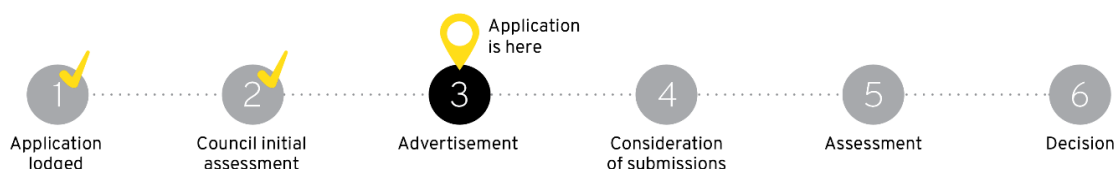


# ADVERTISED

## NOTICE OF AN APPLICATION FOR PLANNING PERMIT



The land affected by this application is located at:	8 Fitzroy Rd WARRNAMBOOL VIC 3280
The application is for a permit to:	Buildings and works associated with a dwelling (dwelling extension)
A permit is required under the following clauses of the planning scheme:	
Planning scheme clause	Matter for which a permit is required
Clause: 63.05 (Existing Use Rights)	Buildings and works associated with a dwelling (dwelling extension)
The applicant for the permit is:	DP Planning Pty Ltd
The application reference number is:	PP2025-0001
You may look at the application and any documents that support the application at the office of the responsible authority. This can be done during office hours and is free of charge.  Or online at:   For further reference please contact:	<b>Warrnambool Civic Centre</b> <b>25 Liebig Street</b> <b>WARRNAMBOOL VIC 3280</b>  <a href="http://www.warrnambool.vic.gov.au">www.warrnambool.vic.gov.au</a>  <b>Planning Support</b> <b>Telephone: 03 5559 4800</b> <b>Email: <a href="mailto:planning@warrnambool.vic.gov.au">planning@warrnambool.vic.gov.au</a></b>
<p>Any person who may be affected by the granting of the permit may object or make other submissions to the Responsible Authority.</p> <p>An objection must be made to the Responsible Authority in writing, include the reasons for the objection and state how the objector would be affected.</p> <p>The responsible authority must make a copy of every objection available for any person to inspect free of charge until the end of the period during which an application may be made for review of a decision on the application.</p> <p>If you object, the responsible authority will tell you its decision.</p>	
The Responsible Authority will not decide on the application before:	<b>29 May 2025</b>



The Warrnambool City Council is committed to protecting personal information in accordance with the principles of the Victorian privacy laws. The information provided will be used for the following purposes:

- correspond about the permit application
- if necessary, notify affected parties who may wish to inspect your application so that they can respond
- if necessary, forward your application to a referral authority who must also keep a register available for inspection by any person

The information you provide will be made available to:

- any person who may wish to inspect the application until the application process is concluded, including any review in VCAT
- relevant officers at Council, anyone a party to the application process and other Government agencies or Ministers directly involved in the planning process
- persons accessing information in accordance with the Public Records Act 1973 or the Freedom of Information Act 1982
- Other external parties if required by law

This information is being collected in accordance with the Planning and Environment Act 1987. If all requested information is not received, Council may not be able to process your application or objection.

Do you agree? ☐ Yes ☐ No

## The Land

### 1. Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

#### Street Address

Unit No.: \_\_\_\_\_ St. No.: \_\_\_\_\_ Street name \_\_\_\_\_

Suburb/locality \_\_\_\_\_ postcode \_\_\_\_\_

#### Formal Land Description

Complete either A or B.

**A** Lot No.: \_\_\_\_\_ ☐ Lodged Plan ☐ Title Plan ☐ Plan of Subdivision No.: \_\_\_\_\_

or

**B** Crown Allotment No.: \_\_\_\_\_ Section No.: \_\_\_\_\_

Parish/Township Name: \_\_\_\_\_

## The Proposal

*You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.*

### 2. For what use, development or other matter do you require a permit?

Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

### 3. Estimated cost of development for which the permit is required

Cost: \$ \_\_\_\_\_ You may be required to verify this estimate.

Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)

## Existing Conditions

### 4. Describe how the land is used and developed now

eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

## Title Information

### 5. Encumbrances on title

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes ☐ Provide a copy
- ☐ No
- ☐ Not applicable (no such encumbrance applies).

Provide a full, current copy of the title for each individual parcel of land forming the subject site. (The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', eg. restrictive

## Applicant and Owner Details

### 6. Provide details of the applicant and the owner of the land.

**Applicant** (The person who wants the permit.)

Title: \_\_\_\_\_ First Name: \_\_\_\_\_ Surname \_\_\_\_\_

Organisation (if applicable): \_\_\_\_\_

Unit No.: \_\_\_\_\_ St. No.: \_\_\_\_\_ Street name \_\_\_\_\_

Suburb/locality \_\_\_\_\_ State \_\_\_\_\_ postcode \_\_\_\_\_

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

☐ Same as applicant (If so, go to 'contact information')

Title: \_\_\_\_\_ First Name: \_\_\_\_\_ Surname \_\_\_\_\_

Organisation (if applicable) \_\_\_\_\_

Unit No.: \_\_\_\_\_ St. No.: \_\_\_\_\_ Street name \_\_\_\_\_

Suburb/locality \_\_\_\_\_ State \_\_\_\_\_ postcode \_\_\_\_\_

**Contact information** Please provide at least one contact phone number

Business Phone \_\_\_\_\_ Email \_\_\_\_\_

Mobile Phone \_\_\_\_\_ Fax \_\_\_\_\_

**Owner** (The person or organisation who owns the land)

☐ Same as applicant

Where the owner is different from the applicant, provide the details of that person or organisation.

Title: \_\_\_\_\_

Organisation: \_\_\_\_\_

Unit No.: \_\_\_\_\_

Suburb/locality: \_\_\_\_\_

Owners signature (Optional) \_\_\_\_\_ Date \_\_\_\_\_

## Declaration

# ADVERTISED

### 7. This form must be signed by the applicant

Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature



Date \_\_\_\_\_

## Need help with the Application?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

### 8. Has there been a pre-application meeting with a Council planning officer?

☐ yes ☐ no If yes, with whom?: \_\_\_\_\_ Date: \_\_\_\_\_

## Application Type

Is this a VicSmart application? ☐ Yes ☐ No

If yes, please specify which VicSmart class or classes.

\*Classes of VicSmart application are listed in Zones, overlays, particular provisions and the schedule to Clause 59.15

## Checklist

### 9. Have you

- ☐ Filled in the form completely?
- ☐ Provided all necessary supporting information and documents?
  - ☐ A current copy of title (no more than 3 months old) including a copy of any encumbrances affecting the land.
  - ☐ Plans showing the layout and details of the proposal
  - ☐ A plan of existing conditions
  - ☐ Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.  
If required, a description of the likely effect of the proposal (eg traffic, noise, environmental impacts).
  - ☐ Signed the declaration (section 7)?

## Lodgement and Payment

Lodge the completed and signed form and all documents with:

**In Person:** Warrnambool City Council Civic Centre, 25 Liebig Street, Warrnambool 8.30am to 5.00pm

**Mail:** PO Box 198, WARRNAMBOOL Victoria 3280

**E-mail** [planning@warrnambool.vic.gov.au](mailto:planning@warrnambool.vic.gov.au)

**Please note once your application is received, an invoice will be forwarded to you via email.**

GARDEN AREA:		
AREA OF ALLOTMENT: 809.43 m <sup>2</sup>		
	Area ( m <sup>2</sup> )	% of allotment
Total Building Footprint (Dwelling & Garage)	275.48 m <sup>2</sup>	34.03%
Driveways & Roofed Areas	161.92 m <sup>2</sup>	20.00%
Areas <1 metre	3.91 m <sup>2</sup>	0.48%
<b>TOTAL</b>	<b>441.31m<sup>2</sup></b>	<b>54.51%</b>
(REQUIRED GARDEN AREA 35%) ALLOTMENT - EXCLUDED AREAS = 809.43 m <sup>2</sup> - 441.31 m <sup>2</sup> = 368.12 m <sup>2</sup> = 45.49% 45 % GARDEN AREA <b>COMPLIANCE</b>		

