

## **4 CONTRACTORS DEPOT AT BELLBIRD CLOSE PAKENHAM**

FILE REFERENCE INT1691140

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Mary Rush

### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T150779 be issued for use and development of the land for the purpose of a contractors depot at Bellbird Close, Pakenham Victoria 3810 on the grounds detailed in this report.

### **Attachments**

1	Locality Plan	1 Page
2	Development Plan	4 Pages
3	Copy of objection circulated to councillors only	2 Pages

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T150779
APPLICANT:	Jane Town
LAND:	Bellbird Close, Pakenham Victoria 3810
PROPOSAL:	Use and development of the land for the purpose of a contractor's depot
PLANNING CONTROLS:	Green Wedge A Zone Schedule 2 Environmental Significance Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to adjoining land owners and occupiers, and placing a notice on site. Council has received one objection to date.
KEY PLANNING CONSIDERATIONS:	Amenity, protecting the character of rural and non-urban landscapes.
RECOMMENDATION:	Refusal to grant a permit.

### **BACKGROUND:**

- Planning permit T000658 was issued in August 2000 for earthworks(filling on the site).
- Planning permit T010234 was issued in June 2001 for a dwelling and outbuilding.
- Planning permit T040352 was refused in April 2004 for the removal of vegetation.
- Planning permit application T070004 for the construction of a dam was withdrawn on the 10 June, 2007.

There is a large outbuilding which is currently being used for the purpose of storage of plumbing supplies associated with the contractors depot, this was approved under the 2001 permit (dwelling and outbuilding). There was a condition on this permit that stated that the outbuilding could only be

used for domestic or rural activity purposes and that it cannot be used for human habitation or to operate a business. Therefore the business has been operating in breach of this planning permit.

The applicant is seeking to gain retrospect permission to use this building for the business and to build a new building associated with the business.

## SUBJECT SITE

The site is located on the north side of Bellbird Close, Pakenham which is a sealed road. A crossover is located adjoining the eastern boundary of the site and there is a drainage/sewerage easement running north-south through the site.

The site currently contains a dwelling, stable complex, and a large outbuilding.

The topography of the land is flat.

The main characteristics of the surrounding area are:

- North: Abuts the rear of a lot which fronts Army Road which contains a dwelling.
- East: Mixture of rural lots containing a single storey dwellings.
- South: Across Bellbird Close are several rural lots containing single storey dwellings.
- West: Abuts a reserve through which the Kennedy Creek runs in a north-south direction.

## PROPOSAL

An application was received on the 9 December, 2015, (T150779) for an outbuilding to be used for domestic storage. The outbuilding measures 9 metres by 18 metres (162 square metres) with a skillion roof with a maximum height of 4.2 metres.

The proposed outbuilding is to be located adjoining the northern elevation of the existing building which is also 162 square metres and which is located 11 metres from the eastern boundary and approximately 100 metres from the frontage of the site to Bellbird Close.

A site inspection revealed several utility work vehicles and two trucks with excavators. There was also signage with 'Worksafe' messages located on the existing outbuilding and a site office which appeared to be used as an office.

A response to a further information request from Council identified that existing building is used for the storage of goods associated with a contractors depot, and that the vehicles are also associated with that use.

The applicant subsequently amended the application on the 7 March, 2016 to include the use and development of the land for the purpose of a contractors depot which is associated with the installation of plumbing infrastructure for dwellings.

The applicant provided the following information outlining the scale and nature of existing use of the site for a contractors depot which the current application is seeking permission:

1. Total staff on site is 10 (excluding the owner who resides on site) broken down as follows:
  - 2 Office staff who attend the site between 8am-4pm;

- 8 plumbing staff who attend the site between 6am-5pm(staff leave in the morning and often returning intermittently between these hours to collect supplies from the site);
- 2. The existing building is used to store plumbing supplies;
- 3. The proposed new building is to allow for the storage of vehicles, trailer and excavator when not in use;
- 4. Vehicles include:
  - 6 private commuter vehicles owned by employees, which are left on site during the day.
  - 5 utility vehicles driven by employees to work sites.
  - Two trucks with excavators driven by employees to work sites.
  - A minimum of two delivery vehicles per day.

## PLANNING SCHEME PROVISIONS

### State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 12 Environmental and landscape values
- Clause 15 Built and Environment and Heritage

### Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-2 Landscape.
- Clause 21.03-4 Rural residential and rural living development.

### Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 57 Metropolitan Green Wedge Land.
- Clause 65 Decision Guidelines.

### Zone

The land is subject to the Green Wedge A Zone Schedule 2.

### Overlays

The land is subject to the Environmental Significance Overlay Schedule 1.

