

**YR-2021/984 - 193 Victoria Road Coldstream – Planning Report**

**APPLICATION DETAILS**

<b>Site Address</b>	193 Victoria Road Coldstream
<b>Application No.</b>	YR-2021/984
<b>Proposal</b>	Building and Works associated with the construction of a dwelling
<b>Existing Use</b>	Dwelling
<b>Applicant</b>	Urbis
<b>Zone</b>	Clause 35.04 GWZ4 – Green Wedge Zone
<b>Overlays</b>	Clause 42.01 ESO1 - Environmental Significance Overlay – Schedule 1 (part – not applicable) Clause 42.03 SLO2 - Significant Landscape Overlay - Schedule 2 (all) Clause 44.04 LSIO - Land Subject to Inundation Overlay (part – not applicable)
<b>Permit trigger/s</b>	Clauses: 35.04 Green Wedge Zone – Schedule 4 A planning permit is required to construct buildings or works associated with a use (dwelling) in Section 2 of Clause 35.04-1; and A planning permit is required for earthworks greater than one (1) metre in height or depth.  Clause 42.03 A planning permit is required to construct or carry out works with a height above natural ground level of more than seven (7) metres and to construct a fence.  Clause 51.03 A planning permit is required for earthworks, filling,

	land forming, excavations and retaining walls that either are more than one metre in height or depth, or cover an area of more than 4000 square metres.
<b>Objections</b>	Six (6)
<b>Encumbrances on Title (Covenants/Section 173 Agreements)</b>	No
<b>Reason for Council Decision</b>	Value of Development
<b>Ward</b>	Ryrie

## SUMMARY

The applicant has submitted a planning application to seek approval for buildings and works associated with the construction of a dwelling. No planning permit is required for the use of the land as the dwelling use is existing.

Whilst the dwelling is unusually large and contains elements that are atypical of a dwelling, the proposal is for a dwelling as defined under the planning scheme.

In the event that the building is not used as a dwelling planning enforcement action could be pursued if the use is not compliant with the planning scheme.

The proposal is for a two storey plus basement dwelling measuring 138.6 metres by 90.6 metres, with a maximum height of 10.25 metres above natural ground level. It is setback 84 metres from the front (Victoria Road) boundary and 68 metres from the northern boundary. The proposed dwelling is in a similar location on the hill top as the existing dwelling which will be fully demolished. The design and mass of the building is simple and boxlike, comprising a strong horizontal form. The building lies on the gently rolling topography on a large property with generous setbacks from road frontages and neighbouring dwellings, ensuring that it does not present as unreasonably tall in the landscape.

No native vegetation is proposed to be removed from the land. Exotic trees are proposed to be removed along the existing driveway which does not require a planning permit (Diameter at Base Height not greater than 0.35 metres).

Six (6) objections have been received with the principal issues raised being the scale and prominence of the proposed buildings and works in the landscape and

concerns that the land use is not for a dwelling.

The dwelling complies with the requirements of the Yarra Ranges Planning Scheme and on balance officers are recommending the permit be supported.

## **RECOMMENDATION**

***That Council resolve to approve Planning Application YR-2021/984 for Building and Works associated with the construction of a dwelling at 193 Victoria Road and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.***

## **DISCLOSURE OF CONFLICT OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **CULTURAL HERITAGE SIGNIFICANCE**

The application has been checked against the requirements of the Aboriginal Heritage Act 2006 and Aboriginal Heritage Regulations 2007 (Vic) as to the need for a Cultural Heritage Management Plan (CHMP). It has been assessed that a CHMP is not required.

## **EXTRACTIVE INDUSTRY**

The site is not located within 500m of extractive industry.

## **HUMAN RIGHTS CONSIDERATION**

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

## **ENCUMBRANCES ON TITLE**

There are no encumbrances on the Certificate of Title.

## **SITE LOCATION AND DESCRIPTION**

The subject site is particularly described as 193 Victoria Road Coldstream being Lot 1 on TP383578, (refer to Figure 1 aerial photo and Figure 2 existing site conditions).

The key features of the subject land are:

- The land has a street frontage of 551.80 metres to Coldstream West Road, a street frontage of 786.97 metres to Victoria Road and has an area of 42.629 hectares.
- The land is located on the northwest corner of Victoria Road and Coldstream West Road, is gently undulating and bisected by a drainage line towards the

west boundary which is included in the Environmental Significance Overlay (ESO1). A substantial proportion of the land is also affected by the Land Subject to Inundation Overlay (LSIO).

- The site comprises an existing dwelling to the northeast with vehicle access from Victoria Road. In the northeast corner there is a complex of agricultural outbuildings associated with the previous cattle farming use of the land which will be removed from the site as part of this proposal. A large dam is also located centrally to the east of the site.
- There are 38 London Plane trees along the existing access driveway, a number of pencil pines south of the dwelling and some planting along part of the perimeter of the site. Trees to be removed along the access driveway and adjacent to the dwelling are not significant trees under the Significant Landscape Overlay (SLO2), being planted non-natives with diameters at breast height not greater than 0.35 metres.
- The site has a hill in the north east corner and the south east corner and a low point on the west boundary where the waterway runs through the site.



Figure 1 Aerial of Site



**Figure 2 Existing Site Conditions**

## SURROUNDING AREA

### Surrounding Area

The subject site directly abuts two rural properties to the north and west. It adjoins Victoria Road to the east and Coldstream West Road to the south. The properties to the north and the west and along the opposite sides of both roads are all zoned Green Wedge 4. The average lot size of the immediately surrounding properties is 22.7 hectares.

The adjoining sites are described as follows:

- **North** – The property to the north, 195 Victoria Road, has an area of approximately 16 hectares. It contains a single dam and open fields. No dwelling or outbuildings are located on the land. Beyond this at 205 Victoria Road is a dwelling approximately 450 metres from the proposed dwelling site surrounded by open fields.
- **West** – The property to the west, 34-38 Coldstream West Road, is relatively similar in size to the subject site at approximately 36 hectares. It is used for agriculture and has an associated dwelling. Buildings on this site are setback approximately 900 metres from the site of the proposed dwelling and approximately 200 metres from Coldstream West Road. Further to the west at 1, 2, 3 and 4 Devon Close; these properties are approximately two (2) to three (3) hectares in sized and used as rural living lots. There are dwellings on these lots located approximately 900 metres from the site of the proposed dwelling.
- **East and South** – Six properties lie to the east and south of the subject site on the opposite sides of Victoria Road and Coldstream West Road. The closest neighbouring dwellings are located at 160 and 162 Victoria Road and are setback approximately 450 to 500 metres from the site of the proposed dwelling. These dwellings are setback approximately 300 metres to Victoria Road.



