

# Planning and Development Committee

## Agenda

**Date:** Wednesday 16 February 2022

**Time:** Following the 6pm Finance and Operations  
Committee meeting

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

The *COVID-19 Omnibus (Emergency Measures) Act 2020* enables councils to hold meetings electronically. This measure is intended to ensure the safety of members of the public, Councillors and Council staff.

The Council Meeting Room has limited capacity for public attendance. Accordingly, members of the public are encouraged to watch the live broadcast of the meeting at [www.benalla.vic.gov.au](http://www.benalla.vic.gov.au)

Any person wishing to participate in Question Time in accordance with Rule 7.2 of the *Governance Rules 2020* should contact the Council by emailing [council@benalla.vic.gov.au](mailto:council@benalla.vic.gov.au) or telephoning Governance Coordinator Jessica Beaton on (03) 5760 2600.

In accordance with the Governance Rule 6.4 an audio recording will be made of the proceedings of the meeting.

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# Agenda

<b>Chair</b>	Councillor Danny Claridge	
<b>Councillors</b>	Councillor Peter Davis	
	Councillor Don Firth	
	Councillor Bernie Hearn (Mayor)	
	Councillor Punarji Hewa Gunaratne	
	Councillor Justin King	
	Councillor Gail O’Brien	
<b>In attendance</b>	Dom Testoni	Chief Executive Officer
	Robert Barber	General Manager Corporate
	Adrian Gasperoni	Manager Assets and Infrastructure
	Nilesh Singh	Manager Development
	Joel Ingham	Planning Coordinator
	Wayne Rich	Compliance Coordinator
	Jessica Beaton	Governance Coordinator

## 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](http://www.benalla.vic.gov.au) pending confirmation at this meeting.

**Recommendation:**

**That the Minutes of the Planning and Development Committee Meeting held on Wednesday 8 December 2021 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*.

**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.

**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.

**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 Question Time

The Council's *Governance Rules 2020* provide the opportunity for members of the public to lodge written questions of broad interest to the Council and the community.

Questions of the Council will not be allowed during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the *Local Government Act 2020* (the Act).

A question may be on any matter except if it:

- is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- relates to confidential information as defined under the Act;
- relates to the personal hardship of any resident or ratepayer; or
- relates to any other matter which the Council considers would prejudice the Council or any person.

No more than two questions will be accepted from any person at any one meeting.

All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.

Like questions may be grouped together and a single answer provided.

The Chair may nominate a Councillor, the Chief Executive Officer or another member of Council staff to respond to a question.

**Recommendation:****That the question(s) and answer(s) be noted.**

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## 2. Planning Application No. P0133/21 – To Use And Develop The Land For A Dwelling And The Creation Of An Access To A Road Zone Category 1 – 2187 Benalla Tatong Road, Tatong

DA5769/2

Joel Ingham – Planning Coordinator  
Nilesh Singh – Manager Development

### PURPOSE OF REPORT

This report assesses a planning application received for the use and development of land for the purpose of a dwelling at 2187 Benalla Tatong Road, Tatong.

### BACKGROUND

<b>Site Address</b>	2187 Benalla Tatong Road, Tatong
<b>Existing Use</b>	Vacant agricultural land used for grazing purposes
<b>Proposal</b>	To use and develop the land for a dwelling
<b>Applicant</b>	Dinkum Training Services Pty Ltd C/- Tomkinson
<b>Zone</b>	Farming Zone (FZ), Road Zone Category 1 (RDZ1)
<b>Overlays</b>	Part Bushfire Management Overlay (BMO)
<b>Referrals</b>	<ul style="list-style-type: none"> <li>▪ Department of Transport</li> <li>▪ Environmental Health</li> <li>▪ Engineering</li> </ul>

### PROPOSAL

The applicant seeks to use and develop the land for the purpose of a dwelling, the proposal will have the following characteristics:

- The building envelope for the dwelling will be setback 200m from the west (Benalla Tatong Road) boundary, 60m south of an existing pine plantation on the land and 65m of an existing dam on the land.
- The dwelling will be single storey and will contain four bedrooms, ensuite, bathroom, toilet, laundry, an open living, dining and kitchen area and a double garage.
- The dwelling will be accessed via a new crossover to Benalla Tatong Road which will be setback 130m from the north boundary.
- A Farm Management Plan has been submitted with the proposal outlining that the dwelling will be used in conjunction with the grazing of sheep and cattle on the land.

The plans of the proposed development are provided in **Appendix 1**.



**SITE AND SURROUNDS**

The subject site is located on the eastern side of Benalla Tatong Road, approximately 1.7km south of the intersection with Molyullah Tatong Road. The site is generally rectangular in shape with the exception of a small portion of land within the north west corner of the site.

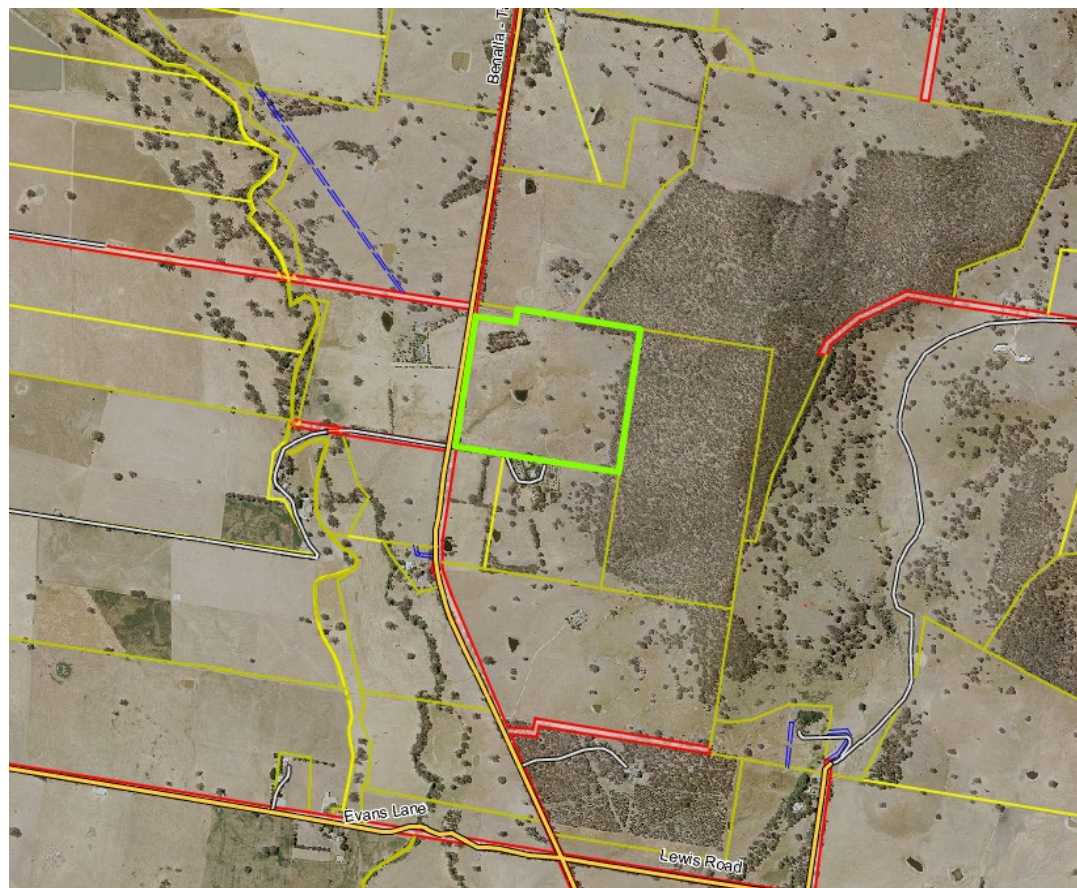
The land has a frontage of 380.6m to Benalla Tatong Road and a maximum depth of 480.2m, with an overall site area of 19.79ha.

The subject site is currently vacant and rises towards the east from the westernmost boundary, following the general topography of the area. The site is currently accessed from Benalla Tatong Road from a gateway in the southern corner. The property contains some internal fencing, a small pine plantation within the north west portion of the land and a single dam.

Land to the north, south and west of the site is located within a Farming Zone and contains a mixture of land sizes ranging from 1.5ha to 110ha in area. Single dwellings can be found intermittently on farm land throughout the area. Dwellings are located on adjoining land to the north, south and west of the site on land which is generally used form small scale grazing purposes as the land sizes do not exceed 21ha in area on the adjoining lots.

Land to the east of the site is located within a Public Conservation and Resource Zone. This area is a heavily vegetated hill which slopes from west to east on crown land.

**Locality Map**





## PLANNING SCHEME PROVISIONS

### Planning Policy Framework

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.*

Clause 15.01-6S of the Planning Policy Framework relates to design for rural areas. The objective of this clause is as follows:

*To ensure development respects valued areas of rural character.*

### Local Planning Policy Framework

Clause 21.03-2 of the Local Planning Policy Framework relates to protecting the landscape character of the municipality. The objective to this clause is as follows:

*To manage and protect the landscape character of the municipality.*

Clause 21.04-4 of the Local Planning Policy Framework relates to land use conflicts. The objective of this clause is as follows:

*To minimise the potential for land use conflicts.*

Clause 21.04-5 of the Local Planning Policy Framework relates to managing domestic wastewater. The objective of this clause is as follows:

*To ensure domestic wastewater treatment facilities are appropriately maintained and monitored.*

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.*

## Zone

Pursuant to Clause 35.07 of the Benalla Planning Scheme the subject site is located within a Farming Zone. The purpose of this zone is as follows:

- *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 permit is required for the use and development of a dwelling on the land as the lot size is less than 40ha in area.

## Overlay

Pursuant to Clause 44.06 of the Benalla Planning Scheme part of the subject site located within the east and north east is located within a Farming Zone. The purpose of this overlay is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To 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.

This provision is related to the construction of buildings and carrying out works on the land only. As the proposed building envelope is located outside of the overlay area a planning permit is not triggered under the provisions of the overlay

## Notification of the Application

In accordance with Section 52 of the *Planning and Environment Act 1987* notice of the application was given by way of the following:

- Sending notice to all adjoining landowners and occupiers.
- Placing a notice towards the Benalla Tatong Road frontage of the site.

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

- The Benalla Planning Scheme does not support dividing up agricultural land for housing.
- The development does not support agricultural production.
- The development will permanently remove the land from production and result in loss and fragmentation of productive agricultural land.
- The road access onto Benalla Tatong Road will increase risk of road accidents.
- The dwelling will cause amenity impacts such as noise to adjoining properties.
- The dwelling will have an unreasonable impact on the rural outlook and visual amenity of adjoining properties.

The issues raised within the objections were given to the applicant to respond in writing. The applicant submitted further information in response to the objections received as follows:

- The submission of a floor plan and elevations for the proposed dwelling.
- The submission of a Farm Management Plan detailing how the land will be managed and outlining that the dwelling will be used in conjunction with a small scale sheep and cattle grazing use.
- A written response to the issues raised within the objections.

The response from the applicant was then forwarded back to the objectors. No objections were withdrawn as a result of the further information submitted by the applicant.

### Referral Responses

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

<b>External Council Referrals</b>	<b>Advice/Response/Conditions</b>
Department of Transport	No objection subject to conditions

### Objectors Concerns

- The Benalla Planning Scheme does not support dividing up agricultural land for housing.
- The development does not support agricultural production.
- The development will permanently remove the land from production and result in loss and fragmentation of productive agricultural land.
- The road access onto Benalla Tatong Road will increase risk of road accidents.
- The dwelling will cause amenity impacts such as noise to adjoining properties.
- The dwelling will have an unreasonable impact on the rural outlook and visual amenity of adjoining properties.

Agricultural issues raised by the objectors are addressed within the discussion section below. It is considered that the agricultural issues raised have some merit with regard to the assessment of the application regarding the need for a dwelling on the land to sustain an agricultural use and the proliferation of dwellings in the surrounding area.

With regard to visual amenity, rural outlook and noise issues it is considered that these grounds cannot be substantiated. The proposed dwelling is of a modest single storey scale which is appropriately setback from surrounding residential uses so as not be a prominent feature within the landscape.

It is acknowledged that adjoining properties may be able to view the proposed dwelling from their properties, however, an altered outlook from a property is not necessarily one that is unreasonable in its context.

With regard to road access the proposal has been referred to the Department of Transport for comment as access is proposed to a Road Zone Category 1. The Department of Transport have advised of no objection to the proposal subject to conditions. It is considered that subject to these conditions vehicles will be able to enter and exit the site safely.

## **DISCUSSION**

Before deciding on an application to construct a building the responsible authority must consider the decision guidelines to Clause 35.07-6 of the Benalla Planning Scheme. An assessment of the decision guidelines is detailed below.

**Decision Guidelines of Clause 35.07-6**

<b>Decision Guideline</b>	
<b>General Issues</b>	<b>Response</b>
<p>The Municipal Planning Strategy and the Planning Policy Framework.</p>	<p><b>Planning Policy Framework:</b></p> <p>The proposal is generally considered to be inconsistent with the agricultural strategies of the Planning Policy Framework (PPF). Strategies of the PPF relate to limiting new housing in rural areas by discouraging development of isolated small lots in the rural zone from use of dwellings. Housing development should be located to existing settlements and consolidation should be encouraged of existing isolated lots.</p> <p>The proposal seeks to construct a dwelling on an isolated small agricultural lot well under 40ha in area. A dwelling on this land will remove a portion of the land for agricultural production. There is also potential for this land to be consolidated with adjoining parcels to create a more sustainable agricultural use in future.</p> <p>The proposed dwelling however, is considered to be adequately located on the land to reduce amenity impacts to adjoining property land uses and will not have an unreasonable impact to the streetscape and rural character of the area.</p> <p><b>Local Planning Policy Framework:</b></p> <p>An objective to the agricultural clause is to protect agricultural areas from inappropriate and unsustainable housing development. In this instance the subject site is only 21ha in area and in order to maintain the farm for agricultural purposes it is considered that a dwelling is not required on the land.</p> <p>The proposed dwelling will remove a portion of the land from production and will lead to a proliferation of dwellings in the area which will reduce the potential for other agricultural land uses to expand.</p> <p>As above the proposal is not expected to have an unreasonable impact on the small scale agricultural uses on adjoining properties and will not have an unreasonable impact on the rural character of the surrounding area.</p>
<p>Any Regional Catchment Strategy and associated plan applying to the land.</p>	<p>Not Applicable</p>
<p>The capability of the land to accommodate the proposed use or development, including the disposal of effluent.</p>	<p>The land is capable of providing for a dwelling including the disposal of effluent. The effluent disposal area is located at least 125m away from the nearest dam and waterway to the south which complies with required setbacks. Subject to conditions road access and drainage can also be accommodated on the land without unduly impacting on soil or water quality.</p>

<p>How the use or development relates to sustainable land management.</p>	<p>It is the contention of the applicant that a proposed dwelling on the land will allow for better on-site maintenance and upkeep with regard to land management practices including but not limited to weed/pest control, fencing, fire prevention and planting trees which will in turn increase agricultural (grazing) production of the land.</p> <p>It is agreed that the Farm Management Plan will provide for a mechanism that will guide future land owners on best practice to manage the land and maybe even increase productivity. However, this does not mean that a dwelling is required on the land in order to facilitate this. The proposed land is 21.79ha in area which provides for only a small scale farming operation which can be managed off-site in accordance with any farm management plan such as the one prepared for this application. The need for a dwelling on the land has not been properly established to conduct the farming operations.</p>
<p>Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.</p>	<p>As above, it is considered that the use and development of the dwelling is not required in order to undertake agricultural activities on the land. Appropriate land management practices can be undertaken on the land without a dwelling being present. The proposal however, is considered to be compatible with adjoining and nearby land uses which also provide for single dwellings on small agricultural parcels of land generally averaging 20ha in area.</p>
<p>How the use and development makes use of existing infrastructure and services.</p>	<p>The proposed dwelling will make use of the existing sealed road for access, an electricity pole is located on the land in proximity to the location of the proposed dwelling and water provision can be provided on the land in the form of tank water or bore water (if available).</p>
<p><b><i>Agricultural issues and the impacts from non-agricultural uses</i></b></p>	<p><b>Response</b></p>
<p>Whether the use or development will support and enhance agricultural production.</p>	<p>A dwelling on the land may well allow for the owner or occupier to be readily available on site to maintain and upkeep the land in accordance with best practice, however it is considered that the size of the land and the scale of the agricultural use does not warrant the use and development of a dwelling to achieve this outcome.</p>
<p>Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.</p>	<p>It is considered unlikely that the proposed dwelling will adversely affect soil quality on the site. Conditions of any permit can require appropriate access and drainage provision to ensure that the proposal does not affect the land adversely with regard to soil erosion and land degradation. The proposed built form and associated infrastructure however will permanently remove this area of the land from agricultural production. This is considered to be unnecessary given that a dwelling is not generally required on the site to facilitate the proposed grazing of the land.</p>

<p>The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.</p>	<p>A dwelling on the land will increase the land value. This will make it more difficult for adjoining land holders to the north and south of the property to acquire this land in future in order to expand existing agricultural uses.</p>
<p>The capacity of the site to sustain the agricultural use.</p>	<p>The site can sustain a small scale agricultural grazing use.</p>
<p>The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.</p>	<p>The subject site has good access to electricity, road and water infrastructure on the land to sustain an agricultural and dwelling use. The land type is average agricultural land which can be used for normal livestock stocking rates.</p>
<p>Any integrated land management plan prepared for the site.</p>	<p>A Farm Management Plan has been prepared for the proposed use and development. It is proposed to use the land for agricultural purposes including the grazing of sheep and cattle.</p> <p>It is considered that a dwelling is not required for the site to sustain the small scale cattle and sheep grazing use. Remote maintenance of the site can occur subject to the same farm management principles outlined in the plan without the need for a dwelling on the land.</p>
<p><b>Dwelling Issues</b></p>	<p><b>Response</b></p>
<p>Whether the dwelling will result in the loss or fragmentation of productive agricultural land.</p>	<p>The dwelling will be located on an area of the land which could be better used for agricultural production. The more central location of the dwelling will provide for a situation where a large portion of the site will be required for the domestic area. This will reduce the area of land available for agricultural production.</p>
<p>Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.</p>	<p>Adjoining properties generally contain single dwellings on small agricultural parcels of land averaging approximately 20ha in area.</p> <p>The small scale agricultural use of these properties is not expected to have an unreasonable amenity impact to the proposed dwelling.</p> <p>In addition, the proposed dwelling will be setback at least 150m from the boundary of the closest adjoining agricultural area.</p> <p>It is considered that this setback is an adequate buffer to protect from the adjoining small scale agricultural use.</p>
<p>Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.</p>	<p>The proposed dwelling may affect the expansion of agricultural uses on adjoining land. If the adjoining land holders which to expand there agricultural operations the construction of a dwelling on the lot would make it much harder to do so from a land cost perspective. A dwelling on the land will also remove a portion of the land available for agricultural activity.</p>



<p>The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.</p>	<p>The proposed dwelling will lead to a proliferation of dwellings in the immediate area. Dwellings are already located on small agricultural lots to the north, south and west of the site.</p> <p>The addition of a dwelling on this land will provide for an increase in dwellings from six to seven within an area of 600m from the subject land. The addition of a dwelling will remove a portion of the land which could be used for agricultural purposes.</p> <p>This land in future could also quite easily be consolidated with the adjoining lots to the north or south of the site to provide for a more productive agricultural lot.</p>
<p><b>Environmental Issues</b></p>	<p><b>Response</b></p>
<p>The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.</p>	<p>It is expected that the proposed dwelling will not have an unreasonable impact to soil or water quality. The proposal has been referred to Council’s Engineering and Environmental Health Unit who advise of no objection subject to conditions.</p> <p>The conditions will ensure that soil erosion is minimised and the effluent disposal is undertaken on the site in accordance with EPA regulation.</p>
<p>The impact of the use or development on the flora and fauna on the site and its surrounds.</p>	<p>The proposed dwelling and associated works will not require the removal of native vegetation. The dwelling will be located in cleared area of the site.</p>
<p>The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.</p>	<p>As above the proposed dwelling is located in a cleared area of the site and will not require the removal of native vegetation. The dwelling is also located at least 65m to the north of an existing dam on the land which connects to a waterway. This setback is considered to be adequate subject to appropriate drainage conditions.</p>
<p>The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.</p>	<p>The effluent disposal area will be located at least 125m to the north of the existing dam on the site. This distance easily complies with the setback distance required of effluent disposal areas to dams.</p>
<p><b>Design and Siting Issues</b></p>	<p><b>Response</b></p>
<p>The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.</p>	<p>The proposal has been designed to ensure that dwellings and any associated outbuildings are located in one area on the land within the designated building envelope. However, the location of the building envelope will result in a sizable area of the agricultural land being removed from production. The loss of land from agricultural production should be minimised through relocating the building envelope further towards the frontage of the site.</p>

<p>The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.</p>	<p>The single storey scale of the proposed dwelling is not expected to have an adverse impact on the streetscape character and surrounds. The dwelling also has generous setbacks from surrounding residential properties and the road frontage to reduce its prominence to the surrounds.</p>
<p>The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.</p>	<p>As above it is considered that the proposed dwelling be appropriately sited and will have a modest built form so as not to have an unreasonable impact on the character or appearance of the area.</p>
<p>The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.</p>	<p>The proposed dwelling will have appropriate access to power, water and road infrastructure.</p>
<p>Whether the use and development will require traffic management measures.</p>	<p>The proposal for a single dwelling will not warrant the need for additional traffic management measures. The proposal has been referred to the Department of Transport for comment who advise of not objection to the proposal subject to conditions.</p>

***COUNCIL PLAN 2021-2025 IMPLICATIONS***

**Community**

- A connected, involved and inclusive community.

