

## 5 Ordinary Business

### 5.1 T220274 PA - Buildings and Works (Earthworks) for a Pond - 10 Craik Road, Beaconsfield Upper

**Responsible GM:** Lili Rosic  
**Author:** Hamish Mival

#### Recommendation(s)

That Council grant Planning Permit T220274 for Buildings and Works (Earthworks) for a Pond at Lot 2 on PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808, subject to the following conditions:

#### Amended plans required

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Contours on property to Australian Height Datum (AHD).
  - b) Setbacks from all boundaries.
  - c) Cross-sections of pond from all four sides.
  - d) Method of construction.
  - e) Geo-textile liner and details of liner to be clearly shown on cross-sections/elevations.

#### Landscaping

2. Before the development starts, a Landscape Plan must be submitted to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must show:
  - a) All slopes that will be excavated or filled as part of this application, which are to be planted with indigenous plants.
  - b) A list of indigenous plant species to be used, and the name of the indigenous nursery where plants will sourced from. Plantings must include a range of indigenous trees, shrubs and grasses.
  - c) Plant densities, which must be generally in accordance with *DSE Native Vegetation Revegetation Planting Standards (2006)*.
  - d) Actions and timing of all planting preparation and follow up maintenance works including tree guards and mulch.
3. Within three (3) months of the completion of the development, all works associated with the Landscape Plan must be completed to the satisfaction of the Responsible Authority, with photographic evidence submitted to Council.
4. The landscaping shown on the Landscape Plan must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.

**Layout not altered**

5. The layout and size of the proposed pond, as shown on the endorsed plans, must not be altered or modified without the written consent of the Responsible Authority.

**Satisfactory completion**

6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**Engineering**

7. The pond must be sited and constructed to prevent damage or detriment to adjoining properties from the discharge of water from the pond.
8. Any topsoil on the pond site must be stripped and stockpiled for spreading on all disturbed ground above the full supply level.
9. No excavated material may be removed from the pond site without the written approval of the Responsible Authority.

**General amenity provision – construction works**

10. The works associated with the construction of the development must not detrimentally affect the amenity of the area, through the:
  - a) Transport of materials, goods or commodities to or from the land.
  - b) Inappropriate storage of any works or construction materials.
  - c) Hours of construction activity.
  - d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
  - e) Presence of vermin.

**Existing Sewerage Disposal**

11. The works must not disturb or interfere with the existing sewerage disposal system on the property. If the location of the existing sewerage disposal system needs to be varied, then approval must be obtained from the Responsible Authority.

**Minimal soil erosion**

12. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

**Attachments**

1. Assessed Plans [5.1.1 - 4 pages]
2. CONFIDENTIAL - Copy of Objection 1 - Confidential [5.1.2 - 1 page]
3. CONFIDENTIAL - Copy of Objection 2 - Confidential [5.1.3 - 1 page]
4. CONFIDENTIAL - Copy of Objection 3 - Confidential [5.1.4 - 1 page]
5. CONFIDENTIAL - Copy of Objection 4 - Confidential [5.1.5 - 1 page]

### Executive Summary

<b>APPLICATION NO.:</b>	T220274
<b>APPLICANT:</b>	Mr Peter Li
<b>LAND:</b>	Lot 2 PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808
<b>PROPOSAL:</b>	Buildings and Works (Earthworks) for a Pond
<b>PLANNING CONTROLS:</b>	Green Wedge A Zone – Schedule 2 Environmental Significance Overlay – Schedule 1 Bushfire Management Overlay
<b>NOTIFICATION &amp; OBJECTIONS:</b>	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to the owners and occupiers of adjoining land.  Four (4) objections were received.
<b>KEY PLANNING CONSIDERATIONS:</b>	Potential for adverse impact on surrounding land  The capability of the land to accommodate the proposed development  Potential for environmental impact
<b>RECOMMENDATION:</b>	Planning Permit

