



AGENDA

Development Assessment Committee Meeting Wednesday, 11 September 2024

I hereby give notice that a Development Assessment Committee Meeting will be held on:

Date: Wednesday, 11 September 2024

Time: 6.00pm

Location: Council Chamber, 15 Stead Street, Ballan & Online

**Henry Bezuidenhout
Executive Manager Community Planning & Development**

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1 OPENING**2 PRESENT AND APOLOGIES****3 RECORDING OF MEETING**

In accordance with Moorabool Shire Council's Governance Rules, the meeting will be livestreamed.

4 CONFIRMATION OF MINUTES

Development Assessment Committee Meeting Minutes 21 August 2024.

5 MATTERS ARISING FROM PREVIOUS MINUTES**6 DISCLOSURE OF CONFLICTS OF INTERESTS**

Conflict of interest laws are prescribed under the *Local Government Act 2020* (the Act) and in the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations). Managing conflicts of interest is about ensuring the integrity and transparency of decision-making.

The conflict of interest provisions under the Act have been simplified so that they are more easily understood and more easily applied. The new conflict of interest provisions are designed to ensure relevant persons proactively consider a broader range of interests and consider those interests from the viewpoint of an impartial, fair-minded person.

Section 126 of the Act states that a Councillor has a conflict of interest if they have a general conflict of interest or a material conflict of interest. These are explained below:

- A Councillor has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the member's private interests could result in them acting in a manner that is contrary to their public duty as a Councillor.
- A Councillor has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

A relevant person with a conflict of interest must disclose the interest in accordance with Council's Governance Rules and not participate in the decision-making process on the matter. This means the relevant person must exclude themselves from any discussion or vote on the matter at any Council meeting, delegated committee meeting, community asset committee meeting or, if a Councillor, any other meeting conducted under the auspices of the Council. The relevant person must also exclude themselves from any action in relation to the matter, including an action taken to implement a Council decision, for example, issuing a planning permit.

7 COMMUNITY PLANNING REPORTS

7.1 PA2023152 - USE AND DEVELOPMENT FOR A DWELLING AND ANCILLARY SHED WITH ASSOCIATED EARTHWORKS AND NATIVE VEGETATION REMOVAL AT 811 GREENHILLS ROAD, BLACKWOOD

Author: Thomas Tonkin, Senior Statutory Planner
Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development
Attachments: 1. Proposed plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2023152
Lodgement Date: 30 October 2023
Planning Officer: Tom Tonkin
Address of the land: 811 Greenhills Road, Blackwood
Proposal: Use and development for a dwelling and ancillary outbuilding with associated earthworks and native vegetation removal
Lot size: 3.03ha
Why is a permit required? Clause 35.06 Rural Conservation Zone – Use and development for a dwelling and ancillary outbuilding and associated earthworks; Clause 44.06 Bushfire Management Overlay – Buildings and works associated with accommodation; Clause 52.17 Native Vegetation – Removal of native vegetation

RECOMMENDATION

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2023152 for the Use and Development for a Dwelling and Ancillary Outbuilding with Associated Earthworks and Native Vegetation Removal on Crown Allotment 7 Parish of Blackwood known as 811 Greenhills Road, Blackwood, subject to the following conditions:

Endorsed Plans:

1. Before the use and development starts, 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 must be generally in accordance with the plans identified as Project No. 001, Sheet no.'s A.03, A.04, A.05, A.06, A.07, A.08, A.09, A.10 and A.12, dated 5 February 2024 drawn by BH; Bushfire Management Plan, Version 1, dated 1 March 2024 and Native Vegetation Report dated 22 May 2024, both prepared by Culingaia Flora Environmental Consultancy; and Land Management Plan prepared by Central Highlands Environmental Consultancy dated 23 May 2023, but modified to show:
 - a) The Land Management Plan amended to show the current dwelling plans, as relevant.
2. Unless otherwise approved in writing by the Responsible Authority, all buildings and works

must be constructed or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

Dwelling Requirements:

3. The dwelling must be connected to a reticulated sewerage system if available. If reticulated sewerage is not available all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
4. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.
5. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.
6. Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.

Materials:

7. All external walls and roof areas of the proposed buildings are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.

Environmental Planning:

8. To offset the removal of 0.168ha of native vegetation the permit holder must secure a native vegetation offset in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017), the permit holder must secure the following offsets:
 - a) general offset of 0.023 general habitat units:
 - i. located within the Port Phillip and Westernport Catchment Management Authority boundary or Moorabool Shire Council municipal area; and
 - ii. with a minimum strategic biodiversity value of at least 0.270.
9. Before any native vegetation is removed, evidence that the required offset under this permit has been secured must be provided to the satisfaction of the Responsible Authority. This evidence must be one or both of the following:
 - a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and/or
 - b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at Department of Energy, Environment and Climate Action (DEECA) via email grampians.planning@delwp.vic.gov.au.

10. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory

requirements or approvals.

11. Unless exempt under Clause 52.17 or any other relevant provision of the Moorabool Planning Scheme, native vegetation must not be removed, destroyed or lopped without further planning approval.
12. Protective temporary fence is to be installed on either side of driveway entrance and around areas of retained vegetation within close proximity to works to minimise machinery accidentally damaging or entering protected / retained areas of native vegetation.

Environmental Health:

13. The land application area and all conditions must be in accordance with the Land Capability Assessment prepared by AGR GeoSciences Pty Ltd, Reference number 23C0936LCA dated 17th July 2023 or any approved amendment.
14. An onsite wastewater management system with the capacity to treat effluent to a minimum of 20mg/L BOD, 30mg/L SS and 10orgs/100ml with chlorination, i.e. secondary treatment via an aerated wastewater treatment system, must be installed.
15. The approved dwelling's wastewater must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
16. The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.
17. All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4.
18. The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.

