

# 2 EXTENSION TO OUTBUILDING AT 1921 WELLINGTON ROAD, MENZIES CREEK

FILE REFERENCE INT1611040

# RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Jason Gilbert

# RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T150540 be issued for buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay at L4 PS074703, 1921 Wellington Road, Menzies Creek, subject to the conditions attached to this report.

### Attachments

1	Locality map	1 Page
2	Development plans	5 Pages
3	Letter of objection circulated to councillors only	2 Pages

# EXECUTIVE SUMMARY:

APPLICATION NO .:	T150540
APPLICANT:	Ben Marshall
LAND:	1921 Wellington Road, Menzies Creek 3159
PROPOSAL:	Buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay
PLANNING CONTROLS:	Rural Conservation Zone - Schedule 2 (RCZ2) and adjacent to a Road Zone Category 1 (RDZ1) Bushfire Management Overlay (BMO) and Environmental Significance Overlay - Schedule 1 (ESO1)
NOTIFICATION & OBJECTIONS:	Notice was provided by way of letters to the owners and occupiers of adjoining properties
	One (1) objection has been received to date
KEY PLANNING CONSIDERATIONS:	Built form outcomes, bushfire management, rural development, impact on views
RECOMMENDATION: Approval	

**RECOMMENDATION:** Approval



# BACKGROUND:

- Planning Permit T050221 issued on 5 July 2005 for the development of the land for the purpose of a dwelling extension and outbuilding (shed).
- Notice of Application for Enforcement Order sent 11 April 2007 in relation to failure to comply with Condition 13 of Planning Permit T050221 (which required two outbuildings along the western boundary to be removed). This matter was later resolved.
- Application for Planning Permit T120189 received on 3 April 2012 for the construction of access to a Road Zone Category 1 and vegetation removal. This application was withdrawn on 3 July 2012.
- Planning Enforcement Notice sent on 20 June 2012 in relation to a complaint regarding a home occupation at the subject site.
- Planning Permit T120150 issued on 4 September 2012 for the development of the land for the purpose of an extension the existing outbuilding (similar to the application currently under consideration).
- Planning Enforcement Notice sent on 3 October 2012 regarding non-compliance with Condition 12 of Planning Permit T050221 (which required a five metre buffer area to be planted between the outbuilding and the western property boundary).
- Application to Amend Planning Permit T120150 received on 17 October 2012. Application lapsed on 13 May 2013 after further information not being received by the due date.
- Planning Permit T140183 issued on 4 September 2014 for the development of the land for alterations and additions to existing dwelling.

# SUBJECT SITE

The approximate 4.02 hectare site is generally of a rectangular shape and located on the northern side of Wellington Road, with a road frontage of approximately 110.63 metres and maximum depth of approximately 415.05 metres.

A crossover to Wellington Road is located along the south-east boundary and a drainage easement is located towards the rear of the site.

The site currently contains a single dwelling, which is setback approximately 77.9 metres from Wellington Road and approximately 12.8 metres from the north-east (side) boundary. A swimming pool is located on the eastern side of the dwelling and there are two water tanks to the north of the dwelling.

The site also contains three outbuildings: one is located close to the dwelling on the east side; another is located to the north-west of the dwelling; and a larger outbuilding is located to the south-west of the dwelling and approximately 5 metres from the south-western (side) boundary. The dwelling and larger outbuilding are accessed via a gravel driveway.

Landscaping has been undertaken around the dwelling, and there is moderate to dense vegetation coverage to the front (south-east) and rear (north-west) of the site, which consists mainly of established native trees.

The topography of the land slopes gently from the south to the north-west, with levels ranging between approximately 210 metres and 170 metres above AHD.

The main characteristics of the surrounding area are:

• North-East: An approximate 7.58 hectare, triangular- shaped allotment is located to the north-east, and used for rural residential and agricultural activities. It includes a dwelling,



outbuildings and agricultural buildings, a ménage, and two dams. There is established vegetation towards the north-western and southern boundaries.