**Livability**

- Vibrant public spaces and places.
- Connected and accessible roads, footpaths, transport and parking.

**Economy**

- Thriving business and industry.
- Flourishing tourism.
- Population growth.

**Environment**

- Healthy and protected natural environment.
- High quality efficient and sustainable waste management.
- Sustainable practices.

**LEGISLATIVE AND STATUTORY IMPLICATIONS**

A decision by the Council to determine that a permit should be granted for the proposal may be appealed to VCAT by the objectors and/or the applicant against conditions of the permit.

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

**FINANCIAL IMPLICATIONS**

The Council, 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, the Council has a statutory role in being a party to the appeal and informing and assisting VCAT.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any general or material conflicts of interest in this matter.

**CONCLUSION**

The proposal has been assessed against the provisions of the Benalla Planning Scheme with regard to the Planning Policy and Local Planning Policy Framework and zone provisions.

The location of the dwelling is not expected to have an unreasonable amenity impact to adjoining properties or to the surrounding area. The dwelling can be accommodated on the land without impacting on the land or environmental assets. However, on balance it is considered that the use and development of a dwelling on the land is not required in order to facilitate small scale agricultural use on the property.

In addition, the proposal will remove part of the land from agricultural production and will lead to a proliferation of dwellings in the area resulting in less land available in the area for agriculture.

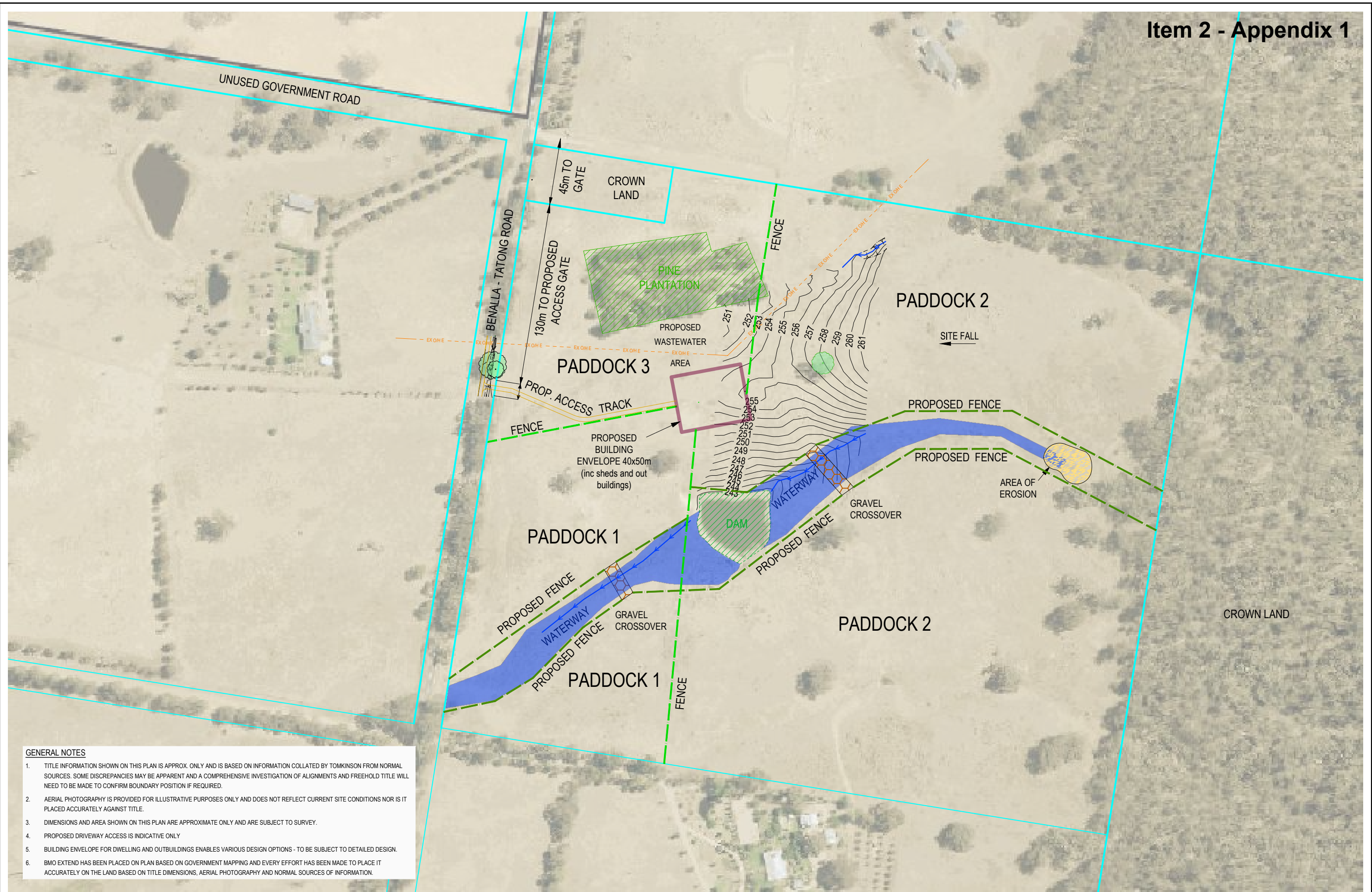
The proposal is therefore not in keeping with the main objectives of the Farming Zone. For the above reasons it is recommended that the planning application be refused.

**Recommendation:**

That Council having caused notice of Planning Application No. P0133/21 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 refuse to grant a Permit under the provisions of the Benalla Planning Scheme in respect of the land known and described as 2187 Benalla Tatong Road, Tatong, for the use and development of a dwelling in accordance with the endorsed plans, with the application dated 7 September 2021 on the following grounds:

1. Adequate justification has not been provided to detail that a dwelling is required on the land for the agricultural use.
2. The proposed dwelling will reduce the availability of land for agricultural production on site.
3. The proposed dwelling will lead to a proliferation of dwellings in the area which will reduce the potential for agricultural production.
4. The proposed dwelling will make it difficult for surrounding properties to expand existing farming operations.

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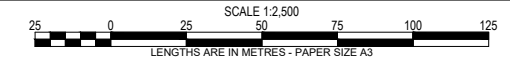
- GENERAL NOTES**
- TITLE INFORMATION SHOWN ON THIS PLAN IS APPROX. ONLY AND IS BASED ON INFORMATION COLLATED BY TOMKINSON FROM NORMAL SOURCES. SOME DISCREPANCIES MAY BE APPARENT AND A COMPREHENSIVE INVESTIGATION OF ALIGNMENTS AND FREEHOLD TITLE WILL NEED TO BE MADE TO CONFIRM BOUNDARY POSITION IF REQUIRED.
  - AERIAL PHOTOGRAPHY IS PROVIDED FOR ILLUSTRATIVE PURPOSES ONLY AND DOES NOT REFLECT CURRENT SITE CONDITIONS NOR IS IT PLACED ACCURATELY AGAINST TITLE.
  - DIMENSIONS AND AREA SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND ARE SUBJECT TO SURVEY.
  - PROPOSED DRIVEWAY ACCESS IS INDICATIVE ONLY
  - BUILDING ENVELOPE FOR DWELLING AND OUTBUILDINGS ENABLES VARIOUS DESIGN OPTIONS - TO BE SUBJECT TO DETAILED DESIGN.
  - BMO EXTEND HAS BEEN PLACED ON PLAN BASED ON GOVERNMENT MAPPING AND EVERY EFFORT HAS BEEN MADE TO PLACE IT ACCURATELY ON THE LAND BASED ON TITLE DIMENSIONS, AERIAL PHOTOGRAPHY AND NORMAL SOURCES OF INFORMATION.

REV	AS SUBMITTED TO CLIENT	DES	PL	EK	18/11/21
		REVISION		CHK	DATE



**Tomkinson**  
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**PROPOSED HOUSE SITE**  
 2187 BENALLA-TATONG ROAD, TATONG  
 LAND MANAGEMENT PLAN

BENALLA RURAL CITY  
 TRENT HAMILTON

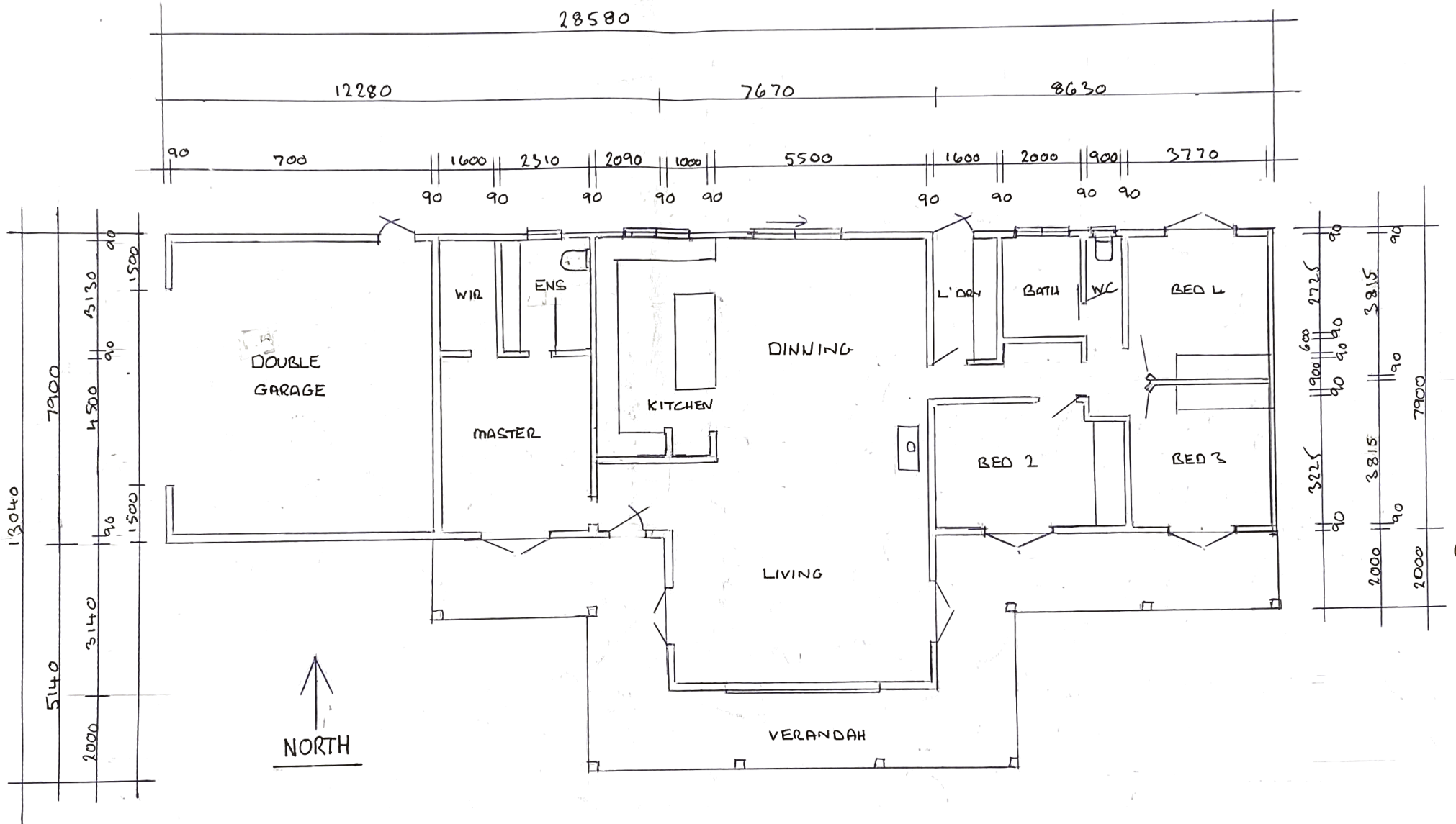
DWG STATUS:  
**CONCEPT**

PROJECT & DWG No:  
 13439 LMP01

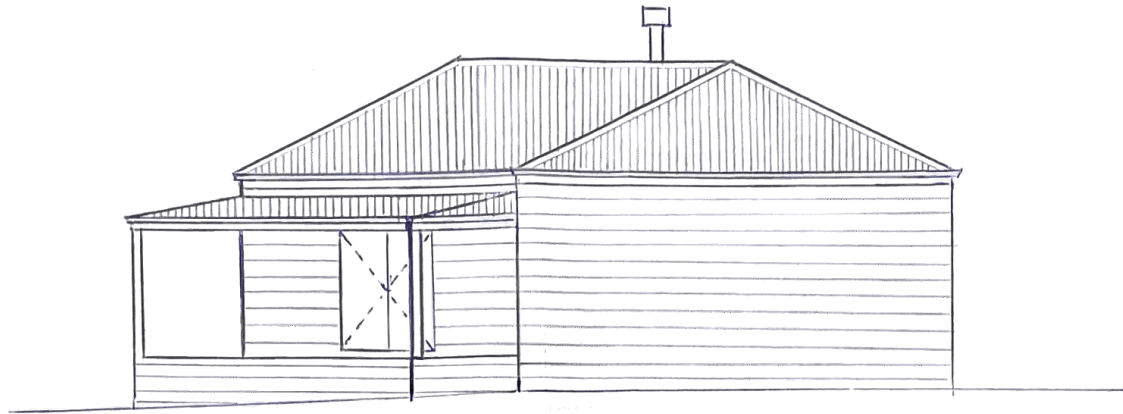
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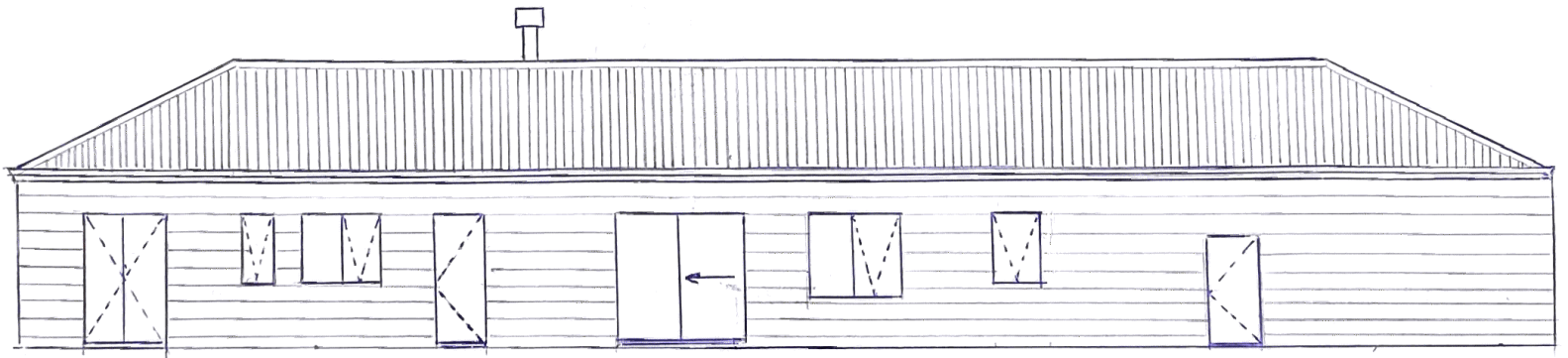




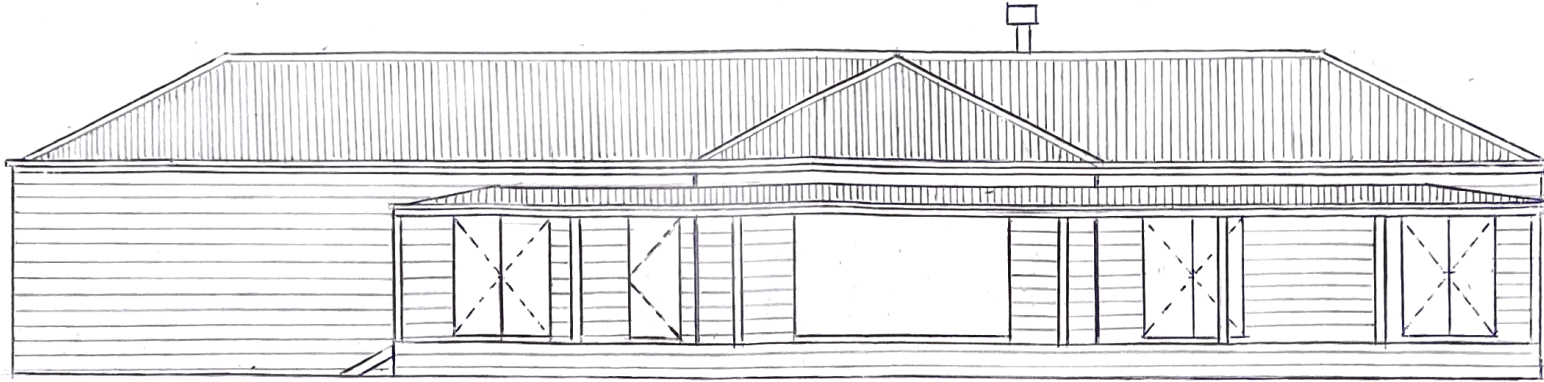




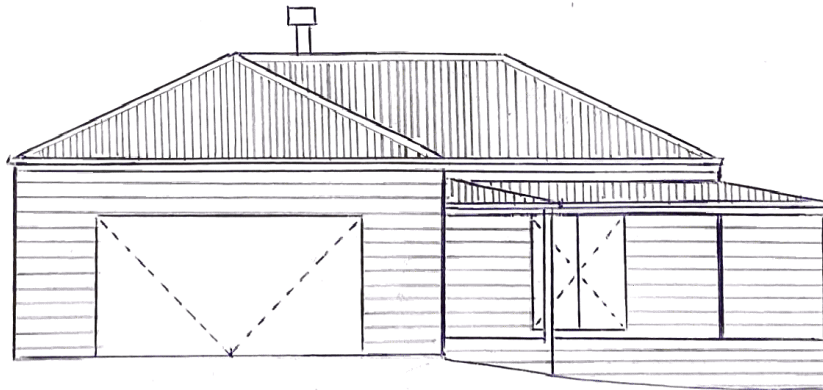
EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

### 3. Building and Planning Approvals – November and December 2021

SF/255

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

#### PURPOSE OF REPORT

The report details planning permit applications and building approvals for November and December 2021.