Development Infrastructure:

19. A rural vehicle crossing must be provided on Greenhills Rd to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing with any redundant crossings being removed and restored to the satisfaction of the Responsible Authority. The rural vehicle crossing must be generally in accordance with Standard Drawing 255 of the Infrastructure Design Manual unless an alternative design is approved under the vehicle crossing permit.
20. Unless otherwise approved by the Responsible Authority there must be no buildings, trees, structures, or improvements located over any drainage pipes and easements on the property.
21. The proposed property access and the internal driveway to the subject site must be constructed in accordance with the requirements specified in Table 5 of Clause 53.02-5 of the Moorabool Planning Scheme, to the satisfaction of the Responsible Authority.
22. The Storm water drainage from the proposed site must be retained within the boundaries of the property to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any wastewater disposal areas.
23. Prior to the works commencing on the development, notification including photographic evidence must be sent to Council's Infrastructure Services identifying any existing damage

to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority. If photographic evidence cannot be provided, then the damage must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

24. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

Country Fire Authority:

25. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.
26. Before the development starts, the Bushfire Management Plan prepared by Culingaia Flora Environmental Consultancy, Version 1, dated 1 March 2024 must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

Greater Western Water:

27. Prior to a building permit being granted for the development of a dwelling, the owner of the land must enter into a Section 173 Agreement with Greater Western Water and the Council agreeing that:
 - a) A wastewater treatment system that produces wastewater to a minimum standard of 20/30 (BOD/suspended solids) must be installed to the satisfaction of the Council's Environmental Health Officer and Greater Western Water to treat all sullage and sewage waste on site.
 - b) Wastewater is to be dispersed to the satisfaction of Council's Environmental Health Officer and Greater Western Water using methods that will prevent waste and treated waste from discharging from the property at all times.
 - c) The effluent system must be maintained by a suitably qualified person in accordance with the manufacturer's specifications and EPA requirements.
 - d) The wastewater effluent being released from the treatment facility must be monitored annually to ensure compliance with the 20/30/10 standard.
 - e) Reports on water quality and maintenance must be submitted to the Responsible Authority at the completion of each maintenance period. This report must be made available to Greater Western Water on request.
 - f) The Owner shall meet the costs of the inspections and reports referred to in Conditions c), d) and e).
 - g) The owner shall carry out such works including replacing effluent treatment, storage pumping and disposal systems within the time specified to do so by the Council's Environmental Health Officer or Greater Western Water to cease and prevent waste and treated waste from discharging from the property.
 - h) If the wastewater program proves to be unsustainable, the land holder must immediately rectify the sewerage disposal system.

- i) The owner shall have the wastewater treatment system desludged at least once every three years and evidence of this fact shall be provided in the annual written report referred to in Condition e).
 - j) The effluent disposal field must be protected by being isolated from any building, driveway, livestock, vehicles or permanent recreational area that could render it unavailable in the future and should be planted with suitable grasses that will aid in moisture removal.
 - k) The primary and reserve effluent disposal fields must be protected by being isolated from any building, driveway, livestock, vehicles or permanent recreational area that could render it unavailable in the future and should be planted with suitable grasses that will aid in moisture removal.
 - l) The wastewater treatment and disposal systems, cut off drains and pumping system must be installed in accordance with the Land Capability Assessment Report prepared by Ballarat Soil Testing Dated May 7,2021 Reference No.AS040419 and the accompanying management plan followed and implemented.
 - m) All actions and recommendations contained within the Land Management Plan prepared by Central Highlands Environmental Consultancy dated 23 May 2023 V01 must be followed and implemented to the satisfaction of Greater Western Water.
28. The wastewater disposal area must be located at least: 100m from any waterways, 40m from any drainage lines, 60m from any dams, and 20m from any bores.
29. Any existing or proposed outbuilding must not be used for the purposes of accommodation or contain facilities that result in the discharge of wastewater.
30. No other building works shall be undertaken on the subject land without written approval of Greater Western Water.
31. Sediment Pollution Controls shall be employed during construction and maintained until the disturbed area has been regenerated.
32. Stormwater is to be managed in a way to minimise risk to erosion of the surrounding land. No stormwater should be allowed to move into the effluent disposal fields.
33. Low volume water fittings such as water efficient showerheads, dual flush toilets and tap aerators are to be fitted to all water fixtures.
34. The obligations under this agreement shall run with the land.
35. The applicant shall pay the Council's reasonable costs associated with the registration and enforcement of the Section 173 Agreement.

Southern Rural Water:

36. A wastewater treatment system that produces wastewater to a minimum standard of 20/30/10 (BOD/suspended solids/E.coli) shall be installed to the satisfaction of the Council's Environmental Health Officer and Southern Rural Water to treat all sullage and sewage waste on site.
37. Wastewater is to be dispersed to the satisfaction of Council's Environmental Health Officer and Southern Rural Water using methods that will prevent waste and treated waste from discharging from the property at all times.
38. The effluent system must be maintained by a suitably qualified person in accordance with

the manufacturer's specifications and EPA requirements.

39. The wastewater effluent being released from the treatment facility must be monitored annually to ensure compliance with the 20/30/10 standard.
40. Reports on water quality and maintenance must be submitted to the Responsible Authority at the completion of each maintenance period. This report must be made available to Southern Rural Water on request.
41. The Owner shall meet the costs of the inspections and reports.
42. The owner shall carry out such works including replacing effluent treatment, storage pumping and disposal systems within the time specified to do so by the Council's Environmental Health Officer or Southern Rural Water to cease and prevent waste and treated waste from discharging from the property.
43. If the wastewater program proves to be unsustainable, the land holder must immediately rectify the sewerage disposal system.
44. The owner shall have the wastewater treatment system desludged at least once every three years and evidence of this fact shall be provided in the annual written report.
45. The effluent disposal field must be protected by being isolated from any building, driveway, livestock, vehicles or permanent recreational area that could render it unavailable in the future and should be planted with suitable grasses that will aid in moisture removal.
46. The wastewater treatment and disposal systems cut off drains and pumping system must be installed in accordance with the Land Capability Assessment prepared by Ballarat Soil Testing dated 7 May 2021 Reference No.: AS040419.
47. Any existing or proposed shed must not be used for the purposes of accommodation or contain facilities that result in the discharge of wastewater.
48. No other building works shall be undertaken on the subject land without written approval of Southern Rural Water.
49. The wastewater disposal area must be located at least: 100m from any waterways, 40m from any drainage lines, 60m from any dams, and 20m from any bores.
50. Sediment Pollution Controls shall be employed during construction and maintained until the disturbed area has been regenerated.
51. Stormwater is to be managed in a way to minimise risk to erosion of the surrounding land. No stormwater should be allowed to move into the effluent disposal fields.
52. Low volume water fittings such as water efficient showerheads, dual flush toilets and tap aerators are to be fitted to all water fixtures.

