



**Swan Hill Rural
City Council**

UNSCHEDULED COUNCIL MEETING

Held on Tuesday 28 May 2024
at 1:00 PM
Council Chambers
Swan Hill Town Hall
53 – 57 McCallum Street, Swan Hill.
VIC 3585

MINUTES

PUBLIC ACCESS

Open to the public and
Live streaming from Council's
website: www.swanhill.vic.gov.au

Confirmed 18 June 2024

Chairperson.....

Vision Statement

Built on strong foundations that embrace our rich History and natural environment, our region will be a place of progressions and possibility. We are a community that is happy, healthy and harmonious - we are empowered, we are respectful and we are proud.

Our Mission

We will lead, advocate, partner and provide efficient services and opportunities for growth and the wellbeing of our community, environment and economy.

Our Values

Council values our residents and community and will be responsive to their needs. In pursuing our objectives, we believe in, and are committed to, the following values:

Community engagement - We will ensure that our communities are consulted, listened to and informed.

Leadership - We will be at the centre of our community and by actively engaging our community we will form the collective view on strategic issues and will then express our views through strong advocacy and action.

Fairness - We will value and embrace the diversity of our community and ensure that all people are treated equally.

Accountability- We will be transparent and efficient in our activities and we will always value feedback.

Trust - We will act with integrity and earn the community's trust by being a reliable partner in delivering services, projects and providing facilities.

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1 Procedural Matters

1.1 Welcome

Mayor, Councillor Cr King assumed the chair and declared the Unscheduled Council Meeting - 28 May 2024 open at 1:03 pm

1.2 Acknowledgement Of Country

Mayor, Councillor Cr King read the Acknowledgement of Country.

"Swan Hill Rural City Council acknowledges the traditional custodians of the land on which we meet, and pays its respects to their elders, past and present."

1.3 Opening Declaration

Cr McPhee read the opening declaration.

We, the Councillors of Swan Hill Rural City Council, declare that we will undertake the duties of the office of Councillor, in the best interests of our community, and faithfully, and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.

1.4 Apologies / Leaves of Absence

CM 2024/76 Motion

MOVED Cr McPhee

That the apologies be accepted from Councillor Jeffery, Cr Young and the CEO Scott Barber.

SECONDED Cr McKay

The Motion was put and CARRIED 4 / 0

1.5 Directors / Officers Present

Leah Johnston, Acting Chief Executive Officer
Michelle Grainger, Director Development and Planning
Bruce Myers, Director of Community and Cultural Services
Bhan Pratap, Director of Corporate Services
Laura O'Dwyer, Acting Director of Infrastructure
Sharon Lindsay, Executive Assistant

1.6 Disclosures of Conflict of Interest

Cr Kelly and Cr McKay declared conflicts of interest as they are both members of Sustainable Living in the Mallee (SLIM).

2 Officer Reports for Decision

2.1 Receive and Hear Submissions to the Proposed 2024-25 Budget

Directorate: Corporate Services
File Number: S15-06-18
Purpose: Information Only

Council Plan Strategy Addressed

4. Leadership - We will ensure accountable leadership, advocacy and transparent decision making.

4.1 Excellent management and administration

4.1.3 Sound, sustainable:

- Financial management • Excellence in service delivery • Strategic planning

Current Strategic Documents

Budget

Declarations of Interest

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

Summary

The purpose of this report is to enable Council to receive and hear submissions for the Proposed 2024-25 Annual Budget.

At the close of the submission period 4 submissions were received. No submitters requested to speak to their submission.

Discussion

Council advertised for submissions to its Proposed 2024-25 Annual Budget beginning Friday 19 April 2024. Notification of the Draft Budget was provided on Council's website and social media. It was advertised in the Swan Hill Guardian on 19 April 2024, the Robinvale Sentinel on 25 April 2024 and online through Let's Talk, Council's community engagement platform. Submissions were invited from 19 April 2024 to 17 May 2024.

The Statutory period for making submissions has now passed. As required under the Local Government Act 1989. Council must now formally receive, hear and then consider all submissions. Consideration of submissions will occur at a Special Council Meeting to be held on Tuesday 04 June 2024.

At the close of the submission period, 4 submissions were received. No submitters requested to speak to their submission.

Summary of Submission 1

The submitter questions the link between the Draft Budget and the Council Plan objective of reducing health impacts of climate change. A further question was asked as to how much Council spend on tree planting, how many trees this provides and whether Council has a plan as to where and why.

Summary of Submission 2

The submitter expressed their concern over people leaving the municipality and moving into gated communities and that Lake Boga could be an option for such a development.

Summary of Submission 3

The submitter wished to be advised as to the allocation of the \$1.2M surplus from the 2022-23 year.

Summary of Submission 4

The submitter raises some concerns regarding, increased Council cash contributions for capital works, operating and cost efficiencies, the rate cap increase, dependence on grant funding, solar panels on the Swan Hill Leisure Centre, services provided by private entities; and capital works project suitability and management.

Consultation

The submission process is part of the consultation process for the budget.

Financial Implications

The hearing of submissions has no financial implications.

Social Implications

The hearing of submissions allows for community participation in Councillor decision making leading to improved social outcomes.

Economic Implications

The hearing of submissions has no economic implications.

Environmental Implications

The hearing of submissions has no environmental implications.

Risk Management Implications

The hearing of submissions has no risk management implications.

Attachments: 1. Budget Submissions 17 May 24 [2.1.1 - 5 pages]

Options

1. After considering the submissions Council can choose to adopt or amend the 2024-25 Annual Budget.

Recommendation/s

That Council:

1. Receive and hear submissions to the Proposed 2024-25 Annual Budget.
2. Prepare responses to the submissions and table at an Unscheduled Meeting of Council for consideration on 04 June 2024.

CM 2024/77 Motion

MOVED Cr McPhee

That Council:

1. Receive and hear submissions to the Proposed 2024-25 Annual Budget.
2. Prepare responses to the submissions and table at an Unscheduled Meeting of Council for consideration on 04 June 2024.

SECONDED Cr McKay

The Motion was put and CARRIED 4 / 0

CM 2024/78 MOTION

MOVED Cr McPhee

That standing orders be suspended at 1:11 pm to hear from the submitters wishing to speak to their submissions.

SECONDED Cr McKay

The Motion was put and CARRIED 4 / 0

Peta Thornton spoke to Sustainable Living in the Mallee's 2024-25 budget submission.

CM 2024/79 MOTION

MOVED Cr McPhee

That standing orders be resumed at 1:30 pm.

SECONDED Cr McKay

The Motion was put and CARRIED 4 / 0

**Cr Moar attended the meeting at 1.30pm
Cr Kelly left the meeting at 1.31pm and returned at 1.32pm**

Let's talk

Submit your comments on the draft Budget 2024/25

Apr 19, 2024 - May 16, 2024

Project: Draft Budget 2024/25

Tool Type: Form

Activity ID: 153

Exported: May 17, 2024, 04:02 PM

Exported By: boco

Response No:
1

Contribution ID: 4111
Member ID:
Date Submitted: May 16, 2024, 11:02 PM

Q1
Short Text
Q2
Short Text
Q3
Number
Q4
Email
Q5
Long Text

Q1 First Name

Jana

Q2 Last Name

Sarantis (on behalf of SLIM)

Q3 Phone number

[REDACTED]

Q4 Email address

[REDACTED]

Q5 Comments

There seems to be quite a gap between the Council Plan priority areas and the allocations within the budget. While the Plan prioritises things like reducing health impacts of climate change, there are no real budget areas addressing this priority area (eg there could be strategies like Council offering rebates for upgrading home's energy efficiency/insulation/sealing, installing split systems, installation of solar and batteries, increasing urban tree canopy to reduce urban heat island effect etc) as we know that exposure to extreme weather (hot/cold) is a major cause of ill health related to climate change.

If the main limitation for people to uptake these measures is upfront costs, then council could help residents meet these costs so that they can efficiently heat and cool their homes without it costing a fortune, and at the same time will contribute to our local economic development, reduce emissions, reduce ongoing costs for households and businesses.

How much money is allocated for tree planting? What percentage of this is for planting trees in urban areas? Have you got a plan on where these trees are planted and why?
How many trees planted will this allowance fund?

Please explain why the Plan priority areas and the Budget do not align? What are you doing to reduce health impacts of climate change?

Response No:
2

Contribution ID: 3963
Member ID:
Date Submitted: Apr 21, 2024, 06:41 PM

Q1
Short Text
Q2
Short Text
Q3
Number
Q4
Email
Q5
Long Text

First Name

Last Name

Phone number

Email address

Comments

people are leaving to go into a gated village in other regional cities and it would assist the housing issue and encourage others to shift here, Lake Boga would be ideal with the town bus run extended

Response No:
3

Contribution ID: 3961
Member ID:
Date Submitted: Apr 20, 2024, 04:21 PM

Q1
Short Text
Q2
Short Text
Q3
Number
Q4
Email
Q5
Long Text

First Name

Ian

Last Name

Brown

Phone number

[REDACTED]

Email address

[REDACTED]

Comments

Before I can submit my reply,I want to know what happened to the \$1.2 million plus surplus that the council found in the 2022-2023 budget ,as per the Guardian 16 January 2024..I am sure all ratepayers and residents would want to know. Also the shire assets,if they are not financial then they should be disposed of.Ratepayers dollars are better spent elsewhere.

Response No:
4

Contribution ID: 3960
Member ID:
Date Submitted: Apr 19, 2024, 09:28 PM

Q1
Short Text

Q2
Short Text

Q3
Number

Q4
Email

Q5
Long Text

First Name

Kirk

Last Name

Dyer

Phone number

Email address

[REDACTED]

Comments

I am writing to express my concerns regarding specific aspects of the proposed 2024/25 budget for the Swan Hill Rural City Council. These concerns centre on the prudent management of public funds, the role of government in economic activities, and the council's financial commitments in capital projects.