#### Planning Permit Applications Determined under Officer Delegation

##### November 2021

	File No	Description	Property Address	Decision
1	DA5819	Use and development of a dwelling	158 Booth Road, Taminick	Approved
2	DA7231	Construction of a carport and creation of an access to a road zone category 1	25 Coster Street, Benalla	Approved
3	DA7207	Construction of one single storey dwelling to the rear of an existing dwelling and a two lot subdivision	53 Charles Street, Benalla	Approved
4	DA6115	Two lot subdivision (boundary realignment)	16 Walker Street, Benalla and 15 Nunn Street, Benalla	Approved
5	DA7243	Use and development of a dwelling and outbuilding	31 Murray Road, Benalla	Approved
6	DA6896	Construction of a garden shed and observatory	162 Racecourse Road, Benalla	Approved
7	DA2501	To change the category of liquor licence applying to the land from a restaurant and café licence to a general licence	55-57 Nunn Street, Benalla	Approved
8	DA7195	Use and development of a dwelling and outbuildings	2911 Mansfield Whitfield Road, Tolmie	Approved
9	DA4114	Construction of a bus storage and bus wash facility	5931 Midland Highway, Benalla	Approved
10	DA7260	Construction of a dwelling extension	102 Porters Road, Benalla	Approved
11	DA1895/2	Construction of an extension to an existing building	29 Sydney Road, Benalla	Approved
12	DA4388	Alterations to the existing dwelling	35 Charles Street, Benalla	Approved

	File No	Description	Property Address	Decision
13	DA5398	Construction of a carport	38 Goomalibee Street, Benalla	Approved
14	DA3915	Construction of a front fence	24 Monash Drive, Benalla	Approved

**December 2021**

	File No	Description	Property Address	Decision
1	DA2237	Construction of a carport and pergola	14 Mitchell Street, Benalla	Approved
2	DA7262	Use and development of a dwelling	8 Braeside Lane, Tarnook	Approved
3	DA7214	Use and development of a dwelling	315 Samaria Road, Benalla	Approved
4	DA7028	Use and development of a dwelling and shed and the removal of native vegetation	494 Lima Road, Lima	Approved
5	DA7291	Construction of a shed	42 Lowens Lane, Benalla	Approved
6	DA7229	Construction of a shed	11 Silva Drive, Benalla	Approved
7	DA7271	Construction of a dwelling extension and carport	14 Union Street, Benalla	Approved
8	DA7268	Use and development of a dwelling	64 Lakeside Drive, Chesney Vale	Approved
9	DA5073	Construction of a carport	11 Stewart Street, Benalla	Approved
10	DA4815	Use and development of a dwelling	251 Baddaginnie Benalla Road, Benalla	Approved
11	DA5692	Buildings and works	Bridge Street West, Benalla	Approved
12	DA7294	Alterations to the existing dwelling and the construction of a deck, canopy and front fence	68 Church Street, Benalla	Approved
13	DA2430	Construction of a roofed structure	170 Mansfield Road, Benalla	Approved
14	DA7274	Two lot subdivision	139 Farnley Road, Goorambat	Approved
15	DA7275	Use and development of a dwelling and two outbuildings	119 Lakeside Drive, Chesney Vale	Approved
16	DA6085	Construction of alterations to the existing dwelling	47 Benson Street, Benalla	Approved

**Planning Permit Amendments Determined Under Officer Delegation****November 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>
1	DA7146	Use and development of a dwelling	999 Lake Mokoan Road, Chesney Vale
2	DA7145	Use and development of a dwelling	19 Bowcher Road, Chesney Vale
3	DA6957	Construction of a shed and carport	9 Mclvor Street, Benalla

**December 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>
1	DA165/13	Staged buildings and works associated with a residential aged care facility	1-37 Kilfeera Road, Benalla
2	DA7065	Construction of two single storey dwellings and a two lot subdivision	33 Simkin Drive, Benalla
3	DA7132	Construction of an outbuilding	29A Charles Street, Benalla

**Planning Permits Issued Under VicSmart****November 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>
1	DA3915	Construction of a front fence	24 Monash Drive, Benalla

**December 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>
1	DA2237	Construction of a carport and pergola	14 Mitchell Street, Benalla
2	DA7291	Construction of a shed	42 Lowens Lane, Benalla
3	DA2430	Construction of a roofed structure	170 Mansfield Road, Benalla

**Planning Permit Applications Determined by the Council**

There were no planning permit applications determined by the Council during the November 2021.

**December 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Decision</b>
1	DA7223	Use and develop the land for a camping and caravan park	35 Gunn Road, Benalla	Approved – NOD issued

**Planning Permit Applications Withdrawn or Lapsed**

**November 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Withdrawn/ Lapsed</b>
1	DA2173/2	Construction of a community garden	93-101 Waller Street, Benalla	Withdrawn
2	DA4774	Buildings and works	74 Bridge Street East, Benalla	Withdrawn
3	DA1613	Use of land for a poultry farm	128 Greta Lurg Road, Upper Lurg	Withdrawn
4	DA4659/2	Construction of a swimming pool	20 Deas Street, Benalla	Withdrawn

**December 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Withdrawn/ Lapsed</b>
1	DA4478	Construction of a dwelling extension	345 O’Dea Road, Molyullah	Withdrawn
2	DA4156/2	Removal of native vegetation	Hairs Lane, Benalla	Withdrawn

**Notices of Decision**

There were no notices of decision issued during the month of November 2021.

**December 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>
1	DA7247	Resubdivison of land into two lots	683 Goomalibee Road, Goomalibee
2	DA7223	Use and develop the land for a camping and caravan park	35 Gunn Road, 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 application determined by VCAT during the month of November 2021.

#### **December 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Decision</b>
1	DA3212/8	Construction of buildings and works for the purpose of a residential alcohol and drug rehabilitation service	1619 Kilfeera Road, Molyullah	Approved – Permit issued
2	DA3212/8	The use of the land for the purpose of a residential alcohol and drug rehabilitation service	1619 Kilfeera Road, Molyullah	Approved – Amendment issued

### **Matters Before VCAT**

#### **November 2021**

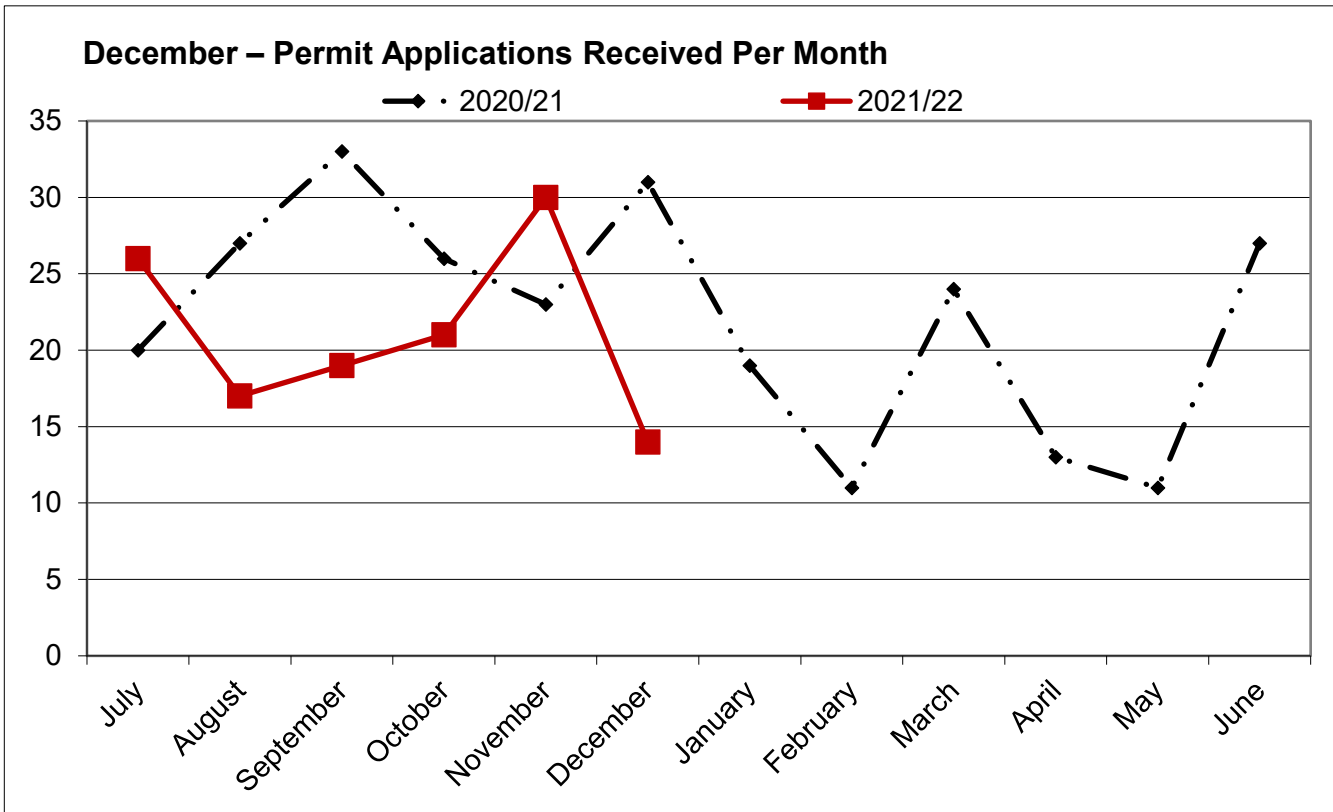
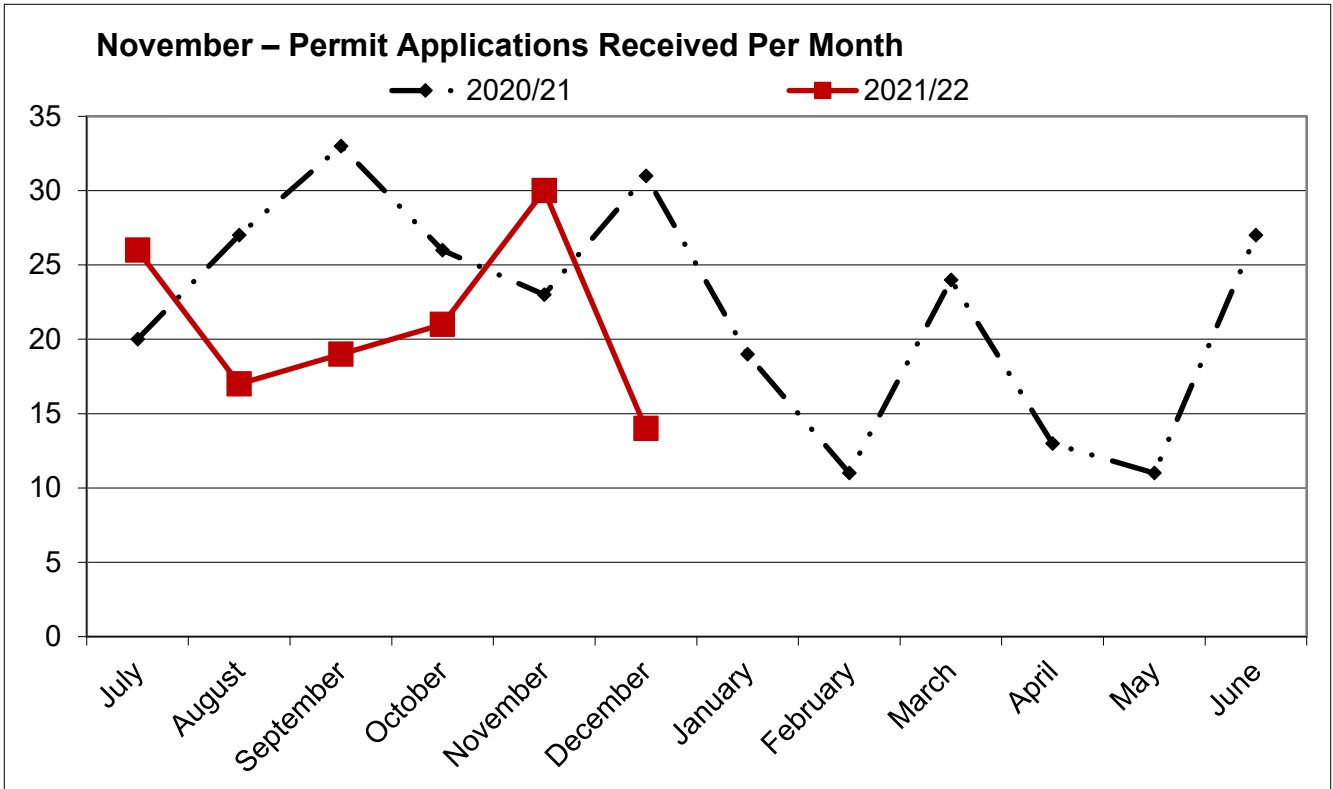
<b>DA3212/7</b>	<b>Buildings and works to construct additional capacity for the existing alcohol and drug rehabilitation service, 14 car parking spaces, a loading bay and associated internal access – 1619 Kilfeera Road, Molyullah</b>
Status	The Tribunal hearing was held on 27, 28 and 29 September 2021 with Council representatives, applicant representatives and objectors in attendance. The Tribunal ordered on 20 December 2021 that a planning permit be issued for the buildings and works planning permit and the amended planning permit subject to conditions. A copy of the Tribunal decision is attached as <b>Appendix 1</b> .

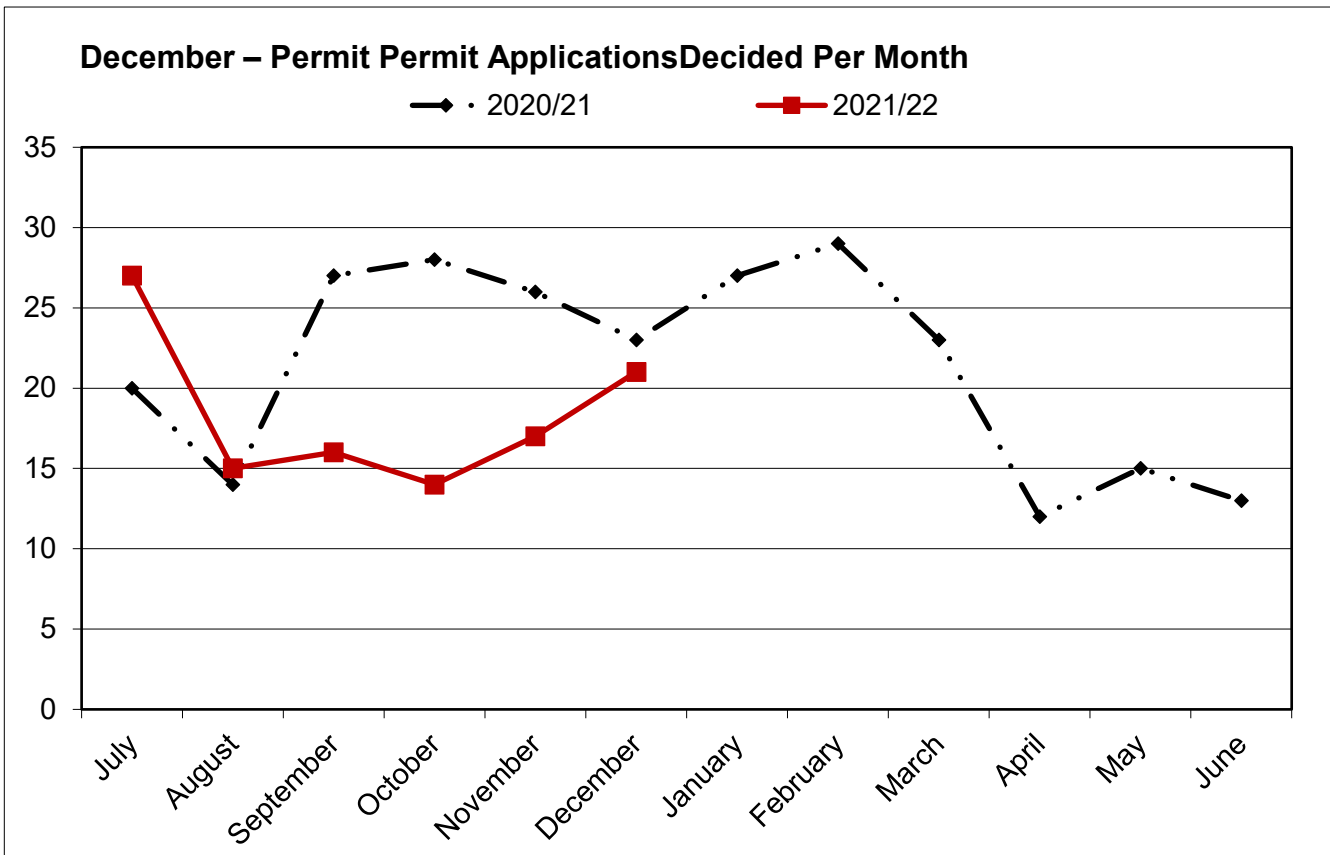
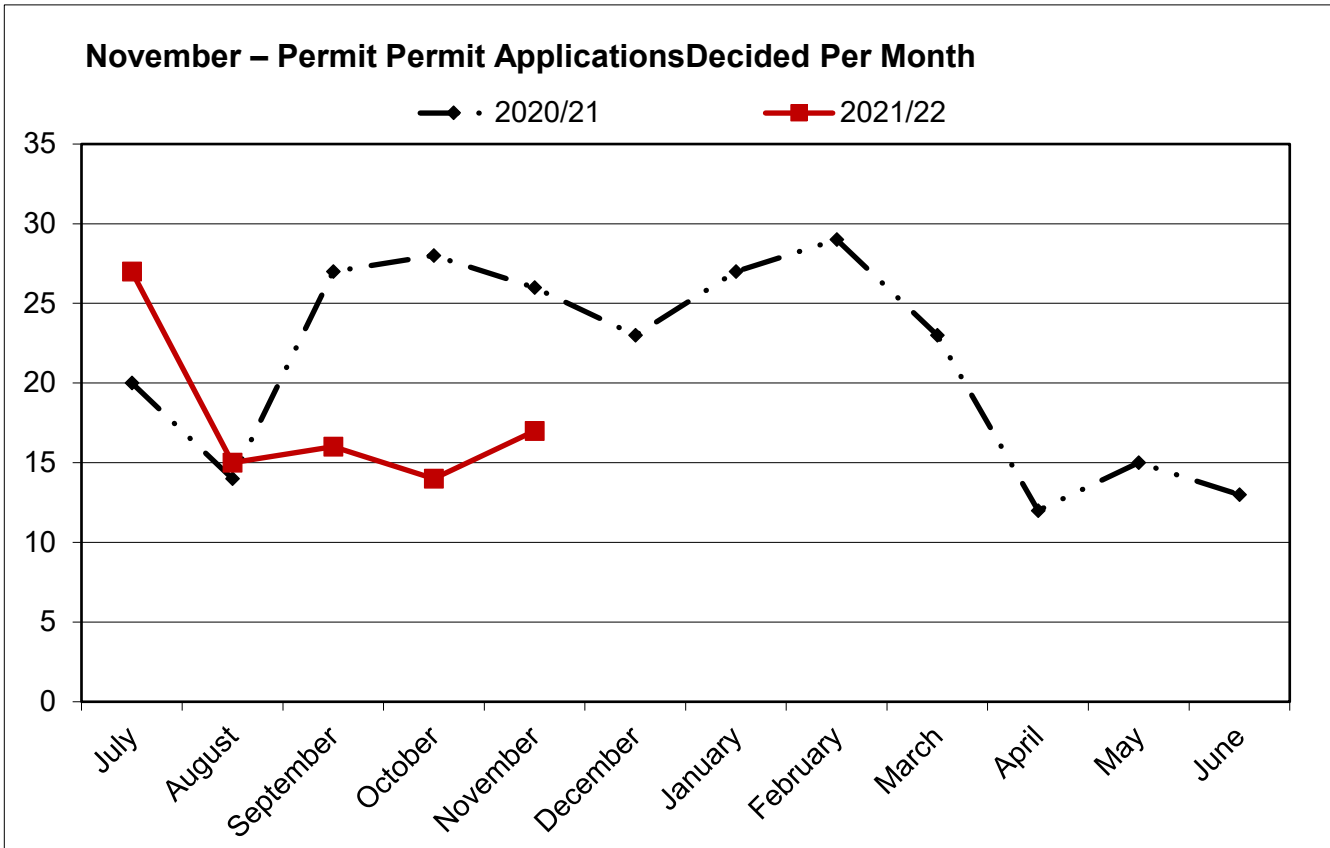
#### **December 2021**