Permit Expiry:

53. The permit will expire if:
 - a) the development and use are 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.

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	One.
Consultation meeting:	No.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.3: Enhance our natural environments

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

Author – Tom Tonkin

In providing this advice to Council as the Author, I have no interests to disclose in this report.

EXECUTIVE SUMMARY

Application referred?	Yes, Greater Western Water, Southern Rural Water, Country Fire Authority (CFA) and Council's Development Infrastructure, Environmental Health, and Environmental Planning.
Any issues raised in referral responses?	Yes. CFA required changes to the bushfire documentation and Council's Development Infrastructure requested clarification regarding vehicle access.
Preliminary concerns?	Further information was requested regarding the proposed shed, extent of required earthworks, use of reflective building cladding and native vegetation

	removal.
Any discussions with applicant regarding concerns?	Yes.
Any changes made to the application since being lodged?	The proposed building cladding was amended to be non-reflective.
Brief history.	Not applicable.
Previous applications for the site?	Over the past 24 years there have been three previous planning permits issued on this site for the use and development for the use and development of a dwelling. All three permits expired without works commencing.
General summary.	It is proposed to use and develop a dwelling and ancillary outbuilding and undertake associated earthworks and native vegetation removal. The proposal is generally in accordance with the relevant provisions of the Moorabool Planning Scheme. One objection was received raising concerns with broader strategic planning objectives for the area. It is recommended the application be approved.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2023152 for the Use and Development for a Dwelling and Ancillary Outbuilding and associated Earthworks and Native Vegetation Removal at 811 Greenhills Road, Blackwood, subject to the conditions contained within this report.	

SITE DESCRIPTION

The subject site and surrounding land is in the Rural Conservation Zone, and forms an enclave of land parcels, some substantially cleared and others with substantial tree cover, several of which are either developed with single dwellings or with current planning approval for such. Beyond is heavily forested land in the Public Conservation and Resource Zone, with access to Greendale-Trentham Road approximately 1.3km to the east and Blackwood township approximately 2.5km to the north

The subject site, identified as Crown Allotment 7 Parish of Blackwood and known as 811 Greenhills Road, Blackwood, and is a rectangular shaped lot of 3.03ha. The site fall rises from front to back on a slope of 11-12 degrees.

Vegetation comprises scattered Blackwood trees in the front half of the site, with the rear half of the site characterised by grassland.



Figure 1: Aerial photograph



Figure 2: Zone map

PROPOSAL

It is proposed to use and develop the site for a dwelling and ancillary shed, with associated earthworks and remove native vegetation.

The proposed dwelling would have a minimum 19.2m setback to the front title boundary and comprise three bedrooms, three bathrooms, laundry, study, open plan kitchen, dining and lounge

and triple car garage. The dwelling would be contemporary in appearance and clad with cement sheet and galvanised steel.

The proposed shed would be located approximately 45m further to the rear of the dwelling and be 7.24m wide x 13.66m long, yielding a floor area of 98.89sqm, and will be clad with steel.

Earthworks comprising cut and fill for both the dwelling and shed would be required given the site topography. Fill for the dwelling would be up to 0.8m in depth with a variable site cut with a maximum depth of 3.1m. For the shed, fill would be up to approximately 2m in depth and the cut a maximum depth of 2.7m.

Native vegetation removal would comprise removal of up to 25 Blackwood trees within the proposed defendable space area.

