

Benalla Rural City Council

Finance and Planning Committee

Agenda

Date: Wednesday 6 May 2026

Time: 6pm

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

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Agenda

Chair	Councillor David Blore	
Councillors	Councillor Bernie Hearn (Mayor)	
	Councillor Justin King (Deputy Mayor)	
	Councillor Vince Branigan	
	Councillor Peter Davis	
	Councillor Puna Hewa Gunaratne	
	Councillor Jillian Merkel	
In attendance	Peter Keane	Chief Executive Officer
	Robert Barber	General Manager Corporate
	Courtney Naughton	Manager Economic Development and Sustainability
	Nilesh Singh	Manager Development
	Nathan Gasperoni	Environment and Sustainability Coordinator
	Joel Ingham	Planning Coordinator
	Jess Pendergast	Governance Coordinator

Opening and Acknowledgement 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 apology/ies be accepted.

Governance Matters

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

Public Submissions

Any person wishing to participate in Public Submissions in accordance with 7.3 of the *Governance Rules 2020* should contact the Council by emailing council@benalla.vic.gov.au or telephoning the Governance Coordinator Jess Pendergast on (03) 5760 2600.

Recording of Council Meetings

In accordance with Rule 6.4 of the *Governance Rules 2020* the Committee Meeting will be livestreamed via the Council's website. An audio recording will be made of the proceedings and made available for public access, with the exception of matters identified as confidential items in the agenda.

Members of the public can watch the live broadcast of the meeting at www.benalla.vic.gov.au

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 Minutes of the Previous Meeting

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

Recommendation:

That the Minutes of the Finance and Planning Committee meeting held on Wednesday 25 March 2026 be confirmed as a true and accurate record of the meeting.

Business

1. Planning Permit Application For Use And Development Of A Childcare Centre At 1 Salisbury Street North, Benalla

Ref:1545273666-244

P0008-25

Joel Ingham – Planning Coordinator
Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report assesses a planning application received to use and develop the subject site at 1 Salisbury Street North, Benalla (Lot 1, PS815910) for a childcare centre. This land comprises an area of 1.14ha, is located on the north side of Duffy Street, Benalla west of Salisbury Street, Benalla east of the rail line and is irregular in shape.

BACKGROUND

Site Address	1 Salisbury Street North, Benalla
Existing Use	Vacant
Proposal	Childcare centre (158 children)
Applicant	Hadrian Phillip
Zone	General Residential Zone (GRZ1) Permit trigger: <ul style="list-style-type: none">▪ Clause 32.08-2 (Use)▪ Clause 32.08-10 (Buildings and works)
Overlays	Land Subject to Inundation Overlay (part) Permit trigger: <ul style="list-style-type: none">▪ Clause 44.04-2 (Buildings and works)
Particular Provisions	Clause 52.06 – Car Parking Clause 52.17 – Native Vegetation Clause 52.34 – Bicycle Facilities Clause 53.18 – Stormwater Management in Urban Development
Referrals	<ul style="list-style-type: none">▪ Engineering▪ Goulburn Broken Catchment Management Authority

PROPOSAL

The applicant is seeking to use and develop the site for the purpose of a childcare centre for 158 children. The Benalla Planning Scheme defines a childcare centre as:

“Land used to care for five or more children who are not permanently resident on the land”.

It is a single storey building, oriented towards Duffy Street with the following characteristics:

- Building area of 1086.73 metres squared.
- Two outdoor play space of 1215 metres squared.
- Site coverage of 56.53 per cent.
- Site permeability of 40.32 per cent.

- 35 car parking spaces including two accessible car parking spaces, 15 visitor car parking spaces and 18 staff car parking spaces. Seven of the 18 staff car parking spaces are tandem.
- Wall height to eaves is 2.85 metres.
- Overall height to apex of the roof varies from 6.465 metres to 7.885 metres.
- External materials are a Colourbond roof and face brick walls, with some rendered walls and tiling for visual relief and architectural accent.
- A ramp is provided to the front entry with black powder coated balustrade.
- Fencing is a combination of 1.8 metres black powder coated picket, semi transparent fencing, retaining walls with timber paling slats up to a height of 1.8 metres and sections of timber paling fence of 1.8 metres.
- Shade sails are provided to some of the external play areas.
- Shadow diagrams show the shadow retained within the subject site.
- Proposed Hours of operation are Monday to Friday from 6.30am to 6.30pm.

The advertised plans (Revision B, dated 20/01/2026) are attached as **Appendix 1**.

The application has also been supported by the following background reports:

- drainage design prepared by STRUCT it, reference 25003C
- Feature and Level Survey prepared by Webster Survey Group, dated 14/04/2021.
- Traffic Engineering Assessment prepared by Red Square Traffic, dated 11 March 2025
- Preliminary Site Investigation prepared by DRC Environmental dated 19/11/2025
- Audit Review of the above PSI prepared by Kirsas Environmental dated 30/11/2025
- Preliminary Site Investigation prepared by DRC Environmental dated 11/12/2025.

Site and Surrounds

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

The subject site has an overall area of 1.14ha, with a frontage to Salisbury Street North, Benalla of 28.62 metres and a sideage to Duffy Street, Benalla of 239.36 metres. The development has been designed to front Duffy Street, Benalla which provides primary street frontage.

The subject site has some exotic, planted and remnant trees, largely along the boundaries of the site. There is a small dam in the north of the site with trees around it and Duffy Street, Benalla has a number of street trees, with one street tree in Salisbury Street, Benalla.

Duffy Street, Benalla is a sealed two-way road with kerb and channel on the north side and a swale drain with culvert crossings on the south side.. Duffy Street and Salisbury Street North, Benalla are characterised by single-storey detached dwellings, generally on lots between 600 metres squared and 800 metres squared.

The Duffy Street, Benalla interface with the subject site consists entirely of side fences and a laneway that connects Duffy Street and Mackellar Street, Benalla.

The Melbourne-Sydney rail line abuts the site to the north/west, with residential properties abutting the site to the north/east and south. One of the abutting residential properties is 4,300 metres squared with the others being conventional in size.

Nearby community facilities include:

- Australian Christian College Hume (706m)
- EdSpace (871m)
- FCJ College (1851m)
- Benalla P-12 College-Avon Street Campus (519m)
- Benalla Health (900m)
- Bernard Briggs Kindergarten (780m)
- Benalla Town Centre (1.5km).

PUBLIC NOTIFICATION

Advertising

Advertising was carried out in accordance with the requirements of the *Planning and Environment Act 1987* by way of the following:

- placing two (signs) along the street frontages.
- sending notices to all adjoining and opposite landowners and occupiers. There were also some non-adjoining landowners and occupiers given notice.

Eighteen objections have been received to the planning application to date. The majority of those were in the form of two different proformas.

Objections raised several common concerns that generally related to:

- Potential contamination of the land making it unsuitable for use as a childcare centre.
- Impact on trees in Duffy Street.
- Safety risks with the site adjacent to the Sydney/Melbourne rail line in the event of a derailment or fire.
- Poor state of existing roads including Duffy Street, Tomkins Parade, Henry Street and George Street, Benalla.
- Increased traffic.
- Lack of carparking.
- Lack of footpath connections to the site.
- No need for another childcare centre.
- Amenity impacts on nearby residents.
- Noise.
- Impact on character of the area.
- Impact on existing infrastructure.
- Applicant is just adding value to the subject site.
- Driveways of existing dwellings may be obstructed due to inadequate car parking.

- Speed restrictions and speed humps will be needed in Tomkins Parade, Henry Street and Gordon Street.
- Inadequate public notice was given.
- Stormwater management and inundation, particularly of roads.
- Errors in the planning report and Traffic Impact Assessment.
- Entry point near the bend of Tomkins Pde and Dufy Street is dangerous.
- The proposal is in contradiction with the zoning of the land.
- Questions the approval of a future operator by relevant authorities and if the building complies with the relevant requirements for a childcare centre.

PLANNING SCHEME PROVISIONS

Municipal Planning Strategy (MPS)

Clause 02.03-1 (Settlement) of the Municipal Planning Strategy relates to settlement and recognises Benalla as the major urban centre of the municipality, providing focus for residential, commercial, retail and industrial development. In planning for orderly development Council will:

- *Retain and grow population by enhancing the provision of services and infrastructure.*
- *Direct the majority of urban growth to Benalla and encourage growth in smaller towns. Provide serviced land to accommodate urban development.*
- *Provide a diversity of housing options, including infill housing.*
- *Strongly discourage new housing development outside established urban areas as defined by the settlement boundaries.*

Clause 02.03-3 (Environmental risks and amenity) of the Municipal Planning Strategy relates to flooding and bushfire recognises that the municipality has a history of major floods that have caused considerable damage to both urban and rural areas and requires future planning to take account of historical floods to minimise risk to life and property. With respect to bushfire it recognises that the main urban area is not subject to high fire risk and focusses more on non-urban development and prioritising human life over all other considerations in areas at risk of bushfire.

Clause 02.03-5 of the Municipal Planning Strategy (Built environment and Heritage) is intended to promote development that respects neighbourhood character and Council seeks to:

- *Protect established neighbourhood character while providing for urban growth.*
- *Ensure that new development responds to the established neighbourhood character of an area.*
- *Retain significant mature trees when redeveloping existing urban areas.*

Clause 02.03-9 of the Municipal Planning Strategy (Infrastructure) recognises the importance of planning for infrastructure and seeks to:

- *Ensure new residential development is fully serviced.*
- *Ensure the provision of drainage infrastructure for new and existing urban areas.*
- *Encourage water sensitive urban design.*

Planning Policy Framework (PPF)

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

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

Clause 11.01-1L of the Planning Policy Framework relates to local settlement in Benalla and includes the following strategy

- *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.*

Clause 13.02-1S (Bushfire Planning) applies to land that is within a designated bushfire prone area. The objective is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

Clause 13.03-1S (Floodplain Management) has the objective:

To assist the protection of:

- *Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.*
- *The natural flood carrying capacity of rivers, streams and floodways.*
- *The flood storage function of floodplains and waterways.*
- *Floodplain areas of environmental significance or of importance to river, wetland or coastal health.*

Relevant strategies include:

- *Avoid intensifying the impact of flooding through inappropriately located use and development.*
- *Plan for the cumulative impacts of use and development on flood behaviour.*
- *Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters, child care centres and schools) outside the 1 in 100 year (1 per cent Annual Exceedance Probability) floodplain and, where possible, at levels above the height of the probable maximum flood.*

Clause 15.01-1S (Urban design) seeks to create environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

Clause 15.01-2S (Building design) seeks to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.

Clause 15.01-5S and Clause 15.01-5L (Neighbourhood character) seek to recognise, support and protect neighbourhood character, cultural identity and sense of place that is consistent with the precinct controls identified in the Benalla Neighbourhood Character Study (Planisphere, 2002).

Clause 19 Infrastructure seeks to plan the development of social and physical infrastructure to enable it to be provided in a way that is efficient, equitable, accessible and timely. Planning should also recognise social needs by providing land for a range of accessible community resources including education facilities.

Planning Practice Note 30: Potentially Contaminated Land

The Benalla Planning Scheme defines 'potentially contaminated land' as:

"Land:

- a. Use or known to have been used for industry or mining;*
- b. Used or known to have been used for the storage of chemicals, gas, waste or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land); or*
- c. Where a known past or present activity or event (occurring on or off the land) may have caused contamination of the land". (emphasis added).*

Section 60 of the *Planning and Environment Act 1987* requires a responsible authority, before deciding on a permit application or approval of a plan to consider as appropriate:

"any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development".

Section 60 applies to potentially contaminated land that may affect or be affected by use or development.

Section 65.01 of the Benalla Planning Scheme requires a responsible authority before deciding on a permit application or approval of a plan to consider as appropriate:

"Any significant effects the environment, including contamination of land, may have on the use or development".

The PPN30 identifies three key steps for assessing a planning application for potentially contaminated land:

1. Is the land potentially contaminated
2. What assessment is required
3. Is the land suitable or can it be made suitable for the proposed use.

