

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	128 Red Road, Gembrook VIC 3783 L2 PS829752 V12331 F918
The application is for a permit to:	Buildings and Works for the Construction of a Dwelling
The applicant for the permit is:	[REDACTED]
The application reference number is:	T210826
You may look at the application and any documents that support the application at the office of the Responsible Authority:	<p>Cardinia Shire Council 20 Siding Avenue Officer 3809</p> <p>This can be done during office hours and is free of charge.</p> <p>Documents can also be viewed on Council's website: https://www.cardinia.vic.gov.au/advertisedplanningapplications</p>

Any person who may be affected by the granting of the permit may object or make other submissions to the responsible authority.

- An objection must
- * be sent to the Responsible Authority in writing, at Cardinia Shire Council, PO Box 7, Pakenham, Vic, 3810 or email at mail@cardinia.vic.gov.au.
 - * include the name and address of the objector/ submitter.
 - * include the application number and site address.
 - * include the reasons for the objection, and
 - * state how the objector would be affected.

The Responsible Authority will not decide on the application before:	2 May 2024
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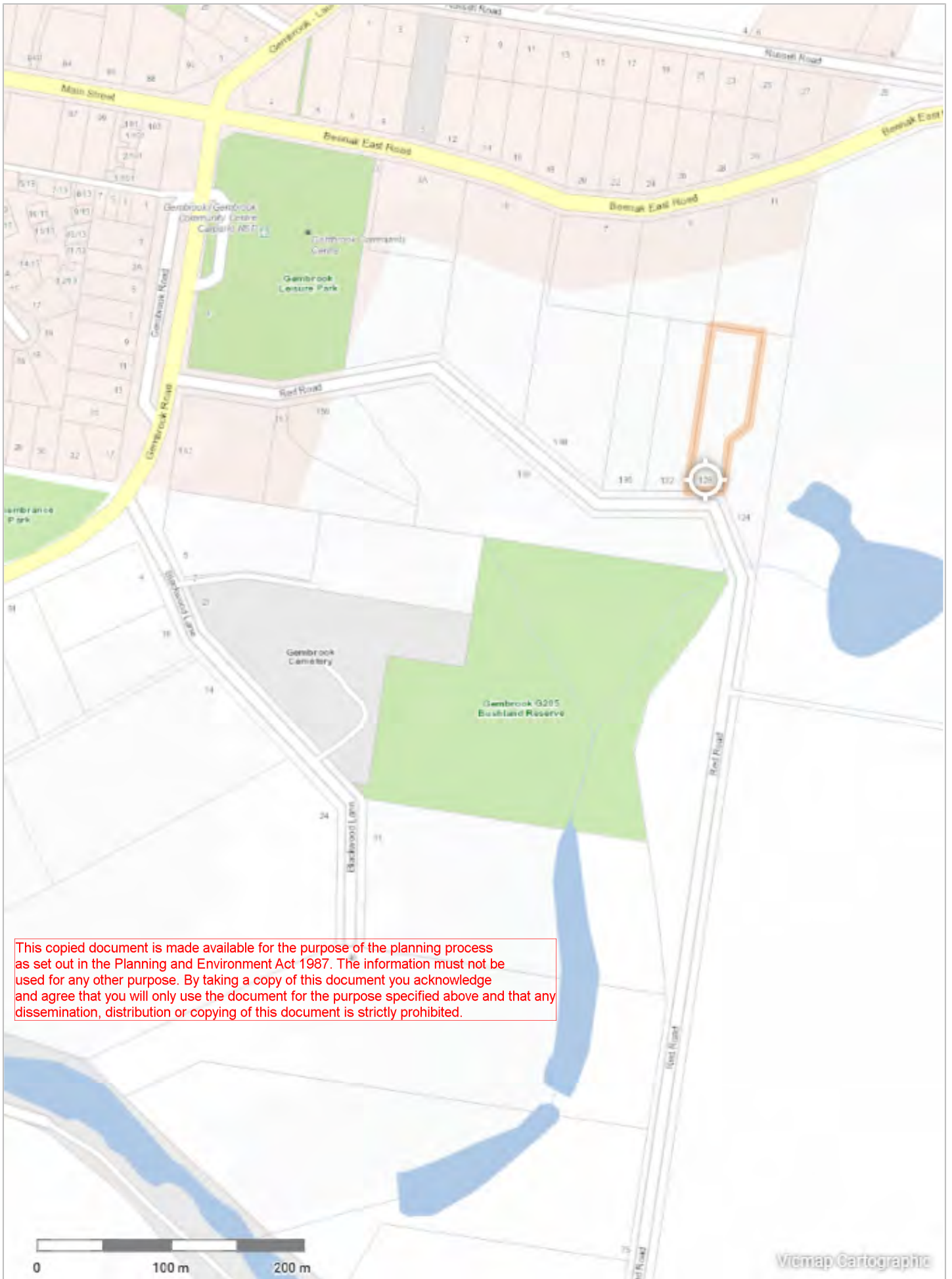
If you object, the Responsible Authority will tell you its decision.

Please be aware that copies of objections/submissions received may be made available to any person for the purpose of consideration as part of the planning process.

For additional information or advice contact Cardinia Shire Council, Planning Department on 1300 787 624 or mail@cardinia.vic.gov.au.

Your objection/submission and personal information is collected by Cardinia Shire Council for the purposes of the planning process as set out in the *Planning and Environment Act 1987*. If you do not provide your name and address, Council will not be able to consider your objection/submission. Your objection/submission will be available free of charge at the Council office for any person to inspect and copies may be made available on request to any person for the relevant period set out in the *P&E Act*. You must not submit any personal information or copyright material of third parties without their informed consent. By submitting the material, you agree that the use of the material as detailed above does not breach any third party's right to privacy and copyright.

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Office Use Only

Application No.: _____ Date Lodged: / /

Application for a **Planning Permit**

If you need help to complete this form, read MORE INFORMATION at the end of this form.

⚠ Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any questions, please contact Council's planning department.

⚠ Questions marked with an asterisk (*) must be completed.

⚠ If the space provided on the form is insufficient, attach a separate sheet.

i Click for further information.

Clear Form

The Land **i**

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

Street Address *

Unit No.:	St. No.: 128	St. Name: Red Road
Suburb/Locality: Gembrook		Postcode: 3783

Formal Land Description *

Complete either A or B.

⚠ This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A Lodged Plan Title Plan Plan of Subdivision

OR

B

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.

i For what use, development or other matter do you require a permit? *

Buildings and Works associated with a Dwelling and associated Outbuilding

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⚠ Provide additional information about 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.

i Estimated cost of any development for which the permit is required *

⚠ You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within **metropolitan Melbourne** (as defined in section 3 of the *Planning and Environment Act 1987*) and the estimated cost of the development exceeds \$1 million (adjusted annually by CPI) the Metropolitan Planning Levy **must** be paid to the State Revenue Office and a current levy certificate **must** be submitted with the application. Visit www.sro.vic.gov.au for information.



Existing Conditions i

Describe how the land is used and developed now *

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

Existing site cut. Vacant land.

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Provide a plan of the existing conditions. Photos are also helpful.

Title Information i

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 (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- 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', for example, restrictive covenants.

Applicant and Owner Details i

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

Applicant *

The person who wants the permit.

Please provide at least one contact phone number *

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

Name:

Fax:

Contact person's details* Same as applicant

Name:

Title: First Name: Surname:

Organisation (if applicable):

Postal Address: If it is a P.O. Box, enter the details here:

Unit No.: St. No.: St. Name:

Suburb/Locality: State: Postcode:

Owner *

The person or organisation who owns the land

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

Owner * Same as applicant


Name:

Owner's Signature (Optional): Date:

day / month / year

Declaration

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. I have been notified of the permit application.

S

Date: 25.10.21

day / month / year

Need help with the Application?

General information about the planning process is available at planning.vic.gov.au

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.

Has there been a pre-application meeting with a council planning officer?

No

Yes

If 'Yes', with whom?:

Date:


day / month / year

Checklist

Have you:

Filled in the form completely?

Paid or included the application fee?

 Most applications require a fee to be paid. Contact Council to determine the appropriate fee.

 Provided all necessary supporting information and documents?

A full, current copy of title information for each individual parcel of land forming the subject site.

A plan of existing conditions.

Plans showing the layout and details of the proposal.

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 (for example, traffic, noise, environmental impacts).

If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void.

Completed the relevant council planning permit checklist?

Signed the declaration?

Lodgement

Lodge the completed and signed form, the fee and all documents with:

Cardinia Shire Council
PO Box 7
Pakenham VIC 3810

Contact information:

Telephone: 1300 787 624

Fax: (03) 5941 3784

Email: mail@cardinia.vic.gov.au

DX: 81006

Deliver application in person, by post or by electronic lodgement.

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

VOLUME 12331 FOLIO 918

Security no : 124093341554S
Produced 26/10/2021 11:49 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 829752D.
PARENT TITLE Volume 09478 Folio 951
Created by instrument PS829752D 21/09/2021

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REGISTERED PROPRIETOR

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT PS829752D 21/09/2021

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.

AGREEMENT Section 173 Planning and Environment Act 1987
AU629869A 28/07/2021

AGREEMENT Section 173 Planning and Environment Act 1987
AU644709N 02/08/2021

DIAGRAM LOCATION

SEE PS829752D FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
PS829752D (B)	PLAN OF SUBDIVISION	Registered	21/09/2021
AU880652W (E)	WITHDRAWAL OF CAVEAT	Registered	05/10/2021
AU880653U (E)	DISCHARGE OF MORTGAGE	Registered	05/10/2021
AU880654S (E)	TRANSFER	Registered	05/10/2021
AU880655Q (E)	MORTGAGE	Registered	05/10/2021

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

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

Street Address: 11 BEENAK EAST ROAD GEMBROOK VIC 3783

ADMINISTRATIVE NOTICES

NIL

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

Page 2 of 2



OWNERS CORPORATIONS

The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS829752D

DOCUMENT END

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Document Type	Instrument
Document Identification	AU644709N
Number of Pages (excluding this cover sheet)	5
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This Agreement is made on the

28 day of 6

2021

Between

Cardinia Shire Council of 20 Siding Avenue, Officer, Victoria 3809 (“the Council”)

and

Recitals

- A. The Owners are registered as owners of the land in Certificate of Title **Volume 9478 Folio 951**, being **Lot 7 LP121344** and known as **11 Beenak East Road, Gembrook**. (“the Land”).
- B. The Council is the Responsible Authority under the *Planning and Environment Act 1987* (the “Act”) and administers the Cardinia Planning Scheme (the “**Planning Scheme**”).
- C. Nobelius Land Surveyors on behalf of the Owner, made application to the Responsible Authority for a permit to subdivide the Land into three (3) lots.
- D. The Responsible Authority granted Planning Permit No. **T190132** (“the Permit”) on **5 October 2020** for the Land to be subdivided into three (3) lots and associated vegetation removal subject to a condition.
- E. Condition 5(h) of the Permit provides that:

Prior to the issue of a Statement of Compliance by the Responsible Authority, the owner must enter into an agreement with Council under Section 173 of the Planning & Environment Act, 1987 requiring the owners of lots 2 & 3 to contribute towards the construction of Red Road if constructed in the future.

The Agreement

1. Interpretation

In this Agreement unless the context admits otherwise:

- (1) The singular includes the plural and vice versa;
- (2) A reference to a gender includes all genders;
- (3) A reference to a person includes a reference to a firm, corporation or other corporate body and that person’s successors in law;
- (4) Any agreement, representation, warranty or indemnity by two or more persons (including where two or more persons are included in the same defined term) binds them jointly and severally;

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- (5) A term used has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act, it has the meaning as defined in the Act;
- (6) A reference to an Act, regulation or the Planning Scheme includes any Act, regulation or amendment amending, consolidating or replacing the Act, regulation or Planning Scheme;
- (7) The Recitals form part of this Agreement;
- (8) The Owner's obligations take effect as separate and several covenants which are annexed to and run at law and equity with the Land;
- (9) Any reference to a clause, page, condition, annexure, attachment or term is a reference to a clause, page, condition, annexure, attachment or term of this Agreement; and
- (10) For the purposes of this Agreement, and to the satisfaction of the Responsible Authority, area(s) required for vehicle access and a driveway on Lot 3 are considered to be excised from the Bandicoot Buffer area shown on the Plan of Subdivision.

2. Agreement to be binding on owners and their successors

- (1) The parties acknowledge and agree that this Agreement is made under Section 173 of the *Planning and Environment Act 1987*.
- (2) The obligations imposed on the Owners are binding on the successors, purchasers, transferees, mortgagees and assigns of the Owners and on any person obtaining possession of the Land or any part of the Land as if each of those persons had individually executed this Agreement.
- (3) The Owners must not sell, transfer, dispose of or part with possession of the Land or any part of it without first disclosing the existence and nature of this Agreement.

3. Owner's warranties

The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Land that may be affected by this Agreement.

4. Covenants

The Owner/s of lots 2 and 3 will contribute towards the construction of Red Road if constructed in the future.

As required in Condition 5(h) of Planning Permit T190132.

5. Terms and registration of this Agreement

- (1) The terms of this Agreement come into force immediately on execution, and runs with the Land.

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- (2) The Owner/s must use their best endeavours to have a memorandum of this Agreement registered on the title to the Land by the Registrar of Titles in accordance with Section 181 of the *Planning and Environment Act 1987*.

6. Cost

The Owner/s must bear the cost of and incidental to the making and the registration of this Agreement.

7. No Waiver

Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Council against the Owners will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

8. Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void, then it shall be severed and the other provisions of this Agreement shall remain operative.

9. No fettering of Council's powers

This Agreement does not fetter or restrict Council's power or discretion to make decisions or impose requirements or conditions in connection with the grant of planning approvals or certification of plans subdividing the Land or relating to use or development of the Land.

10. Whole agreement

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

11. Governing law

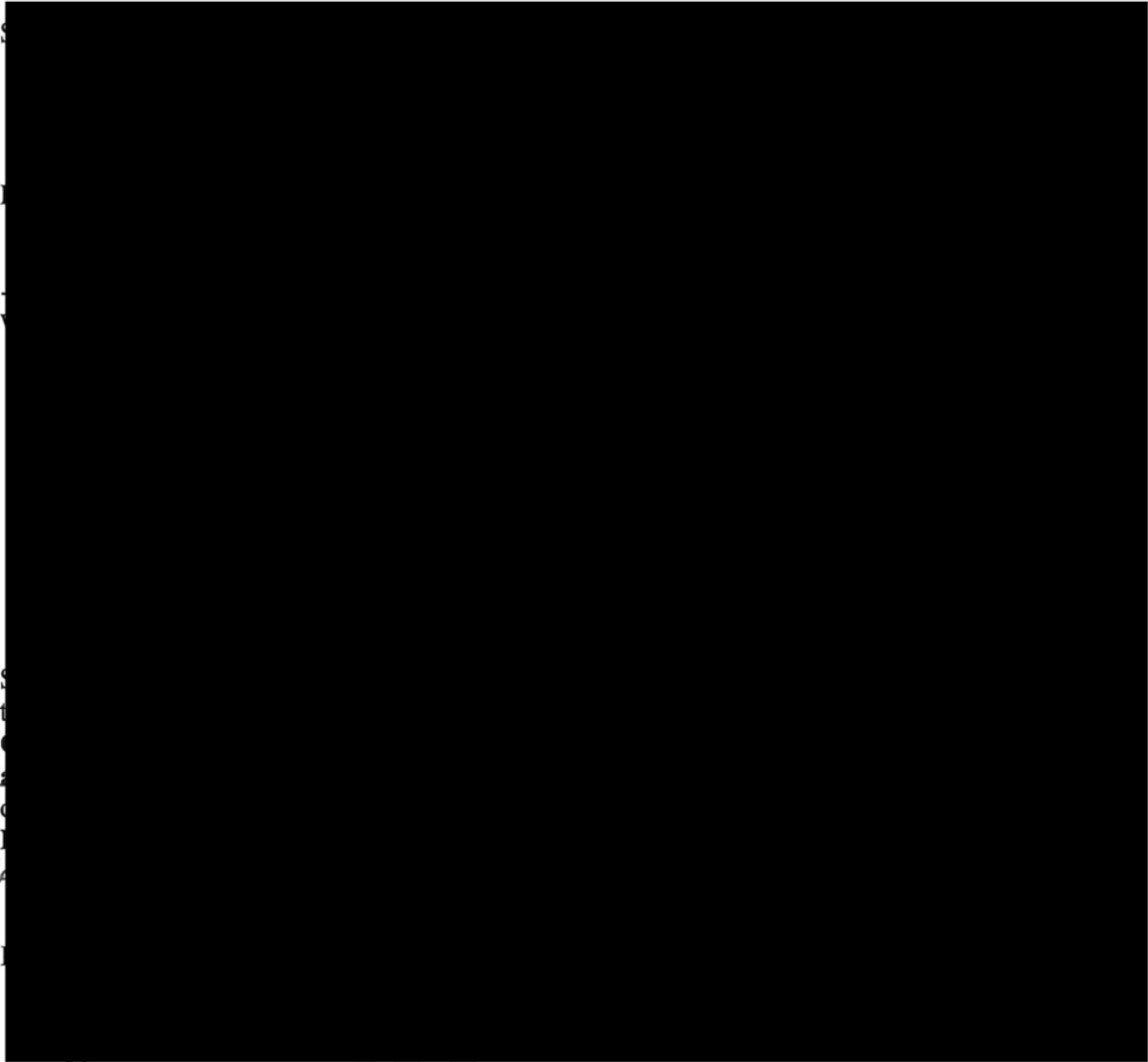
This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

12. Commencement of Agreement

This Agreement commences on the date specified on page one or if no date is specified on page one, the date Council executes this Agreement.

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In witness whereof the parties have set their hands and seals the day and year set out above.



Witness

AU6

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Appendix A Bushfire Management Plan



Defendable Space

Defendable space shall be provided from the outer face of the dwellings to be constructed on Lots 2 & 3 for a distance of 43m or to the property boundary (whichever is the lesser) as shown by the yellow shaded area on the plan.

The defendable space must be managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of the building, flammable objects must not be located close to the vulnerable parts of the building such as windows.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

Construction Standard

Any dwelling constructed on Lot 2 or 3 must be designed and constructed to a Bushfire Attack Level (BAL) of BAL29.

Water Supply

Each lot must be provided with 10000 litre water tank to be used for fire fighting purposes at the time a dwelling is constructed on the lot which meets the following requirements:

- Is stored in an above ground water tank constructed of concrete or metal.
- All fixed above ground water pipes and fittings required for firefighting purposes must be made of corrosion resistant metal.
- Be readily identifiable from the building or appropriate identification signage must be provided to the satisfaction of the Country Fire Authority.
- The outlet/s of the water tank must be within 4 metres of the accessway accessible by a fire truck and unobstructed.
- Incorporate a ball or gate valve (British Standard Pipe (BSP 65 millimetre) and coupling (64 millimetre CFA 3 thread per inch male fitting).
- Any pipework and fittings must be a minimum of 65 millimetres (excluding the CFA coupling).

Access

The proposed driveway providing access to Lots 2 & 3 should be constructed to meet the following requirements:

- All-weather construction.
- A load limit of at least 15 tonnes.
- Provide a minimum trafficable width of 3.5 metres.
- Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres above the accessway.
- Curves must have an inner minimum radius of 10m.
- The maximum grade must be no more than 1 in 5 (20 percent) (11.3 degrees) for no more than 50m.
- Dips must have no more than a 1 in 8 (12.5 percent) (7.1 degrees) entry and exit angle.
- If the driveway is more than 100m in length, incorporate a turning area for fire fighting vehicles close to the building.

APPROVED PLAN
PLANNING AND ENVIRONMENT ACT 1987
CARDINIA PLANNING SCHEME
Permit No.: T190132 PC2 (Con 01 C1P)
Sheet 8 of 9
Approved by: Dean Haeusler
CARDINIA SHIRE COUNCIL
Date: Thursday, 11 March 2021

AK136241K

MORTGAGE OF LAND

Section 74 Transfer of Land Act 1958

Lodged by:

Name: Scott Ashwood P/L

Phone: 03 9629 8922

Address: 4/53 Queen St, Melbourne, Vic

Ref: _____

Customer Code: 1557Q

Privacy Collection Statement
The information from this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

MADE AVAILABLE/CHANGE CONTROL

Office Use Only

The mortgagor mortgages to the mortgagee the estate and interest specified in the land described subject to the registered encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this mortgage. This mortgage is given for value, including the Lender, as you have requested, giving or continuing credit or not exercising certain rights in relation to that credit or agreeing to do so (even conditionally).

Land: *(volume and folio reference)*

Vol 09478 Fol 951

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Estate and Interest being mortgaged: *(e.g. "all my estate in fee simple")*

All the mortgagor(s) estate in fee simple

Mortgagee: *(full name and address including postcode)*

WESTPAC BANKING CORPORATION ABN 33 007 457 141 Australian credit licence 233714

25 Pierson St. Lockleys SA 5032 ("the Lender")

Date of this Mortgage:

03/01/12

The provisions contained in Memorandum of Common Provisions retained by the Registrar of Titles in No AA1530 (the "Memorandum") form part of this mortgage.

Witness to print full name

Witness to sign

Approval No. 7241101A

ORDER TO REGISTER
Please register and issue title to

STAMP DUTY USE ONLY



Signed

Cust. Code:



D3944540

THE BACK OF THIS FORM MUST NOT BE USED

Land Registry, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

Produced 21/09/2021 01:49:57 PM

Status	Registered	Dealing Number	AU629869A
Date and Time Lodged	28/07/2021 04:37:26 PM		

Lodger Details

Lodger Code	23448W
Name	PATHFINDER LAW
Address	
Lodger Box	
Phone	
Email	
Reference	205/20 Lot 2 & 3 agr

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APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Estate and/or Interest

FEE SIMPLE

Land Title Reference

9478/951

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	CARDINIA SHIRE COUNCIL
Address	
Property Name	CARDINIA SHIRE OFFICE
Street Number	20
Street Name	SIDING
Street Type	AVENUE
Locality	OFFICER
State	VIC
Postcode	3809



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Additional Details

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of
Signer Name
Signer Organisation
Signer Role
Execution Date

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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This Agreement is made on the

28 day of 6

2021

Between

Cardinia Shire Council of 20 Siding Avenue, Officer, Victoria 3809 (“the Council”)

and



Recitals

- A. The Owners are registered as owners of the land in Certificate of Title **Volume 9478 Folio 951**, being **Lot 7 LP121344** and known as **11 Beenak East Road, Gembrook**. (“the Land”).
- B. The Council is the Responsible Authority under the *Planning and Environment Act 1987* (the “Act”) and administers the Cardinia Planning Scheme (the “**Planning Scheme**”).
- C. Nobelius Land Surveyors on behalf of the Owner, made application to the Responsible Authority for a permit to subdivide the Land into three (3) lots.
- D. The Responsible Authority granted Planning Permit No. **T190132** (“the Permit”) on **5 October 2020** for the Land to be subdivided into three (3) lots and associated vegetation removal subject to condition.
- E. Condition 14 of the Permit provides that before the statement of compliance is issued under the *Subdivision Act 1988*, the owner must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*.