## PLANNING PERMIT TRIGGERS

The proposal for the use and development of the land for a contractors depot requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.05-1 a planning permit is required for the use of the land for a contractors depot which is an unspecified section 2 use.
- Pursuant to Clause 35.05-5, a planning permit is required for buildings and works associated with a contractors depot.

## 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.
- Placing a sign on site.

The notification has been carried out correctly, and Council has received 1 objection to date.

The key issues that were raised in the objection are:

- Impact on the amenity of the area (noise, traffic, lighting, hours of operation).
- Inconsistent with the purpose of the Green Wedge A Zone.

## REFERRALS

Internal Council Referral	Advice/ Response/ Conditions
▪ <i>Engineering</i>	No objection ( <i>subject to conditions</i> )
▪ <i>Building</i>	<ol style="list-style-type: none"> <li>1. Advised that the <i>building classification is more likely to resemble a class 7 (carpark/storage) building with class 5 (office) part/s and not class 10a (outbuilding associated with a dwelling)</i></li> <li>2. The building is unlikely to comply with the 'Disability Discrimination Act' for disabled access</li> </ol>

## DISCUSSION

It is considered that the proposal is not consistent with the Cardinia Planning Scheme, including the State Planning Policy Framework, the Local Planning Policy Framework and zoning of the land.

State and Local Planning Policy Framework requires that the existing rural landscape be conserved. The subject site is within a rural residential subdivision consisting of lot sizes around 2-3 hectares generally containing large dwellings with small outbuildings. Most of the surrounding lots are used as hobby farms. The size or the design of the proposed building is not consistent with the existing pattern of the surrounding development, with the size of the building and its design being of an industrial rather than rural design.

The scale of the contractors depot in terms of the number of staff and vehicles accessing the site is not consistent with the residential character of the area and constitutes the scale of activity normally found in an industrial area.

The proposal is not therefore considered to complement the existing rural/residential character of the surrounding area.

### Green Wedge A Zone-Schedule 2

The relevant purposes of the zone are to protect, conserve and enhance the cultural heritage significance and the character of rural and scenic non-urban landscapes and also to recognise and protect the amenity of existing rural living areas.

It is considered that the current proposal neither protects nor enhances the landscape values of the area given that the building is of commercial scale and not consistent with the residential character of the area.

The proposal has an identifiable impact on the amenity of the existing residents as, apart from the proposed building, the use is already being carried out at the scale proposed and an objection has identified the current impact on their amenity.

The following discussion will consider the decision guidelines of the zone in relation to the proposal:

**General Issues:**

The site is not suitable for the contractors depot as it is located within a quiet rural area and does result in material detriment and impacts on the amenity of residents. Approving the current application would not protect the amenity of the existing residents.

**Rural Issues:**

The surrounding sites are used as a hobby farm, with associated stables and horse ménage and rural living. The proposal will have minimal impact on these activities, however the proposed use does not compliment or attribute to the rural aspects of the area.

**Environmental Issues:**

There are no specific environmental issues raised by the proposal.

**Design and Siting Issues:**

The surrounding properties are rural/residential in character with a mixture of housing types. The gross floor area of the building proposed is considerably larger than the adjoining properties and not considered to be consistent with the existing pattern of development or the surrounding rural and scenic non-urban landscape.

Consideration of objections

- *Impact on amenity(traffic, noise, lighting, hours of operation).*
- *Inconsistent with the purpose of the Green Wedge A Zone.*

**Impact on amenity**

The objector has advised Council that the current use has significant impact on their amenity. The number and type of vehicles moving to and from the site on a daily basis far exceeds that normally associated with a residential property, together with the associated noise, detracts from the quiet rural character which you would expect to find.

The number of vehicle movements associated with the business far exceeds that associated with normal domestic activity and is in line with an industrial use.

There are floodlights located on the outside of the existing building which lights up the area on dark mornings. The spread of the light is not restricted and impacts on surrounding properties.

The applicant has advised that activity starts on the site from 6am which is not appropriate for a residential area. Whilst not specifically applicable to commercial activities in a residential area, Environment Protection Policy (EPA) regulations for residential areas state that no machinery other than a domestic vehicle moving to and from the site is permitted before 7am. The noise of trucks and vehicles not associated with residential activity moving to and from the site at 6am has a detrimental impact on the amenity of the quiet rural area.

**Inconsistent with the purpose of the Green Wedge A Zone**

The objector has identified that the use is inconsistent with one of the decision guidelines of the zone which states:

*“the need to minimise adverse impacts on the character and appearance of the area or features of architectural, scientific or cultural heritage significance, or the natural scenic beauty”*

The objector has identified that contractors depot has been in operation for some time and that the associated amenity impacts are not consistent with the decision guidelines of the zone which require that Council minimise adverse impacts on the rural character of the area.

Concerns were also raised that an earlier complaint to Council by another resident did not result in enforcement action. A search of Council databases could not locate any details of earlier complaints.

