

AGENDA

ORDINARY MEETING

WARRNAMBOOL CITY COUNCIL

5:45 PM - MONDAY 3 FEBRUARY 2020



VENUE:

Reception Room

25 Liebig Street

Warrnambool

COUNCILLORS

Cr. Tony Herbert (Mayor)

Cr. Robert Anderson

Cr. Sue Cassidy

Cr. Kylie Gaston

Cr. Peter Hulin

Cr. Michael Neoh

Cr. David Owen

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can be obtained online at www.warrnambool.vic.gov.au

Peter B. Schneider

CHIEF EXECUTIVE OFFICER

AUDIO RECORDING OF COUNCIL MEETINGS

All Open and Special Council Meetings will be audio recorded, with the exception of matters identified as confidential items in the agenda. This includes public participation sections of the meeting. Audio recordings of meetings will be made available for download on the internet via the Council's website by noon the day following the meeting and will be retained and publicly available on the website for 12 months following the meeting date. The recordings will be retained for the term of the current Council, after which time the recordings will be archived and destroyed in accordance with applicable public record standards. By participating in Open and Special Council meetings, individuals consent to the use and disclosure of the information that they share at the meeting (including any personal/sensitive information), for the purposes of Council carrying out its functions.

BEHAVIOUR AT COUNCIL MEETINGS

Thank you all for coming – we really appreciate you being here. These meetings are the place where, we as Councillors, make decisions on a broad range of matters. These can vary greatly in subject, significance and the level of interest or involvement the community has. As part of making these decisions, we are presented with comprehensive information that helps us to form our position – you will find this in the agenda. It should also be remembered that the Council meeting is a “meeting of the Council that is open to the public”, not a “public meeting with the Council.” Each Council is required to have a local law that pertains to governance meeting procedures. Warrnambool City Council has followed best practice in this regard and its Local Law No.1 - Governance (Meeting Procedures) Local Law provides regulations and procedures for the governing and conduct of Council meetings. Copies of the Conduct and Behaviour excerpt from Warrnambool City Council Local Law No. 1 - Governance (Meeting Procedures) Local Law can be obtained online at www.warrnambool.vic.gov.au or are available from the table at the rear of the room

We thank you in anticipation of your co-operation in this matter.

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1. OPENING PRAYER & ORIGINAL CUSTODIANS STATEMENT

Almighty God
Grant to this Council
Wisdom, understanding and Sincerity of purpose
For the Good Governance of this City
Amen.

ORIGINAL CUSTODIANS STATEMENT

I wish to acknowledge the traditional owners of the land on which we stand and pay my respects to their Elders past and present.

2. APOLOGIES

3. CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the Ordinary Meeting of Council held on 2 December 2019, be confirmed.

4. DECLARATION BY COUNCILLORS AND OFFICERS OF ANY CONFLICT OF INTEREST IN ANY ITEM ON THE AGENDA

Pursuant to Sections 77, 78 and 79 of the Local Government Act 1989 (as amended) direct and indirect conflict of interest must be declared prior to debate on specific items within the agenda; or in writing to the Chief Executive Officer before the meeting. Declaration of indirect interests must also include the classification of the interest (in circumstances where a Councillor has made a Declaration in writing, the classification of the interest must still be declared at the meeting), i.e.

- (a) direct financial interest
- (b) indirect interest by close association
- (c) indirect interest that is an indirect financial interest
- (d) indirect interest because of conflicting duties
- (e) indirect interest because of receipt of an applicable gift
- (f) indirect interest as a consequence of becoming an interested party
- (g) indirect interest as a result of impact on residential amenity
- (h) conflicting personal interest

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken. Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

5. REPORTS

5.1. COUNCILLOR REQUEST FOR LEAVE OF ABSENCE

PURPOSE:

Request for Councillor Leave of Absence.

EXECUTIVE SUMMARY

The following request for leave of absence from Cr. Michael Neoh has been received to be effective for the following Council meeting:-

- Ordinary Council Meeting – 3 February 2020

Section 69 (2) of Local Government Act 1989 provides that the Council must not unreasonably refuse to grant leave to a Councillor who seeks it.

RECOMMENDATION

That in accordance with the provisions of Section 69(2) of the Local Government Act 1989, Council resolves to grant Councillor Michael Neoh leave of absence from the following Council meeting:-

- Ordinary Council Meeting – 3 February 2020
-

5.2. HORSES ON BEACH - LAND MANAGER CONSENT SPOOKYS

PURPOSE:

For Council to consider two requests from the Warrnambool Racing Club related to Horse on Beach activities and to reconfirm its understanding of a funding requirement for the Port of Warrnambool area.

EXECUTIVE SUMMARY

- Council has received correspondence from the Warrnambool Racing Club dated 6 January 2020 which has sought that the Warrnambool City Council provide consent as the Public Land Manager for applications to be made for Marine and Coastal Act approval at Spookys – Refer **Attachment 1**.
- Due to Council's resolution of 26 October 2018, all decisions in relation to horse training in the Belfast Coastal Reserve must be made through the sole decision of Council.
- Council also received a letter from the Warrnambool Racing Club on 17 December 2019 seeking that Council reconsider its position in regard to the commencement of Horse on Beach activities at Lady Bay which are scheduled to return on 1 April 2020, a month later than in previous years – Refer **Attachment 2**.
- On 15 October 2018 Council endorsed an agreement for the use of the Lady Bay Foreshore which included an amended period for which Horse on Beach activity is permissible. The amendment changed the commencement of the Horse on Beach period from 1 March to 1 April.
- On 1 October 2018 Council resolved to provide approval for commercial horse riding at Lady Bay and Levys Beach, if the Warrnambool Racing Club's funding contribution to the Port of Warrnambool Car Parking area was increased to \$400,000. Council needs to clarify if this funding is contingent on access to Lady Bay and what occurs if DELWP approval is not granted for the construction of this area.

RECOMMENDATION

That Council:

1. **Alternative 1** – Authorise officers to provide the necessary consents and develop the necessary agreements to facilitate Horse on Beach activities at Spookys Beach.

Alternative 2 – Instructs officers to advise the Warrnambool Racing Club that it does not provide consent for the Warrnambool Racing Club to apply to DELWP for permits to allow Horse on Beach Activities based out of Spookys Beach.

2. **Alternative 1** – Authorise officers to amend the Lady Bay Horse on Beach access period to commence from 1 March each year.

Alternative 2 – Instructs officers to advise the Warrnambool Racing Club that it does not agree for the Lady Bay Horse on Beach access period to be amended and therefore remain at 1 April each year.

3. Advise the Warrnambool Racing Club that a funding commitment of \$400,000 is required towards the Port of Warrnambool Car Park Expansion Project, should approvals be provided, for it to secure continued access to the Lady Bay Beach for Horse on Beach activities.
-

BACKGROUND

A number of resolutions have been made in relation to Horse on Beach activities since 2018 and these are summarised as follows with commentary regarding their status:

On October 1 2018 Council resolved:

1. *Only agree to provide approval for commercial horse riding at Lady Bay and Levy's Beach, if the funding contribution to the Lady Bay Car Parking area is increased to \$400,000. (Valid)*
2. *Subject to Section 1 of this resolution being satisfied:*
 - i. *Allow commercial racehorse training to resume at Levy's Point beach in accordance with the terms contained in the attached Agreement (Appendix C). (Became Invalid – Unable to implement as Section 17B Licence Required contrary to prior advice)*
 - ii. *Agree to amend the existing Agreement (Appendix D) for racehorse training at Lady Bay to reduce horse training numbers on the beach from 96 to 50 and retain the overall daily cap (swim and/or run) at 116 horses. (Valid)*
 - iii. *Enter into a funding Agreement with Warrnambool Racing Club or Country Racing Victoria to construct a new car park for horse training at Lady Bay Beach and refer the Council co-contribution to the 2019-2020 budget process. (Valid)*

On October 15 2018 Council resolved:

1. *That Council amend the Council and Warrnambool Racing Club for Lady Bay Foreshore Agreement (Appendix D) from a 3 year term to a 5 + 5 year term by mutual agreement. (Valid)*
2. *That Council provide approval for the Chief Executive to enter into an agreement for commercial horse exercising in accordance with Section 17B of the Crown Land (Reserves) Act licence for Levy's Beach, which retains the intent of Appendix C, subject to the agreement and licenses according with all laws, orders and other legal requirements.*

(Invalid – Rescinded 26 October 2018)

On 26 October 2018 Council resolved:

On the basis that Council is now in receipt of definite legal advice that commercial training of horses is a prohibited use under the Warrnambool Planning Scheme PCRZ, I am seeking that Council no longer be proactive in changing the use in the area or facilitate any changed use in the area unless further resolved by council and Notice is given that at the Special Meeting of Council to be held Friday, 26 October 2018, I propose to move that the resolution that was carried at the Special Meeting of Council held on 15 October 2018 and which states:-

That Council provide approval for the Chief Executive to enter into an agreement for commercial horse exercising in accordance with Section 17B of the Crown Land (Reserves) Act licence for Levy's Beach, which retains the intent of Appendix C, subject to the agreement and licenses according with all laws, orders and other legal requirements.

be rescinded. (Valid)

1. *That Council does not initiate any action in relation to the use of Levy's Beach for Commercial horse training. (Valid)*
2. *That Council understands the current prohibition of the commercial training of horses within the Planning Scheme and that all applicable future decisions in relation to commercial horse training at Levy's Beach be made through the sole decision of Council. (Valid)*

On 21 December 2018 Council resolved:

1. *Provide support to the Minister for Planning's proposal to allow race horse training on beaches as outlined in the Minister for Planning's letter to Council dated 16 December 2018 which states: -*
 - a) *That the Minister for Planning adopt planning approval for access to Belfast Coastal Reserve, including from Levys Beach Car Park (to provide time to complete steps 1 (b) and 1(c) below);*
 - b) *That the required approvals are negotiated for the access point to the beach to be relocated to the existing hard stand at Spookys Beach Car Park and the realignment of the horse training area to commence 200 metres west of Levy's Beach access point (to minimise conflicts with other users of the beach);*
 - c) *That the Cultural Heritage Management Plan is amended to enable the use of the access from Spooky's Beach Car Park by horses in future; and*
 - d) *That infrastructure upgrades are undertaken (including formalising the car park, improving the access track, revegetation and fencing) which Racing Victoria would need to fund to make the Spooky's location workable for its activities.*

Subject to:-

- (i) inclusion of a sunset clause of 30 November 2019 (or by earlier agreement) for completion of aforementioned steps 1(b) and 1(c); and*
- (ii) no race horse training activity be permitted east of Levy's Beach access point;*
- (iii) Following 30 November 2019 (sunset clause) no race horse training to occur on the area east of the 200m west of Levy's access point.*
(Valid & Actioned)
2. *Advise the Minister for Planning in writing of Council's decision on the matter.*
(Valid & Actioned)
3. *Prior to 30 November a licence agreement must be entered into with conditions to the satisfaction of Council. (Valid)*

On 4 February 2019 Council resolved:

1. *That Council, as committee of Management for Levy's Beach, provides a letter of consent to the Warrnambool Racing Club to accompany its applications to the State Government for the required permit applications to undertake commercial racehorse training at Levy's Beach. (Vaild)*
2. *Consent is conditional on the Warrnambool Racing Club's progressive provision of data as it becomes available as outlined in Appendix 1. (Valid)*

ISSUES

Council's resolution of the 21 December 2018 provided the Warrnambool Racing Club with almost 11 months in which to complete the necessary approvals for the Spookys access before its consent passed the sunset period.

As the racing club have not finalised the approvals process as detailed in Attachment 3, Council must consider its position and either authorise officers to provide consent for permit applications and to draft a user agreement, or alternatively instruct officers to inform the Warrnambool Racing Club that consent is not provided.

In both its 1 October 2018 and 15 October 2018 resolutions Council endorsed updated versions of the Lady Bay Access agreements. These agreements included a provision, most recently in the 15 October report in Section 3.11 to allow access between 1 April and 1 December in any calendar year. Prior to these agreements the period had been from 1 March to 1 December each year. These revised arrangements were to commence in 2020 and were developed on the basis that access to Belfast Coast beach areas would become available throughout 2019.

Council has been pursuing a project to expand the parking area on the north side of the Pavilion. This car park expansion, initially proposed as part of the Warrnambool Harbor Master Plan, would provide additional capacity for coastal dependent activities such as fishing and boat launching.

The provision of additional car parking capacity in the Port of Warrnambool will allow Council to restrict the car and boat trailer only car parking areas, for their intended purpose, as they are currently often used for general parking. This situation limits the amount of available parking for car and boat trailer parking, and if not addressed will reduce the full benefits which can be achieved through Councils \$3.2M Safer Launching Facilities Project.

The additional car parking capacity will also offset losses to parking that will be observed during the 1-2 year construction period for the Safer Launching Facilities and Breakwater Stabilisation Project. During these project works boat launching will need to occur from the northern car park area which will become congested if no additional car parking capacity is provided.

Other benefits achieved through the construction of the car park include the ability to provide access to the dredge spoil area for out loading of material, improved cleanliness, and improved pedestrian and cycle linkages. It also provides the greatest opportunity for a segregation of horse loading and unloading and a prudent opportunity through which to obtain funding from an industry which will obtain a benefit from the infrastructure. **Attachment 4** provides an outline of the concept plan for the car park.

Currently DELWP remain unsupportive of the car park extension proposal. On this basis Council should consider its impacts to a range of projects and the funding arrangements that have been developed.

The 4 February 2019 resolution required that data be provided in relation to the use of Lady Bay, a summary of this information is provided as **Attachment 5**.

FINANCIAL IMPACT

Council generates approximately \$20,000 per year through Horse on Beach activity fees.

Should the car park extension at Lady Bay occur and funding from the Warrnambool Racing Club not be received a funding shortfall of \$400,000 would exist.

LEGISLATION/POLICY/COUNCIL PLAN CONTEXT

Not Applicable

TIMING

The Warrnambool Racing Club are seeking advice to allow them to progress with a significant number of approvals required to access Belfast Coast beach areas for the purposed of commercial horse training.

COMMUNITY IMPACT/CONSULTATION

The Belfast Coast Management Plan was widely consulted and provides provision for Commercial Horse Training activities in the area.

LEGAL RISK/IMPACT

This report seeks to ensure that Horse on Beach activities are conducted with all relevant permits and approvals.

OFFICERS' DECLARATION OF INTEREST

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

CONCLUSION

Council needs to consider its response to correspondence received from the Warrnambool Racing Club dated 17 December 2019 and 6 January 2020.

It also needs to consider its position in relation to a funding requirement from the Warrnambool Racing Club towards a car park expansion at Lady Bay.

ATTACHMENTS

1. WCC Letter 06.01.2020 Land Manager Consent - Spookys [5.2.1 - 1 page]
2. Lady Bay Exercise return date 2020 [5.2.2 - 1 page]
3. Approvals Diagram V 2 [5.2.3 - 1 page]
4. 20. Preliminary Car Park Design Plans (M 19-236 TENDER C) [5.2.4 - 7 pages]
5. horse totals [5.2.5 - 1 page]
6. horse by trainer [5.2.6 - 1 page]



6th January 2020

Mr Scott Cavanagh
Director City Infrastructure
Warrnambool City Council

Dear Scott,

Re Land Manager Consent – Spookys

The Warrnambool Racing Club (WRC) is in the process of completing a new Marine and Coastal Act (MACA) consent through the Department of Environment, Land, Water and Planning (DELWP). The new consent application will amend the original approved MACA by DELWP, to include the access point to Levy's Beach for Horse Training via Spookys carpark and trail.

Part of the process before the WRC can submit the consent application to DELWP is gaining a letter of consent by the WCC as the Public Land Manager for the Spookys area of the coastal reserve. The WRC is seeking consent by WCC as the Public Land Manager.

The WCC has previously been granted a letter of consent as the Committee of Management for Levy's Beach in the original submitted MACA, passed in a motion at an ordinary Council meeting held on the Monday 4th February 2019. The WRC has been meeting its consent conditions outlined in the motion - Appendix 1 of the Council Minutes.

In addition, as the Public Land Holder, the WCC granted permission to the WRC to undertake the amended Cultural Heritage Management Plan for the Spookys area. There are also other preliminary associated works including the traffic management plan and the plans to address the condition of the existing hard stand car park at the Spookys area. These two items will form part of the MACA application and will seek feedback from WCC Infrastructure team once completed to a presentable standard.

Should you wish to discuss the details included further, I can be contacted on 03 5562 2211 or tom.oconnor@countryracing.com.au

Your sincerely

Tom O'Connor
Chief Executive Officer

WARRNAMBOOL RACING CLUB INC
P.O. Box 48
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P: 03 5562 2211 F: 03 5562 7579
E: warrnambool@countryracing.com.au
www.warrnamboolracing.com.au



17th December 2019

Mr Peter Schneider
Chief Executive Officer
Warrnambool City Council
PO Box 198
Warrnambool VIC 3280

Re: Lady Bay Exercise Return Date 2020

Dear Peter,

The Warrnambool Racing Club (WRC) recently received a letter notifying the club that the Lady Bay exercise return date for 2020 would be the 1st April 2020. The letter was table at the 10th December meeting between the WRC and South West Owners Trainers & Riders Association (SWOTRA).

Given Levy's Beach is currently out of action for horse activity, the WRC would like to request that the motion tabled at the 15th October 2018 Council meeting be delayed for another 12 months. This would allow access to Lady Bay from the 1st March 2020, as per previous years.

The request is based on the importance of beach access for training thoroughbreds in Warrnambool. The beach access compliments and supports the on-course and the surrounding district trainers who use the WRC facilities. Gaining access on the 1st March will enable trainers to prepare their thoroughbreds for the 2020 May carnival. It would also assist in the WRC in stabilising the trainer and horse numbers within the City of Warrnambool.

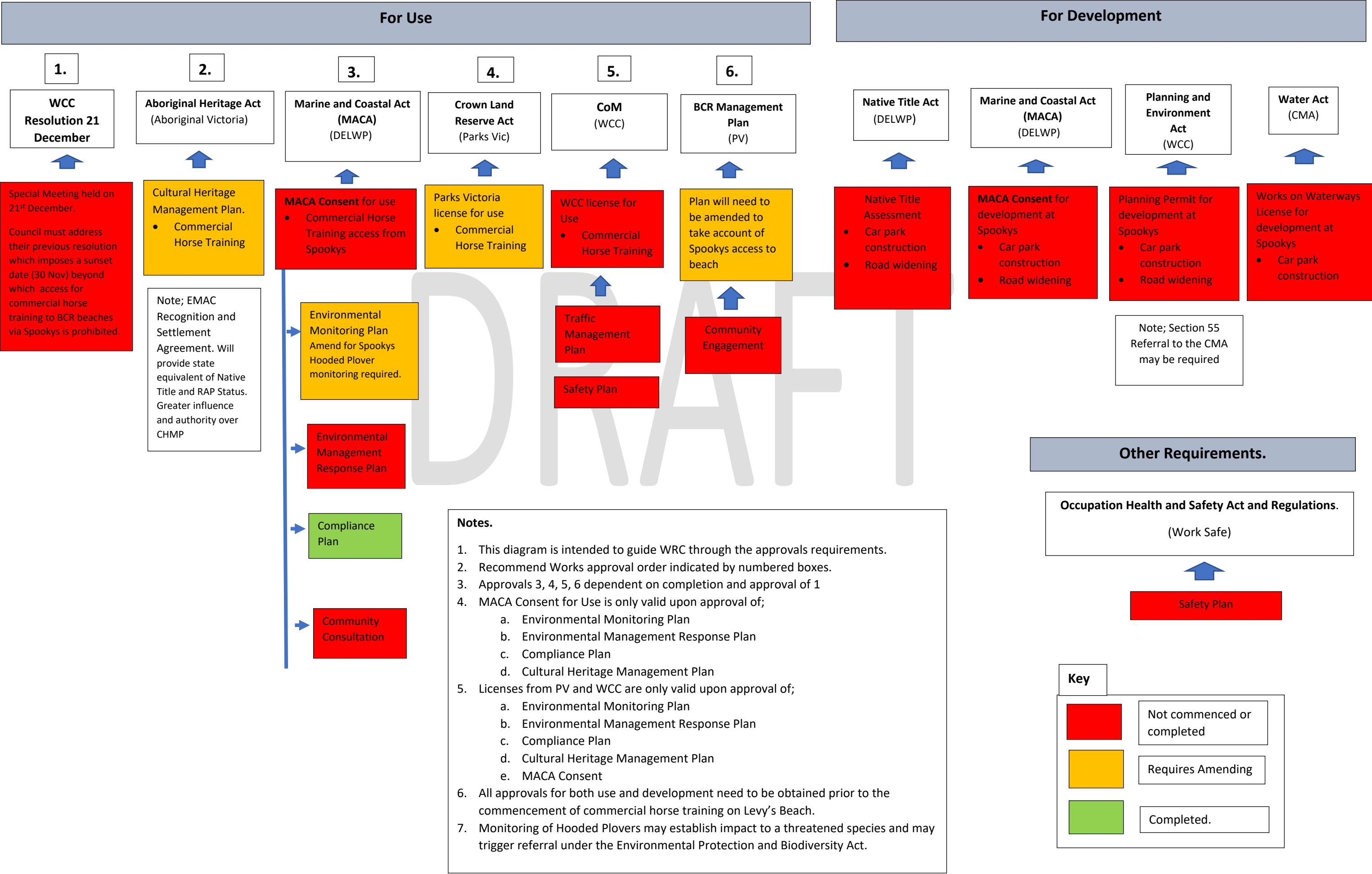
The WRC would appreciate the Warrnambool City Council's support on this matter at a time when the WRC and its supporting trainers need it most. Should you wish to discuss this further, then please do not hesitate to contact me on 03 5562 2211.

Your sincerely

Tom O'Connor
Chief Executive Officer
Warrnambool Racing Club

WARRNAMBOOL RACING CLUB INC
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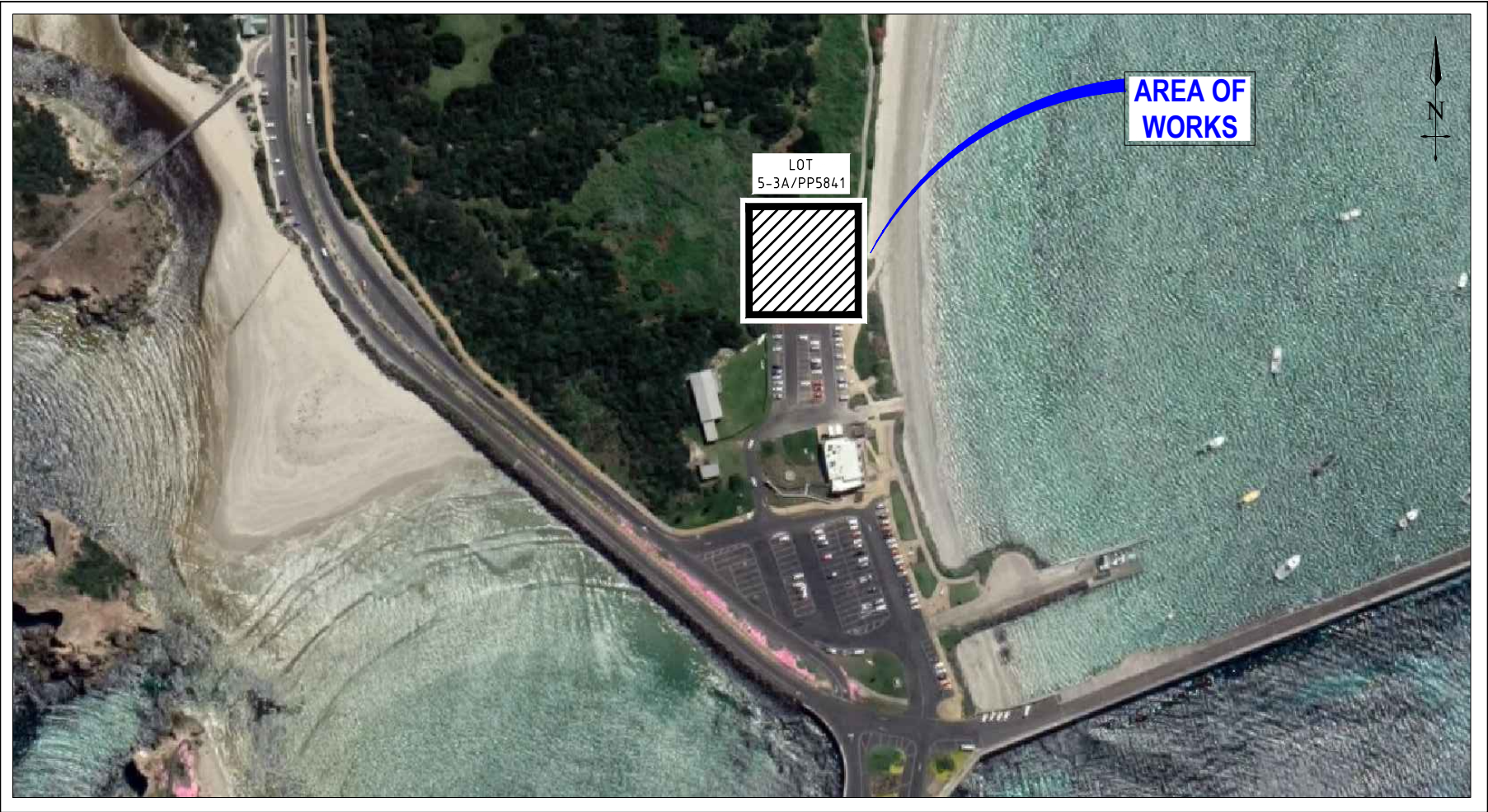
Warrnambool Racing Club Approvals Diagram (version 2 December)
For Spookys Access



CAR PARK EXTENSION

FORESHORE PRECINCT, WARRNAMBOOL

FOR HOLMES MCLEOD CONSULTING ENGINEERS



LOCALITY PLAN

THE ORIGINAL PLANS OF THIS PLAN SET WERE PRODUCED USING COLOUR FOR GREATER CLARITY AND OBJECT DEFINITION. WORKING WITH A BLACK AND WHITE COPY MAY CAUSE ERRORS. IF THESE DRAWINGS ARE NOT IN COLOUR THEN YOU ***DO NOT*** HAVE THE CORRECT PRESENTATION AND SHOULD SEEK ADVICE.

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SURVEY:
DESIGN HAS BEEN PREPARED FROM SURVEY DATA PROVIDED BY "JOSEPH LAND SURVEYING". ALL SETOUT POINTS PROVIDED IN THESE DRAWINGS ARE IN RELATION TO THE DATUM/AZIMUTH OF THE SURVEY DATA PROVIDED. THE CONTRACTOR SHALL OBTAIN REFERENCE SURVEY STATION DATA FROM "JOSEPH LAND SURVEYING" PRIOR TO START OF CONSTRUCTION.

DRAWING INDEX

M19-236-001	LOCALITY PLAN AND DRAWING INDEX
M19-236-002	TYPICAL SECTIONS AND NOTES
M19-236-003	EXISTING FEATURES AND LEVELS
M19-236-004	DESIGN DETAIL PLAN
M19-236-005	LINEMARKING AND SIGNAGE PLAN
M19-236-006	EROSION AND SEDIMENT CONTROL
M19-236-007	EROSION AND SEDIMENT CONTROL STD. NOTES

STANDARD DRAWINGS - IECA


SF-01	SEDIMENT FENCE - SHEET 1
SF-02	SEDIMENT FENCE - SHEET 2

STANDARD DRAWINGS - WARRNAMBOOL C.C.

WCC-11A	KERB SECTIONS
WCC-51	PEDESTRIAN PATHS
WCC-52	RAMPED PATH CROSSINGS AT KERB
WCC-53	VEHICLE CROSSINGS

STANDARD DRAWINGS - AUSTRALIAN STANDARDS

AS/NZS 1428.4.1	DESIGN FOR ACCESS AND MOBILITY - PART 4.1
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SCALES				<div><div></div><div>ENGAGE</div><div>consulting engineers</div><div>STRUCTURAL CIVIL HYDRAULIC</div><div>A.C.N 619 682 567A.B.N 975 061 445 93</div><div>EMAIL: office@engageengineering.com.au</div></div>	DESIGN	GT	SURVEY BY	JOSEPH LAND SURVEYING	<p>THIS DRAWING IS COPYRIGHT AND THE PROPERTY OF ENGAGE CONSULTING ENGINEERS PTY LTD. IT MUST NOT BE RETAINED, COPIED OR USED WITHOUT THE AUTHORITY OF ENGAGE CONSULTING ENGINEERS PTY LTD.</p> <p>THIS DRAWING AND ITS CONTENTS ARE ELECTRONICALLY GENERATED, ARE CONFIDENTIAL AND MAY ONLY BE USED FOR THE PURPOSE FOR WHICH THEY WERE INTENDED. ENGAGE CONSULTING ENGINEERS PTY LTD. WILL NOT ACCEPT RESPONSIBILITY FOR ANY CONSEQUENCES ARISING FROM THE USE OF THE DRAWING FOR OTHER THAN ITS INTENDED PURPOSE OR WHERE THE DRAWING HAS BEEN ALTERED, AMENDED OR CHANGED EITHER MANUALLY OR ELECTRONICALLY BY ANY THIRD PARTY.</p> <p>THIS IS AN UNCONTROLLED DOCUMENT ISSUED FOR INFORMATION PURPOSES ONLY. UNLESS THE CHECKED SECTIONS ARE SIGNED OR COMPLETED. FIGURED DIMENSIONS TAKE PRECEDENCE OVER SCALED. DO NOT SCALE REDUCED SIZE DRAWINGS. VERIFY DIMENSIONS PRIOR TO COMMENCING ANY WORKS.</p>	HOLMES MCLEOD CONSULTING ENGINEERS		DRAWING ISSUE																				
							TENDER																									
C	TENDER ISSUE – GENERAL REVISION	DW	08/19		DRAWN	JP	HORIZ GRID	MGA94 (ZONE 54)				SHEET	01	OF	07	DRGS																
B	TENDER ISSUE	DW	08/19		CHECKED	DW	HEIGHT DATUM	AHD				A3	DRAWING No:																			
A	CARPARK RAISED & GENERAL ADDITIONS	DW	07/19		SIGNED		SURVEY ORIGIN						M19-236-001																			
O	ORIGINAL ISSUE	DW	06/19	RPEQ					CAR PARK EXTENSION		WARRNAMBOOL FORESHORE PRECINCT		LOCALITY PLAN AND DRAWING INDEX																			
REV	DETAILS OF AMENDMENTS	APPROVED	DATE		DATE																											
CAD FILES	H:\Job Files 2019\M19-236 – Warrnambool Foreshore Precinct Car Park – HMC\Drawings\Civil\Current\Design\M19-236.dwg																															
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Warrnambool City Council Agenda for Ordinary Meeting EARTHWORKS NOTES:

1. ALL EARTHWORKS TO BE CARRIED OUT IN ACCORDANCE WITH AS.3798.
2. ALL EARTHWORKS TO BE CARRIED OUT TO 'LEVEL 2' STANDARD FOR SUPERVISION, TESTING & COMPACTION RATES IN ACCORDANCE WITH AS.3798.
3. CUT AND FILL BATTERS TO EXISTING SURFACE TO BE 1 IN 6 MAX UNO.

NOTES:

1. ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE.
2. NO WORK SHALL BE CARRIED OUT WITHIN 3.0m OF ANY UNDERGROUND SERVICE WITHOUT FIRST CONSULTING WITH THE RELEVANT AUTHORITY.
3. THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL EXISTING SERVICES WITH THE RELEVANT AUTHORITIES BEFORE COMMENCING CONSTRUCTION. ANY COSTS ASSOCIATED WITH REPAIRING DAMAGE TO EXISTING SERVICES SHALL BE PAID FOR BY THE CONTRACTOR.
4. THE CONTRACTOR TO VERIFY ALL DIMENSIONS ON-SITE PRIOR TO THE COMMENCEMENT OF WORKS. THE SUPERINTENDENT SHALL RULE ON ANY DISCREPANCIES FOLLOWING LIAISON WITH THE CONSULTANT.
5. IN ADDITION TO COMPACTION TESTING OF THE SUBGRADE, SUB-BASE AND BASE, AND IN THE CASE OF COMPACTION OF COARSE GRANULAR MATERIAL, PROOF TEST ROLLING SHALL BE UNDERTAKEN AS SOON AS POSSIBLE AFTER COMPLETION OF COMPACTION, IN THE PRESENCE OF THE SUPERINTENDENT AND COUNCIL'S INSPECTOR. SUCH TEST ROLLING SHALL BE DONE IN ACCORDANCE WITH AS 3798 - 2007. DRIED OUT SURFACES SHALL NOT BE ACCEPTABLE FOR TEST ROLLING. ATTENTION WILL BE GIVEN TO THE RELEVANCE OF TIMING AND MOISTURE CONTENT AS DESCRIBED IN THE ABOVE STANDARD.
6. NOTIFICATION SHALL BE PROVIDED TO COUNCIL 24 HOURS IN ADVANCE OF ALL REQUIRED INSPECTIONS TO ALLOW COUNCIL'S INSPECTOR TO ATTEND IF DEEMED TO BE NECESSARY.
7. ALL DISTURBED AREAS TO BE TOPSIOLED AND GRASS SEEDDED UNLESS NOTED OTHERWISE.
8. WHERE TOPSOIL IS REMOVED, OVER-CUT EXCAVATION TO ENSURE A MIN. 90mm TOPSOIL IS PROVIDED.

PAVEMENT NOTES:

1. GEOTECHNICAL TESTING IS TO BE UNDERTAKEN, ASSUMED CBR OF 20% (PAVEMENT DESIGN TO BE CONFIRMED).
2. NOTIFY ALL RELEVANT AUTHORITIES PRIOR TO COMMENCEMENT OF WORK WITHIN EXISTING ROAD RESERVES.

REPAIR TREATMENT - CUT REINFORCED CONCRETE

1. GRIND OR CUT BACK ANY EXPOSED STEEL IN THE EXISTING PIPE TO A DEPTH OF 25MM.
2. COAT CUT EDGE OF STEEL AND CONCRETE LOCAL TO CUT STEEL WITH SIKA MONOTOP 640 PRIMER AND APPLY SIKA MONOTOP 615HB TO STEEL TO A THICKNESS OF 10MM MINIMUM.
3. COAT CUT CONCRETE FACE WITH NITOBOND EP FOR ADHESION TO CONCRETE IF REQUIRED.
4. ALL PRODUCTS ARE TO BE APPLIED STRICTLY IN ACCORDANCE WITH THE MANUFACTURERS SPECIFICATIONS.
5. ALL MATERIALS OR EQUAL. REFER TO PROJECT SUPERVISOR IF ALTERED FROM THE NOTED MATERIALS.

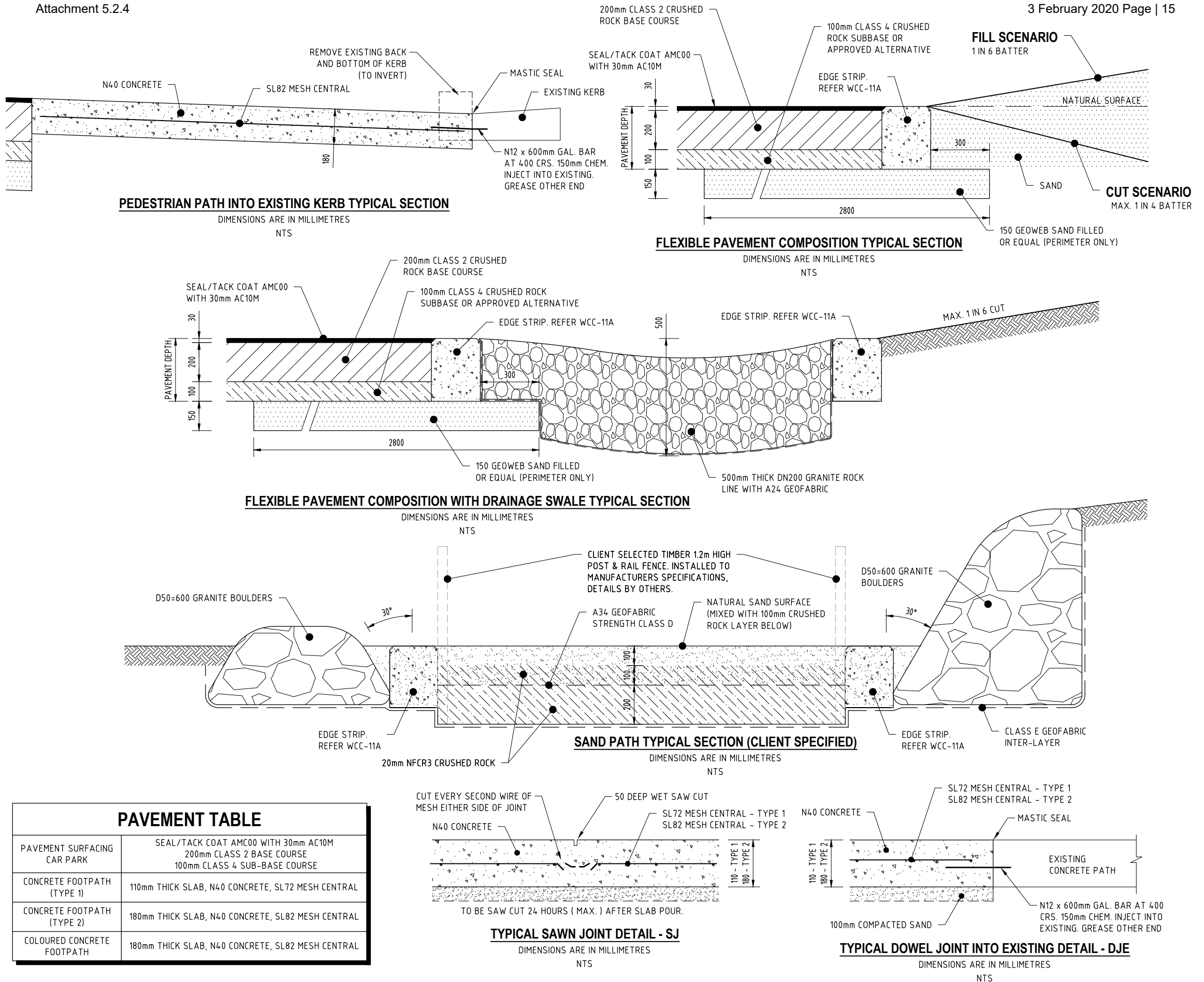
COMPACTION STANDARDS:

ROADWORKS UP TO 300mm BELOW SUBGRADE	- 95% STANDARD
ROADWORKS WITHIN 300mm OF SUBGRADE	- 100% STANDARD
LOT FILL	- 98% STANDARD
SUB BASE GRAVEL	- 100% STANDARD
BASE GRAVEL	- 100% STANDARD


CONTRACTOR NOTE:

THE CONTRACTOR SHALL EMPLOY APPROPRIATE COMPACTION EQUIPMENT WHEN WORKING IN THE VICINITY OF EXISTING SERVICES AND RESIDENCES. ANY COSTS ASSOCIATED WITH REPAIRING DAMAGE TO EXISTING SERVICES AND INFRASTRUCTURE SHALL BE PAID FOR BY THE CONTRACTOR.

Attachment 5.2.4



PAVEMENT TABLE	
PAVEMENT SURFACING CAR PARK	SEAL/TACK COAT AMC00 WITH 30mm AC10M 200mm CLASS 2 BASE COURSE 100mm CLASS 4 SUB-BASE COURSE
CONCRETE FOOTPATH (TYPE 1)	110mm THICK SLAB, N40 CONCRETE, SL72 MESH CENTRAL
CONCRETE FOOTPATH (TYPE 2)	180mm THICK SLAB, N40 CONCRETE, SL82 MESH CENTRAL
COLOURED CONCRETE FOOTPATH	180mm THICK SLAB, N40 CONCRETE, SL82 MESH CENTRAL

				SCALES		 <div>ENGAGE consulting engineers STRUCTURAL CIVIL HYDRAULIC</div> <div>A.C.N 619 682 567 A.B.N 975 061 445 93</div> <div>EMAIL: office@engageengineering.com.au</div>		DESIGN BY GT	SURVEY BY JOSEPH LAND SURVEYING		THIS DRAWING IS COPYRIGHT AND THE PROPERTY OF ENGAGE CONSULTING ENGINEERS PTY LTD. IT MUST NOT BE RETAINED, COPIED OR USED WITHOUT THE AUTHORITY OF ENGAGE CONSULTING ENGINEERS PTY LTD.		HOLMES MCLEOD CONSULTING ENGINEERS				DRAWING ISSUE TENDER	
								DRAWN JP	HORIZ GRID MGA94 (ZONE 54)				SHEET 02 OF 07 DRGS					
C TENDER ISSUE – GENERAL REVISION				DW		08/19		CHECKED DW		HEIGHT DATUM AHD				DRAWING No: A3				
B TENDER ISSUE				DW		08/19		SIGNED		SURVEY ORIGIN				M19-236-002				
A CARPARK RAISED & GENERAL ADDITIONS				DW		07/19												
O ORIGINAL ISSUE				DW		06/19												
REV DETAILS OF AMENDMENTS				APPROVED		DATE		RPEQ										
CAD FILES				H:\Job Files 2019\M19-236 – Warrnambool Foreshore Precinct Car Park – HMC\Drawings\Civil\Current\Design\M19-236.dwg				DATE										
														0 A B C				
CAR PARK EXTENSION WARRNAMBOOL FORESHORE PRECINCT TYPICAL SECTIONS AND NOTES																		

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CHECKED	DW	HEIGHT DATUM	AHD
SIGNED		SURVEY ORIGIN	
RPEQ			
DATE			

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CAR PARK EXTENSION
WARRNAMBOOL FORESHORE PRECINCT
TYPICAL SECTIONS AND NOTES

PLOT DATE :- 14 August 2019 11:14 AM

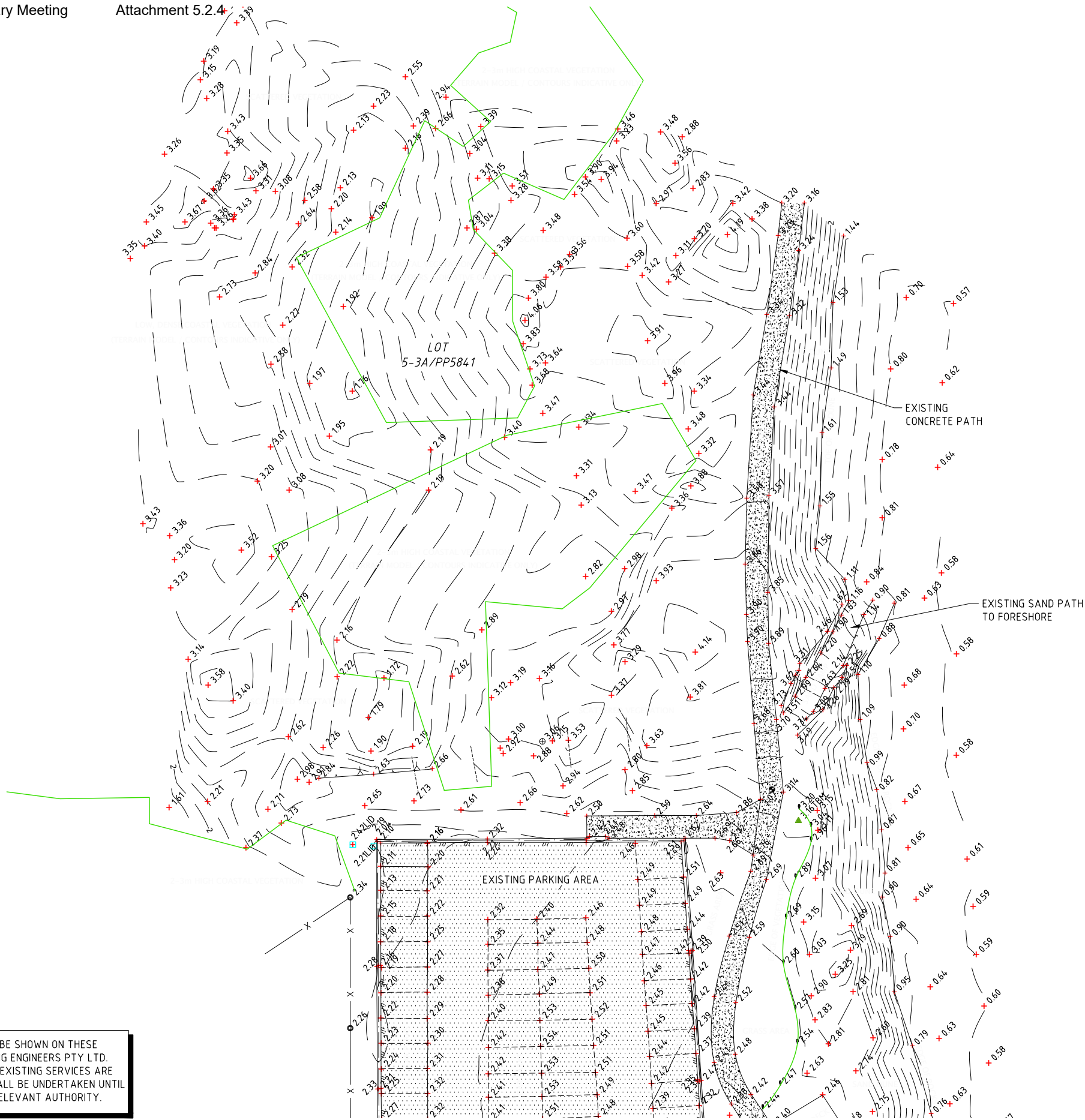


DIAL BEFORE YOU DIG
PHONE 1100
www.1100.com.au

ARRANGE FOR LOCATIONS ON SITE BY THE APPROPRIATE AUTHORITIES BEFORE DIGGING. CALL 48 HOURS BEFORE YOU DIG.

LEGEND

- EXISTING EDGE OF BITUMEN
- EXISTING KERB INVERT
- EXISTING LIP OF KERB
- EXISTING BACK OF KERB
- EXISTING CONTOURS
- EXISTING BOTTOM OF BATTER
- EXISTING TOP OF BATTER
- EXISTING FENCE
- EXISTING BITUMEN SURFACING
- EXISTING CONCRETE
- EXISTING VEGETATION



SURVEY DATUM

DATE OF SURVEY: 15-04-2019
DATUM FOR LEVELS: PM 380, PM 367 & GNSS
CONTOUR INTERVAL: 0.20m

NOTWITHSTANDING THAT EXISTING SERVICES MAY OR MAY NOT BE SHOWN ON THESE DRAWINGS. NO RESPONSIBILITY IS TAKEN BY ENGAGE CONSULTING ENGINEERS PTY LTD. FOR THIS INFORMATION, WHICH HAS BEEN SUPPLIED BY OTHERS. EXISTING SERVICES ARE PROVIDED FOR INFORMATION ONLY. NO CONSTRUCTION WORK SHALL BE UNDERTAKEN UNTIL SERVICE LOCATIONS HAVE BEEN CONFIRMED ON SITE WITH THE RELEVANT AUTHORITY.

SCALES





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HOLMES MCLEOD CONSULTING ENGINEERS

CAR PARK EXTENSION
WARRNAMBOOL FORESHORE PRECINCT
EXISTING FEATURES AND LEVELS

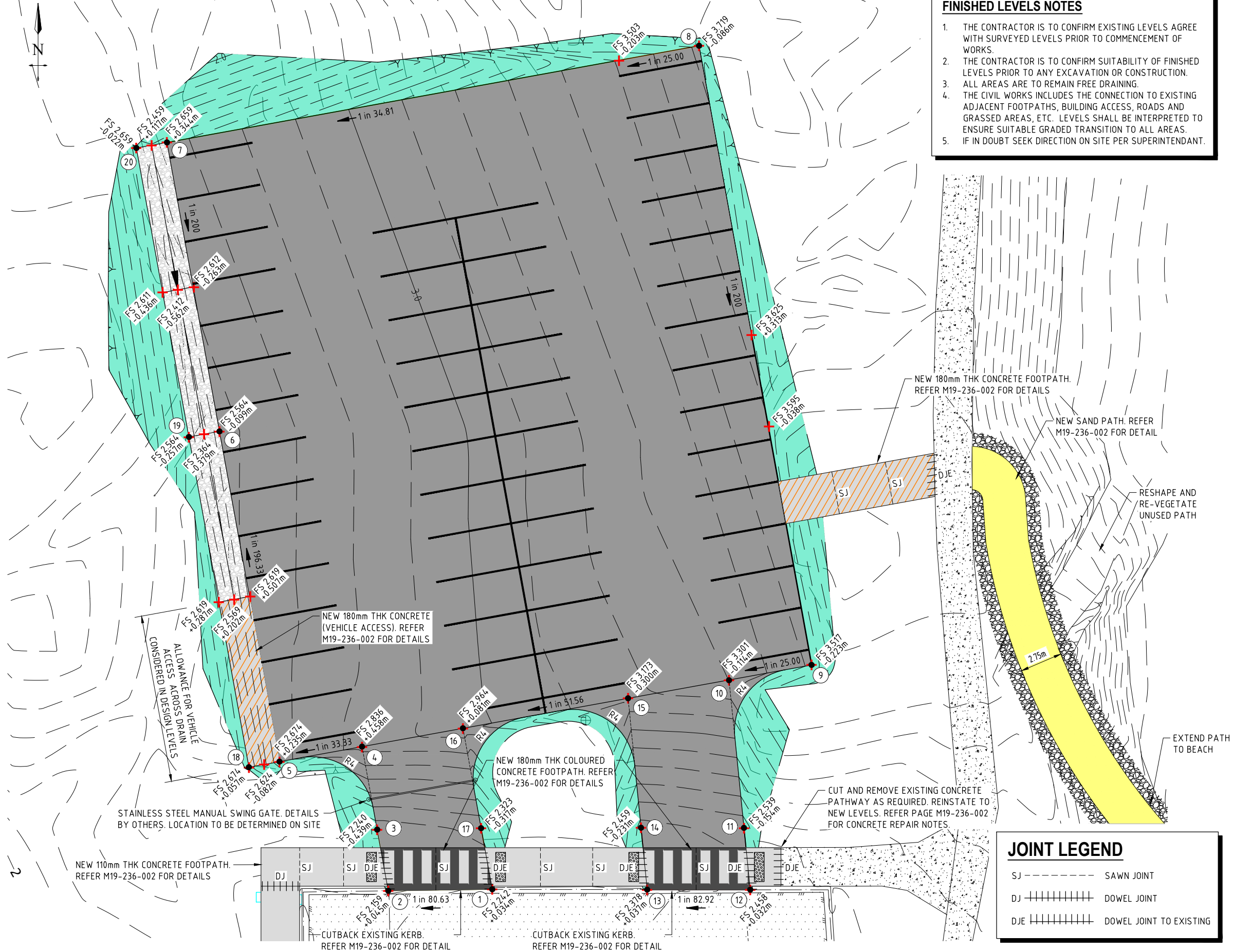
DRAWING ISSUE

TENDER

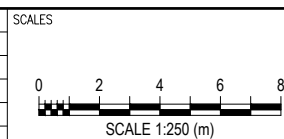
SHEET 03 OF 07 DRGS

DRAWING No:
A3 M19-236-003

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C	TENDER ISSUE - GENERAL REVISION	DW	08/19
B	TENDER ISSUE	DW	08/19
A	CARPARK RAISED & GENERAL ADDITIONS	DW	07/19
O	ORIGINAL ISSUE	DW	06/19
REV	DETAILS OF AMENDMENTS	APPROVED	DATE
CAD FILES	H:\Job Files 2019\M19-236 - Warrnambool Foreshore Precinct Car Park - HMC\Drawings\Civil\Current\Design\M19-236.dwg		



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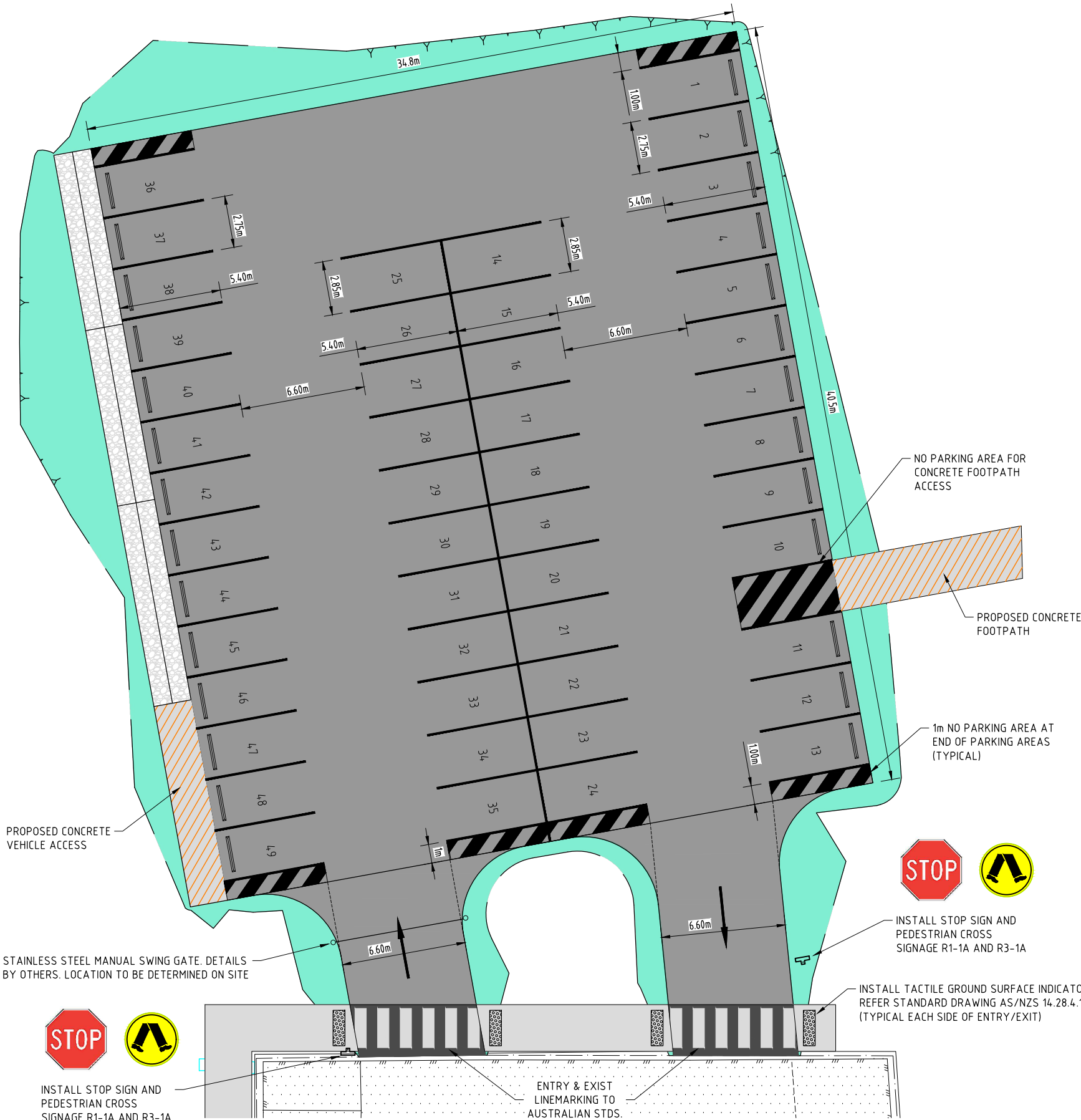
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HOLMES MCLEOD CONSULTING ENGINEERS
CAR PARK EXTENSION
WARRNAMBOOL FORESHORE PRECINCT
DESIGN DETAIL PLAN

DRAWING ISSUE			
TENDER			
SHEET	04	OF	07 DRGS
DRAWING No:		A3 M19-236-004	
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PLOT DATE :- 14 August 2019 11:14 AM

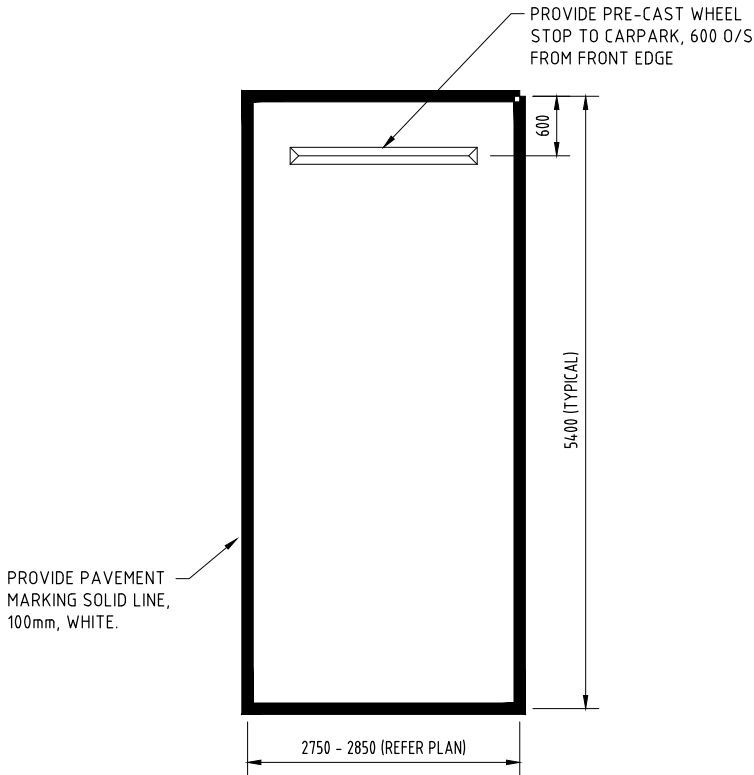


LEGEND

- PROPOSED PAVEMENT SURFACING
- PROP. CONCRETE FOOTPATH - TYPE 1 (110 THICK, N40 CONCRETE, SL72 MESH)
- PROP. CONCRETE FOOTPATH - TYPE 2 (180 THICK, N40 CONCRETE, SL82 MESH)
- PROP. COLOURED CONCRETE FOOTPATH (180 THICK, N40 CONCRETE, SL82 MESH)

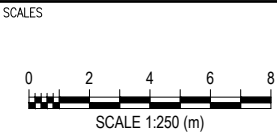
NOTES

- THE CONTRACTOR IS TO CONFIRM EXISTING LEVELS AGREE WITH SURVEYED LEVELS PRIOR TO COMMENCEMENT OF WORKS.
- THE CONTRACTOR IS TO CONFIRM SUITABILITY OF FINISHED LEVELS PRIOR TO ANY EXCAVATION OR CONSTRUCTION.
- ALL AREAS ARE TO REMAIN FREE DRAINING.
- THE CIVIL WORKS INCLUDES THE CONNECTION TO EXISTING ADJACENT FOOTPATHS, BUILDING ACCESS, ROADS AND GRASSED AREAS, ETC. LEVELS SHALL BE INTERPRETED TO ENSURE SUITABLE GRADED TRANSITION TO ALL AREAS.
- IF IN DOUBT SEEK DIRECTION ON SITE PER SUPERINTENDENT.
- PROVIDE FIRM AND LEVEL SURFACE EACH SIDE OF WALKWAY FOR 600MM MIN. PER AS1428.1-2009,10.29(A)
- ALL ITEMS ARE TO BE CONSTRUCTED IN COMPLIANCE WITH AS/NZ2890.6-2009 & AS1428.1-2009.



LINEMARKING DETAIL
DIMENSIONS ARE IN MILLIMETRES
NTS

REV	DETAILS OF AMENDMENTS	APPROVED	DATE
C	TENDER ISSUE - GENERAL REVISION	DW	08/19
B	TENDER ISSUE	DW	08/19
A	CARPARK RAISED & GENERAL ADDITIONS	DW	07/19
O	ORIGINAL ISSUE	DW	06/19



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HORIZ GRID	MGA94 (ZONE 54)
HEIGHT DATUM	AHD
SURVEY ORIGIN	

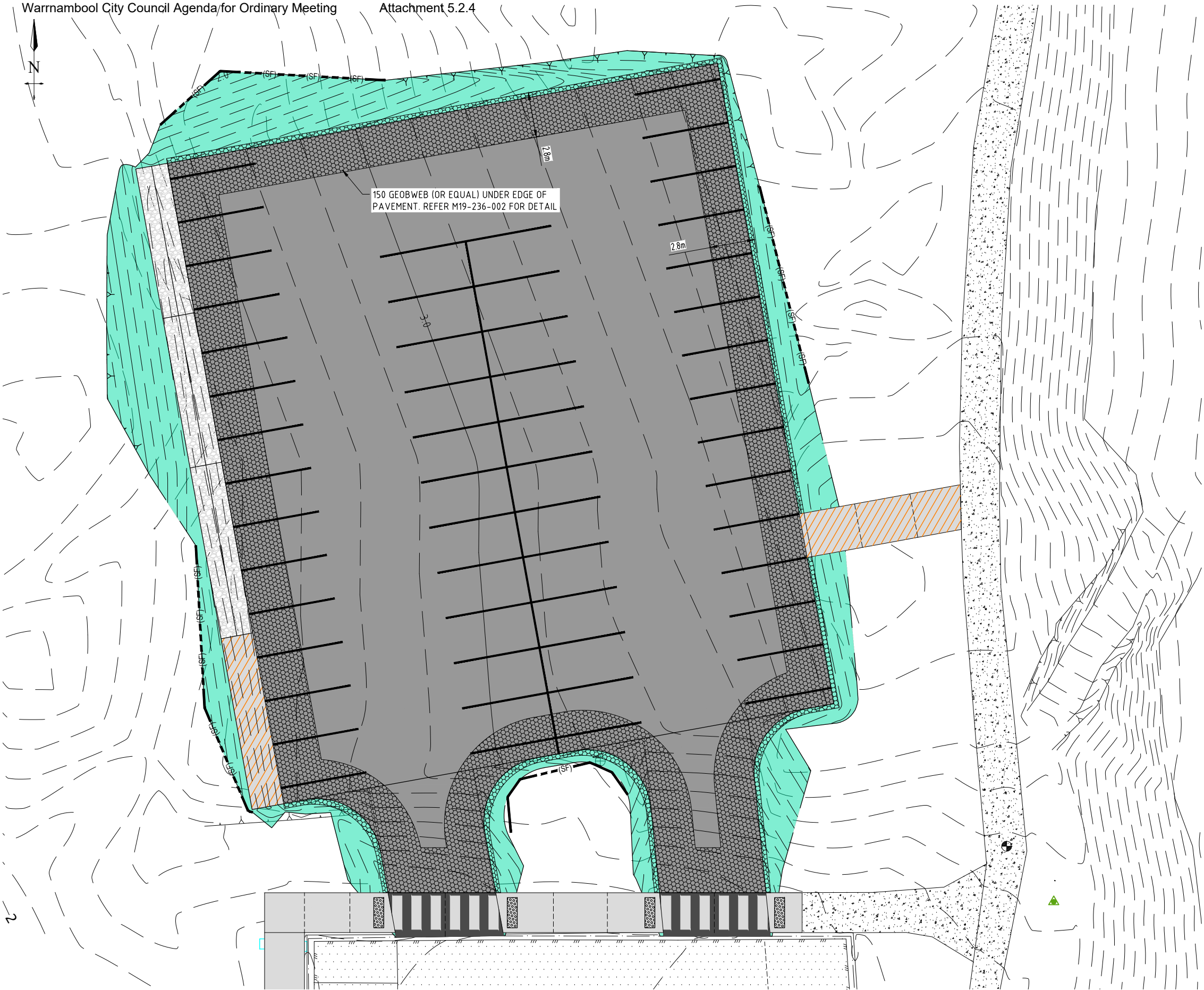
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CAR PARK EXTENSION WARRNAMBOOL FORESHORE PRECINCT LINEMARKING AND SIGNAGE PLAN		SHEET 05 OF 07 DRGS	DRAWING No: A3 M19-236-005
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PLOT DATE :- 14 August 2019 11:14 AM



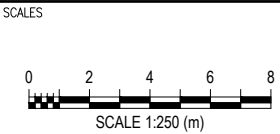
LEGEND

- PROPOSED SHOULDER LINE
- PROPOSED CHANGE OF GRADE
- PROPOSED BOTTOM OF BATTER
- PROPOSED TOP OF BATTER
- PROPOSED SEDIMENT FENCE (SF)
- PROPOSED PAVEMENT SURFACING
- PROP. CONCRETE FOOTPATH - TYPE 1 (110 THICK, N40 CONCRETE, SL72 MESH)
- PROP. CONCRETE FOOTPATH - TYPE 2 (180 THICK, N40 CONCRETE, SL82 MESH)
- PROP. COLOURED CONCRETE FOOTPATH (180 THICK, N40 CONCRETE, SL82 MESH)
- PROPOSED AREA OF TURF (442.5m²)
- PROPOSED 150 GEOBWEB UNDER PAVEMENT

NOTES

- THIS DRAWING INCLUDES AN ESTIMATION OF THE TEMPORARY EROSION AND SEDIMENT CONTROL THE CONTRACTOR WILL NEED TO PUT IN PLACE. THE CONTRACTOR IS TO LIAISE WITH THE SUPERINTENDENT TO DETERMINE THE FINAL CONFIGURATION OF THE CONTROLS. THIS EMP IS A LIVING DOCUMENT AND IS REQUIRED TO BE UPDATED APPROPRIATELY AS CONSTRUCTION WORKS PROCEED.
- APPROPRIATE EROSION & SEDIMENT CONTROL DEVICES TO BE ADVISED BY SUPERINTENDENT FOR DURATION OF WORKS.
- CONFORM WITH STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) AND EPA GUIDELINES.
- ALL DISTURBED AREAS TO BE TOPSOILED AND HYDROMULCHED U.N.O.

