

# **Planning Delegated Committee Meeting**

## **Agenda**

**10 February 20210 at 6:30pm**

**Virtual Meeting**





The City of Ballarat acknowledges the Traditional Custodians of the land we live and work on, the Wadawurrung and Dja Dja Wurrung People, and recognises their continuing connection to the land and waterways. We pay our respects to their Elders past, present and emerging and extend this to all Aboriginal and Torres Strait Islander People.

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## 1. OPENING DECLARATION

**Councillors:** *"We, the Councillors of the City of Ballarat, declare that we will carry out our duties in the best interests of the community, and through collective leadership will maintain the highest standards of good governance."*

**Mayor:** *"I respectfully acknowledge the Wadawurrung and Dja Dja Wurrung People, the traditional custodians of the land, and I would like to welcome members of the public in the gallery."*

## 2. APOLOGIES FOR ABSENCE

## 3. DECLARATION OF CONFLICT OF INTERESTS

## 4. CONFIRMATION OF MINUTES

## 5. OFFICER BRIEFING



## 6. PLANNING DELEGATED COMMITTEE REPORTS

### 6.1. PLP/2019/313 - 166 MILLERS ROAD INVERMAY - USE OF THE LAND FOR HORTICULTURE, A FUNCTION CENTRE WITH PRODUCER'S LICENCE, RURAL INDUSTRY (CIDER PRODUCTION AND WILD FERMENTED BEER PRODUCTION)

**Division:** Development and Growth  
**Director:** Natalie Robertson  
**Author/Position:** Mish Watt – Coordinator Statutory Planning

#### PURPOSE

The purpose of this report is to determine a position on Planning Permit Application PLP/2019/313.

#### BACKGROUND

<b>DATE RECEIVED</b>	22/5/2019
<b>PROPERTY ADDRESS</b>	166 Millers Road, Invermay
<b>APPLICANT</b>	F Nolle
<b>PROPOSAL</b>	Use of land for horticulture, a function centre with Producer's Licence and rural industry (cider production and wild fermented beer production)
<b>ZONE</b>	Rural Living Zone (RLZ)
<b>OVERLAY/S</b>	Environmental Significance Overlay – Schedule 1 (ESO1) Floodway Overlay (FO) Land Subject to Inundation Overlay (LSIO)
<b>PERMIT TRIGGERS</b>	Clause 35.03-1 – Use of land; Clause 35.03-4 – Buildings and works in RLZ; Clause 44.03-2 – Buildings and works in FO; Clause 44.04-2 – Buildings and works in LSIO; Clause 42.01-2 – Buildings and works in ESO1; Clause 52.27 – liquor licence.
<b>RESTRICTIVE COVENANTS</b>	The application does not contravene the restrictions listed on title
<b>CURRENT USE/ DEVELOPMENT</b>	Dwelling
<b>CULTURAL HERITAGE MANAGEMENT PLAN</b>	Not required, as only a small portion of the site is located in an area of Aboriginal Cultural Sensitivity and the proposal is located outside of this area
<b>SUBMISSIONS</b>	30 objections 19 submissions in support One petition in support which includes 382 signatories

#### Proposal

This is an application to use the existing outbuilding on the land for:

- Licensed Function Centre; and
- Rural Industry (Cider production and wild fermented beer production).

It is also proposed that the land will be used for horticulture, specifically:

- Growing hops, approximately 2,450 square metres of land; and
- Growing apples, approximately 4,650 square metres of land.

The proposed site layout can be seen in Figure 1 below.

There is a carparking area for a total of 18 car parking spaces proposed along the western boundary of the site. Existing vehicle access points are proposed to provide vehicle access to the site and a loading area is proposed to the west of the shed building.

Hops trellising is proposed to the south of the dwelling and shed, while the apple orchard is proposed toward the southern boundary of the site.

It is proposed that the existing shed will be used as a function centre and to produce cider and beer. Outdoor areas which include tables are proposed to the south and east of the building. Artist's impressions of these areas can be seen in Figures 2 and 3 below.



Figure 1 – Site layout plan



Figure 2 – Southern outdoor area



Figure 3 – Eastern outdoor area

The building has been fitted out to include a bar area, storage area, cool room and laboratory. Toilets will be hired to provide for the needs of patrons. It is proposed that the shed and surrounding areas would be licensed, as can be seen in

Figure 4 below, with the red line indicating the licensed area.

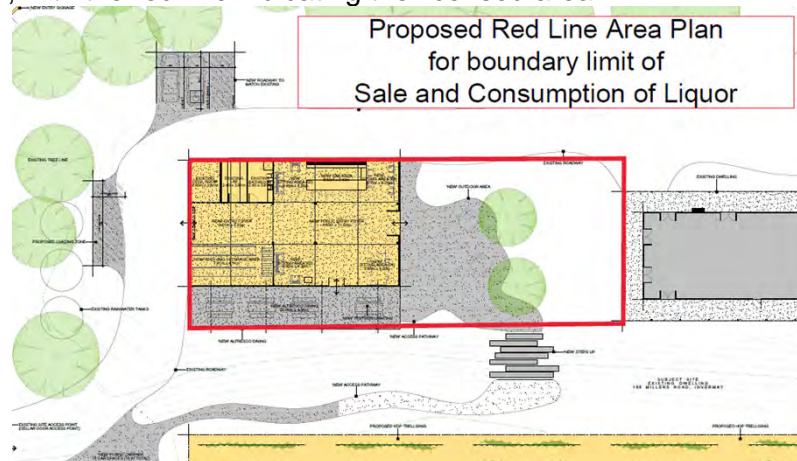


Figure 4 – Licensed area

The applicant has outlined that the cider production is reliant on obtaining fruit from farmers which is then milled and pressed and contained in two 1,000 litre tanks which are returned to the property in Invermay and pumped into oak barrels for between six and 18 months, with blending undertaken. The cider is hand bottled and hand labelled and boxed for sale.

Once the apple orchard which is proposed to be planted on the site has matured it is intended that 100% of property grown fruit would be available for use within ten years, with no need to source fruit from outside of the site.

Beer production will be undertaken by having wort produced offsite which is then transported back to the site. The wort is modified onsite with laboratory and indigenous yeasts and indigenous microflora and is then pumped into oak barrels and stored for between six months and four years. The resulting wild or spontaneously fermented beer is then blended and flavoured with fruit, honey and other various native and non-native components which are intended to be produced on the site. Ultimately it is bottled and packaged for sale.

Following the public notification period, the application was amended to reduce patron numbers and reduce hours of operation seeking approval for:



- A function centre which would operate for a maximum of 36 function events called Cellar Door Days, where tickets would be pre-sold, with the following hours:
- Friday – 2pm-8pm;
- Saturday – 10am-6pm;
- Sunday – 10am-6pm.

Cellar Door Days would be grouped to operate over the three days once a month.

- Maximum patron numbers – 30.

During the cellar door days, the brewer would be available to share knowledge of brewing, blending and agricultural processes.

Alcohol which is produced on the site will be available for sale, along with alcohol produced offsite.

It is intended that food will be available via baked goods, cheese platters, charcuterie, salami and nibbles, with the focus being on food that provides minimal preparation. No live music is proposed.

The applicant has also detailed that business identification signage is no longer proposed. It is understood that the permit applicants have undertaken works which appear to implement much of the proposal which is before Council for consideration. This is a decision that has been made by the landowners and is not based on any commitment from Council Officers that the application will be approved.

It is recognised that the planning system in Victoria allows for retrospective approvals to be issued and there is long history of case law at VCAT around applications seeking retrospective approval. Essentially, the principle is that a permit applicant should not gain any benefit or advantage from using or development of the land without approval, nor should a permit applicant be penalised as a result of using or developing the land without approval. The merits of a use or development started or carried out without approval should be assessed as if this had not occurred.

### **Subject site and locality**

The site is located on the corner of Millers Road and Slatey Creek Road North, Invermay. The site is an irregular shaped allotment with an 'axe handle' connection to Handford Court, as can be seen in Figure 5 below.



Figure 5 – Aerial image, site is highlighted in red

The site contains a total area of approximately 3.089 ha and is currently developed with a dwelling and shed which are located to the north western corner of the site, and a dam located to the south west corner of the site. Vehicle access is provided from both Millers Road and Slatey Creek Road North. Established trees are located in the north western corner of the site. Fill has been placed along the western boundary of the site and works have been undertaken on the waterway that were approved by Planning Permit PLP/2019/723, which was referred to the Glenelg Hopkins CMA.

The land includes a number of natural waterways as can be seen in the image below.



Figure 6 – Waterways

The site is located in the Rural Living Zone (RLZ), as is land located to the north, east and south of the site. As is typical of the RLZ, the large parcels of land which make up the surrounding neighbourhood have been developed with single dwellings in a hobby farm type environment.

Land located on the opposite side of Slatey Creek Road North, west of the site, is zoned Farming Zone. This land is generally held in larger parcels to the land in the RLZ, although it

is noted that the lot sizes are smaller than typical farming zoned lots. Many of the Farming Zoned lots proximal to the subject site are developed with single dwellings.

### **Permit/ site history**

The following Planning Permits have been issued for the site:

- PLP/2019/723 – Earthworks; and
- PLP/2017/708 – Dwelling.

### **Public notification**

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by:

- Sending notices to the owners and occupiers of adjoining land; and
- Placing signs on site.

### **Submissions**

Council has received the following submissions:

- 30 objections;
- 19 submissions in support; and
- One petition in support which includes 382 signatories.

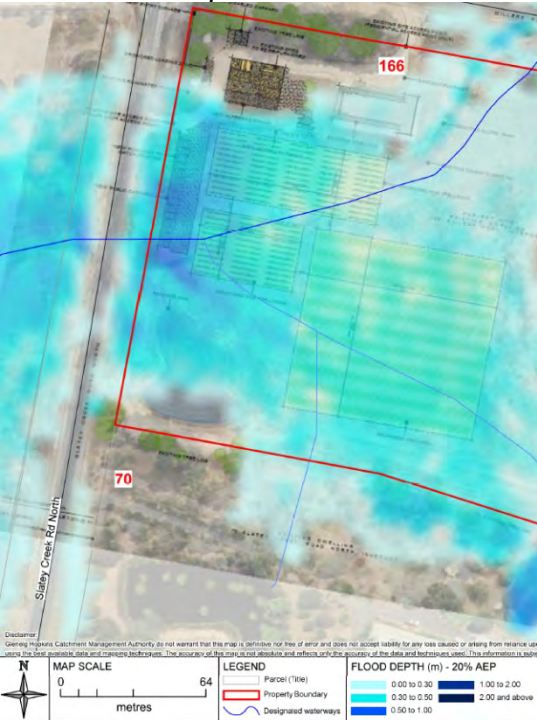
The concerns of objectors are summarised as follows:

- Incompatible with zone and impact on amenity;
- Noise and hours of operation, including increased noise resulting from alcohol consumption;
- Waste water and toilet provision;
- Flooding and provision of car parking in Floodway Overlay;
- Incompatibility of orchard and hop vines with saline plain and capacity of land to be used successfully for horticulture;
- Incompatibility with planning policy, particularly in relation to land use conflicts;
- Impact on property values;
- Increased traffic and traffic safety;
- Section 173 Agreement on title indicates a dwelling is unlikely to be approved on the land;
- Work has been undertaken without a planning permit;
- Use of Hanford Court for access;
- Impact on wildlife, particularly birds;
- Littering;
- Potential for multiple functions to be held on the one day and associated impacts on traffic and car parking; and
- Inadequate car parking and safety impacts if parking is undertaken on the road network outside the site.



## Referrals

The following **external referrals** were undertaken:

Authority	Advice
Glenelg Hopkins CMA	<p>Initial advice</p> <p><i>The CMA recommends that a permit be granted subject to the following conditions:</i></p> <ul style="list-style-type: none"> <li>• No portion of any hops trellises are to be installed within 3 metres of the top of the waterway/ drain channel which traverses the property from the north east corner of the property to the culverts under Slatey Creek Road on the western boundary of the property. On this basis the development shall incorporate a drainage reserve of no less than 6m width centred on this waterway/ drain channel.</li> <li>• No fill shall be placed on any land within the identified 1% AEP floodplain without the prior consent of the Glenelg Hopkins CMA.</li> </ul> <p><i>The waterway/ drain which runs through the property is only capable of conveying minor flows. In wet periods this property becomes an important flood conveyance and storage area as indicated by Ballarat City Council's planning scheme which has applied the Floodway Overlay (FO) to the majority of the property. Modelling from the 2013 Burrumbeet Flood Investigation indicates that flooding outside the banks of the waterway is likely to occur as a consequence of events less than a 20% AEP (1 in 5 year ARI) – see attached plan.</i></p>  <p><i>Introduction of fill to create a car parking or any other elements of the proposed development cannot be supported given the location is entirely within the Ballarat Planning Scheme's FO. The car park also edges into the banks of the designated waterway. A turning circle is noted on ...submitted concept plan... which appears to be on the other side of the designated waterway.</i></p>

*Creation of this turning circle would presumably require a suitably sized culvert to be installed in the designated waterway which would trigger a Works on Waterways Licence issued by the Glenelg Hopkins CMA.*

*The CMA also notes that the proposed access for the loading shed and proposed car park is cut by flood depth up to 0.78m in a 1% AEP event and 0.69m in a 20% AEP. This would be considered a high hazard.*

*The proposed hop field trellising is proposed to be located directly over the designated waterway/ drain. The CMA has previously advised the applicant that horticultural beds and associated structures should be aligned parallel to the dominant direction of floodwater flow across the property to minimise the likelihood of disrupting floodwater conveyance and potential for flood damage to these structures. Further to this, the proposed construction of trellis structures directly across the waterway increases the potential for erosion and waterway health issues to arise as a consequence of increased flow of water through the waterway and across the property during floods ranging in magnitude from the 20% ARI (5 year ARI) upward. Construction of these trellises across the waterway is therefore not supported.*

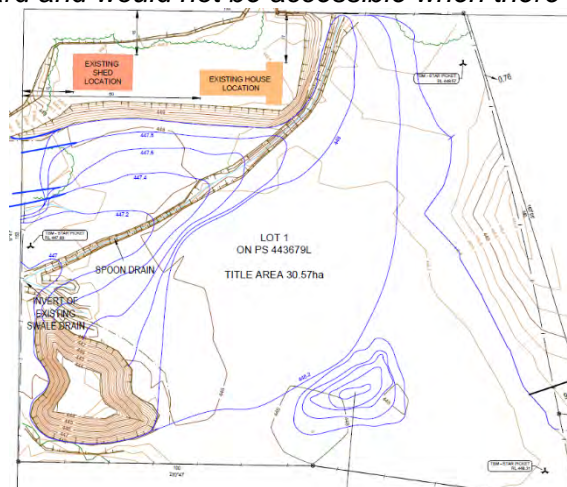
The following additional clarification was provided:

*The CMA notes from your email that no turning circle from the carpark is going to be put in place and therefore consideration of a culvert and works and waterways licence are not required.*

*When earthworks proposed under PLP/2019/723 have been completed then detailed survey of the property post works is required as a condition of that permit. There must be no additional fill in the 1% AEP floodplain than what has been endorsed on this plan.*

*Regarding access to the loading dock/ shed area from Slatey Creek Road North. If the driveway is located as shown on the endorsed earthworks plan, then the access would be less than 0.30m in the 1% AEP event, which is considered a low hazard.*

*The car park and access to the car park will have much deeper and more regular flooding of up to 1 metre. This is considered a high hazard and would not be accessible when there is flooding.*



Officer comment	<p>The comments of the CMA are noted and while the CMA has indicated it supports the issue of a permit subject to conditions, it is in fact not possible to issue a Planning Permit without the associated car parking area.</p> <p>The advice from the CMA is such that if a car parking area was provided in the area indicated on the site plan, this car parking area will be regularly subject to high hazard flooding and will therefore be unusable. These issues are included as grounds of refusal.</p>
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Authority	Advice (summarised)
Environment Protection Authority	No objection. Should the facility propose to increase its wastewater system to a design capacity greater than 5000 litres per day in the future, Works Approval will be required
Officer comment	Noted

Authority	Advice (summarised)
Country Fire Authority	No objection, a Bushfire Emergency Management Plan should be required
Officer comment	Noted. If a Planning Permit is to be issued, this condition should be included

The following **internal referrals** have been undertaken:

Department	Advice
Engineering	No objection subject to conditions
Officer comment	Noted. The recommended conditions should be included on any permit Council issues

Department	Advice (summarised)
Environmental Health	<p><i>Septic Tank System</i></p> <p><i>The Environmental Health Unit are concerned that the existing onsite wastewater system does not have adequate capacity to service the existing dwelling and also the proposed functions. The planning permit proposal for the property is to hold functions with the number of guests limited to 40. The EPA Code of Practice, Onsite Wastewater Management, Publication 891.4, notes the minimum daily flow rate for function centres as 30 litres/person/day. Therefore, the loading from any function with 40 guests would be 1200 litres. There may also be additional loading from any catering activities undertaken as part of the proposal.</i></p> <p><i>The combined design loading for the dwelling and function room is therefore 2260 litres which exceeds the capacity of the Taylex System. Additionally, the sub-surface irrigation has not been designed or installed to accommodate the proposed additional loading.</i></p> <p><i>The applicant is therefore required to provide further information as to how the wastewater from the proposed function room/building will be addressed.</i></p>
Officer comment	Noted

Department	Advice (summarised)
Traffic and Transport	No objection subject to conditions
Officer comment	Noted

The application was also referred to the Victoria Police, Economic Development and Social Planning, but no responses were received.

### **Officer Direct or Indirect Interest**

No officer involved in the preparation of this report has any conflict of interest.

### **Planning Policy Framework**

The following policies are relevant to the consideration of this application:

- 71.02-3 – Integrated decision making
- 11.01-1S– Settlement
- 13.02-1S – Bushfire planning
- 13.03-1S – Floodplain management
- 13.04-3S – Salinity
- 13.05-1S – Noise abatement
- 13.07-1S – Land use compatibility
- 14.02-2S – Water quality
- 17.01-1S – Diversified economy
- 17.01-1R – Diversified economy – Central Highlands
- 17.02-1S – Business
- 17.04-1S – Facilitating tourism
- 21.01-4 – Key issues – Municipal overview
- 21.03-2 – Significant environments and landscapes
- 21.04-2 – Flood plains
- 21.07-1 – Economic growth
- 21.07-5 – Tourism

### **Zoning**

The site is located in the Rural Living Zone (RLZ), the purposes of which include:

*To provide for residential use in a rural environment.*

*To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.*

*To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

### **Overlays**

The following overlays apply to the land:

- Environmental Significance Overlay – Schedule 1 (ESO1);
- Flooding Overlay (FO); and
- Land Subject to Inundation Overlay (LSIO).

### **Relevant Particular Provisions**

#### **Clause 52.06 – Car parking**

Pursuant to Table 1, car parking is required at a rate of 0.3 spaces to each patron permitted. Given that a maximum of 30 patrons are proposed, a total of nine car parking spaces are required to be provided onsite. This requirement has been met.

## **Relevant Planning Scheme Amendments**

Not applicable

## **KEY MATTERS**

The planning policy framework contains a number of competing objectives which must be balanced in favour of net community benefit. In particular planning policy:

- Encourages a diversified economy;
- Promotes tourism opportunities;
- Seeks to manage flood risk;
- Recognises the risk to human life and requires appropriate management of this risk on bushfire prone land; and
- Directs that the use of land must compatible with surrounding land uses and requires that community amenity is not reduced by noise emissions.

It is clear that the proposed use will assist in diversifying the economy, will provide local employment opportunities and will assist in encouraging visitors to Ballarat, complementing objectives to achieve a vibrant tourism sector.

While there is policy support for the application, there are also significant policy issues with the proposal particularly around land use compatibility, noise emissions and flood risk.

It is considered that the proposed use could make a positive contribution to the local economy, however the subject site is constrained by a number of issues. The site is located in a closely settled rural living environment and has sensitive land uses (dwellings) located on the three titles which abut the subject site, as well as the land located directly opposite the site. These dwellings are located approximately 200 metres to 300 metres from the proposed use. As can be seen from the aerial image below, there are numerous other dwellings proximate to the site.





Figure 7 – Aerial image

All land to the east of Slatey Creek Road North is zoned Rural Living Zone e, with the primary purpose of the zone to provide for residential use in a rural environment. VCAT case history outlines the concept of legitimate expectations which sets out that legitimate expectations must relate to the particular setting and be based upon a proper assessment of the requirements under the planning scheme.

Objectors to this application have outlined their expectation that they have established dwellings in a quiet rural living environment where they would not be subject to noise associated with commercial activities. Given the zoning of the land, it is assessed that this is a legitimate expectation which relates to the purpose of the zone. The applicant has outlined that power tools and combustion type lawn trimmers and whipper snippers operate in the area and it is agreed that noise from this type of equipment would be a reasonable noise outcome in this rural living environment. Certainly, it is a different type of noise than noise from a commercial activity which would likely extend over many hours on a regular basis, where maintenance type equipment is generally used for shorter periods of time on an irregular basis.

The applicant has detailed in a response to objections that noise likely to emanate from the use would be at 90 decibels at the source, however no acoustic report has been provided to demonstrate this would be the case. Given the scale of outdoor licensed areas, there is concern that noise emissions would have an unreasonable impact on the amenity of the area.

It is assessed that the approval of the application is not consistent with the purpose of the zone and would result in land use conflict.



In addition, the site is significantly constrained by a Flooding Overlay, and indeed, the land is subject to a Section 173 Agreement which highlights that:

- The land is subject to extensive inundation by floodwaters;
- The land is unsewered; and
- It is unlikely that a dwelling or building could be constructed on the land.

With the support of the GHCMA, the landowner has obtained planning approval to develop a dwelling and a shed on the land and has also undertaken earthworks. However, the Section 173 Agreement clearly highlights that flooding is a serious issue on this site and, it is submitted, is a constraint to the further development of the site.

The GHCMA has expressed significant concern about the proposal, outlining that a significant reduction in hops trellising is required as *no portion of any hops trellises are to be installed within 3 metres of the top of the waterway/ drain channel which traverses the property*. The location of the waterway in relation to the hops trellising is shown in the image below.

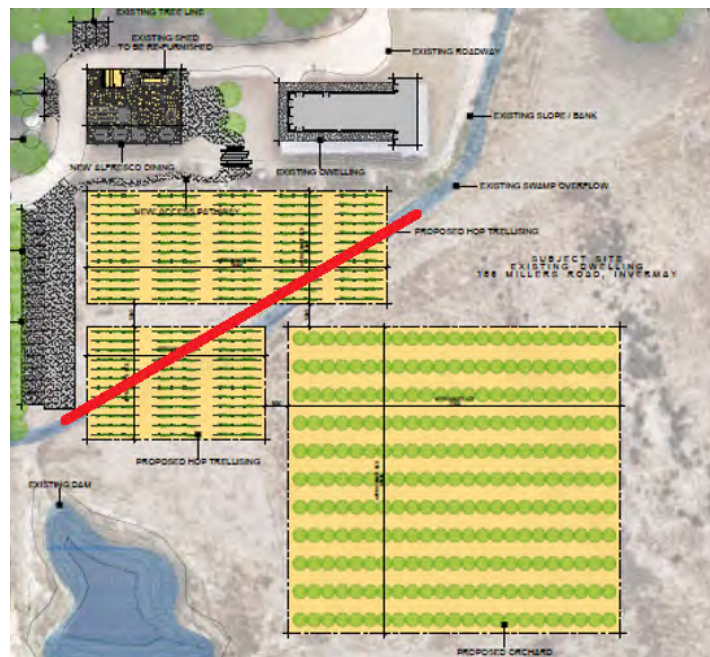


Figure 8 – Site plan

In addition to reducing the amount of hops production able to be undertaken on the site, there is no evidence submitted with the application that hops can be effectively grown on this windy exposed site. Similarly, it has not been demonstrated that the apple orchard will thrive on the land given the saline qualities of the soil and the floodplain environment. In any event, it will be some time before any real apple production is realised on the land to provide an important link between the proposed cider production and the land on which the use is proposed. It is submitted that the application seeks to maintain a link with horticultural activities on the land to justify site selection and to allow Council to consider the use, but this link has not been well made out.