Figure 3 Aerial of Surrounding Area

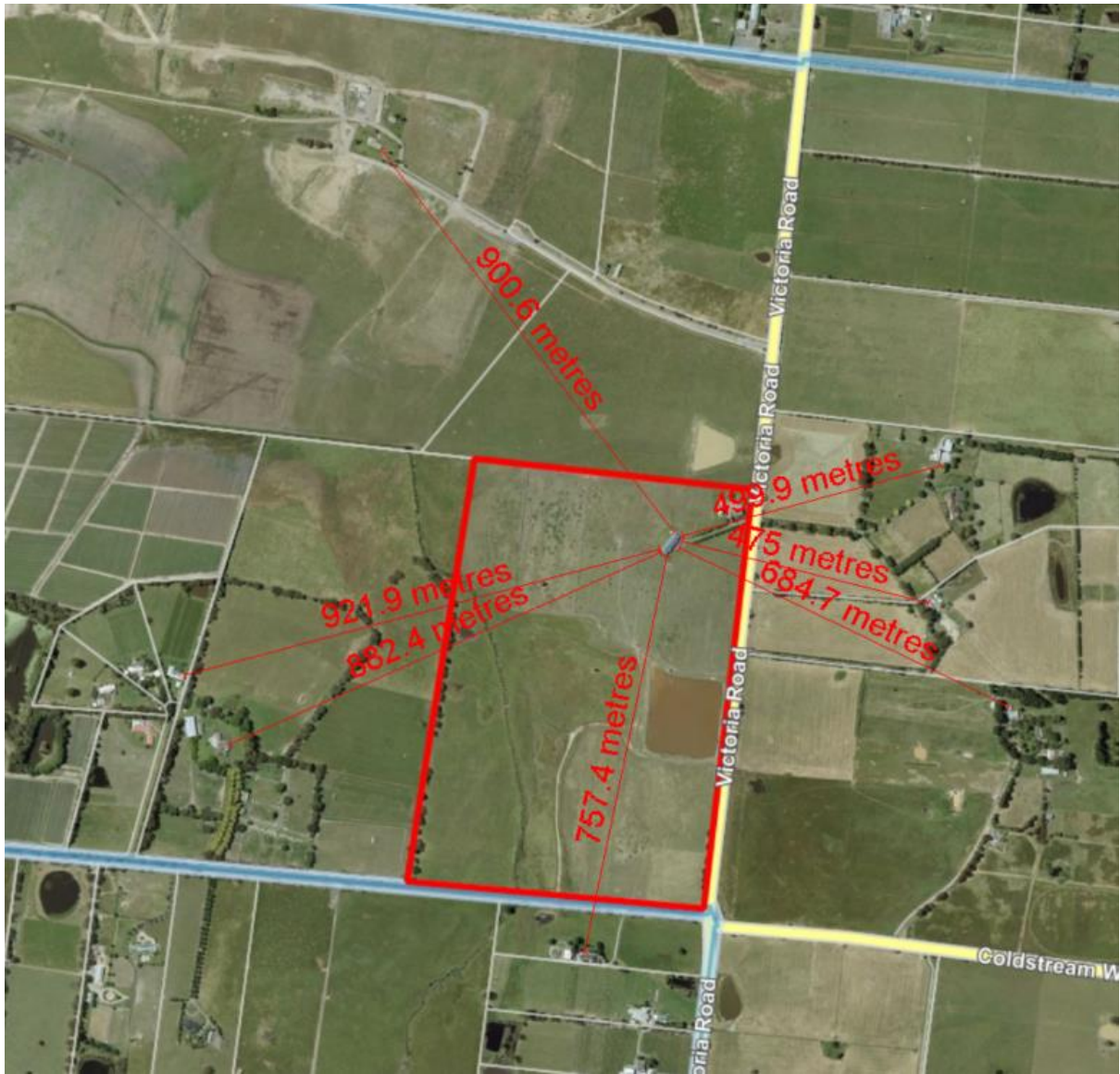
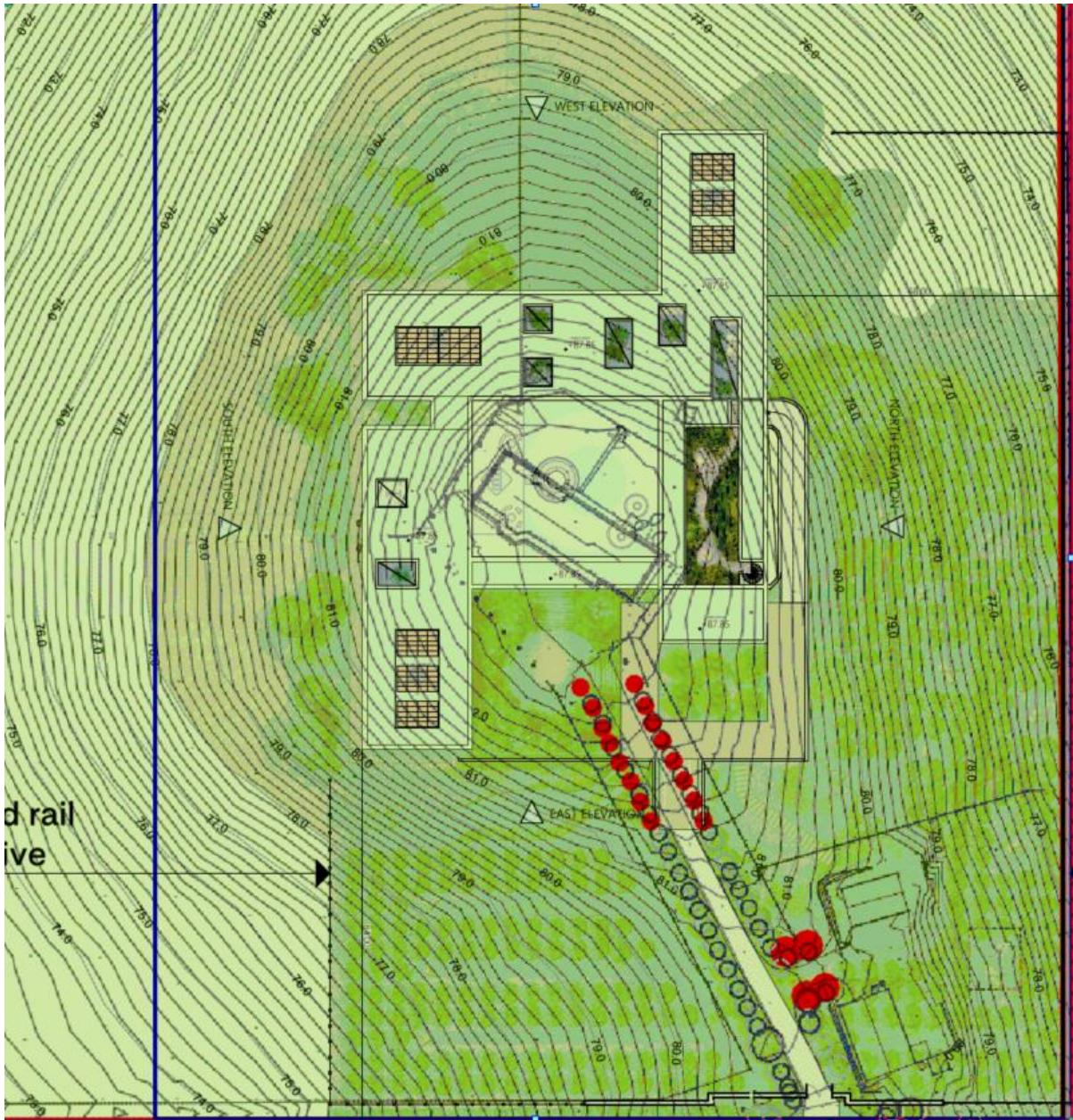