1. Increased Council Cash Contribution to Capital Works:
The proposed budget reveals a considerable increase in council cash funding for capital projects, rising to \$28,313k. This upsurge in government spending warrants a thorough examination to ensure that funds are used efficiently and that alternative financing through private investments or partnerships is considered to alleviate the financial burden on our community.

2. Operating Expenditure and Cost Efficiency:
Although there is a decrease in the operating expenditure to \$59,742k, the amount remains significant. I recommend an exhaustive review of these expenditures to pinpoint potential reductions, thereby streamlining operations to focus solely on essential services and reducing overhead costs.

3. Rate Increases:
The proposed rate increase of 2.75% presents an additional burden to residents. I advocate for a strategy that avoids rate increases by identifying and eliminating non-essential expenses, thereby sparing residents further financial strain.

4. Dependence on Unpredictable Grant Funding:
The noticeable reduction in grants for capital works exposes the risk of relying on such unstable sources. I suggest the council formulates a plan to achieve greater financial independence, which could include fostering environments that attract more stable investment options.

5. Solar Panel Installation at Leisure Centre:
The budget allocates funds for solar panels at a leisure centre operated by a private company. It is concerning that public money is used to subsidise operational costs for a private entity, potentially providing them with cheaper electricity at the expense of the taxpayer. This raises the question of why residents should finance energy savings for a business from which they may not directly benefit. Therefore, I urge the council to reconsider this allocation and evaluate the direct benefits to the community.

6. Scope of Government-Funded Projects:
The expansive range of community services and projects funded by the council could benefit from a critical evaluation to determine if these services could be more effectively managed by private entities or community organisations.

7. Specific Concerns on Capital Works Programme Management:
The minimal increase in the capital works programme, detailed at \$35,180k, necessitates rigorous scrutiny, particularly in project selection and budget adherence. Given the historical challenges associated with public sector project overruns, it is crucial to implement strong oversight mechanisms. Transparent project evaluation criteria should be adopted, including cost-benefit analyses, to ensure that only projects with clear, tangible benefits to the community are approved.

I trust that these concerns will be taken into consideration to ensure that our community resources are managed wisely and that the council's activities align closely with the direct needs and benefits of the residents of Swan Hill.

Thank you for considering these points. I look forward to seeing strategic adjustments that reflect careful stewardship of taxpayer funds and a thoughtful approach to community service provision.

2.2 Amendment of Section 173 Agreement - 13 River Oaks Dr SH

Directorate: Development and Planning
File Number: .
Purpose: For Decision

EXECUTIVE SUMMARY

| | |
|----------------------------|---|
| Application Number: | N/A |
| Proposal: | Amend a Section 173 Agreement |
| Applicant's Name: | M & J Witney |
| Address: | 13 River Oaks Drive Swan Hill |
| Land Size: | 4006m ² |
| Zoning: | Low Density Residential Zone (Schedule) |
| Overlays: | Specific Controls Overly (Schedule 1) |

Declarations of Interest:

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

Recommendation/s

That Council provides “in-principle” support to amend the Section 173 Agreement for the land known as Lot 5, PS430924, 13 River Oaks Drive, Swan Hill in accordance with Section 178A of the Planning and Environment Act 1987.

Please see the options at the end of the report.

Summary

The applicant is seeking to amend the Section 173 Agreement registered on the title of the subject land. The Planning & Environment Act 1987 allows this to occur, and the process requires Council to provide “in principle” support as the first step.

As the Agreement is signed and sealed by Council, it is necessary that Council, not a delegate provide this approval.

Discussion

The subject site is located on the east side of River Oaks Drive, approximately 35m north-east of its intersection with Squire Grove. The site is irregular in shape having an area of 4006 square metres. It comprises an existing dwelling with associated outbuilding. The site is flat comprising vegetation within the front setback of the buildings. Surrounding area to the immediate north, south and west is zoned Low Density Residential comprising similar sized allotments having single dwelling with associated outbuildings. The eastern boundary of the site abuts Crown Land and Murray River which is zoned Public Conservation and Resource comprising native vegetation.

The applicant is seeking to amend the Section 173 Agreement registered on the title of the subject land. The amendment is required for the installation of a swimming pool which will encroach within the setbacks required under the Agreement. The inground swimming pool will be located adjacent to the existing dwelling to the east. The proposed swimming pool will have a setback of 18.090m from the north-eastern boundary and 30.30m from the eastern boundary.

The agreement was registered on the title in 2000 as a planning permit condition for a multi lot subdivision. The agreement contains covenants that any buildings and works to be constructed on the land must maintain a setback of 20m from the north-eastern Crown land boundary and 40m from the eastern Crown land boundary.

The Section 173 Agreement was required by Council at the time of the subdivision, at the request of the Department of Natural Resources and Environment now Department of Energy, Environment and Climate Action (DEECA) to maintain adequate buffers from the crown land and to create 100m from top of bank on the Little Murray River (comprising a 60m frontage and the 40m setback on the freehold land) to meet the requirements of the then Environment Protection Authority (EPA) septic code, and to reduce the amenity impacts of the subdivision on the public land estate.

Section 178A of the Planning and Environment Act 1987 requires Council to notify the owner of the subject land as to whether it agrees in principle to a proposal to amend or end a Section 173 Agreement. This is the first step in processing such an application. If consent is given the next step is to give notice to all other parties to the agreement, following the standard planning advertising giving them 14 days to comment. It is recommended that Council should support the amendment of the agreement due to the following reasons:

- Change in the setback will continue to follow existing established character without impacting the Crown Land.
- Proposed setbacks for the swimming pool will continue to provide adequate setbacks from the Crown Land.
- Department of Energy, Environment and Climate Action (DEECA) being party to the Agreement have consented to the amendment.
- The applicant has provided consent from the adjoining landowners to support the proposal.

Consultation:

The applicant has consulted with Department of Energy, Environment and Climate Action (formerly DELWP) who have consented to the amendment. If approved, letter of the in-principle support to amend the Section 173 Agreement will be sent to the applicant.

Notice of the amendment to the agreement will be given, following the usual planning process, and it must be given to all other landowners that are party to the agreement as a minimum.

Financial Implications:

All legal costs are borne by the applicant.

Social Implications:

Not applicable.

Economic Implications:

Not applicable.

Environmental Implications:

Any impacts will be assessed as part of the application process.

Risk Management Implications:

Council is following a legislative process, and this minimises risk.

Conclusion:

Council should provide in-principle support to amend the Section 173 agreement to allow a swimming pool to be sited within the designated area.

- Attachments:**
1. Agreement with copy of original Planning Permit [2.2.1 - 17 pages]
 2. DEECA Amendment Redacted [2.2.2 - 1 page]
 3. DEECA Approval Redacted [2.2.3 - 3 pages]
 4. Neighbours approval Redacted [2.2.4 - 4 pages]
 5. Architectural Pool Plan 2024 Redacted [2.2.5 - 5 pages]
 6. Application Form Redacted [2.2.6 - 2 pages]

CM 2024/80 Motion**MOVED Cr McPhee**

That Council provides “in-principle” support to amend the Section 173 Agreement for the land known as Lot 5, PS430924, 13 River Oaks Drive, Swan Hill in accordance with Section 178A of the Planning and Environment Act 1987.

Please see the options at the end of the report.

SECONDED Cr McKay

The Motion was put and CARRIED 5 / 0

R.C. & M.P. KENNON

- and -

SWAN HILL RURAL CITY COUNCIL

AGREEMENT MADE PURSUANT TO SECTION 173 OF THE
PLANNING AND ENVIRONMENT ACT 1987



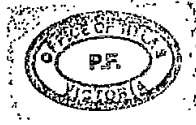
BASILE PINO & CO
Barristers & Solicitors
213 Campbell Street
SWAN HILL 3585
GP:rp

W850337P
190600 1018 173



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Application by
Responsible Authority,
Relevant Authority,
Referral Authority or Council
for the making of a recording of an
agreement
Section 181(1) Planning and Environment Act 1987



W850337P
190600 1018 173



Lodged by:
Name: BASILE PINO & CO
Phone: (03) 5032 4809
Address: 213 Campbell Street, Swan Hill
Ref: GP:rp
Customer Code: 2176X

The authority or council having made an agreement requires a recording to be made in the Register for the land.

Land:
Certificate of Title Volume 9063 Folio 002 (10526 47951 to 817 (B.L.))

Authority or Council:
Swan Hill Rural City Council of 42 Splatt Street, Swan Hill 3585

Section and Act under which agreement made:
Section 181 of the Planning and Environment Act 1987

A copy of the agreement is attached to this application

Date: 31-5-00

Signed by the Swan Hill Rural City Council
by its Chief Executive Officer JOHN WEBB
in the presence of:

Handwritten signature

Handwritten signature

AMENDED
12 SEP 2000
COURT RECORDS
PPR/C/1018/173

ORDER TO REGISTER
Please register and issue title to
Westpac Banking Corporation

Signed *[Handwritten Signature]*
Cust. Code: *[Handwritten]*

7-HO 18-07-2000 TYP

STAMP DUTY USE ONLY



W850337P-1-3

R.C. & M.P. KENNON

- and -

SWAN HILL RURAL CITY COUNCIL

AGREEMENT MADE PURSUANT TO SECTION 173 OF THE
PLANNING AND ENVIRONMENT ACT 1987



BASILE PINO & CO
Barristers & Solicitors
213 Campbell Street
SWAN HILL 3585
GP:rp

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190600 1018 173



THIS AGREEMENT is made the _____ day of _____ Two thousand pursuant to Division 2 of Part 9 of the Planning and Environment Act 1987 ("the Act")

BETWEEN the Council and the Owner as described in the attached Schedule.

