

M(3) – 28 MARCH 2023

Ordinary Council Meeting

Agenda

Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held in Senior Citizens Centre, 33 Smith Street, Myrtleford on **28 March 2023** commencing at **5:00pm**.

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1. Recording and livestreaming of Council meetings

The CEO will read the following statement:

All council meetings are filmed with both video and audio being recorded.

Video is focused on a specific area however audio from the entire room is captured.

In common with all narrative during Council meetings, verbal responses to congratulations, obituaries and question time will not be recorded in the written minutes.

By submitting a question, you consent to your question being read aloud at the meeting.

The reasoning behind recording council meetings is to hold us more accountable and improve transparency of Council's decision-making to our community.

The full meeting is recorded on Council's YouTube channel which is "Alpine Shire Council" and will also be available on the YouTube channel after this meeting.

2. Acknowledgement of traditional custodians, and recognition of all people

All to stand, the Mayor will read the following statement:

Alpine Shire Council acknowledges the Traditional Owners of the lands on which we are meeting today. Council also acknowledges all of the Traditional Owners of the wider lands of the area known as the Alpine Shire.

We also acknowledge those people who have contributed to the rich fabric of our community and strive to make wise decisions that will improve the quality of life for all.

3. Confirmation of minutes

3.1 ORDINARY COUNCIL MEETING – M(2) – 28 FEBRUARY 2023

RECOMMENDATION

That the minutes of Ordinary Council Meeting M(2) held on 28 February 2023 as circulated be confirmed.

4. Apologies

5. Obituaries / congratulations

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to questions.

6. Declarations by Councillors of conflict of interest

7. Public questions

Questions on Notice will be limited to two questions per person.

Written Questions on Notice will be tabled ahead of questions from the floor.

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to questions.

8. Presentation of reports by officers

8.1 CHIEF EXECUTIVE OFFICER – WILL JEREMY

8.1.1 Petition - Proposed Removal of Trees

INTRODUCTION

The purpose of this report is to inform Council and provide a response to a petition relating to the proposed removal of trees on the Great Alpine Road at the entrance to Bright.

RECOMMENDATIONS

That Council:

- 1. Notes the petition requesting that alternative solutions are explored which preserve the existing trees on the Great Alpine Road;***
- 2. Acknowledges the importance of these trees to the community and visitors;***
- 3. Commits to engaging a qualified and experienced consultant to assess the heritage, cultural, arboricultural and landscape values associated with the individual trees which have been identified for potential removal and also their contribution towards the value of the avenue of trees, in order to inform a recommendation in relation to seeking the application of an overlay to protect the trees; and***
- 4. Advises the main proponent of the petition of Council's decision.***

BACKGROUND

A petition was received on 28 February 2023 and was noted at the February 2023 Council Meeting held on the same day. The petition with 118 signatures noted the following:

We are concerned about the proposed removal of trees on the way into Bright, Victoria. The trees are a vital part of our town's natural beauty, and their removal would greatly diminish the area's aesthetic appeal. We urge the Alpine Shire to consider alternative solutions, to achieve the desired outcomes while preserving their beauty and value. Community engagement and collaboration are essential in this process. Please reconsider the proposal to remove the trees and work with the community to find a solution that balances the needs of the community with the preservation of the natural environment.

Council provided a verbal response to the petition during the February 2023 Council Meeting based on information that was available at this time and at short notice.

Subsequent to the Council Meeting, the main proponent of the petition has continued to collect signatures in support of the petition, and has presented additional pages of signatures to Council. The total number of signatories which had been presented to Council on Friday 24th March 2023 was approximately 3,197.

In addition to the petition which has been submitted to Council and which meets Council's Governance Rules, a petition on the Change.org online petition platform with the same content as noted above had secured approximately 22,800 signatures on Wednesday 22 March 2023. The Change.org petition does not satisfy Council's Governance Rules.

ISSUES

Approved Development Plan

A Development Plan was approved by Council in July 2022. The Development Plan states the following:

Future development of the site must be generally in accordance with the [Development] Plan, and must:

- *Respect or enhance views of the site from the Great Alpine Road and have regard to the transect of interfaces along Great Alpine Road through Bright.*
- *Identify, manage and protect all sites of conservation, heritage, archaeological significance or with landscape value.*

There are no existing overlays providing protection to any of the trees along this avenue, they are not listed on a Heritage Register, and Council does not maintain a Register of Significant Trees.

Planning Permit Assessment

Council's statutory planning team is assessing a planning permit application for the subdivision and is obligated to carry out this assessment strictly in accordance with the requirements of the Planning and Environment Act 1987 and the Alpine Planning Scheme.

A key test is whether the permit application is generally in accordance with the Development Plan which was approved by Council in July 2022.

Council's statutory planning team is required to assess and make a recommendation based on the information formally submitted in the application and in response to any Request for Further Information. The statutory planning team cannot impose any obligation on the applicant to make changes to their application against the applicants wishes. The team cannot take into account in their assessment of the permit application submissions which do not have a relevant planning basis.

Assessment of New Information

Over recent weeks, members of the community have unearthed new information which is potentially significant in informing the heritage, cultural, arboricultural and/or landscape value of the trees which have been identified for potential removal along the Great Alpine Road.

It is recommended that a thorough assessment is made by a suitably qualified and experienced professional, supported by detailed research and taking into consideration

any new information which might not have been considered previously, in order to reach a robust and defensible recommendation in respect of the value of the individual trees and their overall contribution to the value of the avenue and to inform consideration of any options appropriate for the protection of these trees.

POLICY IMPLICATIONS

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.1 Conservation and promotion of the distinct character across the Shire

FINANCIAL AND RESOURCE IMPLICATIONS

Quotes have not yet been received for consultant support to assess heritage, cultural, arboricultural and landscape value of the trees. It is anticipated that the cost to carry out thorough historical research and prepare a robust and defensible recommendation in relation to the potential application of an overlay is unlikely to exceed \$10,000. This work can be funded from the operational budget allocated to Council's Strategic Planning Team.

RISK MANAGEMENT

Detail the key risks of the matter being addressed by the report and mitigation action / control.

Risk	Likelihood	Impact	Mitigation Action / Control
Trees which have high heritage, cultural, or arboricultural or landscape value might be removed.	Possible	Moderate	Engagement of qualified and experienced consultant to research and assess available information and provide recommendations in relation to use of an overlay to protect the trees.

Risk	Likelihood	Impact	Mitigation Action / Control
Undertaking an assessment of the trees and progressing any subsequent action to protect them (if justified) may impact on the statutory timeframes of the planning permit assessment. The applicant may decide to take the permit application to VCAT for a failure to determine the application within statutory timeframes.	Possible	Moderate	The assessment will be progressed as a high priority, and early feedback sought as to whether the facts are likely to provide any defensible avenue through which the trees might be protected against removal. VCAT will make a determination on the permit application based on relevant planning considerations.

CONSULTATION

Strong community support has been demonstrated for Council to explore any available opportunity to protect the avenue trees at the entrance to Bright on the Great Alpine Road, acknowledging the planning approvals which are already in place.

Council will engage a qualified and experienced consultant to provide a well-researched and defensible recommendation in relation to any options to apply an overlay to protect the trees. The community will be provided the opportunity to submit in writing any information they consider might be material to the assessment, and this information will be shared with the consultant for their consideration. The consultant's recommendation and the supporting information will be made available to the public through Council's website.

CONCLUSION

Strong community support exists to explore all available avenues to protect the trees on the Great Alpine Road at the entrance to Bright.

Council's statutory planning team is obligated to assess the permit application strictly in accordance with the requirements of the Planning and Environment Act 1987 and the Alpine Planning Scheme and to make a recommendation based on this assessment.

Since receipt of the permit application, new information has been unearthed relating to the history of the trees.

It is recommended that a qualified and experienced consultant is engaged to conduct thorough research and assessment of all available information in order to arrive at a robust and defensible recommendation in relation to the potential application of an overlay to protect the trees.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Chief Executive Officer

ATTACHMENT(S)

8.1.1.a Petition - Proposed Removal of Trees

8.2 DIRECTOR ASSETS – ALAN REES

8.2.1 Airport Services Lease for Aircraft Hangar at Porepunkah Aerodrome

INTRODUCTION

This report relates to a new lease at the Porepunkah Aerodrome on Site 13 contained in Lot 1 of Plan of Subdivision PS612929, 266 Buckland Valley Road Porepunkah. A lease has been prepared for a hangar on this site for a 10-year term with an option for an additional 10 years.

RECOMMENDATION

That Council:

- 1. Approves and executes a lease for Site 13 of Lot 1 PS612929, 266 Buckland Valley Road Porepunkah for an aircraft hangar; and***
- 2. Signs and seals the lease document at the appropriate part of this meeting.***

BACKGROUND

The Porepunkah Aerodrome Master Plan was presented to Council at the Ordinary Council Meeting June 2006. A recommendation of the Master Plan was that Council negotiate with the adjoining land owner of the airfield with regard to acquisition of additional land for potential hangar relocation and new hangars.

At the Ordinary Council meeting July 2007 Council approved the Acting CEO be authorised to proceed with the acquisition of an adjoining strip of land at the Porepunkah Aerodrome.

The land was acquired in 2008 and is Site 13 contained in Lot 1 of Plan of Subdivision PS612929, 266 Buckland Valley Road Porepunkah. A new entrance to the airfield was created on this land with the remaining land set aside for hangars and taxi way.

Lease documentation has been developed for the purpose of entering into long term hangar leases on this land. The length of the lease is 10 years, plus an option for a further 10 years. Commencement rent for the attached lease will be \$1153.80 (GST exclusive) per annum calculated based on the square meterage of the sites.

In September 2018 and in accordance with Section 190 of the Local Government Act 1989 Council posted public notices notifying of proposed future leases at the airfield and invited submissions in accordance with Section 223 (Section 190(3b) & (4)) of the Local Government Act 1989 against such future leases. No submissions were received.

This report sets out the proposals for issuing the proposed future leases for hangars consulted on in September 2018 with 10 (plus 10) year terms.

ISSUES

Under Section 115 of the Local Government Act 2020 (the Act),

- (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, and except where section 116 applies, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.
- (3) A Council must include any proposal to lease land in a financial year in the budget, where the lease is—
 - (a) for one year or more and -
 - (i) the rent for any period of the lease is \$100 000 or more a year; or
 - (ii) the current market rental value of the land is \$100 000 or more a year; or
 - (b) for 10 years or more.
- (4) If a Council proposes to lease land that is subject to subsection (3) and that was not included as a proposal in the budget, the Council must undertake a community engagement process in accordance with the Council's community engagement policy in respect of the proposal before entering into the lease.

In September 2018 and in accordance with Section 190 of the Local Government Act 1989 Council posted public notices notifying of proposed future leases at the airfield and invited submissions in accordance with Section 223 (Section 190(3b) & (4)) of the Local Government Act 1989 against such future leases. No submissions were received.

The intent and terms of these leases have not changed (except for Consumer Price Index (CPI) adjustments to annual rents). Council has therefore previously communicated its intention to enter into leases for aircraft hangars at the site and met its obligation under the Local Government Act 1989 which applied at the time.

POLICY IMPLICATIONS

The process adopted by Council for the awarding of future leases at the Porepunkah Aerodrome was in accordance with obligations under the Local Government Act 1989 and the Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land at that time. This lease is to be awarded as a result of these processes.

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

FINANCIAL AND RESOURCE IMPLICATIONS

The commencement annual lease income for a lease will be \$1,153.80 (GST exclusive). Forward lease charges are indexed to CPI annually and subject to a market review after the first 10 years of the lease. Income collected from hangar rentals at the airfield is paid to the Porepunkah Aerodrome Association to assist it in fulfilling its responsibilities to operations and day to day maintenance of the airfield.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Non-Compliance with Lease requirements	Unlikely	Minor	Termination of Lease

CONSULTATION

In accordance with Section 190 of the Local Government Act 1989, public notices were posted in September 2018 notifying of proposed future leases at the site and inviting submissions in accordance with Section 223 (Section 190(3b) & (4)) of that Act. No submissions were received at that time.

Council has therefore previously communicated its intention to enter into leases for aircraft hangars at the site and met its obligation under the Local Government Act 1989 which applied at that time. The current lease has been developed under the same terms (save for CPI adjustments to annual rent) and therefore it is not considered necessary to undertake further community engagement relating to such leases at the airfield.

The Porepunkah Airfield Association have been consulted and are supportive of the issuing of the leases.

CONCLUSION

Having previously met Council's obligations under the Local Government Act 1989 Council in relation to issuing leases at the airfield that the lease subject to this report does not require further Community Engagement and is executed by Council under the terms of section 115 of the Local Government Act 2020.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Operations
- Property and Contracts Coordinator

8.2.2 Alpine Planning Scheme Review 2023

INTRODUCTION

This report relates to the adoption and implementation of the Alpine Planning Scheme Review 2023 (Review). The report recommends that the Review be adopted by Council and be forwarded to the Minister for Planning as evidence that Alpine Shire Council has met its obligations in accordance with Section 12B of the Planning and Environment Act 1987 to review the planning scheme every four years. The report also recommends that Council resolves to prepare and exhibit a planning scheme amendment to implement key recommendations of the Review in the Alpine Planning Scheme.

RECOMMENDATION

That Council:

- 1. Notes the Alpine Planning Scheme Review 2023 pursuant to section 12B (1) of the Planning and Environment Act 1987 has been finalised;***
- 2. Forwards the Alpine Planning Scheme Review 2023 to the Minister for Planning in accordance with Section 12B (5) of the Planning and Environment Act 1987; and***
- 3. Seeks authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment to implement the Alpine Planning Scheme Review 2023.***

BACKGROUND

Council, as the planning authority for the Alpine Planning Scheme, is required to review its planning scheme every four years under Section 12(B) of the Planning and Environment Act 1987 (the Act).

A planning scheme review is an overall health check of the Alpine Planning Scheme and focuses on:

- the effectiveness and efficiency of the planning scheme in achieving the objectives of planning and the planning framework in Victoria;
- aligning the planning scheme with the Ministerial Direction on the Form and Content of Planning Schemes; and
- ensuring the planning scheme contains a clear narrative about the way in which the use and development of land will be managed to achieve the planning vision or objectives of the area.

Planning scheme reviews also provide the opportunity to align Council's policy position with the planning scheme, update out-of-date or redundant information, and educate and inform stakeholders about how the planning scheme works and the process by which to improve it.

The *Alpine Planning Scheme Review 2023* forms attachment 8.2.2a to this report.

Council last undertook a comprehensive review of the Alpine Planning Scheme between 2010 and 2014. The findings of this review were translated into the planning scheme via Amendment C39, which was gazetted on 9 June 2016.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and local planning policies to replace the former Local Planning Policy Framework. This was done via Amendment C62alpi and was a policy neutral amendment undertaken by the Victorian government.

ISSUES

High level findings

The Review found that the Alpine Planning Scheme contains many policy gaps and is not effectively guiding decision-making in Alpine Shire. There are significant gaps and the planning scheme is out-of-date. This is leading to inconsistent decision-making and lost opportunities for the most efficient use of land, adaptation to climate change and protection of values, such as landscapes and heritage, for the benefit of the community.

The statutory planning function of Council is confronted with both legislative requirements and community expectations.

The process to address the underlying issues that led to this situation to improve the performance of the planning function at Council are underway, but they will take time to see results. In the interim, the Review states that it is critical that Council remains focused on the strategic planning projects that will make the most difference to the wider community, and to building the capacity and confidence of the statutory planning team.

Planning scheme amendment

The Review recommends that Council prepares a planning scheme amendment or amendments using the marked-up ordinance that forms Attachment 8.2.2.b to this report.

- Incorporate the policy neutral changes identified in Chapter 5 to align the ordinance with the Ministerial Direction on the Form and Content of Planning Schemes:
- Include new policy to implement the:
 - Affordable Housing Research and Analysis Paper 2022;
 - Affordable Housing Action Plan 2022;
 - Rural Land Strategy 2015;
 - Community Vision and Council Plan including the Municipal Health and Wellbeing Plan 2022-2026;
 - Myrtleford Resilience Plan;
 - Economic Development Strategy;
 - Alpine Shire Events Strategy; and
 - Sport and Active Recreation Plan 2022-2023.

- Amend Clause 12.05-1L Public and private interfaces, and Clause 14.01-3L Forestry and timber products to introduce changes requested by HVP;
- Include a new notice requirement at Clause 66.06s to ensure plantation managers are notified of applications for subdivision of land or use of land for accommodation within 300 metres of a timber plantation boundary;
- Introduce new strategies at Clause 13.02-1L (Bushfire Planning) to support dual access to properties and consider bushfire risk at a landscape scale;
- Amend Clause 19.03-2L Infrastructure design and provision to include consideration of the Infrastructure Design Manual and the Sustainable Infrastructure Guidelines when approving development;
- Rezone the north east portions of 25, 27, 33 and 35 King Street, Myrtleford that are currently zoned General Residential Zone to Farming Zone to remove the zoning anomaly;
- Delete DPO1 (Tempo Court area) as the subdivision is complete and the schedule does not contain any content;
- Delete DPO2 (Glenburn Drive) as it does not contain any content;
- Introduce the schedule to Clause 53.01 Public open space contributions and subdivision to collect a 5% contribution for residential subdivisions; and
- Include an updated Clause 74.02 Further strategic work that prioritises the strategic work program based on the findings of the Review.
- Attachment 8.2.2.c to this report contains the draft Explanatory Report for this amendment. This document explains what the amendment will do, and will be one of the public documents that is made available as part of the amendment should Council resolve to proceed.

Further strategic work

Following the analysis of the current planning scheme, stakeholder engagement and data, the Review identified the following priorities for Council over the next four years:

- Finalise the Land Development Strategy and implement into the planning scheme.
- Prepare the Rural Land Strategy Stage 2 to:
 - clarify the policy directions for each precinct in the Shire focused on supporting agricultural uses and minimising land use conflicts through separation of activities;
 - review the appropriate zoning for small lots in the Farming Zone (for example, Freeburgh, Ovens, Wandiligong, etc.); and
 - mitigate the impacts of climate change on rural land.
- Prepare structure plans for Porepunkah, Bright, Mount Beauty – Tawonga South and Myrtleford to:
 - direct land uses to appropriate locations;
 - develop a residential development framework that identifies the appropriate housing mix to provide a diversity of housing and achieve preferred neighbourhood character;

- identify active transport linkages and routes;
 - support the intensification of residential development in appropriate locations;
 - identify the preferred character for commercial and industrial areas;
 - identify infrastructure requirements;
 - prepare landscaping guidelines for public and private property, including planting, retention and replacement of canopy trees; and
 - draft planning controls to implement the Structure Plans including schedules to the residential zones.
- Undertake a comprehensive review of the suite of controls applying to Wandiligong to ensure they provide clearer guidance about what is to be achieved and more detailed direction to applicants and decision makers. This includes a review of zones, HO83 and SLO4.
 - Amend the schedules to the Farming Zone to increase the maximum floor area for which no permit is required for an outbuilding associated with a dwelling to decrease the number of permits that are triggered for this use.
 - Commence a comprehensive assessment of the significant landscapes and vegetation in the municipality, including those at a regional scale (e.g., views to Mount Buffalo and Mount Bogong) and local scale (e.g., boulevards in Bright) and put in place planning controls to protect such as the Significant Landscape Overlay, Environmental Significance Overlay, Vegetation Protection Overlay and Heritage Overlay.
 - Review the existing Significant Landscape Overlay Schedules (SLO1, SLO2, SLO3, SLO4 and SLO5) to strengthen the statement of significance and objectives, and populate the schedules with policy to more effectively guide decision making.
 - Undertake a heritage gap analysis (identify existing citations, update and address gaps).
 - Prepare a Heritage Policy to assist with decision making for applications in the Heritage Overlay.
 - Apply flood controls to land identified by NECMA and GBCMA as being subject to inundation.
 - Prepare an anomalies amendment to fix mapping anomalies that have been identified (land in two zones, publicly zoned private owned land, etc.).

Advocacy and process improvements

Drawn from both the analysis of the planning scheme and the targeted consultation with users of the planning scheme, the Review also made recommendations to:

- Improve processes associated with the collection and analysis of data (such as planning permits), processing and referral of applications, and communication.
- Matters that Council may wish to discuss with the Victorian government to highlight the issue and advocate for change, specially who is responsible for preparing flood mapping for the Shire.
- Engage a Dinner Plain advisor (similar to the Heritage advisor) to provide design advice on planning permit applications.

These will be considered by Council in its operational and advocacy activities.

POLICY IMPLICATIONS

The Review has undertaken a detailed assessment of all relevant planning policy reports and strategic documents. This Review has been undertaken in accordance with Section 12B of the Planning and Environment Act 1987, which requires Council to regularly review the Alpine Planning Scheme.

The recommendation is in accordance with the following Strategic Objectives of the Council Plan 2021-2025:

- 2.2 Innovative and sustainable business development that supports year-round benefit.
- 4.2 Planning and development that reflects the aspirations of the community.
- 5.2 A responsible, transparent and responsive organisation.
- 5.3 Bold leadership, strong partnerships and effective advocacy.

