

Planning and Development Committee

Agenda

Date: Wednesday 27 July 2022

Time: Following the 5.30pm Finance and Operations Committee

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.

Members of the public are encouraged to watch the live broadcast of the meeting at 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 or telephoning Governance Coordinator Jessica Beaton on (03) 5760 2600.

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

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Agenda

- Chair** Councillor Danny Claridge
- Councillors** Councillor Peter Davis
 Councillor Don Firth
 Councillor Bernie Hearn (Mayor)
 Councillor Punarji Hewa Gunaratne
 Councillor Justin King
 Councillor Gail O’Brien

- In attendance**
- | | |
|------------------|-----------------------------------|
| Dom Testoni | Chief Executive Officer |
| Robert Barber | General Manager Corporate |
| Adrian Gasperoni | Manager Assets and Infrastructure |
| Nilesh Singh | Manager Development |
| Joel Ingham | Planning Coordinator |
| Jessica Beaton | Governance Coordinator |

Acknowledgment of Country

We, the Benalla Rural City Council, acknowledge the traditional custodians of the land on which we are meeting. We pay our respects to their Elders past and present and to Elders from other communities who may be here today.

Apologies

Recommendation:

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

Confirmation of the Minutes of the Previous Meeting

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

Recommendation:

That the Minutes of the Planning and Development Committee Meeting held on Wednesday 22 June 2022 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. P0021/22 – Multi-Lot Subdivision (43 lots), and the creation of an access to a Transport Zone 2, Sydney Road, Benalla

DA4791/5

Joel Ingham – Planning Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

This report assesses a planning application (P0021/22) received for a multi-lot subdivision (43 lots) and the creation of an access to a Transport Zone 2 at PC370332, Sydney Road, Benalla.

BACKGROUND

Site Address	PC370332, Sydney Road, Benalla.
Existing Use	The land is currently vacant and used for small scale grazing purposes.
Proposal	Multi- Lot subdivision (43 Lots) and the creation of an access to a Transport Zone 2
Applicant	Seatham Holdings Pty Ltd
Zone	General Residential Zone (GRZ)
Overlays	Design and Development Overlay Schedule 1 (DDO1)
Referrals	<ul style="list-style-type: none"> ▪ Country Fire Authority (CFA) ▪ North East Water (NERWA) ▪ Ausnet ▪ APA Group ▪ Department of Transport

PROPOSAL

The proposal seeks approval to subdivide the land into 43 residential lots in two stages, including the creation of an access to a Transport Zone 2. The proposal will have the following characteristics:

Subdivision

Stage 1

Stage 1 of the subdivision will be located within the western portion of the site. This stage will provide for 21 residential lots ranging in area from 403 square meters to 973 square meters.

This stage contains the main accessway into the site. The site will be accessed directly from Sydney Road through an existing unused road reserve which connects to the subject land. The width of the unused road reserve is 20.1 meters which is adequate in which to provide a road and associated infrastructure in accordance with the Infrastructure Design Manual.

A pedestrian accessway to a width of 10 meters will be located within the north-west portion of the site providing access to a proposed public open space area to the west. This public open space area was approved within a 131 lot subdivision to the north and west of the site and has an overall area of 7,539 square meters.

Stage 2

Stage 2 of the subdivision will be located within the eastern portion of the site. This stage will provide for 22 residential lots ranging in area from 340 square meters to 846 square meters. This stage will contain a 3,036 square meters reserve for the purpose of a drainage retention basin within the rear north-east corner of the site.

The subdivision will be accessed from the main single access point to Sydney Road, Benalla. A loop road reserve to a width of 16 meters will then provide access to all lots within the subdivision.

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

A plan of the approved 131 lot subdivision to the north and north west of the site is attached in **Appendix 2**.

Site and Surrounds

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

The land is located on the north side of Sydney Road, Benalla approximately 550 meters west of the roundabout to Witt Street, Samaria Road and Bridge Street East, Benalla. The land is generally rectangular in shape with the exception of a small portion of land within the north east portion of the site. The land contains a south boundary length of 201.17 meters, an east boundary length of 208.67 meters and a west boundary length of 174.65 meters, with an overall site area of 3.817 hectares.

The land contains a small disused outbuilding within the south west corner of the site. Apart from this structure the land is generally vacant with the exception of sparse scattered exotic vegetation. The land is currently used for small scale grazing.

Connection to Sydney Road, Benalla is provided by two unused road reserves. One road reserve enters the site towards the west portion and the other towards the east portion of the site. Both road reserves have a width of 20.12 meters and a length of approximately 50 meters from the site to Sydney Road, Benalla.

Land to the north and north-west of the site is located within a General Residential Zone. This land has recently obtained planning approval for a 131 lot residential subdivision. Stage 1 of the subdivision is nearing commencement of works.

Land to the north east of the site is located within an Industrial 1 Zone and Public Use Zone Schedule 1 (service and utility). This land is owned by Council and provides drainage provision through to a retention basin in Witt Street, Benalla. Other than drainage provision this land is vacant with the exception of a dam.

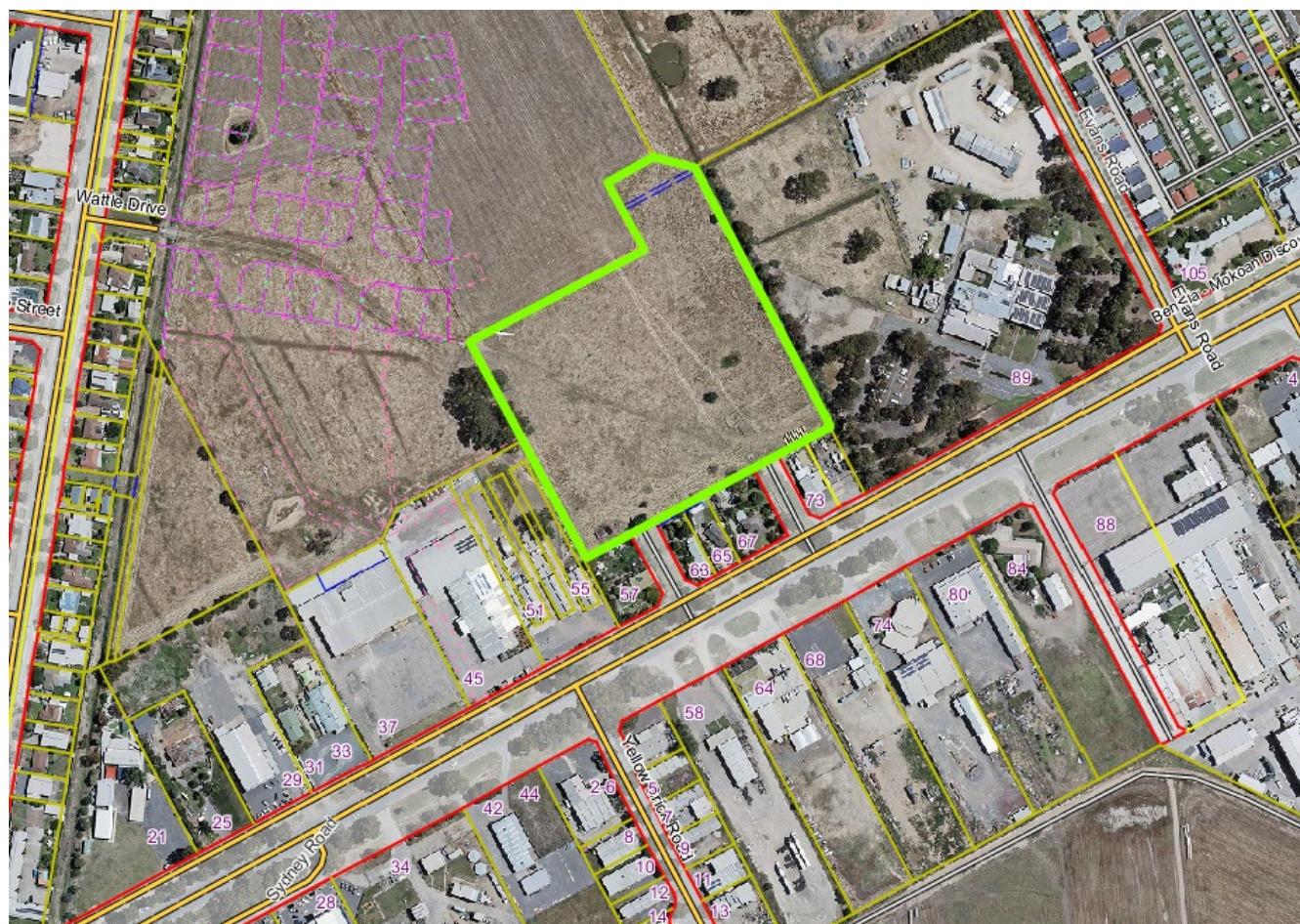
Land to the east of the site is located within an Industrial 1 Zone and contains the offices and depot for the Department of Environment, Land, Water and Planning.

Land to the south of the site fronting Sydney Road, Benalla is located within a General Residential Zone and contains single residential dwellings with the exception of an auto electric use abutting the south east corner of the site.

Further south across Sydney Road, Benalla is an Industrial 1 Zone which contains an emergency services facility (SES), tyre facility and other industrial buildings.

Land abutting the site to the west and south west is located within a Commercial 1 Zone which contain service industry type uses such as windscreen repairs and plumbing supplies.

LOCALITY MAP



Public Notification

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

- placing a sign on the Sydney Road, Benalla frontage of the site
- sending notices to all adjoining and opposite landowners and occupiers.

One objection which included a petition containing four signatures was received to the proposal. The objection can be summarised as follows:

- The proposal will increase traffic including heavy machinery.
- The proposal will affect access to existing residential properties.
- There is no information on easement location and the impact they may have on adjoining properties.
- Insufficient emergency access with only one access/egress point.
- Costs involved with the construction of boundary fences.

Planning Scheme Provisions

Planning Policy Framework (PPF)

Clause 11.01-1L of the *Benalla Planning Scheme* relates to Local settlements- Benalla and has the following strategies:

- *Ensure that use and development is consistent with the Benalla Structure Plan, Benalla CBD Structure Plan, North West Outline Development Plan and West Benalla Outline Development Plan 2005.*
- *Ensure new residential development is fully serviced with electricity, telecommunications, water, stormwater and sewerage.*
- *Create large, strategically located areas of open space that link with other forms of open space.*
- *Encourage infill housing development that maintains the prevailing residential character.*
- *Protect the landscape character and environmental integrity of Lake Benalla and environs.*
- *Retain the built form integrity of heritage areas.*
- *Encourage development that maximises tourism opportunities, including for the Winton Wetlands.*

Clause 11.01-1S (Settlement) of the *Benalla Planning Scheme* has the objective:

To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

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

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

Clause 11.02-1S (Supply of urban land) of the *Benalla Planning Scheme* has the objective:

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Clause 11.02-3S (Sequencing of development) of the *Benalla Planning Scheme* has the objective:

To manage the sequence of development in areas of growth so that services are available from early in the life of new communities.

Clause 11.03-2S (Growth Areas) of the *Benalla Planning Scheme* has the objective:

To locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create sustainability benefits while protecting primary production, major sources of raw materials and valued environmental areas.

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

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

Clause 15.01-4S (Healthy neighbourhoods) of the *Benalla Planning Scheme* has the objective:

To achieve neighbourhoods that foster healthy and active living and community wellbeing.

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

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

Clause 18.01-1S (Land use and transport integration) of the *Benalla Planning Scheme* has the objective:

To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.

Clause 18.01-2S (Transport system) of the *Benalla Planning Scheme* has the objective:

To facilitate the efficient, coordinated and reliable movement of people and goods by developing an integrated and efficient transport system.

Clause 18.01-2L (Transport system) of the *Benalla Planning Scheme* has the following strategies:

- *Plan for and protect a corridor for a high speed train linking Sydney to Melbourne.*
- *Protect the Hume Freeway and North Eastern Railway from sensitive uses.*
- *Limit the number of access points to main roads and the Hume Freeway to improve safety.*
- *Encourage development to be set back from main roads and the Hume Freeway to reduce the effects of noise.*

Clause 18.01-3S (Sustainable and safe transport) of the *Benalla Planning Scheme* has the objective:

To facilitate an environmentally sustainable transport system that is safe and supports health and wellbeing.

Clause 18.02-4S (Roads) of the *Benalla Planning Scheme* has the objective:

To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.

Zone

Clause 32.08 General Residential Zone (GRZ)

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

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

A permit is required to subdivide land within the General Residential zone. An application for subdivision must be assessed in accordance with Clause 56 of the *Benalla Planning Scheme*.

Overlay

Clause 43.02 Design and Development Overlay Schedule 1 (DDO1)

The site is affected by a DDO1. The design objectives to this overlay are as follows:

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

A planning permit is required to subdivide land under the provisions of this overlay.

Particular Provisions

Clause 52.29 of the *Benalla Planning Scheme* relates to land adjacent to the principle road network. The purpose of this provision is as follows:

- *To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.*
- *To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.*

A planning permit is required to create an access to a road in a Transport Zone 2. In this instance Sydney Road is located within a Transport Zone 2.

Referrals

External Referrals/Notices required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
CFA	No objection subject to conditions
North East Water	No objection subject to conditions
AusNet	No objection subject to conditions
APA Gas	No objection
Department of Transport	No objection subject to conditions

Clause 56 – ResCode

The following table provides details on whether the proposal complies with the requirements of Clause 56 of the *Benalla Planning Scheme*. Under the provisions of Clause 56 of the Benalla Planning Scheme, a development:

- must meet all of the objectives
- should meet all of the standards.

If ,however, the Council is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C1	Strategic Implementation	√	√	The applicant has submitted satisfactory documentation with the proposal outlining how the proposal is compliant with the objectives of the planning scheme.
C2	Compact and walkable neighbourhoods	√	√	The proposed subdivision will create a road network that is permeable for pedestrians and bicycles. A pedestrian (footpath) link is provided to a proposed open space area to the west of the site and footpath linkages are provided to Sydney Road, Benalla. Sydney Road, Benalla contains a footpath and bicycle link to the Winton Wetlands and Benalla Township. The nearest bus stop is located 350 meters to the east of the site in proximity to Evans Road, Benalla.
C3	Activity centres	√	√	The site is located on the outskirts of Benalla Township. The land is only located 1.1 kilometres from the closest food shopping facilities and is located in proximity to Commercial 1 Zone abutting the site to the west.
C4	Planning for community facilities	√	√	There are no community facilities designated to be located within the subject site in any strategic plans for the overall area. Community facilities such as Benalla Hospital, Benalla Performing Arts and Convention Centre and aged care facilities are located in proximity to the site to the south.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C5	Built environment	√	√	<p>The proposed lot layout is considered to be characteristic of a normal residential subdivision. The proposal provides for a mixture of lot sizes that will provide for residential development consistent with the adjoining proposed subdivision to the north and north west of the site.</p> <p>The surrounding built environment contains an eclectic mix of retail, office and industrial type uses to the west and east of the site. Such uses may impact on the amenity of residential dwellings from time to time with regard to noise which should be addressed by permit condition. It is considered that the following be undertaken prior to Statement of Compliance for the subdivision:</p> <ul style="list-style-type: none"> ▪ An acoustic report be undertaken to the satisfaction of the Responsible Authority. ▪ Any measures required as a result of the acoustic report must be implemented prior to Statement of Compliance. ▪ A Section 173 Agreement be entered into between the owner and Council to the affect that there are surrounding uses to the site that may cause intermittent amenity impact to residents of the site. <p>Subject to such conditions it is considered that amenity impacts to future residents can be appropriately protected to a reasonable level in accordance with the relevant noise standards.</p>
C7	Lot Diversity and Distribution	√	√	<p>The proposal will provide for a diverse range of lot sizes from 340 square meters square meters to 973 square meters. The variance in lot sizes will lead to a diverse range of housing types and styles to suit individual landholders in the future.</p>
C8	Lot Area and Building Envelopes	√	√	<p>Most of the lots proposed are in excess of 450 square meters. A condition of any permit can require building envelopes to lot sizes of less than 450 square meters to provide for dwellings which meet the area and siting requirements of the planning scheme.</p>

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C9	Solar Orientation of Lots	√	√	All sites that have a north-south orientation are of sufficient depth to provide for adequate sunlight to open space areas. Based on the design of any future dwellings it is considered that the proposal can achieve a high degree of solar orientation.
C10	Street Orientation	√	√	Most lots within the subdivision are orientated to front existing or proposed streets. Lots are considered large enough to allow adequate solar access.
C11	Common Area	N/A	N/A	N/A
C12	Integrated Urban Landscape	√	√	The proposal will provide a pedestrian link to a proposed public open space to the west of the site to integrate which open space area to the site and surrounds. A landscape plan will be required as a condition of the permit to provide for an integrated streetscape theme throughout the site.
C13	Public Open Space	√	√	A condition of the permit will require that the applicant provide a contribution to Council being 5 per cent of the site land value in accordance with the planning scheme. It is considered that a public open space area of 5 per cent (1,900 square meters) would be too small to be practical on the land.
C14	Integrated Mobility	√	√	The design of the subdivision contains a permeable layout, enabling ease of movement for pedestrians and cyclists through the site and into the wider pathway network around Benalla. A Traffic Impact Assessment has been submitted by the applicant detailing that the proposal is an appropriate response to Clause 56.06 of the Benalla Planning Scheme and also to the relevant provisions of the Infrastructure Design Manual.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C15	Walking and Cycling Network	√	√	The proposal provides for road widths which will encourage pedestrian and bicycle movement through the subdivision with linkages to the west of the site and to Sydney Road, Benalla. It is recommended that a 2.5m shared path be provided to link to the proposed public open space reserve to the west of the site. In addition, a 2.5m shared path can also be located in the 20m wide road reserve area connecting to the existing bike path in Sydney Road.
C16	Public Transport Network	√	√	The proposal does not include any provision for internal public transport services. An existing bus stop is located within 350 meters walking distance of the site in proximity to Evans Road. The development of this site within the catchment area of this bus stop will increase demand for this service adding in the viability of the overall public transport network in Benalla, further supported by the permeable layout of the footpaths and roads.
C17	Neighborhood Street Network	√	√	The proposed street network will connect to the existing road network to Sydney Road, Benalla. Conditions of the permit will require that all street networks are constructed in accordance with the Infrastructure Design Manual. The original proposal submitted by the applicant provided for two court bowls. To improve connectivity through the site the proposal was redesigned to remove the court bowls and link all roads within the subdivision with a loop road design.
C18	Walking and Cycling Network Detail	√	√	The proposed footpaths network will be designed to comply with Infrastructure Design Manual requirements.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C19	Public Transport Network Detail	√	√	The proposal does not include any provision for internal public transport services. An existing bus stop is located within 350 meters walking distance of the site in proximity to Evans Road, Benalla. An existing footpath along Sydney Road, Benalla will link the subject site to the bus stop.
C20	Neighborhood Street Network Detail	√	√	The street network has been designed to reduce traffic speeds throughout the site. The small lengths of road will result in a reduction in the ability to speed through the site as outlined within the submitted Traffic Impact Assessment report. A condition of the permit will require all recommendations within the report must be implemented prior to Statement of Compliance.
C21	Lot Access	√	√	The subject site will obtain site access from Sydney Road, Benalla. The proposal has been referred to the Department of transport who advise of no objections to the proposal subject to conditions. The main safety condition is to require a left in turn lane to the site. A condition of the permit will require this. The proposal will not provide for any lots with an area of less than 300 square meters and a condition of the permit will require all access roads to comply with the Infrastructure Design Manual.
C22	Drinking Water Supply	√	√	All lots will be connected to reticulated water.
C23	Reused and Recycled Water	√	√	Complies
C24	Waste Water Management	√	√	The subject site will be connected to a reticulated sewer system. North East Water advise of no objection to the proposal subject to conditions.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C25	Urban Run-off Management	√	√	Stormwater run-off from the newly created allotments will be directed into the proposed stormwater drainage network which has been designed to integrate with the existing drainage network surrounding the site.
C26	Site Management	√	√	Can be required as a condition of any permit issued.
C27	Shared Trenching	√	√	Services will be designed and constructed to link in with existing facilities. Reticulated water, sewerage, electricity, gas and telephone services will be connected to the newly created allotments and shared trenching will be utilised where appropriate.
C28	Electricity, Telecommunications and Gas	√	√	The new allotments will be connected to electricity, telecommunications and natural gas. These connections will be from existing infrastructure in proximity to the site.
C29	Fire Hydrants	√	√	Fire hydrants will be provided to the site so that the distance between the fire hydrant and the rear of each lot does not exceed 120 meters and that they are no more than 200 meters apart. The detailed location of these will be developed as part of servicing arrangements for the site.
C30	Public Lighting	√	√	Can be required as a condition of any permit issued.

Objectors Concerns

The proposal will increase traffic including heavy machinery

It is acknowledged that the proposal will increase traffic movements in the area along the unused road reserve and the proposed new intersection with Sydney Road, Benalla. The traffic movements are considered to be normal to a residential development which is envisaged by the residential zoning of the land. A traffic report has been submitted by the applicant which concludes that there are no traffic related reasons that would prevent the proposed development from occurring. This report has been referred to Council's Engineering Unit and the Department of Transport who have advised of no objection to the proposal subject to conditions.

The heavy machinery on site will be required to construct the proposed subdivision. A site management plan will be required as a condition of the permit to reduce the impact of on-site works to adjoining properties, which will include operating hours and dust suppression techniques.

The proposal will affect access to existing residential properties

Currently residents abutting the unused road reserve enjoy side access to road reserve area. It is considered that the proposed road will increase pedestrian movements to this area through the provision of footpaths. Vehicle access to the rear of the existing dwellings fronting Sydney Road, Benalla may also be obtained in future. As a result, it is considered that access to the existing residential properties will be maintained and possibly enhanced.

There is no information on easement location and the impact they may have on adjoining properties

The location of services and easements are undertaken after a planning permit has been issued. At this stage of the approvals process it is only required to ensure that services can be connected to the site.

Generally services are provided within the road reserve, however there are some services such as drainage and sewer that can be located along the rear boundaries of created lots. All drainage and sewer infrastructure within lots will be piped which will not cause unreasonable detriment to adjoining properties.

Insufficient emergency access with only one access/egress point

The proposed subdivision has been referred to the Country Fire Authority who advise of no objections to the proposal subject to conditions. The conditions relate to ensuring that there is appropriate provision of hydrants and ensuring adequate access is provided through the site for emergency vehicles. As a result, it is considered that there will be adequate emergency access to the proposed subdivision.

Costs involved with the construction of boundary fences

Boundary fencing is not covered by the *Planning and Environment Act 1987*. All boundary fencing matters are undertaken between the owners of the land in accordance with the Fences Act.

Design and Development Overlay Schedule 1

The purpose of this overlay is to ensure that development on the land does not impact on the flight path of the Benalla Airport. The height of development in this area based on the flight path map varies from 15m to 29m. Under the provisions of the General Residential Zone dwellings cannot exceed 11m in height. The maximum dwelling height of the General Residential Zone is below that shown on the flight path maps and as such it is considered that the proposal will not have an impact on the objectives of the Design and Development Overlay.

Particular Provisions

Clause 53.01 – Public Open Space Contribution and Subdivision

A public open space contribution to the amount of 5 per cent of the land value will be required as a condition of the planning permit.

Clause 52.29 – Land Adjacent to a Transport Zone 2

The proposal allows for only one access point into the site from Sydney Road. Two potential access points exist from unused road reserves connecting the land to Sydney Road. One is located within the west portion of the site and the other within the east portion of the site. The access to the land utilises the westernmost access point.

The proposal was referred to the Department of Transport for comment. The Department of Transport advised of no objection subject to conditions which require the following:

- A functional layout plan to the satisfaction of the Department of Transport showing a short auxiliary Left Turn Treatment into the site and ensuring that adequate sight distances are achieved.
- The requirement for only one access into the site from Sydney Road.

Further to this the Planning Policy Framework at the State and Local level (Clauses 18.01-2L and 18.02-4S) also encourage that the access points to main roads are limited in order to improve road safety.

Subject to conditions of the Department of Transport it is considered that the proposal will provide for safe and effective vehicle movements to Sydney Road.

DISCUSSION

The proposed subdivision is considered to comply with the Planning Policy Framework, the Local Planning Policy Framework as well as the requirements to Clause 56 (subdivision) of the Benalla Planning Scheme. The proposal provides for the infill development of existing residentially zoned land which is located in proximity to all services. The subdivision provides for a range of site sizes varying from 340 square meters to 973 square meters.

Subject to conditions the proposed subdivision can also provide for adequate drainage and road infrastructure. Reticulated water, sewerage, electricity and gas are available to the proposed subdivision.

The proposed lots are considered to be characteristic of a normal residential area and will provide for residential development in keeping with the residential surrounds to the north and north west of the site. Lots have also been designed to achieve maximum solar orientation.

The subdivision will provide for adequate pedestrian links to the adjoining approved subdivision to the west and pedestrian/vehicular movements to Sydney Road, Benalla. All of which will need to be designed in accordance with the requirements of the Infrastructure Design Manual.

Drainage provision has been designed within the rear north east corner of the site to join into existing Council drainage infrastructure to the north. This has been assessed as being a suitable outcome by Council's Engineering Unit.

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 / 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.

Recommendation:

That Council having caused notice of Planning Application No. P0021/22 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to grant a permit under the provisions of the Benalla Planning Scheme in respect of the land known and described as PC370332, Sydney Road, Benalla, for a multi lot subdivision and the creation of an access to a Transport Zone 2, in accordance with the endorsed plans, with the application dated 11 February 2022 and subject to the following conditions:

- 1 The subdivision as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.
- 2 Prior to the issue of a Statement of Compliance for each stage of the subdivision, the permit holder must undertake, or cause to be undertaken for that stage, full construction of all new access ways, drainage and related infrastructure as required by the conditions of this permit.

All the works must conform to plans and specifications prepared at the expense of the applicant by a qualified Engineer, and endorsed by the Responsible Authority prior to commencement of construction. Unless otherwise agreed in writing, the Authority will only approve plans and specifications that comply with the most recent version of the Infrastructure Design Manual (IDM) published by the Local Government Infrastructure Design Association, and with all relevant permit conditions.
- 3 Before certification, or any other such time as agreed by the Responsible Authority, streets within that stage must be named to the satisfaction of the responsible authority in accordance with the Guidelines for Geographic Names 2010.
- 4 The subdivision and staging as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.
- 5 Prior to the issue of a Statement of Compliance for the subdivision, all planning conditions and all other requirements of the responsible authority and the relevant referral authorities must be completed, or satisfactorily provided for, to the satisfaction of the Responsible Authority and the relevant referral authorities.
- 6 No restriction of title may be registered on the subject land unless otherwise approved in writing by the Responsible Authority.
- 7 Prior to the issue of a Statement of Compliance, the Applicant or Owner must provide land or pay to the Council a sum equivalent to five per cent of the *undeveloped site value* of all land in the subdivision in lieu of open space.

The Applicant or Owner must request Council, in writing, to undertake the property valuation and must pay the Council's reasonable costs and expenses to provide such a valuation.

- 8 The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, drainage, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.**
- 9 All existing and proposed easements and sites for existing and required utility services, drains and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the *Subdivision Act 1988*.**
- 10 The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**
- 11 The owner of the land must enter into an agreement with:**
 - (a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
 - (b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**
- 12 Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:**
 - (a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and**
 - (b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**
- 13 Prior to certification of the plan of subdivision, an acoustic report prepared by a suitably qualified person must be submitted to the Responsible Authority. The acoustic report must detail any measures required to reduce potential noise from adjoining commercial and industrial properties to the residential subdivision in accordance with relevant EPA requirements.**
- 14 Prior to Statement of Compliance for each stage of the subdivision, any recommendations outlined within the acoustic report must be undertaken and completed to the satisfaction of the Responsible Authority.**

15 Prior to Statement of Compliance for each stage of the subdivision, the owner of the land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 to provide that the owner of the land acknowledges that the:

- a) Land to the east and west of the site contains commercial and industrial uses that are established and existing uses in the area; and**
- b) Current and future use of the commercial and industrial uses may emit odour, dust and generally impact on the amenity of the area, land to which this planning permit applies and patrons/occupants of the subject land allowed under this planning permit.**

All costs associated with the preparation, checking and registration of the agreement must be borne by the owner/developer.

