

Delegate Report

File Number: DA7234
Planning Application No. P238/22
Responsible Officer: Nicole Embling, Coordinator Statutory Planning

Conflict of Interest

In accordance with Sections 127 and 128 of the Local Government Act 2020, the author does not have a conflict of interest in this matter.

<i>Application Details</i>	
APPLICANT	Mr Tony Yap, Alpine Lodge Group Pty Ltd C/O- Intro Architecture Pty Ltd
PROPOSAL	use and development of land for Group Accommodation (14 Eco-Villas) and an associated Restaurant
APPLICATION LODGED	6 December 2022
NOTICE AND SUBMISSIONS	<p>The application was advertised to 15 adjoining and nearby owners and occupiers.</p> <p>A sign was placed on the property boundary, near the access.</p> <p>The application was advertised in the local newspaper, the Mansfield Courier for two weeks.</p> <p>Following the notice period, five (5) submissions were received objecting to the application.</p>
<i>Property Details</i>	
PROPERTY ADDRESS	390 Pollards Road, Mansfield
LAND DESCRIPTION	Lot 1 on Plan of Subdivision 734878H
RESTRICTIVE COVENANTS	None registered on title
LAND AREA	71.67 hectares

EXISTING USE	Delatite Winery, including the vineyard, Cellar Door and Restaurant
<i>Planning Provisions</i>	
ZONE	Clause 35.07 Farming Zone
OVERLAYS	Clause 42.03 Significant Landscape Overlay – Schedule 1, Alpine Approach Significant Landscape Area (SLO1) Clause 42.01 Environmental Significance Overlay – Schedule 2 (ESO2) – not at proposed development site
MUNICIPAL PLANNING STRATEGY	Clause 02.03-2 – Environmental and landscape values Clause 02.03-4 – Natural resource management Clause 02.03-7 – Economic development
PLANNING POLICY FRAMEWORK	Clause 13.02-1S – Bushfire planning Clause 14.01-1S – Protection of agricultural land Clause 15.01-6S – Design for rural areas Clause 17.04-1S – Facilitating tourism Clause 17.04-1L – Facilitating tourism in Mansfield Shire
PARTICULAR PROVISIONS	N/A
<i>Permit Triggers</i>	
FARMING ZONE	Clause 35.07-1 - A permit is required for the use of land for Group Accommodation as a Section 2 use. Clause 35.07-4 - A permit is required for buildings and works associated with a Section 2 use
SIGNIFICANT LANDSCAPE OVERLAY	Clause 42.03-2 - A permit is required to construct a building or construct or carry out works
<i>Other</i>	
CULTURAL SENSITIVITY	Yes, partially and not at the proposed development site.

Background

Subject site, neighbourhood and environs

The subject site is irregular in shape, encompassing a site area of 71.67 hectares (refer figure 1). The site is located on the southern side of Pollards Road, and at the intersection of Pollards Road and Stoneys Road. There are two existing accesses off Pollards Road, one opposite Stoneys Road and the second to the west, near the western property boundary. The site topography is undulating with a crest near the first access.

The site currently contains two sheds used for the manufacturing and process of wine, a Cellar Door and associated offices, and a fairly new Restaurant. The land is occupied with vineyards, which supply produce for the making on wine onsite. The land has historically been used for viticulture and is trading at Delatite Winery. There is one large dam on the property, near the east boundary.

The subject land appears to have access to reticulated electricity, but not water or sewer.

Figure 3 shows the surrounding environment is similar in character, with much of the broader surrounding area being zoned Farming. The surrounding allotments are varied in sizes, typically consisting of one residential dwelling with several outbuildings servicing agricultural activities. The adjoining properties are mainly used for stock grazing.