The agreement must:

- a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Cardinia Planning Scheme for lot 2 and lot 3 only.
- b) Incorporate the bushfire management plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
- c) State that if a dwelling is constructed on the land without a planning permit that the bushfire mitigation measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

The Agreement

1. Interpretation

In this Agreement unless the context admits otherwise:

- (1) The singular includes the plural and vice versa;
- (2) A reference to a gender includes all genders;

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- (3) A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;
- (4) Any agreement, representation, warranty or indemnity by two or more persons (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (5) A term used has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act, it has the meaning as defined in the Act;
- (6) A reference to an Act, regulation or the Planning Scheme includes any Act, regulation or amendment amending, consolidating or replacing the Act, regulation or Planning Scheme;
- (7) The Recitals form part of this Agreement;
- (8) The Owner's obligations take effect as separate and several covenants which are annexed to and run at law and equity with the Land;
- (9) Any reference to a clause, page, condition, annexure, attachment or term is a reference to a clause, page, condition, annexure, attachment or term of this Agreement; and

2. Agreement to be binding on owners and their successors

- (1) The parties acknowledge and agree that this Agreement is made under Section 173 of the *Planning and Environment Act 1987*.
- (2) The obligations imposed on the Owners are binding on the successors, purchasers, transferees, mortgagees and assigns of the Owners and on any person obtaining possession of the Land or any part of the Land as if each of those persons had individually executed this Agreement.
- (3) The Owners must not sell, transfer, dispose of or part with possession of the Land or any part of it without first disclosing the existence and nature of this Agreement.

3. Owner's warranties

The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Land that may be affected by this Agreement.

4. Covenants

The Owner/s covenant and agree with the Council that:

- (1) This Agreement has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Cardinia Planning Scheme to construct a single dwelling on lot 2 and lot 3 only.

- (2) If a dwelling is constructed on the land without a planning permit that the bushfire mitigation measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

As required in Condition 14 of Planning Permit T190132.

5. Terms and registration of this Agreement

- (1) The terms of this Agreement come into force immediately on execution, and runs with the Land.
- (2) The Owner/s must use their best endeavours to have a memorandum of this Agreement registered on the title to the Land by the Registrar of Titles in accordance with Section 181 of the *Planning and Environment Act 1987*.

6. Cost

The Owner/s must bear the cost of and incidental to the making and the registration of this Agreement.

7. No Waiver

Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Council against the Owners will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

8. Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void, then it shall be severed and the other provisions of this Agreement shall remain operative.

9. No fettering of Council's powers

This Agreement does not fetter or restrict Council's power or discretion to make decisions or impose requirements or conditions in connection with the grant of planning approvals or certification of plans subdividing the Land or relating to use or development of the Land.

10. Whole agreement

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

11. Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

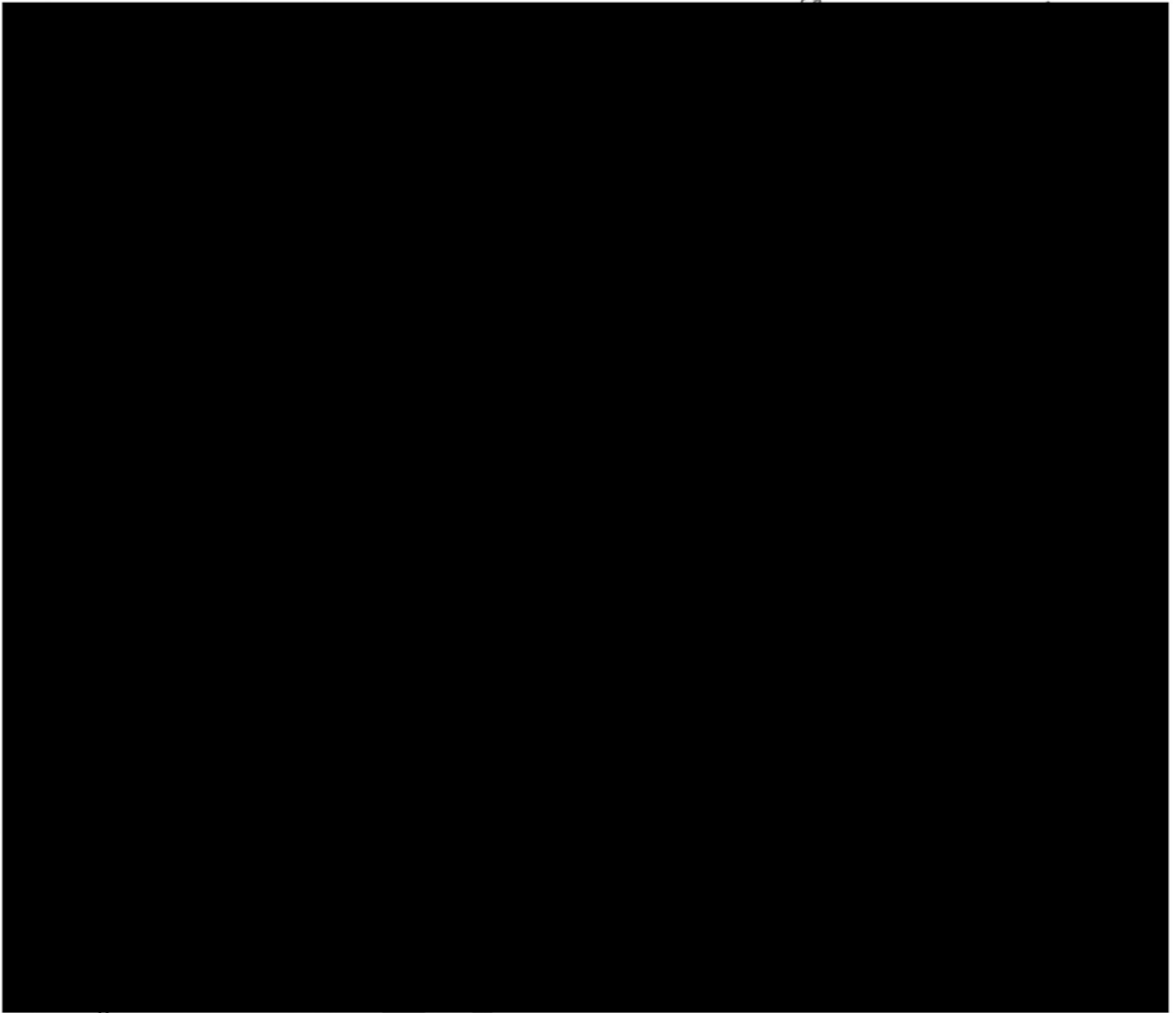
12. Commencement of Agreement

This Agreement commences on the date specified on page one or if no date is specified on page one, the date Council executes this Agreement.

AU629869A

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In witness whereof the parties have set their hands and seals the day and year set out above.



LC

Witness

AUC

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Appendix A Bushfire Management Plan



APPROVED PLAN
PLANNING AND ENVIRONMENT ACT 1987
CARDINIA PLANNING SCHEME

Permit No.: T190132 PC2 (Con 01 C) P1
Sheet 8 of 9
Approved by: Dean Haessler
CARDINIA SHIRE COUNCIL
Date: Thursday, 11 March 2021

Defendable Space

Defendable space shall be provided from the outer face of the dwellings to be constructed on Lots 2 & 3 for a distance of 43m or to the property boundary (whichever is the lesser) as shown by the yellow shaded area on the plan.

The defendable space must be managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of the building, flammable objects must not be located close to the vulnerable parts of the building such as windows.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

Construction Standard

Any dwelling constructed on Lot 2 or 3 must be designed and constructed to a Bushfire Attack Level (BAL) of BAL29.

Water Supply

Each lot must be provided with 10000 litre water tank to be used for fire fighting purposes at the time a dwelling is constructed on the lot which meets the following requirements:

- Is stored in an above ground water tank constructed of concrete or metal.
- All fixed above ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
- Be readily identifiable from the building or appropriate identification signage must be provided to the satisfaction of the Country Fire Authority.
- The outlet/s of the water tank must be within 4 metres of the accessway accessible by a fire truck and unobstructed.
- Incorporate a ball or gate valve (British Standard Pipe (BSP 65 millimetre) and coupling (64 millimetre CFA 3 thread per inch male fitting).
- Any pipework and fittings must be a minimum of 65 millimetres (excluding the CFA coupling).

Access

The proposed driveway providing access to Lots 2 & 3 should be constructed to meet the following requirements:

- All-weather construction.
- A load limit of at least 15 tonnes.
- Provide a minimum trafficable width of 3.5 metres.
- Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres above the accessway.
- Curves must have an inner minimum radius of 10m.
- The maximum grade must be no more than 1 in 5 (20 percent) (11.3 degrees) for no more than 50m.
- Dips must have no more than a 1 in 8 (12.5 percent) (7.1 degrees) entry and exit angle.
- If the driveway is more than 100m in length, incorporate a turning area for fire fighting vehicles close to the building.

Bushfire Management Plan – Proposed Subdivision, 11 Beenak East Road Gembrook
xwb consulting

Town Planning and Bushfire Consultants
July 2020

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PLAN OF SUBDIVISION		EDITION 1	PS 829752 D	
LOCATION OF LAND PARISH: Gembrook TOWNSHIP: --- SECTION: --- CROWN ALLOTMENT: A10 (PT) CROWN PORTION: --- TITLE REFERENCE: Vol. 9478 Fol. 951 LAST PLAN REFERENCE: Lot 7 LP 121344 POSTAL ADDRESS: 11 Beenak East Road, Gembrook 3783 (at time of subdivision) MGA CO-ORDINATES: E: 373 330 ZONE: 55 (of approx centre of land GDA 2020 in plan) N: 5 798 250		Council Name: Gardinia Shire Council Council Reference Number: S20-124 Planning Permit Reference: T190132 SPEAR Reference Number: S165152S Certification This plan is certified under section 6 of the Subdivision Act 1988 Public Open Space A requirement for public open space under section 18 of the Subdivision Act 1988 has been made and the requirement has not been satisfied at Certification Digitally signed by: Simone Norbury for Gardinia Shire Council on 14/04/2021 Statement of Compliance issued: 12/08/2021 Public Open Space A requirement for public open space under section 18 of the Subdivision Act 1988 has been made and the requirement has been satisfied at Statement of Compliance		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON	Other Purpose of Plan Creation of Restriction see sheet 3.		
Nil	Nil	NOTATIONS DEPTH LIMITATION: DOES NOT APPLY SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. This survey has been connected to permanent marks No(s) 185 In Proclaimed Survey Area No. --- LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS. FOR DETAILS OF ANY OWNERS CORPORATIONS INCLUDING PURPOSE, RESPONSIBILITY, OR ENTITLEMENT & LIABILITY SEE OWNERS CORPORATION SEARCH REPORT, OWNERS CORPORATION ADDITIONAL INFORMATION AND IF APPLICABLE, OWNERS CORPORATION RULES.		
NOTATIONS				
DEPTH LIMITATION: DOES NOT APPLY				
SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. This survey has been connected to permanent marks No(s) 185 In Proclaimed Survey Area No. ---				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easements and rights implied by Section 12(2) of the Subdivision Act 1988 apply to lots 2 & 3 in this plan.				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	Right of access by foot for maintenance of power supply. (Limited as to depth see section X-X')	2	This Plan	Lots 2 & 3 on This Plan
E-1	Water Supply (underground pipe)	2	This Plan	Lots 2 & 3 on This Plan
E-2	Right of access by foot for maintenance of power supply. (Limited as to depth see section Y-Y')	2	This Plan	Lot 2 on This Plan
E-2	Water Supply (underground pipe)	2	This Plan	Lot 2 on This Plan
E-3	Drainage	2	This Plan	Lot 1 on This Plan
E-4	Power Supply (underground)	See Plan	This Plan	AusNet Electricity Services Pty Ltd
NOBELIUS LAND SURVEYORS P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 mail@nobelius.com.au		SURVEYORS FILE REF: 17373 Digitally signed by: Benjamin Stephen Nobelius, Licensed Surveyor, Surveyor's Plan Version (Version E), 22/01/2021, SPEAR Ref: S165152S		ORIGINAL SHEET SIZE: A3 SHEET 1 OF 3 PLAN REGISTERED TIME: 10:50 AM DATE: 21/09/2021 L.D.Rozario Assistant Registrar of Titles

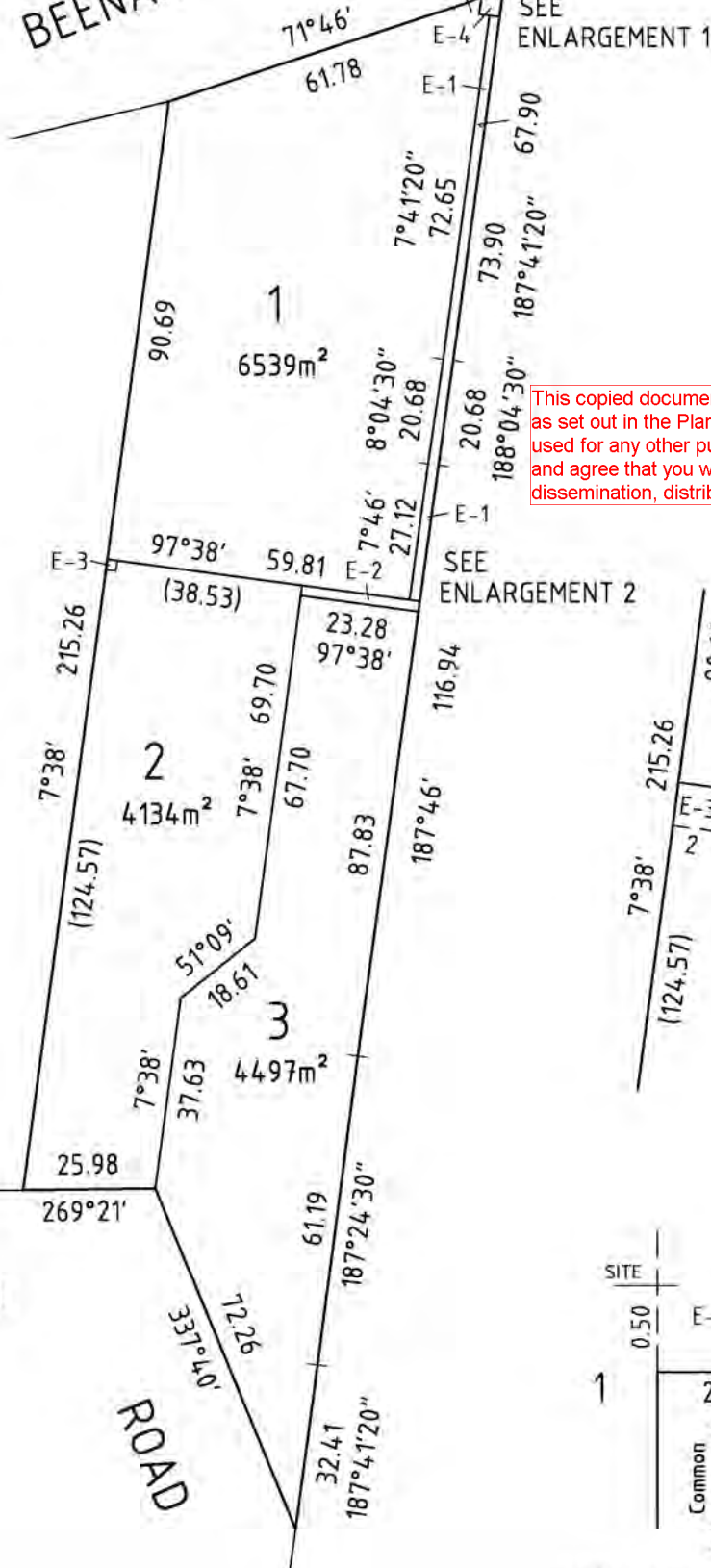
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PS 829752 D

BEENAK EAST ROAD

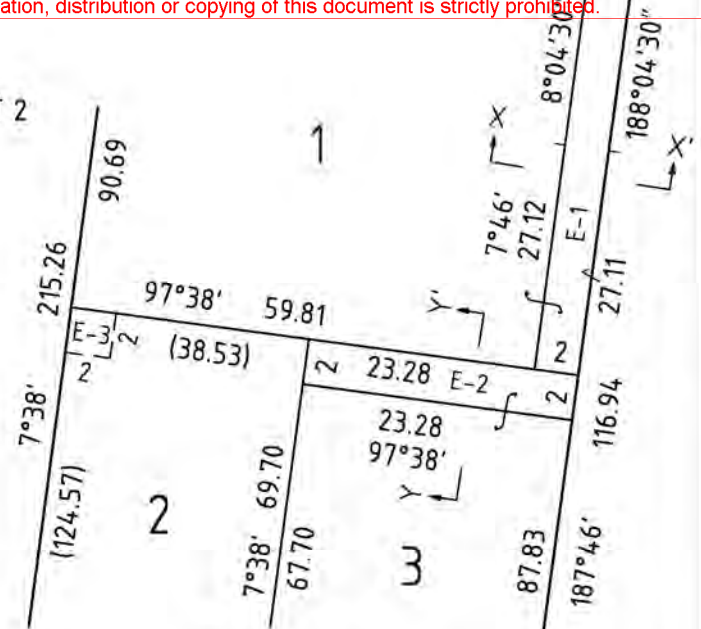
Common Property No.1

MGA2020
ZONE 55



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ENLARGEMENT 1
Not to Scale



ENLARGEMENT 2
Not to Scale

RED

ROAD

SITE	LEVEL
1	0.50
2	F-1
Common Property No.1	
BOUNDARY	
TITLE	

CROSS SECTION X - X'
Not to Scale

SITE	LEVEL
3	0.50
2	F-2
Common Property No.1	
BOUNDARY	
TITLE	

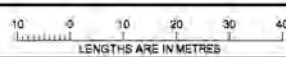
CROSS SECTION Y - Y'
Not to Scale

NOBELIUS LAND SURVEYORS



P.O. BOX 461
PAKENHAM 3810
Ph 03 5941 4112
mail@nobelius.com.au

SCALE
1:1000



Digitally signed by: Benjamin Stephen Nobelius, Licensed Surveyor,
Surveyor's Plan Version (Version E),
22/01/2021, SPEAR Ref: S185152S

ORIGINAL SHEET
SIZE: A3

SHEET 2

Digitally signed by:
Cardinia Shire Council,
14/04/2021,
SPEAR Ref: S185152S



Department of Environment, Land, Water & Planning

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Owners Corporation Search Report

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Produced: 21/09/2021 01:49:59 PM

OWNERS CORPORATION 1
PLAN NO. PS829752D

The land in PS829752D is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 2, 3.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

11 BEENAK EAST ROAD GEMBROOK VIC 3783

OC053276H 21/09/2021

Owners Corporation Manager:

NIL

Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

Owners Corporation Rules:

NIL

Additional Owners Corporation Information:

OC053276H 21/09/2021

Notations:

NIL

Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property 1	0	0
Lot 2	50	50
Lot 3	50	50
Total	100.00	100.00

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 21/09/2021 01:49:59 PM

OWNERS CORPORATION 1
PLAN NO. PS829752D

Statement End.