### Background

Outside of this current application, there are numerous Planning Permits and Applications related to the land, these being:

- Planning Permit T070227 a – 1 (Issued 4 October 2007) (Expired) – *The use and development of the land for a dwelling, garage and shed and associated earthworks (exceeding one metre)*
- Planning Permit T070227 b – 2 (Issued 9 March 2011) (Expired) – *The use and development of the land for a dwelling, garage and associated earthworks (exceeding one metre), generally in accordance with the approved plan/s*
- Application T120232 (Refused 22 May 2011) – *Use and development of the land for a rural store*
- Planning Permit T130419 (Issued 18 October 2013) – *Use and development of the land for a dwelling exceeding seven (7) metres in height, outbuilding and associated earthworks exceeding one (1) metre*

- Planning Permit T130699 (Issued 19 March 2014) – *Development of the land for earthworks (retrospective permit)*
- Application T160420 (Lapsed 25 January 2017) – *Development of the land for a carport*

Also relating to the site is its original subdivision as below:

- Planning Permit T970608 (Issued 6 April 1998) – *Subdivision* (One into four lots)
- Planning Permit T970608A – 1 (Issued 16 July 1998) – *Approve Amended Plans*

### Subject Site

The subject site is located on the north side of Craik Road in Beaconsfield Upper and borders a Council reserve to the west. It is 2.02ha in size and generally of a rectangular shape.

Access to the site is via a crossover from Craik Road to the south. Craik Road is a cul-de-sac, with the crossover into the subject site being the last on the street. A path leads from this dead end into the reserve down the slope, along the southern boundary of the subject site. The lot is one of four within a previous subdivision.

The site currently contains a dwelling and some small outbuildings located towards the south-east corner of the land. The majority of the lot is cleared, with some remnant vegetation roughly in the centre of the lot. The location of the proposal is completely clear of any vegetation.

The lot slopes down towards to the west/north-west. This slope leads down into a gully within Harris Reserve. The land slopes back up on the other side of the reserve further to the west, with an older residential subdivision occupying this slope.

To the north is 9A Sugarloaf Road, Lot 3 within the same subdivision. It also contains a dwelling and is mostly cleared of vegetation. To the east is 9 Sugarloaf Road (Lot 1), similarly containing a dwelling. Roughly half of this lot is cleared of remnant vegetation. To the South is Craik Road, and beyond a continuation of the reserve to the west. There is also a large pond within this reserve, directly due south from the proposed pond.

Aerial imagery suggests a pond may have already been created in the chosen location, making this a retrospective permit application.



### Relevance to Council Plan

#### 3.1 We value our natural assets and support our biodiversity to thrive

3.1.3 Work with community to improve and manage our natural assets, biodiversity and cultural heritage.

#### 5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

### Proposal

The proposal is for earthworks to create a rectangular pond. The pond is to be 8m wide and 9m long. It is to have a maximum depth of 600mm. While the lot has a general north-westerly slope, the chosen location of the pond remains somewhat level east to west, sloping down to the north. The pond will be located 10m off the western boundary.

The pond will have a geotextile liner installed. Vegetation planting is proposed surrounding the pond, although no plans have been provided. No filtration system or retaining wall is proposed.

### Planning Scheme Provisions

The relevant Clauses of the Planning Policy Framework (PPF) are:



- Clause 11.01-1R – Green wedges – Metropolitan Melbourne
- Clause 12.03-1S – River and riparian corridors, waterways, lakes, wetlands and billabongs
- Clause 12.05-1S – Environmentally sensitive areas
- Clause 13.04-2S – Erosion and landslip
- Clause 14.02-1S – Catchment planning and management
- Clause 14.02-2S – Water quality

**The relevant Clause of the Local Planning Policy Framework (LPPF) are:**

- Clause 21.02-1 – Catchment and coastal management
- Clause 21.02-3 – Biodiversity
- Clause 21.07-4 – Upper Beaconsfield

**Relevant Particular/General Provisions and relevant incorporated or reference documents:**

The relevant provisions/documents are:

- Clause 65 Decision Guidelines
- Clause 71.02-3 – Integrated decision making
- Upper Beaconsfield Township Strategy, 2009 (incorporated document)

### Planning Permit Triggers

- Pursuant to Clause 35.05-5 of the Green Wedge A Zone (GWAZ) a Planning Permit is required for earthworks which change the rate of flow or the discharge point of water across a property boundary

### Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land.

