

Finance and Planning Committee

Agenda

Date: Wednesday 5 April 2023

Time: 5.30pm

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

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

PO Box 227
1 Bridge Street East
Benalla Victoria 3671
Tel: 03 5760 2600
council@benalla.vic.gov.au
www.benalla.vic.gov.au

Contents

Opening and Acknowledgment of Country	3
Apologies.....	3
Confirmation of the previous Meeting Minutes	4
Business	5
1. <i>Planning Application For The Use and Development of Land For an Extractive Industry Sand Quarry – 1726 Dookie-Devenish Road, Devenish</i>	<i>5</i>
2. <i>Planning Application For For A Multi-Lot Subdivision (22 Lots) and Removal of Native Vegetation – 51 Hairs Lane, Benalla</i>	<i>25</i>
3. <i>Planning And Building Approvals – February 2023</i>	<i>49</i>
4. <i>2022/2023 Quick Response Grants Program and Major Event Funding</i>	<i>57</i>
Closure of Meeting.....	62

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
	Nilesh Singh	Manager Development
	Tom Arnold	Community Development Coordinator
	Joel Ingham	Planning Coordinator
	Jess Pendergast	Governance Coordinator

Opening and Acknowledgment of Country

The Chair will open the meeting and recite the following Acknowledgement 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.

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.

Confirmation of the previous Meeting Minutes

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 Finance and Planning Committee Meeting held on Wednesday 1 March 2023 be confirmed as a true and accurate record of the meeting.

Business

1. Planning Application For The Use and Development of Land For an Extractive Industry Sand Quarry – 1726 Dookie-Devenish Road, Devenish

DA7395

Joel Ingham – Planning Coordinator
Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses a planning application received for the use and development of land for an extractive industry (sand quarry) at 1726 Dookie Devenish Road, Devenish.

BACKGROUND

Site Address	1726 Dookie-Devenish Road, Devenish.
Existing Use	The land is currently vacant and used for grazing purposes.
Proposal	Use and development of the land for extractive industry (sand quarry)
Applicant	Bradley Allender on behalf of BCA Asset Management Group Pty Ltd
Zone	Farming Zone (FZ)
Overlays	None
Referrals	<ul style="list-style-type: none"> ▪ Heritage Victoria ▪ Vic Track (S.52) ▪ Earth Resources

PROPOSAL

The proposal seeks approval to use and develop the land for a sand quarry. Specifically, the proposal will:

- Occupy a land area of five hectares with a depth not exceeding five metres.
- Operating hours:
 - Monday to Friday 7am to 7pm
 - Saturday 7am to 1pm
 - Sunday Closed
- Maximum of two staff on site at any given time.
- A water truck (40,000 Litre capacity) will be on site during operating hours to mitigate dust. Water for the truck will be accessed on land owned by the applicant directly to the south-west of the site. Goulburn Murray Water has approved a licence to extract water from this site.
- No blasting or clearing of vegetation is required as part of the operation.
- Access to be provided via a new crossing off Dookie-Devenish Road, Devenish.

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

Site and Surrounds

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

The land is located on the south of Dookie-Devenish Road, Devenish and is an irregular shape, with a frontage of 384.4 metres to the Road. The site has a total area of 29.16 hectares.

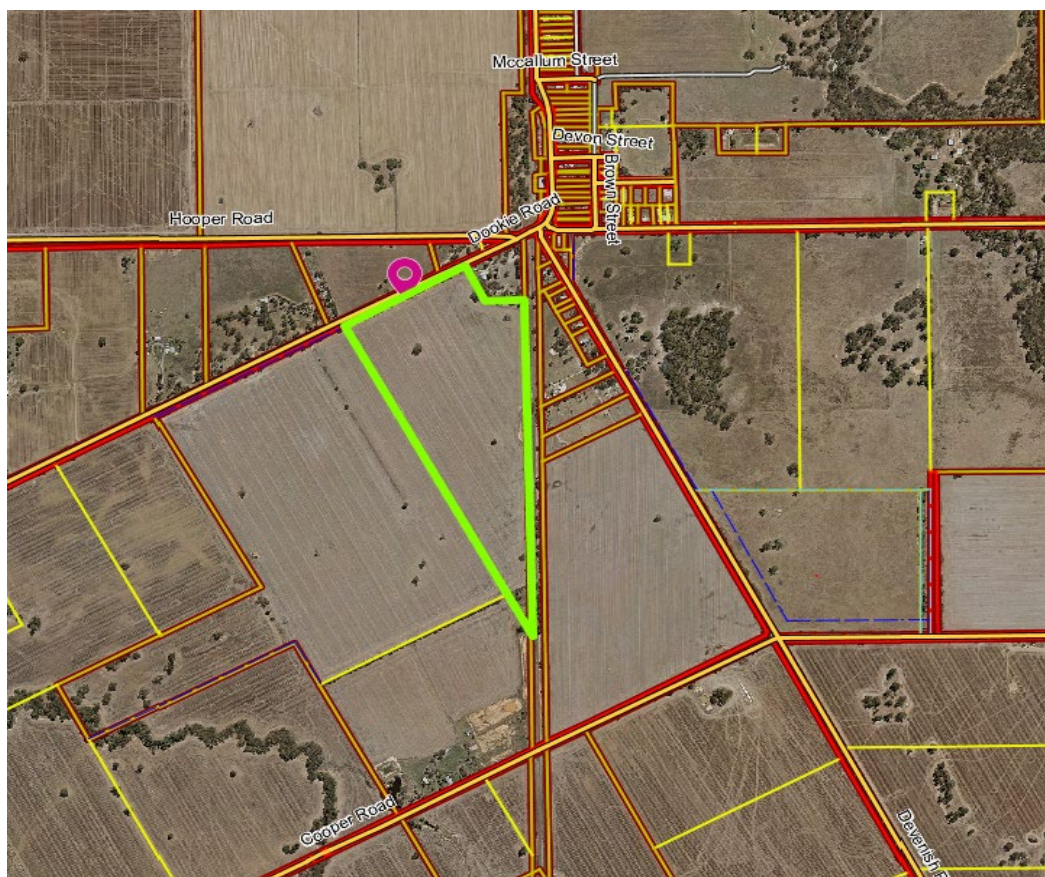
The site is part of a larger land holding of three lots to the south and west. The land is generally cleared of vegetation and used for grazing purposes.

The adjacent lots to the west contain a derelict dwelling and associated outbuildings. The site abuts the Benalla-Oaklands Railway along the eastern boundary, with a small portion of the north east of the site abutting land at 1748 Dookie-Devenish Road, Devenish used for a dwelling.

The further surrounding land is generally farming in nature, with associated dwellings and infrastructure scattered throughout, while north east of the site the land forms part of Devenish township, with smaller residential lots.

Planning Permit No P0112/10 was issued on 5 November 2010 for the use and development of the land for the purpose of mining (Sand Mine). This permit related to land to the west and south which is associated with the ownership of the subject site. The planning permit was cancelled on 12 October 2021 at the direction of the Victorian Civil and Administrative Tribunal due to the ownership of land changing hands.

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 Dookie-Devenish Road frontage of the site
- sending notices to all adjoining and opposite landowners and occupiers
- notice in the *Benalla Ensign*.

Planning Scheme Provisions

Municipal Planning Strategy

Clause 02.03-1 Settlement identifies Devenish as servicing its rural hinterland and providing affordable rural living opportunities. Population stability is important to ensure existing facilities are maintained.

Clause 02.03-4 Natural resource management seeks to protect agricultural land. In protecting agricultural areas Council seeks to support proposals for non-agricultural uses in rural areas only where they are compatible with surrounding agricultural use and can be justified in terms of broader community benefit.

Planning Policy Framework (PPF)

Clause 11.01-1L (Local settlements - Devenish) provides a structure plan for the township of Devenish. The structure plan includes the area as rural living and provides no guidance in relation to non-residential uses.

Clause 13.05 – 1S Noise management seeks to assist in the management of noise effects on sensitive land uses.

The clause includes the following strategies:

- *Ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions.*
- *Minimise the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital) near the transport system and other noise emission sources through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

Clause 13.06-1S Air quality management seeks to assist the protect and improvement of air quality.

The clause includes the following strategies:

- *Ensure that land use planning and transport infrastructure provision contribute to improved air quality by:*
 - *Integrating transport and land use planning to improve transport accessibility and connections.*
 - *Locating key developments that generate high volumes of trips in the Central City, Metropolitan Activity Centres and Major Activity Centres.*
 - *Providing infrastructure for walking, cycling and public transport.*
- *Ensure, wherever possible, that there is suitable separation between land uses that pose a human health risk or reduce amenity due to air pollutants, and sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital).*
- *Minimise air pollutant exposure to occupants of sensitive land uses near the transport system through suitable siting, layout and design responses.*

Clause 13.07-1S Land use compatibility seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

The following strategies apply:

- *Ensure that use or development of land is compatible with adjoining and nearby land uses.*
- *Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.*
- *Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.*
- *Protect existing commercial, industrial and other uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.*

Clause 14.01-1S Protection of agricultural land seeks to protect the state's agricultural base by preserving productive farmland.

The following strategies apply:

- *Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use. Prevent inappropriately dispersed urban activities in rural areas.*

- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
- *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
- *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
- *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
- *Land capability.*

Clause 14.03-1S Resource exploration and extraction encourages exploration and extraction of natural resources in accordance with acceptable environmental standards.

The following strategies apply:

- *Provide for the long-term protection of natural resources in Victoria.*
- *Protect the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and acceptable environmental practice.*
- *Recognise the possible need to provide infrastructure, including transport networks, for the exploration and extraction of natural resources.*
- *Ensure planning schemes do not impose conditions on the use or development of land that are inconsistent with the Mineral Resources (Sustainable Development) Act 1990, the Greenhouse Gas Geological Sequestration Act 2008, the Geothermal Energy Resources Act 2005, or the Petroleum Act 1998.*
- *Develop and maintain buffers around mining and extractive industry activities.*
- *Ensure planning permit applications clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.*
- *Determine buffer areas between extractive activities and sensitive land uses on the following considerations:*
 - *Appropriate limits on effects can be met at the sensitive locations using practical and available technology.*
 - *Whether a change of land use in the vicinity of the extractive industry is proposed.*
 - *Use of land within the buffer areas is not limited by adverse effects created by the extractive activities.*
 - *Performance standards identified under the relevant legislation.*
 - *Types of activities within land zoned for public use.*
- *Identify and protect extractive industry resources within Strategic Extractive Resource Areas, based on their current or potential contribution to state supply, access to supporting transport networks and proximity to demand markets.*

Clause 14.03-1R Resource exploration and extraction – Hume Strategy supports the availability of construction materials locally and consider measures to facilitate and manage their extraction.

Clause 17.04-1S Facilitating tourism encourages tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.

The following strategies apply:

- *Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, accommodation, host farm, bed and breakfast and retail opportunities.*
- *Seek to ensure that tourism facilities have access to suitable transport.*
- *Promote tourism facilities that preserve, are compatible with and build on the assets and qualities of surrounding activities and attractions.*
- *Create innovative tourism experiences.*
- *Encourage investment that meets demand and supports growth in tourism.*

Zones

Clause 35.03 Rural Living Zone (RLZ)

The majority of the proposal is located within the Rural Living Zone, to the north of the site. The purpose of the Rural Living Zone is:

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

A planning permit is not required for the use of the land for extractive industry where the conditions of Clause 62.01 (Uses not requiring a permit) are met.

Clause 62.01 exempts the use of land for earth and energy resources industry if the conditions of Clause 52.08 are met.

Clause 52.08-1 exempts the use of the land of an extractive industry for needing a permit if it complies with Section 77T of the *Mineral Resources (Sustainable Development) Act 1990*.

Section 77T of the Act states that a planning permit is not required to carry out an extractive industry where an Environment Effects Statement has been prepared and assessed by the Minister for Planning and a work authority granted.

The proposal does not have an EES or approved work authority and therefore a planning permit is required under Clause 52.08 and Clause 35.03-1.

Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.*

Agricultural issues

- *The capacity of the site to sustain the agricultural use.*
- *Any integrated land management plan prepared for the site.*
- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses.*

Environmental issues

- *The impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.*
- *The impact of the use or development on the flora, fauna and landscape features of the locality.*
- *The need to protect and enhance the biodiversity of the area, including the need to retain vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues

- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use or development will require traffic management measures.*
- *The need to locate and design buildings used for accommodation to avoid or reduce the impact from vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.*
- *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.*

Clause 35.07-1 Farming Zone (FZ)

A small area of the proposal is located within the Farming Zone (to the south). The purpose of the Farming Zone is:

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

Particular Provisions

Clause 52.06 Car parking provides parameters around the provision of car parking in relation to use and development.

The use of the land for extractive industry is not a specified use in Table 1 at Clause 52.06-1, and therefore Council must determine a satisfactory response to the provision of car parking on site.

The application proposes six car parking spaces on site.

Clause 52.08 of the Benalla Planning Scheme relates to Earth and energy resources industry. The purpose of this provision is as follows:

- *To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.*
- *To ensure that geothermal energy extraction, greenhouse gas sequestration, mining and petroleum production are not prohibited land uses.*
- *To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.*

A planning permit is required to use and develop the land for extractive industry unless it has been the subject of an Environment Effects Statement assessment and approval and a works authority has been granted.

Referrals

External Referrals/Notices required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Earth Resources Regulation	No objection
Heritage Victoria	No objection
VicTrack (Section 52)	No objection subject to conditions

OBJECTOR CONCERNS

Nineteen objections were received to the proposal. The objections can be summarised as follows:

Amenity issues

- Health impacts from dust and silica.
- Impact of proposal on landscape.
- Not in keeping with character of the area (Silo Art Trail and rural residential area).
- Privacy (overlooking by site office and car parking).
- Adverse impact caused by noise (operation of machinery), dust and light emissions.

Traffic issues

- Inappropriate access for the site.
- Danger with proximity to railway crossing.
- Safety and congestion caused by increased heavy vehicle traffic.
- The proposal will affect access to existing residential properties.

Contrary to policy

- Contrary to the purpose of the Rural Living Zone.
- Contrary to purpose of the Farming Zone.
- Impacts on agriculture (noise and dust on crops and livestock).
- Impact on native vegetation and fauna.

Impact on waterways and flooding

- Flooding issues onto railway.
- Impacts on ground water from industry.
- Alter the flow and rate of water over the land.
- Detrimental to tourism.
- Potential native vegetation impacts (road widening).

Operational issues

- It is unclear how long the quarry will operate on the land.
- There is limited information in relation to the rehabilitation of the land.

Other

- Impact property values of surrounding land.
- Insufficient consultation undertaken by Council.
- The proposal sets a precedent for further extractive industry (mineral exploration rights).

ASSESSMENT*Amenity issues*

The applicant proposes to site the sand quarry approximately 300m west of the closest dwelling in a rural location.

In response to objector's concerns regarding amenity, the applicant proposed to construct an earth bund of 2.5 meter high along the northern and eastern edge of the quarry, to ensure any noise and dust emissions to the closest dwelling are limited. The bund will form a solid barrier to effectively reduce the impact of noise and dust. No details have been provided in relation to lighting of the site, however it is considered these will be limited to the scope of the operations and can be effectively managed by planning conditions on any planning permit issued.

The proposal will also include landscaping along the northern property boundary and east of the quarry, to reduce the visual impact from the surrounding area, further mitigate any potential dust emissions and form a visual barrier between the site operations and neighbouring properties.

The landscape and visual impact are acceptable given the location and proposed works around the site.

Noise

Matters in relation to noise include noise emissions related to the operation of the quarry and noise emissions associated with truck and vehicle movements within and outside of the site. In addition to the siting of the proposal, the bund will ameliorate noise from the operation of the quarry.

Given the relatively modest scope of the operation, it is considered appropriate that it run during normal business hours of 7am – 5pm, to ensure potential noise emissions from the operation is limited to general daylight hours.

Dust

The proposal will result in additional dust emissions; however, they are unlikely to breach any regulatory limits, and can be managed via planning conditions on any planning permit issued.

The application proposes a water truck on site at all times to minimise the generation of dust. This will be ensured via a condition on any planning permit issued.

Impact on natural environment, waterways and flooding

The quarry has been sited within the northern portion of the land to minimise access requirements and the impact on the remaining agricultural area. The site is sufficient distance from watercourses to minimise any potential impact caused by the operation and will not require the removal of native vegetation.

Further information provided by the applicant found there was unlikely to be any direct contact with the underlying Shepparton Formation aquifer.

The stormwater management plan states there will not be an appreciable increase to the surface stormwater runoff of the site. Regardless, the stormwater management plan provided recommendations for the treatment of stormwater on site that will be incorporated into conditions on any planning permit issued.

Council's engineer reviewed the application and had no objections to the proposal, subject to conditions to be placed on any planning permit issued.

Contrary to policy

The site is located within two zones, the majority of the proposal will be sited in the Rural Living Zone, with a small portion in the Farming Zone.

There is strong policy support for extractive industry within state policy, encouraging the extraction of natural resources in accordance with environmental standards. The regional strategy for Hume is to support the availability of construction materials locally and consider measures to facilitate and manage their extraction.

This must be balanced with the considerations of local policy and the community. The policy balance must be considered with reference to Clause 71.02-3 Integrated decision making, which requires an integrated and balanced approach to planning decision making which focuses on net community benefit.

The land is currently used for agriculture (grazing) and provides a buffer from the more intensive residential development to the north east in Devenish and Farming Zone to the south.

The proposal will not impact the current use of the remainder of the site for grazing nor fragment agricultural uses in the area. Limited development is proposed on the site which can be remediated once the use is extinguished.

While the operation is modest, there is economic opportunity, both directly via transport operators servicing the site, but further in offering a local resource for industry and construction in Benalla and surrounds.

The site is located away from more intensive residential development on a flat landscape, to minimize any visual impact from the surrounding area. The current proposal for rehabilitation is to fill the quarry with surplus fill currently stored on site. The ground will then continue to be used for grazing. There is opportunity for this to be improved.

The progressive rehabilitation of the site and end of life rehabilitation can be managed via conditions to ensure the local amenity and environmental impacts are acceptable. There is potential for progressive rehabilitation methods to be employed on site, to minimize the visual impact of quarry and further control dust.

Traffic

Potential amenity issues arising from additional truck traffic can be appropriately managed via planning conditions on any planning permit issued. The Traffic report submitted with the application and updated in response for further information from Traffic Works, dated 5 September 2022, identifies 10 truck movements per day for the site (five in and five out). In addition, it is expected that up to four staff movements will occur each day, with 12 visitor movements (six in and six out movements). It is anticipated that each truck will arrive and depart within the same hour and there will not be more than one truck on the site at the same time.

It is likely truck traffic will be heading to and from the west of the subject site along Dookie-Devenish Road, Devenish.

Sufficient car parking has been provided on site, including up to six car park spaces for visitor car parking associated with the office, which is considered to be far more than the required demand.

Council's engineers have reviewed the report and have no objections to the proposal subject to conditions to be placed on any planning permit issued.

Other matters

The proposal is within an identified sand stream. Further extractive proposals may arise from this area; however, the proposal is for a modest operation under five hectares that can be managed effectively to ensure amenity impacts are appropriate.

The impact on property values is not a valid planning consideration.

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.*

Environment

- *Healthy and protected natural environment.*
- *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. P0005/20 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to Grant a Permit under the provisions of the Benalla Planning Scheme in respect of the land known and described as Lot 2 Plan of Subdivision 207243L, 223 Cooper Road, Devenish for the use and development of the land for extractive industry (sand quarry) in accordance with the endorsed plans, with the application dated 15 June 2022 and subject to the following conditions:

Endorsed Plans

- 1 All works constructed or carried out must be in accordance with the endorsed plans to the satisfaction of the responsible authority.
- 2 Prior to commencement of use and development hereby approved, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the Site Plan [Job ref.1065_UD_SP1_V2] Plan submitted but modified to show:
 - a) A revised landscaping plan, prepared by a qualified person, detailing the location of planting or establishment, botanical and common names, height at maturity of the vegetation (locally indigenous species) and ongoing management of the vegetation to be planted for the purposes of landscaping and screening.
 - b) The height of the bund wall to be at least 2.5m.
- 3 Prior to commencement of use and development hereby approved, an Environmental Management and Monitoring Plan (EMMP) must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must include (but not be limited to):
 - a) Legislative framework
 - b) Responsibilities
 - c) Environmental training
 - d) Reporting and documentation procedures
 - e) Environmental controls, stormwater management
 - f) Materials handling and storage procedures
 - g) Establishment of groundwater monitoring network, consisting of at least three groundwater bores
 - h) Surface water/ run off monitoring; and
 - i) Reporting

Hours of Operation

- 4 The permitted use (including the arrival and departure of heavy vehicles) must operate only between the following hours, except with the prior written consent of the Responsible Authority**
- a) Monday to Friday 7.00am – 5.00pm
 - b) Saturday 7.00am – 1.00pm
 - c) Sunday Closed
- 5 The use and development must be managed, to the satisfaction of the responsible authority, to that the amenity of the area is not detrimentally affected through the:**
- a) Transport of materials, goods or commodities to or from the land;
 - b) Appearance of any building, works or materials;
 - c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d) Presence of vermin; or
 - e) Other matters.
- 6 Prior to the commencement of buildings or works, a Site Management Plan 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 operation
 - g) prevent mud, dirt, sand, soil, clay or stones from entering the drainage and road system
 - h) avoid having such materials deposited on public land by construction vehicles
 - i) establish and maintain all recommended Tree Protection Zones.
- 7 Prior to the commencement of construction on the site, a properly prepared drainage plan with certified computations must be submitted to and approved by the Responsible Authority. The plan must accord with the provisions of Council’s Infrastructure Design Manual and be prepared by a suitably qualified person to the satisfaction of the Responsible Authority. In particular the plan(s) must demonstrate:**

- a) direction of stormwater runoff and overland flow paths.
- b) computations outlining the expected volume and velocity of discharge from the site and any measures to be adopted to minimise erosion.
- c) how drainage will be designed so neighbouring properties are not adversely affected by the development, including runoff flow to and from neighbouring properties, including use of any cut-off drains is determined to be necessary.
- d) storm-water drainage plans for the development incorporate measures to enhance the quality of water discharged from the site and to protect downstream infrastructure and waterways. No effluent or polluted water of any type is entering the stormwater drainage system. Once treated to the satisfaction of the responsible authority, the stormwater shall be conveyed to the legal point of discharge, Dookie-Devenish Road table drain to the satisfaction of the responsible authority.
- e) all roof water from buildings that exceeds the tank storage (if implemented), to be conveyed to a Legal Point of Discharge so as to prevent nuisance to adjoining land.

8 All open channels are designed and constructed such that the channel bed width is min. 1m with side slopes do not exceed 1:6 as per 'Stormwater Management Plan prepared by Axiom Consulting Engineers Ref: 1016-01 RevA'.

9 Prior to the commencement of construction on the site, detailed engineering plans must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The design and scope of engineering plans to be submitted for approval shall meet the requirements of the Infrastructure Design Manual (IDM, www.designmanual.com.au), and all works are to be carried out in accordance with the Manual,

Plans to include the following:

- a) Detailed engineering design for proposed access from Devenish-Dookie Road demonstrating compliance with Typical Semi or B Double Vehicle Crossing (refer to IDM Drawing No. SD265).
- b) Details of all hardstands and carparking areas demonstrating compliance with vehicle movements and acceptable conveyance of surface runoff.
- c) Details of the functionality and maintenance requirements to be implemented for the on-site holding basin as proposed in the 'Stormwater Management Plan prepared by Axiom Consulting Engineers Ref: 1016-01 RevA'.

