

Planning and Development Committee Minutes

Date: Wednesday 20 April 2022

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

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

The Council Meeting Room had limited capacity for public attendance. Accordingly, members of the public were encouraged to watch the live broadcast of the meeting at www.benalla.vic.gov.au

In accordance with the Governance Rule 6.4 an audio recording was 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

Acknowledgment of Country	3
Apologies.....	3
Confirmation of the Minutes of the Previous Meeting	4
Business	5
1. <i>Public Question Time</i>	<i>5</i>
2. <i>Planning Application For A Multi Lot Subdivision (88 Lots) And The Removal Of Native Vegetation And The Construction Of A Dwelling On Each Lot At Lot 2, PS502039 And Lot 3, PS501382 – Bourke Drive, Benalla.....</i>	<i>5</i>
3. <i>Planning Application No. P0202/21 – Four Lot Subdivision – 73 Cowan Street, Benalla.....</i>	<i>20</i>
4. <i>Building And Planning Approvals – January, February and March 2022.....</i>	<i>27</i>
Closure of Meeting.....	27

Minutes

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
	Joel Ingham	Planning Coordinator
	Jessica Beaton	Governance Coordinator

The meeting commenced at 6.13pm.

Acknowledgment of Country

The chair recited the following acknowledgment of country.

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

Apologies

No apologies were submitted to the meeting.

D C

Confirmation of the Minutes of the Previous Meeting

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

Cr Davis / Cr Hearn:

That the Minutes of the Planning and Development Committee Meeting held on Wednesday 16 March 2022 be confirmed as a true and accurate record of the meeting.

Carried

Disclosures of Conflict of Interest

See item 3.

Business

1. Public Question Time

No questions were submitted to the meeting.

2. Planning Application For A Multi Lot Subdivision (88 Lots) And The Removal Of Native Vegetation And The Construction Of A Dwelling On Each Lot At Lot 2, PS502039 And Lot 3, PS501382 – Bourke Drive, Benalla

This report assessed a planning application received for a Multi lot subdivision (88 lots), the removal of native vegetation, the creation and variation of easements and the construction of a dwelling on each lot at Lot 2, PS502039 and Lot 3, PS501382, Bourke Drive, Benalla.

It is noted that the following people made submissions on the item:

- Mr Tim Pepper from Livingstone Estate spoke in support of the planning application
- Mr Matthew Elliot from Tomkinson Group spoke in support of the planning application
- Mrs Gwen Mildren provided a written statement against the planning application.

Cr Davis / Cr Hearn:

That an extension of three minutes be given to Mr Matthew Elliot.

Carried

Cr Firth / Cr Davis:

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, PS502039 and Lot 3, PS501382, Bourke Drive, Benalla, for a multi lot subdivision, the removal of native vegetation, the creation and removal of easements and the construction of a dwelling on each lot in accordance with the endorsed plans, with the application dated 31 January 2021 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 Plan submitted [Drawing No. W1269-CP01/2 Rev P] but modified to show:**

D L

- (a) Alteration to the intersection of Coish Avenue and Third Avenue with the inclusion of a local street roundabout generally in accordance with AS1742.13-2009, Figure 3.4.
 - (b) Road widening on the development side with kerb and channel for the full frontage of the property along Goomalibee Road to match the offset of the existing kerb line near the Coish Avenue intersection or as agreed with the Responsible Authority.
 - (c) Road network and intersection priorities amended to reflect the recommendations shown on the TTM Traffic Facilities Plan [Drawing No. 11405110 Rev A].
- 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.
- 6 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.
- 7 No covenant or restriction of title may be registered on the subject land unless otherwise approved in writing by the Responsible Authority.
- 8 Prior to the issue of a Statement of Compliance, the Applicant or Owner must provide land or pay to the Council a sum equivalent to five per cent of the undeveloped site value of all land in the subdivision in lieu of open space.