- North-West: An approximate 17.39 hectare, irregular-shaped allotment is located to the north-west, and used for rural residential and agricultural activities. It contains a single dwelling and outbuilding. The remainder of the land features a mix of cleared and vegetated areas.
- **South-West:** An approximate 3.99 hectare, rectangular-shaped allotment is located to the south-east and used for rural residential purposes. It contains a single dwelling and dam. The remainder of the land features a mix of cleared and vegetated areas.
- **South-East:** Wellington Road is located to the south-east and opposite is a densely-vegetated 2.26-hectare parcel of land that has not been developed.
- The subject site forms part of a large area of land zoned Rural Conservation and located between Menzies Creek and Clematis, in the north-western corner of the Shire. This area features large allotments that generally range between approximately 1-20 hectares and support rural residential and agricultural activities.
- Further to the south is Cardinia Reservoir, which is zoned Public Use.

# PROPOSAL

The proposal is for buildings and works to extend an existing outbuilding.

The extension involves a 'lean-to' carport that will be attached to the northern side of the existing outbuilding, which is setback 5 metres from the western (side) boundary. The carport will measure 12 metres in length by 6 metres in width, providing a footprint of 72 square metres.

The carport will be open-sided on the eastern side and enclosed on the northern and western sides with Colorbond cladding of 'Ironstone' grey/blue colour (the southern side will be attached to the existing outbuilding).

The carport will have a wall height of 4.0 metres and a maximum height of approximately 4.625 metres, with a 5-degree pitched Colorbond roof of 'Ironstone' colour.

The carport will feature crushed rock floor materials and will be constructed atop an existing fill pad.

No vegetation removal is proposed however the carport is within 4.5 metres of an existing 10metre-high Stringybark tree

#### PLANNING SCHEME PROVISIONS

# State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.04-7 Green wedges;
- 12.04-2 Landscapes; and
- 13.05-1 Bushfire planning strategies and principles.



# Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.02-2 Landscape;
- 21.02-4 Wildfire management; and
- 21.03-3 Rural townships.

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

The relevant provisions/ documents are:

- Clause 52.29 Land Adjacent to a Road Zone;
- Clause 57 Metropolitan Green Wedge Land;
- Clause 65 Decision Guidelines; and
- Clause 66 Referral and Notice Provisions.

### Zone

The land is subject to the Rural Conservation Zone – Schedule 2 (RCZ2) and adjacent to a Road Zone Category 1 (RDZ1).

### Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay Schedule 1 (ESO1); and
- Bushfire Management Overlay (BMO).

# PLANNING PERMIT TRIGGERS

The proposal for buildings and works to extend an existing outbuilding requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.06-5 of the Rural Conservation Zone, a permit is required to construct a building or carry out works associated with a use in Section 2;
- Pursuant to Clause 35.06-5 of the Rural Conservation Zone, a permit is required to construct a building or carry out works within 100 metres of a dwelling not in the same ownership;
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay, a permit is required to construct a building or construct or carry out works; and
- Pursuant to Clause 44.06-1 of the Bushfire Management Overlay, a permit is required to construct a building or carry out works associated with Accommodation.

# 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 one (1) objection to date.

The key issues that were raised in the objection are:



- The existing outbuilding is highly visible;
- The existing outbuilding blocks out any view of the skyline and landscape
- The existing outbuilding frequently emits noise from music, machinery and vehicles at all times of the day and night
- The proposed extension will exacerbate noise and light problems; and
- The Colorbond cladding of the proposed extension does not match the cladding of the existing outbuilding, which will increase the visual impact of the building.

The application was advertised with the following description:

Buildings and works to extend an existing outbuilding within 100m of a RDZ1 and a dwelling not in the same ownership in the RCZ2 and where the gross floor area of all outbuildings on the land exceeds 150sqm in the ESO1 and BMO

This has since been changed to:

Buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the RCZ2, ESO1 and BMO.