Vehicle Access

10 The permit holder shall implement the recommendations of the Traffic Impact Assessment Report (TIAR) prepared by Trafficworks Pty Ltd Ref: 210694, dated: 05/09/2022. These recommendations include:

- a) **Trim the vegetation at the point of access on Dookie-Devenish Road to provide adequate Safe Intersection Sight Distance. This condition does not grant the permit holder permission to remove, lop or destroy native vegetation to the extent that permission under Clause 52.17 of the Benalla Planning Scheme. No tree or other vegetation other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Benalla Rural City Council.**
- b) **The subject site access is constructed to Council's Infrastructure Design Manual (IDM) standard drawing for a Typical Semi or B Double Vehicle Crossing Drawing No. SD265.**
- c) **Should security gates be proposed for access to the development, the security gate should be set back a minimum of 20 m from the edge of the traffic lane on Dookie-Devenish Road.**

- 11 All truck movements to the site must be via the route of Benalla Tocumwal onto Dookie Devenish Road. All trucks must exit the site in a westerly direction. No trucks are to enter or exit the site via the Devenish Township or Devenish Road.**

Parking

- 12 The permit holder shall provide six (6) car spaces on site for employees and visitors to the quarry, clearly marked, signed and delineated, to the satisfaction of the Responsible Authority. The car park and accessways shall be formed, drained, and surfaced to the satisfaction of the Responsible Authority.**

Sediment Control Plan

- 13 Construction must be in accordance with sediment control principles as outlined in "Construction Techniques for Sediment Pollution Control" EPA 1991. The contractor is to convey soil, earth, sand, loose debris and like loose materials to or from the site in a manner that will prevent dropping of materials on roads and streets. The contractor is to ensure that the wheels, tracks and body surfaces of all vehicles and plant leaving the site are free of mud and that mud is not carried onto adjacent paved streets or other areas. The contractor will promptly remove any materials, which are deposited on streets or adjacent areas to the satisfaction of the responsible authority. Details of a contact person/site manager must be provided, so that this person can be easily contacted should any issues arise.**

Stockpiling of soil and/or construction and operations materials on-site

- 14 Soil and/or materials from the development site is to be stockpiled in a location where it will not be eroded from the site, is not on the road reserve and where no adverse amenity affects would arise all to the satisfaction of the responsible authority.**

Prior to Commencement of Construction

- 15 Before any access, accessway, carparking or drainage works associated with the development commence, the following items must be satisfied:**
- a) Approval of the construction plans.**
 - b) An on-site meeting with officers of the responsible authority, the contractor and the developer or the developer's consultant to discuss matters such as roadside management, construction techniques, erosion controls, vegetation clearing controls and vegetated areas to be barricaded off prior to and during construction**

Rehabilitation Plan

- 16 Prior to the commencement of works, a staged enforceable rehabilitation plan must be submitted to the Responsible Authority for approval. The plan must include the proposed techniques used during the use and outlining the rehabilitation works proposed at the conclusion of the use.**
- This plan or strategy can be endorsed with the permit or registered by agreement (section 173) to ensure the is an enforceable measure to ensure rehabilitation is completed.**
- 17 Prior to the commencement of buildings and works, a rehabilitation bond to the amount of 100% of the estimated cost of rehabilitation works as required by the rehabilitation plan under Condition No. 16 of this permit must be paid to the Responsible Authority.**
- 18 Prior to commencement of works, a 'Quarry Operations Plan' must be submitted to the Responsible Authority for review and records. This plan may also be required for submission to DELWP or other agencies. The operations plan should outline:**
- a) How excavation will occur on site**
 - b) Site operations and safety management**
 - c) Spatial identification (location) and depth of proposed cells**
 - d) Management of sediment, erosion and water management within cells**
 - e) Rehabilitation plan**
- 19 The landscaping works shown on the approved landscape plan and the bund wall required by Condition No. 1 (b) of this permit must be carried out and completed to the satisfaction of the responsible authority prior to commencement of operations or any other time as agreed in writing by the responsible authority.**

VicTrack Conditions

- 20** The permit holder must not enter any railway land without the written consent of the Rail Operator. If the permit holder has obtained the Rail Operator's written consent to enter the railway land, the permit holder must comply with the Rail Operator's Site Access Procedures and Conditions when accessing the railway land during and post construction and access can be applied for through the Internet web site:
<https://www.artc.com.au/work/externalparties/property/>.
- 21** The permit holder must at all times ensure the common boundary with the railway land is fenced with a 1.8m paling or black chain mesh fence at the permit holder's expense to prohibit unauthorized access to the rail corridor. The replacement repair or reconstruction of any wall or screen which may be permitted to be located on or adjacent to the rail land boundary must be agreed with the Rail Operator and be finished using a graffiti resistant finish or alternative measures used to prevent or reduce the potential graffiti.
- 22** The permit holder must not at any time:
- a. Allow and drainage, effluent, waste, soil or other materials to enter or be directed to the railway land; or
 - b. Store or deposit any waste, soil or other materials on the railway land.

Permit Expiry

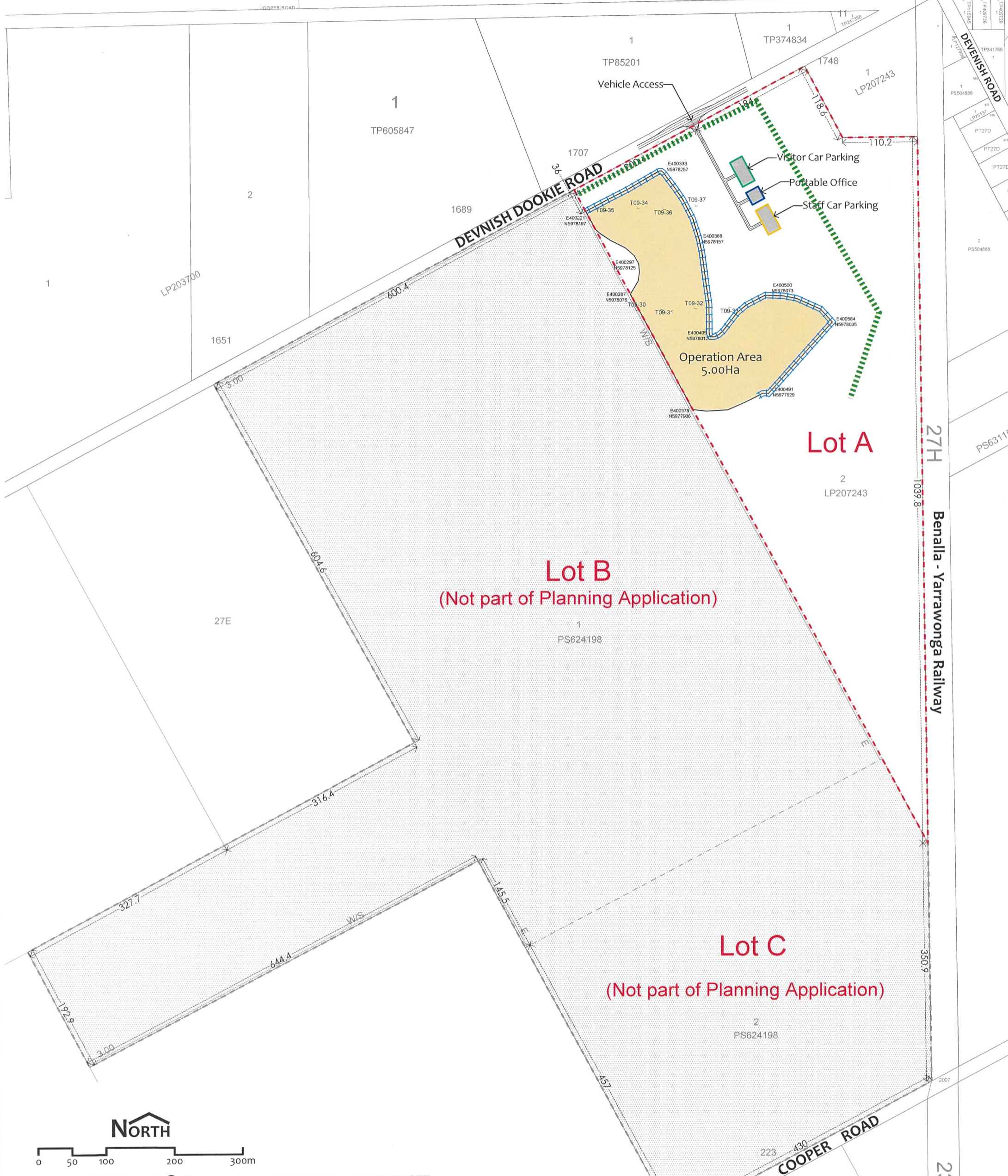
- 23** This permit will expire if one of the following circumstances applies:
- a) the use or development is not commenced within two years after the issue of the permit;
 - b) the development is not completed within four years after the issue of the permit.

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

General Notes

- The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.
- An asset protection permit is required prior to the commencement of any works on site.
- 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.
- 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.

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SCALE 1 : 5000 @ A3

SITE PLAN

Job Ref. 1065_UD_SP1_V2 Date: 1/06/2022

**223 COOPER ROAD
DEVENISH**

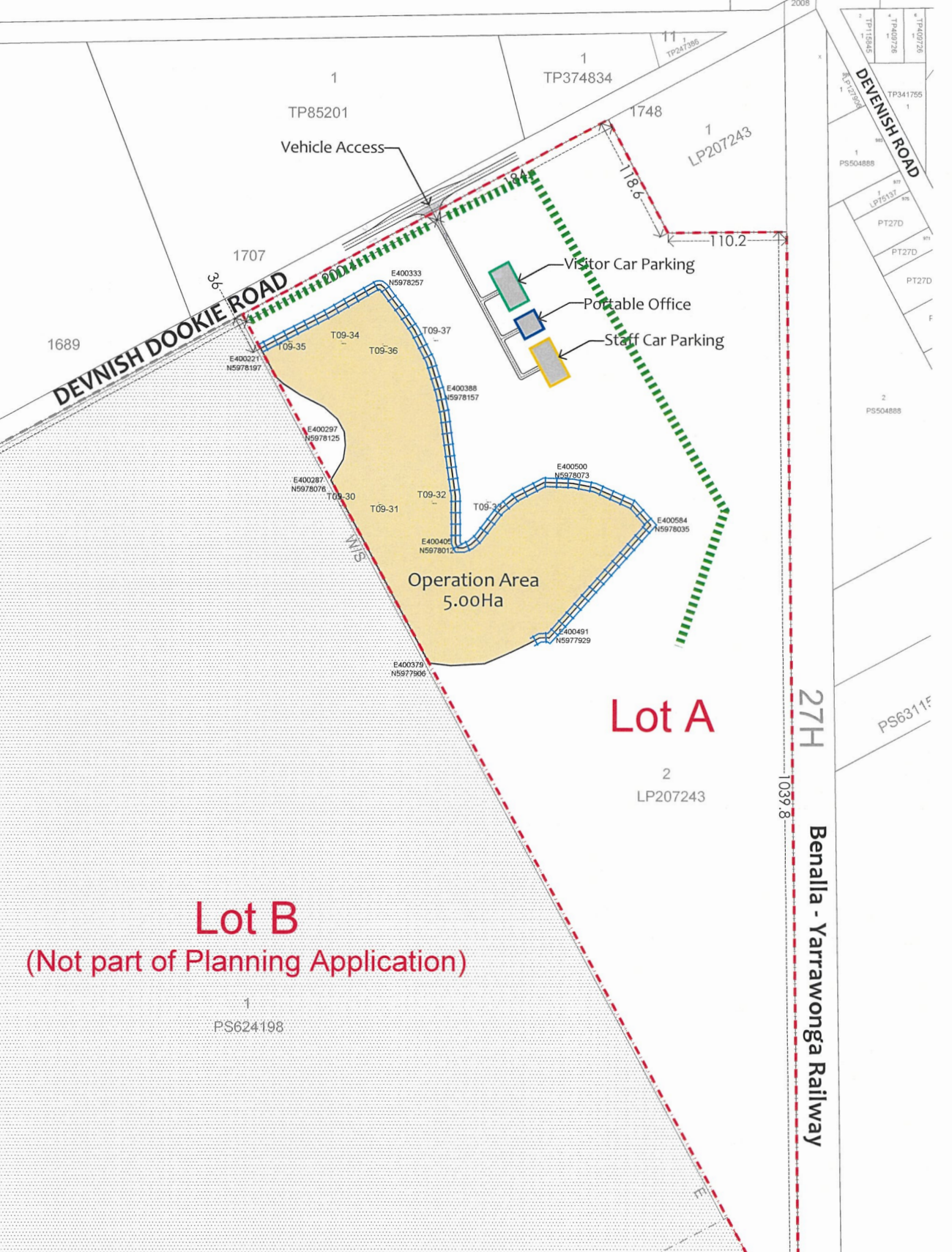
Urban Paradigm
 www.urbanparadigm.com.au
 info@urbanparadigm.com.au
 PO Box 1156, Greytown, VIC 3104
 +61 450 200 812

LEGEND & LAND BUDGET

- Site Area (29.16Ha) - - - - -
- Mining Operation Area (5.00Ha)
- Visitor Parking (Not in position & scale)
- Portable Office (Not in position & scale)
- Staff Parking (Not in position & scale)
- Bunding
- Screen planting (conifer or similar) - - - - -

NOTES

- Proposed lot boundaries and areas shown are subject to final site survey.
- This plan is produced for site analysis purposes only and is subject to approval by the responsible authorities.