RECITALS

- A The Owner is registered or entitled to be registered as the proprietor of the Land as described in the schedule attached;
- B The Land is regulated by the Scheme;
- C The Council is the relevant responsible authority under the Scheme and enters into this Agreement pursuant to Section 173 of the Act;

OPERATIVE PART

Definitions and Interpretations

- 1. The words and expressions listed in the schedule shall have the meanings there described. In this agreement words importing the singular or plural number shall include the plural or singular number respectively and words importing the masculine gender shall include the feminine and neuter genders;
- 2. This Agreement is made pursuant to Division 2 of Part 9 of the Act;
- 3. In this Agreement a reference to an Act of Parliament or Section thereof or any Regulation shall be deemed to include any statutory modification or re-enactment thereof;
- 4. In this Agreement where the Owner constitutes more than one person, the obligations on the part of the Owner shall be deemed to be joint and several;

5. Covenants

The Owner's obligations in this agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the land and every part of it, and bind the Owner and the successors, assignees, transferees and registered proprietor or proprietors for the time being of the land and every part thereof.

6. Registration

The Owner shall do all things necessary and expedient to enable the Council to register this Agreement with the Registrar of Titles against the title to the land pursuant to Section 181 of the Act. The Council shall request the Registrar of Titles to withdraw registration of this Agreement from such title upon the termination of the Agreement or the Owner's obligations hereunder being satisfied and fulfilled.

7. Commencement

This Agreement commences upon the Commencement Date and ends when agreed between the Owner and the Council or otherwise as provided in the Act.

Plan of Subdivision means Plan of Subdivision number PS430924X.

Levee Bank easement means the easement shown as Flood Protection purposes on Plan of Subdivision number PS430924X.

Owner Covenants

The Owner warrants and covenants:

- 10.1 That the Owner is the registered proprietor or entitled to become the registered



- 10.2 proprietor of the land and the beneficial owner thereof;
- 10.3 That there are no mortgages, liens, charges or other encumbrances or leases or any rights inherent in any person other than the owner affecting the land not disclosed by the usual searches or notified to the Council;
- 10.4 No part of the land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to in Section 42 of the Transfer of Land Act;
- 10.5 The Owner shall not sell, transfer, dispose of, assign, mortgage or otherwise part with the possession of the land or any part thereof without first disclosing to any intended Purchaser, transferee, assignee or mortgagee the existence and nature of this Agreement.

11. **Notices**

Any notice, consent, offer, demand, request or other instrument required or authorised to be given or served upon either party to this Agreement shall be in the English language and in writing and may be given by telex, telegram facsimile transmission, cable, post or hand to that party delivered to the last or most usual address of that party known to the party giving such notice. Any instrument given or served by telex, telegram, facsimile transmission or cable shall be deemed to have been received on the date following the day of its dispatch. Any instrument having been given or served by post to an address in the same State in which it is posted shall be deemed to have been received on the third day following the day of posting. Any instrument given or served by hand shall be served at the time of delivery.

12. **Costs**

The owner shall pay all stamp duty applicable to this Agreement and the legal costs of the Council of and incidental to this Agreement including costs and fees for registration of a copy of this Agreement against the title/s to the land pursuant to Section 181 of the Act, and any costs and expenses incurred by the Council by reason of any default of the owner under this Agreement.

13. **Consent of Mortgagee**

If the land is affected by a mortgage at the time of execution of this Agreement or prior to the registration of notice of this Agreement against the title to the land, the owner must ensure that the mortgagee endorses on this Agreement its consent to the Agreement being made and being registered at the Land Titles Office prior to lodgement at the Titles Office of Plan of Subdivision number PS430924X.

WHEREAS

- 14 (a) The Owner has applied to the Council as the Responsible Authority under the Swan Hill Rural City Council Planning Scheme for a Planning Permit to subdivide the land and the Council has granted Permit number 99/206 as amended by Council on the 29th May 2000, a copy of which is attached hereto (hereinafter called "the Permit")
- (b) The Council determined to grant Permit number 99/206 as amended to subdivide the land in accordance with the endorsed plan and subject to various conditions including the following conditions which provided as follows:-
- "15. The Swan Hill Rural City Council requires the following, pursuant to the Planning and Environment Act 1987, and that the owner agrees:-
 - (a) That the owner enter into an agreement with the Responsible Authority under Section 173(2).
 - (b) As per Section 174(1), that the agreement be under seal and must bind the owner to the following covenant which also must be specified in the agreements:-
 - (i) Any boundary fence over the levee bank shall have a gate provided on





the top of the levee such gate to remain unlocked to allow the ingress and egress of The Responsible Authorities employees to carry out inspections and maintenance works.

- (ii) No vegetation shall be planted within 10 metres of the toe of the levee.
- (iii) No building or structure shall be constructed within 10 metres of the toe of the levee.
- (iv) To pay forthwith upon demand the municipality's proper costs and expenses (including legal expenses) of and incidental to-
 - * preparation and processing of the agreement documents;
 - * the said registration of this agreement.

(c) That the Responsible Authority carry out the matters for Registration of Agreement on title as per section 181(1-5).

- 24. Prior to the issue of a Statement of Compliance, the owner of the land shall;
 - 24.1 enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987, with the Responsible Authority, and in a form satisfactory to both the Responsible Authority and the Department of Natural Resources and Environment (DNRE), which provides for a twenty (20) metre building setback from the north eastern Crown - freehold boundary and for a forty (40) metre building setback from the eastern Crown - freehold boundary for all Lots abutting Crown Allotment 1F, Section A, Parish of Castle Donnington.
 - 24.2 pay for the costs of preparing the Section 173 agreement and to do all things necessary for the registration of the S173 agreement on title as per Section 181 (1-5)."
- (d) The Council and the Owner have agreed that without restricting or limiting their respective powers to enter into this agreement and insofar as it can be so treated this agreement shall be treated as being an Agreement under Section 173 of the Planning and Environment Act 1987.
- (e) The Owner intends to lodge a Plan of Subdivision for approval in accordance with the provisions of the Permits.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:-

Covenants to the Council

- i) The Owner covenants and agrees to comply with, carry out and observe the conditions of the Permit.
- ii) The Owner further covenants and agrees that :-
 - a) Any boundary fence over the levee bank shall have a gate provided on the top of the levee Bank and such gate shall remain unlocked to allow the ingress and egress of the Responsible Authority's employees and its authorised officers and agents to carry out inspections and maintenance works.
 - b) The Owner covenants and agrees that he shall prohibit planting of trees, shrubs or any form of vegetation on the levee bank easement or within ten metres of the toe of the levee bank.
 - c) The Owner covenants and agrees that he shall prohibit the construction of any building or structure within ten metres of the toe of the levee bank or on the levee bank easement.
 - d) The owner agrees and covenants that there shall be a twenty metre building setback from the north eastern Crown Land Reserve freehold boundary and a forty metre building setback from the eastern Crown Reserve freehold boundary, for all lots abutting Crown Allotment 1F, Section A, Parish of Castle Donnington.
 - e) That the Owner will pay forthwith upon demand the Responsible Authority's proper costs and expenses (including legal expenses and disbursements) of and incidental to
 - * preparation and processing of the agreement documents;
 - * the said registration of this agreement.
-) The Responsible Authority carry out the matters for Registration of the Agreement on title as per Section 181 (1-5).

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SCHEDULE

- 1. **OWNER**
ROBERT CHARLES KENNON AND MAUREEN PATRICIA KENNON of Harrod's Lane, Swan Hill 3585
- 2. **THE RESPONSIBLE AUTHORITY**
SWAN HILL RURAL CITY COUNCIL of 42 Splatt Street, Swan Hill 3585
- 3. **THE LAND**
The Land comprised in Crown Allotment 1F Section A Parish of Castle Donnington and being the land comprised in Plan of Subdivision number PS430924X Harrod's Lane, Swan Hill and being the land comprised and referred to in Certificate of Title Volume 9063 Folio 002.
- 4. **THE SCHEME**
The Swan Hill Rural City Council Planning Scheme
- 5. **THE COMMENCEMENT DATE**
The date of this Agreement



EXECUTED AS AN AGREEMENT

SIGNED SEALED AND DELIVERED by ROBERT CHARLES KENNON in the presence of:

Handwritten signature of Robert Charles Kennon

Witness signature

SIGNED SEALED AND DELIVERED by MAUREEN PATRICIA KENNON in the presence of:

Handwritten signature of Maureen Patricia Kennon

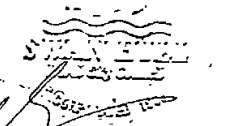
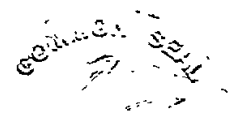
Witness signature

THE COMMON SEAL of THE SWAN HILL RURAL CITY COUNCIL was hereunto affixed in the presence of

Chief Executive Officer

Councillor

Councillor signature



W850337P 190600 1018 173



Westpac Banking Corporation ARBN 007 457 141 the Mortgagee under Mortgage No. W1389064 HEREBY CONSENTS to the within Section 12 Agreement Dated this 9th day of June 2000 Westpac Banking Corporation By Its Attorney

Power of Attorney dated the Second day of June 1994 a copy of which is filed in the Permanent Order Book No. 277 Item 34.

BANK OFFICER Westpac Banking Corporation

Delivered by LANDATA®. Land Victoria timestamp 06/04/2017 09:38 Page 7 of 16

- g) The Owner agrees to do all things necessary to enable the Council to enter a memorandum of this Agreement on the Certificate of Title to the land in accordance with Section 181 of the Planning and Environment Act 1987 including signing any further agreement, acknowledgment or document to enable the said memorandum to be registered under that Section.



