

PLANNING PERMIT APPLICATION PLP027/16 FOR THE USE AND DEVELOPMENT OF AN EARTH AND ENERGY RESOURCES INDUSTRY (CLAY EXTRACTION) AND ALTERATION TO A CATEGORY 1 ROAD, AT 2330 EPPING KILMORE ROAD, WALLAN (CONT.)

9 DEVELOPMENT AND INFRASTRUCTURE

9.1 PLANNING PERMIT APPLICATION PLP027/16 FOR THE USE AND DEVELOPMENT OF AN EARTH AND ENERGY RESOURCES INDUSTRY (CLAY EXTRACTION) AND ALTERATION TO A CATEGORY 1 ROAD, AT 2330 EPPING KILMORE ROAD, WALLAN

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File No: PLP027/16

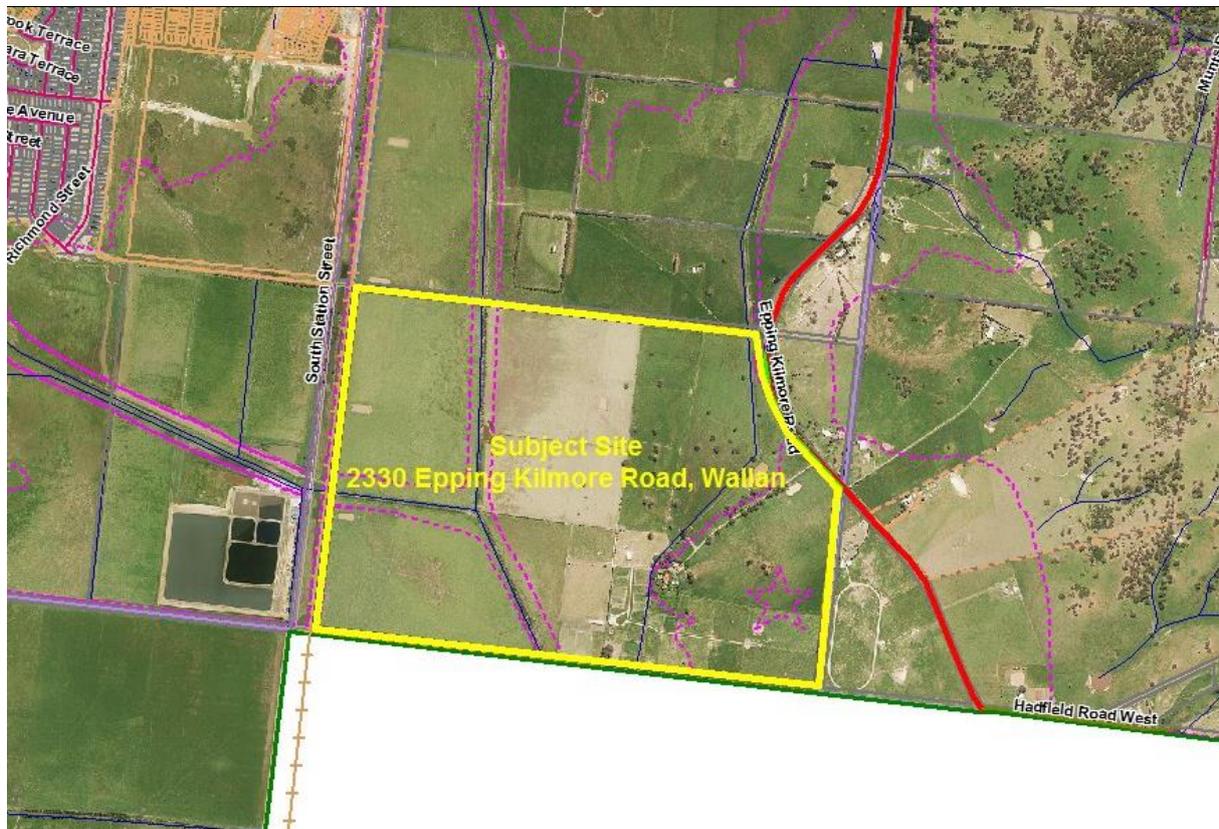
Attachments:

1. [Extraction Plan](#)
2. [Rehabilitation Plan](#)
3. [Drainage Plan](#)
4. [Relevant SPPF and LPPF Clauses](#)

Property No.:	109714
Title Details:	Lot 1 on TP 15332D
Applicant:	Austral Bricks Pty Ltd
Zoning:	Farming Zone
Overlays:	Part Floodway Overlay Part Land Subject to Inundation Overlay Part Heritage Overlay
Objections Received:	Yes – 36 objectors following advertising
Cultural Heritage Management Plan Required:	Yes – CHMP Approved by AAV on 2 July 2013
Officer Declaration of Conflict of Interest:	No officers involved in the preparation of this report have any direct or indirect interest in this matter

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SITE MAP



SUMMARY

This report recommends that Council issue a Notice of Refusal to Grant a Planning Permit for Planning Application PLP027/16, which seeks approval for the use and development of the land at 2330 Epping-Kilmore Road, Wallan for an earth and energy resource industry (clay extraction) and alteration of access to a Road Zone (Category 1).

Following public notification of the application, a total of 36 objectors lodged submissions. In some cases, multiple submissions were received from the same objector. Matters raised in the objections have been considered in the assessment of the application. An online petition was also lodged but did not contain individual submitter information. The concerns raised by objectors to the application encompass a range of matters that are primarily concerned with traffic, amenity impacts (dust and noise), devaluation of property and urban growth considerations.

The subject site is located within the Urban Growth Boundary and is located within the proposed Beveridge Intermodal Freight Terminal (BIFT).

The proposal has been assessed against the relevant provisions of the Mitchell Planning Scheme (the Scheme) and the general planning principles set out in the *Planning & Environment Act, 1987* and is considered to be inconsistent with the future planning of the area. It is considered that the proposal would prejudice the future use

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and development of the site and surrounding area for urban purposes and is not consistent with the relevant urban growth strategies for the area.

In addition, at the very least, Council officers consider that the application is premature given that precinct structure planning in the area has not commenced.

Through the application process the proposal was referred to the Victorian Planning Authority (VPA). The VPA initially objected to the proposal on the basis that it has *the potential to compromise the ability to deliver national and state significant transport infrastructure, being the BIFT*. However, this objection has since been withdrawn as the Department of Economic Development, Jobs, Transport & Resources (DEDJTR) have provided conditional support for the proposed clay quarry.

Notwithstanding, Council officers still hold the position that in the absence of a higher-level PSP or a time line for the delivery of BIFT that Council should not in principle support the application. The proposal is for a long-term use which by its nature is disruptive and contrary for land located inside an urban growth boundary.

SITE AND SURROUNDS

Subject Site Description

The subject site is known as 2330 Epping-Kilmore Road, Wallan. The site is approximately 4km south-east of the Wallan township. It is 160ha in size and is known as Lot 1 on TP15332. The site is bounded by Epping-Kilmore Road along its north-eastern corner, paddocks to the north, south and east, and a railway line and the Newbridge residential subdivision and the Yarra Valley Water treatment plant to the west.

The site is predominantly cleared land utilised for cattle grazing and horse agistment. A farmhouse and associated buildings are located in the south-eastern area of the site. This farmhouse is known as the Walnarring Farm Complex. This complex is covered by Heritage Overlay HO220.

Onsite surface water features include a 1.2km long section of the north-south oriented Merri Creek, located in the western half of the site, a 0.4km section of an east-west oriented tributary to the Merri Creek in the central west of the site and several farm dams.

Planning Background

A search of Council's electronic records reveals that two (2) planning permits have been issued in the past.

P302267/00 – Buildings and works associated with horse stables; and

P304420/05 – Buildings and works associated with horse stables.

