will result in unreasonable noise impact to adjoining properties.

It is acknowledged that the use will play music while in operation, however, this will be within the existing brick building and during hours which are considered to be normal to a Commercial 1 Zone. A condition of the permit will be require compliance with EPA standards with regard to noise emissions. Subject to compliance with EPA standards it is considered that the proposal will not cause unreasonable noise emission to adjoining properties.

The proposal does not provide for adequate on site car parking which will impact on the availability of on-street car parking.

The previous uses of the site being a retail premises and bottle shop generate a car parking demand of 4 car spaces per 100m² of floor area. The floor area of the buildings on the land is 344m² which would require a total of 14 car on site car spaces.

The proposed use of a health and fitness centre generates a parking demand of 0.3 car spaces per patron. The number of patrons on the site at any one time will be 14 and there may also be four staff on site at any one time. The total number of car spaces required on-site for this use will therefore be five car spaces.

The proposal will therefore result in a reduction in parking demand of nine car spaces from the previous use and as a result a planning permit is not required for a reduction in the car parking requirements. In addition, the proposal will also provide for eight on site car spaces which is in excess of the five car spaces required pursuant to Clause 52.06 of the Benalla Planning Scheme.

Based on the provisions of the planning scheme the proposed use will have less impact to on-street parking than the previous uses of the site.

On the plan there is a 5m and 19m external wall, will this be constructed?

The plans submitted with the proposal show the dimensions of existing buildings and structures only. There will be no buildings and works on the land as a result of this application.

The current patron numbers could expand in order to keep the business viable.

The number of patrons on the site will be confined to what is currently proposed within the planning application by way of permit conditions. In the event that the use requires expansion in the future this will be subject to further planning approval by way of amending the permit conditions.

The proposal in conjunction with other uses could see an influx of cars at the one time increasing pressure on parking in the area.

As above the proposal provides for the required number of car spaces on the site in accordance with Clause 52.06 of the Benalla Planning Scheme. The cap to the number of staff and patrons on the site at any one time will reduce any potential for a large influx of cars utilising on-street parking in the area.

In context with the surrounding area this use will provide for on-site parking whilst there are many uses fronting Carrier Street that contain no on-street parking or have been given parking dispensation by way of a planning permit to reduce the number of on site car parks. Any use on the subject site that complies with parking requirements should not be constrained by the lack of existing on-site parking in the surrounding area.

Commercial 1 Zone

The purpose of the Commercial 1 Zone is to provide for mixed use commercial centres of retail, office, business, entertainment and community uses. The proposed use for a health and fitness centre provides for a use that adds to the mixed use vibrancy of the commercial area. The mixed nature of commercial uses in the area is supported by the purpose to the zone.

Parking Overlay Schedule 1

The parking overlay was put into the Benalla Planning Scheme on 27 March 2014. Although a planning permit is not required under the provisions of this overlay to reduce the number of car spaces on the land it is important to note the purpose of the overlay.

The parking overlay requires that if on any land affected by this overlay the number of car parking spaces that are required for a proposed use cannot be provided on the land, the responsible authority may consent to a discharge of this requirement by way of a financial contribution arrangement.

The purpose of the financial contribution is to facilitate future construction of public car parking that will alleviate pressure on existing areas that have congested on-street parking.

LEGAL IMPLICATIONS

A decision by the Council to determine that a permit should be granted for the proposal may be appealed to the Victorian Civil and Administrative Tribunal (VCAT) by:

- the applicant against conditions of the permit;
- the objectors against the decision made.

In the instance that the Council decides to refuse to grant a permit the applicant also has a right of appeal to VCAT.

COUNCIL PLAN 2017-2021 (2020 REVIEW) IMPLICATIONS**Connected and Vibrant Community**

- *Encourage community members to be healthy, safe and active.*

Thriving and Progressive Economy

- *Attract, support and strengthen local business.*
- *Facilitate population growth.*

High Performing Organisation

- *We are compliant with our legislative and risk management responsibilities.*
- *Provide good governance and responsible management and planning.*

Recommendation:

That the Council having caused notice of Planning Application No P0180/20 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to Grant a Permit under the provisions the Benalla Planning Scheme in respect of the land known and described as 41–43 Church Street, Benalla, for the use of the land for a restricted recreation facility (health and fitness centre) in accordance with the endorsed plans, with the application dated 10 November 2020, subject to the following conditions:

- 1. The use permitted by this permit as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.**
- 2. The amenity of the area must not be detrimentally affected by the use, through the:**
 - (a) Appearance of any building works or materials.**
 - (b) Transport of materials, goods or commodities to or from the land.**

- (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour steam, soot, ash, dust, waste water, waste products, grit or oil.
 - (d) Presence of vermin.
- 3. All goods, refuse and packaging material associated with the development shall be stored within the premises at all times unless the Responsible Authority has approved, in writing, alternative arrangements.
- 4. The storage of goods or materials in conjunction with the use hereby permitted shall:
 - (a) be carried out in a manner so as to prevent the exposure to view from any adjacent premises or from any public place of any unsightly matter.
 - (b) be stored to the satisfaction of the Responsible Authority so as to not become visually obtrusive on the site.
- 5. All lighting used to externally illuminate buildings, works and uses shall be fitted with cut-off luminaries (baffles), so as to prevent the emission of direct and indirect light onto adjoining roadways, land and premises.
- 6. Noise emissions must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
- 7. Before the use, areas set aside for parked 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) Surfaced with an all-weather sealcoat or surfaced with crushed rock or gravel to the satisfaction of the Responsible Authority.
 - (d) Drained and maintained to the satisfaction of the Responsible Authority.
 - (e) Line-marked to indicate each car space and all access lanes.
to the satisfaction of the Responsible Authority.
- 8. The surface of the car park area must be treated to the satisfaction of the Responsible Authority to prevent dust causing loss of amenity to the neighbourhood.
- 9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
- 10. Vehicles under the control of the operator of the use or the operator's staff must not be parked on the nearby roads
- 11. No fewer than eight car spaces must be provided on the land for the use.
- 12. No more than 18 people may be on the site at any one time.

13. Except with the prior written consent of the Responsible Authority, the use permitted by this permit must operate only between the following times:
 - Seven days a week - 5am to 7.30pm.
14. Areas set aside for the parking and movement of vehicles as shown on the endorsed plan(s) must be made available for such use and must not be used for any other purpose. Any fencing blocking parking areas must be removed and any gates enclosing parking areas must remain open at all times during hours of operation.
15. In accordance with the *Planning and Environment Act 1987* a permit for the use expires if:
 - a) the use does not start within two years after the issue of the permit;
or
 - b) the use is discontinued for a period of two years.