In addition to concerns about the trellising, the CMA have outlined that fill should not be approved in the floodplain. It is noted that recycled bricks, or similar, have been placed on the land in the area in which car parking for the site is proposed. In addition to not supporting the fill to create a parking area, the CMA have outlined that the car parking area will be subject to deeper and more regular flooding of up to 1 metre and would not be accessible when there is

flooding. As such, the car parking area which is proposed cannot be supported and will not provide for the parking needs of those associated with the use.

While the applicant has outlined the potential for the use to not operate when subject to flooding, it is suggested that it would be difficult to operate an effective business with this sort of condition applied and further difficulties in enforcing the condition in a timely way if functions continued to be held while the car parking area was flooded. Given the changes to weather patterns and the increased frequency of high rainfall events, it is not considered that requiring the use to close during winter would necessarily resolve the problem as significant rain events happen throughout the year. The concerns about flooding are included as grounds of refusal.

Most of the concerns raised by objectors form part of the grounds of refusal for this application. Traffic has not been included as a ground of refusal as the road network can accommodate any increased traffic arising from the use and Council's Traffic Engineers have not raised any concerns with the proposal. The application does not seek to use Handford Court for access.

It is noted that the EPA have set out the need for Works Approval if wastewater emissions reach a certain level. Many objectors have raised concerns about how toilets and wastewater will be managed and the applicants have outlined an intention to hire toilets while functions are being held. If a Planning Permit is issued for the application, it will be important to include conditions to control this. Similarly, a condition should be applied to any Planning Permit that is issued to ensure that an appropriate septic tank system is in place to service the needs of the use.

Some objectors are concerned that multiple functions could be held on the one day and this would compound car parking and traffic concerns. In the event that a Planning Permit is issued, permit conditions can allow only one function per day.

It is appreciated that the permit applicant has significantly scaled back the proposal from its initial iteration but as noted earlier in this report, the Planning Scheme is based on the foundation that all applications are considered against the objectives of planning in Victoria and are balanced in favour of net community benefit and sustainable development, as enshrined in Clause 71.02-2 of the scheme. It is also imperative that an acceptable outcome is achieved, as required by Clause 65 – Decision guidelines. Many VCAT decisions are based on the concept of net community benefit, with the Supreme Court stating in *Rozen v Macedon Ranges SC* [2010] that:

*The test of acceptable outcomes stated in the clause is informed by the notions of net community benefit and sustainable development. An outcome may be acceptable despite some negative characteristics. An outcome may be acceptable because on balance it results in net community benefit despite achieving some only of potentially relevant planning objectives and impeding or running contrary to the achievement of others.*

In the case of this application it is assessed that, on balance, the application does not achieve net community benefit particularly because:

- Car parking cannot be appropriately accommodated on the land;
- The proposal conflicts with flood management;
- The application conflicts with the purpose of the zone and introduces land use conflicts; and
- It has not been demonstrated that noise can be appropriately managed and the noise arising from the use is not reasonable in this rural living environment.

## OFFICER RECOMMENDATION

That the Planning Delegated Committee:

1. Having caused notice of Planning Permit Application PLP/2019/313 to be given under Section 52 of the *Planning and Environment Act 1987*; and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit under the Ballarat Planning Scheme in respect of the land known and described as 166 Millers Road, Invermay for the use of land for horticulture, a function centre with Producer's Licence and rural industry (cider production and wild fermented beer production) on the following grounds:
2. The application would result in land use conflict in this quiet rural living environment and it is not consistent with the purpose of the zone. It has not been demonstrated that noise impacts from the use will not reduce community amenity or impact on nearby sensitive land uses and is therefore inconsistent with Clause 13.05-1S – Noise abatement and Clause 13.07-1S – Land use compatibility.
3. Adequate car parking cannot be provided onsite for the use given that the site is located in a Floodway Overlay and the part of the land in which carparking is proposed to be provided is not supported by the Glenelg Hopkins Catchment Management Authority. The car parking area will be subject to deep flooding of up to 1 metre, making it unusable.
4. The application is inconsistent with the strategy to *avoid intensifying the impact of flooding through inappropriately located use and development* contained in Clause 13.03-1S – Floodplain management.

## ATTACHMENTS

1. Governance Review [6.1.1 - 1 page]
2. Function centre operation [6.1.2 - 1 page]
3. Outline of Business [6.1.3 - 3 pages]
4. Planning report [6.1.4 - 11 pages]
5. Plans [6.1.5 - 13 pages]

**ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES**

1. The report aligns with Council's Vision, Council Plan, Strategies and Policies.

**COMMUNITY IMPACT**

2. There are no community impacts identified for the subject of this report.

**CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

3. There are no climate emergency and environmental sustainability implications identified for the subject of this report.

**ECONOMIC SUSTAINABILITY IMPLICATIONS**

4. There are no economic sustainability implications identified for the subject of this report.

**FINANCIAL IMPLICATIONS**

5. The cost of running a VCAT hearing is already included within the Statutory Planning Unit's approved budget.

**LEGAL AND RISK CONSIDERATIONS**

6. There are no legal and risk considerations considered for the subject of this report.

**HUMAN RIGHTS CONSIDERATIONS**

7. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

**COMMUNITY CONSULTATION AND ENGAGEMENT**

8. The planning permit application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987*. Council received 40 objections, 19 submissions in support and one petition in support which includes 382 signatories.

**CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT**

9. No Council Officer who has provided advice in relation to this report have a conflict of interest regarding this matter.

## Beveridge Williams



Our Reference: 1901049

9 September 2020

Statutory Planning  
City of Ballarat

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ABN 38 006 197 235

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PO Box 1489  
Lucas VIC 3350

Tel: (03) 5327 2000

Dear Sir/Madam

beveridgewilliams.com.au

**RE: Planning Permit Application PLP/2019/313  
166 Millers Road, Invermay**

We act on behalf of Fiona and Edward Nolle (Owners), being the registered proprietors of the land known as 166 Millers Road, Invermay (Land).

The Owners operate a boutique craft beer and cider brewing business known as Dollar Bill Brewing.

I write to provide further clarification as requested by Council on 9 September 2020 regarding the total number of private functions, further to the correspondence from Russell Kennedy dated 19 March 2020 and Beveridge Williams dated 9 June 2020.

The total number of private functions will be **48 per year** broken down as follows:

- one weekend of every month as follows:
  - Friday 3pm – 9pm;
  - Saturday 8am – 8pm (liquor service 11am – 8pm); and
  - Sunday 11am to 6pm (liquor service 11am – 6pm);
  - **3 times 12 = 36**
- additionally up to 12 functions per year by arrangement;
  - **36 plus 12 = 48**

On behalf of our client, we look forward to Council's assessment and determination of the application in due course.

In the meantime, should you have any queries in relation to this application or require further information, please do not hesitate to contact me on (03) 5327 2000 or at [stevenst@bevwill.com.au](mailto:stevenst@bevwill.com.au).

Yours faithfully,

**Timothy Stevens**  
Principal Town Planner  
**BEVERIDGE WILLIAMS**

## CIDER

### *Current Cider Process:*

Dollar Bill currently has arrangements for farmers to grow fruit.

That fruit is then milled and pressed

We load our 2 x 1000lt stainless steel transport tanks on board the truck.

We drive to Summersnow where we collect our apple cider juice

We then return same day to the cellar door where the juice is pumped into our oak barrels

The juice remains in barrels anywhere between 6mths – 18mth

A combination of several barrels are blended

The cider is then hand bottled and hand labelled and boxed for sale.

### *Intended Cider Process:*

Once permits have been issued, the orchard planted and fruiting, over 60% of the cider fruit will be grown and picked from our orchard and blended with purchased fruit. With the intention of using 100% property grown fruit within 10 years.

Dollar Bill will still retain an agreement for some fruit to be grown with farmers (40%) to supplement/compliment what we are growing until such time that the property is able to produce 100% of the required fruit

That fruit and the 2 transport tanks will then be loaded onto a truck and taken to be milled and pressed at a facility until such time as is suitable for us to mill and process fruit ourselves.

We then return same day to the cellar door where the juice is transferred into oak barrels

The juice remains in barrels anywhere between 6mths – 18mth

Then blended and packaged for sale.

## BEER

### *Current Beer Process:*

Dollar Bill Provides all the ingredients required for the days brewing, this includes, malted and unmalted grains, and hops

We, load our stainless steel transport tanks and all our required ingredients onto a truck and drive to a brewery, where the wort is produced from malted and unmalted grains

Cold and Hot wort is supplied as per specific recipes.

We then return same day to the cellar door where the wort is pumped into our oak barrels or equivalent coolship style process where laboratory supplied and indigenous yeasts and microflora ferment wort into beer

The wort remains in barrels anywhere between 6mths – 4 years.

A combination of several barrels are blended and fruit added.

The beer is then packaged for sale.



*Intended Beer Process:*

Dollar Bill Provides all the ingredients required for the days brewing, this includes, grains, yeasts, hops etc. Locally grown malted and unmalted raw barley, wheat and specialised grains, hops and even mineral heavy well water from our own bore.

We, load our 2 x 1000lt stainless steel transport tanks on a truck with all our required ingredients. The grains, hops and water are processed at a local brewery.

Fresh wort is then pumped into the 2 transport tanks.

Upon receipt at Invermay the fresh hot wort is then transferred to a coolship and exposed to indigenous microflora, promoted, nurtured and enhanced by the development of the Invermay property. This wort is cooled over 12 hours in the idyllic Ballarat cool climate. This wort is transferred to barrel and fermented over 6 months up to 4 years. The resulting wild or spontaneously fermented beer is then blended and flavoured with fruit, cherries, peaches, berries, herbs, honey and other various foraged native and non-native components all grown on the Invermay property. These final products are then packaged and sold over Australia with certain products only available at the cellar door.

**CELLAR DOOR***Trading Days*

The Cellar Door will trade a maximum of 48 days per annum

Consisting of:

12 x Function Days/Nights to be held on Fridays, Saturdays or Sundays only, for no longer than a 9hr period, no later than 11pm Friday, Saturdays, or 9pm Sundays (This allows for exclusive bookings, engagements, media events, beer clubs, birthdays etc.)

12 x Fridays (3pm – 9pm) – Cellar Door Day

12 x Saturdays (8am – 8pm) – Cellar Door Day

12 x Sundays (11am – 6pm) – Cellar Door Day

Note: The Friday, Saturday & Sunday trade will be grouped into weekends, thus we will trade those 3 days one weekend per calendar month.

*Capacity*

Function Days will be capped at a maximum of 40 People, confirmed via booking

Cellar Door Days will be capped at a maximum of 40 people, these days will be ticketed in advance to allow for correct staffing requirements, security etc.

#### *Overview*

Upon arrival guests will be greeted by a guest host where their booking will be confirmed. Guests will then have the opportunity to purchase one of our beers or ciders, or a selection of products in the form of a tasting paddle. Our informed and educated staff will ensure our guests have access to correct information about processes and techniques and our guests will be able to view the process and equipment on selected occasions in the form of a working blendery tour and tasting. Opportunities to be seated either inside at one of the tables or lounge setting, or outside on the balcony or grass area will be provided as per booking request. The brewer and owner will be in attendance as part of the experience to share knowledge of brewing, blending and agriculture processes.

Also, available will be some local wines and guest breweries to promote local produce and to provide contrast of product and palate refreshment. This will strengthen the Ballarat – Melbourne craft beer connection whilst ensuring return business and catering for differing levels of knowledge and palate sophistication.

#### *Food*

We aim to provide local food that requires minimal preparation, such as baked goods Cheese platters, charcuterie, salumi and nibbles to increase the enjoyment of the tasting process

#### *Entertainment*

Background music will be played via the cellar door's stereo. On occasion coolship filling and blending and barrel tasting sessions will be provided as working cellar door entertainment.

#### *Function Days*

Bookings will be available for small scale weddings, engagements and birthdays outside of our regular operating weekends. Whilst guests are at the cellar door patrons will have the opportunity to sample cellared speciality beers in the environment that they were created, seated either inside at one of the tables, couches or outside on the balcony or grass, or walk through the orchard and hops providing the perfect Instagram photo backdrop and ensuring that Ballarat is promoted as a wedding destination. This will also provide an alternate destination in Ballarat for functions whilst being in close proximity to Ballarat city and accessible to Melbourne via public transport. Courtesy busses and alternate transport will be provided on request.

#### *Sales*

Guests at the cellar door will be able to purchase Merchandise and packaged beverages to take home to share with their families and friends.

*We hope everyone who visits our cellar door feels like part of our family, very welcomed and they enjoy sharing some finely crafted agricultural products from Dollar Bill Brewing.*

**Beveridge Williams**

Our Reference: 1901049

9 June 2020

ACN 006 197 235  
ABN 38 006 197 235

Ballarat Office  
96 Main Road  
PO Box 1465  
Bakery Hill VIC3354  
Tel: (03) 5327 2000

[beveridgewilliams.com.au](http://beveridgewilliams.com.au)

Tegan Sheffield  
Principal Statutory Planner  
City of Ballarat  
Sent by email to: [tegansheffield@ballarat.com.au](mailto:tegansheffield@ballarat.com.au)  
CC: [info@ballarat.vic.gov.au](mailto:info@ballarat.vic.gov.au)

Dear Tegan,

**RE: Planning Permit Application PLP/2019/313  
166 Millers Road, Invermay**

We continue to act on behalf of the owner of the subject land, Fiona Nolle in relation to the above application, which seeks planning permission for a proposed use of land and development outlined in detail further in the letter and attachments.

On behalf of the client, we have revised the documentation submitted in support of the application for a planning permit and enclose revised versions of the following documents for your consideration:

- Amendment to Planning Application Form;
- Development Plans prepared by Project Now, Ref No 2019-068, July 2019;
- Land Use Characterisation – Legal Advice from Russell Kennedy Lawyers, March 2020;

**Subject Land and Surrounding Neighbourhood**

The subject land is located at the south-eastern intersection of Millers and Slatey Creek Road.

It has an overall area of approximately 7.6 acres. The subject land currently contains an existing dwelling and a large shed - both are in the north-west section of the subject land.

Vehicular access to the site is available via Millers Road from the north and via Slatey Creek Road N from the west. Another access point is available via Hanford Court.

The subject land also contains an existing dam in the south-west portion of the site.

The site contains some existing trees along its northern and western boundary and in the eastern handle.

The remainder of the property consists primarily of low lying pasture and introduced grass species.

The land contains a number of natural waterways – one running diagonally across the north-west of the land and a second providing water overflow from the dam at 186 Millers Road via a Council constructed outfall drain along the southern boundary.



Figure-1 Site Satellite Image (Source: Near Maps)



Figure-2 Zone Map (Source: Planning Maps Online Victoria)

#### Planning Permit History

- A planning permit for development of a dwelling and associated outbuilding (PLP/2017/708) was approved on 28.11.2017.
- A planning permit for earthworks was approved on 20.01.2020

These earthworks were applied for retrospectively and are presently underway.



### Proposal

A detailed description of the Proposal based upon our instructions, is as follows:

- establishment of an orchard of fruit trees (71m x 65.5m) and two hop trellising areas (38 x 24m and 64m x 24m);
- buildings and works to convert the existing farm shed to contain a bar area, several sitting areas, storage area, cool room, laboratory, amenities and an alfresco dining area;
- construction of a public car parking with 18 spaces (including 1 accessible car space);
- loading area;
- the proposed use will operate under a beer and wine producers licence (allows on an off-premises consumption) with a red line area comprising an internal area of 204 square metres and external area of 80 square metres;
- a maximum limit of 40 patrons;
- open one weekend of every month as follows:
  - Friday 3pm – 9pm;
  - Saturday 8am – 8pm (liquor service 11am – 8pm); and
  - Sunday 11am to 6pm (liquor service 11am – 6pm);
- open for up to 12 functions per year;
- sale of packaged liquor (beer and cider) produced by the Owners;
- sale and consumption of liquor on premises; and
- display of business identification signs (including internally illuminated signage).

For further details, please refer to the Development Plans and Legal Advice attached.

### Planning Scheme Zone & Overlays

The subject land is in the Rural Living Zone (RLZ), within the Ballarat Planning Scheme. The use of the Land as described above in the Proposal requires a permit in the RLZ.

The land is affected by the Environmental Significance Overlay, Schedule 1 (ESO1), and partly affected by the Floodway Overlay (FO), and Land Subject to Inundation Overlay (LSIO).

### Environmental Significance Overlay – Schedule 1 (ESO1) INVERMAY LAND PROTECTION AREA

The environmental objective of this Overlay is to control salinity and erosion in the Invermay area and to ensure suitable development occurs on the land.

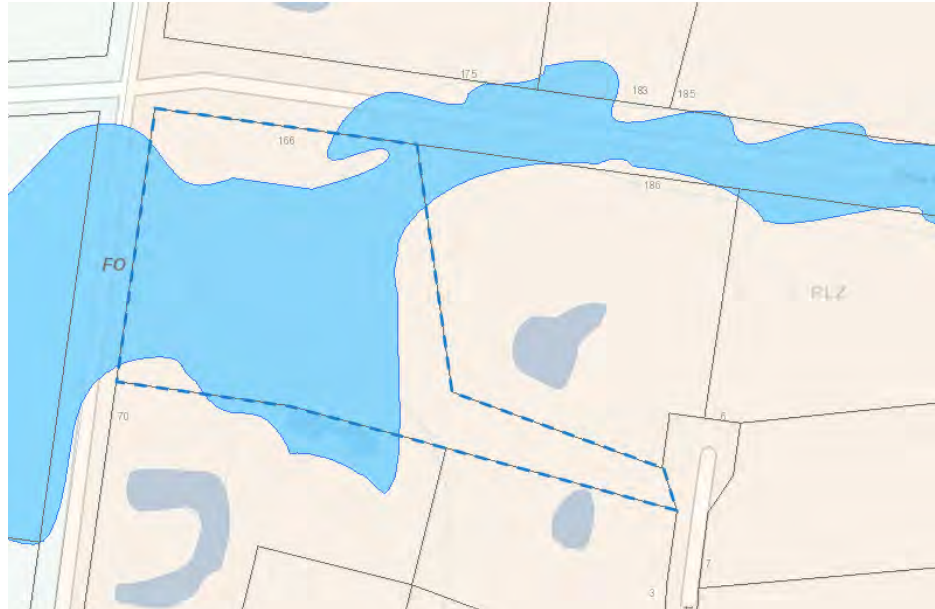
As per Clause 3 of Schedule 1 of the ESO - All applications must accord with the Invermay Regional Study and Land Management Plan 1991. Any application must include a separate land management plan (LMP) for the site. ***This requirement does not apply where: A land management plan has previously been approved for the site by the responsible authority.***

When the dwelling application was submitted a LMP was approved in PLP/2017/708, therefore, a revised LMP has not been provided with this Proposal.



**Floodway Overlay (FO) & Land Subject to Inundation Overlay (LSIO)**

The site is partially affected by FO & LSIO.

**Planning Policy**

Relevant sections of Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF) are outlined and responded to below.





### Planning Policy Framework

#### 17.02-1S Business

**Objective:** – ‘To encourage development that meet the community’s needs for retail, office, and other commercial activities’.

### Local Planning Policy Framework

#### 21.07-1 Economic growth

This clause states that the diversity of the local economy across primary, secondary and tertiary economic sectors is one of Ballarat’s great strengths.

#### 21.06-1 Urban Design

**Objective** – ‘To protect and enhance the quality and character of built areas, considering context and local values’.

Clause 1.5 – ‘Ensure advertising signs avoid visual pollution and intrusive light spill, respecting the architecture of their host buildings, the surrounding streetscape character and skyline’.

### Zoning

#### Clause 35.03 Rural Living Zone (RLZ)

Purpose:

- *‘To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for residential use in a rural environment.*
- *To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.*
- *To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.’*

It is submitted that the application requirements are addressed through the Development Plans attached and the following assessment against the relevant decision guidelines of the RLZ:

Clause 35.03-5 Decision Guidelines	Comment
<b>General issues</b>	
The Municipal Planning Strategy and the Planning Policy Framework	The proposal is generally consistent with MPS and PPF.
Any Regional Catchment Strategy and associated plan applying to the land.	No loss of vegetation that could contribute to increased stress on local water catchment.
The capability of the land to accommodate the proposed use or development.	Given the size of the land, the land is easily capable to accommodate the proposed use and development.
Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.	The site and its immediately surroundings are located within the Rural Living Zone. The proposal is fully in line with the provisions of Section 2 use and compatible with the surrounding land



	uses and would not have any detrimental impacts on adjoining or nearby land uses.
<b>Agricultural issues</b>	
The capacity of the site to sustain the agricultural use.	The proposed uses are related to the use of land for agriculture.
Any integrated land management plan prepared for the site.	None proposed.
The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses	Future expansion of the use is not proposed.
<b>Environmental issues</b>	
The impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.	No negative impact. Land remediation and maintenance is proposed.
The impact of the use or development on the flora, fauna and landscape features of the locality.	No vegetation removal is proposed. As such, the proposal will not have a detrimental impact on the flora and fauna.
The need to protect and enhance the biodiversity of the area, including the need to retain vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.	The biodiversity of the area is to be protected by planting of boulevard trees along the north-east boundary.
The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.	On-site effluent disposal in association with the existing dwelling is present. No likely impact on waterways.
<b>Design and siting issues</b>	
The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.	The existing building footprints are to be utilised.
The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.	No impact on local features or vistas.
The location and design of existing and proposed infrastructure including roads, gas, water, drainage,	The site has access from two roads. Existing water supply is running along Slaty Creek Road and Millers Road and



telecommunications and sewerage facilities.	is also available on Hanford Court. Reticulated sewer is not available to this site.
Whether the use or development will require traffic management measures.	None proposed.

#### Environmental Significance Overlay, Schedule 1 (ESO1)

ESO1 relates to 'Invermay Land Protection Area'.

Clause 42.01-2 states that a permit is required to construct a building or construct or carry out works.

An assessment of the application pursuant to decision guidelines of Clause 42.01-5 is provided below:

Clause 42.01-5 Decision Guidelines	Comments
The Municipal Planning Strategy and Planning Policy Framework.	The proposal is generally consistent with the MPS and PPF.
The statement of environmental significance and the environmental objective contained in a schedule to this overlay.	<p><b>Statement of environmental significance</b> provides that inappropriate development within the Invermay area has created a number of environmental problems. This area therefore requires careful management to ensure these problems are not exacerbated by new development.</p> <p><b>Environmental objective</b> is to control salinity and erosion in the Invermay area and to ensure suitable development occurs on the land.</p> <p>The proposed development is generally consistent with the statement of environmental significance and environmental objective.</p>
The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property	No vegetation removal is proposed.
Any other matters specified in a schedule to this overlay.	Please see below.
Clause 4.0 Decision Guidelines	Comments
The proposals and recommendations contained in the "Invermay Regional Study and Land Management Plan 1991	The proposal is generally consistent with the Invermay Regional Study and Land Management Plan 1991.
The proposal and recommendations contained within the separate land management plan submitted with the application	No separate land management plan is proposed / required.
The means of treatment and disposal of all sewage, sullage and other perishable wastes	The wastewater is to be treated on site as the area is not serviced by reticulated sewer.



The siting of existing and proposed houses, driveways and effluent disposal systems	Existing house will remain intact. No new house is proposed. Existing driveways / access points have been mentioned on the plan of existing conditions.
The measures which are to be taken to rehabilitate degraded land and to prevent the degradation of other land	No likely degradation
The means by which it is proposed to improve the productivity of existing cleared land.	No vegetation removal is proposed.
The measures which are to be put in place in respect to the management of native vegetation, and (where applicable) the planting of additional vegetation	
Any other management measures considered necessary, including fire protection, stream protection and habitat protection.	Not applicable.
The time period over which all aspects of the land management plan(s) are to be implemented.	Not applicable as no land management plan is proposed.

#### Clause 52.27 Licensed Premises

A permit is required to use land to sell or consume liquor if any of the following apply:

- A different licence or category of licence is required from that which is in force.
- The hours of trading allowed under a licence are to be extended.
- The number of patrons allowed under a licence is to be increased.
- The area that liquor is allowed to be consumed or supplied under a licence is to be increased.

The area will be as per the **Redline Plan** submitted with this application.