General Engineering

16 Prior to the issue of a Statement of Compliance, the applicant must undertake, or cause to be undertaken, full construction of all new access way, footpaths, drainage and related infrastructure. All these works must conform to plans and specifications prepared at the expense of the applicant by a qualified engineer, and approved by the Responsible Authority before construction begins.

Earthworks

17 Prior to the issue of a statement of compliance for each stage of the subdivision the permit holder must satisfy the Responsible Authority that:

- (a) where an existing dam, basin or other water body is to be filled, the area has been drained and desilted in accordance with IDM standards before filling commences.**
- (b) any fill required for finished surface levels to comply with drainage, building, parking and/or access requirements has been selected, placed and compacted in layers, in accordance with IDM standards.**
- (c) any batters formed, or retaining walls constructed, whose individual or cumulative height above or below ground level in adjacent properties exceeds one meter, and/or any soil stabilisation measures, have been designed by, and constructed under the supervision of, a qualified engineer, in accordance with IDM standards.**

18 Prior to the issue of a Statement of Compliance the applicant must satisfy the Responsible Authority that any fill required to ensure that the finished surfaces of the lots must be placed and compacted in accordance with the requirements of Clause 15.3 of the IDM.

- 19** Prior to the issue of a Statement of Compliance the applicant must satisfy the Responsible Authority that any fill required to ensure that the finished surfaces of the lots are located 300mm above the one per cent AEP flood. The 100-year ARI (one per cent AEP) flood levels have been declared for this area under provisions of the Water Act, 1989. Details of the proposed depth of flooding and flow velocities within roadways shall be provided to the satisfaction of the Responsible Authority to ensure public safety can be achieved.
- 20** All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:
- (a) the provisions of any Construction Management Plan; and
 - (b) Australian Standard AS3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the Responsible Authority.
- 21** Before the issue of a Statement of Compliance unless otherwise agreed in writing by the Responsible Authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority. The land must be filled in a manner that does not:
- (a) cause a nuisance on nearby land through the emission of dust; or
 - (b) adversely affect the drainage of adjacent land through sediment and the like.
 - (c) affect overland flow paths.

Drainage

- 22** Before construction begins for each stage of the subdivision, drainage plans and computations, prepared in accordance with IDM procedures and criteria, must be submitted to, and approved by, the Responsible Authority.
- 23** Prior to the issue of a statement of compliance for each stage of the subdivision the permit holder must satisfy the Responsible Authority that:
- (a) a legal point of discharge, connected to the external drainage network in accordance with IDM standards and without reducing the flow capacity or structural integrity of that network, has been established within the boundary of each Lot.
 - (b) all stormwater runoff originating from or transferred through each Lot in a 20 per cent AEP rainfall event will be collected and conveyed by underground pipes to a legal point of discharge.
 - (c) all stormwater runoff originating from or transferred through each Lot in a one per cent AEP rainfall event will be collected and conveyed to the proposed stormwater detention basin where possible, without adversely affecting any person, infrastructure or natural features in or beyond the Lot.

- (d) measures to improve drainage in the surrounding area have been considered, including measures to assist in and making provision for draining all external catchments and having no adverse effect on surrounding properties as a result of the development.
- (e) the finished surface level within all building envelopes associated with each Lot will be above the peak water level in nearby drainage reserves, waterways, floodways or water bodies in a one per cent AEP rainfall or flood event.
- (f) any necessary easements have been created to facilitate future connection to, and maintenance of, drainage infrastructure serving more than one Lot or property, and that no damage to the infrastructure contained in existing easements has been occasioned by the relevant construction processes and activities.

- 24 Prior to the issue of a Statement of Compliance, the applicant must satisfy the Responsible Authority that, where the proposed stormwater outlet from the basin discharges to an open channel, the integrity of the outfall point has been secured, the kinetic energy of the outflow reduced to levels acceptable to the Authority, the receiving channel protected against erosion, and the flow capacity of the channel is checked and is fit for purpose.

Water Sensitive Urban Design

- 25 Before construction begins for each stage of the subdivision, the applicant must satisfy the Responsible Authority that appropriate measures will be taken to enhance the quality of stormwater discharged from the developed site, in accordance with IDM procedures and criteria.

On-Site Detention

- 26 Before construction begins for each stage of the subdivision the permit holder must satisfy the Responsible Authority that:
- (a) sufficient on-site detention will be provided to limit the peak discharge from the developed site in a one per cent AEP rainfall event to the corresponding pre-development level for each stage as recommended by the IDM.
 - (b) any in-ground infrastructure intended to collect surface runoff and limit the resultant outflow will make provision to protect the relevant control device from blockage so far as reasonably practicable, and to mobilise an alternative flow path should blockage be experienced or pump failure occur.

Road Design

- 27 The permit holder must engage a qualified civil engineer to design the roads and intersections serving the development in accordance with IDM standards. The plans must be submitted to and approved by the Responsible Authority prior to the commencement of works. The plans must show to the satisfaction of the Responsible Authority:
- The provision of a 2.5m wide shared footpath within the 20m wide road reserve linking with the bike path in Sydney Road.
 - The provision of a 2.5m wide shared footpath within the pedestrian reserve linking the subdivision with the future reserve area to the west of the site.
- 28 All roads within the new subdivision and the intersections with Sydney Road must be provided with public lighting in accordance with the requirements of Australian Standard 1158.1 to the satisfaction of the Responsible Authority. New lighting should be located outside the Clear Zones wherever possible, and meet the standards for Category V or Category P lighting, as appropriate.
- 29 Prior to the issue of a statement of compliance for each stage of the subdivision the permit holder must satisfy the Responsible Authority that:
- a) all roads and intersections have been constructed in accordance with the approved designs and IDM standards.
 - b) all existing or proposed roads within the subject property have been provided with appropriate high-efficiency street lighting in accordance with IDM standards and AS1158.
- 30 Prior to the issue of Statement of Compliance for the relevant stage all streets and intersections must be designed in accordance with the recommendations outlined in the Traffic Impact Assessment prepared by Traffic Works dated 31/1/22 and where appropriate be designed in accordance with AS1742.13-2009 – Local Area Traffic Management.

Property Access

- 31 Prior to the issue of a statement of compliance for each stage of the subdivision as per section 12.9 of Councils IDM the permit holder must satisfy the Responsible Authority that a vehicle crossing providing each lot with safe and convenient access to and from a suitable public road has been designed, constructed, sealed and drained in accordance with IDM standards, to the satisfaction of the Responsible Authority. Vehicle crossings are not generally required to be constructed at the time of development where mountable or semi mountable or modified semi mountable kerb and channel is used, as these may be constructed during later building works when the final preferred location is known.

- 32 Prior to the issue of a statement of compliance for Stage 1 of the subdivision, the permit holder must satisfy the Responsible Authority that a gravel maintenance access driveway to and around the drainage basin / reserve has been constructed in accordance with IDM standards and to the satisfaction of the Responsible Authority.**

Landscaping

- 33 Before construction begins, a detailed landscape plan, must be prepared by a person suitably qualified or experienced in landscape design, and must be submitted to and approved by Council.**

The plan must show:

- (a) New plantings to be provided in any road reserves and municipal reserves;**
- (b) A detailed planting schedule of all proposed trees, shrubs and ground-covers;**
- (c) Paths, paved areas, structures and street furniture;**
- (d) Detailed planting and construction layout drawings, including site contours;**
- (e) Any changes to existing levels, including elements such as retaining walls;**
- (f) Certified structural designs or building forms where required; and**
- (g) Removal of existing infrastructure or stockpiles and weed eradication.**
- (h) Fencing of all Reserves to be handed over to Council.**

Prior to the issue of a statement of compliance for each stage of the subdivision all works shown on the landscape plan for that stage must be completed to the satisfaction of Council.

- 34 The landscaping works shown on the approved landscape plan for any stage must be carried out and completed to the satisfaction of the responsible authority prior to the issue of a Statement of Compliance for that stage or any other time agreed in writing by the responsible authority.**

Staged Development

- 35 Where the permit holder intends to complete a development in stages, plans and specifications for each stage, including any temporary works required to facilitate traffic movements once that stage is complete, must be submitted to and approved by the Responsible Authority before construction begins, and the permit holder must lodge with the Authority a bond sufficient to cover the full costs of upgrading any temporary works associated with the stage in question.**

- 36 Prior to the issue of a statement of compliance for each stage of the subdivision;**
- (a) should any drainage infrastructure essential to the operation of the completed stages be located outside the boundaries of those stages, the permit holder must satisfy the Responsible Authority that temporary easements must be provided so that the Authority has appropriate legal access to the infrastructure in question.**
 - (b) should any road terminate before the location of the permanent court bowl on completion of the stage, the permit holder must satisfy the Responsible Authority that a temporary court bowl has been designed and constructed in accordance with IDM standards, and arrangements must be made to ensure that the adjacent permanent sealed road surfaces are not damaged.**
- Within two years of the issue of a statement of compliance for each stage of the subdivision, unless development of the property beyond that point has commenced, the permit holder must satisfy the Responsible Authority that any temporary court bowl remaining from a previous stage has been designed, constructed and sealed in accordance with IDM standards.**

Infrastructure Transferred to Council

- 37 All civil infrastructure works, other than landscape elements, created by the development, and passing into the ownership and control of Council, must, following practical completion of the works, be maintained by the applicant in good condition and repair for a period of three months, with any subsequent defects being corrected as they become evident for a further period of nine months.**
- 38 All landscape elements, including vegetation integral to the operation of WSUD devices, created by the development, and passing into the ownership and control of Council, must be maintained by the applicant in good condition and repair, with all defects corrected, for a period of at least 24 months, including two complete summers, from practical completion. During this period, any dead, diseased or damaged (other than by intentional action) plants and/or landscaped areas must be repaired or replaced as soon as reasonably possible, rather than upon completion of the maintenance period.**
- 39 Prior to the issue of a Statement of Compliance for each stage of the subdivision:**
- (a) an itemised statement of the civil construction costs for the current stage, excluding GST, must be submitted to and approved by the Responsible Authority.**
 - (b) the permit holder must provide Council with a maintenance bond equal to 5 per cent of the approved civil construction costs for the current stage. This bond will be held by Council until any and all defects notified to the applicant before or during the maintenance and defects liability period have been made good to the satisfaction of Council.**

- (c) the permit holder must pay to Council plan checking fees equal to 0.75 per cent , and works supervision fees equal to 2.5 per cent , of the approved civil construction costs for that stage.
- (d) the permit holder must arrange for CCTV verification of all underground drainage assets which will be handed over to Council at the conclusion of that stage, and must supply the results of that verification to Council at the time, and in the format, specified in the IDM.
- (e) the permit holder must prepare and submit as-constructed drawings covering all civil construction works associated with that stage to Council in PDF and DWG or DXF format, geo-referenced to Zone 55, GDA 2020 or the current survey map base standards at the time and, to the satisfaction of the Responsible Authority.

Construction

- 40 Before construction begins for each stage of the subdivision a Site Management Plan for that stage of the subdivision must be submitted to and approved by the Responsible Authority, and effective measures consistent with the Plan must be taken 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;
 - (g) Prevent mud, dirt, sand, soil, clay or stones from entering the drainage system;
 - (h) Avoid having such materials deposited on public land by construction vehicles;
 - (i) Establish and maintain all recommended Tree Protection Zones.
- 41 During construction, no excavated or construction materials may be placed or stored outside the site area or on adjoining road reserves, except where the materials are required for any road or footpath construction works in such reserves which are required as part of this permit.
- 42 As soon as practicable after construction has been completed, all areas disturbed in the course of the works must be restored to their original condition, to the satisfaction of the Responsible Authority.
- 43 All works must be carried out generally in accordance with the measures set out in the Site Management Plan approved by the Responsible Authority.

- 44 All construction activities associated with the subdivision must be carried out in such a manner so as to not create nuisance to the satisfaction of the Responsible Authority.**

Country Fire Authority

45 Hydrants

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

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

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

46 Roads

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

- (a) The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12 per cent) (7.1 degree) entry and exit angle.**
- (b) Curves must have a minimum inner radius of 10 metres.**
- (c) Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.**
- (d) Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.**

North East Water

- 47 The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed, and other requirements to be met, necessary for the provision of reticulated water supply to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:**

- (a) where the development is staged, a number of agreements may be required for separate stages; and
 - (b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
- 48 The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed and other requirements to be met, necessary for the provision of reticulated sewerage services to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:
 - (a) where the development is staged, a number of agreements may be required for separate stages; and
 - (b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
- 49 Where the development (including any subdivision) occurs in stages the availability of water supply and sewerage services may be delayed having regard to NEW system capacity, conditions in relation to which shall be detailed in the relevant agreement for water supply and/or sewerage services.
- 50 The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:
 - (a) works external to the subject land to allow connection to the North East Water water supply and sewerage systems;
 - (b) the vesting at no cost of such of those works required by North East Water, to North East Water (“Developer Works”); and
 - (c) works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works
 - (d) internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
- 51 Any modification to the development approved under this permit, including an increase or decrease in the number of dwellings or lots (or both) or the inclusion of additional land, requires the further consent of and may be subject to modified conditions, to the satisfaction of, North East Water.
- 52 Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
- 53 Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to sewers and disposal systems currently servicing the area in which the subject land is located.

- 54 The applicant must create easements to the satisfaction of and in favour of North East Water, over all existing and proposed sewerage facilities within the proposed subdivision.
- 55 The applicant must ensure that private water services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
- 56 The applicant must provide easements through other land, to the satisfaction of North East Water, if such easements are considered necessary for the efficient and economic servicing of the subject land.
- 57 That the applicant pays applicable charges determined in accordance with North East Water's policy for development charges, applicable from time to time towards North East Water's sewers and disposal systems servicing the area to which the permit applies.
- 58 Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
- 59 Where an easement created in favour of North East Water is located within a proposed road reserve in a future stage, prior to the certification of the plan of subdivision for that stage, the applicant must formally remove the easement from the title to the land.
- 60 North East Water's consent to the issue of a Statement of Compliance under the Subdivision Act 1988 is conditional upon completion of all works, and meeting all requirements set out in this permit and any relevant agreement with, North East Water.
- 61 The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the Subdivision Act 1988.

Ausnet Services

- 62 The Plan of Subdivision submitted for certification must be referred to Ausnet Electricity Services Pty Ltd in accordance with Section 8 of the Subdivision Act 1988.
- 63 The applicant must:
 - Enter in an agreement with Ausnet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.
 - Enter into an agreement with Ausnet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.
 - Enter into an agreement with Ausnet Electricity Services Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by Ausnet Electricity Services Pty Ltd.

- Provide easements satisfactory to Ausnet Electricity Services Pty Ltd for the purpose of “Power Line” in the favour of “Ausnet Electricity Services Pty Ltd” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing Ausnet Electricity Services Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- Obtain for the use of Ausnet Electricity Services Pty Ltd any other easement required to service the lots.
- Adjust the position of any existing Ausnet Electricity Services Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
- Set aside on the plan of subdivision Reserves for the use of Ausnet Electricity Services Pty Ltd for electric substations.
- Provide survey plans for any electric substations required by Ausnet Electricity Services Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. Ausnet Electricity Services Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
- Provide to Ausnet Electricity Services Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by Ausnet Electricity Services Pty Ltd. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- Ensure that all necessary auditing is completed to the satisfaction of Ausnet Electricity Services Pty Ltd to allow the new network assets to be safely connected to the distribution network.

Department of Transport

- 64 Only one access will be permitted from the subject land to Sydney Road, Benalla.
- 65 Prior to the certification of the plan of subdivision, a Functional Layout Plan must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must show:
- a. Short Auxiliary Left Turn Treatment AUL(S) on Sydney Road at the site access.
 - b. The required works to ensure a Safe Intersection Sight Distance (SISD) of 214m is achieved.

- 66** Prior to the release of a statement of compliance, the applicant must construct the mitigating works in accordance with the approved Functional Layout Plan to the satisfaction of and at no cost to the Head, Transport for Victoria.

Permit Expiry

- 67** This permit will expire if one of the following circumstances applies:
- (a) Stage 1 of the plan of subdivision is not certified within 2 years of the date of this permit;
 - (b) Stage 2 of the plan of subdivision is not certified within 4 years of the date of this permit; or
 - (c) Each stage of the plan of subdivision is not registered at Land Registration Services within 5 years of the certification of the respective stage.

The Responsible Authority may extend the time for the completion of part (a) and/or (b) if a request is made in writing before the permit expires or within six months afterwards.

General Notes

1. The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.
2. An asset protection permit is required prior to the commencement of any works on site.
3. Before undertaking any works that cross onto public land or roads, the permit holder must obtain a permit from the relevant authority giving Consent to Work within a Road Reserve.
4. This permit does not authorise the commencement of any demolition works. Before any such development may commence, the applicant must apply for and obtain appropriate building permit approval.

Department of Transport Notes

1. Separate 'detailed design' approval (fees and charges apply) and the specifications of these are required under the Road Management Act. For the purposes of this application the works will include provision of:
 - Short Auxiliary Left Turn Treatment AUL(S).
 - The required works to ensure a Safe Intersection Sight Distance (SISD) of 214m is achieved.
2. Please forward all the details to: nriw.ntheastern@roads.vic.gov.au
Further information regarding VicRoads' consent to work within the road reserve can be found at www.vicroads.vic.gov.au/business-and-industry/design-and-management/working-within-the-road-reserve

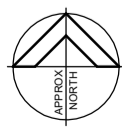


Note:

- (1) Measurements and areas are approximate only and are subject to survey and may be amended on the Plan of Subdivision submitted for certification.
- (2) Stage 1 comprises lots 1 to 21 inclusive and Reserve.
- (3) Stage 2 comprises lots 22 to 43 inclusive and Reserve.



REVISION	DATE	ZONE
2 Lot size revised - Lot 30,31 & 35	31/3/22	-
1 Loop road added	23/3/22	-

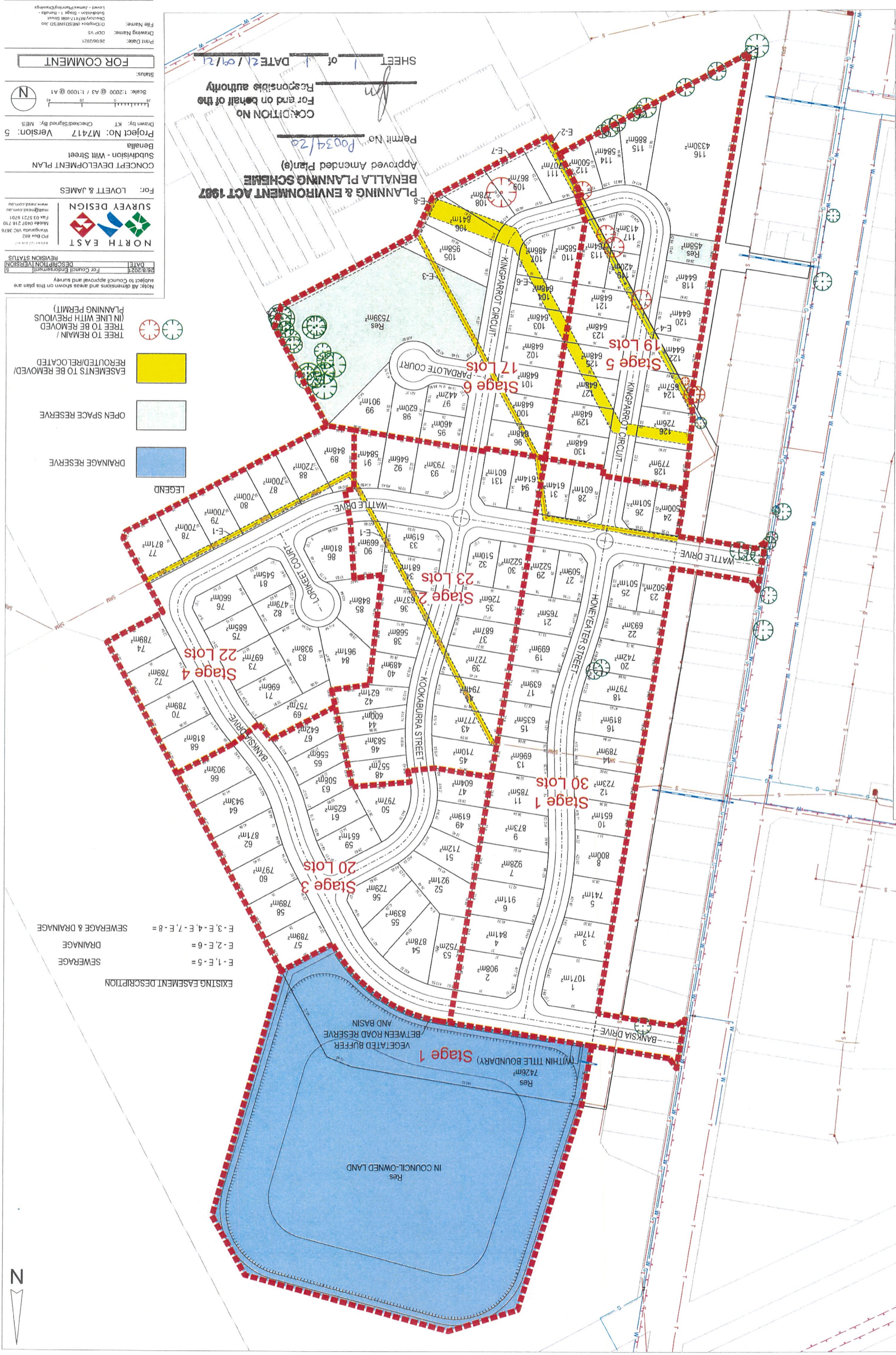


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Chris Smith & ASSOCIATES

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 Designed Col Rogers 31st March, 2022
 Drawn Apoorva Mali 23rd March, 2022
 Checked Gary Steigenberger
 Approved

CONCEPT DEVELOPMENT PLAN



3. Planning Application No. P0041/22 – Display an Electronic Promotion Sign, 159-161 Bridge Street East, Benalla

DA393/2

Joel Ingham – Planning Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses a planning application (P0041/22) for the display of an electronic promotion sign at 159-161 Bridge Street East, Benalla.

BACKGROUND

Site Address	159-161 Bridge Street East, Benalla
Existing Use	Car Wash
Proposal	To install an illuminated non flashing single sided LED screen displaying variable advertising images.
Applicant	Mr Terry Barlow (Linlow & Associates Pty Ltd)
Zone	Commercial 1 Zone (C1Z)
Overlays	Design and Development Overlay Schedule 1 (DDO1) Parking Overlay Schedule 1 (PO1)
Referrals	External: <ul style="list-style-type: none"> ▪ Department of Transport

PROPOSAL

The applicant is seeking approval to display an electronic promotion sign. The proposal will have the following characteristics:

- The sign will be located towards the south west corner of the site on the east face of an existing sign structure.
- The existing sign structure was approved as part of the planning permit for the car wash (P0137/17) and currently does not include any advertising apart from a small non-illuminated sign (2.5 meters x 1.22 meters) advertising the coffee shop on the site, located below the proposed sign which will remain.
- The proposed sign will have dimensions of 2.88 meters wide by 3.84 meters high and will be single sided, yielding an overall signage area of 11.06 square metres.
- The sign will be 2.66 meters above ground level and will have an overall height (above ground level) of 6.5 meters.

- The sign will be orientated to face in an east direction for visual exposure to traffic travelling west along Bridge Street East, Benalla.
- The signs displayed will continually change on a timed on a basis and will include third party advertising.

The proposed signage plans are attached in **Appendix 1**.

Site and Surrounds

The site is located on the north side of Bridge Street East, Benalla approximately 52 meters west of Salisbury Street, Benalla. The site has a frontage to Bridge Street East, Benalla of 37.19 meters and a depth of 32.61 meters yielding an overall site area of 1212.8 square metres. It currently contains:

- An existing building used for the purpose of a car wash, car detailing and a drive through coffee shop. The building is painted dark grey with signage on the fascia of the building facing Bridge Street East, Benalla and on the eastern and western ends of the building. The signage contains blue lettering on a white background.
- The site includes two vehicle crossing with access from the western end of the site and an exit on the eastern end of the site.

The main site/locality characteristics are:

- To the east of the site is another car wash. The building contains a non-illuminated roof sign and fascia sign and a free-standing flood lit sign.
- To the west of the site is a single storey building used by Benalla Blinds. This building has a non-illuminated pole sign.
- The land opposite is land is also zoned Commercial 1 and includes a smash repairers and office building, fruit and vegetable shop and laundromat. These buildings all have non-illuminated signage.
- The land to the north of the site is zoned Public Use and is occupied by a school.
- The surrounding area contains an eclectic mixture of signage. To the west of the site are two free standing signs for Aldi and Woolworths. Along the frontage to Bridge Street East, Benalla the Aldi building contains two large wall panel signs. Further to the west of the site is a large sign for McDonalds.

Locality Map



Permit and Site History

- Planning Application No. P0137/17 was issued a permit in January 2018 for the use and development of land for a car wash and drive-through coffee shop and to display a business identification sign.
- Planning Application No. P0069/20 to display an electronic advertising sign was lodged in June 2020 but lapsed in May 2021 due to requested further information not being submitted within the statutory timeframe.

Public Notification

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

- Sending notices to adjoining owners and occupiers.
- Placing a notice of the application towards the frontage of the site.

To date one objection has been received. The objection can be summarised as follows:

- The sign would be a distraction to passing drivers due to the size of the sign with changing and flashing images.
- Object to the sign if it is promoting businesses outside of Benalla Rural City.

Planning Scheme Provisions

Planning Policy Framework

15.01-1S Urban Design

Clause 15.01-1 of the *State Planning Policy Framework* relates to 'Urban Design'. The objective to this clause is as follows:

"To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity."

It includes the strategies:

Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.

Promote good urban design along and abutting transport corridors.

15.01-5S Neighbourhood Character

Clause 15.01-5S of the *State Planning Policy Framework* relates to 'Neighbourhood character'. The objective to this clause is as follows:

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

Strategies include

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

Zone

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

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To create vibrant mixed use commercial centres for retail, office, business entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

Pursuant to Clause 34.01-9 signage requirements are at Clause 52.05 under Category 1.

Overlays

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

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

Signage is not affected by this overlay. However, the proposed height of the sign is below that of the existing building on the land and complies with the height requirements under the provisions of the overlay. As a result, the sign will not have an impact on the flight path of the Benalla Airport.

Pursuant to Clause 45.09 of the *Benalla Planning Scheme* the subject site is affected by a Parking Overlay. A permit is not trigger by this overlay.

Particular Provisions

Pursuant to Clause 52.05 of the *Benalla Planning Scheme* (Advertising Signs), a promotion sign that exceeds 8 square meters in area requires a planning permit. In this instance the signage area is 11.06 square meters which exceeds the minimum requirement and hence a planning permit is required.

Pursuant to Clause 52.03-5 of the *Benalla Planning Scheme* advertising signs are subject to a number of decision guidelines. Below are the guidelines which are applicable to signage.

The character of the area including:

- The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.
- The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
- The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.
- The consistency with any identifiable outdoor advertising theme in the area.

The proposed electronic sign is considered to be inconsistent with other outdoor advertising in the area. Most signs in the surrounding area are Business Identification Signs that are either internally illuminated or contain no illumination. The few promotional signs in the area are generally illuminated externally.

Although there are exceptions the location of the proposed sign well in front of the building line is not considered to be characteristic of signage in the surrounding area. Most of the signage in the area is either attached to a building or is located behind the building line which can reduce the prominence of the building to the street.

The large scale of the electronic promotion sign will increase the prominence of the sign to the street which will have a negative impact towards to the existing neighbourhood character.

Impacts on views and vistas:

- The potential to obscure or compromise important views from the public realm.
- The potential to dominate the skyline.
- The potential to impact on the quality of significant public views.
- The potential to impede views to existing signs.

The location of the proposed electronic sign in front of the building line will impact negatively on the existing streetscape character.