The notification has been carried out correctly, and Council has received four (4) objections to date. These are discussed later in this report.

### Referrals

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	None	N/A
Section 52 Referrals	Melbourne Water	No objection received.
Internal Referrals	Engineering	No objection, subject to conditions. The department made the following comments: "The land naturally falls towards the adjacent Council reserve, which is predominantly for drainage purposes. The proposed small pond, when full, will still naturally overflow into this reserve. The drainage reserve captures a large catchment in addition

		<p>to the overland flows from the subject land, therefore any retention of water in this proposed small pond will have minimal, or no, impact on the drainage reserve.”</p> <p>Conditions including:</p> <ol style="list-style-type: none"> <li>1. Submission of amended plans showing consistent dimensions, cross-sections of the proposed pond, and method of construction.</li> <li>2. Various standard conditions</li> </ol>
	Environment	No objection, subject to conditions.

### Discussion

The application is for Buildings and Works (Earthworks) for a Pond, which requires a planning permit under the provisions of the Green Wedge A Zone.

The key considerations of this application relate to:

- The relevant policies of the Planning Policy Framework and the Local Planning Policy Framework
- The purpose, objectives and decision guidelines of the Green Wedge A Zone
- The decision guidelines of Clause 65.

### Planning Policy Framework and Local Planning Policy

The landscape significance of the area is relatively high, with undulating land characterised by unique views, significant areas of remnant vegetation, and habitats of botanical and zoological significance. However, the proposed earthworks are minor in size, roughly the length and width of a swimming pool, which are common in the surrounding area and do not regularly require a planning permit. The depth will also be less deep than the average swimming pool.

As the earthworks constitute entirely of excavation with no fill, to then be filled with water, the impact on the landscape character of the area will be low. To address visual amenity concerns, a condition will be attached to the permit requiring a Revegetation/landscape plan at the request of Council's Environment department. The proposal therefore complies with Clause 11.01-R Green wedges, and Clause 12.05-1S Environmentally sensitive areas.

As Harris Reserve to the west is designed for drainage purposes and capable of carrying and draining large amounts of water, the potential for additional retained water within the proposed pond to impact on overland flow is low. A referral to Council's Engineering department has been undertaken, with no objection subject to conditions that will be imposed on any planning permit. Further details on their response are provided above. Therefore, the proposal complies with Clause 12.03-1S (Water Bodies and Wetlands) and Clause 14.02-1S Catchment planning and management.

Impact on erosion and sediment run-off is considered to be minor, with a geo-textile liner proposed to be installed and vegetation to surround the pond. Plans also indicate that the earthworks will be sited away from the existing effluent envelope on site. The proposal therefore complies with Clause 13.04-2S Erosion and landslip, Clause 14.02-2S Water quality and Clause 21.02-1 Catchment and coastal management.

**Clause 35.05 - Green Wedge A Zone – Schedule 2**

The purpose of the Green Wedge A Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To protect, conserve and enhance the biodiversity, natural resources, scenic landscapes and heritage values of the area.
- To ensure that use and development promotes sustainable land management practices and infrastructure provision.
- To protect, conserve and enhance the cultural heritage significance and the character of rural and scenic non-urban landscapes.
- To recognise and protect the amenity of existing rural living areas.

The zone presents various decision guidelines, which are assessed below as appropriate:

**General Issues**

The site is identified within the *Land Capability Study of Cardinia, 1997* as having poor soil quality for most uses. On balance, this does not preclude the proposed development, with only a maximum of 600mm cut proposed along with a geo-textile liner. The land is deemed capable of accommodating this.