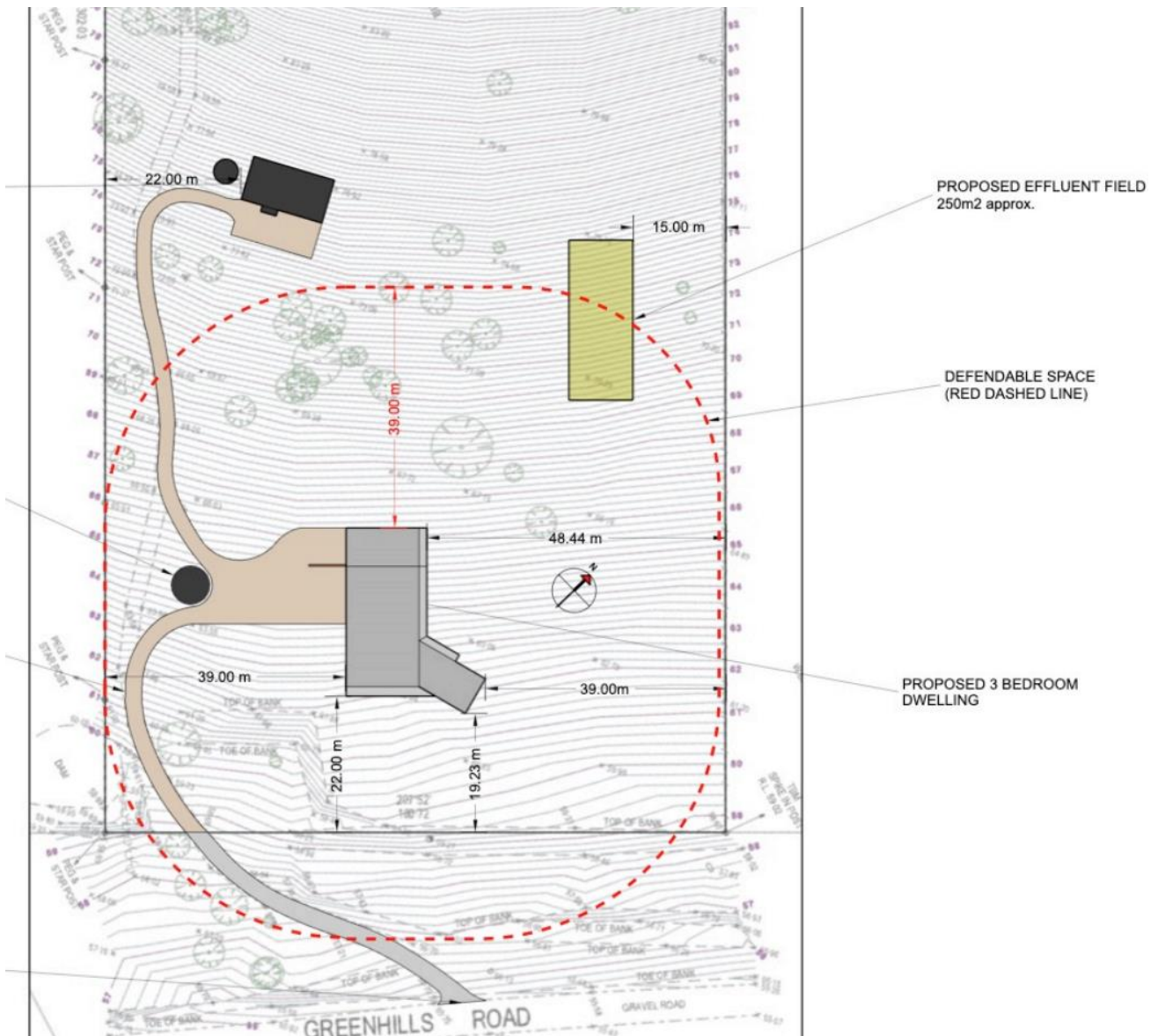


Figure 3: Proposed site plan

BACKGROUND TO CURRENT PROPOSAL

Not applicable.

HISTORY

Previous planning permit applications for the subject site are as follows:

- P00/148 – Development and use of a dwelling was approved by Council under delegation on 10 July 2000. The development did not commence, and the permit expired.
- PA2008-100 – Development and use of a dwelling was approved by Council under delegation on 11 November 2008. The development did not commence, and the permit expired.
- PA2014013 – Development and use of a dwelling was approved by Council under delegation on 20 May 2014. The development did not commence, and the permit expired.

PUBLIC NOTICE

Notice of the application was given by mail to the owners and occupiers of adjoining and nearby land and a sign erected on the site.

One objection was received.

SUMMARY OF OBJECTIONS

The objection received is detailed below with officer's accompanying comments. It is noted that other concerns were raised by the objector which were not directly relevant to this permit application.

Objection	Any Relevant Requirement
Council is required to complete strategic and risk-based planning in a Bushfire Management Overlay (BMO) at a settlement and neighbourhood scale prior to the approval of the change of land use from grazing land, in this case, and allowing a concentration of large family homes on relatively small rural lots resulting in the creation of the new settlement of 'Greenhills'.	Clauses 13.02, 44.06 and 71.02-3
<p>Officer's Response:</p> <p>The strategic planning actions referred to in the objection do not apply to the assessment of this planning permit application for a single dwelling. Greenhills Road is a historic settlement area comprising historic crown allotments, with no new subdivisions approved and therefore no net increase in existing lots. The submitted Bushfire Management Statement, including a Bushfire Management Plan, demonstrates compliance with Clause 13.02.</p>	
Could Council please explain how the planning permit application on the subject land meets the requirements of the setbacks from the bushfire interface in the 'Design Guidelines for Settlement Planning at the Bushfire Interface'?	Clause 13.02

Officer's Response:	
The Design Guidelines for Settlement Planning at the Bushfire Interface ('the Guidelines') state that they (the Guidelines) should not be used for planning applications under the BMO to develop a lot with a single dwelling, which includes this application.	
Location of proposed dwelling necessitating native vegetation removal	Clauses 35.06 and 52.17
Officer's Response:	
Based on the native vegetation assessment, the proposed removal would not have a significant impact on any habitat for rare or threatened species. Native Vegetation offsets would be required as a condition of approval and the assessment also indicates that retention of some trees is achievable without compromising bushfire hazard mitigation. The land management plan provides for revegetation with native species upslope of the proposed dwelling.	
Bushfire risk associated with proposed revegetation recommended in applicant's Land Management Plan (LMP).	Clauses 13.02 and 35.06
Officer's Response:	
Based on the relevant aspects of Clause 13.02 to the assessment of this application, Council has given due consideration to bushfire risk and has received the written consent of the relevant bushfire authority, CFA.	

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal planning strategy and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 02.03-1 – Settlement
- Clause 02.03-2 – Environmental and landscape values
- Clause 02.03-3 – Environmental risks and amenity
- Clause 02.03-6 – Housing
- Clause 02.03-5 – Built environment and heritage
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.03-3S – Peri-urban areas
- Clause 13.02-1L – Bushfire planning
- Clause 15.01-5L – Landscape and neighbourhood character
- Clause 15.01-6S – Design for rural areas
- Clause 16.01-1S – Housing supply
- Clause 16.01-1L – Housing supply in Moorabool
- Clause 16.01-3L-01 – Rural residential development in Moorabool

ZONE

The subject site is in the Rural Conservation Zone.

A dwelling is a Section 2 use in the table of uses in Clause 35.06-1 and requires a permit.

Under Clause 35.06-5 a permit is required to construct associated buildings and works.

OVERLAYSDesign and Development Overlay, Schedule 2

Under Clause 43.02-2 a permit is required to construct buildings and works. Schedule 2 provides an exemption where non-reflective building cladding is proposed, as in this instance, and therefore a permit is not required.

Bushfire Management Overlay

Under Clause 44.06 a permit is required to construct buildings and works associated with Accommodation.

Relevant Policies

Not applicable.

Particular ProvisionsClause 52.17 Native Vegetation

Under Clause 52.17-1 a permit is required to remove, destroy or lop native vegetation. There are no applicable exemptions under Clause 52.17-7.

DISCUSSION

The subject site is a 3.03ha lot in the Rural Conservation Zone approximately 3.5km southwest of Blackwood township.

The proposed dwelling would be constructed towards the front of the site on sloping land and require earthworks including cut and fill. The extent of cut and fill would be acceptable, and the dwelling would have a split-level design to accommodate the slope. The visual interface of the dwelling with Greenhills Road would be acceptable, being of a modest scale with a low-pitched roof and non-reflective cladding consistent with the objectives of the Rural Conservation Zone.