An assessment of the proposal against the decision guidelines of Clause 52.27 is provided below.

Decision Guidelines	Comments
The Municipal Planning Strategy and the Planning Policy Framework.	The proposal is generally consistent with the MPS and PPF.
The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.	The subject site has an existing liquor license. The current license is a Pre-retail license (License No. 3367481). It is proposed to alter the category of the existing License to a <u>Producer's License</u>
The impact of the hours of operation on the amenity of the surrounding area.	The activities will operate as per the proposed hours and dates detailed in the Proposal and as such would not likely impact the amenity of the surrounding rural living area.
The impact of the number of patrons on the amenity of the surrounding area.	The proposed maximum number of patrons are 40 and therefore, the amenity impact on the surrounding area will be minimal.
The cumulative impact of any existing licensed premises and the proposed	Practice Note 61 Licensed Premises: Assessing Cumulative Impact dated June



licensed premises on the amenity of the surrounding area.	<p>2015 prepared by the Department of Environment, Land, Water and Planning (DELWP) provides guidelines that support a Council when assessing the cumulative impact of Licensed Premises as part of a planning permit application.</p> <p>To determine whether a cluster of licensed premises exists any determination needs to take into account the number of licensed premises in an area, their distance from the subject land and whether they can be easily accessed from the subject land.</p> <p>As per geomaps VCGLR, there is no licensed premises within a radius of 100 metres from the subject land. Moreover, within 500 metres radius from the subject land, there is no licensed premises. No cluster would occur.</p> <p>As such, the proposal will not contribute negatively to a cumulative impact and amenity of the surrounding area.</p>
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#### Clause 52.05 Signs

Clause 35.03-6 of the Rural Living Zone states that sign requirements are at 52.05. This zone is in *Category 3 – High Amenity Areas*.

Clause 52.05-13 notes that business identification sign, floodlit sign and internally illuminated sign all fit into Section-2 category which require a planning permit.

S/N	Sign Description	General Category	Sub-category
1.	An engraved wooden sign located at the north-western corner	Business Identification Signs	Floodlit sign (externally illuminated)
2.	A round sign displaying brand logo located over the roller door at the west end of the shed.		Internally illuminated
3.	A round light sign displaying brand logo located at south-west corner of shed.		Internally illuminated

Pursuant to decision guidelines at Clause 52.05-3, it is submitted that the proposed signs are necessary for identification of proposed business. The area is not characterised by any sensitive land uses. The proposed signs are very small in nature compared to size of existing buildings and are compatible with the area. The site is not located on a road listed as Gateway Sites as per Ballarat Advertising Signage Policy. No significant views nearby.

Site's corner sign will be externally illuminated at a level required for its identification which will not result in any glare. Each sign on the shed will represent logo (dollar bill). Since the logo signs will be small and will be contained within the site, these are not expected to create any adverse amenity impacts.

Overall, the proposed signage is minimal and will not result in a proliferation of commercial advertising in an area noted for having a high level of amenity.



**Clause 52.06 Car Parking**

Clause 52.06-2 required that provision of car parking spaces is required before a new use commences.

Use	Rate Column A	Car Parking Measure Column C	Remarks
Place of assembly	0.3	To each patron permitted.	Total patrons = 40  0.3 X 40 = <b>12 car spaces are required.</b>  <b>18 car parking spaces have been proposed.</b>

**Clause 65.01 Decision Guidelines**

The following provides an assessment of the application pursuant to the Decision Guidelines at Clause 65.01 – Approval of an application or plan:

Clause 65.01 – Approval of an Application or Plan		Comments
The Municipal Planning Strategy and Planning Policy Framework.		The proposal is generally consistent with MPS and PPF.
The purpose of the zone, overlay or other provision		The proposed development is in line with the purposes of Rural Living Zone, Flood Overlay (FO) and Land Subject to Inundation Overlay (LSIO).
Any matter required to be considered in the zone, overlay or other provision.		All matters have been considered by responses to the zone, overlay and other provisions.
The orderly planning of the area.		The proposal seeks to achieve use and development that is appropriate to the outcomes and objectives of the Rural Living Zone. This proposal represents an orderly and practical planning response to land that is situated within a 'rural' context whereby the amenity of the wider area will not be unreasonably affected.
The effect on the amenity of the area.		The new planting screen (boulevard trees) have been proposed in the corner facing towards existing neighbouring dwelling on 186 Millers Road Invermay.
The proximity of the land to any public land.		Other than the abutting roads, no public land is close to the location of the proposal.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality.		Not applicable as the site is not affected by any such overlays.



Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	Drainage requirements are subject to planning permit condition if requested.
The extent and character of native vegetation and the likelihood of its destruction.	Not applicable
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	Not applicable.
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.	The site is affected by FO and LSIO. Relevant assessment has been submitted as a part of this planning application.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts	A proposed loading zone of approximate size 3m x 8m is proposed. The existing site access arrangements will remain intact and will not be disturbed. It is considered that traffic flow will not be disturbed to and from the site due to provision of off-street parking on site and generally low traffic movements in the Invermay area.

#### Conclusion

In conclusion, and based on the above assessment, together with submitted attachments, it is submitted that this application, seeking planning permission for a new land use achieves a high degree of consistency with the relevant provisions of the Ballarat Planning Scheme and that it would produce an acceptable development outcome for the site and the surrounding area.

On behalf of our client, we look forward to Council's favourable assessment and determination of the application in due course.

In the meantime, should you have any queries in relation to this application or require further information, please do not hesitate to contact me on (03) 5327 2000 or at [stevenst@bevwill.com.au](mailto:stevenst@bevwill.com.au).

Yours faithfully,

**Timothy Stevens**  
Principal Town Planner  
**BEVERIDGE WILLIAMS**

Enclosed: Development Plans, Amendment to Application Form, Legal Advice  
Our reference: 1901049  
Council reference: PLP/2019/313



# PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY

COVER PAGE		PROJECT NUMBER:	1010-006	DRAWING NUMBER:	CP-01
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY		DATE:	JULY 2010	ISSUED:	FOR DISCUSSION
		DRAWN BY:	L. STANBAGS	SHEET:	01 OF 15
		CHECKED BY:	L. STANBAGS	SCALE:	





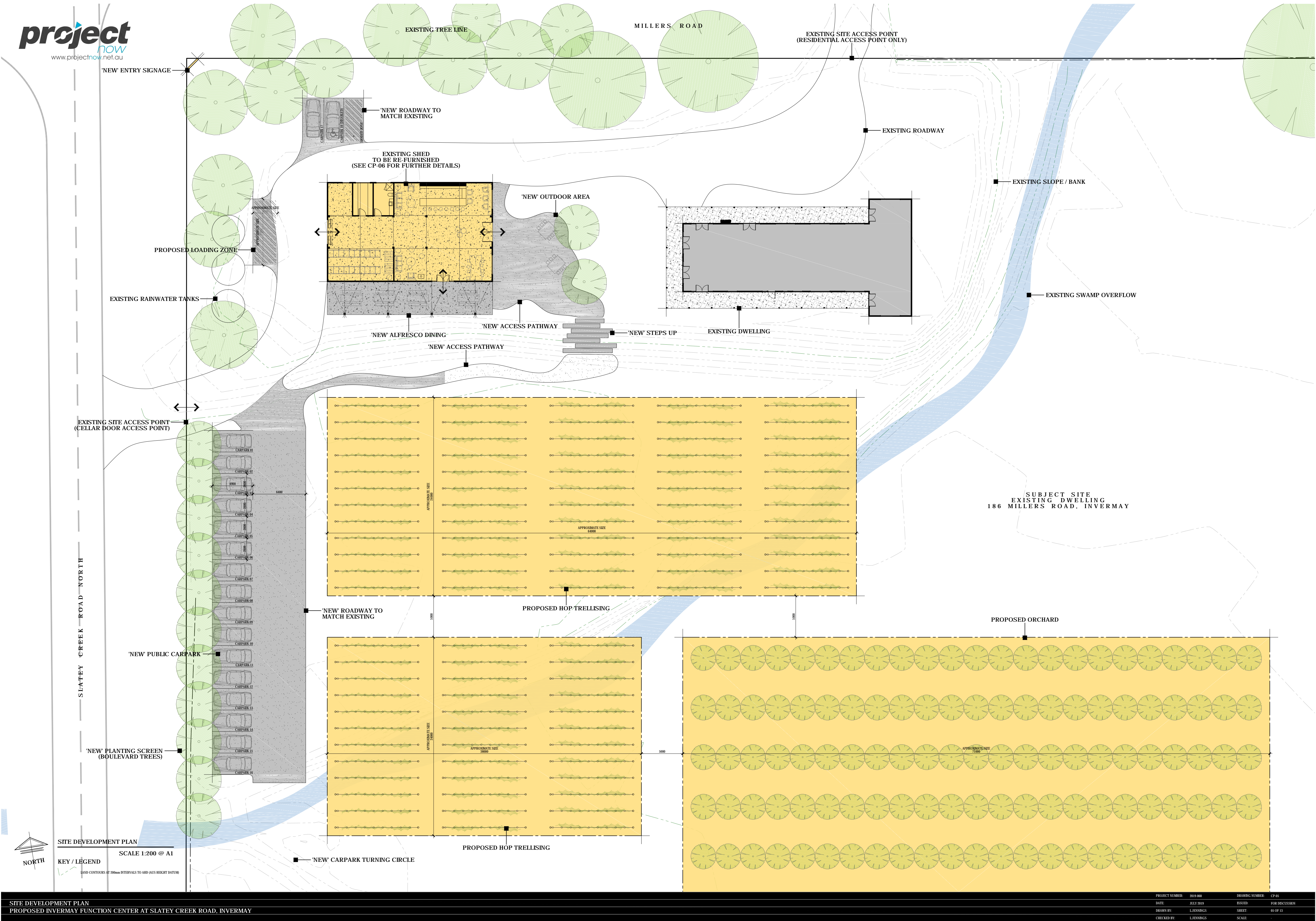




















ARTISTS IMPRESSION (01 OF 08)  
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY

PROJECT NUMBER:	1010-000	DRAWING NUMBER:	CP-07
DATE:	JULY 2019	ISSUED:	FOR DISCUSSION
DRAWN BY:	L. SPANAGIS	SHEET:	07 OF 13
CHECKED BY:	L. SPANAGIS	SCALE:	





ARTISTS IMPRESSION (02 OF 08)  
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY

PROJECT NUMBER:	1010-006	DRAWING NUMBER:	CP-06
DATE:	JULY 2019	ISSUED:	FOR DISCUSSION
DRAWN BY:	L. SPANAGIS	SHEET:	02 OF 15
CHECKED BY:	L. SPANAGIS	SCALE:	





ARTISTS IMPRESSION (03 OF 08)				PROJECT NUMBER:	0010-000	DRAWING NUMBER:	CP-00
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY				DATE:	JULY 2019	ISSUED:	FOR DISCUSSION
				DRAWN BY:	L. SPANAGIS	SHEET:	03 OF 13
				CHECKED BY:	L. SPANAGIS	SCALE:	





ARTISTS IMPRESSION (04 OF 08)				PROJECT NUMBER:	1010-006	DRAWING NUMBER:	CP-10
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY				DATE:	JULY 2019	ISSUED:	FOR DISCUSSION
				DRAWN BY:	L. STANAGIS	SHEET:	10 OF 15
				CHECKED BY:	L. STANAGIS	SCALE:	





ARTISTS IMPRESSION (05 OF 08)  
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY

PROJECT NUMBER:	1010-006	DRAWING NUMBER:	CP-11
DATE:	JULY 2019	DESIGN:	FOR DISCUSSION
DRAWN BY:	L. SPANAGIS	SHEET:	11 OF 15
CHECKED BY:	L. SPANAGIS	SCALE:	





ARTISTS IMPRESSION (06 OF 08)  
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY

PROJECT NUMBER:	1010-006	DRAWING NUMBER:	CP-12
DATE:	JULY 2019	ISSUED:	FOR DISCUSSION
DRAWN BY:	L. SPANAGIS	SHEET:	12 OF 15
CHECKED BY:	L. SPANAGIS	SCALE:	





ARTISTS IMPRESSION (07 OF 08)				PROJECT NUMBER:	1010-000	DRAWING NUMBER:	CP-13
PROPOSED INVERMAY FUNCTION CENTER AT SLATEY CREEK ROAD, INVERMAY				DATE:	JULY 2010	DESIGN:	FOR DISCUSSION
				DRAWN BY:	L. STANAGS	SHEET:	13 OF 13
				CHECKED BY:	L. STANAGS	SCALE:	



## 6.2. PLP/2020/332 - USE AND DEVELOPMENT OF THE LAND FOR GROUP ACCOMMODATION AND DISPLAY BUSINESS IDENTIFICATION SIGNAGE AT CA 3 YENDON NO. 2 ROAD, BUNINYONG

**Division:** Development and Growth  
**Director:** Natalie Robertson  
**Author/Position:** Natalie Robertson – Director Development and Growth

### PURPOSE

1. The purpose of this report is to determine a position at the upcoming VCAT hearing for Planning Permit Application PLP/2020/332 – Use and development of the land for group accommodation and display business identification signage at CA 3 Yendon No 2 Road, Buninyong.

### BACKGROUND

<b>DATE RECEIVED</b>	3/6/2020
<b>PROPERTY ADDRESS</b>	CA 3 Yendon No 2 Road, Buninyong
<b>APPLICANT</b>	Southern Cross Town Planning
<b>PROPOSAL</b>	Use and development of the land for group accommodation and display of business identification signage
<b>ZONE</b>	Rural Living Zone
<b>OVERLAY/S</b>	Bushfire Management Overlay (part)
<b>PERMIT TRIGGERS</b>	Clause 35.03-1 – Use of the land for Group Accommodation Clause 35.03-4 – Buildings and works associated with the use of land for Group Accommodation Clause 44.06-2 – Works (accessway) associated with the use of the land for accommodation
<b>RESTRICTIVE COVENANTS</b>	Nil
<b>CURRENT USE/ DEVELOPMENT</b>	Vacant
<b>CULTURAL HERITAGE MANAGEMENT PLAN</b>	A Cultural Heritage Management Plan has been approved
<b>OBJECTIONS</b>	57 objections 5 supporters

- On 3 June, 2020 Planning Permit Application PLP/2020/332 was lodged for the use and development of the land for group accommodation with associated business identification signage.
- Public notification of the application was required and at the time of writing this report a total of 57 objections have been lodged with Council.
- The application was referred to the following external referral agencies: Country Fire Authority and Southern Rural Water.
- The following internal referrals have been undertaken: Engineering Services, Vegetation Officer, Urban Design, Traffic and Transport and Environmental Health.
- An appeal has been lodged with the Victorian Civil and Administrative Tribunal (VCAT) as Council has not made a decision on this application within 60 statutory days.

- VCAT has set two hearing dates for the application; a Compulsory Conference on 2 March 2021 and a Major Case Hearing from 17-20 May 2021.
- As a result of the appeal being lodged, Council cannot make a formal decision on this application, but must decide what position it intends to put to VCAT.

## 2. PROPOSAL

The application proposes the use and development of the land for Group Accommodation which is defined in the Planning Scheme as:

*'Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence'.*

- The proposed accommodation consists of six independent buildings to be used as tourist accommodation and catering for a maximum of 12 persons at any one time. The siting of the accommodation can be seen in the image below and a total of six car parking spaces are proposed to provide for the parking needs of those using the site. All proposed buildings are located in the northern section of the site, to take advantage of the extensive views which are available to the south.

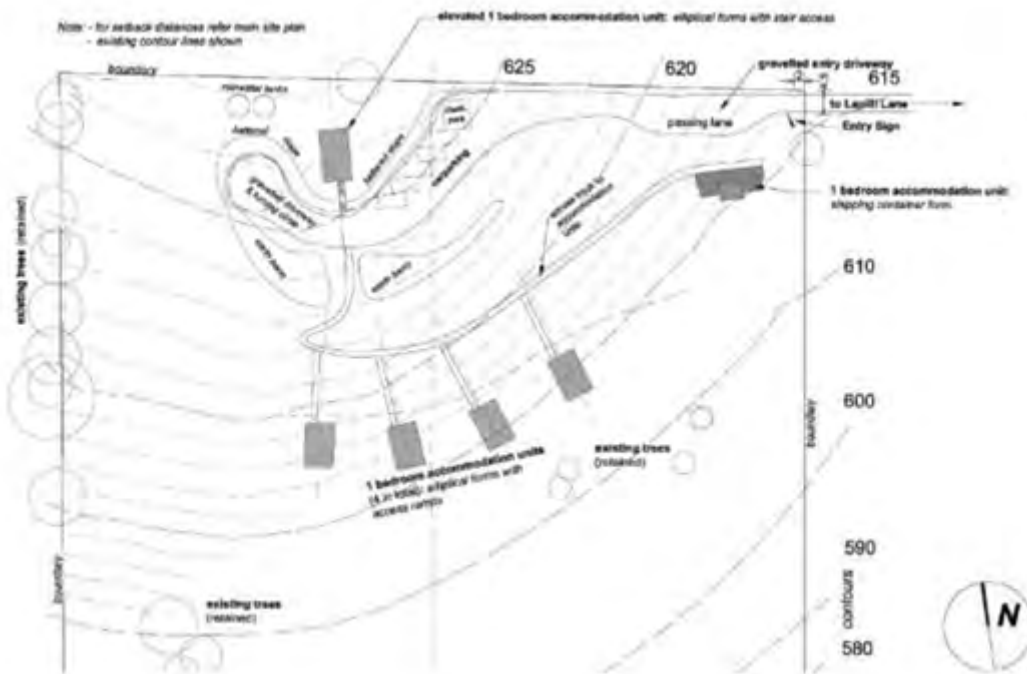


Figure 1 – Site plan. Source: Application Documents

- Access to the site will be provided by an 8 metre wide carriageway easement across the northern section of the abutting two lots through to Lapilli Lane, 210 metres to the east, and will be of gravel construction. The applicants have advised this requirement has been included as a condition of the recent contract of sale and that the easement will be *created by deed under section 45 of the Transfer of Land Act. We understand that the process for the creation of the easements has commenced as the vendor has engaged a surveyor to prepare the relevant plans.*
- Four of the accommodation units will be grouped together in the form of a barrel over two levels and mounted on stands, with the lower level consisting of a staircase, bathroom and bedroom. The upper level consists of an entrance area, small kitchen and living room. The barrels have a height of 8.62 metres and are 5.2 metres wide

and 8 metres long. At the highest point, these barrels will have a maximum height from natural ground level of 10.7 metres from ground level, with steel framing elevating the barrels up to 2.1 metres above natural ground level, as can be seen in the image below.



Figure 2 – 3d image of the four grouped accommodation units. Source: Application documents

6. A further sky barrel is proposed to be located closer to the northern boundary, setback 9 metres, and in a more elevated position. This sky barrel will be identical to the other barrels except it is slightly longer, at 9 metres in length. This barrel will be elevated on steel pylons and will be a total of 16 metres above the natural ground level at its highest point and can be seen in the images below.

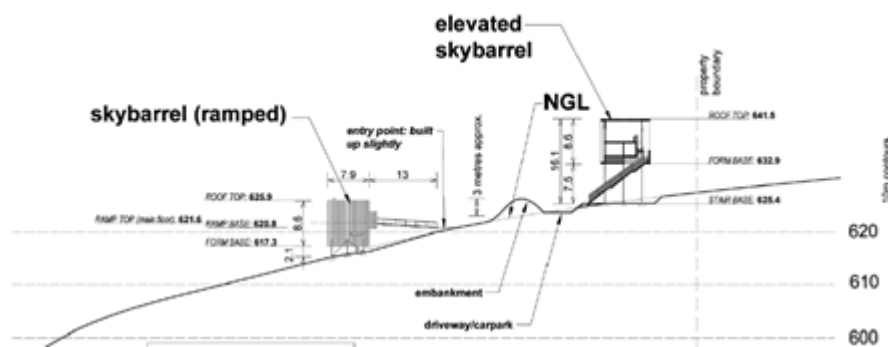


Figure 3 – Sectional image through centre of site. Source: Application documents

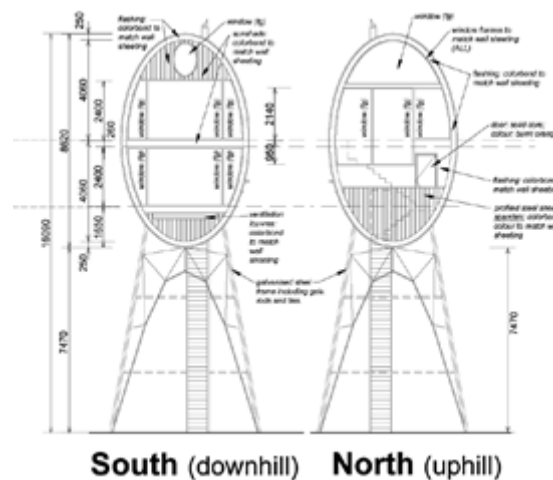


Figure 4 – Elevations of rear accommodation unit. Source: Application documents.

7. A one-bedroom accommodation unit is proposed towards the north-east corner of the site. This unit will measure 4.4 by 12.1 metres in area and is setback 7 metres from

the west boundary and 14 metres form the north boundary. It will be constructed from shipping containers and is finished with the Colorbond 'Monument' colour. This unit is designed to accommodate disabled access and can be seen in the image below.

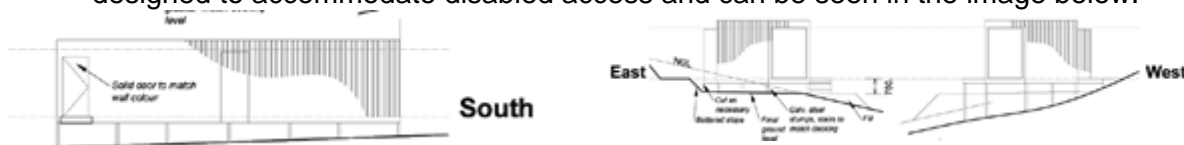


Figure 5 – Shipping container unit elevations. Source: Application documents

8. The external materials include rolled Colorbond sheeting (Basalt in colour). The application also proposes the display of a business identification sign. The sign will be located at the front entrance to the site, at the north-east corner of the allotment. The sign can be seen in the image below; it is a laser cut steel sign not proposed to be illuminated.

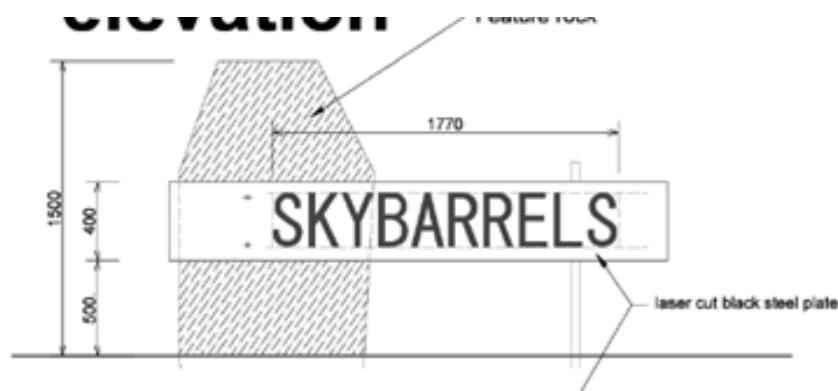


Figure 6 – Sign. Source: Application documents

9. It is understood that the construction of the shipping container building is being undertaken. This development can be undertaken without the need for a Planning Permit given that it is a single dwelling and there is no trigger for a Planning Permit for the works within the Ballarat Planning Scheme.
10. **SUBJECT SITE AND SURROUNDING AREA**  
The site is located at 67 Yendon No 2 Road and is otherwise particularly described as Crown Allotment 3, Section 21, Buninyong. It is located on the northern side of Yendon No. 2 Road, Buninyong, approximately 160 metres to the east of the Midland Highway intersection. The site is irregular in shape with a frontage of 137.9 metres to the road with a maximum depth of 329 metres. The site has an area of 4.1 hectares.
11. The land is vacant with some scattered vegetation. A main feature of the site is the slope, forming an extension of Mt Buninyong. The land rises from Yendon No. 2 Road to the north, climbing approximately 60 metres in height to the ridge of the lot. There are flat sections of the land along the southern road northern boundaries of the site. The location of the site can be seen highlighted in red in the image below.