FINANCIAL AND RESOURCE IMPLICATIONS

Adoption of the review

There are no direct financial implications associated with the adoption of the Review, although the Review identifies future strategic work that may be required which will be subject to the normal annual budget process Council undertakes.

The Review was undertaken with assistance from the Department of Transport and Planning - Regional Planning Hub Program.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
An out-of-date planning scheme	Unlikely	Minor	Council accepts the recommendations in this Council Report

CONSULTATION

The Review is a technical assessment of the Alpine Planning Scheme so community consultation is not required.

However, targeted engagement took place throughout the preparation of the Review during the second half of 2022. This included engagement with Councillors, planning officers, other officers across Council who use or are impacted by the planning scheme, Council's heritage advisor, all referral authorities listed in the planning scheme and the forestry plantation manager HVP. This engagement process and its findings are summarised in the Review.

The wider community will have the opportunity to make submissions to the proposed planning scheme amendment seeking to implement the recommendations of the Review through the public exhibition process.

CONCLUSION

Council is required to review the Alpine Planning Scheme every four years. This a mandatory requirement of the Planning and Environmental Act 1987. The Review has been prepared to meet this mandatory obligation.

Once formally noted by Council, the Review will constitute the formal 'Planning Scheme Review' of the Alpine Planning Scheme as required under Section 12B of the Planning and Environment Act 1987. A planning scheme amendment is required to implement the findings and recommendations of the Review.

The Review found that the Alpine Planning Scheme contains many policy gaps and is not effectively guiding decision-making in Alpine Shire. There are significant gaps and the planning scheme is out-of-date. This is leading to inconsistent decision-making and lost opportunities for the most efficient use of land, adaptation to climate change and protection of values, such as landscapes and heritage, for the benefit of the community.

It is recommended that Council note that the Review has been completed and to forward it to the Minister for Planning to meet the requirements of Section 12B of the Planning and Environment Act 1987. It is also recommended that a planning scheme amendment be prepared and exhibited to implement the findings of the Review.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Strategic Planning Coordinator

ATTACHMENT(S)

- 8.2.2.a Alpine Planning Scheme Review 2023.
- 8.2.2.b Recommended changes to planning scheme ordinance.
- 8.2.2.c Draft Explanatory Report for the proposed planning scheme amendment.

8.3 DIRECTOR CUSTOMER AND COMMUNITY – HELEN HAVERCROFT

8.3.1 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register.

INTRODUCTION

Instruments of appointment and authorisation are an important means of Council ensuring that its officers are appropriately authorised under the relevant Acts that Council administers. This report provides for a newly appointed position in Council's Planning department.

RECOMMENDATION

That Council exercise the powers conferred by section 147(4) of the Planning and Environment Act 1987, so that:

- 1. The following members of Council staff referred to in attachments 8.3.1.a and 8.3.1.b "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instruments) be appointed and authorised as set out in the instrument;***
 - a. Senior Statutory Planning Officer***
- 2. The instruments come into force immediately the common seal of Council is affixed to the instruments, and remain in force until Council determines to vary or revoke them;***
- 3. On the coming into force of the instruments, the previous "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987" for the following members of Council staff, as dated, be revoked;***
 - a. Planning Officer, dated 5 October 2021***
- 4. The instruments be signed and sealed at the appropriate stage of this meeting.***

BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a new Senior Statutory Planning Officer, requiring a new Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987*. The Instrument of Appointment and Authorisation being revoked relate to one Planning Officer that has resigned their position.

ISSUES

Authorised Officers

Authorised officers have statutory powers under relevant legislation. In the case of Council's staff in the Planning department, the attached Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* mean that they are authorised officers for the purposes of that Act.

While Council may delegate its powers, duties or functions to staff, so that a delegate acts on behalf of the Council, staff appointed as authorised officers have their own statutory powers under the relevant Act.

Planning and Environment Act 1987

Section 188(1)(b) of the *Planning and Environment Act 1987* specifies that "a planning authority ... may by instrument delegate any of its powers, discretions or functions under this Act to an officer of the authority". However, Section 188(2)(c) specifically prevents an officer from further sub-delegating any duty, function or power. Therefore, as the responsible authority, Council must authorise staff directly using the "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987", rather than via the Chief Executive Officer.

Maddocks Delegations and Authorisations Service

Council utilises the delegations and authorisations service provided by law firm Maddocks. This is a template system used by many councils and provides a detailed way of ensuring that appropriate delegations and authorisations are given to Council staff. All of the relevant legislation affecting local government, including Acts and regulations and the sections that relate to the powers, duties and functions of Council are outlined within the template and the relevant officer is allocated accordingly.

POLICY IMPLICATIONS

Ensuring authorisations are kept up to date ensures that Council's planning staff can undertake their statutory roles.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

FINANCIAL AND RESOURCE IMPLICATIONS

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget. There are no other financial implications associated with these instruments of appointment and authorisation.

Appropriate authorisations allow Council and Council staff to operate effectively and within legislative frameworks.

RISK MANAGEMENT

Detail the key risks of the matter being addressed by the report and mitigation action / control.

Risk	Likelihood	Impact	Mitigation Action / Control
Authorisations are not in place or are out of date	Possible	Moderate	<ul style="list-style-type: none"> Ensure that all Council officers have up-to-date authorisations to ensure that they can undertake their duties.

CONSULTATION

The relevant staff and Director have been consulted during the preparation of the IoAAs. There is no requirement to consult the community in the preparation of these instruments.

CONCLUSION

The appropriate appointment of authorised officers to enforce the *Planning and Environment Act 1987* is required to ensure that Council officers can undertake their statutory roles.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Governance Officer

8.3.2 Planning Application P.2022.85 - 99 Centenary Avenue, Wandiligong

Application number:	P.2022.85
Proposal:	Use of the land for a dwelling
Applicant's name:	Adam Rosser
Owner's name:	Naynad Investments Pty Ltd
Address:	99 Centenary Avenue, Wandiligong (Lot 2 PS 824322H)
Land size:	Approx. 2.45ha
Current use and development:	Vacant
Site features:	The site is an irregular shaped allotment with frontage to Centenary Avenue. The site is currently vacant with existing vehicular access to Centenary Road.
Why is a permit required?	Clause 35.07-1 – Section 2 Use (dwelling)
Zoning:	Clause 35.07 - Farming Zone
Overlays:	Clause 42.03 – Significant Landscape Overlay (Schedule 3) Clause 43.01 – Heritage Overlay (HO83) Clause 44.06 - Bushfire Management Overlay
Restrictive covenants on the title?	Section 173 Agreement AT584762Y Contains requirements relating to wastewater and stormwater disposal and future dwelling development. The proposal does not breach this agreement.
Date received:	27 September 2022
Statutory days:	183
Planner:	Ebony Cetinich

RECOMMENDATION

That Council issue a Notice of Decision to grant a planning permit for the use of the land for a dwelling in accordance with the conditions outlined in Appendix 8.3.2.a to this report.

PROPOSAL

The proposal involves the use of the land for a dwelling only. No buildings and works are proposed. An indicative building envelope for the dwelling footprint and wastewater disposal field has been shown on a site plan.



Figure 1: Site Plan

SUBJECT LAND AND SURROUNDS

The subject site has an area of 2.45 hectares and a frontage of 134.28m to Centenary Avenue. The site is irregular in shape and has minimal fall across a majority of the site with the exception of the eastern section which has a moderate slope downwards towards the eastern boundary. The site is currently vacant with an existing access point at the southern end of the lot. There are a number of non-native scattered trees across the land. Electricity and water supply infrastructure are available to the site, however, public stormwater and sewerage infrastructure is not.

The surrounding area predominantly contains rural dwellings on a range of different lot sizes. This site is in the farming zone but no meaningful agriculture is being undertaken within the vicinity of the site and the surrounding area is considered to be more akin to a rural living or low density residential zone. The existing pattern of subdivision is relatively

inconsistent and fragmented. The nearest productive agricultural holding is situated approximately 750m to the south of the site.



Figure 2: Aerial image of the subject site

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land; and placing a sign on site.

Council has received one objection to date. The objection is summarised in the table below alongside Council's response to the issues raised.

Concern	Council's response
<p>Questioned the validity/purpose of the application.</p>	<p>The application is valid and relates to the use of the land only, which means that there are no physical buildings and works being undertaken as part of this application. It is merely a permit to say that you can use this land for a dwelling. It may seem as though the permit is pointless if it doesn't allow any buildings to be constructed but it gives the owner some certainty that a dwelling could be built in the future.</p>

Concern	Council's response
No plans were provided to demonstrate what the dwelling would look like.	As no physical buildings and works are proposed, plans of the dwelling (i.e. detailed design site plan, floor plan and elevations) are not required for the assessment of this application. These plans will form part of the assessment of a future development permit.
Cost of works of \$10,000 which would devalue and impact the enjoyment of their	The cost of works of under \$10,000 is merely a requirement to complete a Planning Permit application form. This figure does not represent the cost of physical dwelling. The issues raised by the objector in relation to property enjoyment and property value would be more associated with a future built form application and not the land use application as proposed.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	GMW – Consent, no Conditions.
Internal referrals:	<p>ASC ENG – Conditional consent ASC Environmental Health – Conditional consent</p> <p>As the proposed land use does not create a demand for upgrading the driveway and installing stormwater / wastewater infrastructure, conditions regarding these matters will not be included on any permit issued. These matters will be implemented as part of any future development application.</p>

PLANNING ASSESSMENT

All applicable policy can be found in Appendix 8.3.2.b.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Attachment 8.3.2.b.

The policies of the Municipal Planning Strategy and Planning Policy Framework provide support to the proposal for the following reasons:

- The site is not considered to be suitable for farming use given the fragmented subdivision pattern, existence of rural living properties and the proximity to the town

centre. As such, the proposal is not seen to be removing productive agricultural land nor impacting the local agricultural industry.

- The proposal does not impact the character and heritage of Wandiligong as no buildings and works are proposed. The built form outcome will be assessed as part of any future development application.
- The proposal to use the land for a dwelling is acceptable taking into account the bushfire risks associated with the land. The subject land is not isolated and has frontage to an all-weather public road. Further bushfire matters such as BAL rating, defensible space, access, water supply and vegetation management will be assessed as part of any future development application. There are no site constraints that would render any of the above matters unachievable.
- The proposal is unlikely to have any impacts on the Catchment Area.
- The site is capable of accommodating the proposed land use taking into account access and infrastructure servicing. Wastewater and stormwater are able to be managed on-site.

Farming Zone

The subject land is situated within the Farming Zone. The purpose and decision guidelines of the Farming Zone focus strongly on protecting productive agricultural land and promoting agricultural production. Generally, land uses and development other than those associated with agricultural production are discouraged unless a site is not capable of accommodating any meaningful form of agricultural production.

After reviewing the Alpine Rural Land Strategy and the VCAT case *Niazi v Alpine SC* [2019] VCAT 1759 (25 November 2019), it has been determined that the subject site is not suitable for a farming land use. The site is surrounded by rural dwellings and at just over 2 hectares, it is relatively small to accommodate any meaningful form of agricultural land use. As a result, departure from the provisions of the Farming Zone encouraging agricultural land use is warranted in this instance.

The proposal is consistent with the purpose and decision guidelines for the following reasons:

- The development is not removing land for agricultural production as the site has been identified within the Rural Land Strategy and VCAT case *Niazi v Alpine SC* [2019] VCAT 1759 (25 November 2019) as not suitable for farming and re-zoning should be investigated. As a result of the VCAT case *Niazi v Alpine SC* [2019], the subject land was created and a Section 173 Agreement was applied to the land. The Section 173 Agreement contains requirements for dwellings, affirming that residential development was contemplated for this site.
- The development is compatible with surrounding land uses, being rural/residential in nature.
- The development will not impact the continued operation and expansion of existing agricultural uses given that the site is surrounded by rural residential land uses.

- The development will not result in proliferation of dwellings as the site is within an area where proliferation of dwellings has already occurred. Given the small lot sizes within the surrounding area, it is likely that most new dwellings within the Farming Zone will require a planning permit and will each be individually assessed on their merits.
- The development can be adequately serviced, with wastewater and stormwater able to be managed on-site. Adequate all weather access from Centenary Avenue can be achieved.

Overlays

A planning permit is not required for the use of the land for a dwelling under any of the Overlays that apply to the site. As such, the Overlays will not form part of this assessment.

Particular Provisions

There are no relevant Particular Provisions.

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported taking into account the relevant decision guidelines of Clause 65.01.

CONCLUSION

The application is considered to be consistent with the Alpine Planning Scheme for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- There are no Covenants applicable to the land.
- The application does not breach the Section 173 Agreement that applies to the land.
- The objectors concerns have been reasonably addressed.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Consultant Planner

APPENDICIES

- 8.3.2.a. Conditions
- 8.3.2.b. Policy and decision guidelines

APPENDIX 8.3.2.a. CONDITIONS

Endorsed Plans

1. The use as shown on the endorsed plan must not be altered or modified (whether or not in order to comply with any statute, statutory rule or Local Law, or for any other reason) without the prior written consent of the Responsible Authority.

Farming Zone Dwelling Conditions

2. Prior to the commencement of the use authorised by this permit, access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles, to the satisfaction of the Responsible Authority.
3. Prior to the commencement of the use authorised by this permit, the dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each 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. Prior to the commencement of the use authorised by this permit, 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 fire fighting purposes, to the satisfaction of the Responsible Authority.
5. Prior to the commencement of the use authorised by this permit, the dwelling must be connected to a reticulated electricity supply or have an alternative energy source, to the satisfaction of the Responsible Authority.

Expiry

6. This permit will expire if one of the following circumstances applies:
 - a. The use is not started within two (2) years of the issue date of this permit; or
 - b. The use is discontinued for a period of two (2) or more years.
7. The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

- End of Conditions -

Planning Notes:

1. This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or

materials. Applications may be accessed via the following link [Work on Council land permit](#), or from the Alpine Shire Council website.

3. An application for a Permit to Install a Septic Tank System must be made to the satisfaction of Council and any requirements of the relevant Water Authority prior to a building permit being issued in accordance with the requirements of the Building Act 1993. The septic system must comply with the Code of Practice – onsite Wastewater Management Publication 891.4 and AS1546.1 to 1546.4 and be in accordance with the Land Capability Assessment [Ref LCA-ROSS-03] from Foresight Engineering Services and any requirements of the relevant Water Authority.

APPENDIX 8.3.2b. POLICY

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1 & Clause 11.01-1L-01 – Settlement

Clause 11.01-1L-08 - Wandiligong

Clause 02.03-3 - Environmental Risks and Amenity

Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 02.03-4 – Natural Resource Management

Clause 14.01-1S & 14.01-1L - Protection of agricultural land

Clause 14.01-2S & Clause 14.01-2L - Sustainable agricultural land use

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-6S – Design for Rural Areas

Clause 15.03-1S Heritage conservation

Clause 02.03-9 – Infrastructure

Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

Zone

Clause 35.07 - Farming Zone

Overlays

N/A

Particular Provisions

N/A

General Provisions

Clause 65.01 - Approval of an Application or Plan

8.3.3 Planning Application P.2016.105.1 - 5870 Great Alpine Road, Eurobin

Application number:	P.2016.105.1
Proposal:	Amendment to planning permit P.2016.105 seeking amended plans and conditions for a replacement dwelling.
Applicant's name:	Mountain Planning
Owner's name:	Antonio Mautone
Address:	5870 Great Alpine Road, Eurobin (Lot 1 PS729920)
Land size:	3.441 hectares
Current use and development:	The site has been developed with a dwelling, which is located at the rear of the site in the south-eastern corner. The site has also been developed with a large machinery shed.
Site features:	The site is relatively flat with small patches of native vegetation located in the north-eastern corner and along the western boundary of the site. A waterway runs north-south through the eastern side of the site.
Why is a permit required?	To amend the design and location of the proposed dwelling, and an extension of time to commence development.
Zoning:	Clause 35.07 - Farming Zone
Overlays:	Clause 44.06 - Bushfire Management Overlay
Restrictive covenants on the title?	Nil
Date received:	23 May 2022
Statutory days:	310
Planner:	Elke Cummins

RECOMMENDATION

That Council issue a Notice of Decision to grant a planning permit under the provisions of Clauses 35.07 and 44.06 of the Alpine Planning Scheme in respect of the land known and described as 5870 Great Alpine Road, Eurobin (Lot 1 PS729920) for amended plans, location and an extension of time for the commencement of development for the construction of a replacement dwelling in accordance with the conditions outlined in Appendix 8.3.3.a.

PROPOSAL

The proposal seeks approval for an amendment to planning permit P.2016.105, which granted permission for the construction of a replacement dwelling at 5870 Great Alpine Road, Eurobin on 5 December 2016. The date of commencement of the development was extended three times.

The proposal seeks approval for amended plans - both designs and location of the dwelling - and conditions relating to bushfire considerations and a final extension of time for the commencement of the development. The applicant has stated that these changes are required as a result of the impact of COVID-19 and the recent application of the Bushfire Management Overlay to the land.

The amended plans seek approval to replace the existing dwelling. The dwelling is single-storey and contains an open plan kitchen, dining and lounge area, two bathrooms, laundry and deck. The building would be located towards the centre of the site, and would be accessed via an existing crossover and driveway from Great Alpine Road.

The dwelling is of a contemporary design and the external walls are proposed to be clad in predominantly metal and timber sheeting, and the roof in Colorbond "monument" metal and galvanised sheeting, and, overall, the building's scale and massing is irregular.

A site plan and aerial photograph, floor plan and elevations are outlined in Figures 1 to 4 below.