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From www.planning.vic.gov.au at 20 October 2021 10:00 PM

PROPERTY DETAILS

Address: **128 RED ROAD GEMBROOK 3783**
 Lot and Plan Number: **Lot 2 PS829752**
 Standard Parcel Identifier (SPI): **2\PS829752**
 Local Government Area (Council): **CARDINIA**
 Council Property Number: **5000032094**
 Planning Scheme: **Cardinia**
 Directory Reference: **Melway 299 B11**

www.cardinia.vic.gov.au

[Planning Scheme - Cardinia](#)

UTILITIES

Rural Water Corporation: **Southern Rural Water**
 Melbourne Water Retailer: **Yarra Valley Water**
 Melbourne Water: **Inside drainage boundary**
 Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **EASTERN VICTORIA**
 Legislative Assembly: **GEMBROOK**

OTHER

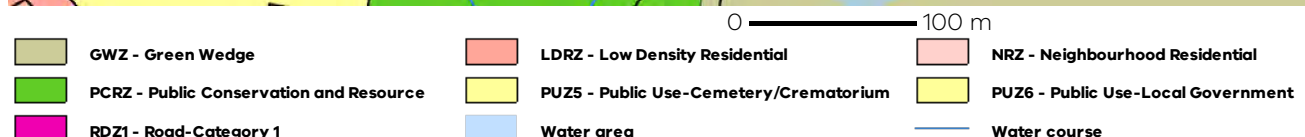
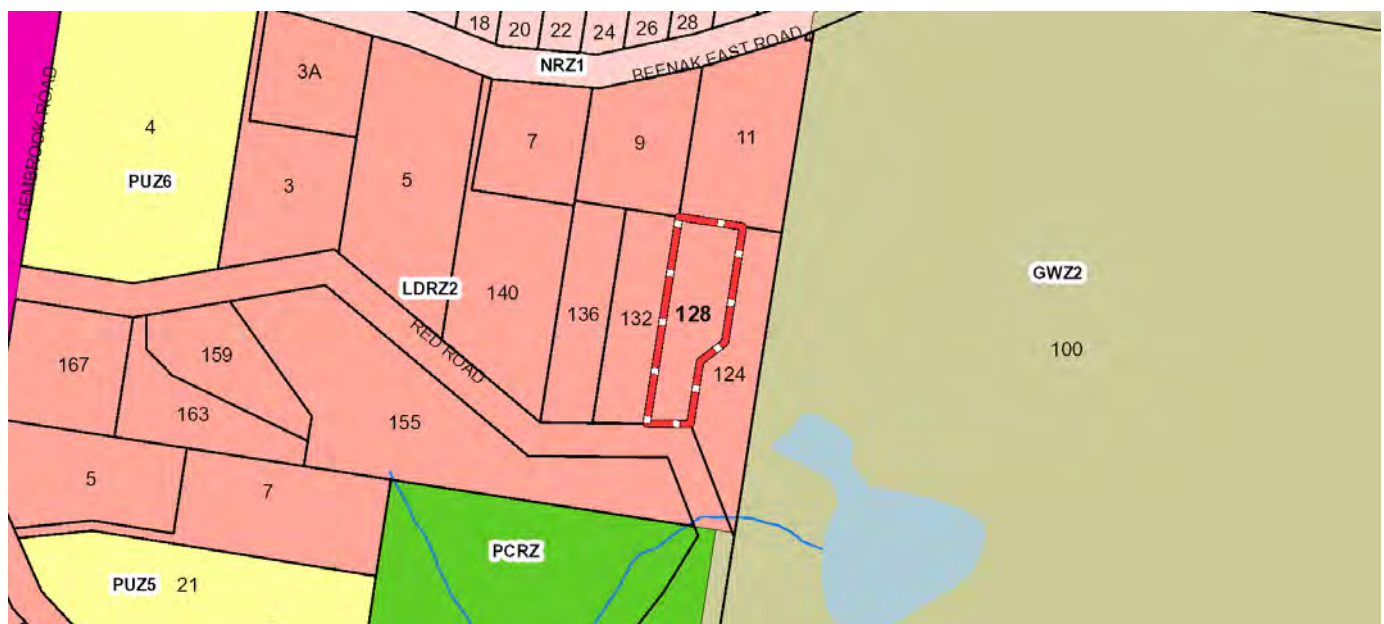
Registered Aboriginal Party: **Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation**

[View location in VicPlan](#)

Planning Zones

[LOW DENSITY RESIDENTIAL ZONE \(LDRZ\)](#)

[LOW DENSITY RESIDENTIAL ZONE - SCHEDULE 2 \(LDRZ2\)](#)



Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

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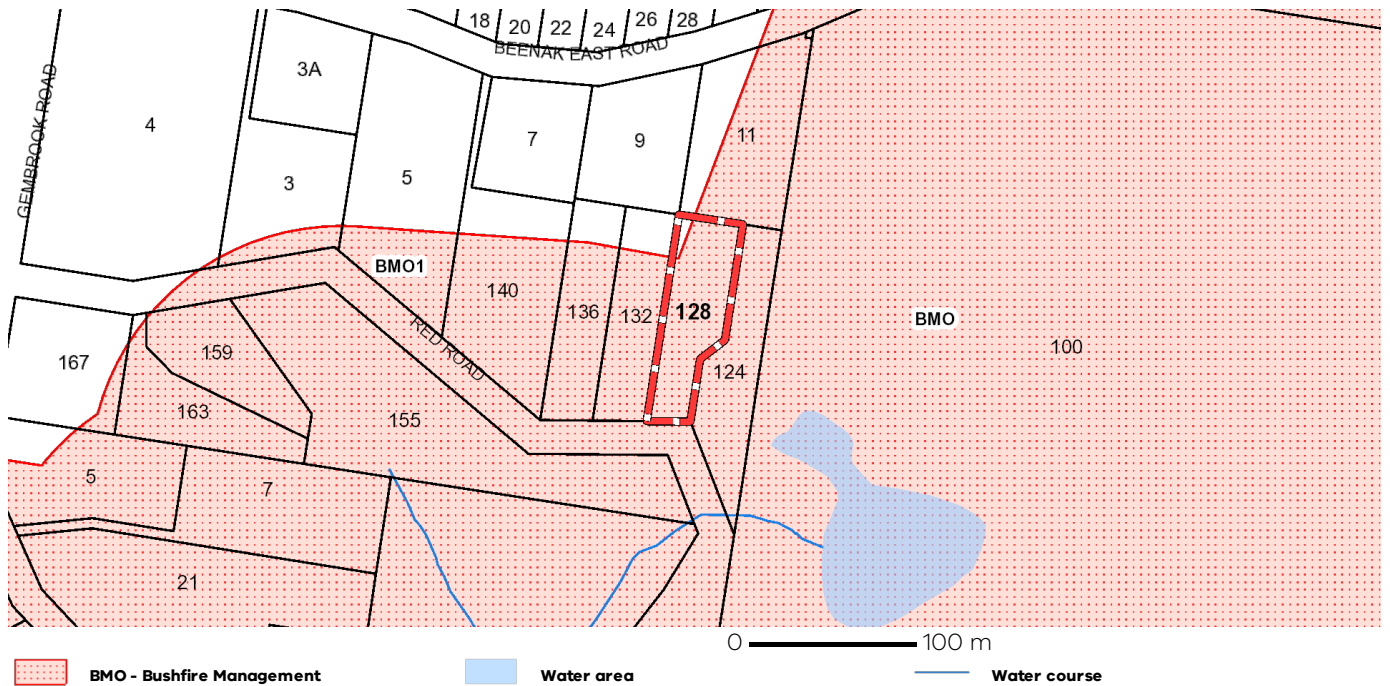
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Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

Planning Overlays

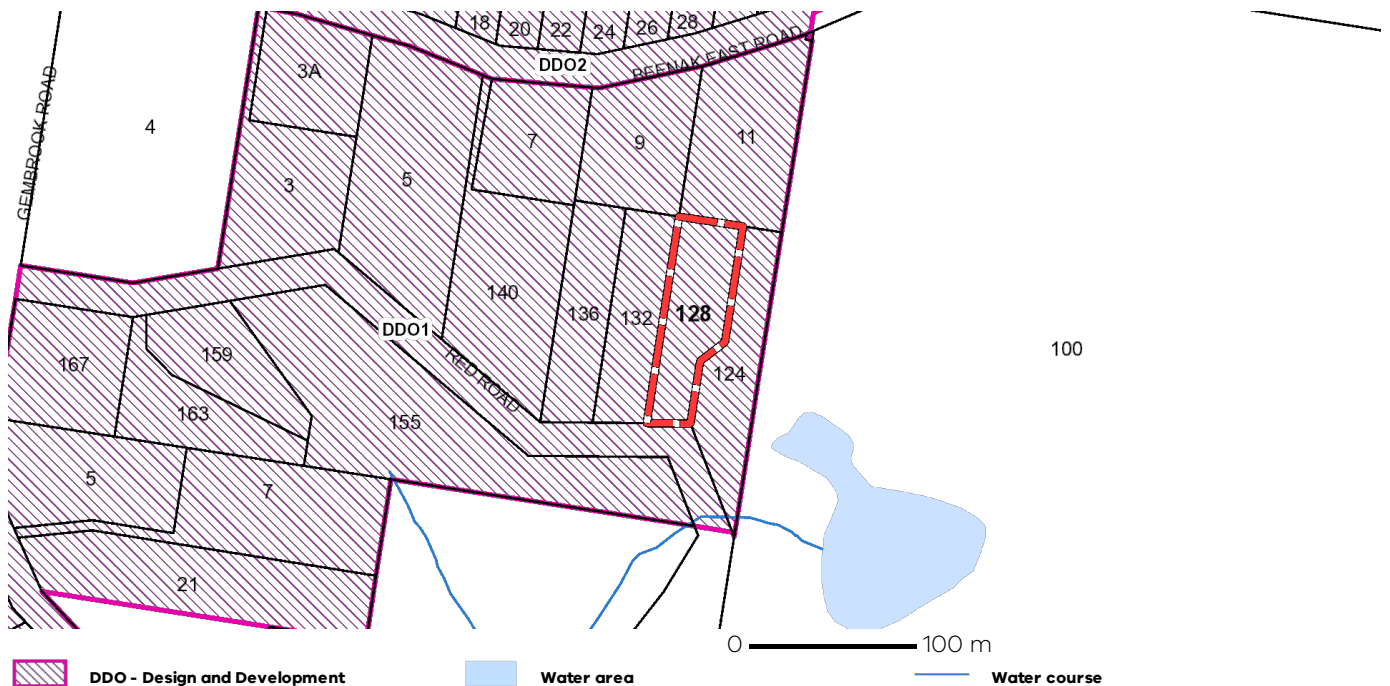
BUSHFIRE MANAGEMENT OVERLAY (BMO)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

DESIGN AND DEVELOPMENT OVERLAY (DDO)

DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 1 (DDO1)



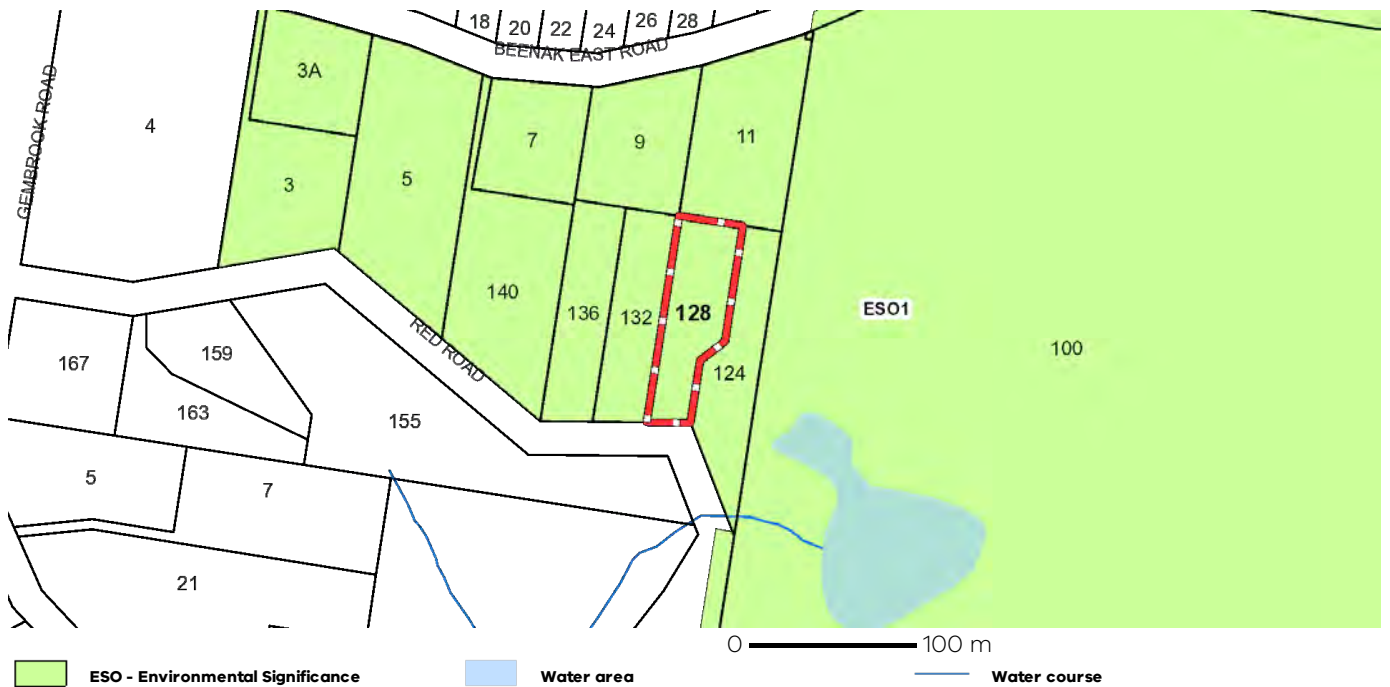
Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

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Planning Overlays

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

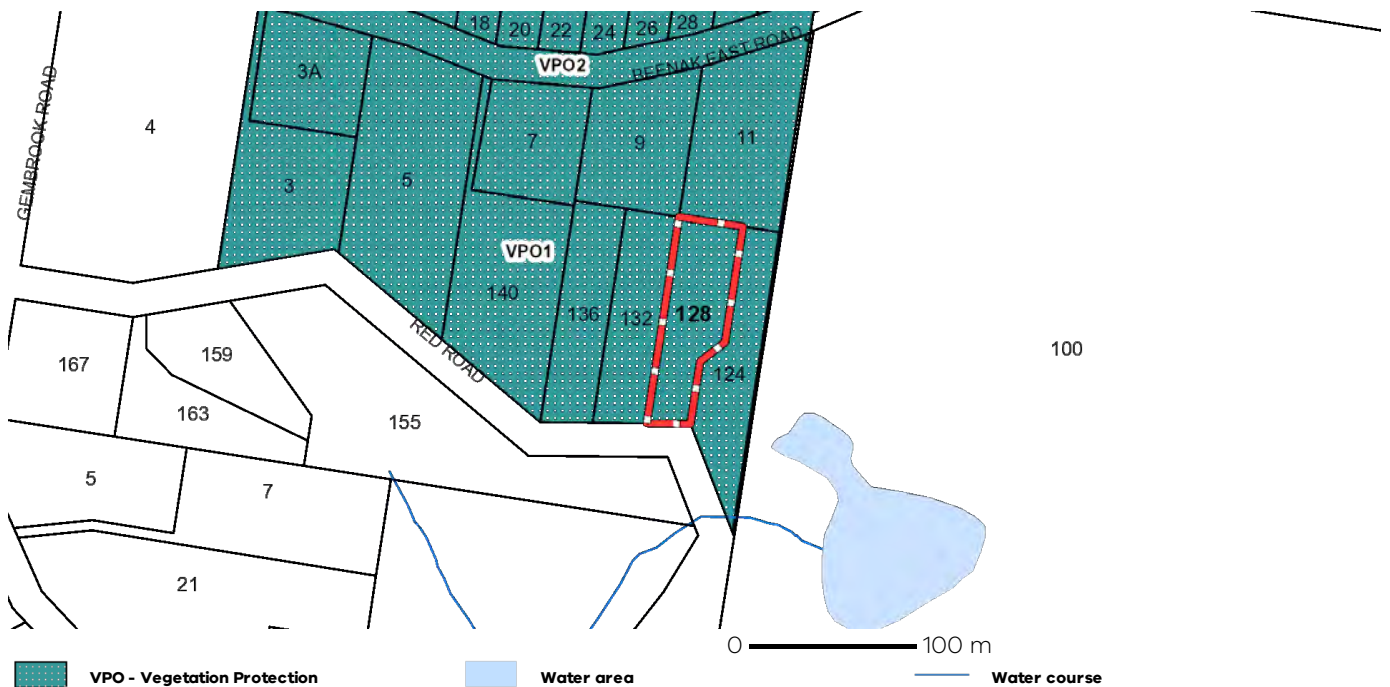
ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1 (ESO1)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

VEGETATION PROTECTION OVERLAY (VPO)

VEGETATION PROTECTION OVERLAY - SCHEDULE 1 (VPO1)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

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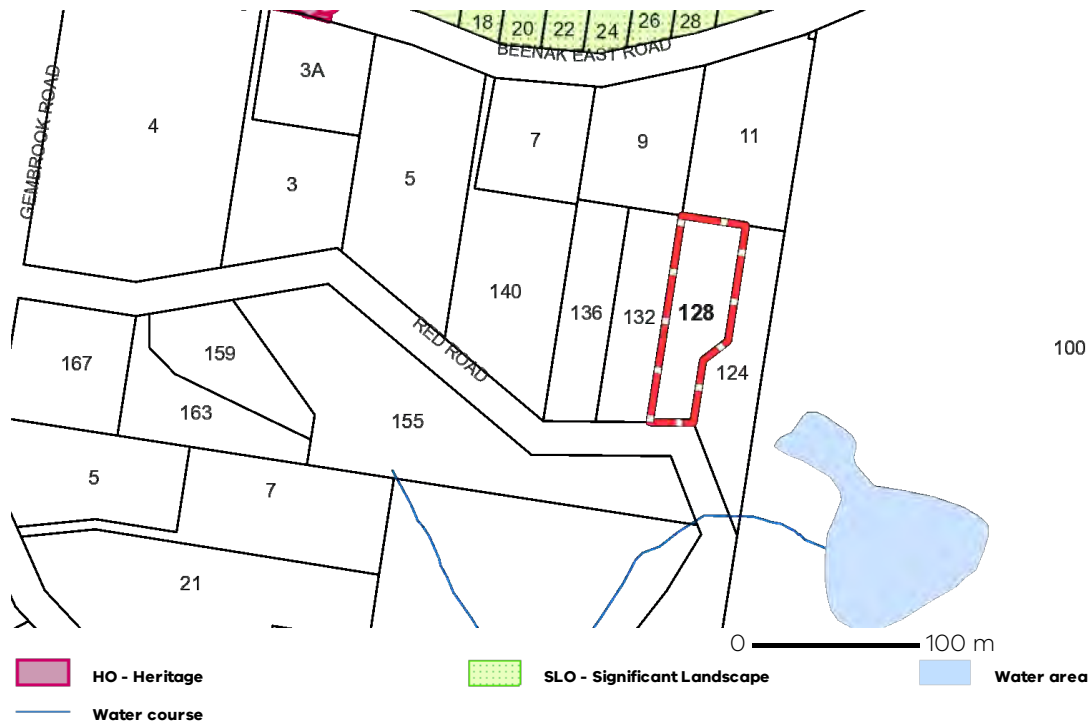
Planning Overlays

OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

[HERITAGE OVERLAY \(HO\)](#)

[SIGNIFICANT LANDSCAPE OVERLAY \(SLO\)](#)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 14 October 2021.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council

or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit

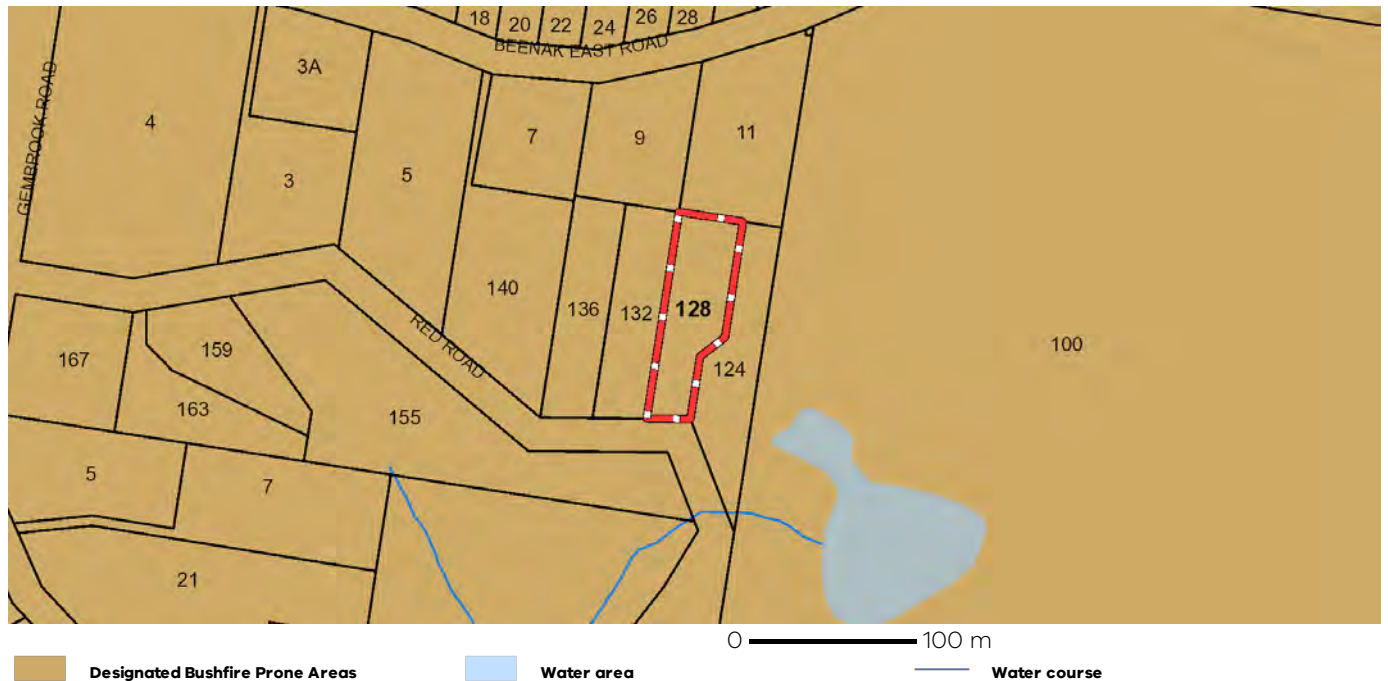
<https://mapshare.maps.vic.gov.au/vicplan>

For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

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Designated Bushfire Prone Areas

This property is in a designated bushfire prone area.
Special bushfire construction requirements apply. Planning provisions may apply.



Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011 and amended from time to time.

The Building Regulations 2018 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

Designated bushfire prone areas maps can be viewed on VicPlan at <https://mapshare.maps.vic.gov.au/vicplan> or at the relevant local council.

Note: prior to 8 September 2011, the whole of Victoria was designated as bushfire prone area for the purposes of the building control system.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>

Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>

For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on his property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](https://www.environment.vic.gov.au/) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](https://www.environment.vic.gov.au/)

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Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

26 October 2021.

Statutory Planning Coordinator
Planning Department
Cardinia Shire Council

**RE: PLANNING APPLICATION FOR A DWELLING AND A
DOMESTIC OUTBUILDING AT 128 RED ROAD, GEMBROOK.**

Attached please find an Application for a Planning Permit for buildings and works associated with construction of a dwelling and associated outbuilding proposed at 128 Red Road, Gembrook in accordance with the submitted plans.

The proposed development requires a Planning Permit due to the following Planning controls:

- Clause 44.06-2 Bushfire Management Overlay
- Clause 43.02-2 Design and Development Overlay Schedule 1
- Clause 42.01-2 Environmental Significance Overlay Schedule 1

It is submitted that there are no further Planning Permit triggers for this application.

1. THE PROPOSAL

The proposal is for a single storey dwelling and a domestic outbuilding. The existing crossover will continue to provide access to the subject site.

The proposed dwelling will contain 3 bedrooms including a master bedroom, a centrally located kitchen, open plan living and meals area, a lounge room, study, two alfresco's, double garage, and the like.

The external colors proposed for the development is as follows:

- | | |
|-----------------------------|---------------------|
| ○ Roof, fascia and gutter - | Colorbond Night Sky |
| ○ Weatherboards - | Dulux Lecicon |
| ○ Garage Door - | Colorbond Surfmist |
| ○ Shed - | Colorbond Night Sky |

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The proposed dwelling has been designed to fit in with the existing streetscape character by utilising a weatherboard exterior wall and gable designed colorbond roof. The secluded private open space of the dwelling is located on the east and north of the dwelling with adequate solar access. Landscaping works will further compliment the development once established.

