

**Planning Application YR-2021/406 - 325 Pinnacle Lane, Steels Creek – Planning Report**

**APPLICATION DETAILS**

<b>Site Address</b>	325 Pinnacle Lane, Steels Creek
<b>Application No.</b>	YR-2021/406
<b>Proposal</b>	Buildings and works to construct a dwelling and earthworks greater than one (1) metre
<b>Existing Use</b>	Single dwelling
<b>Applicant</b>	Town Planning Co
<b>Zone</b>	Green Wedge Zone – Schedule 5
<b>Overlays</b>	Bushfire Management Overlay Clause/s: 35.04 Green Wedge Zone – Schedule 5 <ul style="list-style-type: none"><li>• A planning permit is required to construct buildings or works associated with a use (dwelling) in Section 2 of Clause 35.04-1; and</li><li>• A planning permit is required for earthworks greater than one (1) metre in height or depth.</li></ul> 44.06 Bushfire Management Overlay <ul style="list-style-type: none"><li>• A planning permit is not required as the proposed dwelling is located outside of the area of land affected by this overlay.</li></ul> 51.03 Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan <ul style="list-style-type: none"><li>• A planning permit is required to construct a building with a height more than seven (7) metres;</li><li>• A planning permit is required for earthworks greater than one (1) metre in height or depth; and</li><li>• A planning permit is not required for tree removal as the tree proposed for removal is dead.</li></ul>
<b>Permit trigger/s</b>	
<b>Objections</b>	Four (4)
<b>Encumbrances on Title (Covenants/Section 173 Agreements)</b>	Nil

**Reason for Council Decision**

Value of Development

**Ward**

Ryrie

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## **SUMMARY**

The application proposes buildings and works to construct a dwelling and earthworks greater than one metre.

The existing dwelling is proposed to be demolished prior to the occupation of the proposed dwelling.

The proposed built form is of a modern curvilinear form and is cut into the natural ground level with an elongated arched design for the basement and ground floors that leads towards a spiralled first floor that predominately overhangs the natural ground level below it, with a small section that wraps and protrudes over the ground floor. The dwelling façade is in a natural concrete finish and clear glass.

The application has been advertised and four (4) objections have been received. Issues raised relate to visual bulk and impacts to the landscape character, the fragmentation of agricultural land and amenity impacts including noise and light.

Overall, the proposal will be in line with the landscape character of the area whilst providing for agricultural uses onsite that is consistent with the zoning and proposed overlays of the land.

The proposal has been assessed against the applicable Clauses of the Yarra Ranges Planning Scheme and, on balance, found to be consistent with a number of planning policies as they relate to landscape and environmental impacts as well as the maintenance of agricultural uses.

As such, it is recommended that the application be approved, subject to conditions.

## **RECOMMENDATION**

***That Council resolve to approve Planning Application YR-2021/406 for buildings and works to construct a dwelling and earthworks greater than one (1) metre at 325 Pinnacle Lane, Steels Creek 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 subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Extractive Industries Development Act 1995*.

## **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 other covenants, restrictions or Section 173 Agreements registered as encumbrances on the Certificate of Title.

A full version of the Copy of Title can be found in Attachment 3.

## **HISTORY**

<b>Application Number and Decision Date</b>	Planning permit YR-2006/838 for the construction of a dwelling addition (dwelling extension) was approved on 26 September 2006. This permit was not acted upon and has expired.
<b>VCAT History</b>	Nil
<b>Other History</b>	Not Applicable.

## SITE LOCATION AND DESCRIPTION

The subject site is located at 325 Pinnacle Lane, Steels Creek and described on title as Lot 2 on Plan of Subdivision 117799.

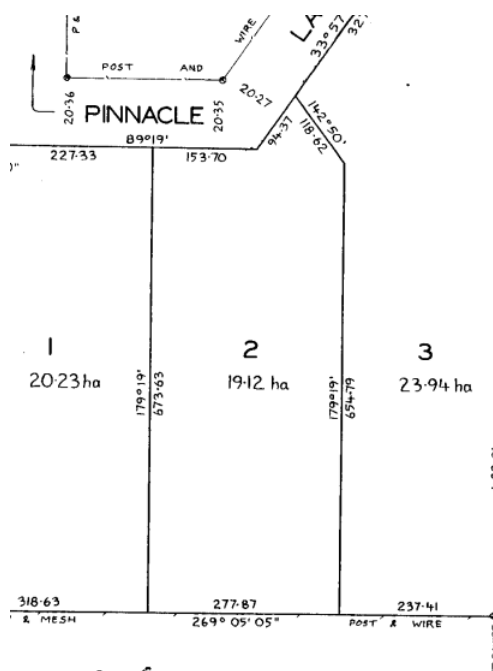


Figure 1. Title Plan

The key features of the subject land are as follows:

- The land is irregularly shaped and located on the southern side of Pinnacle Lane;
- The land has a street frontage of 248.07m and has a total area of 19.12 hectares;
- The site comprises of an existing dwelling within the front half of the lot that is centrally located and three outbuildings east of the dwelling. These outbuildings are used for agricultural purposes for the storage of agricultural equipment, inclusive of a tractor and associated land management equipment. There is an existing vehicle crossover onto Pinnacle Lane towards the north-eastern portion of the street frontage;
- The land can be distinctly separated into two sections. The eastern half of the lot is largely remnant vegetation that is that forms a relatively linear north – south cluster. The western half comprises of open paddocks within the frontage of the site and open grasslands to the rear in addition to two dams on the western end. There is an existing informal overland flow path that runs in an east – west direction in addition to three separate dams. Plans of existing site conditions can be viewed at Attachment 4 to this report; and
- The topography of the site includes a fall in the land from the east to west over approximately 45 metres with the highest part of the land being in the north-eastern corner at approximately 168 Australian Height Datum where the dwelling subject of this application is proposed to be located.



Figure 2. Subject site and immediate surrounds



Figure 3. Subject site (facing north) – (Source: SBAFire Drone Image 19 April 2021)

## SURROUNDING AREA

The subject site is located in Steels Creek, where surrounding land is generally used for a mixture of rural residential purposes in addition to agricultural uses. Contextually the land is located approximately 5.5km north of the Yarra Glen township.

- **North:**  
To the north of the land is Pinnacle Lane, an unsealed road maintained by Council that contains existing established vegetation along the road reserve. Further north is 370 Pinnacle Lane which comprises of an existing dwelling and associated outbuildings. The site is used for rural residential purposes in addition to sheep grazing;
- **East:**  
To the east is 315 Pinnacle Lane which comprises of an existing dwelling, outbuilding and telecommunications tower. There does not appear to be any ongoing agricultural use on this land, however, the site contains scattered vegetation across the site, particularly towards the eastern and southern half of the lot;
- **South:**  
To the south is 107 Willow Bend Drive which contains an existing outbuilding, which supports cattle grazing occurring across the site. The site contains two dams and is well vegetated towards the northern half of the lot; and
- **West:**  
To the west is 375 Pinnacle Lane which comprises of a single dwelling, dependent persons unit and associated outbuildings generally clustered in the centre of the lot. The site also contains open paddocks and crop raising primarily along the eastern half of the lot.