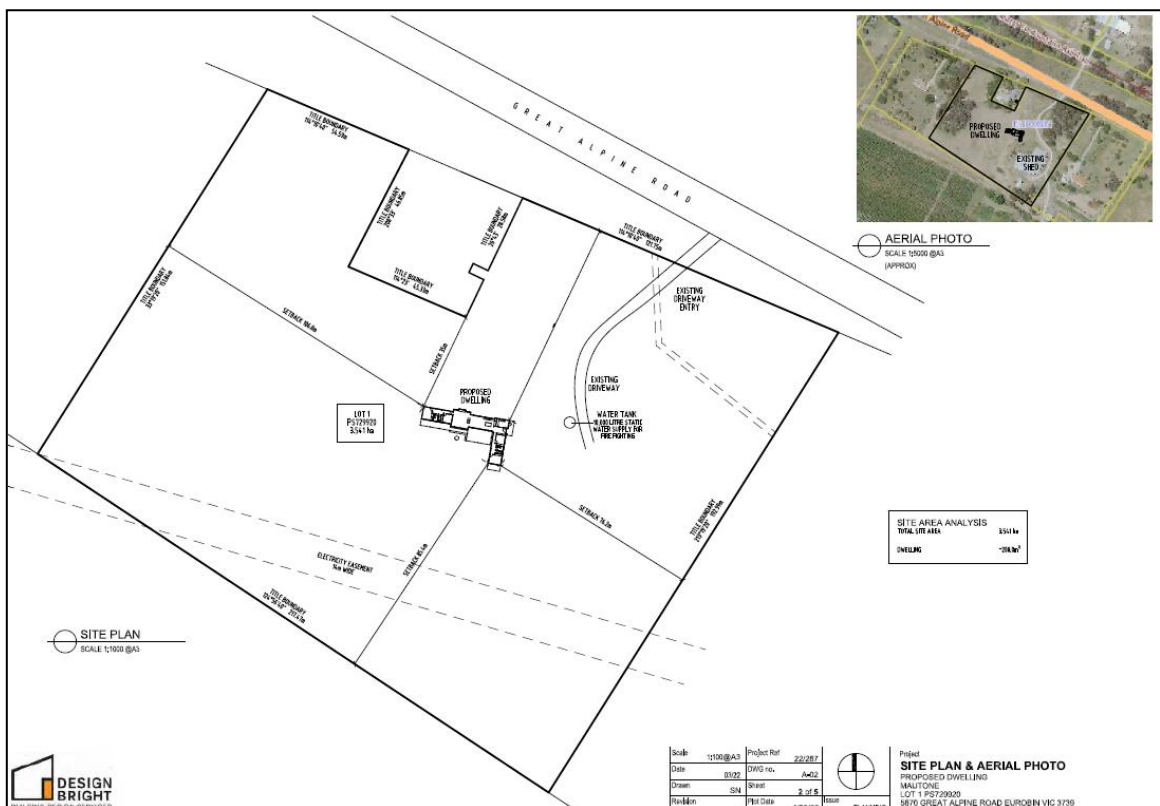


Figure 1: Site Plan and Aerial Photograph

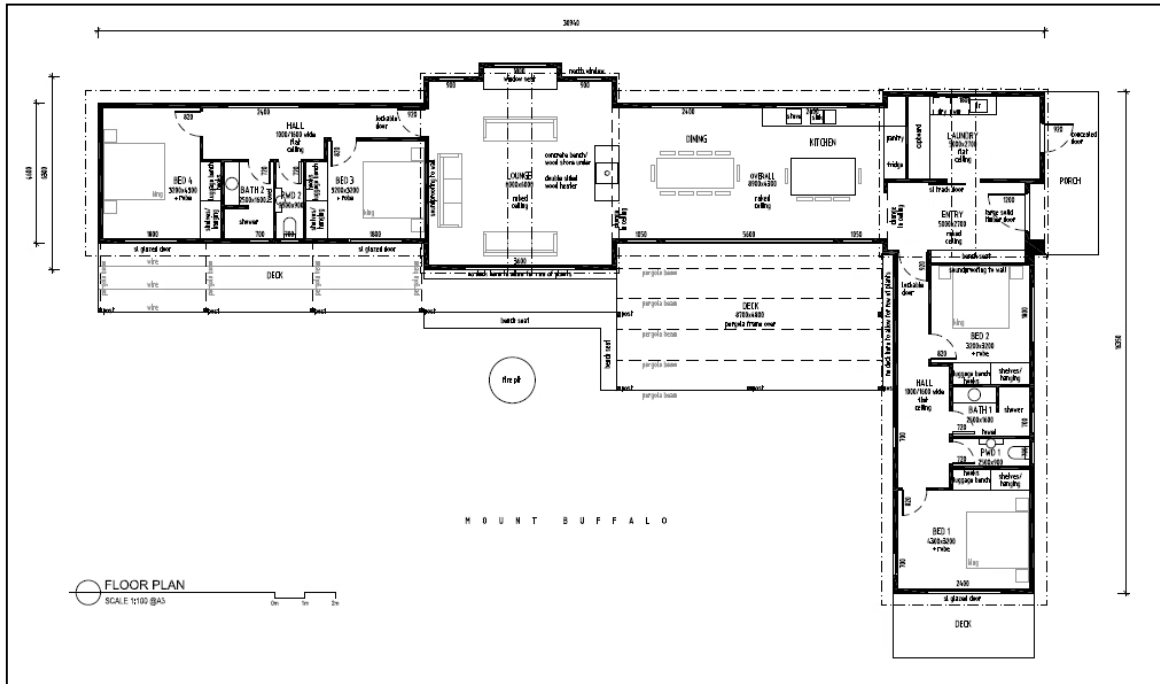


Figure 2: Floor Plan

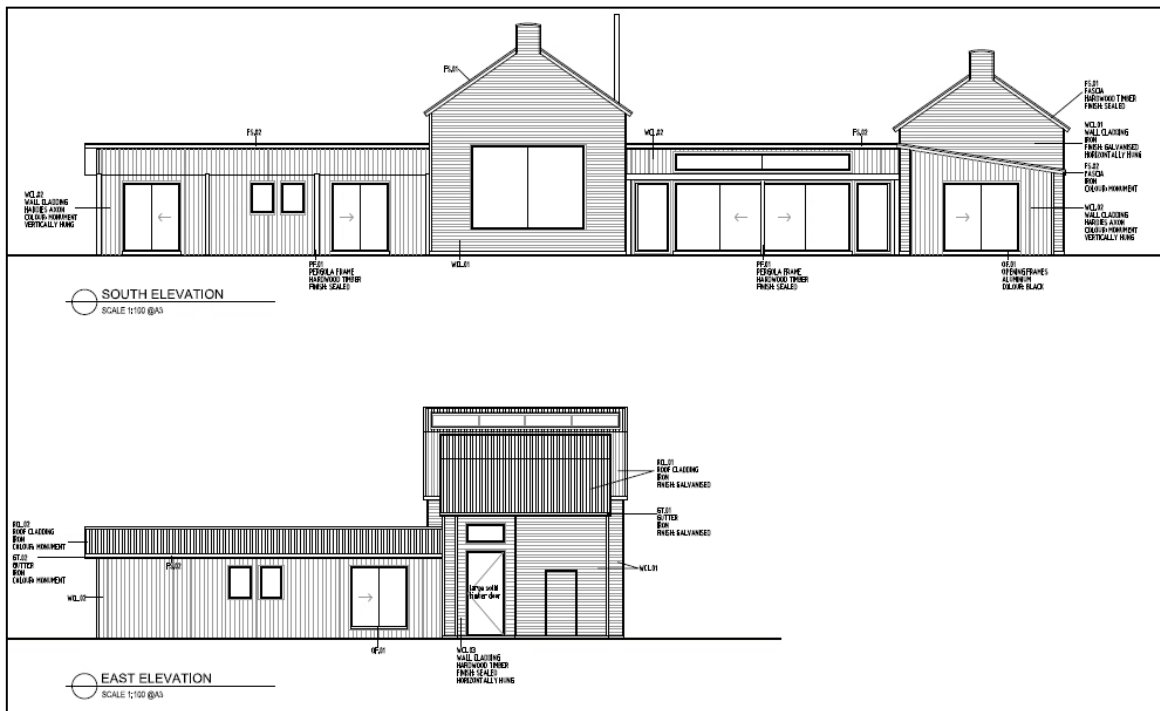


Figure 3: Elevations South and East



Figure 4: Elevations North and West

SUBJECT LAND AND SURROUNDS

The subject site has an area of 3.441 hectares and, although irregular, is broadly rectangular in shape with extensive frontage to the Great Alpine Road.

The site has an existing small dwelling, which is located at the rear of the site in the south-eastern corner. The site also contains a large machinery shed adjacent to the existing dwelling. The site is relatively flat with small patches of native vegetation located in the north-eastern corner and along the western boundary of the site. A waterway runs north-south through the eastern side of the site.

The subject site is located on the valley floor within the Ovens Valley and situated within an area used for agricultural and rural residential uses. The surrounding area is generally flat on the valley floor before rising to the ridges to the north and south of the site. The rising slopes of the valley contain mature native vegetation and the valley floors are generally cleared or contain hop gardens. Surrounding land is predominantly zoned Farming Zone and is affected by the Bushfire Management Overlay.

The site and surrounding area is highlighted on Figure 5 below.



Figure 5: Aerial Photograph of the Subject Site shaded in red.

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land; and placing a sign on site.

Council has received one objection to date. The objection is summarised in the table below alongside Council officers' responses to the issues raised.

Summary of concerns	Council officers' response
'Warehousing' of the planning permit	The applicant has articulated reasons for the delay in the commencement of the proposed development, including the impacts of COVID-19, and included a signed contract with a builder as part of the application to commence the development as soon as possible. Given this, and other considerations outlined in this report, Council officers are satisfied that the permit is not being 'warehoused'.
The probability of a new application for the same proposal being supported	Planning controls and policy have changed within the Alpine Planning Scheme since the initial application for a replacement dwelling was received in 2016. The proposal being sought will be fully assessed against the current provisions of the Alpine Planning Scheme as part of the consideration of the application.

Summary of concerns	Council officers' response
Compliance with the state and local planning policy of the Alpine Planning Scheme relating to the preservation of agricultural land for agricultural use	<p>The proposal is for a replacement dwelling on the lot, and will therefore not introduce additional dwellings to the Farming Zone.</p> <p>The proposal is consistent with other developments in the area: dwellings on small lots in the Farming Zone. The site is within an area with development similar to that in a Rural Living Zone and, indeed, re-zoning of the land could be investigated as it is fragmented and not suitable for agriculture. This view was supported by VCAT in <i>Niazi v Alpine SC</i> [2019] VCAT 1759 (25 November 2019).</p> <p>Overall, the proposal would result in an acceptable planning outcome, subject to conditions, and be an appropriate alternative use in the Farming Zone.</p>
The notification process	The objector's comments regarding the size of the public notice that was erected on site and the description of the development proposal are noted. The concerns fall outside of the scope of the assessment of the assessment of the proposal sought by this application, but Council officers will consider these comments.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 52 referrals:	NECMA – No objections, subject to conditions
Section 55 referrals:	<p>Ausnet – advice</p> <p>CFA – No objections, subject to condition</p> <p>Department of Transport – No objections, subject to conditions</p> <p>GM Water – No objections, subject to conditions</p>
Internal referrals:	<p>ASC Engineering – Conditional consent.</p> <p>ASC Environmental Health Officer – Consent with note to be added</p>

PLANNING ASSESSMENT

A detailed assessment against the provisions of the Municipal Planning Strategy and Planning Policy Framework contained on the planning file - reference no. P.2016.105.1.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Attachment 8.3.3.b.

The policies of the Municipal Planning Strategy and Planning Policy Framework provide support to the proposal for the following reason: the replacement dwelling will not impact upon the surrounding agricultural uses and will not be visually intrusive on the surrounding landscape.

Farming Zone

The subject land is zoned Farming Zone. The proposal is consistent with the purpose and decision guidelines of the Farming Zone, particularly, to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

Bushfire Management Overlay

The Bushfire Management Overlay applies to the land. There is a planning permit trigger for the proposal at Clause 44.06-2. The application was referred to the Country Fire Authority (CFA) for comment, which requested further information. Further information was received and the application further considered by the CFA, which provided conditional consent for the proposal.

The application is considered to meet the relevant requirements of the Bushfire Management Overlay.

Proposed Land Subject to Inundation Overlay

The application was referred to NECMA, which did not object to the proposal, subject to conditions. The proposed replacement dwelling would not redirect or obstruct floodwater, stormwater or drainage water from the site, and would not increase the potential flood risk to life, health and safety. It also would not have an effect on river health values. As such, it is considered that the proposal satisfies the purpose and decision guidelines of the overlay and is appropriate for the site.

Particular Provisions

Clause 53.02 - Bushfire Planning

This clause is a state-wide provision and relevant to the application. The proposal is considered to be generally in accordance with these provisions subject to the inclusion of conditions.

General Provisions

Clause 52.06 – Car Parking

Clause 52.06-5 of the Alpine Planning Scheme outlines the required number of car parking spaces for various uses. The replacement dwelling has four bedrooms as such, two on site car parking spaces are required. Two on site spaces can easily be accommodated. As such, the proposal meets the car parking requirements.

Clause 65.01 – Approval of an Application or Plan

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported considering the relevant decision guidelines of Clause 65.01. The proposal is considered to be generally in accordance with the decision guidelines.

CONCLUSION

The application is considered to be consistent with the Alpine Planning Scheme for the following summarised reasons:

- 1) The proposal generally meets the relevant provisions of the:
 - Planning Policy Framework;
 - Farming Zone;
 - Bushfire Management Overlay;
 - Particular Provision including Clause 53.02;
 - Decision guidelines at Clause 65.01; and
 - the objector's concerns have been reasonably addressed.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Acting Statutory Planning Coordinator

APPENDICIES

- 8.3.3.a. Conditions
- 8.3.3.b. Policy

APPENDIX 8.3.3.a. CONDITIONS

Endorsed Plans

1. The layout of the site and the size of the proposed buildings and works must be generally in accordance with the endorsed plans which form part of this permit. The endorsed plans must not be altered or modified (whether or not to comply with any statute statutory rule or local law or for any other reason) without the prior written consent of the responsible authority.

External Materials and Colours

2. The external materials of the dwelling, which includes the roof, must be constructed in materials of muted colours. No materials having a highly reflective surface shall be used. For the purposes of this condition 'highly reflective' surfaces include unpainted aluminium, zinc or similar materials.

Farming Zone Dwelling Conditions

3. Prior to occupation access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles to the satisfaction of the relevant authorities.
4. Prior to occupation 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 (in accordance with the endorsed Bushfire Management Plan below) to the satisfaction of the Responsible authority.
5. Prior to occupation the dwelling must be connected to a reticulated electricity supply or have an alternative energy source.
6. Prior to installation an application for an on-site wastewater treatment system must be approved by Council's Environmental Health Officer. No works are to commence until a permit to install has been issued.

Alpine Shire Environmental Health Condition

7. Any application for a Permit to Install a Septic Tank System must be made to the satisfaction of Council and any requirements of the relevant Water Authority prior to a building permit being issued in accordance with the requirements of the Building Act 1993. Any septic system must comply with the Code of Practice – onsite Wastewater Management Publication 891.4 and AS1546.1 to 1546.4 and be in accordance with the Land Capability Assessment (Ref NM14092016-1A-22 from Porta Environmental Pty Ltd) obtained in support of the application and any requirements of the relevant Water Authority.

Alpine Shire Council Engineering Team Conditions

Rural Drainage Works

8. Prior to commencement of use, all stormwater and surface water discharging from the site, buildings and works must be retained and treated on site to the satisfaction of the responsible authority. No effluent or polluted water of any type will be allowed to enter the stormwater drainage system. Once treated to the satisfaction of the responsible authority, the stormwater shall be conveyed to the legal point of

discharge to the satisfaction of the Alpine Shire Council. The legal point of discharge for the site is on-site retention and overflow to an adequate size infiltration pit.

No Restriction to Flows

9. No earthworks shall be permitted to restrict the flow of water entering or leaving the depression and low lying land indicated on the plan.

No Restriction to Drainage

10. The approved works must not cut off natural drainage from adjacent properties.

Construction Management Plan

11. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Alpine Shire Council.
12. Issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, 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. Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right on Subdivisions" Publication 960, September 2004.

No Mud on Roads

13. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

- End -

Removal of Existing Dwelling Condition

14. The existing dwelling located on the land shall be removed within 30 days of the issue of a Certificate of Occupancy for the dwelling hereby approved.

Mandatory Bushfire Management Overlay Condition

15. 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.

Country Fire Authority Condition

16. Before the development starts, the Bushfire Management Plan titled Bushfire Management Plan 5870 Great Alpine Road, Eurobin, prepared by Mountain Planning, reference 5870 Great alpine Road, Eurobin BMP Rev A, dated 17 August 2022 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.

Department of Transport Conditions

17. Only one access will be permitted from subject land to the Great Alpine Road as shown on the plan appended to the application.
18. Prior to the occupation of the dwelling, the access must be constructed and sealed in accordance with VicRoads guideline drawing GD4010 Typical Access to Rural Properties to cater for the passenger vehicle as detailed in Table 2 - Access Setout Details to the satisfaction of and at no cost to the Head, Transport for Victoria.

19. The driveway must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).

Goulburn Murray Water Conditions

20. All wastewater from the dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must have a certificate of conformity issued by the Conformity Assessment Body (or equivalent approval) and be installed, operated and maintained in accordance with the relevant Australian Standard and EPA Code of Practice.
21. All wastewater must be applied to land via pressure-compensating sub-surface irrigation installed along the contour.
22. The wastewater disposal area must be located at least: 100m from any waterways (including dams on a waterway), 40m from any drainage lines, 60m from any dams, and 20m from any bores.
*Where wastewater is treated to at least a secondary standard, the distance may be reduced in accordance with the current EPA Code of Practice – Onsite Wastewater Management. However, where possible setback distances must be maximised.
23. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away.
24. No buildings are to be located within 30m of any waterways or dams on waterways. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA 1991).

North East Catchment Management Authority Conditions

25. The finished floor level of the replacement dwelling shall be a minimum of 300 mm above the estimated 1% AEP flood level i.e. minimum finished floor level of RL 245.0 m AHD. A higher floor level is recommended to provide additional protection from larger flood events.
26. Any earth land filling at the site of the replacement dwelling must not be placed, or allowed to spill to land, beyond 1 m outside of the dwelling footprint.
27. The access driveway to the dwelling must be relocated a minimum of 10 m to the west of the current alignment adjacent the lagoon such that the driveway is located on land with an existing surface level at or above RL 244.4 m AHD. The surface level of the driveway must not be raised any more than 100 mm above surrounding natural surface elevation.
28. The existing dwelling must be demolished to the satisfaction of the Responsible Authority

Expiry

29. This permit will expire if one of the following circumstances applies:

- a. the development is not started within two (2) years of the date of this permit;
and or
 - b. the development is not completed within four (4) years of the date of this permit.
30. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards if the development has not lawfully commenced prior to the expiry of the permit, or within 12 months afterwards if the development has lawfully commenced prior to the expiry of the permit.

- End of Conditions -

Planning 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. Separate consent for works within the road reserve and the specifications of these works may be required under the Road Management Act.
3. Important information for working near Ausnet Services Electricity Assets
4. As there are AusNet Services Power Lines in the vicinity of the proposed construction, please note the following in regard to working near our assets:
 - AusNet Services refers to Energy Safe Victoria (ESV) for safety information and advice. ESV notes the following:
 - As part of this process the builder will need to undertake a Dial Before You Dig before construction takes place.
 - It is acceptable to work greater than 6.4m from any overhead power lines.
 - If power lines are within 3.0 - 6.4m, a registered spotter must be implemented.
 - If it is under 3.0m it is known as a NO GO ZONE where official permission from AusNet Services is required via Extec (see below).
 - Go to the following for more info from the ESV: <https://esv.vic.gov.au/technical-information/electrical-installations-and-infrastructure/no-go-zones/distribution-overhead-powerlines/>
 - For information on No Go Zones, please contact Extec who can assist you with your No Go Zone requirements. Their details can be obtained at: <https://www.ausnetservices.com.au/en/Safety/Working-Near-Lines>.

8.3.3.b. POLICY

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1 & Clause 11.01-1L-01 – Settlement

Clause 02.03-3 - Environmental Risks and Amenity
Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 02.03-4 – Natural Resource Management
Clause 14.01-1S & 14.01-1L - Protection of agricultural land
Clause 14.01-2S & Clause 14.01-2L - Sustainable agricultural land use

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management
Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage
Clause 15.01-6S – Design for Rural Areas
Clause 15.03-1S Heritage conservation

Clause 02.03-9 – Infrastructure
Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

Zone

Clause 35.07 - Farming Zone

Overlays

N/A

Particular Provisions

N/A

General Provisions

Clause 65.01 - Approval of an Application or Plan

8.3.4 Planning Application P.2022.31 - 29 & 31 Ashwood Avenue, Bright

Application number:	P.2022.31
Proposal:	Seven (7) lot subdivision with common property and buildings and works for the construction of six (6) dwellings.
Applicant's name:	MLC Developments Pty Ltd C/- Jennie Baldry
Owner's name:	Banyandah Gold Pty Ltd and Milan and Louise Cindric
Address:	29 and 31 Ashwood Avenue, Bright (Lot 10 and Lot 11 PS 219240A)
Land size:	Approx. 6,095sqm combined
Current use and development:	Dwelling
Site features:	Discussed under the subject site and surrounds section below
Why is a permit required?	Clause 32.08-3 – Subdivision Clause 32.08-6 – Construction of two or more dwellings on a lot Clause 44.06-2 – Building and works and subdivision
Zoning:	Clause 32.08 – General Residential Zone
Overlays:	Clause 44.06 - Bushfire Management Overlay
Restrictive covenants on the title?	Yes
Date received:	23 February 2022
Statutory days:	399
Planner:	Ebony Cetinich

RECOMMENDATION

That Council issue a Notice of Decision to grant a planning permit for Seven (7) lot subdivision with common property and buildings and works for the construction of six (6) dwellings in accordance with the conditions outlined in Appendix 8.3.4.a

PROPOSAL

The proposal involves a seven lot subdivision with common property and the development of six dwellings.



Figure 1: Site Plan



Figure 2: Plan of Subdivision

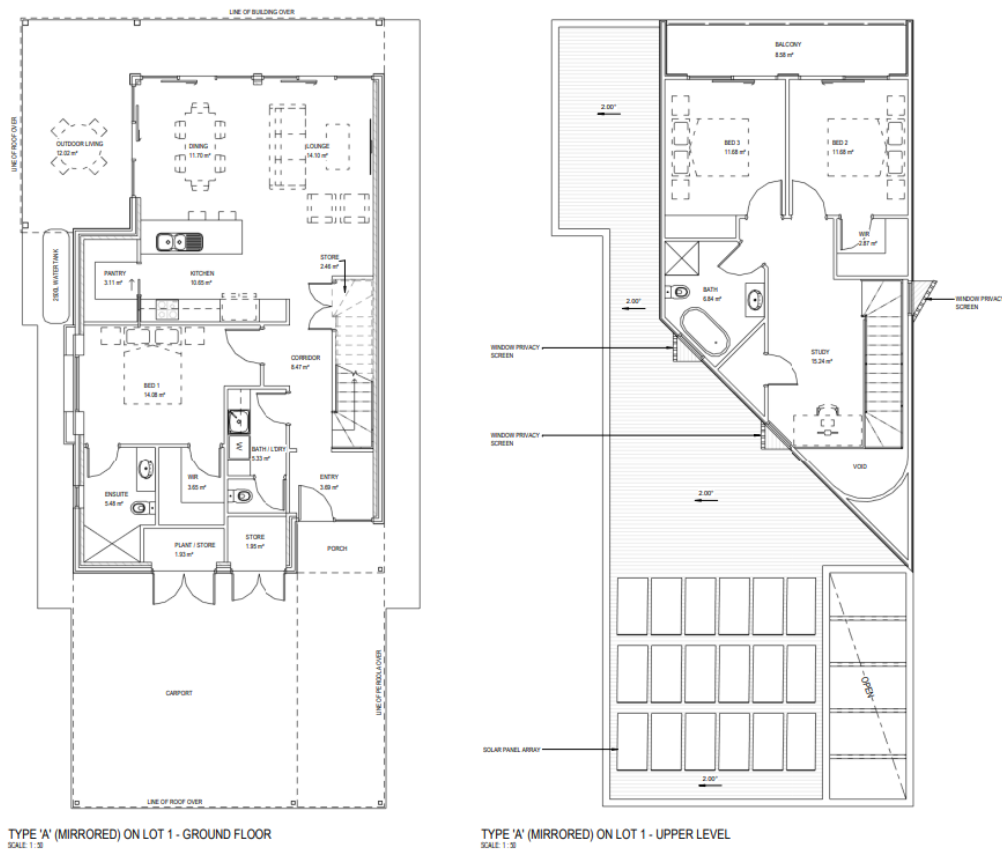


Figure 3: Floor Plan (Dwelling One)



Figure 4: Elevation (Dwelling One)

SUBJECT LAND AND SURROUNDS

The subject land comprises two parcels (Lots 10 and 11 PS219240A) commonly known as 29 and 31 Ashwood Avenue, Bright. The subject site has a combined area of 6,095sqm and a frontage of 68.02m to Ashwood Avenue. The site is relatively regular in shape with slightly skewed northern boundary. The site is generally undulating with topography changes of up to 3.8m across the site. An existing dwelling and ancillary structures are located at 29 Ashwood Avenue with 31 Ashwood Avenue being largely vacant. Each existing lot contains an existing access point to Ashwood Avenue. Reticulated services including electricity, water, sewer, stormwater and telecommunications are available. The site contains existing mature planted vegetation, typical of an established residential setting. The site is within an area of Cultural Heritage Sensitivities but otherwise is not subject to any heritage restrictions. The site is prone to bushfire and the northern portion is within the proposed LSIO. A number of easements traverse the site.

