

PLANNING

PERMIT

Permit No

PLP/2014/353

Planning Scheme

Ballarat (Gazetted 26/11/98)

Responsible Authority

Ballarat City Council

ADDRESS OF THE LAND:

209 Tinworth Avenue, MOUNT CLEAR VIC 3350

THE PERMIT ALLOWS:

Construction of nine dwellings and associated vegetation removal

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

1. Amended Plans Required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted in December 2015 but modified to show:

- (a) The provision of a landscape plan as required by Condition 4. This plan is also to show all vegetation to be removed from the site, including the street tree to Tinworth Avenue, Tree Protection Zones to all vegetation to be retained as required by Condition 7 and suitable replacement planting.
- (b) The provision of double glazing to the bedroom 2 window of dwelling 5 (existing) to address the requirements of Standard B15 (Parking Location) of Clause 55 of the Ballarat Planning Scheme.
- (c) The provision of materials and colours details, as required by Condition 2.

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

2. Materials & Colour Details

Before the development starts, a schedule of construction materials, external finishes and colours must be submitted to and approved by the Responsible Authority. When approved, the schedule will be approved to form part of the permit.

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3. Boundary walls

The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

4. Landscape Plan

Prior to the commencement of any works, a landscape plan must be submitted to and approved by the Responsible Authority. When approved the plan will form part of the permit.

The landscape plan must include:

- (a) a survey (including botanical names) of all existing vegetation to be retained and/or removed;
- (b) details of surface finishes of pathways and driveways;
- (c) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, size at planting, sizes at maturity, and quantities of each plant.
- (d) Nomination of the street tree to Tinworth Avenue to be removed and a suitable replacement species nominated to accord with Condition 6.
- (e) Details of tree protection measures to all trees to be retained on the site in accordance with Condition 7.

All landscaping works must be carried out in accordance with the approved landscape plan and Council's Landscape Design Manual (August 2012).

5. Completion and Maintenance of Landscaping Works

Prior to the occupation of the buildings commencing all landscape works forming part of the approved Landscape Plans must be completed to the satisfaction of the Responsible Authority. The landscaping shown on the approved landscape plan must be maintained to the satisfaction of the Responsible Authority for 18 months from the practical completion of the landscaping. During this period, any dead, diseased or damaged plants or landscaped areas are to be repaired or replaced during the period of maintenance and must not be deferred until the completion of the maintenance period.

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6. Street Tree Provision

Prior to any works commencing on site, the permit holder shall prepare a plan for the provision of street trees within the road reserve adjacent to and within the proposed development at locations approved by the Responsible Authority. The street tree locations must accord with the requirements of Section 5 of Council's Landscape Design Manual (August 2012).

Prior to the occupation of the development, the street trees shall be planted within the road reserve in accordance with the approved plan. The trees shall be of semi-mature age and approved species and supplied, planted and maintained in accordance with the Responsible Authority's Tree Planting Guidelines. The permit holder is to provide a bond in the amount of \$500 per street tree. The tree(s) shall be maintained for a period of eighteen (18) months from planting to the satisfaction of the Responsible Authority. The bond will be returned eighteen (18) months after completion of planting and maintenance works to the satisfaction of the Responsible Authority.

Or

Prior to any works commencing on site, the permit holder must pay Council \$750 per street tree for their provision and eighteen (18) month maintenance period.

Note: For information regarding suitable street tree species see Council's adopted Urban Design Manual Part B: Landscape Character Area Guidelines (Version 1.0, 2012), available on Council's website.

7. Vegetation & Koala Habitat Protection

All vegetation and koala vegetation protection works must be undertaken to the satisfaction of the Responsible Authority and must remain in place during all site works and construction on the land.

- (a) Delineating vegetation stands for removal and retention

All existing vegetation shown on the approved plans to be retained must be suitably marked before any demolition of existing buildings commences or any development starts on the site and that vegetation must not be removed, destroyed or lopped without the further written consent of the Responsible Authority.

- (b) Avoiding damage during vegetation removal

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Any vegetation approved for removal as shown on the approved plan is to be removed and disposed of in a manner that does not cause damage to vegetation stands to be retained.

