

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P668/2025
PERMIT APPLICATION NO.DO89-23

CATCHWORDS

Farming Zone; Salinity Management Overlay; Bushfire Management Overlay; Erosion Management Overlay; Retrospective approval for earthworks for a dam; Permission to develop and use a dwelling; Construction of an outbuilding; Need for dwelling; Erosion, Salinity and Soil quality; Bushfire risk; Vegetation removal.

APPLICANT	Daniel Dawson
RESPONSIBLE AUTHORITY	Central Goldfields Shire Council
SUBJECT LAND	187 Logan Road ALMA VIC 3465
HEARING TYPE	Hearing
DATE OF HEARING	29 January 2026
DATE OF INTERIM ORDERS	3 February 2026
DATE OF FINAL ORDER	21 July 2026
CITATION	Dawson v Central Goldfields SC [2026] VCAT 294

ORDER

Permit granted

- 1 In application P668/2025 the decision of the responsible authority is set aside.
- 2 In planning permit application DO89-23 a permit is granted and directed to be issued for the land at 187 Logan Road Alma VIC 3465 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

Development and use of the land with a dwelling, outbuilding and dam, vegetation and native vegetation removal, and associated land management.

Planning scheme clause	Matter for which the permit has been granted
Clause 35.07-1	Use of site for the purpose of a dwelling as lot (7.84ha) is less than the minimum lot size (40ha) in Farming Zone
Clause 35.07-4	Construct a building or construct or carry out works associated with a permit required land use (dwelling) in Farming Zone



Clause 35.07-4	Construct a building and construct or carry out works for an outbuilding of 288sqm in size (i.e. over 250sqm in size) in Farming Zone
Clause 35.07-4	Earthworks associated with a dam that changes the rate of flow or the discharge point of water across a property boundary in Farming Zone
Clause 44.01-2	Construct a building or construct or carry out works (including an outbuilding with an area of 120sqm or more) in Erosion Management Overlay
Clause 44.01-3	Remove, destroy or lop vegetation for a defensible space in Erosion Management Overlay
Clause 44.02-2	Construct a building or construct or carry out works (including an outbuilding with an area of 120sqm or more) in Salinity Management Overlay
Clause 44.02-4	Remove, destroy or lop vegetation for a defensible space in Salinity Management Overlay
Clause 44.06-2	Construct a building or construct or carry out works associated with Accommodation land uses (which includes the dwelling and associated outbuilding) in Bushfire Management Overlay
Clause 52.27	Remove, destroy or lop native vegetation, including dead native vegetation

Rachel Naylor
Senior Member

APPEARANCES

For applicant	Julie Lee, town planner of NRLinks Pty Ltd
For responsible authority	Nicola McGowan, town planner of Urban Design and Management Pty Ltd

INFORMATION

Land description	The site is on the east side of Logan Road. Its northern boundary has a 220m frontage to Logan Road. It has a total area of 7.84ha. Approximately half of the site (to the rear) is vegetated, and, at the rear, it abuts the Timor State Forest (to its south). The northern half of the site has been largely cleared of vegetation. This land has a gentle fall to the northwest.
Description of proposal	The overall proposal is to develop and use the land with a dwelling, outbuilding and dam, vegetation and native vegetation removal, and associated land management. The details include: To construct a brick dwelling with a Colorbond roof about 195m from the Logan Road frontage and 30m from the eastern side boundary. The dwelling will be single storey, contain four bedrooms and an attached double garage with a total floor area of 240sqm. To construct an outbuilding of 432sqm in area that is about 63 metres south of the dwelling and 16m from the eastern side boundary. Retrospective approval to construct a dam about 84m from the Logan Road frontage and 27m from the western side boundary. It has an estimated capacity of 1,223 cubic metres. To remove vegetation and native vegetation where necessary as part of the above listed building and works.



Nature of proceeding

Application under section 77 of the *Planning and Environment Act 1987* (Vic) – to review the refusal to grant a permit.

Planning scheme

Central Goldfields Planning Scheme

Zone and overlays

Farming Zone (**FZ**)

Salinity Management Overlay (**SMO**) affects all the site

Bushfire Management Overlay (**BMO**) affects some of the site

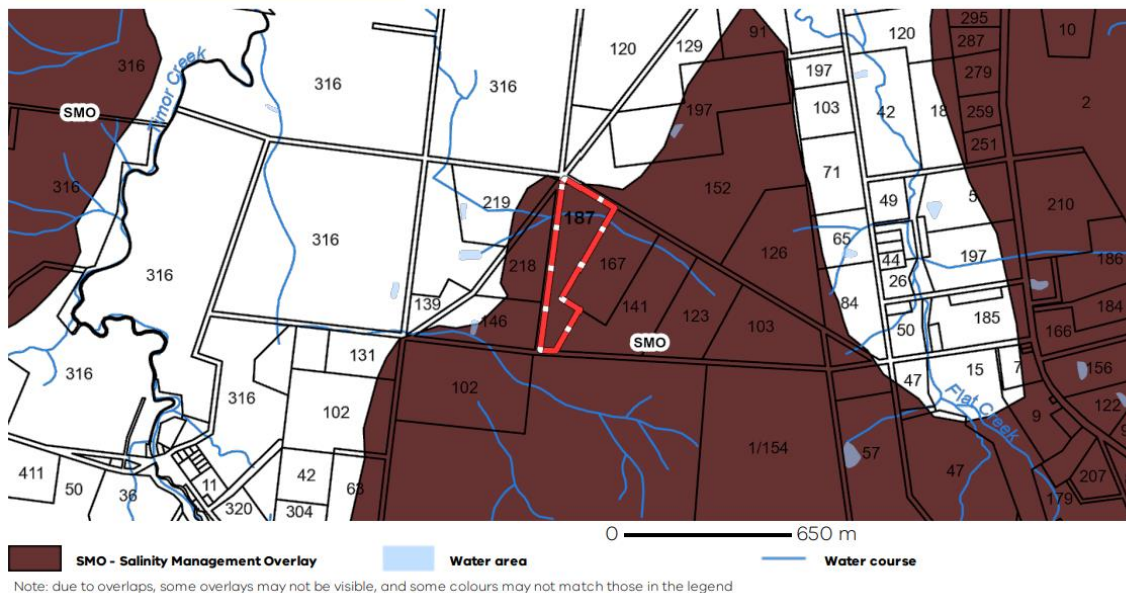
The entire area on the maps shown below is in a designated bushfire prone area.