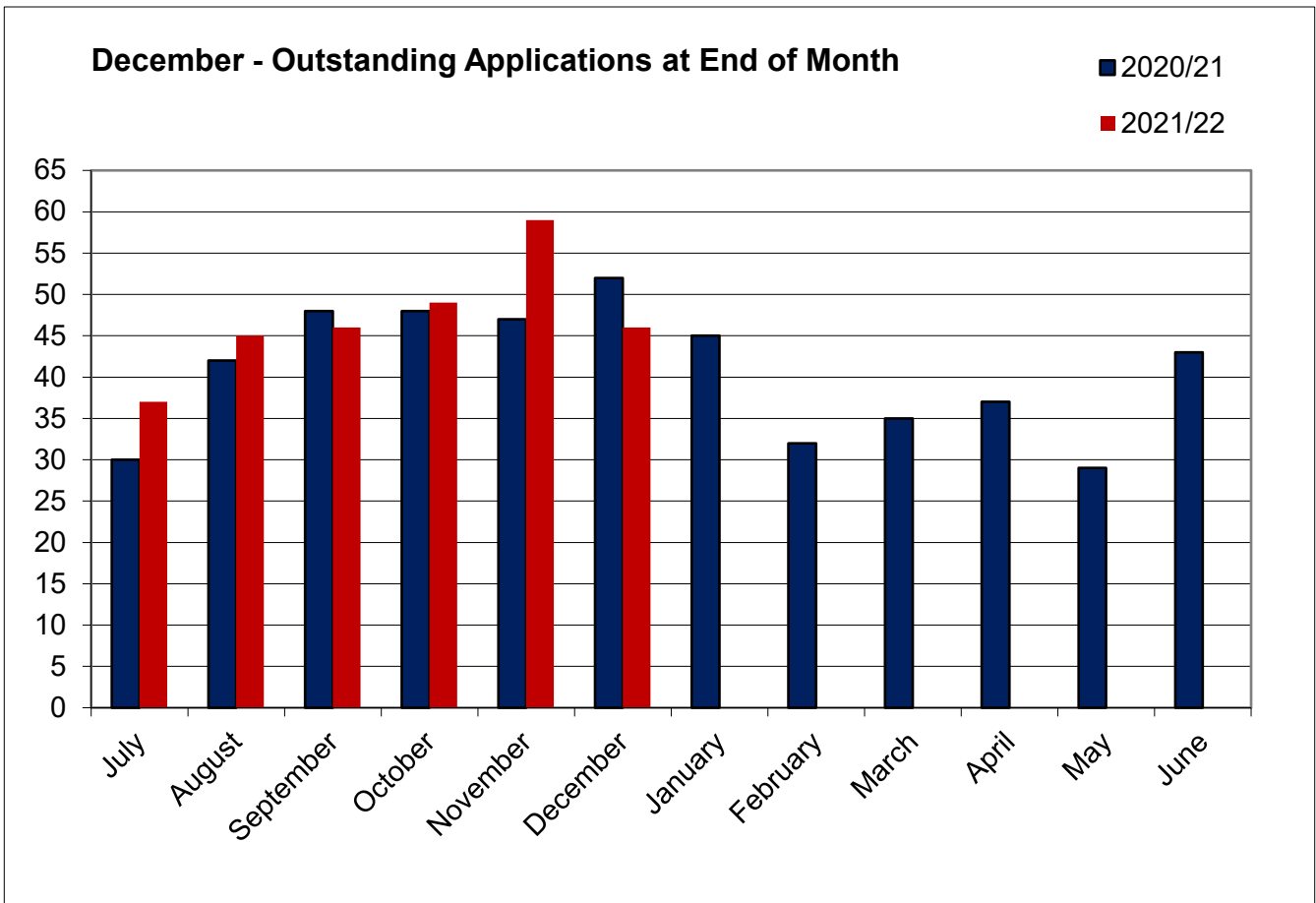
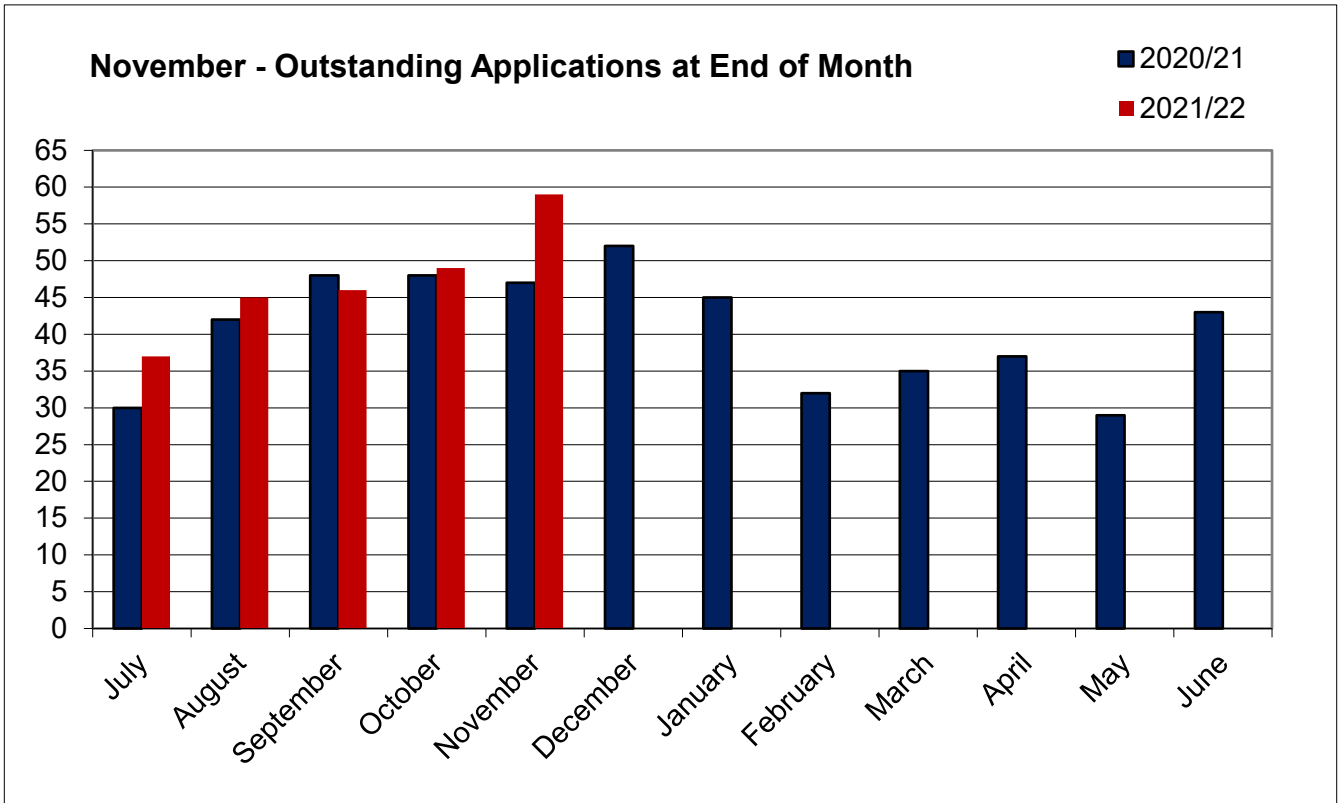
There are currently no planning matters before VCAT.



Planning Permit Applications







**Building Approvals Issued by Council and Private Practitioners****November 2021**

	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Value</b>
1	DA6559	Construction of a shed	93 Lakeside Drive, Benalla	\$50,096
2	DA6097	Construction of a swimming pool and safety marrier	54 Lakeside Drive, Benalla	\$14,290
3	DA4835	Construction of a farm shed	Lot 1 142 Tatong Tolmie Road, Tatong	\$35,673
4	DA6225	Construction of a farm shed	Lot 1 692 Benalla Tatong Road, Benalla	\$60,000
5	DA7045	Construction of free-standing shed	15 Smythe Street, Benalla	\$15,450
6	DA7079	Construction of brick fence	8 Bond Street, Benalla	\$3,000
7	DA7217	Construction of a shed	22 Noarana Drive, Benalla	\$8,000
8	DA1323	Construction of a shade cover	Benalla Street, Benalla	\$15,200
9	DA1085	Construction of carport extension	25 Cecil Street, Benalla	\$5,588
10	DA3179	Construction of a shed	154 Witt Street, Benalla	\$28,366
11	DA7263	Dwelling re-stump	13 Kent Street, Benalla	\$6,050
12	DA5580/4	Construction of farm shed	144 Bowcher Road, Chesney Vale	\$26,000
13	DA7280	Construction of dwelling and garage	37 Bourke Drive, Benalla	\$291,655
14	DA7281	Construction of dwelling and garage	8 Reidy Street, Benalla	\$479,170
15	DA5329	Construction of a carport	39 Noarana Drive, Benalla	\$11,876
16	DA7090	Construction of a swimming pool and safety barrier	33 Charles Street, Benalla	\$34,010
17	DA5912/3	Construction of three units	48 Egmont Street, Benalla	\$990,000
18	DA6853	Construction of dwelling and garage	222 Sayers Road, Thoona	\$253,668
19	DA4899	Dwelling re-stump	453 Tatong Tolmie Road, Tatong	\$7,865
20	DA3091/3	Alterations and additions to existing School	17 Wedge Street, Benalla	\$2,476,601

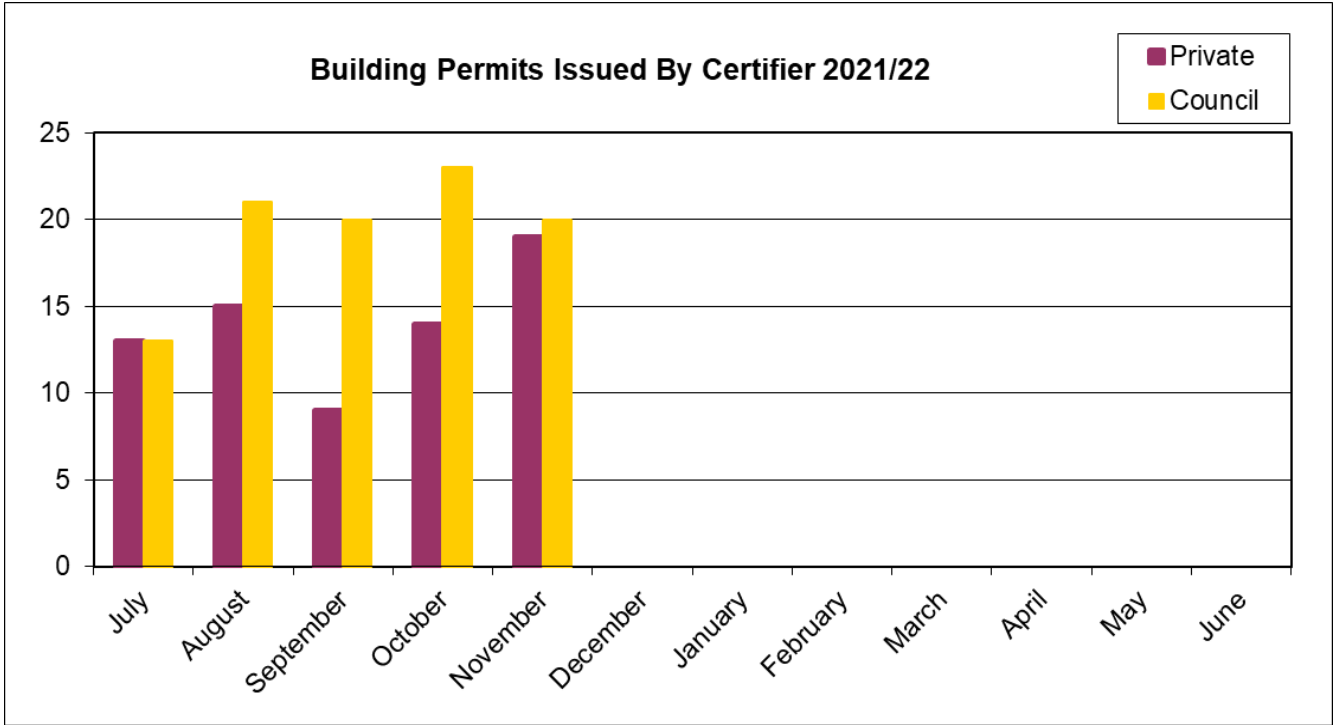
	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Value</b>
21	DA7264	Re-erection dwelling – lock up stage	437 Lima East Road, Lima East	\$154,000
22	DA7264	Construction of machinery shed	437 Lima East Road, Lima East	\$11,000
23	DA1292/3	Amenities building refurbishment	89 Sydney Road, Benalla	\$318,000
24	DA7282	New dwelling	37 Simkin Drive, Benalla	\$244,690
25	DA7242	Construction of a shed	40 Witt Street, Benalla	\$14,320
26	DA1030/2	Internal alterations to existing bank building – ground	Nunn Street, Benalla	\$305,888
27	DA3958	Construction of awning and fencing	Yellow Brick Road, Benalla	\$100,000
28	DA6171	Construction of a patio	3 O'Loughlin Drive, Benalla	\$8,000
29	DA7293	Construction of dwelling and garage	36 Four Mile Road, Benalla	\$343,493
30	SF/2845	Construction of dwelling and garage	8 Livingston Boulevard, Benalla	\$269,001
31	DA7283	New dwelling and garage	25 Bourke Drive, Benalla	\$301,185
32	SF/2845	Construction of dwelling and garage	8 Livingston Boulevard, Benalla	\$269,001
33	DA4063	Construction of a swimming pool and safety barrier	723 Lake Mokoan Road, Chesney Vale	\$5,170
34	DA6538	Construction of patio and carport	72 Cowan Street, Benalla	\$15,510
35	DA6912	Construction of verandah	141 North Road, Benalla	\$13,800
36	DA4206	Dwelling re-stump	35 Maginness Street, Benalla	\$10,890
37	DA7060	Construction of a shed	Dennis Road, Benalla	\$50,028
38	DA7228	Construction of a shed	36 Byrne Street, Benalla	\$23,300
39	DA7285	Construction of dwelling and garage	4 Iva Street, Benalla	\$298,595
<b>Total</b>				<b>\$7,586,547</b>

**December 2021**

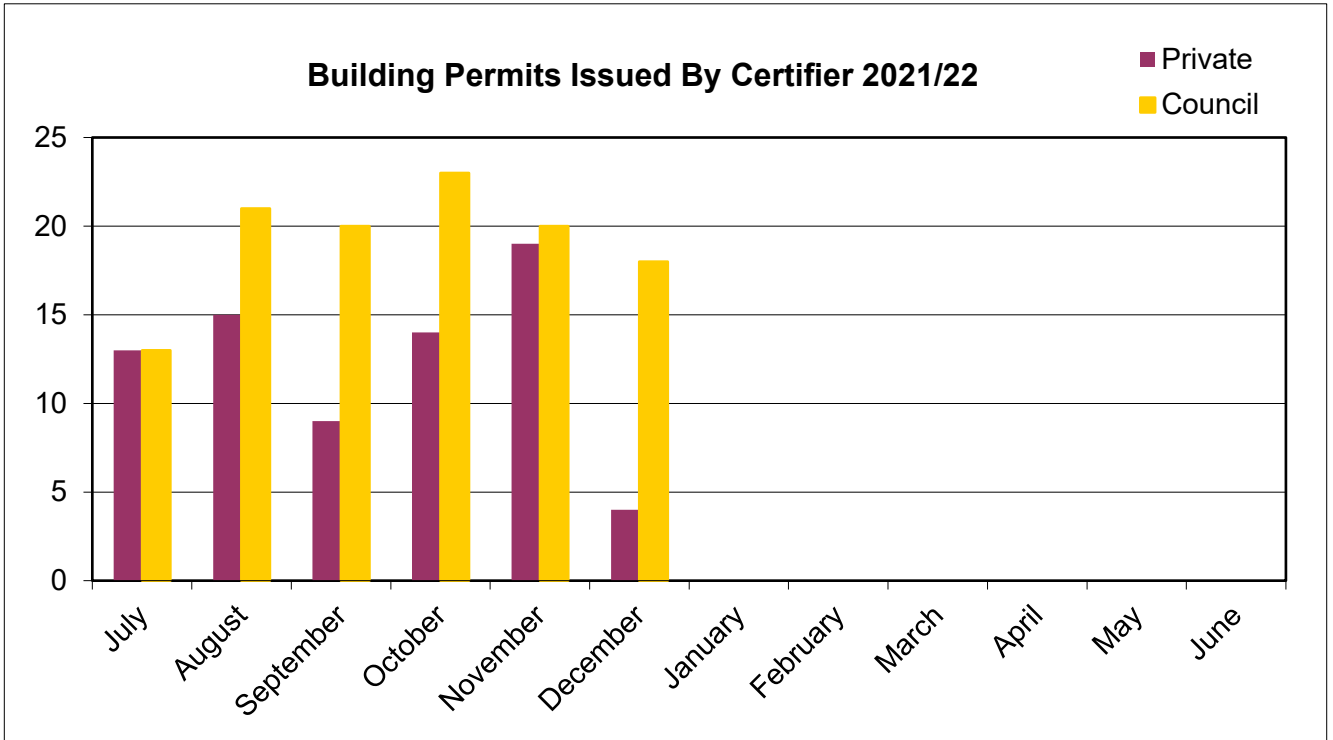
	<b>File No</b>	<b>Description</b>	<b>Property Address</b>	<b>Value</b>
1	DA4783	Completion of shed	22 Pearce Lane, Swanpool	\$5,000
2	DA7302	Construction of farm shed	138 Benalla-Warrenbayne Road Baddaginnie	\$60,000
3	DA4332	Relocation of swimming pool and construction of safety barrier	66 Murray Road, Benalla	\$3,000
4	DA7063	Demolition of a dwelling	17 Mary Street, Benalla	\$16,000
5	DA7253	Construction of farm shed	118 O'Dea Road, South Tatong	\$15,556
6	DA4388	Dwelling alterations	35 Charles Street, Benalla	\$123,145
7	DA7286	Construction of swimming pool safety barrier	1000 Lima East Road, Lima East	\$5,700
8	DA3915	Construction of front fence	24 Monash Drive, Benalla	\$8,000
9	DA5917	Construction of swimming pool	197 Benalla-Warrenbayne Road, Benalla	\$42,000
10	DA6902	Construction of swimming pool and safety barrier	164 Maxwell Road, Goorambat	\$9,861
11	DA7251	Construction of a shed	5 Albert Street, Benalla	\$14,374
12	DA6957	Construction of a carport	9 Mclvor Street, Benalla	\$6,000
13	DA234/4	Construction of shade sail	4 Mair Street, Benalla	\$57,500
14	DA6643	Construction of carport	12 Lucy Court, Benalla	\$7,488
15	DA4332	Construction of carport	66 Murray Road, Benalla	\$4,872
16	DA5833/2	Construction of swimming pool, safety barrier and a deck	31 Nillahcootie Track, Lima South	\$10,000
17	DA7146	Construction of shed	999 Lake Mokoan Road, Chesney Vale	\$20,000
18	DA7252	Construction of two private bushfire bunkers	277 Brond Road, Archerton	\$48,840
19	DA2237	Construction of a carport and a pergola	14 Mitchell Street, Benalla	\$14,900
20	DA7289	Construction of dwelling and attached garage	9 Livingston Boulevard, Benalla	\$488,865
21	DA4114	Construction of garage	5931 Midland Highway, Benalla	\$182,819
22	DA7304	Construction of dwelling and garage	1 Livingston Boulevard, Benalla	\$242,670
<b>Total</b>				<b>\$1,386,590</b>