DEVNISH DOOKIE ROAD

DEVNISH ROAD

27H

Benalla - Yarrowonga Railway

Vehicle Access

Visitor Car Parking

Portable Office

Staff Car Parking

Operation Area
5.00Ha

Lot A

Lot B

(Not part of Planning Application)

PS624198

LP207243

TP85201

TP374834

LP207243

1689

1707

1748

1038.8

96

E400221
N5978197

E400297
N5978125

E400287
N5978076

E400405
N5978012

E400379
N5977966

E400333
N5978257

T09-35

T09-34

T09-36

T09-37

T09-30

T09-31

T09-32

T09-33

E400491
N5977929

E400388
N5978157

E400500
N5978073

E400584
N5978035

TP241386

TP400726
TP402726
TP115846
TP341785
PS504888
LP15137
PT27D
PT27D
PT27D
PS504888
PS6311F

2. Planning Application For For A Multi-Lot Subdivision (22 Lots) and Removal of Native Vegetation – 51 Hairs Lane, Benalla

DA4861

Joel Ingham – Planning Coordinator

Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses a planning application received for a multi-lot subdivision (22 lots) and the removal of native vegetation at 51 Hairs Lane, Benalla.

BACKGROUND

Site Address	51 Hairs Lane, Benalla
Existing Use	The land contains an existing dwelling and outbuildings. The house and surrounds include extensive planting of exotic trees, three remnant River Red Gums and a small stand of vegetation located within the southern portion of the site.
Proposal	Multi Lot Subdivision (22 Lots) and the removal of native vegetation.
Applicant	Alpine Valley Developments
Zone	General Residential Zone (GRZ)
Overlays	Nil
Referrals	<ul style="list-style-type: none"> ▪ CFA ▪ North East Water ▪ Ausnet ▪ APA Group

PROPOSAL

The proposal seeks approval to subdivide the land into 22 residential lots including the removal of three scattered native trees and one small 0.019 hectare native vegetation patch.

The proposal will have the following characteristics:

Subdivision

The subdivision of 22 lots will include a range of lot sizes from 371 metres squared to 794 metres squared in area plus a 1,324 metres squared lot containing the existing dwelling. The proposed subdivision layout will include a new north south road that will connect Hairs Lane, Benalla with the future extension of Meretz Avenue, Benalla.

The developers propose that Hairs Lane, Benalla will be upgraded with kerb provided on the site's frontage (North side only) and the full width of the roadway to formed and sealed.

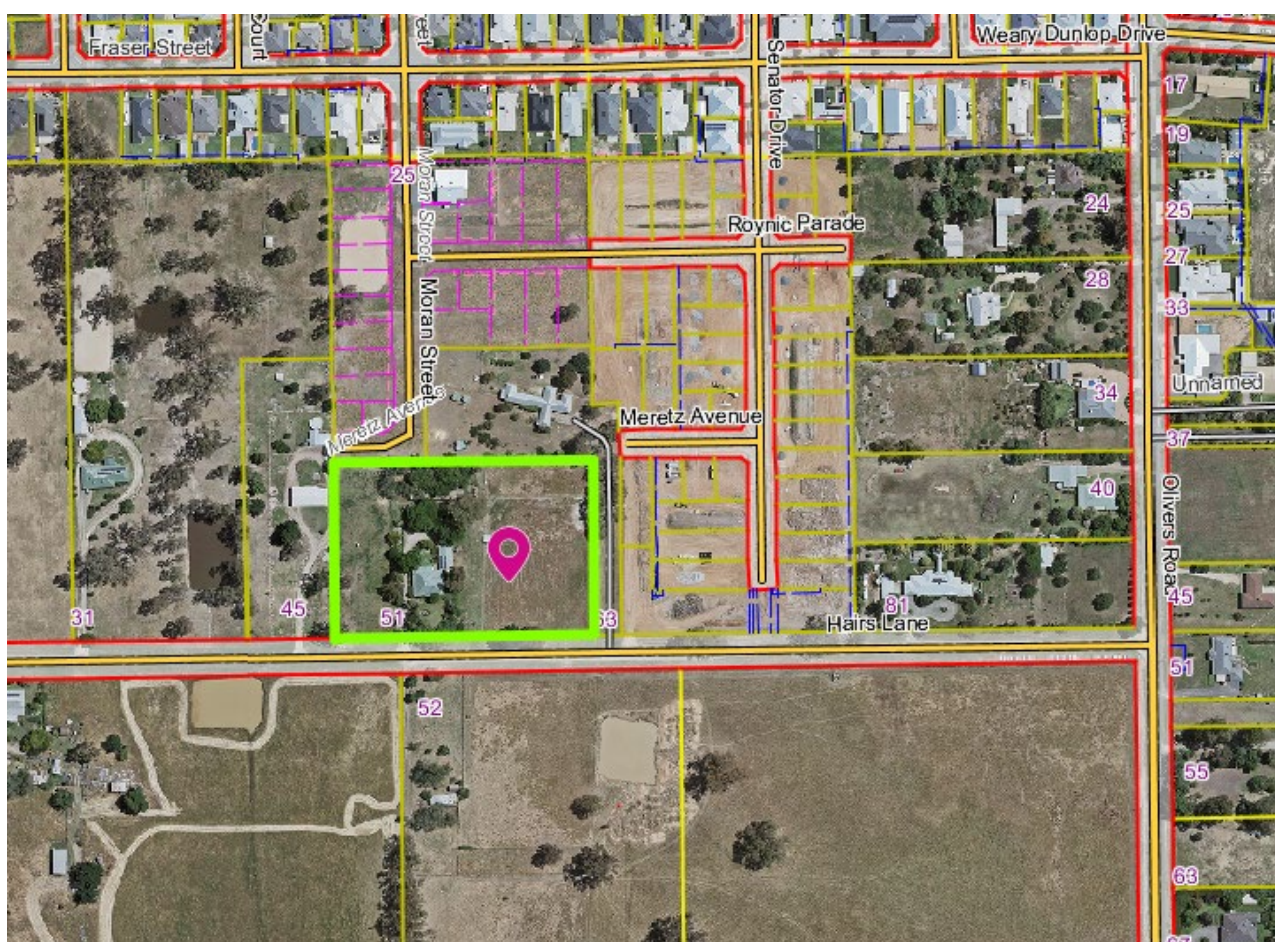
The existing dwelling and associated outbuildings within close proximity are to be situated within lot 13, with the balance of the outbuildings to be demolished.

Native Vegetation

The native vegetation removal consists of three scattered River Red Gum trees will be lost as well as a 0.019 hectare native vegetation patch will be removed from the northern Hairs Lane road reserve.

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

LOCALITY MAP



Site and Surrounds

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

The subject site is located on the north side of Hairs Lane, Benalla approximately 310 metres west of the intersection with Olivers Road, Benalla. The land is rectangular in shape.

The site has a total area of just over 1.5 hectares with a frontage to Hairs Lane, Benalla of 148.68 metres and depth of 101.79 metres. The site is generally flat.

The site is vacant apart from an existing dwelling and outbuildings located towards the center of the site. The dwelling includes a well maintained garden with an extensive range of exotic and non-indigenous native trees and shrubs.

The land has mostly been cleared of remnant native vegetation, however there are three scattered River Red gums, two of which are located in the house block.

Access to nine lots will be from Hairs Lane, Benalla. Four lots will have access from Meretz Avenue, Benalla to the north. The remaining nine lots will have access via a new north south road off Hairs Lane, Benalla. This road will eventually connect to a future extension of Meretz Avenue, Benalla.

All surrounding land to the subject site is located within a General Residential Zone. Land to the north is approved for development of residential lots by the same developer of the subject site. A similar residential subdivision is being constructed to the east.

The land to the west contains a dwelling on a small hobby farm with horses. The land opposite to the south is vacant land and used for agricultural purposes.

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 Hairs Lane frontage of the site
- sending notices to all adjoining and opposite landowners and occupiers.

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.

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.

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

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 the Council however 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.
C5	Built environment	√	√	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 area and surrounds.
C7	Lot Diversity and Distribution	√	√	The proposal will provide for a diverse range of lot sizes from 371m ² to 1597m ² . The variance in lot sizes will lead to a diverse range of housing types and styles to suit individual landholders in the future.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C8	Lot Area and Building Envelopes	√	√	All but five of the lots proposed are in excess of 450 metres squared. A condition of any permit can require building envelopes with lot sizes of less than 450 metres squared to provide for dwellings which meet the area and siting requirements of the planning scheme.
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
C12	Integrated Urban Landscape	√	√	A Landscape/Streetscape plan will be required as a condition of the permit. This plan will be required to show the type of plantings to be undertaken within the road reserve areas.
C13	Public Open Space	√	√	A condition of the permit will require that the applicant provide a contribution to Council being five percent of the site land value in accordance with the planning scheme. It is considered that a public open space area of five percent (752 metres squared) would be too small to be practical on the land.
C15	Walking and cycling network	√	√	The proposal provides for road widths which will encourage pedestrian and bicycle movement within the subdivision. There is currently no north south link within the subdivision. In accordance with the ODP this will occur when Meretz Avenue, Benalla is extended to the west.
C17	Neighborhood Street network	√	√	The proposed street network will connect to the existing and proposed road network surrounding the site. With the future extension of Meretz Avenue, Benalla a north south connection will be provided through the site.
C18	Walking and cycling network detail	√	√	The proposed footpath network will be designed to comply with Infrastructure Design Manual requirements.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
C19	Public Transport network detail	√	√	The width of Hairs Lane, Benalla will allow for the provision of bus services in the future. An existing bus service is located one kilometre from the site in Waller Street, Benalla.
C20	Neighborhood street network detail	√	√	A Traffic Impact Assessment Report has been submitted by the applicant. The report concludes that no traffic engineering reasons would prevent the development, subject to meeting the Infrastructure Design Manual standards. The proposal was also referred to Council's Engineering Unit who advise of no objection to the proposal subject to conditions including the formation and sealing of Hairs Lane, Benalla from Olivers Road, Benalla to the western boundary of the subject site. Subject to conditions it is considered that the proposal can comfortably comply with the Benalla Planning Scheme and Infrastructure Design Manual standards.
C21	Lot Access	√	√	The proposal will not provide for any lots with an area of less than 300 metres squared 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.
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.

√ - Compliance X - Non compliance		Objectives	Standards	Comments
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 metres and that they are no more than 200 metres 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.

Particular Provisions

Clause 53.01 – Public Open Space Contribution and Subdivision

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

CONSIDERATION OF OBJECTIONS

One objection has been received to the proposed development. The objection was received from the adjoining property owner to the west of the site and relates to future overlooking from the four proposed lots adjoining that boundary. The owner is concerned that farm style fencing may be used along this boundary and requested colorbond fencing along this boundary. It is recommended that as a condition of the permit that prior to the issue of the statement of compliance the western boundary of the site be fenced with a 1.8 metres high colorbond fence of a colour to the satisfaction of the responsible authority. The applicant has agreed in writing to the colorbond fence.