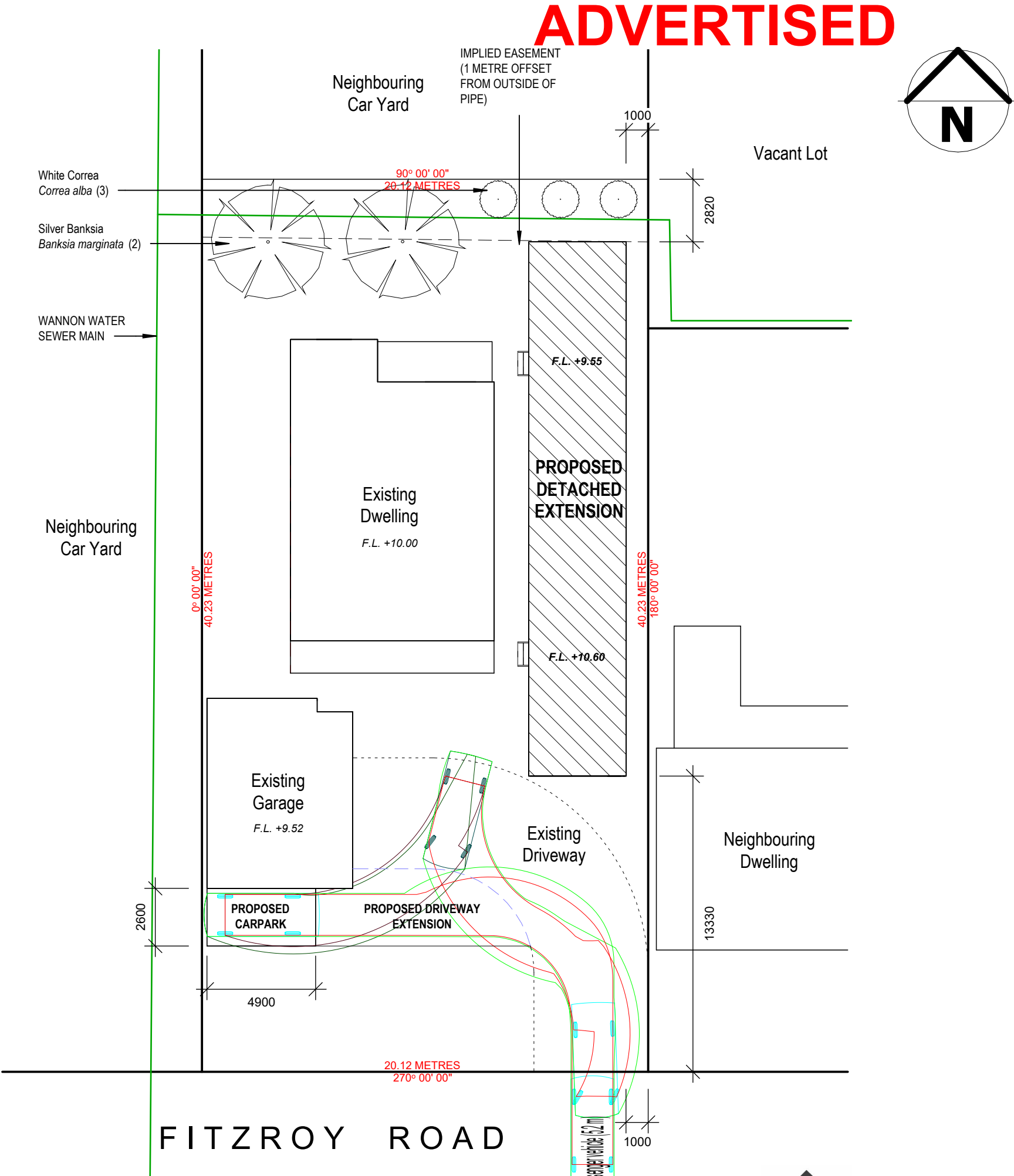
SITE COVERAGE:		
AREA OF ALLOTMENT: 809.43 m <sup>2</sup>		
	Area ( m <sup>2</sup> )	% of allotment
Total Building Footprint (Dwelling & Garage)	275.48 m <sup>2</sup>	34.03%
Roofed Areas	22.65 m <sup>2</sup>	2.80%
<b>TOTAL</b>	<b>298.13 m<sup>2</sup></b>	<b>36.83%</b>
(MAXIMUM SITE COVERAGE 60%) 37 % SITE COVERAGE <b>COMPLIANCE</b>		

PERMEABILITY:		
AREA OF ALLOTMENT: 809.43 m <sup>2</sup>		
	Area ( m <sup>2</sup> )	% of allotment
Total Building Footprint (Dwelling & Garage)	275.48 m <sup>2</sup>	34.03%
Sealed surfaces	161.92 m <sup>2</sup>	20.00%
<b>TOTAL</b>	<b>437.40 m<sup>2</sup></b>	<b>54.03%</b>
(REQUIRED PERMEABLE SURFACES 20%) ALLOTMENT - IMPERMEABLE SURAFCES = 809.43 m <sup>2</sup> - 437.40 m <sup>2</sup> = 372.03 m <sup>2</sup> = 45.97% 46 % PERMEABILITY <b>COMPLIANCE</b>		

**NOTE:** STEP-FREE ACCESS PATH AND LEVEL ENTRY DOOR HAVE NOT BEEN PROVIDED DUE TO SLOPE OF NATURAL GROUND EXCEEDING MAXIMUM GRADIENT

# SITE PLAN

1 : 200



24-087

- 8 FITZROY ROAD, WARRNAMBOOL

SHT. 1/4

NOVEMBER 2024

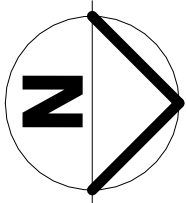
MARK & JESS

SKETCH CONCEPT A

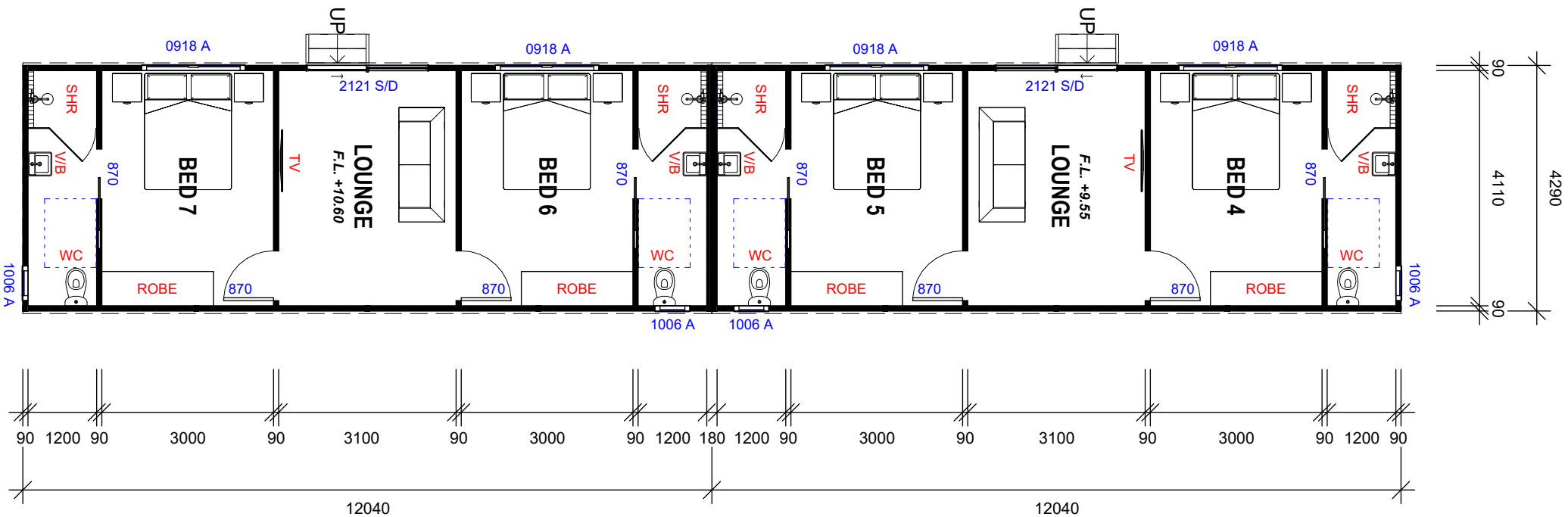
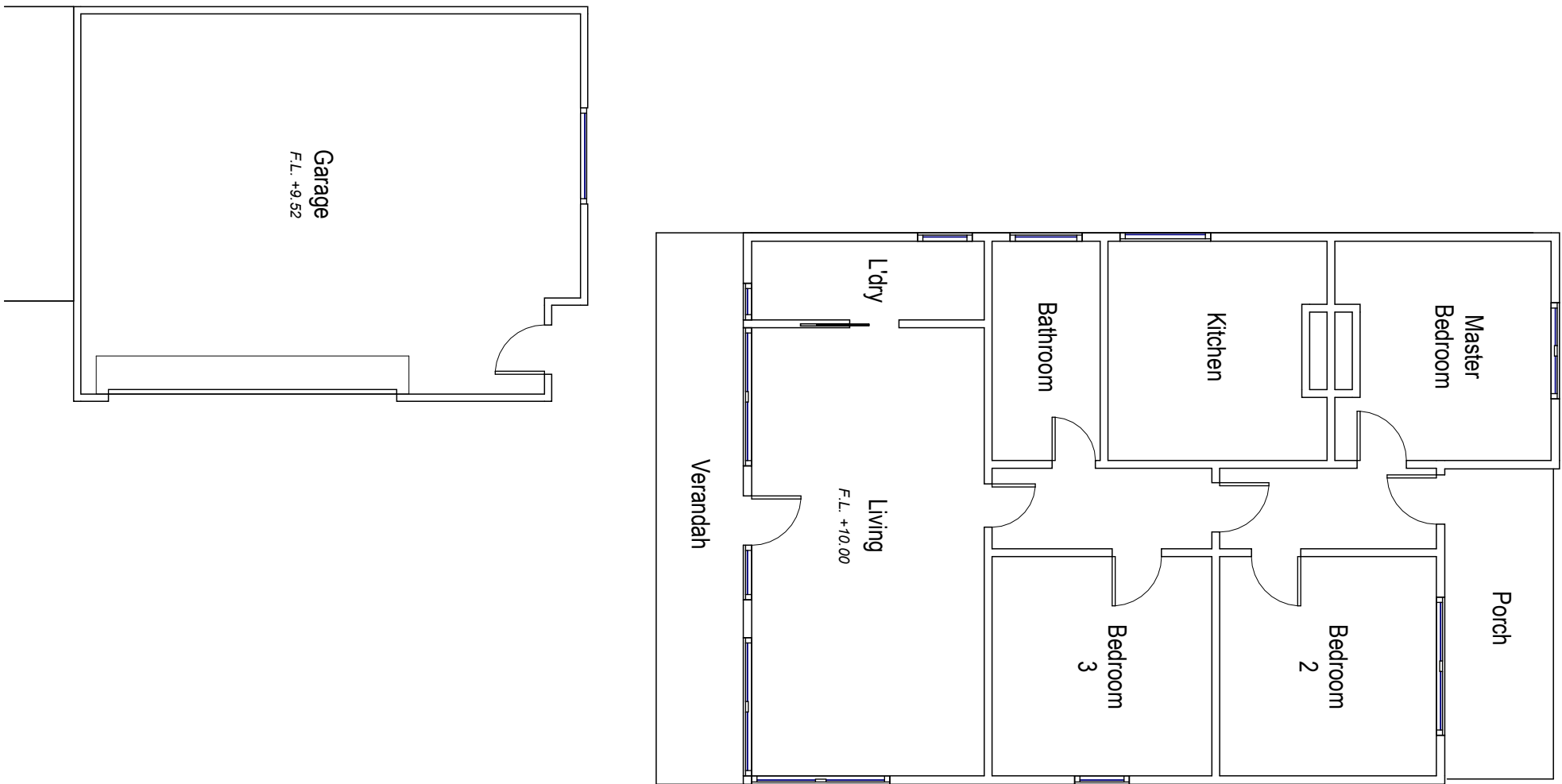
A3 LANDSCAPE