The relationship to the streetscape, setting or landscape:

- The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.
- The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.
- The ability to screen unsightly built or other elements.
- The ability to reduce the number of signs by rationalising or simplifying signs.
- The ability to include landscaping to reduce the visual impact of parts of the sign structure.

The sign is located well within the frontage of the site with a minimal setback of 2 meters from the front boundary of the site. In addition, the electronic sign is considered to be large in area and protrudes well in front of the building line.

The location and scale of this type of sign will increase the prominence of the sign to the streetscape. As a result, the proposed sign will be dominant to the streetscape and will impact negatively on the existing streetscape character.

The relationship to the site and building:

- The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
- The extent to which the sign displays innovation relative to the host site and host building.
- The extent to which the sign requires the removal of vegetation or includes new landscaping.

The sign is detached from the existing building on the site and is located within the front setback. The location of the sign is therefore considered to have little correlation to the existing building on the site.

Generally, these types of signs are located on the building. In addition, the proposed sign is of a height that is marginally higher than the existing building and has a large area. The height and area of the sign is considered to be out of proportion with the existing single storey building on the site and the adjoining property to the west.

The impact of structures associated with the sign:

- The extent to which associated structures integrate with the sign.
- The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.

Although the bulk of the structure associated with the sign will be minimal the height of the structure will elevate the sign to a level that will make it prominent within its setting. The prominence of this type of sign in the streetscape will detract from the existing streetscape character.

The impact of any illumination:

- The impact of glare and illumination on the safety of pedestrians and vehicles.
- The impact of illumination on the amenity of nearby residents and the amenity of the area.
- The potential to control illumination temporally or in terms of intensity.

The proposal was referred to the Department of Transport for comment. The Department has consented to the application subject to conditions which require automated adjustment to illumination and intensity. Provided these conditions are met the illumination will not impact the safety of pedestrians and vehicles.

The impact of any logo box associated with the sign:

- The extent to which the logo box forms an integral part of the sign through its position, lighting and any structures used to attach the logo box to the sign.
- The suitability of the size of the logo box in relation to its identification purpose and the size of the sign.
- The need for identification and the opportunities for adequate identification on the site or locality.

There is no logo box associated with the proposed sign. It is therefore considered that these design guidelines are not relative to the planning application.

The impact on road safety. A sign is a safety hazard if the sign:

- Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.
- Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device.
- Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.
- Is at a location where particular concentration is required, such as a high pedestrian volume intersection.
- Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.
- Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
- Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
- Is within 100 metres of a rural railway crossing.
- Has insufficient clearance from vehicles on the carriageway.

Could mislead drivers or be mistaken as an instruction to drivers.

The Department of Transport has approved the sign subject to conditions. As a result, it can be assumed that the proposed sign will not impact on the safety of pedestrian and vehicular traffic in vicinity of the proposed sign.

Referrals

The application was referred to the Department of Transport who have advised of no objection to the proposal sign subject to conditions.

Objectors Concerns

The objector's concerns relate to road safety issues and type of advertisements that maybe displayed. The road safety issues are not supported by the Department of Transport.

Third party advertisements, particularly number of such advertisements is not consistent with the existing signage in the Benalla Rural City.

DISCUSSION

The proposed sign will be located within the frontage of the site on the west boundary. The location and large scale of an electronic sign displaying multiple advertisements will cause it to be visually prominent to the street.

The prominence of the sign to the street will impact on the existing streetscape character which generally does not provide for this type of signage.

The introduction of multiple third-party advertisements is out of character with existing signage in the area. Other third-party signage is generally limited to a non-illuminated single advertisement.

The unlimited number of illuminated advertisements on the proposed sign is will greatly increase the impact of signage on the character of the area. Currently signage in the area is considered to be minimalist thereby reflecting the rural nature of the township.

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.

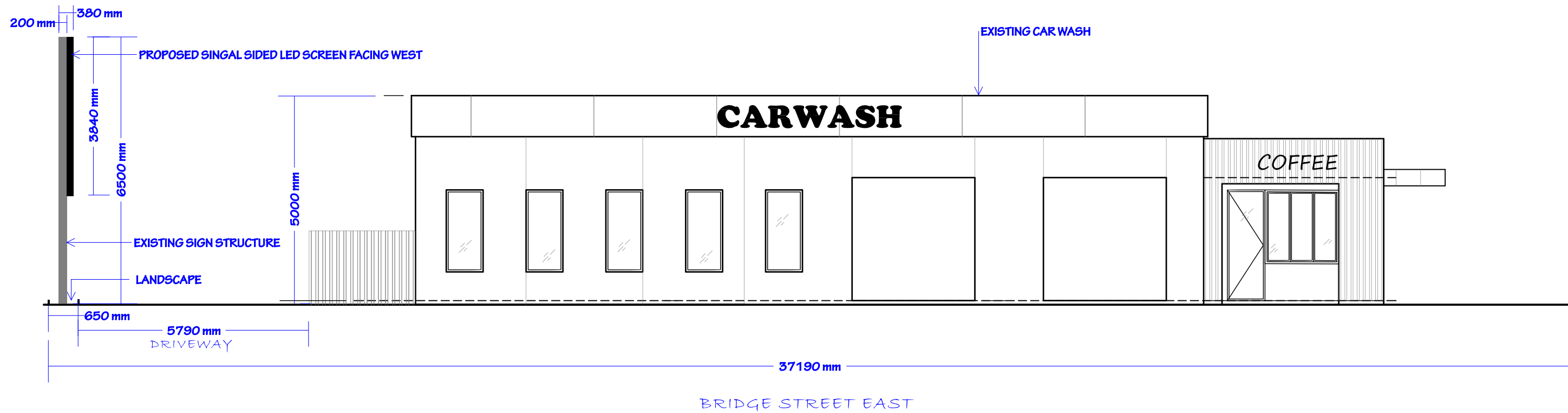
OFFICER DECLARATION OF CONFLICT OF INTEREST

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

Recommendation:

That Council having caused notice of Planning Application No. P0041/22 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 159-161 Bridge Street East, Benalla, for the display of an Electronic Promotion Sign in accordance with the endorsed plans, with the application dated 18 March 2022 on the following grounds:

- 1. The sign will not be in keeping with the existing neighbourhood character.**
- 2. The sign fails to promote good urban design along an existing main road.**
- 3. The sign will be out of scale with the existing built form on the site and surrounds.**
- 4. The location of the sign will dominate the streetscape.**



FRONT ELEVATION

Linlow & Associates P/L
P.O. Box 1040 Moorabbin 3189
email terry@tslsigns.com

Client
EMIN PROPERTIES PTY LTD

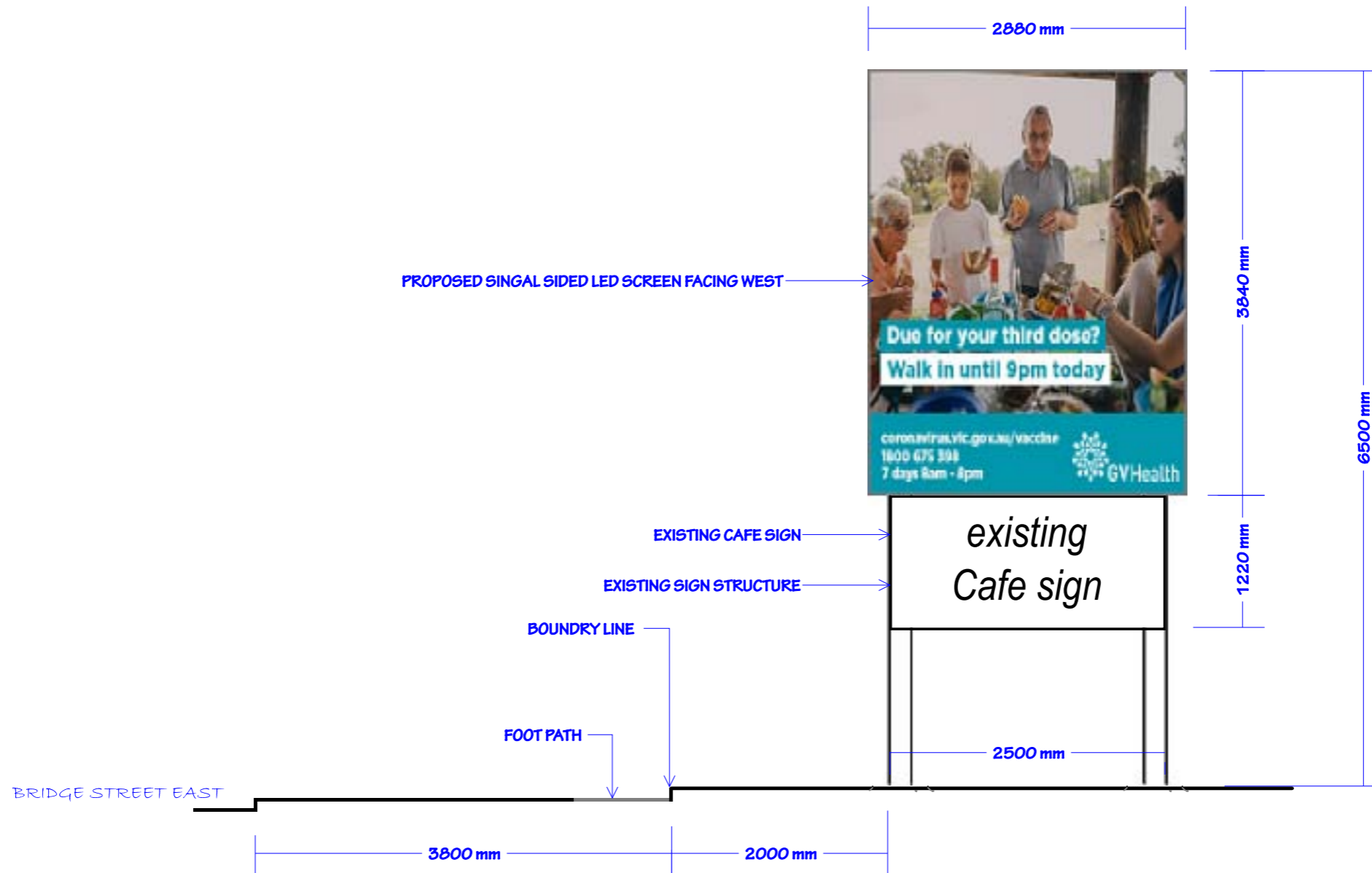
Project
Proposed:
LED Advertising Screen
159 Bridge Street East, Benalla

Drawing Title
FRONT ELEVATION DETAILS

Sign Type LED Screen to Existing Pylon	A3 Scale 1:50 1:50	Date 15.03.2022	Drawn TSL
Drawing No 22-03 ML6	Revision B		

Contact Details:
LINLOW & ASSOCIATESm PTY LTD
Terry Barlow
Email: terry@tslsigns.com Phone: **0407 889 967**

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email terry@tslsigns.com

Client
EMIN PROPERTIES PTY LTD

Project
Proposed:
LED Advertising Screen
159 Bridge Street East, Benalla

Drawing Title
SIDE ELEVATION DETAILS

Sign Type	A3 Scale	Date	Drawn
LED Screen to Existing Pylon	1:50 1:50	15.03.2022	TSL

Drawing No	Revision
22-03 ML5	B

Contact Details:
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Terry Barlow
Email: terry@tslsigns.com Phone: 0407 889 967

4. Amendment To Planning Application P0102/19 For A Solar Farm and Removal of Native Vegetation – 379 Goorambat-Chesney Road, Goorambat

DA6886/3

Joel Ingham – Planning Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses an amendment to planning permit application P0102/19 to use and develop a renewable energy facility (solar farm) and the removal of native vegetation at 379 Goorambat Chesney Road, Goorambat.

BACKGROUND

Site Address	379 Goorambat Chesney Road, Goorambat
Existing Use	The land is used for farming purposes (cropping and grazing). A single dwelling exists within the south east of the area and there are several agricultural sheds.
Proposal	To amend condition numbers 39 (d), (e) and (g)
Applicant	Neoen Australia Pty Ltd
Zone	Farming Zone (FZ)
Overlays	Pt Rural Floodway Overlay (RFO)
Referrals	Internal: <ul style="list-style-type: none"> ▪ Parks Coordinator

PROPOSAL

The applicant is seeking to amend Planning Permit No. P0102/19 by amending Condition Nos. 39 (d), (e) and (g). The current planning permit condition reads as follows:

39. *Prior to the commencement of buildings and works a landscape screening plan which provides for landscaping or other treatments to reduce the visual impact of the solar farm to the surrounds must be submitted to and approved by the responsible authority. When endorsed the Landscape Screening Plan will form part of this permit.*

The Landscaping Screening Plan must include:

- a. The type of landscaping treatments to be proposed.*
- b. A timetable for establishing and maintaining the landscaping.*
- c. An increase in the width of vegetation screening around the perimeter of the site from 5m to 10m.*
- d. The screen planting around the perimeter of the site must be undertaken and completed during Autumn/Winter months prior to construction.*

- e. *Selected trees must be greater than 1 metre in height when planted and when matured must reach approximately 3 metres or higher.*
- f. *A watering regime.*
- g. *A tree replacement plan whereby any deceased tree must be identified and replaced within three months.*
- h. *Weed management.*
- i. *Native shrubs that will reach a height of 1 – 1.5 metres when matured.*

The endorsed landscape screening plan must not be altered or modified without the written consent of the responsible authority.

It is proposed to alter the conditions as follows:

39. *Prior to the commencement of buildings and works a landscape screening plan which provides for landscaping or other treatments to reduce the visual impact of the solar farm to the surrounds must be submitted to and approved by the responsible authority. When endorsed the Landscape Screening Plan will form part of this permit.*

The Landscaping Screening Plan must include:

- a. *The type of landscaping treatments to be proposed.*
- b. *A timetable for establishing and maintaining the landscaping.*
- c. *An increase in the width of vegetation screening around the perimeter of the site from 5m to 10m.*
- d. *The screen planting around the perimeter of the site must commence during Autumn/Winter months and be completed no later than September.*
- e. *Planted seedlings must be forestry – or hyko – style seedlings and when matured must reach approximately 3 metres or higher.*
- f. *A watering regime.*
- g. *A tree replacement plan whereby any deceased seedling must be identified within three months of planting, then either replaced prior to October within the year of planting or during the next planting season, whichever can be achieved first.*
- h. *Weed management.*
- i. *Native shrubs that will reach a height of 1 – 1.5 metres when matured.*

The endorsed landscape screening plan must not be altered or modified without the written consent of the responsible authority.

BACKGROUND

Planning Permit No. P0102/19 was issued on 31 January 2020 for the use and development of land for a renewable energy facility (solar farm), the removal of native vegetation and the construction and display of Business Identification Signage. The details of the application approved are outlined below:

Solar Farm

The proposal is for a 250 megawatt (mw) solar farm. The solar panels are to be provided with a tracking system that orients each panel from east to west, following the path of the sun. It is estimated that 500,000 panels will make up the project.

Solar panels will cover a majority of the site with the exception of areas where there is protected native vegetation, watercourses and where the existing 220kV overhead transmission line traverse the site.

The project will provide for an on-site terminal station located centrally within the site and bounded by Benalla-Tocumwal Road, Goorambat-Thoona Road and Goorambat-Chesney Road, Goorambat for direct connection into the 220kV transmission line.

The buildings and works associated with the development of the solar facility will be as follows:

- Construction of internal access roads.
- The construction of four access points including two from Goorambat-Chesney Road, Goorambat one from Spinks Lane, Goorambat and one from Saunders Road, Goorambat.
- An existing dwelling within the southern portion of the site to be retained and used as an office.
- An operation and maintenance building to be located in proximity to the proposed on-site terminal station.
- Three site laydown areas with two of the laydown areas containing a site shed. The laydown areas will range in size from 15,000 meters squared to 25,000 meters squared in area and will have a total height of 3 meters.
- Construction of perimeter security fencing made from chain wire mesh around the proposed infrastructure at a height of 2.4 meters to be placed behind proposed vegetation screening.
- Vegetation screening around the perimeter of the site to a width of 5 meters.

Native Vegetation

The proposal includes the removal of native vegetation. Of the 203 scattered trees on site 136 trees will be retained and 67 will be removed. No patches of native vegetation (native vegetation that forms a continuous canopy of three or more trees) will be impacted. A condition of the planning permit requires the offset of the native vegetation.

A site plan of the proposal is attached as **Appendix 1** and a landscape screening plan is attached as **Appendix 2**.

Site and Surrounds

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

The site is located in Goorambat and is bounded by Benalla-Tocumwal Road to the west, Goorambat-Thoona Road and Saunders Road to the north side and Hooper Road, Goorambat to the east. Goorambat-Chesney Road, Goorambat and the Oaklands Railway Line separate the land through the middle of the site in a south to north direction. The project comprises eight parcels of land. The lot descriptors affected by the proposal area as follows:

- Lots 1 and 2, TP399580
- Lots 1 and 2, TP179662
- Lot 1, TP 161528
- CA39B, TP785955Q
- CA41, TP270337Q
- CA59A, TP328038H

All lots combined have an area of 630 hectares.

As is typical of farming areas in the region, the land comprises scattered native trees and remnant patches of native vegetation. The land also contains two water courses through the land generally running in an east to west direction.

There is minimal farming infrastructure on the land of which comprises a dwelling and several shed located within the south-east portion of the project area and there are also several sheds located towards the intersection of Saunders Road and Hooper Road, Goorambat. The land is generally used for agricultural purposes specifically for cropping.

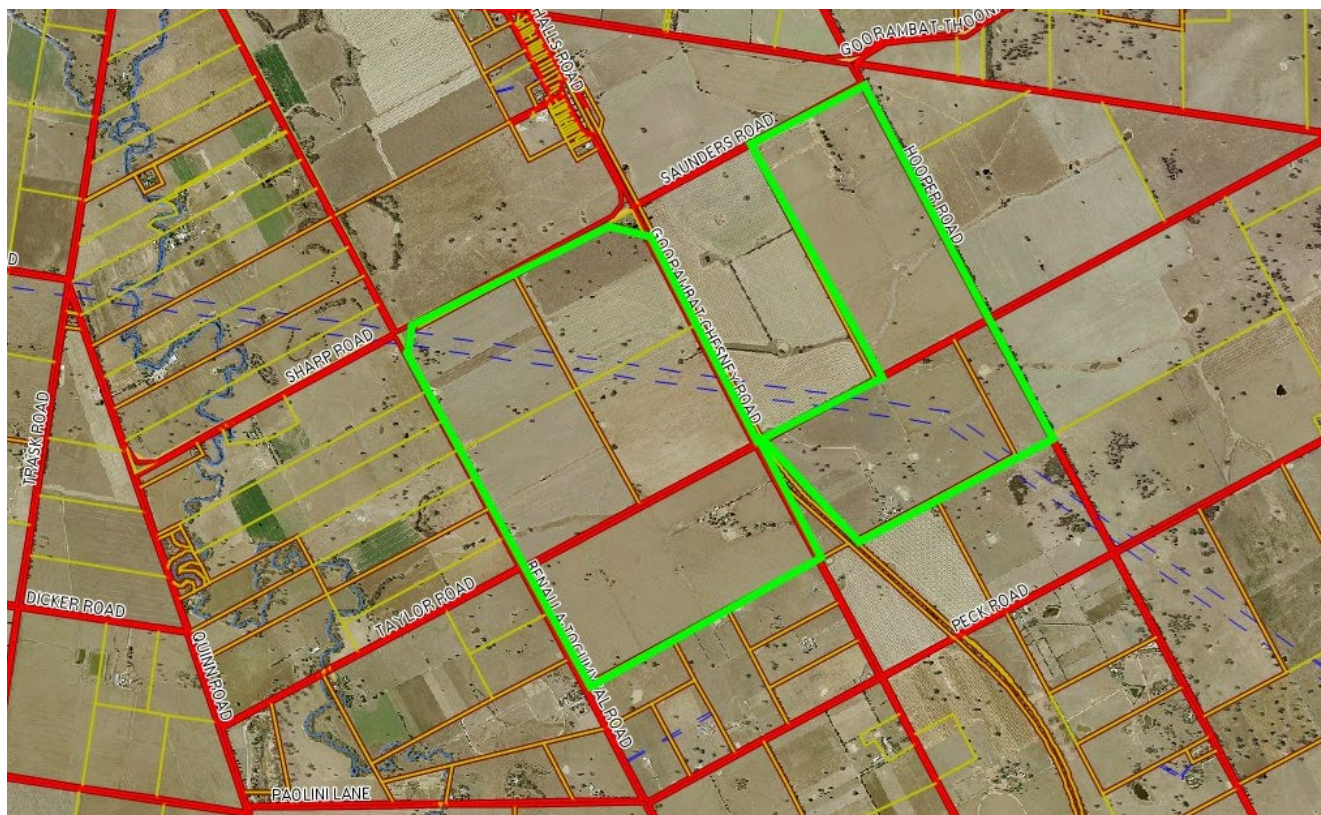
Land to the north of the site is generally used for agriculture and is zoned Farming. 500m further north of the site is the Goorambat Township which is generally zoned Township and contains a mixture of residential, commercial and recreational uses.

Land to the east of the site is zoned Farming and contains land used for agricultural purposes.

Land to the west of the site is also zoned Farming and contains land used for agricultural purposes.

Land to the south of the site contains smaller agricultural lots within a Farming Zone. A majority of these lots contain single dwellings on hobby farm type uses.

LOCALITY PLAN



Public Notification

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

- placing a sign at the Hooper Road, Goorambat Chesney Road, Goorambat Thoon Road and Hooper Road, Goorambat frontages of the site
- sending notices to all adjoining and surrounding landowners and occupiers.

Two objections were received to the application. The issues raised in the objections are summarised as follows:

- Lack of communication and consultation around the proposed changes.
- The replacement of local flora with a monoculture of Mallee Gums.
- Inadequate information with regard to caring for the planted material.
- Condition No. 39(d) should retain the requirement for planting to occur prior to construction.
- The revised wording of Condition No. 39 (g) only covers replacement of seedlings identified within three months. It does not cover the replacement or subsequent loss of seedlings or mature trees.
- The inner screen identified on the Landscape Screening Plan must not be optional.

The issues raised within the objections were sent to the applicant for response. The applicant responded as follows:

- Condition No. 39 (d) will be amended to include the words ‘prior to construction’.
- The wording of Condition No. 39 (g) will be amended to ensure that replacement of deceased seedlings or trees occurs throughout the life of the project.
- Consultation was undertaken with the landowner in November 2021 with regard to the Landscape Screening Plan, however consultation was not undertaken with regards to the specific amendments to the planning permit. Neoen will continue to be in consultation with the landowner regarding the landscape screening and other project related matter.

The revised proposed wording of Condition No. 39 is now proposed to read as follows to take into account the issues raised by the objectors:

39(d) The screen planting around the perimeter of the site must be completed prior to construction during a period with acceptable ground conditions as determined by a qualified landscaper.

39(g) A ‘tree replacement’ plan whereby any deceased seedling must be identified within three months, then either replaced prior to October within the year of planting or during the next planting season, whichever can be achieved first.

The objections raised above also relate to issues not associated with the amendment of the planning permit and directly to the content of the Landscape Screening Plan. These issues will be addressed in the assessment section of the report.

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 renewable energy facility is a Section 2 – Permit required use under the provisions of this zone (35.07-1). Buildings and works associated with a Section 2 Use also require a planning permit pursuant to Clause 35.07-4.

Overlays

Pursuant to Clause 44.03 of the Benalla Planning Scheme the subject site is affected by a Rural Floodway Overlay. The purpose of this overlay is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.
- To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.
- To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.
- To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

A planning permit is required for buildings and works under the provisions of this overlay. The overlay affects a small portion of the land within the west of the site.

Particular Provisions

Clause 53.13 of the Benalla Planning Scheme relates to renewable energy facilities. The purpose of this provision is as follows:

- To facilitate the establishment and expansion of renewable energy facilities, in appropriate locations, with minimal impact on the amenity of the area.

The provisions sets out information required to be submitted with a planning application and also outlines decision guidelines that Council must consider before making a decision. The decision guidelines are as follows:

- The effect of the proposal on the surrounding area in terms of noise, glint, light spill, vibration, smell and electromagnetic interference.
- The impact of the proposal on significant views, including visual corridors and sightlines.
- The impact of the proposal on strategically important agricultural land, particularly within declared irrigation districts.
- The impact of the proposal on the natural environment and natural systems.
- The impact of the proposal on the road network. Solar Energy Facilities Design and Development Guideline (Department of Environment, Land, Water and Planning, August 2019).

Referrals

External Referrals/Notices required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 52 Referrals	
Country Fire Authority	No objection

Internal Council Referrals	Advice/Response/Conditions
Parks Coordinator	No objection

ASSESSMENT

Condition No. 39(d):

The applicant has engaged a suitably qualified company (Forest Solutions Pty Ltd to undertake a Landscape Screening Plan for the approved solar farm. The findings of the report recommend that planting occur during a specific time of the year which have been incorporated as a condition of the amended permit.

An objection received indicated that this condition should still have the words prior to construction. The applicant has agreed to the inclusion of these words to ensure that all landscaping works are in place prior to works for the solar farm commencing on the land. Due to the wet conditions of the site this year the applicant has also proposed alterations to when planting can occur on the land.

The wet conditions of the land this year has expanded the window in which seedlings can be planted on the land. As a result, it is considered that amending the condition to allow for screen planting to be conducted during a period with acceptable ground conditions as determined by a qualified landscaper will be suitable in achieving good uptake of plants.

Condition No. 39(e):

This condition alteration removes the need to plant trees at a height of 1m. The Landscape Screening Plan advises that this approach to planting results in a very low survival rate. It is proposed to plant forestry or hyko style seedlings that take much better.

The proposal is considered to be acceptable as it will result in a better survival rate of planted trees which will result in the desired outcome of providing for screening of the site in accordance with the condition.

Condition No. 39(g):

The applicant advises that this condition should be altered in order to allow flexibility in when a tree that has deceased should be replanted. Under the current condition a tree must be replaced within three months which could result in a tree being replaced during hot dry summer months.

The Landscape Screening Plan suggests that this wording should alter to require any replacement plantings to be undertaken during the next planting season. It is considered that this change to the conditions is appropriate to allow for the best survival rate of replacement plantings.

Concern has been raised from an objector that the revised wording of Condition No. 39 (g) only covers replacement of seedlings identified within three months. It does not cover the replacement or subsequent loss of seedlings or mature trees. The applicant has agreed to altering this condition so that any replacement of plantings must be undertaken throughout the whole operational life of the project.

Other Matters:

Objectors have raised issues with the adequacy of the Landscape Screening Plan submitted with the application. It should be noted however, that this plan has been submitted to inform the changes to the amended planning permit conditions only and does not form part of the amendment to the planning permit.

The objectors main issues with the Landscape Screening Plan are as follows:

- The replacement of local flora with a monoculture of Mallee Gums.
- Inadequate information with regard to caring for the planted material.
- The inner screen identified on the Landscape Screening Plan must not be optional.

It is noted that the plantings to be used will not be local to the area. However, this was not the purpose of the planning permit conditions which required landscaping for screening purposes only. The plantings have been chosen for their screening qualities and for their ability to survive in dry environments which will enhance the ongoing viability of the plantings with less requirement for maintenance.

The Landscape Screening Plan provides for weed management controls and a watering regime identified in Section 6.6 and Table 7 of the plan. The weed management plan outlines targeted spot spraying of weeds may be required within the first two to four years of planting to support establishment of plants.

Table 7 of the Landscape Screening Plan advises that Planting in winter, followed by normal spring conditions should not require subsequent watering. However, (i) identify a suitable watering contractor, (ii) monitor the weather and soil moisture, and (iii) if dry conditions eventuate water as required.

As part of the Landscape Screening Plan inclusion of an inner screening belt will be assessed on a case-by-case basis, as there are some instances where terrain and waterway orientation limit the effectiveness of an inner screen. Where a break in the screening due to an existing dam or waterway can be ameliorated with an inner screening belt, and the break significantly impacts on the view from a dwelling, an inner screening belt will be planted.

The Landscape Screening Plan has been submitted to Council to comply with Condition No. 39 of the planning permit. The Landscape Screening Plan has been referred to Council's Parks Unit who advise on no objection to the plan.