The subject site is situated within an established residential area of Bright, approximately 1.6kms to the north west of the commercial centre. Despite being within the General Residential Zone, existing allotments within 150m of the site range in size from 2000sqm to 6052sqm. Smaller allotments between 630sqm and 1200sqm are observed towards the entrance to Ashwood Avenue from Great Alpine Road. Existing dwellings are typically single storey with common ancillary structures such as swimming pools and sheds set within landscaped gardens. The Murray to Mountains Rail Trail runs along the western boundary of the site and the Ovens River and surrounding environs is situated to the north.

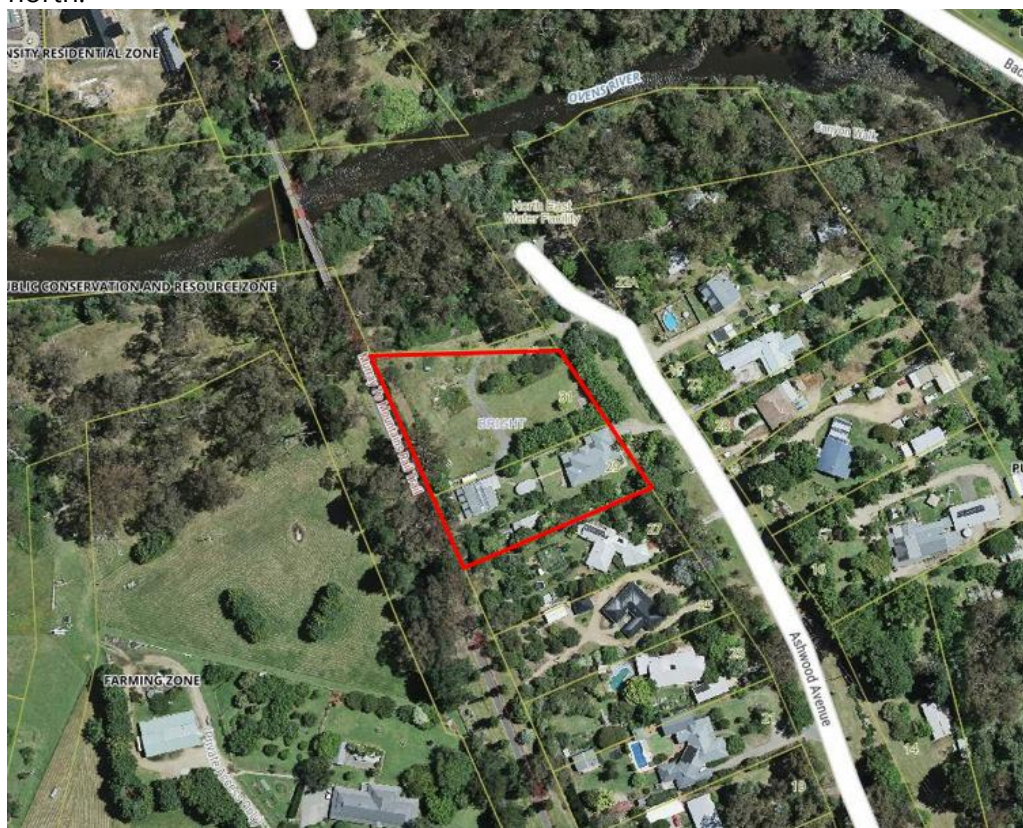


Figure 5: Aerial Image of the Subject Site

Dwellings

The construction of one two storey dwelling on proposed lot 3 with the following features:

- Basement consisting of a garage, workshop, various storage areas, gym, sauna, wine cellar and bathroom. Two shipping containers will also be located external to the building at basement level.
- Ground floor consisting of a master bedroom with WIR and ensuite, open plan living, kitchen and dining area, terrace and outdoor living area, study, powder room, pantry, laundry and double garage.
- Upper level consisting of three bedrooms, each with WIR and ensuite.
- The dwelling has a modern architectural external appearance with external cladding consisting of colorbond sheet metal, hardwood timber, charred timber, cemintel barestone fibre cement sheet and feature stone. The colour scheme varies between the dwellings but maintains muted tones of cream, sandstone, grey and black.
- The dwelling has been designed to suitably respond to the slope of the land to minimise earthworks.
- A skillion roof form has been adopted which gives a maximum building height of 10.6m at the highest point (9.5m from natural ground).

The construction of five two storey dwellings on proposed lots 1-2 and 4-6 with the following features:

- Three bedrooms (two with walk in robes and one with a standard built in robe), open plan living, kitchen and dining area, walk in pantry study nook, bathroom, ensuite, WC, laundry, storage rooms, two car carport, alfresco and balcony. Solar panels will also be incorporated into the design.
- The dwellings have a modern architectural external appearance with external cladding consisting of colorbond sheet metal, hardwood timber, cemintel barestone fibre cement sheet and feature stone. The colour scheme varies between the dwellings but maintains muted tones of cream, sandstone, grey and black.
- A skillion roof form has been adopted which gives a maximum building height of 7m at the highest point.

A shared accessway is proposed to provide access to dwellings 2 to 6 from Ashwood Avenue. Access to dwelling 1 will be shared with the existing crossover for the existing dwelling that will remain on the land.

Each dwelling is provided with two covered car parking spaces within the carport.

Considerable land has been set aside for landscaping. Some existing planted vegetation will be required to be removed to accommodate the development.

An on-site stormwater detention basin is proposed between the accessway and the northern boundary.

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land; and placing a sign on site.

Council has received nine objections. The objections are summarised in the table below alongside Councils response to the issues raised.

Summary of Concerns	Council Response
Character impacts	<p>The subject site is situated within an established residential area and is appropriately zoned for infill development. The character of Ashwood Avenue and surrounding environs is not specifically protected by any overlays (i.e. Design and Development Overlay, Significant Landscape Overlay and Heritage Overlay etc.</p> <p>Respecting character does not mean preventing change. The neighbourhood character standard in Clause 55 is not intended to result in the replication of existing building stock or stop change. Some areas will see significant changes as a result of new social and economic conditions, changing housing preferences and explicit housing policies. Typically, residential growth and change occurs within the General Residential Zone where there are no restrictive Overlays or environmental and servicing constraints. In these areas, it is important that respecting character is not taken too literally, as a new character will emerge in response to these new social and economic conditions.</p>
Setbacks	<p>The positioning of the site is relatively unique and is at the end of a cul-de-sac with an interface to public land to the north and west. The development has been designed to respond to this and orient the proposed dwellings to address the public land. As such, a majority of dwellings will be placed towards the rear of the site behind the existing dwelling on the land, minimising their interaction with and visibility from Ashwood Avenue.</p>

Summary of Concerns	Council Response
<p>Density (Small lots) Site Coverage</p>	<p>There will be little change to the pattern of subdivision. There will be little change to the allotment pattern adjacent to Ashwood Avenue, with the exception of the common driveway located along the northern boundary of the site. There currently exists two allotments with frontage to Ashwood Avenue and this will not change as a result of the proposal.</p> <p>The dwellings maintain the detached character of existing dwellings within the surrounding area and a relatively low site coverage. Only 23.6% of the site will be covered in buildings.</p>
<p>Intent of original subdivision was for large blocks, quiet country/lifestyle living, close to town. Loss of quiet / semi-rural atmosphere</p>	<p>A majority of the road reserve will be unaltered as a result of the proposal and most existing vegetation will remain.</p> <p>There will be no increase in the number of access points to Ashwood Avenue. The existing northern most access point must be relocated slightly to the south as it is currently encroaching Crown Land.</p> <p>The proposed dwellings have been architecturally designed and are of a modern appearance with a range of external cladding typically found within the surrounding area.</p>
<p>Two storey dwellings</p>	<p>Whilst not prevalent within the surrounding area, some two storey dwellings are observed. Two storey dwellings are not discouraged based on current planning controls, and the amenity of surrounding land will not be detrimentally impacted, as per the Clause 55 assessment at the end of this report. The visual bulk or a majority of dwellings will be reduced by setbacks from the street and retention of existing significant vegetation within the road reserve.</p>

Summary of Concerns	Council Response
<p>Amenity impacts</p> <ul style="list-style-type: none"> – Proximity of new dwellings to adjoining land – Light spill – Headlights – Increased traffic and congestion – Increased people noise 	<p>The proposal achieves a suitable level of off-site amenity and meets the standards of Clause 55 relating to building height, setbacks, overlooking and overshadowing. The road reserve is heavily vegetated and will assist in screening light spill and headlights from adjacent allotments. Standard domestic people noise is not a matter that can be enforced as part of a planning permit and is a police matter. Councils Engineering Department have not raised any issues in terms of the capacity of the existing road network to accommodate additional vehicles from the proposed development.</p>
<p>Visual bulk of buildings</p> <p>Impacts on views from Rail Trail and Ovens River and surrounding walking trails</p>	<p>The proposal is considered to have an acceptable visual impact on public land as the external materials and colour scheme will be of muted tones and will incorporate natural materials such as timber and stone to blend with the natural environment.</p> <p>The dwellings will be designed to overlook public land which is considered to be a positive outcome in terms of passive surveillance, interaction and inclusion with the public realm.</p>
<p>Impacts to the Ovens River and recreational use (nowhere for kayakers to park, possible impeding of access during construction)</p>	<p>No issues were raised by GMW or NECMA in relation to the impacts of the proposal on the Ovens River and surrounding environs.</p> <p>A construction management plan will be included as a condition on any permit issued to manage all construction related matters such as parking of construction vehicles.</p>
<p>Previous refusal for battle-axe subdivision at 16 Ashwood Avenue</p>	<p>Refusal of a permit does not ultimately lead to the same outcome for a permit application on a different site. Each permit application has its own site-specific considerations, facts and merits.</p>
<p>Setting a new precedent</p>	<p>Approval of a permit does not ultimately lead to setting a precedent. Each permit application has its own site-specific considerations, facts and merits.</p>

Summary of Concerns	Council Response
Short Term Rental use	The proposal under assessment is for the development of dwellings any future use is only hypothetical. Planning decisions must be made on the use and development being sought.
Construction vehicles, road degradation and safety hazard. Impact to existing businesses	A construction management plan will be included as a condition on any permit issued to manage all construction related matters such as access and parking of construction vehicles, responsibility of repairing damage to roads, reducing amenity impacts etc.
Increased traffic and road safety impacts	No issues were raised by the engineering department in relation to the capacity of the existing road network to accommodate additional traffic as a result of the proposed development.
Road widening and road upgrades to facilitate proposed development (i.e. kerb and channel, street lighting, drainage, footpaths etc). Burden to rate payers.	No such upgrades are proposed or required by Councils Engineering Department. The proposal provides for on-site detention to limit the extent of any upgrades to public stormwater infrastructure.
Non-compliance with Clause 54 and Clause 55	Clause 54 does not apply to this application as it only applies to the development of a single dwelling on a lot less than 300sqm. An assessment of Clause 55 has been undertaken and the proposal achieves compliance with all the relevant objectives and standards
Insufficient car parking	The proposal provides off-street car parking in accordance with Clause 52.06 of the Planning Scheme.
Reduced property values	Property value is not a relevant planning consideration.

REFERRALS

Referrals / Notice	Advice / response / Conditions
Section 55 referrals	CFA – Consent subject to Conditions GMW – Consent subject to Conditions Ausnet – Consent subject to Conditions NEW – Consent subject to Conditions
Section 52 referrals	NECMA - Consent subject to Conditions

Referrals / Notice	Advice / response / Conditions
Internal Referrals	ASC ENG – Consent subject to Conditions

PLANNING ASSESSMENT

All applicable policy can be found in Appendix 8.3.4.b.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Appendix 8.3.4.b.

The policies of the Municipal Planning Strategy and Planning Policy Framework provide support to the proposal for the following reasons:

- The subject site is within the Bright Township boundary and has access to all reticulated services. The site does not have any particular environmental constraints such as steep topography, native vegetation, site contamination and the like that would restrict the development as proposed.
- The proposal provides for additional residential land which will support the projected population growth over the next 15 years. Residential land within the Municipality is currently in high demand and the proposal will assist in alleviating this demand. There are limited greenfield opportunities within Bright and as such, a majority of residential growth will be as a result of infill development within established residential areas.
- The dwellings will be designed to overlook public land which is considered to be a positive outcome in terms of passive surveillance, interaction and inclusion with the public realm. Open rural style post and wire fencing will be incorporated along all boundaries with public realm to maintain the natural character of the area. The external materials and colour scheme will be of muted tones and will incorporate natural materials such as timber and stone to blend with the natural environment.
- The proposal suitably responds to the risk of bushfire and flooding.
- The proposal will not have any detrimental impacts on the catchment area and water resources.
- The proposed development is considered to suitably respect the existing character of the area for the following reasons:
 - The positioning of the site is relatively unique and is at the end of a cul-de-sac with an interface to public land to the north and west. The development has been designed to respond to this and orient the proposed dwellings to address the public land. As such, a majority of dwellings will be placed towards the rear of the site behind the existing dwelling on the land, minimising their interaction with and visibility from Ashwood Avenue.
 - In terms of the pattern of subdivision, there will be little change to the allotment pattern adjacent to Ashwood Avenue, with the exception of the common driveway located along the northern boundary of the site. There currently exists

two allotments with frontage to Ashwood Avenue and this will not change as a result of the proposal.

- A majority of the road reserve will be unaltered as a result of the proposal and most existing vegetation will remain.
 - There will be no increase in the number of access points to Ashwood Avenue. The existing northern most access point must be relocated slightly to the south as it is currently encroaching Crown Land.
 - The proposed dwellings have been architecturally designed and are of a modern appearance with a range of external cladding typically found within the surrounding area.
 - The dwellings maintain the detached character of existing dwellings within the surrounding area and a relatively low site coverage. Only 23.6% of the site will be covered in buildings.
 - Whilst not prevalent within the surrounding area, some two storey dwellings are observed. Two storey dwellings are not discouraged based on current planning controls, and the amenity of surrounding land will not be detrimentally impacted, as per the Clause 55 assessment at the end of this report. The visual bulk or a majority of dwellings will be reduced by setbacks from the street and retention of existing significant vegetation within the road reserve.
- The site is capable of accommodating the proposed development taking into account access and infrastructure servicing. Wastewater and stormwater are able to be managed on-site.
 - The battle-axe form provides an orderly subdivision outcome, minimising impacts to the road reserve to assist in maintaining the existing character of the area.
 - There is a demand for housing within Bright and the proposal will assist in alleviating this demand and also provide for housing choice.
 - The subject site is situated within an urban area that has reticulated water, sewer and stormwater services. GMW, NEW and Councils Engineering Department have reviewed the application and raised no concerns in relation to water management.
 - The Engineering Department have recommended standard conditions relating to provision of detailed construction and drainage drawings. No requirements were made in relation to upgrading existing road infrastructure such as kerbing, footpaths and the like. Taking into consideration the above, the proposal suitably manages water resources.

General Residential Zone

- A planning permit is required under Clause 32.08-3 for subdivision and Clause 32.08-6 to construct two or more dwellings on a lot (6).
- 57.7% of the site has been set aside for garden area, meeting the minimum requirement prescribed by Clause 32.08-4.
- The proposed dwellings are no greater than two storeys and no greater than 11m in height, meeting the maximum height requirements under Clause 32.08-10.
- The application has been considered against the decision guidelines of Clause 32.08-13 and can be supported for the following reasons:

- The proposal positively responds to the Municipal Planning Strategy and the Planning Policy Framework, which have been discussed above.
- The proposal accords with the purpose of the General Residential Zone by achieving housing diversity and growth in an urban area that has access to all necessary development infrastructure and services to support increased residential densities. Whilst increased residential densities may be met with community resistance, the relevant planning controls that apply to the land are favourable of this type of development. For reasons discussed earlier in this report, the proposal is not considered to result in detrimental impacts the neighbourhood character of the surrounding area.
- As the development of dwellings has been incorporated into this application, it has been demonstrated that the pattern of subdivision has no consequence on the spacing of buildings. The proposed lot boundaries are suitably positioned to accommodate all existing and proposed dwellings as well as shared accessways and on-site stormwater detention.
- As the proposal is for a subdivision in conjunction with development, a complete assessment against the provisions of Clause 56 is not required as compliance with Clause 55 is deemed to satisfy the requirements of Clause 56. This approach is considered to be consistent with the application of Clause 56 as it is stated that the provisions of Clause 56 do not apply to an application to subdivide land into lots each containing an existing dwelling. There will be conditions on any permit issued ensuring that the dwellings are completed prior to the subdivision.
- The proposed dwellings will not overshadow any existing rooftop solar energy systems on dwellings on adjoining lots.
- The proposed achieves a suitable level of compliance with the objectives, standards, and decision guidelines of Clause 55.

Bushfire Management Overlay

The land is covered entirely by the Bushfire Management Overlay. There is a planning permit trigger for the proposal at Clause 44.06-2. The application was referred to the Country Fire Association (CFA) for comment and conditional consent was provided. The application is considered to meet the relevant requirements of the Bushfire Management Overlay.

Particular Provisions

Clause 52.06 - Car Parking

Five three-bedroom and one four bedroom dwellings are proposed, each providing for at least two covered car parking spaces within their respective carports or garages. One visitor car parking space is proposed within the shared accessway. As such, the proposal satisfies the car parking requirements. The plans submitted with the application show the necessary information required by Clause 52.06-8 and the proposal suitably meets the design standards for car parking under Clause 52.06-9.

Clause 53.01 – Public Open Space Contribution and Subdivision

The proposed subdivision does not provide any land for the purposes of public open space. As such, a public open space contribution is required to be paid in accordance with 18(1)(b) of the Subdivision Act 1988. The proposed subdivision results in five additional lots within Bright which places increased demand on existing public open spaces within the township. As such, the full 5% contribution will be required as per conditions.

Clause 53.02 - Bushfire Planning

The application was referred to the Country Fire Association for comment. Conditional consent was provided. The application is considered to meet the relevant requirements of this clause.

Clause 55 – Two or More Dwellings on a Lot and Residential Buildings

In summary, the proposal achieves suitable compliance with all relevant objectives of Clause 55.

Clause 56 – Residential Subdivision

As the proposal is for a subdivision in conjunction with development, a complete assessment against the provisions of Clause 56 is not required as compliance with Clause 55 is deemed to satisfy the requirements of Clause 56. This approach is considered to be consistent with the application of Clause 56 as it is stated that the provisions of Clause 56 do not apply to an application to subdivide land into lots each containing an existing dwelling. There will be conditions on any permit issued ensuring that the dwellings are completed prior to the subdivision.

General Provisions

Clause 65.01 and 65.02 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported taking into account the relevant decision guidelines of Clause 65.01 and 65.02.

Other matters – Breach of Covenant

Covenant W849570H applies to Lot 10 and contains the following restrictions:

- a. The erection of any building externally lined with materials other than brick veneer, masonry, mud brick, stone or new timber.
- b. The erection of any buildings or garage externally clad in iron or other commonly used materials unless such external cladding is in a colour that is not visually distracting from the amenity of the subdivision.
- c. The erection of a dwelling having an area less than 130sqm, excluding any built-in garage or carport.
- d. The erection of a dwelling with a roof of any material other than tiles, slate or colorbond iron.

- e. The erection or relocation onto the said land any transportable home.
- f. Notwithstanding point a., the erection of any dwelling manufactured or constructed from timber logs other than whole timber logs.

Covenant V252112Y applies to Lot 11 and contains the same restrictions as the Covenant described above.

The proposal does not currently comply with points a. of both Covenants as a majority of the dwellings are proposed to be clad in colorbond sheet metal. Whilst point b. allows for alternative materials to be used, the Covenant is not worded in a way to provide an option between a. and b.. Both requirements must be met.