ASSESSMENT

The proposed subdivision is considered to comply with the 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 371 metres squared to 1,324 metres squared.

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 standard residential area and will provide for residential development in keeping with the residential surrounds. Lots have also been designed to achieve maximum solar orientation.

The subdivision will provide for adequate pedestrian and vehicular links to Hairs Lane, Benalla and Moran Street, Benalla. A future north south link will be provided with the extension to Meretz Ave, Benalla. All of which will need to be designed in accordance with the requirements of the Infrastructure Design Manual. A condition of approval will be formation and sealing to full width of Hairs Lane, Benalla from Olivers Road, Benalla to the western boundary of the site. The applicants have only proposed sealing the width of the site.

Permission has been granted for the removal of three scattered trees (one being a large tree) and native vegetation patch having an area of 0.019 hectares. The applicant is required to provide a Vegetation Offset Management Plan (VOMP) which includes offset calculation, location of offset site, planting plan, and maintenance plan to the satisfaction of the responsible authority.

Drainage provision for the site has been designed to connect existing Cowan Street, Benalla drainage basin subject to the payment of a contribution to Council.

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 objector 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. P0152/22 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 51 Hairs Lane, Benalla, for a multi lot subdivision and the removal of native vegetation, in accordance with the endorsed plans, with the application dated 25 October 2022 and subject to the following conditions:

- 1. Prior to certification of the plan of subdivision, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the Concept Development Plans submitted [Drawing No. F1234CP03/03 Proposed Plan of Subdivision –Revision X3 dated 14/09/22] but modified to show:**

The full upgrade of Hairs Lane from the intersection of Olivers Road to the western boundary of the site:

- To a Collector Street Level 1 standard generally in accordance with Table 2 of Councils Infrastructure Design Manual (IDM) standards or to the satisfaction of the Responsible Authority.**

- The applicant will be required to construct two 3.5m through lanes and a 2.4m wide parking lane (total trafficable width 9.4m) with barrier kerb and channel and 2.5m wide shared path on the development side only.
 - All internal roads shall be constructed to an Access Street standard generally in accordance with Table 2 of Councils Infrastructure Design Manual (IDM) standards or to the satisfaction of the Responsible Authority.
2. 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.
 3. 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.
 4. 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.
 5. 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.
 6. No covenant or 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 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.**

Fencing

- 13. Prior to the issue of the statement of compliance, the western boundary of the site must be fenced with a 1.8m high colorbond fence of a colour to the satisfaction of the responsible authority.**

General Engineering

- 14. 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

- 15. 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.**
- 16. 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.**
- 17. 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.**
- 18. 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**
 - b) adversely affect the drainage of adjacent land through sediment and the like**
 - c) affect overland flow paths.**

Drainage

- 19. 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 and must demonstrate:**

- a) **A full area catchment plan must be prepared and submitted for approval prior to construction in accordance with the 103.3Ha area defined in the Benalla Urban Growth Project Area. The design must consider the developed flows from within the development and upstream catchments. Drainage must be constructed and connected to the existing 1050ø RCP stub at the corner of Hairs Lane and Olivers Road (refer to Cardno Drawing CG110475 Rev C1 dated January 12).**
 - b) **The drainage along Hairs Lane must be sized with the upstream catchment in mind as per the Benalla Urban Growth Project Area demonstrating that the proposed drainage has sufficient capacity to cater for upstream developed flows as well as the flows within the development.**
 - c) **The Hairs Lane road reserve has the capacity to convey the one per cent AEP without any inundation affecting any lots or surrounding properties.**
- 20. Prior to the issue of a Statement of Compliance, the applicant must provide Council a payment of Drainage Headworks of \$3.10 per square meter of the land area as contribution towards the cost of existing works for the acceptance of surface and stormwater from the buildings, whether or not such works have been or will be situated within the boundaries of the land. In the event the payment is made after 30 June 2019 the rate will be indexed by CPI. This condition relates to allotments discharging into the Benalla Urban Growth Project Area.**
- 21. 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 a practical and satisfactory destination, without adversely affecting any person, infrastructure or natural features in or beyond the development.**
 - 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 the outfall along Hairs Lane including upgrading of the drainage network as required.**
 - 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.**

Water Sensitive Urban Design

22. 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.

Road Design

23. 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.
24. All roads within the new subdivision and the Hairs Lane road frontage and the intersection with Olivers 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.
25. Prior to the issue of a statement of compliance for the relevant stage of the subdivision the permit holder must satisfy the Responsible Authority that the unsealed section of Hairs Lane must be upgraded for the full length generally in accordance with Table 2 of the Infrastructure Design Manual (IDM) in particular:
- a) to a Collector Street Level 1 standard generally in accordance with Table 2 of Councils Infrastructure Design Manual (IDM) standards or to the satisfaction of the Responsible Authority
 - b) the applicant will be required to construct two 3.5m through lanes and a 2.4m wide parking lane (total 9.4m) with barrier kerb and channel and 2.5m wide shared path on the development side only.
26. 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.

Property Access

27. Prior to the issue of a statement of compliance of the subdivision, the permit holder must satisfy the Responsible Authority that a vehicle crossing has been constructed providing each Lot with safe and convenient access to and from a suitable public road has been designed, constructed, sealed and drained to lots fronting Hairs Lane in accordance with IDM standard drawing SD245, to the satisfaction of the Responsible Authority.

Landscaping

28. 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**
- g) removal of existing infrastructure or stockpiles and weed eradication**
- h) fencing of all Reserves to be handed over to the 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.

29. 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

30. 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.

31. 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

- 32. 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.**
- 33. 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.**
- 34. 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 five per cent of the approved civil construction costs for the current stage. This bond will be held by the 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 the 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.**
- 35. Prior to the issue of a Statement of Compliance for each stage of the subdivision, the following “as constructed” drawings and information are required to be submitted to Benalla by the developer/consultant.**
 - a) Copies of engineering drawings/data in MapInfo Tab or MIF_MID format with a Projection GDA94/MGA55**
 - b) Copies of engineering drawings/data in PDF format**

- c) **“As Constructed Information” of the Road, Drainage, Kerb and Footpath information component of the subdivision as well as information of all of Benalla’s assets in accordance with the current versions of D-Spec & R-Spec**
- d) **A certified plan showing the extent and depth of fill in excess of 300mm placed on any of the allotment;**
- e) **An assets statement for each street.**

**Please refer to the A-SPEC website for further information
www.a-specstandards.com.au**

Construction

- 36. 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.**
- 37. 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.**
- 38. 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.**
- 39. All works must be carried out generally in accordance with the measures set out in the Site Management Plan approved by the Responsible Authority.**
- 40. 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.**

Native Vegetation

41. During construction works on the site, any remnant vegetation must be protected by an appropriate Tree Retention Zone (TRZ), free of digging, trenching, excavation, stockpiles, chemical or material mixing and storage, parking or any other disturbance, and marked with a physical barrier on site. The TRZ will have a radius from the tree of at least 12 DBH (diameter of the tree at breast height) (as per Australian Standards). By default, a tree will be considered lost and require an offset if one of the above activities occurs over more than 10 per cent of the total area of the TRZ.

If these exclusion zones are not put in place or construction works cannot be physically carried out without impacting these zones, these trees, whilst still retained must be counted as removed and an appropriate offset plan produced.

Consideration should be given to trees adjoining existing and new road reserves and adjoining the site boundaries which may be impacted by improvements to access to the site and construction of the subdivision. If any vegetation is removed, destroyed or lopped to provide access to any of the site or construction of the subdivision, or the appropriate TRZ is not adhered to, an amended Biodiversity Assessment Report must be submitted to the satisfaction of the responsible authority. This may change the assessment pathway that the application has been assessed against.

Permission is given for removal of 0.152ha, which is composed of 3 scattered trees and one native vegetation patch totaling 0.019ha, which includes the proposed removal of 6 Large Trees as marked in the Biodiversity Assessment Report to allow for construction of the subdivision. This application has been assessed under the intermediate assessment pathway.

42. The applicant is to provide a Vegetation Offset Management Plan (VOMP) which includes offset calculation, location of offset site, planting plan, and maintenance plan to the satisfaction of the responsible authority. The offset must:
- contribute gain of 0.033 general habitat units (GHU)
 - have one large trees
 - be located within the Goulburn Broken Catchment Management Authority (CMA) or Benalla Rural City Council municipal district
 - have a strategic biodiversity score of at least 0.344.
43. Prior to the issue of a Statement of Compliance of the subdivision, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. The offset must meet the offset requirements set out in this permit and be in accordance with the requirements of the Guidelines for the removal, destruction or lopping of native vegetation. Offset evidence can be either:
- a security agreement, to the required standard, for the offset site or sites, including a 10-year management plan; or
 - a credit register extract from the Native Vegetation Credit Register.

Country Fire Authority

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:

44. Hydrants

- 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.
- 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

45. 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.

- Proposed roads must have a suitable trafficable width to allow the unimpeded access of emergency fire fighting vehicles (notwithstanding any parking restrictions that Council may apply) to the satisfaction of CFA.
- Dead-end roads and cul-de-sacs more than 60 metres in length from the nearest intersection must have a turning circle with a minimum radius of 8 metres (including rollover kerbs if provided); T or Y heads of dimensions specified by CFA may be used as alternatives.
- The average grade must be no more than 1 in 7 (14.4 percent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 percent) (11.3 degrees) for no more than 50 metres. Dips must have no more than a 1 in 8 (12 percent) (7.1 degrees) entry and exit angle.
- Curves must have a minimum inner radius of 10 metres.

North East Water

46. 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.

- 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 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.**
- 48. 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.**
- 49. 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”)**
 - 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, and**
 - d) internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.**
- 50. 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.**
- 51. 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.**
- 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 sewers and disposal systems currently servicing the area in which the subject land is located.**
- 53. 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.**

54. 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.
55. 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.
56. 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.
57. Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
58. 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.
59. 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.
60. The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the *Subdivision Act 1988*.
61. 150mm diameter water main to be extended along Hairs Lane to the eastern boundary of the development.

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*.

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.

APA Group

63. Easements in favor of “Australian Gas Networks (VIC) Pty Ltd” must be created on the plan to the satisfaction of APT.
64. The plan of subdivision submitted for certification must be referred to APT O&M Services Pty Ltd, in accordance with Section 8 of the *Subdivision Act 1988*.