Erosion Management Overlay (**EMO**) affects some of the site

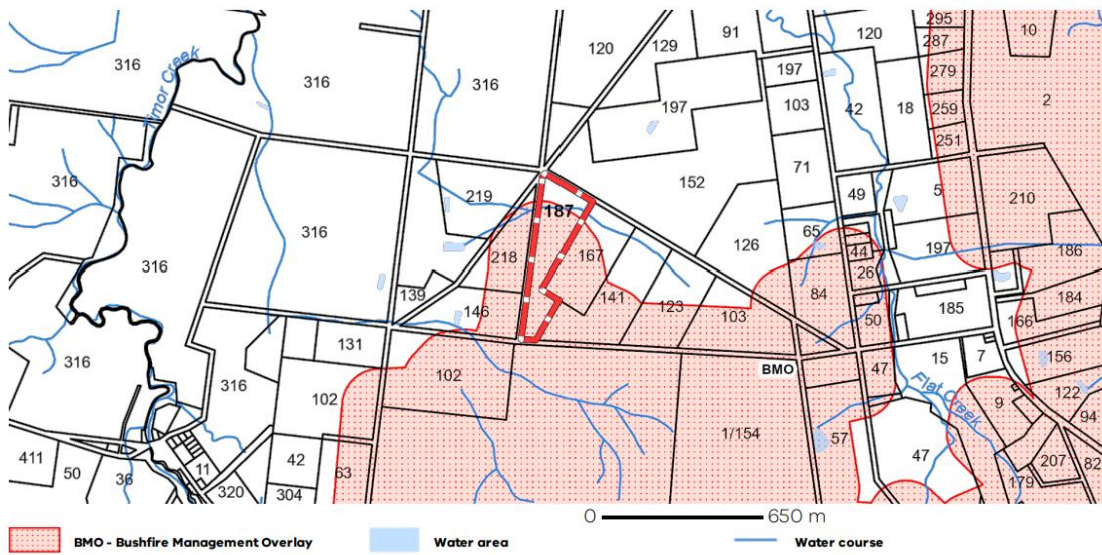
The overlay maps in the Planning Property Report submitted by the applicant are reproduced to put the extent of the overlays into context for both this site and the surrounds. The extent of these overlays has not changed since the hearing.

[SALINITY MANAGEMENT OVERLAY \(SMO\)](#)

[SALINITY MANAGEMENT OVERLAY SCHEDULE \(SMO\)](#)

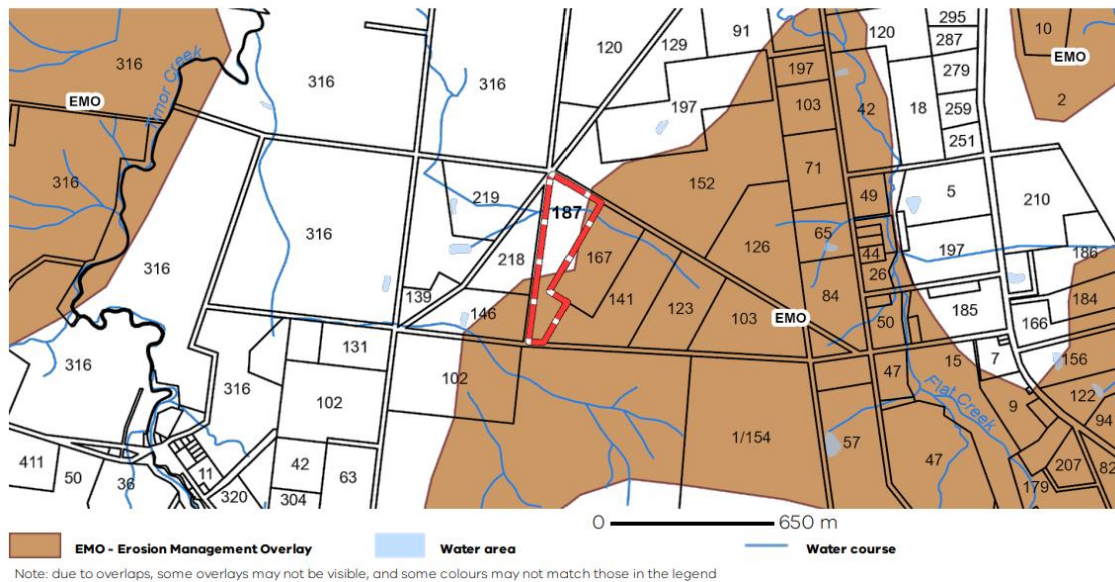


BUSHFIRE MANAGEMENT OVERLAY (BMO)



EROSION MANAGEMENT OVERLAY (EMO)

EROSION MANAGEMENT OVERLAY SCHEDULE (EMO)



Permit requirements

Clause 35.07-1 Use of site for the purpose of a dwelling as lot (7.84ha) is less than the minimum lot size (40ha) in FZ

Clause 35.07-4 Construct a building or construct or carry out works associated with a permit required land use (dwelling) in FZ

Clause 35.07-4 Construct a building and construct or carry out works for an outbuilding of 432sqm in size (i.e. over 250sqm in size) in FZ

Clause 35.07-4 Earthworks associated with a dam that changes the rate of flow or the discharge point of water across a property boundary in FZ

Clause 44.01-2 Construct a building or construct or carry out works (including an outbuilding with an area of 120sqm or more) in EMO*

Clause 44.01-3 Remove, destroy or lop vegetation for a defensible space in EMO*

Clause 44.02-2 Construct a building or construct or carry out works (including an outbuilding with an area of 120sqm or more) in SMO*

Clause 44.02-4 Remove, destroy or lop vegetation for a defensible space in SMO*

Clause 44.06-2 Construct a building or construct or carry out works associated with Accommodation land uses (which includes the dwelling and associated outbuilding) in BMO*

Clause 52.17 Remove, destroy or lop native vegetation, including dead native vegetation

* Clauses 44.01-7 (EMO), 44.02-7 (SMO) and 44.06-7 (BMO) exempt these parts of the planning application from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

REASONS¹

Summary of dispute and decision

- 1 Daniel Dawson (**the applicant**) is seeking:
 - i planning permission for the use and development of a dwelling and a large outbuilding including any necessary vegetation removal, and
 - ii retrospective permission for the construction of a dam.on the land at 187 Logan Road, Alma (**the/this site**).
- 2 Central Goldfields Shire Council (**council**) has refused this planning application on seven grounds. Council's submission summarises its position that:
 - The use and development of a dwelling, outbuilding and dam is not appropriate in the context of the Farming Zone (**FZ**), Bushfire Management Overlay (**BMO**) and Salinity Management Overlay (**SMO**).
 - The proposed dwelling and outbuilding are contrary to policies that address the use and development of agricultural land and rural use.
 - This is a type of complex planning decision often encountered in regional areas on small lots like this with limited agricultural potential. Council says the site is zoned Farming and should be used as such. Council does not want to see a proliferation of houses on small lots, as such an area essentially becomes a rural living area and council does not want to see this occur in this part of Alma now.
- 3 This decision has involved complex considerations because of the various planning permissions required. The site is zoned Farming but has other considerations because of the overlay controls that apply, including the Salinity Management Overlay (**SMO**). There are few Tribunal decisions about the SMO and what the purpose of the SMO is intending to achieve. For the reasons explained, I have decided to grant a permit, and the SMO has been a key consideration in this case.