In accordance with Section 61(4) of the Planning and Environment Act 1987, if the grant of a permit would authorise anything which would result in a breach of a registered restrictive covenant, the responsible authority must refuse to grant the permit unless a permit has been issued, or a decision made to grant a permit, to allow the removal or variation of the covenant.

A condition will be placed on any planning permit issued to ensure materials do not breach any covenant.

CONCLUSION

The application is considered to be consistent with the Alpine Planning Scheme for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- Appropriate conditions have been put in place to remedy any possible breach in the requirements of the restrictive Covenants that apply to the land.
- The objectors concerns have been reasonably addressed.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Consultant Planner

APPENDICIES

8.3.4.a. Conditions

8.3.4.b. Policy and decision guidelines

Appendix 8.3.4.a. CONDITIONS

- DEVELOPMENT CONDITIONS -

Plans required for endorsement

1. Before the endorsement of any plans, 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 be generally in accordance with the plans submitted with the application but modified to show:
 - a. External materials and colours to comply with covenants contained in Instrument of Transfer W849570H and V252112Y in the Register of Titles.
 - b. Landscaping details as **per Condition 5**.
 - c. Location of all mailboxes.
 - d. All boundary fencing details on one site plan for the entire development. Fencing along the northern, eastern (for the length of proposed lot 1) and western boundaries must be rural style post and wire with a maximum height of 1.4m.
 - e. Location of areas to be utilised for kerbside collection, ensuring that it is of a sufficient area to accommodate all bins on collection day.
 - f. Construction and drainage details as per **Conditions 7 and 8**.

Amended Landscape Plan required

2. Concurrent with the submission of plans required by Condition 1, the Landscape Plan by Horizon Studio Landscape Architecture must be amended to the satisfaction of the Responsible Authority to show:
 - a. a survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - b. a survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site;
 - c. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must achieve a suitable balance between achieving the landscape outcomes sought by consistent with existing vegetation within the surrounding area and adhering to the vegetation management requirements under Table 6 to Clause 53.02-5;
 - d. landscaping and planting within all open areas of the site (including each lot);
 - e. details of all proposed hard surface materials including pathways, patio or decked areas.

Endorsed Plans

3. The development and subdivision as shown on the endorsed plan must not be altered or modified (whether or not in order to comply with any statute, statutory

rule or Local Law, or for any other reason) without the prior written consent of the Responsible Authority.

Mandatory Bushfire Management Overlay Condition

4. 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.

Completion and maintenance of landscaping

5. Within 3 months of the occupation of the dwelling hereby approved or within the next planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
6. The landscaping must thereafter be maintained to the satisfaction of The Responsible Authority, including that any dead, diseased or damaged plants are to be replaced within 3 months or within the next planting season.

Alpine Shire Council Engineering Team Conditions

Detailed Construction and Drainage Plans Required

7. Concurrent with the plans required by Condition 1, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual (www.designmanual.com.au). 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 shall include proposed construction detail, further information or modifications to:
 - a. Common property pavement and proposed seal treatment including vehicle crossing and footpath.
 - b. Underground drainage system, with supporting computations
8. Concurrent with the plans required by Condition 1, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual. The information and plan must include:
 - a. Details of how the works on the land are to be drained and retarded.
 - b. a maximum discharge rate from the site is to be determined by computation to the satisfaction of Council to predevelopment flow rate
 - c. connection points for drainage for each lot
 - d. underground pipe drains conveying stormwater to the legal point of discharge for each allotment
 - e. Detention system including approval from all relevant authorities.
 - f. Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual, to enhance stormwater discharge quality from the site and protect downstream waterways, including the expected discharge quality

emanating from the development and design calculation summaries of the treatment elements; or as otherwise approved in writing by the Responsible Authority;

- g. Maintenance schedules for treatment elements.

Defect Identification – Council’s Assets

9. Prior to commencement of construction (or demolition), the owner or developer must submit to the Alpine Shire Council a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb and channel, footpath, seal, streetlights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to Alpine Shire Council's assets/public infrastructure caused as a result of the development or use permitted by this permit.

Tree Protection during Construction

10. Prior to commencement of construction, a tree protection fence must be erected around the dripline of the existing trees to define a 'Tree Protection zone'. The fence must be constructed of (specify star pickets and chain mesh or similar) to the satisfaction of the relevant authority. The tree protection fence must remain in place until construction is completed. The ground surface of the Tree Protection Zone must be covered by a 100mm deep layer of mulch before the development starts and be watered regularly to the satisfaction of the Alpine Shire Council.

No Vegetation Removal

11. No tree or other vegetation other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Alpine Shire Council.

Urban Drainage Works

12. Prior to issue of Statement of Compliance, or occupation of any new building, all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe to the satisfaction of the Alpine Shire Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system. The legal point of discharge for this site is Stormwater pit on Ashwood Avenue. All roof water from buildings and surface water from paved areas must be collected and discharged to the LPOD to avoid any nuisance discharge to adjacent land.

Vehicle Crossings

13. Prior to issue of Statement of Compliance, or occupation of any new building, vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Alpine Shire Council, and shall comply with the following:
 - a. standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be removed and replaced with concrete kerb and channel to match into the surrounding profile.

- b. Any proposed vehicular crossing shall have satisfactory clearance to any side entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense;
- c. crossings may be concrete or have a bituminous seal applied over an appropriately constructed pavement. Dimensions and roadside drainage treatments are to be generally in accordance with IDM drawing SD260.

Prior to Commencement of Construction

14. Before any road/drainage works associated with the subdivision/development start, the following items must be satisfied:
- a. Approval of the construction plans;
 - b. An on-site meeting with officers of the municipality, the contractor and the developer or the developer's consultant to discuss matters such as roadside management, construction techniques, sedimentation controls, vegetation clearing controls and vegetated areas to be barricaded off prior to and during construction.

Driveway Construction Requirements

15. Prior to issue of the Statement of Compliance or occupation of any of the new buildings, the common property driveway and parking area as shown on the endorsed plans must be:
- a. constructed of concrete or surfaced with an all-weather seal coat; and
 - b. drained in accordance with an approved drainage plan; to the satisfaction of the responsibility authority.
16. The driveway must be constructed and drained to prevent diversion of flood or drainage waters and maintained in a continuously useable condition to the satisfaction of the responsible authority.

Construction Management Plan

17. Prior to commencement of construction, a construction management plan shall be submitted to and approved by the Alpine Shire Council. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction phase. Details of a contact person/site manger must also be provided, so that this person can be easily contacted should any issues arise. Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.
18. The approved Construction Management Plan must be adhered to at all times during the construction stage of the development to the satisfaction of the Alpine Shire Council.
19. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

- SUBDIVISION CONDITIONS –

Telecommunications

20. The owner of the land must enter into an agreement with:

- 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
- 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.

21. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a 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.

Public Open Space Contribution

22. Prior to the issue of Statement of Compliance, the permit holder must pay a public open space contribution of 5 per cent of the site value of all of the land in the subdivision intended to be used for residential purposes, in accordance with Section 18 of the Subdivision Act 1988.

Development to be Completed

23. Prior to the issue of Statement of Compliance, the development authorised by this permit as it relates to dwellings must be completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to the built form and layout, car parking, access, drainage and landscaping).

Mandatory BMO Condition

24. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- a. State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Alpine Planning Scheme.
- b. Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.

- c. State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.
25. The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

This does need to be complied with if the dwellings have been completed in accordance with Condition 24.

Ausnet Electricity Services Pty Ltd

26. The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the subdivision Act 1988.
27. The applicant must:
- a. Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
 - b. Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

Country Fire Authority

Bushfire Management Plan Required

28. Prior to certification under the Subdivision Act 1988, an amended Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the Bushfire Management Plan must be included as an annexure to the section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and not be altered unless agreed to in writing by CFA and the Responsible Authority.
29. The plan must be generally in accordance with the plan submitted by Oxley and Co, dated 1/8/22, version 3 but amended to include or replace the conditions for Water Supply with:
- a. Water supply (Lots 1 & 2 and 4 - 6)
Lots 1 & 2 - 5,000 litres and Lots 4 - 6 - 2,500 litres of effective water supply for firefighting purposes must be provided within all lots which meets the following requirements:
 - i. Is stored in an above ground water tank constructed of concrete or metal.
 - ii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
 - iii. Include a separate outlet for occupant use.

Hydrants

30. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.
Note – CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site (www.cfa.vic.gov.au)

Construction of vehicle access

31. Before the statement of compliance is issued under the Subdivision Act 1988, the vehicle access arrangements shown on the endorsed plans to all lots must be implemented to the satisfaction of the Responsible Authority.

Goulburn Murray Water

32. Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.
33. All stormwater discharged from the site must meet the urban run-off objectives and Standard C25 as specified in Clause 56.07-4 of the Victorian Planning Provisions. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.
34. All works within the subdivision must be done in accordance with EPA Publication 1834 Civil Construction, Building and Demolition Guide (November 2020).
35. No buildings are to be constructed within 50m of the Ovens River.

North East Catchment Management Authority

36. Prior to the issue of a Statement of Compliance it must be demonstrated that stormwater quality and quantity treatment measures have been constructed in accordance with the approved plans.

North East Water

37. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed, and other requirements to be met, necessary for the provision of reticulated water supply to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:
 - a. where the development is staged, a number of agreements may be required for separate stages; and
 - b. each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
38. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed and other requirements to be met, necessary for the provision of reticulated sewerage services to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:

- a. where the development is staged, a number of agreements may be required for separate stages; and
 - b. each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
39. Where the development (including any subdivision) occurs in stages the availability of water supply and sewerage services may be delayed having regard to NEW system capacity, conditions in relation to which shall be detailed in the relevant agreement for water supply and/or sewerage services.
40. The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:
- a. works external to the subject land to allow connection to the North East Water water supply and sewerage systems;
 - b. the vesting at no cost of such of those works required by North East Water, to North East Water (“Developer Works”); and
 - c. works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works
 - d. internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
41. Any modification to the development approved under this permit, including an increase or decrease in the number of dwellings or lots (or both) or the inclusion of additional land, requires the further consent of and may be subject to modified conditions, to the satisfaction of, North East Water.
42. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
43. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to sewers and disposal systems currently servicing the area in which the subject land is located.
44. The applicant must create easements to the satisfaction of and in favour of North East Water, over all existing and proposed sewerage facilities within the proposed subdivision.
45. The applicant must ensure that private water services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
46. The applicant must provide easements through other land, to the satisfaction of North East Water, if such easements are considered necessary for the efficient and economic servicing of the subject land.
47. That the applicant pays applicable charges determined in accordance with North East Water’s policy for development charges, applicable from time to time towards North

East Water's sewers and disposal systems servicing the area to which the permit applies.

48. Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
49. Where an easement created in favour of North East Water is located within a proposed road reserve in a future stage, prior to the certification of the plan of subdivision for that stage, the applicant must formally remove the easement from the title to the land.
50. North East Water's consent to the issue of a Statement of Compliance under the Subdivision Act 1988 is conditional upon completion of all works, and meeting all requirements set out in this permit and any relevant agreement with, North East Water.
51. The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the Subdivision Act 1988.

Permit Expiry

52. The above-mentioned planning permit as it relates to development will expire if either of the following circumstances arise:
 - a. The development is not started within two (2) years of the date of this permit; or
 - b. The development is not completed within four (4) years of the date of this permit.
53. The above-mentioned planning permit as it relates to subdivision will expire if either of the following circumstances arise:
 - a. The plan of subdivision is not certified within two (2) years of the date of this permit; or
 - b. The subdivision is not completed within five (5) years of the date of certification.
54. The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987

- End of Conditions -

Planning Notes:

1. This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the Alpine Shire Council website.

Appendix 8.3.4.b. POLICY AND DECISION GUIDELINES

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1, Clause 11.01-1S & Clause 11.01-1L-01 – Settlement

Clause 11.01-1L-02 – Bright

Clause 11.02-1S – Supply of Urban Land

Clause 02.03-2 – Environmental and Landscape Values

Clause 12.05-1L – Public and Private Land Interfaces

Clause 02.03-3 - Environmental Risks and Amenity

Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 13.03-1S & Clause 13.03-1L – Floodplain Management

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-1S & Clause 15.01-1L-01 – Urban Design

Clause 15.01-2S – Building Design

Clause 15.01-3S – Subdivision Design

Clause 15.01-3L – Battle-Axe Development

Clause 15.01-5S - Neighbourhood Character

Clause 15.03-2S – Aboriginal Cultural Heritage

Clause 02.03-6 – Housing

Clause 16.01-1S – Housing Supply

Clause 16.01-2S – Housing Affordability

Clause 02.03-9 – Infrastructure

Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

Zone

Clause 32.08 - General Residential Zone

Overlays

Clause 44.06 – Bushfire Management Overlay

Particular Provisions

Clause 52.06 - Car Parking

Clause 53.01 – Public Open Space Contribution and Subdivision

Clause 53.02 – Bushfire Planning

Clause 55 – Two or More Dwellings on a Lot and Residential Buildings

Clause 56 – Residential Subdivision

General Provisions

Clause 65.01 - Approval of an Application or Plan

Clause 65.02 - Approval of an Application to Subdivide Land

8.3.5 Planning Application P.2022.142 - 24 Jubilee Street, Myrtleford

Application number:	P.2022.142
Proposal:	Use and development of a Warehouse
Applicant's name:	Sharni Wheatley – Shedboss Albury
Owner's name:	Anthony and Susan Jones
Address:	24 Jubilee Street, Myrtleford (Lot 5 PS 545517V)
Land size:	Approx. 783sqm
Current use and development:	Vacant
Site features:	There are no notable site features.
Why is a permit required?	Clause 33.01-1 – Section 2 Use Clause 33.01-4 – Buildings and works
Zoning:	Clause 33.01 – Industrial 1 Zone
Overlays:	Nil
Restrictive covenants on the title?	Nil
Date received:	13 October 2022
Statutory days:	133
Planner:	Ebony Cetinich

RECOMMENDATION

That Council issue a Notice of Decision to grant a planning permit for the use and development of a warehouse in accordance with the conditions outlined in Appendix 8.3.5.a

PROPOSAL

The proposal involves the use and development of the land for a warehouse. The building will be used for storage purposes and no manufacturing or other industrial related activity will occur.

The proposed building has a floor area of 348sqm and will contain an open floor space with disabled toilet amenities. The building has a wall height of 5m and a maximum height of 6.25m at the roof apex. The external walls and roof will be clad in colorbond

“windspray” metal sheet which is a grey tone. There will be one roller door and PA door on the north western elevation and the same on the north eastern elevation.

Six on site car parking spaces are proposed to the front and side of the building with an accessway down the north eastern side of the site. Landscaping is proposed at the property frontage in two separate landscaping beds.

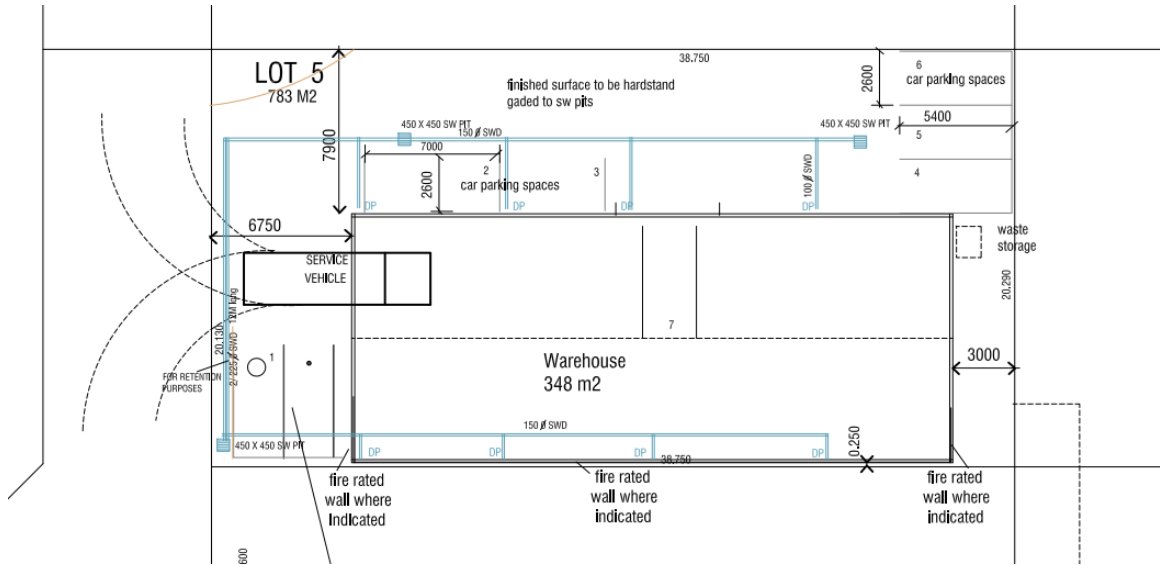


Figure 1: Site Plan

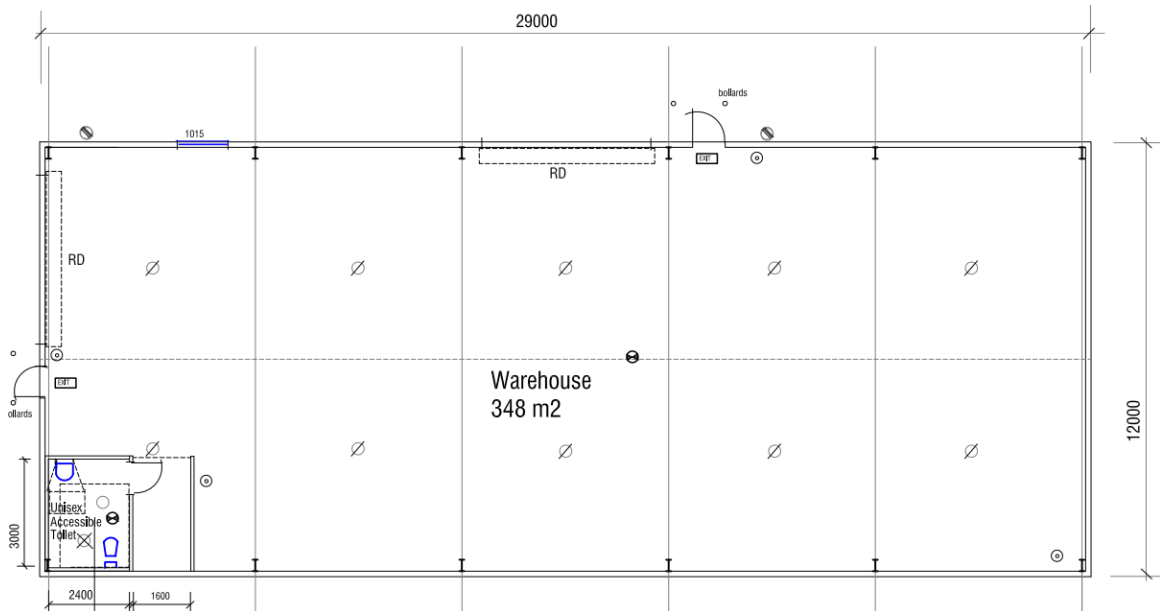


Figure 2: Floor Plan

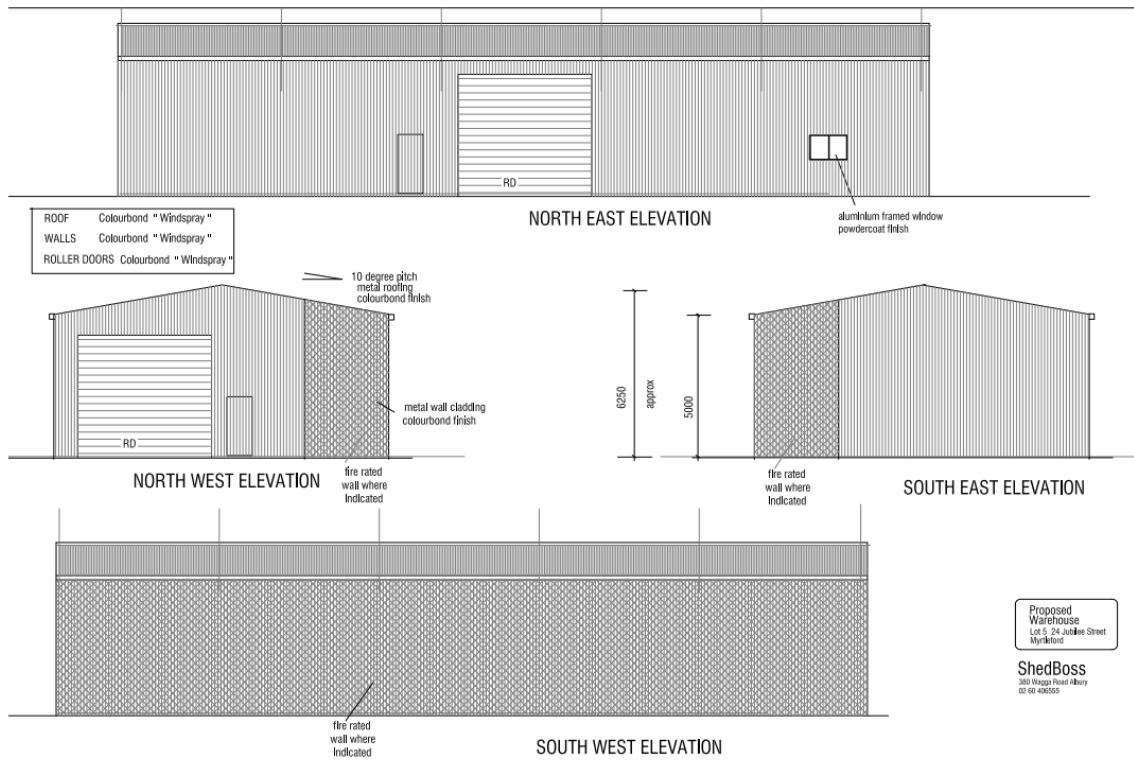


Figure 3: Elevations

SUBJECT LAND AND SURROUNDS

The subject site has an area of 783sqm and a frontage of 20.13m to Jubilee Street. The site is rectangular in shape and is relatively flat. The site is vacant and does not contain any vegetation or constructed access points to Jubilee Street. As the site is within an urban area, it has access to all necessary infrastructure and services given that it is within an urban area. The Jubilee Street road reserve adjacent to the site is not made and there is one mature tree adjacent to the site.