Figure 7 – Aerial image. Source: Council's GIS



Photo view from subject site. Source: Officer photo

12. The surrounding land uses are a mixture of rural residential uses, a public conservation reserve and farming land. Within the immediate context, the following is noted:

South

- To the south of the site, across Yendon No. 2, the land is within the Moorabool Shire and is located within the Farming Zone. The land contains a dwelling associated with agricultural activities.
- There are two other older-style dwellings on smaller lots south of and fronting Yendon Road.

East

- To the east of the subject site is a vacant lot in the Rural Living Zone.
- Further east is an additional lot with a dwelling on the south-east corner of the site abutting Lapilli Lane.



- Beyond Lapilli Lane further east is the heavily forested Mt Buninyong Scenic Reserve and is contained within the Public Conservation and Resource Zone.
- West
- To the west of the site are lots approximately 4 hectares in size and generally used for the purpose of dwellings.

North

- To the north of the site are lots around 4 hectares in size with access via Lapilli Lane and Blackberry Lane.
13. Council has recently approved a dwelling on the land at CA 2 Yendon No 2 Road, Buninyong. This dwelling will also be accessed via the carriageway easement which is also intended to provide vehicle access to the group accommodation.

#### 14. PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by:

- Sending notices to the owners and occupiers of adjoining land;
- Placing a sign on site.

#### 15. SUBMISSIONS

At the time of writing this report 57 objections and five supporting submissions have been received.

The key issues raised by objectors are summarised as:

- Visual impact of the development, especially to Mount Buninyong;
- Visual impact of the development on the two adjoining properties to the north;
- Inconsistent with the purpose of the zone;
- Wastewater will contaminate ground water and adversely impact surrounding occupants;
- Visual impact of development will be a distraction to driver;
- Limited site access particularly where it relates to emergency services;
- Impact to local fauna.

#### 16. REFERRALS

The following external referrals were undertaken;

Authority	Advice
Country Fire Authority	No objection subject to conditions requiring a particular standard of construction for the driveway, 40,000 litres of effective water supply for firefighting purposes and a Bushfire Emergency Plan
Officer comment	Noted

Authority	Advice
Southern Rural Water	No response provided
Officer comment	Noted

17. The following internal referrals have been undertaken:

Department	Advice
Environmental Health	<p><b>Objection</b>  <i>Further to previous comments provided from Environmental Health in relation to this matter (04/09/20):</i></p> <ul style="list-style-type: none"> <li><i>No further information has been received around this Application since previous comments submitted by Environmental Health. Assumption has been that the Applicant has not provided any further details with respect to the intended land use or other matters previously raised. Proposal in its current form does not provide a clear understanding of overall intention with respect to the use of the property. From the material provided with the Application the use(s) could include: one or more types of use, including; caravan park / camping ground, prescribed accommodation, individually owned dwellings ... etc. This has a number of implications from an Environmental Health perspective in connection with comments associated with the Application.</i></li> <li><i>It is understood that the construction of a single "Glamtainer" or "Sky Barrell" may be occurring at the property and that this is intended to have a stand-alone onsite Wastewater and Effluent Disposal &amp; Treatment system.</i></li> <li><i>Although an LCA has been prepared and submitted as a part of this proposal, Wastewater &amp; Effluent Disposal &amp; Treatment is a matter that appears to have <u>not</u> been fully considered. On the basis of the content of the LCA provided with the Application, there is considered to be risk and potential for future adverse on and off-site impacts.</i></li> <li><i>As previously mentioned - The Site Plan provided with the Application for the Planning Permit does not align with the details on the Site Plan contained within the Land Capability Assessment (LCA). It is noted from the copy of the Site Plan in the LCA that there appears to be an intention for at least another five (5) "Glamtainers". Importantly, it should be noted that the LCA appears to have only taken into account a number of potential occupants within five of the intended "Sky Barrels" and "Glamtainers" and not those represented on the Site Plan – along with the intended Amenities Block. It is noted that the LCA references Camping Grounds – as the source for "Minimum daily wastewater flow rates and organics loading rates". It would appear from the LCA that the intended land use is more significant in nature than what has been represented within the Application.</i></li> <li><i>It is foreseeable that - Inadequate disclosure in connection with the intended land use associated with this property and the inadequate design of Wastewater and Effluent Disposal and Treatment system(s) could</i></li> </ul>

	<p>result in future adverse onsite and/or offsite impacts. This may at a later point in time have adverse consequences for Council if not adequately considered and addressed through the Planning process.</p> <ul style="list-style-type: none"> <li>Given the content of the LCA; in which there is an apparent desire for a more significant use of the property with respect to occupancy (irrespective of type of use and/or short or longer term occupancy), it would be considered pertinent that the Applicant be requested to provide a more adequate understanding of the maximum capability to effectively manage the treatment and disposal of all wastewater &amp; effluent onsite. This should include:           <ul style="list-style-type: none"> <li>The Applicant being clear with respect to the intended use of the property, particularly with respect to matters that would lead to the generation and need for disposal of wastewater and effluent onsite. This should also include consideration of the need for either stand-alone or combined treatment and disposal system(s). Noting that due to the scope and nature of the proposal within the Application, daily waste flows exceeding 5000L/day are anticipated. If this is the case, the applicant must either connect to a reticulated sewerage system (where available) or apply to the Environment Protection Authority for all relevant permits and works approvals for the installation of an Effluent Treatment and Disposal System.</li> <li>The Applicant submitting a more thorough LCA to support the Planning Application and process.</li> <li>the Applicant seeking to understand potential sources of ground water proximal to the property that might have potential to be contaminated from wastewater &amp; effluent treatment and disposal on the Applicant's property into the future.</li> <li>The approach to system(s) design and particular characteristics that would be necessary in order to mitigate or reduce the risk of contamination to any sources of ground water proximal to the Applicant's property.</li> </ul> </li> </ul> <p>On the basis of lack of appropriate information being provided with this Application to date to enable adequate consideration and a decision - the refusal of this Application would be supported</p>
<b>Officer comment</b>	Noted

Department	Advice
Engineering	No objection subject to conditions
<b>Officer comment</b>	Noted

Department	Advice
Traffic and Transport	<p><i>No objection subject to conditions</i></p> <p><i>Layout Property Access &amp; Parking</i></p> <p><i>The four barrels will be located 12m from each other, 43m from the western boundary and 38m from the eastern boundary of the site. The barrels will be accessed via a 13m long metal ramp, taking advantage of the fall of the land. A pedestrian gravel pathway will provide access to the four ramps. The area around the accommodation units will be fully landscaped, with six car parking spaces made available.</i></p> <p><i>Access to the Group Accommodation units will be from the north-eastern corner of the site and through to Lapilli Lane, 210m to the east. The vehicle access beyond the lot boundary will be across a future 8m wide access easement on the adjacent two lots to the east. All private roads and internal drives and parking areas will be graveled. Part of this private road on the abutting allotments is already constructed. Although the site has legal access to Yendon No.2 Road, accommodation access from this frontage is considered impractical for this use.</i></p> <p><i>The applicant will be required to make a separate application for a vehicle crossing permit to check the integrity of the existing rural crossings. Any works necessary, including any remedial works, will be arranged by the Applicant and undertaken at his/her cost in accordance with the permit conditions.</i></p> <p><i>Waste collection should be arranged through Councils Waste Management Unit. Any service provided by Council shall be in approved bins located at the roadside in on the prescribed collection days.</i></p> <p><i>Under Clause 52.06, 1 parking space for each one or two bedroom dwelling is to be provided. The proposal generally meets this requirement.</i></p> <p><i>All vehicles should be able to maneuver satisfactorily to enter and leave the site in a forward direction. All accessways and parking bays should be constructed to Council approval and adequately drained to a legal point of discharge.</i></p>
Officer comment	Noted

Department	Advice
Vegetation Officer	No objection subject to conditions
Officer comment	Noted

Department	Advice
Strategic Planning	<p><i>Overall, the visibility document is not comprehensive enough in assessing the impact of the proposed barrels, particularly in terms of how they relate to the curve of the slope and the backdrop from the many vantage points. Sections across the site show no landscape context to the barrels.</i></p> <p><i>Taking into account all four sky barrels, container building and the 16-metre high vertigo barrel, together with the service areas, car parking, water tanks, paths etc., a cluster of structures would be created that is very different in form and scale to traditional occupation of rural properties in the area. Whilst</i></p>

	<p><i>exploring new design forms are not an issue, design, built form and impact to the area should be respectful. Choice of materials and finishes, however, are reasonable to a rural setting, however the overall built form impact on the existing landscape character, in my assessment, needs greater clarification.</i></p> <p><i>The key question is how best to fit the building impact into this exposed sloping site. I am appreciative of the tourism uniqueness of the barrels but there may be other lower impact ways of integrating accommodation units into the slope whilst still promoting the panoramic views, allowing the site to inform the design process. This is especially the case on such an open site.</i></p>
<b>Officer comment</b>	Noted

#### 18. Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflict of interest.

#### 19. Planning Policy Framework

The following policies are relevant to the consideration of this application:

- 71.02-3 – Integrated decision making
- 11.01-1R – Central Highlands – Settlement
- 12.05-2S – Landscapes
- 12.05-2R – Landscapes Central Highlands
- 13.02-1S – Bushfire planning
- 15.01-6S – Design for rural areas
- 15.03-2S – Aboriginal cultural heritage
- 17.01-1S – Diversified economy
- 17.01-1R – Diversified economy – Central Highlands
- 17.04-1S – Facilitating tourism
- 21.03-2 – Significant environments and landscapes
- 21.07-5 – Tourism
- 21.09-3 – Canadian valley

#### 20. Zoning

The site is located in the Rural Living Zone (RLZ), the purposes of which include:

*To provide for residential use in a rural environment.*

*To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.*

*To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

#### 21. Overlays

The Bushfire Management Overlay applies to the area of land in which access is proposed via a carriageway easement.

22. Vegetation Protection Overlay – Schedule 1 applies to the land, but given that there is no vegetation removal proposed, it is not relevant to the consideration of this application.



23. Environmental Significance Overlay — Schedule 5 projects slightly into the front section of the site but is not relevant to the consideration of this application as no buildings or works or vegetation removal is proposed in this area of the site.

**24. Relevant Particular Provisions**

The following particular provisions are relevant to the consideration of this application:

- Clause 52.06 – Car parking – no car parking rate is specified such that car parking must be provided to the satisfaction of the Responsible Authority.

**25. KEY MATTERS**

The key matters for consideration are:

- Whether the use can be accommodated on the site;
- Bushfire risk;
- Response to the planning policy framework; and
- Landscape impact.

26. The proposal involves application of the principles of integrated decision making, which requires conflicting objectives in favour of net community benefit and sustainable development.

**27. Zone**

The use and development of the land requires a permit under the zone. The assessment rests with whether the proposal produces acceptable outcomes when considered against the purpose of the zone and the listed decision guidelines under Clause 35.03-5 which require consideration of 'general issues', 'agricultural issues', 'environmental issues' and 'design and siting issues'.

28. The Rural Living Zone contemplates residential uses and a range of agricultural, commercial, tourism and some retail uses. It is an active, working zone and not just a residential zone. Whilst amenity expectations of adjoining residence can be high, the zone allows for the approval of a limited range of commercial uses which do not adversely impact the amenity of surrounding uses. The use which is proposed is an accommodation use and given the small number of accommodation units proposed for the site it is assessed that the use will not unreasonably undermine the surrounding residential amenity through noise emissions and car movements.

29. A Land Capability Assessment has been submitted with the application and it is concluded that it has not been demonstrated that the land is capable of accommodating the use and development. And further, it has not been reasonably demonstrated that the impact of the development on the landscape features of the area given that the group accommodation units are, by design, elevated above the ground and will be visible in the landscape.

**30. Planning policy**

Planning policy has a number of objectives relevant to the consideration of this application, in particular it:

- Promotes economic development and tourism opportunities to provide for a diverse and healthy economy;
- Seeks to ensure that human life is protected from bushfire threat; and
- Seeks to ensure that landscape values are protected and enhanced.

31. The Planning Policy Framework, through the Central Highlands Regional Growth Plan, seeks to strengthen the region's economy so that it is more diversified and resilient by supporting development of the region's tourism.

32. The Framework specifically seeks to encourage tourism development to maximise the economic social and cultural benefits of developing the State as a competitive domestic and international tourist destination. It especially encourages high-quality and locally appropriate commercial and tourism development.
33. Council's tourism strategies within the local planning policy framework are focused on increasing the number of visitors and in particular the number of overnight stays. It is a key strategy of the planning scheme to encourage the use and development of land for purposes that will encourage visitors to increase their length of stay within Ballarat. This sentiment is outlined at Clause 21.07-5 (Tourism), which has the objective of:
  - *To create prosperity through the development of the tourism sector.*
34. The relevant strategies that support the implementation of the objective include:
  - *Encourage the use and development of the land for purposes that will encourage visitors to increase their length of stay within Ballarat.*
  - *Support the use and development of land abutting the Buninyong-Sebastopol Road for tourism related purposes that are complementary to the rural residential use and character of the surrounding area.*
  - *Preserve Ballarat's architectural heritage in recognition of its role as a significant tourist attractor.*
  - *Encourage the development of Buninyong Activity Centre as a key tourist destination.*
  - *Encourage tourism related development in keeping with Buninyong's heritage character.*
35. The Ballarat Rural Land Use Strategy (the Strategy) provides a long-term vision for Ballarat's rural areas and seeks to manage land use and development in these rural areas. The Strategy notes that tourism is important to the local economy. It seeks to encourage appropriate tourism related use and development and promoting days trips to include overnight stays. The rural areas contribute to the Ballarat tourism package through the amenity they provide and through contributing to the range of visitor experiences. The rural landscapes, forest areas, farm-based experiences and accommodation opportunities within the rural areas attract visitors to the area.
36. The use of the land for Group Accommodation supports objectives within the Planning Policy Framework relative to economic development and the promotion of tourism.
37. There are various policy directives within the Planning Policy framework that seek appropriate development within the rural setting.
38. Clause 15.01-6S (Design for rural areas) has the objective of:
  - *To ensure development respects valued areas of rural character.*
39. The relevant strategies that support the implementation of the objective include:
  - *Ensure that the siting, scale and appearance of development protects and enhances rural character.*
  - *Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.*
  - *Site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.*

40. Clause 21.03-2 (Significant environments and landscapes) discusses how Ballarat has a range of important vistas including sweeping views of gently undulating grazing land, treed roadsides, mountains, lakes and wetlands. Ballarat also has important natural features and areas of high natural biodiversity values (remnant vegetation and habitat values). Key areas include Mount Buninyong and Buninyong Corridor (amongst others). This Clause identifies, *'Unsuitable design which significantly impacts the landscape values and key view lines can reduce the experience of living in the Ballarat municipality'*.
41. The objective relative to this Clause is:
  - *To rehabilitate, protect and enhance landscapes with identified values.*
42. Strategies relevant to the proposal include:
  - *Protect and enhance the vegetation, biodiversity, habitat, amenity and attractiveness of identified landscape values and significant environmental features.*
43. Clause 21.09-3 (Canadian Valley) refers to the Canadian Valley Outline Development Plan 2005 which sets out the preferred form and principles of future development in the Canadian Valley. Some of the key implementing strategies relevant to the protection of the landscape and environment include:
  - *Ensure any future development outside the designated urban areas maintains a sense of rural landscape.*
  - *Provide an open space network in Buninyong that forms a corridor for the movement of flora and fauna.*
44. The subject site is located to the south-west of Mount Buninyong and therefore forms part of a visual corridor towards this significant landscape. The site rises from Yendon No. 2 Road, approximately 60 metres to the north, to its highest peak. There are flat sections of the land along the southern road northern boundaries of the site.
45. The new buildings comprise five separate barrel style structures comprising glass and steel and elevated on poles. The buildings will be elevated between 10.7 and 16 metres above the natural ground level. The unique and unusual design of the buildings, themselves are the key feature of the proposal.
46. The sky barrels will capitalize of views due to their location at the elevated (northern) section of the site, making the tourist development desirable, consideration must be given to the resulting landscape impact. The elevated profile and unique design will be highly visible within the local landscape setting. The barrels would silhouette above the ridgeline and against the skyline. This is intrusive to the scenic landscape, particularly the valued view lines towards Mount Buninyong.
47. The applicants have provided a written assessment that suggests the sky barrels are fully obscured from most viewing locations and all transit routes due to well-established trees, undulations in the ground and the sensitive placement of the sky barrels. This proposition is not accepted, and as clearly indicated within the image below (taken from the intersection of Yendon No 2 Road and Midland Highway), the barrels will be clearly visible within this local setting. The image below clearly highlights how visible the site is to the local setting and with built forms sitting up to 16 m above natural ground level will result in a significant visual intrusion. A photo montage demonstrating otherwise, has not been provided as part of the application documentation.

48. This built form outcome is inconsistent with the intent and strategic directions of State and Local Planning Policy and does not have proper regard to the open landscape character of the area.

The subject site is included within a designated bushfire prone area and the proposed accessway to the subject site is included within the Bushfire Management Overlay (with the remaining portion of the lot unaffected by the Overlay). Policy relevant to the consideration of bushfire impact include:

Clause 13.02-1S (Bushfire planning) has the objective of:

- *To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*

49. The purpose of the Bushfire Management Overlay is

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

50. Under Clause 44.06-2, a permit is required to undertake works associated with accommodation, which includes 'group accommodation'. The key issue for consideration is the slope of the site and obtaining access to the site. The CFA (Country Fire Authority) have recommended that if a Planning Permit is issued for the proposal permit conditions should be included that require the driveway from Lapilli Land to the graveled turning circle area to (amongst other things):

- be of all-weather construction.
- provide a minimum trafficable width of 3.5 metres;
- have an average grade of no more than 1 in 7 (14.4%)(8.1 degrees) with a maximum of no more than 1 in 5 (20%)(11.3 degrees) for no more than 50 metres;
- incorporate a turning area for fire fighting vehicles close to the building by one of the following:
  - A turning circle with a minimum radius of 8 metres.
  - A driveway encircling the dwelling.
  - The provision of vehicle turning heads – such as a T or Y head – which meets the specification of Austroad design for an 8.8 metre service vehicle.
- incorporate passing bays at least every 200m which must be at least 20 metres long and have a minimum trafficable width of 6 metres.

51. The CFA have also recommended that 40,000 litres of effective water supply for firefighting purposes must be provided in an above ground water tank.

52. The plans submitted with the application indicate that the accessway provided within the carriageway easement is 212.61 metres long and would require a passing bay to be provided. It is considered that there is no ability for a passing bay to be provided within the carriageway easement which would meet the requirements of the CFA.

53. It is unclear that the above requirements can be met and what works would be required to achieve compliance with the requirements; this is a reasonable grounds for refusal as it would be detrimental to Council to consider these requirements form a condition of any planning permit, where it is considered that the conditions are unlikely to be achievable. Conditions that would render a planning permit "fatal" expose Council to

litigation. Supportive documentation for the proposal was not substantive enough to demonstrate how access could successfully be delivered. Refer *DELWP v Yarra Ranges SC (Red Dot) [2019] VCAT 323*

54. It is noted that Clause 13.02-1S – Bushfire Planning requires Council to consider bushfire risk for accommodation uses which are located in a Bushfire Prone Area. The CFA have recommended that if a Planning Permit is issued, a Bushfire Management Plan should be required which would detail bushfire monitoring procedures, including procedures to close the premises on any day with a fire danger rating of Code Red.

55. It is accepted that a permit condition could deal with bushfire risk associated with the accommodation and could ensure that human life is properly prioritised. The site is proximal to the Buninyong township, which is approximately 2 kilometres away, accessible via the Midland Highway, which provides an opportunity for evacuation.

#### 56. *Response to objections*

Many of the concerns of objectors have been addressed as part of the report, those which have not been addressed are commented on below.

#### 57. Wastewater

Concern was raised with wastewater contaminating the site and surrounding lots. The application was accompanied by a Land Capability Assessment (LCA) report, prepared by Provincial Geotechnical P/L. The report makes the following assessment and conclusions:

- There is sufficient land available for sustainable onsite effluent management that maintains the required buffers to protect nearby surface waters and floodways.
- There is a seasonal waterway downslope of the recommended Land Application Area, however a 30 metre buffer can be maintained.
- There are no other sensitive environmental receptors within a 30 metres setback from the proposed Land Application Area.
- The risk of effluent transport offsite is considered low.

58. Whilst the LCA is favorable in its conclusions the Environmental Health Unit have objected to the proposal on the basis that the Site Plan provided with the Application for the Planning Permit does not align with the details on the Site Plan contained within the Land Capability Assessment (LCA). It would appear from the LCA that the intended land use is more significant in nature than what has been represented within the Application.

#### 59. Fauna impact

The site does not contain significant stands of vegetation or understory that is suitable habitat for local faunal species. Roadway reserves are contained within the Environmental Significance Overlay, Schedule 5. This overlay seeks to protect vegetation (particularly Manna Gum and Messmate) to ensure for the long-term survival of koala populations. The proposal is will not impact on any of this road reserve vegetation.

60. If a permit were to issue, a condition of the permit could require a landscape plan that addresses re-vegetation of the site that could enhance habitat corridors, particularly through to Mount Buninyong. There are constraints to further vegetating the site, given the bushfire risk.



61. Driver safety

Concern was raised with the new buildings causing a distraction to drivers. Whilst the new buildings will be visually prominent within the landscape, and to an extent that unsympathetic to the natural visual corridor, it is not considered that there would be a risk to drivers arising from the approval of this application.

62. Visual impact on two adjoining properties to the north

The proposed development has a unique impact on the two properties to the north which have an outlook across the site to the south.

63. The elevated nature of the structures will result in a changed outlook, where currently a view of the natural environment is available. View sharing has been considered in many cases in many decisions over the years at the Victorian Civil and Administrative Tribunal. In these decisions, the Tribunal has defined a set of principles that should be considered in assessing view sharing, which have been stated in *Healy v Surf Coast SC* [2005] VCAT 990:

- a. *there is no legal right to a view;*
- b. *views form part of the existing amenity of a property and their loss is a relevant consideration to take into account;*
- c. *the availability of views must be considered in the light of what constitutes a reasonable sharing of those views;*
- d. *in addressing the concept of “reasonableness”, it is relevant to consider:*
  - i. *the importance of the view to be lost within the overall panorama available; and*
  - ii. *whether those objecting have taken all appropriate steps to optimise development of their own properties.*
- e. *added emphasis will be placed on principles (b) and (c) above if the issue of views is specifically addressed in the planning scheme.*

64. In *Wright v Greater Geelong CC* [2013] VCAT 2092, Tribunal added a refinement to the above principles stating *“that in addressing the question of reasonableness under para (c) above it is also relevant to consider the legitimate expectations of those whose view is being affected.”*

65. There are no policies or overlays relevant to this application which make reference to view sharing, but the views available across the site do form part of the amenity of the adjoining dwellings. The reasonable expectations of those living in the neighbouring dwellings should be informed by the Planning Scheme and given the emphasis in the Planning Scheme on the importance of landscape, it would not be reasonable to expect that buildings over 16 metres in height would be developed on the land. It is clear that neighbour’s views would be significantly and detrimentally impacted if the development is approved.

66. **CONCLUSION**

There are competing policy objectives for this application. On the one hand, the proposal implements those policies relating to supporting economic development and tourism for the region, however on the other hand, an outcome guided by the landscape and environmental constraints is also sought.

67. Clause 71.02-3 – Integrated decision making requires Council to balance competing objectives in favour of net community benefit. It is assessed that the landscape impacts of the application cannot be ignored, particularly given that planning policy seeks to preserve this important landscape setting. A development that is sensitively sited within the landscape is certainly warranted, however this proposal provides five buildings that seek prominence undermines the policies that seek to maintain important view lines, particularly towards Mount Buninyong and does not achieve net community benefit given the impact of the proposal on this important landscape.
68. The proposal also fails to demonstrate access to the site is suitable, given the constraints of the Bushfire Management Overlay and the need to achieve appropriate access to the site.
69. Given this, it is recommended that Council pursues refusal of the application at the upcoming VCAT hearing.

