



Delegate Report

File Number: DA7940
Planning Application No. P133/22
Responsible Officer: Nicole Embling
Attachments: N/A

Conflict of Interest

After reading the definitions of a general or material conflict of interest as defined by the *Local Government Act 2020*, do you have a conflict of interest?

Yes No

<i>Application Details</i>	
APPLICANT	M I Leggett C/- Regional Planning Services
LANDOWNER	M I Leggett
PROPOSAL	Use and development of land for a dwelling, outbuilding and group accommodation (3 Cabins)
APPLICATION LODGED	10/07/2022
NOTICE AND SUBMISSIONS	Advertised 30 objections received to the application
<i>Property Details</i>	
PROPERTY ADDRESS	1/299 Paps Lane, Mansfield VIC 3722
LAND DESCRIPTION	Lot 2 on Lot Plan 90631
ENCUMBRANCES	Nil
EASEMENTS	Nil
LAND AREA	10.5 hectares (approx.)
EXISTING USE	Vacant

<i>Planning Provisions</i>	
ZONE	Clause 35.07 – Farming Zone (FZ)
OVERLAYS	Clause 42.01 – Environmental Significance Overlay – Schedule 2 (ESO2)
MUNICIPAL PLANNING STRATEGY	<p>Clause 02.03-1 – Settlement (Mansfield Township)</p> <p>Clause 02.03-2 – Environmental and Landscape Values (Landscapes)</p> <p>Clause 02.03-3 – Environmental Risks and Amenity (Bushfire)</p> <p>Clause 02.03-4 – Natural Resource Management (Agriculture)</p> <p>Clause 02.03-4 – Natural Resource Management (Water and Declared Special Water Supply Catchments)</p> <p>Clause 02.03-6 – Housing</p> <p>Clause 02.03-7 – Economic Development (Tourism)</p> <p>Clause 02.03-9 – Infrastructure (Development Infrastructure)</p>
PLANNING POLICY FRAMEWORK	<p>Clause 11.01-1S – Settlement</p> <p>Clause 12.03-1S – River and riparian corridors, waterways, lakes, wetlands and billabongs</p> <p>Clause 13.02-1S – Bushfire Planning</p> <p>Clause 13.02-1L – Bushfire Management</p> <p>Clause 13.07-1S – Land Use Compatibility</p> <p>Clause 14.01-1S – Protection of Agricultural Land</p> <p>Clause 14.01-1L – Dwellings and Subdivisions in Rural Areas</p> <p>Clause 14.02-1S – Catchment Planning and Management</p> <p>Clause 14.02-1L – Catchment Planning and Management</p> <p>Clause 14.02-2S – Water Quality</p> <p>Clause 15.01-2S – Building Design</p>

	<p>Clause 15.01-6S – Design for Rural Areas</p> <p>Clause 15.03-2S – Aboriginal Cultural Heritage</p> <p>Clause 16.01-1S – Housing Supply</p> <p>Clause 16.01-2S – Housing Affordability</p> <p>Clause 16.01-3S – Rural Residential Development</p> <p>Clause 17.01-1S – Diversified Economy</p> <p>Clause 17.01-1R – Diversified Economy – Hume</p> <p>Clause 17.04-1S – Facilitating Tourism</p> <p>Clause 17.04-1R – Tourism – Hume</p> <p>Clause 17.04-1L – Facilitating Tourism in Mansfield Shire</p> <p>Clause 18.02-4S – Roads</p> <p>Clause 19.03-3S – Integrated Water Management</p>
PARTICULAR PROVISIONS	Clause 52.06 – Car Parking
<i>Permit Triggers</i>	
CLAUSE 35.07-1 (FZ)	A permit is required to use the land for the purposes of a use listed in Section 2 of Clause 35.07-1 (Dwelling – as the land is less than 40 hectares in size, outbuilding and Group Accommodation – 3 Cabins).
CLAUSE 35.07-4 (FZ)	<p><i>A permit is required to construct or carry out any of the following:</i></p> <ul style="list-style-type: none"> • <i>A building or works associated with a use in Section 2 of Clause 35.07-1.</i> • <i>A building which is within any of the following setbacks:</i> <ul style="list-style-type: none"> - <i>100 metres of a waterway, wetlands or designated floodplain.</i>
CLAUSE 42.01-2 (ESO2)	<i>A permit is required to construct a building or construct or carry out works.</i>
<i>Other</i>	
CULTURAL SENSITIVITY	Yes

	Part of the subject land is within an area of aboriginal cultural heritage sensitivity.
BUSHFIRE PRONE AREA	Yes The subject land is located within an identified Bushfire Prone Area (BPA).
DWMP RISK RATING (IF RELEVANT)	Medium Risk

Background

Proposal

The permit applicant, Regional Planning Services, seeks planning permission to use and development land for the purposes of a single dwelling, outbuilding, and for three (3) group accommodation cabins on the land at 1/229 Paps Lane, Mansfield (the subject land).

The key features of the proposal are:

Use (dwelling and group accommodation) –

- Provision for a 2,500 litre water tank to each cabin (three in total) and a further 20,000 litre water tank (for firefighting purposes) for the dwelling are proposed.
- A 2,100 square metre effluent field is proposed on the north-wester corner of the property to service the dwelling and cabins, in accordance with the Land Capability Assessment that has been prepared.
- The development would be connected to reticulated electricity.

Development (dwelling) –

- Construction of a 440.28 square metre single-storey detached dwelling.
- The dwelling would comprise four (4) bedrooms, including a master bedroom with walk-in-robe and ensuite bathroom; a main bathroom and attached powder room; a laundry, open plan living (with fireplace), dining and kitchen (with butler's pantry); a second living room and a three quarter wrap around verandah (with treated pine decking).
- The dwelling would be primary constructed of weatherboard wall cladding (cream colouring), Colorbond custom orb roofing (Woodland grey colouring); stonework to chimney; timber (cedar) framed windows and doors; and treated pine decking to verandah.
- Maximum building height of 5.4 metres (apex) / 5.8 metres (chimney).
- Setbacks:
 - North (primary frontage) 113.0 metres
 - East (side) 227.0 metres
 - South-east (side/rear) 140.0 metres

- South (side/rear) 253.0 metres
- West (secondary frontage) 93.0 metres
- 75.0 metres north-east of a mapped watercourse on the property.

Development (outbuilding) –

- Construction of a 10 metre by 10 metre (100 square metre) outbuilding.
- The outbuilding would comprise an open plan floor area with two (2) 2.5 metre (high) x 2.7 metre (wide) roller doors and one (1) 3.6 metre (high) x 3.0 metre (wide) roller door to the western elevation and a pedestrian door to the southern elevation.
- The outbuilding would be primarily constructed of a steel frame with Colorbond roofing (Woodland Grey colouring), Colorbond walls (Cream colouring) and Steel roller doors and pedestrian doors (Woodland grey colouring).
- Maximum building height would be 4.6 metres.
- Setbacks:
 - North (primary frontage) 84.0 metres
 - East (side) 238.0 metres
 - South-east (side/rear) 178.0 metres
 - South (side/rear) 339.0 metres
 - West (secondary frontage) 87.0 metres
 - 20.0 metres north-west of the proposed dwelling.

Development (group accommodation) –

- Construction of three (3) 95.2 square metre group accommodation cabins (inclusive of a 67.2 square metre building and 28 square metre attached decked verandah). The cabins would be modular in form, prepared off-site and transported to the subject land. On site, they would be placed on stumps, allowing the free passage of water underneath, and ability for them to be removed from the land easily if required.
- Each cabin would comprise two bedrooms; a main bathroom; open plan kitchen, living and dining area; and an open decked area (partially roofed).
- The cabins would be primarily constructed of a timber frame; supported by a steel sub floor, concrete footings and timber base boards to cover the footings (woodland grey colouring); weatherboard cladding to walls (cream colouring); Colorbond roofing (woodland grey colouring); and a timber deck with balustrading.
- Maximum building height of 3.6 metres (including footings).
- Setbacks:
 - North (primary frontage) 24.0 metres
 - East (side) 124. metres
 - South-eastern (side/rear) 136.0 metres
 - Southern (side) 365.0 metres
 - West (secondary frontage) 107.0 metres
 - 31.0 metres west of a mapped watercourse on the property.
 - 51.0 metres and 83.0 metres north-east of the proposed outbuilding and dwelling

(respectively).

Access –

- Access to the site would be provided by a new vehicle crossover to the unsealed government road abutting to the north followed on by a new vehicle accessway (dimensions not provided – amended plans permit condition required), comprised of two branches – one to the dwelling to the south and outbuilding and one to the group accommodation units to the east.

Car Parking –

- No provision for off-street car parking has been shown, although sufficient space is available for such.

Other –

- A Land Rehabilitation/Environmental Management Plan has been prepared and is attached with the application which demonstrates how the subject site will be managed and rehabilitated.
- 65 square metre (approx.) landscaping buffers would be provided to each cabin.

No native vegetation removal is proposed or required for the proposed development.

No buildings or works are proposed within the area of the site identified as having aboriginal cultural heritage sensitivity.

A copy of the proposed plans is provided below:

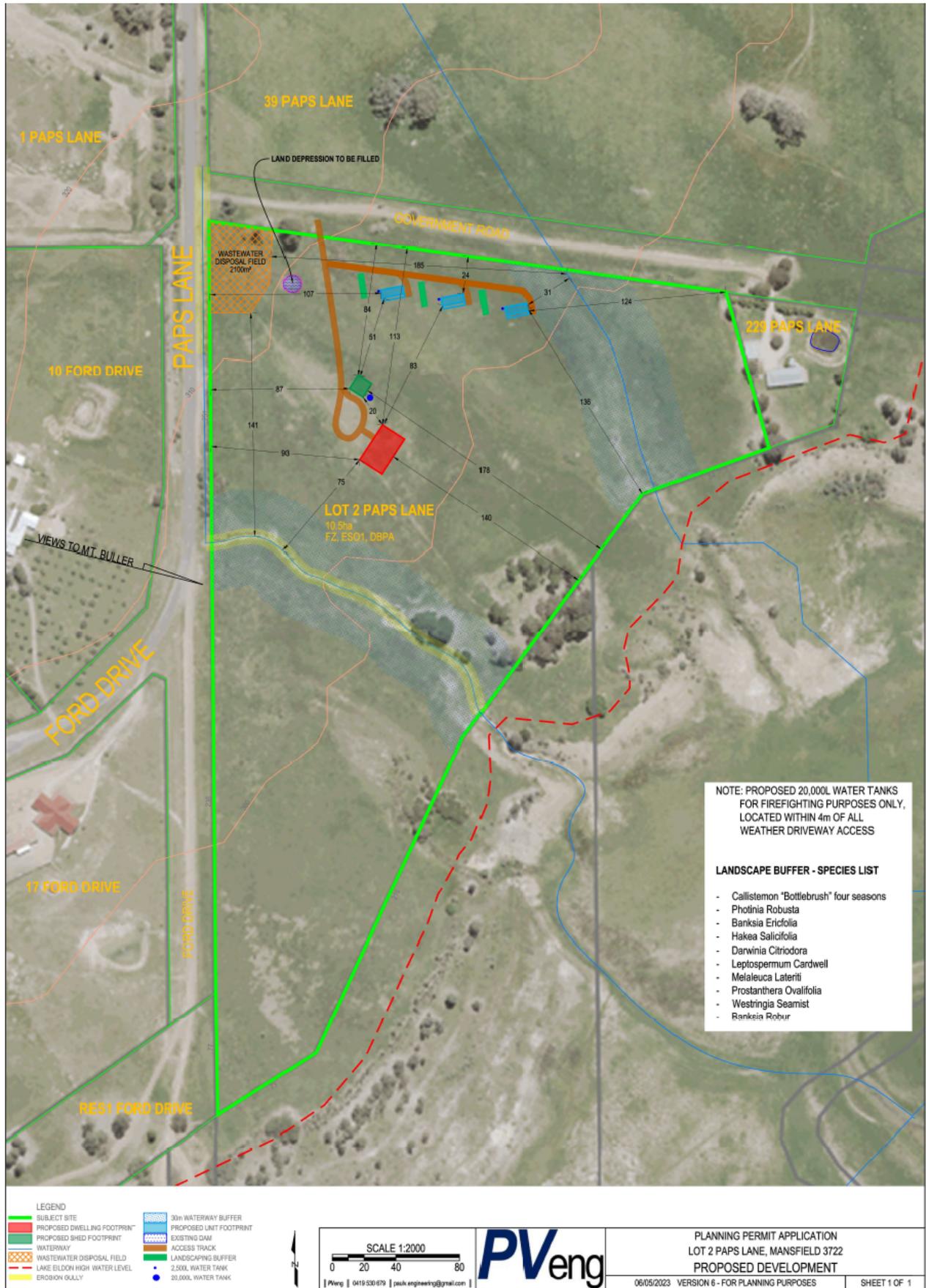


Figure 1: Proposed Site Plan.

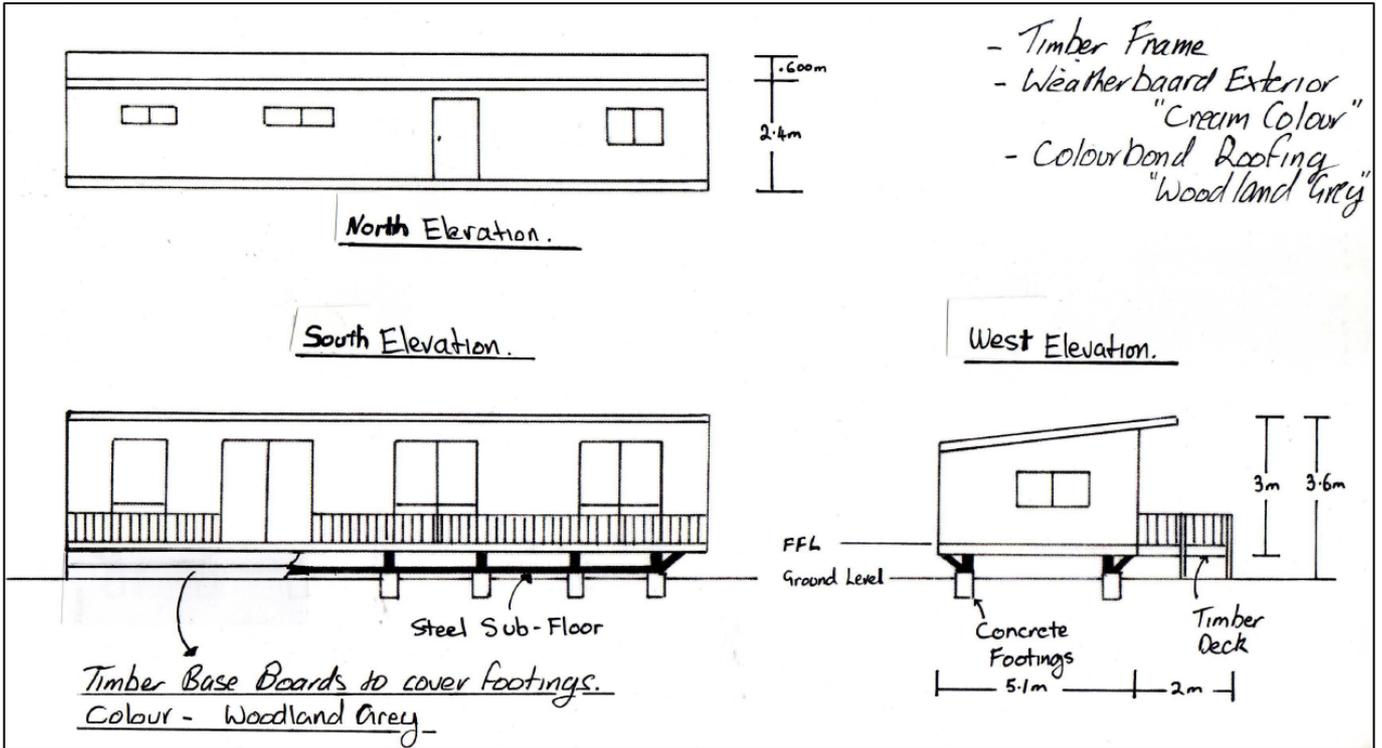


Figure 2: Proposed Elevation Plan (group accommodation).

