



# LATROBE CITY COUNCIL

## MINUTES FOR THE ORDINARY COUNCIL MEETING

HELD IN NAMBUR WARIGA MEETING ROOM  
CORPORATE HEADQUARTERS, MORWELL  
AT 5.30PM ON  
19 AUGUST 2013

CM417

**PRESENT:**

**Councillors:** Cr Sharon Gibson, Deputy West Ward

Mayor

Cr Peter Gibbons West Ward

Cr Dale Harriman East Ward – Arrived at 5.35 pm

Cr Graeme Middlemiss Central Ward

Cr Kellie O’Callaghan East Ward

Cr Michael Rossiter East Ward

Cr Christine Sindt Central Ward

Cr Darrell White South Ward

**Officers:** Paul Buckley Chief Executive Officer  
Michael Edgar General Manager Community Liveability  
Carol Jeffs General Manager Governance  
Allison Jones General Manager Economic Sustainability  
Zemeel Saba General Manager Organisational Excellence  
Grantley Switzer General Manager Recreation, Culture & Community  
Infrastructure  
Tom McQualter Manager Council Operations & Legal Counsel

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

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**ORDINARY COUNCIL MEETING MINUTES  
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The Opening Prayer was read by the Deputy Mayor.

**2. ACKNOWLEDGEMENT OF THE TRADITIONAL OWNERS OF THE LAND**

The Recognition of Traditional Landholders was read by the Deputy Mayor.

**3. APOLOGIES AND LEAVE OF ABSENCE**

Cr. Kam

**4. DECLARATION OF CONFLICT OF INTEREST**

Cr Harriman declared an indirect interest under section 78C of the *Local Government Act* 1989 in relation to Item 8.1-2013/16 - Notice Of Motion- Bulky Goods Strategy

Cr Harriman declared an indirect interest under section 78C of the *Local Government Act* 1989 In Relation To Item 16.3 - Amendment C78 Traralgon North Development Plan Overlay - Consideration Of Submissions

Cr Harriman declared an indirect interest under section 78C of the *Local Government Act* 1989 In Relation To Item 16.6 - Planning Permit Application 2010/390 for an Eight (8) Lot Subdivision and Removal of Easement at 5509 – 5523 Princes Highway, Traralgon

**5. ADOPTION OF MINUTES****RECOMMENDATION**

**That the minutes of the Ordinary Council Meeting held on 5 August 2013 be confirmed.**

**Moved:** Cr Rossiter

**Seconded:** Cr Sindt

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**6. PUBLIC QUESTION TIME****7. ITEMS HELD OVER FOR REPORT AND/OR CONSIDERATION**

**ORDINARY COUNCIL MEETING MINUTES  
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**Suspension of Standing Orders**

**Moved:** Cr. O'Callaghan  
**Seconded:** Cr Rossiter

**That Standing Orders be suspended to allow members of the gallery to address Council in support of their submissions.**

**CARRIED UNANIMOUSLY**

**Standing Orders were suspended at 5.36 pm**

Mr Richard Hoxley addressed Council in relation to item 9.2 Planning Permit Application 2012/071 – Multi Lot Residential Subdivision in Stages, Silcocks Road Churchill

Mr John Kihl-Larssen addressed Council in relation to item 9.2 Planning Permit Application 2012/071 – Multi Lot Residential Subdivision in Stages, Silcocks Road Churchill

Mr Murray Kent addressed Council in relation to item 9.2 Planning Permit Application 2012/071 – Multi Lot Residential Subdivision in Stages, Silcocks Road Churchill

Mr. Paul Buckley read a letter to Council on behalf of Kim Wallace in relation to item 16.1 Planning Permit Application 2013/076 Two (2) Lot Subdivision and Creation of Common Property and Construction of a Second Dwelling , 18 Chenhall Crescent, Traralgon

Mr. Mick Nicola addressed Council in relation to item 16.2 Planning Application No. 2013/9 Variation of Restrictive Covenant, Development of Two Dwellings and Two Lot Subdivision at 15 Bowral Way, Traralgon

Mr. PJ Appleton addressed Council in relation to item 16.2 Planning Application No. 2013/9 Variation of Restrictive Covenant, Development of Two Dwellings and Two Lot Subdivision at 15 Bowral Way, Traralgon

Mr. Matthew Curtain addressed Council in relation to item 16.2 Planning Application No. 2013/9 Variation of Restrictive Covenant, Development of Two Dwellings and Two Lot Subdivision at 15 Bowral Way, Traralgon

**Moved:** Cr. Gibbons  
**Seconded:** Cr Rossiter

**Standing Orders were resumed at 6.15 pm**

# NOTICES OF MOTION

**8. NOTICES OF MOTION**

**8.1 2013/16 - NOTICE OF MOTION- BULKY GOODS STRATEGY**

**Cr Sharon Gibson**

That Council align it's Bulky Goods Strategy to align with the current State Governments strategy allocate Bulky Goods Land for the next 20 to 25 years immediately.

Cr Harriman left the Chamber at 6.15 pm due to an indirect interest under section 78C of the Local Government Act 1989

**ALTERNATE MOTION**

**That Council defer consideration of this item until the next ordinary Council meeting.**

**Moved:** Cr Gibson  
**Seconded:** Cr O'Callaghan

**That the Motion be adopted.**

**CARRIED UNANIMOUSLY**

**Cr Harriman returned to the Chamber at 6.16 pm**

**ITEMS REFERRED BY  
THE COUNCIL TO THIS  
MEETING FOR  
CONSIDERATION**



**9. ITEMS REFERRED BY THE COUNCIL TO THIS MEETING FOR CONSIDERATION**

**9.1 PROPOSED LEASE OF LAND - YINNAR RECREATION RESERVE**

**General Manager**

**Governance**

**For Decision**

**PURPOSE**

The purpose of this report is to consider submissions received in relation to the proposed lease agreement with NBN Co Limited for the placement of a tower on part of the Yinnar Recreation Reserve in Jumbuk Road, Yinnar.

**DECLARATION OF INTEREST**

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

**Latrobe 2026: The Community Vision for Latrobe Valley**

*Strategic Objectives - Governance*

*In 2026, Latrobe Valley has a reputation for conscientious leadership and governance, strengthened by an informed and engaged community, committed to enriching local decision making.*

**Latrobe City Council Plan 2013 - 2017**

**Theme and Objectives**

*Theme 3: Efficient, effective and accountable governance*

*Strategic Direction*

Ensure Latrobe City Council infrastructure and assets are maintained and managed sustainably.

*Planning for the future*

*Strategic Direction*

Plan and coordinate the provision of key services and essential infrastructure to support new growth and development.

*Legislation**Local Government Act 1989*

Section 190 of the *Local Government Act 1989* places restrictions on Council's powers to lease land:

- (1) A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.
- (2) Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions it must comply with this section.
- (3) If the lease is to be –
  - (a) for 1 year or more and –
    - (i) the rent for any period of the lease is \$50 000 or more a year; or
    - (ii) the current market rental value of the land is \$50 000 or more a year; or
    - (iii) for 10 years or more; or
    - (iv) a building or improving lease –

the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.

- (4) A person has a right to make a submission under section 223 on the proposed lease.

*Policy – Council does not have an adopted policy relating to the leasing of land.*

**BACKGROUND**

The National Broadband Network (NBN) is a federal government program that aims to upgrade the existing telecommunications network to provide for affordable, high-speed internet and phone access for all Australians.

Whilst this is to be achieved predominantly through improving the fibre network in the ground, in areas where this network is unavailable fixed wireless and satellite technology is to be used to provide this service.

NBN Co Limited, the government business enterprise responsible for delivering the open access broadband network, has identified the Yinnar Recreation Reserve as a suitable site for the installation of a tower to provide high-speed broadband access to Yinnar via fixed wireless technology.

The Yinnar Recreation Reserve is comprised of Crown Land for which Council is the appointed committee of management, Crown Allotment 7E in the Parish of Yinnar, together with freehold land owned by Council, Lot 1 on PS 300383. It is on the parcel of land owned by Council that the tower is to be located, as shown on Attachment 1.

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The Yinnar Recreation Reserve is managed by the Yinnar Recreation Reserve Committee of Management Inc. (the committee) under a management agreement between the committee and Council that was entered into in September 2012 (Attachment 2).

This agreement defines the role of the committee as being “to manage, operate and maintain the facility for the community in an efficient, effective and practical manner, without involving Council in the day to day management and to encourage, promote and provide for the use of the facility”.

Under the terms of this agreement the committee is responsible for all maintenance of the reserve, including both ovals, whilst Council is only responsible for maintenance of the internal road network and any line marking that may be required.

The committee can be seen as a good model for such management arrangements as it is empowered, coherent and cohesive and this is reflected in the standard of the facility which has been achieved with minimal involvement by Council.

The committee has negotiated a lease agreement for placement of the tower on part of the reserve however, as they are not the land owner, it will be necessary for the lease to be between Council and NBN Co Limited.

In October 2012 an application for a planning permit was lodged by Visionstream Pty Ltd, on behalf of NBN Co Limited, “for building and works to establish a proposed telecommunications facility on the property that comprises a 40 metre high monopole, equipment units, and associated antennas”.

A planning permit (2012/283) was subsequently issued under delegation on 4 April 2013.

The attached letter has been received from the committee supporting the installation of the proposed tower on the reserve (Attachment 3).

The proposed lease was previously considered at the ordinary meeting held on Monday 15 July and resolved that Council:

1. *Gives public notice of its intention to enter into a 20 year lease agreement with NBN Co Limited for part of the Yinnar Recreation Reserve in Jumbuk Road, Yinnar, being Lot 1 on PS 300383 and the land contained in Certificate of Title Volume 9965 Folio 414, pursuant to Section 190 of the Local Government Act 1989.*
2. *Considers any submissions received in relation to the proposed long-term lease with NBN Co Limited for part of the Yinnar Recreation Reserve in Jumbuk Road, Yinnar, being Lot 1 on PS 300383 and the land contained in Certificate of Title Volume 9965 Folio 414, at the Ordinary Council Meeting to be held on Monday 19 August 2013.*

### **ISSUES**

Initial discussions regarding the proposed placement of an NBN tower at the Yinnar Recreation Reserve took place between the committee and Visionstream Pty Ltd prior to being referred to Council as the land owner.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

The proposed lease agreement that was negotiated with NBN Co Limited is for a term of 20 years at an initial rental of \$8,000.00 per annum plus GST, to be increased annually by 2.5% for the duration of the lease, which will be paid directly to the committee.

A copy of the proposed lease agreement is attached to this report (Attachment 4).

The committee have negotiated with NBN Co Limited to allow for the co-location of lighting equipment on the tower which will serve as the second of four lighting towers for the oval.

Upon expiration or termination of the lease, unless a new agreement is entered into, NBN Co Limited will be required to remove all cabling and fixtures installed on the land.

Should Council agree to enter into the proposed lease it is anticipated that construction of the tower would commence in early September for a period of 4-6 weeks, subject to weather conditions, with it becoming operational once power has been connected.

As the proposed lease is to be for a term of 20 years it was necessary for Council to give public notice pursuant to Section 190 of the *Local Government Act* 1989 and invite comment prior to entering into the lease agreement.

### **FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

Under the terms and conditions of the proposed lease NBN Co Limited will be required to maintain a valid public liability insurance policy, for no less than \$20 million, and will be responsible for insuring all assets within the lease area.

As stated above, it is proposed that the annual rental shall be paid directly to the committee to enable it to be used for improvements to the Yinnar Recreation Reserve.

The management agreement requires that the committee must provide an annual financial statement to Council and this will act as an accountability mechanism to ensure that the rental paid to the committee is being used in an appropriate manner.

Whilst Council is listed as the landlord for the purposes of this lease agreement the actual financial and resource implications will be minimal.

### **INTERNAL/EXTERNAL CONSULTATION**

*Engagement Method Used:*

- Public notices placed in the Latrobe Valley Express on Thursday 25 and Monday 29 July 2013.
- Public notice placed on Councils website.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

- Public notice placed in the Yinnar General Store.
- Public notice placed at the Yinnar Recreation Reserve.

### *Details of Community Consultation / Results of Engagement:*

No formal submissions or general enquiries have been received in response to the above public notices seeking comment on the proposed lease agreement.

### **OPTIONS**

Council may now resolve to either:

- Enter into a long-term lease agreement with NBN Co Limited for part of the Yinnar Recreation Reserve for a term of 20 years.
- Not enter into a long-term lease agreement with NBN Co Limited which will require no further action. This will require NBN Co Limited to identify an alternative site in Yinnar for placement of a tower and will result in them being unable to act on the planning permit issued in April 2013. A new permit would be required for any other site.

### **CONCLUSION**

The Yinnar Recreation Reserve Committee of Management has negotiated a lease with NBN Co Limited for the installation of a monopole tower on part of the Yinnar Recreation Reserve owned by Council as part of the roll out of the National Broadband Network.

Council, as the owner of the land on which the tower is to be erected, will need to enter into the proposed lease with NBN Co Limited.

The rental from the proposed lease will provide an additional source of funding for the reserve and will also allow lighting to be co-located on the tower for the eastern oval.

Having given public notice of the proposed long-term lease with NBN Co Limited in accordance with Section 190 of the *Local Government Act 1989* it would now be appropriate for Council to enter into the lease for part of the Yinnar Recreation Reserve.

#### **Attachments**

1. Attachment One: Aerial photograph of the Yinnar Recreation Reserve showing location of proposed lease.
2. Attachment Two: Yinnar Recreation Reserve Licence & Service Agreement
3. Attachment Three: Letter of support from the Yinnar Recreation Reserve Committee of Management Inc.
4. Attachment Four: Copy of proposed lease agreement with NBN Co Limited.

**RECOMMENDATION**

- 1. That Council resolves to enter into a lease agreement with NBN Co Limited for part of the Yinnar Recreation Reserve in Jumbuk Road, Yinnar, being part of Lot 1 on PS 300383 and the land contained in Certificate of Title Volume 9965 Folio 414.**
- 2. That Visionstream Pty Ltd and the Yinnar Recreation Reserve Committee of Management Inc. be advised accordingly.**

**Moved:** Cr White  
**Seconded:** Cr Middlemiss

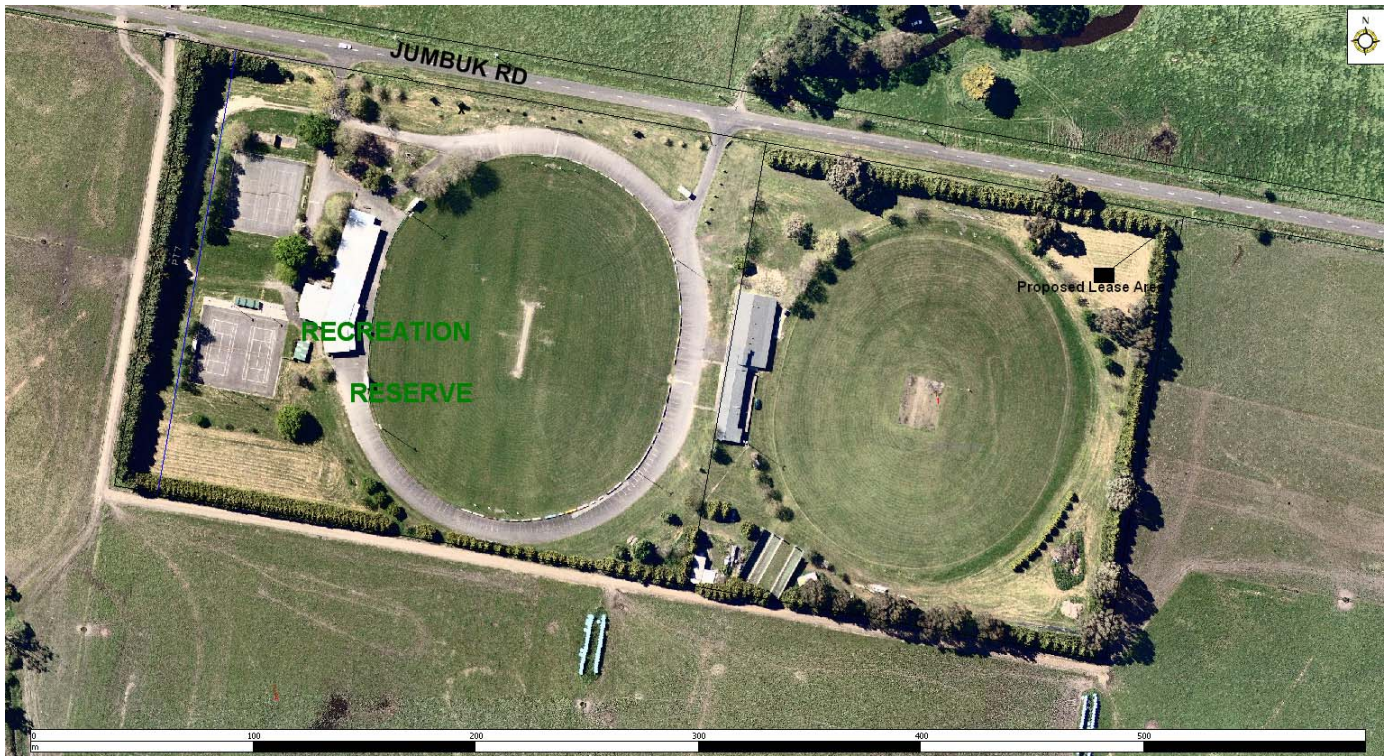
**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

## 9.1

### PROPOSED LEASE OF LAND - YINNAR RECREATION RESERVE

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- 2 Attachment Two: Yinnar Recreation Reserve Licence & Service Agreement ..... 21
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- 4 Attachment Four: Copy of proposed lease agreement with NBN Co Limited. .... 35





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**YINNAR RECREATION RESERVE**

This Agreement is between **LATROBE CITY COUNCIL** of 141 Commercial Road, Morwell 3840 and **YINNAR RECREATION RESERVE COMMITTEE OF MANAGEMENT INC.** of Main Street, Yinnar, for the period from 01/06/2012 to 31/05/2017.

**1. DEFINITIONS**

“Committee of Management” means the Yinnar Recreation Reserve Committee of Management Inc, being a properly constituted and legal body incorporated under the provisions of the Associations Incorporation Act 1981.

“Council” means the Latrobe City Council.

“facility” means the Yinnar Recreation Reserve located at Jumbuk Road, Yinnar, and as defined by the plan (attached) – Appendix 2.

“property” means the land the subject of this Agreement and includes any structures or buildings on the land.

**2. PURPOSE**

The purpose of this Agreement is to establish occupancy arrangements, to define the relationship between the Council and the Committee of Management and to identify the respective responsibilities of each in order to ensure that the facility is well maintained, managed and available to specific user groups and the community as a whole on a fair and equitable basis.

**3. ROLE OF COUNCIL****3.1 Ownership**

The role of the Council is primarily as owner of Lot 1 on PS 300383J and the appointed Committee of Management for Crown Allotment 7E in the Parish of Yinnar.

The ownership of the facility remains vested in the Council as part of the property and no tenancy, estate or interest in either the property or the facility is created in the Committee of Management by the execution of this Agreement.

**3.2 Other roles**

Council’s other roles are to act in an advocacy and advisory capacity when necessary and to otherwise act in accordance with its responsibilities elsewhere defined in this Agreement.

**4. ROLE OF COMMITTEE OF MANAGEMENT**

The role of the Committee of Management is to manage, operate and maintain the facility for the community in an efficient, effective and practical manner, without involving Council in day to day management and to encourage, promote and provide for the use of the facility for the purpose in Clause 2.

**5. GRANT OF LICENCE**

In consideration of the due and prompt payment of the licence fee of \$1.00 per annum, payable on demand, the Council licenses the Committee of Management to occupy and use the facility and the property on which it is erected for the period from 01/06/2012 to 31/05/2017, subject always to the terms of this Agreement which are non exclusive and do not comprise or include any rights other than those granted or to which the Committee of Management is otherwise entitled by law.

**6. RULES OF COMMITTEE OF MANAGEMENT**

Any proposed alteration or amendment to the Rules of the Committee of Management must be notified to the Council.

**7. FUNCTIONS**

To further its objectives and without limiting any other provisions of this Agreement the Committee of Management is required to in relation to the facility:

- develop policies and procedures for its effective and efficient management.
- manage, operate and maintain it in accordance with adopted policies, procedures and sound financial management principles.
- determine the terms and conditions under which it is to be made available for use by the public generally or by specific user groups.
- promote its use.
- act in compliance with relevant reporting requirements contained herein.

**8. COMPLIANCE WITH LAWS**

The Committee of Management must comply with all laws relating to the property or the use of the property.

The laws which you must comply with include (but are not limited to):

- (I) Council local laws;
- (II) the Liquor Control Reform Act 1998 and any regulations made pursuant to that Act or any other law relating to the sale or consumption of liquor;
- (III) the Health Act 1958;
- (IV) the Occupational Health and Safety Act 1985;
- (V) the Property Law Act 1958;
- (VI) the Building Act 1993;
- (VII) the Associations Incorporation Act 1981;
- (VIII) the Commercial Arbitration Act 1984.

**9. NO AGENCY ARRANGEMENT OR ASSIGNMENT**

- (I) The Committee of Management is not by virtue of the execution of this Agreement constituted an agent of the Council.
- (II) The Committee of Management must not without first obtaining the Council's consent assign, under-licence, mortgage, or charge this Licence or part with or share possession of the property or any part of it.

**10. REPORTING & PERFORMANCE MONITORING REQUIREMENTS**

- (I) Within 3 months of this Agreement being signed the Committee of Management must:
- develop and submit a three year maintenance program for the property;
  - outline how this program will be met;
  - submit a three year budget, if turnover exceeds or will exceed \$30,000; and
  - submit a schedule of user charges.
- (II) Where annual turnover is expected to or will exceed \$30,000 the Committee of Management must submit by 28 February each year an annual budget together with a schedule of user charges which reflect operating and maintenance requirements for the next annual period commencing 1 July.
- (III) Within one month of the Annual General Meeting, the Committee of Management must provide the Council with the following:
- Copy of the minutes of the Annual General Meeting.
  - A report on the operations of the Committee for the previous 12 months.
  - Annual financial statement for the previous 12 months prepared in accordance with Section 30 of the Associations Incorporation Act 1981.
  - Details of Office-Bearers for the ensuing year.
  - Copy of the Committee's Essential Services Register (as detailed in Clause 15)
  - Risk Assessment Inspection Report (proforma at Appendix 1).

**11. FINANCIAL MANAGEMENT & OUTGOINGS**

- (I) The Committee of Management must do all things necessary to ensure prudent and sound financial management of the facility.
- (II) The Committee of Management is responsible to pay for all services supplied to the property such as water, electricity, gas, sewerage, telephone and any other similar utility charge, rate or cost.

**12. COUNCIL FUNDING**

The provision of an annual operating grant to the Committee will be subject to the annual budget process of the Council. In the event that such funding is not to be provided the Council will notify the Committee of Management as early as possible to enable the Committee to plan for this eventuality.

The Committee of Management is not precluded from making separate application to the Council for funding support from any Grant Scheme or other funding source offered by the Council or any other body from time to time. The Committee of Management will be subject to terms and conditions generally applying to any funds allocated from such sources.

**13. MAJOR WORKS**

- (I) The Council may take responsibility for any required structural changes to the property, the funding for which will be subject to negotiation and agreement between the Committee of Management and the Council, on a project by project basis.
- (II) The Committee of Management may suggest or request the undertaking of major works which, subject to Council consent, it may do at its cost.
- (III) Any additions modifications or improvements made to the property during the term of this Agreement are to remain the property of the Council.
- (IV) The Committee of Management is responsible for maintenance and replacement of all fittings, furniture and equipment within the facility.

**14. FUNDRAISING**

All fundraising activities for or related to the facility, including any undertaken by the Committee of Management, must not occur until after all applicable permits and licences have been obtained.

**15. ESSENTIAL SERVICES**

The Committee is responsible for maintaining an Essential Services Register and ensuring subsequent action and reporting is carried out as appropriate.

The Committee is responsible for ensuring an evacuation plan, detailing the location of fire extinguishers and emergency exits is displayed at the exits of all buildings.

The Committee will undertake inspections of paths of entry and exit on a quarterly basis and ensure that fire extinguishers are serviced twice yearly.

**16. DECLARED EMERGENCIES**

During periods of declared emergencies, Council reserves the right to designate, manage and operate the facility as an Emergency Relief or Response Centre. In this situation Council will furthermore reserve the right to cancel (possibly at little or no notice) any existing casual or regular bookings that conflict with the dates the facility is proposed to be used for emergency relief or response purposes.

Operational and set up costs associated with the use of the facility as an Emergency Relief or Response Centre will be the responsibility of the Council.

**17. INSURANCES**

- (I) The Council is responsible for the insurance of all buildings, any contents it owns and other physical structures at the facility. The Committee of Management is responsible to pay any excess or deductible amount in respect of any insurance claim.
- (II) The Council will provide public liability insurance for the Committee of Management and volunteers working for it to cover negligent acts, errors or omissions while the Committee or volunteers are acting directly and solely within the scope of the role and duties in this Agreement for and on behalf of the Council and subject to the terms and conditions of the endorsement placed on Council's insurance policy.
- (III) The Committee of Management:

- 
- is responsible to insure for the full reinstatement and replacement value any contents it owns at the facility; and
  - must maintain a Workcover Policy of insurance, if required by law to do so, for any employee or person engaged who may be classified as an employee.
- (V) The Council will cover casual hirers of hall facilities against public liability and property damage claims arising from an occurrence at a function.
- (V) The Committee of Management must ensure that user groups have adequate public liability insurance cover (a minimum value of \$10M is required) having regard to the type of use intended to be made of the facility.
- (VI) The Committee of Management must not do anything or allow anything to be done on the property which may cause any insurance policy to be invalid or avoided or cause any increase in premiums.

**18. INDEMNITY**

The Committee of Management indemnifies the Council in respect of any liability for damage or personal injury arising on the property or as a result of any use of the property in circumstances where it is not acting within the scope of the roles and duties in this Agreement.

**19. MAINTENANCE**

- (I) The Committee of Management must keep the property inclusive of fittings, furniture and equipment in good repair and condition.
- (II) Any works undertaken on the property must comply with the statutory health and safety standards applicable.
- (III) The Committee of Management will maintain each oval to the standard set by the Council.
- (IV) The Council will be responsible for maintenance of the internal road network and any line marking.

**20. USE AND FEES**

- (I) The property is to be used for sports and recreation uses associated with the Yinnar Recreation Reserve as a place of public resort and recreation serving the needs of residents of the area and the general public.
- (II) The Committee of Management is responsible for the formulation and administration of terms and conditions for use of the facility, including the setting of hire fees and security deposits. All terms and conditions of use and access must be consistent with any Council policy(s).
- (III) The Committee of Management must formulate a written Hire Agreement inclusive of an indemnity to be entered into with users of the facility.
- (IV) The Committee of Management must ensure that all users of the facility execute the hire agreement and indemnity prior to any use.

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**21. SECURITY & ACCESS**

- (I) The Committee of Management is responsible for the day to day security of the facility, including storing and issuing of keys, changing of locks, and the like.
- (II) Subject to prior arrangement with the Secretary of the Committee of Management, the Council, its staff, contractors and agents will have access to the facility at all reasonable times.

**22. TERMINATION OF AGREEMENT**

- (I) The Council reserves the right to terminate or suspend this Agreement at any time on 60 days written notice and to resume control of the facility should it be deemed necessary from any cause to do so after a period of consultation with the Committee of Management.
- (II) In the event of this Agreement being terminated,
  - the licence granted in Clause 5 is also terminated;
  - the Committee of Management forfeits all rights and entitlements to the management and operation of the facility; and
  - the Committee of Management must deliver up and vacate the facility in good order and kept as required by this Agreement, complete with all keys, fixtures and any fittings vested in the Council.

**23. CONSENT & NOTICES**

Any consent, approval or notice required by this Agreement must be in writing and may be served personally or by leaving it at the property or by posting. The address for service will be as set out at the head of this Agreement.

**24. WINDING UP**

In the event of the winding-up of the Committee of Management any assets or liabilities of the Committee of Management will be disposed of and/or transferred in accordance with the Rules of the Committee of Management.

**25. DISPUTE SETTLEMENT**

Any dispute arising in relation to the use of or any other matter whatsoever relating to the facility and its operation must be settled by consultation between the Council and Committee of Management. In the event of the dispute NOT BEING SETTLED a person nominated by the Chairperson of the Victorian chapter of the Institute of Arbitrators will be appointed to arbitrate the matter.

**26. VARIATION OF AGREEMENT**

This Agreement may be varied only with the joint consent of the Council and the Committee of Management.

**27. REVIEW OF AGREEMENT**

This Agreement may be renegotiated at any time during the period, at the instigation of either the Council or the Committee of Management.

**28. RENEWAL OF AGREEMENT**

This Agreement may be renewed for a further five year term subject to mutual agreement between the Council and the Committee of Management.

The **LATROBE CITY COUNCIL** and the **YINNAR RECREATION RESERVE COMMITTEE OF MANAGEMENT INCORPORATED** agree to the terms and conditions as specified in this Agreement.

<b>SIGNED</b> for and on behalf of	)
<b>LATROBE CITY COUNCIL</b> by	)
Paul Buckley pursuant to	)
Instrument of Delegation dated	)
17 November 2009	)
In the presence of:	) _____
	Chief Executive Officer

\_\_\_\_\_ Witness

**THE COMMON SEAL** of the **YINNAR RECREATION RESERVE COMMITTEE OF MANAGEMENT INCORPORATED** was hereunto affixed in the presence of:

.....  
Member

.....  
Member

This ..... day of ..... 2012





## APPENDIX NO. 1

LATROBE CITY COUNCIL  
RECREATION/SPORTING FACILITIESRISK ASSESSMENT INSPECTION REPORT

I.D.	Facility:		
Date:	Address:		
Inspection by:		Ph:	
Facility Contact:		Ph:	

**EXTERNAL ENVIRONMENT**

Field of Play	Condition	Risk Required	Treatment	Action Taken
Surface <ul style="list-style-type: none"> <li>• Depressions, irrigation covers,</li> <li>• excessive water,</li> <li>• grass cover,</li> <li>• rubbish, obstacles etc.</li> </ul>	Satisfactory / Not Satisfactory			
Goal posts/nets <ul style="list-style-type: none"> <li>• Secured,</li> <li>• padding</li> </ul>	Satisfactory / Not Satisfactory			
Boundary fences/gates <ul style="list-style-type: none"> <li>• Adequate runoff distance,</li> <li>• secured,</li> <li>• signage fixed</li> </ul>	Satisfactory / Not Satisfactory			
Lighting <ul style="list-style-type: none"> <li>• Appropriate, secure</li> </ul>	Satisfactory / Not Satisfactory			
<b>Public Viewing/ Access Areas</b>				
Grandstands <ul style="list-style-type: none"> <li>• Structure,</li> <li>• stairways, handrails</li> </ul>	Satisfactory / Not Satisfactory			
Amenities <ul style="list-style-type: none"> <li>• Clean,</li> <li>• consumables,</li> <li>• lighting,</li> <li>• access,</li> </ul>	Satisfactory / Not Satisfactory			

<ul style="list-style-type: none"> <li>rubbish bins - collection/storage</li> </ul>			
<b>Roadways/paths</b> <ul style="list-style-type: none"> <li>Obstructions, tripping hazards,</li> <li>signage,</li> <li>drainage,</li> <li>trees/dead branches etc.</li> </ul>	Satisfactory / Not Satisfactory		
<b>Equipment</b> <ul style="list-style-type: none"> <li>Storage, security</li> </ul>	Satisfactory / Not Satisfactory		

**BUILDINGS & INDOOR SPORTING AREAS**

<b>Courts</b>	<b>Condition</b>	<b>Risk Required</b>	<b>Treatment</b>	<b>Action Taken</b>
<b>Surface</b> <ul style="list-style-type: none"> <li>Clean,</li> <li>Seal, traction,</li> <li>linemarking</li> </ul>	Satisfactory / Not Satisfactory			
<b>Goal posts/backboards</b> <ul style="list-style-type: none"> <li>Secured,</li> <li>padding, nets</li> </ul>	Satisfactory / Not Satisfactory			
<b>Perimeter Clearances</b> <ul style="list-style-type: none"> <li>Run-out distance,</li> <li>umpire corridors</li> </ul>	Satisfactory / Not Satisfactory			
<b>Lighting</b> <ul style="list-style-type: none"> <li>Appropriate,</li> <li>secure,</li> <li>functioning</li> </ul>	Satisfactory / Not Satisfactory			

**PUBLIC AMENITY**

<b>Access/Seating</b> <ul style="list-style-type: none"> <li>Appropriate,</li> <li>handrails, ramps,</li> <li>clear passage</li> </ul>	Satisfactory / Not Satisfactory			
<b>Toilets</b> <ul style="list-style-type: none"> <li>Clean,</li> <li>consumables,</li> <li>lighting,</li> <li>access</li> </ul>	Satisfactory / Not Satisfactory			
<b>Roadways/paths</b> <ul style="list-style-type: none"> <li>Obstructions, tripping hazards,</li> <li>signage,</li> <li>drainage</li> </ul>	Satisfactory / Not Satisfactory			
<b>Equipment</b> <ul style="list-style-type: none"> <li>Storage,</li> <li>security</li> </ul>	Satisfactory / Not Satisfactory			

<b>BUILDING</b>			
Essential Services <ul style="list-style-type: none"> <li>• Emergency/exit lighting,</li> <li>• exit signs,</li> <li>• fire fighting equipment,</li> <li>• evacuation plan</li> </ul>	Satisfactory / Not Satisfactory		
General Condition <ul style="list-style-type: none"> <li>• structure, int/ext cladding, roof, doors</li> <li>• secure, locks, windows</li> </ul>	Satisfactory / Not Satisfactory		
<b>OTHER COMMENTS</b>			

APPENDIX NO. 2



PRESIDENT

Don Barnes  
0417 561 311

**YINNAR  
RECREATION  
RESERVE**  
Est. 1958

SECRETARY

Chris Long  
Box 165 Yinnar 3869  
51 631 575 / 0428 631 575

17 June 2013

Mr Peter Schulz  
Property & Statute Officer  
Latrobe City Council  
PO Box 264  
Morwell VIC 3840

<b>LATROBE CITY COUNCIL</b> INFORMATION MANAGEMENT	
RECEIVED	
19 JUN 2013	
R/O:	Doc No:
Comments/Copies Circulated to:	
<input type="checkbox"/> Only registered in DataWorks	<input type="checkbox"/> Invoice forwarded to accounts

Dear Mr Schulz

**PROPOSED NBN TOWER, YINNAR RECREATION RESERVE**

I write as President and on request of the Yinnar Recreation Reserve Committee of Management. I understand that Council will be considering a planning permit application to erect a communications tower at the Reserve as part of the Australian Governments NBN project. It would be appreciated if this letter is submitted to Council as part of any report on this mater.

For the benefit of Council and Council Officers, the following may be of interest when determining the matter:

1. The Yinnar Recreation Reserve Committee of Management (CoM) is a Latrobe City Council auspiced and controlled Committee.
2. The CoM comprises representatives of user groups including: Yinnar Football & Netball Club, Yinnar & District Judo Club, Morwell Tigers Yinnar Cricket Club, Yinnar Tennis Club and community members not aligned to, or a Committee member of these clubs.
3. The CoM structure ensures it is a broad based "whole of community" committee, which assists in ensuring it receives many differing views and opinions when considering matters at its meetings.
4. The CoM through its community and user group membership represents and advocates on behalf of the active and passive recreation needs and interests of the vast majority of the Yinnar & District community.
5. The combined membership of our user groups exceeds some 600 people.
6. The CoM has been extremely impressed with the process of engagement and consultation undertaken by NBN and its contractors in the planning of this project.
7. As a result of the engagement process, the proposed NBN tower will be erected within the Reserve at a location that will enable it to be used as the

second of four lighting towers that will see match quality oval lighting in place on our eastern oval (one has been erected to date). This will save our user groups and community approximately \$12-15k - the cost of constructing and erecting a single tower of the height required for match quality lighting.

8. Lighting of the eastern oval to match competition standard is the CoM's highest capital project priority. This is required to cater for the expanding number of predominantly junior teams located at the Reserve, and to ease the training and match burden on the western oval.
9. NBN have agreed to the CoM's lighting equipment to be mounted on the communications tower. Other savings will be made by the CoM through utilizing the NBN cabling trench (we wont have to dig a separate trench for our lighting cables).
10. The Yinnar community will benefit significantly from the NBN tower, and its services cannot be brought to this community too soon.
11. The Yinnar & District Community Association (YDCA) has been advised of our support of this project. I am also advised that as part of Council's notification process for planning consideration, the YDCA have received separate notice of the development application.

In summary, the Yinnar Recreation Reserve Committee of Management offers it full support to the erection of a communications tower at the Reserve as part of the NBN project roll out.

Thank for you for the opportunity to submit this letter to Council. Should you require any further information, please do not hesitate to contact me on 0417 561 311.

Yours faithfully



Don Barnes  
**PRESIDENT**

CC Secretary, YDCA  
YRR CoM community representatives  
Secretary, Yinnar Football & Netball Club  
Secretary, Yinnar & District Judo Club  
Secretary, Morwell Tigers Yinnar Cricket Club  
Secretary, Yinnar Tennis Club  
Petar Rajcevic, Visionstream

## **Lease**

Dated:

NBN CO LIMITED (ACN 136 533 741)

LATROBE CITY COUNCIL

Date

Parties

Latrobe City Council

(Landlord)

NBN Co Limited (ACN 136 533 741)

(Tenant)

## General Conditions

### 1 Defined terms & interpretation

#### 1.1 Defined terms

In this Lease:

**Act** means the *Telecommunications Act 1997* (Cth).

**APRA** means Australian Prudential Regulation Authority.

**Business Day** means any day in the Jurisdiction which is not a Saturday, Sunday or Public Holiday.

**Carrier** has the meaning given to it in the Act.

**Code** means the *Telecommunications Code of Practice 1997*.

**Consecutive Lease** means a lease of the Premises between the Landlord and NBN Co other than this Lease, which is granted at the same time as this Lease in respect of periods either prior or subsequent to the Term.

**Date of Commencement** means the date stated in Item 2.

**Date of Expiration** means the date stated in Item 3.

**Determination** means the *Telecommunications (Low Impact Facilities) Determination 1997*.

**Equipment** means those items of plant and / or equipment brought onto the Land by NBN Co for the use permitted by this Lease.

**General Conditions** means the part of this Lease described as General Conditions.

**Government Agency** means any government or any governmental, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

**GST** means a goods and services tax or like tax payable in respect of a supply under the Lease.

**Information Table** means the part of this Lease described as Information Table.

**Item** means an item in the Information Table.

**Jurisdiction** means the state or territory of the Commonwealth of Australia in which the Land is situated.

**Land** means the land described in the Certificate of Title (or title reference) referred to in Item 1.

**Landlord** means the Landlord described on the front page of the Lease and its successors and assigns or, if the Landlord is a natural person, its executors, administrators and assigns and in either case its employees, agents and contractors.



**Landlord's Covenants** means the covenants and agreements contained or implied in the Lease to be observed and performed by the Landlord.

**Lease** means the lease or tenancy that exists between the Landlord and NBN Co in relation to the Premises of whatever nature and whether at law or in equity as evidenced in whole or in part by this document.

**NBN Co** means the lessee described on the front page of the Lease and its successors and assigns and where the context permits, its employees, agents, invitees and contractors.

**NBN Co's Covenants** means the covenants and agreements contained or implied in the Lease to be observed and performed by NBN Co.

**Payment Date** means the date stated in Item 7.

**Premises** means the premises described in Item 1.

**Related Body Corporate** has the meaning given in the *Corporations Act 2001* (Cth).

**Rent** means the amount stated in Item 5.

**Reputable Insurer** means an insurer who is:

- (a) a reputable APRA authorised insurer(s); or
- (b) APRA exempt and maintains a Standard & Poor's rating of A minus or higher (or an equivalent rating agency rating).

**Special Conditions** means the special conditions in Item 9.

**Statute** means any statute, regulation, proclamation, ordinance, by-law, code or determination of the Commonwealth of Australia or the Jurisdiction and includes all statutes, regulations, proclamations, ordinances, by-laws, codes or determinations varying, consolidating or replacing them and all regulations, proclamations, ordinances, by-laws, codes and determinations issued under that statute.

**Term** means the term of the Lease set out in item 4.

## 1.2 Interpretation

In the Lease, unless the context otherwise requires:

- (a) headings and underlinings are for convenience only and do not affect the interpretation of Lease;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, joint venture, corporation or other body corporate and any Government Agency;
- (e) a reference to any thing includes a part of that thing;
- (f) a reference to a part, clause, party, annexure, exhibit, information table or schedule is a reference to a part and clause of and a party, annexure, exhibit, information table and schedule to the Lease;
- (g) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding day which is a Business Day;

- (h) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Lease or any part of it;
- (i) month means a calendar month;
- (j) a covenant or agreement on the part of two or more persons binds them jointly and severally;
- (k) "includes" in any form is not a word of limitation;
- (l) any parties, persons, facts, events or documents alternatively or collectively shall be construed as a reference to all of them and to each and any one or more of them; and
- (m) any organisations, associations, societies, groups or bodies shall in the event that any of them ceases to exist or is reconstituted renamed or replaced or that any of its powers or functions are transferred to any other entity body or group refer respectively to any such entity body or group established or constituted in lieu thereof or succeeding to similar power or functions.

### 1.3 Third parties

Any covenant (whether express or implied) by a party to this Lease not to do or omit any act or thing shall be deemed to extend to an obligation not to permit any third party to do or to omit the same.

### 1.4 Special Conditions

The parties acknowledge and agree that the Special Conditions take precedence over the General Conditions to the extent of any inconsistency between the Special Conditions and the General Conditions.

## 2 Grant of Lease, implied covenants and powers

### 2.1 Grant of Lease

The Landlord leases the Premises to NBN Co for the Term at the Rent subject to the terms and conditions contained in this Lease.

### 2.2 Exclusion of implied covenants

The obligations and powers implied in the Lease by section 67 of the *Transfer of Land Act 1958* (Vic) are expressly excluded.

### 2.3 Inclusion of implied covenants

Any covenants and powers implied in the Lease by any law apply to the extent they are consistent with the terms of the Lease and which are applicable to NBN Co.

### 2.4 Contravention of Statute - severance

Any provision of the Lease or its application to any party or in any circumstances is or becomes void, voidable, unenforceable or invalid because of any Statute or otherwise must in any such case and to such extent be severed from the Lease, and the Lease must be read as though such provision did not form part of the Lease at that time.

## 3 Term of Lease and holding over

### 3.1 Term of the Lease

The Term commences on the Date of Commencement and expires on the Date of Expiration, subject to the provisions of the Lease.

### 3.2 Yearly tenancy holding over

If NBN Co occupies the Premises after the Date of Expiration (other than pursuant to a Consecutive Lease or the grant of a further lease) NBN Co must do so as a yearly tenant for yearly terms thereafter on the same terms and conditions as the Lease as far as they apply to a yearly tenancy. Either party may terminate the yearly tenancy by giving not less than 12 months' notice to the other party expiring on any day.

## 4 Payment

### 4.1 NBN Co's Covenant

NBN Co must pay the Rent to the Landlord during the Term.

### 4.2 Payment of Rent

- (a) Subject to clause 4.2 (b), the Rent will be paid annually in advance to the Landlord or to any other person the Landlord notifies to NBN Co. Any notification must be served at least 30 days prior to the date for payment of Rent.
- (b) The first Rent payment will be made on the Payment Date. The following Rent payments will be made annually in advance on or before the anniversary of the Date of Commencement and thereafter on the same day of each year.
- (c) If an instalment of Rent is for a period of less than one year, the instalment for that period is apportioned on a daily rate for the relevant lease year.

### 4.3 Rent Reviews

The Rent will be increased by 2.50% on each anniversary of the Date of Commencement.

### 4.4 GST

- (a) Unless stated to the contrary, all payments to be made by NBN Co under the Lease (including but not limited to Rent) are calculated without regard to GST. If a payment by NBN Co to the Landlord under the Lease is consideration for a supply by the Landlord under the Lease on which the Landlord must pay GST, NBN Co must also pay the Landlord an additional amount equal to the GST payable (**GST Amount**) by the Landlord on that supply.
- (b) Subject to clause 4.4(d), NBN Co will issue recipient created tax invoices (**RCTIs**) for the taxable supplies made by the Landlord to NBN Co under this Lease. For the purpose of NBN Co issuing RCTIs the parties agree:
  - (i) NBN Co may, to the extent it is legally entitled to do so, issue a single RCTI for more than one rental period;
  - (ii) The Landlord will not issue a tax invoice in respect of any supply it makes to NBN Co under this Lease;
  - (iii) Each party acknowledges and warrants that at the time of entering into this Lease, it is registered for GST; and
  - (iv) Each party must notify the other party if, at any time, it ceases to be registered for GST or it ceases to comply with any of the requirements of any taxation ruling issued by the Australian Taxation Office relating to the issuing of RCTIs.
- (c) If a payment to a party under this Lease is a reimbursement or indemnification calculated by reference to a loss, cost or expense incurred by that party, then

the payment must be reduced by the amount of any input tax credit to which that party is entitled for the acquisition to which that loss, cost or expense relates.

- (d) If NBN Co notifies the Landlord in writing that NBN Co will no longer issue RCTIs then:
- (i) clause 4.4(b) will not apply from the date specified in the notification until NBN Co withdraws the notification by a further notice to the Landlord; and
  - (ii) during the period specified in clause 4.4(d)(i), the Landlord must issue a tax invoice to NBN Co for any taxable supply made by the Landlord to NBN Co under this Lease before the consideration payable for that supply is due and NBN Co need not pay the GST Amount for a particular taxable supply until such time as the Landlord has issued a tax invoice to NBN Co for that supply.

#### 4.5 **EFT payments**

NBN Co may pay the Rent by Electronic Funds Transfer (**EFT**) to the account nominated in Item 6. The Landlord may notify another account in Australia to which payments may be made by EFT to replace the account stated in Item 6. The notification must be served at least 30 days prior to the date for payment of Rent. Payment by EFT by NBN Co's banker to the relevant nominated account by the due date is a full discharge for the payment.

#### 4.6 **Pro rata refund of Rent**

In the event of termination of the Lease pursuant to clause 10.2 or 10.3 the Landlord must forthwith refund to NBN Co prepaid Rent on a pro rata basis.

#### 4.7 **Gross Rent**

The Landlord acknowledges the Rent is a 'gross' rent and is inclusive of all rates, taxes, statutory and building outgoings.

### 5 **Use**

#### 5.1 **Permitted use**

NBN Co will use the Premises for the purpose of constructing, maintaining and operating a telecommunications facility, network and service and such use includes any use allowed under the Act and may do all such things as may be necessary or convenient for this purpose. NBN Co may at any time during the Term install, remove, modify, vary, maintain, use and operate on the Premises such Equipment as is necessary for the use permitted by this Lease now and in the future.

#### 5.2 **Adjoining Land**

The Landlord grants to NBN Co the right to use so much of the Land adjoining and adjacent to the Premises or any installation of NBN Co as is reasonably required during installation, erection, construction, dismantling, repair, replacement, variation, renewal and maintenance of the telecommunications facility, network and service. After using the Land adjoining and adjacent to the Premises NBN Co will restore the surface of the Land as so used as near as practicably possible to its state prior to such use by NBN Co to the reasonable satisfaction of the Landlord.

### 5.3 Requirements of Government Agencies

NBN Co must comply promptly with any applicable Statute in respect of NBN Co's use of the Premises and any requirements, notices or orders of any Government Agency having jurisdiction or authority in respect of the Premises or the use of the Premises. NBN Co is not liable for structural alterations unless caused or contributed to by NBN Co's particular use or occupation of the Premises.

### 5.4 Cabling

For the purpose of the operation of NBN Co's telecommunications facility, network and service, the Landlord will permit NBN Co to install, erect, construct, dismantle, maintain, repair, replace, vary, add and use above or below ground cabling to and from the Premises and any other installations of NBN Co on the Land or to connect to adjoining roads or services and where necessary to construct supports for that cabling. When exercising its rights under this clause, NBN Co must:

- (a) not cause any lasting material damage to the Land or material interference with the Landlord; and
- (b) restore the surface of the Land as so used as nearly as practicably possible to its state prior to use by NBN Co to the reasonable satisfaction of the Landlord.

### 5.5 Non-contiguous Premises

In the event of parts of the Premises not being contiguous one with the other or the Premises being partly or wholly on the rooftop of a building on the Land NBN Co may run such above or below ground cabling, wiring, conduit, earthing straps, cable trays and support structures over the Land or within or upon the building on the Land on which the Premises are situated as are necessary for its safe, continuous and proper use of the Premises but in doing so NBN Co must not cause any material damage to the Land or material interference with the Landlord.

### 5.6 Consents

- (a) The Landlord hereby irrevocably authorises NBN Co to make, at NBN Co's cost, any application for consent or approval to any Government Agency to use or develop the Premises for the use referred to in clause 5.1 and to exercise and procure (at NBN Co's cost) every right and appeal arising from the determination of any such application or the failure to determine the application.
- (b) The Landlord must sign all documentation and do all such things as NBN Co or any person nominated by NBN Co reasonably requires (at NBN Co's cost) to authorise or assist in obtaining consent or approval from any Government Agency to use or develop the Premises for the use referred to in clause 5.1.

## 6 Access to the Premises

### 6.1 Access

The Landlord consents to NBN Co and persons authorised by NBN Co without the need for prior approval and with or without materials, equipment, plant and other apparatus and vehicles entering the Land or land adjoining the Land (owned by the Landlord) for the purpose of using the Premises and installations of NBN Co under this Lease and exercising its rights under the Lease at all times of the day and night during the Term.

## 6.2 Contact person

- (a) The Landlord and NBN Co must each nominate a contact person to contact about non-legal matters relating to access and Equipment and other non-legal matters relating to this Lease. The relevant contact persons, as at the Date of Commencement, are stated in Item 8 of the Information Table.
- (b) The Landlord and NBN Co must each nominate a contact person to contact about legal matters relating to this Lease. The relevant contact persons, as at the Date of Commencement, are stated in Item 8 of the Information Table.
- (c) The contact persons in Item 8 of the Information Table may be changed by the relevant party at any time by notice in writing to the other.

## 7 Insurance

### 7.1 Obligation to insure

- (a) NBN Co must have in force and maintain with a Reputable Insurer for the Term a valid and enforceable public liability insurance policy to the value of at least \$20,000,000 for any one occurrence.
- (b) The Landlord must have in force and maintain with a Reputable Insurer for the Term a valid and enforceable public liability insurance policy to the value of at least \$10,000,000 for any one occurrence.
- (c) The Landlord must inform its public liability insurer of the Lease and do all things necessary to ensure that the insurance policy covers the Landlord with respect to the activities contemplated within the Lease.

### 7.2 Evidence of Insurance

On request (and on no more than two occasions per year):

- (a) by the Landlord, NBN Co will produce to the Landlord satisfactory evidence, including certificates of currency, of the insurance policy required under clause 7.1(a); and
- (b) by NBN Co, the Landlord will produce to NBN Co satisfactory evidence, including certificates of currency, of its insurance policy referred to in clause 7.1(b).

### 7.3 Global Policy

NBN Co may effect its insurance in clause 7.1 pursuant to an insurance policy which is not specific as to the location of risk.

## 8 Installation

### 8.1 Construction and alterations

NBN Co may at NBN Co's discretion and expense during the Term after complying with the requirements of any Government Agency having jurisdiction in the matter to the extent required by law, do anything in accordance with the permitted use of the Premises as set out in this Lease, including, without limitation, to install, erect, construct, dismantle, repair, replace, renew, add, vary and maintain upon the Premises security fencing and any building or buildings as necessary now or in the future to shelter the Equipment and a free standing monopole, lattice tower, guyed mast, multi-sided antenna support structure or other antenna support structure of sufficient height now or in the future to meet NBN Co's telecommunications requirements and all necessary connecting appurtenances.

## 8.2 NBN Co property

Despite the extent of any affixation, the Equipment and all other fixtures, fittings, plant and other items brought onto or erected on the Land by or on behalf of NBN Co, at all times remains the absolute property of NBN Co.

## 9 Electricity supply

### 9.1 Electricity connection

The Landlord must, at NBN Co's cost, permit NBN Co to connect the Premises to an electricity supply (including making provision for and allowing connection to emergency back-up power) and to install on the Land such earthing apparatus as is necessary for the safe continuous use of NBN Co's equipment on the Premises. The supply of this electricity must be made through a dedicated usage meter, installed by NBN Co at its own cost, so that NBN Co is directly accountable for payment of electricity consumed by it on the Premises.

### 9.2 Easement for electricity purposes

- (a) If, pursuant to clause 9.1, NBN Co is required to connect to an electricity supply on or over the Land or on or over land adjoining the Land (owned by the Landlord), the Landlord must grant an easement for electricity purposes across that part of the Land or the land adjoining the Land (owned by the Landlord) to enable NBN Co to connect the Premises to that electricity supply on terms as may be required by the electricity supplier (**Easement**). NBN Co will be responsible for preparing the Easement documentation and must pay the relevant land titles office fees for registration of the Easement, or reimburse the Landlord for such registration fees.
- (b) In anticipation of the grant of Easement, the Landlord hereby consents to NBN Co permitting the relevant electricity supplier to enter the Land or the land adjoining the Land (owned by the Landlord) from the Date of Commencement to construct electricity infrastructure and associated structures required for the purpose of the proposed Easement.

## 10 Termination

### 10.1 Termination by the Landlord

If:

- (a) NBN Co commits a material breach of any of its obligations including payment of Rent, the Landlord may serve notice on NBN Co requiring remedy of the breach within a reasonable time having regard to the nature of the breach specified in the notice (**Trigger Notice**) such period to be not less than 21 days; and
- (b) NBN Co does not remedy the breach within the time specified in the Trigger Notice, the Landlord may serve notice on NBN Co requiring remedy of the breach within a further reasonable time having regard to the nature of the breach such period to be not less than 60 days (**Default Notice**); and
- (c) NBN Co does not remedy the breach within the period specified in the Default Notice,

the Landlord may terminate this Lease by serving notice to NBN Co at any time before the breach is remedied.

## 10.2 Termination by NBN Co

In addition to any rights NBN Co may have to terminate this Lease for breach of the Landlord's Covenants:

- (a) if the Premises are damaged or destroyed or if there is interruption to access to the Premises so as to render the Premises or any part of the Premises wholly or substantially unfit for the occupation or use of NBN Co or inaccessible by any means of access; or
- (b) if any application for a required consent or permit for the installation and use of the Premises as part of a telecommunications facility, network or service is rejected or is cancelled, lapses or is otherwise terminated and no further or replacement consent or permit can reasonably be obtained; or
- (c) any application to a Government Agency for a required consent, permit or licence for the installation and use of the Premises as part of a telecommunications facility, network or service is granted to NBN Co with conditions unacceptable to it in its absolute and unfettered discretion or is finally rejected or is cancelled, lapses or is otherwise terminated and no further or replacement consent or permit can reasonably be obtained; or
- (d) if the Premises are rendered unfit for NBN Co's use by reason of the emergence of physical, radio or other interference,

then NBN Co may terminate the Lease immediately by notice to the Landlord.

## 10.3 NBN Co's additional rights to terminate

NBN Co may also terminate this Lease by notice to the Landlord:

- (a) at any time before it substantially commences construction work to install the Equipment on the Premises (excluding placement of survey pegs or delivery of materials and the Equipment); or
- (b) at any time by giving not less than 6 months notice expiring on any day.

## 10.4 Effect on rights or liabilities

Termination of the Lease does not affect the rights or liabilities of the parties in relation to any cause of action accruing prior to termination.

## 10.5 NBN Co to yield up

NBN Co must, by no later than 6 months after the Date of Expiration (unless there is in place after this Lease a Consecutive Lease or further lease between the Landlord and NBN Co, and in any event subject to clause 14.2), earlier termination of the Lease or such other date as the Landlord and NBN Co agree in writing, yield up the Premises in good repair and clean condition fair wear and tear excepted having regard to their condition at the Date of Commencement of the Lease.

## 10.6 Removal of NBN Co's fixtures and chattels

NBN Co must, by no later than 6 months after the Date of Expiration (unless there is in place after this Lease a Consecutive Lease or further lease between the Landlord and NBN Co, and in any event subject to clause 14.2), earlier termination of the Lease or such other date as the Landlord and NBN Co agree in writing, remove from the Premises all above ground cabling and fixtures, fittings, plant, machinery, and other items erected or brought by it onto the Premises or the Land.



### 10.7 Rent abatement

- (a) If the Premises are damaged or destroyed or if there is interruption to access to the Premises so as to render the Premises or any part of the Premises wholly or substantially unfit for the occupation or use of NBN Co or inaccessible by any means of access, then except to the extent that such damage or destruction is caused by the wrongful or negligent act or omission of NBN Co, the Rent will abate in proportion to the extent to which NBN Co is inhibited from carrying on the use permitted by this Lease from the date upon which the destruction or damage occurs until the earlier of the date upon which it is repaired and the date of termination of the Lease pursuant to clause 10.2 (a).
- (b) If there is a dispute between the parties as to the proportion of Rent to be abated pursuant to clause 10.7(a) which is not resolved within 20 days after notice by one party to the other of the nature of the dispute then:
- (i) the dispute may be referred by either party for determination by an expert who is an appropriate practising professional appointed at the request of either party (**Expert**), by:
    - (a) the President of the professional body most appropriate to determine the dispute or, if the parties are unable to agree on the appropriate body, the President for the time being of the Law Society of the Jurisdiction; or
    - (b) if there is no such body in existence at the time of the request, the President for the time being of an equivalent body;
  - (ii) each party may make a submission either orally or in writing to the Expert within 20 days after that appointment;
  - (iii) in making a determination the Expert must:
    - (a) act as an expert and not as an arbitrator;
    - (b) consider any submission made to it by a party; and
    - (c) provide the parties with a written statement of reasons for the determination;
  - (iv) in the absence of manifest error the determination of the Expert is conclusive and binding on the parties;
  - (v) the costs of the Expert will be shared equally between the parties unless otherwise determined by the Expert; and
  - (vi) if the Expert fails to deliver a determination within 20 days after the last day on which the parties are entitled to make submissions, either party may require the appointment of a further Expert under clause 10.7(b)(i) to determine the dispute.

### 10.8 Termination of consecutive leases

This Lease will terminate automatically if there exists any Consecutive Lease the commencing date of which precedes the Date of Commencement and:

- (a) NBN Co gives notice to the Landlord not later than the date which is 3 months prior to the Date of Commencement that it no longer requires the Premises; or
- (b) that Consecutive Lease is terminated for any reason.

## 11 Notices

### 11.1 Method of service

Any notice to be given under this Lease by one of the parties to the other must be in writing and is given for all purposes by delivery in person, by pre-paid post or by facsimile addressed to the receiving party at the address specified in the notice details in the Information Table.

### 11.2 Time of service

Any notice given in accordance with this Lease will be deemed to have been duly served in the case of posting at the expiration of two Business Days after the date of posting and in the case of facsimile, on the first Business Day after the date of transmission (providing the sending party receives a facsimile machine verification report indicating that the notice has been transmitted).

### 11.3 Change of address

A party may at any time change its address, postal address or facsimile number by giving notice to the other party.

## 12 Assignment and subletting

### 12.1 NBN Co not to assign

NBN Co must not assign the Lease except under clause 12.2 or with the prior written consent of the Landlord under clause 12.3.

### 12.2 Assignment to a Related Body Corporate or a Carrier

NBN Co may from time to time assign the Lease to a Related Body Corporate of NBN Co or to a Carrier or to the holder of a Nominated Carrier Declaration (as those terms are defined in the Act) or to a party in conjunction with the sale of the whole or part of NBN Co's telecommunications network or to a Government Agency.

### 12.3 Assignment

Subject to clause 12.2 NBN Co may assign the Lease with the prior written consent of the Landlord, such consent not to be unreasonably withheld.

### 12.4 Release following assignment

If this Lease is assigned, NBN Co will cease to be liable for any NBN Co's Covenants which arise, or are liable to be performed, on or after the date of assignment. However, NBN Co is not released in respect of breaches of NBN Co's Covenants which arose before the date of assignment.

### 12.5 Subletting

NBN Co may sublet, licence, part with or share its right to possession of the Premises without requiring the consent of the Landlord.

## 13 Landlord's covenants

### 13.1 Quiet enjoyment

The Landlord covenants that NBN Co may peaceably hold and enjoy the Premises during the Term without any interruption by the Landlord or any person rightfully claiming through the Landlord. The Landlord must not do anything which derogates from its grant of the Premises to NBN Co under this Lease.

**13.2 Restriction on Landlord's use of the Land**

The Landlord covenants that the Landlord will not itself nor will it permit any third party to do anything on the Land which is likely to cause physical, radio or other interference which obstructs, interrupts or impedes the use or operation of NBN Co's telecommunications facility, network or service. If NBN Co advises the Landlord of any breach by the Landlord of its covenant the Landlord will, to the extent that it is within its power to do so, use all reasonable endeavours at its expense to forthwith remedy such breach.

**13.3 Landlord's covenant**

The Landlord covenants that the Landlord will not itself nor will it permit any third party to, store on, dispose of on or transport to or over the Land any hazardous substance which is likely to cause interference with NBN Co's use of the Premises. If NBN Co advises the Landlord of any breach by the Landlord of its covenant the Landlord will, to the extent that it is within its power to do so, use all reasonable endeavours at its expense to forthwith remedy such breach.

**13.4 Sale or dealings with the Land by the Landlord**

- (a) The Landlord must not sell, transfer, subdivide or otherwise deal with its interests in the Land (so far as it relates to the Premises and any areas used by NBN Co for access to or use of the Premises) unless it first procures that the transferee or other relevant person provides a deed poll in favour of NBN Co, in a form reasonably required by NBN Co, under which that person agrees to comply with all of the Landlord's Covenants as if that person were the Landlord party originally named in this Lease.
- (b) The Landlord consents to NBN Co lodging a caveat to protect its rights under this Lease. If requested by NBN Co, the Landlord must sign the caveat or other relevant form to indicate its consent.
- (c) NBN Co must consent, as caveator, to the registration of any transfer or dealing contemplated by clause 13.4(a) if the Landlord has provided NBN Co with the duly executed deed poll required under that clause.

**13.5 Consent of Mortgagee or Chargee**

If the Land is subject to any mortgage or charge, the Landlord must, at its cost, obtain the mortgagee or chargee's consent to this Lease.

**13.6 Contamination**

- (a) The Landlord warrants that, at the Date of Commencement, the Land does not contain substances hazardous to health or safety.
- (b) If any cleanup of the Land is required by Statute or because substances are present on the Land which are hazardous to health or safety, and is not caused by the activities of NBN Co on the Land, then the Landlord must, upon written request from NBN Co, at the Landlord's cost, carry out such cleanup as may be required to comply with the Statute or deal with the hazard to health or safety.

## 14 Miscellaneous

### 14.1 Costs and disbursements

Each party is responsible for its own legal and other costs, charges and expenses in relation to the preparation, negotiation and completion of the Lease.

### 14.2 Without prejudice – Telecommunications Act

This Lease is without prejudice to, and nothing in this Lease affects, restricts, limits or derogates from any right, power and immunity of NBN Co under or by virtue of any Statute including, without limitation,

- (a) NBN Co's rights under Schedule 3 of the Act.
- (b) The parties acknowledge that, in relation to the Premises, the installation of any Equipment deemed to be low impact pursuant to the Determination, or the maintenance of any of the Equipment on the Land, by or for NBN Co is undertaken in exercise of the rights of NBN Co pursuant to Divisions 2, 3 and / or 4 (as the case may be) of Schedule 3 to the Act.
- (c) To the extent that an activity performed by NBN Co in connection with the Premises or anything in, over or under the Premises, is an activity that NBN Co is authorised to do under Schedule 3 of the Act, the Landlord waives its right to be given a notice under clauses 17 and 18 of Schedule 3 of the Act, and also waives any rights that it has to object to the activities that, but for this clause, would have been the subject of a notice under clauses 17 and 18 of Schedule 3 of the Act.
- (d) The Landlord agrees that, in light of the terms of this Lease, it will not make any claim against NBN Co in relation to clause 42 of Schedule 3 to the Act.
- (e) The operation of this clause and any waiver given under this clause will survive the termination or expiry of this Lease. Any rights obtained by NBN Co under Schedule 3 of the Act will continue in accordance with the Act, notwithstanding the termination or expiry of this Lease.

### 14.3 Governing law

This Lease is governed by the laws of the Jurisdiction and the Commonwealth of Australia and the Landlord and NBN Co submit to the non-exclusive jurisdiction of the Courts of the Jurisdiction.

### 14.4 Entire Agreement

This Lease contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

### 14.5 No Waiver

No failure to exercise and no delay in exercising any right, power or remedy under this Lease will operate as a waiver. Nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

### 14.6 No Merger

The rights and obligations of the parties will not merge on completion of any transaction under this Lease.

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**14.7 Counterparts**

If this Lease consists of signed counterparts, each is an original and all of the counterparts together constitute the same document.

**14.8 Confidentiality**

The parties each agree that the terms of this Lease are confidential. Except to the extent necessary to comply with its terms, a party must not disclose this Lease or the contents of this Lease to any third party without the prior written consent of each other party unless it is compelled by law to do so.

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Final Version 19/10/12

**EXECUTED** as a Deed

**EXECUTED by NBN Co Limited )**  
**(ACN 136 533 741)** by its duly appointed )  
attorneys in accordance with the power of )  
attorney dated 21 March 2013 in the )  
presence of: )

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney  
By executing this deed the attorney states  
that the attorney has received no notice of  
revocation of the power of attorney

\_\_\_\_\_  
Name of Witness  
(Please print)

\_\_\_\_\_  
Name of Attorney  
(Please print)

\_\_\_\_\_  
Position of Wireless Attorney

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney  
By executing this deed the attorney states  
that the attorney has received no notice of  
revocation of the power of attorney

\_\_\_\_\_  
Name of Witness  
(Please print)

\_\_\_\_\_  
Name of Attorney  
(Please print)

\_\_\_\_\_  
Position of Wireless Attorney

THE COMMON SEAL of the LATROBE )  
CITY COUNCIL was affixed in the )  
presence of: )

.....  
Chief Executive Officer

.....  
Witness

.....  
Name of Witness

## Annexure A

### Information Table

#### Parties Notice Details

Name	Latrobe City Council
ABN	92 472 314 133
Short form name	Landlord
Notice details	Address: PO Box 264, Morwell, Victoria 3840
	Telephone: 03 5128 5668
	Facsimile: 03 5128 5672
	Attention: Mr Peter Schulz
Name	NBN Co Limited
ACN	136 533 741
Short form name	NBN Co
Notice details	Address: Level 11, 100 Arthur Street, North Sydney, New South Wales 2060
	Facsimile: 02 9926 1901
	Attention: Chief Legal Counsel

#### Items

Item 1	<b>Premises</b> (clause 1.1) That part of the Land hatched in black on the plan in Annexure B being part of the property known as Jumbuk Road, Yinnar, Victoria 3869 described in Certificate of Title Volume 9965 Folio 414. Site name: Yinnar Site number: NBN-3TGZ-3CHH-5108
Item 2	<b>Date of Commencement</b> (clause 1.1) 16 August 2013
Item 3	<b>Date of Expiration</b> (clause 1.1) 15 August 2033
Item 4	<b>Term</b> (clause 1.1) 20 Years
Item 5	<b>Rent</b> (clause 1.1) \$8,000.00 per annum payable from the Payment Date.
Item 6	<b>Nominated Account for payment of Rent</b> (clause 4.5) Bank: Bendigo Bank Branch: Mirboo North

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Final Version 19/10/12Account Name: Yinnar Recreation Reserve Committee of  
Management

BSB No: 633 000

Account No: 1491 33845

Item 7

**Payment Date**

The date NBN Co substantially commences construction work to install the Equipment on the Premises (excluding placement of survey pegs or delivery of materials and the Equipment).

Item 8

**Contact Person** (clause 6.2)**Contact person for all Rent and payment matters:****Landlord:** Mr Peter Schulz

Telephone: 03 5128 5668

Facsimile: 03 5128 5672

**NBN Co:** NBN Co Accounts Payable

Telephone: 02 9927 4151

Address: 100 Arthur Street, North Sydney, New South Wales  
2060Email: [accountspayable@nbnco.com.au](mailto:accountspayable@nbnco.com.au)**Contact person for non-legal matters relating to access and Equipment:****Landlord:** Mr Peter Schulz

Telephone: 03 5128 5668

Facsimile: 03 5128 5672

**NBN Co:** NBN Co Network Operations Support

Telephone: 1800 626 762 (option 5)

**Contact person for all other non-legal matters relating to this Lease:****Landlord:** Mr Peter Schulz

Telephone: 03 5128 5668

Facsimile: 03 5128 5672

**NBN Co:** NBN Co Commercial Network ManagerEmail: [wirelesservices@nbnco.com.au](mailto:wirelesservices@nbnco.com.au)**Contact person for all legal matters relating to this Lease:****Landlord:** Mr Peter Schulz

Telephone: 03 5128 5668

Facsimile: 03 5128 5672

**NBN Co:** Chief Legal Counsel

Facsimile: 02 9926 1901



Item 9 **Special Conditions** (clause 1.4)

1. Clause 4.3 is deleted and replaced with:

"The Rent will be reviewed in accordance with CPI on each anniversary of the Date of Commencement, provided the Landlord gives NBN Co written notice of the following at least 30 days prior to the anniversary of the Date of Commencement:

  - (a) the adjusted Rent that is to be payable after the relevant anniversary of the Date of Commencement; and
  - (b) supporting details which confirm calculation of the adjusted Rent."
2. Clause 6.1 is deleted and replaced with:
  - (a) The Landlord consents to NBN Co and persons authorised by NBN Co without the need for prior approval and with or without materials, equipment, plant and other apparatus and vehicles entering the Land or land adjoining the Land (owned by the Landlord) for the purpose of using the Premises and installations of NBN Co under this Lease and exercising its rights under the Lease at all times of the day and night during the Term.
  - (b) The Landlord acknowledges that NBN Co will enter the Land for the purpose of using the Premises via Crown Allotment 7E (Recreation Reserve), Parish of Yinnar (Allotment) as set out in the plan in Annexure B.
  - (c) The Landlord:
    - (i) grants and represents and warrants that it is authorised to grant to NBN Co unrestricted rights of access over the Allotment in order to access the Land or the Premises in connection with NBN Co's use of the Premises during the Term (and any period of holding over in accordance with clause 3.2); and
    - (ii) represents and warrants that it will take all necessary steps to ensure that NBN Co has unrestricted rights of access to the Premises via the Allotment for the Term (and any period of holding over in accordance with clause 3.2).
  - (d) In the event that the Landlord is unable to ensure that NBN Co has unrestricted rights of access to the Premises via the Allotment in accordance with its obligations in clause 6.1(b), the Landlord will ensure that NBN Co can access the Premises via the access path marked A in the plan in Annexure D.
3. New additional clause 8.3 is inserted as follows:

"NBN Co will permit the Landlord to co-locate its lighting equipment on NBN Co's telecommunications facility in accordance with the terms set out in Annexure C."

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## Annexure B

### Plan

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## Annexure C

### Co-Location of Landlord's Equipment

1. In consideration of the mutual promises and obligations contained in the Lease, NBN Co grants to the Landlord a non-exclusive, non-transferable licence to co-locate the Landlord's Equipment on NBN Co's telecommunications facility subject to the terms contained in this Annexure C.
2. The Landlord shall, after providing notice in writing to NBN Co (which will be not less than 30 days), be entitled to install the Landlord's Equipment on NBN Co's telecommunications facility in accordance with the Construction Drawings.
3. In performing any activities under this licence the Landlord must:
  - a. comply with NBN Co's procedures and access protocols relating to the Premises and NBN Co's telecommunications facility as may be notified to the Landlord from time to time;
  - b. comply with all applicable laws relating to health and safety;
  - c. ensure that its personnel are suitably qualified;
  - d. observe all reasonable directions of NBN Co;
  - e. hold and comply with all necessary permits and laws which are applicable to the Landlord's Equipment.
4. The Landlord shall ensure that the Landlord's Equipment:
  - a. is maintained in a state of good repair at all times;
  - b. complies with all applicable laws; and
  - c. is separately metered for electricity usage. The Landlord will be responsible for all charges associated with electricity usage and its use of any other services.
5. The Landlord may access the Landlord's Equipment from time to time by providing at least 15 days' advance notice in writing to NBN Co. A request for access shall be sent to the following email address: [nopschangemanagement@nbnco.com.au](mailto:nopschangemanagement@nbnco.com.au)  
In the event the Landlord requires emergency access to the Landlord's Equipment, it will provide as much advance notice as is reasonably practicable.
6. The Landlord shall be entitled to replace the Landlord's Equipment from time to time on a 'like for like' basis by providing notice in writing to NBN Co. In the event that the Landlord intends to add any new or replacement landlอร์ด's equipment which substantially differs from the Landlord's Equipment, it must first seek NBN Co's consent in writing, which shall not be unreasonably withheld.
7. NBN Co reserves the right to move the Landlord's Equipment to a different location on NBN Co's telecommunications facility at any time after providing reasonable notice to the Landlord, provided this does not impair the use or operation of the Landlord's Equipment.
8. The Landlord agrees to access and use NBN Co's telecommunications facility at the risk of the Landlord and to release, indemnify and hold harmless NBN Co to the full extent permitted by law from all claims and demands of every kind resulting from accident damage death or injury to person or property occurring thereon, except to the extent

caused or contributed to by the act, default, omission or negligence on the part of the NBN Co.

9. This licence may be terminated at any time by the Landlord, by providing 30 days' notice in writing to NBN Co.

10. This licence may be terminated by NBN Co:

- a. upon reasonable notice, in the event the Lease is terminated for any reason; or
- b. if the Landlord is in breach of its obligations under the Lease (including this Annexure A):
  - i. where the Landlord does not rectify the breach promptly (which timeframe shall, in any case, not exceed 30 days); or
  - ii. immediately, if the breach is not capable of being remedied.

11. Upon termination of this licence, the Landlord shall remove the Landlord's Equipment within 14 days and in doing so shall not damage the NBN Co's telecommunications facility or the Premises.

12. If the Landlord fails to remove the Landlord's Equipment in accordance with clause 11, NBN Co shall be entitled to remove the Landlord's Equipment and any costs associated with removal and storage of the Landlord's Equipment shall be recoverable on demand from the Landlord.

13. Any defined terms used in this Annexure A have their meaning as determined in accordance with the Lease, unless defined below:

**Construction Drawings** means, for the purposes of this Annexure A the drawings attached as Addendum 1 to this Annexure A.

**Landlord's Equipment** means the lighting equipment operated by the Landlord, as more particularly detailed in the Constructions Drawings.

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# Annexure D

## Access

**9.2 PLANNING PERMIT APPLICATION 2012/071 - MULTI LOT  
RESIDENTIAL SUBDIVISION IN STAGES, SILCOCKS ROAD  
CHURCHILL**

**General Manager**

**Governance**

**For Decision**

**PURPOSE**

The purpose of this report is to determine Planning Permit Application 2012/71 for multi-lot subdivision in stages and removal of native vegetation at Lot F on Plan of Subdivision 215154P, Silcocks Road in Churchill.

**DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

**Latrobe City Council Plan 2013 - 2017**

**Shaping Our Future**

Gippsland's Regional City  
*Strengthening our profile*

An active connected and caring community  
*Supporting all*

Attract, retain, support  
*Enhancing opportunity, learning and lifestyles*

*Strategic Direction – Planning for the future*

Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.

Protect and celebrate the cultural heritage and historical character of Latrobe City.

**Legal**

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act 1987* (the Act) and the Latrobe Planning Scheme (the Scheme), which apply to this application.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

### **BACKGROUND**

This application was previously considered at the Ordinary Council Meeting held on 5 August 2013 and Council resolved:

1. *That Council defers consideration of this matter until the next ordinary Council meeting to be held on the 19 August 2013.*

### **SUMMARY**

Land:	Silcocks Road Churchill, known as Lot F on Plan of Subdivision 215154P
Proponent:	David & Merrilyn Walker c/- Crowther & Sadler Pty Ltd
Zoning:	Residential 1 Zone
Overlay	None

A Planning Permit is required to subdivide land in accordance with Clause 32.01-3 of the Scheme.

A Planning Permit is also required to remove, destroy or lop native vegetation, including dead native vegetation, in accordance with Clause 52.17-2 of the Scheme.

Refer to Attachment 1 for a site context plan.

### **PROPOSAL**

The proposal seeks to subdivide the subject land into 76 residential lots in stages. The proposed lots range in size between 453 and 867 square metres with the majority of the lots between 600 and 800 square metres. The average residential density of the proposed subdivision is 10.24 lots per hectare.

A plan of the proposed subdivision is located at Attachment 3.

As submitted by the applicant, the layout of the subdivision has been designed to largely respond to physical features and constraints of the site.

In particular, as part of the hydrological investigations undertaken by Water Technology Consultants (Attachment 8), it has been determined that a substantial portion of the site is not suitable for development due to the susceptibility of inundation during severe storm events. Although the land is not identified by zones or overlays as being impacted by flooding, the results of the hydrological investigations have found that the southern and south-western portion of the site would be significantly inundated during a 1 in 100 flood event (refer to figure 6 of Attachment 8).

Consequently, no residential lots are proposed within the southern and south-western portion of the land, but this portion of the land with up to 3.4



hectares in total area is to be set aside as a reserve for primarily drainage purposes.

Primary access to the subdivision is proposed to be via Acacia Way. As submitted by the applicant, Acacia Way has been selected as the primary location for access as it is fully constructed and generally recognized as a 'collector road' with capacity to accept the additional traffic volumes expected to be generated by the subdivision. Secondary access points are also proposed in Silcocks Road North and Silcock Road West.

As submitted by the applicant, the proposed access across the floodplain (or the southern portion of the land) would be constructed at a level whereby access to and from Acacia Way would not be obstructed in a 1 in 100 flood event. The overall road network has been designed in order to avoid reliance on Birch Drive / Silcock Road West which is impacted by flooding and to ensure that all lots would be accessible during a 1 in 100 flood event.

In addition, it is noted that the proposed road layout allows for future connection to the adjoining lot at 70 Silcocks Road (or to the lot northwest of the subject land) and three internal streets ending with court bowls are proposed.

Removal of native vegetation is also sought as part of this application. Specifically, the application seeks to remove 4 scattered large old trees (all Spotted Gums) within Plains Grassy Forest (EVC 151) which are classified as vulnerable within the Gippsland Plain bioregion. A native vegetation quality assessment (Attachment 7) has been prepared and submitted with the application, however the assessment does not include any offset details.

In relation to public open space provision, it is submitted by the applicant that while the southern reserves within the subdivision have a primary function for drainage, they also provide a contribution to passive recreation as pedestrian and cycling paths would be provided within the reserves. This application seeks to solely rely on the provision of these encumbered reserves as a contribution to public open space.

The subdivision is to be progressed in four stages. A staging plan is included in Attachment 4.

#### **SUBJECT LAND:**

The subject land is situated on the southwest corner of Silcocks Road and Monash Way, at the northern limit of the Churchill township.

The land is irregular in shape and has an area of 10.96 hectares. It has frontages to Acacia Way at the southern boundary, Birch Drive at the western boundary, Silcocks Road at the northern boundary and Monash Way on the eastern boundary.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

The land is currently undeveloped and does not contain any buildings.

The land is undulating with Acacia Way and Silcocks Road both elevated above the site. The land slopes from these two roads forming a low lying but relatively wide valley (or natural drainage line).

The land is generally covered in exotic pasture grass, with a number of exotic and native trees scattered around. Swamp scrub is found in the low lying area, comprising mostly of exotic plant species.

A drainage channel has been previously cut through the land resulting in runoff being diverted from its natural course. This has impacted on the original natural watercourse with a significant amount of water now passing through the man-made channel.

A dam is located near the north-east corner of the land. It appears that the dam has not been properly maintained for some time and contains a significant amount of silt.

Vehicular access to the land is presently provided from Acacia Way and Silcocks Road West.

Two easements are located on the west side of the land, with Easement E1 being of a width of approximately 20 metres and containing the Churchill outfall sewer. Adjacent to the easement is a separate parcel of land (i.e. not part of the subject land) containing a sediment removal facility which is a substantial piece of Gippsland Water Infrastructure.

**SURROUNDING LAND USE AND DEVELOPMENT:**

Existing land use surrounding the site includes Farming Zone to the north and west, and Residential 1 Zone to the south and east. A vacant petrol station is located at the northwest corner of the intersection of Monash Way and Acacia Way. More specifically:

North: Three allotments abut the northern boundaries of the subject land, including No. 70, 74 Silcocks Road and 730 Monash Way. These allotments are zoned Residential 1, and are all relatively large in size at 2.2 hectares, 1.4 hectares and 0.6 hectares respectively. Each of the lots contains a single dwelling. Further to the north of the subject site, on the opposite side of Silcocks Road, is a large Farming zoned allotment.

South: A number of allotments abut the southern boundaries of the subject site. These allotments are all zoned Residential 1 zone, and are approximately 4000 square metres in size each. The vacant petrol station site to the south-east of the subject site is zoned Mixed Use. Further to the south, on the opposite side of Acacia Way, are smaller residential allotments ranging between 500 and 600 square metres in size.

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East: To the east of the subject land, on the opposite side of Monash Way, is a large allotment which was recently rezoned from Rural Living Zone to Residential 1 Zone, as part of the recent Ministerial amendment to the Scheme (Amendment C58).

West: To the west of the subject land, on the opposite side of Silcocks Road West/ Birch Drive, are large farming zoned allotments. These allotments are located outside of the Churchill township boundary.

Refer to Attachment 1 for a site context plan, and Attachment 2 for a zoning map.

In terms of existing road infrastructure in the area, Monash Way is a Vicroads declared Main Road which extends in a north-south direction. Within the vicinity of the subject site, Monash Way has a single lane of through traffic and a sealed shoulder in each direction of travel. Left and right turn lanes are provided in Monash Way at the Acacia Way intersection.

Acacia Way is a two-way road which extends between Monash Way in the east and Birch Drive/Silcocks Road in the west. Acacia Way is a fully constructed road with kerb and channel. It has a 10.7m wide carriageway which provides a single lane of through traffic in each direction of travel and unrestricted kerbside parallel parking on both sides.

Silcocks Road is an "L-shaped" road that extends from Acacia Way in the south, north to Nadenbousch Lane and east to Monash Way. Silcocks Road is constructed as a gravel pavement 5.9m between Acacia Way and Nadenbousch Lane (the 'north-south' leg) and as a gravel pavement 5.1m wide between Nadenbousch Lane and a point approximately 180m east of Monash Way (the 'east-west' leg). It is unconstructed from the end of the gravel pavement to Monash Way. Silcocks currently serves as access to three dwellings including the subject land at 70 Silcocks Road. Direct access to Monash Way from Silcocks Road is currently restricted.

### **HISTORY OF APPLICATION**

The history of the assessment of the planning permit application is set out in Attachment 10.

The provisions of the scheme that are relevant to the subject application have been included in Attachment 11.

### **ASSESSMENT**

#### **Strategic Consideration for Subdivision of the Land**

The State and Local Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement (MSS) have been considered as part of this application, and it

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is found that the provisions of the Scheme generally provide a strategic basis to support residential subdivision of the subject site.

The SPPF encourages new urban residential areas to be developed in a sustainable manner with regard to the protection of agricultural land and water catchments. Subdivisions should achieve attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.

The Latrobe City Strategic Land Use Framework Plan found at Clause 21.02 identifies Churchill as one of the main towns, whereby housing diversity and lifestyle choice should be promoted. Clause 21.04-2 Settlement Overview states that development within and around existing towns should be consolidated and unnecessary urban and rural expansion should be avoided. The priorities in all main urban settlements are on realising opportunities for infill development, diversity of housing types, improving residential amenity, while maximising existing infrastructure and community facilities. Clause 21.04-2 of the Scheme further states that given the land use constraints around the major towns, there is an increasing need to reduce average residential property sizes so the remaining land is consumed at a more sustainable rate.

A structure plan for Churchill has been prepared and is located at Clause 21.05 of the Scheme. Specifically, it identifies the subject land as being located within an 'existing residential opportunity' area where residential development is encouraged.

The proposal seeks to subdivide land located in a Residential 1 Zone for residential purposes, thereby assisting in the consolidation of urban settlement within urban zoned boundaries. The proposal would not encroach onto any of the farming zoned land but is to be contained within the established Churchill township boundary in accordance with the Churchill structure plan. The proposed lot sizes, ranging from 453 to 867 square metres, would increase diversity in residential allotment sizes within main towns, whilst having regard to the physical and environmental constraints of the land.

The purpose of the Residential 1 Zone, amongst other things, is *'to provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households'*. The zoning of the site provides further strategic basis to support residential subdivision of the land.

**Lot Yield and Density**

Based on a net developable area of 7.416 hectares (i.e. land available for development and includes lots, local streets and connector streets) and a yield of 76 residential lots, the average residential density of the proposed subdivision is 10.24 lots per hectare.

Whilst the residential density of the proposal is lower than the preferred density of 15 lots of per hectare in residential growth areas as specified under Clause 11.02-2 of the Scheme, it should be acknowledged that a balance must be struck between increasing residential density in residential areas and the protection of residential amenity and neighbourhood character. The Scheme generally envisages change in subdivision patterns within existing residential area in order to achieve urban consolidation objectives, but it also seeks to manage the change so that neighbourhood features which are valued by residents are retained. In this case, the subject land is located at a sensitive location, with an interface with farming activities to the north and west of the subject land. Although the subject land is zoned Residential 1, the area is characterised by a mix of relatively large farming and residential lots. The farming lots in the area are generally in excess of 1 hectare and the residential lots range from 600 square metres to 4000 square metres. The character of the area and the context of the site are therefore quite different from that of a typical urban growth area in Metropolitan Melbourne.

In addition, it should be highlighted that at the recent Ordinary Meeting of Council of 19 November 2012, Council adopted a preferred lot density of 11 lots per hectare on unencumbered land and this foreshadows Council's intention with regard to the upcoming Latrobe Planning Scheme review.

On this basis, it is considered that the average density of 10.24 lots per hectare for the proposed subdivision is reasonable. Given the interface location of the subject land, the proposed lot sizes would provide an appropriate transition to the farming zone land on the opposite side of Silcocks Road North and West.

#### **Subdivision layout & Compliance with Clause 56**

Clause 32.01-2 in the Residential 1 Zone requires that a subdivision must meet the objectives of Clause 56 Residential Subdivision. The objectives and standards of Clause 56 relate to community, movement network, pedestrians and cyclists, lot size and orientation, street design, street construction, drainage systems and utilities provision.

The proposal has been assessed against the relevant provisions of the Scheme and whilst the proposal meets the standards and purposes of Clause 56, it is considered that further adjustments are required to the road layout. This is because the road pattern consists of two cul-de-sacs at the eastern end of the site and is contrary to the aims of achieving appropriate access for residents, as well as pedestrian and cycle links within the development, and to adjoining roads. More specifically:

- The layout fails to contribute to connection with adjoining land, contrary to the provision of Clause 56 of the Scheme which seeks to incorporate such connections to provide easy movement within neighbourhoods.

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- The provision of two cul-de-sacs at the eastern end of the site is contrary to the standard of neighbourhood street networks to minimise the provision of cul-de sacs.
- There are no physical constraints as to why the two cul-de sacs at the eastern end of the site should not be adequately linked.
- It is reasonable to consider that the site is located at a gateway to Churchill. The connection of the two cul-de sacs would provide opportunities for lots to face onto Monash Way, and to provide an attractive and active interface with Monash Way. It would avoid fencing abutting onto road reserves, but visually enhance this gateway location to Churchill.
- The reliance on cul-de-sacs would not sufficiently provide appropriate links to the remainder of the subdivision and is at odds with the grid pattern seen in the wider Churchill area.

On the above basis, appropriate conditions will be included on any approvals for the subdivision to require the connection of the two cul-de sacs at the eastern end of the site (refer to conditions 1 d & 1e).

### Drainage & stormwater

It should be noted that no stormwater management strategy was submitted with the application. There is a designated waterway running through the proposed development and the plans do show the provision of a series of wetland ponds along the waterway. No computations have been provided to indicate the extent of flooding along the waterway or to advise if the proposed treatments are correctly sized or can effectively treat the stormwater from the development. Council's engineers have reviewed the application and are satisfied that the relevant information can be provided by way of permit conditions to address stormwater management onsite.

### Road Upgrades

As submitted by the applicant in the original application and subsequently via a letter to Council on 4 March 2013, improvements to the existing street network are proposed as follows:

- **Acacia Way** – No upgrade is proposed as it is a fully constructed road
- **Silcocks Road West (formerly Birch Drive)** – It is proposed that a gravel resheet between the intersection of Acacia Way and the northern boundary of the subject land adjacent to Silcocks Road (being a distance of approximately 340 metres) be provided at the developer's cost. A concrete kerb and footpath on the east side of Silcocks Road adjacent to Lots 1 and 2 are to be constructed.
- **Silcocks Road North** – It is proposed that Silcocks Road adjacent to the northern boundary of the subject site for a length of 94 metres be constructed at the developer's cost. Construction of this section of Silcocks Road would include a concrete kerb and footpath on the south

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side of the pavement, a gravel shoulder on the north side and the road pavement sealed to a width of 5.2 metres.

It is submitted by the applicant that limited improvements are required, on the basis that the majority of the traffic volume would be along Acacia Way.

However, it should be noted that in context of the scale of change proposed as part of this subdivision, and to address some of the concerns raised by the objectors in their submission, it is considered that Silcock Road West, from the north side of Lot 1 to Acacia Way, should also be upgraded at the developer's costs for the following reasons:

- The Traffic report submitted with the application advises that the proposed development will generate traffic volumes of up to 820 vehicles per day, with 100% of traffic generated to / from the east (towards Monash way). This appears to be an unreasonable assumption, as there would be traffic generated to /from the south (towards Birch Drive), as a number of public open spaces are located in that direction. In other words, whilst the majority of traffic volumes are expected along the new north-south entry road off Acacia, there would be some traffic along Birch Drive, via Silcocks Road West.
- Currently, given the rural nature of the area, traffic volume along the relevant section of Silcocks Road West is relatively low. It is reasonable to consider that in the future, Silcocks Road West would be used mainly by residents from the subdivision.
- The full sealing of Silcocks Road West is appropriate as the subdivision would materially alter the immediate area to be more reflective to an urban residential area, hence this would not only increase traffic movements along Silcocks West but would increase Council's future maintenance costs associated with Silcocks Road West.
- There is a clear link between the requirement to upgrade Silcocks Road West and the proposed subdivision, in that the proposal would create more lots and dwellings and more traffic on Silcocks Road West for which sealing is deemed necessary.
- Based on the latest plan of subdivision submitted with the application, lots 1 – 7 are highly likely to rely on access through Silcocks Road West, increasing traffic by around 70 additional movements per day (based on movements numbers in urban setting), i.e. at least double the current traffic volume along Silcocks Road West

On the above basis, it is reasonable to impose a condition requiring full upgrade of Silcocks Road West at the developer's cost, should a planning permit be granted for the proposed subdivision.

In addition, to ensure no detriment to traffic safety along Acacia Way and vehicle speeding issues along Acacia Way, Council's traffic engineers recommended that a roundabout should be constructed at the cross-road intersection of Acacia Way, Banksia Crescent and near the proposed

primary access to the subdivision. This will be addressed by way of conditions.

As confirmed by Council's traffic engineers, the extent of upgrade for Silcocks Road North as proposed by the applicant is satisfactory. In terms of hierarchy of the internal roads, the new north-south road providing access to Acacia Way and the proposed road adjacent to lots 12 to 22 and lots 36 – 37 shall be designed and constructed as Major Access Streets with a road reserve width of 18m, in accordance with Council's Design Guideline requirements. All other streets shall be designed and constructed as Minor Access Streets with a road reserve width of 16m. These minor changes to the road hierarchy can be addressed by way of recommended conditions.

### **Provision of Public Open Space**

Clause 52.01 of the Scheme specifies that a contribution to Council for public open space must be paid in accordance with the Schedule to the Clause. If no amount is specified, a cash and/or land contribution of up to 5% of the site value may still be required under Section 18 of the Subdivision Act 1988, provided that there will be need for more open space as a result of the proposed subdivision.

At the time of writing, no amount is specified in the Schedule to Clause 52.01 of the Latrobe Planning Scheme. However, it should be noted that Council has recently adopted an Open Space Strategy (prepared by Insight Leisure Planning on behalf of Latrobe City Council, dated August 2012), which amongst other things, seeks to introduce a 10% contribution (either land and/or cash) in the Schedule for all residential subdivisions in the municipality, of which a minimum of 5% must be unencumbered.

Council is therefore required to consider the merits of the 5% pursuant to Section 18 of the Subdivision Act 1988, acknowledging the recent adoption of the Open Space Strategy.

In this case, it is clear that there will be need for more open space as a result of the 76-lot residential subdivision. The proposal seeks to rely on the southern reserves within the subdivision as the 5% contribution to public open space. The total area of the reserves is 3.544 ha (32% of the overall site) and as discussed earlier in this report, these reserves have a primary function for drainage and are considered as encumbered.

Encumbered land is defined in the Growth Area Authority Guidelines as:

*Land that is constrained for development purposes. Includes easements for power/ transmission lines, sewers, gas, waterways/drainage; retarding basins/wetlands; landfill; conservation and heritage areas. This land may be used for a range of activities (e.g. walking trails, sports fields). **This is not provided as credit against public open space requirements.** However, regard is*



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*taken to the availability of encumbered land where determining the open space requirement.*

On the above basis, as the southern reserves within the proposed subdivision are heavily encumbered, they are not considered useable open space for the purposes of public open space contributions under the Subdivision Act 1988.

The application was referred to Council's Senior Open Space and Recreation Planner for comment and it was also recommended that a 5% monetary contribution be requested from the applicant given the reserves are heavily encumbered, and that the reliance on these heavily encumbered reserves as open space contribution is inconsistent with the recommendations contained in Council's adopted Open Space Strategy.

A condition will be included on any approval issued for the proposal to require a 5% public open space contribution in cash. This contribution will allow Council to allocate funds to provide and/or upgrade active open space areas in accordance with Council's adopted Open Space Strategy.

### **Removal of Native Vegetation**

The proposal seeks to remove 4 scattered large old trees (all Spotted Gums) within Plains Grassy Forest (EVC 151) which is classified as Vulnerable within the Gippsland Plain bioregion. A native vegetation quality assessment report has been prepared and submitted with the application (Attachment 7). The report provides an assessment of the distribution and quality of native vegetation on the land, details the potential ecological impacts resulting from the proposed subdivision and outlines the Net Gain implications associated with the proposed removal of native vegetation.

