

3 USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AT 740 SEVEN MILE ROAD, NAR NAR GOON

FILE REFERENCE INT1870392

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tara Hooper

RECOMMENDATION

That a Refusal to Grant Planning Permit T180349 be issued for the use and development of the land for a dwelling at 740 Seven Mile Road, Nar Nar Goon VIC 3812 for the reasons set out in this report.

Attachments

- | | | |
|---|-------------------|---------|
| 1 | Development Plans | 3 Pages |
| 2 | Locality Map | 1 Page |

EXECUTIVE SUMMARY:

APPLICATION NO.	T180349
APPLICANT:	Mr Ranko Djurovic
LAND:	740 Seven Mile Road, Nar Nar Goon VIC 3812
PROPOSAL:	Use and development of the land for a dwelling
PLANNING CONTROLS:	Special Use Zone Schedule 1 Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	Notice of the application was given by way of sending notices to adjoining and near-by land owners/occupiers and by placing a sign on the road frontage. No objections were received.
KEY PLANNING CONSIDERATIONS:	Appropriateness of land use Protection of agricultural land Amenity impacts
RECOMMENDATION:	Refusal

BACKGROUND:

A crown grant created the subject site's parent lot, which originally measured .25 hectares.

Planning Permit T000401 approved the re-subdivision of the land (boundary realignment) between the subject site and the neighbouring allotment on 24 July 2000. The re-subdivision increased the size of the lot from .25 hectares to 1 hectare.

There has been no permit activity since the re-subdivision, and the land remains vacant.

SUBJECT SITE

The 1 hectare rectangular parcel is located on the western side of Seven Mile Road, with a frontage of approximately 87 metres and depth of 117 metres. It is located approximately 6.6 kilometres south of central Nar Nar Goon, and approximately 6.9 kilometres north of the Koo Wee Rup township.

The site is currently vacant, and the topography of the land is flat. A crossover is located on the south-eastern property boundary onto Seven Mile Road. No easements burden the lot.



The subject site is located in the centre of a corridor designated by the 'Special Use Zone - Schedule 1', which is a precinct prioritised for soil-based agricultural and horticultural use. It is in the immediate vicinity of the surrounding properties:

- The adjacent parcel immediately to the north and west is in the same ownership and east measures approximately 21.5 hectares. It contains an existing dwelling and is currently used for cattle grazing and growing potatoes, sweet corn, asparagus, and Lucerne (alfalfa).
- The approximately 37 hectare parcel immediately to the south is used for cattle and horse breeding. A plan of subdivision dated 1991 shows a 1 hectare parcel excised from the south eastern corner of the allotment, with frontage to Seven Mile Road. That lot is now in separate ownership and is used for rural residential living.
- Directly to the east, across Seven Mile Road, is an approximately 48 hectare parcel used for asparagus farming.

PROPOSAL

The Application seeks a planning permit for the use and development of the land for a dwelling on the property at 740 Seven Mile Road, Nar Nar Goon.

The dwelling will measure 331 square metres, containing five (5) bedrooms, a study, rumpus room, two (2) bathrooms with an additional powder room, an open living/dining area, an attached garage, and alfresco

area. It will feature a typical ranch-style design, with a sweeping verandah enclosed by balustrades, as well as a hipped roof punctuated by box gabled elements along the front façade. The dwelling will be set back approximately 56 metres from the road, and approximately 33 metres from the northern property boundary.

The site plan submitted with the Application notes that habitable rooms will have finished floor levels of 11.20 RL, and the garage will have a finished floor level of 10.55 RL. Natural ground levels measure between 10.00 RL and 10.20 RL. The structure will measure approximately 6.17 metres from natural ground level to the top of the ridge.

Additionally, a 189 square metre shed is proposed approximately 14 metres from the western property boundary and approximately 1.5 metres from the southern boundary. The outbuilding will have 'Paperbark' Colorbond cladding, and measure approximately 4.3 metres from natural ground level to the top of the gabled roof. The Applicant submits that the shed will be used to store farm machinery and hay/Lucerne.

Access to the dwelling and shed will be provided via an existing crossover onto Seven Mile Road.

The Applicant submits that the dwelling will accommodate family members, allowing them to manage the farm on the adjacent lot that is within the same ownership.

The adjacent lot is currently used for cattle grazing, and growing potatoes, sweet corn, asparagus, and Lucerne. Whilst the Applicant has noted in his written submissions that it is his intent to plant a fruit orchard and vegetable garden near the proposed dwelling, no predominant agricultural activities are proposed on the subject site itself.

PLANNING SCHEME PROVISIONS:

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- 13.03-1S Floodplain management
- 14.01-1S Protection of agricultural land
- 14.01-1R Protection of agricultural land – Metropolitan Melbourne
- 16.01-2S Location of residential development
- 16.01-5S Rural residential development

Municipal Planning Strategy (MPS)

The relevant clauses of the MPS are:

- 21.01-3 Key issues
- 21.03-4 Rural residential and rural living development
- 21.04-2 Agriculture
- 22.05 Western Port Green Wedge Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions

- Clause 65 Decision guidelines

Zone

The land is subject to the **Special Use Zone Schedule 1**

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

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

- Pursuant to Clause 37.01-2 (Special Use Zone – Schedule 1), a planning permit is required to use the land for a dwelling.
- Pursuant to Clause 37.01-4 (Special Use Zone – Schedule 1), a planning permit is required to construct a building or construct or carry out works.
- Pursuant to Clause 44.04-2 (Land Subject to Inundation Overlay), a planning permit is required to construct a building or to construct or carry out works.