W850337P
190600 1018 173



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29-MAY-00 MON 17:05 S/HILL RURAL CTY COUNCIL FAX NO. 61 3 50329817 P. 02/10

PLANNING PERMIT

PERMIT NO. 99/206
Planning Scheme: Swan Hill Planning Scheme
Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington
Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

- THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**
1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plan submitted (Tomkinson Ref. 8332), but modified to show:
 - 1.1 a stormwater management plan to the proposed development (including details of a nutrient stripping facility and design, construction and management details of the outfall structure);
 - 1.2 easements shown for the purposes of drainage, levee, carriageway and all other services (levee easement width shall be from the toe to toe of the levee and in favour of Council);
 - 1.3 a drainage easement to service all properties to the low point (drainage easements shall be in favour of Council);
 - 1.4 dimensions and areas of any public open space reserves.
 2. The plan of subdivision submitted for certification must be referred to the relevant authority Lower Murray Water, Goulburn Murray Water, Dept. Natural Resources & Environment, North Central Catchment Management Authority, Powercor Australia and Telstra (or other licensed telecommunications carrier, whichever is appropriate) in accordance with Section 8 of the Subdivision Act.
 3. The applicant must provide to Lower Murray Water, Goulburn Murray Water, Dept. Natural Resources & Environment, North Central Catchment Management Authority, Powercor Australia and Telstra (or other licensed telecommunications carrier, whichever is appropriate) a copy of the version of the plan of subdivision submitted for certification which shows any amendments which have been required



Date Issued: 30 November 2000
Signature for the Responsible Authority: *[Signature]*
Planning and Environment Regulations 1988 Form 4.4

*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000 *[Signature]*

Delivered by LANDATA®. Land Victoria timestamp 06/04/2017 09:38 Page 9 of 16

00 MON 17:06

S/HILL RURAL CTY COUNCIL

FAX NO.



**PLANNING
PERMIT**

PERMIT NO. 99/206

Planning Scheme: Swan Hill Planning Scheme.

Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington.
Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 4. The applicant must provide a copy of the final certified plan of the subdivision with Lower Murray Water, Goulburn Murray Water, Dept. Natural Resources & Environment, North Central Catchment Management Authority, Powercor Australia and Telstra (or other licensed telecommunications carrier, whichever is appropriate).
- 5. Each of the 37 lots proposed to be created shall be created with legal access to a road reservation with vehicle crossings to the approval of the Responsible Authority.
- 6. The discharge of any concentrated drainage or sillage onto any Road reserve shall not be permitted unless approved in writing by the Responsible Authority.
- 7. Road and drainage to comply with Council requirements. (See attached Policy Documents for "Construction of Residential Streets" and "Design Criteria For Stormwater Drainage in 'Rural Residential' Subdivisions").
- 8. Prior to Certification of the Plan of Subdivision and the commencement of any works on the subject land, detailed engineering design plans with specifications are to be submitted to the Responsible Authority for approval. Such plans shall be drawn accurately to scale and show design details of all works required under the Planning Scheme and/or permit conditions. The design and construction shall meet the following minimum standards:-
 - a) The road reserve width shall be a minimum of 20 metres to the satisfaction of Council's Technical Support Manager.
 - b) A shoulder width of minimum 1.5 metres on both sides of the road shall be provided to the satisfaction of Council's Technical Support Manager.
 - c) A sealed road of minimum 6.0 metres shall be provided to the satisfaction of Council's Technical Support Manager.
 - d) The table drain shall have a minimum depth of 300 mm below the edge of the seal level to the satisfaction of Council's Technical Support Manager.

Date Issued:
30 November 2000

Planning and Environment Regulations 1998 Form 4.4

Signature for the
Responsible Authority:

*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000

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MON 17:13

S/HILL RURAL CITY COUNCIL

FAX NO. 01 3 50329817

14/10



PLANNING PERMIT

PERMIT NO. 99/206

Planning Scheme: Swan Hill Planning Scheme

Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington
Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

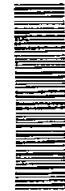
THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- e) No works shall be permitted on the road reserve south of the Kennon property.
- f) A separate outfall shall be provided for the stormwater drainage from this development to the satisfaction of Council's Technical Support Manager.
- g) The treatment of stormwater drainage from the development shall be to the satisfaction of Goulburn Murray Water, Environment Protection Authority and the Responsible Authority.
- h) The properties abutting the levee (lots 1, 2, 3, 4, 5, 6, 7, 8, & 9) shall be filled and drained away from the levee so that no ponding occurs.
- i) Details of the road alignment adjacent to the levee are required, so that drainage is away from the levee.
- j) Street names and street signs must be provided to the satisfaction of the Responsible Authority.
- k) Street lighting must be provided to the satisfaction of the Responsible Authority.
- l) Two trees shall be planted on the nature strip of each allotment. Each tree shall be not less than one (1) metre in height and shall be of a species approved by the Responsible Authority. Replacement planting will be required in the event of any trees or shrubs not surviving within 12 months after issue of Title.
- m) All landscaping and vehicular entrances to each allotment to be completed before the issue of Statement of Compliance for the Plan of Subdivision.
- n) Unless approved by Council as being part of the stormwater management irrigation water and drainage from allotments is to be retained on each allotment the provision of storage areas and berms along each title boundary and no discharge to the road reserve.

Date Issued:
30 November 2000
Planning and Environment Regulations 1988 Form 4.4

Signature for the
Responsible Authority: *[Signature]*

W850337P
190600 1018 173



*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000 *[Signature]*

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MON 17:14

S/HILL RURAL CTY COUNCIL

FAX NO 61 3 5079817

P: 05/10



DW850337P-11-8

**PLANNING
PERMIT**

PERMIT NO. 99/206

Planning Scheme: Swan Hill Planning Scheme

Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington
Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

- THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:
- 9. A detailed plan displaying the details of access from Harrods Lane, which must be realigned for 50 metres north of the proposed subdivision.
 - 9. That a contribution in cash of amount equal to one twentieth of the site value of the land be paid to Council in respect of places of resort and recreation. This payment shall be made prior to the issue of Statement of Compliance and may be adjusted in accordance with Section 19 of the Subdivision Act 1988.
 - 10. Prior to the issue of a Statement of Compliance, all drainage works necessary to serve the land within the proposed subdivision and any other lands within the drainage catchment of the subject land as determined by the Technical Support manager, shall be carried out and completed to the satisfaction of the Responsible Authority.
 - 11. Prior to the issue of a Statement of Compliance the applicant shall give to the Council an amount equal to 5% of the actual cost of the engineering works as cash security or bank guarantee in lieu of cash to cover the six months maintenance period and enter into a maintenance agreement so that in the event of any maintenance works not being completed by the due date the Council may proceed with the works and deduct the cost from the security lodged.
 - 12. All blocks to be fully serviced with utility services (including reticulated sewerage) prior to issue of Statement of Compliance for Subdivision.
 - 13. No planting of trees or shrubs shall be permitted on the levee or within mature tree canopy cover from the toe of the levee.
 - 14. Any future dwelling to be constructed is to be at least 300 millimetres above the 1% flood level, until such time the entire Swan Hill Levee is completed and becomes a registered levee with the North Central Catchment Management Authority, Dept. Natural Resources & Environment and Swan Hill Rural City Council.

Date Issued:
30 November 2000
Planning and Environment Regulations 1988 Form 4.4

Signature for the
Responsible Authority: *[Signature]*

*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000 *[Signature]*

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00 MON 17:15

S/HILL RURAL CTY COUNCIL

P. 06/10



DW850337P-12-5

PLANNING PERMIT

PERMIT NO. 99/206
Planning Scheme: Swan Hill Planning Scheme
Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington
Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 15. The Swan Hill rural City Council requires the following, pursuant to the Planning & Environment Act 1987, and that the owner agrees:-
 - (a) The owner enter into an agreement with the Responsible Authority under Section 173(2).
 - (b) As per Section 174(1), that the agreement be under seal and must bind the owner to the following covenant which also must be specified in the agreements:-
 - (i) Any boundary fence over the levee bank shall have a gate provided on the top of the levee such gate to remain unlocked to allow the ingress and egress of The Responsible Authorities employees to carry out inspections and maintenance works.
 - (ii) No vegetation shall be planted within 10 metres of the toe of the levee.
 - (iii) No building or structure shall be constructed within 10 metres of the toe of the levee.
 - (iv) To pay forthwith upon demand the municipality's proper costs and expenses (including legal expenses) of and incidental to -
 - * preparation and processing of the agreement documents;
 - * the said registration of this agreement.
 - (c) That the Responsible Authority carry out the matters for Registration of Agreement on title as per Section 181(1-5).

CONDITIONS REQUIRED BY LOWER MURRAY WATER

- 16. That the holder of this permit, or authorised agent, make payment of the appropriate Processing Fee to the Lower Murray Region Water Authority prior to the Authority agreeing to the issue of a Statement of Compliance.

Date Issued:
30 November 2000

Planning and Environment Regulations 1988 Form 4.4

Signature for the

Responsible Authority: *[Signature]*

W850337P
190600 1018 173



*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000 *[Signature]*

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-00 MON 17:15

S/HILL RURAL CTY COUNCIL

FAX NO. 6

0 07/10



PLANNING PERMIT

PERMIT NO. 99/206

Planning Scheme: Swan Hill Planning Scheme

Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington
Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

17. That the Plan of Subdivision, when lodged for Certification, shall be referred to the Lower Murray Region Water Authority pursuant to Section 8(1) of the Subdivision Act.
18. The developer/owner is required to consult with the Authority and then meet all requirements in respect to the provision of water supply and sewerage services to the land prior to the Authority providing its consent to the issue of a Statement of Compliance.
19. All required easements are to be shown on the plan of subdivision prior to the submission of Certification.
20. The owner or operator under the Permit shall meet any requirement or cost of Lower Murray Water Region Water Authority in respect of the acquisition by Lower Murray Water Authority of additional water entitlements to meet the demand for water created by the use or development. Compliance with this condition may be achieved by:-
 - * payment to Lower Murray Region Water Authority of the cost of the Authority purchasing the necessary additional water entitlement; or
 - * the owner or operator under the Permit procuring the transfer to Lower Murray Region Water Authority of the appropriate license or other entitlement to water to meet the relevant demand created; or
 - * a combination of the above; and
 whichever option is adopted the relevant entitlement shall be in due course transferred to the Bulk Entitlement of Lower Murray Region Water Authority in accordance with the Water Act 1989 or any successor legislation.