Figure 4 Distance to surrounding dwellings.

## PROPOSAL

The application seeks a planning permit for the construction of a new dwelling to replace the existing dwelling. The development will require the removal of the existing dwelling and a number of trees, neither of which require a planning permit. The application is for building and works only as there is an existing dwelling on the land and as such, no permission to use the land for a dwelling is required. Figure 4 (below) shows the existing dwelling, proposed dwelling, and trees to be removed.





**Figure 5 Existing dwelling, Proposed dwelling, and trees to be removed (shown in red, no permit required)**

Details of the proposal, including the plans and planning report can be found in Attachments 2 and 3.

The key details of the replacement dwelling are as follows:

- The existing dwelling is proposed to be demolished and removed from the site prior to the commencement of the construction of the proposed dwelling. The sheds in the north east corner are also shown to be removed.
- The dwelling will be two storeys in height, plus two basement levels. This is shown in Figures 5-9 below.

- The proposed dwelling is of a contemporary design and, being located on sloping land, has a building height above natural ground level of between 4.85 metres and 10.25 metres
- The design proposes extensive excavation works and land forming for the majority of the dwelling with approximately one hectare of the existing hill being excavated to a maximum of 2.5 metres to create a level area. On this level area wall heights are 7.35 metres above the finished site level.
- The building is excavated below natural ground level to a maximum depth of approximately 10 metres.
- The proposed dwelling is in a similar location on the hilltop as the existing dwelling, being setback 84 metres from the front (Victoria Road) boundary, 68 metres from the north boundary, 300 metres from the west boundary and 640 metres from the south boundary.
- The building has a consistent maximum wall height varying from 4.85 metres to 10.25 metres above natural ground level. Each elevation has different maximum height above natural ground level
  - west elevation wall height varies from 6.2 metres to 10.25 metres.
  - north elevation wall height varies from 4.85 metres to 10.25 metres.
  - east elevation wall height varies from 4.85 metres to 7.75 metres.
  - south elevation wall height varies from 6.1 metres to 8.65 metres.
- The basement level has a floor area of approximately 3,540 square metres (including two (2) westward exit tunnels of approximately 100 square metres each, pool, light gardens and driveway access), plus a lower sub-basement level (for the bunker) of approximately 186 square metres. The basement includes a garage with 19 car spaces, storage for eight golf carts, a 16 seat cinema, a nine room bunker, an 18 seat bar, a two lane bowling alley, a wine cellar and associated staff facilities with pedestrian access tunnels to the west and vehicle access to the north.
- The ground level and internal courtyards covers an area of approximately 11,900 square metres, with being 7,243 square metres of roof, paving and driveway. The ground floor comprises of one bedroom, dining, multiple living rooms, gym facilities, swimming pool, basketball court, art gallery, yoga court with pond and sunken seating. Where the building is not two storey the ground floor level has a story of void above. The majority of the hilltop, above the proposed ground floor level, is proposed to be removed.
- First floor level comprises five bedrooms and associated living areas with a floor area of approximately 1,140 square metres.
- An 80.7 meter long stone entry fence with bronze gate is proposed with a height of four (4) to 5.5 metres on the Victoria Road front boundary located at the existing vehicle crossover.
- A total of 21 London Plane trees along the driveway are proposed to be removed in the vicinity of the proposed dwelling and the sheds in the north east corner, however these do not require a planning permit as the DBH of these trees is not greater than 0.35 metres. The pencil pines south of the dwelling are

also proposed to be removed but are exempt from needing a planning permit as the DBH of these trees is not greater than 0.35 metres.