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.

Council has received no objections to date.

REFERRALS

Melbourne Water

The Application was referred to Melbourne Water as a statutory referral. Melbourne Water had no objection to the proposal subject to conditions.

DISCUSSION

The Application seeks approval for a dwelling on a 1 hectare lot in the Special Use Zone – Schedule 1, a zone specifically established to preserve high quality agricultural land for farming activities.

Under the Special Use Zone – Schedule 1, an application to use and develop the land for a dwelling must demonstrate that the dwelling is reasonably required to operate a rural activity on the land itself. This burden is placed on applicants to prevent the incremental loss of agricultural land by the encroachment of rural residential development and other incompatible uses.

Contrary to the provisions of the zone, as well as state and local policy, no predominant agricultural activity is planned (or indeed possible with a dwelling) on the subject site. The Application proposes precisely what the Special Use Zone – Schedule 1 was designed to discourage: rural residential development unconnected to any agricultural activity on the parcel itself.

By introducing a rural residential use, the proposal presents a potential conflict between the current and future residents of the dwelling and the nearby farming activities. In addition to amenity concerns, the proposed development will permanently remove the subject site from agricultural production. As Melbourne's population continues to expand, protecting key agricultural land is more vital than ever to ensure Victoria's food security. This is recognised and reinforced by key state and local policies.

Whilst the Applicant obtained a permit for a re-subdivision to create the 1 hectare allotment in 2000 for the express purpose of constructing a dwelling, that outcome over eighteen years ago is a result of past decision making made under different policies. Current state and local policies direct Council to consolidate small agricultural lots and restructure inappropriate subdivisions. If a dwelling is constructed on the site, the opportunity to consolidate or integrate the lot into another farming enterprise will be lost forever.

For these reasons, as discussed in detail below, a refusal to grant a permit should be issued.

Clause 37.01 (Special Use Zone – Schedule 1)

The Site is within the Special Use Zone – Schedule 1. The zone was specifically established within an area of the Koo Wee Rup Swamp that contains a soil recognised as being of high quality, making it agricultural land of state significance.

This highly productive agricultural and horticultural area plays a vital role in providing food for Victoria's population and food security. As such, the purposes of the Special Use Zone – Schedule 1 are:

- To preserve land of high agricultural quality for horticulture and other farming activities.
- To discourage non-agricultural and non-soil based uses establishing on soil of high agricultural value.
- To protect the area from the encroachment of urban and rural residential type development.
- To minimise the potential for conflict between residents and normal farming practices that are related to the conduct of agricultural activities.
- To encourage sustainable farming activities based on whole farm and catchment planning principles on an individual and community basis.

The following decision guidelines of the Special Use Zone – Schedule 1 have been considered:

- Whether the dwelling is reasonably required for the operation of the rural activity being conducted on the land.
- Whether the use, building, works or subdivision will be detrimental to the horticultural significance of the area.
- Whether the use utilises the high quality soils for horticultural or agricultural pursuits.
- The impact of the use, building, works or subdivision on the character and appearance of the area.
- Whether the site is suitable for the use, building, works or subdivision and the compatibility of the proposal with adjoining and nearby farming and other land uses.
- The Land Capability Study for the Cardinia Shire (February 1997).
- Whether the land is liable to flooding and any advice received from Melbourne Water.

The proposal is inconsistent with the purposes and decision guidelines of the Special Use Zone – Schedule 1 because: (1) the proposed dwelling is not reasonably required for the operation of a rural activity on the subject site itself, (2) the Application proposes a rural residential type development that will result in the permanent loss of agricultural land, and (3) the introduction of a rural residential use on the property will lead to a potential conflict between residents and surrounding farming activities.

i. No predominant rural activity is proposed on the land

The proposed dwelling is not reasonably required for the operation of any rural activity being conducted on the land. The Applicant has submitted that a fruit orchard and vegetable gardens are planned on site; however given the size of the allotment, it is clear these activities are merely ancillary to the proposed dwelling use. Indeed, if a dwelling is constructed, no predominant agricultural activity will be feasible on the subject site.

An application to use and develop the land for a dwelling in the Special Use Zone – Schedule 1 must establish that the dwelling is reasonably required to operate a rural activity on the land itself. This burden is placed on applicants to prevent the incremental loss of agricultural land by the encroachment of rural residential development and other incompatible uses.

In an analogous proposal described by *Troy Spencer Town Planning Services v Wangaratta Rural CC* [2013] VCAT 314 (18 March 2013), a permit applicant sought to construct a dwelling on a 2 hectare parcel in an agricultural zone that was adjacent to a larger family farming enterprise. The subject lot was specifically created 16 years prior to accommodate a dwelling and allow for a farm succession plan. The applicant sought to construct the dwelling for a family member to live near the farm and manage its operation. Nonetheless, Wangaratta Rural City Council refused the permit application.