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.

Recommendation:

That the Council grant a Notice of Decision to Amend Planning Permit No. P0102/19 as follows:

39. Prior to the commencement of buildings and works a landscape screening plan which provides for landscaping or other treatments to reduce the visual impact of the solar farm to the surrounds must be submitted to and approved by the responsible authority. When endorsed the Landscape Screening Plan will form part of this permit.

The Landscaping Screening Plan must include:

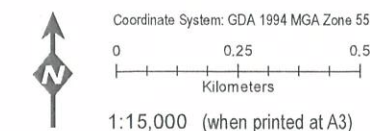
- a) **The type of landscaping treatments to be proposed.**
- b) **A timetable for establishing and maintaining the landscaping.**
- c) **An increase in the width of vegetation screening around the perimeter of the site from 5 metres to 10 metres.**
- d) **The screen planting around the perimeter of the site must be completed prior to construction during a period with acceptable ground conditions as determined by a qualified landscaper.**
- e) **Planted seedlings must be forestry – or hyko – style seedlings and when matured must reach approximately 3 metres or higher.**
- f) **A watering regime.**
- g) **A ‘tree replacement’ plan whereby any deceased seedling must be identified within three months, then either replaced prior to October within the year of planting or during the next planting season, whichever can be achieved first.**
- h) **Weed management.**
- i) **Native shrubs that will reach a height of 1 – 1.5 metres when matured.**

The endorsed landscape screening plan must not be altered or modified without the written consent of the responsible authority.

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INDICATIVE SYSTEM INFORMATION	
ITEM	SYSTEM SIZE
Maximum Capacity	Up to 250 MW
Mounting System	Single Axis Tracking
Quantity of Modules	Approximately 500,000 modules
Pitch	5.5 metres to 13 metres
Solar Panel Type	Bifacial 380W
Inverter Units	Approximately 120
Tracker Height	4 metres (maximum)
Row alignment	North-South (tracking east to west)
Tracker Rotation Range	-60 degrees to +60 degrees

NEOEN AECOM



Legend

- ▭ Site Investigation Area
- ▲ Grid Connection
- ◀ Site Access
- Dwelling (Non-Participating Landowner)
- Dwelling (Participating Landowner)
- Fence
- = External Road - 7 metres wide
- = Internal Road - 4 metres wide
- ≡ Single Axis Tracking Solar Array
- Existing 220kV Overhead Transmission Lines
- ▭ Operation and Maintenance Facilities
- ⊠ Designated Terminal Substation
- Large Scattered Trees (15 metre maximum tree protection zone buffer)
- Small Scattered Trees (15 metre maximum tree protection zone buffer)
- Large Tree in Patches (15 metre maximum tree protection zone buffer)
- Remnant Patches (including 15 metre buffer)
- Native Vegetation Proposed for Removal
- Designated waterways
- Watercourses
- Roads
- Unused Government Road
- Railway

Cadastre
 Note:
 Design layout is indicative only and the final design layout will be determined during the detailed design phase

Data Sources:
 Locality Railway Drainage Line Streets Features © VICMAP - 2018
 Disclaimer:
 Victoria State Government - Environment, Land, Water and Planning © VICMAP 2018
 Services User Centre Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Goorambat East Solar Farm

INDICATIVE DESIGN

PROJECT #: 60591336
 CREATED BY: JB
 LAST MODIFIED: brierej; 16/08/2019
 VERSION: 1

Figure 6

AECOM does not warrant the accuracy or completeness of information displayed in this map and any person using it does so at their own risk. AECOM shall bear no responsibility or liability for errors, omissions, or inaccuracies in this information.

Plan commissioned by:

NEOEN

Forest Solutions

Confidence Experience Knowledge

Goorambat East Solar Farm Landscape Screening Plan

Includes a Review of Statutory Requirements, Planning Factors and Issues, and a Plan for Establishment



November 2021

***Aiding Recovery, Assisting
Restoration, and Building Resilience
for Australia's Temperate Forests.***



Goorambat East Solar Farm Landscape Screening Plan

Includes a Review of Statutory Requirements, Planning Factors and Issues, and a Plan for Screen Establishment

Prepared for:

Neoen Australia Pty Ltd

By:

Forest Solutions Pty Ltd

Report Authors:

Desmond Stackpole
Owen Bassett (Director)
Cameron Paterson

12th November 2021

First submitted 22nd May 2020

Front cover image:

Panoramic view across Neoen's proposed Goorambat East Solar Farm, from the south-west corner, showing recently cropped agricultural land along the western boundary fence (at left) and southern boundary fence (at right) where screening belts are recommended.



Owen's mobile: 0488 710 770



SUMMARY

Neoen Australia Pty Ltd has consulted Forest Solutions Pty Ltd, a private forestry company based in Benalla, NE Victoria, to provide a plan for establishment of screening belts of trees at their proposed Goorambat East Solar Farm (GESF). Neoen's project-brief requests recommendations for where screening belts are required, the arrangement of plants in the belt, the species to be used and their relative composition, the number of rows in the belt, the relationship to existing and new fences, consideration of where gaps should be left for easements or incorporation of existing vegetation in the scheme, and the feasibility of the belts being established in the winter of 2022. The plan must also comply with a list of specific statutory requirements specified by the Rural City of Benalla, and further guidance provided by the Country Fire Authority regarding fire protection.

We propose almost 10 km of screening belts around the planned GESF facility. The majority of the belts (7.8 km) surrounds the western half of the property. The belts will be 10 meters wide with lines of trees established at 4 metres from the outer edge-fence and with 2.25 metres between rows, resulting in three tree-lines; the middle row staggered to increase screening effectiveness.

The recommended species is Blue Mallee (*Eucalyptus polybractea*) and/or Green Mallee (*E. viridis*) at 3 metre spacings within rows. The outermost row of most belts will be planted with Acacia, such as *Acacia montana* in spaces between the eucalypts. Another shorter Mallee (*E. preissiana*, also known as Bell-Fruited Mallee) will replace Acacia in sections 10, 11 and 12. The total number of seedlings required is in the vicinity of 14,000 (see Section 5.3).

The plan for a 2022-planting is ideal, given at the time of review of this document (November 2021) there remains good lead-time for project planning and the production of seedlings.

For planting in winter 2022, the work plan includes:

1. **November 2021:** Order seedlings ASAP from at least two nursery providers, allowing plants time to develop and harden-off prior to a winter 2022 planting (see Appendix 5 for recommended nursery specifications).
2. **January to March 2022:** undertake monthly checks of seedling quality and progress in the nurseries.
3. **March 2022:** Inspect and Survey all mapped sections with GPS for 2022 plantings. Mark the planting lines by placing pegs at 4, 6.25 and 8.5 metres from the fence each 100 metres along planned belts. These are to guide the site preparation machine and planting crews in correct placement of plants. Straight rows.
4. **March/April 2022:** Harrow and deep-rip straight lines PRIOR to the autumn break. Rip off-centre, parallel to each planting row.
5. **April 2022:** Inspect grass/weed growth following site preparation, especially AFTER the autumn break. Boom spray with spiked glyphosate as required. Also do final checks of seedling progress in the nurseries.
6. **June-August 2022:** Plant seedlings at 3 m spacing along planting rows. Offset middle row plantings. Planting includes installation of tree guards and fertilisation. Professional night shooting to reduce vermin.
7. **August-December 2022:** Each month inspect weeds and manually spray if necessary. Shoot vermin weekly throughout September.
8. **October 2022:** replace any mortality, water in.
9. **Summer 2022/23:** Monitor growth. If drought approaches, then arrange to water at 2 L/seedling.

The design meets Neoen's criteria for; (i) effective visual screening, (ii) ease of managing before and during fires, for fire prevention purposes, and (iii) provides suitable habitat to increase the number and diversity of local biota.

We humbly offer this reviewed plan to Neoen.

Desmond Stackpole, Owen Bassett (Director), and Cameron Paterson

for Forest Solutions, Benalla



ACKNOWLEDGEMENTS

Dr. Desmond (Des) Stackpole was commissioned by Forest Solutions to lead the initial investigation during 2020 and draft a plan for planting and establishing screening belts at Neoen's proposed Goorambat East Solar Farm. He is the lead author of this report. Des has 30 years' experience as a professional forester, specialising in plantation silviculture and eucalypt genetics.

Owen Bassett (Director, Forest Solutions) managed the project and reviewed, edited and finalised earlier drafts of this report, plus reviewed and prepared this 2021 version for 2022 planting. Owen also has 30 years' experience as a professional forester, specialising in native forest and eucalypt ecology and silviculture.

Cameron (Cam) Paterson (Associate) provided detailed advice for this planting plan and accompanied Owen and Des on earlier site tours at Goorambat East. Cam has 25 years' experience in the forest and agricultural industries, specialising in tree planting - including in native forest, plantation and the more boutique rural and urban landscape environments.

Thanks to Brenda Galey (Associate) for GIS support and mapping.

Thanks also to Jeni and Bruce Saunders (Goorambat land holders) for their local assistance, advice regarding preference of plant species, access to their property for inspections, offer of a delivery site for Neoen's seedlings, and overall interest in this project.

We thank Kristina Yan (Senior Project Developer, Neoen) and Nathan Kelly (Project Manager, Neoen) for engaging with Forest Solutions. Kristina supported Des, and providing critical background information to assist the planning process. Kristina and Nathan commented on earlier drafts of this report.

For Figure 6 we acknowledge Kelley Christensen, Michigan Technological University online.
<https://phys.org/news/2019-05-secrets-secretionisolating-eucalyptus-genes-oils.html>





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1. INTRODUCTION

Neoen Australia Pty Ltd is planning to establish a solar farm at Goorambat East in north east Victoria during the period 2022-24, and that facility will be known as the Goorambat East Solar Farm (GESF). The area to be used is about 630 ha of flat cropping and grazing land located 500 m south from the community of Goorambat, within the Rural City of Benalla, Victoria.

An approval condition of the Rural City of Benalla shire is that Neoen develop a Landscape Screening Plan to be endorsed by the council and complete the landscaping works shown on the endorsed plan before the use starts. Such screening is best achieved by planting tree and shrub species, with the most appropriate species required in this case growing to a maximum height of 6 metres.

Neoen has consulted Forest Solutions Pty Ltd, a private company based in Benalla, to provide a plan for establishing the screening. Neoen's project-brief to Forest Solutions requests advice for where screening belts are required, the arrangement of plants in the belts, the species to be used and their relative composition, the number of rows in the belts, the relationship to existing and new fences, consideration of where gaps should be left for easements and access, or incorporation of existing vegetation in the scheme, and a plan for the belts to be established in the winter/spring of 2022. The plan must also comply with a list of more specific requirements specified by the Rural City of Benalla (**Appendix 1**), and follow guidance provided by the Country Fire Authority (CFA).

The objective of this report is to review statutory requirements, inform Neoen of planning factors and issues, and present our recommendations for belt design and a plan for planting and establishment of trees and shrubs during 2022.



2. THE CONSULTANT'S RESPONSE TO THE BRIEF

Forest Solutions, and its associates, specialise in native tree species and their silviculture¹, including tree establishment, monitoring and tending. Our experience covers native forest and plantations at the landscape level, and also rural boutique-planting environments.

This project for Neoen fits soundly within the boutique-planting environment. The defining difference between this type of rural planting and other landscape-level operations is the additional care required to maximise tree survival and maintain visual amenity. Species selection for trees, planting design and planting technique require additional care, and are based on Bassett *et al.* (2011) and the collective experience of staff and associates over 30 years; both reflected in this plan.

Our mission is to therefore provide Neoen with the best advice possible regarding the development of a green, planted screening around the Goorambat East Solar Farm.

Our more specific project objectives for assisting Neoen are to:

- (1) Develop a planting plan for Neoen's Goorambat East Solar Farm.
- (2) Ensure Neoen are provided with peak-body advice regarding screening plantings for inland NE Victoria, including the following:
 - assessment of key site parameters
 - consideration of climatic factors
 - species options for trees and shrubs
 - CFA requirements (**Appendix 2**)
 - planting stock requirements
 - weed management
 - site preparation
 - seedling parameters.

Such a rural boutique planting can also lend itself to horticultural options that may realise a commercial return on investment, if managed well. They can also fulfil environmental options that have the potential to assist commercial groups such as beekeepers, benefit the local community, or environmental needs such as food/nectar sources for specific locally endangered fauna (**Appendix 3**). Forest Solutions will make mention of these additional values in this report, but could provide further assistance if Neoen and the local community are interested to pursue these options.

Our method has been to consider the following:

- (i) requirements of the Rural City of Benalla, including cultural considerations such as fire management and biodiversity, with guidance from the CFA regarding fire management.
- (ii) characteristics of living visual screens,
- (iii) management objectives of Neoen, and
- (iv) biology of various tree and shrub species, including their survivability, in the design of a workable plan for establishing screening vegetation.

¹ Silviculture is the science and art of establishing and growing trees, from seed supply through to tree/forest maturity.



3. STATUTORY REQUIREMENTS AND SCOPE

Objective: To prepare a landscape screening plan for the Goorambat East Solar Farm (GESF) that is approved by local planning scheme, by meeting requirements of the Rural City of Benalla shire, summarised as follows but with a more detail in **Appendix 1**.

3.1 Benalla Rural City: Local Planning Scheme Requirements

The Landscaping Screening Plan must include:

- *The type of landscaping treatments to be proposed.*
- *A timetable for establishing and maintaining the landscaping.*
- *An increase in the width of vegetation screening around the site perimeter from 5 m to 10 m.*
- *The screen planting around the perimeter of the site must be undertaken and completed during Autumn/Winter months prior to construction.*
- *Selected trees must be greater than 1 m in height when planted and when matured must reach approximately 3 m or higher.*
- *A watering regime.*
- *A tree replacement plan whereby any deceased tree must be identified and replaced within three months.*
- *Weed management.*
- *Native shrubs that will reach a height of 1 - 1.5 m when matured.*

3.2 Integration with Country Fire Authority (CFA) Requirements

The CFA advises the following (**Appendix 2**):

- (i) the belts themselves must not be intrinsically dangerous as a fire hazard,
- (ii) a separation of ground level and canopy growth will reduce the tendency of invading grass fire to reach the tree crowns. However, the CFA acknowledges that tree crowns will be small and the belt only three rows deep, and
- (iii) fire management within the GESF facility will be the proponent's responsibility, and should comprise aspects of maintenance of fuel load, availability of firefighting appliances on site, and ready internal access to screening belts and all other parts of the facility.

The requirement for a shrub understorey may compromise fire protection as it provides a foliage ladder for fire from the ground to the canopy. However, this is a requirement of the Shire council, presumably to deliver biodiversity outcomes. If this is requested by them on behalf of other parties, it is possible the Shire could pass on any payments back to Neoen.

In terms of fire damage to tree-belts, the plant species we propose are adapted to fire and will not be killed by grass fires passing through. Rather they will naturally coppice² and recover strongly.

² Coppice are shoots/stems sprouting from previously dormant buds, initiated from cut stumps or fire damage.



3.3 Biodiversity Benefits

The screening belts are expected to provide a sound biomass of eucalyptus foliage. This generates shelter and nest sites for fauna, flowers for nectar production – benefiting honey bees and native fauna (**Appendix 3**), and dense leaves for other browsing insects. Such assemblages attract native birds in numbers that are considerably above background populations in cleared cropping land. Other incidental surprises remain to be seen, for instance it is possible that arboreal mammals may colonise from the nearby Goorambat hills forests, and populations of ground reptiles may recover after the cessation of cropping, particularly in the vicinity of the shelter belts.

3.4 Site Inspections

Forest Solutions inspected the proposed site in April and again in May 2020 (Figure 1), spending time to drive all boundaries of the site, inspecting recent land use in the belt zone, remnant native vegetation, condition of fences, sightlines from roads and residences, and sampling soils to 0-10 cm and 10-20 cm segments for texture and pH analysis. During the May visit, various belt designs were measured, ground-marked and relative benefits discussed. During April, the 2019 screen plantings at Neoen's Numurkah East Solar Farm facility were also inspected.

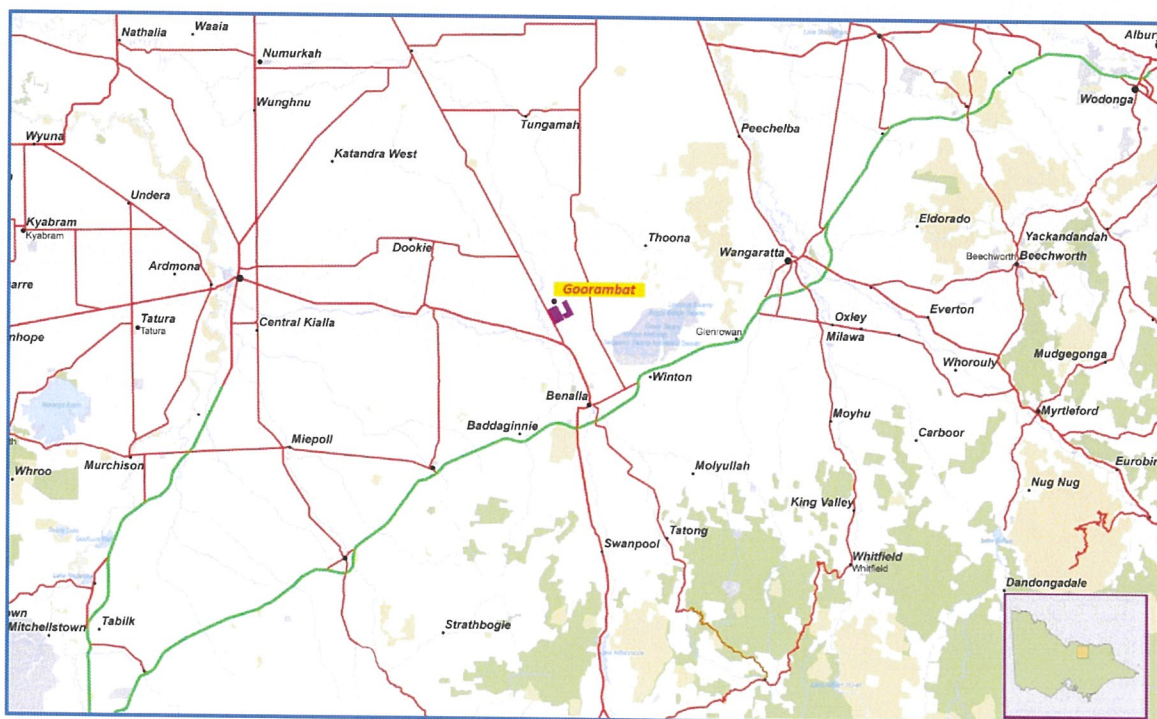


Figure 1. Location of the proposed Goorambat East Solar Farm in relation to the Goorambat Township, and inset showing the area's location in NE Victoria. Forest Solutions is located in Benalla, just south of Goorambat, so is well positioned to assist Neoen.



4. PLANNING FACTORS & ISSUES

4.1 Key Site Parameters

Soils on the Goorambat site were assessed as typical loams to clay-loams, of the Box-Ironbark biome (Table 1) with some variation in the B-horizon at Profile 2, likely due to recent erosion of the A-horizons under cultivation. The soils are moderately acid at pH 5.5-6.5, which are slightly higher than published values, but not known to deleteriously affect species native to the region. Rainfall figures for Goorambat and surrounding districts, shown in Figure 2, indicate a relatively dry inland climate, but with higher winter falls starting in May and worthwhile falls continuing into November. This dictates a planting window of May to October and we recommend August, enabling seedlings to benefit from warming temperatures in September and establishment prior to the drying summer months (Figure 2). The climate is Mediterranean with hot dry summers but mild wet autumn and springs, and the species we propose are adapted to this climate and are known to cope with hotter and lower rainfall conditions.

Table 1. Soil texture and pH at 5 collection locations within the proposed Goorambat East Solar Farm.

Profile	Locality	Depth (cm)	pH*	Texture	Ribbon (cm)
1	NW edge	0-10	6.0	silty clay	3.00
		10-20	6.5	medium clay	3.5
2	NE corner	0-10	5.5	spongy loam	1.0
		10-20	6.0	heavy clay	5.0
3	SE edge	0-10	5.0	spongy loam	1.0
		10-20	5.5	medium clay	2.0
4	SE corner	0-10	6.5	loamy clay	2.0
		10-20	5.0	loamy clay	2.0
5	SW edge	0-10	5.5	loamy clay	2.0
		10-20	5.5	loamy clay	1.0
Means		0-10	5.7		
		10-20	5.7		

*pH = 1/log₁₀[H⁺]

The Pre-1800 vegetation cover, of which there are some local remnants, is mainly plains woodland, on which the overstorey comprises *E. microcarpa* (Grey Box) mixed with *E. camaldulensis* (Red Gum) towards drainage lines (Edmonds 2005). The eastern quarter of the site slopes modestly up to the Goorambat hills and was classed as grassy woodland. While still dominated by Grey Box, 400 meters to the east of the project area it grades into *E. sideroxylon* (Mugga Ironbark). Under-storey species are mainly native herbs and grasses, with an increasing proportion of shrubs under the Ironbark.

The natural features are now disturbed, with the original box woodland and understorey mostly cleared for cropping and grazing. Remnant native vegetation occurs as scattered veteran trees around the site, with heavier stockings of mature trees and regrowth in the south east sector.

Local native animal species depend on water features, old trees with hollows and young trees with nectar, nesting and feeding opportunities. All these features are present on site and could be enhanced at relatively little cost by design of visual screens that incorporate with the remnant vegetation away from operational areas.

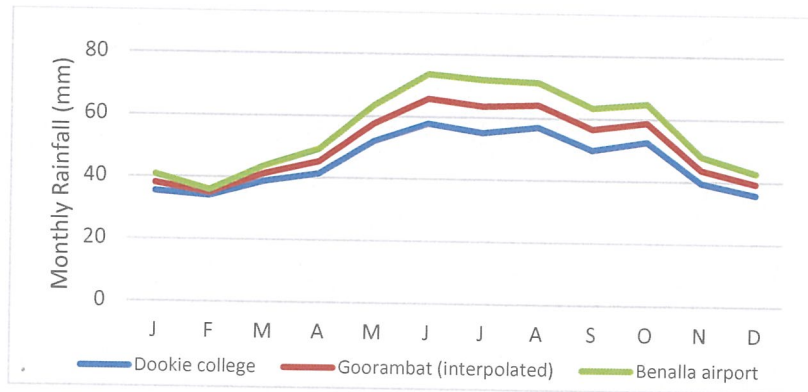


Figure 2. Monthly rainfall for Goorambat interpolated from adjacent weather stations - Dookie to the west and Benalla to the South East. http://www.bom.gov.au/climate/averages/tables/cw_082137.shtml

4.2 Options for Species Selection

Variety of planted screens in the district

Several types of linear plantings are established around the NE Victoria districts, and their primary functions are usually wind shelter for livestock, or linear planting for linking remnant vegetation. Species used for these purposes and other species worth considering are evaluated below and summarised in Table 2.

Locally indigenous eucalypts

Locally indigenous eucalypts at maturity are tall woodland to forest species capable of reaching 30 meters height and 1+ meter diameter. Typically, within 10 years of planting these will be well above 6 meters tall and the lower branches beginning to thin out. If used in this project, understorey species could be planted to maintain screening at lower heights.

If locally indigenous species are required, then Grey Box is dominant and fewer Red Gums, and perhaps Mugga Ironbark; all from local sources should be used.

In some cases, screening using large eucalypt species has been planted around local rural infrastructure, notably the Munitions factory in the same vicinity, and the pine processing plant at the corner of the old Hume highway and the Yarrawonga road. These belts are up to 50 metres wide. This is appropriate as they have spatially smaller but taller core infrastructure to shield relative to the land area. However, large eucalypts cannot be expected to remain within 10-metre wide belts or below 6 metre height without expensive maintenance.

Other Victorian eucalypts

The only other eucalypt species worth considering are the Box-Ironbark type eucalypts, common in western Victoria, but with some species also occurring in NE Victoria. Grey box and Mugga Ironbark are already listed above under local indigenous species. Another species also found in western



Victoria is *E. leucoxylon* (Yellow Gum). This species is well suited to dryer inland planting and is popular for rural amenity planting due to its large pendulous white to pink flowers, valuable for visual amenity and for nectivores such as bees and native birds (**Appendix 3**). There are various cultivars that grow from 5-30 meters tall, and the correct shorter cultivar would be needed for this project.

Casuarina

Orchards in irrigation areas 30 km to the west are customarily screened by *Casuarina cunninghamii* or *C. glauca*, in 1-2-linear belts, maintained by expensive hedge clipping.

Introduced Conifers

Cupressus and some Pinus (e.g. *P. brutia* or *P. nigra*) may grow at a suitable slow rate however the colour and contrast is quite different to the local environment. Expensive and hard to get, these species are quite out of style in 2021.

Indigenous Conifers

Callitris glaucophylla, hybrids and allies, occur in the region but not in the immediate vicinity of the project; broadly adapted to local climate, but not guaranteed adaptable to site soils.

Acer (Ash) species

These were observed growing on the north-west boundary, reasonably healthy but cannot guarantee performance in dense shelterbelts. Likely to be expensive and only intermittently successful.

Acacia species

Because of the requirement for an understorey species, Acacias need consideration. Acacia is a highly variable genus, with all shrub and tree life-forms represented. A dryland species growing to 1-3 meters and well suited to the Goorambat area is *Acacia montana* (Mallee Wattle). A taller dryland species is *A. pycnantha* growing to 3-8 meters tall, and during earlier investigations in 2020 Arborline suggested a share-farm arrangement with this species for commercial production of seed as a food source.

Mallee Eucalypts

Mallee are low rainfall eucalypts that form a woody lignotuberous root which is extremely hardy to drought and fire. From this lignotuber the plant produces several stems; the clump resembling several small eucalypt trees. Mallees reach 4-6 metres in height in natural stands and plantations. When close-planted the stems are vertical, and although the canopy is relatively dense, it may become elevated leaving a visual opening at ground level. Spacing plants will produce a more typical Mallee form and may improve screening at eye-level heights. Mallee species are easy to establish in dense belts and grow several stems of small diameter. Once established, Mallee is easy to manage as coppice, so they can be cut back to produce products like firewood, and will naturally regrow throughout a cutting cycle (see Section 6.7 for further detail).

Plantations of the Blue Mallee (*E. polybractea*) have been established in Victoria and central NSW for the past 20 years. Arrangements are as broadacre and shelterbelt designs, for R&D purposes and then CO₂ sequestration.



Green Mallee (*E. viridis*) is a local indigenous species also grown in Victoria for rural-based plantings and has similar structure to Blue Mallee once mature.

Bell-fruited Mallee (*E. preissiana*) is a Western Australia species propagated locally and well suited to dry environments in Victoria. It has a shorter habit than Blue or Green Mallee (2-3 m), with a somewhat more bushy form to ground level. Its large flowers may have particular biodiversity value to bees and birds. This could be well suited to companion planting with the other Mallee species, or used in place of Acacia where that genus is not favoured because of its shorter life-span.

Table 2. Comparison of species suited to linear plantation designs in relation to screening requirements.

Group	Feasible?	Screen value	Height (m)	Longevity years
Local Indigenous trees ^[1]	Y	Mod	25+	>100
Local indigenous shrubs ^[2]	Y	High	3	5-10
Local small tree and shrub mixtures ^[1]	Y	Mod	10	5-50
Casuarina	Y	High	10	40
Exotic Acer	N	Low	25+	>60
Exotic conifer	N	Mod	20+	>50
Mallee species	Y	High	6	>100
Yellow Gum	Y	High	5-30	>100
<i>Acacia pycnantha</i> ^[2]	Y	Mod	4	Managed ongoing

^[1] Can include a lot of management time tracking down acceptable genetic mix.

^[2] Share farm suggestion from Arborline (they want to grow acacia seeds for food)



5. RECOMMENDED BELT DESIGN FOR SCREENING

This section provides Neoen with recommendations for screening positions, design of screening belts including tree placement relative to existing and current fencing, and preferred tree and shrub species and the requirements for planting stock.