The subject site is situated within an industrial area with a residential interface. The area to the north, south and east of the site predominantly contains dwellings within the General Residential Zone and the area to the west contains various small scale commercial and industrial uses.

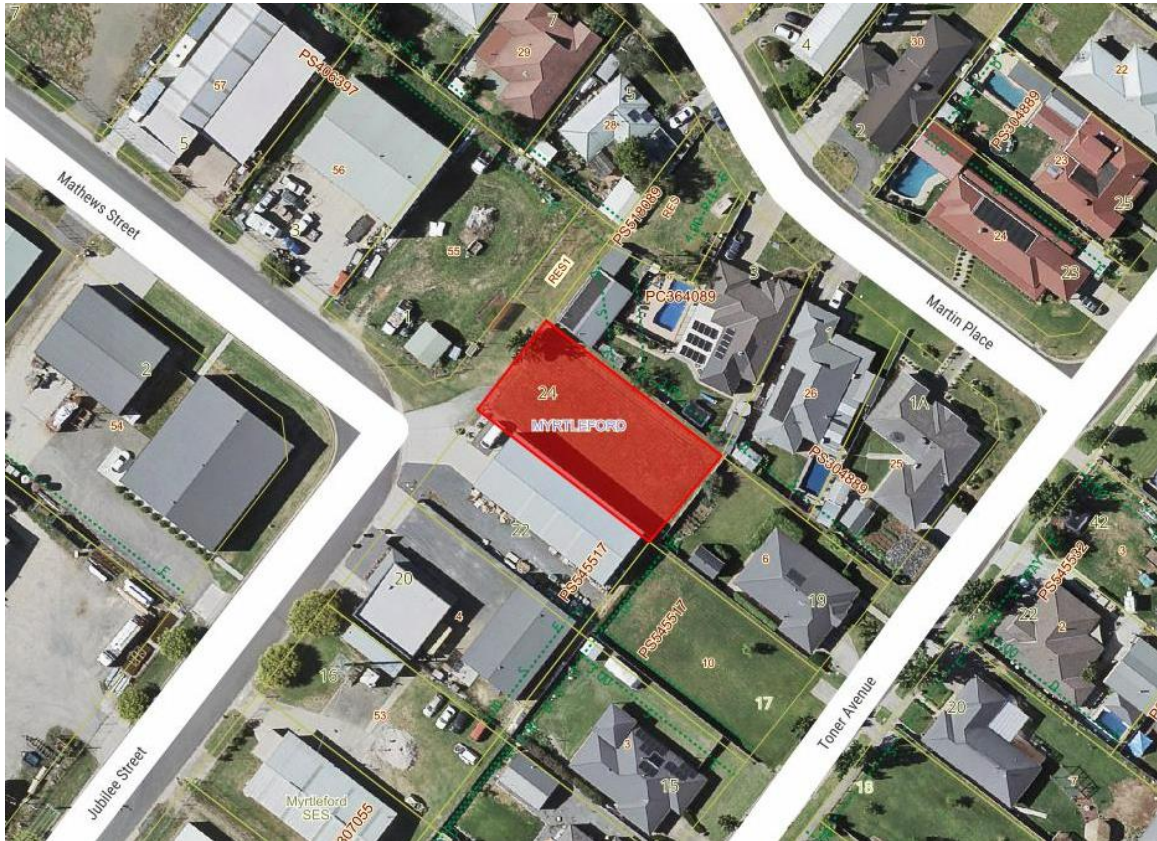


Figure 4: Aerial image of the subject site

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land; and placing a sign on site.

Council has received one objection to date. The objection is summarised in the table below alongside Councils response to the issues raised.

Concern	Officer Response
Amenity impacts from noise, particularly trucks and forklifts and reverse beepers.	There will be a condition included on any permit issued for an Acoustic Report to be provided, outlining appropriate noise mitigation methods to ensure that noise emanating from the site does not exceed the limits of the relevant EPA noise policy. This ensures that the proposal will not unreasonably impact the amenity of surrounding residential land uses by way of noise.
The extent of earthworks resulting in land instability and the need for retaining.	Necessity for any retaining walls will form part of a future building permit application.

Concern	Officer Response
Possibility of the car parking area being used for outdoor storage leading to visual impacts and privacy issues.	Conditions will be included on any permit issued to ensure the car parking area will not be used for storage.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	GMW – Consent, no conditions
Internal referrals:	ASC ENG – Consent subject to conditions

PLANNING ASSESSMENT

All applicable policy can be found in Appendix 8.3.5.b.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Appendix 8.3.5.b.

The policies of the Municipal Planning Strategy and Planning Policy Framework provide support to the proposal for the following reasons:

- The subject site is situated within the Myrtleford settlement boundary and the site does not have any infrastructure or servicing constraints and is not subject to natural hazards.
- The proposal is located on a site that does not have any significant environmental, heritage or landscape qualities.
- The proposal will not affect water catchments as it is connected to reticulated water services.
- The proposal will incorporate noise attenuation measures to reduce amenity impacts on the surrounding area, as per Conditions and the provision of an acoustic report.
- The design of the proposed building and site layout is typical for an industrial area and is functional. The size of the building is appropriate for the site and allows for access, car parking, waste storage, landscaping, stormwater management and services.
- The proposal is not considered to result in unreasonable traffic is unlikely to exceed the capacity of the existing road network.
- The height of the building is not unreasonable for an industrial zone.
- The proposal will support local economy and existing businesses within Myrtleford.
- Whilst a non-industrial land use is proposed, it is considered to be an appropriate use for this site given the residential interface and the proposed gym is likely to have

less off-site impacts than an industrial land use. Furthermore, the proposed buildings and site layout can be utilised by a small-scale industrial land use in the future if the opportunity arises.

- Whilst an industry is not proposed as part of this application, warehouses are typically found within industrial areas due to their land use compatibility. The built form is considered to be suitable to accommodate a small-scale industrial land use should the need arise in the future (subject to a permit)

Industrial 1 Zone

The subject land is situated within the Industrial 1 Zone. The proposal is consistent with the purpose and decision guidelines for the following reasons:

- The proposal supports the Municipal Planning Strategy and the Planning Policy Framework.
- The site has access to all necessary infrastructure and services.
- The land can be appropriately drained.
- No outdoor storage areas are proposed other than a bin storage area which will be suitably screened from view from the public realm and adjoining properties.
- Traffic generated by the proposal is unlikely to exceed the capacity of the public road network.
- The proposal provides for the movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport via the existing road network and internal accessway.
- The proposal provides for adequate and appropriately designed car parking (subject to conditions) which will be discussed further below.
- Two security lights are directed to the carparking area and accessway. Given the residential interface, a condition will be included on any permit issued to ensure that the light is suitably baffled so as not to cause amenity issues.
- The proposed land use is unlikely to cause detrimental off-site amenity impacts to surrounding residential uses. An acoustic report will be required to be provided as per Conditions to ensure that noise emanating from the site does not exceed the limits of the relevant EPA noise policy. This safeguards that the proposal will not unreasonably impact the amenity of surrounding residential land uses by way of noise.
- There are no natural or cultural values on or near the land. The site is within 200m of a waterway but is not considered to be an Area of Cultural Heritage Sensitivity as per Division 3 of the Aboriginal Heritage Regulations 2008 given that the site has been subject to significant ground disturbance.
- The site and surrounding area does not have any distinct character due to the mixture of land uses within the surrounding area. As discussed earlier, the design of the proposed building is typical for an industrial area and is unlikely to impact streetscape character given that the site is located in an isolated area. External cladding will be of muted tones and not a highly reflective surface.
- Landscaping is proposed at the property frontage to assist in softening the built form and hard paved surfaces.

Particular Provisions

Clause 52.06 - Car Parking

The proposal is for one warehouse premises with a net floor area of 348sqm. As such, seven on-site car parking spaces are required. The proposal provides for seven on-site car parking spaces satisfying the car parking requirements of Table 1 to Clause 52.06-5.

Clause 53.18 – Stormwater Management in Urban Development

The applicant provided basic stormwater details on the plans submitted with the application. Councils Engineering Department reviewed the application and did not raise any major issues in terms of stormwater management. Several conditions were recommended relating to the provision of detailed construction and drainage plans for further assessment. These conditions will be included on any permit issued.

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported taking into account the relevant decision guidelines of Clause 65.01.

CONCLUSION

The application is considered to be consistent with the Alpine Planning Scheme for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- There are no Covenants or Section 173 Agreements applicable to the land.
- The objectors concerns have been reasonably addressed.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Consultant Planner

APPENDICIES

- 8.3.5.a Conditions
- 8.3.5.b Policy

Appendix 8.3.5.a. CONDITIONS

Plans required for endorsement

1. Prior to the endorsement of any plans, amended and additional 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 generally in accordance with the plans prepared by Shedboss Albury (Issue: C) but modified to show:
 - a. Any physical noise mitigation methods recommended within the Acoustic Report required under Condition 2.
 - b. Any alterations as a result of Condition 11, 14 and 16.

Acoustic report required

2. Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works, an acoustic report prepared by a suitably qualified acoustic engineer must be submitted to and be endorsed by the Responsible Authority. The report must prescribe the form of acoustic treatment to:
 - a. Protect the amenity of dwelling occupants (including future residents within the building) from noise sources from the use approved as part of this permit, including, but not limited to, the proposed use, loading and unloading areas (including reversing beepers) and all plant and equipment to be installed or constructed.

Endorsed Plans

3. The use and development as shown on the endorsed plan must not be altered or modified (whether or not in order to comply with any statute, statutory rule or Local Law, or for any other reason) without the prior written consent of the Responsible Authority.

Implementation of acoustic measures

4. Prior to the commencement of the use, all acoustic recommendations in the endorsed acoustic report must be incorporated and adhered to at all times to the satisfaction of the Responsible Authority.

Completion and maintenance of landscaping

5. Within 3 months of the commencement of the use authorised by this permit or within the next planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
6. The landscaping must thereafter be maintained to the satisfaction of The Responsible Authority, including that any dead, diseased or damaged plants are to be replaced within 3 months or within the next planting season.

Control of Light Spill

7. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority.

Storage

8. No goods, equipment or materials may be stored outside of the building, unless allowed for on the endorsed plan.

Rubbish bins

9. All bins and receptacles must be stored within the dedicated waste storage area as shown on the endorsed plans and screened from view to the satisfaction of the Responsible Authority.
10. All bins and receptacles must be maintained in a clean and tidy condition and free from offensive odour to the satisfaction of the Responsible Authority.

Alpine Shire Council Engineering Team Conditions**Drainage**

11. Concurrent with the plans required by Condition 1, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.
12. The information and plan must include:
 - a. details of how the works on the land are to be drained and retarded.
 - b. underground pipe drains conveying stormwater to the legal point of discharge
 - c. The provision of gross pollutant and/or litter traps installed at the drainage outfall of the development to ensure that no effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.
13. Prior to commencement of use, all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe to the satisfaction of the Alpine Shire Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system. The legal point of discharge for this site is the existing side entry pit at the frontage of the lot on Jubilee Street.
14. All roof water from buildings and surface water from paved areas must be collected and conveyed to the legal point of discharge so as to prevent stormwater nuisance to adjoining properties, to the satisfaction of Alpine Shire Council

Car Parking

15. The car parking and loading/unloading spaces must be designed to allow vehicles to drive forwards when entering and leaving the property. A turning template is to be shown on the approved drawing which clearly indicates a standard rigid truck is capable of achieving the required movements.
16. Prior to commencement of use, the area(s) set aside for parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a. Constructed of concrete or Surfaced with an appropriate bituminous surface (asphalt or spray seal). Details of bituminous surface and pavement construction detail must be submitted and approved by the Alpine Shire Council prior to work commencing.
 - b. Drained in accordance with an approved drainage plan.
 - c. Line-marked or otherwise marked to indicate each car space and all access lanes.

- d. Provision of signage directing drivers to the area(s) set aside for car parking. Such signs are to be located and maintained to the satisfaction of the Alpine Shire Council. This sign must not exceed 0.3 square metres.
17. Prior to commencement of use, vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Alpine Shire Council, and shall comply with the following:
- a. Standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be removed and replaced with concrete kerb and channel to match into the surrounding profile.
 - b. Any proposed vehicular crossing shall have satisfactory clearance to any side-entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense.
 - c. Crossings may be concrete or have a bituminous seal applied over an appropriately constructed pavement. Dimensions and roadside drainage treatments are to be generally in accordance with IDM drawing SD250.

Construction Phase

18. Prior to commencement of construction or demolition, the owner or developer must submit to the Alpine Shire Council a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb and channel, footpath, seal, streetlights, signs, street trees and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to Alpine Shire Council's assets/public infrastructure caused as a result of the development or use permitted by this permit.
19. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Alpine Shire Council. Issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, 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.
20. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

Expiry

21. This permit will expire if one of the following circumstances applies:
- a. The development is not started within two (2) years of the date of this permit;
 - b. The development is not completed within four (4) years of the date of this permit;

- c. The use is not started within two (2) years after the completion of the development; or
 - d. The use is discontinued for a period of two (2) or more years.
22. The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

- End of Conditions -

Planning Notes:

1. This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the Alpine Shire Council website.
3. The facilities approved by this permit shall be constructed and maintained to accord with all relevant legislation (Federal or State), Australian Standards, or any other design requirements relating to access or other issues affecting people with disabilities to the satisfaction to the Alpine Shire Council.

APPENDIX 8.3.5.b POLICY

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1 & Clause 11.01-1L-01 – Settlement

Clause 11.01-1L-03 - Myrtleford

Clause 02.03-3 - Environmental Risks and Amenity

Clause 13.05-1S – Noise Management

Clause 13.07-1S – Land Use Compatibility

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-1S & Clause 15.01-1L-01 – Urban Design

Clause 15.01-1L-03 – Design for Industrial Development

Clause 15.01-2S – Building Design

Clause 15.01-5S - Neighbourhood Character

Clause 02.03-7 – Economic Development

Clause 17.01-1S & Clause 17.01-1L – Diversified Economy

Clause 17.03-1S – Industrial Land Supply

Clause 17.03-2L – Sustainable Industry

Clause 02.03-9 – Infrastructure

Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

Zone

Clause 33.01 – Industrial 1 Zone

Overlays

Nil

Particular Provisions

Clause 52.06 Car Parking

Clause 53.18 – Stormwater Management in Urban Development

General Provisions

Clause 65.01 - Approval of an Application or Plan

8.3.6 Planning Application P.2022.116 - Lot 3, Morses Creek Road, Wandiligong

Application number:	P.2022.116
Proposal:	Buildings and works for the construction of a dwelling
Applicant's name:	John Carter / Carter Perspective
Owner's name:	Lisa and Peter Stack
Address:	Morses Creek Road, Wandiligong (Lot 3 PS 221462S)
Land size:	Approx. 1097sqm
Current use and development:	Vacant
Site features:	Large oak tree at the property frontage and slope of approximately 2.5m from east to west.
Why is a permit required?	Clause 42.03-2 – Buildings and works Clause 43.01-1 – Buildings and works Clause 44.06-2 – Building and works
Zoning:	Clause 32.03 – Low Density Residential Zone
Overlays:	Clause 42.03 – Significant Landscape Overlay (Schedule 3) Clause 43.01 – Heritage Overlay (HO83) Clause 44.06 - Bushfire Management Overlay
Restrictive covenants on the title?	Nil
Date received:	30 August 2022
Statutory days:	87
Planner:	Ebony Cetinich

RECOMMENDATION

That Council issue a Notice of Decision to grant a planning permit for Buildings and Works for the construction of a dwelling in accordance with the conditions outlined in Appendix 8.3.6.a.

PROPOSAL

The proposal involves the development of the land for a dwelling. The dwelling is single storey and contains three bedrooms (master with WIR and ensuite), open plan kitchen,

living and dining area, bathroom, WC, laundry and external deck wrapping around the front and side elevation. The development also includes a 7m x 7m detached garage/shed to the south of the proposed dwelling. The dwelling will be accessed via a new internal accessway along the south western boundary of the site and a crossover to Morses Creek Road will be formally constructed. Two covered on-site car parking spaces can be accommodated within the proposed garage. Wastewater and stormwater are proposed to be managed on-site.

The external appearance of the dwelling is of a traditional design with a gable roof form, weatherboard external cladding, corrugated colorbond roofing and a front deck with steps. The external colour scheme will consist of muted white tones.



Figure 1: Site Plan

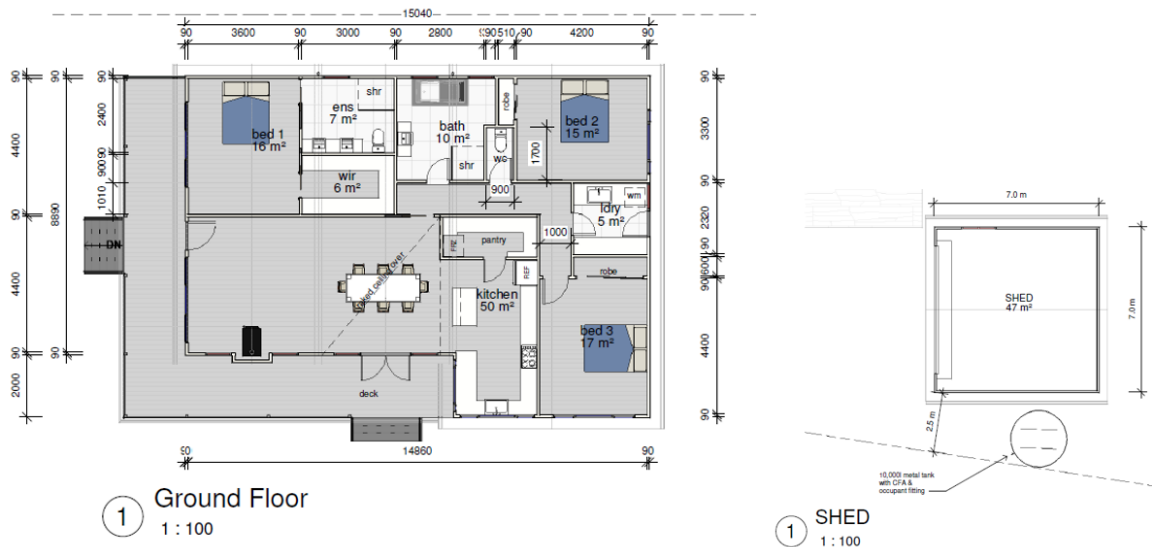


Figure 2: Floor Plan

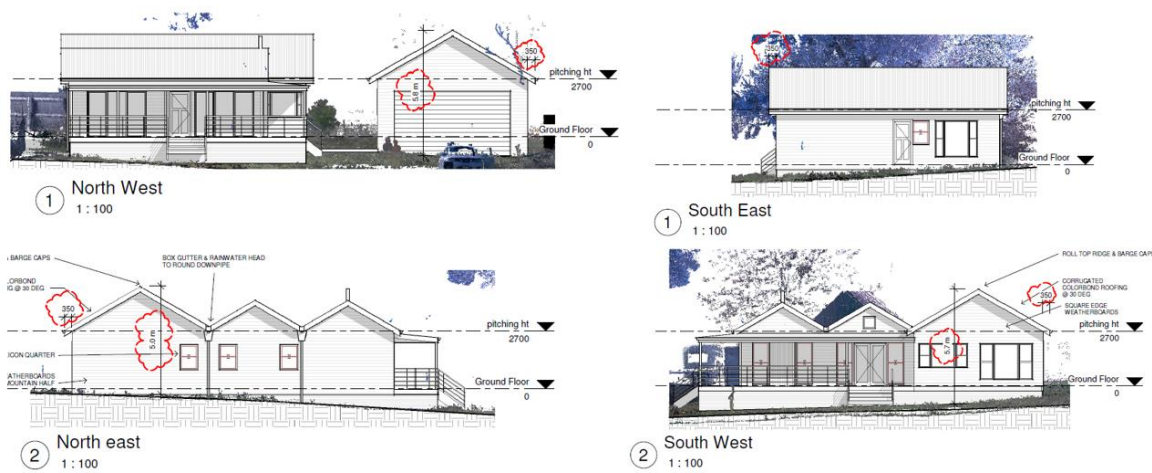


Figure 3: Elevations

SUBJECT LAND AND SURROUNDS

The subject site has an area of 1097 sqm and a frontage of 22.47 to Morses Creek Road. The site is rectangular in shape with slightly skewed boundaries. The site has a moderate crossfall of approximately 2.5m from east to west. The site is currently vacant with informal access to Morses Creek Road. Reticulated water and electricity supply infrastructure is available, but stormwater and sewer infrastructure is not. There is an existing large oak tree adjacent to the frontage of the site, otherwise, there is no existing vegetation on the land. The subject site is prone to bushfire and has heritage sensitivities.