23 Banyan Street, Warrnambool. T:03 5562 6372 F:03 5561 1577 Email:mark@merridesigns.com.au Registration No. DP-AD463





AREA ANALYSIS		
Name	Area	SQ'S
EXISTING DWELLING	114.73 m²	12.34
EXISTING GARAGE	55.28 m²	5.95
EXISTING VERANDAH	9.34 m²	1.00
EXISTING PORCH	13.31 m²	1.43
PROPOSED EXTENSION	105.47 m²	11.35
TOTAL:	298.13 m²	32.08



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24-087

- 8 FITZROY ROAD, WARRNAMBOOL

SHT. 2/4 | NOVEMBER 2024 | MARK & JESS | SKETCH CONCEPT A | A3 PORTRAIT

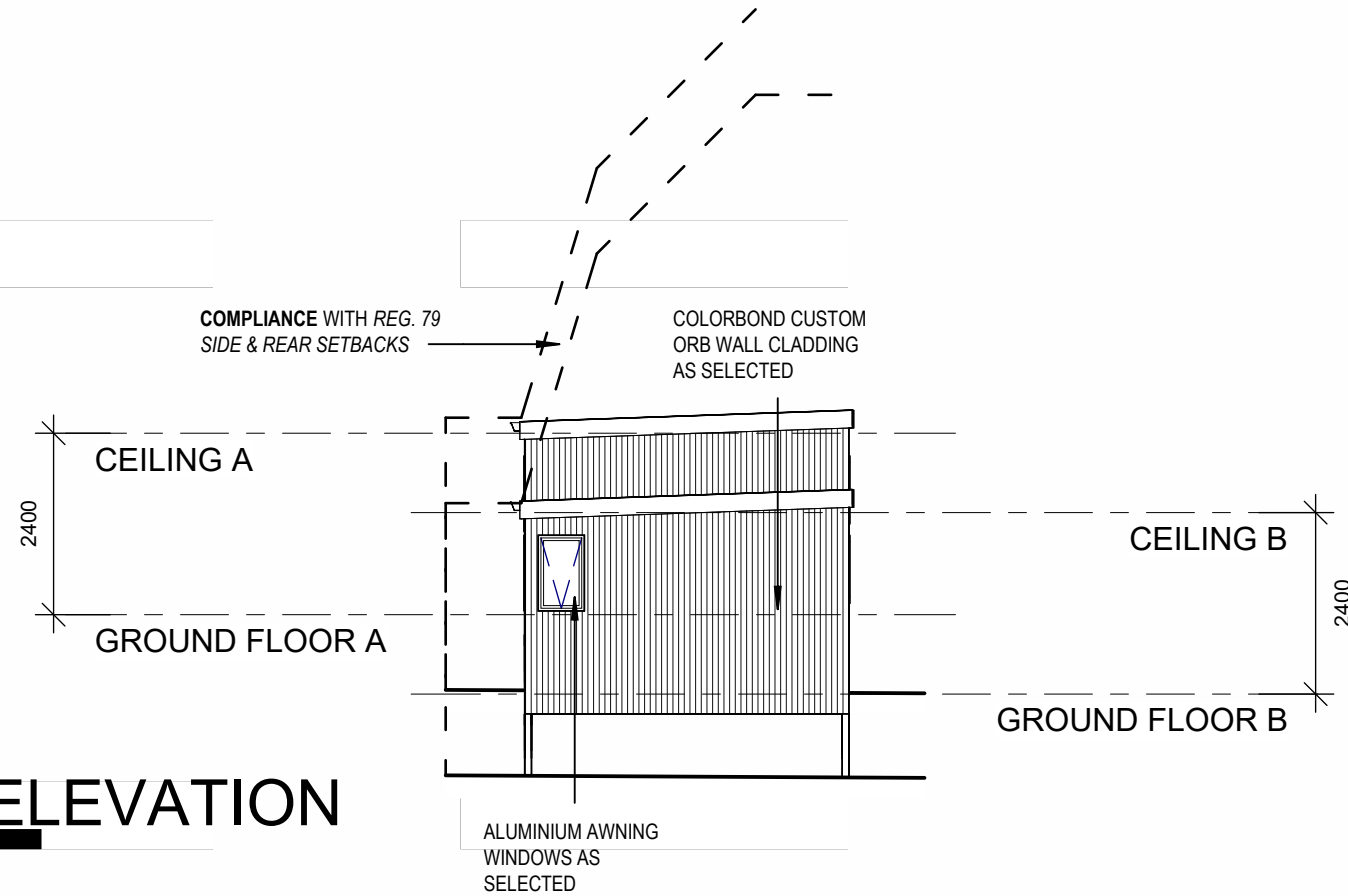
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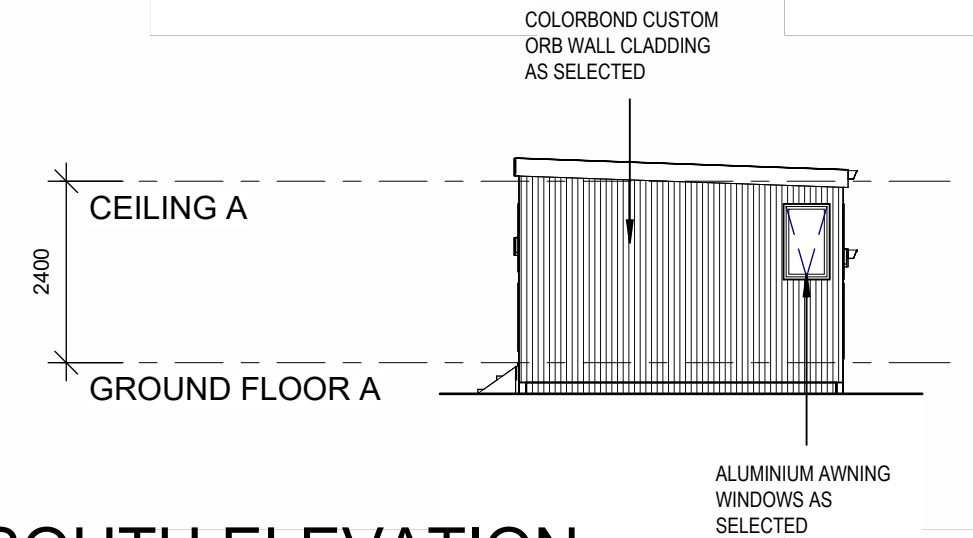
## NORTH ELEVATION

1 : 100



## SOUTH ELEVATION

1 : 100



## NORTH-WEST VIEW

24-087

- 8 FITZROY ROAD, WARRNAMBOOL

SHT. 3/4

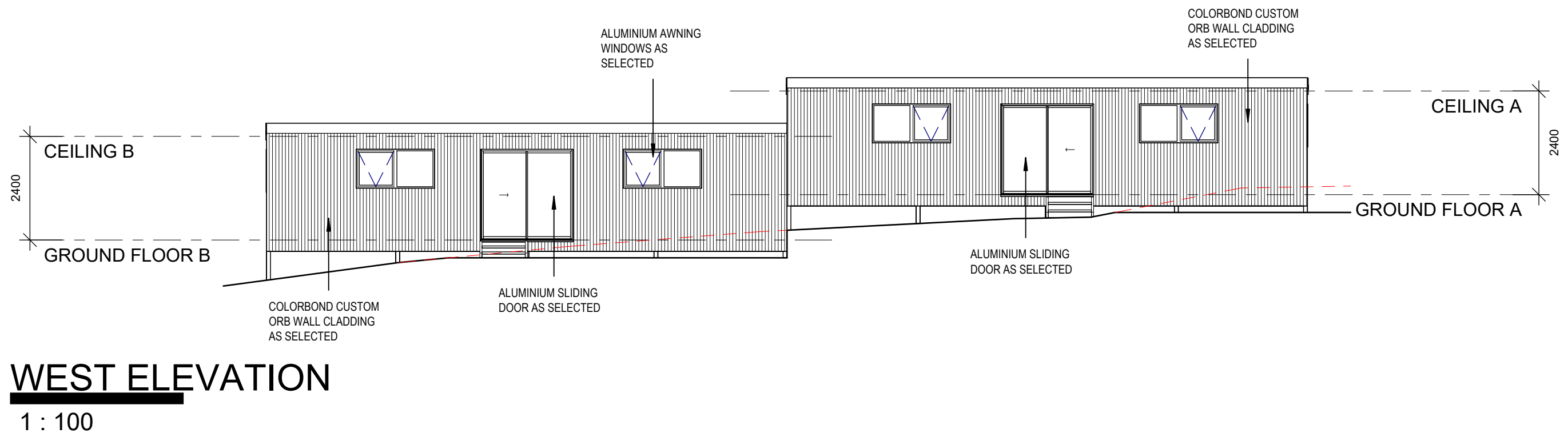
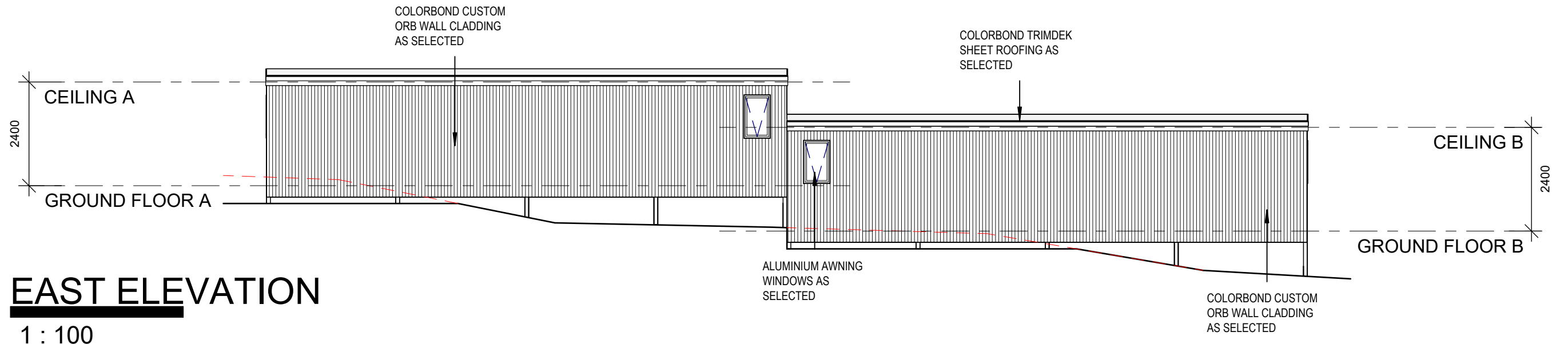
NOVEMBER 2024