The PPN30 recommends that for a planning permit application for a sensitive use, where there is high potential for contamination, that a Preliminary Risk Screen Assessment (PRSA) or audit options applies. It recommends proceeding to directly an audit.

The application provided a Preliminary Site Investigation (PSI) which was reviewed by an auditor and subsequently updated. However, the applicant has not undertaken either a PRSA or Audit which are the recommendations of the PPN30.

ZONE

Clause 32.08 General Residential Zone (GRZ)

Pursuant to the Benalla Planning Scheme the subject site is included in a General Residential Zone Schedule 1 (GRZ1).

The purpose of the GRZ1 is:

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

Clause 32.08-2 of the GRZ1 requires a planning permit to use the subject site for a childcare centre and Clause 32.08-10 of the GRZ1 requires a planning permit for the associated buildings and works.

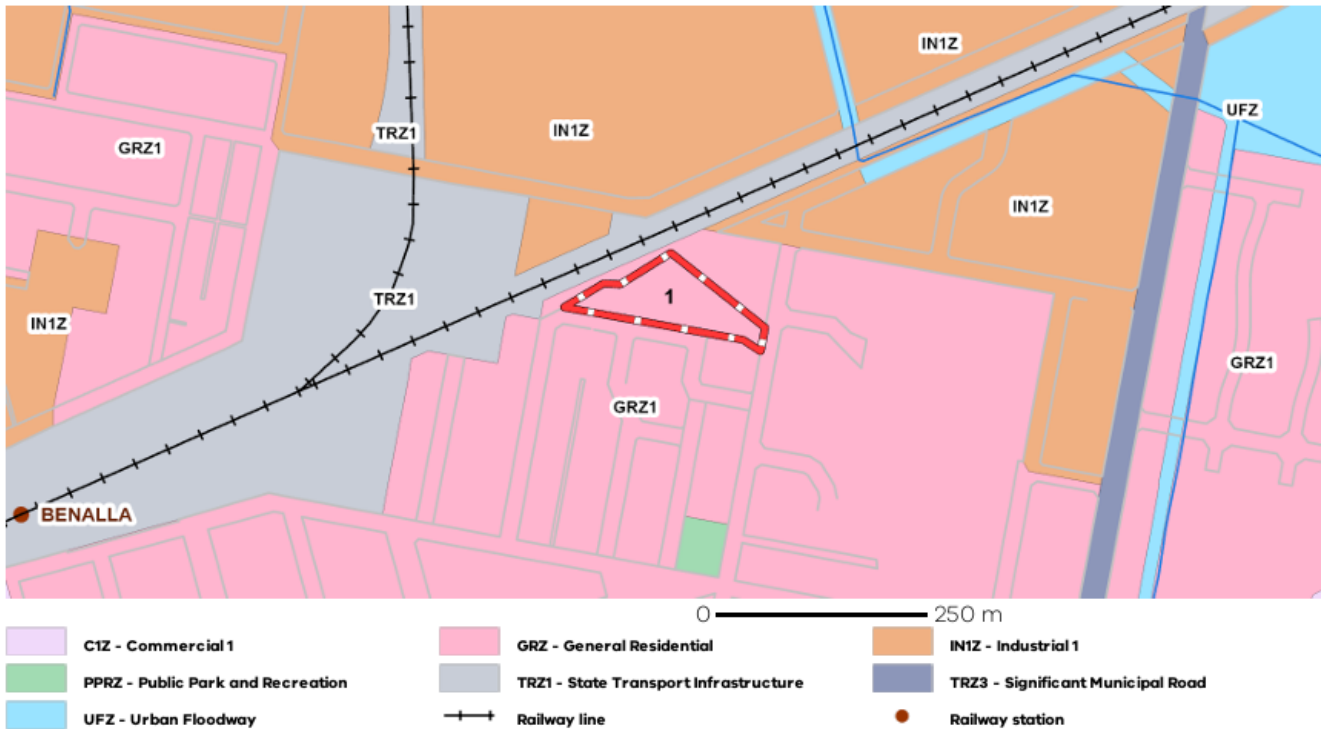
Relevant decision guidelines include:

General

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of this zone.*
- *The objectives set out in a schedule to this zone.*
- *Any other decision guidelines specified in a schedule to this zone.*
- *The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Housing Choice and Transport Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.*

Non-residential use and development

- *Whether the use or development is compatible with residential use.*
- *Whether the use generally serves local community needs.*
- *The scale and intensity of the use and development.*
- *The design, height, setback and appearance of the proposed buildings and works.*
- *The proposed landscaping.*
- *The provision of car and bicycle parking and associated accessways.*
- *Any proposed loading and refuse collection facilities.*
- *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*



Overlays

Pursuant to the Benalla Planning Scheme the subject site is largely included in a Land Subject to Inundation Overlay (LSIO). The purpose of the LSIO is:

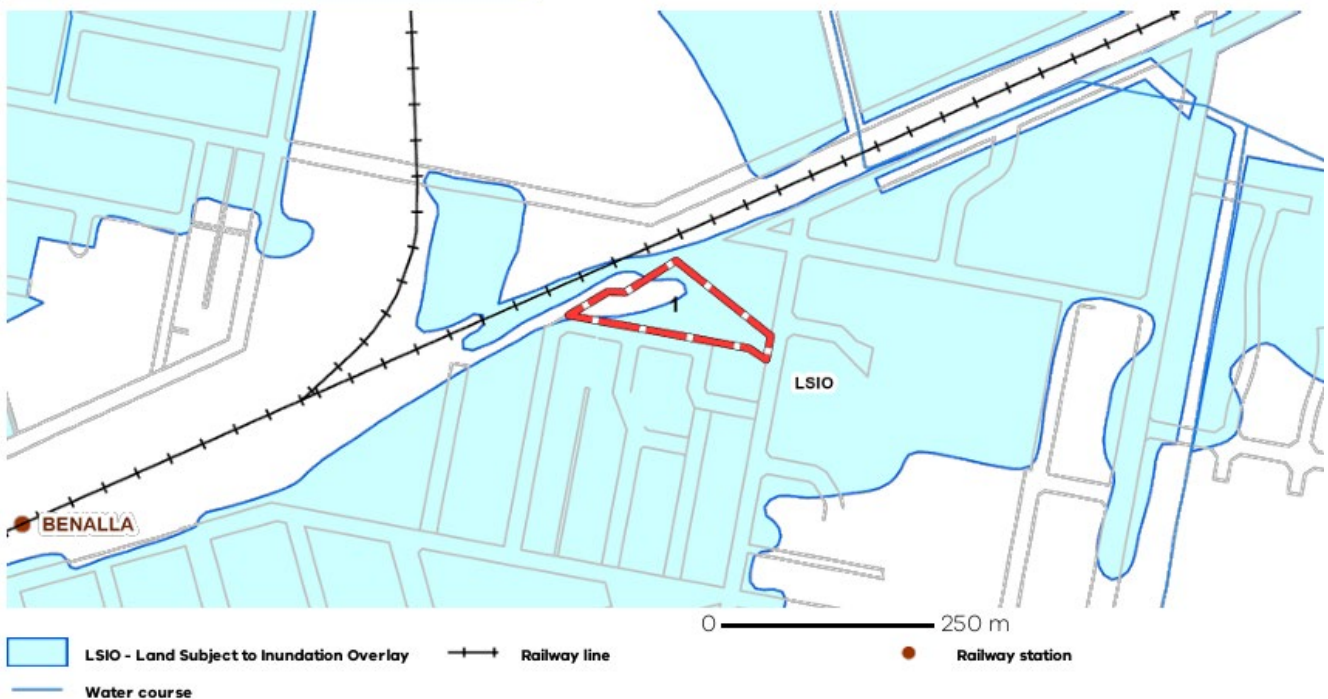
- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To minimise the potential flood risk to life, health and safety associated with development.*
- *To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*
- *To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.*

Clause 44.04-2 of the LSIO requires a planning permit for buildings and works. Relevant decision guidelines of the LSIO include:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any comments from the relevant floodplain management authority.*
- *The existing use and development of the land.*
- *Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.*

- *Alternative design or flood proofing responses.*
- *The susceptibility of the development to flooding and flood damage.*
- *The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:*
 - *The frequency, duration, extent, depth and velocity of flooding of the site and accessway.*
 - *The flood warning time available.*
 - *Tidal patterns.*
 - *Coastal inundation and erosion.*
 - *The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.*
- *The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.*

LAND SUBJECT TO INUNDATION OVERLAY (LSIO)
LAND SUBJECT TO INUNDATION OVERLAY SCHEDULE (LSIO)



Pursuant to the Benalla Planning Scheme the subject site is also included in a designated bushfire prone area. The bushfire planning policy at Clause 13.02-1S of the Planning Policy Framework applies to land within a designated bushfire prone area.

When assessing a planning permit application for a childcare centre the following matters should be taken into consideration:

- *Consider the risk of bushfire to people, property and community infrastructure.*
- *Require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.*
- *Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.*



REFERRALS

External Referrals/Notices required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	Consent subject to conditions
Engineering	Consent subject to conditions

PARTICULAR PROVISIONS

Clause 52.06 Car parking

The purpose of Clause 52.06 is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Since the application was lodged, Clause 52.06 of the Benalla Planning Scheme was amended by the State Government and the statutory requirement for car parking spaces for a childcare centre has altered from 0.22 spaces per child to one per each employee.

Clause 52.17 Native Vegetation

The purpose of Clause 52.17 is:

- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Energy, Environment and Climate Action, 2025) (the Guidelines):*
 - *Avoid the removal, destruction or lopping of native vegetation.*
 - *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
 - *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*
- *To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*

A planning permit is required under Clause 52.17-1 to remove, destroy or lop native vegetation unless exempted in Clause 52.17-7.

Clause 52.34 Bicycle Facilities

The purpose of Clause 52.34 is:

- *To encourage cycling as a mode of transport.*
- *To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.*

Table 1 of Clause 52.34-5 prescribes the required bicycle facilities for various uses, however does not prescribe any requirements for a childcare facility.

Clause 53.18 Stormwater Management in Urban Development

The purpose of Clause 53.18 is:

- *To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.*

Stormwater management objectives for buildings and works are:

- *To encourage stormwater management that maximises the retention and reuse of stormwater.*
- *To encourage development that reduces the impact of stormwater on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.*
- *To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.*
- *To ensure that industrial and commercial chemical pollutants and other toxicants do not enter the stormwater system.*

Standard W2

The stormwater management system should be designed to:

- *Meet the current best practice performance objectives for stormwater quality as contained in the Urban stormwater management guidance (Environment Protection Authority - Publication 1739.1, 2021).*

- *Minimise the impact of chemical pollutants and other toxicants including by, but not limited to, bunding and covering or roofing of storage, loading and work areas.*
- *Contribute to cooling, improving local habitat and providing attractive and enjoyable spaces.*

Site management objectives are:

- *To protect drainage infrastructure and receiving waters from sedimentation and contamination.*
- *To protect the site and surrounding area from environmental degradation prior to and during construction of subdivision works.*

Standard W3

An application should describe how the site will be managed prior to and during the construction period and may set out requirements for managing:

- *Erosion and sediment.*
- *Stormwater.*
- *Litter, concrete and other construction wastes.*
- *Chemical contamination.*

ASSESSMENT

Officers acknowledge that although non-residential uses may be acceptable in some residential zones, this proposal has major issues. It depends heavily on extensions to the public infrastructure network, flood risk, neighbourhood character, and certificate of environmental audit. It is therefore unsuitable at this location.

Traffic Engineering Assessment (TES)

A Traffic Engineering Assessment was prepared for the applicant by Red Square Traffic and peer reviewed for Council by Traffix Group.