Title/Restrictions/Agreements

Covenant Y3235U encumbers the property. This covenant does not impact on the assessment of the application as the covenant relates to the protection of the Gas Easement that traverses the property.

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The application has been submitted with confirmation from the relevant Gas Supply Authority that they held no objection to the application.

Surrounding Area

To the immediate north of the site is land used for farming purposes. An existing dwelling and shedding is located on this property.

Epping-Kilmore Road is located to the east of the site and on the opposite side of the road, a number of properties that each include dwellings are located. These properties vary in size between 7ha and over 40ha. These properties are used primarily for grazing.

To the south of the site is land included within the Municipality of the City of Whittlesea. This land is predominantly used for animal grazing.

To the west of the site is the Yarra Valley Water Wallan treatment plant and land that forms part of the wider Wallara Waters and Newbridge residential subdivisions.

PROPOSAL

The application proposes to use the land for the purpose of an extractive industry (clay extraction). Application material outlines the intended stages for quarrying purposes in different sections throughout the site and anticipates the quarrying use will cease approximately in year 2053.

It is proposed to mine the clay using an excavator, large enough to dig down to the base of the mineable clay (approximately 6.5 metres) in one cut. The clay will be loaded directly onto trucks for delivery to the Austral Bricks' Wollert site, where the material will be stockpiled. Internal haul roads will be constructed with the main entrance road being sealed for a distance of approximately 650 metres. At the western end of the entrance road, a car park will be constructed for onsite personnel along with room for a portable office/ lunchroom and toilet block.

The excavation of the clay will take place in the drier months of the year. There will be no processing of the clay on site. Clay extraction will take place in a series of stages across the site.

The quarry is proposed to be cut to a maximum depth of 6.5m with the removal of a total of 4,130,000 cubic metres of clay over the lifetime of the operation.

The quarry is proposed to be staged in such a manner that only a portion of the land will be quarried at any one time with rehabilitation works occurring immediately once each stage is complete.

It is proposed to backfill quarried areas as soon as practicable with excavated areas beside watercourses being rehabilitated to leave vegetated swales with the adjoining land graded to slightly below natural surface level and draining towards the swales. Land east of the gas easement will be filled to approximately natural surface level.

The fill material will consist of either clean fill which will be sourced from excavation jobs and temporarily stored at Austral Bricks, Wollert site.

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The operating hours of the quarry are proposed to be between 7.00am to 5.00pm Monday to Friday and between 7.00am to 1.00pm on Saturdays. No extraction is proposed on Sundays, nor would it be permitted on public holidays.

A total of four staff can be expected to be present on the site at any one time, with occasionally up to two visitors, in addition to drivers of trucks receiving excavated materials.

It is proposed to provide vehicle access to the subject site via an upgraded site access point located on Epping-Kilmore Road. This access is in the same position as the existing entry point, located approximately 1.9km south of the existing Epping-Kilmore Road/Wallan-Whittlesea Road intersection.

The access point will be designed to accommodate turning movements for vehicles of a size up to and including B-Double trucks. The upgraded site access point is proposed to be constructed in accordance with both Mitchell Shire Council requirements and VicRoads' Typical Pavement Details for Developers. The access point will be constructed to operate as a left in, left out only.

It is expected that the proposed use will generate approximately 140 (70 in and 70 out) vehicle movements per day including approximately 14 (7 in and 7 out) vehicles per hour. Since volumes are expected to be relatively consistent across the day, the AM and PM peak turning movements are expected to be similar.

PLANNING SCHEME PROVISIONS

Zoning

Farming Zone

The site is located within the Farming Zone. Pursuant to Clause 35.07-1 of the Mitchell Planning Scheme, a planning permit is required to use the land for an earth and energy resource industry (clay extraction).

Pursuant to Clause 35.07-4 of the scheme, a planning permit is required to construct a building or construct or carry out works associated with a section 2 (permit required) use.

Overlays

Floodway Overlay

The site is partly affected by the Floodway Overlay. Pursuant to Clause 44.03-1 of the scheme, a planning permit is required to construct a building or construct or carry out works.

Land Subject to Inundation Overlay

The site is partly affected by the Land subject to Inundation Overlay. Pursuant to Clause 44.04-1, a permit is required to construct a building or construct or carry out works.

Heritage Overlay

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The subject site is partly affected by the Heritage Overlay pursuant to Clause 43.01 of the Scheme. The schedule to the overlay identifies the farm complex known as 'Walnarring' Farm as having heritage significance.

Particular Provisions

The following particular provisions are relevant to the proposal

Clause 52.06 – Car Parking

In accordance with the table found at Clause 52.06-5 of the Scheme, car parking for the proposed use must be provided to the satisfaction of the Responsible Authority.

Clause 52.08 – Earth and energy resources industry

Pursuant to Clause 52.08-1 of the Scheme, a permit is required to use and develop land for stone extraction unless this complies with Section 77T of the *Mineral Resources (Sustainable Development) Act 1990*. In this case, the proposal does not comply with this requirement as an Environmental Effects Statement (EES) has not been prepared, and therefore a planning permit is required.

Clause 52.09 – Stone extraction and extractive industry interest areas

Clause 52.09-5 of the Scheme provides a number of decision guidelines that are relevant to the consideration of a proposal for extractive industries.

Clause 52.29 - Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road

Pursuant to Clause 52.29 of the Scheme, a planning permit is required to create or alter access to a road in a Road Zone (Category 1). Given that the proposal would create a new access road from the site to connect to Epping Kilmore Road (which is within a Category 1 Road Zone), a planning permit is required.

Clause 65 – Decision guidelines

Clause 65.01 of the Scheme provides decision guidelines that must be considered as part of the assessment of an application. All relevant matters described under this part of the planning scheme have been considered in the assessment of this application.

State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF)

Multiple clauses of the Mitchell Planning Scheme from both the SPPF and the LPPF are relevant and have been considered through the assessment of the application. A full table of the relevant Clauses considered is included at Attachment 4 to this report.

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Other Considerations

Northern Growth Corridor Plan

Growth Corridor Plans are high level strategic documents which set the vision for how the areas located in Melbourne's outer regions will develop. These plans have been developed by the Victorian Planning Authority and provide a guide for the development and implementation of Precinct Structure Plans in Melbourne's growth areas.

Of relevance to the current application, the subject site is located within the area covered by the Northern Growth Corridor Plan. The site is located within the proposed Beveridge Intermodal Freight Terminal (BIFT). The application was referred to both Council's Strategic Planning Department and the Victorian Planning Authority whose responses are discussed below.

Wallan Structure Plan

The Wallan Structure Plan sets out a vision for the future development of the Wallan township, and designates land that is suitable for residential use, employment, community use and open space. Whilst the subject site sits outside of the main focus area of Wallan as identified in the Wallan Structure Plan, this Plan notes that the subject site is proposed to be used as a quarry, is within a future investigation area and is also identified as possibly forming part of the Beveridge Intermodal Freight Terminal (BIFT).

PUBLIC NOTIFICATION (ADVERTISING)

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* by way of mail sent to the owners and occupiers of properties in the vicinity of the subject site, including the neighboring municipality, as well as by the placement of a notice in the locally circulated newspaper and a notice on the frontage of the subject site.

Following public notification of the application, a total of 36 objectors lodged submissions.

The concerns raised by objectors to the application encompass a range of matters and are summarised below:

Amenity concerns

- Noise from the proposed quarry would impact on surrounding properties and the community, and would have the potential to impact on health;
- Dust generated by the proposed quarry would impact on surrounding properties and the community, particularly due to the high winds that are prevalent in the Wallan area, and would have the potential to impact on health;
- The proposed use would have the potential to cause land, water and air contamination;
- The proposed quarry would have a poor visual appearance for surrounding properties and would not be able to be adequately screened with planting; and

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- The operating hours of the proposed quarry would impact on surrounding properties (due to early starting times and long nights), and shift workers would be disturbed by the noise associated with the quarry when trying to sleep during the day.