MARK & JESS

SKETCH CONCEPT A

A3 LANDSCAPE

23 Banyan Street, Warrnambool. T:03 5562 6372 F:03 5561 1577 Email:mark@merridesigns.com.au Registration No. DP-AD463







**18 December 2024**

Nick Legoe  
Coordinator City Development  
Warrnambool City Council  
PO Box 198  
Warrnambool VIC 3280

DP Planning Pty Ltd  
ABN 68 188 206 903  
PO Box 579  
Warrnambool VIC 3280  
[www.dpplanning.com.au](http://www.dpplanning.com.au)

By email only: [moyne@moyne.vic.gov.au](mailto:moyne@moyne.vic.gov.au)

Dear Nick,

**Application for a Planning Permit – 8 Fitzroy Road, Warrnambool**

Please find enclosed an application for a planning permit for the above address.

Enclosed are the following documents for your assessment:

1. Completed application form
2. Certificate of title
3. Town Planning Report; and
4. Town Planning Drawings.

Please email Council's invoice to [admin@dpplanning.com.au](mailto:admin@dpplanning.com.au).

If you have any questions, please don't hesitate to contact me by telephone (03) 9969 or by email at [admin@dpplanning.com.au](mailto:admin@dpplanning.com.au).

Kind regards,

Dan Pech

**Director (MPIA)**

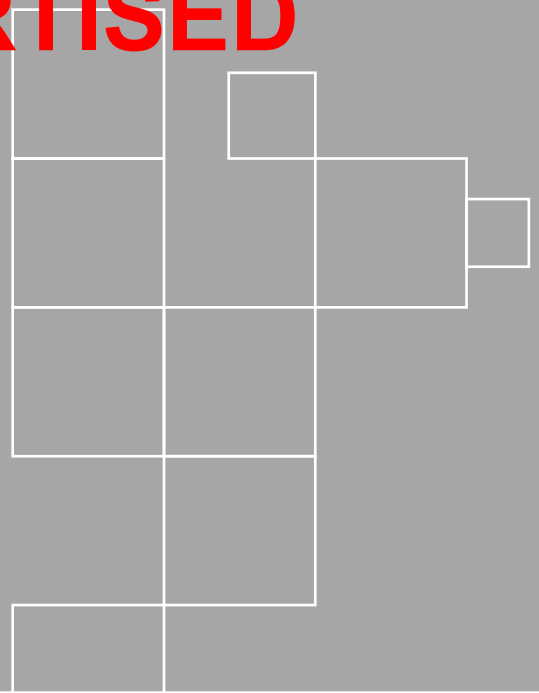
# ADVERTISED

## Town Planning Report

### Buildings and works associated with an existing dwelling

8 Fitzroy Road, Warrnambool

Prepared for Marcus Norton



## Quality and Care

Project No.	Revision	Author	Date	Issue
24-192	01	Daniel Pech	18 December 2024	FINAL issue

### Disclaimer

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### Care for our Country

We care, acknowledge and uphold the Traditional Owners of the Country upon which this application resides and recognise their connection to the land, water, sky and culture. We pay our respects to their Elders past, present and emerging.

### Care for our people

We care about our people and community and donate a fixed percentage of our income each year to local organisations that work towards improving the world around us. We also advise to a select group of clients on a reduced-cost or pro bono basis.

### Care for our environment

We care for our environment and for current and future generations by partnering with Greenfleet© to offset our business emissions. For more information, please visit [www.greenfleet.com.au](http://www.greenfleet.com.au).



## Contents

<b>Quality and Care.....</b>	<b>3</b>
<b>1. Introduction .....</b>	<b>5</b>
1.1. Summary .....	5
1.2. Limits and exclusions.....	6
<b>2. Site, environs and context.....</b>	<b>7</b>
2.1. Site.....	7
2.2. Environs.....	7
2.3. Context .....	9
<b>3. Proposal synopsis .....</b>	<b>12</b>
3.1. Planning permit description .....	12
3.2. Proposal description .....	12
<b>4. Planning context.....</b>	<b>13</b>
4.1. Municipal Planning Strategy (MPS).....	13
4.2. Planning Policy Framework (PPF) .....	15
4.3. Zoning .....	16
4.4. Overlays.....	16
4.5. Particular Provisions .....	16
4.5.1. Clause 52.06 Car Parking.....	16
4.5.2. Clause 53.18 Stormwater Management in Urban Development .....	17
4.6. General Provisions.....	18
4.6.1. Clause 63 Existing Use Rights .....	18
<b>5. Planning Policy Assessment.....</b>	<b>19</b>
5.1. Key planning issues.....	19
5.2. Policy assessment .....	19
<b>6. Conclusion.....</b>	<b>25</b>
<b>Appendices .....</b>	<b>26</b>

## 1. Introduction

### 1.1. Summary

DP Planning has been engaged by Marcus Norton to prepare a planning permit application for 8 Fitzroy Road, Warrnambool.

Approval is sought for buildings and works associated with an existing dwelling at 8 Fitzroy Road, Warrnambool (the 'Site').

This report provides details of the subject site and surrounding area; a detailed description of the proposal; and an assessment and justification of the proposal against the applicable provisions of the Warrnambool Planning Scheme.

Having considered the proposal with respect to the Warrnambool Planning Scheme, it is submitted that the proposal is appropriate and warrants a planning permit for the following reasons:

- The proposal is supported by the Municipal Planning Strategy and the Planning Policy Framework;
- The proposal is an appropriate response to the relevant planning controls affecting the site, providing additions to an existing dwelling which are located appropriately and respond to the Site's physical and land use context.
- The proposed buildings and works will not cause any likely adverse amenity impacts (including reverse amenity impacts) to nearby urban industrial and residential uses;
- The proposal is strategically located and compatible with surrounding land uses;
- The proposal comprises adequate access for vehicles, considering the site's location and accessibility of road infrastructure;
- The proposal will assist in supporting nearby industry, which has established a direct tie with the property and adjoining properties;
- The proposal will not cause any likely negative impacts on the neighbourhood character and built form of the local area; and
- The proposal will directly support the growing population's need for housing (in appropriate locations), which is required to support the growth of local communities.

The following documents should be read in tandem with this report and are provided as part of the application:

- Certificate of Title
- Site Photos
- Planning Property Report
- Town Planning Drawings (prepared by Merri Designs)

For the reasons detailed within this report (and associated Appendices), we respectfully request Council support the proposal and grant a planning permit.

## 1.2. Limits and exclusions

This report has considered the following documents:

- Warrnambool Planning Scheme (as of 17 December 2024)
- Certificates of Title (dated 17 December 2024)



## 2. Site, environs and context

### 2.1. Site

Site address	8 Fitzroy Road, Warrnambool
Title details	Lot 2 on Plan of Subdivision 143725 (Vol 09529 Fol 133).
Site description	<p>The Site comprises one parcel with an area of approximately 800 square metres. The parcels comprises a regular rectangular polygon shape.</p> <p>This Site interfaces with residential land in the same ownership to the east and commercial land in the same ownership to the west.</p>
Easements, restrictions or covenants	<p>The Site is encumbered by a 2-metre wide sewer easement adjoining the northern boundary. The Site is not encumbered by any other easements or restrictive covenants pursuant to Section 173 of the <i>Planning and Environment Act 1987</i> and the <i>Subdivision Act 1988</i>.</p> <p>Refer to <b>Appendix A</b> - Certificate of Title for further details.</p>

### 2.2. Environs

The Site comprises one parcel comprising a total of 800 square metres. The Site is situated on the northern side of the Fitzroy Road road reserve and is connected to the principal transport network (Raglan Parade) via Laverock Grove. The Site has a regular rectangular shape, with it's boundaries formed by land used for commercial purposes (west and north), residential purposes (east) and the Fitzroy Road road reserve (south).