**Building Permits Issued by Certifier by Month**

**November 2021**

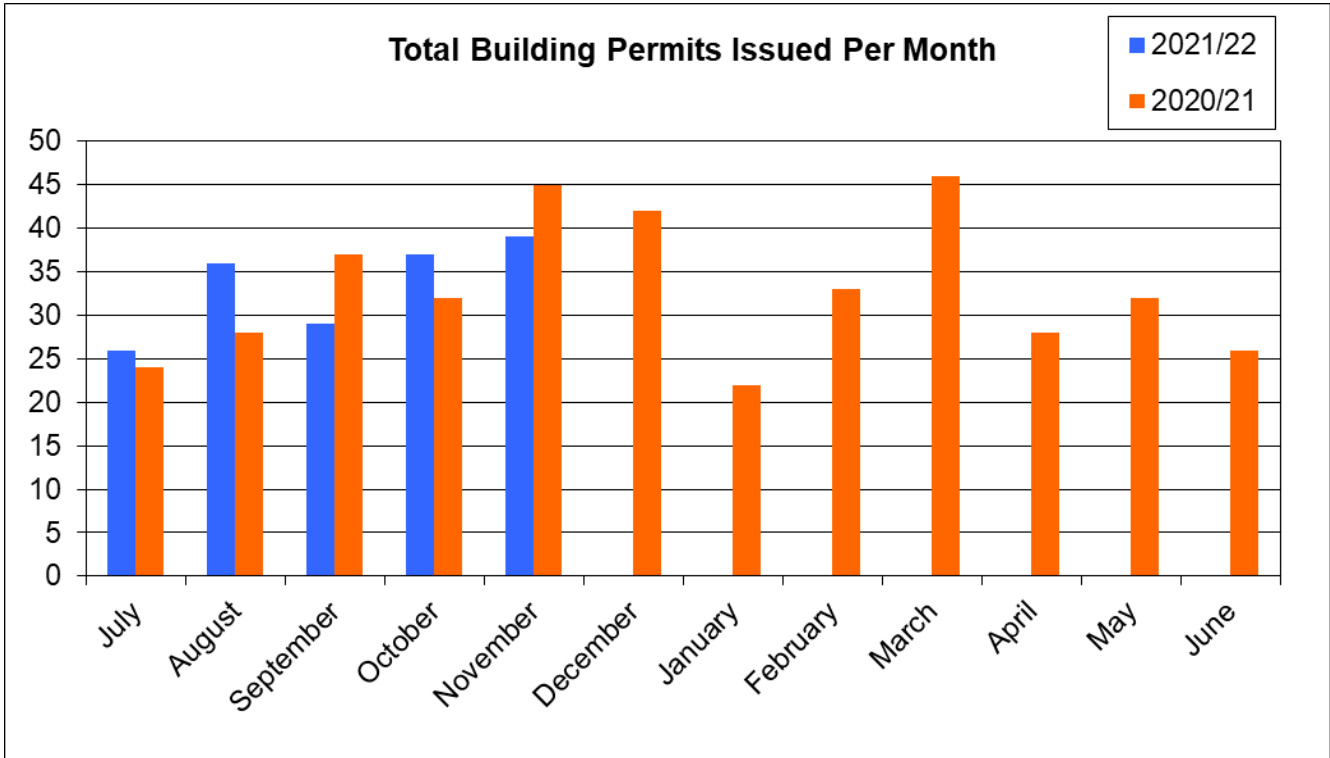


**December 2021**

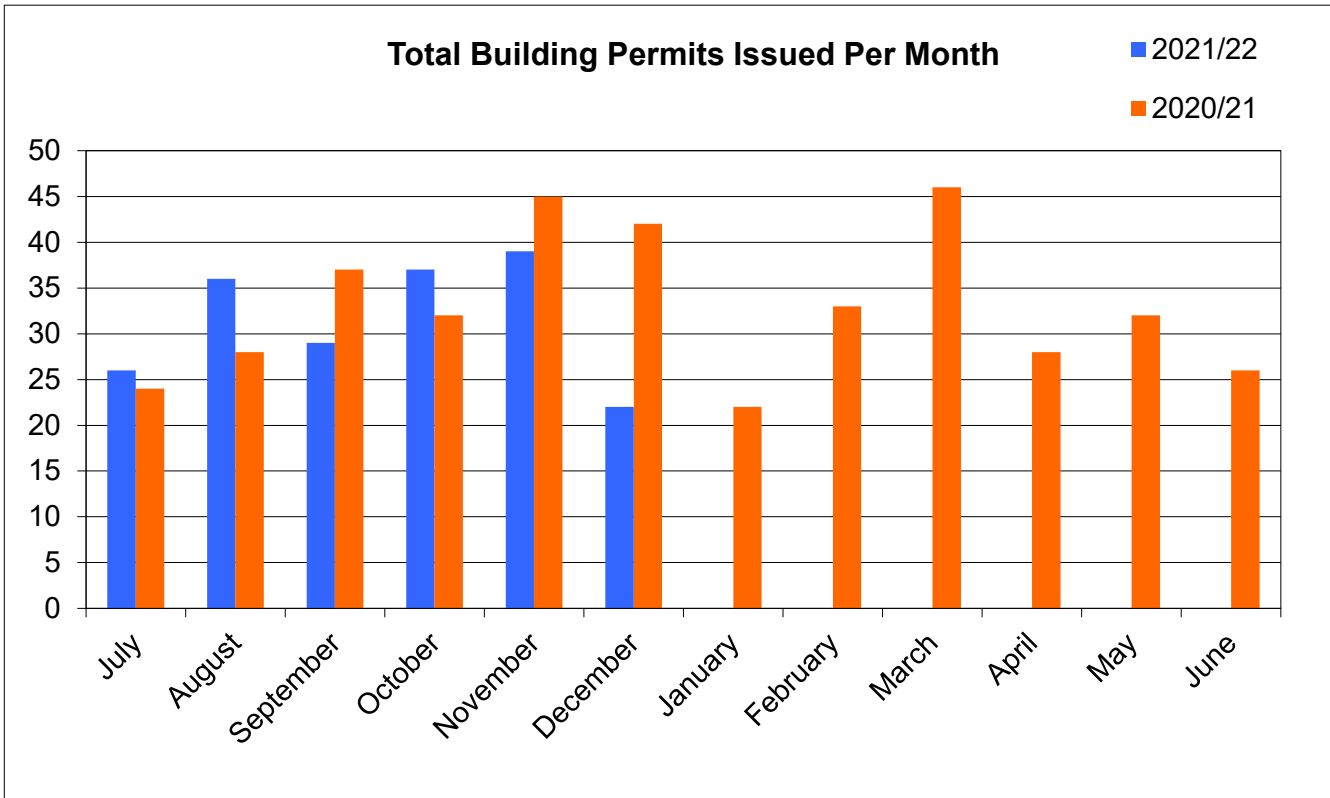




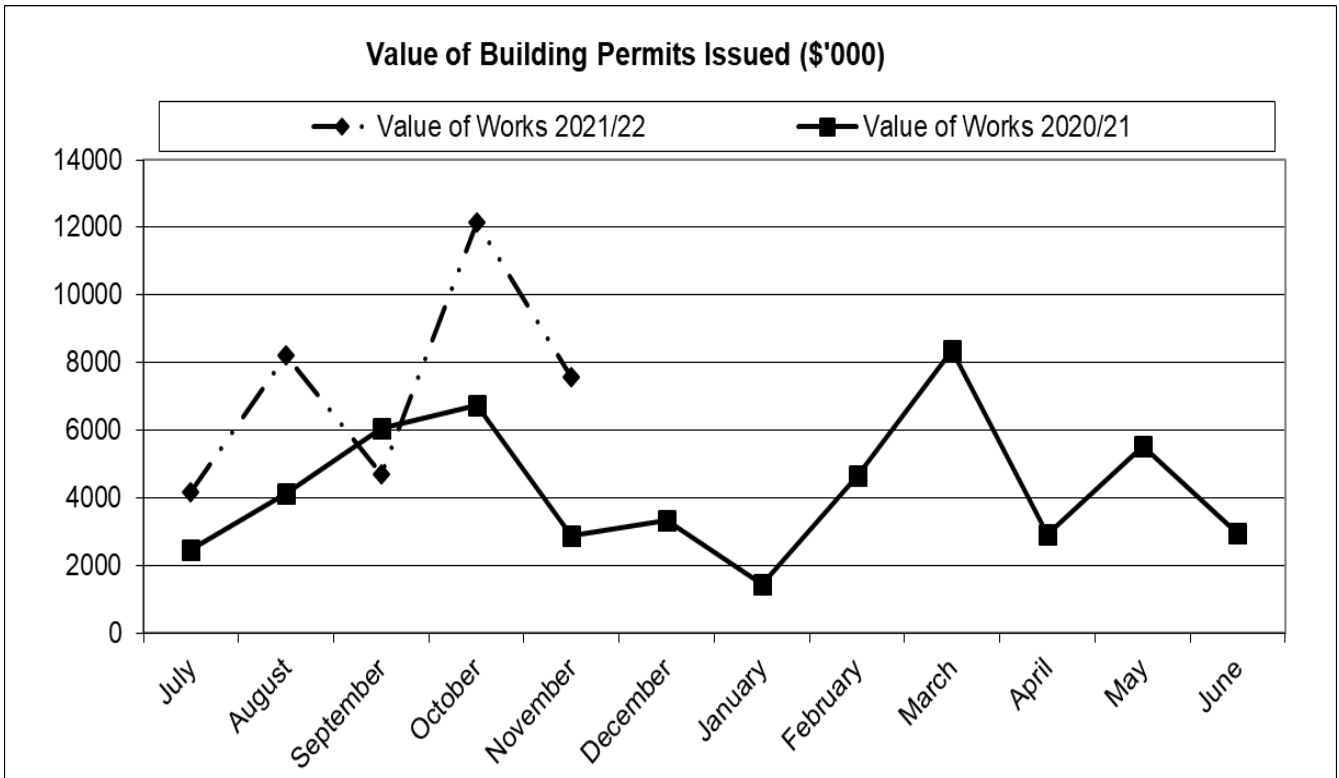
November 2021



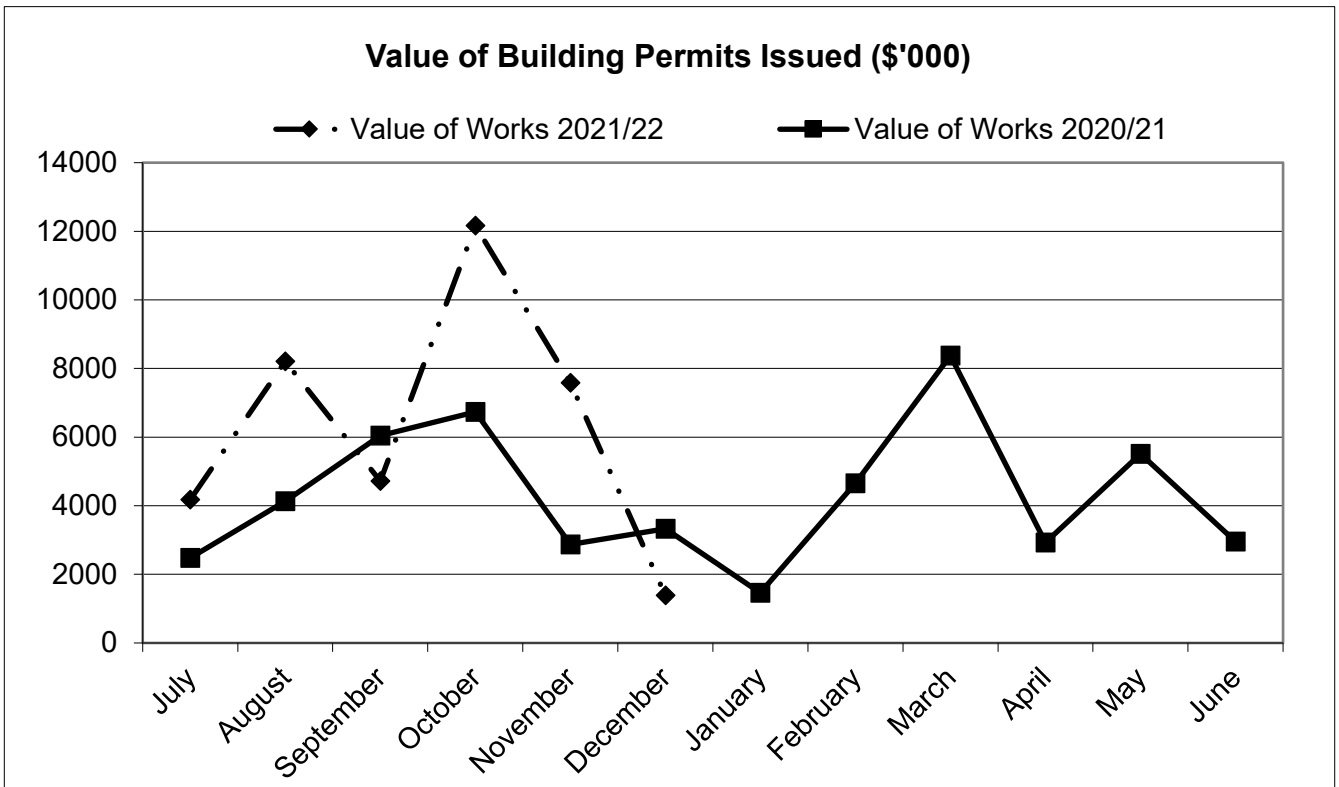
December 2021



**November 2021**



**December 2021**



**COUNCIL PLAN 2021-2025 IMPLICATIONS**

**Community**

- A healthy, Safe and resilient community.
- A connected, involved and inclusive community.

**Livability**

- Vibrant public spaces and places.
- Connected and accessible roads, footpaths, transport and parking.

**Economy**

- Population growth.

**Environment**

- Healthy and protected natural environment.

**Leadership**

- Good governance.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any general or material conflicts of interest in this matter.

**Recommendation:**

**That the report be noted.**

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VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NOS. P526/2021 & P11214/2021  
PERMIT APPLICATION NOS. P0130/20 &  
PD/02/00029

CATCHWORDS

Section 79 of the *Planning and Environment Act 1987*; Benalla Planning Scheme; Farming Zone; Existing residential alcohol and drug rehabilitation service; Proposed increase in maximum number of residents from 15 to 35; Application to construct buildings and works; Application to amend permit

APPLICANT

P526/2021 & P11214/2021 Odyssey House Victoria

RESPONDENTS

P526/2021 & P11214/2021 Geoffrey William Hill  
Helen Hurley, Laurie Horne & Emily Watt  
Jennifer Muller & Michelle Ramage  
Andrew Muller, Diane Muller & Alexandra Muller  
Sarah Roper & Andrew Barry  
Rebecca Macdougall & Angus Macdougall

RESPONSIBLE AUTHORITY

Benalla Rural City Council

SUBJECT LAND

1619 Kilfeera Road, Molyullah

HEARING TYPE

Hearing

DATE OF HEARING

27, 28 & 29 September 2021

DATE OF ORDER

20 December 2021

CITATION

Odyssey House Victoria v Benalla RCC  
[2021] VCAT 1542

ORDER

APPLICATION P526/2021

Decision set aside

1 The responsible authority's deemed refusal to grant a permit is set aside.

Permit granted

2 In permit application P0130/20 a permit is granted and directed to be issued for the land at 1619 Kilfeera Road, Molyullah in accordance with the



endorsed plans and the conditions set out in Appendix A. The permit allows:

- Construction of buildings and works for the purpose of a residential alcohol and drug rehabilitation service

### **APPLICATION P11214/2021**

#### **Decision set aside**

- 3 The responsible authority's deemed refusal to grant an amendment to permit PD/02/00029 is set aside.

#### **Permit amended**

- 4 Permit PD/02/00029 is amended and an amended permit is directed to be issued for the land at 1619 Kilfeera Road, Molyullah. The amended permit is set out in Appendix B.

Geoffrey Code  
**Senior Member**

Shiran Wickramasinghe  
**Member**



## APPEARANCES

For Odyssey House Victoria	Paul Connor QC & Robert Forrester of Counsel, instructed by William Bartley, Clayton Utz Lawyers They called the following witnesses: <ul style="list-style-type: none"><li>• Dr Stefan Gruenert, chief executive officer, Odyssey House Victoria</li><li>• Amanda Joyce, parent of former client of Odyssey House, Molyullah</li><li>• Michael Barlow, town planner, Urbis Pty Ltd</li><li>• Stephen Hunt, traffic engineer, Ratio Consultants Pty Ltd</li></ul>
For Benalla Rural City Council	Ragu Appudurai of Counsel
For Geoffrey William Hill, Helen Hurley, Laurie Horne, Emily Watt, Rebecca Macdougall & Angus Macdougall	Louise Hicks of Counsel & Natalie Blok of Counsel
For Andrew Muller, Diane Muller, Alexandra Muller	Andrew Muller
For Jennifer Muller & Michelle Ramage	Andrew Muller
For Sarah Roper & Andrew Barry	Andrew Barry





## INFORMATION

Brief description of proposal	<p><b>Application P526/2021</b></p> <p>Buildings and works for the purpose of a residential alcohol and drug rehabilitation service.</p> <p><b>Application P11214/2021</b></p> <p>Amendments to permit to use land for residential alcohol and drug rehabilitation service to increase maximum number of residents from 15 to 35.</p>
Nature of proceeding	<p><b>Application P526/2021</b></p> <p>Application under section 79 of the <i>Planning and Environment Act 1987</i> – to review the failure to grant a permit within the prescribed time.</p> <p><b>Application P11214/2021</b></p> <p>Application under section 79 of the <i>Planning and Environment Act 1987</i> – to review the failure to grant an amendment to a permit within the prescribed time.</p> <p><b>Deemed refusal by responsible authority</b></p> <p>Section 4(2)(d) of the <i>Victorian Civil and Administrative Tribunal Act 1998</i> states a failure to make a decision is deemed to be a decision to refuse to make the decision.</p>
Planning scheme	Benalla Planning Scheme
Zone and overlays	Farming Zone (FZ) Abuts land in the Road Zone – Category 2 (RDZ2) Vegetation Protection Overlay Schedule 3 (VPO3)
Existing permit	Permit PD/02/00029 was issued on 9 January 2003 and allows use of the land for the purpose of a residential alcohol and drug rehabilitation service subject to 19 conditions. It was issued at the direction of the Tribunal in <i>Odyssey House Victoria v Benalla RCC</i> [2003] VCAT 15.



Permit requirements	<b>Application P526/2021</b> Clause 35.07-4 (construction of buildings and works for a section 2 in the FZ, being a residential alcohol and drug rehabilitation service)
Relevant scheme policies and provisions	Clauses 11, 12, 13.02, 13.05, 13.07, 14.01, 14.02, 15.01, 19.01, 19.02, 21.03, 21.04, 21.05, 35.07, 45.02, 52.06, 52.29, 52.43, 52.17, 53.02, 65.01 & 71.02
Land description	The land is located in the rural district of Molyullah about 18 km south-east of Benalla. The land is irregular in shape, has a frontage of 300 metres to the north side of Kilfeera Road and a depth of about 500 metres and an area of 14.92 ha. In topographic terms, the land rises to the north-west. On its eastern boundary is a creek. The land contains a former dwelling and that building and the land are now used for a residential alcohol and drug rehabilitation service operated by Odyssey House Victoria.



## REASONS<sup>1</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 Odyssey House Victoria (in these reasons, **Odyssey House**) operates a residential alcohol and drug rehabilitation service (the **service**) from the subject land at Molyullah for a maximum of 15 residents.
- 2 The Benalla Rural City Council (the **Council**) issued a permit under the Benalla Planning Scheme (the **Scheme**) to operate the service on 9 January 2003 following the Tribunal's decision in *Odyssey House Victoria v Benalla RCC* (the **permit**).<sup>2</sup>
- 3 Odyssey House wants to expand the service to meet increased demand and construct a new building and works to accommodate a maximum of 35 residents (the **proposal**).
- 4 Odyssey House lodged two applications with the Council under the Scheme for a permit to construct those buildings and works (the **development application**) and for an amendment to permit PD/02/00029 (the **permit**) under which the service currently operates (the **permit amendment application**). In these reasons, we refer to the two applications as the **proposal**.
- 5 The Council received eight objections to the development application and 15 responses (including 11 objections) to the permit amendment application. The Council did not decide the two applications within the prescribed period and Odyssey House has applied to the Tribunal to review the Council's deemed refusal to grant the permit and the amendment to the permit.
- 6 In an interim order, and at the request of Odyssey House, we amended the plans for the construction of the buildings and works.<sup>3</sup>
- 7 The Council supports approval of the development application and the permit amendment application in accordance with the amended plans and subject to conditions.
- 8 The respondents are owners and occupiers of land in the vicinity of the subject land who oppose the proposal. The matters in contention relate to whether the intensification of the use is inconsistent with the Farming Zone (the **FZ**), to the impact on neighbouring farming practice, to the form of the proposed building, and issues relating to noise, traffic, and the safety of nearby residents.

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<sup>1</sup> The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

<sup>2</sup> [2003] VCAT 15 (*'the 2003 decision'*).

<sup>3</sup> Order dated 4 October 2021.



## PROPOSAL

- 9 The main elements of the proposal are:
- (a) A new single storey building, with two parallel interconnected wings providing a mixture of communal, administration, clinical therapy and accommodation areas for a maximum of 35 residents in 15 twin-bed rooms and six single-bed rooms (of which two are accessible).
  - (b) Retention of all existing buildings except for one small staff building that will be demolished to allow for the new car parking area and associated accessway.
  - (c) Retention of the existing gravel car parking area and development of a new sealed car parking area with 14 parking spaces and one accessible parking space.
  - (d) Water storage, including rainwater retention tanks under the new building, and separate water storage and fire water storage tanks.
  - (e) Surface water bunds and swales to manage overland flows.
  - (f) New wastewater treatment facility and disposal area.
  - (g) Upgrade of the vehicle crossing to Kilfeera Road in accordance with the Council's Infrastructure Design Manual.
  - (h) Landscaping and boundary planting.
- 10 The layout of the proposal on the subject land is shown in figure 1, below.



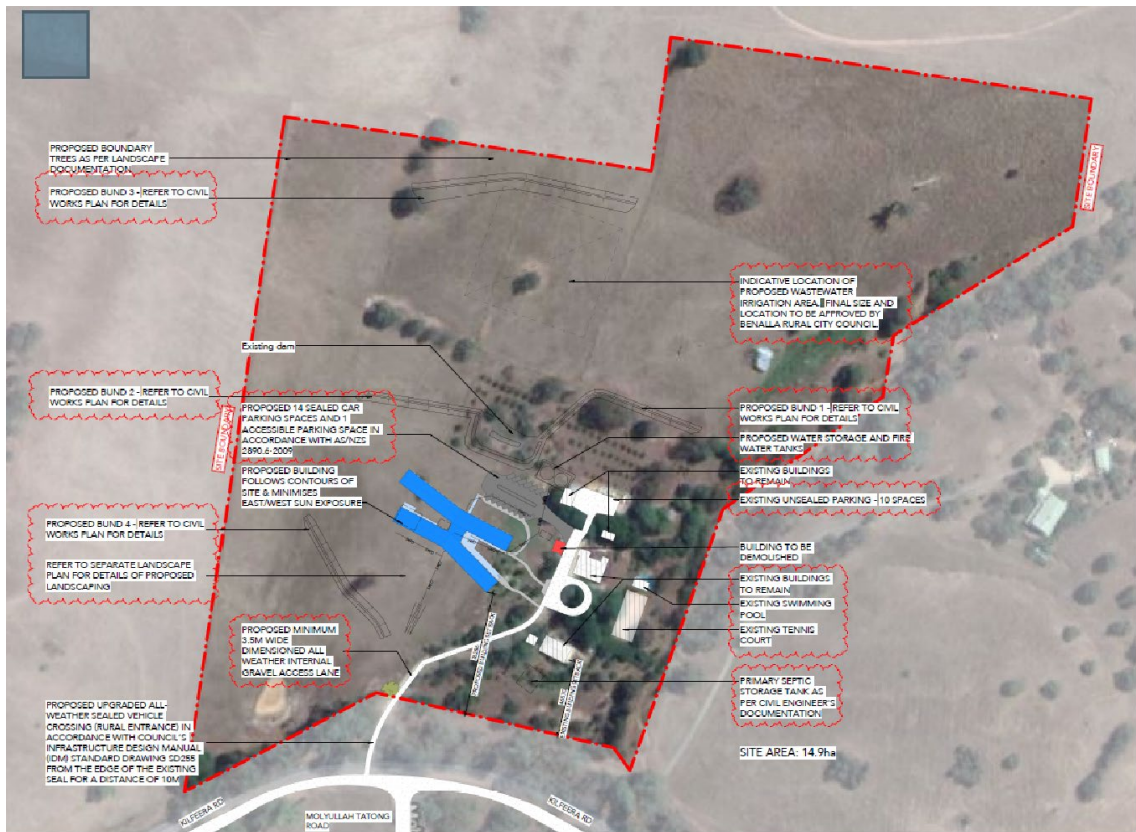


Figure 1 – Location of the proposed buildings (shown in blue) and works on the subject land

- 11 There will be changes to the way the subject land is used. These include increases in the number of day staff, visits by health professionals, deliveries, waste collection vehicles and visitors. The existing treatment program is a six-week average duration. The proposal will allow a longer treatment program of six to 12 months to be offered in addition to the existing shorter treatment program.