As noted above, the proposal will have a minimal impact on the landscape character of the area. The addition of new plantings will help to alleviate any impact, and contribute positively. Potential impact on amenity of neighbouring residents will be addressed below in a response to objections.

**Rural Issues**

The land is presently used for a dwelling and is poorly suited to agriculture. The proposal takes up a small footprint, and could be feasibly removed and remediated if required. In either instance, the land and that surrounding it is not used for agriculture, with the site bordering the more densely populated Beaconsfield Upper township, and so the development of the land for other purposes should be reasonably expected. The land has already been approved for a dwelling, and so appropriate development ancillary to this established use is an acceptable outcome.

**Environmental Issues**

The site is presently clear of vegetation, with no vegetation within 10m of the proposed cut. The proposal will provide a net increase in the amount of vegetation on site through conditions on any planning permit as recommended by Council's Environment department. The applicant has also cited that the pond is intended for use by local fauna. There will be no impact on the existing effluent envelope on site.

In summary, the application is consistent with the purpose and decision guidelines of the Green Wedge A Zone.

**Response to Objections**

Council has received four (4) objections to the application. These are listed below, including the objector's concerns:



Objector	Concerns
1	"This permit if granted will allow diverting water from flowing to the Melbourne Water protected area. Surely this is not permitted"
2	"This person has made an eye-sore of the area and most likely is only needing the pond due to water around his property from doing so much illegal earthworks. He needs to be given clear guidelines, supervision and a timeline for any further work before he makes a complete mess of it all!"
3	Various, including: <ul style="list-style-type: none"> <li>- Earthworks on site without a permit.</li> <li>- Quality of assessed plans.</li> </ul>
4	Various, including: <ul style="list-style-type: none"> <li>- Scepticism of need for pond</li> <li>- Previous and ongoing works on site over "10 years"</li> <li>- Applicant's history of non-permitted works</li> <li>- General amenity impacts of works and property</li> <li>- Environmental impact</li> </ul>

While there is a history of non-permitted works on this property, this application must be viewed on its own merits. This application appears to be retrospective, in that works for what appears to be a pond have already been carried out, as can be seen through aerial imagery. The ongoing earthworks have been addressed by Council's Compliance department. Notwithstanding this, there is enough information to assess the proposal and determine that its merits are sound.

However, the provided plans are not satisfactory, and so a condition should be attached to the permit requiring amended plans showing all dimensions, including elevations from all sides. In order to address visual amenity concerns, a condition requiring a vegetation/landscape plan has been imposed at the recommendation of Council's Environment department. Standard conditions to reduce amenity impacts during any works have also been required.

To determine potential for impact on overland flow into the drainage reserve (Harris Reserve), the application was referred to Council's Engineering department, who did not object subject to conditions. They provided the below comment:

*"The land naturally falls towards the adjacent Council reserve, which is predominantly for drainage purposes. The proposed small pond, when full, will still naturally overflow into this reserve. The drainage reserve captures a large catchment in addition to the overland flows from the subject land, therefore any retention of water in this proposed small pond will have minimal, or no, impact on the drainage reserve."*

Subject to conditions, it is therefore determined there will be no undue effect on overland flow into the reserve.