The Applicant or Owner must request Council, in writing, to undertake the property valuation and must pay the Council's reasonable costs and expenses to provide such a valuation.
- 9 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.
- 10 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.

Restrictions and Agreements

- 11 Prior to the issue of a Statement of Compliance for each stage of the subdivision, the owner of the subject land must, at no cost to the Responsible Authority, enter into an agreement (in a form satisfactory to the Responsible Authority) with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 and confirmation of lodgement submitted. This agreement must provide that:
- Except with the prior written consent of the Responsible Authority;
- (a) All stormwater falling on the roof of each habitable building on the Lot must be collected and conveyed to a rainwater tank, or series of tanks, with a minimum storage capacity of at least 10,000 litres.
- (b) The required tank(s) must be installed prior to the commencement of the use of the respective buildings or as directed by the Responsible Authority, whichever occurs first.
- (c) Each rainwater tank installed pursuant to this Agreement must incorporate a drawdown outlet, not more than 40mm in diameter (Discharge = 3.9L/s), installed in a manner that ensures that a reserve capacity of at least 5,000 litres will be restored following drawdown.
- (d) The discharge from all drawdown outlets and tank overflow outlets must be collected and conveyed by pipes to a nominated legal point of discharge.
- (e) All works prescribed by this Agreement are to be completed to the satisfaction of the Responsible Authority.

- (f) Works prescribed by this Agreement may not be altered in any shape or form without the prior written consent from the Responsible Authority.
- (g) Each rainwater tank system will be maintained to the satisfaction of the Responsible Authority.
- (h) A duly appointed officer of the Responsible Authority will be allowed to inspect the rainwater tank system at mutually agreed times to ensure compliance with this Agreement.

The owner/operator under this permit must pay full costs of the preparation, execution and registration of the Section 173 Agreement.

- 12 Prior to Statement of Compliance for each stage of the subdivision, all building envelopes approved on the endorsed plan must be detailed on the plan of subdivision as a Section 23 restriction, a Section 173 Agreement or a Memorandum of Common Provisions to the satisfaction of the Responsible Authority. The restriction must be recorded on Title at the expense of the owner /developer.
- 13 Prior to Statement of Compliance for Stage six of the subdivision, Lots 137 to 145 of the subdivision must be provided with a Memorandum of Common Provisions detailing the following requirements:
- All dwellings must be orientated to have their front entrances facing west towards the public open space reserve.
 - All vehicle access to the lots must be via the roadway to the east.
 - Dwellings must be designed to be attached or semi-detached.
 - Front fencing towards the public open space reserve must be no more than 1.2m in height.
 - Dwellings must show compliance with the objectives contained within Clause 54 of the Benalla Planning Scheme.

The memorandum of common provisions must be submitted to and approved by the Responsible Authority. The memorandum of common provisions must be registered on title at the expense of the owner/developer.

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 building envelopes of each lot are located above the 1 per cent AEP flood level and 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 AS 3798 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; or
 - (b) adversely affect the drainage of adjacent land through sediment and the like.
 - (c) affect overland flow paths.

Drainage

- 19 Before certification of the plan of subdivision 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) Compliance with the Flood Impact assessment prepared by Cardno dated 6th July 2021 and amended to reflect the recommendations outlined by Goulburn Broken Catchment (GBCMA Authority letter dated 20th August 2021.
 - (b) MUSIC modelling or approved equivalent to ensure compliance with Water Sensitive Urban Design (WSUD) and Best Practice Management Guidelines for stormwater quality.