The peer review made a number of observations and recommendations:

- Observations of the traffic and pedestrian volumes in the local residential streets are generally considered acceptable.
- Of the 35 car spaces 14 of them are tandem and nominated for staff parking, without clarification on the staff numbers. The tandem parks are not suitable for visitors to the site. The statutory car parking requirements of the Benalla Planning Scheme (Clause 52.06) have since been amended by the State Government from 0.22 spaces per child to 1 space per staff member. The TER at page 28 states that up to 24 staff will be present at any one time. Car parking is therefore exceeded by 11 spaces.
- The TER had earlier relied upon the RTA Guide to Traffic Generating Developments (2002) to estimate vehicle trips for the proposed childcare centre. In November 2024 TfNSW released the Guide to Transport Impact Assessment (GTIA) which supersedes the RTA Guide from 2002. The TER (Version 2.0) has since been updated based on the GTIA to update traffic generation calculations.
- Revise the car parking layout to convert the south-western carparking spaces to staff parking.
- Provide a dedicated turnaround bay that allows vehicles to turn around with one corrective manoeuvre. This has not been amended by the applicant as it would reduce the number of car parking spaces.

- Improve disabled access to the development. The applicant has added a DDA ramp providing accessible pedestrian access from the street frontage.
- The crossover width of 14.83 metres is too wide and impacts on pedestrian safety. This has been reduced to 12.53 metres.
- Waste collection swept paths show the vehicle reversing from the frontage road through the entire car park. The applicant advises that a Waste Management Plan will be prepared and collection will be outside trading hours enabling use of the vacant car park. The Waste Management Plan can be facilitated by a condition of planning permit.

Site Contamination

Given the past known use of the site as a railway and known contamination the subject site meets the definition in the Benalla Planning Scheme of 'potentially contaminated land'.

A soil contamination report was submitted by the applicant that indicated site contamination from arsenic and a requirement for remediation measures. The contamination is a result of the previous rail line that crossed the site and operated between 1914 and 1947 between Benalla and Tatong.

An Audit Review was undertaken by Kirsa Environment (30/11/25) of a Preliminary Site Investigation (PSI), dated 19/11/25 and prepared by DRC Environmental. The Audit Review concluded that as there is potential for contamination that further investigation should be undertaken before the land can be confirmed as suitable for the proposed redevelopment.

The PSI prepared by DRC Environmental was updated 11/12/25 and concluded that the presence of arsenic and heavy metals was in shallow soils and included a number of remediation measures. These included the removal of contaminated soils and the testing of surplus soils prior to offsite disposal in accordance with EPA Victoria Publications 1828.3 and 1822.5.

An examination of the EPA public register for Preliminary Risk Screen Assessments shows that a PRSA has not been registered for the site. Although a Preliminary Site Investigation (PSI) has been undertaken, it is neither a PRSA or Audit and does not meet the tests in PPN30 for assessing a planning permit for a sensitive use on land known to be contaminated.

Council officers have previously requested one of the following to be provided:

- A preliminary risk screen assessment statement in accordance with the *Environment Protection Act 2017* must be issued stating that an environmental audit is not required for the use or the proposed use; or
- An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use: or
- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
- A statement of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970 stating that the environmental conditions of the land are suitable for the proposed use.

The applicant has provided a statutory declaration committing to one of the above being provided as a condition of planning permit. However, given the known contamination and past land use, sensitive nature of the proposed use and considerations of PPN30, the granting of a planning permit is considered to pose an unacceptable risk.

Furthermore, the subject site is not included in an Environmental Audit Overlay and Council does not have the power to impose a condition requiring an Environmental Audit. This position is supported by VCAT precedence and legal advice received by Council.

The landowner however will still be subject to the duty to manage contaminated land under s.39 of the *Environment Protection Act 2017* (EP Act), as well as the general environmental duty under s.25 of the EP Act, given a preliminary site assessment undertaken by the applicant has shown existing contamination.

Relevant notes of advice can be included in a planning permit should one be granted.

Municipal Planning Strategy

Policy	Response
Clause 02.03-1 Settlement	Benalla is the major focus for urban development in the municipality, and the proposed childcare is located within an established urban area with access to public transport including the bus along Mackellar Street, Benalla.
Clause 02.03-3 Environmental risks and amenity	<p>Flooding</p> <p>The subject site is not included within a Floodway Overlay, although is included within a Land Subject to Inundation Overlay. This policy seeks to limit development in the LSIO and the application has responded by locating the development within the area of the site least affected by inundation.</p> <p>The applicant did seek predevelopment advice from the Goulburn Broken Catchment Management Authority (GBCMA) dated 22/20/24. The application was also referred to the GBCMA and a response dated 1/5/25 provided conditional consent.</p> <p>The GBCMA advice showed that the part of the site proposed for development as having 1 in 100 flood depths between 0.3m and 0.8m. They required a planning permit condition that the minimum floor level must be at least 500mm above the 1 in 100 AEP flood level of 169.55m AHD. They also required a Flood Response Plan that allows for the ordered evacuation of children and staff in the even of flooding along the Broken River.</p> <p>Clause 02.03-2 seeks to limit development in areas affected by the Land Subject to Inundation Overlay.</p> <p>By issuing a permit subject to the GBCMA conditions then the floor level could potentially be up to 03m below the 1 in 100 AEP flood level. This is considered an unacceptable risk.</p> <p>Bushfire</p> <p>The subject site is not in a Bushfire Management Overlay, but is included in a designated bushfire prone area.</p> <p>Clause 02.03-3 prioritises the protection of human life over all other considerations in bushfire planning and to locate new development to minimise the threat from bushfire. This will be further explained in the discussion against Clause 13.02-1S however in the absence of any bushfire assessments this risk has not been satisfactorily addressed.</p>

Policy	Response
Clause 02.03-5 Built environment and heritage	<p>The proposed development is located on a part of the site least affected by vegetation, with the balance of the site retaining vegetation and providing a vegetated buffer to the north and east. The vehicular access has been located to avoid impact to existing street trees within Duffy Street, Benalla.</p> <p>It is acknowledged that the built form has adopted a residential style. Although single storey it has an overall height of 9m at its peak. The GRZ does allow for 11m in height, however the prevailing built form residential character is single storey and modest in scale. The proposed development provides a bulky built form and does not reflect the prevailing neighbourhood character.</p>
Clause 02.03-9 Infrastructure	<p>The subject site is fully serviced, however, is not provided with footpath connections.</p> <p>There is an existing footpath on the east side of Salisbury Street, Benalla and to the south there is an absence of footpaths until MacKellar Street, Benalla.</p> <p>This does not support sustainable transport such as walking and cycling and provides an unacceptable risk to parents and children who may choose to walk or ride to the facility.</p>

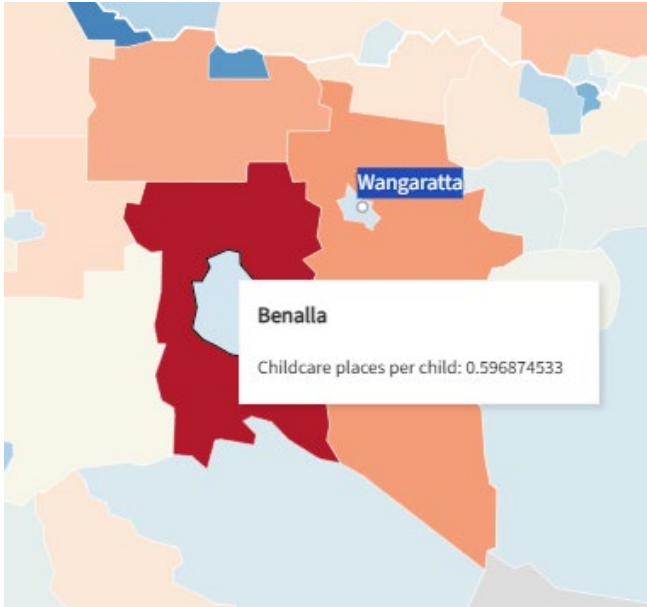
Planning Policy Framework

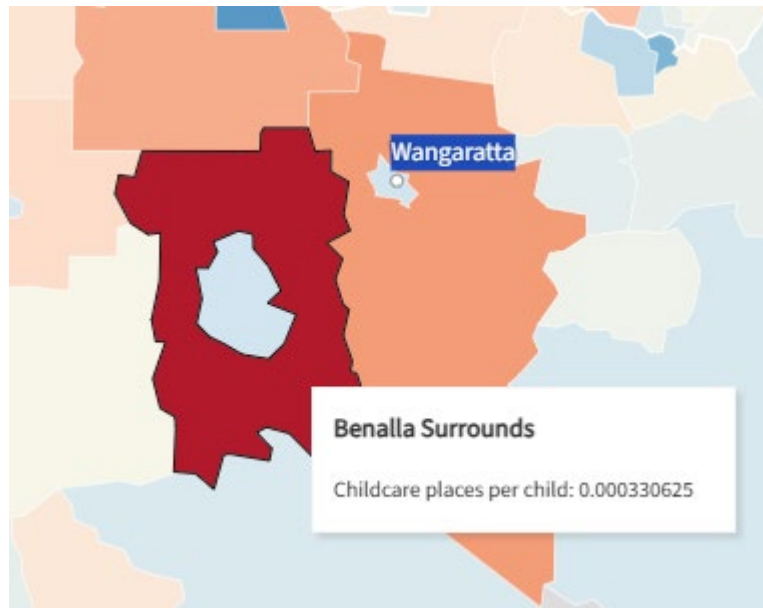
Policy	Response
Clause 11.01-R Settlement Regional Victoria	The proposed use and development does not provide a balanced outcome when comparing various strategic objectives.
Clause 11.01-1L Local settlements - Benalla	The subject site is included within an established urban area as identified in the Benalla Structure Plan. The site can be fully serviced, and the proposed development provides an active interface with Duffy Street, Benalla. The prevailing residential character is one of largely detached single storey, older style dwellings. The proposed development will result in a bulky built form that does not respond to the prevailing neighbourhood character.
Clause 13.02 -1S Bushfire planning	The subject site is not included within a Bushfire Management Overlay but is included in a designated bushfire prone area which is not unusual for undeveloped land. This clause a childcare centre in a designated bushfire prone area to address bushfire risk. In the absence of supporting material this matter remains unresolved.
Clause 13.03-1S Floodplain management	The site is largely included in a Land Subject to Inundation Overlay and the development has been contained within an area of the site least affected by flood. The application was referred to the floodplain manager, the Goulburn Broken Catchment Management Authority. Although they responded with conditional consent, including conditions for a planning permit relating to minimum floor levels and the need for a Flood Response Plan, it is considered the proposed childcare centre represents an unacceptable risk.
Clause 15.01-1S Urban design	<p>The lack of a connected path network to support safe movement of pedestrians and cyclists is considered an unacceptable outcome.</p> <p>The interface with the railway corridor by providing a 1.8m timber paling fence complies with the <i>VicTrack Rail Development Interface Guidelines August 2019</i> which requires either 1.8m black cyclone mesh or timber paling in residential areas. Buildings also need to be setback a minimum of 4.6m from the shared property boundary with the rail corridor.</p>

Policy	Response
Clause 15.01-2S Building design	The height and scale of the building does not respond adequately to the prevailing neighbourhood character of single storey, modest dwellings.
Clause 15.-1-5S Neighbourhood character	The proposed development introduces a style of built form that is not typical in the prevailing character. Nine metres at its highest, it reflects more of a 3 storey built form, rather than the prevailing single storey character.
Clause 19 Infrastructure	As mentioned elsewhere in this report the site is not served with a connected footpath and would result in a detrimental impact upon the safety of cyclists and pedestrians.
Clause 19.02-2S Education facilities	The proposed childcare centre is located within a walkable distance to the bus stop of Mackellar Street, Benalla and the recommended improvements to the footpath network will facilitate improved access for pedestrians and cyclists.