Both the Department of Sustainability and Environment (as a non-statutory Section 52 referral authority) and Council's Environmental Planning Department have reviewed the native vegetation quality assessment report submitted with the application, and do not object to the proposed removal of native vegetation. It is considered that the proposal generally satisfies the three step (avoid, minimise and offset) approach as outlined in Victoria's Native Vegetation Management – A Framework for Action (Department of Natural Resources and Environment 2002). Specifically, the proposal delivers on the notion of avoidance of native vegetation removal, by limiting the development of residential lots to the northern portions of the land, thus avoiding direct impacts on many of the remnant over storey species on the land, and the drainage line areas through the southern portion of the land. The native vegetation quality assessment report recommends that appropriate offsets can reasonably be provided and managed by way of permit conditions.

It is noted in the native vegetation quality assessment report (page 24 of Attachment 7) that subject to further investigation and realignment of the

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proposed footpath, there may be an opportunity to minimize the removal of native vegetation and to retain one of the scattered large old trees (tree #14). However, as confirmed by Council's environmental planner, this option does not seem to be viable, as the footpath construction is likely to affect the root system of any trees, and in this instance, tree #14 should be considered as a loss for the purpose determining offset requirement.

In accordance with Victoria's Native Vegetation Management – a Framework for Action (DNRE, 2002) and the West Gippsland Native Vegetation Plan (WGCMA, 2003), for each large old tree removed as part of permitted clearing within an area of High conservation significance, 2 other large old trees are to be protected and 10 are to be recruited or 100 plants are to be recruited. On a case-by-case basis at the discretion of the Responsible Authority, this requirement to recruit new trees may be either through plantings to a prescribed standard according to Revegetation planning standards – Guidelines for establishing native vegetation for net gain accounting (Department of Sustainability and Environment, 2006) and/or through regeneration associated with protection of other old trees. As determined by Council's Environmental Planning Department, the preference for achieving offsets in this case is for the tree protection option. In particular, there are at least 3 large old trees to be retained on the site according to the report submitted with the application and incorporating these in the offset would be preferable to the recruitment only option. It is considered that these offset requirements can be satisfactorily addressed by way of permit conditions, through the preparation and implementation of an Offset Management Plan to the satisfaction of the Responsible Authority.

On the above basis, it is considered that the extent of native vegetation to be removed as part of this application is acceptable, and that the proposal is generally consistent with the native vegetation objective of Clause 52.17 of the Latrobe Planning Scheme.

### **SUBMISSIONS**

The application received six submissions in the form of objections. The issues raised were:

- 1 Dramatic increase in traffic and associated noise, dust and artificial light

#### Officer comment

Subject to minor road upgrade as detailed earlier in this report, it is considered that the current and proposed road network would adequately cater for the expected increase in traffic as a result of the subdivision.

It is considered that the proposed increase in traffic would take place over time as the subdivision developed and the noise or air pollution of vehicles would be similar to that of any established residential area.

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- 2 Concerns about the capability of Silcocks Road to accommodate the extra traffic loads, as the road is currently unsealed. Upgrade of Silcocks Road is considered necessary.

Officer comment

As discussed above, a condition of any approval issued for the proposal will require Silcocks Road West to be constructed and upgraded, from the north side of Lot 1 to Acacia Way, in accordance with Council's Design Guidelines. In terms of Silcocks Road North, Council's engineers have determined that full upgrade is not deemed necessary, given the anticipated traffic volume as a result of the subdivision.

- 3 An upgrade to the Birch Drive / Acacia Way intersection, including the installation of a street light, traffic light or stop sign, is considered necessary for traffic safety purposes.

Officer comment

Council's engineers have assessed the proposed subdivision and have concluded that to ensure no detriment to traffic safety along Acacia Way and vehicle speeding issues along Acacia Way, a condition of any approval issued for the proposal will require a roundabout to be constructed at the cross-road intersection of Acacia Way, Banksia Street and the new primacy access road into the subdivision. This intersection is considered to be more appropriate for an upgrade, rather than the Birch Drive and Acacia Way intersection.

It is considered that the installation of a street light, traffic light or stop sign is not deemed necessary at this low traffic volume Birch Drive / Acacia Way intersection.

- 4 Concerns about cars potentially turning right into Silcocks Road and then proceeding to Monash Way.

Officer comment

Direct access to Monash Way from Silcocks Road is currently restricted. The proposal does not seek to 're-open' this access. As discussed above, primary access to and from the subdivision is proposed to be via Acacia Way, then to Monash Way.

- 5 Concerns about the maximum speed of the newly constructed roads

Officer comment

Council's engineers have confirmed that all the new internal streets are best classified as major or minor access streets under Council's Design Guidelines, with a maximum speed of no greater than 50km/hour. This is considered to be appropriate for a residential area.

- 6 Loss of privacy due to potential development of double storey dwellings with windows overlooking into the existing family homes in the area

Officer comment

The majority of the lots range between 600 and 800 square metres in area. It is reasonable to consider that the lots are generally quite large in an urban context, and will provide enough scope for houses and outdoor areas to be designed to limit unreasonable impacts on nearby properties. In addition, it should be noted that matters such as overlooking, overshadowing and daylight to habitable windows can be addressed under the Building Regulations in the building permit stage.

- 7 The ecological surveys submitted with application did not take into consideration of seasonal changes to flora and fauna of the area. Potential loss of wildlife is of a significant concern.

Officer comment

Whilst changes are proposed for the existing waterway, it is expected that the planting of native or indigenous vegetation should provide for improved habitat values in comparison to the existing conditions. A condition of any approval issued for the proposal will require the provision of a landscape plan clearly showing the revegetation of the riparian zone including a species list and proposed density of the plantings. The plantings should be representative of the Ecological Vegetation Class for the site.

- 8 The Hydrological Investigation Report submitted with the application appears to be flawed, as its assumptions and calculations are based on water leaving the site via two 1400mm culverts under Silcocks Road when in fact there are three pipes taking water under the road.

Officer comment

In terms of stormwater drainage design, it should be noted that Council's Infrastructure Planning Department is generally satisfied that stormwater can be satisfactorily managed on site, and stormwater drainage design details will need to be provided to the satisfaction of Council's engineers by way of permit conditions.

- 9 Sequence of the subdivision is unclear. There are concerns about reliance on Silcock Road West as the primary access route (instead of Acacia Way) for Stage 1 of the subdivision, whilst the later stages of the subdivision are being developed.

Officer comment

A staging plan has been submitted with the application and is included as Attachment 4 of this submission. It will be a condition of any approval issued for the proposal to ensure that the proposed Acacia Way access arrangement must be constructed in accordance with Council's Design Guidelines prior to the statement of compliance being issued for Stage 1 of the subdivision.

- 10 Decrease in property values

Officer comment

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Property values are not considered to be a valid planning consideration.

- 11 Quality of the future housing standard is of a concern

Officer comment

Given the subject application relates to subdivision, Council officers acknowledge that there would be no planning permit requirements for future housing. It should be noted that this application is only for subdivision and it is expected that the future housing standard will generally be governed by Building Regulations.

- 12 Potential adverse amenity impact as a result of the subdivision, in terms of the loss of rural views and interfering with the enjoyment of peace and tranquilly from neighbourhood properties.

Officer comment

As discussed, the subject site is zoned Residential 1 and as such, there is a reasonable expectation that it would be subdivided and developed with dwellings in the future.

With regard to loss of views, The Victorian and Civil Administrative Tribunal (VCAT) found in the decision *Lardner & Ors v Mornington Peninsula SC [2003] VCAT 238 (26 February 2003)* that *'the Tribunal has consistently held that no legal right to a view exists, and has supported proposals involving the loss of a view where these views were available across vacant blocks'*.

- 13 The land is not suitable for subdivision, and the proposal does not fit with the neighbourhood character of farms, farmlets and rural residential large lots.

Officer comment

Although the site is generally used for grazing purposes at present, it is zoned Residential 1 Zone. The main purpose of the Residential 1 Zone is:

*'To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*

*To encourage residential development that respects the neighbourhood character'*.

The proposal to subdivide the land into residential lots is therefore in accordance with the purpose of the Residential 1 Zone.

It should also be noted based on Council's historical record of the subject land, the land has been zoned for residential purpose for more than 10 years.

- 14 There are already other areas suitable for subdivision in Churchill. Further subdivision of the subject land is not warranted.

Officer comment

The subject site is zoned Residential 1 and as such, there is a reasonable expectation that it would be subdivided and developed with dwellings in the future.

- 15 The stormwater runoff and septic tank lines one of the adjoining properties fall towards the subject land. Existing residents should not be required to contribute to any facilities such as drainage and sewers or abutting fences.

Officer comment

A condition of any approval issued for the proposal will require all the infrastructure works associated with the subdivision, including but not limited to drainage and sewers, be constructed and completed by the developer at their cost.

Should a planning permit be issued, the developer will need to prepare a stormwater management strategy to Council's satisfaction, to address how stormwater is to be treated / conveyed to the legal point of discharge. The strategy must take into consideration of stormwater flows arising from areas upstream of the subject land, and mitigate potential detriment to downstream landholders resulting from increased stormwater volumes.

In relation to wastewater, it should be noted that in accordance with the State Environment Protection Policy (Waters of Victoria) and the *Environment Protection Act 1970*, all property owners must ensure that all wastes emanating from their dwelling(s) and outbuilding(s) are contained and treated within the boundaries of their lot, but should not affect adjoining properties.

With regard to boundary fences, it is noted regulations concerning the cost sharing of boundary fences is a civil matter controlled by the Fences Act 1968 and is outside Council's jurisdiction.

- 16 Potential of exacerbating the existing flooding problem in the area

Officer comment

Council's Infrastructure Planning Department has assessed the application and no significant issues were raised in relation to stormwater management. Council's engineers are satisfied that detailed design of the stormwater design can be provided subject to permit conditions. Specifically, should a planning permit be issued, the developer will be required to design and construct (i) underground stormwater drainage systems to cater for 1 in 5 year storm events, (ii) overland surcharge routes within road or drainage reserves to cater for 1 in 100 year storm events, (iii) detention of stormwater discharges to ensure no increase in pre-development flows and water quality improvements to stormwater discharges, all in accordance with the requirements of the Scheme.

- 17 The proposed reserve is likely to be wet and unuseable for most of the year

Officer comment

It is proposed to utilize the remodelled drainage reserves within the southern portion of the site, as discussed above, to provide passive open space for the subdivision. A total of 3.544 ha (32% of the overall site) of encumbered passive open space is proposed in this location.

As submitted by the applicant, the passive open space would be planted with indigenous trees, shrubs and grasses, with the intent to improve the landscape and habitat values of the area, as well as to provide a low maintenance landscape environment.

Given the primary drainage function of the reserves, the reserves are not intended to be useable all year round but are to meet the passive recreational needs of future residents only.

As the public open space proposed for the subdivision would be passive in nature, a condition will be included on any approval issued for the proposal to require a 5% public open space contribution in cash. This contribution will allow Council to allocate funds to provide and/or upgrade active open space areas in accordance with Council's adopted Public Open Space Strategy.

- 18 Concerns about the potential removal of trees immediately to the north and west of the property 14 Acacia Way, as these trees are required for screening purposes

Officer comment

As illustrated in the Plan of Vegetation Removal located at Attachment 7 of this report, the proposal does not seek to remove any of the existing trees to the north or west of the property at 14 Acacia Way.

**FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

**INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

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The application was advertised under Section 52(1)(a) and Section 52(1)(d) of the Act by sending notices to all adjoining and adjacent landowners and occupiers; displaying an A3 sign on each site boundary adjoining a road the subject site for a minimum of 14 days; and by publishing two notices in the Latrobe Valley Express.

External:

The application was referred under Section 55 of the Act to the following authorities:

- Gippsland Water;
- Telstra;
- SP AusNet;
- APA Group
- West Gippsland Catchment Management Authority (WGCMA)
- CFA
- DPI
- Public Transport Victoria

All the above authorities gave consent to the granting of a Planning Permit for the proposal, subject to the inclusion of appropriate conditions and notes (where applicable).

The application was referred under Section 52 of the Act to West Gippsland Catchment Management Authority and VicRoads.

Internal:

Internal officer comments were sought from Council's Infrastructure Planning team in relation to drainage and traffic.

The application was forwarded to Council's Environmental team in relation to native vegetation issues.

All the relevant Council's internal departments gave consent to the granting of a planning permit in relation to their area of expertise.

It is noted that their comments only relate to part of the assessment process and do not necessarily direct the final recommendation to Council.

*Details of Community Consultation following Notification:*

Following the referral and advertising of the application, six submissions in the form of objections were received.

A mediation meeting was held on 11 December 2012 which was attended by the applicant and his representatives, the objectors, the Ward



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Councillor and Council officers. The grounds of objection were discussed and amended plans were submitted by the applicant in response to the issues raised.

Consensus was not reached between the parties, which would have allowed the matter to be determined by officer delegation, therefore requiring a decision by Council.

### **OPTIONS**

Council has the following options in regard to this application:

1. Issue a Notice of Decision to Grant a Planning Permit; or
2. Issue a Refusal to Grant a Planning Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

### **CONCLUSION**

Having evaluated the proposal against the relevant provisions of the Scheme, it is considered that the application generally meets the requirements of the Scheme, subject to appropriate planning permit conditions.

#### **Attachments**

1. Site Context Plan
2. Zoning Map
3. Proposed Subdivision Plan
4. Staging Plan
5. Landscape Plans
6. Plan of Vegetation Removal
7. Native Vegetation Quality Assessment
8. Hydrological investigation report
9. Traffic Report
10. History of Assessment
11. Relevant Planning Provisions
12. Objections

### **RECOMMENDATION**

**That Council issues a Notice of Decision to grant a planning permit, for subdivision of land in stages and removal of native vegetation at Lot F on Plan of Subdivision 215154P Silcocks Road in Churchill, with the following conditions:**

#### **Amended Plans**

1. **Before the plan of subdivision is certified under the Subdivision Act 1988, 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 the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted but modified to show, to the satisfaction of the Responsible Authority:

- a) A 20 metre diameter turn-around (to the face of kerb) at the dead end street adjacent to the proposed lots 7 and 8. This shall be provided within the land the subject of this permit or may be on adjacent land with that owner's agreement. If created on an adjacent land on a separate title an appropriate 30 metre by 30 metre carriageway easement must be created on the adjacent land protecting Latrobe City Council's and the public's future rights to the use of the land.
- b) Alteration of the end of proposed culs-de-sac to provide a 20 metre diameter turn-around (to the face of kerb).
- c) The provision of a roundabout at the intersection of Acacia Way and the new access road into the development.
- d) That the two cul-de-sacs at the eastern end of the site be connected with a road.
- e) That lots 57-76 be re-configured, so that the road as required in Condition 1d above be accommodated and that an attractive and active interface be provided with Monash Way.
- f) The Landscape Concept plan must be amended to indicate that proposed shared paths will have a width of 2.5 metres and the shared path surfacing will be either concrete or hot-mixed bituminous concrete.

#### **Endorsed Plans**

2. The layout of the subdivision as shown on the endorsed plan must not be altered without the permission of the Responsible Authority.

#### **Staging**

3. The subdivision of the land must proceed in the order of stages shown on the endorsed plans except with the prior written consent of the Responsible Authority. Each stage must be to the satisfaction of the Responsible Authority. The stages may include or require drainage or other works outside the physical bounds of any lots in any stage if deemed necessary by the Responsible Authority.

#### **Landscape Master Plan**

4. Before the commencement of works, a landscape master plan for the entire estate must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be generally in accordance with the landscape plan submitted with the application (drawing numbers 1659/003-A , dated 9 July 2012), and include:

- a. The landscaping theme and graphical concepts to be developed for the subdivision.
- b. The type of species to be used for street tree planting in various stages of the subdivision. Indigenous species should be used for street trees where appropriate.
- c. The areas which will be available for landscaping.
- d. Entrance treatments. The provision of entrance features to the development such as estate signage shall not be located within any road or public open space reserve unless with the written agreement of the Responsible Authority.
- e. The principles and graphical concepts of the proposed treatment of the open space and drainage reserves.
- f. Identification of trees to be removed or protected as offsets

#### Detailed Landscape Plans

5. Prior to the commencement of any works associated with each stage of the subdivision, a detailed landscape plan for all public open space areas including streets, parklands, entry features, drainage reserves, and community use areas must be prepared by a person suitably qualified or experienced in landscape design and submitted to the Responsible Authority for its approval. When approved the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies and an electronic copy (PDF) must be provided. The landscape plan must be consistent with any landscape master plan already endorsed in respect of the land and must show;
  - a) New plantings including their layout to be provided in any road reserves and municipal reserves.
  - b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
  - c) The supply and spread of sufficient topsoil and subsoil if required on the proposed areas of open space to provide a stable, free draining surface and hydro-seeding of proposed grass areas (including within drainage reserves).
  - d) All proposed open space streetscape embellishments (including materials and finishes) such as installation of pathways, garden beds, seating, shelters, picnic facilities, boardwalks, tree planting, signage, drinking fountains, irrigation systems, playgrounds, artwork, retaining walls, protective fencing (temporary and permanent), wetlands and ornamental water bodies.
  - e) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.

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- f) Additional supporting information, such as certified structural designs or building forms.
- g) Vehicle access points for maintenance purposes.
- h) Mechanisms/structures for the exclusion of vehicles from landscaped areas.
- i) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
- j) Design and construction layouts for equipment in playground areas.
- k) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
- l) Location of public lighting.
- m) Details of all boundary fencing along Council reserve boundaries, which provide for timber paling fences no higher than 1.2 metres or approved 75% permeable fencing.
- n) Identification of vegetation to be removed.
- o) Provision of offsets generally in accordance with the offset plan endorsed under condition 8 of this permit.

All species selected must be generally consistent with the Ecological Vegetation Classes known as Herb-rich Foothill Forest (EVC 23) and Swampy Riparian Woodland (EVC 83), and to the satisfaction of the responsible authority.

The detailed landscape plan must be generally consistent with Waterway Management Plan as required under Condition 36 of this permit.

### Landscape Works to be Completed

6. Prior to the issue of Statement of Compliance for each stage or by such later date as is approved by the Responsible Authority in writing, the landscape works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. All areas to be landscaped, including open space, must:
  - a) Have bulk earthworks completed (where required) to ensure reserves are fit for intended purpose;
  - b) Be cleared of all rubbish and environmental weeds, top soiled and grassed;
  - c) All landscape planting works completed including drought resistant trees and other planting;
  - d) Have shared paths and footpaths as shown on endorsed plans;
  - e) Public lighting provided along paths, signage, fencing and street furniture installed;
  - f) Maintenance vehicle access points provided.
7. The operator of this permit must maintain to the satisfaction of the responsible authority for a period of two (2) years, all landscaping constructed under this permit, except for grass areas along street nature strips. The maintenance period shall commence on the date the landscaping is certified by the Responsible Authority as practically complete. Any defects

occurring during the maintenance period shall be repaired by the operator of this permit to the satisfaction of the responsible authority. During this period, any dead, diseased or damaged plants are to be replaced during the period of maintenance and must not be deferred until the completion of the maintenance period.

**Offset provision for removal of native vegetation**

8. Before the vegetation removal starts, an offset plan showing appropriate offsets to compensate for the removal of four (4) large old trees must be submitted to and approved by the responsible authority. Three copies of the plan must be provided. When approved, the plan will be endorsed and will then form part of this permit. The offset plan must be implemented within 12 months of the native vegetation removal approved under this permit unless specified otherwise.

Maps or plans forming part of the offset plan must be drawn to scale with dimensions (where appropriate) and include details of the:

- a) vegetation to be removed, including details of:
  - i) the location of the vegetation including details of the Bioregion
  - ii) the Ecological Vegetation Class (EVC) of the vegetation
  - iii) the Bioregional Conservation Status of the EVC
  - iv) the area to be removed (in hectares)
  - v) the habitat hectare score (out of 1) of the vegetation
  - vi) the number of large and medium old trees to be removed (where applicable)
  - vii) the presence of any rare or threatened species
  - viii) whether the site is potential habitat for any rare or threatened species
  - ix) conservation significance
  - x) total vegetation loss calculated in habitat hectares.
- b) gain targets
- c) offset(s) to compensate for the vegetation removal, including details of:
  - xi) type of offset(s) to be provided in each location
  - xii) location of the offset(s) including details of the Bioregion
  - xiii) Ecological Vegetation Class of the offset vegetation
  - xiv) habitat hectare score (out of 1) of the offset
  - xv) number of large and medium old trees to be protected (where applicable)
  - xvi) rare or threatened species habitat to be protected (if applicable)
  - xvii) conservation significance of the offset
  - xviii) gains in vegetation and habitat quality to be achieved by the offset(s)
- d) details of any revegetation including number of trees,

- shrubs and other plants, species mix, and density
- e) methods of managing and restoring the existing vegetation to be retained
- f) methods of interim protection for newly established vegetation
- g) methods of permanent protection for established offsets
- h) persons responsible for implementing and monitoring the offset plan
- i) time frame for implementing the offset plan.

Vegetation removal and the provision of offsets must accord with the endorsed plan;

and/or

If appropriate offsets are identified via the BushBroker program administered by the Department of Sustainability and Environment (DSE), the following is required to be provided before the commencement of any works:

- j) A signed and dated copy of the 'Native Vegetation Credit Register - Notification of Allocation of Credits'. This is to advise that the allocation of native vegetation credits has been registered on DSE's Native Vegetation Credit Register for offsetting purposes.
- k) An offset plan approved by BushBroker.

Ongoing management and protection of offset

9. The offset area(s) must be permanently protected by fencing, excluding stock and public and maintained to the satisfaction of the responsible authority.
10. Vermin and pests must be controlled in the offset area to the satisfaction of the responsible authority and upon the advice of the Department of Environment and Primary Industries (DEPI) if applicable.
11. The offset area must be managed so as to ensure that declared noxious weeds and other high threat environmental weeds are controlled to the satisfaction of the responsible authority and upon the advice of the DEPI if applicable.
12. No firewood, dead vegetation, fallen branches or organic leaf matter may be removed from the offset area identified in the endorsed plan.

Maintaining Tree Protection Zones during construction

13. Before the development starts, a tree protection fence must be erected around remnant trees (Swamp Gum) numbered 9, 10, 11, 12 and 13 in the Net Gain Vegetation Assessment report submitted with the application at a radius of 15 metres from the base of the trunk(s) to define a 'Tree Protection Zone' (TRZ). The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the responsible authority. The tree protection fence must remain in place until construction is completed.

Regulation of activities in Tree Protection Zone (TRZ)

14. Except with the written consent of the responsible authority, the following activities must be excluded from the TRZ:

- a) machine excavation including trenching
- b) directional drilling that is less than 600 mm deep
- c) excavation for silt fencing
- d) storage
- e) preparation of chemicals, including preparation of cement products
- f) parking of vehicles and plant
- g) refuelling
- h) dumping of waste
- i) placement of fill
- j) temporary or permanent installation of utilities and signs
- k) physical damage to the tree.

By default, a tree will be considered lost and require an offset if one of the above activities occurs over more than 10% of the total area of the TRZ. However, if a qualified arborist confirms that the specific works will not significantly damage the trees, they will be considered retained and no offset will be required.

**Pruning of trees to be retained**

15. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.

**Weed control**

16. All vehicles, earth-moving equipment and other machinery must be cleaned of soil and plant material before entering and leaving the site to prevent the spread of weeds and pathogens.

**Engineering – Stormwater Management Strategy**

17. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, a Stormwater Management Strategy to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the strategy will then form part of the permit.

Issues the strategy must address include:

- a) How stormwater is to be conveyed to the legal point of discharge for all storm events up to and including the 1 in 100 year ARI storm event including providing over-land stormwater surcharge routes and cut-off drains for the safe and effective passage of stormwater flows arising from areas upstream of the subject land;
- b) How stormwater is to be conveyed from the legal point of discharge into a receiving designated waterway;
- c) Mitigation of potential detriment to downstream landholders resulting from increased stormwater volumes or concentrated stormwater discharges;
- d) Details (including on-site detention) to ensure all stormwater discharge from each of the lots on the land is limited to pre-development flows for all storm events up to and including the 1 in 100 year ARI storm event and to

- ensure there are no adverse affects on flooding either upstream or downstream of any development on the land;
- e) Details regarding treatment of stormwater discharge from the development to achieve the following objectives for environmental quality as set out in the Urban Stormwater Best Practice Environmental Guidelines (CSIRO) 1999 and designed in accordance with:
- i) 80% retention of the typical annual load of suspended solids;
  - ii) 45% retention of the typical annual load of total phosphorous;
  - iii) 45% retention of the typical annual load of nitrogen; and
  - iv) 70% retention of the typical annual load of gross pollutants.

**Engineering – Road Names**

18. Prior to certification of the plan of subdivision under the Subdivision Act 1988 for each stage of the development, the operator of this permit shall provide documentary evidence to the satisfaction of the Responsible Authority in support of all proposed new road names shown on the plan. All proposed new road names must comply with the naming principles described in the Department of Sustainability and Environment’s “Guidelines for Geographic Names 2010”.

**Engineering – Plans Submitted for Certification**

19. Plans submitted for certification under the Subdivision Act 1988 must show to the satisfaction of the Responsible Authority:
- a) Easements for drainage purposes,
  - b) Any land subject to inundation,
  - c) Reserves created for the purposes of stormwater management, vested in the Responsible Authority,
  - d) Road reserve widths complying with Latrobe City Council’s Design Guidelines,
  - e) Splays at cross-road intersections appropriate to allow for the construction of a roundabout at such intersections,
  - f) Splays, a minimum of 3 metres by 3 metres unless required otherwise, at all intersections of the local road network, and
  - g) Street names complying with the requirements of the Department of Sustainability and Environment’s “Guidelines for Geographic Names 2010”.

**Engineering – Functional Layout Plan**

20. Prior to the lodgement of engineering construction plans and specifications, a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the Responsible Authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn to scale with dimensions and one copy and an electronic copy (PDF)



provided. The functional layout plan must incorporate the following:

- a) A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations.
- b) Topography and existing features, including contours for the subject land and any affected adjacent land.
- c) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.
- d) Details of tree protection zones (TPZs), for all trees to be retained on site (if any).
- e) Any trees proposed for removal from the site clearly designated.
- f) Typical cross-sections for each street type, dimensioning individual elements and services offsets.
- g) Details of intersection treatments and traffic calming measures in accordance with Latrobe City Council's Design Guidelines and Austroads' Guide to Traffic Management.
- h) The provision of roundabouts at all cross-road intersections.
- i) A table of offsets for all utility services (including fibre optic conduit) and street trees.
- j) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls.
- k) The proposed minor drainage network and any land required for maintenance access.
- l) The major drainage system, including any watercourse, wetland, silt pond, and/or piped elements showing preliminary sizing.
- m) Overland stormwater flow paths (100 year ARI) to indicate how excess runoff will be safely conveyed to its destination including from adjacent upstream areas not previously developed.
- n) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance.
- o) Preliminary location of reserves for electrical kiosks;
- p) Works external to the subdivision, including both interim and ultimate access requirements.
- q) Intersections with roads external to the subdivision.

#### Engineering – Site Management Plan

21. Prior to the commencement of any works associated with each stage of the subdivision (including but not limited to road, drainage or landscaping works) , a Site Management Plan shall be submitted to and approved by the Responsible Authority. When approved, the Site Management Plan will be endorsed and will then form part of the permit. The Site

**Management Plan must include:**

- a) **Traffic management measures - the plan must detail measures proposed to protect and maintain vehicle use of the existing road system and pedestrians using existing footpaths adjacent to the development, how site access will be obtained, how construction vehicles will access and egress the site and the management of public access to the site. The plan must include details of all signage on adjacent roads.**
- b) **Construction management measures - the plan must outline how issues such as deliveries, noise, mud on roads, and dust generation will be managed onsite during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise.**
- c) **An environmental management plan for the works detailing techniques for erosion prevention, temporary drainage and sediment control measures during the construction of the works and post construction. Reference should be made to the Environment Protection Authority's publication 960 'Doing it right on subdivisions'.**

**22. Control measures in accordance with the approved Site Management Plan shall be employed throughout the construction of the works to the satisfaction of the Responsible Authority. The Responsible Authority must be kept informed in writing of any departures from the Site Management Plan. If in the opinion of the Responsible Authority the departure from the approved plan is significant then an amended plan must be submitted to and approved by the Responsible Authority. The approved measures must be carried out continually and completed to the satisfaction of the Responsible Authority.**

**23. Polluted drainage must be treated and/or absorbed on the lot from which it emanates to the satisfaction of the Responsible Authority. Polluted drainage must not be discharged beyond the boundaries of the lot from which it emanates or into a watercourse or easement drain.**

**Engineering – Maintenance Plan & Period**

**24. Unless otherwise required in this permit, all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, shall be maintained by the operator of this permit for a period of three months from the date of practical completion of the works. Maintenance of the works shall include all inspections required in accordance with Latrobe City Council's Road Management Plan. At the end of this maintenance period, a Defects Liability Period of nine months shall then apply to the works at the end of which time Final Completion of the works will be issued.**

**25. Prior to commencing any works associated with this**

subdivision, a maintenance plan with typical costs is to be submitted to the satisfaction of and approved by the responsible authority for all proposed wetland areas.

**Engineering – Detailed Plans and Specifications**

26. Prior to the commencement of any road and/or drainage works, and for each subsequent stage, detailed engineering plans and specifications must be submitted to the satisfaction of and approved by the Responsible Authority. The engineering plans must be generally in accordance with the approved Functional Layout Plans. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and one copy and an electronic copy (PDF) must be provided. The plans must include:

- a) Design and construction of all new roads in accordance with Latrobe City Council's Design Guidelines including connections to existing roads. The new north-south road providing access to Acacia Way and the proposed road adjacent to lots 10 to 19 and lots 32 to 34 shall be designed and constructed as Major Access Streets. All other streets shall be designed and constructed as Minor Access Streets.
- b) Design and construction of the east-west section of Silcocks Road for the full length of the abuttal to the development in accordance with Latrobe City Council's Design Guidelines. This section of road shall be constructed with a sealed road pavement 5.2 metres wide with a 0.5 metre wide shoulder along one side and with concrete kerb and channel, nature strip, street trees and footpaths along the development side.
- c) Design and construction of the north-south section of Silcocks Road from the north side of Lot 1 to Acacia Way in accordance with Latrobe City Council's Design Guidelines. This section of road shall be constructed with a sealed road pavement of 7 metres wide, kerb and channel along both sides and with nature strip, street trees and footpaths along the development side.
- d) Design and construction of a roundabout at the intersection of Acacia Way and the new access road into the development.
- e) A vehicle turn-around area (court bowl) at the end of the street adjacent to lots 7 and 8 including a hot-mixed bituminous surface and kerb and channel. Turning area must be a minimum of 20 metres in diameter. If provided on adjacent land on a separate title, appropriate fencing of an area 30 metres by 30 metres shall be provided around the turn-around area.
- f) Temporary vehicle turnarounds at the ends of streets to be continued in future stages, including a low maintenance sealed surface. Turning areas must be a

- minimum of 20 metres in diameter.
- g) Concrete footpaths along both sides of all proposed streets, unless otherwise required and 2.5 metre wide concrete shared pedestrian/bicycle paths through all reserves to be provided in accordance with Latrobe City Council's Design Guidelines and the endorsed plans.
  - h) A new vehicle crossing must be constructed to provide access to the proposed lots 17 and 18, at right angles to the road and must comply with the vehicle crossing standards set out in Latrobe City Council's Standard Drawing LCC 307.
  - i) Underground piped drainage to each lot and provision of over-land surcharge routes and cut-off drains. The stormwater drainage system must be designed to take the 1 in 5 year ARI storm event, to meet the current best practice performance objectives for stormwater quality as contained in the "Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999" as amended and to ensure that flows downstream of the subdivision site are restricted to predevelopment levels unless increased flows are approved by the relevant drainage authority and there are no detrimental downstream impacts. The stormwater drainage system may include water sensitive urban design features. Where such features are provided, an application must describe maintenance responsibilities, requirements and costs. Drainage plans must include hydraulic computations for all new drainage works.
  - j) Provisions shall be made for stormwater from all storm events greater than the 1 in 5 year event and up to and including the 1 in 100 year ARI storm event including:
    - i) Provision of over-land stormwater surcharge routes and cut-off drains for the safe and effective passage of stormwater flows arising from both within the development and from areas upstream of the development.
    - ii) All new and existing lots should be free from inundation.
    - iii) All streets, footpaths and cycle paths that are subject to flooding must meet the safety criteria  $v_{ave} < 0.35 \frac{m^2}{s}$  (where  $d_a$  = average depth in metres and  $v_{ave}$  = average velocity in metres per second).
  - k) Arrangements for the capture of overland stormwater flows from adjacent upstream areas not previously developed. These works shall be provided within the land the subject of this permit or may be on adjacent land with that owner's agreement. If provided on adjacent land on a separate title, prior to the issue of a Statement of Compliance for the relevant stage of the development, an appropriate drainage easement must be created on the

adjacent land protecting Latrobe City Council's future rights to the use of the land.

- l) Construction of wetland/stormwater detention areas generally as proposed in the approved stormwater management plan. The wetlands shall be designed to achieve the following objectives for environmental quality as set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999:**
- 80% retention of the typical annual load of suspended solids;
  - 45% retention of the typical annual load of total phosphorus;
  - 45% retention of the typical annual load of total nitrogen; and
  - 70% retention of the typical annual load of gross pollutants.

The proposed wetlands/stormwater detention area must be constructed to ensure that the bed of the internal edges of any water body are graded to achieve a maximum water depth of 0.2m for a minimum distance of 3 metres in from the water's normal edge before becoming steeper or achieve the alternatives specified in "WSUD Engineering Procedures: Stormwater (Melbourne Water 2005), Clause 10.3.2.3 Cross sections" or equivalent standards applicable at the time to the satisfaction of the Responsible Authority.

Proposed wetlands/stormwater detention areas, reserves and surrounds shall be cleared of all noxious weeds, graded, filled and compacted with approved material free of rock, stone and other contamination, landscaped, shaped and formed as necessary, scarified, top dressed with a minimum 100 mm depth of approved topsoil and sown with approved turf mixture of perennial rye and bents at a rate of 300 kg per hectare to ensure the land is free draining and able to be mown by a rotary mower to the satisfaction of the Responsible Authority.

- m) Appropriate intersection treatments and traffic calming measures in accordance with Latrobe City Council's Design Guidelines and Austroads' Guide to Traffic Management.**
- n) Street lighting along all new roads and all new shared paths and upgraded street lighting at the locations of proposed intersection works external to the development, in accordance with Australian Standard AS1158.**
- o) All traffic signage, street name signage and road pavement line marking.**
- p) Provision of timber paling fences no higher than 1.2 metres or approved 75 percent permeable fencing along all allotment boundaries abutting reserves.**
- q) High stability permanent survey marks at locations in**

accordance with Latrobe City Council's Design Guidelines, levelled to the Australian Height Datum and coordinated to the Map Grid of Australia (MGA94).

- r) All land to be filled and to be used for a dwelling be filled in accordance with Australian Standard AS3798.

**Works / Requirements - Prior to State of Compliance**

27. Before a Statement of Compliance is issued for each relevant stage of this subdivision under the Subdivision Act 1988, the operator of this permit must construct road works, drainage and other civil works to the satisfaction of the Responsible Authority, in accordance with the engineering plans and specifications approved by the Responsible Authority and must include:

- a) All proposed new roads in accordance with Latrobe City Council's Design Guidelines.
- b) The construction of the east-west section of Silcocks Road adjacent to the development and the north-south section of Silcocks Road from the north side of Lot 1 to Acacia Way.
- c) Construction of a roundabout at the intersection of Acacia Way and the new access road into the development.
- d) A vehicle crossing must be constructed to provide access to the proposed lot 20.
- e) Concrete footpaths along both sides of all proposed streets and shared pedestrian/bicycle paths through all reserves to be provided in accordance with Latrobe City Council's Design Guidelines and the endorsed plans.
- f) Intersection treatments and traffic calming measures.
- g) The provision of roundabouts at all cross-road intersections.
- h) Underground piped drainage to convey stormwater from each lot to the legal point of discharge for the 1 in 5 year ARI storm event.
- i) Works to ensure that flows downstream of the subdivision site are restricted to pre-development levels.
- j) Works to ensure the stormwater management system meets current best practice performance objectives for stormwater quality.
- k) Provisions for stormwater from all storm events greater than the 1 in 5 year event and up to and including the 1 in 100 year ARI storm event including:
  - xix) Provision of over-land stormwater surcharge routes and cut-off drains for the safe and effective passage of stormwater flows.
  - xx) Arrangements for the capture of overland stormwater flows from adjacent upstream areas not previously developed.
  - xxi) All new and existing lots should be free from inundation.
  - xxii) All streets, footpaths and cycle paths that are

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subject to flooding must meet the safety criteria  $d_{ave} < 0.35 \text{ m}^2/\text{s}$  (where  $d_{ave}$  = average depth in metres and  $v_{ave}$  = average velocity in metres per second).

- l) Earthworks within the development to ensure that vehicle access can be obtained to each proposed allotment.
  - m) Street lighting along all new roads and upgraded street lighting at the locations of proposed intersection works.
  - n) All traffic signage, street name signage and road pavement line marking.
  - o) The installation and registration of high stability permanent survey marks.
  - p) Provision of all temporary vehicle turnarounds with a low maintenance sealed surface at the end of all streets proposed to be continued in a later stage of the development.
  - q) All land to be filled and to be used for a dwelling be filled and compacted in accordance with Australian Standard AS3798.
28. Before a Statement of Compliance is issued for each relevant stage of this subdivision under the Subdivision Act 1988, the operator of this permit must construct timber paling fences no higher than 1.2 metres or approved 75 percent permeable fencing, along all allotment boundaries abutting reserves.
29. Before a Statement of Compliance is issued for any stage of this subdivision under the Subdivision Act 1988, the operator of this permit must pay to Latrobe City Council:
- a) or all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, an engineering plan checking fee of an amount equivalent to 0.75% of the estimated cost of constructing the works proposed on the engineering plans,
  - b) or all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, an amount equivalent to 2.5% of the estimated cost of constructing the works which are subject to supervision, and
  - c) The sum of \$175 per 20 metres of street length or per lot frontage (whichever provides for the greater number of street trees), for the provision of street trees along all streets where trees are not planted by the operator of this permit.
30. Before a Statement of Compliance is issued for any stage of this subdivision under the Subdivision Act 1988, the operator of this permit must provide to the satisfaction of the Responsible Authority:
- a) Final as-built plans for all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, in an electronic format complying with A-Spec requirements, levelled to the Australian

- Height Datum and coordinated to the Map Grid of Australia (MGA94).
- b) Certification by a licensed surveyor of the registration of all constructed Permanent Survey Marks.
  - c) Written records of all inspections undertaken during the maintenance period for the works, in accordance with the requirements of Latrobe City Council's Road Management Plan, any defects identified during those inspections and the date and time of rectification of the defects.
31. Before a Statement of Compliance is issued for any stage of this subdivision under the Subdivision Act 1988, the following easements must be created in favour of Latrobe City Council to the satisfaction of the Responsible Authority:
- a) An easement for drainage purposes along any drain on adjacent lands on separate titles constructed as part of this development for the capture of overland stormwater flows from adjacent upstream areas not previously developed.
  - b) A carriageway easement measuring 30 metres by 30 metres over any vehicle turn-around area constructed as part of this development on land on a separate title adjacent to the development.
32. The operator of this permit must maintain to the satisfaction of the responsible authority, all water sensitive urban design (WSUD) devices constructed under this permit for a period of two (2) years. The maintenance period shall commence on the date the construction of the WSUD devices is certified by the Responsible Authority as practically complete. The maintenance of water sensitive urban design (WSUD) devices constructed under this permit must include full routine maintenance works including monthly, quarterly and annual inspections, weed removal, sediment clean out, litter management and remedial works as prescribed in the approved WSUD maintenance plan. The operator of this permit must provide copies to the Responsible Authority within three (3) calendar months of each inspection, of all maintenance inspection forms completed for each inspection, any defects identified and the date and time rectification works were completed. Any defects occurring during the maintenance period shall be rectified by the operator of this permit to the satisfaction of the Responsible Authority. – check with Ray
33. Before a Statement of Compliance is issued for this subdivision under the Subdivision Act 1988, the maintenance period for all works to become the responsibility of Latrobe City Council, must be completed to the satisfaction of the Responsible Authority unless an arrangement to secure compliance with this condition has been agreed to in writing by the Responsible Authority under Section 21(1)(b)(ii) of the Subdivision Act 1988.



**Hydrogeological Assessment**

34. The subdivision works must be carried out in a manner which is consistent with the recommendations set out in the Hydrological Study (dated 6 May 2011, prepared by Water Technology) submitted with the application, to the satisfaction of the Responsible Authority.

**Filling of the Land – Residential Lots**

35. The land must be filled in a manner that does not:
- Cause a nuisance on nearby land through the emission of dust; or
  - Adversely affect the drainage of adjacent land through sediment and the like; or
  - Affect overland flow paths;
- and to the satisfaction of the Responsible Authority.

**WGCMA Conditions**

36. The operator of this permit must meet the requirements of West Gippsland Catchment Management Authority (WGCMA) in that:
- a) Prior to the issue of a Statement of Compliance for Stage 1 of the Subdivision or at a later date as agreed by WGCMA in writing, a Waterway Management Plan must be developed, to the satisfaction of the West Gippsland Catchment Management Authority. The Waterway Management Plan must provide for a significant improvement in the ecological health of the waterway, and must include a landscape plan for revegetation of the reserve (in accordance with the appropriate Ecological Vegetation Class/es) and a maintenance plan detailing the short, medium and long term actions and agencies/developers responsible for each stage.
  - b) Prior to the issue of a Statement of Compliance for Stage 1 of the subdivision, or at a later date as agreed by WGCMA in writing, a Stormwater Management Plan must be developed, to the satisfaction of the West Gippsland Catchment Management Authority. The Stormwater Management Plan must demonstrate that all stormwater discharge from the subdivision will meet the 'Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999'.

**Gippsland Water Conditions**

37. The operator of this permit must meet the requirements of Gippsland Water in that, prior to the issues of Certification/Statement of Compliance, they:
- a) Pay to Gippsland Water contributions for Headwork charges and Outfall/Disposal charges for the change in development of the land. These charges are based on Gippsland Water's current rates and reflect the additional loading placed on the water and sewerage reticulation systems by this development.
  - b) Ensure that the owner of the land enters into a formal

agreement with the Central Gippsland Region Water Corporation, under the Corporation's Land Development system, for the complete construction of works necessary for the provision of water supply and sewerage services to all lots of the subdivision. Pay to Gippsland Water any fees and contributions and satisfy all conditions pertaining to the aforementioned agreement.

- c) Provide water and wastewater services to Gippsland Water's minimum supply standards, unless otherwise agreed with by Gippsland Water.
- d) Design plans to be submitted outlining the size and the location of the proposed works to determine where easements will be required.
- e) Install separate water services and sewage disposal connections for Stages 1-4 (inclusive) to the satisfaction of Gippsland Water. As Constructed details showing the location of the installed services are required to be submitted to Gippsland Water.
- f) The existing meter 02W410860 must be capped and returned to Gippsland Water for a final read.
- g) Create easements for Pipeline or Ancillary Purposes and/or Reserves in favour of the Central Gippsland Region Water Corporation over all existing and proposed water and sewerage works located within the subdivision.
- h) If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.
- i) Any plan of subdivision of the subject land lodged for certification shall be referred to Gippsland Water under Section 8(1) of the Subdivision Act 1988.

**Design and Construction Works**

The operator of the permit must:

- j) Ensure Gippsland Water's assets are protected, especially where subdivisional development requires construction (such as a road) over or near an existing Gippsland Water asset. In particular, works over or adjacent to the new Gippsland Water Reserve that encompass the 685mm RC Churchill Outfall Sewer Main & Gippsland Water's Grit Chamber, must meet Gippsland Water's design requirements for such works. Design drawings and calculations must demonstrate that road crossings will protect the integrity of the 685mm RC Churchill Outfall Sewer Main & the Gippsland Water Grit Chamber and will cause no adverse impact to these assets.
- k) Supply a detailed management plan for the protection of Gippsland Water's assets within the new Gippsland Water Reserve. This plan must address risks to all Gippsland Water assets within the new Gippsland Water Reserve, particularly the 685mm RC Churchill Outfall Sewer Main & the Gippsland Water Grit Chamber, brought about by movement of plant or construction machinery and/or works

within the development site. This management plan must be approved by Gippsland Water prior to any works commencing. (A temporary fence may also be required and will be outlined in the Developer Works Agreement).

**SPI Electricity Conditions**

**38. The operator of this permit must meet the requirements of SPI Electricity in that:**

- a. The plan of subdivision submitted for certification must be referred to SPI Electricity Pty Ltd in accordance with Section 8 of the Subdivision Act 1988.
- b. The applicant must:
  - Enter into an agreement with SPI Electricity Pty Ltd for supply of electricity to each lot on the endorsed plan.
  - Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the existing electricity supply system.
  - Enter into an agreement with SPI Electricity 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 SPI Electricity Pty Ltd.
  - Provide easement satisfactory to SPI Electricity Pty Ltd for the purpose of "Power Line" in the favour of "Electricity Corporation" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing SPI Electricity 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 SPI Electricity Pty Ltd any other easement required to service the lots.
  - Adjust the position of any existing SPI Electricity 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 SPI Electricity Pty Ltd for electric substations.
  - Provide survey plans for any electric substations required by SPI Electricity 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. SPI Electricity 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 SPI Electricity 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 SPI Electricity Pty Ltd.

- Ensure that all necessary auditing is completed to the satisfaction of SPI Electricity Pty Ltd to allow the new network assets to be safely connected to the distribution network.

#### **Telecommunications Conditions**

**39. 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.

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:

- c. 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
- d. 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.

#### **Public Open Space Contributions**

**40. Prior to the issue of Statement of Compliance of Stage 1 of the Subdivision under the Subdivision Act 1988, the applicant or owner must pay to the Responsible Authority:**

- a) a sum equivalent to five per cent of the site value of all the land in the subdivision; and
- b) any costs associated with valuation of the land including valuers fees.

#### **Permit Expiry**

**41. This permit will expire if:**

- a) the plan of subdivision for the first stage is not certified within two years of the date of this permit; or
- b) the plan of subdivision for the last stage of the subdivision

- is not certified within ten years of the date of this permit; or  
c) the registration of the last stage of the subdivision is not completed within five years of the certification of the plan of subdivision.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within three months afterwards.

Note: The commencement of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of the plan, and completion is regarded as the registration of the plan.

#### WGCMA Notes

1. Prior to the commencement of any works within 30 metres of a designated waterway, a Works on Waterways licence must be obtained from the West Gippsland Catchment Management Authority, issued under the Water Act 1989. Works includes (but is not limited to) construction of any recreational paths and crossings, construction of any vehicle access over a designated waterway, and any proposed discharge of stormwater to a constructed treatment wetland, or requiring a direct connection to the designated waterway. A Works on Waterways licence application must include both a Stormwater Management Plan demonstrating that the designed stormwater treatment will meet best practice guidelines, and a Waterway Management Plan and landscaping plan describing the ongoing maintenance requirements of the reserve.
2. In accordance with section 17 of the Subdivision Act, the works required to be undertaken under this permit as part of the subdivision hereby permitted, shall not commence until the Plan of Subdivision has been certified and the engineering plans for the works required have been approved.

#### Environmental Planning Notes

3. As suggested by Department of Sustainability and Environment in their response dated 9 October 2012, scattered trees proposed for removal according to Net Gain Vegetation Assessment Monash Way, Churchill (Water Technology, May 2011) have been assigned a conservation significance rating of Medium, however the method used was incorrect. The Department of Sustainability and Environment's Biodiversity Interactive Map (BIM) indicates that the default conservation significance of scattered trees in this area is High. For the purpose of determining the offset requirement to achieve net gain, this High conservation significance rating has been used instead of Medium as per the report.
4. The scattered trees proposed for removal occur within Plains Grassy Forest (EVC 151) which is classified as Vulnerable within the Gippsland Plain bioregion. In order to

determine the offset requirement, the EVC benchmark for Plains Grassy Forest has been used along with the default conservation significance of High as explained above.

5. The 4 trees proposed for removal are those numbered 14, 15, 16 and 17 in the report and have a diameter at breast height (DBH) of 86 cm, 75.5 cm, 85.5 cm and 104 cm respectively. The benchmark DBH for Plains Grassy Forest is 70 cm and therefore all trees can be classified as large old trees i.e. DBH is greater than that specified in the benchmark and less than 1.5 times the benchmark.
6. In accordance with Victoria's Native Vegetation Management – A Framework for Action (DNRE, 2002) and the West Gippsland Native Vegetation Plan (WGCMA, 2003), for each large old tree removed as part of permitted clearing within an area of High conservation significance, 2 other large old trees are to be protected and 10 are to be recruited or 100 plants are to be recruited. On a case-by-case basis at the discretion of the planning authority, this requirement to recruit new trees may be either through plantings to a prescribed standard according to Revegetation planting standards – Guidelines for establishing native vegetation for net gain accounting (Department of Sustainability and Environment, 2006) and/or through regeneration associated with protection of other old trees. It should be noted that the preference for achieving offsets is for the tree protection option and this needs to be considered in the Offset Management Plan. There are at least 3 large old trees to be retained on the site according to the report and incorporating these in the offset would be preferable to the recruitment only option. For a tree to be considered protected for conservation and eligible as an offset, an area twice the canopy must be applied, with this area managed and protected in accordance with DEPI guidelines (DSE, 2007).
7. *Eucalyptus strzeleckii* should be included in the Reserve areas as they are indigenous to this area and currently present on nearby properties. Seed collected by Council from a remnant *E. strzeleckii* where Eel Hole Creek runs under Tramway Road could be used to produce tubestock for this purpose .
8. WGCMA - In particular the Authority notes that a considerably large area of the reserve has been highlighted as grassed areas. The Authority does not support large areas of non-native lawn areas in reserves due to the ongoing maintenance requirements for the long term agency (e.g. shire), however the Authority does support limited grassed areas (up to 10% of the total reserve area) for active recreation and playgrounds etc. Latrobe City Council's Environmental Planner is supportive of this and encourages the establishment of revegetated areas as far as practical.
9. Any revegetation along Eel Hole Creek would support

previous efforts along Eel Hole Creek Reserve (east of Tramway Road) with a long term plan to create connectivity between patches of native vegetation and a wildlife corridor in a semi-urban area.

**Gippsland Water Notes**

10. Gippsland Water personnel are able to issue an Immediate Stop Works notice in relation to any works within the new Gippsland Water Reserve should they have concerns regarding possible damage to Gippsland Water assets within the Reserve.
11. Sewer - Main extensions throughout the subdivision to each allotment with the discharge upstream of the existing wastewater grit chamber, which is located on the south west extent of the development. Due to the shallow depth of the existing branch sewer upstream of the grit chamber and the level of the flood plain a sewer pump station and rising main may be required to service the development dependent on cover levels through the flood plain.
12. Water - Main extensions throughout the subdivision to each allotment with interconnections to existing water mains.
13. Asset protection / odour buffer - Gippsland Water has reviewed the subdivision and has no issues with the location of the allotments in relation to Gippsland Water's Wastewater Grit Chamber. Any manholes or structures installed within the flood prone area will need to be above the natural surface level to minimise ground water infiltration in line with Water Service Association of Australia code requirements.
14. Reserves vested in Gippsland Water - Gippsland Water requires that the easement covering the existing Wastewater Grit Chamber, the large sewer main and land to the west to Birch Drive to be vested as a reserve in favour of Gippsland Water. (The existing E-1 & E-2 Sewerage Easement that encompasses the 685mm RC Churchill Outfall Sewer Main and the land in Lot 1 on TP388312 that contains the Wastewater Grit Chamber must be replaced with a Gippsland Water Reserve).
15. Gippsland Water requires the creation of a 15 metre x 15 metre reserve in favour of Gippsland Water to encompass the existing Wastewater Pump Station located off Acacia Way. The access to this reserve should be via the proposed road off Acacia Way. A Carriage Way easement may also be required.

**Moved:** Cr White  
**Seconded:** Cr Middlemiss

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

## 9.2

### PLANNING PERMIT APPLICATION 2012/071 - MULTI LOT RESIDENTIAL SUBDIVISION IN STAGES, SILCOCKS ROAD CHURCHILL

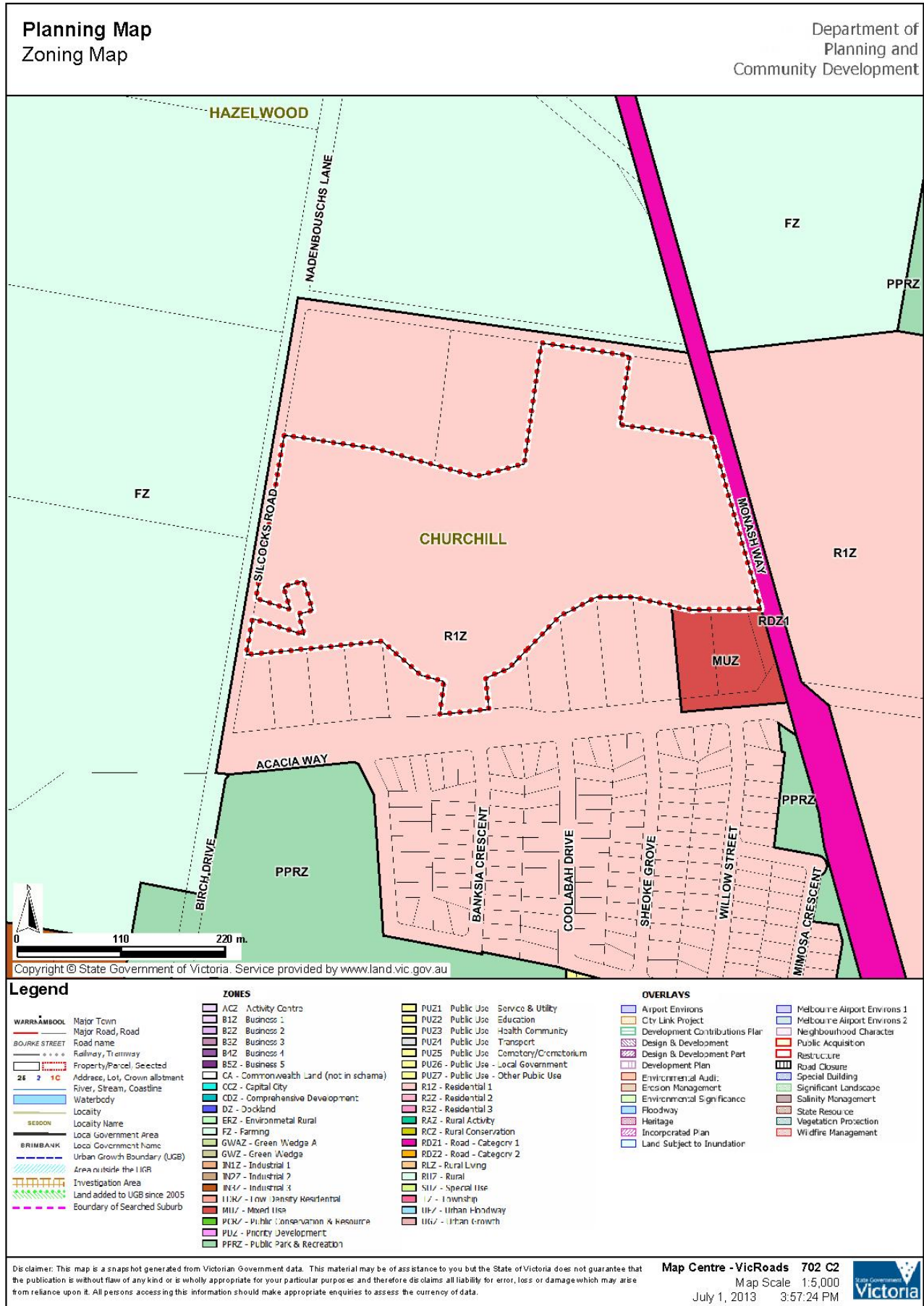
1	Site Context Plan .....	103
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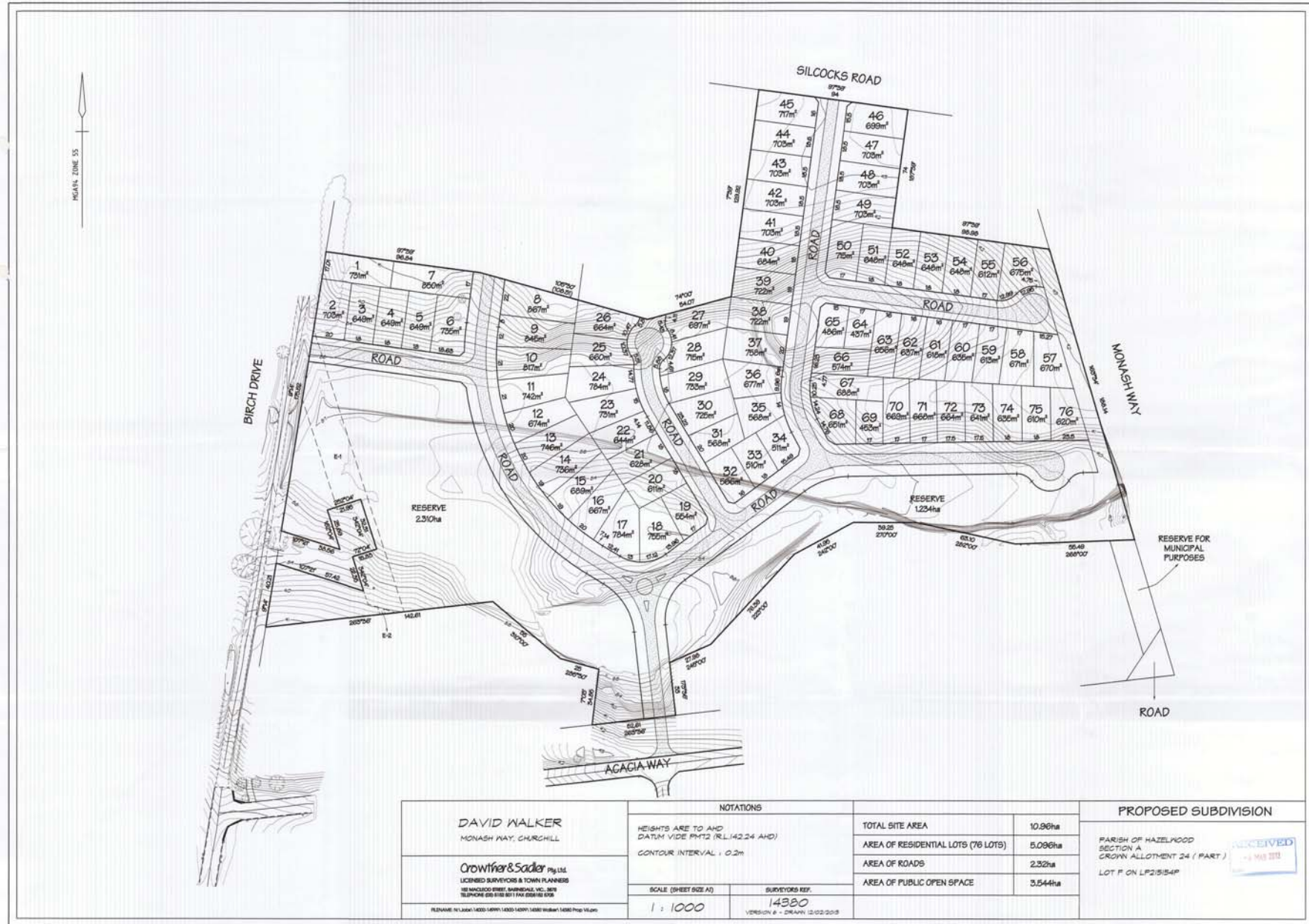


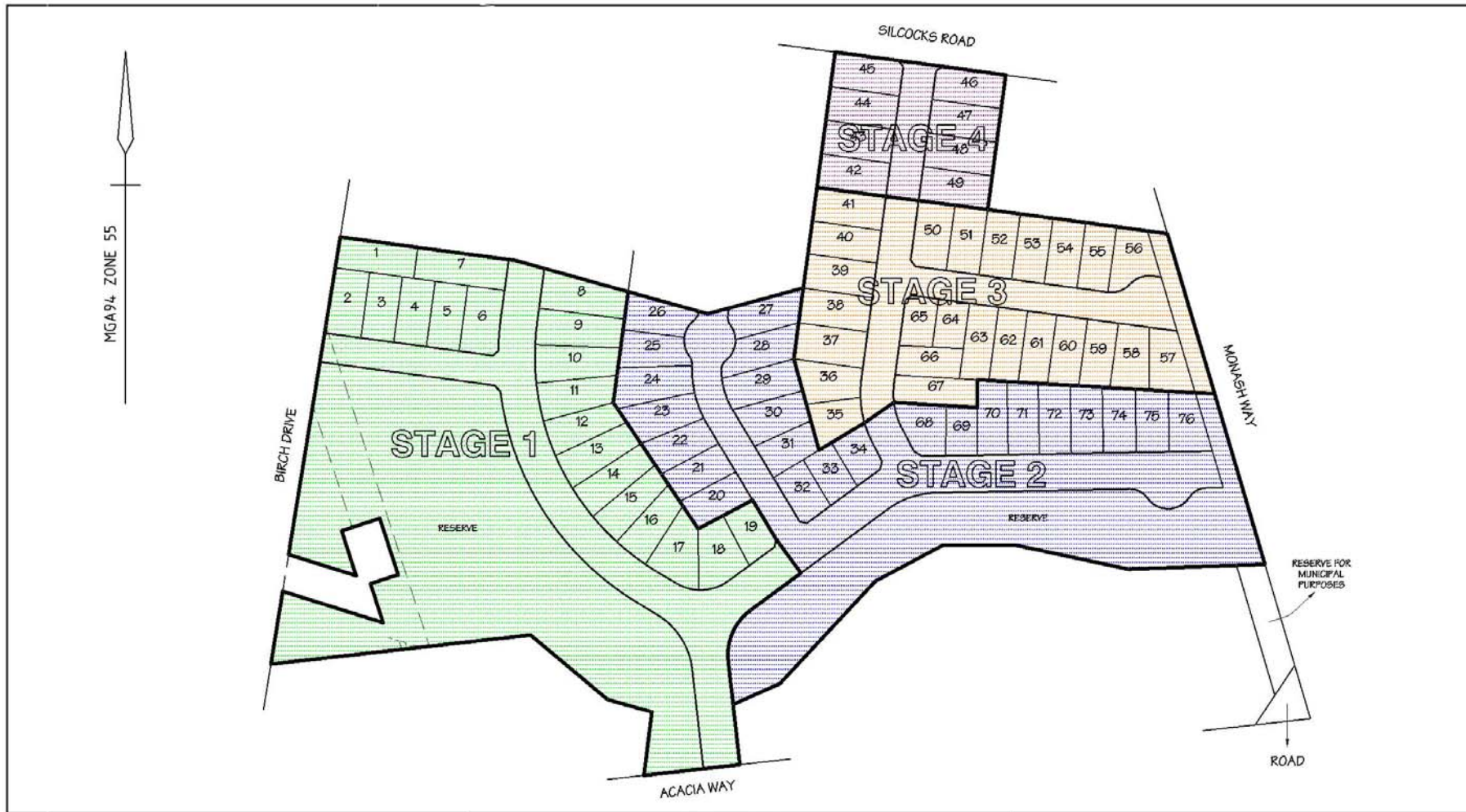
Site Context Plan - Silcocks Road Churchill [Scale 1:4000]



1:4000







<p><b>DAVID WALKER</b> MONASH WAY, CHURCHILL</p>	<p>NOTATIONS</p>		<p>STAGING PLAN</p>
<p><b>Crowthen &amp; Sadler Pty. Ltd.</b> LICENSED SURVEYORS &amp; TOWN PLANNERS 152 MACLEOD STREET, BAIRNSDALE, VIC., 3875 TELEPHONE (03) 5152 5011 FAX (03) 5152 5705</p>	<p>STAGE 1 = 19 LOTS STAGE 2 = 24 LOTS STAGE 3 = 25 LOTS STAGE 4 = 8 LOTS</p>		<p>FARISH OF HAZELWOOD SECTION A CROWN ALLOTMENT 24 ( PART )  LOT F ON LP215154P</p>
<p>FILENAME: N:\Jobs\14000-14999\14300-14399\14380 Walker\14380 Staging Plan V3.pro</p>	<p>SCALE (SHEET SIZE A3)  <b>1 : 2000</b></p>	<p>SURVEYORS REF.  <b>14380</b> VERSION 3 - DRAWN 21/05/2013</p>	





**SEMI-ADVANCED TREE PLANTING DETAIL**  
NOT TO SCALE

1. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.  
2. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.  
3. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.

**TIMBER EDGING DETAIL**  
NOT TO SCALE

**SEMI-ADVANCED TREE PLANTING DETAIL (WATERING POINT)**  
NOT TO SCALE

1. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.  
2. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.  
3. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.

**TOWN PLANNING LANDSCAPE NOTES - GENERAL CONSTRUCTION**

**GENERAL:** This drawing is not to be used for construction. It is to be used for Town Planning purposes only. The final locations of all services and aspects may not be known and this plan may need to be revised to respond to any future building work, land services or drainage, service levels.

**DEMOLITION:** Vegetation to be removed shall be matched for re-plant on site. Strip and stockpile existing gravel prior to building works commencing and reuse in the landscape.

**PAVEMENT:** Consider using recycled concrete aggregate for sub-grade material. Drain pavements to garden beds or grassed areas where ever possible. Concrete paved paths with border edging will be set out and constructed as per Detail and Drawings.

**LIGHTING AND FURNITURE:** All lighting and furniture will be set out as shown on Drawings. Lighting and furniture shall be subject to Littering City Guidelines.

**WEED CONTROL:** All areas shown on the Drawings as mulched planting beds, grassed areas and trees in grassed areas shall include a weed eradication programme using an appropriate residual contact herbicide (EpicShield) that meets manufacturer's specifications. Latent sprayed areas for a period of 10 days prior to disturbance and repair for any weeds still alive.

**LANDSCAPE SET OUT:** Install edging between all lawn areas and garden beds - type and location as shown in the Drawings.

**SUBSOIL PREPARATION FOR PLANTING:**  
Sub-surface Drainage: Install sub-surface drainage which discharges to storm water or waterage pits for any garden beds or grassed areas in poorly draining soils.  
Bare-soil Riping: For garden beds areas and advanced trees, rip to depth shown in planting Details. Mark the location of all underground services prior to commencing ripping operations.  
Soil Analysis: Contact local council to obtain advice on soil analysis to adjust the pH level to the desired range of pH 6.5 to 7.0. If soil is heavy clay, add gypsum at the rate of 1.5 kg/m<sup>2</sup> for garden beds and 1.5 kg/m<sup>2</sup> for lawn areas. Low level phosphorus fertilizer to be used as per manufacturer's specifications.  
Rotary Cultivation: After application of soil additives, cultivate plant bed and lawn areas to a depth shown on Drawings so as to eliminate compaction and soil sub-soil and soil additives.

**TOPDRESSING:**  
Supply: One topped topsoil shall be used where possible and improved so as to meet the specifications for imported topsoil (levels in A12-419 1988). Supply imported topsoil A12-419 1988, light to medium texture sandy clay loam.  
Installation: Spread topsoil to min. consolidated depth as shown on planting detail.

**MULCHING:**  
Supply: To AS 4454-1999 organic mulch, Eucalyptus or similar.  
Installation: Spread over all garden beds areas to max. consolidated levels as shown on planting detail.

**PLANTING OF MULCHED TREES AND SHRUBS:**  
Supply: Trees to comply with National Purchasing Landscape Trees - A Field Guide to Landscaping Tree Quality. Shrubs shall include large to medium sized and healthy. Remove root systems, all repeated and seasonal duration, and no evidence of root rot, infection or damage. All landscaping planting (including seedlings) will be native or of local provenance.  
Installation: Set out plants in accordance with Drawings. Water plants prior to planting and when planted at a rate of 1 litre and 14 litres per pot at 10L. All semi-advanced trees will be staked with steel trees having a water point constructed as per planting detail.

**PLANTING OF WETLAND AREAS:**  
Installation: A minimum of 50mm liquid is required with a minimum of 5% organic content to assist the establishment of aquatic plantings. A mix of submerged, shallow, deep and ephemeral planting to be planned as per Drawings.

**PLANTING OF GRASSED AREAS:**  
Supply: Install low maintenance grass such as Siriver Green or Siriver Green in 400mm x 400mm (Duffin) or shaded areas. Use APY 10-10-10 - 100mm diameter semi-starter fertiliser. Following preparation and topsoiling, no-peds to provide excellent conditions to stimulate soil clods. Seed at the rate of 2.5 kg/100m<sup>2</sup> and starter fertiliser to Manufacturer's instructions. Keep continuously moist until establishment.

**GENERAL MAINTENANCE:**  
Maintenance: Garden beds to be weeded, weeded, fertilised, pruned and mulched on a regular basis to ensure plants thrive for a period after completion of the landscape. Any plants that die or are diseased are to be replaced with the same species as listed in the plant schedule. All all three plants are to be watered as required by climatic conditions to ensure the health of the plants. Retention the months of October and until a minimum, plants shall be watered on average 3 times per fortnite with 30 litres per tree and 5 litres per shrub.  
Wetland vegetation and weed management programme shall be established for a period of at least 24 months after final planting of the wetland.

**SHRUB PLANTING DETAIL**  
NOT TO SCALE

1. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.  
2. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.  
3. TREE SPECIES GREATER THAN 14 INCH DBH MUST HAVE A GRASSY OR BARE SOIL AREA WITHIN THE ROOT BALL TO ALLOW FOR SOIL SETTLEMENT AND WATER INFLUX TO THE ROOT BALL.

**PROPOSED PLANTING SCHEDULE**

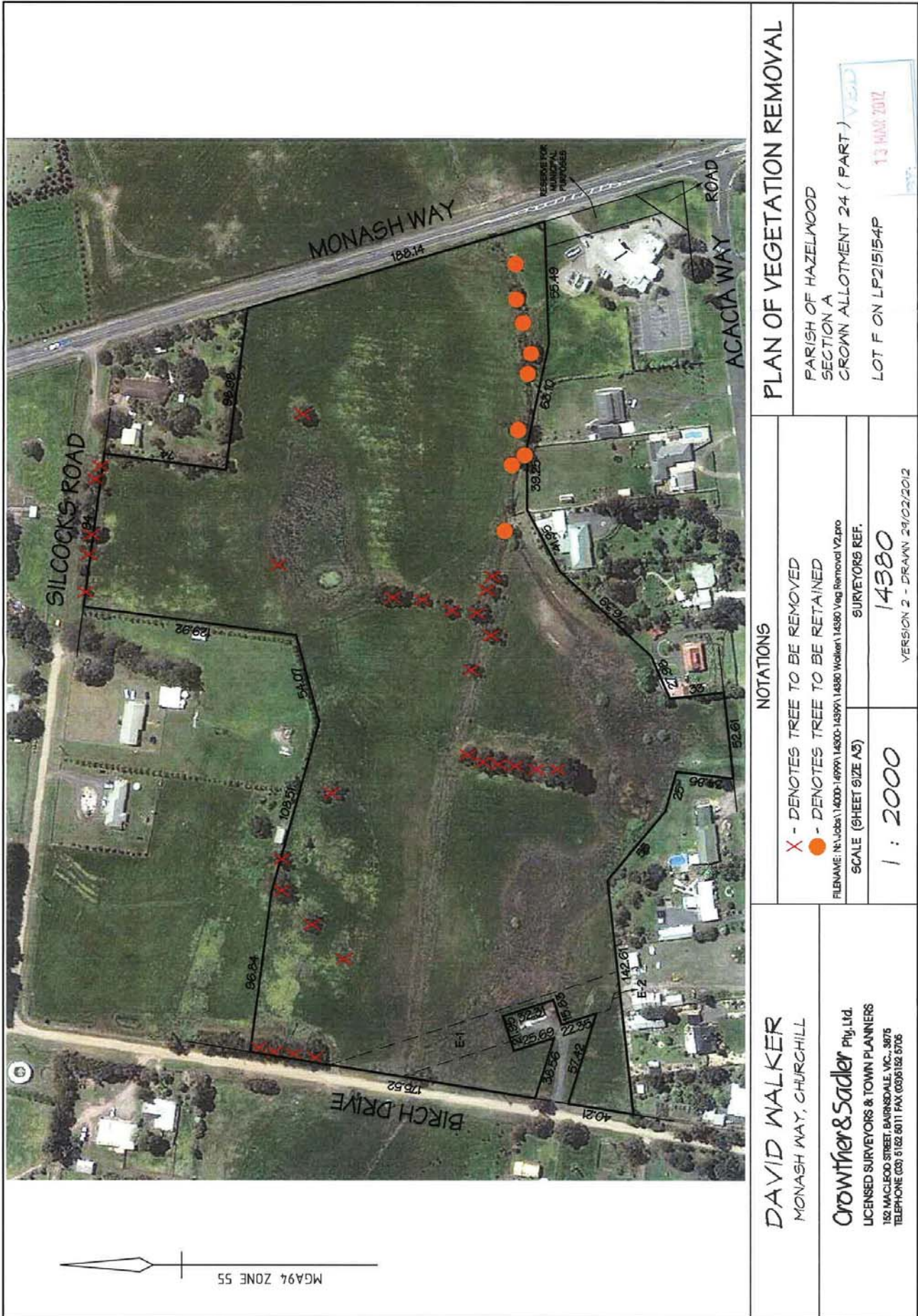
CODE	BOTANICAL NAME	COMMON NAME	SIZE
<b>STREET TREES</b>			
CS	Corchorus maculata	Spectral Gum	semi advanced/200mm pot
ES	Eucalyptus citriodora	Messmate	semi advanced/200mm pot
EN	Eucalyptus nitida	Fleecy Gum	semi advanced/200mm pot
<b>RESERVE TREES</b>			
AJ	Acacia dealbata	Silver Wattle	140mm pot
AM	Acacia melanocorypa	Blackwattle	140mm pot
AS	Acacia saligna	Black Wattle	140mm pot
CM	Corymbia maculata	Spectral Gum	semi advanced/200mm pot
CS	Corchorus maculata	Spectral Gum	semi advanced/200mm pot
MS	Melaleuca armillaris	Honey Myrtle	140mm pot
MS	Melaleuca squarrosa	Scented Paperbark	140mm pot
<b>RESERVE SHRUBS</b>			
BA	Banksia densa	Tree Yell	140mm pot
IB	Indigofera australis	Indigo	140mm pot
OP	Ochrosia lanceolata	Tree Emu	140mm pot
PD	Pultanea australis	Large Leaf Tea Tree	140mm pot
<b>GRASS/GROUND COVERS</b>			
AZ	Austrostrophia capillaris	Woolly Grass	Ferocity sedge
AS	Asperula mollis	Spine Grass	Ferocity sedge
CA	Carex appressa	Sedge	Ferocity sedge
CP	Chrysanthemum apiculatum	Parrot Daisy	Ferocity sedge
LA	Lonicera mollis	Pink Lily	Ferocity sedge
MP	Myoporum parviflorum	Cherry Myoporum	Ferocity sedge
PI	Poa laevis	Common Tussock Grass	Ferocity sedge
<b>WETLAND PLANTINGS</b>			
<b>0.1-0.2m BELOW WATER LEVEL</b>			
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
PS	Phragmites latifolius	Curly Papyrus	Ferocity sedge
SP	Spartina angustata	Swamp Grass	Ferocity sedge
<b>0.3-0.4m BELOW WATER LEVEL</b>			
BA	Banksia stricta	Spotted Tree Heath	Ferocity sedge
ES	Eucalyptus stricta	Red Gum	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
<b>0.5-0.6m BELOW WATER LEVEL</b>			
BA	Banksia stricta	Spotted Tree Heath	Ferocity sedge
ES	Eucalyptus stricta	Red Gum	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
<b>0.7-0.8m BELOW WATER LEVEL</b>			
BA	Banksia stricta	Spotted Tree Heath	Ferocity sedge
ES	Eucalyptus stricta	Red Gum	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
<b>0.9m ABOVE WATER LEVEL</b>			
CA	Carex appressa	Spotted Tree Heath	Ferocity sedge
ES	Eucalyptus stricta	Red Gum	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
PS	Phragmites latifolius	Curly Papyrus	Ferocity sedge
SP	Spartina angustata	Swamp Grass	Ferocity sedge
<b>LOWER WETLAND</b>			
BA	Banksia stricta	Spotted Tree Heath	Ferocity sedge
ES	Eucalyptus stricta	Red Gum	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
MS	Myrica stricta	Lane Water Milla	Ferocity sedge
PS	Phragmites latifolius	Curly Papyrus	Ferocity sedge
SP	Spartina angustata	Swamp Grass	Ferocity sedge

D & M WALKER  
SILCOCKS ROAD, CHURCHILL  
LANDSCAPE CONCEPT  
DRAWING No.  
**1659/004-A**

Crossco Consulting Pty Ltd  
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Email: consult@crossco.net.au

DATE: 09 JULY 2012

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<b>PLAN OF VEGETATION REMOVAL</b>	
PARISH OF HAZELWOOD SECTION A CROWN ALLOTMENT 24 ( PART ) LOT F ON LP215154P	
13 MAR 2012 	
<b>NOTATIONS</b> X - DENOTES TREE TO BE REMOVED ○ - DENOTES TREE TO BE RETAINED FILENAME: N:\Jobs\14000-14999\14300-14399\14380 Walker\14380 Veg Removal V2.dwg SCALE (SHEET SIZE A3) SURVEYORS REF. 1 : 2000 14380 VERSION 2 - DRAWN 29/02/2012	
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## **Net Gain Vegetation Assessment Monash Way, Churchill**



**May 2011**



Mr David Walker c/o Crowther and Sadler Pty Ltd



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**Cover Photo:** Western Boundary Access/Egress, looking east

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## 1. INTRODUCTION

In January 2011, licensed Surveyors and Town Planners 'Crowther and Sadler' approached Water Technology to undertake a vegetation assessment for a proposed 106 lot subdivision on land owned by Mr. David Walker, located on Monash Way, Churchill.

This report details both the desktop and field assessment of the area proposed for vegetation removal, and on this basis, provides recommendations and implications of these findings for any proposed development, and has been prepared in accordance with Victoria's *Native Vegetation Management – A Framework for Action* (NVF), (DNRE 2002).

### 1.1 Victoria's Native Vegetation Framework Explained

All proposed developments and works in Victoria, whether undertaken by private citizens or the private or public corporate sector, are subject to the provisions and requirements of the NVF.

The framework sets out the requirements and procedures that need to be undertaken to;

- Calculate the habitat value of native vegetation in the development area,
- Calculate the value of the habitat lost from proposed vegetation removal, and
- Determine the actual area required to be protected to 'offset' against the habitat lost from the proposed vegetation removal.

The Framework provides the methodology for the above quantification to ensure a consistent approach by assessors for assessment of an area, and relies less on the specific flora species present than on the overall landscape context, health and quality of the assessment area.

The assessments are based on a comparison to a 'benchmark' that has been set for different Ecological Vegetation Classes (EVC's) (EVC's could be simply described as an area of vegetation that is reasonably consistent in species distribution and quality. Where vegetation differs between locations, or changes from one type to another, a different EVC would be recorded), across different Bioregions throughout the State of Victoria. These benchmarks detail the type of species expected to be present, the size of these species, the distribution of lifeforms (trees, shrubs, grasses etc), degree of weediness, number of logs and leaf litter expected to be found and so on. These benchmarks form the basis for quantification of habitat quality of an area, and ultimately the level of impact that will result from the proposed vegetation removal.

Following this assessment of habitat quality, a 'Habitat Hectare Score' is given to the area assessed. A process of marrying this Habitat Hectare Score with the actual area of vegetation impact is undertaken to arrive at a quantification of total impact.

This impact is then required to be 'offset' by an area of vegetation of a similar type and quality (generally of the same EVC), that is protected by some form of legally binding agreement or caveat, so that the end result is a 'net gain' in habitat retained and protected.

Offsets are identified by utilising the same system for determining a Habitat Hectare Score for the vegetation removed, and working out 'how much of the offset area needs to be protected to ensure it is equal to or greater than the value of the area of vegetation being removed'?

The offset is then managed proactively for a period of 10 years to ensure quality is maintained, and protected in perpetuity by way of legal agreement or caveat.

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## 2. BACKGROUND

### 2.1 Site Location and Description

The Study Area is identified as located between Monash Way to the east, Silcocks Road to the north and west, and Acacia Way to the south, immediately north of the township of Churchill, and is located wholly within the Latrobe Shire (VicRoads 702 C2 and CFA Map 8512 F6).

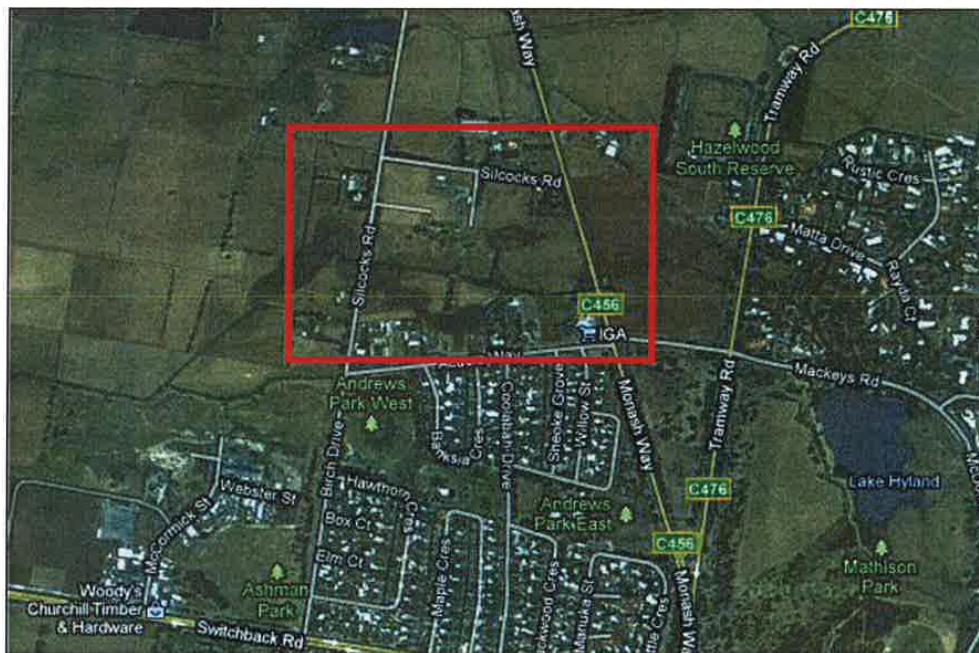


Figure 2-1: Location of Survey Area (Highlighted by the Red square area)

#### 2.1.1 Ecological Vegetation Class

The property is located within the Gippsland Plain Bioregion. The Gippsland Plain bioregion is flat low lying coastal and alluvial plains with a gently undulating terrain dominated by barrier dunes and floodplains and swampy flats. The soils associated with the upper terrain are texture contrast soils (Dermosols and Chromosols), supports Lowland Forest ecosystems. The dunes are predominantly sandy soils (Podosols and Tenosols) supports Heathy Woodland and Damp Sands Herb-rich Woodland ecosystems. The fertile floodplains and swamps are earths and pale yellow and grey texture contrast soils (Hydrosols) supports Swamp Scrub, Plains Grassy Woodland, Plains Grassy Forest, Plains Grassland and Gippsland Plains Grassy Woodland/Gilgai Wetland Mosaic ecosystems (Department of Sustainability and Environment [DSE] 2011a).

Both 1750 and 2005 EVC mapping indicate the same EVC's present, however the distribution of the EVC's is dramatically reduced for the 2005 mapping. The site has been predominately cleared for agricultural utilisation, and is now surrounded by a growing area of rural residential development. Both map sets as per the DSE Interactive online Mapping tools indicate the presence of two (2) EVC's, namely Swamp Scrub (SS - EVC #53) and Plains Grassy Forest (PGF - EVC #151). Benchmark descriptions of these EVC's are provided in Appendix A. The Bioregional Conservation Status for these EVC's are Vulnerable for PGF and Endangered for SS within the Gippsland Plain Bioregion (DSE 2011a).

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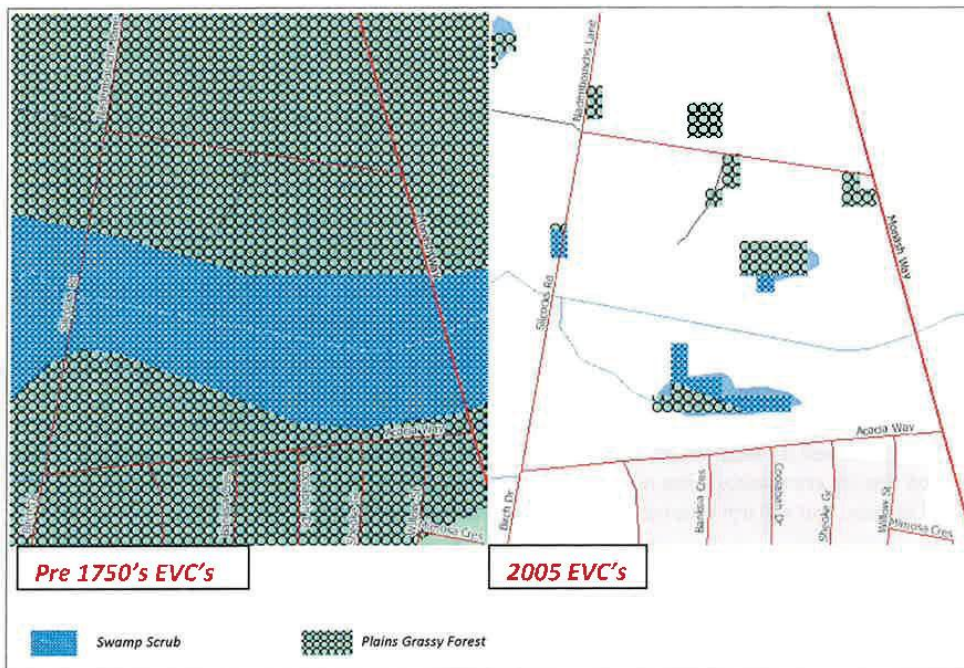


Figure 2-2: Ecological Vegetation Class Distributions for both 1750 and 2005 (DSE 2011b)

### 2.1.2 Land Tenure and Planning Scheme

Areas proposed for vegetation removal lie wholly within the Residential Zone (R1Z), and no overlays affect the property as displayed in Figure 2.3.



Figure 2-3: Planning Zones and Overlays affecting the Survey Area (DSE 2011b)

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## 2.2 Site History

Little is known about the history of the site. At present, the site is used for low intensity agricultural production. Hay production and grazing are the current utilisations, and this is evidenced in images contained within Appendix B.

What is evident, however, from the condition of the site, is that there is a long-term history of improved pasture management and grazing, which has resulted in the almost complete loss of all indigenous woody and herbaceous vegetation, including the bulk of indigenous tree cover.

Residential development along Acacia Way abuts the southern boundary of the property, and low density residential sites also neighbour the northern areas of the property.

There are two drainage lines within the property boundary both in an east-west alignment. The southernmost of these drainage lines is a natural drainage watercourse, though the more northerly of the drainage lines is an artificially constructed area. The northernmost of these drainage lines also appears to feed a constructed dam that presents onsite as an area of natural wetland. This dam, even though containing some native vegetation representative of the Swamp Scrub EVC, is not a natural system, and will not require habitat hectare assessments as per the NVF.

## 2.3 Relevant Legislation specific to Issues of Flora and Fauna

### Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC)

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides for Commonwealth involvement in development assessment and approval in circumstances where Commonwealth land, Commonwealth Government actions or decisions, or identified 'Matters of National Environmental Significance' (such as nationally listed threatened species and ecological communities, migratory species and World Heritage properties) are involved. A person must not take an action that has, will have, or is likely to have, a significant impact on a matter of National Environmental Significance (NES), without approval from the Minister.

### Flora and Fauna Guarantee Act 1988 (FFG)

Key legislation in Victoria for the conservation of threatened species and communities and for managing potentially threatening processes. Management plans (action statements) have been developed to guide research and management of listed species and communities and require permits for some development works. This relates to crown land which is occupied under a lease, licence or other right.

### Planning and Environment Act 1987

A framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians. Restriction may apply to developments (construction, alteration or demolition of a building or works and the subdivision or consolidation of land), earthworks and the removal of vegetation.

### Victoria's Native Vegetation Management: A Framework for Action

Designed to achieve a reversal across Victoria of the long-term decline in the extent and quality of native vegetation, leading to a 'net gain' in vegetation protected. This Framework is not only important for the reversal of vegetation loss across the State, but is also important for native faunal conservation, as the loss of native vegetation (particularly high quality vegetation) directly impacts on fauna populations that rely on the habitat provided. Habitat considerations that relate to faunal use include presence of large old trees, leaf litter and logs, understorey cover and diversity, regeneration and weeds.

A planning permit is required to remove native vegetation and the three-step approach of *Avoid*, *Minimise* and *Offset* is an integral part of the decision making process relating to such permits.



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### 3. METHOD

#### 3.1 Desktop Review

Prior to site assessment, the following desktop information was gathered:

- Aerial imagery;
- Planning information;
- Both pre-1750 and current EVC mapping;
- Relevant EVC benchmark documents.

Following assessments, derived flora and fauna lists were checked against reference lists of rare and threatened species in Victoria (DSE 2003 and 2005).

#### 3.2 Site Assessment

On Thursday 3<sup>rd</sup> March 2011, Water Technology Senior Ecologist Simon Lee visited the site to undertake a full flora assessment to enable preparation of a Habitat Hectare Assessment and Net Gain Calculation as per 'Victoria's Native Vegetation Management – A Framework for Action' (DNRE 2002). The entire site was traversed, with continuous active searching for flora and fauna conducted over a period of 5 hours (11.30 am until 4.30 pm), with the following assessments undertaken:

- Casual sightings of fauna noted;
- Plant species identified, noted and relative abundance attributed;
- Significant large trees identified, geo-located, photographed and characteristics evaluated;
- Habitat considerations noted;
- Digital images across the survey area taken from geo-located points.

Thirty Seven (37) images were taken during the assessment, and a description of the content of these images can be found in Appendix B, and the images found on a CD inserted inside the rear cover of this report.

At the time of observation, air temperatures were between 10.8 and 17.6°C, there was slight rain, though too low to record, and there was blustery, cold wind (Bureau of Meteorology 2011).

Table 3-1: Climatic Data for Survey Area on the 3<sup>rd</sup> March 2011

Date	Day	Temps		Rain	Evap	Sun	Max Wind Gust		
		Min	Max				Dir	Spd	Time
		°C	°C						
03/03/11	Thurs	10.8	17.6	0	4.1	6.4	W	57	09.28

#### 3.3 Vegetation Zones

Observation of the site on arrival and during the survey dictated that vegetation habitat zones were delineated to more comprehensively detail the flora, fauna and significant trees within the survey area. These zones are shown in Figures 3-1 and 3-2, and can be identified as follows:

- Habitat Zone 1 – Paddock Area
- Habitat Zone 2 – Dam
- Habitat Zone 3 – Drainage Line A
- Habitat Zone 4 – Drainage Line B

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Figure 3-1: Map 1 - Designated Habitat Zones over Aerial Image

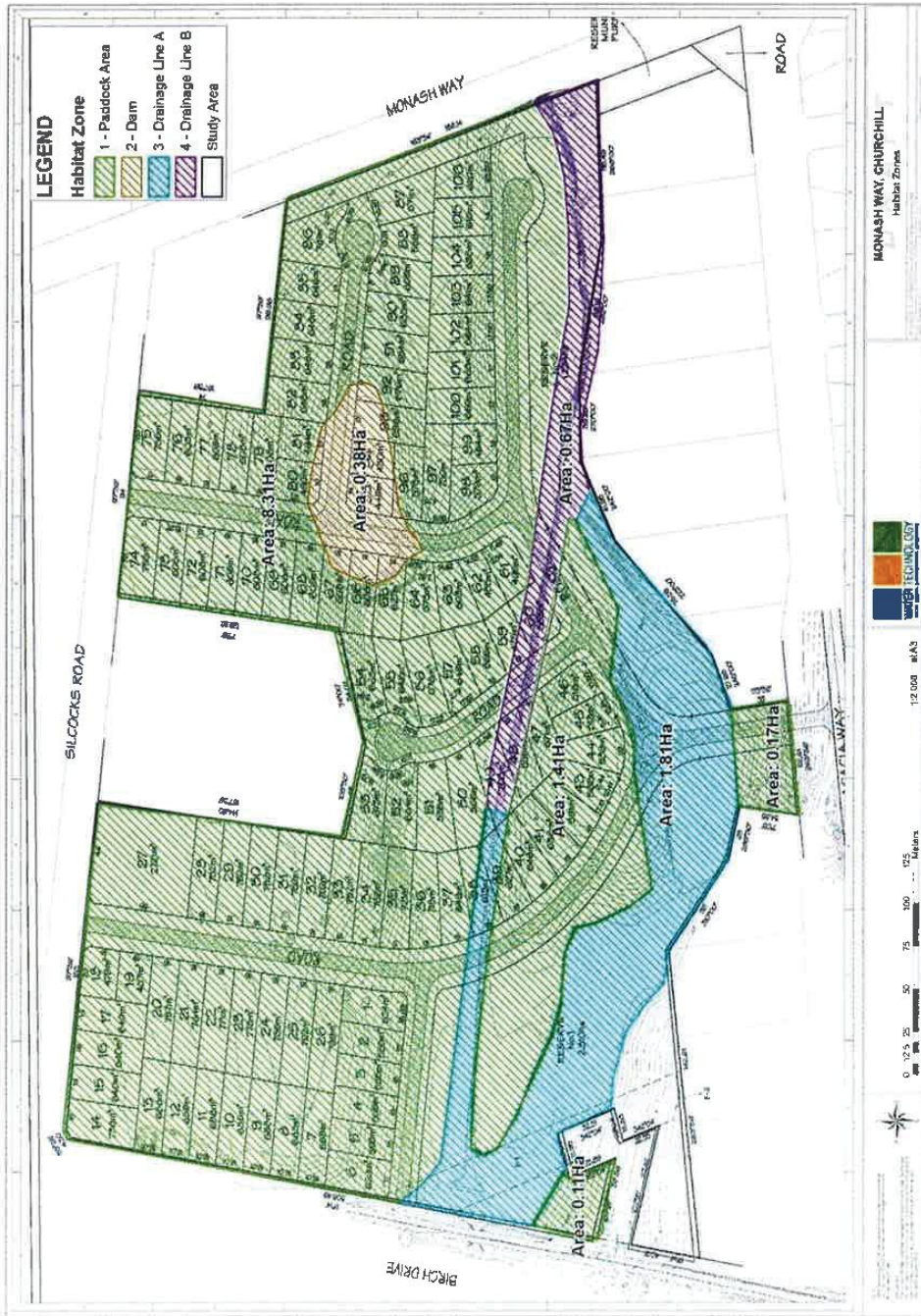


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Figure 3-2: Map 1 - Designated Habitat Zones Over Proposed Subdivision



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### **3.3.1 Swamp Scrub (EVC# 53, BCS = E)**

This EVC generally presents as a closed scrub to 8 m tall at low elevations on alluvial deposits along streams or on poorly drained sites with higher nutrient availability. The EVC is dominated by Swamp Paperbark (*Melaleuca ericifolia*) (or sometimes Woolly Tea-tree [*Leptospermum lanigerum*]) which often forms a dense thicket, out-competing other species. Occasional emergent eucalypts may be present. Where light penetrates to ground level, a moss/lichen/liverwort or herbaceous ground cover is often present. Dry variants have a grassy/herbaceous ground layer (DSE 2011c).