The proposed dwelling will require site *cutting and filling* due to the sloping topography of the land. The highest point of the building envelope is located at the north-western corner where the proposed shed will be located and falls to the south (i.e. Red Road). The reason for the proposed shed to be located at this point is to provide a degree of screening to the existing dwelling on the west of the site.

It is understood that when the building envelope was approved and registered on the Plan of Subdivision, it was acknowledged that *cutting and filling* of the envelope will be required to accommodate the future development.

Once a Planning Permit has been issued, then an Onsite Wastewater Management System (OWMS) permit will be obtained from Councils Health Dept.

2. SUBJECT SITE AND SURROUNDING LAND

The subject site is formally described as Lot 2 Plan of Subdivision 829752D and is commonly known as 128 Red Road, Gembrook.

The site has an area of approximately 4088sqm, gains direct access from Red Road and was created in January 2021.

The location of the proposed development is free of vegetation, has a slope to the south and some excavation works are proposed in response to the topography of the land as per submitted plans.

The site is mostly vacant apart from one large Oak Tree which the owners intend to retain as this will add to the landscaping of the site once construction work completes. A site cut has already been established on the land by the previous landowner to identify the location of the building envelope.

The land is surrounded by low density residentially zoned land. Land further to the east is zoned as Green Wedge Zone 2 and is used as a grazing farm. The land to the north and west contains existing dwellings and outbuildings and has similar topography as the subject site. The land to the east is vacant. It is understood that this land has recently been sold and the new owners will be constructing a dwelling shortly.

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IMAGE 1 – Aerial view of the subject site.



IMAGE 2 – view of the site towards north showing location of existing site cut within the Building Envelope.

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3. Restrictive Covenants and S173 Agreements

The following covenant and s173 Agreements are registered to the copy of the title of the subject land.

a) Section 173 Agreement AU644709N

This agreement relates to contribution towards the construction of Red Road if constructed in future (as per condition 5(h) of Planning Permit T190132.

Response:

The landowner is aware of this Agreement and will contribute as required in future.

b) Section 173 Agreement AU629869A

This agreement *'has been prepared for the purpose of an exemption from a Planning Permit under Clause 44.06-2 fo the Cardinia Planning Scheme to construct a single dwelling on Lot 2 amd Lot 3 only'*.

The agreement further states that *'if a dwelling is constructed on the land without a planning permit than the bushfire mitigation measures set out in the plan incorporated into the agreemnt must be implemented and maintained to the satisfaction fo the responsible authority on a continuing basis'*.

Response:

The landowner is aware of the endorsed BMP requirements. It it understood that the endorsed BMP applies to the development located within the identified *Habitable Building Envelope*. The vegetation on the land has been removed few years ago in response to the approved BMP prior to the issue of the new titles for the subject land. The proposed development submitted as part of this application is located within the registered Envelope as per attached plans and therefore considered to be in compliance with the requirements of the approved BMP.

c) Covenant PS 829752D

The covenant relates to the registered Habitable Building Envelope (HBE) and states as follows (as relevant to this application):

1. *The registered proprietor or proprietors for the time being of lot 2 shall not construct any garage or dwelling outside the area denoted as Habitable Building Envelope without the further consent of the Responsible Authority'*.

Response:

The proposed dwelling and outbuilding has been designed to meet the covenant requirements and is sited within the approved envelope.

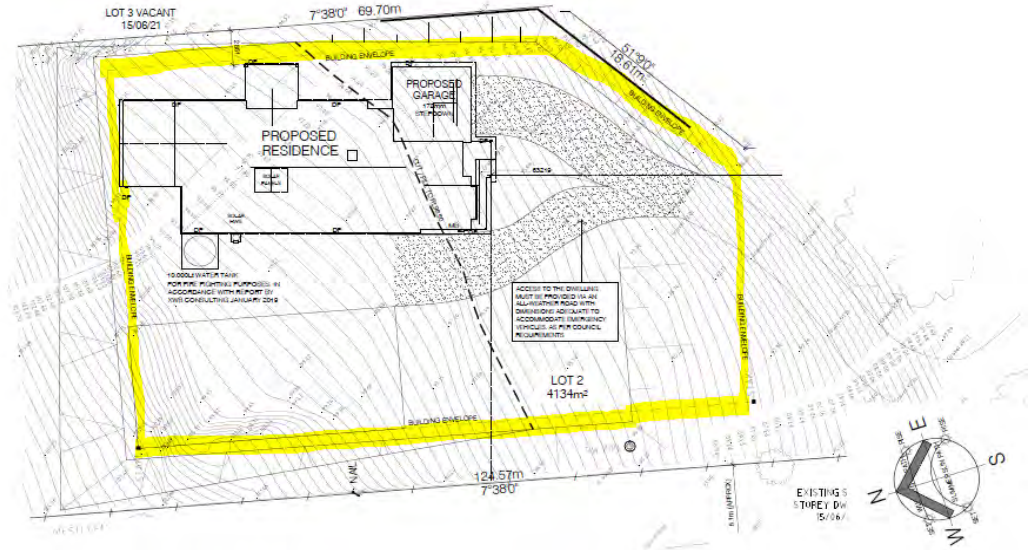


IMAGE 3 - Site Plan.

4. **CLAUSE 32.03 – LOW DENSITY RESIDENTIAL ZONE**

The subject site is zoned as Low Density Residential Zone (LDRZ) as identified under the provisions of the Cardinia Planning Scheme.

The purpose of the Zone provision is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

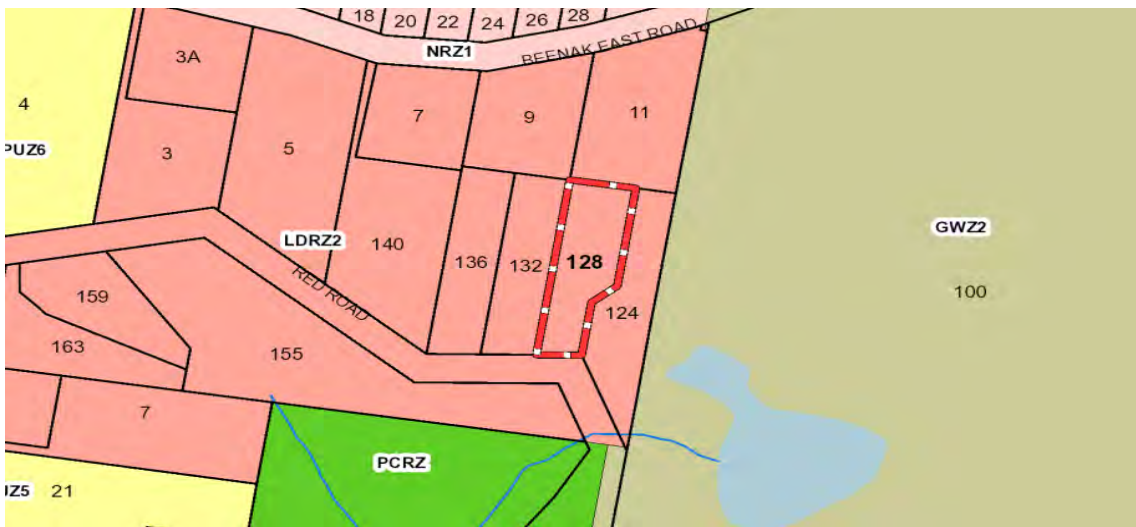


IMAGE 4 - Land use zoning of the site and surrounding areas.

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The site and surrounding land is zoned as Low Density Residential Zone apart from the land to the further east, which is zoned as Green Wedge Zone Schedule 1.

The land is proposed to be *developed and used* as a single dwelling which is a Section 1 Use under Clause 32.03-1 of the Cardinia Planning Scheme.

Buildings and works associated with a *Section 1 Use* do not require Planning Approval under the provisions of Clause 32.03-4, as in this case, therefore consideration of the zone provisions is not considered relevant to the assessment of this application.

5. Clause 43.02 – Design & Development Overlay Schedule 1 (DDO1)

The subject site and surrounding areas are affected by Design & Development Overlay Schedule 1.

The design objective of the overlay is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*
- *To ensure that the location and design of buildings creates an attractive low density residential environment.*
- *To ensure that any development has regard to the environmental features and constraints of the land.*
- *To ensure that the subdivision of land has regard to the existing pattern of subdivision in the area.*

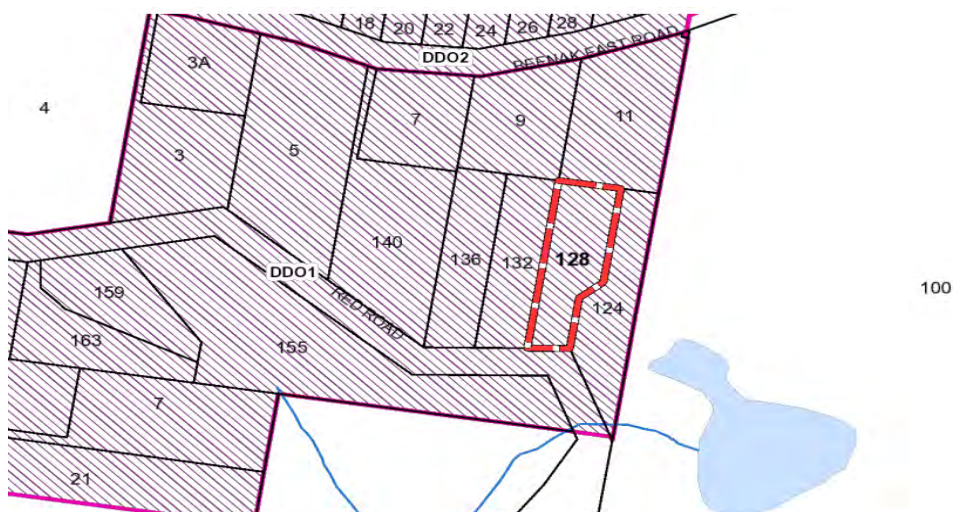


IMAGE 5 – Design & Development Overlay Schedule 1 (DDO1) affecting site and surrounding areas.

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Clause 43.02-2 relating to *buildings and works* states that a permit is required to construct a building or to construct or carry out works, however the Schedule at Clause 2 of DDO1 states that *a permit is not required to construct a building or construct or carry out works provided all of the following requirements are met.*

A response to these controls have also been provided for council's consideration.

- *Any building must be located within the building envelope if one is registered on the plan of subdivision.*

Response :- A *Habitable Building Envelope* is attached to the Plan of Subdivision of the subject land. The proposed dwelling and the associated outbuilding has been sited within the identified envelope and therefore is submitted to be in compliance with the covenant requirement. It is acknowledged that the proposed outbuilding can be constructed outside of the envelope as this is not a *habitable* building, however the owner is avoiding scattering of buildings on the land.

- *Any building must be set back at least 30 metres from a Road Zone Category 1, 20 metres from a Road Zone Category 2, 10 metres from any other road, and 5 metres from any other boundary unless the location of the building is within an approved building envelope.*

Response :- As shown on plans and registered envelope, the required setback complies with the following setbacks:

- Front (south) setback is 63.22m which exceeds the required 10m setback.
- Rear (north) setback is 36m which exceeds the required 5m setback.
- Side (west) setback is set at 5m which complies with the requirement.
- Side (east) setback is set at a minimum of 2.86m for the alfresco area which does not meet the required setback, however it is submitted that the registered building envelope does allow for this minor encroachment. The alfresco area is open sided (i.e. without walls) and therefore the 5m setback to the walls of the dwelling is achieved.
- In addition to this, the garage also encroaches onto the 5m side setback, however, is fully located within the identified building envelope. It is understood that some exemptions were given by Council for a reduced side setback when the Building Envelope was approved and registered to the Plan of Subdivision as part of the approval of the subdivision of the subject land (being Planning Permit T190132).

- *Any building or works must be set back at least 60 metres from a waterway.*

Response :- There are no waterways within 60m of the proposed building or works.

- *If the building is an extension to an existing dwelling.*

Response :- The application is for a new dwelling.

- *If the building is an outbuilding ancillary to a dwelling, the gross floor area of all outbuildings on the land must not exceed 120 square metres.*

Response :- A permit is required as the area of the outbuilding exceeds 120sqm (i.e. is set at 200sqm). It is not uncommon to have large sheds on acreage properties. The shed will be used for the storage of passenger vehicles, caravan, boat, ride on mower, tools and partly used as a domestic workshop.

- *Building materials must be non-reflective or subdued colors which complement the environment.*

Response :- All external color details are shown on attached plans. Non-reflective colors are not proposed with the development.

- *The height of any building must not exceed 7 metres above natural ground level.*

Response :- The overall height of the dwelling is set at 6.97m which meets the clause requirements. Some site cutting and benching will be required to allow creation of a flat pad for the concrete floor, foundation and footing works as shown on plans.

- *The works must not involve the excavation of land exceeding 1 metre or filling of land exceeding 1 metre and any disturbed area must be stabilised by engineering works or revegetation to prevent erosion.*

Response :- Due to the existing topography of the land, a cut and fill is proposed. The proposed dwelling will require a site cut and fill as shown on submitted plans. Site cut will subsequently be completed with a retaining wall and landscaping works. a landscaping plan can be provided if required.

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- *The slope of the land on which the buildings and works are undertaken must not exceed 20%.*

Response :- It is submitted that the registered building envelope has catered for the topography of the land.

- *The buildings and works must not result in the removal or destruction of native vegetation (including trees, shrubs, herbs, sedges and grasses) within an area of botanical or zoological significance as shown on the mapped information provided by the Department of Natural Resources and Environment, with the exception of Sweet Pittosporum (Pittosporum undulatum).*

Response :- No vegetation is proposed for removal as part of this application. The land was cleared by the previous owner under the approved Bushfire Management Plan endorsed under Planning Permit T190132. There is a large Oak Tree on the land which will be retained as it provides a landscaping feature of the site as shown below in photos.

In response to the Decision Guidelines at Clause 6 of DDO1, it is submitted that:

- An Onsite Wastewater Management permit will be obtained from Councils Health Department once a Planning Permit has been issued by the Councils Planning Department.
- The subject site is not located near or adjoining a waterway, gully, ridgeline or will require removal of any significant vegetation.
- The landowner is proposing to substantially landscape the site once the construction works are completed so as not to disturb the landscaped areas during the construction of the dwelling phase.
- As stated in this report, the land does not contain any areas of remnant vegetation, and habitat of botanical and zoological significance.
- It is not considered that the proposed development will have an adverse impact on the landscape character of the area, ridgelines or significant views as the site is lower than other adjoining properties. The proposed dwelling is of single storey in height and is finished in colours and materials which are sympathetic to the low density character of the area.
- As part of the Building Permit process, the relevant Building Surveyor will address fire rating requirements as the site is located within a Bushfire Prone Area.
- All stormwater from the proposed development will appropriately be discharged to a legal point in accordance with the relevant Building Permits prior to the development being occupied.
- Given the extent of site cutting / filling involved with the development, it is not considered that this will result in soil erosion. In addition to this, the Building Regulations will also require appropriate battering of the site cut as necessary.

6. CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY SCHEDULE 1 (ESO1)

The subject site is affected by Environmental Significance Overlay Schedule 1 (ESO1) of Clause 42.01 Schedule 1.

The objective to be achieved under this clause provision is:

- *To protect and enhance the significant environmental and landscape values in the northern hills area including the retention and enhancement of indigenous vegetation.*
- *To ensure that the siting and design of buildings and works does not adversely impact on environmental values including the diverse and interesting landscape, areas of remnant vegetation, hollow bearing trees, habitat of botanical and zoological significance and water quality and quantity.*
- *To ensure that the siting and design of buildings and works addresses environmental hazards including slope, erosion and fire risk, the protection of view lines and maintenance of vegetation as the predominant feature of the landscape.*
- *To protect and enhance biolinks across the landscape and ensure that vegetation is suitable for maintaining the health of species, communities and ecological processes, including the prevention of the incremental loss of vegetation.*

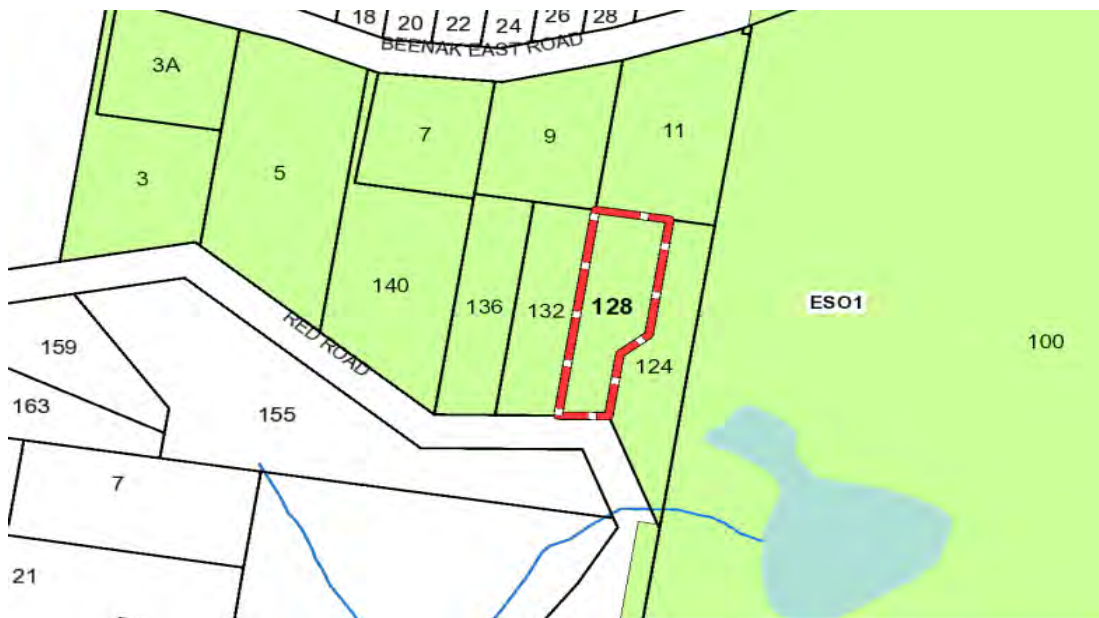


IMAGE 6 – Environmental Significance Overlay Schedule 1 (ESO1) affecting site and surrounding areas.

Clause 42.01-2 relating to *buildings and works* states that a permit is required to construct a building or to construct or carry out works, however the Schedule at Clause 3 of ESO1 states that *a permit is not required to construct a building or construct or carry out works provided all of the following requirements are met.*

A response to these controls have also been provided for council's consideration.

- *Building materials must be non-reflective or subdued colours which complement the environment to the satisfaction of the responsible authority.*

Response :- All external color details are shown on attached plans. Non-reflective colors are not proposed as part of this application.

- *The height of any dwelling must not exceed 7 metres above natural ground level and the height of all other buildings must not exceed 4 metres above natural ground level.*

Response :- The overall height of the dwelling is set at 6.97m which meets the clause requirements. Some site cutting and benching will be required to allow creation of a flat pad for the concrete floor, foundation and footing works as shown on plans.

- *The works must not involve the excavation of land exceeding 1 metre or filling of land exceeding 1 metre and any disturbed area must be stabilised by engineering works or revegetation to prevent erosion.*

Response :- Due to the existing topography of the land, a cut and fill is proposed. The proposed dwelling will require a site cut and fill as shown on submitted plans. Site cut will subsequently be completed with a retaining wall and landscaping works.

- *The slope of the land on which the buildings and works are undertaken must not exceed 20%.*

Response :- It is submitted that the registered building envelope has catered for the topography of the land.

- *The buildings and works must not result in the removal or destruction of native vegetation (including trees, shrubs, herbs, sedges and grasses) within an area of botanical or zoological significance as shown on the mapped information provided by the Department of Sustainability and Environment, with the exception of Sweet Pittosporum (*Pittosporum undulatum*).*

Response :- No vegetation is proposed for removal as part of this application. The land was cleared by the previous owner under the approved Bushfire Management Plan endorsed under Planning Permit T190132. There is a large Oak Tree on the land which will be retained as it provides a landscaping feature of the site as shown below in photos.

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- *If the building is an extension to an existing dwelling that is less than 50 percent of the floor area of the existing building.*

Response :- The application is for a new dwelling.

- *If the building is an outbuilding ancillary to a dwelling, the gross floor area of all outbuildings on the land must not exceed 120 square metres.*

- Response :- A permit is required as the area of the outbuilding exceeds 120sqm (i.e. is set at 200sqm). It is not uncommon to have large sheds on acreage properties as it allows for storage of additional passenger vehicles, caravan's, boat's, ride on mower's, tools and use for domestic workshop.

- *If the building is in a Green Wedge or Rural Conservation Zone and is associated with the existing use of the land for the purposes of agriculture, the gross floor area of the building must not exceed 160 square metres.*

Response :- Not applicable.

- *If a building envelope is registered on the plan of subdivision, any building must be located within the building envelope*

Response :- The proposed dwelling and outbuilding is located within the registered envelope.

In response to the *Information Requirements* at Clause 3 of ESO1, it is submitted that:

- A detailed and dimensioned site, floor and elevation plans are attached for Councils consideration.
- External colors and materials shown on the plans to ensure it blends in with the local character of the area and to preserve the low density environment.
- No vegetation is proposed for removal as part of this application. The building envelopes and accessways are free of vegetation. There is only one Oak Tree located onsite, however no works are proposed within the canopy line of this tree.
- Location of all earthworks are shown on attached plans. It is further submitted that when the envelopes were created on the Plan of Subdivision, it was expected that site benching will be required to accommodate the proposed dwelling and associated outbuilding(s).

7. PARTICULAR PROVISIONS

There are no Particular Provisions, which is directly relevant to the consideration of this application.

8. CONCLUSION:

It is submitted that the application should be supported as it positively responds to the relevant provisions of the Planning Policy Framework and the purpose, objective and decision guidelines of the overlay provisions as relevant to this application.