Traffic concerns

- Traffic entering and leaving the site would impact on the operation of Epping Kilmore Road and may cause a hazard;
- The proposal would cause mud and dirt to be deposited onto Epping Kilmore Road causing a traffic hazard;
- The slower speed of heavy traffic would pose safety risks for other road uses (particularly when vehicles are making turning/merging maneuvers) given the current speed limit of 100km/h on Epping Kilmore Road; and
- Additional traffic on the road network would increase the deterioration of these roads and this would pose a safety risk.

Urban growth concerns

- The application may impact on the future freight train line to traverse through the site;
- Conflict with the Beveridge Interstate Freight Terminal;
- Impact on possible rezoning of surrounding land; and
- Impact on the emerging residential subdivisions of Newbridge and Wallara Waters including the proposed school.

Other concerns

- The proposed use would result in a devaluation of properties in the area;
- The proposed use would have environmental impacts including affecting native flora and fauna;
- The health of Merri Creek would be impacted;
- Impact on the heritage buildings on the subject site; and
- The proposed land use would result in a permanent loss of farmland.

Consultation

All submitters as well as the permit applicant were invited to address Council at the Community Questions and Hearings Committee held on 13 November 2017. Their comments have been considered in the finalisation of this report and the recommendations contained within.

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REFERRALS

The application was referred to the following authorities under Section 55 of the <i>Planning and Environment Act 1987</i> pursuant to Clause 66 of the Scheme.	
Authority	Response
Department of Environment Land Water and Planning (DELWP)	Provided their unconditional consent to the application stating that the Department had previously conditionally approved the Work Authority for the proposal.
VicRoads	Provided their conditional consent to the proposal. Initially VicRoads required an amended access design prior to providing their consent to the application. An amended access design from Epping Kilmore Road was provided to the satisfaction of VicRoads who then consented to the application subject to conditions in relation to the construction of the submitted access design.
Melbourne Water	The application was submitted with pre-application advice from Melbourne Water who provided their conditional approval to the proposal
Environmental Protection Agency	Did not provide a response although it is noted that specific approvals are required from the EPA prior to the commencement of such a proposal.
Department of Economic Development, Jobs Transport and Resources (DEDJTR)	DEDJTR had sought to object through the VPA due to potential impact on the proposed delivery of BIFT – this objection was however withdrawn following meetings with the applicant and conditional support was then provided.
Victorian Planning Authority (VPA)	The proposal was referred to the VPA who initially objected to the proposal due to potential impact on the proposed delivery of BIFT – this objection was however withdrawn when conditional support was provided by DEDJTR

DISCUSSION

Urban growth considerations

The subject site is located within the Urban Growth Boundary (UGB) and is in the Wallan East precinct structure plan area, the strategic planning for which has not yet commenced. The site is identified in the draft North Growth Corridor Plan as partially industrial and partially within the future investigation area for the Beveridge Intermodal Freight Terminal (BIFT).

The proposed use of the site for the purposes of quarrying is generally consistent with the future industrial designation of the subject site, albeit only part of the site is identified for industrial purposes. Application material outlines the intended stages for quarrying purposes in different sections throughout the site and anticipates the quarrying use will cease approximately in year 2053. Given part of the site is identified as an investigation area for the future BIFT, the quarrying activities could potentially compromise the ability to deliver state significant freight and transport related infrastructure.

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Council officers consider that any proposed use or development, located within the UGB, will be premature until such time that there is either an approved Precinct Structure Plan (PSP) that supports the proposal or an advanced draft providing support for such a proposal.

In the subject application, neither is the case. As a result, Council officers are unable to, at first principles, support the current application for use and development of the land for a clay quarry. If any approval was to be issued, it should also consider use of a sunset or other similar time limit so as to ensure the use would not impact future uses. There is limited ability under the *Planning and Environment Act* to impose such time limits on a proposed use.

The application was also discussed internally with the Strategic Planning Department who shared similar views in regard to the premature nature of the proposal. Therefore, Council officers shared position is that, given its location within the Urban Growth Boundary, it would prejudice the intended use and development of the area for urban development purposes particularly in the absence of an approved Precinct Structure Plan.

Clause 11 of the Mitchell Planning Scheme provides guidance in relation to the considerations relevant in growth areas. This clause stresses the importance of ensuring that any land use or development proposals made before the application of a Precinct Structure Plan do not prejudice the future implementation of such a Plan once this has been prepared. In regard to the proposed use of the land for clay extraction, officers are not satisfied that this use will not prejudice the future use of the area for the identified uses associated with BIFT or other employment generating uses.

Further to this point, Clause 21.02 of the Mitchell Planning Scheme states that *Mitchell's role will continue to evolve in line with the North Growth Corridor Plan, movements in the UGB and the progressive implementation of Precinct Structure Plans for developing areas*. Again, in the absence of an approved PSP for the subject site, it is difficult to support the proposed development of the land for a quarry that has an indefinite operating life time.

Fundamentally in officer's assessment it is difficult to conclude that the use would ever be viable within an urban growth boundary. Moving forward, at the very least, there should be no consideration of the proposal until such time as the PSP is prepared.

Despite the proposal's failure at a planning principles review of the application, Council officers have also undertaken a review of the application as required under the scheme as described in the following sections.

Zoning considerations

The subject site is zoned Farming. The purpose and decision guidelines of the Farming Zone predominantly seek to ensure that land zoned Farming continues to be available for agricultural purposes. Where a non-agricultural use is proposed, the zone seeks that such a use does not impact on adjoining agricultural land uses. Under the zone a permit may be issued for the proposed use.

The decision guidelines of the Farming Zone require consideration of a wide breadth of matters that are summarized into five separate headings being Design and Siting

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Issues, Environmental Issues, Dwelling Issues, Agricultural issues and the impacts from non-agricultural uses and General Issues.

General Issues

In response to the General Issues consideration must be given to the ability to dispose effluent, sustainable land management, whether the proposal is compatible with adjoining land uses and whether appropriate infrastructure is available. Most of these matters can be appropriately managed and dealt with by conditions which would be included on any permit approved on the subject site if the recommendation of refusal is not adopted by Council.

Agricultural Issues

In response to Agricultural issues and the impacts from non-agricultural uses the scheme requires an assessment of a proposed land use to check *if it will adversely affect soil quality or permanently remove land from agricultural production*. In Council officer's assessment, it is deemed that the proposed use for clay extraction will remove land from productive agricultural production. It is however noted that the long-term future of the area will not be for farming purposes.

Dwelling Issues

The application does not propose any new dwellings on the site with the existing heritage listed dwelling being retained and continued to be used.

Environmental Issues

In response to Environmental Issues it is noted that the applicant has supplied detailed Arboricultural Reports, Flood Modelling, Geotechnical, Rehabilitation, and Ecological Reports. If a permit was to be issued in respect of this application conditions would be included to ensure the recommendations of these reports are fully implemented.

Design and Siting Issues

In response to Design and siting issues it is noted that the subject site is relatively flat apart from the small hill to the east of the dwelling and associated outbuildings on the site. There will be a visual impact associated with the proposed quarry. Although, the raised railway to the west of the subject site will also form a buffer or visual break to the existing and future residential area of the Wallara Waters and Newbridge estates.

It is noted that a planted buffer of 20 metres is proposed around the periphery of the site. Objections received have also referenced this distance as being an inappropriate buffer and Council officers would consider this 20-metre separation to be a minimum requirement to separate sensitive land uses. It is considered that a 40-metre buffer would offer better protection and in any event if this application was to be approved a condition would be included to seek an increase in the buffer area.