Preliminary issues and procedural matters

- 4 At and during the hearing, some issues arose about the planning permissions, the details of the proposal, and procedural fairness and natural justice. These are documented as follows.

The size and use of the outbuilding

- 5 The proposed outbuilding has a large floor area of 432 square metres.

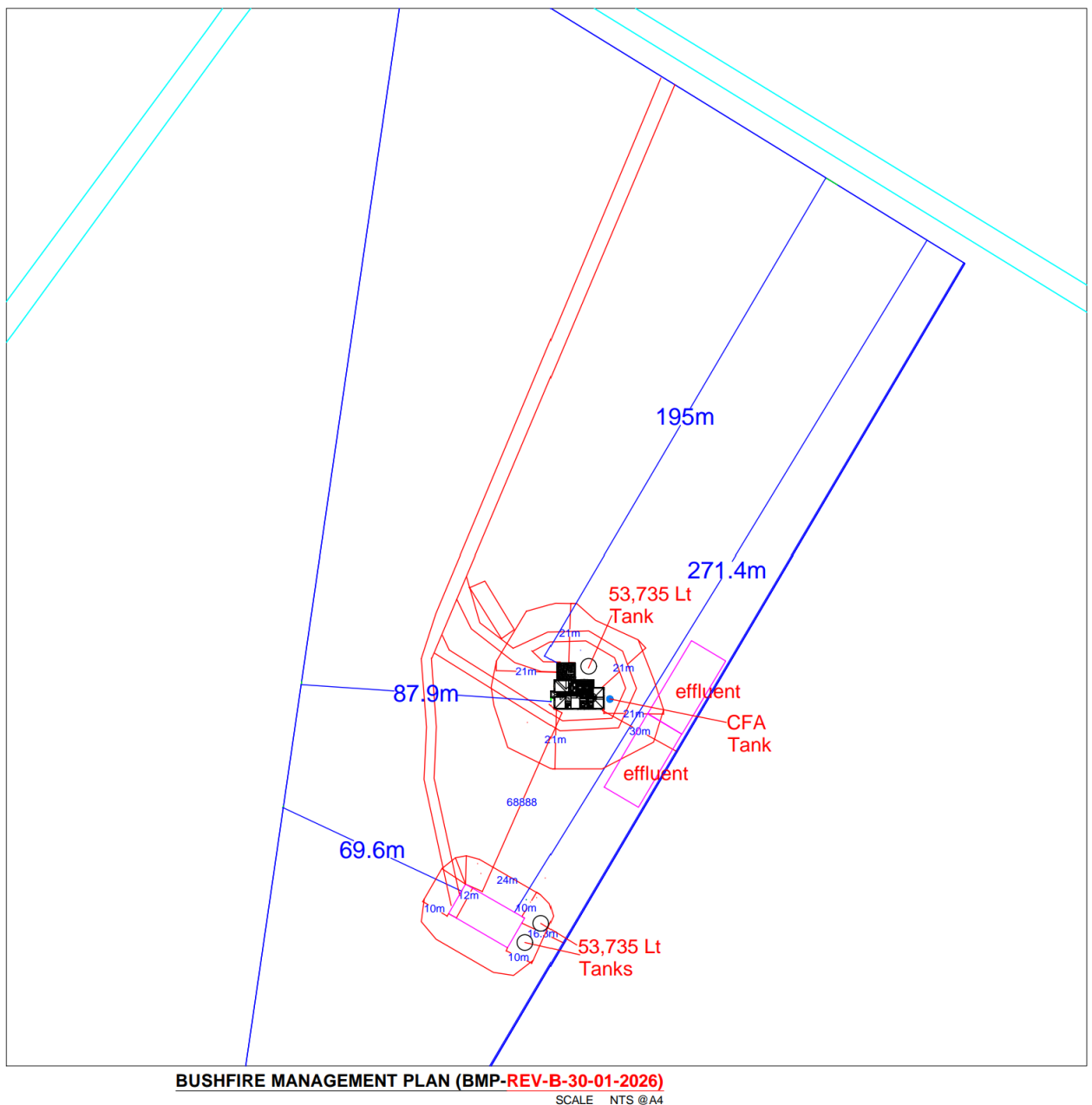
¹ The submissions of the parties, the supporting exhibits given at the hearing, the statement of grounds filed by Goulburn-Murray Water as well as the draft permit conditions and the submissions filed after the hearing (with my leave) have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all this material will be cited or referred to in these reasons.



- 6 The planning application was accompanied by lengthy, detailed reports including a planning permit report, a land/farm management plan and a bushfire management report.
- 7 Council's processing of the permit application and its submission to this hearing does not address the proposed use of the outbuilding as described in the planning permit report on page 30. This report states 70% of the outbuilding will provide housing for domestic/agricultural purposes including a boat, cars and farm machinery. The remainder will be a sky lift and items used in the applicant's rural shed building business. When I raised this at the start of the hearing, council expressed concern about 30% of the floor area being associated with a business.
- 8 During the hearing, the applicant offered not to use the outbuilding in association with the rural shed building business, and to remove about 30% of the outbuilding that is an awning measuring about 24 metres by 6 metres. The applicant offered to provide an amended plan showing this, which in turn would result in less native vegetation needing to be removed to create the bushfire defendable space.
- 9 An amended plan was subsequently provided in the Bushfire Management Report Rev B (explained further below). This change needs to be incorporated into the permit conditions.