Permit Expiry

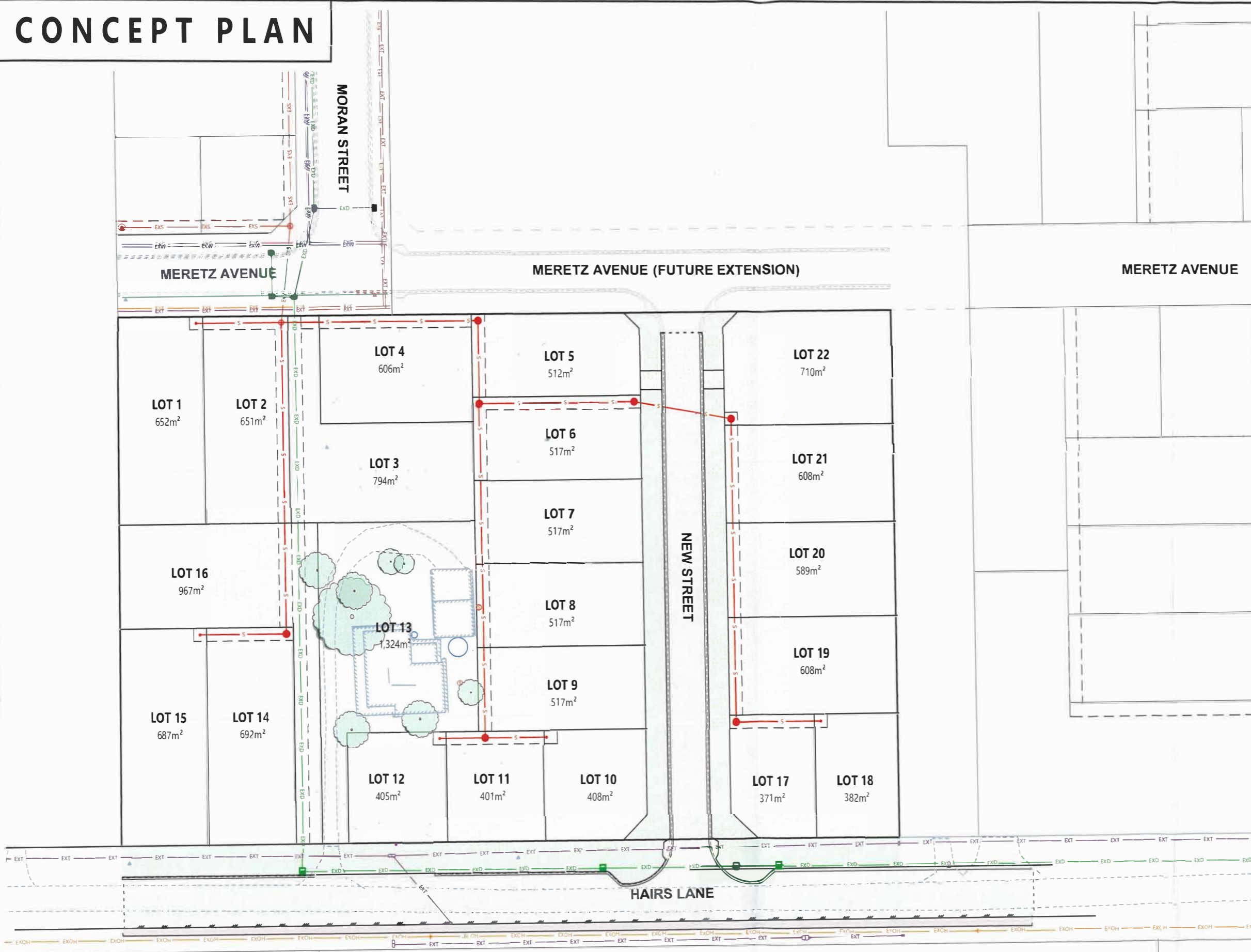
65. This permit will expire if one of the following circumstances applies:
 - a) Stage 1 of the plan of subdivision is not certified within two years of the date of this permit;
 - b) Stage 2 of the plan of subdivision is not certified within four years of the date of this permit; or
 - c) Any further stage of the plan of subdivision is not certified within six years of the date of this permit; or
 - d) Each stage of the plan of subdivision is not registered at Land Registration Services within five 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.

Advice Notes:

- a) 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.**
- b) An asset protection permit is required prior to the commencement of any works on site.**
- c) 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.**
- d) 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.**

CONCEPT PLAN



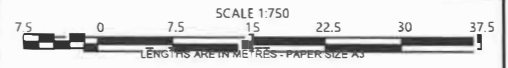
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51 HAIRS LANE, BENALLA
CONCEPT PLAN SET | 22 LOT SUBDIVISION
PROPOSED DEVELOPMENT CONCEPT



PROJECT:	DWG No:	REV:
F1234	F1234CP02/03	X3
X3 AMEND LOT 13 & 16 (REMOVE COMMON PROPERTY)	M.F.	24.11.22
X1 FOR REVIEW/SUBMISSION	M.F.	14.09.22
REV	REVISION	DES DWG CHK DATE

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3. Planning And Building Approvals – February 2023

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 February 2023.

Planning Permit Applications Determined under Officer Delegation

File No	Description	Property Address	Decision	
1	DA4891/2	Construction of two double storey dwellings	35 Egmont Street, Benalla	Approved
2	DA7477	Construction of an in-ground swimming pool and spa	34 Racecourse Road, Benalla	Approved
3	DA7476	Construction of a timber storage shed	30 Lowens Lane, Benalla	Approved
4	DA3531/2	Construction of an agricultural shed	118 Yin Barun Road, Swanpool	Approved
5	DA284/6	Construction of a shed extension	184 Williams Road, Lima South	Approved
6	DA7057	Construction of a dwelling	1B Meadows Avenue, Benalla	Approved
7	DA4402	Use and development of a dwelling and shed	366 Four Mile Road, Benalla	Approved
8	DA7408	Use and development of 12 warehouses and a 12 lot subdivision including common property	15-17 Railway Place, Benalla	Approved (Notice of Decision)

Planning Permit Amendments Determined Under Officer Delegation

There were no planning permit amendments issued under officer delegation during the month of February 2023.

Planning Permits Issued Under VicSmart

File No	Description	Property Address	
1	DA7057	Construction of a dwelling	1B Meadows Avenue, Benalla
2	DA7476	Construction of a timber storage shed	30 Lowens Lane, Benalla

Planning Permit Applications Determined by the Council

There were no planning permit applications determined by the Council during February 2023.

Planning Permit Amendments Determined by the Council

There we no planning permit amendments determined by Council during January 2023.

Planning Permit Applications Withdrawn or Lapsed

File No		Description	Property Address	Decision
1	DA2173/2	Construction of a pergola	93-101 Waller Street, Benalla	Lapsed
2	DA7489	Construction of a shed	47 Cecil Street, Benalla	Withdrawn (planning permit not required)

Notices of Decision

File No		Description	Property Address
1	DA7408	Use and development of 12 warehouses and a 12 lot subdivision, including common property	15-17 Railway Place, Benalla

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

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

Planning Permit Applications Determined by VCAT

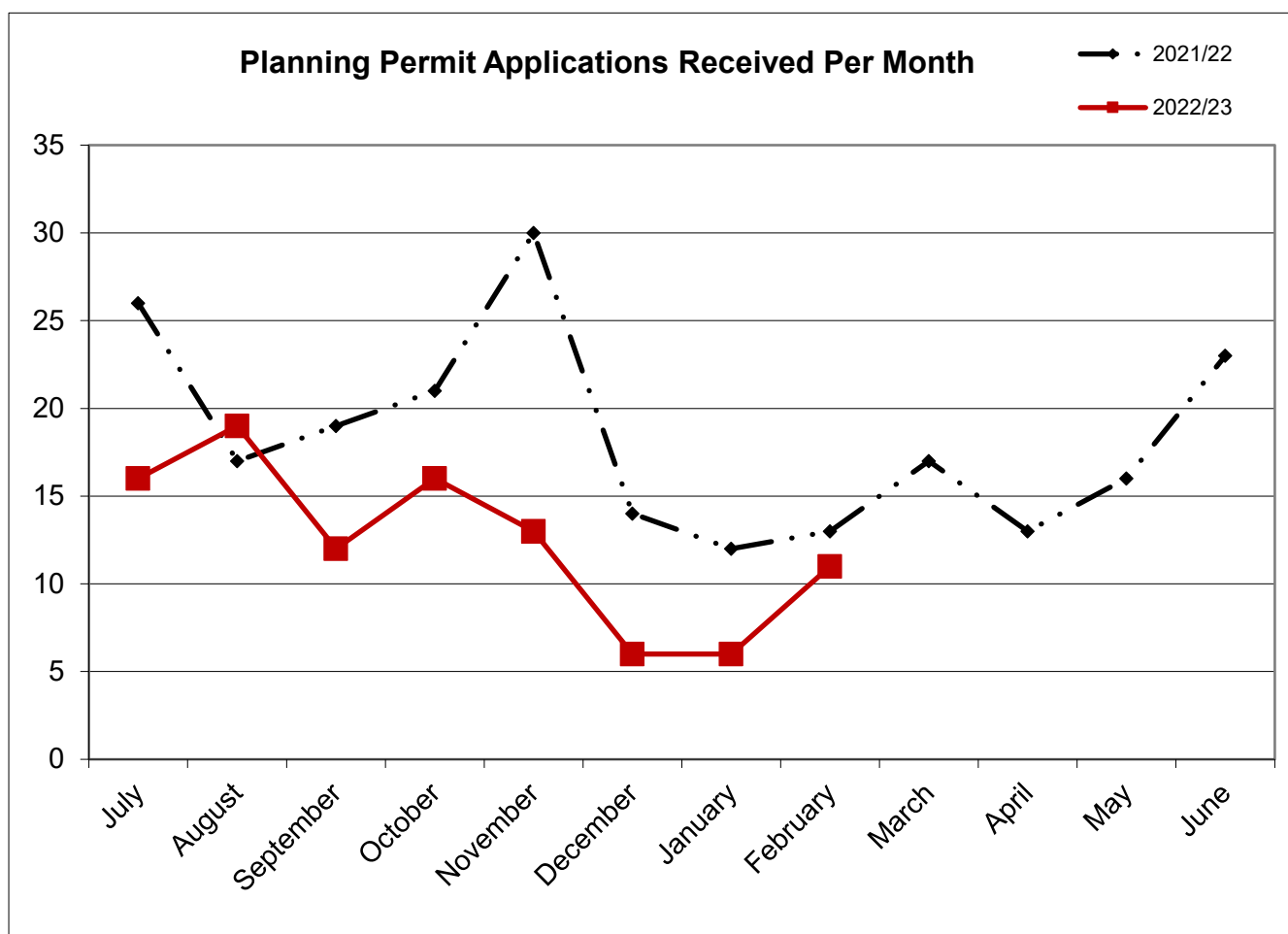
There were no planning permit applications determined by VCAT during February 2023.