The Site is owned in common with land to the east and west, which are known as 10-16 Laverock Grove (west) and 6 Fitzroy Road (east).

The Site comprises a dwelling and detached garage, vehicle crossover, paved areas, timber paling perimeter fencing, garden areas and a mix of shrubs and canopy vegetation on the northern, southern and eastern boundaries. The existing dwelling (including veranda and porch areas) and garage comprises a total area of approximately 192 square metres.

The Site and adjoining residential properties have been used for residential purposes since prior to 1985, before the advent of modern aerial imagery. The Site and adjoining land (east) was subdivided for residential purpose as evident by the creation of instrument LP143725 on 5 October 1983.

More narrowly, the Site has continued operation as a dwelling since this time with no known period of discontinued use. The building occupying the Site is illustrated in **Appendix D** (Town Planning Drawings) and comprises three bedrooms, a bathroom, a living room, a laundry, a kitchen and a detached garage containing two car parking spaces.

The nearest dwelling/s in separate ownership to the Site are located approximately 20 metres to the south and east.

The Site is connected to reticulated power, water, sewer, stormwater and telecommunications infrastructure.

The Site is well serviced by public transport, with the Route 1 bus stop located 10 metres from the Site's western boundary.

Refer to **Figure 1** – Aerial Plan and **Figure 3** – Transport Map for further details on the Site conditions as well as the plans contained at **Appendix D**.



Figure 1: Aerial Plan

## 2.3. Context

The Site is located in the Industrial 3 Zone (**IN3Z**) and adjoins land developed for commercial purposes (car dealership) in the same ownership to the west; land developed for residential purposes (dwelling) in the same ownership to the east; and commercial land (car dealership) in separate ownership to the north and tenanted by the adjoining car dealership owned in common with the Site. The Site also shares a small area of common boundary with unoccupied land at 999-1007 Raglan Parade (north east) in separate ownership.

Beyond this land to the north is the Raglan Parade road reserve. Beyond the land to the south east and south west is land developed for residential purposes.

Land within the surrounding neighbourhood comprises a mix of residential and commercial buildings.

The only commercial buildings interfacing with the Site are setback 15 metres from the Site's western boundary and comprise large warehouse format premises used in conjunction with a car dealership held in common ownership with the Site. Land to the north comprises hard stand areas used for vehicle storage associated with the adjoining car dealership, while land to the north east (999-1007 Raglan Parade) comprises hard stand areas and is currently vacant.

Residential buildings within the vicinity of the Site comprise predominantly single-detached dwellings on lots of approximately 300sqm-800 square metres. The curtilages of these dwellings generally comprise garden areas of planted native and exotic vegetation species with dwelling setbacks between 5-15 metres from their front boundaries. These dwellings range in size, with the majority of dwellings occupying between 50-60% of site area. Refer to **Figures 2, Figure 3** and **Appendix B** (Planning Property Report) for further details.

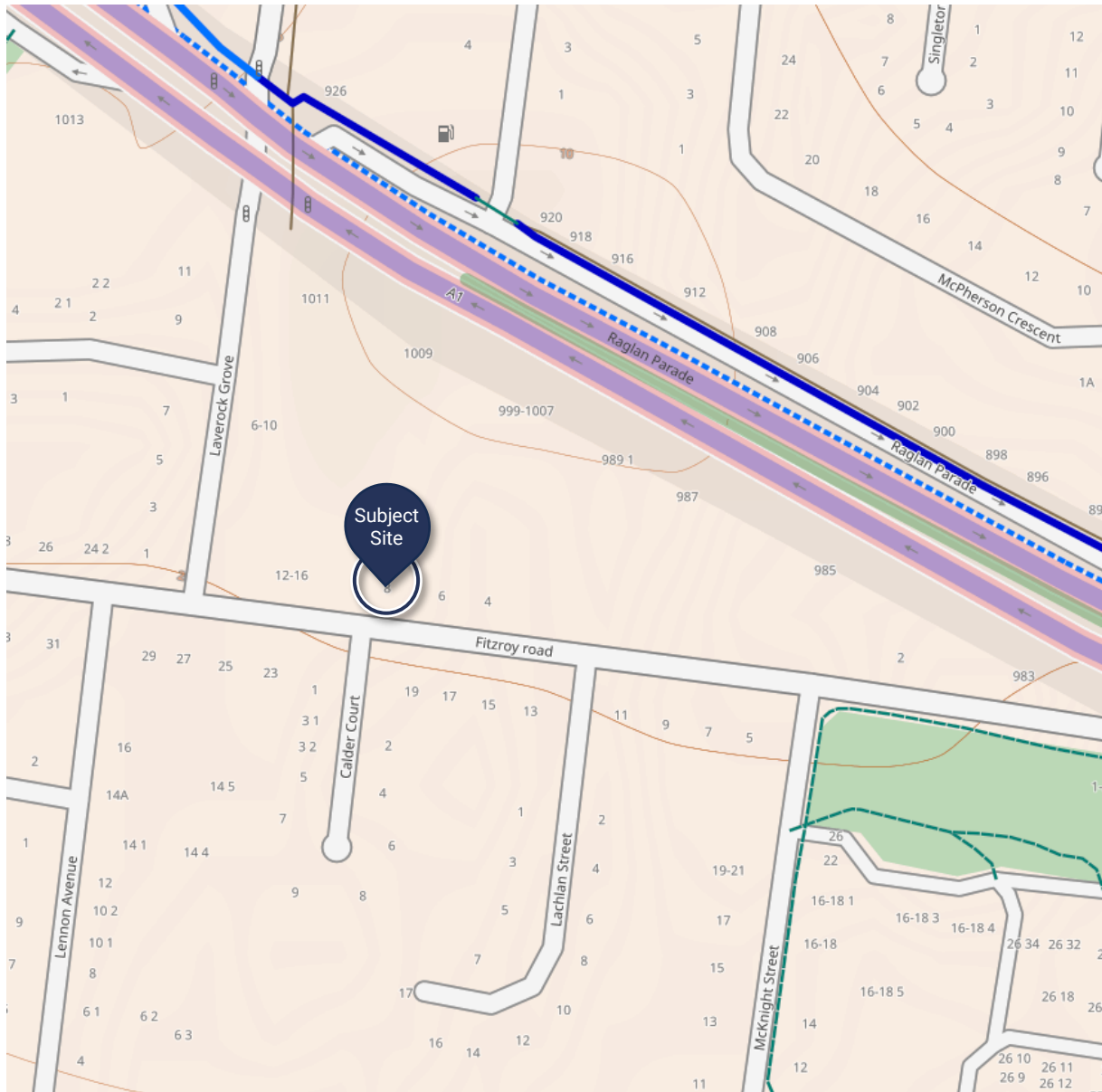


Figure 2: Context Plan (source: OpenStreetMap)

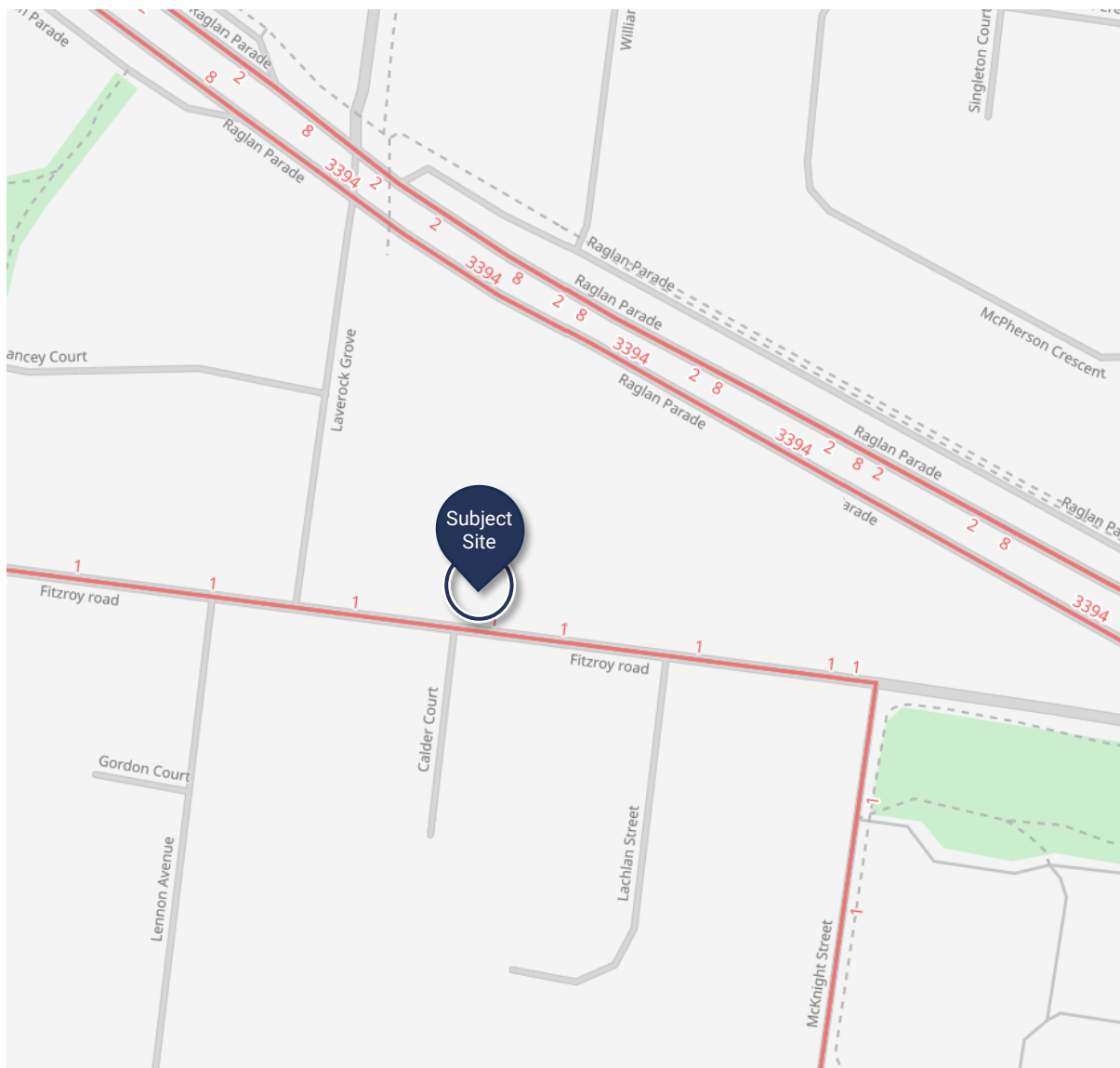


Figure 3: Transport Map (source: OpenStreetMap)

## 3. Proposal synopsis

### 3.1. Planning permit description

A planning permit is sought for buildings and works associated with an existing dwelling.