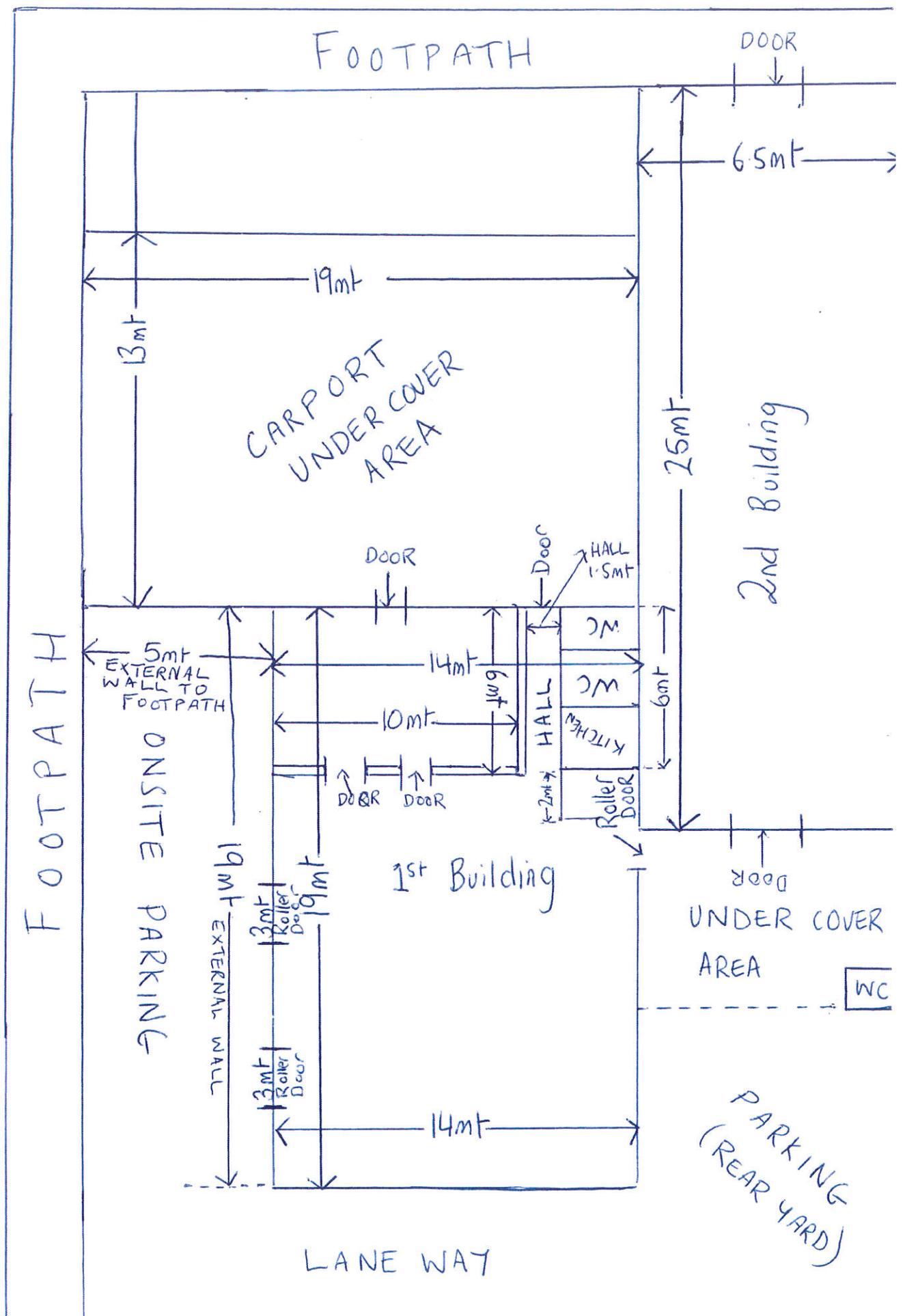
The Responsible Authority may extend the commencement date if a request is made in writing by the owner or the occupier of the land to which the permit applies before the permit expires or within six months afterwards.

The Responsible Authority may extend the time within which the development is to be completed if the development has commenced and a request in writing is made by the owner or the occupier of the land to which it applies within 12 months after the permit expires.



Site	41-43 Church Street, Benalla	Drawing 21001-1	Project 21001	Drawn RS	 Planography Pty Ltd PO Box 366 6 Binney Street Euroa Vic 3666 Ph: 0437620174
Title	Site Plan	Scale 1:600	Date 31/12/2020	Rev A	

CHURCH STREET



LANE WAY

PARKING (REAR YARD)

7. Building and Planning Approvals - November and December 2020

SF/255

Joel Ingham – Planning Coordinator
 Sarah Ford – Building Coordinator
 Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report details planning permit applications and building approvals for November and December 2020.

Planning Permit Applications determined under Officer Delegation**November 2020**

	File No	Description	Property Address	Decision
1	DA7073	Construction of two single storey dwellings	38 Samaria Road, Benalla	Approved
2	DA7072	Construction of two single storey dwellings	2 Nicholson Court, Benalla	Approved
3	DA2629	Construction of a carport, garage and BBQ area	1 Mair Street, Benalla	Approved
4	DA7094	Construction of a dwelling	7 Hall Drive, Benalla	Approved
5	DA6841	Construction of a shed	5 Walker Street, Benalla	Approved
6	DA7091	Construction of a shed	11 Russell Street, Benalla	Approved
7	DA7093	Construction of a shed	5 Arundel Street, Benalla	Approved
8	DA6626	Construction of an in-ground swimming pool	5 Market Street, Benalla	Approved
9	DA5809	Construction of a shed	1 Meadows Avenue, Benalla	Approved
10	DA6006	Construction of a shed	72 Witt Street, Benalla	Approved
11	DA7034	Construction of a shed	11 Nixon Street, Benalla	Approved
12	DA6865	Construction of a dwelling	35 Hall Drive, Benalla	Approved
13	DA4888	Construction of a verandah	12 Mclvor Street, Benalla	Approved
14	DA5692	Construction of a shelter	Benalla Showgrounds, Bridge Street West, Benalla	Approved
15	DA7100	Construction of a fence	80 Barkly Street, Benalla	Approved
16	DA5229	Construction of a spa	67 Benson Street, Benalla	Approved