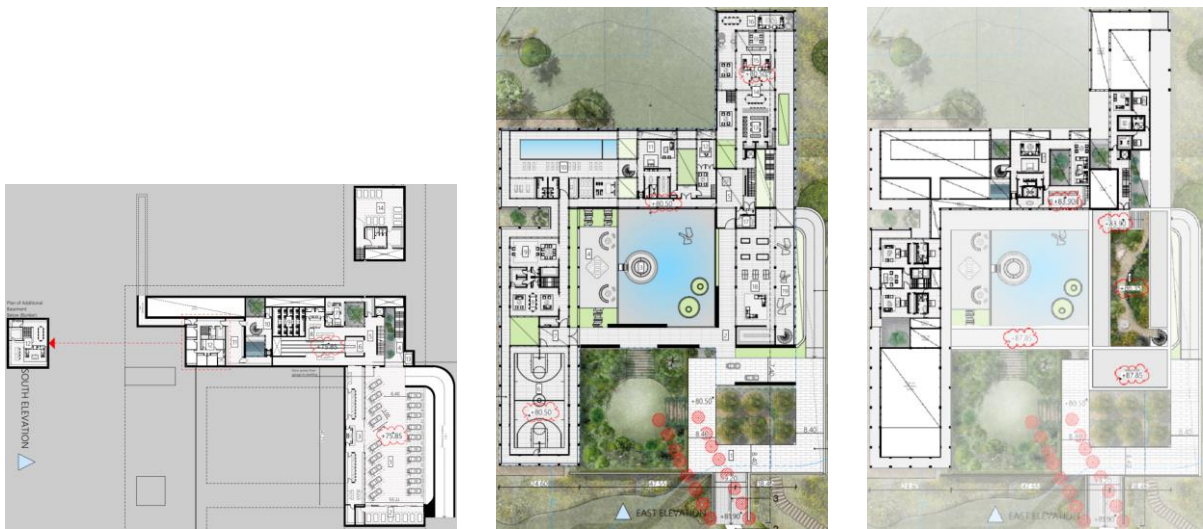


Figure 6 Floor Plans

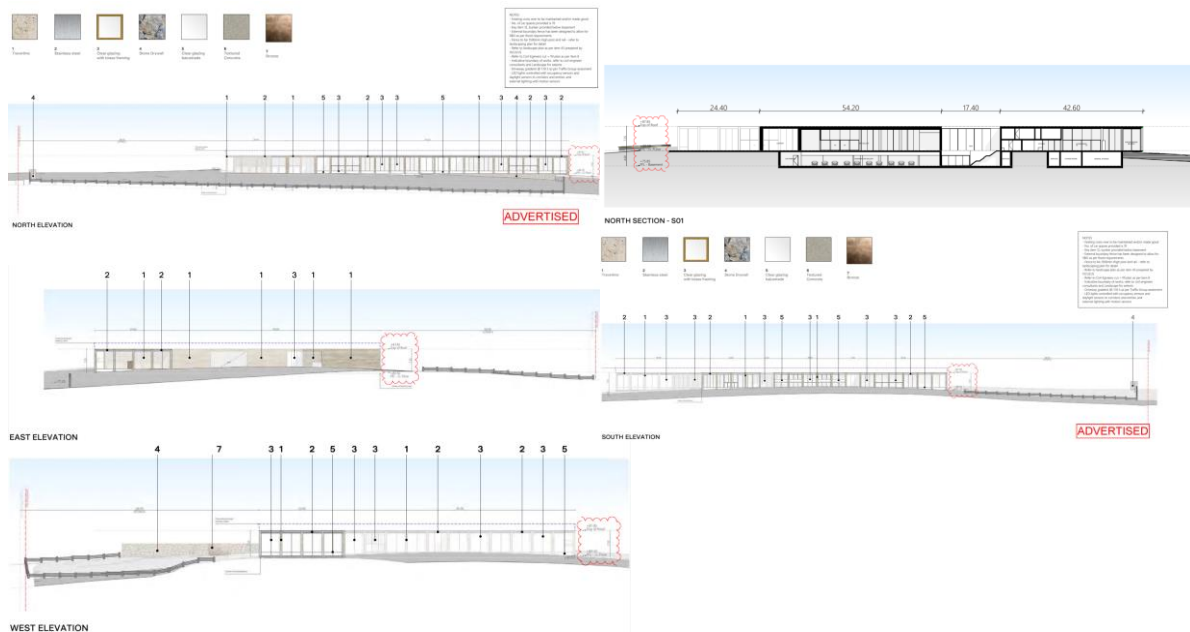
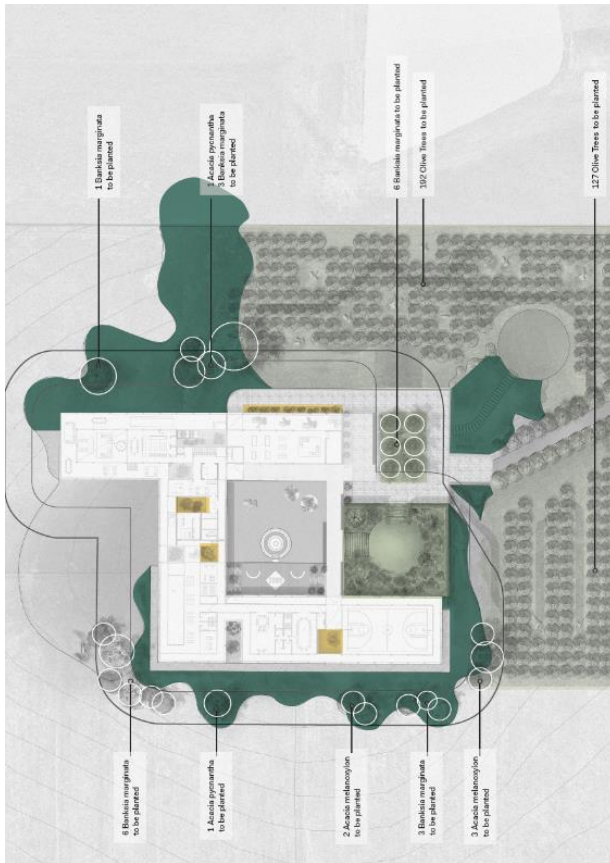


Figure 7 Elevations

- A Landscape Concept plan shown in Figure 7 below, has been provided which details the planting of 19 *Banksia marginata*, a highly variable species of one (1) to 12 metres in height, 2 *Acacia pycnantha*, growing to a height of eight (8) metres, five (5) *Acacia melanoxylon* growing to a height of 20 metres and a grove of 319 olive trees (*Olea europaea*) growing to a height of eight (8) metres to 15 metres.