### **3.3.2 Plains Grassy Forest (EVC# 151, BCS = V)**

This EVC is described as an open forest to 20 m tall often above a heathy shrub layer and a diverse grassy, sedgy and herbaceous ground layer. It occurs on lowland plains and old river terraces made up of gravelly sandy clays (DSE 2011c).

## **3.4 Taxonomy**

### **3.4.1 Flora**

For plants that could not be identified in the field, specimens and images were collected for identification using the *Flora of Victoria* (Walsh and Entwisle 1994, 1996 and 1999), and PlantNet Flora On-line (Royal Botanic Gardens Sydney 2009).

### **3.4.2 Fauna**

Lists of fauna present across the Survey Area were compiled, with the nomenclature based variously on the compilations of Hero *et al.* (1991), Menkhorst (1995), Cogger (1996) and Simpson and Day (1998), and utilising Triggs (1996) for identification using indirect methods, such as the presence of scats or tracks.

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## 4. RESULTS AND DISCUSSION

### 4.1 Flora

The inventory of species noted across the survey area, by Habitat Zone, is recorded in Appendix C. In total, Fifty (50) species were identified within the survey site, with no species identified having a *Conservation Status in Victoria*.

#### 4.1.1 Habitat Zone 1

The Paddock zone was composed common exotic pasture grass species, and the typical opportunistic exotic flora typical of paddocks, such as Perennial Ryegrass (*Lolium perenne*), Wild Oat (*Avena fatua*), Barley Grass (*Hordeum leporinum*), Red Brome (*Bromus rubens*), White and Strawberry Clover (*Trifolium repens*, *T. fragiferum*), Oxalis (*Oxalis latifolia*), Ribwort (*Plantago lanceolata*) and Paspalum (*Paspalum dilatatum*).

Interspersed through this zone were a limited diversity of woody species, including Apple Trees (*Malus domestica*), Monterey Cypress (*Cupressus macrocarpa*), Radiata Pine (*Pinus radiata*), Silky Oak (*Grevillea robusta*), Spotted Gum (*Eucalyptus maculata*) and Swamp Gum (*E. ovata*). The only native species that remains onsite in a natural distribution however is the Swamp Gum. All other native woody species have been planted onsite.

#### 4.1.2 Habitat Zone 2

Habitat Zone 2 is an artificially constructed dam that presents as an area of wetland onsite, and contains some components of what could be considered the Swamp Scrub EVC. That said, the zone does not contain any of the woody overstorey (*Melaleuca spp.*) that typically define this EVC type. It is more appropriate to refer to this zone as an area of Plains Sedge Wetland EVC. Wetland EVC's are not assessable under the NVF. Species located within this zone, including within the area of inundation itself, were Common Tussock-grass (*Poa labillardierei*), Spiny Rush (*Juncus acutus*), Soft Twig-rush (*Baumea rubiginosa*), Common Spike-sedge (*Eleocharis acuta*), Slender Knotweed (*Persecaria decipiens*), Robust Willow-herb (*Epilobium billardierianum*), Water Fern (*Azolla filiculoides*) and Duckweed (*Lemna minor*).

This zone is deceptive in regards its status as an area of native vegetation, and it is the considered opinion of Water Technology that this zone, being principally representative of a wetland EVC, **does not** meet the definition of native vegetation as defined within the NVF. The site is an artificially embayed water body, permanently inundated in part, and contains a number of species likely to have been translocated to the site by way of seed distribution during periodic overland flood events from areas of remnant native vegetation upstream of the property. Without the artificial embayment of water at this site, these species would not occupy this zone, and historic reference indicates that prior to the dam construction, the area of Habitat Zone 2 was identical to the surrounding land referred to as Habitat Zone 1 (Walker, Pers Comm 2011).

#### 4.1.3 Habitat Zone 3

This area is mapped for the 1750's EVC mapping as an area of Swamp Scrub, but again, as for Habitat Zone 2, the *Melaleuca* overstorey is completely removed. This zone is dominated almost solely by Cumbungi (*Typha domingensis*) and Common Reed (*Phragmites australis*). Within this zone was also limited distribution of Thatch Saw-sedge (*Gahnia radula*). Other than these three species, the only other

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vegetation was exotic species, including Umbrella Sedge (*Cyperus eragrostis*), Nut Grass (*C. rotundus*) and a suite of other exotic wet area pasture species and weeds.

#### 4.1.4 Habitat Zone 4

Located as the eastern end of the southernmost drainage line, this area, also identified as Swamp Scrub in the 1750's EVC mapping, is more accurately described as Plains Grassy Forest. Overstorey species comprised almost exclusively of Swamp Gum, and mid storey vegetation comprising various planted species, including Silver Wattle (*Acacia dealbata*) and Blackwood (*A. melanoxylon*). Herb layer and groundcover was dominated by exotic weeds and garden escapes from neighbouring residential areas, including Blackberry species (*Rubus fruticosus* agg.), Sweet Briar (*Rosa rubiginosa*) and Cordyline (*Cordyline australis*).

## 4.2 Fauna

There were very few fauna species observed during the assessment period. Details of those species noted or inferred are detailed in Table 1. Those that did occur are typically those observed in paddock and semi-rural house environments, including several that are widely distributed introduced species, such as the Common Blackbird, Common Starling and House Sparrow.

There were no rare or threatened species observed on or near the Property.

The lack of species diversity at the property is not surprising, given that:

- the majority of the property has been heavily grazed and/or cropped for a considerable period, and hence, vegetation structure is highly simplified, and there has been no vegetation recruitment;
- there were only limited numbers of indigenous trees remaining on the property;
- there was no fallen wood left on ground across the property;
- the majority of planted individuals are not noted nectar or fleshy fruit producers;
- the area is in very close proximity to developed urban areas, and hence predator individuals, i.e. roaming domestic cats and dogs, would be present on the property.

On this basis, there was highly limited habitat opportunity for fauna in terms of residence (e.g. lack of hollows, fallen timber, etc.), a highly simplified vegetation structure (i.e. fewer opportunities for food collection and shelter/protection), and a lack of food sources (e.g. lack of nectar and fleshy fruits).

Table 4-1: Observed or Inferred Fauna at Monash Way, Churchill on the 3/3/2011 between 11.30am and 4.30pm. An asterisk indicates an Introduced Species

Common name	Scientific name	Method of observation*
<i>Birds</i>		
Australian Magpie	<i>Gymnorhina tibicen</i>	V,C
Australian Raven	<i>Corvus coronoides</i>	V,C
Common Blackbird*	<i>Turdus merula*</i>	V,C
Common Starling*	<i>Sturnus vulgaris*</i>	V,C
Crimson Rosella	<i>Platycercus elegans</i>	V,C
House Sparrow*	<i>Passer domesticus*</i>	V,C
Jacky Winter	<i>Microeca fascians</i>	V,C
Red Wattlebird	<i>Anthochaera carunculata</i>	V,C
Willie Wagtail	<i>Rhipidura leucophrys</i>	V,C

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Common name	Scientific name	Method of observation*
<i>Mammals</i>		
European Rabbit*	<i>Oryctolagus cuniculus*</i>	Sc
Red Fox*	<i>Vulpes vulpes*</i>	Sc

\* denotes an introduced species; Method observed: V is visual observation; C is call heard; Sc is scat found.

### 4.3 Threatened species searches

#### 4.3.1 Flora Information System (FIS)

Only three (3) significant species of flora were found within a 5 km radius of the property, and are noted, along with their threat status and likelihood of occurrence, in Table 4-2.

Prior to field surveys, these species were considered to have the potential to be present onsite; however none of the species were located within the survey area. The location of these species as outlined in the FIS records are identified in Figure 4-1.

Table 4-2: List of Threatened Flora Species recorded by the FIS In a 5km radius around the Survey Site.

Conservation Status			Scientific Name	Common Name	Likelihood of Occurrence <sup>4</sup>
EPBC <sup>1</sup>	DSE <sup>2</sup>	FFG <sup>3</sup>			
	v		<i>Cardamine paucijuga</i> s.s.	Annual Bitter-cress	Annual herb to 40cm high, slender and usually erect, tap-rooted, sometimes hairy. Widespread in moist sites on rich soils, and a range of habitats <b>Likelihood: Potential to be present</b>
EN	e	L	<i>Dianella amoena</i>	Matted Flax-lily	Tufted, matt forming perennial lily. Mats can be up to 5m wide. Distinct red colour at the leaf base. Occurs in lowland grasslands, grassy woodlands and grassy wetlands, on well drained to seasonally wet soils. <b>Likelihood: Potential to be present</b>
VU	v	L	<i>Eucalyptus strzeleckii</i>	Strzelecki Gum	A medium to tall forest tree growing to approximately 30 m high, identifiable from the glaucous new growth evident at the outside of crown that gives a blue-grey colouring to the crown. Favours a range of sites including ridges, slopes and along the banks of streams, on grey, deep, fertile loams which are seasonally waterlogged. Closely related to <i>E. ovata</i> . <b>Likelihood: Potential to be present</b>

- Under the EPBC Act 1999, EN = Endangered, VU = Vulnerable
- Under the Victorian Advisory Lists, e = endangered in Victoria; v = vulnerable in Victoria (from DSE 2005).
- Under the Flora and Fauna Guarantee Act 1988, L = listed as threatened.
- Habitat descriptions for species obtained from the *Flora of Victoria* (Walsh and Entwisle 1994, 1996 and 1999) and PlantNet Flora On-line (Royal Botanic Gardens Sydney 2009).

#### 4.3.2 Atlas of Victorian Wildlife (AVW)

The twelve (12) threatened species of fauna found within a 5 km radius of the property are noted, along with their threat status and likelihood of occurrence, in Table 4-3.

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Of the twelve species, only two (2) are considered to have potential to be present onsite, and of these two, neither were actually noted as occurring onsite. The other species have been discounted on the basis of habitat suitability, known distributions, inappropriate timing of the survey based on migratory occupancy periods, or are only known from isolated populations, geographically well removed from the survey area (see Figure 4-2).

Table 4-3: List of Threatened Terrestrial Fauna species recorded by the AVW in a 5 km radius around the Survey Site (DSE 2011d)

Conservation Status			Scientific Name	Common Name	Likelihood of Occurrence <sup>4</sup>
EPBC <sup>1</sup>	DSE <sup>2</sup>	FFG <sup>3</sup>			
	VU	L	<i>Accipiter novaehollandiae novaehollandiae</i>	Grey Goshawk	Found in most forest types, especially tall closed forests, including rainforests, however preferred habitats are tall forests, tall woodlands, and timbered watercourses. <b>Likelihood: Unlikely to be present onsite, due to lack of suitable foraging and nesting habitat.</b>
	NT		<i>Alcedo azurea</i>	Azure Kingfisher	Prefers freshwater rivers and creeks as well as billabongs, lakes, swamps and dams, usually in shady overhanging vegetation. <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	VU		<i>Anas rhynchos</i>	Australasian Shoveler	The Australasian Shoveler is found in all kinds of wetlands, preferring large undisturbed heavily vegetated freshwater swamps. It is also found on open waters and occasionally along the coast <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	VU	L	<i>Ardea modesta</i>	Eastern Great Egret	The species usually frequents shallow waters. The Great Eastern Egret may retreat to permanent wetlands or coastal areas when other wetlands are dry. <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	VU		<i>Biziura lobata</i>	Musk Duck	Musk Ducks tend to be found in deep freshwater lagoons, with dense reed beds. <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	EN	L	<i>Egretta garzetta nigripes</i>	Little Egret	Found on shallows of wetlands, flooded pasture and agricultural land and intertidal mudflats. <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	NT		<i>Falco subniger</i>	Black Falcon	Found along tree-lined watercourses and in isolated woodlands, mainly in arid and semi-arid areas. It roosts in trees at night and often on power poles by day. Often mistaken for the more commonly distributed Brown Falcon ( <i>F. berigora</i> ) <b>Likelihood: Potential to be present onsite, but only as a transient occupier.</b>



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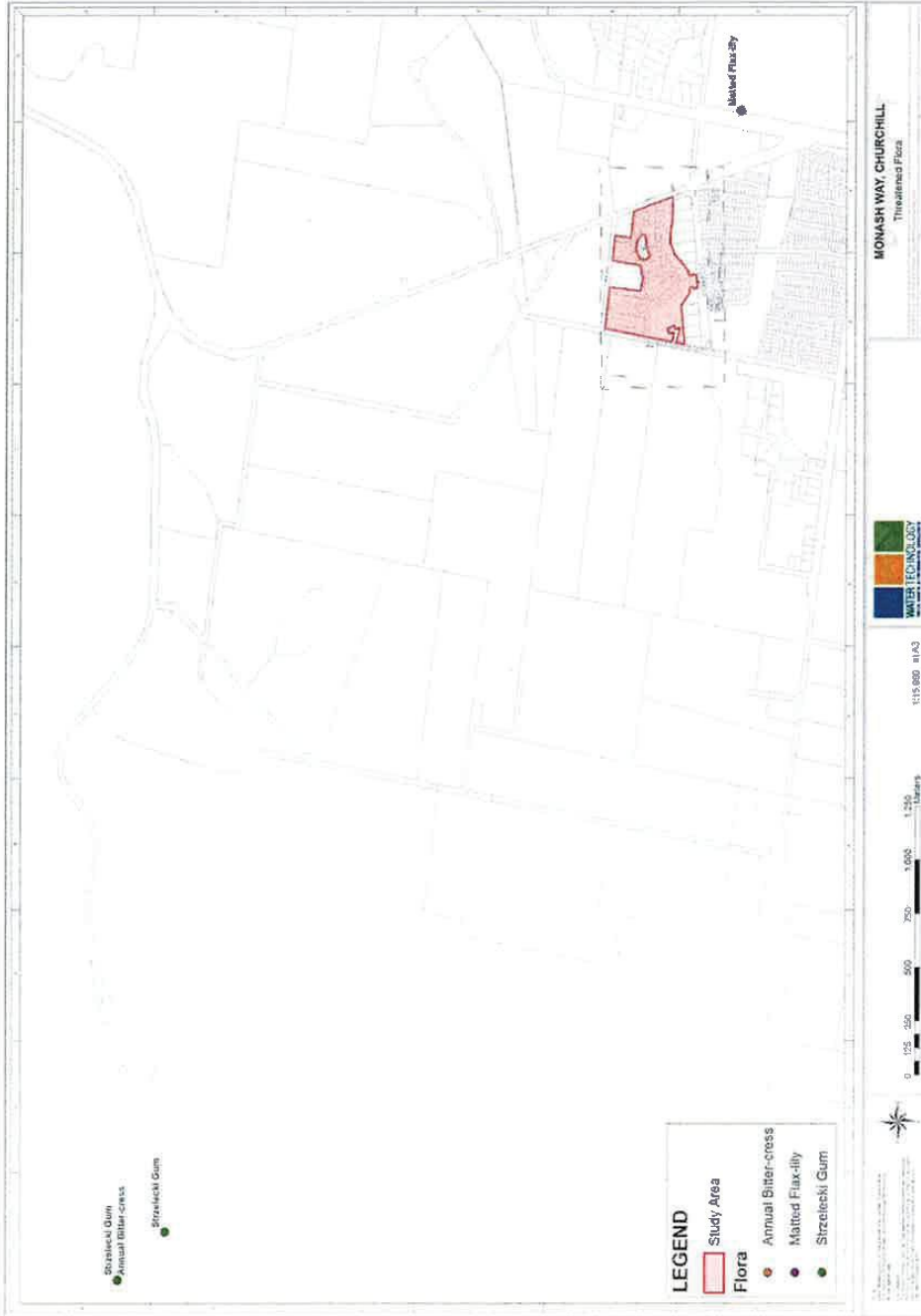
Conservation Status			Scientific Name	Common Name	Likelihood of Occurrence <sup>4</sup>
EPBC <sup>1</sup>	DSE <sup>2</sup>	FFG <sup>3</sup>			
	DD		<i>Gadopsis marmoratus</i>	River Blackfish	Lives in clear, flowing streams with abundant cover. Prefers streams with gravel bottoms and abundant snags. Also occurs in lakes and reservoirs. It has a reduced distribution because of habitat degradation but is common in some areas. <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	EN	L	<i>Ninox connivens connivens</i>	Barking Owl	Usually found in habitats that are dominated by eucalyptus species, particularly red gum. They prefer woodlands and forests with a high density of large trees and particularly sites with hollows that are used by the owls as well as their prey. Roost sites are often located near waterways or wetlands. <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	VU		<i>Platalea regia</i>	Royal Spoonbill	Found in shallow freshwater and saltwater wetlands, intertidal mud flats and wet grasslands. Both permanent and temporary inland waters are used when available in the arid zone. Will also use artificial wetlands such as sewage lagoons, saltfields, dams and reservoirs <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	NT		<i>Plegadis falcinellus</i>	Glossy Ibis	The species feeds in very shallow water and nests in freshwater or brackish wetlands with tall dense stands of emergent vegetation (e.g. reeds or rushes) and low trees or bushes. It shows a preference for marshes at the edges of lakes and rivers, as well as lagoons, flood-plains, wet meadows, swamps, reservoirs, sewage ponds, rice-fields and irrigated cultivation <b>Likelihood: Highly unlikely to be present due to lack of suitable habitat.</b>
	NT	L	<i>Pseudemola rawlinsoni</i>	Glossy Grass Skink	Rawlinson's Skink is distributed widely over coastal areas, together with areas to the north east of Melbourne including the high plains. It appears to be restricted to swampy areas including brackish marshes. <b>Likelihood: Potential to be present onsite.</b>

1. Under the EPBC Act 1999, VU = Vulnerable
2. Under the Victorian Advisory Lists, EN = endangered in Victoria; VU = vulnerable in Victoria; NT = near threatened in Victoria; (DSE 2005).
3. Under the Flora and Fauna Guarantee Act 1988, L = listed as threatened.
4. Habitat descriptions for species obtained from Hero *et al.* (1991), Menkhorst (1995), Cogger (1996) and Simpson and Day (1998).

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Figure 4-1: Listed Locations for Threatened Flora within 5km of the Assessment Site (DSE 2011d).



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Figure 4-2: Listed Locations for Threatened Fauna within a 5km radius of the Assessment Site.



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#### 4.4 Significant Trees

Throughout the survey site, eighteen (18) indigenous trees, comprising seven (7) separate species were observed as likely requiring removal. *Diameter at breast height* (dbh [being a measure of the diameter of a tree at 1.3m above ground level]) measurements have been taken for all 19 trees. The list of trees identified onsite, and specific details for each individual tree are noted in Table 4-4, and their location plotted in Figure 4-3.

Table 4-4: Details of all Significant Trees, Both Exotic and Native Identified Onsite

Tree #	Zone	Scientific Name	Common Name	dbh <sup>a</sup>	Health <sup>b</sup>	Notes <sup>c</sup>	Location <sup>d</sup>	
				cm	%		Easting	Northing
1	1	<i>Eucalyptus ovata</i>	Swamp Gum	78	3	P	448716	5760856
2	1	<i>Eucalyptus ovata</i>	Swamp Gum	84.5	3	P	448756	5760876
3	1	<i>Grevillea robusta</i>	Silky Oak	29	4	P	448916	5760995
4	1	<i>Acacia dealbata</i>	Silver Wattle	61	0	P	448942	5760992
5	1	<i>Eucalyptus maculata</i>	Spotted Gum	52	5	P	448956	5760991
6	1	<i>Eucalyptus obliqua</i>	Messmate	26	4	P	448982	5760988
7	1	<i>Melaleuca ericifolia</i>	Swamp Paperbark	25.5	5	P	448992	5760986
8	1	<i>Eucalyptus maculata</i>	Spotted Gum	52	5	P	449023	5760867
9	4	<i>Eucalyptus ovata</i>	Swamp Gum	146	5	N	449068	5760734
10	4	<i>Eucalyptus ovata</i>	Swamp Gum	170.5	5	N	449019	5760730
11	4	<i>Eucalyptus ovata</i>	Swamp Gum	71	5	N	449003	5760730
12	4	<i>Eucalyptus ovata</i>	Swamp Gum	76	5	N	448999	5760735
13	4	<i>Eucalyptus ovata</i>	Swamp Gum	79	5	N	448957	5760742
14	4	<i>Eucalyptus ovata</i>	Swamp Gum	86	5	N	448931	5760748
15	4	<i>Eucalyptus ovata</i>	Swamp Gum	75.5	4	N	448923	5760752
16	4	<i>Eucalyptus ovata</i>	Swamp Gum	85.5	4	N	448895	5760750
17	4	<i>Eucalyptus ovata</i>	Swamp Gum	104	5	N	448874	5760763
18	2	<i>Grevillea sp.</i>	Grevillea cultivar	n/a	5	P	448931	5760880

a - is diameter of trees at breast height (1.3 m above ground level)

b - is the percentage of the tree canopy/crown retaining foliage

- 0 = Dead, 1 = 1-20 projected foliage cover (pfc), 2 = 21-40 pfc, 3 = 41-60 pfc, 4 = 61-80 pfc, 5 = 81-100 pfc

c - is either: P, planted; N, natural.

d - Location data are GDA94 MGA Zone 55

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#### **4.4.1 Planted and Exotic Vegetation**

Of the 7 species noted, all with the exception of Swamp Gum (*Eucalyptus ovata*), are planted vegetation, and thus are exempt from the requirements of the NVF. The NVF has been designed to protect "native vegetation" (i.e. indigenous or local vegetation that is naturally occurring). This implies that in the majority of situations, planted indigenous or non-indigenous species may be cleared without a permit (Clause 52.17 of the Planning Scheme) or offsets under the NVF. The possible exceptions to this are if the vegetation was planted for conservation purposes with public funding, or unless there are Local Government regulations pertaining to Street Tree or Amenity planting protection. If non-indigenous trees are being utilised by threatened native fauna, then a case of retention of the vegetation could be made (Hamilton, pers. comm. 2011).

In this instance, public funding has not been utilised for the planting of vegetation, there are no Shire zoning or Overlay issues requiring permits be sought for vegetation removal within the site, and no threatened species were observed to be utilising the trees. Consequently, the NVF, and the requirements within the NVF for provision of offset is not required for this vegetation.

#### **4.4.2 Naturally Occurring Native Vegetation**

According to the benchmark for the Plains Grassy Forest EVC (Appendix A), the critical diameter for a Large Old Tree is 70cm for a Eucalypt species, (diameter at breast height [dbh], DSE 2011c).

Therefore, for the naturally occurring Eucalypts;

- A Small Tree is anything less than the calculated value of a Medium Old Tree;
- A Medium Old Tree is defined as 75% of benchmark (or 52.5cm dbh);
- A large old tree is defined as 70cm dbh, as per the benchmark, and;
- A Very Large Old Tree is defined as 125% of benchmark (or 93.75cm dbh).

The only trees requiring removal as per the current proposed subdivision plan, and requiring approval as per the NVF, are Tree numbers 14, 15, 16 and 17.

These four (4) trees, all Swamp Gums, represent 3 Large Old Trees and one (1) Very Large Old Tree (see dbh column in Table 4-4).

The NVF requires that for each Large or Very Large Old Tree removed, there is an offset requirement. Section 4.5 details the methodology for calculating offsets for these four trees.

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Figure 4-3: Significant Trees Identified during the Vegetation Assessment Overlaid on Aerial Image



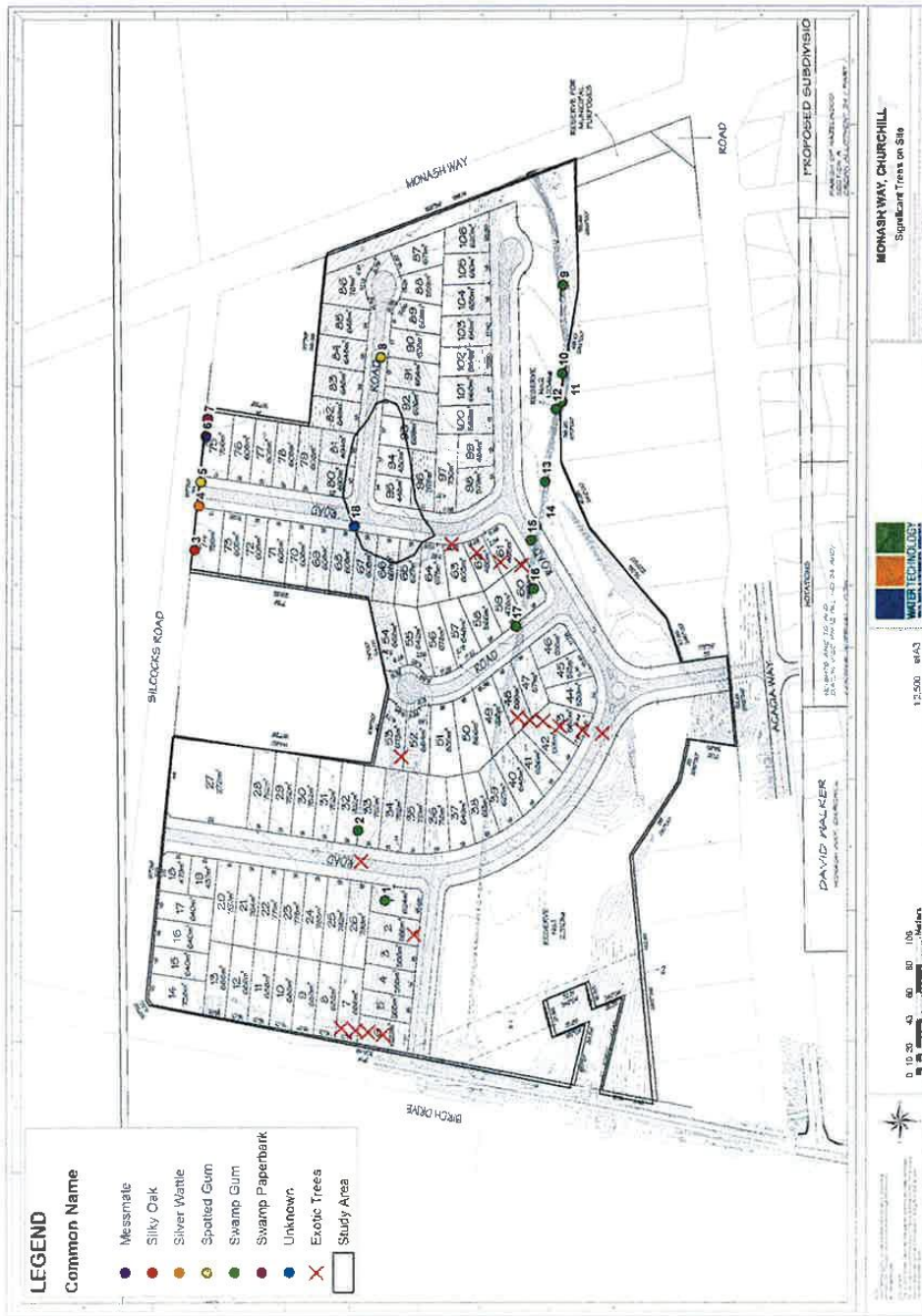
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Figure 4-4: Significant Trees Identified during the Vegetation Assessment Overlaid on Proposed Subdivision



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#### **4.5 Habitat Hectares Assessment**

The NVF (DNRE 2002) utilises Habitat Scores and Habitat Hectares assessments as a basis for calculating net loss and net gain in many circumstances where the loss includes vegetation modification or clearance. Habitat Scores and Habitat Hectares assessments have not been calculated for the designated Habitat Zones for the following reasons.

- Habitat Zone 1 contains no native vegetation that meets the definition of either a 'patch' or 'scattered vegetation' as per the NVF, and thus does not require a Habitat Hectare Assessment
- Habitat Zone 2 is an artificial structure, that at best, could be a very poor representation of Plains Sedge Wetland. Wetland EVC's are not addressed within the NFV, and thus does not require a Habitat Hectare Assessment.
- Habitat Zones 3 and 4 are areas of wetland type vegetation, so again, are not dealt with under the NFV.

That being said though, the overstorey species within Habitat Zone 4, can be assessed as scattered trees under the NVF. Consequently, those trees that may be lost as part of the proposed development have been assessed for offset requirements (see Appendix D).

##### **4.5.1 Net Gain Assessment**

It is beyond the scope of this report to calculate a full Net Gain report and Offset Management Plan; however, certain broad conclusions can be made with regards likely offset requirements should approval for the removal of the 4 trees identified be granted.

Within Appendix 4, Table 6 of the NFV, there is a clear deferral to the regional Native Vegetation Plan for any removal of trees from a location greater than 4ha in size, with less than 8 scattered old trees/ha. The proposed development site assessed within this report meets this description, as the property is approximately 11.5ha in size, with only 9 scattered trees within the property boundary. This is a tree density of 0.78 trees/ha.

##### **4.5.2 Conservation Significance**

Table 5 of the NVF specifies that the Conservation Significance of an area is determined according to the relationship between the Conservation Status of the vegetation present and the quality of the vegetation as determined by the Habitat Score. The Conservation Significance of an area can only be ascribed following preparation of a Habitat Hectare calculation. As the vegetation identified within this report does not meet the classification of native vegetation as per the NVF, the conservation significance of the vegetation zones cannot be appropriately determined.

To address this issue in relation to the vegetation assessed within this report, a Habitat Hectare assessment has been undertaken for the trees likely to be removed as part of the proposed development.



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### 4.5.3 Scattered Tree Habitat Hectare Assessment

A Habitat Hectare Assessment has been undertaken for the area where the four trees that are likely to be removed are located; however as is evident in Table 4-5, the Habitat Hectare Score is extremely low. For the purposes of this assessment, the Habitat Hectare Score serves only to determine conservation significance for the trees, so appropriate offsets can be calculated.

Table 4-5: Habitat Hectare Assessment for Habitat Zone 3

	Habitat Zone 1
Bioregion	Gippsland Plain
EVC <sup>1</sup>	PGF
Bioregional Conservation Status (DSE 2011c)	Vulnerable
Bioregional Conservation Significance (DNRE 2002)	Medium
Area (ha) <sup>2</sup>	n/a
Large trees	3
Tree canopy cover	0
Understorey	0
Lack of weeds	0
Recruitment	0
Organic litter	0
Logs	0
Patch size	1
Neighbourhood NV100m	0%
Neighbourhood NV1km	0%
Neighbourhood NV5km	0%
Neighbourhood sub-total	0
Neighbourhood disturbance	0
Neighbourhood value	0
Distance to core	0
Habitat Score	4
Habitat Hectares <sup>3</sup>	n/a

EVC<sup>1</sup>: PGF = Plains Grassy Forest  
 Area (ha)<sup>2</sup>: Scattered Trees, thus there is no capacity to calculate an area statement.  
 Habitat Hectares<sup>3</sup>: See notes for Area (ha)<sup>2</sup>.

Table 5 of the NVF determines that a Vulnerable EVC, with a score of 0.04, is given a conservation significance of *Medium*. On that basis, a Medium Conservation Significance score has been applied to the four trees for removal to determine likely offset requirements.

As stated in Section 4.5.6, at this point in the assessment, based on tree densities per hectare, deferral to the West Gippsland Native Vegetation Plan ([WGNVP] WGCMA 2003) is now required to further determine offset requirements for removal of Tree #'s 14, 15, 16 and 17.

Table 6.1 of the WGNVP defines Large Old Trees as 1 times the Large Tree Benchmark (LTB) figure of 70dbh. It further quantified a Very Large Old Tree as 1.5 times the LTB. Consequently, all 4 trees are considered Large Old Trees as per the WGNVP.

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Under the appropriate determinations within Table 6.1 of the WGNVP, there are 2 options for offset provision for removal of Large Old Trees of Medium conservation significance. A proponent can either;

- a) Offset each tree removed by protection of 2 other Large Old Trees, and 10 trees to be recruited, or
- b) Recruit 100 trees.

Thus, the removal of 4 Large Old Trees will require the offset provision of either

- a) 8 other Large Old Trees to be protected and 40 trees to be recruited, or
- b) Recruit 400 new trees.

Given the proposed retention onsite of 5 Large Old Trees, it would be likely that further offset provision could be provided by way of restoration of the current area defined within this report as Habitat Zone 3, with a mixture of grass, sedge and rush species, complimented with the recruitment of trees to form the balance of offset requirements (anticipate 200 trees).

#### **4.6 Relevant Legislation and Policies**

Both Commonwealth and State legislation and policies have been reviewed for their application to the proposed vegetation removal.

##### **4.6.1 Commonwealth**

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* requires that any action that has or is likely to have a significant impact on a matter of National Environmental Significance (NES) requires Commonwealth approval. Matters of national significance in the Churchill region include nationally threatened species and listed migratory species.

No nationally threatened flora are likely to occur within the area proposed for development, though one Nationally Vulnerable and one Nationally Endangered flora species has the potential to be present within the area. No Nationally Threatened fauna species, are likely to occur in the area (See Sec. 4.3).

- One Nationally Vulnerable flora species, the Strezlecki Gum (*Eucalyptus strezleckii*) has the potential to be present onsite, though was not located during the vegetation assessment, thus a significant impact would not occur, and the provisions of the EPBC Act would not apply.
- One Nationally Endangered flora species, the Matted Flax-lily (*Cardamine paucijuga s.s.*), has the potential to be present onsite, though was not located during the vegetation assessment, thus a significant impact would not occur, and the provisions of the EPBC Act would not apply.
- The occasional migratory species, may pass over the site, however, the proposed vegetation removal will not prevent this from continuing at its current level. A significant impact would therefore not occur, and the provisions of the EPBC Act would not apply.

##### **4.6.2 State**

The State legislation and provisions listed in Table 4-6 require flora and fauna impacts and conservation to be considered in planning decisions made by the responsible authorities. Table 4-6 also provides comment on the application of these statutes and provisions to the property.

Table 4-6 State statutes and provisions that need to be considered in regards to the area at Monash Way, Churchill.

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Statute/Provision	Purpose	Application to the Airport Lane property
<i>Flora and Fauna Guarantee Act 1988</i>	Protection of State threatened species	No State threatened species were able to be found within the survey area (See Sec. 4.3), so <b>this Act does not apply.</b>
<i>Planning and Environment Act 1987</i>	Victorian Planning Particular and General Provisions provide a decision-making framework for land use and development	<b>These will apply, as trees defined as per the NVF as 'Large Old Trees' are likely to be removed, destroyed or lopped.</b>
<i>Planning and Environment Act 1987</i>	Native Vegetation Retention Provision of the State Planning Policy Framework, including the <i>Native Vegetation Management Framework</i> , gazetted on the 24 <sup>th</sup> July 2003.	Requires avoidance, minimisation and offset for likely losses of vegetation. <b>Offset will be required should vegetation removal proceed.</b>

Offset will be required under the provisions of the NVF (DNRE 2002) should any vegetation be removed or disturbed.

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## 5. RECOMMENDATIONS AND IMPLICATIONS FOR DEVELOPMENT

As discussed in Section 1.1 of this report, 'Victoria's Native Vegetation Management – A Framework for Action' (the NVF) requires that the three step approach be applied to all proposed developments that may involve removal of native vegetation. Thus, a proponent must:

- Firstly **avoid** adverse impacts, particularly through vegetation clearance;
- If avoidance is not possible, a proponent must secondly **minimise** impacts through appropriate consideration in planning processes and expert input to project design or management, and
- If minimisation was the only alternative, then the proponent must identify appropriate **offset** options.

### The Three Step Approach as per the NVF

#### Principle 1 – Avoid

The proposal as submitted by David Walker, and prepared by Crowther and Sadler delivers on the notion of avoidance of native vegetation, by limiting urban development to the northern portions of the subject land, thus avoiding direct impacts on many of the remnant overstorey species onsite, and the drainage line areas through the southern portion of the property.

Water Technology estimate that should the proposal proceed as outlined in plans prepared by Crowther and Sadler, vegetation removal could consist of:

- Up to 4 indigenous trees, being 3 'Large Old Trees' and 1 'Very Large Old Tree'.

#### Principle 2 – Minimise

There is the potential, with slight modification to road verge treatment along the south-eastern roadway, that Tree # 14 (DBH 86) may be able to be retained. This may be possible with slight southerly deviation of the proposed footpath, so as to retain this tree as an aesthetic specimen between the roadway and footpath itself. Success of this possible retention will be subject to detailed measurement of the proximity of the tree to the roadway, and whether spacing of the tree to the roadway will still meet any safety requirements for unobstructed use of the roadway.

#### Principle 3 – Offset

Should vegetation removal permits be granted for the proposed development, then a full Net Gain calculation would need to be prepared, and appropriate offset sites assessed and quantified.

It is beyond the scope of this report to formally quantify offset requirements and provide evidence in the form of a Net Gain report and Vegetation Offset Management Plan, other than the indicative calculation provided in Section 4.5.2. Such assessments and calculations would be undertaken should permit be granted for vegetation removal based on the proposal as outlined in this report, or any modification thereof. That said, potential offset requirements once calculated are likely to be fully met by implementation of the possible proposed restoration of Habitat Zone 3, as described in Section 4.5.3 of this report.

#### Other Matters of Significance

It is the considered opinion of Water Technology that there are no other 'Matters of Significance' in regards to ecological concerns arising from the proposed development.

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### **6.1 Personal Communications**

Dr Steve Hamilton (2011) Senior Ecologist, Water Technology.

Mr David Walker (2011) Proponent, Monash Way Churchill Subdivision.

Mr David Walker c/o Crowther and Sadler Pty Ltd



## **APPENDIX A DSE EVC BENCHMARK DESCRIPTIONS**

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1828-02 / R01v02



Department of  
Sustainability and  
Environment

## EVC/Bioregion Benchmark for Vegetation Quality Assessment

### Gippsland Plain bioregion

#### EVC 53: Swamp Scrub

##### Description:

Closed scrub to 8 m tall at low elevations on alluvial deposits along streams or on poorly drained sites with higher nutrient availability. The EVC is dominated by Swamp Paperbark *Melaleuca ericifolia* (or sometimes Woolly Tea-tree *Leptospermum lanigerum*) which often forms a dense thicket, out-competing other species. Occasional emergent eucalypts may be present. Where light penetrates to ground level, a moss/lichen/liverwort or herbaceous ground cover is often present. Dry variants have a grassy/herbaceous ground layer.

##### Canopy Cover:

%cover	Character Species	Common Name
50%	<i>Leptospermum lanigerum</i>	Woolly Tea-tree
	<i>Melaleuca ericifolia</i>	Swamp Paperbark

##### Understorey:

Life form	#Spp	%Cover	LF code
Medium Shrub	2	10%	MS
Small Shrub	2	1%	SS
Large Herb	2	5%	LH
Medium Herb	3	15%	MH
Small or Prostrate Herb	2	5%	SH
Large Tufted Graminoid	2	10%	LTG
Large Non-tufted Graminoid	3	10%	LNG
Medium to Small Tufted Graminoid	2	5%	MTG
Medium to Tiny Non-tufted Graminoid	2	15%	MNG
Ground Fern	1	5%	GF
Scrambler or Climber	1	1%	SC
Bryophytes/Lichens	na	20%	BL

LF Code	Species typical of at least part of EVC range	Common Name
MS	<i>Coprosma quadrifida</i>	Prickly Currant-bush
MS	<i>Leptospermum continentale</i>	Prickly Tea-tree
LH	<i>Lycopus australis</i>	Australian Gipsywort
LH	<i>Lythrum salicaria</i>	Purple Loosestrife
LH	<i>Persicaria praetermissa</i>	Spotted Knotweed
MH	<i>Hydrocotyle pterocarpa</i>	Wing Pennywort
MH	<i>Stellaria angustifolia</i>	Swamp Starwort
MH	<i>Lobelia anceps</i>	Angled Lobelia
SH	<i>Crassula helmsii</i>	Swamp Crassula
LTG	<i>Juncus procerus</i>	Tall Rush
LTG	<i>Poa labillardierei</i>	Common Tussock-grass
LNG	<i>Gahnia radula</i>	Thatch Saw-sedge
LNG	<i>Phragmites australis</i>	Common Reed
LNG	<i>Baumea rubiginosa</i> s.l.	Soft Twig-rush
MTG	<i>Triglochin procerum</i> s.l.	Water Ribbons
MTG	<i>Juncus gregiflorus</i>	Green Rush
MNG	<i>Eleocharis acuta</i>	Common Spike-sedge
GF	<i>Blechnum cartilagineum</i>	Gristle Fern
SC	<i>Calystegia sepium</i>	Large Bindweed

Ecological Vegetation Class bioregion benchmark





## EVC 53: Swamp Scrub - Gippsland Plain bioregion

**Recruitment:**

Continuous

**Organic Litter:**

40 % cover

**Weediness:**

LF Code	Typical Weed Species	Common Name	Invasive	Impact
MH	<i>Hypochoeris radicata</i>	Cat's Ear	high	low
LNG	<i>Holcus lanatus</i>	Yorkshire Fog	high	high

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Department of  
Sustainability and  
Environment

## EVC/Bioregion Benchmark for Vegetation Quality Assessment Gippsland Plain bioregion

### EVC 151: Plains Grassy Forest

**Description:**

Open forest to 20 m tall often above a heathy shrub layer and a diverse grassy, sedgy and herbaceous ground layer. Occurs on lowland plains and old river terraces made up of gravelly sandy clays.

**Large trees:**

Species	DBH(cm)	#/ha
Eucalyptus spp.	70 cm	20 / ha

**Tree Canopy Cover:**

%cover	Character Species	Common Name
30%	Eucalyptus muelleriana	Yellow Stringybark
	Eucalyptus bridgesiana s.l.	But But
	Eucalyptus polyanthemus	Red Box
	Eucalyptus macrohyncha	Red Stringybark

**Understorey:**

Life form	#Spp	%Cover	LF code
Immature Canopy Tree		5%	IT
Understorey Tree or Large Shrub	3	15%	T
Medium Shrub	6	20%	MS
Small Shrub	3	5%	SS
Prostrate Shrub	2	5%	PS
Large Herb	3	5%	LH
Medium Herb	6	10%	MH
Small or Prostrate Herb	2	5%	SH
Large Tufted Graminoid	2	10%	LTG
Large Non-tufted Graminoid	1	5%	LNG
Medium to Small Tufted Graminoid	4	15%	MTG
Medium to Tiny Non-tufted Graminoid	2	1%	MNG
Ground Fern	2	10%	GF
Bryophytes/Lichens	na	10%	BL

Ecological Vegetation Class bioregion benchmark



## EVC 151: Plains Grassy Forest - Gippsland Plain bioregion

LF Code	Species typical of at least part of EVC range	Common Name
T	<i>Allocastrum littoralis</i>	Black Sheoak
T	<i>Acacia mearnsii</i>	Black Wattle
T	<i>Acacia implexa</i>	Lightwood
T	<i>Exocarpos cupressiformis</i>	Cherry Ballart
MS	<i>Leptospermum continentale</i>	Prickly Tea-tree
MS	<i>Banksia marginata</i>	Silver Banksia
MS	<i>Kunzea ericoides</i>	Burgan
MS	<i>Melaleuca parvistaminea</i>	Rough-barked Honey-myrtle
SS	<i>Pimelea humilis</i>	Common Rice-flower
SS	<i>Hibbertia riparia</i>	Erect Guinea-flower
SS	<i>Platylobium obtusangulum</i>	Common Flat-pea
SS	<i>Phyllanthus hirtellus</i>	Thyme Spurge
PS	<i>Acrotriche serrulata</i>	Honey-pots
PS	<i>Bossiaea prostrata</i>	Creeping Bossiaea
PS	<i>Astroloma humifusum</i>	Cranberry Heath
LH	<i>Tricoryne elatior</i>	Yellow Rush-lily
LH	<i>Wahlenbergia gracilis</i> s.l.	Sprawling Bluebell
MH	<i>Poranthera microphylla</i>	Small Poranthera
MH	<i>Hypericum gramineum</i>	Small St John's Wort
MH	<i>Hydrocotyle hirta</i>	Hairy Pennywort
MH	<i>Gonocarpus tetragynus</i>	Common Raspwort
SH	<i>Dichondra repens</i>	Kidney-weed
SH	<i>Oxalis corniculata</i> s.l.	Yellow Wood-sorrel
SH	<i>Opecularia varia</i>	Variable Stinkweed
LTG	<i>Xanthorrhoea minor</i> ssp. <i>lutea</i>	Small Grass-tree
LTG	<i>Lomandra longifolia</i>	Spiny-headed Mat-rush
LNG	<i>Gahnia radula</i>	Thatch Saw-sedge
MTG	<i>Themeda triandra</i>	Kangaroo Grass
MTG	<i>Poa australis</i> spp. agg.	Tussock Grass
MTG	<i>Lomandra filiformis</i>	Wattle Mat-rush
MTG	<i>Lepidosperma laterale</i>	Variable Sword-sedge
MNG	<i>Microlaena stipoides</i> var. <i>stipoides</i>	Weeping Grass
MNG	<i>Entolasia marginata</i>	Bordered Panic
GF	<i>Pteridium esculentum</i>	Austral Bracken

**Recruitment:**

Continuous

**Organic Litter:**

20 % cover

**Logs:**

20 m/0.1 ha.

**Weediness:**

LF Code	Typical Weed Species	Common Name	Invasive	Impact
LH	<i>Centaureum tenuiflorum</i>	Slender Centaury	high	low
MH	<i>Hypochoeris radicata</i>	Cat's Ear	high	low
MH	<i>Centaureum erythraea</i>	Common Centaury	high	low

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Mr David Walker c/o Crowther and Sadler Pty Ltd



## APPENDIX B PHOTO RECORD AND INDEX

---

1828-02 / R01v02

Image number	Notes	Location taken from		
		Eastings	Northing	Bearing
J1828-02(1)	Western Access/Egress	448621	5760844	110
J1828-02(2)	Tree #1	448716	5760856	65
J1828-02(3)	Landscape	448767	5760848	210
J1828-02(4)	Landscape	448767	5760848	120
J1828-02(5)	Tree #3	448916	5760995	290
J1828-02(6)	Tree #4	448942	5760992	80
J1828-02(7)	Tree #5	448956	5760991	80
J1828-02(8)	Tree #7	448992	5760986	80
J1828-02(9)	Habitat Zone 1	448982	5760955	000
J1828-02(10)	Tree #8	449023	5760867	120
J1828-02(11)	Habitat Zone 1	449029	5760832	280
J1828-02(12)	Habitat Zone 4	449089	5760738	155
J1828-02(13)	Tree #9	449068	5760734	225
J1828-02(14)	Tree #10	449019	5760730	225
J1828-02(15)	Tree #11	449003	5760730	190
J1828-02(16)	Tree #12	448999	5760735	190
J1828-02(17)	Tree #13	448957	5760742	180
J1828-02(18)	Tree #14	448931	5760748	210
J1828-02(19)	Tree #15	448923	5760752	210
J1828-02(20)	Tree #16	448895	5760750	020
J1828-02(21)	Tree #17	448874	5760763	260
J1828-02(22)	Dam Image	-	-	-
J1828-02(23)	Dam Vegetation	-	-	-
J1828-02(24)	Dam Vegetation	-	-	-
J1828-02(25)	Dam Vegetation	-	-	-
J1828-02(26)	Dam Vegetation	-	-	-
J1828-02(27)	Tree #18	448931	5760880	75
J1828-02(28)	Tree #18	448931	5760880	75
J1828-02(29)	Habitat Zone 3	448814	5760768	290
J1828-02(30)	Habitat Zone 3	448941	5760735	250
J1828-02(31)	Western roadside	448621	5760844	375
J1828-02(32)	Tree #2	448756	5760876	60
J1828-02(33)	Tree #6	448982	5760988	80
J1828-02(34)	Northern Boundary Vegetation	448939	5761005	100
J1828-02(35)	Southern Access/Egress	448821	5760596	000
J1828-02(36)	Eastern Boundary	449114	5760824	170
J1828-02(37)	Eastern Boundary	449114	5760824	350



J1828-02(1)



J1828-02(2)



J1828-02(3)



J1828-02(4)



J1828-02(5)



J1828-02(6)





J1828-02(7)



J1828-02(8)



J1828-02(9)



J1828-02(10)



J1828-02(11)



J1828-02(12)



J1828-02(13)



J1828-02(14)



J1828-02(15)



J1828-02(16)



J1828-02(17)



J1828-02(18)



J1828-02(19)



J1828-02(20)



J1828-02(21)



J1828-02(22)





J1828-02(23)



J1828-02(24)



J1828-02(25)



J1828-02(26)



J1828-02(27)



J1828-02(28)



J1828-02(29)



J1828-02(30)



J1828-02(31)



J1828-02(32)



J1828-02(33)



J1828-02(34)



J1828-02(35)



J1828-02(36)



J1828-02(37)



Mr David Walker c/o Crowther and Sadler Pty Ltd



## **APPENDIX C FLORA SPECIES INVENTORY**

---

1828-02 / R01v02

ATTACHMENT 7 9.2 PLANNING PERMIT APPLICATION 2012/071 - MULTI LOT RESIDENTIAL SUBDIVISION  
IN STAGES, SILCOCKS ROAD CHURCHILL - Native Vegetation Quality Assessment

Scientific Name	Common Name	Planted	Habitat Zone 1	Habitat Zone 2	Habitat Zone 3	Habitat Zone 4
<i>Acacia dealbata</i>	Silver Wattle	✓	✓			
<i>Acacia melanoxylon</i>	Blackwood	✓				✓
<i>Avena fatua</i> *	Wild Oats		✓		✓	
<i>Azolla filiculoides</i>	Water Fern			✓		
<i>Bambusa spp.*</i>	Bamboo					✓
<i>Baumea rubiginosa</i>	Soft Twig-rush			✓		
<i>Briza maxima</i> *	Quaking Grass		✓			
<i>Bromus rubens</i> *	Red Brome		✓			
<i>Conyza bonariensis</i> *	Flax-leaf Fleabane		✓	✓		
<i>Cordyline australis</i>	Cordyline					✓
<i>Cupressus macrocarpa</i> *	Monterey Cypress			✓		
<i>Cynodon dactylon</i> *	Couch		✓	✓		
<i>Cyperus eragrostis</i> *	Umbrella Sedge			✓	✓	✓
<i>Cyperus rotundus</i> *	Nut Grass		✓	✓	✓	
<i>Dactylois glomerata</i> *	Cocksfoot		✓			
<i>Eleocharis acuta</i>	Common Spike-sedge			✓		
<i>Epilobium billardierianum</i>	Robust Willow-herb			✓		
<i>Erodium cicutarium</i> *	Common Storksbill		✓			✓
<i>Eucalyptus maculata</i>	Spotted Gum	✓	✓			
<i>Eucalyptus obliqua</i>	Messmate	✓	✓			
<i>Eucalyptus ovata</i>	Swamp Gum		✓			✓
<i>Gahnia radula</i>	Thatch Saw-sedge				✓	✓
<i>Grevillea robusta</i>	Silky Oak	✓	✓			
<i>Grevillea ssp.</i>	Grevillea cultivar	✓	✓			
<i>Halcus lanatus</i> *	Yorkshire Fog		✓	✓		✓
<i>Hordeum leporinum</i> *	Barley Grass		✓			
<i>Hypochaeris radicata</i> *	Cat's Ear		✓			✓
<i>Juncus acutus</i>	Spiny Rush			✓	✓	
<i>Lemna minor</i> *	Duckweed			✓		
<i>Lolium perenne</i> *	Perennial Rye-grass		✓	✓		✓
<i>Malus domestica</i> *	Apple Tree	✓	✓			
<i>Marrubium vulgare</i> *	Horehound		✓			
<i>Malaleuca ericifolia</i>	Swamp Paperbark	✓	✓			
<i>Oxalis latifolia</i> *	Oxalis		✓			
<i>Oxalis pes-caprae</i> *	Sour-sob		✓			✓
<i>Paspalum dilatatum</i> *	Paspalum		✓			✓
<i>Persicaria decipiens</i>	Slender Knotweed			✓		
<i>Phragmites australis</i>	Common Reed		✓		✓	✓
<i>Pinus radiata</i> *	Pine Tree	✓	✓			
<i>Plantago lanceolata</i> *	Ribwort		✓			
<i>Poa labillardierei</i>	Common Tussock-grass			✓		
<i>Rosa rubiginosa</i> *	Sweet Briar					✓
<i>Rubus fruticosus</i> *	Blackberry					✓
<i>Rumex brownii</i>	Swamp Dock			✓		
<i>Solanum nigrum</i> *	Black-berry Nightshade		✓	✓		✓
<i>Sonchus oleraceus</i> *	Common Sow-thistle		✓			
<i>Stellaria angustifolia</i>	Swamp Starwort			✓		
<i>Trifolium fragiferum</i> *	Strawberry Clover		✓			
<i>Trifolium repens</i> *	White Clover		✓			
<i>Typha dominigensis</i>	Cumbungi				✓	

Note : Species are noted with presence/absence only.  
No Cover/Abundance values have been assigned.  
Where tree species have been planted, this has been noted.

Mr David Walker c/o Crowther and Sadler Pty Ltd



## **APPENDIX D HABITAT HECTARE CALCULATIONS**

---

1828-02 / R01v02

**Vegetation Quality Field Assessment Sheet**  
Version 1.3 - October 2004

Department of  
Sustainability and  
Environment

Site Name/No. **Habitat Zone 4**

Location **Monash Way Churchill**

Date **03/03/2011**

Assessor(s) **Simon Lee**

Map Name/No.

AMG / MGA

Tenure **Freehold**

EVC **Plains Grassy Forest**

Bioregion **Gippsland Plain**

**'Site Condition Score'**

**3**

Large Trees	Score		
	% Canopy Health*		
	> 70%	30-70%	< 30%
None present	0	0	0
> 0 to 20% of the benchmark number of large trees/ha	3	2	1
> 20% to 40% of the benchmark number of large trees/ha	4	3	2
> 40% to 70% of the benchmark number of large trees/ha	6	5	4
> 70% to 100% of the benchmark number of large trees/ha	8	7	6
≥ the benchmark number of large trees/ha	10	9	8

Large trees are defined by diameter at breast height (dbh) - see EVC benchmark.

\* Estimate proportion of an expected healthy canopy cover that is present (i.e. not missing due to tree death or decline, or mistletoe infestation).

Tree Canopy Cover	Score		
	% Canopy Health *		
	> 70%	30-70%	< 30%
< 10% of benchmark cover	0	0	0
< 50% or > 150% of benchmark cover	3	2	1
≥ 50% or ≤ 150% of benchmark cover	5	4	3

Tree canopy is defined as those canopy tree species reaching ≥ 80% of mature height - see EVC benchmark description.

\* Estimate proportion of an expected healthy canopy cover that is present (i.e. not missing due to tree death or decline, or mistletoe infestation).

Lack of Weeds	Score		
	'high threat' weeds*		
	None	≤ 50%	> 50%
> 50% cover of weeds	4	2	0
25 - 50% cover of weeds	7	6	4
5 - 25% cover of weeds	11	9	7
< 5% cover of weeds**	15	13	11

\* proportion of weed cover due to 'high threat' weeds - see EVC benchmark for guide.

'High threat' weed species are defined as those introduced species (including non-indigenous 'natives') with the ability to out-compete and substantially reduce one or more indigenous life forms in the longer term assuming on-going current site characteristics and disturbance regime.

The EVC benchmark lists typical weed species for the EVC in the bioregion and provides an estimate of their 'invasiveness' and 'impact'. In general, those weed species considered to have a high impact are considered high threat regardless of their invasiveness.

\*\* if total weed cover is negligible (<1%) and high threat weed species are present then score '13'.

Understorey Life forms				
LF Code from EVC benchmark	# spp observed / Benchmark spp.	% cover observed / Benchmark % cover	Present (✓)	Modified (✓)
IT	- / NA	- / 5		
T	- / 3	- / 15		
MS	- / 6	- / 20		
SS	- / 3	- / 5		
PS	- / 2	- / 5		
LH	- / 3	- / 5		
MH	- / 6	- / 10		
SH	- / 2	- / 5		
LTG	- / 2	- / 10		
LNG	- / 1	- / 5		
MTG	- / 4	- / 15		
MNG	- / 2	- / 1		
GF	- / 2	- / 10		
BL	- / n/a	- / 10		

For life forms with benchmark cover of < 10%, considered 'present' if

- any specimens are observed.

For life forms with benchmark cover of ≥ 10%, considered 'present' if

- the life form occupies at least 10% of benchmark cover.

For life forms with benchmark cover of <10%, then considered substantially 'modified' if the life form has either:

- < 50% of the benchmark species diversity; or
- no reproductively-mature specimens are observed.

For life forms with benchmark cover of ≥ 10%, then considered substantially 'modified' if the life form has either:

- < 50% of benchmark cover; or
- < 50% of benchmark species diversity; or
- ≥ 50% of benchmark cover due largely to immature canopy specimens but the cover of reproductively-mature specimens is < 10% of the benchmark cover.

Understorey		Score
<b>Category &amp; Description</b>		<b>0</b>
All strata and Life forms effectively absent		0
Up to 50% of life forms present		5
≥ 50% to 90% of Life forms present	<ul style="list-style-type: none"> <li>• of those present, ≥ 50% substantially modified</li> </ul>	10
	<ul style="list-style-type: none"> <li>• of those present, &lt; 50% substantially modified</li> </ul>	15
≥ 90% of Life forms present	<ul style="list-style-type: none"> <li>• of those present, ≥ 50% substantially modified</li> </ul>	15
	<ul style="list-style-type: none"> <li>• of those present, &lt; 50% substantially modified</li> </ul>	20
	<ul style="list-style-type: none"> <li>• of those present, none substantially modified</li> </ul>	25



## Vegetation Quality Field Assessment Sheet

Version 1.3 October 2004

Recruitment			Score	
			0	
Category & Description			High diversity** <sup>o</sup>	Low diversity** <sup>o</sup>
No evidence of a recruitment 'cohort' <sup>+</sup>	within EVC not driven by episodic events		0	0
	within EVC driven by episodic events <sup>^</sup>	clear evidence of appropriate episodic event	0	0
		no clear evidence of appropriate episodic event	5	5
Evidence of at least one recruitment 'cohort' in at least one life-form	proportion of native woody species present that have adequate recruitment <sup>o</sup>	< 30%	3	1
		30 - 70%	6	3
		≥ 70%	10	5

<sup>+</sup> 'cohort' refers to a group of woody plants established in a single episode (can include suppressed canopy species individuals).  
<sup>^</sup> refer to EVC benchmark for clarification.  
<sup>o</sup> treat multiple eucalypt canopy species as one species.  
<sup>\*\*</sup> high diversity defined as ≥ 50% of benchmark woody species diversity.

Organic Litter			Score	
			0	
Category & Description			Dominated by native organic litter	Dominated by non-native organic litter
< 10% of benchmark cover			0	0
< 50% or > 150% of benchmark cover			3	2
≥ 50% or ≤ 150% of benchmark cover			5	4

Species Recruitment		Adequate Recruitment
<b>Woody species recorded in habitat zone</b>		(✓)
Eucalypt canopy (combined species)		
number of woody spp. in EVC benchmark (SS and taller)		12

Logs			Score	
			0	
Category & Description			Large logs present*	Large logs absent*
< 10% of benchmark length			0	0
< 50% of benchmark length			3	2
≥ 50% of benchmark length			5	4

Large logs defined as those with diameter ≥ 0.5 of benchmark large tree dbh.  
 \* present if large log length is ≥ 25% of EVC benchmark log length.  
 # absent if large log length is < 25% of EVC benchmark log length.

### 'Landscape Context Score'

Patch Size		Score	
		1	
Category & Description			
< 2 ha		1	
Between 2 and 5 ha		2	
Between 5 and 10 ha		4	
Between 10 and 20 ha		6	
≥ 20 ha, but 'significantly disturbed' <sup>*</sup>		8	
≥ 20 ha, but not 'significantly disturbed' <sup>*</sup>		10	

<sup>\*</sup> 'significantly disturbed' defined as per RFA 'Old Growth' analyses eg. roading, coupes, grazing etc. - effectively most patches within fragmented landscapes.

Distance to Core Area			Score	
			0	
Distance			Core Area not significantly disturbed*	Core Area significantly disturbed*
> 5 km			0	0
1 to 5 km			2	1
< 1 km			4	3
contiguous			5	4

\* defined as per RFA 'Old Growth' analyses.

Neighbourhood			Score	
			0	
Radius from site	% Native vegetation <sup>*</sup>	Weighting		
100 m	0	0.03	0	
1 km	0	0.04	0	
5 km	0	0.03	0	
subtract 2 if the neighbourhood is 'significantly disturbed'				
<b>Add Values and 'round-off'</b>			0	

<sup>\*</sup> to nearest 20%.  
 Multiply % native vegetation x Weighting for each radius from the zone (eg. 40% x 0.03 = 1.2); then add values to obtain final Neighbourhood Value.

Final Habitat Score											
Component	'Site Condition Score'							'Landscape Context Score'			Total
	Large Trees	Tree Canopy Cover	Lack of Weeds	Understorey	Recruitment	Organic Litter	Logs	Patch Size	Neighbourhood	Distance to Core Area	
<b>Score</b>	3	0	0	0	0	0	0	1	0	0	4





6 May 2011

David Walker  
C/o Crowther & Sadler Pty Ltd  
152 Macleod Street  
Bairnsdale VIC 3875

Our Ref: 1828\_L01v01\_Hydrology\_Study.docx

Dear David,

### **Monash Way, Churchill –Scoping Study**

This letter outlines the results of our preliminary hydrological investigations for the proposed residential development in Monash Way, Churchill. In accordance with the written Water Technology brief, our investigations covered:

- Assessment of pre development flood levels and extents;
- Review of Lake Hyland's impact on flows entering the site;
- Sizing of required flood storage and determination of required water quality works; and
- Proposed location(s) of flood storage and water quality works.

This scoping study is based on the following:

- Site inspection conducted by Stephen Reynolds on the 15<sup>th</sup> March 2011
- Discussion with West Gippsland CMA regarding the impacts / constraints of Lake Hyland;
- Review of Crowther & Sadler proposed development plans; and
- Review of site survey plans and available Light Detection and Ranging (LIDAR) data.

### **Development Site**

The subject site (refer Figure 1) is located in north Churchill, just downstream of Lake Hyland. Flood extents have not been prepared for this area. The subject site covers approximately 19.6 Ha (including the existing houses on site), of which approximately 9.6 Ha is proposed for development. The site is bounded by Monash Way to the east and Silcocks Road to the west. An un-named creek flows from east to west through the development site. Flows entering the site are governed by twin 2000mm culverts under Monash Way while flows leaving the site flow through twin 1400mm culverts under Silcocks Road. Downstream of the subject site, the un-named creek continues to flow west for approximately two kilometres before entering the Hazelwood Power Station Cooling Pond.



Figure 1 Location of development site



Figure 2 Contributing Waterways



The topography of the existing site is shown in Figure 3 below.

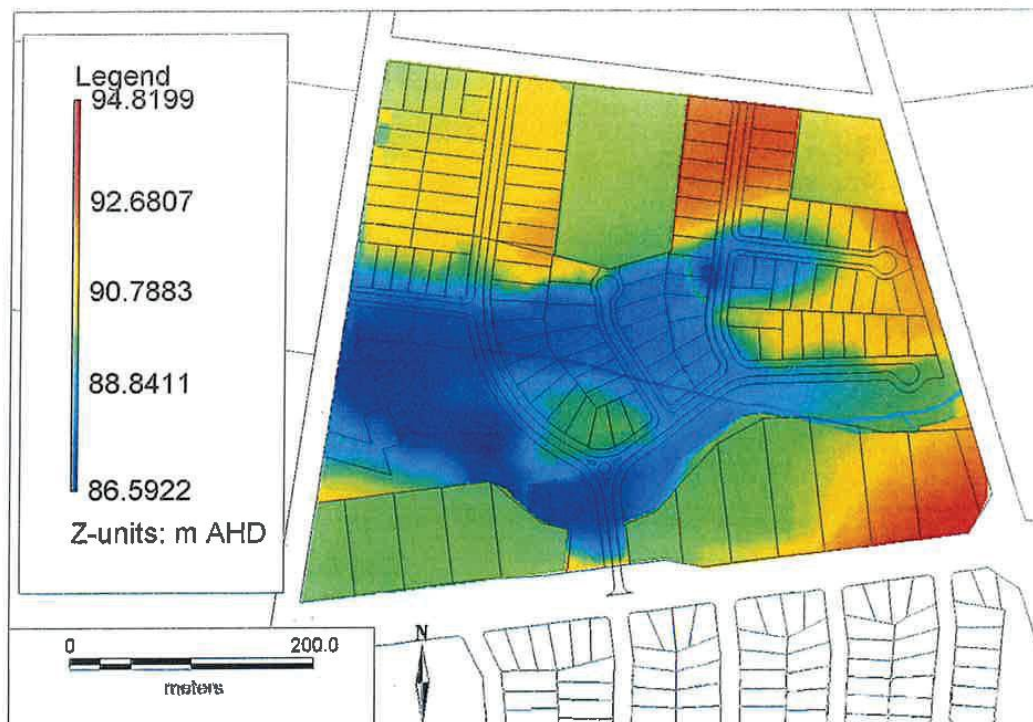


Figure 3 Existing topography on site

### Upstream Catchment

An upstream catchment area of approximately 853 Ha contributes to flows entering the site (refer Figure 4). This catchment is estimated to have a 2 hour response time. A regional method flow estimate for Victoria in this catchment gives a predicted 100 year flow rate of 24m<sup>3</sup>/s (AR&R, 1987). The twin 2000mm culverts at the upstream boundary of the subject site have a nominal capacity of 20.5m<sup>3</sup>/s, indicating that some overtopping of the Monash Way road surface is likely to occur during a 100 year ARI event. Preliminary modelling indicates that the additional 3.5 m<sup>3</sup>/s will flow over Monash Way to a depth of approximately 160mm (refer Table 1).

Table 1 Monash Way road crossing – predicted 100 yr ARI flood levels

Existing road crest level (m AHD)	100 yr design flood levels (m AHD)
91.16	91.32

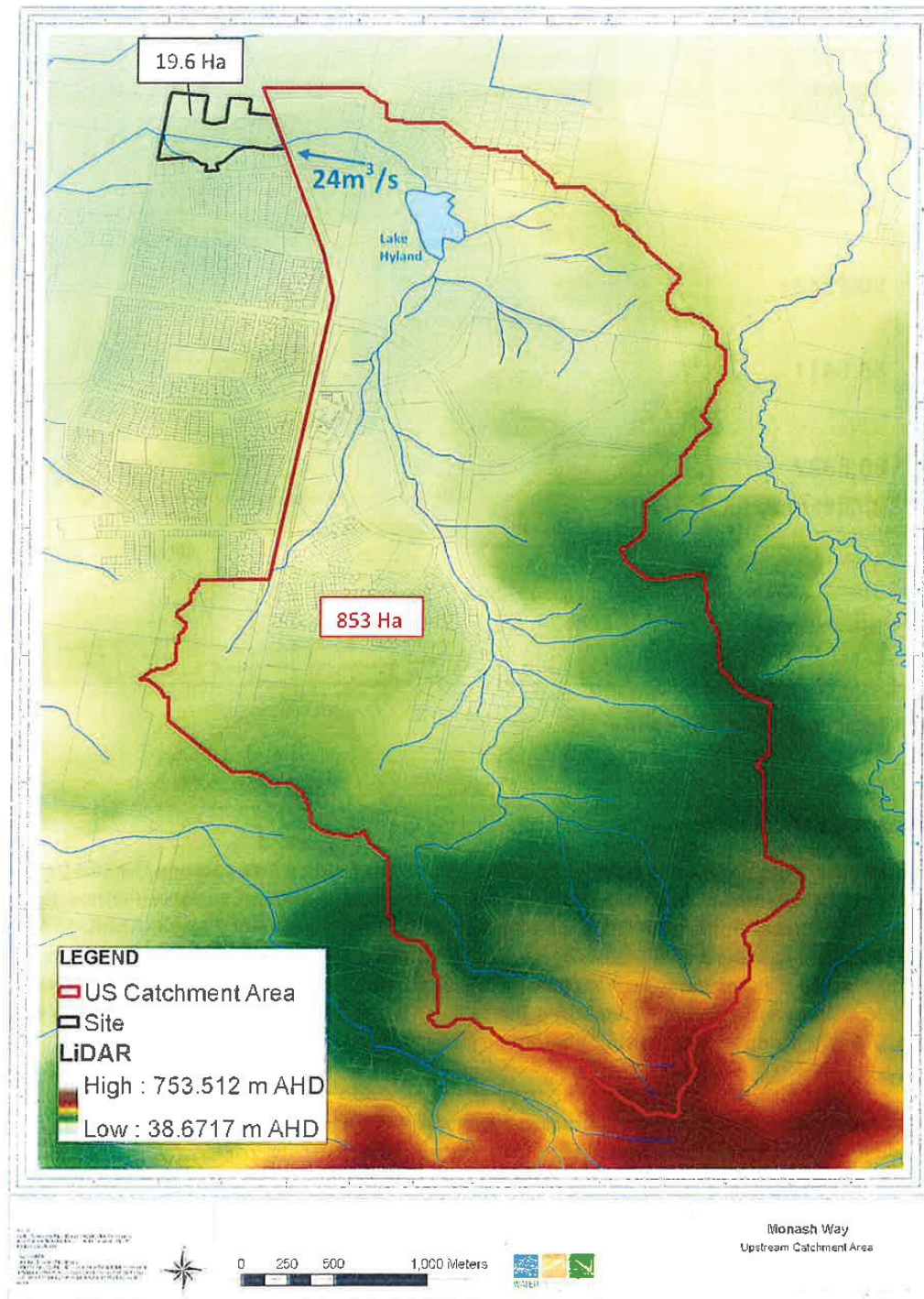


Figure 4 Contributing catchment area



### Existing condition flood extents

A localised two-dimensional (2D) hydraulic model of the site was constructed to obtain the pre development flood extents. The model was constructed using a 1m grid size (refer Figure 5) and run using a steady state flow of 24m<sup>3</sup>/s into the site. Figure 6 shows the hydraulic model results; 100 year ARI flood depths and extents across the site. As expected the results show that the greatest depths outside the creek are experienced at the low lying south west corner. The results also show that the existing conditions floodplain extends out approximately 50m to the north of the un-named creek, encroaching on several proposed properties. At the time of preparation of this report, the proposed finished development levels / layouts have not been finalised and as such no post development 2D hydraulic modelling has been undertaken at this stage.

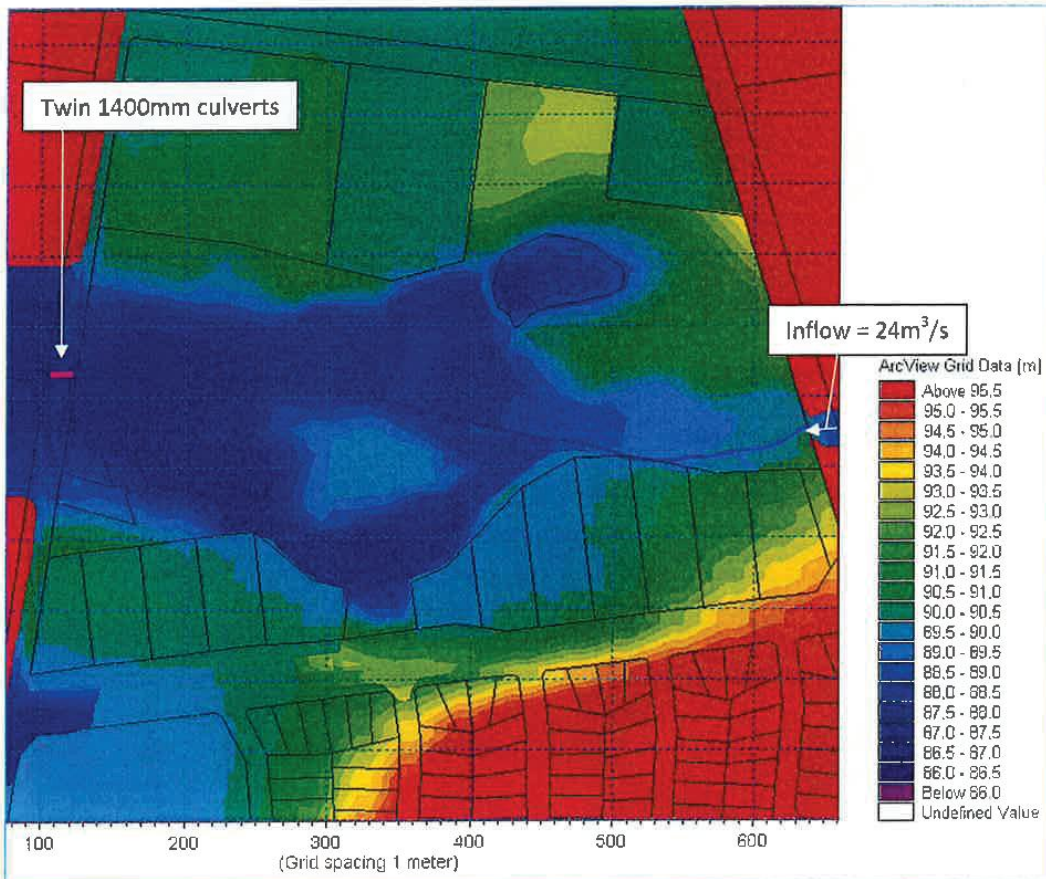


Figure 5 Pre-development hydraulic model grid construction

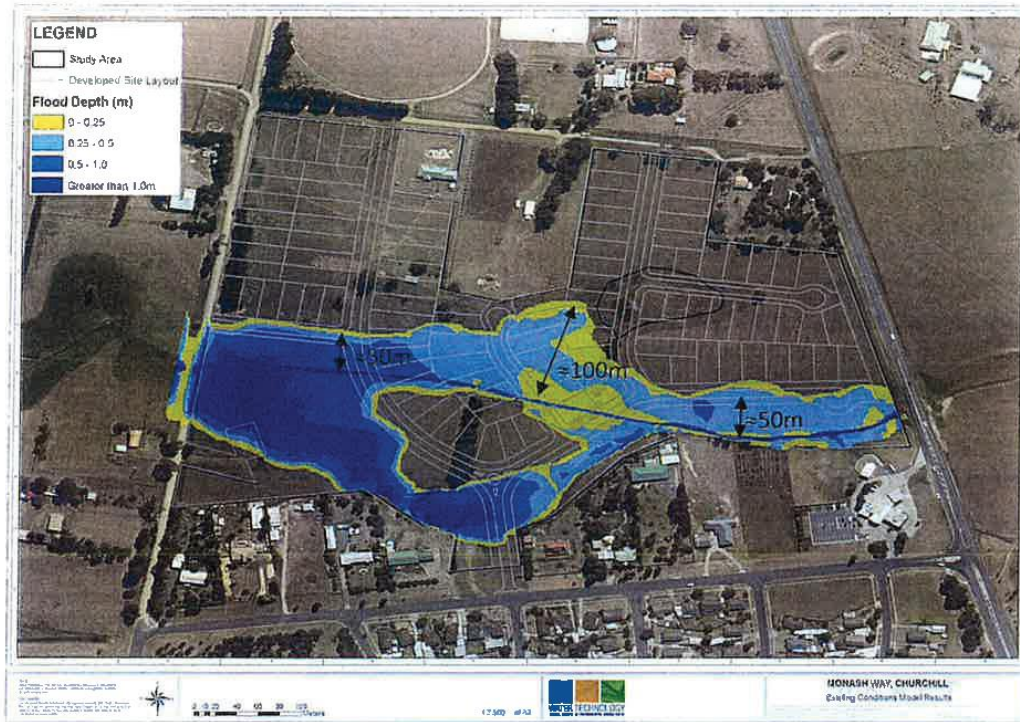


Figure 6 Existing 100 year flood depths

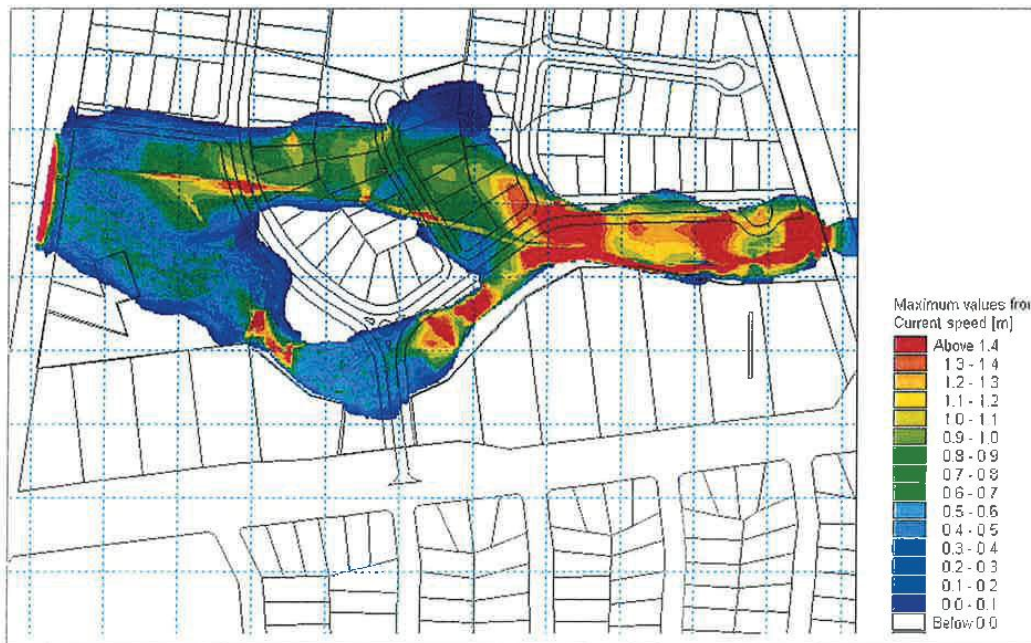


Figure 7 Existing 100 year velocities



## Lake Hyland

The downstream boundary of Lake Hyland is located approximately 650m upstream of the culvert crossing under Monash Way. The Lake area is managed by the Latrobe City Council and functions as a popular public reserve area for fishing and outdoor recreation pursuits. Lake Hyland is regularly stocked with rainbow trout, and the eastern side of the lake in particular serves as an important habitat for birds. When at full capacity, Lake Hyland covers an area of some 2 hectares. As the Lake is located upstream of the subject site, the proposed development will have no impact on water quality within the lake.

From a hydrologic / hydraulic modelling perspective while the lake will potentially function as a flood detention area for the upstream catchment area of the un-named creek (refer Figure 4), this study has not included any detention within the Lake Hyland area. The above approach therefore assumes that during a 100 year ARI event, the lake will be full and no attenuation of the flood wave will take place, providing an appropriately conservative estimate of the 100 year ARI event at the subject site.

Water Technology has discussed the relevance of Lake Hyland with the WGCMA in a phone conversation with Mr Adam Dunn (2<sup>nd</sup> May, 2011), where it was agreed in principle that not including the detention function of Lake Hyland in the hydrologic / hydraulic modelling for the site would provide an appropriately conservative modelling approach. The WGCMA also saw no potential constraints that would be imposed on the subject site by the presence of Lake Hyland upstream of the site.



### Increase in post development flows

The proposed development will increase peak flows on site as a result of increases in the impervious area. The increase in paved surface (impervious) areas was estimated using the proposed average residential block sizes and layouts. Pre and post development flows were calculated using the Rational Method (refer **Table 2**) in accordance with recommended procedures outlined in Australian Rainfall & Runoff (AR&R, 1987).

Based on the Rational Method assessment, the fully developed (un-mitigated) scenario for the subject site will result in an 86% increase in off site flows. A retarding basin is therefore proposed to reduce peak 100 year flows on site. The retarding basin was approximately sized for this hydrology scoping study using Boyd's (1980) storage formula and the results compared against industry 'rule of thumb' estimates.

**Table 2 Pre and post development flow comparison (Rational Method Estimates)**

100 yr ARI Storm Event	
Pre development flows	1.5 m <sup>3</sup> /s
Post development (un-mitigated) flows	2.8 m <sup>3</sup> /s

**Table 3 Preliminary sizing of retarding basin**

Boyd's formula (1980)	2500m <sup>3</sup>
Rule of thumb (500m <sup>3</sup> /ha of additional paved surface)	9.6Ha at 0.45 Fraction Impervious = 4.32Ha paved surface 4.32Ha x 500 = 2,160m <sup>3</sup>

### Loss in floodplain Storage

In addition to increased paved surface areas, sections of the proposed development encroach over the existing flood storage areas of the un-named creek floodplain. Fill areas over the existing floodplain are shown in Figure 8. The filling of land for development will result in approximately 8,000 m<sup>3</sup> loss in floodplain storage. Whilst this is a considerable loss, the throttling of flows through the twin 1400 culverts exiting the site effectively means that for large flows no loss of floodplain storage is possible. In effect the hydrograph volume difference between the twin inlet 2000mm pipes and outlet 1400mm pipes will always be maintained.

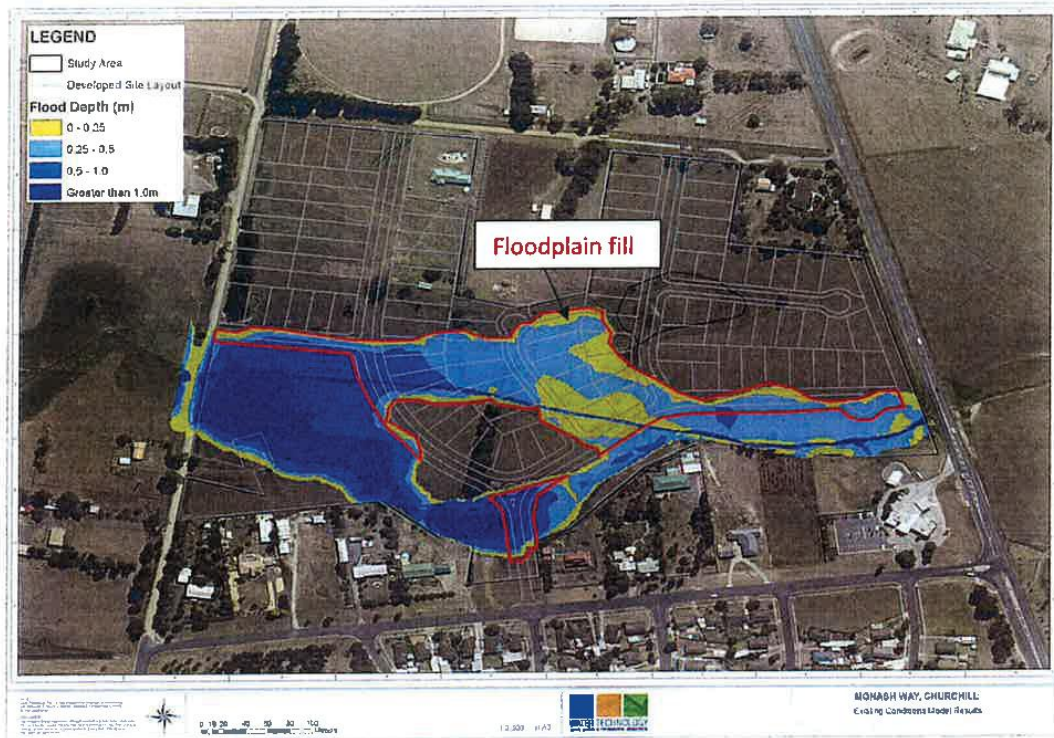


Figure 8 Proposed fill over existing floodplain

### Water Quality Works

A MUSIC model was assembled to model the post development water quality at the subject site. Various options were considered for the site, including bio-retention areas, swales and wetlands. Given the context and proposed layout of the site, it was determined that a wetland based system would offer the most practical and aesthetic option for the development. Based on the post development site plan, the required wetland area was conservatively sized at 4,800m<sup>2</sup> using the water quality program MUSIC and results compared against rule of thumb estimates.

Table 4 Preliminary sizing of retarding / treatment wetlands

MUSIC program	4,800m <sup>2</sup>
Rule of thumb (3% of total catchment area)	3% of 19.6Ha = 5,900m <sup>2</sup>

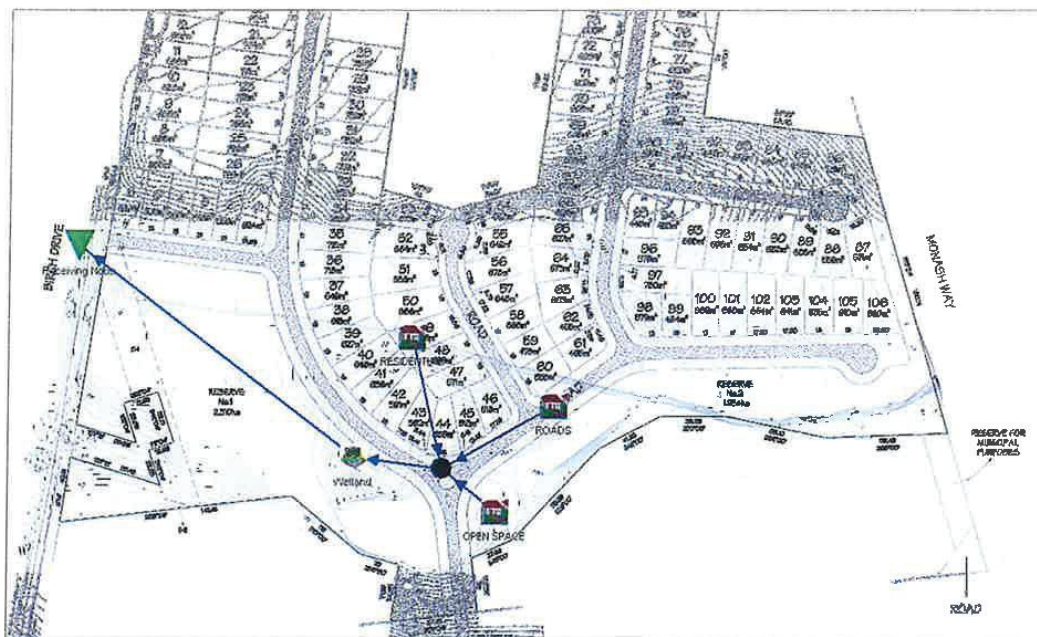


Figure 9 MUSIC model conceptual layout

### Conclusions on flood related development aspects

Using the hydraulic model results and conceptual estimation formulas, we offer the following preliminary comments:

- Construct a 2,500m<sup>3</sup> retarding basin in the south west corner of the site to mitigate post-development flows back to existing (pre-development) conditions;
- Meet water quality requirements through the construction of a series of distributed wetlands (totalling 4,800m<sup>2</sup>) along the original designated waterway that forms the un-named creek (refer Figure 10). Velocities through the wetland should be limited to 1 m/s. The wetlands may need to be located offline, depending on the velocities through the original section of un-named creek; and
- Provision of additional flood storage (offsetting the 8,000m<sup>3</sup> floodplain storage lost – refer Figure 8) through widening of the original designated waterway that forms the un-named creek.



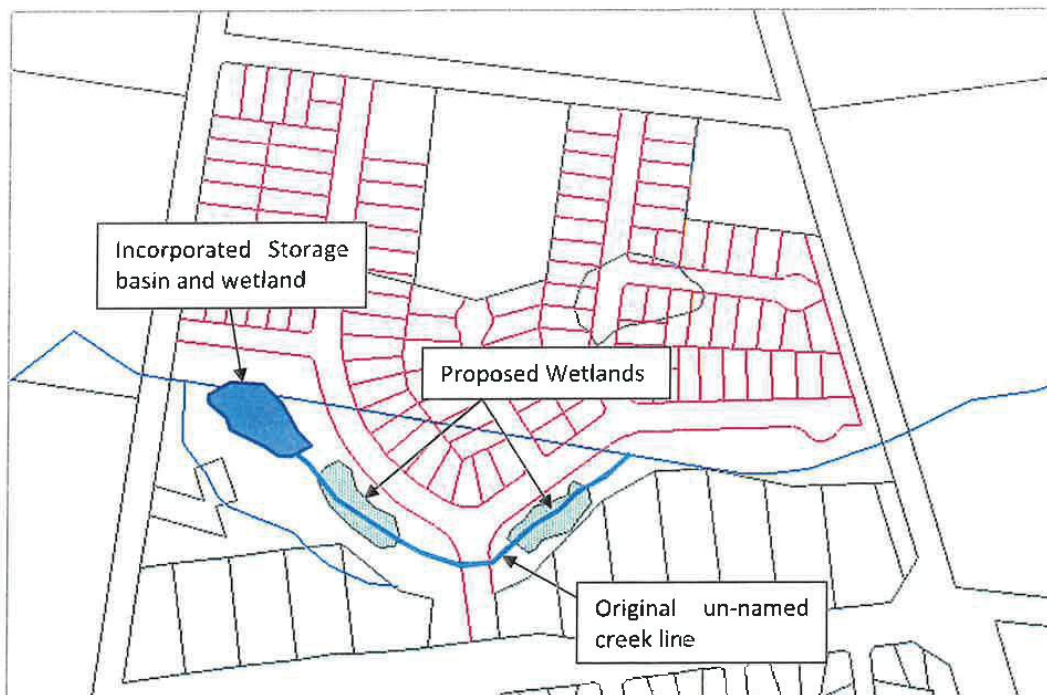


Figure 10 Proposed works locations

### Scope of future detailed assessment

Additional detailed modelling will be required to assess the flood impacts of the development and size the mitigation works following finalisation of the site filling strategy. This work will include:

- **Drainage Scheme & Stormwater Management Assessment** – A more detailed assessment of surface water flows over the site and the likely impact on flooding and drainage in the general area. As a designated waterway is located on the site, it is anticipated that a Stormwater Management Plan (SMP) will be required by the WGCMA that will include:
  - *Refine conceptual design of stormwater drainage scheme system (detailed civil design to be done by others);*
  - *Refine conceptual design of surface water retardation storage(s) to provide detailed design guidance to civil designers; and*
  - *Conceptual and detailed design of the proposed wetlands water quality treatment areas, including final MUSIC model runs to confirm that the proposed system will meet regulatory requirements.*

Estimated costs for the SMP range between \$11-14k depending on final WGCMA / Council requirements; and



- **Waterway Management** – As designated waterways are located on the site, it is anticipated that a Waterway Management Plan (WMP) will be required by the WGCMA. The WMP will be required to support the future application for a waterway works permit for the proposed engineering works on the un-named creek drainage line. The WMP will include:
  - *Design of best practice waterway management options and maintenance requirements to ensure the short and long term health and function of the designated waterways*

Estimated cost for a WMP is **\$4-5k** depending on WGCMA requirements.

It is proposed that separate detailed lump sum scopes be prepared by Water Technology to prepare the SMP and WMP following completion of the engineering fill plan and confirmation of final lot layouts and sizes that may result from the recommendations of this scoping study.

Yours sincerely

**Water Technology Pty Ltd**

A handwritten signature in black ink, appearing to read "Stephen Reynolds".

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**ACACIA WAY, CHURCHILL**

**PROPOSED RESIDENTIAL SUBDIVISION**

**TRAFFIC REPORT**

**PREPARED FOR**

**DH & MD WALKER**

**24 OCTOBER, 2011**

**TraffixGroup**  
13179R7711A

Proposed Residential Subdivision  
Acacia Way, Churchill



## **TRAFFIC ENGINEERING ASSESSMENT**

**PROPOSED RESIDENTIAL SUBDIVISION**

**AT**

**ACACIA WAY, CHURCHILL**

### **Study Team**

- Don Robertson  
B.E., Grad. Dip Mun. Eng., M. Trans. & Traff., M.V.P.E.L.A., M.A.I.T.P.M
- Tony Togany  
B.E.(Civil) Hons.

Our Reference: 13179R7711A

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Proposed Residential Subdivision  
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## 1. INTRODUCTION

Traffix Group has been engaged by DH & MD Walker to undertake a traffic engineering assessment and to prepare a report for a proposed residential subdivision located at Acacia Way in Churchill.

This report provides a detailed traffic engineering assessment of the access arrangements and the likely impacts on the surrounding road network of the proposed development.

## 2. EXISTING CONDITIONS

### 2.1. THE SITE

The development site is bounded by Acacia Way, Monash Way and Silcocks Road in Churchill as presented in Figure 1.

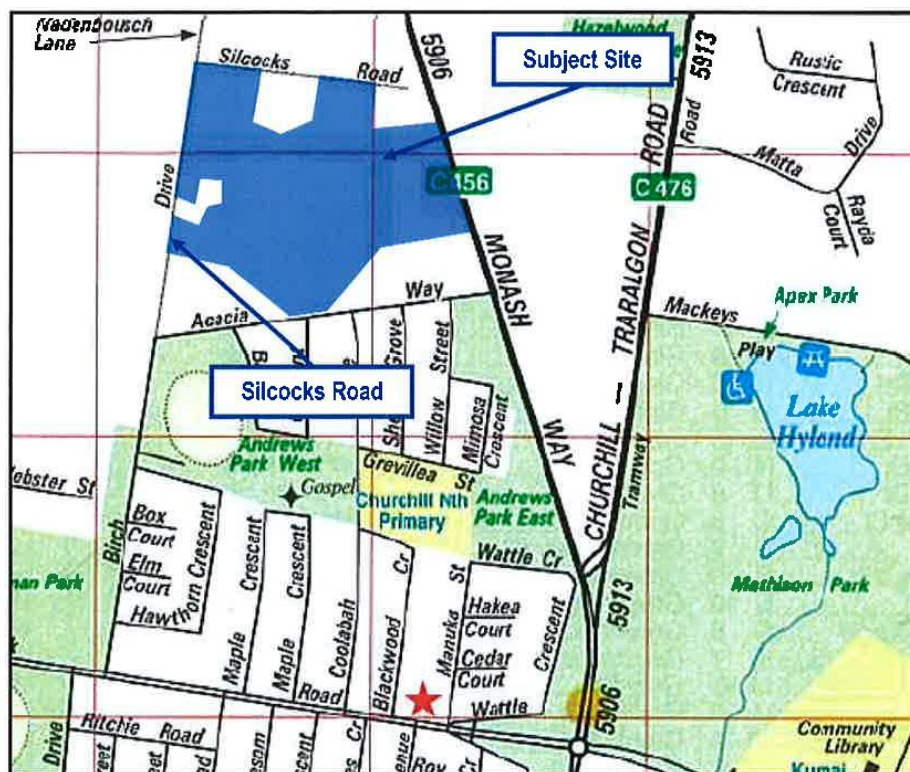


Figure 1: Site Locality Plan

The subject site is irregular in shape. It is located within a Residential 1 Zone (R1Z) under the Latrobe Planning Scheme as shown in Figure 2.

