

1 CONTRACTOR'S DEPOT - 72 MANOORA ROAD, MARYKNOLL

FILE REFERENCE INT1779982

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Jason Gilbert

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T160434 be issued for the use of the land for a Contractor's Depot and associated buildings and works (including one shed, two water tanks and earthworks); and the removal of native vegetation at 72 Manoora Road, Maryknoll subject to the conditions attached to this report.

Attachments

1	Locality map	1 Page
2	Development plans	1 Page
3	Confidential letters of objection circulated to councillors only	51 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160434
APPLICANT:	Fiona Wiffrie, Beveridge Williams
LAND:	72 Manoora Road, Maryknoll VIC 3812
PROPOSAL:	Use of the land for a Contractor's Depot and associated buildings and works (including one shed, two water tanks and earthworks); Removal of native vegetation
PLANNING CONTROLS:	Low Density Residential Zone – Schedule 1 (LDRZ) Bushfire Management Overlay – Schedule 2 (BMO), Design and Development Overlay - Schedule 1 (DDO1), Heritage Overlay – Schedule 55 (HO55) and Vegetation Protection Overlay - Schedule 1 (VPO1)
NOTIFICATION & OBJECTIONS:	The application has been advertised by sending notices to the owners and occupiers of adjoining land and placing one (1) sign on site facing Manoora Road. Twelve (12) objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Land use conflict and compatibility, amenity impacts, interface with residential areas, environmental impact, characterisation of use, protection of township character.
RECOMMENDATION:	Approval

BACKGROUND:

The application under consideration follows enforcement action by Council over approximately the last two years:

- Notice of Intention to Inspect issued by Council's Compliance Services Department on 28 August 2015 relating to the use of the land for a store, earthworks and vegetation removal.
- Planning Infringement Notice issued by Council's Compliance Services on 21 September 2015 in relation to use of land for a contractor's depot in contravention of the Cardinia Planning Scheme.
- Notice of Intention to Inspect issued by Council's Compliance Services Department on 29 February 2016 relating to the operation of a depot.
- Council's Compliance Services Department sent a letter on 17 March 2016 requiring a planning permit application be submitted within 28 days for earthworks already undertaken (and for a proposed outbuilding).
- Council's Compliance Services Department sent a letter on 21 June 2016 requiring the cessation of the use of land for a store and reinstatement of the land to before the earthworks were undertaken within 28 days. The planning permit application under consideration was lodged on 11 July 2016 following the issue of this letter.

There have been two relevant amendments to the Cardinia Planning Scheme since the application was first lodged:

- Planning Scheme Amendment C188 was gazetted on 27 October 2016. The amendment introduced Schedules 2 and 3 to the Low Density Residential Zone and numbered the existing unnumbered schedule to the Low Density Residential Zone to Schedule 1. As a result of this amendment, the zoning of the subject site changed from the unnumbered Low Density Residential Zone to Low Density Residential Zone – Schedule 1. This change has no implications for the current application.
- Planning Scheme Amendment GC13 was gazetted on 3 October 2017. The amendment inserted new schedules to the Bushfire Management Overlay and resulted in the site being subject to the Bushfire Fire Management Overlay – Schedule 2 instead of the unnumbered Bushfire Management Overlay. This change has no significant implications for the current application.

There is no recent Planning Permit history on file for the subject site.

SUBJECT SITE

The 11,482-square-metre (1.15 hectare) site is generally of a rectangular shape and has frontages to Manoora Road to the south and west and Mortimer Road to the north.

The site currently contains a single storey dwelling, which is setback approximately 20 metres from the western boundary (Manoora Road), and associated outbuildings to the rear of the dwelling. An open horse arena is located approximately 25 metres to the south-east of the dwelling.

Currently, the vehicles and equipment that form part of this application for the contractor's depot are generally stored outdoors to the south and south-east of the dwelling. The land has been excavated approximately 10 metres south of the dwelling with the excavated soil having been placed further south on the land. A shipping container has been placed in the excavated area.

The remainder of the land is generally undeveloped and divided into fenced paddocks. Post and wire fencing extends along the perimeter of the site. The site contains scattered remnant and planted native trees, with similar vegetation also located along most of the perimeter of the site.

The site contains two unsealed crossovers on the western boundary of the site to Manoora Road. The northernmost crossover generally services the dwelling, while the southern crossover generally serves the proposed contractor's depot. The site does not contain any easements.

The topography of the land generally slopes from the north to the south, with levels ranging between approximately 116 metres and 97 metres respectively.

The main characteristics of the surrounding area are:

- North - The site is bounded by Mortimer Road to the north and opposite is an approximate 48.52-hectare allotment used for rural residential and agricultural purposes. The dwelling on this lot is located approximately 530 metres north-west of the subject site.
- East - The site is bounded by an approximate 1.3-hectare allotment to the east, which is used for residential purposes and contains a single dwelling and associated outbuildings. The dwelling is located approximately 27 metres east of the subject site.
- South - The site is bounded by Manoora Road to the south and opposite is Manoora Reserve, which is undeveloped and contains moderate to dense vegetation coverage.
- West - The site is bounded by Manoora Road to the west and opposite are three allotments ranging between approximately 1.05 hectares and 1.23 hectares and used for residential purposes. Each lot contains a single dwelling and associated outbuildings, with the nearest dwelling located approximately 45 metres from the subject site.
- The site is located on the north-west edge of the Maryknoll township and interfaces with Green Wedge-zoned land to the north and Green Wedge A-zoned land to the west. Maryknoll is predominantly a residential area, with minimal other land uses.

PROPOSAL

The proposal is for the use of the land for a Contractor's Depot, associated buildings and works (including one shed, two water tanks and earthworks), and the removal of native vegetation.

Use of the land for a Contractor's Depot

The resident of the land operates an earthmoving/excavation business and proposes to use the land for a contractor's depot to support the operation of the business. The proposal involves storing and garaging of one (1) truck, one (1) trailer, two (2) diggers, and associated tools and equipment.

The hours of operation are between 5.30am and 7.30pm although the majority of the business occurs at external work sites. The applicant estimates there will be a maximum of four truck movements per day but typical truck movements will be two per day. Once the vehicles depart to the external worksite, there is no activity carried out on the land. There are no external employees involved with the operation on the site.