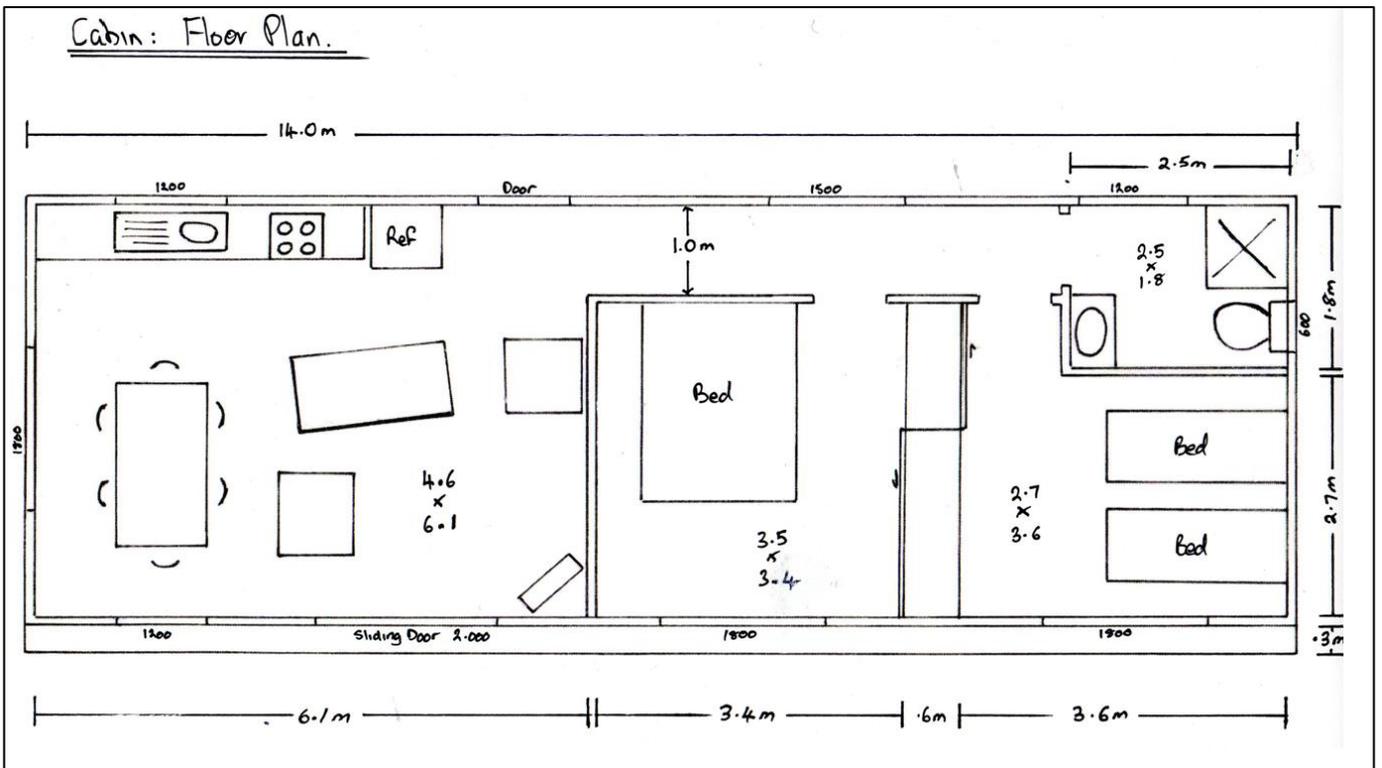


Figure 3: Proposed Floor Plan (group accommodation).

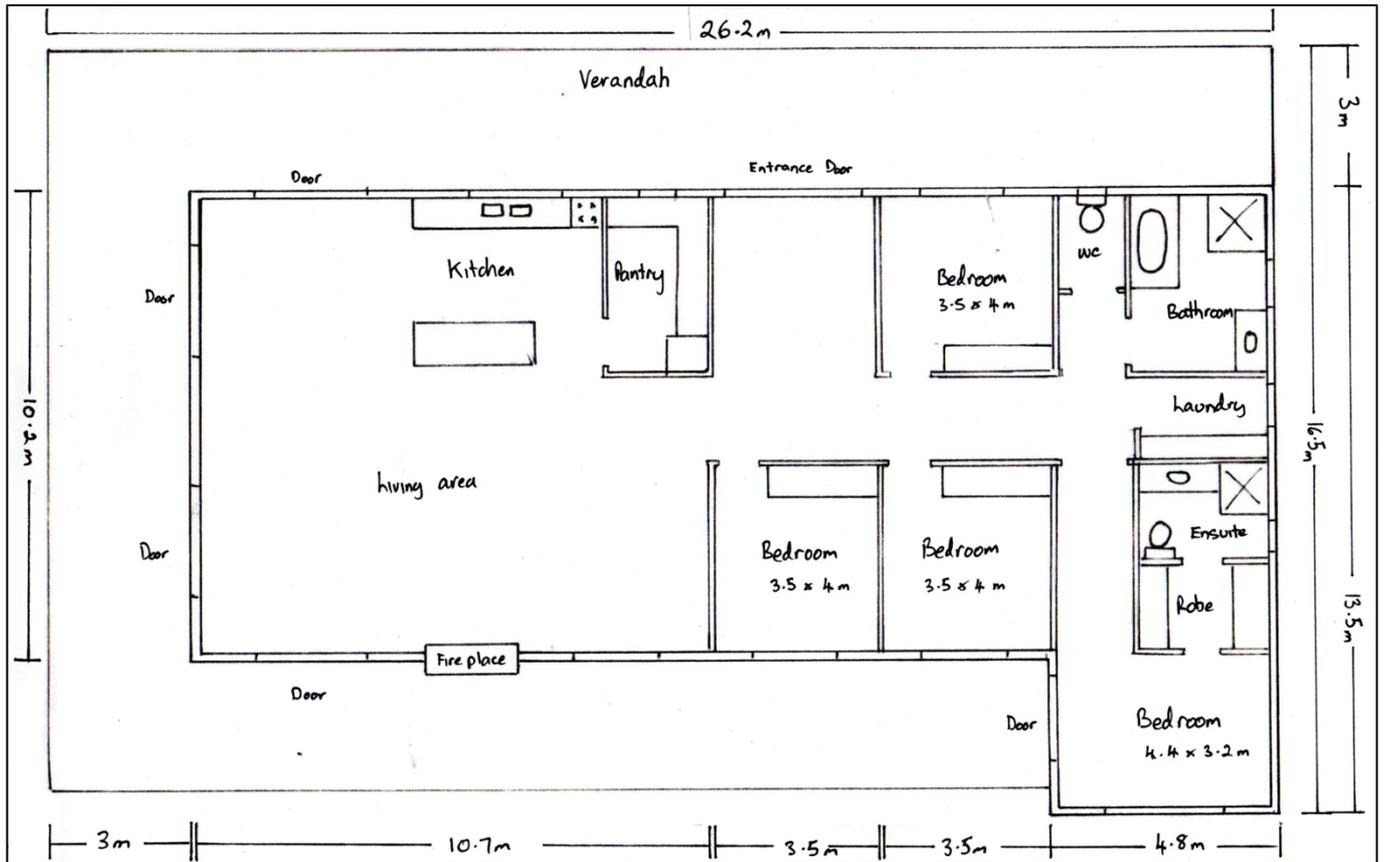


Figure 4: Proposed Floor Plan (dwelling).

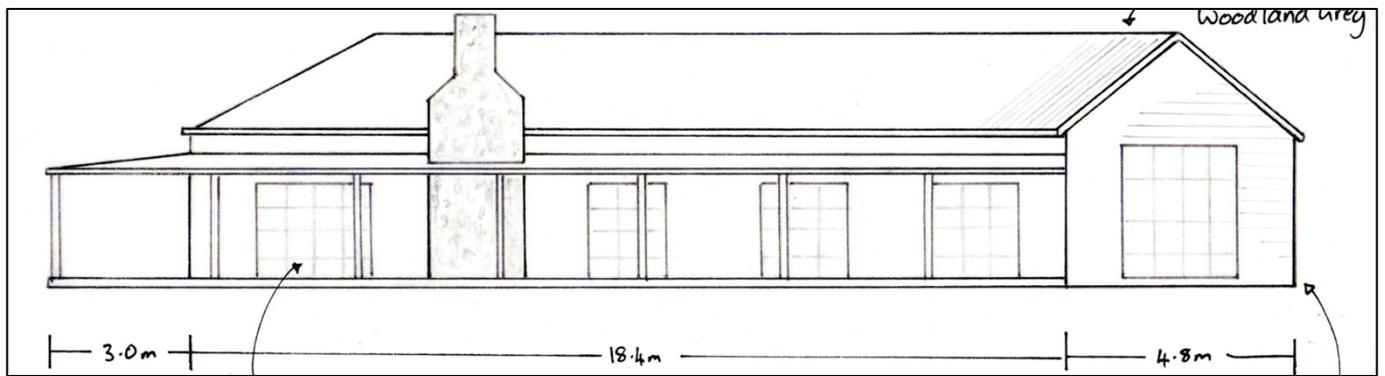


Figure 5: Proposed Eastern Elevation Plan (dwelling).

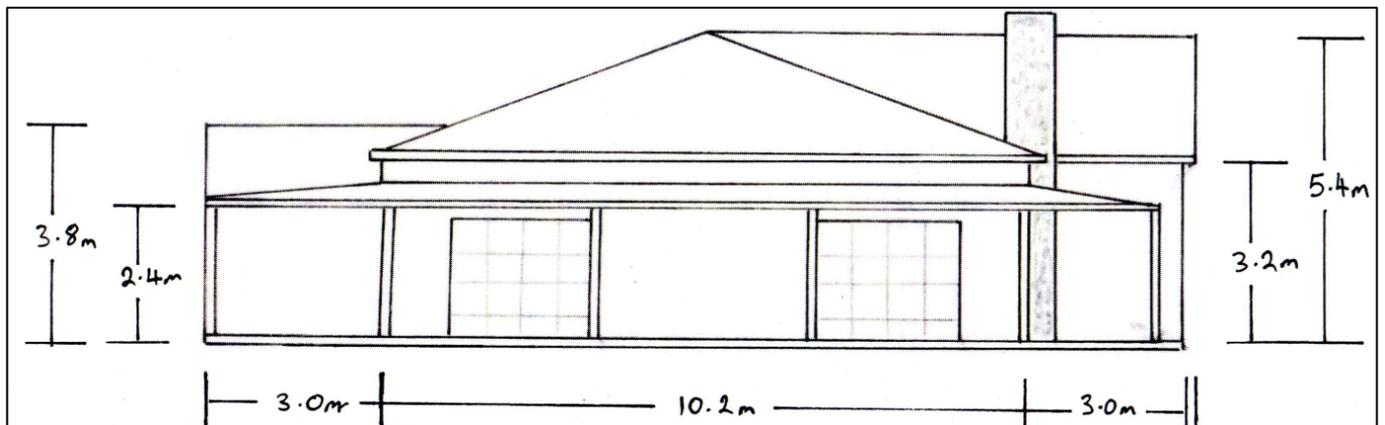


Figure 6: Proposed Southern Elevation Plan (dwelling).

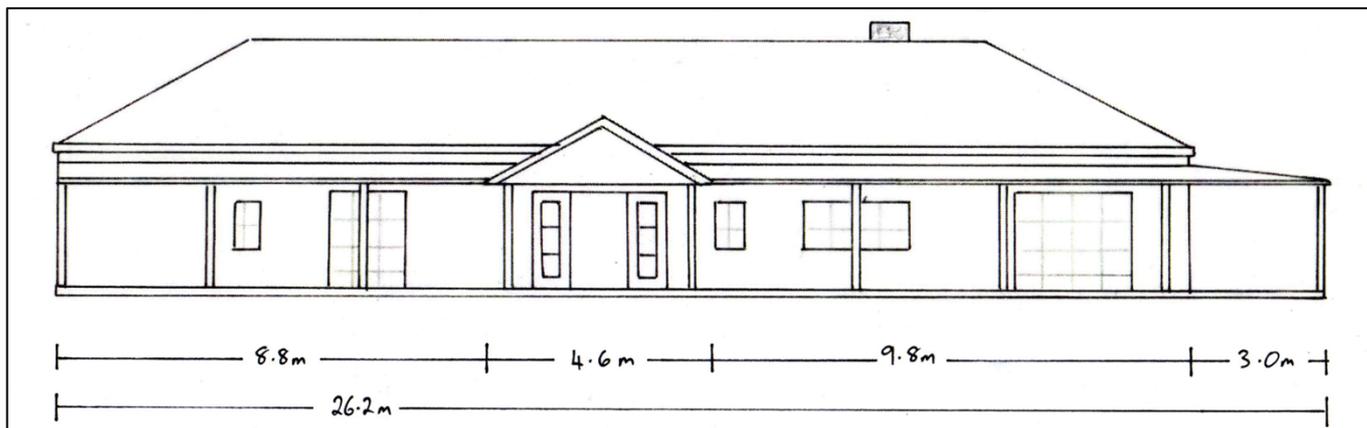


Figure 7: Proposed Western Elevation Plan (dwelling).

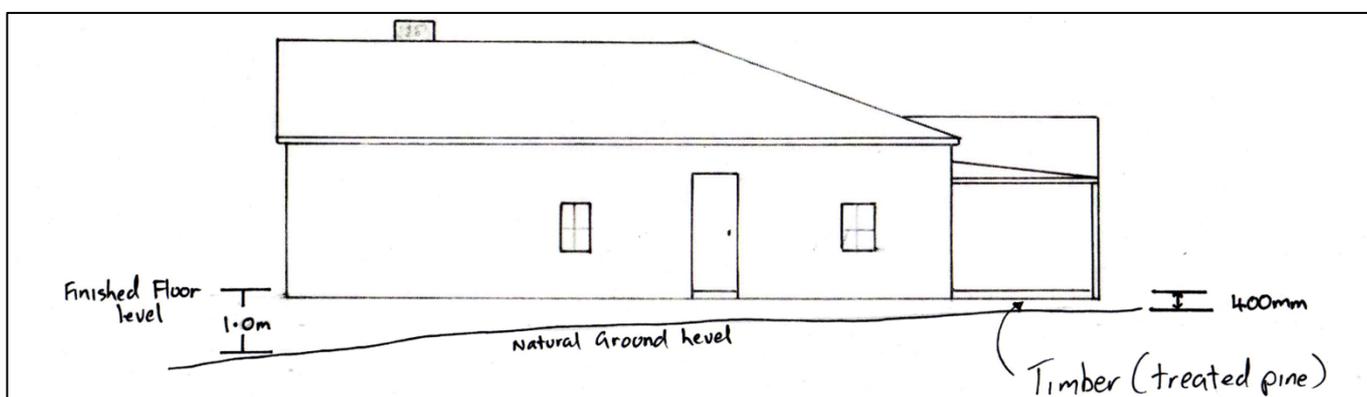


Figure 8: Proposed Northern Elevation Plan (dwelling).

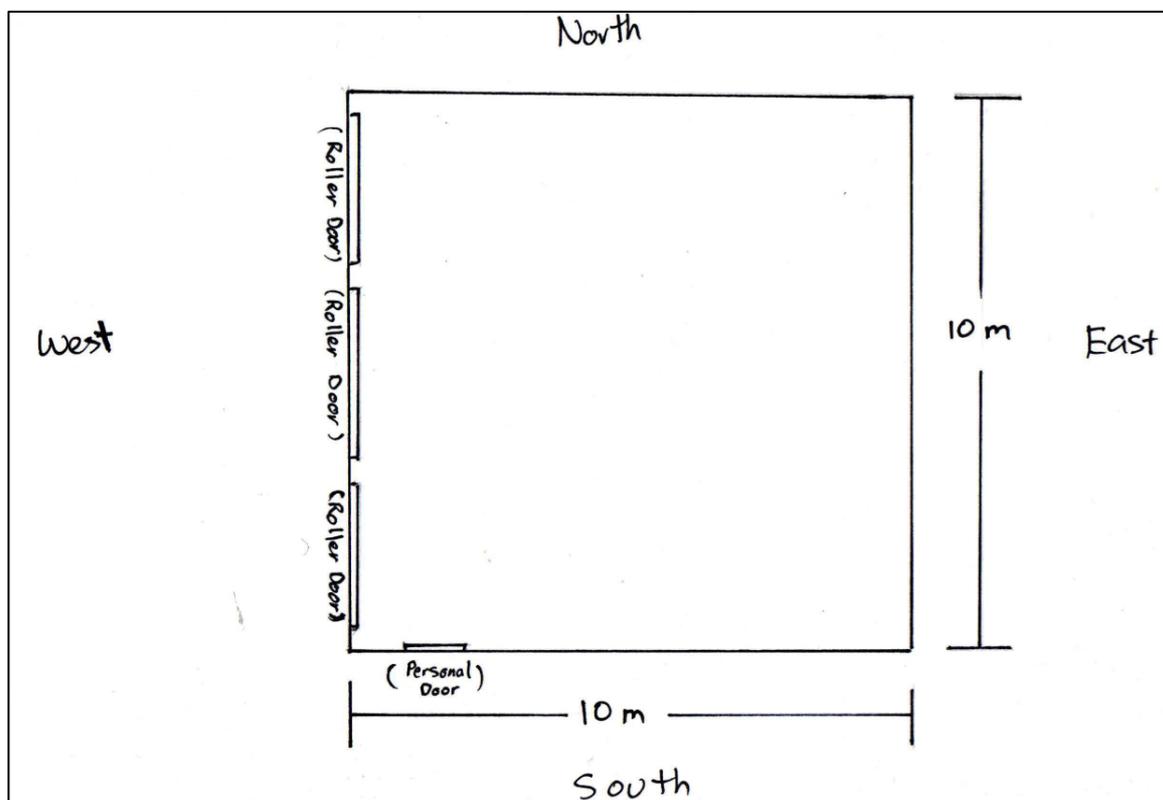


Figure 9: Proposed Floor Plan (outbuilding).