The Tribunal upheld the Council's refusal of the permit application on the grounds that, *inter alia*, the dwelling was not 'reasonably required for the operation of the agricultural activity conducted on the land'. In the decision, Member Wilson concluded that whilst the 2 hectare site was small, it was still capable of being used for agriculture in conjunction with the adjoining farm. The addition of a new dwelling would instead result in the permanent loss of agricultural land. And although the dwelling was proposed to accommodate a family member operating the adjoining farm, with a dwelling on the subject site that land would be lost to agriculture forever.

The Tribunal has reached a similar conclusion in many other refusals of permits for dwellings in agricultural zones lacking a nexus between the dwelling and any rural activity being conducted on the subject site itself. See, e.g., *Noonan v Mount Alexander SC* [2017] VCAT 412 (22 March 2017), *Milan v Macedon Ranges SC* [2014] VCAT 717 (16 June 2014), *Mischkulnig v Moyne SC* [2013] VCAT 2110 (17 December 2013), *Zobec v Campaspe SC* [2013] VCAT 1830 (29 October 2013), *Andrews v Hepburn SC & Anor* [2013] VCAT 408 (5 April 2013), *Strachan v LaTrobe CC* [2012] VCAT 414 (12 April 2012), *Panter & Ors v Mt Alexander SC* [2012] VCAT 248 (6 March 2012), *Rehn v Mitchell SC* [2011] VCAT 229 (18 February 2011), *Nicholas v South Gippsland SC* [2009] VCAT 1470 (30 July 2009), *Stone v Colac Otway SC* [2009] VCAT 2251 (23 October 2009), *Gippsland Coastal Board v South Gippsland SC & Ors (No 2)* (Red Dot) [2008] VCAT 1545 (29 July 2008), *Awty v Greater Bendigo CC* [2008] VCAT 14 (16 January 2008), *Pratt v Greater Geelong CC* [2006] VCAT 2654 (20 December 2006).

Like the lot in *Troy Spencer* and those in many of the cases cited above, the 1 hectare subject site is too small for farming pursuits in isolation. However, that does not mean the site is better suited as a rural residential or lifestyle property. Because the land is currently vacant, it still remains a candidate to incorporate into a larger agricultural enterprise. Permitting a dwelling on the lot would remove that opportunity forever.

Nonetheless, the Applicant submits the proposed dwelling is required so family can manage the farm on the adjacent Lot 2 PS441737K ('Lot 2'), which is used for cattle grazing and growing Lucerne, potatoes, sweet corn, and asparagus. However, the Applicant currently resides in a dwelling on that lot. If additional living area is required so others can manage the farm or the Applicant can receive the care of family, he has the ability to apply for a permit to conduct other types of land uses on Lot 2, such as a Caretaker's House or Dependent Person's Unit.¹ Because a dwelling already exists on Lot 2, and the Applicant has the option to apply for a permit for other types of uses on that site, an additional dwelling on a separate lot is not reasonably required to operate the existing farm.

Additionally, the proposed dwelling must be considered in light of the rural activity (or here, the lack thereof) proposed on the *same lot*. As both the subject site and Lot 2 have separate freehold titles, nothing prevents the individual sale of each parcel. With a dwelling on the land, it is entirely possible for the subject site to be sold and used for rural lifestyle purposes in the future. At that point, the subject site's already tenuous connection to agriculture will be permanently lost.

ii. The rural residential type development will result in the permanent loss of agricultural land

The proposed rural residential use and development is detrimental to the horticultural significance of the area because it will permanently remove the land from agricultural production. When land is converted to rural residential living, it is likely to be lost to agriculture.

¹ Council would, of course, consider any application separately on its own merits.

Here, the 1 hectare parcel is currently vacant. Even if it is not integrated or consolidated with the adjoining Lot 2 in the near future, it is still possible to arrange a sale or lease that would incorporate the subject site into a nearby farming enterprise. However, if the land is converted to a rural residential use, a large portion of the site will be used for the dwelling, driveway, shed, and the necessary effluent disposal area to service the house. It is highly unlikely that any of the land could then ever be used for agricultural activities.

- iii. The proposal will introduce a potential conflict between residents and normal farming practices that are related to the conduct of agricultural activities

The proposal is inconsistent with adjoining and nearby farming uses and increases the potential for conflict between residents and normal farming practices that are related to the conduct of agricultural activities.

In *Lehmann v Indigo SC* [2009] VCAT 470 (24 March 2009), Member O’Leary succinctly described the conflict between rural residential living and adjacent farming uses:

The usual illustration of a farm conflict is householders introducing domestic pets which can then escape and threaten livestock or where a farmer may use noisy machinery, or spray or run live stock in close proximity to a dwelling or plough a paddock and cause dust and disturbance to the occupants of the dwelling. Other conflict arises when a landowner may sell off small farming lots for a house or rural residential lot at residential land prices. This exercise artificially inflates the value of the land and places pressure on other farm holdings to follow. It also undermines the opportunity for a nearby farmer to purchase farming land and expand existing farm holdings at farm values.