CFA consent

- 10 During the hearing, it became unclear whether Country Fire Authority's (CFA/CFA's) referral response dated 8 April 2025 (CFA Ref: 2000-80710-143462) provides conditional consent to the Bushfire Management Plan on the last page of the Bushfire Management Report. CFA's response requires a permit condition that the Bushfire Management Plan (**BMP**) prepared by NR Links Pty Ltd (Reference: 2585 dated October 2024) must be endorsed.
- 11 The Bushfire Management Report has a date of Sep 2024 on the front cover and on page 2 notes that it was revised as Rev A in Feb 25 by revising the shed location. The BMP contained on the last page of the Rev A Bushfire Management Report has a notation in red "(BMP-REV-A-20-2-2025)". So, this BMP may not be the one referred to in CFA's condition.
- 12 Furthermore, as explained in the previous section, the size of the outbuilding is proposed to be reduced. The applicant has now provided a revised Bushfire Management Report Rev B dated Jan 26 that reduces the shed size (an extract of the Bushfire Management Plan Rev B on the last page of this Report is provided on the following page).



This BMP includes the dwelling (in black), the access road and the outbuilding (in red) with the defendable spaces shown in red around the two buildings.

- 13 The applicant provided the Bushfire Management Report Rev B to the Tribunal, council and CFA by email on 30 January 2026. So, the Tribunal issued an order on 3 February 2026 requiring CFA to advise the Tribunal and the parties of its view on the Bushfire Management Report Rev B dated Jan 26 and any changes to its conditional consent.
- 14 On 13 February 2026, CFA confirmed its consent to the amended BMP (Rev B dated 30-01-2026) and the amended smaller dimensions of the proposed outbuilding. CFA advises its conditions of consent should therefore be amended to refer to this amended BMP.

Planning permissions

- 15 At the start of the hearing, I identified with the parties that their submissions, the draft permit conditions, the applicant's planning permit report lodged with the permit application, and the public notice given all list differing planning permissions for this proposal.
- 16 Each of the permissions identified by the applicant's planning permit report (version B) were discussed. Where appropriate, the relevance of some planning permissions is explained in the balance of my reasons. Suffice to say at this point that some time was spent at the start of the hearing clarifying the planning permissions. This is an important early step in the Tribunal's considerations. It is necessary to be aware of what does and does not require planning permission. The outcome of those discussions are the planning permissions already set out in the Information Section at the start of this Order.
- 17 The applicant explained how the extent of the EMO is a little difficult to discern given the scale of the planning scheme map and the weaving of the extent of the overlay across the site. The applicant has erred on the side of caution in deciding that planning permission may be required for works associated with the dwelling, the effluent fields and the outbuilding. Council does not think planning permission is required but agreed it is a bit difficult to tell. Given this, the parties agreed to include the EMO planning permissions for building and works and vegetation removal.

Vegetation removal

- 18 The applicant's planning permit report refers to permission to remove native vegetation under clause 52.17 and permission to remove vegetation under the SMO.
- 19 In regard to clause 52.17, the applicant's planning permit report refers to trees already removed from the site in general terms. Council also raised this as a preliminary matter, pointing out 'significant vegetation removal has already occurred on the site without planning permission'. Council acknowledges this does not form part of this permit application as the loss of vegetation cannot be retrospectively approved. Council acknowledged in its request for further information letter as part of the permit application process that separate enforcement action is 'more appropriate to attempt to remedy as far as possible damage by illegal clearing'.² Hence, vegetation already removed is not a relevant consideration in this case.
- 20 The extent of vegetation removal contained in this permit application relates to the required bushfire defendable spaces, being:
 - a The potential removal of one tree identified by the applicant as being associated with the originally proposed shed (with its larger size); and

² Council's letter to the applicant requesting further information to assess the permit application dated 20 December 2024.



- b A small lineal line of juvenile trees associated with the proposed dwelling.
- 21 Council has also highlighted that the proximity of the eastern edge of the dam to an existing tree may mean that that tree is considered lost.
- 22 The Applicant submits it is possible that no vegetation may be removed for the defensible spaces (a matter discussed later in these reasons). Given the limited information about the location of vegetation relative to the proposed buildings and works, I have decided to err on the side of caution and consider planning permission for vegetation removal under the EMO, SMO and clause 52.17.
- 23 Council is critical of the lack of detail about proposed replacement planting in the permit application. Given the limited extent of vegetation removal that forms part of this application, I agree with the applicant that this is a matter that can be dealt with by permit conditions, where necessary.

Land/Farm Management Plan

- 24 An updated version of the Land/Farm Management Plan was provided by the applicant for the compulsory conference (held earlier in the processing of this VCAT application). The applicant subsequently referred to it in its submission to this hearing assuming that it was part of the material before me.
- 25 As it was submitted for the compulsory conference, it was confidential and not on the Tribunal's file of materials for the hearing. Council agreed that it could be referred to by the applicant as the changes contained within it are matters of detail rather than substance. Accordingly, the applicant resubmitted it and I have considered it.

Draft permit conditions

- 26 Council circulated updated draft conditions the afternoon before this hearing began. The applicant submits this updated draft contains considerable changes, and that they have been unfairly disadvantaged by the late notice given the detailed content of the conditions. Council agrees that the conditions have changed.
- 27 At the end of the hearing, the parties agreed they would further discuss the conditions. So, the Order issued on 3 February 2026 put in place a process for a revised set of conditions to be provided by council that the applicant could respond to (i.e. any conditions that remain in dispute). The Order required council to circulate revised draft conditions by 23 February 2026 and allowed the applicant to respond to any conditions remaining in dispute by 2 March 2026.
- 28 Both parties have complied with the process set out in the Order. Council advises that its updated conditions include the modifications to the CFA conditions to refer to the smaller outbuilding and Revision B amended bushfire management plan. So, I now have revised draft permit conditions



before me, some of which are disputed by the applicant. Later, I provide my findings about the conditions of the permit, where appropriate.

The site, surrounds and the proposal

The site and surrounds

- 29 The site consists of a single land title with an irregular shape and a total area of approximately 7.84 hectares. It contains open pasture; some cleared land and remnant vegetation as illustrated in the extract of the aerial view from the applicant's Planning Report (below).



- 30 The dam is in the northwest part of the site (top left of the site in the above aerial view). There is heavily treed remnant vegetation in the southern half of the site. The applicant submits there is a slight slope of around 2.4 degrees. The open pasture at the northern end is relatively flat and some of it forms part of a natural overland drainage corridor at times. The applicant submits the site has a history of pasture improvement and low-level grazing.
- 31 The Land Capability Assessment Report (LCA) submitted with the permit application describes the soil as having a small topsoil layer of class 4a (being moderately structured clay loam) overlaying a subsoil that is class 5a (being strongly structured light clay). Groundwater depth is less than 5 metres in the northern part of the site and the LCA records the groundwater salinity at 3500-7000mg/L.