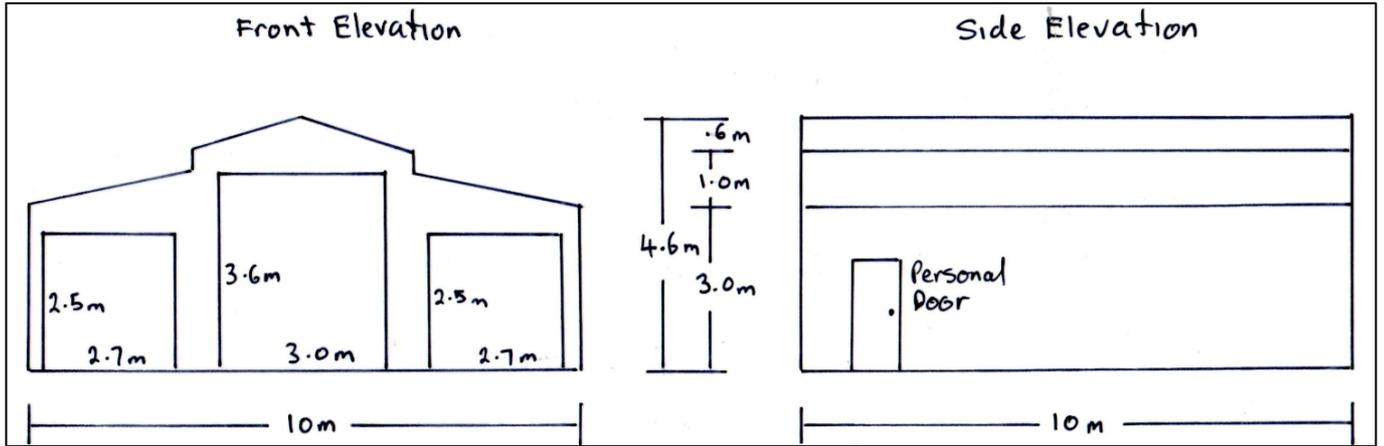


Figure 10: Proposed Elevation Plan (outbuilding)



Figure 11: Proposed Colours and materials palette/swatches.

Subject site, neighbourhood and environs

The subject land comprises a single allotment formally known as Lot 2 on Lot Plan 90631, and more commonly referred to as 1/229 Paps Lane, Mansfield.

It is located on the eastern side of Paps Lane on the corner of Paps Lane and an unnamed government road to the north. It is approximately 6.5 kilometres south-west of the Mansfield township centre and approximately 12 kilometres east of Bonnie Doon.

It is an irregularly shaped lot with a land area of 10.5 hectares, with a maximum site width of 348.0 metres (approx.) and a maximum site depth of 564.0 metres (approx.).

The subject land is currently a vacant allotment, although the site does have access to reticulated electricity.

The site is located within a designated BPA, the Lake Eildon Environs designated water supply catchment area, and partly within an area of aboriginal cultural heritage sensitivity.

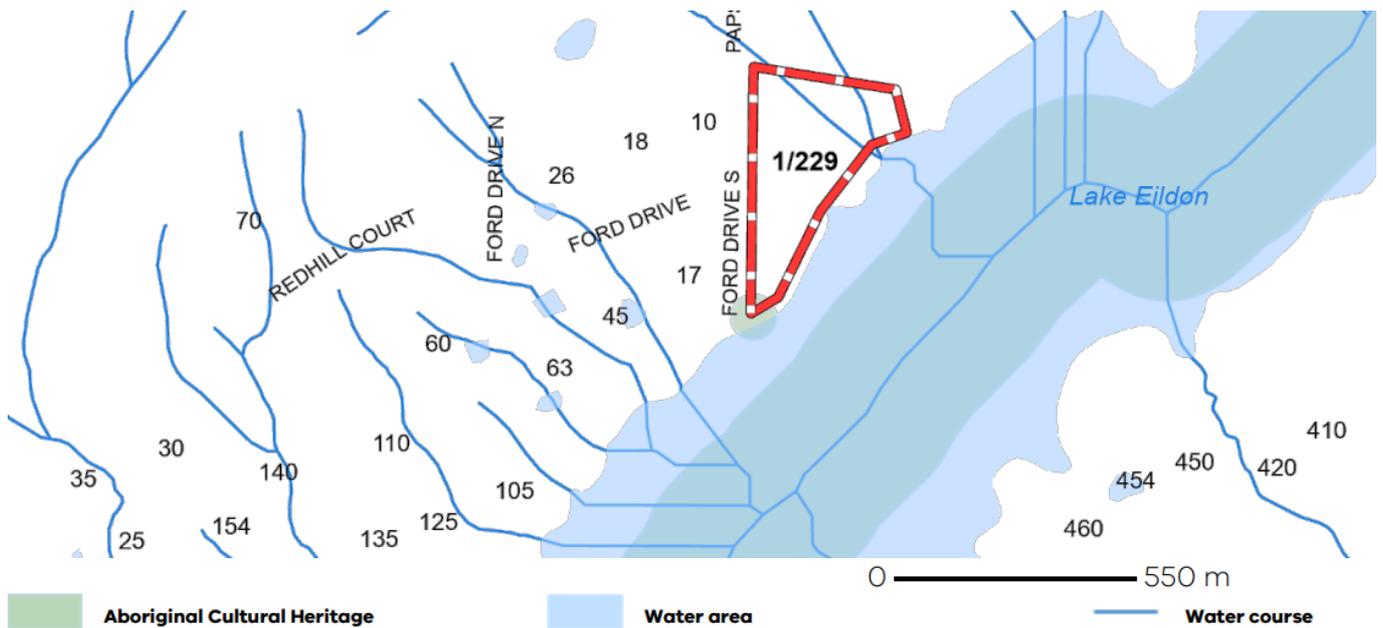


Figure 12: Aboriginal Cultural Heritage Area of Sensitivity

It is located at the base of the Paps, slightly undulating predominantly south easterly facing, and sloping towards Lake Eildon. The land rises steeply from the Ford Creek (Lake Eildon) that runs through eastern side of the property.

There are two waterways that flow through the property. Both waterways have good ground cover consisting of a mix of native and non-native grass, sedge and rush species. Juncus species and sedges are present in these areas indicating higher soil moisture and possible inundation in the wetter periods of the year. The subject site features a series of eroded gullies or cracks in the soil surface.

Minimal remnant vegetation is present of the property. Plantings of pines and eucalyptus species, many not indigenous to the area are present. Remnant vegetation present on the property consists of Yellow Box, Burgan and Silver wattle.

Land surrounding the site to the north, north-east and west is generally zoned in the Farming Zone (FZ). To the west and immediate east lots are heavily fragmented and developed with dwellings. To the north lots are typically over 100 hectares with some (albeit very few) actively used for agricultural purposes. The primary activity in the immediate area comprises grazing animal production.

Land to the south-west is zoned in the Rural Living Zone – Schedule 1 (RLZ1), which is typically improved by single dwellings and ancillary outbuildings. Development is typically oriented to Lake Eildon and it is not uncharacteristic for these properties to have multiple buildings on site.

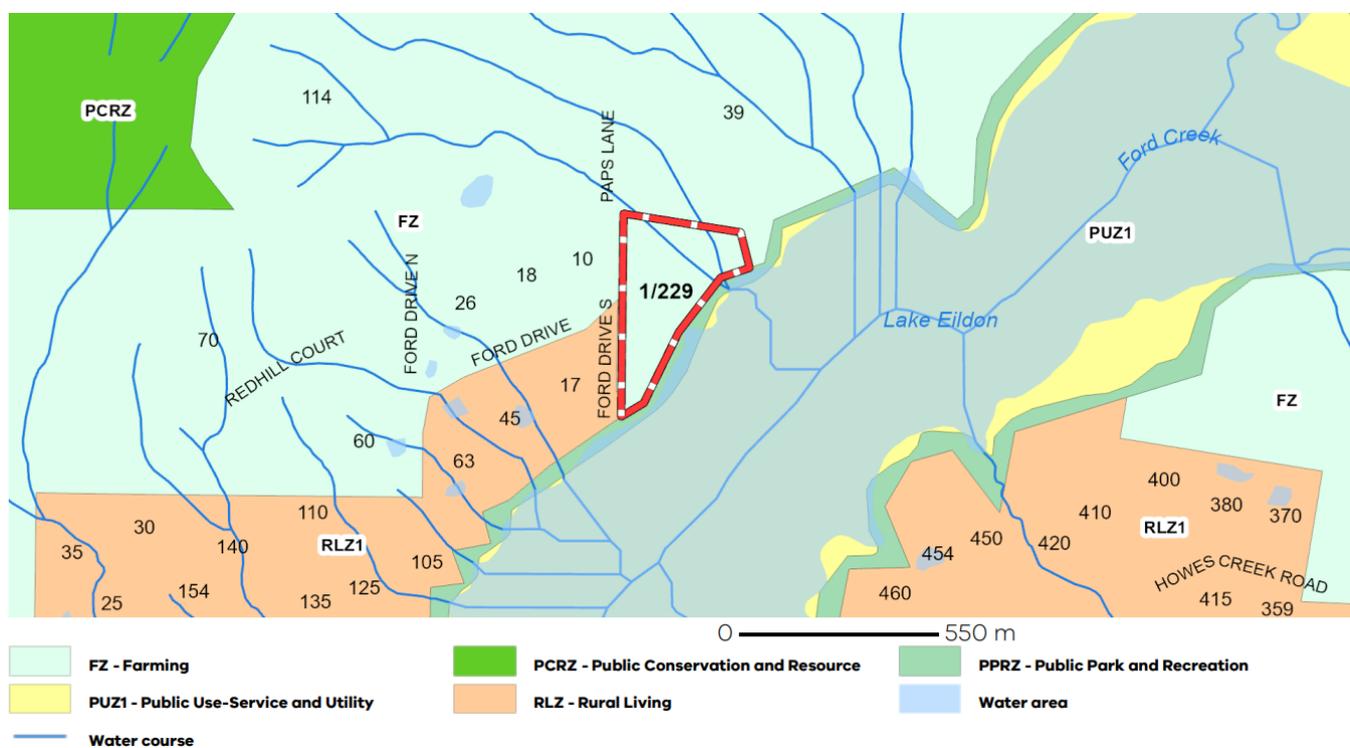


Figure 13: Zoning of the subject land and surrounds

Contrastingly, land to the south and south-east is zoned in the Public Use Zone (PUZ1) and forms part of the Ford Inlet and Lake Eildon, with a narrow strip of land zoned in the Public Park and Recreation Zone (PPRZ) separating the subject land from the PUZ1. The Reardons Reserve Boat Ramp is located south of the site and abuts the lake.



Figure 14: Aerial image of the subject land. Source: Council GIS.

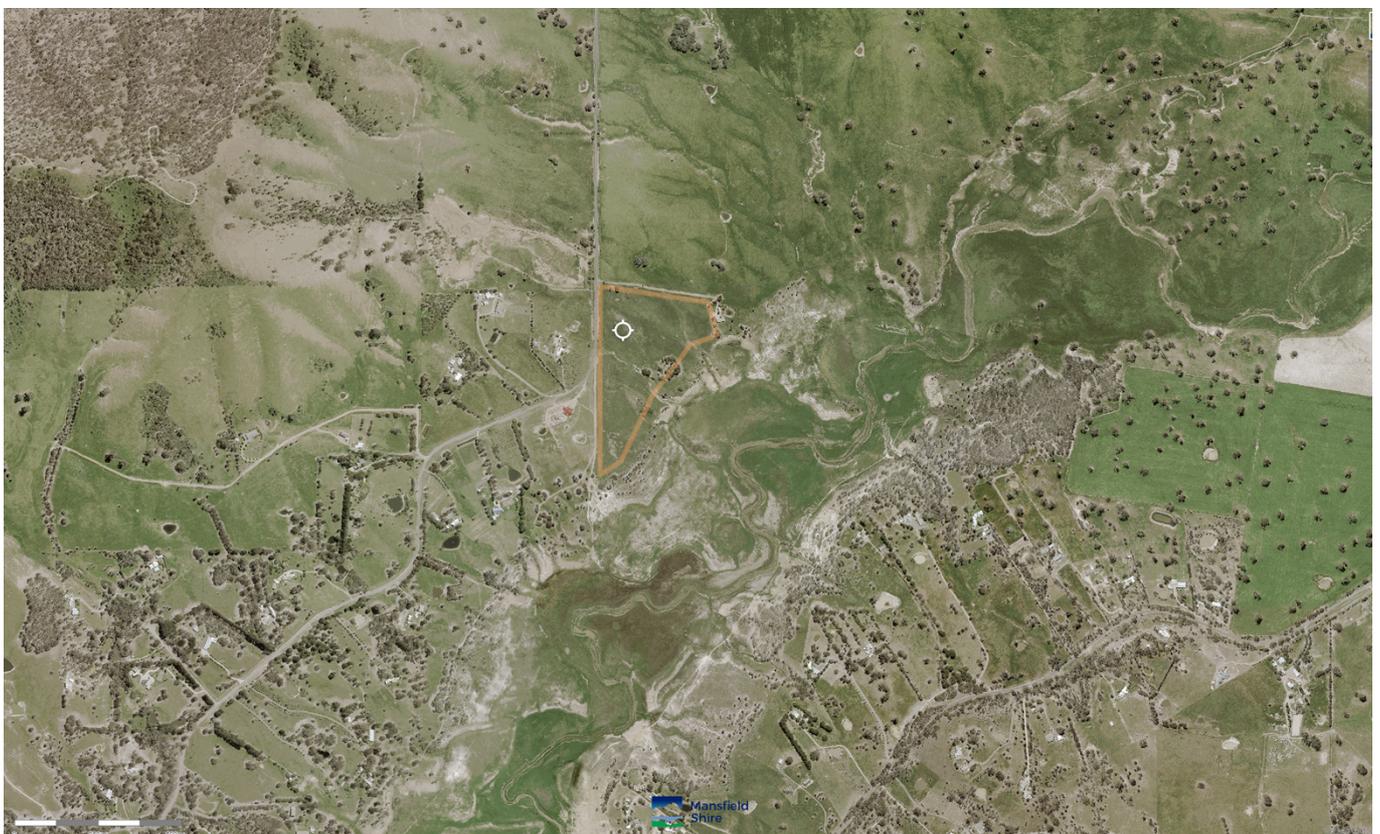


Figure 15: Aerial image of the subject land and its surrounds. Source: Council GIS.



Figure 16: Site photographs of the erosion within subject land, provided in the Environmental Report.

Site History

There is no relevant planning permit history pertaining to the subject land.

Consultation

Referral Responses

<i>Referral Agency</i>	<i>Referral trigger</i>	<i>Response</i>
COUNTRY FIRE AUTHORITY (CFA)	Section 52	Received: 2 August 2023 Response: No objection
DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING (DELWP)	Section 52	Received: 19 July 2023 Response: No objection
GOULBURN BROKEN CATCHMENT MANAGEMENT AUTHORITY (GBCMA)	Section 52	Received: 26 October 2022 Response: Conditional consent
GOULBURN-MURRAY WATER (GMW)	Section 55	Received: 4 August 2023 Response: Conditional consent
MSC ENGINEERING	N/A	Received: 1 August 2023 Response: Conditional consent
MSC ENVIRONMENTAL HEALTH	N/A	Received: 24 July 2023 Response: Conditional consent

Advertising

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* (the Act). Notices were sent to all adjoining and adjacent landowners and occupiers, and site notices were displayed on the site frontage for a period of at least fourteen consecutive days.