Date Issued:
30 November 2000
Planning and Environment Regulations 1988 Form 4.4

Signature for the
Responsible Authority:.....*[Signature]*

*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000

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1:00 MON 17:16

S/HILL RURAL CTY COUNCIL FAX NO.



PLANNING PERMIT

PERMIT NO. 99/21

Planning Scheme: Swan Hill Planning Scheme

Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

W850337P
190600 1018 173



THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

CONDITIONS REQUIRED BY TELSTRA

- 21. That the applicant enter into an agreement with Telstra or other licensed telecommunications carrier for the satisfactory provision of telephone cable reticulation one (1) metre into each allotment created.
- 22. That the plan of subdivision submitted for certification be referred to Telstra or other licensed telecommunications carrier, whichever is appropriate, in accordance with Section 8 of the Subdivision Act 1988.
- 23. Set aside on the plan of subdivision, reserve/s satisfactory to Telstra, for telecommunications substations if required.

CONDITIONS REQUIRED BY DEPT. NATURAL RESOURCES & ENVIRONMENT

- 24. Prior to the issue of a Statement of Compliance, the owner of the land shall:-
 - 24.1 enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987, with the Responsible Authority, and in a form satisfactory to both the Responsible Authority and the Department of Natural Resources & Environment (DNRE), which provides for a twenty (20) metre building setback from the north eastern Crown - freehold boundary and for a forty (40) metre building setback from the eastern Crown - freehold boundary, for all Lot abutting Crown Allotment 1F, Section A, Parish of Castle Donnington.
 - 24.2 pay for the costs of preparing the Section 173 agreement and to do all things necessary for the registration of the S173 agreement on title as per Section 181 (1-5).
 - 24.3 construct on the surveyed Crown land - freehold boundary, to the satisfaction of DNRE, a fence for all Lots abutting Crown Allotment 1F, Section A, Parish of Castle Donnington. The fencing shall be to a standard and colour as determined by the Responsible Authority, shall have no access gates or opening provision to the Crown land and the owner shall bear all costs of preparation and construction of the fence.

Date Issued: 30 November 2000
Planning and Environment Regulations 1988 Form 4.4

Signature for the Responsible Authority: *[Signature]*

*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000 *[Signature]*

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SWAN HILL RURAL CITY COUNCIL FAX NO. 51 2 50220017

P 06/10



PLANNING PERMIT

PERMIT NO. 99/206
Planning Scheme: Swan Hill Planning Scheme
Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:
CONDITIONS REQUIRED BY POWERCOR
25. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Limited in accordance with Section 8 of the Act.
26. The applicant shall:-
26.1 Enter into an agreement for the supply of electricity to each lot and for the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor Australia Limited, subject to Powercor Australia Ltd being able to provide a supply of electricity (A payment to cover the cost of such work will be required). In the event that a supply cannot be provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchases will be so informed.
26.2 Re-arrange, to the satisfaction of Powercor Australia Ltd, any existing private electric lines that cross boundaries of the proposed lots to supply existing installations. Such lines shall be constructed with underground cables.
26.3 Set aside on the plan of subdivision for the use of Powercor Australia Ltd a reserve(s) satisfactory to the Authority, where any electric substation (other than a pole mounted type) is required to service the substation.
26.4 Provide easements satisfactory to Powercor Australia Ltd. Where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall be for the purposes of "Power Line" in favour of Powercor Australia Ltd.

Date Issued: 30 November 2000
Signature for the Responsible Authority: [Signature]

*Note: This permit is amended by delegated authority from Council on Monday, 29 May 2000 [Signature]

PLANNING PERMIT

PERMIT NO. 99/206

Planning Scheme: Swan Hill Planning Scheme

Responsible Authority: Swan Hill Rural City Council

ADDRESS OF THE LAND: Lot 2, LP 113013, Parish of Castle Donnington Harrods Lane, Swan Hill

THIS PERMIT ALLOWS: 37 Lot Rural Residential Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 26.5 Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- 26.6 Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- 26.7 Obtain the approval of powercor Australia Ltd to lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- 26.8 Provide to Powercor Australia Ltd a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

CONDITIONS REQUIRED BY NORTH CENTRAL CATCHMENT MANAGEMENT AUTHORITY

- 27. The building envelopes are setback as follows:
Lots 5 to 9 - 40 metres, and
Lot 5 Northern Boundary - 20 metres.
- 28. The floor level of all dwellings be set a minimum of 400 millimetres above natural surface level.
(Note: Until such time as the Swan Hill Levee is completed and registered, condition No. 14 must be adhered to).



CONDITIONS REQUIRED BY GOULBURN MURRAY WATER

- 29. Prior to issue of the Statement of Compliance by the Rural City of Swan Hill the subdivider is required to obtain the Authority's approval for the subdi pursuant to Section 231 of the Water Act.

Date Issued:
30 November 2000
Planning and Environment Regulations 1988 Form 4.4

Signature for the
Responsible Authority:.....
[Signature]

*Note: This permit is amended by delegated authority from Council on Monday, 29 Ma 2000

W850337P
190600 1018 173



From: Tim F Norden (DEECA) Sent: Friday, April 19, 2024 9:21 AM To:
Subject: RE: OFFICIAL: RE: Environmental planning Hi Apologies, Things here have been
beyond what we would normally consider to be busy, we are doing almost double our normal monthly numbers at
the moment, while being 30% down on staffing. We agree to the variation for the North setback to no less than
15m. (Subject to you getting all relevant approvals from council) TN Kind Regards, TN Tim Norden (he/him) MPIA
Team Leader, Planning and Environment Assessment (North) | DEECA Planning Services | Regions,
Environment, Climate Action and First Peoples | Department of Energy, Environment and Climate Action Sending
to you from Dja Dja Wurrung Country Galkangu – Bendigo GovHub. 189-229 Lyttleton Terrace, Bendigo, VIC,



Department of Energy, Environment
and Climate Action

195-229 Lyttleton Tce Bendigo
Box 3100, Bendigo DC, VIC
3554
Telephone: 035430 4444
p&a.north@delwp.vic.gov.au

20231206 tn

13 River Oaks Drive
Swan Hill VIC 3585
(Via Email)

ADVICE

**: INSTALLATION OF A SWIMMING POOL (VARIATION TO A SECTION 173 AGREEMENT)
13 RIVER OAKS DRIVE, SWAN HILL.**

Thank you for your email requesting advice on varying a Section 173 agreement on your property for the purpose of installing an inground swimming pool.

I provide this response under delegation from the Secretary to the Department of Energy, Environment and Climate Action (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*), as successor to the Department of Natural Resources and Environment.

Comments/Issues

The property formally referred to as Lot 5 on Plan of Subdivision 430924 is subject to a Section 173 Agreement under the Planning and Environment Act 1987 placed on by Swan Hill Rural City Council at time of subdivision, at the request of the then Department of Natural Resources and Environment.

The purpose of the setback outlined in the agreement was to create 100m from top of bank on the Little Murray River (comprising a 60m frontage and the 40m setback on the freehold land) in order to meet the requirements of the then EPA septic code, and to reduce the amenity impacts of the subdivision on the public land estate.

The proposal you have put to the department is to install an inground swimming pool adjacent to the existing dwelling. This will encroach into the setback by approximately 6.5 metres.

Given the nature of the proposal, the department has considered the impacts on the objectives sought by the required setback, and has determined that there is no material detriment to these objectives in allowing the proposal to progress.

Response

DEECA consents to a variation of the Section 173 Agreement to allow the construction of an inground swimming pool within the setback area subject to the following conditions:

1. All buildings and works associated with the installation of the pool must be greater than 28 metres from the rear boundary of Lot 5, Plan of Subdivision 430924.
2. All fencing must be constructed in a muted colour to reduce visual amenity impacts.
3. Drainage water from the pool is not to flow in any of the depressions or the stormwater system that drains towards the Little Murray River. Drainage water from the pool should be used on the garden on the subject land or held in storage for disposal off-site at an appropriate location to the satisfaction of the Responsible Authority. If a salt treatment system is used in the pool, drainage water is to be contained and disposed of at an appropriate location offsite.

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Privacy and Data Protection Act 2014*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to foi.unit@delwp.vic.gov.au or FOI Unit, Department of Energy, Environment and Climate Change, PO Box 500, East Melbourne, Victoria 8002.



OFFICIAL

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tim Norden', written in a cursive style.

Tim Norden

Program Manager

Planning and Approvals

6 December 2023

Advertisement: Consent for 173 Variation to all river frontage neighbours.

Item: Swimming pool to be installed.

Address: 13 River Oaks Drive

Land owners:

I, located at A.Squirs grave swan hill..... consent to a variation to the 173 agreement which will allow the installation for a swimming pooling at 13 River Oaks drive.

I/We have read the environmental impact report and recommendations from Department of Environmental Conservation and Assessment (DECA) and viewed the site plan and have no objection and are happy for the swimming pool installation to proceed.

Signed:
27.4.24)
Date:

Advertisement: Consent for 173 Variation to all river frontage neighbours.

Item: Swimming pool to be installed.