**Figure 8 Landscape Concept Plan**

## PLANNING CONTROLS

<b>Zoning:</b>	Clause 35.04 GWZ4 – Green Wedge Zone
<b>Overlay:</b>	Clause 42.01 ESO1 - Environmental Significance Overlay – Schedule 1 (part of land – not applicable to proposal) Clause 42.03 SLO2 - Significant Landscape Overlay - Schedule 2 (All of land) Clause 44.04 LSIO - Land Subject to Inundation Overlay (part of land – not applicable to proposal)
<b>Planning Policy:</b>	Clause 02.03 Strategic Directions Clause 11 Settlement Clause 12.01 Biodiversity Clause 12.05 Significant Environments and Landscapes Clause 13.02 Bushfire planning Clause 14.01 Agriculture Clause 15.01 Built Environment (including Environmentally Sustainable Development)
<b>Clause 51.03:</b>	Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan
<b>Schedule to Clause 51.03:</b>	Earthworks and Retaining Walls Soil Removal
<b>Other Requirements:</b>	Clause 65 – Decision guidelines
<b>Attachment</b>	4

## PERMIT TRIGGERS

### **Zoning**

Under the Green Wedge Zone – Schedule 4, a planning permit is required to construct buildings or works associated with a use (dwelling) in Section 2 and for earthworks greater than one (1) metre in height or depth. The dwelling use is existing and no permit is therefore required for this use.

### **Overlays**

Under the Significant Landscape Overlay Schedule 2, a planning permit is required to construct or carry out works with a height above natural ground level of more than seven (7) metres and to construct a fence.

### ***Particular Provisions***

Under Clause 51.03 a planning permit is required for earthworks, filling, land forming, excavations and retaining walls that:

- are more than one metre in height or depth; and,
- cover an area of more than 4000 square metres.

### **CONSULTATION**

#### ***Internal Referrals***

This application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

<b>Department</b>	<b>Summary of Response</b>	<b>Conditions required</b>
<b>Development Engineer</b>	No objection subject to standard drainage conditions	Standard drainage conditions 12, 13, 14, 15, 16 and 17.
<b>Health</b>	No objection subject to standard amenity and waste water conditions	Standard amenity and waste water conditions 10 and 11.
<b>Strategic Planning</b>	<p>Overall, the proposed built form is set into the topography in a way that complements the form of the land. While the building is generally proposed on higher elevation, this is necessary to avoid development in flood prone parts of the site.</p> <p>The natural finishes of stone and textured concrete, simple architectural forms and flat rooves should assist the buildings to complement the landscape setting.</p> <p>The siting of the proposed dwelling is an adequate distance from boundaries to avoid conflicts with nearby agriculture.</p>	No conditions
<b>Urban Design</b>	The size and scale of the proposed development will have a significant visual impact on the surrounding area. This visual impact needs to be carefully	Conditions 1) parts a), b) and c) and 5)c) included regarding low reflectivity materials and canopy tree landscaping.

Department	Summary of Response	Conditions required
	<p>considered in terms of building materials proposed including the reflective qualities of the glazing and roofing materials planned. Additionally, proposed landscaping should be designed to screen portions of the large elevations of the building to minimise the visual dominance that the building could have on the surrounding area.</p> <p>To manage the impact of the height of the proposed dwelling, landscaping proposed adjacent to the building will need to be designed to screen the built form with canopy vegetation.</p> <p>The materials proposed for the building do use muted tones, however there is a significant amount of glazing proposed, and as such, non-reflective surfaces and glazing must be incorporated.</p> <p>Landscaping should be carefully considered with planting to screen the building required to reduce the impact of the dominance of the dwelling on the surrounding landscape.</p> <p>Consider the reflective qualities of the roofing materials proposed to minimise the visual impact of the roof on the surrounding elevated area.</p>	

### **External Referrals**

There were no external referrals required by the planning scheme. The application was originally referred to Melbourne Water as works were proposed in the Land Subject to Inundation Overlay, however the application was amended prior to notice and these works were deleted.

### **Public Notification and Consultation**

Notification of the application was undertaken by:

- Placing of two (2) signs on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

### **Number of Objections:**

Six (6) objections were received with the following issues raised:

- The building is not a dwelling but a commercial building / golf course / place of assembly.
- The proposed building and fencing is overly prominent in the landscape, detrimental to the visual amenity of the area and contrary to the Green Wedge Zone, Significant Landscape Overlay and Planning Policy Framework.
- Traffic impacts
- Noise impacts
- Light impacts
- Overdevelopment

### **ASSESSMENT/ KEY ISSUES**

Under the provisions of the Green Wedge Zone, a permit is required to construct a dwelling. The decision guidelines at Clause 35.04-6 require the Responsible Authority to consider the Municipal Planning Strategy and the Planning Policy Framework

The following is an assessment of the proposal against the Yarra Ranges Planning Scheme with regards to the appropriateness of building and works to construct a dwelling and earthworks greater than one metre.

#### **Biodiversity / habitat impacts**

Clause 12.01 requires development of land to avoid impacting on important areas of biodiversity and fragmentation of habitat. The dwelling has been sited in a cleared area of land, currently used for a dwelling, with no impacts on native vegetation. There is no removal of native vegetation proposed as part of this application, the planted trees along the driveway and south of the dwelling being exotic species of no habitat value with no planning permit required for their removal.

#### **Bushfire planning**

Clause 13.02 applies to all planning and decision making under the *Planning and Environment Act 1987* relating to land that is within a designated bushfire prone



area. The site is located in a designated bushfire prone area and not a Bushfire Management Overlay. Whilst the land is not within the Bushfire Management Overlay BMO, the applicant has submitted bushfire protection measures to be provided in prioritising the protection of human life and reducing the vulnerability of communities to bushfire risk. These measures include the dwelling being required to be built to BAL-12.5 construction, with defendable space to 22 metres around the dwelling, a static water supply for fire-fighting purposes in addition to accessway requirements to provide for emergency vehicles.

In addition to these measures, a bunker is proposed beneath the dwelling. Bushfire protection measures are appropriate where these measures enable human life to be better protected from the effects of bushfire.

The implementation of a defendable space area around the proposed dwelling also does not result in the removal of any native vegetation.

Having regard to the bushfire risk and protection of human life the implementation of the proposed mitigation measures onsite as abovementioned will reduce the extent of bushfire risk to an acceptable level.

#### Flooding

Clause 13.03-1S Floodplain Management objective is to protect both property from flood hazard and to protect the natural carrying capacity of floodplains and includes the strategy to avoid intensifying the impact of flooding through inappropriately located development. The proposal is located outside the land subject to inundation overlay in a relatively elevated position which is an appropriate response to the sites flood constraints.

#### Fragmentation of Agricultural land

Clause 14.01 policies seek to protect productive farmland and to avoid the loss of productive agricultural land. The development is for buildings and works to construct a replacement dwelling. The use of land for a dwelling is already established. The site is not identified as an area of intensive farming (which is identified under the Green Wedge Zone – Schedule 1 or 3).