D

- 20 Before construction begins detailed plans, specifications and computations for the proposed drainage basins, pumpstation and rising main to an approved point of discharge to the satisfaction of the Responsible Authority, must be prepared by a qualified engineer in accordance with Clause 16.14 of the IDM, and must be submitted to the Responsible Authority for consideration and approval.
- 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 1 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 Goomalibee Road including upgrading of drains and culverts 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 1 per cent AEP rainfall or flood event.
 - (f) all fencing installed on any boundary between the Lot and an adjacent drainage reserves, waterway or area subject to inundation is of open construction and does not obstruct natural surface flows into and out of the site.
 - (g) 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.
- 22 Prior to the issue of a Statement of Compliance, the applicant must satisfy the Responsible Authority that, where the proposed outlet discharges to an open channel, the integrity of the outfall point has been secured, the kinetic energy of the outflow reduce to levels acceptable to the Authority, the receiving channel protected against erosion, and the flow capacity of the channel maintained.

On-Site Detention

- 23 Before construction begins for each stage of the subdivision the permit holder must satisfy the Responsible Authority that:

D -

- (a) sufficient on-site detention will be provided to limit the peak discharge from the developed site in a 1 per cent AEP rainfall event to the corresponding pre-development level for each stage as recommended by the IDM.
- (b) any in-ground infrastructure intended to collect surface runoff and limit the resultant outflow will make provision to protect the relevant control device from blockage so far as reasonably practicable, and to mobilise an alternative flow path should blockage be experienced.

24 Before construction begins for each stage of the subdivision, detailed plans and computations for the proposed rainwater tanks, retardation basin, together with access routes and working platforms for maintenance, must be prepared by a Qualified Engineer in accordance with Clause 18 of the IDM, and be submitted to and approved by the Responsible Authority.

Water Sensitive Urban Design

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

Road Design

26 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.

27 All roads within the new subdivision and the Goomalibee Road frontage and intersection 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.

28 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.

29 Prior to Statement of Compliance for Stage Four, all road infrastructure including footpaths, kerb and channel and street lighting within Stage Seven abutting Livingston Boulevard must be constructed and completed to the satisfaction of the Responsible Authority.

Landscaping

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

The plan must show:

- (a) New plantings to be provided in any road reserves and municipal reserves;
 - (b) A detailed planting schedule of all proposed trees, shrubs and ground-covers;
 - (c) Paths, paved areas, structures and street furniture;
 - (d) Detailed planting and construction layout drawings, including site contours;
 - (e) Any changes to existing levels, including elements such as retaining walls;
 - (f) Certified structural designs or building forms where required; and
 - (g) Removal of existing infrastructure or stockpiles and weed eradication.
 - (h) Fencing of all Reserves to be handed over to Council.
 - (i) 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.
 - (j) The provision of reticulated services to each public open space area.
- 31 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

- 32 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.
- 33 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

- 34** 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.
- 35** 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.
- 36** Prior to the issue of a Statement of Compliance for each stage of the subdivision:
- (a) an itemised statement of the civil construction costs for the current stage, excluding GST, must be submitted to and approved by the Responsible Authority.
 - (b) the permit holder must provide Council with a maintenance bond equal to 5 per cent of the approved civil construction costs for the current stage. This bond will be held by Council until any and all defects notified to the applicant before or during the maintenance and defects liability period have been made good to the satisfaction of Council.
 - (c) the permit holder must pay to Council plan checking fees equal to 0.75 per cent, and works supervision fees equal to 2.5 per cent, of the approved civil construction costs for that stage.
 - (d) the permit holder must arrange for CCTV verification of all underground drainage assets which will be handed over to Council at the conclusion of that stage, and must supply the results of that verification to Council at the time, and in the format, specified in the IDM.
 - (e) the permit holder must prepare and submit as-constructed drawings covering all civil construction works associated with that stage to Council in DWG or DXF format, geo-referenced to Zone 55, GDA 2020, to the satisfaction of Council or to the satisfaction of the Responsible Authority.

Construction

- 37** 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.

- 38 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.
- 39 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.
- 40 All works must be carried out generally in accordance with the measures set out in the Site Management Plan approved by the Responsible Authority.
- 41 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.