In particular, this planning report submits that the proposal is acceptable for the following reasons:

- a) The siting, design, height, bulk and materials selected will blend in with the natural environment, character and appearance of the area. It is not considered that the development will have a detrimental impact on the landscape of the area as there are other similar developments on surrounding land.
- b) There are no sensitive land uses adjoining the site which will be affected due to the proposed development or intended use.
- c) No vegetation is proposed for removal.
- d) A wastewater disposal permit will be obtained from Council as part of the Building Permit process.
- e) The land has been set aside for low density residential development and the application outcomes will achieve this objective.
- f) All earthworks will be appropriately battered to avoid any potential soil erosion.
- g) Landscaping works will be carried out once the dwelling and the outbuilding has been completed and this will further compliment the site and the character of the area.

It is submitted that the proposed development appropriately balances Councils policy objectives whilst delivering a site responsive land use and development which is consistent with the relevant zone and overlay provisions.

On this basis, it is requested that Council issues a Planning Permit in support of the application for the development of land with a dwelling and associated outbuilding.

Please do not hesitate to contact us (preferably by email) if you require any additional information.

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9. PHOTO ALBUM:



IMAGE 7 - Location of Building Envelope with existing site cut. View to the east of the site.



IMAGE 8 - Location of Building Envelope with existing site cut. View to the south east of the site.

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IMAGE 9 - View to the south of the site towards Red Road.



IMAGE 10 - Location of Building Envelope with existing site cut. View to the north (rear) of the site.

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IMAGE 10 – Location of Building Envelope with existing site cut. View to the north west of the site.



IMAGE 10 - Location of Building Envelope with existing site cut. View to the north of the site.



IMAGE 10 - Red Road and access to the subject site.



IMAGE 10 – location of crossover to the subject site.

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IMAGE 10 – adjoining dwelling to the west of the site at 132 Red Road with similar land topography.



IMAGE 10 – Adjoining property to the east of the site (being 124 Red Road) containing an existing site cut. View to the north.

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IMAGE 10 – other recently constructed dwellings in the area with similar land topography.

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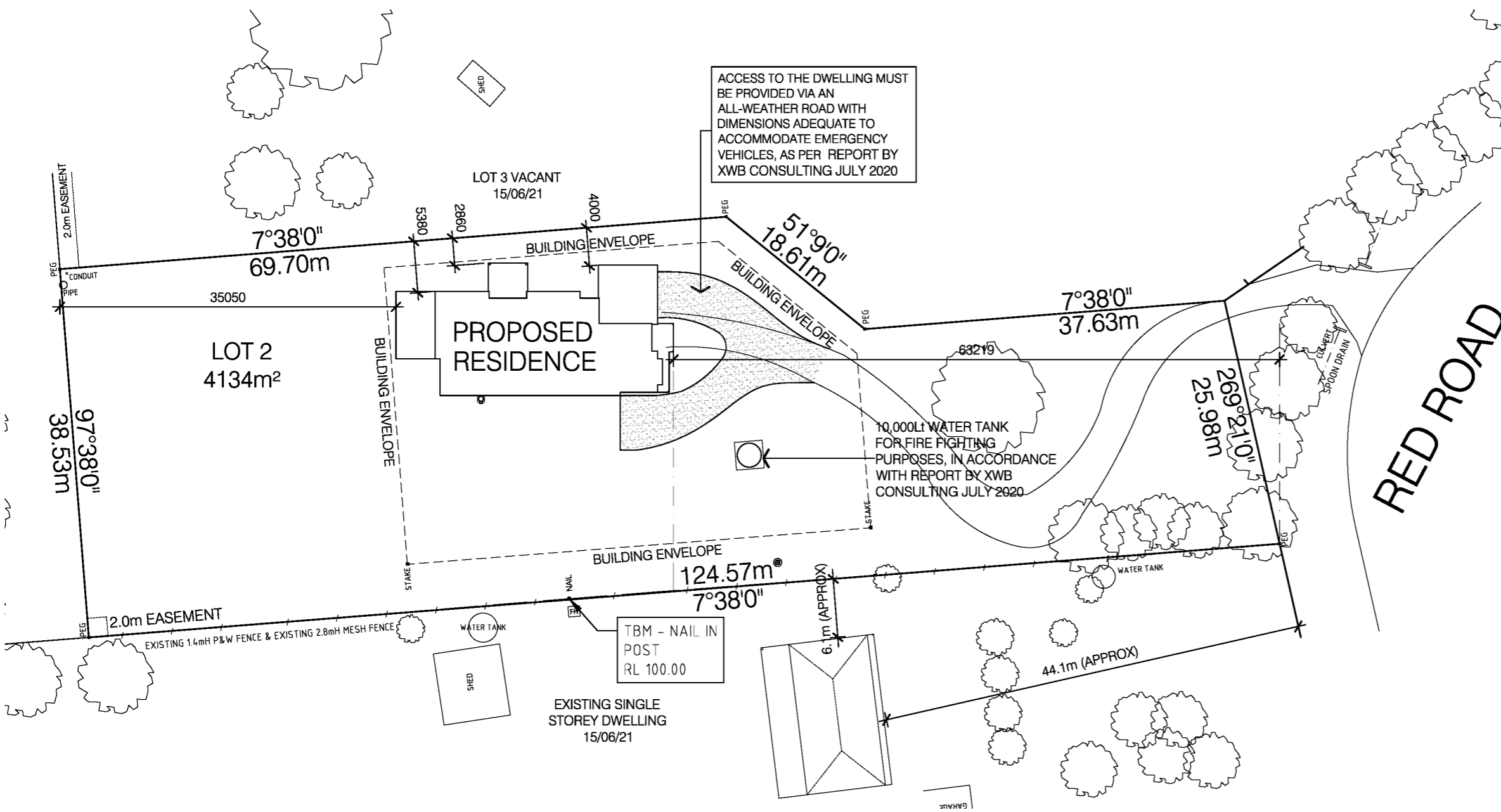
N3 WIND RATING

CUT 3000mm & FILL MIN 1700mm TO R.L. 96.50 - BATTER CUT & FILL TO NGL

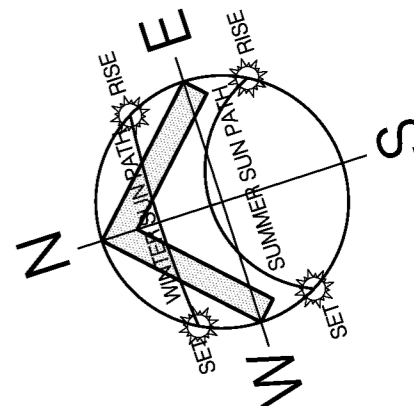
SITE COVERAGE ANALYSIS

BUILDING	315.31	7.63%
DRIVEWAY	0	0.00%
PERMEABLE	3818.69	92.37%
TOTAL	4134	100.00%

- WORKING DRAWINGS ARE TO BE READ IN CONJUNCTION WITH THE PROJECT SPECIFICATIONS, ENGINEERS COMPUTATIONS & DESIGNS AND GEOTECHNICAL REPORTS. WRITTEN SPECIFICATIONS TAKE PRECEDENCE OVER WORKING DRAWINGS UNLESS NOTED IN THE CONTRACT OR SPECIFICATION.
- FIGURED DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.
- ROSELEIGH HOMES RESERVES THE RIGHT TO MAKE MINOR ALTERATIONS DURING THE CONSTRUCTION IN THE INTEREST OF PRODUCT IMPROVEMENT.
- OTHER THAN WHERE EXEMPTIONS APPLY, THE PROPOSAL IS TO COMPLY WITH BUILDING REGULATIONS 1994 (PART 4 - SITING).
- ALL STRUCTURAL TIMBERS, FRAMING, BRACING AND TIE DOWNS ARE TO BE CONSTRUCTED AND GRADED WITH:
 - NATIONAL TIMBER FRAMING CODE AS1684, &
 - TIMBER FRAMING MANUAL AS1684.
- EXTENT OF PROTECTION AGAINST WATER IN WET AREAS TO COMPLY WITH AS3740 AND B.C.A. 3.8.1.2.
- WINDOWS REFER TO MANUFACTURES SCHEDULE. SIZES ARE NOMINAL. ALL GLAZING TO COMPLY WITH AS1288.
- TERMITE TREATMENT AS PER AS 3660.1. DURABLE NOTICE MUST BE INSTALLED IN THE METER BOX IN ACCORDANCE WITH B.C.A. 3.1.3.
- SMOKE ALARMS TO COMPLY WITH WITH AS 3786 AND TO BE INSTALLED IN ACCORDANCE WITH B.C.A. 3.7.2. SMOKE ALARMS MUST BE CONNECTED TO MAINS POWER.
- STAIRS AND STEPS
 - MIN CLEARANCE 2000mm ABOVE STEPS
 - TREADS: 250mm MIN. RISERS 190mm MAX
 - 125mm MAX BETWEEN BALUSTERS, UNDER BOTTOM RAIL AND OPENING BETWEEN TREADS
 - 1000mm HIGH HANDRAILS AND BALUSTRADE FORM 1000mm HIGH FINISHED SURFACE LEVEL
- WHERE REQUIRED MECHANICAL VENTILATION IN TO BE PROVIDED IN ACCORDANCE WITH AS1688.2 AND B.C.A. 3.8.5.
- SUB FLOOR VENTS TO BE PROVIDED AT 1500mm MAX CTS AND 600mm FROM CORNERS.
- STORM WATER DRAINS TO BE DRAINED TO LAWFUL POINT OF DISCHARGE (L.P.D.) IN ACCORDANCE WITH AS 3500.3
- WHERE DISTANCE FROM TOILET PAN TO DOOR IS LESS THAN 1.2m AND DOOR OPEN INWARD, REMOVABLE HINGES MUST B USED.
- RETAINING WALLS TO BE CONSTRUCTED IMMEDIATELY AFTER EXCAVATION. IF RETAINING WALL ARE ON THE BOUNDARY PROTECTION WORKS NOTICE ARE TO BE ISSUES IN ACCORDANCE WITH THE BUILDING ACT 1993.
- EXCAVATION BATTERS TO BE AT 45° WITH AGGI DRAINS AT BASE OF CUT CONNECTED INTO THE STORM WATER SYSTEM VIA SILT PIT.
- FIRE SEPARATION OF BUILDINGS ON BOUNDARY TO B.C.A. 3.7.1.
- BUILDINGS ADJACENT TO EASEMENTS TO HAVE FOOTINGS DIRECTED TO A DEPTH PAST THE ANGLE OF REPOSE OF PIPES. REFER TO ENGINEERS DESIGN
- STRUCTURAL STEEL TO COMPLY WITH B.C.A. 3.4.4.2.
- BRICKWORK IN GABLES OR ABOVE WINDOWS PROVIDE CONTINUOUS CAVITY HEAD FLASHING TO WEEP HOLES @ 1000mm MAX CTS. BASKETBALL RINGS OR OTHER EQUIPMENT ARE NOT TO BE ATTACHED TO BRICKWORK UNLESS OTHERWISE DESIGNED FOR THAT PURPOSE.
- TREE ROOT PROTECTION, WHERE REQUIRED SHALL BE IN ACCORDANCE WITH TN61 AND TO BE CONSTRUCTED AS PER ENGINEERS DESIGN



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REV No:	DESCRIPTION	DATE
A	AS PER COUNCIL RFI	06/12/21
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-

DRAWING TITLE:
SITE PLAN

BAL RATING: 19	JOB No: 1007	REVISION: A	BUILDER SIGNED:
CONSTRUCTION REQUIREMENT AS PER AS 3959-2009	DATE: 20/01/22	SCALE: 1: 500	CLIENT SIGNED:
WIND RATING: N3	DRAWN BY: E Kelly	SHEET: 1 OF 10	

N3 WIND RATING

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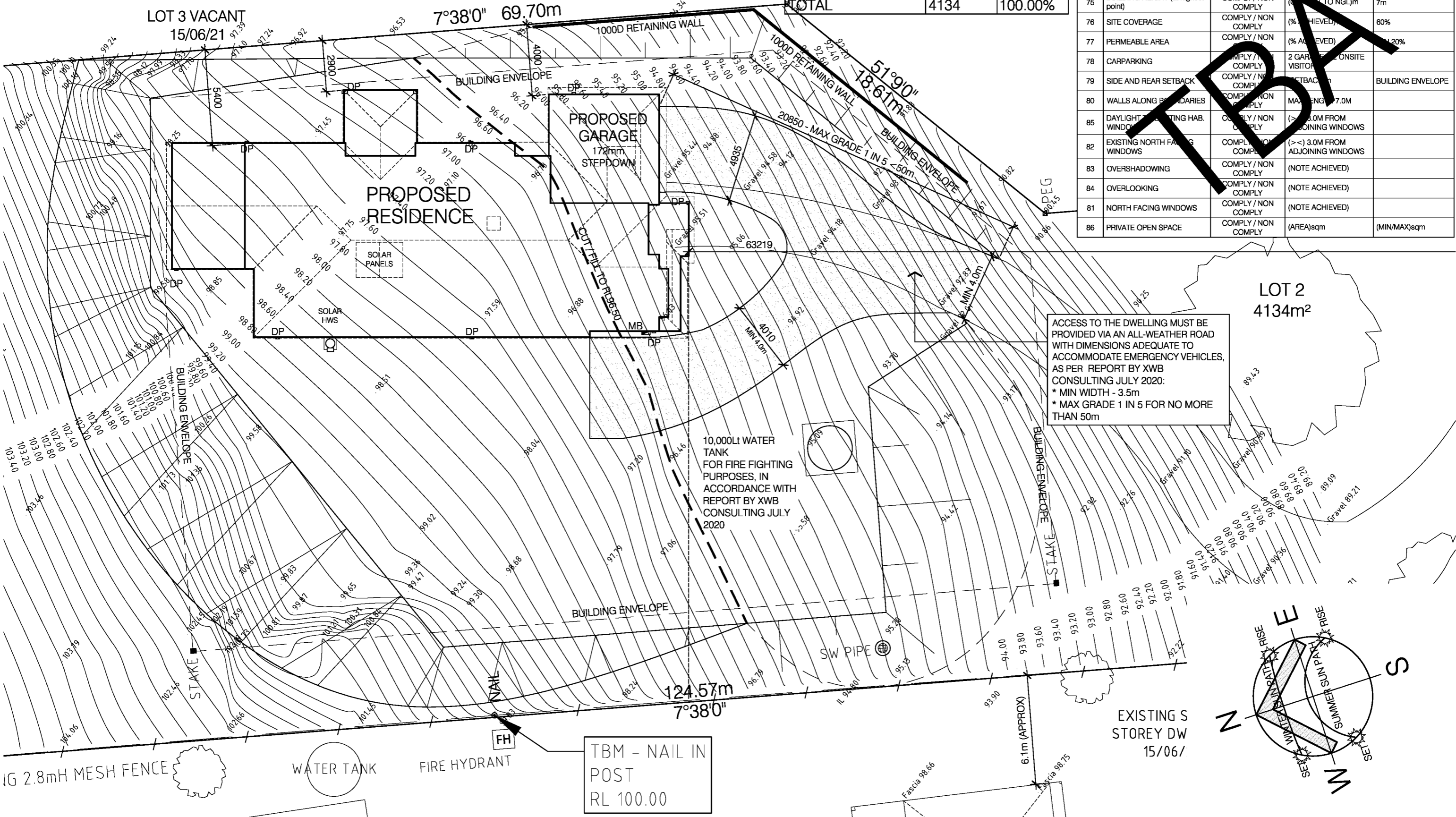
CUT 3000mm & FILL MIN 1700mm TO R.L. 96.50 - BATTER CUT & FILL TO NGL

SITE COVERAGE ANALYSIS

BUILDING	315.31	7.63%
DRIVEWAY	0	0.00%
PERMEABLE	3818.69	92.37%
TOTAL	4134	100.00%

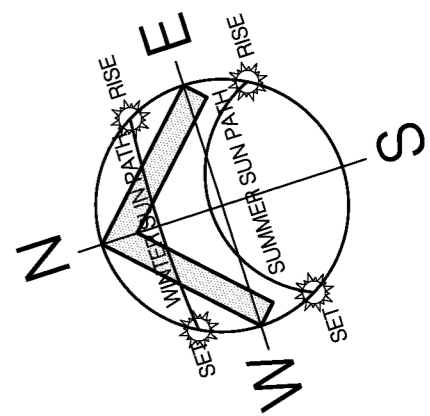
BUILDING REGULATIONS (REFER TO SITE PLAN FOR DETAILS)

REG		COMPLY / NON COMPLY	ACHIEVED	RESCODE REGULATION
73/74	STREET SETBACK	COMPLY / NON COMPLY	(SETBACK)m	MIN 5.75M
75	BUILDING HEIGHT (at highest point)	COMPLY / NON COMPLY	(TO NGL)m	7m
76	SITE COVERAGE	COMPLY / NON COMPLY	(% ACHIEVED)	60%
77	PERMEABLE AREA	COMPLY / NON COMPLY	(% ACHIEVED)	120%
78	CARPARKING	COMPLY / NON COMPLY	2 GARAGE VISITOR	ONSITE
79	SIDE AND REAR SETBACK	COMPLY / NON COMPLY	SETBACK	BUILDING ENVELOPE
80	WALLS ALONG BOUNDARIES	COMPLY / NON COMPLY	MAX LENG 7.0M	
85	DAYLIGHT SHEDDING HAB. WINDOWS	COMPLY / NON COMPLY	(>=) 3.0M FROM ADJOINING WINDOWS	
82	EXISTING NORTH FACING WINDOWS	COMPLY / NON COMPLY	(>=) 3.0M FROM ADJOINING WINDOWS	
83	OVERSHADOWING	COMPLY / NON COMPLY	(NOTE ACHIEVED)	
84	OVERLOOKING	COMPLY / NON COMPLY	(NOTE ACHIEVED)	
81	NORTH FACING WINDOWS	COMPLY / NON COMPLY	(NOTE ACHIEVED)	
86	PRIVATE OPEN SPACE	COMPLY / NON COMPLY	(AREA)sqm	(MIN/MAX)sqm



ACCESS TO THE DWELLING MUST BE PROVIDED VIA AN ALL-WEATHER ROAD WITH DIMENSIONS ADEQUATE TO ACCOMMODATE EMERGENCY VEHICLES, AS PER REPORT BY XWB CONSULTING JULY 2020:
 * MIN WIDTH - 3.5m
 * MAX GRADE 1 IN 5 FOR NO MORE THAN 50m

LOT 2
4134m²



ROSELEIGH HOMES
 P.O. BOX 309, WARRAGUL, VIC. 3820
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REV No:	DESCRIPTION	DATE
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DRAWING TITLE:
SITE PLAN

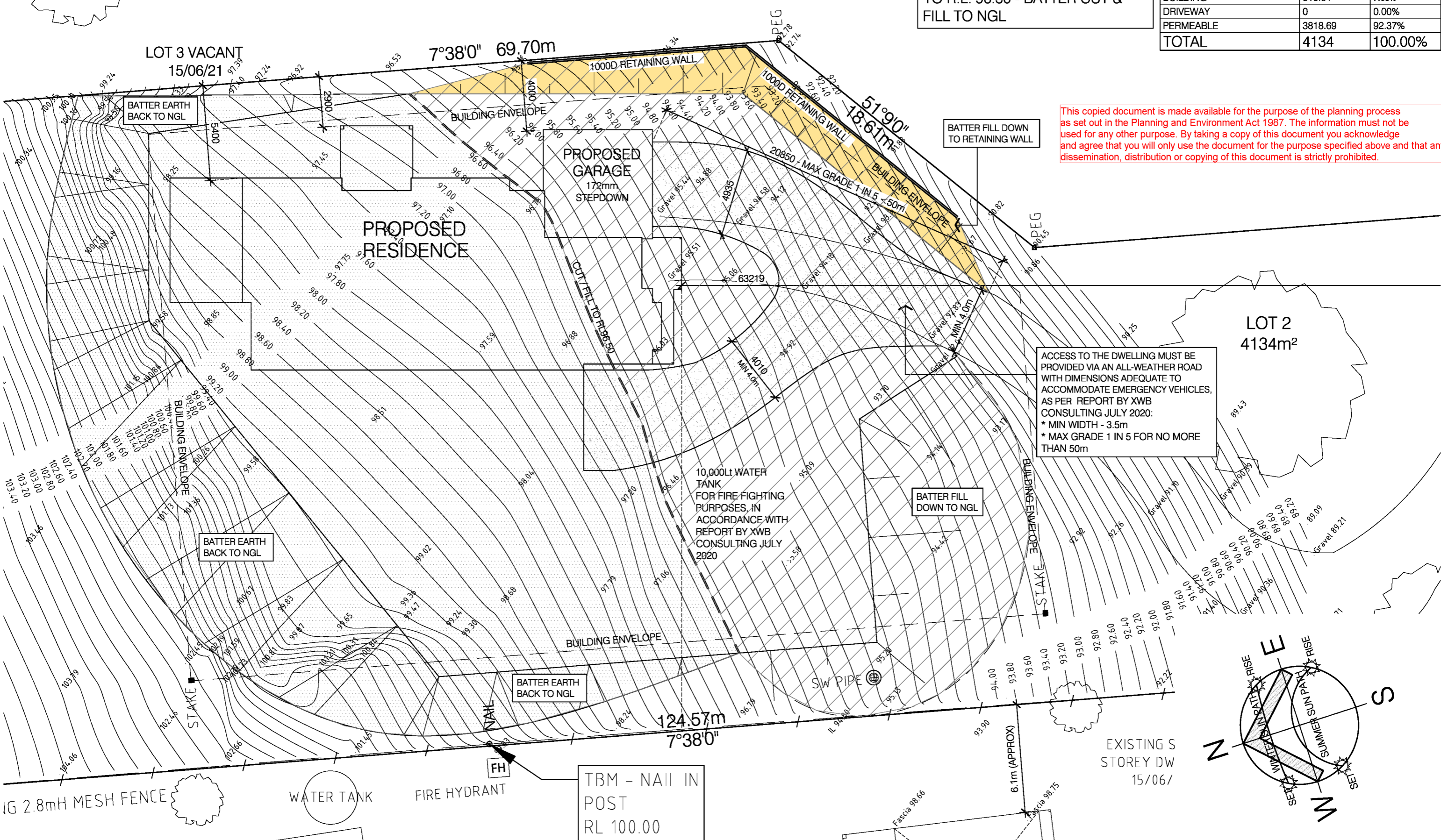
BAL RATING: 19	JOB No: 1007	REVISION: A	BUILDER SIGNED:
CONSTRUCTION REQUIREMENT AS PER AS 3959-2009	DATE: 20/01/22	SCALE: 1: 200	CLIENT SIGNED:
WIND RATING: N3	DRAWN BY: E Kelly	SHEET: 1A OF 10	