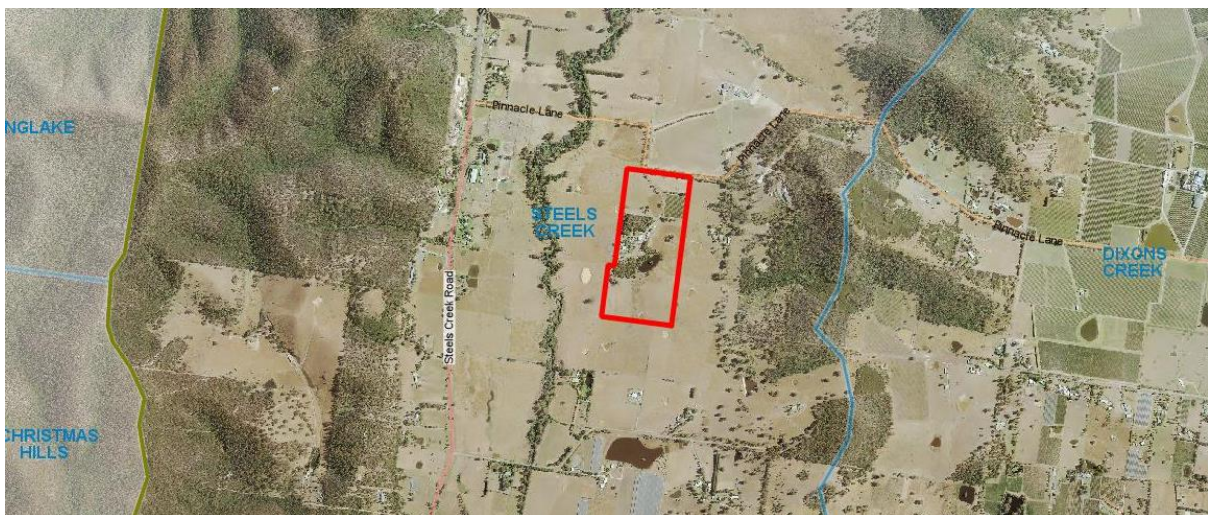


Figure 4. Locality in broader landscape context

## **PROPOSAL**

The application seeks permission for the construction of a new dwelling to replace the existing dwelling, and earthworks greater than one (1) metre. Associated with the proposal is the removal of the existing dwelling and removal of one tree, neither of which require a planning permit for reasons explained in this report.

As there is an existing dwelling being used on the land, no permission to use the land for a dwelling is required

Details of the proposal, including the plans and planning report can be found in Attachments 5 and 6. Other accompanying reports including an arborist report and bushfire management statement and plan can be found in Attachments 7-9.

### **Buildings and works**

A replacement dwelling is proposed to be constructed on the land, with the key details of the dwelling are provided below:

- The existing dwelling is to be demolished and removed from the site prior to occupancy of the proposed dwelling;
- The proposed dwelling is of a modern curvilinear design and is cut into the natural ground level with an elongated arched design for the basement and ground floors that leads towards a spiralled first floor that elevates atop of the ground floor;
- The proposed dwelling has a site coverage of 0.81 percent (1550 square metres) and a net floor area of 1893 square metres; and
- The dwelling is sited to the rear of the site towards the south-eastern corner, and provides the following setbacks:
  - North (street frontage): 556.37 metres;
  - East: 113.09 metres;
  - South (rear): 31.95 metres;
  - West: 132.4 metres; and
  - Setbacks from nearest adjoining dwellings:
    - North-east (315 Pinnacle Lane, Steels Creek): Approximately 570 metres;
    - South (85 Willow Bend Drive, Steels Creek): Approximately 450 metres; and
    - West (375 Pinnacle Lane, Steels Creek): Approximately 400 metres

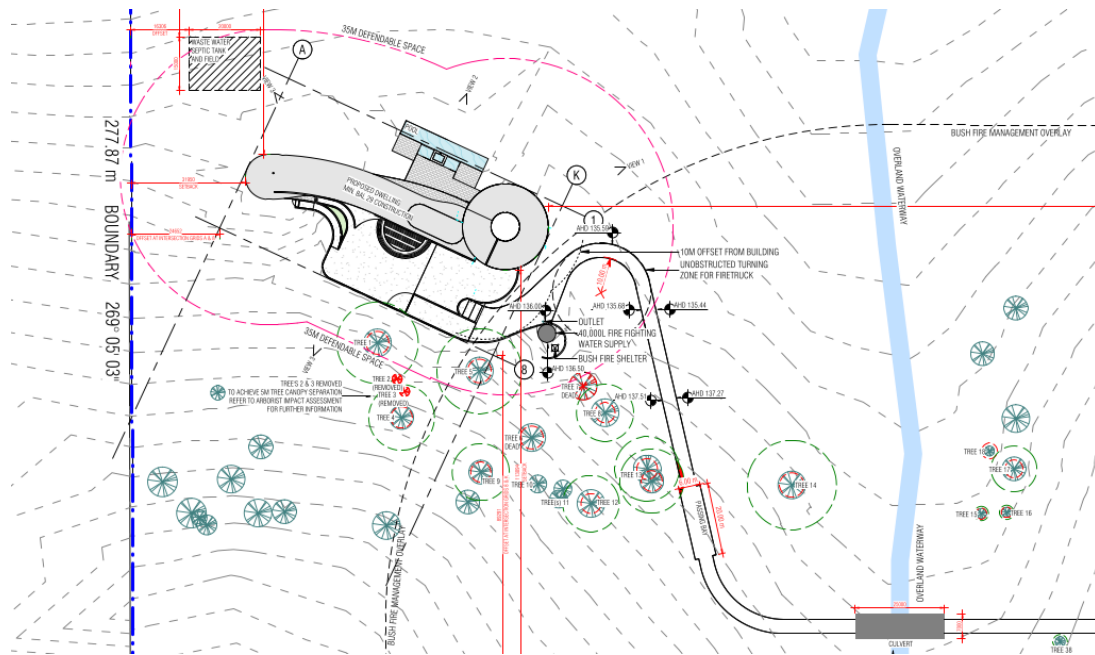
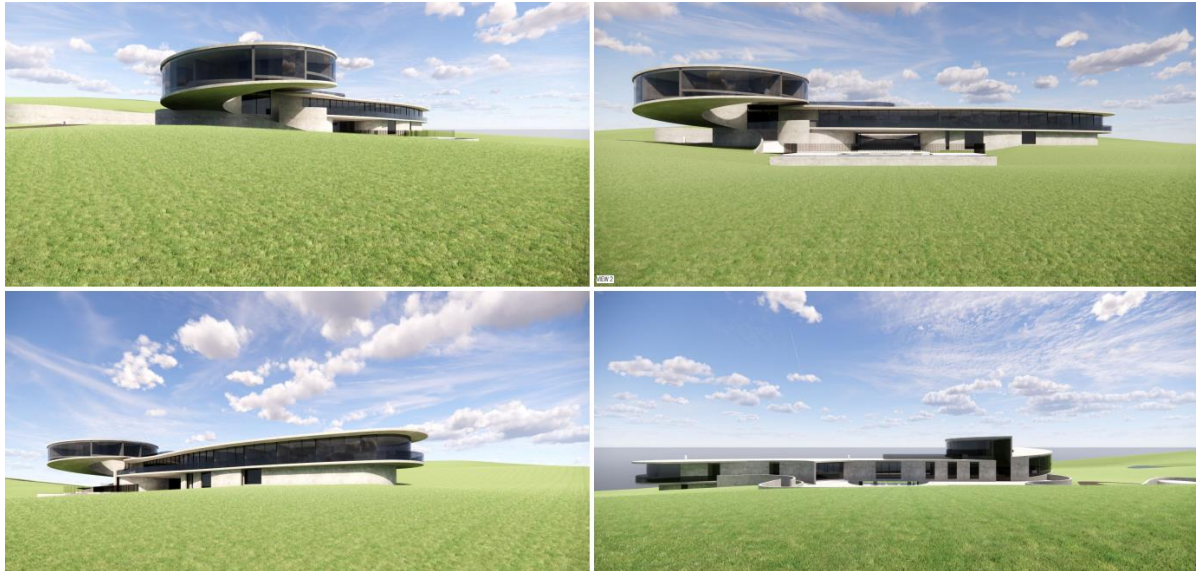