North East Water Conditions 42-56

- 42 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.
- 43 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

D

- (b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
- 44 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.
- 45 The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:
- (a) works external to the subject land to allow connection to the North East Water water supply and sewerage systems;
 - (b) the vesting at no cost of such of those works required by North East Water, to North East Water (“Developer Works”); and
 - (c) works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works
 - (d) internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
- 46 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.
- 47 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.
- 48 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.
- 49 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.
- 50 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.
- 51 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.

- 52 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.
- 53 Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
- 54 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.
- 55 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.
- 56 The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the Subdivision Act 1988.

AusNet Conditions 57-58

- 57 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.
- 58 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.

Goulburn Broken Catchment Management Authority Conditions 59-62

- 59 Revised flood modelling is provided to the Goulburn Broken CMA which demonstrates the following:
- (a) Flood depths along access/egress paths are no greater than 0.5 metres, and
 - (b) No off-site flood level or flood velocity impacts.
- 60 The Flood Impact Report is updated to include details of the change in floodplain storage due to the proposed subdivision development.
- 61 Revised documentation addressing Conditions 1 and 2 (above) are provided to the Goulburn Broken CMA for its consideration and approval prior to certification of the proposed subdivision.
- 62 The Finished Floor Level of any proposed dwelling must be constructed at least 300 millimetres above the applicable 100-year ARI flood level. As the 100-year ARI flood level varies across the Site, the finished floor levels will also need to vary.

Department of Environment, Land, Water and Planning Conditions 63-66

Notification of permit conditions

- 63 Before any works start, the permit holder must advise all persons undertaking works on site of all relevant permit conditions and associated statutory requirements or approvals.

Protection of retained vegetation

- 64** Before works start, a plan to the satisfaction of the Benalla Rural City Council identifying all native vegetation to be retained and describing the measures to be used to protect the identified vegetation during construction, must be prepared and submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will form part of this permit. All works constructed or carried out must be in accordance with the endorsed plan.
- 65** Except with the written consent of the Benalla Rural City Council, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the permitted use and/or development, the following is prohibited:
- (a) vehicular or pedestrian access
 - (b) trenching or soil excavation
 - (c) storage or dumping of any soils, materials, equipment, vehicles, machinery, or waste products
 - (d) entry and exit pits for the provision of underground services
 - (e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Native Vegetation Offsets

- 66** To offset the removal of 2.427 hectares of native vegetation, the permit holder must secure the following native vegetation offset in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017):
- (a) A general offset of 0.696 general habitat units:
 - i) located within the Goulburn Broken Catchment Management boundary or Benalla Rural City Council municipal area
 - ii) with a minimum strategic biodiversity value of at least 0.734

The offset(s) secured must also protect 15 large trees.

- 67** Before any native vegetation is removed evidence that the offset required by this permit must be provided to the satisfaction of Benalla Rural City Council. This evidence must be following:
- credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
- 68** A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning and Approvals at the Department of Environment, Land, Water and Planning Hume regional office via P&A.north@delwp.vic.gov.au.

Permit Expiry

- 69** This permit will expire if one of the following circumstances applies:

- (a) Stage 4 of the plan of subdivision is not certified within 2 years of the date of this permit;
- (b) Stage 5 of the plan of subdivision is not certified within 4 years of the date of this permit; or
- (c) Stage 6 of the plan of subdivision is not certified within 6 years of the date of this permit; or
- (d) Stage 7 of the plan of subdivision is not certified within 8 years of the date of this permit.
- (e) Each stage of the plan of subdivision is not registered at Land Registration Services within 5 years of the certification of the respective stage.

The Responsible Authority may extend the time for certification if a request is made in writing before the permit expires or within six 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.

Carried

A division of the vote was called

Votes in favour of the motion:

Cr Danny Claridge

Cr Peter Davis

Cr Don Firth

Cr Justin King

Cr Gail O'Brien

Cr Bernie Hearn

Votes against the motion:

Cr Punarji Gunarante

The motion was **Carried**.