**Planning Permit Applications determined under Officer Delegation
December 2020**

	File No	Description	Property Address	Decision
1	DA5107	Buildings and works associated with a wastewater treatment plant and the removal of native vegetation	103 Holdsworth Road, Benalla	Approved
2	DA7039	To use the land for the purposed of a food and drink premises	53-55 Halls Road, Goorambat	Approved
3	DA1895/2	To construct and display a Business Identification sign	29 Sydney Road, Benalla	Approved
4	DA845	Two lot subdivision (boundary realignment)	13 Cecil Street, Benalla	Approved
5	DA5166	Construction of a shed and carport	60 Nillahcootie Track, Lima South	Approved
6	DA4155	Construction of a shed	182-184 Bridge Street East, Benalla	Approved
7	DA3564	Construction of a front fence	36 Cook Street, Benalla	Approved
8	DA7114	Construction of a shed	5 Butter Factory Lane, Swanpool	Approved
9	DA6804	Construction of a carport and front fence	91 Church Street, Benalla	Approved
10	DA513	Construction of an in-ground swimming pool	25 Kent Street, Benalla	Approved
11	DA6597	Removal of a tree within a Heritage Overlay	Carrier Street, Road Reserve, Benalla	Approved
12	DA7051	Use and development of the land for a dwelling	340 Terrett Road, Goomalibee	Approved
13	DA1140/2	To vary the type of liquor licence and to extend the area that liquor may be consumed in	126-128 Bridge Street East, Benalla	Approved
14	DA7077	Use and development of a dwelling and associated agricultural outbuilding	16 Crawford Road, Benalla	Approved
15	DA4713	Buildings and works to the front facade and the demolition of two outbuildings	69 Nunn Street, Benalla	Approved
16	DA7120	Construction of an agricultural shed	58 Centre Road, Molyullah	Approved
17	DA5591	Construction of a dwelling extension	600 Tarnook Road, Tarnook	Approved

	File No	Description	Property Address	Decision
18	DA7090	Construction of a dwelling extension, two carports, and a shed	33 Charles Street, Benalla	Approved
19	DA2443	Construction of a dwelling extension	31 Deas Street, Benalla	Approved
20	DA1399/2	Development of a Telecommunications Facility	251 Baileys Road, Taminick	Approved

**Planning Permit Amendments determined under Officer Delegation
November 2020**

	File No	Description	Property Address
1	DA3345/2	Use and development of land for a multi-purpose hall, reduction in car parking requirements and removal of native vegetation	52-54 Arundel Street, Benalla
2	DA6519	Construction of a dwelling and shed	11 Gray Street, Benalla
3	DA7022	Use and development of land for a dwelling and associated outbuilding	326 Gandini Lane, Lima East
4	DA6437	Construction of a dwelling and outbuilding	143 Witt Street, Benalla
5	DA6725	Construction of a dwelling	76A Willis Little Drive, Benalla
6	DA6953	Construction of a dwelling	22 Hall Drive, Benalla

**Planning Permit Amendments determined under Officer Delegation
December 2020**

	File No	Description	Property Address
1	DA4109	The use of the land for a carport and the removal of native vegetation	2 Mair Street, Benalla
2	DA7038	Construction of a dwelling and shed	164 Racecourse Road, Benalla

**Planning Permits issued under VicSmart
November 2020**

	File No	Description	Property Address
1	DA7100	Construction of a fence	80 Barkly Street, Benalla

**Planning Permits issued under VicSmart
December 2020**

	File No	Description	Property Address
1	DA5166	Construction of a shed and carport	60 Nillahcootie Track, Lima South
2	DA7114	Construction of a shed	5 Butter Factory Lane, Swanpool
3	DA7120	Construction of an agricultural shed	58 Centre Road, Molyullah
4	DA5591	Construction of a dwelling extension	600 Tarnook Road, Tarnook

**Planning Permit Applications determined by the Council
November 2020**

File No	Description	Property Address	Decision
DA6967	138 Lot subdivision, removal of Native Vegetation and the creation and removal of easements	Witt Street, Benalla	Approved – Permit issued

**Planning Permit Applications determined by the Council
December 2020**

File No	Description	Property Address	Decision
DA5788/2	27 lot staged subdivision and the removal of native vegetation in accordance with the endorsed plans	19 Goodenia Drive, Benalla and 20 Cowan Street, Benalla	Approved – Notice of Decision

Planning Permit Applications withdrawn or lapsed**November 2020**

There were no planning permit applications withdrawn or lapsed during the month of November 2020.

Planning Permit Applications withdrawn or lapsed**December 2020**

File No	Description	Property Address	Withdrawn/ Lapsed
DA7087	Two lot subdivision	62A and 64 Clarke Street, Benalla	Lapsed

Notices of Decision**November 2020**

	File No	Description	Property Address
1	DA7051	Use and development of the land for a dwelling	340 Terrett Road, Goomalibee
2	DA1140/2	To vary the type of liquor licence and to extend the area that liquor may be consumed	126-128 Bridge Street East, Benalla
3	DA7076	Five lot subdivision	168 Winton Glenrowan Road, Winton

A Notice of Decision (NOD) is issued when Council has decided to grant a planning permit when objection(s) are received regarding the application.

An objector may appeal to Victorian Civil and Administrative Tribunal (VCAT) against the decision to grant the permit within 21 days of a Notice of Decision being issued. After 28 days if no appeal has been lodged Council will issue the Planning Permit.

Notices of Decision**December 2020**

	File No	Description	Property Address
1	DA7065	Construction of two single storey dwellings and two lot subdivision	33 Simkin Drive, Benalla
2	DA2598	Construction of two single storey dwellings	9 Barrington Street, Benalla
3	DA5788/2	27 lot staged subdivision and the removal of native vegetation in accordance with the endorsed plans	19 Goodenia Drive, Benalla and 20 Cowan Street, Benalla

A Notice of Decision (NOD) is issued when Council has decided to grant a planning permit when objection(s) are received regarding the application.

An objector may appeal to Victorian Civil and Administrative Tribunal (VCAT) against the decision to grant the permit within 21 days of a Notice of Decision being issued. After 28 days if no appeal has been lodged Council will issue the Planning Permit.

Planning Permit Applications determined by VCAT

There were no planning permit applications determined by VCAT during the month of November and December 2020.