C	TENDER ISSUE - GENERAL REVISION	DW	08/19
B	TENDER ISSUE	DW	08/19
A	CARPARK RAISED & GENERAL ADDITIONS	DW	07/19
O	ORIGINAL ISSUE	DW	06/19
REV	DETAILS OF AMENDMENTS	APPROVED	DATE
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HORIZ GRID	MGA94 (ZONE 54)
HEIGHT DATUM	AHD
SURVEY ORIGIN	

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HOLMES MCLEOD CONSULTING ENGINEERS

CAR PARK EXTENSION
WARRNAMBOOL FORESHORE PRECINCT
EROSION AND SEDIMENT CONTROL

DRAWING ISSUE			
TENDER			
SHEET	06	OF	07 DRGS
A3	DRAWING No:		
	M19-236-006		
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PLOT DATE :- 14 August 2019 11:14 AM

EROSION AND SEDIMENT CONTROL PROGRAM:

1. THIS PROGRAM AND AND ASSOCIATED PLANS SHALL BE READ IN CONJUNCTION WITH THE SITE MANAGEMENT SPECIFICATION INCORPORATED IN THE CONTRACT DOCUMENTS. THE PROVISIONS OF THE SPECIFICATION ARE TO BE STRICTLY ADHERED TO.
2. PRIOR TO THE COMMENCEMENT OF THE CONSTRUCTION, THE CONTRACTOR IS TO PROVIDE A DETAILED PROGRAM TO THE SUPERINTENDENT SHOWING THE TIMING FOR ALL WORKS ASSOCIATED WITH THE PROJECT, NOMINATING, IN PARTICULAR, THE PROGRAM FOR INSTALLATION OF SOIL AND EROSION CONTROL SYSTEMS.
3. EARTHWORKS SHALL BE CARRIED OUT IN SUCH A MANNER THAT THE SITE IS MAINTAINED IN A WELL DRAINED CONDITION, AREAS OF LOOSE SOIL ARE MINIMISED AND CONCENTRATIONS OF STORMWATER ARE MINIMISED
4. THE BASIC OBJECTIVES OF THE EROSION AND SEDIMENT CONTROL ARE:

- IDENTIFY CRITICAL AREAS AND PROVIDE SPECIAL ATTENTION TO THOSE AREAS;

- PLAN SITE LAYOUT SO THAT ACCESS TO ALL REQUIRED DRAINAGE EROSION AND SEDIMENT CONTROL MEASURES IS MAINTAINED;

- LIMIT EXPOSURE TIME BY PROGRAMMING TO MINIMISE THE AREA OF LAND EXPOSED TO POTENTIALLY ADVERSE WEATHER CONDITIONS AT ANY ONE TIME;

- PROVIDE CONTROL MEASURES INCLUDING TEMPORARY AND PERMANENT DRAINAGE, EROSION AND SEDIMENT CONTROLS
5. THE EROSION AND SEDIMENT CONTROL SHALL COMPLY WITH LOCAL AUTHORITY EROSION AND SEDIMENT CONTROL STANDARDS, CONFORM WITH STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) AND EPA GUIDELINES, AND ALL OTHER LOCAL AUTHORITY EROSION AND SEDIMENT CONTROL GUIDELINES.
6. ALL ESC MEASURES SHALL BE INSPECTED:

- AT LEAST DAILY (WHEN WORK IS OCCURRING ON SITE);

- WITHIN 24 HOURS OF EXPECTED RAIN; AND

- WITHIN 18 HOURS OF RAINFALL EVENT (I.E. AN EVENT OF SUFFICIENT INTENSITY AND DURATION TO MOBILISE SEDIMENT ON SITE.)

MAINTENANCE OF ESC MEASURES SHALL OCCUR IN ACCORDANCE WITH THE FOLLOWING TABLE:

ESC MEASURES	MAINTENANCE TRIGGER	TIME FRAME FOR COMPLETION OF MAINTENANCE
SEDIMENT BASINS	WHEN SETTLED SEDIMENT EXCEEDS THE VOLUME OF THE SEDIMENT STORAGE ZONE (SEE COUNCIL'S SEDIMENT BASIN DESIGN GUIDELINES)	WITHIN 7 DAYS OF THE INSPECTION
OTHER ESC MEASURES	THE CAPACITY OF ESC MEASURES FALLS BELOW 75%	BY THE END OF THE DAY

7. WATER QUALITY SAMPLES MUST BE TAKEN AND ANALYSED PRIOR TO THE RELEASE OF ANY WATER FROM THE SITE. WATER QUALITY MUST SATISFY THE FOLLOWING CRITERIA; TSS<50 mg/L, pH BETWEEN 6.5 AND 8.5. IF WATER QUALITY FAILS THE CRITERIA THEN USE OF A GYPSUM FLOCCULENT IS TO BE APPLIED AS DIRECTED BY THE SUPERINTENDENT.

8. ALL WATER QUALITY DATA INCLUDING DATES OF RAINFALL, TESTING AND WATER RELEASE MUST BE MAINTAINED IN ONSITE REGISTER. THIS REGISTER IS TO BE MAINTAINED FOR THE DURATION OF THE APPROVED WORKS AND BE AVAILABLE ON SITE FOR INSPECTIONS BY COUNCIL OFFICERS ON REQUEST.

9. CONSTRUCTION ACCESS SHALL BE AT POINTS NOMINATED ON THE EROSION AND SEDIMENT CONTROL PLAN. A SHAKE FACILITY, INCLUDING VIBRATION GRID AND ROCK PAD, SHALL BE LOCATED AT ALL ENTRY/EXIT LOCATIONS. FOR DETAILS FOR SHAKEDOWN FACILITY TO CONFORM WITH STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) AND EPA GUIDELINES.

10. SUPPLEMENTARY EROSION AND SEDIMENT CONTROL DEVICES MAY BE REQUIRED AT THE DISCRETION OF THE SUPERINTENDENT AND/OR COUNCIL.

11. SEDIMENT CONTROL DEVICES SHALL BE PROVIDED AND MAINTAINED WHERE SHOWN ON THE EROSION AND SEDIMENT CONTROL PLAN. ALL SEDIMENT CONTROL DEVICES SHALL REMAIN IN PLACE AS DIRECTED BY THE SUPERINTENDENT.

12. EXCAVATED MATERIAL WILL BE PLACED DIRECTLY INTO FILL AREAS IN ACCORDANCE WITH THE APPROVED SPECIFICATION.

13. ANY IMPORTED FILL MATERIAL SHALL COMPLY WITH THE REQUIREMENTS OF THE SPECIFICATION.

14. ALL TEMPORARY EROSION AND SEDIMENT CONTROL (ESC) MEASURES TO BE MAINTAINED AND FULLY OPERATIONAL DURING THE MAINTENANCE PERIOD AND ARE TO BE REMOVED AFTER THE SATISFACTORY COMPLETION OF AN "OFF-MAINTENANCE" INSPECTION BY COUNCIL AND PRIOR TO FORMAL ACCEPTANCE "OFF-MAINTENANCE" BY COUNCIL

EROSION AND SEDIMENT CONTROL NOTES:

1. STRIP AND STOCKPILE AVAILABLE TOPSOIL (ASSUMED AVERAGE DEPTH 75mm) FROM ALL DISTURBED AREAS PRIOR TO BULK EARTHWORKS. STOCKPILES ARE TO BE STABILISED TO MINIMISE THE POTENTIAL FOR DUST AND EROSION.
2. SEDIMENT FENCES TO BE PROVIDED AS REQUIRED AND EXCESSIVE SEDIMENT DEPOSITS SHOULD BE REMOVED. SILT FENCINE TO CONFORM WITH STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) AND EPA GUIDELINES.
3. DAILY CHECKS OF SILT FENCES AND SEDIMENT TRAPS IS TO BE MADE ALONG WITH A CHECK AFTER ANY SIGNIFICANT STORM EVENT TO ENSURE INTEGRITY AND PERFORMANCE.

TURFING / SEEDING / HYDROMULCHING

1. ALL FOOTPATHS, BATTERS AND EARTHWORKS AFFECTED ALLOTMENTS ARE TO BE TOPSOILED TO A MINIMUM DEPTH OF 100mm (LIGHTLY COMPACTED) AND REVEGETATED AS SPECIFIED.
2. PROVIDE A 0.8m MINIMUM TURF STRIP BEHIND ALL KERB AND PATHWAYS WITH A PERPENDICULAR STRIP AT 10m INTERVALS TO PREVENT SCOURING ALONG THE TURF EDGE. ALL AREAS NOT COVERED BY TURF ARE TO BE GRASS SEEDED OR HYDROMULCHED AS SHOWN ON THE DRAWINGS.
3. ALL DISTURBED AREAS ARE TO BE TOPSOILED AND REVEGETATED AS SOON AS PRACTICAL.
4. SEEDED, HYDROSEEDED AND HYDROMULCHED TREATED AREAS SHALL ACHIEVE A MINIMUM OF 80% OF EACH AND EVERY SQUARE METRE OF TREATED AREA GRASS SHOOTS 15mm HIGH AT A DENSITY OF NOT GREATER THAN 70mm APART.
5. TURF SHALL BE MAINTAINED TO ENSURE TREATED AREAS ARE ROOTED INTO THE TOPSOIL SUCH THAT IT CANNOT BE LIFTED BY HAND.
6. THE CONTRACTOR IS RESPONSIBLE TO ENSURE THAT ALL TREATED AREAS ARE SUFFICIENTLY WATERED TO PROMOTE AND MAINTAIN GROWTH FOR THE DURATION OF THE DEFECT LIABILITY PERIOD (12 MONTHS).

'A' DURING CONSUCTION

1. TOPSOIL STOCKPILES TO HAVE A SEDIMENT FENCE DOWN SLOPE AND A DIVERSION DRAIN UP SLOPE.
2. SEDIMENT FENCES TO BE PLACED AS SHOWN.
3. INSPECT BANKS DAILY AND REPAIR ANY SLUMPS, WHEELS TRACK DAMAGE OR LOSS OF FREEBOARD.
4. REMOVE SEDIMENT TO AVOID PONDING FROM CATCH DRAINS.
5. REMOVE EXCESSIVE SEDIMENT FROM UPSTREAM OF CHECK DAMS.
6. ROAD RESERVE TO BE USED AS HAUL ROAD.
7. A CATCH DRAIN/CATCH BANK IS TO BE PROVIDED ON THE TOP SIDE OF ALL CUTS AND DISCHARGE WITHER TO UNDISTURBED GRASS LANDS OR TO THE CROSS ROAD DRAINAGE.
8. SUPPLEMENTARY EROSION AND SEDIMENT CONTROL DEVICES MAY BE REQUIRED AT THE DISCRETION OF THE ENGINEER.
9. GRASS SEEDING IS TO ACHIEVE 70% COVER WITHIN 30 DAYS OF COMPLETION OF EARTHWORKS.

'B' DURING CONSUCTION

1. SEDIMENTATION AND EROSION CONTROLS ARE TO BE MAINTAINED AS DIRECTED BY THE SUPERINTENDENT.

HOLD POINT

1. WORK TO ROADS, DRAINAGE, SEWER, WATER OR EARTHWORKS MUST NOT PROCEED UNTIL ADEQUATE SEDIMENT CONTROL IS IN PLACE TO THE SATISFACTION OF THE SUPERINTENDENT.

ORDER OF CONSTRUCTION:

1. CONSTRUCT TEMPORARY SHAKE DOWN FACILITIES INCLUDING VIBRATION GRID AND ROCK PAD PRIOR TO BULK EARTHWORK ACTIVITIES.
2. SITE BARRIER/NO-GO FENCING ENVIRONMENTAL & SILT CONTROLS TO BE ESTABLISHED.
3. SEDIMENT FENCES, TRAPS (INLET PROTECTION) TO BE INSTALLED.
4. SITE TO BE SHAPED TO DESIGN BULK EARTHWORKS LEVELS AND SURFACE STABILISED A.S.A.P. BY MEANS OF 'DUSTEX' OR APPROVED EQUIVALENT .

WARNING

THE LOCATION OF EXISTING SERVICES ARE SHOWN INDICATIVELY ON DRAWINGS. PRIOR TO AND DURING CONSTRUCTION OBTAIN PRECISE LOCATION OF ALL SERVICES (UNDERGROUND/OVERHEAD) FROM RELEVANT AUTHORITY RESPONSIBLE FOR SERVICE.

				SCALES		<div><div><div><div><div><div></div></div></div><div><div><div>ENGAGE</div><div>consulting engineers</div></div><div><div>STRUCTURAL CIVIL HYDRAULIC</div></div></div><div><div>A.C.N 619 682 567</div><div>A.B.N 975 061 445 93</div></div><div><div>EMAIL: office@engageengineering.com.au</div></div></div></div></div>	DESIGN	GT	SURVEY BY	JOSEPH LAND SURVEYING		THIS DRAWING IS COPYRIGHT AND THE PROPERTY OF ENGAGE CONSULTING ENGINEERS PTY LTD. IT MUST NOT BE RETAINED, COPIED OR USED WITHOUT THE AUTHORITY OF ENGAGE CONSULTING ENGINEERS PTY LTD.	HOLMES MCLEOD CONSULTING ENGINEERS				DRAWING ISSUE			
							DRAWN	JP	HORIZ GRID	MGA94 (ZONE 54)							TENDER			
C	TENDER ISSUE – GENERAL REVISION			DW	08/19		CHECKED	DW	HEIGHT DATUM	AHD			SHEET 07 OF 07 DRGS							
B	TENDER ISSUE			DW	08/19		SIGNED		SURVEY ORIGIN				DRAWING No: A3 M19-236-007							
A	CARPARK RAISED & GENERAL ADDITIONS			DW	07/19		RPEQ													
O	ORIGINAL ISSUE			DW	06/19		DATE													
REV	DETAILS OF AMENDMENTS			APPROVED	DATE															
CAD FILES		H:\Job Files 2019\M19–236 – Warrnambool Foreshore Precinct Car Park – HMC\Drawings\Civil\Current\Design\M19–236.dwg																		
CAR PARK EXTENSION WARRNAMBOOL FORESHORE PRECINCT EROSION & SEDIMENT CONTROL STD. NOTES																				

MONTH 2019	TOTAL WORK	TOTAL SWIM	TOTAL		DAILY AV. WORK	DAILY AV. SWIM	BUSIEST DAY COMBINED TOTAL	BUSIEST DAY WORK	BUSIEST DAY SWIM
Jan-19	CLOSED	1428	1428		CLOSED	46	98	0	30th - 98
Feb-19	CLOSED	810	810		CLOSED	29	77	0	20th - 77
Mar-19	734	542	1276		24	17	91	29th - 48	20th - 50
Apr-19	665	480	1145		22	16	75	29th - 49	19th - 46
May-19	615	363	978		20	12	64	8th - 42	24th - 31
Jun-19	448	323	771		15	11	70	28th - 36	5th - 37
Jul-19	550	320	870		18	10	68	10th - 38	24th - 35
Aug-19	561	319	880		18	10	63	22nd - 43	7th - 32
Sep-19	548	381	929		18	13	61	5th - 40	25th - 33
Oct-19	621	420	1041		20	14	68	3rd - 39	1st - 39
Nov-19	708	244	952		24	32	71	11th - 42	27th - 31
Dec-19	CLOSED	412	412		CLOSED	13	43	0	13th - 43
TOTAL	5450	6042	11492		20	19	AV. = 71		

TRAINER	WEIR		WILDE		McLEAN		WILLIAMS - MAHER		BOWMAN		CHOW		GOOD		PURCELL		P.RYAN		BAKER		LAFFERTY	
	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM
Jan-19		682		222		23		107		4		15		13		57		41		9		
Feb-19		35		248		259		74		12		22		13		62		39		2		
Mar-19			74	224	152	164	213	31	63		45	38			53	7	43	21	24		7	14
Apr-19			55	252	155	97	169	24	37	1	33	32			57	1	49	13	32		29	7
May-19			59	207	121	87	198	4	39		9	21			39		16	3	18		23	1
Jun-19			45	165	121	81	120	2			8	16			16		5	1	14			
Jul-19			44	137	141	104	142		16		7	23			40		4		14			
Aug-19			38	148	123	81	178		8		3	6			41	2	14		7			
Sep-19			48	168	99	112	170		8		4	13			17	3	20				1	1
Oct-19			25	235	39	42	205	3	47	1	3	23			21	2	22	2			8	4
Nov-19			129	125			190	3	29		13	21			34		26	3	17		9	5
Dec-19				211								16				21		5		10		4
TOTAL		717	517	2342	951	1050	1585	248	247	18	125	246		26	318	155	199	128	126	21	77	36
TRAINER	GRAESSER		CHAMBERS		WITHERS		S.RYAN		CHARRY		BARTON		McKENZIE		BROOKES		SENIOR		McDOWALL		CRAVEN	
	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM
Jan-19				3		25		3								189		2		32		1
Feb-19				3		14		1				1						5		16		4
Mar-19	8	2	6	9	4	7	2		2	3		1		2				1		14		
Apr-19	10	2	10	21		4						2		4			1	1		8		
May-19	16	2	8	11										4		2	6	2		5		
Jun-19	14	1	7	15													5			3		
Jul-19	2		6	10					1	1										2		
Aug-19	8		8	11		7						6				6	12			10		
Sep-19	2		8	12	1	14						7		1		4	4			14		
Oct-19	2		12	10	9	23							23			6	1			14		
Nov-19	1		12	7	9	15						9	20				3	6		2		
Dec-19				11		23						9		7		6		5		2		
TOTAL	63	7	77	123	23	132	2	4	3	4		35	43	18		207	37	23		122		5
TRAINER	ODONNELL		L.WILLIAMS		PATEMAN		KAVANAGH		L.SMITH		PETERSON		DUFTY		J.SMITH							
	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM	WORK	SWIM						
Jan-19																						
Feb-19																						
Mar-19	33		5	4																		
Apr-19	24		2	11	2																	
May-19			2	7		2	2		59	5												
Jun-19			4				7		82	39												
Jul-19									133	42		1										
Aug-19									117	42			4									
Sep-19		3							156	30			9									
Oct-19		21		2					179	31			11			6						
Nov-19		4		2					217	19			16			6						
Dec-19		6								72				4								
TOTAL	57	34	13	26	2	2	9		943	280		1	40	4		12						

5.3. PROPOSED AMENDMENT TO PLANNING PERMIT CONDITION - 43 ATKINSONS LANE - LOOKOUT

PURPOSE:

This report recommends that Council consider a proposal to amend Condition 12 of Planning Permit PP2018-0105 prior to the matter being determined by the Victorian Civil and Administrative Tribunal (VCAT).

EXECUTIVE SUMMARY

- On 15 August 2019 VCAT made a decision in respect of an appeal in relation to an alcohol and drug rehabilitation centre at 43 Atkinsons Lane, Dennington and directed that the Responsible Authority (Council) issue a permit;
- The permit contains 27 conditions;
- On 30 September, formal orders from VCAT were received in relation to the process relating to an application to amend Condition 12;
- On 9 October, Council were advised by Tait's Legal that an application under Section 87A of the Planning and Environment Act had been lodged with VCAT;
- Section 87A provides avenue for proponents to appeal to VCAT on a VCAT decision in relation to any changes, including conditions on permit;
- The application has been placed on Notice by the applicant and submissions – in support and objections – have been received;
- A practice day hearing was held at VCAT on Friday 24 January which confirmed information received from the proponent and also confirming dates for the hearing to be held on February 25th and 26th 2020;
- A position of Council is required to be communicated to VCAT prior to the Hearing to be held on 25 February 2020.

RECOMMENDATION

That Council :-

- 1. Consider the submissions and objections received;**
- 2. Support the amendment proposed for Condition 12, as follows:-**
- 3. At all times when residents are present on the site:**
 - a minimum of two staff between 5pm and 8.30am weekdays;**
 - a minimum of five staff between 8.30am and 5pm on weekdays; and**
 - a minimum of two staff on weekends;**
- 4. Notify VCAT and the parties of the above.**

BACKGROUND

The permit is for the use and development of the site as a residential drug and alcohol rehabilitation centre. The permit includes conversion of an existing former dwelling (more recently utilised by Western District Employment Access Community Day Services) into an administrative wing while two single storey accommodation wings will be constructed to the south.

The application received 34 objections. Council indicated that it did not support the application at that time. A six day VCAT hearing was convened in June-July 2019.

A copy of the VCAT decision is at **Attachment 3**. A copy of the Planning Permit is at **Attachment 2**.

ISSUES

The proponents have sought to amend Condition 12 which currently reads:-

“...12. At all times when residents are present on the site, a minimum of two staff must be present between 8.30pm and 8.30am and a minimum of five staff must be present between 8.30am and 8.30pm....”

To read:-

“...12. The facility must be staffed as follows:

*A) a minimum of two staff must be present between 5.00pm and 8.30am and on weekends; and
B) a minimum of five staff must be present between 8.30am and 5.00pm on weekdays
...”*

A copy of the documents are at **Attachment 1**.

Notice of the application has been undertaken by the proponents and was completed on the 18th November, 2019. Submissions of support and objections have been received and are at **Attachment 4**.

VCAT have advised that a position of Council will be required to be formed and communicated to VCAT prior to the Hearing to be held on 25 February 2020.

An assessment of the proposal is contained within **Attachment 6**.

FINANCIAL IMPACT

The costs associated with representing Council at VCAT is allowed for within the City Strategy and Development budget.

LEGISLATION/POLICY/COUNCIL PLAN CONTEXT

2 Foster a healthy welcoming City that is socially and culturally rich

2.1 Promote healthy lifestyles

2.2 Increase participation, connection, equity, access and inclusion

2.3 Increase community health and social connections.

2.8 Increase participation opportunities for disadvantaged members of the community.

5 Practice good governance through openness and accountability while balancing aspirations with sound financial management

5.1 Provision of opportunities for the community to actively participate in Council's decision-making through effective promotion, communication and engagement

5.3 Ensure financial sustainability through effective use of Council's resources and assets and prudent management of risk

TIMING

As directed by VCAT. The hearing date is 25 February 2020.

COMMUNITY IMPACT/CONSULTATION

As directed by VCAT.

LEGAL RISK/IMPACT

Within the provisions of the Planning and Environment Act 1987.

OFFICERS' DECLARATION OF INTEREST

None.

ATTACHMENTS

1. Attachment 1 [5.3.1 - 68 pages]
2. Attachment 2 [5.3.2 - 8 pages]
3. Attachment 3 [5.3.3 - 38 pages]
4. Attachment 4 a [5.3.4 - 2 pages]
5. Attachment 4 b [5.3.5 - 2 pages]
6. Attachment 4 c [5.3.6 - 1 page]
7. Attachment 4 d [5.3.7 - 1 page]
8. Attachment 4 e [5.3.8 - 4 pages]
9. Attachment 4 f [5.3.9 - 3 pages]
10. Attachment 4 g [5.3.10 - 4 pages]
11. Attachment 4 h [5.3.11 - 5 pages]
12. Attachment 4 i [5.3.12 - 1 page]
13. Attachment 4 j [5.3.13 - 2 pages]
14. Attachment 4 k [5.3.14 - 1 page]
15. Attachment 4 l [5.3.15 - 4 pages]
16. Attachment 4 m [5.3.16 - 4 pages]
17. Attachment 4 n [5.3.17 - 7 pages]
18. Attachment 4 o [5.3.18 - 4 pages]
19. Attachment 4 p [5.3.19 - 7 pages]
20. Attachment 5 a [5.3.20 - 2 pages]
21. Attachment 5 b [5.3.21 - 11 pages]
22. Attachment 5 c [5.3.22 - 37 pages]
23. Attachment 5 d [5.3.23 - 4 pages]
24. Attachment WRAD [5.3.24 - 2 pages]
25. Attachment 6 Planning Assessment Report [5.3.25 - 6 pages]

TaitsLegal

Our Ref: Alex McCulloch: 182069
Your Ref:
Date: 9 October 2019

Warrnambool, Port Fairy,
Terang, Mortlake

Accredited Specialists

Business Law
Wills & Estate Planning
Personal Injury Law
Family Law
Local Government
Planning & Environment
Commercial Litigation

www.taits.com.au

Ms J McNarmara
Director – City Strategy & Development
Warrnambool City Council
PO Box 198
WARRNAMBOOL VIC 3280

Dear Jodie,

VCAT: P2479/2018

APPLICANT: MYERS PLANNING GROUP PTY LTD RESPONDENT: WARRNAMBOOL CITY COUNCIL
APPLICATION FOR REVIEW BY A PERMIT APPLICATION OR PERMIT HOLDER THE LOOKOUT PROJECT

We continue to act for WRAD in respects to the Lookout Project at 43 Atkinsons Lane, Dennington.

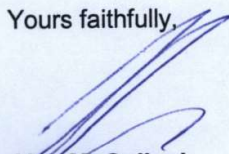
Our client has made an application under Section 89A of the Planning and Environment Act seeking amendment of the Planning Permit condition 12 that prescribes a minimum number of staff.

We enclose by way of service:

1. Copy application to VCAT with all attachments; and
2. Copy VCAT order dated 30 September 2019.

If you have any questions regarding the above please contact the writer.

Yours faithfully,



Alex McCulloch
Lawyer

Direct Line: 5560 2122 | **Email:** mccullocha@taits.com.au
121 Kepler Street, Warrnambool. VIC 3280
PO Box 311 (DX 28003) Warrnambool VIC 3280

Planning and Environment List Planning and Environment Division

Application by a Permit Holder to cancel or amend a permit under section 87 or 87A of the *Planning and Environment Act 1987*

Making an application

Information that must accompany your application form

- A copy of the permit to be cancelled or amended and current endorsed plans
- A description of the proposed changes, including a list of proposed amended plans
- A track-changes version of the proposed amended permit (where relevant) which includes any changes to what the permit allows and any new, amended or deleted conditions
- Proposed amended plans which highlight where changes are proposed
- A title search of the land not more than 14 days old
- List of interested persons, if a separate sheet is necessary
- A copy of any VCAT decision relating to the permit
- A copy of any other permit that contains a condition requiring the cancellation or amendment of this permit

You must also provide information about the zone, overlays or other planning controls that affect your land and any additional permission required under the planning scheme for the amended proposal, which the permit does not already include. You should also provide information about whether the proposal is exempt from the notice requirements or review rights under the *Planning and Environment Act 1987*, and if so, specify by what provision in the planning scheme. You may need to obtain this information from the responsible authority if you do not know the details.

If your application is incomplete and you do not include all the material and information required, plus payment of the fee, your application may be rejected or struck out.

What will happen after you lodge your application for review?

After you lodge your application for review, the Tribunal will allocate a hearing date to hear the application. The Tribunal will issue an initiating order setting out the hearing date and giving directions about steps that you and other parties to the proceeding must comply with. The initiating order will set dates by which each step must be completed. A hearing date will not be allocated until your application is complete.

If you fail to comply with the Tribunal's initiating order by the dates specified in the order, your application may be struck out without further notice. If you are unable to comply with any aspect of the initiating order, you must apply to the Tribunal in writing for an extension of time. You cannot change dates without an order by the Tribunal.

The Tribunal relies on the accuracy of the information you provide with your application to calculate the length of time required for the hearing. If you believe the time allocated is insufficient or too much, please advise the Tribunal in writing when you return the statement of service that will be sent to you with the initiating order.

**Planning and Environment List
Planning and Environment Division
Section 87 & 87A**

VCAT Reference Number (Office Use Only) P /

Cost of the Development

The estimated cost of this development is: \$2,000,000

The cost of development will normally be the cost specified in the original permit application.

Name of Applicant(s)

Full Name Myers Planning Group Pty Ltd

Include the complete name if the applicant is a company: e.g. XYZ Co. Pty Ltd.

Address and Contact Details of Applicant(s)

All correspondence will be sent to the applicant(s) at this address or email, unless the 'Details of Representative' section is completed, in which case all correspondence will be sent to the representative address or email. Complete only one section. DO NOT COMPLETE BOTH SECTIONS.

Address

Business phone		After hours phone	
Mobile		Fax number	
Email			

Details of Representative

Name/Firm	Tait Legal
Reference Number/ Contact person	Alex McCulloch

Address
121 Kepler Street Warrnambool 3280

Business phone	(03) 55602122	Fax number	
Mobile			
Email	mccullocha@taits.com.au		

Category of applicant(s)

Please tick in which category you are making this application. More than one box may be ticked if relevant. If you are not one of the following, do not use this form.

- ☐ Owner of the land
- ☐ Occupier of the land
- ☒ Person who is entitled to use or develop the land

Information about the land to which this application and the permit applies

If there is no conventional address (street number, street and locality) insert a land description:

- Certificate of Title volume and folio;
- Lot and lodged plan number;
- Crown allotment; or
- Section number /Township/Parish.

A title search of the land not more than 14 days old must be attached.

Address or description of the land

43 Atkinsons Lane Dennington 3280

Responsible Authority

Warrnambool City Council

Information about the permit to be cancelled or amended.

Only permits issued at the direction of VCAT may be cancelled or amended under section 87A. A permit issued by a predecessor of VCAT (Planning Appeals Board or Administrative Appeals Tribunal) cannot be amended under section 87A. An application may be made to the responsible authority under section 72 Planning and Environment Act 1987 or to VCAT under section 87 Planning and Environment Act 1987.

Relevant Decision: Popular Pastimes Pty Ltd v Melbourne CC (Red Dot) [2008] VCAT 1184

You must provide a copy of the permit to be amended in its current form and the current endorsed plans with your application.

Permit details

Permit number

PP2018-0105

Date issued

20 August 2019

Was the permit issued at the direction of VCAT?

☒ Yes

☐ No

If yes, please cite the VCAT reference number and/or AustLii citation

VCAT reference number

P2479/2018

AustLii citation

Myers Planning Group Pty Ltd v Warrnambool CC [2019]
VCAT 1153

Is this an application under section 87 or 87A Planning and Environment Act 1987?

☐ Section 87

☒ Section 87A

Please provide the following information and material about the permit to assist the Tribunal to process your application as expeditiously as possible.

Provide a copy of the permit in its current form and a track-changes version of the proposed amended permit (where relevant)	Attached.
When does the permit expire? (The Tribunal cannot extend an expired permit.)	The permit will expire if one of the following circumstances applies: (a) The development is not started within two (2) years of the date of this permit; (b) The development is not completed within four (4) years of the date of this permit; (c) The use does not start within two (2) years of the completion of the development; (d) The use is discontinued for a period of two (2) years.
What is the name of the relevant planning scheme, the zone and any overlay or other control applying to the subject land?	Warrnambool Planning Scheme Farming Zone
Identify any additional permission required under the planning scheme for the amended proposal, which the permit does not already include.	Not Applicable
Is the proposal exempt from the notice requirements or review rights under the <i>Planning and Environment Act 1987</i> , and if so, specify by what provision in the planning scheme.	No.

Details of cancellation or amendment

Permit condition 12 prescribes staff numbers of:

1. a minimum of two staff between 8.30pm and 8.30am; and
2. a minimum of five staff between 8.30am and 8.30pm.

This application seeks to amend condition 12 to the following:

1. a minimum of two staff between 5.00pm and 8:30am and on weekends; and
2. a minimum of five staff between 8:30am and 5.00pm on weekdays.

Do you want the permit to be cancelled?

☐ Yes ☒ No

If yes, is the cancellation applied for as a condition in another permit?

☐ Yes ☒ No

If yes, that permit number is:

If you want the permit amended, is an amendment required in respect of:

- ☐ What the permit allows
☒ Conditions of the permit
☐ Plans referred to in the permit or endorsed under the permit

Does the responsible authority consent to the cancellation or amendment?

- ☐ Yes ☐ No ☒ Don't know

Details of person(s) potentially affected by the amendment

List of objectors to proceeding P2479/2018 attached.

Please provide the name and address for service of other persons who may have a material interest in the outcome of this application. Attach a separate list if necessary.

Name of interested person	Address for service
	Separate list attached.

Other Proceedings affecting the land

Do you know of any other planning proceedings, such as an application for review or enforcement order application, relating to or affecting the land? If so, give details including Tribunal reference numbers, if possible.

Reference numbers Not applicable.

Attachments

Attach the following documents to this application. Tick and reference the attachments provided. Attach a separate schedule of attachments if necessary.

<input checked="" type="checkbox"/> A copy of the permit to be cancelled or amended and current endorsed plans	Ref. No.	A
<input type="checkbox"/> Details of proposed amendment(s) and any amended plans as required by this application form	Ref. No.	
<input checked="" type="checkbox"/> A track-changes version of the proposed amended permit	Ref. No.	B
<input checked="" type="checkbox"/> List of interested persons, if a separate sheet is necessary	Ref. No.	C
<input checked="" type="checkbox"/> A title search of the land not more than 14 days old	Ref. No.	D
<input checked="" type="checkbox"/> A copy of the VCAT decision relating to the permit	Ref. No.	E
<input type="checkbox"/> A copy of any other permit, which contains a condition requiring the cancellation or amendment of this permit	Ref. No.	
<input type="checkbox"/> Copy of cultural heritage management plan and approval (if relevant)	Ref. No.	
Other attachments (if relevant)		

<input type="checkbox"/>	Ref. No.	
<input type="checkbox"/>	Ref. No.	

Hearing time and complexity

Estimate the time it will take you to present your complete case at the hearing (submissions plus witnesses) and the number of expert witnesses you intend to call, if any.

Time to make submissions & present evidence: Hours Minutes

Number of witnesses: Expertise:

See VCAT's Practice Note PNVCAT2 – Expert Evidence for information about the obligations of expert witnesses and what must be included in the report of an expert witness.

Acknowledgement

I acknowledge that:

- To the best of my knowledge, all information provided in this application is true and correct and that no details relevant to the application have been left out.
- I approve the information that has been provided.
- It is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Category of person completing this application:

☐ Applicant in person ☒ Authorised Representative

Name of person completing this application (print)

Date

Checklist**Before you lodge this application, make sure that:**

- ☒ You have completed all details and responded to all questions
- ☒ All documents regarding fees (e.g. fee waiver documents, credit card form or cheque) are supplied with your application.
- ☒ You have attached and properly referenced all of the attachments listed in this form.

Fees

You must pay the relevant application fee at the same time you lodge this form. Fees may change each year. To find out about the current fee, visit the VCAT website www.vcat.vic.gov.au or call VCAT on 1300 01 8228.

Application Fee	\$870.80
------------------------	-----------------

VCAT may waive the requirement to pay a fee in some instances. Details are available on the VCAT website. You should apply for a waiver at the same time that you lodge this form.

Fees can be paid via money order, cheque, cash or credit card.

Money orders and cheques are to be made payable to 'VCAT'. Cash payments will only be accepted if you are delivering this application in person to VCAT. Do not send cash in the mail.

If you wish to pay the fee by credit card, please fill in the details below.

Payment by Credit Card

If paying by credit card, fill in the details here.

☒ Visa

☐ Mastercard

Amount

(\$)**870.80**

Name on Card

Geoff Soma

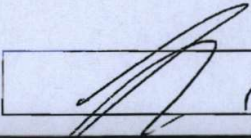
Card Number

4 5 6 4 8 0 7 0 1 6 1 4 9 3 0 2

Expiry Date

11/20

Signature


Lodgement and Contact Information

Lodge this completed form, any attachments and the applicable fee by:

Email to:	admin@vcat.vic.gov.au
Mail to:	The Principal Registrar VCAT Planning and Environment List GPO Box 5408 MELBOURNE VIC 3001
DX delivery to:	The Principal Registrar VCAT Planning and Environment List DX 210576 MELBOURNE Victoria
Deliver in person during office hours to:	The Principal Registrar VCAT Planning and Environment List Ground floor, 55 King Street MELBOURNE VIC 3001 Office Hours: Monday to Friday from 8:30am to 4:30pm

"A"

Planning Permit No. PP2018-0105

Form 4 – Sections, 63, 64, 64A, 86

**PLANNING
PERMIT**

Permit No.: PP2018-0105

Planning Scheme: Warrnambool

Responsible Authority: Warrnambool City
Council

ADDRESS OF THE LAND:

ALLOT Lot 12 PS 321948R TSH DENN
43 Atkinsons Lane DENNINGTON VIC 3280

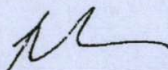
THE PERMIT ALLOWS:

Use and development of the land for a
residential alcohol and drug rehabilitation
centre in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

Amended plans

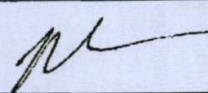
- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (received by Council on 31 May 2018 and advertised with the application) but modified to show:
 - (a) A schedule of construction materials, external finishes and colours (incorporating samples) submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
 - (b) A lighting plan with details of the location and type of lighting for the centre, including external and security lighting. All external lighting must be designed to be baffled to avoid any unreasonable light plume in the context of its rural location to the satisfaction of the Responsible Authority.
 - (c) Any changes in accordance with the amended Traffic Impact Assessment Report required by Condition 3.
 - (d) A landscaping plan in accordance with Condition 18 of this permit.
 - (e) A waste management plan in accordance with Condition 21 of this permit.
 - (f) Any changes in accordance with the Bushfire Management Statement required by Condition 25.

Date issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

- (g) The provision of 1.5 metre high fences (1.2 metre high ring lock or hinge lock mesh panels to 1.2 metres and two strands of barbed wire to 1.5 metres) along the northern, southern and eastern boundaries so as to limit easy movement into and out of the review site.
- 2 The use and development as shown on the endorsed plans (including the layout of the site and size, design and location of the buildings and works) must not be altered without the prior written consent of the Responsible Authority.

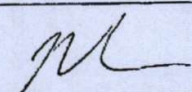
Traffic and parking

- 3 Before the commencement of development (and any associated works) the applicant must provide a Traffic Impact Assessment Report (TIAR) prepared by a suitably qualified engineer in accordance with the Infrastructure Design Manual (Clause 9) and to the satisfaction of the responsible authority. The report must be generally in accordance with the Traffic Impact Assessment Report of ESR Transport Planning dated 6 June 2019 but modified to show:
 - (a) Provision of access for emergency and waste collection vehicles.
 - (b) Provision of a vehicle turn around facility on the subject land.
 - (c) The vehicle access widened to a two-way width where it meets Atkinsons Lane, in accordance with Design Standard 1 of Clause 52.06 of the Planning Scheme.
 - (d) A lowering of the earthen embankment on the northern side of the vehicle access to Atkinsons Lane to create sightlines on accordance with the Safe Intersection Sight Distance (SISD).
 - (e) A widening of the access driveway with gravel edges to create a passing area approximately 30 metres from the front boundary.
 - (f) A reconfiguration of the vehicle parking areas to the north, northeast and west of the Administration Wing to provide parking for 12 vehicles in accordance with Design Standard 2 of Clause 52.06 of the Planning scheme.
 - (g) Remedial work to repair wear and damage to the existing internal driveway.
- 4 Before the use commences, the permit holder must at its cost construct and/or implement any traffic related works identified in the endorsed Traffic Impact Assessment Report to the satisfaction of the Responsible Authority.
- 5 The loading and unloading of vehicles and the delivery and pickup of goods must be carried out at all times within the site boundaries, within the hours of Monday – Friday 8:30am and 5pm to the satisfaction of the Responsible Authority.
- 6 All vehicles associated with the use (including staff and visitor vehicles) must be parked within the site boundaries.

Date Issued: 20/8/19	Signature for the Responsible Authority:
<p><small>Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.</small></p>	

Management Plan for the Lookout Residential Rehabilitation Centre

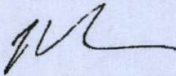
- 7 Prior to the commencement of the use, a Management Plan must be prepared for the approval of the Responsible Authority. When approved, the Management Plan will form part of the endorsed plans. The Management Plan must be generally in accordance with the proposed Management Plan for the Lookout Residential Rehabilitation Centre dated May 2018 but modified to show:
- (a) The Emergency Management Protocol with the CFA, VicPol and Ambulance Victoria as referred to in section 8 of May 2018 plan (including Bushfire and Flood Plans as referred to in section 9 of that plan).
 - (b) A revised risk management plan based on section 10 of the May 2018 plan which:
 - i Identifies the safety and security risks involved in operation of the Lookout centre;
 - ii Assesses the severity and degree of likelihood of any relevant incident or event occurring;
 - iii Sets out measures that the centre's management is to take to address and, in so far as possible, minimise each identified risk.
 - (c) Provision for the effective operation and monitoring of the centre's CCTV system (as referred to on page 18 of the May 2018 plan). Prior to the commencement of the use, the CCTV system must be installed at the Lookout centre for surveillance of all doors to the buildings and the front entrance to the property. At all times when residents participating in an alcohol and/or drug rehabilitation program are on the site, the system must be operational and monitored by staff of the Lookout centre;
 - (d) All security alarms or similar devices installed at the site must be of a silent type to the satisfaction of the Responsible Authority;
 - (e) No external sound amplification or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, except one which audible only within the subject land;
 - (f) Provision for dealing with clients who indicate a wish to leave the Lookout centre before the end of their program, including measures to ensure their departure from the centre is planned, as referred to in section 12 of the May 2018 plan;
 - (g) Include resident rules that prohibit access to any of the properties bordering 43 Atkinsons Lane, unless with permission of the owners of those properties;
 - (h) A requirement that in the event that any resident of the Lookout centre goes missing, its staff must immediately notify by telephone or in person the owners and occupiers of those properties which adjoin 43 Atkinsons Lane, as well as the owners of 44, 50 and 66 Atkinsons Lane;

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

- (i) A community education and liaison program in relation to the operation of the Lookout centre, involving (amongst other things) regular liaison with the Dennington Community Association;
 - (j) A program of regular liaison with VicPol in relation to the Lookout centre with respect to maintaining community safety and security along with any related issues.
- 8 Before the use commences, a Community Reference Group must be established as referred on page 2 of the May 2018 plan.
 - 9 The Management Plan may be amended with the written consent of the Responsible Authority.
 - 10 The use must always operate in accordance with the endorsed Management Plan for the Lookout Residential Rehabilitation Centre.
 - 11 A maximum of 20 clients may be on the premises at any one time, unless with the prior written consent of the Responsible Authority.
 - 12 At all times when residents are present on the site, a minimum of two staff must be present between 8:30pm and 8:30am and a minimum of five staff must be present between 8:30am and 8:30pm.
 - 13 A written logbook of all attendees (including residential clients and visitors) to the centre must be kept. The written logbook must include details consisting of the names of people, dates and times of attendance and departure to and from the centre. The written logbook must be made available for inspection by the Responsible Authority at any time upon request.

Land Capability Assessment

- 14 The proposal must be constructed in accordance with the recommendations of the Land Capability Assessment, prepared by Paul Williams & Associates Pty Ltd (**Report**) dated May 2018. The Assessment is to be approved by and be to the satisfaction of the Responsible Authority. Upon completion a report must be provided which certifies that the wastewater facility and irrigation areas have been constructed in accordance with the report.
- 15 When approved, the Land Capability Assessment will be endorsed and will then form part of the permit. Effluent disposal from the development must be in accordance with the Land capability Assessment, to the satisfaction of the Responsible Authority.
- 16 All sewerage and sullage wastewater from the development must be discharged into the approved wastewater system with a disposal area of at least 1800m². All wastewater must be maintained within the boundaries of the land and be located as per the endorsed plan. Approval to install the wastewater system must be obtained from Warrnambool City Council Health Department prior to the commencement of any works.

Date issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	


- 17 The wastewater management system must be operated in accordance with the Land Capability Assessment prepared by Paul Williams & Associates Pty Ltd (report) dated May 2018.

Landscaping

- 18 Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Plantation Plan for TH lookout Centre prepared by David Turley of DHT Consulting Pty Ltd Sheets 1 – 4 issue 10062019, and be drawn to scale with dimensions and three copies must be provided. The plan must show planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- 19 The landscaping works shown on the endorsed landscape plan must be commenced within 3 months of the grant of the permit and carried out and completed to the satisfaction of the Responsible Authority within 2 years of the commencement of the use of the land.
- 20 The landscaping shown on the endorsed landscape plan must be maintained to the satisfaction of the Responsible Authority.

Waste Management

- 21 Before the development starts, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:
- (a) Dimensions of storage waste areas.
 - (b) Storm water drains in storage areas should be fitted with a litter trap.
 - (c) The number and size of bins to be provided.
 - (d) Facilities for bin cleaning.
 - (e) Method of waste and recyclables collection.
 - (f) Types of waste for collection, including colour coding and labelling of bins.
 - (g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
 - (h) Method of hard waste collection.
 - (i) Method of presentation of bins for waste collection.
 - (j) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
 - (k) Strategies for how the generation of waste and recyclables will be minimised.
 - (l) Compliance with relevant policy, legislation and guidelines.

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

When approved, the Waste Management plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the Waste Management plan, to the satisfaction of the Responsible Authority.

General Amenity

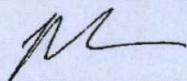
- 22 The use and development must be managed so that the amenity of the area is not detrimentally affected through:
- (a) The transport or movement of persons to or from the subject land;
 - (b) The transport of materials, goods or commodities to or from the land;
 - (c) The appearance of any building, works or materials;
 - (d) The emission of noise, artificial light, vibration, fumes, odour, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

Construction Amenity

- 23 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material must be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and must have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying must be undertaken on the building block. The pollutants from these building operations must be contained on site.
 - (c) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.

Water feasibility

- 24 Before the use commences, a water servicing plan must be submitted to, and be approved by, the Responsible Authority. The plan must demonstrate that the water supplies to the land are sufficient to serve the potable, non-potable and fire service requirements of the centre and include details of alternative sources of supply of water in the event the site cannot provide self sufficient water sources.

Date issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

CFA Conditions

- 25 The development must be in accordance with the Bushfire Management Statement, prepared by the Myers Planning Group, dated June 2019. The Statement must be submitted to and approved by the Responsible Authority. When approved, the Bushfire Management Statement will be endorsed and will form part of the permit and must not be altered without the written consent of CFA and the Responsible Authority.
- 26 The bushfire protection measures set out in the approved Bushfire Management Statement or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis.
- This condition continues to have force and effect after the development authorised by this permit has been completed.

Expiry

- 27 This permit will expire if one of the following circumstances applies:

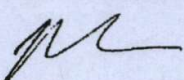
- (a) The development is not started within two (2) years of the date of this permit.
- (b) The development is not completed within four (4) years of the date of this permit.
- (c) The use does not start within two (2) years of the completion of the development.
- (d) The use is discontinued for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (e) Within six (6) months afterwards for commencement, or
- (f) Within twelve (12) months afterwards for completion.

Permit notes

This permit has been issued at the direction of VCAT in *Myers Planning Group Pty Ltd v Warrnambool CC* [2019] VCAT 1153

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The responsible authority may amend this permit under this Division 1a of Part 4 of the Planning and Environment Act 1987

WHEN DOES A PERMIT BEGIN?

A permit operates

- From the date specified in the permit; or
- If no date is specified, from –
 - (i) The date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the tribunal; or
 - (ii) The date on which it was issued, in any other case

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the Responsible Authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal

"B"

12. ~~At all times when residents are present on the site, The facility must be staffed as follows:~~

~~(a) a minimum of two staff must be present between 5.00pm and 8.30am and on weekends; and~~

~~(b) a minimum of five staff must be present between 8.30am and 5.00pm on weekdays.~~

~~a minimum of two staff must be present between 8.30pm and 8.30am and a minimum of five staff must be present between 8.30am and 8.30pm.~~

"C" 11

Attachment 1

Myers Planning Group Pty Ltd v Warrnambool City Council; VCAT no. P2479/2018

LIST OF COMMUNITY RESPONDENTS LODGING JOINT STATEMENT OF GROUNDS

No.	Name	Address	Whether objector to Council	Whether individual consent obtained
1	Anthony Scott (on behalf of Dennington Bowls Club)	Princes Highway, Dennington, Vic. 3280	Yes	Yes
2	Pat Bouchier	38 Farnham Road, Dennington	Yes	Yes
3	Neville Dance	32 The Esplanade, Dennington	Yes	Yes
4	David and Louise Serra	171 Farnham Road, Dennington	Yes	Yes
5	Katherine Roberts-Kingsley	43 Princes Highway, Dennington	Yes	Yes
6	Murray Kingsley	43 Princes Highway, Dennington	Yes	Yes
7	Francis Garvey	15 Tylden Street, Dennington	Yes	Yes
8	Dr Robin Stark	101 Farnham Road, Illowa, Vic. 3280	Yes	Yes
9	Dennington Community Association	Dennington Post Office, Dennington	Yes	Yes
10	Suzanne Marsh	19 Atkinsons Lane, Dennington	Yes	Yes
11	Kerry and Mark Dalton	35 Princes Highway, Dennington	Yes	Yes
12	Paul Blackmore	58 Baynes Street, Dennington	Yes	Yes
13	Kieran and Sherry Johnstone	22 Millers Lane, Dennington	Yes	Yes
14	Karen Argent	202 Illowa Road, Illowa, Vic. 3280	Yes	Yes
15	Tom and Jenny Bertrand	71 Drummond Street, Dennington	Yes	Yes
16	Gary Reilly	27 Atkinsons Lane, Dennington	Yes	Yes
17	Judy Foley	150 Drummond Street, Dennington	Yes	Yes
18	Anthony and Carol Bourke	184 Russell Street, Dennington	Yes	Yes
19	Leanne Russell	196 Russell Street, Dennington	Yes	Yes
20	Michael and Jillian Bottrell	210 Illowa Road, Illowa, Vic. 3280	Yes	Yes
21	Mark Potter	50 Atkinsons Lane, Dennington	Yes	Yes
22	Nestles Rowing Club	Princes Highway, Dennington	Yes	Yes
23	Hayley Godfrey	30 Hood Street, Dennington	Yes	Yes
24	Norm and Kathleen McCosker	163 Illowa Road, Dennington	Yes	Yes
25	David and Glenda Potter	50 Atkinsons Lane, Dennington	Yes	Yes
26	Ivan and Sharon McKinnon	29 Princes Highway, Dennington	Yes	Yes
27	Raquel Potter	50 Atkinsons Lane, Dennington	Yes	Yes
28	Bernard Rooney	25 Walter Crescent, Warrnambool, Vic. 3280	Yes	Yes

Attachment 1

29	John and Letty Atwell	44 Atkinsons Lane, Dennington	Yes	Yes
30	Brian and Sue Rooney	138 Russell Street, Dennington	Yes	Yes
31	Dorothy Rooney (Millers Lane Partnership)	60 Millers Lane, Dennington	Yes	Yes
32	Dorothy Rooney	19 Roxburgh Court, Warrnambool, Vic. 3280	Yes	Yes
33	Richard and Kerry Zeigler	45 Princes Highway, Dennington	Yes	Yes
34	Cheryl Bellman	103 Illowa Road, Dennington	No	Yes
35	Bob and Sheryl Hyland	15 Illowa Road, Dennington	No	Yes
36	Brendan Dowd	202 Illowa Road, Dennington	No	Yes

"D"

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 11281 FOLIO 252

Security no : 124079311641X
Produced 16/09/2019 11:05 AM

LAND DESCRIPTION

Lot 12 on Plan of Subdivision 321948R.

PARENT TITLES :

Volume 07441 Folio 161 Volume 09470 Folio 510 Volume 10160 Folio 342
Volume 10166 Folio 974

Created by instrument AJ039223M 29/06/2011

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

WESTERN DISTRICT EMPLOYMENT ACCESS INC of 86 LAVA STREET WARRNAMBOOL VIC
3280
AJ617024W 23/04/2012

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section
24 Subdivision Act 1988 and any other encumbrances shown or entered on the
plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE PS321948R FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 43 ATKINSONS LANE DENNINGTON VIC 3280

DOCUMENT END

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VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**PLANNING AND ENVIRONMENT DIVISION****PLANNING AND ENVIRONMENT LIST**VCAT REFERENCE NO. P2479/2018
PERMIT APPLICATION NO. PP2018-0105**CATCHWORDS**

Warrnambool Planning Scheme; Application pursuant to Section 79 of the *Planning and Environment Act 1987*; Farming Zone (FZ); Residential alcohol and drug rehabilitation centre; Categorisation of use; Need; Policy for agricultural areas; Policy for health services; Off-site amenity impacts; Traffic; Bushfire risk; Water supply; Number of objections; Reimbursement of fees.

APPLICANT	Myers Planning Group Pty Ltd
RESPONSIBLE AUTHORITY	Warrnambool City Council
RESPONDENT	Richard Zeigler and Others
SUBJECT LAND	43 Atkinsons Lane DENNINGTON VIC 3280
WHERE HELD	Warrnambool and Melbourne
BEFORE	J A Bennett, Senior Presiding Member Joel Templar, Member
HEARING TYPE	Hearing
DATE OF HEARING	24-28 June and 1 July 2019
DATE OF ORDER	15 August 2019
CITATION	Myers Planning Group Pty Ltd v Warrnambool CC [2019] VCAT 1153

ORDER

- 1 Pursuant to section 127 of the *Victorian Civil and Administrative Tribunal Act 1998* the application is amended by changing the name of the Respondent to:
Richard Zeigler and Others.
- 2 In application P2479/2018 the decision of the Responsible Authority is set aside.
- 3 In planning permit application No PP2018-0105 a permit is granted and directed to be issued for the land at 43 Atkinsons Lane Dennington in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Use and development of the land for a residential alcohol and drug rehabilitation centre.



- 4 The Responsible Authority is not required to reimburse fees paid by the permit applicant.

J A Bennett
Senior Presiding Member

Joel Templar
Member

APPEARANCES

For Myers Planning Group
Pty Ltd

Mr Andrew Walker, Barrister instructed by Tait Lawyers. He called evidence from the following witnesses in order of appearance:

- Mr Geoffrey Soma, Director of the Western Region Alcohol and Drug Centre Inc (WRAD).
- Dr Stefan Gruenert, Chief Executive of Odyssey House.
- Mr Andrew Hick, Manager Odyssey House Circuit Breaker Program.
- Mr Paul Monk, Former resident of Odyssey House.
- Mr Drew Matthews, Traffic Engineer of ESR Transport Planning Pty Ltd.
- Mr Glenn Weston, Social Impact Assessment Consultant.
- Mr John Glossop, Town Planner of Glossop Town Planning Pty Ltd.

Statements were also received from Mr Nick Membrey, Site Manager at WDEA Works Warrnambool and Ms Helen Taylor Chairperson of WRAD, but they were not required to attend the hearing and present oral evidence. A resident of Warrnambool also gave evidence.



For Warrnambool City Council

Mr Terry Montebello, Solicitor of Maddocks Lawyers.

For Richard Zeigler and Others

Mr Cahal Fairfield instructed by Jeff Cranston of Jeff Cranston & Associates. He called evidence from the following witnesses in order of appearance:

- Mr David Potter, farmer and landowner.
- Ms Kirsten Kilpatrick, Town Planner of Novo Planning Pty Ltd.
- Professor Ruth Beilin, land owner and university professor.

Written and oral submissions were also made by Mr Richard Zeigler, Ms Kerry Zeigler, Ms Dorothy Rooney, Mr Murray Kingsley, Ms Cheryl Hyland and Ms Kate Kingsley.

INFORMATION

Description of proposal

Use and development of land for a 20 place residential alcohol and drug rehabilitation centre.

Nature of proceeding

Application under section 79 of the *Planning and Environment Act 1987* – to review the failure to grant a permit within the prescribed time.¹

Planning scheme

Warrnambool Planning Scheme

Zone and overlays

Farming Zone (FZ).

Permit requirements

Clause 35.07-1 (use the land for a Residential Drug and Alcohol Rehabilitation Centre in FZ).

Clause 35.07-4 (construct a building or construct or carry out works associated with a section 2 use in FZ).

Relevant scheme policies and provisions

Clauses 11, 13, 14, 15, 19, 21.05, 21.10, 35.07, 52.06, 53.02, 65 and 71.02.

¹ Section 4(2)(d) of the *Victorian Civil and Administrative Tribunal Act 1998* states a failure to make a decision is deemed to be a decision to refuse to make the decision.



Land description

The review site is located on the eastern side of Atkinsons Lane. It has a frontage of 111.68 metres, a varied depth of between 218.47 and 235.95 metres and an area of 3.27 hectares. It contains a single storey brick clad and pitched roofed dwelling which has in the past been used as a day centre for disability services. It is currently unused. Most of the land is grassed and has been occasionally used for cattle grazing. It sits atop a locally high topographical ridge that runs generally in an east-west orientation and is slightly undulating, falling to the north, but more so to the south.

Tribunal inspection

An accompanied inspection took place on the afternoon of the second hearing day. With the knowledge of parties, Tribunal members independently inspected the localities of two other residential rehabilitation centres operated by Odyssey House at Lower Plenty and Molyullah (near Benalla).



REASONS²

WHAT IS PROPOSED AND WHAT IS IN DISPUTE?

What does the proposal involve?

- 1 The application seeks approval for a 20 place residential drug and alcohol rehabilitation centre on a small rural residential sized lot close to Dennington on the western outskirts of Warrnambool.
- 2 We note that although the application is in the name of the planning consultant, the application is for the Western Region Alcohol and Drug Centre (WRAD) – a term we use later in our reasons.
- 3 The site contains a single storey dwelling which has been operated as a disability day centre for approximately 20 years, although that activity has now been discontinued and the building is unoccupied. The following aerial photo from Mr Matthew's evidence statement provides the locational context for the site.



Image Source: Nearmap, Image date 11/01/19.

² The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

- 4 The application we are being asked to consider is for both use and development of the land. In summary the proposal is as follows.

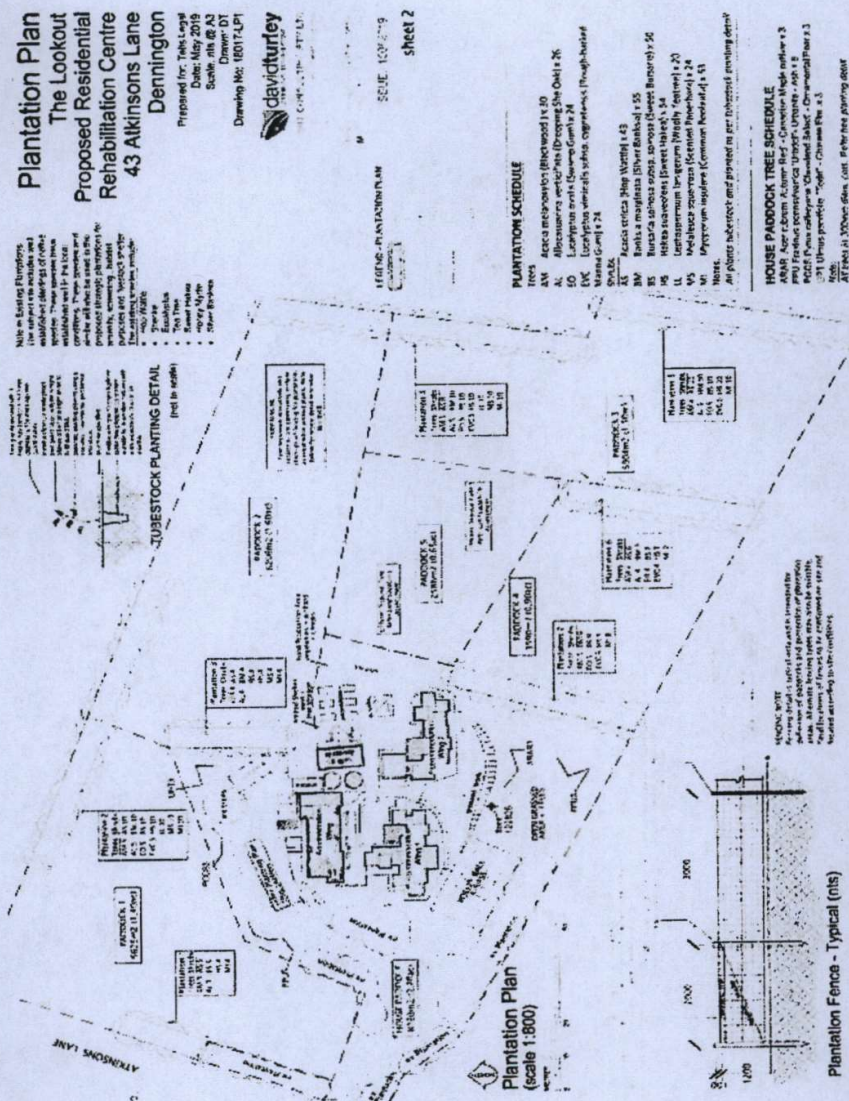
Use

- 5 The proposed use is a residential drug and alcohol rehabilitation centre that is a non-medical, non-drug method based approach to assist people to recover from addiction to drugs and alcohol. The centre provides for a maximum of 20 residents/patients to be present on the site at any one time.
- 6 The model of rehabilitation is a therapeutic community model with 24 hour a day, 7-day-a-week treatment and support for residents. The model is based on cognitive behavioural therapy, with counselling and specialist support services in a monitored and supported environment. Access to this service is through various means including direct client access, court orders, Department of Justice and medical practitioners. The program is focussed on lifestyle and identity change which seek to enhance social functioning and facilitate behavioural changes.
- 7 Acceptance into the program is a two-step process of, firstly, intake assessment and secondly, treatment assessment.
- 8 Intake assessment seeks to identify those who might be suitable for the program and those who are not. The assessment includes background checks and the program excludes persons with the following:
- i Found guilty or charged with sex offences;
 - ii Current offences defined as serious or violent;
 - iii Not yet completed withdrawal from alcohol or drugs;
 - iv Behavioural or other factors which may impact on treatment outcomes for themselves and other participants.
- 9 The program is also based on the following features including:
- The proposed use is a voluntary program and will be partially funded by the State Government, subject to compliance with DHHS requirements, with DHHS having a majority ownership of the land. It is not proposed for this use to be a private rehabilitation centre;
 - A maximum of 10 staff at any one time;
 - A maximum of 80 clients/residents over the course of a year, based on a 3-monthly rotation.