The General Residential Zone

The relevant decision guidelines in the GRZ1 are addressed below:

General	
<p>The purpose of this zone.</p>	<p>The scale and height of the building does not respond to the prevailing neighbourhood character, which is primarily single storey, modest sized dwellings.</p> <p>The GRZ allows for educational uses in appropriate locations to serve the needs of the local community. However the subject site is not considered an appropriate location due to the site constraints particularly relating to flooding and site contamination.</p> <p>The Mitchell Institute at Victoria University has undertaken global tracking of childcare access and has identified 'childcare deserts' where around 24% of Australians have poor access to childcare with more than three children per childcare place.</p> <p>This study identifies that Benalla is well served with 0.59 childcare places per child.</p> <p>The Benalla surrounds however are poorly served with 0.0003 childcare places per child.</p>  <p><i>Source: Victoria University (Mitchell Institute)</i></p>

General	
	 <p data-bbox="614 828 1101 862"><i>Source: Victoria University (Mitchell Institute)</i></p> <p data-bbox="614 862 1428 996">The commercial viability of the proposed childcare centre is not a relevant planning consideration however the purpose of the zone does base allowing educational facilities in a GRZ on serving the local community needs.</p>
<p data-bbox="135 1008 598 1075">The objectives set out in a schedule to this zone.</p>	<p data-bbox="614 1008 1276 1041">There are no objectives in Schedule 1 to the GRZ.</p>
<p data-bbox="135 1086 598 1422">The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Housing Choice and Transport Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.</p>	<p data-bbox="614 1086 1077 1120">There is no off-site overshadowing.</p>
Non-residential use and development	
<p data-bbox="135 1478 598 1545">Whether the use or development is compatible with residential use.</p>	<p data-bbox="614 1478 1428 1780">The proposed use is confined to the south/west of the site and is not directly abutted by any residential properties. Dwellings to the south of Duffy Street front either Tomkins Parade, or Henry Street, Benalla and the carpark interfaces with the rail line. The childcare centre is proposed to operate 6.30am – 6.30pm Monday to Friday and is otherwise closed. The Traffic Engineering Assessment identified the morning peak at 6.30am – 9am and an afternoon peak of 4pm – 6.30pm.</p> <p data-bbox="614 1780 1428 1926">The submitted traffic report also recommended staggered drop off and pick up times from 6.30am – 9am and 2.30pm – 6.30pm. If a planning permit was to be granted this could be facilitated by a condition of permit.</p> <p data-bbox="614 1926 1428 2094">Times for waste collection are not known and it is expected that this would happen outside of the operating hours so that a service vehicle could use the carparking spaces to assist in turning and leaving the site in a forward motion. A Waste Management Plan could be required as a condition of</p>

General	
	<p>planning permit and could limit the hours a service vehicle could attend the site.</p> <p>It is common for childcare centres to be located within a residential zone.</p> <p>The concerns with this proposal relate more to the site constraints, than the use operating in a residential zone.</p>
Whether the use generally serves local community needs.	Refer to the discussion in response to the GRZ
The scale and intensity of the use and development.	It is acknowledged that the built form has adopted a residential style. Although single storey, it has an overall height of 9m at its peak. The GRZ does allow for 11m in height, however the prevailing built form residential character is single storey and modest in scale. The proposed development provides a bulky built form and does not reflect the prevailing neighbourhood character.
The design, height, setback and appearance of the proposed buildings and works.	<p>The building although relatively high is single storey and residential in its appearance and construction materials. Proposed colours are in different shades of grey which will blend well with the landscape and surrounds.</p> <p>Fencing is a combination of timber paling and black powder coated pickets which will also blend well with the landscape and surrounds.</p>
The proposed landscaping.	<p>A landscape plan has not been provided but could be facilitated by a condition of planning permit. A large portion of the site remains undeveloped and its vegetation will remain intact.</p> <p>If a planning permit was issued an arborist report should be provided prior to commencement of development to more particularly understand the impact to existing street trees forward of the site.</p>
The provision of car and bicycle parking and associated accessways.	The proposed development provides in excess of the statutory requirement for car parking and in addition there are opportunities for on street parking if needed. There is no statutory requirement for bicycle parking, however Council's independent traffic engineering advice recommended some be provided to promote sustainable transport. This can be facilitated by a condition of planning permit.
Any proposed loading and refuse collection facilities.	A Waste Management Plan has not been provided but the applicant advises that waste collection will be undertaken by a private contractor and will occur after hours. A Waste Management Plan can be facilitated by a condition of planning permit.
The safety, efficiency and amenity effects of traffic to be generated by the proposal.	Both the Traffic Engineering Report submitted by the applicant and the independent traffic engineering advice provided to Council were satisfied that the local road network could satisfactorily deal with the increased traffic movements.

Land Subject to Inundation Overlay

The applicant sought floodplain management advice from the Goulburn Broken Catchment Management Authority (GBCMA) before submitting the planning permit application to Council. The application was also referred to the GBCMA and they responded with conditional consent requiring minimum floor levels and a Flood Response Plan.

The image below was provided in the GBCMA floodplain management advice to the applicant and shows the extent of flood across the subject site. It is noted that the proposed development has been confined to that part of the site that is least affected by flood.

If a planning permit is issued the GBCMA conditions will form part of the planning permit.

A key consideration is that the GBCMA conditions could result in the finished floor levels being up to 300mm below the 1 in 100 AEP flood level. This is considered an unacceptable risk and also does not meet the purpose of Clause 13.03-1S Floodplain Management of the Benalla Planning Scheme.

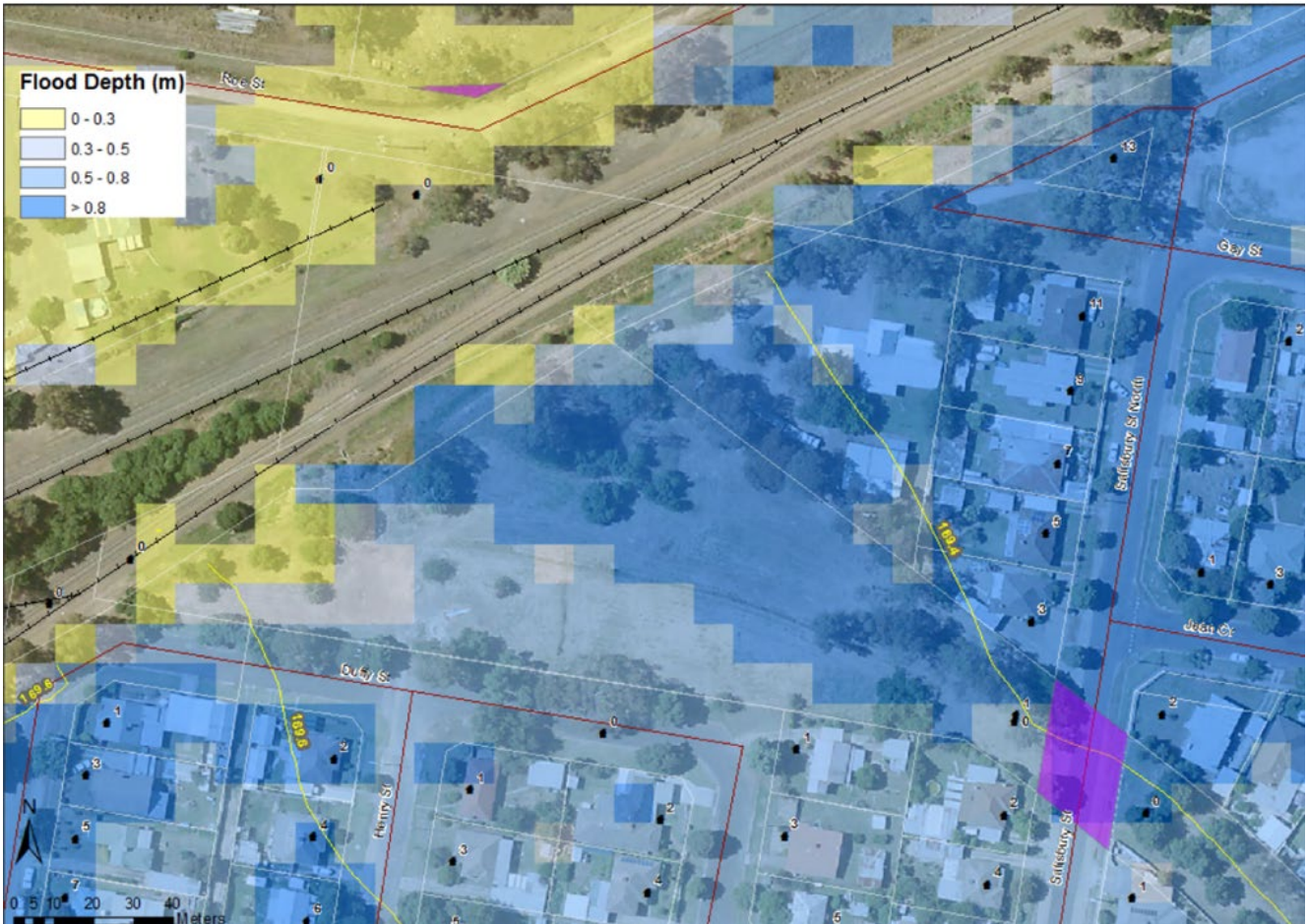


Figure 1 - Extract from GBCMA advice to applicant dated 22/10/2024

Relevant decision guidelines in the LSIO are addressed below:

Any local floodplain development plan	Not relevant
Any comments from the relevant floodplain management authority.	The GBCMA advised that the applicable 1 in 100 AEP (1% AEP) flood level for the development is 169.55m AHD. Normally the GBCMA would object to a childcare centre on a site with the flood characteristics but recognise that the existing flooding conditions in Benalla limit the options for childcare centres to be located outside the 1 in 100 AEP flood extent. The plans show a finished floor level of 170.05m AHD which is 0.5m above the applicable flood level. The GBCMA also require a Flood Response Plan as a condition of planning permit to deal with a flood event.

Any local floodplain development plan	Not relevant
	The concern is that if the development proceeded in accordance with the above the flood level could potentially exceed the floor level by 300mm.
The existing use and development of the land.	The site is vacant
Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.	The proposed development is located on the part of the site least affected by flood, however, still experiences flood up to 0.8m.
Alternative design or flood proofing responses.	The applicant sought predevelopment advice from the GBCMA and incorporated the minimum finished floor levels into the design. As noted elsewhere in this report the requirement for floor levels to be at least .5m above the flood level, when the 1 in 100 AEP is up to 0.8m is considered unsatisfactory.
The susceptibility of the development to flooding and flood damage.	As noted above and elsewhere in this report the area of the site subject to the development has a flood level of between 0.3m and 0.8m.
The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include: <ul style="list-style-type: none"> ▪ The frequency, duration, extent, depth and velocity of flooding of the site and accessway. ▪ The flood warning time available. ▪ Tidal patterns. ▪ Coastal inundation and erosion. ▪ The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded. 	The GBCMA have required a Flood Response Plan to deal with operational requirements in a flood event. It is considered more appropriate to apply a precautionary measure by refusing the planning permit application, rather than a reactive measure by allowing the development subject to a Flood Response Plan.
The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.	Although considered satisfactory to the GBCMA it is considered the proposed development represents a potential risk to floodwater.

CLAUSE 52.06 CAR PARKING

Table 1 in Clause 52.06-5 prescribes one car parking space to each employee. The applicant has advised that initially there will be 18 staff at any one time and then once the facility is at full capacity there will be 24 staff at any one time. The submitted plans show 35 car parking spaces so once at capacity there are 11 spaces provided in excess of the statutory requirement.

CLAUSE 52.17 NATIVE VEGETATION

The application did not include the removal of native vegetation. If any native vegetation is required to be removed it will be subject to a separate assessment.

There are several mature street trees, particularly in Duffy Street, Benalla and the proposed development including the accessway has been designed to avoid impact on these trees.

Should a planning permit be granted it should include a requirement for an arborist's report and a condition that native vegetation cannot be removed without a planning permit.