- 32 Council describes the surrounds as an active agricultural area. While there are some houses in the area, council submits there is not a proliferation of dwellings and that this is not a rural living area. Council describes the two closest dwellings at 152 Logan Road and 126 Logan Road as both modest in size and set quite close to the Logan Road road frontage, ‘unlike this proposal’. Council points out Maryborough township is not far away. This is illustrated in the site context aerial illustration (figure 5 of the council officer’s report) that I have extracted below.



Figure 5 - Site context (Landchecker 25 September 2023)

The site is highlighted in white, and the edge of Maryborough township can be seen in the bottom right corner of the aerial view.

- 33 The council officer report also describes the local area as extracted below:

The local landholding pattern is relatively fragmented, with lot sizes in the immediate area generally ranging between 8 to 12 hectares. While some larger parcels exist—including 152 Logan Road to the immediate north and 316 Logan Road to the west—these larger lots are the exception rather than the rule. Most properties in the vicinity do not contain dwellings and appear to be either undeveloped or lightly managed for low-intensity rural use.

Existing dwellings are located at 152 Logan Road and 126 Logan Road. A review of available planning records indicates there is no planning permit history for the construction of these dwellings. Additionally, no other planning permits have been issued for dwellings on Farming Zone lots along Logan Road.

Further afield, particularly to the north and west of the site and beyond the immediate Logan Road area, the pattern of land use shifts. Lot sizes increase and a more traditional agricultural landscape begins to emerge, with properties showing signs of broadacre farming and other forms of rural enterprise more typical of the Farming Zone.³

³ Extract from page 5 of the council officer report.

The proposal

- 34 In addition to retrospective approval of the existing dam, the proposal also includes the construction of a dwelling and outbuilding. The locations of these are best shown in the Bushfire Management Plan Rev B (**BMP**) (extract already provided on page 9 of these reasons) that includes the suggested smaller outbuilding that has an area of 12 by 24 metres (a total floor area of 288 square metres).
- 35 Both the dwelling and outbuilding are single storey. The latest BMP has a rectangle to the northwest of the dwelling and adjacent to the access road that is nominated as a passing bay on the earlier Rev A plan. The Rev B plan includes the effluent fields, the water tanks and the CFA fire fighting tank. It is unclear from the Rev B plan whether vegetation removal is still necessary in the defendable space of the smaller outbuilding. I have proceeded to consider this proposal on the basis that vegetation removal does remain necessary.

What are the key issues?

- 36 The council officer report states:

The key issue remains whether a dwelling is required to achieve the proposed land management outcomes. In this case, consistent with multiple VCAT decisions, the answer is no. The dwelling appears to support a rural lifestyle outcome rather than an essential agricultural need. Approval in such circumstances would risk shifting the primary use of the land from agriculture to residential, undermining the objectives of the Farming Zone, which seeks to retain productive land for agricultural use and avoid the fragmentation of rural land.

The site is physically capable of accommodating the dwelling, and no insurmountable issues have been raised under the BMO or SMO or from relevant referral authorities. However, these matters do not outweigh the strategic planning concerns relating to the inappropriate use and development of rural land for lifestyle living, contrary to both State and local policy directions.⁴

- 37 Having considered the planning application documentation, the submissions and materials filed for and after this hearing together with the relevant planning provisions and policies in the planning scheme and the *Planning and Environment Act 1987* (Vic), I have decided to grant a permit subject to conditions. The conditions imposed include some of the recommendations made by the applicant's representative. The key issues that I have considered in reaching my decision are:
- Relevant considerations about agricultural land and environmental risks;
 - The use of the land for the purpose of a dwelling, which is acceptable;

⁴ Extract from pages 18 and 19 of the council officer report.



- The development of a dwelling, which is acceptable;
- The development of an outbuilding, which is acceptable; and
- Vegetation removal, which is acceptable.

38 My reasons follow.

Agricultural land and environmental risks

- 39 Council's concerns have focussed upon whether the dwelling supports 'an essential agricultural need' (to quote the words in the council officer report extract at paragraph 36 of these reasons).
- 40 Whilst the whole of the site is zoned Farming, the fact is at least half of it is covered in remnant vegetation and/or is proposed in the land/farm management plan to be in a 'conservation' area. As such, no more than half of the site (as a rough estimate) is available for agricultural purposes.
- 41 The Farming Zone purpose is broad and includes identifying land for agriculture, employment and population to support rural communities, as well as:
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
 - To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- 42 The last quoted purpose above is a key consideration in this case. This is because of the existing condition of the land and the SMO that affects the whole of the land as well as the surrounding area to the east, west and south (an issue that I will explain later).
- 43 There are no decision guidelines in the Farming Zone that require the 'need' for a dwelling to be demonstrated or considered. Rather, it is about:
- Whether the dwelling will result in the loss or fragmentation of productive agricultural land. In this case, the parties agree that this site cannot currently be considered productive agricultural land. This is because of the soil condition (including salinity) and that some of the land is covered in remnant vegetation.
 - Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land or will adversely affect the operation and expansion of adjoining and nearby agricultural uses. Land to the south, southeast and southwest is remnant vegetation. Therefore, there is limited land with agricultural potential that may be adversely affected. I have not been provided with any information about existing or nearby agricultural uses. The applicant submits the adjoining land to the east, which is closest to the proposed dwelling, is not actively farmed as evidenced by the juvenile river red gum trees that are growing in its northern area where overland flow may occur.

- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture. Council submits this proposal is acting as a precedent for more dwellings. The applicant submits there are already a few scattered dwellings. Council has mentioned two nearby dwellings specifically. Even if there are a few scattered dwellings, it is still necessary to consider the impact of this proposed dwelling. For the reasons explained in the previous dot point, there appears to be limited active farming occurring in the immediate surrounds. I have no material before me to suggest or demonstrate that the dwellings (existing and this proposal) are or will adversely impact on the use of nearby land for agriculture.

44 The planning policy at clause 14.01 does not specifically discourage dwellings amongst agricultural or rural land use activities. Sustainable agricultural land use is encouraged at clause 14.01-1S, including maintaining the long-term sustainable use and management of existing natural resources, and supporting adaptation of the agricultural sector to respond to the potential risks arising from climate change. Also, at a local level in clause 14.01-2L, ecologically sustainable farm management practices are encouraged with a strategy to:

Prioritise the findings of salinity and nutrient catchment management plans in the assessment of land use and development applications in rural zones.

45 Clause 02.03-3 identifies that managing the impact of land uses on soil quality, erosion and salinity throughout the Shire is important for the preservation of high-quality soils and the protection of waterways and groundwater tables in the catchment. I was told in the hearing that the landscape has not changed around this site since at least 2017.