Matters before VCAT**November 2020**

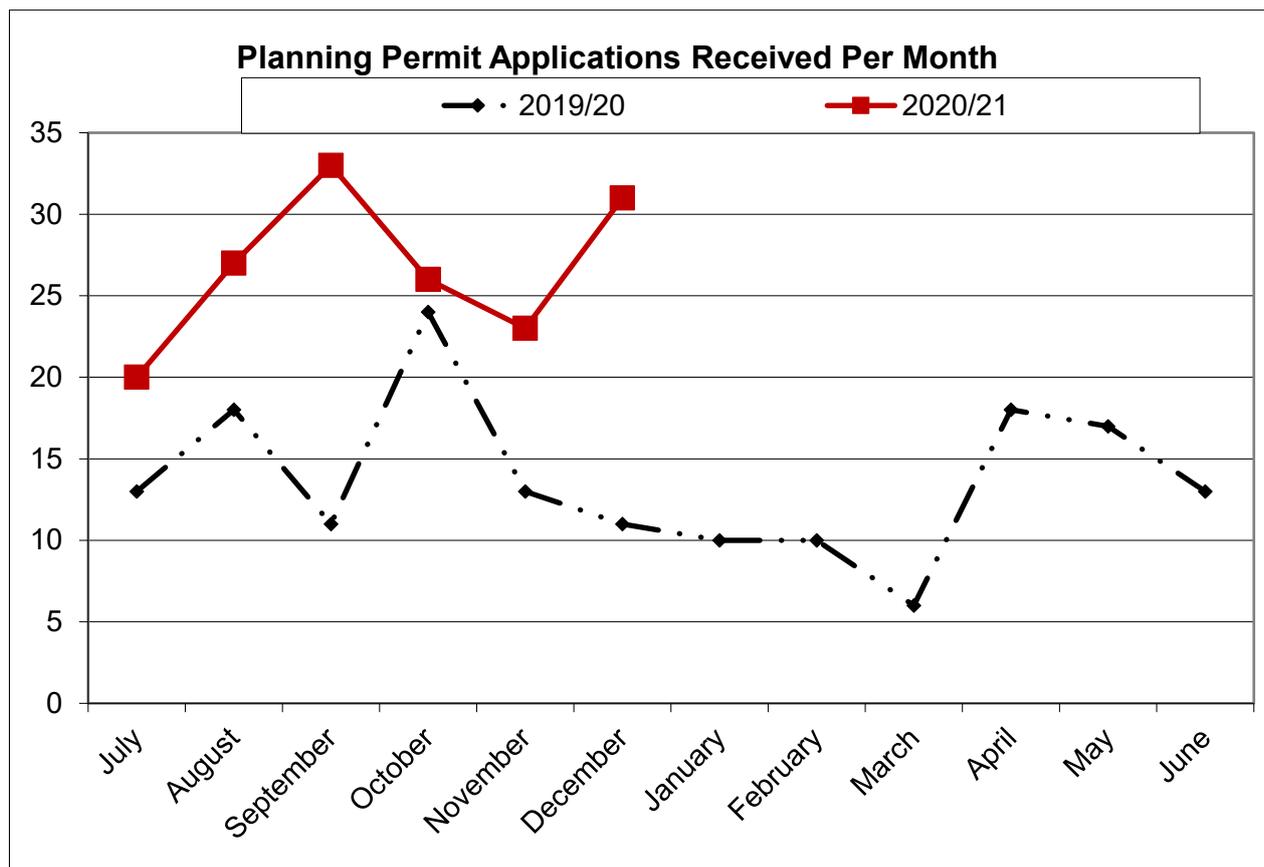
DA3661/2	Use and development of the land for the purpose of mining at 223 Cooper Road, Devenish
Status	An appeal has been submitted by the Work Authority holder Sand Solutions (Vic) Pty Ltd to reinstate the planning permit for a sand mine on the property. A practice day hearing was held on 28 February 2020 to determine whether or not the Tribunal should consider the matter to re-open the case. The Tribunal has reserved its decision to re-open the matter at a future date.
DA6888	The construction of seven double storey dwellings and a seven lot subdivision at 71A Cowan Street, Benalla
Status	On 12 February 2020 the Council decided to refuse a planning for the construction of seven double storey dwellings and a seven lot subdivision at 71A Cowan Street, Benalla. The applicant has appealed this decision to the Victorian Civil and Administrative Tribunal. The hearing date has been set for 23 February 2021.