No works shall be undertaken during any site construction that will result in:

- (1) stockpiling around the base of any vegetation nominated for retention;
- (2) excavation works within the drip line of any tree canopy of a tree nominated for retention;
- (3) damaging roots greater than 50mm in diameter of a tree nominated for retention; and
- (4) pruning of any vegetation nominated for retention without the written consent of the Responsible Authority;

(c) Koala Habitat Protection Zone fence

Prior to the commencement of any development or demolition works on the site, a Koala Habitat Protection Zone temporary fence must be erected to a height of at least 1.8 metres at the edge of all Koala Habitat Protection Zone areas (where the edge must be determined as being at least one (1) metre from the drip line of any trees within the Koala Habitat Protection Zone). Access into this area may only occur with the further written consent of the Responsible Authority.

Barrier fences must only be designed to stop access by persons, vehicles or machinery to the area it encloses, whilst still seeking to maintain suitable access for koala (and other fauna) through openings, gaps or other structures that enable koalas (and other fauna) to access the Koala Habitat Protection Zone and freely move through the land. Subject to the proviso set out three paragraphs below, the fence must be maintained throughout the entire construction period and must have signs attached stating 'Koala Habitat Protection Zone area fence'. Access to this area, other than by the Responsible Authority, may be permitted only with the consent of the Responsible Authority.

There is to be no excavation in the area enclosed by this fence and a layer of organic mulch (woodchips) to a depth of not less than 100mm, must be laid around all native trees in the Koala Habitat Protection Zone areas and each such tree must receive at least 1 litre of non-potable water for every 10mm of trunk diameter on a weekly basis to assist moisture retention and reduce the impact of soil compaction.

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No materials, chemicals, paints etc, equipment, temporary building or otherwise, are to be dumped, stored or erected within any Koala Habitat Protection Zone area.

In relation to any one lot approved by this permit which is affected by a Koala Habitat Protection Zone, where the construction of the dwelling on that lot is completed and the dwelling becomes occupied, the Koala Habitat Protection Zone fence may then be removed from that particular lot (if this has not occurred already).

(d) General vegetation and Koala Habitat Protection

The installation of any utility services must be bored under any root systems of the trees to be retained to depths sufficient to ensure no detriment to the long term health and survival of the tree.

Supplementary watering must be provided to all trees to be retained on the land during October to February, during and after the construction and works process. This must consist of a deep soaking at least twice a week during summer and daily in extreme heat condition.

Nothing whatsoever shall be attached to any tree to be retained, including temporary services, wires, nails, screws or other fixing device.

If any works are permitted by the Responsible Authority to occur within the Koala Habitat Protection Zone, all root zones within the affected area must be bridged using timber planks to assist in reducing soil compaction and consequent root damage.

A suitably qualified arborist must attend the site during any site cut and excavation adjacent to trees situated within Koala Habitat Protection Zone areas to ensure that all affected tree roots are managed correctly and to ensure any damage or exposed tree roots are pruned cleanly and the cut ends sprayed with a root hormone solution before covering with soil.

Any backfill material must be a mixture of quality topsoil and organic composted material and the trees must be monitored on a regular basis during and after construction, by the Consultant Arborist.

Open trenching must be avoided within 1m of the drip line of koala habitat trees - bore under the root system is an alternative provided suitable supervision of works is undertaken by a qualified arborist.

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8. Lighting

External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

9. Section 173 Agreement (Refuse Collection)

Unless otherwise agreed in writing by the Responsible Authority, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act 1987 to provide the following prior to the occupation of the dwellings hereby approved:

- (a) Refuse must be appropriately stored and removed from the site every two (2) weeks as a minimum by a recognised waste removal contractor in accordance with the endorsed waste management plan forming part of this permit.
- (b) The Responsible Authority may resolve to release the owner from these obligations if the Responsible Authority is satisfied that an appropriate alternative arrangement can be made.

Before the occupation of the dwellings hereby approved, an application must be made to the Register of Titles to register the Section 173 agreement on the title to the land under section 181 of the Act.

The Responsible Authority may release the owner from these obligations and/or vary the requirements upon the written request of the owner. The Responsible Authority must be satisfied that the release and/or variation to the agreement will result in a better planning outcome or that the agreement is no longer required.

All costs associated with the preparation, signing, lodgement, registration, amending and ending of the Agreement must be borne by the owner, including all notification costs and legal fees.

10. Internal Access Ways and Car Parking

Prior to the commencement of the use or occupation of the development, the areas set aside for the parking of vehicles and access lanes as shown on the approved plans must to the satisfaction of the Responsible Authority be:

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- (a) Constructed with a flexible granular pavement and spray sealed or concrete or crushed rock;
 - (b) Properly formed to such levels that they can be used in accordance with the plans;
 - (c) Drained;

Car spaces and access lanes must be maintained and kept available for these purposes at all times.