Currently, the site and surrounding lots are generally used for rural residential and agricultural purposes, with a number of developed two and three hectare residential properties proximate to the site. Whilst the dwelling is substantially larger than the existing dwelling that is to be demolished, the subject land itself is quite large, having an area of approximately 42 hectares where the Green Wedge Zone GWZ4 allows subdivision to a minimum lot size of 18 hectares, an average lot size of 25 hectares and a maximum lots size of 44 hectares. The land is comparatively large but it too small to be further subdivided into more than one lot and as such fragmentation of the land through future subdivision is not a risk.

The proposed development retains more than sufficient areas onsite for future agricultural uses via the existing paddocks and the dam and the development does not fragment the land for future agricultural use.

The proposal is for a rural residential development with no agricultural use proposed, noting that most agricultural uses of the land are as of right and it is not a requirement of the Green Wedge Zone that a dwelling use be undertaken in association with agriculture. The landscape plan includes a small olive grove, providing only a nominal agricultural component. This type of nominal agricultural

use is consistent with a number of surrounding and nearby properties which are used for rural residential purposes with minimal to no agricultural use.

The Green Wedge zone also seeks to ensure that uses are compatible with adjoining land uses. Noting that the proposal has setbacks consistent with the existing dwelling, adequate buffers are provided to ensure that any existing or future agricultural uses on adjoining land will not impact upon the amenity of the dwelling.

### Dwelling Use

Objectors have raised concerns that the proposed development is not for a dwelling but is a residential building or another commercial use with the basement able to be used as a function centre and the proposed golf cart parking being the use of the land for a golf course.

The application as originally lodged was extensive and, in addition to the proposed dwelling, included a helipad, golf course, function centre and group accommodation. The application was subsequently amended and the helipad, golf course, function centre and group accommodation were deleted. These additional land uses are not shown on the plans and are not before Council to be considered as part of this application. If any of these matters were proposed at a later date they would need to be assessed on their planning merits.

It is acknowledged that the proposed dwelling is very large and includes extensive facilities atypical of most dwellings, notably a bar, cinema, art gallery, extensive garage, basketball court, male and female toilets / change rooms and bowling alleys, however the proposal is for a dwelling.

The documentation details that the proposed facilities are only to be used by the resident of the dwelling and will not be made available to the public. The planning scheme does not prescribe minimum or maximum sizes of a dwelling and, whilst it is unusual in size, each element of the proposed dwelling can reasonably form part of a dwelling.

The use of the land for a dwelling is currently existing and a permit is not required for dwelling use, only for buildings and works. The occupier of the dwelling would be able to hold parties in and around their dwelling, play golf using golf carts, recreate in the bowling alley, basketball court, swimming pool, bar, cinema, art gallery and garage car collection. The dwelling can have household staff to upkeep the land and provide facilities for them as contained in the general household storage area. These activities are all appropriate provided that the activities are domestic, and not commercial, in nature, not regular in occurrence, compliant with EPA guidelines, restricted to family and friends and of a nature that is ancillary to a dwelling use.

A dwelling can contain multiple kitchens, food preparation areas, bathroom and changeroom facilities specific to resident needs. There are typically cultural, religious, budgetary or lifestyle reasons behind the extent of kitchen and male / female facilities provided within any dwelling and, whilst unusual in extent, these facilities do not in themselves comprise a use and cannot be restricted provided that they are associated with a dwelling use.

Concern has been raised that the bunker is a second dwelling. The key issue is that the proposed dwelling be a single self contained premises (not multiple premises). The facilities in the bunker are contained within the dwelling. Further the proposed basement bunker cannot be used as habitable rooms as it lacks windows for natural

light and ventilation. Again, whilst unusual in size, a panic room or a bunker in a bushfire prone area is an acceptable part of a dwelling.

In the event that the building or land is not used as a single dwelling or another as of right use or approved use, this would become a matter for planning investigations, however the dwelling use complies with the planning scheme. Council can only consider the matter before it. Notwithstanding, a condition is recommended specifying that the building only be used for a single dwelling as multiple dwellings is prohibited under the planning scheme.

Works for a private golf course ancillary to the dwelling are not currently proposed. Excavation works for greens, bunkers and fairways may trigger the need for a planning permit (dependant upon their area, depth and location). The placement of holes for an informal style golf course would not require a planning permit.

Given that the land is currently used as a dwelling and enjoys existing use rights for such, it is not anticipated that the dwelling use will unduly impact upon the amenity of the surrounds in terms of noise or traffic.

Having regard to the size of the dwelling a condition requiring that lighting be designed to not shine directly into adjoining properties is recommended. Parties and music associated with a dwelling use are matters controlled by EPA provisions and, as the use of the land does not require planning permission, conditions cannot be applied restricting music or parties.

#### Traffic impacts

Whilst larger in size, traffic generated by the proposed dwelling is not anticipated to be substantially greater than that of the existing dwelling and is not anticipated to place an unreasonable demand on existing roads or impact detrimentally upon traffic in the surrounding road network. The existing access is being retained and there is no history of traffic issues associated with this access.

#### Prominence in the landscape

The Yarra River floodplain and its environs can be generally characterised by its low lying and gently undulating pastoral topography with wide expanses of open paddocks, grasslands and agricultural pursuits nestled amongst strips of remnant vegetation on roads and drainage lines, occasional free standing remnant trees, dwellings and associated outbuildings and distant views to the surrounding ranges. Farm houses are widely dispersed, mostly located well back from roads and often partially screened by planted trees.

The expanses of pasture are divided by roads and shelterbelts in a very broad grid pattern. Shelter belts often contain exotic conifer species with planted native species in some areas. Some roadsides and drainage lines contain bushland remnants and more recent plantings of native species.