Address: 13 River Oaks Drive

Land owners: [Redacted]

I, [Redacted] located at *Two Square Grove SWAN HILL* consent to a variation to the 173 agreement which will allow the installation for a swimming pool at 13 River Oaks drive.

I/We have read the environmental impact report and recommendations from Department of Environmental Conservation and Assessment (DECA) and viewed the site plan and have no objection and are happy for the swimming pool installation to proceed.

Signed: [Redacted]

Date: *26.4.2024*

Advertisement: Consent for 173 Variation to all river frontage neighbours.

Item: Swimming pool to be installed.

Address: 13 River Oaks Drive

Land owners: [REDACTED]

I [REDACTED] located at 3 SQUIRE GROVE SWAN HILL consent to a variation to the 173 agreement which will allow the installation for a swimming pooling at 13 River Oaks drive.

I/We have read the environmental impact report and recommendations from Department of Environmental Conservation and Assessment (DECA) and viewed the site plan and have no objection and are happy for the swimming pool installation to proceed.

Signed: [REDACTED]

Date: 27/4/2024

Advertisement: Consent for 173 Variation to all river frontage neighbours.

Item: Swimming pool to be installed.

Address: 13 River Oaks Drive

Land owners: [REDACTED]

I ... [REDACTED] located at 13 River Oaks Drive
consent to a variation to the 173 agreement which will allow the installation
for a swimming pooling at 13 River Oaks drive.

I/We have read the environmental impact report and recommendations
from Department of Environmental Conservation and Assessment (DECA)
and viewed the site plan and have no objection and are happy for the
swimming pool installation to proceed.

Signed: [REDACTED]

Date: 29/4/2024

SITE INFORMATION

SITE AREA: 3925.4 m²
 EXISTING BUILDING AREA: 258.7 m²

ZONING: GENERAL RESIDENTIAL ZONE (GRZ)

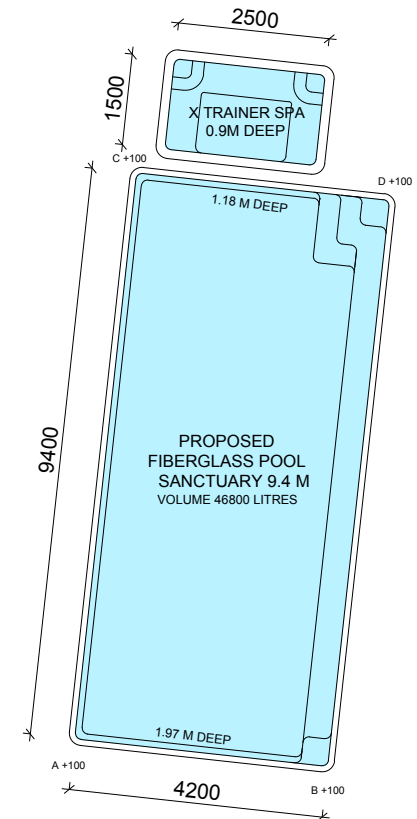
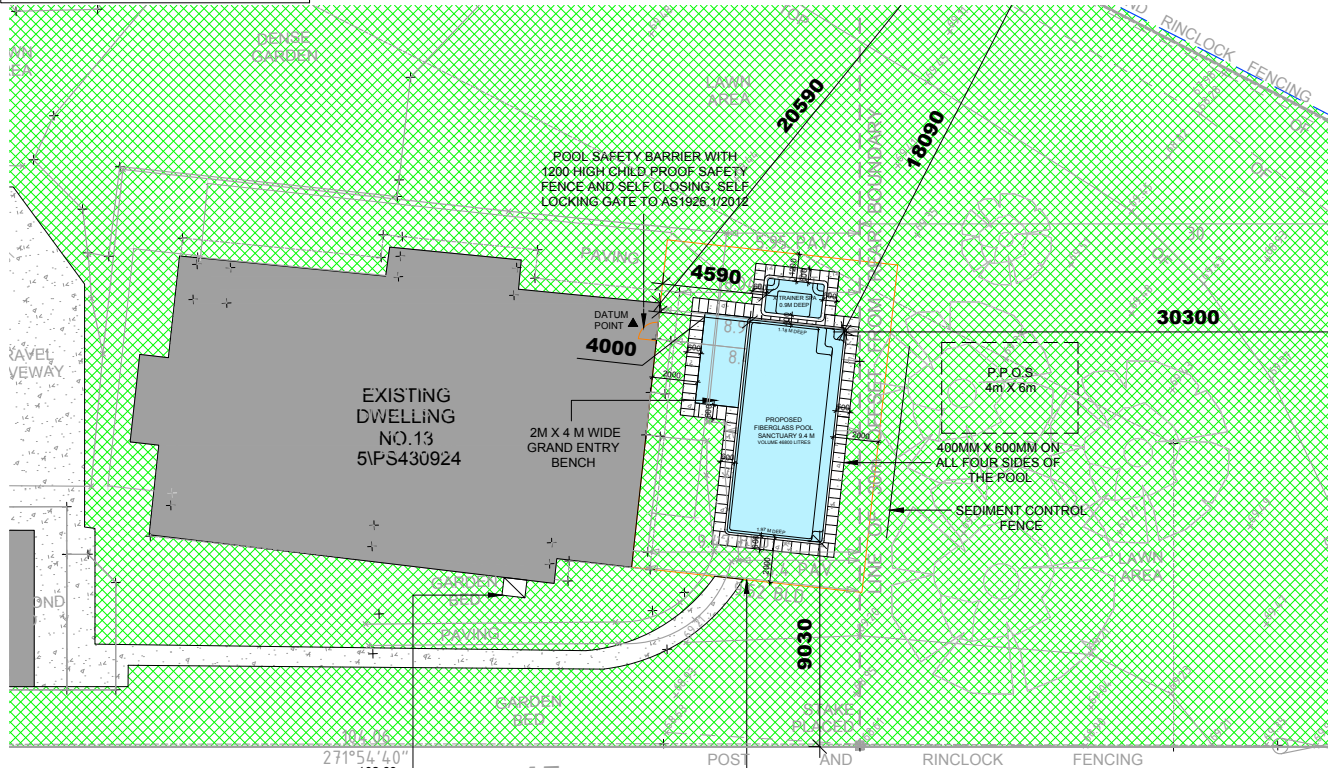
TEMPORARY BARRIER LAYOUT TO FOLLOW PERMANENT BARRIER LOCATION AS DRAWN ON SITE PLAN AS PER BUILDING REGULATIONS 2019_REG.116.

BUILDER TO ENSURE THE POOL FILTRATION SYSTEM WILL NOT ENCRoACH THE NON-CLIMBABLE ZONE OF THE SAFETY BARRIER OR OBSTRUCT SUPERVISION WITHIN THE POOL ENCLOSURE

BUILDER TO ENSURE NCZ'S AS PER AS 1926.1.

BUILDER TO USE A 200mm DEEP BOND BEAM IN THE EVENT A SOIL REPORT IS NOT SUPPLIED.

| LEGEND | |
|--------|--|
| | SOFT LANDSCAPE 1.5m WIDE & GREATER |
| | SOFT LANDSCAPE LESS THAN 1.5m WIDE |
| | HARDSTAND (CONCRETE, PAVERS, GRAVEL ETC.) |
| | EXISTING BUILDING FOOTPRINT |



POOL PLAN

SCALE 1 : 75 2

No. 15
 LOT 6 PS430924
 DOUBLE STOREY
 RENDER DWELLING

1200 HIGH CHILD PROOF
 SAFETY POOL FENCE TO
 AS1926.1/2012

SITE PLAN

SCALE 1 : 200 1

DISCLAIMER : It is the builder's responsibility to cross-check the one site measurements with the offsets, if the measurement do not match the drawings, the builder must report it to canibuild. when a proposed structure is closed to a sewer asset, it is the builder's responsibility to verify the offset from the sewer main and ensure that it is outside the ZOI (zone of influence).