At the time of writing this report there were thirty (30) objections received to the application following the advertising period.

The application was amended 6 June 2023, in accordance with Section 57A of the *Planning and Environment Act 1987*, the amended application documents were provided to all submitters.

Objections

The following issues were raised in the objections:

<i>Objection/concern</i>	<i>Response</i>
Group Accommodation is a Commercial Use	<p>Whilst the use and development of the land for group accommodation inherently has ‘commercial qualities’, it is not considered to be a commercial use for the purposes of the Mansfield Planning Scheme. It is no more commercial than agricultural production is in the Farming Zone.</p> <p>Pursuant to Clause 73.03 of the Mansfield Planning Scheme, ‘Group Accommodation’ is a type of accommodation use (a dwelling is also an accommodation use), and is defined as ‘<i>Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence</i>’.</p> <p>The assessment of this application must therefore be based on the proposed use and development being group accommodation. It is considered that the proposal put forward would be a measured application of a non-agricultural land use in the Farming Zone that is relatively congruent with the site’s context – nestled between dwellings, underutilised agricultural holdings and Lake Eildon.</p> <p>The Mansfield Planning Scheme allows for the consideration of this type of proposal through a planning permit application.</p>
Land use conflict and amenity impacts	<p>The works are appropriately separated from abutting properties and other dwellings (particularly those in the RLZ1 and FZ to the east, west and south-west) and not in proximity to any</p>

	<p>existing agricultural enterprise, minimising the prospect of land use conflicts to other land.</p> <p>Based on the type and scope of land use proposed and the land size, the proposed use and development is not considered to result in any considerable noise pollution or amenity impact.</p>
<p>Group Accommodation is not suitable in the Farming Zone</p>	<p>The purpose of the Farming Zone contemplates the use of land for non-agricultural land uses. It does not prohibit the use of the land for group accommodation. It is noted that group accommodation, like a dwelling, is a non-agricultural land use. The attributes of the site – soil quality and susceptibility to erosion, lot size, presence of waterways/abuttal to Lake Eildon and the potential impacts to the catchment area as a result of agricultural activities – make it unsuitable for meaningful/intensive agricultural production and, instead, make it more suitable for a non-agricultural land use owing to its proximity to Lake Eildon. It is considered that any agricultural uses on the site, if viable, would be further hindered by the site’s abuttals to existing dwellings as well as recreation and tourism activities on Lake Eildon, which are inherently sensitive to uses such as agriculture. Subsequently, it is not a viable candidate for agricultural production. As discussed in this report, the proposal is considered to be generally accordant with the Farming Zone.</p> <p>Group Accommodation is defined as an Accommodation Use and is most typically approved in General Residential, Rural Living Zone and Farming Zone. Group Accommodation requires a planning permit for Use in all Zones, except the Commercial 1 Zone where an existing building has no more than a door at street level (e.g., ‘Shop-Top’ housing), otherwise Group Accommodation always requires a planning permit for use in Mansfield Shire. There is evidence across Mansfield Shire of existing Group Accommodation facilities in the Farming Zone.</p> <p>The Farming Zone does enable non-agricultural land uses and requires consideration of the relevant decision guidelines which ensure the development will not restrict or prohibit farming on adjoining and nearby properties. As the proposal is on an existing small lot in the Farming Zone with a limited capacity for agricultural activities and the surrounding land uses are mostly rural living it is anticipated that there would be no detrimental impact to agriculture.</p>

<p>The Farming Zone prohibits the use of the subject land for a dwelling</p>	<p>The assertion that use of land for a dwelling is prohibited in the Farming Zone is incorrect. Clause 35.07-1 provides the Table of Uses, which is segmented into three use categories (or ‘sections’).</p> <p>Section 1 prescribes that no planning permit is required to use the land for a single dwelling on a lot provided the lot is at least 40 hectares in land area.</p> <p>Where a proposal does not meet the section 1 use condition, Section 2 prescribes that a dwelling is a permissible use (i.e., triggers the requirement for a planning permit to be sought) provided it meets the requirements of Clause 35.07-2.</p> <p>The purpose of a planning permit application is to undertake a balanced merits-based assessment of a proposal against the planning policy and control requirements of the Mansfield Planning Scheme to determine its acceptability for the site and surrounds.</p>
<p>Traffic and road capacity/condition (including north-abutting government road)</p>	<p>The application has been referred to Council’s Engineering unit, who have assessed the application and determined that it satisfies the relevant considerations subject to appropriate conditions on any permit issued. Specifically, in their assessment, they found that the existing road network is suitable for the proposed use and development.</p> <p>Although traffic volumes along the surrounding road network would increase by virtue of the proposed use and development, the expected total traffic volumes would be lower than the nominal maximums considered appropriate for these streets. Further, off-street car parking for the proposed use and development would be provided in compliance with the statutory requirements of the Mansfield Planning Scheme (subject to permit conditions). Should a permit be issued, as standard a condition of any permit would require that car parking spaces and vehicle accessways be constructed and available for use.</p>
<p>Wastewater</p>	<p>A 2,100 square metre effluent field is proposed on the north-wester corner of the property to service the dwelling and cabins, in accordance with the Land Capability Assessment that has been prepared.</p> <p>The Land Capability Assessment has been assessed by GMW and Councils Environmental Health team who have determined that the proposal is able to comply with the relevant</p>

	requirements of Councils Domestic Wastewater Management Plan and the EPA Code of Practice Onsite Wastewater Management.
Impact on the lake (and catchment area)	Goulburn Murray Water have reviewed the application and determined that it satisfies the relevant considerations subject to appropriate conditions on any permit issued. The proposal includes waterway buffers which incorporate revegetation and management of the waterway running through the site.
The application incorrectly refers to the dwelling comprising four (4) bedrooms, not five (5) to six (6) as shown.	The proposed floor plan for the dwelling shows four (4) bedrooms, including a master bedroom with walk-in-robe and ensuite bathroom. There are no other bedrooms shown on the plans or referred to in the application documents.
The dwelling could be rented out	<p>Consideration to the future residential occupancy and use of the dwelling, such as the type of occupancy (i.e., owner-occupier versus rented out), is not a matter that is relevant to the consideration and assessment of this planning permit application.</p> <p>If approved the dwelling could be rented out for a permanent residence, the nature of the proposal would not allow the dwelling to be used for temporary accommodation.</p>
It would set a precedent	Each planning permit application is considered on its merits against the requirements of the Mansfield Planning Scheme. It should also be noted that different planning controls and policy considerations may apply depending on the property and the proposal put forward. The merits of this particular proposal suggest that, on balance, it is an acceptable response having regard to the relevant planning controls and policy considerations. This may or may not necessarily be the case for other similar proposals, whether it be on the subject land or another property.
Notice period too short	<p>Section 52 of the <i>Planning and Environment Act 1987</i> legislates what notice periods and forms of notice apply. The application has been notified in accordance with these requirements by way of displaying a sign on site for at least fourteen (14) consecutive days and by sending letters to adjoining and nearby property owners and occupiers.</p> <p>The planning permit application was advertised on Public Notice between 17 October to 2 November 2022, which is a</p>

	<p>period of 15 days. The Planning and Environment Act 1987 specifies that the Notice period must be no less than 14 days. It is noted that the original notice was placed on site in October 2022, and local residents have now had 9 months to submit an objection.</p> <p>Further, objections to the application can be received until Council receives a decision (noting that as 30 objections have been received, this would indicate that appropriate notice has been given and persons have had opportunity to consider).</p>
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Consultative Meeting

A consultative planning meeting was held on 03 April 2023 in a hybrid format.

The permit applicant and four (4) objectors attended.

The Objectors made the following comments/concerns:

- *'Caretaker's Dwelling' to be used by the landowner as a permanent residence.*
- *Concerns have not been addressed and there is a lack of information in the application.*
- *Use for a 'commercial enterprise' is not appropriate in the Farming Zone.*
- *Proposal of 5 dwellings [application has since been amended to 1 dwelling and 3 cabins] is not appropriate in the Farming Zone.*
- *Consideration for proposal within 100 metres of neighbouring houses [amended proposal places all buildings more than 100 metres] and property boundaries.*
- *Approval could set a precedent for further Tourism/Accommodation/Commercial development in the area.*
- *Management of effluent (wastewater) and the proposed location of the effluent disposal field.*
- *Land has previously been used for farming and therefore has the potential for agricultural purposes in the future.*
- *Additional traffic along Paps Lane.*
- *Proposal is not consistent with the Lake Eildon Master Plan.*
- *Dwellings would be visible from existing neighbouring houses.*

The Permit Applicant provided the following response:

- *Native planting to commence this winter [June-August 2023].*
- *Works to rehabilitate the erosion will be implemented over the next 12 months.*
- *Willing to compromise on the overall design and layout, however with no suggestions for how an alternative design might satisfy the concerns, no proposal was put forward.*

There was no outcome as a result of the consultative planning meeting in addressing objector's concerns or garnering their support for the application, and as such the application is being assessed with objections remaining unresolved.

Mansfield Planning Scheme and Context Assessment

The Mansfield Planning Scheme seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Act) 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.

Municipal Planning Strategy (MPS)

The following MPS is relevant to the consideration of this application:

Clause 02.03-1 – Settlement

The settlement pattern in the Shire is characterised by Mansfield Township as the major urban centre, with a number of surrounding smaller settlements, significant areas for rural living and a number of isolated 'legacy' settlements principally located around the shores of Lake Eildon. The 4 major valleys: Upper Delatite, Upper Goulburn, Howqua and Jamieson provide a distinctive and valued landscape setting for all settlements.

The future growth of all towns will depend upon the provision of infrastructure, particularly reticulated sewerage. Mansfield Township, Bonnie Doon, Merrijig, Sawmill Settlement and Alpine Ridge are the only towns with reticulated sewerage. Development in other towns will be restricted to infill development provided wastewater can be managed on site.

Mansfield Township

The Hume Regional Growth Plan 2014 considers Mansfield Township a sub-regional moderate growth centre in the Central Hume sub-region that is serviced by larger regional towns further west and north. It is the only urban centre with significant growth potential in the Shire and provides all major services and infrastructure for the community. Commercial and retail growth will occur within and around the shopping centre. There is a need for more industrial land to service demand. Existing infrastructure is capable of servicing growth however there is a need to increase water storage capacity.

Clause 02.03-2 – Environmental and Landscape Values

Landscapes

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.*

Clause 02.03-3 – Environmental Risks and Amenity

Bushfire

Bushfires are a risk to life, property and community infrastructure. Risk is most significant in and around forested areas in mountainous topography. Other hazardous areas include extensive grassland areas, particularly along the urban and rural interface of existing settlements.

Development pressure near forested land, often in locations where there is only one access road is a major risk. The bushfire risk is increasing in areas that are popular for residential and rural residential development, areas where there is a high number of non-resident landowners and where property maintenance can be variable, and in areas that may introduce vulnerable people to a location close to bushfire hazards.

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.

Maintaining large rural allotments in the rural zones plays a vital role in maintaining agriculture and rural amenity. A legacy from past decisions is the large number of ‘undersized’ lots created in rural areas for the purpose of rural residential living without the appropriate zoning changes to reflect that purpose. As a result, landowners have an expectation that those lots can be developed for dwellings. A balance needs to be struck between this and the need to protect agricultural land for agricultural use.

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

- *Protect productive agricultural land from land fragmentation and incompatible use and development.*
- *Protecting the on-going viability of agricultural land for agricultural purposes particularly from amenity conflicts arising from dwellings.*
- *Support diversifying the agricultural base to include the development of viticulture, horticulture, and more intensified agricultural pursuits.*

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 the Goulburn Broken Catchment (Upper Goulburn and Upper Goulburn (Upper Delatite), Lake Eildon Environs and Lake Nillahcootie.

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.

Other key water sources include the Broken, Goulburn, Delatite, Jamieson, Howqua and Big Rivers, and the Brankeet, Merton and Fords Creeks.

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.*

Clause 02.03-5 – Built Environment and Heritage

Council's strategic directions for built environment and heritage are to (among other things):

- Encourage development that respects the unique character and location of each settlement and protects areas of natural, environmental and architectural character.*
- Protect places of identified European and Aboriginal heritage significance.*

Clause 02.03-6 – Housing

Council's strategic directions for the built environment and heritage are to:

- Provide for housing needs to be met within townships and designated rural living areas.*
- Maintain housing affordability and increase the diversity of housing choices, including opportunities for rural living.*

Clause 02.03-7 – Economic Development

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. Popular tourist destinations in and around Mansfield include:

- *Lake Eildon, Lake Nillahcootie and local rivers, for water-based activities such as house boating, fishing and water skiing.*

Council's strategic directions for economic development are to (as relevant):

- *Diversify the economic base, particularly to reinforce the role of the Shire as a year-round tourism destination.*
- *Support the continued growth of the agricultural sector.*
- *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.*

Clause 02.03-9 – Infrastructure

Development Infrastructure

Council's strategic directions for development infrastructure are to (as relevant):

- *Support the provision of infrastructure that meets current and future needs.*
- *Support the provision of wastewater management systems that will minimise adverse impact on Special Water Supply Catchments.*

Comment:

Discussion relating to the above listed MPS is contained under the relevant PPF below.

Planning Policy Framework (PPF)

The following PPF is relevant to the consideration of this application:

Clause 11.01-1S – Settlement

Objective

- *To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*

Relevant Strategies are:

- *Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:*
 - *Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.*
 - *Developing settlements that will support resilient communities and their ability to adapt and change.*
 - *Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.*

- *Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.*
- *Encouraging an integrated planning response between settlements in regions and in adjoining regions and states in accordance with the relevant regional growth plan.*
- *Providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs in accordance with the relevant regional growth plan.*
- *Minimising exposure to natural hazards, including increased risks due to climate change.*

Comment:

The subject site is located outside of the main settlement of Mansfield, within a small pocket of rural-residential lifestyle lots fronting the Lake Eildon foreshore. The proposed use and development is broadly consistent with Clause 11.01-1S given that it locates accommodation uses – one of which relates to tourism – within a small rural settlement area close to places of high touristic values to the municipality (Lake Eildon), in a way that does not hamper the efficacy of agricultural production nor produce unnecessary amenity impacts on existing rural living and capitalises on the features of the area.

Clause 12.03-1S – River and Riparian Corridors, Waterways, Lakes, Wetlands

Objective

- *To protect and enhance waterway systems including river and riparian corridors, waterways, lakes, wetlands and billabongs.*

Relevant strategies are:

- *Protect the environmental, cultural, landscape values of all waterway systems as significant economic, environmental and cultural assets.*
- *Conserve waterway systems and the landscapes and environmental values surrounding them by protecting ecological values, indigenous vegetation, terrestrial and aquatic habitats and encouraging biodiversity.*
- *Sensitively design and site development to maintain and enhance the waterway system and the surrounding landscape setting, environmental assets, and ecological and hydrological systems.*
- *Address the impacts of use and development on drought and flooding events at a catchment and site scale to protect the health and natural function of waterway systems and their surrounding landscape and environment.*
- *Protect geomorphology, bank stability and flood management capacity to strengthen the environmental value and health of waterway systems by:*
 - *Retaining, enhancing and re-establishing indigenous riparian vegetation along waterway systems, ensuring it responds to the bushfire risk of a location.*
 - *Enhancing and re-establishing both terrestrial and aquatic habitats and their linkages along and surrounding waterway systems.*

- *Limiting earthworks in proximity to waterway systems to minimise alterations to geomorphology, natural drainage, natural flows and water quality.*
- *Facilitating the restoration of waterway systems through the removal of weeds, invasive species and pests.*
- *Enhance a sense of place and landscape identity by:*
 - *Conserving areas of identified Victorian Aboriginal cultural heritage significance relating to waterway systems*
 - *Retaining and re-establishing vegetation, including grasslands and canopy trees, surrounding waterway systems to enhance and connect to the landscape setting, ensuring it responds to the bushfire risk of a location.*
 - *Protecting existing topographic features and maintaining a sense of naturalness through sensitive design and siting.*
- *Design and site development to maintain and enhance the natural environment of waterway systems by:*
 - *Minimising the visual intrusion of development on the natural landscape views from major roads, bridge crossings, public open space, recreation trails and within waterway systems themselves.*
 - *Ensuring development is visually subordinate to the local landscape setting, including through the use of vegetation to filter views of development.*
 - *Ensuring development adjacent to waterways adopts high quality materials and respectful design and siting.*
 - *Avoiding impeding the natural flow of waterways and future flood events.*

Comment:

The application was referred to the GBMCA in accordance with section 52(1)(d) of the Act owing to the mapped watercourse(s) that traverse the site and are within 100 metres of the proposed development. Having considered the application documents and plans provided to them, the GBMCA did not object to the issuing of a planning permit, subject to conditions, relating to finished floor levels, works on waterway permit requirements, and required setbacks for buildings and effluent areas from the designated waterway.