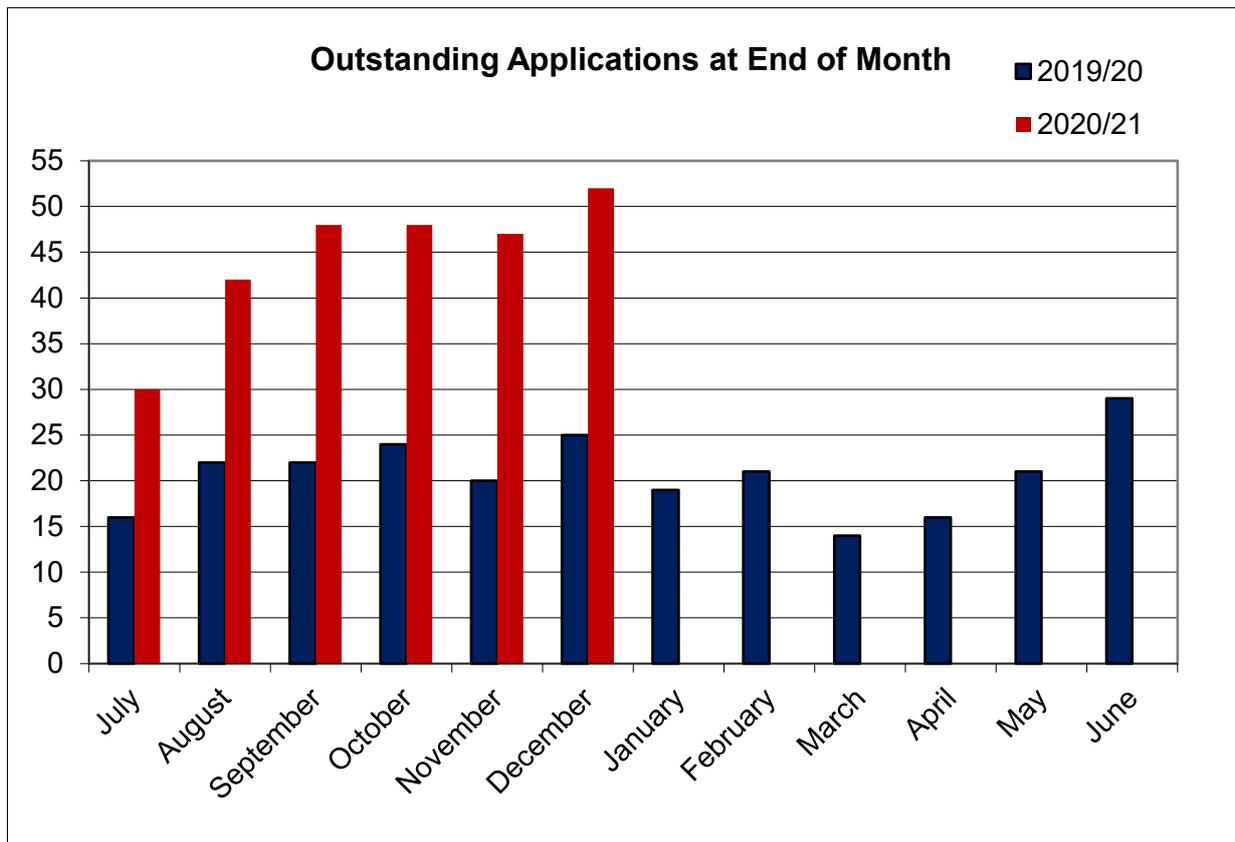
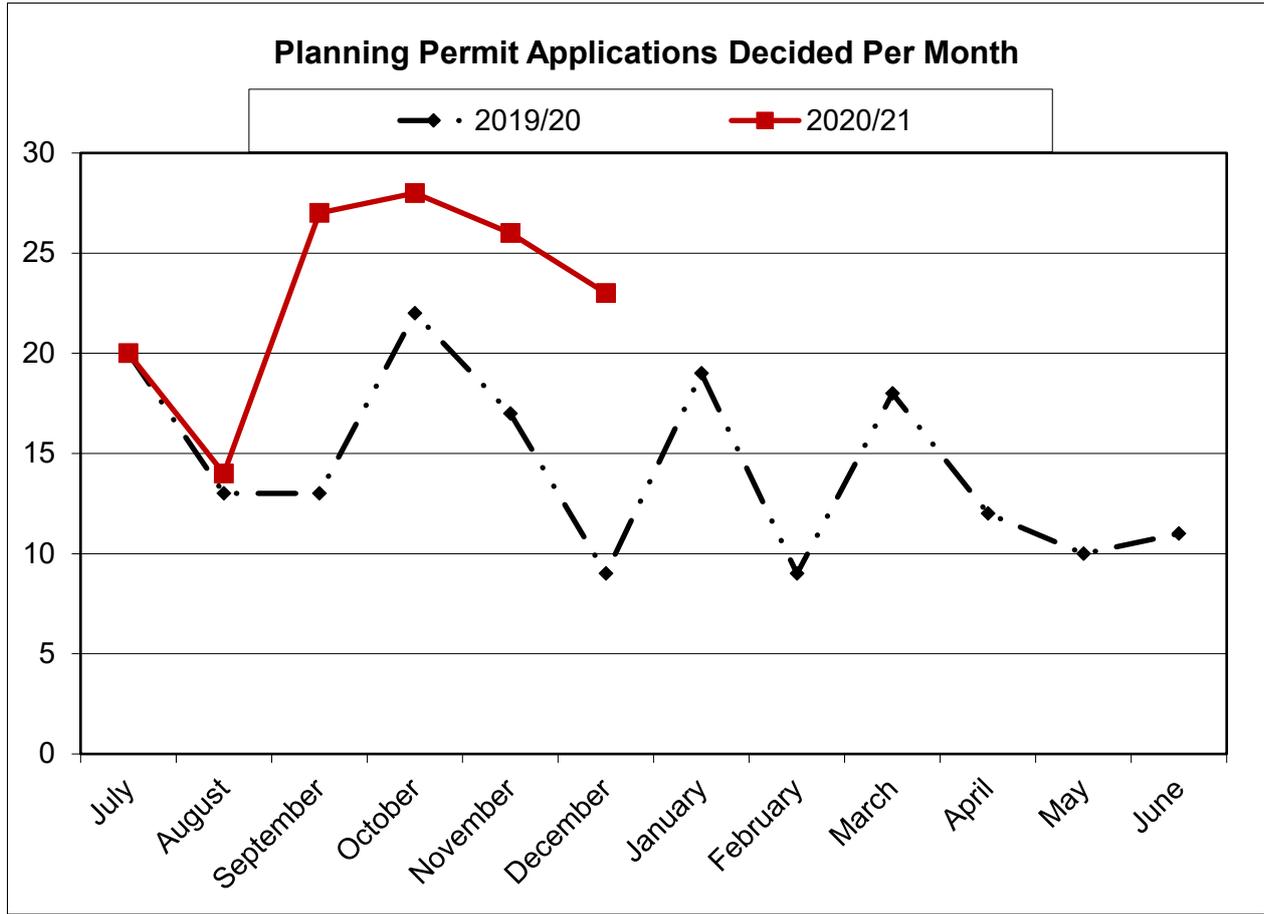
Matters before VCAT

December 2020

DA3661/2	Use and development of the land for the purpose of mining at 223 Cooper Road, Devenish
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Planning Permit Applications