Traffic considerations

As part of this proposal, approval has been sought to upgrade the access road to the Epping Kilmore Road. It is proposed to provide vehicle access to the subject site via an upgraded site access point located on Epping-Kilmore Road. This access is in the

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same position as the existing entry point, located approximately 1.9km south of the existing Epping-Kilmore Road/Wallan-Whittlesea Road intersection.

The access point will be designed to accommodate turning movements for vehicles of a size up to and including B-Double trucks. Any upgraded site access point would be required to be constructed in accordance with both Mitchell Shire Council requirements and VicRoads' Typical Pavement Details for Developers (Drawing No. 552013). The access point will be constructed above ground level rather than the site being excavated. The access point will operate as a left in left out only. The entry point shall be sealed with a left in deceleration lane from the Epping Kilmore Road and a left out merge lane from the site.

Clause 52.29 of the Scheme relates to the creation of access to arterial roads such as the Northern Highway, and seeks to ensure that access is provided in an appropriate manner and does not compromise safety or the operation of the road. As part of the documentation submitted with the application, a Traffic Impact Assessment Report (TIAR) has been provided which has been considered by VicRoads who have reviewed the proposal and all documentation regarding traffic and access to and from the site and have not objected to the application subject to the proposed access design being constructed prior to the commencement of the use.

Several submissions did object to the proposal on the grounds that it would create a traffic safety issue at a dangerous location of an already busy road. Officer's ability to make recommendations in regard to this particular issue is strongly informed by the expert opinion of both VicRoads and Council's Engineering Department. It should be noted that those departments have not objected to the proposed development on traffic safety grounds.

Site management and amenity considerations

Other matters pertaining to the operational aspects of the proposed quarry are also relevant to the assessment of the current application and must be considered. Operational aspects such as the control of noise, dust, contamination and site rehabilitation form the majority of issues raised in objections to the proposal and represent a key concern in the community.

Air Emissions

The Environmental Protection Authority has prepared the "*recommended separation distances for industrial residual air, publication no. 1518, March 2013*". This document provides recommendations with respect to setback distances from an industrial use to sensitive land uses. The general setback recommendation for a quarry of the type proposed as part of this application is 250m.

The work authority that has been approved and submitted with the application includes the following response with regards to dust emissions:

All extractive industries must comply with State Environment Protection Policy (Air Quality Management). The EPA publication - "Protocol for Environmental Management: Mining and Extractive Industries", is an incorporated document in the above policy and provides guidance and interpretation of the policy.

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An air quality assessment in accordance with the Protocol is only required if the quarry proposal requires an Environment Effects Statement or an EPA Works Approval or Licence or where specifically required by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) (formerly Dept. of Primary Industry). DEDJTR base their decision on the type of operation, size and location. To date no Environment Effects Statement or EPA Works Approval or Licence will be required for the project. DSDBI have indicated that given the nature of the operation, no air quality assessment in accordance with the protocol is required.

Little if any, dust emissions are expected to be produced from the operation. The clay on site, coming from a floodplain, is inherently damp and as such will not produce any dust during excavation or loading of trucks. Loaded trucks will proceed directly to the Austral Bricks plant in Wollert. There will be no processing of the clay on site. The haul roads will be continually maintained and watered with a water truck which will remain on site during the excavation season. The main entry/ exit road will be sealed for approximately 650 metres from the Epping Road.

Worked out areas of the quarry will be backfilled, resoiled and planted with vegetation as soon as practicable. Temporary soil bunds surrounding active excavation areas, will be planted with fast growing grasses to stabilise the soil and control erosion.

These control measures (water spraying, immediate revegetation and other dust suppression measures) have been incorporated into the Work Plan which has been statutorily endorsed by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), and therefore would be required to be implemented and maintained should the quarry become operational. Given this, it is considered that dust could be appropriately suppressed on site.

Noise

The methods of removing clay from the site and transporting to the processing plant involve the use of an excavator and trucks with no requirement for blasting or processing on the site.

Any such proposal would be required to comply with the requirements set out in the EPA Guideline 'Noise from Industry in Regional Victoria' (publication 1411) which would be conditioned in any approval. Any non-compliance with these requirements could be enforced by both the EPA and Council.

Soil and Water Contamination

In relation to water contamination on the site sediment retention areas would be provided along with sediment basins to remove any silt (including potential contaminants) before the run-off is directed to the drainage system. It is considered that these measures, as incorporated into the statutorily endorsed Work Plan, would be sufficient to ensure that potentially contaminated run-off could be controlled and treated with no resulting impact on the surrounding area.

Salinity

The site is affected by a Salinity Management Overlay and consideration must be given to the potential impact of the proposed quarry on salinity related soil degradation issues. A flood modelling and geotechnical report of the site has been undertaken and

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indicates that there are no areas of salinity mapped within the general region of the site, and the quarrying operations would be unlikely to result in salinity risks greater than any other potential land use. Furthermore, advice from the Department of Environment, Land, Water and Planning obtained during the Work Plan approval process indicates that the proposal would not greatly increase the risk of salinity on site. Consequently, it is not considered that salinity would be a concern should the quarry proceed as proposed.

Land Rehabilitation

A Rehabilitation and Environmental Management Plan together with a plan which sets out how the extraction pit would be remediated following the completion of quarrying activities has been submitted.

The majority of the quarried areas will be returned to as close as possible to existing natural surface levels with areas closer to Merri Creek being used as swales will be finished between 0.7m and 1.25m below natural surface levels but will be above the creek invert level. The batter edges adjacent to the revegetated swales will have an average slope of approximately 1 in 5.

The fill material will consist of either clean fill secured off site and temporarily stored at Austral Bricks, Wollert site, or sandstone quarried from the same site. The material will be back loaded using the same trucks which deliver clay to the Wollert site. Alternatively, if clean fill is available nearby, it may be delivered directly to the site.

Visual impact and neighbourhood character considerations

Whilst not located on the main entry into the Wallan, the quarry is proposed on a road that is well utilised by people living in the surrounding area, from Upper Plenty or from the greater Whittlesea area.

The site will also partially be visible from the developing residential areas to the north west of the site being commonly known as Newbridge and Wallara Waters and other surrounding land. The quarry will be surrounded by a 2.0m high vegetated earthen bund in addition to a 20m vegetated buffer surrounding the whole of the site. As discussed in the foregoing and raised in a number of objections, it is questioned by Council officers as to whether a 20m buffer would be sufficient for the proposed use given the scale of the area proposed to be quarried.

The surrounding area is currently reflective of a rural landscape, all be it this will not be the case when the area is developed for urban purposes into the future. Therefore, the proposed development would have a potentially negative visual impact upon the area in the short term and its impact is potentially unknown until such a time as the PSP for the area is prepared.

Economic considerations

Clause 14.03 of the Mitchell Planning Scheme seeks to encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation. The subject site has been identified for investigation to accommodate BIFT as well as longer term uses on adjacent land that will have synergies with the BIFT. It

PLANNING PERMIT APPLICATION PLP027/16 FOR THE USE AND DEVELOPMENT OF AN EARTH AND ENERGY RESOURCES INDUSTRY (CLAY EXTRACTION) AND ALTERATION TO A CATEGORY 1 ROAD, AT 2330 EPPING KILMORE ROAD, WALLAN (CONT.)

is not considered that the proposed development will result in a suitable outcome given the designation of the site for BIFT and that its timing is currently not known.