N3 WIND RATING

CUT 3000mm & FILL MIN 1700mm
TO R.L. 96.50 - BATTER CUT &
FILL TO NGL

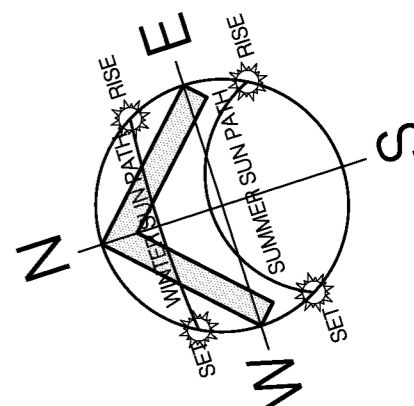
SITE COVERAGE ANALYSIS

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DRIVEWAY	0	0.00%
PERMEABLE	3818.69	92.37%
TOTAL	4134	100.00%



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ACCESS TO THE DWELLING MUST BE PROVIDED VIA AN ALL-WEATHER ROAD WITH DIMENSIONS ADEQUATE TO ACCOMMODATE EMERGENCY VEHICLES, AS PER REPORT BY XWB CONSULTING JULY 2020.
* MIN WIDTH - 3.5m
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-	-	-

DRAWING TITLE:
EXCAVATION PLAN

BAL RATING: 19	JOB No: 1007	REVISION: A	BUILDER SIGNED:
CONSTRUCTION REQUIREMENT AS PER AS 3959-2009	DATE: 20/01/22	SCALE: 1: 200	CLIENT SIGNED:
WIND RATING: N3	DRAWN BY: E Kelly	SHEET: 1B OF 10	

N3 WIND RATING	
AREAS	
GROUND FLOOR	223.94m ² 24.11sq
VERANDAH	10.24m ² 1.10sq
GARAGE	37.45m ² 4.03sq
ALFRESCO 1 & 2	43.68m ² 4.70sq
TOTAL AREA	315.31m ² 33.94sq

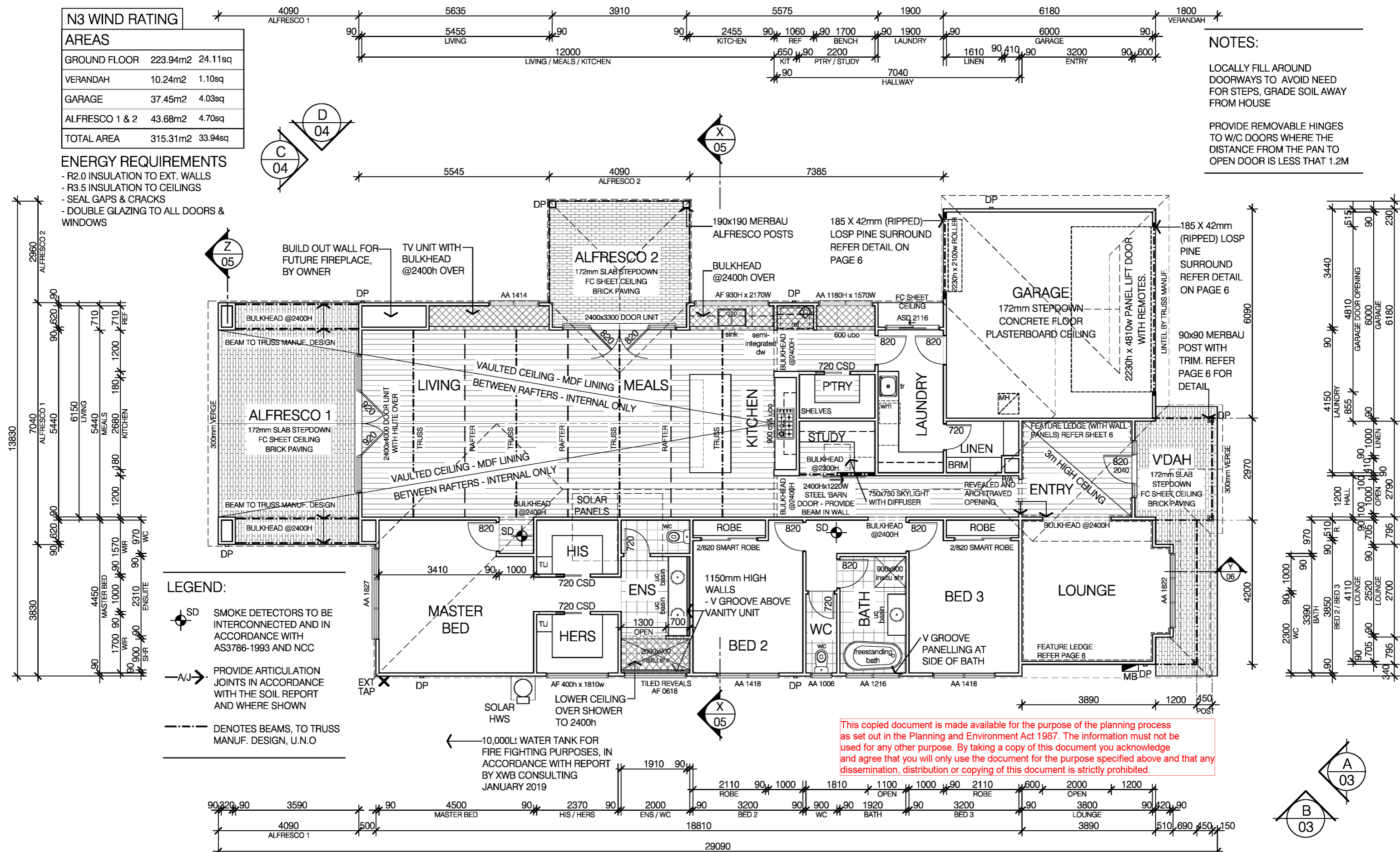
ENERGY REQUIREMENTS

- R2.0 INSULATION TO EXT. WALLS
- R3.5 INSULATION TO CEILINGS
- SEAL GAPS & CRACKS
- DOUBLE GLAZING TO ALL DOORS & WINDOWS

NOTES:

LOCALLY FILL AROUND DOORWAYS TO AVOID NEED FOR STEPS. GRADE SOIL AWAY FROM HOUSE

PROVIDE REMOVABLE HINGES TO W/C DOORS WHERE THE DISTANCE FROM THE PAN TO OPEN DOOR IS LESS THAN 1.2M



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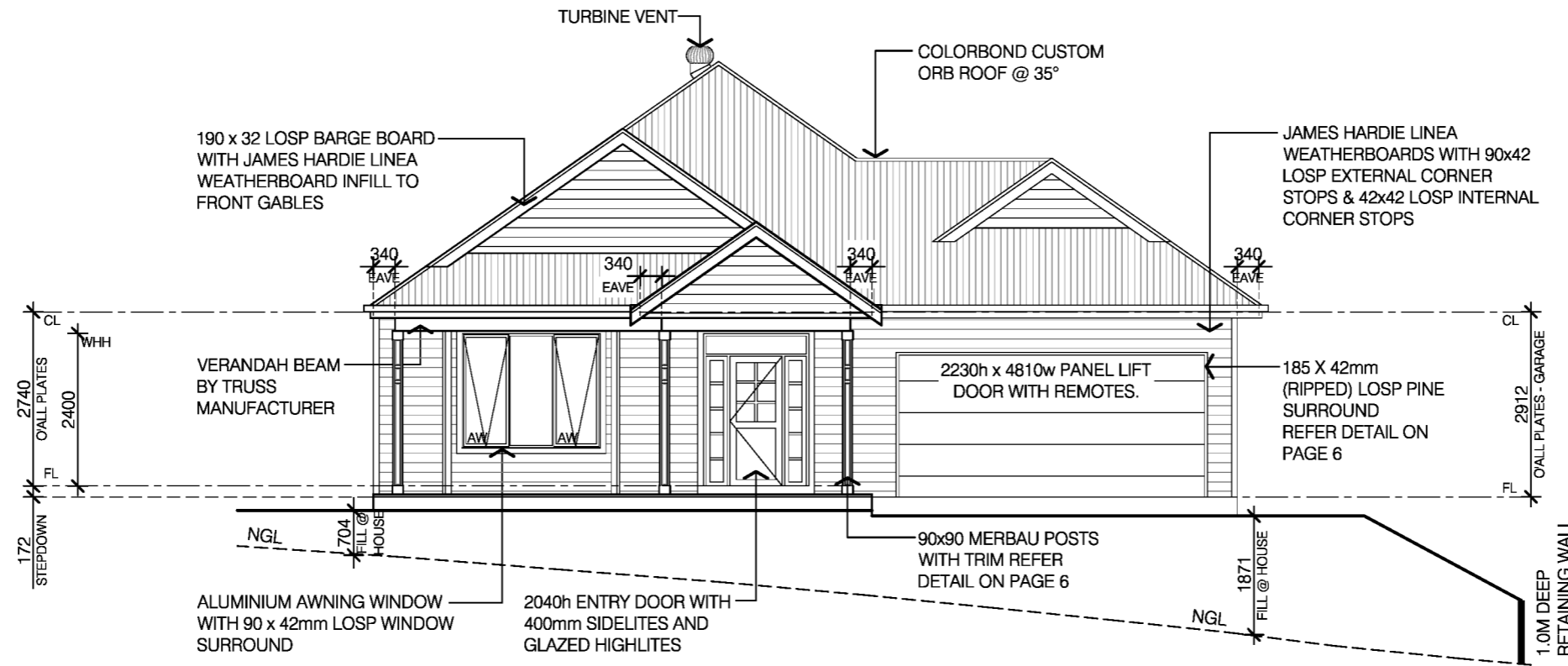
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A	AS PER COUNCIL RFI	06/12/21
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-	-	-

DRAWING TITLE:
GROUND FLOOR PLAN

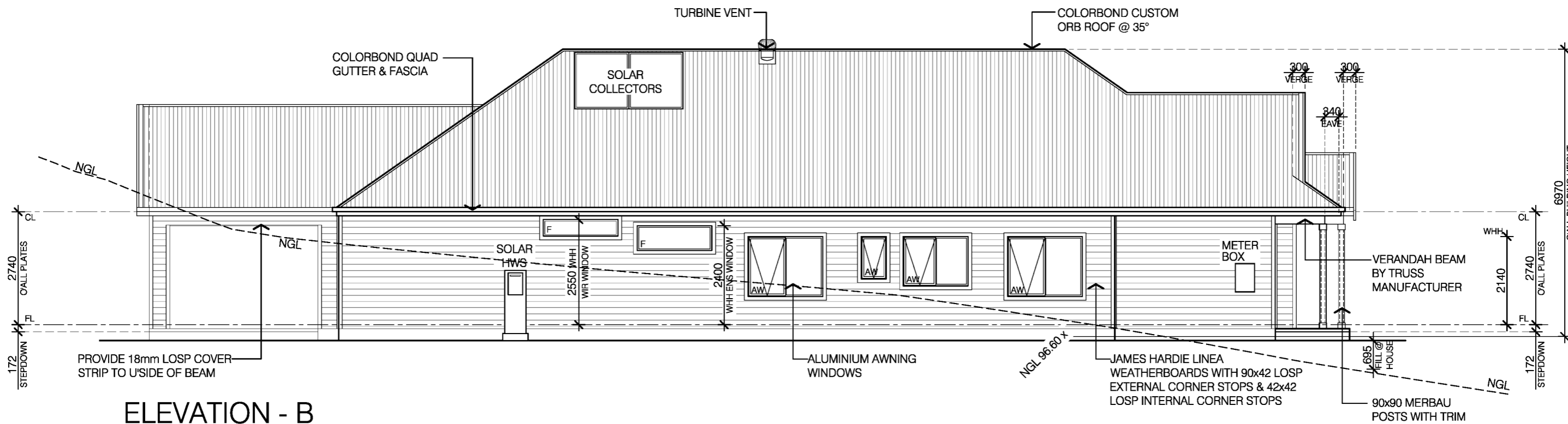
CLIENT:
[REDACTED]

BAL RATING: 19	JOB No: 1007	REVISION: A	BUILDER SIGNED:
CONSTRUCTION REQUIREMENT AS PER AS 3959-2009	DATE: 20/01/22	SCALE: 1: 100	CLIENT SIGNED:
WIND RATING: N3	DRAWN BY: E Kelly	SHEET: 2 OF 10	

COLOR SCHEDULE	
ROOF	COLORBOND MONUMENT
FASCIA	COLORBOND MONUMENT
GUTTER	COLORBOND MONUMENT
WEATHERBOARDS	DULUX NATURAL WHITE
WINDOWS	ALUMINIUM BLACK & WHITE
GARAGE DOOR	COLORBOND SURFMIST
SHED	COLORBOND MONUMENT



ELEVATION - A



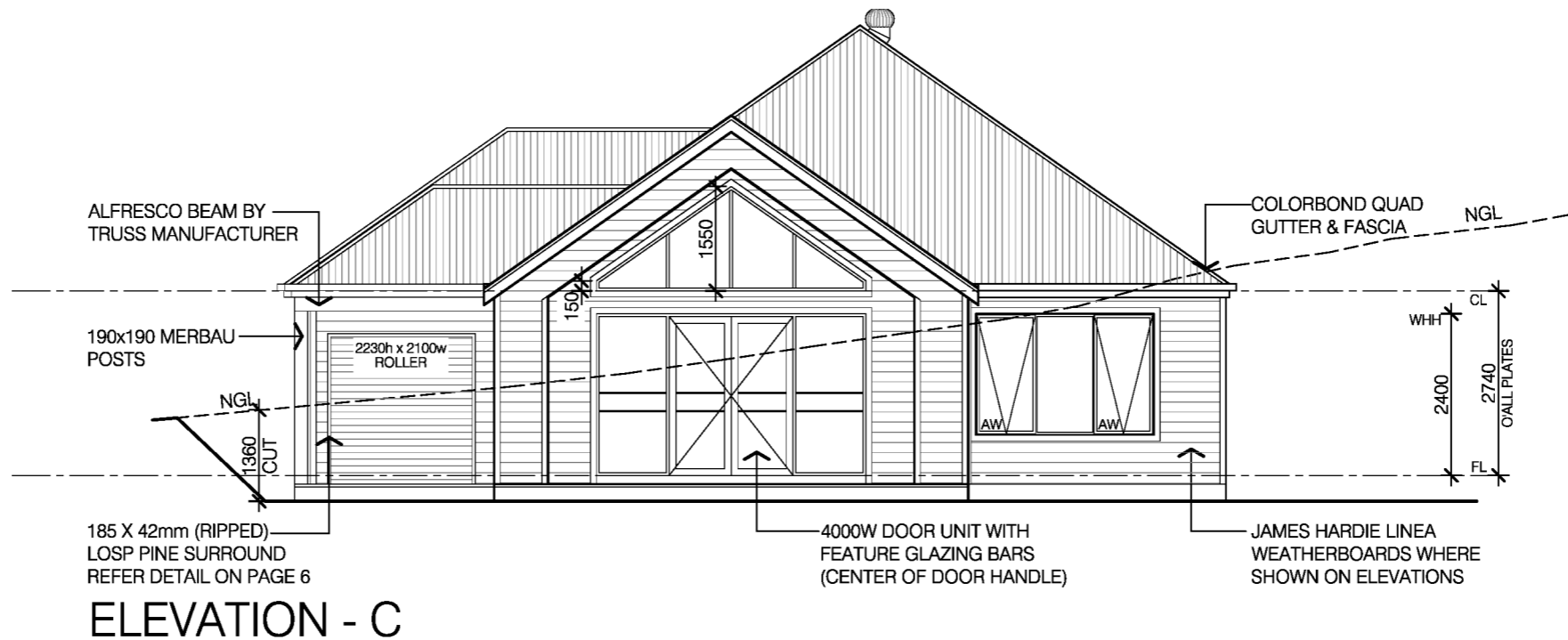
ELEVATION - B

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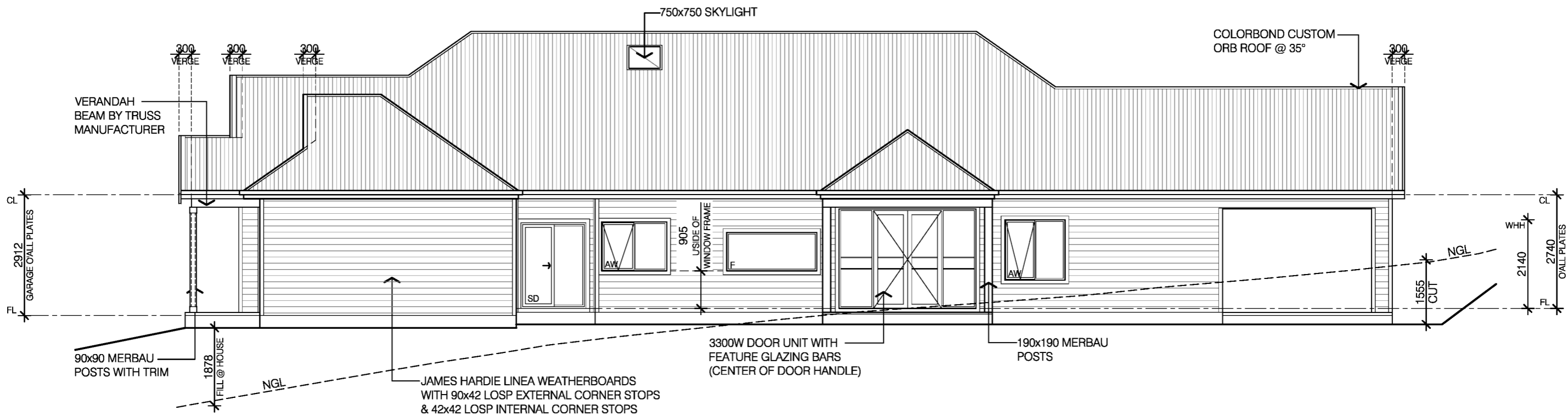
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COLOR SCHEDULE	
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FASCIA	COLORBOND MONUMENT
GUTTER	COLORBOND MONUMENT
WEATHERBOARDS	DULUX NATURAL WHITE
WINDOWS	ALUMINIUM BLACK & WHITE
GARAGE DOOR	COLORBOND SURFMIST
SHED	COLORBOND MONUMENT



ELEVATION - C



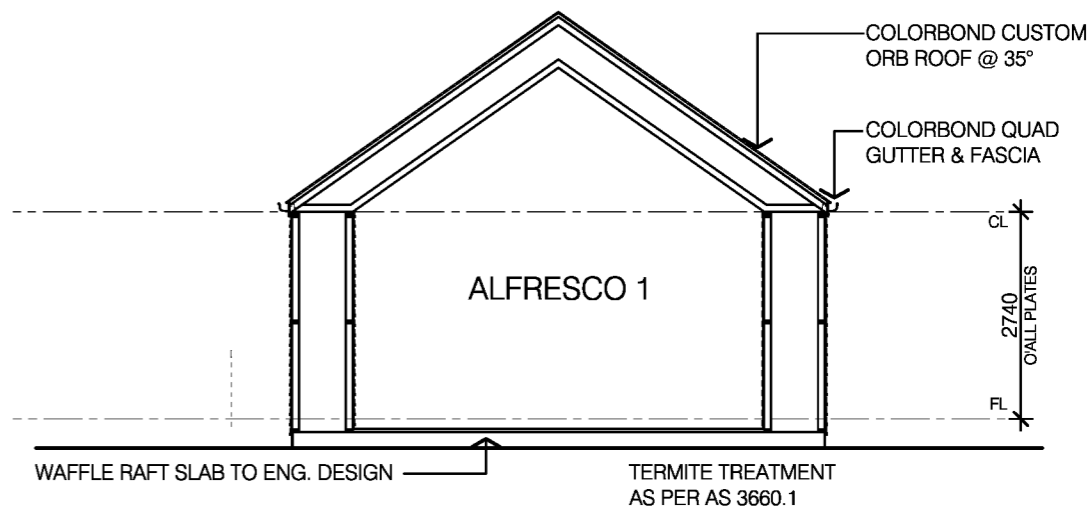
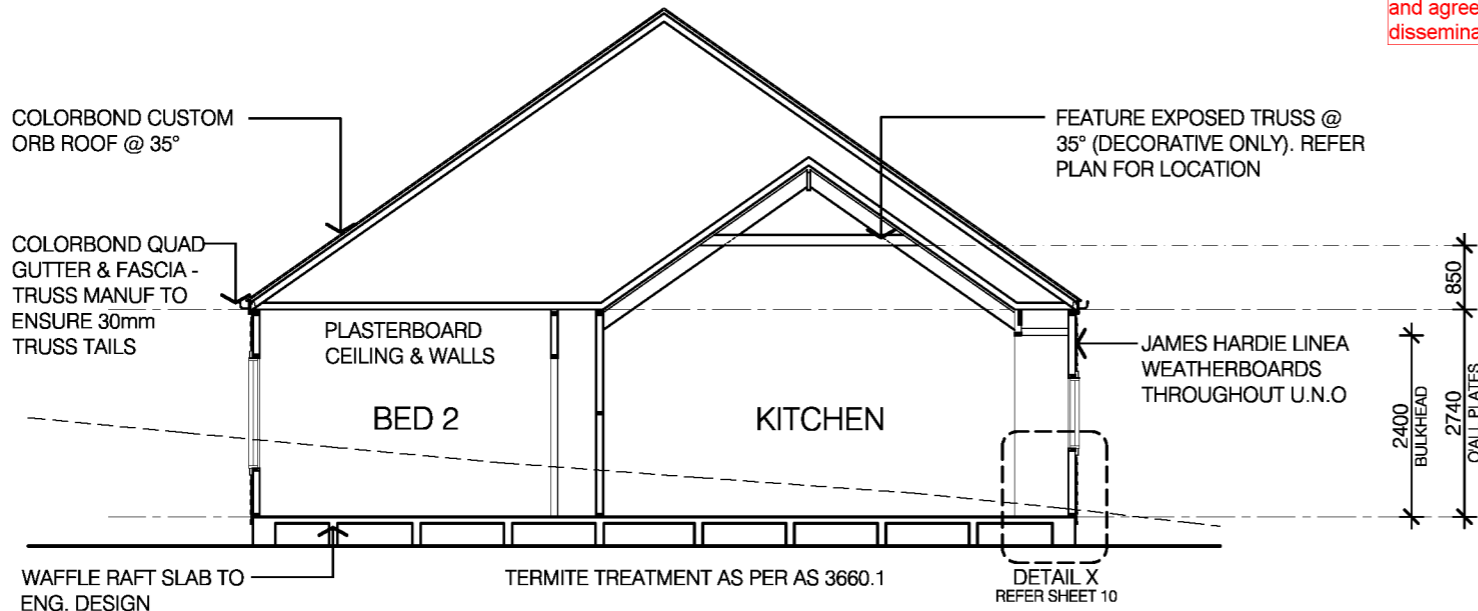
ELEVATION - D