Buildings and works (one shed, two water tanks and earthworks)

The proposed shed is located approximately 16 metres to the south-east of the existing dwelling and has a length of 27 metres and a width of 7 metres, resulting in a building footprint of 189 square metres.

The building is setback a minimum of 16.7 metres from the eastern (side) boundary, approximately 57 metres from the northern (Mortimer Road) boundary, 42 metres from the western (Manoora Road) boundary and 68 metres from the southern (Manoora Road) boundary.

The shed has a maximum wall height of 5.0 metres and the pitched roof results in an overall maximum height of 5.6 metres. Due to the level of earthworks, the maximum height of the shed from natural ground level will be closer to approximately 6.0 metres

An approximate 5.0m wide by 5.4m high roller shutter door is located on the western side of the shed and a personal access door is located on the southern side. Two 25,000-litre water tanks are located on the eastern side of the shed, with a setback of approximately 12 metres from the eastern boundary.

Due to the slope of the site, earthworks are required to accommodate the development. On the north-east side of the shed, the site will be cut approximately 1.3 metres below existing ground level, which tapers to approximately 0.24 metres on the north-west side. The cut will be retained by a retaining wall setback by 1 metre on the north and east side of the shed.

On the south-west side of the shed, the site will be filled approximately 0.75 metres above ground level, which tapers to approximately 0.2 metres on the south-east side. The fill is shown to be battered.

The shed will be accessed via a proposed gravel driveway, which will extend from Manoora Road and via the already-excavated area of land to the south of the dwelling.

Removal of native vegetation

The proposal involves the removal 13 trees on the south-east side of the shed (identified as T2 to T14) and one tree on the east side of the shed (identified as T15).

	Genus / Species	Common Name	Height	DBH (cm)	Remove / retain
T1	Eucalyptus ovata	Swamp gum	19	99	Retain
T2	Eucalyptus cephalocarpa	Silver leaf stringybark	5	20	Remove
T3	Eucalyptus cephalocarpa	Silver leaf stringybark	7	2 x 10	Remove
T4	Eucalyptus ovata	Swamp gum	7	25	Remove
T5	Eucalyptus cephalocarpa	Silver leaf stringybark	9	25	Remove
T6	Eucalyptus cephalocarpa	Silver leaf stringybark	4	8	Remove
T7	Eucalyptus cephalocarpa	Silver leaf stringybark	3	10	Remove
T8	Eucalyptus cephalocarpa	Silver leaf stringybark	6	18	Remove
T9	Eucalyptus cephalocarpa	Silver leaf stringybark	7	15	Remove
T10	Eucalyptus cephalocarpa	Silver leaf stringybark	8	20	Remove
T11	Eucalyptus cephalocarpa	Silver leaf stringybark	3	3 x 10	Remove
T12	Eucalyptus cephalocarpa	Silver leaf stringybark	8	30	Remove
T13	Eucalyptus cephalocarpa	Silver leaf stringybark	2	10	Remove
T14	Acacia sophorae	Coast wattle	7	15	Remove
T15	Eucalyptus sp.		10	35	Remove

Another tree identified as T1 is in close proximity to the proposed shed but is proposed to be retained. According to the supplied arborist report, the development will have a 'major intrusion' of 22.1 per cent within the tree protection zone of the tree. The tree is identified as having a high retention value and a high amenity value. Based on the details of the development, the arborist

report states that T1 is “likely to remain viable within the current design provided that the recommendations of this report are adopted and effectively implemented.”

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.06-7 Green wedges;
- 12.01-1 Protection of biodiversity;
- 12.01-2 Native vegetation management;
- 12.04-2 Landscapes;
- 13.04 Noise and air;
- 13.05-1 Bushfire planning strategies and principles;
- 15.01 Urban environment; and
- 15.03-1 Heritage conservation.

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.02-2 Landscape;
- 21.02-3 Biodiversity;
- 21.02-4 Wildfire management;
- 21.02-6 Post-contact heritage;
- 21.03-3 Rural townships;
- 21.06-1 Design and built form; and
- 22.07 Maryknoll Township.

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Maryknoll Township Heritage Precinct Incorporated Plan;
- Clause 52.06 Car Parking;
- Clause 52.07 Loading and Unloading of Vehicles;
- Clause 52.17 Native Vegetation;
- Clause 52.47 Planning for Bushfire;
- Clause 57 Metropolitan Green Wedge Land;
- Clause 65 Decision Guidelines; and
- Clause 66 Referral and Notice Provisions.

Zone

The land is subject to the Low Density Residential Zone – Schedule 1 (LDRZ1).

Overlays

The land is subject to the following overlays:

- Bushfire Management Overlay – Schedule 2 (BMO);
- Design and Development Overlay - Schedule 1 (DDO1);
- Heritage Overlay – Schedule 55 (H055); and
- Vegetation Protection Overlay - Schedule 1 (VPO1).

PLANNING PERMIT TRIGGERS

The proposal requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.03-1 of the Low Density Residential Zone, a permit is required to use the land for a contractor's depot;
- Pursuant to Clause 32.03-4 of the Low Density Residential Zone, a permit is required to construct a building or carry out works associated with a use in Section 2;
- Pursuant to Clause 43.02-2 of the Design and Development Overlay, a permit is required to construct a building or carry out works (earthworks exceeding 1 metre and gross floor area of all outbuildings exceeds 120sqm);
- Pursuant to Clause 42.02-2 of the Vegetation Protection Overlay, a permit is required to remove, destroy or lop any vegetation;
- Pursuant to Clause 52.17, a permit is required to remove, destroy or lop native vegetation;
- Pursuant to Clause 43.01-1 of the Heritage Overlay, a permit is required to construct a building or carry out works; and
- Pursuant to Clause 43.01-1 of the Heritage Overlay, a permit is required to construct to remove, destroy or lop a tree.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- *Sending notices to the owners and occupiers of adjoining land*
- *Placing one sign on site facing Manoora Road.*

The notification has been carried out correctly, and Council has received 12 objections to date. The key issues that were raised in the objection/s is/are:

- Environmental impact, including pollution;
- Impact on property values;
- Potential to set a precedent for other earthmoving businesses;
- Amenity impacts, including noise, dust, vibration, light spill, visual impact;
- Road safety concerns;
- Impact on road quality;
- Potential for applicant to upgrade and/or replace machinery without further consent from council;
- Inconsistent with the rural and residential character of the area; and
- Potential fire hazard.