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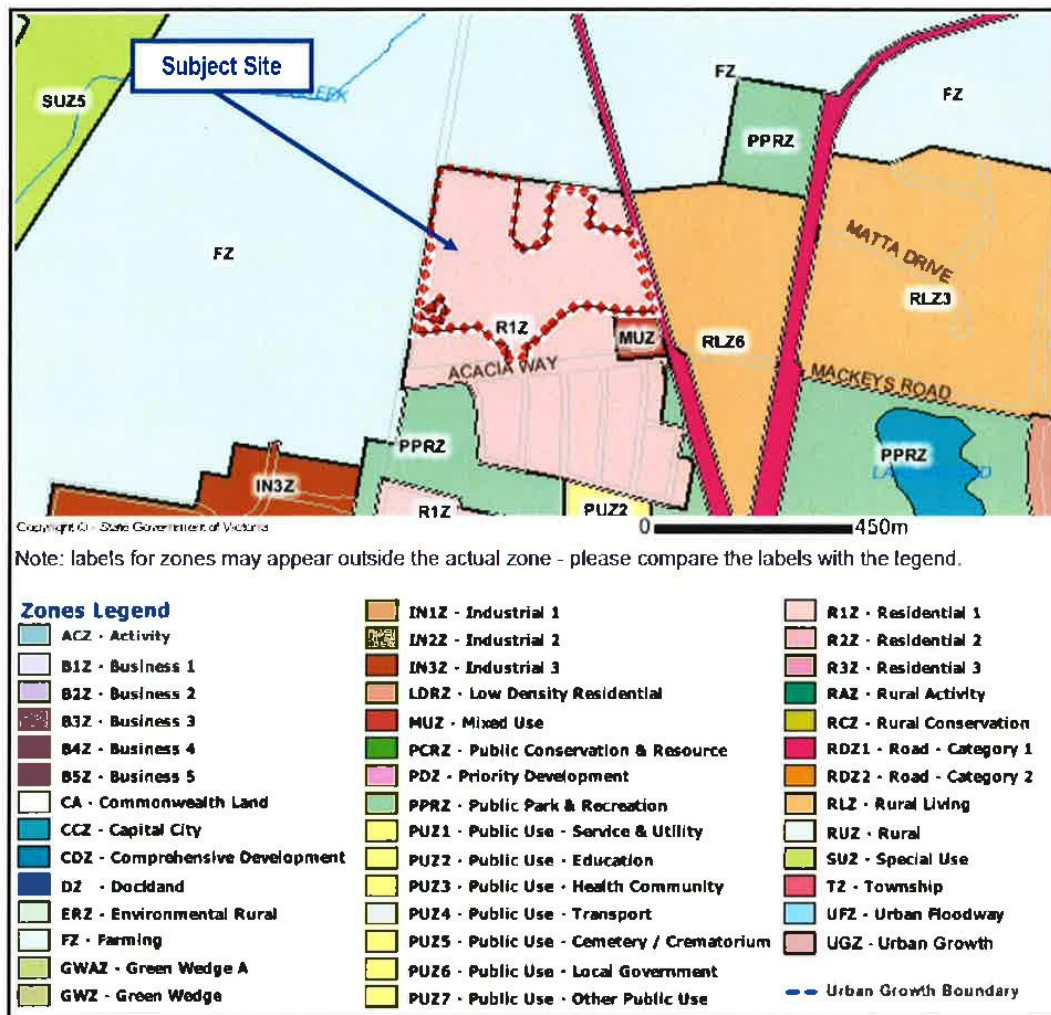


Figure 2: Land Use Zoning Map

Existing land use surrounding the subject site includes Farming Zone (FZ) to the north and west, Residential 1 Zone (R1Z) to the south and Rural Living Zone (RLZ6) to the east. A vacant petrol station is located at northwest corner of the intersection of Monash Way and Acacia Way.

## 2.2. ROAD NETWORK

**Acacia Way** is a two-way road which extends between Monash Way in the east and Birch Drive/Silcocks Road in the west. Within the vicinity of the subject site, Acacia Way has a 10.7m wide carriageway which provides a single lane of through traffic in each direction of travel and unrestricted kerbside parallel parking on both sides.

Acacia Way forms the minor leg of the priority controlled T-intersections at its junctions with Monash Way and Birch Drive/Silcocks Road. A splitter island is located in Acacia Way at Monash Way.

A speed limit of 60 km/h applies to Acacia Way.

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Acacia Way is shown in Photographs 1 and 2.



**Photograph 1: Acacia Way -  
View East**



**Photograph 2: Acacia Way -  
View West**

**Monash Way** is a VicRoads declared Main Road which extends in a north-south direction. Within the vicinity of the subject site, Monash Way has a single lane of through traffic and a sealed shoulder in each direction of travel. Left and right turn lanes are provided in Monash Way at the Acacia Way intersection.

North of approximately midway along the site's boundary, the speed limit on Monash Way is 100km/h. South of this point, the speed limit is 80 km/h.

Monash Way is shown in Photographs 3 and 4.



**Photograph 3: Monash Way -  
View North**



**Photograph 4: Monash Way -  
View South**

**Silcocks Road** is an "L-shaped" road that extends from Acacia Way in the south, north to Nadenbousch Lane and east to Monash Way. Silcocks Road is constructed as a gravel pavement 5.9m wide between Acacia Way and Nadenbousch Lane (the 'north-south' leg) and as a gravel pavement 5.1m wide between Nadenbousch Lane and a point approximately 180m east of Monash Way (the 'east-west' leg). It is unconstructed from the end of the gravel pavement to Monash Way.

Silcocks Road is shown in Photographs 5 to 8.



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**Photograph 5: Silcocks Road  
(North-South Leg) - View North**



**Photograph 6: Silcocks Road  
(North-South Leg) - View South**



**Photograph 7: Silcocks Road  
(East-West Leg) - View East**

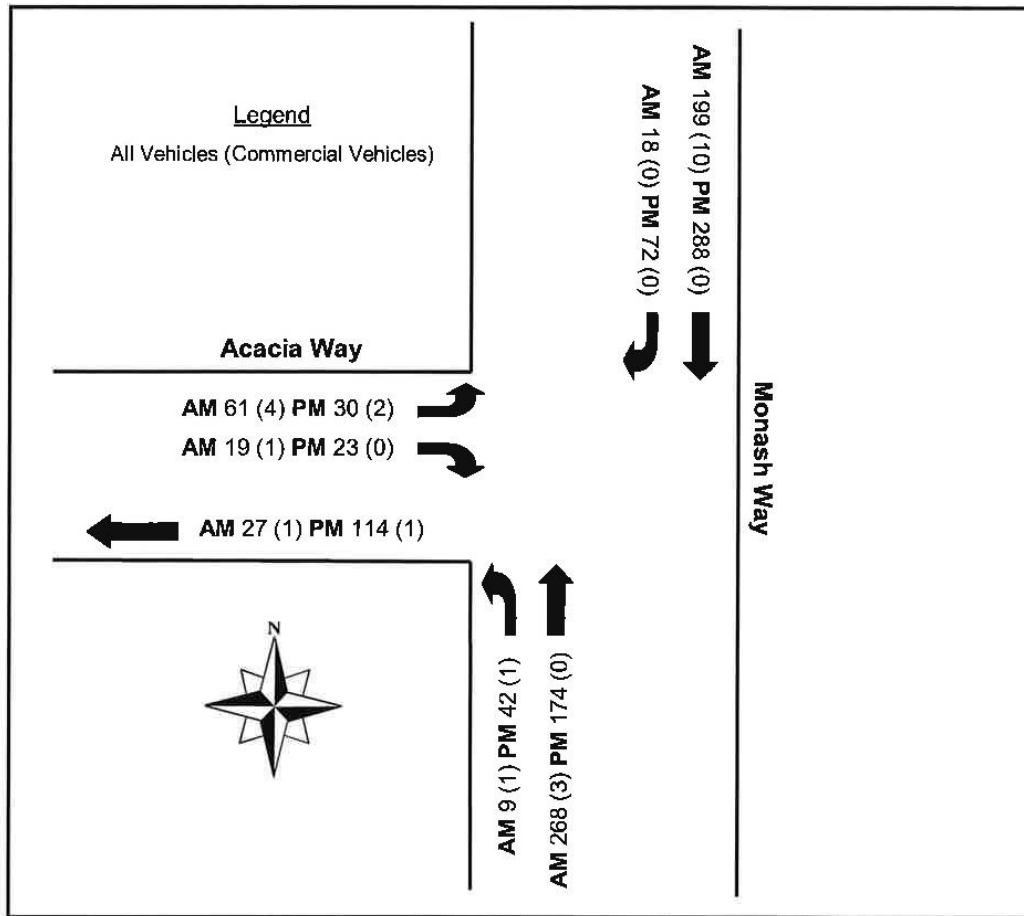


**Photograph 8: Silcocks Road  
(East-West Leg) - View West**

### 2.3. TRAFFIC VOLUMES

Traffix Group undertook turning movement counts from 5:00pm to 6:00pm on Thursday 28 July, 2011 and from 8:00am to 9:00am on Friday 29 July, 2011 at the intersection of Monash Way and Acacia Way. A summary of the peak hour movements are shown in Figure 3.

Proposed Residential Subdivision  
 Acacia Way, Churchill



**Figure 3: AM Peak Hour (8:00am - 9:00am) and PM Peak Hour (5:00pm - 6:00pm) Turning Movement Count Summary**

### 3. THE PROPOSAL

It is proposed to subdivide the subject land into 106 residential lots. Access to the subdivision will be via a new access point to Acacia Way, with additional connections provided at three separate access points to Silcocks Road (two on the 'east-west' leg and one on the 'north-south' leg).

A plan of the proposed subdivision is attached at Appendix A.

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## 4. TRAFFIC CONSIDERATIONS

### 4.1. TRAFFIC GENERATION

The Victorian Code for Residential Development, April 1992, suggests in Table E9.1 that for:

*“single dwelling lots, apply traffic generation rates of 10 vehicles per day per lot, equivalent to approximately 1 vehicle per hour in the peak hour, unless a lower rate can be demonstrated. Lower rates can be applied to multiunit dwellings based on locally derived rates.”*

VicCode 2, the predecessor of The Good Design Guide for Medium Density Housing, suggests that, as a guide, traffic generation rates for townhouses and apartments in the range of 6-7 vehicle trips per day can be applied.

A design traffic generation rate of 10 vehicles per day (vpd) per lot is appropriate in this instance. Peak hour traffic generation will be in the order of 10% of the daily traffic generation, i.e. 1 vehicle per hour (vph) per lot.

Accordingly, the proposed subdivision is expected to generate in the order of 1,060 vte/day, with 106 vte/hr occurring in each of the commuter peak hours.

### 4.2. TRAFFIC DISTRIBUTION

The following traffic distribution assumptions have been adopted based on the locality of the site, the layout of the surrounding road network and our experience:

- During the AM peak hour, 80% of traffic will exit the site and 20% will enter;
- During the PM peak hour, 40% of traffic will exit the site and 60% will enter;
- 100% of traffic generated by the site will be generated to/from the east (towards Monash Way); and
- All traffic at Monash Way will be distributed in accordance with the existing (surveyed) distribution.

Based on these assumptions, Figure 4 sets out the anticipated AM and PM peak hour turning movements generated by the proposed development at the Monash Way/Acacia Way intersection. Figure 5 shows the total anticipated post-development turning movements.

Proposed Residential Subdivision  
Acacia Way, Churchill

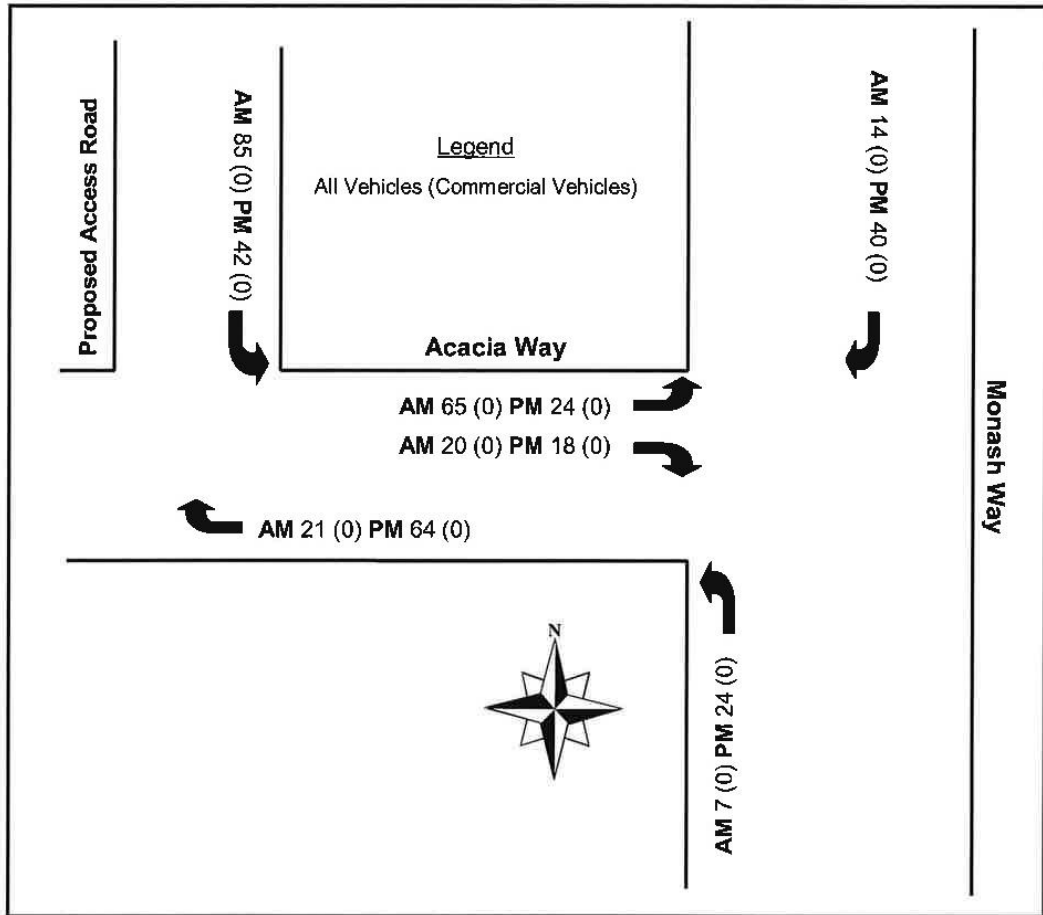
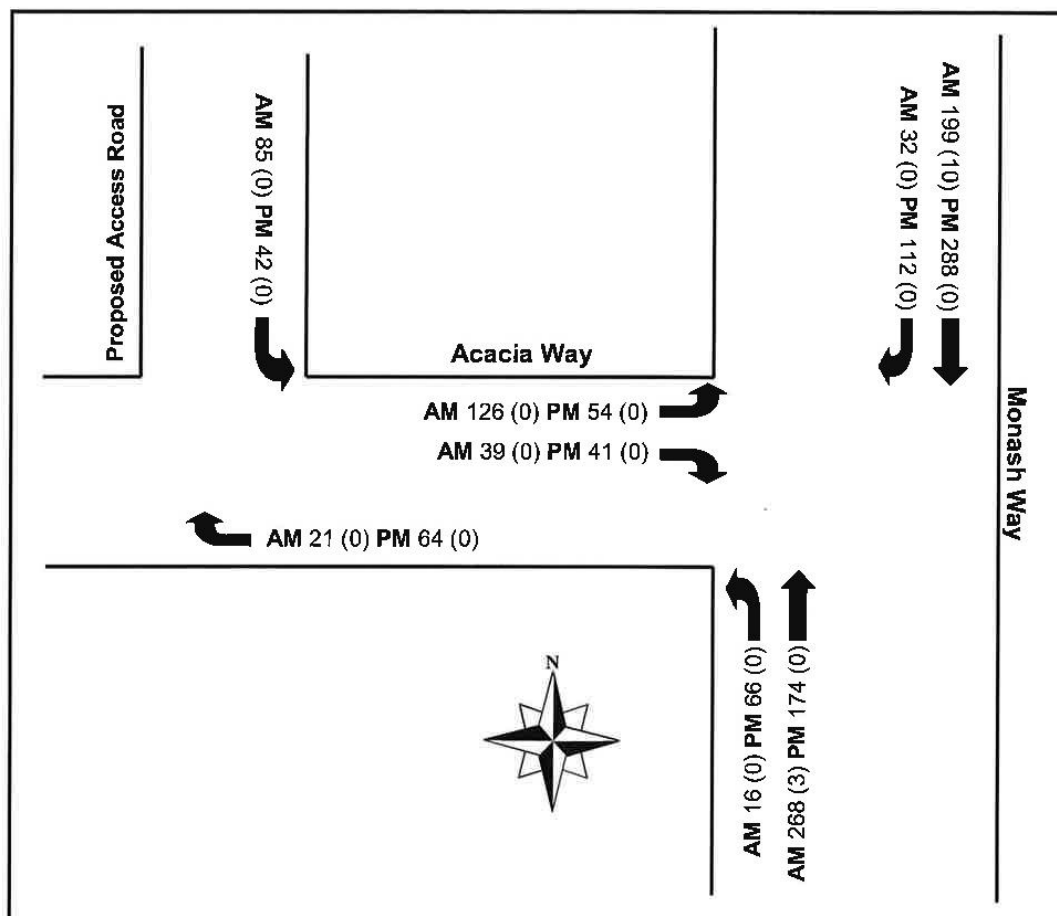


Figure 4: Anticipated Development AM and PM Peak Hour Turning Movements

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Acacia Way, Churchill



**Figure 5: Total Anticipated Post-Development AM and PM Peak Hour Turning Movements**

### 4.3. TRAFFIC IMPACT

#### 4.3.1. Monash Way/Acacia Way

The capacity of the Monash Way/Acacia Way intersection has been assessed using gap acceptance theory for existing and post-development traffic volumes. The following values were adopted from Table 3.4 in *Austrroads Guide to Road Design Part 4A : Unsignalised and Signalised Intersections*:

	$t_a$	$t_r$
Right turn out:	5	3
Right turn in:	4	2
Left turn out:	5	3

The analysis is attached at Appendix B with the results summarised in Tables 1 and 2.

The analysis assumed that all traffic exiting Acacia Way did so via separate right and left turning lanes. In practice, Acacia Way at Monash Way allows one left turning car and one right turning car to queue in separate lanes at the give way line, with a single lane of traffic behind. Tables 1 and 2 therefore slightly understate the traffic impact. Given that the 95<sup>th</sup>

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percentile queue remains at one for both the left and right turn movements, this is considered to be acceptable.

**Table 1: Summary of Intersection Capacity - Monash Way/Acacia Way (AM Peak)**

Traffic Movement	Existing			Post Development		
	Degree of Saturation	Ave Delay	95%ile Queue	Degree of Saturation	Ave Delay	95%ile Queue
Acacia Way - Right Turn Out	0.03	2.13 sec	1 space	0.05	2.22 sec	1 space
Acacia Way - Left Turn Out	0.07	1.23 sec	1 space	0.14	1.45 sec	1 space
Monash Way - Right Turn In	0.01	0.68 sec	1 space	0.02	0.70 sec	1 space

**Table 2: Summary of Intersection Capacity - Monash Way/Acacia Way (PM Peak)**

Traffic Movement	Existing			Post Development		
	Degree of Saturation	Ave Delay	95%ile Queue	Degree of Saturation	Ave Delay	95%ile Queue
Acacia Way - Right Turn Out	0.03	2.12 sec	1 space	0.05	2.20 sec	1 space
Acacia Way - Left Turn Out	0.03	0.72 sec	1 space	0.05	0.78 sec	1 space
Monash Way - Right Turn In	0.05	0.48 sec	1 space	0.07	0.52 sec	1 space

The analysis shows that the additional volume of traffic generated by the proposed residential subdivision will not have adverse impacts on the capacity and operation of the Monash Way/Acacia Way intersection. The intersection will continue to operate with minimal delays to all traffic.

The analysis also shows that there is no increase in any queues. The existing intersection configuration is therefore appropriate for the post-development traffic volumes. No ameliorative works are required at the Monash Way/Acacia Way intersection.

#### 4.3.2. Acacia Way/New Access

The capacity of the Acacia Way/new access intersection has been assessed using gap acceptance theory for existing and post-development traffic volumes. The following values were adopted from Table 3.4 in Austroads *Guide to Road Design Part 4A : Unsignalised and Signalised Intersections*:

	$t_a$	$t_r$
Right turn out:	5	3
Right turn in:	4	2
Left turn out:	5	3

The analysis is attached at Appendix C with the results summarised in Table 3.

The analysis assumed that all traffic entering and leaving Acacia Way at Monash Way travelled past the new access intersection. This is conservative, as a proportion of the traffic entering and leaving Acacia Way at Monash Way will enter/leave Acacia Way at intersections between the new access and Monash Way (ie Willow Street, Sheoke Grove, and Coolabah Drive). Table 3 therefore overstates the likely traffic impact.

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**Table 3: Summary of Intersection Capacity - Acacia Way/New Access**

Traffic Movement	AM Peak			PM Peak		
	Degree of Saturation	Ave Delay	95%ile Queue	Degree of Saturation	Ave Delay	95%ile Queue
New Access - Left Turn Out	0.08	0.44 sec	1 space	0.04	0.25 sec	1 space
New Access - Right Turn In	0.01	0.20 sec	1 space	0.04	0.16 sec	1 space

The analysis shows that the additional volume of traffic generated by the proposed residential subdivision will not have adverse impacts on the capacity and operation of the new Acacia Way/new access intersection. The intersection will operate with minimal delays to all traffic. No ameliorative works are warranted on a capacity basis.

The carriageway of Acacia Way is 10.7m wide. This is sufficient for a car to prop and wait to turn right into the new access whilst allowing a through car to pass on the left side. The new access is located opposite Banksia Crescent, a local street that is "U-shaped" and connects to Acacia Way in two locations. There will be a very low propensity for traffic movements across Acacia Way. There is therefore no requirement for a roundabout at this new intersection.

#### 4.4. ROAD CROSS-SECTIONS

All road reserves are 20m wide, except the following:

- East-west road adjacent to Lots 1 to 6: 16m
- North-south road adjacent to Lots 46 to 60: 16m
- North-south road adjacent to Lots 61-80: 18m
- East-west road adjacent to Lots 80-95 (courtbowl): 16m

The proposed carriageway width is 7.3m for all roads.

All roads within the proposed subdivision will operate as Access Places or Access Streets - Level 1, as defined in Clause 56.06-8 of the Planning Scheme. The proposed carriageway widths, road reserve widths and resultant verge widths satisfy the requirements of the Planning Scheme, as detailed in Table 4.

**Table 4: Clause 56 - Road Design Requirements**

Design Requirement	Access Place	Access Street Level 1
Traffic Volume	300-1,000 vpd	1,000-2,000 vpd
Carriageway Width & Parking Provision within Street Reservation	5.5m with 1 hard standing verge parking space per 2 lots, or 5.5m with parking on carriageway (one side, appropriately signed)	5.5m with 1 hard standing verge parking space per 2 lots
Verge Width	7.5m minimum total width (for services, min. 3.5m one side, min. 2.5m other side)	4m minimum each side
Road Reservation	minimum 13m	minimum 13.5m
Footpath Provision	Not required for 5 dwellings or less, otherwise 1.5m (on one side only), offset minimum 1m from kerb	1.5m both sides, offset minimum 1m from kerb

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Acacia Way, Churchill



#### **4.5. PARKING PROVISION**

Each residential dwelling will provide off-street parking to accommodate residents.

Visitor parking can be provided on street within the carriageway of each of the roads proposed within the site. The 7.3m wide carriageways proposed will be sufficient for parking to readily occur on both sides of the road whilst maintaining a through lane for traffic. Alternatively, simultaneous two-way traffic would be possible if parking occurred on only one side of these roads.

The proposed provision of on-street parking is consistent with the Planning Scheme and current practice.

It is recommended that double crossovers be provided to adjoining lots wherever possible in order to maximise the provision of on-street parking spaces and also maximise manoeuvring areas into and out of the proposed lots.

#### **4.6. ACCESS FOR SERVICE AND EMERGENCY VEHICLES**

The 7.3m wide carriageways suggested at Section 4.4 of this report will adequately facilitate relevant service and emergency vehicles and are consistent with CFA requirements.

The three dead end streets proposed as part of the subdivision will need to have appropriate courtbowl dimensions in order to ensure that service and emergency vehicles can turn around in accordance with Council's requirements. This issue can be appropriately addressed at the detailed design stage of the subdivision.

#### **4.7. PEDESTRIAN ACCESS**

Clause 56.06-5 of the Latrobe Planning Scheme specifies the following detailed walking and cycling network objectives:

*Footpaths, shared paths, cycle paths and cycle lanes should be designed to:*

- *Be part of a comprehensive design of the road or street reservation.*
- *Be continuous and connect.*
- *Provide for public transport stops, street crossings for pedestrians and cyclists and kerb crossovers for access to lots.*
- *Accommodate projected user volumes and mix.*
- *Meet the requirements of (Table C1).*
- *Provide pavement edge, kerb, channel and crossover details that support safe travel for pedestrians, footpath bound vehicles and cyclists, perform required drainage functions and are structurally sound.*
- *Provide appropriate signage.*
- *Be constructed to allow access to lots without damage to the footpath or shared path surfaces.*
- *Be constructed with a durable, non-skid surface.*
- *Be of a quality and durability to ensure:*
  - *safe passage for pedestrians, cyclists, footpath bound vehicles and vehicles,*
  - *discharge of urban run-off,*
  - *preservation of all-weather access,*



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- o maintenance of a reasonable, comfortable riding quality, and
- o a minimum 20 year life span.
- Be accessible to people with disabilities and include tactile ground surface indicators, audible signals and kerb ramps required for the movement of people with disabilities.

Existing local access streets nearby to the site are all provided with a footpath on both sides of the road, except for Banksia Crescent where a footpath is not provided on the west side (adjacent to Andrews Park). Acacia Way only provides a footpath on the south side of the road between Monash Way and Banksia Crescent.

The proposed subdivision plan does not show any footpaths. It is recommended that, as a minimum, footpaths be provided as shown in Figure 6.

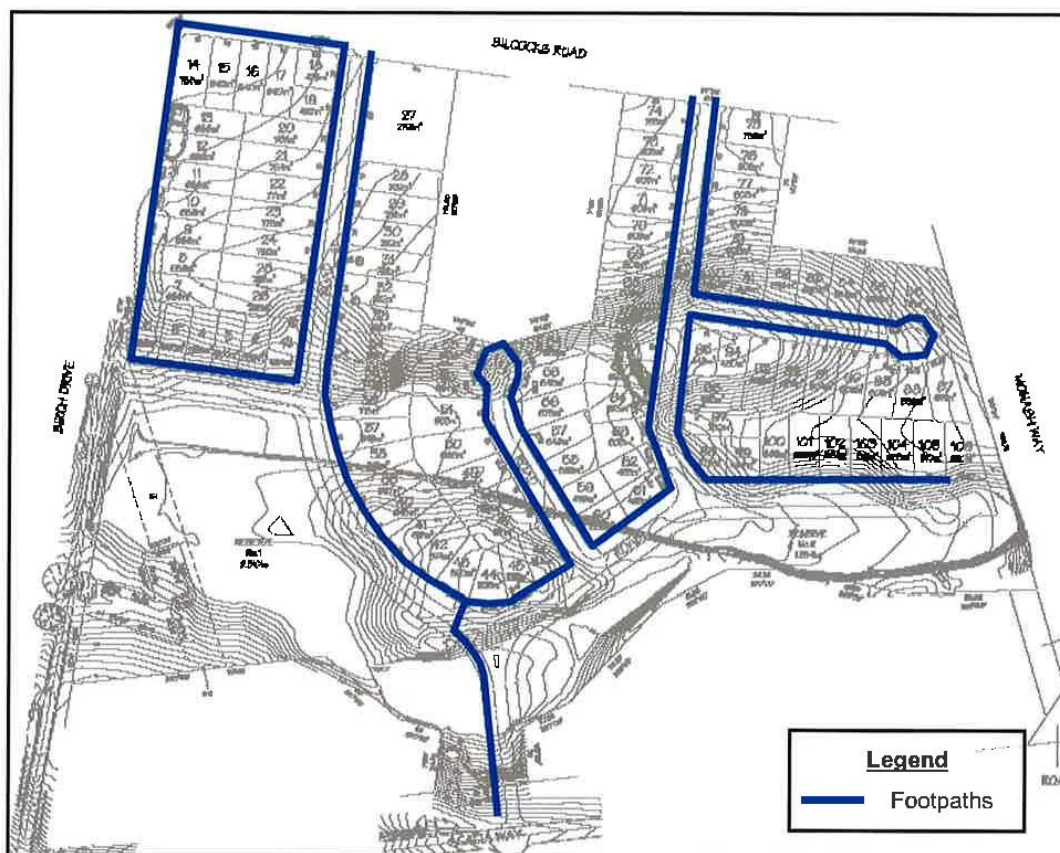


Figure 6: Recommended Footpaths

#### 4.8. TRAFFIC CONTROL

Clause 56.06-7 of the Planning Scheme suggests that it is desirable for street blocks to be no more than approximately 240m long in order "to facilitate pedestrian movement and control traffic speed".

A roundabout is proposed at the internal T-intersection that is identified within the land. This type of treatment is considered to be appropriate for such an intersection. The detailed design of this roundabout can be addressed at the detailed design stage of the subdivision.

Additional traffic management devices are not considered necessary.

Proposed Residential Subdivision  
Acacia Way, Churchill



#### 4.9. PUBLIC TRANSPORT

Clause 56.06-3 considers the provision of public transport in new subdivisions, and applies to the proposed subdivision as it comprises 60 or more lots. The objectives of Clause 56.06-3 are as follows:

- To provide an arterial road and neighbourhood street network that supports a direct, efficient and safe public transport system; and
- To encourage maximum use of public transport.

The Department of Transport's *Public Transport Guidelines for Land Use and Development* specify the following for undivided connector roads to be used by buses:

##### Separate Bicycle Lane

- Indented parking lane: 2.3m
  - Bicycle lane: 1.7m
  - Traffic Lane: 3.5m
- Total carriageway width: 15.0m

##### Shared Bicycle Lane

- Indented parking lane: 2.3m
  - Shared traffic and bicycle lane: 4.2m
- Total carriageway width: 13.0m

The volumes of traffic anticipated to be generated by the proposed development do not warrant the provision of separate bicycle lanes. A carriageway width of 8.4m plus 2.3m for any on-street parking will therefore satisfy the Department of Transport's requirements should a bus route be provided through the subdivision. The proposed carriageway width of 7.3m does not satisfy this requirement.

The proposed subdivision will be referred to the Director of Public Transport as specified in Clause 52.36-1, as it comprises a residential development with 60 or more lots. The Director of Public Transport will indicate whether or not provision needs to be made for a bus route through the subdivision.

## 5. CONCLUSIONS

Having visited the site, perused relevant documents and plans and undertaken a traffic engineering assessment of the proposed residential subdivision at Acacia Way, Churchill, we are of the opinion that:

1. The additional volume of traffic generated by the proposed residential subdivision will not have adverse impacts on the capacity and operation of the Monash Way/Acacia Way intersection. No ameliorative works are required at the Monash Way/Acacia Way intersection.
2. The volume of traffic generated by the proposed residential subdivision will not have adverse impacts on the capacity and operation of the new Acacia Way/new access intersection. The intersection will operate with minimal delays to all traffic. No ameliorative works are warranted on a capacity basis.
3. The carriageway of Acacia Way is sufficient for a car to prop and wait to turn right into the new access whilst allowing a through car to pass on the left side. The new access is

Proposed Residential Subdivision  
Acacia Way, Churchill



located opposite Banksia Crescent, a local street that is "U-shaped" and connects to Acacia Way in two locations. There will be a very low propensity for traffic movements across Acacia Way. There is no requirement for a roundabout at this new intersection.

4. All roads within the proposed subdivision will operate as Access Places or Access Streets - Level 1, as defined in Clause 56.06-8 of the Planning Scheme. The proposed carriageway widths, road reserve widths and resultant verge widths satisfy the requirements of the Planning Scheme.
5. The proposed subdivision will be referred to the Director of Public Transport as specified in Clause 52.36-1, as it comprises a residential development with 60 or more lots. The Director of Public Transport will indicate whether or not provision needs to be made for a bus route through the subdivision. If such provision is required, a carriageway width of 8.4m plus 2.3m for any on-street parking will satisfy the Department of Transport's requirements.
6. The proposed provision of on-street parking is consistent with the Planning Scheme and current practice.
7. Double crossovers should be provided to adjoining lots wherever possible in order to maximise the provision of on-street parking spaces and also maximise manoeuvring areas into and out of the proposed lots.
8. The three dead end streets proposed as part of the subdivision will need to have appropriate courtbowl dimensions in order to ensure that service and emergency vehicles can turn around in accordance with Council's requirements. This issue can be appropriately addressed at the detailed design stage of the subdivision.
9. As a minimum, footpaths should be provided as shown in Figure 6 of this report.
10. A roundabout is proposed at the internal T-intersection that is identified within the land. This type of treatment is appropriate for such an intersection. The detailed design of this roundabout can be addressed at the detailed design stage of the subdivision.
11. Additional traffic management devices are not considered necessary.
12. There are no traffic engineering reasons why a permit should not be granted for the proposed residential subdivision at Acacia Way in Churchill.

Proposed Residential Subdivision  
Acacia Way, Churchill

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## **APPENDIX A**

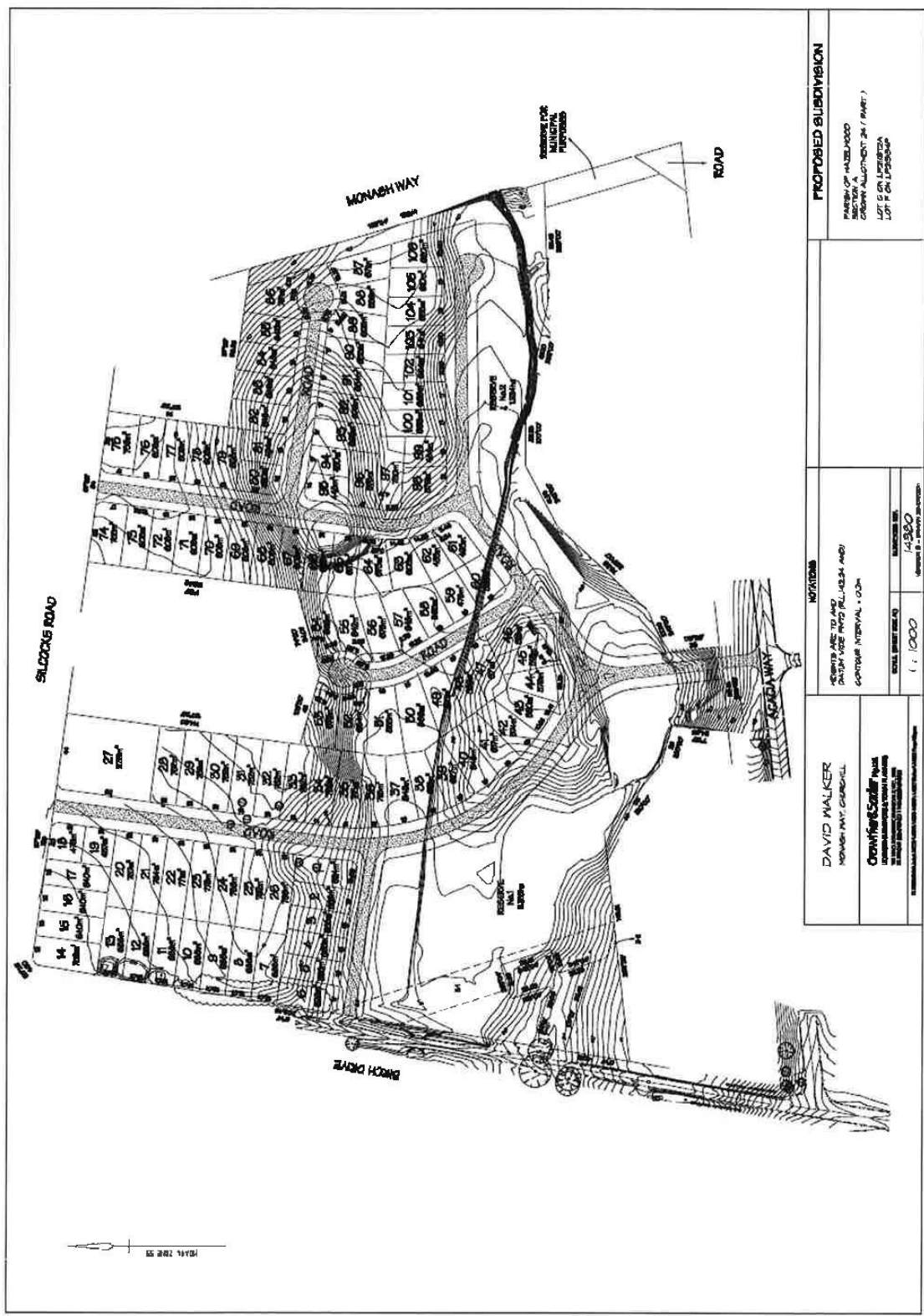
### **PROPOSED DEVELOPMENT PLAN**

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Proposed Residential Subdivision  
 Acacia Way, Churchill



DAVID WALKER MONASH HWY. CHURCHILL Crownfish & Suter CIVIL ENGINEERS & SURVEYORS 100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000	NOTATIONS HEIGHTS ARE TO AND DATUM USED INTO (MILLIMETERS AND) SPACING INTERVAL = 0.2M	PROPOSED SUBDIVISION PARISH OF HALBROOD SECTION A COUNTY ALLOTMENT 26 (PART) LOT 15 ON L25820A
	SCALE SHEET SIZE (A3) 1 : 1000	SHEET NUMBER 14580 SHEETS IN THIS PROJECT 14580

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Proposed Residential Subdivision  
Acacia Way, Churchill

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## **APPENDIX B**

### **CAPACITY ANALYSIS - MONASH WAY/ACACIA WAY**

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Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection

### Existing Left Turn Out

Period: AM Peak

#### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	268	veh/hr
	qp =	0.07	veh/sec
<b>Minor Stream Flow</b>	Qm =	61	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	923	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	738	veh/hr
<b>Degree of Saturation</b>	X =	0.07	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	61	veh/hr/lane
	qm =	0.02	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	1.23	sec
<b>Minor Stream Service Rate</b>	Qs =	922.83	veh/hr
<b>Utilisation Ratio</b>	r =	0.07	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Post-Development Left Turn Out

Period: AM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	268	veh/hr
	qp =	0.07	veh/sec
<b>Minor Stream Flow</b>	Qm =	126	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	923	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	738	veh/hr
<b>Degree of Saturation</b>	X =	0.14	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	126	veh/hr/lane
	qm =	0.04	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	1.45	sec
<b>Minor Stream Service Rate</b>	Qs =	922.83	veh/hr
<b>Utilisation Ratio</b>	r =	0.14	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.



Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection

### Existing Left Turn Out

Period: PM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	174	veh/hr
	qp =	0.05	veh/sec
<b>Minor Stream Flow</b>	Qm =	30	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	1012	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	810	veh/hr
<b>Degree of Saturation</b>	X =	0.03	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	30	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	0.72	sec
<b>Minor Stream Service Rate</b>	Qs =	1012.35	veh/hr
<b>Utilisation Ratio</b>	r =	0.03	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Post-Development Left Turn Out

Period: PM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	174	veh/hr
	qp =	0.05	veh/sec
<b>Minor Stream Flow</b>	Qm =	54	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	1012	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	810	veh/hr
<b>Degree of Saturation</b>	X =	0.05	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	54	veh/hr/lane
	qm =	0.02	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	0.78	sec
<b>Minor Stream Service Rate</b>	Qs =	1012.35	veh/hr
<b>Utilisation Ratio</b>	r =	0.05	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection

### Existing Right Turn

### Out

Period: AM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	467	veh/hr
	qp =	0.13	veh/sec
<b>Minor Stream Flow</b>	Qm =	19	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	757	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	606	veh/hr
<b>Degree of Saturation</b>	X =	0.03	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	19	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	2.13	sec
<b>Minor Stream Service Rate</b>	Qs =	757.29	veh/hr
<b>Utilisation Ratio</b>	r =	0.03	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Post-Development Right Turn out

Period: AM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	467	veh/hr
	qp =	0.13	veh/sec
<b>Minor Stream Flow</b>	Qm =	39	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	757	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	606	veh/hr
<b>Degree of Saturation</b>	X =	0.05	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	39	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	2.22	sec
<b>Minor Stream Service Rate</b>	Qs =	757.29	veh/hr
<b>Utilisation Ratio</b>	r =	0.05	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

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Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Existing Right Turn Out

Period: PM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	462	veh/hr
	qp =	0.13	veh/sec
<b>Minor Stream Flow</b>	Qm =	23	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	761	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	609	veh/hr
<b>Degree of Saturation</b>	X =	0.03	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	23	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	2.12	sec
<b>Minor Stream Service Rate</b>	Qs =	761.08	veh/hr
<b>Utilisation Ratio</b>	r =	0.03	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Post-Development Right Turn out

Period: PM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	462	veh/hr
	qp =	0.13	veh/sec
<b>Minor Stream Flow</b>	Qm =	41	veh/hr
<b>Critical Acceptance Gap</b>	ta =	5	sec
<b>Follow-up Headway</b>	tf =	3	sec
<b>Absorption Capacity</b>	C =	761	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	609	veh/hr
<b>Degree of Saturation</b>	X =	0.05	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	41	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	2.20	sec
<b>Minor Stream Service Rate</b>	Qs =	761.08	veh/hr
<b>Utilisation Ratio</b>	r =	0.05	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection

### Existing Right Turn In

Period: AM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	268	veh/hr
	qp =	0.07	veh/sec
<b>Minor Stream Flow</b>	Qm =	18	veh/hr
<b>Critical Acceptance Gap</b>	ta =	4	sec
<b>Follow-up Headway</b>	tf =	2	sec
<b>Absorption Capacity</b>	C =	1438	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	1151	veh/hr
<b>Degree of Saturation</b>	X =	0.01	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	18	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	0.68	sec
<b>Minor Stream Service Rate</b>	Qs =	1438.40	veh/hr
<b>Utilisation Ratio</b>	r =	0.01	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Post-Development Right Turn

In

Period: AM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	268	veh/hr
	qp =	0.07	veh/sec
<b>Minor Stream Flow</b>	Qm =	32	veh/hr
<b>Critical Acceptance Gap</b>	ta =	4	sec
<b>Follow-up Headway</b>	tf =	2	sec
<b>Absorption Capacity</b>	C =	1438	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	1151	veh/hr
<b>Degree of Saturation</b>	X =	0.02	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	32	veh/hr/lane
	qm =	0.01	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	0.70	sec
<b>Minor Stream Service Rate</b>	Qs =	1438.40	veh/hr
<b>Utilisation Ratio</b>	r =	0.02	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.



Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection

### Existing Right Turn In

Period: PM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	174	veh/hr
	qp =	0.05	veh/sec
<b>Minor Stream Flow</b>	Qm =	72	veh/hr
<b>Critical Acceptance Gap</b>	ta =	4	sec
<b>Follow-up Headway</b>	tf =	2	sec
<b>Absorption Capacity</b>	C =	1556	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	1245	veh/hr
<b>Degree of Saturation</b>	X =	0.05	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	72	veh/hr/lane
	qm =	0.02	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	0.48	sec
<b>Minor Stream Service Rate</b>	Qs =	1556.43	veh/hr
<b>Utilisation Ratio</b>	r =	0.05	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/Monash Way Intersection Post-Development Right Turn In

Period: PM Peak

### BASIC PARAMETERS

<b>Major Stream Flow</b>	Q =	174	veh/hr
	qp =	0.05	veh/sec
<b>Minor Stream Flow</b>	Qm =	112	veh/hr
<b>Critical Acceptance Gap</b>	ta =	4	sec
<b>Follow-up Headway</b>	tf =	2	sec
<b>Absorption Capacity</b>	C =	1556	veh/hr
<b>Practical Absorption Capacity</b>	Cp =	1245	veh/hr
<b>Degree of Saturation</b>	X =	0.07	
<b>Minor Stream Approach Lanes</b>	n =	1	lanes
<b>Minor Stream Flow / Lane</b>	Qm' =	112	veh/hr/lane
	qm =	0.03	veh/sec/lane
<b>Average Delay to Minor Stream Vehicles</b>	Wm =	0.52	sec
<b>Minor Stream Service Rate</b>	Qs =	1556.43	veh/hr
<b>Utilisation Ratio</b>	r =	0.07	
<b>Design Probability</b>		95%	
<b>Storage Spaces Required</b>		1	spaces
<b>Storage Length Required</b>		8	m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## **APPENDIX C**

### **CAPACITY ANALYSIS - ACACIA WAY/NEW ACCESS**

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13179R7711A

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/New Access Intersection

Right Turn In  
Period: AM Peak

### BASIC PARAMETERS

Major Stream Flow	Q =	80 veh/hr
	qp =	0.02 veh/sec
Minor Stream Flow	Qm =	21 veh/hr
Critical Acceptance Gap	ta =	4 sec
Follow-up Headway	tf =	2 sec
Absorption Capacity	C =	1684 veh/hr
Practical Absorption Capacity	Cp =	1347 veh/hr
Degree of Saturation	X =	0.01
Minor Stream Approach Lanes	n =	1 lanes
Minor Stream Flow / Lane	Qm' =	21 veh/hr/lane
	qm =	0.01 veh/sec/lane
Average Delay to Minor Stream Vehicles	Wm =	0.20 sec
Minor Stream Service Rate	Qs =	1683.77 veh/hr
Utilisation Ratio	p =	0.01
Design Probability		95%
Storage Spaces Required		1 spaces
Storage Length Required		8 m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/New Access Intersection

Right Turn In

Period: PM Peak

### BASIC PARAMETERS

Major Stream Flow	Q =	53 veh/hr
	qp =	0.01 veh/sec
Minor Stream Flow	Qm =	64 veh/hr
Critical Acceptance Gap	ta =	4 sec
Follow-up Headway	tf =	2 sec
Absorption Capacity	C =	1722 veh/hr
Practical Absorption Capacity	Cp =	1378 veh/hr
Degree of Saturation	X =	0.04
Minor Stream Approach Lanes	n =	1 lanes
Minor Stream Flow / Lane	Qm' =	64 veh/hr/lane
	qm =	0.02 veh/sec/lane
Average Delay to Minor Stream Vehicles	Wm =	0.16 sec
Minor Stream Service Rate	Qs =	1722.17 veh/hr
Utilisation Ratio	ρ =	0.04
Design Probability		95%
Storage Spaces Required		1 spaces
Storage Length Required		8 m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/New Access Intersection

Left Turn out

Period: AM Peak

### BASIC PARAMETERS

Major Stream Flow	Q =	80 veh/hr
	qp =	0.02 veh/sec
Minor Stream Flow	Qm =	85 veh/hr
Critical Acceptance Gap	ta =	5 sec
Follow-up Headway	tf =	3 sec
Absorption Capacity	C =	1110 veh/hr
Practical Absorption Capacity	Cp =	888 veh/hr
Degree of Saturation	X =	0.08
Minor Stream Approach Lanes	n =	1 lanes
Minor Stream Flow / Lane	Qm' =	85 veh/hr/lane
	qm =	0.02 veh/sec/lane
Average Delay to Minor Stream Vehicles	Wm =	0.44 sec
Minor Stream Service Rate	Qs =	1110.00 veh/hr
Utilisation Ratio	p =	0.08
Design Probability		95%
Storage Spaces Required		1 spaces
Storage Length Required		8 m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

Proposed Residential Subdivision  
Acacia Way, Churchill



## Acacia Way/New Access Intersection

Left Turn out

Period: PM Peak

### BASIC PARAMETERS

Major Stream Flow	Q =	53 veh/hr
	qp =	0.01 veh/sec
Minor Stream Flow	Qm =	42 veh/hr
Critical Acceptance Gap	ta =	5 sec
Follow-up Headway	tf =	3 sec
Absorption Capacity	C =	1140 veh/hr
Practical Absorption Capacity	Cp =	912 veh/hr
Degree of Saturation	X =	0.04
Minor Stream Approach Lanes	n =	1 lanes
Minor Stream Flow / Lane	Qm' =	42 veh/hr/lane
	qm =	0.01 veh/sec/lane
Average Delay to Minor Stream Vehicles	Wm =	0.25 sec
Minor Stream Service Rate	Qs =	1139.64 veh/hr
Utilisation Ratio	p =	0.04
Design Probability		95%
Storage Spaces Required		1 spaces
Storage Length Required		8 m

SOURCE: Austroads, Guide to Traffic Engineering Practice, Part 5 Intersections at Grade, 1988, Ch. 4.

**History of Application**

19 March 2012	Planning Permit application received by Council.
5 April 2012	Request for further information pursuant to 54(1) of the <i>Planning and Environment Act 1987</i> was sent to the applicant.
25 May 2012	Request for time extension by the applicant to provide additional information
21 June 2012	Further request for time extension by the applicant to provide additional information
13 July 2012	Information submitted by the applicant to respond to Council's further information request.
July to September 2012	Ongoing discussions between Council's Officers and the applicant regarding various aspects of the proposed subdivision
18 September 2012	Letter was sent to the applicant requesting that they advertise their application by sending letters to adjoining landowners and occupiers, placing a sign on site for 14 days and advertising in the Latrobe Valley Express, under Section 52(1)(a) and Section 52(1)(d) of the <i>Planning and Environment Act 1987</i> (the Act).
18 September 2012	Application was referred to authorities internally and externally in accordance with Sections 52 and 55 of the <i>Planning and Environment Act 1987</i>
19 October 2012	Applicant submitted statutory declaration to Council confirming that advertising had been completed as requested.
September to November 2012	Six objections received
September 2012 to January 2013	Referral responses received from various authorities
11 December 2012	Mediation meeting held
30 January 2013	Meeting held between Council's Officers and the applicant to discuss issues raised at the mediation meeting
5 March 2013	Amended plans received from the applicant to address issues raised at the mediation meeting



## **Latrobe Planning Scheme**

### **State Planning Policy Framework:**

- Clause 11.02-1 Supply of Urban Land
- Clause 11.05-4 Regional Planning Strategies and Principles
- Clause 15.01-1 Urban Design
- Clause 15.01-4 Design for Safety
- Clause 15.01-5 Cultural Identity and Neighbourhood Character
- Clause 15.02-1 Energy and Resource Efficiency
- Clause 16 Housing

### **Municipal Strategic Statement:**

- Clause 21.01 – Municipal Profile
- Clause 21.02 – Municipal Vision
- Clause 21.4 – Built Environment Sustainability
- Clause 21.05 – Main Towns
- Clause 21.08 - Liveability

### **Zoning:**

The subject site is zoned part Residential 1.

### **Overlays:**

The subject site is not affected by any overlays.

### **Particular Provisions:**

- Clause 56

### **General Provisions:**

Before deciding on an application, the Responsible Authority must also consider the 'Decision Guidelines' of Clause 65 as appropriate.

### **Incorporated Documents:**

No Incorporated Documents are considered to be relevant to this application.

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M. & F. Kent

730 Monash Way, Churchill.

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17 October, 2012

Latrobe City Council

PO Box 264

Morwell, 3840

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26 OCT 2012

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Dear Sir,

**Planning Application 2012/71**

**Staged Multi-Lot Subdivision & Removal of Native Vegetation**

**Silcocks Road, Churchill.**

We wish to make a submission regarding the above proposal. We live at the property on the corner of Monash Way and Silcocks Rd, situated at the north east corner of the proposal. We object to the proposed subdivision on the following grounds:

**Amenity**—the proposal will affect our enjoyment of the views, the peace and tranquillity, the lack of noise from neighbours as the proposal would see 10 properties abutting our boundaries. We purchased this property approximately 3 years ago because of its setting and lack of immediate neighbours. The proposal would see us with dense urbanisation abutting us, something we could have had by choice if we'd wanted to live in town. The proposal would see us fenced in, a horrible thought. We would lose the ability to enjoy our property as it is currently.

**Resale** – any prospective purchaser of our property would be reluctant to purchase a rural block that enjoys its current location knowing that such a proposal is imminent. This proposal has already and immediately impacted on our plans to sell, making it more difficult.

**Planning** – Some years ago we were advised that this land was not suitable for subdivision. When we purchased our current property we believed this still to be the case, not able to be subdivided as densely as is currently proposed. The proposal does not fit with the neighbourhood character of farms, farmlets and rural residential large lots. We wish to be advised as to when this was rezoned.

There is already a lot of other land suitable for development in far better locations in Churchill, such as near Lawless Rd and Monash University. How does Council justify the need for these additional lots?

**Traffic** – the proposal does not indicate that Silcocks Rd is closed and that traffic must not turn right into Silcocks Rd and then proceed to Monash Way. Please ensure this issue is addressed by VicRoads as the referral authority. We do not want additional traffic travelling along our Silcocks Rd frontage. We also believe the proposal will generate a lot of traffic, up to 820 additional vehicle

movements per day, as there is little scope for convenient pedestrian access to facilities, ie too far to walk so most will travel by car, especially in winter. We request to be mailed a copy of the traffic plan.

Infrastructure – There is no reticulated sewerage at present as the lots are too small for septic tanks. Our stormwater runoff and septic tank lines fall towards the subject land. Please ensure these are catered for as we will not pay towards any facilities such as drainage and sewers, nor will we pay towards any abutting fences. We request further information regarding these issues.

Environment – a natural wetland has developed on the subject land, enhancing the natural environment for abundant birdlife and visually pleasing to us. The proposal would see the loss of this as it is proposed to be filled in.

Land subject to inundation – A named creek currently runs through the land. Filling and rerouting it will cause harm to properties upstream having more potential to flood because of potential backing up of the flows. It is already a wet region at times with nearby roads and properties being flooded several times over the last couple of years. The land proposed to be a reserve will likely be wet and unusable for most of the year.

Please advise of our rights to further submissions and appeal.

We request you consider our submission and reject the proposed subdivision.

Yours Faithfully,

Murray and Faye Kent



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Jeff Carstein  
P.O. Box 38  
Churchill, VIC  
3842

Latrobe City Council  
P.O. Box 264  
Morwell VIC 3840

Dear Sir/Madam,

Re: Planning Application 2012/71  
Silcocks Rd, Churchill

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I am the owner of 45 & 55 Silcocks Rd, Churchill. The value of these properties is largely linked to the quality of the area in which they are held.

Whilst in principle I do not object to the abovementioned subdivision being undertaken, I do wish to make note of the following inadequacies in the proposal;

1. **Housing Standards.** There is currently no restrictions on the quality or time frame of the construction of dwellings. Anything less than above well constructed brick homes will detract for the ambience and value of existing area.
2. **Roads to be constructed.**
  - a) Time frame.
  - b) Surface [REDACTED]
  - c) Allocated maximum speed of the newly constructed roads.
3. **Time frame for construction.** Principally we are concerned that if the proposed connection to Acacia Way is completed last then we will have a obtrusive increase of traffic along the current roads.

As noted above these roads are of poor quality. Furthermore large amounts of traffic will also detract from the quality of living for us/ value of the properties.

Should you require any clarification, please do not hesitate to contact me.  
Yours faithfully, Jeff Carstein



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17-10-12

ATT: CAROL HODGKINSON

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Re: Town Planning No 2012/71

Our Address is 14 AERIAL WAY CHURCHILL WHICH IS THE LOWEST DEVELOPMENT BLOCK ON THE EDGE OF THE NEW SUBDIVISION, DURING HEAVY RAINS OUR BLOCK FREQUENTLY DRAIN DUE TO BLOCK WATER FROM A MASON STORM WATER OUTLET AND ALSO THE REEL HOLE CREEK. I HAVE APPROACHED HISTORIC WATER COUNCIL THE PAST THREE YEARS WITH NO RESPONSE. SO I HAVE MAJOR ISSUES.

ISSUE (1) IS THE REEL HOLE CREEK BRING WATER IN IF SO WILL IT RUN AT A RATE TO AVOID BACKWASH AND FLOODING.

(2) WITH THE MAIN STORM WATER DRAIN RR EXTENDED TO THE DAM AREA.

(3) TALKING TO MR WALKER IN PREVIOUS TIMES HE STATED THAT HE WOULD NOT BE REMOVING THE TWISTED WILLOW TREES BEHIND OUR PROPERTY THESE ARE BEAUTIFUL TREES AND WILL BE THE ONLY BLOCK OUT FROM THE SUBDIVISION.

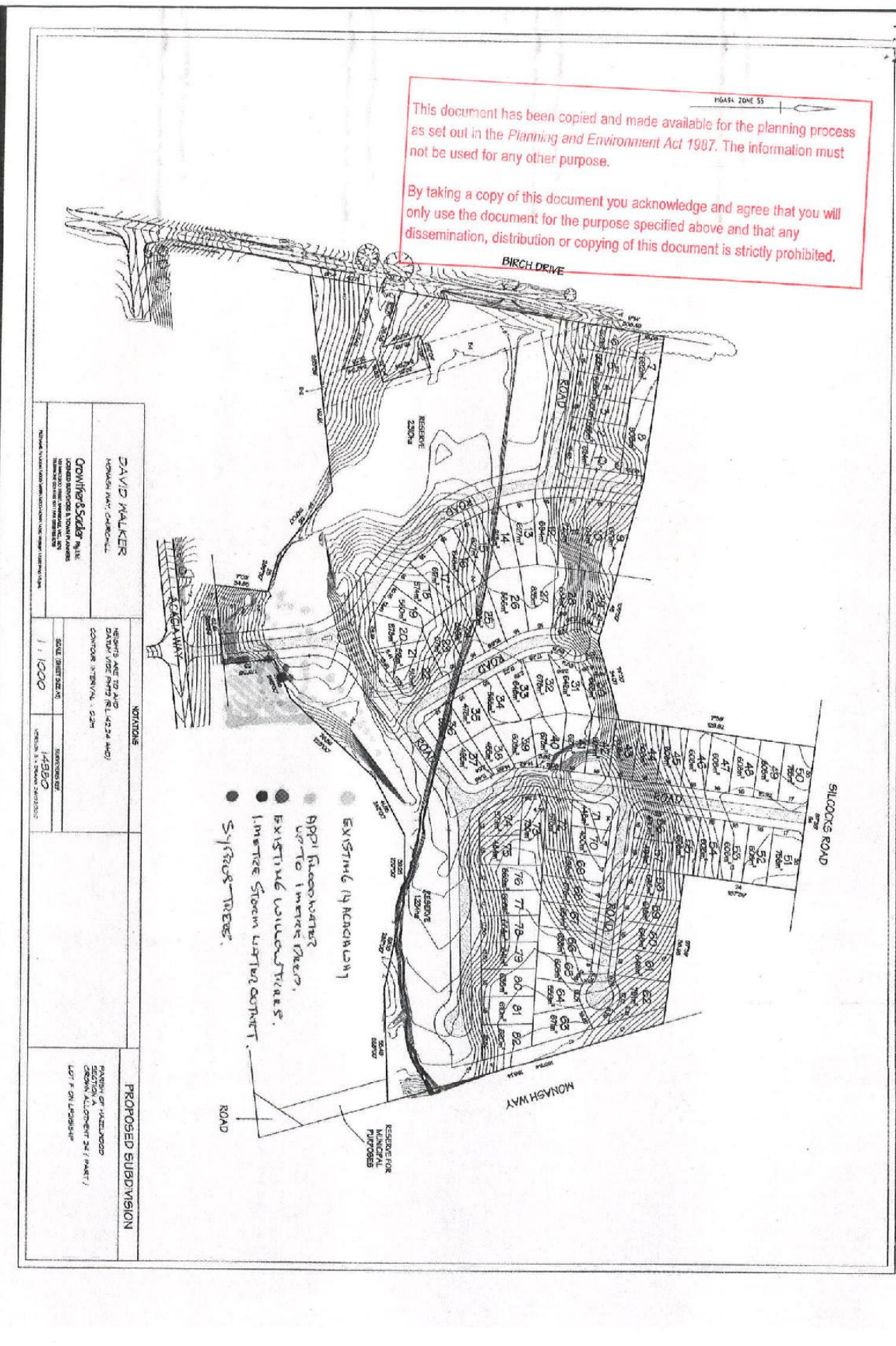
(4) THE SYRUS TREES LINING THE WEST SIDE OF OUR PROPERTY (BEING OUR WIND BREAK) WILL THEY BE TRIMMED, CUT OR DAMAGED IN ANY WAY.

THESE ARE MAJOR CONCERNS WHICH I HAVE SPOKE TO DAVID WALKER ABOUT AND HE SEEMED TO BE A VERY UNDERSTANDING DEVELOPER.

CAROL I WOULD APPRECIATE A SITE MEETING IN THE NEAR FUTURE.

Yours  
THE CONCERNED  
L. P. MCKENZIE

MOB: ~~0411/85805~~



<b>DAVID WALKER</b> MONASH WAY, CHURCHILL OWNER		
<b>OPUIKING &amp; SADDLER P/L</b> 165 COLLETT STREET, CHURCHILL DUNEDIN 9013 TELEPHONE 03 336 2282 FAX 03 336 2292 EMAIL david@opuiking.co.nz		
<b>NOTIONS</b>	<b>PROPOSED SUBDIVISION</b>	
HEIGHTS AND TO AND DATE: 10/01/2012 DATE: 10/01/2012 (R14234 AND) CONTOUR INTERVAL: 50M		
SCALE: 1:1000	VERTICAL SCALE: 1:1000	
PANELS OF 1:1000000 SECTION OR CROWN ALLOTMENT 24 (PART) LOT # ON LIDAR: 44		

- EXISTING (IN REMOVAL)
- APPI RESERVE WATER INTO LIMEITE REAR.
- EXISTING LIMEITE TREES.
- LIMEITE STORM WATER DRAIN.
- SYRUS TREES.

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15<sup>th</sup> October 2012

To Whom It May Concern,

As the residents of 74 Silcocks Rd Churchill we are writing to express our concern with the proposed development application reference 2012/71

We have resided in our family home for 7 years and have enjoyed the thought of a peaceful rural property

We understand the proposed development will significantly increase the number of residential property's surrounding us. We anticipate a dramatic increase in the traffic, noise and artificial light in the area after the development, which will no doubt decrease in what we found, was our initial attraction to this area.

Our primary concerns relate to the imposition on our family's privacy, particularly if the new residents opt for double story homes due to the small allotments or a home which has windows overlooking our family's home.

When we purchased our land 11 years ago we were aware of the future plans to sub divide the land surrounding us into three properties but was surprised of the proposal of 82 small parcels of land this will increase the amount of traffic on Silcocks road which is currently a dirt road and constantly needs grading and stabilising due to the amount of traffic and constant flooding of the road in the last 12 months it has flooded and cut the access to 7 residents properties 6 times.

Reference to Page 10

We also know that 70 Silcocks Rd is owned by the same Walker family and feel that the proposed sub division of that property would be reinstated if this approval went through boxing us in from all sides.

It mentions the upgrade to Birch drive is not necessary as 70 Silcocks Rd is not part of the proposal in fact the road in question is Silcocks Rd as Birch Drive ends at Acacia Way and we believe it would have to be asphalted to sustain the extra traffic loads.

If the proposal was to go ahead this would be the most opportunistic time to seal Silcocks road with asphalt to get the most revenue from landowners.

It also mentions 4 stages but doesn't mention which areas will be developed first as I believe that to have the main entrance off Acacia Way to access the sub division would require the most amount of capital and development to get across the swamp land and creek therefore the developers would opt to develop the lots 1-8 and 40-70 making all access via Silcocks Rd until further development is done.

We hope you consider our concerns when deciding the future sub division proposal.

Thankyou Mark & Kylie Medew

74 Silcocks Rd Churchill ~~5173 173~~

*Mark Medew Kylie Medew*

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Mario Bahagiar  
21 Nadenbouschs Ln.  
Churchill 3842  
P.O. Box 90  
Churchill 3842  
16.10.12

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ATT: Carol Lok  
Statutory Planning Team  
Latrobe City Council

Dear Carol,

I am writing to object to planning permit application no. 2012/71 located on Silcocks Rd. in Churchill.

My first concern with this development plan are the access points from Birch Drive and Silcocks Rd and the major impact this will have on the road with increased traffic. The road is currently an un-sealed gravel road and if this planning permit were to be approved then Birch drive would need to be upgraded to a bitumen sealed road, and access from Silcocks Rd into this development should be withheld until the remainder of Birch Drive and all of Silcocks Rd were bitumen sealed. Birch Drive (gravel section only) is currently bordered by



6 residents (including 2 on Nadenbouschs Lane) and a following 4 residents on Silcocks Rd and the gravel road can barely substantiate this small amount of traffic without having to be graded: on a regular basis for potholes, ridges and overall poor surface.

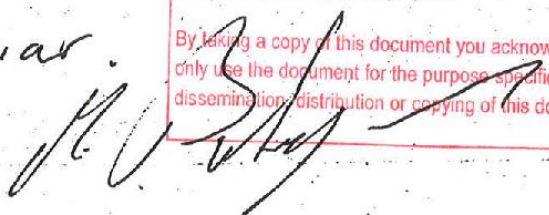
My second concern is drainage to the west of Birch Drive and its constant flooding over the road in winter, and its inability to drain away quickly.

I note that the application concept plan shows diverting the flow of water through the subdivision to the south but my concerns are that adequate thought and planning have not been put into ensuring pipes to the west of Birch Drive are sufficient to quickly and adequately carry away water.

Please feel free to call me on ~~0402083897~~, or my daughter Lana on ~~0401376252~~ with regards to this objection.

Yours Faithfully,

Mario Bhagiar.



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16 Oct 2012	
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Gwenda Kihl-Iarssen  
24 Acacia Way  
Churchill, 3842

13/10/2012

The Responsible Authority  
Latrobe City Council  
PO Box 264  
Morwell, 3840

Dear Sir/Madam,  
Re Planning Application 2012/71 for a staged multi lot subdivision & removal of native vegetation Silcocks Road Churchill.

I object to this proposal as which ever way you may choose to interpret the "application" the increased access will result in a huge increase in traffic volumes on the unsealed road on the western edge of our property at 24 Acacia Way. [this road is variously nominated as Birch Drive & correctly as Silcocks Road in the "application"]. The resulting increase in traffic noise and raised dust blown by the prevailing westerly winds will make the atmosphere at times unbreathable, our home and land virtually uninhabitable and dramatically adversely impact on its current resale value.

I submit the only way I can see to make this proposal right would be to upgrade and seal this road. Prior to our purchase of the property council blocked access to Monash Way from Silcocks Road to limit traffic flows on the unsealed road and direct it to the much safer access point on Acacia Way. I would find it foolish to apparently now to allow this to occur (although the "application" makes no mention of the removal of the barrier).

The council's action also had a happy result in halting the local hoons cutting laps and limiting racing/sliding on the unsealed road. This action was greatly appreciated by all locals. The proposal will now create further options for these clowns who delight in getting sideways on the road giving them multiple exit routes.

Sealing the road surface will also greatly reduce the amount of sand being washed into Birch Drive/Acacia Way intersection after rain requiring regular servicing by the street sweeper to remove the traffic hazard it creates. The increase traffic flows at this intersection I believe would indicate a street light and stop sign are required to improve road safety.

I object to the ecological surveys validity - a few hours in day are patently not enough time to discover what is there. If this is all that is needed to allow an application then the planning requirements are an absolute disgrace. For example plants and birds are seasonal and the pines are an invaluable food source for the local large yellow tailed cockatoos when driven out of the Jeeralang hills by winter storms and clear felling practices. In remediating the degraded overgrown proposed reserve it would be best to use plants native to the local area in the plantings to assist the local flora and fauna in making a comeback.

I object to the hydrological section, you can throw it out. Its assumptions and calculations are based on water leaving the site via two 1400mm culverts under Silcocks Road when in fact there are three pipes taking water under the road.

Finally in reading the proposal it is difficult to know what is intended as it reads as a wish list and not as a document proposing to do certain things. It contradicts itself on what is to be done many times and the plans in it show this also. If the planning application document is approved as it stands will this allow for the developer to pick and choose whatever he wishes from it perhaps? It even says it will be done in 4 stages but provides not a skerrick of information about them. It should have been rejected in the first place and been sent back to be drawn up in a proper manner.

In principle I do not object to the development of the unused land as it is a fire hazard to all in the area but it must be done with proper respect to the amenity, live ability and quality of life of existing property owners. It fails to do this.

Development of the unused land as it is a fire hazard to all in the area but it must be done with proper respect to the amenity, live ability and quality of life of existing property owners. It fails to do this.

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Regardless of the result of the application I look forward to getting a reply in writing of the outcomes with a detailed explanation of your decisions on this matter

Yours Sincerely

*Mrs. G. Kihl-Larsen.*

Gwenda Kihl-Larsen

*13/10/12*  
*(13/10/12)*

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## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### 9.3 SISTER CITIES VISIT - MUSIC EXCHANGE PROGRAM 2013/2014

**General Manager**

**Recreation, Culture &  
Community Infrastructure**

**For Decision**

#### PURPOSE

The purpose of this report is to present the proposed *2013/2014 Latrobe City Music Exchange Program* to visit Latrobe City Council's sister cities in Taizhou and Takasago for the consideration of Council.

#### DECLARATION OF INTEREST

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

#### STRATEGIC FRAMEWORK

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

##### *Latrobe 2026: The Community Vision for Latrobe Valley*

##### *Strategic Objectives – Culture*

*In 2026, Latrobe Valley celebrates the diversity of heritage and cultures that shape our community, with activities and facilities that support the cultural vitality of the region.*

##### *Latrobe City Council Plan 2013 - 2017*

##### *Theme and Objectives*

Theme 4: Advocacy For and Consultation with our Community

- Strengthen the profile of Latrobe City as one of four major regional cities.
- To advocate for and support cooperative relationships between business, industry and the community.

##### *Strategic Direction*

Establish a strong image and brand for Latrobe City as one of Victoria's four major regional cities.

Establish opportunities for volunteers to assist in raising the profile of Latrobe City.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### Strategy – Latrobe City International Relations Plan 2011-2014

Key Objectives:

1. **COMMUNICATION ACTIVITIES** – To further enhance the Latrobe City community’s understanding of the value of our International Relations Program.
2. **INTERNATIONAL INVESTMENT** - To continue to promote Latrobe City as an international investment location.
3. **ECONOMIC AND CULTURAL STRENGTHS** - To market the economic and cultural strengths of Latrobe City internationally.
4. **INTERNATIONAL STUDENTS** - To enthusiastically promote Latrobe City as a destination for international students.
5. **COMMUNITY INVOLVEMENT** – To expand and make accessible the range of existing cultural, sporting, educational and youth exchange opportunities for the residents of Latrobe City.
6. **FUNDING OPPORTUNITIES** - To pursue funding assistance opportunities that will facilitate meeting the objectives of the International Relations Plan.
7. **SISTER CITIES** – To develop, nurture and further enhance our relationship with sister cities.
8. **COMMUNITY ENGAGEMENT** - To positively engage with individual groups and organisations for the benefit of the Latrobe City community.

The following key action was adopted by Council as part of the International Relation Plan 2011-2014:

Key Actions	Timeline	Resources
Conduct an overseas / sister cities exchange biennially. In 2013/14 a Music Exchange program will take place.	13/14	\$25,000

### *Policy – Sister Cities Visits Policy 12-POL-1*

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

**BACKGROUND**

Latrobe City through valued partnerships with local community groups, sporting associations and the Latrobe City Youth Band has seen over 520 young people from Latrobe City experience Japanese and/or Chinese culture through exchanges with our Sister Cities.

In 2004 and 2008, the Latrobe City Youth Band toured Takasago, Japan and Taizhou, China. The Youth Band was made up of players aged between 14 and 23 and included up to 27 players.

Both were very successful programs enabling members of local bands the opportunity to perform in front of an international audience. In 2004 the bands five performances in Taizhou, China attracted an audience in excess of 10,000 in total.

Music has long been considered a truly international language, without barriers and prejudices. Formed specifically for the 2004 and 2008 tours, the Latrobe City Youth Band has provided participating students with the opportunity to develop and demonstrate their musical and personal skills through active participation in rehearsals, performances and structured lessons. The tours to our Sister Cities undertaken in 2004 and 2008 have enhanced the appreciation of the arts and culture of all participants.

Latrobe City Councils Sister Cities Agreements include the following clauses.

- *That each city shall strive to promote the interchanging of ideas, culture and education and shall encourage the promotion of youth and cultural changes to promote cultural awareness.*
- *That the promotion of different sporting and tourism events be encouraged to exchange ideas and to co-ordinate the staging of events to encourage participation from both countries.*

The Latrobe City Youth Band performed between and after the 2004 and 2008 tours but numbers declined over time and the Youth Band was officially dissolved in 2010.

At the ordinary Council meeting on 6 May 2013 Council resolved the following in respects to the following matters.

Latrobe City International Relations Advisory Committee Motion Re: Australian Garden Opening

1. *That the item be deferred until after the amended Terms of Reference for the Latrobe City International Relations Advisory Committee have been considered by Council.*

Proposed Sister Cities Visit – 2013/14 Music Exchange Program

1. *That the item be deferred to budget discussions and included therein.*

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

Please note that the Terms of Reference review stated in the resolution of Council in respects to the Australian Garden Opening has not yet occurred. However, the opportunity to incorporate the Australian Garden Opening is a relevant issue for Council to consider at this time.

The 2013/14 Latrobe City Council budget was adopted by Council on 5 August 2013 and an allocation for the music exchange was included.

### **ISSUES**

The following key action was adopted by Council as part of the International Relation Plan 2011-2014:

Key Actions	Timeline	Resources
Conduct an overseas / sister cities exchange biennially. In 2013/14 a Music Exchange program will take place.	13/14	\$25,000

Following consultation with key community members associated with the former Latrobe City Youth Band, including the International Relations Committee and expanding on and making accessible the range of existing cultural, sporting, educational and exchange opportunities for the residents of Latrobe City, the formation of a 'Latrobe City Band' for the purpose of participating in the 2013/2014 Music Exchange program is proposed.

The band will have a life span of approximately 12 months with members undergoing an audition process, rehearsals, and local performances and fund raising for the tour, culminating in an overseas tour to Latrobe's Sister Cities.

It is envisaged that the band will comprise of a 30 to 35 player concert band bringing together talented instrumentalists, from all socio-economic backgrounds and age groups within the municipality. The band will provide the City's community with the opportunity for personal growth and enhanced musicianship as members of a 30-35 player concert band.

At the completion of the tour there will be an expectation that members will continue to be proactive ambassadors of our International Relations program. Whilst it is not anticipated that the band will have a lifespan beyond the tour dates, it is likely that the band will perform in Latrobe City both in the lead up and post the international trip.

As the major sponsor, Latrobe City Council will promote the band as the "City's own" to unify the municipality and instil civic pride.

Although titled as being a "music exchange", the music component to this program is only one element with greater learning's and friendships to be made.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

The purpose of the program is to continue strengthening the links between Latrobe City Council and our Sister Cities.

Officers met with former band leader David Williams to seek his thoughts on the type of band that should be established and whether he would be interested in taking a lead role with the proposed new touring band.

David William's full report is attached, however, the following options were considered within the report:

### Option 1

- *Band to be comprised of players from ages 15 to 21*
- *Band members to be auditioned*
- *Band members to be drawn from the schools within the Latrobe Valley*
- *Band to have senior mentor players who will act as assistants to the musical director and fill the requirement of chaperones during the tour. Mentor players will be selected members of the broader Latrobe Valley musical community and their role will be to lead sections where appropriate and prepare the band for the rigours of touring. The younger members of the band will be placed in groups and the mentor players will be charged with the role of looking after the younger players on a daily basis.*

### Option 2

- *Band to be comprised of players from ages 15 to 30*
- *Band members to be auditioned*
- *Band members to be drawn from the schools, universities, Tafe colleges and local businesses within the Latrobe Valley*

At its meeting held 17 April 2013, the International Relations Advisory Committee considered the proposal from David Williams and made the following recommendations;

1. That a third option be considered to include players of mature age. This would see players of a minimum 15 years with no upper age restriction. This is an idea that is predicated on the belief that the exchange shouldn't just be restricted to school age players. This option allows for a broader range of abilities and interests to enhance the experience for our players and those of our sister cities.
2. That a name other than those recommended by David Williams be considered. Suggestions included the 'Latrobe City Concert Band' and the 'Latrobe City Music Ensemble'.
3. The Committee agreed that David Williams, if endorsed as Music Director for this exchange, should be given creative freedom over the type and style of band formed and the music arrangements played due to his enormous experience not only with previous



## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

exchanges to our Sister Cities but also as a professional in his own right.

### Additional Information:

#### **Additional Participants:**

Proposed 30-35 piece concert band comprising of members from across Latrobe City. Up to 4 additional people will be required to accompany the tour. These may include a musical director, band manager and Latrobe City Council officers to provide support for protocol, interpreting and tour management of the tour group. All attendees, including officers and Councillors would be considered in line with the *Sister Cities Visits Policy 12-POL-1*.

#### **Proposed Dates:**

It is not possible to define actual dates at present, however, based on previous tours a proposed tour of 10-12 days which will comprise of performances, rehearsals, attending Sister Schools, homestays and cultural activities.

An informal invitation to attend the 60 year anniversary of the formation of the City of Takasago in late June 2014 has been received at officer level. This invitation includes an Anniversary Expo on May 31 2014 and this may be a great opportunity to coincide with the proposed Music Exchange.

If this report is approved, Council officers will immediately commence discussions with our sister cities to finalise dates for the tour.

#### **Sister Cities Roles and Responsibilities**

Latrobe City Councils sister cities will play a significant support role in hosting the band including arranging homestays, concerts and cultural activities.

#### **Latrobe City Council**

Latrobe City Council's International Relations team will coordinate the exchange program in conjunction with support from our Sister Cities and participating band representatives. Key responsibilities include:

- Provide sponsorship to the exchange to the sum of \$25,000.00
- Communicate with Sister Cities
- Planned itinerary and travel arrangements
- Information sessions
- Pre-departure briefing
- Cultural Awareness sessions / information
- Regular newsletter updates
- Support fundraising initiatives

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

- Council Officers to accompany the tour

### **Musical Personnel**

The bands Musical Director and Manager will play a significant role in supporting Latrobe City Council coordination of the Music Exchange program. Key responsibilities include:

- Selection of suitable and worthy ambassadors from across Latrobe City
- Coordination of pre-departure rehearsals.
- A support group will be required to assist with a well coordinated fundraising program
- Actively participate in fundraising initiatives
- Promote the Music Exchange Program both pre and post tour, including Latrobe City's Sister Cities Festival.
- Ensure all participants meet all travel and medical requirements
- Support Latrobe City Council with the coordination of the tour
- Take responsibility for the welfare of band members whilst on tour

### **Individual participants**

Participating individuals who are fortunate enough to participate in Latrobe City Council's 2013/2014 Music Exchange Program will have the following key responsibilities:

- Be a worthy ambassador
- Complete all mandatory compliance documentation
- Provide proof of residence in Latrobe City
- Actively participate in fundraising initiatives
- Attend information sessions
- Attend pre-departure briefing
- Attend Cultural Awareness sessions
- Act as a Latrobe City Council international relations ambassador following the tour
- Promote the Music Exchange Program both pre and post tour, including Latrobe City's Sister Cities Festival.

### **Australian Garden Opening**

The Australian Garden was built to commemorate the 10 year anniversary of our sister city relationship with Taizhou. The music exchange delegation visit could be an ideal time to officially open the Australian Garden. This would allow a further opportunity for our concert band to perform, whilst celebrating the collaboration of the Australian Garden, built in the Expo Gardens in Taizhou.

**ORDINARY COUNCIL MEETING MINUTES  
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Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

There is an allocation of \$25,000.00 in Council's 2013/ 2014 budget to support the program. The cost for each individual to participate in the exchange is estimated at \$2,600.00 of which Council will contribute approximately \$800.00 in sponsorship to each participant.

It should be noted that the true cost of this exchange will exceed \$60,000.00, with the balance of funding raised through sponsorship, fundraising and individual contributions.

Council officer associated costs with the delegation will be limited to airfares and accommodation (total of approximately \$3,500 per person). It has been normal practice for the host city to provide meals and activities to delegations.

As has been past practice, Councillors (other than the Mayor or his/her delegate) wishing to attend are invited to join the delegation however will be required to personally fund their own airfares and accommodation expenses.

It is anticipated that individual members of the International Relations Committee may also fund their own expenses to accompany the delegation.

Participation in the music exchange will adhere to councils *Sister City Visits Policy 12-POL-1*.

**INTERNAL/EXTERNAL CONSULTATION*****Details of Community Consultation / Results of Engagement:***

Former Latrobe City Youth Band music director, David Williams was consulted in respect to the recommended make up of the proposed touring band. His feedback is detailed in the issues section of this report.

The Latrobe City International Relations Advisory Committee has endorsed David's proposal, though recommend that the age groups be a minimum of 15 years with no upper restriction on age.

**OPTIONS**

Council has the following options in respect to the Music Exchange Program to both Sister Cities and the Australian Garden Opening in Taizhou:

1. Approve the proposed Music Exchange Program to Taizhou and Takasago in 2013/2014 and resolve that the band be a 30-35 player

**ORDINARY COUNCIL MEETING MINUTES  
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concert band with a minimum age of 15 years and with no maximum age limit and incorporate the Australian Garden Opening in Taizhou.

2. Approve the proposed Music Exchange Program to Taizhou and Takasago in 2013/2014 and resolve the band be configured in a manner which differs to that suggested in option one and incorporate the Australian Garden Opening in Taizhou.
3. Not approve the proposed Music Exchange Program to Taizhou and Takasago in 2013/2014 and incorporate the Australian Garden Opening in Taizhou.

**CONCLUSION**

All past Latrobe City Council youth exchange programs have been extremely successful providing life changing experiences.

The adoption of the Music Exchange Program will allow Latrobe City Council to continue strengthening the links between Latrobe City Council and our Sister Cities.

International exchange programs are an investment for life and the experience will certainly be beneficial to all associated in so many different and valuable ways.

The Music Exchange also provides an opportunity to accept the invitation from the City of Taizhou to officially open the Australian (Latrobe City) Garden in Taizhou.

**Attachments**

1. Sister City Visits Policy
2. Recommendations for Latrobe City Music Exchange Program

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)****RECOMMENDATION**

1. That Council approves the formation of the 'Latrobe City Concert Band' for the purpose of a Music Exchange to Taizhou and Takasago in 2014.
2. That the band be a 30-35 player concert band with a minimum age of 15 years and with no maximum age limit.
3. That David Williams OAM be endorsed as Music Director and given creative freedom over the type and style of band formed and the music arrangements played.
4. That a further report be presented to consider participants in the music exchange as per the *Sister City Visits Policy 12-POL-1*.
5. That the Mayor of Latrobe City Council write to the Mayor of Taizhou requesting that the Australian garden opening take place in conjunction with the Music Exchange, proposed for May 2014.
6. That the Terms of Reference for the Latrobe City International Relations Advisory Committee be reviewed and considered by Council at a future meeting.

**ALTERNATE MOTION**

1. **That Council approves the formation of the 'Latrobe City Concert Band' for the purpose of a Music Exchange to Taizhou and Takasago in 2014.**
2. **That the band be a 30-35 player concert band with a minimum age of 15 years and a maximum age of 21 years.**

**Moved:** Cr O'Callaghan

**Seconded:** Cr Harriman

**For the Motion**

Councillor/s Rossiter, Middlemiss, Gibson, O'Callaghan, White, Harriman

**Against the Motion**

Councillor/s Gibbons, Sindt

**The Deputy Mayor confirmed that the Motion had been CARRIED**

## **9.3**

### **Sister Cities Visit - Music Exchange Program 2013/2014**

<b>1</b>	<b>Sister City Visits Policy.....</b>	<b>255</b>
<b>2</b>	<b>Recommendations for Latrobe City Music Exchange Program.....</b>	<b>259</b>

Document Name: **Sister City Visits Policy**

**12 POL-1**

Adopted by Council: **4 June 2012**

### Policy Goals

Latrobe City has established and managed formal sister city relationships on behalf of our community, to gain a deeper understanding of each other's culture, traditions, society and people. To this end, Latrobe City has two formal sister city relationships; with Takasago City, Japan and the City of Taizhou, China.

Latrobe City recognises that a key to achieving this deeper understanding is through young people and this is why a significant focus of Latrobe City's programs is with the youth of our community. A Sister City Program enables citizens to become directly involved in international relations in a unique and meaningful way, bringing long-term benefits to the local community and its partners abroad.

Sister city relationships allow communities to exchange experiences and ideas, gain an international perspective and increase their understanding of global issues.

In addition to encouraging international peace and goodwill, Latrobe City's sister city relationships go much further leading to economic growth, increased tourism, and reliable business contacts.

### Benefits of Sister Cities

Our Sister City Program helps promote Latrobe City as a city of global significance, through exchanges and initiatives that focus on five key areas – education, culture, trade, tourism and sport.

The program enables us to foster international peace and goodwill, enriching our community with a broader understanding of other nations, their traditions, customs and cultures. Crucially though, it also provides a multi-lateral framework for cultivating economic growth across a host of trade, industry and business sectors.

### The Economic and Business Benefits

Our active sister city relationships have an important role to play in developing international economic partnerships. Latrobe City enjoys investment in the billions from International



interests in local industry and there is a demonstrated and sustained interest in Latrobe City as a potential investment location from overseas firms.

Helping to establish reliable business contacts and thereby improve business opportunities, the program acts as a gateway to new markets and trade alliances. It acts as a springboard and catalyst for new investment and knowledge-sharing opportunities, while also promoting tourism, inbound education and providing a platform from which we can address global issues with our international partners.

#### **The Social and Cultural Benefits**

Through cultural, educational and sporting exchanges, the program helps to break down intercultural barriers. It promotes diversity and encourages openness, tolerance and mutual understanding, all of which enrich our communities and those of our international partners.

This policy outlines the guidelines for sending Latrobe City Council led delegations from Latrobe City to our Sister Cities abroad.

#### **Relationship to Latrobe 2026 & Council Plan**

This policy relates to the following Strategic Objectives contained within Latrobe 2026: The Community Vision for Latrobe Valley and the Council Plan:-

#### **Culture:**

##### **Latrobe 2026:**

*In 2026, Latrobe Valley celebrates the diversity of heritage and cultures that shape our community, with activities and facilities that support the cultural vitality of the region.*

##### **Council Plan:**

*Increase the accessibility of Latrobe City Council's cultural facilities, programs and events.*

*Facilitate the growth and success of cultural programs, sporting and community events through active engagement, promotion and marketing.*

*Foster greater awareness, understanding and respect for other cultures through the promotion of international relations.*

##### ***Service Provision – Culture***

*Deliver International Relations services in accordance with the Latrobe City International Relations Plan.*

##### ***Major Initiatives - Culture***

*Deliver the Latrobe City International Relations Plan 2011-2014 to enhance cultural and economic benefits.*



## Policy Implementation

### Timelines:

- A draft itinerary and suggested attendees shall be presented to Council for endorsement within a minimum of 30 days of the proposed departure date.
- A report outlining the key outcomes from sister city visits shall be provided to Council within 60 days of a delegations return to Australia.

### Councillors:

- The Mayor and/or their delegate will generally be required to attend sister city visits to represent the City. The Deputy Mayor and/or Councillors who sit on the Latrobe City International Relations Committee would generally be selected as the Mayors delegate.
- Council must approve the Councillor representative prior to any expense being incurred.
- Additional Councillors may also be invited to attend, but this would normally be at the Councillors own expense.

### Council Officers

- The Chief Executive Officer will advise Council the officers who will attend sister city visits in order to achieve the objectives of the planned visit.

### Community Representatives

- Community representatives shall be selected / recommended by a selection panel made up of the Mayor and/or Councillors who sit on the Latrobe City International Relations Committee and appropriate council officers.
- If there is to be any expense incurred by Latrobe City Council by the inclusion of community representatives attending sister city trips, all names and the purpose of their attendance shall be provided to Council for approval.

### Budgets:

- The budget for any proposed outbound sister city visits must be approved by Council prior to any expense being incurred.
- A report outlining the expenses incurred in undertaking a sister city visit shall be provided to Council within 60 days of a delegations return to Australia.

This policy has been reviewed after giving proper consideration to all the rights contained within the *Charter of Human Rights and Responsibilities Act 2006*; and any reasonable limitation to human rights can be demonstrably justified.

Signed : \_\_\_\_\_  
*Chief Executive Officer*

Date : 06 /06 / 2012.

### **Recommendations for Latrobe City Music Exchange Program 2014**

#### **For council discussion only,**

After discussions with Jason, David and Jei I offer these recommendations for consideration in preparing the 2014 Music Exchange to our sister cities in Japan and China.

There are a few things that I strongly urge the council to address in preparing for this exchange, firstly the name of the band. The previous band was called the Latrobe City Youth Band and I believe that the name may have contributed to some players not participating in the band as they may have, rightly or wrongly, that the band was for school age players.

I suggest that in promoting the upcoming exchange that the band be called a Wind Symphony. The name of the touring ensemble should be Latrobe City Wind Symphony or Latrobe City Symphonic Winds. I hope that this will send a more inclusive message to players of post-secondary school age.

Latrobe City Symphonic Winds to comprise of 30 to 35 players consisting of;  
Flute, Clarinet, Oboe, Alto Sax, Tenor Sax, Baritone Sax, Trumpet, Trombone, French Horn, Tuba, Keyboards, Drum Kit, Bass, Percussion, Singer (either male or female and preferably someone who is in the band as an instrumentalist to sing)

#### Option 1

- Band to be comprised of players from ages 15 to 21
- Band members to be auditioned
- Band members to be drawn from the schools within the Latrobe Valley
- Band to have senior mentor players who will act as assistants to the musical director and fill the requirement of chaperones during the tour. Mentor players will be selected members of the broader Latrobe Valley musical community and their role will be to lead sections where appropriate and prepare the band for the rigours of touring. The younger members of the band will be placed in groups and the mentor players will be charged with the role of looking after the younger players on a daily basis.

If this is the preferred option then I urge council to be the face of the recruitment. The previous band I was the public face of not just the performances but also the recruitment and I have to say the negative responses I had from some of the schools in the City was surprising and disappointing. I had on numerous occasions people refer the band as a Moe band or even a Lowanna College band (due significantly to the fact we rehearsed at Lowanna) and I think that a different approach this time might engender more inclusive approach. Council members of the International Relations Committee will need to make contact with all the schools in the city; Lavalla, Kurnai College, Flinders, Traralgon Secondary College, St Paul's Anglican Grammar and Lowanna College. It is vital that a relationship be established with all schools so we maximise the participation of eligible players. A coordinated visit from the IR committee and the MD to all schools to outline the audition process and the benefits of becoming a member of the band will need to be organised.

#### Option 2

- Band to be comprised of players from ages 15 to 30
- Band members to be auditioned
- Band members to be drawn from the schools, universities, Tafe colleges and local businesses within the Latrobe Valley

The band to include players of mature age between 15 and 30. This is an idea that is predicated on the belief that the exchange shouldn't just be restricted to just school age players. If this is the preferred option it would allow for a broader range of abilities and interests to enhance the experience for our players and those of our sister cities. Over the past eighteen years that I have taught at Lowanna College I have seen many fine young players go through the school system and then they either leave to study or stay and study locally but many have stopped actively playing. Perhaps the opportunity to tour and be a part of such a terrific exchange may lead to some of these players participating and maintaining their musical interest to the benefit of the community at large. If you want to recall the first combine bands Australia Day Concert that was held in approx. 2006 where the Youth Band, Traralgon Brass, Morwell Brass and the Bagpipers played, the standard of that particular concert was extremely high due in no small part to the more experienced players that augmented the Youth Band line up of the day.

#### The audition process

- Auditionees to prepare two contrasting pieces demonstrating a range of stylistic and musical elements
- Prepare a range of excerpts selected for individual instruments i.e. for candidates that what to audition for leading player position such as Clarinet 1 will have to prepare orchestral or band excerpts
- Short sight reading excerpt to prepare
- Call backs required if two or more candidates appear suitable

#### Tour fundraising

Fundraising will need to be tightly planned and be spread over the year lead up. For both previous tours we had one big night; Trivia Night and they proved to be extremely successful. I suggest that we plan for a Trivia Night for early 2014 and other fundraising activities to begin later this year and continue well into next year.

#### Tour organisations

A committee of council, parents, players and MD needs to be formed and charged with the preparation of the tour.

#### Tour Cultural Awareness

To begin as soon as possible and be held at regular intervals.

#### Repertoire

The band library is at my house and is extensive enough to provide a suitable range of challenging and musically interesting works. I also urge the council to commission a work for the band to perform on the tour. Our previous tour I took over a work by Australian composer Sarah Hopkins, we could approach her again or someone similar to compose a work based on Australian themes to play on the tour.

#### Community performances

In preparation for the tour the band will need to schedule community performances. Australia Day 2014 is a must. All band members once they accept the offer to tour they commit to perform on Australia Day.

Possible suggestions for other performances but not limited too; Council sponsored cultural days such as Japanese Day, Australia Day, Carols by Candlelight and of course a concert in the band own right.

Rehearsals of the band will be at Lowanna College and the band will not travel across the Valley to rehearse. The previous band started by having a shifting rehearsal base and this doesn't work; too many factors that can go wrong. Players forget which venue they are rehearsing at and one time we stood out in the rain for a couple of hours waiting for the key.

#### Rehearsals

The rehearsal schedule can be problematic, there are established bands, choirs and theatre groups that rehearse during the week and I think that the best option would be rehearse on a Sunday between 1pm to 4pm.

Factoring in that the band won't be formed until later in the year I suggest that the rehearsal schedule be based fortnightly until the end of the year. This approach will allow players to organise their work shifts, study and exam preparations with a minimum of fuss.

The band will rehearse up to mid-December and then have a break over Christmas and New Year. The resumption of rehearsals will be prior to Australia Day and all band members must be available for this performance.