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N3 WIND RATING

ALL ROOF TRUSSES AND WALL FRAMES TO BE PREFABRICATED TO MANUFACTURERS SPECIFICATIONS AND TO COMPLY WITH AS 1684.4

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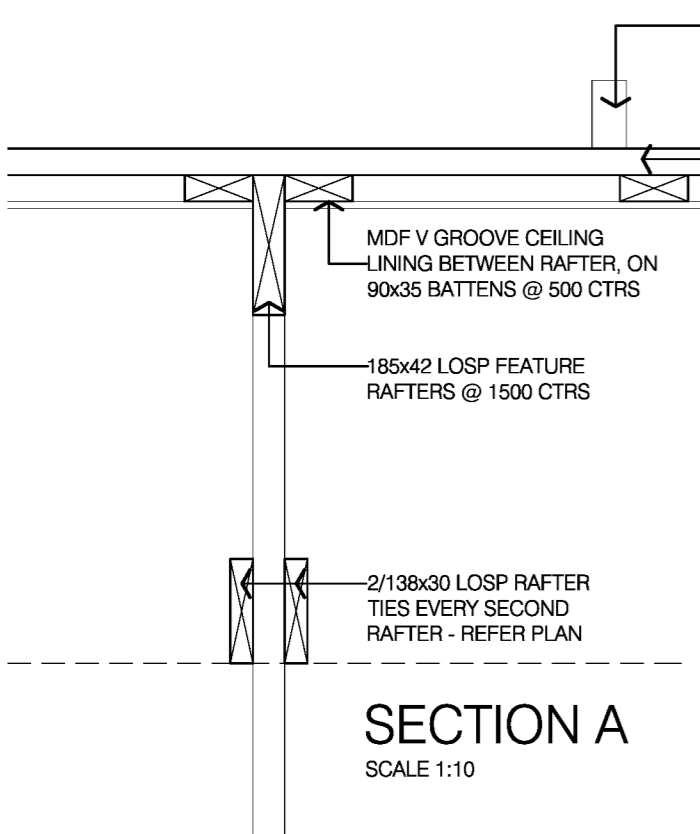
SECTION X-X

SCALE 1:100

SOIL CLASSIFICATION

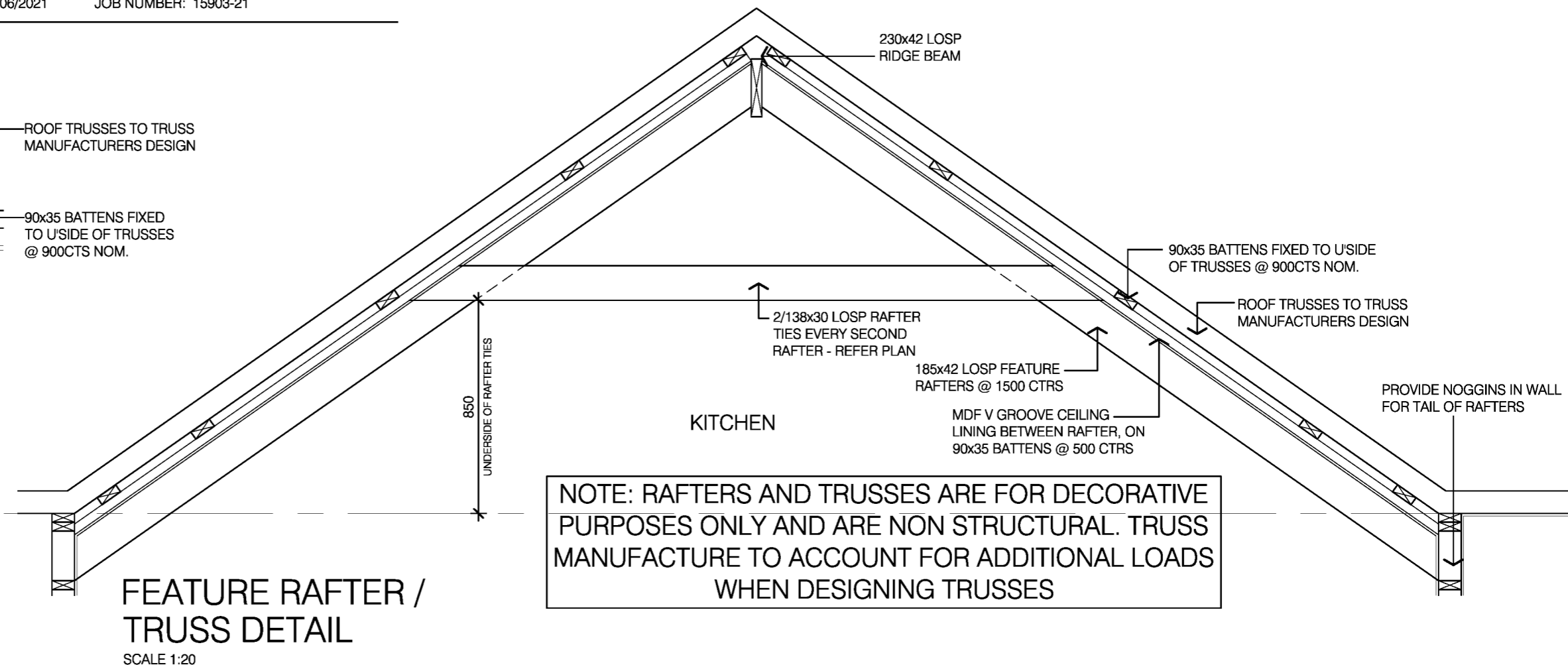
CLASS: H1
REFER TO SOIL REPORT BY: HOME & INDUSTRIAL CONS. ENGINEERS
DATED: 25/06/2021 JOB NUMBER: 15903-21

SECTION Z-Z



SECTION A

SCALE 1:10



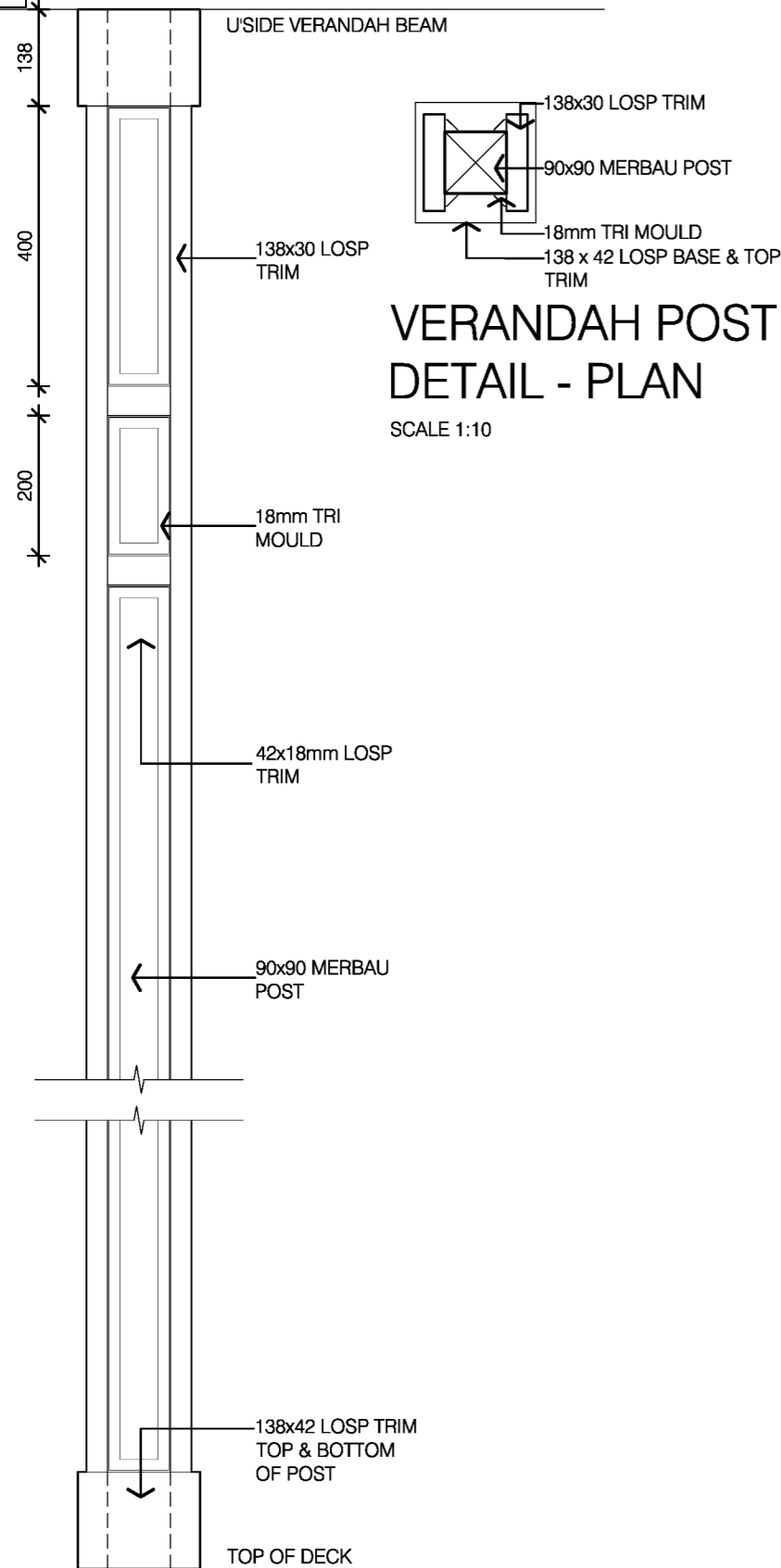
NOTE: RAFTERS AND TRUSSES ARE FOR DECORATIVE PURPOSES ONLY AND ARE NON STRUCTURAL. TRUSS MANUFACTURE TO ACCOUNT FOR ADDITIONAL LOADS WHEN DESIGNING TRUSSES

FEATURE RAFTER / TRUSS DETAIL

SCALE 1:20

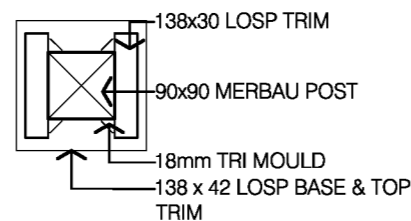
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N3 WIND RATING



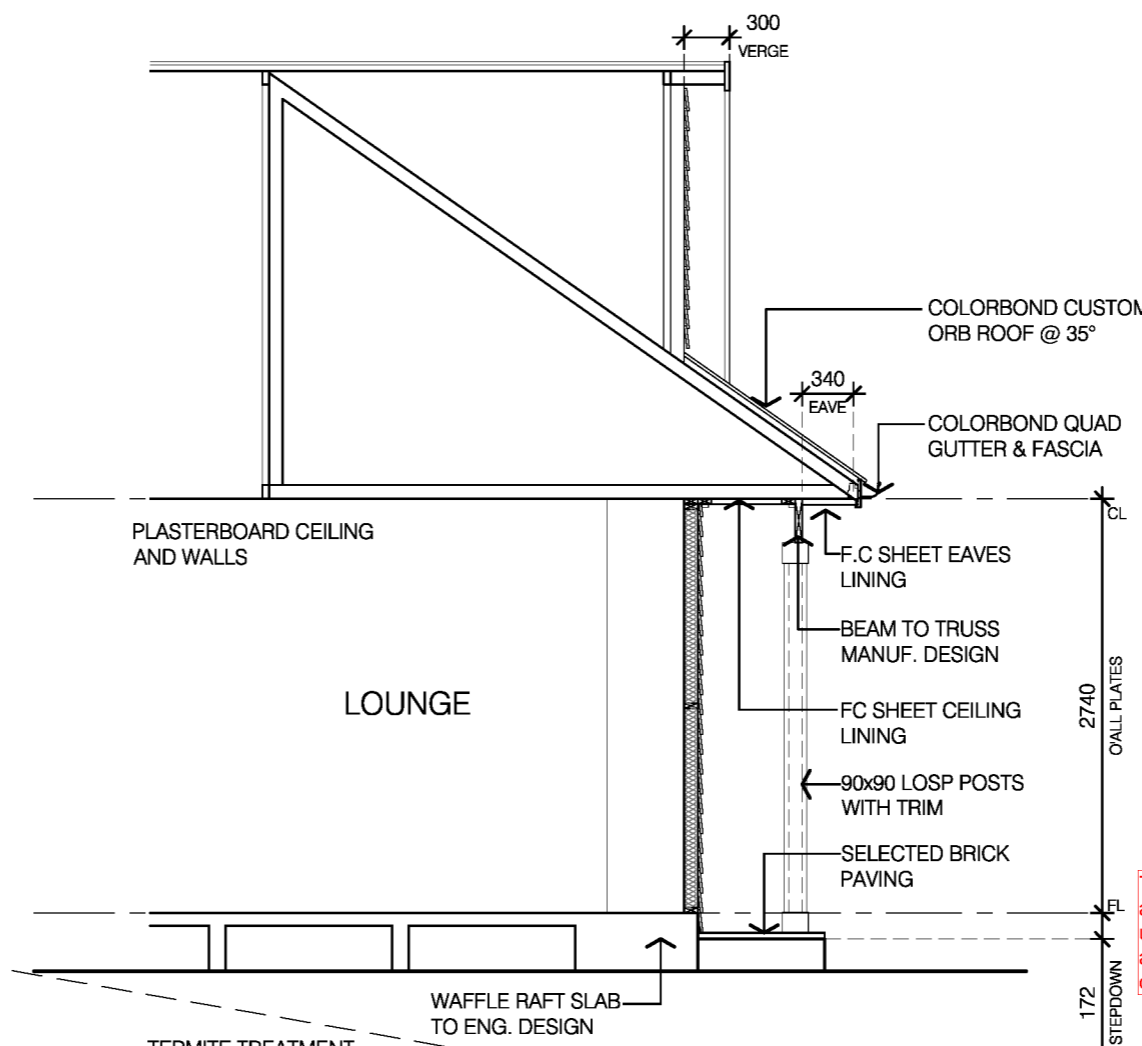
**VERANDAH POST
DETAIL - PLAN**

SCALE 1:10



VERANDAH POST DETAIL - ELEVATION

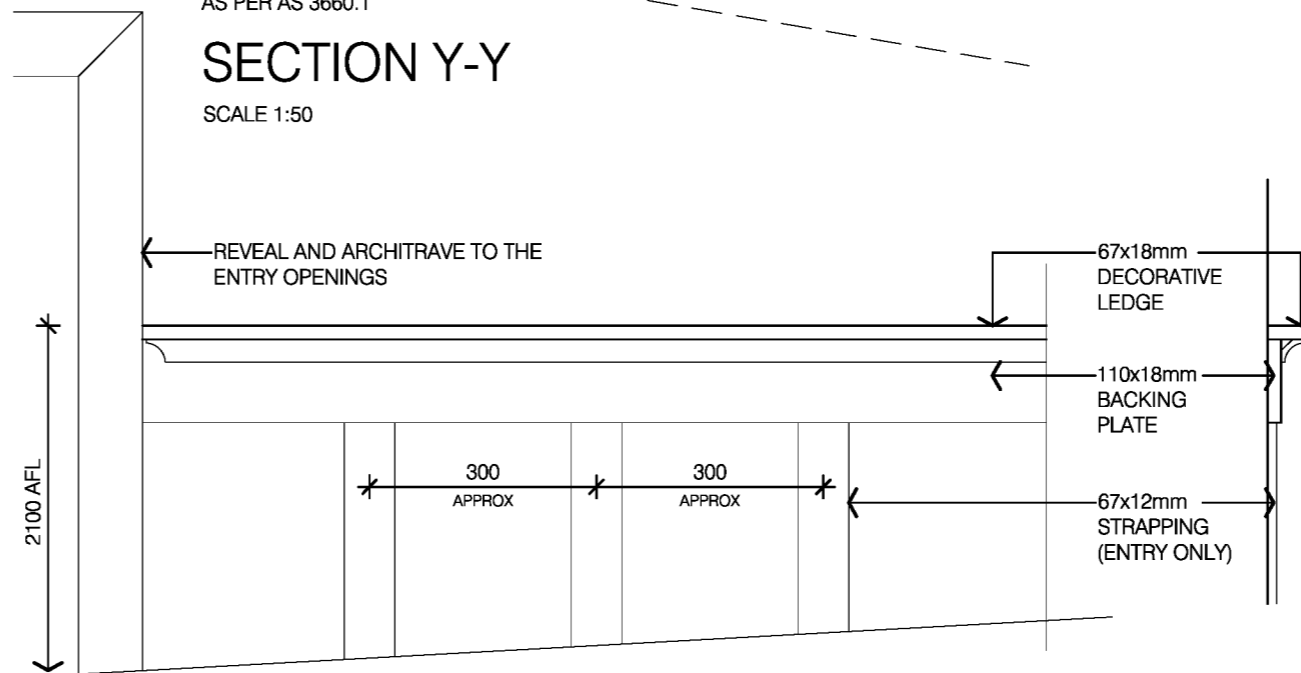
SCALE 1:10



SECTION Y-Y

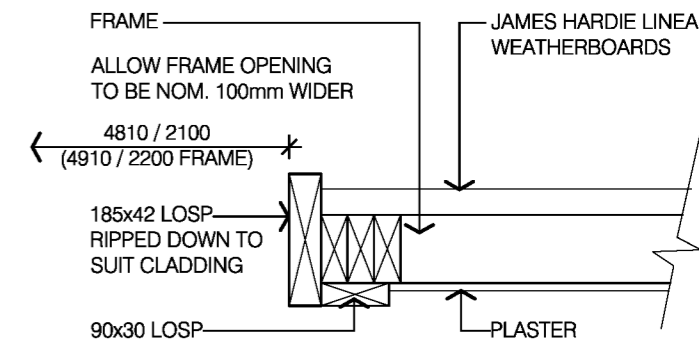
SCALE 1:50

TERMITE TREATMENT AS PER AS 3660.1



DECORATIVE LEDGE DETAIL TO ENTRY & LOUNGE

SCALE 1:10



**GARAGE DOOR
SURROUND DETAIL**

SCALE 1:10

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DRAWING TITLE: SECTIONS	
CLIENT:	[REDACTED]
PROJECT:	[REDACTED]
Lot 2, 150 Red Road, Gembrook VIC 3763	

BAL RATING: 19	JOB No: 1007	REVISION: -	BUILDER SIGNED:
CONSTRUCTION REQUIREMENT AS PER AS 3959-2009	DATE: 25/10/21	SCALE: 1: 10/50	CLIENT SIGNED:
WIND RATING: N3	DRAWN BY: E Kelly	SHEET: 6 OF 10	

Bushfire Assessment Subdivision 11 Beenak East Road Gembrook



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January 2019

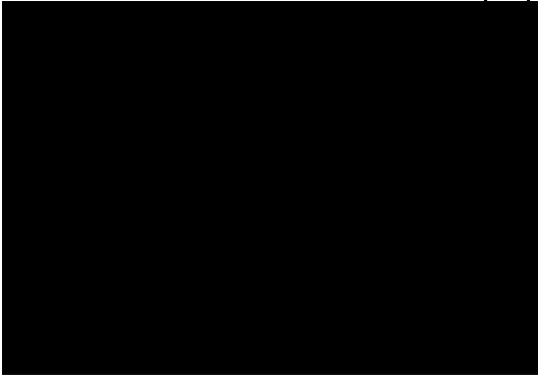
xwb consulting
Town Planning and Bushfire Consultants



1. Introduction

XWB Consulting has been engaged by Nobelius Land Surveyors to prepare a bushfire assessment for a 3 lot subdivision at 11 Beenak East Road Gembrook.

The bushfire assessment has been prepared by:



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2. Site Description

The site is located approximately 500m east of the Gembrook Town Centre on the edge of the Gembrook Township. The site is located on the south side of Beenak East Road and also adjoins Red Road to the south. The site has an area of 1.51ha as shown in yellow on the aerial photograph below:



There is an existing dwelling on the northern section of the land fronting Beenak East Road. The land falls away to steeply to the south towards Red Road. The land mainly comprises open paddocks with a number of scattered trees along the boundaries.

Beenak East Road is a rural standard road with a sealed pavement of approximately 6m. Red Road is a rural standard road with a gravel pavement of approximately 4-5m.

To the north are existing residential properties along Beenak Road Road and Russell Road.

To the west are existing low density residential properties along Beenak East Road and Red Road. Further subdivision and development has occurred within this area over recent years.

To the south is a bushland reserve located on the west side of Red Road.

To the east is a farming property which continues to be cultivated for the purpose of growing potatoes. There is a small section of bushland to the south east around an existing dam.

The site is contained within a Low Density Residential Zone under the Cardinia Planning Scheme. The site is also in a Bushfire Management Overlay under the Cardinia Planning Scheme. The provisions of Clause 53.02 Bushfire Planning apply to land within a Bushfire Management Overlay.

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3. Proposal

The application proposes the subdivision of the site into 3 lots. The larger lot contains the existing dwelling and has a frontage to Beenak East Road. Two smaller vacant lots are created at the southern end of the property fronting Red Road. A similar subdivision has recently occurred on the property to the west.

The proposed subdivision is shown on the plan below:



Building envelopes are proposed on the vacant lots fronting Red Road.

4. Planning Context

4.1 Planning Policy Framework

The Planning Policy Framework sets out state policy in relation to bushfire planning strategies and principles in Clause 13.02 of the planning scheme. The objective of the state policy is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. Strategies to meet this objective are set out below:

Protection of human life

Give priority to the protection of human life by:

- Prioritising the protection of human life over all other policy considerations.
- Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
- Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision-making at all stages of the planning process.