Development

- 10 It is proposed to undertake a number of different aspects of development to facilitate the proposed use. The plan on the following page depicts the main elements or components of the proposal.





- 11 The existing dwelling will be retained with internal alterations proposed to allow it to be used as the administration hub of the use as well as containing communal spaces with kitchen, recreation, dining, medical and library areas.
- 12 Two new 'wings' as separate buildings are proposed to be constructed which will be used for the accommodation of the residents, with kitchen, bathrooms and bedrooms. A new staff bedroom and office is also proposed.
- 13 These new buildings are proposed to be constructed to the south of the existing building, single storey in scale with flat and skillion roof profiles. The new buildings can be generally described as being of low-profile,

although the south-western building will be partially more elevated due to the slope of the land in this location.

- 14 The maximum height of the new buildings will be approximately 6.2 metres³ although the building will generally be in the order of around 5 metres in height at the south elevation. To the northern elevation, it will be in the order of 3.5 to 4 metres in height.
- 15 Materials proposed include Colorbond wall cladding and roof sheeting, as well as polycarbonate and painted wall sheeting in various colours.
- 16 A series of roofed walkways are also proposed to connect each of the buildings.
- 17 An on-site wastewater treatment plant is also proposed to the east of the existing building, with two separate disposal fields, further to the east again.

What is in dispute?

- 18 The Council failed to make a decision within the prescribed time but has subsequently decided to oppose the application despite a favourable officer recommendation. Council's reasons for opposing the application are as follows:
 - i The specific development site locale as proposed within the Farming Zone is inappropriate in terms of integration within the localised precinct areas.
 - ii The application is inconsistent with the objectives and strategies of the Planning Policy Framework and Local Planning Policy Framework.
 - iii Having regard to Clause 65 of the Warrnambool Planning Scheme, the proposal does not provide an orderly planning outcome.
 - iv The application will result in adverse amenity impacts on the surrounding area.
 - v The application will result in adverse social impacts on the surrounding area.
- 19 As a result of advertising, 34 objections were received by Council. Some of those objectors lodged a joint a statement of grounds and were represented at the hearing by Mr Fairfield. Six also made individual submissions. Whilst they acknowledge there is a need for such a facility, they are opposed to it being located on the review site because of its proximity to both the Dennington township and nearby dwellings positioned on mostly small rural residential sized lots. In particular, they are concerned about the impracticality of using the site for outdoor farming/horticultural activities because of its small size, the inability to provide sufficient potable water for the anticipated demand, the inability to adequately dispose of effluent given the underlying soil conditions, the adverse amenity impacts to neighbours caused by traffic along Atkinsons Lane, noise from residents, and possible

³ South elevation of accommodation Wing 1.



trespass by residents onto adjoining properties resulting in anxiety about personal safety and security of property. There is also a question about how best to characterise the proposal on the basis of terms and definitions within the Planning Scheme and the necessity of taking into account the number of objections.

- 20 The Applicant rejects these criticisms. Instead it submitted that the proposal is appropriately located within the Farming Zone and that the facility will have little impact on the productive capacity of the land given it is not capable of sustaining stand-alone viable farming enterprises, and it will not impact or compromise the productive capacity of nearby agricultural land. The proposed buildings and other structures will not result in a proliferation of non-agricultural buildings in the locality. Subject to the facility being managed in accordance with a detailed management regime, there will be no adverse off-site amenity impacts on the surrounding community because of traffic along Atkinsons Lane, noise from residents and possible uncontrolled trespass onto neighbouring properties with resultant fears about lessened personal safety and a loss of a sense of security. Land management issues such as bushfire risk, sufficiency of water supply and adequacy of effluent disposal can be addressed by compliance with appropriate permit conditions.

WHAT ARE THE KEY ISSUES?

- 21 Having regard to all the material before us, we consider that the issues in dispute can be distilled to the following key issues.
- Characterisation of the use.
 - Need and net community benefit.
 - Suitability of the location within the Farming Zone close to Dennington.
 - Operation and management of the facility including selection of residents, staffing, security and risk management.
 - Off-site amenity impacts such as traffic and noise.
 - Buildings and works including new buildings, parking areas, fencing and effluent disposal.
 - Other relevant matters such as water supply and bushfire risk.
- 22 Of these key issues, it is the operation and management of the facility which has the potential to cause unacceptable off-site impacts to neighbours if not undertaken in an effective way.
- 23 We now discuss each of these issues in turn in the following sections of our reasons.



HOW IS THE USE BEST CHARACTERISED?

- 24 The parties agreed that the term alcohol and drug rehabilitation centre was an appropriate descriptor of the proposed use. However, there was dispute as to an additional descriptor, namely a Hospital.
- 25 Ms Kilpatrick agreed that the term residential alcohol and drug rehabilitation centre was appropriate but in her opinion the definition of Hospital at clause 64 of the Planning Scheme equally applied, and that the proposal should be most accurately categorised using both descriptors. She noted that:
- [45] Hospital is defined as 'land used to provide health services (including preventative care, diagnosis, medical and surgical treatment, and **counselling**) to persons admitted as in-patients. It may include the care or treatment of out-patients'.
[emphasis added]
- [46] A 'hospital' is a Section 2 Permit required use in the Farming Zone. The description of the use as 'Drug and Alcohol Rehabilitation Centre' as a 'everyday term' is supported.
- [47] The Land Use Terms Advisory Committee Discussion Paper (27 February 2018) recognises that 'advertising the everyday term with the defined term in brackets makes it accessible to the public and assists planners and lawyers to identify the defined land use term it falls under' and this is also consistent with the characterisation in Australian Community Support Organisation Ltd v Moira SC (No.2) [2017] VCAT 1133. I believe the term 'hospital' and 'Drug and Alcohol Rehabilitation Centre' should be used to describe this land use.
- 26 Having regard to the above, Ms Kilpatrick considers that the proposal should be primarily described as a Hospital and that the term residential alcohol and drug rehabilitation centre should be used as a secondary or 'everyday' term. In defining the proposal as a Hospital, Ms Kilpatrick acknowledges that the use would not have many of the ordinary, day-to-day functions or facilities of a hospital such as:
- Emergency department;
 - Nurses or doctors;
 - Hospital beds;
 - Pharmacy;
 - Surgery facilities or procedures;
 - Ambulance bay;
 - Medical suites.
- 27 Nevertheless, she considers that categorising the use as a Hospital better matches planning policy at Clause 21.10-1 which identifies Warrnambool as being a health based precinct for the wider region.



- 28 The Council and the Applicant disagree that the proposal should be defined as a Hospital. Whilst the proposed use comprises different elements being counselling, education, accommodation and recreation, the real and substantial purpose of the activities is part of an overall purpose for the rehabilitation of people from alcohol and drug addiction.
- 29 The question of how to characterise the proposal is not unique to this application and has been the subject of other Tribunal decisions dealing with similar rehabilitation centres.⁴
- 30 Although in some of those cases the definition was, by and large, agreed, in all those cases an innominate term such as 'residential drug and alcohol rehabilitation centre' (or similar) was adopted. In those cases, the proposed uses were essentially the same or very similar to what is before us.
- 31 The Council also referred us to the case of *Cascone*⁵, which set out principles for the characterisation of land uses. The following reasoning in the judgement is relevant:
- It is wrong to approach the ascertainment of purpose of proposed use on the footing that it must fit within one (or more) of the uses defined in a scheme; at least that is so where there is provision for innominate uses in the scheme.⁶
- 32 We disagree with Ms Kilpatrick's assessment of the proposal being a Hospital and find that the real and substantial purpose of the proposed use is not for use of land as a Hospital. Defining the use as a Hospital would allow the land to be used for the full range of services and functions that a Hospital includes and undertakes, when that is clearly not what is being sought. Nor is it something that we would support.
- 33 Whilst we accept that the Hospital definition has some elements that the proposed use neatly fits, it is largely outside what the proposed use is for which is for the rehabilitation of persons recovering from alcohol and drug addiction. It does not include most of the functions and facilities that most hospitals exhibit and offer.
- 34 As a consequence, we agree with the Council and the Applicant that the correct characterisation for the proposed use is 'residential alcohol and drug rehabilitation centre'. We are not persuaded that defining the use in this way undermines the way in which we must balance competing planning policy having regard to the specific application and the site context. That balancing of competing policies to arrive at a net community benefit is something required of us by Clause 71.02-3.

⁴ *Australian Community Support Organisation Ltd v Moira SC (No.2)* [2017] VCAT 1133, *Odyssey House Victoria v Benalla Rural CC & Ors* [2003] VCAT 15, *Self Help Addiction Resource Centre Inc. v Glen Eira CC* [2005] VCAT 2647 and *Association for Better Living and Education v Yarra Ranges SC* [2015] VCAT 86.

⁵ *Cascone v Whittlesea City Council* (1993) 80 LGRA 367.

⁶ *Ibid*, page 381.



IS THERE A NEED FOR SUCH A FACILITY AND IS THERE A NET COMMUNITY BENEFIT?

35 There was no dispute amongst the parties that there is a need for a residential alcohol and drug rehabilitation centre in western Victoria. The critical point of distinction is whether the review site is an acceptable location. Just because there is a need does not mean that it outweighs other considerations such as planning policy, site context and off site impacts. Whilst the Applicant submitted that the need is of such significance that it tips the balance of competing policy objectives in favour of approving the application, it is not that simple an equation.

36 In support of that proposition, the Applicant referred to *Tulcan*⁷ where the Tribunal stated that:

[11] Need is a fundamental concept in town planning, because town planning is essentially concerned with shaping our physical environment to meet the social economic and environmental needs of the community. However in individual development applications the role of need is complex. At one end of the scale, there are ubiquitous land uses in relation to which the Tribunal has said that need is not a matter for the planning system, rather it is a matter for the competitive market place. On the other hand there are important community based uses where the Tribunal has found that the need for the use can outweigh other important, and ordinarily decisive, planning considerations. An often quoted example of this latter case is the helipad at the Alfred Hospital.

[12] Nevertheless, there is a middle ground in which need may not be a decisive factor in the case of an individual development application, but will be a factor which influences the balances to be struck between competing planning policy consideration. An example of this is the retirement village permitted by the us in *Cotham Road Pty Ltd v Boroondara City Council* [2003] VCAT 795, and we think that this is another of these middle ground cases.

[13] General characteristics of these middle ground cases are:

- There is an unmet demand for the particular land use;
- The market is often prepared to meet the demand, provided that the obstacles to establishment are not too high;
- There is expressed planning policy support for the particular use type, in the case of a retirement village and boarding houses the housing diversity policies are an example;

⁷ *Tulcan v Knox City Council* [2003] VCAT 1627



- The use proposed is different from the norm, when the norm is defined as the predominant use type, such as conventional family housing in a suburban situation.
- There can be conflicts between planning policies directed towards preserving existing character and amenity and these land uses, for example the intensity of the physical development associated with the retirement villages, or the social implications of a housing type primarily directed at disadvantaged men.

[14] A good example of how need can be relevantly applied in the context of these applications relates to the question of anti social behaviour. There has been one quite serious incident at 54 The Avenue, which understandable was of particular concern to the Respondents. There was no evidence led comparing anti-social behaviour associated with boarding houses compared with such behaviour in all housing. Nevertheless it is probably reasonable to assume that housing primarily directed towards disadvantaged single men, brings with it a greater than average risk of anti social behaviour by comparison with the surrounding suburban environment. However it would be rare for this to be a relevant factor, notwithstanding the planning policy provisions in relation to the character and amenity of residential environments.

37 Having regard to the above scale, the Applicant submitted that the proposal is approaching the 'Alfred helipad' end of the spectrum and at worst, was in the 'middle ground' as set out in *Tulcan*.

38 In support of its submissions, it stated that there is no other such publicly funded facility in the western district of Victoria. If residents of the western district sought such facilities, then they would be required to travel considerable distances, away from home and family support networks. The Applicant also stated that indigenous people are at greater risk of addiction and that treatment 'in country' was of significant importance and relevant in this region, and that this heightened the need argument.

39 The Council took a different position in its submission to us and instead adopted the same position as the Tribunal in *Association for Better Living*⁸, where it stated the following:

[77] In the present case, our consideration of the issue of need has been primarily related to our assessment of the suitability of this use for this site. Principally, in relation to need, the question for us is to decide whether the need for this facility is so great as to influence our assessment of the concerns expressed about the location of the use in a residential area, and the impacts of the use on the amenity and character of that residential area.

40 The Council also submitted that there was nothing about this particular use that compels it to be located on the review site.

⁸ *Association for Better Living and Education v Yarra Ranges SC* [2015] VCAT 86



- 41 As part of its investigation of a suitable site for a residential alcohol and drug rehabilitation centre, WRAD considered many potential sites in and around Warrnambool. Part 10 of Mr Soma's evidence statement listed ten other sites considered, but it appears to us that this list is one of 'remote possibilities' rather than a list of comprehensively considered and researched sites that might be suitable and meet, or go close to meeting, the various requirements for such a facility and potentially be available for the use. Under cross examination, Mr Soma conceded that some of the sites on this list were indeed unsuitable and likely to have never been available.
- 42 Whilst we agree with the Applicant that the review site has some attributes that might make it suitable for the proposed use and development⁹, we agree with the Council and Respondents that there is nothing so particular about this proposal that warrants exclusivity to this particular site. We are not persuaded that the Applicant has established that this proposal is at the "Alfred helipad" end of the spectrum but is more akin to the 'middle ground' characteristics referred to in paragraph 13 of *Tulcan*.
- 43 Our conclusion is that we accept that there is an urgent and pressing need for this facility in western Victoria and, that whilst the establishment of such a facility on the review site is likely to save lives, it is not at the same point on the spectrum as the Alfred helipad.
- 44 We have not been persuaded that the characteristics of the review site are so unique, or that there is such a strong interdependency between the review site and the rehabilitation centre, that meeting the need for a rehabilitation centre automatically or overwhelmingly affords support for this proposal such that it outweighs other policy and amenity considerations that arise by selecting the site at 43 Atkinsons Lane.
- 45 We are not concerned that if, on balance we were to refuse the application, that a rehabilitation centre would never be provided in south western Victoria. Rather, if the proposed facility cannot be located here, then there are likely other locations that could be suitable, as other similar uses have established in both urban and rural settings elsewhere in Victoria.
- 46 Given we do not find need to be an overwhelming factor in the same way as the Alfred helipad, we must be satisfied that the proposal is consistent with the Farming Zone provisions and related policies, the adequacy of proposed operational and management arrangements, likely amenity impacts and the suitability of a siting proximate to the Dennington town centre.

IS THE LOCATION WITHIN THE FARMING ZONE CLOSE TO DENNINGTON ACCEPTABLE?

- 47 One of the competing policy considerations concerns the use of agricultural land for the proposed facility and whether it is acceptable to locate it within

⁹ Such as previous similar use, adequate area for effluent disposal, some sense of peacefulness to benefit residents of the facility, and space for the development to not unacceptably impact the landscape.



the Farming Zone having regard to the zone purposes, decision guidelines and policies for both agriculture and community health related services. Also of relevance, is the physical location of the site close to Dennington town centre and within an area of rural residential and farming properties.

- 48 Whilst we accept that the review site and nearby land is within the Farming Zone, the subdivision pattern, lot sizes and housing development on small lots gives the locality a rural residential character rather than that of a less developed rural area. The proximity of Dennington including the tall and highly visible dairy factory building reinforces the impression that the site is not a 'farming area' but is instead on the urban fringe. The area around the review site has been previously subdivided and developed for hobby farm or rural lifestyle properties.
- 49 One of the primary outcomes for rural land throughout Victoria, including for land around Warrnambool, is that productive agricultural land should not be lost to agricultural production and that urban use and development should not expand into agricultural areas.
- 50 Aside from the generic purpose to implement the Municipal Planning Strategy and the Planning Policy Framework, the other six purposes of the Farming Zone have a primary focus on agriculture and sustainable land management. There is an intention that non-agricultural uses not adversely affect use of land for agriculture and there is encouragement for the retention of employment and population to support rural communities.
- 51 Twenty-five decision guidelines are grouped into five issues – general issues, agricultural issues and the impact from non-agricultural uses, dwelling issues, environmental issues, and design and siting issues. We do not recite them in detail but in summary they largely continue the policy themes of supporting agricultural production, protecting agricultural land from loss or fragmentation, protecting and enhancing environmental and landscape attributes and considering impacts on the operation of expansion of agricultural uses.
- 52 Planning policies support the protection of agricultural land but also the provision of community and health facilities. These policies are voluminous and include those at Clauses 11 (settlement including the great south coast), 13 (land use compatibility), 14 (natural resource management including the protection of agricultural land), 15 (built environment and heritage including design for rural areas), 19 (infrastructure including health facilities), 21.05 (natural resource management including agriculture), and 21.10 (infrastructure including community infrastructure and distribution of social and community infrastructure).
- 53 In terms of the Local Planning Policy Framework at Clauses 21.05 and 21.10 there is an intention that rural areas are protected to ensure agricultural uses remains viable, that unplanned urban growth is to be discouraged and that land use conflicts between agricultural and sensitive land uses are to be prevented from occurring. Warrnambool is recognised



having an extensive range of education, health and community services and there is support for the provision of a network of multi-purpose community facilities.

- 54 Whilst we acknowledge that health facilities often benefit from co-locating or being proximate to like facilities, for example specialist practices located close to a major regional hospital, we are not persuaded that the proposed rehabilitation centre has such a close or symbiotic relationship with other medical facilities, particularly on a constant or day-to-day basis given the residential and longer stay nature of the centre and the individuals who are living there and the therapeutic (as opposed to medicinal) model of treatment proposed.
- 55 Other than the relatively small farm operated by Mr Potter to the south of the review site, the locality cannot be characterised as being highly productive farmland, particularly the higher land away from the Merri River floodplain. That does not mean that the land cannot be utilised for some limited agricultural production and Mr Potter gave evidence that he has periodically grazed cattle on the review site in association with his larger farming activities. Professor Beilin also has a small orchard and grows vegetables on her property west of the review site. The locality also sustains a non-soil based enterprise involving horse riding to the south west which includes rides where horses pass close to the southern boundary of the review site.
- 56 Although the application material suggested that residents would engage in outdoor, land based farming or agricultural activities, the relatively small size of the property precludes larger scale farming. Instead outdoor activities are much more limited and will involve the keeping of chooks, vegetable growing in planters and limited grazing or agistment of animals. These types of activities can be more readily understood as being associated with hobby farms or rural lifestyle properties rather than productive farming enterprises wholly or largely dependent on income from those agricultural activities.
- 57 It is often the case that one of the major issues when evaluating an application to allow a non-agricultural use such as a dwelling to be built in a farming area is the loss or fragmentation of productive agricultural land. Despite submissions suggesting that approving the rehabilitation centre would adversely affect productive agricultural land, we observe that because of the relatively small lot size and its use for both a dwelling and then a day care facility for many years, the proposed use will not lead to a loss or fragmentation of productive agricultural land. It is already fragmented and will not be lost to agricultural use to the extent that limited grazing can continue to occur, as it has in the past.
- 58 We accept submissions and evidence that soil based horticulture or orcharding is most likely impractical because of the soil types and rainfall, but that does not preclude less intensive farming such as cattle grazing or



horse agistment. Nor would it prevent the keeping of chooks or the growing of vegetables in raised planters and the like. Any such activities are part of the rehabilitation program and are not meant to result in self-sufficiency in food stuffs.

- 59 Our conclusion is that the use and development of the site for a residential alcohol and drug rehabilitation centre will not fragment or lead to the loss of productive agricultural land given that the small area of land has for many decades been occupied by a dwelling/day centre with limited grazing occurring on an occasional basis. Nor will it undermine or be contrary to policy seeking to protect agricultural land from incursions by urban development. Despite its zoning, it forms part of an area that has been subdivided into relatively small lots where commercial or semi-commercial farming, such as that carried out by Mr Potter, is not the norm. It is an area which has the character of a rural residential or hobby farm locality, where any agricultural activities are of secondary importance.
- 60 We are also not persuaded that approval of this facility will be contrary to policy concerning the provision of health services and the central role of Warrnambool in providing such services to this part of Victoria. Although the facility is not centrally located close to major health facilities, we have no evidence to suggest it should be co-located. Rather we have been told that a quieter location way from the main urban area has positive attributes for residents. Although located on the fringe of Warrnambool, we suspect that the wider community in western Victoria will identify the centre as being 'at Warrnambool'. We therefore do not agree with submissions and evidence that it should be refused because it does not accord with planning policy.

IS THE OPERATION AND MANAGEMENT OF THE FACILITY INCLUDING SELECTION OF RESIDENTS, STAFFING, SECURITY AND RISK MANAGEMENT PRACTICAL?

- 61 Underpinning opposition to the proposal is a fear that the centre will not be managed or operated so that it does not cause harm to the community living near the site and in Dennington. We were provided with two volumes of material as appendices to Mr Soma's evidence statement. The material variously included: WRAD Statement of purposes; WRAD organisational chart and operational plan; Service agreements, standards, policies and protocols; Demand analysis, Consortium agreement; WRAD risk management policy and code of ethics; and Weekly structure for residents. His evidence statement also outlined the main features of the Lookout program.
- 62 We note that the centre intends to take on residents for a period of 3-4 months over which period they will undertake a progressive course of rehabilitation using the 'therapeutic community model' as described earlier in our reasons.



- 63 It was explained to us that the proposal is to accept residents who have already undergone 'withdrawal' from drugs or alcohol and that the facility is proposed to assist residents with what was described to us as essentially building or re-building life skills to assist residents to return to a level of relative normality, sustain employment and the like. Gaining insight into their own behaviour, developing new or reinforcing existing skills, establishing a positive work ethic and positive thinking about one's abilities, improving and developing communication skills and instilling an ethos of self-responsibility are all key components of the program's end-goal.
- 64 The program would operate on a strict daily and weekly routine, which, as it was described to us, is of great importance to successful rehabilitation. The facility would also operate on a self-sufficiency basis with residents undertaking all duties such as cooking, cleaning and other household duties and chores.
- 65 It was Mr Gruenert's evidence that with these types of residential facilities and programs, it is less about the environmental setting and more about the management of the facility that was the key contributor to its success for participants.
- 66 The original permit application included a *Proposed Management Plan for The Lookout Residential Rehabilitation Centre, May 2018*. Given the way it has been written, we consider it could be best categorised as a statement of intent or an outline of overarching objectives rather than a detailed operational management plan.
- 67 The plan contains thirteen relatively brief sections spread over 22 pages covering the following topics:
- Section 1 background information about the delivery model, complex service delivery, evidence based delivery model and the Lookout Residential Rehabilitation Centre (LRRC) program service delivery;
 - Section 2 eligibility for LRRC;
 - Section 3 referral process;
 - Section 4 intake, assessment and admission process;
 - Section 5 health and medication;
 - Section 6 staff and resident roles;
 - Section 7 afterhours on call management and support;
 - Section 8 co-ordination with emergency services;
 - Section 9 emergency management;
 - Section 10 risk management framework;
 - Section 11 community access;



- Section 12 exit planning; and
 - Section 13 service quality and clinical governance.
- 68 Put bluntly, we found the management plan ‘thin on the ground’ as to how the centre would be managed on a day to day basis. We can therefore understand why neighbours and the wider community feel uncertain about how the centre will be managed and what rules and protocols will be in place for residents and staff.
- 69 The hearing afforded the Applicant with an opportunity to expand on these matters. Unlike the Council and objectors responding at the application stage, we have had the benefit of additional written and oral information presented at the hearing. A good example of this is the Bushfire Management Statement which was not available during the initial consideration of the permit application.
- 70 To a large extent the additional information has provided the basis for additional permit conditions to fill in gaps – particularly gaps in the *Proposed Management Plan for The Lookout Residential Rehabilitation Centre, May 2018*. It covers matters including:
- i The preparation of protocols for when a resident leaves the facility in an unplanned manner;
 - ii Discussions/liaison with Victoria Police and other emergency service with respect to the development of such protocols;
 - iii The fact that staff will be trained for various scenarios but what type of training will be undertaken, for what purposes it would be necessary and whether it would be to an adequate level;
 - iv How those residents placed on the ‘High-risk’ register are to be managed over and above those who are not;
 - v What the ‘emergency exit plan’¹⁰ comprises for those who residents who identify that they wish to leave.
 - vi How will underlying issues with residents following from withdrawal, including cravings be managed;
 - vii Staffing arrangements including change over between day and night shifts and how two staff will manage at night in the case of an emergency;
 - viii Security arrangement at night, and during the day when residents are outside;
 - ix Noise attenuation (both for internal and external noise mitigation);
 - x Improvements required for vehicle access;

¹⁰ As referred to on page 18 of the *Proposed Management Plan for the Lookout Residential Rehabilitation Centre, May 2018*.



- xi Details of fencing;
 - xii Details of landscaping including ongoing maintenance arrangements;
 - xiii Details of potable and non-potable water supply and usage, including storage required in accordance with the Bushfire Management Statement.
- 71 The above is not an exhaustive list but it serves to demonstrate why we have included many more permit conditions than in the draft initially circulated to parties.

ARE THERE ANY UNREASONABLE OFF-SITE AMENITY IMPACTS?

Traffic in Atkinsons Lane

- 72 Atkinsons Lane provides the sole point of access to the site. It has a single lane sealed carriageway 3.5 metres wide and grass verges. It has a length of approximately 500 metres and rises from north to south. A traffic count towards the northern end reveals a traffic volume of between 39 and 54 vehicles per day. It provides access to six dwellings, including the one on the review site which is currently unoccupied. Two transport trucks associated with Mr Potter's farm also use the road on a regular basis and park on the road reserve adjacent the southern boundary of the review site.
- 73 Expert written traffic evidence was prepared by Mr Matthews and he attended the hearing to present his evidence and answer questions.
- 74 Based on resident and staffing numbers and turnover, he has estimated that the proposed centre will generate up to 32 vehicle movements per day, which when added to the existing movements will result in an overall traffic volume of 45 to 85 vehicle movements per day.
- 75 Mr Matthews stated in section 4.7 of his written evidence that the road upgrade policies of some Victorian municipalities use a daily traffic volume of 250 vehicle movements per day to prioritises the sealing of unsealed roads or to widen narrow sealed roads. He also notes that the Atkinsons Lane has a straight alignment and clear sightlines and that although it does not have a posted speed limit, he is confident that vehicles will not be travelling at high speeds because of the relatively short length of the road. He is not aware of it having a history of poor road safety although the current cross section is not ideal for safe and efficient traffic flow. However, he comments that vehicles moving onto the grass shoulders are expected to slow considerably but that the provision of gravel shoulders would improve the situation.
- 76 Ultimately Mr Matthews has formed an opinion that the proposed development is expected to generate traffic volumes that are like those generated from the site during its previous use and the proposed development will not materially alter the existing need for an upgrade.



- 77 Whilst we understand that neighbours living in Atkinsons Lane are concerned about the impact of additional traffic, we have no evidence or advice from qualified and experienced traffic engineers to suggest that traffic movements will be unsafe or increase to such a degree that mitigation works are required. We also record that traffic in Atkinson's Lane was not identified by Council as a reason to oppose the application and nor was it raised as a concern in the officer's report.
- 78 We therefore do not support the Respondents suggestion that conditions be included requiring upgrades to Atkinsons Lane.
- 79 Mr Matthews did recommend widening the site access point to Atkinsons Lane to allow two-way movement and also suggested that the earth embankment north of the access point should be slightly regraded to improve sightlines to the north for vehicles exiting the site. He also recommended some minor widening and changes to the internal driveway and parking area. These have no off- site effects or have direct impacts on neighbours. We have included conditions requiring the changes he has recommended.

ARE BUILDINGS AND WORKS, INCLUDING NEW BUILDINGS, FENCING AND EFFLUENT DISPOSAL, ACCEPTABLE?

Buildings

- 80 Neighbours are concerned about the positioning and appearance of the proposed two new wings/accommodation buildings which are proposed to be located to the south of the existing building, and partly on the southerly slope of the review site. Our accompanied inspection enabled us to assess the likely visual impact of these structures, both from within the site and from those nearby properties which have views into that part of the site where the buildings will be located.
- 81 We acknowledge that the review site is within a broader coastal and rural setting but we note that the review site an adjoining land is not affected by any specific built form controls such as a Significant Landscape Overlay, Environmental Significance Overlay or Design and Development Overlay that might require a particularly sensitive design approach.
- 82 We have previously referred to the twenty five decision guidelines in the Farming Zone Those of specific relevance for the design and siting of buildings are:

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.



- 83 We accept that the new buildings will be visible from adjoining and nearby properties to the east and south, however, visibility of existing buildings in this landscape is not foreign, largely owing to the more rural-residential nature of the surrounding area. Apart from the dwellings and outbuildings which are clearly visible throughout the landscape, we also observed a knackery building further to the south-east of the review site and the tall dairy factory building to the north east.
- 84 We do not agree with any suggestions that the proposed buildings introduce a foreign or discordant built form into the locality and find that the appearance of these new buildings is acceptable. The design approach has adopted a relatively low profile using flat and low-angle skillion roof forms. The material and colour scheme adopts colours that will not result in the buildings being visually prominent within this landscape.
- 85 Although the new buildings have relatively large footprints, at a maximum height of 6.2 metres, but mostly around 5 metres, they are not particularly high and have a domestic scale like other residential buildings in the area.
- 86 We find the combination of these design features will result in buildings that will not have an unacceptable impact on the surrounding landscape or character. Dwellings in the immediate vicinity are of varied styles and designs with a mixture of forms and materials and the proposed new buildings will therefore not be at odds with existing built form.

Fencing

- 87 Existing boundary fencing is typical post and wire and is to be retained. Plantations along the boundaries will be protected by new fences 1.2 metres high. There is no intention to erect tall cyclone or other style fencing although we record that respondent neighbours have sought a condition that boundary fencing be partly chain mesh and be of a height to prevent persons or animals from going through the fence or over boundaries.
- 88 Whilst we do not wish to fence the property as though it were some form of prison, we consider there is some benefit in discouraging free movement, as currently exists, between adjoining properties. Whilst we do not support a very tall chain mesh fence, we do support a 1.5 metre high fence similar to that shown in the image below (1.2 metre high ring lock or hinge lock mesh panels to 1.2 metres and two strands of barbed wire to 1.5 metres) along the northern, southern and eastern boundaries so as to limit easy movement into and out of the review site. We see this as having as much benefit for residents as for neighbours. However, we do not support any change to the boundary fencing along Atkinsons Lane.



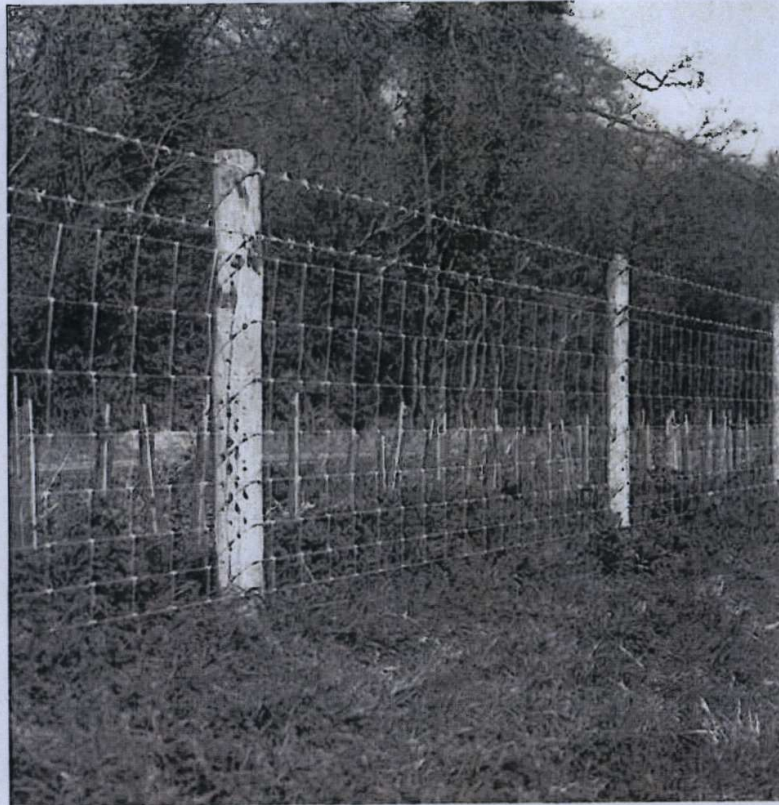


Image of fence type referred to above

Effluent disposal

- 89 Much was said of the proposed effluent disposal aspect of the proposal, particularly by the Respondents. They submitted that the review site has been subjected to extensive topsoil removal historically, and, coupled with the topography of the review site being atop a hill, effluent disposal from the proposed use will likely flow onto adjoining properties and possibly in to the Merri River. They stated that the historic removal of topsoil revealed a layer of limestone not far beneath the surface, which would restrict the ability for effluent to be treated and retained on site, in line with Clause 35.07-2.
- 90 A Land Capability Assessment was submitted with the permit application which demonstrates that the review site can treat and retain all effluent created by the proposal. In order to do so, a minimum of 1800 square metres of disposal area is required.
- 91 Council's Health Department raised no concerns with effluent disposal and treatment proposed and agreed with the required disposal area of at least 1800 square metres.

- 92 There was no other evidence or material presented to us, other than the submissions by the Respondents, that give us cause for concern at this stage, noting that neither the LCA prepared by the Applicant nor the Council raised concerns that effluent could not be treated and retained on site and that a septic permit would be required as a subsequent requirement to the planning permit being issued. We also record that the disposal of effluent is controlled by other legislation and must be treated in accordance with that legislation. If for some reason the proposed effluent system fails to operate then a different system will be required – effective disposal is not optional.

WHAT OTHER MATTERS REQUIRE CONSIDERATION?

Water supply

- 93 Issues were raised with respect to the absence of reticulated potable water supply to the review site. Irwin Consult has prepared a *Water Feasibility Report* dated 7 June 2019, setting out the likely requirements for the proposed use and how these could be met by a mixture of collected rainfall and bore water. The report estimates that the monthly demand will be 168.5 Kilolitres (KL), of which 56 KL will be for drinking purposes and 112.5 KL for non-drinking purposes. Clause 35.07-2 sets out the following regarding the use of land for the purpose of a dwelling, noting that this proposal is not for a dwelling:
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- 94 Respondents questioned the accuracy of the volume of water supply from rainwater harvesting and bore water and suggested they were unrealistically high. They also observed that the statistics concerning the number of nearby bores were incorrect. We agree with residents that the number of existing bores far exceeds the number contained in the Irwin Consult report and that rainfall figures may be unduly optimistic given the long term declines being experienced in annual rainfall in many parts of Victoria.
- 95 Whilst we acknowledge the errors pointed out by the respondents, we consider that the water feasibility report does provide an understanding of the likely demand for the rehabilitation centre. If the water supply figures are incorrect and there is a shortfall, then the operator will need to source water from elsewhere for its operational requirements and to enable the use to continue. Adequate water supply is not an optional extra, but is fundamental to the on-going operation and habitation of the centre. A condition requires a water servicing plan to be approved before the use commences.



Bushfire risk

- 96 The review site sits within a designated bushfire prone area although it is not affected by the Bushfire Management Overlay. Neighbours made comment about a previous bushfire which came close to but did not destroy any of the neighbouring houses. The risk of bushfire is therefore real and not just a remote possibility.
- 97 Clause 13.02-1S requires consideration to be given to bushfire planning policy and clause 71.02-3 requires that priority must be given to the protection of human life over all other policy considerations.
- 98 As a result of our questions during the early part of the hearing, the Applicant prepared a Bushfire Management Statement to assist in assessing the bushfire risk. The report noted that the proposal requires the Clause 52.02-4 application Pathway Two.
- 99 As such the following applies:
- A minimum of 22 metres defendable space for Grassland to the proposed building in accordance with Table 2 under Clause 53.02-5.
 - The proposed buildings have been appropriately sited away from the bushfire threat and are to be constructed to BAL 12.5.
 - Atkinsons Lane and Princes Highway provide appropriate for access and egress by emergency vehicle.
 - A total of 10,000 litres of static water supply will be provided onsite in an easily accessible location, dedicated for personal use during an emergency.
- 100 Council subsequently tabled an email from the CFA dated 1 July 2019 which concurred with the assessment made in the Bushfire Management Statement that the site has a low bushfire risk. The email also gave CFA's support for the recommended bushfire safety measures.
- 101 We have therefore included a modified condition requiring approval and implementation of the Bushfire Management Statement.

Noise from farming activities

- 102 Mr Potter operates a farm on land to the south and south west of the review site. He runs cattle on land he owns or leases and provided information about his farming operation and historical information about the review site and the locality.
- 103 One of Mr Potter's concerns is that residents will be disturbed by the noise and odours from his farming activities and from a knackery located some distance away to the south east. Noise is likely to be caused by two trucks which are parked on a disused road reserve along southern boundary of the review site and from vealers being weaned in a stock yard located to the south west of the review site and beyond sheds and Mr Potter's dwelling.



Our accompanied inspection enabled us to view the stockyard and to understand its physical separation from the existing and proposed accommodation facilities on the review site. Mr Potter also played a recording at the hearing of the bellowing of the vealers during weaning and we observed a truck arriving and parking in the disused road reserve.

- 104 Whilst we appreciate that noise of the animals could be disturbing, particularly at night, we did not find the noise so loud or continuous that it would cause us to refuse the application because of the potential to upset residents, even if they are not used to animal noises. We also observed that there is a considerable separation distance between the stockyards and the accommodation wings and that farm sheds on Mr Potter's property provide, to some degree, an acoustic barrier between the two. We are also requiring noise attenuation on the accommodation buildings which will also deal with the noise from the trucks, whether it be from the clanging when changing metal floors in the tray units or engine noise.

General amenity impacts

- 105 Despite submissions from neighbours about adverse amenity impacts, Ms Kilpatrick states in her evidence statement that:

[92] The general amenity of the surrounding area will not be unreasonably affected by the proposed use, however subject to the maximum number of residents not exceeding 20 persons at any one time and the implementation of (a) comprehensive management plan with additional noise and security arrangements.

- 106 We have already commented about that the proposed management plan being 'thin on the ground' and needs 'fleshing out' with more detail including noise and security arrangements. A permit condition limits the number of residents to 20 at any one time.
- 107 Apart from the specific matters we have already discussed in our reasons, we otherwise agree with her assessment that the general amenity in the area will not be unreasonably affected by the proposal subject to revisions to the proposed management plan.

The number of objections is a relevant consideration

- 108 Mr Fairfield drew our attention to Clause 60(1B) of the Planning and Environment Act 1987 and the requirement that we must (where appropriate) take into account the number of objectors in considering whether the proposals may have a significant social effect. He noted that that there were 34 objections lodged with the Council and statements of grounds lodged with the Tribunal on behalf of 48 persons. In addition, 108 signatories have been made opposing the proposal.
- 109 We understand this may seem a large number of objections to a permit application in Warrnambool, but it is our experience that this number of



objections is not unusual or particularly large. Many permit applications for medium density or apartment style housing projects generate as many or more objections, often based on fears about social impacts such as who might occupy the new dwellings ('they will be renters', 'undesirable neighbours', 'not like us', 'lower the tone of the neighbourhood'). These are all framed as social impacts and the fears and opinions are deeply held by the people expressing them. Although the specific impacts may be different with the rehabilitation centre we are considering, we are still required to decide whether it achieves a net community benefit for present and future generations.

- 110 Mr Fairfield referred to the Tribunal decision in *Rutherford & Ors v Hume CC*¹¹ and the six factors which are relevant in understanding what might be a social effect. We do not quote those six factors but what it is important is that we have heard submissions from local residents most likely to be affected by the proposed centre and have listened to their deeply held feelings about how approval of the centre may adversely affect them in an emotional and physical way and therefore seriously undermine the enjoyment of their home environments lives.
- 111 We have also received evidence from Mr Weston on the social impacts of the proposal and briefly identified potential advantages and disadvantages arising from establishment of the rehabilitation centre. Attached to his evidence statement in appendices was an assessment of demand for alcohol and drug residential rehabilitation in south west Victoria. Although submissions suggested that the social impact assessment was not comprehensive enough, we take a contrary view based on all the material that is available to us, not just the evidence prepared by Mr Weston but also the material presented in other evidence such as that contained in Mr Soma's voluminous attachments to his evidence statement.
- 112 Whilst we acknowledge that there has been considerable opposition to the proposal, we have also factored in the wider social benefits in allowing a residential alcohol and drug rehabilitation centre to be established on the review site.

HAS AN ACCEPTABLE OUTCOME AND NET COMMUNITY BENEFIT BEEN ACHIEVED?

- 113 This proposal highlights the tensions that exist when there is a proposal to insert a residential alcohol and drug rehabilitation centre within a community where none has existed before. These tensions will differ depending on the specific circumstances, including the relevant Planning Scheme provisions, the physical context and the proposal itself.
- 114 Clause 71.02-3 of the Planning Scheme specifically acknowledges that these tensions or competing outcomes exist and asks that:

¹¹ *Rutherford & Ors v Hume CC* [2014] VCAT 786



Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning authorities and responsible authorities must prioritise the protection of human life over all other policy considerations.

- 115 Although we acknowledge that there will be different opinions about what represents a net community benefit, we consider that on balance, there is such a benefit in approving a residential alcohol and drug rehabilitation centre on the review site.
- 116 There is no dispute that there is need for such a facility in this part of Victoria. Despite submissions to the contrary, we are not persuaded that the proposal will have unacceptable environmental or amenity impacts. Fears about unacceptable off-site impacts and personal risks to neighbours appear to be driven by concerns about inadequate management of the centre, with attendant issues caused by residents 'escaping' through neighbouring properties or 'undesirable' visitors bringing alcohol and drugs into the area and meeting up with residents.
- 117 In reality, this proposal represents a modestly sized facility, where residents are towards the end of their rehabilitation journey. We are persuaded that with an appropriate management regime the facility will operate so that neighbours will not be disadvantaged or suffer personal risk or harm from residents.
- 118 Our consideration of the application has required us to balance the desirability of providing a much needed facility relatively close to the urban services of Warrnambool against the need to ensure that the facility does not cause unacceptable impacts when assessed against the full suite of relevant provisions of the Warrnambool Planning Scheme.
- 119 Clause 65 of the Planning Scheme seeks an acceptable outcome, not an ideal or perfect outcome. For the reasons given, we consider that an acceptable outcome has been achieved and we therefore set aside the decision of the Responsible Authority. A permit is granted subject to conditions.

What conditions are appropriate?

- 120 The conditions in Appendix A are based on the revised conditions which were circulated to parties and discussed at the hearing. We do not itemise our responses to all the suggested revisions and additions but have considered all relevant submissions made along with our findings as set out in these reasons.
- 121 In particular, we have considered the detailed revisions to the draft conditions prepared by the Respondents which we consider will largely 'flesh out' and expand on the details contained in the *Proposed*



Management Plan for The Lookout Residential Rehabilitation Centre, May 2018. Compliance with these conditions will alleviate the off-site amenity impacts which were raised during the hearing.

J A Bennett
Senior Presiding Member

Joel Templar
Member



REIMBURSEMENT OF FEES

- 122 The Applicant has sought a reimbursement of the filing fee. Section 115CA(1) of the *Victorian Civil and Administrative Tribunal Act 1998* provides for the operation of a presumption for the reimbursement of fees paid by the applicant in the section 79 proceeding. The Tribunal must have regard to any reasonable justification for a failure to grant.
- 123 A reimbursement of fees does not apply if the Responsible Authority satisfies the Tribunal that there is reasonable justification for it failing to grant the permit having regard to:
- (a) the nature and complexity of the permit application; and
 - (b) the conduct of the applicant in relation to the permit application; and
 - (c) any other matter beyond the reasonable control of the responsible authority.
- 124 We gave Warrnambool City Council an opportunity to provide reasons as to why Council did not make a decision within the prescribed time, together with a right of reply by the Applicant. In its response Council notes that the Applicant had actively engaged with Council staff, Councillors and the community to better understand the proposal. There were ongoing discussions, requests for further information and meetings between the Applicant and the Council (staff and Councillors) as set out in a Timeline attached to the Council's written response. This demonstrates that negotiations were ongoing in an effort to resolve outstanding matters of concern to Council.
- 125 The Applicant submits that in no way did the Applicant act to delay Council's consideration of the application. The application was lodged with all the information necessary to make a decision and Council did not request further information. Nevertheless, the Applicant continued to negotiate with Council until such time as it became apparent that Council would not make a decision on 3 December 2018. It is also submitted that the application is not particularly complex and could have been decided before the appeal was lodged on 9 December 2018.
- 126 We note that the permit application was lodged with Council in May 2018, but a Cultural Heritage Management Plan (CHMP) was not provided until 7 August 2018. A failure application could therefore have been lodged after 60 days on or after the 5 October 2018. It was not lodged until 9 December 2018 after an elapse of 126 days. Between lodgement of the CHMP and the end of December 2018, there were eleven recorded events/contacts between Council and the Applicant.
- 127 In reviewing the submissions made by the Applicant and the Council, we have taken into consideration that an application for a residential alcohol and drug rehabilitation centre is not a run-of-the-mill medium density housing development commonly decided upon by Council.



- 128 Although there may only be a single use and development approval required under the Farming Zone, the application raises a number of significant issues which need to be considered and determined. These are reflected in the six key issues we identified and discussed in our reasons. Not only is there a complex matrix of planning policies that need to be considered, but there are also the specific built form and operational aspects of the proposal which require detailed assessment by a multiplicity of qualified professionals.
- 129 The fact that we received written and oral evidence from ten witnesses, written evidence from another two witnesses, submissions from six residents and a further oral statement from a Warrnambool resident demonstrates the complexity of the issues involved.
- 130 We also note that the hearing was conducted over six days, involved two Tribunal members, required a lengthy accompanied site inspection, together with unaccompanied inspections to Lower Plenty and Molyullah. As a Major Case the Tribunal also conducted a one day compulsory conference which proved to be unsuccessful.
- 131 Council's submission referred to a number of Tribunal decisions concerning the reimbursement of fees and the positive role of consultation in the application planning process. In *Burke Vue Pty Ltd v Stonnington CC*¹² The Tribunal stated that:
- A consultative approach to development applications is a strong and very positive feature of the Victorian planning system. Applicants are encouraged to engage in pre-application meetings and to be involved in ongoing discussions and negotiations with Council Officers as an application proceeds through the assessment process. In most cases a more complex application will involve more discussion and negotiation.
- 132 We consider that a similar situation exists with this application. We are therefore not persuaded that fees should be reimbursed given the particular circumstances surrounding the processing of this permit application.

J A Bennett
Senior Presiding Member

Joel Templar
Member

¹² *Burke Vue Pty Ltd v Stonnington CC (includes Summary) (Red Dot)* [2015] VCAT 1723.



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	PP2018-0105
LAND	43 Atkinsons Lane DENNINGTON VIC 3280

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

Use and development of the land for a residential alcohol and drug rehabilitation centre.

CONDITIONS**Amended plans**

- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (received by Council on 31 May 2018 and advertised with the application) but modified to show:
 - (a) A schedule of construction materials, external finishes and colours (incorporating samples) submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
 - (b) A lighting plan with details of the location and type of lighting for the centre, including external and security lighting. All external lighting must be designed to be baffled to avoid any unreasonable light plume in the context of its rural location to the satisfaction of the Responsible Authority.
 - (c) Any changes in accordance with the amended Traffic Impact Assessment Report required by Condition 3.
 - (d) A landscaping plan in accordance with Condition 18 of this permit.
 - (e) A waste management plan in accordance with Condition 21 of this permit.
 - (f) Any changes in accordance with the Bushfire Management Statement required by Condition 25.



- (g) The provision of 1.5 metre high fences (1.2 metre high ring lock or hinge lock mesh panels to 1.2 metres and two strands of barbed wire to 1.5 metres) along the northern, southern and eastern boundaries so as to limit easy movement into and out of the review site.
- 2 The use and development as shown on the endorsed plans (including the layout of the site and size, design and location of the buildings and works) must not be altered without the prior written consent of the Responsible Authority.

Traffic and parking

- 3 Before the commencement of development (and any associated works) the applicant must provide a Traffic Impact Assessment Report (TIAR) prepared by a suitably qualified engineer in accordance with the Infrastructure Design Manual (Clause 9) and to the satisfaction of the responsible authority. The report must be generally in accordance with the Traffic Impact Assessment Report of ESR Transport Planning dated 6 June 2019 but modified to show:
- (a) Provision of access for emergency and waste collection vehicles.
 - (b) Provision of a vehicle turn around facility on the subject land.
 - (c) The vehicle access widened to a two-way width where it meets Atkinsons Lane, in accordance with Design Standard 1 of Clause 52.06 of the Planning Scheme.
 - (d) A lowering of the earthen embankment on the northern side of the vehicle access to Atkinsons Lane to create sightlines on accordance with the Safe Intersection Sight Distance (SISD).
 - (e) A widening of the access driveway with gravel edges to create a passing area approximately 30 metres from the front boundary.
 - (f) A reconfiguration of the vehicle parking areas to the north, northeast and west of the Administration Wing to provide parking for 12 vehicles in accordance with Design Standard 2 of Clause 52.06 of the Planning scheme.
 - (g) Remedial work to repair wear and damage to the existing internal driveway.
- 4 Before the use commences, the permit holder must at its cost construct and/or implement any traffic related works identified in the endorsed Traffic Impact Assessment Report to the satisfaction of the Responsible Authority.
- 5 The loading and unloading of vehicles and the delivery and pickup of goods must be carried out at all times within the site boundaries, within the hours of Monday – Friday 8:30am and 5pm to the satisfaction of the Responsible Authority.



- 6 All vehicles associated with the use (including staff and visitor vehicles) must be parked within the site boundaries.

Management Plan for the Lookout Residential Rehabilitation Centre

- 7 Prior to the commencement of the use, a Management Plan must be prepared for the approval of the Responsible Authority. When approved, the Management Plan will form part of the endorsed plans. The Management Plan must be generally in accordance with the proposed Management Plan for the Lookout Residential Rehabilitation Centre dated May 2018 but modified to show:
- (a) The Emergency Management Protocol with the CFA, VicPol and Ambulance Victoria as referred to in section 8 of May 2018 plan (including Bushfire and Flood Plans as referred to in section 9 of that plan).
 - (b) A revised risk management plan based on section 10 of the May 2018 plan which:
 - i Identifies the safety and security risks involved in operation of the Lookout centre;
 - ii Assesses the severity and degree of likelihood of any relevant incident or event occurring;
 - iii Sets out measures that the centre's management is to take to address and, in so far as possible, minimise each identified risk.
 - (c) Provision for the effective operation and monitoring of the centre's CCTV system (as referred to on page 18 of the May 2018 plan). Prior to the commencement of the use, the CCTV system must be installed at the Lookout centre for surveillance of all doors to the buildings and the front entrance to the property. At all times when residents participating in an alcohol and/or drug rehabilitation program are on the site, the system must be operational and monitored by staff of the Lookout centre;
 - (d) All security alarms or similar devices installed at the site must be of a silent type to the satisfaction of the Responsible Authority;
 - (e) No external sound amplification or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, except one which audible only within the subject land;
 - (f) Provision for dealing with clients who indicate a wish to leave the Lookout centre before the end of their program, including measures to ensure their departure from the centre is planned, as referred to in section 12 of the May 2018 plan;
 - (g) Include resident rules that prohibit access to any of the properties bordering 43 Atkinsons Lane, unless with permission of the owners of those properties;



- (h) A requirement that in the event that any resident of the Lookout centre goes missing, its staff must immediately notify by telephone or in person the owners and occupiers of those properties which adjoin 43 Atkinsons Lane, as well as the owners of 44, 50 and 66 Atkinsons Lane;
 - (i) A community education and liaison program in relation to the operation of the Lookout centre, involving (amongst other things) regular liaison with the Dennington Community Association;
 - (j) A program of regular liaison with VicPol in relation to the Lookout centre with respect to maintaining community safety and security along with any related issues.
- 8 Before the use commences, a Community Reference Group must be established as referred on page 2 of the May 2018 plan.
- 9 The Management Plan may be amended with the written consent of the Responsible Authority.
- 10 The use must always operate in accordance with the endorsed Management Plan for the Lookout Residential Rehabilitation Centre.
- 11 A maximum of 20 clients may be on the premises at any one time, unless with the prior written consent of the Responsible Authority.
- 12 At all times when residents are present on the site, a minimum of two staff must be present between 8:30pm and 8:30am and a minimum of five staff must be present between 8:30am and 8:30pm.
- 13 A written logbook of all attendees (including residential clients and visitors) to the centre must be kept. The written logbook must include details consisting of the names of people, dates and times of attendance and departure to and from the centre. The written logbook must be made available for inspection by the Responsible Authority at any time upon request.

Land Capability Assessment

- 14 The proposal must be constructed in accordance with the recommendations of the Land Capability Assessment, prepared by Paul Williams & Associates Pty Ltd (**Report**) dated May 2018. The Assessment is to be approved by and be to the satisfaction of the Responsible Authority. Upon completion a report must be provided which certifies that the wastewater facility and irrigation areas have been constructed in accordance with the report.
- 15 When approved, the Land Capability Assessment will be endorsed and will then form part of the permit. Effluent disposal from the development must be in accordance with the Land capability Assessment, to the satisfaction of the Responsible Authority.



- 16 All sewerage and sullage wastewater from the development must be discharged into the approved wastewater system with a disposal area of at least 1800m². All wastewater must be maintained within the boundaries of the land and be located as per the endorsed plan. Approval to install the wastewater system must be obtained from Warrnambool City Council Health Department prior to the commencement of any works.
- 17 The wastewater management system must be operated in accordance with the Land Capability Assessment prepared by Paul Williams & Associates Pty Ltd (report) dated May 2018.

Landscaping

- 18 Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Plantation Plan for TH lookout Centre prepared by David Turley of DHT Consulting Pty Ltd Sheets 1 – 4 issue 10062019, and be drawn to scale with dimensions and three copies must be provided. The plan must show planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- 19 The landscaping works shown on the endorsed landscape plan must be commenced within 3 months of the grant of the permit and carried out and completed to the satisfaction of the Responsible Authority within 2 years of the commencement of the use of the land.
- 20 The landscaping shown on the endorsed landscape plan must be maintained to the satisfaction of the Responsible Authority.

Waste Management

- 21 Before the development starts, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:
 - (a) Dimensions of storage waste areas.
 - (b) Storm water drains in storage areas should be fitted with a litter trap.
 - (c) The number and size of bins to be provided.
 - (d) Facilities for bin cleaning.
 - (e) Method of waste and recyclables collection.
 - (f) Types of waste for collection, including colour coding and labelling of bins.
 - (g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
 - (h) Method of hard waste collection.



- (i) Method of presentation of bins for waste collection.
- (j) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
- (k) Strategies for how the generation of waste and recyclables will be minimised.
- (l) Compliance with relevant policy, legislation and guidelines.

When approved, the Waste Management plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the Waste Management plan, to the satisfaction of the Responsible Authority.

General Amenity

- 22 The use and development must be managed so that the amenity of the area is not detrimentally affected through:
- (a) The transport or movement of persons to or from the subject land;
 - (b) The transport of materials, goods or commodities to or from the land;
 - (c) The appearance of any building, works or materials;
 - (d) The emission of noise, artificial light, vibration, fumes, odour, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

Construction Amenity

- 23 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material must be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and must have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying must be undertaken on the building block. The pollutants from these building operations must be contained on site.
 - (c) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.

Water feasibility

- 24 Before the use commences, a water servicing plan must be submitted to, and be approved by, the Responsible Authority. The plan must demonstrate that the water supplies to the land are sufficient to serve the potable, non-potable and fire service requirements of the centre and include details of alternative sources of supply of water in the event the site cannot provide self sufficient water sources.



CFA Conditions

- 25 The development must be in accordance with the Bushfire Management Statement, prepared by the Myers Planning Group, dated June 2019. The Statement must be submitted to and approved by the Responsible Authority. When approved, the Bushfire Management Statement will be endorsed and will form part of the permit and must not be altered without the written consent of CFA and the Responsible Authority.
- 26 The bushfire protection measures set out in the approved Bushfire Management Statement or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis.

This condition continues to have force and effect after the development authorised by this permit has been completed.

Expiry

- 27 This permit will expire if one of the following circumstances applies:
- (a) The development is not started within two (2) years of the date of this permit.
 - (b) The development is not completed within four (4) years of the date of this permit.
 - (c) The use does not start within two (2) years of the completion of the development.
 - (d) The use is discontinued for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (e) Within six (6) months afterwards for commencement, or
- (f) Within twelve (12) months afterwards for completion.



VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
PLANNING AND ENVIRONMENT DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1821/2019

APPLICANT Myers Planning Group Pty Ltd
RESPONSIBLE AUTHORITY Warrnambool City Council
SUBJECT LAND 43 Atkinsons Lane
DENNINGTON VIC 3280
WHERE HELD Melbourne
BEFORE Ian Potts, Senior Member
HEARING TYPE No hearing
DATE OF ORDER 30 September 2019

ORDER

Hearing details

Item	Hearings	Date/Detail
A	Hearing date	26-February-2020
	Commencement time	10:00 AM
	Duration	2 Days
	Location	55 King St, Melbourne
	Major Cases List	No
	Short Cases List	No

- 1 This proceeding is listed for a hearing in accordance with the details set out in **item A** above. Any changes to the hearing details will be notified by further order of the Tribunal.

Other key dates

- 2 The following dates are the dates referred to in these orders.

Item	Action	By no later than	Order number
B	Applicant to serve application and specified documents on responsible authority	11-October-2019	3



C	Responsible authority to file with VCAT and serve on the applicant details of notice to be given	18-October-2019	8
D	Applicant to give notice and responsible authority to display application on its website	25-October-2019	4 & 10
E	Responsible authority to file PNPE2 material	25-October-2019	11
F	Applicant to file statement of notice with VCAT	01-November-2019	6
G	Closing date for objectors and referral authorities to lodge statement of grounds with VCAT and serve on applicant and responsible authority	18-November-2019	5 & 13

ACTIONS REQUIRED – APPLICANTS

Service of application on responsible authority

- 3 By no later than the date set out in **item B of order 2**, the applicant must serve on the responsible authority in hard copy and in electronic PDF form:
- a copy of the application and all attachments;
 - other material filed with the Tribunal; and
 - a copy of this order.

Notice

- 4 The applicant must give notice of the application in accordance with the attached directions (as relevant) as follows:
- a By no later than the date set out in **item D of order 2**, serve the documents set out below on the following persons:
- the owner and occupier of the subject land;
 - any persons who may have a material interest in the outcome of the application who are named in the application;
 - any additional persons identified by the responsible authority in response to order 8;
 - all relevant referral authorities.

The documents served must include:

- the application excluding attachments;
- a copy of this order;



- a description of the proposed changes to the permit, including details of the changes from the previous plans;
 - a cover letter, which must:
 - explain that an application to amend a permit has been lodged and VCAT has directed service of the documents
 - include the information required by order 5
 - advise that a complete copy of the application, including amended plans, can be inspected during business hours at the main office of the responsible authority and on the responsible authority's website;
 - advise that the person may obtain a copy of the amended plans or other attachments upon request to the applicant.
 - b By no later than the date set out in **item D of order 2**, publish a notice of the application by erecting a sign(s) on the land and maintaining the sign(s) in good order and condition for not less than 14 days from the date of erection in accordance with any directions by the responsible authority in response to order 8.
 - c Within 7 days from the date set out in **item D of order 2**, publish a notice of the application in a newspaper in accordance with any directions by the responsible authority in response to order 8.
- 5 All notices must:
- a Specify the closing date, which is the date set out in **item G of order 2**, by which a statement of grounds must be received by the Tribunal and served on the responsible authority and applicant.
 - b Explain that a statement of grounds may be lodged with VCAT as described in Appendix A.
 - c Specify the date and time scheduled for the hearing as set out in **item A of order 1**.
 - d If applicable, include a statement setting out those matters within the application for which there is no right of review under section 82 of the *Planning and Environment Act 1987*.

Statement of notice

- 6 By no later than the date set out in **item F of order 2**, the applicant must file with VCAT:
- a completed statement of notice;
 - a list of names and addresses of all persons and authorities served;
 - a sample of the cover letter sent with the documents served;
 - all other information required by the statement of notice.



If a statement of notice is not filed by the specified date, this application may be struck out without further notice. No reminder will be sent.

Hearing fees

- 7 If you are the applicant in this proceeding, you may be required to pay a daily hearing fee before the hearing commences. For more information, see Appendix A and the VCAT website.

ACTIONS REQUIRED – RESPONSIBLE AUTHORITY

Extent of notice required

- 8 By no later than the date set out in **item C of order 2**, the responsible authority must file with VCAT and provide the applicant with:
- the names and addresses of all relevant referral authorities;
 - the names and addresses of all persons it considers may have a material interest in the outcome of this application to amend a permit who should be given notice of the application; and
 - details of any other form of notice required.
- 9 If the applicant disputes the extent of persons to whom notice should be given or other form of notice, which the responsible authority identifies pursuant to order 7, or the responsible authority fails to provide the information as directed, the applicant may request an urgent practice day hearing to resolve the dispute.

Display application

- 10 By no later than the date set out in **item D of order 2**, the responsible authority must make available for inspection at its main office and display on its website a complete copy of the application and all other material served on it pursuant to order 3.