Figure 5. Proposed dwelling location

- The basement level covers an area of 860 square metres and comprises of an eight-car basement garage, storage and service rooms, mud room, powder and change room in addition to a workshop area. Four rainwater tanks with a capacity of 5,000 litres each are provided to service the dwelling with a total capacity of 20,000 litres. Entry to the basement level is available via the basement garage, in the central walkway and south-eastern corner;
- The ground floor covers an area of 680 square metres and comprises of a kitchen, living, dining area, four bedrooms with an ensuite to each bedroom, as well as a sauna and playroom. The main entrance at ground level is located on the southern façade besides the steps that leads to the swimming pool. Another entry point is also provided to the northern side that leads to the swimming pool;
- The first floor covers an area of 353 square metres and contains the master bedroom, ensuite, study rooms, gym and bar room. This floor is only accessible internally. The external areas around the dwelling comprise of a swimming pool, paved areas in addition to vehicle access to the basement car parking and open car parking at ground level;
- Access to the dwelling is via the existing crossover onto Pinnacle Lane and a section of the existing driveway. The existing driveway is proposed to be extended to provide access to the dwelling to the rear of the site. The driveway is of a gravel driveway with a width of four metres. Passing bays are also provided to every 200 metres of the driveway in accordance with bushfire management requirements with a culvert also being provided where the driveway crosses an overland flow path;
- A bushfire shelter is proposed to be sited 22.5 metres south-east of the dwelling;
- A site cut to a maximum of 4.9 metres is proposed that will accommodate the basement floor level. This also includes associated retaining walls with a maximum height of 3.44 metres;

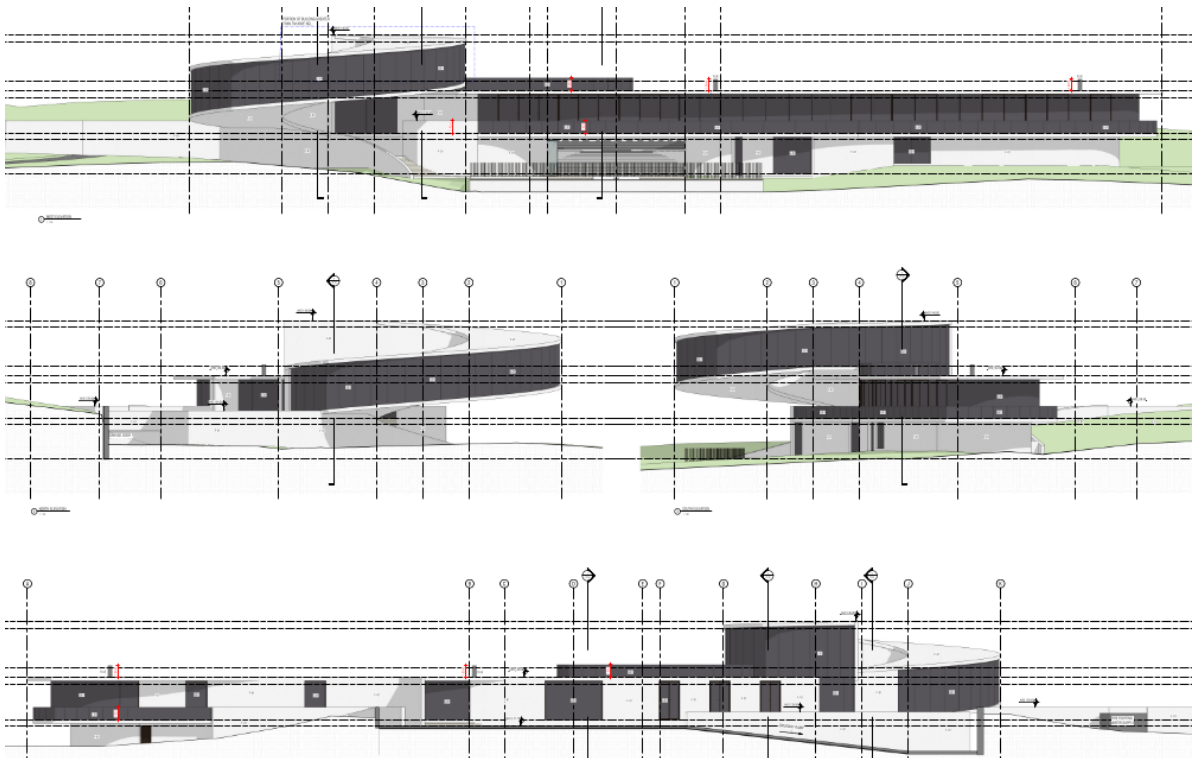


- A swimming pool is located west of the dwelling generally in line with the basement floor level of the dwelling. The pool covers an area of 140 square metres and sits 1.1 metres above natural ground level. This is exempt from planning permit requirements under Clause 62.02 as it is a domestic swimming pool ancillary to the proposed dwelling;
- The maximum height of the dwelling will be 9.2 metres above natural ground level (TP Section 2 Plan). The predominant part of the dwelling (excluding the first floor) will be no greater than 5.81 metres above natural ground level; and



*Figure 6. 3D Renders of proposed dwelling*

- Materials consist of a natural concrete finish for the façade and roofing, with clear glass for the remainder.



*Figure 7. Elevation Plans*

**Vegetation removal**

- One tree (Tree #7) is proposed for removal. This is exempt from planning permit requirements under Clause 51.03 and 52.17 as it is dead. Note: Plans show tree #2 and 3 as proposed for removal, however it has been confirmed by the permit applicant in writing that these trees are to be retained. This matter can be addressed via permit conditions; and

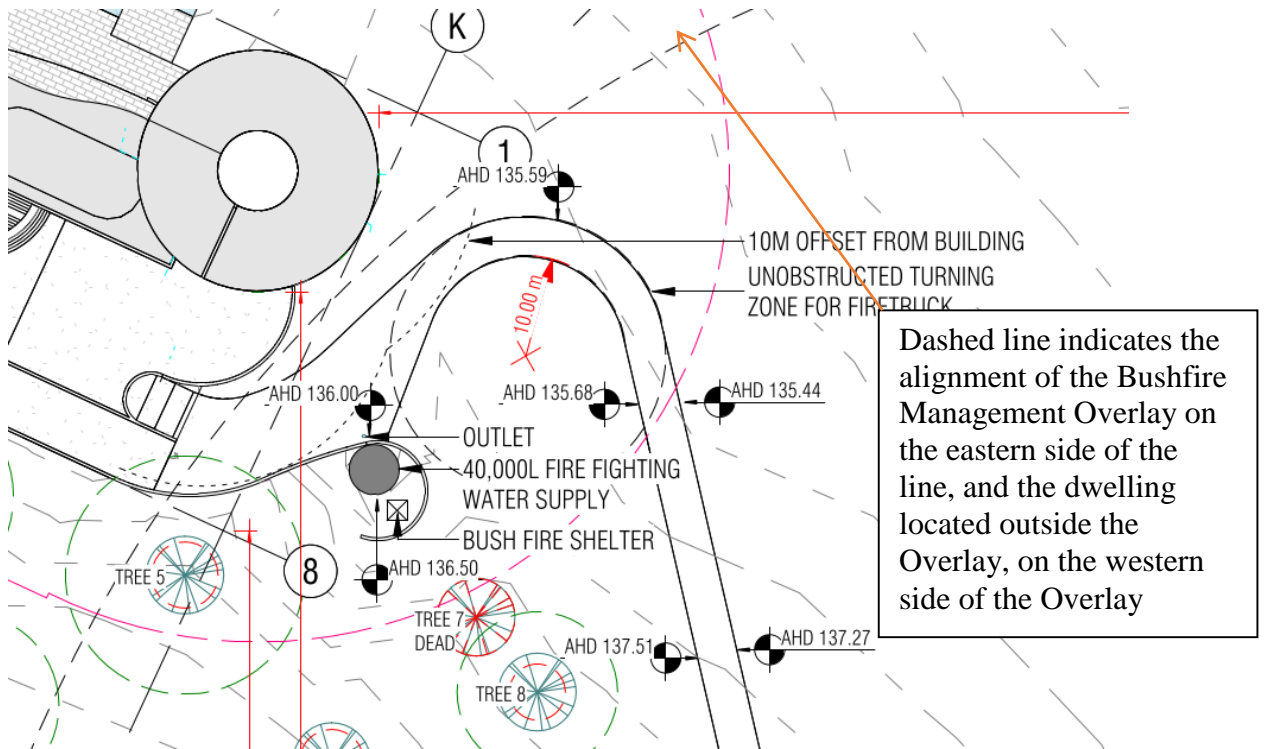


Figure 10. Proposed Tree removal and alignment of the Bushfire Management Overlay