CLAUSE 53.18 STORMWATER MANAGEMENT IN URBAN DEVELOPMENT

The application was referred to Council's engineer and should a planning permit be granted there are conditions relating to stormwater and drainage to be included. This includes a requirement for a detailed drainage discharge plan to be submitted and approved before the commencement of any development.

CLAUSE 52.34 BICYCLE FACILITIES

Table 1 at Clause 52.34-5 does not prescribe any bicycle requirements for a childcare centre. It specifically excludes a childcare centre from the bicycle requirements for an education centre.

The Traffic Engineering Assessment submitted with the application encourages the provision of some bicycle spaces to support sustainable transport options. It is therefore considered reasonable to require some bicycle spaces as a condition of planning permit.

CONSIDERATION OF OBJECTIONS

- Potential contamination of the land makes it unsuitable for use as a childcare centre.
- Impact on trees in Duffy Street, Benalla.
- Safety risks with the site adjacent to the Sydney/Melbourne rail line in the event of a derailment or fire.
- Poor state of existing roads including Duffy Street, Tomkins Parade, Henry Street and George Street, Benalla.
- Increased traffic.
- Lack of carparking.
- Lack of footpath connections to the site.
- No need for another childcare centre.
- Amenity impacts on nearby residents.
- Noise.
- Impact on character of the area.
- Impact on existing infrastructure.
- Applicant is just adding value to the subject site.
- Driveways of existing dwellings may be obstructed due to inadequate car parking.
- Speed restrictions and speed humps will be needed in Tomkins Parade, Henry Street and Gordon Street, Benalla.
- Inadequate public notice was given.
- Stormwater management and inundation, particularly of roads.
- Errors in the planning report and Traffic Impact Assessment.
- Entry point near the bend of Tomkins Parade and Dufy Street, Benalla is dangerous.

- The proposal is in contradiction with the zoning of the land.
- Questions the approval of a future operator by relevant authorities and if the building complies with the relevant requirements for a childcare centre.

Issue	Consideration
Contamination	<p>The applicant prepared a Preliminary Site Investigation that shows evidence of arsenic contamination in shallow soils. Council officers have requested a Preliminary Risk Screen Assessment (PRSA) or audit and the applicant has instead requested this be dealt with by permit conditions.</p> <p>However, Planning Practice Note 30 recommends that either a PRSA or audit should form part of Council's consideration. In the absence of either, this matter remains unresolved.</p>
Interface with rail line and safety concerns	<p>VicTrack has guidelines relating to the interface with a rail corridor and for land in a residential zone a 1.8m timber paling fence is an appropriate response. The proposal also provides car parking as the interface with the building and play areas further removed from the rail corridor.</p>
Existing road conditions	<p>The submitted Traffic Engineering Assessment and peer review did not suggest the need for any road upgrades and identified the local roads, including Duffy Street, Benalla were of sufficient width. Council's internal engineer also did not require any local road upgrades.</p>
Increased traffic & safety concerns	<p>The Traffic report recommends traffic calming measures be introduced along Duffy Street, Benalla. These measures could include the installation of speed humps, raised pedestrian crossings or other appropriate measures aimed at slowing down traffic, particularly during peak hours. The addition of footpaths is also recommended to accommodate an increase in foot traffic.</p>
Lack of car parking	<p>The on-site parking requirements under Clause 52.06 of the Benalla Planning Scheme are one space per staff member. At full capacity the facility will have 24 staff on site at any one time and there are 35 car spaces provided. So, there is an excess of 11 car spaces.</p> <p>The traffic report also advises the morning and afternoon peaks are between 6.30am and 9am and 4pm and 6.30pm so they are over extended periods. The traffic report recommends staggered drop-off and pick-up times during 6.30am to 9am and 2.30pm and 6.30pm to reduce traffic congestion and queuing along Duffy Street, Benalla. Council's traffic engineer has recommended this as a condition of planning permit.</p>
Lack of footpath connections	<p>A requirement for an extended and shared footpath network connecting to both Salsbury Street and Mackellar Street, Benalla should be included in a planning permit should one be granted.</p>
Noise and amenity impacts	<p>Noise would typically be limited to traffic from vehicles arriving and leaving the site and the noise of children playing. The proposed hours of operation are 6.30am to 6.30pm Monday to Friday. Waste collection timing is unknown but would take place outside of the operating hours so a service vehicle could make use of the carpark for turning.</p> <p>It is acknowledged there will be an increase in noise.</p>

Issue	Consideration
Stormwater management	The application was referred to Council's Engineer. If a planning permit is granted there are requirements relating to drainage and stormwater including stormwater retardation.
Inundation of site	This report discusses the risk of inundation to the proposed development and despite conditional support from the GBCMA, the risk is considered unacceptable.
Conflicts with purpose of the zone	The scale of built form does not respond well to the prevailing neighbourhood character largely to its size and height. The centre is built to allow for up to 168 children which is quite large and has a high built form (up to 9m) in an area predominantly single storey, modest sized dwellings. The GRZ does allow for educational facilities in appropriate locations, however the site is not considered appropriate due to constraints primarily relating to flood risk and site contamination.
Applicant adding value to the site	Property values are not relevant planning consideration.
Inadequate public notice	Public notice was undertaken in accordance with Council instructions including two notices placed on site by the applicant and letters to adjoining and nearby landowners and occupiers sent by Council.
Need for another childcare centre	The financial viability of a use is not a relevant planning consideration. That is a commercial decision for the applicant and future operator.
Compliance of the centre and future operator with relevant requirements	The operational requirements for a childcare centre fall outside of the <i>Planning and Environment Act 1987</i> .

COUNCIL PLAN 2025-2029 IMPLICATIONS

Community

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

Economy

- *Sustainable growth.*

Environment

- *Healthy and protected natural environment.*
- *Sustainable waste management.*

Liveability

- *Connected and accessible roads, footpaths, transport and parking.*

Leadership

- *Good governance*
- *Engaged and informed community*

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.

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.

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. P008-25 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to grant a permit under the provisions of the Benalla Planning Scheme in respect of the land known and described as 1 Salisbury Street N, Benalla for the use and development of a childcare centre in accordance with the plans as lodged with the application dated 20/01/2026, Revision B) and subject to the following grounds:

- 1. The proposal is contrary to purposes of the General Residential Zone (Clause 32.08) of the Benalla Planning Scheme, including:**
 - a. The proposed development does not respond to the neighbourhood character of the area due to the bulk and scale of the built form.**
 - b. The subject site is not an appropriate location for the proposed use and development due to site constraints including flood and site contamination.**
- 2. The proposal is inconsistent with the purpose of the Land Subject to Inundation Overlay (Clause 44.04) of the Benalla Planning Scheme due to the potential flood risk to life, health and safety associated with the proposed use and development.**
- 3. The proposal is inconsistent with Clause 60 of the Planning and Environment Act 1987 as does not meet the objectives of various clauses in the Municipal Planning Strategy and Planning Policy Framework of the Benalla Planning Scheme including:**
 - a. Clause 02.03-3 (Environmental Risk and Amenity) due to the flooding characteristics of the subject site and the application has not address bushfire risk.**

- b. **Clause 02.03-5 (Built Environment and Heritage)** as the proposed development does not adequately respond to the prevailing neighbourhood character due to the scale and height of built form.
 - c. **Clause 02.03-9 (Infrastructure)** due to the lack of a connected footpath network for pedestrian and cyclists.
 - d. **Clause 13.01-1S (Bushfire Planning)** as proposal has not addressed the bushfire risk and the subject site is included in a designated bushfire prone area.
 - e. **Clause 13.03-1S (Floodplain Management)** as the 1 in AEP flood level will exceed the finished floor levels of the development and the development will potentially increase the flood impact.
 - f. **Clause 13.04-1S (Contaminated Land)** as the subject site is known to be contaminated and the proposed use is a sensitive use. The submitted material does not satisfactorily address the contamination risk and whether the proposed use as a childcare centre is an acceptable outcome.
 - g. **Clause 13.07-1S (Land Use Compatibility)** as the proposed use and development does not protect community amenity, human health and safety due to the site constraints of flooding and site contamination.
 - h. **Clause 15.01-1S (Urban Design)** as there is a lack of pedestrian and cyclist connectivity to support a safe, healthy and functional place.
 - i. **Clause 15.01-2S (Building Design)** as the proposed built form will result in bulk and height.
 - j. **Clause 15.01-5S and Clause 15.01-5L** as the proposal is inconsistent with the prevailing neighbourhood character due to the bulk and height of the proposed built form
 - k. **Clause 19 (Infrastructure)** as the proposed development is not easily accessible for pedestrians and cyclists.
4. **The proposal is inconsistent with Clause 60 of the *Planning and Environment Act 1987* as the environment may have significant effects on the use and development due to the risk of flooding and site contamination.**
5. **The proposal is inconsistent with Clause 65.01 of the Benalla Planning Scheme due to:**
- a. **significant effects the environment, including contamination of land may have on the use and development.**
 - b. **It does not represent orderly planning of the area.**
 - c. **The effect on the environment, human health and amenity of the area due to flood risk, site contamination and being an incompatible land use with the surrounding residential development.**
 - d. **The unknown impact on native vegetation on the subject site.**
 - e. **The degree of flood associated with the location of the land and the proposed use and development.**
6. **The proposal is inconsistent with Planning Practice Note 30: Potentially Contaminated Land as it is not supported by either a Preliminary Risk Screen Assessment or Environmental Audit.**

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2. Building and Planning Approvals – March 2026

Ref: 2005329054-547
Sarah Ford - Building Coordinator
Joel Ingham – Planning Coordinator
Nilesh Singh – Manager Development

PURPOSE OF REPORT

The report details planning permit applications and building approvals for March 2026.

Planning Permit Applications Determined under Officer Delegation

Permit No.	Description	Property Address	Decision	
1	P154-25	Construction of a dwelling extension and shed	108 Arundel Street, Benalla	Approved
2	P087-25	Construction of 13 single storey dwellings	55 Coish Avenue, Benalla	Approved
3	P040-26	Construction of a carport	4 Lavery Street, Benalla	Approved
4	P024-26	Construction of a dwelling	7 Honeyeater Street, Benalla	Approved
5	P020-26	Construction of an outbuilding	104 Terrett Road, Benalla	Approved
6	P009-26	Construction of a shed	197 Benalla-Warrenbayne Road, Benalla	Approved
7	P130-25	Three lot subdivision and the creation of easements	9-11 Mair Street, Benalla	Approved
8	P150-25	Construction of three single storey dwellings	11 Dunn Street, Benalla	Approved

Planning Permit Amendments Determined Under Officer Delegation

There were no planning permit amendments determined under officer delegation during the months of March.

Planning Permits Issued Under VicSmart

Permit No.	Description	Property Address	Decision	
1	VS024-25	Construction of two single storey dwellings	26 Melrose Street, Benalla	Approved
2	VS001-26	Construction of a machinery shed	311 Baddaginnie-Warrenbayne Road, Baddaginnie	Approved

VicSmart Planning Permit Amendments Determined Under Officer Delegation

Permit No.	Description	Property Address	Decision	
1	VS026-25-1	Construction of a garage	15 Lavery Street, Benalla	Approved

Planning Permit Applications Determined by the Council

Permit No.		Description	Property Address	Decision
1	P016-25	The use and development of land for use and development of Accommodation (Host Farm), Rural Industry, Primary Produce Sales, Food and Drink Premises (restaurant), Place of Assembly (Petting Zoo), reduction of car parking and business signage	58 Centre Road, Molyullah	Approved (Notice of Decision)

Planning Permit Amendments Determined by the Council

There were no planning permit amendments determined by the Council during the months of March 2026.