REFERRALS

Country Fire Authority

The application was referred to the Country Fire Authority (CFA) for comment. The CFA had no objection to the proposal subject to conditions.

DISCUSSION

The Cardinia Planning Scheme recognises Maryknoll for its distinctive character that includes low density residential allotments and a number of environmental attributes, including significant areas of remnant vegetation. The importance of protecting and retaining Maryknoll's character is highlighted by the multiple layers of planning controls that apply to the site and surrounding area, which cover matters related to design and built form, heritage, bushfire and vegetation protection. The number of objections received to this application highlights the importance of appropriately managing the development of Maryknoll.

The proposal involves three main components: 1) use of the land for a contractor's depot; 2) buildings and works; and 3) vegetation removal. Due to the number of planning controls applying to the site, the application had a number of 'permit triggers' and therefore it required consideration of various objectives, strategies and decision guidelines.

Buildings and works

In terms of objections, the least controversial component of the application is the proposed shed and associated earthworks and water tanks. However, the initial plans for the shed were for a larger and more dominant building (13 metres by 27 metres) with minimal setback (approximately 5.9 metres) from Manoora Road, Council's Planning Officers raised significant concern regarding its lack of consistency with built form controls and incompatibility with the character of the area. In response, the applicant revised their plans to locate the shed in its current location, which is considered appropriately setback from all boundaries. The shed was also reduced in size to 27 metres by 7 metres, which while still large, is a significant reduction in size compared to the previous plans.

As previously mentioned, the site is subject to numerous planning controls and therefore a wide range of assessment criteria and decision guidelines are applicable, including whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the surrounding. Other guidelines recognise the importance of protecting and enhancing the natural environment, including vegetation and significant landscapes, and encourage development to respond to the natural, cultural and strategic context of its location.

More specific to Maryknoll, Clause 22.07 states that the siting and design of buildings should complement – not dominate – the rural character of the township and protect the natural environment, with consideration to be given to works that enhance the environment. In Cardinia's Heritage Study, Maryknoll is considered significant as a "substantially intact township unified by harmonious architectural style which was created by a single firm of architects and planners from Melbourne, Smith and Tracey." The study includes general guidelines that encourage development to be designed so as not to dominate or overwhelm the historic setting, and while the subject site is identified as a non contributory property, its contribution to the surrounding area should not be discounted.

With the reduced size and a minimum setback of 42 metres from roads, the development is not expected to overwhelm or dominate the landscape. Despite being associated with a non-residential use, the proposed shed is similar in style and size to other residential and agricultural sheds in the surrounding area, which ensures it is consistent with the residential nature of the area. The land is also of a sufficient area to ensure that the buildings do not result in impacts relating to overshadowing and overlooking.

The shed has been sited so as to ensure the 'short face' of the building is oriented to Manoora Road to the west, which helps to minimise visual impact from the street front and the properties to the west. The building is also located adjacent to existing sheds, which help to provide a form of screening for each other and ensure that development on the site is consolidated within one area rather than scattered and fragmented.

While it is acknowledged the proposed shed will have some impact on the landscape and environment, it is not considered uncharacteristic compared to the surrounding area. The area consists of development nestled within vegetated and cleared areas that is setback from boundaries and of an appropriate scale and form. The shed incorporates these elements, and while some vegetation removal is required, the more significant trees are retained and the applicant has proposed a comprehensive landscaping plan, which can be enforced and implemented via a permit condition. In addition to providing some screening, the re-vegetation will help to enhance the environment and provide habitat.

The development is not associated with a use listed in Clause 44.06 and therefore a permit is not required for the development under the Bushfire Management Overlay. Despite this, the application was referred to the CFA for comment. The CFA did not have any objection to the proposal, subject to conditions that can be placed on a planning permit. The proximity from the existing dwelling and surrounding dwellings and the proposed construction materials are considered appropriate, and provided the bushfire management conditions are implemented, the development is not expected to result in increased bushfire risk to life or property.

The associated earthworks and water tanks have not been discussed in detail but the earthworks are generally of the minimum extent necessary to accommodate and provide access to the building without causing additional environmental impact. The water tanks are adjacent to the shed and screened on most views. They also provide a resource in terms of fire protection, water conservation and stormwater management.

Vegetation removal

The proposal involves the removal 13 trees on the south-east side of the shed and one tree on the east side of the shed. While the removal of any tree is generally contrary to the Vegetation Protection Overlay and Clause 52.17 Native Vegetation, as well as relevant state and local policies, the proposed vegetation removal is considered an acceptable outcome when balanced with other requirements of the Planning Scheme and conditions of any planning permit.

The 13 trees of the south-east side of the shed are considered 'planted vegetation' and therefore exempt from the permit requirements of Clause 52.17; however, they are still protected under the VPO and HO. These trees are of a relatively small size, with an average DBH of approximately 18cm and an average height of 5.9 metres, which minimises their contribution to the environment and landscape of the area.

It is noted that the trees to be removed have not been individually recognised as having any particular importance in terms of cultural or heritage significance, conservation of flora and fauna, or management of erosion and ground water. The application has been referred to Council's Environment and Heritage departments, who did not object to the vegetation removal subject to conditions relating to offsets and re-vegetation. In addition, the previously-mentioned landscape plan will help to offset the loss of the trees.

While there were options to locate the buildings and works in a cleared area, doing this would likely increase the prominence of the shed and detract from the character of the area.

Use of land for a Contractor's Depot

What is the correct land use definition?

The proposed land use would support the earthmoving/excavation business operated by the resident of the land, and involves storing and garaging of one (1) truck, one (1) trailer, two (2) diggers, and associated tools and equipment. The hours of operation are between 5.30am and 7.30pm although the majority of the business occurs at external work sites. The applicant estimates there will be a maximum of four truck movements per day but typical truck movements will be two per day.

The applicant initially proposed the land use as a 'Store' but this was changed to 'Contractor's Depot' at the recommendation of Council's Planning Officers. The classification of the proposed use as a Contractor's Depot is considered appropriate and consistent with *Johnston v Cardinia SC [2010]*, which included a discussion of the definitions of 'Store' and 'Contractor's Depot'. In this case, it was concluded that Contractor's Depot is a suitable definition for land that is used as a place for "parking or garaging commercial, earthmoving etc vehicles and machinery used for work elsewhere." This compared to a 'Store', which applies to land used to store goods, machinery, or vehicles on a more permanent basis.