Rehearsals leading up to the tour will be weekly; suggest from March 2014 to the tour.

I acknowledge the offer made to me at the previous meeting and would like to formal express my interest in conducting the band once again. I am grateful of the opportunity and humbled to have been asked to prepare the band and see the tour come to fruition.

Any discussion on conditions of engagement for the MD can be finalised at a later date.

David Williams OAM

# CORRESPONDENCE

**10. CORRESPONDENCE**

Nil reports

# PRESENTATION OF PETITIONS

**11. PRESENTATION OF PETITIONS**

Nil reports



# CHIEF EXECUTIVE OFFICER

**12. CHIEF EXECUTIVE OFFICER**

Nil reports

# ECONOMIC SUSTAINABILITY

**13. ECONOMIC SUSTAINABILITY**

Nil reports

# RECREATION CULTURE AND COMMUNITY INFRASTRUCTURE

**14. RECREATION CULTURE AND COMMUNITY INFRASTRUCTURE**

**14.1 2013 CHINA INTERNATIONAL CITIES COOPERATION FORUM**

**General Manager**

**Recreation, Culture &  
Community Infrastructure**

**For Decision**

**PURPOSE**

The purpose of this report is for Council to consider an invitation received from the Chinese People's Association for Friendship with Foreign Countries (CPAFFC) and the China International Friendship Cities Association (CIFCA) to attend the 2013 China International Cities Cooperation Forum.

**DECLARATION OF INTEREST**

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

***Latrobe 2026: The Community Vision for Latrobe Valley***

***Strategic Objectives - Culture***

*In 2026, Latrobe Valley celebrates the diversity of heritage and cultures that shape our community, with activities and facilities that support the cultural vitality of the region.*

***Latrobe City Council Plan 2013 - 2017***

***Theme and Objectives***

***Theme 4: Advocacy For and Consultation with our Community***

- Strengthen the profile of Latrobe City as one of four major regional cities.
- To advocate for and support cooperative relationships between business, industry and the community.

***Strategic Direction***

Establish a strong image and brand for Latrobe City as one of Victoria's four major regional cities.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### Strategy – Latrobe City International Relations Plan 2011-2014

Key Objectives:

1. **COMMUNICATION ACTIVITIES** – To further enhance the Latrobe City community's understanding of the value of our International Relations Program.
2. **INTERNATIONAL INVESTMENT** - To continue to promote Latrobe City as an international investment location.
3. **ECONOMIC AND CULTURAL STRENGTHS** - To market the economic and cultural strengths of Latrobe City internationally.
4. **INTERNATIONAL STUDENTS** - To enthusiastically promote Latrobe City as a destination for international students.
5. **COMMUNITY INVOLVEMENT** – To expand and make accessible the range of existing cultural, sporting, educational and youth exchange opportunities for the residents of Latrobe City.
6. **FUNDING OPPORTUNITIES** - To pursue funding assistance opportunities that will facilitate meeting the objectives of the International Relations Plan.
7. **SISTER CITIES** – To develop, nurture and further enhance our relationship with sister cities.
8. **COMMUNITY ENGAGEMENT** - To positively engage with individual groups and organisations for the benefit of the Latrobe City community.

### BACKGROUND

Latrobe City Council has received an invitation from the Chinese People's Association for Friendship with Foreign Countries (CPAFFC) and the China International Friendship Cities Association (CIFCA) to attend the 2013 China International Cities Cooperation Forum to be held in Changchun, Jilin Province, China from 5-8 September 2013.

### ISSUES

The theme for the Forum is "Changing Growth Model, Adjusting Economic Structure and Pursuing Further Development" and invitations are extended to Ministers, Governors, Mayors from China and abroad and heads of enterprises.

The forum provides the opportunity to discuss various issues concerning city development and provides a platform for cities to exchange views so

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

as to enhance exchanges and cooperation between friendship cities of China and other countries.

Although the invitation is dated 14 June 2013, it was faxed to Council by a City of Taizhou representative on 6 August 2013. At the time of being sent to Latrobe City, the City of Taizhou also suggested that this visit could coincide with the opening of the Australia Garden in Taizhou. As the 2013 China International Cities Cooperation Forum is to be held in Changchun, Jilin Province, China from 5-8 September 2013, this leaves little time to adequately consider the invitation and moreover, to make arrangements should Council accept the invitation.

### **FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

Officers have been advised that should Council accept the invitation and send representatives to the Forum, the inland cost (up to 3 people) will be covered by the Chinese Government. However, there will be additional travel costs borne by Council such as airfares that have not been included in the 2013/14 budget.

### **INTERNAL/EXTERNAL CONSULTATION**

*Not Applicable*

### **OPTIONS**

Council has the following options in regard to the invitation that has been received to attend the 2013 China International Cities Cooperation Forum:

1. Acknowledge receipt of the invitation and write to the President of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC), the China International Friendship Cities Association (CIFCA) and the City of Taizhou advising that Latrobe City Council representatives will not be in attendance at the 2013 China International Cities Cooperation Forum.
2. Acknowledge receipt of the invitation and write to the President of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC), the China International Friendship Cities Association (CIFCA) and the City of Taizhou advising that Latrobe City Council representatives will be in attendance at the 2013 China International Cities Cooperation Forum.
3. Request further information in regards to the invitation.



**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)****CONCLUSION**

Latrobe City Council has received an invitation to attend the 2013 China International Cities Cooperation Forum to be held in Changchun, Jilin Province, China from 5-8 September 2013.

The forum provides Ministers, Governors, Mayors from China and abroad and heads of enterprises the opportunity to discuss various issues concerning city development and provides a platform for cities to exchange views so as to enhance exchanges and cooperation between friendship cities of China and other countries.

Although the invitation is dated 14 June 2013, it was faxed to Council by a City of Taizhou representative on 6 August 2013 which leaves us little time to adequately consider the invitation and moreover, to make arrangements should Council accept the invitation.

**Attachments**

1. Invitation – 2013 China International Cities Cooperation Forum

**RECOMMENDATION**

1. That Council acknowledges the invitation and write to the President of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC), the China International Friendship Cities Association (CIFCA) and the City of Taizhou advising that Latrobe City Council representatives will not be in attendance at the 2013 China International Cities Cooperation Forum.

**ALTERNATE MOTION**

1. That Council authorise the Mayor and Cr Christine Sindt to represent Latrobe City Council at the 2013 China International Cities Cooperation Forum, departing and returning at times to optimise available flights and with least disruption to Council duties and that Council authorise the reimbursement of reasonable expenses including airfares, accommodation and meals.

**Moved:** Cr Sindt

**Seconded:**

**As there was no seconder to the motion the motion lapses and no further action will be taken regarding this matter.**

**RECOMMENDATION**

- 1. That Council acknowledges the invitation and write to the President of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC), the China International Friendship Cities Association (CIFCA) and the City of Taizhou advising that Latrobe City Council representatives will not be in attendance at the 2013 China International Cities Cooperation Forum.**

**Moved:** Cr O'Callaghan  
**Seconded:** Cr Rossiter

**For the Motion**

Councillor/s Rossiter, Middlemiss, Gibson, Sindt, O'Callaghan, White, Harriman

**Against the Motion**

Councillor/s Gibbons

**The Deputy Mayor confirmed that the Recommendation had been CARRIED**

# ORDINARY COUNCIL MEETING MINUTES

## 19 AUGUST 2013 (CM417)

AUG-6-2013 10:33 FROM:

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**中国人民对外友好协会**  
THE CHINESE PEOPLE'S ASSOCIATION FOR FRIENDSHIP WITH FOREIGN COUNTRIES



**中国国际友好城市联合会**  
CHINA INTERNATIONAL FRIENDSHIP CITIES ASSOCIATION

June 14, 2013

### Invitation to 2013 China International Cities Cooperation Forum

Dear Sir/Madame,

First of all, on behalf of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC) and the China International Friendship Cities Association (CIFCA) and in my own name, I'd like to express high respect and sincere thanks to the local government officials of various countries and representatives of international friendship-city organizations who have, over the years, made unremitting efforts and great contributions to the development of international friendship cities.

I am pleased to inform you that 2013 China International Cities Cooperation Forum will be held in Changchun, Jilin Province from September 5<sup>th</sup> to 8<sup>th</sup> this year. The theme of the forum is "Changing Growth Model, Adjusting Economic Structure and Pursuing Further Development". Ministers, governors and mayors from China and abroad, and heads of world top 500 enterprises will be invited and present at the forum.

This forum will discuss various issues concerning city development. We try to provide a platform for cities to exchange views so as to promote city development and enhance exchanges and cooperation between friendship cities of China and other countries.

I look forward to meeting you in Changchun.

Yours sincerely,

Li Xiaolin  
President  
CPAFFC & CIFCA

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中国 北京市台基厂大街一号 No.1, Taijichang St. Beijing, China 100740 [www.cpaffc.org.cn](http://www.cpaffc.org.cn) [www.cifca.org.cn](http://www.cifca.org.cn)

0200 8602010000

# ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

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## Program Schedule

### Sep. 5 (Thursday)

08:00-22:00 Registration (Sheraton Changchun Jingyuetan Hotel)  
18:00 Buffet Dinner

### Sep. 6 (Friday)

09:30-10:00 Heading for the venue of the 9th China-Northeast Asia  
Investment and Trade Expo (NEASIAEXPO)  
10:00-12:00 Visiting the venue of NEASIAEXPO  
12:30 Buffet Lunch  
14:00-14:30 Meeting with Leaders of Jilin Province  
14:30-15:00 Opening Ceremony of 2013 China International Cities  
Cooperation Forum  
15:00-15:10 Newly-Twinned Friendship Cities Signing Ceremony  
15:10-15:30 Tea Break  
15:30-18:00 Theme Forum  
15:30-16:20 Theme Forum: China's Urbanization Requires Global  
Perspective and Experiences  
16:20-17:10 Theme Forum: Economic Development and City  
Planning in the Context of Globalization  
17:10-18:00 Theme Forum: City Integrated Function and City  
Positioning  
19:00-20:00 Reception

### Sep. 7 (Saturday)

09:30-11:00 Parallel Session 1: Dialogue Between Mayors and  
Entrepreneurs  
09:30-11:00 Parallel Session 2: Business Development: Innovation  
and Transformation  
09:30-11:00 Parallel Session 3: Role of Intelligent Environmental  
Protection in Urbanization  
09:30-11:00 Cities and Business Promotion of Jilin Province  
12:00 Buffet Lunch  
13:30-15:30 Promotion of International Cities' Project  
15:40-17:40 International Industrial Chain Fair  
18:00 Buffet Dinner

### Sep. 8 (Sunday)

Departure

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# 中国人民对外友好协会 中国国际友好城市联合会

附件一

## 2013 中国国际城市合作论坛邀请函

尊敬的 协会：  
尊敬的 先生（女士）：

首先，我谨代表中国人民对外友好协会和中国国际友好城市联合会，并以我本人的名义，向长期以来为国际友城事业的发展做出不懈努力和巨大贡献的各国地方政府和友好组织代表表示崇高敬意和衷心感谢。

我高兴地告诉各位朋友，2013 中国国际城市合作论坛将于今年 9 月 5 日至 8 日在长春举办。本届论坛的主题为“转方式、调结构、谋发展”。参会代表主要为各国政府部长、省市市长、世界 500 强企业领导。

本届论坛将探讨城市发展中的热点难点以及应对策略，旨在为友好城市搭建国际交流与互动平台，以推动世界各国城市发展和国际友好城市间交流与合作。

请接受我们诚挚的邀请！

中国人民对外友好协会会长  
中国国际友好城市联合会会长



2013 年 6 月 14 日

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ORDINARY COUNCIL MEETING MINUTES  
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附件二

日 程

9月5日

08:00-22:00 注册(长春净月潭益田喜来登酒店)

18:00 自助晚餐

9月6日

09:30-10:00 前往东博会展馆

10:00-12:00 参会嘉宾巡馆

12:30 自助午餐

14:00-14:30 吉林省领导会见

14:30-15:00 论坛开幕式

15:00-15:10 友好城市签约仪式

15:10-15:30 茶歇

15:30-18:00 主题演讲

15:30-16:20 主题演讲: 中国城镇化发展需要国际视野、  
世界智慧

16:20-17:10 主题演讲: 全球化时代的城市经济发展与  
城市规划

17:10-18:00 主题演讲: 城市整体功能与城市定位

19:00-20:00 酒会

9月7日

09:30-11:00 平行论坛 1:市长与企业家对话会

09:30-11:00 平行论坛 2:企业创新转型中的共同发展

09:30-11:00 平行论坛 3:智能环保在城镇化进程中的作用

09:30-11:00 吉林省城市推介暨企业对接会

12:00 自助午餐

13:30-15:30 国际城市项目推介会

15:40-17:40 国际产业链洽谈会

18:00 自助晚餐

9月8日 返程

# COMMUNITY LIVEABILITY

**15. COMMUNITY LIVEABILITY**

Nil reports



# GOVERNANCE

16. GOVERNANCE

**16.1 PLANNING PERMIT APPLICATION 2013/076 TWO (2) LOT  
SUBDIVISION AND CREATION OF COMMON PROPERTY AND  
CONSTRUCTION OF A SECOND DWELLING, 18 CHENHALL  
CRESCENT, TRARALGON.**

General Manager

Governance

For Decision

**PURPOSE**

The purpose of this report is to determine Planning Permit Application 2013/076 for the subdivision of land into two (2) lots, creation of common property and construction of a second dwelling at 18 Chenhall Crescent, Traralgon.

**DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2012-2016.

***Latrobe 2026: The Community Vision for Latrobe Valley***

***Strategic Objectives – Built Environment***

In 2026, Latrobe Valley benefits from a well planned built environment that is complimentary to its surroundings and which provides for a connected and inclusive community.

***Latrobe City Council Plan 2013 - 2017***

***Theme and Objectives***

***Theme 5: Planning for the future***

To provide clear and concise policies and directions in all aspects of planning.

***Strategic Direction – Planning for the future***

Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.

Plan and coordinate the provision of key services and essential infrastructure to support new growth and developments.

*Legislation*

*Local Government Act 1989*

*Planning and Environment Act 1987*

*Legislation*

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act 1987* (the Act) and the Latrobe Planning Scheme (the Scheme), which apply to this application.

**SUMMARY**

- Land: 18 Chenhall Crescent, Traralgon, more particularly described as Lot 82 on Plan of Subdivision 053597.
- Proponent: Mr Rob Carlson.  
C/- Beveridge Williams & Co. Pty. Ltd – Traralgon office.
- Zoning: Residential 1 Zone (R1Z).
- Overlay: No Overlays.

A Planning Permit is required for the subdivision of land in a Residential 1 Zone (R1Z) in accordance with Clause 32.01-2 of the Scheme.

A Planning Permit is also required to construct a dwelling if there is at least one dwelling existing on the lot in a Residential 1 Zone (R1Z) in accordance with Clause 32.01-4 of the Scheme.

A site context plan is included as *Attachment 1* of this report. A copy of Title is included as *Attachment 2* of this report.

**PROPOSAL**

The application is for the construction of a second single storey dwelling and a two (2) lot subdivision with the creation of a common property on land within the Residential 1 Zone. The proposed two (2) lot subdivision will create an 84 square metre common property driveway to access the rear of proposed lot 1 and the proposed dwelling to be located on proposed lot 2.

As submitted by the applicant, details of the proposal are as follows:

Proposed lot 1 will contain the existing two (2) bedroom dwelling. Proposed lot 1 will consist of an area of 302 square metres and have an approximate 13 metre frontage to Chenhall Crescent, along its southern boundary. As part of this development, a new driveway is proposed to service this lot and the existing driveway will be converted and upgraded to allow it to be used as common property driveway to allow access to proposed Lot 2.

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Proposed Lot 2 will contain in the future a three (3) bedroom dwelling, covering an area of 367 square metres with an approximate 4.3 metre frontage to Chenhall Crescent along its southern boundary.

**SUBJECT LAND:**

The subject land is rectangular in shape and is located on the north-west side of Traralgon, within an older established residential area. The dimensions of the property are as follows:-

- A 16.76 metre width along the northern and southern (Chenhall Crescent) boundaries.
- A 44.95 metre depth along the eastern and western boundaries.
- There is an existing 1.83 metre wide drainage easement which extends along the full width of the site's northern boundary.

The subject site drops approximately 2.15 metres between its south-west and north-west corners.

The northern boundary of the property is defined by a timber paling fence ranging in height of between 1.8 to 1.9 metres. With the exception of the first 10 metres of the eastern boundary (southern-end), the property is fenced with an approximately 1.5 metre high timber paling fence. The first 10 metres of the eastern boundary is defined by a low hedge belonging to the neighbouring property. There is a 1.8 metre high timber paling fence along the western boundary which reduces in height to approximately 1 metre near the front of the property.

Proposed Lot 1 contains minimal planted shrubs and consists mainly of grass and a clothesline. There is a larger tree in the backyard for shade purposes and evidence of a large tree having being cut down in the front yard.

It is proposed along the common property driveway to include some mulched garden beds. These mulched garden beds will include some low-lying native shrubs to soften the development and provide greater street appeal.

Proposed Lot 2 will contain a mulched garden bed with some low-lying native shrubs near the porch area. The balance of this lot will be lawn. A copy of the proposed development and proposed plan of subdivision plans are identified within *Attachment 3*.

Both dwellings will be connected to the existing range of reticulated services and underground drainage system. The overhead powerline to the existing dwelling will be disconnected and a new underground electricity pit will be installed near the front boundary of the property. Both dwellings will be provided with a new letterbox which will be positioned opposite its respective driveway.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

The site is approximately 1.8 kilometres from the Traralgon CBD. There are two Schools and a local bus service operating in this area.

### **SURROUNDING LAND USE:**

The surrounding neighbourhood consists generally of modest detached single storey dwellings, many constructed by the Housing Commission in the 1960's. Lot sizes range from 750 square metres to 1,000 square metres.

North:	7 Como Court, Traralgon. Single storey dwelling, attached garage and swimming pool;
South:	17 Chenhall Crescent, Traralgon. Single storey dwelling and associated outbuildings;
East:	18 Chenhall Crescent, Traralgon. Single storey dwelling and associated outbuildings;
West:	1/20 and 2/20 Chenhall Crescent, Traralgon. Two single storey units.

The Pax Hill neighbourhood centre is situated approximately 200 metres to the south-west in Barker Crescent and currently contains a take-away pizza shop, fish and chip shop and the Pax Hill Kindergarten.

A wide range of commercial and community facilities are also available within Traralgon's central activity district which is located approximately 1.8 kilometres to the south-east of the subject site via car or approximately 1.2 kilometres on foot or bicycle via the off-road links.

V-Line train and bus services between Bairnsdale and Melbourne operate from the Traralgon train station which is located on the southern perimeter of the central activity district. A local bus services operates from Stockland Plaza in Traralgon's central activity district, with the 'Traralgon to Cross's Road Route No. 40' having a designated stop at the corner of Chenhall Crescent and Stockdale Road. An inter-town bus service also operates from Stockland Plaza.

### **HISTORY OF APPLICATION**

The history of the assessment of planning permit application 2013/076 is identified within *Attachment 4*.

The relevant provisions of the Scheme relevant to this application are identified within *Attachment 5*.

## **ASSESSMENT**

### **State Planning Policy framework (SPPF)**

The proposal has been considered against the relevant clauses under the State Planning Policy Framework.

The State Planning Policy Framework Clause 11.02-1 – ‘Supply of urban land’ seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Clause 15.01-2 – Urban design principles seeks to architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Clause 16 – Housing aims to provide for a range of housing types to meet increasingly diverse needs. Strategies to achieve this objective include ensuring planning for growth areas, provides for a mix of housing types and higher housing densities in and around activity centres; and encouraging the development of well-designed medium-density housing which respects the neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

The proposal is considered to be consistent with the policy outlined above. The application proposes medium density development in an area suitable for residential development. The proposal is an appropriate response to the subject site and the character of the area.

### **Local Planning Policy Framework (LPPF)**

The proposal has been considered against the relevant clauses under the Local Planning Policy Framework.

Clause 21.02 outlines the *Municipal Vision*, which is based on Council’s adopted *Latrobe 2021 – The Vision for Latrobe Valley*. The Council and Community Vision as stated in Latrobe 2021, is to create:

- *A vibrant region;*
- *A caring and enterprising community;*
- *A harmonious community;*
- *A sustainable, safe, secure region.*

Two strategic objectives identified in Latrobe 2021 which have relevance to the Latrobe Planning Scheme and form the basis of the objectives and strategies within the MSS are as follows:

***'Sustainability:***

- *To provide the responsible and sustainable care of our built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley.*
- *To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.*

***'Liveability:***

- *To promote and support social, recreational, cultural and community life by providing both essential and innovative amenities, services and facilities within the municipality'.*

Within the Local Planning Policy Framework Clause 21.04 *'Built Environment Sustainability'* it is identified that it is a central aim of Council in all the main urban settlements to realise opportunities for infill development, increasing diversity of housing types and improving residential amenity.

Clause 21.04-5 *'Urban Design Overview'* outlines that Latrobe City Council is keen to ensure that sustainability principles strongly influence the design and siting of future residential development while recognising the importance of urban design principles and the importance of environmental sustainability in our built environment.

Clause 21.05-6 *'Specific Main Town Strategies – Traralgon'* outlines that for residential areas, Latrobe City Council is keen to encourage higher density housing in the Transit City Precinct and existing and future neighbourhood clusters in Traralgon.

This planning permit application is consistent with Local Policy as it will assist in providing infill development within an existing residential area of Traralgon. The construction of the second dwelling as a result of this planning permit application being approved will utilise existing infrastructure for services and will assist with the diversity of dwelling type, variety of housing densities and housing affordability.

The proposed development of the subject land will promote and support high urban design within the existing residential built environment. It will also create, improve and maintain a visual appearance along Chenhall Crescent, Traralgon.

**Zoning**

The site is located within a Residential 1 Zone (R1Z) and is not subject to any Overlays. The purpose and decision guidelines of the Residential 1 Zone have been taken into account as part of this assessment of this

application and it is considered that the application complies within the Zoning provisions.

### **Particular Provisions**

Clause 55 Two or More Dwellings on a Lot.

Clause 32.01-4 in the Residential 1 Zone requires that a development must meet the requirements of Clause 55 Two or more dwellings on a lot and residential buildings. The objectives and standards of Clause 55 relate to neighbourhood and site description and design response, neighbourhood character and infrastructure, site layout and building massing, amenity impacts, on-site amenity and facilities and detailed design. The proposal has been assessed against the relevant provisions of the Scheme and it is considered that the subdivision generally meets the standards and purposes of Clause 55, subject to conditions that form part of the recommendations to this report. A copy of the neighbourhood and site description and design response is identified within *Attachment 6*.

Clause 56 Residential Subdivision:

Clause 32.01-2 in the Residential 1 Zone requires that a subdivision must meet the requirements of Clause 56 Residential Subdivision. The objectives and standards of Clause 56 relate to community, movement network, pedestrians and cyclists, lots size and orientation, street design, street construction, drainage systems and utilities provision. The proposal has been assessed against the relevant provisions of the Scheme and it is considered that the subdivision generally meets the standards and purposes of Clause 56, subject to conditions that form part of the recommendations to this report.

### **Decision Guidelines (Clause 65):**

The relevant decision guidelines have been considered.

### **Incorporated Documents (Clause 81):**

Australian Standard AS/NZS 2890.1:2004, Parking Facilities – Offstreet car parking, Standards Australia 2004. The application complies with these standards.

The '*Morwell-Traralgon Residential Land Supply Analysis (2007)*' and '*Latrobe City Council Residential and Rural Residential Land Assessment (2009)*' reports are both identified as reference documents in the Municipal Strategic Statement (MSS). Both of these reports have been adopted by Latrobe City Council and provide the strategic analysis of the demand and supply of residential land in Traralgon. Both reports have influenced the MSS settlement policies and the Traralgon Structure Plan.

The main findings in the '*Latrobe City Council Residential and Rural Residential Land Assessment (2009)*' report which are relevant to this proposal are as follows:-



## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

- The Latrobe municipality experienced a population decline for much of the 1990's, however in recent years has experienced a recovery in terms of population growth;
- Over the past 15 years, Traralgon is the only statistical local area (SLA) in Latrobe which has experienced any significant population growth;
- Within the municipality, Traralgon has been the focus for the majority of recent residential development. Over the period from March 2006 to April 2008, Traralgon accounted for approximately 70% of the total residential development that occurred within the Latrobe City municipality. Over this period, Traralgon had an annual development rate estimated at 246 dwellings per annum.
- A moderate to high growth scenario has been adopted for the purpose of planning for the future residential land requirements in Latrobe.
- Over the period 2008 to 2023, dwelling demand in Traralgon is forecast to be approximately 270 to 310 dwellings per annum.

### **OBJECTIONS**

The application received one (1) written submission in the form of an objection. A copy of this written submission can be found at *Attachment 7*.

On the 29/05/2013 the Council officer phoned the objector to arrange a one on one meeting to be held at the Traralgon service centre on the 05/06/2013 to discuss their concerns.

On the 05/06/2013 the Council officer met the objector one on one to try and resolve their planning concerns and show the planning permit applicant's amended plans, which attempted to address some of the objector's concerns. At the conclusion of this meeting no resolution was met, therefore the objection remained.

The issues raised by the objector were numerous but can be summarised as follows:

*Incorrect labelling of the advertising package as well as of habitable room windows on the plans.*

The objector raised concerns that the front page on the advertising package held at the Traralgon service centre referred to the planning

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

permit application number as being (2013/67), when the correct planning permit application number is (2013/076).

It was also highlighted by the objector that the plans submitted with the application incorrectly stated that the east facing windows of the objector's unit were for 'non-habitable' rooms.

Comment:

The incorrect front page of the advertising package held at the Traralgon service centre was a result of human error.

The original plans submitted to Council with the planning permit application incorrectly stated that the east facing windows of the objector's unit were for 'non-habitable' rooms. This has now been corrected in the revised or amended plans which are dated 22/05/2013 at the bottom of the page and were received by Council on the 24/05/2013.

*The size of the proposed dwelling is too large.*

Comment:

The proposed dwelling has been designed to comply with the relevant ResCode provisions of the Latrobe Planning Scheme. As indicated in the shadow diagrams submitted with this planning permit application, the objector's bedroom windows will only encounter shadows at 9:00am at the September Equinox. This extent of shadowing is acceptable in a residential environment and in accordance with ResCode provisions.

*The proposed dwelling is too close to the fence line.*

The objector mentioned that by allowing this development to proceed would impact on their privacy. Noise was also raised as a concern given the proximity of the proposed development to the objector's residence. The objector further stated that they like to open windows within their residence to allow fresh air to circulate and felt that inevitably household noise from the proposed development would prevent them from doing this.

Comment:

The proposed dwelling has been designed to comply with the relevant ResCode provisions set out in the Latrobe Planning Scheme. However, the owner of the subject land has submitted amended plans to alter the west facing windows in the kitchen and meals area (the windows in closest proximity to the objector's bedroom windows) as follows:

- The west facing window in the meals room will be removed entirely; and
- The kitchen window will be frosted glass, thus preventing external views. This will form a condition on the permit at Council's request.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)***The layout of the proposed dwelling is unsatisfactory.*

The objector raised concerns that the living areas of the proposed dwelling being the (dining, kitchen, laundry and living rooms) directly face two bedrooms within their residence. As a result, the objector state's that noise will be an issue. Concerns were also raised about possible overlooking as one of the bedrooms of the proposed development overlooks their side yard. The size of the proposed backyard is also a concern for the objector as they feel that it is too compact.

Comment:

The proximity of the proposed development to the neighbouring properties and side fences of neighbouring properties, density of the development, location and size of the rear yard are all compliant with the relevant ResCode provisions set out in the Latrobe Planning Scheme.

*The new fence and its proposed height.*

The objector stated that the additional height for the proposed new fence will cause shadowing on their lawn area between their carport as well as their first bedroom (which is already prone to dampness). It was also stated that any new proposed fence will need to be constructed from the objector's side and that this would cause privacy concerns. The objector mentioned that they have a pathway along-side their residence and the proposed new fence will make this area feel claustrophobic and cause noise from existing tree's brushing up against it when windy.

Comment:

There is no new fence proposed along the western boundary of the subject site. The existing fence will remain. There is a small section of fence extension proposed on the eastern boundary being 0.3 metres in height with the neighbouring property being 16 Chenhall Crescent, Traralgon. There has been no objection received from the neighbour located to the east of the subject site.

**FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

**INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**Notification:

The application was advertised pursuant to Section 52(1)(a) and Section 52 (1)(d) of the Act. Notices were sent to all adjoining and adjacent landowners and occupiers and an A3 notice was displayed on site for 14 days.

One (1) submission in the form of a written objection was received on the 01 May 2013 for the application.

External:

Pursuant to Clause 66 there are no statutory referral requirements for a two lot subdivision.

Internal:

Internal officer comments were sought from Council's Infrastructure Planning team in relation to access and drainage. The infrastructure Planning team did not object to the granting of a Planning Permit in relation to their area of expertise, subject to appropriate conditions if approved.

It is noted that these comments only relate to part of the assessment process and should be considered in conjunction with the assessment details provided elsewhere in this report.

*Details of Community Consultation following Notification:*

Following the referral and advertising of the application, one (1) submission in the form of an objection was received.

The applicant detailed in a letter submitted to Council on the 17 May 2013 (which is identified within *Attachment 3*) that they did not consider that convening a mediation meeting would be a worthwhile process in this instance, as their client is not prepared to change the plans beyond the window alterations indicated in the amended plans.

Council officers met with the objector and discussed the amended plans, grounds of objection and other issues outside the realms of this application. Consensus was not reached between the parties at this meeting and as a result the objection still stands.

**OPTIONS**

Council has the following options in regard to this application:

- 1 Issue a Notice of Decision to Grant a Planning Permit.
- 2 Issue a Refusal to Grant a Planning Permit.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

### **CONCLUSION**

The proposal is considered to be:

- Consistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Residential 1 Zone; and
- Consistent with Clause 65 (Decision Guidelines).

The objection received has been considered against the provisions of the Latrobe Planning Scheme and the relevant planning concerns have been considered (and relevant permit conditions addressing these issues will be required). The objection does not form planning grounds on which the application should be refused.

#### **Attachments**

1. Site context plan
2. Copy of Title
3. Copy of proposed development and proposed plan of subdivision plans
  4. History of the Application
  5. Latrobe Planning Scheme Provisions
6. Neighbourhood and site description and design response assessment.
7. A copy of written objection submission.

### **RECOMMENDATION**

- A. That Council issues a Notice of Decision to Grant a Planning Permit, for the Two (2) lot subdivision, creation of common property and construction of a second dwelling at 18 Chenhall Crescent, Traralgon (more particularly described as Lot 82 on Plan of Subdivision 053597) with the following conditions:**

#### **Standard Conditions.**

1. **The layout of the subdivision as shown on the endorsed plan must not be altered without the permission of the Responsible Authority.**
2. **The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
3. **Upon completion of the works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.**
4. **Once building works have commenced they must be completed to the satisfaction of the Responsible Authority.**

5. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
6. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
7. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce a noise to a level satisfactory to the Responsible Authority.
8. 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.

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:

- c) 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
- 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.
9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
  10. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site

is to be created.

11. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with section 8 of that Act.

#### Landscaping Conditions.

12. Prior to the occupancy of the development or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Engineering Conditions.

14. Before the commencement of any works hereby permitted or prior to the certification of the plan of subdivision under the *Subdivision Act 1988* (whichever is earlier), a site drainage plan including all hydraulic computations must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The drainage plan must be prepared in accordance with the requirements of Latrobe City Council's Design Guidelines and must provide for the following:
  - a) How the land including all buildings, open space and paved areas will be drained for a 1 in 5 year ARI storm event.
  - b) An underground pipe drainage system conveying stormwater discharge to the legal point of discharge.
  - c) The provision of stormwater detention within the site and prior to the point of discharge into Latrobe City Council's drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates. The rate of pre-development stormwater discharge shall be calculated using a co-efficient of run-off of 0.4.
15. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must show appropriate easements set aside for drainage purposes to the satisfaction of the Responsible Authority.
16. Before an Occupancy Permit is issued for the dwellings hereby permitted or prior to the issue of a Statement of Compliance for this subdivision under the *Subdivision Act 1988* (whichever is earlier), the operator of this permit must complete the following works to the satisfaction of the

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)****Responsible Authority:**

- a) All drainage works must be constructed in accordance with the approved site drainage plan.
  - b) The construction of all on-site stormwater detention works in accordance with the approved site drainage plan.
  - c) A new vehicle crossing must be constructed to provide access to the proposed lot 1, at right angles to the road and must comply with the vehicle crossing standards set out in Latrobe City Council's Standard Drawing LCC 307.
  - d) Areas for common property vehicle access within the land must be constructed in accordance with plans endorsed by the Responsible Authority and be surfaced with concrete, reinforced concrete, brick paving or hot mix asphalt and drained in accordance with an approved site drainage plan.
17. Before an Occupancy Permit is issued for the dwellings hereby permitted, or by such later date as is approved by the Responsible Authority in writing, the following works must be completed in accordance with the endorsed plans and to the satisfaction of the Responsible Authority:
- a) The areas provided within the property for vehicle access to the permitted dwelling and associated buildings and works, must be constructed and surfaced with concrete, reinforced concrete, brick paving, or hot mix asphalt and drained in accordance with the approved site drainage plan.
18. Prior to the issue of Statement of Compliance, the operator of this permit must either:
- a) Have commenced the development of lot 2 in accordance with the plans endorsed under Planning Permit 2013/076 (issued by Latrobe City Council on [\(insert date\)](#)) and must be at frame stage to the satisfaction of the Responsible Authority; or
  - b) Enter into an agreement with the Responsible Authority made pursuant to Section 173 of the *Planning and Environment Act 1987* (the Act) that requires the following:
    - i. The development of lot 2 must be in accordance with the plans endorsed under Planning Permit 2013/076 issued by Latrobe City Council on [\(insert date\)](#).
  - c) Make application to the Register of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act; and
  - d) Pay the reasonable costs of preparation, review, and execution and registration of the Section 173 Agreement; and
  - e) Provide Council with a copy of the dealing number issued



by the Titles Office; and

- f) Once titles are issued, provide either:
- i. a current title search; or
  - ii. a photocopy of the duplicate certificate of Title as evidence of registration of the Section 173 Agreement on title.

**Expiry Conditions.**

19. This permit will expire if one of the following circumstances applies;
- a) The development is not started within two years of the date of this permit; or
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

20. This permit will expire if:
- 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 certification.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within three months afterwards.

**Note:** The commencement of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act 1987* as the certification of the plan, and completion is regarded as the registration.

**Notes.**

1. This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. Unless exempted by Latrobe City Council, an Asset Protection Permit must be obtained prior to the commencement of any proposed building works, as defined by Latrobe City Council's Local Law No. 3. Latrobe City Council's Asset Protection Officer must be notified in writing at least 7 days prior to the building works commencing or prior to the delivery of materials/equipment to the site.
3. A Latrobe City Stormwater Connection Permit must be obtained prior to the connection of all new stormwater

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

drainage into Latrobe City Council's stormwater drainage system. All new stormwater drainage connections must be inspected by Latrobe City Council's Asset Protection Officer before any backfilling of the connection is undertaken.

4. The location of the Legal Point of Discharge for any property and the connection point into Latrobe City Council's stormwater drainage system can be obtained by completing a Legal Point of Discharge form, found at [www.latrobe.vic.gov.au/Our Services/Other Services/Infrastructure/Work Permits and Property Information](http://www.latrobe.vic.gov.au/Our_Services/Other_Services/Infrastructure/Work_Permits_and_Property_Information).

A Latrobe City Vehicle Crossing Permit must be obtained prior to the commencement of the construction of the new vehicle crossings and for the upgrading, alteration or removal of existing vehicle crossings. The relevant fees, charges and conditions of the Vehicle Crossing Permit will apply to all vehicle crossing works. It is a requirement that all vehicle crossing works be inspected by Latrobe City Council's Asset Protection Officer.

**Moved:** Cr Harriman  
**Seconded:** Cr Rossiter

That the Recommendation be adopted.

**CARRIED UNANIMOUSLY**

## 16.1

### **PLANNING PERMIT APPLICATION 2013/076 TWO (2) LOT SUBDIVISION AND CREATION OF COMMON PROPERTY AND CONSTRUCTION OF A SECOND DWELLING, 18 CHENHALL CRESCENT, TRARALGON.**

1	Site context plan .....	317
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3	Copy of proposed development and proposed plan of subdivision plans .....	323
4	History of the Application .....	345
5	Latrobe Planning Scheme Provisions .....	347
6	Neighbourhood and site description and design response assessment. ....	349
7	A copy of written objection submission.....	363

1:1081.143 18 Chenhall Crescent, Traralgon.





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### REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 08407 FOLIO 515

Security no : 124044683166U

Produced 06/02/2013 11:55 am

#### LAND DESCRIPTION

Lot 22 on Plan of Subdivision 053597.

#### PARENT TITLES :

Volume 08286 Folio 412 to Volume 08286 Folio 414

Created by instrument 4535456R 11/04/1963

#### REGISTERED PROPRIETOR

Estate Fee Simple

Joint Proprietors

JONATHAN QUIEROS

ROBERT CARLSON both of 12 THE BELFRY CRANBOURNE VIC 3977

AJ656755U 10/05/2012

#### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AJ656755G 10/05/2012

WESTPAC BANKING CORPORATION

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section

24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

#### DIAGRAM LOCATION

SEE LP053597 FOR FURTHER DETAILS AND BOUNDARIES

#### ACTIVITY IN THE LAST 125 DAYS

LL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 18 CHENHALL CRESCENT TRARALGON VIC 3844

DOCUMENT END

SEARCHED  
INDEXED  
SERIALIZED  
FILED  
MAR 11 2013  
TRARALGON  
VIC  
REGISTRY OF LAND

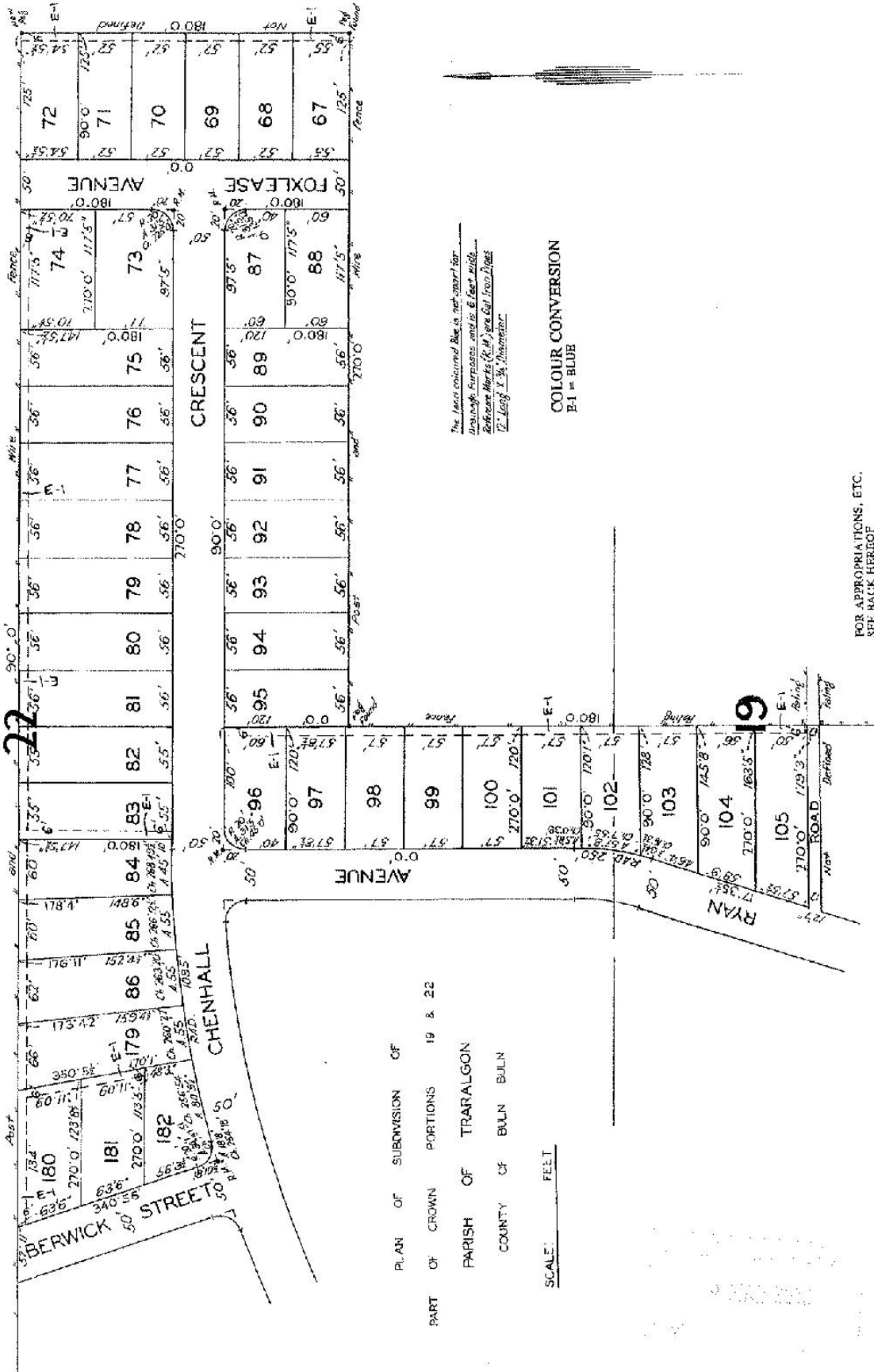


Account: 13500 Order: 13824218

Title 8407/515

Page 1 of 1

LP 53597  
EDITION 1  
APPROVED 01/5/161



PLAN OF SUBDIVISION OF  
PART OF CROWN PORTIONS 19 & 22  
PARISH OF TRARALGON  
COUNTY OF BULN BULN

SCALE: FEET

The fence concerned here is not shown for  
boundary purposes and is 6 feet wide.  
Reference should be made to the plan of  
12/10/11 by the Registrar.

COLOUR CONVERSION  
E-1 = BLUE

FOR APPROPRIATIONS, ETC.  
SEE BACK HEREOF

CERTIFICATE OF TITLE V. 8286 F-412-4  
LODGED BY A.G. THOMAS HOUSING COMMISSION  
DEALING No. B.L. 4535458 DATE  
DECLARED BY A.G. THOMAS 28.10.57  
CONSENT OF COUNCIL NOT REQUIRED  
PLAN MAY BE LODGED 10 MAY 1961 J.M.S.

LP 53597  
BACK OF SHEET 1

THE LAND COLOURED BLUE  
IS APPROPRIATED  
OR SET APART FOR  
EASEMENTS OF DRAINAGE.



Beveridge Williams

PW 27/5  
Jo

Our Ref: 1300130  
Office: TRARALGON

LATROBE CITY COUNCIL  
INFORMATION MANAGEMENT

RECEIVED

24 MAY 2013

17 May 2013

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Chief Executive Officer  
Latrobe City Council  
PO Box 264  
MORWELL VIC 3840

**Beveridge Williams  
& Co Pty Ltd**

ACN 006 197 235  
ABN 38 006 197 235

surveying  
urban design  
town planning  
water resources  
civil engineering  
project management  
landscape architecture  
environmental consulting  
contamination assessment

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Malvern Vic 3144  
PO Box 61  
Malvern Vic 3144  
ph: 03 9524 8888

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Bairnsdale Vic 3875  
Po Box 1799  
Bairnsdale Vic 3875  
ph: 03 5152 4708

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96 Main Road  
Ballarat Vic 3350  
PO Box 1465  
Bakery Hill Vic 3354  
ph: 03 5327 2000

**Geelong**

52 Brougham St  
Geelong Vic 3220  
ph: 03 5222 6563

**Leongatha**

45A Bair St  
PO Box 161  
Leongatha Vic 3953  
ph: 03 5662 2630

**Sale**

45 Macalister St  
Sale Vic 3850  
ph: 03 5144 3877

**Traralgon**

18 Hotham St  
PO Box 684  
Traralgon Vic 3844  
ph: 03 5176 0374

**Wonthaggi**

134 Graham St  
PO Box 129  
Wonthaggi Vic 3995  
ph: 03 5672 1505

Attention: Joanne Glendenning – Acting Statutory Planner

Dear Joanne

**RE: APPLICATION FOR PLANNING PERMIT NO. 2013/76  
TWO (2) LOT SUBDIVISION & CONSTRUCTION OF A SECOND DWELLING  
18 CHENHALL CRESCENT, TRARALGON**

We refer to the above application and note that one objection to the application has been received from Ms K. Wallace, the occupier of Unit 2, 20 Chenhall Crescent.

We confirm that the writer spoke to Ms Wallace via telephone on 30 April 2013. Ms Wallace pointed out that the two east facing windows in her unit are actually bedroom windows, not 'non-habitable' windows as stated on the plans prepared by SBM Design and Drafting. She also expressed her concerns regarding the potential for overlooking and noise impacts. The writer advised that our client was prepared to alter the design of the west-facing windows of the proposed dwelling as a means to alleviate her concerns. This offer was confirmed in an email from the writer to you on 30 April 2013.

Following the abovementioned phone discussion, Ms Wallace submitted a formal objection to Council on 1 May 2013. This objection reiterated the abovementioned issues, along with a number of other matters. We now wish to provide the following response to each of the issues raised:

#### Incorrect labeling of habitable room windows

- The plans submitted with the application incorrectly stated that the east facing windows of Ms Wallace's unit were for 'non-habitable' rooms. This has now been corrected and we enclose revised plans for your records.

#### Overlooking

- The proposed dwelling has been designed to comply with the relevant ResCode provisions set out in the Latrobe Planning Scheme and Victorian Building Regulations. However, our client is prepared to alter the west facing windows





in the kitchen and meals area (the windows in closest proximity to Ms Wallace's bedroom windows) as follows:

- The west facing window in the meals room will be removed entirely; and
- The kitchen window will be frosted glass, preventing external views.

#### **Overshadowing**

- As displayed in the shadow diagrams submitted with the application, Ms Wallace's bedroom windows will only be under shadow at 9.00am at the September Equinox. This extent of shadowing is acceptable a residential environment in accordance with the standards stipulated in ResCode.

#### **Fencing**

- There is no new fence proposed along the western boundary of the site. The existing fence will remain.

The only new section of fence proposed, is a 0.3 metre high fence extension to part of the east boundary fence that is shared with the property at 16 Chenhall Crescent.

#### **Renovation of existing dwelling**

- Issues relating to our client's renovation of the existing dwelling are not relevant to this current planning permit application. However, we wish to advise that our client has now engaged a private building surveyor to guide him in the completion of these works and to ensure that all relevant building regulations are adhered to.

#### **Construction of proposed dwelling**

- Our client confirms that construction of the proposed dwelling will be undertaken by a registered builder.

#### **Other general matters**

- The proximity of the proposed dwelling to the side fence, density of the development, location of the proposed clothesline, size of the proposed rear yard, etc. all comply with the relevant ResCode provisions set out in both the Latrobe Planning Scheme and/or Victorian Building Regulations.

We do not consider that convening a mediation meeting would be a worthwhile process in this instance, as our client is not prepared to change the design beyond the window alterations as detailed in the attached plans.

It is therefore requested that you now continue processing the application. Should you wish to discuss this further, please do not hesitate to contact the writer at the Traralgon office on 5176 0374.

Yours sincerely

**BEVERIDGE WILLIAMS & CO PTY LTD**



.....  
**NICOLE STOW**

Senior Town Planner

*Enc. revised plans*



DESIGN & DRAFTING

P-(03) 51 74 0000 E- shaun@sbmdesign.com.au DP-AD 31 625 59A HOTHAM STREET TRARALGON

**PROPOSED MULTI RESIDENTIAL DEVELOPMENT**  
For

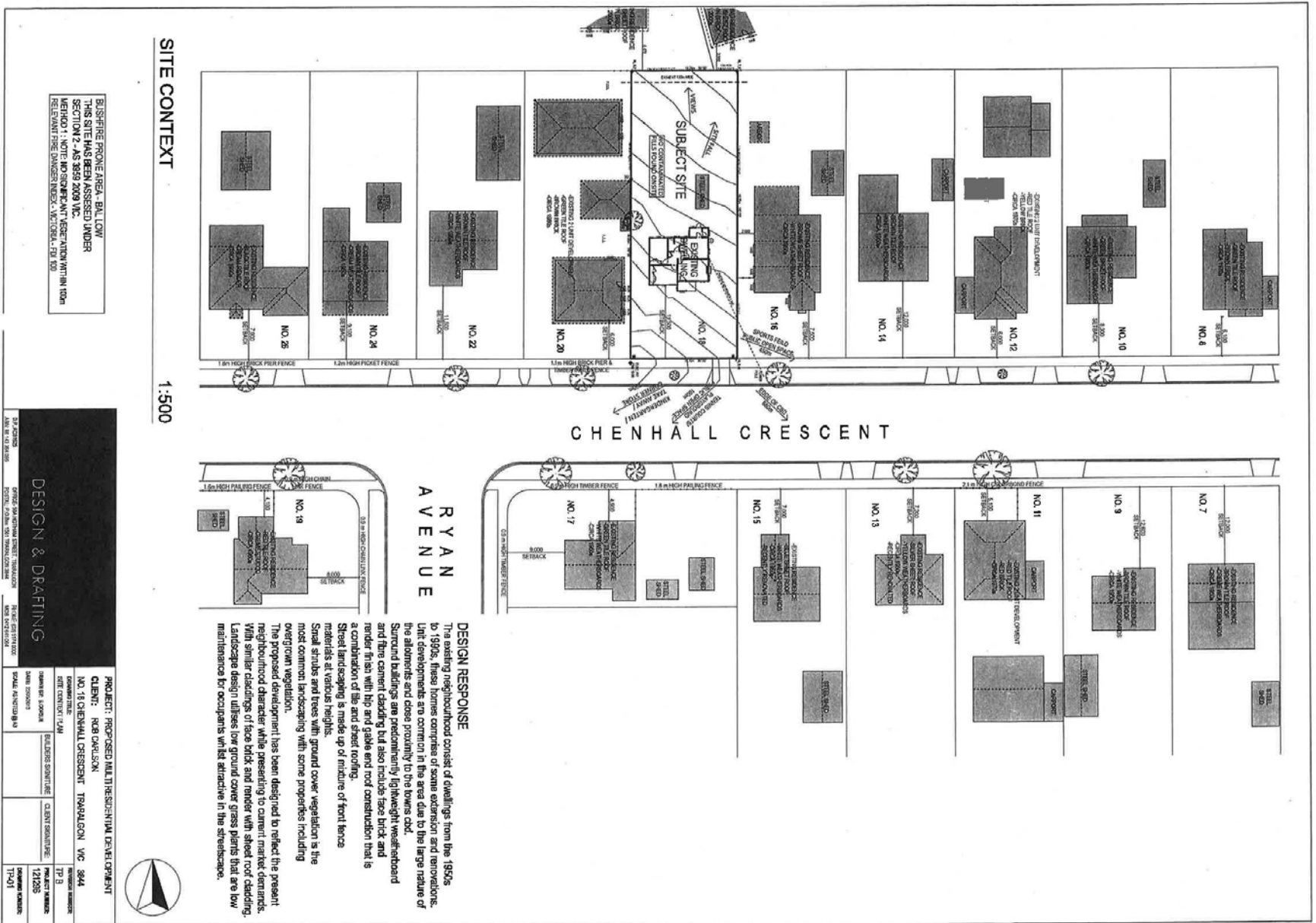
**Client : ROB CARLSON**  
At  
**NO. 18 CHENHALL CRESCENT, TRARALGON 3844.**

TOWN PLANNING

TP B

Job # 121296





BUSHFIRE PRONE AREA - BAL LOW  
 THIS SITE HAS BEEN ASSESSED UNDER SECTION 2 - AS 3859 2009 VIC.  
 METHOD 1 - NOTE NO SIGNIFICANT VEGETATION WITHIN 100M RELEVANT FIRE DANGER INDEX - VICTORIA - FFL 100

**DESIGN RESPONSE**

The existing neighbourhood consist of dwellings from the 1950s to 1990s, these homes comprise of some extension and renovations. Unit developments are common in the area due to the large nature of the allotments and close proximity to the town's core. Surround buildings are predominantly lightweight weatherboard and fibre cement cladding but also include face brick and render finish with hip and gable end roof construction that is a combination of tile and street roofing.

Street landscaping is made up of mixture of front fence materials at various heights. Small shrubs and trees with ground cover vegetation is the most common landscaping with some properties including overgrown vegetation.

The proposed development has been designed to reflect the present neighbourhood character while presenting to current market demands. With similar claddings of face brick and render with sheet roof cladding. Landscape design utilizes low ground cover grass plants that are low maintenance for occupants whilst attractive in the streetscape.

**DESIGN & DRAFTING**

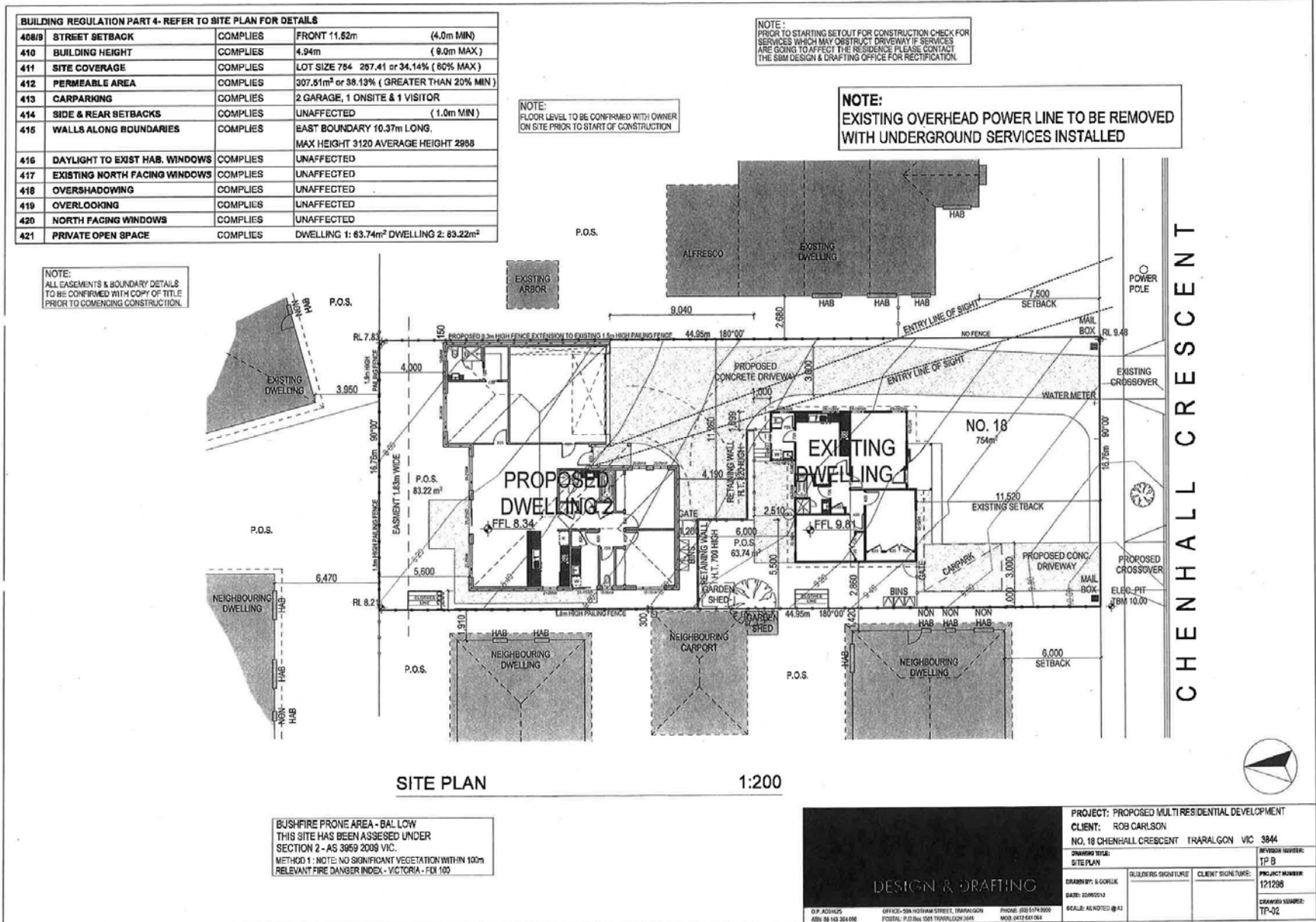
PROJECT: PROPOSED MULTIRESIDENTIAL DEVELOPMENT  
 CLIENT: ROB OWLSON  
 NO. 18 CHENHALL CRESCENT TRARALGON VIC 3844

COMPILED BY: ROB OWLSON  
 DRAWN BY: LINDA  
 SCALE: AS SHOWN  
 DATE: 11/01/14

DATE: 11/01/14

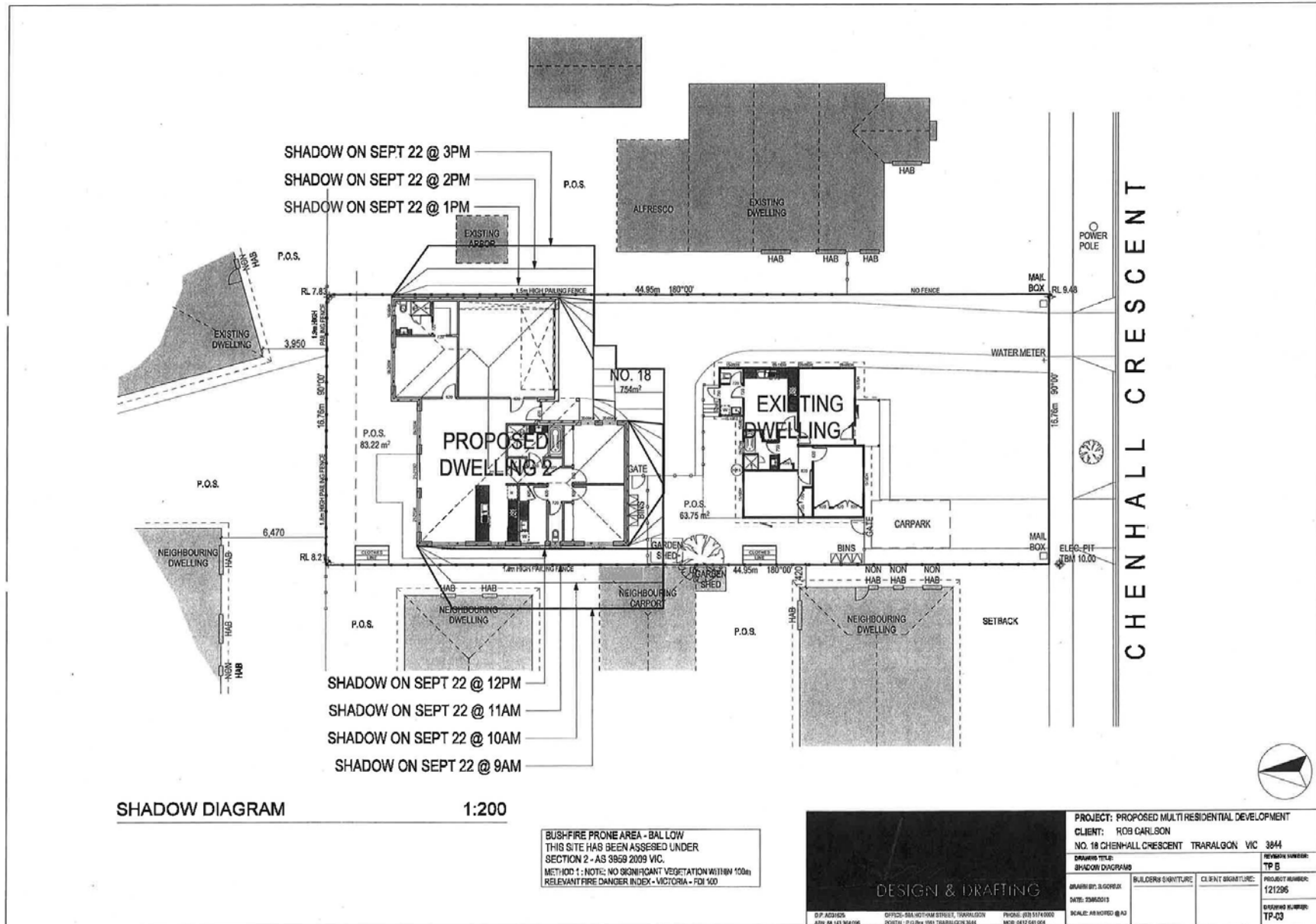


16.1 PLANNING PERMIT APPLICATION 2013/076 TWO (2) LOT SUBDIVISION AND CREATION OF COMMON PROPERTY AND CONSTRUCTION OF A SECOND DWELLING, 18 CHENHALL CRESCENT, TRARALGON. - Copy of proposed development and proposed plan of subdivision plans

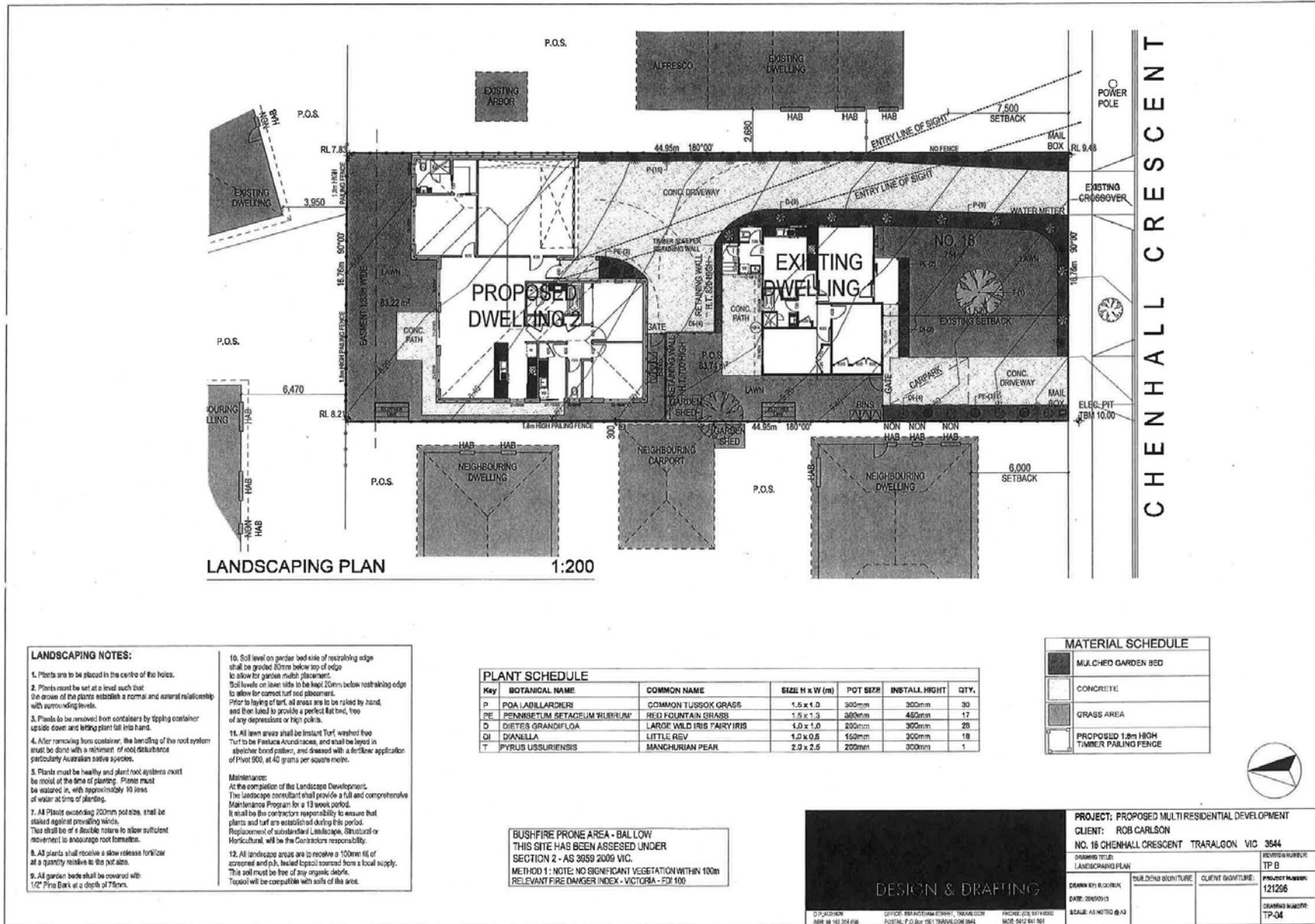




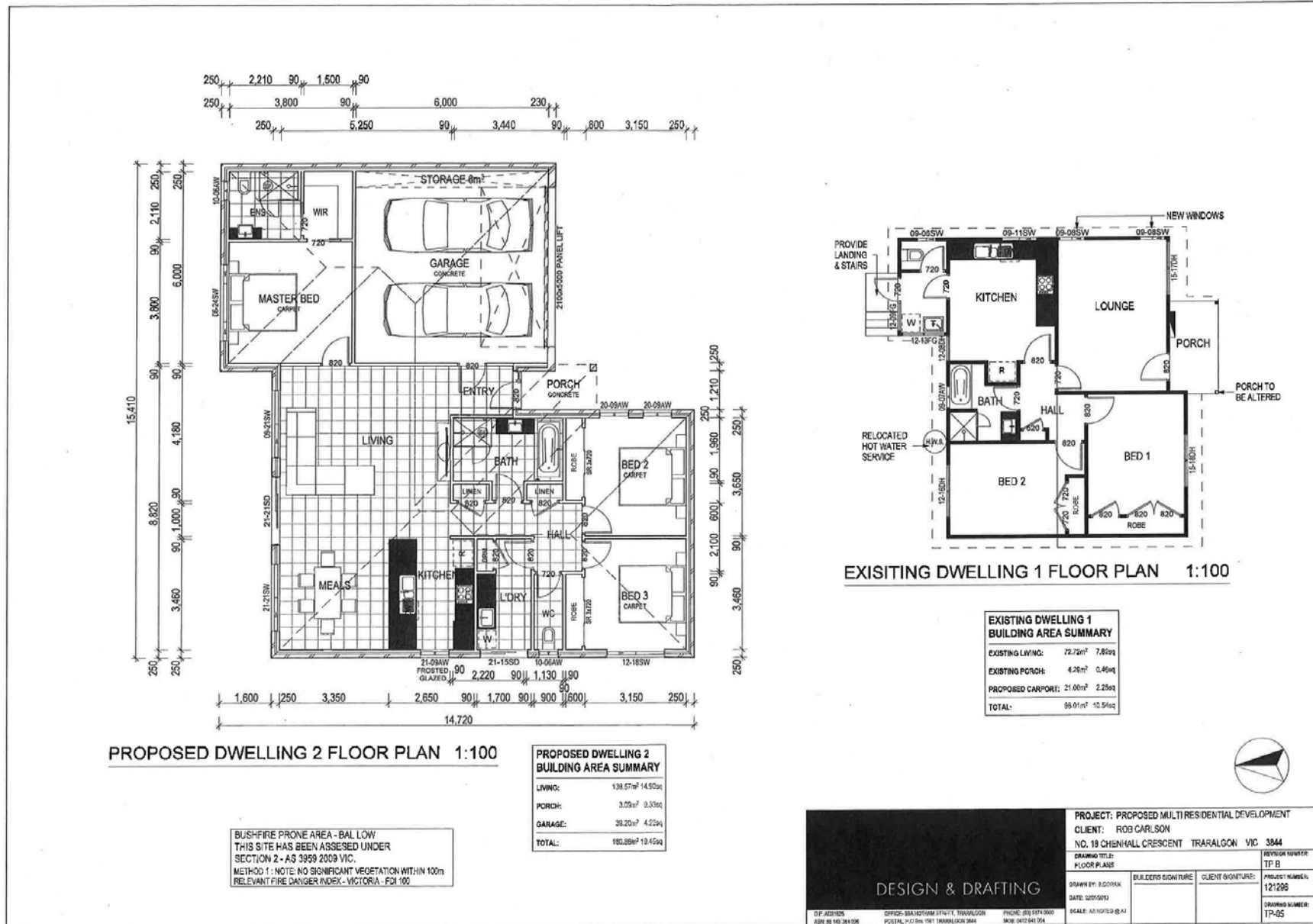




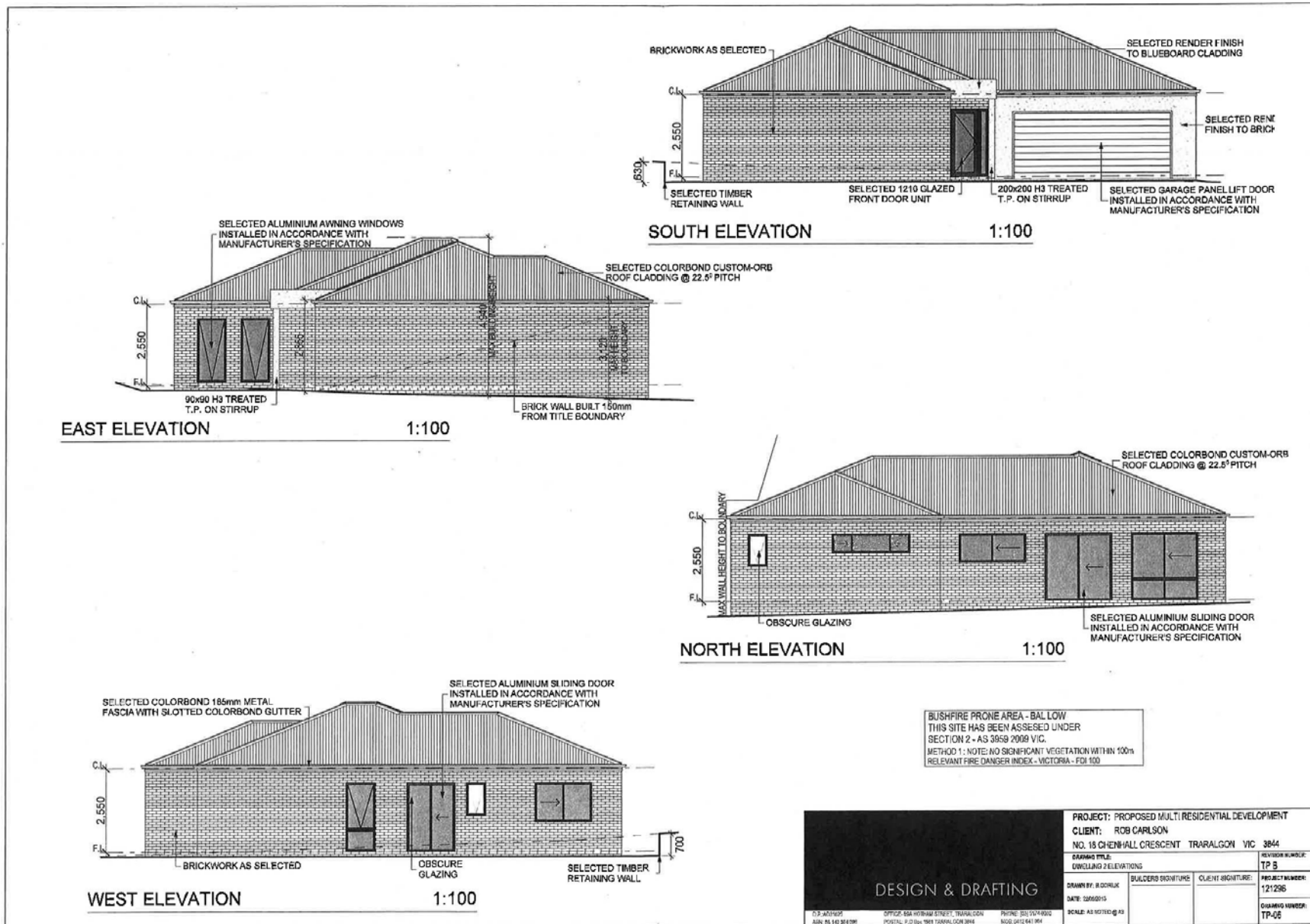






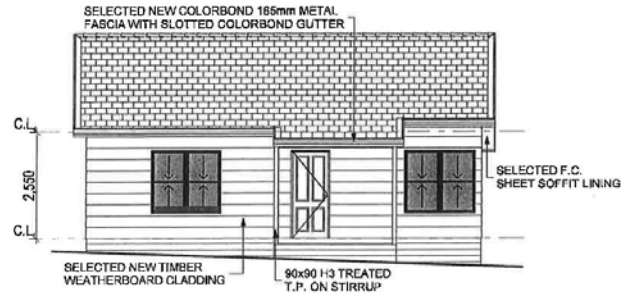




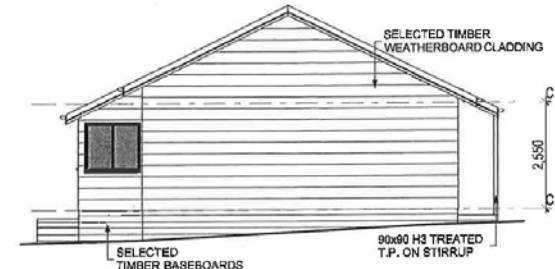




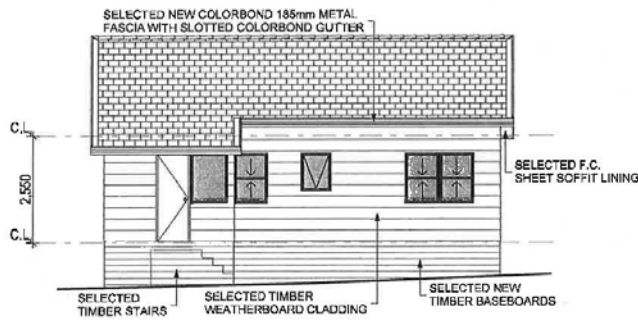




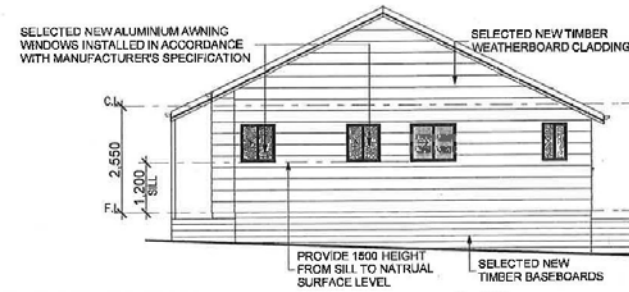
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**WEST ELEVATION** 1:100



**NORTH ELEVATION** 1:100

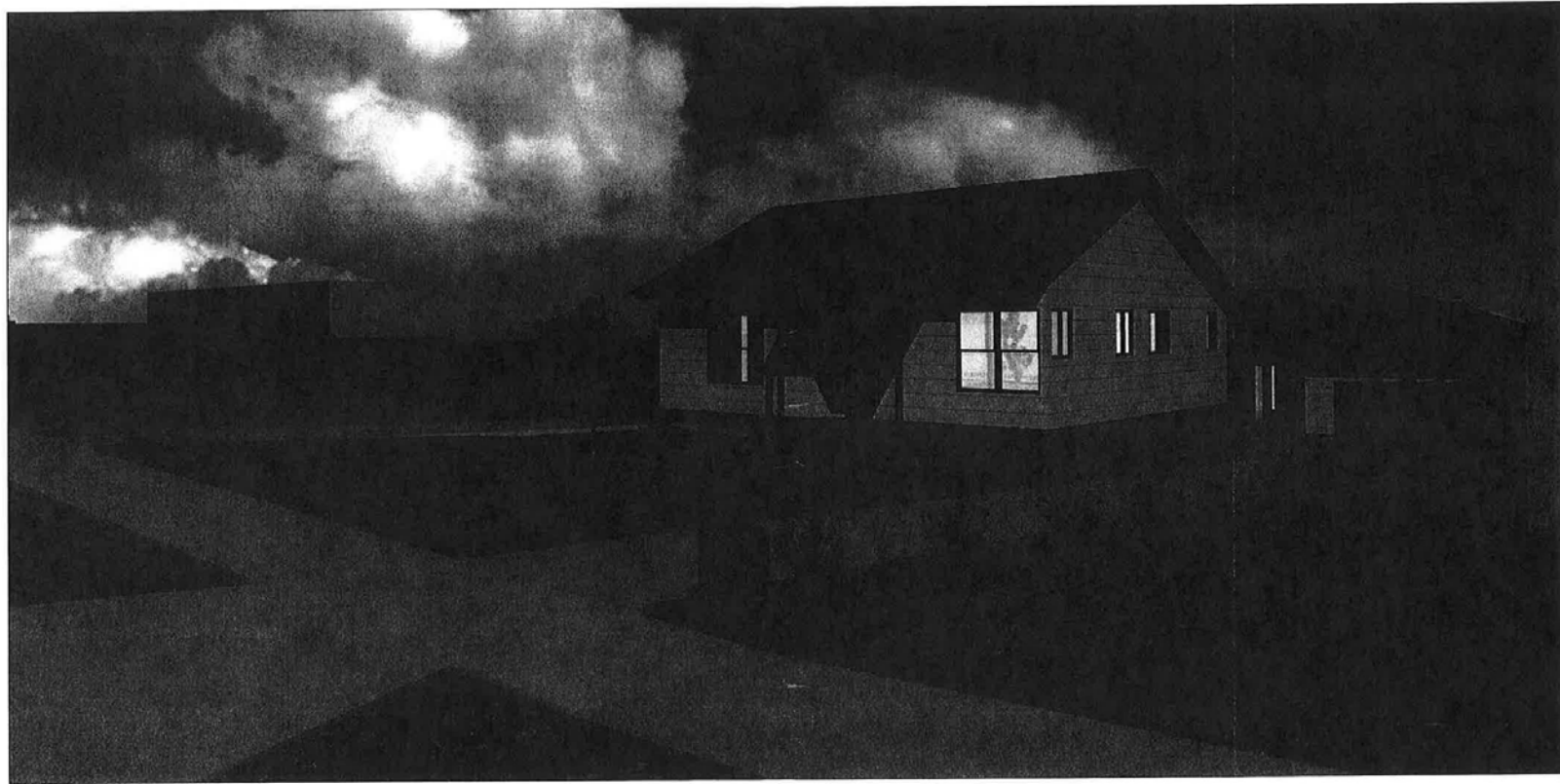


**EAST ELEVATION** 1:100

BUSHFIRE PRONE AREA - BAL LOW  
THIS SITE HAS BEEN ASSESSED UNDER  
SECTION 2 - AS 3958 2009 VIC.  
METHOD 1 - NOTE: NO SIGNIFICANT VEGETATION WITHIN 100m  
RELEVANT FIRE DANGER INDEX - VICTORIA - FDI 100

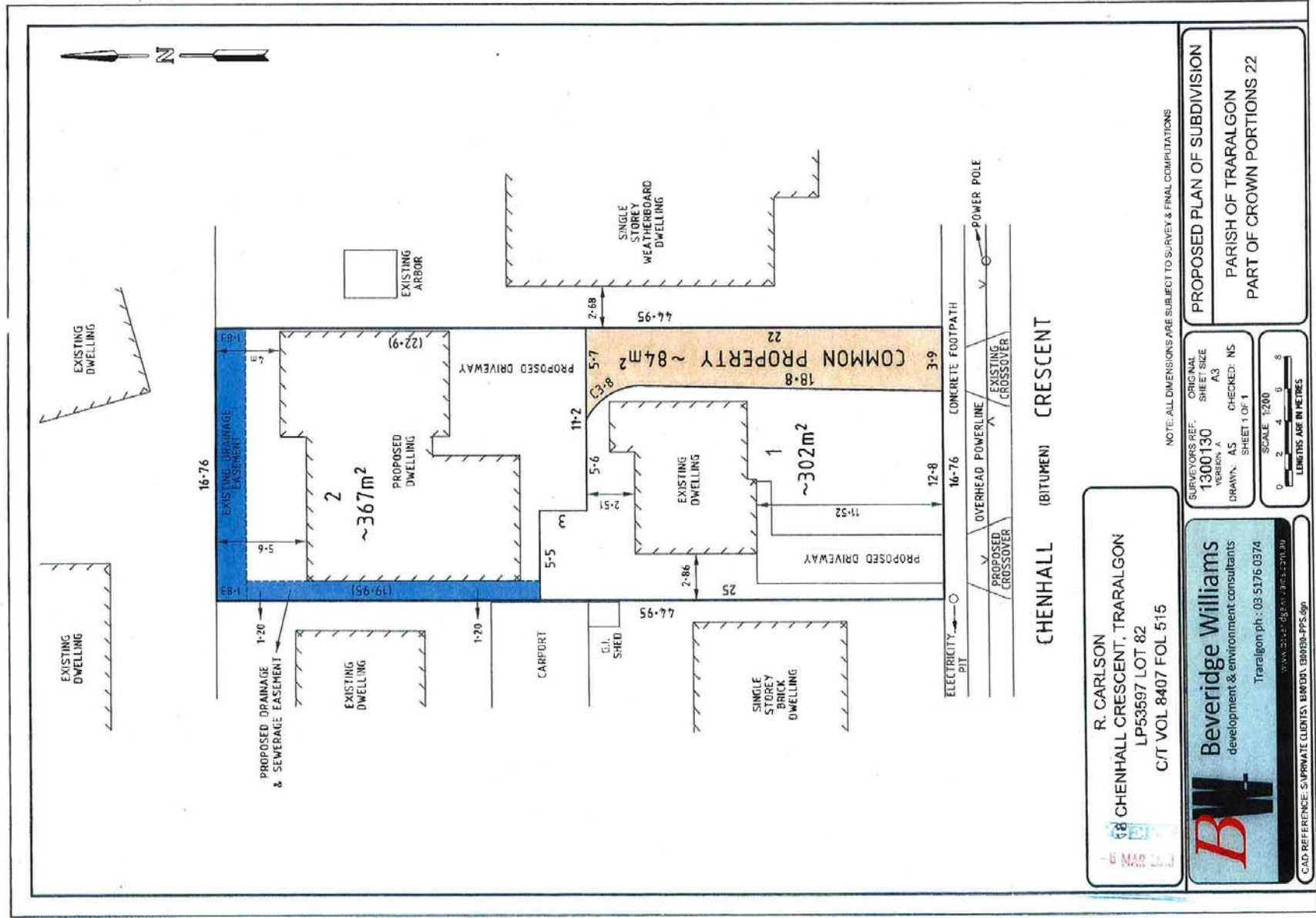
<b>DESIGN &amp; DRAFTING</b>		PROJECT: PROPOSED MULTI RESIDENTIAL DEVELOPMENT	
		CLIENT: ROB CARLSON	
NO. 18 CHENHALL CRESCENT TRARALGON VIC 3844		DRAWING TITLE:	REVISION NUMBER:
DWELLING 1 ELEVATIONS		TP B	
DRAWN BY: H. GIBLIK	BUILDER SIGNATURE:	CLIENT SIGNATURE:	PROJECT NUMBER:
DATE: 20060513			121290
SCALE: AS NOTED @ A3			DRAWING NUMBER:
			TP-07





<b>DESIGN &amp; DRAFTING</b>		<b>PROJECT: PROPOSED MULTI RESIDENTIAL DEVELOPMENT</b> <b>CLIENT: ROB CARLSON</b> NO. 18 CHENHALL CRESCENT TRARALGON VIC 3844	
		DRAWING TITLE: 3D PERSPECTIVE	REVISION NUMBER: TP B
DRAWN BY: B. COXEM DATE: 25/08/13	BUILDER'S SIGNATURE: _____	CLIENT SIGNATURE: _____	PROJECT NUMBER: 121236
D.P. ARCHITECTS 2/271 BR 143 261 090	OFFICE: 30A ROYAL STREET, TRARALGON POSTAL: P.O. BOX 301 TRARALGON VIC 3844	PHONE: 052 5274 0000 MOB: 0422 841 061	DRAWING NUMBER: TP-06





R. CARLSON  
 18 CHENHALL CRESCENT, TRARALGON  
 LP53597 LOT 82  
 C/T VOL. 8407 FOL 515

**Beveridge Williams**  
 development & environment consultants  
 Traralgon ph: 03 5176 0374  
 www.bw.com.au

NOTE: ALL DIMENSIONS ARE SUBJECT TO SURVEY & FINAL COMPUTATIONS

SURVIVORS REF: ORIGINAL  
 1300130 SHEET SIZE  
 VERSION: A3  
 DRAWN: AS CHECKED: NS  
 SHEET 1 OF 1

SCALE 1:200  
 LENGTHS ARE IN METRES

PROPOSED PLAN OF SUBDIVISION  
 PARISH OF TRARALGON  
 PART OF CROWN PORTIONS 22

**History of the Application**

6 March 2013	Application received by Council.
10 April 2013	An initial assessment was completed by the Planner.
12 April 2013	A Clause 55 assessment was completed by the Planner.
19 April 2013	Application referred internally to Council's Infrastructure Planning team.
19 April 2013	Notification package sent to applicant.
22 April 2013	Received Council's Infrastructure Planning team's response.
01 May 2013	Objection received from Ms. Kim Wallace.
07 May 2013	Acknowledgement letter sent to objector.
07 May 2013	Letter sent to applicant advising of objection and comment within 14 days.
09 May 2013	Received Statutory declaration from the applicant.
17 May 2013	Applicant advised that they preferred not to attend a mediation meeting.
24 May 2013	Received applicant's response to objectors concerns and revised plans.
29 May 2013	Planner phoned objector to arrange a one on one meeting to be held at the Traralgon service centre on the 05/06/2013.
05 June 2013	Planner and objector met one on one to try and resolve planning concerns and show the revised plans. No resolution was met, therefore the objection remained.

●  
**LATROBE PLANNING SCHEME**

**State Planning Policy Framework**

Clause 11.02 'Urban Growth'  
Clause 15.01 'Urban Environment'  
Clause 16.01 'Residential Development'

**Local Planning Policy Framework**

Clause 21.04 'Built Environment Sustainability'  
Clause 21.05 'Main Towns'

**Zoning – Residential 1 Zone**

The subject land is located within a Residential 1 Zone.

**Overlay**

There are no overlays that affect this property.

**Particular Provisions**

Clause 55 'Two or more Dwellings on a Lot'.

Clause 56 'Residential Subdivision'.

**General Provisions**

Clause 65 'Decision Guidelines'

**Incorporated Documents**

There are no incorporated documents that relate to the consideration of this application.

**Clause 55 Objectives NEIGHBOURHOOD AND SITE DESCRIPTION AND DESIGN RESPONSE**

Property address: 18 Chenhall Crescent, TRARALGON

Application Number: 2013/76

Date of Assessment: 12/04/2013

Officer: Joanne Glendenning

Land Area: 741 square metres.

Standard Number	Standard	Does it meet the Standard or More information required
Standard B1	<p>The design response must be appropriate to the neighbourhood and the site. The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	<p><b>Subject site</b> The subject site is located at 18 Chenhall Crescent, Traralgon. It is located within an already established urban/residential area. Chenhall Crescent abuts the southern boundary of the property. The subject site is rectangular in shape and the longest axis of the property are the north-south boundaries. Both the north and south boundaries of the property are 16.76 metres and the east-west boundaries of the property are approximately 44.39 metres.</p> <p>Currently, there is an existing single storey two bedroom dwelling which is located towards the southern boundary. This dwelling contains two bedrooms, a lounge, kitchen, bathroom, laundry and toilet. The applicant is currently renovating this dwelling both internally as well as externally. Access to the property is currently via two single concrete strips. The existing dwelling is connected to reticulated electricity, water, sewerage, telecommunications, gas and drainage. The land gently slopes to the south-west and north-west corners with the fall being approximately 2.15 metres. It is proposed that a second dwelling be built and located towards the northern boundary of the property. It is also proposed to subdivide this property into two lots with a common property driveway.</p>



**Clause 55 Objectives NEIGHBOURHOOD AND SITE DESCRIPTION AND DESIGN RESPONSE**

Property address: 18 Chenhall Crescent, TRARALGON

Application Number: 2013/76

Date of Assessment: 12/04/2013

Officer: Joanne Glendenning

Land Area: 741 square metres.

		<p><b>Neighbourhood character</b>                  The site is surrounded by residential lots and the average size of the lot's appears to be around 750 square metres up to 1,000 square metres. This property is included in a subdivision which took place around 1961. Immediately to the north of the subject site is Sherwood Park residential estate which is a more contemporary subdivision which contains lot size's of approximately 1,000 square metres.</p> <p>The majority of housing along Chenhall Crescent, Traralgon appears to be a single storey dwelling's with an associated outbuilding. However, it must be said that there are a few properties which contained two dwellings per lot. Dwellings within Chenhall Crescent have differing setbacks between the range of 5 up to 12 metres. There is no consistent fencing arrangements either along this Crescent. The site and surrounding area is serviced by reticulated electricity, water, sewerage, telecommunications, gas and drainage.</p> <p>Chenhall Crescent is a bitumen sealed street which contains some minimal street trees on front nature strips. There are several active and passive recreational facilities nearby to the subject site.</p>
Standard B2	An application must be accompanied by a written statement to the satisfaction of the responsible authority that describes how the development is	<p><b>STANDARD IS MET.</b>                  This proposed development is consistent with the State Planning Policy Framework (SPPF) as well as the Municipal Strategic Statement (MSS) as it proposes infill development</p>

**Clause 55 Objectives NEIGHBOURHOOD AND SITE DESCRIPTION AND DESIGN RESPONSE**

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Land Area: 741 square metres.