Planning Permit Applications Withdrawn or Lapsed

Permit No.		Description	Property Address	Decision
1	P078-25	The construction of a front fence	105 Faithfull Street, Benalla	Lapsed

Notices of Decision

Permit No.		Description	Property Address
1	P016-25	The use and development of land for use and development of Accommodation (Host Farm), Rural Industry, Primary Produce Sales, Food and Drink Premises (restaurant), Place of Assembly (Petting Zoo), reduction of car parking and business signage	58 Centre Road, Molyullah

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

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

Planning Permit Applications Determined by VCAT

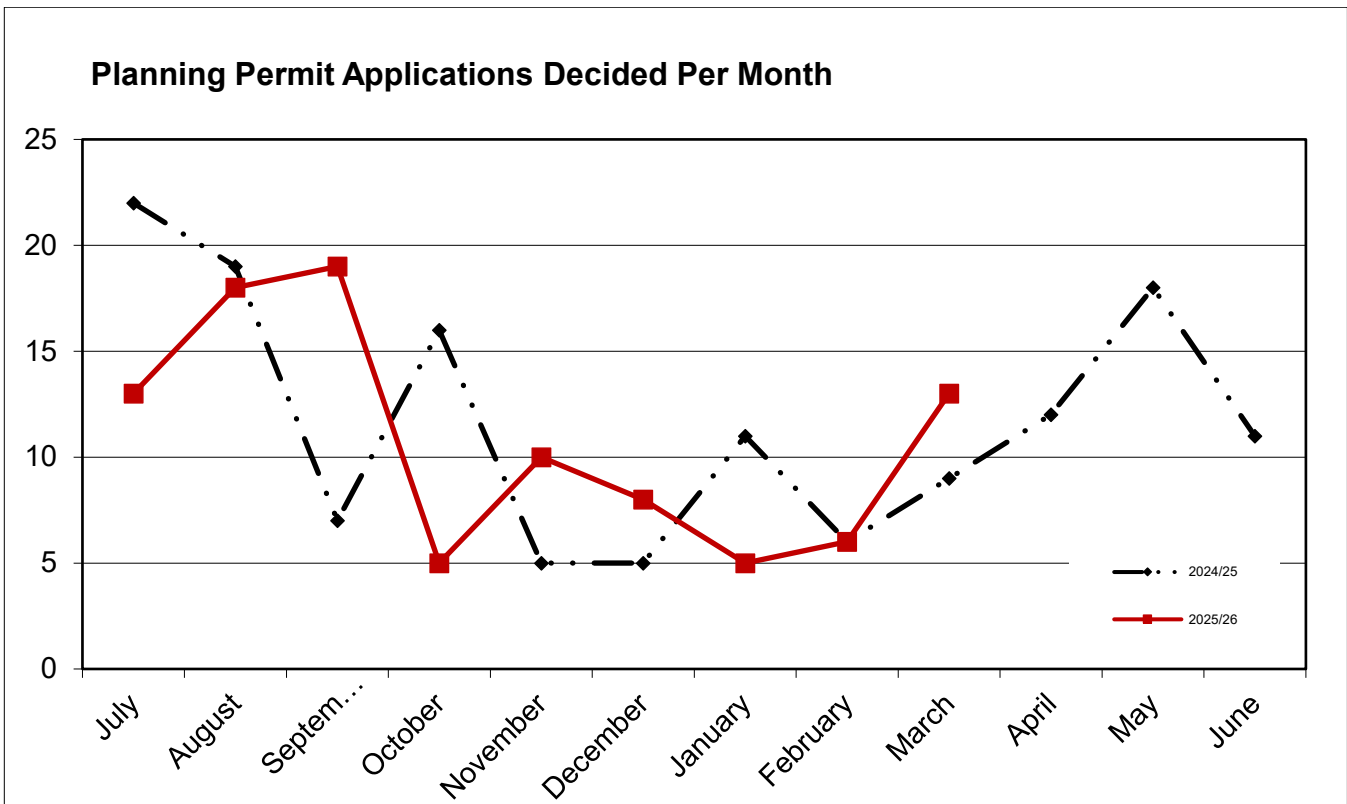
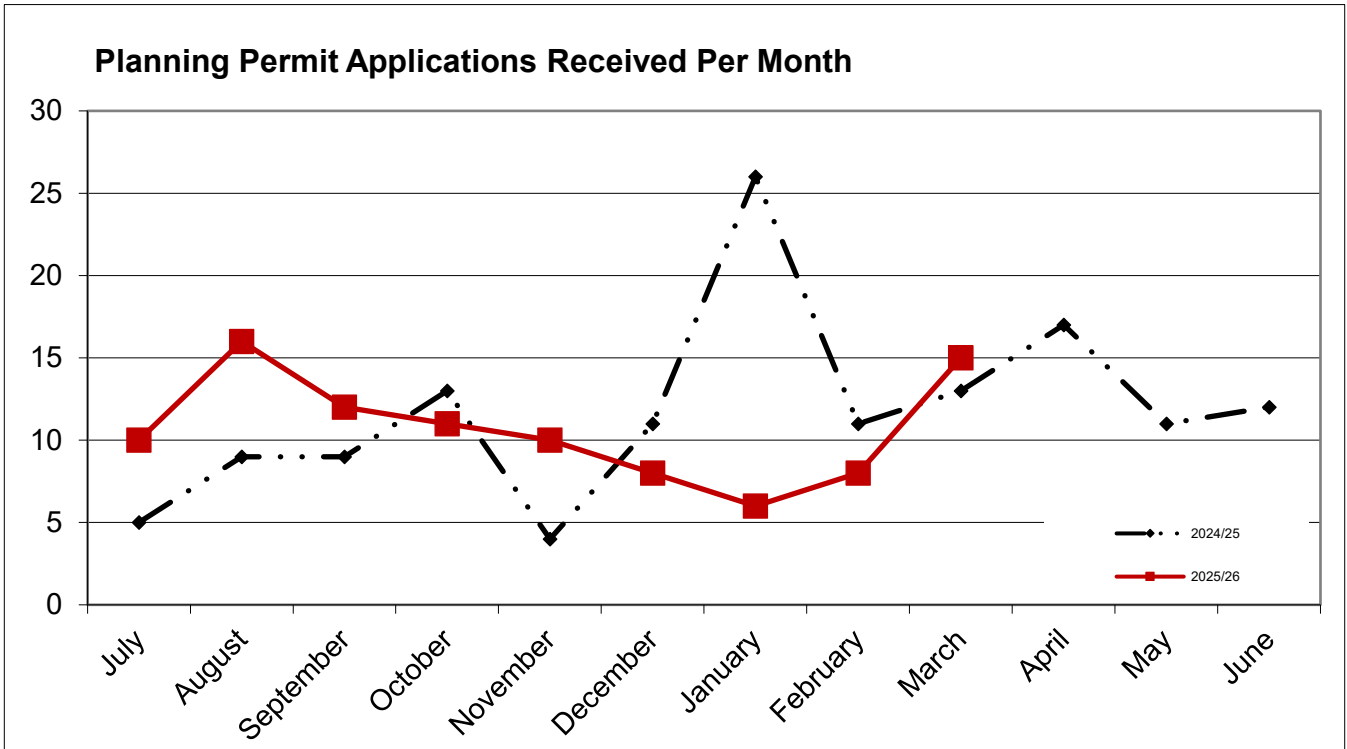
There were no planning permit applications determined by VCAT during the months of March 2026.

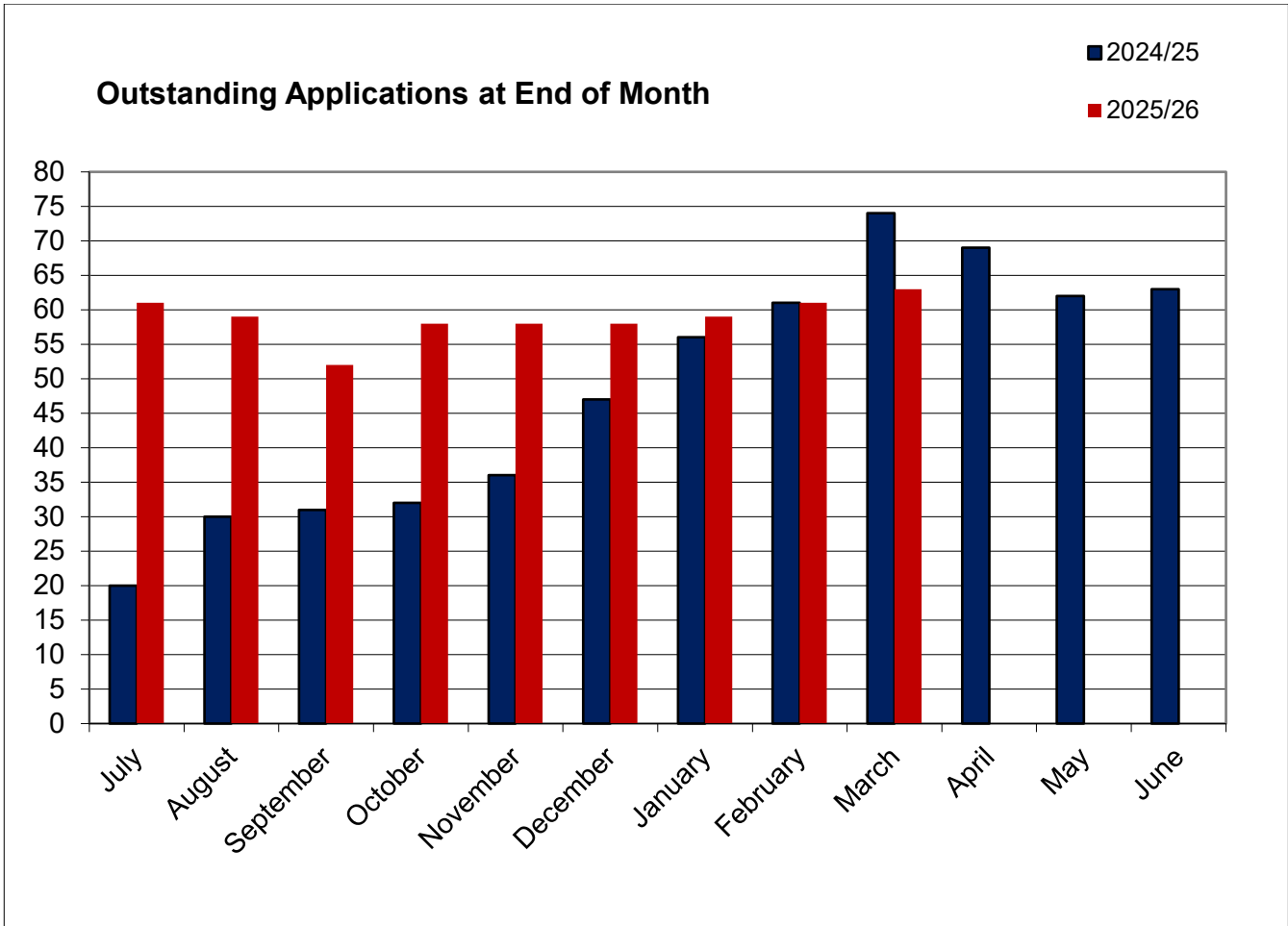
Matters Before VCAT

P012-25	26 Bridge Street East, Benalla
Status	Planning Permit No. P012-25 was refused by Council on 10 September 2025 to construct and display an electronic promotion sign at 26 Bridge Street East, Benalla. The applicant has appealed this decision to the Tribunal. The main hearing was heard on 6 March 2026. The Tribunal ordered on 31 March 2026 that the decision of the responsible authority is set aside and a planning permit is to be granted subject to conditions. A copy of the Tribunal Order is available for download on Council's website and the Councillors MS Teams Group.