The subject site and the adjacent parcel are currently in the same ownership. As the dwelling is proposed to accommodate family, there is an expectation that the potential occupants are aware of the amenity impacts associated with farming activities. However, because a permit runs with the land and not an individual, the amenity expectations of the Applicant might differ from those of a future land owner. And regardless of the dwelling’s inhabitants, establishing a rural residential use on the land will likely raise property values in the vicinity, which undermines the ability of nearby farm holdings to expand.

- iv. Although a dwelling is not a prohibited use in the Special Use Zone – Schedule 1, it is inappropriate in this instance

A dwelling is a Section 2 use within the Special Use Zone – Schedule 1. Whilst a minimum lot size of 10 hectares is required to use the land for a dwelling, the restriction does not apply to lots that were created under the provisions of a planning scheme.

The 1 hectare subject site was created under a provision of the Cardinia Planning Scheme. The parent lot measured 0.25 hectares under the original crown grant. However, Planning Permit T000401 approved a boundary realignment between that lot and the adjacent crown allotment in 2000. As a consequence, the new Lot 1 PS441737K increased the size of the subject site to 1 hectare, thereby creating a new lot ‘under the provisions of a Planning Scheme’. Therefore, as a threshold matter, the Application is not prohibited under the Special Use Zone – Schedule 1.

It should be noted that although the boundary realignment completed in 2000 through Planning Permit T000401 created a lot under the provision of the Planning Scheme, a permit for a dwelling is still required in light of now-existing policies and strategic direction. And importantly, in the eighteen years since the subdivision permit was issued, development pressure from Melbourne’s expanding population has increasingly threatened agricultural land in the Shire. In response, the State Government and Council have adopted and strengthened policies relating to the preservation of agricultural land.

Protection of agricultural land: state and local policies

Clauses 14.01-1S (Protection of agricultural land) and 14.01-1R (Protection of agricultural land – Metropolitan Melbourne)

Clauses 14.01-1S (Protection of agricultural land) and 14.01-1R (Protection of agricultural land – Metropolitan Melbourne) have objectives and strategies that seek to protect and support areas of agricultural production.

The objective of Clause 14.01-1S (Protection of agricultural land) is to protect the state's agricultural base by preserving productive farmland. Key strategies in this policy are:

- Limit new housing development in rural areas by:
 - Directing housing growth into existing settlements,
 - Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses, and
 - Encouraging consolidation of existing isolated small lots in rural zones.
- Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.

Additionally, Clause 14.01-1R aims to protect agricultural land in Metropolitan Melbourne's green wedges and peri-urban areas to avoid the permanent loss of agricultural land in those locations.

The proposal is contrary to policies related to agriculture as it seeks to establish a rural residential use on otherwise productive farmland. The allotment is the vestige of an inappropriate subdivision: a 1 hectare, vacant isolated lot in the rural Special Use Zone – Schedule 1. Policy directs Council to give priority to the re-structure of this inappropriate subdivision, rather than establishing a rural residential use that will result in the permanent loss of crucial agricultural land.

Clauses 16.01-5S (Rural residential development) and 16.01-2S (Location of residential development)

Clauses 16.01-5S (Rural residential development) and 16.01-2S (Location of residential development) have objectives and strategies that seek to discourage rural residential development in agricultural areas, to discourage development of small lots in rural zones for residential use or other incompatible uses, and instead locate new housing in areas that offer good access to key services.

The proposal is inconsistent with these policies as it seeks to establish a rural residential development unconnected to rural activity in an agricultural area. The 1 hectare parcel is a small lot in a rural zone, which is incompatible with surrounding farming uses.

Clause 21.01-3 (Key Issues)

Clause 21.01 Cardinia Shire key issues and strategic vision identifies Western Port as a major landscape feature and that a key influence within the Shire is urban growth, including urban pressures on the rural hinterland and management of green wedge areas. The following relevant key issues are identified:

- The protection of the Koo Wee Rup swamp area which contains important groundwater reserves and horticultural soils in the Western Port basin.
- The management of urban growth, including urban pressures on the rural hinterland.
- The protection and sustainable use of agricultural land.

The proposed use and development raises conflict with these key issues because it will result in the degradation and loss of agricultural land in the Koo Wee Rup Swamp area.

Clause 21.03-4 (Rural residential and rural living development)

The relevant objective of Clause 21.03-4 is to recognise the demand for rural residential and rural living development, and to provide for this development where it is closely integrated with an existing township or urban area. To achieve this objective, key strategies are: (1) to ensure that rural residential and rural living development is appropriately located to minimise its impact on surrounding agricultural land, and (2) to encourage rural residential development within existing urban areas and townships.

As discussed above, the proposal is inconsistent with this policy as it seeks to establish a rural residential development unconnected to rural activity in an agricultural area. The 1 hectare parcel is a small lot in a rural zone, which is incompatible with surrounding farming uses.

Development such as this is more appropriately located within an existing township, as these areas have better access to services and are planned to accommodate residential living. The subject site, however, is in an isolated rural area over 6.5 kilometres from the centre of Nar Nar Goon.

Clause 21.04-2 (Agriculture)

Clause 21.04-2 (Agriculture) provides local content to support Clause 14.01 of the Planning Policy Framework. The objective of Clause 21.04-2 is to maintain agriculture as a strong and sustainable economic activity within the municipality.