Practice Note 2 material

- 11 By no later than the date set out in **item E of order 2**, the responsible authority must file with VCAT information about the application as specified in the current version of **VCAT Practice Note PNPE2 – Information from Decision Makers**, unless this material has already been filed in another related proceeding.
- 12 The responsible authority must comply with **VCAT Practice Note PNPE2 – Information from Decision Makers** and serve a copy of the completed table (excluding attachments) on the applicant.



ACTIONS REQUIRED – OBJECTORS & REFERRAL AUTHORITIES**Statement of grounds**

- 13 If you wish to contest this application, you must, within the time specified in **item G of order 2** (and also set out in the applicant's notice):
- lodge a copy of your statement of grounds with VCAT, indicating that a copy was served on the applicant and the responsible authority and the date(s) this was done. You must ensure your statement of grounds is received by VCAT by the specified date;
 - serve a copy of your statement of grounds on the person making this application (the applicant);
 - serve a copy of your statement of grounds on the responsible authority.

ACTIONS REQUIRED – ALL PARTIES**Communicating with VCAT**

- 14 All communications to VCAT about this proceeding must quote the VCAT reference number included in this order (see page 1, top right corner).
- 15 A party who communicates in writing with VCAT must serve a copy of that communication on all other parties at the same time and notify VCAT this has been done. The communication must state that a copy was sent to the other parties and list the parties it was sent to. This applies to communications sent by letter, fax or email.

Ian Potts
Senior Member





APPENDIX A

IMPORTANT INFORMATION FOR ALL PARTIES

Non-compliance with orders and directions

Please read the orders and following information carefully. Non-compliance with these orders may result in an application being struck out, or other sanctions under the *Victorian Civil and Administrative Tribunal 1998*, including an award of costs.

Major Cases List

If this proceeding has been included in the Major Cases List, **VCAT Practice Note PNPE 8 – Major Cases List (Planning)** governs the procedures for matters in this list.

Short Cases List

If this proceeding has been included in the Short Cases List, **VCAT Practice Note PNPE7 – Short Cases List** governs the procedures for matters in this list.

Statement of grounds

If you wish to contest this application or you are a referral authority, you are entitled to become a party to this proceeding if you file and serve a statement of grounds in accordance with this order, unless third party review rights are excluded by the planning scheme or you indicate that you do not intend to participate in the hearing of the proceeding.

If you file a statement of grounds and indicate that you do not intend to participate in the hearing of the proceeding, you will not be a party to the proceeding but your statement of grounds will be considered at any contested hearing of the proceeding.

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging your statement of grounds, you will not be a party and will not be entitled to take part at the hearing or any compulsory conference, even if you indicated that you wanted to participate. For information about fees and fee relief, visit www.vcat.vic.gov.au.

Your statement of grounds should provide sufficient information so that the issues you intend to raise can be clearly identified. Normally VCAT does not have copies of previous objections made to the responsible authority so do not assume that VCAT is aware of any statement you may have already made.

Lodge your statement of grounds online with VCAT

You may lodge your statement of grounds online with VCAT. Go to www.vcat.vic.gov.au. Alternatively, you may access a blank statement of grounds form on the VCAT website.

Withdrawals

If you are an objector and wish to withdraw your objection at any time after you lodge your statement of grounds, you must inform VCAT, the applicant and the responsible authority in writing. You will then be withdrawn from VCAT's record and receive no further correspondence.

If you are the applicant, any application for withdrawal of the application must follow the procedures set out in **VCAT Practice Note PNVCAT1 – Common Procedures**.

Adjournments

Applications for adjournment of a hearing are not encouraged and you should not expect that an adjournment will be granted even if all parties consent.

VCAT may refuse an adjournment if it considers that the adjournment is:

- not in the public interest
- prejudicial to the interests of one or more parties or the expeditious determination of the proceeding
- contrary to efficient case management, or
- otherwise not justified.



If you wish to apply for an adjournment, choose the **Application for Consent to adjournment** form on the VCAT website or call us for a hard copy. Any application for adjournment must follow the procedures set out in **VCAT Practice Note PNVCAT1 – Common Procedures**. Refer to the VCAT website for more detail.

Providing your email address

VCAT will send copies of all orders, including the final decision, to a party's email address. VCAT will not send a hard copy in addition.

A party's email address will be available on VCAT's records for other parties to access. If you do not want other parties to have access to your email address, do not provide your email address. If VCAT does not have your email address, you will be sent a hard copy of any order, but you may receive it after other parties have received the order by email and after the order has been published.

VCAT does not accept any responsibility for emails not received due to changes in address, firewall or other security measures that may be attached to your email account.

Inspecting VCAT's file

Any party to the proceeding may inspect the VCAT file relating to the proceeding without a fee. Anyone else can inspect the file, but they must pay a fee. There is a charge for photocopying. To arrange an inspection time, complete the **File and Document Access Request Form** available on the VCAT website.

Hearing fees and waiver or reduction of hearing fees

If you are the applicant in this proceeding, you are required to pay a daily hearing fee for each day or part day of hearing. This includes accompanied site visits.

The amount of fee will depend on whether your case is deemed to be a complex case. You will be advised if your application is considered a complex case by the Registrar in advance and prior to the hearing. If your application is deemed a complex case you will be required to pay higher hearing fees. See VCAT's website for information on hearing fees for complex cases.

You are required to pay your fee online or at Counter Services on the ground floor at 55 King Street the day before the hearing. If you do not pay the fee, your hearing may be adjourned or struck out.

There are some exceptions to this requirement to pay hearing fees. **VCAT Practice Note – PNVCAT 6 Hearing Fees** sets out the procedures that apply to the charging of daily hearing fees in proceedings before the Tribunal, including who is liable to pay the daily hearing fee. This Practice Note and other information is available on VCAT's website.

For example, Day 1 hearing fees do not apply to a VicSmart application or a change in conditions application unless an objector application is also lodged, in which case the permit applicant must pay the Day 1 hearing fee. If an objector application is transferred into the Major Cases List, the permit applicant must pay any hearing fee.

The Principal Registrar has the power to waive or reduce a daily hearing fee in certain circumstances. An **Application for Fee Relief** form is available on VCAT's website. Any application to waive or reduce the daily hearing fee should be made as soon as possible in order to avoid any delay in the hearing.





PLANNING AND ENVIRONMENT LIST

STATEMENT OF NOTICE

To be completed by or for the Applicant

Subject Land	43 Atkinsons Lane DENNINGTON VIC 3280	VCAT Ref: P1821/2019
---------------------	--	-----------------------------

I,(Print full name)
of(Print name of firm, if relevant)
.....(Print address)
.....

STATE to the Victorian Civil and Administrative Tribunal (VCAT) that:

1. On (**date of service**) I served on the responsible authority a hard copy and a copy in electronic PDF form of the application and all attachments and other material filed with the Tribunal and a copy of the initiating order.
2. (**Only complete if applicable**) I caused Notice of the Application to VCAT to be given by publishing the notice in the following newspapers.

Name of Newspaper	Date of Publication

I attach clippings of the notices published.

3. (**Only complete if applicable**) On (**date of erection**) I caused Notice of the Application to VCAT to be given by erecting a sign on the subject land.

Such notice was maintained in good condition on the land for not less than 14 days until it was removed on (**date of removal**)

I erected the following number of signs in the following locations:

Number of signs erected (total)	
Location of signs erected: Specify each street frontage or other location	

I attach the following document (**tick as applicable**)

- ☐ Original sign erected on the land
☐ True copy of the completed sign erected on the land



4. On (**date of service**) I served the following documents on each of the persons specified below by post*/by email*/in person*. (***delete whichever does not apply**)

Documents served:

- a copy of the application (excluding attachments) and any other relevant documents required to be served by VCAT's initiating order;
- a copy of the VCAT initiating order;

Persons served: (tick as appropriate)

- ☐ any referral authorities
- ☐ those persons set out in the attached list I obtained from the relevant municipal council or other responsible authority
- ☐ any person directed by the Tribunal
- ☐ any other person or authority

I attach copies of the following documents.

Documents attached: (tick as appropriate)

- ☐ list of names and addresses of all persons or authorities served
- ☐ copy of sample cover letter sent with documents served

ALTERNATIVELY

5. There are no objectors or referral authorities to serve because:

- ☐ The responsible authority did not require notice to be given to anyone
- ☐ The application is exempt from third party notice and review rights

I understand that knowingly giving false or misleading information to VCAT may result in imprisonment or fine (section 136 of the *Victorian Civil and Administrative Tribunal Act 1998*).

Signature Date.....



Planning Permit No. PP2018-0105

Form 4 – Sections, 63, 64, 64A, 86

PLANNING PERMIT

Permit No.: PP2018-0105**Planning Scheme:** Warrnambool**Responsible Authority:** Warrnambool City Council**ADDRESS OF THE LAND:**

**ALLOT Lot 12 PS 321948R TSH DENN
43 Atkinsons Lane DENNINGTON VIC 3280**


THE PERMIT ALLOWS:

**Use and development of the land for a
residential alcohol and drug rehabilitation
centre in accordance with the endorsed plans.**

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

Amended plans


- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (received by Council on 31 May 2018 and advertised with the application) but modified to show:
 - (a) A schedule of construction materials, external finishes and colours (incorporating samples) submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
 - (b) A lighting plan with details of the location and type of lighting for the centre, including external and security lighting. All external lighting must be designed to be baffled to avoid any unreasonable light plume in the context of its rural location to the satisfaction of the Responsible Authority.
 - (c) Any changes in accordance with the amended Traffic Impact Assessment Report required by Condition 3.
 - (d) A landscaping plan in accordance with Condition 18 of this permit.
 - (e) A waste management plan in accordance with Condition 21 of this permit.
 - (f) Any changes in accordance with the Bushfire Management Statement required by Condition 25.

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

- (g) The provision of 1.5 metre high fences (1.2 metre high ring lock or hinge lock mesh panels to 1.2 metres and two strands of barbed wire to 1.5 metres) along the northern, southern and eastern boundaries so as to limit easy movement into and out of the review site.
- 2 The use and development as shown on the endorsed plans (including the layout of the site and size, design and location of the buildings and works) must not be altered without the prior written consent of the Responsible Authority.


Traffic and parking

- 3 Before the commencement of development (and any associated works) the applicant must provide a Traffic Impact Assessment Report (**TIAR**) prepared by a suitably qualified engineer in accordance with the Infrastructure Design Manual (Clause 9) and to the satisfaction of the responsible authority. The report must be generally in accordance with the Traffic Impact Assessment Report of ESR Transport Planning dated 6 June 2019 but modified to show:
 - (a) Provision of access for emergency and waste collection vehicles.
 - (b) Provision of a vehicle turn around facility on the subject land.
 - (c) The vehicle access widened to a two-way width where it meets Atkinsons Lane, in accordance with Design Standard 1 of Clause 52.06 of the Planning Scheme.
 - (d) A lowering of the earthen embankment on the northern side of the vehicle access to Atkinsons Lane to create sightlines on accordance with the Safe Intersection Sight Distance (SISD).
 - (e) A widening of the access driveway with gravel edges to create a passing area approximately 30 metres from the front boundary.
 - (f) A reconfiguration of the vehicle parking areas to the north, northeast and west of the Administration Wing to provide parking for 12 vehicles in accordance with Design Standard 2 of Clause 52.06 of the Planning scheme.
 - (g) Remedial work to repair wear and damage to the existing internal driveway.
- 4 Before the use commences, the permit holder must at its cost construct and/or implement any traffic related works identified in the endorsed Traffic Impact Assessment Report to the satisfaction of the Responsible Authority.
- 5 The loading and unloading of vehicles and the delivery and pickup of goods must be carried out at all times within the site boundaries, within the hours of Monday – Friday 8:30am and 5pm to the satisfaction of the Responsible Authority.
- 6 All vehicles associated with the use (including staff and visitor vehicles) must be parked within the site boundaries.

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

Management Plan for the Lookout Residential Rehabilitation Centre


- 7 Prior to the commencement of the use, a Management Plan must be prepared for the approval of the Responsible Authority. When approved, the Management Plan will form part of the endorsed plans. The Management Plan must be generally in accordance with the proposed Management Plan for the Lookout Residential Rehabilitation Centre dated May 2018 but modified to show:
- (a) The Emergency Management Protocol with the CFA, VicPol and Ambulance Victoria as referred to in section 8 of May 2018 plan (including Bushfire and Flood Plans as referred to in section 9 of that plan).
 - (b) A revised risk management plan based on section 10 of the May 2018 plan which:
 - i Identifies the safety and security risks involved in operation of the Lookout centre;
 - ii Assesses the severity and degree of likelihood of any relevant incident or event occurring;
 - iii Sets out measures that the centre's management is to take to address and, in so far as possible, minimise each identified risk.
 - (c) Provision for the effective operation and monitoring of the centre's CCTV system (as referred to on page 18 of the May 2018 plan). Prior to the commencement of the use, the CCTV system must be installed at the Lookout centre for surveillance of all doors to the buildings and the front entrance to the property. At all times when residents participating in an alcohol and/or drug rehabilitation program are on the site, the system must be operational and monitored by staff of the Lookout centre;
 - (d) All security alarms or similar devices installed at the site must be of a silent type to the satisfaction of the Responsible Authority;
 - (e) No external sound amplification or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, except one which audible only within the subject land;
 - (f) Provision for dealing with clients who indicate a wish to leave the Lookout centre before the end of their program, including measures to ensure their departure from the centre is planned, as referred to in section 12 of the May 2018 plan;
 - (g) Include resident rules that prohibit access to any of the properties bordering 43 Atkinsons Lane, unless with permission of the owners of those properties;
 - (h) A requirement that in the event that any resident of the Lookout centre goes missing, its staff must immediately notify by telephone or in person the owners and occupiers of those properties which adjoin 43 Atkinsons Lane, as well as the owners of 44, 50 and 66 Atkinsons Lane;

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

- (i) A community education and liaison program in relation to the operation of the Lookout centre, involving (amongst other things) regular liaison with the Dennington Community Association;
 - (j) A program of regular liaison with VicPol in relation to the Lookout centre with respect to maintaining community safety and security along with any related issues.
- 8 Before the use commences, a Community Reference Group must be established as referred on page 2 of the May 2018 plan.
 - 9 The Management Plan may be amended with the written consent of the Responsible Authority.
 - 10 The use must always operate in accordance with the endorsed Management Plan for the Lookout Residential Rehabilitation Centre.
 - 11 A maximum of 20 clients may be on the premises at any one time, unless with the prior written consent of the Responsible Authority.
 - 12 At all times when residents are present on the site, a minimum of two staff must be present between 8:30pm and 8:30am and a minimum of five staff must be present between 8:30am and 8:30pm.
 - 13 A written logbook of all attendees (including residential clients and visitors) to the centre must be kept. The written logbook must include details consisting of the names of people, dates and times of attendance and departure to and from the centre. The written logbook must be made available for inspection by the Responsible Authority at any time upon request.

Land Capability Assessment

- 14 The proposal must be constructed in accordance with the recommendations of the Land Capability Assessment, prepared by Paul Williams & Associates Pty Ltd (**Report**) dated May 2018. The Assessment is to be approved by and be to the satisfaction of the Responsible Authority. Upon completion a report must be provided which certifies that the wastewater facility and irrigation areas have been constructed in accordance with the report.
- 15 When approved, the Land Capability Assessment will be endorsed and will then form part of the permit. Effluent disposal from the development must be in accordance with the Land capability Assessment, to the satisfaction of the Responsible Authority.
- 16 All sewerage and sullage wastewater from the development must be discharged into the approved wastewater system with a disposal area of at least 1800m². All wastewater must be maintained within the boundaries of the land and be located as per the endorsed plan. Approval to install the wastewater system must be obtained from Warrnambool City Council Health Department prior to the commencement of any works.

Date Issued: 20/8/19	Signature for the Responsible Authority:
<small>Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.</small>	


- 17 The wastewater management system must be operated in accordance with the Land Capability Assessment prepared by Paul Williams & Associates Pty Ltd (report) dated May 2018.

Landscaping

- 18 Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Plantation Plan for TH lookout Centre prepared by David Turley of DHT Consulting Pty Ltd Sheets 1 – 4 issue 10062019, and be drawn to scale with dimensions and three copies must be provided. The plan must show planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- 19 The landscaping works shown on the endorsed landscape plan must be commenced within 3 months of the grant of the permit and carried out and completed to the satisfaction of the Responsible Authority within 2 years of the commencement of the use of the land.
- 20 The landscaping shown on the endorsed landscape plan must be maintained to the satisfaction of the Responsible Authority.

Waste Management

- 21 Before the development starts, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:
- (a) Dimensions of storage waste areas.
 - (b) Storm water drains in storage areas should be fitted with a litter trap.
 - (c) The number and size of bins to be provided.
 - (d) Facilities for bin cleaning.
 - (e) Method of waste and recyclables collection.
 - (f) Types of waste for collection, including colour coding and labelling of bins.
 - (g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
 - (h) Method of hard waste collection.
 - (i) Method of presentation of bins for waste collection.
 - (j) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
 - (k) Strategies for how the generation of waste and recyclables will be minimised.
 - (l) Compliance with relevant policy, legislation and guidelines.

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

When approved, the Waste Management plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the Waste Management plan, to the satisfaction of the Responsible Authority.

General Amenity


- 22 The use and development must be managed so that the amenity of the area is not detrimentally affected through:
- (a) The transport or movement of persons to or from the subject land;
 - (b) The transport of materials, goods or commodities to or from the land;
 - (c) The appearance of any building, works or materials;
 - (d) The emission of noise, artificial light, vibration, fumes, odour, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

Construction Amenity

- 23 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material must be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and must have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying must be undertaken on the building block. The pollutants from these building operations must be contained on site.
 - (c) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.

Water feasibility

- 24 Before the use commences, a water servicing plan must be submitted to, and be approved by, the Responsible Authority. The plan must demonstrate that the water supplies to the land are sufficient to serve the potable, non-potable and fire service requirements of the centre and include details of alternative sources of supply of water in the event the site cannot provide self sufficient water sources.

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

CFA Conditions

- 25 The development must be in accordance with the Bushfire Management Statement, prepared by the Myers Planning Group, dated June 2019. The Statement must be submitted to and approved by the Responsible Authority. When approved, the Bushfire Management Statement will be endorsed and will form part of the permit and must not be altered without the written consent of CFA and the Responsible Authority.
- 26 The bushfire protection measures set out in the approved Bushfire Management Statement or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis.

This condition continues to have force and effect after the development authorised by this permit has been completed.

Expiry

- 27 This permit will expire if one of the following circumstances applies:


- (a) The development is not started within two (2) years of the date of this permit.
- (b) The development is not completed within four (4) years of the date of this permit.
- (c) The use does not start within two (2) years of the completion of the development.
- (d) The use is discontinued for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (e) Within six (6) months afterwards for commencement, or
- (f) Within twelve (12) months afterwards for completion.

Permit notes

This permit has been issued at the direction of VCAT in *Myers Planning Group Pty Ltd v Warrnambool CC* [2019] VCAT 1153

Date Issued: 20/8/19	Signature for the Responsible Authority:
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.	

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The responsible authority may amend this permit under this Division 1a of Part 4 of the Planning and Environment Act 1987

WHEN DOES A PERMIT BEGIN?

A permit operates

- * From the date specified in the permit; or
- * If no date is specified, from –
 - (i) The date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the tribunal; or
 - (ii) The date on which it was issued, in any other case

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the Responsible Authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
PLANNING AND ENVIRONMENT DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2479/2018
PERMIT APPLICATION NO. PP2018-0105

CATCHWORDS

Warrnambool Planning Scheme; Application pursuant to Section 79 of the *Planning and Environment Act 1987*; Farming Zone (FZ); Residential alcohol and drug rehabilitation centre; Categorisation of use; Need; Policy for agricultural areas; Policy for health services; Off-site amenity impacts; Traffic; Bushfire risk; Water supply; Number of objections; Reimbursement of fees.

APPLICANT	Myers Planning Group Pty Ltd
RESPONSIBLE AUTHORITY	Warrnambool City Council
RESPONDENT	Richard Zeigler and Others
SUBJECT LAND	43 Atkinsons Lane DENNINGTON VIC 3280
WHERE HELD	Warrnambool and Melbourne
BEFORE	J A Bennett, Senior Presiding Member Joel Templar, Member
HEARING TYPE	Hearing
DATE OF HEARING	24-28 June and 1 July 2019
DATE OF ORDER	15 August 2019
CITATION	Myers Planning Group Pty Ltd v Warrnambool CC [2019] VCAT 1153

ORDER

- 1 Pursuant to section 127 of the *Victorian Civil and Administrative Tribunal Act 1998* the application is amended by changing the name of the Respondent to:
Richard Zeigler and Others.
- 2 In application P2479/2018 the decision of the Responsible Authority is set aside.
- 3 In planning permit application No PP2018-0105 a permit is granted and directed to be issued for the land at 43 Atkinsons Lane Dennington in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Use and development of the land for a residential alcohol and drug rehabilitation centre.



- 4 The Responsible Authority is not required to reimburse fees paid by the permit applicant.

J A Bennett
Senior Presiding Member

Joel Templar
Member

APPEARANCES

For Myers Planning Group
Pty Ltd

Mr Andrew Walker, Barrister instructed by Tait Lawyers. He called evidence from the following witnesses in order of appearance:

- Mr Geoffrey Soma, Director of the Western Region Alcohol and Drug Centre Inc (**WRAD**).
- Dr Stefan Gruenert, Chief Executive of Odyssey House.
- Mr Andrew Hick, Manager Odyssey House Circuit Breaker Program.
- Mr Paul Monk, Former resident of Odyssey House.
- Mr Drew Matthews, Traffic Engineer of ESR Transport Planning Pty Ltd.
- Mr Glenn Weston, Social Impact Assessment Consultant.
- Mr John Glossop, Town Planner of Glossop Town Planning Pty Ltd.

Statements were also received from Mr Nick Mambery, Site Manager at WDEA Works Warrnambool and Ms Helen Taylor Chairperson of WRAD, but they were not required to attend the hearing and present oral evidence. A resident of Warrnambool also gave evidence.



For Warrnambool City Council	Mr Terry Montebello, Solicitor of Maddocks Lawyers.
For Richard Zeigler and Others	<p>Mr Cahal Fairfield instructed by Jeff Cranston of Jeff Cranston & Associates. He called evidence from the following witnesses in order of appearance:</p> <ul style="list-style-type: none"> • Mr David Potter, farmer and landowner. • Ms Kirsten Kilpatrick, Town Planner of Novo Planning Pty Ltd. • Professor Ruth Beilin, land owner and university professor. <p>Written and oral submissions were also made by Mr Richard Zeigler, Ms Kerry Zeigler, Ms Dorothy Rooney, Mr Murray Kingsley, Ms Cheryl Hyland and Ms Kate Kingsley.</p>

INFORMATION

Description of proposal	Use and development of land for a 20 place residential alcohol and drug rehabilitation centre.
Nature of proceeding	Application under section 79 of the <i>Planning and Environment Act 1987</i> – to review the failure to grant a permit within the prescribed time. ¹
Planning scheme	Warrnambool Planning Scheme
Zone and overlays	Farming Zone (FZ).
Permit requirements	<p>Clause 35.07-1 (use the land for a Residential Drug and Alcohol Rehabilitation Centre in FZ).</p> <p>Clause 35.07-4 (construct a building or construct or carry out works associated with a section 2 use in FZ).</p>
Relevant scheme policies and provisions	Clauses 11, 13, 14, 15, 19, 21.05, 21.10, 35.07, 52.06, 53.02, 65 and 71.02.

¹ Section 4(2)(d) of the *Victorian Civil and Administrative Tribunal Act 1998* states a failure to make a decision is deemed to be a decision to refuse to make the decision.

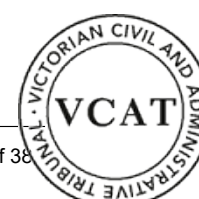


Land description

The review site is located on the eastern side of Atkinsons Lane. It has a frontage of 111.68 metres, a varied depth of between 218.47 and 235.95 metres and an area of 3.27 hectares. It contains a single storey brick clad and pitched roofed dwelling which has in the past been used as a day centre for disability services. It is currently unused. Most of the land is grassed and has been occasionally used for cattle grazing. It sits atop a locally high topographical ridge that runs generally in an east-west orientation and is slightly undulating, falling to the north, but more so to the south.

Tribunal inspection

An accompanied inspection took place on the afternoon of the second hearing day. With the knowledge of parties, Tribunal members independently inspected the localities of two other residential rehabilitation centres operated by Odyssey House at Lower Plenty and Molyullah (near Benalla).



REASONS²

WHAT IS PROPOSED AND WHAT IS IN DISPUTE?

What does the proposal involve?

- 1 The application seeks approval for a 20 place residential drug and alcohol rehabilitation centre on a small rural residential sized lot close to Dennington on the western outskirts of Warrnambool.
- 2 We note that although the application is in the name of the planning consultant, the application is for the Western Region Alcohol and Drug Centre (**WRAD**) – a term we use later in our reasons.
- 3 The site contains a single storey dwelling which has been operated as a disability day centre for approximately 20 years, although that activity has now been discontinued and the building is unoccupied. The following aerial photo from Mr Matthew's evidence statement provides the locational context for the site.



Image Source: Nearmap, image date 11/01/19.

- 2 The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

- 4 The application we are being asked to consider is for both use and development of the land. In summary the proposal is as follows.

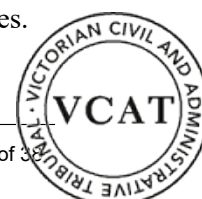
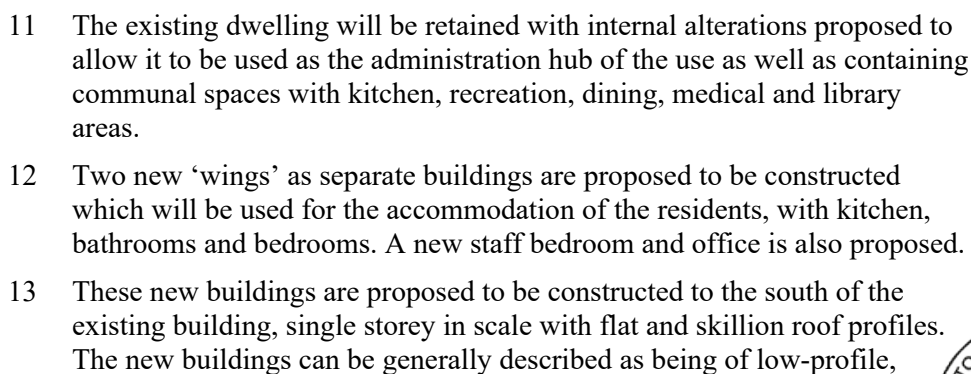
Use

- 5 The proposed use is a residential drug and alcohol rehabilitation centre that is a non-medical, non-drug method based approach to assist people to recover from addiction to drugs and alcohol. The centre provides for a maximum of 20 residents/patients to be present on the site at any one time.
- 6 The model of rehabilitation is a therapeutic community model with 24 hour a day, 7-day-a-week treatment and support for residents. The model is based on cognitive behavioural therapy, with counselling and specialist support services in a monitored and supported environment. Access to this service is through various means including direct client access, court orders, Department of Justice and medical practitioners. The program is focussed on lifestyle and identity change which seek to enhance social functioning and facilitate behavioural changes.
- 7 Acceptance into the program is a two-step process of, firstly, intake assessment and secondly, treatment assessment.
- 8 Intake assessment seeks to identify those who might be suitable for the program and those who are not. The assessment includes background checks and the program excludes persons with the following:
- i Found guilty or charged with sex offences;
 - ii Current offences defined as serious or violent;
 - iii Not yet completed withdrawal from alcohol or drugs;
 - iv Behavioural or other factors which may impact on treatment outcomes for themselves and other participants.
- 9 The program is also based on the following features including:
- The proposed use is a voluntary program and will be partially funded by the State Government, subject to compliance with DHHS requirements, with DHHS having a majority ownership of the land. It is not proposed for this use to be a private rehabilitation centre;
 - A maximum of 10 staff at any one time;
 - A maximum of 80 clients/residents over the course of a year, based on a 3-monthly rotation.

Development

- 10 It is proposed to undertake a number of different aspects of development to facilitate the proposed use. The plan on the following page depicts the main elements or components of the proposal.





although the south-western building will be partially more elevated due to the slope of the land in this location.

- 14 The maximum height of the new buildings will be approximately 6.2 metres³ although the building will generally be in the order of around 5 metres in height at the south elevation. To the northern elevation, it will be in the order of 3.5 to 4 metres in height.
- 15 Materials proposed include Colorbond wall cladding and roof sheeting, as well as polycarbonate and painted wall sheeting in various colours.
- 16 A series of roofed walkways are also proposed to connect each of the buildings.
- 17 An on-site wastewater treatment plant is also proposed to the east of the existing building, with two separate disposal fields, further to the east again.

What is in dispute?

- 18 The Council failed to make a decision within the prescribed time but has subsequently decided to oppose the application despite a favourable officer recommendation. Council's reasons for opposing the application are as follows:
 - i The specific development site locale as proposed within the Farming Zone is inappropriate in terms of integration within the localised precinct areas.
 - ii The application is inconsistent with the objectives and strategies of the Planning Policy Framework and Local Planning Policy Framework.
 - iii Having regard to Clause 65 of the Warrnambool Planning Scheme, the proposal does not provide an orderly planning outcome.
 - iv The application will result in adverse amenity impacts on the surrounding area.
 - v The application will result in adverse social impacts on the surrounding area.
- 19 As a result of advertising, 34 objections were received by Council. Some of those objectors lodged a joint a statement of grounds and were represented at the hearing by Mr Fairfield. Six also made individual submissions. Whilst they acknowledge there is a need for such a facility, they are opposed to it being located on the review site because of its proximity to both the Dennington township and nearby dwellings positioned on mostly small rural residential sized lots. In particular, they are concerned about the impracticality of using the site for outdoor farming/horticultural activities because of its small size, the inability to provide sufficient potable water for the anticipated demand, the inability to adequately dispose of effluent given the underlying soil conditions, the adverse amenity impacts to neighbours caused by traffic along Atkinsons Lane, noise from residents, and possible

³ South elevation of accommodation Wing 1.



trespass by residents onto adjoining properties resulting in anxiety about personal safety and security of property. There is also a question about how best to characterise the proposal on the basis of terms and definitions within the Planning Scheme and the necessity of taking into account the number of objections.

- 20 The Applicant rejects these criticisms. Instead it submitted that the proposal is appropriately located within the Farming Zone and that the facility will have little impact on the productive capacity of the land given it is not capable of sustaining stand-alone viable farming enterprises, and it will not impact or compromise the productive capacity of nearby agricultural land. The proposed buildings and other structures will not result in a proliferation of non-agricultural buildings in the locality. Subject to the facility being managed in accordance with a detailed management regime, there will be no adverse off-site amenity impacts on the surrounding community because of traffic along Atkinsons Lane, noise from residents and possible uncontrolled trespass onto neighbouring properties with resultant fears about lessened personal safety and a loss of a sense of security. Land management issues such as bushfire risk, sufficiency of water supply and adequacy of effluent disposal can be addressed by compliance with appropriate permit conditions.

WHAT ARE THE KEY ISSUES?

- 21 Having regard to all the material before us, we consider that the issues in dispute can be distilled to the following key issues.
- Characterisation of the use.
 - Need and net community benefit.
 - Suitability of the location within the Farming Zone close to Dennington.
 - Operation and management of the facility including selection of residents, staffing, security and risk management.
 - Off-site amenity impacts such as traffic and noise.
 - Buildings and works including new buildings, parking areas, fencing and effluent disposal.
 - Other relevant matters such as water supply and bushfire risk.
- 22 Of these key issues, it is the operation and management of the facility which has the potential to cause unacceptable off-site impacts to neighbours if not undertaken in an effective way.
- 23 We now discuss each of these issues in turn in the following sections of our reasons.



HOW IS THE USE BEST CHARACTERISED?

- 24 The parties agreed that the term alcohol and drug rehabilitation centre was an appropriate descriptor of the proposed use. However, there was dispute as to an additional descriptor, namely a Hospital.
- 25 Ms Kilpatrick agreed that the term residential alcohol and drug rehabilitation centre was appropriate but in her opinion the definition of Hospital at clause 64 of the Planning Scheme equally applied, and that the proposal should be most accurately categorised using both descriptors. She noted that:
- [45] Hospital is defined as **‘land used to provide health services (including preventative care, diagnosis, medical and surgical treatment, and counselling) to persons admitted as in-patients. It may include the care or treatment of out-patients’**.
[emphasis added]
- [46] A ‘hospital’ is a Section 2 Permit required use in the Farming Zone. The description of the use as ‘Drug and Alcohol Rehabilitation Centre’ as a ‘everyday term’ is supported.
- [47] The Land Use Terms Advisory Committee Discussion Paper (27 February 2018) recognises that ‘advertising the everyday term with the defined term in brackets makes it accessible to the public and assists planners and lawyers to identify the defined land use term it falls under’ and this is also consistent with the characterisation in Australian Community Support Organisation Ltd v Moira SC (No.2) [2017] VCAT 1133. I believe the term ‘hospital’ and ‘Drug and Alcohol Rehabilitation Centre’ should be used to describe this land use.
- 26 Having regard to the above, Ms Kilpatrick considers that the proposal should be primarily described as a Hospital and that the term residential alcohol and drug rehabilitation centre should be used as a secondary or ‘everyday’ term. In defining the proposal as a Hospital, Ms Kilpatrick acknowledges that the use would not have many of the ordinary, day-to-day functions or facilities of a hospital such as:
- Emergency department;
 - Nurses or doctors;
 - Hospital beds;
 - Pharmacy;
 - Surgery facilities or procedures;
 - Ambulance bay;
 - Medical suites.
- 27 Nevertheless, she considers that categorising the use as a Hospital better matches planning policy at Clause 21.10-1 which identifies Warrnambool as being a health based precinct for the wider region.



- 28 The Council and the Applicant disagree that the proposal should be defined as a Hospital. Whilst the proposed use comprises different elements being counselling, education, accommodation and recreation, the real and substantial purpose of the activities is part of an overall purpose for the rehabilitation of people from alcohol and drug addiction.
- 29 The question of how to characterise the proposal is not unique to this application and has been the subject of other Tribunal decisions dealing with similar rehabilitation centres.⁴
- 30 Although in some of those cases the definition was, by and large, agreed, in all those cases an innominate term such as ‘residential drug and alcohol rehabilitation centre’ (or similar) was adopted. In those cases, the proposed uses were essentially the same or very similar to what is before us.
- 31 The Council also referred us to the case of *Cascone*⁵, which set out principles for the characterisation of land uses. The following reasoning in the judgement is relevant:
- It is wrong to approach the ascertainment of purpose of proposed use on the footing that it must fit within one (or more) of the uses defined in a scheme; at least that is so where there is provision for innominate uses in the scheme.⁶
- 32 We disagree with Ms Kilpatrick’s assessment of the proposal being a Hospital and find that the real and substantial purpose of the proposed use is not for use of land as a Hospital. Defining the use as a Hospital would allow the land to be used for the full range of services and functions that a Hospital includes and undertakes, when that is clearly not what is being sought. Nor is it something that we would support.
- 33 Whilst we accept that the Hospital definition has some elements that the proposed use neatly fits, it is largely outside what the proposed use is for which is for the rehabilitation of persons recovering from alcohol and drug addiction. It does not include most of the functions and facilities that most hospitals exhibit and offer.
- 34 As a consequence, we agree with the Council and the Applicant that the correct characterisation for the proposed use is ‘residential alcohol and drug rehabilitation centre’. We are not persuaded that defining the use in this way undermines the way in which we must balance competing planning policy having regard to the specific application and the site context. That balancing of competing policies to arrive at a net community benefit is something required of us by Clause 71.02-3.

⁴ *Australian Community Support Organisation Ltd v Moira SC (No.2)* [2017] VCAT 1133, *Odyssey House Victoria v Benalla Rural CC & Ors* [2003] VCAT 15, *Self Help Addiction Resource Centre Inc. v Glen Eira CC* [2005] VCAT 2647 and *Association for Better Living and Education v Yarra Ranges SC* [2015] VCAT 86.

⁵ *Cascone v Whittlesea City Council* (1993) 80 LGERA 367.

⁶ *Ibid*, page 381.



IS THERE A NEED FOR SUCH A FACILITY AND IS THERE A NET COMMUNITY BENEFIT?

- 35 There was no dispute amongst the parties that there is a need for a residential alcohol and drug rehabilitation centre in western Victoria. The critical point of distinction is whether the review site is an acceptable location. Just because there is a need does not mean that it outweighs other considerations such as planning policy, site context and off site impacts. Whilst the Applicant submitted that the need is of such significance that it tips the balance of competing policy objectives in favour of approving the application, it is not that simple an equation.
- 36 In support of that proposition, the Applicant referred to *Tulcany*⁷ where the Tribunal stated that:

- [11] Need is a fundamental concept in town planning, because town planning is essentially concerned with shaping our physical environment to meet the social economic and environmental needs of the community. However in individual development applications the role of need is complex. At one end of the scale, there are ubiquitous land uses in relation to which the Tribunal has said that need is not a matter for the planning system, rather it is a matter for the competitive market place. On the other hand there are important community based uses where the Tribunal has found that the need for the use can outweigh other important, and ordinarily decisive, planning considerations. An often quoted example of this latter case is the helipad at the Alfred Hospital.
- [12] Nevertheless, there is a middle ground in which need may not be a decisive factor in the case of an individual development application, but will be a factor which influences the balances to be struck between competing planning policy consideration. An example of this is the retirement village permitted by the us in *Cotham Road Pty Ltd v Boroondara City Council* [2003] VCAT 795, and we think that this is another of these middle ground cases.
- [13] General characteristics of these middle ground cases are:
- There is an unmet demand for the particular land use;
 - The market is often prepared to meet the demand, provided that the obstacles to establishment are not too high;
 - There is expressed planning policy support for the particular use type, in the case of a retirement village and boarding houses the housing diversity policies are an example;

⁷ *Tulcany v Knox City Council* [2003] VCAT 1627



- The use proposed is different from the norm, when the norm is defined as the predominant use type, such as conventional family housing in a suburban situation.
- There can be conflicts between planning policies directed towards preserving existing character and amenity and these land uses, for example the intensity of the physical development associated with the retirement villages, or the social implications of a housing type primarily directed at disadvantaged men.

[14] A good example of how need can be relevantly applied in the context of these applications relates to the question of anti social behaviour. There has been one quite serious incident at 54 The Avenue, which understandable was of particular concern to the Respondents. There was no evidence led comparing anti-social behaviour associated with boarding houses compared with such behaviour in all housing. Nevertheless it is probably reasonable to assume that housing primarily directed towards disadvantaged single men, brings with it a greater than average risk of anti social behaviour by comparison with the surrounding suburban environment. However it would be rare for this to be a relevant factor, notwithstanding the planning policy provisions in relation to the character and amenity of residential environments.

- 37 Having regard to the above scale, the Applicant submitted that the proposal is approaching the ‘Alfred helipad’ end of the spectrum and at worst, was in the ‘middle ground’ as set out in *Tulcan*.
- 38 In support of its submissions, it stated that there is no other such publicly funded facility in the western district of Victoria. If residents of the western district sought such facilities, then they would be required to travel considerable distances, away from home and family support networks. The Applicant also stated that indigenous people are at greater risk of addiction and that treatment ‘in country’ was of significant importance and relevant in this region, and that this heightened the need argument.
- 39 The Council took a different position in its submission to us and instead adopted the same position as the Tribunal in *Association for Better Living*⁸, where it stated the following:

[77] In the present case, our consideration of the issue of need has been primarily related to our assessment of the suitability of this use for this site. Principally, in relation to need, the question for us is to decide whether the need for this facility is so great as to influence our assessment of the concerns expressed about the location of the use in a residential area, and the impacts of the use on the amenity and character of that residential area.

- 40 The Council also submitted that there was nothing about this particular use that compels it to be located on the review site.

⁸ *Association for Better Living and Education v Yarra Ranges SC* [2015] VCAT 86

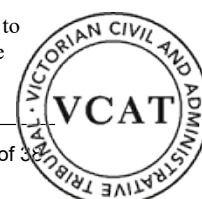


- 41 As part of its investigation of a suitable site for a residential alcohol and drug rehabilitation centre, WRAD considered many potential sites in and around Warrnambool. Part 10 of Mr Soma's evidence statement listed ten other sites considered, but it appears to us that this list is one of 'remote possibilities' rather than a list of comprehensively considered and researched sites that might be suitable and meet, or go close to meeting, the various requirements for such a facility and potentially be available for the use. Under cross examination, Mr Soma conceded that some of the sites on this list were indeed unsuitable and likely to have never been available.
- 42 Whilst we agree with the Applicant that the review site has some attributes that might make it suitable for the proposed use and development⁹, we agree with the Council and Respondents that there is nothing so particular about this proposal that warrants exclusivity to this particular site. We are not persuaded that the Applicant has established that this proposal is at the "Alfred helipad" end of the spectrum but is more akin to the 'middle ground' characteristics referred to in paragraph 13 of *Tulcan*.
- 43 Our conclusion is that we accept that there is an urgent and pressing need for this facility in western Victoria and, that whilst the establishment of such a facility on the review site is likely to save lives, it is not at the same point on the spectrum as the Alfred helipad.
- 44 We have not been persuaded that the characteristics of the review site are so unique, or that there is such a strong interdependency between the review site and the rehabilitation centre, that meeting the need for a rehabilitation centre automatically or overwhelmingly affords support for this proposal such that it outweighs other policy and amenity considerations that arise by selecting the site at 43 Atkinsons Lane.
- 45 We are not concerned that if, on balance we were to refuse the application, that a rehabilitation centre would never be provided in south western Victoria. Rather, if the proposed facility cannot be located here, then there are likely other locations that could be suitable, as other similar uses have established in both urban and rural settings elsewhere in Victoria.
- 46 Given we do not find need to be an overwhelming factor in the same way as the Alfred helipad, we must be satisfied that the proposal is consistent with the Farming Zone provisions and related policies, the adequacy of proposed operational and management arrangements, likely amenity impacts and the suitability of a siting proximate to the Dennington town centre.

IS THE LOCATION WITHIN THE FARMING ZONE CLOSE TO DENNINGTON ACCEPTABLE?

- 47 One of the competing policy considerations concerns the use of agricultural land for the proposed facility and whether it is acceptable to locate it within

⁹ Such as previous similar use, adequate area for effluent disposal, some sense of peacefulness to benefit residents of the facility, and space for the development to not unacceptably impact the landscape.



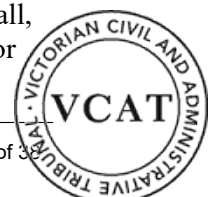
the Farming Zone having regard to the zone purposes, decision guidelines and policies for both agriculture and community health related services. Also of relevance, is the physical location of the site close to Dennington town centre and within an area of rural residential and farming properties.

- 48 Whilst we accept that the review site and nearby land is within the Farming Zone, the subdivision pattern, lot sizes and housing development on small lots gives the locality a rural residential character rather than that of a less developed rural area. The proximity of Dennington including the tall and highly visible dairy factory building reinforces the impression that the site is not a 'farming area' but is instead on the urban fringe. The area around the review site has been previously subdivided and developed for hobby farm or rural lifestyle properties.
- 49 One of the primary outcomes for rural land throughout Victoria, including for land around Warrnambool, is that productive agricultural land should not be lost to agricultural production and that urban use and development should not expand into agricultural areas.
- 50 Aside from the generic purpose to implement the Municipal Planning Strategy and the Planning Policy Framework, the other six purposes of the Farming Zone have a primary focus on agriculture and sustainable land management. There is an intention that non-agricultural uses not adversely affect use of land for agriculture and there is encouragement for the retention of employment and population to support rural communities.
- 51 Twenty-five decision guidelines are grouped into five issues – general issues, agricultural issues and the impact from non-agricultural uses, dwelling issues, environmental issues, and design and siting issues. We do not recite them in detail but in summary they largely continue the policy themes of supporting agricultural production, protecting agricultural land from loss or fragmentation, protecting and enhancing environmental and landscape attributes and considering impacts on the operation of expansion of agricultural uses.
- 52 Planning policies support the protection of agricultural land but also the provision of community and health facilities. These policies are voluminous and include those at Clauses 11 (settlement including the great south coast), 13 (land use compatibility), 14 (natural resource management including the protection of agricultural land), 15 (built environment and heritage including design for rural areas), 19 (infrastructure including health facilities), 21.05 (natural resource management including agriculture), and 21.10 (infrastructure including community infrastructure and distribution of social and community infrastructure).
- 53 In terms of the Local Planning Policy Framework at Clauses 21.05 and 21.10 there is an intention that rural areas are protected to ensure agricultural uses remains viable, that unplanned urban growth is to be discouraged and that land use conflicts between agricultural and sensitive land uses are to be prevented from occurring. Warrnambool is recognised



having an extensive range of education, health and community services and there is support for the provision of a network of multi-purpose community facilities.

- 54 Whilst we acknowledge that health facilities often benefit from co-locating or being proximate to like facilities, for example specialist practices located close to a major regional hospital, we are not persuaded that the proposed rehabilitation centre has such a close or symbiotic relationship with other medical facilities, particularly on a constant or day-to-day basis given the residential and longer stay nature of the centre and the individuals who are living there and the therapeutic (as opposed to medicinal) model of treatment proposed.
- 55 Other than the relatively small farm operated by Mr Potter to the south of the review site, the locality cannot be characterised as being highly productive farmland, particularly the higher land away from the Merri River floodplain. That does not mean that the land cannot be utilised for some limited agricultural production and Mr Potter gave evidence that he has periodically grazed cattle on the review site in association with his larger farming activities. Professor Beilin also has a small orchard and grows vegetables on her property west of the review site. The locality also sustains a non-soil based enterprise involving horse riding to the south west which includes rides where horses pass close to the southern boundary of the review site.
- 56 Although the application material suggested that residents would engage in outdoor, land based farming or agricultural activities, the relatively small size of the property precludes larger scale farming. Instead outdoor activities are much more limited and will involve the keeping of chooks, vegetable growing in planters and limited grazing or agistment of animals. These types of activities can be more readily understood as being associated with hobby farms or rural lifestyle properties rather than productive farming enterprises wholly or largely dependent on income from those agricultural activities.
- 57 It is often the case that one of the major issues when evaluating an application to allow a non-agricultural use such as a dwelling to be built in a farming area is the loss or fragmentation of productive agricultural land. Despite submissions suggesting that approving the rehabilitation centre would adversely affect productive agricultural land, we observe that because of the relatively small lot size and its use for both a dwelling and then a day care facility for many years, the proposed use will not lead to a loss or fragmentation of productive agricultural land. It is already fragmented and will not be lost to agricultural use to the extent that limited grazing can continue to occur, as it has in the past.
- 58 We accept submissions and evidence that soil based horticulture or orcharding is most likely impractical because of the soil types and rainfall, but that does not preclude less intensive farming such as cattle grazing or



horse agistment. Nor would it prevent the keeping of chooks or the growing of vegetables in raised planters and the like. Any such activities are part of the rehabilitation program and are not meant to result in self-sufficiency in food stuffs.

- 59 Our conclusion is that the use and development of the site for a residential alcohol and drug rehabilitation centre will not fragment or lead to the loss of productive agricultural land given that the small area of land has for many decades been occupied by a dwelling/day centre with limited grazing occurring on an occasional basis. Nor will it undermine or be contrary to policy seeking to protect agricultural land from incursions by urban development. Despite its zoning, it forms part of an area that has been subdivided into relatively small lots where commercial or semi-commercial farming, such as that carried out by Mr Potter, is not the norm. It is an area which has the character of a rural residential or hobby farm locality, where any agricultural activities are of secondary importance.
- 60 We are also not persuaded that approval of this facility will be contrary to policy concerning the provision of health services and the central role of Warrnambool in providing such services to this part of Victoria. Although the facility is not centrally located close to major health facilities, we have no evidence to suggest it should be co-located. Rather we have been told that a quieter location way from the main urban area has positive attributes for residents. Although located on the fringe of Warrnambool, we suspect that the wider community in western Victoria will identify the centre as being 'at Warrnambool'. We therefore do not agree with submissions and evidence that it should be refused because it does not accord with planning policy.

IS THE OPERATION AND MANAGEMENT OF THE FACILITY INCLUDING SELECTION OF RESIDENTS, STAFFING, SECURITY AND RISK MANAGEMENT PRACTICAL?

- 61 Underpinning opposition to the proposal is a fear that the centre will not be managed or operated so that it does not cause harm to the community living near the site and in Dennington. We were provided with two volumes of material as appendices to Mr Soma's evidence statement. The material variously included: WRAD Statement of purposes; WRAD organisational chart and operational plan; Service agreements, standards, policies and protocols; Demand analysis, Consortium agreement; WRAD risk management policy and code of ethics; and Weekly structure for residents. His evidence statement also outlined the main features of the Lookout program.
- 62 We note that the centre intends to take on residents for a period of 3-4 months over which period they will undertake a progressive course of rehabilitation using the 'therapeutic community model' as described earlier in our reasons.



- 63 It was explained to us that the proposal is to accept residents who have already undergone 'withdrawal' from drugs or alcohol and that the facility is proposed to assist residents with what was described to us as essentially building or re-building life skills to assist residents to return to a level of relative normality, sustain employment and the like. Gaining insight into their own behaviour, developing new or reinforcing existing skills, establishing a positive work ethic and positive thinking about one's abilities, improving and developing communication skills and instilling an ethos of self-responsibility are all key components of the program's end-goal.
- 64 The program would operate on a strict daily and weekly routine, which, as it was described to us, is of great importance to successful rehabilitation. The facility would also operate on a self-sufficiency basis with residents undertaking all duties such as cooking, cleaning and other household duties and chores.
- 65 It was Mr Gruenert's evidence that with these types of residential facilities and programs, it is less about the environmental setting and more about the management of the facility that was the key contributor to its success for participants.
- 66 The original permit application included a *Proposed Management Plan for The Lookout Residential Rehabilitation Centre, May 2018*. Given the way it has been written, we consider it could be best categorised as a statement of intent or an outline of overarching objectives rather than a detailed operational management plan.
- 67 The plan contains thirteen relatively brief sections spread over 22 pages covering the following topics:
- Section 1 background information about the delivery model, complex service delivery, evidence based delivery model and the Lookout Residential Rehabilitation Centre (**LRRC**) program service delivery;
 - Section 2 eligibility for LRRC;
 - Section 3 referral process;
 - Section 4 intake, assessment and admission process;
 - Section 5 health and medication;
 - Section 6 staff and resident roles;
 - Section 7 afterhours on call management and support;
 - Section 8 co-ordination with emergency services;
 - Section 9 emergency management;
 - Section 10 risk management framework;
 - Section 11 community access;



- Section 12 exit planning; and
 - Section 13 service quality and clinical governance.
- 68 Put bluntly, we found the management plan ‘thin on the ground’ as to how the centre would be managed on a day to day basis. We can therefore understand why neighbours and the wider community feel uncertain about how the centre will be managed and what rules and protocols will be in place for residents and staff.
- 69 The hearing afforded the Applicant with an opportunity to expand on these matters. Unlike the Council and objectors responding at the application stage, we have had the benefit of additional written and oral information presented at the hearing. A good example of this is the Bushfire Management Statement which was not available during the initial consideration of the permit application.
- 70 To a large extent the additional information has provided the basis for additional permit conditions to fill in gaps – particularly gaps in the *Proposed Management Plan for The Lookout Residential Rehabilitation Centre, May 2018*. It covers matters including:
- i The preparation of protocols for when a resident leaves the facility in an unplanned manner;
 - ii Discussions/liaison with Victoria Police and other emergency service with respect to the development of such protocols;
 - iii The fact that staff will be trained for various scenarios but what type of training will be undertaken, for what purposes it would be necessary and whether it would be to an adequate level;
 - iv How those residents placed on the ‘High-risk’ register are to be managed over and above those who are not;
 - v What the ‘emergency exit plan’¹⁰ comprises for those who residents who identify that they wish to leave.
 - vi How will underlying issues with residents following from withdrawal, including cravings be managed;
 - vii Staffing arrangements including change over between day and night shifts and how two staff will manage at night in the case of an emergency;
 - viii Security arrangement at night, and during the day when residents are outside;
 - ix Noise attenuation (both for internal and external noise mitigation);
 - x Improvements required for vehicle access;

¹⁰ As referred to on page 18 of the *Proposed Management Plan for the Lookout Residential Rehabilitation Centre, May 2018*.



- xi Details of fencing;
 - xii Details of landscaping including ongoing maintenance arrangements;
 - xiii Details of potable and non-potable water supply and usage, including storage required in accordance with the Bushfire Management Statement.
- 71 The above is not an exhaustive list but it serves to demonstrate why we have included many more permit conditions than in the draft initially circulated to parties.

ARE THERE ANY UNREASONABLE OFF-SITE AMENITY IMPACTS?

Traffic in Atkinsons Lane

- 72 Atkinsons Lane provides the sole point of access to the site. It has a single lane sealed carriageway 3.5 metres wide and grass verges. It has a length of approximately 500 metres and rises from north to south. A traffic count towards the northern end reveals a traffic volume of between 39 and 54 vehicles per day. It provides access to six dwellings, including the one on the review site which is currently unoccupied. Two transport trucks associated with Mr Potter's farm also use the road on a regular basis and park on the road reserve adjacent the southern boundary of the review site.
- 73 Expert written traffic evidence was prepared by Mr Matthews and he attended the hearing to present his evidence and answer questions.
- 74 Based on resident and staffing numbers and turnover, he has estimated that the proposed centre will generate up to 32 vehicle movements per day, which when added to the existing movements will result in an overall traffic volume of 45 to 85 vehicle movements per day.
- 75 Mr Matthews stated in section 4.7 of his written evidence that the road upgrade policies of some Victorian municipalities use a daily traffic volume of 250 vehicle movements per day to prioritises the sealing of unsealed roads or to widen narrow sealed roads. He also notes that the Atkinsons Lane has a straight alignment and clear sightlines and that although it does not have a posted speed limit, he is confident that vehicles will not be travelling at high speeds because of the relatively short length of the road. He is not aware of it having a history of poor road safety although the current cross section is not ideal for safe and efficient traffic flow. However, he comments that vehicles moving onto the grass shoulders are expected to slow considerably but that the provision of gravel shoulders would improve the situation.
- 76 Ultimately Mr Matthews has formed an opinion that the proposed development is expected to generate traffic volumes that are like those generated from the site during its previous use and the proposed development will not materially alter the existing need for an upgrade.



- 77 Whilst we understand that neighbours living in Atkinsons Lane are concerned about the impact of additional traffic, we have no evidence or advice from qualified and experienced traffic engineers to suggest that traffic movements will be unsafe or increase to such a degree that mitigation works are required. We also record that traffic in Atkinson's Lane was not identified by Council as a reason to oppose the application and nor was it raised as a concern in the officer's report.
- 78 We therefore do not support the Respondents suggestion that conditions be included requiring upgrades to Atkinsons Lane.
- 79 Mr Matthews did recommend widening the site access point to Atkinsons Lane to allow two-way movement and also suggested that the earth embankment north of the access point should be slightly regraded to improve sightlines to the north for vehicles exiting the site. He also recommended some minor widening and changes to the internal driveway and parking area. These have no off- site effects or have direct impacts on neighbours. We have included conditions requiring the changes he has recommended.

ARE BUILDINGS AND WORKS, INCLUDING NEW BUILDINGS, FENCING AND EFFLUENT DISPOSAL, ACCEPTABLE?

Buildings

- 80 Neighbours are concerned about the positioning and appearance of the proposed two new wings/accommodation buildings which are proposed to be located to the south of the existing building, and partly on the southerly slope of the review site. Our accompanied inspection enabled us to assess the likely visual impact of these structures, both from within the site and from those nearby properties which have views into that part of the site where the buildings will be located.
- 81 We acknowledge that the review site is within a broader coastal and rural setting but we note that the review site an adjoining land is not affected by any specific built form controls such as a Significant Landscape Overlay, Environmental Significance Overlay or Design and Development Overlay that might require a particularly sensitive design approach.
- 82 We have previously referred to the twenty five decision guidelines in the Farming Zone Those of specific relevance for the design and siting of buildings are:
- 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.



- 83 We accept that the new buildings will be visible from adjoining and nearby properties to the east and south, however, visibility of existing buildings in this landscape is not foreign, largely owing to the more rural-residential nature of the surrounding area. Apart from the dwellings and outbuildings which are clearly visible throughout the landscape, we also observed a knackery building further to the south-east of the review site and the tall dairy factory building to the north east.
- 84 We do not agree with any suggestions that the proposed buildings introduce a foreign or discordant built form into the locality and find that the appearance of these new buildings is acceptable. The design approach has adopted a relatively low profile using flat and low-angle skillion roof forms. The material and colour scheme adopts colours that will not result in the buildings being visually prominent within this landscape.
- 85 Although the new buildings have relatively large footprints, at a maximum height of 6.2 metres, but mostly around 5 metres, they are not particularly high and have a domestic scale like other residential buildings in the area.
- 86 We find the combination of these design features will result in buildings that will not have an unacceptable impact on the surrounding landscape or character. Dwellings in the immediate vicinity are of varied styles and designs with a mixture of forms and materials and the proposed new buildings will therefore not be at odds with existing built form.

Fencing

- 87 Existing boundary fencing is typical post and wire and is to be retained. Plantations along the boundaries will be protected by new fences 1.2 metres high. There is no intention to erect tall cyclone or other style fencing although we record that respondent neighbours have sought a condition that boundary fencing be partly chain mesh and be of a height to prevent persons or animals from going through the fence or over boundaries.
- 88 Whilst we do not wish to fence the property as though it were some form of prison, we consider there is some benefit in discouraging free movement, as currently exists, between adjoining properties. Whilst we do not support a very tall chain mesh fence, we do support a 1.5 metre high fence similar to that shown in the image below (1.2 metre high ring lock or hinge lock mesh panels to 1.2 metres and two strands of barbed wire to 1.5 metres) along the northern, southern and eastern boundaries so as to limit easy movement into and out of the review site. We see this as having as much benefit for residents as for neighbours. However, we do not support any change to the boundary fencing along Atkinsons Lane.





Image of fence type referred to above

Effluent disposal

- 89 Much was said of the proposed effluent disposal aspect of the proposal, particularly by the Respondents. They submitted that the review site has been subjected to extensive topsoil removal historically, and, coupled with the topography of the review site being atop a hill, effluent disposal from the proposed use will likely flow onto adjoining properties and possibly in to the Merri River. They stated that the historic removal of topsoil revealed a layer of limestone not far beneath the surface, which would restrict the ability for effluent to be treated and retained on site, in line with Clause 35.07-2.
- 90 A Land Capability Assessment was submitted with the permit application which demonstrates that the review site can treat and retain all effluent created by the proposal. In order to do so, a minimum of 1800 square metres of disposal area is required.
- 91 Council's Health Department raised no concerns with effluent disposal and treatment proposed and agreed with the required disposal area of at least 1800 square metres.

- 92 There was no other evidence or material presented to us, other than the submissions by the Respondents, that give us cause for concern at this stage, noting that neither the LCA prepared by the Applicant nor the Council raised concerns that effluent could not be treated and retained on site and that a septic permit would be required as a subsequent requirement to the planning permit being issued. We also record that the disposal of effluent is controlled by other legislation and must be treated in accordance with that legislation. If for some reason the proposed effluent system fails to operate then a different system will be required – effective disposal is not optional.

WHAT OTHER MATTERS REQUIRE CONSIDERATION?

Water supply

- 93 Issues were raised with respect to the absence of reticulated potable water supply to the review site. Irwin Consult has prepared a *Water Feasibility Report* dated 7 June 2019, setting out the likely requirements for the proposed use and how these could be met by a mixture of collected rainfall and bore water. The report estimates that the monthly demand will be 168.5 Kilolitres (KL), of which 56 KL will be for drinking purposes and 112.5 KL for non-drinking purposes. Clause 35.07-2 sets out the following regarding the use of land for the purpose of a dwelling, noting that this proposal is not for a dwelling:
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- 94 Respondents questioned the accuracy of the volume of water supply from rainwater harvesting and bore water and suggested they were unrealistically high. They also observed that the statistics concerning the number of nearby bores were incorrect. We agree with residents that the number of existing bores far exceeds the number contained in the Irwin Consult report and that rainfall figures may be unduly optimistic given the long term declines being experienced in annual rainfall in many parts of Victoria.
- 95 Whilst we acknowledge the errors pointed out by the respondents, we consider that the water feasibility report does provide an understanding of the likely demand for the rehabilitation centre. If the water supply figures are incorrect and there is a shortfall, then the operator will need to source water from elsewhere for its operational requirements and to enable the use to continue. Adequate water supply is not an optional extra, but is fundamental to the on-going operation and habitation of the centre. A condition requires a water servicing plan to be approved before the use commences.

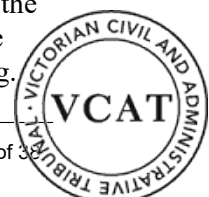


Bushfire risk

- 96 The review site sits within a designated bushfire prone area although it is not affected by the Bushfire Management Overlay. Neighbours made comment about a previous bushfire which came close to but did not destroy any of the neighbouring houses. The risk of bushfire is therefore real and not just a remote possibility.
- 97 Clause 13.02-1S requires consideration to be given to bushfire planning policy and clause 71.02-3 requires that priority must be given to the protection of human life over all other policy considerations.
- 98 As a result of our questions during the early part of the hearing, the Applicant prepared a Bushfire Management Statement to assist in assessing the bushfire risk. The report noted that the proposal requires the Clause 52.02-4 application Pathway Two.
- 99 As such the following applies:
- A minimum of 22 metres defendable space for Grassland to the proposed building in accordance with Table 2 under Clause 53.02-5.
 - The proposed buildings have been appropriately sited away from the bushfire threat and are to be constructed to BAL 12.5.
 - Atkinsons Lane and Princes Highway provide appropriate for access and egress by emergency vehicle.
 - A total of 10,000 litres of static water supply will be provided onsite in an easily accessible location, dedicated for personal use during an emergency.
- 100 Council subsequently tabled an email from the CFA dated 1 July 2019 which concurred with the assessment made in the Bushfire Management Statement that the site has a low bushfire risk. The email also gave CFA's support for the recommended bushfire safety measures.
- 101 We have therefore included a modified condition requiring approval and implementation of the Bushfire Management Statement.

Noise from farming activities

- 102 Mr Potter operates a farm on land to the south and south west of the review site. He runs cattle on land he owns or leases and provided information about his farming operation and historical information about the review site and the locality.
- 103 One of Mr Potter's concerns is that residents will be disturbed by the noise and odours from his farming activities and from a knackery located some distance away to the south east. Noise is likely to be caused by two trucks which are parked on a disused road reserve along southern boundary of the review site and from vealers being weaned in a stock yard located to the south west of the review site and beyond sheds and Mr Potter's dwelling.