Figure 1: Aerial image of subject land

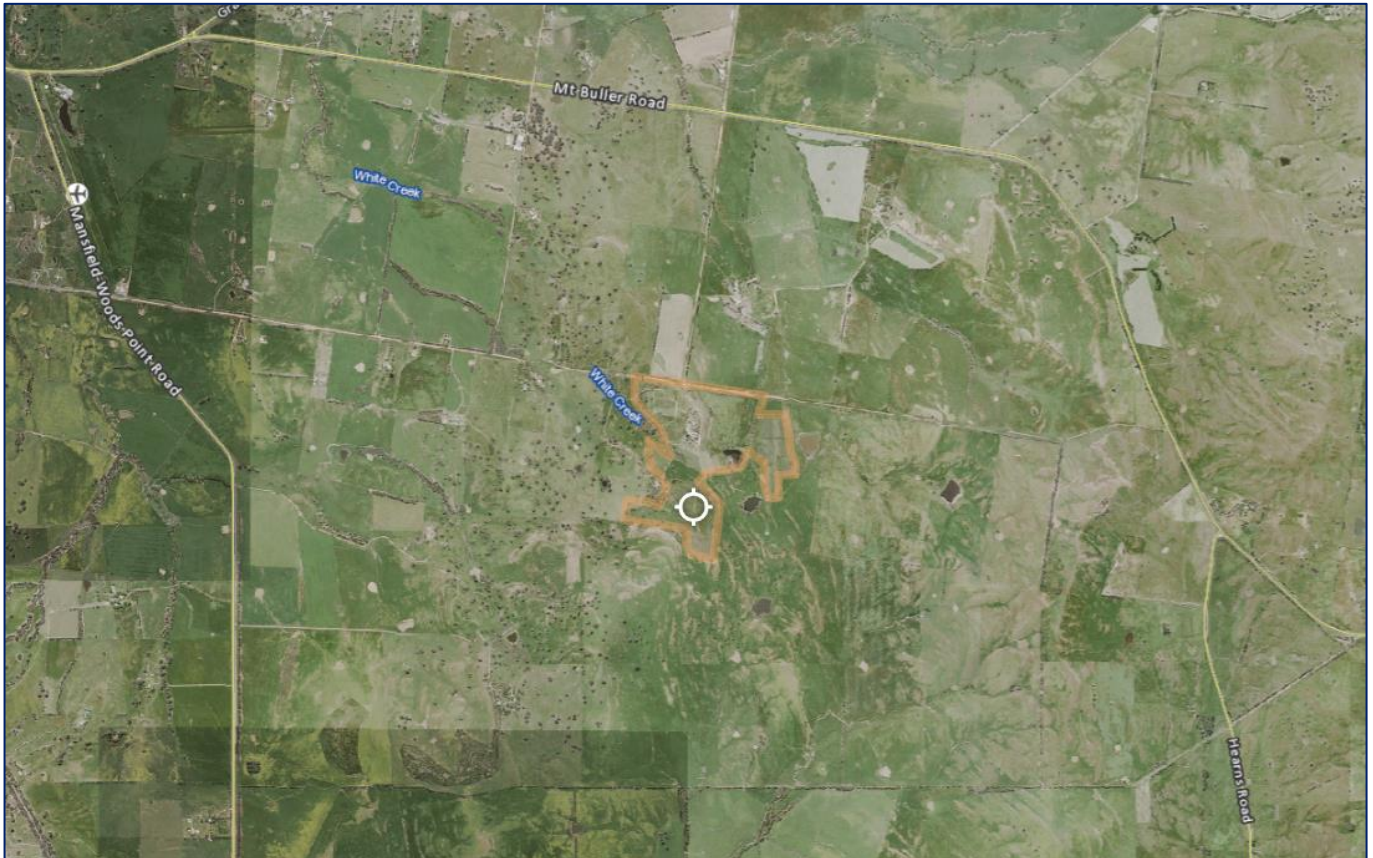


Figure 2: Aerial image of subject land and surrounds

Site History

Planning permits approved for the subject land include the following:-

- P007/20 – Buildings and works for a new Cellar Door and extension to Red Line Area, issued 4 June 2020
- P074/20 – Native vegetation removal, issued 19 September 2020

Proposal

The permit applicants seek approval for the use and development of land for Group Accommodation (14 Eco-Villas) and an associated Restaurant at 390 Pollards Road, Mansfield. The accommodation buildings and restaurant are proposed to be located on the east side of the central driveway, near the northern boundary with a setback of approximately 60-metres from Pollards Road. When approaching from Pollards Road the restaurant building would be visible first and will provide a reception office for guests to check-in. The accommodation buildings are proposed to be sited along the remainder of the internal driveway, towards the existing Cellar Door and Restaurant.

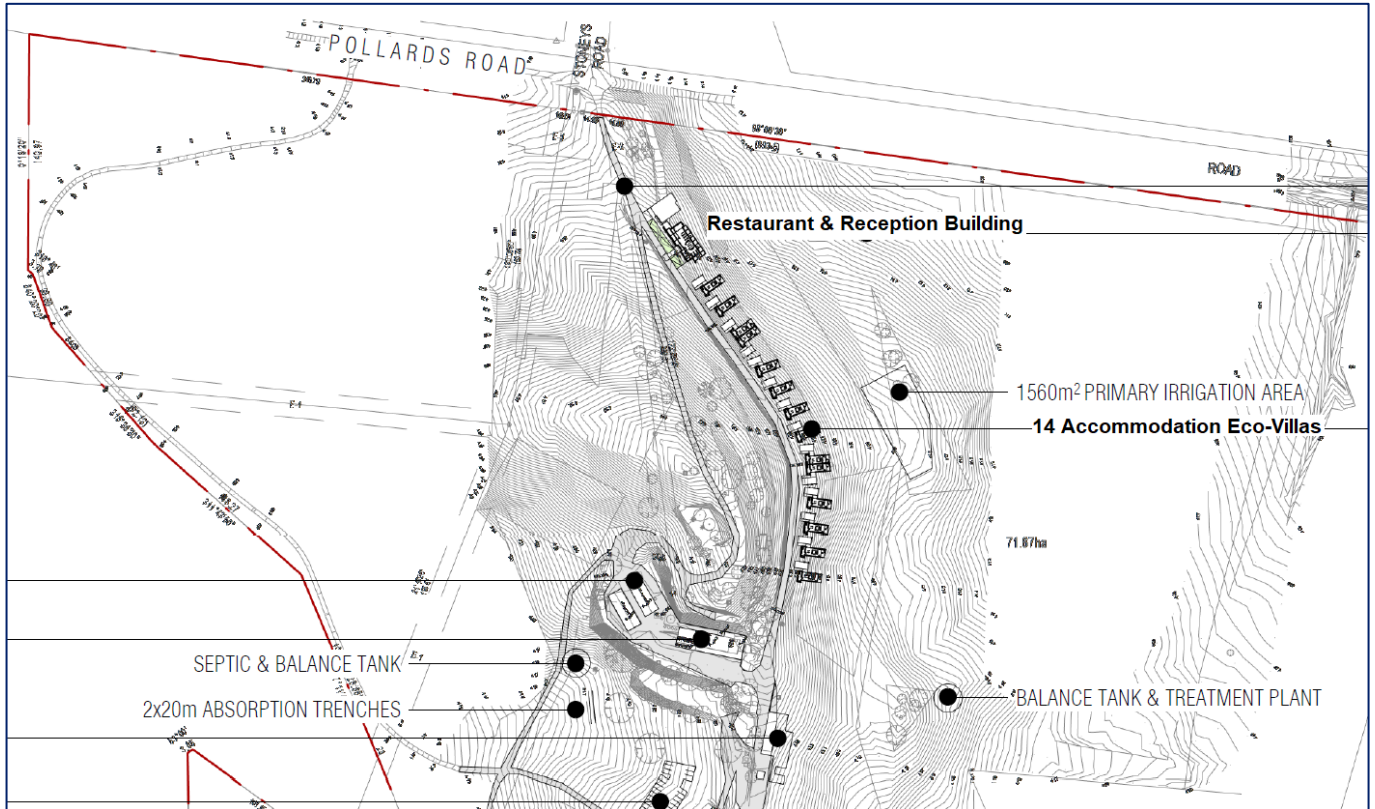


Figure 3: Submitted Site Plan

Details of the proposal are as follows:

- 14 Eco-Villas, each a single bedroom, accommodating a total maximum of 28 guests
- ‘Communal Lodge’ (restaurant) building to provide a Reception, Office, Restaurant and passive indoor recreation
- Restaurant in Communal Lodge to provide a service to the accommodation guests and will not be open to the general public
- Three full-time employees will be associated with the accommodation, restaurant and reception
- Utilise the existing access, opposite Stoney's Road
- Eco-Villas each include a double bed, lounge area, kitchenette, bathroom and single car park

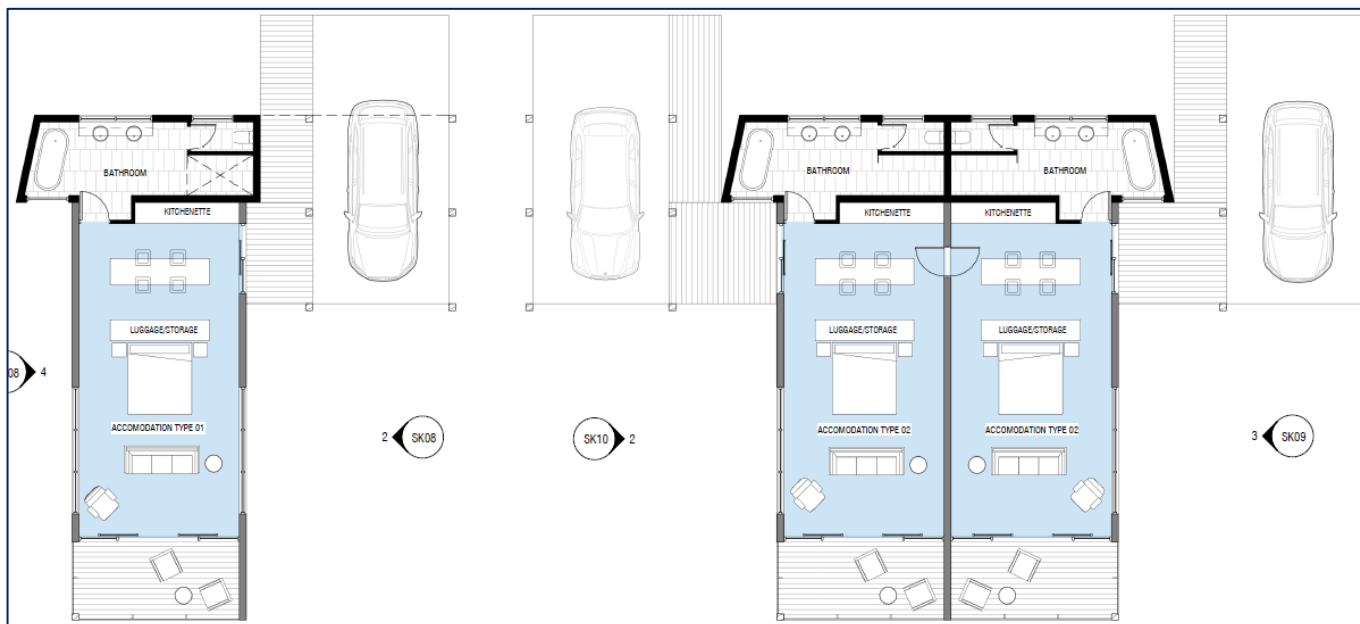


Figure 4: Floor Plan of Eco-Villas

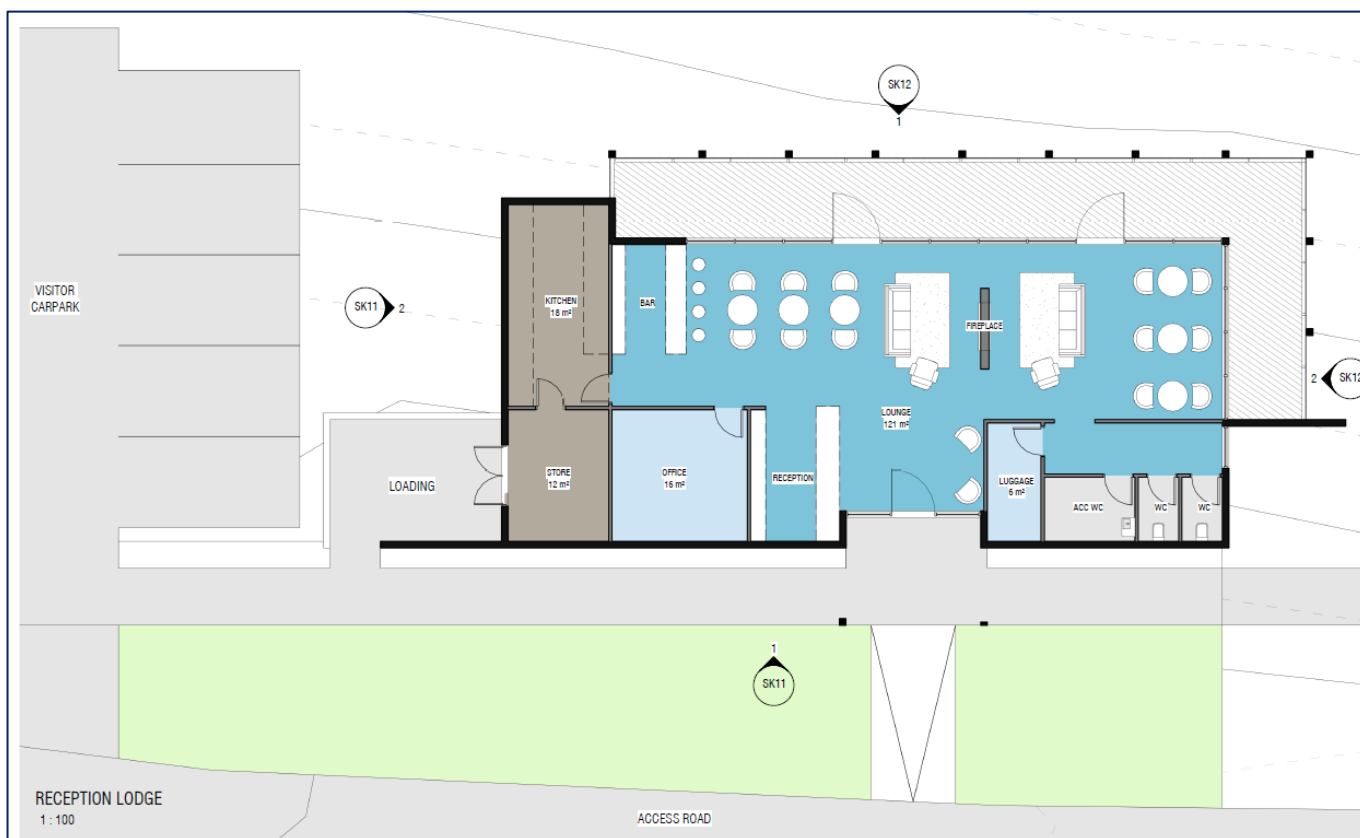


Figure 5: Floor Plan of Communal Lodge, with Restaurant

- Externals colours and materials are similar to the existing infrastructure onsite, particularly the Cellar Door
- Eco-Villas and Communal Lodge are orientated to have views of the distant mountain ranges, including Mt Buller
- A landscaping plan was included in the application and provides new plantings around the proposed buildings

- An Emergency Management Plan was included in the application
- 1,560 square metre primary irrigation field is proposed for the treatment and disposal of wastewater onsite

Area of Cultural Heritage Sensitivity

The subject land is partially within an area of Cultural Heritage Sensitivity.

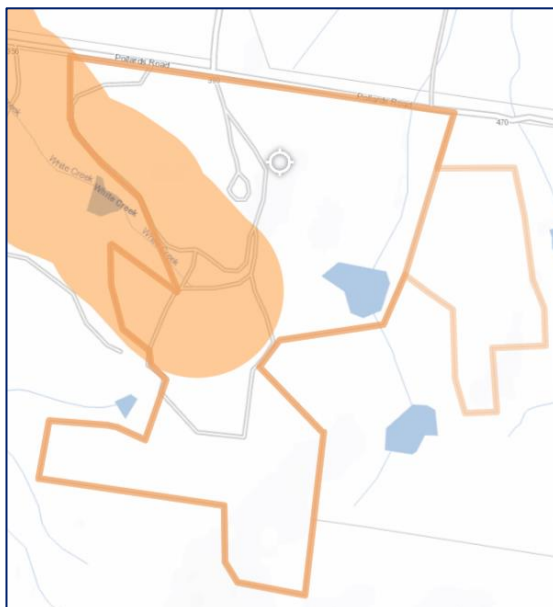


Figure 6: Cultural Heritage Sensitivity Areas

In accordance with the *Aboriginal Heritage Regulations 2018* Council Officers are satisfied that a Cultural Heritage Management Plan (CHMP) is not required to be prepared for the proposal, for the following reasons:

- The proposed buildings and works are not within the area of Cultural Heritage Sensitivity
- Group Accommodation is not classified as a High Impact Activity, and therefore does not require a CHMP, where the Eco-Villas are not considered ‘Dwellings’
- The restaurant is associated with, or ancillary to, the group accommodation as it will only be accessible to the accommodation guests and therefore is exempt from requiring a CHMP
- The proposed development site has previously been subject to significant ground disturbance during the ripping of earth for the creation of the vineyards

Consultation

Referral Responses

Referral Agency	Response
ENVIRONMENT PROTECTION AUTHORITY	A formal response has not yet been received, however the Officer Recommendation includes standards conditions requiring the proposed wastewater treatment and disposal system be approved prior to works commencing.

COUNCILS ENVIRONMENTAL HEALTH DEPARTMENT	Condition consent to the issuing of a planning permit.
COUNCILS ENGINEERING DEPARTMENT	Conditional consent to the issuing of a planning permit.

Advertising

Advertising was undertaken pursuant to Section 52 of the *Planning and Environment Act 1987*, by direct mail to fifteen (15) adjoining and nearby property owners and occupiers, a sign onsite, and an advertisement in the local newspaper for two consecutive weeks.

Following the notice period, five (5) submissions objecting to the application were received. A detailed assessment of the concerns raised by objections is below.

Objections	Council Officer Assessment