If the proposal did not involve the truck or shed exceeding 100 square metres, the provisions of Clause 52.11 Home Occupation may have been applicable to this proposal. Additionally, if the proposal did not include the excavators and specialised equipment, it may have been considered ancillary to the residential use of the land and therefore not require a planning permit. A discussion of this last point can be found in *Deutscher v Frankston CC [2009]*, and discussions of the use of a commercial vehicle for commuting that is ancillary to the domestic use of the land can be found in *Manningham CC v Nicolosi [2001]* and *Guymer v Frankston CC [2007]*.

A 'Contractor's Depot' is not one of the land uses defined in the planning scheme. However, the list of Section 2 uses (Permit required) of the Low Density Residential Zone includes "any other use not in Section 1 or Section 3" and therefore a 'Contractor's Depot' is classified as an 'innominate' use that falls within Section 2 use and requires a planning permit.

Clause 31.02 of the Planning Scheme makes it clear that being a Section 2 use does not imply that a permit should or will be granted, adding that the "responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the State Planning Policy Framework, the Local Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65."

Is a contractor's depot appropriate for the area?

Maryknoll is predominantly a residential area with a distinctive character and important environmental attributes, which means that any proposal for a non-residential use must demonstrate sensitivity and appropriateness. The number and nature of the submissions received identifies the impacts that non-residential land uses can cause.

The use of the land for a Contractor's Depot is appropriate in this site context. While the proposal goes beyond the ancillary use of the land as discussed in *Manningham CC v Nicolosi*, it does so in a limited way. A maximum of one (1) truck, one (1) trailer, two (2) diggers, and associated tools and equipment, is not excessive having regard to the total area of the land, location of vehicles to be stored and location of dwellings on adjoining land. The vehicles and equipment spend the majority of the daytime at external worksites before returning to the depot for garaging. There are also no other employees that form part of the business.

The limited scale of the use and the fact it is being operated by the resident of the site means that it will occupy a small proportion of the approximate 1.15 hectare site, with the remainder of site to remain generally unchanged and used for rural-residential purposes. The shed and associated driveway for the contractor's depot occupy approximately 731 square metres of land, which equates to less than seven per cent of the overall site. The quantity of the vehicles and equipment being used as part of the contractor's depot can also be limited via permit conditions and their storage inside the proposed shed will minimise visual impact and clutter on the site.

The site also benefits from its location on the edge of the Maryknoll township and opposite land zoned Green Wedge and Green Wedge A. Given that the purpose of these zones is focused on rural activities rather than residential activities, the keeping of larger commercial type of vehicles and equipment is not out of context for a rural area, where vehicles such as tractors, stock trucks, and feed trucks are not uncommon. As such, the amenity requirements of these zones are generally of a lower standard than a residential zone. With Manoora Reserve located to the south of the site, this means that the site is adjoined by only one property zoned Low Density Residential (i.e. 105 Mortimer Road to the east), which did not make a submission to this application.

The application was referred to Council's Traffic Engineering Department, which did not object to the proposal subject to conditions. It is noted that Manoora Road and the surrounding road network are public roads and managed by Council. Unsealed roads are typical in this rural setting and most types of vehicles can utilise these roads with no restrictions.

While the twelve (12) objections received raised a number of concerns and issues, it is considered that many can be avoided or managed by the imposition of conditions. A response to the main themes of the objections is provided below:

- Environmental impact, including pollution – the proposed vegetation removal will be appropriately offset and measures to enhance the environment through re-vegetation can be implemented via a permit condition.
- Impact on property values – Changes to property values are not a relevant consideration but the amenity impacts that may impact property values have been considered as part of this assessment.
- Potential to set a precedent for other earthmoving businesses – Any application to use the land in a certain way, including a contractor's depot, is subject to the provisions of the Planning Scheme and will be assessed on merit. The approval of one application does not provide automatic approval for others.
- Amenity impacts, including noise, dust, vibration, light spill, visual impact – Conditions can be placed on any planning permit to avoid, minimise and manage amenity impacts.
- Road safety concerns – All vehicles have a right to the use of roads and any breach of road rules or safety hazards is a matter for road authorities.
- Impact on road quality – The road is managed and maintained by Council. Council's Engineering Department did not raise concerns regarding the scale of the use.
- Potential for applicant to upgrade and/or replace machinery without further consent from council – Conditions can limit the number of vehicles and machinery allowed on site. While replacement may be possible, expansion would require consent from Council.
- Inconsistent with the rural and residential character of the area – This has been discussed previously.
- Potential fire hazard – The application was referred to CFA for comment, which did not object but did recommend conditions that can be placed on any planning permit. The proposal does not present any undue fire risk compared to the existing development of the area.

Notwithstanding the above, the proposal does represent a change to the established pattern of land use. The submissions received during the assessment process indicate that the land use has

resulted in negative amenity impacts and may continue to do so. On the other hand, the proposal is of a relatively small scale that allows the resident of the land to carry out their business.

Some of the impacts cited in the submissions relating to noise, dust and hours of operation are not confined solely to the proposed contractor's depot and can occur in many situations. For example, a resident who works late hours will also cause issues relating to the noise and light when commuting to or from their property. Additionally, the rural residential nature of the area and the relatively large allotments lend themselves to activities that may generate more noise than expected in a more conventional residential area, due to reasons such as the upkeep and maintenance of properties, more space for recreational pursuits and undertaking of more agricultural-type activities. The impacts relating to dust are not unexpected for rural area with unsealed roads and large areas of undeveloped land. One of the 'benefits' of this application under consideration is that it allows for the use to be carried out in a way that is regulated and controlled; rather than an as of right use where regulations may be less onerous.

This is not to discount the submissions raised by the objectors. It is accepted that if approved, the proposal will change the amenity of the area but it is considered that conditions can be implemented to appropriately avoid and manage many of the amenity impacts. Additionally, the size of the land, its location, the relatively small scale of the operation and associated development and the fact it is being undertaken in conjunction with the residential use of the land are factors that support the approval of the application.

CONCLUSION

Having regard to the above, it is considered that the proposal is consistent with the Cardinia Planning Scheme. It is recommended that a Notice of Decision to Grant a Planning Permit be issued for the **use of the land for a Contractor's Depot and associated buildings and works (including one shed, two water tanks and earthworks); and the removal of native vegetation** at **72 Manoora Road, Maryknoll** subject to the below conditions.