- The remaining area of the site is to be retained as agricultural land. The existing agricultural portion is stated to be 166,932 square metres (Figure 8), which will be marginally reduced to 133,732 square metres (Figure 9) as a result of the relocation of the dwelling location on the land.

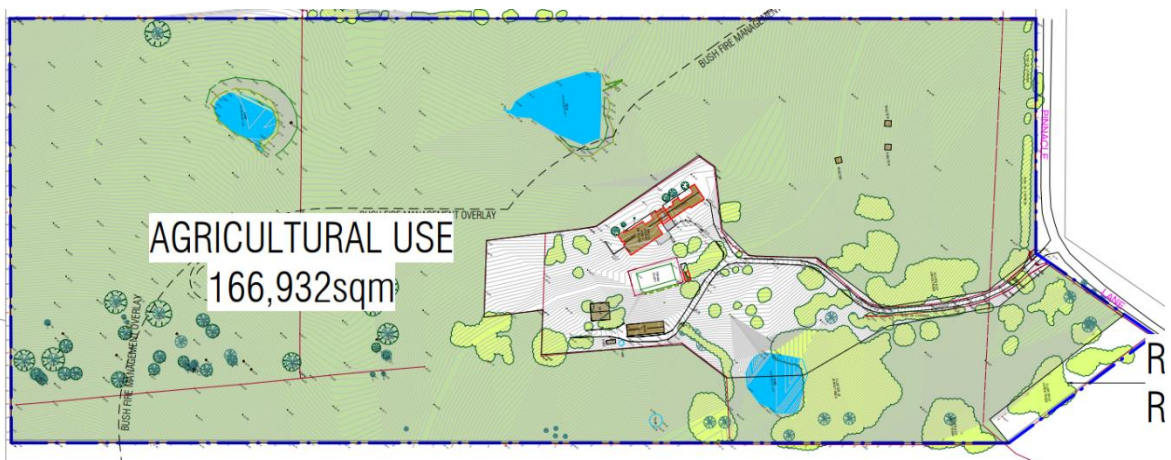


Figure 8 – Existing agricultural portion of the land

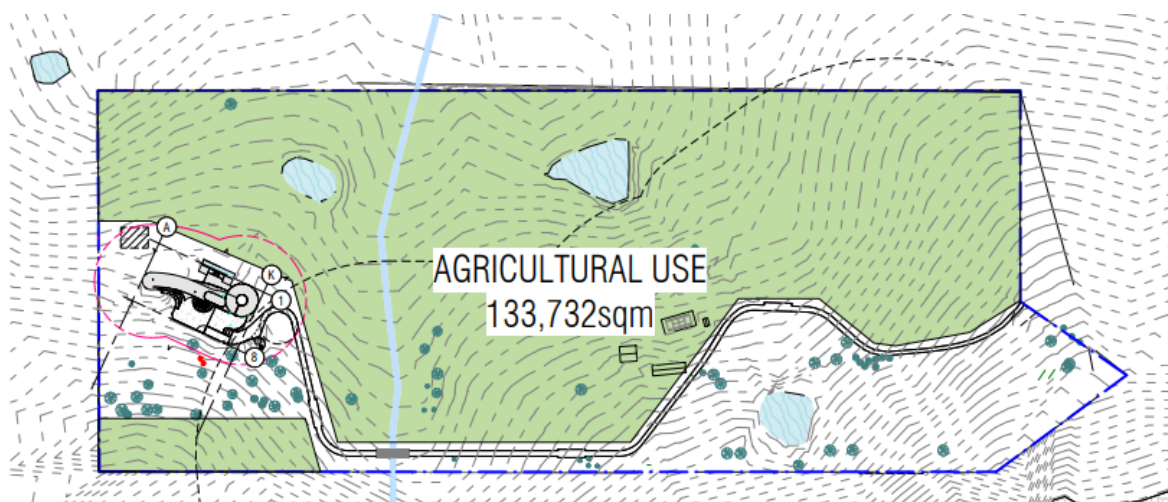


Figure 9 – Proposed agricultural portion of the land

### PLANNING CONTROLS

<b>Zoning:</b>	Clause 35.04 Green Wedge Zone – Schedule 5
<b>Overlay:</b>	Clause 44.06 Bushfire Management Overlay
<b>State Planning Policy:</b>	Clause 11 Settlement Clause 12 Environmental and Landscape Values Clause 13 Environmental Risks Clause 14 Natural Resource Management Clause 15 Built Environment and Heritage Clause 16 Housing Clause 19 Infrastructure
<b>Local Planning Policy:</b>	Clause 21.04 Land Use Clause 21.06 Built Form Clause 21.07 Landscape Clause 21.09 Environment Clause 22.05 Vegetation
<b>Schedule to Clause 51.03:</b>	Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan
<b>Particular Provisions</b>	Clause 52.06 Car Parking Clause 53.02 Bushfire Planning
<b>Other Requirements:</b>	Clause 65 – Decision guidelines

For further information on the planning controls refer to Attachment 2.

## PERMIT TRIGGERS

Under the provisions of the Green Wedge Zone, a permit is required to construct or carry out building or works associated with a use (dwelling) in Section 2 of Clause 35.04-1.

The requirements of Clause 35.04-5 set out the Decision Guidelines to be considered by the Responsible Authority which includes the Municipal Planning Strategy and Planning Policy Framework. Clause 51.03 also requires a planning permit to construct a building greater than seven metres in height and requires the consideration of Clause 65 (Approval of an application or plan).

### **Zoning**

Clause 35.04 Green Wedge Zone – Schedule 5

- A permit is required to construct a building 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 depth or height.

The site is currently used for a dwelling and therefore no permit is required for the use of land for a dwelling.

### **Overlays**

Clause 44.06 Bushfire Management Overlay

- A planning permit is not required as the proposed dwelling is located outside of the area of land affected by this overlay. Refer to Figure 5 and 10 and Attachment 10 for outline of overlay coverage.

### **Particular Provisions**

Clause 51.03 Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan

- A planning permit is required to construct a building greater than seven (7) metres in height and for earthworks greater than one (1) metre in depth or height.