The subject site is situated within Wandiligong at the southern end of the Low Density Residential Zone and abuts the Farming Zone to the south west. The surrounding area predominantly contains a mixture of existing dwellings on various sized allotments within

a rural setting. The Wandiligong Hotel (Wandi Pub) is situated to the north of the site (approx. 20m to the site boundary and 60m to the building).



Figure 4: Aerial image of the subject site

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land; and placing a sign on site.

Council has received one objection to date. The objection is summarised in the table below alongside Councils response to the issues raised.

Concerns	Officer Response
Recently issued permits not containing conditions relating to live music policy.	This is outside the scope of this application. This has no bearing over the assessment of this application.

Concerns	Officer Response
No detail within the application relating to how the live music policy is addressed.	The amenity of future residents of the proposed dwelling and the continued operation of the Wandi Pub will be suitably protected. Conditions will be included on any permit issued for an acoustic report to be provided which assess noise emissions from the Wandi Pub and provides recommendations for noise mitigation methods to comply with the relevant noise protection policy. There will also be conditions enforcing that the recommendations of the acoustic report be implemented prior to occupation of the dwelling.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	CFA – Consent subject to Conditions GMW - Consent subject to Conditions
Internal referrals:	ASC Engineering Department – Consent subject to Conditions ASC Environmental Health – Consent subject to Conditions ASC Heritage Advisor – Supports the proposal

PLANNING ASSESSMENT

All applicable policy can be found in Appendix 8.3.6.b.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Appendix 8.3.6.b.

The policies of the Municipal Planning Strategy and Planning Policy Framework provide support to the proposal for the following reasons:

- The scale of the dwelling is compatible with existing development and respects the character of Wandiligong.
- The dwelling been designed in a manner the is responsive to the character of HO83 (Wandiligong).
- The buildings are considered to blend well with the surrounding environment and will not be a visually dominant element in the landscape.
- No existing vegetation will be impacted and the proposal will provide for front yard and rear yard landscaping to complement the semi-rural feel of the locality.

- The proposal suitably responds to the risk of bushfire.
- The proposal suitably responds to the live music policy.
- The buildings will not impede any views of the natural scenery and landscape features including ridgelines, hill tops and waterways.
- The site is capable of accommodating the proposed development taking into account access and infrastructure servicing. Wastewater and stormwater are able to be managed on-site.
- The proposal will not have any detrimental impacts on the catchment area and water resources.

Low Density Residential Zone

A planning permit is not required for the proposal under the Low Density Residential Zone. As such, the Zone will not form part of this assessment.

Significant Landscape Overlay

The site is situated within the Significant Landscape Overlay (Schedule 3- Wandiligong Valley) which seeks to identify, conserve and enhance the character of significant landscapes. The proposal results in a relatively modest built form outcome that complements existing development within the surrounding area and doesn't not impact any significant views or vistas. No existing vegetation will be impacted and the proposal will provide for front yard and rear yard landscaping to complement the semi-rural feel of the locality. As such, the proposal is considered to have minimal impact on the landscape of the Wandiligong Valley and is acceptable in light of the considerations of the Significant Landscape Overlay.

Heritage Overlay

The site is situated within the Heritage Overlay (HO83 – Wandiligong). The Heritage Overlay seeks to conserve and enhance heritage places and ensure that development does not adversely affect the significance of a heritage place. The proposal is consistent with the Wandiligong Heritage Guidelines which has been affirmed by Councils heritage advisor. The proposal is considered to be acceptable taking into account the decision guidelines of the Heritage Overlay.

Bushfire Management Overlay

The land is covered entirely by the Bushfire Management Overlay. There is a planning permit trigger for the proposal at Clause 44.06-2. The application was referred to the Country Fire Association (CFA) for comment and conditional consent was provided. The application is considered to meet the relevant requirements of the Bushfire Management Overlay.

Particular Provisions

Clause 52.06 - Car Parking

Two on site car parking spaces must be provided for each three or more bedroom dwelling in line with Table 1 to Clause 52.06-5. A garage providing for two covered car parking spaces is proposed, satisfying the car parking requirements of Table 1.

The Site Plan shows the necessary information required by Clause 52.06-8 and the proposal suitably meets the design standards for car parking under Clause 52.06-9.

Clause 53.02 - Bushfire Planning

The application was referred to the Country Fire Association for comment. Conditional consent was provided. The application is considered to meet the relevant requirements of this clause.

Clause 53.06 – Live Music Entertainment Venues

Clause 53.06 applies to a noise sensitive residential use that is within 50 metres of a live music entertainment venue. The proposed dwelling is a noise sensitive residential use and is situated within 50m of the boundary of the site containing the Wandi Pub.

It is a requirement that a noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:

- Indoor live music entertainment venue to below the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020)
- Outdoor live music entertainment venue to below 45dB(A), assessed as an Leq over 15 minutes.

In order to ensure that the above requirements are met, a condition will be included on any permit issued for the provision of an acoustic report to assess noise emissions from the live music entertainment venue and provide recommendations for noise mitigation methods to comply with the relevant noise protection policy.

There will also be conditions enforcing that the recommendations of the acoustic report be implemented prior to occupation of the dwelling. As a result, the proposed dwelling will be satisfactorily protected from unreasonable live music and entertainment noise. In turn, this will also minimise impacts of the proposal on the functioning of the live music venue (i.e. reduced likelihood of noise complaints).

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported taking into account the relevant decision guidelines of Clause 65.01.

CONCLUSION

The application is considered to be consistent with the Alpine Planning Scheme for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- There are no Covenants or Section 173 Agreements applicable to the land.
- The objectors concerns have been reasonably addressed.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Consultant Planner

APPENDICIES

8.3.6.a. Conditions

8.3.6.b. Policy and decision guidelines

APPENDIX 8.3.6.a. CONDITIONS**Plans required for endorsement**

1. Before the endorsement of any plans, 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 be generally in accordance with the plans submitted with the application but modified to show:
 - a. Any recommendations for noise mitigation contained within the Acoustic Report provided as per Condition 2.
 - b. Landscaping details as per Condition 3.
 - c. Construction and drainage details as per Conditions 11 and 12.

Acoustic report required

2. Concurrent with the submission of plans required by Condition 1, an acoustic report prepared by a suitably qualified acoustic engineer must be submitted to and be endorsed by the Responsible Authority in accordance with the requirements of Clause 53.06-3 of the Alpine Planning Scheme. The report must prescribe the form of acoustic attenuation measures that will reduce noise levels from any:
 - a. Indoor live music entertainment venue (Wandi Pub) to below the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020)
 - b. Outdoor live music entertainment venue (Wandi Pub) to below 45dB(A), assessed as an Leq over 15 minutes.

For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (consistent with EPA Publication 1826).

Landscape Plan required

3. Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works, a detailed Landscape Plan to the satisfaction of the responsible authority must be submitted to, and approved by the responsible authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:
 - a. a survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - b. a survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site.
 - c. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must achieve a suitable balance between achieving the landscape outcomes sought by Schedule 3 of the Significant Landscape Overlay

- and the Wandiligong Heritage Guidelines and adhering to the vegetation management requirements under Table 6 to Clause 53.02-5;
- d. landscaping and planting within all open areas of the site;
 - e. details of all proposed hard surface materials including pathways, patio or decked areas.

Endorsed Plans

4. The development as shown on the endorsed plan must not be altered or modified (whether or not in order to comply with any statute, statutory rule or Local Law, or for any other reason) without the prior written consent of the Responsible Authority.

Implementation of acoustic measures

5. Prior to occupation of the dwelling hereby approved, all acoustic recommendations in the endorsed acoustic report must be incorporated and adhered to at all times to the satisfaction of the Responsible Authority.

Installation of septic system

6. Prior to occupation of the dwelling hereby approved, an on-site wastewater system must be installed and operational in accordance with the Land Capability Assessment [Ref 22021] from Land Capability Assessment Services to the satisfaction of the Responsible Authority.

Mandatory Bushfire Management Overlay Condition

7. 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.

Car Parking Construction

8. Prior to occupation of the dwelling hereby approved, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a. constructed;
 - b. properly formed to such levels that they can be used in accordance with the plans;
 - c. surfaced with an all-weather seal coat;
 - d. drained;

to the satisfaction of the responsible authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

Completion and maintenance of landscaping

9. Within 3 months of the occupation of the dwelling hereby approved or within the next planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
10. The landscaping must thereafter be maintained to the satisfaction of The Responsible Authority, including that any dead, diseased or damaged plants are to be replaced within 3 months or within the next planting season.

Alpine Shire Council Engineering Team Conditions - Detailed Construction and Drainage Plans Required

11. Concurrent with the plans required by Condition 1, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual (www.designmanual.com.au). 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 shall include proposed construction detail, further information, or modifications to:
 - a. Drainage system, with supporting computations for detention and infiltration.
 - b. vehicular crossings showing the access has descent sight distance as recommended by AustRoad.

12. Concurrent with the plans required by Condition 1, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual. The information and plan must include:
 - a. details of how the works on the land are to be drained and/or retarded.
 - b. the discharge rate is to be restricted to the pre-development flowrate for a 20%AEP rainfall event.
 - c. infiltration pit designed to 20% AEP rainfall event with calculation.
 - d. underground pipe drains conveying stormwater to the legal point of discharge.
 - e. maintenance schedules for treatment elements.

Drainage

13. Prior to commencement of use, all stormwater and surface water discharging from the site, buildings and works must be retained and treated on site to the satisfaction of the responsible authority. No effluent or polluted water of any type will be allowed to enter the stormwater drainage system. Once treated to the satisfaction of the responsible authority, the stormwater shall be conveyed to the legal point of discharge to the satisfaction of the Alpine Shire Council. The legal point of discharge for this site is onsite detention and overflow into the infiltration pit.

Vehicle Crossings

14. Prior to occupation of the dwelling hereby approved, vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Alpine Shire Council, and shall comply with the following:
 - a. Standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be removed and reinstated to match into the surrounding profile.
 - b. Any proposed vehicular crossing shall have satisfactory clearance to any pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense.
 - c. Crossings are to be concrete or have a bituminous seal applied where they abut a sealed road. If the road is unsealed the crossing may remain an unsealed crushed

rock pavement. Dimensions and roadside drainage treatments are to be generally in accordance with IDM drawing SD255.

Construction Phase

15. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Alpine Shire Council. Issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, 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.
16. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

Country Fire Authority Conditions

Endorsement of Bushfire Management Plan

17. Before the development starts, the Bushfire Management Plan prepared by Carter Perspective dated 18/10/2022 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.

Goulburn Murray Water Conditions

18. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
19. All wastewater from the dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must have a certificate of conformity issued by the Conformity Assessment Body (or equivalent approval) and be installed, operated and maintained in accordance with the relevant Australian Standard and EPA Code of Practice.
20. The wastewater disposal area must be located at least: 100m from any waterways, 40m from any drainage lines, 60m from any dams (downslope of the wastewater disposal area), and 20m from any bores. *Where wastewater is treated to at least a secondary standard, the distance may be reduced in accordance with the current EPA Code of Practice – Onsite Wastewater Management. However where possible setback distances must be maximised.
21. The wastewater management system must be appropriately designed to manage the potential volume of wastewater generated under full occupancy of the dwelling (based on 3 bedrooms). The design must include at least 3 pods and an area set aside for a reserve pod.
22. Prior to the building permit being issued, the owner shall enter into an agreement with the Responsible Authority and Goulburn Murray Water under Section 173 of the Planning and Environment Act requiring that:
 - a. If a community effluent disposal system or reticulated sewerage system becomes available, all wastewater from the dwelling must be disposed of via this system and the on-site wastewater treatment and disposal system must be decommissioned.

- b. The owner of the property must enter into a contract with the relevant servicing agent for the lifetime of the wastewater management system entailing the following:
 - i. Three monthly (quarterly) service and maintenance inspections of the wastewater management system must be undertaken by the relevant servicing agent.
 - ii. All inspections, repairs and maintenance of the wastewater management system, and any pump out events of the holding tank, must be documented and reported to the Responsible Authority on a 3 monthly (quarterly) basis.
 - iii. The owner must meet the costs of all three monthly (quarterly) service and maintenance inspections, repairs, pump out events and reports.
- c. The owner shall meet the costs of the registration of the Agreement on the title of the land and provide evidence to Goulburn-Murray Water of this occurring within 3 months.
- d. This agreement is cancelled if (a) above is satisfied.

Expiry

23. This permit will expire if one of the following circumstances applies;

- a. The development is not started within two (2) years of the date of this permit;
- b. The development is not completed within four (4) years of the date of this permit;

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

- End of Conditions -

Planning Notes:

1. This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the Alpine Shire Council website.
3. An application for a Permit to Install a Septic Tank System must be made to the satisfaction of Council and any requirements of the relevant Water Authority prior to a building permit being issued in accordance with the requirements of the Building Act 1993. The septic system must comply with the Code of Practice – onsite Wastewater Management Publication 891.4 and AS1546.1 to 1546.4 and be in accordance with the Land Capability Assessment [Ref 22021] from Land Capability Assessment Services and any requirements of the relevant Water Authority.

APPENDIX 8.3.6.b. POLICY

Municipal Planning Strategy and Planning Policy Framework

Clause 11.01-1L-08 – Wandiligong

Clause 02.03-2 – Environmental and Landscape Values

Clause 12.05-2S & Clause 12.05-2L – Landscapes

Clause 02.03-3 - Environmental Risks and Amenity

Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 13.07-3S – Live music

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-1S & Clause 15.01-1L-01 – Urban Design

Clause 15.01-2S – Building Design

Clause 15.01-5S - Neighbourhood Character

Clause 15.03-1S – Heritage Conservation

Clause 02.03-9 – Infrastructure

Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

Zone

Clause 32.03 - Low Density Residential Zone

Overlays

Clause 42.03 – Significant Landscape Overlay (Schedule 3)

Clause 43.01 – Heritage Overlay (HO83)

Clause 44.06 – Bushfire Management Overlay

Particular Provisions

Clause 52.06 - Car Parking

Clause 53.02 – Bushfire Planning

Clause 53.06 - Live Music Entertainment Venues

General Provisions

Clause 65.01 - Approval of an Application or Plan

8.3.7 Planning Application P.2021.185 - 134 Delany Avenue, Bright

Application number:	P.2021.185
Proposal:	Construction of a second dwelling and alteration to access a Transport Zone 2
Applicant's name:	Fischer Development Solutions
Owner's name:	Alpine Valley Developments Pty Ltd
Address:	134 Delany Avenue, Bright
Land size:	1010 square metres
Current use and development:	Existing dwelling at the rear of the lot
Site features:	The site is a rhomboid shaped rectangle, with a significant rise from front to rear where the existing dwelling is located. A driveway is located to the west side. Vegetation is cleared at the front of the site.
Why is a permit required?	Constructing a second dwelling on the lot and altering access to Delany Avenue. Clause 32.08-6 – Construct a dwelling if there is at least one dwelling existing on the lot Clause 44.06-2 – Buildings and works associated with accommodation Clause 52.29-2 – Alter access to a road in a Transport Zone 2
Zoning:	Clause 32.08 – General Residential Zone (Schedule 1)
Overlays:	Clause 44.06 - Bushfire Management Overlay
Restrictive covenants on the title?	N/A
Date received:	16 September 2021
Statutory days:	356
Planner:	Elke Cummins

RECOMMENDATION

That Council issue a Notice of Decision to grant a planning permit for construction of a second dwelling and alteration to access a Transport Zone 2 in accordance with the conditions outlined in Appendix 8.3.7.a.

PROPOSAL

The proposal includes:

- Construction of a new two storey dwelling at the front of the site, in front of an existing dwelling which would be retained.
- The new dwelling would be setback at least 6m from the front property boundary.
- The new dwelling follows the slope of the land with a lower ground level providing front door and garage access, bedrooms bathroom laundry and rumpus.
- The second storey which adopts natural ground level at the rear of the dwelling houses the main living kitchen and dining spaces, master bedroom, ensuite, powder room. The dwelling adopts a “reverse living” arrangement, with the main private open space a north and street facing terrace off the living room.
- The existing crossover appears to require widening to access to separate driveways to service each dwelling.
- The design is contemporary, with use of Colorbond and MasterWall cladding (smooth render appearance), with feature stacked stone and a double garage door.
- The roof would be Colorbond custom orb, corrugated profile. No colours are specified.
- No subdivision is proposed. Note: the application was amended prior to advertising under S50 of the Planning and Environment Act 1987 to remove subdivision.

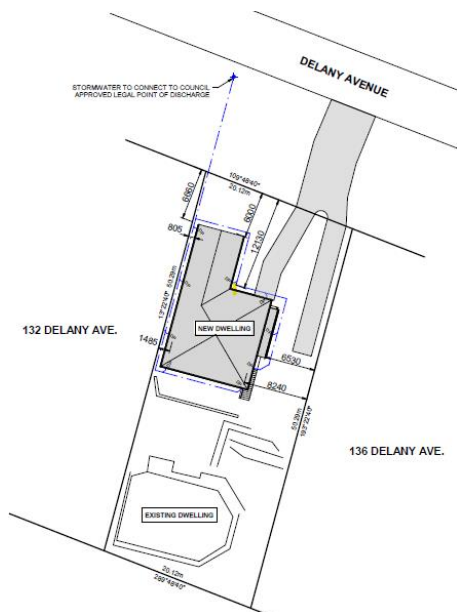


Figure 1: Site Plan

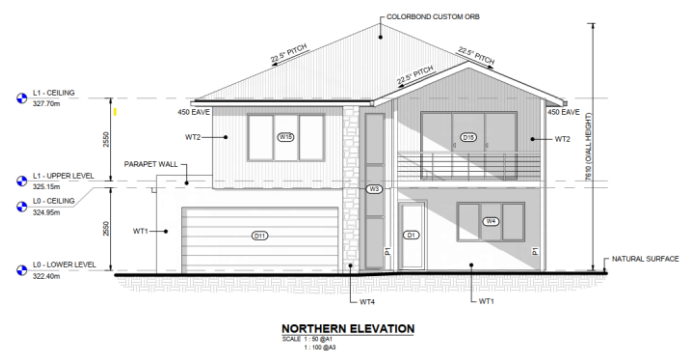


Figure 2: Front Elevation

SUBJECT LAND AND SURROUNDS

The subject site has an area of 1010 square metres, with a 20.1m frontage and 50.25m depth. The land rises significantly from front to rear, with an existing dwelling located at the very rear of the site and on high ground. An existing unmade crossover and driveway is located to the west side of the property.



Figure 3: Site frontage. Source: Google Street view October 2022

Existing vegetation has been cleared at the front of the site. There are a number of non-native scattered trees across the land. An existing Cedar tree is located in the nature strip. Electricity and water supply infrastructure are available to the site, specifically reticulated sewer and water.

The site is located on Delany Drive (Great Alpine Road), the main road travelling in and out of Bright and on route to Alpine regions. The surrounding area predominantly contains township dwellings in the General Residential Zone 1 scattered with holiday accommodation. The existing pattern of subdivision is relatively inconsistent and fragmented and front setbacks are varied. Dwellings are not always visible behind heavy landscaping, often formal in appearance.

Land to the south and rear is public along a ridgeline that separates the Great Alpine Road/Delany Avenue from Churchill Avenue and the Wandiligong Valley, part of this land further South-East is managed within a bushfire moderation zone to control threats to the residential areas of Bright.