The **GBCMA provided the following commentary of relevance:**

There are a number of water features traversing the property and Lake Eildon is located outside the southeastern property boundary. Gully erosion through the centre of the property is evident on aerial mapping. Minimal remnant vegetation is present of the property.

The finished floor levels of the proposed dwelling and group accommodation are to be set at least 300 millimetres above the general surrounding ground level to safeguard against over-floor flooding associated with localised severe thunderstorms; particularly in light of climate change, the objectives set out in the Climate Change Act 2017.

It is noted that there is a designated waterway (No. 5/1-186- 22-10) which traverses the property towards Lake Eildon. Any works across this waterway will require a works on waterways permit from the Goulburn Broken CMA. The Guidelines for the Protection of Water Quality (North East Planning Referrals Committee, May 2016) outlines the requirements for a range of development activities with an emphasis on water quality protection. These guidelines include the minimum setbacks from waterways for septic tanks, buildings and buffers along waterways.

Type of Waterway	Septic Tanks	Buildings	Buffers along Waterways
Waterway in a special water supply catchment area	100 metres	30 metres	30 metres
Storage, natural lake or wetland	100 metres	The greater of: <ul style="list-style-type: none"> • 50 metres from Full Supply Level, or • 300mm above the 1 in 100 AEP flood level 	30 metres

Figure 17: Excerpt from Table 12 of the Guidelines for the Protection of Water Quality and outlines the relevant minimum setbacks for the current proposal. Source: GBCMA response.

Lake Eildon is classed as a ‘storage, natural lake or wetland’ in the Guidelines for the Protection of Water Quality and for the proposed development, the greater setback for buildings is 50 metres from Full Supply Level (Goulburn Murray Water has defined Full Supply Level for Lake Eildon as 288.9 metres AHD). It is also noted that all waterways upstream of Lake Eildon are part of a Special Water Supply Catchment (Lake Eildon Environs)

The Goulburn Broken CMA note that the provided information does not include a plan indicating the locations of the proposed buildings (including shed) and associated septic systems (including effluent fields).



Figure 16: Aerial imagery showing designated waterway No. 5/1-186-22-10 traversing through the subject land. Source: GBCMA response.

Clause 13.02-1S – Bushfire Planning

Policy application

This policy must be applied to all planning and decision making under the Planning and Environment Act 1987 relating to land that is:

- *Within a designated bushfire prone area;*
- *Subject to a Bushfire Management Overlay; or*
- *Proposed to be used or developed in a way that may create a bushfire hazard.*

Objective

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

Relevant strategies are:

- *Give priority to the protection of human life by:*
 - *Prioritising the protection of human life over all other policy considerations.*
 - *Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.*
 - *Reducing the vulnerability of communities to bushfire through the consideration of*

bushfire risk in decision-making at all stages of the planning process.

- *In a bushfire prone area designated in accordance with regulations made under the Building Act 1993, bushfire risk should be considered when assessing planning applications for the following uses and development:*
 - *Accommodation.*

Clause 13.02-1L – Bushfire Management

Relevant strategy is:

- *Incorporate passive risk mitigation measures, including the siting, landscaping and layout of new development to enhance resilience to potentially vulnerable development in Bushfire Prone Areas.*

Comment:

The emphasis of relevant bushfire policy at the State and local level is on the preservation of significant landscapes and character of towns like Mansfield and as the highest priority the preservation of human life in bushfire affected areas.

The subject land is not within a Bushfire Management Overlay, however, is a declared BPA under the *Building Act 1993*. The site comprises minimal remnant and planted vegetation. The proposed development area entails a portion of the land largely confined to the north that is generally devoid of any vegetation. The proposed use and development would increase the intensity of the accommodation use anticipated on the subject land. That said, any hazard could be mitigated by appropriate bushfire construction standards subject to the requirements of the *Building Act 1993*, which would be assessed as part of the building permit process in this instance.

Clause 13.07-1S – Land Use Compatibility

Objective

- *To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.*

Relevant strategies are:

- *Ensure that use or development of land is compatible with adjoining and nearby land uses*
- *Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.*
- *Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.*

Comment:

The proposed use and development comprises accommodation land uses, which are characteristically sensitive to other non-accommodation land uses (e.g. agriculture or industry)

but not typically the cause of sensitivities to other land uses. Surrounding land uses to the east, west and south-west are typically residential and on similar or smaller sized lots to the subject land. There is a fragmental pattern of lot size, density and development, particularly in the FZ lots surrounding the subject land to the east and west. Given the lack of productive agricultural activities in the vicinity and the disposition for accommodation uses in the surrounds, the issue of a dwelling and group accommodation (to the extent proposed), both of which are forms of accommodation with the latter being short-stay, is considered to be generally congruous having regard to the site and surrounds.

Clause 14.01-1S – Protection of Agricultural Land

Objective

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

Relevant strategies are:

- *Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *Limit new housing development in rural areas by:*
 - *Directing housing growth into existing settlements.*
- *Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
 - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
 - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
 - *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
 - *Land capability.*
- *Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.*

Clause 14.01-1L – Dwellings and Subdivisions in Rural Areas

Objective

- *To protect productive agricultural land from competing and inappropriate land uses, including residential use not associated with agriculture.*
- *To prevent dwelling excisions and the development of existing small rural allotments from prejudicing any existing surrounding agricultural activities.*

Relevant strategies are:

- *Discourage dwellings and subdivision (including house lot excisions) unless:*
 - *It is required to support the agricultural use of the land.*
 - *Off-site impacts and land use conflicts can be minimised and it will not result in reduced agricultural capability of the land or long-term viability of rural production in the area.*
 - *It will result in no net loss of vegetation.*
 - *Any development is sited, designed and constructed to mitigate bushfire risks.*
 - *The provision of necessary infrastructure for the dwelling or lot created (such as access to potable water supply, effluent disposal and stormwater drainage systems) is consistent with the capability of the land.*
- *Site and design development to not adversely impact existing rural activities conducted on site and on adjoining land.*
- *Avoid development (including subdivision) that is likely to lead to a concentration of small lots or dwellings and change the use and development of an area or result in a loss of its rural character, unless the clustering of dwellings will not limit the productive use and development of adjacent agricultural land.*

Policy Guidelines

Consider as relevant:

- *Using an agreement under Section 173 of the Act to:*
 - *Minimise land use conflict by affirming the understanding that the amenity of the dwelling may be subject to off-site impacts of adjoining or nearby agricultural activities, such as noise, dust and odour.*
 - *Prevent future subdivision and dwelling excision.*

Comment:

The proposal introduces new non-agricultural use(s) to the subject land, which is not currently used for agricultural purposes.

Key state and local policy relating to agriculture (Clauses 02.03-4, 14.01-1S and 14.01-1L) seeks to avoid impacts on and the removal of productive agricultural land.

In undertaking an informed assessment of this proposal, consideration must be afforded to the land's capabilities. Agriculture Victoria's Victorian Soils Map (refer to Figures 17 and 18) broadly

identifies the surrounding areas as containing subsoils such as chromosols and structured gradational soils such as yellow and grey dermosols. However, an investigation of the soil conditions on the subject site specifically found that Grey Vertosol soils (cracking clays) are prevalent throughout the site. The Agriculture Victoria website states that these soils are heavily clay ridden (approximately 35% clay) and prone to shrinking and swelling during wetting and drying cycles. The land surface is characterised by an uneven series of mounds and hollows, which can cause issues with uneven crop and pasture growth across a paddock due to soil variations and poor drainage conditions in depressions. Given these properties, Vertosols often have deep, wide cracks that open up when the soil is dry. These cracks often extend from the surface soil into the deeper subsoil. The subject land features a series of eroded gullies or cracks in the soil surface which flow on through to Lake Eildon. Given these features of the land, the land has no real agricultural qualities. Thus, the introduction of non-agricultural uses to the site would not impact any arable land from agricultural production. In the Tribunal decision of *Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021)*, the Tribunal found in favour of an application for a dwelling on a small lot in the FZ, finding that:

28. *I note that the objective of Clause 14.01-1S is 'To protect the state's agricultural base by preserving productive farmland'.*
29. *The Applicant has persuaded me that this lot is not productive farmland due to the extent of surface and sub-surface rock.*
30. *I note that the strategies to achieve this objective include to 'Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.'*
31. *In this case, I am satisfied that the removal of this non-productive farmland is not economically important.*
32. *Another strategy is to 'Limit new housing development in rural areas by:*
 - *Directing housing growth into existing settlements.*
 - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*
33. *Due to this site's location, I am satisfied that it is not an 'isolated small lot'. I accept that, unlike the dwellings within the wedge of the Springfield settlement, it is not in the Rural Living Zone. However, I have described that the actual pattern of settlement includes several dwellings directly opposite this wedge, and that this dwelling fills a gap in this existing settlement pattern.*
34. *I also consider that its use for a dwelling is compatible with its surrounds. It is directly opposite small lots used for residential purposes and it is adjacent to the dwelling of the adjoining farm. The balance of existing residential and agricultural uses will not be significantly altered if this site is used for a dwelling.*

35. Separately, I do not see this site as a candidate for consolidation with adjacent farming land due to its poor productive capacity.

While this of course relates to a site within the Macedon Ranges municipality, the findings of the Tribunal in taking into account locational and site-specific characteristics is relevant to this application. The subject site considered by the Tribunal was small and exhibited poor agricultural qualities and was surrounded by other small lots, not dissimilar to the subject site. Like in the decision, the proposal has no real potential of impacting productive agricultural land on the site and surrounds. In the instance of the subject land, the land is incapable of primary production and better disposed to acclimatising to the surrounding built and natural environment. Taking into account the presence of watercourses through the property and its proximity to Lake Eildon (and the water supply catchment area), there is value in trying to rehabilitate the site for environmental reasons. The permit applicant wishes to refrain from cultivating the land and instead preserve and improve its biodiversity values. In *Tsourounakis v Hepburn SC [2009] VCAT 1311 (5 July 2009)*, Member Rundell found in favour of an application for group accommodation on a lot in the FZ, specifically:

15. ... The planning policy framework contemplates that farming land will be used for a wide range of activities that leverage of the farming activities. Importantly these are seen to be important to generate income sources that can positively contribute to the costs of land management and environmental improvements.

This is consistent with state-led policy at Clause 14.01-1S which calls for consideration of the *desirability and impacts of removing the land from primary production* [potential] and the land's capability. That said, if the land were viable the proposed use and development is relatively confined to the north of the site and would not prejudice the agricultural viability of the site but rather maximise the land available for production on the site.

Secondly, consideration must be afforded to the impact a non-agricultural use could have on surrounding agricultural land uses. Land to the south-west is zoned in the RLZ1 and improved with dwellings and outbuildings. Land to the south and south-east is zoned in the PPRZ and PUZ1 and forms part of the Ford Inlet and Lake Eildon. Contrastingly, land to the north, north-east and west is generally zoned in the FZ. Of this land, lots to the west and immediate east are heavily fragmented and developed with dwellings, and those to the north are typically over 100 hectares and seldom used for agricultural production, most likely owing to the soil conditions. Given the lack of productive agricultural activities in the vicinity and the disposition for accommodation uses in the surrounds, it is highly unlikely that the proposed use and development would have any notable impact on nearby agricultural production. This is consistent with state and local-led policy at Clauses 14.01-1S and 14.01-1L which calls for consideration of the *impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production* and the *compatibility between the proposed and the existing use of the surrounding land*. It is also further enforced by *Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021)*, as discussed further above.

Further to this point, the perceived commodification of the land for non-agricultural uses is unlikely to have drastic implications on surrounding land value of properties in the FZ any more than the existing conditions of surrounding land cause – owing to the proximity to Lake Eildon and the proliferation of dwellings in the area. This is in contrast to other instances where there is arable land (and productive agriculture) nearby, where the proliferation of non-agricultural uses could effectively ‘price out’ meaningful use of the land for agricultural purposes and/or consolidation of the land with other agricultural holdings. It is acknowledged that further development on these smaller FZ lots will continue to place upward pressure on agricultural land prices, and create and reinforce expectations of future land use change and amenity. Given the existing development and subdivision pattern, this area could be a candidate for future rezonings into the RLZ.

On balance, the proposal is considered to be consistent with the policy enunciated above relating agriculture given that it seeks to use and develop land that is not generally suited to agricultural production, owing to size and site constraints, in a manner that it consistent with existing use and development in the surrounds and which capitalises on rural tourism opportunities.

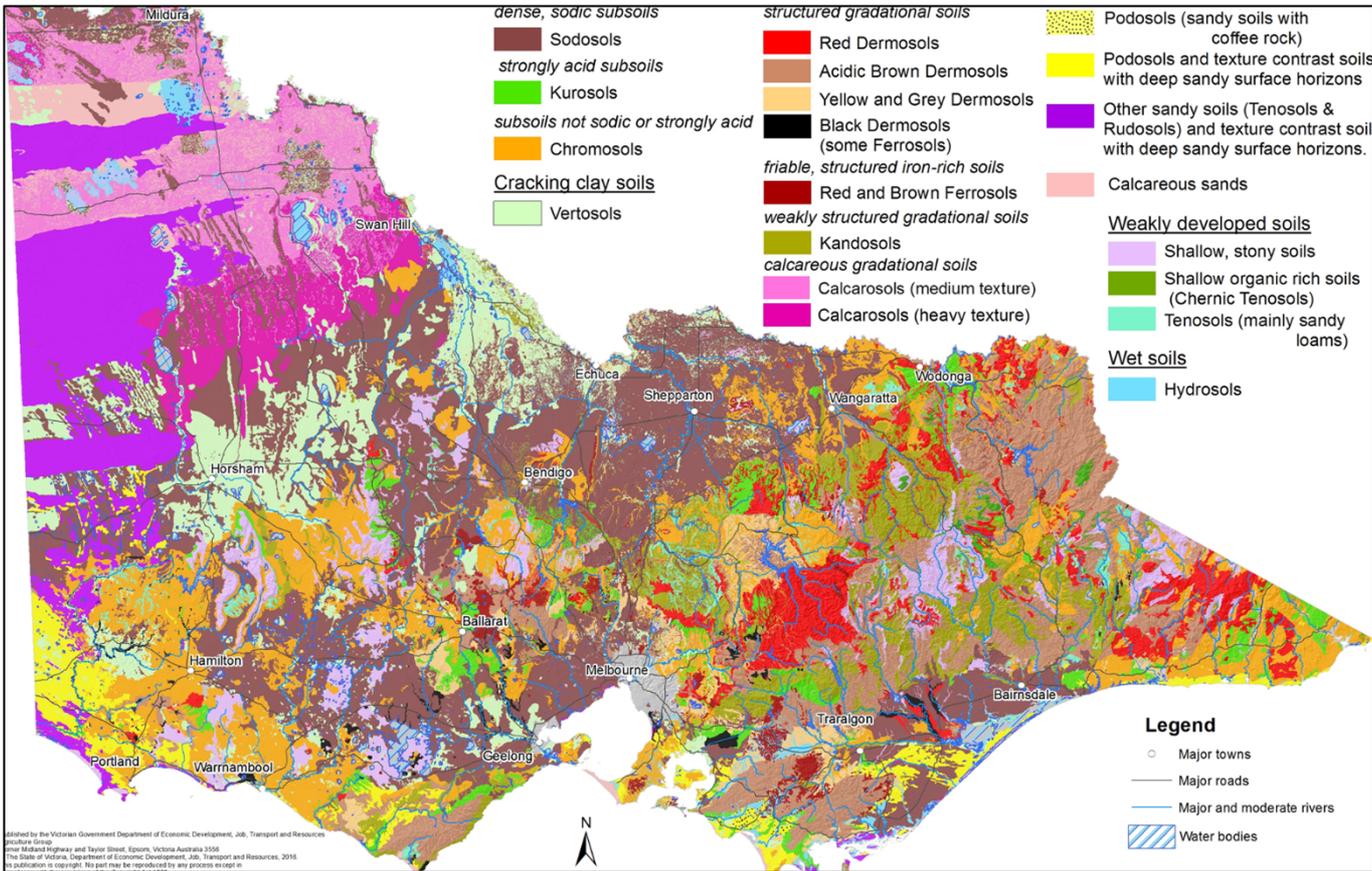


Figure 17: Victorian Soils Map. Source: Agriculture Victoria.