**Building Approvals Issued by Council and Private Practitioners
November 2020**

	File No	Description	Property Address	Value
1	DA7100	Construction of side fence	80 Barkly Street, Benalla	\$4,500
2	DA7112	Construction of carport	3 Hume Court, Benalla	\$5,000
3	DA513	Construction of swimming pool and safety barrier	25 Kent Street, Benalla	\$40,340
4	DA7102	Construction of swimming pool and safety barrier	16 Holloway Street, Benalla	\$4,140
5	DA5229	Construction of spa safety barrier	67 Benson Street, Benalla	\$1,000
6	DA6950	Construction of carport	102 Cowan Street, Benalla	\$8,333
7	DA7101	Dwelling re-stump	84 Tatong Tolmie Road, Tatong	\$7,500
8	DA7122	Construction of dwelling and garage	28 Weary Dunlop Drive, Benalla	\$298,808
9	DA6725	Construction of verandah	76A Willis Little Drive, Benalla	\$2,008
10	DA5541	Construction of shed	626 Samaria Road, Benalla	\$15,000
11	DA4910	Construction of farm shed	650 Benalla Tatong Road, Benalla	\$66,650
12	DA4452	Dwelling extension	330 Mitchell Road, Tatong	\$228,000
13	DA6914	Construction of shed	21 Hall Drive, Benalla	\$23,425
14	DA7004	Construction of swimming pool and safety barrier	10 Levy Court, Benalla	\$40,545
15	DA4902/2	Construction of swimming pool and safety barrier	2900 Samaria Road, Samaria	\$42,535
16	DA3713	Construction of carport	73 Olivers Road, Benalla	\$10,746
17	DA6760	Extension to dwelling	16 Royal Avenue, Benalla	\$92,500
18	DA6626	Construction of swimming pool and safety barrier	5 Market Street, Benalla	\$53,545
19	DA4510	Construction of swimming pool and safety barrier	51 North Road, Benalla	\$51,595
20	DA6524	Construction of swimming pool and safety barrier	2439 Samaria Road, Moorngag	\$9,000

	File No	Description	Property Address	Value
21	DA7066	Construction of front fence	7 Kurrajong Court Benalla	\$4,493
22	DA7111	Construction of dwelling and shed	11 Kingsley Street, Benalla	\$434,600
23	DA7096	Construction of shed	32 Simkin Drive, Benalla	\$10,709
24	DA5613	Dwelling re-stump	105 Burston Road, Benalla	\$14,800
25	DA708	Construction of dwelling and garage	164 Racecourse Road, Benalla	\$339,172
26	DA4510	Construction of swimming pool and safety barrier	11 Snowy Lane, Benalla	\$63,000
27	DA1596	Demolition of dwelling	42 Sydney Road, Benalla	\$19,250
28	DA6712	Construction of carport	693 Benalla Tocumwal Road, Goorambat	\$6,472
29	DA7024	Relocatable dwelling to lock-up	36 Links Road, Benalla	\$9,800
30	DA5378	Construction of swimming pool and safety barrier	6 Norman Place, Benalla	\$15,428
31	DA7092	Dwelling re-stump	10 Coster Street, Benalla	\$11,000
32	DA7121	Construction of dwelling and garage	4 Levy Court, Benalla	\$399,912
33	DA6900	Demolition of dwelling	33 Barkly Street, Benalla	\$8,000
34	DA6841	Construction of shed	5 Walker Street, Benalla	\$9,500
35	DA6140	Construction of BBQ shelter	1305 Benalla Warrenbayne Road, Warrenbayne	\$11,509
36	DA6996	Construction of shed	9 Levy Court, Benalla	\$15,000
37	DA7040	Construction of farm shed	302 Kennedy Lane, Lurg	\$9,000
38	DA4027	Construction of carport and shed extension	81 Willis Little Drive, Benalla	\$10,000
39	DA7107	Construction of shed	20 Noarana Drive, Benalla	\$14,600
40	DA3965	Construction of patio	2 Cook Street, Benalla	\$5,000
41	DA7084	Construction of dwelling and garage	22 Simkin Drive, Benalla	\$364,761

	File No	Description	Property Address	Value
42	DA6928	Construction of shed	136 Lakeside Drive, Chesney Vale	\$35,000
43	DA7044	Construction of fence	46 Thomas Street, Benalla	\$3,000
44	DA6255	Construction of pool house	33 Murray Road, Benalla	\$15,220
45	DA1292/3	Alterations to existing building	89 Sydney Road, Benalla	\$39,950
Total				\$2,874,346