The proposal description was changed as the proposal was initially incorrectly identified as being within 100 metres from the Road Zone and the 150sqm floor area does not need to be included within the description.

Re-advertising is not necessary as there are no additional permit triggers and the change to the description involved a re-wording only.

#### REFERRALS

#### Country Fire Authority (CFA)

The application was referred to the CFA as a statutory referral. The CFA had no objection to the proposal, subject to conditions.

#### DISCUSSION

The proposal for buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay is considered to be consistent with the aims and objectives the Cardinia Planning Scheme.

#### Rural Conservation Zone – Schedule 2 (RCZ2)

A key purpose of this zone is the protection and conservation of the environmental values and landscape qualities of the land, including habitat of botanical and zoological significance, and the conservation of natural resources, including native vegetation, waterways and soils. The zone also seeks to provide for agricultural use consistent with the conservation of environmental and landscape values of the area.

With an area of approximately 4.02 hectares, the subject site is considered capable of containing the proposed extension to the outbuilding without undermining the environmental values or landscape qualities of the land or surrounding area.

The proposed extension is located approximately 40 metres from a neighbouring dwelling to the west, which is less than the 100 metres required under the zone. Despite this, the proposed extension will be partially screened by the existing outbuilding and mature vegetation. It is also noted that the setback of the proposed extension from the neighbouring dwelling is the same as that of the existing outbuilding that was previously approved under permit T050221 in 5 July 2005.



The proposal meets all other setback requirements of the zone (such as from the road and the boundaries) and while the setback from the neighbouring dwelling is not met, this is not a reason for refusal in itself. It simply triggers the need for a planning permit to ensure that the siting is appropriate and meets the objectives of the overlay.

The proposed extension will have a height of between 4.0 and 4.625 metres, compared to the maximum 8.09-metre height of the existing outbuilding. The relatively small size and scale of the proposed extension combined with the use of non-reflective materials (Colorbond) and the use of a colour ('Ironstone' grey/blue) that is considered sympathetic to the environment will help to ensure the extension blends in with the landscape and minimises visual impact.

The proposed extension will be located on an existing fill pad which is cleared and was constructed as part of the existing outbuilding. A 10-metre high eucalyptus tree is located within 4.5 metres of the proposed extension and while the extension will encroach on part of the tree protection zone, it will not encroach the structural root zone. Council' Environment Department suggested a condition be placed on any planning permit to ensure the protection of the tree's roots during construction.

Due to the relatively minor disturbance to the land, the proposal is not expected to have any impact on the flora or fauna of the area.

Based on the setbacks, size and location of the shed, along with appropriate colours and materials and partial screening from surrounding properties, it is considered that the proposal minimises any adverse impacts on landscape features, major roads and vistas.

The proposal is also considered to meet the decision guidelines of this zone in terms of its compatibility with surrounding land uses. The design and style of the outbuilding reinforces the agricultural and rural residential nature of the area and is not expected to have any impact on the use or development or surrounding properties. The majority of surrounding properties have been developed in a similar way to the subject site, with single dwellings and large and/or multiple outbuildings or agricultural buildings.

# Environmental Significance Overlay – Schedule 1

The Environmental Significance Overlay – Schedule 1 aims to protect and enhance the significant environmental and landscape values in the northern hills area of the municipality. The decision guidelines of this overlay cover a number of matters, including design and siting, impact on ridgelines and views, and environmental issues.

The proposed 72-square metre extension of the existing 240-square metre outbuilding will result in a floor area of 312 square metres. This is in addition to two other smaller outbuildings located elsewhere on the site.

Due to the size of the site and rural nature of the area, this is not considered excessive or detrimental to the character of the area. A number of properties in the surrounding area also have outbuildings that exceed the 120-square metre permit requirement of the ESO1 and large outbuildings are reflective of the rural/agricultural character of the area.