Bushfire hazard identification and assessment

Identify bushfire hazard and undertake appropriate risk assessment by:

- Applying the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard.
- Considering the best available information about bushfire hazard including the map of designated bushfire prone areas prepared under the *Building Act 1993* or regulations made under that Act.
- Applying the Bushfire Management Overlay in planning schemes to areas where the extent of vegetation can create an extreme bushfire hazard.
- Considering and assessing the bushfire hazard on the basis of:
 - Landscape conditions - meaning the conditions in the landscape within 20 kilometres and potentially up to 75 kilometres from a site;
 - Local conditions - meaning conditions in the area within approximately 1 kilometre from a site;
 - Neighbourhood conditions - meaning conditions in the area within 400 metres of the site;
 - The site for the development.
- Consulting with emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measures.
- Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures.
- Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.

Settlement planning

Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:

- Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre

under *AS 3959-2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009).

- Ensuring the availability of, and safe access to, areas assessed as a BAL-LOW rating under *AS 3959-2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009) where human life can be better protected from the effects of bushfire.
- Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.
- Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reduce bushfire risk overall.
- Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.
- Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.
- Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS 3959-2009.

Areas of high biodiversity conservation value

Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that are of high biodiversity conservation value.

Use and development control in a Bushfire Prone Area

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

- Subdivisions of more than 10 lots
- Accommodation
- Childcare centre
- Education centre
- Emergency services facility
- Hospital
- Indoor recreation facility
- Major sports and recreation facility
- Place of assembly
- Any application for development that will result in people congregating in large numbers.

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When assessing a planning permit application for the above uses and development:

- Consider the risk of bushfire to people, property and community infrastructure.
- Require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.
- Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.

Policy guidelines

The policy guidelines under the State Planning Policy Framework specify that planning must consider as relevant:

- Any relevant approved State, regional and municipal fire prevention plan.
- AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia,2009).
- Building in bushfire-prone areas - CSIRO & Standards Australia (SAA HB36-1993)

4.2 Municipal Strategic Statement

The overview in the Municipal Strategic Statement sets out that:

Wildfire risk is the product of a number of factors including fuel levels, slope, climatic conditions, population and the degree of preparation of individual property owners to cope with a fire. Other factors such as the accessibility of land to fire fighting vehicles and the availability of water will affect the risk levels for individual properties.

The objective in the Municipal Strategic Statement in relation to wildfire management is to recognise that areas in the municipality are prone to wildfire and to minimise the potential risk to life, property and the environment.

Relevant strategies to meet the objective in relation to wildfire management are set out below:

Siting and design

- Ensure that the siting and design of houses and other accommodation in high risk wildfire areas minimises the potential risk of loss of life or property from wildfire, particularly in terms of the existing slope, aspect and vegetation.
- Ensure all development has appropriately designed access for emergency vehicles.
- Ensure development provides adequate access to water.
- Encourage the use of roads as a buffer between housing and bushland.

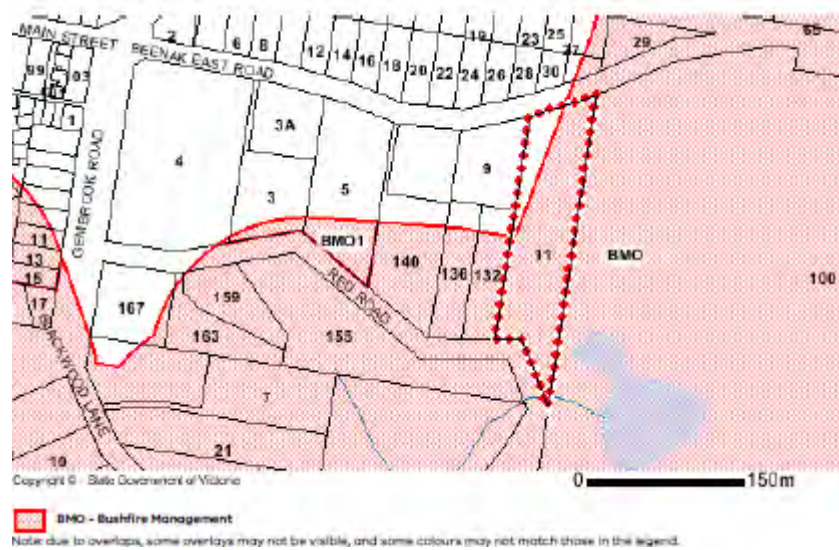
Fuel reduction

- Encourage the use of controlled burning to reduce ground fuel levels and to help maintain healthy and diverse forests and woodlands consistent with the Ecological Vegetation Class (EVC).
- Support the implementation of the Municipal Fire Prevention Plan 2007 and Municipal Wildfire Preparedness Plan 2006.

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4.3 Bushfire Management Overlay

The majority of the site is contained within a Bushfire Management Overlay under the Cardinia Planning Scheme, with only a small area in the north west section of the land excluded as shown on the plan below:



The purpose of the overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A planning permit is required under the Bushfire Management Overlay to subdivide land.

4.4 Planning for Bushfire

The provisions under Clause 52.03 of the Cardinia Planning Scheme, Bushfire Planning apply where a planning permit is required under a Bushfire Management Overlay. The purpose of the provisions is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.
- To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.
- To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.

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5. Bushfire Hazard Assessment

Under the provisions of the Bushfire Management Overlay, an application must be accompanied by a bushfire hazard site assessment including a plan that describes the bushfire hazard within 150 metres of the proposed development. The description of the hazard must be prepared in accordance with Sections 2.2.3 to 2.2.5 of AS3959:2009 Construction of buildings in bushfire prone areas (Standards Australia) excluding paragraph (a) of section 2.2.3.2. Photographs or other techniques may be used to assist in describing the bushfire hazard.

The plan below shows the bushfire hazard within 150m of the proposed vacant lots fronting Red Road. For the purpose of the bushfire hazard assessment, it has been assumed that the purpose is to demonstrate that a dwelling can be constructed on the additional lots to be created. There is to be no changes to the construction of the existing dwelling as a result of the subdivision.



To the north and west of the proposed vacant lots are existing residential properties with managed gardens. The vegetation within the residential properties would be classified as low threat vegetation under AS3959.

To the south of the proposed vacant lots, the majority of the land is bushland associated with the Gembrook Bushland Reserve. There is a small section of open paddock along Red Road which provides a degree of separation between the proposed lots and the bushland reserve. A small section of bushland also extends east of Red Road to the south of the dam on the neighbouring property to the east. The bushland area would be classified as forest under AS3959 and is downslope relative to the site with a slope of 3°.

The land to the east is primarily cultivated potato paddocks, with a large dam also in proximity to the site. There is a small section of open paddock adjoining the dam and site. There is little potential for a fire in this area given the limited fire run due to the cultivated paddocks and dam. The open paddock area would be approximately 1ha in area. For the purposes of this assessment, I have considered the land to the east to be low threat vegetation having regard to the dominant land use activities.

The bushfire site hazard assessment is summarised in the following table:

	North and west	South	East
Vegetation type	Low threat	Forest	Low threat
Slope under classified vegetation (Maximum)	n/a	Downslope 3°	n/a

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6 Bushfire Hazard Landscape Assessment

Under the provisions of the Bushfire Management Overlay, an application must be accompanied by a bushfire hazard landscape assessment including a plan that describes the bushfire hazard of the general locality more than 150 metres from the site. Photographs or other techniques may be used to assist in describing the bushfire hazard.

The site and surrounding landscape context is shown on the plan below:

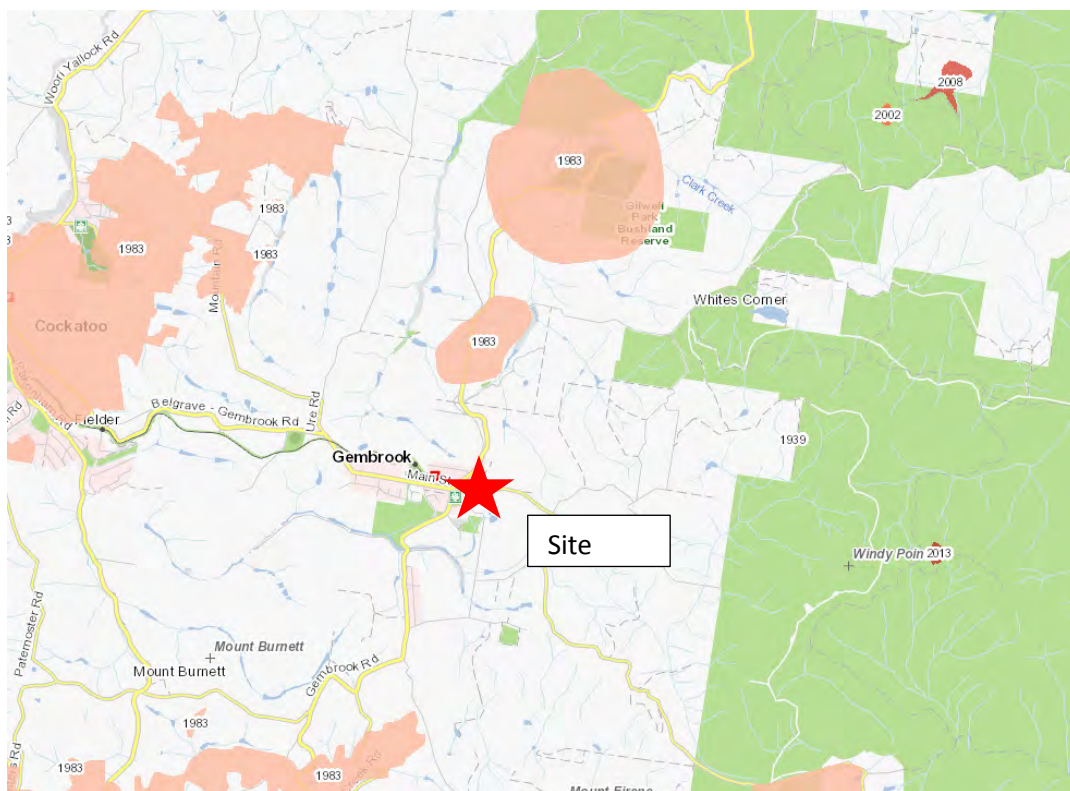


In south eastern Australia, the greatest bushfire threat occurs when there is a strong dry north westerly wind followed by a south easterly wind change. A much lesser threat occurs from east and south easterly winds as the air mass would be more humid reducing the fire intensity.

The areas to the north west of the site comprised cultivated paddocks north of Gembrook. This landscape will not sustain a bushfire run towards the site. The area to the north of the site contains a mixture of bushland and paddocks and under a northerly wind could sustain a bushfire run towards the site from the Gillwell Park area. There is also the potential for a bushfire run towards the Gembrook area from the south west in the event of a fire in the Mt Burnett area being impacted by a south westerly wind change. To the east of the site are significant forested areas associated with the Bunyip State Park. Given the aspect to the east of the site, the bushfire risk is significantly lessened. This is evidenced by the Bunyip Ridge Fire

in the Bunyip State Park in 2009 which made a significant run towards Labertouche on Black Saturday, but made no fire run towards the Gembrook Township.

The plan below shows the fire history in the area. The main fire activity shown is associated with the Ash Wednesday Bushfires in 1983 including the Cockatoo fire and spot fires associated with this north of Gembrook. There is no fire activity directly impacting on the Gembrook Township or the site. Given the significant cultivated land around the Gembrook Township, the township would provide a safer place to take refuge in the event of a fire which is readily accessible from the site given it is located on the fringe of the township. A neighbourhood safer place has been designated in the carpark of the Gembrook Hall on the corner of Gembrook Road and Beenak East Road.



The site does not neatly fall into one of the Broader Landscape Types described under Practice Note 65. Consistent with Broader Landscape Type 2, the following criteria apply to the site:

- The type and extent of vegetation located more than 150 metres from the site may result in neighbourhood-scale destruction as it interacts with the bushfire hazard on and close to a site.
- Access is readily available to a place that provides shelter from bushfire. This will often be the surrounding developed area.

Consistent with Broader Landscape Type 3, the following criteria applies to the site:

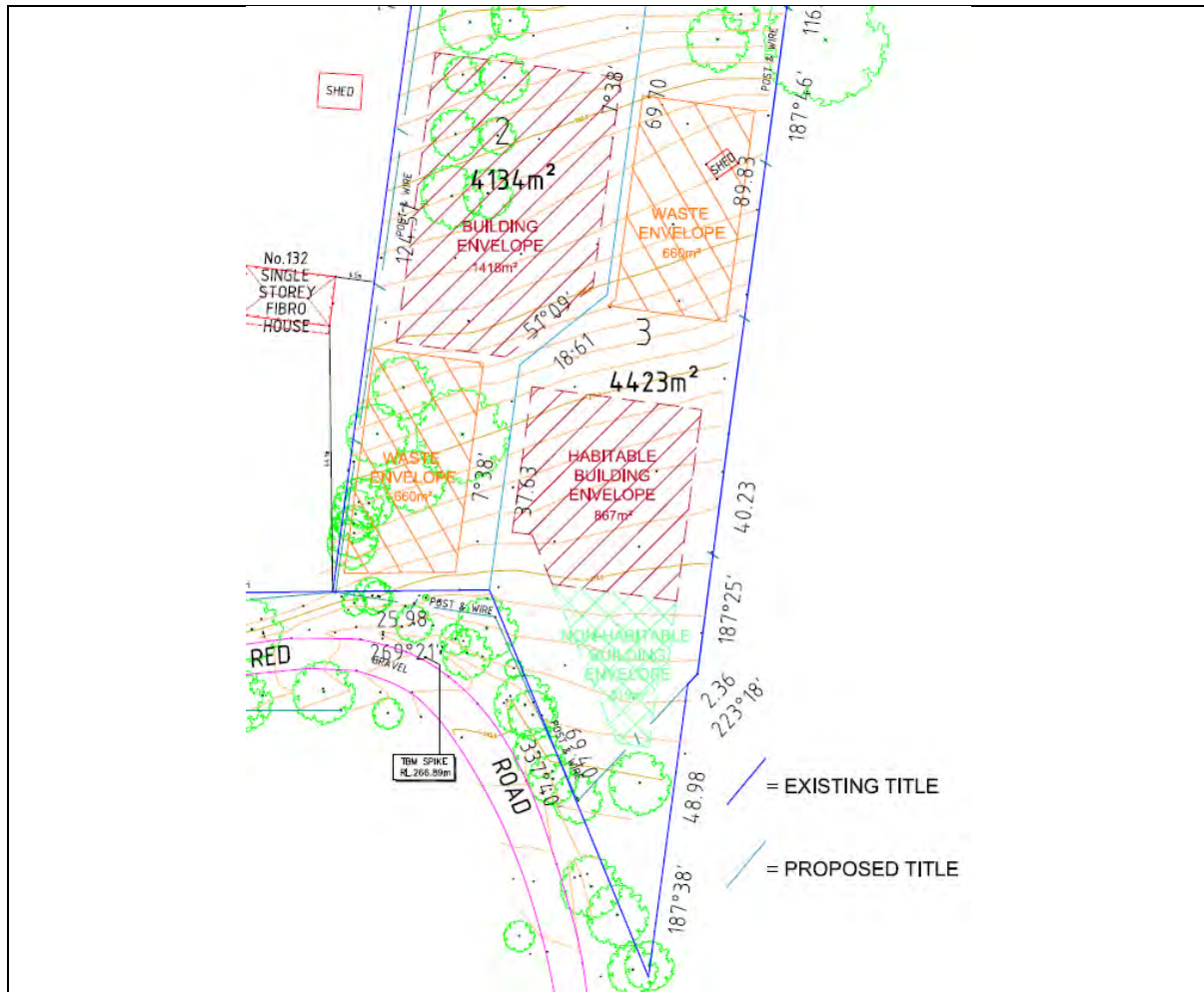
- Bushfire can approach from more than one aspect.

6 Bushfire Management Statement

Under the provisions of the Bushfire Management Overlay, an application must be accompanied by a bushfire management statement describing how the proposed development responds to the requirements in the overlay and Clause 53.02. If the application proposes an alternative measure, the bushfire management statement must explain how the alternative measure meets the relevant objective.

Subdivision

Objectives
<ul style="list-style-type: none">To provide lots that are capable of being developed in accordance with the objectives of Clause 53.02.To specify at the subdivision stage bushfire protection measures to develop a lot with a single dwelling on land zoned for residential or rural residential purposes.
Applicable approved / alternative measures
<p>AM 5.2 An application to subdivide land zoned for residential or rural residential purposes must be accompanied by a plan that shows:</p> <ul style="list-style-type: none">Each lot satisfies the approved measure in AM 2.1.A building envelope for a single dwelling on each lot that complies with AM 2.2 and provides defensible space in accordance with Columns A or B of Table 2 to Clause 52.47-3 for a subdivision that creates 10 or more lots; or Columns A, B or C of Table 2 to Clause 52.47-3 for a subdivision that creates less than 10 lots.The bushfire attack level that corresponds to the defensible space provided in accordance with Table 2 to Clause 52.47-3 must be noted on the building envelope.Defensible space wholly contained within the boundaries of the proposed subdivision.Defensible space may be shared between lots within the subdivision. Defensible space for a lot may utilise communal areas, such as roads, where that land can meet the requirements for defensible space.Vegetation management requirements in accordance with Table 6 to implement and maintain the defensible space required under this approved measure.Water supply and vehicle access that complies with AM 4.1.
<p>AM 5.3 An application to subdivide land to create 10 or more lots provides a perimeter road adjoining the hazardous vegetation to support fire fighting.</p>
<p>AM5.4 A subdivision manages the bushfire risk to future development from existing or proposed landscaping, public open space and communal areas.</p>
Bushfire management statement response
<p>The bushfire risk to the development from the landscape beyond the site can be mitigated to an acceptable level. The site is located within the eastern part of the Gembrook Township, and as noted in the landscape assessment, the township provides a safer environment given the cultivated paddocks surrounding the township. Building envelopes are shown on the proposed vacant lots fronting Red Road as shown below:</p>



Given the vegetation to the west, north and east is classified as low threat vegetation, defensible space should be provided to property boundary or 50m whichever is the lesser in accordance with Table 2.

In relation to Lot 2, the proposed building envelope is setback 100m from the bushland area to the south. This provides a good separation to reduce the intensity of a fire approaching from the south. The 100m comprises 40m within the lot, 20m of road reserve (Red Road) and 40m of open paddock on the south side of Red Road. Under Table 2, 43m of defensible space would be required to achieve a BAL19 rating. Given the 100m separation from the forest, the radiant heat flux is calculated at 4.2kw/m² which is relatively low. It is considered that defensible space should be provided to the southern boundary of the lot, and that a dwelling constructed on the lot should be constructed to a Bushfire Attack Level rating of BAL19.

In relation to Lot 3, the building envelope comprises two section, a habitable building envelope and non habitable building envelope. The purpose of this is to increase the separation between where a dwelling and be built (habitable building envelope) and the bushland area to the south. The habitable building envelope is setback 10m from Red Road at the closest point and 60m from the bushland area to the south west (at the closest point). The 60m comprises land within the lot and the road reserve for Red Road. Given the 60m separation from the forest, the radiant heat flux is calculated at 10.27kw/m². It is considered that defensible space should be provided to the southern boundary of the lot or 43m

whichever is the closer, and that a dwelling constructed on the lot should be constructed to a Bushfire Attack Level rating of BAL19.

For the proposed vacant lots, a bushfire attack level of BAL19 is proposed. This will provide a higher level of protection from ember attack which is likely to be the highest risk to a dwelling on the lots. Defendable space should be provided from the outer face of a dwelling constructed within the building envelopes should be managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building (eg: windows).
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level

Under Table 4, lots are required to be provided with a 10,000 litre water tank for fire fighting purposes. The tanks for Lot 2 and 3 would need to be provided at the time a dwelling is constructed on the lots. The water supply must:

- Be stored in an above ground water tank constructed of concrete or metal.
- Have all fixed above ground water pipes and fittings required for firefighting purposes made of corrosive resistant metal.
- Include a separate outlet for occupant use.
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of the relevant fire authority.
- Be located within 60 metres of the outer edge of the approved building.
- The outlet/s of the water tank must be within 4 metres of the accessway and unobstructed.
- Incorporate a separate ball or gate valve (British Standard Pipe (BSP 65 millimetre) and coupling (64 millimetre CFA 3 thread per inch male fitting).
- Any pipework and fittings must be a minimum of 65 millimetres (excluding the CFA coupling).

The length of driveways to the dwellings to be constructed on Lots 2 and 3 will depend on the final location of the dwellings within the building envelopes. The driveway to Lot 2 will exceed 30m whereas the driveway to Lot 3 may be less than 30m.

If the length of the driveway is less than 30m, there are no requirements for emergency vehicle access other than fire authority vehicles must be able to get within 4 metres of the water supply outlet.

If the length of the driveway is greater than 30m and less than 100m, the driveway should be designed to meet the following construction requirements:

- All-weather construction.
- A load limit of at least 15 tonnes.
- Provide a minimum trafficable width of 3.5 metres.
- Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres vertically.
- Curves must have a minimum inner radius of 10 metres.
- The average grade must be no more than 1 in 7 (14.4%) (8.1°) with a maximum grade of no more than 1 in 5 (20%) (11.3°) for no more than 50 metres.
- Dips must have no more than a 1 in 8 (12.5 percent) (7.1 degrees) entry and exit angle.

The slope on Lot 2 between Red Road and the building envelope is 1 in 5. This will exceed to average grade set out above, but meet the maximum grade requirement. Given the relatively short length of approximately 40m, this is considered to be acceptable. The driveway for Lot 2 needs to be carefully designed to work with the slope and avoid a driveway straight up and down the slope which will maximise the grade.

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7 Conclusion

The application proposes a 3 lot low density residential subdivision in Beenak East Road Gembrook. Two vacant lots are proposed facing Red Road to the south.

The bushfire risk to the development can be mitigated to an acceptable level for the subdivision to proceed.

The dwellings to be constructed on proposed Lots 2 and 3 should be constructed to a bushfire attack level of BAL19. Any dwelling constructed on Lot 3 should be restricted to the habitable building envelope. Defendable space should be provided for the dwellings to the boundary of the proposed lot or 50m whichever is the lesser to the west, north and east, and to the boundary of the proposed lot or 43m whichever is the lesser to the south .

Proposed Lot 2 and 3 will be required to be provided with a 10,000 litre water tank for fire fighting purposes. The tanks would need to be provided at the time a dwelling is constructed on the lots.

Appropriate access to the lots for emergency vehicles can be provided. The access to Lot 2 in particular will need to be carefully designed to minimise the gradient so that it does not exceed 1 in 5.

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