Accommodation would overlook adjoining properties	<p>The location of Delatite Winery is on a small rise in the valley and has prominent views towards the surrounding mountain ranges and Mt Buller. The proposed location for the accommodation is on a higher elevation than surrounding properties and therefore provides direct views to surrounds, particularly to the east.</p> <p>The elevation of the proposed buildings is higher than the immediate adjoining properties and therefore it is considered that views would be over the adjoining land, rather than to the adjoining land. Furthermore, screens are provided in the elevation plans which would partially restrict views towards the dwelling on the adjoining land, north-east of the proposed development location. The adjoining dwelling is located approximately 700 metres north of the development site.</p> <p>Proposed permit conditions would require additional landscaping along the north boundary of the subject land to provide a visual screening to and from the site in a northerly direction.</p>
Proposal is not in accordance with the Significant Landscape Overlay for the Alpine Approach	A detailed assessment of how the application responds to the requirements of the Significant Landscape Overlay is provided later in this report.

<p>Increase of traffic on Pollards Road and Stoneys Road</p>	<p>The application provides for a maximum of 28 guests, with the expectation that guests would travel 2 people per vehicle to the site. The proposal would slightly increase the traffic on Stoneys Road, especially as Delatite Winery have stated that guests will be encouraged to use this route, instead of Pollards Road as it is safer.</p> <p>Stoneys Road is generally in good condition and capable of additional traffic, travelling at reasonable speeds for the road conditions.</p>
<p>Additional traffic would restrict ability to move stock on roads</p>	<p>Council Officers have considered the expected additional traffic numbers and would not anticipate the movement of stock on roads to be any further impacted than the existing traffic.</p> <p>It is acknowledged that any stock movement on a road requires a Local Law Permit and would include relevant conditions, including restrictions on the time of day, weather conditions and peak road use times.</p>
<p>Dust</p>	<p>Council Officers acknowledge that the existing gravel road conditions of Pollards Road and Stoneys Road cause dust to impact adjoining properties with vehicle use. It is likely that any additional traffic will also create dust. However, the amount of additional traffic is considered minor and would not worsen the severity of dust.</p> <p>Dust from gravel roads are considered a normal part of being in a rural landscape and when roads are driven at appropriate speeds dust can be reduced to an acceptable level.</p>
<p>Narrow crests on Pollards Road are dangerous</p>	<p>There are two substantial blind crests on Pollards Road that pose a reasonable danger to vehicles, especially as the trafficable width of the gravel road is fairly narrow.</p> <p>Councils Engineers have provided a response to the application and relevant conditions for a permit, that would require the permit holder to widen the trafficable width of Pollards Road (and one crest on Stoneys Road) at the crests to improve road safety. Suitably designed engineering plans would be</p>