Our accompanied inspection enabled us to view the stockyard and to understand its physical separation from the existing and proposed accommodation facilities on the review site. Mr Potter also played a recording at the hearing of the bellowing of the vealers during weaning and we observed a truck arriving and parking in the disused road reserve.

- 104 Whilst we appreciate that noise of the animals could be disturbing, particularly at night, we did not find the noise so loud or continuous that it would cause us to refuse the application because of the potential to upset residents, even if they are not used to animal noises. We also observed that there is a considerable separation distance between the stockyards and the accommodation wings and that farm sheds on Mr Potter's property provide, to some degree, an acoustic barrier between the two. We are also requiring noise attenuation on the accommodation buildings which will also deal with the noise from the trucks, whether it be from the clanging when changing metal floors in the tray units or engine noise.

General amenity impacts

- 105 Despite submissions from neighbours about adverse amenity impacts, Ms Kilpatrick states in her evidence statement that:

[92] The general amenity of the surrounding area will not be unreasonably affected by the proposed use, however subject to the maximum number of residents not exceeding 20 persons at any one time and the implementation of (a) comprehensive management plan with additional noise and security arrangements.

- 106 We have already commented about that the proposed management plan being 'thin on the ground' and needs 'fleshing out' with more detail including noise and security arrangements. A permit condition limits the number of residents to 20 at any one time.
- 107 Apart from the specific matters we have already discussed in our reasons, we otherwise agree with her assessment that the general amenity in the area will not be unreasonably affected by the proposal subject to revisions to the proposed management plan.

The number of objections is a relevant consideration

- 108 Mr Fairfield drew our attention to Clause 60(1B) of the Planning and Environment Act 1987 and the requirement that we must (where appropriate) take into account the number of objectors in considering whether the proposals may have a significant social effect. He noted that that there were 34 objections lodged with the Council and statements of grounds lodged with the Tribunal on behalf of 48 persons. In addition, 108 signatories have been made opposing the proposal.
- 109 We understand this may seem a large number of objections to a permit application in Warrnambool, but it is our experience that this number of



objections is not unusual or particularly large. Many permit applications for medium density or apartment style housing projects generate as many or more objections, often based on fears about social impacts such as who might occupy the new dwellings ('they will be renters', 'undesirable neighbours', 'not like us', 'lower the tone of the neighbourhood'). These are all framed as social impacts and the fears and opinions are deeply held by the people expressing them. Although the specific impacts may be different with the rehabilitation centre we are considering, we are still required to decide whether it achieves a net community benefit for present and future generations.

- 110 Mr Fairfield referred to the Tribunal decision in *Rutherford & Ors v Hume CC*¹¹ and the six factors which are relevant in understanding what might be a social effect. We do not quote those six factors but what it is important is that we have heard submissions from local residents most likely to be affected by the proposed centre and have listened to their deeply held feelings about how approval of the centre may adversely affect them in an emotional and physical way and therefore seriously undermine the enjoyment of their home environments lives.
- 111 We have also received evidence from Mr Weston on the social impacts of the proposal and briefly identified potential advantages and disadvantages arising from establishment of the rehabilitation centre. Attached to his evidence statement in appendices was an assessment of demand for alcohol and drug residential rehabilitation in south west Victoria. Although submissions suggested that the social impact assessment was not comprehensive enough, we take a contrary view based on all the material that is available to us, not just the evidence prepared by Mr Weston but also the material presented in other evidence such as that contained in Mr Soma's voluminous attachments to his evidence statement.
- 112 Whilst we acknowledge that there has been considerable opposition to the proposal, we have also factored in the wider social benefits in allowing a residential alcohol and drug rehabilitation centre to be established on the review site.

HAS AN ACCEPTABLE OUTCOME AND NET COMMUNITY BENEFIT BEEN ACHIEVED?

- 113 This proposal highlights the tensions that exist when there is a proposal to insert a residential alcohol and drug rehabilitation centre within a community where none has existed before. These tensions will differ depending on the specific circumstances, including the relevant Planning Scheme provisions, the physical context and the proposal itself.
- 114 Clause 71.02-3 of the Planning Scheme specifically acknowledges that these tensions or competing outcomes exist and asks that:

¹¹ *Rutherford & Ors v Hume CC* [2014] VCAT 786



Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning authorities and responsible authorities must prioritise the protection of human life over all other policy considerations.

- 115 Although we acknowledge that there will be different opinions about what represents a net community benefit, we consider that on balance, there is such a benefit in approving a residential alcohol and drug rehabilitation centre on the review site.
- 116 There is no dispute that there is need for such a facility in this part of Victoria. Despite submissions to the contrary, we are not persuaded that the proposal will have unacceptable environmental or amenity impacts. Fears about unacceptable off-site impacts and personal risks to neighbours appear to be driven by concerns about inadequate management of the centre, with attendant issues caused by residents 'escaping' through neighbouring properties or 'undesirable' visitors bringing alcohol and drugs into the area and meeting up with residents.
- 117 In reality, this proposal represents a modestly sized facility, where residents are towards the end of their rehabilitation journey. We are persuaded that with an appropriate management regime the facility will operate so that neighbours will not be disadvantaged or suffer personal risk or harm from residents.
- 118 Our consideration of the application has required us to balance the desirability of providing a much needed facility relatively close to the urban services of Warrnambool against the need to ensure that the facility does not cause unacceptable impacts when assessed against the full suite of relevant provisions of the Warrnambool Planning Scheme.
- 119 Clause 65 of the Planning Scheme seeks an acceptable outcome, not an ideal or perfect outcome. For the reasons given, we consider that an acceptable outcome has been achieved and we therefore set aside the decision of the Responsible Authority. A permit is granted subject to conditions.

What conditions are appropriate?

- 120 The conditions in Appendix A are based on the revised conditions which were circulated to parties and discussed at the hearing. We do not itemise our responses to all the suggested revisions and additions but have considered all relevant submissions made along with our findings as set out in these reasons.
- 121 In particular, we have considered the detailed revisions to the draft conditions prepared by the Respondents which we consider will largely 'flesh out' and expand on the details contained in the *Proposed*



Management Plan for The Lookout Residential Rehabilitation Centre, May 2018. Compliance with these conditions will alleviate the off-site amenity impacts which were raised during the hearing.

J A Bennett
Senior Presiding Member

Joel Templar
Member



REIMBURSEMENT OF FEES

- 122 The Applicant has sought a reimbursement of the filing fee. Section 115CA(1) of the *Victorian Civil and Administrative Tribunal Act 1998* provides for the operation of a presumption for the reimbursement of fees paid by the applicant in the section 79 proceeding. The Tribunal must have regard to any reasonable justification for a failure to grant.
- 123 A reimbursement of fees does not apply if the Responsible Authority satisfies the Tribunal that there is reasonable justification for it failing to grant the permit having regard to:
- (a) the nature and complexity of the permit application; and
 - (b) the conduct of the applicant in relation to the permit application; and
 - (c) any other matter beyond the reasonable control of the responsible authority.
- 124 We gave Warrnambool City Council an opportunity to provide reasons as to why Council did not make a decision within the prescribed time, together with a right of reply by the Applicant. In its response Council notes that the Applicant had actively engaged with Council staff, Councillors and the community to better understand the proposal. There were ongoing discussions, requests for further information and meetings between the Applicant and the Council (staff and Councillors) as set out in a Timeline attached to the Council's written response. This demonstrates that negotiations were ongoing in an effort to resolve outstanding matters of concern to Council.
- 125 The Applicant submits that in no way did the Applicant act to delay Council's consideration of the application. The application was lodged with all the information necessary to make a decision and Council did not request further information. Nevertheless, the Applicant continued to negotiate with Council until such time as it became apparent that Council would not make a decision on 3 December 2018. It is also submitted that the application is not particularly complex and could have been decided before the appeal was lodged on 9 December 2018.
- 126 We note that the permit application was lodged with Council in May 2018, but a Cultural Heritage Management Plan (**CHMP**) was not provided until 7 August 2018. A failure application could therefore have been lodged after 60 days on or after the 5 October 2018. It was not lodged until 9 December 2018 after an elapse of 126 days. Between lodgement of the CHMP and the end of December 2018, there were eleven recorded events/contacts between Council and the Applicant.
- 127 In reviewing the submissions made by the Applicant and the Council, we have taken into consideration that an application for a residential alcohol and drug rehabilitation centre is not a run-of-the-mill medium density housing development commonly decided upon by Council.



- 128 Although there may only be a single use and development approval required under the Farming Zone, the application raises a number of significant issues which need to be considered and determined. These are reflected in the six key issues we identified and discussed in our reasons. Not only is there a complex matrix of planning policies that need to be considered, but there are also the specific built form and operational aspects of the proposal which require detailed assessment by a multiplicity of qualified professionals.
- 129 The fact that we received written and oral evidence from ten witnesses, written evidence from another two witnesses, submissions from six residents and a further oral statement from a Warrnambool resident demonstrates the complexity of the issues involved.
- 130 We also note that the hearing was conducted over six days, involved two Tribunal members, required a lengthy accompanied site inspection, together with unaccompanied inspections to Lower Plenty and Molyullah. As a Major Case the Tribunal also conducted a one day compulsory conference which proved to be unsuccessful.
- 131 Council's submission referred to a number of Tribunal decisions concerning the reimbursement of fees and the positive role of consultation in the application planning process. In *Burke Vue Pty Ltd v Stonnington CC*¹² The Tribunal stated that:
- A consultative approach to development applications is a strong and very positive feature of the Victorian planning system. Applicants are encouraged to engage in pre-application meetings and to be involved in ongoing discussions and negotiations with Council Officers as an application proceeds through the assessment process. In most cases a more complex application will involve more discussion and negotiation.
- 132 We consider that a similar situation exists with this application. We are therefore not persuaded that fees should be reimbursed given the particular circumstances surrounding the processing of this permit application.

J A Bennett
Senior Presiding Member

Joel Templar
Member

¹² *Burke Vue Pty Ltd v Stonnington CC (includes Summary) (Red Dot)* [2015] VCAT 1723.



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	PP2018-0105
LAND	43 Atkinsons Lane DENNINGTON VIC 3280

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

Use and development of the land for a residential alcohol and drug rehabilitation centre.

CONDITIONS**Amended plans**

- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (received by Council on 31 May 2018 and advertised with the application) but modified to show:
 - (a) A schedule of construction materials, external finishes and colours (incorporating samples) submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
 - (b) A lighting plan with details of the location and type of lighting for the centre, including external and security lighting. All external lighting must be designed to be baffled to avoid any unreasonable light plume in the context of its rural location to the satisfaction of the Responsible Authority.
 - (c) Any changes in accordance with the amended Traffic Impact Assessment Report required by Condition 3.
 - (d) A landscaping plan in accordance with Condition 18 of this permit.
 - (e) A waste management plan in accordance with Condition 21 of this permit.
 - (f) Any changes in accordance with the Bushfire Management Statement required by Condition 25.



- (g) The provision of 1.5 metre high fences (1.2 metre high ring lock or hinge lock mesh panels to 1.2 metres and two strands of barbed wire to 1.5 metres) along the northern, southern and eastern boundaries so as to limit easy movement into and out of the review site.
- 2 The use and development as shown on the endorsed plans (including the layout of the site and size, design and location of the buildings and works) must not be altered without the prior written consent of the Responsible Authority.

Traffic and parking

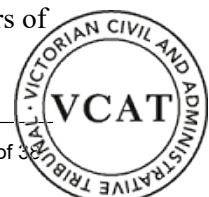
- 3 Before the commencement of development (and any associated works) the applicant must provide a Traffic Impact Assessment Report (**TIAR**) prepared by a suitably qualified engineer in accordance with the Infrastructure Design Manual (Clause 9) and to the satisfaction of the responsible authority. The report must be generally in accordance with the Traffic Impact Assessment Report of ESR Transport Planning dated 6 June 2019 but modified to show:
 - (a) Provision of access for emergency and waste collection vehicles.
 - (b) Provision of a vehicle turn around facility on the subject land.
 - (c) The vehicle access widened to a two-way width where it meets Atkinsons Lane, in accordance with Design Standard 1 of Clause 52.06 of the Planning Scheme.
 - (d) A lowering of the earthen embankment on the northern side of the vehicle access to Atkinsons Lane to create sightlines on accordance with the Safe Intersection Sight Distance (SISD).
 - (e) A widening of the access driveway with gravel edges to create a passing area approximately 30 metres from the front boundary.
 - (f) A reconfiguration of the vehicle parking areas to the north, northeast and west of the Administration Wing to provide parking for 12 vehicles in accordance with Design Standard 2 of Clause 52.06 of the Planning scheme.
 - (g) Remedial work to repair wear and damage to the existing internal driveway.
- 4 Before the use commences, the permit holder must at its cost construct and/or implement any traffic related works identified in the endorsed Traffic Impact Assessment Report to the satisfaction of the Responsible Authority.
- 5 The loading and unloading of vehicles and the delivery and pickup of goods must be carried out at all times within the site boundaries, within the hours of Monday – Friday 8:30am and 5pm to the satisfaction of the Responsible Authority.



- 6 All vehicles associated with the use (including staff and visitor vehicles) must be parked within the site boundaries.

Management Plan for the Lookout Residential Rehabilitation Centre

- 7 Prior to the commencement of the use, a Management Plan must be prepared for the approval of the Responsible Authority. When approved, the Management Plan will form part of the endorsed plans. The Management Plan must be generally in accordance with the proposed Management Plan for the Lookout Residential Rehabilitation Centre dated May 2018 but modified to show:
- (a) The Emergency Management Protocol with the CFA, VicPol and Ambulance Victoria as referred to in section 8 of May 2018 plan (including Bushfire and Flood Plans as referred to in section 9 of that plan).
 - (b) A revised risk management plan based on section 10 of the May 2018 plan which:
 - i Identifies the safety and security risks involved in operation of the Lookout centre;
 - ii Assesses the severity and degree of likelihood of any relevant incident or event occurring;
 - iii Sets out measures that the centre's management is to take to address and, in so far as possible, minimise each identified risk.
 - (c) Provision for the effective operation and monitoring of the centre's CCTV system (as referred to on page 18 of the May 2018 plan). Prior to the commencement of the use, the CCTV system must be installed at the Lookout centre for surveillance of all doors to the buildings and the front entrance to the property. At all times when residents participating in an alcohol and/or drug rehabilitation program are on the site, the system must be operational and monitored by staff of the Lookout centre;
 - (d) All security alarms or similar devices installed at the site must be of a silent type to the satisfaction of the Responsible Authority;
 - (e) No external sound amplification or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, except one which audible only within the subject land;
 - (f) Provision for dealing with clients who indicate a wish to leave the Lookout centre before the end of their program, including measures to ensure their departure from the centre is planned, as referred to in section 12 of the May 2018 plan;
 - (g) Include resident rules that prohibit access to any of the properties bordering 43 Atkinsons Lane, unless with permission of the owners of those properties;



- (h) A requirement that in the event that any resident of the Lookout centre goes missing, its staff must immediately notify by telephone or in person the owners and occupiers of those properties which adjoin 43 Atkinsons Lane, as well as the owners of 44, 50 and 66 Atkinsons Lane;
 - (i) A community education and liaison program in relation to the operation of the Lookout centre, involving (amongst other things) regular liaison with the Dennington Community Association;
 - (j) A program of regular liaison with VicPol in relation to the Lookout centre with respect to maintaining community safety and security along with any related issues.
- 8 Before the use commences, a Community Reference Group must be established as referred on page 2 of the May 2018 plan.
- 9 The Management Plan may be amended with the written consent of the Responsible Authority.
- 10 The use must always operate in accordance with the endorsed Management Plan for the Lookout Residential Rehabilitation Centre.
- 11 A maximum of 20 clients may be on the premises at any one time, unless with the prior written consent of the Responsible Authority.
- 12 At all times when residents are present on the site, a minimum of two staff must be present between 8:30pm and 8:30am and a minimum of five staff must be present between 8:30am and 8:30pm.
- 13 A written logbook of all attendees (including residential clients and visitors) to the centre must be kept. The written logbook must include details consisting of the names of people, dates and times of attendance and departure to and from the centre. The written logbook must be made available for inspection by the Responsible Authority at any time upon request.

Land Capability Assessment

- 14 The proposal must be constructed in accordance with the recommendations of the Land Capability Assessment, prepared by Paul Williams & Associates Pty Ltd (**Report**) dated May 2018. The Assessment is to be approved by and be to the satisfaction of the Responsible Authority. Upon completion a report must be provided which certifies that the wastewater facility and irrigation areas have been constructed in accordance with the report.
- 15 When approved, the Land Capability Assessment will be endorsed and will then form part of the permit. Effluent disposal from the development must be in accordance with the Land capability Assessment, to the satisfaction of the Responsible Authority.



- 16 All sewerage and sullage wastewater from the development must be discharged into the approved wastewater system with a disposal area of at least 1800m². All wastewater must be maintained within the boundaries of the land and be located as per the endorsed plan. Approval to install the wastewater system must be obtained from Warrnambool City Council Health Department prior to the commencement of any works.
- 17 The wastewater management system must be operated in accordance with the Land Capability Assessment prepared by Paul Williams & Associates Pty Ltd (report) dated May 2018.

Landscaping

- 18 Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Plantation Plan for TH lookout Centre prepared by David Turley of DHT Consulting Pty Ltd Sheets 1 – 4 issue 10062019, and be drawn to scale with dimensions and three copies must be provided. The plan must show planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- 19 The landscaping works shown on the endorsed landscape plan must be commenced within 3 months of the grant of the permit and carried out and completed to the satisfaction of the Responsible Authority within 2 years of the commencement of the use of the land.
- 20 The landscaping shown on the endorsed landscape plan must be maintained to the satisfaction of the Responsible Authority.

Waste Management

- 21 Before the development starts, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:
 - (a) Dimensions of storage waste areas.
 - (b) Storm water drains in storage areas should be fitted with a litter trap.
 - (c) The number and size of bins to be provided.
 - (d) Facilities for bin cleaning.
 - (e) Method of waste and recyclables collection.
 - (f) Types of waste for collection, including colour coding and labelling of bins.
 - (g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
 - (h) Method of hard waste collection.



- (i) Method of presentation of bins for waste collection.
- (j) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
- (k) Strategies for how the generation of waste and recyclables will be minimised.
- (l) Compliance with relevant policy, legislation and guidelines.

When approved, the Waste Management plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the Waste Management plan, to the satisfaction of the Responsible Authority.

General Amenity

- 22 The use and development must be managed so that the amenity of the area is not detrimentally affected through:
- (a) The transport or movement of persons to or from the subject land;
 - (b) The transport of materials, goods or commodities to or from the land;
 - (c) The appearance of any building, works or materials;
 - (d) The emission of noise, artificial light, vibration, fumes, odour, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

Construction Amenity

- 23 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material must be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and must have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying must be undertaken on the building block. The pollutants from these building operations must be contained on site.
 - (c) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.

Water feasibility

- 24 Before the use commences, a water servicing plan must be submitted to, and be approved by, the Responsible Authority. The plan must demonstrate that the water supplies to the land are sufficient to serve the potable, non-potable and fire service requirements of the centre and include details of alternative sources of supply of water in the event the site cannot provide self sufficient water sources.



CFA Conditions

- 25 The development must be in accordance with the Bushfire Management Statement, prepared by the Myers Planning Group, dated June 2019. The Statement must be submitted to and approved by the Responsible Authority. When approved, the Bushfire Management Statement will be endorsed and will form part of the permit and must not be altered without the written consent of CFA and the Responsible Authority.
- 26 The bushfire protection measures set out in the approved Bushfire Management Statement or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis.

This condition continues to have force and effect after the development authorised by this permit has been completed.

Expiry

- 27 This permit will expire if one of the following circumstances applies:

- (a) The development is not started within two (2) years of the date of this permit.
- (b) The development is not completed within four (4) years of the date of this permit.
- (c) The use does not start within two (2) years of the completion of the development.
- (d) The use is discontinued for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (e) Within six (6) months afterwards for commencement, or
- (f) Within twelve (12) months afterwards for completion.



Warrnambool City Council	
18 OCT 2019	
Ref No	
Officer	
Scanned Yes / No	Ch:

the *A.L. Lane*
foundation
ACN 005 141 944
TRUSTEES: W.R. PHILLPOT
V.G. ROBSON
F.K. MELICAN

16 October 2019

Mayor & Councillors
Warrnambool City Council

Dear Councillors

Re: WRAD LOOKOUT REHABILITATION CENTRE

We write on behalf of the collective group of Warrnambool Charitable Foundations to encourage the support of Council in WRAD's application to VCAT for variation of the prohibitive financial condition imposed with the order to grant a permit.

You are well aware of the effect of delays with this project and the significant financial costs borne by all parties.

The project is now faced with further delay to a hearing in February 2020 and whatever time it takes for VCAT to hand down its decision. This of course incurs further unnecessary significant costs.

It should not be necessary for us to detail the need for this facility and the impact upon patients who desire its benefits. We understand that if this appeal is lost Warrnambool will not have a rehabilitation centre.

Sufficient to say that the citizens of Warrnambool worked and raised over \$600,000 in short time in support of Lookout and the Foundations were of course contributors.

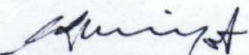
At a meeting of the Mayor and CEO with a number of Foundation Trustees in May 2019, we provided a list of Council projects which have been supported by the Foundations over many years.


A copy of this is again provided herewith.

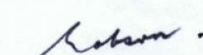
It is worth noting that as recently as last month, the Foundation collective approved \$48,000 in funding for the Warrnambool Art Gallery to provide special collection storage facilities as part of the Gallery's upgrade of protection for its valuable collection.

The role of the Foundations is to support charitable and community causes in this city and, with respect, having supported council whenever required we now expect support from Council for this project, important for its clinical benefit and as another employer in our city.

Yours faithfully


W.R. (BILL) PHILLPOT OAM
Joint Trustee
AL Lane Foundation
Encl.
Ref: 1639196_1


F.K. Melican
Joint Trustee
AL Lane Foundation


V. G. ROBSON
Joint Trustee
AL Lane Foundation

Address for correspondence:
PO BOX 217
WARRNAMBOOL VIC 3280

Phone: (03) 55640519
Website: www.theallanefoundation.org.au

Wendy Greene

From: Wendy Greene on behalf of Bill Phillpot
Sent: Friday, 26 April 2019 12:50 PM
To: 'wclark@warrnambool.vic.gov.au'
Subject: Meeting of Philanthropic Trusts with Warrnambool City Council

Dear Wendy

Due to the changes in the make-up of council and council personnel I thought it appropriate to provide information on substantial support given over the years to Council specific projects by the cluster of local foundations.

I would be pleased if you could pass this onto the Mayor and CEO before our meeting on May 7th.

Reid Oval Development – Scoreboard, Netball Shelters etc
Warrnambool Art Gallery
Albert Park and Japanese Garden
Lighthouse Theatre and Entertainment Centre
Fun for Kids Festival (over its entire life)
Flagstaff Hill
Warrnambool Botanic Gardens
Equal Access Play space
Harris St Reserve lighting
Friendly Societies Park lighting
Warrnambool Synthetic Hockey Field
Warrnambool Cemetery Trust (New Cemetery)
Warrnambool BMX Track
Warrnambool Skate Park
Warrnambool Miura Sister City Association
Allansford Recreation Reserve
L2P Learner Driver Program
WCC 150th Anniversary

There may be others but I can only report from the five Foundations with which I am involved.

Good Wishes, Bill

Bill Phillpot OAM
Consultant

SINCLAIR *Wilson*
FOR STRENGTH IN NUMBERS

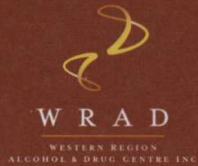
PO Box 217
257 Timor St , Warrnambool, Victoria, 3280
www.sinclairwilson.com.au

t +61 3 5564 0555 d +61 3 5564 0555 m +61 409 237 136 f +61 3 5564 0510

Referrals are important to our business. We would appreciate if you could pass on our details to anyone you may think would benefit from our services.

Please consider our environment before printing this email.

Liability limited by a scheme approved under Professional Standards Legislation

*Handbury Medical Suites*

172 Merri Street Warrnambool 3280
Telephone: 1300 00 9723
Facsimile: 03>5564 5700
Email: wrad@wrad.org.au
Web: www.wrad.org.au
Incorporation no. A0000179Y

29th October, 2019

Cr Tony Herbert
Mayor and Councillors of
Warrnambool City Council
Liebig Street
WARRNAMBOOL VIC 3280

Hi Tony,

Please find enclosed a letter of support from South West Healthcare to add to the information already sent to you.

South West Healthcare and the WRAD Lookout Project will work closely together to provide an important service for the people of Warrnambool and surrounds.

Yours sincerely,

GEOFF SOMA
Director

Warrnambool City Council	
30 OCT 2019	
Ref No	
Officer	
Scanned Yes / No	Ch:



May 17, 2019

19DMHS38

Mr Geoff Soma
Western Region Alcohol and Drug Centre Inc.
172 Merri Street
WARRNAMBOOL 3280
By email: GeoffS@wrad.org.au

Dear Geoff

Re: Support for a Residential Rehabilitation Alcohol and Other Drug (AOD) Facility - Warrnambool

I am writing to you in support of Western Region Alcohol and Drug Center's (WRAD) proposal to build a residential rehabilitation facility in the Warrnambool area. South West Healthcare is a member of the Great South Coast AOD Consortium SWH MHS and works closely with WRAD and other members of the consortium individually and collectively to offer a range of AOD treatment options in the South West of Victoria. SWH actively participates in the WVPHN AOD Catchment Action Plan and participated in co-design activities in the past 12 months. The Catchment Plan identifies a clear need for residential rehabilitation services in the region has been clearly articulated by both service providers and consumers.

At present consumers need to travel to Geelong, Melbourne and beyond to access residential rehabilitation services, leading significant disconnection from key protective factors for recovery including family and the support networks that assists people with AOD challenges towards successful outcomes. Lack of access to regionally based services is a significant barrier to people accessing services and obtaining treatment.

As an alcohol and drug treatment agency, South West Healthcare MHS is challenged when working with consumers in the acute setting to provide appropriate referral options for longer term treatment, which impacts on relapse rates.

We hear directly from consumers and service providers about the need for a residential rehabilitation facility in the Warrnambool area. Such a facility would provide a vital place for people to recover from their alcohol and other drug misuse and build on skills developed within the harm minimisation framework.

South West Healthcare supports and commends WRAD's efforts to secure a residential rehabilitation facility for the Warrnambool area

Yours sincerely

A handwritten signature in black ink, appearing to read "Karyn Cook".

Karyn Cook
Executive Director
Mental Health Services

Warrnambool
Ryot Street
Warrnambool, VIC 3280
P: 03 5563 1666
E: info@swh.net.au

Camperdown
Robinson Street/PO Box 147
Camperdown, VIC 3260
P: 03 5593 7300
E: frontdesk@swh.net.au

Lismore
High Street
Lismore, VIC 3324
P: 03 5558 3000
E: lismore2@swh.net.au

Macarthur
12 Ardonachie Street
Macarthur, VIC 3286
P: 03 5552 2000
E: macarthurch@swh.net.au



17 October 2019

Mr Geoff Soma
Chief Executive Officer
Western Region Alcohol and Drug Centre Inc.
172 Merri Street
WARRNAMBOOL VIC 3280
By email: GeoffS@wrad.org.au

Dear Geoff

Re: Residential Rehabilitation Alcohol and Other Drug (AOD) Facility - Warrnambool

I am writing to you in support of Western Region Alcohol and Drug Center's (WRAD) proposal to build a residential rehabilitation facility in the Warrnambool area. South West Healthcare (SWH) is a member of the Great South Coast Alcohol and other Drug (AOD) Consortium and works closely with members of the consortium to offer a range of AOD treatment options in the South West of Victoria. SWH actively participates in the Catchment Action Plan and participated in co-design activities in the past 12 months. The Catchment Plan identifies a clear need for residential rehabilitation services in the region and has been clearly articulated by both service providers and consumers.

At present consumers need to travel to Geelong, Melbourne and beyond to access residential rehabilitation services, leading significant disconnection from key protective factors for recovery including family and the support networks that assists people with AOD challenges towards successful outcomes. Lack of access to regionally based services is a significant barrier to people accessing services and obtaining treatment.

As an alcohol and drug treatment agency, SWH is challenged when working with consumers in the acute setting to provide appropriate referral options for longer term treatment, which impacts on relapse rates. This need for a residential rehabilitation facility is also highlighted by our consumers who require an environment in which they can recover from their alcohol and other drug misuse and build on skills developed within the harm minimisation framework.

South West Healthcare looks forward to a more comprehensive service pathway that will be enhanced through their much needed facility.

Yours sincerely

A handwritten signature in black ink, appearing to read "Craig Fraser", is positioned above the printed name and title.

CRAIG FRASER
Chief Executive Officer

Warrnambool
Ryot Street
Warrnambool, VIC 3280
P: 03 5563 1666
E: info@swh.net.au

Camperdown
Robinson Street/PO Box 147
Camperdown, VIC 3260
P: 03 5593 7300
E: frontdesk@swh.net.au

Lismore
High Street
Lismore, VIC 3324
P: 03 5558 3000
E: lismore2@swh.net.au

Macarthur
12 Ardonachie Street
Macarthur, VIC 3286
P: 03 5552 2000
E: macarthurch@swh.net.au

**ACE Radio Broadcasters Pty Limited**

ACN 064 882 042

From the Chairman

Cr T Herbert
Mayor
Warrnambool City Council
Liebig Street
WARRNAMBOOL VIC 3280

15th October, 2019

Dear Tony,

I am writing in my capacity as the Chairman of the ACE Radio Network which includes the local 3YBFM radio station.

My family, through their links to the Geoff & Helen Handbury Foundation, have had an association with WRAD in Warrnambool for over 10 years. In fact, The Handbury Medical Suites which are operated by WRAD bear the Handbury family name.

Over many years, the Foundation has donated significant funding to the WRAD organisation in Warrnambool based on its delivery of essential services for clients and families who experience Alcohol and Other Drug related problems.

This service to the community helps people who experience mental health, psychological and emotional distress and those who require treatment to assist with their problems.

The Lookout Project particularly addresses a gap in service delivery across the Great South Coast as I understand that clients that require this important treatment must travel away from family and essential community supports in order to receive it.

I have therefore made a donation to this project based on its potential value to the community, clients and family members and I am pleased to support it because I believe in its overall social impact and merit.

Regards,

Rowland Paterson
Chairman
ACE Radio Network

Warrnambool City Council	
18 OCT 2019	
Ref No	
Officer	
Scanned Yes / No	Ch:

VCAT victorian civil & administrative tribunal Website: www.vcat.vic.gov.au Phone: 1300 018 228 Email: admin@vcat.vic.gov.au	<h2>STATEMENT OF GROUNDS</h2>
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Use this form to set out your reasons for contesting a planning and environment case at VCAT. These written reasons are called your statement of grounds. If you need assistance with this form call 1300 018 228 or email us at admin@vcat.vic.gov.au.

CASE DETAILS

Date that statement of grounds must be received by VCAT This is on the notice you received or the sign at the site.		18 th November 2019
VCAT reference number	P 2479 / 2018	
Site address	43 Atkinsons Lane, Dennington	

YOUR DETAILS

Name (objector, authority, company, other)	BRIAN + SUSAN ROONEY
Contact person if different to above	
Telephone/Mobile	0418529507

Give us an email and another address for serving documents

We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.

If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.

If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.

We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	sebrnoo2@gmail.com
Other address (this must be in Victoria)	P.O. Box 136 WARRNAMBOOL VIC 3280

YOUR PARTICIPATION IN HEARINGS

- ☐ I intend to appear and present a submission at the hearing. **Fees apply.**
☒ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds. **No fee applies.**

If you do not intend to participate in the hearing, **you will not be a party** to the proceeding. VCAT considers your statement of grounds in any contested hearing but will not send you further correspondence.

FEES

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging this form, you will not be a party and will not be entitled to take part, even if you indicated that you wanted to participate. For information about fees and fee relief, visit www.vcat.vic.gov.au/fees.

You do not have to pay a fee if you are a permit applicant or holder, the determining or recommending referral authority, a person responding to an enforcement order application, or an applicant for a works authority or licence.

PRESENTING AT THE HEARING

If you intend to present at the hearing, tell us:

Time required to present your complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit vcat.vic.gov.au and see Practice Note PNVCAT2 – Expert Evidence.

WHO IS MAKING THIS STATEMENT?

This statement of grounds is lodged by or on behalf of:

Objector/s

- ☒ A person who objected to the original application to the council
- ☐ A person who did not object to the original application to the council but now wants to object
- ☐ A person responding to an application to amend plans or make other changes to an existing application
- ☐ A person responding to a notice by a permit holder to amend a permit

Permit applicant or permit holder

- ☐ A permit applicant responding to an objector's application for review
- ☐ A permit holder responding to a non-permit holder's application to amend or cancel a permit

Referral authority

- ☐ Determining referral authority
- ☐ Recommending referral authority

Enforcement orders

- ☐ A person responding to an application for an enforcement order

Environment applications

- ☐ Objector/s to a works approval application made to the Environment Protection Authority
- ☐ A works approval applicant
- ☐ An objector to an application made for a licence to take or use water or for works under the Water Act 1989
- ☐ An applicant for a licence to take and use water
- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☐ Specify

JOINT STATEMENT OF GROUNDS

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

- ☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.
- ☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

- ☐ Yes ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

YOUR STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is:

- ☒ attached
☐ in the following field

SERVE A COPY

You must serve a copy of your statement of grounds on both the responsible or relevant authority and the applicant by the date that appears in the notice you received and on the sign at the site – the same date on the front of this form. If not, we may not be able to hear your views or consider your objections.

You must certify that you have done so and complete the acknowledgement on this form.

CERTIFICATION

I certify that I have served a copy of this statement of grounds

- ☐ on (insert date dd/mm/yyyy) 14 / 11 / 2019 on the applicant
- ☐ on (insert date dd/mm/yyyy) 14 / 11 / 2019 on the respondents
(responsible/relevant authority)

ACKNOWLEDGEMENT

I understand and acknowledge that:

- to the best of my knowledge, all information provided in this form is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Full name of person completing this statement of grounds form:

Brian W Rooney Van Rooney

Date (dd/mm/yyyy):

14 / 11 / 2019

STATEMENT OF GROUNDS

14.11.19

OUR REASONS FOR CONTESTING THE VCAT APPLICATION ARE:

- ① THE REHABILITATION PROCESS ~~WOULD BE~~ (WITH FULL STAFF) WOULD ONLY HAPPEN FOR 42.5 HOURS OF THE 168 HOUR WEEK, SO THAT'S 25% OF THE PATIENTS WEEK. COULD THIS EXPLAIN THE SUCCESS RATE OF LESS THAN 30% AS QUOTED FOR OTHER FACILITIES?
- ② THE SLEEPING AND NO REHABILITATION OVERNIGHT PERIOD 5pm to 8.30am WEEKDAYS, THEN AT WEEKENDS 5.30pm FRIDAY TO 8 AM MONDAY IS 126.5 HOURS OR 75% OF THE PATIENTS WEEK. THIS WILL BE IMPRACTICAL, UNREALISTIC AND UNSAFE FOR TWO STAFF, NO MATTER HOW WELL TRAINED, TO MANAGE 20 PATIENTS.

SO WE AS NEIGHBOURS ARE EXTREMELY WORRIED FOR ALL CONCERNED: THE STAFF, THE PATIENTS, OUR FELLOW NEIGHBOURS, OUR FARMING OPERATIONS, AND THE RIDING SCHOOL STAFF AND CUSTOMERS ON OUR FARM NEXT DOOR TO THE PROPOSED SITE

Brian W Rooney

VCAT

victorian civil & administrative tribunal

Website: www.vcat.vic.gov.au
Phone: 1300 018 228
Email: admin@vcat.vic.gov.au

STATEMENT OF GROUNDS

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VCAT reference number	P2479/2018	
Site address	43 Atkinsons Lane Dennington 3280	

YOUR DETAILS

Name (objector, authority, company, other)	Kerry Ziegeler
Contact person if different to above	
Telephone/Mobile	0428239127

Give us an email and another address for serving documents

We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.

If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.

If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.

We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	therapy.z@outlook.com
Other address (this must be in Victoria)	

YOUR PARTICIPATION IN HEARINGS

- ☐ I intend to appear and present a submission at the hearing.
- Fees apply.**
- ☒ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds.
- No fee applies.**

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PRESENTING AT THE HEARING

If you intend to present at the hearing, tell us:

Time required to present your complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit vcat.vic.gov.au and see Practice Note PNVCAT2 – Expert Evidence.

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Permit applicant or permit holder

- ☐ A permit applicant responding to an objector’s application for review
- ☐ A permit holder responding to a non-permit holder’s application to amend or cancel a permit

Referral authority

- ☐ Determining referral authority
- ☐ Recommending referral authority

Enforcement orders

- ☐ A person responding to an application for an enforcement order

Environment applications

- ☐ Objector/s to a works approval application made to the Environment Protection Authority
- ☐ A works approval applicant
- ☐ An objector to an application made for a licence to take or use water or for works under the Water Act 1989
- ☐ An applicant for a licence to take and use water
- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☐ Specify

JOINT STATEMENT OF GROUNDS

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

- ☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.
- ☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

- ☐ Yes
- ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

YOUR STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is:

- ☐ attached
- ☒ in the following field

In my first submission to VCAT, my concerns were around poor and inadequate planning in terms of either the therapeutic program proposed in the application or the security and management protocols described in the application.

My uncertainty remains as the day to day management of the centre remains unclear in terms of therapy for residents, protocols for visitors and security for neighbouring properties particularly those which abut the property.

The amendment proposed in Condition 12 is ill conceived and in fact, no rationale has been presented in the amendment which justifies the amendment. The Lookout Centre is proposed to be a residential 24 hour facility. Two staff on weekends will not have the capacity to provide rigorous support to clients, including, and in the likelihood of emergencies no matter how small. The Therapeutic Community model relies on all hours support in order to provide any chances of success for the clients. Coupled with the 12 week turnover, reduced staff would only support the most rudimentary of therapeutic programs, leading to disengagement of clients and reduced rehabilitation outcomes.

The proposed amendment to Condition 12 provides no security for neighbouring properties or the wider community, does not adequately fulfil the Therapeutic Community practices, nor does not encourage the support of the wider community.

SERVE A COPY

You must serve a copy of your statement of grounds on both the responsible or relevant authority and the applicant by the date that appears in the notice you received and on the sign at the site – the same date on the front of this form. If not, we may not be able to hear your views or consider your objections.

You must certify that you have done so and complete the acknowledgement on this form.

CERTIFICATION

I certify that I have served a copy of this statement of grounds

- | | | |
|---|----------------|--|
| <input checked="" type="checkbox"/> on (insert date dd/mm/yyyy) | 15 / 11 / 2019 | on the applicant |
| <input checked="" type="checkbox"/> on (insert date dd/mm/yyyy) | 15 / 11 / 2019 | on the respondents
(responsible/relevant authority) |

ACKNOWLEDGEMENT

I understand and acknowledge that:

- to the best of my knowledge, all information provided in this form is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Full name of person completing this statement of grounds form:

KERRY FRANCES ZIEGLER Riegeler

Date (dd/mm/yyyy):

15 / 11 / 2019

<h1>VCAT</h1> <p>victorian civil & administrative tribunal</p> <p>Website: www.vcat.vic.gov.au Phone: 1300 018 228 Email: admin@vcat.vic.gov.au</p>	<h2>STATEMENT OF GROUNDS</h2>
---	-------------------------------

Use this form to set out your reasons for contesting a planning and environment case at VCAT. These written reasons are called your statement of grounds. If you need assistance with this form call 1300 018 228 or email us at admin@vcat.vic.gov.au.

CASE DETAILS

Date that statement of grounds must be received by VCAT This is on the notice you received or the sign at the site.	18 th November 2019
VCAT reference number	P 2479 / 2018
Site address	43 Atkinsons Lane Dennington

YOUR DETAILS

Name (objector, authority, company, other)	Rooney Millers Lane Partnership
Contact person if different to above	Dorothy Rooney
Telephone/Mobile	041851 9152

Give us an email and another address for serving documents

We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.

If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.

If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.

We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	rooney3280@bigpond.com
Other address (this must be in Victoria)	19 Roxburgh Crt Warrnambool

YOUR PARTICIPATION IN HEARINGS

- ☐ I intend to appear and present a submission at the hearing. **Fees apply.**
☒ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds. **No fee applies.**

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PRESENTING AT THE HEARING

If you intend to present at the hearing, tell us:

Time required to present your complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit vcat.vic.gov.au and see Practice Note PNVCAT2 – Expert Evidence.

WHO IS MAKING THIS STATEMENT?

This statement of grounds is lodged by or on behalf of:

Objector/s

- ☒ A person who objected to the original application to the council
- ☐ A person who did not object to the original application to the council but now wants to object
- ☐ A person responding to an application to amend plans or make other changes to an existing application
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- ☐ A permit applicant responding to an objector's application for review
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- ☐ Determining referral authority
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CERTIFICATION

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- ☒ on (insert date dd/mm/yyyy) 14 / 11 / 19 on the applicant
☒ on (insert date dd/mm/yyyy) 14 / 11 / 19 on the respondents
(responsible/relevant authority)

ACKNOWLEDGEMENT

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Full name of person completing this statement of grounds form:

Dorothy Mary Rooney

Date (dd/mm/yyyy):

14 / 11 / 2019

Statement of Grounds

VCAT REFERENCE NO. P2479/2018

43 Atkinsons Lane, Dennington

Myers Planning Group Pty Ltd v Warrnambool CC [2019] VCAT 1153 (15 August 2019)

Dorothy Rooney on behalf of the Rooney Millers Lane Partnership.

We accepted the decision that was handed down by VCAT on the 15th August 2019.

We understood that some of our concerns would be alleviated by the conditions which were set by the Tribunal and were willing to work with WRAD, so that the clients of the Centre would have positive outcomes.

One of our major concerns submitted to the Tribunal on 24 June 2019, was for the safety of the clients of the Mahogany Trail Rides and Riding School which operates from our property that is in close proximity to 43 Atkinsons Lane, Dennington. Horses from the Mahogany Trail Rides and Riding School are also often put out to graze in the property adjoining the site; young women and girls, as part of their work duties deliver the horses to and from the paddocks.

WRAD's appeal for reduced staff numbers on a weekend has now undermined any security that was offered to us in knowing that the clients of the centre would be fully occupied during the weekends with adequate supervision and the continuation of their therapy.

Reduced staff numbers over the weekend will surely mean that the 24 -hour Therapeutic Community (TC) Model will lack continuity and consistency and thereby provide the clients with opportunities to regress and violate the cardinal rules, norms and values of the TC model.

We are concerned that any amendment to condition 12 of the planning permit will lead to opportunities for clients to violate the rules and will subsequently impact on the safety of the workers and/ or visitors to Mahogany Trail Rides and Riding School.

We submit that WRAD's proposed amendment to condition 12 of the planning permit is not acceptable.

VCATvictorian civil &
administrative
tribunalWebsite: www.vcat.vic.gov.au

Phone: 1300 018 228

Email: admin@vcat.vic.gov.au**STATEMENT OF GROUNDS**

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VCAT reference number	P2479/2018	
Site address	43 Atkinsons Lane Dennington	

YOUR DETAILS

Name (objector, authority, company, other)	Dennington Community Association
Contact person if different to above	John Harris
Telephone/Mobile	0417338688

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Email	jha92335@bigpond.net.au
Other address (this must be in Victoria)	9 Dennington Rise Dennington 3280

YOUR PARTICIPATION IN HEARINGS

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☒ in the following field

Dennington Community Association supports VCAT's Condition 12 set-out in the report PP2018-0105 Appendix A - Permit Conditions 20 August 2019

Dennington Community Association is disappointed with WRAD's appeal to vary the staffing levels and the hours as the Dennington Community consider it necessary to have good supervision and seven days rehabilitation as outlined by VCAT.

"This will also allay the fears of families in the immediate area of the proposed facility plus the local community".

SERVE A COPY

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- | | | |
|---|----------------|--|
| <input checked="" type="checkbox"/> on (insert date dd/mm/yyyy) | 18 / 11 / 2019 | on the applicant |
| <input checked="" type="checkbox"/> on (insert date dd/mm/yyyy) | 18 / 11 / 2019 | on the respondents
(responsible/relevant authority) |

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- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Full name of person completing
this statement of grounds form:

John Harris

Date (dd/mm/yyyy):

18 / 11 / 2019

HOW CAN YOU LODGE THIS APPLICATION?

You can lodge this application with VCAT by post, email or fax.

By post

Victorian Civil and Administrative Tribunal
GPO Box 5408
Melbourne VIC 3001

By fax or email

Fax your application and supporting documents to 03 9628 9789 or email it to admin@vcat.vic.gov.au.

In person

Deliver your application and supporting documents in person to the VCAT Service Counter on:

55 King Street
Melbourne VIC 3001

Our office hours are 8.30 am to 4.30 pm Monday to Friday.

ABOUT VCAT FEES

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than \$200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than \$200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at www.vcat.gov.au/fees.

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.

Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.

For more information about fee relief, go to www.vcat.vic.gov.au/feerelief.

Are you applying for fee relief?

- ☒ No – complete **Fee payment** section
- ☐ Yes – complete **Fee relief form** and attach it to this application form

FEE PAYMENT

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

- ☐ Standard ☐ Corporate ☐ Concession

Fee amount charged: \$ _____

CARD DETAILS

Cards Accepted: * ☐ VISA ☐ MasterCard

Cardholder Name: *

Card Number: *

Card Expiry
(mm/yyyy): *

Signed: *

Date
(dd/mm/yyyy):

_____ / _____ / _____

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES



15th October 2019

Mayor of Warrnambool City Council

Mr Tony Herbert

Warrnambool City Council

Liebig St, Warrnambool 3280

Warrnambool City Council	
14 NOV 2019	
Ref No	
Officer	
Scanned Yes / No	Ch:

Dear Mayor,

I am writing on behalf of Brophy Family and Youth Services to Support WRAD's proposal to develop a Residential Rehabilitation Program in South West Victoria.

Brophy operates a range of services including Family Services, the Family Violence Counselling program, Kinship Family Services, Men's and Family Relationships program and the Men's Behaviour Change Program.

As you are aware issues around domestic violence and family support have strong links to alcohol and other drug issues and this is one example of how Brophy and WRAD work together across a broader service delivery context.

Brophy are also the auspice for the Headspace Services in South West Victoria and WRAD is represented on the Executive to advise on alcohol and drug related matters. Brophy and WRAD are also partners in the DARE Early Intervention program that focuses on youth experiencing substance related problems in the early stages and working across the Secondary Education system. Furthermore, Brophy is also on the Executive and founding member of the Great South Coast Drug and Alcohol Treatment Services Consortium in conjunction with WRAD, Southwest Health Care and the Portland District Health Service.

As demonstrated in the above partnerships Brophy and WRAD have a strong strategic relationship and I have been closely associated with the development of the Residential Rehabilitation proposal over the last 18 months. As an Executive member of the Great South Coast Consortium Executive I was also involved in the catchment based planning process that identified this treatment continuum as the number one service gap across the region.

Through my role I have witnessed the damage that homelessness, employment, education gaps, alcohol and drug abuse and family related violence contributes to. I believe that this region needs a Residential Rehabilitation Program. This will complement the range of alcohol and drug services available to address the complex issues presented and focus on the underlying issues that complicate recovery for this client group.

I support the WRAD proposal based on the benefits to clients, families and the local community.

As a strategic consortium partner, Brophy will also be directly involved with the proposed residential rehabilitation service.

I am happy to address any of the matters raised in my support letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Francis Broekman'.

FRANCIS BROEKMAN CEO

Brophy Family & Youth Services

Mobile: 0408 527 966

Email: fbroekman@brophyfys.org.au

Warrnambool City Council	
24 OCT 2019	
Ref No	
Officer	
Scanned Yes / No	Ch:



Rotary Club of Warrnambool Central

Registration Number A0025350V, District 9780

President : Tim Goodall
President Elect : Gerard Barker
Secretary: Mark McFadden

P.O.Box 593
Warrnambool. 3280

23 October 2019

Dear Councillor: The Mayor of the City of Warrnambool, Mr Tony Herbert,

The Rotary Club of Warrnambool Central Inc. has pledged an initial \$5,000 to WRAD's residential rehabilitation appeal. We understand that this therapy sets the gold standard with regards to the most successful treatment of drug and alcohol addiction.

We were very disappointed to learn of Council's opposition to the proposed location at Atkinson's Lane, perplexed that a majority of Councillors voted against their own professional Planning Officer's recommendation. VCAT however, ruled that the planning issues which may have prevented the site being suitable could be resolved via a management plan.

We have learned via two of our members, Past President Robert Coffey who is the Secretary of WRAD's Committee of Management and Shane Keogh who is also a member of the WRAD Committee of Management, that one of the "planning" conditions imposed by VCAT is totally unacceptable .

The "operational" requirement as we see it, rather than a planning requirement, that Warrnambool's residential rehabilitation facility at Atkinson's Lane must have staffing levels which exceed by a minimum of thirty percent, every other State funded residential rehabilitation facility in the State of Victoria, is manifestly unfair to the people of south west Victoria who have need of the services of the proposed facility and the community which supports its establishment – evidenced by the \$630,000 donated.

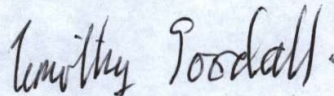
It is our understanding that other Victorian residential rehabilitation facilities which operate under "best practice" staffing levels and have done so for thirty years in the case of Odyssey House management, have encountered no Victorian Police call outs or investigations with regards to theft, violence, illicit drug use or trafficking or threatening behaviour to members of the public or other clients and staff.

The facility will not and cannot operate if staffing costs are thirty percent higher than other similar Victorian facilities. WRAD will abandon its mission to create a facility in the South West if this condition is not removed from the VCAT conditions. It will not seek another site. WRAD has been scheduled a hearing at VCAT in February to appeal the imposition of this condition.

The Rotary Club of Warrnambool Inc. politely requests that you support WRAD's appeal at VCAT when Council considers its position. The same staffing conditions that apply to all other State funded residential rehabilitation centres in Victoria should apply to Warrnambool.

Warrnambool and District needs a residential rehabilitation facility. The site has been approved by VCAT. The only thing preventing it from happening is an unfair staffing imposition.

Yours sincerely,



Tim Goodall (President)

Signed on behalf of the members of the Rotary Club of Warrnambool Central Inc.

Greg Allison	Garry Askew	Sam Baulch	Stu Bethune	Paul Blain
Trevor Bonney				
Frans Bos	Mick Boswell	Clive Bray	Neil Bridge	Francis
Broekman	Ian Brown			
Lindsay Bullivant	Robert Coffey	Anthony Davies	Glendon Dickinson	Brian
Dillon	Doug Gardner			
Tim Goodall	Ann Ellis	Tony Grace	Peter Hayes	Steve
Hickman	Bore Hoekstra			
John Hutson	David Jellie	Peter Kenna	Shane Keogh	Ashley King
Bruce Ludeman				
Scott Lowrey	Peter Lynch	Mark McFadden	Les McGrath	Bob
McMillan	Malcolm McPherson			
James Mephram	Lindsay Monaghan	Matt Northeast	Paul O'Brien	Rowan O'Brien
Lewis	Officer			
Graham Pennington	Bill Quinlan	Eddie Raymond	John Reeves	Philip Ritchie
Tony Robinson				
Ian Senior	Geoff Taylor			



email: mark.fidge@swtafe.edu.au
File Reference: C00025_19

14th October 2019

Cr Tony Herbert
Mayor of Warrnambool City Council
Leibig Street
WARRNAMBOOL VIC 3280

Warrnambool City Council	
17 OCT 2019	
Ref No	
Officer	
Scanned Yes / No	

Dear Mayor

Re: Residential Rehabilitation in South West Victoria

I am writing on behalf of South West Institute of TAFE to formally acknowledge our support for the establishment of a Residential Rehabilitation Centre in South West Victoria. TAFE have a good working relationship with WRAD whom I understand have developed a comprehensive proposal designed to address the gap in AOD service provision in this part of the region.

South West TAFE is one of the largest regional providers in South West Victoria providing further and vocational education. We recognise the important work that is consistently provided by the Western Region Alcohol and Other Drug Centre and acknowledge their leadership and initiatives delivered to date. South West TAFE and WRAD have a long standing partnership that adds value to client care and support. Our partnership has provided important opportunities for joint initiatives that strengthen the delivery of coordinated services within a strategic framework. This has been demonstrated through our work together as part of the Great South Coast Ice challenge committee.

The need for a local Residential Rehabilitation Centre has been highlighted by many stakeholders in South West Victoria, including local council, primary and acute health and employment and family welfare services. The community is aware of drug use and related harms in the local area and the lack of a residential treatment option for those requiring a measured and structured approach to Treatment. I believe that there is a considerable effect also on partners, children and the broader community.

We commend the work of WRAD in developing plans to make the residential treatment option a reality. As part of our partnership approach to service delivery, South West TAFE is committed to supporting this initiative as we believe providing education to this complex client group will address one part of the puzzle along the recovery pathway.

I would be pleased to provide further information and to discuss our partnership arrangements with WRAD. Please do not hesitate to contact me by phone or email to request further information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Fidge'.

Mark Fidge
Chief Executive Officer

POSTAL ADDRESS:

PO BOX 674
WARRNAMBOOL
VIC 3280
AUSTRALIA
ABN: 76 750 969 979 | TAFE: 3120

1300 648 911 | swtafe.edu.au

VCATvictorian civil &
administrative
tribunalWebsite: www.vcat.vic.gov.au

Phone: 1300 018 228

Email: admin@vcat.vic.gov.au**STATEMENT OF GROUNDS**

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VCAT reference number	P2479 / 2018	
Site address	43 ATKINSONS LANE DENNINGTON	

YOUR DETAILS

Name (objector, authority, company, other)	BERNARD ROONEY
Contact person if different to above	—
Telephone/Mobile	0409182356

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Email	brooney-jack@hotmail.com
Other address (this must be in Victoria)	25 WALTER CRS. WARRNAMBOOL

YOUR PARTICIPATION IN HEARINGS

☐ I intend to appear and present a submission at the hearing.

Fees apply.

☒ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds.

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Time required to present your complete case at the hearing (submissions plus witnesses)	_____
Number of expert witnesses I intend to call (if any)	_____
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Permit applicant or permit holder

- ☐ A permit applicant responding to an objector's application for review
- ☐ A permit holder responding to a non-permit holder's application to amend or cancel a permit

Referral authority

- ☐ Determining referral authority
- ☐ Recommending referral authority

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- ☐ A person responding to an application for an enforcement order

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- ☐ An applicant for a licence to take and use water
- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☐ Specify

JOINT STATEMENT OF GROUNDS

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- ☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.
- ☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

- ☐ Yes ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

YOUR STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is:

- ☒ attached
☐ in the following field

SERVE A COPY

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You must certify that you have done so and complete the acknowledgement on this form.

CERTIFICATION

I certify that I have served a copy of this statement of grounds

- ☒ on (insert date dd/mm/yyyy) 14 / 11 / 2019 on the applicant
☒ on (insert date dd/mm/yyyy) 14 / 11 / 2019 on the respondents
(responsible/relevant authority)

ACKNOWLEDGEMENT

I understand and acknowledge that:

- to the best of my knowledge, all information provided in this form is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Full name of person completing this statement of grounds form:

Date (dd/mm/yyyy):

BERNARD JOHN ROONEY Bernard Rooney
14 / 11 / 2019

I wish to object on the grounds that having 2 members rostered on over the weekend is absurd given that it is logical to assume that any problems arising at the centre are most likely to occur on the weekends.

My reasons for this viewpoint are as follows:

For 63½ hrs. no rehabilitation services will be provided. If the weather is inclement, and no outside activity possible, this is a huge period of time for people with mental and physical issues to fill productively.

The weekends are most likely the only times that families could visit.

It is also the time that friends would visit - even if just to have a cigarette at the front gate with the client.

How is it expected that 2 staff could handle these demands, whilst also monitoring CCTV footage of the facility.

And this does not even consider if a client wishes to leave - requiring one staff member to accompany him/her.

Thanking You
Bernie Rooney

<h1>VCAT</h1> <p>victorian civil & administrative tribunal</p> <p>Website: www.vcat.vic.gov.au Phone: 1300 018 228 Email: admin@vcat.vic.gov.au</p>	<h2>STATEMENT OF GROUNDS</h2>
---	-------------------------------

Use this form to set out your reasons for contesting a planning and environment case at VCAT. These written reasons are called your statement of grounds. If you need assistance with this form call 1300 018 228 or email us at admin@vcat.vic.gov.au.

CASE DETAILS

Date that statement of grounds must be received by VCAT This is on the notice you received or the sign at the site.		18 th November 2019
VCAT reference number	P2479 / 2018	
Site address	43 Atkinsons Lane Pennington	

YOUR DETAILS

Name (objector, authority, company, other)	Dorothy Rooney
Contact person if different to above	
Telephone/Mobile	0418519152

Give us an email and another address for serving documents

We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.

If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.

If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.

We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	rooney3280@bigpond.com
Other address (this must be in Victoria)	19 Roxburgh Crt. Warrnambool

YOUR PARTICIPATION IN HEARINGS

<input type="checkbox"/>	I intend to appear and present a submission at the hearing.	Fees apply.
<input checked="" type="checkbox"/>	I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds.	No fee applies.

If you do not intend to participate in the hearing, **you will not be a party** to the proceeding. VCAT considers your statement of grounds in any contested hearing but will not send you further correspondence.

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Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit vcat.vic.gov.au and see Practice Note PNVCAT2 – Expert Evidence.

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JOINT STATEMENT OF GROUNDS

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(responsible/relevant authority)

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Full name of person completing this statement of grounds form:

Date (dd/mm/yyyy):

^{Mary}
Dorothy Rooney
14 / 11 / 2019

Statement of Grounds P2479/2018 43 Atkinsons Lane Dennington

Even though the tribunal considered WRAD's submitted Proposed Management Plan (May 2018) as a statement of intent or an outline of overarching objectives rather than a detailed operational plan they stated:

6.8. Put bluntly, we found the management plan 'thin on the ground' as to how the centre would be managed on a day to day basis. We can therefore understand why neighbours and the wider community feel uncertain about how the centre will be managed and what rules and protocols will be in place for residents and staff.

In WRAD's application to amend Condition 12 of the planning permit 2018-0105 they have not stated any reasons or rationale for the requested changes. So once again neighbours and the local community are left in doubt as to the viable management of the Centre.

If one looks at the draft timetable in Proposed Management Plan, the Saturday/Sunday schedule comprised of sport and recreation activities, supervised outdoor activities, movies, yoga, gardening and farm activities, library, cooking, family visits and counselling. How are these activities to be managed during the weekends with the requested amended staffing numbers?

If the Therapeutic Community model is the model being used at WRAD's facility, then the role of the staff to facilitation interactions, support socialisation and maintain the social order of the community, etc, surely isn't a Monday to Friday 8:30 am to 5:00 pm role.

The proposed program is for three months. The literature indicates that dropout is highest within the first 30 to 60 days of admission and that there is a relationship between motivation in early treatment and retention.

I object to any amendment of condition 12.

STATEMENT OF GROUNDS

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VCAT reference number	VCAT P2479/2018	
Site address	43 Atkinson's Lane Dennington 3280	

YOUR DETAILS

Name (objector, authority, company, other)	Richard Ziegeler
Contact person if different to above	
Telephone/Mobile	428579245

Give us an email and another address for serving documents

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Email	therapy.z@hotmail.com
Other address (this must be in Victoria)	

YOUR PARTICIPATION IN HEARINGS

- ☒ I intend to appear and present a submission at the hearing.
- ☐ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds.

Fees apply.

No fee applies.

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ABOUT VCAT FEES

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than \$200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than \$200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at www.vcat.gov.au/fees.

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.

Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.

For more information about fee relief, go to www.vcat.vic.gov.au/feerelief.

Are you applying for fee relief?

- ☒ No – complete **Fee payment** section
- ☐ Yes – complete **Fee relief form** and attach it to this application form

FEE PAYMENT

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

- ☒ Standard ☐ Corporate ☐ Concession

Fee amount charged: \$20.70

CARD DETAILS

Cards Accepted: * ☐ VISA ☐ MasterCard

Cardholder Name: *

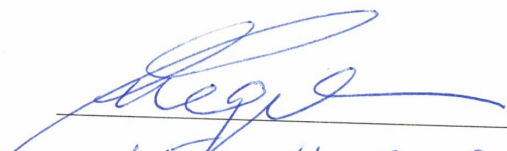
Card Number: *

Card Expiry (mm/yyyy): *

Signed: *

Date

(dd/mm/yyyy):


15 / 11 / 2019

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES

YOUR STATEMENT OF GROUNDS

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- | | | |
|---|----------------|--|
| <input checked="" type="checkbox"/> on (insert date dd/mm/yyyy) | 15 / 11 / 2019 | on the applicant |
| <input checked="" type="checkbox"/> on (insert date dd/mm/yyyy) | 15 / 11 / 2019 | on the respondents
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Full name of person completing this statement of grounds form:

Richard John Zegeker

Date (dd/mm/yyyy):

15 / 11 / 2019

I object to any amendment of condition 12.

In WRAD's application to amend condition 12 of the Planning Permit 2018-0105 they have not stated any reason or rationale for the requested changes. This is another cause for neighbours and the local community to doubt the viable and transparent management of the Centre. This approach has been characteristic of WRAD's treatment of the locals from the first meeting, a meeting which was convened by the community NOT by WRAD.

The original model of operation that was proposed by Mr Soma was one that he hastily found and it related to a British 2013 model, previously unused here and one with which he admitted to being unfamiliar. Since that proposition he stated at the first VCAT hearing that the model would be a Therapeutic Community model using Cognitive Behaviour Therapy and elements of the Odyssey model with some reliance on the Alcoholics Anonymous 12 Steps program. Each of these modalities rely on round-the-clock access to supervision, sponsors and guidance. The proposed amendment would mean that residents would only have such access for a quarter of the time in a week and only during 8 hour weekdays.

The amendment further erodes the capacity of the residential program to provide the activities scheduled in the 'Proposed Management Plan' which comprised of sport and recreation, supervised outdoor activities, movies, yoga, gardening and farm activities, library, cooking, family visits and counselling. The proposed two staff will not possibly be able to produce, supervise and monitor such activities for twenty residents, a goodly proportion of which will be court-ordered and not necessarily self-motivated to participate.

The proposed program is for three months, 90 days. The literature indicates that the dropout rate is highest in the first 30 – 60 days of admission, relating to motivation and engagement in early treatment stages. If the staffing ratios at other facilities are the model on which WRAD wishes to rely then these factors might explain why the success rate for residential rehabilitation is only 50% with a high rate of recidivism.

A significant element of the Objector's case has been the threat to safety and security posed by the facility, its poor management and supervision and an inability to adequately monitor the whereabouts of the residents because of low staffing. The amendment erodes the conditions set by the Tribunal to an unacceptable level and leaves residents effectively to their own devices for most of their time in the facility. These subjects have, by definition, demonstrated a weakness in self-monitoring, management and choice making. Without adequate staffing what mechanism is there to offer structure?