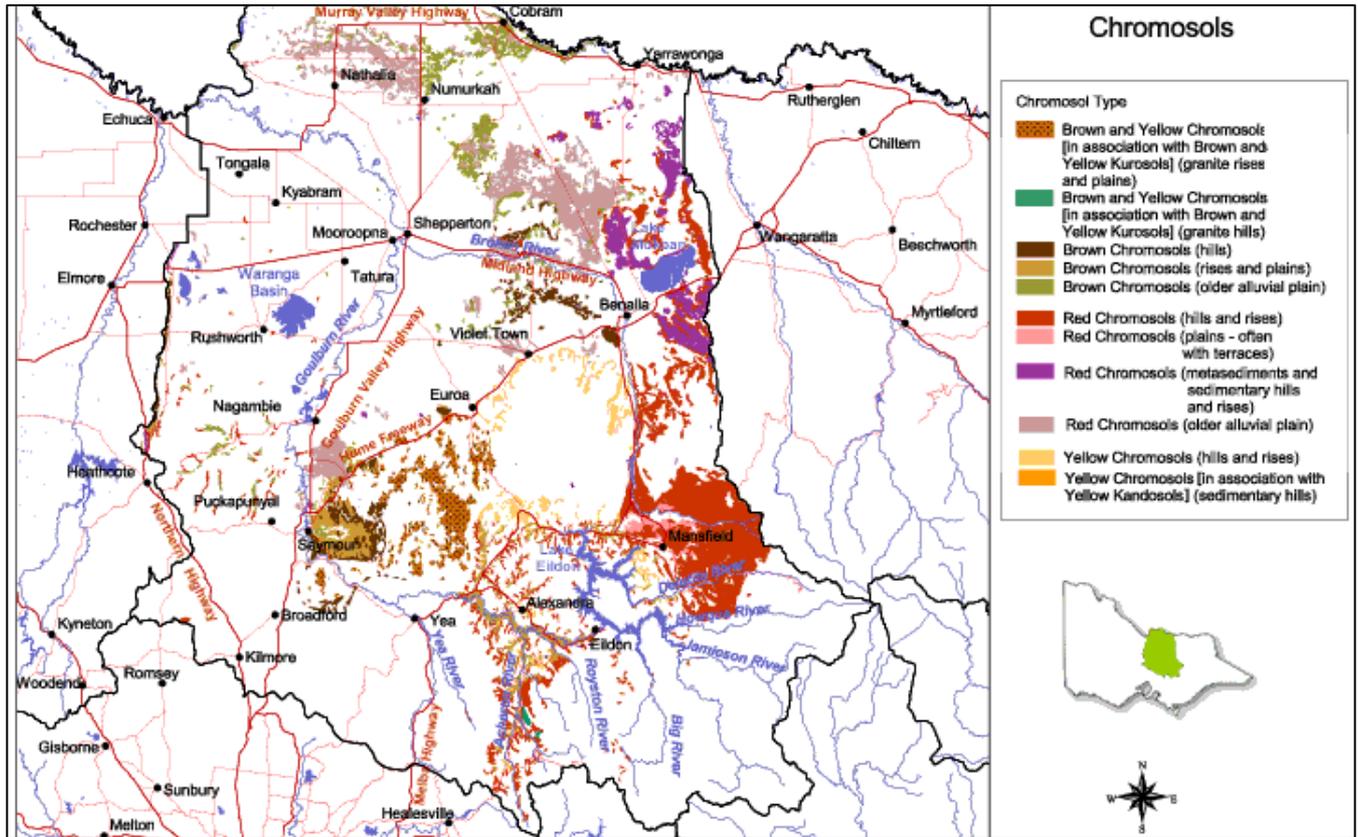


Figure 18: Map showing Chromosols in the Goulburn Broken region. Source: Agriculture Victoria.

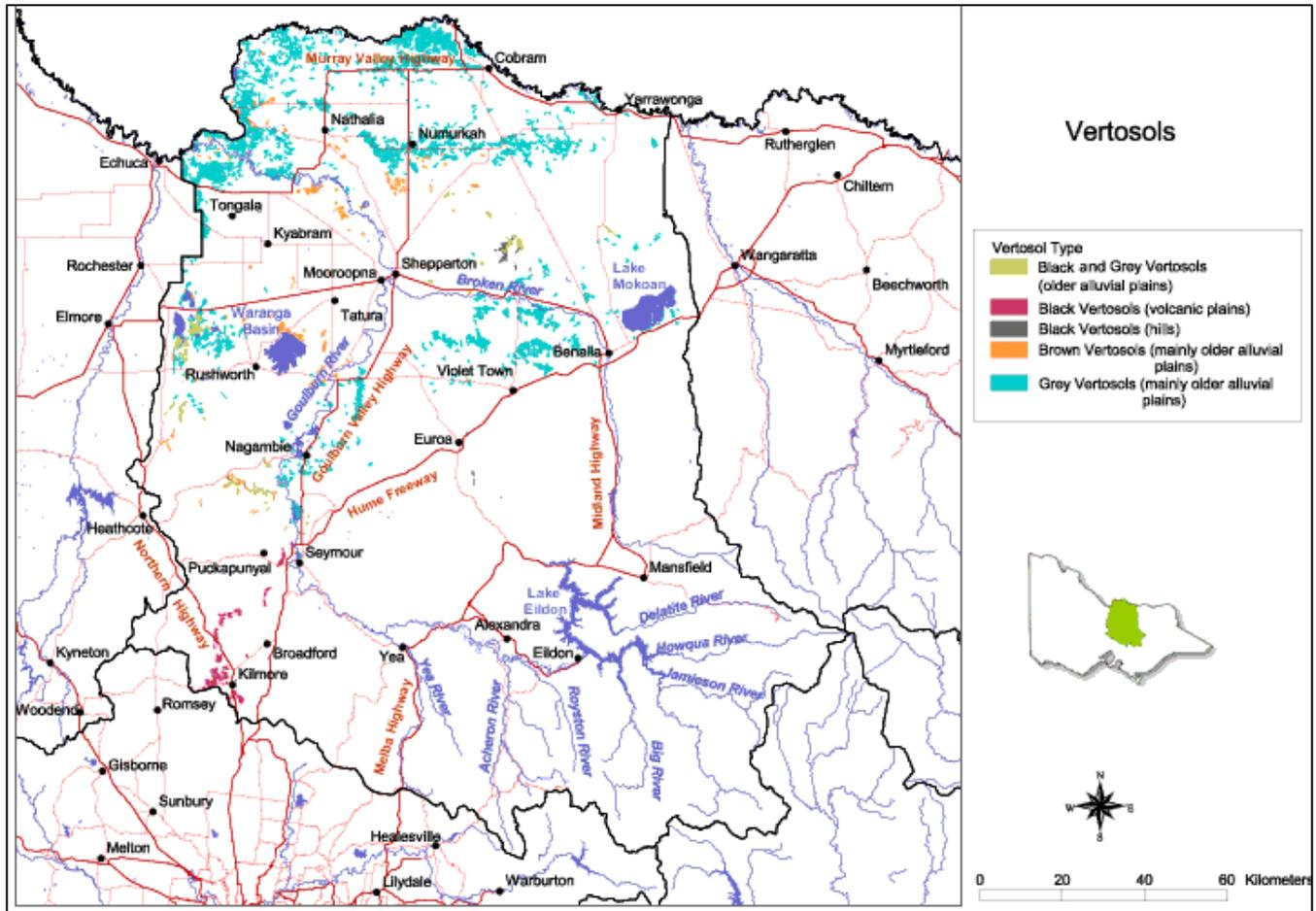


Figure 19: Map showing Vertosols in the Goulburn Broken region. Source: Agriculture Victoria.

Clause 14.02-1S – Catchment Planning and Management

Objective:

- To assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.

Strategies to address this objective include to:

- Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities.
- Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:
 - Maintain the natural drainage function, stream habitat and wildlife corridors and landscape values,
 - Minimise erosion of stream banks and verges, and
 - Reduce polluted surface runoff from adjacent land uses.
- Undertake measures to minimise the quantity and retard the flow of stormwater from developed areas.
- Ensure planning is coordinated with the activities of catchment management authorities.

- *Ensure that water quality infrastructure is designed to minimise risk of harm to surface waters and groundwater.*
- *Ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.*
- *Ensure land use and development minimises nutrient contributions to water bodies and the potential for the development of algal blooms.*
- *Require appropriate measures to restrict sediment discharges from construction sites.*
- *Ensure planning is coordinated with the activities of catchment management authorities.*
- *Ensure that water quality infrastructure is designed to minimise risk of harm to surface waters and groundwater.*

Policy guidelines

Consider as relevant:

- *Any regional catchment strategy and related plans approved under the Catchment and Land Protection Act 1994.*
- *Any applicable implementation strategy approved by a catchment management authority or waterway management authority.*
- *Any special area or management plan under the Heritage Rivers Act 1992.*
- *Any action statement or management plan prepared under the Flora and Fauna Guarantee Act 1988.*

Clause 14.02-1L – Catchment Planning and Management

Policy application

This policy applies to land within a Declared Special Water Supply Catchment Area, as shown on the Mansfield Shire catchments map to this clause.

Relevant strategies are:

- *Minimise adverse impacts from wastewater management systems (both individually and cumulatively) on catchment health and water quality.*
- *Discourage land uses that would contribute to the degradation of downstream water quality.*
- *Discourage further development, particularly new rural residential estates on the lakes' shores.*
- *Support new development only where connection to reticulated sewerage infrastructure can be provided or it will not have a cumulative impact on nutrient and pathogen loads.*
- *Ensure any drainage scheme is consistent with the capability of the land.*

Policy guidelines

Consider as relevant:

- Any findings and recommendations of land capability assessments as required through ESO1 and 2, particularly individual site risk analysis.

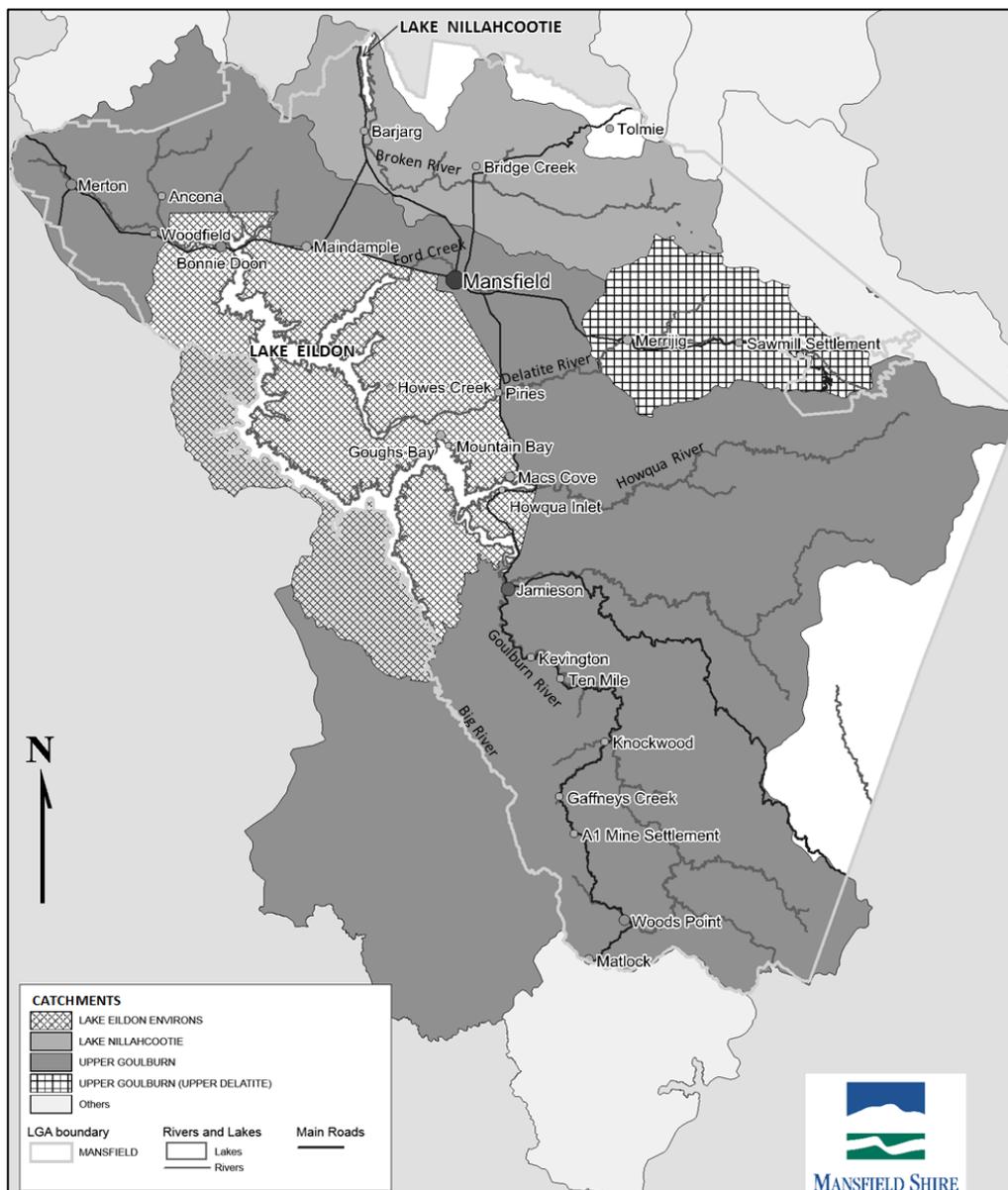


Figure 20: Map of catchments within Mansfield Shire (Source: Mansfield Planning Scheme).

Clause 14.02-2S – Water Quality

Objective

- To protect water quality.

Relevant strategies are:

- Ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and groundwater resources, rivers, streams, wetlands, estuaries and marine environments.

- *Discourage incompatible land use activities in areas subject to flooding, severe soil degradation, groundwater salinity or geotechnical hazards where the land cannot be sustainably managed to ensure minimum impact on downstream water quality or flow volumes.*

Comment:

The subject land is within the Lake Eildon Environs water supply catchment area and is affected by the ESO2. There are two waterways that flow through the property, which include a mix of ground covers consisting of native and non-native grasses, sedge and rush species. The subject site features a series of eroded gullies, which are a biproduct of stormwater runoff from the nearby roads.

The application was referred to GMW in accordance with section 55 of the Act owing to the site being located within a special water supply catchment area (refer to Clause 66.02-5 of the Mansfield Planning Scheme). Having considered the application documents and plans provided to them, GMW did not object to the issuing of a planning permit, subject to conditions, relating to: required setbacks for buildings from waterways (30 metres) and Lake Eildon (50 metres); required setbacks for wastewater disposal (effluent) areas from waterways (100 metres), dams (60 metres), bores (20 metres), drainage lines (40 metres) and Lake Eildon (300 metres); required landscape buffers which establish and maintain native vegetation along the unnamed eroded gully waterway; sediment controls requirements; and wastewater requirements.

GMW provided the following commentary:

Goulburn-Murray Water's (GMW's) areas of interest are surface water and groundwater quality, use and disposal. GMW requires that development proposals do not impact detrimentally on GMW's infrastructure and the flow and quality of surface water and groundwater. Applicants must ensure that any required water supplies are available from an approved source.

The property is located in the Lake Eildon (Environs) Special Water Supply Catchment area and subject to ESO2. There are a number of water features traversing the property and Lake Eildon is located outside the southeastern property boundary. Gully erosion through the centre of the property is evident on aerial mapping.