The use of a low pitched roof (5 degrees), subdued colours and non-reflective materials is sympathetic to the landscape and will help to soften the appearance of the building. The screening provided by the existing outbuilding and vegetation and the setback of more than 40 metres from the nearest neighbouring dwelling will ensure the outbuilding does not dominate the landscape or detract from the landscape and environmental values of the area.

The proposal does not require any earthworks and is located in a cleared area, which will help to avoid or minimise any impacts on flora and fauna.

#### Bushfire Management Overlay

Pursuant to Clause 44.06-4 of the Bushfire Management Overlay, the application was referred to the CFA (a Determining Authority). The CFA had no objection to the proposal, subject to conditions.



It is considered that all aspects of personal and property safety have been considered as part of the application and that provided the development is constructed in accordance with the CFA requirements, the potential risk to life and property will be minimised.

# Clause 57 Metropolitan Green Wedge Land

The subject site forms part of the metropolitan green wedge land and as such, the objectives of Clause 57 must be taken into consideration. It is considered that the proposal will not detract from or diminish the environmental, conservation, landscape or natural resource values of the land. The proposed development has been located in a cleared area of the land to avoid vegetation impacts and is considered compatible with the non-urban character of the area.

Clause 57 does not impose any additional conditions or restrictions that affect the proposal.

#### State and Local Planning Policy Frameworks

It is considered that the proposal complies with the relevant State and Local Planning Policies, including the Municipal Strategic Statement.

The application responds to clauses 12.01 and 21.02-3 (Biodiversity), as the proposal minimises impacts on biodiversity by avoiding the need for any vegetation removal.

By avoiding vegetation impacts and through the use of non-reflective materials and subdued colours, the proposal also meets other relevant clauses, such as 12.04-2 and 21.02-2 (Landscape), as key features of the landscape are protected and maintained.

Clause 11.04-7 (Green wedges) aims to protect the green wedges of Metropolitan Melbourne from inappropriate development. It includes a strategy to protect areas of environmental, landscape and scenic value. As discussed, the proposal is located in a cleared area and no earthworks or vegetation removal is required. It is generally well screened and the siting is considered suitable as it does not impact upon important views or vistas.

Clause 21.03-3 (Rural townships) of the Planning Scheme aims to retain and enhance the character of existing rural townships. The proposal responds to this with a building that attempts to blend in with the landscape and cause minimal visual impact to surrounding properties and the character of the area.

In line with clauses 13.05 (Bushfire) and 21.02-4 (Wildfire management), the application gives consideration of environmental risks such as bushfire, with appropriate measures that have been approved by the CFA (subject to conditions).

#### OBJECTION

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. Council has received one (1) objection to date from the occupier of 1919 Wellington Road, which is adjoins the south-east side of the subject site.

A response to each of the key issues that were raised in the objection is below:

- The existing outbuilding is highly visible and the existing outbuilding blocks out any view of the skyline and landscape
  - The existing outbuilding was approved under planning permit and does not form part of this application.
  - The issue of views is dealt with in Healy v Surf Coast SC (VCAT P362/2005), where the Tribunal refined a number of principles with regard to view. The proposal is considered to be consistent with these principles as the loss of any view is not considered unreasonable as the objector will still have significant access to views.