Building Approvals Issued by Council and Private Practitioners

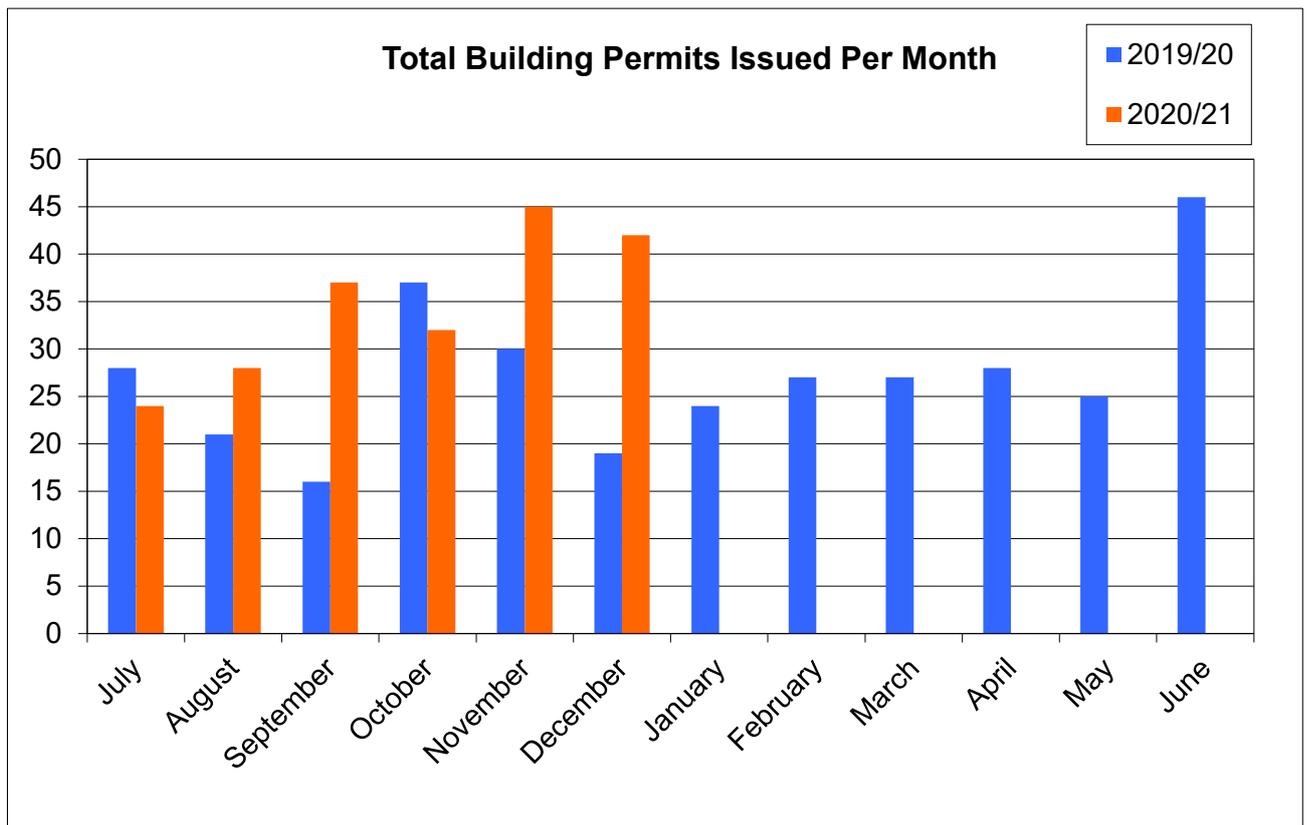
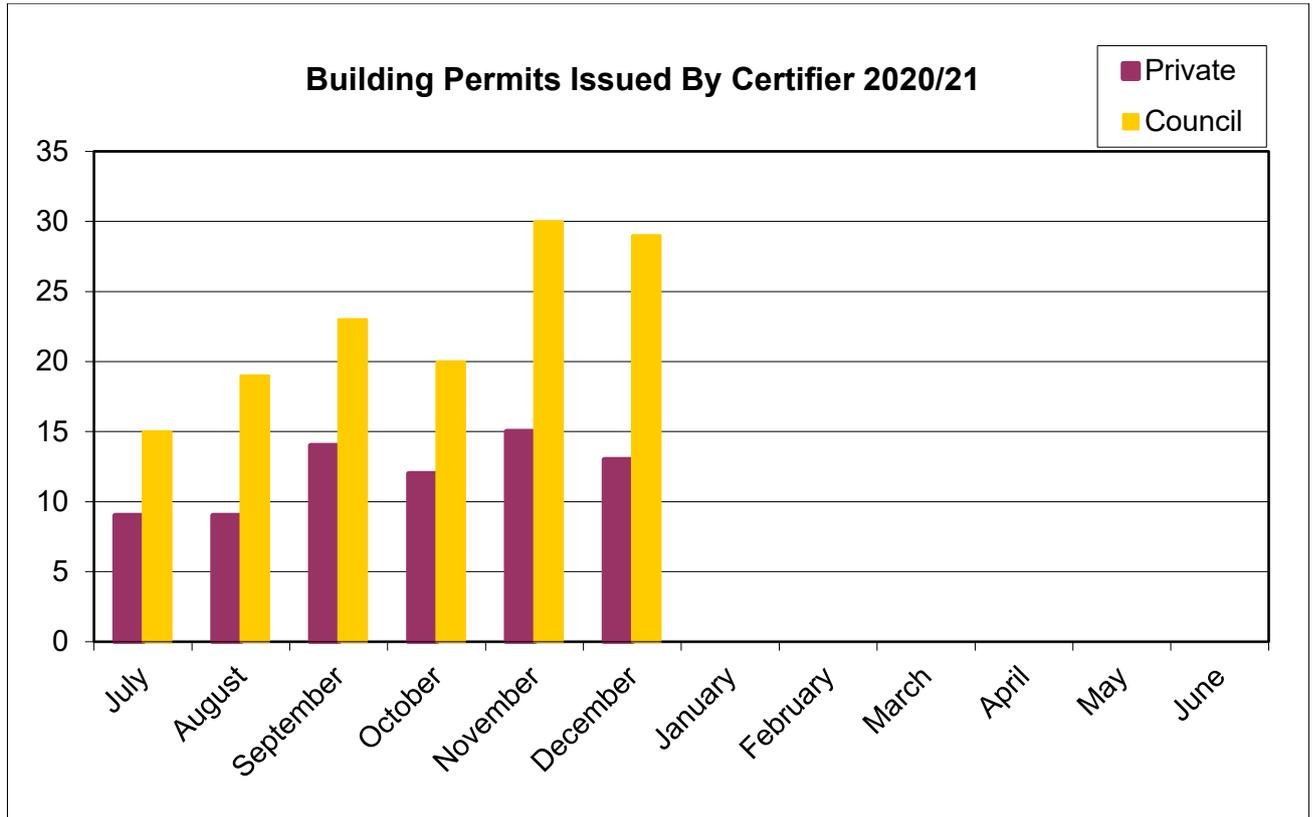
December 2020