Heritage impact

The subject site contains an existing heritage place that is protected by Heritage Overlay HO220. The applicant supplied a Heritage Impact Assessment which contained advice with respect to the likely impact that the proposed quarrying activities would have on the heritage buildings on the subject site. The submitted heritage impact assessment identifies that buildings and/or items of significance on the site are:

- The "Quin/Quinn's Cottage", which is probably now a (very) rare example of an intact vernacular circa 1850s timber farm dwelling (depending on what other examples of such buildings there are in Victoria, this building may be found to be of State-wide heritage importance and hence worthy of addition to the Victorian Heritage Register).
- An unusual circa 1860s/1870s/1880s two storey bluestone farm outbuilding, thought to have been originally used as/part of, a Dairy
- A circa 1900s duochromatic brick farm residence (which is possibly a relatively rare example of such a dwelling within the Shire of Mitchell).
- An in-ground tank on the ridge near the two storey bluestone building, which presumably provided the water supply for that building, and possibly also the dwelling/s.
- The probably circa 1900s/1910s two room weatherboard outbuilding that abuts the front verandah of the "Quin/Quinn's Cottage" (the original use of this two-room building is unknown, but it may have been related to a Dairy).
- A Holly tree, various conifers (early 20th century), possibly two Palm trees (20th century), and fruit trees around the buildings, which are possibly/probably of some Heritage Overlay value, depending on their age and origins.

An assessment was conducted providing a response to the impact that the proposed quarry may have on the heritage place.

The Heritage Impact Assessment found that *"...none of the components that have or might have Heritage Overlay significance are in the areas where the quarrying is being proposed to be undertaken, apart from possibly the southern end of the Hawthorn Hedge lined orchard and/or vegetable garden paddock south of the Quin/Quinn's Cottage."*

Further, it was found that as the quarrying works are between 50 - 100 metres away from the components of Heritage Overlay significance this should ensure that there will be no physical damage to the components, or the land surrounding them.

The geotechnical report findings indicated that whilst there may be some impact on the water table, it would not be significant. This would limit soil expansion and shrinking which could cause structural damage on the heritage structures.

A recommendation that should be included if an approval is granted is that *'...any identified Heritage buildings and structures should be examined and recorded prior to the quarrying commencing, and monitored during the quarrying (such as every six*

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months), particularly during Stages 5, 6 and 7, to identify any new structural movement or failure that may or is likely to be the result of the quarrying, particularly when the quarrying is close to the buildings.

If damage caused or likely to have been caused to the significant Heritage Overlay buildings by the quarrying is identified, then appropriate action/s should be undertaken to prevent any further damage and to rectify/repair the damage caused (which could be the subject of a Planning Permit Condition)'

Based on the above advice it is considered that the proposed quarrying activities will not adversely impact on the heritage buildings.

Vegetation

The site contains a number of very large old trees dotted throughout the subject site. An arboricultural assessment has been submitted with the application and it is noted that the applicant has advised that there would not be any native vegetation removed as part of the application.

CONCLUSION

This application proposes the use and development of an earth and energy resource industry (stone extraction) and creation of access to a Road Zone (Category 1) at 2330 Epping-Kilmore Road, Wallan. The subject site is located within the urban growth boundary and within a future investigation area and is also identified as forming part of the Beveridge Intermodal Freight Terminal (BIFT).

It is considered that the proposal should not be supported by Council on the basis of its impact on the future development of the growth corridor in which it would be located. The proposed development may impact the future development of the land for BIFT, or other uses envisaged for the future PSP, and until the detailed plans and timelines are known for their development any such proposal is considered premature.

Council Officers are of the opinion that any proposed use or development within the Urban Growth Boundary should also be supported by a higher-level plan such as a PSP, prior to officers being able to give it favourable consideration. The project life of the proposed quarry may interfere with the ultimate delivery of BIFT or other uses to be formulated through a future PSP and therefore should be refused until those implications are fully explored and resolved.

PLANNING PERMIT APPLICATION PLP027/16 FOR THE USE AND DEVELOPMENT OF AN EARTH AND ENERGY RESOURCES INDUSTRY (CLAY EXTRACTION) AND ALTERATION TO A CATEGORY 1 ROAD, AT 2330 EPPING KILMORE ROAD, WALLAN (CONT.)

RECOMMENDATION

THAT Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Refusal to Grant a Planning Permit in respect of Application No. PLP027/16 for the use and development of an earth and energy resources industry (clay extraction) and alteration to a category 1 road, at 2330 Epping Kilmore Road, Wallan, on the following grounds:

1. The application is premature given that the future urban form of the site and surrounding area has not been resolved through the precinct structure planning process despite the inclusion of the site and surrounds within the Urban Growth Boundary.
2. The proposal would prejudice the development and implementation of a Wallan East Precinct Structure Plan and the identification of the site as forming part of the future investigation area for the Beveridge Intermodal Freight Terminal.
3. The proposal is inconsistent with the North Growth Corridor Plan and the future development of the site as part of the Beveridge Intermodal Freight Terminal.
4. The proposal is inconsistent with Local Planning Policies within the Mitchell Planning Scheme that relate to urban growth including Clause 21.02 as no Precinct Structure Plan is approved for the subject site.
5. The proposal is inconsistent with State Planning Policies within the Mitchell Planning Scheme that relate to urban growth including Clauses 11 as the proposal would prejudice the future use and development of the site and surrounding land for urban development purposes.
6. The proposal will have detrimental economic and social impacts to the surrounding community as:
 - a. The proposal would compromise the ability of the land to deliver state and nationally significant transport infrastructure in the area;
 - b. The proposal would sterilize land identified for urban purposes; and
 - c. The proposal would prevent the urban development of the land which in turn would enable the delivery of infrastructure.
7. The proposal is inconsistent with the decision guidelines at Clause 65 of the Mitchell Planning Scheme as the proposal does not advance the objectives of planning in Victoria and would not result in orderly planning outcomes.