The subject site is affected by a Bushfire Management Overlay (BMO) and the submitted Bushfire Management Statement would require the proposed dwelling to be constructed to BAL 29 with 39m of defendable space. The application was referred to CFA who consented to the proposal subject to conditions. Vehicle access from Greenhills Road is directly available with a turning area for fire trucks and direct access to a minimum 10,000L static water supply for firefighting purposes. Subject to conditions, the proposal would mitigate the bushfire risk to human life in accordance with the objectives of the BMO.

It is noted that to facilitate the development, native vegetation would need to be removed. The proposed removal of a 0.168ha patch of native vegetation comprising all Blackwood trees (*Acacia melanoxylon*) located mainly within the proposed defendable space. Under Clause 52.12-5 of the Moorabool Planning Scheme seeks to minimise native vegetation removal, The submitted native vegetation report identifies that 14 could be retained without compromising the defendable space requirements with only 13 requiring removal. It is recommended that the 'Vegetation Management Plan – Defendable Space' contained in the submitted Native Vegetation Report be endorsed as part of this permit. Subject to conditions, the proposed use and development would not detrimentally affect the biodiversity values area.

It is noted that the subject site is in a Special Water Supply Catchment and is unsewered, and accordingly the applicant submitted a Land Capability Assessment in support of onsite wastewater treatment. The relevant Water Catchment Authorities being Greater Western Water and Southern Rural Water. With Council's Public Health team consented to the proposal. Subject to conditions, the proposal would ensure no detriment to potable water quality or supply.

Overall, the proposal is generally consistent with the applicable provisions of the Moorabool Planning Scheme.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

Authority	Response
Greater Western Water	Consent with conditions.
Southern Rural Water	Consent with conditions.
Country Fire Authority	Consent with conditions.
Council's Development Infrastructure	Consent with conditions.
Council's Environmental Health	Consent with conditions.
Council's Environment, Waste & Emergency Management	Consent with conditions.

FINANCIAL IMPLICATIONS

The recommendation to approve this application has no financial implications for Council.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation to approve this application does not have any risk or OH&S implications for Council.

COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The submitter and the applicant were invited to attend this meeting and address the Development Assessment Committee.

OPTIONS

- Issue a Notice of Decision to Grant a Permit in accordance with the conditions in the recommendation of this report; or
- issue a Refusal to Grant a Permit on specified grounds. The Development Assessment Committee would need to consider what reasonable grounds there would be to refuse the application under the Moorabool Planning Scheme. This option may result in the applicant appealing the Committee's decision at VCAT.

CONCLUSION

Overall, the proposal is generally in accordance with the applicable provisions of the Moorabool Planning Scheme. Subject to conditions, the proposed development would not have any detrimental impacts on the amenity of the area or on sensitive environments. It is recommended that the application be approved.

7.2 PA2024053 - DEVELOPMENT OF A HORSE RIDING ARENA ANCILLARY TO AN EXISTING DWELLING AT 400 LAL LAL FALLS ROAD, LAL LAL

Author: Fatima Goreishi, Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: 1. Floor and Elevation Plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2024053

Lodgement Date: 16 May 2024

Planning Officer: Fatima Goreishi

Address of the land: 400 Lal Lal Falls Road, Lal Lal

Proposal: Development of a horse riding arena ancillary to an existing dwelling

Lot size: 8.15ha

Why is a permit required? Clause 35.07-4 Farming Zone – Development of a horse riding arena greater than 250sqm, setback less than 100m from a waterway and setback less than 100m from a dwelling not in the same ownership; Clause 42.01-2 Environmental Significance Overlay Schedule 1 – Buildings and works setback less than 100m from a waterway

RECOMMENDATION

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2024053 for the Development of a Horse Riding Arena Ancillary to an Existing Dwelling at 400 Lal Lal Falls Road, Lal Lal, subject to the following conditions:

Endorsed Plans:

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. All buildings and works must be constructed or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority. All buildings and works must be located clear of any easements or water and sewer mains or septic tank and effluent lines unless written approval is provided by the relevant authority.

Materials:

2. All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.

Vegetation:

3. No vegetation is to be removed, lopped or destroyed without the written consent of the Responsible Authority unless exempt under the Moorabool Planning Scheme.

4. Unless otherwise agreed in writing by the Responsible, the approved vegetation screen plan must not be altered.
5. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the vegetation screen must be carried out and completed to the satisfaction of the Responsible Authority.
6. The vegetation screen must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Development Infrastructure:

7. Stormwater drainage from the proposed buildings and impervious surfaces must be retained and disposed of with a legal point of discharge issued by the Responsible Authority. If applicable, overflows from on-site storage systems must be directed away from any waste water disposal areas.
8. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991) and civil construction, building and demolition guide (EPA 2020).
9. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
10. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Management identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Central Highlands Water:

11. The permitted building must not be used for any habitable purpose and must not be used for any commercial or industrial purpose except in accordance with the provisions of the Moorabool Planning Scheme.
12. The existing or proposed effluent disposal areas (if applicable) must be kept free from stock, buildings, driveways and service trenching.
13. Stormwater must not be released directly into any waterway and must be directed away from any existing or approved effluent fields.
14. Sediment control measures outlined in the EPA's publication NO 275 Sediment Pollution Control, shall be employed during construction and maintained until the disturbed area has been revegetated.

Country Fire Authority:

15. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

Permit Expiry:

16. The permit will expire if:

- a) The development is not started within two years of the date of this permit; or
- b) The development is not completed within four of the date of the permit.

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	No.
Notice in Moorabool Newspaper:	No.
Number of objections:	One.
Consultation meeting:	Discussions with the objector but no resolution achieved.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.3: Enhance our natural environments The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

Author – Fatima Goreishi

In providing this advice to Council as the Author, I have no interests to disclose in this report.

EXECUTIVE SUMMARY

Application referred?	Yes, Central Highlands Water and Council's Development Infrastructure.
Any issues raised in referral responses?	No.
Preliminary concerns?	Yes, reducing any visual impacts proposed on the adjoining property to the west.