**NEED**

- 12 It is well established an applicant is not required to prove a community need for a land use but, if proven, it is a relevant consideration in favour of the grant of a permit. The consideration is relevant when the planning decision maker undertakes the task of balancing conflicting planning objectives in favour of net community benefit.<sup>4</sup>
- 13 Having regard to the submissions of the parties and the evidence of Odyssey House’s chief executive officer, Dr Stefan Gruenert, there is no dispute the service has helped thousands of people since it opened and there is a substantial and growing unmet demand for the service, especially in regional Victoria.<sup>5</sup>

<sup>4</sup> The Scheme cl 72.01.

<sup>5</sup> For example, Dr Gruenert’s evidence is that the service is able to treat between 110 and 130 residents per year but has had a waiting list of between 80 and 110 people over the ‘last several years’.



- 14 The facilities are dated and, in only providing accommodation for 15 residents, the service does not operate at economies of scale for contemporary standards of care,<sup>6</sup> and needs to improve accessibility for people with mobility disabilities.

## LOCATION

- 15 The service is located in a rural area in reasonable proximity to Benalla (about 18 km to the north-west). We agree with the Tribunal's observation in the 2003 decision that the location has 'much to commend it' having regard to demand and environment. It is relevant to our assessment that the service has existed for nearly two decades and claims the location is unsuitable for the proposal must carry less weight.

## USE RIGHTS

- 16 The respondents' grounds included that the right to continue the use of the land for the service has lapsed given claimed periods of discontinuity. Odyssey House acknowledges there were no residents between 1 March 2006 and 4 March 2007 and between 5 September 2007 and 10 March 2009, largely due to gaps in public funding.
- 17 The respondents relied on discontinuity under both clause 63 of the Scheme and condition 19 of the permit.
- 18 Discontinuity is not relevant under clause 63 if a use is carried out in accordance with a permit.
- 19 Condition 19 relevantly provides the permit will expire if the use is 'discontinued for a period of two (2) years'. It is unclear under the condition if the period is continuous or, if there are smaller periods, cumulative.
- 20 We are untroubled by having to make a finding about this because we accept Dr Gruenert's evidence there was not any discontinuity because the facilities at the service were being maintained during those gaps in anticipation of residents returning once funding was obtained. In other words, the purpose of the use of the land remained for the service despite the gaps in accommodating residents.
- 21 The respondents also claimed the proposal should be characterised as 'accommodation' which is a prohibited use in the FZ. It is unnecessary to set out and consider the submissions in support of that claim because it suffices to state the claim was withdrawn upon Dr Gruenert's evidence.

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<sup>6</sup> Victoria's *Infrastructure Strategy 2021-2051* at page 246 provides that residential facilities should have no fewer than 30 beds to support a suitable model of care.





## MERITS ASSESSMENT

- 22 It is common ground the FZ places the use of land for agricultural purposes as the primary purpose against which permitted uses should be measured. However, that is not to say other uses cannot be permitted. In this context the FZ sets out various decision guidelines. They are relevant to our consideration of the proposal.

### Compatibility with Farming Zone

- 23 The establishment of a residential alcohol and drug rehabilitation service on the subject land was the subject of significant consideration in the 2003 decision.
- 24 The permit amendment application seeks to change the intensity of the use by, amongst other things, increasing the number of residential beds from 15 to 35 and the length of stay from six weeks to six weeks or longer (six to 12 months). The name of the program is also proposed to change from *Genesis* to *Circuit Breaker*. Dr Gruenert's evidence is that the programs remain the same.
- 25 In support of the permit amendment application, the Council submitted:

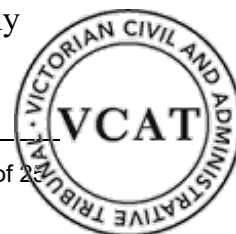
In the circumstance that the service has been in operation since 2005, the council contends that it would be appropriate to consider whether the amendment application ought be allowed by reference to:

- the substantive matters considered, and determined, by the tribunal in the 2003 decision;
- the track record of the operation of the service by Odyssey House; and
- the social and economic benefits of the proposed intensification of the service to be delivered on the land.

Such an approach has, in the circumstance that the relevant policy context and controls have not been altered in any substantive way since the 2003 decision, the advantage of not 'reinventing the wheel' given that there is much overlap between the consideration of the introduction of the service on the land and the intensification of use for that purpose some 16 years hence.

This is particularly so given that the substance of the grounds upon which the respondents rely is, if not identical, entirely consistent with the matters that were raised before the tribunal ... in the 2003 decision.

- 26 Mr Barlow gave evidence to similar effect.
- 27 We agree with Odyssey House that there is little material difference between the Rural Zone in force in 2003 and the FZ in force now. However, what is proposed is an intensification of the use and we need to consider the merits of the proposal in the two applications and not simply rely on the previous decision. It is therefore important to ensure the use



does not adversely affect the use of land for farming. Mr Muller submitted that he has already had to change the way he farms his land due to the service.

- 28 We acknowledge the sincerity of Mr Muller’s concerns, but we are not persuaded an increase of 20 beds resulting in about an additional 60 residents using the service each year lacks planning merit. The treatment model engages participants in a range of activities primarily delivered within buildings.
- 29 Having regard to the nature of the service, we do not consider there would be any significant impact on farming practice from the increase in residents, staff and visitation. Mr Muller submitted that he does not currently use his adjoining paddocks during lambing season. There is nothing to suggest this practice could not continue and any impact could not be managed as has been the case since the service started. Mr Mullers farm has an area of approximately 485 ha, comprising some 20 paddocks. Odyssey House made no submission that the way Mr Muller operated his farm caused any concern to the service.

### **Built Form**

- 30 The single storey building in the development application is comprised of two centrally joined parallel buildings sited on an east-west axis and set back 76 metres from the site frontage. The setback is substantially greater than the minimum 20 metres setback required in the zone. The building has a maximum height of 6.5 metres and is set back in excess of 90 metres from the west boundary. An impression of the appearance of the building is shown in figure 2, below.



*Figure 2 – View of proposed building, looking to the north-west*



- 31 The single storey design has a raised floor level to enable overland stormwater flow and is a site responsive design. There are existing buildings located to the east of the proposed building with the southern-most existing building having a setback of 46 metres from the front boundary. We find the siting of the proposed building to be acceptable.
- 32 The size of the building is also acceptable. We acknowledge the building is larger than existing nearby buildings. However, we agree with Mr Barlow that the front setback and rising topography of the land to the north provides a separation and back-drop respectively that enables the building to satisfactorily blend into the undulating landscape. The 250 metre separation (minimum required 100 metres) from a building not in the same ownership also ensures the building will not have an unacceptable visual impact on adjoining owners and occupiers.
- 33 We find the proposed use of colorbond cladding and roofing material and the timber deck to be an acceptable response. These materials are common in rural areas and their use in combination with the low scale modular form of the building is an acceptable architectural response.

#### **Traffic and vehicle access**

- 34 The respondents submitted the proposal will result in unreasonable increases in vehicle movements and unreasonable impact on road safety. Staff numbers are proposed to increase from a maximum seven to 10 during weekday daytime periods (8 am - 4 pm) and two to three during the weekend daytime period. There will be no change to the existing two staff on-site during the evening and night-time periods.
- 35 There will be an increase in the number of medical practitioners or psychologists attending the service (two to three) as well as utility services such as garbage collection (one to two pick-ups per week) and delivery vehicles (five to seven per week). Visiting time will remain on Sunday afternoons and is expected to increase from five to 10 vehicle trips.
- 36 Mr Hunt's opinion is the proposal will generate an additional 10 vehicle per day on weekdays (currently 22) and 12 on a Sunday (currently 20) and the access point will continue to operate safely and efficiently. The Council is satisfied with the safe operation of the access point subject to the sealing of the driveway for 10 metres from the edge of the sealed road.
- 37 We find the small number of additional vehicle movements will not cause an adverse safety impact on the operation of Kilfeera Road which carries approximately 500 vehicle movements per day. The 50 kph and 60 kph speed advisory guidance coupled with the 220 metres and 140 metres sight distance on the west and east approaches, respectively, will enable the access point to operate safely.
- 38 The respondents brought to our attention a centre road separating solid white line that extends partially across the access point to Kilfeera Road. The solid line effectively prevents a right turn out of the subject land. The



Council provided aerial photographs dated 2017 and 2019 showing the line marking to have changed sometime between these years. The Council was unable to explain the reason for this change.

- 39 The limitation created by the solid white line is not determinative to our findings. We are persuaded by Mr Hunt that there is sufficient sight distance to enable vehicles to enter and exit the subject land safely. Strict observance of the limitation would result in vehicles turning left and subsequently doing a u-turn.
- 40 The more realistic outcome is drivers will do a right turn as they would have legally been able to do in 2017 and probably have continued to do. We note Mr Hunt's evidence there has been no reported crashes reported at the access point in the past five years. Whether the line marking should remain is a matter for the Council and Odyssey House to resolve.

### **Amenity**

- 41 We have already found the design and siting of the proposed building to be acceptable. Similarly, we find the increase in the number of beds to 35 resulting in approximately 60 additional residents on site each year to be acceptable.
- 42 To date, there have been no reported adverse off-site amenity or safety impacts. There is also no evidence of nearby residents experiencing any anti-social behaviour. The outcome of the proposal is to continue to provide an alcohol and drug rehabilitation service to more people. There is unlikely to be any unacceptable off-site amenity or safety impacts.
- 43 There are existing permit conditions that limit the use of external speaker systems, loud music and use of the pool and tennis court. These restrictions will continue to apply and assist to ensure the service does not have an adverse amenity impact and is a good neighbour.
- 44 Mr Barlow recommended changes to existing condition 6 (general amenity) of the draft permit conditions. The application of the existing condition is that noise generated by the service should not be audible beyond the boundary of the subject land. Mr Barlow's opinion is that noise may currently sometimes be audible beyond the boundaries but that such noise is acceptable provided it is not unreasonable.
- 45 The respondents opposed this change on the basis the use is being intensified. The recommended change is appropriate on the basis outdoor use will generate some audible noise beyond the boundary and, provided an adverse amenity impact does not arise, the impact is acceptable. If there is an adverse impact, options for remedy include a neighbourly chat, formal complaint or a report to the Council.
- 46 Condition 12 of the existing permit requires the preparation of a complaints handling procedure and implementation of a register. Mr Barlow recommended changes to better particularise matters that must be recorded



in the register relating to any investigation carried out and action in response to a complaint. We support those changes.

- 47 With respect to complaints relating to the existing use, the evidence is that there has been one recorded complaint that related to a vehicle exiting to Kilfeera Road. While only one complaint may have been lodged, it is evident the respondents have concerns relating to land management. To reduce the potential for a future complaint, we support ongoing contact between Odyssey House and the nearby community. The respondents told us Odyssey House did not engage with the community. On the other hand, Dr Gruenert told us the service felt isolated because it was not made welcome when it started.
- 48 We do not therefore support Mr Barlow's recommendation to delete existing condition 15(a) that requires a community education program. Ongoing community education could lead to meaningful engagement and communication. The suggested inclusion of an overview of the service's programs and the management of the subject land has merit. The documentation of these matters to the Council's satisfaction will provide a record of the service and its operation. This includes a change to the name of the program from *Genesis* to *Circuit Breaker*.
- 49 We prefer the amendment to this condition to new conditions sought by some respondents that would require the Council to establish and operate a 'community consultation committee'. The committee, as proposed, would consist of Odyssey House, the Council, 'members of the Molyullah community' and 'independent community members not aligned to the Molyullah community'. The Council does not support this new condition. Neither do we. It is uncertain as to membership and operations. It is an inappropriate permit condition.

### **Environmental issues**

- 50 The respondents submitted the proposal would result in unacceptable environmental risks including bushfire risk, overland waterflow, rain and water utilisation and wastewater treatment. Odyssey House relied on several technical assessments relating to these matters and Mr Barlow considered these assessments as part of his evidence.
- 51 The key points relating to these matters include:
- The geotechnical assessment prepared by Statewide Geotechnical indicates the subject land has the capability to accommodate the wastewater treatment system required for the facility. The final design is subject to the approval of the Council.
  - Water supply for the proposal will be through a combination of sources including rain and bore. Delivered water will also be required to ensure a consistent supply of water for the facility.



- Civil earthworks are required to minimise the impact of surface water flows on the proposed development. The works will include the construction of a series of bunds and swales that redirect overland flows through the subject land and away from the building in the development application.
- The subject land is not in a Bushfire Management Overlay, however it is identified to be in a Bushfire Prone Area. The building in the development application will be designed to meet the relevant building standards for bushfire prone areas.

52 We accept the evidence of Mr Barlow that the subject land can appropriately accommodate the expanded facility subject to the construction of necessary civil, drainage and wastewater treatment works.

### **A SINGLE PERMIT?**

53 Odyssey House submitted that, if the Tribunal were minded to allow the proposal, an option would be to simply amend the permit to accommodate all matters in the development application and the permit amendment application. If this were done it would not be necessary to grant a separate development permit and the service could continue to operate under a single permit.

54 We gave leave for the Council to carefully consider this option after the hearing and make a written submission upon which other parties could comment.

55 The Council does not support the single permit option for reasons that we will summarise as potential administrative, including enforcement, difficulties. We also find there are procedural difficulties in amending the applications to give effect to the single permit outcome. We will accept the Council's views as the responsible authority about the most effective disposition of the applications and will not proceed with the single permit option.

### **CONDITIONS**

56 With our leave, the parties filed written submissions after the hearing about draft permit conditions.

57 Earlier in these reasons, we referred to suggested changes to existing conditions 6, 12, 15, and 16 of the permit.

58 Condition 14 of the permit prohibits schedule eight drugs or other drugs of addiction being kept on the subject land. At the hearing, during Dr Gruenert's evidence, it became evident there are occasions when drugs of this type are prescribed for residents by medical practitioners as part of their treatment.



- 59 Odyssey House sought an amendment to condition 14 to enable schedule eight drugs or other drugs of addiction being kept on the land. The respondents opposed the suggested change. We find the keeping of such drugs on the subject land to be appropriate as the drugs are prescribed for the purpose of drug rehabilitation and residents are supervised.
- 60 Some respondents also sought a new condition requiring Odyssey House to contact 'nearest neighbours' by text message of 'any major incident occurring that may affect the neighbours security', including 'walk offs' and police and ambulance 'call outs'. We do not support the condition. It is uncertain and unenforceable.
- 61 Some respondents also sought amendments to landscaping conditions to ensure faster and more effective establishment of landscaping in accordance with requirements under the permit. They pointed to recent landscaping works that they claimed were much delayed and were already partially ineffective by wildlife destruction. We do not consider any amendments are necessary. What needs to be done is clear. The Council can take action to ensure compliance.
- 62 Some respondents also sought various new conditions to require evacuation on Code Red fire days. We do not support such conditions. Neither the local CFA captain nor the CFA participated in the hearing. The conditions are uncertain.
- 63 Some respondents sought conditions that require residents to only be drawn from the Hume Region. There is not a reasonable planning basis for this limitation. This is more a matter of Government policy, including policy for funding applications.
- 64 Some respondents sought conditions restricting the number of visitors allowed at any one time. The service offers limited visiting hours. The need for restrictions is not established. It is a matter that could be considered for inclusion in the management plan.
- 65 Some respondents sought a new condition that required Odyssey House to prepare a farm biosecurity program to prevent contamination of nearby farms. No expert evidence was called in support. We do not support the condition without establishing the level of risk and the need for any action to mitigate it.
- 66 On a similar theme, some respondents also sought a condition requiring Odyssey House to enter an agreement under section 173 of the *Planning and Environment Act 1987* requiring Odyssey House to 'acknowledge ... the neighbours right to farm'. We do not support that condition. We do not ascertain it offers any benefit. It is uncertain. It is not an appropriate matter for a permit condition. It would be better established by separate legislation for the farm sector as a whole.



## **BALANCING TASK**

67 As we have mentioned, the Scheme requires us to balance competing Scheme objectives in favour of net community benefit.<sup>7</sup> We have undertaken that task and are satisfied that approval of the proposal is an acceptable planning outcome having regard to the provisions of the Scheme and will result in the relevant net community benefit.

## **CONCLUSION**

68 For the above reasons, the responsible authority's deemed decision to refuse the applications will be set aside. We will grant a permit for the development subject to conditions and grant an amendment to the permit so that the use can operate in accordance with the development subject to amended conditions.

Geoffrey Code  
**Senior Member**

Shiran Wickramasinghe  
**Member**

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<sup>7</sup> The Scheme cl 71.02.





## APPENDIX A

<b>PERMIT APPLICATION NO</b>	P0130/20
<b>LAND</b>	1619 Kilfeera Road, Molyullah

### WHAT THE PERMIT ALLOWS

Construction of buildings and works for the purpose of a residential alcohol and drug rehabilitation service

## CONDITIONS

### Endorsed plans

- 1 Prior to commencement of development allowed by this permit (excluding demolition and site preparation), amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Team 2 Architects dated 19 July 2021 and 27 July 2021 (Project 756, drawing nos. PP0010 Rev 7, PP0020 Rev 7, PP0030 Rev 7, PP1010 Rev 7, PP2010 Rev 7, PP2020 Rev 7 & PP3010 Rev 6) but modified to show provision of waste disposal areas appropriately screened.

### Layout not altered

- 2 The development shown on the endorsed plan(s) must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.

### Landscaping

- 3 Prior to commencement of development allowed by this permit, Landscape Plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plans will be endorsed and will then form part of this permit. The Landscape Plans must be drawn to scale with dimensions and three copies must be provided. The Landscape Plans must be generally in accordance with the landscape plans prepared by Kelly Royle Landscape Architecture, revised 27 July 2021 and 4 August 2021 (Job No. 42, drawing nos. 01, 02, 03 and planting schedule).
- 4 Landscaping in accordance with the endorsed Landscape Plans must be carried out, completed and maintained for a minimum period of two (2) years after completion, to the satisfaction of the Responsible Authority.



Any dead, diseased or damaged plants must be replaced to the satisfaction of the Responsible Authority.

### **Construction management**

- 5 Prior to commencement of development allowed by this permit, a Construction Management Plan must be submitted to and approved by the Responsible Authority. Effective measures consistent with the approved Construction Management Plan must be taken during construction to:
- (a) Implement effective traffic management and environmental controls;
  - (b) Establish and maintain safe construction vehicle access to the site;
  - (c) Maintain vehicle and machinery hygiene;
  - (d) Avoid the spread of soil-borne pathogens and weeds;
  - (e) Minimise erosion, sedimentation and contamination;
  - (f) Reduce the impact of noise, dust and other emissions during construction.

### **Engineering plans**

- 6 Prior to commencement of development allowed by this permit (excluding demolition and site preparation), Engineering Plans and Specifications prepared by a suitably qualified engineer must be submitted to and approved by the Responsible Authority. The Engineering Plans and Specifications must:
- (a) include details of proposed stormwater diversion bunds and swales;
  - (b) demonstrate that the internal gravel access lane will be capable of accommodating vehicles up to 15 tons in accordance with CFA requirements (refer to CFA publication “preferred Requirements: Water Supplies and Access for Subdivisions in Rural Zones”);
  - (c) demonstrate that the upgraded all-weather sealed vehicle crossing will be in accordance with Council’s Infrastructure Design Manual (IDM) standard drawing SD255 (Rural Entrance) from the edge of the existing seal for a distance of 10m;
  - (d) demonstrate that all stormwater runoff originating from or transferred through the development in a 10 per cent AEP rainfall event will be collected and conveyed by underground pipes or open channels to a legal point of discharge; and
  - (e) demonstrate that all stormwater runoff from each building will be collected and conveyed to a practical and satisfactory destination, without adversely affecting any person, infrastructure or natural features in or beyond the boundaries of the subject land.