## 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:

Department	Summary of Response	Conditions required
<b>Stormwater Engineering</b>	Consent subject to conditions required for stormwater calculations  The engineer has commented that conditions for stormwater calculations are required to demonstrate the culvert has sufficient capacity for the flow through the overland waterway.	<ul style="list-style-type: none"><li>• Stormwater calculations demonstrating the proposed culvert has sufficient capacity for the flow through the waterway;</li></ul>

Department	Summary of Response	Conditions required
	Conditions also require piped drainage and certification of works.	<ul style="list-style-type: none"> <li>• Piped drainage; and</li> <li>• Certification of civil works</li> </ul>
<b>Health</b>	Consent subject to conditions for wastewater system.	<ul style="list-style-type: none"> <li>• Discharge to EPA Approved system;</li> <li>• General amenity</li> </ul>
<b>Environment</b>	<p>Consent, subject to conditions</p> <p>Council's environment officer has assessed the application and notes the application avoids and minimises native vegetation removal.</p> <p>Tree schedule shown on plans to be conditioned to correctly show Trees #21, 23, 25, 26 and 31 to be retained to be consistent with the site plan. Trees #2 and 3 are immature trees and exempt under Clause 52.17 as they are growing within an area without native understorey, however it is recommended to retain these as they are not impacted by the development.</p> <p>It is also noted that Tree #7 is dead.</p>	<ul style="list-style-type: none"> <li>• Tree schedule updated to accurately show trees for retention</li> </ul> <p><b>Planning Response:</b></p> <p>It has been confirmed by the permit applicant that these trees are proposed to be retained. This matter can be addressed via permit conditions.</p>
<b>Arborist</b>	<p>Consent, subject to conditions</p> <p>Council's arborist has commented that the removal of trees #2, 3, 7, 31, 32, 36, 37 and 39 is not contested. Tree sensitive driveway construction is required for Tree #33, 34 and 35</p>	<ul style="list-style-type: none"> <li>• TPZ fencing;</li> <li>• Tree sensitive installation of service;</li> <li>• Tree sensitive driveway construction; and</li> <li>• Roadside tree removal.</li> </ul> <p><b>Planning response:</b></p> <p>Referral to Council's arborist was made prior to the latest set of amended plans.</p> <p>As noted on the plans only Tree #7 is proposed for removal to which Council's arborist has consented to.</p> <p>Other aspects including tree sensitive construction from Tree #33, 34 and 35</p>

Department	Summary of Response	Conditions required
		<p>and roadside tree removal are not required as the driveway has been re-aligned to avoid tree impacts.</p> <p>Conditions related to driveway construction, roadside tree removal and cost recovery are therefore no longer required.</p>
<b>Urban Design</b>	<p>Comments provided</p> <ul style="list-style-type: none"> <li>• The massing of the building is extensive, and its' form provides little articulation resulting in a large and solid structure that is dominate in the landscape;</li> <li>• The lower ground floor or undercroft façades of the west, north and south elevations of the dwell, along with retaining walls for garage access, present large expanses of blank wall with very limited openings, screening or recessing;</li> <li>• The upper levels present almost continuous expanse of glazing in the form of windows and balustrades that will result in direct sun glare from the building. The extensive glazing as a continuous façade treatment to the west, north and south elevation does not soften any visual impacts of the built form or provide any recessive elements to help integrate the building into the surrounding landscape;</li> <li>• The material palette presented is very limited and does not use traditional materials such as timber,</li> </ul>	<p><b>Planning response:</b></p> <p>Following the initial response, further discussions have been held with Urban Design to discuss design options that would address issues over the built form, window glazing and materials. Conditions have been suggested and will be subsequently conditioned.</p> <p>These conditions pertain to the following:</p> <ul style="list-style-type: none"> <li>• Glass façade on the first floor to be recessed one (1) metre from the roof fascia/ floorplate, to remove reflection from the glazing into the immediate and broader landscape;</li> <li>• Revised dwelling façade at ground and lower ground level to include sections of natural materials to reduce the extent of concrete and glass facades;</li> </ul>

Department	Summary of Response	Conditions required
	<p>stone and corrugated iron appropriate for a rural setting which are recommended in the Vision 2020 By Design Guidelines for this area;</p> <ul style="list-style-type: none"> <li>• The built form is sited within the slope of the hill and does not project above the ridge line which is responsive to the topography of the area; and</li> <li>• The site is located on a low volume road with roadside vegetation obscuring several views to the site.</li> </ul>	<ul style="list-style-type: none"> <li>• Concrete façade to have a LRV (luminance reflective value) of less than 40; and</li> <li>• Landscape plan</li> </ul> <p>Further discussions as to how these conditions will address the concerns raised are detailed under Clause 15.01-1S (Urban Design), 15.01-2S (Building Design), and 21.06 (Built Form – Objectives, Strategies and Implementation) - Built form and amenity</p>

### **External Referrals**

This application was referred to the following statutory referral authority for advice on particular matters. The following is a summary of the relevant advice:

Referral Authority	Consent/Objection Summary of Response	Summary of Conditions
CFA (Section 52 Referral)	Consent, subject to conditions relating to endorsement of the Bushfire Management Plan and installation of the private bushfire shelter.	<ul style="list-style-type: none"> <li>• Endorsement of Bushfire Management Plan; and</li> <li>• Installation of private bushfire shelter.</li> </ul> <p><b>Planning response:</b></p> <p>The application has been referred to CFA under Section 52 of the Act. The current site layout is situated outside of the Bushfire Management Overlay and does not require referral to CFA under Section 55 of the Act.</p> <p>The applicant has voluntarily submitted bushfire protection measures to be implemented in responding to Clause 13.02.</p>

### ***Public Notification and Consultation***

Notification of the application was undertaken by:

- 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: Four (4)

The main grounds of objection include the following:

- Provision of utilities and services;
- Noise and light pollution;
- Inconsistent with the neighbourhood and landscape character;
- Excessive built form in relation to building footprint;
- Conflict with adjoining agricultural land uses; and
- Fragmentation of agricultural land.

### ***Community Consultation***

A community consultation meeting was not undertaken in relation to this application. Discussions of the application with some of the objectors has been held over the phone. All objections received have been considered as part of the decision-making process of this application with a response to the key grounds of objections detailed further below.

### **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 in regard to the Yarra Ranges Planning Scheme with regards to the appropriateness of building and works to construct a dwelling and earthworks greater than one metre.

### **State, Regional and Local Policies**

#### **Clause 12.01-1S (Protection of biodiversity)**

The clause requires development of land to avoid impacting on important areas of biodiversity and fragmentation of habitat. The development has been sited in a cleared area of land and avoids impacting upon the native vegetation patch that generally runs along the eastern boundary. There is also no removal of vegetation proposed as part of this application other than a single dead tree. This has also adequately adopted the three-step approach under the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) in that the development results in avoiding the removal of any native vegetation that requires a planning permit. The proposal therefore ensures that the development avoids the fragmentation of habitat and the biodiversity values of the site.



### **Clause 13.02 (Bushfire planning)**

This clause 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;
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazard.

The site is located in a designated bushfire prone area and partially affected by the Bushfire Management Overlay.

The site was directly impacted by the 2009 Bushfires. Whilst not requiring a planning permit under the Bushfire Management Overlay as the dwelling is situated outside of the area affected by this overlay, 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-29 construction, with defensible space to 35 metres around the dwelling, water supply for fire-fighting purposes in addition to accessway requirements to provide for emergency vehicles.

In addition to these measures, a separate bushfire bunker is proposed separate to the dwelling which is located besides the water tank. These bushfire protection measures to address the identified bushfire risk are appropriate where these measures enable human life to be better protected from the effects of bushfire. The implementation of a defensible space area around the proposed dwelling also does not result in the removal of any native vegetation.

### **Clause 13.02-1S (Bushfire Planning) (referencing Clause 44.06 (Bushfire Management Overlay) and Clause 53.02 (Bushfire Protection))**

The overarching strategy of bushfire planning is to prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire. Clauses within the Yarra Ranges Planning Scheme, including Clause 13.02-1S (Bushfire Planning), Clause 44.06 (Bushfire Management Overlay) and Clause 53.02 (Bushfire Protection) place emphasis on managing bushfire risk through stringent siting and design controls.

A permit is not required under the Bushfire Management Overlay (BMO) as the dwelling is sited outside the Bushfire Management Overlay as shown on the submitted site plan. As a result, consideration against Clause 53.02 is not required.