Any discussions with applicant regarding concerns?	Yes.
Any changes made to the application since being lodged?	Yes, applicant included tree planting along the western property boundary.
Brief history.	Not applicable.
Previous applications for the site?	PA2005-285 was issued on 17 October 2005 authorising the development of a horse dressage and a barn. PA2006-189 was issued on 26 October 2006 for buildings and works associated with additions to an existing arena.
General summary.	It is proposed to develop a horse riding arena on site that is associated with an existing dwelling on the land. The proposal is generally in accordance with the Moorabool Planning Scheme provisions. One objection was received raising concerns about visual impacts which can be partly addressed with tree planting screening along the common property boundary.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2024053 for the development of a horse riding arena ancillary to an existing dwelling at 400 Lal Lal Road, Lal Lal subject to the conditions contained within this report.	

SITE DESCRIPTION

The subject site and surrounding properties are located within the Farming Zone. Properties to the south and west of the subject site vary in size between 8ha and 308ha and have minimal extent of vegetation coverage due to these sites being used for farming and grazing purposes. The surrounding property to the north-east is located within the Public Use Zone occupied by the Lal Lal Reservoir with several waterways. Williamson Creek and the Back Creek are streaming to the west from the subject site.

The subject site known as Crown Allotment 20A Section 8/ PP2959 is located within the township of Lal Lal. The site has a total area of 8.1ha with a flat topography towards the front of the property. There is an existing dwelling and several ancillary outbuildings located towards the northern end of the subject site. There are screening plantings to the north, west and southern boundary with a few scattered trees around the existing dwelling. A small dam is situated 12.6m from the western property boundary.



Figure 1: Aerial Photograph

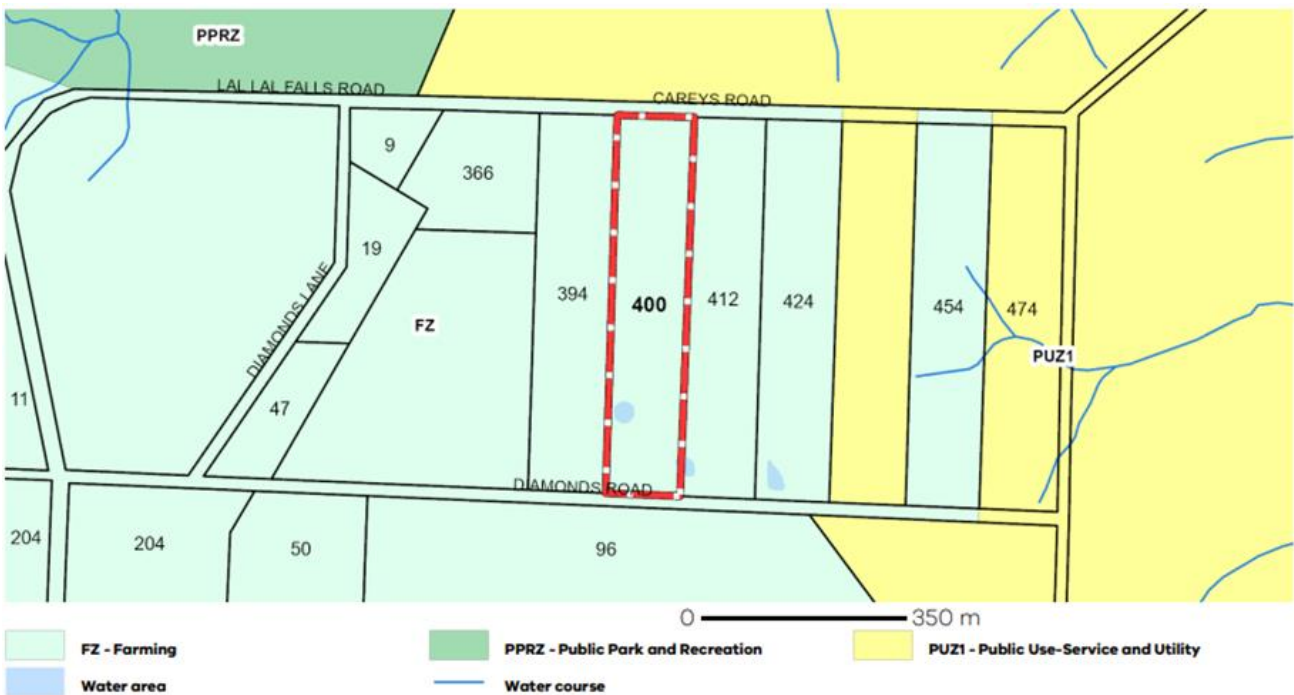


Figure 2: Zone Map

PROPOSAL

The proposed development is for the construction of a horse arena that will consist of a total floor area of 900sqm (40m x 22.5m). The peak height will be set at 6.4m with an eave height of 5m and a 7.5 degree roof pitch. The structure will have five bays that will be an open structure with no external walls. External cladding will be Colourbond Surfmist. The outbuilding will be setback 44.5m from the northern boundary, 13.1m from the western boundary and 27.8m from the existing dwelling to the west side. Tree screening is proposed along the west property boundary.

There also be a 9sqm canopy added to the existing stables building.

The applicant submitted a vegetation plan detailing 220 plants consisting of 80 tall shrubs, 100 medium shrubs, and 40 small shrubs. The tall shrubs include Silver Banksia, Black Sheoak, and Pin Cushion Hakea.