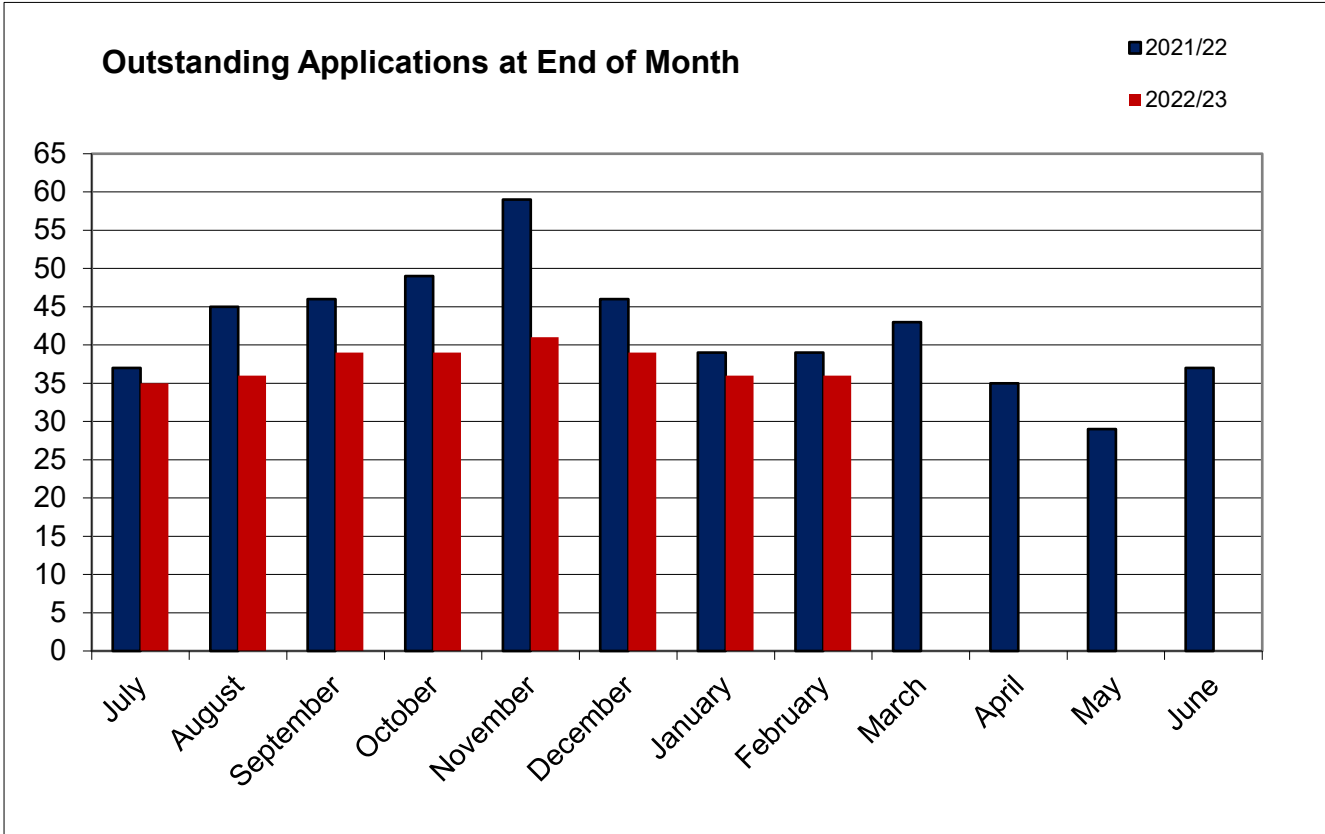
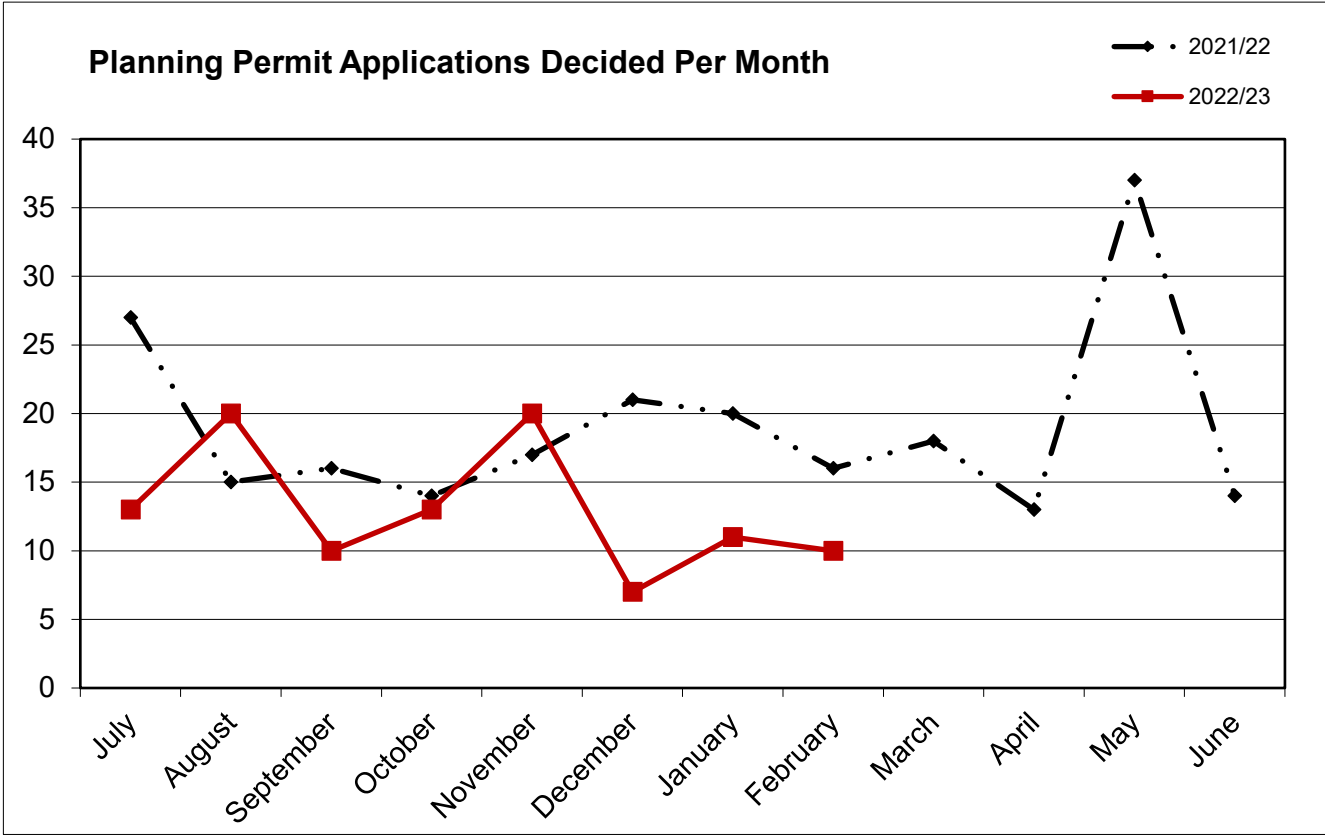
Matters Before VCAT

DA393/2	159-161 Bridge Street East, Benalla – Electronic Sign
Status	At a Planning and Development Committee meeting on 27 July 2022 it was resolved that the Council refuse to grant a permit for the display of an electronic promotion sign. The applicant lodged an appeal to VCAT on 27 September 2022. The Tribunal hearing was heard on 3 February 2023 with the applicant and Council's representative in attendance. The decision has been deferred to a later date.

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 which was due to be heard on the 17 and 20 February 2023 has been adjourned at the request of the applicant. The new hearing date will now be for five days on 24, 25, 26 July 2023, 31 July and 1 August 2023.

Planning Permit Applications

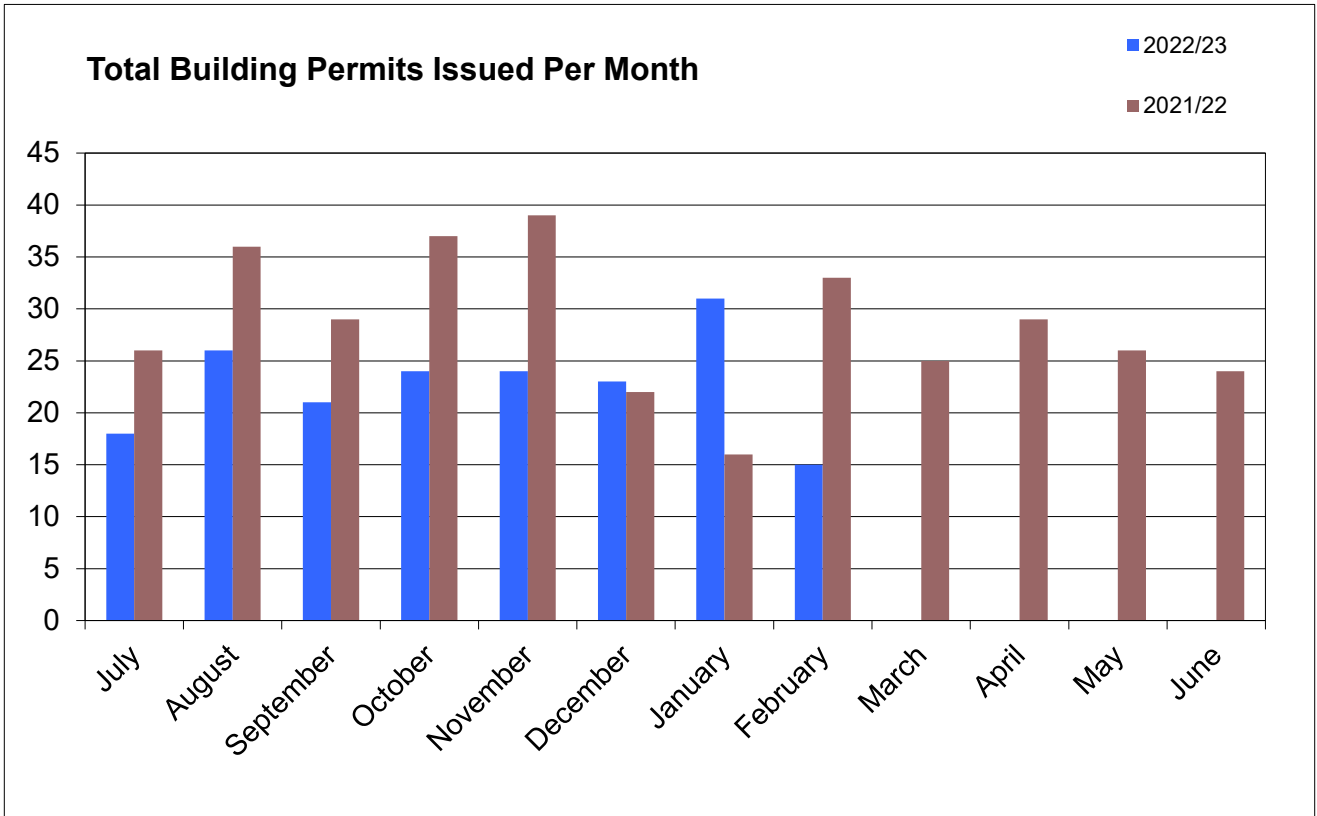
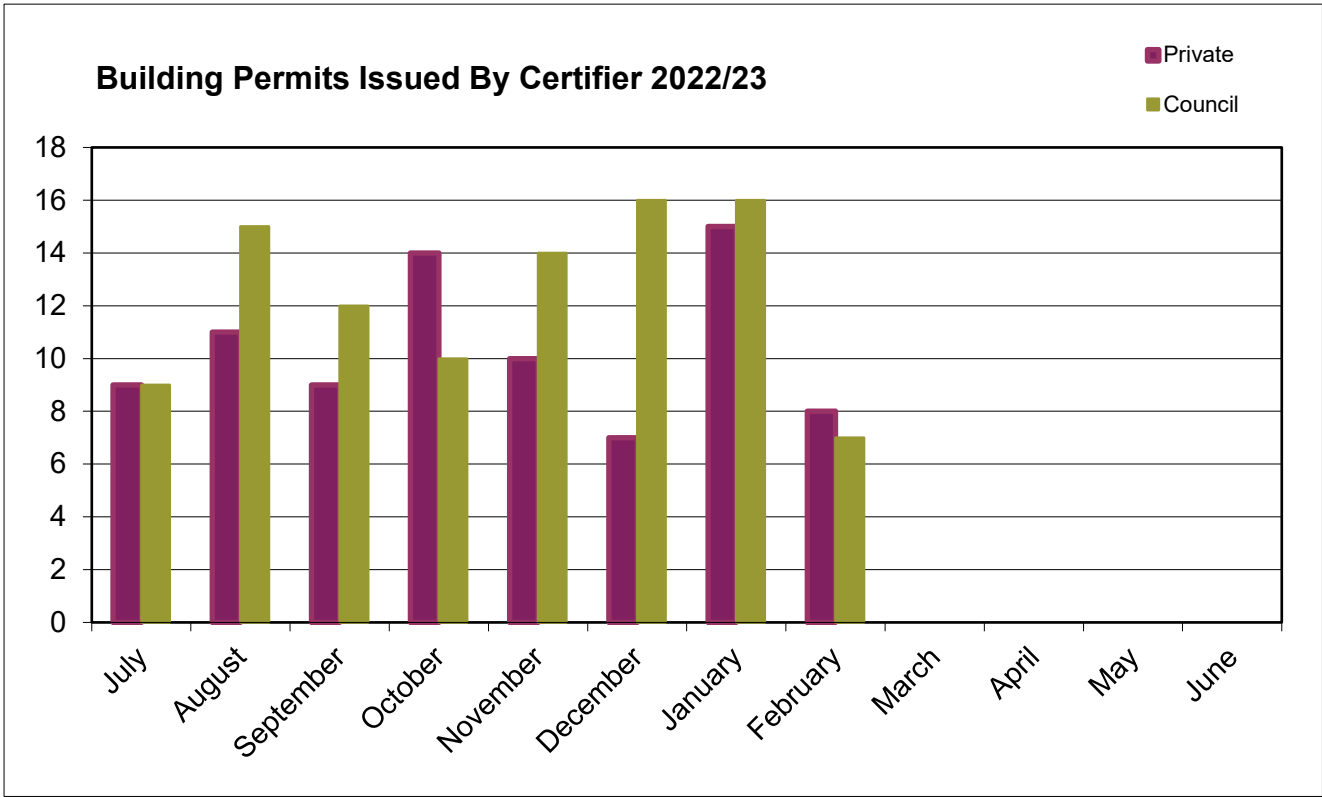