The application has been referred to the Country Fire Authority (CFA) under Section 52 of the Planning and Environment Act 1987, who provided conditional consent to the granted of a planning permit, subject to the endorsement of the Bushfire Management Plan and installation of a private bushfire shelter.

Whilst a permit is not required under the Bushfire Management Overlay, consideration must be given under Clause 13.02 with respect to the protection of human life in areas sited in a designated bushfire prone area.

The site is located in a Landscape Type 3 and the extent of vegetation located more than 150 metres may result in neighbourhood-scale destruction. Whilst vegetation onsite is considered to be managed, bushfire can approach from the site in multiple

directions as a result of extensive grasslands, woodland and forest vegetation adjoining the site and within the wider context that has the potential for short and long fire runs into the site bushfire risk is prevalent in all directions due to the high threat forested and woodland vegetation beyond the site.

In considering the bushfire risk and mitigation measures to reduce risk to an acceptable level it is noted that the dwelling is positioned to avoid being in the area affected by the Bushfire Management Overlay and in an area clear of vegetation. Bushfire protection measures proposed include the upgrading and extension of the accessway to the dwelling. This will maintain a minimum 3.5 metre wide all-weather driveway for emergency vehicles with an overall length of 750 metres to the new dwelling location. Passing bays are also shown on plans and provided every 200 metres.

The dwelling itself will also be built to a BAL-29 standard which also has a 40,000 litre firefighting water supply tank to the south-east of the dwelling.

A bushfire shelter is also proposed as a place of last resort onsite and is considered to further strengthen measures to protect human life given the nearest Neighbourhood Safer Place is located 3.8 kilometres away at Dixons Creek Recreation Reserve and the manner that the surrounding streets in the area which are heavily vegetated along the road reserve may compromise any such evacuation route in the event of a bushfire.

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.

#### **Clause 14.01 (Agriculture) and Clause 21.04 (Objective 4 – Agriculture)**

These 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 as there is an existing dwelling located towards the front of the site. 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 is generally used for rural residential purposes with some ancillary agricultural uses occurring onsite which includes agistment for cattle in the paddocks along the frontage and around the existing dams in addition to a small pocket of crop raising of trees east of the existing dwelling, where the tennis courts were formerly located. These trees are to be generally used for replanting onsite once mature.

Whilst the dwelling is substantially larger than the existing dwelling that is to be demolished, the applicant has submitted that the existing agricultural practices onsite in relation to cattle agistment and crop raising will continue and remain unaffected as these are located towards the front half of the lot and around the dams. Concept plans detailing the proposed agricultural potential of the site also indicates approximately 13.37 hectares of land can be used for agricultural purposes based on the impacts of the replacement dwelling and existing remanent vegetation patches remaining untouched.

It is considered that the proposed development does not fragment the land as it retains ample areas onsite for the current agricultural use to continue via the existing paddocks and areas surrounding the dams on the western half of the site and for potential future agricultural pursuits.

Whilst recognising that the estimated cost of works for the dwelling is \$4,000,000 million, it is unlikely that the site will be used solely for the purposes of agriculture should the dwelling be constructed and occupied. The land would effectively be for rural residential purposes with ancillary agricultural component which is generally consistent with the existing conditions of the site. This is also consistent with surrounding and nearby properties which are used for rural residential purposes with an ancillary component of agricultural use(s).

Clauses 21.07 (Landscape), 21.09 (Environment) and 22.05 (Vegetation) seek to protect the green wedge character and rich biodiversity of the Shire. The development responds to these as the development only requires the remove of one tree which is dead and does not require a permit for removal.

The dwelling is suitably sited in an open clearing of the site to avoid impacting upon any remnant vegetation onsite that is protected or the larger patch of native vegetation generally along the eastern boundary. The design responds to and prevents any incremental loss of remnant vegetation, where the development has appropriate regard to the role remnant vegetation has in the landscape value of the Steels Creek area. The siting is setback in excess of 30 metres of any watercourses that is consistent with the policy of Clause 21.09.

The dwelling responds to the landscape objectives of the unique green wedge character of the area. Whilst the site and immediate surrounds is not currently within an identified scenic landscape under a Significant Landscape Overlay, Amendment C148 proposes to apply the Significant Landscape Overlay- Schedule 6 onto the land as discussed further below.

The area can be generally characterised by its undulating topography with wide expanses of open paddocks, grasslands and agricultural pursuits nestled amongst pockets of remnant vegetation, dwellings and associated outbuildings. The proposed dwelling has regard to the features of the site and surrounds by positioning the dwelling mid-slope which avoids the dwelling being sited along a ridgeline and provides adequate setbacks to the waterway along the western boundary and remnant vegetation along the eastern boundary. The siting is also of a similar topographical level to the adjoining dwelling at 375 Pinnacle Lane.

Towards the south and west of the dwelling, the immediate surrounds are generally open grassed areas, however the siting of the dwelling is partially screened as a result of the natural characteristics of the area. To the east, the site and surrounds are well vegetated by established remnant vegetation. To the south is open grasslands where the topography on the adjoining property naturally slopes up away from the boundary line. To the west, the topography slopes down towards the adjoining property to the west. This boundary line comprises of an established row of vegetation.

The attributes of the surrounding landscape as abovementioned are depicted by Figures 11-13 which demonstrates the surrounding landscape characteristics. The proposed dwelling itself will be in part visible in the context of the wider landscape, however this does not differ to existing characteristics where dwellings and outbuildings in the surrounding area are also visible amongst the landscape.

Overall, when combined with the substantive setbacks offered to boundaries and the negligible impact it has on existing landscape features of the area, the dwelling is appropriately sited in the context of the wider landscape.



*Figure 11. View towards Steels Creek Road (west) from location of proposed dwelling.*



*Figure 12. View towards Willow Bend Drive (south) from location of proposed dwelling*



*Figure 13. View towards 315 Pinnacle Lane (East) from location of proposed dwelling*

The dwelling also offers substantial setbacks from the boundaries being 556 metres from Pinnacle Lane (north), 113.09 metres to the east, 31.95 to the south and 132.4 metres to the west.

These setbacks offered are consistent with other buildings in the area and will maintain the overall sense of openness of the site, with the grasslands and grazing paddocks. Combined with the basement level being effectively cut into the natural ground level, the ground floor being no greater than 5.81 metres above natural ground level and the use of muted and non-reflective tones subject to conditions (as discussed in the paragraphs below), the dwelling is considered to be appropriate in this landscape setting.

**Clause 15.01-1S (Urban Design), 15.01-2S (Building Design), and 21.06 (Built Form – Objectives, Strategies and Implementation) - Built form and amenity**

The policies seek 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 0.81 percent. Existing features onsite that play a key theme in the landscape character of the area will remain unaffected with the remnant vegetation patches being retained, substantive setbacks to waterways and that existing cattle grazing paddocks in the frontage also being retained. Therefore, it is considered that the proposed development is generally in accordance with the objectives and strategies of the policies.

The design of any such dwelling should not only be considered through the dwelling configuration, materials and colours alone, but must also be placed contextually based on the siting of the dwelling and how it sits in with the landscape. With a substantial front setback of 556.37 metres the dwelling will be screened from the frontage by the existing vegetation along Pinnacle Lane in addition to the fall of the land from Pinnacle Lane to the south. This is consistent with other dwellings along Pinnacle Lane which are sited to the centre or rear half of each lot to reduce the visual prominence from the street frontage.

The dwelling is of a modern elongated curvilinear design finished in a natural concrete façade with clear glassed windows. The basement level is nestled into the topography of the land through the site cut proposed and resultantly has a minimal extent of visual bulk. The ground floor will protrude no greater than 5.81 metres above natural ground level and covers over two-thirds of the entire dwelling's footprint, where the height is reflective and sympathetic to the character of the area.