P064-25	223 Cooper Road and 1726 Dookie Devenish Road, Devenish
Status	<p>Planning Permit No. P064-25 was refused by Council on 10 September 2025 to use and develop the land for an extractive industry (Sand Quarry). The applicant has appealed this decision to the Tribunal. On the 3 November 2025 the Tribunal ordered that a compulsory conference (mediation) would be conducted on 16 January 2026 with the main hearing date to be heard on 20, 21 and 22 April 2026.</p> <p>A compulsory conference was held on 11 February 2026, and the matter was not resolved. The main hearing dates have not been altered.</p>

Planning Permit Applications





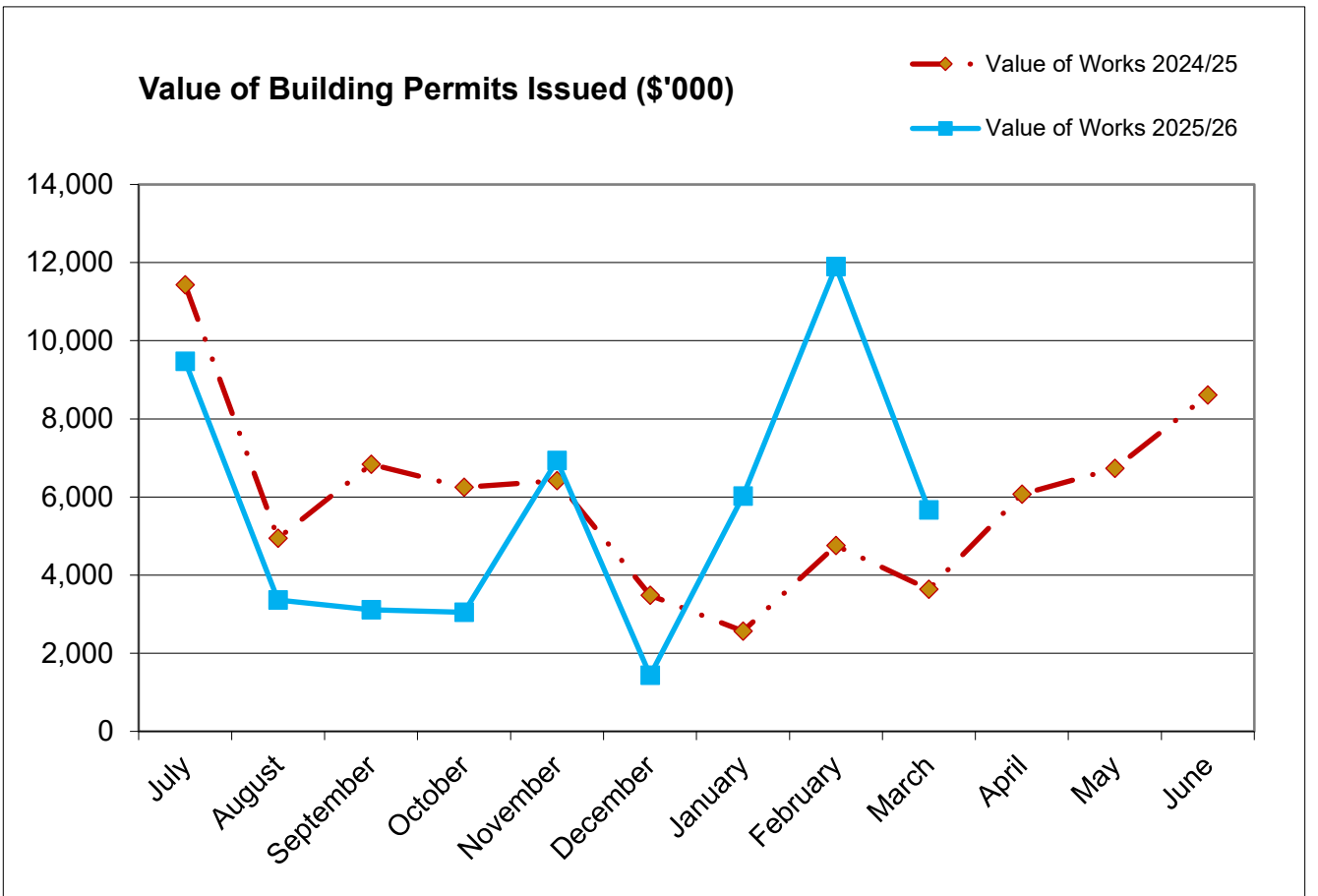
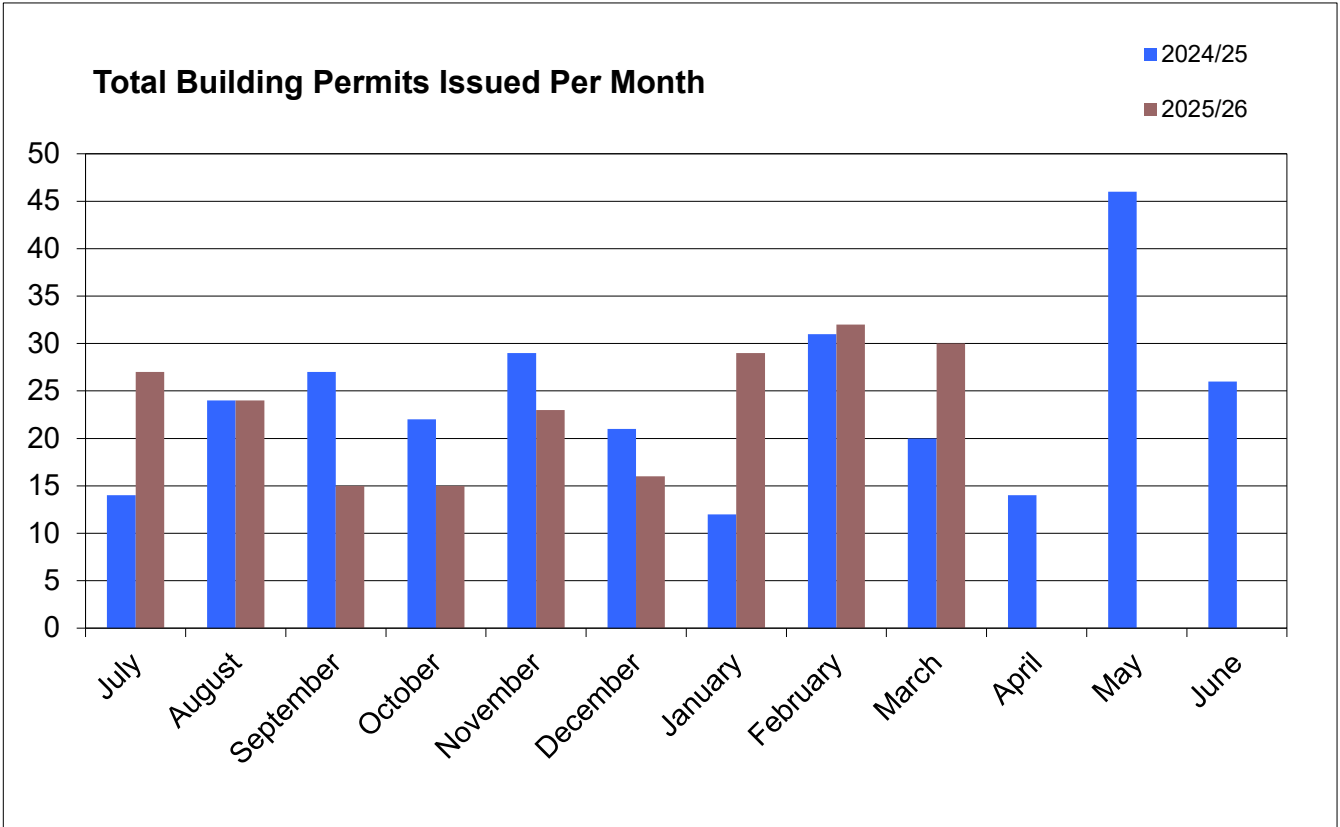
Building Approvals Issued by Council and Private Practitioners

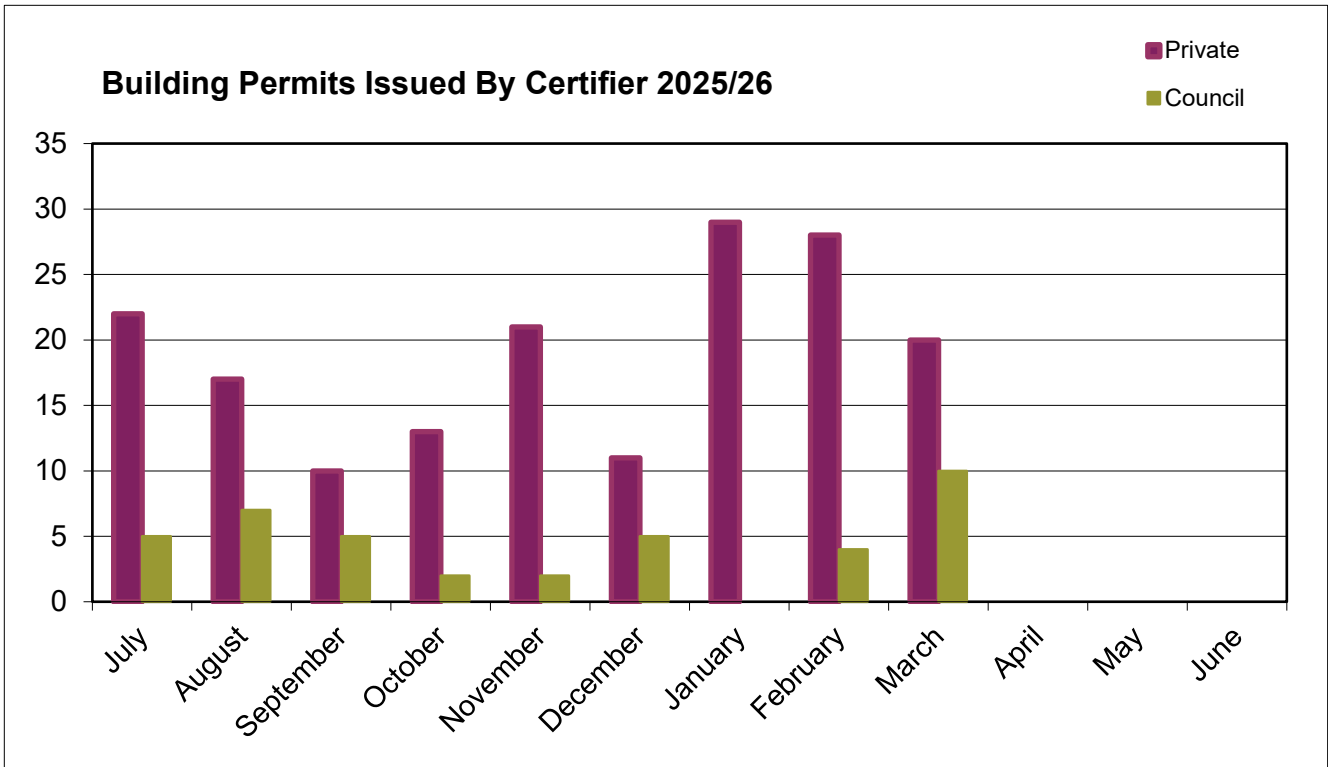
March

Permit No.	Description	Property Address	Value	
1	9721935248934	Construction of a new building	2029 Benalla-Tatong, Road Tatong	\$600,000
2	2092070659444	Construction of a new building	36 Cecil Street, Benalla	\$12,485
3	4287104826196	Alterations to an existing building	7 Cook Street, Benalla	\$15,722
4	3391455153298	Construction of a single carport	1/9 Statesman Drive, Benalla	\$14,428
5	8098881917794	Machinery shed	311 Baddaginnie-Warrenbayne Road, Baddaginnie	\$24,200
6	3119985400123	Construction of a new building	73 Inglis Road, Benalla	\$15,197
7	7495194072234	Construct a commercial shed	7 School Road, Warrenbayne	\$33,303
8	9135861497616	Construction of a new shed	94 Cowan Street, Benalla	\$14,073
9	3508367800714	Construction of a new shed	86 Inglis Road, Benalla	\$30,000
10	9086706442698	Construction of a new shed – slab only	166 Tulley Road, Lima East	\$12,650