- The existing outbuilding frequently emits noise from music, machinery and vehicles at all times of the day and night
  - The existing outbuilding was approved under Planning Permit T050221 and had conditions that restricted it being used for commercial purposes (unless compliant with the Home Occupation provisions. If these conditions are not being complied with, or if a restricted or prohibited use is taking place, Council's Planning Enforcement Department can follow up. It is noted that Council's Enforcement Department has previously followed up on such concerns.
- The proposed extension will exacerbate noise and light problems
  - No lighting is shown on the plans (and no planning permit is required for lighting) however a condition will be placed on any planning permit to ensure any lighting does not have negative impacts on surrounding properties.
  - The proposed carport is for the storage and parking of machinery, which is not expected to generate noise. A condition will be placed on any planning permit to ensure the outbuilding is not being used for prohibited uses, such as commercial activities. Noise is also regulated under Local Laws and Environment Protection Regulations and action can be taken accordingly.
- The Colorbond cladding of the proposed extension does not match the cladding of the existing outbuilding, which will increase the visual impact of the building.
  - The Colorbond cladding is considered to be non-reflective and the selected 'Ironstone' colour is considered subdued and suitable for the environment. While the Colorbond cladding of the proposed outbuilding is not same as the existing timber clad outbuilding, the two materials have a similar rural style of nature and the colours are considered complementary. The proposed outbuilding will also be partially screened by existing vegetation and the existing outbuilding.
  - The Colorbond cladding matches the Colorbond roofing of the dwelling extension, as well as part of the existing outbuilding, which features corrugated iron roofing and partial corrugated iron wall cladding (the remainder being vertical timber).

# CONCLUSION

The proposal is consistent with the purposes and objectives of the relevant provisions of the Cardinia Planning Scheme. The proposed development is considered appropriate for the subject site and surrounding area and is not expected to diminish the character or environmental values of the area. Due to the above reasons, the application should be supported subject to conditions.

#### CONDITIONS

- 1. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
- 2. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 3. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.



- 4. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
- 5. The proposed outbuilding may only be used for the storage of vehicles and goods for domestic purposes, or purposes related to rural activities being carried out on the property. The building may not be used for human habitation or for any business except in accordance with the home occupation provisions of the planning scheme.
- 6. When carrying out earthworks to install the supporting posts and/or footings within the Tree Protection Zone of the existing tree shown on drawing number TP3, the works must be completed by hand, and large roots (>50mm diameter), if encountered must be left intact. If any smaller roots are to be cut, they must be severed cleanly to prevent infection or fungus entering the severed roots.
- 7. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
- 8. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
- 9. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 10. 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.
- 11. If any proposed buildings or works encroach over any part of the existing septic tank system, including buffer zones, the system must be relocated to the satisfaction of Council.
- 12. If the septic tank system must be relocated, prior to any alteration works commencing a Permit to Alter must be obtained from Council. An application for a permit must include a report from a licensed plumber which details:
  - a) The position, type and condition of the present septic tank system including wastewater dispersal details;
  - b) Whether the existing septic tank system has been desludged within the last three years; and
  - c) That the septic tank system, once altered, is capable of containing all wastewater from the proposed, and existing buildings, on site in accordance with the EPA Septic Tank Code of Practice and Council requirements.

Please note that additional drainage, or other works, may still be required to ensure that all wastewater is treated and contained on-site.