The upper storey is of a spiral design that predominately overhangs the natural ground level below it, with a small section that wraps and protrudes over the ground floor at a maximum height of nine metres. Whilst this height is a deviation from the surrounding built form, it is recognised that the dwelling is of an elongated design in a north–south direction where the spiralled section of the first floor is setback further away from the

more exposed boundaries of the site with a 92 metre setback to the southern boundary and 141 metres from the western boundary line.

To further reduce the overall prominence of the tallest section of the dwelling, conditions will require the glass façade on the first floor be recessed a minimum of one metre from the roof fascia/ floorplate, to provide an overhang of the glass façades, to reduce the reflectivity from the glazed sections. The recessed façade would also present as a form that is more in keeping of traditional dwellings in these rural settings that have a verandah or eave that wraps around the dwellings façade and would also be relative to the canopy overhang provided at ground level. To add to this, whilst noting that the development is finished in glass and concrete, conditions will apply for the concrete finish to be painted so it has a luminance reflective value (LRV) of less than 40. This will result in the dwelling being finished in a muted and non-reflective tone to reduce the visual impact of the development on the surrounding area.

Council's Urban Design department have also raised concerns over the limited use of traditional natural materials such as timber, stone and corrugated iron for the proposed dwelling. These materials are typically evident by surrounding built form such as weatherboard dwellings and steel outbuildings. To soften the prominence of concrete and glass to the dwelling it is proposed to include conditions requiring revised façade treatments across the lower ground and ground floor façades to include sections of natural materials. This will break up the extent of the dominant concrete and glass façade.

Noting the significant setbacks to boundaries in addition to the dwelling design and finishes, it is considered the proposal is suitably sited and designed having regard to the surrounding landscape of the area.

The dwelling is nestled into the landscape with a patch of remnant vegetation surrounding the eastern end of the dwelling. Additional landscaping of native trees will also be required, particularly to the south and west of the dwelling which will further reduce visual impacts of the dwelling over time and will add towards the landscape characteristics of the land particularly along the south and western view lines which are generally characterised by open grasslands and paddocks. This will require vegetation to be appropriately setback and managed as per the vegetation management requirements within the defendable space, as stipulated in the Bushfire Management Plan to ensure the landscaping does not adversely add to the fuel loads in the area which can be addressed appropriately via permit conditions.

Consideration of amenity impacts to adjoining residences have also been considered by the applicant as the dwelling is sited in a position that does not trigger a planning permit for any of the setback triggers outlined in Clause 35.04-5 other than that of it being within 100 metres of a waterway (overland waterway to the north of the proposed dwelling). The nearest adjoining dwelling not in the same ownership is also located approximately 400 metres away (to the south and west) whereby the dwelling will be substantially setback and not in the direct line of sight of any dwelling. This far exceeds the general setbacks of adjoining dwellings between properties which are generally setback in the order 100 – 350 metres. As noted previously, in considering the surrounding environmental context of the topography, remnant vegetation, the substantive setbacks and dwelling design, the proposed development is suitably sited to minimise any adverse impacts on the landscape characteristics of the area.

## **Zone and Overlay Provisions**

### **Consistency with the Green Wedge Zone – Schedule 5**

Planning approval is required under the Green Wedge Zone – Schedule 5 for the construction of a dwelling on the lot. The existing dwelling will be removed and replaced with the proposed dwelling. As noted on the plans, the existing dwelling is proposed to be demolished prior to the completion of the proposed dwelling. Permit conditions will apply to ensure the existing dwelling is demolished prior to occupancy of the proposed dwelling.

This application is only for buildings and works as the dwelling use is existing. On this basis, there is no requirement to retrofit the site to meet the mandatory dwelling use requirements of the Green Wedge Zone Schedule 5 (i.e., connection to all services and access to an all-weather road for emergency vehicles).

It is recognised that the site has an ongoing agricultural component in relation to cattle agistment via the established paddocks in the front half of the site and crop raising to the east of the existing dwelling. Whilst not substantial in the ongoing agricultural practices in the context of the lot size, the applicant has submitted this use is to continue. A review of the surrounding area also highlights that each lot generally comprises of a dwelling and associated outbuildings in addition to sections of the land being used for animal grazing or crop raising. The proposed replacement dwelling would be consistent with this and will maintain similar characteristics to the surrounding area. This maintains an aspect of the land to be used for agricultural purposes which is consistent with the purpose of the Green Wedge Zone Schedule 5.

The replacement dwelling, whilst closer than the current location of the existing dwelling to the rear is not considered to have any adverse impact to nearby agriculture or other land uses in the immediate area. Given the dwelling is sited to the rear half of the lot, it will have no impact to any existing agricultural practices on properties that lie on the northern side of Pinnacle Lane, whilst the eastern adjoining property boundary is in excess of 100 metres from the dwelling in addition to that the direct interface will be of existing remnant vegetation that will screen the development. To the south, the proposed replacement dwelling provides a setback of 31.95 metres, whereby the adjoining property to the south is generally used for the purposes of cattle grazing. The dwelling will have no adverse impact to this adjoining agricultural use as a sufficient setback is provided to avoid impacting upon any existing land management practices such as weed spraying or the moving of cattle to different paddocks.

The dam on the adjoining property that generally lies on the southern boundary will also remain unaffected, given that this dam is upslope of the southern boundary and therefore will not be impacted by the dwelling's location. To the west, the common boundary effectively forms a valley in the wider landscape where a waterway flows generally in a north – south direction. This waterway will not be adversely impacted as a culvert across the driveway is to be provided that does not alter the natural flow of the overland waterway that naturally flows down towards the adjoining dam. Existing agricultural practices on this site generally pertain to the centre and front half of the lot to which the proposed dwelling will have no impact on this.

### **Effluent disposal**

The proposal provides a wastewater envelope of 300 square metres north-west of the proposed dwelling. Council's Health Department has confirmed this arrangement is acceptable subject to the proposed development being discharged into a new EPA approved onsite wastewater treatment system which retains all waste within the boundaries of the land. This matter can be addressed as a condition of approval and will also require a separate septic tank permit from Council's Health Department.

The effluent field is also noted to be setback at least 30 metres from the southern boundary and 99 metres from the southern boundary to which the effluent field is located well away from any nearby waterways and native vegetation.

### **Vegetation removal**

The proposal seeks to remove Tree #7. This tree is a Eucalyptus and is dead, and as such no planning permit is required for removal.

Trees #2 and 3 are shown for removal, however following discussions with the applicant, these trees are to be retained by condition. It is noted the tree schedule provided on plans does not accurately correspond with the actual site plan.

This will be addressed via permit conditions to require all trees shown for retention apart from Tree #7.

Overall, the proposal positively responds to the landscape and vegetation onsite as it does not impact upon any protected vegetation onsite. This ensures that the remnant patch of vegetation generally along the eastern boundary remains unaffected and viable and protects the Shire's rich biodiversity and landscape characteristics.

### **Particular Provisions**

#### **Clause 52.06 – 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 an eight (8) car basement garage.

#### **Planning Scheme Amendment C148 (Seriously Entertained Amendment)**

At the time of this report, Amendment C148 to the Yarra Ranges Planning Scheme is yet to be gazetted. However, the Amendment has been submitted to the Minister for Planning for final approval following its Panel Hearing. Amendment 122 has already been approved on the 8 May 2022 by the Planning Minister which makes changes to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan to resolve inconsistencies between Council's planning review and the Regional Strategy Plan. Council's major revision of its Planning Scheme is proposed to be implemented through Amendment C148. As such, this Amendment is afforded the status of a 'seriously entertained' amendment and is required to be considered as part of the application.