A number of strategies give effect to the policy's objective:

- Protect agricultural land, particularly areas of high quality soils, from the intrusion of urban uses, inappropriate development and fragmentation which would lead to a reduction in agricultural viability, the erosion of the right of farmers to farm land, and ultimately the loss of land from agricultural production.
- Recognise the growing demand for food, both domestically and internationally, and capitalise on opportunities to export fresh produce and processed food products.
- Provide for the restructuring of lots in agricultural areas to reduce the impact of old and inappropriate subdivisions on the agricultural viability of the area.
- Ensure the use or development, including subdivision, of agricultural land takes into consideration land capability.

The proposed rural residential use and development unconnected to any agricultural activity on the site itself will further fragment crucial agricultural land, which will lead to a reduction in agricultural viability on the subject site and within the surrounding vicinity. Establishing a rural residential use will remove this land from the Shire's agricultural base.

Additionally, although the Applicant successfully sought a boundary realignment in 2000 for the purposes of constructing a dwelling on the subject site, that subdivision is a remnant of past decision made under a different regime. A permit for a dwelling is still required in light of now-existing policies and strategic direction. And importantly, in the eighteen years since the subdivision permit was issued, development pressure from Melbourne's expanding population has increasingly threatened agricultural land in the Shire. In response, amendments to Clause 21.04-2 and the introduction of Clause 22.05 recognise that protecting key agricultural land is more vital than ever to ensure Victoria's food security.

Clause 22.05 - Western Port Green Wedge Policy and Westernport Green Wedge Management Plan

The proposal is inconsistent with Clause 22.05 (Western Port Green Wedge Policy). Amendment C215 introduced this policy on 10 August 2017 to provide guidance in relation to the protection and management of the Western Port Green Wedge. A key vision contained in Clause 22.05 provides:

The Cardinia Western Port Green Wedge will be a permanent green and rural area. It will remain an internationally significant biodiversity habitat, while also strengthening its agricultural and horticultural role to become a truly innovative and productive farming district. Agriculture, horticulture and soil based food production for the long-term food security of Victoria is at the heart of this vision.

The relevant objectives of this Clause are:

- To give effect to Council's vision for the Cardinia Western Port Green Wedge.
- To ensure that land uses are carefully located and managed to be consistent with the vision for the Cardinia Western Port Green Wedge.

Further, relevant policies include that all use and development within the green wedge should:

- Ensure that green wedge soils and their versatility are recognised as a finite resource and are protected accordingly.
- Maintain and protect the highly productive agricultural land from incompatible uses including non-soil based farming.
- Provide for the restructuring of lots in agricultural areas to reduce the impact of old and inappropriate subdivisions on the economic agricultural viability of the area.
- Minimise the risk of flooding which impacts on agricultural activities in the Koo Wee Rup Flood Protection District.

To provide further guidance, Clause 22.05 introduced the Cardinia Western Port Green Wedge Management Plan (the 'Plan') as a reference document. The Plan provides a strategic planning framework that enables Council to take advantage of opportunities and proactively attend to challenges occurring in the Cardinia Western Port Green Wedge over the next 20 years. It recognises Western Port's key attributes, including its environment, established agriculture industry and, rich agricultural soils.

The Plan divides Western Port into three precincts, with the subject site being within Precinct 1 – Agriculture, horticulture and soil based food production. The vision for Precinct 1 is for to be a hub of agriculture, horticulture and soil-based food production that takes advantage of its highly versatile soils, vegetable production (in particular asparagus), dairy and beef farming, other agricultural pursuits, potential access to Class A recycled water and the important role this precinct plays in food security. As stated in the Plan, the area contained within the Special Use Zone – Schedule 1 now produces nearly 90 percent of Australia's asparagus crop. Dairy farming occurs within the area due to the high quality soil and the ability to grow fodder all year round.

The proposed use and development is inconsistent with Clause 22.05. The rural residential development lacks a nexus to any predominant agricultural activity on the subject site, and will remove the land from potential agricultural production. The use is inconsistent with the agricultural and soil based food production, and is therefore considered to be detrimental to the horticultural significance of the area.

Other relevant considerations

Clause 13.03-1S (Floodplain management)

The objective of Clause 13.03-1S is to assist the protection of (1) life, property and community infrastructure from flood hazard, (2) the natural flood carrying capacity of rivers, streams and floodways, (3) the flood storage function of floodplains and waterways, and (4) floodplain areas of environmental significance or of importance to river health. A key strategy is to avoid intensifying the impact of flooding through inappropriately located use and development.

The property is located within the Koo Wee Rup Flood Protection District and is subject to flooding. In accordance with the Land Subject to Inundation Overlay, the susceptibility of the development to flooding and flood damage has been considered. With adequate construction measures implemented, the proposed development can appropriately address these concerns.

Clause 44.04 (Land Subject to Inundation Overlay)

The proposal is consistent with the provisions of the Land Subject to Inundation Overlay. This overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority, and seeks to that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

A permit is required for buildings and works on land affected by the Land Subject to Inundation Overlay, and the relevant decision guidelines include:

- Any comments from the relevant floodplain management authority;

- The existing use and development of the land;
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay; and
- The susceptibility of the development to flooding and flood damage.