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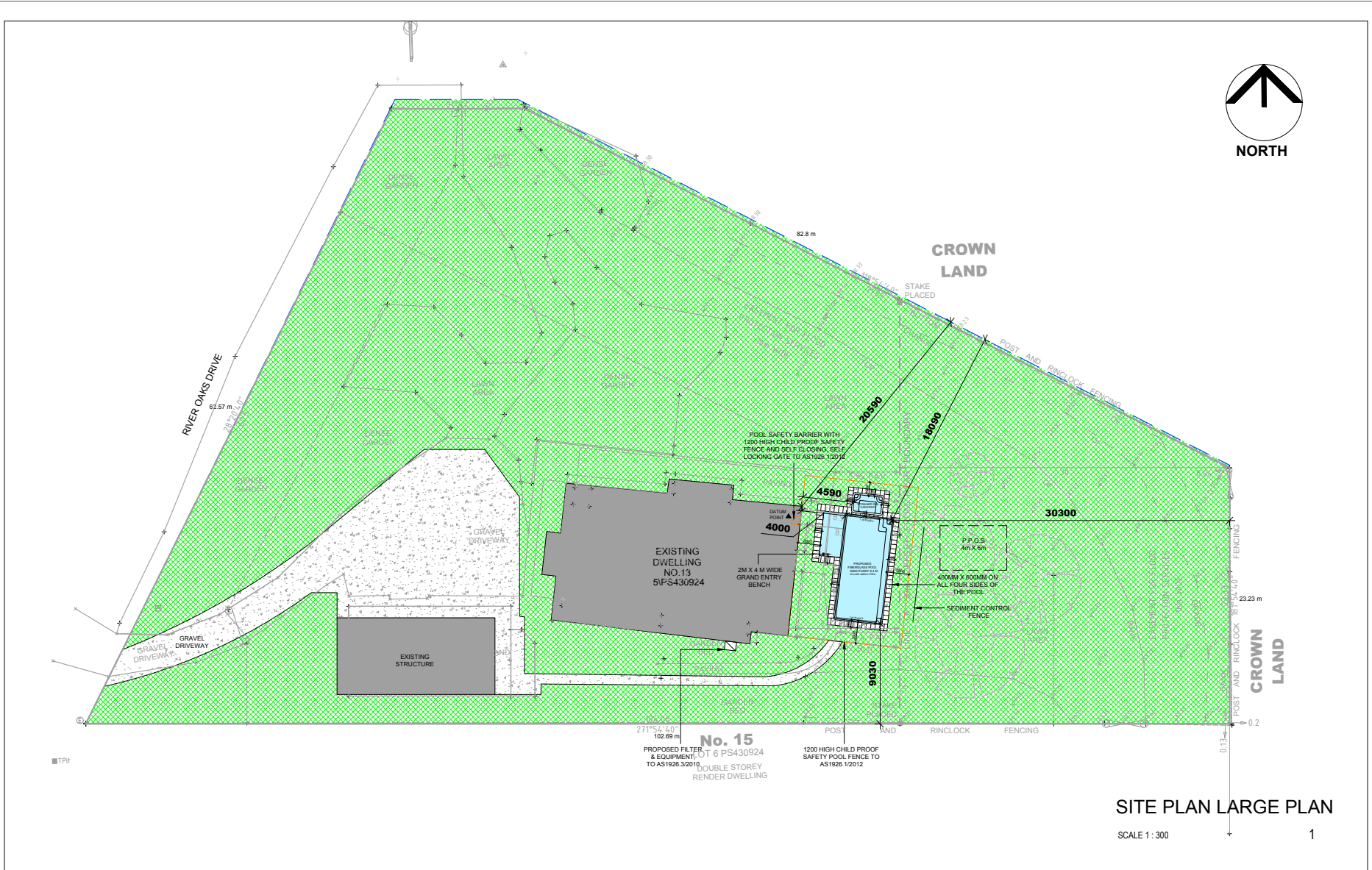
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| 12.03.2024 | APPROVAL | R2 |
| 15.03.2024 | APPROVAL | R3 |

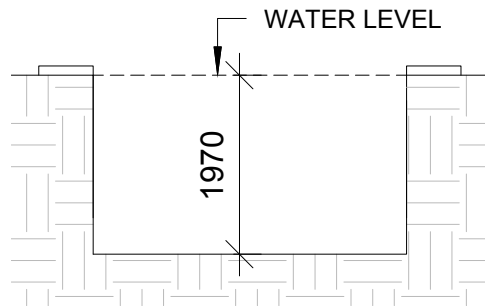
CLIENT'S NAME:
 13 River Oaks Drive,
 Swan Hill, VIC 3585,
 5IPS430924

| SHEET NAME: | RANGE: | SCALE @ A3: | SHEET NO.: | JOB NO.: |
|---------------|----------------|--------------|------------|----------|
| SITE PLAN | | As indicated | 1 | 959838 |
| SANCTUARY 9.4 | PROJECT STAGE: | REV NO.: | DATE: | |
| | APPROVAL | 3 | 15.03.2024 | |



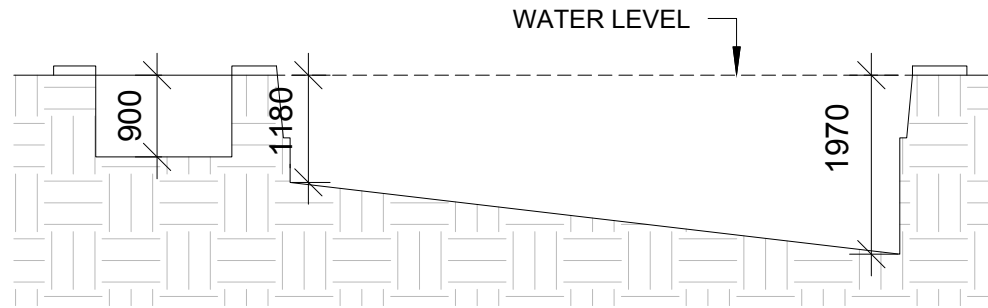
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| | | | 12.03.2024 | APPROVAL | R2 | | | | | | |
| | | | 15.03.2024 | APPROVAL | R3 | | | | | | |
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| | | | | | | 1:300 | 1A | | | | |
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| | | | | | | APPROVAL | 3 | 15.03.2024 | | | |

VERSION 1.04 POWERED BY CANIBUILD



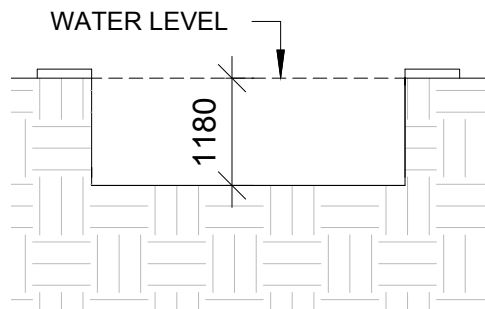
SOUTH ELEVATION

SCALE 1:50 1



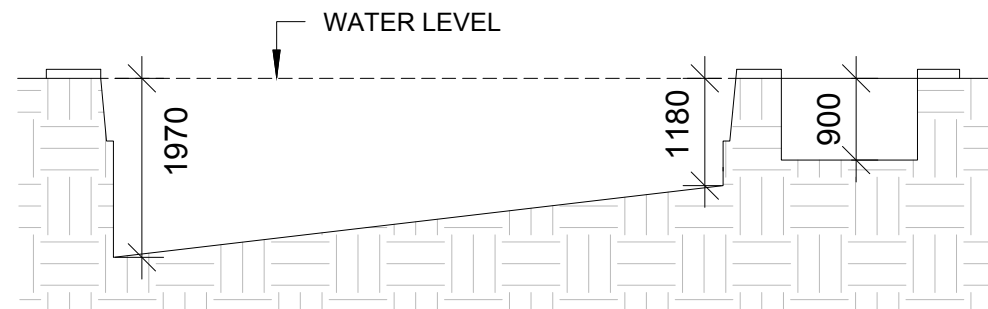
WEST ELEVATION

SCALE 1:50 2



NORTH ELEVATION

SCALE 1:50 3



EAST ELEVATION

SCALE 1:50 4



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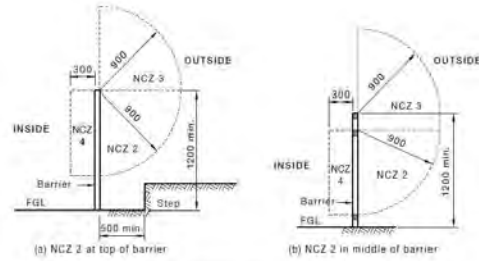
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| SECTION | | 959838 | |
| DESIGN NAME: | RANGE: | SCALE @ A3: | SHEET NO: |
| SANCTUARY 9.4 | | 1:50 | 2 |
| PROJECT STAGE: | REV NO: | DATE: | |
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POOL SAFETY BARRIER REQUIREMENTS

NON-CLIMBABLE ZONE



NOTE: The lower radius point of NCZ 2 may be located anywhere on the barrier provided there are no aids for climbing within the arc.

DIMENSIONS IN MILLIMETRES

FIGURE 2.1 (in part) EXAMPLES OF NON-CLIMBABLE ZONES (NCZs)

BOUNDARY BARRIERS

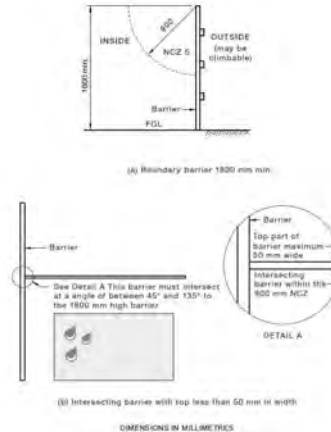


FIGURE 2.2 (in part) BOUNDARY BARRIERS

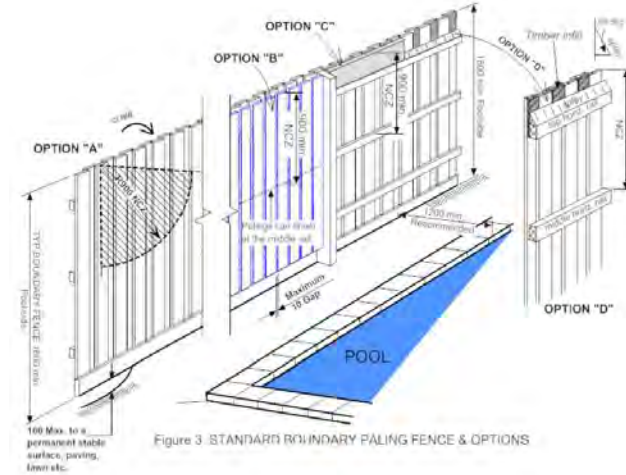


Figure 3 STANDARD BOUNDARY PALING FENCE & OPTIONS

BOUNDARY BARRIER INTERSECTING WITH INTERNAL BARRIER

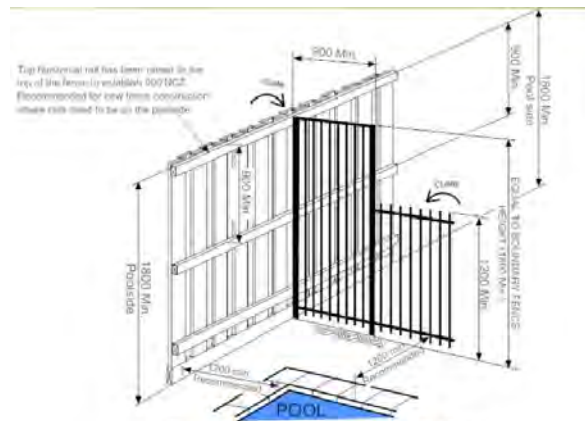


Figure 5 ALTERNATIVE BOUNDARY FENCE INTERSECTING A TYPICAL POOL BARRIER

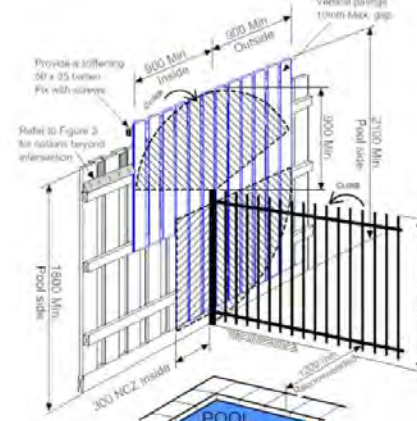


Figure 4 PROPERTY BOUNDARY FENCE INTERSECTING AN INTERNAL POOL BARRIER (Existing Fence)