### **Clause 65 Decision Guidelines**

It is not considered that the current proposal is consistent with the orderly planning of the area in that the use constitutes a commercial activity in a rural/ residential area with associated negative impacts on the amenity of the area.

VCAT, in *KevTam Transport v Greater Geelong CC(GGCC)* [2005], upheld GGCC's refusal of a contractors depot in a rural zone and found that:

*“It is a non-rural activity in a Rural Zone that has no association with rural activities. The applicants have not demonstrated any compelling reason why it should be located on rurally zoned land”.*

The current applicant has not provided any justification as to why an essentially commercial/industrial activity should be supported on a site with a rural zoning. The applicant was advised of the potential refusal of the application and has not modified the proposal. It can be considered that proposals to locate this type of use in rural areas are primarily to avoid the costs associated with renting/purchasing an industrial site. However this has not been suggested by the applicant to this proposal.

### **CONCLUSION**

It is considered that the application is inconsistent with the requirements of the Cardinia Planning Scheme and it is therefore recommended that Planning Permit application T150779 for use and development of the land for the purpose of a contractors depot at Bellbird Close, Pakenham Victoria 3810 be refused on the following grounds:

1. The proposal is not consistent with the purpose and decision guidelines of the Green Wedge A Zone-Schedule 2.
2. The proposal is not consistent with Clause 65 Decision Guidelines.
3. The proposal is in contrary to State and Local Planning Framework Policies.

### **CONDITIONS**



Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

10/11/2016





Thursday, 12 May 2016

Mary Rush  
Planning Department  
Cardinia Shire Council  
PO Box 7  
Pakenham 3810

Dear Mary

Application number: T150779  
Property Number : 1086350300  
Address: L3 PS425324 Bellbird Close Pakenham Victoria 3810  
Proposal: Use and development of the land for the purpose of a contractors depot

Thank you for your letter, dated 5<sup>th</sup> April 2016, requesting some further information regarding our application.

I can confirm that the maximum number of employees on the site at any one time is 11. This does include the owner of both the business and the property. There is 1-2 office staff onsite daily between the hours of 8am and 4pm. The remainder are tradesman are onsite between 6:30am and 6:45am before leaving to various jobs. the tradesmen return intermittently between the hours

They type of vehicles that would be entering the site during working hours would be 5 Company Utilities which are not left on site. There are also 2 trucks and 2 excavators which remain on the property when not in use. We have a 5T Kubota KX-41 and a 1.5T Kubota U45-3G, Isuzu Tray Truck GVM5500 Tare 2720, Mitsubishi Fuzo Tray Truck Tare 4780 GVM 10400. The plumbers use the utilities and our drainers use the Trucks and Excavators. There would be a maximum of 6 cars left on the site during the day with these all being standard road vehicles belonging to the apprentices and the administration staff.

As explained in my last letter, the approximate number of deliveries a day are 2. These are from suppliers to the business and are for lengths of pipe and plumbing fittings. These deliveries are usually supplied on utilities, vans and small trucks.

The nature of this business is Residential New Housing and some Maintenance. Type of goods stores in existing and proposed building is and will be, stock fittings and pipe, builder supplied toilets, tapware and appliances. The business hours are between 6:30am and it closes no later than 5:00pm.

The portable site building mentioned in your letter is a temporary building only and will be removed upon completion of the new shed extension. Attached is updated drawings, showing the internal layout of the existing building and the proposed shed extension.