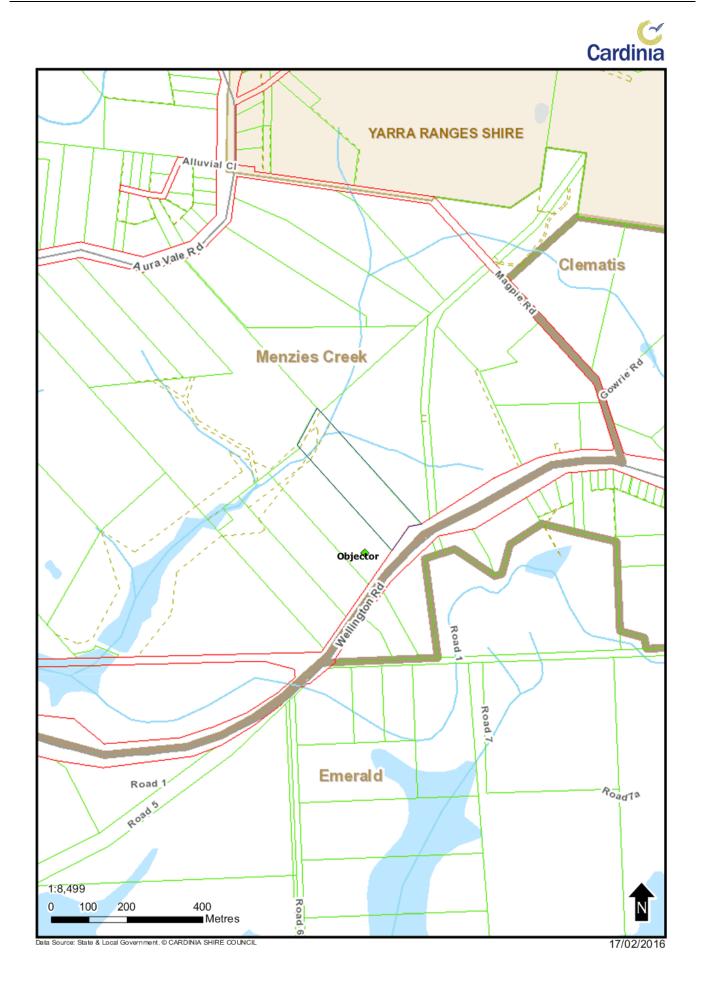
# **CFA Conditions**

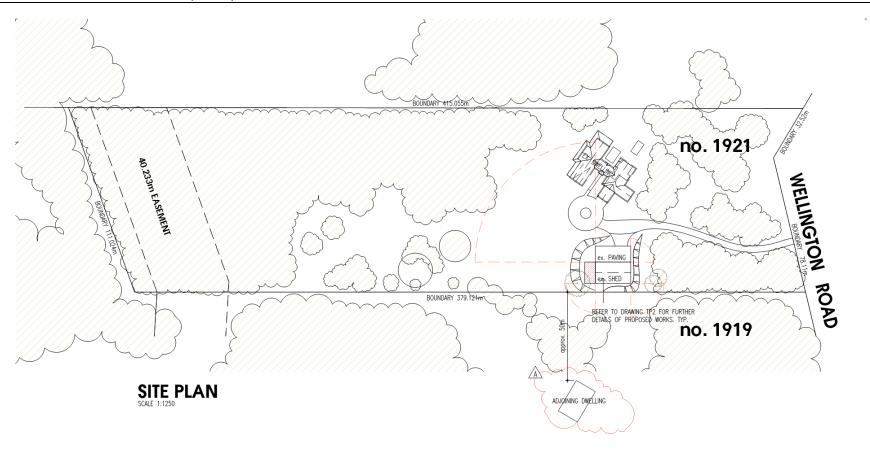
# Defendable Space Requirement

- 13. Defendable space must be created for a distance of 10 metres around the proposed building or to the property boundary, whichever is the lesser, where vegetation (and other flammable materials) during the declared fire danger period will be managed in accordance with the following:
  - a) Grass must be short cropped.
  - b) All leaves and vegetation debris must be removed at regular intervals.
  - c) Flammable objects must not be located close to the vulnerable parts of the building.



- d) Shrubs must not be located under the canopy of trees.
- e) Trees must not overhang or touch any elements of the building.
- f) The canopy of trees must be separated by at least 2 metres.
- g) There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