CONDITIONS

1. Within two (2) months of the issue date of this permit or another date as approved in writing by the Responsible Authority, 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 then form part of the permit. The plan must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:

Site plan:

- a) The extent of the area to be used for the contractor's depot.
- b) Measures to prevent the intrusion of vehicles beyond the defined area for the use or into any areas of vegetation.
- c) The shipping container to the south of the dwelling must be labelled and identified for removal.
- d) Specify the minimum setback of the water tanks from the eastern boundary.
- e) Delete the 'potential site access' shown to the south of the proposed gravel driveway.
- f) Accurately show the location of the two areas of earthworks undertaken to the south of the dwelling (the 'cut' area and the 'fill' area) and measures to be implemented to reinstate, batter, stabilise or finish the earthworks.

Floor plan:

- g) A floor plan to show the internal layout of the shed, including overall building dimensions, finished floor levels, external openings, room/area names.

Elevation drawings:

- h) Provide a schedule of all colours and materials, including for the water tanks.
2. Within two (2) months of a Final Certificate being issued for the shed or another date as approved in writing by the Responsible Authority:
- a) The shipping container located to the south of the dwelling must be removed from the land.
 - b) The earthworks to the south of the dwelling must be finished in accordance with Condition 2f.

General

- 3. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 5. The exterior colour and cladding of the building must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.

Landscaping

- 6. The landscaping works as shown on the endorsed plans must be carried out within six (6) months of the issue date of this permit or another date approved in writing by the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.

Earthworks and drainage

- 7. All stormwater must be conveyed by means of drains to satisfactory points or areas of discharge approved by the Responsible Authority, so that it will have no detrimental effect on the environment or adjoining property owners.
- 8. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 9. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
- 10. Sediment control measures must be undertaken to the satisfaction of the Responsible Authority to ensure that the subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
- 11. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.
- 12. All disturbed surfaces on the land resulting from the development must be revegetated and stabilised to the satisfaction of the Responsible Authority.

Contractor's depot

- 13. The contractor's depot must be used in conjunction with the occupation of a resident of a dwelling on the lot.
- 14. Vehicles associated with the contractor's depot may only enter and exit the site between 5.00am – 8.00pm Monday to Saturday.
- 15. The servicing/maintenance/washing of vehicles may only occur between 7:00am – 6:00pm Monday to Saturday.
- 16. Except with the written consent of the Responsible Authority, the vehicles associated with the normal operations of the contractor's depot must be in accordance with the following:
 - a) One (1) truck, one (1) trailer and two (2) diggers/excavators.
- 17. All vehicles and ancillary plant, tools and equipment must be kept within the approved building (once constructed) as shown on the endorsed plans.
- 18. The use and development must not detrimentally affect the amenity of the area, through the:

- a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.
19. Vehicles under the care, management or control of the operator of the use, including staff and customer vehicles, must not be parked in any nearby road or on any nearby public land.
20. The loading and unloading of goods from vehicles must only be carried out on the subject land.
21. All waste material must be obscured from the view of the public and must be disposed of in a manner to the satisfaction of the Responsible Authority.
22. 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.
23. The surface of the car park and access areas must be treated to the satisfaction of the Responsible Authority to prevent dust causing loss of amenity to adjoining and nearby properties and the neighbourhood.
24. The maintenance of all buildings, external storage and loading areas, parking areas, landscaping and the general surrounds as shown on the endorsed plans must be carried out so that the site is kept neat, tidy and clean at all times to the satisfaction of the Responsible Authority.

Bushfire management

25. Defendable space must be created for a distance of 10 metres around the proposed building or to the property boundary, whichever is the lesser, where vegetation (and other flammable materials) during the declared fire danger period will be managed in accordance with the following requirements:
- a) Grass must be short cropped.
 - b) All leaves and vegetation debris must be removed at regular intervals.
 - c) Flammable objects must not be located close to the vulnerable parts of the building.
 - d) Shrubs must not be located under the canopy of trees.
 - e) Trees must not overhang or touch any elements of the building.
 - f) The canopy of trees must be separated by at least 2 metres.
 - g) There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
26. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

Environment

27. Before the removal of the tree identified as T15 on the plans, the applicant must provide a native vegetation offset that meets the following requirements and is in accordance with the Permitted clearing of native vegetation - Biodiversity assessment guidelines and the Native vegetation gain scoring manual.
- The offset must:
- a) Contribute gain of 0.008 general biodiversity equivalence units.
 - b) Be located within the Port Philip and Westernport Catchment Management Authority boundary or the Cardinia municipal district.
 - c) Have a strategic biodiversity score of at least 0.095.
28. Before the development starts, the *Eucalyptus ovata* tree identified as T1 on the plans must have tree protection fencing (TPF) installed to the satisfaction of the Responsible Authority. The barrier must be a semi-permanent structure approved by the Responsible Authority and no person or vehicle other than is to be allowed into the area unless under supervision.
- The tree protection fencing must meet the following requirements:

- a) The fencing must extend as close as practicable to the outer edge of the tree's Tree Retention Zone – specifically to a distance of 11.9 metres from the trunk on the tree's northern, eastern and western sides. On the southern side, the Tree Protection Fencing must be taken in only the minimum amount necessary to allow the works to be completed (4m shown on plan)
 - b) The surface of the Tree Protection Zone not required for excavation and slab construction must be mulched prior to the construction works. Mulch must be laid to a minimum of depth of 2.5cm at this stage.
 - c) The fencing must be installed prior to the commencement of any demolition, excavation, dead tree removal, delivery of building/construction materials, temporary buildings and construction.
 - d) The fencing must not be removed until such works have been fully completed.
 - e) Areas within the TPF must not be used for:
 - i. Vehicular or pedestrian access, trenching or soil excavation.
 - ii. Storage or dumping of tools, equipment, materials or waste.
 - iii. Storage of any vehicles, machinery, equipment or other materials , trenching, washing out of chemicals, oil spills, lighting fires or tearing of tree roots
29. Excavation and other machinery must avoid incursion into the preserved 78 per cent of Tree Protection Zone of T1 in order to avoid any soil compaction beyond the building footprint (Refer zone identified in Figure 1 of Construction Impact Assessment Report: “Tree 1 TPZ intrusion”).
30. Excavation within the Tree Protection Zone of T1 must be carefully conducted using a tracked excavator in accordance with the following:
- a) The excavation must not exceed 200mm in depth.
 - b) Excavation must be supervised by a suitably qualified arborist.
 - c) Any tree roots encountered during this excavation must be left intact if possible, otherwise neatly pruned using sharp hand tools by an attending arborist.
31. Post-construction, additional mulch must be spread across the residual Tree Protection Zone of T1 to a total depth of 75mm as an aid to moisture retention and hence tree recovery. The mulched area must be watered at 10 day intervals over summer months for the first year following construction

Expiry:

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

- a) the development does not start within **one (1) year** after the issue of the permit; or
- b) the development is not completed within **two (2) years** after the issue of the permit; or
- c) the use is discontinued for a period of **two (2) years**.