46 As shown in the Erosion Management Overlay (**EMO**) and Salinity Management Overlay (**SMO**) maps earlier in this decision, this site is wholly within a SMO and partly affected by an EMO. The purposes of EMO and SMO include to do no further harm, to understand what the risks are, and to endeavour to ameliorate the risk(s). There are implications for the potential for agriculture activities because of these overlays, and particularly the SMO that affects this site.

47 The EMO purpose includes to protect areas prone to erosion and other land degradation process by minimising land disturbance and inappropriate development. The decision guidelines include considering the minimisation of the extent of soil disturbance, vegetation removal, and the need to stabilise disturbed areas by revegetation

48 Soil degradation policy at clause 13.04 includes salinity. The objective at clause 13.04-3S includes to minimise the impact of salinity and rising water tables on land uses, buildings and infrastructure in rural areas. This policy includes consideration, as relevant, of *Salinity Information Kit: Volume 1*

A Local Government Planning Guide for Dryland Salinity (Department of Conservation and Natural Resources, 1995). This document points out the need to identify high recharge and discharge areas, and to consider the acceptability of land use and development activities within such areas. Obviously, this document predates the Victoria Planning Provisions and the introduction of the Salinity Management Overlay. However, it still has relevance in this case as this site is within a SMO. The purpose of the SMO is:

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify areas subject to saline ground water discharge or high ground water recharge.

To facilitate the stabilisation of areas affected by salinity.

To encourage revegetation of areas which contribute to salinity.

To encourage development to be undertaken in a manner which brings about a reduction in salinity recharge.

To ensure development is compatible with site capability and the retention of vegetation, and complies with the objectives of any salinity management plan for the area.

To prevent damage to buildings and infrastructure from saline discharge and high watertable.

- 49 It is clear the SMO purpose focuses upon stabilising, revegetating and reducing salinity discharge on affected land.
- 50 The decision guidelines are extensive, so I have just quoted (below) some that have relevance to this proposal.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
 - The need to augment tree planting and the establishment of deep-rooted, high water-use pasture species to reduce rainfall accessions to the watertable in high recharge areas.
 - The need for planting of salt-tolerant species to stabilise and lower ground water levels in discharge areas.
 - The need for stock-proof fencing of discharge and high discharge areas to enable effective stock management for site stabilisation.
 - Any proposed landscaping and the need to preserve existing vegetation, particularly in high recharge and high discharge areas.
 - Any land management plan, works program, or farm plan applicable to the land.

- The design, siting and servicing of the development and the extent of earthworks.
 - The appropriateness of the proposed use or development having regard to the sensitivity and constraints of the land and the capability of the land to accommodate the use or development.
- 51 When read together, these decision guidelines point to the need for an active and ongoing role on the site to assist to ‘stabilise’ it (to use the word contained in the SMO purpose). I accept the applicant’s submission that achieving these guidelines can be assisted by an active and ongoing role on the site.
- 52 The SMO specifies various documents that can be considered including any salinity management plan. Council advises it is not aware of any salinity management plan. There are other documents referred to in the SMO decision guidelines, but council says they are ‘not so much relevant’ in this case as there is not a lot of work done on this issue. So, council explains it has focussed on and considered the applicant’s Land/Farm Management Plan.
- 53 The applicant states council’s submission that this application would not protect the agricultural land is misguided. Agriculture is important, and it is also important that soils are improved for agricultural production. The applicant quotes North Central Catchment Management Authority’s Soil Health Guidelines 2025:
- ... For farmers or rural property owners, soil is their most valuable asset. It provides structural support, water and nutrients for plant growth. Understanding soil types, applying the appropriate management practices and monitoring soil quality are all important steps in protecting and enhancing soil health.⁵
- 54 The applicant has referred to the Australian Agricultural Sustainability Framework that contains 19 principles across the themes of Environmental Stewardship, People, Animals and Community, and Economic Resilience. Each of these is supported by various criteria (see the extracted illustration on the following page⁶).

⁵ The applicant advises the source of this quote is North Central CMA, 2025, Soil Health Guidelines <https://www.nccma.vic.gov.au/projects/agriculture/soil-health-guide/>

⁶ <https://nff.org.au/programs/australian-agricultural-sustainability-framework/>





- 55 The applicant's point is that agriculture covers a vast array of things (as displayed above) and not just cropping and grazing. So, the extent to which council has referred to agriculture is somewhat narrowly focussed. Furthermore, the applicant points out the fact that this site currently does not have much agricultural productivity to it at all. For example, soil tests are an important tool in understanding how to achieve agriculture on land. The applicant describes the soil on this site as class 5 because it is not capable of farming sheep currently. Also, the applicant points out different techniques are needed to farm areas prone to erosion as it is important to not make the erosion worse, particularly when there is shallow groundwater over the area (as is relevant here).
- 56 The applicant has prepared a 'Land/Farm Management Plan for the use and development of land based on comprehensive and sustainable land management practices and infrastructure provision'. Revision C of this Plan tabled during the hearing is a 131-page plan. Council was critical of this, describing it as more of a land management plan rather than a farm management plan. Council says this plan does not meet the requirements of a farm management plan on Agriculture Victoria's website as a farm management plan requires productivity output, employees, etc. Council says this plan is more akin to a land management plan that talks about the

capability of regeneration of soil to move it from a stony soil to a more lucrative soil.

- 57 Given the poor soil condition on the site together with it being affected by a SMO and an EMO, I accept the applicant's submission that the first steps to achieving productive agriculture on this site needs to be about active land management rather than farm management. The applicant referred to Nillumbik Shire Council guidelines about land management plan preparation as a useful tool in considering the acceptability of the content of this Plan. I note these guidelines include:

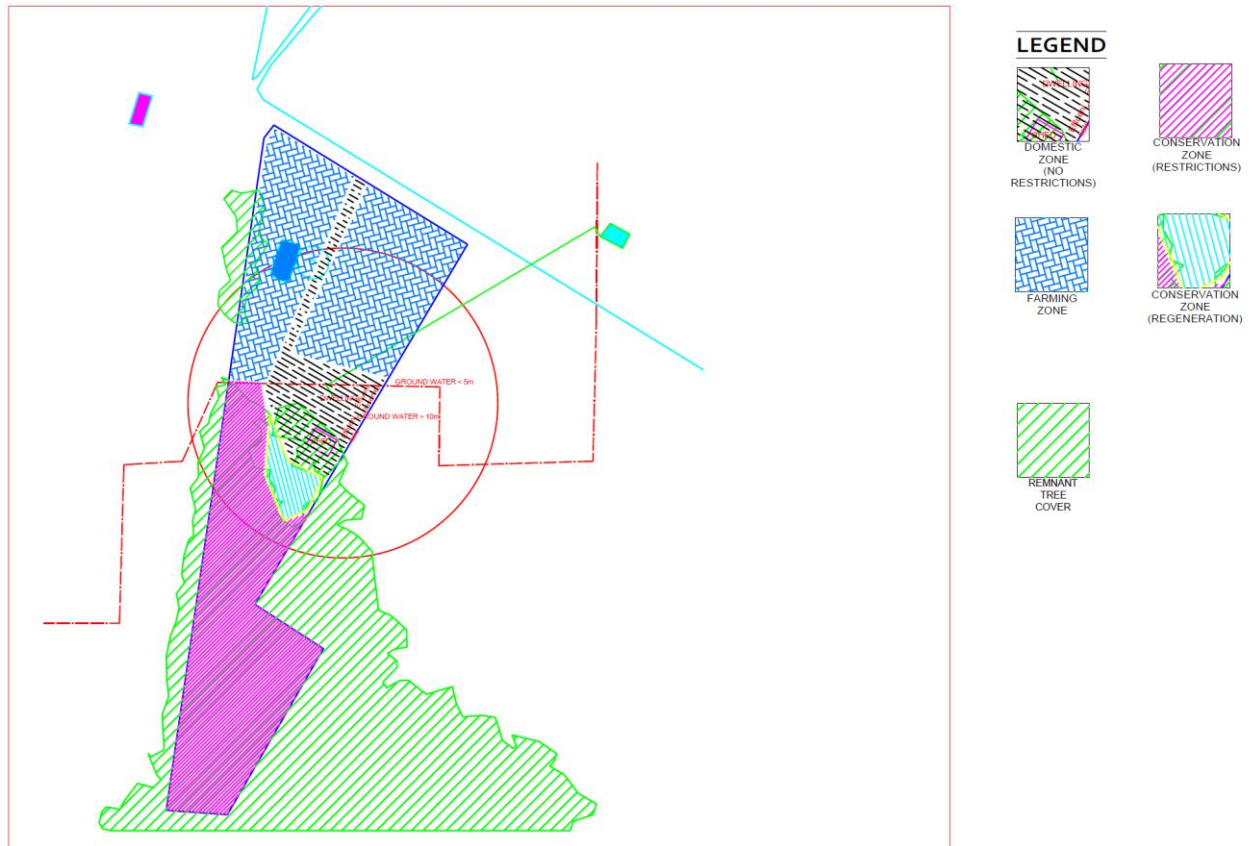
The plan must cover a 10-year period. The following must be provided in a report format with plans attached:

- management objectives for the property management zones - consider splitting the property into these such as domestic zone, bushfire protection, conservation zone, agricultural zones etc)
- table of actions identifying works to be undertaken each year, zoning and targets to be met
- regular monitoring and a progress report to Council at the end of years one, three, five and 10.⁷

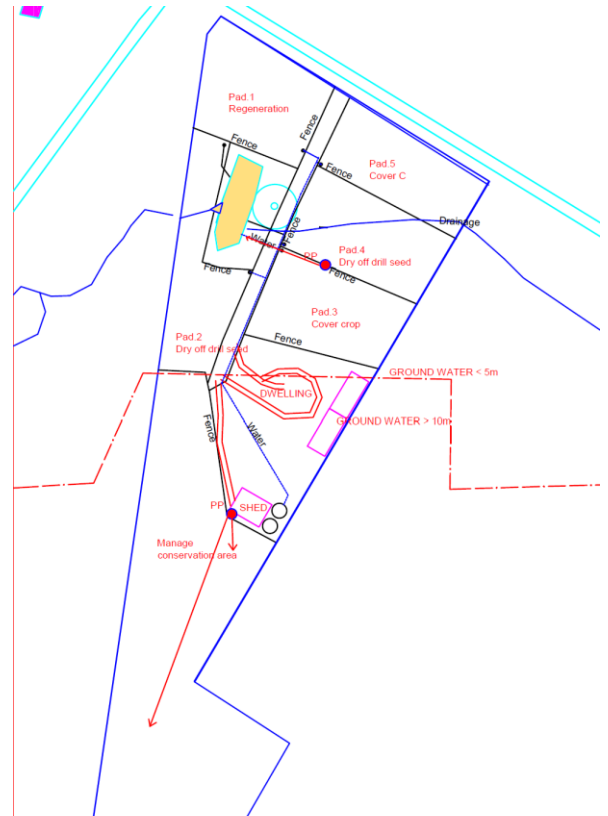
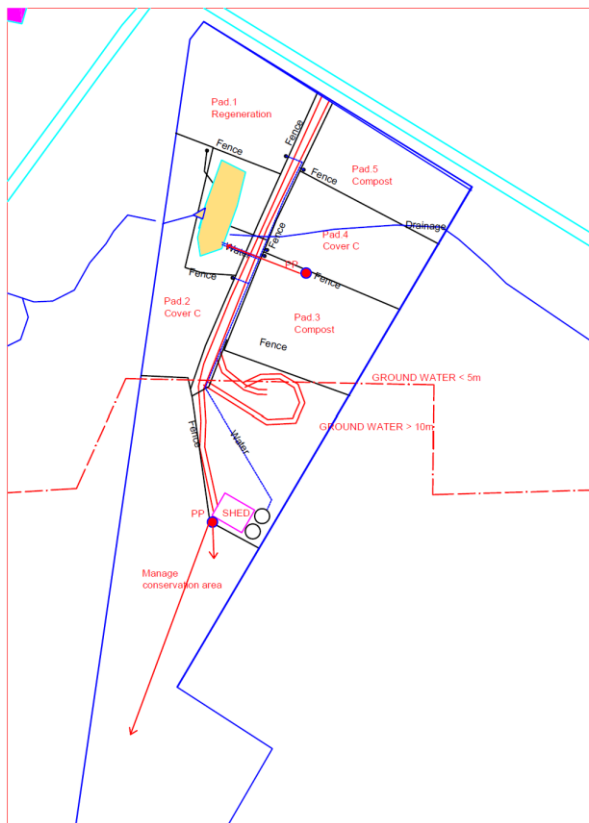
- 58 The applicant's Land/Farm Management Plan contains these features. The applicant suggests the Land/Farm Management Plan's actions that include timing, a monitoring sheet, and photographs to be taken at 'photo points' of what has been done to then be submitted to council annually provides a comprehensive way forward. The applicant submits the actions, monitoring sheets and photographs also reduce the reliance on council needing to go out and check for itself. Based on the material provided, I am satisfied that the applicant has submitted an acceptable Land/Farm Management Plan.
- 59 The Land/Farm Management Plan points out it would be inappropriate to have animals grazing on the site now given the state it is in. This means there is no agricultural need for the proposed dwelling. As the applicant points out, you need to manage issues such as salinity and erosion first before it can become productive agricultural land. Council agrees the land is not in great condition and does not dispute the management outlined in the applicant's Land/Farm Management Plan. But it also submits a dwelling is not necessary to help recover land that has been cleared and is barren of trees.
- 60 Whilst there has been some illegal clearing on the site, council must deal with that through enforcement. It is not part of this application. Council appears to be focussing heavily upon the Farming Zone and the need for a dwelling on a farm. Council appears to be missing the point the applicant is trying to make – that this site is currently not suitable for farming.