	<p>consistent with any relevant policy for housing in the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</p>	<p>within an established residential area which is close to the Traralgon's central business district as well as recreational facilities, primary and secondary schools and public transport.</p> <p>This development will assist with the diversity of housing types and the affordability of housing for potential purchasers. Not everyone is after a single storey dwelling on a lot with a large back yard.</p> <p><b>STANDARD IS MET. NOT APPLICABLE.</b></p>
<p>Standard B3</p>	<ul style="list-style-type: none"> <li>• Dwellings with a different number of bedrooms.</li> <li>• At least one dwelling that contains a kitchen, bath or shower, and a toilet and wash basin at ground floor level.</li> </ul>	

**Clause 55 Objectives NEIGHBOURHOOD AND SITE DESCRIPTION AND DESIGN RESPONSE**

<p>Standard B4</p>	<p>Development should be connected to reticulated services, including reticulated sewerage, drainage, electricity and gas, if available. Development should not unreasonably exceed the capacity of utility services and infrastructure, including reticulated services and roads. In areas where utility services or infrastructure have little or no spare capacity, developments should provide for the upgrading of or mitigation of the impact on services or infrastructure.</p>	<p>As stated previously in this report, the existing dwelling is connected to reticulated electricity, water, sewerage, telecommunications, gas and drainage. As a result the proposed dwelling will be able to be connected to these services as well. It is thought that an additional dwelling on this property will not overload the existing infrastructure.  <b>STANDARD IS MET.</b></p>
<p>Standard B5</p>	<p>Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility. Development should be oriented to front existing and proposed streets. High fencing in front of dwellings should be avoided if practicable. Development next to existing public open space should be laid out to complement the open space.</p>	<p>The existing dwelling will remain and is already orientated towards the street. There is no front fence and minimal landscaping. The proposed dwelling will be located approximately 26 metres from the southern boundary of the property. There will be no fence along first 10 metres of the eastern boundary to allow for sight lines and safety. There will also be no fence to divide the two properties, there is however a retaining wall of .820 metres high to provide some form of separation between the two properties. The existing crossover and driveway which currently provides access to this property will be upgraded and is proposed to be common property. The length of the proposed common property driveway is 22 metres. It commences at 3.9 metres and then widens towards the entrance to the second dwelling to be 5.7 metres. The proposed second dwelling is not orientated towards the street, as people drive or walk by this property the garage of the second dwelling will be the most visible feature. This is not the best planning outcome.</p>

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Standard B6	<ul style="list-style-type: none"> <li>At least the distance specified in the schedule to the zone, or</li> <li>If no distance is specified in the schedule to the zone, the distance specified in Table B1.</li> </ul>	<b>STANDARD IS NOT MET. NOT APPLICABLE.</b>
Standard B7	<p>The maximum building height should not exceed the maximum height specified in the schedule to the zone. If no maximum height is specified in the schedule to the zone, the maximum building height should not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height should not exceed 10 metres. Changes of building height between existing buildings and new buildings should be graduated.</p>	<p>The proposed second dwelling will be single storey. Going by the submitted elevations the maximum height of the proposed second dwelling will be 4.940 metres. This is well below 9 metres.</p> <p><b>STANDARD IS MET.</b></p>
Standard B8	<p>The site area covered by buildings should not exceed:</p> <ul style="list-style-type: none"> <li>The maximum site coverage specified in the schedule to the zone, or</li> <li>If no maximum site coverage is specified in the schedule to the zone, 60 per cent.</li> </ul>	<p>The site area covered by both the existing and proposed buildings will not exceed 60 per cent.</p> <p>My calculations indicate that the site coverage will be approximately 36.985 per cent.</p> <p><b>STANDARD IS MET.</b></p>
Standard B9	At least 20 per cent of the site should not be covered by impervious surfaces.	<p>There will be approximately 38% of garden beds and lawn on the subject site. This exceeds the 20% that is required.</p> <p><b>STANDARD IS MET.</b></p>

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<p>Standard B10</p>	<p>Buildings should be:</p> <ul style="list-style-type: none"> <li>• Oriented to make appropriate use of solar energy.</li> <li>• Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced.</li> </ul> <p>Living areas and private open space should be located on the north side of the development, if practicable. Developments should be designed so that solar access to north-facing windows is maximised.</p>	<p>The current internal layout of the existing dwelling will remain as is. At the moment the kitchen and lounge areas would attract the easterly sun light. Secluded private open space for the existing dwelling is located on the north-western side. This should ensure that a decent amount of sunlight penetrates this area. The proposed dwelling has been designed to meet the 5 star energy rating. As a result, the kitchen, meals, living area and master bedroom are all orientated towards the north for maximum natural light.</p> <p><b>STANDARD IS MET.</b></p>
<p>Standard B11</p>	<p>If any public or communal open space is provided on site, it should:</p> <ul style="list-style-type: none"> <li>• Be substantially fronted by dwellings, where appropriate.</li> <li>• Provide outlook for as many dwellings as practicable.</li> <li>• Be designed to protect any natural features on the site.</li> <li>• Be accessible and useable.</li> </ul>	<p>There is no communal open space being proposed.</p> <p>There will be a 1.8 metres high timber paling fence to separate the private open space areas.</p> <p>Both private space areas will provide an outlook of three or more other dwellings and will be accessible and useable.</p> <p><b>STANDARD IS MET.</b></p>
<p>Standard B12</p>	<p>Entrances to dwellings and residential buildings should not be obscured or isolated from the street and internal accessways. Planting which creates unsafe spaces along streets and accessways should be avoided. Developments should be designed to provide good</p>	<p>Both the existing and proposed dwelling have porches that are prominently situated at the front of each dwelling. Low level plantation is proposed along the common property driveways and frontages of the existing and proposed dwellings.</p>

**Clause 55 Objectives NEIGHBOURHOOD AND SITE DESCRIPTION AND DESIGN RESPONSE**

	<p>lighting, visibility and surveillance of car parks and internal accessways. Private spaces within developments should be protected from inappropriate use as public thoroughfares.</p>	<p>The development will provide for good lighting, visibility and surveillance of car parking spaces. <b>STANDARD IS MET.</b></p>
<p>Standard B13</p>	<p>The landscape layout and design should:</p> <ul style="list-style-type: none"> <li>• Protect any predominant landscape features of the neighbourhood.</li> <li>• Take into account the soil type and drainage patterns of the site.</li> <li>• Allow for intended vegetation growth and structural protection of buildings.</li> <li>• In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals.</li> <li>• Provide a safe, attractive and functional environment for residents.</li> </ul>	<p>A medium sized canopy tree and low level shrubs and lawn area is proposed for the existing dwelling. Low level shrubs will continue to be the theme and be planted along the common property driveway on both sides as well as near the porch area of the proposed dwelling. <b>STANDARD IS MET.</b></p>
<p>Standard B14</p>	<p>Accessways should:</p> <ul style="list-style-type: none"> <li>-Be designed to allow convenient, safe &amp; efficient vehicle movements and connections within the development and to the street network.</li> <li>-Be designed to ensure vehicles can exit a development in a forwards direction if the accessway serves five or more car spaces, three or more dwellings, or connects to a road in a Road Zone.</li> <li>-Be at least 3 metres wide.</li> <li>-Have an internal radius of at least 4 metres at changes of direction.</li> <li>-Provide a passing area at the entrance that is at least 5</li> </ul>	<p>There is proposed to be a new 3 metre wide concrete cross-over and driveway to be constructed in front of the existing dwelling. Vehicular access to the proposed dwelling will be via the existing crossover and driveway however this will be upgraded and will provide access to the garage and will allow vehicles an area to turn and exit the property in a forward direction. <b>STANDARD IS MET.</b></p>

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	<p>metres wide and 7 metres long if the access serves ten or more spaces and connects to a road in a Road Zone.</p> <p>Car parking facilities should:</p> <ul style="list-style-type: none"> <li>-reasonably close &amp; convenient to dwellings &amp; residential buildings.</li> <li>-secure.</li> <li>-designed to allow safe and efficient movements within the development.</li> <li>-well ventilated if enclosed.</li> </ul> <p>Large parking areas should be broken up with trees, buildings or different surface treatments.</p> <p>Shared access or car parks of other dwellings and residential buildings should be located at least 1.5 metres from the windows of habitable rooms. This setback may be reduced to 1 metre where there is a fence at least 1.5 metres high or where window sills are at least 1.4 metres above the access.</p>	<p>The existing dwelling will have a single car space located near the front door. There will also be sufficient car parking area for an additional car to be parked behind the first car parking space.</p> <p>The car parking for the proposed second dwelling will be via the lockable double garage which has been designed to allow for two vehicles.</p> <p>The development has been designed so that each dwelling's garage or carport area and driveway is located at least 1.5 metres from the windows of habitable rooms.</p> <p><b>STANDARD IS MET.</b></p>
Standard B15	<p>Car parking for residents should be provided as follows:</p> <ul style="list-style-type: none"> <li>• One space for each one or two bedroom dwelling.</li> <li>• Two spaces for each three or more bedroom dwelling, with one space under cover.</li> </ul>	<p>As mentioned previously in this report, the existing dwelling contains up to two car parking spaces and the proposed second dwelling allows for two car spaces in the double garage.</p> <p><b>STANDARD IS MET.</b></p>
Standard B16	<p>A new building not on or within 150mm of a boundary should be set back from side or rear boundaries:</p> <ul style="list-style-type: none"> <li>• At least the distance specified in the schedule to the zone,</li> <li>or</li> <li>• If no distance is specified in the schedule to the zone, 1</li> </ul>	<p>The side setbacks for the proposed dwelling achieve the minimum of 1 metre.</p> <p><b>STANDARD IS MET.</b></p>
Standard B17		

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Standard B18	<p>metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</p> <p>A new wall constructed on or within 150mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of lot should not abut the boundary for a length of more than:</p> <ul style="list-style-type: none"> <li>• 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or</li> <li>• Where there are existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports, whichever is the greater.</li> </ul>	<p>The proposed garage wall being constructed on the eastern boundary of the property will not exceed 10 metres.</p> <p>The average height of the proposed garage will be approximately 3 metres but this will fall with the natural fall of the land.</p> <p><b>STANDARD IS MET.</b></p>
Standard B19	<p>Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.</p>	<p>As demonstrated by the shadow diagram submitted with this planning permit application there will be a shadow cast on a habitable room of the dwelling located to the immediate west of the existing dwelling. However, this overshadowing is minimal at best.</p> <p><b>STANDARD IS MET.</b></p>
Standard B20	<p>If a north-facing habitable room window of an existing dwelling is within 3 metres of a boundary on an abutting lot, a building should be setback from the boundary 1 metre, plus 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres, for a distance of 3 metres from the edge of each side of the window. A north-facing window is a window with an axis perpendicular to its surface oriented north 20</p>	<p>As explained directly above, the dwelling to the immediate west of the existing dwelling has a north-facing habitable room window that is located within 3 metres of the side boundary. There is some slight overshadowing as a result but this is minimal.</p> <p><b>STANDARD IS MET.</b></p>



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Standard B21	degrees west to north 30 degrees east. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.	The proposed dwelling will not cast a shadow across any private open space on adjacent land to the west of the site. There will be some overshadowing as a result of this development but this is viewed as being minimal.  <b>STANDARD IS MET.</b>
Standard B22	A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio should be either: <ul style="list-style-type: none"> <li>• Offset a minimum of 1.5 metres from the edge of one window to the edge of the other.</li> <li>• Have sill heights of at least 1.7 metres above floor level.</li> <li>• Have fixed, obscure glazing in any part of the window below 1.7 metre above floor level.</li> <li>• Have permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.</li> </ul>	Being a single storey dwelling and have existing timber paling fences to the north, east and west there will be limited views into any habitable windows from neighbouring properties as a result.  Even views from the proposed dwelling into the existing dwelling will be obscured because of the common property driveway, retaining wall and low lying landscaping.  <b>STANDARD IS MET.</b>
Standard B23	Windows and balconies should be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development.	The proposed second dwelling has been designed to prevent overlook as it is a single storey dwelling. There will also be 1.8 metre high timber paling fences to assist with screening private open space areas.  <b>STANDARD IS MET.</b>
Standard B24	Noise sources, such as mechanical plant, should not be located near	There will be no noises emanating from the

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	<p>bedrooms of immediately adjacent existing dwellings.</p> <p>Noise sensitive rooms and secluded private open spaces of new dwellings and residential buildings should take account of noise sources on immediately adjacent properties.</p> <p>Dwellings and residential buildings close to busy roads, railway lines or industry should be designed to limit noise levels in habitable rooms.</p>	<p>subject site other than what would normally occur within a residential dwelling. The private open space area for the proposed dwelling has been located a sufficient distance from existing neighbouring properties.</p>
Standard B25	<p>The dwelling entries of the ground floor of dwellings and residential buildings should be accessible or able to be easily made accessible to people with limited mobility.</p>	<p><b>STANDARD IS MET.</b></p> <p>The base of the proposed dwelling will a concrete slab on the ground. This will provide and ensure easy internal/external access to the proposed dwelling via the garage as well as through the front porch area.</p>
Standard B26	<p>Entries to dwellings and residential buildings should:</p> <ul style="list-style-type: none"> <li>• Be visible and easily identifiable from streets and other public areas.</li> <li>• Provide shelter, a sense of personal address and a transitional space around the entry.</li> </ul>	<p><b>STANDARD IS MET.</b></p> <p>There is no proposed entry changes to the existing dwelling. It will remain as is and is prominently facing Chenhall Crescent.</p> <p>The proposed dwelling will have a porch area that will be prominent upon entering the common property driveway. Both front entrances for the existing and proposed dwellings will provide shelter and a sense of individuality and an area of space for people to organise themselves.</p>
Standard B27	<p>A window in a habitable room should be located to face:</p> <ul style="list-style-type: none"> <li>• An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot,</li> </ul>	<p><b>STANDARD IS MET.</b></p> <p>There will be no changes to the windows on the existing dwelling. The proposed second dwelling will have five (5) windows and one (1) sliding door facing the north. This will allow for quite</p>

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	<p>or</p> <ul style="list-style-type: none"> <li>• A verandah provided it is open for at least one third of its perimeter, or</li> <li>• A carport provided it has two or more open sides and is open for at least one third of its perimeter.</li> </ul>	<p>substantial natural light to filtered through the open/plan living area and master bedroom.</p> <p><b>STANDARD IS MET.</b></p>
Standard B28	<p>A dwelling or residential building should have private open space of an area and dimensions specified in the schedule to the zone.</p>	<p>Each dwelling will have sufficient private open space areas. The existing dwelling will have 63.74 square metres and the proposed dwelling will have 83.22 square metres. Both of the private open spaces areas have been located with a north orientation to allow for natural sunlight.</p> <p><b>STANDARD IS MET.</b></p>
Standard B29	<p>The private open space should be located on the north side of the dwelling or residential building, if appropriate. The southern boundary of secluded private open space should be set back from any wall on the north of the space at least (2 + 0.9h) metres, where 'h' is the height of the wall.</p>	<p>Each dwelling has sufficient private open space areas located on the north side.</p> <p><b>STANDARD IS MET.</b></p>
Standard B30	<p>Each dwelling should have convenient access to at least 6 cubic metres of externally accessible, secure storage space.</p>	<p>The applicant has stated that each dwelling will be provided with 6 cubic metres of storage space. The existing dwelling's storage area will be located within an existing shed located in its rear yard. The proposed dwelling will have storage shelves provided in the garage.</p> <p><b>STANDARD IS MET.</b></p>
Standard B31	<p>The design of buildings, including: -Facade articulation and detailing, -Window and door proportions,</p>	<p>As previously explained in this report, the existing dwelling will remain as is, thus there will be no change to the existing streetscape. The second</p>

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	<p>-Roof form, and          -Verandahs, eaves and parapets, should respect the existing or preferred neighbourhood character.          Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character.</p>	<p>dwelling will be located 30 metres away from the front boundary. The proposed second dwelling has been designed using contemporary building materials (brick, render and colourbond).          Appropriate setbacks have been taken into consideration as part of this development's design.</p>
Standard B32	<p>A front fence within 3 metres of a street should not exceed:          -The maximum height specified in the schedule to the zone, or          -If no maximum height is specified in the schedule to the zone, the maximum height specified in Table B3.</p>	<p><b>STANDARD IS MET.</b>  <b>NOT APPLICABLE.</b></p>
Standard B33	<p>Developments should clearly delineate public, communal and private areas.          Common property, where provided, should be functional and capable of efficient management.</p>	<p>The proposed common property driveway will allow access to the second dwelling and access for the residents of the existing dwelling to place storage in a shed to the rear of their yard.</p> <p><b>STANDARD IS MET.</b></p>
Standard B34	<p>The design and layout of dwellings and residential buildings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically.          Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development.          Bin and recycling enclosures should be located for convenient access by residents.          Mailboxes should be provided and located for convenient access as</p>	<p>Both the existing and the proposed dwelling will have a mail box.</p> <p>Garbage bins will be located in designate bin areas at the side of each dwelling. This allows the resident's easy access to be able to take and collect the bins before and after rubbish collection.</p> <p><b>STANDARD IS MET.</b></p>

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	required by Australia Post.
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1st May 2013

LATROBE CITY COUNCIL INFORMATION MANAGEMENT	
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<input type="checkbox"/> Copy registered in DataWorks	<input type="checkbox"/> Invoice forwarded to accounts

**Re: Planning Permit 2013/76** (or as written on the front page of application held at Traralgon Library (013/67) for the land at 18 Chenhall Cres, Traralgon.

This is my formal letter of objection to the proposed planning permit.

I have several reasons for this especially after finding errors, the first of which was the wrongly labelled front page of the application held at the library (as stated above). It was only because I read further down the front page and saw the address that I found the correct application. If I hadn't seen that I possibly would have ended up leaving thinking it had been withdrawn for some reason.

Secondly, the most glaring point, was the plans have been wrongly labelled as well. In connection to me personally, two windows were wrongly labelled as **NON HAB**. Because I didn't understand exactly what that abbreviation meant I phoned Beveridge Williams to ask. I was told that it meant Non Habited rooms, like bathroom, laundry and toilet. I informed the lady I spoke to, that the plans were very wrong as the two windows concerned, of the back unit where I live, were in fact bedroom windows. She took my name and number.

I then received a phone call a couple hours later from a woman, I am sorry I can't remember her name, who I think was the project manager. She listened to my concerns and offered a solution as per the applicant R D Carlson's instructions, something about frosted glass and raising window ledges? After some talk I think I said "I suppose so" to the suggestion. After getting the impression that nothing was going to change, basically the phone call left me feeling I had gotten absolutely nowhere.

And lastly who would actually be building the proposed second dwelling and fence, would it be a qualified builder and fencing contractor, who knows the rules and regulations and will follow them and will not have a radio blaring away all day, I had serious extreme loud music problems with my previous neighbour in the front unit for 2 plus years, to the point I had to call the police on her several times. So that would definitely cause me major stress and therefore possible blood pressure problems, as I have had a bit of a problem in that area and may possibly have to go on medication for it.

Or would it be the owner? If it was him this would cause problems as during the past many months of him renovating the house he has had no respect for the people either side of this block of land, I know that the lady on the other side has had some health issues which put her in hospital a few times over the past 6 months plus. He has taken absolutely no notice of rules and regulations regarding times to start and finish on weekends as far as renovating noise is concerned, quite often starting anywhere from 7am onwards and frequently finishing well after dark, when myself and my neighbour had gone to bed. One night he began throwing building rubbish into a large metal skip around 12am, waking me up, and didn't stop till 20 past 12am. My front door neighbour was annoyed at his very early starts too.

Another time in summer, one evening (dusk) I opened my bedroom door and on walking in, my bedroom reeked of smoke, it scared me. I looked out my side bedroom window and could see the light from a small bonfire maybe 3 or 4 meters from the fence line. I called the CFA who gave me the council by laws number and they sent out someone. She then phoned me, by which time I was nearly in bed, and told me she had spoken to him. Apparently he told her he didn't know the rules as he was from Melbourne. He also told her that he would put the fire out. He didn't! Instead he let it die out. I went to sleep with the smell of smoke in my room which was not pleasant. I am sorry but I feel this just shows thoughtless disregard of rules and regulations I don't believe it would be so different in the Melbourne area.

Another time, still during summer, on a particularly hot day I was worried to notice that he and friend were wearing all in one white zippered hooded suits, like may be worn at a crime scene, with masks at the back of the house. I told my front door neighbour, as her son and his friend were outside, she went and questioned the men and was told it was just in case there was asbestos. She had to shut her windows and get her son and his friend to come inside. The problem with that was that neither of us were informed of the possibility, he did nothing like putting up some sort of screening to protect my neighbour's yard as the corner of the house overlooks her backyard and washing line. My front neighbour was not happy about this either at the possible risk.

So you can see why I have no confidence that he would follow the proper rules and regulations regarding to hours of when to start and finish through the week and the differing hours on weekends, for a new building. And because of his history of lack of respect I have no wish to have him in my yard when it comes to putting up the proposed new fence, which as I state in my reasons later the new palings would have to be done from my side of the fence line.

Therefore my objection are as follows;

I feel

- The size of the proposed dwelling is too large.

1. It will completely block direct morning sunlight into my side bedroom windows. The second of which is dark as it is and prone to some damp with mildew on the windows at times. I don't want that issue happening in my bedroom.
2. It is too close to my bedrooms so I feel there will be the issue of overlooking - I would not feel comfortable.
3. It will make the area between my unit and the fence line darker - Which I feel will cause problems with the existing trees in my side garden bed. Making them grow even larger than they already are which may cause them to reach across my roof line possibly causing damage by scraping on the tiles. Which in turn would cause me interrupted sleep.

- The proposed dwelling is too close to the fence line.

1. I feel my privacy will be impinged on - frosted glass windows would not help, windows can be opened. I would have to buy and put up net curtains in the second (darker) bedroom, which I don't want and should not have to, for privacy.
2. Noise will be an issue due to the close proximity - I like to open windows to let fresh air in the bedrooms during the day. I like to have the window near by bedhead open at night as I like the fresh air. I should not have to change this routine. Noise carries too well in this area, so this would be a problem at night as well when I am sleeping or trying to get to sleep.

- The layout of the proposed dwelling is a big problem.

1. The rooms with windows directly facing my two bedrooms, of the proposed dwelling, are dining, kitchen and the laundry with the living room behind the dining kitchen area in an open plan design I believe it is called. - this would cause problems for me at night due to possible/probable sleep interruptions due to noise.
2. The smallness of the proposed backyard would add to this if the new owners/tenants were outside at night because of the proximity of it to my bedroom.
3. The site of the washing line could be a problem as well as it is marked as being on the joining fence line right were I have roses planted. It would also be very close to my washing line, which is on the back fence in that corner.
4. I feel that 3 bedrooms is too many for a small plot like this - 3 bedrooms, 2 of which are close to my side, would mean increased noise level as the carport area on my side amplifies sound in this area.

5. The window of one of these 2 bedrooms overlooks my side yard here noise could be an issue and carport. This will impinge on my privacy in both the side yard and also the carport as that is where I set up my work area when I refinish furniture etc.

- The new fence and its proposed height.

1. The extra height would make the lawn area between my carport and first bedroom more shaded than it already is and therefore more prone than it already is to dampness, which would most probably cause more of a mildew problem on that bedrooms windows and possibly walls.

2. I am concerned that the person/s building the new proposed fence would not respect my privacy as the boards will have to be nailed from my side of the fence. And also that they may not take care around my roses, one of which is very special to me, when nailing up the new boards.

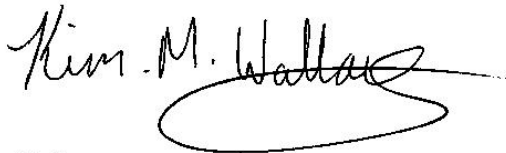
I had this problem when the new back fence line was built by fencing contractors from Churchill, I was also not informed that this was going to happen.

3. I feel it will make the pathway along my unit feel claustrophobic and also cause the existing trees on my side to rub against it making noisy at night if windy.

4. The extra height in the proposed fence will also interfere with the lighting at the back of the carport making it darker and would cause problems when I want to work on furniture etc.

I hope that my concerns will be taken seriously as I have put a lot of thought into them.

Sincerely



Kim Wallace



**16.2 PLANNING APPLICATION NO. 2013/9 VARIATION OF  
RESTRICTIVE COVENANT, DEVELOPMENT OF TWO  
DWELLINGS AND TWO LOT SUBDIVISION AT 15 BOWRAL  
WAY, TRARALGON**

**General Manager**

**Governance  
Community Liveability**

**For Decision**

**PURPOSE**

The purpose of this report is to determine Planning Permit Application 2013/9 for the variation of a restrictive covenant, development of two dwellings and two lot subdivision at 15 Bowral Way, Traralgon.

**DECLARATION OF INTERESTS**

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

*Latrobe 2026: The Community Vision for Latrobe Valley*

*Strategic Objectives – Built Environment*

In 2026, Latrobe Valley benefits from a well-planned built environment that is complimentary to its surroundings and which provides for connected and inclusive community.

*Latrobe City Council Plan 2013 - 2017*

*Theme and Objectives*

*Theme 5: Planning for the future*

- *To provide a well planned, connected and liveable community.*
- *To reduce the time taken to process land use and development planning applications.*

*Strategic Direction*

Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.

*Legislation –*

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act 1987* (the Act) and the

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

Latrobe Planning Scheme (the Scheme), which are relevant to this application.

### **SUMMARY**

Land:	15 Bowral Way, Traralgon, known as Lot 13 on Plan of Subdivision 635554N
Proponent:	Michael Nicola
Zoning:	Residential 1
Overlay	Nil

A planning permit is required for the construction of two or more dwellings on a lot in accordance with Clause 32.01-4 Residential 1 Zone.

A planning permit is required to subdivide land pursuant to Clause 32.01-2 Residential 1 Zone.

A planning permit is required to vary a restriction in accordance with Clause 52.02 Easements, Restrictions and Reserves.

### **PROPOSAL**

It is proposed to construct two dwellings and undertake a two lot subdivision on the site. The dwellings would be two storey, would be attached, and have frontage to Bowral Way.

Each dwelling would comprise living areas on the ground floor, and three bedrooms and two bathrooms on the first floor. Both dwellings would be provided with single car garages which would be attached to the southern side of each dwelling with vehicle access to the site provided by two single crossovers from Bowral Way. Private open space would be located at the rear of each dwelling with access from the family room.

The dwellings would be contemporary in design with varied setbacks on both floors, a mix of materials and finishes, and use of parapets and pitched roofs. The dwellings would be constructed and finished with face brickwork, horizontal cement composite cladding, render and stacked stone.

It is proposed to subdivide the site into two lots. Lot 1 would be 244.67 square metres and would contain Dwelling 15A on the southern side of the site, and Lot 2 would be 257.04 square metres and would contain Dwelling 15B on the northern side of the site.

It is also proposed to vary the restrictive covenant AK033782W which is registered on the title for the site. The covenant currently allows the development of a single detached dwelling on each lot, the intent of the covenant is to assist in the establishment and maintenance of the neighbourhood character. The applicant proposes to vary the restriction by removing the word 'detached'. This would allow the proposed dwellings to be constructed on the site as they are proposed to be attached.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

A copy of the plans and covenant AK033782W can be found at Attachment 1.

### Subject Land:

The subject site is regular in shape and is located on the western corner of Bowral Way and Kenilworth Drive in Traralgon. It forms part of the Sherwood Park Estate. It has a frontage to Bowral Way of 19.25 metres, a depth of 22.75 metres and an overall area of 502 square metres. There are no easements encumbering the site. The site is vacant and is relatively flat.

Land within the immediate vicinity of the site comprises largely vacant residential allotments with some lots being developed with detached single and two storey dwellings.

### Surrounding Land Use:

North-east:	37 Kenilworth Drive – residential lot being developed with a two storey dwelling. Lot approximately 790 square metres.
North-west:	40 Kenilworth Drive – vacant residential land of approximately 500 square metres.
South-east:	26-46 Bradman Boulevard – Council reserve
South-west:	13 Bowral Way – residential lot developed with a single storey dwelling. Lot approximately 800 square metres.

A locality plan can be found at Attachment 2.

### **HISTORY OF APPLICATION**

The history of the assessment of planning permit application 2013/9 can be found in Attachment 3.

The provisions of the Scheme relevant to this application are in Attachment 4.

### **LATROBE PLANNING SCHEME**

#### **State Planning Policy Framework (SPPF)**

The proposal has been considered against the relevant clauses under the SPPF.

The SPPF Clause 15.01-1 'Urban Design' requires development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.

Clause 16.01-1 'Integrated Housing' encourages an increase in the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.

Clause 16.01-2 Location of Residential Development states that new housing should be located in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

The objective of Clause 16.01-4 'Housing Diversity' is to provide for a range of housing types to meet increasingly diverse needs. Strategies to achieve this objective include ensuring planning for growth areas provides for a mix of housing types and higher housing densities in and around activity centres; and encouraging the development of well-designed medium-density housing which respects the neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

The proposal is considered to be consistent in part with the policy outlined above. The application proposes medium density development in an area suitable for residential development, and the proposal is considered to be an appropriate response to the subject site and the emerging character of the area. However the proposed variation of the covenant may impact on the character of the neighbourhood in the future. As such the variation cannot be approved by Council in accordance with Clause 60(2) of the Act. This matter will be discussed further in the 'Issues' section of this report.

#### **Local Planning Policy Framework (LPPF)**

The proposal has been considered against the relevant clauses under the LPPF.

Within the LPPF Clause 21.04-2 'Settlement Overview' has objectives to contain urban development within distinct boundaries and to encourage a wider variety of housing types, especially smaller and more compact housing, to meet the changing housing needs of the community.

The site is identified in an "existing residential opportunity" area (Area 12) on the Traralgon Structure Plan in the Latrobe Planning Scheme. Clause 21.05 Main Towns encourages the consolidation of urban settlements within urban zoned boundaries in accordance with the adopted structure plan. Specific Main Town Strategies – Traralgon states that residential development in Area 12 is encouraged.

It is considered that the proposal satisfies this policy direction as the proposal is for residential development within an existing residential opportunity area.

**Zoning – Residential 1**

The site is located within a Residential 1 Zone and is not subject to any overlays. The purpose and decision guidelines of the Residential 1 Zone have been taken into account as part of the assessment of this application and it is considered that the application complies in part with the zoning provisions but does not respect the emerging neighbourhood character of the area.

This will be further discussed in the 'Issues' section of this report.

**Particular Provisions**

Clause 52.02 Easements, Restrictions and Reserves:

The proposal has been assessed against the decision guidelines of Clause 52.02. It is considered that the variation of the restrictive covenant has the potential to detrimentally impact on neighbourhood character and is not appropriate in this instance. This will be discussed further in the 'Issues' section of this report.

Clause 52.06 Car Parking:

The proposal has been assessed against Clause 52.06. Two car parking spaces are required to be provided for a dwelling comprising three or more bedrooms. One garaged space and one tandem space would be provided for each dwelling in accordance with this clause. However the width of the garages does not satisfy this clause and a condition of any approval issued will require the garages to have a minimum width of 3.5 metres.

Clause 55 Two or More Dwellings on a Lot:

The application has been assessed against Clause 55 and is considered to be generally compliant with the applicable standards with some design modifications required. This will be discussed later in this report.

Clause 56 Residential Subdivision:

The application has been assessed against Clause 56 and found to comply with the applicable standards.

**Decision Guidelines (Clause 65):**

The application has been assessed against the relevant decision guidelines of Clause 65.

**Incorporated Documents (Clause 81):**

- Australian Standard AS/NZS 2890.1:2004, Parking Facilities – Offstreet car parking, Standards Australia 2004

## ISSUES

### Neighbourhood Character

There are two parts to the proposal before Council.

The first relates to the proposed two dwellings and whether they are appropriate having regard to the relevant clauses of the planning scheme (e.g. neighbourhood character, on and off site amenity).

The second relates to the proposed variation of the covenant and whether it meets certain 'tests' or criteria under the Planning and Environment Act. The covenant restricts certain types of development, including the one under this proposal. Therefore, if the covenant variation is unable to be justified, the multi dwelling development proposed as part of this application also fails.

Neighbourhood character is a consideration under both aspects, however, there are different criteria that must be considered and met for each part of the proposal.

The criteria set out for the assessment of the covenant variation in relation to neighbourhood character are much more stringent than those for the multi dwelling development.

Because the proposed multi unit development hinges on the covenant variation and because it is considered that the covenant variation is inappropriate, it is on this basis that officers are of the opinion that the application fails in totality.

### Variation of Covenant

Restrictive covenant AK033782W on the title to the subject site states that the proprietor of the lot "...shall not at any time:

(b) allow or cause to be constructed on the Land:

(i) more than a single **detached** dwelling but, if the lot is subdivided into two allotments, more than a single **detached** dwelling on each allotment then created..."

The restriction was placed on all 38 lots on Plan of Subdivision 635554N by the original subdivider/developer.

See Attachment 5 for a copy of Plan of Subdivision 635554N.

In order for the proposed development of two attached dwellings to be approved, a planning permit to vary this restriction must be obtained. The applicant is seeking to have the word "detached" deleted from the covenant.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

Council must consider Clause 52.02 Easements Restrictions and Reserves of the Planning Scheme and Clause 60(2) of the Planning and Environment Act 1987 in its assessment of the application.

Clause 52.02

Clause 52.02 requires a planning permit to be obtained for the variation of a restriction. The decision guidelines for this clause state that before deciding on an application, Council must consider the interests of affected people.

All beneficiaries of the covenant and adjoining owners and occupiers have been notified of the application as per the requirements of section 52(1)(c) of the Act and no objections have been received. It is noted that the beneficiaries of the covenant are the 37 other lots which are contained in Plan of Subdivision 635554N.

Clause 60(2)

Clause 60(2) of the Act states:

*“The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer-*

- (a) financial loss; or*
- (b) loss of amenity; or*
- (c) loss arising from change to the character of the neighbourhood; or*
- (d) any other material detriment-*

*as a consequence of the removal or variation of the restriction.”*

The proposed covenant variation would allow the proposed attached dwellings to be constructed on the site as well as any other potential form of attached dwelling that may be proposed for the site in the future.

Legal advice received by Council advised as follows:

*“1. The key matters that Council must be satisfied of before it can grant a planning permit to vary the Restrictive Covenant registered on the title of the Land are:*

- the matters set out in clause 52.02 of the Latrobe Planning Scheme, including the interests of affected persons; and*
- the matters listed in section 60(2) of the Planning and Environment Act 1987 (the Act).*

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

2. *In addition to the above, Council should only consider granting a planning permit allowing the variation of the Restrictive Covenant if notice of the permit application has been given in accordance with the requirements of section 52 of the Act (i.e. to all beneficiaries of the Restrictive Covenant and any other persons whose interests may be affected by the grant of the permit, with both direct notice and public notice being required).*

3. *In this instance, there have been no objections to the grant of a planning permit, including from beneficiaries. Beneficiaries to the Restrictive Covenant appear to be all the owners of other lots within PS63554N (i.e. lots 1-12 and 14-38).*

4. *Whilst the lack of objection is relevant to Council's assessment of the impact of the variation on persons whose interests may be affected by the grant of the permit, Council must still itself be satisfied that beneficiaries of the Restrictive Covenant are unlikely to suffer any of the detriments listed in section 60(2), namely:*

- (a) financial loss; or*
- (b) loss of amenity; or*
- (c) loss arising from change to the character of the neighbourhood; or*
- (d) any other material detriment.*

5. *Whilst the test set out in section 60(2) of the P& E Act is less onerous than the test for older covenants set out section 60(5) (which extends to perceived detriment) the "bar" remains high and it is not the usual planning tests of "unreasonable amenity impacts" which is relevant. Rather, a higher test of whether the relevant detriments are "unlikely" to be suffered to any degree must be applied.*

6. *The proposed variation of the Restrictive Covenant is unusual, as it does not seek to alter the two lot subdivision or single dwelling restrictions within the Restrictive Covenant. Rather, the proposed variation only seeks to remove the requirement that the single dwellings constructed on a 2 lot subdivision of the Land be "detached".*

7. *As I understand it, the practical effect of this variation would be that the two dwellings allowed by the Restrictive Covenant would be attached and present as a single built form, rather than two separate built forms. As the variation simply proposes the removal of the word "attached" from the Restrictive Covenant, Council must consider all potential forms of attached dwellings, not just the dwellings proposed by the applicant.*

8. *There may be the potential for attached rather than detached dwellings to give rise to detriment to the beneficiaries of the Restrictive Covenant.*



**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

9. However, the test in section 60(2) is not whether the variation of the Restrictive Covenant “may” cause detriment, but whether such detriment would be “unlikely”. Therefore, Council needs to consider whether the possible detriments are “unlikely” to be suffered by beneficiaries to any degree (but not extending to perceived detriment).

10. Given that all potential forms of attached dwellings must be considered, it may be that some form of attached dwellings would give rise to the relevant detriments and as such it may be that Council is unable to conclude that detriment of the kind referred to in section 60(2) of the P&E Act is “unlikely” to occur in this instance.

From the above advice, Council cannot unequivocally conclude that detriment as listed in section 60(2) of the Act is unlikely to occur as Council does not know if other forms of attached housing that may be built on the site in the future may cause detriment. As such, the application to vary the covenant must be refused as it fails the tests of section 60(2) of the Act.

#### Multi Dwelling Development and Subdivision

Clause 55 and 56 assessments of the application have been undertaken and the proposal has been found to generally comply with the requirements of ResCode. The design of the dwellings is contemporary in nature and utilises varying roof pitches, external finishes comprising a combination of materials, balconies overlooking public open space across Bowral Way, and generous internal amenities. Private open space would be provided in accordance with the relevant clause. In order for the application to fully comply with the Scheme requirements, Dwelling 15B would be required to be set back a minimum of 2 metres from the Kenilworth Drive boundary of the site in accordance with Clause 55.03-1.

Whilst the development satisfies ResCode, it cannot be approved as the proposed dwellings would be attached. This is contrary to the restriction on the covenant on title which Council cannot vary as discussed. The application must therefore be refused.

#### **FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

**INTERNAL / EXTERNAL CONSULTATION***Engagement Method Used:***Notification:**

The application was advertised pursuant to Sections 52(1)(a), 1(cb) and (1)(d) of the Act. Notices were sent to all adjoining and adjacent landowners and occupiers and to the owners and occupiers of land benefitted by the registered restrictive covenant. An A3 notice was displayed on the site frontage for 14 days. No objections to the application were received.

**External:**

There were no external referrals.

**Internal:**

Internal officer comments were sought from Council's Infrastructure Planning Team who gave consent (to the extent of their areas of expertise) to the granting of a planning permit subject to appropriate conditions and notes.

**OPTIONS**

Council has the following options in regard to this application:

- 1 Issue a Planning Permit.
- 2 Issue a Notice of Refusal to Grant the variation to the restrictive covenant and Planning Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme and the *Planning and Environment Act 1987*.

**CONCLUSION**

The proposed dwellings are considered to be consistent with the strategic direction of the State and Local Planning Policy Frameworks, and comply with the Residential 1 Zone purpose and decision guidelines, and Clauses 55 and 56. However as the proposal to vary the covenant to allow attached dwellings on the site does not satisfy the tests of section 60(2) of the Planning and Environment Act 1987, the application must be refused.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)****Attachments**

1. ATTACHMENT 1 - DEVELOPMENT PLANS AND RESTRICTION
2. ATTACHMENT 2 - LOCALITY PLAN
3. ATTACHMENT 3 - HISTORY OF THE APPLICATION
4. ATTACHMENT 4 - LATROBE PLANNING SCHEME PROVISIONS
5. ATTACHMENT 5 - PLAN OF SUBDIVISION

**RECOMMENDATION**

- A. That Council decides to issue a Notice of Refusal to Grant a Planning Permit for the variation of a restrictive covenant, development of two dwellings and two lot subdivision at 15 Bowral Way, Traralgon known as Lot 13 on Plan of Subdivision 635554N, on the following grounds:
- a) Council is not satisfied that the owner of any land benefitted by the restriction will be unlikely to suffer financial loss, loss of amenity, loss arising from change to the character of the neighbourhood or any other material detriment as a consequence of the variation of the restriction.

**ALTERNATE MOTION**

1. That Council defer the item until the next ordinary Council meeting and ask officers to prepare draft conditions that might apply should a planning permit be issued.

**Moved:** Cr Harriman  
**Seconded:** Cr Middlemiss

**That the Motion be adopted.**

**CARRIED UNANIMOUSLY**

## RESPONSE TO QUESTION TAKEN ON NOTICE FROM COUNCILLOR WHITE

Good afternoon Cr White

Thank you for the opportunity to provide a response to your question, taken on notice last night in relation to Item 16.2 – Bowral Way, Traralgon

*Can Council be provided with an explanation as to why another sub-division permit was approved by Council in June, which is in the same estate and has the same covenant?*

### **Response:**

Planning Permit 2013/46 was approved by Council (under delegation) on 14 June 2013, for the development of 2 single storey dwellings and a 2 lot subdivision, at 21 Kenilworth Drive Traralgon (Lot 26 on PS635554). The site is located within the same estate as the Bowral Way site. At the time that the application was made the covenant did not apply to the site in question.

*NOTE: Council received the Kenilworth Drive planning permit application on 4 February 2013 and as part of the planning permit submission, a copy of the relevant title was submitted to Council for consideration. The title submitted to Council was produced on 22 January 2013 and at that time, the Kenilworth Drive site (Lot 26 on PS635554) was not affected by any covenant.*

The decision to issue a planning permit was made based on the information presented and available at the time.

## 16.2

### PLANNING APPLICATION NO. 2013/9 VARIATION OF RESTRICTIVE COVENANT, DEVELOPMENT OF TWO DWELLINGS AND TWO LOT SUBDIVISION AT 15 BOWRAL WAY, TRARALGON

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4	ATTACHMENT 4 - LATROBE PLANNING SCHEME PROVISIONS .....	405
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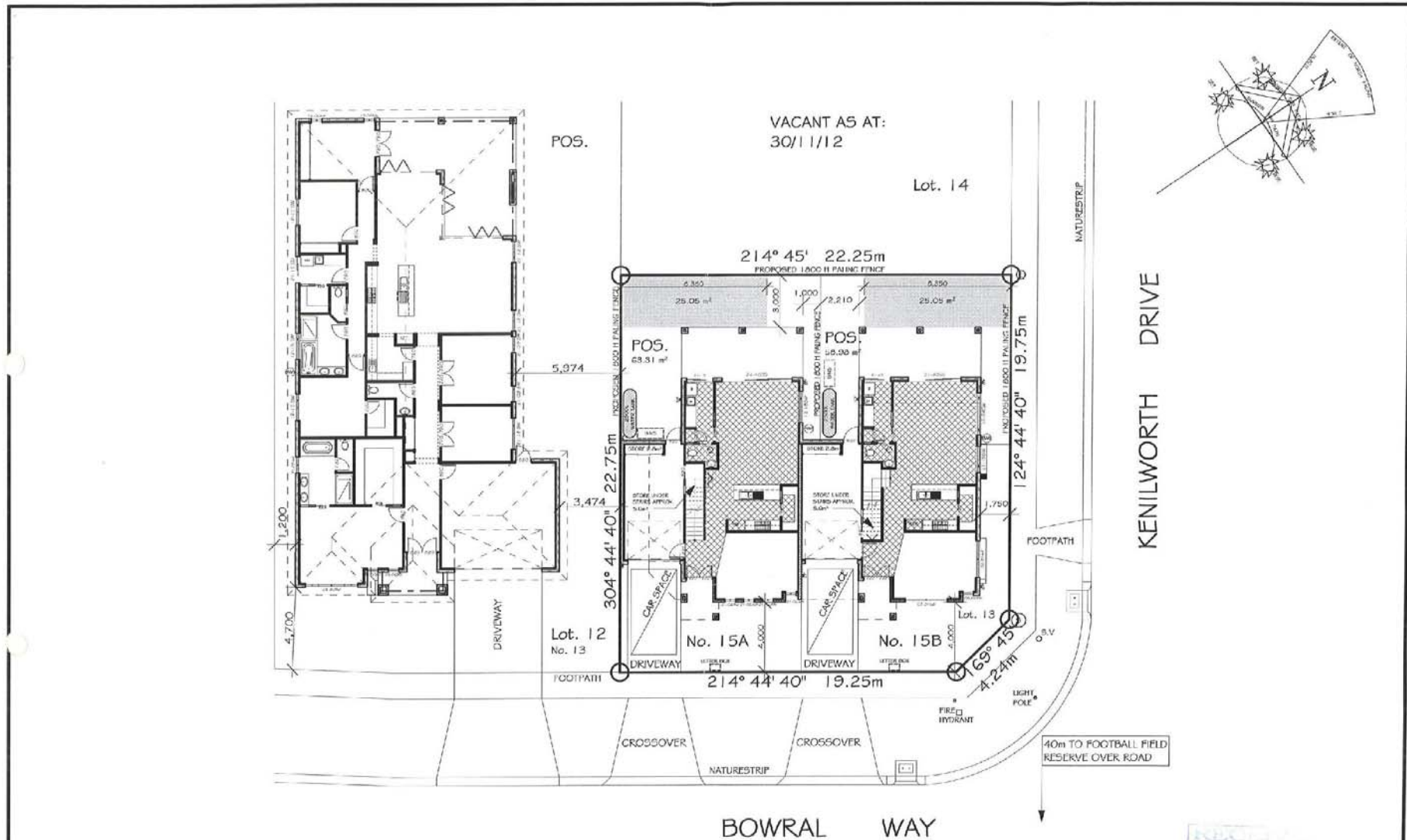
PROPOSED UNIT DEVELOPMENT FOR  
MR MICHAEL NICOLA  
15A & 15B BOWRAL WAY  
TRARALGON

RECEIVED  
27 FEB 2013  
BY:

DATE: 06/04/12  
JOB No: 12-0015  
SHEET No: 1 OF 14  
LOT: 13 PS635554N  
B.A.L. : 'LOW'

REVISED SIDE SETBACK: 20/02/13





**SITE PLAN**

SCALE : 1 : 200 AT A3

PROJECT:  
 PROPOSED UNIT DEVELOPMENT FOR  
 MR MICHAEL NICOLA  
 15A & 15B BOWRAL WAY TRARALGON

REVISED:  
 SIDE SETBACK: 20/02/13  
 DATE ISSUED: 06/04/12

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 SITE PLAN

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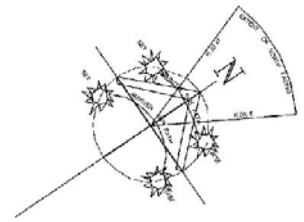
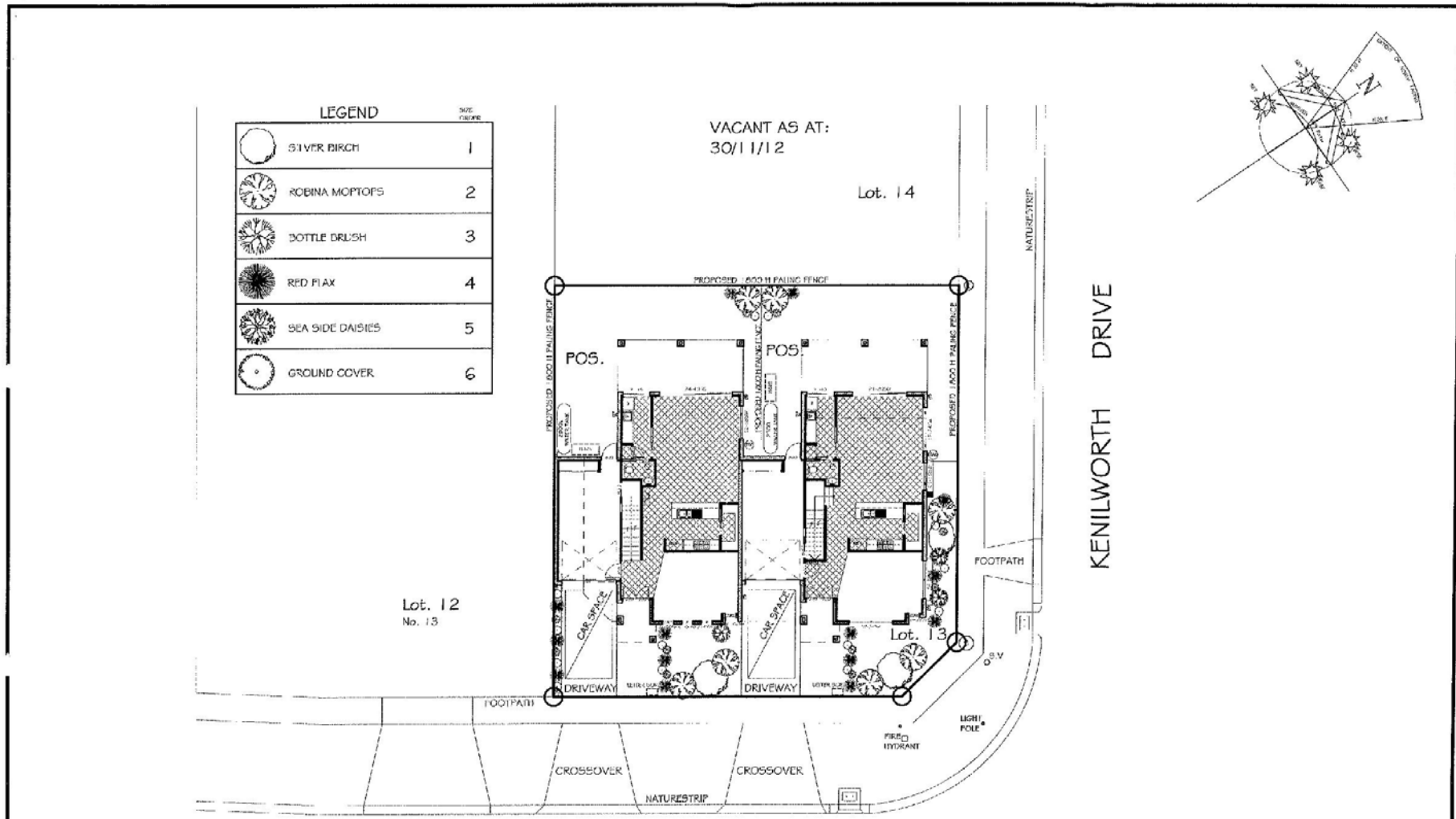


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 SHEET No.: 4 OF 14

RECEIVED  
 27 FEB 2013  
 BY:







**LANDSCAPING PLAN**

SCALE : 1 : 200 AT A3

PROJECT:  
 PROPOSED UNIT DEVELOPMENT FOR  
 MR MICHAEL NICOLA  
 15A & 15B BOWRAL WAY TRARALGON

REVISED:  
 SIDE SETBACK: 20/02/13  
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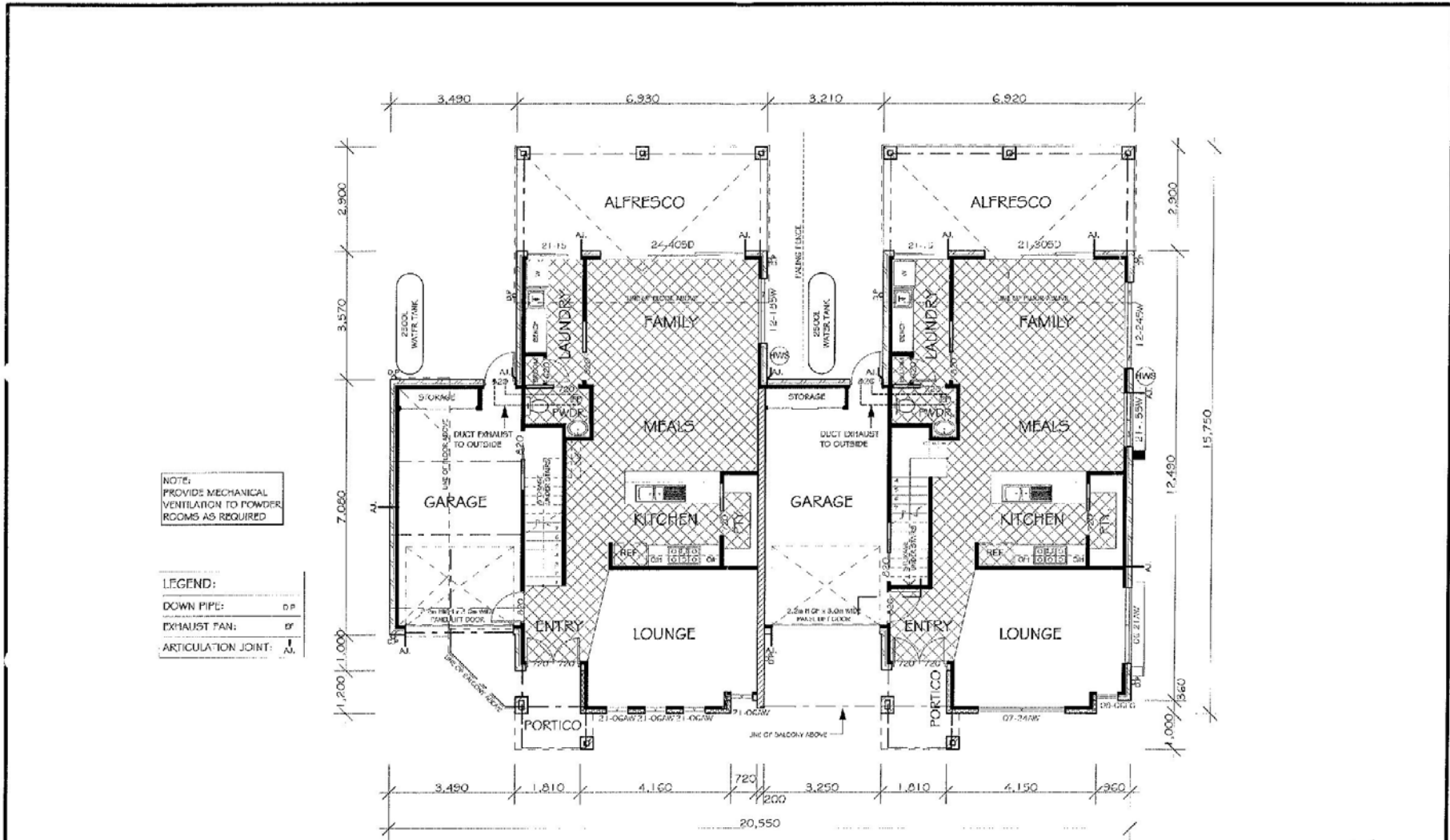
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 JOB No.: 12-0015  
 SHEET No.: 7 OF 14





NOTE:  
PROVIDE MECHANICAL VENTILATION TO POWDER ROOMS AS REQUIRED

LEGEND:  
DOWN PIPE: D.P.  
EXHAUST FAN: EF  
ARTICULATION JOINT: A.J.

**GROUND FLOOR PLAN**

SCALE : 1 : 100 AT A3

PROJECT:  
PROPOSED UNIT DEVELOPMENT FOR  
MR MICHAEL NICOLA  
15A & 15B BOWRAL WAY TRARALGON

REVISED:  
SIDE SETBACK: 20/02/13  
  
DATE ISSUED: 06/04/12

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**GROUND FLOOR PLAN**

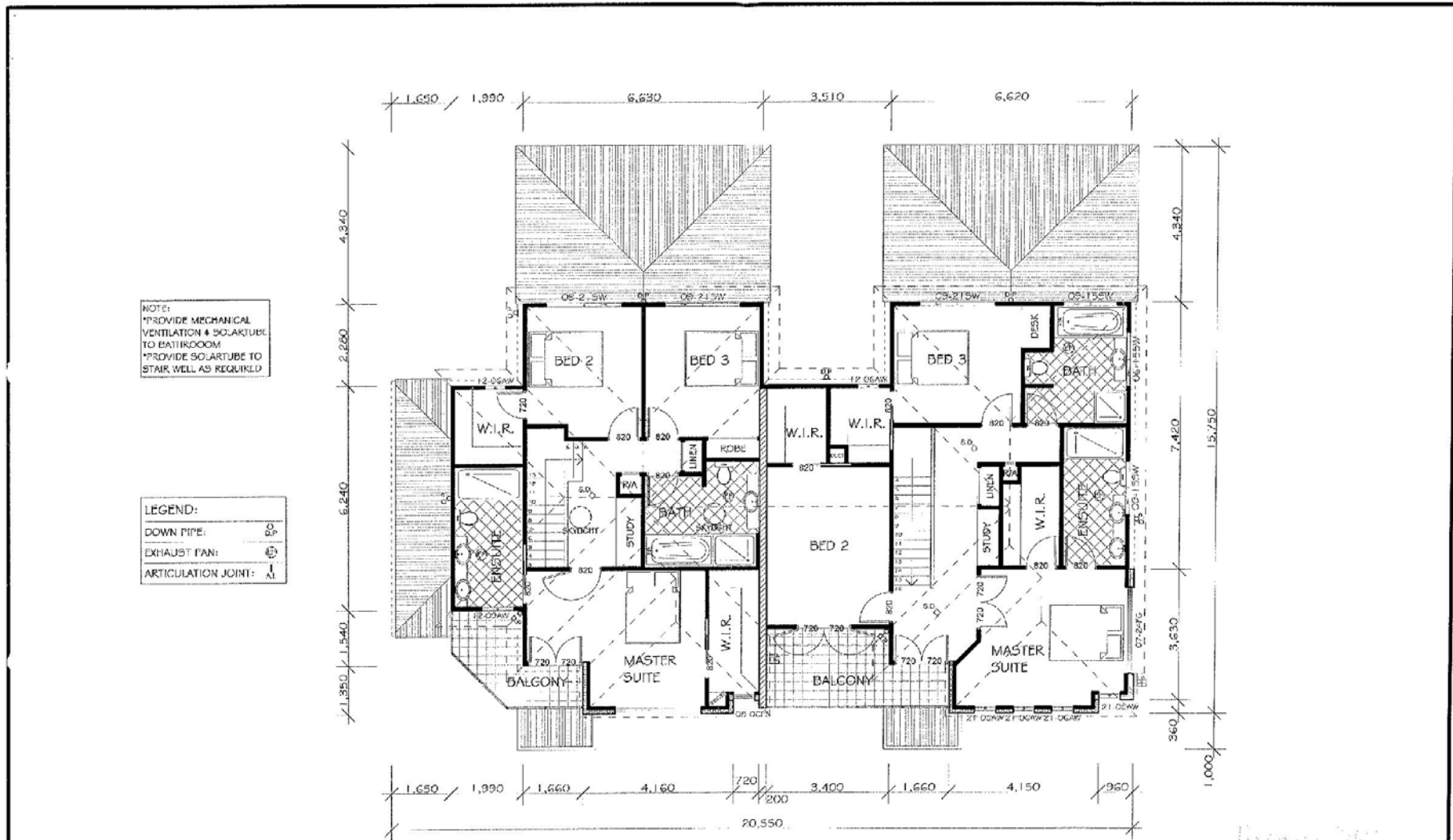
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SHEET No.: 8 OF 14





**FIRST FLOOR PLAN**

SCALE : 1 : 100 AT A3

PROJECT:  
 PROPOSED UNIT DEVELOPMENT FOR  
 MR MICHAEL NICOLA  
 15A & 15B BOWRAL WAY TRARALGON

REVISED:  
 SIDE SETBACK: 20/02/13  
 DATE ISSUED: 06/04/12

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 FIRST FLOOR  
 PLAN

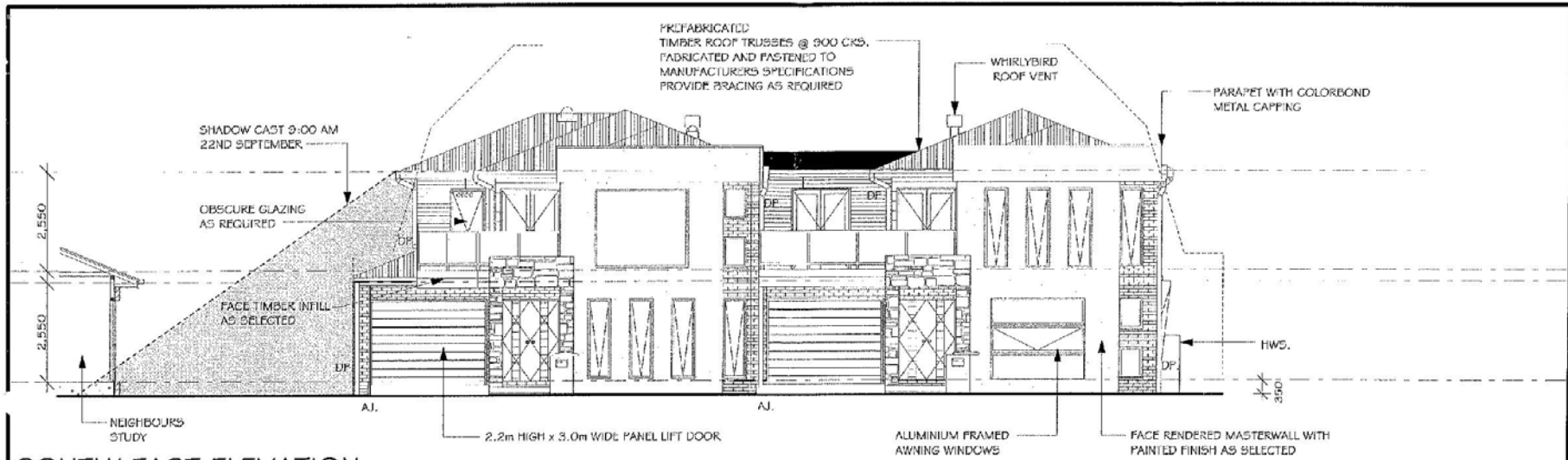
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 Phone: (03) 5176 5231  
 Email: mick@virtuehomes.com.au  
 Web: www.virtuehomes.com.au



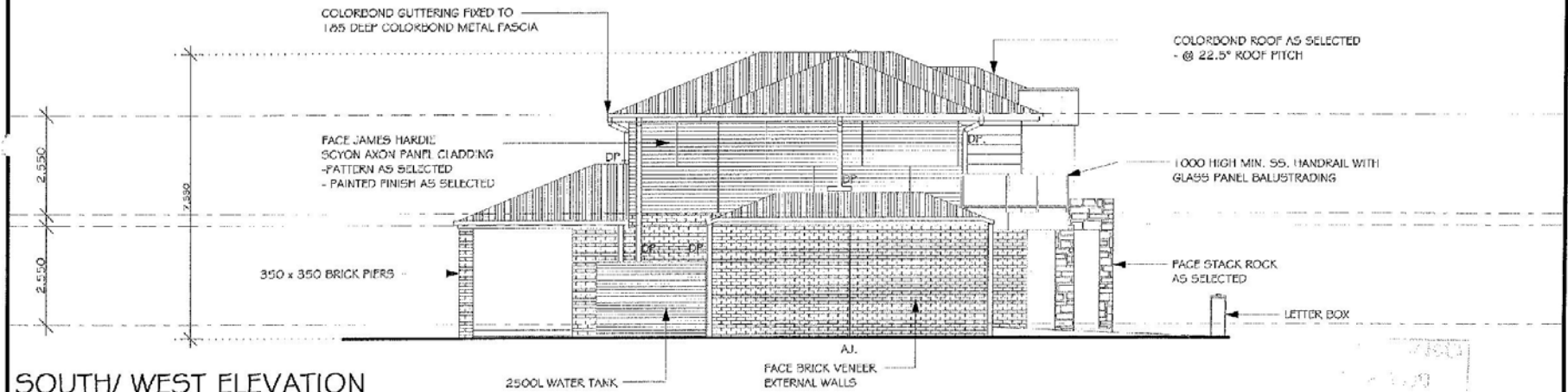
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 CHECKED : M.N.  
 JOB No.: 12-0015  
 SHEET No.: 9 OF 14





**SOUTH/ EAST ELEVATION**

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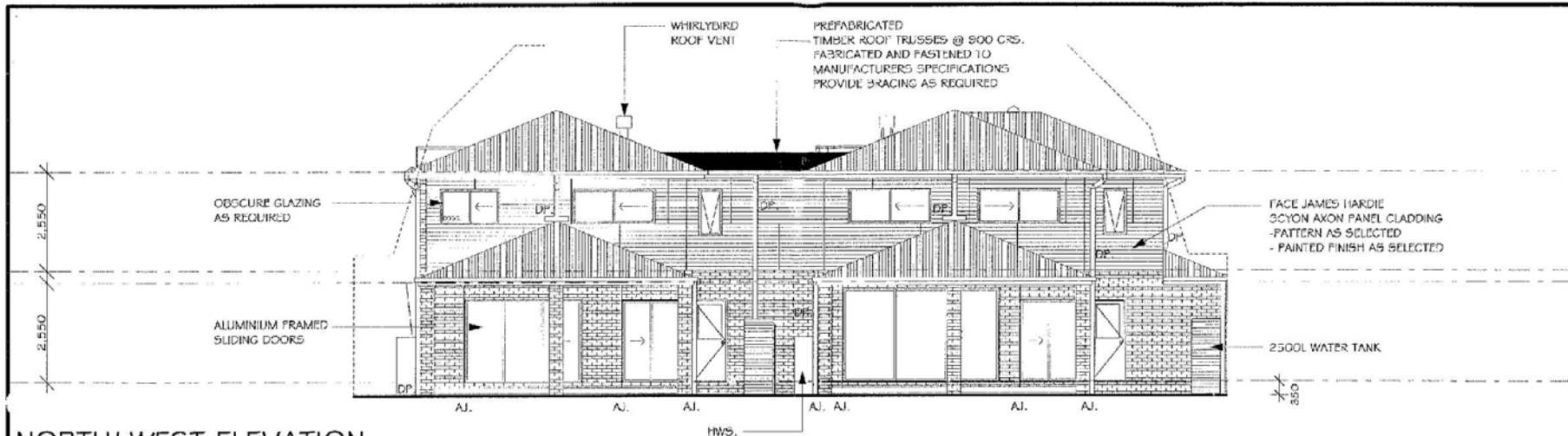
**SOUTH/ WEST ELEVATION**

SCALE : 1 : 100 AT A3

<b>PROJECT:</b> PROPOSED UNIT DEVELOPMENT FOR MR MICHAEL NICOLA 15A & 15B BOWRAL WAY TRARALGON	<b>REVISED:</b> SIDE SETBACK: 20/02/13	<b>PAGE CONTENTS:</b> ELEVATIONS	ALL RIGHTS RESERVED - THIS PLAN IS THE PROPERTY OF VIRTUE HOMES PTY. LTD. THESE DRAWINGS ARE SUBJECT TO COPYRIGHT & ANY UNAUTHORIZED COPYING OR REPRODUCTION WITHOUT THE WRITTEN PERMISSION IS CONSIDERED AN INFRINGEMENT OF COPYRIGHT LAWS. Domestic Builder - Unlimited No: 23133 Master Builders Association No: 88975 ABRN: 78 107 165 588	Virtue Homes Pty. Ltd. P.O. BOX 1589 Traralgon VIC 3944 Mobile: 0422 315 383 Phone: (03) 5176 5231 Email: mick@virtuehomes.com.au Web: www.virtuehomes.com.au		SCALE : 1 : 100 AT A3
	DATE ISSUED: 06/04/12					DESIGN : M.N. DRAWN : M.C. CHECKED : M.N. JOB No. : 12-0015 SHEET No. : 11 OF 14

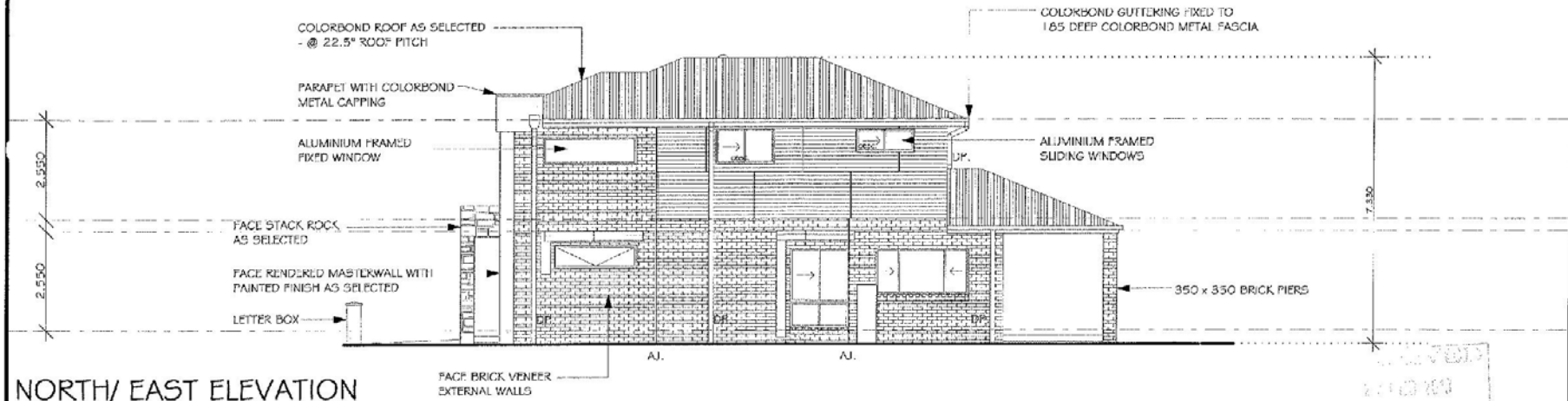






**NORTH/ WEST ELEVATION**

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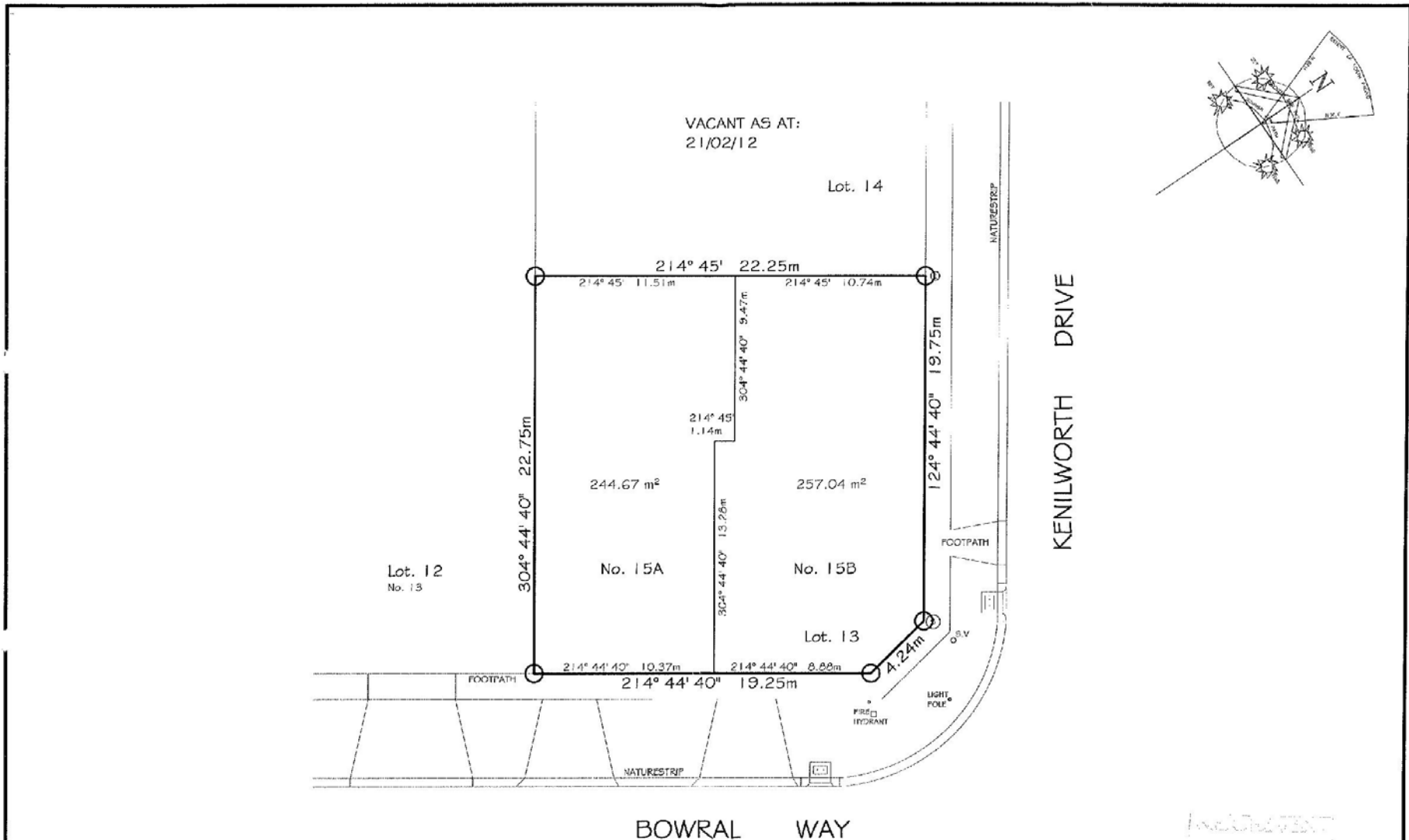


**NORTH/ EAST ELEVATION**

SCALE : 1 : 100 AT A3

<p><b>PROJECT:</b> PROPOSED UNIT DEVELOPMENT FOR MR MICHAEL NICOLA 15A &amp; 15B BOWRAL WAY TRARALGON</p>	<p><b>REVISED:</b> SIDE SETBACK: 20/02/13  DATE ISSUED: 06/04/12</p>	<p><b>PAGE CONTENTS:</b> ELEVATIONS</p>	<p><small>ALL RIGHTS RESERVED - THIS PLAN IS THE PROPERTY OF VIRTUE HOMES Pty. Ltd. THESE DRAWINGS ARE SUBJECT TO COPYRIGHT &amp; ANY UNAUTHORIZED COPYING OR REPRODUCTION WITHOUT THE WRITTEN CONSENT OF VIRTUE HOMES Pty. Ltd. IS CONSIDERED AN INFRINGEMENT OF COPYRIGHT LAW.</small></p> <p><b>Domestic Builder - Unlimited No: 23132</b> <b>Master Builders Association No: 88875</b> <b>ABN: 78 167 165 588</b></p>	<p><b>Virtue Homes Pty. Ltd.</b> P.O. BOX 1589 Traralgon VIC 3844 Mobile: 0422 315 383 Phone: (03) 5176 5231 Email: <a href="mailto:mick@virtuehomes.com.au">mick@virtuehomes.com.au</a> Web: <a href="http://www.virtuehomes.com.au">www.virtuehomes.com.au</a></p>	<p><b>SCALE : 1 : 100 AT A3</b> DESIGN : M.N. DRAWN : M.C. CHECKED : M.N. JOB No.: 12-0015 SHEET No.: 10 OF 14</p>
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**SUBDIVISION PLAN**

SCALE : 1 : 200 AT A3

PROJECT:  
 PROPOSED UNIT DEVELOPMENT FOR  
 MR MICHAEL NICOLA  
 15A & 15B BOWRAL WAY TRARALGON

REVISED:  
 SIDE SETBACK: 20/02/13  
 \_\_\_\_\_  
 \_\_\_\_\_  
 DATE ISSUED: 06/04/12

PAGE CONTENTS:  
 SUBDIVISION  
 PLAN

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 Master Builders Association No: 88875  
 ABN: 79 197 193 585

Virtue Homes Pty. Ltd.  
 P.O. BOX 1589  
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 Mobile: 0422 315 383  
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 SHEET No.: 14 OF 14

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**TRANSFER OF LAND**

Section 45 Transfer of Land Act 1958

Lodged by:

Name:

G M Conveyancing

Phone:

Address:

Ref:

Customer Code:

3800K

Privacy Collec

The information  
Registrar of Title  
for the purpose of  
registers and indLot 13  
**AK033782W**

20/11/2012

\$492

45



MADE AVAILABLE/CHANGE CONTROL

Office Use Only

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed-

- together with any easements created by this transfer
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; and
- subject to any easements reserved by this transfer or restrictive covenant contained or covenant created pursuant to statute and included in this transfer.

Land: (volume and folio reference)

Certificate of Title Volume 11383 Folio 290'

Estate and Interest: (e.g. "all my estate in fee simple")

All Its Estate In Fee Simple

Consideration:

\$148,000.00

Transferor: (full name)

HOBSONS RUN PTY LTD ACN 099 849 224

Transferee: (full name and address including postcode)

VIRTUE HOMES PTY LTD ACN 107 165 588  
of 14 Stratton Drive TRARALGON 3844

Directing Party: (full name)

NIL

Creation and/or Reservation and/or Covenant

The Transferee(s) with the intent that the benefit of this covenant shall be attached to and run at law and in equity with all Lots on Plan of Subdivision No. 635554N (except the Lot hereby transferred) and that the burden of this Covenant shall be annexed to and run at law and in equity with the Land hereby transferred DO HEREBY for themselves their transferees, executors, administrators and assigns and as a separate covenant COVENANTS with the Transferor and its transferees, successors and assigns and other registered proprietor or proprietors for the time being of each Lot on the said Plan of Subdivision (except the Lot hereby transferred) that they shall not at any time:-

(a)subdivide the Land into more than two allotments; and

Approval No. 1241115A

ORDER TO REGISTER

Please register and issue title to

**T2**

Page 1 of 2

Signed

Cust. Code:

STAMP DUTY USE ONLY

Original Land Transfer

Stamped with \$3,950.00

Doc ID 2940866, 20 Nov 2012

SRD Victoria Duty, JXM7

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Land Registry, 570 Bourke Street, Melbourne 3000. Phone 03 8636 2010

SAI Global Property Division Pty Ltd

(b) allow or cause to be constructed on the Land:-

(i) more than a single detached dwelling but, if the lot is subdivided into two allotments, more than a single detached dwelling on each allotment then created; and

(ii) any dwelling or other improvements using second hand materials.

AND IT IS HEREBY AGREED that the benefit of the foregoing covenants shall be attached to and run at law and in equity with the land comprised in Plan of Subdivision No. PS635554N so that the burden thereof shall be annexed to and run at law and in equity with the said Land hereby transferred and that the same shall be noted and appear on every future Certificate of Title for the said Land as an encumbrance affecting the same and every part thereof."

Dated: 12/11/2012  
Execution and attestation

Executed by Hobsons Run Pty Ltd (ACN 099 849 224) in accordance with Section 127 of the Corporations Act 2001 by being signed by those persons who are authorised to sign for the company

Sole Director.....  
Full Name: ~~Keith McClure Williams~~ Grant Ernest Williams see over  
Usual address: ~~18 Chester Close~~ 45 Tullock Way  
Traralgon Vic 3844

Executed by Virtue Homes Pty Ltd (ACN 107 165 588) in accordance with Section 127 of the Corporations Act 2001 by being signed by those persons who are authorised to sign for the company

Sole Director/Sole Secretary.....  
Full Name: Michael Leigh Nicola  
Usual address: 72 St Georges Road  
Traralgon Vic 3844

AK033782W

20/11/2012 \$492 45



Approval No. 1241115A

T2

Page 2 of 2

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SAI Global Property Division Pty Ltd

# Annexure Page

## Transfer of Land Act 1958



This is page 3 of *Approved Form T1* dated 12/11/12  
between Hobsons Run Pty Ltd ACN 099 849 224 and Virtue Homes Pty Ltd ACN107165588

Panel Heading

Executed by **HOBSONS RUN PTY LTD ACN 099 849 224** )  
in accordance with Section 127 of the Corporations )  
Act 2001 by being signed by the person who is authorised )  
to sign for the company: )

**KEITH MCCLURE WILLIAMS**

Director

18 Chester Close Traralgon 3844

**GRANT ERNEST WILLIAMS**

Director

45 Tulloch Way Traralgon 3844



15581209A

# A1

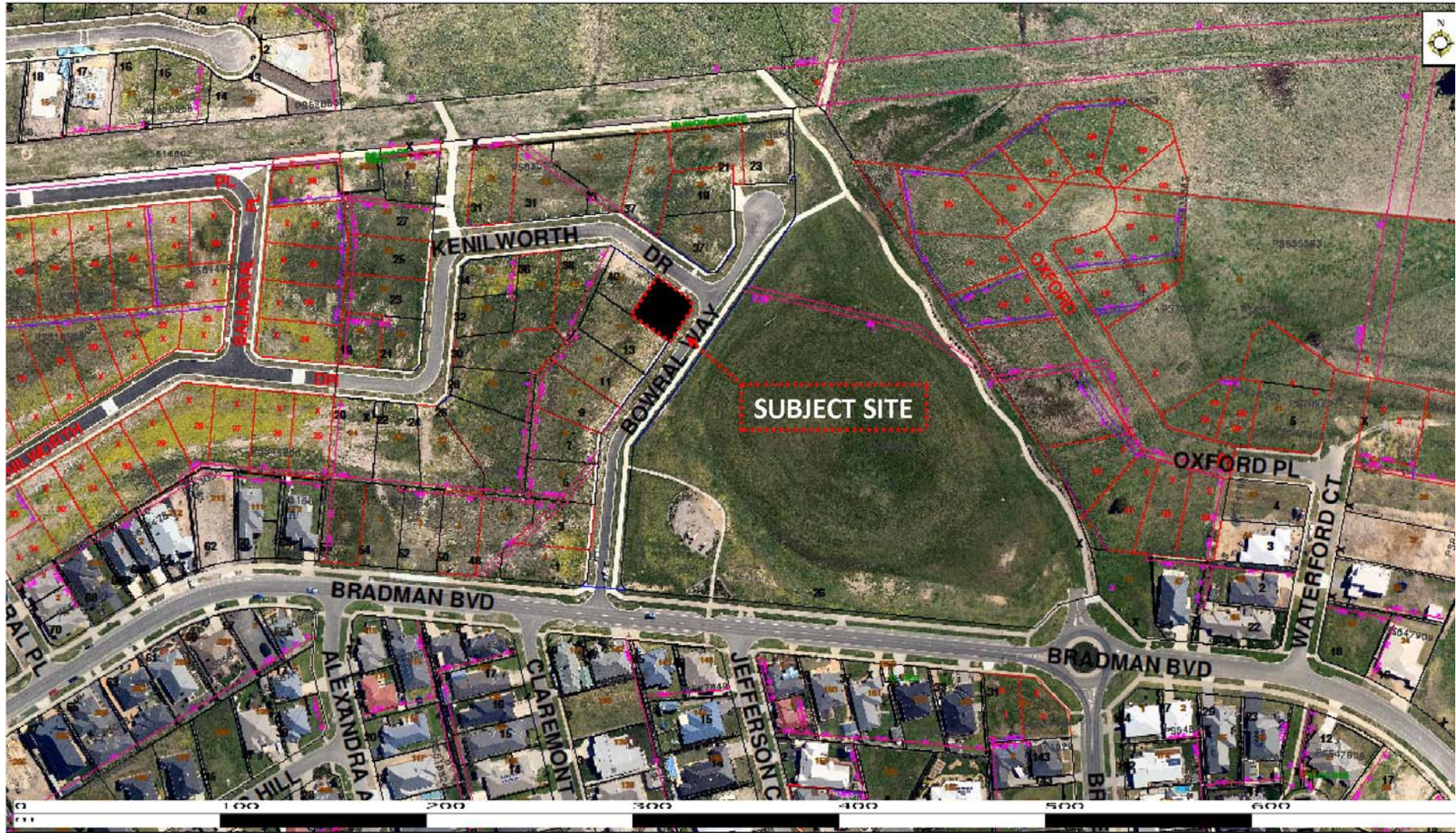
Page 2 of 2

1. If there is insufficient space to accommodate the required information in a panel of the attached Form insert the words "See Annexure Page 2" (or as the case may be) and enter all the information on the Annexure Page under the appropriate panel heading.
2. The approved Annexure Pages must be properly identified and signed by the parties to the attached Form to which it is annexed.
3. All pages must be attached together by being stapled in the top left corner.

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Land Victoria, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010





15 BOWRAL WAY, TRARALGON

- Proposed Property
- Property Boundary - Clear
- Parcel Boundary - Clear

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**History of the Application**

10 December 2012	Application received by Council.
31 January 2013	Further information letter sent to applicant
27 February 2013	Amended plans received by Council from the applicant in response to the further information letter
14 March 2013	Application referred internally to Council's Infrastructure Planning team Applicant sent instructions for notification of the application.
4 April 2013	Response received from Council's Infrastructure Planning team Statutory Declaration received
5 April 2013	Clause 55 Acceptance letter sent
16 April 2013	Request for Amendment to an Application for a Planning Permit Received
24 April 2013	Legal Advice received from Applicant
29 April 2013	Applicant sent instructions for notification of the application.
22 May 2013	Statutory Declaration received
27 June 2013	External legal advice received

●  
**LATROBE PLANNING SCHEME**

**State Planning Policy Framework**

Clause 11.02 'Urban Growth'  
Clause 11.05 'Regional Development'  
Clause 15.01 'Urban Environment'  
Clause 16.01 'Residential Development'  
Clause 18.01 'Integrated Transport'  
Clause 18.02 'Movement Networks'

**Local Planning Policy Framework**

Clause 21.02 'Municipal Vision'  
Clause 21.03 'Natural Environment Sustainability'  
Clause 21.04 'Built Environment Sustainability'  
Clause 21.05 'Main Towns'  
Clause 21.07 'Economic Sustainability'  
Clause 21.08 'Liveability'

**Zoning – Residential 1 Zone**

The subject land is located within a Residential 1 Zone.

**Overlay**

There are no overlays that affect this property.

**Particular Provisions**

Clause 52.02 Easements, Restrictions and Reserves  
Clause 52.06 Car Parking  
Clause 55 Two or More Dwellings on a Lot  
Clause 56 Residential Subdivision

**General Provisions**

Clause 65 'Decision Guidelines'

**Incorporated Documents**

There are no incorporated documents that relate to the consideration of this application.



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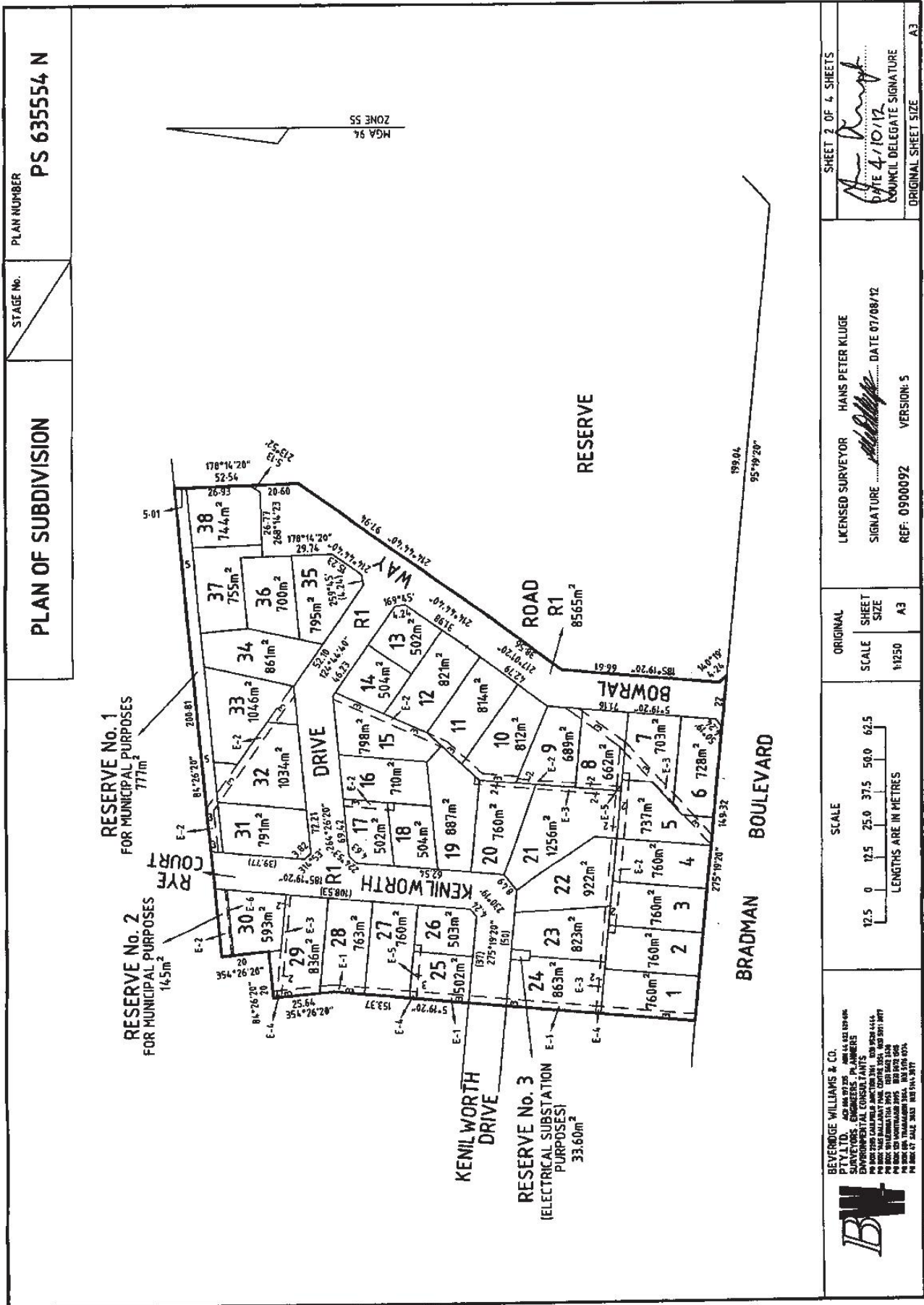
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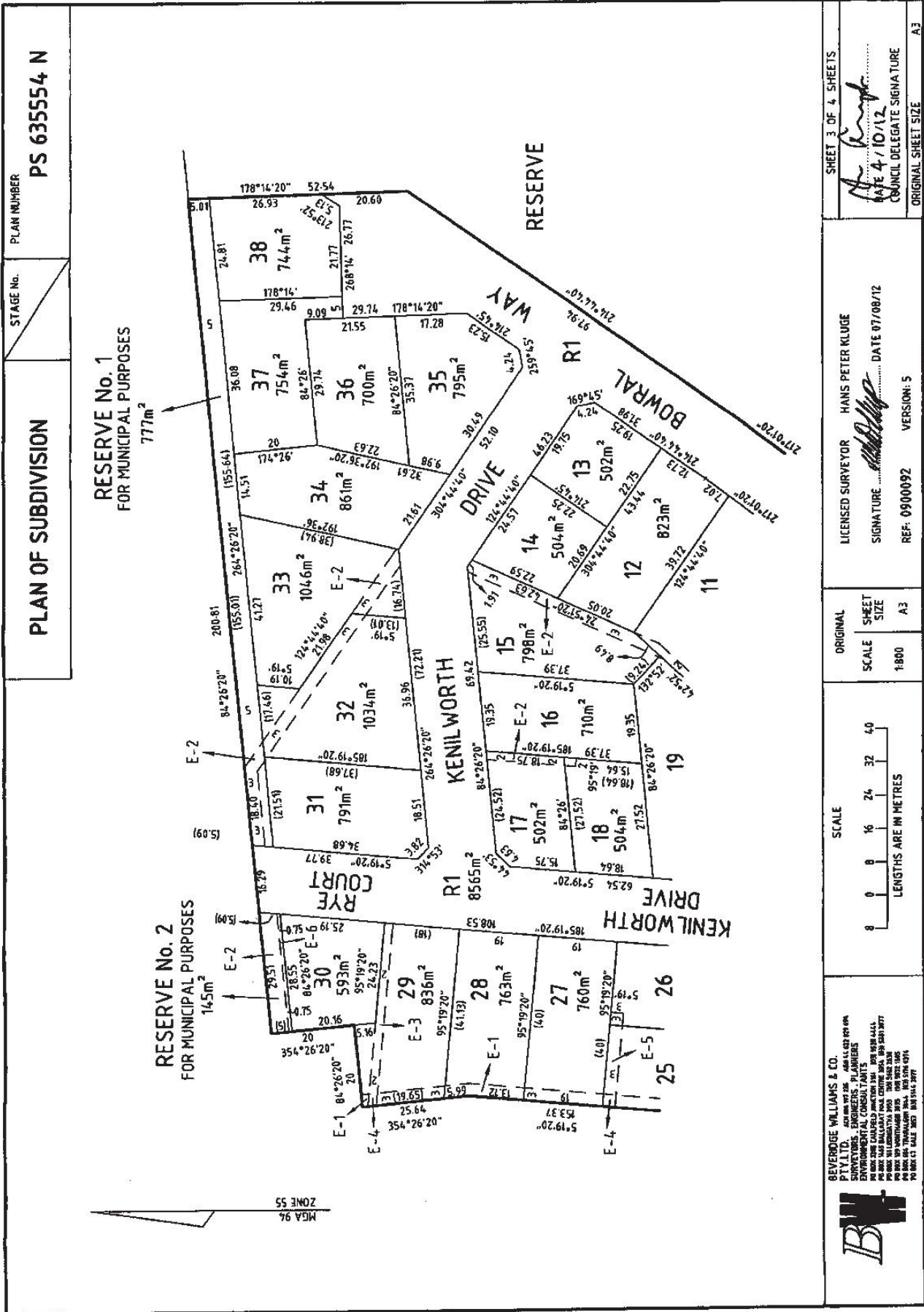
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PS635554N



<b>PLAN OF SUBDIVISION</b>		STAGE No.	<b>EDITION 1</b>	PLAN A
<p><b>LOCATION OF LAND</b></p> <p>PARISH: TRARALGON</p> <p>TOWNSHIP: -</p> <p>SECTION: -</p> <p>CROWN ALLOTMENT: 23 (PART) &amp; 24 (PART)</p> <p>CROWN PORTION: -</p> <p>TITLE REFERENCE: VOL.11348 FOL.094</p> <p>LAST PLAN REFERENCE/S: PS 607809P (LOT C)</p> <p>POSTAL ADDRESS: BRADMAN BOULEVARD TRARALGON VIC. 3844</p> <p>MGA Co-ordinates E: 458 875 GDA 94 (of approx. centre of land in plan) N: 5 773 910 ZONE: 55</p>		<p><b>COUNCIL CERTIFICATION AND ENDORSEMENT</b></p> <p>COUNCIL NAME: LATROBE CITY COUNCIL REF:</p> <p>1: This plan is certified under Section 6 of the Subdivision Act 1988.                  2: <del>This plan is certified under Section 11(7) of the Subdivision Act 1988.</del>                  Date of original certification under Section 6: / /                  3: This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.</p> <p><b>OPEN SPACE:</b></p> <p>(i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has / has not been made.                  (ii) <del>The requirement has been satisfied.</del>                  (iii) <del>The requirement is to be satisfied in stage</del></p> <p>Council Delegate <i>[Signature]</i>                  Council Seal                  Date 4/10/12</p> <p><u>Re-certification under Section 11(7) of the Subdivision Act 1988.</u></p> <p>Council Delegate                  Council Seal                  Date / /</p>		
<b>VESTING OF ROAD AND / OR RESERVE</b>		<b>NOTATIONS</b>		
IDENTIFIER	COUNCIL / BODY / PERSON	<p><b>STAGING</b> This is not a staged subdivision. Planning permit No. 2009/161</p> <p><b>DEPTH LIMITATION:</b> DOES NOT APPLY</p> <p><b>REMOVAL OF EASEMENT:</b> THE WHOLE OF THE EASEMENT MARKED E-3 ON PS 616502R CREATED BY PS 530584N IN FAVOUR OF CENTRAL GIPPSLAND REGION WATER CORPORATION FOR PIPELINE OR ANCILLARY PURPOSES IS TO BE REMOVED UPON REGISTRATION OF THIS PLAN.</p> <p><b>GROUND FOR REMOVAL:</b> CONSENT OF CENTRAL GIPPSLAND REGION WATER CORPORATION.</p> <p><b>SURVEY</b> THIS PLAN IS BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARK No.- IN PROCLAIMED SURVEY AREA No.-</p>		
<p>ROAD R1 RESERVE No. 1</p> <p>RESERVE No. 2</p> <p>RESERVE No. 3</p>	<p>LATROBE CITY COUNCIL</p> <p>LATROBE CITY COUNCIL</p> <p>LATROBE CITY COUNCIL</p> <p>SPI ELECTRICITY PTY. LTD.</p>			
<b>EASEMENT INFORMATION</b>				<b>LRS USE ONLY</b>
<b>LEGEND</b>	A - Appurtenant Easement	E - Encumbering Easement	R - Encumbering Easement (Road)	<b>STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT</b>
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited / In favour Of
E-1 & E-4	PIPELINE OR ANCILLARY PURPOSES	3	PS 518824P - Sec. 136 of the WATER ACT 1989	CENTRAL GIPPSLAND REGION WATER AUTHORITY
E-2, E-4 & E-5	PIPELINE OR ANCILLARY PURPOSES	SEE DIAG.	THIS PLAN - Sec. 136 of the WATER ACT 1989	CENTRAL GIPPSLAND REGION WATER CORPORATION
E-3, E-4 & E-5	DRAINAGE	SEE DIAG.	THIS PLAN	LOTS ON THIS PLAN & LATROBE CITY COUNCIL
E-6	POWERLINE	0.75	THIS PLAN - SEC.88 of the ELECTRICITY INDUSTRY ACT 2000	SPI ELECTRICITY PTY LTD
				RECEIVED <input checked="" type="checkbox"/>
				DATE 15 / 10 / 2012
				LRS USE ONLY
				PLAN REGISTERED
				TIME 12:07pm
				DATE 18 / 10 / 2012
				<b>B Punlarangan</b> Assistant Registrar of Titles
				SHEET 1 OF 4 SHEETS
<p><b>BEVERIDGE WILLIAMS &amp; CO.</b>                  PTY.LTD. 2100 606 171 236 ABN 61 522 679 606                  SURVEYORS, ENGINEERS, PLANNERS                  ENVIRONMENTAL CONSULTANTS                  PO BOX 2265 CARBONVILLE VIC 3083 (03) 9529 4444                  PO BOX 1485 BALLARAT VIC. 3254 (03) 9321 3877                  PO BOX 181 LEMNONGTHA 3552 (03) 5462 2600                  PO BOX 129 NORTHFISHERS 3955 (03) 5476 0295                  PO BOX 684 TRARALGON 3844 (03) 5776 6374                  PO BOX 47 SALE 3853 (03) 544 3877</p>		<p>LICENSED SURVEYOR HANS PETER KLUGE</p> <p>SIGNATURE <i>[Signature]</i> DATE 07/08/12</p> <p>REF: 0900092 VERSION: 5</p>		<p><i>[Signature]</i> DATE 4/10/12 COUNCIL DELEGATE SIGNATURE</p> <p>ORIGINAL SHEET SIZE A3</p>



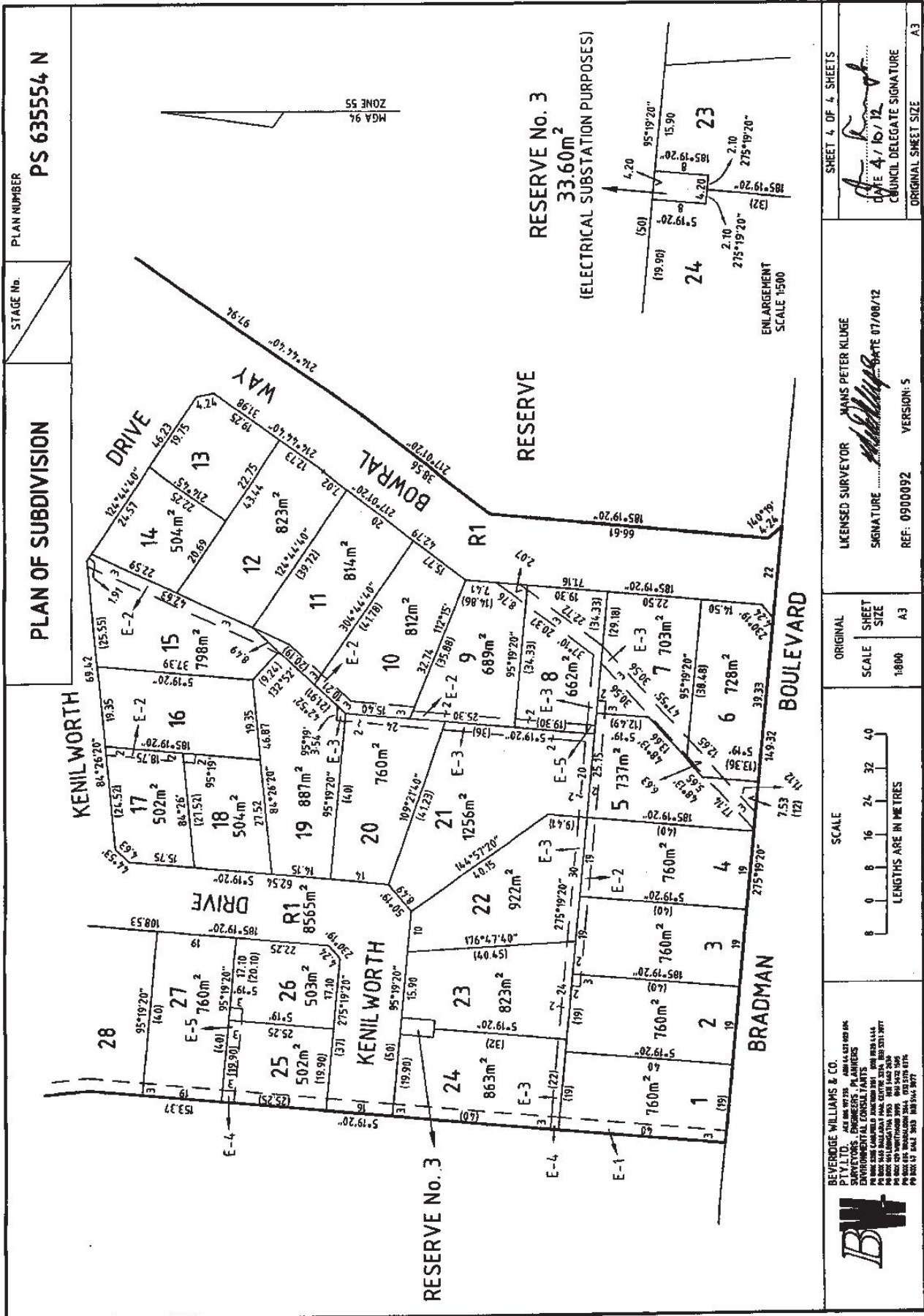


SHEET 3 OF 4 SHEETS  
DATE 4 / 10 / 12  
COUNCIL DELEGATE SIGNATURE  
ORIGINAL SHEET SIZE A3

LICENSED SURVEYOR HANS PETER KLUGE  
SIGNATURE  
DATE 07/08/12  
REF: 0900092 VERSION: 5

ORIGINAL SHEET SIZE A3  
SCALE 1:800

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PTY. LTD. 400 MILL ST TRARALGON VIC 3440  
SURVEYORS, ENGINEERS, PLANNERS  
ENVIRONMENTAL CONSULTANTS  
100 BOWRAL WAY TRARALGON VIC 3440  
PH 03 5442 2000  
FAX 03 5442 2001  
WWW.BWLL.COM.AU



PLAN NUMBER  
**PS 635554 N**

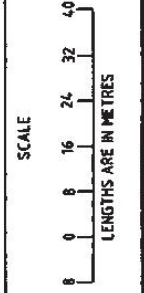
STAGE No.