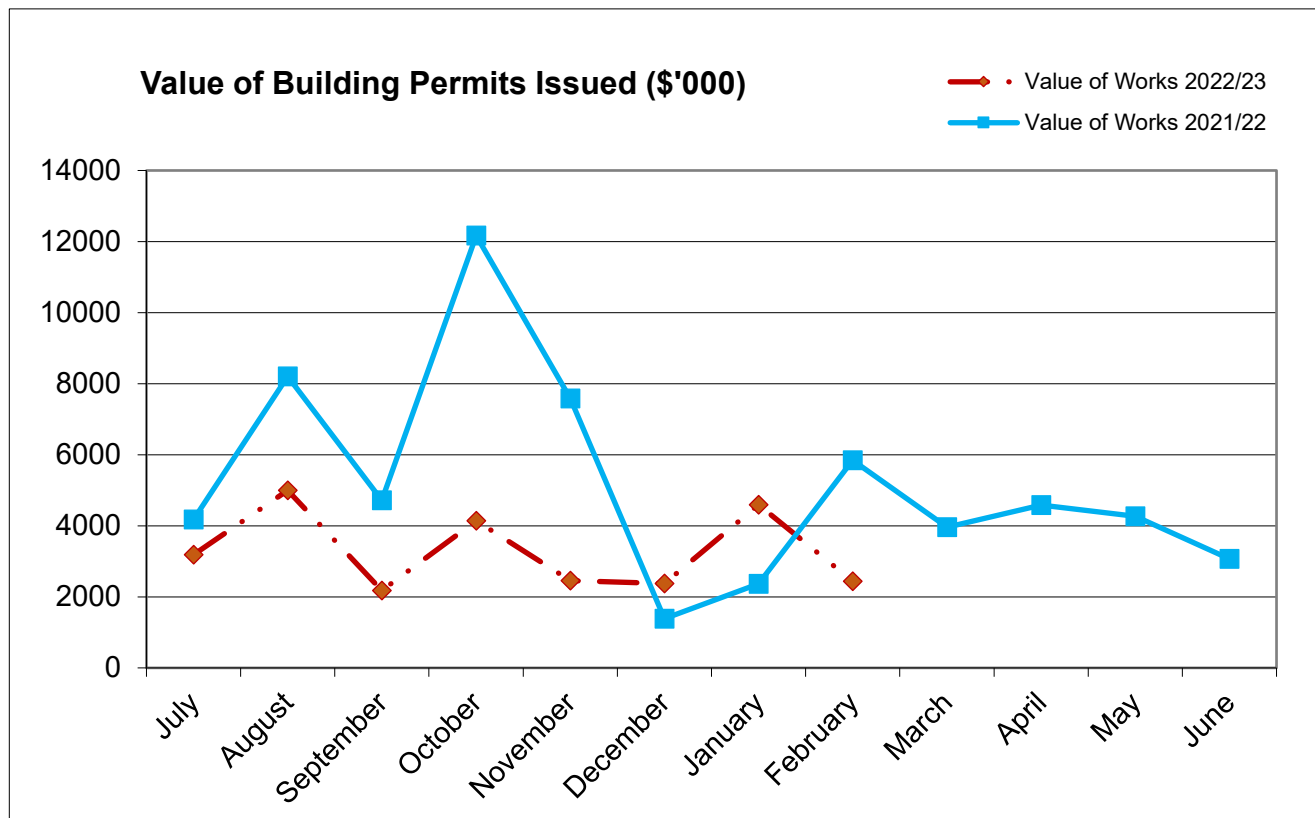


Building Approvals Issued by Council and Private Practitioners

File No		Description	Property Address	Value
1	DA7452	Construction of a farm shed	53 Scrubby Lane, Molyullah	\$91,850
2	DA7268	Construction of a shed	64 Lakeside Drive, Chesney Vale	\$43,000
3	DA4163	Construction of a spa safety barrier and gazebo	46 Grant Drive, Benalla	\$12,949
4	DA7192	Construction of a shed	7 Levy Court, Benalla	\$15,980
5	DA7219	Convert a church to a dwelling	959 Devenish Road, Devenish	\$275,466
6	DA7453	Construction of 2 farm sheds.	25 Mt Joy Road, Tatong	\$35,000
7	DA7479	Construction of a farm shed	543 O’Dea Road, Molyullah	\$78,505
8	DA4073	Demolition of a shed	25-29 Gillies Street, Benalla	\$8,000
9	DA7485	Construction of a dwelling & garage	30 Livingston Boulevard, Benalla	\$305,123
10	DA6844	Construction of a dwelling	17 Perth Street, Benalla	\$509,623
11	DA7421	Construction of a dwelling & alfresco	98 Lakeside Drive, Chesney Vale	\$380,936
12	DA4604	Construction of a verandah	14 Schulz Street, Benalla	\$37,200
13	DA7032	Construction of roof repairs	364 Goorambat Chesney, Road Goorambat	\$84,979
14	DA7483	Construction of a dwelling & garage	22 Roynic Parade, Benalla	\$271,674
15	DA7461	Construction of a dwelling & garage	14 Livingston Boulevard, Benalla	\$285,233
Total				\$2,435,518

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.

4. 2022/2023 Quick Response Grants Program and Major Event Funding

SF/2857

Tom Arnold – Community Development Coordinator

Sharon Geer – Events Coordinator

Jane Archbold – Manager Community

PURPOSE OF REPORT

The report presents funding applications for 2022/23 Quick Response Grants and Major Event Funding.

BACKGROUND

The Quick Response grant program enables local community groups, clubs and organisations to seek funding to increase their capacity to work in partnership with the Council and others to address local needs and enhance the local community.

The program distributes grants up to \$500 allowing local clubs, groups and organisations the opportunity to seek funds when the need arises.

The Major Event Funding Program encourages groups to stage events that deliver measurable economic benefit and that contribute to the profile and liveability of Benalla Rural City. The program provides funding to a maximum of \$2000 per year to support the staging of eligible events. Applications are open year-round until the funding pool is expended.

DISCUSSION

Applications for consideration under the 2022/23 Quick Response Grant program are detailed in the table below.

Applicant	Details	Amount Requested	Proposed Assistance
Benalla Swimming Club	Are looking to purchase new equipment to enable youth participants to have an equal opportunity to participate in swimming. Equipment required but not limited to; flippers, kick boards, Swim lane signage and white board.	\$500	\$500
Molyullah Recreation & Public Hall Reserve Inc	Funding to develop a website for the Molyullah community to keep the public informed of all that is happening in the local area.	\$500	\$500

Applicant	Details	Amount Requested	Proposed Assistance
Benalla Sustainable Future Group Inc.	BSFG is seeking funding to support the Swanpool Environmental Film Festival 2023. The festival aims to present films on environmental issues along with guest speakers providing an event which informs and educates the regional community. The festival is timed around World Environment Day on June 5th each year.	\$500	\$500
Rotary International District 9790 Inc	Seeking support for a training event for 63 Rotary Clubs across District 9790. The main focus of the event will be building strong administration, community improvement and capacity building of the clubs across the District. The event will be held at the Benalla P-12 College Faithfull Street Campus. Funding is to support the hire of the facilities and support the clubs organising catering and other activities. The project is held annually in Benalla and brings around 150 Rotarians to town to undertake the training.	\$500	\$500
Benalla Garden Club Inc	The Benalla Garden Club Inc turns 70 on the 10 October 2023. The club will celebrate with a guest speaker and a high tea event. The club plan to invite some people from the Benalla council office and the garden club life members to cut a cake. Funding would go toward catering and guest speaker accommodation.	\$500	\$500
Total		\$2,500	\$2,500

Applications for consideration under the Major Event Funding program are detailed in the table below.

Applicant	Details	Amount Requested	Proposed Assistance
Austin 7 Club 26-28 May 2023 Winton Motor Raceway	Historic Winton Australia's longest running Historic Race meet for historic cars and motorbikes featuring a transport and heritage display at Winton Motor Raceway. Development of marketing and promotional material for the event	\$2,000	\$2,000

Applicant	Details	Amount Requested	Proposed Assistance
<p>Molyullah Recreation and Public Hall Reserve Committee</p> <p>10 April 2023</p> <p>Molyullah Recreation Reserve</p>	<p>Molyullah Easter Sports</p> <p>The family fun day comprises a variety of activities including horse events, tractor pull, art show, children’s races and activities, dog jumping, animal nursery and food/beverage stalls.</p> <p>Assistance towards event running costs: first aid and PA system.</p>	\$2,000	\$2,000
<p>Benalla Migrants Association</p> <p>15 April 2023</p> <p>Lake Benalla Foreshore</p>	<p>South Asian New Year Celebration</p> <p>The event will celebrate the cultures of South Asia and Southeast Asia: India, Sri Lanka, Nepal, Bangladesh, Burma, Thailand, Cambodia and Laos. The program will include traditional games, cultural dances, performances, live music and a variety of food/beverage vendors to celebrate the Traditional New Year.</p> <p>Assistance towards event running costs: traffic management, waste management and stage set up.</p>	\$2,000	\$2,000
<p>Benalla Racing Club</p> <p>22 Sept 2023</p> <p>Benalla Racing Club</p>	<p>Benalla Gold Cup Spring Carnival</p> <p>Benalla Gold Cup is part of Racing Victoria Spring Carnival and the first County Cup for the season. A significant social race meet for Benalla. The event features children’s entertainment, live music and fashions on the field.</p> <p>To assist with delivery of Kids Zone activities.</p>	\$2,000	\$2,000
<p>Lions Club of Benalla Inc.</p> <p>6 October 2023</p> <p>Benalla Indoor Recreation Reserve</p>	<p>Antique and Collectables Fair</p> <p>The Antique Fair offers a collection of various wares from furniture, porcelain, collectables of all kinds. Patrons travel regionally and interstate to attend the fair.</p> <p>Assistance towards event running costs: hiring of Benalla Indoor Recreation Centre and other expenses.</p>	\$2,000	\$2,000
<p>Gliding Club of Victoria</p> <p>18 March 2023</p> <p>Benalla Airport</p>	<p>Benalla Airshow</p> <p>The Airshow features aerobatic flying and static displays of model aircraft, and planes within the airfield site. Food vendors will be on site.</p> <p>Assistance towards event running costs: waste management services.</p>	\$1,400	\$1,400
Total		\$11,400	\$11,400

COUNCIL PLAN 2021-2025 IMPLICATIONS

Community

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

Leadership

- *Engaged and informed community.*

COMMUNITY ENGAGEMENT

In accordance with the Council’s *Community Engagement Policy*, community engagement will be undertaken at the ‘Inform’ level under the International Association for Public Participation’s IAP2 public participation spectrum.

Level of Public Participation	Promise to the community	Techniques to be used
Inform	We will provide information	<ul style="list-style-type: none"> ▪ Promotion of program via media, website and social media. ▪ Program presented in public reports to the Council. ▪ Outcomes advised directly to applicants. ▪ Outcomes detailed in Annual Report.

FINANCIAL IMPLICATIONS

The *2022/23 Budget* allocates \$15,000 to the Quick Response Grant program and \$12,000 for Major Event Funding. To date, \$9,500 in Quick Response Grant funding has been allocated. There have been no Major Event Funding grants awarded this year.

To ensure transparency and accountability, where assistance is provided in meeting the cost of Council facility hire, the payment is reflected in relevant ledger accounts via an internal transaction.

For example, if the Council agrees to meet the hire cost of the Benalla Town Hall a credit would be made to the Town Hall income ledger account and a debit made to the Annual Grant Program expense ledger account.

Successful applicants are required to submit acquittals to Council with evidence that the awarded grant funding has been used for the intended purpose.

In addition, recipients of support throughout the financial year are detailed in the Annual Report.

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 \$500 grants from the 2022/2023 Quick Response Grant program be allocated to Benalla Swimming Club, Molyullah Recreation and Public Hall Reserve Inc., Benalla Sustainable Future Group Inc., Rotary International District 9790 Inc and Benalla Garden Club Inc.**
- 2. That \$2,000 grants from the 2022/2023 Major Event Funding program be allocated to Austin 7 Club, Benalla Migrants Association, Benalla Racing Club, Lions Club of Benalla Inc. and Molyullah Recreation and Public Hall Reserve Committee.**
- 3. That a \$1,400 grant from the 2022/23 Major Event Funding program be allocated to Gliding Club of Victoria.**

Closure of Meeting