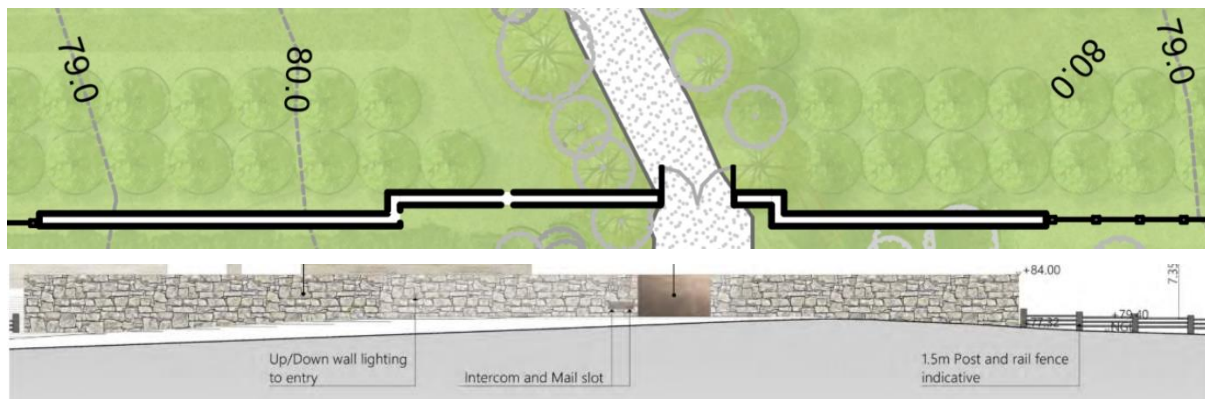
Clause 12.05-2L Rural Landscapes strategies include to design and site development sensitively having regard to the natural physical features of the land including slope, existing vegetation and view lines. The proposed dwelling siting has responded appropriately to the flood prone nature of the land. There is minimal vegetation on the land and the proposal does not seek to remove any substantial trees. The dwelling is located on a relatively level part of the site which has previously been partly impacted upon by the development of a dwelling. The

proposed siting represents an appropriate response to the natural physical features of the land.

Of relevance the Green Wedge Zone seeks to recognise, protect and conserve green wedge land for its agricultural, environmental, landscape, recreational and tourism opportunities. The Green Wedge Zone decision guidelines identify the need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas, and to minimise adverse impacts on the character and appearance of the area or features of natural scenic beauty. It is acknowledged that the proposed development is large and will be visible in the landscape being located on a small hill top but in context the height and bulk the proposal will not result in unreasonable impacts on the rolling landscape of the area or the views from Victoria Road or vistas enjoyed through the area.

The proposed dwelling is in a similar location on the hilltop as the existing dwelling and is setback 84 metres from the front (Victoria Road) boundary, 68 metres from the north boundary, 300 metres from the west boundary and 640 metres from the south boundary. The design and mass of the building is simple, comprising a strong horizontal form devoid of the typical architectural elements that would allow for a proper appreciation of its scale at the distances it will be viewed. The building lies on the gently rolling topography of the large property with generous setbacks from road frontages and neighbouring dwellings, ensuring that it does not present as unreasonably high.

The 80.7 metres long stone entry fence with a height of approximately four (4) to 5.5 metres (top is to RL 84) proposed on the Victoria Road boundary is overly prominent in the streetscape presenting inappropriate mass and bulk, is contrary to the purposes of the Green Wedge Zone and Significant Landscape Overlay and is recommended to be deleted through permit conditions.



**Figure 9 Front Entry Fence**

The Significant Landscape Overlay seeks to maintain a broad open rural landscape in which buildings are inconspicuous elements. It also seeks to retain the pattern of development with occasional clusters of building and infrastructure located well away from roads. The Significant Landscape Overlay focuses on protecting views from roads and other publicly accessible viewing points and avoiding visually prominent sites. The proposed development site is located sufficiently away from the east and south property boundaries consistent with the purpose of the Significant Landscape Overlay. The large size of the land and ample setbacks ensure that the dwelling will maintain the broad open rural landscape.

Whilst the existing and proposed dwellings are located on the top of the small but exposed hilltop, the proposed development site is not overly prominent in the wider landscape, with the 10.25 metre building height located in the north west corner of the building being appreciable as viewed from the north and west. The building will only break the skyline as seen from the immediate low points in Victoria Road and Coldstream Road. Additional canopy planting is recommended by permit condition on the south and east boundaries to address this. The proposed setbacks and the large size of the subject site will ensure that the proposal maintains the open rural character of the area.

Given the distances involved the visual impacts of the development as viewed from the public realm and from surrounding properties are consistent with the setbacks of other buildings in the area and will maintain the overall sense of openness of the site, with the grasslands and grazing paddocks.

### Landscaping

A Landscape Concept plan, shown above at Figure 7, has been provided which details the planting of 19 *Banksia marginata*, a highly variable species of one to twelve metres in height, two *Acacia pycnantha*, growing to a height of eight metres, five *Acacia melanoxylon* growing to a height of 20 metres and 319 *Olea europaea* growing to a height of eight to fifteen metres.

The Significant Landscape Overlay seeks to retain established trees and patches of indigenous vegetation as an important element of the rural landscape. No significant trees are proposed to be removed. The proposed development site is relatively exposed in the landscape with little in the way of canopy trees present. The proposal requires the removal of a number of trees which do not require a planning permit.

The proposed olive trees, once established, will provide an improved landscape setting for the dwelling as viewed from the east and north east in Victoria Road, however the building will sit higher than these trees in the landscape and larger canopy trees are required to integrate the built form with the landscape.

The site is located in a bushfire prone area where bushfire risk is typically addressed under the building regulations and a planning permit is not required for buildings and works for a dwelling, as opposed to where land is within a Bushfire Management Overlay. However, bushfire risk is a relevant consideration under the planning policy framework. As such contiguous canopy tree planting imposed by permit condition is undesirable from a safety perspective. As part of any approval a landscape plan is recommended by permit condition requiring the planting of semi-mature and / or mature native trees around the building to provide foreground and background canopy to break-up and soften the building silhouette and to filter views of the building from the south, west, east and north.

Whilst the maximum height of the development is 10.25 metres above natural ground line, the extent of this height is minimal, with only a five (5) m length of wall on both the north and west elevations being more than 10m in height. This height is not prominent as viewed from the public realm, being to the north west of the building, located well away from the nearest public viewing points from roads to the east and south. The east and south elevations are generally lower with a maximum height of 8.65 metres above natural ground line.

Any canopy tree planting will not be on the hill top but lower in the landscape than the proposed dwelling. Noting the potential limited height of the *Banksia marginata*

and *Acacia pycnantha* these species are recommended to be replaced with semi mature indigenous tree species with a minimum mature canopy height and width of 12 metres clumped at approximately 20 metres spacings. At a minimum this should comprise six (6) trees to the north, six (6) trees to the south, four (4) trees to the east and four (4) trees to the west of the dwelling.