## Conclusion

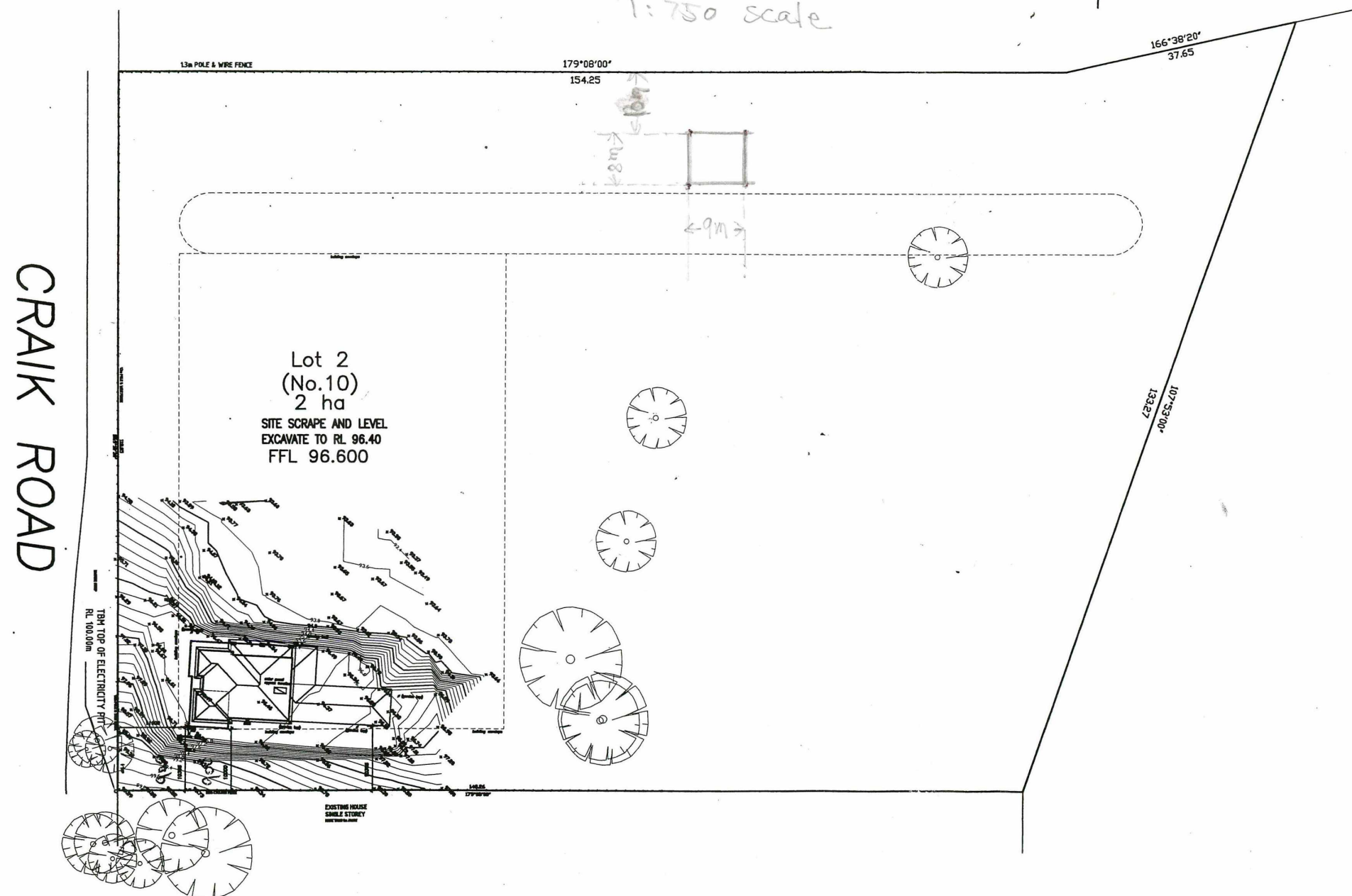
The proposal complies with the relevant provisions of the Cardinia Planning Scheme.

It is recommended that Council approve Planning Permit T220274 for Buildings and Works (Earthworks) for a Pond at L2 PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808, subject to conditions as detailed in the recommendation section of this report.

Town Planning Committee Meeting 6 February 2023

Peter Li  
Application No = T220274  
Address = 10 Craik Rd.  
Beaconsfield Upper 3808  
0430 316 837  
petershli@hotmail.com.