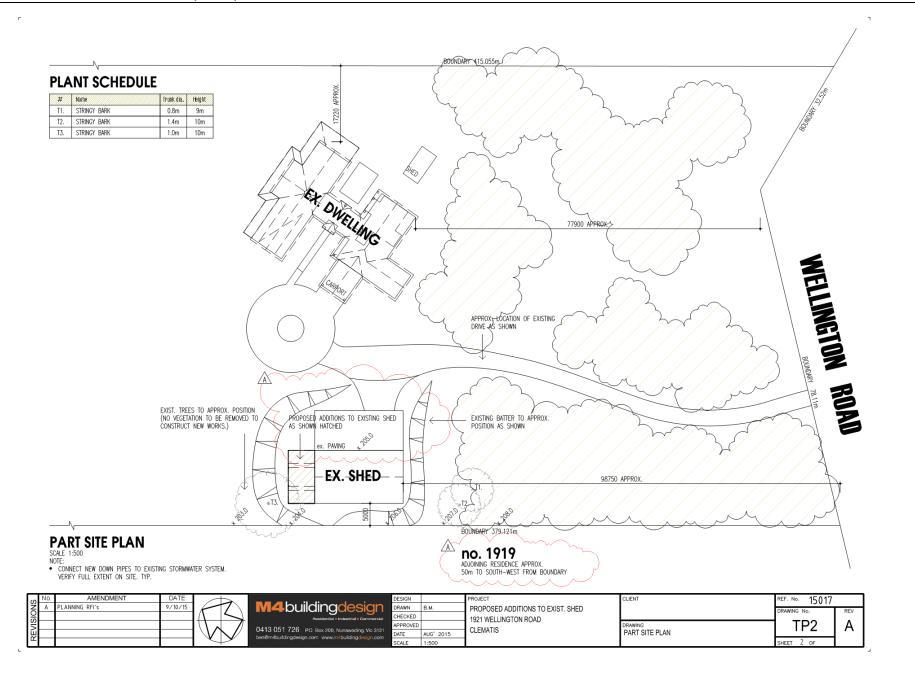


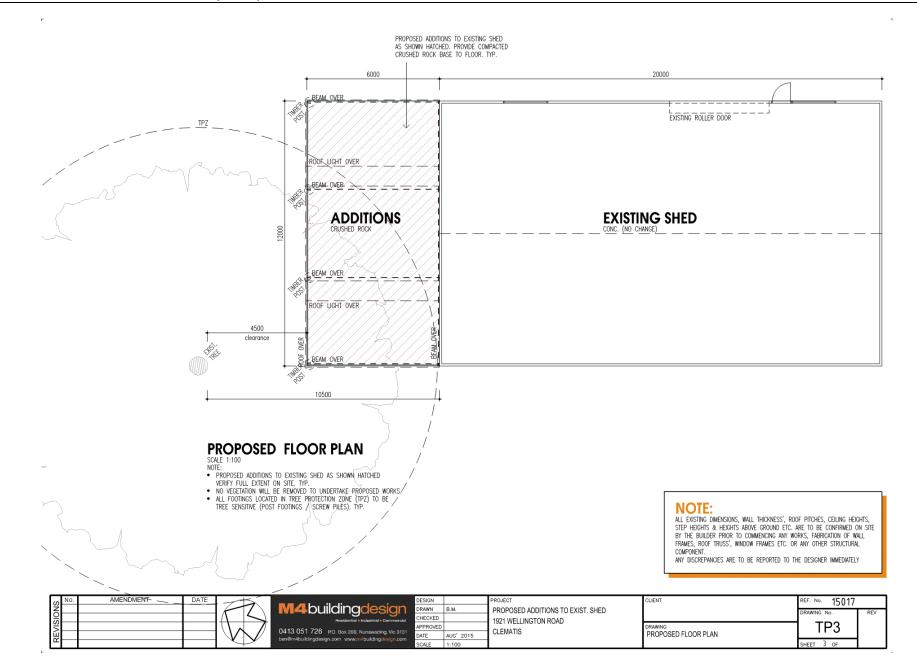


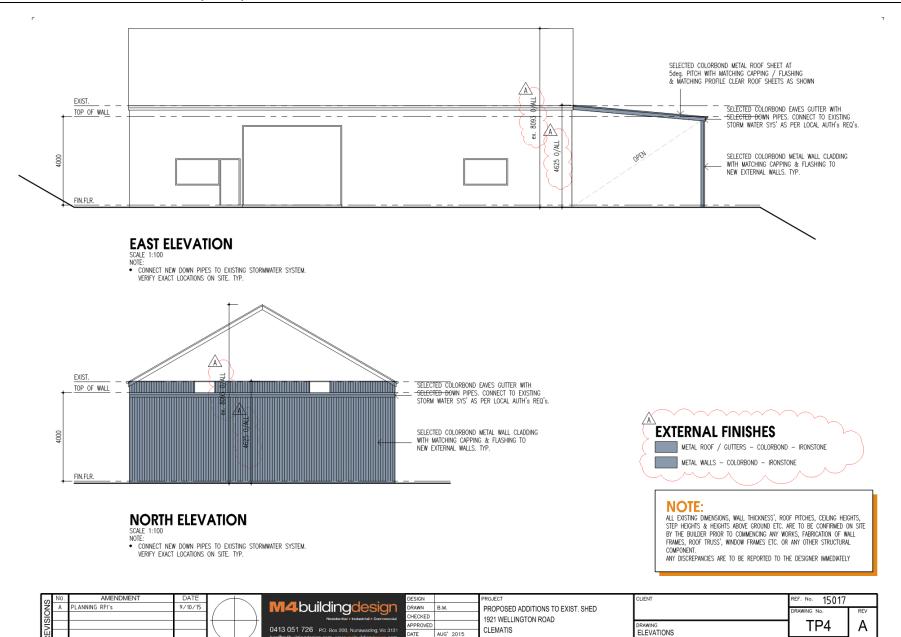
NOTE: ALL EXISTING DIMENSIONS, WALL THICKNESS', ROOF PITCHES, CEILING HEIGHTS, STEP HEIGHTS & HEIGHTS ABOVE GROUND ETC. ARE TO BE CONFIRMED ON SITE BY THE BUILDER PRIOR TO COMMENCING ANY WORKS, FABRICATION OF WALL FRAMES, ROOF TRUSS', WINDOW FRAMES ETC. OR ANY OTHER STRUCTURAL COMPONENT.