## **OFFICER RECOMMENDATION**

- 70. That the Planning Delegated Committee having caused notice of Planning Permit Application PLP/2020/332 to be given under Section 52 of the Planning and Environment Act 1987, and having considered all of the matters required under Section 60 of the Planning and Environment Act 1987 decides to pursue refusal of the application under the Ballarat Planning Scheme in respect of the land known as CA 3 Yendon No 2 Road, Buninyong at the upcoming VCAT hearing on the following grounds:**
  - 70.1 The development is inconsistent with Clause 15.01-6S of the Planning Policy Framework which seeks to ensure development respects the valued areas of rural character. The siting and scale of the units does not enhance the rural character or natural scenery.**
  - 70.2 The development of the land is inconsistent with the objective contained within the Rural Living Zone that seeks to protect the landscape values of the area.**
  - 70.3 The development is inconsistent with Clause 21.03-2 of the Local Planning Policy Framework, which seeks to protect Mount Buninyong from unsuitable design that will significantly impact landscape values and key view lines.**
  - 70.4 The development is inconsistent with Clause 21.09-3 which seeks to avoid inappropriate development by maintaining the rural landscape.**
  - 70.5 Insufficient information to determine if the land can suitably contain an onsite effluent management system in keeping with the proposed development.**
  - 70.6 Insufficient information to determine that an appropriate accessway can be constructed to comply with the conditional requirements of CFA and the requirement to reduce the risk of threat to prioritise the protection of human life as required by Clause 13.02-1S.**

## ATTACHMENTS

1. Governance Review [**6.2.1** - 1 page]
2. PLP 2020 332 67 Yendon No 2 Road Buninyong Planning Report [**6.2.2** - 27 pages]
3. PLP 2020 332 67 Yendon No 2 Road Buninyong Additional Information Visibility Analysis [**6.2.3** - 16 pages]
4. PLP 2020 332 67 Yendon No 2 Road Buninyong Plans(2) [**6.2.4** - 12 pages]

**ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES**

1. The report aligns with Council's Vision, Council Plan, Strategies and Policies.

**COMMUNITY IMPACT**

2. There are no community impacts identified for the subject of this report.

**CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

3. There are no climate emergency and environmental sustainability implications identified for the subject of this report.

**ECONOMIC SUSTAINABILITY IMPLICATIONS**

4. There are no economic sustainability implications identified for the subject of this report.

**FINANCIAL IMPLICATIONS**

5. The cost of running a VCAT hearing is already included within the Statutory Planning Unit's approved budget.

**LEGAL AND RISK CONSIDERATIONS**

6. There are no legal and risk considerations considered for the subject of this report.

**HUMAN RIGHTS CONSIDERATIONS**

7. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

**COMMUNITY CONSULTATION AND ENGAGEMENT**

8. Public notification of the application was required and at the time of writing this report, a total of 57 objections had been lodged with Council.

**CONFLICTS OF INTEREST THAT HAVE ARISEN IN THE PREPARATION OF THIS REPORT**

9. No Council Officer who has provided advice in relation to this report have a conflict of interest regarding this matter.

# **PLANNING PERMIT APPLICATION SUBMISSION**

**67 Yendon No. 2 Road, Buninyong**

**Use and Development of Group Accommodation and  
erection of Business Identification Sign**

June 2020



**Southern Cross**  
TOWN PLANNING



## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

## INTRODUCTION

Southern Cross Town Planning Pty Ltd has been engaged by Mr Dave Penman of Clifftop at Hepburn to prepare and submit a planning permit application to support the development and use of 67 Yendon No. 2 Road, Buninyong for the purposes of Group Accommodation and the erection of a Business Identification Sign.

## PERMIT TRIGGERS

A permit is required pursuant to the following provisions of the Ballarat Planning Scheme;

- Clause 35.03-1 Rural Living Zone – Use of land for Group Accommodation
- Clause 35.03-4 Rural Living Zone – Buildings and works
- Clause 52.05 – Business Identification Sign

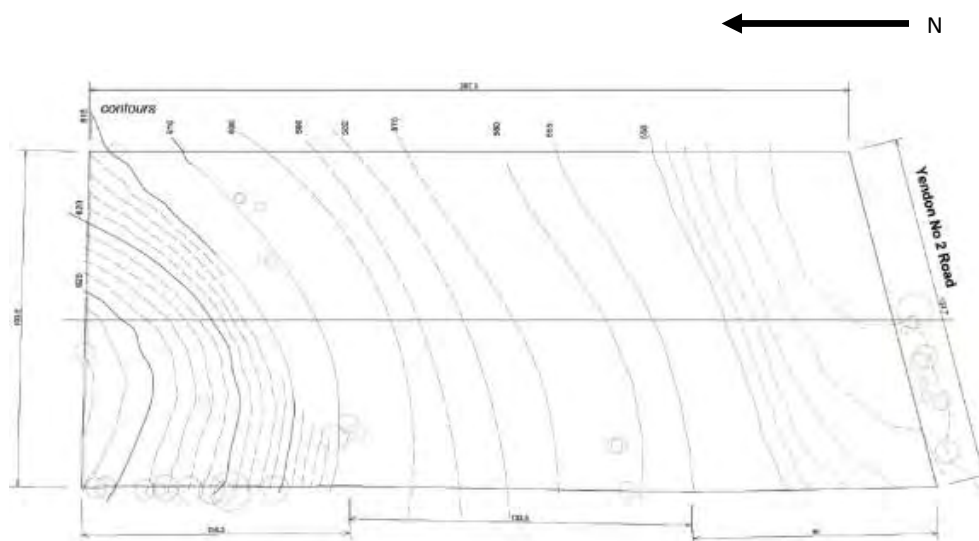
It is also noted that the site is within an Area of Aboriginal Cultural Heritage Sensitivity.

## SUBJECT SITE AND SITE CONTEXT DESCRIPTION

The subject site is located on the northern side of Yendon No.2 Road, Buninyong, 160m to the east of the Midland Highway intersection. The irregular shaped lot measures 329.6m deep and is 137.9m wide across the road frontage. The site area is 4.1ha in area and is formally known as Crown Allotment 3, Section 21, Buninyong. There are no restrictions on the title that impact on this proposal. The land is vacant.

The main feature of the site is the slope, forming an extension of Mt Buninyong. The land rises from Yendon No.2 Road to the north, climbing approximately 70m in height to the top. There are flat sections of land along the southern road northern boundaries of the site.

There are several isolated trees on the site, a large patch of bracken/weedy undergrowth on the central slope and pasture grasses along the northern and southern flat or gently inclined areas of the site.



Topographic map and feature survey of subject site

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



Aerial view of subject site

Surrounding land uses are a mixture of rural residential uses, a public conservation reserve and farming land.

To the south of the site across Yendon No.2 Road, the land is within the Moorabool Shire and is zoned Farming. There is a dwelling associated with agricultural activities fronting the Yendon Road directly opposite the site. There are two other older style dwellings on smaller allotments south of and fronting the Yendon Road. To the east of the subject site is a vacant lot in the Rural Living Zone 4ha in area. Further to the east is an additional lot with a dwelling in the south-east corner of the site abutting Lapilli Lane. Further to the east, beyond Lapilli Lane, is the heavily forested Mt Buninyong Scenic Reserve, included in the Public Conservation and Resource Zone.

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

To the west of the site are rural residential style lots around 4ha in area fronting Yendon No. 2 Road and the Midland Highway. To the north are lots around 4ha in area accessing off Lapilli Lane and Blackberry Lane. The closest dwelling to the north is 160m from the subject site. The nearest dwelling to the west is located 80m from the subject site and to the east 270m from the subject site.



Broader locality

## PROPOSAL

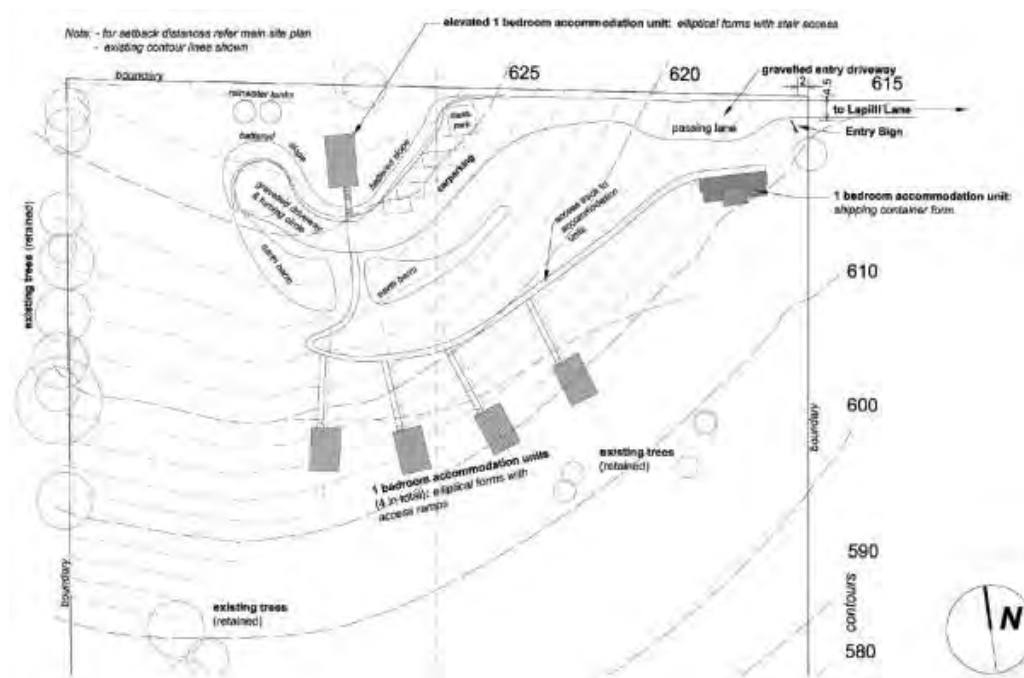
The proposal involves the use and development of the site for Group Accommodation. Group Accommodation is defined as *“land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence”*. The Group Accommodation will consist of six independent buildings on the site to be used as tourist accommodation. All buildings will be located close to the northern section of the site, away from Yendon No.2 Road to take advantage of the extensive views.

Four accommodation units (buildings) will be grouped together and located a maximum of 62m from the northern boundary and 43m from the western boundary of the site. Each of these accommodation units will be in the form of elliptical shaped barrels to be mounted on stands. Each ‘barrel’ will measure 8.62m in height, 5.2m wide and 8m long. Total barrel height will be 10.7m from the natural ground level at the highest extent. The barrels will be clad in rolled colourbond sheeting coloured ‘basalt’ and glass. Steel framing supports each barrel, elevating the barrel 0 -2.1m above the natural ground level.

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

Internally, there will be two levels in each barrel. The lower level will consist of a staircase, bathroom and bedroom. The upper level will consist of an entrance area, staircase, small kitchenette area and living room. Large feature windows will be oriented to the south to take advantage of the views. There are smaller, side windows off the bathroom and living area. The fit out of the barrel will include high-end luxury furnishing, fittings and accessories.

The four barrels will be located 12m from each other, 43m from the western boundary and 38m from the eastern boundary of the site. The barrels will be accessed via a 13m long metal ramp, taking advantage of the fall of the land. A pedestrian gravel pathway will provide access to the four ramps.



Detailed site plan

An additional barrel will be located 9m from the northern boundary of the site. This barrel will be identical to the other barrels except it is slightly longer, at 9m in length. The barrel will be elevated on steel pylons, and will be a total of 16m above the natural ground level at its highest point. It will be accessed via a private staircase.

A one-bedroom group accommodation unit will also be located towards the north-east corner of the site. This unit will measure 4.4m x 12.1m in area, and be setback 7m from the western boundary and 14m from the northern boundary on a sloping site. It will be constructed from shipping containers and be a colourbond 'monument' colour. This unit is designed to accommodate disabled access. The area around the accommodation units will be fully landscaped, with six car parking spaces made available. There will be earthworks to support the development, although these earthworks will not impact the flow of water across property boundaries.

Access to the Group Accommodation units will be from the north-eastern corner of the site and through to Lapilli Lane, 210m to the east. The vehicle access beyond the lot boundary will be across an access easement on the adjacent two lots to the east. All private roads and internal drives and parking areas will be gravelled. Part of this private road on the abutting allotments is already constructed.



## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

It is also proposed to erect a Business Identification Sign at the front entrance to the site, at the north-east corner of the allotment. The sign will be 1.7m long and 0.4m high (and 0.5m above the ground) and fixed to a boulder. The sign will be laser cut black steel plate.

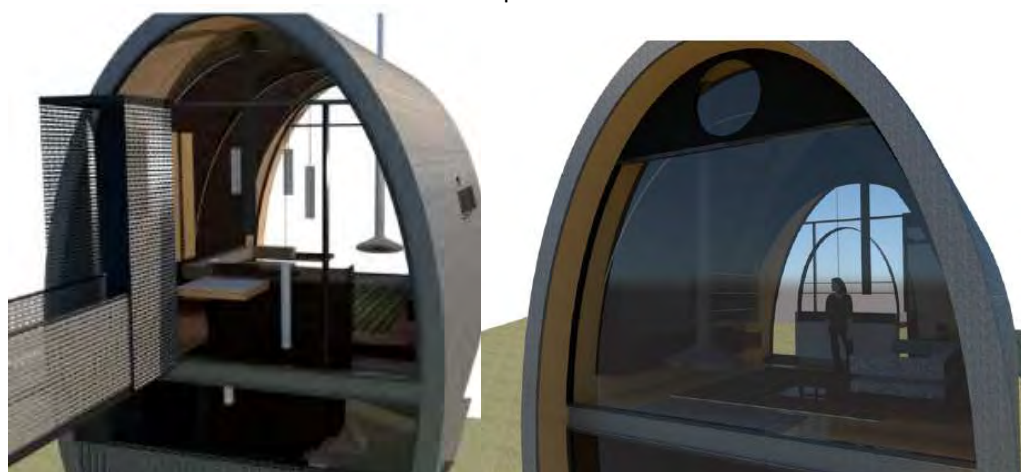
Given its 5 star amenities, this proposed development will generally cater for high end visitors. Overnight fees will be up to \$1000 per night. Guests are expected to travel from Melbourne and indeed across the state, nationally and internationally to experience boutique accommodation with a point of difference beyond the typical tourist offerings currently available. Boutique style accommodation of this type is a destination in and of itself. Visitors will contribute significantly to the local economy through meals, bars and personal services, shopping, fuel and other tourism experiences and expenses.



Internals



Perspectives



Buildings

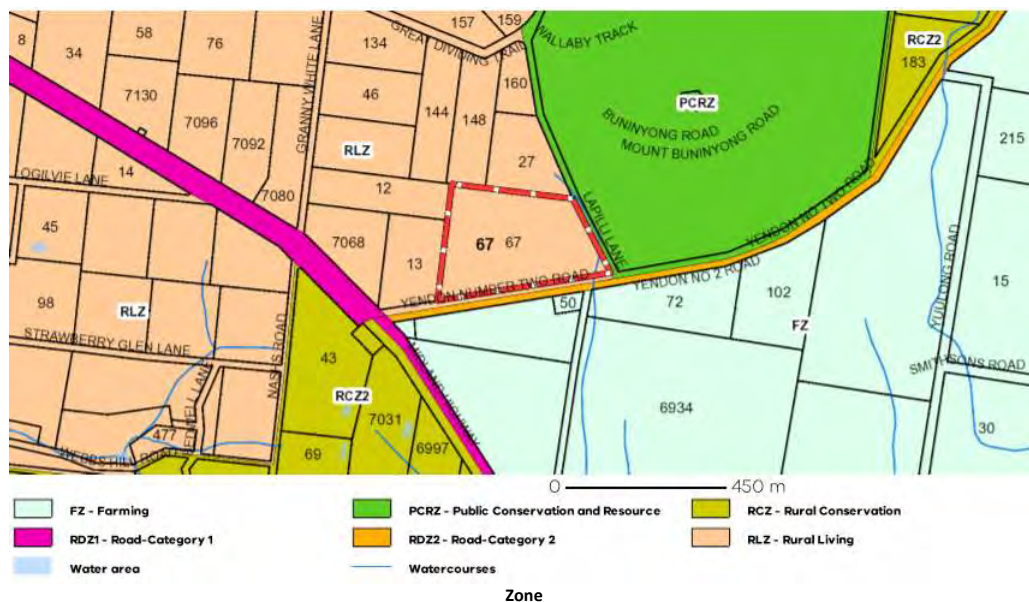


## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

**PLANNING CONTROLS****Zone**

The land is in the Rural Living Zone - Schedule 1. The purpose of the Zone is;

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential use in a rural environment.
- To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.



Schedule 1 of the Zone does not mandate any additional requirements.

**Overlay Provisions**

Two Overlays of the Ballarat Planning Scheme affect the site. They are;

- Environmental Significance Overlay - Schedule 5
- Vegetation Protection Overlay - Schedule 1

**Environmental Significance Overlay – Schedule 5 – Koala and koala habitat protection**

A permit is required to construct a building or construct or carry out works. Environmental objective to be achieved;

- To maintain and enhance koala habitat.

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

- To ensure the type, density, design and layout of new development is such as to minimise any adverse impacts on koala movements that occur or are likely to occur throughout areas of koala habitat and associated areas and on koala behaviour and health generally.
- To coordinate the protection of koala habitat with the protection of native vegetation generally throughout Ballarat.

**Vegetation Protection Overlay Schedule 1****Purpose**

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To protect areas of significant vegetation.
- To ensure that development minimises loss of vegetation.
- To preserve existing trees and other vegetation.
- To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.
- To maintain and enhance habitat and habitat corridors for indigenous fauna.
- To encourage the regeneration of native vegetation.

**Permit requirement**

- A permit is required to remove, destroy or lop any vegetation specified in a schedule to this overlay.

The vegetation abutting the northern boundary of the site is pasture grassland and a large patch of weedy gorse, bracken and blackberry. As no native vegetation is to be removed as part of this application, the provisions of these two Overlays are not triggered. No fencing is also proposed.

**Policy Framework****PLANNING POLICY FRAMEWORK****Clause 11.06 - Central Highlands Regional Growth Plan**

- To strengthen the region's economy so that it is more diversified and resilient.
- Support development of the region's tourism sector and build on iconic tourism precincts as regional drawcards.
- Create communities that offer local jobs and services.

**Clause 12.01-1S Protection of biodiversity**

- To assist the protection and conservation of Victoria's biodiversity.

**Clause 12.01-2S Native vegetation management**

- To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

**13.02 Bushfire**

- To assist to strengthen community resilience to bushfire.

**15.01-6S Design for rural areas****Objective**

- To ensure development respects valued areas of rural character.

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

## Strategies

- Ensure that the siting, scale and appearance of development protects and enhances rural character.
- Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.
- Site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hilltops, waterways, lakes and wetlands.

17.04-1S - Facilitating tourism

## Objective

- To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.
- To improve local prosperity and quality of local environments within the Shire as identified in the MSS and other strategic reports.

## Strategies

- Encourage high-quality and locally appropriate commercial and tourism development.

**LOCAL PLANNING POLICY FRAMEWORK**21.01 – Municipal Overview

- Supporting growth in the tourism industry in Ballarat.

21.06 Built Form, Heritage and Design

## 21.06-1 Urban design

The quality of design is crucial to Ballarat's identity and competitiveness. High quality streetscapes and open spaces can increase the level of amenity and functionality making places more attractive to visitors, investors, retailers and consumers. This can in turn stimulate activity, vitality and enhance perceptions of safety.

## Objective 1

- To protect and enhance the quality and character of built areas, considering context and local values.

21.07-5 Tourism

Ballarat has a strong tourism industry that has been built around major attractions such as Sovereign Hill, Lake Wendouree, the Botanic Gardens, the Art Gallery of Ballarat, Her Majesty's Theatre and the Ballarat Wildlife and Reptile Park. The city's fine architectural heritage and the Eureka story are also major attractors, as are food and wine. Tourism is an industry that, either directly or indirectly, stimulates growth and prosperity among a range of other sectors. With its proximity to Melbourne, Ballarat is a significant attractor of day trippers. Council's tourism strategies are focused on increasing the number of visitors and in particular the number of overnight stays.

## Objective 9

- To create prosperity through the development of the tourism sector.

## Strategies

Encourage the use and development of land for purposes that will encourage visitors to increase their length of stay within Ballarat.

- 9.1 Encourage the use and development of land to the east of Sovereign Hill fronting Main Road, for tourism related purposes.

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

- 9.2 Support the use and development of land abutting the Buninyong-Sebastopol Road for tourism related purposes that are complementary to the rural residential use and character of the surrounding area.
- 9.3 Encourage the use of land within the Ballarat Railway Precinct for tourism related purposes.
- 9.4 Preserve Ballarat's architectural heritage in recognition of its role as a significant tourist attractor.
- 9.5 Encourage the development of Buninyong Activity Centre as a key tourist destination.
- 9.6 Encourage tourism related development in keeping with Buninyong's heritage character

**COUNCIL POLICY**Today, Tomorrow, Together: The Ballarat Strategy (2015)

- Ballarat is a key tourism location in the distinctive Central Victorian Goldfields region.
- Achieve a Higher Quality Visitor Experience to Ballarat, its Culture and Key Sites;
- Improve the tourism experience;
- Support the growth in ancillary businesses such as accommodation;
- An Internationally Recognised Tourism Destination.

Ballarat Rural Land Use Strategy 2010

- The importance of the tourism industry to the local economy; protecting existing tourism assets; encouraging appropriate tourism related use and development; and promoting days trips to include overnight stays.
- The rural areas contribute to the Ballarat tourism package through the amenity they provide and through contributing to the range of visitor experiences. The rural landscapes, forest areas, farm based experiences and accommodation opportunities within the rural areas attract visitors to the area.
- Tourism generates approximate revenue for Ballarat of \$139 million per year<sup>44</sup> and is showing stable growth. With its proximity to Melbourne, Ballarat is a significant attractor of day trippers. Turning a day trip into an overnight stay increases spending and therefore the economic benefits of tourism. Council's tourism strategy is therefore focused on increasing the number of visitors and in particular the number of overnight stays. An assessment of ABS 2001 Census indicates that the tourism related industry categories show proportionately higher representation in the City of Ballarat compared with Victoria as a whole.
- The rural areas contribute to the Ballarat tourism package through the amenity they provide and through contributing to the range of visitor experiences. The rural landscapes, forest areas, farm based experiences and accommodation opportunities within the rural areas attract visitors to the area.
- Maintaining and enhancing tourism opportunities in Ballarat is dependent on protecting the rural amenity and natural resources, while permitting opportunities for the growth of accommodation and hospitality opportunities in appropriate areas.
- Scenic landscapes of the area provide a setting for rural living residents as well as tourism attractions.
- Support opportunities for visitor accommodation and other tourism experiences in rural areas, where they will not unreasonably compromise farming activities or impact natural resources

Canadian Valley Outline Development Plan - June 2005

- Develop and promote tourism role, particularly of Buninyong area



## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

Central Highlands Regional Growth Plan

- The peri-urban region provides key day trip destinations for residents and visitors from interstate and overseas. Attracting visitors to the peri-urban region also results in indirect employment and additional spend in 'downstream' industries such as retail suppliers, food production and construction.
- Support Ballarat, the Grampians, the Pyrenees, and Daylesford, Hepburn Springs and Trentham, as the Central Highlands' iconic tourism precincts
- Economic studies have found that promoting the establishment of the goldfields region in this way will have significant economic and employment benefits through increased tourism and inward population migration.
- Promote and enhance the region's tourism assets and further develop the iconic precincts identified on Map 12 as key regional drawcards
- Support tourism opportunities around cultural heritage, the built and natural environment

**Particular Provisions**Clause 52.05 Signage

A Business Identification Sign in the Rural Living Zone is a Category 3 Sign and requires a planning permit.

Clause 52.06 – Car parking

There is no parking provision for Group Accommodation in Clause 52.06 of the Planning Scheme. It is noted that six car parking spaces are to be provided on site, including a disabled space. As six, single bedroom accommodation units are proposed, the number of car parking spaces is considered to be sufficient.