1:750 scale



## SITE PLAN

<p><b>BUCKINGHAM 360E</b></p>	<p>IMPORTANT NOTE: BUILDER ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY COVENANTS GOVERNING THE USAGE OF THE LAND HERE IN.</p>	<p>M1777-7</p>	<p>TITLE <b>PROPOSED RESIDENCE</b> AT <b>Lot 2 (No.10) Crail Road</b> <b>Upper Beaconsfield</b> <b>FOR</b> <b>Li Family Trust</b></p>	<p>BUILDER: <b>JADEMARK HOMES</b> <b>3 RUSTIC RISE</b> <b>NARRE WARREN NORTH VIC 3804</b> <b>Ph: 8790-4111</b> <b>Fax: 8790-4122</b></p>				
	<p>Registered Draftsperson - Robert - DP-AD 2010</p>				<p>DRAWN BY <b>DVC-NA</b>    JOB NO. <b>NBG10-</b></p>	<p>DRW No <b>A1</b>    1:750 SCALE    DATE <b>11-11-10</b></p>	DATE	DESCRIPTION



Site plan:

1:100

\* Peter L.  
10 Craik Rd  
Beaconsfield upper

W  
←

→ E

N ←  
600 mm  
deep

→ S

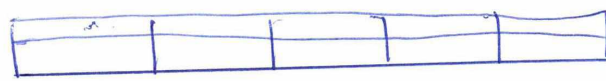
excavation volume.

There will be liners (geotextile).  
There is no plan to install retaining wall or  
a filtration system.  
When the pond is full. The water will run  
naturally as before the pond is built.  
Shrubs will be planted around the pond.  
It will attract lots of birds, ducks to the  
surrounding area.

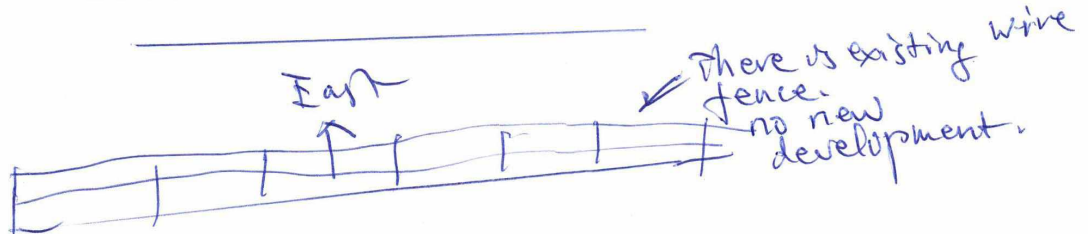
Elevation plan:  
North  
↑

1:100

\* refer to 10 Crater Rd  
Beaconsfield upper  
there is existing  
wire fence  
no new developments

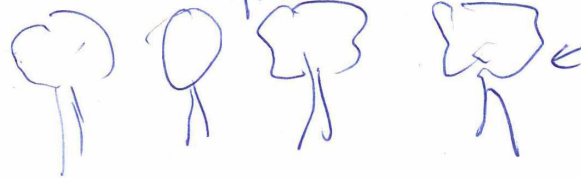


East  
↑

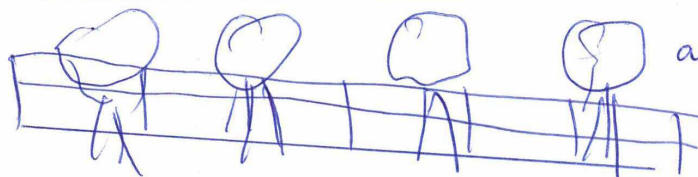


There is existing wire  
fence.  
no new  
development.

South  
↑



existing trees  
no new development



existing fence  
and trees  
no new  
developments.

The finish ground level on all elevation  
will be the same level as the natural ground level  
the depth of the excavation is indicated in the  
site plan.

thank you for your consideration  
of our plan. We hope we would  
have the opportunity to continue to improve  
the land.  
Yours Sincerely  
Peter Li & Alan Li