5.1 Positioning Tree Belts at Goorambat

The primary purpose of the screening is to reduce the visual impact of the solar panels to observers, and the visual impact assessment report by Hansen (2019) provides an excellent assessment of this. Based on the use of adjacent highways and the occupancy of adjacent land, we recommend that most belts are required on the western and central sectors of the project area, with relatively fewer belts on the eastern half. Table 3 contains sectors and recommended placements. The belt should be tidy, straight and uniform, not encroach on either the production area or road verges, and not damage adjacent structures through falling material or fire. The belts should grow quickly yet not exceed 6 metres, and dominate their immediate locality thereby suppressing ground vegetation from growing beneath them. This will reduce the ability for grass fires to carry through the belt or climb into the canopy, thereby reducing their flammability.

Table 3. Sectors and recommendations on screen placement around the proposed Goorambat East Solar Farm, including previously assessed visual impacts (VIA code, after Hansen’s Visual Impact Assessment memo).

Sector	Description	VIA code	Recom’n	Typical condition
Western boundary	Main visual access from Tocumwal road	Mod	Belt	Recently cropped in main sections, but intermittent rough ground from dam works pose issues.
North boundary west half	Goorambat access road on north-west boundary.	Mod	Belt	Recently cropped to within 2 metres of fence
South boundary west half	Adjoining are two lifestyle blocks. Check neighbour’s preference	Mod	Belt	Recently cropped, but with one rough/damp section approx. midway
North boundary	Little used unmade road called Saunders Road.	Low	Belt	Recently cropped to within 2 m of fence.
South central railway wedge	Occasional Wheat train	Low	Belt	Some recently cropped
East boundary	Scarcely used, muddy track, adjoining crop lands.	Neg.	Nil	Recently cropped
Spinks Lane	Internal boundary east-side	Neg.	Nil	Recently cropped/grazing
South boundary east of railway line	To the south is unimproved grazing with scattered native trees, no residences	Mod	Belt	Grazing

5.2 Recommended Design for Screening Belts

To satisfy the requirements and objectives of planting screens (Section 3.0), and having considered the identified planning factors (Section 4.0), we propose an optimal plantation design that will suit Neoen’s needs, by providing visual amenity to travellers and residents, as well as some biodiversity benefits. A logical progression through the requirements of local authorities, plus those of Neoen, provide a clear indication that vigorous hardy eucalypts that do not grow to large size, supported by a minor shrub component, will satisfy most requirements as summarised in Table 4.

Table 4. Summary of logic regarding choice of Mallee-type eucalypt species and Acacias for screening belts.

Structure	Response
If Neoen want to establish a living screen around their GESF facility...	plant tree belts
If CFA require planting of fire-resilient species, then in this low-moderate rainfall landscape...	plant eucalypts
Given screen height to reach 6 m...	use Mallee-type eucalypt species (Section 5.3)
Given Council wants a belt 10 m wide...	Three rows at 2.25 metre centres
Given Council requires some understorey structure...	Interplant one row with Mallee Wattle or shorter Bell-shaped Mallee (Section 5.3).

Note: The local Shire’s requirement for 1 meter tall plants in pots *is not advisable*. Long experience indicates that planting advanced-stage eucalypt ‘seedlings’ has low success in terms of survival and growth. Instead, we propose seedling nursery stock in either forestry tubes or hyko plugs.

To facilitate passage of management vehicles along the inside of the outer property fence, for silviculture and other purposes, position the first row at 4 meters in, with three tree-rows making up the belt - each 2.25 meters apart. This leaves a distance of 1.5 meters between the inner-most row and the proposed internal fence (Figures 3 & 4). Side branching will brush the internal fence. If this is an issue, increase to 2 meters, and reduce spacings between rows to 2 meters. The first or outer row is interspersed with either Mallee Wattle or Bell-shaped Mallee to maintain screening at ground level.

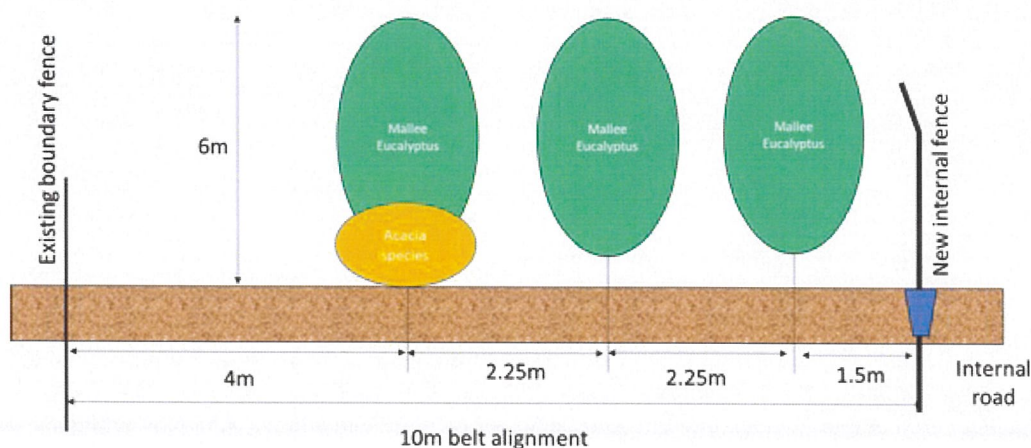


Figure 3. Cross-section of the proposed planted screen, showing distances within the belt relative to existing and proposed fencing.

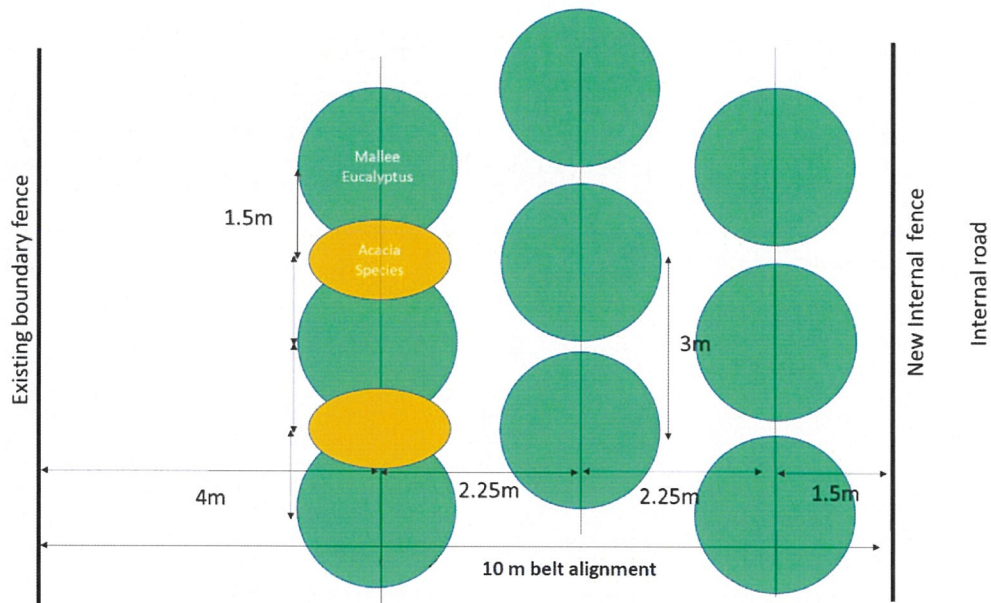


Figure 4. Plan-view of the proposed planted screen, showing distances within the belt relative to existing and proposed internal fencing. Note the staggered position of trees in the middle row, aligned with gaps in the outer rows to increase screening effectiveness. A 4 meter outer-bay is included for management vehicles.

The location of major screening belts and their lengths are proposed in Table 5 and mapped in **Appendix 4**. On some boundaries, the presence of dams and low-lying water seepages occur, dictating the need for breaks in some major belts (Figure 5).

Note also that the proposed layout considers and includes existing tree belts, such as those along the centre Goorambat-Chesney Road, meaning that screening is only needed on one side (**Appendix 4**).

Prior to planting, the exact detail of screen locations requires accurate survey to at least hand-held GPS accuracy. This design needs alignment with planned solar array placement and security fencing, the finer detail of which is currently unknown to Forest Solutions (see also Section 6.8).

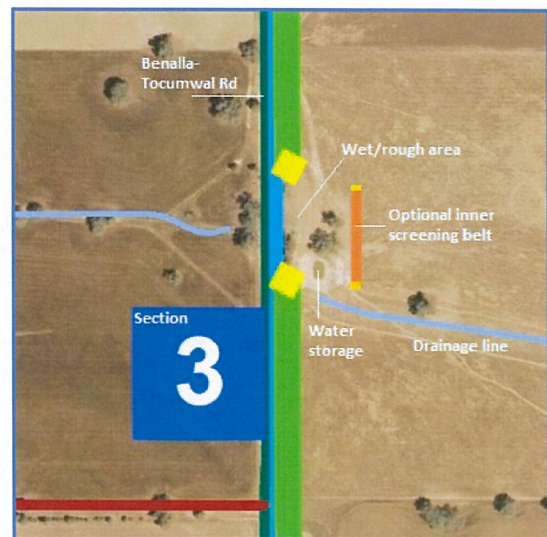


Figure 5. A zoomed-in vertical image from **Appendix 4**, showing an example break in major belt screening where plants cannot be established.

Figure 6 provides an example of Mallee eucalypts planted for oil production in rows similar to those proposed in this Plan. These appear to be about 2-3 years old, and we expect plants at the Goorambat East Solar Farm to reach maximum height in about 8-10 years after planting.

Mallee height can also be managed using a silvicultural regime of cutting for products like firewood (Section 6.7), a commodity that is valued locally.



Figure 6. A young Mallee plantation managed for oil production. We propose three lines like these around most of the GESF facility, but allowed to reach 6 meters height.

Table 2. Proposed belt numbers (aligned with **Appendix 4**), coordinates and section-lengths for screening at Neoen’s proposed Goorambat East Solar Farm.

Belt No.	Locality	EMH ⁴	Length (m)	Start		End	
				South-	East-	South-	East-
1	West no 1	E	560	36° 26' 38.3	145° 55' 26.98	36° 25' 22.19	145° 55' 16.72
2	West no 2	H	130	36° 25' 18.96	145° 55' 14.37	36° 25' 15.19	145° 55' 11.74
3	West no 3	H	220	36° 25' 14.70	145° 55' 11.57	36° 25' 08.59	145° 55' 07.64
4	West no 4	H	420	36° 25' 06.22	145° 55' 06.19	36° 25' 53.98	145° 55' 58.56
5	West no 5	E	300	36° 25' 51.05	145° 55' 56.59	36° 25' 42.49	145° 55' 51.16
6	West no 6	E	290	36° 25' 39.82	145° 55' 49.48	36° 25' 31.42	145° 55' 44.04
7	North west no 1	E	1,340	36° 25' 27.05	145° 54' 45.77	36° 25' 07.35	145° 55' 33.83
8	Centre west no 5	E	730	36° 25' 08.69	145° 55' 42.24	36° 25' 29.74	145° 55' 55.68
9	Centre west no 4	E	620	36° 25' 32.49	145° 55' 57.65	36° 25' 50.43	145° 56' 08.84
10	Centre west no 3	E	240	36° 25' 51.23	145° 56' 09.25	36° 25' 58.01	145° 56' 13.36
11	Centre west no 2	E	260	36° 25' 58.57	145° 56' 13.96	36° 26' 06.16	145° 56' 18.74
12	Centre west no 1	E	220	36° 26' 07.26	145° 56' 19.47	36° 26' 13.75	145° 56' 23.48
13	South west no 1	E	820	36° 26' 37.97	145° 55' 27.13	36° 26' 25.64	145° 55' 56.33
14	South west no 2	E	720	36° 26' 25.33	145° 55' 56.81	36° 26' 14.06	145° 56' 23.77
15	Centre east no 1	M	790	36° 25' 51.81	145° 56' 12.18	36° 26' 10.18	145° 56' 33.78
16	South east no 1	H	540	36° 26' 10.08	145° 56' 34.20	36° 26' 01.88	145° 56' 53.54
17	South east no 2	M	420	36° 26' 01.68	145° 56' 53.99	36° 25' 55.53	145° 57' 09.04
18	South east no 3	M	250	36° 25' 53.75	145° 57' 13.05	36° 25' 49.87	145° 57' 21.70
19	North east no 1	E	800	36° 24' 51.75	145° 56' 09.05	36° 24' 40.06	145° 56' 37.37
total length			9,670				



5.3 Planting Stock Requirements

We advise that the most appropriate Mallee species to use at Goorambat is *Eucalyptus polybractea* (Blue Mallee) and/or the local species *E. viridis* (Green Mallee). Don't mix species. Rather, if both Mallee species are used, plant in sections by species. These are both well-suited to the climate and more likely to remain under 6 meters height, being of the classical shorter, multi-stemmed Mallee form. The inter-planted understorey can be an Acacia of several local varieties, and we recommend *Acacia montana* (Mallee Wattle). Another but shorter Mallee eucalypt, *E. preissiana* (Bell-fruited Mallee) can also be used for this purpose, and is longer-lived than Acacia. We recommend using this species along Sections 10, 11 and 12 (**Appendix 4**) where Acacia is not an option based on the preference of local residence for a longer lived species. This species could replace all intended Acacia.

According to the belt design (Figures 3 & 4, Section 5.2), the length required (Table 5), and the proposed spacing of 3 metres within each tree line for eucalypts, and inter-planting one row 1:1 with an understorey species, the tree stock required per 1 km of three-line belt is:

- (i) 1,000 eucalyptus seedlings to be planted at 2 metre spacing in each of three rows.
- (ii) 333 understorey seedlings to be inter-planted in the first row facing the fence, at an effective 1.5 metre spacing relative to the eucalypts.

This makes a total of 1,333 seedlings required per km of three-row belt. At approximately 10 km of screening belt, an order of 14,000 seedlings is appropriate in the following mix of species:

- Blue and/or Green Mallee: 10,500 seedlings
- Mallee Wattle: 3,200 seedlings
- Bell-fruited Mallee: 300 seedlings (for sections 10,11 and 12)

Sourcing seedlings for a 2022 planting should not be difficult at this stage, given the date of this review (November 2021) allows time for planning, sourcing seed, and for nursery seedling production.

We recommend either forestry tubes or hyko-style seedling tubes ('tube stock'). The former may be more robust and costly, and the latter are lower cost and perhaps easier to transport and plant.

Note that we do not support the local Shire's requirement for 1 meter tall plants (see Section 3.1). Advanced plants of this height have significantly lower vigour and survivability compared with the smaller tube stock, are therefore unsustainable to establish at the scale of this project, and their perceived height advantage will be accounted for by the tube stock after only 2-3 years.

Of paramount importance to establishment success is seedling quality. We recommend that no seedlings are purchased unless they are first quality-checked in the nursery. Variation in seedling quality, not only between nurseries but also between seasons within the same nursery is not unusual. We recommend Neoen stipulate quality parameters and order specific additional treatments, such as 'nutrient loading' and hardening-off seedlings prior to delivery. During a final audit of seedlings prior to delivery, substandard seedlings can be rejected, purchasing only seedlings that meet the nominated specifications (See **Appendix 5**).



6. ESTABLISHING TREES IN THE SCREENING BELTS

In addition to seedling quality, the other most important factor influencing establishment success is the standard of silviculture used to plant, establish and grow the screening belts. We propose a silvicultural regime of site preparation, weed treatment, quality planting techniques, fertilisation, and guarding young seedlings from browsing animals, like rabbits and hares.

The following details describe the optimal planting regime and are endorsed by Forest Solutions.

6.1 Timing of Operations

Neoen's objective for Goorambat is to establish screening belts during 2022. As at November 2021, we advise this timing objective is very appropriate, allowing time for planning, sourcing seedlings, and for an optimal silvicultural planting regime to be applied. *Note however that seedlings must be ordered ASAP in November 2021.*

We also note Neoen's plan to start planting as early as March (October 2021 email to Forest Solutions). However, planting cannot start this early. Inland locations, such as Goorambat East, are still too dry to plant trees in March (Figure 2), impacting a planter's physical ability to penetrate soil for planting, and usually leading to high mortality due to lack of ground moisture and high temperatures still possible at that time of year.

Rather, it is recommended that Neoen start planting in July at the earliest.

If a staggered planting is undertaken, we propose an objective to plant up to 1/3rd of belt length first in June 2022 (if soil moisture and seedling readiness permits), focusing only on the 'Easy' sections to site prepare (Table 5). There are a number of advantages of this approach; enabling planting techniques to be demonstrated and reviewed, then refined for final plantings in July/August. For this scenario, a total of 4,500 seedlings is first required for a length of about 3.5 km of screening. The balance would then be planted in July/August 2022. Final planting in September is possible, but only if seasonal conditions are favourable, such as a cool/moist spring.

6.2 Site Preparation

Most areas proposed for belts have been recently cultivated for cropping, and this is a helpful baseline for site preparation. We advise that an additional cultivation would be optimal, such as deep ripping-lines to 30 cm depth, but note that soils should not be too wet when disturbed as soil-damage can occur during such conditions and ripping outcomes are less than desirable. Rather, undertake site preparation before the autumn break in 2022, when soils are still dry, to achieve a shattering of any surface hard-pans. This deep ripping will prepare soil for good plant-root penetration, increasing rates of survival and establishment.

For cropped areas frequently cultivated, harrow the 10 meter wide belt first then plough strips 1 to 2-metres wide, centred on each proposed tree line to 30 cm depth. If enough weeds have regenerated before planting following inspection, boom-spray the entire belt with 3l glyphosate per hectare, spiked with a catalyst (Oxyfluorfen) for more rapid knockdown. Time between spraying and



planting needs to be at least 3-4 weeks, giving weeds time to die. Then hand-plant between June and August with fertilisation using the specialised planting shovels, and guard.

If significant rain occurs during 2022, some variation to this regime may be required due to waterlogging of soils.

Variations may also be required where boundary sections are more difficult (Table 5); that is, less/never cultivated, and prone to water-logging or are uneven due to residual dam earthworks.

6.3 Planting and Fertilisation

There are a number of planting techniques possible at Goorambat East. If soil moisture levels remain good into 2022, then hand-planting can occur using specialised planting spades.

Fertilisation using 15-30 gram of the appropriate NPK mix slow-release fertiliser Osmocote® is recommended *if seedlings are not nursery nutrient-loaded*³. This is added directly into the spade-hole at the time of planting.

6.4 Tree Guard Requirements

Tree guards are essential for the protection of seedlings from browsing animals. Good fertilisation (see above) for early rapid growth is also helpful to grow seedlings quickly out of the browsing zone height. Biodegradable guards must be robust and positioned firmly in place using quality hardwood stakes and staples. Guarding occurs at the time of planting by two dedicated team members per planting crew member.

Materials per seedling include two wooden stakes⁴ (75 cm), one paper-based guard (biodegradable) and a staple gun to secure guard to one stake. About 14,000 units are required.

6.5 Ongoing Browsing Management

To further reduce browsing of seedlings by rabbits and hares, engage a local professional shooter to patrol planted belts for three nights per week during the planting period, then weekly for a month following planting.

Note that planted stock must also be protected from sheep grazing, especially in the first 6-12 months. Depending on when the internal fence is constructed, a temporary electric fence may be required to keep sheep outside the 10 meter belt.

6.6 Ongoing Weed Management

Following planting, reinvasion by weeds requires monitoring and action if at undesirable levels. Quality planting will encourage rapid establishment of trees and natural suppression of weeds within the belt. However, prior to this occurring (2-4 years), targeted spot spraying may be required – especially in the first year to support establishment and maximise success.

³ Nutrient loading is when seedlings are de-plugged in the nursery, breadcrumbed in Osmocote, and re-plugged.

⁴ Bamboo stakes are not ideal. They are flimsy, are easily knocked over by browsers, cannot be stapled and produce a substandard outcome – both in terms of survival and visual amenity.

6.7 Silvicultural Options for the Ongoing Management of Screens

Most farm plantations tend to be established, then left to grow with no other value than for belts or breaks. Eventually at age 10 to 20 years, the land manager realises that trees have either grown too tall, too wide, or are breaking up and falling over.

Alternatively, actively managed plantations of trees result in healthier stands with more successful objectives. One way to achieve this at Goorambat is to manage trees for an additional purpose, not just for screening alone. Because Mallee eucalypts produce a lignotuber, and can therefore be cut then re-shoot new stems, the three-row belt design provides the opportunity to periodically remove one row, or to thin all three rows to provide wood stems for sale as woodchip, biomass, landscaping material, or for solid wood fuel. Thinning can occur down to 1-3 stems per tree-stump, and other new stems will re-shoot. Oil production from leaves is also possible (Table 6).

Table 6. Summary of possible commercial applications for products harvested from the visual screens at Neoen's proposed Goorambat East Solar Farm.

Product	Species	Rotation (years)	Note
Eucalyptus oil	Blue Mallee, Green Mallee, Bell-fruited Mallee	2-3	Cut at 2 m height to maximise leaf-to-stem ratio on one or two rows only, with the inner-most row maintained at 6 m height to retain screening integrity.
Wood/leaf chip	Mallees, Grey box; Mugga Ironbark, Red Gum	6-10	Cut at 6 metres height to maximise biomass, on a cycle of 4-6 years. Leave the inner-most row untouched to retain screening.
Domestic Firewood	Mallees ('pot-belly' wood), Box-Ironbark species, Red Gum.	10-15	Allow Mallees to get to the full 6 metres height before cutting. This ensures reasonable diameter. Maintain stem number at 2 or 3 per stump to maximise stem diameter and firewood piece in the round.

The 4 meter wide bay inside the boundary fence (Figures 3 & 4) provides access for operators undertaking such silvicultural treatments. Considered positioning of cutting pattern by the operators will retain appropriate visual amenity and screening by the belt. It is possible that Neoen can achieve this at no cost, if contractors or local community receive the benefit of cut products.

6.8 Integration of Screen Works with Other Operations on Site

Part of Neoen's site plan is to construct a two metre tall chain link security fence on the inside of planted screening belts. Forest Solutions recommends close integration and supervision of the two operations, both in planning, timing of operations and implementation.

6.9 Fire-mitigation Effects of the Proposed Design

The proposed belts comprise Mallee at enough stocking to maintain a dense canopy, with a likely leaf area index (proportion of single-side leaf area to ground occupied) of 1.5 to 2. This indicates a high demand on soil moisture by the tree belt which occurs to the detriment of understorey grasses. Such



a canopy also releases chemical residues through leaf fall or solution in rain, which on the ground through allelopathy inhibits the germination and growth of understorey plants. Hence the ground under the belt is likely to be near-bare and incapable of carrying fire into the crown. Further, as at the Numurkah East Solar Farm, if sheep are permitted to graze at the GESF facility, they will also be reducing the amount of flammable ground cover. Lastly, should enough leaf litter develop under the canopy, it can be burnt under controlled conditions during cool periods, facilitated by internal road and bay access to all parts of the screening belts.

6.10 Fulfilling Statutory Requirements Using the Proposed Design

Table 7 provides a summary of the design elements used to fulfil Council and other statutory requirements, including a time line of operations.

Table 7. Summary of Plan recommendations related to statutory requirements for Neoen's proposed Goorambat East Solar Farm.

Required inclusions	Plan response
<i>Landscaping treatments proposed</i>	The proposal is to establish Eucalyptus tree belts, 3 rows wide at required sections of the boundary. Tree spacing is 2.5 m between middle and outer rows, with 3 m between trees within rows. The first row is 4 m from the outer fence. The middle row has staggered positions to cover gaps in the outer rows. The first row next to the outer boundary fence is inter-planted with a local Acacia.
<i>A timetable for establishing and maintaining the landscaping.</i>	<p>The proposal is to establish one third of the proposed belts in June 2022 (up to 4,500 seedlings over 3.5 km, with the balance to be planted in July/August 2022. Plant in September only if seasonal conditions allow (moist soils, cool weather).</p> <p>For 2022 plantings, the following work plan includes:</p> <ol style="list-style-type: none"> November 2021: Order seedlings from at least two nursery providers. January to March 2022: undertake monthly checks of seedling quality and progress in the nurseries. March 2022: Inspect and Survey all sections with GPS for 2022 plantings. Mark the planting lines by placing pegs at 4, 6.25 and 8.5 metres from the fence each 100 metres along planned belts. These are to guide the site preparation machine and planting crews in correct placement of plants. Straight rows. March/April 2022: Harrow and deep-rip straight lines PRIOR to the autumn break. Rip off-centred parallel to each planting row. Also do final checks of seedling progress in the nurseries. April 2022: Inspect grass/weed growth following site preparation, especially AFTER the autumn break. Boom spray with spiked glyphosate as required. June-August 2022: Plant seedlings at 3 m spacing along planting rows. Offset middle row plantings. Planting includes installation of tree guards and fertilisation. Professional night shooting to reduce vermin. August-December 2022: Each month inspect weeds and manually spray if necessary. Shoot vermin weekly throughout September. October 2022: replace any mortality, water in. Summer 2022/23: Monitor growth. If drought approaches, then arrange to water at 2 L/seedling.



<i>An increase in the width of vegetation screening around the perimeter of the site from 5 to 10 m.</i>	Belt width is 10 m from foot of the outer fence to drip line of inner most plant.
<i>Perimeter screen planting must be undertaken and completed during Autumn/Winter months prior to construction.</i>	Note our recommendation/advice for undertaking planting from June at the earliest. Note also that the screening effect will not be complete for about 3 years.
<i>Selected trees must be greater than 1 metre in height when planted and when matured must reach approximately 3 metres or higher.</i>	The Shire's requirement for greater than 1 m plants at planting is <u>unnecessary</u> and <u>not advised</u> by us. Survival would be 'Low' (see section 5.3). Better results are obtained with 30 cm forestry- or hyko-style seedlings. We propose to use Blue Mallee trees with top height 6 metres. An alternative species is the indigenous Green Mallee, which is native to hills south of the Broken river. We also propose <i>Acacia montana</i> for the shrub layer, but Bell-fruited Mallee could replace this if longevity is required. To maintain tree-belt health and integrity, silviculturally manage as coppice.
<i>A watering regime.</i>	Planting in winter followed by normal spring should not require subsequent watering. However, (i) identify a suitable watering contractor, (ii) monitor the weather and soil moisture, and (iii) if dry conditions eventuate water as required.
<i>A tree replacement plan whereby any deceased tree must be identified and replaced within three months.</i>	Monitor planted seedlings from September to November. Early mortality can be replaced immediately. However, later mortality in November cannot be replaced until winter 2023. Note that seedling in-fill planted during November are not summer-ready and may die over summer anyway.
<i>Weed management.</i>	Complete pre-plant control of existing weeds and residual (using Glyphosate spiked with Oxyfluorfen). Post-plant manual weeding using glyphosate in backpacks as required starting October 2022.
<i>Native shrubs that will reach a height of 1 - 1.5 metres when matured.</i>	On outer row adjacent fence inter-planted with <i>Acacia montana</i> . This is a native shrub that will reach approx. 1.5 metre. Subject to availability. In some places where Acacia may not be preferred, we propose planting Bell-fruited Mallee. Although this is a WA species, it will be quite well suited to NE Victoria conditions and would benefit local fauna (Appendix 3).



7. REFERENCES

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APPENDIX 1 Council conditions of approval

Prior to the commencement of buildings and works, a landscape screening plan which provides for landscaping or other treatments to reduce the visual impact of the Goorambat East Solar Farm to the surrounds must be submitted to and approved by the responsible authority. When endorsed, the Landscape Screening Plan will form part of this permit.

The Landscaping Screening Plan must include:

- a) *The type of landscaping treatments to be proposed.*
- b) *A timetable for establishing and maintaining the landscaping.*
- c) *An increase in the width of vegetation screening around the perimeter of the site from 5m to 10m.*
- d) *The screen planting around the perimeter of the site must be undertaken and completed during Autumn/Winter months prior to construction.*
- e) *Selected trees must be greater than 1 metre in height when planted and when matured must reach approximately 3 metres or higher.*
- f) *A watering regime.*
- g) *A tree replacement plan whereby any deceased tree must be identified and replaced within three months.*
- h) *Weed management.*
- i) *Native shrubs that will reach a height of 1 - 1.5 metres when matured.*

The endorsed landscape screening plan must not be altered or modified without the written consent of the responsible authority.