	required to be approved by Council prior to any works commencing.
Intersection of Pollards Road and Mansfield-Woods Point Road has poor visibility	<p>Council, the permit applicant and owner of the land have acknowledged the danger of the intersection, where visibility of traffic coming from the south is poor and vehicles are travelling at 100km/h.</p> <p>In response to this concern the applicant is proposing to encourage all guests to utilise Stoneys Road to access Delatite Winery, including existing guests of the Cellar Door and staff.</p>
Land use conflicts, between existing operating farms and tourism	<p>The proposed accommodation facility is considered an expansion of the existing use of the Cellar Door and Restaurant, where approximately 100 guests can dine. There is an existing tourism use of the land and the proposed accommodation buildings are proposed to be sited with generous setbacks from all boundaries and attractions onsite which would deter guests from wandering beyond the property.</p> <p>Given the location of the subject land, guests would arrive via vehicle and could walk from the accommodation to the Cellar Door and proposed Restaurant. It is anticipated that guests would either remain on the site, or would travel by car to other tourist attractions in the Shire.</p> <p>It is considered unlikely that the proposed accommodation and 28 guests would pose any threat to the existing operating farms in the area.</p>

A consultative meeting was held 29 March 2023, where the applicant, owner of the land, submitters, and relevant Council Officers were invited to discuss the application and objector concerns. Three (3) of the submitters, the owner of the land and applicant contact were present at the meeting, which was facilitated by Council Officers.

Through the mediation process the owner of land and applicant confirmed the following:

- Accommodation buildings were designed to have views of Mt Buller and surrounding mountain landscapes, with screens to restrict views to neighbouring properties
- Accommodation will not be pet-friendly, therefore guests will not be able to bring pets
- Applicant is willing to complete some road safety upgrade works to Pollards Road and Stoneys Road, if a permit is issued

- Delatite Winery will be encouraging guests to utilise Stoneys Road to access the Winery, to avoid the Mansfield-Woods Point Road and Pollards Road intersection

Mansfield Planning Scheme and Context Assessment

Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)

The Municipal Planning Strategy and Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the *Planning and Environment Act 1987*) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

The following Planning Policies and Objectives are relevant to this application:

Clause 02.03 – Strategic Directions

Clause 02.03-2 – Environmental and landscape values

Landscapes

The scenic value of the mountains, foothills, valleys and cleared grazing country is characteristic of the municipality and of intrinsic importance to its landscape.

Rural areas are acknowledged as one of the Shire's and the region's greatest assets. Significant for rural production as well as from a natural landscape perspective promoting tourism and attracting visitors to the Shire, many of the rural valleys are recognised as having significant landscape qualities unique to the State and worthy of protection.

Significant landscape and natural features include parts of the Eildon. Development along ridgelines or highly visible slopes can impact the landscape character of the area.

Council's strategic directions for environmental and landscapes values are to:

- *Protect areas of remnant vegetation for their environmental, habitat and scenic values, including roadside vegetation, riparian environments, scattered trees and native grasslands.*
- *Protect the landscape character of the Shire and significant landscape features including large old trees, visually significant ridges and view corridors.*
- *Protect the environmental, landscape and visual significance of rural areas, mountain and environmental features and alpine approach areas.*

Officer assessment:

No native vegetation is proposed for removal as part of this application. This will protect existing vegetation of high priority within the site and require additional plantings including landscaping around the proposed buildings.

The proposed siting of the buildings would be visible from the properties north of the subject land, where there is an existing gap in the boundary trees along Pollards Road, and from the east.



*Figure 7: View to development site from Pollards Road, north-east of the subject land
Source: Council Officers, 1 February 2023*

The development is proposed to be sited on the eastern slope of the rise, with some higher ground behind. It is expected that this development could be seen from adjoining and neighbouring properties to the north and east but will be screened by the topography of the land from the west.