Prior to the commencement of the use or occupation of the development, all works shall be completed in accordance with plans submitted to and approved by the Responsible Authority.

11. Naturestrips

Prior to the occupation of the development the naturestrip fronting the development shall be constructed in accordance with levels and specifications submitted to and approved by the Responsible Authority.

The works shall include:

- 1. The reshaping of the naturestrip.
- 2. Topdressing the area with a 75 millimetre rolled depth of good quality loamy topsoil free of any weed or seed.
- 3. Seeding the area with an appropriate seed mix.

All works shall be completed in accordance with Council's Landscape Design Manual to the satisfaction of the Responsible Authority prior to the use hereby approved commencing.

12. On-Site Stormwater Detention (Use)

All underground or surface drainage works that are considered necessary by the Responsible Authority shall be constructed in accordance with the plans, computations and specifications submitted to and approved by the Responsible Authority prior to the commencement of construction of drainage works.

Such drainage works shall include the provision of an on-site stormwater detention system designed in accordance with the City of Ballarat 'Site Stormwater Management Systems

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Policy' and installed to transport stormwater run-off from the subject land and surrounding land or adjoining road(s) to an approved point of discharge.

Any proposed discharge of stormwater requiring a direct and/or modifying and existing connection to a designated waterway (as defined by the Water Act 1989) will require approval by the relevant Catchment Management Authority.

On completion of the construction of the stormwater detention system as-constructed drawings shall be submitted to the Responsible Authority. The plans shall be certified by a suitably qualified and experienced engineer eligible for Corporate Membership of Engineers Australia.

All works shall be completed to a standard satisfactory to the Responsible Authority prior to the commencement of the use hereby approved.

13. Drainage Easements

All easements deemed necessary to protect existing or future drainage lines within the proposed development site and properties between the development site and the nominated point of discharge shall be created to the satisfaction of the Responsible Authority.

14. Contamination Assessment (Use)

Prior to works commencing on site and the issue of a Building Permit, a Preliminary Site Investigation Report prepared in accordance with AS4482.1-2005 shall be submitted to the Responsible Authority.

Should the Preliminary Site Investigation Report indicate that contaminating activities took place on the site or that contaminants are present, a Detailed Site Investigation in accordance with AS4482.1-2005 shall be undertaken. The Detailed Site Investigation report shall include any recommended remediation works.

If the report is accepted by the Responsible Authority, the remediation works shall be completed by the applicant to the satisfaction of the Responsible Authority prior to the use hereby permitted commencing.

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If there are concerns about the nature and extent of the contamination found in the Preliminary and Detailed Site Investigation reports, the Responsible Authority reserves the right to require a statutory environmental audit to be undertaken. In this case either:

- (a) A certificate of environmental audit shall be issued for the land in accordance with Part IXD of the Environment Protection Act 1970 prior to the issue of the Statement of Compliance; **OR**
- (b) An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the intended use prior to the use hereby permitted commencing on the site.

to the satisfaction of the Responsible Authority.

- (c) Where a Statement of Environmental Audit is issued for the land, the development including subdivision hereby approved must comply with all the directions and conditions contained within the Statement.
- (d) Where a Statement of Environmental Audit is issued for the land, prior to the issue of a Statement of Compliance for each stage, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 or such other qualified person to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.
- (e) Unless otherwise approved in writing by the Responsible Authority, where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, prior to the issue of a Statement of Compliance for any stage of the subdivision authorised by this permit, the permit holder must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. All costs associated with setting up the Agreement must be borne by the owner. The Agreement must be registered on Title and run with the land, and must provide to the satisfaction of the Responsible Authority:
 - (i) That the registered proprietor will undertake all required maintenance and/or monitoring in accordance with the statement.

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- (ii) Prior to the development commencing, application must be made to the Registrar of Titles to Register the Section 173 Agreement on the title to the land under Section 181 of the Planning and Environment Act 1987.