The following Clauses of the Warrnambool Planning Scheme trigger a planning permit for the proposal:

- Clause 33.03-4 Industrial 3 Zone (**IN3Z**)

The following sections of this report describe in detail what the proposal is for.

### 3.2. Proposal description

This application seeks approval for buildings and works associated with an existing dwelling.

The town planning drawings accompanying this application include plans for two detached transportable building with a mirrored layout comprising:

- Two bedrooms with ensuites and one lounge room;
- Dimensions of 12.04m (l) x 4.29m (w) x 2.4m (h) each; and
- A total area of 105 square metres.

The cladding materials referenced in the plans are generally suited to the urban environs. The materials and features of the building illustrated on the plans mainly include:

- Colorbond orb sheet metal wall cladding in 'Eucalypt' (or similar);
- Skillion pitched roof; and
- Aluminium awning windows.

The dwelling (and appurtenances) are proposed to be contained within a modest building envelope setback 1 metre from the eastern boundary.

The buildings are able to be connected to reticulated water, stormwater, sewer, power and telecommunications services without significant augmentation of trunk infrastructure. One additional car park is also proposed, with minor driveway works required to facilitate safe access and egress.

Existing and proposed landscaping is to be on the northern boundary to screen views to and from the Site to adjoining commercial land uses/interfaces.



## 4. Planning context

Clause 65 of the Victorian Planning Provisions identifies the relevant decision guidelines that a Responsible Authority (Council) must consider in assessing a planning permit application. The following are relevant to the proposed development:

- 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 and other provisions.
- Any matter required to be considered in the zone or other provisions.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The effect on the amenity of the area.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

These matters, where relevant, form the framework of the following sections of this report.

### 4.1. Municipal Planning Strategy (MPS)

The Municipal Planning Strategy (MPS) describes the local and regional planning policies with a specific focus on areas and issues within the Moyne Shire municipality. The policies relevant to the proposal are described below.

- Clause 02.01 **Context:** Warrnambool is Victoria's largest coastal regional city and is the fastest growing economy and population centre in South West Victoria. Warrnambool has a steadily growing population of about 35,200 in 2019 (ABS) that is expected to increase to 43,000 people by 2031. The majority of the population is in Warrnambool, Dennington, Allansford, Bushfield and Woodford.

Warrnambool has a diversity of land uses including residential, industrial and commercial. Much of the rural area (approximately 60 per cent of the land area) is used for agriculture, particularly dairy farming.

Warrnambool provides support to the region for commerce, governance, social services, health, education, the arts and recreation.

- Clause 02.01 **Vision:** The adopted 'Vision' for Warrnambool as set out in the Council Plan (2017-2021) is 'A cosmopolitan city by the Sea'.

The Council Plan identifies the following objectives which are relevant to the proposal:

- Sustain, enhance and protect the natural environment.
- Foster a healthy, welcoming city that is socially and culturally rich.
- Maintain and improve the physical places and visual appeal of the city.

- Develop a smarter economy with diverse and sustainable employment.
- 02.03-1 **Urban growth** Warrnambool is forecast to grow at 1.4 per cent per annum until 2040 requiring about 250 new dwellings per year to meet demand. Council has around 23 years supply of zoned residential land (2019).

Council's relevant strategic directions for its growth areas include:

- Directing urban growth to identified growth areas in order to protect productive rural areas and achieve a more compact sustainable urban area.
- Clause 02.03-3 **Environmental risks and amenity**: The historical development of Warrnambool has resulted in some industrial and residential areas being located adjacent to each other such as in the Merrivale area.

Council's relevant strategic directions for land use conflicts include:

- Protecting communities close to established industries from off-site impacts such as dust, odour, noise and air pollution.
- Clause 02.03-6 **Housing and Housing affordability**: Warrnambool has a range of dwelling sizes. Every five in ten dwellings contain three bedrooms. Two and four bedroom dwellings represent one in six of all dwellings. More diversity in dwelling sizes is needed.

The affordability of housing has significant impacts on the liveability and economic prosperity of the community. A lack of affordable housing is a barrier to attracting key workers and tertiary students to the City.

- Clause 02.03-7 **Economic development**: Warrnambool is the industrial service centre for the South West region.

Council's relevant strategic directions for industry include:

- Managing the industrial/residential interface to ensure any off-site amenity impacts are minimised.
- Clause 02.03-8 **Transport and infrastructure**: The design, management and delivery of infrastructure are key issues for Council. The Infrastructure Design Manual (LGIDA, 2020) includes guidelines for the design and construction of infrastructure within the municipality including (among other things) roads, drainage, stormwater, car parking, landscaping, access, earthworks and intersection infrastructure.

Council's relevant strategic directions for industry include:

- Providing for the sustainable planning, design and construction of infrastructure.

An assessment of the proposal against the policies of the MPS is contained within **Section 5.2.1** of this report.

## 4.2. Planning Policy Framework (PPF)

To ensure the overarching objectives of planning in Victoria are met, policies contained within the Planning Policy Framework (PPF) must be considered. The PPF clauses of most relevance to the Site and the proposal are set out below.

### Clause 11 Settlement

- Clause 11.01-1S **Settlement**: To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
- Clause 11.01-1R **Settlement – Great South Coast**: To attract more people to the region.
- Clause 11.02-1S **Supply of urban land**: To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
- Clause 11.03-6S **Regional and local places**: To facilitate integrated place-based planning.

### Clause 13 Environmental Risks and Amenity

- Clause 13.07-1S **Land use compatibility**: To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.
- Clause 13.07-1L-01 **Land use conflict - General**
- Clause 13.07-1L-01 **Land use conflict – Industrial and residential interface**

### Clause 15 Built Environment and Heritage

- Clause 15.01-1S **Urban design**: To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
- Clause 15.01-2S **Building design**: To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.
- Clause 15.01-5S **Neighbourhood character**: To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

### Clause 16 Housing

- Clause 16.01-1S **Housing supply**: To facilitate well-located, integrated and diverse housing that meets community needs.
- Clause 16.01-01L **Housing supply**
- Clause 16.01-2S **Housing affordability**: To deliver more affordable housing closer to jobs, transport and services.

An assessment of the proposal against the policies of the PPF is contained within **Section 5.2.1** of this report.

## 4.3. Zoning

The Site is located within the Industrial 3 Zone (Clause 33.03). The relevant purposes of the Industrial 3 Zone (INZ3) are:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.
- To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.

Pursuant to Clause 33.03-4 **Building and works**, a permit is required for buildings and works.

See **Section 4.6.1** for a ventilation of relevant matters under **Clause 63** Existing Use Rights.

Of relevance to the proposal are the application requirements and decision guidelines contained at Clause 33.03-4.

A detailed assessment under the Industrial 3 Zone is contained within **Section 5.2.2** of this report.

## 4.4. Overlays

Generally, overlays apply to a single issue or related set of issues (such as heritage, an environmental concern or flooding). Where more than one issue applies to land, multiple overlays can be used. Overlays must have a strategic justification. Many overlays have schedules to specify local objectives and requirements. Most overlays make requirements about development rather than land use. Overlays do not change the intent of the zone.

There are no Overlays relevant to the proposal.

## 4.5. Particular Provisions

Particular provisions are specific prerequisites or planning provisions for a range of particular uses and developments, such as signs and car parking. They apply consistently across the state and there is no ability to include in planning schemes particular provisions that are not in the VPP. Unless specified otherwise, the particular provisions apply in addition to the requirements of a zone or overlay.

### 4.5.1. Clause 52.06 Car Parking

The proposal requires consideration under Clause 52.06 Car Parking. The purpose of Clause 52.06 is:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.

- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Pursuant to Clause 52.06-2 Provision of car parking spaces, before a new use commences the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority on the land. Table 1 to Clause 52.06-5 specifies requirements for car parking for dwellings. Dwellings with three (3) or more bedrooms must provide for two (2) car parking spaces, with a minimum of one (1) space undercover.

Two undercover car parking spaces are provided within the existing garage, with one additional car parking space proposed to cater for the additional number of persons to be accommodated within the Site.

It follows, that no reduction in car parking requirements is sought after and no permit is triggered.

## 4.5.2. Clause 53.18 Stormwater Management in Urban Development

Due to the zoning of the land (Industrial 3 Zone), the proposal requires consideration under Clause 53.18 **Stormwater Management in Urban Development**.

The purpose of this clause is to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

This clause ordinarily applies to an application under a provision of a zone to subdivide land, construct a building, or construct or carry out works in an industrial zone.

It is noted that the character of the Site and adjoining land is residential in nature.

The proposed measures to deal with stormwater are commensurate with the complexity of the proposal, and comprise an appropriately simple but effective system where stormwater is able to be collected from roof systems, down pipes and connected to the established legal point of discharge.