APPENDIX 2 Requirements from the CFA

CFA recommendations include the need to undertake risk management assessments and associated documentation, prepare and implement an Emergency Management Plan incorporating a Fire Management Plan, plus various Site Infrastructure and Site Operation (O&M) requirements.

- **Site Operations:**
 - **Fire Break:** A fire break area of ten (10) metres width is to be maintained around the perimeter of the facilities, electricity compounds and substations. This area is to be of non-combustible mulch or mineral earth. It must be vegetation and obstruction free.
 - **Battery Installations** - to be directly accessible to emergency responders (e.g., provided with a suitable access road). Battery containers/infrastructure must be clear of vegetation for 10m on all sides, including grass. CFA requires non-combustible mulch such as stone or mineral earth within this 10m area

- **Access tracks:** To enable access for fire appliances, CFA requires that the following provisions be considered:

- A four (4) metre perimeter road should be constructed within the ten (10) metre perimeter Fire Break (roads to be of all-weather construction /capable of accommodating a 15 tonne vehicle, a minimum 4 metres in trafficable width with a four (4) metre vertical clearance, average grade no more than 1 in 7 (14.4% or 8.1°). See Figure A.

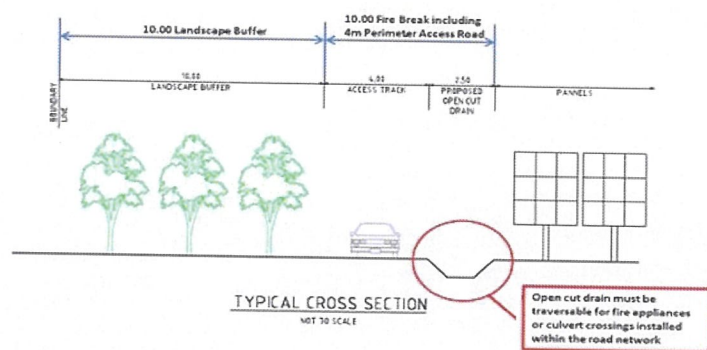


Figure A. Cross-section indicating fire-break requirements.

- Incorporate passing bays at least every 600m which must be at least 20m long and have a minimum trafficable width of 6m. Where roads are less than 600m long, at least one passing bay is to be incorporated. Road networks must enable responding emergency services to access all areas of the GESF facility.
- The provision of at least two access points to the site - the number should be informed through a risk management process.
- **Firefighting Water Supply:** location of firefighting water access points and the quantity of water supply is to be established through a comprehensive risk management process. Static water storage tank shall be of not less than 45,000 litres effective capacity, and must be an above ground water tank constructed of concrete or steel, in a location/ number determined as part of the site's risk management process / in consultation with a CFA.

Whilst these 'requirements' are currently recommendation only, Neoen will likely implement them, given a new CFA Guideline is soon to be published. CFA advised that this is a recent change of approach that has been under discussion with the Department of Environment, Land, Water and Planning for some months.



APPENDIX 3 Local indigenous fauna

Local fauna species (Figure B) are expected to benefit from plantings of Australian native trees and shrubs, and any other site works designed to enhance biodiversity. Rural agriculture land has been heavily impacted by human habitation and agriculture, and opportunities to increase habitat and feeding potential for local species is worthy of consideration. Careful selection of species to plant will maximise this value to fauna and increase the biodiversity value of the region.







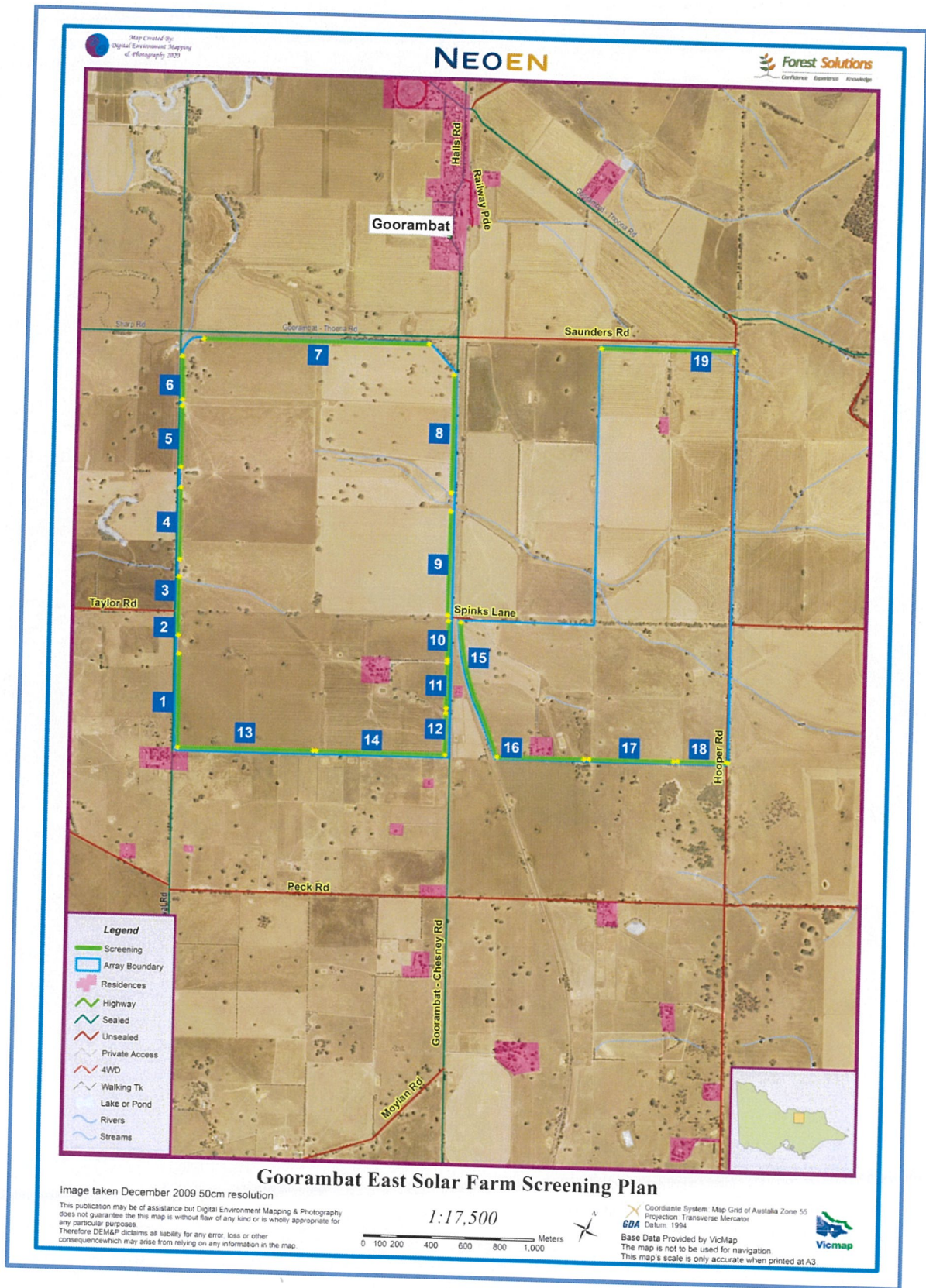
	Squirrel Glider (<i>Petaurus norfolcensis</i>) Minimum patch size (threshold) 2 ha Critical distance between patches 50m Dispersal threshold 1 km Ecological Vegetation Class Box Ironbark, Grassy Woodland Some other requirements (general) fox/cat control, feral bee control
	Jacky Winter (<i>Microeca fascinans</i>) Minimum patch size (threshold) 10 ha Critical distance between patches <500m Dispersal threshold <2 km Ecological Vegetation Class Box Ironbark, Grassy Woodland Some other requirements (general) Noisy miner control and increase remnant widths
	Grey-crowned Babbler (<i>Pomatostomus temporalis</i>) Minimum patch size (threshold) >2ha, >1km of continuous roadside Critical distance between patches <500m form known site Dispersal threshold <2km, very few records >10km Ecological Vegetation Class Grassy Woodland Some other requirements (general) Mature trees, shrubs, corridors, Noisy miner control and increase remnant widths
	Rufous Whistler (<i>Pachycephala rufiventris</i>) Minimum patch size 10 ha Critical distance between patches 1 km Dispersal threshold 2 km EVC used All EVC types
	Brown Tree Creeper (<i>Climacteris picumnus</i>) Minimum patch size (threshold) 30 Ha Critical distance between patches 500m Dispersal threshold 1 km Ecological Vegetation Class Box ironbark, Grassy Woodland, Wetland EVCs, 40 tons/ha of fallen timber
	Latham's Snipe (<i>Gallinago hardwickii</i>) Minimum patch size (threshold) Estimate: <1 Ha Critical distance between patches Not relevant Dispersal threshold Not relevant Ecological Vegetation Class Wetlands Some Other requirements (general) Important habitats are dry areas in light shrubbery with dense undergrowth and agricultural land, including rough pastures and young tree plantations. Feeding occurs on unvegetated open mud or on firm mud between patches of sparse <i>Eleocharis</i> or <i>Juncus</i> . (Todd 2000)

Figure B. Fauna native to local Box-Ironbark or grassy woodland; all of which may be benefited by habitat works associated with the visual screens (source: Goulburn Broken CMA).

https://www.gbcma.vic.gov.au/downloads/bap_cons_plans/bap_chesney_cons_plan_jan_08.pdf



APPENDIX 4 Map of Neoen's proposed Goorambat East Solar Farm





APPENDIX 5 Guidelines for seedling specifications, instructions for the nursery, and care of seedlings following delivery.

Planting stock needs to survive the shock of transplanting and the harsh conditions often encountered soon after planting, such as browsing, frosts, and dry spells. The following specifications are designed to maximise seedling survival and growth, and are adapted from Bassett *et al.* (2011).

Container Specifications:

- Preferred Hiko 93 cc or similar (e.g. Lannen)
- Minimum container depth 85 mm.
- Root trainer type pot to be used.
- Seedlings to be de-plugged just prior to delivery and trays filled to capacity (cull seedlings that are below specification and fill all empty spaces). See also “Fertilisation” below.

Fertilisation:

- Apply a minimum 0.15 g/plant of slow release (6-8 month) fertiliser plus foliar applications as appropriate for growth, vigour and hardiness.
- Seedlings to be Nutrient Loaded just prior to delivery, as follows: during de-plugging (see ‘Container Specifications’ above), every seedling plug is to be “bread-crumbed” with ‘Osmocote Exact mini 3-4 month (16:3.5:9.1:1.2 plus trace elements)’ or similar prior to replacement into cells to produce full trays.

Foliage:

- Healthy, firm textured, with at least 6 or 8 leaves
- Free from substantial insect, fungal, physical, frost damage and mineral deficiency.

Stem:

- Straight and sturdy without cracks.
- Minimum height guide 100 mm, minimum collar diameter 3 mm.
- Maximum height guide 200 mm, minimum collar diameter 3 mm.
- Maximum root collar diameter of 6 mm.

Roots:

- Tap root to be straight.
- Roots not protruding from the container.
- Not pot-bound and minimal coiling or spiralling of lateral roots.
- Fine roots to be dense, fibrous and vigorous with white tips.

Hardening off:

- Seedlings must be hardened-off for a minimum of 3 weeks prior to delivery, by increasing exposure and reducing watering. Hardened-off seedlings may lose their bright green appearance, gaining some pink/red coloration.



Delivery

Arrange a delivery date with the nursery, to coincide with the planned.

Seedlings must be delivered in trays with no empty cells or below standard seedlings, having been previously de-plugged and quality sorted by the nursery just prior to delivery. Seedlings must be free of wind damage and desiccation and arrive at the designated destination within 24 hours of dispatch from the nursery. To achieve this protection, seedlings must be transported within an enclosed container or under a tarp-covered tray/cage.

Within 24 hours of delivery, audit seedling quality against seed specification requirements. We recommend that sub-standard seedlings be not paid for as part of an agreement.

Further Conditioning and Storage Following Delivery

Seedlings must be further conditioned (hardened-off) by exposing them to conditions similar to those encountered at the planting site *for 2-3 weeks prior to planting*. This should occur at Goorambat East, selecting a site that is protected from browsing and with on-tap water available to enable watering of seedlings. Mr Bruce Saunders (local landholder) offered a suitable site for delivery when speaking with him during earlier planning in 2020.

Check the seedlings every second day. Use a temporary fence to protect them from browsing, and ensure they are either watered or rained upon every two days. If no rain, then apply water. Seedlings should not be allowed to dry out. Watering should occur in the early hours of the day as this can reduce the effects of overnight frosts.

Water the seedlings well the day before planting.

Key reference

Bassett, O.D., Fagg, P.C., Slijkerman, C.M. and Lutze, M.T. (2011) *Raising and Planting Eucalypts*. Native Forest. Silviculture Guideline No.9 - 2nd edition, Forests and Parks Division, Department of Sustainability and Environment, Victoria; 41 pp.
https://www.dropbox.com/sh/igo97cr15b0okiy/AACZ7AuOOIUmZnt_RIsuhWdKa?dl=0

5. Planning And Building Approvals – June 2022

SF/255

Joel Ingham – Planning Coordinator

Sarah Ford – Building Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report details planning permit applications and building approvals for June 2022.

Planning Permit Applications Determined under Officer Delegation

File No	Description	Property Address	Decision	
1	DA454	Construction of an outbuilding	20 Racecourse Road, Benalla	Approved
2	DA6415	Construction of a carport, garden shed and pergola	11 Arundel Street, Benalla	Approved
3	DA1871/2	Installation of solar panels	41-43 Nunn Street, Benalla	Approved
4	DA1504	Construction of a shed	4 Coster Street, Benalla	Approved
5	DA7360	Construction of a dwelling	6 Mayfair Drive, Benalla	Approved
6	DA5719	Construction of an industrial building	50A Saleyards Road, Benalla	Approved
7	DA373	Construction of a garage	15 Market Street, Benalla	Approved
8	DA5916	Two-lot subdivision	353 Coach Road, Benalla	Approved
9	DA3203	Construction of one single storey dwelling in addition to the existing dwelling	66 Monds Avenue, Benalla	Approved
10	DA6517	Construction of three dwellings	81 Thomas Street, Benalla	Approved
11	DA7376	Construction of an inground swimming pool	34 Garden Street, Benalla	Approved
12	DA7371	Construction of two single storey dwellings	25 Meadows Avenue, Benalla	Approved
13	DA6807	Use and development of land for crop raising (Flower Farm) with associated retail sales	320 Goomalibee Road, Benalla	Approved (Notice of Decision)

Planning Permit Amendments Determined Under Officer Delegation

File No		Description	Property Address
1	DA7230	Use and development of a dwelling and outbuilding	824 Benalla Warrenbayne Road, Warrenbayne

Planning Permits Issued Under VicSmart

File No		Description	Property Address
1	DA5719	Construction of an industrial building	50A Saleyards Road, Benalla

Planning Permit Applications Determined by the Council

There were no planning permit applications determined by the Council during the month of June 2022.

Planning Permit Applications Withdrawn or Lapsed

There were no planning permit applications withdrawn or lapsed during the month of June 2022.

Notices of Decision

File No		Description	Property Address
1	DA6807	Use and development of land for crop raising (flower farm) with associated retail sales	320 Goomalibee 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.

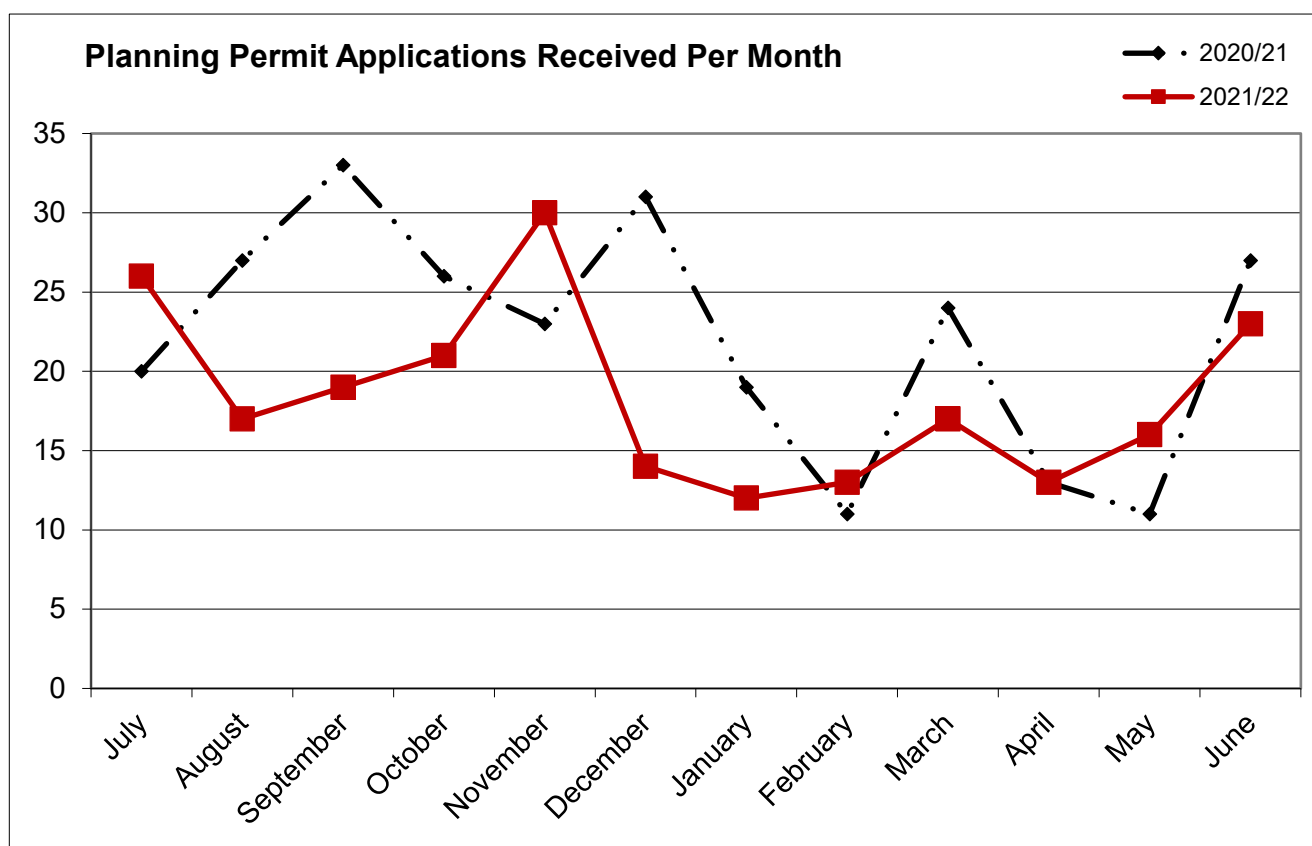
Planning Permit Applications Determined by VCAT

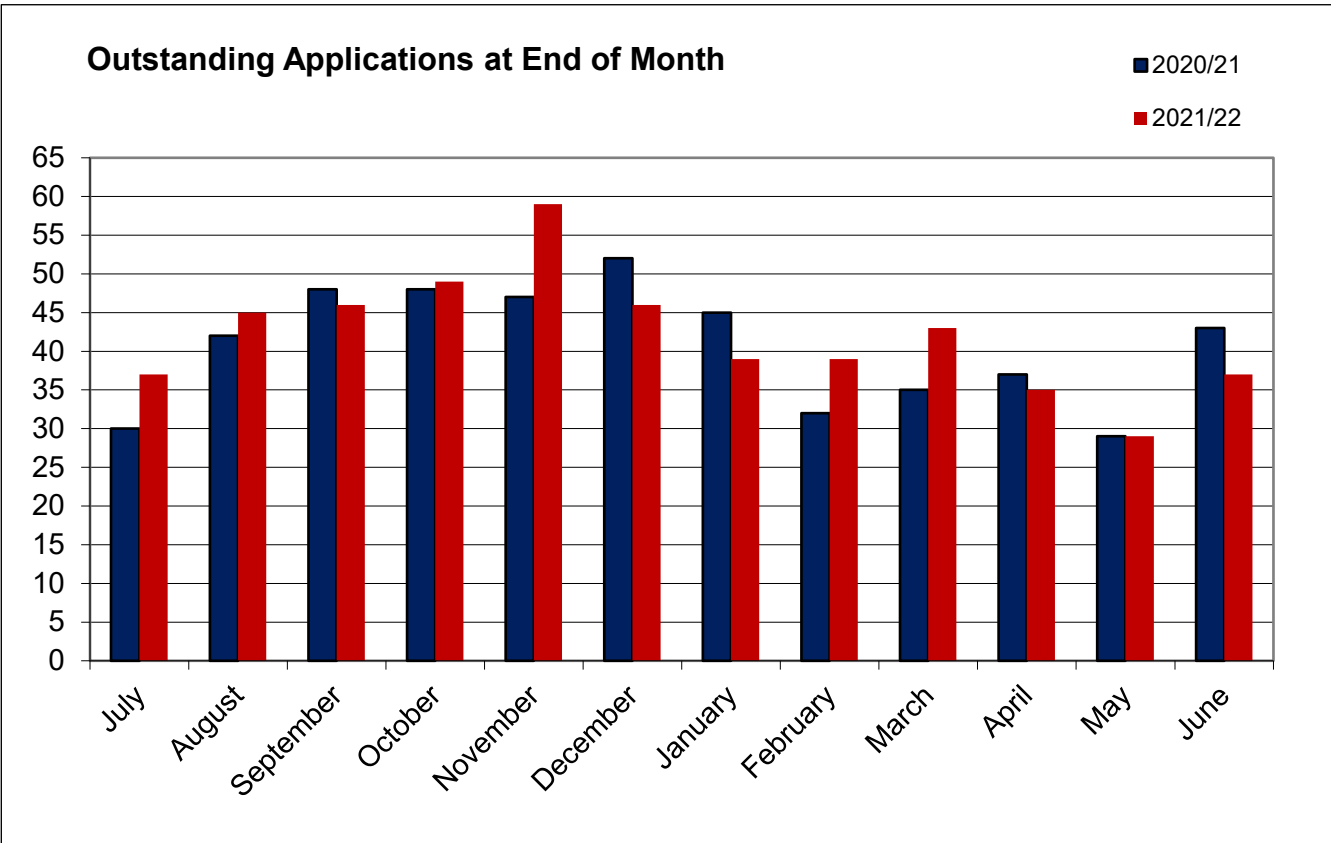
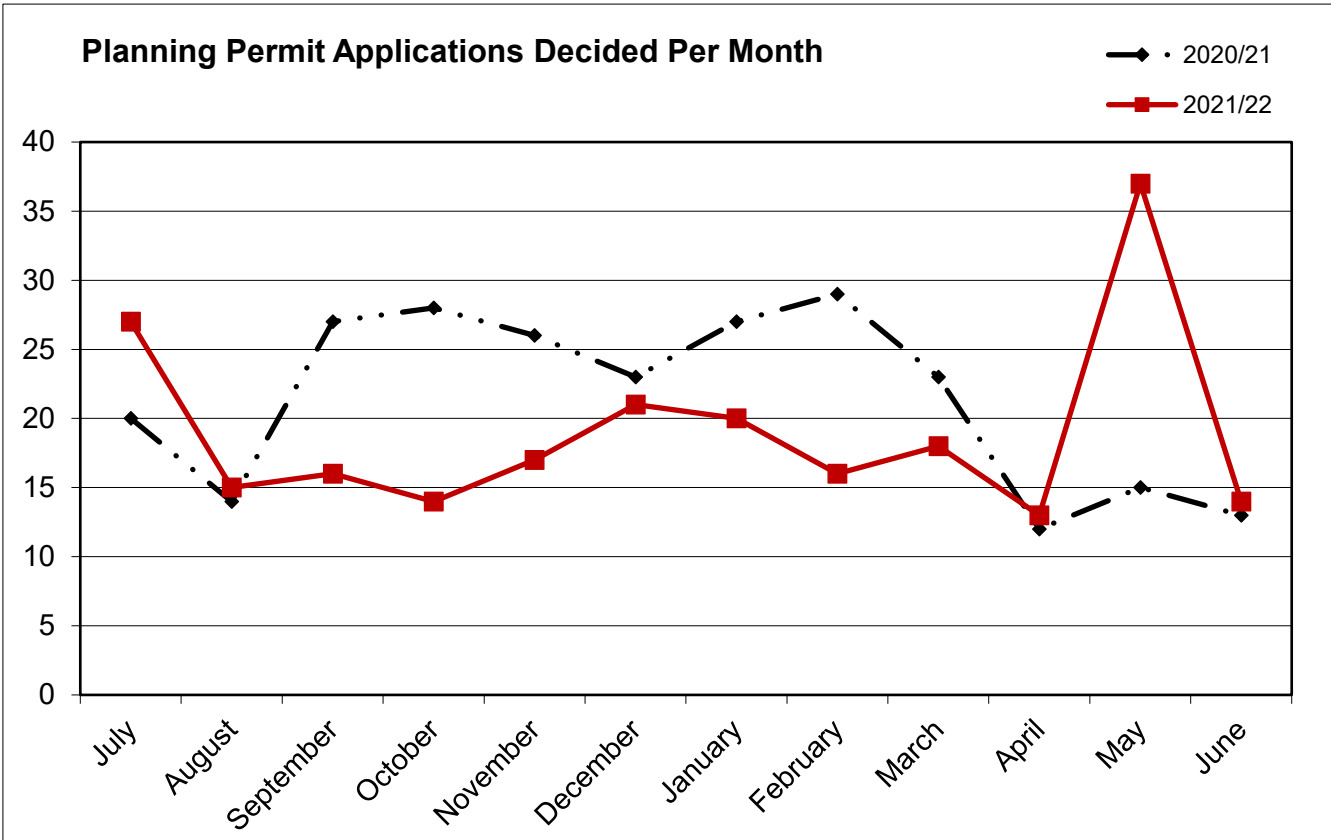
There were no planning permit application determined by VCAT during the month of June 2022.

Matters Before VCAT

DA7055	Use and development of land for a second dwelling at 888 Tatong Tolmie Road, Tatong
Status	At a Planning and Development Committee meeting on 18 May 2022 it was resolved that the Council refuse to grant a permit for a second dwelling on the land. The refusal was based on grounds of objection received from the Country Fire Authority. The applicant has lodged an appeal to VCAT. The VCAT hearing has been set for 17 and 20 February 2023.