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

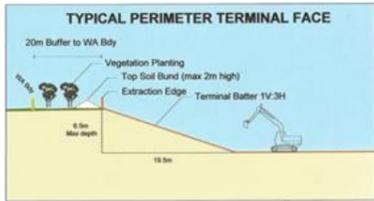
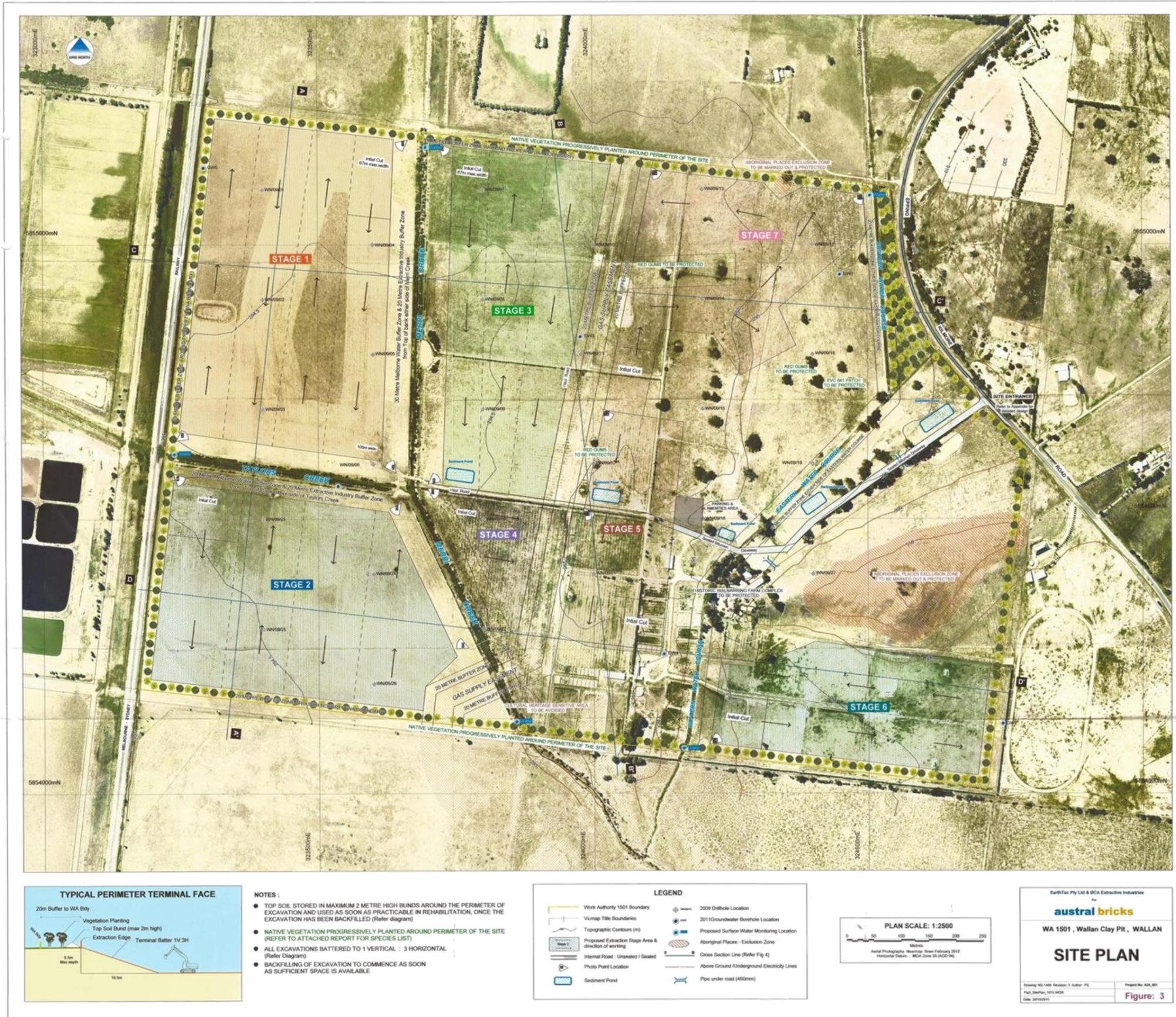
DEVELOPMENT AND INFRASTRUCTURE

20 NOVEMBER 2017

9.1

**PLANNING PERMIT APPLICATION PLP027/16
FOR THE USE AND DEVELOPMENT OF AN
EARTH AND ENERGY RESOURCES
INDUSTRY (CLAY EXTRACTION) AND
ALTERATION TO A CATEGORY 1 ROAD, AT
2330 EPPING KILMORE ROAD, WALLAN**

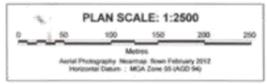
**Attachment No: 1
Extraction Plan**



- NOTES:**
- TOP SOIL STORED IN MAXIMUM 2 METRE HIGH BUNDS AROUND THE PERIMETER OF EXCAVATION AND USED AS SOON AS PRACTICABLE IN REHABILITATION, ONCE THE EXCAVATION HAS BEEN BACKFILLED (Refer diagram)
 - NATIVE VEGETATION PROGRESSIVELY PLANTED AROUND PERIMETER OF THE SITE (REFER TO ATTACHED REPORT FOR SPECIES LIST)
 - ALL EXCAVATIONS BATTERED TO 1 VERTICAL : 3 HORIZONTAL (Refer Diagram)
 - BACKFILLING OF EXCAVATION TO COMMENCE AS SOON AS SUFFICIENT SPACE IS AVAILABLE

LEGEND

- Work Authority 1501 Boundary
- Vicmap Title Boundaries
- Topographic Contours (m)
- Proposed Extraction Stage Area & direction of working
- Internal Road - Unsealed / Sealed
- Photo Point Location
- Sediment Pond
- 2009 Drift Hole Location
- 2011 Groundwater Borehole Location
- Proposed Surface Water Monitoring Location
- Aboriginal Places - Exclusion Zone
- Cross Section Line (Refer Fig 4)
- Above Ground / Underground Electricity Lines
- Pipe under road (450mm)

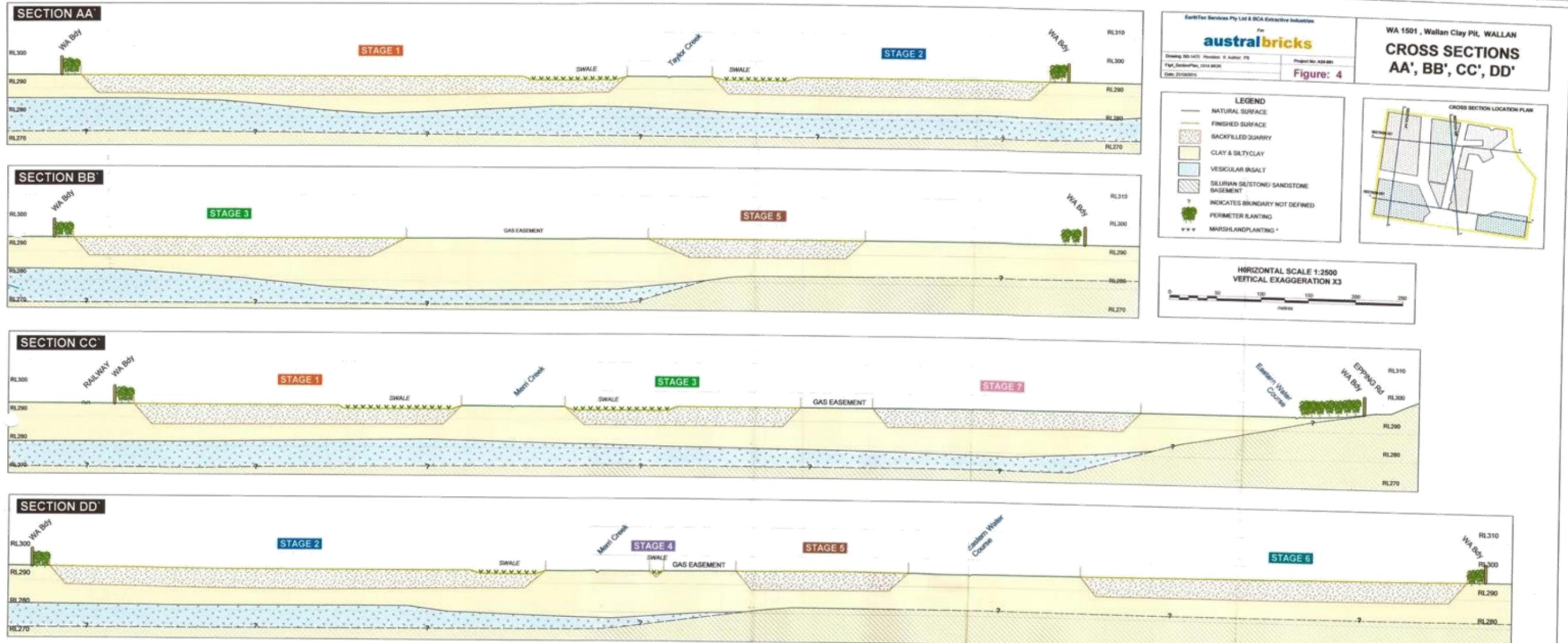


EarthTec Pty Ltd & BCA Extractive Industries
 for
austral bricks
 WA 1501, Wallan Clay Pit, WALLAN

SITE PLAN

Drawing: 150-148-Revision 1 Author: PS
 File: 1501-148-01
 Date: 28/03/2015

Project No: 424_01
Figure: 3



MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

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**PLANNING PERMIT APPLICATION PLP027/16 FOR
THE USE AND DEVELOPMENT OF AN EARTH AND
ENERGY RESOURCES INDUSTRY (CLAY
EXTRACTION) AND ALTERATION TO A
CATEGORY 1 ROAD, AT 2330 EPPING KILMORE
ROAD, WALLAN**