In accordance with [Section 69](#) of the [Planning and Environment Act 1987](#), an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.



193.1 0 96.55 193.1 Meters
1: 3,801
Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

10-Nov-2017

Notes





TREE DATA TABLE

Tree #	Genus / Species	Common Name	Height (m)	DBH (cm)
T1	<i>Eucalyptus ovata</i>	Sheep Gum	18	39
T2	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	5	20
T3	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	7	3 x 10
T4	<i>Eucalyptus ovata</i>	Sheep Gum	7	25
T5	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	8	25
T6	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	4	8
T7	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	3	12
T8	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	8	18
T9	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	7	15
T10	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	8	20
T11	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	2	3 x 10
T12	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	8	20
T13	<i>Eucalyptus cephalonata</i>	Silver Leaf Stringbark	2	10
T14	<i>Acacia tortilis</i>	Coast Wattle	7	15
T15	<i>Eucalyptus sp.</i>		10	25

Notes:

- This plan is subject to Council approval.
- All dimensions and areas are approximate only.

Existing tree potentially impacted by shed T1
 Existing *Eucalyptus ovata*
 Size @ 18x15m
 T10 @ 8m diameter
 T12 relocated at 11.5m Structural Road Zone 3.5m
 Condition: Fair health, fair structure
 Recommendation: Retain



Site Plan
 72 Manocora Road, Maryknoll
 Mr Matt Sullivan

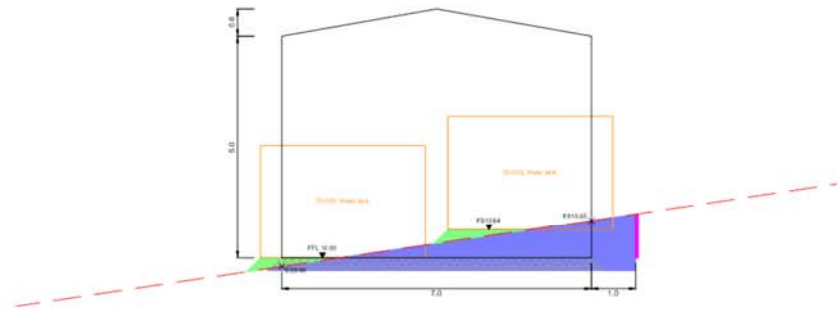
BW Beveridge Williams
 development & environment consultants
 Melbourne ph: 03 8224 8008
 www.beveridgewilliams.com.au

Dr	MRP	Reviewed	OK	MP
Dr	MRP	Approved retaining structure report	OK	MP
Dr	MRP	Proposed shed & gravel driveway site plan	OK	MP
Version	Date	Description	Drafted	Approved

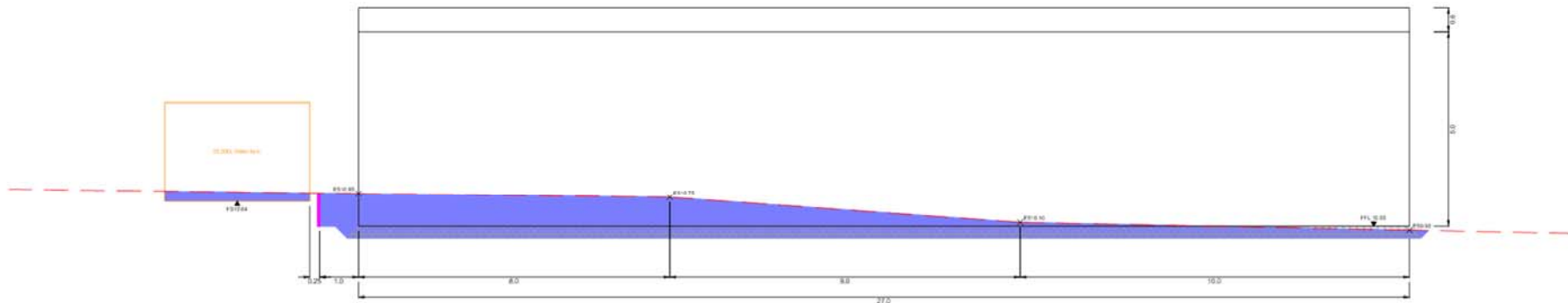
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 Version No: 03
 Job No: 1907045
 Scale (A1): 1:375
 (A2): 1:750

LEGEND

-  Proposed retaining wall
-  Ex surface
-  Area of cut
-  Area of fill
-  Base
-  Sub base
-  FFL 100 Finished floor level
-  FFS 044 Finished surface level
-  FSE 74 Existing surface level



EASTERN ELEVATION



NORTHERN ELEVATION

- Notes:**
- This plan was prepared as a proposal only and should not be used for any other purpose.
 - This plan is subject to Council approval.
 - All dimensions and areas are subject to survey and final computations.
 - Existing drainage directions shown are approximate only and subject to a detailed storm water management investigation.
 - All dimensions shown are length of arc (not chord)