ANY DISCREPANCIES ARE TO BE REPORTED TO THE DESIGNER IMMEDIATELY

No.	AMENDMENT	DATE			DESIGN		PROJECT	CLIENT	REF. No. 15017	
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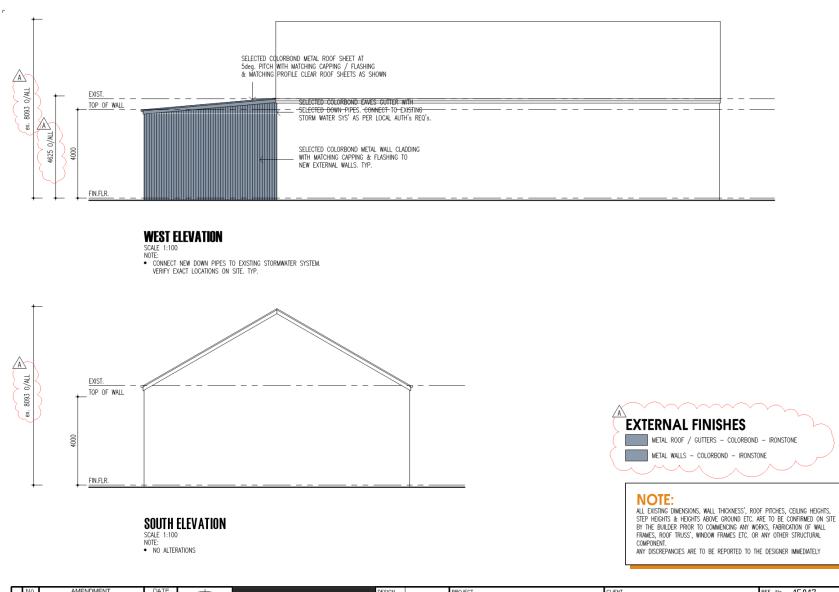


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HEET 4 OF



2 AMENDMENT DATE A PLANNING RFI'S 9/10/15 DESIGN PROJECT PROJECT CLENT	REF. No. 15017	
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