Amendment C148 seeks to refresh the content contained within the Municipal Strategic Statement and the Local Planning Policy Framework. However, it would not alter the



policy considerations for the site, which requires that the built form be site responsive and respectful of the surrounding landscape. Relevant applicable changes include:

- Clause 21.03 Green Wedge

This identifies the site as an area of productive agricultural areas as the lot exceeds 10 hectares in an area outside of identified intensive agricultural areas. Noting this, the use of the land has been established as there is an existing dwelling onsite. This application only pertains to buildings and works to construct a replacement dwelling.

Having regard to Amendment C148, whilst the dwelling is relocated to the rear of the site, it maintains a significant portion of the site for agricultural purposes with existing grazing paddocks for cattle in the front half of the site and around the dam retained for these purposes in addition to a patch of crop raising. This retains an agricultural component of the land ensures sufficient land area remains for agricultural uses;

- Introduction of Clause 42.03 Significant Landscape Overlay – Schedule 6

This Amendment proposes to apply the Significant Landscape Overlay – Schedule 6 to the subject site. This identifies the subject site and surrounds as 'Rolling Hills and Bushy Agricultural Landscape'. The Statement of nature and key elements of landscape identifies the landscape as mostly farmland and patches of remnant vegetation. Houses are generally well setback from major roads with building architecture from a range of styles and eras, being large sprawling structures with rural design elements such as verandahs.

The landscape character objectives to be achieved under this overlay seeks;

- To maintain a comparatively open rural landscape of farmland and bushland patches in which houses, farm buildings and tourist facilities are generally inconspicuous;
- To ensure that the siting and design of new buildings complements their setting and reinforces the rural landscape character of the area;
- To retain established trees and patches of indigenous vegetation as an important element of the rural landscape and habitat for wildlife;
- To allow middle and long distances views from the valley to the surrounding ranges; and
- To maintain the appearance of an uninterrupted forested backdrop to views.

The proposed development responds to the proposed Significant Landscape Overlay as the dwelling is sited away from any roads or publicly accessible viewing points being located to the rear of the site that maximises the front setback. Further, the dwelling is not sited on a ridgeline and retains surrounding canopy trees in the area to which the dwelling will not protrude above the level of the surrounding tree canopy. The addition of landscaping requirements onsite will also be conditioned to better integrate the proposed dwelling and landscape characteristics of the area, whilst providing a level of screening to adjoining properties.

The design and appearance of the dwelling is also generally consistent with this overlay as the dwelling incorporates characteristics similar to that of existing 'farmhouses' in the area which are generally enclosed by a verandah around the dwelling. Whilst the overarching design of the proposed dwelling is of a more modern design than traditional housing stock in the area the Significant Landscape Overlay identifies that building architecture varies from a range of styles and eras, and that the architectural style of the proposed dwelling encompasses a mixture of both traditional and modern designs. This is done through the canopy overhang that wraps around the ground floor and generally presents as a verandah. Changes to the first-floor glass façade to be recessed one metre from the roof fascia/ roof plate as discussed previously would also provide a similar design response.

It should also be noted that the Significant Landscape Overlay identifies that building architecture varies from a range of styles and eras and that the architectural style of the proposed dwelling differs from encompasses a mixture of both traditional and modern designs.

This overlay seeks for external finishes of buildings to adopt muted tones and non-reflective surfaces and incorporate natural elements such as timber and stone in the design. The proposal itself is finished effectively in concrete and glass. Noting that the dwelling is a 'larger building' with a limited materials palette, conditions will apply to incorporate natural elements into the design of the dwelling that would include the use of natural materials or of a natural material finish to better integrate the development into the landscape and greater levels of articulation.

The development therefore maintains the intent of these agricultural areas and avoids fragmenting existing agricultural practices on site as well as being suitably sited and designed in landscape context that is consistent with Amendment C148.

**RESPONSE TO SUBMITTERS CONCERNS**

The application has been advertised and a total of four (4) objections have been received from surrounding property owners/ occupiers.

Responses to the issues raised in the objections are as follows:

Grounds of Concern	Planning Assessment
Provisions of utilities and services	As noted above, consideration against connection to services is not a consideration as this application is for buildings and works only and not a use application. A new wastewater system can be provided onsite to treat and retain all wastewater onsite in accordance with EPA regulations. All other connections in relation to electricity and water supply will require the applicant to engage with relevant utility providers to establish connections. It should

	<p>be noted that as there is an existing dwelling onsite, these connections are already established to the subject site.</p>
Noise and light pollution	<p>Noise as a result of the dwelling is not expected to be any different than general domestic noise that would be expected from any rural residential premises. Lighting can be managed accordingly via permit conditions (Condition 11) to be baffled and not directly shine beyond the property boundaries.</p>
Inconsistent with neighbourhood and landscape character	<p>As noted in the assessment, there have not been any character studies to identify a specific existing or preferred character of this area, nor is it currently in an identified significant landscape within Yarra Ranges (refer to Amendment C148 for discussion on proposed Significant Landscape Overlay).</p> <p>The character of the area can generally be described 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.</p> <p>The characteristics of the built and natural environment will not be compromised as a result of the proposed dwelling's location due to substantial setbacks to boundaries and adjoining dwellings. This also enables for the existing vegetation and waterways to remain unaffected that form part of the character of this region. Further, existing paddocks onsite are to remain unaffected that adds to the sense of place in relation to agricultural uses in the surrounding region. Condition 7 requires landscape plantings to further contribute to landscape character of the area.</p>
Excessive built form in relation to building footprint	<p>The assessment notes the dwelling is of a larger footprint than other rural dwellings in the area, resulting in a 0.81 percent site coverage. The proposal maintains a significant portion of the land as undeveloped allowing the retention of open paddocks, grasslands, and remnant vegetation.</p> <p>The dwelling's height is also predominately no greater than 5.81 metres which is consistent with surrounding built form.</p> <p>Whilst a section of the third storey is 9.2 metres in height, this is located more centrally and away from nearby boundaries.</p>

	<p>The use of a muted and non-reflective colour scheme will also reduce the overall prominence of the dwelling in addition to landscaping requirements.</p> <p>It is noted that the application is not subject to ResCode requirements or any siting requirements under the Scheme.</p>
Conflict with adjoining agricultural land uses	<p>The assessment has established that due the dwelling's siting and substantial setbacks provided it will not adversely impact upon existing agricultural uses on adjoining sites such as cattle grazing and crop raising.</p>
Fragmentation of agricultural land	<p>The revised dwelling siting is noted to result in a minor reduction in overall agricultural land, however there is still over 11 hectares of land that is available for agricultural use.</p> <p>This will enable productive agricultural uses as noted under Amendment C148 where lots greater than 10 hectares can be used for productive agricultural pursuits.</p> <p>The applicant has also submitted that the owner intends to continue ongoing agricultural activities onsite including cattle agistment and crop raising.</p>

It is considered that the proposal appropriately responds to the concerns raised by the submitters, and no substantial changes are required as a result of the submissions received.

## CONCLUSION

The proposed replacement dwelling application has been assessed in accordance with Section 60(1) of the *Planning and Environment Act 1987* and all relevant instruments and policies.

The proposal is considered to be consistent with the objectives of state planning policies, local planning policies and the relevant zone and overlay provisions of the Planning Scheme and is considered to be a satisfactory planning response.

As such, approval is recommended and a Notice of Decision to Grant a Planning Permit be issued, subject to conditions (Attachment 1).

## **ATTACHMENTS**

- 1 Conditions
- 2 Planning Controls
- 3 Copy of Title
- 4 Existing Site Conditions
- 5 Set of Plans
- 6 Planning Report
- 7 Bushfire Management Plan
- 8 Bushfire Management Statement
- 9 Arborist Report
- 10 Planning Property Report