The total building footprint equates to 275 square metres (34% Site area) with an additional 160 square metres of driveways and roofed areas. Meaning, 54% of the Site is permeable and within reasonable and acceptable standards for a residential Site context.

See the **Appendix D** for further details.

## 4.6. General Provisions

General provisions are requirements that are consistent across the state. The general provisions address overarching matters such as general exemptions, existing use rights and referral obligations.

### 4.6.1. Clause 63 Existing Use Rights

Given the zoning of the land (**IN3Z**), it is relevant to refer to **Clause 63** of the Warrnambool Planning Scheme to discuss existing use right provisions for the Site's established existing use (as described in **Section 2.2**).

As previously described, the Site comprises a well-established existing use for 'dwelling', which is ordinarily prohibited within the **IN3Z**.

Existing use rights are created by Section 6(3) of the *Planning and Environment Act 1987* (the 'Act'), which confer the right in terms of the purpose for which the land is used at the relevant date (Planning Scheme operational date).

See **Section 5.2.3** for an assessment of Clause 63 commensurate with the complexity of the proposal.



## 5. Planning Policy Assessment

### 5.1. Key planning issues

Based on the provisions of the Warrnambool Planning Scheme and the decision guidelines of Clause 65, the following are submitted to be the key planning issues relevant to the proposed development of the Site.

- Is there strategic policy support for the proposal and is the proposal consistent with the Municipal Planning Strategy and the Planning Policy Framework?
- Does the proposal respond appropriately to the purpose and decision guidelines of Clause 33.03?
- Does the proposal respond appropriately to the relevant provisions and decision guidelines of Clause 63?

### 5.2. Policy assessment

#### 5.2.1. Is the proposal consistent with the Municipal Planning Strategy and the Planning Policy Framework?

The proposal requires assessment under the Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS) of the Warrnambool Planning Scheme.

The proposal is considered to be consistent with the current context and vision for the Warrnambool City Council as stated in Clause 02.01 and Clause 02.02.

The proposal chiefly achieves the desired vision for the municipality through the measures and strategies employed in the decisions for siting, designing and locating the proposed buildings and associated works, including:

- Siting choices in support of managing land use conflicts with nearby industrial zone land used for commercial and residential purposes; and
- Building design and material choices in support of neighbourhood character and good building design practices.

See the Town Planning Drawings illustrated in the attached plans and reports for further details.

The proposal also seeks to support Council's vision and an expected population increase within the municipality, by better utilising an existing site used as a dwelling to accommodate additional persons. The context of the site is within an established residential setting and appropriately supports development within an existing urban area, which will make a modest contribution to current housing supply (at a time where there is a shortage within the Warrnambool municipality) (Clauses **11.01-1R Settlement – Great South Coast**, Clause 16.01-1L **Housing supply** and Clause 16.01-2S **Housing affordability**).

The application also supports the municipality's ambitions for population growth while upholding the features of the established neighbourhood character of the area, and finds a balance between these objectives and those relating to the management of land use conflicts, in order to accommodate additional

persons with adverse amenity impacts (including reverse impacts). The proposed approach to siting and design is appropriate, with choices employed in the siting of the proposed buildings and works to minimise the impact on nearby residential land (owned in common with the Site) to the east, and land used for commercial purposes to the west and north (Clauses 02.03-1 **Urban growth**, 02.03-3 **Environmental risks and amenity**, 02.03-6 **Housing** and **Housing affordability**, 11.01-1S **Settlement** and 13.07-1S **Land use compatibility**, 13.07-1L-01 **Land use conflict - General** and 13.07-1L-01 **Land use conflict – Industrial and residential interface**).

The Site comprises good proximity to services, including roads and reticulated services, public transport and pedestrian networks. The proposed dwelling extensions are designed to be transportable and represent a cost-effective solution which is common for a residential setting, during a time where this is a shortage of housing in the municipality. The appearance of the Site will not be substantially altered, due to existing and proposed landscaping and the siting and orientation of existing buildings to be retained on the Site. The proposed garden areas and impervious areas are generally in keeping with the accepted character of the area (see **Appendix D** for details). The proposed buildings are of an appropriate size and scale for the area, and will appear as a typical dwelling site. The siting choices for the building will have minimal impact on views from beyond and toward the site. The property boundary is well screened from public views by existing mature vegetation either within the Site or on adjoining land and additional landscape screening is proposed. The choices made in relation to siting of the proposed buildings are considerate of Site topography, with minimal earthworks required and minimal visual impacts upon the residential setting and built and landscape features of the site and surrounds (Clauses 15.01-1S **Urban Design**, 15.01-2S **Building design** and 15.01-5S **Neighbourhood character**).

The PPF and MPS emphasises the need to ensure land use and development is compatible. The site maintains appropriate separation from commercial and industrial areas, ensuring no adverse environmental or operational impacts. The proposed dwelling extensions are setback adequately from industrial land (north) including primarily land operated in common with the Site (for vehicle storage associated with the adjoining car dealership), ensuring adequate separation to mitigate potential land use conflicts. The proposal does not result in further encroachment of any commercial or industrial use located to the north and west. The proposed building is compatible with the adjoining commercial land uses, and these properties have coexisted without any prior complaints or operational disruptions. The extension does not encroach on the car dealership's operational space nor compromises its ability to function safely and effectively. The proposal neither encroaches on commercial or industrial zones nor compromises the function or expansion potential of adjoining employment-generating uses. The proposed setbacks, combined with the use of muted colours and materials and proposed landscaping, provides an appropriate interface treatment to adjoining land uses. The proposed setback from the residential property (east) ensures adequate privacy while maintaining compliance with setback regulations in relation to distance and height from property boundaries. The design includes no windows facing the adjoining residential property (east) preserving privacy and minimising any potential overlooking concerns. With one additional car parking space and ample parking within the site, the proposal meets parking requirements without straining existing parking infrastructure (see **Appendix D** for

details) (Clauses 02.03-3 **Environmental risks and amenity**, 13.07-1S **Land use compatibility**, 13.07-1L-01 **Land use conflict - General** and 13.07-1L-01 **Land use conflict – Industrial and residential interface**).

The proposed dwelling extension is appropriately designed, well setback, and compatible with adjacent land uses despite being in an industrial zone. The proposal does not negatively impact on the existing residential amenity of the area nor does it impact negatively on the adjoining car dealership's commercial operations or other adjoining commercial uses. The extension supports the established existing use of the site, which has operated harmoniously for over forty years as nearby land has been developed for commercial purposes, and the proposal is appropriate for the role and character of the area.

In light of the above, the proposal is considered to appropriately respond to the relevant policies of the PPF and MPS of the Warrnambool Planning Scheme.

### 5.2.2. Does the proposal respond appropriately to the purpose and decision guidelines of Clause 33.03?

The subject site is situated within the Industrial 3 Zone (**INZ3**) where its purpose includes the need to 'provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict', to 'ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses' and 'to provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community'.

Under the zone, 'accommodation' uses are ordinarily prohibited. As ventilated in **Section 2.2** and **4.6.1** the proposal is for buildings and works associated with an existing legitimised use of the Site for 'dwelling', 'outbuildings' and appurtenances. The proposal, while being ordinarily prohibited, is of an appropriate scale and is generally consistent with the purposes of the zone.

The proposed dwelling extension achieves practical consistency with the purpose of the Zone (despite being a prohibited use) as it does not create interference with any commercial or industrial activities on adjoining properties and has coexisted with these uses without conflict.

The dwelling extension is suitable as a transitional buffer between the car dealership and the broader residential area. Its design minimises potential conflicts through appropriate setbacks, material selection, and orientation on the eastern side of the Site, which is a residential interface.

The extension's layout, setbacks, material selections and building design choices do not compromise the safety and amenity of adjoining sensitive uses (dwellings). There are no adverse effects on nearby land uses, and the proposal does not negatively impact on the operational safety of any commercial premises or on residential amenity.

Pursuant to Clause 33.03-4 the following decision guidelines apply:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any natural or cultural values on or near the land.

- Streetscape character.
- Landscape treatment.
- Interface with non-industrial areas.
- Built form.
- Parking and site access.
- Loading and service areas.
- Outdoor storage.
- Lighting.
- Stormwater discharge.
- The effect on nearby industries.

Consideration of the above topics are duplicated through an assessment of the relevant policies contained within the PPF and MPS.

The above withstanding, the following additional comments and assessment remarks are submitted for consideration.

The development has been designed to incorporate elements that will enhance the visual appearance of the residential area by incorporating modern design elements, high-quality materials and materials commonly found in residential developments (Colorbond cladding).

Streetscape activation is not a high consideration, as the streetscape comprises largely dwellings and a residential character. Meaning, buildings are generally setback from front boundaries with low activation. The proposal generally achieves an appropriate balance of design considerations, including balancing existing residential neighbourhood characteristics with the policies seeking to soften the impact of development within industrial areas through the proposed landscaping regime and building design choices.

Physical spacing and landscaping opportunities have been incorporated into the overall site development, which positively responds to the existing character of the area (prohibited uses withstanding).

Parking and access has been provided on the site, which is situated internally to the property to cater for the likely demand resulting from the increase in persons to be accommodated on the Site and within the dwelling buildings.

The proposal will ensure that drainage of the land is conducted in an appropriate manner that would not impact the adjoining or surrounding land, and will be directed to the designated LPOD.

The proposal will have a negligible impact on nearby industries, either by way of noise, light, odour, emissions or traffic generation which is expected to be negligible/modest and entirely catered for within the boundaries of the site. All buildings are designed to be maintained in good order as evident through the selection of materials and practical design approach, and with services to ensure the presentation of the area will be maintained to a high standard (i.e. via existing conventional waste collection, perimeter fencing, landscape screening etc.).