As discussed in this report, the permit applicant does not wish to cultivate the land but rather pursue preserving and improving the land's biodiversity values in concert with a dwelling and group accommodation on the land. The proposed site plan shows the provision of a 30 metre landscape buffer to the eastern-most waterway and the unnamed eroded gully waterway running through the land from north-west to south-east. The setbacks of the proposed development, improvement and management of the land, and avoidance of agriculture on the land is seen as a positive outcome for the site having regard to potential water quality impacts due to the presence of watercourses and eroded gullies through the property and its proximity to Lake Eildon (and the water supply catchment area). This is considered to be consistent with planning policy centred on

water quality and catchment planning and management (Clauses 02.03-4, 14.02-1S, 14.02-1L, and 14.02-2S), which seeks to minimise adverse impacts on water quality and protect and restore waterways

Clause 15.01-2S – Building Design

Objective

- *To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.*

Relevant strategies are:

- *Ensure a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development.*
- *Ensure development responds and contributes to the strategic and cultural context of its location.*
- *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- *Improve the energy performance of buildings through siting and design measures that encourage:*
 - *Passive design responses that minimise the need for heating, cooling and lighting.*
 - *On-site renewable energy generation and storage technology.*
 - *Use of low embodied energy materials.*
- *Encourage water efficiency and the use of rainwater, stormwater and recycled water.*
- *Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse.*
- *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- *Ensure development considers and responds to transport movement networks and provides safe access and egress for pedestrians, cyclists and vehicles.*
- *Encourage development to retain existing vegetation.*

Clause 15.01-6S – Design for Rural Areas

Objective

- *To ensure development respects valued areas of rural character.*

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, hill tops, waterways, lakes and wetlands.*

Comment:

The proposed dwelling would provide a design response akin to traditional rural architecture whilst the proposed group accommodation cabins would be more modest in their representation. The form and siting of the proposed cabins are small scale, well setback from the road (but remain accessible) and other land, with no jarring or distinguishing characteristics in terms of height, materials or visual bulk. Visually, they would somewhat resemble surrounding development conditions where there is a dwelling and ancillary outbuildings. The use of dark grey and cream tones would assist with incorporating the buildings into the surrounding landscape, including Lake Eildon and the undulating bare topography. The orientation of the group accommodation buildings ensures that it is visually deeper than it is wider as viewed from Paps Road or the abutting dwelling to the east, restricting the amount of built form that is prominent from the streetscape and public realm. The design of the cabins are portable and able to be moved, which in an extreme (greater than 1% AEP) flood event could be undertaken. Overall, the development would not detract from the rural aesthetic of the surrounding FZ and RLZ land, and the unique views toward Lake Eildon.

Clause 15.03-2S – Aboriginal Cultural Heritage

It is policy to:

- *To ensure the protection and conservation of places of Aboriginal cultural heritage significance.*

Comment:

As discussed in this report, whilst the site is located within an area of identified aboriginal cultural heritage sensitivity under the *Aboriginal Heritage Act 2006*, a Cultural Heritage Management Plan (CHMP) is not required given that:

- The proposed use and development is not sited within the part of the site identified as being an area of aboriginal cultural heritage sensitivity; and
- Use of the land for group accommodation or a dwelling is not listed as a high impact activity under Division 5 Regulation 46 of the *Aboriginal Heritage Regulations 2018*.

Despite this, it remains a legislative obligation for any person to not harm aboriginal cultural heritage, which will have a binding effect on the permit holder.

Clause 16.01-1S – Housing Supply

Objective

- *To facilitate well-located, integrated and diverse housing that meets community needs.*

Relevant Strategies

- *Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people, supported accommodation for people with disability, rooming houses, student accommodation and social housing.*
- *Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
- *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- *Identify opportunities for increased residential densities to help consolidate urban areas.*
- *Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.*
- *Encourage the development of well-designed housing that:*
 - *Provides a high level of internal and external amenity.*
 - *Incorporates universal design and adaptable internal dwelling design.*
- *Support opportunities for a range of income groups to choose housing in well-serviced locations.*
- *Plan for growth areas to provide for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.*

Clause 16.01-2S – Housing Affordability

Objective

- *To deliver more affordable housing closer to jobs, transport and services.*

Strategies

- *Improve housing affordability by:*
 - *Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.*
 - *Promoting good housing and urban design to minimise negative environmental impacts and keep costs down for residents and the wider community.*

Clause 16.01-3S – Rural Residential Development

Objective

- *To identify land suitable for rural residential development.*

Relevant strategies are:

- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.*

- *Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.*
- *Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:*
 - *Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.*
 - *Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.*
 - *Maintaining an adequate buffer distance between rural residential development and animal production.*
- *Discourage development of small lots in rural zones for residential use or other incompatible uses.*

Comment:

The provision of a modestly-sized dwelling on the land would see a nominal increase in housing stock of the area which, for the reasons discussed above, would not adversely affect agriculture. This is consistent with state-led policy at Clauses 16.01-1S and 16.01-2S of the Mansfield Planning Scheme.

Clause 17.01-1S – Diversified Economy

Objective

- *To strengthen and diversify the economy.*

Strategies

- *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*
- *Improve access to jobs closer to where people live.*
- *Support rural economies to grow and diversify.*

Clause 17.01-1R – Diversified Economy – Hume

Strategy

- *Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.*

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.*

Strategies

- *Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, accommodation, host farm, bed and breakfast and retail opportunities.*
- *Seek to ensure that tourism facilities have access to suitable transport.*
- *Promote tourism facilities that preserve, are compatible with and build on the assets and qualities of surrounding activities and attractions.*
- *Create innovative tourism experiences.*
- *Encourage investment that meets demand and supports growth in tourism.*

Clause 17.04-1R – Tourism – Hume

Strategies

- *Support opportunities for nature-based tourism throughout the region, including in wetlands of national and regional significance, such as the Winton Wetlands, the Barmah Forest and the lower Ovens River.*
- *Support large commercial tourism uses in urban locations or rural areas of lower agricultural value and away from areas identified as strategic agricultural land.*
- *Facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.*

Clause 17.04-1L – Facilitating Tourism in Mansfield Shire

Diversification strategies

- *Facilitate development that improves tourism links and facilities and capitalises on the through traffic along the Alpine approaches during peak holiday periods.*
- *Encourage the development of quality affordable short and long term accommodation for visitors and temporary staff.*
- *Support eco-tourism opportunities.*

Location strategies

- *Locate tourism use and development in areas that are highly accessible and preferably serviced with sealed road access.*
- *Avoid any tourism development in areas prone to high fire risk, flooding and erosion.*
- *Discourage ribbon tourism development along the foreshore of Lake Eildon and Lake Nillahcootie as well as the Alpine Approaches and direct tourism development associated with these areas to existing settlements instead.*

- *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.*

Design strategies

- *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.*
- *Design signs for tourism uses to be sympathetic to the land on which it is to be located.*

Clause 17.04-2S – Coastal and Maritime Tourism and Recreation

Objective

- *To encourage a diverse range of strategically located and well-designed coastal and maritime tourism and recreational opportunities that strengthen people's connection with the marine and coastal environment.*

Strategies

- *Support safe and sustainable recreation and tourism development including ecotourism, tourism and major maritime events that:*
 - *Responds to identified demand.*
 - *Minimises impact on environmental and cultural values.*
 - *Minimises impact on other users.*
 - *Minimises direct and cumulative impacts.*
 - *Maintains public safety.*
 - *Responds to the carrying capacity of the site.*
 - *Minimises exposure to coastal hazard risks and risks posed by climate change.*
- *Ensure a diverse range of accommodation options and coastal experiences are provided for and maintained.*
- *Ensure sites and facilities are accessible to all.*
- *Ensure tourism development, within non-urban areas, demonstrates a tourist accommodation need and supports a nature-based approach.*
- *Ensure development is of an appropriate scale, use and intensity relative to its location and minimises impacts on the surrounding natural, visual, environmental and coastal character.*
- *Support a sustainable network of facilities for recreational boating and water-based activities that respond to:*
 - *Identified demand.*
 - *Use and safety considerations.*
 - *The carrying capacity of the location.*
 - *Coastal processes.*
 - *Environmental values.*

Comment:

The proposal would be wholly consistent with planning policy relating to tourism development; with it providing greater accommodation options – that are small scale and good quality – directly linked to a major economic driver for the municipality (being Lake Eildon) for prospective visitors to the area to experience. The accommodation fits the character of the area, which is largely made up of dwellings and short-stay accommodation. Given the context of the site (abutting Lake Eildon), this is considered favourable. The location of the site is well serviced and located for such activities and does not compromise the natural features or agricultural merits of the land. Moreover, the location of the site adjacent to Lake Eildon and the intent of the landowners demonstrated in the application documents demonstrates that there is need for the proposed group accommodation, albeit in a non-urban area, and that it would support a nature-based approach that seeks to rehabilitate the environment it sits in. This is particularly consistent with policy at Clause 17.04-2S. Overall, the proposed use and development is considered an appropriate undertaking for the site considering the site’s limitations and favourable location.

Clause 18.02-4S – Roads**Objective**

- *To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.*

Relevant strategies are:

- *Plan an adequate supply of car parking that is designed and located to:*
 - *Protect the role and function of nearby roads.*
 - *Enable the efficient movement and delivery of goods.*
 - *Facilitate the use of public transport.*
 - *Maintain journey times and the reliability of the on-road public transport network.*
 - *Protect residential areas from the effects of road congestion created by on-street parking.*
 - *Enable easy and efficient use.*
 - *Achieve a high standard of urban design.*
 - *Protect the amenity of the locality, including the amenity of pedestrians and other road users.*
 - *Create a safe environment, particularly at night.*

Comment:

The proposed access to the site is shown on the plans. No provision for off-street car parking has been shown, although sufficient space is available for such.

Clause 19.03-3S – Integrated Water Management**Objective**

- *To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.*

Relevant strategies are:

- *Plan and coordinate integrated water management, bringing together stormwater, wastewater, drainage, water supply, water treatment and re-use, to:*
 - *Take into account the catchment context.*
 - *Protect downstream environments, waterways and bays.*
 - *Manage and use potable water efficiently.*
 - *Reduce pressure on Victoria's drinking water supplies.*
 - *Minimise drainage, water or wastewater infrastructure and operational costs.*
 - *Minimise flood risks.*
 - *Provide urban environments that are more resilient to the effects of climate change.*
- *Integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use.*
- *Facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland.*
- *Ensure that development protects and improves the health of water bodies including creeks, rivers, wetlands, estuaries and bays by:*
- *Minimising stormwater quality and quantity related impacts.*
 - *Filtering sediment and waste from stormwater prior to discharge from a site.*
 - *Managing industrial and commercial toxicants in an appropriate way.*
 - *Requiring appropriate measures to mitigate litter, sediment and other discharges from construction sites.*
 - *Manage stormwater quality and quantity through a mix of on-site measures and developer contributions at a scale that will provide greatest net community benefit.*
- *Provide for sewerage at the time of subdivision or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.*
- *Ensure land is set aside for water management infrastructure at the subdivision design stage.*
- *Minimise the potential impacts of water, sewerage and drainage assets on the environment.*

Comment:

The land is of sufficient size that onsite stormwater and wastewater/effluent management is practical. As standard, conditions will be required on any permit issued to direct the management of onsite stormwater and wastewater in accordance with the requirements of Council's engineers, environment health officers and the relevant water and catchment authorities (as previous discussed). Note, the location of the on-site effluent is subject to change in accordance with any requirements of those stakeholders listed above.

Zoning

Clause 35.07 – Farming Zone (FZ)

Purpose

- *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.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

Use of land for a dwelling (Clause 35.07-2)

A lot used for a dwelling must meet the following requirements:

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

Decision Guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *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.*
- *Whether the use and development will require traffic management measures.*

Comment:

The MPS and PPF have been addressed under separate headings in the body of the report. The proposal is considered to generally be accordant with the relevant policy.

The subject land is of an appropriate size to accommodate the proposed use and development. There are no notable site constraints in terms of landscape features or incompatible land uses, as referred to in the policy response of this report. The development would not impact on the potential for the subject land to be used for agricultural purposes; notably given that it cannot viably sustain agriculture in its current form and is unlikely to be of sufficient agricultural value to be incorporated into nearby land (refer earlier discussion). The siting of the proposal minimises any prospect of land use conflict. The site will utilise existing services available to the land, with a new effluent treatment system proposed and water storage systems, and connection to existing reticulated electricity, which satisfies the requirements of Clause 35.07-2.

The proposal would provide value adding activities that would support the municipality's tourism sector, use an underutilised lot in a prime location and promote the ecological values of the natural setting.

Agricultural issues

It is acknowledged that the proposed development would remove a small portion of the subject land from potential agricultural production activities. That said, any development within the FZ would remove a portion of land from potential agricultural production activities.

The primary concern regarding the removal of land is the indirect removal of a parcel from agricultural production due to change in land use. The subject land is not currently used for agricultural production activities, largely owing to the land's limited productive capabilities. The proposal seeks to capitalise on the rural, agricultural and natural features of the site and surrounds taking into account its abuttal to Lake Eildon. Noting that the land area to which the development is proposed is minor in the total context of the site, the form of the group accommodation buildings as modular structures ensures that they can be readily removed should the need arise (this is not necessarily the case for the dwelling though). There is no impact to land quality either directly on the building site or immediately surrounding same as a result of the works.

The proposal provides a waterway landscape buffer comprising revegetation of existing watercourses on the site, as required by the relevant water and catchment authorities to improve the land, which would be otherwise compromised by any agricultural activities on the land (or would significantly constrict those activities). That is, as discussed in this report, it is not practicable to viably farm the subject land in any case.

The location of the works will not impact on adjoining agricultural activities (or their potential), with the use and development appropriately setback from property boundaries. The nature of the use is not considered to unnecessarily impact agricultural expansions or economic viability of land (including property prices) owing to the existing development conditions on surrounding land, both in the RLZ and FZ. Contrastingly, it is considered that any agricultural uses on the site, if viable, would be further hindered by the site's abutments to existing dwellings as well as recreation and tourism activities on Lake Eildon, which are inherently sensitive to uses such as agriculture.

Overall, the potential for any agricultural output from the site is unchanged as a result of the proposal.

Dwelling issues

The intent of this decision guideline is to ensure accommodation land uses do not impact agriculture. The siting of the use and development will ensure that it is not adversely affected by agricultural activities on adjacent and nearby land (of which there is limited), and conversely that it will not affect such activities itself. The proposal will not lead to a concentration or proliferation of dwellings given the existing extent of dwellings and other non-agricultural uses in the area.

Environmental issues

The siting of the proposed accommodation is sufficiently setback from waterways and floodplains and has no vegetation impacts (no vegetation removal is proposed). The building forms of the group accommodation cabins are elevated above the ground to allow for the passage of water, and rainwater tanks are provided to each cabin which will manage drainage and water provision to the cabins. Likewise, the dwelling is appropriately sited to generally satisfy potential inundation concerns. The application demonstrates that the proposal will facilitate the ecological reinvigoration and continual management of the site. The location of on-site effluent disposal has been informed by a Land Capability Assessment, which demonstrates that effluent can be treated and retained on site in accordance with the EPA Code of Practice, without adverse impact to the site.

Design and siting issues

The dwelling and cabins are modest in size and would be constructed in colours and materials typical of a rural environment so that it would not be a dominant feature in the landscape. The works are appropriately separated from abutting properties and other dwellings (particularly those in the RLZ1 and FZ to the east, west and south-west) and not in proximity to any existing agricultural enterprise, minimising the prospect of land use conflicts to other land. Built form presentation is harmonious with development currently found on the land and abutting land, and will be screened from most public vantage points owing to landscape buffers proposed.

In order to ensure that the proposed uses do not egregiously cause detriment to the subject land and nearby and abutting land, the following conditions are considered appropriate should a permit be issued:

- Amenity-based conditions to control the functions of the group accommodation use.

Overall, the proposed development is considered to be consistent with the purpose and decision guidelines of the zone.

Overlays

Clause 42.01 Environmental Significance Overlay – Schedule 2 (ESO2)

Purpose

- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*
- *In catchments identified as being at high risk of water quality impacts, the environmental objective to be achieved is to discourage development and works that potentially contribute to the degradation of water quality and quantity.*

Schedule 2 to Clause 42.01 relates to catchments at medium risk of water quality impacts.

Statement of Environmental Significance

The Upper Goulburn, Lake Eildon Environs, Upper Goulburn (Upper Delatite) and Lake Nillahcootie catchments supply irrigation and potable water to nearby townships and downstream communities. Lake Eildon and Lake Nillahcootie are both used for recreational purposes.

The *Mansfield Shire Domestic Wastewater Management Plan 2014* (as amended) risk analysis identifies areas of the municipality that are at high, medium and low risk of causing adverse impacts on potable water quality, public health and the environment.

Development in the areas where this schedule applies has a medium risk of causing adverse impacts to potable water quality, public health and the environment through increased nutrients, pathogens and sediment in waterways and water storages.

It is important that development is carefully managed to ensure there is no detriment to the catchment and cumulative benefits can be gained over time through improved management of wastewater and stormwater. This can be achieved through careful design and siting of development and works, management of wastewater generated by development and adoption of integrated water cycle management principles. As a result there should be incremental and cumulative reductions in nutrient, pathogen and sediment loads in water storages and waterways.

Environmental Objectives to be Achieved

To discourage development and works that contribute to the degradation of water quality and quantity.

Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The Municipal Planning Strategy and Planning Policy Framework.*
- *The statement of environmental significance and the environmental objective contained in a schedule to this overlay.*
- *The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.*
- *Any other matters specified in a schedule to this overlay.*
 - *The comments of the relevant water authority.*
 - *Whether the application meets the requirements of Clause 22.04 Managing Water Quality in Special Water Supply Catchments.*
 - *Whether wastewater can be treated and contained within site boundaries in accordance with the standards of the Code of Practice- Onsite Wastewater Management, Environment Protection Authority Victoria Publication 891.4 July 2016 (as amended).*
 - *If the setback requirements of the North East Planning Referral Committee Guidelines for the Protection of Water Quality 2016, (as amended), are met or if they are not met, whether the land capability assessment identifies mitigation measures to justify a reduced setback.*
 - *If an incremental benefit is gained through the proposal by way of upgrades to existing onsite wastewater management systems.*
 - *If the land capability assessment supports a variation of one or more standards of the Code of Practice-Onsite Wastewater Management, Environment Protection Authority Victoria Publication 891.4 July 2016 (as amended) where infill development or extensions or alterations to existing dwellings is proposed.*
 - *Whether measures have been included to prevent increased surface water run-off or concentration of surface water run-off leading to increased nutrient loads, erosion, siltation, pollution of waterways, drains and other features.*
 - *Whether a section 173 Agreement is necessary to secure ongoing maintenance or management of a wastewater system or impose limitations on development such as number of habitable rooms in a dwelling or restricting further subdivision.*
 - *The potential for the proposed development to reduce water yields within the catchment.*

Comment:

The MPS and PPF have been addressed under separate headings in the body of the report. The proposal is considered to generally be accordant with the relevant policy.

The subject land is within the Lake Eildon Environs special water supply catchment area. There are two waterways that flow through the property, which include a mix of ground covers consisting of native and non-native grasses, sedge and rush species. The subject site features a series of eroded gullies, which are a byproduct of stormwater runoff from the nearby roads.

The application was referred to GMW. GMW did not object to the issuing of a planning permit, subject to conditions, relating to: required setbacks for buildings from waterways (30 metres) and Lake Eildon (50 metres); required setbacks for wastewater disposal (effluent) areas from waterways (100 metres), dams (60 metres), bores (20 metres), drainage lines (40 metres) and Lake Eildon (300 metres); required landscape buffers which establish and maintain native vegetation along the unnamed eroded gully waterway; sediment controls requirements; and wastewater requirements.

As discussed in this report, the permit applicant does not wish to cultivate the land but rather pursue preserving and improving the land's biodiversity values in concert with a dwelling and group accommodation on the land. The proposed site plan shows the provision of a 30 metre landscape buffer to the eastern-most waterway and the unnamed eroded gully waterway running through the land from north-west to south-east. The setbacks of the proposed development, improvement and management of the land, and avoidance of agriculture on the land is seen as a positive outcome for the site having regard to potential water quality impacts due to the presence of watercourses and eroded gullies through the property and its proximity to Lake Eildon (and the water supply catchment area).

Overall, the proposed development is considered to be consistent with the purpose, statement of environmental significance, environmental objectives to be achieved, and decision guidelines of the overlay.

Particular Provisions

Clause 52.06 – Car Parking

Purpose

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Scope

Clause 52.06 applies to:

- *a new use; or*
- *an increase in the floor area or site area of an existing use; or*

- an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

Number of car parking spaces required – Dwelling use

Table 1 to Clause 52.06-5 prescribes the following car parking rates for a dwelling:

<i>Use</i>	<i>Rate Column A</i>	<i>Rate Column B</i>	<i>Car Parking Measure Column C</i>
<i>Dwelling</i>	2	2	<i>To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedroom).</i>

Comment:

The proposal comprises a four (4) bedroom dwelling. This generates a statutory requirement of two (2) car parking space for the proposed dwelling, including that at least one (1) of those spaces be a covered space.

The site is readily capable of accommodating car parking for the use. As such, should a permit be issued, a condition of any permit issued would require amended plans to show the provision of at least two (2) car parking spaces for the dwelling use, including at least one of those car parking spaces being covered, in accordance with the requirements of Clause 52.06 of the Mansfield Planning Scheme.

Number of Car Parking Spaces Required – Group Accommodation use

‘Group Accommodation’ is not listed in Table 1 to Clause 52.06-5.

Consequently, Clause 52.06-6 prescribes that *where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.*

Planning Practice Note 22 – Using the Car Parking Provisions (PPN22) states that, where a use is not specified in Table 1 in Clause 52.06, in another clause, or in a Schedule to the Parking Overlay, the responsible authority determines the number of car parking spaces to be provided in accordance with Clause 52.06-6. The responsible authority may determine the adequacy of parking based on policies, surveys, floor area, operational characteristics and locational characteristics.

Comment:

The application does not make reference to car parking and the plans do not nominate the provision of any car parking, however the proposed internal accessway demonstrates areas of all-weather access to each cabin which could be used for car parking by guests.

Given that the proposal includes the use and development of three (3) group accommodation cabins containing two (2) bedrooms each, it is highly likely that all guests to each unit will arrive in one (1) car per cabin. On this basis, the provision of three (3) car parking spaces, comprising of one (1) car parking space to each cabin (three (3) in total) is considered logical and appropriate for the intensity of the proposed group accommodation use.

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.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *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, human health 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.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

Comment:

The matters at section 60 of the Act have been considered.

The MPS and PPF have been addressed under separate headings in the body of the report. The proposal is considered to generally be accordant with the relevant policy.

The proposed use and development is considered to be generally consistent with the agricultural considerations of the Farming Zone and the catchment management considerations of the Environmental Significance Overlay – Schedule 2. That is, it is not anticipated to impact adversely on agricultural production or other land uses in the Farming Zone nor on the efficacy of the Lake Eildon Environs special water supply catchment area.

Turning to the relevant particular provisions, the proposal is considered to result in an appropriate outcome for car parking and access, and stormwater management subject to appropriate conditions to control such. Both stormwater and wastewater produced by the use can be appropriately managed onsite.

No vegetation removal, lopping or destruction is proposed.

The proposed use is not considered to adversely impact the current and future development and operation of the transport system, noting that the scale of use and development proposed is commensurate with the capacities of local road network.

The proposal is considered to result in an and appropriate and orderly outcome for the site and surrounds, which realises the limitations of the site and maximises on the locational and environmental attributes of the site.

Based on the matters discussed above and throughout this report, the proposed use and development is acceptable and is generally considered to be consistent with the Mansfield Planning Scheme. In this instance, the matters assessed tend in favour of approving the application for a planning permit.

Conclusions

There are no other matters for consideration in relation to this application.

The proposal is generally consistent with the relevant provisions of the Mansfield Planning Scheme, as discussed in this report. The application is therefore recommended for approval.

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 **P133/22** to allow for the **Use and development of land for a dwelling, outbuilding and group accommodation (3 Cabins)** on **Lot 2 on Lot Plan 90631**, commonly addressed as **1/299 Paps Lane, Mansfield VIC 3722** in accordance with the endorsed plans and subject to the following conditions: -

Amended Plans

1. Before the use and/or development commences, amended plans to the satisfaction of the

responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application submitted, but modified to show:

- a) A building and activity envelope for the group accommodation cabins, with an area not exceeding 1 hectare of the subject site, that comprises the extent of area available for use to guests to the site.
- b) A nominated domestic curtilage envelope for the dwelling, not exceeding 5,000m² in area (excluding accessways), comprising area for domestic services, outbuildings, appurtenances and the like.
- c) A minimum reserve water supply onsite for firefighting purposes of 10,000L for the dwelling and 20,000L for the Group Accommodation buildings, within close proximity to the respective buildings.
- d) The area of Cultural Heritage Sensitivity suitably fenced and excluded from activities on the land.
- e) Suitable stock exclusion fencing a minimum of 30 metres either side of the unnamed eroded gully waterway, in accordance with the requirements of the Goulburn Murray Water Condition No. 36.
- f) Fencing or suitable plantings to restrict vehicle and stock access to the wastewater disposal area.
- g) Details of all hard surface areas and finishes, including accurate dimensions for internal accessways and car parking areas.
- h) A Landscaping Plan in accordance with Condition 3 of this permit.
- i) Native plantings within the fenced area of the unnamed eroded gully waterway, in accordance with the requirements of the Goulburn Murray Water Condition No. 36.

Endorsed Plans

2. The use and development must be in accordance with the endorsed plans forming part of this permit and must not be altered without the prior written consent of the Responsible Authority.

Landscaping

3. Concurrent with the plans required by Condition 1 of this permit, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale and fully dimensioned.

- a) A planting schedule of all proposed vegetation (trees, shrubs and ground covers), which includes botanical names, common names, pot size, mature size and total quantities of each plant;
 - b) A mixture of lower, middle and upper storey vegetation, to provide an effective visual screen of at least 6 metres in height along the northern boundary and the eastern waterway for a buffer of 30 metres;
 - c) At least 50% species selection by type and number must be indigenous to the local Ecological Vegetation Class to the satisfaction of the Responsible Authority;
 - d) Each individual plant shown clearly on the plan;
 - e) Features such as fencing, garden beds, paths, paving and accessways;
 - f) All planting abutting the accessway(s) to have a maximum mature height of no more than 900mm (extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage) in accordance with the requirements Clause 52.06-9 (Design Standards for car parking) of the Mansfield Planning Scheme;
 - g) The use of drought-tolerant species, where practicable; and
 - h) An appropriate irrigation system, including stormwater re-use where practicable.
4. Before the use starts or prior to the occupancy of any of the developments approved by this permit, or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 5. The landscaping shown on the endorsed plans must be maintained for the life of the use and development to the satisfaction of the Responsible Authority, including that any dead, diseased, dying or damaged plants are to be replaced with like for like replacements of the same or greater size.

Section 173 Agreement

6. Prior to the commencement of use for Group Accommodation, the permit holder must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987*, to the effect that:
 - a) The Group Accommodation buildings must not be used as permanent residence (Dwellings).
 - b) If the use of the land for Group Accommodation ceases for a period of more than two years, the building(s) must be removed from the land within three months or otherwise decommissioned to be non-habitable outbuildings.

The permit holder must pay the reasonable costs of the preparation, review, execution and registration of the Section 173 Agreement by Council's preferred solicitors.

Land Management

7. The land must be managed in accordance with the endorsed Environmental Management Plan, to the satisfaction of the Responsible Authority. This condition continues to have force and effect once the development approved is completed.
8. The area of Cultural Heritage Sensitivity must be fenced at all times and excluded from any activities relating to the Group Accommodation.

Maximum Number of Guests

9. Except with the prior written consent of the Responsible Authority, each Group Accommodation Unit must only accommodate a maximum of four (4) persons at any one time.

Land Use and Amenity

10. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the *Environment Protection Act 2017*.
11. 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.
12. All waste areas must be sited and screened so as to not be visible from abutting road(s) or adjoining properties, to the satisfaction of the Responsible Authority.
13. The use must be conducted to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected by the use or development, through the:
 - a) Transport of materials, goods or commodities to or from the land;
 - b) Appearance of any buildings, works or materials;
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
 - d) Presence of vermin.
14. The outbuilding(s) must not be used for human habitation at any time.
15. The outbuilding(s) must not be used until such time as an occupancy certificate is issued for the dwelling, or at such other time as may be agreed in writing by the Responsible

Authority.

16. The development must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.
17. The development must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.
18. The development must be connected to a reticulated electricity supply or have an alternative energy source.

Car Parking and Access

19. The car parking spaces, access lanes, driveways and associated works and landscaping shown on the plan must be:
 - a) constructed and available for use in accordance with the plan approved by the responsible authority; and
 - b) formed to such levels and drained so that they can be used in accordance with the plan; and
 - c) treated with an all-weather seal or some other durable surface; and
 - d) line-marked or provided with some other adequate means of showing the car parking spaces; and
 - e) be of sufficient dimension to accommodate emergency vehicles.

Engineering

20. Prior to the commencement of use the existing access within the road reserve is to be sealed for a minimum of 5 metres from the edge of the existing seal. Suitable engineering design drawings must be approved by Council.
21. Appropriate measures must be implemented throughout the construction stage of development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land to the satisfaction of the Responsible Authority.
22. Before the commencement of use of any use permitted by this permit, or by such later date as is approved by the Responsible Authority in writing, the following works must be completed in accordance with the endorsed plans and to the satisfaction of the

Responsible Authority:

- a) All stormwater discharging from the site, buildings, vehicle access ways and works must be discharged to a water tank, soakwell or otherwise discharged so as not to cause erosion, flooding or nuisance to the subject or surrounding land to the satisfaction of the Responsible Authority. The water tank/s (if required) must be in muted, non-reflective tones to the satisfaction of the Responsible Authority;
 - b) The areas shown on the endorsed plans for vehicle access to the permitted buildings and works must be constructed in accordance with the endorsed plans and be surfaced with concrete, reinforced concrete, brick paving, gravel, crushed rock or hot mix asphalt so as to prevent mud or other debris from being carried onto the road to the satisfaction of the Responsible Authority.
23. Except with the written consent of the Responsible Authority, the use permitted must not commence until the development has been completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to built form and layout, access lanes, landscaping and drainage).
24. Before the development is occupied or the use commenced, any damage to Council infrastructure resulting from the development must be reinstated:
- a) At the full cost of the permit holder; and
 - b) To the satisfaction of the Responsible Authority.

Environmental Health

25. Prior to the commencement of works, an *Application for a Permit to Install* a septic tank system must be submitted and approved by Council prior to any installation.
26. The onsite wastewater disposal system must be developed in accordance with the Land Capability Assessment prepared by Geoplan – Geoscience + Planning (dated May 2022), or otherwise amended with the written consent of the Responsible Authority.
27. Stormwater from the works must not be permitted to enter the effluent disposal field, septic tank or any associated wastewater infrastructure to the satisfaction of the Responsible Authority.
28. 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. 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.
29. 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.

30. 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*.

Goulburn Broken Catchment Management Authority

31. The finished floor levels of the proposed dwelling and group accommodation must be constructed at least 300 millimetres above the highest existing ground level underneath the building footprint or higher level deemed necessary by the responsible authority. In terms of the building footprint, it excludes all associated non-habitable areas such as the garage, carport, patio, verandah areas and the like.
32. The proposed buildings, including sheds must achieve setbacks consistent with the requirements of *Guidelines for the Protection of Water Quality* (NEPRC, 2016).
33. The proposed septic system, including effluent fields (if required) must achieve setbacks consistent with the requirements of *Guidelines for the Protection of Water Quality* (NEPRC, 2016).
34. A Works on Waterways Permit (obtained from the Goulburn Broken CMA) will be required prior to the commencement of any works in or within the surrounds of a Designated Waterway

Goulburn Murray Water

35. No buildings are to be constructed within 30 metres of any waterways or within 50 metres of Full Supply Level (288.9 metres AHD) of Lake Eildon.
36. A 30 metre wide buffer strip of native vegetation must be established and maintained either side of the unnamed eroded gully waterway that runs from Paps Lane to Lake Eildon through the subject land. Stock must be prevented from having access to this area.
37. All construction and ongoing activities must be in accordance with sediment control principles outlined in EPA Publication 275, *Construction Techniques for Sediment Pollution Control* (May 1991). There must be no transport of sediment or other materials off-site either during or following construction.
38. All wastewater from the dwelling and each of the cabins must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant(s) or

equivalent. The system(s) must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Conformity.

39. The wastewater disposal area must be at minimum setback distances of 300 metres from the Full Supply Level (288.9 m AHD) of Lake Eildon, 100 metres from the nearest waterway, 60 metres from any dams, 20 metres from any bores and 40 metres from any drainage lines. Reduced setbacks may be applied in accordance with the requirements of the current EPA – *Code of Practice On-site Wastewater Management*, Publication 891.4, July 2016, where wastewater is treated to a secondary standard.
40. 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.
41. Any works across a waterway such as crossings or wastewater pipework must be in accordance with any relevant Works on a Waterway permit required by the Goulburn Broken Catchment Management Authority.

Permit Expiry

42. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within two (2) years of the date of this permit;
or
 - b) The development is not completed within four (4) years of the date of this permit; or
 - c) The use is not commenced within two (2) years of the completion of the development; or
 - d) The use ceases for a period of two (2) or more years.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Notations

- 1) This permit does not authorise the commencement of any building works. Building approval must be obtained prior to the commencement of any approved works.
- 2) Before any earthworks are undertaken, it is recommended that you contact 'Dial Before You Dig' on 1100.
- 3) A site assessment for determining the bushfire attack level (BAL) in relation to the construction of a building has not been considered as part of this planning permit.

- 4) An application for works within a road reserve is required to be made prior to commencing any works on the road reserve and must comply with the requirements of the *Road Management Act 2004*.
- 5) 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.
- 6) Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.

– End Conditions –