**PLAN OF SUBDIVISION**

SHEET 4 OF 4 SHEETS  
DATE 4/10/12  
COUNCIL DELEGATE SIGNATURE  
*[Signature]*

LICENSED SURVEYOR  
**HANS PETER KLUGE**  
SIGNATURE  
*[Signature]*  
REF: 0900092  
VERSION: 5

ORIGINAL  
SCALE 1:800  
SHEET SIZE A3



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WWW.BWILLIAMS.CO.AU  
PS 635554 N SHEET 4 OF 4





**16.3 AMENDMENT C78 TRARALGON NORTH DEVELOPMENT PLAN  
OVERLAY - CONSIDERATION OF SUBMISSIONS**

**General Manager**

**Governance**

**For Decision**

**PURPOSE**

The purpose of this report is for Council to consider all written submissions received in response to proposed Amendment C78 (Traralgon North Development Plan Overlay) and to seek Council approval to progress the amendment to the next stage.

**DECLARATION OF INTEREST**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

***Latrobe 2026: The Community Vision for Latrobe Valley***

***Strategic Objectives – Built Environment***

In 2026, Latrobe Valley benefits from a well planned built environment that is complementary to its surroundings and which provides for a connected and inclusive community.

***Latrobe City Council Plan 2013 - 2017***

***Theme and Objectives***

***Theme 5: Planning for the future***

To provide clear and concise policies and directions in all aspects of planning.

***Strategic Direction – Planning for the future***

*Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.*

*Plan and coordinate the provision of key services and essential infrastructure to support new growth and developments.*

*Legislation**Local Government Act 1989**Planning and Environment Act 1987**Transport Integration Act 2010***BACKGROUND**

A consultant was appointed in November 2011 to commence the Development Plan and Development Contribution Plan for Traralgon North. The project comprises the preparation of a Development Plan which will identify where future residential areas, road, pathways, parks, wetlands, physical infrastructure etc. should be located; and a Development Contributions Plan which sets out the works, services and facilities to be funded through a development infrastructure levy.

The subject land is a precinct north of Marshalls Road, Traralgon and includes 13 properties at 15, 50 and 55 Glendale Road, Traralgon and 60, 90, 110, 145, 150, 175, 185, 205, 215, and 220 Marshalls Road, Traralgon. The Traralgon North precinct is bounded by Traralgon – Maffra Road to the east, Marshalls Road to the south, floodplain to the west and the existing gas pipeline to the north (see Attachment 1).

The Traralgon North precinct was rezoned by the Minister for Planning as part of a suite of Planning Scheme Amendments which released over 800ha of residential zoned land within Latrobe City (Amendments C47, C56 and C58). Amendment C56 rezoned the Traralgon North precinct to Residential 1 Zone (R1Z) and introduced a Development Plan Overlay Schedule 5 (DPO5) on 5 May 2011 (see Attachment 2).

DPO5 does not have a mechanism to require development contributions. A Planning Scheme Amendment was therefore required to introduce a mechanism within the Latrobe Planning Scheme which allows the collection of development contributions.

The proposed Planning Scheme Amendment C78 seeks to:

- Remove DPO5 from the Traralgon North precinct; and
- Introduce Development Plan Overlay Schedule 7 (DPO7) to the Traralgon North precinct.

**Statutory Requirements**

The C78 planning scheme amendment process is shown in the figure below and provides an indication of the current stage of C78.

### C78 Planning Scheme Amendment Process

Preparation and authorisation of Amendment C 78 (by Council)



Minimum of one month exhibition of Amendment C 78



Written submissions to Amendment C 78



Consideration of written submissions (if any, by Council)



Independent Panel Hearing and presentation (if required)



Consideration of Panel Report, and Adoption or Abandonment of  
Amendment C 78 (by Council)



Final consideration of Amendment C 78 (by Minister for Planning)



Amendment C 78 gazetted and forms part of the Latrobe Planning Scheme



787

Current Stage  
Of C 78

In accordance with the Act, the municipal council, as a planning authority, has a number of duties and powers. These duties and powers are listed at Section 12 of the Act. Under Section 12 a planning authority must have regard to (*inter alia*):

- The objectives of planning in Victoria;
- The Minister's directions;
- The Victoria Planning Provisions;
- The Latrobe Planning Scheme;
- Any significant effects which it considers a planning scheme amendment might have on the environment or which it considers the environment might have on any use or development envisaged by the amendment.

Amendment C78 has had regard to Section 12 of the Act and is consistent with its requirements. In addition each amendment must address the Department of Planning and Community Development (DPCD) publication *Strategic Assessment Guidelines for Planning Scheme Amendments*. A response to these guidelines is outlined in the attached Explanatory Report (see Attachment 3).

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

The proposal is consistent with the State Planning Policy Framework and the Municipal Strategic Statement (MSS). This is explained in the attached Explanatory Report (see Attachment 3).

### Planning Scheme Amendments

At the Ordinary Council meeting on 2 July 2012 Council resolved

*1. That Council requests authorisation from the Minister for Planning to prepare and exhibit the proposed amendment to the Latrobe Planning Scheme, which seeks to;*

- Remove DPO5 from the Traralgon North Precinct;*
- Introduce DPO7 to the Traralgon North Precinct.*

*2. That prior to the 23rd July 2012, the CEO write to all parties who participated in the consultation process relating to the Traralgon North Precinct, to ensure they are aware that the requirement of 15 lots per hectare is not mandatory.*

The Minister for Planning in accordance with Sections 8A(3) of the *Planning and Environment Act, 1987*, authorised Council to prepare the proposed Planning Scheme Amendment C78 on 17 July 2012.

Planning Scheme Amendment C78 was placed on public exhibition during the period 16 August 2012 to 21 September 2012.

Under Section 29 of the Act, Council may adopt the Planning Scheme Amendment with or without changes. The recommendations of this Council Report are in accordance with Sections 29 of the Act.

On the 11 July 2012 a letter was sent to all parties who participated in the consultation process relating to the Traralgon North Precinct, outlining the requirement for 15 dwellings per hectare is not mandatory.

### ISSUES

As a result of the public exhibition process, a total of 5 submissions were received by Latrobe City Council to Amendment C78. Of the 5 submissions received, 4 were from agencies and authorities in support of the amendment. The remaining submission requested changes be made to the proposed DPO7.

Table 1 (below) provides a précis of the issues raised in each submission and planning consideration of each issue raised. A full copy of submissions is provided at attachment 6.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

Table 1 – Summary of Submissions

SUB NO.	NAME	SUMMARY OF ISSUES	COMMENT	CHANGES TO EXHIBITED DOCUMENTS REQUIRED?
1	EPA	EPA has reviewed the amendment and has no objection or comments to make.	Submission noted.	No
2	West Gippsland Catchment Management Authority (WGCMA)	<p>WGCMA has previously provided comment regarding future residential development in this area. The WGCMA attended workshops and has received Draft Plans over the last 12 months and appreciates being kept informed.</p> <p>The WGCMA would like to work with Council and the developer of the required stormwater management plan to ensure downstream river health values are protected.</p> <p>The WGCMA would also like to note that low lying parts of 175, 185 and 215 Marshalls Rd shown within the DPO7 are impacted by the Land Subject to Inundation Overlay (LSIO). The WGCMA does not support development within these areas.</p>	<p>WGCMA seeks to work with Council in relation to the required stormwater management plan and does not support development on land impacted by the Land Subject to Inundation Overlay (LSIO).</p> <p>The exhibited DPO requires the preparation of an integrated stormwater management plan.</p> <p>The LSIO continues to apply to low lying parts of the precinct and will limit development opportunities.</p> <p>WGCMA participated in consultation workshops that contributed to the preparation of the draft Development Plan (DP).</p> <p>Further consultation with the WGCMA is proposed in relation to the draft DP. This will provide an opportunity to address in detail the comments made in the submission at the Development Plan stage.</p> <p>No change to the exhibited documents is required in response to the submission.</p>	No
3	Gippsland Water	In response to the amendment C78, Gippsland Water has no objection.	Submission noted.	No
4	APA Group	<p>APA Group has existing gas assets located in the subject site, specifically a 200mm High Pressure Gas Supply main located within an easement alongside Traralgon –Maffra Road.</p> <p>Provided all rights and privileges currently enjoyed by APA Group are retained in relation to this gas asset, then APA Group has no</p>	<p>APA Group seeks to protect its rights and privileges in relation to existing gas assets.</p> <p>The exhibited DPO Schedule requires Council to take into account the orderly planning of the area, including essential services, before deciding on an application to subdivide land. Furthermore, the preparation of a Development Plan does not extinguish existing</p>	No

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

SUB NO.	NAME	SUMMARY OF ISSUES	COMMENT	CHANGES TO EXHIBITED DOCUMENTS REQUIRED?
		<p>objection to the amendment.</p> <p>Future subdivision development proposals in the areas of the existing gas easement should be forwarded, when available, to APA Group for further comment.</p>	<p>easements.</p> <p>Any subdivision application will be referred to APA Group as part of any future planning permit application process.</p> <p>These mechanisms will protect APA Groups interests.</p> <p>No change to the exhibited documents is required in response to the submission.</p>	
5a	Coomes Planning for the landowner at 110 Marshalls Road, Traralgon	<p>The land owner does not oppose the broad principles embodied in the amendment but has concerns in relation to a number of specific issues.</p> <p>Clause 43.04-1 contains no specific provisions relating to the requirements for a planning permit to issue, so it is presumed that the permit referred to in this clause related to a permit issued pursuant to another provision.</p> <p>Section 2.0 of the DPO requires rewriting and clarification to be provided as to whether or not development contributions are required on all development or only for the subdivision of land. The requirement does not distinguish between a permit issued for a 'use' or a permit issued for a 'development' other than the subdivision of land. The submitter believes that requiring contributions to be paid prior to the issue of a statement of compliance is confusing and meaningless if no statement of compliance is required. If it is intended that contributions be paid for development other than the subdivision of land, there is no trigger for the payment of such contributions to be made.</p> <p>As the first dot point under Section 2.0 requires the payment of infrastructure contributions 'prior to the issue of a statement</p>	<p>The submission raises concerns about the drafting of the exhibited Development Plan Overlay, Schedule 7 (DPO7) and suggests that Council prepare a 'model' Section 173 agreement so that landowners are fully aware of the contents of the agreement.</p> <p>The exhibited DPO7 was drafted in a manner consistent with existing provisions of the <i>Latrobe Planning Scheme</i>. The draft was prepared in consultation with staff from the Department of Planning and Community Development and authorised for exhibition by the Minister for Planning.</p> <p>The suggested changes are considered to be minor and will improve the clarity of the schedule.</p> <p>The preparation of a 'model' Section 173 agreement is a separate matter that need not be addressed prior to the finalisation of the amendment, particularly as the operative provisions of any Agreement are outlined in the Schedule.</p> <p>Draft changes to DPO7 have been prepared in response to the submission.</p>	<p>Yes</p> <p>Changes were made to the exhibited DPO7 (see Attachment 4).</p>

**ORDINARY COUNCIL MEETING MINUTES  
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SUB NO.	NAME	SUMMARY OF ISSUES	COMMENT	CHANGES TO EXHIBITED DOCUMENTS REQUIRED?
		<p>of compliance in respect of the subdivision of land' and makes no other provision for payment to be made, the words 'development plan' where they appear in the first line of Section 2.0 should be replaced with the words 'the subdivision of land'.</p> <p>A 'model' S173 agreement should be prepared by Council and provided to each of the landowners so that they, and any successors in title to the land, are fully aware of the contents of the agreement.</p> <p>Section 3.0 makes provision for 'Waterways', however in a previous consultation meeting, the statement was made that there are no waterways which affect the land. This provision is therefore irrelevant and should be deleted.</p>		
5b	Coomes Planning for the landowner at 110 Marshalls Road, Traralgon	The submitter withdraws their objection to the Planning Scheme Amendment C78 based on changes made to the DPO7.	Withdrawal of objection noted.	No

In summary, there were a total of 5 submissions received to Planning Scheme Amendment C78. There was a total of 4 Submissions received in support or requested no changes to the Planning Scheme Amendment. One submissions was received which requested changes to the Development Plan Overlay Schedule 7. In response to this submission changes were made to the draft Development Plan Overlay Schedule 7 (see Attachment 4), and therefore the submission of objection was subsequently withdrawn.

Traralgon North Development Plan and Development Contribution Plan

The draft Traralgon North Development Plan and Development Contribution Plan was placed on public exhibition from 5 November 2012 to 17 December 2012. During the exhibition period submissions were received on the project. One of the submissions received from SMEC Urban on behalf of one of the landowners made comments regarding the

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

proposed Planning Scheme Amendment C78, however no formal objection to the Planning Scheme Amendment C78 was ever lodged.

On 9 July 2013 written confirmation was provided by SMEC Urban that they did not wish the comments made in the submission to be treated as a formal submission to Planning Scheme Amendment C78 (see Attachment 5). Therefore, the comments provided in the SMEC Urban's submission to the Traralgon North Development Plan and Development Contribution Plan is not included as a formal submission to the Planning Scheme Amendment C78.

### **FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014. This proposal assists in addressing the risks relating to land use planning and residential growth.

The prescribed fees for planning scheme amendments are detailed in the *Planning and Environment (Fees) Regulations 2012*. The costs associated with a planning scheme amendment include: considering a request to amend a planning scheme, consideration of submissions, providing assistance to a panel and adoption and approval of an amendment.

Funds have been allocated in the current 2013/2014 budget year to enable the planning scheme amendment to proceed.

### **INTERNAL/EXTERNAL CONSULTATION**

A total of 5 submissions were received by Latrobe City Council to Planning Scheme Amendment C78. Table 2 below provides a breakdown of the submissions received.

Table 2 – Breakdown of Submissions

Amendment C78 Submissions	
Support	4
Object	1 (withdrawn)
Total Submissions	5

The amendment was subject to the prescribed process in accordance with the public notice and consultation requirements of Section 19 of the Act.

This included advertising in the Government Gazette on 16 August 2012 and local newspapers on 13 August 2012 and 6 September 2012 as well as written notification to landowners and occupiers that may be materially affected by the amendment.



## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

All statutory and servicing authorities likely to be materially affected have also been notified in writing of the proposed amendment.

Amendment C78 was placed on public exhibition during the period 16 August 2012 to 21 September 2012.

### Public Submissions

Section 22 of the Act requires that a planning authority consider all submissions to an amendment.

A summary of key issues and comments raised in submissions has been provided in the issues section of the report and table 1. A full copy of all submissions received to amendment C78 is provided at Attachment 6.

There are no submissions remaining that request a change that cannot be satisfied. Therefore, Planning Scheme Amendment C78 can proceed to the next stage and does not require the appointment of a Planning Panel to consider submissions.

### OPTIONS

The options available to Council are as follows:

- 1 That Council, after considering all written submissions received to Amendment C78, resolves to adopt and submit for approval to the Minister for Planning, Amendment C78.

**Or**

- 2 That Council, after considering all written submissions received to Amendment C78 resolves to abandon the exhibited planning scheme amendment C78 and inform the Minister for Planning.

### CONCLUSION

Planning Scheme Amendment C78 seeks to:

- Remove DPO5 from the Traralgon North precinct; and
- Introduce Development Plan Overlay Schedule 7 (DPO7) to the Traralgon North precinct.

5 submissions were received to Planning Scheme Amendment C78, including 1 objection. Changes were made to the draft DPO7 to satisfy the concerns raised in the objecting submission. The submitter withdrew their objection to the Planning Scheme Amendment C78 based on the draft changes to DPO7.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

A comment regarding Planning Scheme Amendment C78 was made in the SMEC Urban submission for the Traralgon North Development Plan and Development Contribution Plan. However, confirmation was received from SMEC Urban that this was not to be treated as a formal submission to Planning Scheme Amendment C78.

There are no outstanding submissions that request a change to the Planning Scheme Amendment that cannot be satisfied. All issues raised in submissions have now been addressed so that Amendment C78 can now progress to the next stage.

### Attachments

1. Attachment 1
2. Attachment 2
3. Attachment 3
4. Attachment 4
5. Attachment 5
6. Attachment 6

### **RECOMMENDATION**

- 1 That Council, having considered all written submissions received to Amendment C78 adopts Amendment C78 with changes in accordance with Section 29 of the *Planning & Environment Act 1987*.**
- 2 That Council submits Amendment C78 once adopted to the Minister for Planning for approval, in accordance with Section 35 of the *Planning and Environment Act 1987*.**
- 3 That Council advises those persons who made written submissions to Amendment C78 of Council's decision.**

Cr Harriman left the Chamber at 7.14 pm due to an indirect interest under section 78C of the *Local Government Act 1989*

**Moved:** Cr O'Callaghan

**Seconded:** Cr Rossiter

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

Cr Harriman returned to the Chamber at 7.15pm.

## 16.3

### AMENDMENT C78 TRARALGON NORTH DEVELOPMENT PLAN OVERLAY - CONSIDERATION OF SUBMISSIONS

1	Attachment 1 .....	425
2	Attachment 2 .....	427
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## LATROBE PLANNING SCHEME

05/05/2011  
C56**SCHEDULE 5 TO THE DEVELOPMENT PLAN OVERLAY**

Shown on the planning scheme map as DPO5

**RESIDENTIAL GROWTH AREAS****1.0**03/03/2011  
C47**Requirement before a permit is granted**

A permit may be granted before a development plan has been prepared to the satisfaction of the Responsible Authority for the following:

- a minor extension, minor addition or minor modification to an existing development that does not prejudice the future orderly development of the general area affected by the Development Plan Overlay.

**2.0**03/03/2011  
C47**Conditions and requirements for permits**

Before deciding on an application to subdivide land, construct buildings, or carry out works, the responsible authority must consider, as appropriate:

- Whether the development of the land is occurring in an orderly manner having regard to essential services, community facilities, open space and roads.
- The potential for future re-subdivision.
- The interface between proposed and existing nearby developments, to reduce the chance of conflicting developments.
- The need to minimise access points to designated Category 1 Roads.
- The design of any proposed buildings to enhance and reinforce the character of the area.
- The timing and staging of the development of the land.
- The consistency of the proposed development with the approved development plan.
- The consistency of the proposed development with adopted Structure Plans, where relevant.

**3.0**05/05/2011  
C56**Requirements for development plan**

A development plan must be prepared to the satisfaction of the Responsible Authority.

The plan must show:

**Land use and subdivision**

- The proposed boundaries of the development area, and provide the strategic justification for those boundaries.
- The overall subdivision of the area, including where possible, the proposed size and density of allotments which provide opportunities for a diverse range of housing types.
- The overall pattern of development of the area, including any proposed re-zoning of land and proposed land uses.
- Street networks that support building frontages with two way surveillance.

## LATROBE PLANNING SCHEME

- An accessible and integrated network of walking and cycling routes for safe and convenient travel to adjoining communities (including existing and future areas included in the DPO), local destinations or points of local interest, activity centres, community hubs, open spaces and public transport.
- The provision of any commercial facilities and the extent to which these can be co-located with community and public transport facilities to provide centres with a mix of land uses and develop vibrant, active, clustered and more walkable neighbourhood destinations.

**Waterways**

- A buffer zone of 30 metres each side of waterways designated under the Water Act 1989 or a buffer based on a flood study which identifies the 100 year flood extent must be set aside for ecological purposes.

**Infrastructure Services**

- An integrated stormwater management plan that incorporates water sensitive urban design techniques which provides for the protection of natural systems, integration of stormwater treatment into the landscape, improved water quality, and reduction and mitigation of run-off and peak flows, including consideration of downstream impacts.
- The pattern and location of the major arterial road network of the area including the location and details of any required:
  - road widening
  - intersections
  - access points
  - pedestrian crossings or safe refuges
  - cycle lanes
  - bus lanes and stops
- The pattern and location of any internal road system based on a safe and practical hierarchy of roads including safe pedestrian and bicycle connections and crossing points in accordance with Latrobe City Bicycle Plan 2007-2010, (as amended).
- In consultation with relevant agencies and authorities, provision of public transport stops where appropriate within easy walking distance to residential dwellings and key destinations. Stops should also be located near active areas where possible.

**Open Space**

- The location and size of the proposed open spaces that cater for a range of user groups and provide a variety of functions that perform both an active and passive role for recreation, as appropriate.
- Public open spaces designed to provide:
  - Public spaces of a minimum of 0.5 hectares within a 500 metre walking distance of all residents in accordance with Latrobe City Public Open Space Plan 2007, (as amended).
  - The inclusion of pedestrian and cycle paths and play equipment, that encourage active recreational opportunities.

## LATROBE PLANNING SCHEME

- Opportunities for visual surveillance to promote safety of users, through encouraging active frontages, using buildings to frame public spaces and locating open spaces within or adjacent to activity centres where possible.
- A landscape concept plan for all open space areas, indicating the location of plantings, pathways, shade, shelter and seating at activity areas as well as at intervals along pathways.

**Community Hubs and Meeting Places**

- In consultation with relevant agencies and authorities, the provision of appropriate community facilities, including schools, pre-schools, maternal child health centres, senior citizen centres and general community centres within a walkable range of 400-800 metres across large subdivisions.
- Provision for access and social interaction, particularly where this encourages physical activity. For example:
  - Consider the need for public amenities, including toilets and bicycle parking at key destinations in accordance with the Latrobe City Public Toilet Strategy 2006 (as amended) and Latrobe City Bicycle Plan 2007-2010 (as amended).
  - The pattern and location of pedestrian and bicycle paths should provide safe and practical access to and from community hubs and meeting places.
  - Spaces should be designed to accommodate community events and cultural programs including local arts activities and other festivals.

**Flora and Fauna**

- In consultation with the Department of Sustainability and Environment, a flora and fauna survey, prepared by a suitably qualified expert, which includes but is not limited to species surveys for Growling Grass Frog (*Litoria raniformis*) and Dwarf Galaxias (*Galaxiella pusilla*), and measures required to protect the identified species.
- An assessment of any native vegetation to be removed having regard to Victoria's Native Vegetation Management: A Framework for Action, including how it is proposed to protect and manage any appropriate native vegetation.
- Regard must be had to the West Gippsland Native Vegetation Plan 2003.
- Any management plan should take into account that the Strzelecki Bioregion is one of Victoria's most fragmented Bioregions and address this as a consideration.

**Cultural Heritage**

- A cultural heritage assessment including how cultural heritage values will be managed.

**Process and Outcomes**

The development plan should be prepared with an appropriate level of community participation as determined by the Responsible Authority

An implementation plan must be submitted as part of the development plan, indicating the proposed staging of the development.

The approved Development Plan may be amended to the satisfaction of the responsible authority

## LATROBE PLANNING SCHEME

**4.0 Decision guidelines for development plan**03/03/2011  
C47

Before deciding on a development plan, the Responsible Authority must be satisfied that the plan has regard to the following information:

- Latrobe City Healthy Urban Design Good Practice Guideline: Meeting Healthy by Design® Objectives, April 2008 (as amended);
- Victoria's Native Vegetation Management: A Framework for Action 2002
- Latrobe Healthy by Design® – Background and Issues Report (Beca Pty Ltd, December 2007);
- National Heart Foundation of Australia (Victorian Division) 2004, Healthy by Design: a planners' guide to environments for active living®, National Heart Foundation of Australia (Victorian Division);
- Rescode (Clause 56) – Rescode only applies to residential zones, the Mixed Use Zone and the Township Zone;
- Latrobe City Public Open Space Plan 2007 (as amended).
- Latrobe City Bicycle Plan 2007-2010 (as amended).
- Latrobe City Public Toilet Strategy 2006 (as amended).
- Latrobe Structure Plans Volumes 1-5 (Beca Pty Ltd, 2007)



*Planning and Environment Act 1987*

## LATROBE PLANNING SCHEME

### AMENDMENT C78

#### EXPLANATORY REPORT

#### Who is the planning authority?

This amendment has been prepared by the Latrobe City Council which is the planning authority for this amendment.

The amendment has been prepared at the request of Latrobe City Council.

#### Land affected by the amendment

The amendment applies to a precinct north of Marshalls Road, Traralgon and includes 13 properties at 15, 50 and 55 Glendale Road, Traralgon; and 60, 90, 110, 145, 150, 175, 185, 215, and 220 Marshalls Road, Traralgon ('the Traralgon North precinct'). The Traralgon North precinct is bounded by Traralgon – Maffra Road to the east, Marshalls Road to the south, a floodplain to the west and the existing gas pipeline to the north (see figure 1 below).



Figure 1 – Traralgon North Precinct Boundary

#### What the amendment does

The amendment proposes to:

- Delete Development Plan Overlay Schedule 5 – *Residential Growth Areas* (DPO5) from the Traralgon North precinct; and
- Apply Development Plan Overlay Schedule 7 – *Traralgon North Residential Growth Area* (DPO7) to the Traralgon North precinct.

The amendment:

- Amends Planning Scheme Maps 50DPO, 51DPO and 63DPO
- Amends the Schedule to 43.04 Development Plan Overlay, applying DPO7 to the Traralgon North Precinct.

### **Strategic assessment of the amendment**

#### **• Why is the amendment required?**

The land in the Traralgon North precinct was recently rezoned by the Minister for Planning through Amendment C56. Amendment C56 rezoned the Traralgon North precinct from Farming Zone to Residential 1 Zone and introduced DPO5 to the land. However, DPO5 does not have a mechanism for Latrobe City Council to require development contributions toward key shared infrastructure within the Traralgon North precinct.

Due to the number of landowners within the Traralgon North precinct (i.e. 13 landowners) it would be difficult for Latrobe City Council to obtain landowner agreement on key shared infrastructure required to service the proposed development. Disagreement regarding cost and provision of key shared infrastructure may result in delays in getting land to market. A framework for the provision of key shared infrastructure will provide certainty to the market and therefore encourage investment in residential development in the Traralgon North precinct.

As part of Amendment C58, Latrobe City Council requested the Minister for Planning for the Development Plan Overlay 5 be changed to reflect a Development Contribution requirement. On 19 January 2012 the Minister for Planning provided the following written advice in regard to altering the Development Plan Overlay:

*Given that DPO5 was only recently applied to this land by a Ministerial Amendment (C56), and that your proposal would introduce a requirement for land owners to make a financial contribution, I believe that it would be inappropriate to make this change without consultation. Council should seek authorisation to prepare a Planning Scheme Amendment.*

It is therefore appropriate that a Planning Scheme Amendment be undertaken to introduce DPO7 and replace DPO5 for the entire Traralgon North precinct. DPO7 includes a requirement for landowners to enter into a Section 173 Agreement to contribute towards key shared infrastructure as identified in an approved Development Plan and Development Contribution Plan.

#### **• How does the amendment implement the objectives of planning in Victoria?**

The relevant objectives include:

*S.4(1)(a) to provide for the fair, orderly, economic and sustainable use, and development of land; and*

*S.4(1)(f) to facilitate development in accordance with the objectives set out in paragraph (a).*

The Planning Scheme Amendment implements the objectives of Planning in Victoria by providing for and facilitating orderly development of the Traralgon North precinct. The requirement for development contributions will assist in facilitating the development of the Traralgon North precinct by ensuring that the key shared infrastructure required can be constructed at the right time and then used by future residents of the Traralgon North precinct and the surrounding community.

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

The Planning Scheme Amendment takes into account all significant environmental, social and economic effects, including both the effects the amendment might have on the environment and the effects the environment may have on any use or development envisaged by the amendment.

A detailed assessment of environmental effects including a flora and fauna assessment will be required as part of the proposed DPO7. However an initial flora and fauna assessment has been undertaken as part of the Traralgon North Development Plan and Development Contribution Plan project. The information provided as part of the flora and fauna assessment will be used to inform the preparation of the Development Plan.

The amendment addresses relevant social effects. The introduction of DPO7 will mean that the amendment facilitates an integration of social and community services within the Traralgon North precinct. The development of Traralgon North precinct aims to provide integrated road connections, bike and pedestrian links, consolidated public open space areas, community facilities and connected public transport routes.

The amendment addresses relevant economic effects. The introduction of DPO7 will mean that the amendment will facilitate the orderly development of the Traralgon North precinct. The development of the Traralgon North precinct will provide short to medium term employment in the area by way of building construction. This also may assist in the housing affordability within the Traralgon community.

- **Does the amendment address relevant bushfire risk?**

The Traralgon North precinct has not been identified in the Regional Bushfire Planning Assessment for the Gippsland Region as having a bushfire risk. The Traralgon North precinct is not within a Bushfire Management Overlay.

- **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment is affected by and complies with, Minister Direction 11 *Strategic Assessment of Amendments* under Section 12 of the *Planning and Environment Act*. The Amendment is consistent with the Ministerial Direction on the *Form and Content of Planning Schemes* under Section 7(5) of the Act and Ministerial Direction 15 the *Planning Scheme Amendment Process*.

- **How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?**

**Clause 11 Settlement** states that planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to recognise the need for, and as far as practicable contribute towards:

- Diversity of choice
- A high standard of urban design and amenity
- Accessibility
- Land use and transport integration.

The amendment supports this clause as the introduction of DPO7 will ensure that the new Traralgon North residential precinct will have a diversity of housing choices, accessibility to community facilities, open spaces, high quality urban layout and land use and transport integration within the Traralgon North precinct.

**Clause 11.02 – 1 Supply of urban land – Objective** seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

**Clause 11.02 – 1 Supply of urban land – Strategies** seeks to ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.

The amendment supports this clause as the introduction of DPO7 will ensure that infrastructure to support development, including commercial, retail and community uses are provided for within the development.

**Clause 11.02 – 3 Structure Planning – Objective** seeks to facilitate the orderly development of urban areas.

**Clause 11.02 – 3 Structure Planning – Strategies** seeks to ensure effective planning and management of the land use and development of an area through the preparation of strategic plans, statutory plans, development and conservation plans, development contribution plans and other relevant plans.

The amendment supports this clause as the introduction of DPO7 will require the preparation of a Development Plan and Development Contribution Plan to ensure effective planning and management of land use and development in the Traralgon North precinct.

**Clause 11.02 – 4 Sequencing of Development – Objective** seeks to manage the sequence of development in growth areas so that services are available from early in the life of new communities.

**Clause 11.02 – 4 Sequencing of Development – Strategies** seeks to:

- Require new development to make a financial contribution to the provision of infrastructure such as community facilities, public transport and roads.
- Support opportunities to co-locate facilities.
- Ensure that planning for water supply, sewerage and drainage works receives high priority in early planning for new developments.

The amendment supports this clause as the introduction of DPO7 will ensure that Traralgon North landowners and developers will make a financial contribution in the provision of infrastructure such as community facilities, public transport and roads. DPO7 will require the preparation of the Development Plan which will ensure that the location of facilities and planning for water supply, sewerage and drainage works receives a high priority in the Traralgon North precinct.

**Clause 11.03 – 1 Open Space Planning – Objective** seeks to assist creation of a diverse and integrated network of public open space commensurate with the needs of the community.

**Clause 11.03 – 1 Open Space Planning – Strategies** seeks to:

- Ensure that open space networks:
  - Are linked through the provision of walking and cycle trails and rights of way.
  - Are integrated with open space from abutting subdivisions.
  - Incorporate, where possible, links between major parks and activity areas, along waterways and natural drainage corridors, connecting places of natural and cultural interest, as well as maintaining public accessibility on public land immediately adjoining waterways and coasts.
- Ensure that land is set aside and developed in residential areas for local recreational use and to create pedestrian and bicycle links to commercial and community facilities.

The amendment supports this clause as the introduction of DPO7 will require the preparation of a Development Plan which will ensure that the land is set aside for public open space areas. The Development Plan will also ensure that the location of the open space areas are linked with walking and cycling trails, are integrated with abutting subdivisions and incorporate links along natural features.

**Clause 15.01 – 1 Urban Design – Objective** seeks to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

**Clause 15.01 – 1 Urban Design – Strategies** seeks to ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.

The amendment supports this clause as the introduction of DPO7 will require the preparation of a Development Plan which will ensure that the Traralgon North precinct contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.

**Clause 19.03 – 1 Development contribution plan – Objective** seeks to facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans.

The amendment supports this clause as DPO7 will facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions.

- **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

**Clause 21.04 – 5 – Objective 1 – Urban Design** seeks to provide a visually attractive urban environment which displays a high level of civic pride and community satisfaction, and creates a positive image.

The amendment supports this clause as the introduction of DPO7 will require the preparation of a Development Plan. The Development Plan will ensure that the Traralgon North precinct is visually attractive and contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.

**Clause 21.04 – 6 – Objective 1 – Infrastructure** seeks to maximise the use of existing infrastructure.

**Clause 21.04 – 6 – Strategies** seeks to ensure integration of roads, bike paths, footpaths and public transport options.

The amendment supports this clause as the introduction of DPO7 will require the preparation of the Development Plan. The Development Plan will ensure that the Traralgon North precinct integrates road, bike paths, footpaths and public transport options with existing services.

**Clause 21.05 – 7 – Implementation – Using Zones and Overlays:** the objectives and strategies identified in this Clause will be implemented by applying Development Plans to undeveloped residential land which incorporate Urban Design Good Practice principles and the provision of infrastructure and community services through developer contribution plans if required.

The amendment supports this clause as the introduction of DPO7 will require the preparation of the Development Plan and a Development Contribution Plan.

**Clause 21.08 – 3 Healthy Urban Design Overview – Objective 1 – Healthy Urban Design** seeks to provide for walkable neighbourhoods, ensuring public transport, shops, public open space and mixed-use community centres are close to all dwellings.

**Clause 21.08 – 3 Healthy Urban Design Overview – Objective 2 – Healthy Urban Design** seeks to increase and maximise public transport opportunities between towns and within corridors to support the networked city.

The amendment supports this clause as the introduction of the DPO7 will require the preparation of the Development Plan. The preparation of a Development Plan will provide for walkable neighbourhoods ensuring public transport, shops, public open space and mixed use community centres are close to all dwellings.

• **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment has been prepared with reference to the:

- *VPP Practice Note Applying the Incorporated Plan and Development Plan Overlays, January 2003*
- *VPP Practice Note Writing Schedules, May 2000*
- *General Practice Note Strategic Assessment Guidelines*

The amendment proposes to introduce DPO7 to the Traralgon North precinct. The purpose of the Development Plan Overlay is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.
- To exempt an application from notice and review if it is generally in accordance with a development plan.

DPO7 is considered an appropriate VPP tool to use as it will help ensure an integration of road, bike and path networks, public open space and public transport connections. Along with requiring the specific form in which the development plan must be prepared, DPO7 also requires development contributions as a specific condition that needs to be met prior to the issue of the planning permit.

The amendment also proposes to remove DPO5 from the Traralgon North precinct. The removal of this overlay is appropriate as the overlay does not have any requirement for development contributions. DPO7 generally is consistent with DPO5, apart from requiring development contributions.

• **How does the amendment address the views of any relevant agency?**

All agencies and authorities will be formally notified as part of the exhibition process of the amendment. Agencies and authorities have been, and will continue to be, consulted as part of the Traralgon North Development Plan and Development Contribution Plan project.

• **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment is not likely to have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*.

**Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The implementation of the new planning provision will not result in increased costs to the responsible authority, from both an administrative and resource perspective. The preparation of the Development Plan and Development Contribution Plan for Traralgon North forms part of 2012 / 2013 Council Plan and 2012 / 2013 budget.

**Panel hearing dates**

In accordance with Clause 6(1)(b) of Ministerial Direction No.15 a panel hearing dates have not been set as the Planning Scheme Amendment C78 gave notice under section 19 of the Act prior to the 25 October 2012. Therefore Clause 4(2) of Ministerial Direction 15 does not apply.

**Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

Latrobe City Council  
Corporate Headquarters  
141 Commercial Road  
Morwell VIC 3840

Latrobe City Council  
Traralgon Service Centre  
34-38 Kay Street  
Traralgon VIC 3844

Latrobe City Council  
Moe Service Centre  
44 Albert Street  
Moe VIC 3825

Latrobe City Council  
Churchill Service Centre  
9 – 11 Philip Parade  
Churchill VIC 3842

The amendment can also be inspected free of charge at the Department of Planning and Community Development website at [www.dpcd.vic.gov.au/planning/publicinspection](http://www.dpcd.vic.gov.au/planning/publicinspection).

## DRAFT CHANGES IN RESPONSE TO COOMES PLANNING SUBMISSION 11/12/12

-/-/20--  
C**SCHEDULE 7 TO THE DEVELOPMENT PLAN OVERLAY**Shown on the planning scheme map as **DPO7****TRARALGON NORTH RESIDENTIAL GROWTH AREA****1.0**-/-/20--  
C**Requirement before a permit is granted for Minor Buildings and Works**

~~A permit may be granted before a development plan has been prepared to the satisfaction of the responsible authority for the following:~~

- ~~▪ A minor extension, minor addition or minor modification to an existing development that does not prejudice the future, orderly development of the general area affected by the Development Plan Overlay.~~

**Definition**

'Minor Buildings and Works' means a minor extension, minor addition or minor modification to an existing buildings and works that does not prejudice the future, orderly development of the general area affected by the Development Plan Overlay.

**Before a development plan has been prepared**

A permit may be granted for Minor Buildings and Works before a development plan has been prepared to the satisfaction of the responsible authority.

**2.0**-/-/20--  
C**Conditions and requirements for permits****2.1****Infrastructure contributions condition**

Except for a permit granted ~~before a development plan has been approved in accordance with~~ for Minor Buildings and Works ~~Clause 1.0 of the schedule~~, a permit must contain the following condition:

- Prior to the commencement of any development, the owner(s) of the land must enter into an agreement under section 173 of the *Planning & Environment Act 1987*. The agreement must provide for infrastructure contributions to be paid ~~prior to the commencement of any development of the land or prior~~ to the issue of a statement of compliance in respect of the subdivision of land. The agreement must require the payment of infrastructure contributions for :
  - The acquisition of any land required for a road reserve for a road that Council proposes to be funded by the contributions agreement. Where that road is proposed to be wider than what presently exists, the infrastructure payment required must only relate to the additional width of the required road reserve. The contributions must be in the proportions set out in the development contributions tables in the approved development plan.
  - The construction of any road that Council proposes is to be funded by the contributions agreement. If widening is to an existing road, then the infrastructure payment required must only relate to the difference between a road comprising the existing pavement width and a road comprising a widened pavement and associated facilities in the proportions set out in the development contributions tables in the approved development plan.
  - The design and construction of stormwater drainage infrastructure including main drainage, wetlands, and retarding basins as described in the approved development plan.
  - The improvement of public open space, including active open spaces as identified in the approved development plan.



## DRAFT CHANGES IN RESPONSE TO COOMES PLANNING SUBMISSION 11/12/12

- The acquisition of land for public open space, including active open spaces and community facilities, in the proportions set out in the development contributions tables in the approved development plan.
- A contribution towards the development of community facilities in the proportions set out in the development contributions tables in the approved development plan.
- The acquisition of land for stormwater drainage purposes in the proportions set out in the development contributions tables in the approved development plan.
- Infrastructure associated with the proposed bus route.
- Traffic calming treatments.
- The walking and cycling network including safe crossing points on the abutting arterial roads (excluding footpaths along roads).

The agreement must be prepared at the cost of the owner(s) and be to the satisfaction of the responsible authority.

## 2.2 Development permit decision guidelines

Before deciding on an application to subdivide land, construct buildings, or carry out works, the responsible authority must consider, as appropriate:

- Whether the development of the land is occurring in an orderly manner having regard to essential services, community facilities, open space and roads.
- The potential for future re-subdivision.
- The interface between proposed and existing nearby developments, to reduce the chance of conflicting developments.
- The need to minimise access points to designated Category 1 Roads.
- The design of any proposed buildings to enhance and reinforce the character of the area.
- The timing and staging of the development of the land.
- The consistency of the proposed development with the approved development plan.
- The consistency of the proposed development with adopted structure plans, where relevant.

## 3.0 Requirements for development plan

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C

A development plan must be prepared to the satisfaction of the responsible authority.

A single Development Plan must be prepared for the whole of the land to which this schedule applies.

The Development Plan must be informed by a detailed site analysis of the natural, cultural and strategic context of the site to the satisfaction of the Responsible Authority.

The plan must show:

### 3.1 Land use and subdivision

- The proposed boundaries of the development area, and provide the strategic justification for those boundaries.
- The overall subdivision of the area, including where possible, the proposed lot layout, sizes and density of lots which provide opportunities for a diverse range of housing types.
- The overall pattern of development of the area, including any land use activity areas.
- Street networks that support building frontages with two way surveillance.
- An accessible and integrated network of walking and cycling routes for safe and convenient travel to adjoining communities (including existing and future areas

## DRAFT CHANGES IN RESPONSE TO COOMES PLANNING SUBMISSION 11/12/12

included in the DPO), local destinations or points of local interest, activity centres, community hubs, open spaces and public transport.

- The provision of any commercial facilities and the extent to which these can be co-located with community and public transport facilities to provide centres with a mix of land uses and develop vibrant, active, clustered and more walkable neighbourhood destinations.

**Waterways**

- ~~A buffer zone of 30 metres each side of the waterways designated under the Water Act 1989 or a buffer based on a study which identifies the flood or drainage extent must be set aside for ecological purposes.~~

**3.2****Infrastructure Services**

- An integrated stormwater management plan that incorporates water sensitive urban design techniques which provides for the protection of natural systems, integration of stormwater treatment into the landscape, improved water quality, and reduction and mitigation of run-off and peak flows, including consideration of downstream impacts.
- Provision of a road network providing a high degree of connectivity and external and internal permeability.
- The pattern and location of the major arterial road network of the area including the location and details of any required:
  - road widening
  - intersections
  - access points
  - pedestrian crossings or safe refuges
  - cycle lanes
  - bus lanes and stops
- The pattern and location of any internal road system based on a safe and practical hierarchy of roads including safe pedestrian and bicycle connections and crossing points in accordance with Latrobe City Bicycle Plan 2007-2010, (as amended).
- In consultation with relevant agencies and authorities, provision of public transport stops where appropriate within easy walking distance to residential dwellings and key destinations. Stops should also be located near active areas where possible.

**3.3****Open Space**

- A landscape concept plan for all open space areas, indicating the location of plantings, pathways, shade, shelter and seating at activity areas as well as at intervals along pathways.
- The location and size of the proposed open spaces that cater for a range of user groups and provide a variety of functions that perform both an active and passive role for recreation, as appropriate.
- Public open spaces designed to provide:
  - Public spaces of a minimum of 0.5 hectares within a 500 metre walking distance of all residents in accordance with Latrobe City Public Open Space Plan 2007, (as amended).
  - The inclusion of pedestrian and cycle paths and play equipment, that encourage active recreational opportunities.
  - Opportunities for visual surveillance to promote safety of users, through encouraging active frontages, using buildings to frame public spaces and locating open spaces within or adjacent to activity centres where possible.

## DRAFT CHANGES IN RESPONSE TO COOMES PLANNING SUBMISSION 11/12/12

**3.4 Community Hubs and Meeting Places**

- In consultation with relevant agencies and authorities, the provision of appropriate community facilities, including schools, pre-schools, maternal child health centres, senior citizen centres and general community centres within a walkable range of 400-800 metres across large subdivisions.
- Provision for access and social interaction, particularly where this encourages physical activity. For example:
  - Consider the need for public amenities, including toilets and bicycle parking at key destinations in accordance with the Latrobe City Public Toilet Strategy 2006 (as amended) and Latrobe City Bicycle Plan 2007-2010 (as amended).
  - The pattern and location of pedestrian and bicycle paths should provide safe and practical access to and from community hubs and meeting places.
  - Spaces should be designed to accommodate community events and cultural programs including local arts activities and other festivals.

**3.5 Flora and Fauna**

- In consultation with relevant agencies and authorities, a flora and fauna survey, prepared by a suitably qualified expert, which includes but is not limited to species surveys for Growling Grass Frog (*Litoria raniformis*) and Dwarf Galaxias (*Galaxiella pusilla*), and measures required to protect the identified species.
- An assessment of any native vegetation to be removed having regard to Victoria's Native Vegetation Management: A Framework for Action, including how it is proposed to protect and manage any appropriate native vegetation.
- Regard must be had to the West Gippsland Native Vegetation Plan 2003.
- Any management plan should take into account that the Strzelecki Bioregion is one of Victoria's most fragmented Bioregions and address this as a consideration.

**3.6 Cultural Heritage**

- A cultural heritage assessment including how cultural heritage values will be managed.

**3.7 Process and Outcomes**

The development plan should be prepared with an appropriate level of community participation as determined by the responsible authority

An implementation plan must be submitted as part of the development plan, indicating the proposed staging of the development.

The approved development plan may be amended to the satisfaction of the responsible authority.

**3.8 Development Contributions**

The Development Plan must include:

- Development contributions tables including an equalisation table which identifies the proportion of each lot which is to be provided for road purposes, open space and stormwater drainage purposes. Once the Development Plan is approved incorporating the development contributions tables, the Development Plan (and the various tables) must not be amended without specific consideration of the impacts that changes to the Development Plan and the various tables will have on the ability of Council to deliver the road, public open space and stormwater infrastructure.
- A clause which explains how the equalisation of land and contributions for the various items of infrastructure is to operate.

## DRAFT CHANGES IN RESPONSE TO COOMES PLANNING SUBMISSION 11/12/12

The approved Development Plan may be amended to the satisfaction of the responsible authority.

**4.0 Decision guidelines for development plan**

~~4.0~~  
c

Before deciding on a development plan, the responsible authority must be satisfied that the plan has regard to the following information:

- Latrobe City Healthy Urban Design Good Practice Guideline: Meeting Healthy by Design® Objectives, April 2008 (as amended);
- Victoria's Native Vegetation Management: A Framework for Action 2002
- Latrobe Healthy by Design® – Background and Issues Report (Beca Pty Ltd, December 2007);
- National Heart Foundation of Australia (Victorian Division) 2004, Healthy by Design: a planners' guide to environments for active living®, National Heart Foundation of Australia (Victorian Division);
- Rescode (Clause 56) – Rescode only applies to residential zones, the Mixed Use Zone and the Township Zone;
- Latrobe City Public Open Space Plan 2007 (as amended).
- Latrobe City Bicycle Plan 2007-2010 (as amended).
- Latrobe City Public Toilet Strategy 2006 (as amended).
- Latrobe Structure Plans Volumes 1-5 (Beca Pty Ltd, 2007)

**Naomi Campbell**

---

**From:** Griffin, Melissa <Melissa.Griffin@smec.com>  
**Sent:** Tuesday, 9 July 2013 5:34 PM  
**To:** Lorrae Dukes  
**Cc:** Michelle Kerry  
**Subject:** Traralgon North Development Plan

Dear Lorrae,

I hope you are well.

Thank you for your recent correspondence regarding the Traralgon North Development Plan and Development Contributions Plan and particularly our submission to this plan.

Just very briefly to confirm our position regarding the Development Contributions Plan and the application of the Development Plan Overlay Schedule 7 through Planning Scheme Amendment 78 we do not wish for our comments to be treated as a formal submission for the purpose of the Planning Scheme Amendment. Therefore, we do not wish for this matter to be considered at a Panel.

I will confirm this for you formally in writing tomorrow however, I just wanted to touch base with you so that you are aware of where we stand and there are no unnecessary delays.

Kind regards,

**Melissa Griffin** | Senior Urban Planner  
**SMEC Urban**  
18 Breed Street, Traralgon, Victoria 3844, Australia  
M +61 409 869 865  
[melissa.griffin@smec.com](mailto:melissa.griffin@smec.com) | [www.smecurban.com.au](http://www.smecurban.com.au) | [www.smec.com](http://www.smec.com)

*Integrated Urban Development Consulting*



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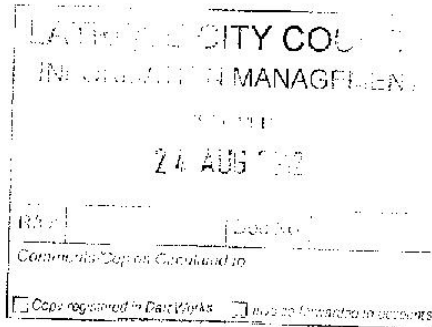
This e-mail has been scanned for viruses by Symantec.Cloud.

## Submission 1

Our Ref: 27582 – PL8163  
Your Ref: C78

22 August 2012

Ms Lorrae Dukes  
Senior Strategic Planner  
Latrobe City Council  
PO Box 264  
MORWELL VIC 3840



7 Church Street  
Traralgon  
Victoria 3844  
PO Box 1332  
Traralgon Victoria 3844  
T: 1300 EPA VIC  
F: 03 5174 7851  
DX 219292  
[www.epa.vic.gov.au](http://www.epa.vic.gov.au)

Dear Lorrae,

**PLANNING SCHEME AMENDMENT C78**

Thank you for your letter dated 10 August 2012 regarding the above planning scheme amendment.

The planning scheme amendment relates to the removal of Development Plan Overlay Schedule 5 (DPO5) from the Traralgon North precinct and introduce Development Plan Overlay Schedule 7 (DPO7).

EPA has reviewed the amendment and has no objection or comments to make.

Please contact our Planning Assessment Officer, Karen Taylor on 1300 EPA VIC (1300 372 842) if you require further information or advice.

Yours Sincerely

GARRY KAY  
EPA GIPPSLAND



Submission 2



**CMA Application No:** WG-F-2011-0372-DE  
**Document No:** 2  
**Council No:** Amendment C78  
**Date:** 7<sup>th</sup> September, 2012

Lorrae Dukes  
Strategic Land Use Planning Officer  
Latrobe City Council  
PO Box 264  
Morwell Vic 3840

Dear Lorrae,

**Regarding: Amendment C78 – Traralgon North Precinct**

Thank you for the opportunity for the West Gippsland Catchment Management Authority (WGCMA) to provide comment on Amendment C78 - **Traralgon North Precinct**.

WGCMA has an interest in assessing Councils strategic plans to ensure that a balance between satisfactory local and regional environmental outcomes, and the right for development to occur in areas zoned for development.

The WGCMA has previously provided comment to Millar Merrigan in August 2011 regarding future residential development in this area. Workshops have been attended and Draft Plans have been received over the last 12 months and the Authority appreciates being kept informed at all stages of the process.

The Authority notes that the purpose of Amendment C78 is to:

- Remove the Development Plan Overlay Schedule 5 (DPO5) from the Traralgon North precinct; and
- Introduce the Development Plan Overlay Schedule 7 (DPO7) to the Traralgon North precinct

DPO7 requires the preparation of a development plan for the whole of the land. The plan must show an integrated stormwater management plan. The Authority would like to work with Council and the developer of the stormwater management plan to ensure downstream River Health values are protected.

The Authority would also like to note that low lying parts of 175, 185 and 215 Marshalls Rd shown within DPO7 are impacted by the LSIO. The Authority does not support development within these areas.

Should you have any queries, please do not hesitate to contact me on 1300 094 262. To assist the CMA in handling any enquiries please quote **WG-F-2011-0372-DE** in your correspondence with us.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Adam Dunn', is written over a light blue background.

**Adam Dunn**  
**Statutory Planning Manager**

The information contained in this correspondence is subject to the disclaimers and definitions attached.

E:2011-0372-DE-02

Page 1 of 2

**Definitions and Disclaimers**

1. The area referred to in this letter as the 'proposed development location' is the land parcel(s) that, according to the Authority's assessment, most closely represent(s) the location identified by the applicant. The identification of the 'proposed development location' on the Authority's GIS has been done in good faith and in accordance with the information given to the Authority by the applicant(s) and/or Latrobe City Council.
2. While every endeavour has been made by the Authority to identify the proposed development location on its GIS using VicMap Parcel and Address data, the Authority accepts no responsibility for or makes no warranty with regard to the accuracy or naming of this proposed development location according to its official land title description.
3. **AEP** as Annual Exceedance Probability – is the likelihood of occurrence of a flood of given size or larger occurring in any one year. AEP is expressed as a percentage (% risk and may be expressed as the reciprocal of ARI (Average Recurrence Interval).

Please note that the 1% probability flood is not the probable maximum flood (PMF). There is always a possibility that a flood larger in height and extent than the 1% probability flood may occur in the future.

4. **AHD** as Australian Height Datum - is the adopted national height datum that generally relates to height above mean sea level. Elevation is in metres.
5. **ARI** as Average Recurrence Interval - is the likelihood of occurrence, expressed in terms of the long-term average number of years, between flood events as large as or larger than the design flood event. For example, floods with a discharge as large as or larger than the 100 year ARI flood will occur on average once every 100 years.
6. No warranty is made as to the accuracy or liability of any studies, estimates, calculations, opinions, conclusions, recommendations (which may change without notice) or other information contained in this letter and, to the maximum extent permitted by law, the Authority disclaims all liability and responsibility for any direct or indirect loss or damage which may be suffered by any recipient or other person through relying on anything contained in or omitted from this letter.
7. This letter has been prepared for the sole use by the party to whom it is addressed and no responsibility is accepted by the Authority with regard to any third party use of the whole or of any part of its contents. Neither the whole nor any part of this letter or any reference thereto may be included in any document, circular or statement without the Authority's written approval of the form and context in which it would appear.
8. The flood information provided represents the best estimates based on currently available information. This information is subject to change as new information becomes available and as further studies are carried out.



Submission 3

14 September 2012

Our reference: COR/12/35014  
Your reference

Lorrae Dukes  
Senior Strategic Planner  
Latrobe City Council  
P.O. Box 264  
**MORWELL VIC 3840**

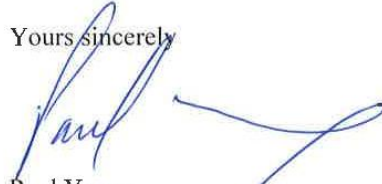
Dear Lorrae,

**RE: Amendment C78 – Notice of Preparation of an amendment**

In response to the amendment C78, Gippsland Water has no objection.

If there are any matters about this response that you would like to discuss, please contact myself via either email [paul.young@gippswater.com.au](mailto:paul.young@gippswater.com.au) or phone 51 774 728.

Yours sincerely



Paul Young  
Senior Planning Engineer



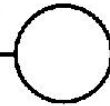
**GIPPSLAND**  
WATER

Hazelwood Road  
PO Box 348  
Traralgon Victoria 3844  
Telephone: (03) 5177 4600  
Facsimile: (03) 5174 0103  
[contactus@gippswater.com.au](mailto:contactus@gippswater.com.au)  
[www.gippswater.com.au](http://www.gippswater.com.au)

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Thomestown VIC 3074

Telephone 61 3 9463 8222  
Fax 61 3 9463 8219  
www.pipelinetrust.com.au

# APA Group



Australian Pipeline Ltd  
ACN 091 344 704

Australian Pipeline Trust  
ARSN 091 678 778

APT Investment Trust  
ARSN 115 585 441

APT O&M Services Pty Ltd  
ABN 11 112 358 586

**Submission 4**

*Our reference:* COU/2012 058  
*Your reference:* C78  
*Enquiries:* Mr. G. Colthup  
*Extension:* 404

Date: 13 September, 2012

La Trobe Shire  
Statutory Planning  
P.O. Box 264  
Morwell, VIC. 3840

**Attention: Lorrae Dukas**

Dear Sir/Madam,

**LATROBE CITY PLANNING SCHEME - PROPOSED AMENDMENT C78**  
**TRARALGON**

Reference is made to your letter, dated 10<sup>th</sup> August 2012, with the accompanying plans.

APA Group, as a licensed gas distributor under the Gas Industry Act 2005, and a referral authority under the Subdivision Act, manages an extensive natural gas asset network throughout this area and as such has reviewed the affect this proposal will have on existing APA Group gas network assets.

As shown on the attached District Plan, APA Group has existing gas assets located within the area you defined. That being a 200mm High Pressure Gas Supply main, located within an easement, alongside Traralgon-Maffra Road.

Provided all rights and privileges currently enjoyed by APA Group are retained in relation to this gas asset, then APA Group has no objection to Council proposed Amendment C78 to the Latrobe City Planning Scheme, as described in their letter dated 10<sup>th</sup> August 2012.  
*(However, future subdivision development proposals in the area of the existing gas easement should be forwarded, when available, to APA Group for our further comment.)*

Enclosed for your information is a copy of APA Group District Plans, as listed below, showing the recorded location of existing gas mains.

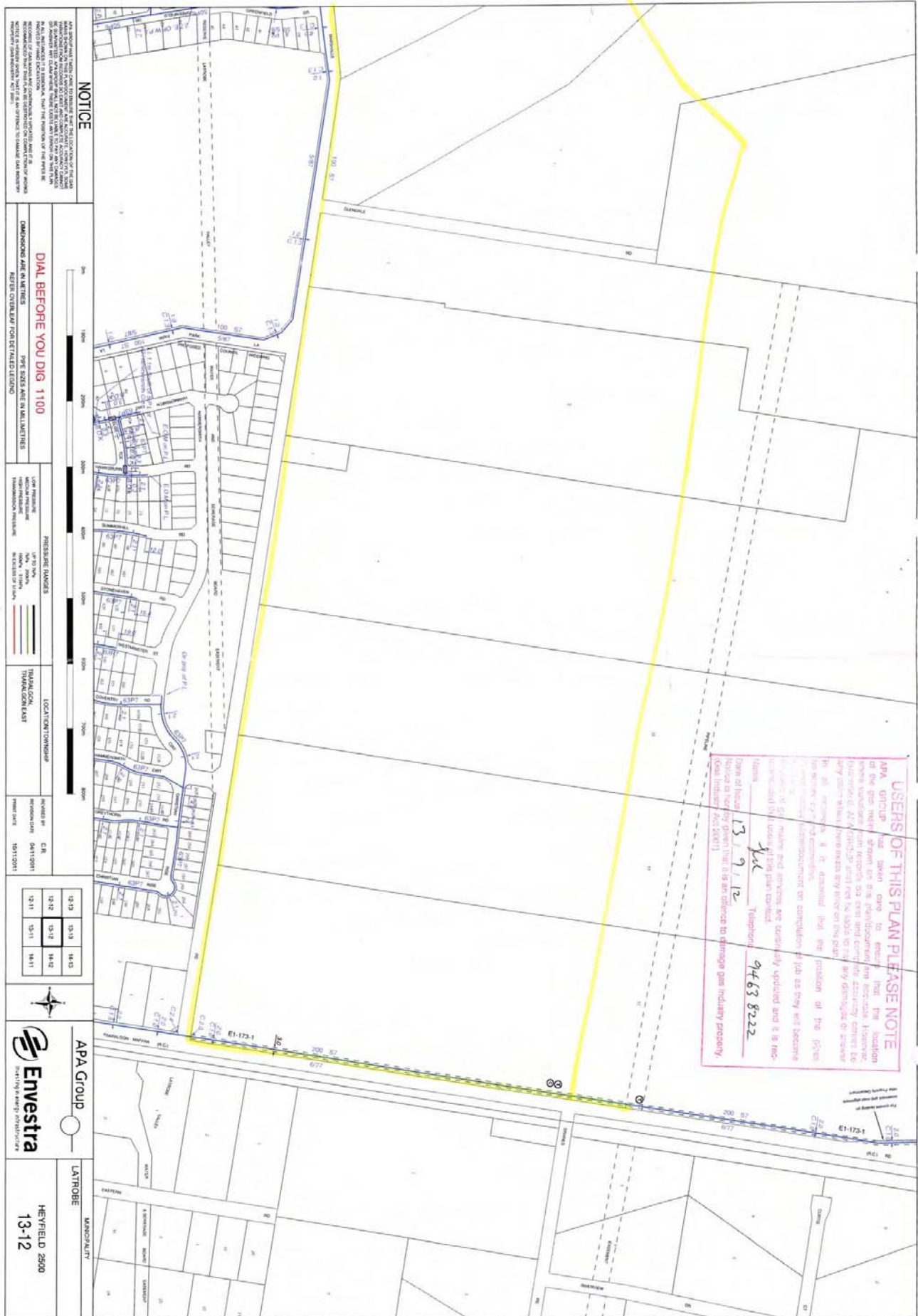
Yours faithfully,

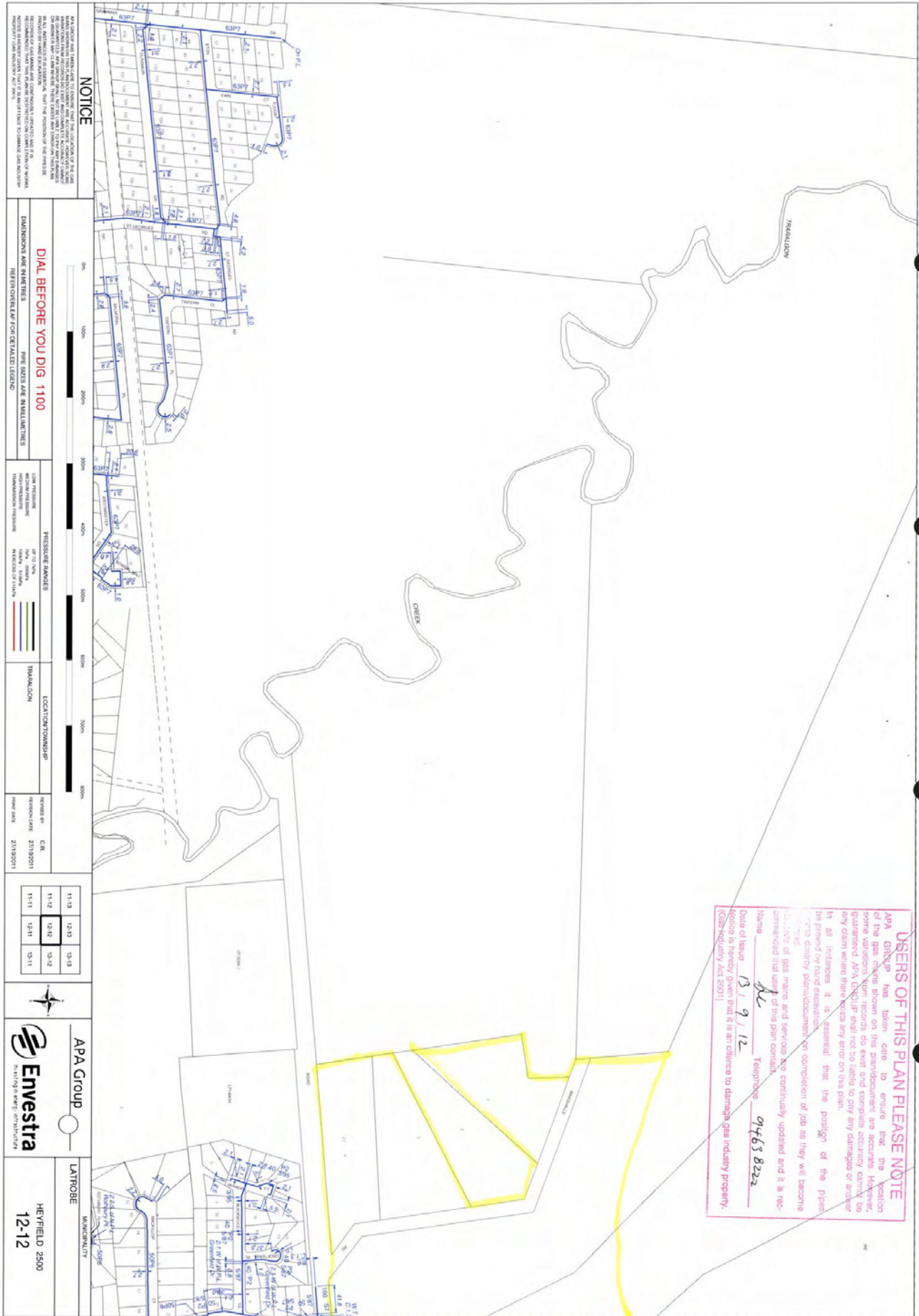
**PAUL KOEDIJK**  
**PROJECTS MANAGER**  
**PLANNING & ENGINEERING**

District Plan: Heyfield 2500: 12-12 and 13-12

LATROBE CITY COUNCIL INFORMATION MANAGEMENT	
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Note: APA Group acts as the Network Operator on behalf of Envestra, (Vic Gas Distribution Pty Ltd), a licensed gas distributor in relation to all works in the vicinity of Envestra gas reticulation mains and transmission pipelines.





Submission 5a



PO Box 132  
Camberwell Vic 3124  
Tel: 9830 0088  
Fax: 9830 1043  
email:  
office@coomesplanning.com.au

Town Planning &  
Property Consultants

21 September 2012

Our Ref:

Ms L. Dukes  
Senior Strategic Planner  
Latrobe City Council  
PO Box 264,  
Morwell 3840

Dear Ms Dukes

AMENDMENT C78  
LARTROBE PLANNING SCHEME

We act for Mrs E. Swan who is the owner of the land at 110 Marshalls Road, Traralgon, which is affected by this amendment. Whilst our client does not oppose the broad principles embodied in the amendment there are a number of matters which are of concern to her.

The details of these concerns are as follows:

1. Clause 43.04-1 establishes requirements which must be met prior to the granting of a permit for use and development. It contains no specific provisions relating to the requirements for a permit to issue, so presumably the permit referred to in the clause relates to a permit issued pursuant to another provision of the planning scheme, including a permit issued pursuant to the provisions of the Residential 1 Zone in which the land is located.
2. In the preamble of Paragraph 2.0 prior to the first dot point reference is made to the requirement that any permit granted must contain the condition nominated in the following dot point. This condition provides that prior to the commencement of any development the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987. The purpose of the agreement is to provide for infrastructure contributions to be paid prior to the issue of a statement of compliance in respect of the subdivision of land.

The requirement does not distinguish between a permit issued for a "use" or a permit issued for a "development" other than the subdivision of land, although it does restrict the requirement to enter into a section 173 agreement to the development of land.

Furthermore, the Paragraph requires a section 173 agreement to be entered into prior to the commencement of any development of the land, including development other than the subdivision of land. For such development, the requirement that "infrastructure contributions be paid prior to the issue of a statement of compliance" is not just confusing it is also meaningless. If no statement of compliance is required for a development, it is clearly not possible for any infrastructure contributions to be paid in respect of the development to be carried out.

If it is intended that development contributions be paid for development other than the subdivision of land, then there is no trigger for the payment of such contributions to be made. In the absence of such trigger, the contribution is unable to be paid on there for

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Coomes Planning  
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A.B.N 22 740 465 161

COOMES PLANNING

2.

development, which has the benefit of a permit, cannot be carried out. This is clearly a highly unsatisfactory situation.

It is clear that this provision needs to be rewritten and for clarification to be provided as to whether or not development contributions are required on all development or only for the subdivision of land.

3. As the first dot point under Paragraph 2.0 requires the payment of infrastructure contributions "prior to the issue of a statement of compliance in respect of the subdivision of land" and makes no other provision for payment to be made, the words "development plan" where they appear in the first line of Paragraph 2.0 should be replaced with the words "the subdivision of land".
4. The entering into a section 173 agreement is a mandatory requirement of the Schedule, prior to the subdivision of any land. It is therefore requirement that affects every parcel of land which is to be subdivided, however the contents of such an agreement are unknown. Prior to any further consideration of this amendment, a "model" section 173 agreement should be prepared by Council and provided to each of the landowners so that they, and any successors in title to the land, are fully aware of the full contents of the agreement. This "model" agreement should then be the basis for all agreements entered into with permit holders.
5. Paragraph 3.0 makes provision for "Waterways". In the consultation meeting with landowners held at Council on 28 August 2012 in which the Draft Development Plan was outlined by Council officers and Council's consultants, the statement was made that there are no waterways which affect the land to which the development plan overlay applies. As a consequence this provision of the Schedule should be deleted as it is inappropriate for the overlay to contain provisions which are irrelevant to the anticipated development.

This letter is to be considered as a submission pursuant to section 21 of the Planning and Environment Act 1987. In addition, our client wishes to be heard on these matters before any Panel appointed by the Minister to consider submissions.

Please contact me if you wish to discuss any of these comments. In

Yours faithfully  
**COOMES PLANNING**



**J.L. COOMES**  
Director

**Submission 5b**

**From:** Jim Coomes [JCoomes@coomesplanning.com.au]  
**Sent:** Tuesday, 11 December 2012 5:15 PM  
**To:** Lorrae Dukes  
**Subject:** RE: Amendment C78 - Update Development Plan Overlay Schedule 7  
Thanks Lorrae

Yes, happy to withdraw the objection.

Regards

**Jim Coomes**  
Director  
Coomes Planning  
PO Box 132  
Camberwell  
Victoria 3124

Phone 0418 100 189  
Fax (03) 9830 1043  
E-mail jcoomes@coomesplanning.com.au

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**From:** Lorrae Dukes [mailto:Lorrae.Dukes@latrobe.vic.gov.au]  
**Sent:** Tuesday, 11 December 2012 4:46 PM  
**To:** Jim Coomes  
**Subject:** RE: Amendment C78 - Update Development Plan Overlay Schedule 7

Thanks Jim

I agree with your comment below. I have now made this change to the draft DPO7 Schedule. Please find attached.

If this is ok, could you please re-confirm that you are happy to withdraw your objection.

Thanks

**Lorrae Dukes**  
Senior Strategic Planner  
Latrobe City Council

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[mailto: Lorrae.Dukes@latrobe.vic.gov.au](mailto:Lorrae.Dukes@latrobe.vic.gov.au)  
Direct: 03 5128 5462  
Fax: (03) 5128 5672  
Phone: 1300 367 700  
PO Box 264, Morwell 3840  
141 Commercial Rd, Morwell 3840



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<http://www.latrobe.vic.gov.au/>

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**From:** Jim Coomes [mailto:JCoomes@coomesplanning.com.au]  
**Sent:** Tuesday, 11 December 2012 2:26 PM  
**To:** Lorrae Dukes  
**Subject:** RE: Amendment C78 - Update Development Plan Overlay Schedule 7

Hi Lorrae

Apologies for my delay in getting back to you.

On behalf of my clients I have no objections to the changes to the proposed Schedule, subject to the following comment.

In line 2 of the definition of "Minor Buildings and Works" you have the words "modification to an existing development". As development, by definition includes subdivision I wonder whether or not it should be replaced by the phrase "modification to existing buildings and works".

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Obviously one of the objectives of the schedule is to ensure that subdivision and substantial development does not take place in the absence of a section 173 agreement being entered into. I guess also you would not want an owner building houses that face onto one of the existing roads in a manner that may prejudice the overall development plan and in the absence of a section 173 agreement.

Regards

**Jim Coomes**  
Director  
Coomes Planning  
PO Box 132  
Camberwell  
Victoria 3124

Phone 0418 100 189  
Fax (03) 9830 1043  
E-mail [jcoomes@coomesplanning.com.au](mailto:jcoomes@coomesplanning.com.au)

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**From:** Lorrae Dukes [<mailto:Lorrae.Dukes@latrobe.vic.gov.au>]  
**Sent:** Thursday, 6 December 2012 10:31 AM  
**To:** Jim Coomes  
**Subject:** FW: Amendment C78 - Update Development Plan Overlay Schedule 7

Hi Jim

Further to my e-mail below on 12 November.  
Can you please advise as to whether the changes proposed for the DPO7 and the sample Section 173 agreement provided satisfy the concerns raised in your submission or not.  
If you could please provide me with a response by COB Friday 7 December 2012 so I can progress the Planning Scheme Amendment to the next stage.

If you have any question, please don't hesitate to give me a call.

Thanks

**Lorrae Dukes**  
Senior Strategic Planner  
Latrobe City Council

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[mailto: Lorrae.Dukes@latrobe.vic.gov.au](mailto:Lorrae.Dukes@latrobe.vic.gov.au)  
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**From:** Lorrae Dukes  
**Sent:** Monday, 12 November 2012 9:30 AM  
**To:** Jim Coomes  
**Subject:** Amendment C78 - Update Development Plan Overlay Schedule 7

Hi Jim

Please find attached proposed changes to Development Plan Overlay Schedule 7 in response to your submission received on 21 September 2012.

As discussed at the 'one on one' session for the Traralgon North Development Plan and Development Contribution Plan on the 30 October 2012 Latrobe City Council does not have a template section 173 Agreement. However, a sample section 173 agreement was provided to you, which we have used for previous Development Contribution Plans. As discussed, Latrobe City Council is willing to negotiate an appropriate section 173 agreement with the landowners at the time a planning permit is issued. This can provide an opportunity to discuss individual issues to meet the needs of both the landowner and Latrobe City Council.

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I hope that the proposed changes satisfy the concerns raised in your submission.

Can you please advise me by Friday 23 November 2012 if the concerns raised in your submission have been addressed and you are willing to withdraw your submission.

If you have any questions, please feel free to contact me on the number below.

Thanks

**Lorrae Dukes**  
Senior Strategic Planner  
Latrobe City Council

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**16.4 PLANNING PERMIT APPLICATION 2012/318 - DEVELOPMENT  
OF FOUR (4) DWELLINGS ON A LOT AT 5 TINTERN PLACE,  
TRARALGON****General Manager****Governance****For Decision****PURPOSE**

The purpose of this report is to determine Planning Permit Application 2012/318 for the development of four (4) dwellings on a Lot at 5 Tintern Place, Traralgon.

**DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

***Latrobe 2026: The Community Vision for Latrobe Valley******Strategic Objectives – Built Environment***

In 2026, Latrobe Valley benefits from a well planned built environment that is complimentary to its surroundings and which provides for connected and inclusive community.

***Latrobe City Council Plan 2013 - 2017******Strategic Direction – Planning for the future***

Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.

***Legal***

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act 1987* (the Act) and the Latrobe Planning Scheme (the Scheme), which apply to this application.

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

**BACKGROUND**

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)****SUMMARY**

Land:	5 Tintern Place, Traralgon, known as Lot 18 on Plan of Subdivision 017805
Proponent:	Hipo Investments
Zoning:	Residential 1 Zone
Overlay	No Overlays

A Planning Permit is required for the development of two or more dwellings on a lot for land in the Residential 1 Zone in accordance with Clause 32.01-4 of the Scheme.

**PROPOSAL**

The application is for the development of four dwellings on a lot within the Residential 1 Zone. The development will result in four dwellings on a lot with the following characteristics:

Proposed dwelling 1 will contain two (2) bedrooms, a kitchen, family and dining area, bathroom and laundry. It is set back at a minimum of 4.06 metres, with the entrance addressing the Tintern Place frontage. One secured parking space is provided in the garage. The private open space area is located to the north of the proposed family/living area.

Proposed dwellings 2 and 3 contain one (1) bedroom, a study, a kitchen, family and dining area and bathroom. One secure car parking space is provided for each dwelling, encompassed within each respective garage. The private open space areas for the proposed dwellings are located to the north of the proposed living/family area for dwelling 2, and to the south of the proposed living/family area for dwelling 3.

Proposed dwelling 4 will contain one (1) bedroom, a kitchen, family and dining area, bathroom and laundry. The private open space area is located to the north of the proposed family/living area

One (1) new crossover is proposed from the Tintern Place frontage to establish access to the driveways servicing the proposed garages. Landscaping treatments are proposed along the eastern and southern boundaries, addressing the eastern property boundary and Tintern Place frontage.

Refer to *Attachment 1* to view a copy of the proposed plans.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### Subject Land:

The subject land is located to the north of the Traralgon Township in an emerging residential precinct, which has come as a result of a recent subdivision of the area. The site has an overall area of 923 square metres with a 23 metre frontage to Tintern Place. The lot is of a rectangular shape, currently vacant, generally flat and predominantly covered in grass.

The subject land is located in Area 12 of the Traralgon Structure Plan, approximately 1.5 kilometres from the Traralgon CBD. The subject site is located outside of the Traralgon Principle Activity Centre, outside of the Transit Activity Precinct and is in excess of 800 metres from any existing or proposed Neighbourhood Activity Centres identified in the Structure Plan.

### Surrounding Land Use:

North:	Lot A PS 620558N Residential 1 Zone Vacant Land;
South:	Road, sealed with kerb and channel (Tintern Place); and  19 Tintern Place, TRARALGON Residential 1 Zone Single dwelling and ancillary outbuilding;  20 Tintern Place, TRARALGON Residential 1 Zone Single dwelling and ancillary outbuilding;
East	6 Tintern Place, TRARALGON Residential 1 Zone Vacant land;
West:	3 Tintern Place, TRARALGON Residential 1 Zone Single dwelling and ancillary outbuilding (under construction);  4 Tintern Place, TRARALGON Residential 1 Zone Single dwelling and ancillary outbuilding (under construction);

## **HISTORY OF APPLICATION**

The history of the assessment of planning permit application 2012/318 is identified within *Attachment 2*.

The provisions of the Scheme relevant to this application are identified within *Attachment 3*.

## **LATROBE PLANNING SCHEME**

### **State Planning Policy Framework**

The proposal has been considered against the relevant clauses under the State Planning Policy Framework.

The State Planning Policy Framework Clause 15.01-1 'Urban Design' requires development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.

Clause 16 'Housing' has a purpose that includes the following "*new housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space*".

Clause 16.01-1 'Integrated Housing' encourages an increase in the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.

Clause 16.01-2 'Location of Residential Development' states that new housing should be located in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. A strategy listed to achieve this is to "*encourage higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport*".

The objective of Clause 16.01-4 'Housing Diversity' is to provide for a range of housing types to meet increasingly diverse needs. Strategies to achieve this objective include ensuring planning for growth areas provides for a mix of housing types and higher housing densities in and around activity centres; and encouraging the development of well-designed medium-density housing which respects the neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

The proposal is considered to be inconsistent with the policy outlined above. Although the application proposes medium density development in an area zoned suitable for residential development, it is considered that the proposal is an inappropriate response to the subject site and that the design of the dwellings is not reflective of the neighbourhood character of the area.

### Local Planning Policy Framework

The proposal has been considered against the relevant clauses under the Local Planning Policy Framework.

Within the Local Planning Policy Framework Clause 21.04-2 'Settlement Overview' has objectives to contain urban development within distinct boundaries and to encourage a wider variety of housing types, especially smaller and more compact housing, to meet the changing housing needs of the community.

The site is identified within an area containing 'existing residential opportunities' in the Traralgon Structure Plan in the Scheme. Clause 21.05 Main Towns states that well designed infill development throughout the existing urban area, especially in locations close to activity centres, areas of open space and areas with good public transport accessibility should be encouraged. Higher density housing in the Transit City Precinct and existing and future neighbourhood clusters in Traralgon should also be encouraged.

Furthermore, Clause 21.04-5 'Urban Design Overview' has the objective which seeks to *'provide a visually attractive urban environment which displays a high level of civic pride and community satisfaction, and creates a positive image'*. In order to satisfy this objective, development should *'promote and support high quality urban design within the built environment'* and *'continue to improve the urban design elements of urban areas throughout the municipality and to upgrade degraded areas'*.

It is considered that the proposal does not satisfy the above policy directions; the intensity of the proposed development is unsuitable for the subject site and the nature of the development is not considered to satisfy the community's intentions for the area. This will be discussed further in the 'Issues' section of this report.

### Zoning

The site is located within a Residential 1 Zone. The purpose and decision guidelines of the Residential 1 Zone have been taken into account as part of the assessment of this application and it is considered that the application does not fully comply with the zoning provisions.

These elements will be further discussed in the 'Issues' section of this report.

### Particular Provisions

#### Clause 52.06 Car Parking:

The proposal has been assessed against Clause 52.06 and found to comply. One car parking space is required to be provided for a dwelling comprising of two bedrooms. All of the dwellings are provided with one car parking space in accordance with this clause.

#### Clause 55 Two or More Dwellings on a Lot:

The application has been assessed against Clause 55 and it is considered there are a number of areas where the application is not fully compliant with the applicable objectives and standards. These elements will be discussed in the issues section of this report.

#### **Decision Guidelines (Clause 65):**

The relevant decision guidelines have been considered. As previously mentioned there are a number of areas where the application is not considered acceptable. These are outlined in the 'Issues' section of this report.

### **ISSUES**

#### Strategic direction of the State and Local Planning Policy Frameworks:

It is considered that the development of the site for multiple dwellings satisfies State and Local Planning Policy Frameworks in that the zoning of the land encourages, in appropriate locations, multi-dwelling development as it is located within a Residential 1 Zone area of Traralgon.

However, the proposal is inconsistent with these policy frameworks as the proposed dwellings are not respectful to the surrounding neighbourhood, having regard to the following elements:

- the built form of the proposed dwellings;
- the location of the entrances to proposed dwellings 3 and 4;
- the design fails to appropriately address the objectives relating to solar orientation and energy efficiency; and
- the nature of the private open space areas for dwellings 2 and 3.

In addition, the Traralgon Structure Plan amongst other things seeks to 'encourage higher density housing in the Transit City Precinct and existing and future neighbourhood clusters in Traralgon'. The subject site is located outside of the Traralgon Principle Activity Centre, and is in excess of 800 metres from any Neighbourhood Activity Centres or proposed centres.

As a result the proposal is not considered to be supported by relevant planning policy.



## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### Neighbourhood Character

The State and Local Planning Policy Frameworks emphasise that development must be respectful of neighbourhood character and be responsive to its context in terms of natural and built form. This is reinforced under the Residential 1 Zone provisions and Clause 55 of the Scheme.

The objectives of Clause 55.02-1 Neighbourhood Character are:

- *To ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character.*
- *To ensure that development responds to the features of the site and the surrounding area.*

The character of Tintern Place is residential, with lots currently being either vacant or encompassing single dwellings with the following characteristics:

- Dwellings are generally single storey structures in detached built form. One double storey dwelling is located at 20 Tintern Place;
- The location of the entrances for the dwellings are very prominent and visible from the Tintern Place frontage;
- Roof forms are generally hipped/gable roofs, either tiled or colourbond;
- External material finishes generally encompass multiple materials and colours, primarily utilising a combination of brick veneer and render finishes for added design detail;
- Lots range in area from approximately 190m<sup>2</sup> to 1200m<sup>2</sup>;
- Site coverage ranges on average between 25% to 40% for the developed lots;
- Spaciousness of the area is retained through generous landscaped front setbacks, rear setbacks, and side setbacks from at least one side boundary;
- No front fencing assists in retaining the spacious feel to the streetscapes;
- Front yards are generally well maintained, with ample landscaping opportunities;
- Private open space is generally located at the rear of dwellings and exceeds the minimum required standards in terms of area; and
- Dwellings generally have attached garages which are visible from the street and utilise single crossovers.

A two lot subdivision has recently been approved at 21 Tintern Place, which resulted in a battle-axe shape lot being created; any subsequent development on those lots will generally conform to the abovementioned characteristics.

It is noted that unit development has occurred in close proximity to the subject site; namely at 92, 100 and 104 St Georges Road, Traralgon.

These sites currently encompass 3 dwellings with generous private open space areas, clear entry points which are visible from the road frontage and utilise single cross overs. Adequate room is provided for reasonable levels of recreation whilst ensuring there is sufficient solar access to the areas and sufficient room for secured storage and bin enclosures.

The proposed development is considered to be inconsistent with the existing neighbourhood character with regard to:

- Consists of a 4 dwelling development on a single allotment;
- Site coverage is over 48% which is not characteristic of the area;
- Limited areas of useable private open space which do not meet the minimum standards set out in Clause 55.05-4 of the Scheme;
- The proposed design does not maximise the amount of north-facing windows;
- The proposal does not complement the '*preferred neighbourhood character*' in its design response, as it is not considered to be a high quality urban design outcome;

It is considered that the design of the proposal has not responded to the prevailing characteristics of the surrounding neighbourhood and as such is not appropriate for this site.

#### Detailed Design

It is considered the proposal is basic in design with little in the way of architectural features that would result in a good urban design outcome.

The applicant has detailed that they have responded to the character of the area through their design response. However the entrances of the dwellings are not prominent or visible from the Tintern Place frontage, which is characteristic of the wider residential area; the attached form of the dwellings is not consistent with other properties in Tintern Place.

The amount of bulk created on the land, as a result of the land coverage is also un-characteristic to the area. Given the single storey nature of the developments, it is considered that emphasis has been placed on the design to achieve adequate room for internal amenities, without appropriate regard to appropriately dimensioned private open space areas. The site coverage of the proposal is considered to be significant, as other unit developments in the area do not exceed 40% and are generally less in terms of site coverage; as such the proposal is considered to be an overdevelopment of the site.

Furthermore, the private open space areas provided for Units 2 and 3 do not meet the minimum area requirements set out in Clause 55.05-4 of the Scheme. In addition, when analyzing the private open space areas provided for similar developments in St Georges Road discussed above, the area provided in these examples actually exceed the minimum

requirements set out in the Planning Scheme; therefore complementing the spacious characteristic of the neighborhood. Private open space areas also appear to be more evenly distributed between the dwellings in other unit developments.

Standards in relation to the amount of sunlight provided to secluded private open space areas have not been addressed, whilst the orientation of the proposed dwellings does not maximize the level of northern sunlight exposure being provided to habitable rooms.

As a result, the proposal is not considered consistent with the characteristics of the wider built environment or provide for a preferred design response for Tintern Place.

Clause 65 (Decision Guidelines):

The decision guidelines have been considered as part of the assessment of this planning application; the proposal does not provide for the orderly planning of the area for the reasons raised above in this report.

**OBJECTIONS**

The application received five (5) submissions in the form of written objections. A copy of the objections can be viewed at *Attachment 4* of this report. The issues raised were:

1 *Car parking concerns*

Officer Comment:

Clause 52.06 requires that for every five dwellings, one visitor car parking space should be provided. It must be noted that the scheme does not require visitor car parking to be provided for the development of four dwellings on a lot.

Furthermore, Clause 52.06 requires the provision of 1 car parking space be provided for every 2 bedroom dwelling, and 2 car parking spaces are to be provided for dwellings encompassing 3 or more bedrooms. The permit applicant has demonstrated that the required number of car parking spaces have been provided for each dwelling.

2 *Traffic activity concerns*

Officer Comment:

Tintern Place is classified as a Minor Access Street under Latrobe City Council's Road Hierarchy. Latrobe City Council's Design Guidelines define the nominal maximum traffic volume for environmental amenity purposes as being 500 vehicles per day (vpd) for this street classification. In the event that a single dwelling only was developed on each allotment along Tintern Place, the total traffic volume along Tintern Place when fully developed is expected to be about 250 vpd. The current proposal may increase this figure to

**ORDINARY COUNCIL MEETING MINUTES  
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approximately 300 vpd for Tintern Place. The proposal will not exceed the nominal maximum traffic volume for a minor access street, and therefore will not result in a level of traffic activity that could impact on the amenity or safety of the environment.

3 *Development is inconsistent with the character of the area*

Officer Comment:

The Clause 55 assessment completed as part of the application recognizes the current built form in the area as generally consisting of single detached dwellings, with gable/hipped roofs and various external material and colour finishes. The matters in relation to neighbourhood character have been addressed in the above sections of the report.

4 *Increase of noise emanating from the site*

Officer Comment:

Additional noise associated with the dwellings is expected within an urban environment. Given the scale and residential nature of the development, any noise emanating from the site is expected to be consistent with noise generated in urban areas. The proposal is not expected to result in any material detriment to the surrounding area.

All residents are required to adhere to the *Environment Protection (Residential Noise) Regulations 2008* which apply to noise emitted from residential premises and residential premises under construction. In the event a complaint is received, Council's Health Services team will be responsible to ensure that residents comply with the restrictions set out in the above regulations.

5 *Provision and location of infrastructure*

Officer Comment:

The location and provision of infrastructure to the subject site is generally dealt with by the relevant external authority. Council's infrastructure planning team has assessed the application in their area of expertise, and in instances where a permit is to be issued, conditions are placed requiring documentation to be provided explicating that sufficient drainage infrastructure will be provided to the site. Issues in relation to wastewater are dealt with by Gippsland Water; agreements are generally entered into to ensure sufficient services are provided to the site.

**FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

**ORDINARY COUNCIL MEETING MINUTES  
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Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

**INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

Notification:

The application was advertised pursuant to Section 52(1)(a) and Section 52(1)(d) of the Act. Notices were sent to all adjoining and adjacent landowners and occupiers and an A3 notice was displayed on each site frontage for 14 days.

External:

There were no referral requirements pursuant to Section 55 of the Act.

Internal:

Internal officer comments and advice were sought from the Infrastructure Planning Team. The Infrastructure Planning Team did not object to the granting of a Planning Permit in relation to their area of expertise, subject to the inclusion of appropriate conditions.

It is noted that these comments only relate to part of the assessment process and should be considered in conjunction with the assessment details provided elsewhere in this report.

*Details of Community Consultation following Notification:*

Following the advertising of the application, five (5) submissions in the form of written objections were received. At the request of the permit applicant, no mediation meeting was organised.

**OPTIONS**

Council has the following options in regard to this application:

- 1 Issue a Notice of Decision to Grant a Planning Permit; or
- 2 Issue a Notice of Refusal to Grant a Planning Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

**CONCLUSION**

The proposal is considered to be:

- Inconsistent with Clauses 15.01-1 (Urban Design) and 15.01-5 (Cultural identity and neighbourhood character) of the Scheme by facilitating residential development that is not characteristic of the predominant neighbourhood character or the preferred neighbourhood character;
- Inconsistent with Clauses 16.01-2 (Location of residential development) and 16.01-4 (Housing diversity) of the Scheme by facilitating a density of residential development that is outside of the Traralgon Activity Centre, Traralgon Transit Precinct Area and not in close proximity to a neighbourhood cluster;
- Inconsistent with Clauses 21.04-2 (Settlement), Clause 21.04-5 (Urban Design) and Clause 21.05-6 (Specific Main Town Strategies - Traralgon) of the Scheme;
- Inconsistent with Clause 65.02 (Decision Guidelines) and does not provide for the orderly planning of the area; and
- The proposal does not satisfactorily address the purpose and intent and objectives of Clause 55 of the Latrobe Planning Scheme, and particularly is inconsistent with:
  - Clause 55.02-1 Neighbourhood Character;
  - Clause 55.03-3 Site Coverage;
  - Clause 55.03-5 Energy Efficiency;
  - Clause 55.05-4 Private Open Space Objective;
  - Clause 55.05-5 Solar Access to Open Space;
  - Clause 55.05-6 Storage; and
  - Clause 55.06-4 Site Services

Having evaluated the proposal against the relevant provisions of the Scheme, it is considered that the application does not meet the relevant requirements.