## **Infrastructure**

- 7 Unless with the prior written consent of the Responsible Authority, prior to occupation of the new buildings allowed by this permit:
- (a) the vehicle crossing, internal access ways, car parking areas and drainage infrastructure and associated works must be fully constructed in accordance with the endorsed plans and approved Engineering Plans and Specifications;
  - (b) the electricity network infrastructure must have been upgraded to meet the increased maximum demand;
  - (c) adequate water supply must be available to provide 20,000 litres of water on site daily. This may include the installation of a potable water treatment plant and installation of water tanks as required; and
  - (d) wastewater treatment and effluent disposal facilities must be installed to meet increased maximum demand;
- all to the satisfaction of the Responsible Authority.

## **Fill**

- 8 Any fill used as part of the development allowed by this permit must be selected, placed and compacted, in accordance with IDM standards, to the satisfaction of the Responsible Authority.

## **Floor levels**

- 9 The finished floor level of the new buildings allowed by this permit must be set at least 300mm above the highest ground level elevation under the building footprint.

## **Surface restoration**

- 10 As soon as practicable after construction allowed by this permit has been completed, all areas disturbed in the course of the works must be restored to minimise dust and erosion.

## **Expiry**

- 11 This permit expires if:
- (a) the development is not commenced within two years after the issue of the permit; or
  - (b) the development is not completed within four years after the issue of the permit.
- 12 Before the permit expires or within 6 months afterwards, the owner or the occupier of the land to which it applies, or another person with the written consent of the owner, may ask the responsible authority for an extension of time.



- 13 The owner or occupier of the land, or another person with the written consent of the owner, may ask the responsible authority for an extension of time to complete the development or a stage of the development if—
- (a) the request for an extension of time is made within 12 months after the permit expires; and
  - (b) the development or stage started lawfully before the permit expired.
- 14 The Responsible Authority may extend the time within which the use or development or any stage of it is to be started or the development or any stage of it is to be completed. If the time is extended after the permit has expired the extension operates from the day the permit expired.

**– End of conditions –**



## APPENDIX B

<b>PERMIT NO</b>	PD/02/00029
<b>LAND</b>	1619 Kilfeera Road, Molyullah

### AMENDMENTS TO THE PERMIT

For all the conditions in permit PD/02/00029, substitute the following conditions:

#### Plan required

- 1 The use must not commence until three copies of a site layout plan drawn to scale and with dimensions is submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show and/or include:
  - (a) all existing buildings;
  - (b) parking areas for staff and visitors;
  - (c) provision for solid waste disposal;
  - (d) details of water supply and re-use;
  - (e) details of a sewerage and wastewater treatment system;
  - (f) a landscape plan showing screen planting across the frontage of the land to soften the visual prominence of the “cottage” structure.
- 2 The endorsed plan(s) must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.

#### Unsealed access ways and car parking areas

- 3 Unsealed access ways and car parking areas must be paved with crushed rock or gravel of adequate thickness and maintained as necessary to prevent the formation of potholes and depressions according to the nature of the subgrade and vehicles which will use the areas. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.

#### Use of parking areas

- 4 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, unless with the prior written consent of the Responsible Authority.

#### Car parking to be clearly identified

- 5 The boundaries of all car spaces, access and egress lanes must be clearly indicated on the ground to the satisfaction of the Responsible Authority.



### **General amenity**

- 6 The use must not adversely affect the amenity of the locality, including, but not limited to, by way of unreasonable noise generated on the subject land being audible beyond the boundaries of the subject land.
- 7 There must be no use of the swimming pool on the site between the hours of 9.00pm and 7.00am.
- 8 The tennis court on the site must not be illuminated to enable its use after sunset or before sunrise.

### **No external public address system**

- 9 No form of public address or alarm system may be used on the subject land except one which is audible only within the subject land.

### **Maximum number of persons**

- 10 No more than 35 residential clients and five staff members may be accommodated on the land overnight at any time.

### **Staff members to be on-site**

- 11 At all times when residents participating in an alcohol and drug rehabilitation program are on the site a minimum of two staff members shall be present on the site. Such staff must be suitably qualified and experienced in the management and supervision of people with drug and alcohol dependency.

### **Complaints**

- 12 Prior to the commencement of the use approved pursuant to this amended permit, the operator under this permit must prepare a new *Complaints Handling Procedure*, to the satisfaction of the Responsible Authority, including (but not necessarily limited to) the following matters:
  - (a) A register of complaints that sets out:
    - i the date of a complaint;
    - ii details of the complaint with name, contact number and address, if relevant;
    - iii action to investigate the complaint and, if appropriate, action to rectify the complaint and date of the action;
    - iv details of any subsequent contact with the complainant regarding the complaint and any action taken to resolve the complaint, as appropriate;
    - v a process and timeframe for the review of the Complaints Handling Procedure by senior staff and management.



- (b) A process and timeframe for the operator to consult with and consider solutions proposed by local community members to resolve complaints and any identified issues.
  - (c) A process and timeframe for the regular submission of copies of the Complaints Handling Procedure to the Responsible Authority.
- 13 The complaints register and the *Complaints Handling Procedure* shall be made available for examination by the Responsible Authority at all reasonable times on request by the Responsible Authority.

### **Drugs of addiction**

- 14 No schedule eight drugs or other drugs of addiction shall be kept on the land unless prescribed for a resident by a medical practitioner.

### **Management plan**

- 15 Prior to commencement of the use a Management Plan must be prepared and submitted to the Responsible Authority for approval and, once approved and endorsed, the Management Plan will form part of this permit and must be complied with at all times. The Management Plan must be to the satisfaction of the Responsible Authority including (but not necessarily limited to) the following matters:
- (a) an overview of the therapeutic residential drug and alcohol rehabilitation program;
  - (b) management processes for the safe and orderly operation of the use;
  - (c) a community education and engagement program in relation to the operation of the use by Odyssey House;
  - (d) land management practices including management of weeds and vermin, fire prevention, erosion control and stock control.

The Management Plan may be amended with the written consent of the Responsible Authority.

### **Use only by Odyssey House**

- 16 The land may only be used for the purpose permitted if the use:
- (a) is operated by Odyssey House Victoria or such other organisation as is to the satisfaction of the Responsible Authority; and
  - (b) is operated as a therapeutic residential alcohol and drug rehabilitation program, known as *Circuit Breaker*, unless otherwise approved in writing by the Responsible Authority.



### **Commencement of use**

- 17 This permit will expire if the use permitted by this permit is not commenced within two years from the date hereof or is discontinued for a period of two (2) years. The time within which the use must commence may on written request made before or within 6 months after the expiry of this permit be extended by the Responsible Authority.

**- End of amendments to conditions -**





#### 4. Draft *Domestic Animal Management Plan 2021-2025* – Consideration of Submissions

SF/2564

Wayne Rich – Compliance Coordinator

Nilesh Singh – Manager Development

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#### PURPOSE OF REPORT

The briefing considers submissions received on the draft *Domestic Animal Management Plan 2021-2025*.

#### BACKGROUND

That the Planning and Development Committee on 3 November 2021, acting under its delegated authority of the Council, resolved:

1. *That the draft Domestic Animal Management Plan 2021-2025 be endorsed for community consultation.*
2. *That the draft Domestic Animal Management Plan 2021-2025 be placed on public exhibition for a period of at least 28 days.*

Public notice of community consultation on the draft *Domestic Animal Management Plan 2021-2025* (the Plan) was given on the Council's website on 4 November 2021 and in the *Benalla Ensign* on Wednesday 10 November 2021.

Feedback was also sought via the Council's website and the Plan promoted on social media.

Public listening posts were conducted in the central business district on 19 November 2021, at Churchill Reserve on 24 November 2021 and the Benalla Lakeside Craft and Farmers Market on 27 November 2021.

The submission period closed 5pm Thursday 2 December 2021.

#### DISCUSSION

At the close of the consultation period 104 submissions were received from the public.

Submissions have been provided to the Councillors via MS Teams and are available for download on the Council's website [www.benalla.vic.gov.au](http://www.benalla.vic.gov.au)

The majority of the received submissions were electronic surveys completed via Council website.

Hard copy surveys were also received through Council listening posts and submitted directly to staff in attendance or through the Customer Service Centre.

A smaller number of submissions were emailed directly to Council.

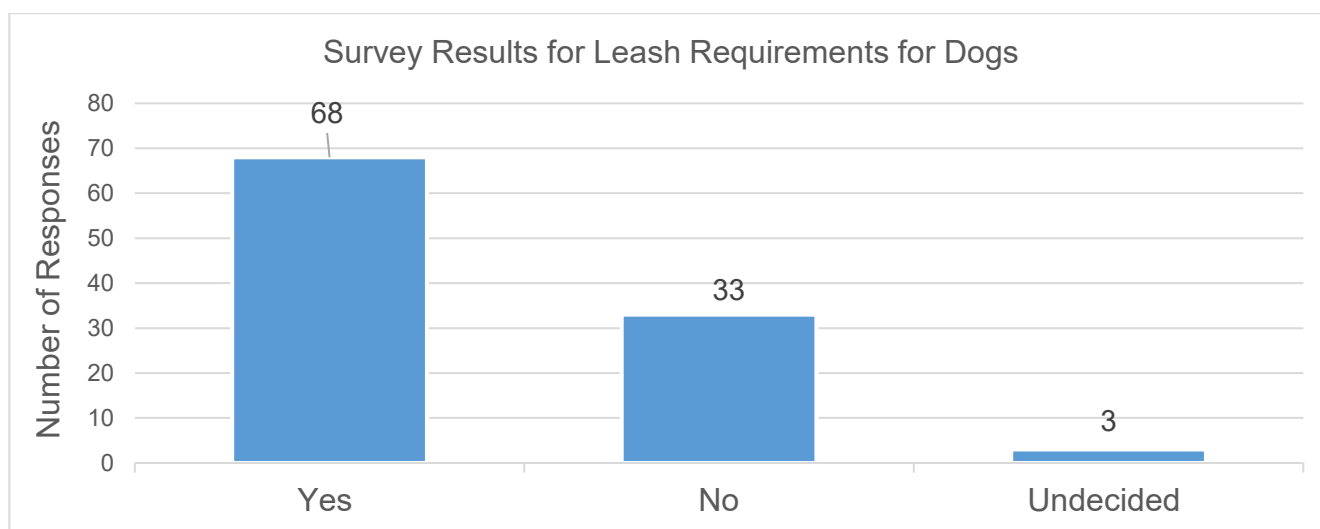


An analysis of the submissions showed that most respondents were in favour of Council implementing orders under *Domestic Animals Act 1994* Section 25 and 26(2).

Direct feedback was sought regarding:

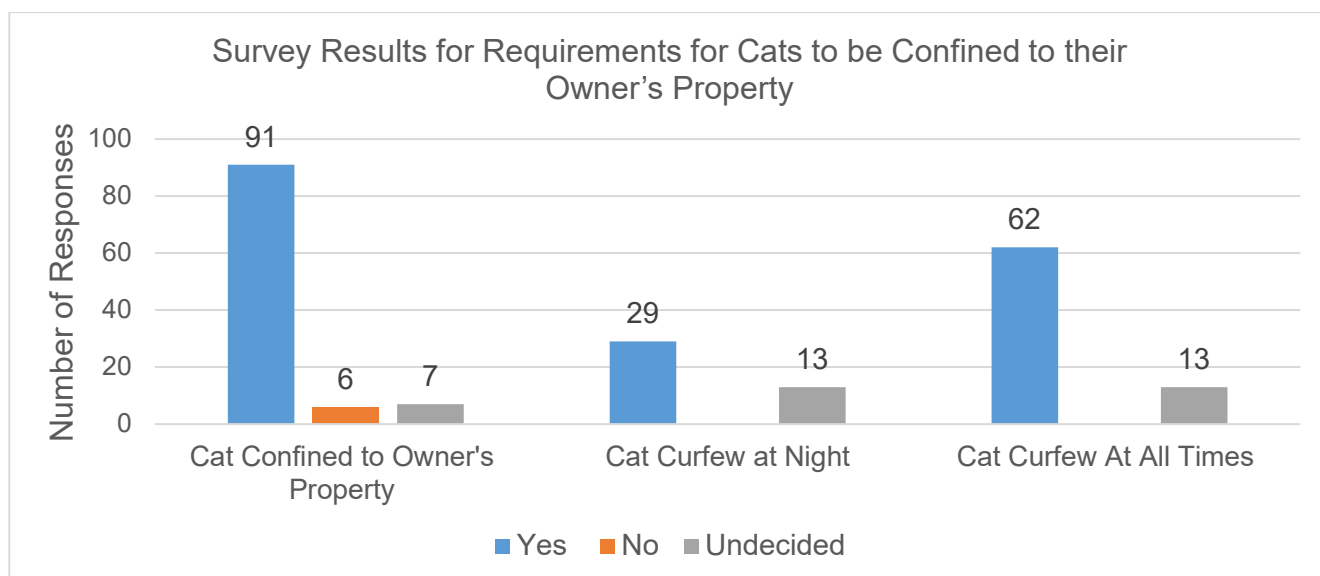
- For or against a Council order requiring dogs to be on a leash when outside the owner’s property. Sixty-five per cent of submitters were for and 32 per cent were against requiring dogs to be under effective control by way of cord, chain or leash when outside of the property at which they are kept.

**Table 1 – Survey Results for Leash Requirements for Dogs**



- For or against a Council order requiring cats to be confined to their owner’s property at all times or during night-time hours. Eighty-seven per cent of submitters were for and 6 per cent were against cats to be securely confined to their property at all times.

**Table 2 - Survey Results for Requirements for Cats to be Confined to their Owner’s Property**

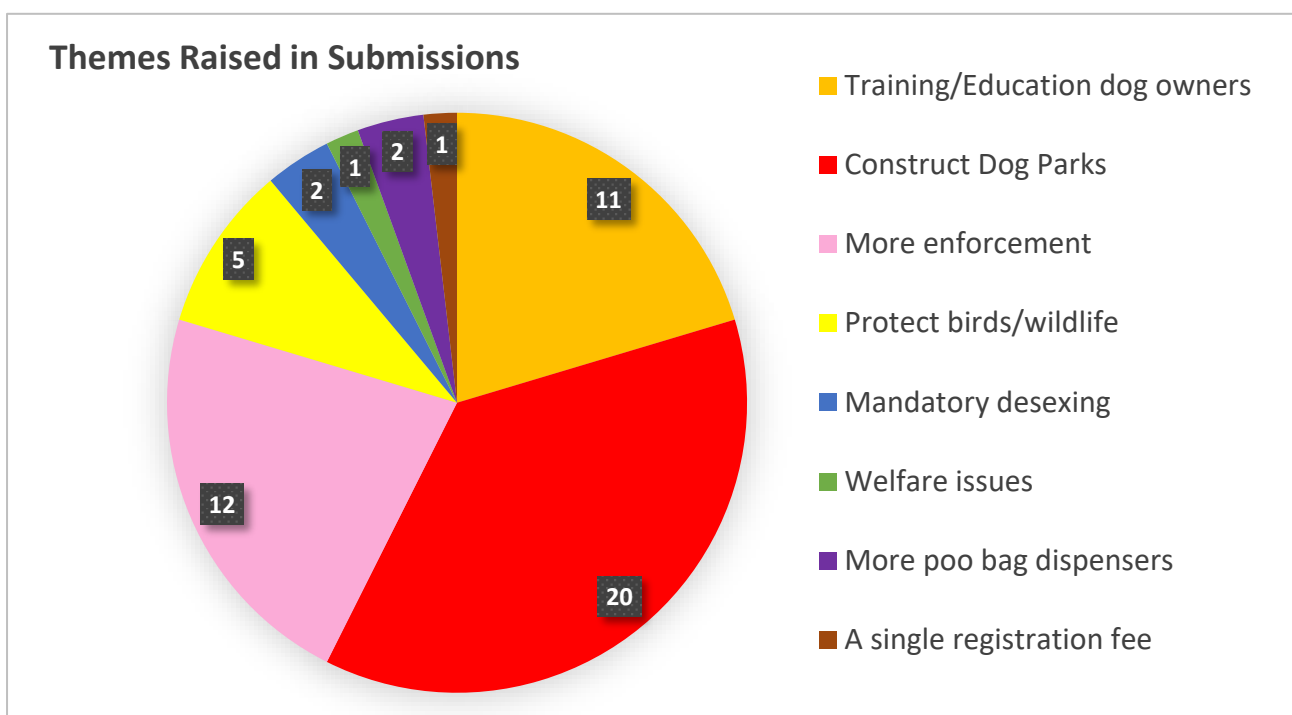


In addition to the survey results, respondents were able to submit other areas of concerns or issues they believed should be addressed in the *Domestic Animal Management Plan 2021-2025*.

Several concerns were already included in the draft *Domestic Animal Management Plan 2021-2025* and do not require any revision.

The concerns raised within the submissions have been divided into eight themes

**Table 3 – Themes Raised in Submissions**



Officer comments on the issues raised from submissions are attached as **Appendix 1**.

As a result of the submissions made, no modifications are required to the draft *Domestic Animal Management Plan 2021-2025*

In response to the submission survey results regarding cat curfews and dog leash requirements a Council Order under Section 25 and 26(2) of the *Domestic Animals Act 1994* has been prepared for Council consideration and is attached to this report as **Appendix 2**.

**COUNCIL PLAN 2021-2025 IMPLICATIONS**

**Leadership**

- Good governance.
- High performance culture.
- Engaged and informed community.

**FINANCIAL IMPLICATIONS**

The implementation of the *Domestic Animal Management Plan 2021-2025* will be accommodated within the existing budget.

**LEGISLATIVE AND STATUTORY IMPLICATIONS**

It is considered that the Plan is consistent with the *Charter of Human Rights and Responsibilities Act 2006* and *Gender Equality Act 2020*.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any general or material conflicts of interest in this matter.

**Recommendation:**

**That the *Benalla Rural City Council Domestic Animal Management Plan 2021-2025* be considered for adoption at the Council Meeting on 23 February 2022.**

## Draft Domestic Animal Management Plan 2021-2025 – Officer Comments on Submissions

Issue	Theme identified in public Submission:	Officer Comments:	Recommendation:
1	<p><b>Training and Education of dog owners</b></p> <p>11 submissions indicated a need for training and education for dog and cat owners to assist owners to better control their animals and keep their pets under effective control when in public places.</p> <p>Submitters also suggested that owners already effectively control their animals in public and further regulation is not necessary.</p>	<p>The proposed Council Order under Section 26 of the draft <i>Domestic Animals Act 1994</i> (the Act), for effective control of dogs in public places, is listed for consideration under the draft <i>Domestic Animal Management Plan 2021-2025</i> and includes a definition and requirements for effective control of dogs.</p> <p>Out of 104 submissions received as a result of the Community Consultation, 62 per cent were in favour of dogs on leash in public areas, as opposed to 32 per cent not in favour and 6 per cent undecided.</p> <p>Impounded dogs and cats are currently posted on Council social media to locate owners, along with regular educational posts regarding animal owners responsibilities and legislative requirements in newsletters.</p>	<p>Appendix to be added to the draft <i>Domestic Animal Management Plan 2021-2025</i> for the introduction of a Council Order under Section 26 of the <i>Domestic Animals Act 1994</i>.</p>
2	<p><b>Construction of Dog Parks</b></p> <p>20 submissions suggested that a dedicated dog parks with an enclosed area be constructed by Council to allow exercise of dogs off leash in a safe and controlled environment.</p>	<p>Off leash dog parks are listed for consideration within the draft <i>Domestic Animal Management Plan 2021-2025</i> as a part of the introduction of a Section 26 order for the restraint of dogs in public places.</p>	<p>No changes required to draft <i>Domestic Animal Management Plan 2021-2025</i> as it already includes provisions for off leash parks.</p> <p>Appendix to be added to the draft <i>Domestic Animal Management Plan 2021-2025</i> for the introduction of a Council Order under Section 26 of the <i>Domestic Animals Act 1994</i> (the Act).</p>