Cr King / Cr Davis

That a two minute break be granted.

Carried

Councillor Bernie Hearn declared a material conflict of interest in the following item and left the meeting at 7.31pm.

3. Planning Application No. P0202/21 – Four Lot Subdivision – 73 Cowan Street, Benalla

This report assessed a planning application (P0202/21) received for a four lot subdivision at 73 Cowan Street, Benalla.

It is noted that the following person made a submission on the item:

- Mr Ian Robertson spoke against the planning application.

Cr Davis / Cr Gunarante:

That Council having caused notice of Planning Application No. P0202/21 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to 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 73 Cowan Street, Benalla, to subdivide the land into four lots in accordance with the endorsed plans, with the application dated 23 December 2021 and subject to the following conditions:

- 1 The subdivision as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.**
- 2 Prior to the issue of a Statement of Compliance for 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.**
- 3 Prior to the issue of a Statement of Compliance, 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.**
- 4 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.**

DC

- 5 No covenant or restriction of title may be registered on the subject land unless otherwise approved in writing by the Responsible Authority.
- 6 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.
- 7 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.

General

- 8 Plans and specifications must be prepared at the permit holder's expense by a suitably qualified and/or registered engineer and approved by the Responsible Authority before construction begins. The Authority will only approve plans and specifications complying with the current edition of the Local Government Infrastructure Design Association's Infrastructure Design Manual (IDM) and drawn in AutoCAD or equivalent.
- 9 The permit holder must undertake, or cause to be undertaken, full construction of all new access ways, drainage and related infrastructure. All the works must conform to plans and specifications prepared at the expense of the permit holder by a qualified engineer and approved by the Responsible Authority before construction begins.

Drainage

- 10 Before construction begins or plan certification, whichever comes first, drainage and on-site detention plans and computations, prepared according to IDM procedures and criteria, must be submitted to the Responsible Authority for approval.

- 11 Prior to the issue of a statement of compliance the permit holder must satisfy the Responsible Authority that:**
- (a) A legal point of discharge has been established within the boundary of each lot and connected to the external drainage network according to IDM standards without reducing the flow capacity or structural integrity of the external network.**
 - (b) All stormwater runoff originating from or transferred through each Lot in a 18 per cent Annual Exceedance Probability (AEP) rainfall event will be collected and conveyed by underground pipes to a legal point of discharge. In a 1 per cent AEP rainfall event all stormwater runoff will be collected and conveyed to a satisfactory destination, without adversely affecting any person, infrastructure, or natural features in or beyond the property.**
 - (c) Any easements required to facilitate future connection to, and maintenance of, drainage infrastructure serving more than one Lot or property have been created.**

Water-Sensitive Urban Design

- 12 Before construction begins, the permit holder must satisfy the Responsible Authority that appropriate measures will be taken to enhance the quality of stormwater discharged from the developed site, according to the procedures and criteria outlined in the Water Sensitive Urban Design Guidelines for the Benalla Rural City Council and IDM Clause 20.**

Property Access

- 13 Prior to the issue of a statement of compliance the permit holder must satisfy the Responsible Authority that a vehicle crossing providing each Lot with safe and convenient access has been designed, constructed, sealed and drained to IDM standards.**

Restrictions and Agreements Registered on Title

- 14 Prior to the issue of a Statement of Compliance for each stage of the subdivision, the owner of the subject land must, at no cost to the Responsible Authority, enter into an agreement (in a form satisfactory to the Responsible Authority) with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 and confirmation of lodgement submitted. This agreement must provide that:**

Except with the prior written consent of the Responsible Authority;

- (a) All stormwater falling on the roof of each habitable building on the Lot must be collected and conveyed to a rainwater tank, or series of tanks, with a storage capacity of at least 5,000 litres.**
- (b) The required tank(s) must be installed prior to the commencement of the use of the respective buildings or as directed by the Responsible Authority, whichever occurs first.**