**General Provisions****Clause 65 - Decision Guidelines**

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

It is considered that the proposal meets the decision guidelines of Clause 65.

## DISCUSSION

This application involves the development and use of a tourist accommodation facility (Group Accommodation) in the Rural Living Zone.

The key planning issues to be considered are the strategic support for the proposal, the impact of the proposal on the land, the impact of the proposal on abutting land uses and the requirements of the Ballarat Planning Scheme. Each of these matters will be discussed in turn.

### **Strategic support**

There is significant planning policy support for tourist ventures within the Grampians region, Ballarat and within Buninyong from the planning scheme and other Council documents.

#### Planning Policy Framework

The Planning Policy Framework, through the Central Highlands Regional Growth Plan, seeks to strengthen the region's economy so that it is more diversified and resilient by support development of the region's tourism.

The Framework specifically seeks to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. It particularly seeks to encourage high-quality and locally appropriate commercial and tourism development. Other relevant planning policy directions provide guidance on design issues, native vegetation protection, biodiversity, bushfire protection, landscape, soil and waterway management as applicable.

In response, in terms of building design, it is noted that the buildings, 8m x 5m barrel type glass and steel structure elevated on poles and a low-set shipping container building, respond to the character of the locality. The unique design nature of the buildings themselves are the key feature of the proposal. Nevertheless, the buildings are limited in visual bulk, have muted tones, and are limited in number. It is also noted that to the south of Ballarat are large windfarms with towers over 100m in height within the rural environment. Two windfarms with numerous towers are visible for the subject site (see accompanying photos). Tall, lean structure are also acknowledged as an important element of the rural character.

Concerning native vegetation, it is noted that no significant vegetation will be impacted by the proposed development. A landscaping plan has been prepared which demonstrates the partial rehabilitation of the site with native species. This will improve the biodiversity values of the locality. Native wildlife will be encouraged on the site as sighting wildlife is part of the appeal to tourist visiting the site, especially international visitors. The rehabilitation of the site will provide a vanguard for native animals extending from the confines of the Mt Buninyong Scenic Reserve.

Concerning this Scenic reserve, the subject site is over 200m from the forested slopes of Mt Buninyong and is currently surrounded by cleared and managed grasslands. Bushfire protection measures will be considered as part of the building code.

The protection of landscape views is often a significant consideration in rural areas. It is noted that the four ramped barrels will be located at least 10m below the highest point of the land. It is also noted that the elevation continues to rise to the north and north-east of the subject site. The ramped barrels will not be above the ridge line. The higher single barrel will extend up to 16m above the natural ground level. Whilst there will be localised views of the barrels from surrounding areas including Yendon No.2 Road, and some views from abutting dwellings to the north and south east, it

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

is noted that there will be no visual impact from the peak of Mt Buninyong and extremely limited views along isolated stretches of the Midland Highway.

The potential views from the Midland Highway is an important planning consideration. The Highway is a major gateway into Ballarat. A virtually continuous strip of vegetation is located along the entire eastern length of the Highway, screening the road and restricting views from the Highway to the subject site. The Highway speed limit of 80-100kmph is also applicable along this section of road. These speeds, combined with the filtered views through the often dense foliage, negates the potential for any perceived negative visual amenity impacts from the Midland Highway. It is noted that more distant views from the south will also be partially obscured by a hill approximately 600m south of Yendon No.2 Road.

Views to and from Mt Buninyong are also significant in the context of the Ballarat landscape. The site is not visible from the top of Mt Buninyong. Key vistas from the top of the fire tower on the mountain tend to be distant. The peak of Mt Buninyong, at an elevation of above 750m AHD is 120m higher than the proposed development site, and 700m away. Views to Mt Buninyong from surrounds are also not significantly impacted by this proposal. The scale of the proposed barrels (5m wide, 8m high and 8m deep) and its muted colours minimise any visual intrusion from distant point in the wider landscape. Views from 400m from the west, where the larger barrel may have the potential to impact views to the mountain, are screened by vegetation. Views to the proposed development from the north, south or east are not framed by Mt Buninyong.

Concerning soil and waterway management, a sloping site can be prone to erosive forces. However, it is noted that Council has not considered such issues necessitate the imposition of an Erosion Management Overlay on the land and surrounds. Regardless, soil and slope management must be considered in any proposal. The development is confined to the flatter sections of the site, close to the northern boundary. The design concept minimises the disturbance to the natural ground. Five of the accommodation units will be erected on poles. These poles will allow minimal physical disturbance to the ground. Earthworks for car parking, access tracks and the septic fields have also been considered. Earthen and landscaped berms and battered slope are provided in some areas where required. The proposal is also distant from any local waterways. The accompanying Land Capability Assessment notes that waste waters can be managed adequately within the site boundary.

#### Local Planning Policy Framework

The Local Planning Policy Framework, in the Municipal Overview, supports growth in the tourism industry in Ballarat. The MSS notes that Ballarat has a strong tourism industry, and that Council's tourism strategies are focused on increasing the number of visitors and in particular the number of overnight stays. It is a key strategy of the planning scheme to encourage the use and development of land for purposes that will encourage visitors to increase their length of stay within Ballarat.

#### Other Council policy

Regarding other Council policy direction, the City of Ballarat has a number of policies that guide development within the Municipality relevant to this proposal. These include the Ballarat Today Tomorrow Together: The Ballarat Strategy, the Rural Land Use Strategy, the Canadian Valley Outline Development Plan, and the Central Highlands Regional Growth Plan. All these documents are Reference Documents within the Ballarat Planning Scheme.

#### Today, Tomorrow, Together: The Ballarat Strategy (2015)

The Today, Tomorrow, Together: The Ballarat Strategy (2015) is the overarching strategy to guide future development direction in Ballarat. The Ballarat Strategy outlines a plan for managing the forecast growth and change and provides strategic direction for the community and for Council into the future.

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

This Strategy acknowledges Ballarat is a key tourism location with international recognition. It seeks to achieve a Higher Quality Visitor Experience in Ballarat. The Strategy notes that Ballarat needs to continue to improve its tourism experience and clearly states that Council will support the growth in ancillary businesses such as accommodation.

Ballarat Rural Land Use Strategy (2010)

The Ballarat Rural Land Use Strategy provides a long term vision for Ballarat's rural areas, and seeks to manage land use and development in these rural areas.

The Strategy notes that tourism is important to the local economy. It seeks to encourage appropriate tourism related use and development and promoting days trips to include overnight stays. The rural areas contribute to the Ballarat tourism package through the amenity they provide and through contributing to the range of visitor experiences. The rural landscapes, forest areas, farm based experiences and accommodation opportunities within the rural areas attract visitors to the area. In 2010 tourism generated \$139 million revenue per year. Again, the Strategy notes the importance of turning day trip into overnight stays. It also notes that rural and scenic landscapes are a key attractor for tourist.

The Strategy support opportunities for visitor accommodation and other tourism experiences in rural areas, where they will not unreasonably compromise farming activities or impact natural resources.

Canadian Valley Outline Development Plan - June 2005

The Canadian Valley Outline Development Plan guides future development in the Canadian Valley, including Buninyong and surrounds. One objective of the Plan is to develop and promote rural tourism opportunities, particularly of Buninyong area.

Central Highlands Regional Growth Plan

The Central Highlands Regional Growth Plan is the State Government overarching strategic planning document for the Grampians region. It supports Ballarat as a Central Highlands' iconic tourism precinct. It notes that economic studies have found that promoting the establishment of the goldfields region in this way will have significant economic and employment benefits through increased tourism and inward population migration. The Plan seeks to promote and enhance the region's tourism assets, further develop the iconic precincts and support tourism opportunities around cultural heritage, the built and natural environment.

In summary, there is very strong planning policy support at both the local and state level for the tourist accommodation development as proposed.

**Impact of the proposal on the land**

As discussed, there will be minimal impact from the proposal on the subject site. The land is zoned Rural Living, and seeks to facilitate accommodation uses. The land has recently been subdivided, with two additional lots of similar proportions created to the east. The subject site has traditionally been used for grazing. The size of the allotment, at 4ha in area, can adequately cater for the intensity of the proposed development. However, it is acknowledged that the slope of the land impacts its future development potential. Whilst road access is available from Yendon No. 2 Road to the south, the steep nature of the middle section of the lot isolates the northern portion of the land from easy access. Direct internal road access up the slope is not feasible without massive engineering input. The steep middle section of the site has been colonised by weeds, which has assisted in stabilising the soils and slope. Access from the north is the only feasible way to access the top of the site. No disturbance to the southern section of the lot except for the potential provisions of utilities is proposed.



## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

No native vegetation will be removed as part of this development. The existing native trees on the site will be retained and managed, and vegetation will be enhanced with sensitive native planting. Weeds and any feral animals will also be managed. A new private access road will be limited to the northern section of the site. Ground disturbance will be minimal, and any dust will be suppressed. All wastewater can be managed adequately on the site in accordance with EPA regulations.

**Impact of the proposal on abutting land uses**

The proposal involves the use of the site for tourist accommodation. The buildings will house up to 12 persons at any one time in six buildings. Vehicle movements along the access way to Lapilli Lane will be limited to these persons and cleaners, gardeners or other required staff. It is noted that Lapilli Lane currently provides access to two lots only, to the north and east of the subject site. To the east of Lapilli Lane is the Mt Buninyong reserve. The proposed internal right of way and Lapilli Lane will adequately accommodate vehicle movements from the proposed use as required. Lapilli Lane can be upgraded if required.

Given the style of tourist development (couples and single persons only) and the design of the buildings, adverse noise emanating from the site is not considered to be a concern.

As stated, the use of the site is for Group Accommodation. The proposed accommodation barrels on the site will be visible from several abutting neighbours. From the south, and across Yendon Road No.2 the nearest barrel will be over 300m from the site. It is noted that the land across this road is within the Farming Zone, where residential amenity is reduced due to the nature of agricultural activity. Nevertheless, the six barrels, presenting an 8m x 5m façade to the south will provide a minimal visual impact from 300m away.

The land to the immediate east is vacant and not developed. The land to the west is comprised of several properties fronting Yendon Road No.2, the Midland Highway and Granny White Lane. The properties immediately abutting the subject site to the west will be able to view the side of the proposed barrels. The natural slope of the land will restrict view lines from the north-west. From the west the nearest barrel is set back 43m from the property boundary. The closest dwelling from the west is 180m from this barrel. The next closest dwelling is over 300m from the closest barrel. It is considered the barrels, with their muted early tones and limited size, will provide a minimal visual impact when viewed from the dwellings to the west. It is also noted that the barrels will be framed within the silhouette of Mt Buninyong forest when viewed from the properties.



Barrel site and aerial of surrounding dwellings

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

In accordance with the Decision Guidelines of the Rural Living Zone, the following is noted;

**General issues**

- As discussed in detail, the proposal is in keeping with the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The land is capable of accommodating the proposed use and development. There is adequate land around the dwelling to provide for a rural 'feel' that contributes to the existing character of the locality. The proposed dwelling is well set back from the public road.
- The proposal is compatible with neighbouring land uses, which are rural residential style developments, farming land and conservation land.

**Agricultural issues**

- The application does not propose any agricultural use.
- Adjacent land to the south is farming land. The proposed development is more than 300m from this land. There is considered to be no negative impact upon the abutting agricultural land.

**Environmental issues**

- It is considered that the development of Group Accommodation on the site will not unreasonably impact upon the natural physical features and resources of the area.
- No removal of native vegetation is required.
- Any on-site effluent disposal area will be designed to minimise the impact of nutrient loads on waterways and any native vegetation.
- The ongoing management of the property via a permanent presence is likely to improve environmental issues through the management of bushfire threat, weeds and feral animals.
- Native landscaping will be planted on the site.

**Design and siting issues**

- It is considered that the proposed siting, design, height, bulk, colours and building materials of the dwelling will minimise any adverse impacts on surrounding amenity.
- The buildings are well set back from front boundaries and are distant to neighbouring dwellings.
- The proposed dwelling will take advantage of existing public infrastructure in the locality, including roads, drainage, telecommunications and electricity facilities.
- No traffic management measures will be required.

In summary, the approval of the Group Accommodation is consistent with development and land use in the locality and is in keeping with the surrounding neighbourhood character.

**Signage**

A Business Identification sign will be erected at the vehicle entrance to the site, at the north-east corner. The sign is of a scale and form that is discrete and in keeping with the local natural environment. The sign will not be illuminated.

**Cultural Heritage**

The site is within an Area of Aboriginal Cultural Heritage Sensitivity associated with nearby Mt Buninyong. The cultural heritage values of the site have been assessed by a qualified practitioner

## PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

and the Wathaurung Aboriginal Corporation. The approved Cultural Heritage Management Plan (17028) dated 22 May 2020 is attached for review.

## CONCLUSION

The developer, Clifftop at Hepburn, has a proven track record in developing, operating and marketing five star accommodation in the Grampians Region. Their current accommodation site, Clifftop at Hepburn, is one of Australia's most popular luxury getaways, having been Crowned Australia's Most Unique Holiday Home 2019 (from 55,000 homes nationally), Australia's Best Holiday Home 2019, Australia's No.1 Romantic Getaway, Australia's No.1 People's Choice, Australia's No.1 Interior & Design, and One of the Worlds Top 60 Places to Elope. It is the luxury accommodation of choice for numerous brands launching and promoting their products.

Clifftop is a 'hero' brand that is promoted widely by state and regional tourism boards, and enjoys significant reach through hundreds of media families, TV coverage, print media and distribution channels across 77 countries. Clifftop is currently partnering with Tesla and RACV on a ground-breaking promotional campaign that will reach 7 million Australians this year. The Clifftop brand reaches over 10 million Australians annually, which is and an immense opportunity to grow tourism in Ballarat. Clifftop already has sponsors lined up to promote the Buninyong destination if approved, including from Postcards, Qantas and numerous other channels to provide free coverage that will reach millions of Australians and promote Ballarat.

The proposal involves high end tourist accommodation in an innovative and exciting design concept. The site is ideal in that it is close to Buninyong and Ballarat, and allows for expansive views across the Ballarat district. The unique design of the structures will bring national and international attention to Ballarat, which will have a huge benefit to the local economy. The business model and design concept involves taking advantage of the physical attributes of the site, which are the extensive rural views, whilst minimising the impact on the surrounds.

Five barrel structures are proposed, with one structure peaking at 16.1m above the natural ground level. The four other barrels will be a maximum of 10.7m above the ground level when viewed from the south. The final accommodation unit will be in the form of a traditional structure (albeit constructed from shipping containers). This accommodation unit will allow for disabled and less able bodied person access to the tourist experience. The accommodation barrels themselves are minimalist in size and will be constructed from a low reflective metal cladding of muted, earthy tones. The business identification signage is minimal in scale and will not negatively impact on the area.

It is considered that this proposal will complement the existing tourist mix in Ballarat and the region. 5 star accommodation is currently lacking. Guests at boutique style accommodation are generally high spending customers who utilise local restaurants and bars, shopping attractions and other tourist facilities. There is detailed State and Council policy supporting tourist accommodation. Ballarat is in an ideal position of having the large Melbourne day tripper market readily available. The challenge to the tourist industry, as noted in various Council policy documents, is to encourage day visitors to become overnight visitors. The Ballarat Municipal Strategic Statement specifically seeks to "encourage the use and development of land for purposes that will encourage visitors to increase their length of stay within Ballarat". The offer of a 5 star boutique facility will be a destination in its own rights, a destination that other visitor focused industries in the Ballarat district can access and benefit from.

In summary, it is considered that this proposal meets all the requirements of the Ballarat Planning Scheme and should be supported.

PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG

**PHOTOS**



Subject site from Yendon No.2 Road



Yendon No.2 Road looking east



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



Lapilli Lane looking north



Lapilli Lane looking south



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



Private road looking west



Private road looking east



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



Views to southwest from building site



Views to southeast from building site



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



View to south from building site



View to west from building site



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



View to east from building site



View from northwest corner of site to northwest



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



Vegetation along western boundary of site



Views to dwellings to the north from property boundary



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



Windfarm visible from subject site



Windfarm visible form subject site



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



From Yendon No.2 Road looking towards site



From Yendon No.2 site looking towards farmland to south



PLANNING REPORT – 67 YENDON NUMBER 2 ROAD, BUNINYONG



View from Midland Highway looking to subject site through a gap in roadside vegetation



### **VISIBILITY OF PROPOSED ACCOMMODATION BUILDINGS at CA3 Yendon No 2 Road, Buninyong, VIC.**

*(Assessment by Robin Larsen Design Pty Ltd; email: [info@treearc.com.au](mailto:info@treearc.com.au); arbv 16800; based on survey information provided by MapshareVic; assessment date: 27.08.20; refer submitted proposed site and other plans for details of proposed buildings and locations)*

Views looking towards property from the following positions:

1. From central Ballarat (distant views from the North-West of the property) (11km) – **SKYBARRELS NOT VISIBLE**
2. From the junction of the Midland Highway and Mountain Buninyong Road (Medium distant views from the west side of the property) (1.4 km) – **SKYBARRELS NOT VISIBLE**
3. From the South-West corner of the property on Yendon No 2 Road – **SKYBARRELS NOT VISIBLE**
4. From the South-East corner of the property on Yendon No 2 Road – **SKYBARRELS VISIBLE – BUT INTRUSION IS MINIMAL**
5. From the junction of the Midland Highway and Fins Road (Medium distant views from the south side of the property) (1.0 km) – **SKYBARRELS NOT VISIBLE**

The Skybarrels are fully obscured from most viewing locations along all transit routes due to well-established trees, undulations in the ground and the sensitive placement of the Skybarrels. At a distance the Skybarrels remain invisible even where there are small breaks in the trees along the roadside as the Skybarrels are small in size, present a clear glass facade and utilise colours that blend well with the surrounds. Up close, the Skybarrels remain virtually invisible at the speed which cars travel as any breaks in the roadside treeline are fleeting, the Skybarrels are small and the colours blend with the surroundings.

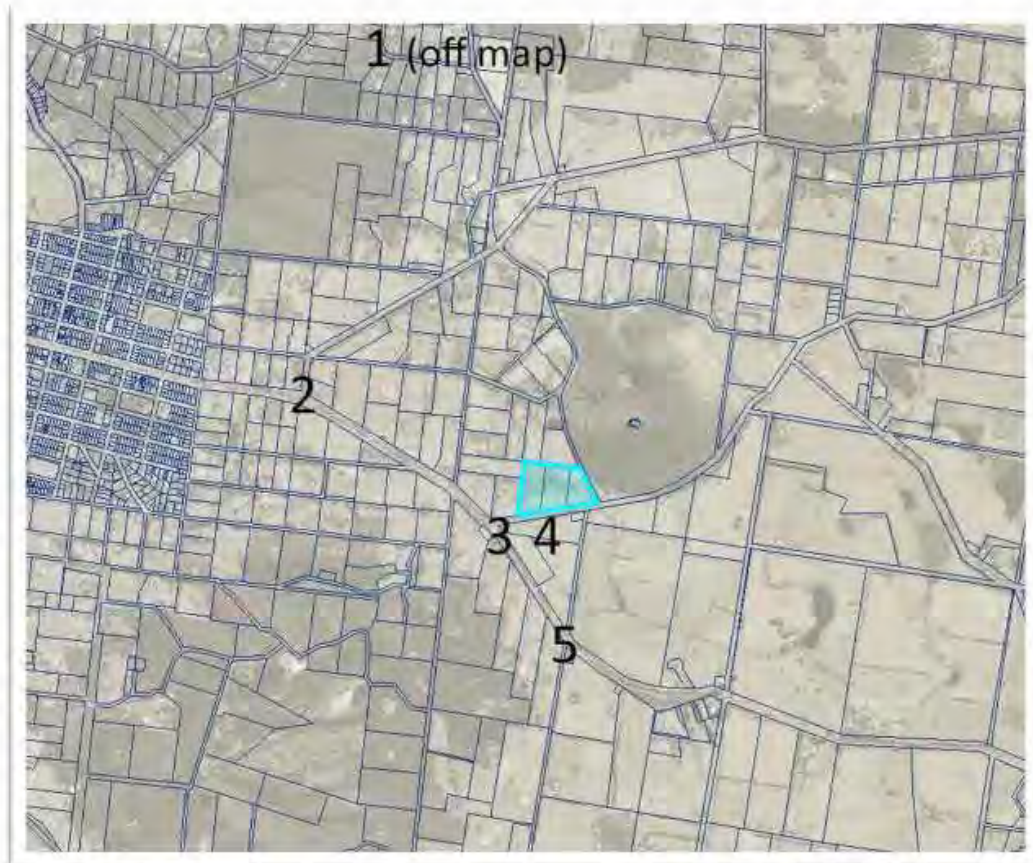
The Skybarrels are also fully obscured from view from the majority of nearby properties, with views of the Skybarrels being hidden by a high treeline on several boundaries, large trees and shrubs in the front yard of most properties, the distances involved and the fact that the primary views from most properties face away from the Skybarrels. The two local homes on the high ground near the Skybarrels do have a view of the Skybarrels, but in the case of 27 Lapilli Lane it is a minor peripheral view only and that property's primary forward view is unencumbered across the entire vista forward of the property. 27 Lapilli Lane is also 35m higher in elevation than the Skybarrels so there is even minimal impact on the peripheral view at the margin of the property. Only one property arguably has a clear view of the Skybarrels, and that property is higher in elevation than the Skybarrels such that its direct primary view is 20m over the top of the Skybarrels and is thus practically unencumbered. That



property also does not have any Skybarrels position across the width of its dwelling frontage and thus still enjoys a clear and uncumbered view of the vista.

The Skybarrels are NOT VISIBLE from any prominent locations in Ballarat due to their small size, the distances involved, ground undulations and views being blocked by significant trees and vegetation. For the sake of clarity, the Skybarrels can NOT be seen from Ballarat, Mount Helen, Mount Clear or any of the surrounding peaks, main roads, suburbs or high features.

The Skybarrels are also in close proximity to trees that are higher than all Skybarrels, so they fit the character of the local. In addition, there is a high tower on Mount Buninyong nearby and dozens of very tall wind turbines close by...so the Skybarrels are very much in keeping with the character of the area.



**Location 1.**





1.0 View from Ballarat direction – **SKYBARRELS NOT VISIBLE**

**Assessment – SKYBARRELS NOT VISIBLE**

From a distance of 11km, a building form is not discernible to the naked eye, even in the absence of trees. Whilst the top half of the elevated 'Vertigo Barrel' would protrude a very small amount above the crest of the hill, it is well below the tree-line of the subject site and neighbouring site and thus no portion of the proposed accommodation will be visible due to the distance and obstructions in the foreground.

**Location 2.**



2.0 Photo view from junction of the Midland Highway and Mountain Buninyong Road.

**– SKYBARRELS NOT VISIBLE**





2.1 3d model view from junction of the Midland Highway and Mountain Buninyong Road  
(vegetation removed for illustration only – SKYBARRELS NOT VISIBLE)

#### **Assessment – SKYBARRELS NOT VISIBLE**

The assessment images show a perspective from a distance of 1.4km. The entire elevated 'Vertigo Barrel' is seen above the crest of the hill, it is well below the tree-line of the subject site and neighbouring sites. No portion of the proposed accommodation would be visible from any travelling vehicle due to the distance and obstructions in the foreground.



**Location 3.**

3.0 Photo view from 7039 Midland Highway (approximate location)

**– SKYBARRELS NOT VISIBLE**



3.1 3d model view from South-West corner of on Yendon No 2 Road  
(vegetation removed for illustration only – **SKYBARRELS NOT VISIBLE**)

**Assessment – SKYBARRELS NOT VISIBLE**

The assessment images show a perspective from the subject site.

The four 'Sky Barrels' can be seen nested on the crest, in the background the elevated 'Vertigo Barrel' is shown at similar elevation from this perspective. All buildings would be obscured by the trees in the foreground.



**Location 4.**

4.0 Photo view from 30 Yendon No2 Road (approximate location)



4.1 3d model view from South-East corner of on Yendon No 2 Road  
(vegetation removed for illustration only)

**Assessment:**

The assessment images show a perspective from the subject site. Two of the 'Sky Barrels' sit upon the crest with the remaining slightly elevated. The 'Vertigo Barrel', in the background, is partially hidden and sits at similar elevation from this perspective.