## Draft Domestic Animal Management Plan 2021-2025 – Officer Comments on Submissions

Issue	Theme identified in public Submission:	Officer Comments:	Recommendation:
3	<p><b>More Enforcement Action</b></p> <p>12 submissions suggested that Council Officers need to take more enforcement action against dog and cat owners reported to be committing offences against the Act, in particularly, nuisance barking and wandering.</p> <p>Submitters also suggested that the prosecution of offences be made simpler to encourage compliance.</p>	<p>Nuisance barking is regulated by the Act and the draft <i>Domestic Animal Management Plan 2021-2025</i> already includes a section dealing with this and other issues of nuisance animals.</p> <p>The <i>Domestic Animal Management Plan 2021-2025</i> contains details of training required for Authorised Officers of Council, including the investigation of offences and evidence gathering.</p> <p>The onus is on the investigating body (Council) to prove an offence beyond reasonable doubt in order to progress any enforcement or prosecution action, so we are rarely able to take action without reliable witnesses, officer observations or admissible evidence as per the requirements of the <i>Evidence Act 2008</i> and other relevant Acts and Procedures.</p> <p>Enforcement penalties are set by the Department of Justice and are adjusted every year, they cannot be changed by Council</p>	<p>No changes required to <i>Domestic Animal Management Plan 2021-2025</i> as it already contains requirement for Authorised Officer training in investigation, procedures and legislative changes.</p>
4	<p><b>Protection of Birds and Native Wildlife</b></p> <p>5 submissions expressed concerns regarding domestic cats hunting native animals/birds. Submitters emphasise that cats should be restricted from roaming to protect native wildlife.</p>	<p>Out of 104 submissions received as a result of the Community Consultation, 86 per cent were in favour of cats to be securely contained to their property, as opposed to 6 per cent not in favour and 8 per cent undecided. In addition to this, the majority were in favour of the containment requirements to apply at all times instead of just at night.</p>	<p>Appendix to <i>Domestic Animal Management Plan 2021-2025</i> to include Council order under Section 26 of the Act to require cat containment to their property at all times.</p>

## Draft Domestic Animal Management Plan 2021-2025 – Officer Comments on Submissions

Issue	Theme identified in public Submission:	Officer Comments:	Recommendation:
5	<p><b>Mandatory Desexing</b></p> <p>2 submissions suggested that desexing of dogs and cats should be mandatory and that the Council should encourage and subsidise desexing programs.</p>	<p>Whilst there is no requirement for mandatory desexing, there are objectives included in the <i>Domestic Animal Management Plan 2021-2025</i> dealing with seeking grants and funding for subsidised pet desexing programs and community education around the advantages of desexing pets.</p>	<p>No changes required to the plan.</p>
6	<p><b>Welfare Issues</b></p> <p>1 submission requested that Council look closer at welfare issues for domestic animals, specifically mandating the size of cages or runs for pets.</p>	<p>Animal welfare is covered in the Prevention of Cruelty to Animals Act 1986 and is not required to be covered by the <i>Domestic Animal Management Plan 2021-2025</i>.</p> <p>There is no minimum size requirement included in the <i>Domestic Animal Management Plan 2021-2025</i>, but it does include objectives toward seeking grants for education and classes for building of enclosures.</p>	<p>No changes required to the plan</p>
7	<p><b>Poo Bag Dispensers</b></p> <p>2 submissions suggested that more poo bag dispensers should be installed throughout the municipality and that all suburban streets should have dispensers rather than just the reserves and parks.</p>	<p>The <i>Domestic Animal Management Plan 2021-2025</i> contains objectives to maintain current level of poo bag dispensers in areas with high dog walking presence and a requirement to continue to identify new areas where dispensers may be required for installation.</p> <p>In addition, it is a requirement under the <i>Benalla Rural City Council Community Local Law 2017</i> for a person walking a dog to carry a receptacle for collection of faeces deposited by the dog.</p>	<p>No changes required to the plan.</p>

## Draft Domestic Animal Management Plan 2021-2025 – Officer Comments on Submissions

<b>Issue</b>	<b>Theme identified in public Submission:</b>	<b>Officer Comments:</b>	<b>Recommendation:</b>
<b>8</b>	<p><b>Single Lifetime Registration Fee</b></p> <p>1 submission suggested that animal registration should be a single lifetime fee similar to the NSW system of pet registration.</p>	<p>Annual registration for dogs and cats is a requirement under Section 10 of the Act and is therefore unable to be changed by Council.</p>	<p>No changes required to the Plan.</p>



Notice is hereby given that the Rural City of Benalla at its Ordinary meeting held on 23 February 2022, resolved to make the following orders under Section 25 and Section 26(2) of the *Domestic Animals Act 1994* ("the Act").

### **Cat Curfew**

**Pursuant to Section 25 of the Act**, cats within the municipality are to be securely confined to the owners property, or the property where they are kept for the time being, at all times.

### **Control of Dogs**

**Pursuant to Section 26 of the Act**, dogs and cats within the municipality must be kept under effective control by means of a chain, cord, or leash, not exceeding 3 metres in length, held by the owner and attached to the animal whilst the animal is in a reserve or public place.

**Owners Obligations:** A dog may be exercised off leash in a Designated area if the owner:

- Carries a chain, cord, or leash, not exceeding 3 metres in length, sufficient to bring the dog under effective control if the dog behaves in a manner which may worry, threaten or harass any person or animal, and
- remains in effective control of the dog by voice and/or hand command to promptly bring the dog under control by chain, cord, or leash if it becomes necessary, and
- does not allow the dog to worry, threaten or harass any person or animal.

**Exceptions:** If a dog is being exercised off leash in a Designated area, it must be brought under effective control of the owner by means of chain, cord, or leash if within:

- 30 metres of the principal location of an organised sporting event
- 30 metres of the principal location of an organised public meeting
- 30 metres of a permanent barbecue or picnic area when in use
- 10 metres of the perimeter of a playground
- 5 metres of a shared pathway.



**Prohibited Areas:** Areas where dogs and cats are not permitted at any time:

- Dogs and cats, restrained or otherwise, are prohibited within the perimeter of any playground at any time.
- Dogs and cats, restrained or otherwise, are not permitted within any prohibited area declared by Council.

**Definitions:**

**Effective Control** means that an owner of a dog or cat can immediately recall the animal by use of voice or hand control, keeps the animal within 50 metres of themselves in audio and visual range at all times and does not allow the animal to threaten, worry or harass another person or animal.

**Designated Area** means a reserve or other place that has been declared in a Council Order under Section 26(2) of the Act to be a place where dogs may be exercised off leash whilst under effective control.

**Owner** has the same meaning as in the *Domestic Animals Act 1994*.

**Public Place** has the same meaning as in the *Summary Offences Act 1966* and includes all Council reserves and municipal places.

**Review:** Council may, by order of resolution and after giving public notice inviting submissions on the proposal:

- remove a reserve or part of a reserve; and/or
- add a reserve or part of a reserve to the list of designated reserves.

**Designated Areas:**

- Little Casey Island
- Big Casey Island (signed areas only)
- Psaltis Parade Reserve
- U.F.S. Sports Reserve (signed areas only)

**Prohibited Areas:**

- Willis Little Parkland area

**Dom Testoni**  
**Chief Executive Officer**  
**Benalla Rural City Council**

## 5. Draft Road Management Plan 2021-2025 – Consideration of Submissions

SF/3403

Adrian Gasperoni – Manager Assets and Infrastructure

### PURPOSE OF REPORT

The report considers submissions received on the draft *Road Management Plan 2021 – 2025*.

### BACKGROUND

At its meeting on 23 June 2021, the Council resolved:

1. *That the draft Road Management Plan 2021-2025 be endorsed for public exhibition.*
2. *That the Chief Executive Officer be authorised to give public notice that the Council has prepared its draft Road Management Plan 2021-2025.*
3. *That the draft Road Management Plan 2021-2025 be placed on public exhibition in accordance with Section 7.3 of the Council's Governance Rules 2020 for a period of at least 28 days from Thursday 24 June 2021.*
4. *That submissions relating on the draft Road Management Plan 2021-2025 be heard at an additional meeting of the Planning and Development Committee on Wednesday 15 September 2021.*
5. *That the adoption of the Road Management Plan 2021-2025 be considered at the Council meeting on Wednesday 6 October 2021.*

At its Planning and Committee meeting on 29 September 2021, the Council resolved

1. *That submissions relating on the draft Road Management Plan 2021-2025 be heard at the Planning and Development Committee meeting on Wednesday 29 September 2021*
2. *That adoption of the Road Management Plan 2021-2025 be considered at the Council meeting on Wednesday 10 November 2021'.*

Public notice of the draft *Road Management Plan 2021-2025* was given on the Council's website and Benalla Ensign on Wednesday 30 June 2021.

Feedback was also sought via the Council's website and promoted on social media.

The submission period closed Thursday 23 September 2021.

**DISCUSSION**

At the end of the submission period eight submissions were received (refer **Appendix 1**):

1. David Morrow – Kilfeera Road, Service Road, Benalla
2. Margot Sherwill – Witt Street, Benalla
3. Adele Caneva – Tarnook Road/Pagets Road Intersection, Baddaginnie
4. Barry and Jeanette Woods – Woods Road, Devenish
5. Paul Miedzinski – Gandini Lane, Lima East
6. Jessica Downie – Gandini Lane, Lima East
7. Brian Vial and Andrea Stevenson – Willis Little Drive, Benalla
8. Colin Squires – Yellum Track, Moorngag

In accordance with the Council's *Governance Rules 2020*, submitters were invited to address the Planning and Development Committee on 29 September 2021.

Mr Brian Vial and Mr Colin Squires spoke in support of their submissions.

A summary of submissions and officer comments can be found in the table below:

No	Submission	Road	Officer Comments
1	David Morrow	Kilfeera Road, Service Road, Benalla	Kilfeera Road (Service Road) is reasonably required for general public use as the road abuts and provides direct access to Cooinda Village and meets the criteria in accordance with Council's Road Register assessment.
2	Margot Sherwill	Witt Street, Benalla	Witt Street is currently appropriately classified on Council's Road Register as Link Road. Pavement rehabilitation is currently being considered for future renewal works and is not being considered as of this report.
3	Adele Caneva	Tarnook Road/Pagets Road Intersection, Baddaginnie	Tarnook Road is currently appropriately classified on Council's Road Register as Link Road. Pagets Road is located within the Strathbogie municipal boundary. Intersection treatment of the Tarnook Road and Pagets Road is being considered for future works and is not being considered as part of this report.
4	Barry and Jeanette Woods	Woods Road, Devenish	Woods Road is currently appropriately classified as a Access Road on Council's Road Register. Concerns regarding immediate maintenance requirements have been noted and forwarded to Council's Operations unit for action.

No	Submission	Road	Officer Comments
5	Paul Miedzinski	Gandini Lane, Lima East	Gandini Lane is currently appropriately classified as a Collector Road on Council's Road Register. Concerns regarding immediate maintenance requirements has been noted and forwarded to Council's Operations unit for action.
6	Jessica Downie	Gandini Lane, Lima East	Gandini Lane is currently appropriately classified as a Collector Road on Council's Road Register. Concerns regarding maintenance has been noted and future maintenance and any upgrade works will be considered separately to this report.
7	Brian Vial and Andrea Stevenson	Willis Little Drive, Benalla	Willis Little Drive is currently appropriately classified as an Access on Council's Road Register. Any future new or upgrade works and may be considered separately to this report.
8	Colin Squires	Yellum Track, Moorngag	Yellum Track is currently on Council's Road Register and is classified and maintained as an Access Road for a total distance of 290 meters from the Midland Highway. This submission requests that Council consider providing maintenance for the remainder of the road reserve for a further 350 meters (i.e. total length 640 meters). This section of the road reserve provides access to one dwelling and adjoining farm land and meets the criteria for the road to be included on the Road Register in accordance with Council's Road Register assessment.

In summary, it is proposed that the draft *Road Management Plan 2021-2025* be amended to include the following roads on the Road Register, as identified in the above public submissions:

- That Kilfeera Road (Service Road), Benalla be added as an Access Road for a length of 190 metres, from Kilfeera Road to Kilfeera Road.
- That Yellum Track, Swanpool be added as an Access Road for a total length of 640 metres, from the Midland Highway.

In addition, the Midland Highway (Service Road), Lima South was identified by staff to be included in the *Road Management Plan 2021-2025*. The gravel road currently provides direct access to six dwellings and the Lima South Hall. The road is required for public use and meets the criteria for the road to be included on the Road Register.

**COUNCIL PLAN 2021-2025 IMPLICATIONS****Community**

- A healthy, Safe and resilient community.
- A connected, involved and inclusive community.

**Livability**

- Vibrant public spaces and places.
- Connected and accessible roads, footpaths, transport and parking.

**Leadership**

- Good governance.
- High performance culture.
- Engaged and informed community.
- Effective and responsive advocacy.

**FINANCIAL IMPLICATIONS**

There are no financial implications. Maintenance on additional road segments to the road register will be managed within existing operational budgets.

**LEGISLATIVE AND STATUTORY IMPLICATIONS**

It is considered that the Plan is consistent with the *Charter of Human Rights and Responsibilities Act 2006* and *Gender Equality Act 2020*.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any general or material conflicts of interest in this matter.

**Recommendation:**

**That the *Benalla Rural City Council Road Management Plan 2021-2025* be considered for adoption at the Council Meeting on 23 February 2022.**

## Item 5 - Appendix 1

**From:** noreply@opencities.com  
**To:** Benalla Council Email  
**Subject:** Draft Road Management Plan 2021-2025 Submitted  
**Date:** Monday, 5 July 2021 8:42:12 AM  
**Attachments:** Service-Road-Photo-5-07-2021.docx

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**Name:**

David Morrow

**The road I am referring to is required for general public access:**

Yes

**Road name:**

Kilfeera Road Service Road (Immediately east of Samaria Road/Kilfeera Road intersection)

**Road ID Number:**

not listed.

**I believe this road:**

**Please detail your feedback:**

Based on Road Register Assessment Form question 10, Cooina Village Inc. believes this road should be listed on the RMP as it provides fire fighting access to the aged care facility, as well as numerous other public access benefits. Please contact me to discuss further. David Morrow Executive Manager.

**Attach photos or any supporting information (optional):**

Service-Road-Photo-5-07-2021.docx (Attached).





**From:** noreply@opencities.com  
**To:** Benalla Council Email  
**Subject:** Draft Road Management Plan 2021-2025 Submitted  
**Date:** Thursday, 15 July 2021 9:55:36 PM

---

**Name:**

Margot Sherwill

**The road I am referring to is required for general public access:**

Yes

**Road Name:**

Witt street

**Road ID Number:**

**I believe this road:**

other

**Please detail your feedback:**

Witt St is carrying an enormous amount of traffic. It is a major route for Extons, the Concrete factory and Thales carrying a significant number of trucks including gravel, grain, stock AND B doubles. It is not an OD road. The surface is appalling. The new subdivision will exacerbate this further

**Attach photos or any supporting information (optional):**

No file attached





**From:** noreply@opencities.com  
**To:** Benalla Council Email  
**Subject:** Draft Road Management Plan 2021-2025 Submitted  
**Date:** Friday, 16 July 2021 11:09:40 AM

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**Name:**

Adele Caneva

**The road I am referring to is required for general public access:**

Yes

**Road Name:**

Tarnook Road

**Road ID Number:**

**I believe this road:**

other

**Please detail your feedback:**

Have had a few near misses with people cutting the corner at the Tarnook road/Pagets road intersection. Is there a plan for decent signage as a T intersection and road surface upgrade?

**Attach photos or any supporting information (optional):**

No file attached



[Redacted]  
Devenish 3726  
30/7/2021

Benalla Rural City  
Benalla  
benalla.vic.gov.au/have-your-say

BENALLA RURAL CITY COUNCIL			
30 JUL 2021			
FILE NO.	2	10	P
SF/2494			

Dear Sir, Madam,

Re Road Management Plan 2021-2025

Woods Road east of Devenish Township is a gravel road with many and varied potholes along the full length of the road to Lawsons Road.

After rain one cannot drive on the road without driving through the potholes full of water.

Some of the potholes are quite sharp and deep and water remains in the for many days.

It is becoming quite dangerous to drive on this road at a normal speed

Very little maintenance has been done on this road for decades.

This road needs urgent attention.

Thanking you,  
Barry and Jeannette Woods





**From:** noreply@opencities.com  
**To:** Benalla Council Email  
**Subject:** Draft Road Management Plan 2021-2025 Submitted  
**Date:** Tuesday, 17 August 2021 5:40:33 PM

---

**Name:**

Paul Miedzinski

**The road I am referring to is required for general public access:**

Yes

**Road Name:**

Gandini Lane

**Road ID Number:**

246

**I believe this road:**

other

**Please detail your feedback:**

It has been weeks for anyone to attempt to fix the huge pot holes throughout this road. To make matters worse cars and trucks have disregard of the road and its inhabitants. Our driveway is just below a crest which is a blind spot to on coming traffic (especially 4 wheel drives). Please fix.

**Attach photos or any supporting information (optional):**

No file attached.



# Brian Vial & Andrea Stevenson



## Feedback for Consideration in Council's Five Year Road Plan

Willis Little Drive subdivision dates back to the early 1970s.

The subdivision was for twelve houses on five-acre blocks, with a light-duty dead-end sealed road.

Twenty years ago, two more blocks from the Shawbrook subdivision were added at the West end.

In the last ten years, many of the five-acre blocks have been split into smaller blocks, and new houses built. At present, we have gone from the twelve houses to twenty four, with another four houses in the Planning and Approval phase, and more not yet on the market.

Along with the new families, there are young children in the street again. Because of the open table drains, mothers with strollers, and kids on bikes, and pedal-cars, have only the road to walk on.

Footpaths would be difficult, but there is scope to widen the shoulders of the road over most of its length.

Safety could be improved if it was made a 50 KPH street. Kilfeera rd is an 80 KPH zone at this point, and some drivers do speed.

Thank you for the opportunity to submit to the Five Year Road Plan.

Brian Vial & Andrea Stevenson





**From:** Jessica Downie  
**To:** Benalla Council Email  
**Cc:**  
**Subject:** Draft Road Management Plan  
**Date:** Monday, 30 August 2021 3:29:52 PM

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Hello,

I am emailing as I tried to leave feedback on the website but it stopped at a certain amount of characters:

Road Name: Gandini Lane

Road ID No: 675

I believe this road: requires a review of its maintenance regime

I am requesting a review of the maintenance regime of Gandini Lane in Lima East. This road is used as a main point of ingress and egress onto the Midland highway by a variety of vehicles including cars, trucks and heavy load trucks (e.g. quarry trucks) and people. This road has been in poor condition and currently does not meet the 'collector road' 'road type and description' requirements laid out in the Draft Road Management Plan.

There are multiple issues with this road that don't meet the 'road type and description' for a collector road including:

Poor form and drainage - throughout the year water runs down the surface of the road causing road surface erosion and potholes. Key areas of the road should also be considered for an upgrade - for example building the road up and re-sheeting it to help with drainage and erosion control. If an upgrade is not viable a re-assessment of road drainage and grading the road to the required standard should be undertaken.

The upgrade of key culverts along the road should also be considered, in some spots the road is damaged at a faster rate due to culvert placement, size and cleaning regime causing issues with drainage and water collection.

Several areas along the road have severe potholes and reduce drivers speed below 50km/h Graveling is poor and the road isn't maintained to a fair standard.

A regular maintenance schedule would mean the road is inspected and maintained on a regular basis rather than an ad hoc one as it is now. Regular inspections and maintenance will result in the reduction of issues and larger maintenance programs having to be completed.

Other roads in the area do not have the amount of traffic and maintenance issues as this one and are generally kept in a fair - good condition.

If you would like to speak to me further my details are below:

Phone:

Thanks

Jess Downie



COMPANY NAME \_\_\_\_\_  
 APPLICANT NAME Colin Squires  
 POSTAL ADDRESS [REDACTED]  
 PHONE (BH) [REDACTED] FAX \_\_\_\_\_  
 EMAIL [REDACTED]

**CONTRACTOR DETAILS**

CONTRACTOR NAME N/A ABN \_\_\_\_\_  
 POSTAL ADDRESS \_\_\_\_\_  
 PHONE (BH) \_\_\_\_\_ FAX \_\_\_\_\_  
 EMAIL \_\_\_\_\_  
 PLI CERTIFICATE OF CURRENCY SUPPLIED Yes  No  (refer to Important Information below)

**DETAILS OF WORKS TO BE CARRIED OUT**

PROPERTY ADDRESS CA2008 Morngag - Yellum Track  
 \_\_\_\_\_

NATURE OF WORKS  Stormwater connection  Water connection  
 New vehicle crossing  Extension/replacement of existing crossing  
 Other Open access for property owner of CA 106A adjoining road reserve.  
Access to the end of the road reserve is blocked by a fence.

SURFACES TO BE OPENED	TYPE	MATERIAL	ESTIMATED SIZE
<input type="checkbox"/>	Road carriageway	<input type="checkbox"/> Concrete <input type="checkbox"/> Asphalt <input type="checkbox"/> Gravel	_____ m <sup>2</sup>
<input type="checkbox"/>	Laneway	<input type="checkbox"/> Concrete <input type="checkbox"/> Asphalt <input type="checkbox"/> Gravel	_____ m <sup>2</sup>
<input type="checkbox"/>	Footpath	<input type="checkbox"/> Concrete <input type="checkbox"/> Asphalt <input type="checkbox"/> Gravel	_____ m <sup>2</sup>
<input type="checkbox"/>	Kerb and channel		_____ m <sup>2</sup>
<input type="checkbox"/>	Nature strip		_____ m <sup>2</sup>
<input checked="" type="checkbox"/>	Other <u>Road Reserve CA2008</u>		_____ m <sup>2</sup>

PROPOSED DATES Start ASAP / / Finish On going access required



## Closure of Meeting