Planning Permit Applications



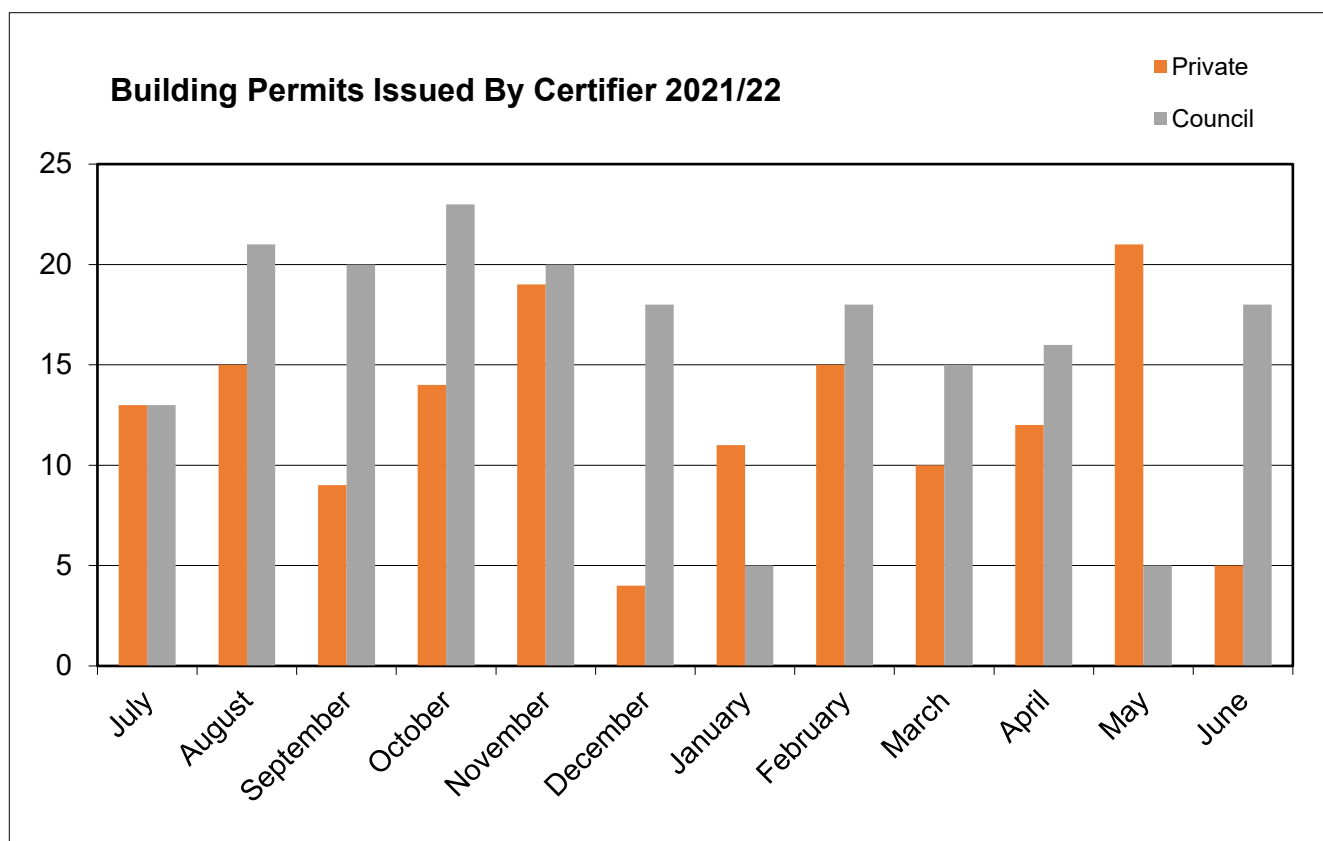


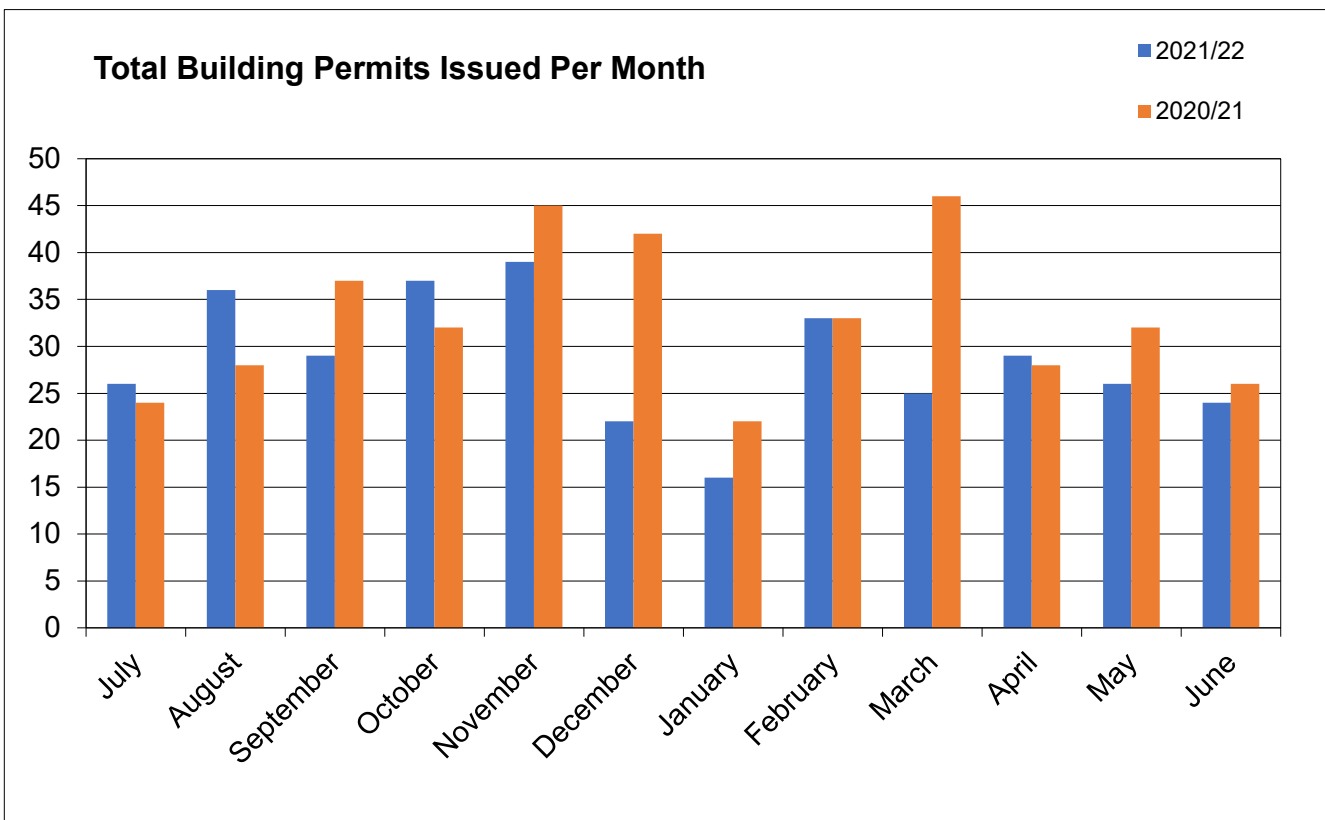
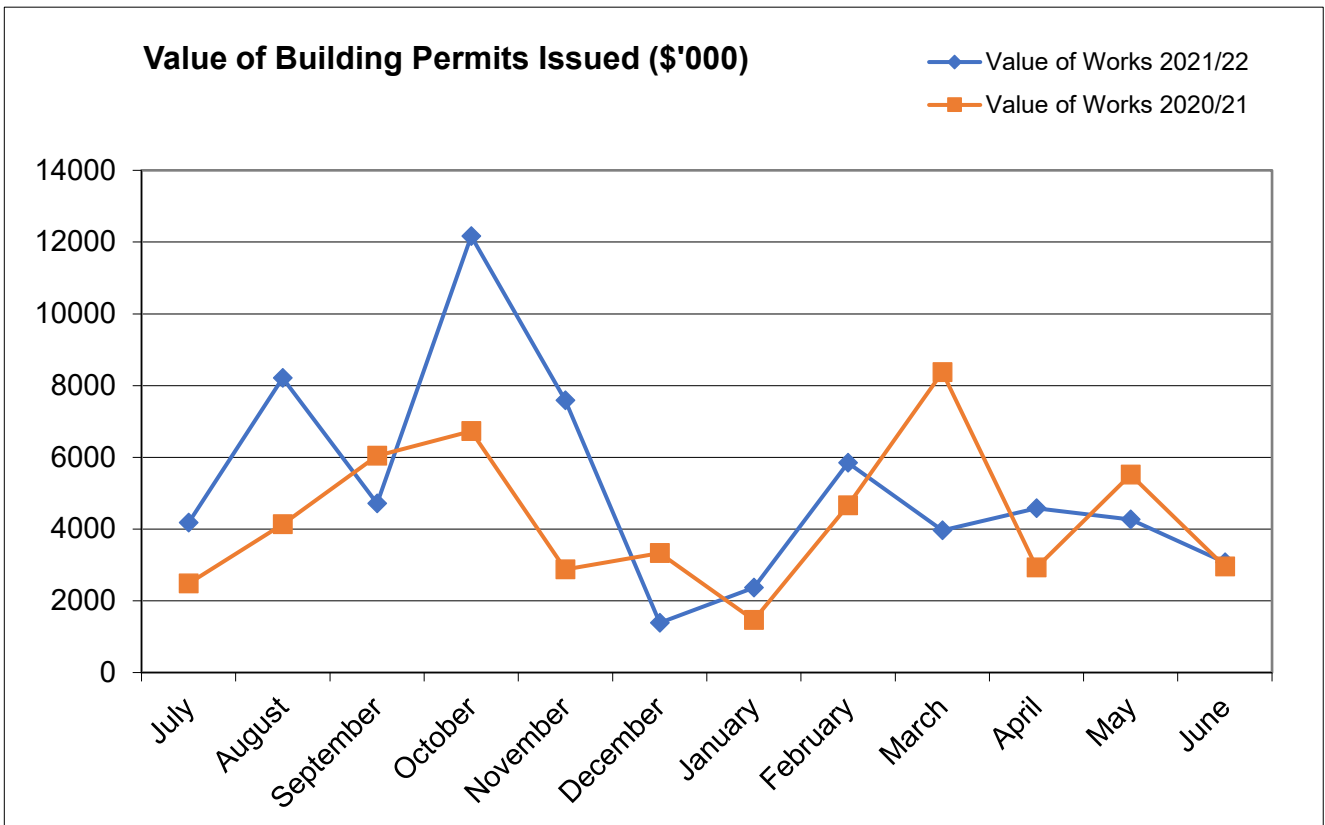
Building Approvals Issued by Council and Private Practitioners

File No		Description	Property Address	Value
1	DA3743	Re-stump of dwelling	1 Salisbury Street Benalla	\$14,228
2	DA5228	Dwelling extension	115 Centre Road, Molyullah	\$40,000
3	DA7275	Construction of a shed	119 Lakeside Drive, Chesney Vale	\$64,805
4	DA5360	Dwelling extension	1376 Benalla Tatong Road, Benalla	\$337,000
5	DA4830	Spa safety barrier	1450 Lima East Road, Lima East	\$1,000
6	DA7319	Dwelling extension and construction of a shed and pergola	16 Meadows Avenue Benalla	\$48,000
7	DA7363	Construction of a dwelling	205 Mitchell Road, Tatong	\$129,800
8	DA3691	Extension to an existing shed	229 Watchbox Creek Road, Molyullah	\$38,924
9	DA1895/2	Construction of a shed	29 Sydney Road, Benalla	\$240,000
10	DA2729	Construction of a shed	34 Nunn Street, Benalla	\$15,500
11	DA1504	Change existing gazebo to shed	4 Coster Street, Benalla	\$47,938
12	DA7316	Construction of a farm shed	457 Thoona Boweya Road, Thoona	\$183,000
13	DA6810	Swimming pool and safety barrier	538 Goomalibee Road, Benalla	\$15,654
14	DA3793	Construction of an outdoor area and basement	57 Grant Drive, Benalla	\$96,000
15	DA7323	Construction of a dwelling and carport	64 Mackellar Street, Benalla	\$225,000
16	DA2415/2	Construction of a shed	65 Palmerston Street South, Baddaginnie	\$24,885
17	DA6379	Extension to an existing shed	668 Lake Mokoan Road, Winton North	\$25,989
18	DA5033	Extension to an existing shed	9 Harrison Avenue, Benalla	\$8,500
19	DA7332	Construction of a dwelling and carport	37 Cook Street, Benalla	\$388,025
20	DA3621	Completion of a transportable dwelling	55 Olivers Road, Benalla	\$30,000

File No		Description	Property Address	Value
21	DA7367	Construction of a dwelling	10 Mayfair Drive, Benalla	\$505,889
22	DA7386	Construction of a dwelling	6 Reidy Street, Benalla	\$29,5021
23	DA7366	Alterations to the existing dwelling	171 Tulley Road, Lima East	\$241,318
24	DA7060	Construction of a swimming pool	80A Dennis Road, Benalla	\$51,650
Total				\$3,068,126

Building Permits Issued by Certifier by Month





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.

6. Draft *Waste Services Policy* Review – Hearing of Submissions

SF/3484

Adrian Gasperoni – Manager Assets and Infrastructure

PURPOSE OF REPORT

The report presents submissions received on the revised *Waste Services Policy*.

BACKGROUND

The Planning and Development Committee at its meeting on 22 June 2022, acting under its delegated authority of the Council, resolved:

That the policy/plan be endorsed and placed on public exhibition for a period of at least 28 days.

Public notice of the revised *Waste Services Policy* was given on the Council's website on 23 June 2022 and in the *Benalla Ensign* on Wednesday 6 July 2022.

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

Additional feedback was sought on fortnightly refuse collection in rural areas.

The submission period closed 5pm Thursday 21 July 2022.

The policy is being reviewed in accordance with Council's Administration Policy *Management Guidelines Policy*.

DISCUSSION

At the close of the submission period three submissions had been received from:

- Michele McCrohan (refer **Appendix 1**)
- Rhona Rose (**Appendix 2**)
- Benalla Sustainable Future Group (**Appendix 3**).

In accordance with the Council's *Governance Rules 2020*, submitters have been invited to address the Planning and Development Committee in support of their submissions.

COUNCIL PLAN 2021-2025 IMPLICATIONS

Leadership

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

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

Submissions will be considered at the Planning and Development Committee on 31 August 2022.

The revised *Waste Services Policy* will be considered for adoption at the Council meeting on 7 September 2022.

Recommendation:

That submissions be received.

From: no-reply@harvestdp.com
To: [Benalla Council Email](#)
Subject: Draft Waste Services Policy Submission
Date: Monday, 27 June 2022 8:00:20 PM

Draft Waste Services Policy Submission

Submission received via the Have Your Say website.

Submission:

The policy seems clear. I'm disappointed that there appears to be no mention of the use of the local tip, the possibility of residents being provided with complementary tip tickets or mention of penalties for illegal dumping of waste by residents.

Name

Michele McCrohan

From: no-reply@harvestdp.com
To: [Benalla Council Email](#)
Subject: Draft Waste Services Policy Submission
Date: Wednesday, 6 July 2022 10:38:21 PM

Draft Waste Services Policy Submission

Submission received via the Have Your Say website.

Submission:

- *Council has a role in educating and encouraging residents to create less waste.
- *Establish a repair facility in Benalla to repair items such as toys, white goods, bikes, furniture, clothing, garden tools. Such a facility could teach residents the skills needed to repair items themselves and so have an added social benefit.
- *Are locally collected materials actually re-cycled? If so how and where?
- *When residents know how waste is recycled, they are more likely to comply with sorting waste.
- *There is a need for a local scheme to recycle x-rays.

Name

Rhona Rose

From: no-reply@harvestdp.com
To: [Benalla Council Email](#)
Subject: Draft Waste Services Policy Submission
Date: Tuesday, 19 July 2022 10:31:22 PM

Draft Waste Services Policy Submission

Submission received via the Have Your Say website.

Submission:

Benalla Sustainable Future Group has worked as a team to put forward our submission attached, on Council's Draft Waste Services Policy. We believe it is an important area and one that all residents can contribute to without too much effort.

We acknowledge the work already done by Council to reduce waste including introduction of the Organics bin, and adopting the practice of swapping single use plastic for less waste-producing options at Council events.

We believe that any waste services policy needs to be formulated not in isolation, but in the current context of

- Australia's aim of Net Zero Emissions by 2050,
- The State of the Environment Report 2022 <https://soe.dceew.gov.au/> ,
- The latest Intergovernmental Panel on Climate Change Report, <https://www.ipcc.ch/assessment-report/ar6/>

We hope Council will "Think Global, Act Local".

BSFG's submission outlines several initiatives which would help our community progress towards zero waste, and contribute towards our local, national and global responsibilities.

We would welcome their implementation across Benalla Rural Council's rural and urban settings.

Name

Benalla Sustainable Future Group

I am happy to be identified in the public submissions report.

Yes

Upload supporting document (if applicable)

- [BSFG_submission_Waste_Policy_2022.docx](#)

TOWARDS A ZERO WASTE SOCIETY:

Benalla Sustainable Future Group: Submission to BRC Waste Services Strategy 2022

COUNCIL OBJECTIVES

Benalla Sustainable Future Group would like to work with Council to achieve the Council's Objectives.

This submission outlines some ideas in line with Councils' objectives of

"ensuring Council plays a leadership role in

- driving sustainable waste management
- continuing to assist the community to minimise waste
- increasing resource recovery
- continually striving to find alternatives to landfill disposal"

("Have Your Say", Draft Waste Services, Background Information)

REDUCING CONSUMPTION, WASTE & EMISSIONS

With Australia's Aim of Net Zero Emissions by 2050 we believe all levels of government need to be acting with urgency to reduce emissions. <https://eciu.net/netzerotracker>

Councillors would be aware that our consumption expenditure includes large amounts of scope 3 emissions. <https://www.carbontrust.com/resources/briefing-what-are-scope-3-emissions>

Reducing consumption reduces emissions. Reducing consumption is also the key to waste disposal issues.

Repairing and reusing things would reduce emissions and landfill. Benalla residents would benefit from the Repair, Reuse, Borrow and Swap ideas from Moreland Council. BRC, our environment and residents would benefit from the reduced landfill and emissions that would result.

Council could take a lead in educating and encouraging the Community around Repair, Reuse, Borrow and Swap actions to reduce waste. Could Council offer a space to establish a repair café?

<https://morelandzerocarbon.org.au/zero-waste/repair-reuse-borrow-and-swap/>

BUILDING & CONSTRUCTION WASTE, and HOUSEHOLD HARD RUBBISH

A huge amount of locally generated waste comes from the building industry including renovations and demolitions.

To reduce the amount of these waste types of going to landfill, and to encourage re-use of materials where possible, we suggest a Council-operated facility for second-hand building materials and fittings for house/garden as an adjunct to Benalla's Landfill and Resource Recovery Centre. Items would be donated or purchased by community, with proceeds going to the running of the second-hand materials centre.

Examples of this model or similar

- The Rediscovery Centre, Alice Springs – listed under the Alice Springs Town Council website, adjacent and linked to the Alice Springs Regional Waste Management Facility.
- Wangaratta Drive in Salvage Centre / Timber Yard (was privately operated, now not operating)
- Canberra's Recycling Centre in Mitchell, with The Green Shed having second hand reusable building materials. <https://www.cityservices.act.gov.au/recycling-and-waste/drop-off/RMC>
<https://thegreenshed.net.au/>

The second-hand centre would also be an alternative to the suggested Kerbside Hard Rubbish Collections which were rejected by Council as not meeting objectives of waste minimisation or resource recovery. The second-hand centre would meet the 4 Council objectives above (“Have Your Say”, Draft Waste Services, Background Information), and would

- encourage “the introduction of a more focussed hard waste collection in line with ‘circular economy’ objectives” (Agenda 22 June 2022 Planning & Development Committee Meeting, Hard Waste)

It could foster resourcefulness in residents, and encourage people to value materials and items more, leading to less throwing out, and more re-use. Business could be encouraged to join this circular economy.

LEADERSHIP, COMMUNITY ENGAGEMENT, COMMUNITY EDUCATION

We believe there is room for improvement under Council Plan 2021-2025 Implications - Leadership – Engaged and Informed Community.

It is disheartening to see Recycle bins out for collection, containing plastic bags, polystyrene, clothing and household glassware among other non-recyclable items.

Are ALL plastic bottles and containers marked 1 to 9 and just a triangle, actually recycled from Benalla, as indicated on Council website/Recycling/Be a Good Sort: “plastic bottles and containers marked with the recycling symbol into your recycling bin”? What lids, if any, can go into the recycle bin, and how should they be packaged to ensure they can be recycled (rather than single lids floating around the bin)?

We note that the Wangaratta Transfer Station website lists soft plastics and hard plastics with codes 2, 4 & 5 separately for free drop off.

Residents appear to need more visible, clear, regular, accessible reminders about what can be recycled in the yellow lid Recycle bin, especially when changes occur. More visible information about where our Organic bin contents goes would also help residents understand their role better. Does it go to an industrial composting system that conforms to the AS4736 standard, and what can go into it?

Council Newsletter, letterbox dropped, could include more regular information on recycling and waste disposal especially for residents who don't have the digital literacy to search for it.

At the same time, regular updating of Council's website would assist with community engagement. (BRC website/Your Community/ Landfill, Waste & Recycling/**Waste Management & Minimisation Strategy 2014-2019**)

Indigo Shire's website is clearer, and contains initiatives like Plasticwise Indigo and Waste Education. The pictures help with community engagement by adding visual messaging.

<https://www.indigoshire.vic.gov.au/Residents/Bins-rubbish-and-recycling>

Rural and Urban Residents could benefit from more Council education, initiatives and leadership about Waste management and reduction in all settings. BSFG would like to help Council to change thinking around waste disposal. Some examples of inappropriate practices that cost the environment therefore cost us all:-

- Rubbish thrown from car and truck windows, on roads leading out of town and on our highways.
- Old car bodies, fencing wire, sometimes dead animals used to fill creek erosion gullies.
- Hard rubbish dumped in the Reef hills.
- Mattresses piled up and left to rot in a paddock within the town boundary, near a council drain easement leading to the Broken River.

Household Items not accepted in residents' bins or Benalla Transfer Station

In Benalla there is a confusing array of different locations and charges for residents to take small items not accepted at Benalla Landfill or as recycling in the yellow lidded bins. One location (Benalla Landfill & Resource Recovery Centre) with different bins could encourage better recycling in Benalla as at the drive-through at Wangaratta Transfer Station.

Free collection of the following are offered at Wangaratta, but are not offered or are charged for at Benalla:

- Soft plastics
- Household batteries
- Chemicals and Liquids- Could Benalla arrange weekly ChemClear/DrumMuster collection as Wangaratta?
- Paints and Solvents- Could Benalla arrange weekly ChemClear/DrumMuster collection as Wangaratta?
- Empty Paint Cans – not clear on website if there is a charge?
- Fluorescent light globes
- All E-Waste and Whitegoods (except fridge, freezer, aircon)

Public place Recycling

Encouraging recycling and reducing throw-away behaviour when out in the community – could Council:

- Initiate a 'Plastic Bottle Free Town' program?
- Encourage hospitality take-away businesses to use recyclable or compostable packaging and cutlery (following Council's lead)
- Provide clear, accurate labelling about what to put in each bin when "progressively installing recycling bins in high traffic areas". (p 7 CP 27 Waste Services Policy)
- Investigate appropriate bins for compostable waste in public places.

Advocating

Could (or does?) Council lobby for

- "Return to point of sale" for things like chemical containers (farm and domestic), silage wrap, polystyrene packaging.
- Increased manufacturer's responsibility around waste and recycling.
- Rigorous controls on labelling for recycling, compost ability.
- Consistency between Councils and States.
- Controls on imported packaging on items, and packaging on imported items.

MINIMISING ENVIRONMENTAL IMPACTS OF RURAL AND URBAN WASTE

Provision of Recycling for Silage Wrap.

"0" results come up when searching "Silage Wrap" on BRC Council website.

Silage Wrap is an environmental problem when burnt or buried, and would take up large volumes of space in landfill.

Unless or until "Return to Point of Sale" ability exists, Council could assist farmers to care for our environment and reduce landfill costs, by offering a collection point for silage wrap. The EPA Poster "What to do with Farm Wastes" instructs farmers to contact their local council or transfer station for recycling programs.

Benalla Council could

- Lobby for point-of-sale return of silage wrap.
- Contact "Plastic Forests" who offer free recycling of silage wrap and PP twine in Albury, with the view to providing a collection point in Benalla, and organising transfer to Albury. Plastic Forests have a section asking councils to contact them for further info.

- Investigate Dairy Australia's trials of silage wrap recycling, as a potential alternative.
- Provide pro-active leadership in problem waste areas such as this, by research, advertising initiatives and helping farmers to reduce environmental waste.

Preventing Urban Street Litter Entering the Broken River

Every rain event brings litter from streets into the West Main Drain and from there into the Broken River. Since 2004, residents have collected large quantities of litter from the drain between Boger St and the Broken River. They have also written to the BRC CEO 2004, the Environmental Officer 2011, and submitted to the BRC Environmental Values and Behaviours Survey 2011. There are photos to document the volumes of rubbish which continue, yet no prevention strategy from Council is apparent.

As previously requested, could there be a gross pollutant trap on the West Main Drain at Boger St, as there is behind the Scout Hall, to prevent Benalla's rubbish from leaving Benalla?

A 'Plastic Bottle Free Benalla' would also reduce river rubbish considerably.

BIN SIZES & COLLECTION FREQUENCY, REDUCING WASTE.

Smaller Red Bins, Nappies

Could Council investigate further, incentives to use cloth nappies, keeping disposable nappies out of landfill? (Agenda 22 June 2022 Planning & Development Committee Meeting, Nappy Rebate)

Residents have had time to adapt to the green lid Organics bin, and 2 weekly collections of Recyclables and Rubbish bins. Is it time to further incentivise correct use of Recycle and Organics bins by increasing their sizes without additional charge, and to dis-incentivise use of the Red lidded Rubbish bins by decreasing their size at the same time?

An incentive to use cloth nappies instead of disposables, could include increased costs for a larger red lidded Rubbish bin, above the new reduced sized Rubbish bin. A better alternative may be for BRC to be part of the Halvewaste Nappy rebate scheme initiated by AlburyCity Council, City of Wodonga and the Shires of Indigo, Federation, Greater Hume and Towong. <https://halvewaste.com.au/cloth-nappies-vs-disposable-nappies/>. We note that Glenroy is listed as a suburb involved, so distance from Albury is not an issue.

Special Needs Waste Collections could be applied for with supporting evidence (p 5 CP 27 Waste Services Policy) to use a bigger Rubbish bin, or to have weekly collection.

Incentivising Waste Reduction, Composting.

As Special Needs Waste Collections can be varied, (p 5 CP 27 Waste Services Policy), could Council investigate the potential efficiency and waste-reduction gains in implementing a user-pays rating charge for bin collection frequency? Some residents already work to reduce their consumption of packaging and consumption in general, minimising their waste in any of the bins, so need less frequent collections. All residents could be incentivised to produce less waste through reduced charges. This would need to be done in a way that does not increase dumping, by

- increased surveillance and penalties,
- a well-publicised 24/7 dumping/littering hotline for reporting which residents can save to their phones (and is more visible and quicker to find than by reporting online on the BRC website under "Report a Problem").

Composting at home could be encouraged by BRC, through education, demonstrations and providing access to home composting bins for those with minimum resources. Benefits are for BRC, the urban environment and residents.

7. Draft *Regulatory Compliance and Enforcement Policy* Review

SF/3486

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report presents for consideration the reviewed and updated *Regulatory Compliance and Enforcement Policy*.

BACKGROUND

Benalla Rural City Council has the responsibility for the administration and enforcement of various Acts, Regulations, Planning Scheme and Local Laws which means it is not only responsible for processing of permits but ensuring conditions are complied with, potential breaches are investigated and non-compliance is prosecuted.

The Council routinely receives complaints regarding breaches of the planning scheme particularly where there is amenity impact on adjoining neighbours or a potential public safety issue is raised.

The purpose of the *Regulatory Compliance and Enforcement Policy* (refer **Appendix 1**) is to promote compliance with various Acts, Regulations, Planning Scheme and local laws by:

- providing a framework that governs when Benalla Rural City Council will conduct enforcement
- Setting up systems and processes to act on complaints and proactively address risk
- Ensuring sufficient resources are available to improve compliance and meet objectives
- Providing a consistent approach across the municipality.

DISCUSSION

The Council has authorised officers responsible for ensuring compliance with a broad range of legislation and undertaking enforcement when necessary.

These officers have responsibilities under various sections of legislation and the regulations, local laws and orders that are made to support the legislation.

The policy has been developed with input from all areas of the organisation that have responsibility for compliance and enforcement activities.

The policy has a focus on education and where possible working collaboratively to enable a person to achieve compliance. It is recognised that due to severity of an issue or legislative requirements that education only is not an option and enforcement is required.

The policy, endorsed by the Council’s Leadership Team at its July 2022 meeting, establishes the following principles:

- compliance and enforcement actions will be undertaken in a lawful, transparent and timely manner
- compliance and enforcement processes will be consistent and equitable
- the principles of natural justice are afforded and respected when Council staff are investigating allegations/complaints of unlawful activities
- compliance and enforcement procedures incorporate, and reflect, within legislative confines the following principles:

— **Education**

A person should be given a reasonable explanation of why they are not in compliance with the legislation and then provided with a reasonable opportunity to comply with the legislation.

Where enforcement action is necessary due to the severity of the issue or the legislative requirements, then education will still be undertaken to avoid further occurrences.