- (c) Each rainwater tank installed pursuant to this Agreement must incorporate a drawdown outlet, not more than 25mm in diameter, installed in a manner that ensures that a reserve capacity of at least 2,500 litres will be restored following drawdown.
- (d) The discharge from all drawdown outlets and tank overflow outlets must be collected and conveyed by pipes to a nominated legal point of discharge.
- (e) All works prescribed by this Agreement are to be completed to the satisfaction of the Responsible Authority.
- (f) Works prescribed by this Agreement may not be altered in any shape or form without the prior written consent from the Responsible Authority.
- (g) Each rainwater tank system will be maintained to the satisfaction of the Responsible Authority.
- (h) A duly appointed officer of the Responsible Authority will be allowed to inspect the rainwater tank system at mutually agreed times to ensure compliance with this Agreement.

Prior to the issue of a statement of compliance the permit holder must pay the full costs of preparing, executing, and registering the Agreement, and provide the Authority with written confirmation that the Agreement has been lodged according to Section 181 of the Act.

Construction

- 15 Before construction begins, and during construction, a Site Management Plan and Traffic Management Plan must be submitted to and approved by the Responsible Authority, and effective measures consistent with the Plan must be taken to a) Secure occupational health and safety; and
 - (a) Locate any existing underground services; and
 - (b) Implement effective traffic management and environmental controls; and
 - (c) Establish and maintain safe construction vehicle access to the site; and
 - (d) Maintain vehicle and machinery hygiene; and
 - (e) Avoid the spread of soil-borne pathogens and weeds; and
 - (f) Minimise erosion, sedimentation, and contamination; and
 - (g) Reduce the impact of noise, dust, and other emissions; and
 - (h) Prevent mud, dirt, sand, soil, clay, or stones from entering the drainage system; and
 - (i) Avoid having such materials deposited on public land by construction vehicles.
- 16 No excavated or construction materials may be placed or stored outside the site area or on adjoining road reserves or nature strips.
- 17 No tree may be removed, aside from trees clearly designated for removal in the approved plans, except with the prior written agreement of the Responsible Authority.

D

- 18 Prior to the issue of a statement of compliance, all areas, Council assets and underground services disturbed in the course of works must be restored to their original condition, to the satisfaction of the Responsible Authority.**

North East Water Conditions 19-33

- 19 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.**
- 20 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 owner's 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.**
- 21 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.**
- 22 The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:**
- (a) works external to the subject land to allow connection to the North East Water water supply and sewerage systems;**
 - (b) the vesting at no cost of such of those works required by North East Water, to North East Water ("Developer Works"); and**
 - (c) works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works**
 - (d) internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.**

- 23 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.
- 24 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.
- 25 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.
- 26 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.
- 27 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.
- 28 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.
- 29 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.
- 30 Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
- 31 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.
- 32 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.
- 33 The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the Subdivision Act 1988.

AusNet Conditions 34-35

- 34 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.

35 The applicant must –

- Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

Permit Expiry**36 This permit will expire if one of the following circumstances applies:**

- (a) The plan of subdivision is not certified within 2 years of the date of this permit; or
- (b) The registration of the subdivision is not completed within 5 years of the date of Certification.

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

Notes:

- Before undertaking any works that cross onto Council land or roads, the permit holder must obtain a Consent to Work within a Road Reserve permit.

Separate consent for works within the road reserve and the specifications of these works may be required under the Road Management Act.

Carried

Councillor Bernie Hearn returned to the meeting at 7.42pm.

P 1

4. Building And Planning Approvals – January, February and March 2022

The report detailed planning permit applications and building approvals for January, February, and March 2022.

Cr King / Cr Hearn:

That the report be noted.

Carried

Closure of Meeting

The meeting closed at 7.47pm.

Confirmed this eighteenth day of May 2022

Signed: _____



Cr Danny Claridge - Chair