Excavation works

The design proposes extensive excavation works and land forming for the dwelling with approximately one (1) hectare of the existing hill being excavated to a depth of up to 2.5 metres to create a level area for the dwelling. The basement levels are also excavated below the hill.

Clause 51.03 specifies that in a Green Wedge Zone land may only be used for soil removal if the soil to be removed is surplus to the carrying out of an approved use or development, and its retention would prejudice the use or development of the land. In this instance, having regard to the volume of soil proposed to be excavated and potential visual and flood impacts of redistributing this fill over the land, it is recommended that a soil and construction management plan be required by permit condition detailing how the excavated fill is to be managed generally with the soil, excepting topsoil, to be removed from the land.

Urban Design

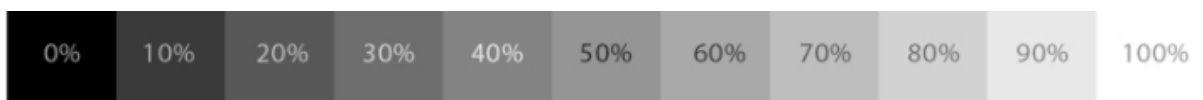
The design includes a range of materials in its palette as shown in Figure 9.



**Figure 10 Proposed colours and materials**

A substantial amount of the building’s facades comprises glazing and, without eaves, these windows will be highly reflective elements in the landscape. It is recommended that windows be recessed behind the façade to limit direct sunlight reflectivity.

The materials and colour palette comprise limestone, concrete and metal (bronze and stainless steel). Council typically requires materials to achieve a maximum 40% Light Reflectivity Value (LRV), and this is also recommended by permit condition (refer to Figure 10) to ensure that buildings are not prominent in the landscape. Stainless steel is used for framing forms and is not used extensively however its LRV should be clarified.



**Figure 11 Light Reflectivity Value (LRV)**

The front entry fence includes stonework framing a large bronze gate and as noted above, the entry feature is recommended to be deleted due to its unacceptable bulk impacts on the Victoria Road streetscape. It is noted that the use of polished bronze would be overly reflective however a matte finish may have been acceptable.

Details of roofing material and colour should be provided to ensure that where the roof is visible in the landscape (the west side of the Yarra where land is more elevated) that the roof is not reflective.

Clause 15.01-1S seeks to promote development that responds to the characteristics of the site and surrounding area that contributes to a sense of place in the context of the character of the area and protects the neighbourhood amenity by ensuring that new developments compatible with the scale and bulk of nearby buildings. The local context of the area can generally be characterised as open expansive undulating topography with wide expanses of open paddocks, grasslands and agricultural pursuits nestled amongst pockets of remnant vegetation and rural residential properties. While the building footprint is substantially larger than a typical rural residential dwelling, in the context of the entire site, the proposed replacement dwelling results in a site coverage of 2.8 percent. Existing features onsite that play a key theme in the landscape character of the area will remain unaffected. Therefore, it is considered that the proposed development is generally in accordance with the objectives and strategies of the policies.

#### Effluent disposal

A requirement of any permit will be the provision of appropriate on site wastewater disposal. There is adequate space on the land clear of the waterway, the LSI0 affecting the land, site boundaries and trees along the driveway to provide an appropriate effluent envelope. Council's Environmental Health Officers have reviewed the application and provided conditions to this effect.

#### Vegetation removal

The proposal seeks to remove a number of non-native planted trees along the driveway and around the dwelling. These do not require a planning permit and have not been assessed as part of this report.

#### Sustainability

The application includes a sustainable design assessment and water sensitive urban design response, meeting the standard required for water, energy, stormwater and Indoor Environment Quality including a 99 kW rooftop solar photovoltaic system, rainwater harvesting system for toilet flushing and irrigation, high-performance glazing and energy efficient building services, appliances and fixtures.

The project has a 52 per cent built environment sustainability scorecard (BESS) score, exceeding the 50 per cent score required to demonstrate best practice.

A 160 square metre raingarden is also proposed to capture and filter run-off collected from the 7,243 square metres of roof, paving and driveway.

A permit condition is recommended to ensure that these sustainability outcomes are achieved.

#### Car Parking

Car Parking Table 1 at Clause 52.06-5 sets out the car parking requirement that applies to a use listed in the Table. Pursuant to Table 1 the use of dwelling with three or more bedrooms requires that a minimum two (2) car spaces be provided on site. This requirement has been satisfied by the proposal which incorporates a 19 car basement garage.

## **RESPONSE TO SUBMITTERS CONCERNS**

Concern raised	Officer Response
Building is not a dwelling but a commercial building / golf course / place of assembly.	<p>The proposal is to use the building as a dwelling which has existing use rights. If the proposal is not used as a dwelling this would be a planning enforcement matter.</p> <p>This matter has been discussed in more detail above under the heading "Dwelling Use".</p>
Proposed building and fencing are overly prominent in the landscape, detrimental to the visual amenity of the area and contrary to the Green Wedge Zone, Significant Landscape Overlay and Planning Policy Framework.	The proposed fencing is not supported. Whilst large the proposed dwelling is consistent with the relevant planning controls that affect the land.
Traffic impacts	The dwelling use is existing and the proposed development is not anticipated to unduly increase traffic in the surrounding area.
Noise impacts	The dwelling use is existing and noise as a result of the proposed development is not expected to be any different than general domestic noise that would be expected from any rural residential premises.
Light impacts	Lighting can be managed accordingly via permit conditions to be baffled and not directly shine beyond the property boundaries.



## **CONCLUSION**

The proposed dwelling siting is appropriate having regard to the existing dwelling's location, the extent of land affected by flooding and the gently undulating topography of the area which will ensure that the dwelling is not unduly prominent in the landscape. The proposed dwelling does not fragment the land or prevent future agricultural uses.

The proposal is consistent with the planning policy framework, the purpose of the Green Wedge Zone and the Significant Landscape Overlay.

The dwelling use is existing, and a permit is not required for the use. Whilst the dwelling is unusually large and contains elements that are atypical of a dwelling, the proposal is for a dwelling. In the event that the building is not used as a dwelling planning enforcement action could be pursued, however the proposed use is compliant with the planning scheme and enforcement is not a relevant consideration at this time.

## **ATTACHMENTS**

- 1 Permit Conditions
- 2 Plans
- 3 Planning Report
- 4 Planning Controls