The proposed development, on balance, is considered to meet the purpose and relevant decision guidelines of the **IN3Z**, notwithstanding the proposal is reliant on existing use rights.

### 5.2.3. Does the proposal respond appropriately to the relevant provisions and decision guidelines of Clause 63?

Given the zoning of the land (**IN3Z**), it is relevant to refer to **Clause 63** of the Warrnambool Planning Scheme to discuss existing use right provisions for the Site's established existing use and proposed extensions (as described in **Section 2.2**).

**Clause 63.01** Extent of Existing Use Rights outlines when existing use rights can be established.

Of relevance to the Site, an existing use right is established in relation to use of land under this scheme if any of the following apply:

- The use was lawfully carried out immediately before the approval date (of the Scheme).
- Proof of continuous use for 15 years is established under **Clause 63.11**.

If, in relation to an application or proceeding under the Act or this scheme, the extent of any existing use right for a period in excess of 15 years is in question, it is sufficient proof of the establishment of the existing use right if the use has been carried out continuously for a period of 15 years at any time before the date of the application or proceeding.

As previously ventilated, the Site comprises a dwelling and detached garage, vehicle crossover, paved areas, timber paling perimeter fencing, garden areas and a mix of shrubs and canopy vegetation on the northern, southern and eastern boundaries.

The Site and adjoining residential properties have been used for residential purposes since circa 1985, before the advent of modern aerial imagery. The Site and adjoining land (east) was subdivided for residential purposes as evident by the creation of instrument LP143725 on 5 October 1983 (before the approval date of the Planning Scheme) and has been used for residential purposes since this date, with no evidence to the contrary. It follows, that an existing use right is legitimised on both counts.

Pursuant to **Clause 63.02** Characterisation of use, if a use of land is being characterised to assess the extent of any existing use right, the use is to be characterised by the purpose of the actual use at the relevant date, subject to any conditions or restrictions applying to the use at that date, and not by the classification in the table to **Clause 73.03** or in Section 1, 2 or 3 of any zone.

Further, the approach to defining existing use rights involves identification of the purpose for which the land is used on the basis of ordinary terminology and common usage. Meaning, by ascertaining how the purpose would be described in lay terms, rather than by necessarily reference to categories of uses specified in the planning scheme instrument. The statutory provisions of this clause are designed to protect and preserve existing rights, and should be as liberally construed as the language in its context allows (see *City of Nunawading CC v Harrington* [1985] VR 641).

In this case, the Site is clearly characterised as being used to accommodate persons within a residential building, which would ordinarily be described as a 'dwelling' including outbuilding associated with a dwelling and their appurtenances.

Pursuant to **Clause 33.03-1** Table of uses, the use of land for 'Accommodation' (except a caretakers dwelling) is prohibited. It follows, that **Clause 63.05** Section 2 and 3 Uses must be considered. Pursuant to **Clause 63.05**, a use in Section 2 or 3 of a zone for which an existing use right is established may continue provided it meets the relevant provisions. The provisions of **Clause 63.05** relevant to the proposal are as follows:

- No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.
- The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

The assessments ventilated through Section 5.2.1 and 5.2.2. establish that the proposal is unlikely to have any adverse amenity impacts on the area, including reverse impacts on the nearby residential or commercial uses, and that the buildings and works sought after and are shown to comply with the requirements of this scheme.

Under **Clause 63.06**, an existing use right expires if the use has stopped for a continuous period of 2 years, or has stopped for two or more periods which together total 2 years in any period of 3 years. A 'use' may also expire if stated explicitly on any relevant planning permit (i.e. a 'sunset' clause or similar).

No such circumstances have arisen over the term of the Site's use, and there is no evidence to the contrary. It follows, that the 'existing use right' for the use of the land as a 'dwelling' remains legitimised.

Pursuant to **Clause 63.12** Decision Guidelines, before deciding on an application under **Clause 63.05** in addition to the decision guidelines in Clause 65 and any other requirements of the Act, the responsible authority must consider the extent to which compliance can be achieved with all scheme requirements that can reasonably be met.

It should be acknowledged that the general planning principle for non-conforming uses is that (in time) they should be phased out, and that land should be brought into conformity with the intent and purpose of the relevant zone. This is less apparent in the current Site context, where the existing 'dwelling' use and associated outbuildings and curtilage sits amongst other (adjoining) prohibited residential properties on the interface with an Industrial and Residential Zone, and fit neatly within the character of the Fitzroy Road address, which is residential in character. Meaning, the proposal does not appear to be an 'aberration' or out of keeping with the established character and use of this part of Fitzroy Road. Accordingly, it should be acknowledged that the extension of the building is not itself an aberration, and the proposal (as described) is within the latitude afforded by the legitimate existing use rights which are applicable (in this case).



## 6. Conclusion

This town planning report details the proposal and has made an assessment against the relevant policy and planning controls of the Warrnambool Planning Scheme.

The proposal is considered appropriate and warrants a planning permit for the following reasons:

- The proposal is supported by the Municipal Planning Strategy and the Planning Policy Framework;
- The proposal is an appropriate response to the relevant planning controls affecting the site, providing additions to an existing dwelling which are located appropriately and respond to the Site's physical and land use context.
- The proposed buildings and works will not cause any likely adverse amenity impacts (including reverse amenity impacts) to nearby urban industrial and residential uses;
- The proposal is strategically located and compatible with surrounding land uses;
- The proposal comprises adequate access for vehicles, considering the site's location and accessibility of road infrastructure;
- The proposal will assist in supporting nearby industry, which has established a direct tie with the property and adjoining properties;
- The proposal will not cause any likely negative impacts on the neighbourhood character and built form of the local area; and
- The proposal will directly support the growing population's need for housing (in appropriate locations), which is required to support the growth of local communities.

It is the conclusion of this report that the application is consistent with the purposes and intent of the planning controls and policy framework of the Warrnambool Planning Scheme.

It follows as the recommendation and request of this report that Council issue a planning permit for the proposal.

We highly commend the application to council, and look forward to working with Council during the assessment of the application.

**December 2024**

## Appendices

Appendix A	Certificate of Title
Appendix B	Planning Property Report
Appendix C	Site Photos
Appendix D	Town Planning Drawings

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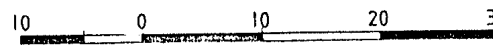
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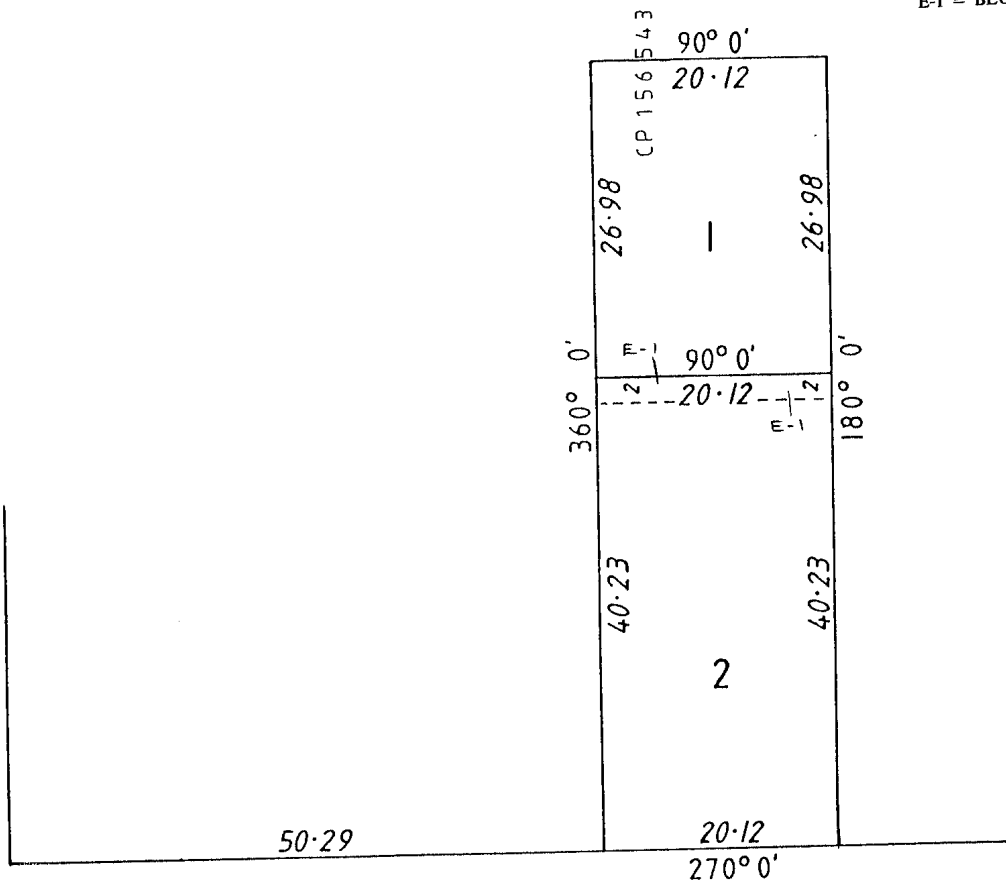
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30 AUG 1983

LAVEROCK GROVE



FITZROY ROAD

<p>CONSENT OF COUNCIL</p>	<p>SURVEYORS CERTIFICATION</p> <p>I Certify that this plan has been made by me, is mathematically correct and accords with Title, Certificate of Title Vol. 2500 Fol. 907.</p> <p>10 June 1983 Date</p> <p><i>A. K. Hand</i> Licensed Surveyor</p> <p>Ref. N° 1865-2 -- V.K. Hand Licensed Surveyor Warrnambool.</p>
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