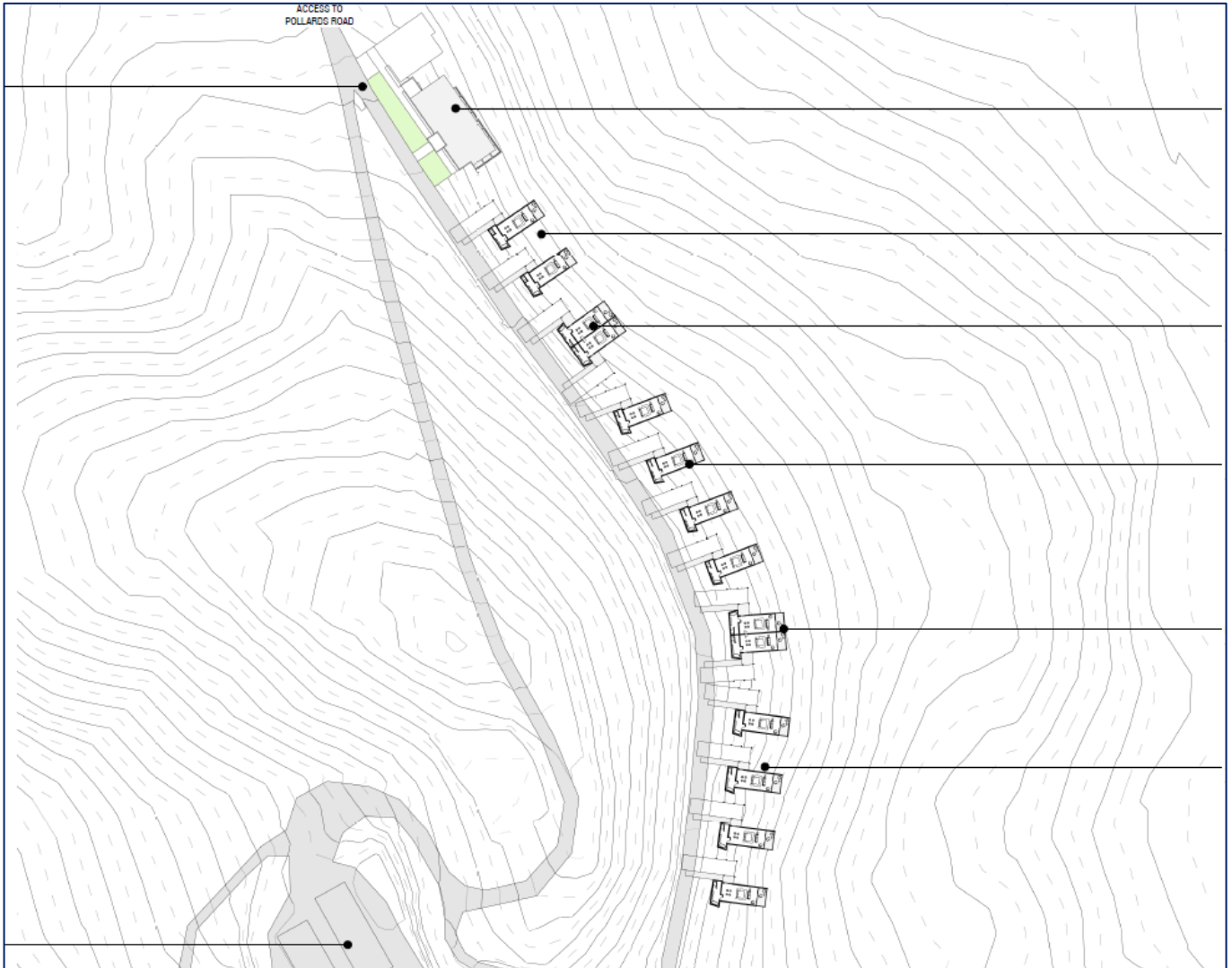


Figure 8: Contours of the land detail slope and crest of the rise

Clause 02.03-4 – Natural resource management

Agriculture

Rural land is under increasing pressure for residential use and development not associated with the rural use of the land. Productive agricultural land must be maintained to remain agriculturally viable and ensure the ongoing ability to farm is protected. To do so, it is important that only marginal rural land in areas with a minimal visual impact be developed for small scale rural or rural living style development.

Council’s strategic directions for the management of agricultural land are to:

- *Protect productive agricultural land from land fragmentation and incompatible use and development.*
- *Support diversifying the agricultural base to include the development of viticulture, horticulture, and more intensified agricultural pursuits.*

Officer assessment:

The proposed location of the accommodation buildings and Communal Lodge is currently a small, young vineyard that is isolated from the other vines. The applicant has provided that this particular vine is not essential for the operating of the winery and its associated agricultural land uses. This area of the property is mostly underutilised and development will not impact any existing agricultural activities on the subject land or adjoining properties.

Water and Declared Special Water Supply Catchments

Over 95 per cent of the Shire lies within a Declared Special Water Supply Catchment. The catchments include parts of Lake Eildon Environs.

Lake Eildon and Lake Nillahcootie are artificial water storage lakes and significant economic, environmental and tourism resources. However, their primary function is to regulate water supply to downstream irrigation areas. Onsite wastewater management for surrounding use and development is a key issue, with their cumulative impact risking to affect catchment health, water quality and public health. Unsewered towns such as Goughs Bay, Macs Cove and Howqua are located on the shores of Lake Eildon, and Jamieson is located on two of the Lake's key tributaries.

Council's strategic directions for catchment planning and management are to:

- *Protect the environmental significance and visual amenity of local water sources and Special Water Supply Catchments.*
- *Avoid development in catchments that is detrimental to water quality.*
- *Minimise the cumulative impact of onsite wastewater treatment systems on the water quality of Declared Special Water Supply Catchments.*

Officer Response:

Most of the subject land is not within a designated water supply catchment, however there is a small portion of the property near the southern boundary which is included in the catchment for Lake Eildon.

The proposed development has been appropriately designed to ensure all water runoff and wastewater is appropriately treated and dispersed having no impact on water quality.

Clause 02.03-7 – Economic Development

Agriculture

Agriculture remains a significant contributor to the local economy with the major agricultural pursuits being timber processing, pasture seed production, wool production, prime lamb and beef production. Most agricultural land has a moderate agricultural land capability rating that is best suited to grazing and crop production.

Tourism

With the significant visual, cultural and environmental value of many areas in the Shire, tourism is a key local economic driver, particularly around nature-based, food and wine, (on- and off-road) bicycle tourism.

The proximity of Lake Eildon to Melbourne has also made its environs popular for the establishment of 'weekenders' and holiday homes, similarly to other local townships providing both close access to Melbourne, Mansfield infrastructure and services and nature.

The increasing number of visitors and added pressure to provide entertainment and recreation facilities that help reinforce Mansfield's competitive advantage in the tourism sector can negatively impact the built and natural environment and landscape character of the area.

Council's strategic directions for economic development are to:

- *Diversify the economic base, particularly to reinforce the role of the Shire as a year-round tourism destination.*
- *Support environmentally sustainable industries as alternatives to the traditional forms of industry.*
- *Support the continued growth of the agricultural sector*
- *Support traditional and emerging forms of agriculture.*
- *Attract high quality tourism development that is compatible with the environmental attributes and character of the area.*
- *Minimise the negative impact that tourism can have on the built and natural environment.*

Officer Response:

Food and wine tourism is one of the key drivers for tourist visitation in Mansfield Shire. The proposal is considered to be suitable for providing accommodation for guests of the existing winery facilities and broader tourism industry. The group accommodation will provide visitors the opportunity to enjoy the scenic views of the surrounding high country unique to the Shire.