**Attachment No: 2
Rehabilitation Plan**



MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

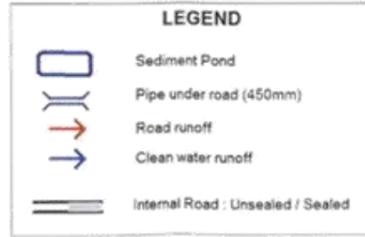
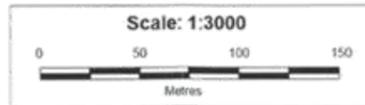
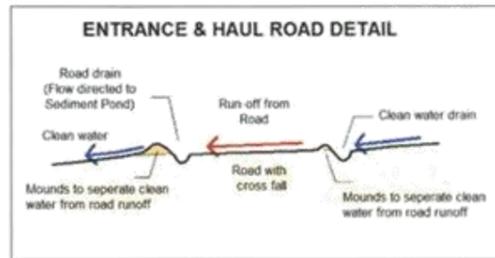
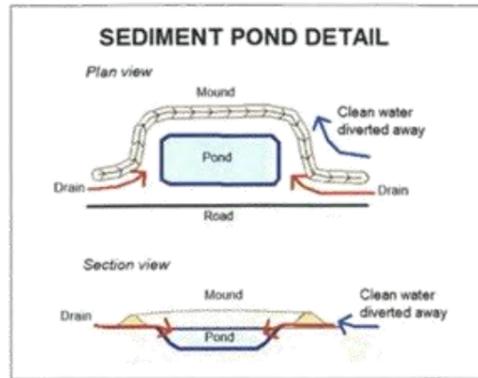
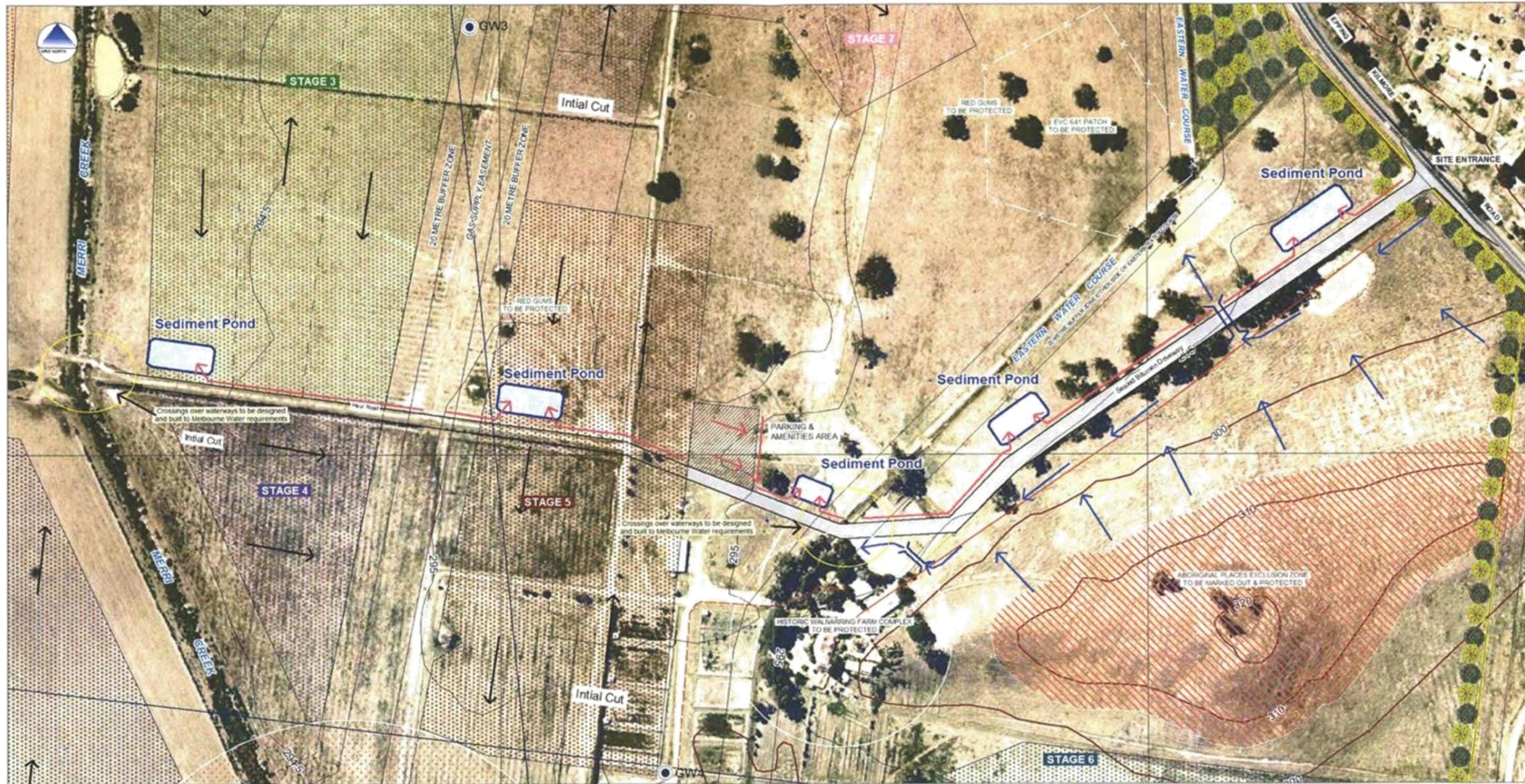
20 NOVEMBER 2017

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**PLANNING PERMIT APPLICATION PLP027/16 FOR
THE USE AND DEVELOPMENT OF AN EARTH AND
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CATEGORY 1 ROAD, AT 2330 EPPING KILMORE
ROAD, WALLAN**

Attachment No: 3

Drainage Plan



- NOTES :**
- Drains & sediment Ponds shown on Plan are semi-permanent and will remain in place until no longer required.
 - Temporary drains & sediment ponds will be constructed in each of the Stages as required and will be removed once quarrying is completed.
 - All drains & sediment ponds will be of a similar design to those shown.

EarthTec Services Pty Ltd & BCA Extractive Industries
 For
austral bricks
 WA 1501 , Wallan Clay Pit , WALLAN

DRAINAGE PLAN

Drawing A3-1483 Revision 1 Author PS Project No: A24_001
 Fig3B_DrainagePlan_1010.WDR
 Date: 21/10/2015 **Figure: 3B**

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

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9.1

**PLANNING PERMIT APPLICATION PLP027/16 FOR
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Attachment No: 4

Relevant SPPF and LPPF Clauses

Relevant clauses of the SPPF and LPPF considered in the assessment of PLP027/16

Clause 9.01 – Plan Melbourne interpretation	This clause is relevant and has the following objective: <i>Where relevant, planning and responsible authorities must consider and apply the strategy Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land Water and Planning, 2017).</i>
Clause 11.01-1 – Settlement networks	This clause is relevant and has the following objective: <i>To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.</i>
Clause 11.02-1 – Supply of urban land	This clause is relevant and has the following objective: <i>To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.</i>
Clause 11.02-2 – Structure Planning	This clause is relevant and has the following objective: <i>To facilitate the orderly development of urban areas.</i>
Clause 11.02-3 – Planning for growth areas	This clause is relevant and has the following objective: <i>To locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create benefits for sustainability while protecting primary production, major sources of raw materials and valued environmental areas</i>
Clause 11.06-6 – Sustainability and resilience	This clause is relevant and has the following objective: <i>To create a more sustainable and resilient city that manages its land, biodiversity, water, energy and waste resources in a more integrated way.</i>
Clause 11.07-1 – Regional Planning	This clause is relevant and has the following objective: <i>To develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable.</i>
Clause 11.12-1 – A diversified economy	This clause is relevant and has the following objective: <i>To develop a more diverse regional economy while managing and enhancing key regional economic assets</i>
Clause 11.12-2 – Environmental assets	This clause is relevant and has the following objective: <i>To protect environmental and heritage assets, and maximise the regional benefit from them, while managing exposure to natural hazards and planning for the potential impacts of climate change</i>
Clause 11.12-3 – Planning for growth	This clause is relevant and has the following objective: <i>To focus growth and development to maximise the strengths of existing settlements</i>
Clause 11.12-1 - Infrastructure	This clause is relevant and has the following objective: <i>To improve people and freight movements and plan strategically for future infrastructure needs.</i>
Clause 12.01-1 – Protection of biodiversity	This clause is relevant and has the following objective: <i>To assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites.</i>
Clause 12.04-1 – Environmentally sensitive areas	This clause is relevant and has the following objective: <i>To protect and conserve environmentally sensitive areas</i>