While we were bitterly disappointed and scared that a Permit had been granted, we took some comfort in the knowledge that the program would be well supervised every day and that residents would be left to their own devices for minimal overnight periods and that evenings and weekends would be full of therapeutic activities for their rehabilitation. This amendment completely undermines that and would leave the residents with minimal rehabilitative influence.

Review of relevant literature leads to the understanding that resident's engagement with the program and subsequent success of rehabilitation (commonly regarded as no return to indulgence in drugs or alcohol for < twelve months post program) is highly dependent upon consistency, intensity, and access to appropriate staff, support and guidance throughout the period of the program. Some examples of the literature are appended.

References:

Clinical Psychology Review

[Volume 12, Issue 1](#), 1992, Pages 93-116

Dropping out of substance abuse treatment: A clinically oriented review

[Michael J.Stark](#)

Abstract

Early attrition from substance abuse treatment is very high, although rates do not differ dramatically from those found in medical and psychiatric treatments. The consequences of substance abuse treatment dropout are severe, however, with early dropouts having the same outcome as untreated clients. Evidence is considered regarding the impact of demographic and social variables on continuation in treatment. The effects of client motivation, substance use, criminality and legal pressure, prior treatment history, and psychopathology are also examined. An analysis of treatment factors and procedures used to enhance retention indicates that more conveniently located, smaller, decentralized clinics, with higher clinical staff ratios and more per capita expenditures, have lower attrition rates. Clients are also likely to continue in treatment longer when they receive rapid initial response and individual attention, and when they are seen in smaller groups in friendly, comfortable environments. Inexpensive techniques such as reminder phone calls and personal letters can be employed in the absence of resources needed to mount more extensive attrition prevention interventions.

2: Indigenous residential treatment programs for drug and alcohol problems: Current status and options for improvement M. Brady No. 236/2002 ISSN 1036-1774 ISBN 0 7315 5611 9 Dr Maggie Brady is a Research Fellow at the Centre for Aboriginal Economic Policy Research, The Australian National University.

3: [Impact of staffing levels on transitional residential treatment programs for homeless veterans.](#)

Journal Article Database: PsycARTICLES [Leda, Catherine](#) [Rosenheck, Robert](#) [Fontana, Alan](#)

Abstract

Assessed the impact of staffing levels on the quality of care provided at 16 transitional residential treatment programs for homeless veterans (VTs). The relationship between staff-to-patient ratio (SPR) and (1) patient admission characteristics, (2) therapeutic activity levels, and (3) patient discharge status was examined. Programs with higher SPRs admitted many VTs who were young, able to work, and who abused drugs, and demonstrated higher levels of therapeutic activity. SPR was significantly associated with several discharge measures. As SPR increased, the percentage of VTs transferred to another institutional setting decreased. Data provide empirical support for providing enhanced staffing to residential treatment programs for the homeless. (PsycINFO Database Record (c) 2016 APA, all rights reserved)

4: [Twelve-step and cognitive-behavioral treatment for substance abuse: A comparison of treatment effectiveness.](#)

Journal Article Database: PsycARTICLES
[Ouimette, Paige Crosby](#) [Finney, John W.](#) [Moos, Rudolf H.](#)

Abstract

The comparative effectiveness of 12-step and cognitive-behavioral (C-B) models of substance abuse treatment was examined among 3,018 patients from 15 programs at the US Department of Veterans Affairs Medical Centers. Across program types, participants showed significant improvements in functioning from treatment admission to a 1-year follow-up. Although 12-step patients were somewhat more likely to be abstinent at the 1-year follow-up, 12-step, C-B, and combined 12-Step–C-B treatment programs were equally effective in reducing substance use and improving most other areas of functioning. The finding of equal effectiveness was consistency over several treatment subgroups: Patients attending the "purest" 12-step and C-B treatment programs, and patients who had received the "full dose" of treatment. Also, patients with only substance abuse diagnoses, those with concomitant psychiatric diagnoses, and patients who were mandated to treatment showed similar improvement at the 1-year follow-up, regardless of type of treatment received. These data provide important new evidence supporting the effectiveness of 12-step treatment. (PsycINFO Database Record (c) 2016 APA, all rights reserved)

VCATvictorian civil &
administrative
tribunalWebsite: www.vcat.vic.gov.au

Phone: 1300 018 228

Email: admin@vcat.vic.gov.au**STATEMENT OF GROUNDS**

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VCAT reference number	P2479/2018	
Site address	43 Atkinsons Lane Dennington	

YOUR DETAILS

Name (objector, authority, company, other)	Anne Boak
Contact person if different to above	A/A
Telephone/Mobile	0407 356 367

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Email	anneboake@hotmail.com
Other address (this must be in Victoria)	10/6 The Esplanade Dennington Vic 3280

YOUR PARTICIPATION IN HEARINGS

- ☐ I intend to appear and present a submission at the hearing. **Fees apply.**
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- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☒ Specify

A resident who lives in close proximity to Proposed site.

JOINT STATEMENT OF GROUNDS

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

- ☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.
- ☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

- ☐ Yes ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

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☐ in the following field

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I certify that I have served a copy of this statement of grounds

- ☒ on (insert date dd/mm/yyyy) 17 / 11 / 2019 on the applicant
☒ on (insert date dd/mm/yyyy) 17 / 11 / 2019 on the respondents
(responsible/relevant authority)

ACKNOWLEDGEMENT

I understand and acknowledge that:

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Full name of person completing
this statement of grounds form:

Linda Anne Boak.

Date (dd/mm/yyyy):

17 / 11 / 2019

Attachment to VCAT Document Re: Permit Application No PP2018-0105 Issued on 20/8/2019.

I wish to object to the appeal by WRAD re above in relation to appeal against Legal Condition 12.

1. As an older resident living in close proximity to the proposed site I am concerned about my safety especially with the limited knowledge I have gained from working for two years at a Psychiatric/Rehabilitation Centre.
2. The staffing numbers in any rehabilitation centre are critical especially during evenings and weekends due to Clients feeling isolated and usually no evening or weekend professional rehabilitation in place there is a tendency for clients to seek alternative outings/medication. With this in mind, professional staff numbers should be increased not decreased.
3. In my limited experience Clients seem to have a breakdown/meltdown in the darkness/full moon times and as such, it often takes two qualified professional staff to restrain them. If this happens who then is left to supervise/assist the other residential Clients.
4. In my opinion high staff levels should be maintained 24/7 as it is a possibility (which we have seen and read about) that over medication could be used as an alternative to calm Clients evenings and weekends to save on staffing costs which happens in some institutions to maintain their financial costs.

du Beak.
11/19.

VCATvictorian civil &
administrative
tribunalWebsite: www.vcat.vic.gov.au

Phone: 1300 018 228

Email: admin@vcat.vic.gov.au**STATEMENT OF GROUNDS**

Use this form to set out your reasons for contesting a planning and environment case at VCAT. These written reasons are called your statement of grounds. If you need assistance with this form call 1300 018 228 or email us at admin@vcat.vic.gov.au.

CASE DETAILS

Date that statement of grounds must be received by VCAT This is on the notice you received or the sign at the site.		18 November 2019
VCAT reference number	P2479/2018	
Site address	43 Atkinsons Lane Dennington	

YOUR DETAILS

Name (objector, authority, company, other)	Karen Argent
Contact person if different to above	
Telephone/Mobile	438611827

Give us an email and another address for serving documents

We email copies of orders, including the final decision, if you are a party. We do not send a printed copy as well.

If you do not give us an email, printed orders may arrive after the decision is published and after other parties get it by email.

If you give us your email address, it will be available on VCAT's records. These may be inspected by other parties and media.

We do not accept any responsibility for emails not received due to changes in address, firewall or other security measures attached to your email account.

Email	argent.karen.s@edumail.vic.gov.au
Other address (this must be in Victoria)	202 Illowa Rd Dennington 3280

YOUR PARTICIPATION IN HEARINGS

- ☐ I intend to appear and present a submission at the hearing. **Fees apply.**
- ☒ I do not intend to participate in the hearing, but want VCAT to consider my statement of grounds. **No fee applies.**

If you do not intend to participate in the hearing, **you will not be a party** to the proceeding. VCAT considers your statement of grounds in any contested hearing but will not send you further correspondence.

FEES

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging this form, you will not be a party and will not be entitled to take part, even if you indicated that you wanted to participate. For information about fees and fee relief, visit www.vcat.vic.gov.au/fees.

You do not have to pay a fee if you are a permit applicant or holder, the determining or recommending referral authority, a person responding to an enforcement order application, or an applicant for a works authority or licence.

PRESENTING AT THE HEARING

If you intend to present at the hearing, tell us:

Time required to present your complete case at the hearing (submissions plus witnesses)	
Number of expert witnesses I intend to call (if any)	
Witness area/s of expertise	

For information about witnesses and evidence, visit vcat.vic.gov.au and see Practice Note PNVCAT2 – Expert Evidence.

WHO IS MAKING THIS STATEMENT?

This statement of grounds is lodged by or on behalf of:

Objector/s

- ☒ A person who objected to the original application to the council
- ☐ A person who did not object to the original application to the council but now wants to object
- ☐ A person responding to an application to amend plans or make other changes to an existing application
- ☐ A person responding to a notice by a permit holder to amend a permit

Permit applicant or permit holder

- ☐ A permit applicant responding to an objector's application for review
- ☐ A permit holder responding to a non-permit holder's application to amend or cancel a permit

Referral authority

- ☐ Determining referral authority
- ☐ Recommending referral authority

Enforcement orders

- ☐ A person responding to an application for an enforcement order

Environment applications

- ☐ Objector/s to a works approval application made to the Environment Protection Authority
- ☐ A works approval applicant
- ☐ An objector to an application made for a licence to take or use water or for works under the Water Act 1989
- ☐ An applicant for a licence to take and use water
- ☐ An applicant for a works licence or licence for underground disposal using a bore

Other

- ☐ Specify

JOINT STATEMENT OF GROUNDS

Complete this section if you are a spokesperson for people lodging a joint statement of grounds.

- ☐ Attach a list of the names and addresses of all the people you represent, showing whether you have their individual consent.
- ☐ Be aware you may be asked to provide VCAT with a copy of their written consent.

I certify that I have consent to act as spokesperson for the attached list of people where this is a joint statement of grounds:

- ☐ Yes
- ☐ No

We will only communicate with the nominated representative for a joint statement of grounds.

YOUR STATEMENT OF GROUNDS

A short summary of my reasons for contesting the VCAT application is:

- ☐ attached
☒ in the following field

I am contesting the application because VCAT has already made a ruling on this matter and have very carefully considered the needs of both the community and the applicant.

The original plan by the applicant lacked detail and consideration of the community and The Lookout Centre clients, as does this application to require The Lookout Centre to be fully staffed for less hours.

A Residential Rehabilitation Centre needs to provide it's clients with the appropriate support mechanisms to enable them be successful.

My questions are

How are clients supposed to access the support needed when appropriate staff are only on site for approximately 1/3 of their time?

Might the clients just as well attend a day centre if they only have access to staff during business hours?

In my original objection I stated that the site in Atkinson's Lane was not a suitable site and feel that with the application to decrease staffing my original concerns are still valid if not more so.

To whom it may concern

I am writing to inform you of my objection the Lookout Rehabilitation Centre. My name is Karen Argent and I am a Primary School Teacher who lives approximately 2.5 km from the centre.

I find this letter difficult to write as I know there is a need for a Residential Rehabilitation Centre but strongly believe that Atkinsons Lane is not a suitable site for a successful Rehabilitation Centre due to the lack of utilities, size of the property, security, and the change of amenity to the area.

Location

I want a Residential Rehabilitation Centre to work and don't want the centre to fail because of poor site location. I believe the site is not suitable for the purpose as:

- The site is too close to temptation for LRRC participants(licenced venues, chemists etc).
- With the site being so close to town, it is easily accessible to friends of participants which could be to the detriment of the participant.
- The site is cold and windswept and not very ideal for recovery. There will be many days where the weather won't be suitable for outside time.
- The site is not suitable to look after the wellbeing of participants or local residents.
- There is not enough land to do what they propose(provide enough work based farming activities for 20 participants. Other similar centres are further out of town and have more land with which to set up suitable programs for clients.
- The block is windswept and has very little topsoil and is not large enough to run much stock, as any local farmer will be able to attest to.
- The septic is up a hill on solid limestone how will this work without it costing a small fortune or impacting on the bore water of neighbouring properties?
- Local farming practices ie cattle weaning, harvesting, transport business etc are noisy pursuits. Farming is a 24hr 7 day/week business. These businesses are conducted within metres of the boundary of LRRC.
- The residential rehab centre is like having a small business industry operating next door – this increase in human and vehicle activity will have significant negative impact on the farming, recreational and Hobby Farm pursuits on neighbouring properties. Neighbours have a Right to Farm on their property according to the zoning regulations. The road degradation, amount of traffic, noise complaints, people of interfering with farming operations etc will have a significant impact on current residents.

Emotional impact

By choosing a site that isn't suitable for purpose, not setting out a structured well thought out plan, disregarding the concerns of local residents and changing the amenity of the area have had an emotional impact on me. Why should I now feel anxious and unsafe to live alone.

- The immediate neighbourhood provides a lifestyle choice I made some fifteen years ago. The new development imposes a lifestyle very different from what I chose for myself. The decision to site this development so close to local residents (contrary to other similar developments in regional Victoria), is an unacceptable imposition on my lifestyle.

- I spend several months a year living alone and now worry about the likelihood of court ordered residents and ice addicts living nearby under poor supervision. WRAD's complete disregard for these concerns only adds to my concerns. Throughout this process I have felt ignored, laughed at and helpless.

Safety and Security

Our safety and security concerns have not been addressed. During initial discussions we were fobbed off and basically told we were being stupid alongside what people were told changing from meeting to meeting. How can we place our faith in people who treat us like this.

- Moyne Shire Councillors prior to supporting the application were informed by WRAD that court ordered or referred residents would not be residing at the centre but in the application it is stated these people would be admitted to the residence.

- The 70% of Residence whom fail to rehabilitate(as stated by WRAD) leave the centre without supervision. There is no formal plan for residents after they sign out from the centre(as stated by Mr Soma) Leaving the neighbouring homes, farms, clubs & shops at a high risk of invasion, vandalism & theft. We are aware that not all participants fall in this category but it only takes 1.

- At WRAD and I presume also the LRRC they have a distress button - Where is the distress button for local residents?

- I am often home alone and currently feel quite safe. Recently I have been helping someone, who through mental illness, is making some poor life choices and have felt extremely vulnerable when in contact or the thought of being in contact with some of his associates. I do not want to feel this way on a continual basis.

- As participants will have access and be encouraged to use the Port Fairy / Warrnambool Rail Trail they will have direct access to my property. With the presence of participants, who may have no understanding of the rural lifestyle, who will not understand the impact of petting farm animals, horses or dogs as they walk the trail I will now have to add extra gates and security from unwitting or intentional disregard.

Other

- What guarantee will there be that the improved infrastructure required eg water, power & road upgrades won't cause a cost to local residents or city & shire councils. Why should we the rate payers have to foot the bill for upgrades to a poorly chosen site.

- What guarantee is there that LRRC won't increase from 20 beds to 50 beds. We have seen this in the planning already.

WRAD's disregard and disrespect of local residents.

Throughout this whole process I along with neighbouring residents have felt completely disregarded and have little confidence in the program or it's management. We have been treated in a very dismissive manner by Chair of the Lookout committee & CEO of WRAD. Our concerns and questions have been laughed off in many cases.

There was no community consultation prior to residents accidentally finding out about the proposed LRRC. It has been very apparent from the onset of this proposed Rehabilitation Centre that WRAD doesn't have a structured plan. WRAD has chopped and changed it's proposed model.

Regards,

Karen Argent

SERVE A COPY

You must serve a copy of your statement of grounds on both the responsible or relevant authority and the applicant by the date that appears in the notice you received and on the sign at the site – the same date on the front of this form. If not, we may not be able to hear your views or consider your objections.

You must certify that you have done so and complete the acknowledgement on this form.

CERTIFICATION

I certify that I have served a copy of this statement of grounds

☒ on (insert date dd/mm/yyyy)

18 / 11 / 2019

on the applicant

☒ on (insert date dd/mm/yyyy)

18 / 11 / 2019

on the respondents
(responsible/relevant authority)

ACKNOWLEDGEMENT

I understand and acknowledge that:

- to the best of my knowledge, all information provided in this form is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.

Full name of person completing
this statement of grounds form:

Karen Argent

Date (dd/mm/yyyy):

18 / 11 / 2019

HOW CAN YOU LODGE THIS APPLICATION?

You can lodge this application with VCAT by post, email or fax.

By post

Victorian Civil and Administrative Tribunal
GPO Box 5408
Melbourne VIC 3001

By fax or email

Fax your application and supporting documents to 03 9628 9789 or email it to admin@vcat.vic.gov.au.

In person

Deliver your application and supporting documents in person to the VCAT Service Counter on:

55 King Street
Melbourne VIC 3001

Our office hours are 8.30 am to 4.30 pm Monday to Friday.

ABOUT VCAT FEES

VCAT fees are charged according to three levels:

- **corporate fees** for businesses and companies with a turnover of more than \$200,000 in the previous financial year, corporate entities and government agencies
- **standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than \$200,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **concession fees** for people who hold the Australian Government Health Care Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, visit the fees page at www.vcat.gov.au/fees.

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.

Some people are automatically entitled to a full fee waiver. You can also apply for fee relief if paying the fee would cause you financial hardship.

For more information about fee relief, go to www.vcat.vic.gov.au/feerelief.

Are you applying for fee relief?

- ☐ No – complete **Fee payment** section
- ☐ Yes – complete **Fee relief form** and attach it to this application form

FEE PAYMENT

Complete this section unless you are applying for fee relief or no fee is payable.

Choose the fee level:

- ☐ Standard ☐ Corporate ☐ Concession

Fee amount charged: \$ _____

CARD DETAILS

Cards Accepted: * ☐ VISA ☐ MasterCard

Cardholder Name: *

Card Number: *

Card Expiry
(mm/yyyy): *

Signed: *

Date
(dd/mm/yyyy):

_____ / _____ / _____

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES

TaitsLegal

Our Ref: Alex McCulloch: 182069
Your Ref:
Date: 21 January 2020

Warrnambool, Port Fairy,
Terang, Mortlake

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Ms J McNamara
Director – City Strategy & Development
Warrnambool City Council
PO Box 198
WARRNAMBOOL VIC 3280

By Email: JMcNamara@warrnambool.vic.gov.au

Mr J Cranston
Jeff Cranston and Associates
Ground floor
35 Cotham Road
KEW VIC 3101

By Email: legality@bigpond.com

Dear Jodie and Mr Cranston,

VCAT: P2479/2018

**APPLICANT: MYERS PLANNING GROUP PTY LTD RESPONDENT: WARRNAMBOOL CITY COUNCIL
APPLICATION FOR REVIEW BY A PERMIT APPLICATION OR PERMIT HOLDER THE LOOKOUT PROJECT**

We continue to act for Myers Planning Group Pty Ltd and enclose:

1. Witness statement from Geoffrey Soma;
2. Witness statement from Clare Davies; and
3. Witness statement from Dr Stefan Gruenert.

The enclosed statements are in draft form. Further amendments may be made within the timeframe for the service of expert reports.

Our client has queried whether Council representatives or Mr Cranston's clients would like to visit the Windana, Ballarat or Odyssey therapeutic community facilities? This will allow the parties to see how similar facilities operate, including staff numbers.

If this is something you would like to consider please let us know so that we can make the necessary arrangements.

This offer is extended to the Warrnambool City counsellors.

Yours faithfully,



Alex McCulloch
Lawyer

Direct Line: 5560 2122 | **Email:** mccullocha@taits.com.au
121 Kepler Street, Warrnambool. VIC 3280
PO Box 311 (DX 28003) Warrnambool VIC 3280



File Number: P1821/2019

Property Address: 43 Atkinsons Lane DENNINGTON VICTORIA 3280

Report prepared for Victorian Civil and Administrative Tribunal

Instructions received from Alex McCulloch, Commercial Group, Tait's Legal

Report prepared by Clare Davies

Date of the Report 15 January 2020

Report prepared by Clare Davies,

1/47 Wellington Street St Kilda 3182.

1. Qualifications: Master of Social Work, Bachelor of Social Science (Psychology), Diploma Drug and Alcohol Work.

I have worked in the Health and Welfare sector for over 20 years. I have worked in advocacy, operations and policy positions across youth, out of home care, alcohol and drug work as well as with asylum seeker and refugee populations. In 2012, I was awarded a Churchill Fellowship to study models of care internationally. I am the Executive Director of Rehabilitation Services at Windana Drug and Alcohol Recovery where I have worked for the past seven years. I have previously held management roles in two Therapeutic Communities in Queensland.

2. Windana manages two Therapeutic Communities. The Maryknoll facility has been operational for over 30 years and Windana opened a facility in Ballarat 1 year ago. A third facility will open at Corio in 2021.
3. Both facilities operate using the Therapeutic Community model. Maryknoll is a 6-12-month program and Ballarat is a 90-day program.

Maryknoll: The Windana Therapeutic Community is a 77-bed residential facility located on a 40-acre property in Maryknoll, Victoria. The program is delivered through four different phases over a period of 6-12 months. Residents of all phases live together in shared accommodation across five separate houses to support each other through the program. The community as method approach utilised at Windana provides therapeutic and educational impact to residents who participate in self-help and mutual-help activities. The program is highly structured, guided by a comprehensive timetable. Each day commences at 6am and finishes at 10pm.

The program treatment model includes medical and nursing management, case management & support services, complementary therapies: naturopath - yoga - mindfulness groups, exercise and recreational activities, individual counselling and group work including art therapy, nutrition, relapse prevention, harm minimisation and stress management. The program embraces harm reduction and we train residents in community overdose prevention strategies. Windana provides education and training opportunities to residents that assist with reading and writing as well as vocation and life skills.

Ballarat: The Windana Therapeutic Community is a 20-bed residential facility located in the Grampians region in Victoria. At the Grampians TC, the program is a 90-day duration. It is a non-smoking facility. The treatment program model is similar to Maryknoll; however, it is modified for a smaller group and shorter timeframe for treatment.

4. The number of residents at Maryknoll is 77 and Ballarat 20;
5. The number of staff:
Maryknoll 44 EFT
Ballarat 12.4 EFT
- 5.1. the number of staff rostered to work between 8.30 am and 5pm Monday to Friday;
Maryknoll – up to 25 EFT
Ballarat – up to 7 EFT

- 5.2. the number of staff rostered to work between 5pm and 8.30am Monday to Friday;
Maryknoll – up to 5 EFT between 5pm and 10pm. From 10pm – 6 am, there are 2 staff.
Ballarat – 2 EFT before 10pm and then 1 staff member between 10pm – 6am.
- 5.3. the number of staff rostered to work on weekends;
Maryknoll – up to 5 EFT between 6am and 10pm and 2 staff between 10pm and 6am.
Ballarat – 2 EFT between 6am and 10pm and 1 staff member between 10pm and 6am.
- 5.4. the qualifications of the above staff.
The staff that are rostered outside of business hours are required meet the minimum standard qualification of Certificate 4 in Drug and Alcohol Work as prescribed in the DHHS AOD Workforce Strategy (2019).
6. The Saturday to Sunday activities (including clinical treatment activities) for residents at Maryknoll and Ballarat;
Both facilities have similar weekend activities including family visits, reflection group, offsite peer support meetings (e.g. Narcotics Anonymous, Alcoholics Anonymous, SMART recovery), Therapeutic Homework (this would have been prescribed during the week). There is also general coordination of the facility that occurs including meal preparation and cleaning.
7. Both facilities are funded through Department of Health and Human Services. The current bed base rate is \$59,295 per bed. Windana ask residents to contribute to their treatment and request 78% of Centrelink payments, or equivalent. The 78% contribution is often negotiated to a substantially lower amount as many residents enter treatment with debts that they need to repay.
8. Windana facilitates residents' exit from treatment utilizing a trauma informed approach. Windana provide comprehensive discharge planning that commences on arrival to treatment to ensure housing and continuing care are explored and referrals made as early as possible. Please see Procedure 108.2 Resident Discharge Therapeutic Community.
9. WRAD's proposed model for a residential drug and alcohol facility with 20 residents will operate under the therapeutic community model and meets the Australian Therapeutic Community Association quality standards. It also meets the DHHS Program Guidelines.


Procedure: PRO 108.2 Therapeutic Community Resident Discharge

Date of Development:	1 April 2019
Procedure owner:	Executive Director Rehabilitation Services
Last reviewed:	New document
Next review date:	1 September 2019
Authorised by:	Clinical Governance Committee

1. Introduction

This procedure outlines the steps required to discharge a Resident from Windana's Therapeutic Communities (TC). It describes the pre- and post-discharge activities to be completed when discharging a Resident from a residential rehabilitation service, including supports that should be provided to Residents after discharge.

Staff can use the discharge checklist to provide additional guidance during the procedure and to ensure that all key tasks are completed.

2. Scope

This procedure is to be followed by all Therapeutic Community Services staff involved in the discharge of Residents from a TC. It covers planned and unplanned discharges. A planned discharge is when the Resident completes the program at a Therapeutic Community or chooses to leave before the program has been completed. An unplanned discharge occurs when a Resident has breached a cardinal rule and needs to be discharged quickly. It can also occur when the Resident feels distressed and wants to exit the program immediately and planning is not possible.

3. Policy

This procedure links to POL 108 Access and Equity.

4. Definitions

'Split Kit'	A split kit is issued to encourage harm minimisation and contains clean syringes and swabs. Note that injecting equipment should only be provided to people who identify as injecting substance users.
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BPRAM	Best Practice Client Risk Assessment and Management
COPE	Community Overdose Prevention Education
ITP	Individual Treatment Plan

5. Procedure provisions

5.1 Resident chooses to exit before completing the program

It is not uncommon for Residents to feel very challenged by the recovery process offered at a Therapeutic Community, and they may have a strong desire and anxiousness to leave the program quickly.

It is important that the Facilitator leads a discharge process that is trauma-informed given the majority of people treated by alcohol and other drug services have trauma histories (BlueKnot Foundation). A trauma-informed service means that staff do not blame Residents for their efforts to manage their traumatic reactions. Staff embrace a message of hope and optimism that recovery is possible. Trauma survivors are seen as unique individuals who have experienced extremely abnormal situations and have managed as best as they could.

- 5.1.1 In the event a Resident wants to leave the Therapeutic Community even though Windana, the Resident's external supports or other stakeholders considers that ongoing support is required, every effort will be made to encourage the Resident to continue some form of treatment or support, or referral to another service. However, the right of the Resident to choose must be maintained.
- 5.1.2 Facilitator works with the Resident and a Peer to talk about the reasons the Resident would like to leave and tries to address the concerns raised by the Resident. Facilitator acknowledges the Resident's achievements and encourages them to stay one more night and discuss their intention to leave with Peers.
- 5.1.3 Often a Resident will provide notice that they want to leave the TC with their bags already packed. The Facilitator tries to slow down the discharge process to provide opportunities for the Resident to reflect on whether this is the best course of action. At any time during the discharge process the Resident may change their mind and choose to remain in the program.
- 5.1.4 Facilitator notifies the Team Leader that the Resident would like to leave the TC.
- 5.1.5 If the Resident chooses to receive services from another organisation, a Facilitator will locate a service that is better able to meet their needs.

- 5.1.6 Facilitator provides appropriate information to the referral service, with the permission and consent of the Resident.

5.2 Resident discharge preparation

- 5.2.1 Once a Resident has provided notice to Windana of their intent to leave the TC program, the Team Leader assigns a Facilitator or Therapist to lead the discharge process.
- 5.2.2 The Resident remains in the administration building and separate to the Therapeutic Community. The Resident is under continual observation by staff to ensure a timely, efficient and safe process.
- 5.2.3 Facilitator invites the Resident to nominate a Resident Peer to support them through the discharge process. Sometimes a Peer or Peer Worker is selected by staff to ensure suitability.
- 5.2.4 Facilitator emails Admission Coordinator and Finance/Bookkeeper to notify that the Resident is being discharged, the date of discharge and reason for discharge. They are also notified of a possible re-admission date.
- 5.2.5 Facilitator reviews the Consent to Share Information form with the Resident to check and update the personal and health information that can be shared with providers and health practitioners external to Windana before commencing discharge planning.
- 5.2.6 Facilitator asks whether the Resident would like to phone a friend or family member to notify of discharge and organise a pick up and/or housing arrangements post-discharge.

5.3 Risk assessment and discharge planning

Discharge and transfer of care planning is part of assessment and treatment planning that is continually reviewed and updated throughout treatment.

- 5.3.1 Facilitator completes a Best Practice Client Risk and Assessment Management (BPRAM) with the Resident in the presence of a Peer. Refer to BPRAM user manual for guidance on completing the assessment.
- 5.3.2 Facilitator asks the Resident to provide a forwarding address and saves the information to MasterCare.
- 5.3.3 Facilitator creates a discharge summary with the Resident in the presence of a Peer. If appropriate, family members and service providers participate in transfer of care and discharge planning.
- 5.3.4 The discharge summary must include relevant information gained from the risk assessment and the Resident's current Individual Treatment Plan (ITP).
- 5.3.5 Facilitator asks the Resident what support services they would like to put in place after discharge. For example, Narcotics Anonymous

meetings, GP, Overdose Prevention Counsellor, counselling, and peer support. Details about aftercare supports are to be included in the Resident discharge plan.

- 5.3.6 If the Resident receives pharmacotherapy, identify a new dosing point and prescriber as part discharge planning. Utilise DirectLine (Confidential alcohol and drug counselling and referral in Victoria Australia) 1800 888 236 to assist locating prescriber and dispensing pharmacy.
- 5.3.7 A copy of the discharge summary is provided to the Resident.
- 5.3.8 Facilitator oversees Resident phone calls to make appointments (if required) to the relevant support services and GP.
- 5.3.9 Facilitator actions the items in the discharge summary. This may include organising housing through Launch Housing.
- 5.3.10 The Resident may also phone their contact person during this time to organise someone to pick them up from the Therapeutic Community.
- 5.3.11 All service users receive information on:
 - How to re-enter the Therapeutic Community program
 - How to provide feedback or make a complaint when exiting the service
 - Other service providers.

5.4 Medications and prescriptions

- 5.4.1 Team Leader and Nurse discuss a safe amount of medication to provide the Resident at discharge.
- 5.4.2 Nurse meets with the Resident to review current medications and packs three days' worth of prepacked medicines. If there is less risk of harm to the Resident they may be discharged with more than three days' worth of medication. The outgoing Resident is not to be provided any un-packaged medications.
- 5.4.3 Nurse confirms that the Resident has scheduled a GP appointment within three days post-discharge so that they can obtain more medication if required.
- 5.4.4 Nurse reviews if the Resident has any upcoming medical or specialist appointments and checks whether the Resident would like to keep the appointments, reschedule them or cancel appointments.
- 5.4.5 Nurse confirms, reschedules or amends appointments as per the Resident's advice.
- 5.4.6 Nurse travels to the pharmacy where the Resident's prescriptions are stored to collect them to be forwarded to the Resident's pharmacy of choice return.

5.5 Pharmacotherapy and opioid replacement therapy

- 5.5.1 If the Resident is receiving pharmacotherapy, the Facilitator checks that the Resident has received their daily dose on the day of departure.
- 5.5.2 Facilitator links the Resident with their previous prescriber and pharmacy. If this is not possible then phone DirectLine 1800 888 236 to organise a new dosing point and prescriber.
- 5.5.3 Nurse notifies the current dosing point of the Resident's discharge.
- 5.5.4 Staff are not to provide takeaway doses of pharmacotherapy to the discharging resident under any circumstances. If unsure speak with the Nurse, Team Leader or On Call staff.
- 5.5.5 All Residents who have completed the Community Overdose Prevention Education (COPE) are to be provided with Naloxone upon discharge (as per the COPE Procedure). Naloxone kits are available from the medications room.

5.6 Resident discharge

- 5.6.1 Facilitator checks that Windana has consent to discuss the discharge with any relevant stakeholder as per Consent for Release of Information form.
- 5.6.2 Facilitator completes Exiting the Therapeutic Community Form with the Resident and provides a copy to the Resident and finance so that the balance of the Resident's Windana sub-account can be transferred back into their personal bank account.
- 5.6.3 Facilitator asks the Resident to provide a 'safe address' for future correspondence. This is to be documented in MasterCare.
- 5.6.4 Facilitator adds a forwarding address to the Cancel Centrelink Nominee Form that was filled out during admission. This form advises Centrelink of their departure.
- 5.6.5 Facilitator gathers all documents, cards and valuables that were collected at admission to be returned to the Resident using the Personal Belongings Inventory form. Ask the Resident to confirm that the items have been returned by signing the form.
- 5.6.6 The Resident's journal is provided to them to keep upon discharge.
- 5.6.7 Check post box for any new personal mail and give to the Resident.
- 5.6.8 Facilitator offers a 'Split Kit' to Residents who identify as having historically injected substances. Split kits are available from the medications room. See procedure for Split Kit contents and how to demonstrate its use with Residents.
- 5.6.9 If the Resident is a forensic client, Facilitator updates details on Penelope that the Resident is no longer in treatment with Windana. Corrections may need to be informed and if bailed to the TC, their informant notified.

- 5.6.10 Facilitator provides the Resident with access to a computer in order to complete the Outcomes Measurement Survey and the Client Satisfaction Survey.
- 5.6.11 Facilitator reminds the Resident of the one-month post-treatment follow up survey that will be administered by a staff member making contact via their preferred method. This should be documented within the discharge paperwork.
- 5.6.12 Facilitator prepares a discharge summary and provides a copy to the Resident.
- 5.6.13 Once all administration processes and paperwork has been completed the Resident will be escorted by staff and the house coordinator, or senior resident to pack their belongings. Staff reinforce the requirement to have all items removed.
- 5.6.14 Facilitator completes the Resident Departure form (FOR 108.2.2) and provides a copy to Finance/Bookkeeper to action if the Resident chooses to receive \$20 cash for incidentals, a \$20 food voucher, and \$10 loaded on the Resident's Myki card for public transport.
- 5.6.15 Facilitator provides all remaining shopping items and personal mail to the Resident.

5.7 Resident interaction with peer community

- 5.7.1 The Resident remains separate from the Peer community as they undertake the discharge process.
- 5.7.2 Facilitator asks the Resident if they would like to have a final group session with the Therapeutic Community to say goodbye, if safe to do so. This is referred to as a 'formal departure'.
- 5.7.3 If the Resident would like a formal departure the Facilitator notifies the Team Leader who updates the daily schedule.
- 5.7.4 The Resident may decline the formal departure option.
- 5.7.5 Formal departure is a 20 to 30-minute group-facilitated session attended by Residents, all available staff and the Team Leader. Its purpose is for the Resident to discuss their reasons for leaving and for Residents in the Therapeutic Community to ask questions and express their support and concern.
- 5.7.6 Formal departure only occurs once the Resident has packed their belongings and completed administrative requirements/paperwork.
- 5.7.7 Formal departure is not offered for Residents who have broken a cardinal rule unless the Program Manager decides otherwise.

5.8 Notifications

- 5.8.1 Residents are notified of the steps Windana will make as per statutory requirements, if any. (i.e. Corrections, Police, DHHS) where there are conditions on the resident's treatment. This is to be done on the same day of discharge.

- 5.8.2 Facilitator phones and emails agencies (eg: Corrections, Police, DHHS) and individuals listed on MasterCare who need to be notified about the Resident's discharge.
- 5.8.3 Services, individuals and emergency contact should be contacted by the Facilitator that the Resident is being discharged and the date of discharge in line with the Resident's consent for release of information. Resident consent to share information regarding discharge and discharge date is not required for notification of statutory authorities.
- 5.8.4 Facilitator completes and emails the Resident discharge notification forms for pharmacy and medical centre.
- 5.8.5 Update Comms to note that the Resident has been discharged.
- 5.8.6 Facilitator notifies on-call of Resident discharge.

5.9 Resident departure

- 5.9.1 At the time of departure, staff are to confirm the Resident's mode of transport to their next location (ie: taxi, friend picking them up).
- 5.9.2 Staff may drive a Resident to the nearest train station for Residents who choose to catch a train.
- 5.9.3 Staff may arrange to drive a Resident directly to a housing support service, such as Launch Housing.
- 5.9.4 The Therapeutic Community may store Resident luggage up to one month post discharge if the Resident is not able to carry all of their belongings with them on the day of departure. The Resident is responsible for organising bag collection within the one-month timeframe.
- 5.9.5 Facilitator informs the Resident that any belongings left by the Resident one month after discharge will be disposed of by Windana staff.
- 5.9.6 Staff are to confirm that the Resident leaves the Therapeutic Community property by watching the Resident leave the premises.

5.10 Unplanned discharge

- 5.10.1 As part of the intake and admission process, Residents are provided information by the Facilitator that Windana is likely to discharge them without their agreement if the Resident has broken a Therapeutic Community cardinal and/or general rule. Follow Breach of Cardinal Rule procedure.
- 5.10.2 If the unplanned discharge occurs outside of business hours, the responsible site person phones on-call to discuss the need to discharge the Resident.
- 5.10.3 Call triple zero (000) for police if there is a threat of violence towards staff or Residents and notify Manager or on-call.

- 5.10.4 If there is a safety concern regarding individual residents, i.e. mental health or overdose risk, then the appropriate health service should be called.
- 5.10.5 Call triple zero (000) for an ambulance if there is a risk of overdose or a health concern.
- 5.10.6 If the safety concern is related to mental health then the local Crisis Assessment and Treatment Team (CATT) should be called.

6. Responsibilities

Staff on Duty: Staff on duty have responsibility for work duties required to discharge Residents.

Team Leader/Manager: should always be involved in discussion prior to discharging any Resident. Clinical responsibility lies with Team Leader/Manager.

7. Related Windana Documents

FOR 108.2.1 Resident Discharge Checklist
 FOR 108.2.2 Resident Departure Form
 FOR 108.2.4 Resident Discharge Notification – Pharmacy
 FOR 108.2.5 Resident Discharge Notification – Medical Centre
 FOR 108.1.8 Cancel Centrelink Nominee
 FOR 108.1.9 Personal Belongings Inventory
 Outcome Measurement Survey
 PRO 124.11 Community Overdose Prevention Education (COPE)
 PRO 00.0 Breach of Cardinal Rule procedure

8. Other Related Documents

ATCA Essential Elements

Version	Date	Author	Reason	Sections
1.0	1.4.2019	Executive Director Rehabilitation Services	New document	All

Statement by Mr Geoffrey Francis Soma
Director – Western Region Alcohol and Drug Centre Inc.

1. Introduction

- 1.1 My name is Mr Geoffrey Francis Soma.
- 1.2 I am the Director of the Western Region Alcohol and Drug Centre Incorporated. ("WRAD").
- 1.3 I make the following statement in support of WRAD's application to amend planning permit 2018-0105 for a drug and alcohol residential rehabilitation facility at 43 Atkinsons Lane Dennington ("the Lookout").

2. Qualifications, Skills and Experience.

- 2.1 My qualifications, skills and expertise are set out in Annexure "A". In summary, I have over 30 years' experience in managing alcohol and other drug programs, including 12 years as the Director of Odyssey House in Christchurch, New Zealand, around 3 years' experience as the Treatment Administrator at Odyssey House at Lower Plenty, Melbourne and almost 20 years' experience as the director of WRAD since August 2000. While working at Odyssey House in Melbourne I was often the sole staff member during the evenings and on weekends with over 140 residents on site.
- 2.2 References from the Christchurch School of Medicine, Health Link South Mental Health Services and Mary Wooldridge MP are attached as Annexure "B".

3. Background

- 3.1 On 20 August 2019 the Warrnambool City Council ("Council") as ordered by the Victorian Civil and Administrative Tribunal ("VCAT") issued planning permit 2018-0105 for a residential drug and alcohol rehabilitation centre at Atkinson's Lane, Dennington (the "Permit").

- 3.2 Condition 12 of the Permit prescribes the following staff numbers:

At all times when residents are present on the site:

- *A minimum of two staff between 8.30pm and 8.30am; and*
- *A minimum of five staff between 8.30am and 8.30pm.*

- 3.3 WRAD is seeking to amend condition 12 of the Permit so the required staff numbers are as follows:

At all times when residents are present on the site:

- *A minimum of two staff between 5pm and 8.30am weekdays;*
- *A minimum of five staff between 8.30am and 5pm on weekdays; and*
- *A minimum of two staff on weekends.*

4. Application for amendment

- 4.1 After the Permit was granted I investigated the financial implications and the significant impact of the staff numbers prescribed by the Permit.
- 4.2 The prescribed staffing numbers equate to 17.55 full time equivalent staff at an annual cost between \$1,617,417 to \$1,724,251, depending on staff qualifications and their salary pay scale. If the permit amendment is granted the prescribed staff numbers would equate to 12.23 full time equivalent staff at a cost between \$1,045,045 and \$1,160,000, depending on staff qualifications and their salary pay scale. WRAD engaged McLaren Hunt Financial Group to confirm these figures and attached as Annexure C is a report from McLaren Hunt dated 8th November 2019.
- 4.3 I have made enquiries with the Victorian Department of Health and Human Services (the "Department"). The Department confirmed the funding for residential rehabilitation centres in Victoria is \$61,500 per bed. Attached as Annexure D is an email from Brian McDowell regarding the funding available. No funding from the Commonwealth is available for the Lookout.
- 4.4 The Lookout has the capacity for up to 20 residents. Multiplying the funding available per bed equals an income of \$1,230,000 per annum. This will just cover staff costs if the permit amendment is granted. Client Centrelink benefits provide a contribution towards other operational costs.
- 4.5 Residential Drug and Alcohol Residential Rehabilitation facilities that operate under the therapeutic community model similar to the Lookout receive funding and have staff numbers as follows:

Windana Residential Rehabilitation Facility – Ballarat

- (a) Staffing 8.30am to 5pm Monday to Friday – up to 7.
- (b) Staffing 5pm to 8.30 Monday to Friday - 2 until 10pm, then 1 between 10pm and 6am.
- (c) Staffing weekends – 2 up to 10pm, then 1 between 10pm and 6am.
- (FTE 12.4)
- (d) Number of residents – up to 20.
- (e) Victorian Government Funding per bed - \$59,295 per annum

Odyssey Residential Rehabilitation Facility – Lower Plenty

- (a) Staffing 8.30am to 10pm Monday to Friday - 15
- (b) Staffing 10pm to 8.30am Monday to Friday - 1.
- (c) Staffing weekends – 2.
- (d) Number of residents – up to 143.
- (e) State Government Funding per bed - \$63,000 per annum

Odyssey Residential Rehabilitation Facility – Molyullah (Benalla)

- (a) Staffing 8.30am to 5pm Monday to Friday – 5 staff
- (b) Staffing 5pm to 8.30 Monday to Friday - 2 staff
- (c) Staffing weekends – 2 staff
- (d) Number of residents – up to 15.
- (e) Federal Government Funding per bed - \$83,000 per annum

- 4.6 Windana operates its Ballarat facility with up to 7 FTE staff Monday to Friday 8.30am to 5pm. More staff are present during business hours as this is when the more intensive therapeutic programs of group therapy, education and training and work based projects occur. During the evenings and on weekends the staff

numbers are reduced to 2 and 1 after 10pm due to the less intensive activities including recreation, sport and outdoor activities and family visits.

- 4.7 For the Lookout and like the Windana facility, I believe that 5 full time equivalent staff during business hours can easily deliver the structured therapeutic community programs and that 2 staff during the evening and weekends are more than adequate to provide support and guidance within a highly structured and evidence based treatment model. The Lookout evening and weekend activities are consistent with Odyssey House Benalla and the Windana Ballarat facility. A draft weekly schedule was presented as part of the 2019 hearing. Lookout staff will be supported by 24/7 through an on call management support roster. The Lookout senior manager and two WRAD managers will participate in this roster.
- 4.8 WRAD is required to meet and comply with a number of standards and policies as required by the DHHS, to maintain its accreditation under Quality Information Performance Limited and to meet the Therapeutic Community Standards. In my statement used in the 2019 hearing I gave evidence regarding WRAD's obligations and I refer to paragraphs 3.13 to 3.15 of that statement.
- 4.9 It is proposed that for the 5pm and 8.30am shift and once the residents have gone to bed, one staff member will be awake and the other asleep.
- 4.10 WRAD has a proven track record and demonstrated skills in operating alcohol and other drug rehabilitation programs and I have every confidence that it can

deliver an effective residential rehabilitation service with the proposed amended staffing numbers.

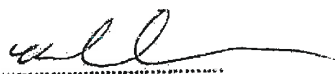
- 4.11 The Lookout program will be supported by WRAD clinical staff as well as local services including mental health, family and medical. WRAD is the lead agency in the Great South Coast Alcohol and other Treatment Consortium. The Lookout program will be supported by consortium partners South West Health Care, Brophy Youth and Family Services, Portland District Health and the Western Victoria Primary Health Network. The WRAD Handbury Medical Suites will provide general practice coverage for the Lookout residents. The South West Aboriginal Partnership will provide advice on cultural safety for its community members.
- 4.12 The current prescribed staffing levels are not supported by Victorian Government funding, are not clinically required, and are inconsistent with the staffing levels of other similar Drug and Alcohol Residential Rehabilitation Centres operating across Victoria.
- 4.13 During the 2019 hearing after which the Permit was granted, WRAD provided substantial material on the proposed therapeutic community model for the Lookout and a management plan that was subjected to significant evidence in chief and cross-examination. Staff qualifications and information around WRAD Risk Management policies and procedures as well as the document that

described the standards required to operate the therapeutic program were also provided in detail at the 2019 hearing.

4.14 WRAD has received significant support from the Community when applying for the Permit and seeking this amendment. Letters of support are attached as Annexure E.

4.15 The Lookout cannot proceed under the existing permit conditions.

Dated Jan 20th 2020

A handwritten signature in black ink, appearing to read 'G. Soma', written over a dotted line.

Geoffrey Francis Soma - Director WRAD

ANNEXURE

A

ANNEXURE A**Mr GEOFFREY SOMA QUALIFICATIONS AND EXPERIENCE.**

1. Over 30 years in alcohol and other drug management roles in a variety of settings in Australia and New Zealand.
2. August 2000 to current - Director of WRAD.
3. 2000 to current - Director of the Handbury Medical Suites Warrnambool (a general medical practice and an alcohol and other drug service).
4. 2016 to current - Chairperson of Community South West Alliance.
5. 2011 to current - Executive of Headspace Youth services in Warrnambool.
6. 2014 to current – Chairperson of the Great South Coast Alcohol and other Drug Treatment Consortium.
7. 15 years' experience operating residential rehabilitation services.
8. 1985 to 1987- Treatment Administrator of Odyssey House (it then operated the largest service in Victoria for over 140 residents). I was responsible for the day to day coordination of treatment programs.
9. 1988 – 2000 - Director of Odyssey House in Christchurch, New Zealand from 1988 and 2000. During this time I had overall responsibility for all clinical, financial and operations of the 40 bed facility.
10. 1988 - 2000 - Member of the Australian Therapeutic Communities Association.
11. Qualified Mental Health Nurse Aide (Victoria).
12. Certificate in Community Psychiatric Care – University Otago New Zealand.
13. Certificate in Social Services Management – University of Canterbury N.Z

ANNEXURE

B



CHRISTCHURCH SCHOOL OF MEDICINE

Professor Andrew Hornblow, Dean

17 March 2000

TO WHOM IT MAY CONCERN

It is my pleasure to commend to you Mr Geoff Soma, who has been known to me since 1986 in my capacity as a Board Member of Odyssey Trust, Christchurch.

I first met Geoff in Melbourne, and was sufficiently impressed with his professional skills and the high regard in which he was held by his colleagues to encourage him to apply for the post of Director of Odyssey House, Christchurch. Geoff was duly appointed to head the Christchurch programme, a role he has filled with distinction.

The Odyssey programme in Christchurch is widely regarded as one of the best and most effectively run addiction programmes in the region. In addition to his exemplary leadership of the programme Geoff Soma has also become one of the leading figures in the alcohol and drug treatment scene in Christchurch, and indeed more broadly within New Zealand. One of my other roles is as a member of New Zealand's Alcohol Advisory Council (ALAC), and Geoff is well known to and highly regarded by ALAC staff.

As a Manager, Geoff Soma has handled to the full satisfaction of the Odyssey Board such administrative duties as financial management (in an organisation reliant on external funding and operating always within tight financial constraints), appointment and monitoring of staff, strategic planning and programme development, and public relations. Geoff has extensive experience in public relations, has a very good relationship with the media, is a very effective public advocate not only for Odyssey but also on addiction-related issues, and has excellent relations with a wide range of community organisations.

Geoff Soma's management and leadership skills, and his extensive experience, would make him an asset in any health-related organisation. Should he take up an appointment in Australia he would be a major loss to our Odyssey programme, and to the addiction workforce in Christchurch, but would take with him the appreciation and respect of his many colleagues and friends in New Zealand.

A.R. Hornblow PhD FNZPsS



16 March 2000

TO WHOM IT MAY CONCERN

I have known Mr Soma for seven years, first meeting him in my capacity as Manager of Alcohol and Drug Services of Healthlink South in Christchurch. My position is now General Manager, Mental Health Service in Christchurch which includes the provision of Alcohol and Drug services.


Mr Soma has always struck me as a man with enormous capacity for work. His ability to juggle with many issues at one time giving the perception that each issue is a priority has been quite remarkable.

Mr Soma goes about his work with a great amount of integrity, with honesty being the outstanding feature. He has built up significant credibility in the Christchurch community.

With the change in purchasing of health services in the early to mid 1990s the existence of services such as Odyssey House became extremely vulnerable, however Mr Soma reorganised the resources and structures of his services very astutely and rapidly to meet the needs of the new environment. Clearly Odyssey House is very well positioned with the continuum of Alcohol and Drug Treatment in Christchurch, so much so that the service is expanding rapidly.

Mr Soma's ability to market the services of Odyssey House and display to funders and other providers has been of the highest quality. He has shown great energy, commitment and panache in the positioning of Odyssey House.

I would have no hesitation in recommending Mr Soma for positions which entail strategic leadership requiring forthright management.


Vince Barry
General Manager
Mental Health Services
Healthlink South Limited

Mary Wooldridge

Member for Doncaster

Shadow Minister for Mental Health, Drug Abuse, Community Services and Ageing



29 April 2008

To whom it may concern

Dear Sir/Madam

I am pleased to provide a letter of support to the Western Region Alcohol and Drug Centre's submission for their Director Geoff Soma to receive a SACS award for leadership in the not-for-profit sector.

Over the past year and a half I have had significant contact with Geoff in my capacity as Shadow Minister for Drug Abuse. I have found him to be a knowledgeable and passionate advocate for vulnerable people in the western region of Victoria and for services and policies to cater for the specific needs of country Victorians with an alcohol or drug problem.

The excellent services provided by WRAD under Geoff's direction have had a direct impact in the lives of hundreds of marginalised and needy people, and subsequently hundreds of families. In his ten years as director Geoff has always placed the client's of WRAD's services first. In order to provide ever better services Geoff has overseen a period of significant growth at WRAD, in terms of the organisation's budget and its physical setting, which have allowed for a commensurate growth in clientele.

Under Geoff's leadership WRAD is an organisation that is highly regarded by both sides of politics. WRAD has a forceful voice in policy debates, notably providing several high quality contributions to significant Parliamentary inquiries.


Geoff provides leadership on matters of community importance. A current campaign that Geoff initiated to expand the provision to methadone in Victoria garnered the support of a number of other agencies and has significantly raised the profile of this important issue. Geoff has also led calls for an increase in the number of residential rehabilitation places in country Victoria in the wake of a facility closure and general under-provision.

Geoff's leadership serves as an inspiration to others in the sector right across the State, and particularly in rural and regional areas. This is the case both in terms of service provision and advocacy. WRAD is consistently regarded as a model of successful leadership and treatment, which is all the more credit to Geoff given the considerable challenges of providing services in a regional setting and in the current environment of under-funding and burgeoning demand.

I have no hesitating in recommending Geoff for this award. In the period that I have known him Geoff has demonstrated the ability to provide strong leadership and new and innovative ideas in an incredibly important field providing services to some of the most marginalised members of the community.

I am happy to expand upon this statement if required.

Yours sincerely


Mary Wooldridge
Shadow Minister for Drug Abuse

ANNEXURE

C



REPORT OF FACTUAL FINDINGS TO WESTERN REGION ALCOHOL AND DRUG CENTRE INC.

Report of Factual Findings

We have performed the procedures agreed with Western Region Alcohol and Drug Centre Inc. ("WRAD") to report factual findings for the purpose of assisting WRAD in assessing, in combination with other information obtained by you, the accuracy of proposed Lookout Residential Rehabilitation ("Lookout") wages for a twelve month period as provided in Appendix 1. The procedures performed are detailed in the terms of the engagement of 4th November 2019.

Managements Responsibility for the Procedures Agreed

Management are responsible for the adequacy or otherwise of the procedures agreed to be performed by us. You and are responsible for determining whether the factual findings provided by us, in combination with any other information obtained, provide a reasonable basis for any conclusions which you or other intended users wish to draw on the subject matter.

Management are responsible for determining the mix of proposed staff qualifications/roles for the roster and their allocated EFT for the Lookout, on which the proposed wage cost has been determined.

Assurance Practitioner's Responsibility

Our responsibility is to report factual findings obtained from conducting the procedures agreed. We conducted the engagement in accordance with ASAR 4400 *Agreed-Upon Procedures Engagements to Report Factual Findings*. We have complied with ethical requirements equivalent to those applicable to Other Assurance Engagements.

Because the agreed-upon procedures do not constitute either a reasonable or limited assurance engagement in accordance with AUASB standards, we do express any conclusion and provide no assurance on the proposed Lookout wages for a twelve-month period. Had we performed additional procedures other matters might have come to our attention that would have been reported to you.

Factual Findings

The procedures were performed solely to assist you in evaluating the accuracy of the proposed Lookout Residential Rehabilitation wages based on the VCAT prescribed staffing levels. The procedures performed and the factual findings obtained are as follows:

Performed	Factual Findings	Errors or Exceptions Identified
1. We have reviewed the proposed staffing roster at the Lookout (Appendix 2) to ensure the accuracy of the calculation of equivalent full-time employees ("EFT") is in line with the VCAT prescribed staffing levels.	We found the EFT employees to be accurate at 17.55 based on the proposed roster.	None





Performed	Factual Findings	Errors or Exceptions Identified
2. We obtained and checked the calculation of the proposed Lookout Residential Rehabilitation wages in accordance with the applicable award (<i>Health Professional and Support Services Award 2010</i>) based on the proposed roster.	We found the proposed Lookout wages cost based on the roster provided by management, to be \$1,724,251.31 for a twelve-month period based on the award rates (upper range).	None

Restriction on Use of Report

This report is intended solely for the use of WRAD and for the purpose set out above. As the intended user of our report, it is for you and other intended users to assess both the procedures and our factual findings to determine whether they provide, in combination with any other information you have obtained, a reasonable basis for any conclusions which you wish to draw on the subject matter. As required by ASAR 4400, use of this report is restricted to those parties that have agreed the procedures to be performed with us and other intended users identified in the terms of the engagement. Accordingly, we expressly disclaim and do not accept any responsibility or liability to any party other than WRAD for any consequences of reliance on this report for any purpose.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Kol'.

CHRIS KOL
PARTNER

Date: 8th November 2019.



Appendix 1.**Calculations based on health professional award classifications 'Lookout residential rehabilitation VCAT prescribed staffing'.****WESTERN REGION ALCOHOL AND DRUG CENTRE INC PROPOSED LOOKOUT RESIDENTIAL REHAB WAGES (BASE)**

Employee	EFT	HPSS Award Gross Wage	Leave Loading	Total Wages	9.5% Super	Workcover 1.75%
Program Manager	1.00	\$ 79,476.00	\$ 1,364.08	\$ 80,840.08	\$ 7,679.81	\$ 1,414.70
Work Supervisor	1.00	\$ 66,976.00	\$ 1,149.54	\$ 68,125.54	\$ 6,471.93	\$ 1,192.20
Clinical Staff	5.55	\$ 371,567.66	\$ 6,377.39	\$ 377,945.05	\$ 35,904.78	\$ 6,614.04
TC Support Staff	10.00	\$ 620,629.56	\$ 10,652.15	\$ 631,281.71	\$ 59,971.76	\$ 11,047.43
Penalty Rates Shiftwork Weekday		\$ 53,291.59		\$ 53,291.59	\$ 5,062.70	\$ 932.60
Penalty Rates: Weekends		\$ 191,527.00		\$ 191,527.00	\$ 18,195.06	\$ 3,351.72
Penalty Rates Public Holidays		\$ 50,847.15		\$ 50,847.15	\$ 4,830.48	\$ 889.83
TOTALS	17.55	\$ 1,434,314.96	\$ 19,543.16	\$ 1,453,858.12	\$ 138,116.52	\$ 25,442.52
TOTALS		\$ 1,617,417.16				

WESTERN REGION ALCOHOL AND DRUG CENTRE INC PROPOSED LOOKOUT RESIDENTIAL REHAB WAGES (UPPER RANGE)

Employee	EFT	HPSS Award Gross Wage	Leave Loading	Total Wages	9.5% Super	Workcover 1.75%
Program Manager	1.00	\$ 84,000.00	\$ 1,441.73	\$ 85,441.73	\$ 8,116.96	\$ 1,495.23
Work Supervisor	1.00	\$ 73,500.00	\$ 1,261.51	\$ 74,761.51	\$ 7,102.34	\$ 1,308.33
Clinical Staff	5.55	\$ 407,761.34	\$ 6,998.60	\$ 414,759.93	\$ 39,402.19	\$ 7,258.30
TC Support Staff	10.00	\$ 650,177.63	\$ 11,159.30	\$ 661,336.93	\$ 62,827.01	\$ 11,573.40
Penalty Rates Shiftwork Weekday		\$ 56,092.11		\$ 56,092.11	\$ 5,328.75	\$ 981.61
Penalty Rates: Weekends		\$ 203,465.03		\$ 203,465.03	\$ 19,329.18	\$ 3,560.64
Penalty Rates Public Holidays		\$ 54,031.58		\$ 54,031.58	\$ 5,133.00	\$ 945.55
TOTALS	17.55	\$ 1,529,027.68	\$ 20,861.14	\$ 1,549,888.82	\$ 147,239.44	\$ 27,123.05
TOTALS		\$ 1,724,251.31				

Assumptions

The following assumptions have been made when completing this calculation:

- Allowances being nauseas, meal, on call etc that may be incurred in clause 18 of the award have been excluded from this calculation due uncertainty regarding entitlement;
- Portable long service leave requirements have been excluded from this calculation;
- Employees will take 5 days of sick leave per year on average;
- Casual employees have not been factored into this calculation. Coverage of shifts will be obtained from existing employees;
- For the purpose of this calculation superannuation is payable on ordinary times earning, including leave loading;
- Annual leave has been included in this calculation at 5.1 weeks - based on current entitlement of WRAD employees and Shiftworkers are entitled to 5 weeks of annual leave per year; and
- Without a contract in place, the roster and award levels of staff has been determined by WRAD.

Appendix 2.**LOOKOUT RESIDENTIAL REHABILITATION CENTRE VCAT PRESCRIBED STAFFING**

WRAD contracts are based on the Health Professionals and Support Services (HPSS) award. WRAD have determined the mix of staffing roles.

In calculating the impact of the VCAT prescribed staffing condition WRAD have considered staffing the Lookout based on:

8.30pm to 8.30 am x 2 FTE staff

8.30 am to 8.30 pm x 5 FTE staff

Summary Proposed Roster:

Shift	Total FTE per Shift	Staffing Position	
5 days week: 8.30am – 4.30 pm	5	1	Manager
		3	Clinical Staff
		1	Work Supervisor
Weekend Coverage: 8.30 am – 4.30 pm	2	0.8	Clinical Staff
		1.2	Support Staff
7 days per week: 4.30 pm – 12.30 am	5.25	0.75	Clinical Staff
		4.5	TC Support Staff
7 days per week: 12.30 am – 8.30 am	2.8	2.8	TC Support Staff
Backfill - Annual Leave, Public Holidays	2.5	1	Clinical Staff
		1.5	TC support Staff
TOTAL	17.55		

FTE – Full Time Equivalent.

TC - Therapeutic Community

4 November 2019

Mr Geoff Soma
Chief Executive Officer
Western Region Alcohol and Drug Centre Inc.
172 Merri Street
WARRNAMBOOL VIC 3280

Dear Geoff,

The objective and scope of the engagement

You have requested that we perform the agreed-upon procedures specified below to meet the needs of Western Region Alcohol and Drug Centre Inc. ("WRAD"). We are pleased to confirm our acceptance and understanding of this agreed-upon procedures engagement and the nature and limitations of the procedures we will conduct. Our engagement will be conducted with the objective of reporting factual findings resulting from each procedure for the purpose of confirming the Lookout Residential Rehabilitation ("Lookout") wages in accordance with the applicable award, as well as reviewing the accuracy of the equivalent full time employees from the proposed staffing roster as supplied by the management of WRAD. The procedures performed will not constitute a reasonable or limited assurance engagement, accordingly, no assurance will be provided.

The responsibilities of the assurance practitioner

We will conduct our engagement in accordance with Standard on Related Services ASRS 4400 Agreed-Upon Procedures Engagements to Report Factual Findings. That standard requires that we comply with ethical requirements equivalent to Other Assurance Engagements, and plan and perform the agreed procedures to obtain factual findings. The procedures which we will perform will be restricted to those procedures agreed with you and listed below. Information acquired by us in the course of our engagement is subject to strict confidentiality requirements and will not be disclosed by us to other parties except as required or allowed for by law or professional standards, or with your express consent.

We have agreed to perform the following procedures and report to you the factual findings resulting from our work:

- We will review and assess the calculation of the proposed Lookout Residential Rehabilitation wages for a twelve-month period in accordance with the applicable award (Health Professional and Support Services Award 2010) as supplied by WRAD; and
- We will review the proposed staffing roster at the Lookout to ensure the accuracy of the equivalent full-time employees ("EFT") as supplied by management of WRAD.

If we are unable to perform the exact nature, timing or extent of procedures agreed above but alternative procedures are available, we will only perform these alternative procedures if modified terms of the engagement are agreed with WRAD.