— **Negotiation**

In circumstances where an immediate rectification is not necessary then individuals may be given an opportunity to negotiate a solution with Council officers that addresses the non-compliance. The officer will communicate with all affected parties to inform them of the outcome.

It is recognised that often the compliance time and required actions are mandated by the controlling legislation. In this case, any negotiated outcome must be consistent with the legislated standard.

It is also recognised that there are legislated actions that cannot be negotiated. In these cases greater emphasis on education is appropriate both to the individual and broader community.

— **Compliance**

Compliance means following the law and conducting authorised activities in accordance with any conditions or regulatory requirements.

Each person has a social duty of care to be responsible and to ensure that their actions do not adversely affect the lives of others in the community.

The policy objectives are based on the following principles:

- endeavour to achieve an acceptable level of compliance with legislation under Council jurisdiction within the municipality.
- foster prompt, consistent and effective action by Council officers in response to allegations/complaints relating to unlawful activities whilst ensuring that the principles of natural justice are respected.
- encourage Council officers to proactively manage compliance and enforcement issues that may not have been reported to the Council.

The policy seeks to protect the rights of complainants and alleged offenders.

The policy is being reviewed in accordance with Council's Administration Policy *Management Guidelines Policy*.

The policy was updated to remove any duplication and improve the readability of the document through removal of nonessential complex terms and references.

Current roles and responsibilities have been updated as required.

COUNCIL PLAN 2021-2025 IMPLICATIONS

Community

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

Economy

- *Thriving business and industry.*
- *Flourishing tourism.*

Environment

- *Healthy and protected natural environment.*
- *Sustainable practices.*

Leadership

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

COMMUNITY ENGAGEMENT

In accordance with the Council's *Community Engagement Policy*, it is proposed that, due to administration nature of the Policy, that community engagement be undertaken at the 'inform' level under the International Association for Public Participation's IAP2 public participation spectrum as detailed in the table below:

Level of Public Participation	Promise to the community	Techniques to be used
Inform	We will provide information	<ul style="list-style-type: none"> ▪ Policy presented in a public report to the Council. ▪ Policy to be published on Councils website.

FINANCIAL IMPLICATIONS

There are no material financial implications with the development of the Policy. The implementation of the Policy will be accommodated within the existing budget allocation.

LEGISLATIVE AND STATUTORY IMPLICATIONS

It is considered that the report 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:

1. That *Regulatory Compliance and Enforcement Policy* be adopted.
2. That *Regulatory Compliance and Enforcement Policy* be reviewed in November 2026.

CP 25 Regulatory Compliance and Enforcement

Responsible Officer:	Manager Development
Document type:	Council Policy
Reference:	CP 25
Approved by Leadership Team:	1 July 2022
Adopted by Council:	
Date of next review:	

Summary

The Compliance Team forms part of the Development Department that is responsible for the control of land-use and development across the municipality through various Acts, Regulation, Planning Scheme, Local Laws, Policy and Procedures.

In some instances land owners or occupiers fail to get the appropriate approvals or fail to meet conditions of a permit and these matters are brought to the attention through inspections or complaints.

Benalla Rural City Council has the responsibility for the administration and enforcement of various Acts, Regulations, Planning Scheme and Local Laws which means it is not only responsible for processing of permits but ensuring conditions are complied with, potential breaches are investigated and non-compliance is prosecuted.

The Council routinely receives complaints regarding breaches of the planning scheme particularly where there is amenity impact on adjoining neighbours or a potential public safety issue is raised.

The system seeks to resolve conflict and the community has come to expect that Council will act to ensure their amenity is protected and that the rules will be applied equally. The aim of all enforcement is to maintain and enhance compliance. The major tools to ensure compliance are:

- Monitoring
- Auditing
- Investigation
- Negotiating
- Prosecution
- Maintain public confidence in the Department and the legislation it administers
- Ensure consistency of treatment to all of the community

Enforcement and compliance is resource intensive and time consuming requiring investigative, planning, negotiation and prosecution skills.

The Compliance section of the Development Department is responsible for all compliance and enforcement.

Work must be prioritised and this policy is a guideline as to how, and in what circumstances officers, will assign priorities and undertake enforcement.

The purpose of this policy is to promote compliance with various Acts, Regulations, Planning Scheme and local laws by:

- providing a framework that governs when Benalla Rural City Council will conduct enforcement
- Setting up systems and processes to act on complaints and proactively address risk
- Ensuring sufficient resources are available to improve compliance and meet objectives
- Providing a consistent approach across the municipality.

Scope

This policy applies to all staff of Benalla Rural City Council Development Department.

Definitions

Compliance rate means the state of conformity with the relevant Act in which the investigation is being conducted.

The Compliance team will secure the optimal compliance rate as set out in Councils Corporate Business Plan. This may be achieved through four types of activity:

- Education (includes communication of information in a variety of formats)
- Monitoring (includes auditing, assessing compliance risks, performing quality inspections, conducting overt and covert patrols)
- Gathering and evaluating intelligence and information
- Enforcement activities

Mens rea (menz ray-ah) - Latin for a guilty mind, or criminal intent in committing the act.

Compliance risk is determined by a methodology used to ensure a consistent and robust system for identifying, analysing, treating, monitoring and reviewing risks to ascertain the potential level of adverse impact that non-compliance with the relevant legislation may have on the department's ability to deliver the objects of the relevant legislation (and other priority areas identified from time to time).

Enforcement activities are designed to respond to non-compliance and may include:

- Formal inspections to verify compliance using overt and covert means
- Investigation of suspected breaches of the relevant Legislation
- Measures to compel compliance without resorting to formal court action; for example, warning letters, directions (e.g. direct works), notice to comply, Penalty notices or a combination of these
- Undertaking works and then seeking cost recovery where directed works have not been completed or undertaken subject to lawful direction
- The use of maximum sanctions as effective deterrents such as seizing animals or belongings and impounding such things, then imposing a release fee or Council sell, destroy of or give away any such impounded item
- Prosecute with a view to conviction in a court of competent jurisdiction where court imposed penalties may include fines, Court orders to do certain things, good behaviour bonds and community service.

Policy Principles

Purpose of this policy

The primary purpose of enforcement measures is to stop or prevent illegal activities, by making offenders accountable as a deterrent to those involved and to others, to bring to compliance.

Prompting voluntary compliance

Promotion of compliance through information and education is the most effective way to secure conformity with the law. Where appropriate, the Council will involve the community and provide opportunities for comment in developing new local laws or when amending current local laws. The emphasis in administration and enforcement will be on prevention of non-compliance.

Developing strategic alliances

A strategic partnership approach with industries and stakeholders, which encompasses openness and transparency, will be used to improve compliance. The assistance of the appropriate sections of the community will be sought in solving compliance issues and reporting suspected offences against the relevant legislation.

Enforcement action is fair, equitable and proportionate

Investigations will be undertaken impartially and enforcement actions will be applied in a manner proportionate with the severity of the breach or regulatory requirements.

Consistency and clarity

Enforcement will be undertaken in a consistent manner using lawful procedures, policies and clear and unambiguous standards. The Compliance department will clearly articulate what is expected of those who are required to observe the relevant legislation.

Enforcement principals will be applied consistently to individuals, companies (including directors, managers and contractors) and State Government Authorities. Any legal action considered appropriate will comply with Council policy and procedures.

Responding to complaints

The Compliance team will endeavour to investigate or respond to complaints relating to potential or suspected offences against the relevant legislation, wherever appropriate, and within the limit of the available resources.

Jurisdiction and responsibility

Responsibility of the Compliance section includes the administration and enforcement of the provisions contained in a number of Acts. An understanding exists between the Compliance section and other sections of the Development Department in order to effectively implement these working relationships and to enable a cooperative and timely approach to compliance and enforcement. Procedures identifying responsibilities of compliance services to the community can be found at Appendix 1.

Prosecution

Purpose

The purpose of this section of the policy is to:

- Provide consistency in exercising the discretion available in relation to initiating proceedings under the various Acts
- Provide a framework for considering options other than prosecution
- Provide a framework for considering other statutory sanctions such as restoration or stop work orders
- Provide a clarification for offences under the relevant Act to assist in the exercise of discretion for initiating summary offences
- Provide procedures for determining whether to proceed with a prosecution or to take other forms of punitive action.

Classification of offences

All offence provisions covered by this policy are defined as Summary Offences (matters) pursuant to Section 25 (1) of the Magistrates' Court Act 1989, also refer to Section 52 of the Interpretation Act 1984 for further clarification.

For the purposes of the prosecution provisions of this Policy and Prosecution Review Committee, offences contained in the various Acts, Regulations, Planning Scheme, Rule and Local Laws are classified as:

- Level 1 Offences – offences that attract a maximum penalty of less than 200 penalty units
- Level 2 Offences – offences that attract a maximum penalty of greater than 200 penalty units.

The decision to prosecute

The discretion to initiate proceedings is to be consistent and the following factors are to be considered in the decision to approve prosecution or other compliance actions:

- Seriousness or, conversely, the triviality of the alleged offence particularly in relation to the objects of the relevant legislation
- Environmental harm or impact of the conduct of the alleged offender, having regard to any relevant environmental impact assessment or statement
- Prevalence of the alleged offence and any need for deterrence, both personal and general
- Whether the alleged offence involves an individual or company
- The availability and efficacy of any alternatives to prosecution
- Likely outcome in the event of a finding of guilt, having regard to the sentencing options available to the court
- Whether or not the proceedings or the consequences of any resulting conviction would be unduly harsh or oppressive
- Whether there are any mitigating or aggravating circumstances
- The youth, age, maturity, intelligence, physical health, mental health or special disability or infirmity of the alleged offender, a witness or a victim
- Alleged offenders history in relation to prior offences and known background
- Expense and resources required to bring proceedings including length of time for an outcome in the relevant court
- The necessity to maintain the integrity of the department and community confidence in the Council as a whole
- In matters involving court election of an infringement notice, the incorrect completion of the infringement notice such as; the incorrect time and date of the alleged offence, incorrect infringement code, incorrect identity of the offender or insufficient evidence.

The applicability of and weight to be given to these and other factors will vary depending on the particular circumstances of each case. A prosecution should not proceed if there is no reasonable prospect of a finding of guilt being secured.

A decision whether or not to proceed must not be influenced by:

- Race, religion, sex, national origin, social affiliation or political associations, activities or beliefs of the alleged offender or any other person involved (unless they have special significance to the commission of the particular offence or should otherwise be taken into account objectively).
- Personal feelings of the prosecutor (Compliance Coordinator) concerning the offence, the alleged offender or a victim
- Possible political advantage or disadvantage to the Council or any political party, group or individual.
- The possible effect of the decision on the personal or professional circumstances of those responsible for the prosecution or otherwise involved in its conduct; or possible media or community reactions to the decision.

It is recognised that the resources available for prosecuting are finite and should not be expended pursuing inappropriate cases. Alternatives to prosecution should be considered.

Authority to prosecute

Approval must be sought by one or all of the following managers: General Manager Corporate, Manager Development and Compliance Coordinator if a prosecution should be commenced or permitted to proceed.

In most cases the relevant Act will prescribe who may or may not initiate proceedings and specify the person or class of persons to whom the right is expressly conferred by the relevant Act.

Normally summary offences (most or all offences dealt with by the Council) will be initiated by the Council's Prosecution Officer (Compliance Coordinator). In all cases the decision must be consistent with this policy.

An exception to the above can arise if a person is apprehended by a Victoria Police officer for but not limited to the consumption and possession of Liquor and or serious dog attack (Refer to Memorandum of Understanding with Victoria Police).

The departmental person named as the informant in matters proceeding to prosecution is Compliance Coordinator, Development Department (other authorised officers may be the informant from time to time if deemed appropriate by the Manager Development).

Prosecution review processes

The Prosecution Review Committee (PRC) has been established to review and approve prosecutions and other compliance actions mainly associated with more serious offences.

The PRC will consist of General Manager Corporate, Manager Development, Planning Coordinator and Compliance Coordinator (Note: members of this Committee may be varied from time to time).

The PRC may make the following decisions:

- Approve the Reporting/Investigations Officer's recommendations
- Approve prosecution and relevant charges or other enforcement actions such as seeking works, restoration or other punitive action
- Decline to approve prosecution
- Recommend action other than prosecution
- Return the matter for completion of requisitions on the brief of evidence
- Approve to discontinue a matter, including the 'withdrawal' from proceedings
- Recommend if an alleged offender elects to have a matter heard in court of relevant jurisdiction be negotiated
- Approve charge negotiation (plea bargaining for an offence).

The PRC must act objectively and independent of the investigation in carrying out its functions, with its decisions being recorded.

Where a member has a bias in any matter that comes before the PRC, this must be disclosed at the earliest opportunity and the member should arrange for an alternative person to determine the matter.

Expedition

The Compliance and Enforcement Procedure establish that it is a fundamental obligation of a prosecutor to assist in the timely and efficient administration of criminal justice. Accordingly and particularly:

- Cases should be prepared for hearing as quickly as possible
- Particulars of the matter (case) should be communicated to the accused as soon as possible
- Any other matter relating to the prosecution process be administered and communicated to the accused as soon as possible.

Therefore the Council will normally make the decision to prosecute within 42 days (unless mitigating circumstances are experienced) of the investigation being finalised or except where exceptional circumstances prevail. This requires both the Reporting/Investigations Officer to refer the matter to the PRC to expeditiously and the PRC to consider the matter without delay.

Review of the evidence

The PRC must evaluate all available material in determining whether or not to proceed with prosecution. Analysis must be undertaken to ensure that admissible evidence supports each element of the offence.

Regard should be given to the following matters:

- Limitation periods of the relevant section of the Act that provides for the charge
- Existence of any defences
- Whether the accused has been correctly identified, in particular where companies identified as the accused
- Careful consideration is given to *mens rea offences* (refer to definitions in this document)
- Whether any of the evidence may be held inadmissible on the basis of basis that it was unlawfully, improperly or unfairly obtained.

The above considerations are not exhaustive and the issues for consideration will depend on the circumstances of each matter.

The choice of offence(s)

Only offences committed where clear evidence is available to substantiate a charge will be actioned by the Council.

In some circumstances, the alleged offence may trigger more than one offence provision, such as in the case of a serious dog attack (where the dog is unregistered). In these matters, duplicity of charges will be avoided and the appropriate charge set after giving consideration to the circumstances of the case.

Discontinuing proceedings

Where further information comes to attention which raises the question of whether the proceedings should be discontinued, the matter will be reviewed and a recommendation provided by a legal practitioner approved by General Manager Corporate.

The prosecutor must act expediently in these cases according to clear instructions from the PRC and the Manager Development.

Any decision to discontinue proceedings must be promptly communicated in writing to the accused and the decision recorded.

Charge (plea) bargaining or negotiation

In cases involving multiple offences, the accused may seek to negotiate a plea. It is critical that in all circumstances charges are not withdrawn that reflect the criminal conduct of the accused. Generally, the primary charge or charges will not be withdrawn.

The Compliance and Enforcement Procedure will include the following factors that must be considered in charge negotiation, namely:

- That the alternative charge adequately reflects the essential criminality of the conduct and the plea provides adequate scope for sentencing; and/ or
- That the evidence available to support the prosecution case is weak in any material respect; and/or

- That the saving of cost and time weighed against the likely outcome of the matter if it proceeded to a contested hearing is substantial.
- The Council also considers the following principles outlined in the Enforcement Procedure
- A charge bargaining proposal should not be initiated by the prosecutor
- The prosecutor must not consider the proposal unless the charges to be proceeded with reflect the whole conduct of the accused and
- The prosecutor should agree to the charge negotiation proposal initiated by the defence if the accused continues to assist his or her innocence with respect to charge(s) to which the accused has offered to plead guilty
- Any charge bargaining the prosecutor should consider seeking consent regarding restoration, works to be carried out, costs or any other appropriate orders
- Whether the accused has consented to carry out works, restoration or other similar statutory orders.

Where Victoria Police (consumption and possession of liquor matters) prosecutors conduct proceedings, clear written instructions must normally be provided regarding charge negotiation subject to time constraints.

Sentencing

The prosecutor has an active role in sentencing to inform the court of all relevant matters. Guided by a statement of facts, the prosecutor must ensure that the court understands the seriousness of the proceedings and any relevant policy issues.

The prosecutor advise the court on the range of penalties available including any associated orders being sought (such as works to be carried out, costs etc. and any other matter the prosecutor deems appropriate).

This policy adopts any rule of law that is applicable to the matter at hand and the prosecutor must adhere to the following.

A prosecutor must not seek to persuade the court to impose a vindictive sentence or a sentence of a particular magnitude, but:

- Must correct any error made by the opponent in address on sentence
- Must inform the court of any relevant authority or legislation bearing on the appropriate sentence
- Must assist the court to avoid appealable error on the issue of sentence
- May inform the court of an appropriate range of severity of penalty.

Disclosure

Prosecutors have an ongoing obligation to make full disclosure in a timely manner of all material that is relevant to an issue at hand.

Material that raises issues of public immunity, intelligence or the identity of an informer may require the information to be withheld. The prosecutor must obtain written instructions regarding the discloser or otherwise of such material.

Legal professional privilege will ordinarily be claimed against the production of any internal documents such as memoranda between lawyers and operational staff on the investigation or conduct of a matter.

Security of documents and exhibits

All due care must be taken to protect the security of sensitive documents and other material, including information regarding the informant. This includes limiting access to database material, locking material away, recording the movement of documents or other material and restricting access in accordance with the Council's record keeping policy and procedure.

The prosecutor must not discuss the matter with any person not involved in the proceedings or in circumstances where discussions can be overheard. The prosecutor must ensure that all returned exhibits are stored in accordance with policy.

Reasons for decisions

Reasons for decisions in the course of prosecutions may be given by the Council. However, reasons will not be given for matters that attract legal professional privilege or reasons for exercising a professional discretion to take proceedings.

The Council is subject but not limited to the following legislation:

- *Freedom of Information Act 1982*
- *Privacy and Data Protection Act 2014*

Unrepresented accused person(s)

Care must be taken when dealing with accused persons who are not represented. The accused must be properly informed of the procedures so he or she can make informed decisions. The Prosecutor, however, must not give legal advice. A record should be made of all discussions with an unrepresented accused person. The prosecutor must endeavour to inform the court of any matters that will assist the court in directing the accused.

Related legislation

- *Building Act 1993*
- *Criminal Procedure Act 2009*
- *Domestic Animals Act 1994*
- *Environment Protection Act 1970*
- *Food Act 1984*
- *Graffiti Prevention Act 2007*
- *Impounding of Livestock Act 1994*
- *Infringements Act 2006*
- *Interpretation of Legislation Act 1984*
- *Local Government Act 1989*
- *Magistrates' Court Act 1989*
- *Planning and Environment Act 1987*
- *Prevention of Cruelty to Animals Act 1986*
- *Public Health and Wellbeing Act 2008*
- *Road Management Act 2004*
- *Road Safety Act 1986*
- *Summary Offences Act 1966*
- *Benalla Planning Scheme*
- *Council Community Local Law*
- *Road Safety Road Rules 2009*
- *Policy Document Applicable to the Local Law*
- All Regulations pertaining to the Acts identified in this document

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Appendix 1 - 11 Guiding Elements

The 11 elements describe the Council's approach to the way we will deliver our compliance services to the community.

- 1. Getting the Facts**
- 2. Working Together**
- 3. Being Visible**
- 4. Explain and inform**
- 5. Being Consistent**
- 6. Assessing Risk**
- 7. Understanding Each Other**
- 8. Decision Making**
- 9. Follow Up**
- 10. Document Everything**
- 11. Closure**

Draft

1 Getting the Facts

What We Will Do:

- a) Define and acknowledge the complaint:
 - Capture written complaint on the Council's record management system
 - Decide which department(s) is/are responsible?
 - Keep complainant informed (phone/letter)
 - Consider communication barriers, e.g. Language, Disabilities.
- b) Identify and declare conflicts of interest.
- c) Establish what legislation/controls may apply.
- d) Undertake a preliminary review:
 - Ownership/Title searches
 - Previous history, e.g. Permits or other complaints
 - Complaint's history (get the full story)
 - Consider other authorities that might be relevant and communicate this to the parties
 - Is other specific advice required (technical evidence)
 - Be aware of any sensitive information e.g. VicRoads' extracts, approved building plans.
- e) Complete a risk assessment (OH&S safety awareness).
- f) Determine most appropriate method of communication for the matter.
- g) Check the site physically.
- h) Consider whether there is a capacity to achieve compliance.
- i) Document findings on the Council's record management system to maintain shared knowledge across the organisation.

2 Working Together

What We Will Do:

- a) Approach every situation with a positive attitude.
- b) Nominate a single point of contact for matters involving more than one compliance service.
- c) Confirm the point of contact and any preliminary information with all stakeholders.
- d) Coordinate through a single point of contact.
- e) Work together to minimise confusion to the parties.
- f) Undertake joint site inspections to minimise inconvenience to the public and to have the right staff at the right time together.
- g) Look for practical solutions.

3 Being Visible

What We Will Do:

- a) Be pro-active and let the community know.
- b) Contact the owner by phone/or in person first (if possible), before official letters and notices are sent.
- c) Visibly identify fleet vehicles with the "Benalla Rural City Council" logo.
- d) Where necessary investigations can require surveillance when visibility will not be appropriate.
- e) Always wear officer identification
- f) Always carry officer identification/authorities.
- g) Leave contact details.
- h) Monitor problem sites on an ongoing basis.
- i) Schedule times for meetings or site visits that are convenient for all parties.

4 Explain and Inform

What We Will Do:

- a) Use media positively and regularly to inform the community of their obligations and special programs.
- b) Invite the customer to have a support person present at any site visit. This may include an independent expert:
 - Explain what is happening and what to expect on the visit.
- c) When visiting the property, officers will:
 - Introduce themselves and the reason for the visit
 - Have the facts at hand.
 - Use clear, plain language.
 - Ask for an explanation.
 - Listen, provide advice and options for compliance.
 - Seek commitment to a timeframe.
 - Outline the process going forward and potential consequences.
 - Be realistic and upfront.
- d) Leave the property as you found it - "Please shut the gate".
- e) Provide clear fact sheets/web and information sources to help people comply.
- f) Use community forums as a means of talking about compliance with the community.

5 Being Consistent

What We Will Do:

- a) Base decisions on a consistent standard.
- b) Never assume or presume.
- c) Understand and repeat good customer experiences.
- d) Learn from our mistakes and improve our processes.

6 Assessing Risk

What We Will Do:

- a) Use a common risk management model to identify the level of the action in response to the compliance issue.
- b) Understand the impacts of the risks and who these may apply to.
- c) Respond to the issues of highest risk first.
- d) Assess costs versus outcome.
- e) Consider the *consequence/likelihood*.

Likelihood		Very Likely	Likely	Unlikely	Highly Unlikely
Consequences	Fatality	High	High	High	Medium
	Major Injuries	High	High	Medium	Medium
	Minor Injuries	High	Medium	Medium	Low
	Negligible Injuries	Medium	Medium	Low	Low

Definitions:

Risk Management: “the culture, processes and structures that are directed towards realising potential opportunities whilst managing adverse effects”

Risk: “the chance of something happening that will have an impact upon objectives.” A risk is often specified in terms of an event or circumstance and the consequences that flow from it. A risk is measured in terms of a combination of the consequences of an event and their likelihood. Risk may have a positive or a negative impact.

Consequence: “the outcome or impact of an event.” There can be more than one consequence from one event. Consequences can range from positive to negative, and can be expressed qualitatively or quantitatively. Consequences are considered in relation to the achievement of objectives.

Likelihood: “used as a general description of probability or frequency”. It can be expressed qualitatively or quantitatively.

(AS/NZS ISO 31000: 2009, Risk Management)

7 Understanding Each Other

What We Will Do:

- a) Communicate through one point of contact to all departments that are involved.
- b) To help understand each other we will:
 - use plain English
 - actively listen
 - seek to understand
 - use various forms of communication, e.g. phone, email, letters, etc.
 - provide timely communication throughout the process to all parties.
- c) Escalate awareness of the issue as required (Manager Development, General Manager, CEO)

8 Decision Making

What We Will Do:

- a) Work within the parameters of the regulations, legislation and codes, etc.
- b) Keep an “open mind” and seek practical outcomes when assessing the matter.
- c) Seek and suggest proactive responses and outcomes when making decisions.
- d) Ensure appropriate delegation is applied (internal and external).
- e) Escalate matters based on clear guidelines.
- f) Clearly communicate and confirm a shared understanding.
- g) Set and outline achievable timeframes as agreed.
- h) Monitor the situation, review if any change has occurred and escalate as required.
- i) Take appropriate action based on level of severity based on our Compliance Response Matrix.

Achieving Compliance

Sometimes a person may not be aware or realise that they need approval before undertaking an activity. To be fair, our approach to compliance considers this possibility. Not knowing is not a reason for continuing not to comply and once someone is aware the non-compliance should cease. Everybody has the responsibility to comply with the law and in the end be accountable for their actions.

The level of awareness or prior knowledge of the compliance requirements, for Building, Environmental Health, Local Laws and Planning can take different forms and are listed.

Awareness

Advice received from direct phone calls and conversations with Council staff who are available to respond to enquiries’ and answer questions. More specific awareness occurs where the following exist.

- **Building:** building permits and the conditions placed on Certificates, Final Inspections or Occupancy Permits.
- **Environmental Health:** premises registration renewals, registration of proposed new premises, premises routine and mandatory inspection reports, septic tank permit approvals.
- **Local Laws:** parking restrictions signs, Local Law permits and conditions, driver’s licence, registering of animals (dogs and cats) as this is well known and publicised.
- **Planning:** planning permit conditions, receiving advice from other professionals within the development industry.

Warnings

In most cases the community member/s are expected to have some level of knowledge, or have been made aware of the non-compliance matter. Warnings may be given prior to the Council resorting to issuing a fine or proceeding to prosecution, particularly if there was low or no awareness of the need to comply with the Council requirements. Warnings can be made in different ways depending on the nature of the breach. Warnings will always be in writing.

Types of warnings are:

- **Building:** building notices or orders
- **Environmental Health:** order to comply, closure notice, official warning, issuing of improvement and/or prohibition notice.
- **Local Laws:** warning letter or a notice to comply.
- **Planning:** official planning warning.

Fines or Prosecution Action

Issuing fines or taking a matter through to a prosecution in the Magistrates Court or the Victorian Civil and Administrative Tribunal (VCAT) are unfortunately necessary in some cases. Sometimes the legalisation compels the Council to take this action due to the severity of the risk to public safety.

The following are examples of fines:

- **Building:** Building Infringement Notice (BIN)
- **Environmental Health:** Penalty Infringement Notice (PIN)
- **Local Laws:** Penalty Infringement Notice (PIN)
- **Planning:** Planning Infringement Notice (PIN)

Each of these notices contain a monetary fine and this is set by the legislation not by the Council. All notices and fines are able to be appealed.

Achieving compliance by seeking an order through the Magistrates Court or through VCAT can be necessary. Where possible this will be through the option of consent between the parties.

9 Follow Up

What We Will Do:

- a) Follow up with all key stakeholders to ensure all compliance activities have been met in accordance with the agreed time frame.
- b) Monitor and review the site to ensure compliant behaviour continues.
- c) Implement processes to support officers with follow up activity, ie. Reminder system.
- d) Consider whether there are any obstacles to maintaining compliance.
- e) Consider unforeseen consequences.
- f) Use media to inform the community of outcomes as required.
- g) Capture key learning as part of the continuous improvement approach under *Element 5 - Being Consistent*.
- h) Confirm any ongoing obligations and follow up with a visit after six months.

10 Document Everything

What We Will Do:

All departments to document everything, record in file and on Council's record management system.

Provide the right information at the right time.

Record events in an unbiased way.

Recognise the level of confidentiality as required.

Standardise documentation across compliance.

Apply the requirements of the Information Privacy Act 2000.

Share and integrated and whole picture of events for all departments.

11 Closure

What We Will Do:

- a) Ensure the responsible officer completes all compliance matters.
- b) Inform all relevant parties of the outcome.
- c) Place final documentation on the Council's record management system.
- d) Thank stakeholders for their cooperation.

Draft

Closure of Meeting