15. Country Fire Authority BMO (Ref: 684466-694075)

Before the development starts, a bushfire management plan which is generally in accordance with the *Proposed Development* must be submitted to and endorsed by the Responsible Authority. The plan must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority:

Defendable space

- a) Show an area of defendable space to the property boundary where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
- Grass must be short cropped and maintained during the declared fire danger period.
 - All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - Shrubs must not be located under the canopy of trees.
 - Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - Trees must not overhang or touch any elements of the building.
 - The canopy of trees must be separated by at least 5 metres.
 - There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

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Construction standards

- b) Nominate a minimum Bushfire Attack Level of BAL – 29 for dwelling 1 & a minimum of BAL 12.5 for the remaining dwellings that the building will be designed and constructed.

Water supply

- c) Show 10,000 litres of effective water supply for fire fighting purposes which meets the following requirements:
- Is stored in an above ground water tank constructed of concrete or metal.
 - All fixed above-ground water pipes and fittings required for fire fighting purposes must be made of corrosive resistant metal.

The water supply must also –

- Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
- The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.

Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

Further comments

- In assessing this application CFA has taken into account the pre-existing agreements with Ballarat Gold Project (letter dated 4th November 2010) which accepts & acknowledges the ongoing management of both the plantation & vegetation to a level to meet BAL 29 requirements. Copy attached for your records.

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16. Vehicle Access – Use/Development

Prior to the commencement of the development, vehicle access to the site must be constructed in accordance with plans and specifications set under an approved Vehicle Crossing Permit to the satisfaction of the Responsible Authority.

Note: The construction or altering of a vehicle crossing, footpath and/or any other works or alterations within a road reserve or any other Council asset may require either a Crossover Permit (which includes a driveway and new crossover), a Road Opening Permit (ie. opening up a road for installation of infrastructure), Asset Protection Permit (Temporary Crossing Permit i.e. providing for temporary site access) or other approval to be obtained from the City of Ballarat. This Planning Permit does not constitute such approval. Failure to obtain an appropriate permit or damaging Council infrastructure, including footpaths, kerbs, drains, street trees, nature strips etc or failing to remove redundant crossings and reinstate the kerb, drain, footpath, nature strip or other part of the road is a breach of the Ballarat City Council Community Local Laws (10 Penalty Units). For further information, please contact Council's Asset Protection Officer in relation to Road Opening or Asset Protection permits and Council's Infrastructure Planning & Development Unit via Council's Customer Service Officers and the Arborist relating to Street trees.

17. Permit Expiry - Development Only

This permit will expire if one of the following circumstances applies:

- (a) The development is not started within two years of the date of this permit;
- (b) The development is not completed within four years of the date of this permit.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards (for a request to extend the time to commence the development) or twelve months after the permit expires (for a request to extend the time to complete the development).

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NOTES

Bushfire Prone Area

This site is located within a designated Bush Fire Prone Area. Compliance with AS3959 is required.

Building Act

Building Approvals

This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained. The works hereby approved must accord with the requirements of the *Building Act 1993*, *Building Regulations 2006* and *Building Code of Australia 2014*.

Works within Road Reserve

The construction or altering of a vehicle crossing, footpath and/or any other works or alterations within a road reserve or any other Council asset may require either a Crossover Permit (which includes a driveway and new crossover), a Road Opening Permit (ie. opening up a road for installation of infrastructure), Asset Protection Permit (Temporary Crossing Permit i.e. providing for temporary site access) or other approval to be obtained from the City of Ballarat. This Planning Permit does not constitute such approval. Failure to obtain an appropriate permit or damaging Council infrastructure, including footpaths, kerbs, drains, street trees, nature strips etc or failing to remove redundant crossings and reinstate the kerb, drain, footpath, nature strip or other part of the road is a breach of the Ballarat City Council Community Local Laws (10 Penalty Units). For further information, please contact Council's Asset Protection Officer in relation to Road Opening or Asset Protection permits and Council's Infrastructure Planning & Development Unit via Council's Customer Service Officers and the Arborist relating to Street trees.

Containment of Refuse

Under the provisions of the Ballarat City Council Community Local Law No 5 (as amended to include Local Law No. 9 clauses 3.15 – 3.17) an on-site facility for containment of all builders' refuse is required to be provided on any land where any building work within the meaning of the Building Act 1993 is being carried out. The local law contains specific provisions about the type and location of refuse containment facilities and the emptying and removal of such facilities.

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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the **Planning and Environment Act 1987**.)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The responsible authority may amend this permit under Division 1A of Part 4 of the **Planning and Environment Act 1987**.

WHEN DOES A PERMIT BEGIN?

A permit operates:

- from the date specified in the permit; or
- if no date is specified, from—
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
 - (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within five years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or

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- the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
- the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the responsible authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

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