The responsibilities of management or those charged with governance and intended users

Our agreed-upon procedures will be performed on the basis that management acknowledge and understand that:

- a) they have responsibility for determining the adequacy or otherwise of the procedures agreed to be performed by us;
- b) they have responsibility for determining whether the factual findings provided by us, in combination with any other information obtained, provide a reasonable basis for any conclusions which you or the intended users wish to draw on the subject matter;
- c) they have responsibility to provide us with:
 - i. access to all information of which management is aware that is necessary for the performance of the procedures agreed;
 - ii. additional information that we may request from you for the purpose of the engagement; and
 - iii. unrestricted access to persons within the entity from whom we require co-operation in order to perform the procedures agreed,
- d) the procedures we will perform are solely to assist you WRAD in confirming the proposed wages cost of operating the Lookout for a twelve-month period in accordance with the employee roster as required under conditions of the planning permit issued to WRAD. Our report of factual findings is not to be used for any other purpose and is solely for WRAD's information.
- e) the procedures that we will perform will not constitute a reasonable or limited assurance engagement in accordance with AUASB standards and, consequently, no assurance will be provided.

We look forward to full co-operation with your staff during our engagement.

Other relevant information

Our report of factual findings will consist of a detailed listing of the procedures performed and our findings in relation to each procedure, including any errors or exceptions identified regardless of whether those errors or exceptions have since been rectified. Use of our report will be restricted to you WRAD and all other parties will be excluded from using the report.

Please sign and return the attached copy of this letter to indicate your acknowledgement of, and agreement with, the arrangements for our agreed-upon procedures engagement including the specific procedures which we have agreed will be performed and our respective responsibilities.

Yours faithfully,

CHRIS KOL
PARTNER

I understand and agree with the terms of this engagement on
behalf of the Western Region Drug and Alcohol Centre Inc. by:

(Signed)



Name and Title: Geoff Soma: WRAD Director

Date: 6/11/19

ANNEXURE

D

Alex McCulloch

From: Geoff Soma <GeoffS@wrad.org.au>
Sent: Wednesday, 6 November 2019 5:32 PM
To: Glenys Phillpot
Cc: Alex McCulloch
Subject: Fwd: In answer to your question

Get [Outlook for Android](#)

From: Geoff Soma
Sent: Wednesday, 6 November, 5:31 pm
Subject: Re: In answer to your question
To: Brian McDowell (DHHS)

Thanks and very much appreciated

Get [Outlook for Android](#)

From: Brian McDowell (DHHS) <Brian.McDowell@dhhs.vic.gov.au>
Sent: Wednesday, November 6, 2019 5:26:16 PM
To: Geoff Soma <GeoffS@wrad.org.au>
Subject: In answer to your question

Hi Geoff,

I write in response to your question you called and asked today regarding the current funding is that DHHS provides for an adult residential rehabilitation bed. Recently we converted most AOD activity to be funded Drug Treatment Activity Units. The price of providing the required courses of treatment annually equates to approximately \$61,500 per bed being the current 2019-20 price with 2% indexation each year thereafter.

Hope this helps.

Thanks

Brian McDowell
Manager, Planning, Place and Programs
Drug Policy and Reform | Primary Care, Dental and Drugs
Health and Wellbeing Division
Department of Health and Human Services
50 Lonsdale Street, Melbourne Victoria 3000
p. 9096 5927
m. 0401 141 393 | e. brian.mcdowell@dhhs.vic.gov.au
w. www.dhhs.vic.gov.au

If the matter you are emailing about is of an urgency requiring response within 24 hours please call or text on the mobile number above.

MAKING A WORLD OF DIFFERENCE



ANNEXURE

E



Midfield Meat Processing Pty Ltd
Midfield Meat Transport Pty Ltd
Midfield Co - Products Pty Ltd
Midfield Pastoral Pty Ltd

MIDFIELD MEAT INTERNATIONAL P/L

ABN 76 085 264 504

P.O. Box 412, Warrnambool, Victoria 3280.
Telephone (03) 5562 1644 Facsimile (03) 5561 5519

15th October, 2019

Cr Tony Herbert
Mayor
Warrnambool City Council
25 Liebig Street
WARRNAMBOOL VIC 3280

Dear Tony,

As a major business owner and one of the largest local employers, I am writing to you to support the case to progress the Lookout Residential Rehabilitation Centre to be located in Dennington.

I have been involved with the WRAD Centre for almost 20 years on various levels and I am very aware of the important role that they play in the local community.

During this time I have witnessed first-hand the impact that Alcohol and other drugs have on individuals and family members.

I believe that this is a community problem and I think that we need to do everything we can to support and provide treatment to those who strive to turn around their lives.

As a concerned citizen and community leader I am very much aware that we need to provide a local solution so that people do not have to travel away from their important supports including their families and friends.

I believe that the Lookout Residential Rehabilitation Centre is required as soon as possible in order to address associated issues like domestic violence, mental health and homelessness.

I am happy to add my voice and support to this much needed project that will benefit our community greatly.

Youth sincerely,

COLIN MCKENNA

Managing Director Midfield Meats
Midfield Meats

**ACE Radio Broadcasters Pty Limited**

ACN 064 882 042

From the Chairman

Cr T Herbert
Mayor
Warrnambool City Council
Liebig Street
WARRNAMBOOL VIC 3280

15th October, 2019

Dear Tony,

I am writing in my capacity as the Chairman of the ACE Radio Network which includes the local 3YBFM radio station.

My family, through their links to the Geoff & Helen Handbury Foundation, have had an association with WRAD in Warrnambool for over 10 years. In fact, The Handbury Medical Suites which are operated by WRAD bear the Handbury family name.

Over many years, the Foundation has donated significant funding to the WRAD organisation in Warrnambool based on its delivery of essential services for clients and families who experience Alcohol and Other Drug related problems.

This service to the community helps people who experience mental health, psychological and emotional distress and those who require treatment to assist with their problems.

The Lookout Project particularly addresses a gap in service delivery across the Great South Coast as I understand that clients that require this important treatment must travel away from family and essential community supports in order to receive it.

I have therefore made a donation to this project based on its potential value to the community, clients and family members and I am pleased to support it because I believe in its overall social impact and merit.

Regards,

A handwritten signature in black ink, appearing to read "Rowland Paterson".

Rowland Paterson
Chairman
ACE Radio Network

the *A.L. Lane*
foundation

ACN 005 141 944
TRUSTEES: W.R. PHILLPOT
V.G. ROBSON
F.K. MELICAN

16 October 2019

Mayor & Councillors
Warrnambool City Council

Dear Councillors

Re: WRAD LOOKOUT REHABILITATION CENTRE

We write on behalf of the collective group of Warrnambool Charitable Foundations to encourage the support of Council in WRAD's application to VCAT for variation of the prohibitive financial condition imposed with the order to grant a permit.

You are well aware of the effect of delays with this project and the significant financial costs borne by all parties.

The project is now faced with further delay to a hearing in February 2020 and whatever time it takes for VCAT to hand down its decision. This of course incurs further unnecessary significant costs.

It should not be necessary for us to detail the need for this facility and the impact upon patients who desire its benefits. We understand that if this appeal is lost Warrnambool will not have a rehabilitation centre.

Sufficient to say that the citizens of Warrnambool worked and raised over \$600,000 in short time in support of Lookout and the Foundations were of course contributors.


At a meeting of the Mayor and CEO with a number of Foundation Trustees in May 2019, we provided a list of Council projects which have been supported by the Foundations over many years.

A copy of this is again provided herewith.

It is worth noting that as recently as last month, the Foundation collective approved \$48,000 in funding for the Warrnambool Art Gallery to provide special collection storage facilities as part of the Gallery's upgrade of protection for its valuable collection.

The role of the Foundations is to support charitable and community causes in this city and, with respect, having supported council whenever required we now expect support from Council for this project, important for its clinical benefit and as another employer in our city.

Yours faithfully


W.R. (BILL) PHILLPOT OAM
Joint Trustee
AL Lane Foundation
Encl.
Ref: 1639196_1


F.K. Melican
Joint Trustee
AL Lane Foundation


V. G. ROBSON
Joint Trustee
AL Lane Foundation

Address for correspondence:
PO BOX 217
WARRNAMBOOL VIC 3280

Phone: (03) 55640519
Website: www.theallanefoundation.org.au

Wendy Greene

From: Wendy Greene on behalf of Bill Phillpot
Sent: Friday, 26 April 2019 12:50 PM
To: 'wclark@warrnambool.vic.gov.au'
Subject: Meeting of Philanthropic Trusts with Warrnambool City Council

Dear Wendy

Due to the changes in the make-up of council and council personnel I thought it appropriate to provide information on substantial support given over the years to Council specific projects by the cluster of local foundations.

I would be pleased if you could pass this onto the Mayor and CEO before our meeting on May 7th.

Reid Oval Development – Scoreboard, Netball Shelters etc
Warrnambool Art Gallery
Albert Park and Japanese Garden
Lighthouse Theatre and Entertainment Centre
Fun for Kids Festival (over its entire life)
Flagstaff Hill
Warrnambool Botanic Gardens
Equal Access Play space
Harris St Reserve lighting
Friendly Societies Park lighting
Warrnambool Synthetic Hockey Field
Warrnambool Cemetery Trust (New Cemetery)
Warrnambool BMX Track
Warrnambool Skate Park
Warrnambool Miura Sister City Association
Allansford Recreation Reserve
L2P Learner Driver Program
WCC 150th Anniversary

There may be others but I can only report from the five Foundations with which I am involved.

Good Wishes, Bill

Bill Phillpot OAM
Consultant

SINCLAIR Wilson
FOR STRENGTH IN NUMBERS

PO Box 217
257 Timor St, Warrnambool, Victoria, 3280
www.sinclairwilson.com.au

t +61 3 5564 0555 d +61 3 5564 0555 m +61 409 237 136 f +61 3 5564 0510

Referrals are important to our business. We would appreciate if you could pass on our details to anyone you may think would benefit from our services.

Please consider our environment before printing this email.

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15th October 2019

Mayor of Warrnambool City Council

Mr Tony Herbert

Warrnambool City Council

Liebig St, Warrnambool 3280

Dear Mayor,

I am writing on behalf of Brophy Family and Youth Services to Support WRAD's proposal to develop a Residential Rehabilitation Program in South West Victoria.

Brophy operates a range of services including Family Services, the Family Violence Counselling program, Kinship Family Services, Men's and Family Relationships program and the Men's Behaviour Change Program.

As you are aware issues around domestic violence and family support have strong links to alcohol and other drug issues and this is one example of how Brophy and WRAD work together across a broader service delivery context.

Brophy are also the auspice for the Headspace Services in South West Victoria and WRAD is represented on the Executive to advise on alcohol and drug related matters. Brophy and WRAD are also partners in the DARE Early Intervention program that focuses on youth experiencing substance related problems in the early stages and working across the Secondary Education system. Furthermore, Brophy is also on the Executive and founding member of the Great South Coast Drug and Alcohol Treatment Services Consortium in conjunction with WRAD, Southwest Health Care and the Portland District Health Service.

As demonstrated in the above partnerships Brophy and WRAD have a strong strategic relationship and I have been closely associated with the development of the Residential Rehabilitation proposal over the past 18 months. As an Executive member of the Great South Coast Consortium Executive I was also involved in the catchment based planning process that identified this treatment continuum as the number one service gap across the region.

Through my role I have witnessed the damage that homelessness, employment, education gaps, alcohol and drug abuse and family related violence contributes to. I believe that this region needs a Residential Rehabilitation Program. This will complement the range of alcohol and drug services available to address the complex issues presented and focus on the underlying issues that complicate recovery for this client group.

I support the WRAD proposal based on the benefits to clients, families and the local community.

As a strategic consortium partner, Brophy will also be directly involved with the proposed residential rehabilitation service.

I am happy to address any of the matters raised in my support letter.

Yours sincerely,

FRANCIS BROEKMAN CEO

Brophy Family & Youth Services



Cr. Tony Herbert, Mayor
Warrnambool City Council
25 Liebig Street,
Warrnambool Victoria. 3280

30 October 2019

Dear Cr. Herbert,

I am writing on behalf of the Warrnambool Clinical School, School of Medicine, Deakin University, to express our support for the establishment of the proposed alcohol and other drug (AOD) residential rehabilitation facility, 'The Lookout'.

Community members of south west Victoria have, for many years, been hearing about, if not personally experiencing, the damage to individuals and families caused by substance abuse and addiction. Individuals who have attempted to overcome addiction frequently achieve initial success with the help of acute services, such as the acute withdrawal unit at South West Healthcare. However, they then struggle to maintain independence from drugs upon returning to their normal routine, despite the best efforts of family members, general practitioners, mental health clinicians, support services and the Western Region Alcohol and Drug centre (WRAD).

Establishing, and maintaining, a break from their prior routine, and prior associations (such as drug suppliers), along with pursuing new opportunities, are essential components for individuals to successfully leave substance abuse behind. Between the existing acute services and ongoing counselling and support, there currently lies a gaping hole in the road to recovery. That hole is the lack of a residential rehabilitation program that will allow individuals time to consolidate their new, drug free, existence, improve family relationships and employment options, and save lives.

Via placements at WRAD, medical students from our clinical school are exposed to, and gain experience in the management of, patients struggling with AOD addiction. They see the current limitations in the management path. We hope to be able to educate future doctors in an integrated management program, which demonstrates the complete road to recovery.

'The Lookout' will be an invaluable asset for the communities of south West Victoria, providing a wonderful opportunity for individuals to rebuild their lives.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Karen Dwyer'.

Professor Karen Dwyer
Acting Dean, School of Medicine



email: mark.fidge@swtafe.edu.au
File Reference: CO0025_19

14th October 2019

Cr Tony Herbert
Mayor of Warrnambool City Council
Leibig Street
WARRNAMBOOL VIC 3280

Dear Mayor

Re: Residential Rehabilitation in South West Victoria

I am writing on behalf of South West Institute of TAFE to formally acknowledge our support for the establishment of a Residential Rehabilitation Centre in South West Victoria. TAFE have a good working relationship with WRAD whom I understand have developed a comprehensive proposal designed to address the gap in AOD service provision in this part of the region.

South West TAFE is one of the largest regional providers in South West Victoria providing further and vocational education. We recognise the important work that is consistently provided by the Western Region Alcohol and Other Drug Centre and acknowledge their leadership and initiatives delivered to date. South West TAFE and WRAD have a long standing partnership that adds value to client care and support. Our partnership has provided important opportunities for joint initiatives that strengthen the delivery of coordinated services within a strategic framework. This has been demonstrated through our work together as part of the Great South Coast Ice challenge committee.

The need for a local Residential Rehabilitation Centre has been highlighted by many stakeholders in South West Victoria, including local council, primary and acute health and employment and family welfare services. The community is aware of drug use and related harms in the local area and the lack of a residential treatment option for those requiring a measured and structured approach to Treatment. I believe that there is a considerable effect also on partners, children and the broader community.

We commend the work of WRAD in developing plans to make the residential treatment option a reality. As part of our partnership approach to service delivery, South West TAFE is committed to supporting this initiative as we believe providing education to this complex client group will address one part of the puzzle along the recovery pathway.

I would be pleased to provide further information and to discuss our partnership arrangements with WRAD. Please do not hesitate to contact me by phone or email to request further information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Fidge', with a long horizontal stroke extending to the right.

Mark Fidge
Chief Executive Officer

POSTAL ADDRESS:
PO BOX 674
WARRNAMBOOL
VIC 3280
AUSTRALIA
ABN: 76 750 969 979 | TAFE: 3120

1300 648 911 | swtafe.edu.au



17 October 2019

Mr Geoff Soma
Chief Executive Officer
Western Region Alcohol and Drug Centre Inc.
172 Merri Street
WARRNAMBOOL VIC 3280
By email: GeoffS@wrad.org.au

Dear Geoff

Re: Residential Rehabilitation Alcohol and Other Drug (AOD) Facility - Warrnambool

I am writing to you in support of Western Region Alcohol and Drug Center's (WRAD) proposal to build a residential rehabilitation facility in the Warrnambool area. South West Healthcare (SWH) is a member of the Great South Coast Alcohol and other Drug (AOD) Consortium and works closely with members of the consortium to offer a range of AOD treatment options in the South West of Victoria. SWH actively participates in the Catchment Action Plan and participated in co-design activities in the past 12 months. The Catchment Plan identifies a clear need for residential rehabilitation services in the region and has been clearly articulated by both service providers and consumers.

At present consumers need to travel to Geelong, Melbourne and beyond to access residential rehabilitation services, leading significant disconnection from key protective factors for recovery including family and the support networks that assists people with AOD challenges towards successful outcomes. Lack of access to regionally based services is a significant barrier to people accessing services and obtaining treatment.

As an alcohol and drug treatment agency, SWH is challenged when working with consumers in the acute setting to provide appropriate referral options for longer term treatment, which impacts on relapse rates. This need for a residential rehabilitation facility is also highlighted by our consumers who require an environment in which they can recover from their alcohol and other drug misuse and build on skills developed within the harm minimisation framework.

South West Healthcare looks forward to a more comprehensive service pathway that will be enhanced through their much needed facility.

Yours sincerely

A handwritten signature in black ink, appearing to read "Craig Fraser", is positioned above the printed name.

CRAIG FRASER
Chief Executive Officer

Warrnambool
Ryot Street
Warrnambool, VIC 3280
P: 03 5563 1666
E: info@swh.net.au

Camperdown
Robinson Street/PO Box 147
Camperdown, VIC 3260
P: 03 5593 7300
E: frontdesk@swh.net.au

Lismore
High Street
Lismore, VIC 3324
P: 03 5558 3000
E: lismore2@swh.net.au

Macarthur
12 Ardonachie Street
Macarthur, VIC 3286
P: 03 5552 2000
E: macarthurch@swh.net.au



22 October 2019

To whom it may Concern

Re: Letter of Support for 'The Lookout' Residential Alcohol and Other Drugs Rehabilitation Centre

It is with great pleasure that the South West Aboriginal Health Partnership (SWAHP) provides and gives our full support to 'The Lookout' project and their endeavor to secure funding to have a Residential Alcohol and Other Drugs Rehabilitation Centre here in the Great South Coast.

SWAHP is a partnership between 4 local Aboriginal Community Controlled Health organisations in South West Victoria, the aim of this consortium is to address, and to work in partnership towards improving the health and well-being status of Aboriginal people in our region.

We believe this is a much needed resource for our region that will help and support our service responses for the community. At present between agencies across the Great South Coast we have between 50-60 Aboriginal community members accessing Alcohol and other Drugs services, anecdotally between stakeholders we believe the correct figures to be almost double that.

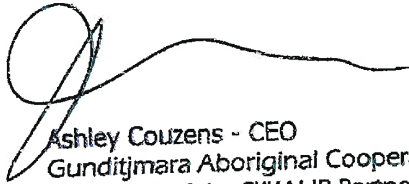
Between our organisations we have always found it challenging to get our community members to address the substance abuse issues via Rehabilitation Centre's mostly due community members not willing to leave their homelands. We believe the proposed facility on Country will be an excellent and appropriate

step to assist local Aboriginal residents accessing such a response and would fill the gap that is so desperately needed for our community and the wider community. It is imperative that our people are provided with an opportunity to heal on country.

Each of our SWAHP organisations have strong collaborative networks and excellent established relationships and reciprocal referral pathways with stakeholders in this project. As Aboriginal specialist partners we will be actively involved in the design and cultural characteristics of the project if successful, to ensure that the proposed facility is culturally safe and respectful for our community.

We wish 'The Lookout' Residential Alcohol and Other Drugs Rehabilitation Centre project every success with their endeavors to obtain funding for this extremely worthwhile project for our region.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized capital 'A' followed by a long, horizontal, wavy line that extends to the right.

Ashley Couzens - CEO
Gunditjmara Aboriginal Cooperative
On behalf of the SWAHP Partnership



17 October 2019

Mayor Tony Herbert
Warrnambool City Council
25 Liebig Street
Warrnambool 3280
Victoria

Dear Tony,

Re: Support for Lookout Project by WRAD

Mpower is a Not-For-Profit community-based organisation servicing the communities in the south west for 44 years. Mpower provides a range of services to people with disabilities, support to vulnerable families at risk of having their children removed and to carers of older people or people of any age with a disability.

As the CEO of Mpower and a founding member of Community South West Inc. for 15 years, I am passionate about providing quality services to people where they live. This is an essential element of meeting people's needs in an accessible way where they have family and community support close by.

Mpower's history is based on a small group of parents who had children with disabilities faced with choice of putting their children in care in Melbourne as there were no services available here in Warrnambool forty-four years ago. Those parents decided that wasn't good enough and set up a support group in Warrnambool that grew and developed into Mpower, allowing families over the years to receive services they needed, here in their own community.

Like Mpower's beginnings, I see the Lookout Project as a response to community need.

Tony, I draw your attention to the following points in support of the Lookout Project: -

- The Lookout project will provide a residential drug rehabilitation service that is not currently available in the western district. It proposes to use the therapeutic community model, providing accommodation and 24/7 treatment and support for clients, in a supported community setting, while they seek to overcome their addiction to alcohol and/or other drugs.
- A residential rehabilitation centre is a major priority for WRAD. It provides an alternative treatment to the other options currently available - that is therapeutic community treatment, with around the clock support, as opposed to treatment as an outpatient or in a hospital.
- It is proposed that The Lookout will be operated by a consortium consisting of WRAD as lead agency, South West Healthcare Treatment Services, Brophy Family and Youth Services, Portland District Health Treatment Services and the Western Victorian Primary Network.

- Many local wrap around services like Mpower will support the people, and families of those accessing the project including education, disability employment, family support, housing, mental health and koori services.
- The therapeutic community operational model uses cognitive behavioral therapy, individual counselling, group work and specialist support services within a structured and monitored environment. The entry point to the Lookout will be through various referral pathways including the Courts, Department of Justice, medical Practitioners, friends and family.

The need for a residential rehabilitation centre was also identified as a major priority in the Great South Coast Catchment Based Plan.

The Great South Coast Catchment Based Plan:

- Notes that there are currently no state-funded residential rehabilitation facilities in the region
- Lists the Lookout project as the first strategy in improving access to withdrawal and rehabilitation services in the Great South West Coast region.
- Notes research which shows that there are significantly higher levels of alcohol and other drug usage in the Great South Coast catchment than other regions.

It is proposed the Lookout will support around 80 clients per year, with 4 x 3-month programs per year, and with up to 20 residents in each program.

The target cohort is adult male and female (18+) individuals with problematic alcohol and other drug use and a variety of clinical presentations.

Residential rehabilitation increases employability, reduces crime, reduces or stops drug use and improves family connections.

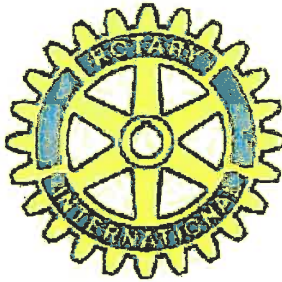
Residential Rehabilitation gives people the skills to successfully take responsibility for their lives.

Residential rehabilitation is considered the gold standard in treatment for alcohol and other drug problems and is evidence based.

Yours sincerely,



Kerry Nelson, CEO
Mpower



Rotary Club of Warrnambool Central

Registration Number A0025350V, District 9780

President : Tim Goodall
President Elect : Gerard Barker
Secretary: Mark McFadden

P.O.Box 593
Warrnambool. 3280

23 October 2019

Dear Councillor: The Mayor of the City of Warrnambool, Mr Tony Herbert,

The Rotary Club of Warrnambool Central Inc. has pledged an initial \$5,000 to WRAD's residential rehabilitation appeal. We understand that this therapy sets the gold standard with regards to the most successful treatment of drug and alcohol addiction.

We were very disappointed to learn of Council's opposition to the proposed location at Atkinson's Lane, perplexed that a majority of Councillors voted against their own professional Planning Officer's recommendation. VCAT however, ruled that the planning issues which may have prevented the site being suitable could be resolved via a management plan.

We have learned via two of our members, Past President Robert Coffey who is the Secretary of WRAD's Committee of Management and Shane Keogh who is also a member of the WRAD Committee of Management, that one of the "planning" conditions imposed by VCAT is totally unacceptable .

The "operational" requirement as we see it, rather than a planning requirement, that Warrnambool's residential rehabilitation facility at Atkinson's Lane must have staffing levels which exceed by a minimum of thirty percent, every other State funded residential rehabilitation facility in the State of Victoria, is manifestly unfair to the people of south west Victoria who have need of the services of the proposed facility and the community which supports its establishment – evidenced by the \$630,000 donated.

It is our understanding that other Victorian residential rehabilitation facilities which operate under "best practice" staffing levels and have done so for thirty years in the case of Odyssey House management, have encountered no Victorian Police call outs or investigations with regards to theft, violence, illicit drug use or trafficking or threatening behaviour to members of the public or other clients and staff.

The facility will not and cannot operate if staffing costs are thirty percent higher than other similar Victorian facilities. WRAD will abandon its mission to create a facility in the South West if this condition is not removed from the VCAT conditions. It will not seek another site. WRAD has been scheduled a hearing at VCAT in February to appeal the imposition of this condition.

The Rotary Club of Warrnambool Inc. politely requests that you support WRAD's appeal at VCAT when Council considers its position. The same staffing conditions that apply to all other State funded residential rehabilitation centres in Victoria should apply to Warrnambool.

Warrnambool and District needs a residential rehabilitation facility. The site has been approved by VCAT. The only thing preventing it from happening is an unfair staffing imposition.

Yours sincerely,

Tim Goodall (President)

Signed on behalf of the members of the Rotary Club of Warrnambool Central Inc.

Greg Allison	Garry Askew	Sam Baulch	Stu Bethune	Paul Blain
Trevor Bonney	Gerard Barker			
Frans Bos	Mick Boswell	Clive Bray	Neil Bridge	Francis
Broekman	Ian Brown			
Lindsay Bullivant	Robert Coffey	Anthony Davies	Glendon Dickinson	Brian
Dillon	Doug Gardner			
Tim Goodall	Ann Ellis	Tony Grace	Peter Hayes	Steve
Hickman	Bore Hoekstra			
John Hutson	David Jellie	Peter Kenna	Shane Keogh	Ashley King
Bruce Ludeman				
Scott Lowrey	Peter Lynch	Mark McFadden	Les McGrath	Bob
McMillan	Malcolm McPherson			
James Mephram	Lindsay Monaghan	Matt Northeast	Paul O'Brien	Rowan O'Brien
Lewis	Officer			
Graham Pennington	Bill Quinlan	Eddie Raymond	John Reeves	Philip Ritchie
Tony Robinson				
Ian Senior	Geoff Taylor			

Witness Statement of Dr. Stefan Gruenert

RE: Application to amend planning permit conditions for residential drug and alcohol rehabilitation centre at Atkinson's Lane Dennington by Western Region Alcohol and Drug Centre (WRAD).

Summary of my statement: *In my opinion, the current planning permit conditions associated with the proposal to operate a residential drug and alcohol rehabilitation centre at 43 Atkinson's Lane, Dennington require an unreasonable number of staff to be present. These requirements are inconsistent with other similar programs, and would make the operation of a centre unviable.*

Fewer staff does not represent a reduction in "hours" of supervision, as the proposed amendment still requires a minimum of two staff at all times.

The residential rehabilitation model is not intended to be a "psychiatric", "hospital" or "secure" facility and consequently, benchmarks for these facilities should not be used to establish the appropriate planning conditions.

1. Qualifications & Work Experience

**Dr. Stefan Gruenert, MAPS, of
43 Harold St, Thornbury Victoria 3071**

My experience is as follows:

Doctorate in Counselling Psychology (Swinburne); Diploma in Community Services (Drug & Alcohol); BA Hons (University of Melbourne); Strategic Perspectives in Non Profit Management (Harvard Business School).

I am a psychologist who has worked for Odyssey House Victoria for more than 18 years, holding the position of Chief Executive Officer for 12 years. In this role I have oversight for a number of intensive treatment, training, research, and support programs for those affected by drug and alcohol and mental health problems, across 30 locations. I am the immediate past President of the Victorian Alcohol & Drug Association which is the peak body for the Victorian drug and alcohol sector, and I currently sit on the Board of the Victorian Council of Social Services (VCOSS).

I have visited more than 30 residential rehabilitation programs across Australasia, Europe and North America, with locations that include city, suburban, and rural settings.

I have conducted research on alcohol use, men's issues, intimacy, family work, and fathers and delivered workshops to more than 5,000 young people in football and netball clubs across regional Victoria. I have also taught courses in counselling, statistics, drug and alcohol, and family work, and published journal articles and books, and presented papers and workshops at several National and International conferences.

2. History of Odyssey House Victoria's residential programs

The Therapeutic Community (TC) has been in operation at Lower Plenty for more than 40 years, whilst the *Circuit Breaker* program operating at Benalla was established more than 15 years ago in 2003.

3. The Therapeutic Community Model used by Odyssey House Victoria

The Therapeutic Community (TC) model is an intensive and effective treatment for substance misuse, particularly for those individuals with the most complex and severe presentations and those for whom other forms of treatment (like counselling) have failed. Our Melbourne and Benalla programs are both certified against the Australasian Therapeutic Community Standards. Each program is modified to suit its facility and environment, and to meet the needs of its residents. For example, the Melbourne program works with adults and with parents (mothers and fathers) attending with their children.

The TC model involves a combination of individual and group based counselling and support, and it involves peers, professional staff, and visiting consultants such as GPs, psychiatrists, and psychologists. Activities include cognitive behavioural therapy and psychoeducation, therapeutic groups, and behavioural or conflict resolution groups, as well as attendance at local peer support meetings and allied health and community services as needed.

A key characteristic of TC treatment is its focus on lifestyle and identity change using the 'community as method', a treatment environment that seeks to ameliorate psychological dysfunctions, enhance social functioning, facilitate behavioural changes, and ultimately lead to a drug-free lifestyle. The TC approach is a highly structured and primarily self-governed community, with clear expectations, consequences, roles, and schedules, in which residents progress through a hierarchy of levels of increasing responsibilities and privileges. These structures help residents integrate into social networks, increase social skills, enhance accountability to the group, and instil self-reliance (De Leon, 2000).

The extent of peer involvement and the self-governed nature of a TC program is often mis-understood. It is often assumed that staff are required to fulfil most functions within the program, but many roles and "work" is actually completed by residents who take responsibility for much of the operation of the facility. They are also responsible for much of the supervision of new residents.

It is always disappointing to see people without expertise look for isolated research quotes, usually out of context, often from a medical setting rather than from within TCs, sometimes more than 30 years old, and gained by using a "google search" in order to justify some position they hold. Without expertise or understanding, it is difficult to appreciate the many factors that need to be considered to develop a successful program.

In my experience, I believe the management team at WRAD to have sufficient expertise and experience in operating residential rehabilitation programs. Reducing staff levels does not equate to a reduction of supervision hours, as the proposal is that a minimum of two staff will be present at all times.

4. Size of Programs

The Odyssey House TC program in Melbourne is funded to deliver 143 long-term beds, whilst our Circuit Breaker program in Molyullah (near Benalla) is funded for 15 short-term beds.

5. Staffing

At our Lower Plenty facility, we have only one staff member of a "sleepover shift" between 10pm and 8.30am. These duty workers often have a lived experience of their own addiction and recovery and

would also have or be working towards a Certificate IV in Community Services (AOD). During business hours, 8.30am to 5pm Mon-Friday, we have up to 15 staff from a range of disciplines (counsellors, nurse, chef, maintenance), whilst at other times outside of business hours (5pm-10pm in the evenings and on weekends) it is typical for us to have two staff present.

Planning for our program located near Benalla, requires that "at all times when residents participating in an alcohol and drug rehabilitation program are on the site, a minimum of two staff members shall be present on the site. Such staff must be suitably qualified and experienced in the management and supervision of people with drug and alcohol dependency." Our staff typically consist of those with a lived experience of addiction and recovery and those with a variety of other backgrounds, who have, or are working towards completing a minimum of Cert IV in Community Services (AOD). During Business hours, 8.30am to 5pm we have up to five staff on site, whilst after hours we have two staff on site, one on a "sleepover shift" and one on a "stand-up" shift.

6. Activities

Most residential rehabilitation programs will attempt to replicate community norms around work, rest and play. Consequently, residents are typically involved in performing a job function during business hours that contributes to the function of the community. Resident responsibilities often extend beyond these hours into early evenings, and on weekends for tasks like cooking, cleaning and washing. Generally, some time for exercise, games, art and relaxation is also built into a weekly schedule, with some family visits generally occurring on weekends. In my experience, activities and the hours at which they occur take into consideration the facilities context to ensure any impact on neighbours is minimised.

7. Funding

Funding for our program at Lower Plenty is provided through the Victorian Department of Health and Human Services, and is currently around \$63,000 per bed per annum. Funding, however, has recently moved toward activity-based payments. This is supplemented with a contribution from resident's Centrelink payments, and donations from the community.

Funding for our Circuit Breaker program near Benalla is provided through the Commonwealth Department of Health, and is currently approximately \$83,000 per bed per annum. This is also supplemented with a contribution from resident's Centrelink payments, and donations from the community.

A recent cost analysis completed by Larter Consulting found that funding levels do not adequately cover the true costs of program operation, especially for smaller programs of 30 beds or smaller, with staffing being the greatest expense.

8. Adjacent land use

Whilst neighbours of both Odyssey House properties were initially wary of having a residential rehabilitation program located next to them, relations are now very positive. At our Lower Plenty

facility, we have had horses agisted on our property by local families for more than 20 years. Young women and girls have attended and cared for their horses there over that time, mostly after hours, where we only have one staff and more than 100 residents. There has never been an incident to my knowledge. Likewise, at our Benalla facility, neighbours have put cattle in our unused paddocks, and we have supported each other with any damage to fences.

9. Support for the amendments

It is my view that the management plans and principles, and the proposed staffing requirements (ie. minimum two staff at all times when residents are on site), are more than adequate to manage the facility as a residential rehabilitation program or Therapeutic Community as has been outlined in the planning application, in order to deal with any requests to leave the services both within an outside of business hours.

10. My Involvement with WRAD to date

My support for the establishment of The Lookout by Western Region Alcohol and Drug Service is motivated by a desire to see more residential rehabilitation services in Victoria, especially in regional areas, to meet community need and to ensure that access to treatment is enhanced. I have provided my encouragement and support in my role as the CEO of Odyssey House Victoria and as President for the Victorian Alcohol And other Drug Association (VAADA) – the peak body for treatment services. I have participated in community/public forums, made comments in the media, and have offered to provide evidence to council and at VCAT. I have not been paid by WRAD, but have had my transport, accommodation and meal expenses covered by WRAD when attending information events in Warrnambool about The Lookout.

Dated: 14 January, 2020

Signed: Stefan Gruenert

A handwritten signature in black ink, appearing to read 'Stefan Gruenert', with a long horizontal flourish extending to the right.

To the Warrnambool City Council Mayor and councilors.

Following my previous correspondence to you I write on behalf of the WRAD committee to ask that you consider the following information.

At the June 2019 VCAT Planning Permit hearing, a request was made by the Lookout objectors to increase staffing levels to address their safety concerns. This resulted in a VCAT decision to prescribe staffing levels. Condition 12.4 states 5 staff will be on duty between 8.30 am and 8.30 pm 7 days per week and 2 staff between 8.30 pm and 8.30 am 7 days per week. WRAD believes that this decision has an unintended consequence that affects the operational viability of the Lookout Project. WRAD strongly suggests that there has been no evidence or justification for this extraordinary condition.

WRAD has carefully calculated the staffing requirements to fulfill the VCAT staffing condition 12.4 and have subjected these calculations to an independent audit evaluation that validates these figures. The total staff required is 17.55 full time equivalent staff and the costs of wages alone are over \$1.7 million. The State Department of Health and Human Services that funds similar residential rehabilitation centres across Victoria provides an allocation of \$61,500 per bed which equates to \$1.23 million for a 20 bed Lookout facility. If this condition remains the Lookout Residential Rehabilitation Centre will not happen.

A number of residential rehabilitation centres operate successfully across Victoria and follow a Therapeutic Community model of treatment which has been tried, proven and has been successful. The Ballarat residential Rehabilitation Centre which is operated by Windana (a Melbourne based organisation) is the closest comparison to the Lookout proposed center as it has 20 beds. The full time staffing equivalent at the Ballarat site is 12 FTE and the proposed amendment to the VCAT condition for the Lookout equates to 12.23FTE. We understand that the Ballarat residential centre has been operating effectively within a residential setting with no reported safety issues at these staffing levels.

The State Government monitors the performance of all funded residential rehabilitation centers across Victoria and each organisation is required to adhere to a comprehensive accreditation process. There are clear processes for operating state funded Residential Rehabilitation Centers and the accepted staffing ratios, program activities and treatment guidelines will be followed by the Lookout program.

The fact that other comparable residential rehabilitation centres operate safely and securely with realistic staffing ratios bears testament to the effectiveness and structure and design of the Therapeutic Community model. Increased staffing levels are obviously not necessary for other residential rehabilitation programs across Victoria and should not apply to the Lookout facility.

As advised at the VCAT hearing WRAD has established partnerships with wrap around services including Mental Health and Youth and Family Services. The WRAD organisation employs almost 30 staff who will provide valuable daily back up and support to the Lookout project. Senior WRAD Management will operate an on call roster to support Lookout staff 24/7.

WRAD is Government Accredited, has been operating successfully for over 30 years and have demonstrated expertise in the management of alcohol and other drug services. The same standards and expertise will be provided to the proposed Lookout Centre.

WRAD asks that Council make a decision to support the amendment to condition 12.4 based on the following:

1. Staffing levels at the nearest comparable site in Ballarat are 5.55 full-time equivalents less than the VCAT prescribed staffing condition.
2. WRAD will operate an evidence based model that has been operating in Victoria for over 40 years.
3. The Department of Health and Human Services has a non-negotiable fixed funding formula based on a bed based activity that predicates similar staffing levels across Victorian facilities.

WRAD is keen to provide this important service for local clients and their families and need VCAT to understand that Warrnambool City Council supports this amended staffing level.

As you would be aware the community support for this project is very strong as demonstrated by the initial fund raising and the numerous support letters already forwarded to Council.

I am happy to provide further information if you require.

May I restate, that without this change to the staffing formula, WRAD will no longer be able to provide a Residential Rehabilitation Centre for the Warrnambool and District community. The Lookout will simply not go ahead.

Helen Taylor

Chairperson Committee of Management

WRAD



Planning Report

Application Details:

Proposal

The proposal is for amendment to Condition No. 12 of permit PP2018-0105 for a Drug and Alcohol Rehabilitation Centre at 43 Atkinsons Lane, Dennington. A copy of the proposed amendment is at **Attachment 1**. A copy of the planning permit is at **Attachment 2**.

Condition 12 of the Permit currently states:-

"...12. At all times when residents are present on the site, a minimum of two staff must be present between 8.30pm and 8.30am and a minimum of five staff must be present between 8.30am and 8.30pm..."

The proposed changes to Condition 12 (above) are:-

"... 12. The facility must be staffed as follows:

- a) A minimum of two staff must be present between 5.00pm and 8.30am and on weekends; and*
- b) A minimum of five staff must be present between 8.30am and 5.00pm on weekdays..."*

The permit was issued at the direction of VCAT following hearings (P2479/2018) held in June/July 2019 – a copy of the VCAT decision is at **Attachment 3**.

The application has been made under Section 87A of the Planning and Environment Act, 1987, which provides:-

PLANNING AND ENVIRONMENT ACT 1987 - SECT 87A

Cancellation or amendment of permit issued at direction of Tribunal

- (1) *In addition to the powers conferred by section 87, the [Tribunal](#) may cancel or amend a [permit](#) that has been issued at its direction if it considers it appropriate to do so.*
- (2) *The [Tribunal](#) may only cancel or amend a [permit](#) under this section at the request of—*
 - (a) the [owner](#) or [occupier](#) of the [land](#) concerned; or*
 - (b) any person who is entitled to use or develop the [land](#) concerned.*

Further information submitted with the application from WRAD (**Attachment 4**) is summarised as follows:-

At the June 2019 VCAT Planning Permit hearing, a request was made by the Lookout objectors to increase staffing levels to address their safety concerns. This resulted in a VCAT decision to prescribe staffing levels. Condition 12.4 states 5 staff will be on duty between 8.30 am and 8.30 pm 7 days per week and 2 staff between 8.30 pm and 8.30 am 7 days per week. WRAD believes that this decision has an unintended consequence that affects the operational viability of the Lookout Project.

WRAD has carefully calculated the staffing requirements to fulfill the VCAT staffing condition 12.4 and have subjected these calculations to an independent audit evaluation that validates these figures. The total staff required is 17.55 full time equivalent staff and the costs of wages alone are over \$1.7 million. The State Department of Health and Human Services that funds similar residential rehabilitation centres across Victoria provides an allocation of \$61,500 per bed which equates to \$1.23 million for a 20 bed Lookout facility. If this condition remains the Lookout Residential Rehabilitation Centre will not happen.

WRAD asks that Council make a decision to support the amendment to condition 12.4 based on the following:

- 1. Staffing levels at the nearest comparable site in Ballarat are 5.55 full-time equivalents less than the VCAT prescribed staffing condition.*
- 2. WRAD will operate an evidence based model that has been operating in Victoria for over 40 years.*
- 3. The Department of Health and Human Services has a non-negotiable fixed funding formula based on a bed based activity that predicates similar staffing levels across Victorian facilities.*

The proponent has provided additional information on 21 January 2020. **Attachment 5.** The information provides further detail on management and justification of the proposed change in staffing levels having regard to other like facilities and budgetary constraints.

Permit/Site History

In May 2018, Council received a planning application seeking approval for the use and development of 43 Atkinsons Lane, Dennington for the purposes of a residential drug and alcohol rehabilitation centre.

The facility will accommodate up to 20 residents and 10 staff at any one time and will accommodate approximately 80 residents per year that are suffering from problematic alcohol and other drug (AOD) use and associated issues.

A management plan, prepared by Western Region Alcohol and Drug Centre Inc (WRAD), was submitted in support of the application. Notification of the application resulted in 34 objections to the application and 4 submissions in support of the application.

At its Ordinary Meeting held on 1st April, 2019, Council considered the application and resolved the following:-

".... Part i) That Council resolves to advise VCAT of Council's decision to not support the planning assessment recommendations as provided by the officers, on the following grounds:-

- 1. The specific development site locate (as proposed within the Farming Zone) is inappropriate in terms of the integration within the localised precinct area.*
- 2. The application is inconsistent with the objectives and strategies of the Planning Policy Framework and Local Planning Policy Framework.*
- 3. Having regard to Clause 65 of the Warrnambool Planning Scheme, the proposal does not provide an orderly planning outcome.*
- 4. The application will result in adverse amenity impacts on the surrounding areas.*

5. The application will result in adverse social impacts of the surrounding area.

Part ii) That Council resolves to provide a recording of the debate of this item to the VCAT Panel members to provide context to its position....”

VCAT Ref :P2479/2018

The proponents lodged an appeal with VCAT and the hearing of the matter was held in June-July 2019. The hearing included submissions from:-

- Council;
- Proponent;
- Objectors;
- Expert witnesses from both the proponent and objectors

Subsequently, VCAT directed that a permit be issued, subject to conditions.

VCAT Ref: P1821/2019

The proponents have lodged an appeal to VCAT under Section 87A of the Planning and Environment Act 1987, to change Condition No. 12 of the planning permit. To date, Council has provided the required information, as directed by VCAT via orders received on 30 September 2019.

The hearing for the matter has been set for 25 February 2020.

Subject site & locality – 43 Atkinsons Lane, Dennington



Public Notification

At the direction of VCAT (via orders P1821/2019), the applicant was required to notify the adjoining and adjacent property owners and occupiers and also parties to the previous VCAT hearing. A notice in the Warrnambool Standard was also required to be undertaken.

To date, eleven objections and 7 submissions (support) have been received. The objections are at **Attachment 4** and can be summarised as follows:-

- No rationale provided to justify amendment
- Ongoing concerns to the therapeutic program and security and management protocols
- Concern for safety
- Impact on amenity, safety and security of neighbours
- Any problems arising at the centre are most likely to occur on the weekends e.g clients having more time and less supervision

WRAD (proponent) has provided additional information in support of the proposal. A copy of the information is at **Attachment 5**.

Referrals

The CFA, VicRoads and Victoria Police were required to be notified by the applicant. No objections have been received.

Assessment

Purpose of the Farming Zone

- 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.

Decision Guidelines

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

- The matters set out in section 60 of the Act.
- The 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 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.

Section 60 of the Planning and Environment Act 1987

Social and economic effects are required to be taken into consideration alongside net community benefit.

The Tribunal considered various matters relating to the above, in terms of the zone, decision guidelines and Section 60, of relevance:-

'46. Given we do not find need to be an overwhelming factor in the same way as the Alfred helipad, we must be satisfied that the proposal is consistent with the Farming Zone provisions and related policies, the adequacy of proposed operational and management arrangements, likely amenity impacts and the suitability of a siting proximate to the Dennington town centre¹.

In terms of the zone and its suitability, the Tribunal provided '..... We observe that because of the relatively small lot size and its use for both a dwelling and then a day care facility for many years, the proposed use will not lead to a loss or fragmentation of productive agricultural land....²'

And in terms of amenity and security '..... With these types of residential facilities and programs, it is less about the environmental setting and more about the management of the facility that was the key contributor to its success for participants...³ '

The proponents have provided information which outlines budgetary constraints as the reason for the proposed amendment with a view to also meeting DHHS accreditation requirements.

The proponents have stated that the facility will be supported 24/7 through an on call management support roster. The Lookout senior manager and two WRAD managers will participate in this roster, in addition to the staff proposed to be on-site. No change to the management plan condition is proposed. However, it is considered that if the Tribunal were to agree to the proposed changes, the management plan conditions should be modified to reflect the proposed staffing changes.

The application that is currently before Council for consideration is a limited application concerning the number of staff that must be on site at particular hours. Having regard to the above and the information submitted, including objections to the proposal, it is considered that on balance the amendment to Condition No. 12 can be supported.

¹ VCAT Reference No. P2479/2018 Page 14, Para 46.

² VCAT Reference No. P2479/2018 Page 16, Para 57.

³ VCAT Reference No. P2479/2018 Page 18, Para 65.

5.4. DECEMBER FINANCE REPORT

PURPOSE:

This report updates Council on the financial performance for the 6 months ended 31 December 2019.

EXECUTIVE SUMMARY

- This Finance Report compares actual financial results budget for the 6 months ending December 2019 – refer **Attachment 1**.
- The report sets out financial results for Councils recurrent (day to day operations) Projects, Capital Works, Rates and Loan activities.
- Year to date budgets are profiled to reflect the timing of cash inflows and outflows. Overall the actual results indicate a favourable financial position of \$702k when compared to the YTD Budget.

RECOMMENDATION

That the finance report for the 6 months ending December 2019 be received.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

5 Practice good governance through openness and accountability while balancing aspirations with sound financial management

5.3 Ensure financial sustainability through effective use of Council's resources and assets and prudent management of risk

ATTACHMENTS

1. December 2019 Finance Report [**5.4.1** - 10 pages]



Monthly Financial Report

December 2019

Monthly Financial Report

December 2019

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Monthly Financial Report

December 2019

1. Executive Summary

The monthly report is designed to illustrate the financial performance and position of Warrnambool City Council compared to its adopted and forecast seasonalised budget for the period ending 31 December 2019.

The 6 months actual results indicate a favourable financial position to budget of \$0.702m.

Key Financial Results	Adopted Budget \$'000	Revised Budget \$'000	YTD Budget \$'000	YTD Committed \$'000	YTD Variance	
					\$'000	
Rates	40,511	40,511	40,511	40,578	67	▲
Recurrent Income	40,790	39,064	19,540	20,236	696	▲
Recurrent Expenditure	(67,280)	(67,738)	(35,789)	(35,948)	(158)	▼
Net Recurrent Surplus/(Deficit)	(26,490)	(28,674)	(16,249)	(15,712)	537	▲
Project Income	779	1,847	1,283	1,340	57	▲
Project Expenditure	(1,009)	(4,958)	(1,841)	(1,802)	39	▲
Net Project Surplus/(Deficit)	(230)	(3,110)	(558)	(462)	96	▲
Capital Income	3,432	9,986	2,378	2,428	50	▲
Capital Expenditure	(19,822)	(29,679)	(11,324)	(11,372)	(48)	▼
Net Capital Surplus/(Deficit)	(16,390)	(19,693)	(8,946)	(8,944)	2	▲
Loan Drawdowns	4,400	4,400	0	0	0	■
Loan Repayments	(1,746)	(1,679)	(842)	(842)	0	■
Net Financing Position	2,654	2,721	(842)	(842)	0	■
Surplus / (Deficit) Brought Forward	0	8,346	0	0	0	■
Total	56	101	13,916	14,619	702	▲

Recurrent: is \$0.537m favourable to budget due to the following main reasons:

- Increased Grants Commission funding in 2019/20 and additional Aged Care grants.
- Strong operational performances from the Lighthouse Theatre, Parking, Out of School Hours Care, Holiday Parks and the Livestock Exchange.
- Planning applications have remained steady with a high value fee received by a large application. The costs per application have remained low. Various statutory building services fees are higher than anticipated.
- Partially offset by the impact of the relocation of Florence Collins – covered by insurance (claim in progress).

Projects: are currently in line with budget expectations with minor variations in timing of income and expenditure.

Capital Works: are currently in line with budget expectations with minor variations in timing of income and expenditure.

Monthly Financial Report

December 2019

2. Statement of Comprehensive Income

	Adopted Budget	Revised Budget	YTD Budget	YTD Committed	Variance		
	\$'000	\$'000	\$'000	\$'000	\$'000	%	
Revenue							
Rates and Charges	40,593	40,593	40,552	40,619	67	0.2%	▲
Statutory Fees and Fines	1,770	1,770	746	883	138	18.5%	▲
User Fees	17,653	17,582	8,469	8,845	376	4.4%	▲
Recurrent Grants	11,684	10,571	5,844	5,958	114	2.0%	▲
Non-Recurrent Grants	2,432	5,448	1,503	1,573	70	4.6%	▲
Contributions - Cash	880	3,948	712	741	29	4.0%	▲
Contributions - Non Cash	4,000	4,000	665	665	0	0.0%	▼
Other Income	346	528	278	327	48	17.4%	▲
Interest Income	246	246	123	147	23	19.1%	▲
Revenue Total	79,605	85,352	58,892	59,758	866	1.5%	▲
Expenses							
Employee Benefits	34,511	34,519	16,816	16,672	144	0.9%	▲
Materials and Services	23,005	27,405	15,399	15,570	(171)	(1.1%)	▼
Bad and Doubtful Debts	124	124	1	1	0	7.9%	■
Finance Costs	409	409	216	260	(44)	(20.3%)	▼
Other Expenses	834	834	416	421	(5)	(1.1%)	▼
Depreciation	12,871	12,871	0	2	(2)	0.0%	▼
Net loss / (gain) on asset disposal	1,175	1,024	(21)	(1)	(20)	10.2%	▼
Expenses Total	72,927	77,185	32,828	32,926	(98)	(0.3%)	▼
Net Surplus / (Deficit)	6,677	8,166	26,064	26,832	768	2.9%	▲
Other Comprehensive Income							
Net asset revaluation	10,000	10,000	0	0	0	0.0%	■
Total Comprehensive Income	16,677	18,166	26,064	26,832	768	2.9%	▲
Net Underlying Surplus / (Deficit)							
	2,677	4,166	25,399	26,167	768	3.0%	▲

Net Surplus: The year to date net surplus of \$26.83m is in line with budget. The operating surplus will reduce during the remainder of the financial year to a budget of \$8.17m due to expenditure levels outpacing revenue as the full rates revenue was raised in July.

Revenue: is \$0.866m favourable to budget which is mainly due to:

- User fees \$376k higher than budget due to increased activity at the Lighthouse Theatre and Holiday Parks, higher cattle sales at the Saleyards, additional parking income and above program attendance in Out of School Hours Care.
- Statutory fees and fines \$138k favourable variance partially due to planning applications remaining steady with a high value fee received by a large application and costs per application have remained low totalling \$55k. In addition, various statutory building services fees are higher than anticipated by \$52k.
- Recurrent grants \$114k higher than budget due to additional Aged Care grants and Grants Commission funding.

Expenses: is \$0.098m unfavourable to budget which is mainly due to:

- Higher commercial events costs at the Lighthouse Theatre due to increased activity.
- Business interruption due to relocation of Florence Collins – these costs will be recouped through insurance.
- Increase in contract staff due to recruitment issues which is partially offset by lower salaries.

Monthly Financial Report

December 2019

3. Balance Sheet

	2019/20 Opening Balance \$'000	Movement \$'000	YTD Closing Balance \$'000
Current Assets			
Cash & Cash Equivalents	3,696	5,009	8,705
Investments	15,000	(1,000)	14,000
Trade and Other Receivables	3,320	19,465	22,785
Other Assets	1,433	(465)	968
Current Assets Total	23,449	23,009	46,458
Non-Current Assets			
Trade and Other Receivables	10	0	10
Investments in associates	633	0	633
Property Plant & Equipments	630,610	4,456	635,066
Non-Current Assets Total	631,253	4,456	635,709
Total Assets	654,702	27,465	682,167
Current Liabilities			
Trade and Other Payables	4,255	(372)	3,884
Trust Funds and Deposits	1,100	(79)	1,021
Provisions	6,571	0	6,571
Interest-bearing Loans and Borrowings	1,735	(616)	1,119
Current Liabilities Total	13,663	(1,067)	12,596
Non-Current Liabilities			
Provisions	1,235	0	1,235
Interest-bearing Loans and Borrowings	8,301	(241)	8,060
Non-Current Liabilities Total	9,536	(241)	9,295
Total Liabilities	23,199	(1,308)	21,891
Net Assets	631,503	28,773	660,276
Equity			
Accumulated Surplus	232,679	28,771	261,450
Reserves	398,826	0	398,826
Total Equity	631,505	28,588	660,276

Cash & Investments: have remained constant year to date and are at higher than normal levels due to early receipt of Government Grants.

Trade and Other Receivables: have increased significantly from the start of the financial year due to raising the full year's rates revenue in July while customers receive quarterly instalments. This will reduce throughout the year to acceptable levels by year end.

Monthly Financial Report

December 2019

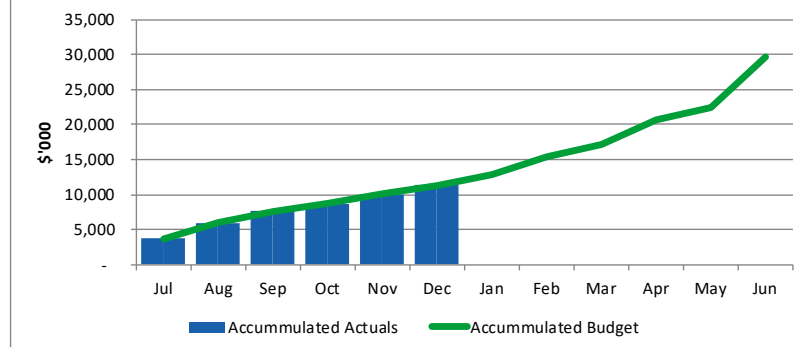
4. Capital Expenditure and Funding

Capital Expenditure: year to date committed expenditure is \$11.37m which is in line with the budget.

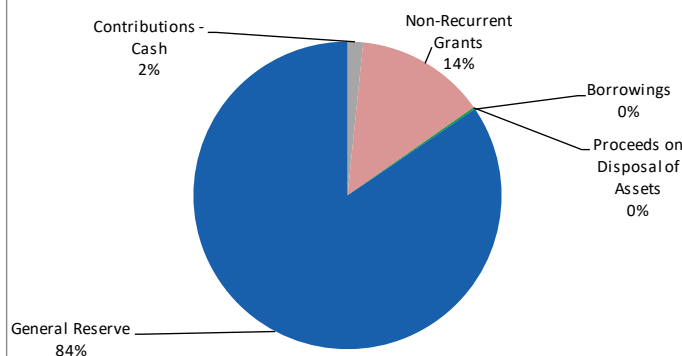
Capital Funding: year to date, this has been financed by 84% from Council Reserves. Grants are outstanding with the Government for the City Centre Renewal which are due to be raised in the 1st quarter of 2020.

	Adopted Budget \$'000	Revised Budget \$'000	YTD Budget \$'000	YTD Committed \$'000	Variance \$'000	
Expenditure						
New	4,419	3,050	1,164	1,169	(5)	▼
Renewal	13,267	19,585	7,473	7,504	(31)	▼
Upgrade	2,070	6,825	2,604	2,615	(11)	▼
Expansion	66	219	84	84	(0)	▼
Capital Expenditure	19,822	29,679	11,324	11,372	(48)	▼
Funding						
Contributions - Cash	501	3,233	179	186	7	▲
Non-Recurrent Grants	2,432	5,439	1,494	1,554	60	▲
Proceeds on Disposal of Assets	498	649	40	23	(17)	▼
Borrowings	2,700	1,500	0	0	0	■
General Reserve	13,690	18,858	9,611	9,609	2	▲
Capital Funding	19,822	29,679	11,324	11,372	(48)	▼

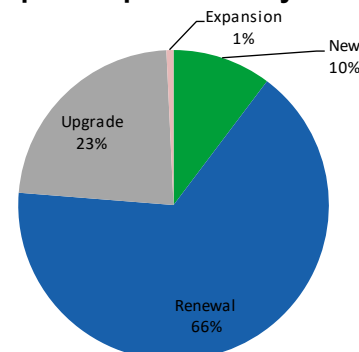
Capital Expenditure Actuals vs Revised Budget



YTD Capital Funding



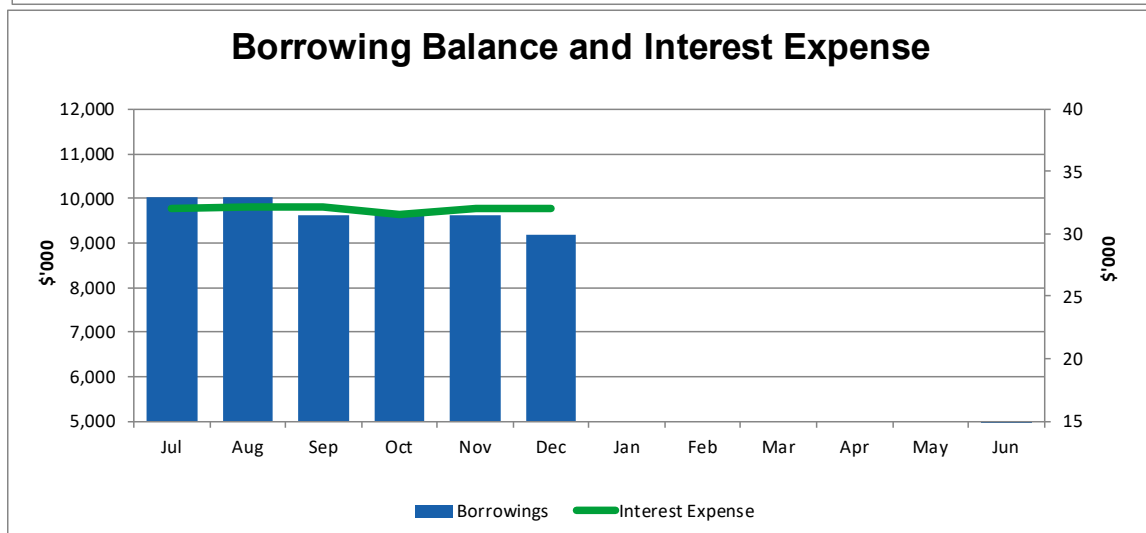
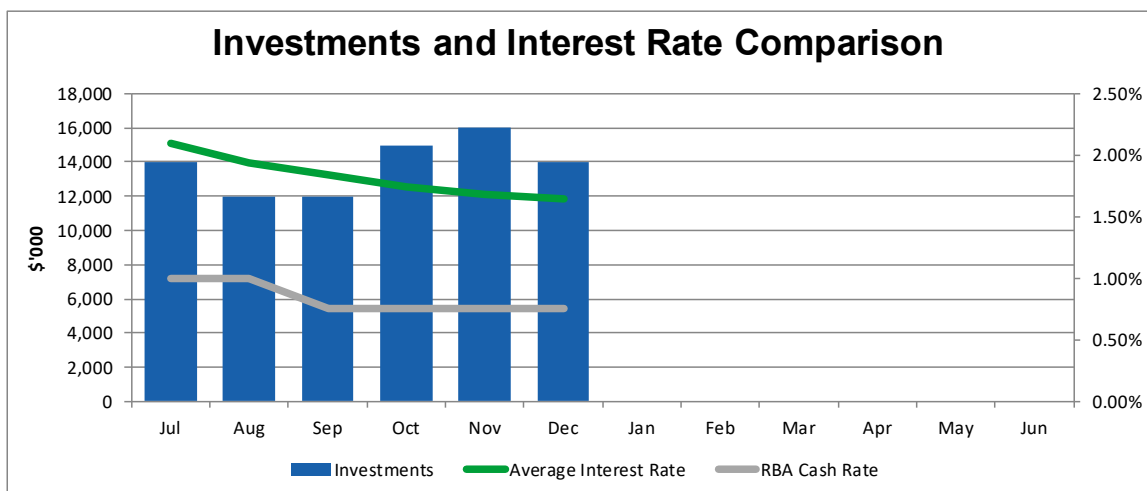
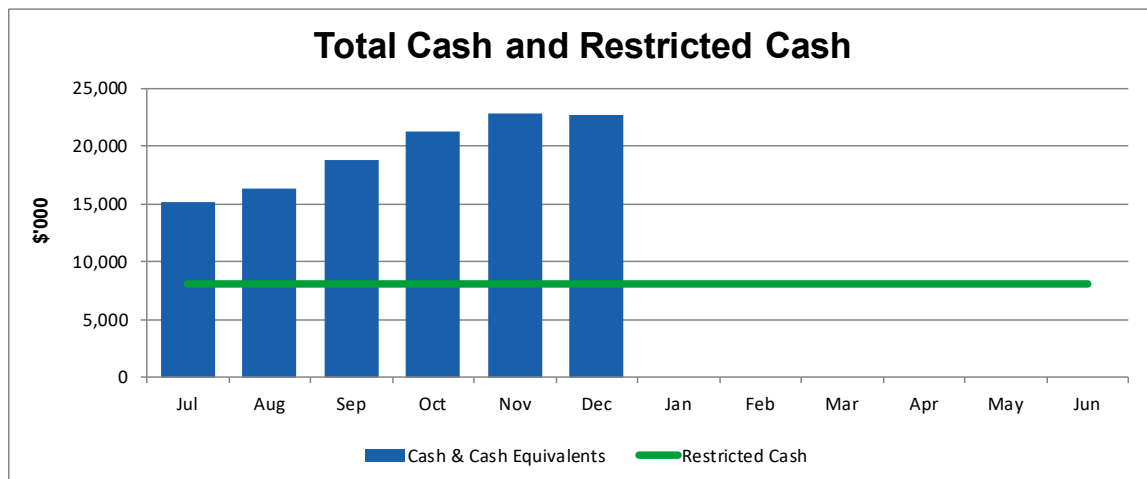
YTD Capital Expenditure by Category



5. Treasury Report

Cash: Total cash held (including investments) at the end of December is \$22.70m, of which \$8.11m is restricted.