**Attachments**

1. ATTACHMENT - DEVELOPMENT PLANS
2. ATTACHMENT - HISTORY OF THE APPLICATION
3. ATTACHMENT - LATROBE PLANNING SCHEME PROVISIONS
4. ATTACHMENT - SITE CONTEXT
5. ATTACHMENT - WRITTEN SUBMISSIONS

**RECOMMENDATION**

**That Council issues a notice of Refusal to Grant a Planning Permit, for the Development of Four (4) Dwellings on a Lot at 5 Tintern Place, Traralgon on the following grounds:**

- **Inconsistent with Clauses 15.01-1 (Urban Design) and 15.01-5 (Cultural identity and neighbourhood character) of the Scheme by facilitating residential development that is not characteristic of the predominant neighbourhood character or the preferred neighbourhood character;**
- **Inconsistent with Clauses 16.01-2 (Location of residential development) and 16.01-4 (Housing diversity) of the Scheme by facilitating a density of residential development that is outside of the Traralgon Activity Centre, Traralgon Transit Precinct Area and not in close proximity to a neighbourhood cluster;**
- **Inconsistent with Clauses 21.04-2 (Settlement), Clause 21.04-5 (Urban Design) and Clause 21.05-6 (Specific Main Town Strategies - Traralgon) of the Scheme;**
- **Inconsistent with Clause 65.02 (Decision Guidelines) and does not provide for the orderly planning of the area; and**
- **The proposal does not satisfactorily address the purpose and intent and objectives of Clause 55 of the Latrobe Planning Scheme, and particularly is inconsistent with:**
  - **Clause 55.02-1 Neighbourhood Character;**
  - **Clause 55.03-3 Site Coverage;**
  - **Clause 55.03-5 Energy Efficiency;**
  - **Clause 55.05-4 Private Open Space Objective;**
  - **Clause 55.05-5 Solar Access to Open Space;**
  - **Clause 55.05-6 Storage; and**
  - **Clause 55.06-4 Site Services**

**Moved:** Cr Harriman

**Seconded:** Cr Middlemiss

**That the Recommendation be adopted.**

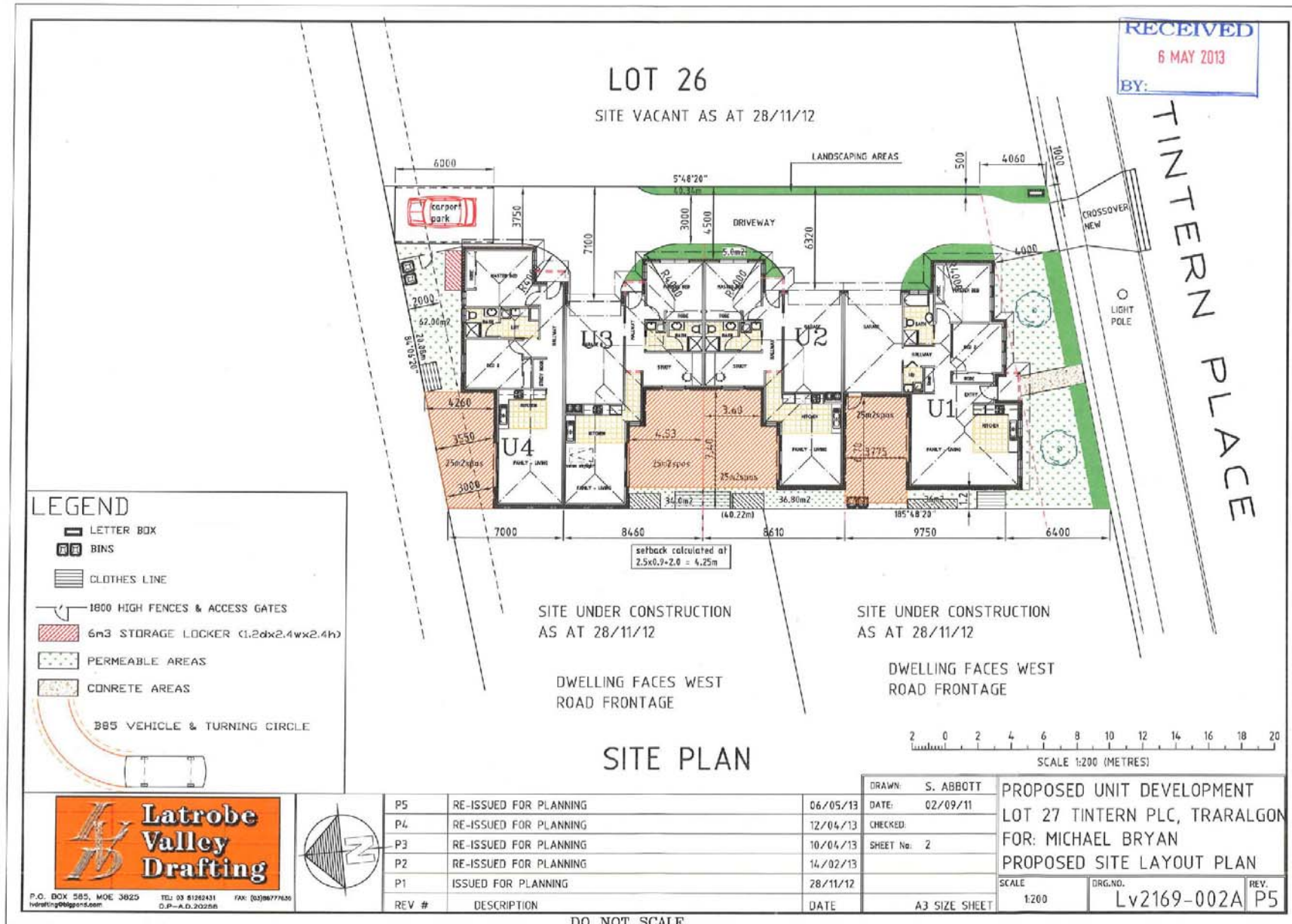
**CARRIED UNANIMOUSLY**

## 16.4

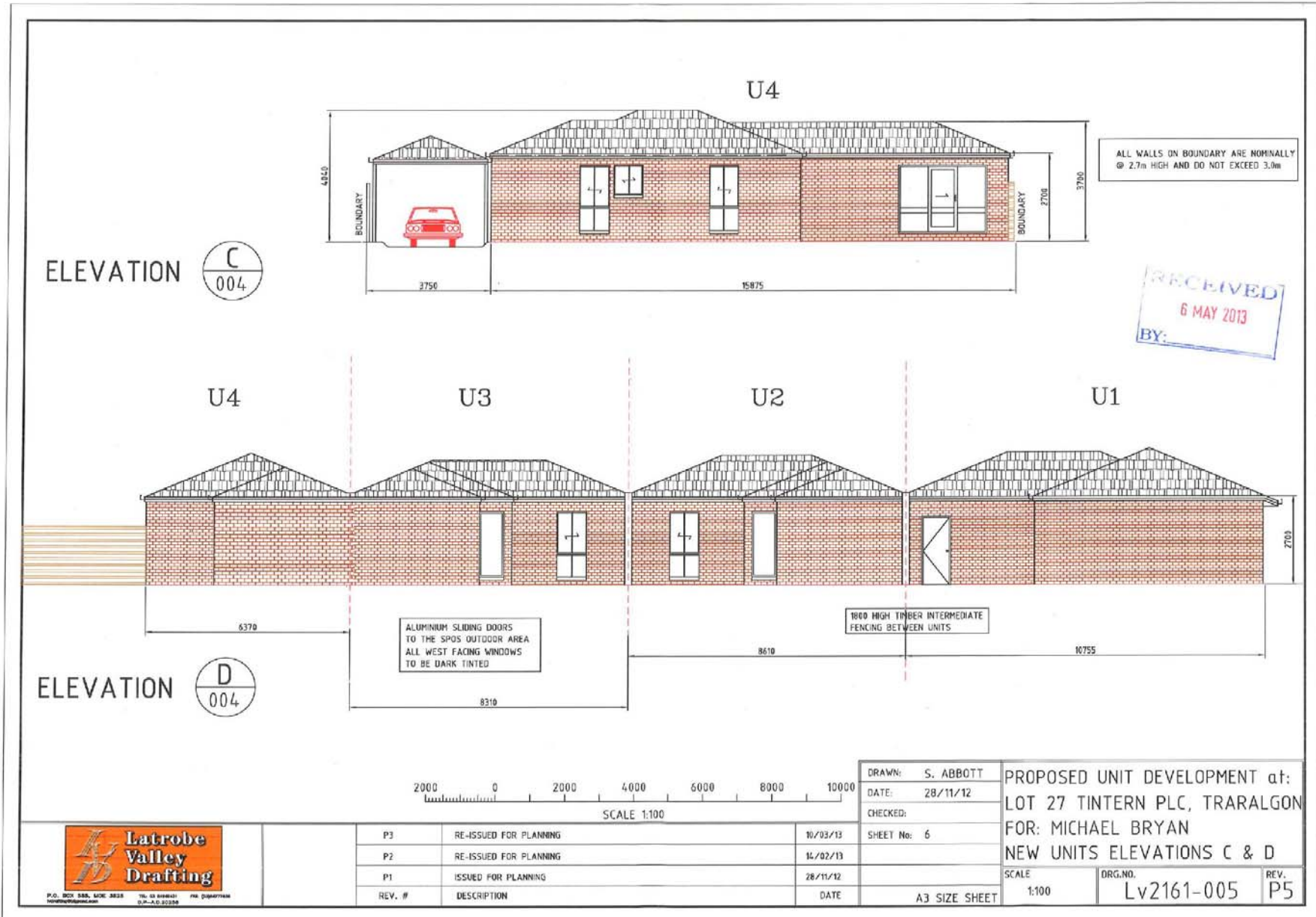
### PLANNING PERMIT APPLICATION 2012/318 - Development of Four (4) Dwellings on a Lot at 5 Tintern Place, Traralgon

1	ATTACHMENT 1 - DEVELOPMENT PLANS .....	475
2	ATTACHMENT 2 - HISTORY OF THE APPLICATION .....	481
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**History of the Application**

5 December 2012	Application received by Council.
17 December 2012	Further Information Letter Sent
20 February 2013	Response to Further Information received
4 March 2013	Clause 55 Acceptance letter sent
14 March 2013	Request for amended plans sent
6 May 2013	Amended plans received
14 May 2013	Parking manoeuvre diagrams received
27 May 2013	Notification package sent to applicant
13 June 2013	Referral response received from Council's Infrastructure Planning team.
17 June 2013	Objection received from: <ul style="list-style-type: none"><li>• Mr Ashley Russell</li><li>• Mr Clive and Ms Janeane Wilson</li><li>• Mr Phil and Ms Heather Thompson</li><li>• Mr Rami Saleh</li><li>• Ms Elizabeth Saleh</li></ul> Statutory Declaration received
18 June 2013	Email sent advising application must be notified again
4 July 2013	Statutory Declaration received

●  
**LATROBE PLANNING SCHEME**

**State Planning Policy Framework**

Clause 11.02 'Urban Growth'  
Clause 11.05 'Regional Development'  
Clause 15.01 'Urban Environment'  
Clause 16.01 'Residential Development'  
Clause 18.01 'Integrated Transport'  
Clause 18.02 'Movement Networks'  
Clause 19.03 'Development Infrastructure'

**Local Planning Policy Framework**

Clause 21.01 'Municipal Profile'  
Clause 21.02 'Municipal Vision'  
Clause 21.03 'Natural Environment Sustainability'  
Clause 21.04 'Built Environment Sustainability'  
Clause 21.05 'Main Towns'  
Clause 21.07 'Economic Sustainability'  
Clause 21.08 'Liveability'

**Zoning – Residential 1 Zone**

The subject land is located within a Residential 1 Zone.

**Overlay**

There are no overlays that affect this property.

**Particular Provisions**

Clause 52.06 Car Parking  
Clause 55 'Two or More Dwellings on a Lot'

**General Provisions**

Clause 65 'Decision Guidelines'

**Incorporated Documents**

There are no incorporated documents that relate to the consideration of this application.



5 TINTERN PLACE TRARALGON

- Property Boundary
- Proposed Property
- Property Boundary - Clear
- Parcel Boundary - Clear

Disclaimer: The compilation of this map is subject to Copyright laws & regulations. Latrobe City Council does not guarantee the accuracy of the information shown. Latrobe City Council will not be liable for any loss or damage caused as a result of using this data.



1/10, 18/6/13  
Janet

**From:** Rami Saleh  
**To:** Latrobe Central Email <LatrobeCity@latrobe.vic.gov.au>  
**Date:** 17/06/2013 9:53:14 AM  
**Subject:** Attn: planning department

---

Dear council

Please find attached photos of notice of objection for development of 4 dwellings at 5 tintern place traralgon. I am currently building at 6 tintern place and i didnt check my mail till last thursday, however i have been on site daily and i didnt realise there was an application put in due to how hidden the notice was and when checking with my neighbours 90% of them did not actually see the sign. Is it possible to get an extension to put in the objection due to the fact that we were not able to see the sign

Regards,

Rami  
0431 150 336  
>>  
>> Sent from my iPhone





RECEIVED  
17 JUN 2013  
BY: \_\_\_\_\_



RECEIVED  
17 JUN 2013



17 JUN 2013

BY:

Elizabeth Saleh (Owner of no.6 Tintern Place, Traralgon)  
15 carabott place berwick

Attention:

Latrobe City Council  
PO Box 264, Morwell VIC 3840

2018/6

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17<sup>th</sup> June 2013

For the attention of Planning Officer;

Dear Sir / Madam

**Reference:**

In reference to PLANNING APPLICATION NO 2012/318

Proposed erection of four dwellings at 5 (Lot 27) Tintern Place, Traralgon

I write in connection with the above planning application. I have examined the plans and I know the site well. I wish to object strongly to the development of these units in this location.

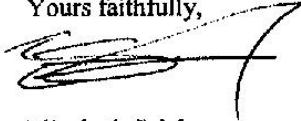
The reasons for my objection are:

1. The development of the proposed site is not consistent with the neighbourhood character. Surrounding allotments within the area typically have and will be having developments for single dwellings. The development of 4 dwellings on the proposed development is excessive and not in line with the surrounding neighbourhood characteristics.
2. With the excessive number of 4 dwellings on the subject development, with only 1 car space planned for each dwelling, it allows no room for another car space per dwelling as well as visitors car parking. This will lead to an excessive amount of traffic and parking on the street, which could cause problems in the street. I propose for a reduced number of units to be developed on the proposed lot to 2-3 units to allow for additional car spaces within the development site. Please note; there has been another planning permit submitted through council in relation to 9 (Lot 23) Tintern Place, Traralgon this year. This development was/is proposed for 3 single storey dwellings on

the site with ample car spacing for occupants (1 single garage and a tandem car space in front each garage). 9 Tintern Place, Traralgon has considered car parking spaces for occupants and their visitors to reduce street congestion to a higher degree than that of this application, being 5 (Lot 27) Tintern Place Traralgon.

3. Forwarded plan of development of site shows Lot 26 Tintern Place, Traralgon as being vacant land. This is incorrect, Lot 26 has a dwelling under construction on this lot at the time and building occupancy permit is due to be issued this week. Lot 26 is owned by myself. In light of this, set back of Unit 1 on proposed development of 5 (Lot 27) Tintern Place, Traralgon does not comply with regulations.

Yours faithfully,



Elizabeth Saieh

100  
18/6

6 Tintern Place  
Traralgon 3844  
Vic

Latrobe city council  
Po Box 264, Morwell 3840

17 June 2013

Dear Sir / Madam

Planning Application Number 2012/318

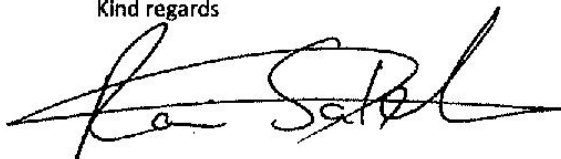
Development of four (4) dwellings at 5 Tintern Place Traralgon by M J Bryan.

I write in connection with the above planning application. I have examined the plans and I know the site well. I wish to object strongly to the development of these 4 dwellings in this location.

Tintern place is a very small court and development proposals should be considered very carefully: Infilling could ruin the character of Tintern place and the development of 4 dwellings would significantly overwhelm it. The already developed single houses on Tintern place were constructed and designed not only with the idea and intention that the entire place would be single house buildings but with very high visual and archaeological qualities, thus the development of 4 dwellings will fail to improve the character of Tintern place and should not be accepted as this is the reason myself and all the neighbours decided to build and reside in this street. Having said that, the proposed development is located directly opposite the main fire hydrant for Tintern place. Such development would limit the access of emergency vehicles in and out of the place due to its significant narrowness, which is deemed extremely unsafe.

Thank you kindly for reading and considering this application. If you have any queries please contact me directly on 0431 150 336

Kind regards



Rami Saleh

Rami.saleh@mychemist.com.au

Postal address: 97a wood street Templestowe 3106

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14 June 2013

Responsible Officer  
Latrobe City

Dear Sir/Madam

**OBJECTION TO PLANNING PERMIT 2012/318 – MJ BRYAN**

We formally object to the abovementioned planning permit application.

The reasons for the objection include:

1. The four unit complex will not be consistent with an acceptable neighbourhood character in the area.
2. The parking for residents, usually 2 cars per unit, will not be catered for in the construction. Planning objective 55.03-11 does not reflect current day reality in residential parking activity.
3. The excess resident and visitor car parking on the street and nature strips will cause dangerous congestion in the area, especially on the corner adjacent to the block.
4. The 4-unit development, along with the similar 4-unit development being proposed by the same developer (20 metres to the West in the same street) will together, create unsightly and unsafe car parking and movement on all neighbouring nature strips and roadways.
5. The 4-unit design, along with the second group of units by the same developer referred to above, is extremely congested and returns the Traralgon township back to a conglomeration of "Flats" that Latrobe City have tried for decades to eliminate.
6. The single drive access to all units will present considerable difficulty for resident access and push their traffic outside the site boundary onto other properties.
7. The 750sqm site is too small for such a development, with insufficient land for resident landscape and recreation.
8. The 4- units will lend themselves to anti-social behaviour because of the very close proximity to each other.
9. The "City" does not need nor should it now encourage such high density residential development.

I hope you receive and act on these complaints, and reject the permit application accordingly.

Heather and Phil Thompson  
24 Tintern Place (PO Box 1318)  
Traralgon, 3844

0417 127 530

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Friday 14<sup>th</sup> June 2013

To whom it may concern,

As the owners of 19 Tintern Place with an approved building permit for a single dwelling, we wish to formally lodge an objection to the proposal for a unit development at 5 Tintern Place.

We wish to contest this development on the following grounds:

1. According to the proposal documents it was stated that the neighbourhood character would not be changed in any way due to all vacant surrounding land. However this is incorrect as the majority of lots in Tintern Place are already occupied with single dwellings or are in the process of doing so.

2. As displayed in the site plan of the proposed development there are only four car parking spaces for residents. This is a major concern of ours as most couples and families own two vehicles. Therefore any couple with two or more vehicles or visitors will have no choice but to park on the street.

In turn this poses various health and safety issues for the Street. As due to the narrow constructing of the Road (6 metres) this only permits safe parking for one side the road. Furthermore due to the narrow frontage of the blocks this allows only one space per block frontage.

This means that excluding corner blocks this allows for only ten cars to be safely parked on the street. As a result we are concerned that the proposed unit development could take up four of the ten possible car parks on Tintern Place; not taking into account of any visitors vehicles to the units.

This type of pressure to the availability to street parking could force any other residents in the street to park adjacent to other cars already parked on the street. Consequently this would prevent emergency vehicles entering Tintern Place.

In conclusion we believe that the council have a duty of care to restrict any development that could jeopardize the health, safety and wellbeing of its constituents.

We would like to thank you for this opportunity to ~~express our objections to this~~ development.

Yours sincerely,

Clive and Janeane Wilson

*[Handwritten signature]*  
35 GUNYAH GROVE TRG'N PA 57745526 M 0488745527

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### OBJECTION TO 5 TINTERN PLACE, TRARALGON PLANNING PERMIT

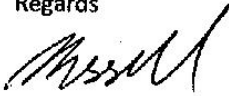
#### Reasons for objections:

- Increased traffic flow/volume in a no through road is a hazard to pedestrians.
- Lack of suitable parking in the planned development for the tenants and any possible visitors.
- The lack of parking would lead to vehicles being parked on the nature strip which would deface the nature strip.
- The amount of bins during rubbish collection would further add to parking issues for the tenants and their visitors.
- The development would cause an increase in wastewater which could add pressure to the existing piping in the estate.
- Additional vehicles parking on an already narrow carriageway would reduce access for emergency vehicles.
- There is already several other possible multi-dwelling developments in the street so adding more will only multiply the issues mentioned above.

#### How I would be affected:

- Increased street parking is a traffic hazard to me when I am reversing out of my place of residence.
- Lack of adequate parking would cause crowding by cars out the front of my place of residence.
- The reason I purchased my property in Tintern Place was to live in a quiet & stable residential environment to grow a family. As more of these multi-dwelling developments are produced in the street, the chances of having a quiet & stable residential environment for families are disappearing because of the constant turnover of residents that come with these developments.

Regards



Ashley Russell

8 Coronation Court/20 Tintern Place

Traralgon, 3844

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**16.5 PLANNING PERMIT APPLICATION 2012/266 - DEVELOPMENT  
ASSOCIATED WITH THE ERECTION AND DISPLAY OF A MAJOR  
PROMOTION SIGN, PRINCES HIGHWAY (RAILWAY RESERVE),  
TRARALGON**

**General Manager**

**Governance**

**For Decision**

**PURPOSE**

The purpose of this report is to determine Planning Permit Application 2012/266 for development associated with the erection and display of a major promotion sign at the Princes Highway (Railway Reserve), Traralgon at Crown Allotment 55A Parish of Traralgon.

**DECLARATION OF INTEREST**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

*Latrobe 2026: The Community Vision for Latrobe Valley*

*Strategic Objectives – Built Environment*

In 2026, Latrobe Valley benefits from a well planned built environment that is complimentary to its surroundings and which provides for connected and inclusive community.

*Latrobe City Council Plan 2013 - 2017*

*Strategic Direction – Planning for the future*

Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.

*Legislation*

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act 1987* (the Act) and the Latrobe Planning Scheme (the Scheme), which apply to this application.

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

**SUMMARY**

Land:	Princes Highway (Railway Reserve), Traralgon known as Crown Allotment 55A Parish of Traralgon.
Proponent:	Victorian Rail Track
Zoning:	Public Use Zone-Schedule 4 (Transport)
Overlay:	None

A Planning Permit is required to erect a sign pursuant to Clause 36.01-7 *Advertising signs*.

For land within the Public Use Zone-Schedule 4, the category of advertising control which applies is the category which applies to the nearest adjoining zone. In this case the nearest adjoining zone is a road zone and a permit is required to display a sign.

**PROPOSAL**

It is proposed to erect a double sided illuminated major promotion sign. Each panel will have a display area of 20.4 square metres with dimensions of 3.35 metres in height by 6.1 metres in width. The sign will be elevated 3.05 metres off the ground and have a height of approximately 6.5 metres. The sign will be supported by two poles and have a service platform of 800 millimetres in width at the sign display base.

The colour, lettering style and materials of the proposed sign are unknown. The applicant has detailed that these will change with different displays and detailed that as result that there is no value in providing an indicative layout.

Subject Land:

The subject development area is situated on the south side of the Princes Highway and located 100 metres west of Bank Street and is located 105 metres west of the Bank Street and Princes Highway intersection. The subject development area is relatively clear of native vegetation. The development area can be described as being located at the western fringe of Traralgon Town Boundary as denoted in the Traralgon Structure Plan.

The subject site is irregular in shape, and is Crown Land which is vested in Victorian Rail Track. The subject site, Crown Allotment 55A, runs from Traralgon CBD area to the eastern fringe of the Morwell town boundary area. The subject site encompasses the Gippsland Melbourne Railway and varying degrees of established native vegetation along its boundaries.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

Bank Street crosses the Gippsland Railway Line east of the subject development area. Vehicular traffic is controlled at the crossover via 'boom gates'. There are no specific crossover safety measures for pedestrians in place.

**Surrounding Land Use:**

- North: The land due north of the subject site is zoned Rural Living Zone-Schedule 3. It is currently used as a golf course and this land is identified in the Draft Traralgon West Structure Plan as a potential strategic residential development site.
- South: Land directly to the south is zoned Residential 1 Zone and is covered by the Development Plan Overlay-Schedule 5. This land area has an approved development plan and planning permit and the permit operator is currently proceeding with the subdivision. Areas further to the south east of Bank Street are zoned Residential 1 Zone and are established residential areas.
- East: The land to the east is generally used for residential purposes. There is however a funeral home and a service station north east of the subject site with access onto the Princes Highway.
- West: The land further to west and south of the Melbourne-Gippsland Railway line is zoned Farming Zone and the land further to the west and north of the Princes Highway is identified as being for Low Density and Rural Living Purposes. There is also an area 600 metres west of the subject development area and to the north of the Princes Highway that is zoned Special Use Zone-Schedule 2 (Urban Gateway).

**HISTORY OF APPLICATION**

A history of assessment of this application is set out in Attachment 3.

The provisions of the Scheme that are relevant to the subject application have been included in Attachment 4.

**ASSESSMENT****Strategic Consideration for the Erection and Display of Major Promotional Signage**

The State and Local Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement (MSS) have been considered as part of this application, and it is found that the provisions of the Scheme generally provide a strategic basis on why the proposal should not be supported.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

It should be noted that there are no specific clauses of the State Planning Policy Framework or Local Planning Policy Framework that relate directly to the assessment of signage applications.

The following clauses of the State Planning Policy Framework have been considered relevant in the assessment of this application:

Clause 10.04 *Integrated decision making* states that '*Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations*'.

Clause 11.02-3 *Structure planning* has an objective '*To facilitate the orderly development of urban areas*'

Clause 18.02-4 *Management of the road system* has a number of identified strategies including to '*Plan and regulate the design of transport routes and nearby areas to achieve visual standards appropriate to the importance of the route with particular reference to landscaping, the control of outdoor advertising and, where appropriate, the provision of buffer zones and resting places.*'

There is limited reference to advertising signage in the Local Planning Policy Framework, the following clauses have been considered relevant in the assessment of this application:

Clause 21.02 *Municipal Vision* includes the *Latrobe City Strategic Land Use Framework Plan*. In this plan it identifies the Morwell- Traralgon section of the Princes Highway as a major transport route and which has an objective to protect the effectiveness of transport routes between towns.

Clause 21.04-5- *Urban Design Overview* has the following objective relevant to the assessment of this '*To provide a visually attractive urban environment which displays a high level of civic pride and community satisfaction, and creates a positive image*'.

Clause 21.05-6 *Specific Main Town Strategies – Traralgon* has also been considered in this application as the subject development site is identified as being in close proximity to western fringe of the Traralgon Town boundary and given its prominent location on the Princes Highway it is considered a defacto gateway to Traralgon although not specifically identified as such on the structure plan.

It is considered that the proposal is generally inconsistent with both the State and Local Planning Policy Framework. It is considered that its proposed location in an area on the current fringe of the Traralgon town boundary which is a defacto entrance to Traralgon, the existing and proposed future use of the area and the fact that that the applicant has

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

provided little in the way of information of the type of content that will be advertised means that the proposal is not considered to be consistent with the orderly and proper planning of the area. .

### **CLAUSE 36.01 PUBLIC USE ZONE-SCHEDULE 4 (TRANSPORT)**

The subject site is located in a Public Use Zone-Schedule 4 and as the Road Zone is the nearest adjoining zone, pursuant to Clause 36.01-7 Advertising signs a permit is required to display a sign.

The application is not required to be assessed under the purpose and decision guidelines of the Residential 1 Zone but will be assessed under the purpose and decision guidelines of Clause 52.05 Advertising Signs and specifically against the decision guidelines at Clauses 52.05-3, 52.05-6 and 65 of the Latrobe Planning Scheme.

### **OVERLAYS**

There are number of planning overlays that affect the subject land but none that impact the development area itself. As a result it is not considered necessary to discuss further the application merits in relation to these overlays.

### **PARTICULAR PROVISIONS**

Clause 52.05 Advertising Signs.

Clause 52.05 of the Latrobe Planning Scheme lists the general Advertising Signs controls. The purpose of this particular provision is:

- *“To regulate the display of signs and associated structures.*
- *To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.”

Specific reference is made with regard to major promotion signs and is set out within Clause 52.05-6 of the Latrobe Planning Scheme. The purpose is:

- *“To achieve high quality visual standards for the siting of major promotion signs.*
- *To ensure that the signs are not detrimental to the appearance of the surroundings or the safe and efficient operation of the route through the application of consistent planning controls.”*

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

There are various decision guidelines listed under Clause 52.05-3 and 52.05-6 of the Particular Provisions for Advertising Signs in addition to the general guidelines listed within Clause 65 of the Latrobe Planning Scheme. These are addressed in the Issues section of this report.

### **CLAUSE DECISION GUIDELINES (Clause 65)**

Clause 65.01 provides decision guidelines to consider when assessing applications of this nature. These guidelines are discussed in the Issues section of this report.

### **ISSUES**

The following is a discussion of the proposed sign against the decision guidelines at Clauses 52.05-3, 52.05-6 and 65 of the *Latrobe Planning Scheme*. It incorporates consideration of the site and surrounding context, the relevant planning policies mentioned above, and VicRoads concerns.

#### Site Location

It is detailed within Clause 52.05-6 that major promotion signs are encouraged to be located in non-sensitive commercial and industrial areas, in circumstances where they complement or enhance the character of the site and surrounds. It is considered that the proposed sign does not achieve this condition given its location in a geographic area zoned predominantly for residential purposes but also agriculture to the south west of the subject site. While it is acknowledged the subject site is zoned for transport use, it is not considered that the site could be viewed as being in a non-sensitive commercial and industrial area. Its location is a defacto western gateway location to Traralgon and as a result it is not considered that having an advertising mechanism with area of excess of 40m<sup>2</sup> is suitable at such a sensitive location. Furthermore given the location of the development being due north of a residential development planned area and south of an identified strategic residential development site, it is considered that a major promotion sign will not be consistent with proposed or existing uses in the future.

The proposed sign is discouraged as it would form a dominant element in the transport corridor, compromising the visual appearance sought for the defacto gateway location in which it is proposed to be erected and displayed.

#### Signage Design and Display Content

The lack of conformity of the sign within the transport corridor and landscape character is further exemplified when considering the nature of existing signs in the area. As identified, the area is currently at the rural-urban interface and business identification signage that exists in the area, including signage related to Traralgon Golf Course and Latrobe Valley Funeral Services is modest in scale and design. The proposed major promotion sign has no relation to or integration with the host site.



**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

Additionally, there are no major promotion signs in the vicinity of the area as the area as outlined previously is used predominantly for residential purposes. In addition the signage mechanisms in the wider environs are appurtenant to the businesses operating on the site and traffic signs (do not require a permit pursuant to Clause 52.05-4 *Signs not requiring a permit*) unlike the sign which has been proposed, which is for the purpose of third party advertising.

Moreover, the proportion, scale and form of the proposed sign are inconsistent with the surrounding landscape, at an uncharacteristic total advertisement area of over 40 square metres and height of 6.5 metres. Given the lack of any large built structures in vicinity of the proposal due to its location on the edge of Traralgon it is considered that the size and height of the sign proposed is incompatible and will have detrimental impacts to the location of the rural urban interface and cause an unnecessary distraction to motorists. Furthermore given the proposed location, without any specific information regarding the content of the advertising material proposed council has no control over the type of advertising proposed by third parties on this mechanism.

#### Failure to give notice of the application

Pursuant to the requirements of Section 52(1) of the Planning and Environment Act, the applicant was requested to give notice of the application on 10 January 2013. As detailed in Attachment 3 – History of the Application, the applicant detailed via email on 2 April 2013 that they would not be conducting notification as per the request of the Council and detailed '*If it proceeds to VCAT it can be advertised at this time*'. The failure to address this request has been taken into consideration in the assessment of the proposal.

#### Submissions

The application received 1 submission in the form of an objection from VicRoads. The issues raised in that objection are as follows:

1. The sign is located within the Princes Highway Road reserve.

It was detailed verbally to VicRoads when the objection was received that the subject site is in fact within the Gippsland-Melbourne Railway Reserve, zoned Public Use Zone-Schedule 4 (Transport). It was further detailed in email correspondence with VicRoads on 22 July 2013 that the proposed location for the signage is actually to be placed on Crown Allotment 55A, Parish of Traralgon which is the railway reserve. VicRoads were further requested to revise their response accordingly on 22 July 2013. No revised response has been received as of yet.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

Given that the proposed development location for erection of the major promotional signage is not within the Princes Highway Road Reserve, it is considered that this issue is not relevant to the consideration of the proposal.

2. No prior agreement from VicRoads to establish a sign at this location.

It is not considered that the applicant needed to get prior agreement from VicRoads in any case prior to applying for a planning permit, but given that the development location for erection of the major promotional signage is not within the Princes Highway Road Reserve, it is determined that this point of objection is not relevant to the assessment of the application.

**FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

**INTERNAL/EXTERNAL CONSULTATION****Notification:**

Pursuant to Section 52(1) of the Act the applicant was requested to notify the application by sending notices to all adjoining and adjacent landowners and by displaying an A3 sign on the Bank Street and Princes Highway frontage of the subject site for a minimum of 14 days.

The applicant has not conducted advertising as per the Councils request.

Pursuant to Section 52(1)(d) of the Act, notice of the application was also given to VicRoads.

**External:**

There were no referral requirements pursuant to Section 55 of the Act.

**Internal:**

Internal officer comments were not sought during the assessment of this application.

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### *Details of Community Consultation following Notification:*

As detailed previously, the applicant has not conducted advertising as per Council's request.

Following notification of the application of the application to VicRoads, 1 submission in the form of an objection was received.

A planning mediation meeting was not held as the applicant has not addressed the notification request of Council.

### **OPTIONS**

Council has the following options in regard to this application:

1. Issue a Refusal to Grant a Planning Permit; or
2. If Council is of a mind to approve, notice of the application must be given prior to any approval being given.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

### **CONCLUSION**

The proposal has been assessed against the relevant provisions of the Scheme including the State and Local Planning Provisions, the purpose and decision guidelines of Clause 52.05-3 and 52.05-6 of the Particular Provisions for Advertising Signs in addition to the general guidelines listed within Clause 65 of the Latrobe Planning Scheme.

It is considered that the proposal is inconsistent with the requirements of the Scheme due to the lack of detail in terms of the advertising material, its size, height and its free-standing display. Added to that fact it does not complement nor enhance the character and use of the area surrounding the development site.

#### **Attachments**

1. Development Plans
2. Subject site
3. History of the application
4. Relevant planning policy
5. VicRoads Objection

**RECOMMENDATION**

**That Council issues a notice of Refusal to Grant a Planning Permit, for the development associated with the erection and display of a major promotion sign of the land at Crown Allotment 55A Parish of Traralgon, more commonly known as the Princes Highway (Railway Reserve) on the following grounds:**

- 1. The proposed major promotion sign is inconsistent with the nature of signage in the surrounding area and will not complement or enhance the existing rural/urban interface of the area.**
- 2. The size of the proposed major promotion sign is considered excessive and dominant, forming an inappropriate visual element having regard to the advertisement area of nearby signs.**
- 3. The proposed major promotion sign does not adequately satisfy the purpose and objectives of the State and Local Planning Policy Framework.**
- 4. The proposed major promotion sign does not adequately satisfy the purpose, objectives and decision guidelines of the Particular Provisions for Advertising Signs contained in Clause 52.05 of the Latrobe Planning Scheme.**
- 5. The proposed major promotion sign does not adequately satisfy the decision guidelines of Clause 65.01 of the Latrobe Planning Scheme.**
- 6. The proposed major promotion sign will set an undesirable precedent and prejudice the proper and orderly planning of the Transport Corridor and surrounding area.**

**Moved:** Cr O'Callaghan

**Seconded:** Cr Middlemiss

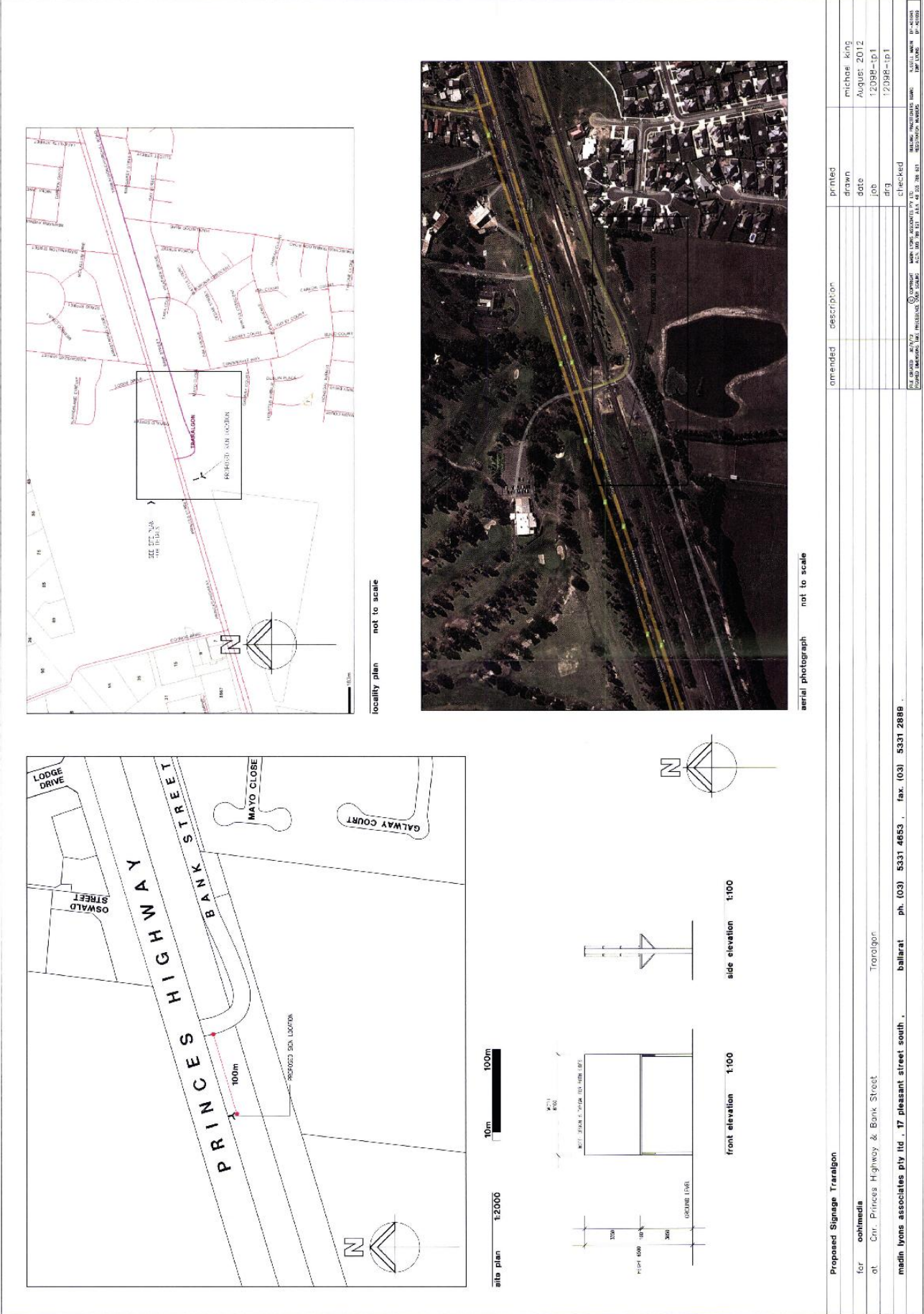
**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

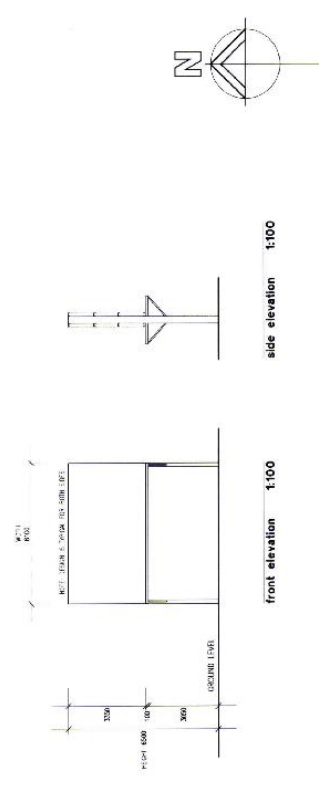
## 16.5

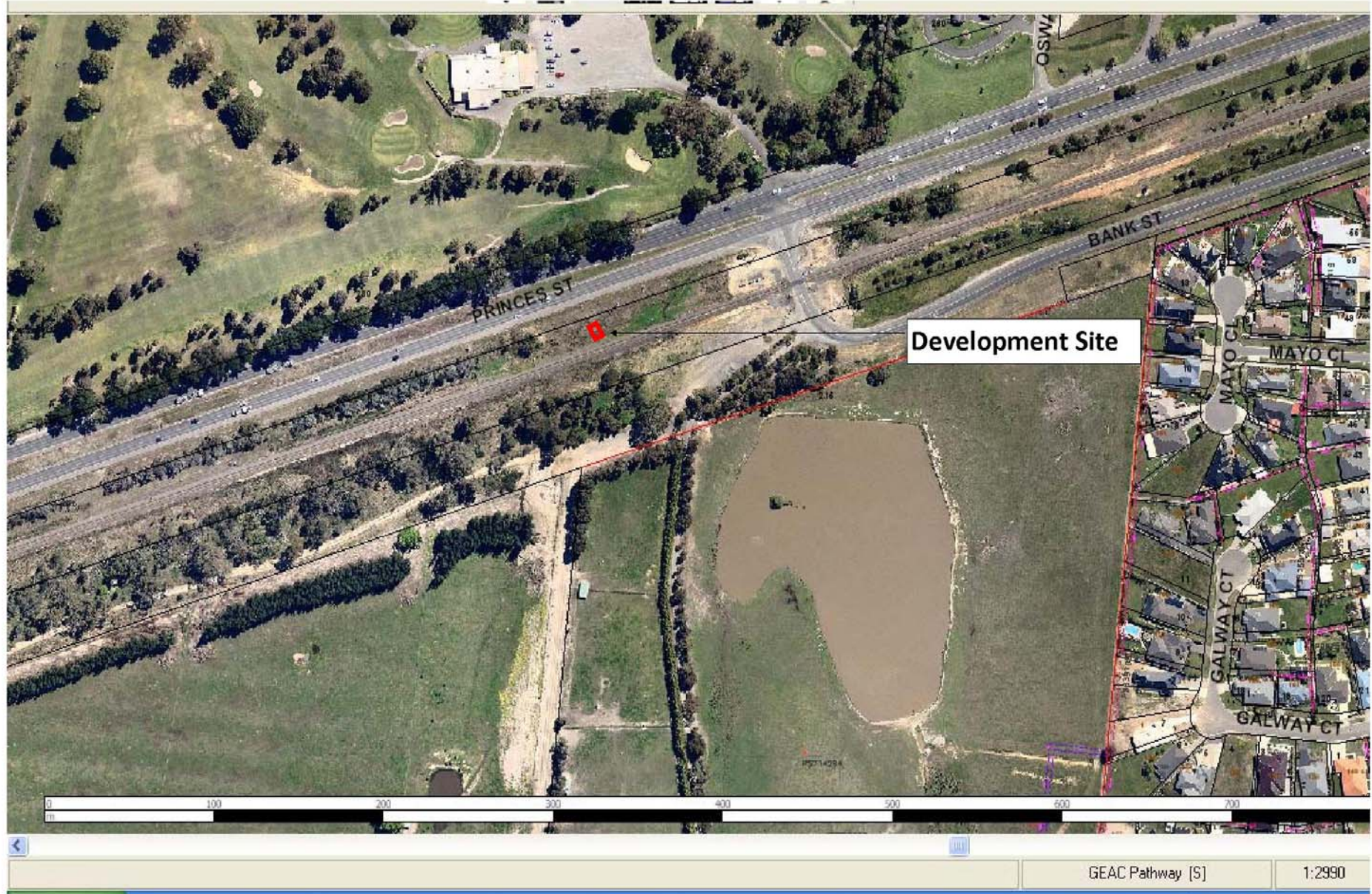
### **PLANNING PERMIT APPLICATION 2012/266 - DEVELOPMENT ASOCIATED WITH THE ERECTION AND DISPLAY OF A MAJOR PROMOTION SIGN, PRINCES HIGHWAY (RAILWAY RESERVE), TRARALGON**

1	Development Plans.....	509
2	Subject site .....	511
3	History of the application.....	513
4	Relevant planning policy .....	515
5	VicRoads Objection.....	517



Proposed Signage Traralgon		amended	description	printed
for	oohimedia			drawn
at	Cnr. Princes Highway & Bank Street			date
				August 2012
madin lyons associates Pty Ltd. 17 pleasant street south, ballarat				job
ph. (03) 5331 4653 , fax. (03) 5331 2888				12098--tp1
				dfg
				checked
				12098--tp1
				MARK LYONS ASSOCIATES PTY LTD. BALLARAT, VIC 3240
				MARK LYONS ASSOCIATES PTY LTD. TRARALGON, VIC 3840
				MARK LYONS ASSOCIATES PTY LTD. TRARALGON, VIC 3840
				MARK LYONS ASSOCIATES PTY LTD. TRARALGON, VIC 3840





**History of Application**

18 October 2012	Planning Permit application received by Council.
14 November 2012	Further information requested from applicant. The purpose of this request was to obtain more justification for the proposed location of the signage, more information regarding design, materials and content of the display, accuracy of the information in the report and whether any correspondence has been received by VicRoads regarding the proposal.
10 December 2012	Further information received
3 January 2013	Email correspondence with the applicant detailing that despite the further information request being addressed, the Responsible Authority still had concerns regarding the location, design issues and lack of detail of what content would be advertised. It was detailed as a result that although the process could be continued, the Responsible Authority would be unable support the proposal going forward in its current form.
15 January 2013	Notification instructions sent to the applicant.
14 February 2013	Email correspondence with the applicant asking for an update on whether notification of the application had been conducted as requested.
14 February 2013	Applicant details that they are still waiting on clients instructions
21 February 2013	Application notified under Section 52 of the Act to VicRoads.
12 March 2013	Email correspondence with the applicant asking for an update on whether notification of the application had been conducted as requested.
15 March 2013	Email correspondence with the applicant detailing if notification had not commenced or was not completed within 1 month, the assessment of the application would continue.
22 March 2013	Correspondence with the applicant detailing that if they are willing to withdraw the applicant council are willing to issue a refund.
2 April 2013	Correspondence from the applicant detailing that they are unwilling to advertise the application and if the application is pursued to VCAT it can be done at that stage.



●  
**LATROBE PLANNING SCHEME**

**State Planning Policy Framework**

Clause 10.04- Integrated Decision making  
Clause 11.02-Urban growth  
Clause 15.01-Urban Environment  
Clause 18.02-4-Management of the road system

**Local Planning Policy Framework**

Clause 21.01 – Municipal Profile  
Clause 21.02 – Municipal Vision  
Clause 21.04-5- Urban Design Overview  
Clause 21.05-2 Main Towns  
Clause 21.05-6- Specific Main Town Strategies - Traralgon

**Zoning – Public Use Zone-Schedule 4**

The subject land is located within a Residential 1 Zone.

**Overlay**

There is no overlay directly affecting the subject development area.

**Particular Provisions**

Clause 52.05 ‘Advertising Signs’

**General Provisions**

Clause 65 ‘Decision Guidelines’

**Incorporated Documents**

None



Latrobe City Council  
PO Box 264  
MORWELL VIC 3840  
Attention: Jody Riordan

Dear Sir/Madam

**PLANNING APPLICATION No.:** 2012/266  
**VICROADS REFERENCE NO:** 06169/13  
**PROPERTY ADDRESS:** 0 PRINCES HIGHWAY, TRARALGON

**Section 52 – Objection**

Thank you for forwarding planning permit application 2012/266 pursuant to Section 52 of the Planning and Environment Act 1987.

The application is for *Illuminated Promotional Signage*

Accordingly, VicRoads objects to the issue of a Planning Permit on.

1. The sign is located within the Princes Highway Road reserve.
2. No prior agreement from VicRoads to establish a sign at this location.

Should you have any enquiries regarding this matter, please contact Stuart Fenech on 51 722693.

Yours sincerely

**STUART FENECH**  
STATUTORY PLANNING OFFICER  
18/3/2013  
**SY-003-LAT-2510**

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

### 16.6 PLANNING PERMIT APPLICATION 2010/390 FOR AN EIGHT (8) LOT SUBDIVISION AND REMOVAL OF EASEMENT AT 5509 – 5523 PRINCES HIGHWAY, TRARALGON

General Manager

Governance  
Community Liveability

For Decision

#### PURPOSE

The purpose of this report is to determine Planning Permit Application 2010/390 for an eight (8) lot subdivision and removal of easement at 5509 – 5523 Princes Highway, Traralgon known as the land in Plan of Consolidation 359213T and Lot A on Plan of Subdivision 504067H.

#### DECLARATION OF INTERESTS

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

#### STRATEGIC FRAMEWORK

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

#### *Latrobe 2026: The Community Vision for Latrobe Valley*

##### *Strategic Objectives – Built Environment*

In 2026, Latrobe Valley benefits from a well-planned built environment that is complimentary to its surroundings and which provides for connected and inclusive community.

#### *Latrobe City Council Plan 2013 - 2017*

##### *Theme and Objectives*

##### *Theme 5: Planning for the future*

- *To provide a well planned, connected and liveable community.*
- *To reduce the time taken to process land use and development planning applications.*

##### *Strategic Direction*

Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.

##### *Legislation –*

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act 1987* (the Act) and the Latrobe Planning Scheme (the Scheme), which are relevant to this application.

### **SUMMARY**

Land: No. 5509 – 5523 Princes Highway, Traralgon known as the land in Plan of Consolidation 359213T and Lot A on Plan of Subdivision 504067H.

Proponent: W Buhagiar, Stable Property Group Pty Ltd

Zoning: Special Use Zone Schedule 2 (SUZ2)

Overlay Nil

A planning permit is required to subdivide the land pursuant to Clause 37.01 Special Use Zone Schedule 2.

A planning permit is required to remove an easement pursuant to Clause 52.02 Easements Restrictions and Reserves.

### **PROPOSAL**

The application is for the subdivision of the land into eight lots and the removal of an easement.

The proposed lots would be regular in shape and would range in size from 2,114 square metres to 4,650 square metres. Lot 1 would be located on the corner of Princes Highway and Bradford Drive, Lots 2 and 3 would have frontage to Princes Highway, and Lots 4 to 8 would have frontage to Bradford Drive.

It is proposed to extend the service road in front of the eastern end of the Princes Highway site frontage further to the west to create vehicle access to Lots 1, 2 and 3 from the service road. Vehicle access to the remaining lots would be from Bradford Drive.

It is also proposed to remove a 2 metre wide sewerage easement known as E-1 on Lot A of Plan of Subdivision 504067H. The easement is proposed to be removed as it is redundant.

Refer to Attachment 1 for proposed plan of subdivision and Attachment 2 for proposed removal of easement.

#### Subject Land:

The subject site is an irregularly shaped lot comprising two titles and is located on the north-east corner of Princes Highway and Bradford Drive in Traralgon. Bradford Drive runs along both the western (side) and northern (rear) boundaries of the site. The site has a frontage to Princes Highway of 188 metres, a frontage to Bradford Drive on the western boundary of 143 metres, a frontage to Bradford Drive on the northern boundary of 281 metres, a depth of 120 metres and an overall area of 2.6 hectares.

There are a number of easements encumbering the site including an electricity easement, and drainage and sewerage easements.

**ORDINARY COUNCIL MEETING MINUTES  
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The site is currently occupied by two car dealerships in the south-western corner. Access to these businesses is via a gravel accessway from Princes Highway. The remainder of the site is vacant and has been cleared of all vegetation following approval of Planning Permit 2008/30. The site has a significant fall from the Princes Highway frontage to the rear onto Bradford Drive.

**Surrounding Land Use:**

The site is located on the western side of Traralgon and forms part of the 'urban gateway' to Traralgon. Surrounding land uses can be described as follows:

- North: Low density residential lots fronting Bradford Drive. Some lots have been developed with single dwellings whilst others are vacant and used for grazing.
- South: Princes Highway and railway line.
- East: Land developed and used for motor vehicle sales. Access gained via a service road.
- West: Land in the Farming Zone developed with a dwelling. Access gained from Bradford Drive.

A service road is located on the northern side of Princes Highway which provides access to three lots containing car yards located immediately to the east of the subject site. A crossover from No. 5523 Princes Highway which is part of the subject site provides access to this service road. The service road commences as a deceleration lane which extends for approximately 100 metres and then forms the service road which extends for approximately 270 metres in front of the car yards to the east of the subject site. The service road allows for one lane of traffic with parking provided on its northern side.

A locality plan can be found at Attachment 3.

**HISTORY OF APPLICATION**

The history of the assessment of planning permit application 2010/390 can be found in Attachment 4.

However, it is important to note (below) why the application has been 'live' for such a long period of time.

This application was originally lodged on 1<sup>st</sup> December 2010. The application was advertised and also referred to a number of internal and external authorities on 9<sup>th</sup> December 2010. Council's Infrastructure Planning team identified an issue with a previous subdivision of the land whereby conditions of that previous subdivision had not been met but the

subdivision had been finalised and titles issued upon the advice of Infrastructure Planning at that time.

The response from Infrastructure Planning was critical to the application, due to the drainage issues that were identified with respect to the previous application. Historically decisions had been made in relation to the subject site and the abutting land that resulted in the need for significant and detailed investigation by the Infrastructure Planning team in order to be able to make clear and accurate recommendations. This investigation resulted the identification of a number of issues at the site that required resolution prior to recommendations being made. Following the identification and resolution of the issues a recommendation was able to be provided in relation to the subject site in May 2013 when Infrastructure Planning had provided their referral response to the current application.

As part of the advertising process in December 2010/January 2011, four objections were received. Given the elapse of time, and officers becoming aware of the changes in land ownership of surrounding properties during 2013, the application was readvertised to land owners in June 2013. This was done by Latrobe City on behalf of the applicant. No further objections were received.

The provisions of the Scheme relevant to this application are in Attachment 5.

### **LATROBE PLANNING SCHEME**

#### **State Planning Policy Framework (SPPF)**

Clause 11.05-1 Regional Settlement Networks promotes the sustainable growth and development in regional areas and states that urban growth in regional areas should be directed into major regional cities including the Moe, Morwell and Traralgon cluster.

Appropriately located supplies of residential, commercial, and industrial land should be provided across the region in sufficient supply to meet community needs.

Clause 15.01-1 Urban Design seeks to *“create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity”*.

Clause 17 Economic Development states that *“[p]lanning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential”*.

Clause 17.01-1 Business strives to *“to encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to*

*accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.”*

### **Local Planning Policy Framework (LPPF)**

Clause 21.04-2 of the LPPF refers to settlement and has the objective “[t]o build upon the existing structure of the towns and settlements to create an integrated network of urban areas”. A way of achieving this objective is to “consolidate development within and around the existing towns and avoid unnecessary urban expansion and rural subdivision”.

Clause 21.04-5 Urban Design Overview states that the “appearance of rural, industrial, retail and residential areas and main road approaches to urban centres is considered important in maintaining a strong level of civic pride”. Objective 1 Urban Design aims to “provide a visually attractive urban environment which displays a high level of civic pride and community satisfaction, and creates a positive image”.

### **Draft Traralgon Growth Area Review (TGAR) and Draft Traralgon West Structure Plan**

TGAR is intended to provide a growth strategy that identifies areas for future urban development around Traralgon, Traralgon-Morwell Corridor, Glengarry and Tyers up to the year 2051. The subject site is within the study area of TGAR.

The Traralgon Framework Plan and the Traralgon West Structure Plan form part of the draft TGAR documents. Both plans identify the land as ‘car sales’ along with the adjoining properties to the east. TGAR does not propose to change the zoning of the site or the adjoining car yards.

Land on the northern side of Bradford Drive is currently zoned Low Density Residential Zone which has a minimum lot size restriction of 0.2 hectares. It is proposed to be rezoned to a conventional residential zoning under TGAR which would allow for a more intensive use of these lots for residential purposes.

### **Zoning – Special Use Zone Schedule 2 – Urban Gateway**

The site is located within the Special Use Zone Schedule 2 – Urban Gateway. The purpose of this zone is “to ensure that any uses are planned or developed having regard to the strategic and prominent location on the main road frontage at the entry to a major regional urban settlement”.

### **Particular Provisions**

*Clause 52.01 Public Open Space Contribution and Subdivision:*

Council’s Public Open Space Strategy requires a contribution from the developer of 5% of the value of the net developable area of the land to be

provided in either cash or land or a combination of both for public open space. In this instance, a cash contribution of 5% would be required in accordance with the Strategy as the size and location of the subject site does not meet the requirements of the Strategy with regard to the provision of land.

*Clause 52.02 Easements, Restrictions and Reserves:*

It is proposed to remove a sewerage easement from the north-eastern end of the site as the easement and assets within it are redundant. Gippsland Water has not objected to the removal of the easement and has specified a condition to be included on any approval issued that the Rising Sewer Main located in the easement be removed.

*Clause 52.29 Land Adjacent to a Road Zone, Category 1:*

A planning permit is required to subdivide land adjacent to a Road Zone Category 1 (RDZ1). Princes Highway is a RDZ1. Applications must be referred to Vic Roads.

**Decision Guidelines (Clause 65):**

Clause 65.02 provides decision guidelines to consider when assessing applications to subdivide land. These guidelines are discussed in the Issues section of this report.

## **ISSUES**

Both State and Local Planning Policy Frameworks encourage economic development and maximisation of the use of existing urban areas and infrastructure. This must be undertaken in the context of orderly and proper planning where the surrounding character and amenity of the area is respected. Land use conflicts should be addressed so that they are rectified and additional conflicts are not created.

The proposed subdivision would be of land that is in the Special Use Zone Schedule 2 – Urban Gateway. The site is currently underutilised with two car yards established on its Princes Highway frontage and the remainder of the site vacant. The concept of subdividing the land into smaller parcels would improve the usability of the land within the existing urban area of Traralgon and would not encroach into any non-urban area. However it is considered that the configuration of the proposed subdivision is not appropriate for the site.

The purpose of SUZ2 is to have regard to *“the strategic and prominent location on the main road frontage at the entry to a major regional urban settlement”*. One of the decision guidelines for subdivision in the zone is for Council to consider *“[t]he effect the subdivision will have on the potential of the area to accommodate the uses which will maintain or enhance its competitive strengths”*.



**ORDINARY COUNCIL MEETING MINUTES  
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It is considered that the subdivision of land in the 'Urban Gateway' zone should have a primary focus to the Princes Highway with access and traffic generated from the uses of the lots concentrated onto the Princes Highway frontage of the site. The proposed subdivision turns it back in part on the main road frontage of the site with five smaller lots proposed to be created having frontage to Bradford Drive only.

The proposal would not enhance the area's competitive strengths as it would limit the exposure of the proposed lots to Princes Highway. The purpose of the zone is to create a highly visible gateway to Traralgon. The LPPF states that appearance of main road approaches to urban centres are important in maintaining a strong level of civic pride. It is considered that the proposed subdivision would limit the potential of the site to contribute to the vibrancy and viability of this unique gateway location.

The decision guidelines for subdivision in the zone also state that the interface with adjoining zones, especially residential zones should be considered. The creation of five lots facing Bradford Drive could have the potential to create land use conflicts between future uses of the proposed lots with the residential land on the northern side of Bradford Drive which is earmarked for more intensive residential development in TGAR.

Most uses require a planning permit in the zone however it is noted that the uses which are often employed as a buffer between retail uses and residential land such as offices are prohibited. It can be assumed from the Scheme that motor vehicle, boat or caravan sales and associated service industries such as motor vehicle repairs and car washes are the strategic intent of this Special Use Zone. Therefore any proposed subdivision of the land in the zone must take these uses into account when assessing the suitability of the subdivisional layout. With this in mind, the creation of five lots with frontage only to Bradford Drive has the potential to cause land use conflicts with the residential land to the north on Bradford Drive by way of noise and traffic. The use of the lots for car, caravan or boat sales, motor vehicle repairs or car washes is unlikely to be supported by Council leaving the lots potentially unusable as they would not be suitable for any other use permitted within the zone.

It is therefore considered that the proposed subdivision layout is inappropriate for the site given the site's prominence at the 'gateway' to Traralgon, the interface it would have with Bradford Drive residential properties and the potential future uses of the lots.

#### Objections

The application received four submissions in the form of objections. The issues raised were:

- 1 Existing and potential traffic on Bradford Drive

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**

Objectors were concerned with the current level of private and commercial traffic on Bradford Drive at present. The creation of further commercial lots with frontage to Bradford Drive would exacerbate the problem.

Comment:

As discussed, it is considered that the subdivision of the subject site should have a focus to Princes Highway in order to take advantage of its prominent position and to reduce land use conflicts between the proposed lots and the residential properties on Bradford Drive. The proposed lot configuration would have five lots with frontage and therefore access to Bradford Drive which would intensify this issue. A traffic report submitted with the application estimated an increase of 116 vehicle trips in Bradford Drive during peak hour. Whilst the road itself may be able to physically accommodate an increase in traffic, the increase would have a significant affect on the amenity of the residential properties in Bradford Drive.

2 Car parking on Bradford Drive.

Objectors commented that trucks currently delivering goods to existing motor vehicle sales uses that back onto Bradford Drive often block the road when unloading. They were also concerned that any new uses on Bradford Drive would cause parking issues in the road.

Comment:

As the uses of the proposed lots have not been determined, it is not known if the subdivision would cause car parking issues. It is envisaged that any use approved would be provided with adequate car parking and loading and unloading areas.

3 The application is deficient as it is not accompanied by supporting detail in relation to the proposed service industries. This information is required under Clause 2 of the Special Use Zone, Schedule 2.

Comment:

The proposal is for the subdivision of the land, and Clause 2 of the zone is not applicable in this instance.

4 It would be highly inappropriate to introduce commercial development fronting Bradford Drive. It should front the highway.

Comment:

As discussed in this report it is considered that the subject site should have a primary focus to the Princes Highway due to its zoning, its prominent position on the highway and the interface with residential land on Bradford Drive.

- 5 If subdivision can go below 4,000 square metres on one side of Bradford Drive, then it should also apply to the other side of the road.

Land on the north side of Bradford Drive is in the Low Density Residential Zone (LDRZ) where the minimum lot size was 4,000 square metres prior to the State Government planning scheme amendment VC100 which reduced the minimum lot size to 2,000 square metres for land connected to reticulated sewerage in the zone. This objection was made prior to the amendment. Nevertheless, the land on the south side of Bradford Drive is located in SUZ2 which has no minimum lot size requirement, and land on the north side is in LDRZ. Therefore different subdivision requirements apply in the different zones.

- 6 The proposed development will constitute a dramatic change to the character of Bradford Drive.

Comment:

It is envisaged that some change to the character of Bradford Drive would occur if and when the subject site is developed as the land is currently vacant and located in SUZ2. However as discussed, the proposal to subdivide the land and create five lots with frontages to Bradford Drive is not considered to be an appropriate response for the site and would have a detrimental impact on the amenity of Bradford Drive.

**FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

**INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

Notification:

In accordance with the notice requirements of Section 52(1) of the Act, notice was provided to adjoining property owners and occupiers of the proposal and two signs were displayed on the site for 14 days. Due to the length of time from when the notification of the application was first undertaken in December 2010 to the writing of this report, the application was advertised to owners and occupiers of land that had changed ownership in the intervening time.

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)**External:

In accordance with the referral requirements of Section 55 of the Act, the application was referred to Gippsland Water, APA Group, Telstra, TXU Electricity, Latrobe Regional Airport and Vic Roads for consideration. Conditional approval of the subdivision was given by these authorities.

Internal:

The application was referred internally to Infrastructure Planning, Health Services and Environmental Planning who gave conditional approval.

It is noted that the referral from Infrastructure Planning took some time to be completed due to drainage issues associated with an adjoining site. This significantly delayed the processing of the application.

*Details of Community Consultation following Notification:*

Four objections to the application were received following notification.

A copy of the objections is at Attachment 6.

A planning mediation meeting was held on 8 February 2011. Consensus was not reached between the parties which would have allowed the matter to be determined by officer delegation, therefore a decision is required by Council.

Given the recommendation by officers, and the elapse of time, officers have been in recent contact with the applicant's consultant (Miller Merrigan) to discuss options that would be acceptable to officers. However, at this point in time, the applicant has not chosen to pursue any of these options.

**OPTIONS**

Council has the following options in regard to this application:

- 1 Issue a Notice of Decision to Grant a Planning Permit.
- 2 Issue a Refusal to Grant a Planning Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

**CONCLUSION**

The proposal is considered to be:

- Inconsistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Inconsistent with the 'Purpose' and 'Decision Guidelines' of the Special Use Zone Schedule 2; and
- Inconsistent with Clause 65 (Decision Guidelines).

## ORDINARY COUNCIL MEETING MINUTES 19 AUGUST 2013 (CM417)

The proposal is considered to be an inappropriate response for the site as it does not adequately address its 'gateway' prominence and has the potential to create land use conflicts with nearby residential properties. The proposal is considered to be contrary to orderly and proper planning.

### Attachments

1. Attachment - Proposed Plan of Subdivision
2. Attachment - proposed removal of easement.
3. Attachment - Locality Plan
4. Attachment - History of application
5. Attachment - Provisions of scheme
6. Attachment - Objections

### RECOMMENDATION

1. That Council decides to issue a refusal to grant a permit for an eight (8) lot subdivision and removal of easement at 5509 – 5523 Princes Highway, Traralgon known as the land in Plan of Consolidation 359213T and Lot A on Plan of Subdivision 504067H on the following grounds:
  1. The proposal does not satisfy the purpose and decision guidelines of the Special Use Zone – Schedule 2.
  2. The proposal is inappropriate for the locality as it does not have regard to the existing nearby residential land and possible future use and development of the subject site.
  3. The proposal would have a detrimental impact on the amenity of the area.
  4. The proposal is inconsistent with Clause 65 of the Scheme and does not provide for the orderly planning of the area.

Cr Harriman left the Chamber at 7.17 pm due to an indirect interest under section 78C of the *Local Government Act 1989*

**Moved:** Cr Middlemiss  
**Seconded:** Cr White

**That the Recommendation be adopted.**

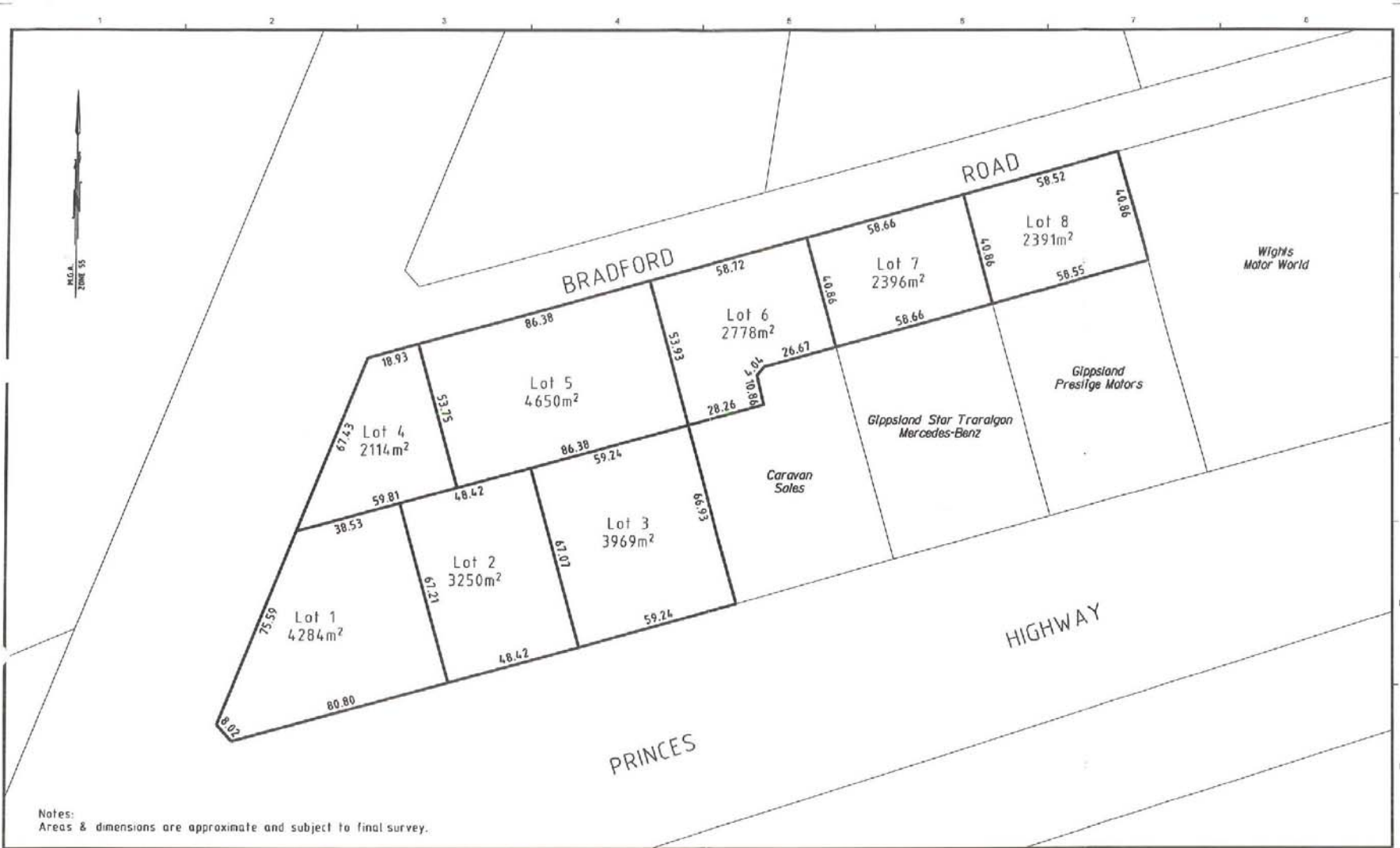
**CARRIED UNANIMOUSLY**

Cr Harriman returned to the Chamber at 7.18 pm

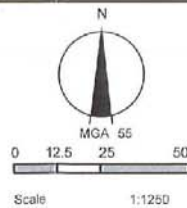
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### **Planning Permit Application 2010/390 for an eight (8) lot subdivision and removal of easement at 5509 – 5523 Princes Highway, Traralgon**

1	Attachment 1 - Proposed Plan of Subdivision .....	531
2	Attachment 2 - proposed removal of easement.....	533
3	Attachment 3 - Locality Plan.....	535
4	Attachment 4 - History of application .....	537
5	Attachment 5 - Provisions of scheme .....	539
6	Attachment 6 - Objections .....	541



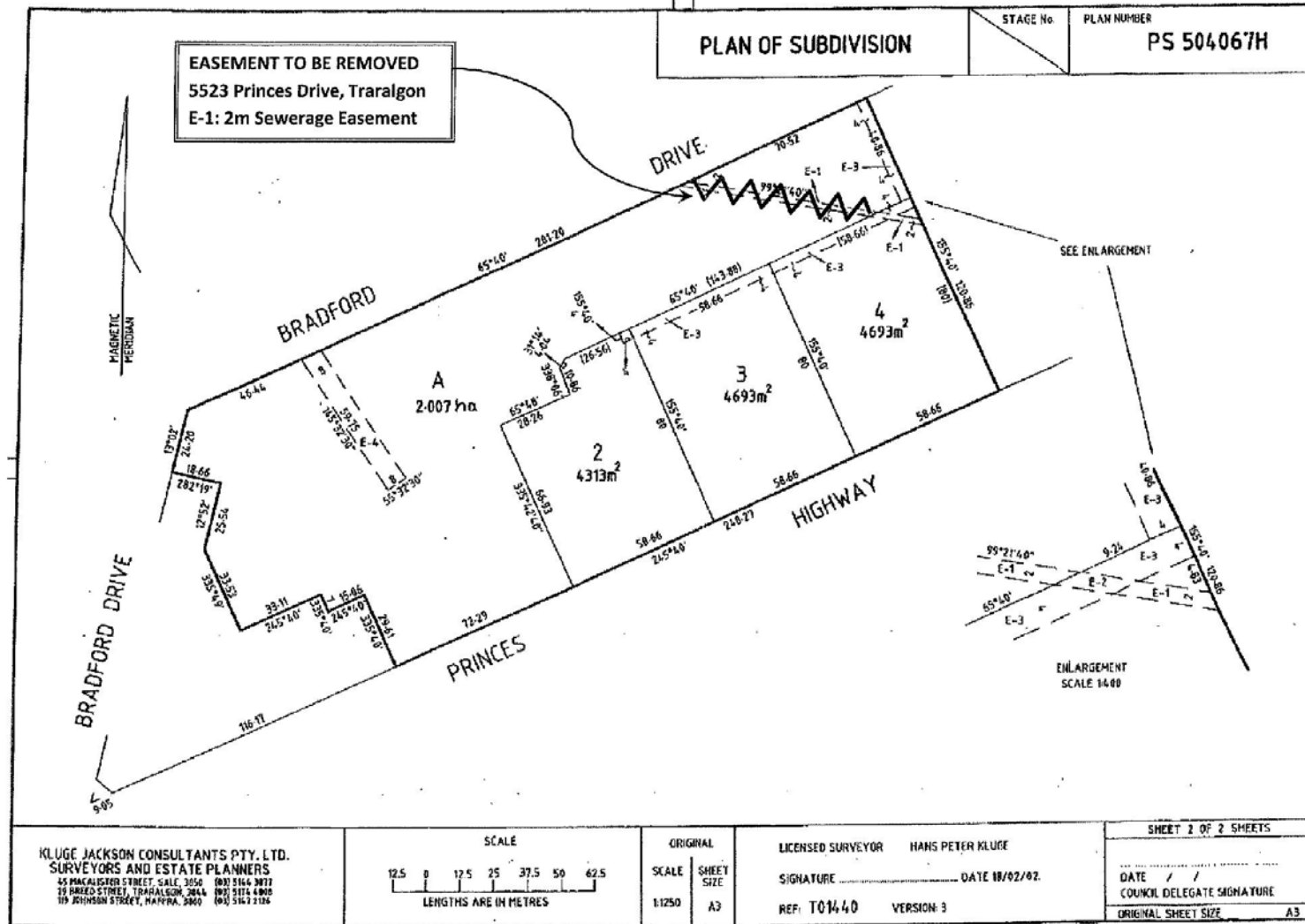
REVISION	DATE	ZONE
C Lot dimensions checked	28/01/08	
B Lot 8 & 9 added	11/12/09	



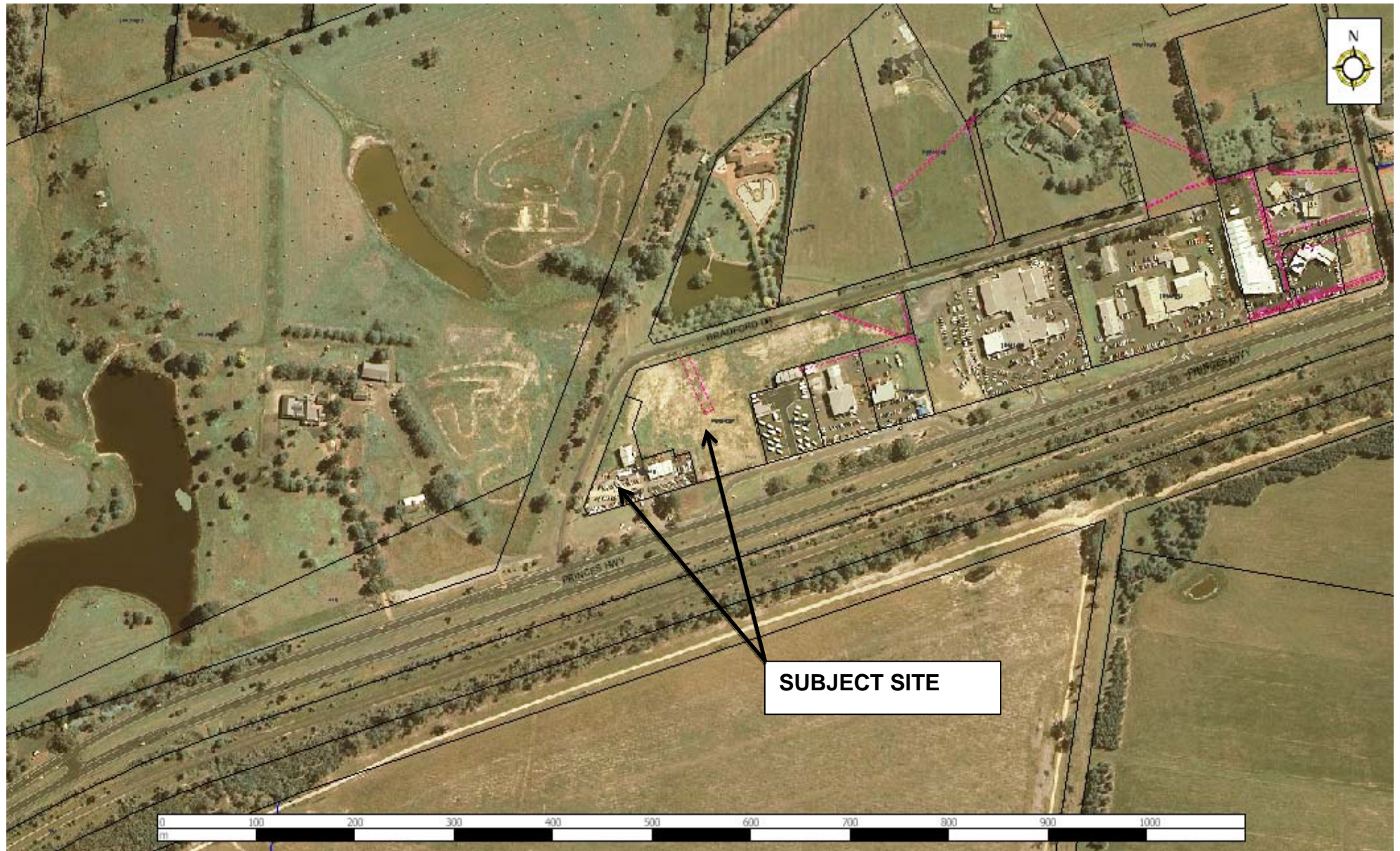
Surveyed  
 Drawn S.Tresider Nov '09  
 Checked S.White Nov '09  
 Approved M.Jones Nov '09

**STABLE PROPERTIES**  
 PRINCES HIGHWAY  
 TRARALGON 3844  
**LOT LAYOUT PLAN**

Drawing No. 3420504-00-001 Rev C  
 Sheet No. 1 of 1  
 © SM Urban Pty Ltd ABN 60 124 208 819 A3







**History of Application**

29 November 2010	Planning Permit application received by Council.
9 December 2010	Application advertised by mail to adjoining property owners and occupiers and signs placed on site.  Application referred to Gippsland Water, APA Group, Telstra, TXU Electricity, Latrobe Regional Airport and Vic Roads.  Application referred internally to Infrastructure Planning, Health Services and Environmental Planning.
17 December 2010	Referral response received from Health Services
22 December 2010	Referral response received from Telstra
22 December 2010	Referral response received from Latrobe Regional Airport
23 December 2010	Referral response received from SP Ausnet
23 December 2010	Referral response received from APA Group
3 February 2011	Referral response received from Environmental Planning
8 February 2011	Planning Mediation Meeting held at Traralgon Service Centre
9 February 2011	Completed statutory declaration returned by the applicant.
16 March 2011	Referral response received from Gippsland Water
2 May 2011	Referral response received from Vic Roads
16 May 2013	Referral response received from Infrastructure Planning
17 June 2013	Application advertised to adjoining owners and occupiers that had changed since the application was first advertised in December 2010

●  
**LATROBE PLANNING SCHEME**

**State Planning Policy Framework**

Clause 11.02 'Urban Growth'  
Clause 11.05 'Regional Development'  
Clause 18.01 'Integrated Transport'  
Clause 18.02 'Movement Networks'  
Clause 19.03 'Development Infrastructure'

**Local Planning Policy Framework**

Clause 21.01 'Municipal Profile'  
Clause 21.02 'Municipal Vision'  
Clause 21.04 'Built Environment Sustainability'  
Clause 21.05 'Main Towns'  
Clause 21.07 'Economic Sustainability'

**Zoning – Special Use Zone Schedule 2 - Urban Gateway**

The subject land is located within the Special Use Zone Schedule 2 – Urban Gateway.

**Overlay**

There are no overlays that affect this property.

**Particular Provisions**

Clause 52.01 'Public Open Space Contribution and Subdivision'  
Clause 52.02 'Easements, Restrictions and Reserves'

**General Provisions**

Clause 65 'Decision Guidelines'

**Incorporated Documents (Clause 81):**

There are no incorporated documents that relate to the consideration of this application.

The Responsible Authority  
 Latrobe City Council  
 PO Box 264  
 Morwell Vic 3840

1<sup>st</sup> February, 2011

Dear Sir / Madam,

**Planning Permits Reference No:** 2010/390  
**Property:** 5509-5523 Princes Highway, Traralgon

LATROBE CITY COUNCIL	
INFORMATION MANAGEMENT	
RECEIVED	
04 FEB 2011	
N/O	Doc No. 607587
Comments/Details Calculated to:	
<input type="checkbox"/> Duty calculated on PlanWorks	<input type="checkbox"/> Advice forwarded to council

We object on the grounds that the developer has undertaken works on our rear boundary without consultation or discussion to either the council or their Neighbours (us). In the normal course this is acceptable; however, this has led to damage in the vicinity of \$75,000 pre legal costs. If we had been consulted prior to these works being undertaken, we would have considered any proposal tabled to upgrade the retaining wall.

Given this, we believe we have a founded objection based on: -

1. The "Developer" has already failed to act in good faith at righting the wrong (damage);
2. Working without planning permits or engineers advise on boundaries that may lead to collapse or slippage, particularly when you work within the "Engineering field" provides absolutely no comfort to the proposed plans;
3. Choosing when / when not to obtain the relevant planning approval / engineering plans casts doubt that this may occur again with the proposed plans, that adjoin much of our boundary, thus lead to more damage;

We have been in business for 20 years in the Latrobe City. During this time we have never objected to any planning proposal as we believe in working with people. However, as this developer has caused us loss, and is now unreasonable, we firmly object to this planning permit and will pursue it until our matter is resolved.

Yours Sincerely



John Mackenzie  
 26-28 Park Lane, Traralgon  
 (0401) 522 404  
 General Manager  
 Hellings Group

40 (00) 3000 0000

**Kristy Crawford**

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**From:** Pierina & Anthony's [fenech@netspace.net.au]  
**Sent:** Tuesday, 18 January 2011 11:09 AM  
**To:** Kristy Crawford  
**Subject:** Response to proposed subdivision along Bradford drive.

**Attachments:** buhagiär



buhagiär (29 KB)

Please find attachment in regard to proposed subdivision along Bradford drive.

Thank you...Pierina Fenech

RE: Application for Lot subdivision and removal of easement E1 from Plan of subdivision 504067H (5509-5523 Princes Highway Traralgon)

Dear Ms Crawford and others,

I am writing in regard to the above-mentioned application for a planning permit. After reading the very extensive document provided at the council offices, it is very clear to me that we are back at square one. The applicant is seeking to subdivide the land with the view for future development of workshops etc. Last year the objections to such a proposal were made very clear and at the time, no issues had been resolved. Although there appears to be a traffic report attached to this application, I am very concerned at its accuracy. The times in which it has reported movement is not necessarily indicative of the reality of the traffic conditions on and around Bradford drive. Bradford drive does have some peak times, but more realistically, the issue is that the road has become a service road that is predominately used for heavy vehicle use and for the extensive use of the car sales yards. Neither the council nor Vic police monitor the traffic use on Bradford drive in any way. As a resident, I have had to make my own complaints to Wights Motors and Colin Watson for the inappropriate use and misuse of the road.

The other concern is the amount of larger trucks that use the road to deliver vehicles. It is very dangerous, especially around the bend. Perhaps Traffix should come to monitor the road after hours and weekends when these large trucks are delivering cars. They block driveways, they often block access to Bradford drive and speed around the bend, while they are delivering or picking up vehicles. This road is also a residential road. Therefore in considering the application for subdivision, this issue needs to be addressed and resolved, not put on the back burner until the next time a developer wants a permit. As a ratepayer and landowner, I have the same rights as the developer and one should not be considered more than the other.

The plans very clearly outline that 5 lots will front Bradford drive. This means at least 5 drive ways, maybe more, will be added to this road and therefore adding more stress to the usage of Bradford drive. The concern of the bend is still very real and as stated already, very dangerous. Perhaps a service road on Bradford drive needs to be created for the exclusive use of the vehicles using the commercial zones.

My other concern is going back to the discussions at mediation about how we see the future of Bradford drive. Is it to be seen as a commercial/industrial area or a rural residential area? The aspect of this area is going to be very undesirable to future residents, if they are to be surrounded by industry and the relevant nuisances that come with it.

If subdivision is approved, perhaps some considerations as to what fronts the lots must be put in place. Some thought must be given to the overall look of this area. Planting of large trees in front of the commercial workshops planned, either/or along the nature strip, to help disguise and to blend in with the surrounds would be most appropriate.

Some monitoring of the roads should also be considered. I have never seen police monitoring this road at all in the 4 years I have been a resident and the 20 years we have owned the property. It seems to me that Bradford drive is one of those forgotten roads that no one sees from the highway and therefore we don't have to care about it. We pay exuberant rates to reside here and at present it is a desirable part of Traralgon, but I fear that what is intended here in the future, will not only make this a very undesirable location for residence, but will become a nuisance area for more vehicles and noise. As a resident, I feel that it is quite over due that these issues be resolved.

Although I don't object to the concept of subdivision of the above-mentioned parcel of land, I do wish to raise these issues with the developer and with council as concerns that should be taken into consideration when making a decision. If subdivision goes ahead with the view to develop further commercial sites, it raises the issue of whether my property and my surrounds should also be used for commercial purposes and if that is the case, I'm sure the council together with the developer will make the appropriate compensations to the land owners...as we will not be able to do much else with this land, certainly no prospect of subdivision for residential purposes.

In relation to Lot size, does this proposal for subdivision mean that directly across the road where I own land, I will now be able to subdivide my property to those measurements...i.e.: less than 4000m<sup>2</sup>. This issue keeps reappearing and I see it not just as an issue of rezoning, but one of justice and logic. It looks to me that council will rezone as applications are sought, rather than decisions being made on a strategic plan or study of a particular area. If subdivision can go below the 4000m<sup>2</sup> measurement on one side of Bradford drive, then it should also apply to the other side of the road. In the past we have had study after study done and the issues of environment, sewerage, power etc have always hindered rezoning for land size to go below 4000m<sup>2</sup>. I now put it to you, that with the increase of development in this area these issues are appropriate to raise again. When will clear decisions be made and when will this entire area be considered, rather than one small patch of land at a time?

I look forward to discussing this further with council.

Mrs Picrina Fenech  
35 Bradford Drive  
Traralgon 3844  
Ph: 51760865

*Dr Paul King  
2/1/11*

Bill Rutherford

P.O. Box 638

TRARALGON, VIC, 3844

14 January 2011

Your ref: 2010/390

Ms. Kristy Crawford

Senior Statutory Planner

City of Latrobe

DX 217733

MORWELL, VIC, 3840

Dear Ms. Crawford,

Re: BRADFORD DRIVE

Once again I express concern that I was not given notice of this application. As you know it has significant impact on my property.

I am happy to address counsel on this issue.

Yours faithfully,

Bill Rutherford

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RECEIVED 17 JAN 2011	
F/O:	Doc No: 601578
Comments/Copies Circulated to	
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### OBJECTION TO PROPOSED SUBDIVISION

This objection has been prepared in haste as I have not been advised of the application for a subdivision by Latrobe City Office. This may be because the property is described as 5509 & 5523 Princes Highway, Traralgon. That is quite misleading as most of the proposed lots are on Bradford Drive, Traralgon.

The proposed development will constitute a dramatic change to the character of Bradford Drive.

At the moment, there is no commercial development on Bradford Drive. There are car sales yards. These have their frontage to Princes Highway. The rear of these facilities are sheltered from sight in Bradford Drive by extensive tree and shrub planting. It is true that Colin Watson is not particularly well sheltered because of a failure by the owner to comply with the Planning Permit. That is another issue. The owner of Wight's Motor World has complied with the Planning Permit and has established a particularly appealing green area which is visually appealing and effectively shelters the commercial development from Bradford Drive.

The Applicant admits that the development will constitute an increase in traffic. In fact it will constitute a dramatic increase. Almost all of the traffic generated by the commercial development on the Princes Highway utilises the Princes Highway. A small amount of traffic accesses the rear of the commercial enterprises and so uses Bradford Drive. Even that constitutes a safety hazard for the users of the premises on Bradford Drive. To place commercial premises virtually in the middle of Bradford Drive will substantially increase traffic on a road that was not designed to carry such traffic and which is completely unsuitable for such traffic.

Vehicles do not park along Bradford Drive and indeed there were No Standing signs along Bradford Drive. They were removed to facilitate some work along Bradford Drive but unfortunately not replaced. It is inevitable that with the new development, vehicles will park near the development and even if such parking is made illegal, many drivers will park illegally because they will perceive that they are sheltered from inspectors.

The Applicant has not explained why the development could not take place on Princes Highway. While his proposed development is completely at odds with the nature of Bradford Drive, it is completely consistent with the development along that part of Princes Highway. Indeed the developer concedes that the aim of the development is to service the facilities along the Princes Highway.

The car yards along the Princes Highway have a very high visual impact. If the proposed development was situated on the Princes Highway, there would be virtually no change to the visual impact. Indeed in every respect, the change will be minimal. On the other hand, the change to Bradford Drive will be substantial. The change will be to a range of issues such as traffic, safety and amenity.

When we first came to Bradford Drive, the southern side of the Drive was very pleasant. It consisted of a well established and dense green zone that extended along part of Bradford Drive. That has been enhanced by the owners of a car yard. It is quite sad that the green zone has been demolished and it is unfortunate that Council did not prevent such demolition. That should not be made worse by a quite inappropriate commercial development.

13/01 2011 17:51

RUTHERFORD

pw 17/1/11 #2815 P.001/002  
kristy

Maria Vogt

Bradford Drive

TRARALGON, VIC, 3844

13 January 2011

Chief Executive Officer

Latrobe City Council

P.O. Box 264

MORWELL, VIC, 3840

Dear Sir/Madam,

Re: Proposed Industrial Subdivision

5509 &amp; 5523 Princes Highway, TRARALGON

I have reviewed the documentation accompanying the planning permit application and I strongly object to the proposal on the following grounds:

#### Traffic Impacts

I have resided at 15 Bradford Drive for the past 24 years and during this time I have observed the gradual development of commercial businesses along the Princes Highway between Bradford Drive and Coonoc Road. All existing businesses have been designed to front Princes Highway to gain visual exposure to passing traffic, with primary vehicular access from this road. Only Wights Motor World and Colin Watson Holden car yards were permitted to have a secondary access arrangement from Bradford Drive for staff vehicles. However, over the years these car yards have increased their usage of Bradford Drive to include vehicle deliveries and test driving. This has resulted in a detrimental impact on my amenity, with vehicles using the road at high speeds and my driveway as a turning circle. Furthermore, the number and type of vehicles using Bradford Drive has created a safety hazard when trying to negotiate the sweeping bend at the western end of the road. Bradford Drive was originally designed to cater for local traffic generated from the low density residential estate on the northern side of the road. It was never intended to accommodate commercial traffic. I note that the proposal admits a substantial increase in vehicular traffic as a result of the proposal. It is considered that any increase in the use of Bradford Drive by commercial traffic is well beyond the current carrying capacity of this road and is expected to have a significant detrimental impact on my amenity.

#### Noise Impacts

The application is not accompanied by supporting detail in relation to the proposed service industries, such as hours of operation, noise levels, hours of delivery and dispatch of goods and materials. I note that the provision of such information is a requirement under clause 2 of the Special Use Zone - Schedule 2. The provision of such information is vital in order for me to determine the potential impact on my amenity. The application is deficient in this regard.

LATROBE CITY COUNCIL  
INFORMATION MANAGEMENT

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14 JAN 2011

R/O: Doc No: 600739

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13/01 2011 17:51

RUTHERFORD

#2915 P.002/002

**Visual Impacts**

As previously stated, all existing commercial development in the Special Use Zone between Bradford Drive and Coonoc Road has been designed to front and gain primary access from the Princes Highway. It is considered highly inappropriate to introduce commercial development fronting Bradford Drive, particularly when there are no site constraints preventing design of the proposal so it is orientated towards the highway, with access from the existing service road.

To conclude, the proposal as detailed in Application No. 2009/282 is inappropriate for the site and I request that Latrobe City Council refuse to grant a planning permit. My concerns would be alleviated if the proposal was redesigned to front Princes Highway, with access/egress provided from the existing highway service road and a substantial landscaped buffer provided along the northern boundary of the site abutting Bradford Drive.

Yours faithfully,

Maria Vogt



# ORGANISATIONAL EXCELLENCE

**17. ORGANISATIONAL EXCELLENCE**

Nil reports

# MEETING CLOSED TO THE PUBLIC

## 18. MEETING CLOSED TO THE PUBLIC

Section 89(2) of the Local Government Act 1989 enables the Council to close the meeting to the public if the meeting is discussing any of the following:

- (a) Personnel matters;
- (b) The personal hardship of any resident or ratepayer;
- (c) Industrial matters;
- (d) Contractual matters;
- (e) Proposed developments;
- (f) Legal advice;
- (g) Matters affecting the security of Council property;
- (h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) A resolution to close the meeting to members of the public.

### RECOMMENDATION

That the Ordinary Meeting of Council closes this meeting to the public to consider the following items which are of a confidential nature, pursuant to section 89(2) of the Local Government Act (LGA) 1989 for the reasons indicated:

#### 18.1 ADOPTION OF MINUTES

Agenda item *Adoption of Minutes* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

#### 18.2 CONFIDENTIAL ITEMS

Agenda item *Confidential Items* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

#### 18.3 AUDIT COMMITTEE MINUTES REPORT

Agenda item *Audit Committee Minutes Report* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

#### 18.4 LCC-65 RECONSTRUCTION OF VINDON AVENUE AT MORWELL

Agenda item *LCC-65 RECONSTRUCTION OF VINDON AVENUE AT MORWELL* is designated as confidential as it relates to contractual matters (s89 2d)

#### 18.5 COUNCILLORS QUARTERLY EXPENSES REPORT - APRIL 2013 - JUNE 2013

Agenda item *Councillors Quarterly Expenses Report - April 2013 - June 2013* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

**ORDINARY COUNCIL MEETING MINUTES  
19 AUGUST 2013 (CM417)****18.6 TRARALGON TENNIS CLUB DEBT**

Agenda item *Traralgon Tennis Club Debt* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

**18.7 FUNDING REQUEST FROM OLD GIPPSTOWN**

Agenda item *Funding Request from Old Gippstown* is designated as confidential as it relates to personal hardship of any resident or ratepayer (s89 2b)

**18.8 LEAVE OF ABSENCE - CR SANDY KAM**

Agenda item *Leave of Absence - Cr Sandy Kam* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

**18.9 SPONSORSHIP APPLICATION**

Agenda item *Sponsorship Application* is designated as confidential as it relates to a matter which the Council or special committee considers would prejudice the Council or any person (s89 2h)

**Moved:** Cr Middlemiss

**Seconded:** Cr Rossiter

**That the Recommendation be adopted**

**CARRIED UNANIMOUSLY**

**The Meeting closed to the public at 7.20pm**

**The meeting re-opened to the public at 7.57pm**

**There being no further business the meeting was declared closed at 7.57pm**

**I certify that these minutes have been confirmed.**

**Mayor:** \_\_\_\_\_

**Date:** \_\_\_\_\_