Clause 13.02-1S – Bushfire planning

Objective

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

Officer response:

The emphasis of relevant policy at the State and Local level is on the preservation of landscapes and character of areas like Mansfield and as the highest priority the preservation of human life in bushfire affected areas. This clause requires the Responsible Authority to ensure the protection of human life *over all other policy considerations*.

The subject land is within a designated Bushfire Prone Area.

As the proposal will result in a congregation of people unfamiliar with the area, an Emergency Management Plan has been prepared for the activity to mitigate the risk to human life to an acceptable level.

Clause 14.01-1S – Protection of agricultural land

Objective

To protect the state's agricultural base by preserving productive farmland.

Officer Response:

The proposal is situated on a large site, just over 70 hectares that is zoned Farming. The group accommodation does not support agricultural production, the siting of the works and nature of the land around the site allows for agriculture to continue if sought (such as viticulture).

The proposed accommodation will promote the existing agricultural activities and encourage education for visitors to have an appreciation for viticulture and farming in the Mansfield area.

The proposed development site is consolidated to one area that is not required for the existing vineyards, allowing the balance of the land to be retained for ongoing agricultural uses. Given the siting of the works and surrounding activities, the proposal will not prejudice the use of nearby land for agriculture.

Clause 15.01-6S – Design for rural areas

Objective

To ensure development respects valued areas of rural character.

Officer Response:

As discussed, the proposal is commensurate with the reasonable expectations of use in a rural landscape, which will not unreasonably impede on the natural scenery of the area as experienced from the public or private realm.

The buildings are designed and located to have a minimal impact on the landscape, and would be constructed in muted, non-reflective tones to suit the landscape, which are responsive to the existing design of the Cellar Door. A landscaping plan accompanying the application provides for landscaping to soften and blend the buildings with the surrounds.

Clause 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.

Clause 17.04-1L Facilitating tourism in Mansfield Shire

Strategies

- *Facilitate development that improves tourism links and facilities and capitalises on the through traffic along the Alpine approaches during peak holiday periods.*
- *Support eco-tourism opportunities.*
- *Locate tourism use and development in areas that are highly accessible and preferably serviced with sealed road access.*
- *Support tourism development in rural areas that is compatible with surrounding agricultural uses, such as bed and breakfasts, host farms or tourist uses related to the agricultural use of the land or natural setting.*
- *Site and design tourism development to be unobtrusive and sympathetic to existing landscape features and complement the landscape character of the area.*
- *Provide internal all-weather road access to sites.*

Officer Response:

The accommodation will support and expand on the existing tourism of the Winery and Cellar Door, whilst providing eco-tourism accommodation. Although the subject land is accessed via unsealed roads, these roads are well maintained and provide all-weather access year-round, as do the internal access roads. It is considered that the tourism generated by the proposal will not negatively impact the built and natural environment.

Zoning**Clause 35.07 Farming Zone**

The purpose of the zone is as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

The relevant decision guidelines are:

General issues

- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*

Accommodation issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of 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 location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *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 impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

Officer Response:

A planning permit is required under clause 35.07-1 to use the land for a group accommodation and under clause 35.07-4 for building or works associated with a Section 2 use. It is considered that the proposal is satisfactorily consistent with the purposes of the zone and that it addresses the decision guidelines of clause 35.07-6, as below:

General issues:

The subject land is capable of accommodating the proposed use and development including the effluent disposal. It is suitable for the proposal and is compatible with the adjoining and nearby land uses. The accommodation would be accessed via the existing internal access and minimal upgrades would be required.

Agricultural issues and the impacts from non-agricultural uses:

The subject land is reasonably sized to sustain the existing viticulture which is a relatively large operation, producing wine that is sold onsite in the Cellar Door, locally, nationally and online.

The proposed accommodation and associated restaurant building are designed in a consolidated way to minimise agricultural land loss and to ensure appropriate access. The development location is close to the existing access from Pollards Road and is generously setback from any vineyards on the land and the property boundaries to ensure there is no impact to adjoining farming properties.

Accommodation issues:

The subject land does not currently contain any dwellings or private residences, there is a Managers Residence on an adjoining property to the south.

The proposed accommodation will provide short-term stays and will not always be operating at full capacity.

Environmental issues:

Any impact from the effluent and stormwater management of the proposed development will not reduce the soil and water quality of the area. A Land Capability Assessment has been provided to demonstrate that the proposal will have minimal impact (if any) on the environment.

Design and siting issues:

The proposed siting of the buildings is on the north-eastern slope of a gentle rise, which overlook views of the mountain ranges to the east. The buildings will likely be visible from surrounding properties in the area but will be constructed with materials and colours that complement the natural landscape and are consistent with the rural character of the area.

Overlays

Clause 42.03 – Significant Landscape Overlay Schedule 1

Purpose

- *To identify significant landscapes.*
- *To conserve and enhance the character of significant landscapes.*

Landscape character objective to be achieved

- *Identify and protect the visual values of the landscape of state significance on the approaches to mountains and ranges, including Mount Buller, Mount Stirling, Mount Timbertop and other significant mountains.*
- *Protect short and long distance views of Mount Buller from the Mt Buller Road, other approach roads and public viewpoints.*
- *Avoid the visual impact of buildings and works in the landscape.*
- *Minimise the visual impact of buildings and works by requiring setbacks from prominent visual areas, ridgelines and adjoining and nearby private land.*

Decision Guidelines

- *The impact of the proposed buildings and works on the landscape including effect on landscape within and outside the land (due to siting, design, size, and colour and texture of external construction materials), flora and fauna, land form, heritage values, and views to the land from roads, other public viewpoints and private land.*
- *The impact of buildings and works on views to the land from any road, public viewpoints and private land.*
- *Effluent disposal systems and measures to improve water quality.*

Comment:

The statement of landscape significance specifies views Mt Buller Road to the surrounding mountain ranges as being the significant views and key elements of the landscape. The character objectives identify the necessity to protect views of significant mountains such as Mount Buller, Mount Timbertop and Mount Stirling.