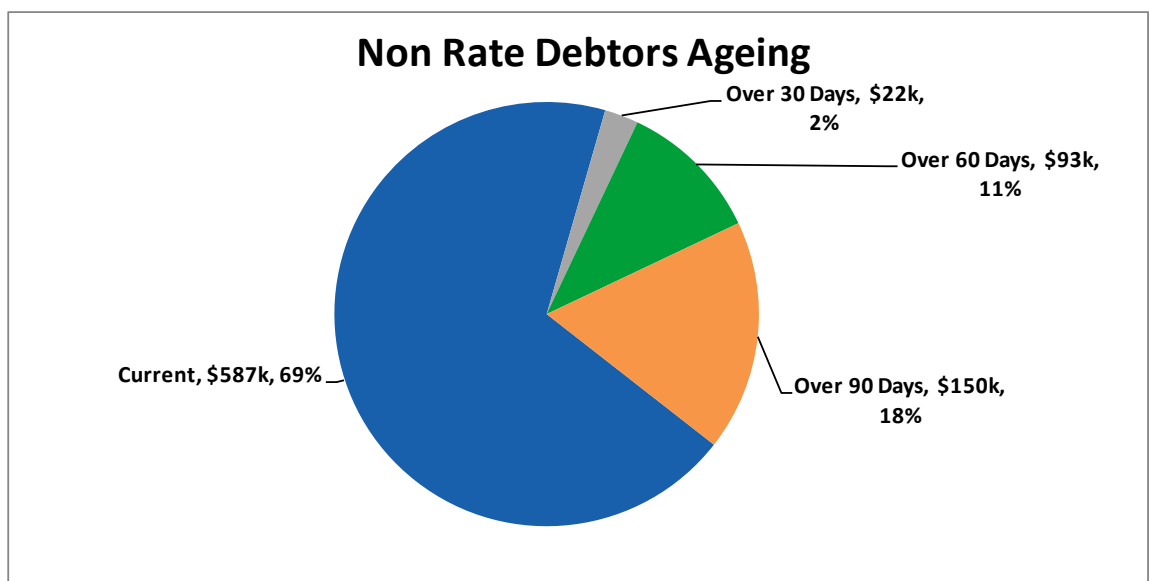
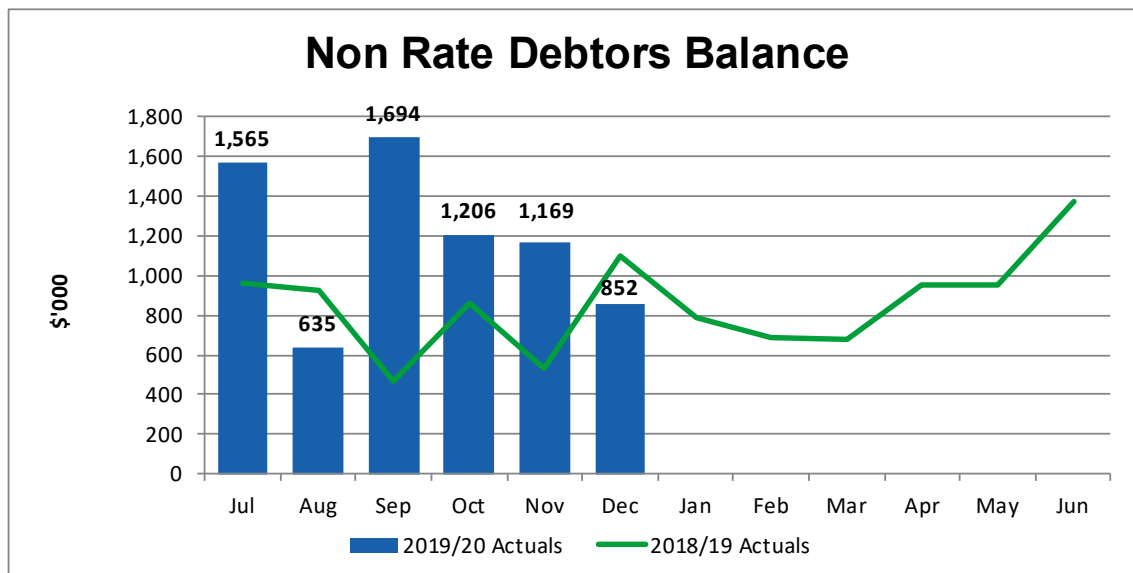
Investments: The average interest rate held on investments at the end of December is 1.64%, which is 0.89% higher than the cash rate. The cash rate was adjusted to 0.75% at the October RBA meeting.



6. Debtors Report

Non Rate Debtors: were \$0.852m in December, with \$0.587m or 69% classified as current.

- Over 30 Days is \$22k or 3%.
- Over 60 days is \$93k or 11% and includes \$32k owing from a Government grant which was paid on 14 January. Also, \$57k is owing from the State Revenue Office for the Fire Services Property Levy Management which is expected to be paid shortly.
- Over 90 days is \$150k or 18% and includes \$110k owing from a funding body with payment being delayed due to the finalisation of scope for a specific project within the overall Reid Oval Development project.



Monthly Financial Report

December 2019

7. Budget Variations and Impacts

Item	Ledger No.	Variation Status	Budget Variation \$	Cumulative Total \$
Adopted Budget Surplus				55,500
Rollovers - Net			(8,345,843)	(8,290,343)
Cash Surplus Bought Forward			8,345,843	55,500
September Qtr Variations			0	55,000
Merrivale Rec Res Irrigation, Electricity and Lighting Improvements - Merrivale Football Netball Club contribution/Merrivale Cricket Club contribution/Balance SRV Grant	631000-2234		200,000	255,500
Merrivale Rec Res Irrigation, Electricity and Lighting Improvements - Expenditure	631000-2234		(200,000)	55,500
Public Safety Infrastructure - Artillery Crs CCTV & Lighting Grant	623600-2260		133,967	189,467
Public Safety Infrastructure - Artillery Crs CCTV & Lighting Expenditure	623600-2260		(133,967)	55,500
Warrnambool Art Gallery Foundation Artwork Contribution	634000-2086		40,000	95,500
Warrnambool Art Gallery Foundation Artwork Expenditure	634000-2086		(40,000)	55,500
Streamlining for Growth Program - East of Aberline Precinct Structure Plan Grant	542000-2173		100,000	155,500
Streamlining for Growth Program - East of Aberline Precinct Structure Plan Expenditure	542000-2173		(100,000)	55,500
Storage Upgrade at the Art Gallery - Foundation Contributions	634000-2259		37,000	92,500
Storage Upgrade at the Art Gallery - Expenditure	634000-2259		(37,000)	55,500
Early Years additional funding confirmed by SAMS - My Agency	various		111,805	167,305
Early Years Expenditure	various		(111,805)	55,500
Pre School additional funding confirmed by SAMS - My Agency	533500-3113		55,236	110,736
Pre School Expenditure	533500-3113		(55,236)	55,500
TAC - Merrivale Drive Traffic Calming - Grant	523500-3212		50,000	105,500
TAC - Merrivale Drive Traffic Calming - Expenditure	523500-3212		(50,000)	55,500
GSC Food and Fibre Project - Southern Rural Water/Wannon Regional Dairy Branch Contributions	540000-1761		39,091	94,591
GSC Food and Fibre Project - Southern Rural Water/Wannon Regional Dairy Branch Expenditure	540000-1761		(39,091)	55,500
Ideas Place Pitch Night - Fletcher Jones Foundation/Brophy Family and Youth Services - Funding towards Prize	540000-3164		20,000	75,500
Ideas Place Pitch Night - Fletcher Jones Foundation/Brophy Family and Youth Services - Expenditure	540000-3164		(20,000)	55,500
Warrnambool Social Housing Planning Project - State Grant	542000-2137		104,500	160,000
Warrnambool Social Housing Planning Project - Expenditure	542000-2137		(104,500)	55,500
Cumorah Foundation P/L ATF Fletcher & Rena Jones Foundation - The New W'bool Art Gallery Feasibility Study - Contribution	538000-3188		50,000	105,500
Cumorah Foundation P/L ATF Fletcher & Rena Jones Foundation - The New W'bool Art Gallery Feasibility Study - Expenditure	538000-3188		(50,000)	55,500
David & Isobel Jones Family Foundation - WAG special initiatives artwork and commission - Contribution	538000-3165		50,000	105,500
David & Isobel Jones Family Foundation - WAG special initiatives artwork and commission - Expenditure	538000-3165		(50,000)	55,500
Respite Care Services - Increased Grant	305500-1361		80,523	136,023
Respite Care Services - Expenditure	305500-1382/1359		(80,523)	55,500
Revised Budget Surplus				55,500

Monthly Financial Report

December 2019

8. Procurement Report

	YTD 2019/20	Actuals 2018/19	Actuals 2017/18	Actuals 2016/17
Total Payments	\$27.137m	\$59.648m	\$62.468m	\$54.727m
Total Number of Invoices	9,870	18,277	19,051	19,796
Total Number of Purchase Card Transactions	2,751	6,757	6,199	4,562
% Usage of Purchase Card Transactions	22%	27%	25%	19%
No. of Active Suppliers	2,920	2,677	2,438	3,664
No. of Suppliers Paid This Financial Year	1,306	1,741	1,745	1,782
No. of Suppliers who have been used only once	573	697	678	669
No. of Automated Invoices	431	1,494	709	75
No. of Invoices below \$100	2,228	4,196	4,775	5,560
No. of Suppliers for Top 20% of Expenditure	8	4	3	5

5.5. FISCALINI DRIVE NAME CHANGE TO TOOHEY DRIVE

PURPOSE:

To approve changing the name of Fiscalini Drive Warrnambool to Toohey Drive Warrnambool.

EXECUTIVE SUMMARY

Council had received a formal request to rename Fiscalini Drive. Submissions were called for and two submissions were received in support. The matter was referred to Council's street naming group who proposed the name Toohey Drive which was relevant to the original subdivision.

Council called for submissions regarding its intention to change the name from Fiscalini Drive to Toohey Drive Warrnambool. This was advertised under Section 223 of the Local Government Act 1989. All owners of properties in Fiscalini Drive were also notified by mail.

No Submissions were received.

RECOMMENDATION

That Council change the name of Fiscalini Drive Warrnambool to Toohey Drive Warrnambool.

BACKGROUND

Council had been formally requested to consider renaming the road currently known as Fiscalini Drive Warrnambool. This was based on a request from a member of the public to rename the road. Council has previously been provided with background on this request.

A *Notice of Proposal to Rename Road* was placed in The Standard on 21 September 2019 requesting submissions under Section 223 of the Local Government Act 1989. Letters were also sent to all property owners in Fiscalini Drive.

Council received two formal submissions in support of renaming the road.

The subdivision is commonly known as the 'Toohey Estate' in recognition of the previous owners of the land. During the subdivision process the name 'Toohey' was an approved street name, however as a result of changes during development, became surplus to needs.

It was considered appropriate that Toohey Drive be the proposed new street name and the consultation process commenced with the residents and the community.

The street naming list provides the following history of the proposed name:

Toohey Drive – the site was originally owned and farmed by the Toohey Family for many years. When the Parish decided to establish a residential development on the site, the Parishioners and the Parish Committee decided that it be called Toohey Estate.

A *Notice of Intention to Rename Fiscalini Drive to Toohey Drive* was placed in the Standard on 14 December 2019 requesting submissions under Section 223 of the Local Government Act 1989. Letters were also sent to all owners of property in Fiscalini Drive.

No Submissions were received.

ISSUES

The direct impact that such a change would have on sixteen properties which are currently addressed to Fiscalini Drive Warrnambool would be the property owners' day to day dealings with Australia Post, utility providers to the properties (AGL, Origin, SPAusnet and the like), Telstra, Optus and other internet service and communications providers.

The indirect impact would be on the State Titles Office, Banks and mortgage providers as well as a myriad of other contractors and businesses servicing the properties within Fiscalini Drive itself.

FINANCIAL IMPACT

It is envisaged that the process would have a financial impact of \$5,000 on Council's budget.

This funding would be predominantly utilised as part of the consultation with affected residents, including supporting them through the administrative processes associated with the change.

LEGISLATION/POLICY/COUNCIL PLAN CONTEXT

Schedule 10 Part 5 Local Government Act 1989

"5 Power to name roads, erect signs and require premises to be numbered

(1) A Council may—

- (a) *approve, assign or change the name of a road; and*
- (b) *erect signs on a road; and*
- (c) *approve, assign and change the number of a road and any premises next to a road; and*
- (d) *require people to number their premises and to renew those numbers."*

TIMING

The process required to be carried out prior to end of March 2020.

COMMUNITY IMPACT/CONSULTATION

This process was carried out with no submissions being received. Australia Post has advised that due to the name of the road being the only change the impact should be minimal.

LEGAL RISK/IMPACT

There are no direct legal risks associated with this recommendation. However, owners of the affected properties will be required to change their addresses with relevant parties. Council will provide a change of address "checklist" for owners if the name change is adopted (copy attached).

OFFICERS' DECLARATION OF INTEREST

Nil

CONCLUSION

Council will achieve a positive outcome for the community regarding the request for change of name.

ATTACHMENTS

1. Change of Address - Checklist [5.5.1 - 1 page]



Change of Address – Checklist

Government

- ☐ Australia Post
- ☐ Australian Electoral Commission
- ☐ Australian Tax Office
- ☐ Concession Cards
- ☐ Driver License
- ☐ Library
- ☐ DonatLife
- ☐ Centrelink
- ☐ Medicare
- ☐ Child Support
- ☐ Local Council (Rates, Animals, Accounts, etc.)
- ☐ Vehicle Registration
- ☐ Seniors Card
- ☐ School / TAFE / University
- ☐ Veterans Affairs

Non-Government

- ☐ Accountant
- ☐ After School Care
- ☐ Bank (financial provider)
- ☐ Cemetery
- ☐ Charities
- ☐ Clubs
- ☐ Childcare
- ☐ Dentist
- ☐ Doctor
- ☐ Electricity
- ☐ Employers
- ☐ Family / Friends
- ☐ Financial Planner
- ☐ Gas
- ☐ Gym
- ☐ Health Services
- ☐ Phone Provider
- ☐ Internet Provider
- ☐ Insurance Providers
- ☐ Legal Services
- ☐ Loyalty Programs
- ☐ Catalogue/Newspaper Subscription
- ☐ Mobile Phone Provider
- ☐ Pay TV
- ☐ Real Estate Agent
- ☐ Security Systems
- ☐ Schools / Tertiary Institutions
- ☐ Superannuation Funds
- ☐ City Road Toll
- ☐ Union
- ☐ Vet
- ☐ Water & Sewerage



5.6. 2019 LAND SUPPLY AUDIT

PURPOSE:

To provide an update on the Residential Land Supply Audit within the Warrnambool Local Government Area.

EXECUTIVE SUMMARY

- The Warrnambool City-Wide Housing Strategy 2013 recommends that Council monitor residential land supply on an annual basis;
- This is to ensure that there is adequate zoned residential land to meet projected growth across the municipality;
- The 2019 audit reflects on 2018 data which shows a slight decline in supply from 25 years to 24.1 years;
- The 2019 audit will be placed on Council's website;

RECOMMENDATION

That Council endorse the Residential Land Supply Report – 2019.

BACKGROUND

The Warrnambool City-Wide Housing Strategy 2013 recommends that Council monitor residential building permit activity and land supply on an annual basis to ensure that there is adequate zoned residential land to meet projected growth across the municipality.

In May 2015 Council endorsed the *Warrnambool Residential Land Supply Report 2015*. The report, the first of its kind produced by Warrnambool City Council, identified that there was a residential land supply capacity across the municipality to meet project population growth to the year 2031.

In the 2015 *Warrnambool Residential Land Supply Report* the broad hectare (growth) areas had the potential to provide 4930 lots, being approximately 78% of the total vacant residential land supply. With a total number of 6321 vacant residential lots at the end of 2014 and a predicted rate of construction of **225 dwellings per year** (*City-Wide Housing Strategy 2013*) there was considered to be approximately 28+ years land supply.

Ongoing monitoring following the 2015 *Warrnambool Residential Land Supply Report* to the end of December 2017 identified that there was a steady residential land supply of approximately 25 years.

In 2018, revised population and dwelling forecast data were released and the predicted construction rate was revised to **244 dwellings per year** (Forecast.id). Following this revision, a comprehensive audit of land supply was undertaken and the Warrnambool Residential Land Supply Report 2018 identified there was a land supply of 24.5 years (as at 31 December 2018).

The table below provides a snap shot of residential land supply reports/audits that have been undertaken since monitoring commenced in 2015.



ISSUES

The Warrnambool City-Wide Housing Strategy 2013 recommends that Council monitor residential building permit activity and land supply on an annual basis to ensure there is adequate residential land supply to meet projected growth across the municipality.

The Residential Land Supply Report – 2019 provides updated information on residential land supply in the Warrnambool LGA (as of 31 December 2018).

Using Council's records for occupancy (building) permits and titles released (Statement of Compliance) for new subdivisions, combined with aerial photography and site inspections, it has been possible to determine that as at 31 December 2018 there were 5,828 vacant residential lots in the municipality.

It should be noted that the 2019 audit reviews data from 1 January 2018 to 31 December 2018. The data for 2019 will not be released until 2020.

Using the most up to date population forecasts (Forecast.id) that predicates a rate of construction of **244 dwellings per year**, this would equate to approximately **24.1 years land supply**, which includes 2.45 years of development ready lots (undeveloped land within the existing urban area, zoned for residential development with an area less than 1 hectare in area) and around 21.7 years supply of residential land (land that is generally undeveloped and zoned residential – growth area land).

A current residential land supply of 24.1 years does not place any immediate pressure on Council to rezone more land.

FINANCIAL IMPACT

The update audit has been undertaken and completed in-house by the City Strategy team.

LEGISLATION/POLICY/COUNCIL PLAN CONTEXT

3 Maintain and improve the physical places and visual appeal of the City

3.3 Build Infrastructure that best meets current and future community needs.

4 Develop a smarter economy with diverse and sustainable employment

4.1 Grow the Cities population through local economic growth

5 Practice good governance through openness and accountability while balancing aspirations with sound financial management

5.2 Develop policies, strategic plans and processes to address local and regional issues, guide service provision and ensure operational effectiveness

5.3 Ensure financial sustainability through effective use of Council's resources and assets and prudent management of risk

TIMING

Routine

COMMUNITY IMPACT/CONSULTATION

Once endorsed, the updated audit will be placed on Council's website.

LEGAL RISK/IMPACT

The Residential Land Supply Report – 2019 meets Council's commitment under the Warrnambool City-Wide Housing Strategy 2013 to ensure that there is adequate zoned residential land to meet projected growth across the Warrnambool LGA.

OFFICERS' DECLARATION OF INTEREST

None

CONCLUSION

There are currently no residential land supply issues in the Warrnambool LGA. The report will be placed on Council's website, consistent with the Land Supply reports from previous years.

ATTACHMENTS

1. 2308 residential land supply 2019 (Dec 3 update) [5.6.1 - 4 pages]



The Residential Land Supply Report - 2019

To encourage and accommodate a growing population Warrnambool requires a large supply of land suitable for residential development

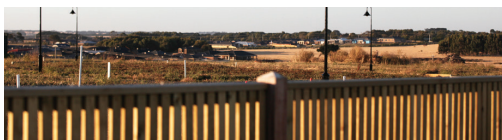
The availability of land supply also has an influence on house and land prices.

Having a long-term supply of land available for residential development helps make a city a more attractive place in which to invest in a home.

The Warrnambool City-Wide Housing Strategy 2013 identified that 225 dwellings were needed each annually to 2031 in order to meet projected population growth.

This figure has been amended to 245 dwellings per year by the year 2031 based on the projected population increase of 8442 and average household size of 2.47 by demographic research company, .id.

How long will the current supply last?



2.45 years of infill lots

21.7 years of zoned residential land

How many residential lots are there?



4531 zoned broad hectare lots – 77 per cent of supply

1297 infill lots

12 Estimated houses per hectare

Population forecast



34,862 Now

43,304 2031

8442 Increase

245 Dwellings needed each year

5828 Total residential lots available

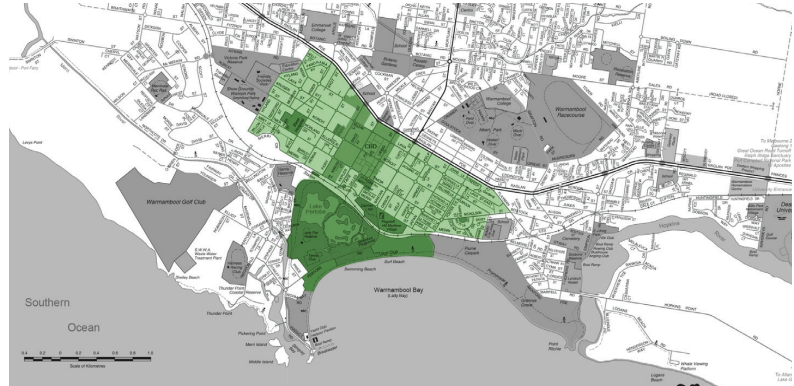
24.1 years Total years supply



Location of housing land by suburb

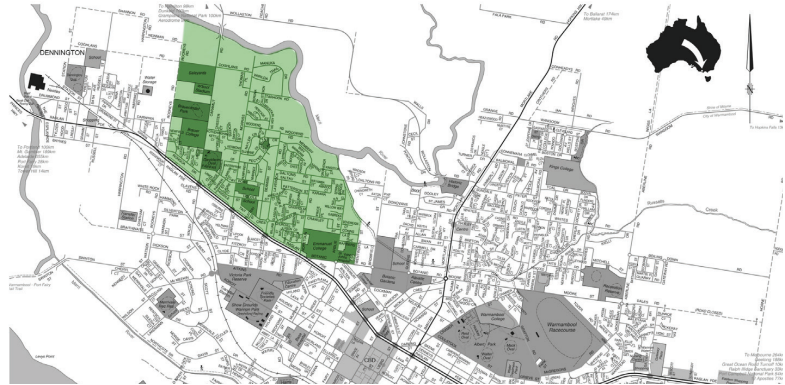
Central Warrnambool

Residential lots: **26**



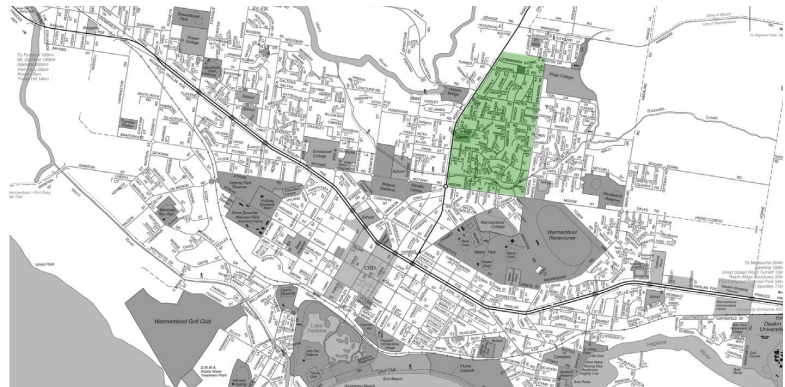
West Warrnambool

Residential lots: **86**



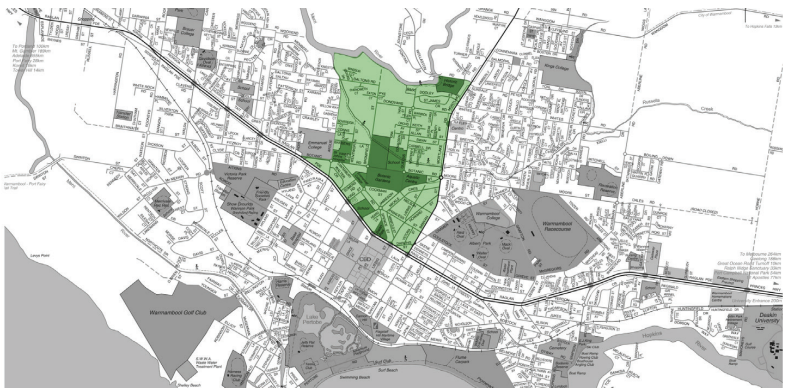
North Warrnambool

Residential lots: **1**



Warrnambool – Botanic precinct

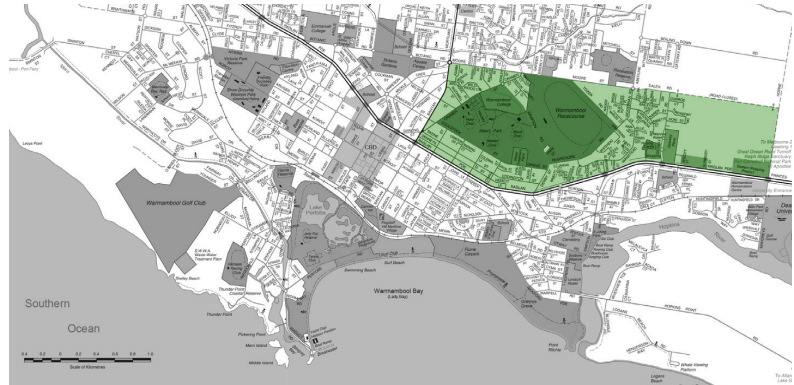
Residential lots: **32**



Location of housing land by suburb

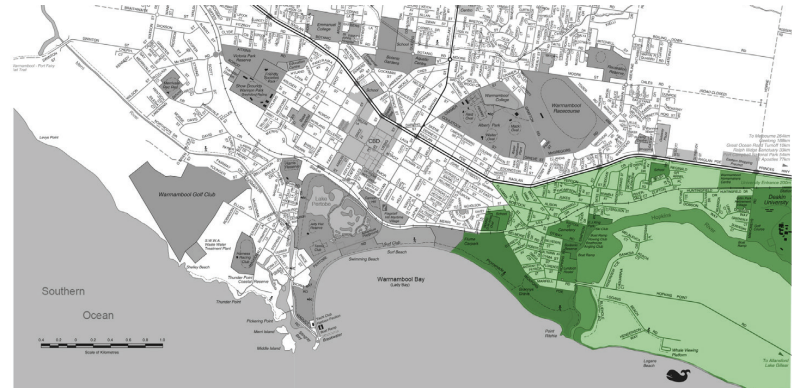
East Warrnambool

Residential lots: **104**



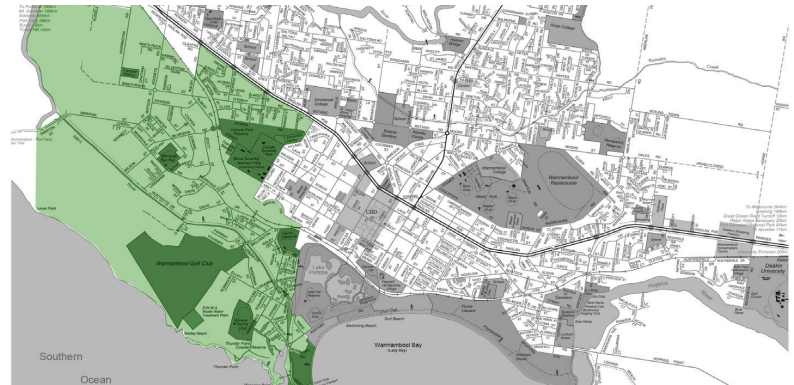
South-east Warrnambool (north of Hopkins Point Road)

Residential lots: **955**



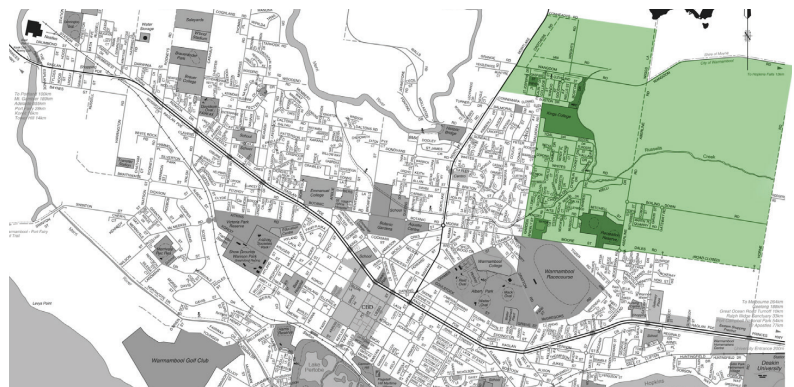
South Warrnambool and Merrivale

Residential lots: **289**



North-east Warrnambool

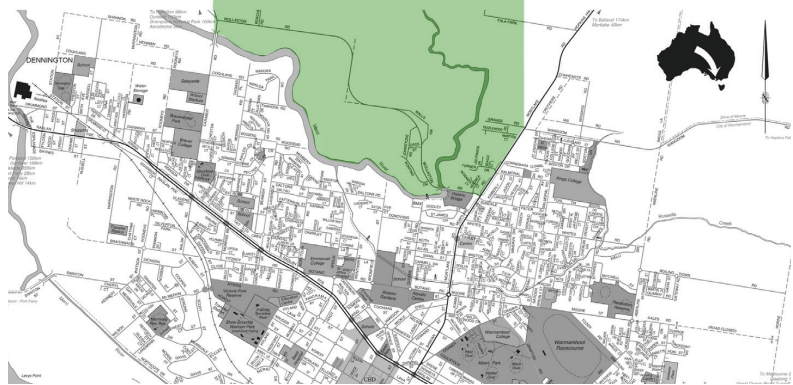
Residential lots: **797**



Location of housing land by suburb

Warrnambool North Merri

Residential lots: **2261**



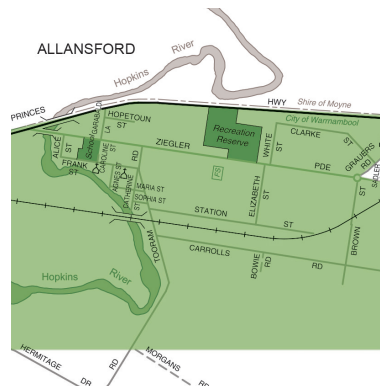
Dennington

Residential lots: **1257**



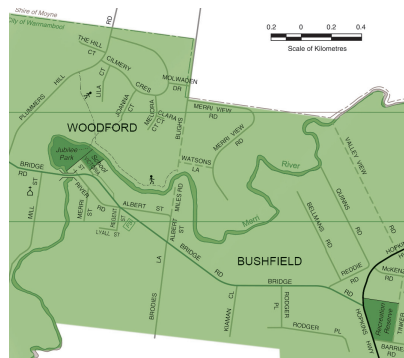
Allansford

Residential lots: **20**



Bushfield-Woodford

Residential lots: **88**



5.7. POWER PURCHASE AGREEMENT (PPA) PROJECT UPDATE

PURPOSE:

This report provides information pertaining to the delay in procurement of a Power Purchase Agreement for 40% of Council's Electricity from renewable sources.

EXECUTIVE SUMMARY

- Council committed 40% of its electricity load to the Local Government Power Purchase Agreement (LG PPA) on the 5th August 2019 Council meeting. The contract was initially scheduled to start in July 2020, however, the commence date of the contract has been delayed until the 1st January 2021.
- This delay which relates to an approval required by the Australian Competition and Consumer Commission (ACCC) has created a need for Council to seek an interim energy contract to procure 40% of its electricity load for the period between the 1st July 2020 to 30th June 2021.
- The minimum length of the contracts available are 12 months which will mean that Council will need to postpone its participation in the PPA until the 1st July 2021.
- Green Power options has not been considered as part of the interim contract.

RECOMMENDATION

That Council

1. **Commits to purchase electricity for: Street lighting; Arc Stadium; Civic Centre; and Block 4, Surfside Caravan Park through the Victorian Government Progressive Procurement contract as soon as available, until such time as the MAV Local Government Power Purchase Agreement (LG PPA) is procured.**
-

BACKGROUND

At its 5th August 2019 Ordinary Meeting, Council resolved to:

1. Commit 40% of Warrnambool City Council's electricity load to the Local Government Power Purchase Agreement process;
2. Delegate authority to the CEO to sign contract documentation resulting from the Local Government Power Purchase Agreement tender process.

Council's existing contracts expire on June 2020. The remaining 60% of Council's electricity is currently being procured under a Procurement Australia committed volume tender.

ISSUES

There has been a delay in the Local Government Power Purchase Agreement (LG PPA) tender process related to an approval required by the Australian Competition and Consumer Commission. Accordingly, the earliest anticipated contract date for the MAV LG Power Purchase Agreement has been revised from 1st July 2020 to January 2021.

The existing fixed volume tender for the selected sites expires 30 June 2020.

An interim contract arrangement is required in order to comply with the Local Government Act for procurement of electricity for the following services:

1. Street lighting
2. Arc Stadium

3. Civic Centre
4. Block 4, Surfside Caravan Park

Taking an average over the past 12 months for usage of the 4 services, the value of the purchase has been estimated at \$460,000.

The delay in the MAV LG PPA has necessitated that Council enter into an interim energy contract between the 1st July 2020 and the 30th June 2021 (the minimum length for interim contracts is 1 year).

There were three different providers and contract options which were considered for this service being:

- State Government Progressive Procurement.
- MAV Committed Volume Tender.
- Procurement Australia Committed Volume Tender.

The State Government Progressive Procurement option was determined to be the most favourable for Council.

FINANCIAL IMPACT

State Government have an existing progressive procurement contract. Council has received advice that the four services can be rolled into the contract despite not participating in the original tender, the State Government already having met the tender requirements for procurement.

The contract rates are more competitive than the existing Procurement Australia committed volume contract.

There is minimum period of 12 months for large sites and public lighting.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

This report responds to the following Council Plan initiatives:

1 Sustain, enhance and protect the natural environment

1.2 Commit to being a carbon neutral organisation by 2040.

5 Practice good governance through openness and accountability while balancing aspirations with sound financial management

5.3 Ensure financial sustainability through effective use of Council's resources and assets and prudent management of risk

TIMING

Commitment to the State Government contract is required by February 2020.

LEGAL RISK / IMPACT

This report provides a mechanism through which procurement requirements under the Local Government Act can be achieved.

OFFICERS' DECLARATION OF INTEREST

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

CONCLUSION

The delay in the tender process of the Local Government PPA has caused the need for Council to seek an interim energy contract to cover the gap between the expiring date of the existing contract and the commencement of the PPA.

The most favorable option for Council is to participate in the State Government Progressive Procurement until the LG PPA become available. This is because there is not upfront cost to participate, the energy prices for the length of the contract are known and they are competitive with the prices recently received from Procurement Australia.

ATTACHMENTS

Nil

5.8. AWARD OF 2020035 - 19/20 PLAYGROUND RENEWAL CONTRACT

PURPOSE:

This report provides information on award of Contract 2020035 19/20 Play Space renewal.

EXECUTIVE SUMMARY

- Council has 61 playspaces which it currently maintains and renews.
- As playspaces reach the end of their useful life an assessment is made in regard to their need and where the assessment continues to support the need they are replaced.
- The Victoria Park East, Mahogany Gardens and Pappas Drive play spaces were identified for renewal in the 2019/2020 budget and their replacement has been tendered.
- A public tender was advertised on Saturday 9 November 2019 inviting tender submissions from suitably qualified and experienced to Design and Construct play spaces at Mahogany Gardens, Victoria Park East and Pappas Drive.
- Close of tenders was 2:00pm Friday 6 December 2019. A total of 3 submissions from 3 tenderers were received up until the close of tenders.
- A panel has met and evaluated the tender responses.
- The recommendation is to proceed with the tender offer provided by Omnitech Playgrounds in the amount of \$339,625 (GST inclusive).

RECOMMENDATION

That Council

- (i) **Award Contract No. 2020035 19/20 Play Space Renewal for the tendered amount of \$359,425 Inc. GST to Plastic Protection Pty Ltd trading as Omnitech Playgrounds.**
- (ii) **That the schedule of rates offered is accepted to undertake works over and above the lump sum price, provided that additional works are within the project budget and Councils delegated approval limits.**
- (iii) **Authorise the CEO to sign and seal the contract documents.**

BACKGROUND

The Victoria Park East, Mahogany Gardens and Pappas Drive play spaces were identified for renewal in the 2019/2020 budget and their replacement has been tendered.

A public tender was advertised on Saturday 9 November 2019 inviting tender submissions from suitably qualified and experienced contractors to Design and Construct play spaces at Mahogany Gardens, Victoria Park East and Pappas Drive.

As part of the upgrade the Victoria Park West play space will be removed at the end of its useful life.

FINANCIAL IMPACT

The total available budget of the projects is \$346,866 ex. GST with \$240,866 allocated from Councils playground renewal budget and \$106,000 from Councils rate cap variation. The total amount assigned to this contract is \$326,750 Ex. GST.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

This report responds to the following Council Plan initiatives:

2 Foster a healthy welcoming City that is socially and culturally rich

- 2.1 Promote healthy lifestyles
- 2.2 Increase participation, connection, equity, access and inclusion
- 2.3 Increase community health and social connections.
- 2.4 Encourage and support participation in sport, recreation and physical activity.

3 Maintain and improve the physical places and visual appeal of the City

- 3.2 Create a more vibrant City through activating high quality public places.
- 3.3 Build Infrastructure that best meets current and future community needs.
- 3.4 Maintain and enhance existing Council infrastructure

TIMING

The practical completion date for this contract is prior to 30 May 2020.

COMMUNITY IMPACT / CONSULTATION

The following consultation has occurred in relation to the project:

- Letters were sent in September 2019 to surrounding owners and occupiers of each of the play spaces, 831 letters were sent for Victoria Park East, 609 Letters for Mahogany Gardens and 446 for Pappas Drive.
- The letters requested that residents submit their ideas on what they felt the plays pace needs were within their local communities. This feedback was then used in order to complete a design and construction tender.
- Designs were distributed in December 2019 to those who elected to be involved in further consultation surrounding the plays paces. The feedback from Mahogany Gardens and Pappas Drive residents were overwhelmingly positive.

LEGAL RISK / IMPACT

Currently the play spaces are nearing their end of life and require replacement, the work being undertaken is part of Councils broader strategy to renew play spaces across Warrnambool. The provision of this contract will bring three play spaces up to current Australian standards and provide high quality products with significant longevity.

OFFICERS' DECLARATION OF INTEREST

No conflicts of interest were declared by members of the tender assessment panel.

CONCLUSION

Council is now in a position to award the 2019/2020 Playground Renewal Contract.

ATTACHMENTS

Nil

5.9. AWARD CONTRACT 2020037 HOPKINS RIVER BRIDGE CONCRETE REPAIRS & CORROSION PROTECTION SYSTEM FOR HOPKINS RIVER BRIDGE WARRNAMBOOL

PURPOSE:

This report provides information on award of Contract 2020037 Concrete Remediation & Corrosion Protection System for Hopkins River Bridge, Warrnambool.

EXECUTIVE SUMMARY

- A public tender was advertised on Saturday 9 November 2019 inviting tender submissions from suitably qualified and experienced contractors for Concrete Remediation & Corrosion Protection System for Hopkins River Bridge, Warrnambool
- Close of tenders was 2:00pm 6 December 2019. A total of 10 submission from 10 tenderers were received up until the close of tenders.
- Ten companies submitted tenders to Council, and these have been assessed by the tender assessment panel.
- The recommendation is to proceed with the tender offer provided by Foreva Solutions Pty Ltd for year 1 for the amount of \$449,814.20 (GST inclusive).

RECOMMENDATION

That Council

- Award Contract No. 2020037 Concrete Remediation & Corrosion Protection System for Hopkins River Bridge, Warrnambool to Foreva Solutions Pty Ltd for year 1 for the Lump sum amount of \$449,814.20 (GST inclusive).**
- That the schedule of rates offered is accepted to undertake any extra works over and above the lump sum price if required, provided that additional works can be accommodated within the Bridge Program budget.**
- Authorise the CEO to sign, seal and vary the contract as required.**

BACKGROUND

In 2018, Infracorr Consulting was engaged by the Warrnambool City Council (WCC) to perform a condition assessment of the Hopkins River Bridge. The bridge is a reinforced concrete structure forms part of Hopkins Point Road near the mouth of the Hopkins River in Warrnambool, Victoria.

The investigation involved a combination of non-destructive and destructive inspections and testing. The overall condition of the prestressed beams, headstock beams and piles were assessed and the cause and risk of reinforcement corrosion in each element was determined.

The investigation identified that the majority of elements inspected were in a sound condition and that active reinforcement corrosion is only occurring in localised areas. However, these localised areas included the surroundings of the prestressed beams, and there is a risk of catastrophic failure in prestressed beams if deterioration continues without intervention.

ISSUES

The works are being undertaken as part of the 2019/20 Bridge Renewal program and are within the adopted Councils budget.

The works will protect the reinforcement within the Bridge to exposure to corrosion, which will prolong the life of the bridge.

The purpose of entering into this contract is to appoint a suitable contractor to deliver the associated works to best standard in a safe, timely and efficient manner.

FINANCIAL IMPACT

The total budget of the project is \$420,000 ex. GST allocated from the Councils Capital Bridge Renewal Program.

LEGISLATION / POLICY / COUNCIL PLAN CONTEXT

This report responds to the following Council Plan initiatives:

3 Maintain and improve the physical places and visual appeal of the City

3.3 Build Infrastructure that best meets current and future community needs.

3.4 Maintain and enhance existing Council infrastructure

TIMING

The contract was advertised with the option to deliver the project in either of the following financial years to ensure Councils budget can be managed to deliver the works.

- Year 1 - 2019/20 – expected completed date 30 June 2020
- Year 2 - 2020/21 –expected completed date 30 June 2021

From the submissions received it was determined that the works can be managed within Council's current budget and the project is proposed to be delivered under the Year 1 option.

COMMUNITY IMPACT / CONSULTATION

Prior to site works being undertaken public consultation will occur as part of the project delivery plan. It is required that during the works the bridge will be open to traffic with traffic control implemented for occasions where part of the bridge needs to be closed (minimal).

It is required that some on-street car parks on the east side of the bridge will be closed for the provisions of site amenities and storage of materials

LEGAL RISK / IMPACT

Procurement processes are occurring in line with the approved contract specific procurement plan.

OFFICERS' DECLARATION OF INTEREST

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

CONCLUSION

Acceptance of the recommended tender represents best value for Council.

ATTACHMENTS

Nil

5.10. ADVISORY COMMITTEE REPORTS

PURPOSE

This report contains the record of one Advisory Committee meeting.

REPORT

- International Relations Advisory Committee – 11 December 2019 – refer **Attachment 1**.

ATTACHMENTS

1. IRAC Minutes December 11 2019 FINAL [**5.10.1** - 3 pages]

RECOMMENDATION

That the record of the International Relations Advisory Committee meeting held on 11 December 2019, be received.



Meeting Agenda

International Relations Advisory Committee Meeting Minutes					
Date	11 th December 2019	Time	5:00pm	Location	Reception Room, Civic Centre, 25 Liebig Street Warrnambool, 3280
Committee Members	Cr Michael Neoh (Chair), Troy Tampion, Les Gardiner, Michelle Joseph, David McKenzie, Rob Askew, Carolyn Moore, John Cook, Andrew Paton Director City Growth.				
Council Officer Invitees	Shaun Miller Manager Economic Development & Investment, Mairead Whelan Economic Development Officer				
Other invitees	Caitlin Pickert				
No	What				Who
1.	Apologies: Cr Michael Neoh (Chair), Rob Askew, Les Gardiner, Carolyn Moore Interim Chair: David McKenzie				Chair
2.	Update –Miura, KN, Japan <u>Caitlin Pickert</u> <ul style="list-style-type: none"> Caitlin represented Warrnambool as a Cultural and Education Officer in Miura. Caitlin provided an update of her time in Miura official duties. Caitlin wants to encourage the people of Warrnambool to better know Miura by introducing them to Japanese food. Caitlin will have a market stall at the Summer Markets and also wants to start food tours in Japan. 				Caitlin Pickert Andrew Paton



Meeting Agenda

	<ul style="list-style-type: none"> Shaun Miller to discuss with Caitlin future opportunities for seed funding and put Caitlin in contact with person(s) that may be able to assist and promote Catilin's plans. <p><u>Andrew Paton</u></p> <ul style="list-style-type: none"> New ELT for Miura – Emma Kavanagh – settled in well and is enjoying the experience. Warrnambool presently has two representatives residing in Miura offices working as cultural and education personnel. Warrnambool Mayor sent letter to Mayor of Miura offering Warrnambool's heartfelt thoughts post damage to Miura from the typhoons. The Mayor of Miura responded with correspondence thanking the citizens of Warrnambool for their support and kind thoughts. 	
3.	<p>Update - Changchun, JI, China</p> <ul style="list-style-type: none"> Southern Ocean Mariculture delegation visit to Changchun – successful Mark Gervis from Southern Ocean Mariculture expressed his thanks. 	Shaun Miller
4.	<p>RMIT Report – Australia-China Sister Cities: Seizing Opportunities Together</p> <ul style="list-style-type: none"> Warrnambool recognised for Sister City Relationships Recognised as having best practice in Australia The China Host program was also recognised at the VTIC Awards with a 'Silver' award. 	Shaun Miller
5.	<p>Welcome Page and Video</p> <ul style="list-style-type: none"> Group to view Welcome Page and Video and give feedback Current video is a draft and will require the committee's feedback Mairead to circulate link to video. 	Shaun Miller
6.	<p>General Business</p> <ul style="list-style-type: none"> Michelle Joseph expresses her thanks to WCC and the group for the visit of the Ambassador to Estonia. A worthwhile and educating experience for students Andrew Paton to cross check the next inbound/outbound delegation to Miura. Certificates of appreciation to be given to Mr. Suzuki and Mr. Takanashi. 	Chair



Meeting Agenda

	<p>Format and Dates for IRAC Meetings 2020</p> <ul style="list-style-type: none">• Following dates were suggested: Quarterly meetings <p>February Thursday 27th May Thursday 28th August Thursday 27th November Thursday 26th</p> <ul style="list-style-type: none">• Group to advise if this suits.	
7.	<p>Next meeting: Tentatively February 27th. Close: 5:40pm.</p>	Chair

5.11. ASSEMBLY OF COUNCILLORS REPORTS

PURPOSE

The purpose of this report is to provide the record of any assembly of Councillors, which has been held since the last Council Meeting, so that it can be recorded in the Minutes of the formal Council Meeting.

BACKGROUND INFORMATION

The Local Government Act provides a definition of an assembly of Councillors where conflicts of interest must be disclosed.

An Assembly of Councillors (however titled) means a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be-

a) the subject of a decision of the Council;

or

b) subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee-

but does not include a meeting of the Council, a special committee of the Council, an audit committee established under section 139, a club, association, peak body, political party or other organization.

The requirement for reporting provides increased transparency, particularly the declarations of conflict of interest.

REPORT

Section 80A(2) of the Local Government Act 1989 requires the record of an Assembly of Councillors be reported to the next practicable Ordinary Meeting of Council.

The record of the following Assembly of Councillors is enclosed:-

- Monday 9 December 2019 – refer **Attachment 1**.
- Monday 16 December 2019 – refer **Attachment 2**.
- Monday 20 January 2020 - refer **Attachment 3**.
- Tuesday 21 January 2020 - refer **Attachment 4**.
- Tuesday 28 January 2020 - refer **Attachment 5**.

ATTACHMENTS

1. Assembly of Councillors Record 9 December 2019 docx [5.11.1 - 1 page]
2. Assembly of Councillors Record 16 December 2019 docx [5.11.2 - 2 pages]
3. Assembly of Councillors Record 20 January 2020 [5.11.3 - 2 pages]
4. Assembly of Councillors Record 21 January 2020 [5.11.4 - 1 page]
5. Assembly of Councillors Record 28 January 2020 [5.11.5 - 2 pages]

RECOMMENDATION

That the records of the Assembly of Councillors held on 9, 16 December 2019, 20, 21 and 28 January 2020, be received.

Assembly of Councillors Record

Written record in accordance with Section 80A(l) Local Government Act 1989

Name of Committee or Group (if applicable):	Councillor Briefing	
Date of Meeting:	9 December 2019	
Time Meeting Commenced:	10.00am	
Councillors in Attendance:	Cr. T. Herbert, Mayor/Chairperson Cr. R Anderson Cr. S. Cassidy Cr. P. Hulin	
Council Officers in Attendance:	Peter Schneider, Chief Executive Officer Peter Utri, Director Corporate Strategies Andrew Paton, Director City Growth Scott Cavanagh, Director City Infrastructure Vikki King, Director Community Development Wendy McGorm, Acting Director Finance Nick Higgins, Manager Communications	
Other persons present:	<ul style="list-style-type: none">▪ Mark Davies, Financial Performance Sololutions▪ Brendan Rowswell and Ashlea Gilmore CPR (via Video Link)	
Apologies	Cr. K. Gaston Cr. D Owen Cr. M. Neoh	
Matters Considered:	<ul style="list-style-type: none">▪ Council Plan.▪ Strategic Resource Plan▪ Major Projects	
Other Matters Considered		
Councillor Conflicts of interest Disclosures:		
Councillor's Name	Type of Interest	Item
Meeting close time:	4:20pm	
Record Completed by:	Peter Utri Director Corporate Strategies	

Assembly of Councillors Record

Written record in accordance with Section 80A(I) Local Government Act 1989

Name of Committee or Group (if applicable):	Councillor Briefing
Date of Meeting:	16 December 2019
Time Meeting Commenced:	1.00pm
Councillors in Attendance:	Cr. T. Herbert, Mayor/Chairperson from 1:44pm Cr. R Anderson Cr. S. Cassidy Cr. K. Gaston from 3:44pm Cr. P. Hulin Cr. M. Neoh Cr. D. Owen from 1:23pm - 3:12pm then returned 4:42pm
Council Officers in Attendance:	Peter Schneider, Chief Executive Officer Peter Utri, Director Corporate Strategies Andrew Paton, Director City Growth Scott Cavanagh, Director City Infrastructure Vikki King, Director Community Development Jodie McNamara, Manager, City Strategy & Development Glenn Reddick, Manager, City Amenity Guy Price, Environmental Health Coordinator
Other persons present:	<ul style="list-style-type: none"> ▪ Fagner Santos - Founder, CEO of Ember Eco ▪ Martin Coyle - Director of Ember Eco ▪ Roger Frankel - Director of ABLA and an Associate of Ember Eco ▪ Osanan Baros - Director of ABLA and an Associate of Ember Eco ▪ Lee Hudek - Deakin University ▪ David Downie - Deakin University ▪ Tommy Clarke, Eastern Maar ▪ John Clarke, Eastern Maar ▪ Lee-Anne Clarke, Eastern Maar ▪ Uncle Robbie Lowe, Eastern Maar ▪ Tony Ford, Great South Coast Food & Fibre ▪ Georgina Gubbins, Great South Coast Food & Fibre ▪ Colleen Hughson, Beach Patrol 3280-3284 ▪ Britt Gow, Beach Patrol 3280-3284 ▪ Mandy Shute, Beach Patrol 3280-3284 ▪ Rebecca Zerbe, Beach Patrol 3280-3284 ▪ Melissa Tuliranta, Beach Patrol 3280-3284
Apologies	Nil.
Matters Considered:	<ul style="list-style-type: none"> ▪ Waste Strategy Projects ▪ Belfast Coast & Thunder Point Reserves ▪ Great South Coast Food & Fibre Action Plan ▪ Planning Application ,43 Atkinsons Lane ▪ Smoke Free CBD ▪ Shelly Beach sewage related pollution ▪ Confidential commercial Item
Other Matters Considered	<ul style="list-style-type: none"> • Complaints against Local laws personnel • Reinstatement of memorial water font

	<ul style="list-style-type: none">• Chief Executive matters Committee Processes• A frame advertising on trailers• Deakin Hydrogen program• Local amenity issues with property	
Councillor Conflicts of interest Disclosures:		
Councillor's Name	Type of Interest	Item
Cr S Cassidy	Direct Association Left the meeting for the item at 3:48pm returning 4:03pm at the conclusion of the item	Lookout Planning Matter
Meeting close time:	6:00pm	
Record Completed by:	Peter Utri Director Corporate Strategies	

Assembly of Councillors Record

Written record in accordance with Section 80A(l) Local Government Act 1989

Name of Committee or Group (if applicable):	Councillor Briefing	
Date of Meeting:	20 January 2020	
Time Meeting Commenced:	4.30pm	
Councillors in Attendance:	Cr. T. Herbert, Mayor/Chairperson Cr. R Anderson Cr. S. Cassidy Cr. K. Gaston Cr. P. Hulin Cr. D. Owen	
Council Officers in Attendance:	Peter Schneider, Chief Executive Officer Peter Utri, Director Corporate Strategies Andrew Paton, Director City Growth Scott Cavanagh, Director City Infrastructure Vikki King, Director Community Development Simon Fleming, Manager Organisation Development Alison Kemp Manager Recreation and Culture	
Other persons present:	▪	
Apologies	Cr. M Neoh	
Matters Considered:	<ul style="list-style-type: none">▪ Power Purchase Agreement Update.▪ Land Supply Audit.▪ Workplace Safety legislation.▪ Confidential items.	
Other Matters Considered	<ul style="list-style-type: none">• Hopkins Mouth wash down facility drainage issue• Flag Staff hill gift shop improvements• Glass bin trials beginning• Dogs getting into rubbish• Bus stop issues in lava Street• Amenity issues rear of Timor• Breakwater safety• Boiling down road patching• Review of letter from Warrnambool race club for extension on conditions for access• Barbaro Tce vegetation issues• Outcomes of meeting with CEO, Mayor Minister Allen and Paul Younis Secretary of Transport• Coastal precinct vegetation issues• Hard rubbish on nature strips	
Councillor Conflicts of interest Disclosures:		
Councillor's Name	Type of Interest	Item

Meeting close time:	6:50pm	
Record Completed by:	Peter Utri Director Corporate Strategies	

Assembly of Councillors Record

Written record in accordance with Section 80A(l) Local Government Act 1989

Name of Committee or Group (if applicable):	Councillor Briefing	
Date of Meeting:	21 January 2020	
Time Meeting Commenced:	4.45pm	
Councillors in Attendance:	Cr. T. Herbert, Mayor/Chairperson Cr. R Anderson Cr. S. Cassidy Cr. K. Gaston Cr. P. Hulin Cr. D. Owen	
Council Officers in Attendance:	James Phillips, Co-ordinator, City Development Cameron McNeil, Statutory Planner	
Other persons present:	▪ Fiona Golding, (permit applicant)	
Apologies		
Matters Considered:	Planning Permit Application PP2004-0225.08 The application is for additions to Gavan Dwyer’s Tavern/ Hotel on Hayley Drive to include: <ul style="list-style-type: none">• Outdoor ‘pets and people area’• Changes to entry• Outdoor footpath seating• Bicycle parking• Acoustic wall• Temporary construction signage/banner	
Other Matters Considered	Nil.	
Councillor Conflicts of interest Disclosures: Nil.		
Councillor’s Name	Type of Interest	Item
Meeting close time:	5.15pm	
Record Completed by:	James Phillips Co-ordinator, City Development	

Assembly of Councillors Record

Written record in accordance with Section 80A(l) Local Government Act 1989

Name of Committee or Group (if applicable):	Councillor Briefing
Date of Meeting:	28 January 2020
Time Meeting Commenced:	2:00pm
Councillors in Attendance:	Cr. T. Herbert, Mayor/Chairperson Cr. R Anderson Cr. S. Cassidy Cr. K. Gaston Cr. P. Hulin till 4:05pm return 5:15pm Cr. D. Owen till 6:45pm
Council Officers in Attendance:	Peter Schneider, Chief Executive Officer Peter Utri, Director Corporate Strategies Andrew Paton, Director City Growth Scott Cavanagh, Director City Infrastructure Vikki King, Director Community Development Vanessa Gerans, Gallery Director Juan Donis, Sustainability Officer Paul Gardiner, Contract Project Engineer Shaun Miller, Manager Economic Development Bethany Lewis, Destination Marketing Coordinator Lauren Edney, Service Manager Events and Promotion Jodie McNamara, Manager City Strategy & Development
Other persons present:	<ul style="list-style-type: none"> ▪ Allister Mc Cosh, Deakin University ▪ Grant Sullivan, Deakin University ▪ Adrian Penow, Deakin University ▪ Jo Grant, Regional Arts Victoria ▪ Jo Touhey, Regional Arts Victoria ▪ Nick Rule, Chairman Warrnambool Racing Club ▪ Tom O'Connor, CEO Warrnambool Racing Club
Apologies	Cr. M. Neoh
Matters Considered:	<ul style="list-style-type: none"> ▪ Regional Arts Strategy. ▪ Marketing & Promotions. ▪ Deakin Hydrogen@ Warrnambool. ▪ Horses on beaches. ▪ December Finance Report. ▪ Fiscalini Drive name change. ▪ Notice of Motion No. 2157 Part 1. ▪ Planning Permit Amendment 43 Atkinsons Lane – Lookout ▪ Proposed construction of Wiggs Lane ▪ Media protocol. ▪ Safe Travel in Local Streets Funding. ▪ Bridge Rad Woodford traffic issues. ▪ Confidential items – Contracts.
Other Matters Considered	<ul style="list-style-type: none"> ▪ Query in relation to updated metric reporting on HR statistics for organisation ▪ Consideration of further appropriate recognition of Sir Fletcher Jones

Councillor Conflicts of interest Disclosures:		
Councillor's Name	Type of Interest	Item
Cr S Cassidy	Direct association in relation to lookout item left for the item at 5:40pm – returned at the completion of the item 5:50pm	Lookout Planning application
Meeting close time:	7:05pm	
Record Completed by:	Peter Utri Director Corporate Strategies	

5.12. MAYORAL & CHIEF EXECUTIVE OFFICER COUNCIL ACTIVITIES - SUMMARY REPORT

PURPOSE

This report summarises Mayoral and Chief Executive Officer Council activities since the last Ordinary Meeting which particularly relate to key social, economic and environmental issues of direct relevance to the Warrnambool community.

REPORT

Date	Location	Function
5 December 2019	Warrnambool	Chief Executive Officer – Attended the King's College Presentation evening.
9 December 2019	Warrnambool	Mayor – Attended the WRAD 36 th Annual General Meeting.
10 December 2019	Colac	Mayor – Attended the Australian Government Sport Achievement Awards 2019 and the National Volunteer Awards 2019 presented by Dan Tehan MP.
12 December 2019	Warrnambool	Mayor & Chief Executive Officer - Attended the informal opening of the Wollaston Bridge structural work.
	Warrnambool	Mayor – Attended the Australian Air Force Cadets - Final Parade Ceremony for 2019.
13 December 2019	Warrnambool	Mayor & Chief Executive Officer – Attended the Great South Coast Board meeting with Cr. Herbert being elected as Chair of the Board for 2020.
15 December 2019	Warrnambool	Mayor & Mayoress – Attended the 3YB Casual Christmas function.
16 December 2019	Warrnambool	Mayor – Attended the Brauer College Years 7 to 12 Awards.
17 December 2019	Warrnambool	Mayor – Attended the Warrnambool East Primary School Year 6 Graduation Ceremony.
	Warrnambool	Mayor – Attended the Emmanuel College Awards night.
19 December 2019	Warrnambool	Mayor – Officially opened the new footbridge off Bromfield Street at the rear of St. Joseph's Primary School.
28 December 2019	Warrnambool	Mayor – Officially opened the Sanctuary at the Deep Blue Hot Springs.
11 January 2020	Warrnambool	Mayor – Officially opened the Warrnambool Gem Club Bi-annual exhibition.
23 January 2020	Warrnambool	Mayor & Chief Executive Officer – Attended the Victorian Country Swimming Championships welcome function.

24 January 2020	Camperdown	Mayor & Chief Executive Officer – Attended the Municipal Association of Victoria Rural South West Regional Meeting.
	Terang	Mayor & Chief Executive Officer – Attended the public meeting on bushfire prevention.
	Warrnambool	Mayor & Chief Executive Officer – Attended the opening ceremony of the Victorian Swimming Championships.
26 January 2020	Warrnambool	Mayor & Chief Executive Officer – Attended the Warrnambool Australia Day Ceremony.
	Warrnambool	Mayor & Chief Executive Officer – Attended the Australia Day Lowering of the Flag ceremony held at the Warrnambool RSL.
27 January 2020	Warrnambool	Mayor – Provided a welcome to the Coast Aid – Bushfire Relief concert.
29 January 2020	Warrnambool	Mayor & Chief Executive Officer – Attended a welcome function for newly appointed Professor Rachel Huxley, Executive Dean of Faculty of Health for Deakin University.

RECOMMENDATION

That the Mayoral & Chief Executive Officer Council Activities – Summary Report be received.

6. NOTICE OF MOTION

NOTICE OF MOTION NO. 2157

Part 1 of Notice of Motion No. 2157 by Cr. Peter Hulin was considered at the Council meeting of 2 December 2019, however due to a quorum being unable to be maintained, Part 1 of the Notice of Motion was withdrawn and will lay on the table until the February 2020 Council meeting.

NO. 2157 – PART 1

Notice is given that at the Ordinary Meeting of Council to be held on Monday 3 February 2020, I propose to move that:-

1. That Council consider the introduction of free parking between 9 December 2020 and the 31 January 2021, into Parkers, Ozone and Crammond and Dickson Car Parks before 10am and after 4pm week days and free parking on weekends, as part of its 2020/2021 budget process.

CR. PETER HULIN

OFFICER'S COMMENTS

Pursuant to Warrnambool City Council Local Law No. 1 – *Governance (Meeting Procedures) Local Law*):-

Clause 49(5) Subject to sub-clauses (6) & (7) [relates to confidentiality] a Notice of Motion must call for a Council report if the Notice of Motion:-

- (b) commits the Council to expenditure in excess of \$5,000 and that has not been included in the adopted budget; and

Clause 49(6) Where a Notice of Motion is likely to commit Council to significant expenditure not included in the adopted budget then the Notice of Motion must only call for referral to and for Council's consideration as part of its future year's annual budget and public submission process.

The cost to Council for free parking between 9 December 2020 and 31 January 2021 as proposed in Part 1 of Notice of Motion No. 2157 would be approximately \$20,000.

7. PUBLIC QUESTION TIME

8. ADJOURNMENT OF MEETING FOR CONFIDENTIAL IN-CAMERA ITEMS TO ALLOW THE PUBLIC TO VACATE THE CHAMBER

9. RESOLUTION TO CLOSE MEETING TO THE PUBLIC TO CONSIDER CONFIDENTIAL ITEMS OF BUSINESS

RECOMMENDATION

That the meeting be closed to the public to enable confidential matters to be discussed.

10. CONFIDENTIAL ITEMS TO BE CONSIDERED IN-CAMERA

10.1. CONFIRMATION OF MINUTES OF COMMITTEE OF THE WHOLE COUNCIL MEETING HELD ON 16 DECEMBER 2019

- *Report provided to Councillors under separate cover.*

10.2. CONFIDENTIAL CONTRACTUAL MATTER - LIBRARY

- *Report provided to Councillors under separate cover.*

10.3. CONFIDENTIAL STAFFING MATTER

11. RESOLUTION TO RE-OPEN MEETING TO THE PUBLIC

RECOMMENDATION

That the Meeting be re-opened to members of the public.

12. CLOSE OF MEETING