**SmartSteel Designs**  
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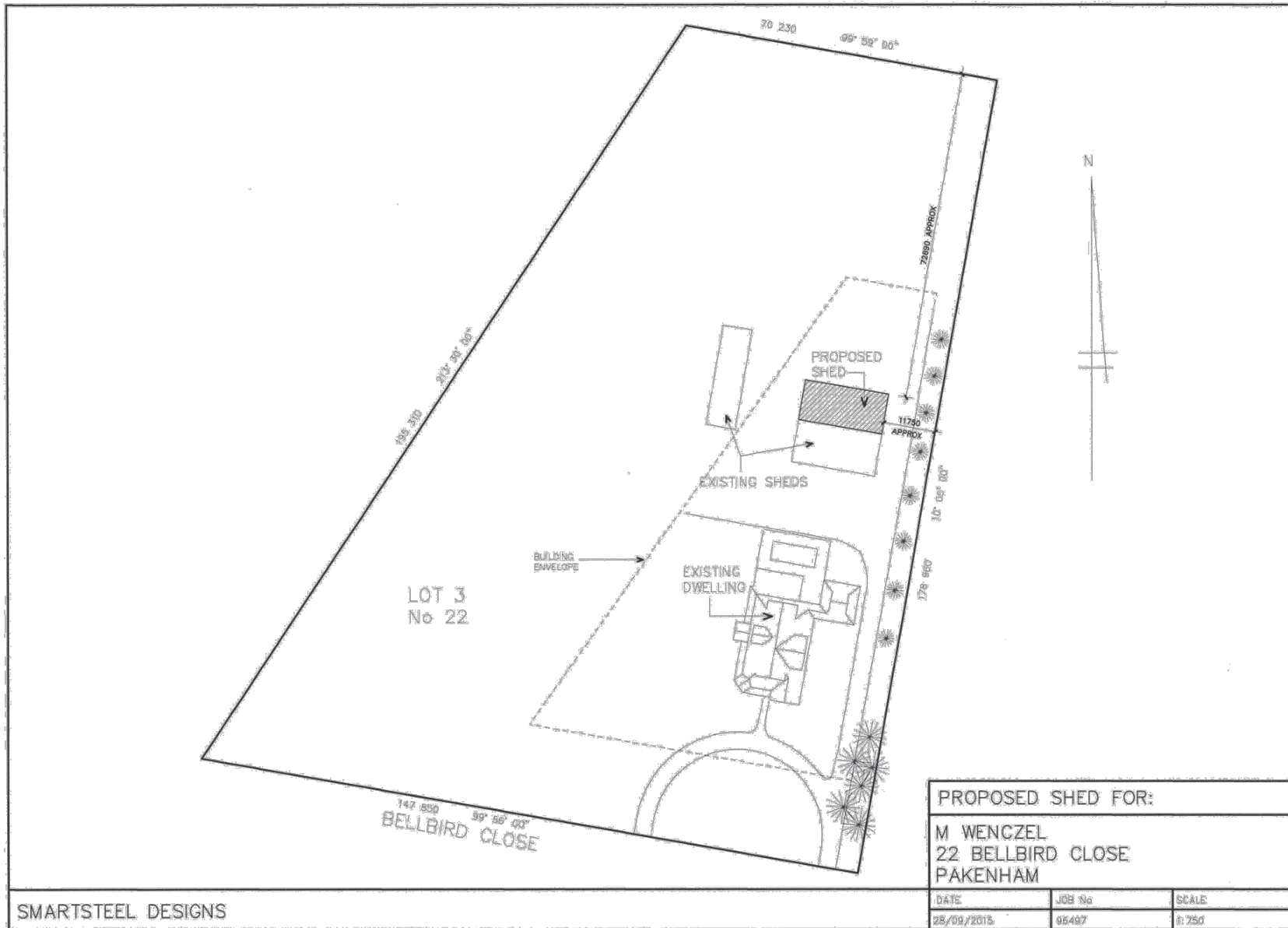


I hope that this has answered your questions. If you require anything further, please don't hesitate to contact me on 56342997 or via email at [admin@smartsteeldesigns.com](mailto:admin@smartsteeldesigns.com)

Kind regards

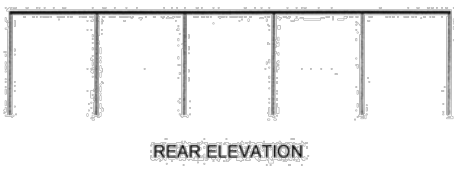
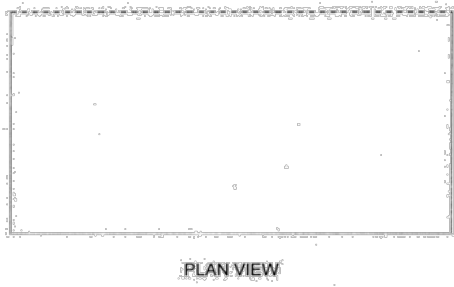
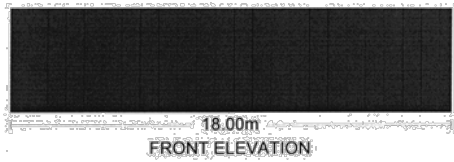
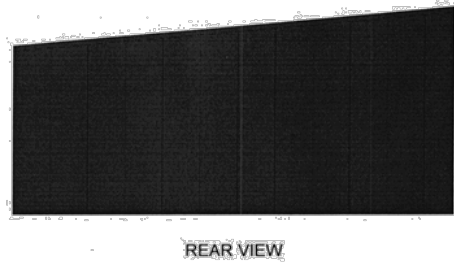
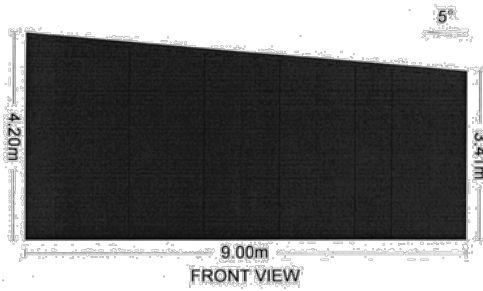
Jane Town

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