Shed Elevations (1 of 2)
 72 Manoora Road, Maryknoll
 Mr Matt Sullivan

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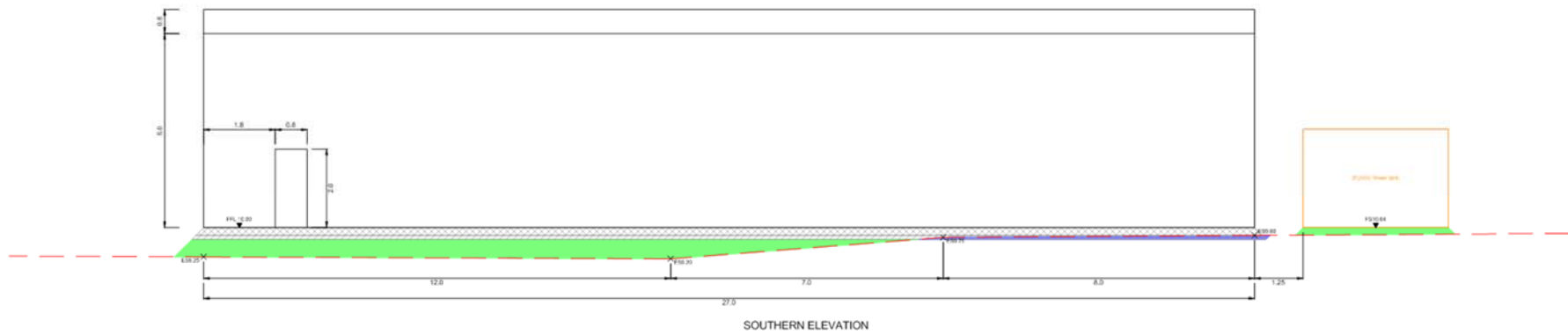
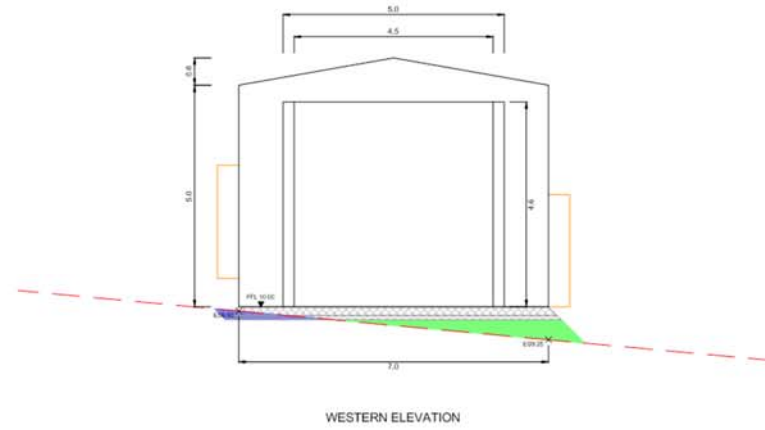
Version		Date		Description		Drafted		Approved		Version		Date		Description		Drafted		Approved		Scale (A1): 1:50 (A3): 1:100	

Date: 16.08.17
 Version No: 01
 Job No: 1601345

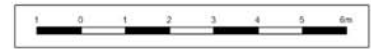


LEGEND

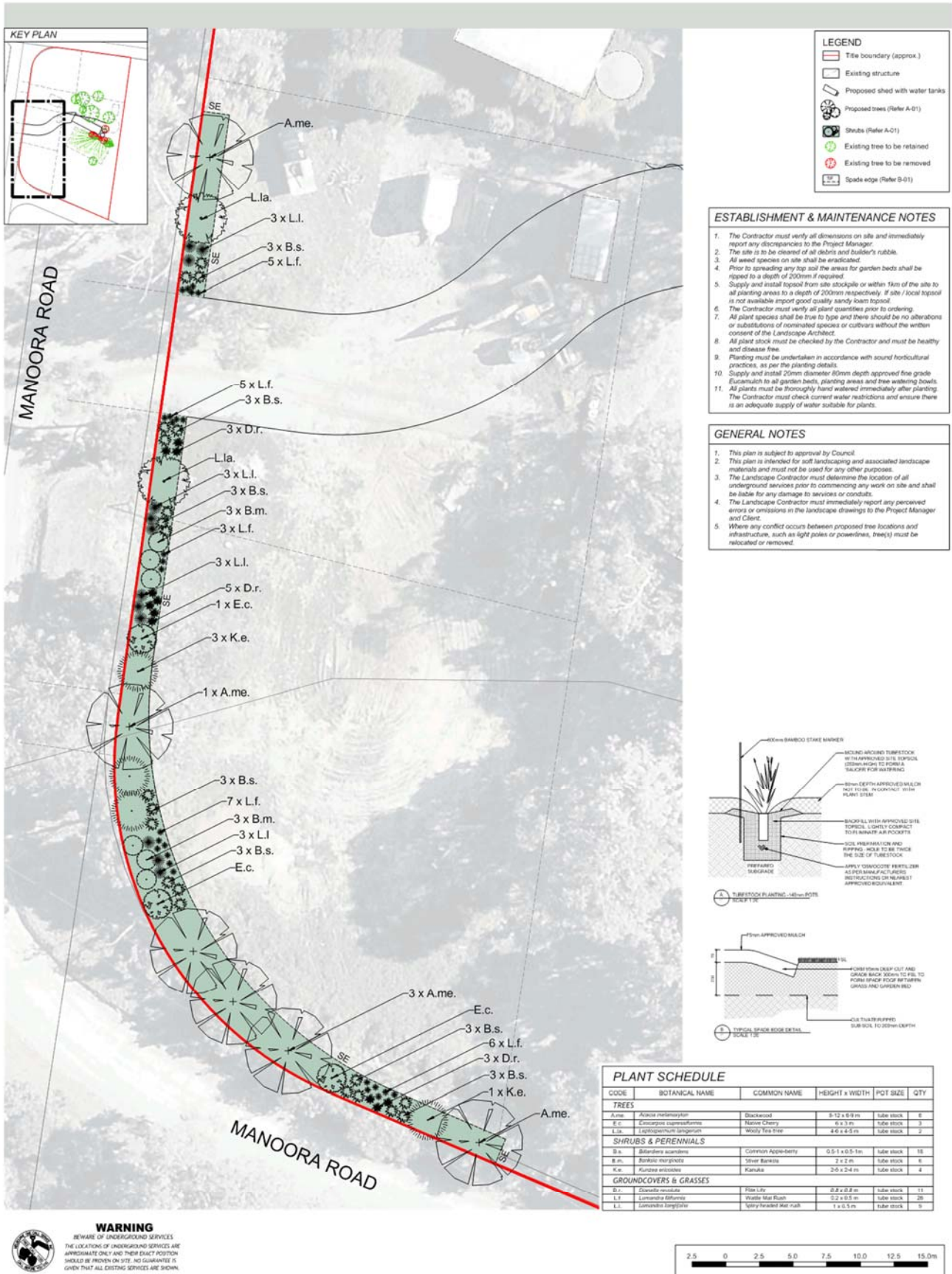
-  Proposed retaining wall
-  Ex surface
-  Area of cut
-  Area of fill
-  Base
-  Sub base
-  RL 100 Finished floor level
-  RL 104 Finished surface level
-  RL 11 Existing surface level



- Notes:
- This plan was prepared as a proposal only and should not be used for any other purpose.
 - This plan is subject to Council approval.
 - All dimensions and areas are subject to survey and final computations.
 - Existing drainage directions shown are approximate only and subject to a detailed storm water management investigation.
 - All dimensions shown are length of arc (not chord).