**Location 5.**

5.0 Photo view from junction of the Midland Highway and Finns Road



5.1 3d model view from junction of the Midland Highway and Finns Road  
(vegetation removed for illustration only – SKYBARRELS NOT VISIBLE)

**Assessment – SKYBARRELS NOT VISIBLE**

The assessment 3d image shows a perspective from a distance of 1km. All accommodation units can be visible, however trees lining the road in the foreground will impede direct sight lines.



## **VISIBILITY OF PROPOSED ACCOMMODATION BUILDINGS FROM PRIVATE RESIDENCES**

Each individual Skybarrel has a small footprint of only 5m x8m on the ground, and is the height of any normal two storey building. Even when considered in a line of four Skybarrels across the front of the site, the entire footprint inclusive of the open space between the Skybarrels is only approximately 45m wide by 8m deep. Any user of the land on which the Skybarrels are to be built could build a substantially larger house with much great presence without the need for any planning permit at all. The single Vertigo Skybarrel is located near a tall tree of similar heights so that it incorporates well into the character of the landscape and does not unduly occlude the view from any nearby residence. The photos below illustrate the view from each dwelling towards and Skybarrels and trees/vegetation in each front yard that blocks the view of the Skybarrels.

### **7039 Midland Hwy. – SKYBARRELS NOT VISIBLE**







**10 Yendon No 2 Road:** The main living area of house and associated views face away from the proposed Skybarrel project; and the view of the project from the front of the house is substantially obscured by the high tree line.







**30 Yendon No 2 Road:** The main living area of the house and associated views face away from Skybarrel project; and the view of Skybarrels from front of house is obstructed by trees and the shrubs in the front yard of the residence.







**50 Yendon No 2 Road:** The main living area of the house and associated views face away from Skybarrel project and the view of Skybarrels from the front of the house is occluded by trees and shrubs in the front yard of residence. The view of Skybarrels also effectively blocked by the high tree line on opposite side of road.







**72 Yendon No 2 Road:** The main living area of house and associated views face away from Skybarrel project and trees & shrubs in the front yard of the residence largely prevent views of Skybarrels from the house front. The view of Skybarrels is partly obscured by the high tree line on the opposite side of the road.







**102 Yendon No 2 Road – *SKYBARRELS NOT VISIBLE***







**148 Blackberry Lane:** There are views of Skybarrels forward of the property at 300m. However, the primary view directly forward of residence has a view frontage that is not impacted by the Skybarrels as they are located in the periphery to some extent and are also set forward on the land so as not to unnecessarily intrude higher into the sky. The resident of the land behind the Skybarrels is at a higher elevation by some 30m, so even with the forward Skybarrels projecting 10m into the sky at their highest point, the top of the Skybarrels is 20m below the direct viewing line from the neighbour's property and does not impact their distant and horizon views. The image below shows the view toward 148 Blackberry Lane, noting that the land is at a much lower elevation than the dwelling, which materially obscures the Skybarrels.





**27 Lapilli Lane:** There are unfettered views forward of this property. However, the Skybarrels are outside main view and only the peripheral views are affected. The resident has planted some trees on the boundary to occlude peripheral view and the developer has offered to do the same and contribute to the cost of the resident's tree planting. The resident is at a higher elevation by some 35m, so even with the forward Skybarrels projecting 10m into the sky at their highest point, the top of the Skybarrels is 25m below the peripheral viewing line from the neighbour's property and does not impact their distant and horizon views in any material way – **SKYBARRELS MINIMALLY VISIBLE**



**6934 Midland Highway:** There are distant views of Skybarrels from 900m. However, the Skybarrels are below the horizon and largely disappear into elevated ground behind structures. Front facing glass facades on the Skybarrels minimises visibility – **SKYBARRELS MINIMALLY VISIBLE**

**7068 Midland Highway:** There is no visibility of the Skybarrels through the view from the forward windows of the main living area. Minor side view of the Skybarrels are mostly blocked by high trees on boundary fence – **SKYBARRELS MINIMALLY VISIBLE**

**CA3, 67 Yendon No.2 Road – SKYBARRELS NOT VISIBLE**

New resident just moved in. Operates construction business and stores equipment and plant on his RLZ land. No visibility of Skybarrels from the house.





**13 Yendon No.2 Road:** No visibility of the Skybarrels through view from forward windows of main living area. Minor view of the Skybarrels from side and rear mostly blocked by high trees on boundary fence – **SKYBARRELS MINIMALLY VISIBLE**

**12 Granny White Lane:** No residence on this lot – it has a shed only. Views of the Skybarrels from any future residence blocked by high trees on boundary fence – **SKYBARRELS MINIMALLY VISIBLE**

**34 Granny White Lane – SKYBARRELS NOT VISIBLE**

#### **CONCLUSION:**

There is minimal visual impact on the surrounding landscape:

- Any visible form is significantly lower than surrounding tree-lines and will be only partially visible from the majority of locations.
- Despite the elevation of the 'Vertigo Barrel', and given the curve of the slope on the hill, locating the unit towards the rear of the property prevents the elevation from being obvious: only the front façade containing the windows will be apparent. Furthermore, the transparency of the southern facade will further reduce its visual impact.
- The proposed units are of similar height to traditional 2-storey houses, yet significantly more compact in form and dominance. A comparable 2 storey dwelling would be far wider than the 5m of these proposed units.
- The 'Vertigo Barrels' and 'Sky Barrels' selected materials and choice of finish reduces the visual impact. Compared with zincalume or lighter a shade of Colorbond, the selected Basalt finish lessens glare. Furthermore, the subdued shade blends with the surrounding forest areas and grasslands.



## ELEVATED AND RAMPED SKY BARRELS

Main walls/roof: Rolled corrugated colorbond steel sheeting. Colour: Colorbond Basalt® Matt

Vertical wall panels on ends: profiled steel sheeting: colour to match wall sheeting

Door & Window Frames: powder-coated aluminium; colour to match wall sheeting

Awning & Walkway: profiled sheet metal cladding; colour to match wall sheeting

Flashing: colour to match wall sheeting

Galvanised base steel frame including galv. rods and ties.

Stairs/Ramp: Galvanised steel rails and beam, with stainless steel FlexMesh on balustrade

## CONTAINER BUILDING

Walls and roofs: painted shipping container sheeting: color: colorbond "monument"

Windows and doors: powder-coated aluminium; color: colorbond "monument"

**Proposed accommodation units:**

**Clifftops@Hepburn:**

CA3 Yendon No 2 Road, Buninyong, VIC.

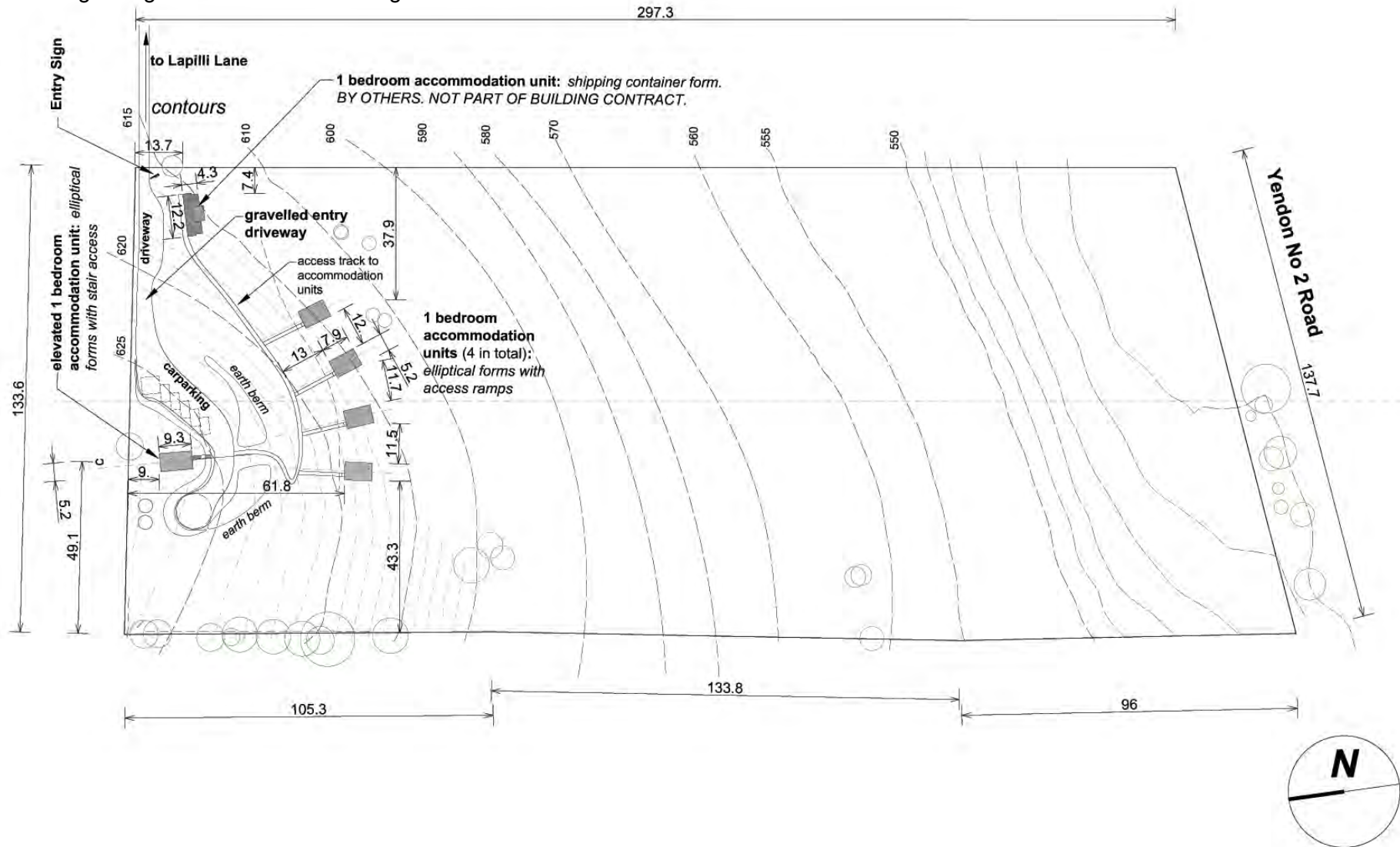
**Material finishes list for buildings**

SCALE: N/A

30.03.20

  
**ROBIN LARSEN DESIGN pty ltd**  
 ph & fx. 03 9690 4446 mob. 0439 383 900  
 post: po box 515, daylesford, victoria, 3460  
 email: robin@treearc.com.au arb reg no. 16800





Proposed accommodation units:

Clifftops@Hepburn:

CA3 Yendon No 2 Road, Buninyong, VIC.

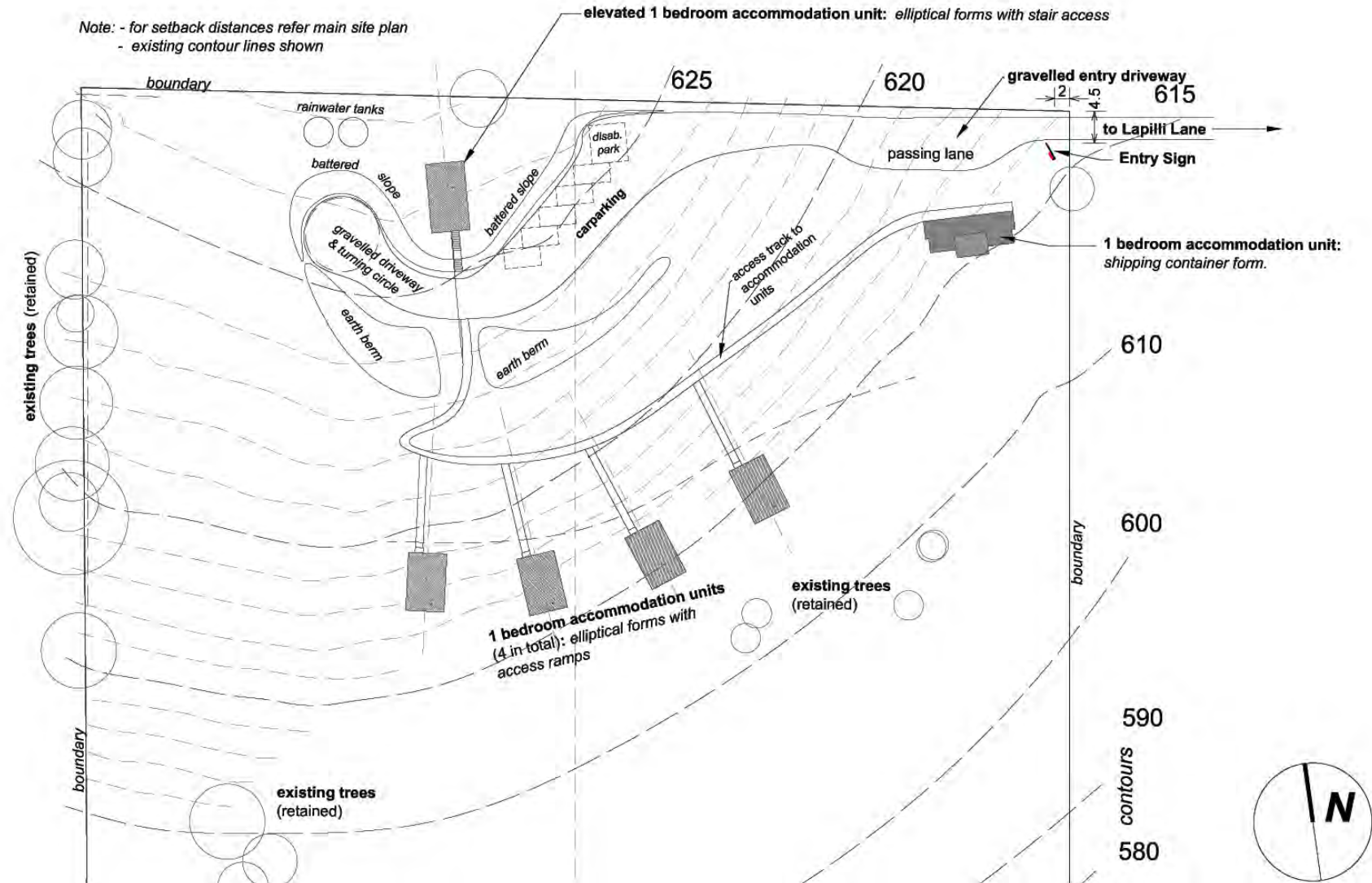
A02 - Proposed Site plan

SCALE: 1:1000

30.03.20

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**Proposed accommodation units:**

**Clifftops@Hepburn:**

CA3 Yendon No 2 Road, Buninyong, VIC.

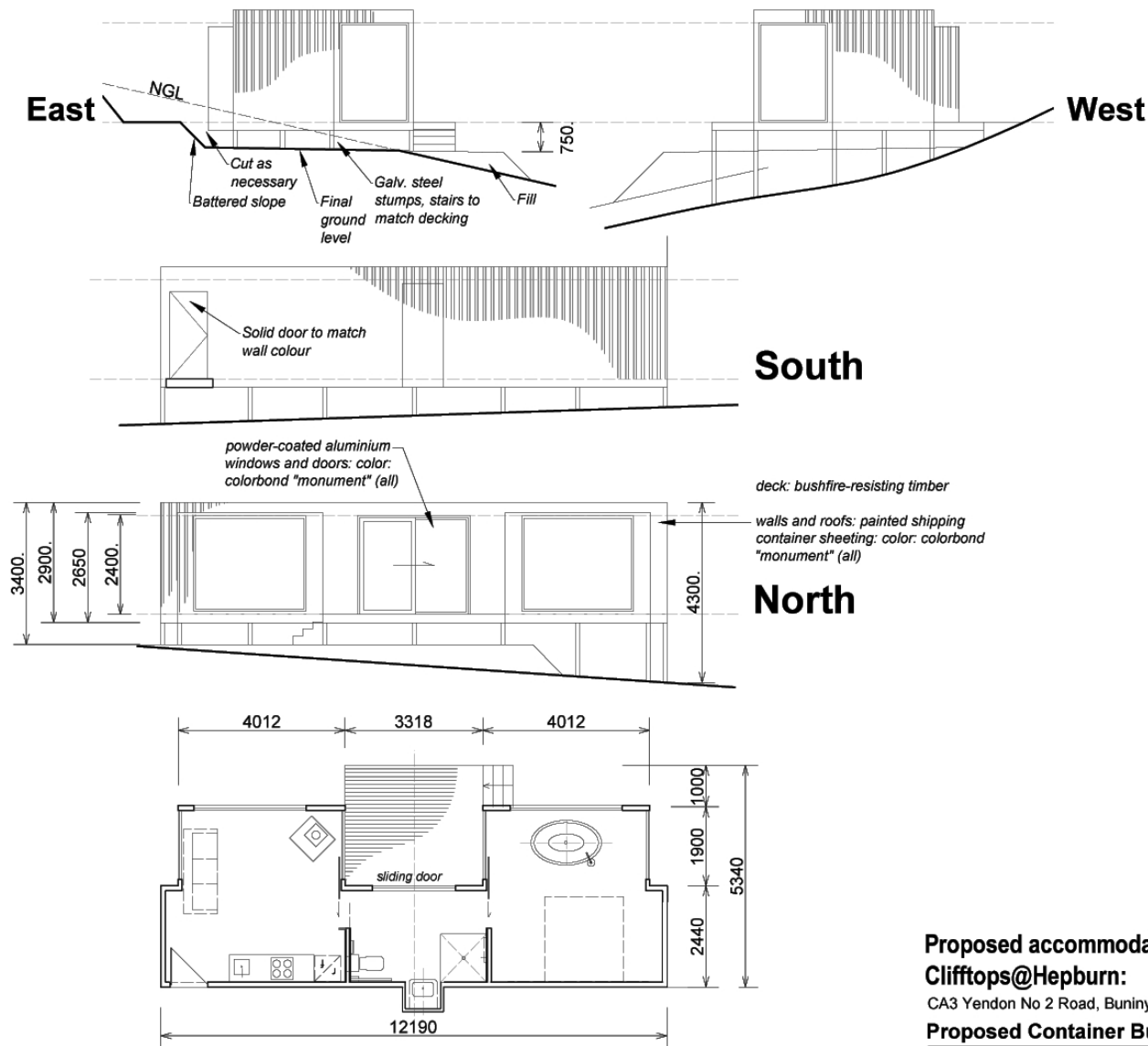
**A03 - Proposed Site Plan: Detail**

SCALE: 1:500

30.03.20

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**Proposed accommodation units:**

**Clifftops@Hepburn:**

CA3 Yendon No 2 Road, Buninyong, VIC.

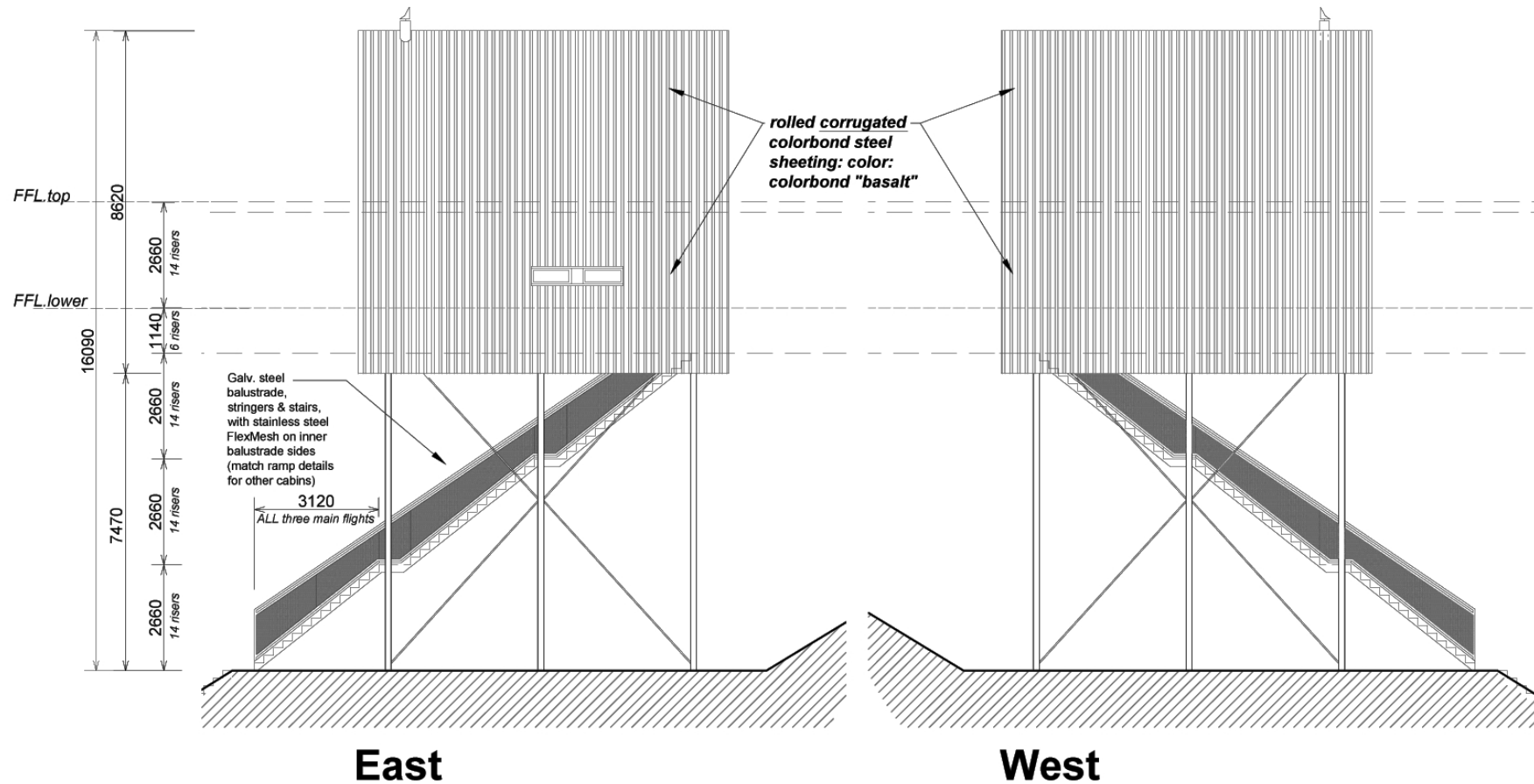
**Proposed Container Building**

SCALE: 1:100

30.03.20







**Proposed accommodation units:**

CA3 Yendon No 2 Road, Buninyong, VIC.