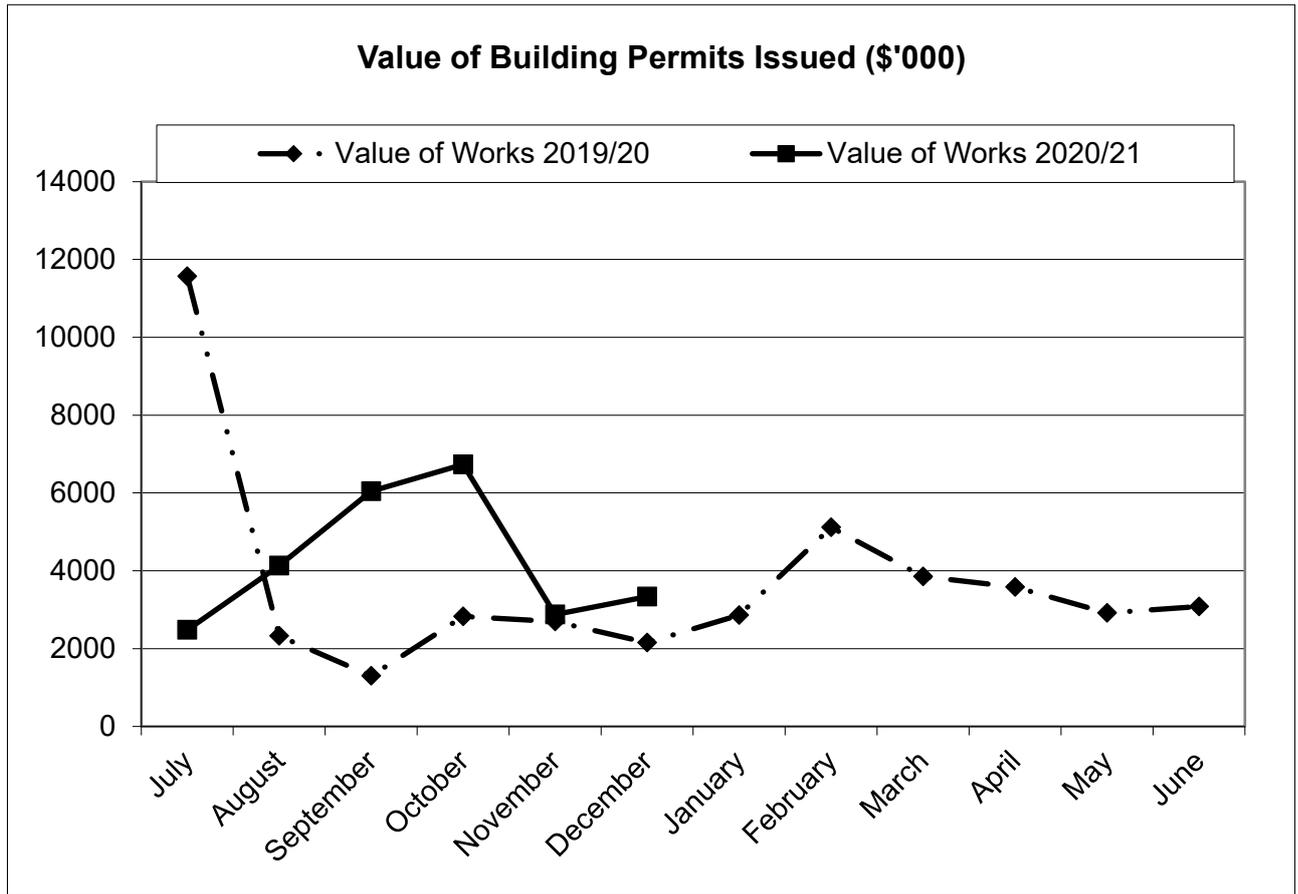
	File No	Description	Property Address	Value
1	DA7135	Construction of dwelling and garage	13 Levy Court, Benalla	\$280,180
2	DA3564	Construction of a front fence	36 Cook Street, Benalla	\$1,800
3	DA6865	Construction of dwelling and garage	35 Hall Drive, Benalla	\$317,427
4	DA7120	Construction of a farm shed	58 Centre Road, Molyullah	\$40,000
5	DA7110	Construction of shed	16 Levy Court, Benalla	\$13,043
6	DA7126	Construction of garage and carport	2582 Benalla Tatong Road, Tatong	\$12,000
7	DA7075	Construction of dwelling, shed, swimming pool and safety barrier	15 Crockford Street, Benalla	\$543,295
8	DA7038	Construction of shed	164 Racecourse Road, Benalla	\$28,000
9	DA7128	Construction of carport	34 Olivers Road, Benalla	\$5,250
10	DA1895/2	Erection of directional signage	29 Sydney Road, Benalla	\$2,200
11	DA6984	Demolition of dwelling and outbuildings	71 Waller Street, Benalla	\$17,300
12	DA5121	Alterations and extension to dwelling	1 Mary Street, Benalla	\$30,000

	File No	Description	Property Address	Value
13	DA7114	Construction of garage	5 Butter Factory Lane, Swanpool	\$15,250
14	DA6831	Construction of swimming pool and safety barrier	24 Weary Dunlop Drive, Benalla	\$3,500
15	DA5957	Swimming Pool – Stage 1 (excavation and concrete)	7 Park Street, Goorambat	\$15,136
16	DA6570	Construction of shed	11 Senator Drive, Benalla	\$13,400
17	DA7034	Construction of shed	11 Nixon Street, Benalla	\$15,383
18	DA2317	Construction of swimming pool, safety barrier, deck and transportable units (dongas)	121 Grant Drive, Benalla	\$120,000
19	DA4307	Construction of carport	16 Schulz Street, Benalla	\$20,460
20	DA7125	Construction of dwelling and attached garage	7 Mackay Street, Benalla	\$336,337
21	DA7106	Construction of dwelling and garage	11 Box Lane, Benalla	\$219,977
22	DA7105	Construction of dwelling and garage	48 Coster Street, Benalla	\$236,731
23	DA7134	Removal of internal load bearing wall	15 Latimer Street, Benalla	\$4,500
24	DA5422	Extension of existing dwelling	31 Davies Road, Warrenbayne	\$33,000
25	DA7024	Dwelling - Lock up to completion	36 Links Road, Benalla	\$14,200
26	DA6985	Demolition of dwelling and outbuildings	7 Afton Avenue, Benalla	\$16,450
27	DA6922	Construction of a shed	3 Kingsley Street, Benalla	\$10,000
28	DA2581	Construction of dwelling and garage	1242 Mansfield Road, Benalla	\$365,182
29	DA7110	Construction of dwelling and garage	16 Levy Court, Benalla	\$296,920
30	DA6950	Construction of shed	102 Cowan Street, Benalla	\$14,077
31	DA6476	Construction of shed	45 Clarendon Street, Baddaginnie	\$14,500
32	DA7130	Construction of patio	8 Correa Close, Benalla	\$12,980

	File No	Description	Property Address	Value
33	DA3226	Construction of deck	1730 Samaria Road, Moorngag	\$7,000
34	DA3951	Re-stump dwelling	19 Melrose Street, Benalla	\$6,500
35	DA5166	Construction of farm shed and carport	60 Nillahcootie Track, Lima South	\$53,658
36	DA5627	Construction of swimming pool and safety barrier	28 Ironbark Drive, Benalla	\$50,055
37	DA7001	Demolition of dwelling and outbuildings	52 Thomas Street, Benalla	\$16,250
38	DA3927	Construction of a farm shed extension	50 Plum Lane, Benalla	\$80,848
39	DA7127	Construction of carport	5 Munro Avenue, Benalla	\$15,581
40	DA6459	Construction of a shed and annex	21 Weary Dunlop Drive, Benalla	\$20,500
41	DA5692	Construction of a shelter	Bridge Street West, Benalla	\$7,500
42	DA6238	Construction of verandah	77 Halls Road, Goorambat	\$7,181
Total				\$3,333,551

Building Permits Issued by Certifier by month





COUNCIL PLAN 2017–2021 (2020 REVIEW) IMPLICATIONS

Engaging and Accessible Places and Spaces

- *We will provide community places and spaces to meet the needs of our community and focus on thoughtfully planned growth to maintain and enhance the high amenity and character of our Rural City.*

Sustainable Environment

- *We will take a proactive and strategic approach to protect our natural environment and safeguard its ability to support our community into the future.*

High Performing Organisation

- *Strengthen community and stakeholder engagement in planning and decision making.*
- *Provide good governance and responsible management and planning.*
- *We are compliant with our legislative and risk management responsibilities.*

Recommendation:

That the report be noted.

Closure of Meeting