<p>Shed Elevations (2 of 2) 72 Manoora Road, Maryknoll Mr Matt Sullivan</p>	 <p>Beveridge Williams development & environment consultants</p> <p>Melbourne ph: 03 9524 8888 www.beveridgewilliams.com.au</p>	<table border="1" style="width: 100%; border-collapse: collapse; font-size: 8px;"> <thead> <tr> <th>Version</th> <th>Date</th> <th>Description</th> <th>CR</th> <th>RF</th> <th>Version</th> <th>Date</th> <th>Description</th> <th>Drafted</th> <th>Approved</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Version	Date	Description	CR	RF	Version	Date	Description	Drafted	Approved											<p>Date: 16.08.17 Version No: 01 Job No: 1601345</p> <p>Scale (A1): 1:50 (A3): 1:100</p> <p style="font-size: 10px;">N</p>
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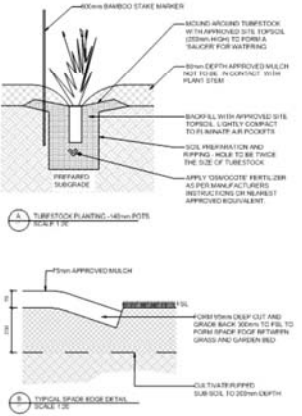


LEGEND

- Title boundary (approx.)
- Existing structure
- Proposed shed with water tanks
- Proposed trees (Refer A-01)
- Shrubs (Refer A-01)
- Existing tree to be retained
- Existing tree to be removed
- Spade edge (Refer B-01)

- ESTABLISHMENT & MAINTENANCE NOTES**
- The Contractor must verify all dimensions on site and immediately report any discrepancies to the Project Manager.
 - The site is to be cleared of all debris and builder's rubble.
 - All weed species on site shall be eradicated.
 - Prior to spreading any top soil the areas for garden beds shall be ripped to a depth of 200mm if required.
 - Supply and install topsoil from site stockpile or within 1km of the site to all planting areas to a depth of 200mm respectively. If site / local topsoil is not available import good quality sandy loam topsoil.
 - The Contractor must verify all plant quantities prior to ordering.
 - All plant species shall be true to type and there should be no alterations or substitutions of nominated species or cultivars without the written consent of the Landscape Architect.
 - All plant stock must be checked by the Contractor and must be healthy and disease free.
 - Planting must be undertaken in accordance with sound horticultural practices, as per the planting details.
 - Supply and install 20mm diameter 80mm depth approved fine grade Excelsior to all garden beds, planting areas and tree watering bowls. All plants must be thoroughly hand watered immediately after planting. The Contractor must check current water restrictions and ensure there is an adequate supply of water suitable for plants.

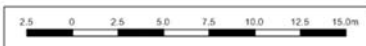
- GENERAL NOTES**
- This plan is subject to approval by Council.
 - This plan is intended for soft landscaping and associated landscape materials and must not be used for any other purposes.
 - The Landscape Contractor must determine the location of all underground services prior to commencing any work on site and shall be liable for any damage to services or conduits.
 - The Landscape Contractor must immediately report any perceived errors or omissions in the landscape drawings to the Project Manager and Client.
 - Where any conflict occurs between proposed tree locations and infrastructure, such as light poles or powerlines, tree(s) must be relocated or removed.



PLANT SCHEDULE

CODE	BOTANICAL NAME	COMMON NAME	HEIGHT x WIDTH	POT SIZE	QTY
TREES					
A.me	<i>Acacia melanoxylon</i>	Blackwood	8-12 x 6-9m	Tube stock	6
E.c.	<i>Eucalyptus cupressata</i>	Native Cherry	6 x 3 m	Tube stock	3
L.la	<i>Lonicera longistylis</i>	Woolly Tea tree	4.6 x 4-5 m	Tube stock	2
SHRUBS & PERENNIALS					
B.s.	<i>Banksia scandens</i>	COMMON Apple-berry	0.5-1 x 0.5-1m	Tube stock	16
B.m.	<i>Banksia marginata</i>	Silver Banksia	2 x 2 m	Tube stock	6
K.e.	<i>Kunzea ericoides</i>	Kanuka	2.0 x 2-4 m	Tube stock	4
GROUNDCOVERS & GRASSES					
B.r.	<i>Dianella robusta</i>		0.8 x 0.8 m	Tube stock	11
L.I.	<i>Lamium album</i>	White Mat Rush	0.2 x 0.5 m	Tube stock	26
L.I.	<i>Lamium longistylis</i>	Spry-headed Mat-rush	1 x 0.5 m	Tube stock	9

WARNING
 BEWARE OF UNDERGROUND SERVICES
 THE LOCATIONS OF UNDERGROUND SERVICES ARE APPROXIMATE ONLY AND THEIR EXACT POSITION SHOULD BE CHECKED BY THE CONTRACTOR. NO GUARANTEE IS GIVEN THAT ALL EXISTING SERVICES ARE SHOWN.



Landscape Plan
 72 Maroona Road, Maryknoll
 Matthew Sullivan

BW Beveridge Williams
 (environmental & environmental consultants)
 Melbourne ph : 03 9524 8888
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Drawn By: P.M.
 Checked By: N.F.
 Drawing Ref: 1601345 LP
 Sheet: 1 of 1
 Version No: 01
 Date: 29.08.2017

Scale (A1): 1:125
 (A3): 1:250

Machinery and equipment to be stored on-site.



Photo 1: Trailer to transport machinery to and from construction sites (Owner's small excavator secured to the trailer)



Photo 2: Owners large excavator located on the subject land.



Photo 3: Truck used to transport resources to and from construction sites.



Photo 4: Various attachments used by the excavators.