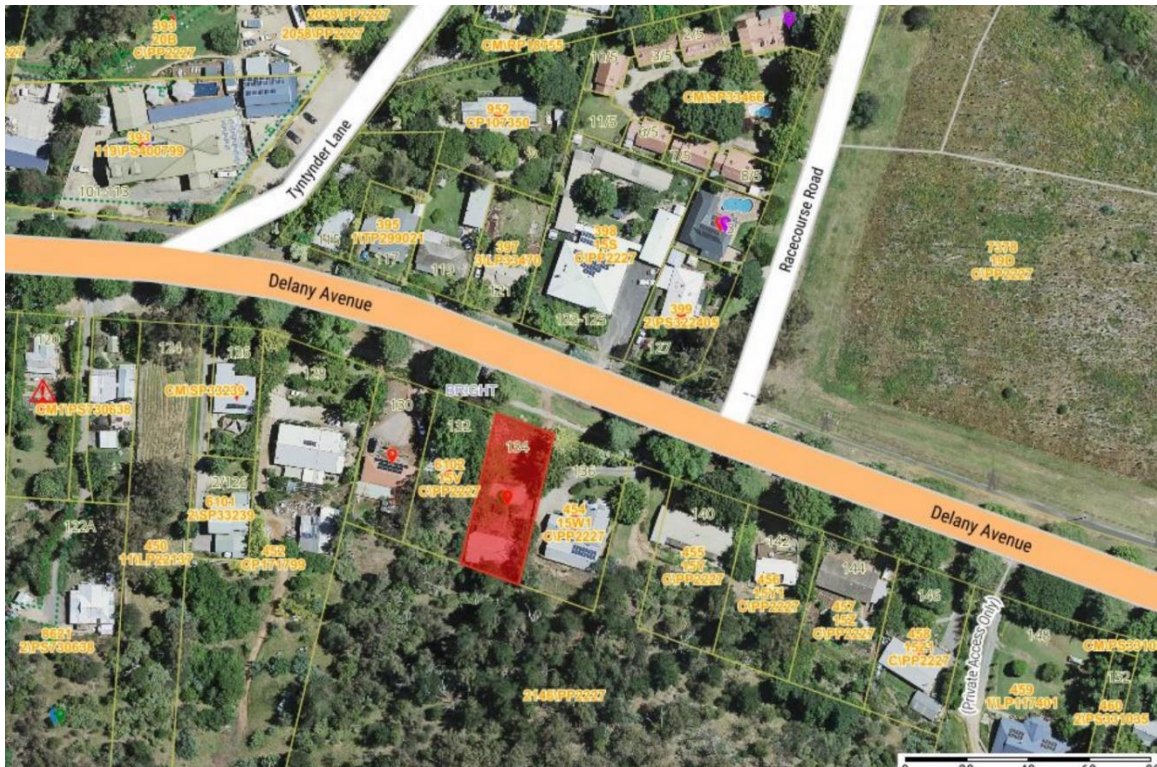


Figure 4: Aerial image of the subject site. Source: Council GIS

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 sending notices to the owners and occupiers of adjoining land and placing a sign on site.

Council has received four objections to date. The objections are summarised in the table below alongside Councils response to the issues raised.

To note the application was advertised:

- with the inclusion of subdivision in the proposal/preamble description. Subdivision is not proposed, it was removed from the application.
- without the inclusion of the alteration to land in a transport zone. This is one of the permit triggers.

Summary of Concerns	Officers Response
Existing vegetation removed from site frontage	The vegetation has already been removed and is a separate matter. Any approval will require a landscape plan with heavy vegetation in front of the dwelling.
Not in keeping with the streetscape through height and design	Increased front and side set back is required to better respond to the character setting.

Summary of Concerns	Officers Response
Visual impact of building when viewed from the street and neighbouring property in replacement of large oak trees/vegetation	An increased front and side setback is required to better respond the character setting, reducing its visual impact on the landscape.
Density is too high for the area	No subdivision is proposed. The addition of a dwelling is acceptable having regard to the size of the lot, with the rear dwelling sited at the rear boundary. A S173 agreement is required to ensure the land is not subdivided in accordance with bushfire management.
Overlooking	Overlooking can be managed via high level windows and fencing along the boundary. The applicant has agreed to privacy screening on western windows and a 1.8m high fence prior to commencement of buildings and works. This will form a permit condition. The timeframe to when a new fence is installed will be subject to private agreement and is not a planning matter.
Noise from the front balcony as the main outdoor space	The area is diverse in land use, in a General Residential Zone which houses both private dwellings and holiday accommodation. The balcony is not common but is not a new feature or proposition in the area where the land is undulating and outdoor spaces are often raised. Any noise will be domestic in nature. New vegetation along the boundary will assist, but the size of the balcony will also be reduced to manage visual impact of the building.
Dwelling too close to the boundary, visual impact & noise	The dwelling does not comply with Standard B17, side and rear setbacks of Clause 55. Compliance is required by permit condition.
Loss of light, including northern & overshadowing	Daylight to windows and overshadowing standards of Clause 55 are met given the size of the lot and setback between dwellings accommodated. The increased western side setback to 2m will improve daylight and shadows.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	CFA - Consent subject to conditions DTP - Consent subject to conditions and notes
Internal referrals:	Arborist - The application is suitable provided there is no disturbance within the trees dripline, noting the existing crossover has good clearance from the cedar tree in the nature strip. Any changes to the plans should be referred back to the Arborist.

PLANNING ASSESSMENT

All applicable policy can be found in Appendix 8.3.7.b.

Alpine Planning Scheme State & Local Policy Context:

Clause 02.03-3 – Environmental risks and amenity

Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 13.02-1S & Clause 13.02-1L are considered when a site is within a designated Bushfire Prone Area to ensure that bushfire risk is appropriately managed. The subject site is within the Bushfire Management Overlay (BMO) and the provisions of Clause 53.02 Bushfire Planning apply. An assessment against the specific measures and referral requirements of the CFA are provided later.

The proposal to add a second dwelling to the land for a dwelling is acceptable taking into account the bushfire risks associated with the land. Subdivision however is not supported by the CFA. The subject land is not isolated and has frontage to an all weather public road.

Clause 11.01-1-1L-02 - Bright

Clause 12.04-1L – Sustainable Development in Alpine Areas

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-6S – Design for Rural Areas

Clause 15.01-1L-01 & 3L - Urban Design & Battle Axe Development

The general theme of state and local policy as it relates to design and character, is to maintained the visual amenity of the Great Alpine Road, minimise the visibility of development and manage environmental and landscape impact.

The proposal requires modifications via permit conditions to increase the new dwellings setback from both the front boundary and western side boundary, heavily landscape and modify external finishes to achieve these policy objectives. The details are discussed in detail later, and result in an acceptable outcome to the site having regard to its Great Alpine Road location.

The existing dwelling on the land is located at the rear of the lot on high ground and is highly exposed from the street already, the new dwelling obscures views and the need for heavy mature landscaping to be planted will enhance the landscape character of the area. The site abuts a ridgeline at the rear, which is heavily treed.

Whilst subdivision is not proposed, in development terms the proposal results in a battle-axe style development. Policy at Clause 15.01-3L discourages this layout unless wide driveways can be accommodated with adequate landscaping opportunities. Given the 20m wide by 50 deep dimensions of the site, these outcomes can be achieved and permit conditions ensure they will be. The existing character sees accessways traversing the undulated properties blended into the landscape setting.

- The proposal adds one additional dwelling on the land, and whilst outside the "medium density opportunity areas" in the Bright Structure Plan, the outcome is not out of character having regard to the myriad of more intense unit development and holiday accommodation scattered along the Great Alpine Road. With permit conditions to increase front and side setbacks, the open landscape character and building separation between and in front of buildings can be maintained. The proposal is a modest addition to the site, maximising the opportunity to provide additional housing on the site with the existing by virtue of the existing dwelling pushed all the way to the rear of the deep site. Housing demand is significant in Bright and the application responds in this way without compromising existing character.

Zone

Clause 32.08 General Residential Zone 1

A planning permit is required pursuant to Clause 32.01-8 to construct a dwelling if there is at least one dwelling existing on the lot.

Overlays

Clause 44.06 Bushfire Management Overlay (BMO)

Clause 44.06-1 triggers the need for a planning permit for the buildings and works.

An application must be referred to the CFA under Section 55 of the Planning and Environment Act 1987.

The CFA have consented to the grant of a permit and specified a number of conditions to be included in the permit.

It is noted that the original planning permit application included subdivision, but this was not supported by the CFA. The application was subsequently amended to remove subdivision prior to notice under S50 of the Planning and Environment Act 1987.

The proposed new dwelling adopts a BAL29 construction and meets the requirements of the BMO and Clause 53.02 Bushfire Planning.

Particular Provisions

Clause 52.06 Car Parking – A permit is not being sought under these provisions. Two or more car spaces are provided for each dwelling in accordance with Clause 52.06-5.

A condition of permit will require that the accessway dimensions are accurately shown to accommodate this as demonstrated on the swept path diagrams submitted by the applicant and in accordance with DoT (now DTP) requirements. Only one joint access from the site to Delany Avenue is permitted by the Department of Transport and Planning.

The double garage door material and colour has not been selected, a condition will require that it tie in with the overall dwelling design and not be dominant when viewed from Delany Avenue in accordance with Design standard 5.

A landscape plan is required as a condition of permit to demonstrate heavy planting around the site frontage to soften the extent of hard surface, but maintaining sight lines as required. The driveways will be required to be constructed in an appropriate surface, minimising any concreted look having regard to the landscape character in accordance with Design standard 7.

Clause 55 (Multi Dwelling) - Two or more dwellings on a lot and residential buildings.

A detailed assessment of Clause 55 has been undertaken.

The following comments are made where there is considered non-compliance in relation to the objectives and standards:

- Standard B1 Neighbourhood Character, B6 Street Setback, B13 Landscaping, B17 Side and Rear Setbacks & Standard B31 Design Detail

Conditions are required to increase the western side setback to 2m and the front setback of the balcony from 6m to 9m to reduce the visual impact of the new dwelling when viewed from Delany Avenue. Heavy landscaping is required to replace vegetation removed and respond to the landscaped character setting.

The “plan of building setbacks” submitted with the application indicates a setback of 11.26m for the western dwelling and 15.89m for the eastern dwelling.

The required setback is 9m. These lots are smaller and on the high side of the street, and this site is particularly exposed and will be the closest and tallest building to Delany Avenue at the setback proposed. Given the dwelling is 2 storey, highly exposed with no vegetation, it should be setback to comply. The front balcony is setback 6m and should be cut back by 3m, including the roof above which adds to the visual impact of the building when viewed from Delany Avenue which is a tourist road, main boulevard and entry and exit point into Bright. Whilst the balcony faces north, it would still benefit from shade and the depth of 2.3m will still be useable and appropriate to the dwelling needs.

In making these changes, regard must be given to bushfire requirements. Amended plans must be referred back to the CFA to ensure the Bushfire Management Plan still meets their requirements. The dwelling may be shifted further east to accommodate the setback requirements from the west, but it should not impact bushfire management and accessway requirements.

Standard B22 Overlooking

Conditions are required to address western windows, boundary fencing and views from the front balcony of the new dwelling to ensure views are sufficiently limited into the western adjoining property.

Boundary fence heights are required to be nominated above natural ground level, the height of the ground at the fence line to ensure no overlooking to neighbouring properties.

The side elevation windows are shown at a high level but with no dimensions. A condition is required to nominate sill heights 1.7m above finished floor level.

The rear elevation is at ground level and overlooking from the kitchen to either side will be managed by side fences.

The balcony is orientated to the street but is elevated. A condition will require the location of any habitable room windows for the dwelling to the west and compliance with the overlooking objective.

Clause 52.29 – Land Adjacent to a Principal Public Road Network

The application was referred to DoT (now DTP) who consent to the application subject to conditions. Specifically, only one joint access will be permitted from the subject land to the Delany Avenue located at the joint boundary between the lots as shown on the plan appended to the application.

Clause 53.02 Bushfire Planning

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider the decision guidelines for Bushfire Planning at Clause 53.02-4.5.

The proposed is acceptable and bushfire management measures can be maintained as long as the land is not subdivided having regard to access and separation. For example, if the existing dwelling at the rear is demolished, any new dwelling will not likely comply with BAL requirements and bushfire management given the "forest" landscape abuttal and separation distances that would be required. This is identified by the CFA. A S173 Agreement is required to ensure the land is not subdivided.

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported taking into account the relevant decision guidelines of Clause 65.01.

Alle relevant matters have been considered uner the relevant zoning, policy and provisions that apply to the application including orderly planning of the area to respect character and off site amenity, bushfire protection, access to the site and landscaping/vegetation.

CONCLUSION

The application is considered to be consistent with the Alpine Planning Scheme for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- There are no Covenants applicable to the land.
- The objectors concerns have been reasonably addressed via permit conditions.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Consultant Planner

APPENDICIES

- 8.3.7.a Conditions
- 8.3.7.b Policy and decision guidelines

APPENDIX 8.3.7.a CONDITIONS

Amended Plans Required

1. Before the development starts, amended plans must be submitted to the satisfaction of 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 provided in a digital format (where possible). The plans must be generally in accordance with the advertised plans but modified to show:
 - a. Levels across the site on floor and elevation plans.
 - b. The location and setbacks of buildings on adjoining land on the floor plans.
 - c. A shared driveway for both dwellings whilst ensuring vehicles can exit the site in a forwards direction. The width and any setbacks of the accessways must be dimensioned.
 - d. Compliance with Department of Transport (DoT) conditions below.
 - e. Surface treatment of the new driveways appropriate to the character of the area.
 - f. A detailed colours materials and finishes schedule, with external finishes modified to respond to the character of the area e.g. reduced use of colourbond cladding.
 - g. The garage door to tie in with the overall dwelling design.
 - h. A minimum setback of 2m from the western boundary.
 - i. The front setback of the balcony increased from a minimum of 6m to 9m, including the roof (gutter accepted) above in accordance with Standard B6 of Clause 55 – Street Setback.
 - j. The west elevation windows to comply with Standard B22 of Clause 55 – Overlooking, including the use of fixed privacy screens or sill height of at least 1.7m above finished floor level.
 - k. The location of habitable room windows for the adjoining dwelling to the west and the need for views to be limited from the western perimeter of the front balcony in accordance with Clause 55.04-6 - Overlooking objective.
 - l. The western boundary fence to be a minimum of 1.8m above natural ground level at any point, it may taper down at the site frontage.
 - m. The location of the tree, its trunk and drip line, and its setback from the proposed driveway and crossover.
 - n. The location of storage for each dwelling in accordance with Standard B30 of Clause 55 – Storage.
 - o. The location of bin storage.
 - p. The location and design of site services and mailboxes.
 - q. Bushfire Management Plan in accordance with conditions below.
 - r. A landscape plan in accordance with relevant condition below.

Endorsed Plans

2. The development as shown on the endorsed plan must not be altered or modified (whether or not in order to comply with any statute, statutory rule or Local Law, or for any other reason) without the prior written consent of the Responsible Authority.

General Conditions

3. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
4. Any poles, service pits or other structures/features on the footpath required to be relocated or modified to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.
5. All visual screening and measures to prevent overlooking to adjoining properties must be erected prior to the occupation of the buildings to the satisfaction of the Responsible Authority.

Landscape conditions & Tree Protection

6. Concurrent with the endorsement of plans, a landscape plan must be submitted and be to the satisfaction of 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 provided in digital format (where possible). The plan must show:
 - a. The location of all existing vegetation to be retained and/or removed;
 - b. The location of buildings and trees on neighbouring properties within 3 metres of the boundary;
 - c. Details of surface finishes of pathways and driveways;
 - d. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - e. Heavy and dense vegetation in the front setback and to the west side of the new dwelling. Sight lines must be maintained in accordance with Clause 52.06-9 – Car Parking.
7. Before the occupation of the development starts 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.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, this includes the replacement of any dead, diseased or damaged plants.
9. Before the development starts (including any demolition works), tree protection measures in accordance with AS4970-2009 (Protection of trees on Development Sites) must be erected around the existing street tree. The tree protection measures must remain in place until construction is completed.
10. No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

Alpine Shire Council Engineering Plans

Detailed Construction Plans

11. Prior to commencement of construction, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual (www.designmanual.com.au). 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 shall include proposed construction detail, further information or modifications to:

- a. Underground drainage system, with supporting computations
- b. vehicular crossings
- c. stormwater retention and quality treatments
- d. retaining wall with structural design
- e. Turning template showing forward access and egress from parking space in both lots.

Urban Drainage Works

12. Prior to issue of Statement of Compliance, all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe to the satisfaction of the Alpine Shire Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system. The legal point of discharge for this site is on-site infiltration pit.
13. All roof water from buildings and surface water from paved areas must be collected and discharged to the LPOD to avoid any nuisance discharge to adjacent land.

Drainage Discharge Plan

14. Prior to certification, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual. The information and plan must include:
 - a. details of how the works on the land are to be drained and retarded.
 - b. connection points for drainage for each lot
 - c. underground pipe drains conveying stormwater to the legal point of discharge for each allotment
 - d. a maximum discharge rate from the site is to be determined by computation to the satisfaction of Council
 - e. design with calculation of infiltration pit for 20% AEP Rainfall event the details of the incorporation of water sensitive urban design designed in accordance with "Urban Stormwater Best Practice Environmental Management Guidelines" 1999.
15. Prior to issue of Statement of Compliance, all works constructed or carried out must be in accordance with those plans - to the satisfaction of Alpine Shire Council.

Construction Phase

Construction Management Plan

16. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Alpine Shire Council.
17. Prior to commencement of use, a construction management plan shall be submitted to and approved by the Alpine Shire Council. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, 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. Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.

No Mud on Roads

18. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

Bushfire Management Conditions

19. Before the development starts, the Bushfire Management Plan prepared by Fischer Developments dated 11.10.22, version E 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.
20. The bushfire protection 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.
21. Before the development starts, the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide for the following:
 - a. The land must not be subdivided unless bushfire management requirements and the relevant Fire Authority requirements can be achieved to the satisfaction of the relevant authorities.
 - b. The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

Department of Transport conditions

22. Only one joint access will be permitted from the subject land to the Delany Avenue located at the joint boundary between the lots as shown on the plan appended to the application.
23. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans date stamped 2/08/2021 and annotated Site Plan Drawing No. 38.2021A but modified to show:
 - a. Swept path diagrams demonstrating that vehicles can enter and exit in a forward direction for proposed Lot 1 & Lot 2.
24. The access must be constructed and sealed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.

Expiry

25. This permit will expire if one of the following circumstances applies:

- a. The use is not started within two (2) years of the issue date of this permit; or
 - b. The use is discontinued for a period of two (2) or more years.
26. The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

Planning Notes:

Council Road Opening/Non-Utility Minor Works on Municipal Road Reserve/Consent for Works on Road Reserves Permit Required.

A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed from the Alpine Shire Council website.

Building Approval Required

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.

Department of Transport

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

CFA

CFA note the construction of the second dwelling on this lot may expose any redevelopment of the existing building to BAL Flame Zone requirements due to an inability to site any replacement dwelling further north on the block.

Bushfire Management

Any future subdivision of this lot will not comply with the current Bushfire Management Overlay requirements and is unlikely to be supported.

Septic Tank System

An application for a Permit to Install a Septic Tank System must be made to the satisfaction of Council and any requirements of the relevant Water Authority prior to a building permit being issued in accordance with the requirements of the Building Act 1993. The septic system must comply with the Code of Practice – onsite Wastewater Management Publication 891.4 and AS1546.1 to 1546.4 and be in accordance with the Land Capability Assessment [Ref LCA-ROSS-03] from Foresight Engineering Services and any requirements of the relevant Water Authority.

APPENDIX 8.3.7.b POLICY AND DECISION GUIDELINES

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1 & Clause 11.01-1L-01 – Settlement

Clause 11.01-1L-02 - Bright

Clause 02.03-3 - Environmental Risks and Amenity

Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 02.03-4 – Natural Resource Management

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-6S – Design for Rural Areas

Clause 15.01-1L-01 & 3L - Urban Design & Battle Axe Development

Clause 15.03-1S Heritage conservation

Clause 02.03-9 – Infrastructure

Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

Zone

Clause 32.08 - General Residential Zone 1

Overlays

Clause 44.06 - Bushfire Management Overlay

Particular Provisions

Clause 55 – Two or more dwellings on a lot

Clause 52.06 – Car Parking

Clause 52.29 – Land Adjacent to the Principal Road Network

Clause 53.02 – Bushfire Planning

General Provisions

Clause 65.01 - Approval of an Application or Plan

9. Informal meetings of Councillors

Introduction

In accordance with Chapter 8, section A1 of Council's Governance Rules, if there is a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting, or Community Asset Committee meeting;

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting, and are recorded in the minutes of that Council meeting.

RECOMMENDATION

That the summary of informal meetings of Councillors for February / March 2023 be received.

Background

The written records of the informal meetings of Councillors held during the previous month are summarised below. Detailed records can be found in Attachment 9.0 to this report.

Date	Meeting
21 February	Briefing Session
28 February	Briefing Session
1 March	Planning Forums (x3)
7 March	Hearing of Community Budget Submissions
14 March	Briefing Session
21 March	Briefing Session

Attachment(s)

- 9.0 Informal meetings of Councillors – February / March 2023

10. Presentation of reports by delegates

11. General business

12. Motions for which notice has previously been given

13. Reception and reading of petitions

14. Documents for sealing

RECOMMENDATION

That the following documents be signed and sealed.

- 1. Lease of Real Estate - Porepunkah Hangar to Lawrence Dittmer***
- 2. Contract No. 220861 in favour of Univerus for the supply and implementation of an Asset Management System.***
- 3. S11A - Instrument of Appointment and Authorisation - Planning & Environment Act 1987 - Senior Planning Officer***
- 4. Agreement under Section 173 of the Planning and Environment Act 1987***

There being no further business the Chairperson declared the meeting closed at _____p.m.

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Chairperson