**Proposed elevations 1:**

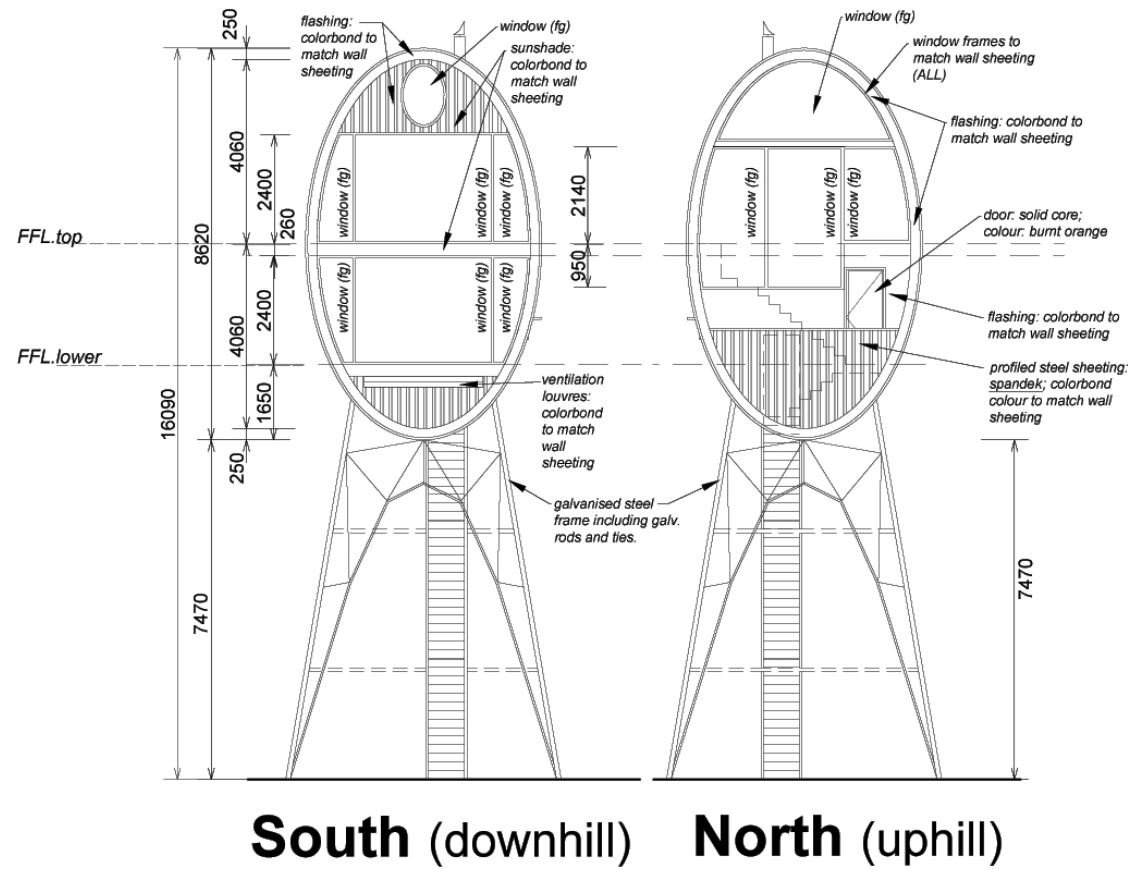
**elevated barrel cabin**

SCALE: 1:100

30.03.20

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 email: robin@treearc.com.au arbv reg no. 16800





**Proposed accommodation units:**

CA3 Yendon No 2 Road, Buninyong, VIC.

**Proposed elevations 2:  
elevated barrel cabin**

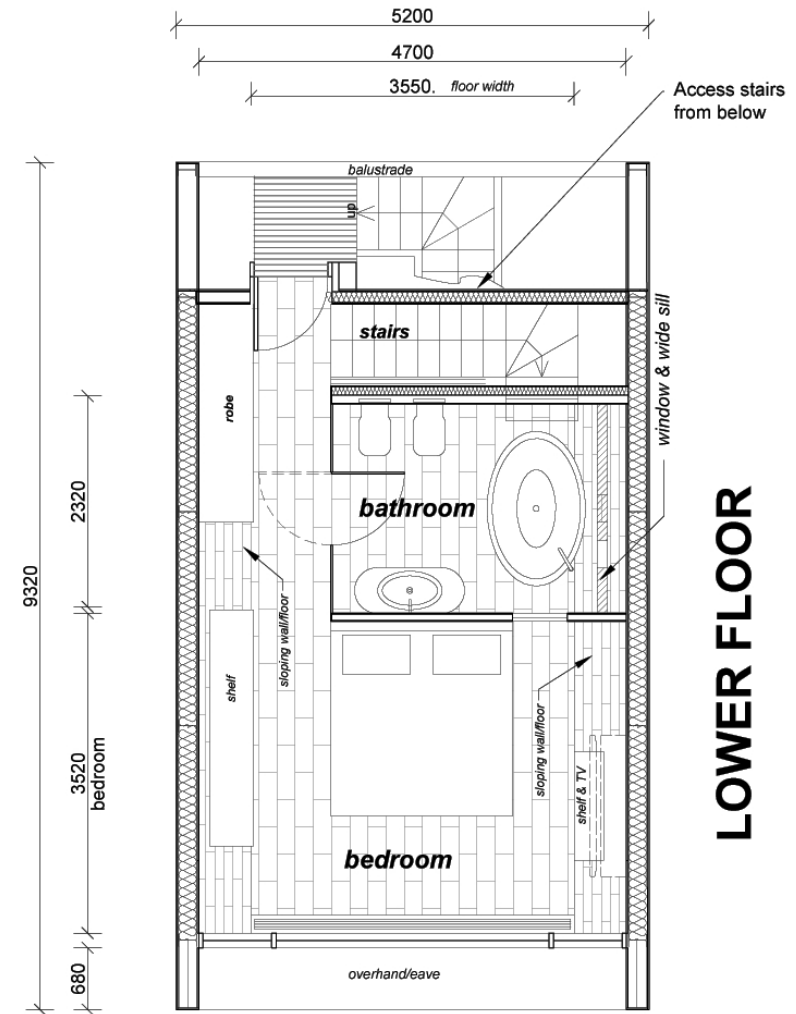
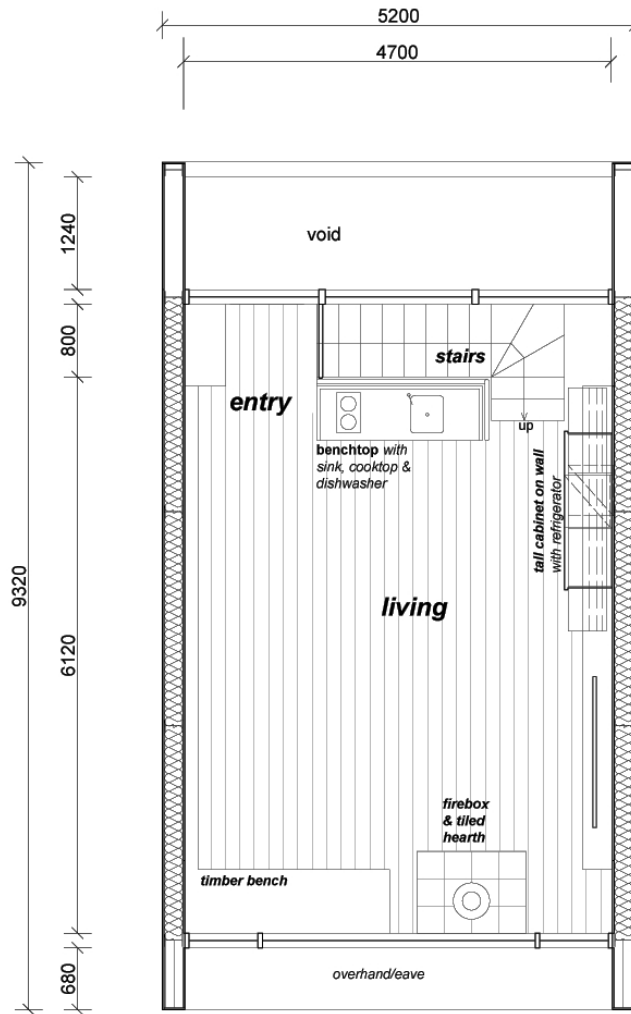
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30.03.20

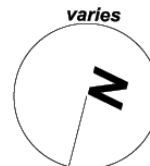
**ROBIN LARSEN DESIGN pty ltd**  
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post: po box 515, daylesford, victoria, 3460  
email: robin@treearc.com.au arbv reg no. 16800



# TOP FLOOR



# LOWER FLOOR



## Proposed accommodation units:

CA3 Yendon No 2 Road, Buninyong, VIC.

## Proposed floor plans: elevated barrel cabin

SCALE: 1:50

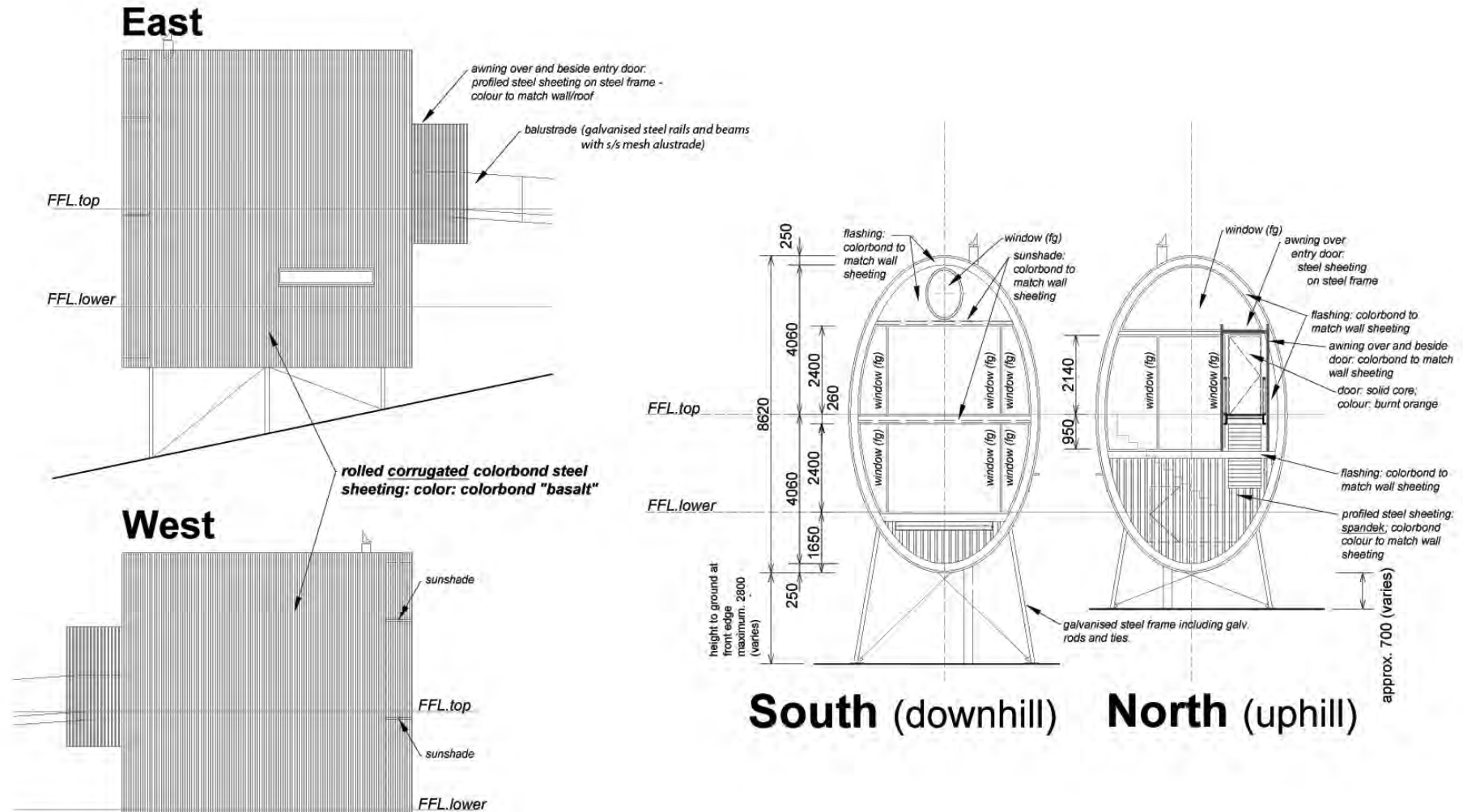
30.03.20

**ROBIN LARSEN DESIGN** *pty ltd*  
 ph & fx. 03 9690 4446 mob. 0439 383 900  
 post. po box 515, daylesford, victoria, 3460  
 email: robin@treearc.com.au arbv reg no. 16800









**Proposed accommodation units:**

CA3 Yendon No 2 Road, Buninyong, VIC.

**Proposed elevations: ramped barrel cabins**

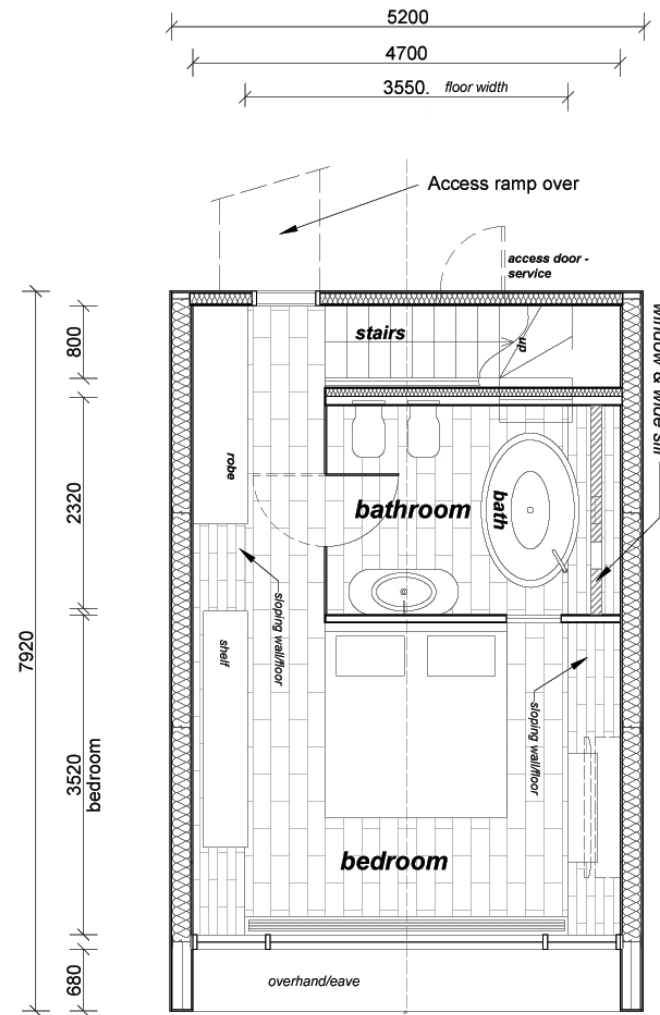
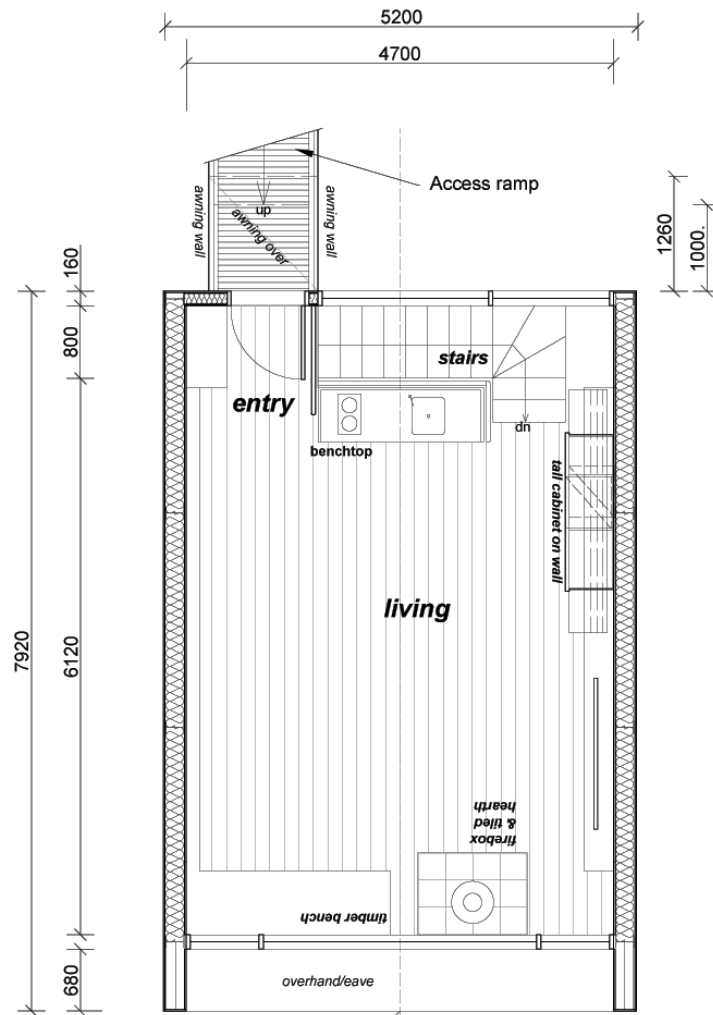
SCALE: 1:100

30.03.20

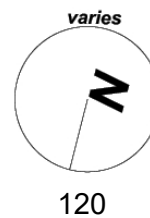
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# TOP FLOOR



# LOWER FLOOR



## Proposed accommodation units:

CA3 Yendon No 2 Road, Buninyong, VIC.

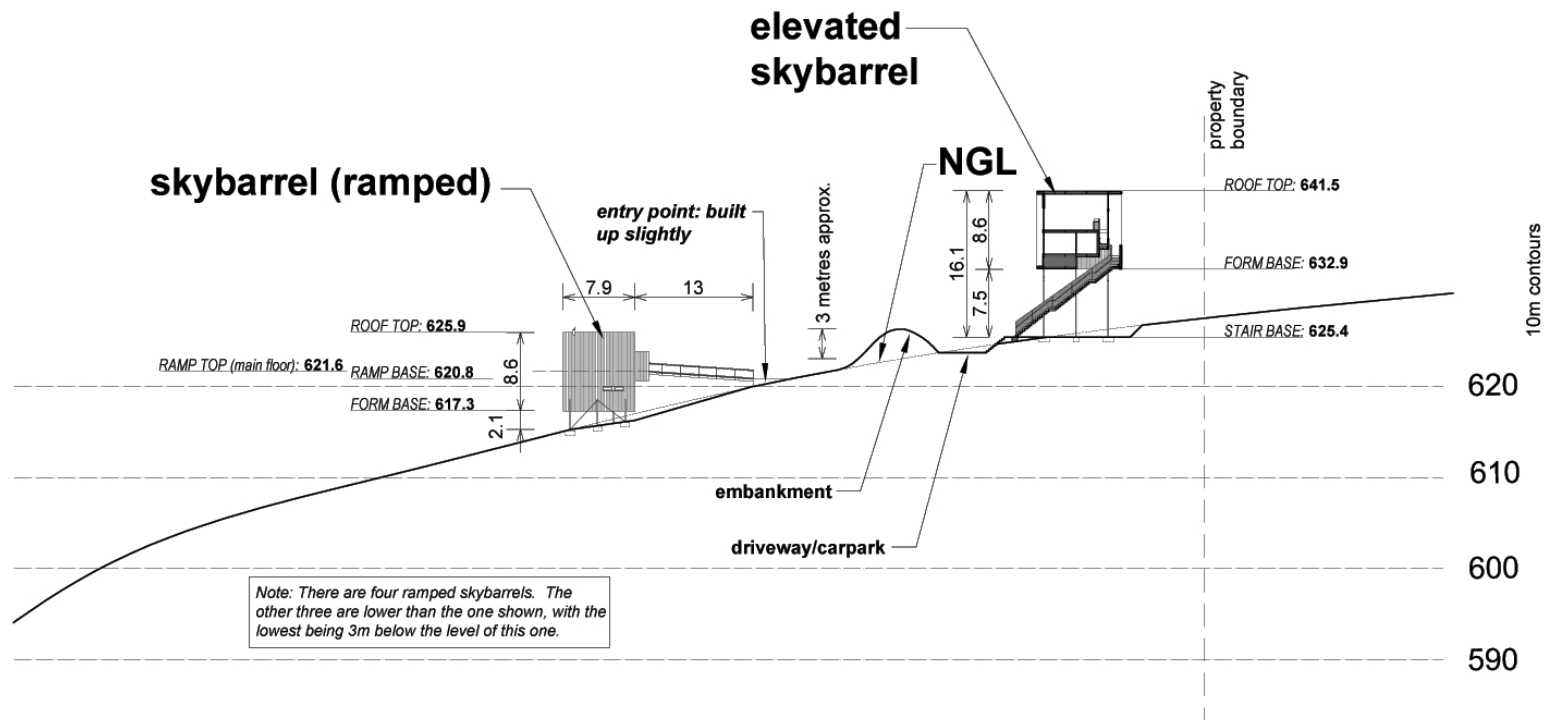
## Proposed floor plans: ramped barrel cabins

SCALE: 1:50

30.03.20

**ROBIN LARSEN DESIGN** pty ltd  
 ph & fx. 03 9690 4446 mob. 0439 383 900  
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**Site section through  
middle of property  
(north-south)**

**Proposed accommodation units:**

**Clifftops@Hepburn:**

CA3 Yendon No 2 Road, Buninyong, VIC.

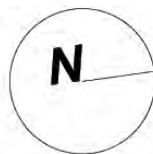
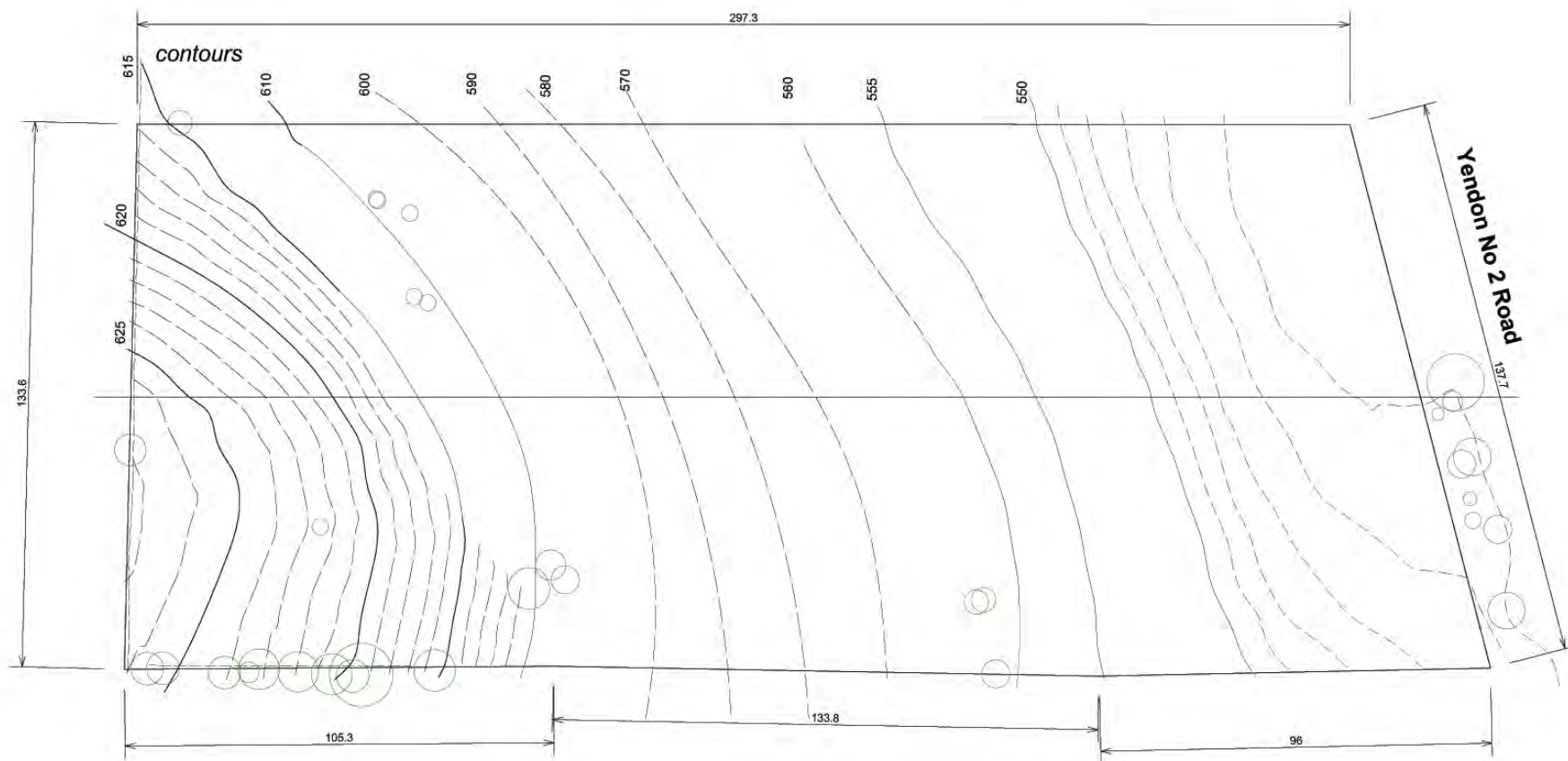
**Proposed Site Section**

SCALE: 1:500

30.03.20

**ROBIN LARSEN DESIGN pty ltd**  
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**Proposed accommodation units:**  
CA3 Yendon No 2 Road, Buninyong, VIC.

**Existing site plan**

SCALE: 1:1000

06.02.20

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**7. GENERAL BUSINESS - MATTERS ARISING FROM THE AGENDA**

**8. CLOSE**