The subject site is located along Pollards Road. The orientation of the property and topography of the surrounding landscape between Pollards Road and Mt Buller Road is such that the

development has no impact to the specified views for vehicles travelling east along Mt Buller Road.

The proposed buildings are single storey in height with external materials and colours which are complimentary of the surrounding landscape and will not dominate the landscape, or detract from the picturesque views that the SLO1 seeks to protect. Likewise, the dwelling has no impact on views from other public realm vantage points or abutting developments.

It is considered that whilst the proposed buildings would be visible from surrounding properties, they will not impede views to the mountain ranges or particularly draw attention. The requirement for landscaping around the proposed buildings and northern property boundary will reduce the visibility of the buildings from surrounding properties.

General Provisions

Clause 65.01 – Approval of an Application or Plan

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 Municipal Planning Strategy and the Planning Policy Framework.*
- *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 environment and 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.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *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.*

Officer Response:

The proposed use and development will be generally in accordance with the relevant matters in this Clause. As explored through this report, matters relating to water quality are suitably addressed as part of the application. No native vegetation removal is required, and no unreasonable amenity impacts to adjoining or nearby public or private land are expected.

Conclusions

This application proposes the use and development of land for Group Accommodation (14 Eco-Villas) and an associated Restaurant at 390 Pollards Road Mansfield. Having assessed the application against the relevant clauses of the Mansfield Planning Scheme, it is considered that the proposal responds positively to the site and surrounding area. The proposal is providing for a small-scale tourism development associated with land that has historic use as a winery. The application is consistent with relevant Planning Policy and other similar operations within the Mansfield Shire.

Officer Recommendation

NOTICE OF DECISION TO GRANT A PLANNING PERMIT

That Council issue a **Notice of Decision to Grant a Planning Permit** for Planning Application P238/22 for use and development of land for Group Accommodation (14 Eco-Villas) and an associated Restaurant on **Lot 1 on Plan of Subdivision 734878H**, commonly addressed as 390 Pollards Road, Mansfield in accordance with the endorsed plans and subject to the following conditions:-

Endorsed Plans

1. The use and development as shown on the endorsed plans must not be altered or modified without the written consent of the responsible authority.
2. Prior to the commencement of works an amended Landscaping Plan is to be submitted to and approved by the responsible authority. The Landscaping Plan must be generally in accordance with the plans submitted and amended to detail:
 - a. Native mature tree plantings along the northern boundary, east of the existing access, to screen the proposed development from Pollards Road and surrounding properties.

Amenity

3. Prior to the commencement of use the landscaping must be planted to the satisfaction of the responsible authority and in accordance with the endorsed landscaping plan.
4. The use must not detrimentally affect the amenity of the neighbourhood to the satisfaction of the Responsible Authority, including through the:
 - a) Transport of materials, goods or commodities to or from the land;
 - b) Appearance of any building, works or materials; or
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
5. No more than twenty-eight (28) persons may be accommodated away from their normal place of residence at any given time.
6. The permit holder acknowledges and accepts that the possibility of nuisance from adjoining or nearby agricultural operations may occur. The possible off-site impacts include but are not limited to dust, odour, waste, vibration, soot smoke, or the presence of vermin, from animal husbandry, animal waste, spray drift, agricultural machinery, pumps, trucks and associated hours of operation. In acknowledging the existence of the agricultural operations being conducted from adjoining or nearby land, the permit holder and guests of the accommodation shall not make complaint against lawful agricultural activities on the adjoining or nearby land.

External Cladding

7. The external materials of the buildings, including the roof, must be constructed of materials of muted colours to protect the aesthetic amenity of the area. No materials having a highly reflective surface must be used.

For the purpose of this clause "highly reflective" includes unpainted or untreated aluminium, zinc or similar materials.

Premise Closure

8. The use of the Group Accommodation Building approved under this permit must not operate after 10.00am on any day with a declared Fire Danger Rating of Extreme or Catastrophic.

Wastewater Treatment

9. The wastewater disposal area must be located at least: 100m from any waterways (including dams on a waterway), 40m from any drainage lines, 60m from any dams, and 20m from any bores. *Where wastewater is treated to at least a secondary standard, the distance may be reduced in accordance with the current EPA Code of Practice – Onsite Wastewater Management. However, where possible setback distances must be maximised.

10. The wastewater disposal area must be kept free of stock, buildings, driveways, car parking and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. Unless wastewater disposal is by subsurface irrigation methods, a reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.



11. Prior to the commencement of any works the permit holder must ensure that any obligations or duties that arise under the *Environment Protection Act 2017* are met. This may include obtaining an EPA permission, approval, or exemption in accordance with the *Environment Protection Regulations 2021*.

12. All sewage and sullage shall be treated in accordance with the requirements of the Responsible Authority. All effluent shall be disposed of and contained within the curtilage of the property in accordance with the EPA Code of Practice On Site Wastewater Management and the Australian Standards AS 1547 - 2000 Disposal Systems for Effluent from Domestic Premises and AS/NZS 1547:2000/2012 On-site Domestic- Wastewater Management.

▶ Engineering

13. Prior to the commencement of works internal access road must be upgraded to be of an all-weather construction with dimensions adequate to accommodate emergency vehicles and be sufficient to satisfy CFA access requirements.

14. All road and stormwater design work must be conducted by a suitably qualified CPEng, RPEng or National Engineering Registered (NER) engineer, to the satisfaction of the Responsible Authority.



15. Prior to the commencement of works a Traffic Impact Assessment Report is to be submitted to and approved by the responsible authority to demonstrate existing and expected traffic along Pollards and Stoneys Road, considering the impacts at the interstions of Mansfield-Woods Point Road and Mt Buller Road, including seasonal peak traffic flows.
16. Prior to the commencement of works design drawings and engineering plans must be submitted to Council for approval for safety and improvement works along Stoneys Road and Pollards Road, including widening narrow roads at crests and upgrades to the culvert on Stoneys Road.
17. Prior to the commencement of use the road safety upgrades and improvements as determined in the approved engineering plans must be completed to the satisfaction of the responsible authority.
18. Prior to the commencement of works a Stormwater Management Plan must be submitted to and approved by the responsible authority.
19. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).

Permit Expiry

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

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