The Application was referred to Melbourne Water, which had no objection subject to the following conditions:

- The dwelling must be constructed with finished floor levels set no lower than 900mm above the natural ground level, which is 600mm above the applicable flood level being 300mm above natural ground level.
- The garage must be constructed with finished floor levels set no lower than 600mm above the applicable flood level, being 300mm above natural ground level.
- The buildings must be constructed on a fill pad that extends a minimum of 5 metres from the building and minimum 150mm above the applicable flood level, which is 300mm above the natural ground level.

With the conditions above satisfied, appropriate measures to manage and mitigate flood risk can be implemented during the construction stage of the development.

Clause 51.02 (Metropolitan Green Wedge Land: Core Planning Provisions)

The proposal is contrary to the purposes of Clause 51.02 (Metropolitan Green Wedge Land: Core Planning Provisions). The relevant purposes within this particular provision are: (1) To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values, and (2) To protect productive agricultural land from incompatible uses and development.

As discussed above, the proposed dwelling would result in the permanent loss of agricultural land in a horticulturally significant area. The rural residential use is incompatible with agriculture because the development would not only result in this loss, but it would also introduce myriad amenity conflicts with nearby farming enterprises. Therefore, the Application is inconsistent with Clause 51.02.

CONCLUSION

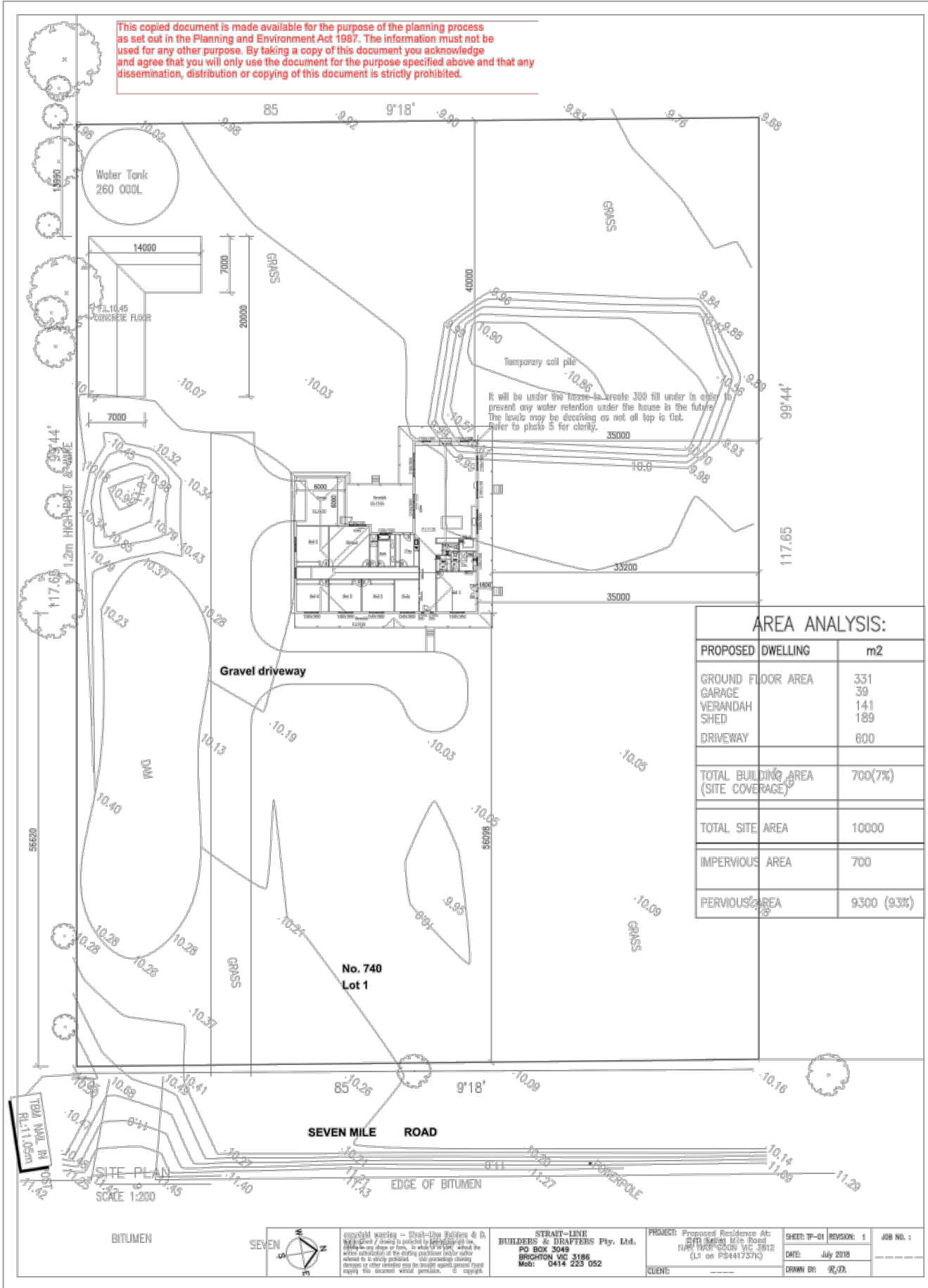
The proposed use and development of the land for a dwelling is considered to be inconsistent with the provisions of the Cardinia Planning Scheme.