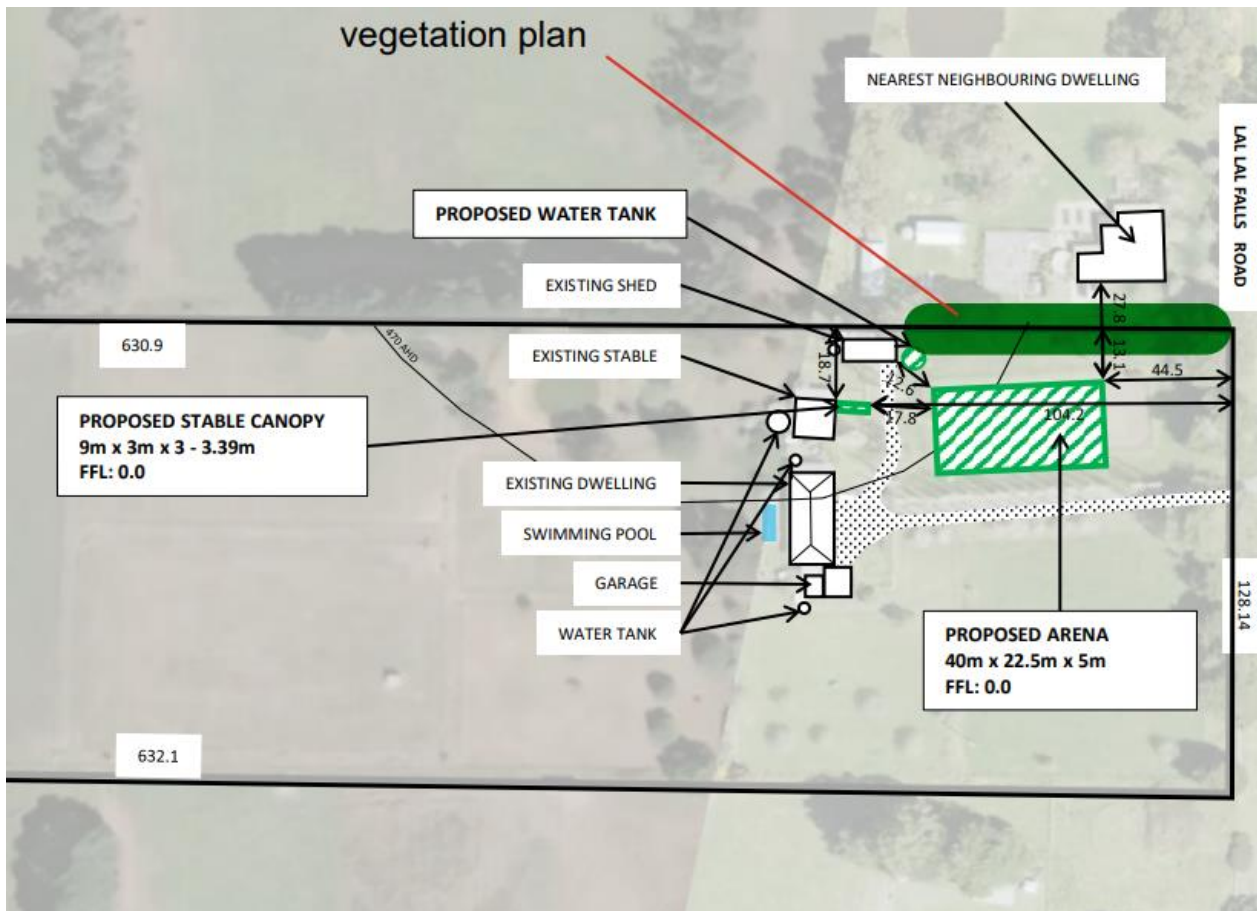


Figure 3: Site Plan

HISTORY

Previous planning permits applied for on the subject site include:

- PA2005-285 – Construction and use of a dressage arena and barn. The application was advertised no objections received. A planning permit was issued.
- PA2006-189 – Buildings and works associated with additions to an existing dressage arena. The application was advertised one submission was received. The application was approved, and a planning permit was issued.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners. One objection has been received.

SUMMARY OF OBJECTIONS

The objections received are detailed below with officer's comments accompanying them:

Objection	Any Relevant Requirement
<p>Preferring that the arena be situated behind the applicant's house where training and related activities could be undertaken without disturbance to ourselves and other neighbours.</p>	
<p>Officer's Response:</p> <p>The proposal meets the setback requirements pursuant to Clause 35.07-4 Buildings and works in the Farming Zone. Discussions have been carried out with the applicant in relation to relocating the development, however the applicant does not have the expenses to relocate.</p>	
<p>Council's decision to grant a planning permit previously and failure to observe that condition implies that the arena should be removed from its current position and relocated where the 2005 permit designated in accordance with the 2006 decision, or, if further building is to be agreed to, removed to the south-side of the applicant's dwelling in accordance with our original preference which the original applicant agreed was more appropriate (refer attachment point 2, 2006-189).</p>	
<p>Officer's Response:</p> <p>Current location of the horse arena complies with the provisions of Farming Zone. Permit conditions are enforced and there was no previous enforcement with this site regarding previous permit approvals.</p>	
<p>According to the applicant's plan, the proposed structure will be slightly larger than the plan rejected in 2006. This means the proposed structure is of a commercial/industrial size and will dominate the visual and physical space to the immediate east of our master bedroom and study. As pointed out in' our earlier objections to the like-2006 application, the size of the proposed addition means it will also dominate our property entrance, our eastern landscape, our house and the main outdoor living area. Of our property</p>	<p>Clause 35.07-4 Farming Zone</p>

<p>between our house and shed and stable area.</p> <p>The applicant claims that the proposed construction will be a roof only arrangement, but the plans submitted with the application indicates the installation will have cladding or half walls that would add to the shed-like and commercial/ industrial appearance of the structure from our property.</p> <p>Regardless of whether the side walls are to included at this point, it is our understanding that if the current application was agreed to, the applicant, or any future owner, could add cladding and/or walls to the structure at a later date, without an additional permit, thereby enhancing the industrial/commercial appearance of the structure.</p>	
<p>Officer’s Response:</p> <p>The plans advertised showed an open bay structure from all elevation sides, this have been clarified verbally with the objector. The applicant has reduced the size of the roofed structure from the north side. The structure is setback 20m from the northern boundary compliant with the setback requirement under the zone. The applicant will be placing vegetation towards the western boundary since it is setback 27m from the neighbouring dwelling. The building will not be used for commercial or industrial purposes, and this will be enforced by a permit condition.</p>	
<p>It could be argued that screening could mitigate the visual impact of the proposed structure but that raises substantial concerns related to visual amenity and bushfire protection. Significantly, the applicant provides no mention of screening to mitigate the visual impact of the proposed structure. Currently, separate single lines of native bushes and wattles on the applicant's property only partially restrict a view of parts of the arena but are not of a height, depth or species that would be sufficient to block out a view of the proposed structure, either above or through the trees. Effectively screening a shed of the size proposed would require the development of a continuous in-depth bush and tree plantation or hedging to the north and west of the arena site. Such a screen would require ongoing maintenance, not just mowing around its perimeter. The</p>	