Permit No.		Description	Property Address	Value
11	9613129584094	Construction of a dwelling and garage	10 Ambridge Avenue, Benalla	\$368,284
12	6246104403261	Construction of a shed	115 Sargeant Street, Thoona	\$46,607
13	9522364772449	Construction of internal alterations	65 Bridge Street East, Benalla	\$325,451
14	1636652127949	Construction of a dwelling and garage	10 Courser Road, Benalla	\$393,305
15	3372844988975	Construction of a patio	15 Market Street, Benalla	\$31,624
16	2963147869656	Construction of two shade sails	Mackellar Street, Benalla (Lot 1, TP966669) – Mackellar Street Playground	\$37,990
17	8001763087783	Construction of a swimming pool and safety barrier	454 Webb Road, Goomalibee	\$99,750
18	7228767886504	Construction of dwelling and garage	38 Weary Dunlop Drive, Benalla	\$321,514
19	3006677272152	Construction of a dwelling and garage	21 Courser Road, Benalla	\$386,345
20	2408539106711	Construction of a shed	12 Mayfair Drive, Benalla	\$41,510
21	2181203664089	Construction of a dwelling and garage	25 Goodenia Drive, Benalla	\$346,258
22	4704840733154	Construction of a dwelling and garage	12 Courser Road, Benalla	\$388,460
23	3625607941098	Construction of a dwelling and garage	8 Courser Road, Benalla	\$390,305
24	8354072375301	Construction of a New Dwelling, Garage and Retaining Wall	6 Kookaburra Street, Benalla	\$416,650
25	6795939527720	Construction of a dwelling and garage.	7 Honeyeater Street, Benalla	\$321,946
26	4113767754963	Construction of a dwelling and garage	3 Courser Road, Benalla	\$368,991
27	5299592559709	Construction of a shed	77 Terrett Road, Goomalibee	\$56,306
28	5625921136167	Construction of an agricultural shed	197 Benalla-Warrenbayne Road, Benalla	\$115,675
29	5648274764998	Construction of a dwelling and garage	23 Courser Road, Benalla	\$386,345
30	4729842132005	Installation of a security gate	49-55 Smythe Street, Benalla	\$50,000
Total				\$5,665,374

Building Permits Issued by Certifier by Month





COUNCIL PLAN 2025-2029 IMPLICATIONS

Community

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

Liveability

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

Economy

- *Sustainable growth.*

Environment

- *Healthy and protected natural environment.*

Leadership

- *Good governance.*

OFFICER DECLARATION OF CONFLICT OF INTEREST

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

Recommendation:
That the report be noted.

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3. Proposed Tesla Carpark Licence at Barkly Street, Benalla – Hearing of Submissions

Ref: 1545273666-246

Nathan Gasperoni – Environment and Sustainability Coordinator
Courtney Naughton – Manager Economic Development and Sustainability

PURPOSE OF REPORT

The report presents submissions received on the proposed *Tesla Carpark Lease at Barkly Street, Benalla*.

BACKGROUND

The proposal includes eight dedicated carpark spaces for electric vehicles (EV's) charging. Barkly Street, Benalla location was suggested when the previously selected sites were found not suitable.

The infrastructure to be installed would include eight Tesla V4 supercharger posts, two charging cabinets and one main switchboard. There is also an existing transformer on site that will be upgraded.

The project would be funded, constructed, and run by Tesla. Tesla would also be required to pay the Council a fee. The proposed fee is \$1,500 per car park per year.

The Finance and Planning Committee at its meeting on 25 March 2026 endorsed the lease for public consultation for a period of 28 days.

Public notice of the proposed *Tesla Carpark Lease at Barkly Street, Benalla* was given on Council's Website on 26 March and in the Benalla Ensign on April 8 2026.

Feedback was also sought via the Council's website and social media channels. The period closed 5pm Wednesday 22 April 2025.

DISCUSSION

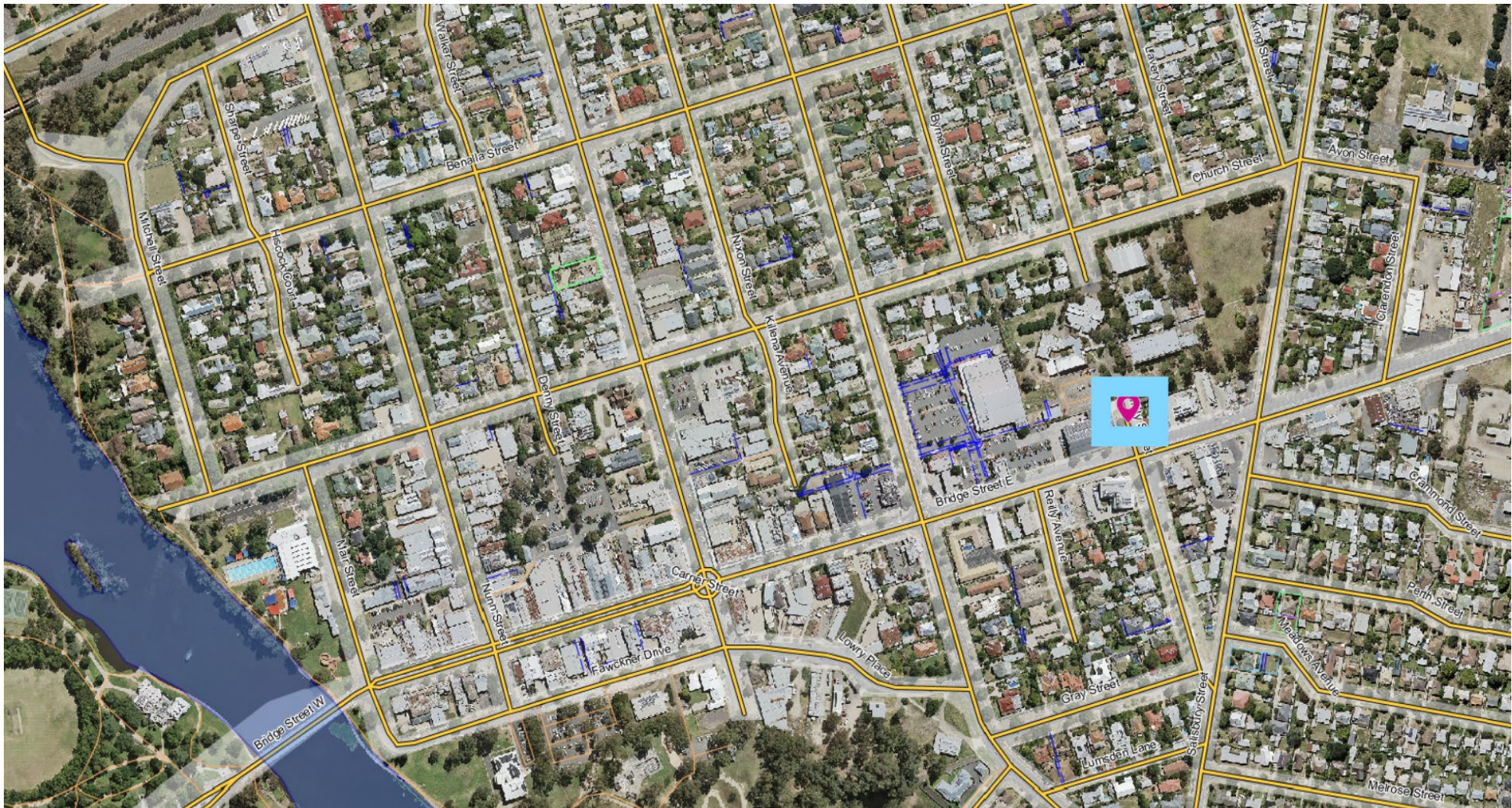
At the close of the submission period 69 submissions were received. Submissions are available for download via Council's website and in the Councillors MS Teams Group.

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

The table below covers key themes identified in the submissions:

Theme	Feedback Summary
Support for the proposal	A significant number of the submissions said the proposal would be of major benefit to Benalla. Seventeen submissions were not in favor of the proposal. Ten of the 17 were specifically against the location rather than the overall project.
Effect on current users of the proposed site.	The proposed lease would affect the current users of the site. It will reduce the number of parks available and may result in traffic flow issues.
Alternative locations	Some submissions would prefer to see the infrastructure somewhere else in Benalla and suggested other locations.
Availability for non-Tesla EV's	Several submissions were in favour of the proposal dependent on the chargers being available to all compatible EV's not just Tesla vehicles.

Proposed Carpark Location and Layout





COUNCIL PLAN 2025-2029 IMPLICATIONS

Economy

- *Flourishing visitor economy and sustainable growth.*

Environment

- *Circular economy, renewable energy and sustainable waste management.*

Liveability

- *Connected and accessible roads, footpaths, transport and parking.*

FINANCIAL IMPLICATIONS

The cost of the associated community consultation on the project will be accommodated within the existing budget allocation.

The project would be funded, constructed, and run by Tesla. Tesla would also be required to pay the Council a fee. The proposed fee is \$1,500 per car park per year.

COMMUNITY ENGAGEMENT

In accordance with the Council's *Community Engagement Policy*, community engagement was undertaken at the 'Consult' level under the International Association for Public Participation's IAP2 public participation spectrum as detailed in the table below:

Level of Public	Promise to the community	Techniques to be used
Consult	We will provide information and consider feedback prior to making a decision.	<ul style="list-style-type: none">▪ Feedback invited via the Council's website.▪ Feedback invited via social media channels.▪ Public Notice in the <i>Benalla Ensign</i> and on Council's website.▪ Report presented at a public meeting.▪ Public report posted on Council's website.

LEGISLATIVE AND STATUTORY IMPLICATIONS

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

OFFICER DECLARATION OF CONFLICT OF INTEREST

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

CONCLUSION

Submissions will be considered at the Finance and Planning Committee on 10 June 2026. The proposal will be considered for adoption at the Council Meeting on 24 June 2026.

Recommendation:

That submissions be received.

4. 2025/26 Quick Response Grants Program

Ref: 1536132109-1136

Tom Arnold – Community Development Recreation Coordinator
Jane Archbold – Manager Community

PURPOSE OF REPORT

The report presents funding applications for 2025/26 Quick Response Grants.

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 \$750 allowing local clubs, groups and organisations the opportunity to seek funds when the need arises.

DISCUSSION

Applications for consideration under the 2025/26 Quick Response Grant program are detailed in the table below.

Applicant	Details	Amount Requested	Proposed Assistance
Benalla Swimming Club Inc	<p>The Benalla Swimming Club's annual Short Course Meet is a key event on the regional swimming calendar, attracting around 100 participants from across Victoria. Scheduled for 1 June 2025, this inclusive, qualifying competition supports swimmers of all ages and abilities in achieving state-level times. The \$750 grant will contribute to the \$780 cost of hiring the Benalla Aquatic Centre, helping to ensure the event remains accessible and sustainable. Run entirely by volunteers, the meet promotes physical activity, community engagement and regional sporting development.</p> <p>The Benalla Swimming Club's current swimmers have successfully competed in the School Sport Victoria's state swimming championships coming away with gold, silver and bronze medals across individual and team relay events. They swimmers at state championship level and at state countries level. A huge achievement for a small club and our rural town.</p>	\$750	\$750
Moorngag Public Hall Committee Inc	<p>The Moorngag Public Hall Committee is hosting their annual community gathering and is seeking \$750 in funding to assist with the cost of catering. The aim of the event follows the theme of previously successful gatherings to create social connection and a sense of community.</p> <p>The committee will invite Councilors to the event when a date is confirmed.</p>	\$750	\$750
Total		\$1,500	\$1,500

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*, it is proposed that community engagement 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 *2025/26 Budget* allocates \$15,000 to the Quick Response Grant program. To date \$12,800 in Quick Response Grant funds have been awarded, leaving \$2,200 in the funding pool.

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:

That the Finance and Planning Committee, acting under its delegated authority of the Council:

Award \$750 grants from the *2025/2026 Quick Response Grant program* be awarded to the Benalla Swimming Club Inc and the Moorngag Public Hall Committee Inc.

5. Urgent Business

Closure of Meeting