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CLIENT'S NAME:
**13 River Oaks Drive,
Swan Hill, VIC 3585,
5IPS430924**

| SAFETY BARRIER NOTES 01 | | | |
|-------------------------|---------|-------------|-----------|
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POOL SAFETY BARRIER REQUIREMENTS

GLASS BARRIERS

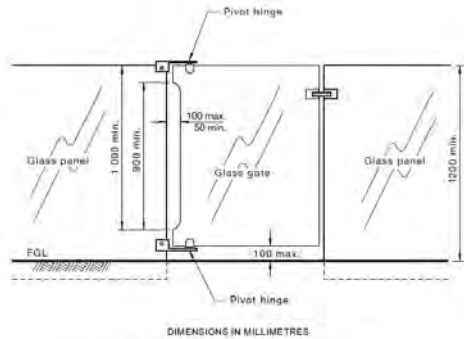
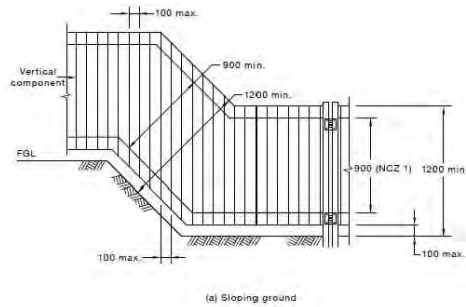
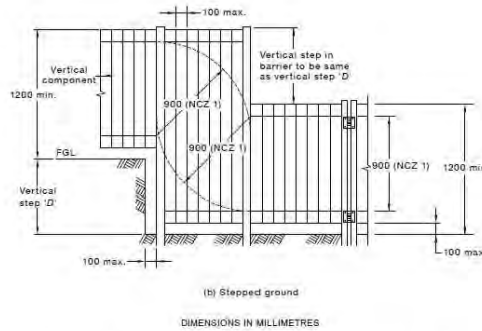


FIGURE 2.4 GLASS GATE WITH PIVOT HINGES

BARRIER CONSTRUCTION DIMENSIONS



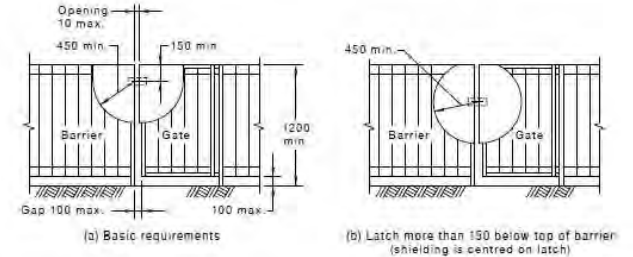
(a) Sloping ground



(b) Stepped ground

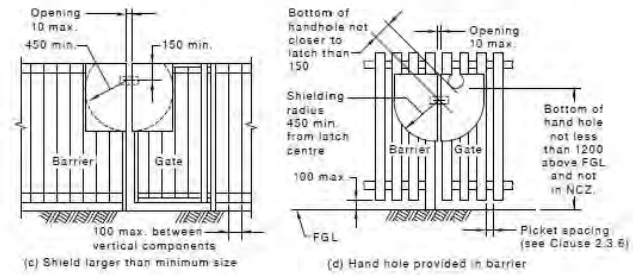
FIGURE 2.8 (in part) PERPENDICULAR BARRIER DIMENSIONS

LATCHING DEVICE SHIELDING



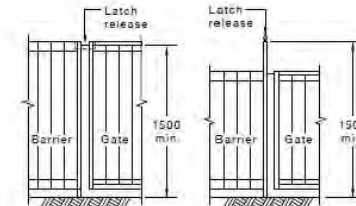
(a) Basic requirements

(b) Latch more than 150 below top of barrier (shielding is centred on latch)



(c) Shield larger than minimum size

(d) Hand hole provided in barrier



(e) Shield not required for latch or release located not less than 1500 above FGL

DIMENSIONS IN MILLIMETRES

FIGURE 2.9 ALTERNATIVE LATCH SHIELDING OPTIONS FOR GATES WITH VERTICAL OPENINGS 10-100 mm



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Swan Hill, VIC 3585,
5PS430924

| SHEET NAME: | | JOB NO: | |
|-------------------------|---------|-------------|-----------|
| SAFETY BARRIER NOTES 02 | | 959838 | |
| DESIGN NAME: | RANGE: | SCALE @ A3: | SHEET NO: |
| SANCTUARY 9.4 | | | 4 |
| PROJECT STAGE: | REV NO: | DATE: | |
| APPROVAL | 3 | 15.03.2024 | |



Please return this completed form to:
 PO Box 488, Swan Hill VIC 3585 | DX 30166
 45 Splatt Street, Swan Hill VIC 3585
 Tel: 03 5036 2333 | Fax: 03 5036 2340
 Email: planning@swanhill.vic.gov.au

Amending or Ending a Section 173 Agreement Application Form

You are able to apply to Swan Hill Rural City Council to amend or end a Section 173 Agreement on a land title. Depending on the complexity of the Agreement, the amendment/ending proposal will be actioned by Council officers and maybe referred to Council's solicitors if required. Interested parties to the Section 173 Agreement may be notified of the proposal, as applicable.

| Applicant's details | |
|---------------------|--------------------------------|
| Name: | [Redacted] |
| Postal Address: | 13 River Oak's drive Swan Hill |
| Contact Phone: | [Redacted] |
| Email: | [Redacted] |

| Section 173 Agreement Detail | |
|---|--|
| Reference and Date of Section 173 Agreement: | |
| Planning Permit Number that required the Agreement: | |
| Address of Subject Land: | |
| Title details (Volume, Folio, Plan of Subdivision numbers): | |
| Details of the nature of the change sought to the Section 173 Agreement | Amendment <input checked="" type="checkbox"/> End <input type="checkbox"/> |

| Reason for the proposed change to the Agreement |
|--|
| To allow a small swimming pool against the east side of the house. |
| Has written consent to the proposed change been obtained from all parties to the Agreement? |
| Yes -> from Department of energy, Environment and climate action. |

Declaration

I declare that I am the applicant, and that all the information in this application is true and correct; and the owner (if not myself), has been notified of the application.

Signature: _____ Date: 16-4-24



Please return this completed form to:
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 45 Splatt Street, Swan Hill VIC 3585
 Tel: 03 5036 2333 | Fax: 03 5036 2340
 Email: planning@swanhill.vic.gov.au

Amending or Ending a Section 173 Agreement Checklist

When applying to Council to amend or end a Section 173 Agreement, the following documentation must be submitted with your application:

| Checklist | Have you provided? |
|--|-------------------------------------|
| A completed application form | <input checked="" type="checkbox"/> |
| A copy of the title A full, current copy of the title of the property, including any restrictions/covenants listed. A copy of this can be purchased from the Land Titles Office www.landata.vic.gov.au . Copies of Titles must not be older than 3 months from the lodgment date of your application. | <input checked="" type="checkbox"/> |
| Detail of all parties to the Section 173 Agreement. A suitably qualified legal practioner must prepare this information. | <input checked="" type="checkbox"/> |
| A company search If the subject land is owned by a company, a company search must be submitted with the application to confirm he correct ownership details. The company search must not be older than 3 months from the lodgment date. | NA <input type="checkbox"/> |
| The appropriate fee. A statutory fee is required. This covers the administration costs (including advertising or referral) of amending or ending the agreement. Please refer to Council's website for current fee: https://www.swanhill.vic.gov.au/building-and-planning/planning/fees-forms-checklists/ PLEASE NOTE: * Fees may be subject to change * If the agreement requires referral to Council's solicitors, the applicant will be responsible for any associated costs. An esitmate of costs will be provided prior to the application being referred. | <input checked="" type="checkbox"/> |
| Written statement outlining the reasons for amending or ending the Agreement. The application must be accompanied by a written statement that outlines the purpose of the amendment or ending of the Agreement, why the amendment or ending of the agreement is required, and any changes in circumstances that necessitates the proposed amendment. | <input checked="" type="checkbox"/> |

Personal Information

The personal information on this form is collected by Swan Hill Rural City Council (Responsible Authority) for the purpose of considering your application under the Planning & Environment Act 1987 (the Act). If you do not provide the prescribed information, Council will not be able to consider your application. You must not submit any personal information or copyrighted material of third parties without their informed consent. By submitting the material, you agree that the use of the material as detailed above does not breach any third party's right to privacy and copyright. Personal Information includes:

- * a third party's opinion about the planning applicaiton or related issue
- * photographs of a third party or their property
- * the name, address or contact details of any third party

If you have any concerns or wish to request access to your personal information, please contact Council's Planning Department on 5036 2352.

3 Close of Meeting

There being no further business the Mayor, Councillor Cr King closed the meeting at 1:33 pm.