It is recommended that a Refusal to Grant Planning Permit **T180349** be issued for the use and development of the land for a dwelling at **740 Seven Mile Road, Nar Nar Goon, for the following reasons:**

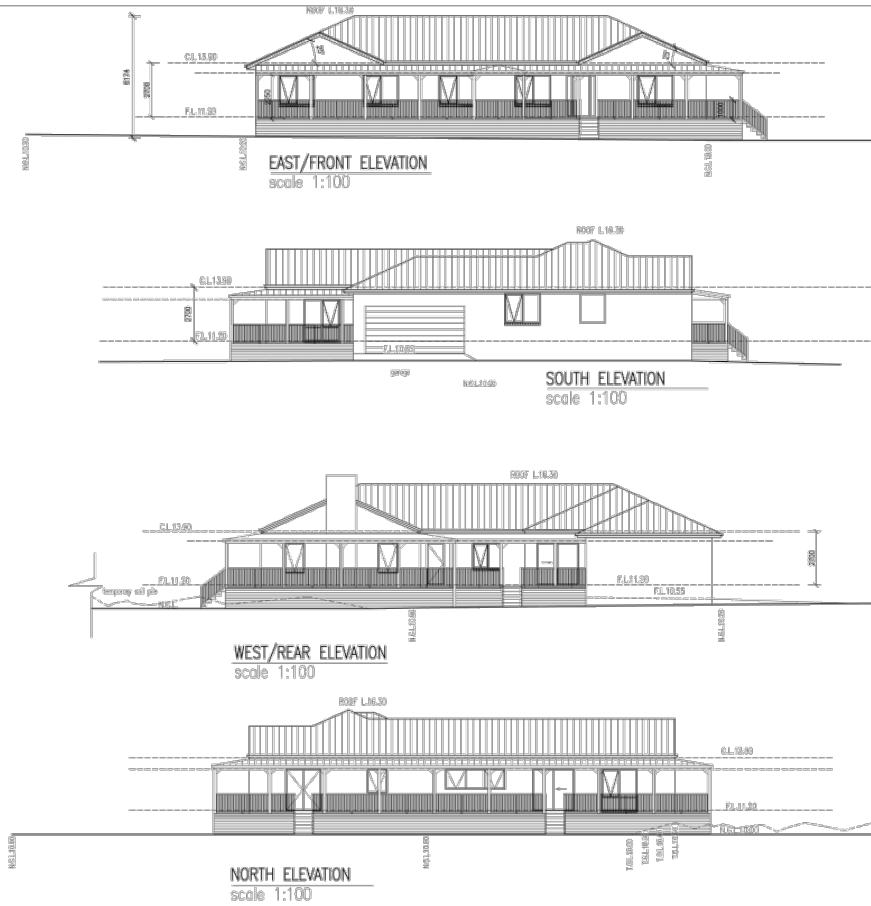
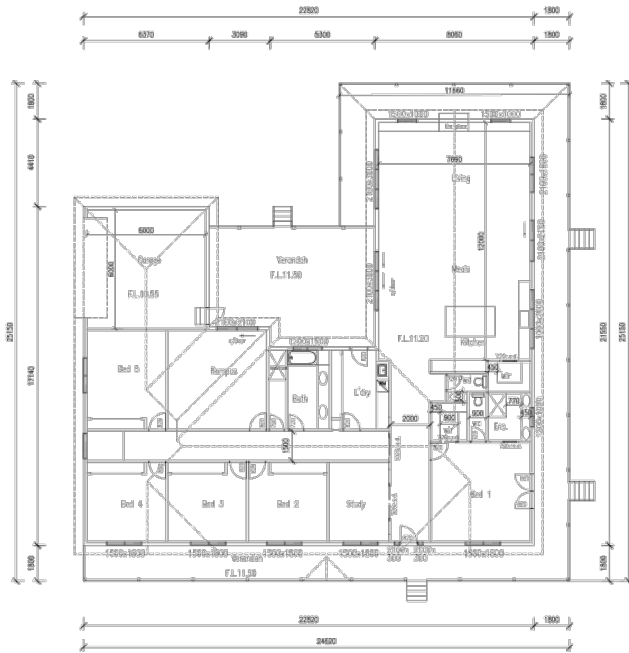
1. The proposal is contrary to Clause 37.01 of the Cardinia Planning Scheme, which aims to preserve land of high agricultural quality for farming activities, to prevent the encroachment of rural residential type development, and to minimise the potential for conflict between residents and normal farming practices that are related to the conduct of agricultural activities.
2. The proposal is contrary to Clause 14.01-1S of the Cardinia Planning Scheme, which aims to limit new housing development in rural areas by directing housing growth into existing settlements, discouraging development of dwellings on isolated small lots, and encouraging consolidation of existing isolated small lots.
3. The proposal is contrary to Clause 14.01-1R of the Cardinia Planning Scheme, which aims to protect agricultural land in Metropolitan Melbourne's green wedges and peri-urban areas to avoid the permanent loss of agricultural land in those locations.
4. The proposal is contrary to Clause 16.01-5S of the Cardinia Planning Scheme, which aims to protect agriculture, avoid inappropriate rural residential development, discourage development of small lots in rural zones for residential use, and encourage consolidation of existing isolated small lots in rural zones.