Clause 12.05-1 – River corridors	This clause is relevant and has the following objective: <i>To protect and enhance the significant river corridors of metropolitan Melbourne.</i>
Clause 13.02-1 – Floodplain management	This clause is relevant and has the following objective: <i>To assist the protection of: Life, property and community infrastructure from flood hazard. The natural flood carrying capacity of rivers, streams and floodways. The flood storage function of floodplains and waterways. Floodplain areas of environmental significance or of importance to river health</i>
Clause 13.03-3 - Salinity	This clause is relevant and has the following objective: <i>To minimise the impact of salinity and rising watertables on land uses, buildings and infrastructure in rural and urban areas and areas of environmental significance and reduce salt loads in rivers</i>
Clause 13.04-1 – Noise abatement	This clause is relevant and has the following objective: <i>To assist the control of noise effects on sensitive land uses.</i>
Clause 13.04-2 – Air quality	This clause is relevant and has the following objective: <i>To assist the protection and improvement of air quality.</i>
Clause 14.01-1 – Protection of agricultural land	This clause is relevant and has the following objective: To protect productive farmland which is of strategic significance in the local or regional context
Clause 14.01-2 – Sustainable agricultural land use	This clause is relevant and has the following objective: <i>To encourage sustainable agricultural land use</i>
Clause 14.02-1 – Catchment planning and management	This clause is relevant and has the following objective: <i>To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.</i>
Clause 14.02-2 – Water quality	This clause is relevant and has the following objective: <i>To protect water quality</i>
Clause 14.03 – Resource exploration	This clause is relevant and has the following objective: <i>To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.</i>
Clause 15.03-1 – Heritage conservation	This clause is relevant and has the following objective: <i>To ensure the conservation of places of heritage significance.</i>
Clause 15.03-2 – Aboriginal cultural heritage	This clause is relevant and has the following objective: <i>To ensure the protection and conservation of places of Aboriginal cultural heritage significance</i>
Clause 17.02-3 – State significant industrial land	This clause is relevant and has the following objective: <i>To protect industrial land of State significance</i>
Clause 18.01-1 – Land use and transport planning	This clause is relevant and has the following objective: <i>To create a safe and sustainable transport system by integrating land-use and transport</i>
Clause 18.05-1 – Develop freight links	This clause is relevant and has the following objective: <i>To further develop the key Transport Gateways and freight links and maintain Victoria's position as the nation's premier logistics centre.</i>

Clause 21.02-1 – Urban growth	This clause is relevant and has the following objective: <i>To plan for the orderly development of existing settlements. To manage urban growth.</i>
Clause 21.03-1 - Biodiversity	This clause is relevant and has the following objective: <i>To protect and enhance indigenous flora, fauna and habitat.</i>
Clause 21.04-2 - Floodplains	This clause is relevant and has the following objective: <i>To sustainably manage floodplains</i>
Clause 21.04-3 – Soil degradation	This clause is relevant and has the following objective: <i>To ensure that the use and development of land does not cause significant land disturbance. To minimise land degradation.</i>
Clause 21.04-4 – Noise and air	This clause is relevant and has the following objective: <i>To reduce noise and air pollution.</i>
Clause 21.05-1 – Agriculture	This clause is relevant and has the following objective: <ul style="list-style-type: none"> <i>To ensure that the use, development or subdivision of land is not prejudicial to agricultural enterprises or to the productive capacity of the land.</i> <i>To support the diversification of agriculture, the development of agro-forestry and the processing of agricultural products grown within the municipality.</i> <i>To encourage and promote environmentally sustainable management of land, water and biological resources.</i>
Clause 21.05-2 - Water	This clause is relevant and has the following objective: <ul style="list-style-type: none"> <i>To improve the quality of water in waterways and catchments.</i> <i>To ensure that surface and ground water quality is not adversely affected by development.</i>
Clause 21.06-3 – Heritage	This clause is relevant and has the following objective: <ul style="list-style-type: none"> <i>To recognise and protect places of heritage, cultural and social significance.</i> <i>To recognise and to protect the heritage, cultural and social significance associated with the Australian Light Horse Memorial Park</i> <i>To preserve the cultural significance and archaeological fabric of the Mt William Archaeological Area, and all associated archaeological artefacts.</i>
Clause 21.08-1 – Economic growth	This clause is relevant and has the following objective: <i>To facilitate new development and employment opportunities in business, industry and tourism.</i>
Clause 21.08-2 - Industry	This clause is relevant and has the following objective: <i>To encourage well planned and located industrial development.</i>
Clause 21.09-1 – Road network	This clause is relevant and has the following objective: <ul style="list-style-type: none"> <i>To ensure that the improvement and upgrading of transport infrastructure is commensurate with the expected impacts of use and development</i> <i>To ensure that the use and development of land does not prejudice the levels of service, safety and amenity of the Hume Freeway and Goulburn Valley Highway</i>
Clause 21.11-9 - Wallan	This clause is relevant and has the following objective: <ul style="list-style-type: none"> <i>Reinforce Wallan’s Country Town Character</i> <i>Provide sustainable growth and housing for all</i>

	<ul style="list-style-type: none"> • <i>Create opportunities for local employment</i> • <i>Create thriving, active and complementary local centres</i> • <i>Ensure people can move easily and safely throughout Wallan</i> • <i>Enhance Wallan’s open space and environmental networks</i> • <i>Encourage a healthy mix of land uses that foster prosperity and activity</i> • <i>Transform Wallan’s shopping strip into a vibrant and engaging public space</i> • <i>Encourage a town structure that supports potential change and redevelopment</i> • <i>Make the Northern Highway a great ‘country town’ main street</i> • <i>Transform Wallan’s shopping strip into a vibrant and engaging public space</i> • <i>Encourage a town structure that supports potential change and redevelopment</i> • <i>Develop a great modern Victorian ‘country town’</i> • <i>Promote civic pride in the town centre</i> • <i>Make Hadfield Park an iconic open space</i>
<p>Clause 22.04 – Heritage Policy</p>	<p>This clause is relevant and has the following objective:</p> <ul style="list-style-type: none"> • <i>To conserve and enhance buildings, features and precincts that help to convey how the Shire of Mitchell originated and developed over time.</i> • <i>To ensure development, including alterations and additions to existing buildings, maintains the significance of the heritage place and integrates with the surrounding heritage buildings and streetscape.</i> • <i>To ensure that the significance of heritage places is not diminished by the loss of any fabric, which contributes to the significance of the heritage place or precinct or by inappropriate new development.</i> • <i>To ensure that new development is not a visually intrusive or dominant element and is readily distinguishable from the original fabric.</i> • <i>To maintain views to heritage places from the public realm.</i>

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