<p>existing line of trees and shrubs has suffered periods of neglect and there is no guarantee. applicant or a future owner would undertake effective ongoing management of an expanded native vegetation screen. Related to this is the more important and underlying concern of bushfire management. Blocking any view of the proposed structure would be difficult along the applicant's western boundary with our property, given the existing Bushfire Management Overlay requirement for a 10m clear defendable space around the proposed building.</p>	
<p>Officer's Response:</p> <p>The proposed vegetation meets fire separation distances in accordance with the outbuilding bushfire management plan. Vegetation screen plants will be required to be the satisfaction of the Responsible Authority.</p>	
<p>Current use of the arena has some impacts on our privacy and outdoor work routines, but these have been amicably managed to date. We generally avoid using machinery when the arena is being used or ask if it is okay to do so. Given the applicant's assurance that the permit is for a roof only construction, that of itself can have no material effect on their or our privacy when the arena is being used. Even if the applicant is intending to clad the arena as the building proposal suggests, that will not materially change the current level of noise. It will only increase the number of times when it occurs, which will impact our privacy and work routines more often. Similarly, in the absence of an effective vegetation screen, which is not addressed by the applicant, there can be little or no change to the visual privacy afforded by a roof only structure. That could only be afforded in part by the cladding suggested in the building proposal, and that would only be partial when astride a horse. Visual privacy could only be afforded by a total wall and our concerns with respect to that potential or partial cladding are outlined above.</p>	

Officer's Response:

The proposal is for personal use, such proposals do not have EPA guidelines for the mitigation of noise affects considering the scale of the development and occupation.

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)

The relevant clauses are:

- Clause 12.01-1S – Protection of Biodiversity
- Clause 12.01-1L – Biodiversity
- Clause 12.01-2S – Native Vegetation Management
- Clause 13.02-1S – Bushfire Planning
- Clause 14.01-1S – Protection of Agricultural Land
- Clause 14.01-1L – Agriculture, Rural Dwellings and Subdivision
- Clause 14.02-1S – Catchment Planning and Management
- Clause 14.02-1L – Declared Special Water Supply Catchments
- Clause 14.02-2S – Water Quality
- Clause 15.01-2S – Building Design
- Clause 15.01-2L-01 – Building Design
- Clause 15.01-5S – Neighbourhood Character
- Clause 15.01-5L – Landscape and Neighbourhood Character
- Clause 15.01-6S – Design for Rural Areas

Subject to conditions the proposal complies with the relevant sections of the MPS and the PPF.

ZONEFarming Zone

A planning permit is required under the zone for the construction of a horse arena greater than 250qm, setback less than 100m from a dam and a dwelling not in the same ownership and the installation of a rainwater tank.

OVERLAYSDesign and Development Overlay Schedule 2

The subject site is affected by the Design and Development Overlay Schedule 2. A planning permit is not required for the development of a horse riding arena since all external cladding will be Colourbond Surfmist.

Environmental Significance Overlay Schedule 1

The subject site is affected by the Environmental Significance Overlay Schedule 1. A planning permit is required for the development of a horse riding arena since it is setback less than 100m from a dam.

Bushfire Management Overlay

The subject site is located within the Bushfire Management Overlay. A planning permit is required for the development of a horse riding arena greater than 100sqm in floor area.

Relevant Policies

There are no adopted Council policies that are relevant to the proposal.

Particular Provisions

There are no particular provisions applicable for this application.

DISCUSSION

The proposed horse riding arena is ancillary to an existing dwelling. The proposed development initially had an area size of 1,350 sqm (60m x 22.5). After the advertising period, the applicant reduced the floor area to 900sqm (40m x 22.5m). After further discussions with the applicant, vegetation screening will be situated between the western boundary to further mitigate visual impacts on an adjoining property.

The development is located within a water catchment area and is subject to standard conditions prepared by Central Highlands Water. This will ensure the proposed building will not cause any adverse impacts to the surrounding water catchment in compliance with the objectives of the Environmental Significance Overlay Schedule 1.

The applicant has prepared an outbuilding bushfire management plan which addresses the requirement of the CFA and ensures construction standards, water supply, access way and defendable space accord with the objectives of the Bushfire Management Overlay.

The proposed development of the horse riding arena is consistent with the setback requirements and the is appropriately located on Farming Zone land.

The proposed development is consistent with the Moorabool Planning Scheme, zone and overlay provision.

In conclusion, a horse arena is an appropriate activity on Farming Zone land. Associated buildings for the keeping of horses such as stables, horse shelters and providing weather protection for a horse arena are typical within Farming Zone properties. The horse arena is open sided and allows for horses to be sufficiently trained and exercised within the subject land.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

Authority	Response
Central Highlands Water	Consent with conditions.
CFA	Consent with conditions.
Council's Development Infrastructure	Consent with conditions.

FINANCIAL IMPLICATIONS

The recommendation of approval of this application has no financial implications to Council.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation of approval of this application does not implicate any risk or OH&S issues to Council.

COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee.

OPTIONS

- Issue a Planning Permit in accordance with the conditions in the recommendation of this report; or
- issue a Refusal to Grant a Permit on grounds. The Development Assessment Committee would need to consider what reasonable grounds there would be to refuse the application. This option may result in the applicant appealing the Committee's decision to VCAT.

CONCLUSION

The proposed development does not detract from the rural characteristics of the site and surrounds and is consistent with the relevant planning scheme provisions and setback requirements outlined under the zone. Subject to conditions, the proposal is acceptable development on Farming Zone land. It is recommended that the application be approved.

8 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS

9 UPDATE ON VCAT DECISIONS

10 OTHER BUSINESS

11 DATE OF NEXT MEETING

Wednesday 11 December 2024.

12 MEETING CLOSE