5. The proposal is contrary to Clause 21.03-4 of the Cardinia Planning Scheme, which aims to ensure that rural residential and rural living development is appropriately located to minimise its impact on surrounding agricultural land.
6. The proposal is contrary to Clause 22.05 of the Cardinia Planning Scheme, which aims to protect highly productive agricultural land from incompatible uses and restrict opportunities for development that are not required to complement agriculture.
7. The proposal is contrary to Clause 51.02 (Metropolitan Green Wedge Land: Core Planning Provisions), which aims to protect metropolitan green wedge land from uses and development that would diminish its agricultural values, and to protect productive agricultural land from incompatible uses and development.
8. The proposal is incompatible with state and local planning policies that aim to limit new housing development by directing housing growth into existing settlements, discouraging the development of uses incompatible with agriculture, and avoiding the permanent loss of agricultural land.

This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.



This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.



ELEVATIONS
SCALE 1:100



Copyright reserved - Strati-Line Builders & D. Any disclosure or reuse is prohibited by copyright law. Copies to other persons of plans, drawings or documents without the written permission of Strati-Line Builders & D. are strictly prohibited. No responsibility is accepted for any errors or omissions. All proceedings change through of our members may be through special general meeting which document shall prevail. © copyright

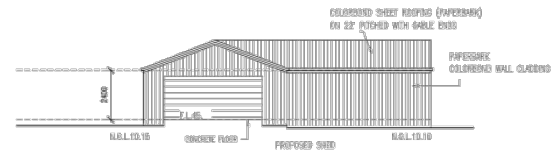
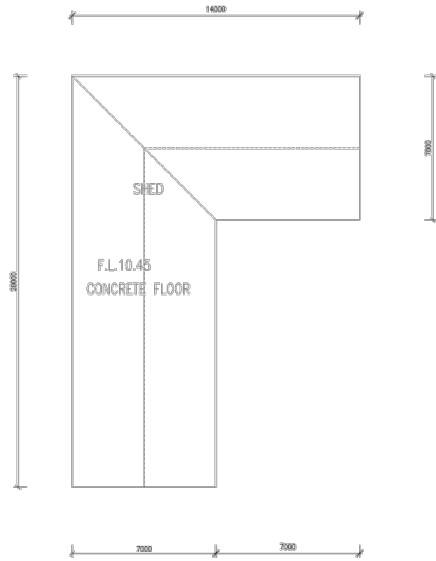
STRATI-LINE BUILDERS & DRAFTERS Pty. Ltd.
PO BOX 3049
BRIGHTON VIC 3186
Mob: 0414 223 052

PROJECT: Proposed Residence At:
741 Sevens Hill Road
NAR. MASH C/230 Vic 3032
(L1 or P8441737H)

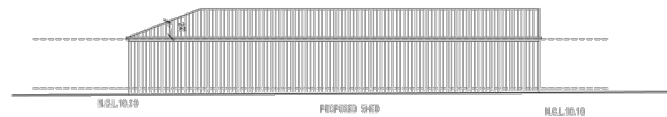
CLIENT:

SHEET TP-02 REVISION: 1 JOB NO: ---
DATE: July 2018
DRAWN BY: G.D.

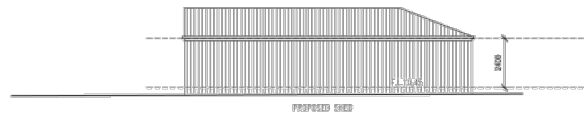
This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.



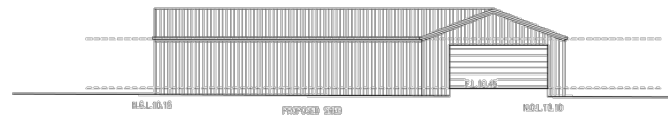
scale 1:100



scale 1:100



scale 1:100



scale 1:100



copyright warning - Strath-Line Builders & D. Builders & Drafters Pty. Ltd. All rights reserved. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, without the prior written permission of the copyright owner. All drawings are the property of Strath-Line Builders & D. Builders & Drafters Pty. Ltd. and shall remain confidential. All drawings are the property of Strath-Line Builders & D. Builders & Drafters Pty. Ltd. and shall remain confidential.

STRATH-LINE
BUILDERS & DRAFTERS PTY. LTD.
PO BOX 3049
BRIGHTON VIC 3186
Mob: 0414 223 652

PROJECT: Proposed Resubdivide At:
740 Epsom Main Road
NAR NAR 6608 VIC 3912
(L1 site PS441737K)

SHEET TP-03	REVISION 1	JOB NO. :
DATE: July 2018		
DRAWN BY: R/D		

T180349 - Locality map



832.9 0 416.46 832.9 Meters

1: 16,396

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

25-Sep-2018

Notes