⁷ <https://www.nillumbik.vic.gov.au/Develop/Planning/Planning-advice/Land-management-plans>

- 61 The Land/Farm Management Plan identifies domestic, farming and conservation zones and puts in place a 10 year 'farm management' process intended to protect and improve the portion of this land that could become productive agricultural land. I have extracted two plans from the Land/Farm Management Plan that illustrate what the applicant is seeking to achieve:



Extract from Zone Plan on pdf page 86



Extract of Farm Management Plan Yr 1-2 on pdf page 88

- 62 These extracted plans illustrate there will be a small domestic zone and a larger farming zone in the northern area of the site. The farming zone will be divided into small paddocks. There will be paddocks for sheep grazing and for crops, so that in 10 years, the land will be of better quality and can be used for agriculture. Council supports these outputs, but submits this site is close to Maryborough township area so there is no need to live on the site to manage this land management process. As such, council submits this application is misinformed.
- 63 The applicant points out grazing is 'so important'. The applicant explains if the roots in the soil are deepened, then resilience is provided against climate change and drought. The intention is also to work nutrients back down into the soils. The farming of animals on the land as part of the land management will assist the soils. This, in turn, will assist the grazing of animals on top of the soil. This can work to improve the soils. The applicant hopes to improve the topsoil horizon by about 25 to 30 centimetres. The applicant explains once the root system is deepened and the topsoil starts to deepen, the animal carrying capacity can be raised. Grazing of cattle and sheep (i.e. eating the grass) in turn stimulates the regrowth and produces more. This also stimulates the root cells, and the roots exude a sticky particle that helps it all stick together, clumping the soil together. For this site, the applicant submits this Land/Farm Management Plan has the ability to improve the land class from 5 to either 4 or 3. The

applicant points out Land Class 4 could sustain three sheep on this site and Land Class 3 could increase this to 12 sheep (a fourfold increase).

- 64 Council has not submitted that the Land/Farm Management Plan will not work. Rather, its submission is that a dwelling is not needed to improve the condition of the land. I asked council in the hearing about how it has considered applications to improve the soil in the SMO in the past, and whether that has included permitting a dwelling as part of proposed management. Council advises it is not aware of approving dwellings in the SMO because of potential land management benefits. Council did not provide any examples of dwellings approved or refused in a SMO, so it is unclear to what extent has considered this type of situation in the past.
- 65 The applicant states the Land/Farm Management Plan identifies scientifically that the soil is heavily deficient of nutrients and has overall low soil health. The applicant submits it is possible to improve these soils and the onsite capacity for agriculture, aligning with Farming Zone purpose. The applicant submits soil underpins most agriculture, and soil health improvement is well supported by National and State catchment strategies. The applicant states with investment including land management, the soil condition of this land can be improved. Council wants the soil improved. Council did not dispute any of the applicant's submissions about the content of the Land/Farm Management Plan, including its scientific basis or proposed actions. Council acknowledges improving the soil is important but, again, submits the site does not need a dwelling and a shed to achieve this.
- 66 I asked the applicant's representative about the cost of implementing the Land/Farm Management Plan based on their experience. The applicant says it is not cost prohibitive. For example, the first-year costs of infrastructure including the outbuilding are common for farming/agriculture. When combined with the subsequent cost of the dwelling, the applicant is confident this should not prevent the balance of the Plan from being able to be achieved. The applicant also states this Plan provides the basis to undertake the work necessary on the land, and it is essential. The applicant's representative does not feel the application should be approved without this Plan, stating 'it is science and it is important'. They also submit that, without a section 173 Agreement, there is no incentive for the Plan to occur. They consider the permit should be subject to a working version of the Land/Farm Management Plan that is annexed to the Land Title as part of a section 173 agreement. This will set expectations that can be clearly monitored by council with set actions to be completed prior to the dwelling being established. The applicant's representative also suggests the dwelling should not be built until the second year of the Farm/Land Management Plan, after the fencing and outbuilding are completed. The first year requires all the pastures to be fenced as well as the conservation area. The applicant's representative



submits 'we want to see some infrastructure and works before the house is constructed'.

- 67 Council submits these reasons why a dwelling is needed do not factor in the likelihood of the occupants of the dwelling working away from the home. Council still does not think a dwelling is needed, pointing out cameras can be used to monitor the property. The applicant accepts this. Maryborough township and other rural living areas are in reasonable proximity of this site, so a land manager could live within driving distance. The applicant says the benefits of living on site include that (in no particular order):
- a you can adapt to things happening in the climate such as bushfire/grass fire;
 - b when you are a remote farmer, insurance can be challenging to obtain;
 - c animals come in at the end of the day, so it is easier to be based on the site;
 - d having activity on the land and permanent residents can assist to scare off rabbits and kangaroos in the early morning and evenings;
 - e the stock is safer, particularly as sheep thefts are happening a bit in recent times; and
 - f proximity is useful if stock is ill or calves/lambs are lost.
- 68 I reiterate my earlier findings that the Farming Zone does not require a planning application to demonstrate or justify a need for a dwelling. The considerations focus on the potential impacts of a dwelling, and I have already considered this and find it is not a reason to refuse this proposal.
- 69 Given the current condition of the land and the SMO and EMO planning controls that are relevant, it is a benefit of this application that the approval of a dwelling will mean people are living on the site with the obligation in the section 173 agreement to improve the land in accordance with the Land/Farm Management Plan. This Plan will facilitate stabilisation of the land, revegetation of areas of the land and improvements to the potential agricultural productivity of this land. Furthermore, a section 173 agreement will ensure that the management of the land in accordance with this Plan begins before the dwelling is constructed.

Use of a dwelling on the site is acceptable

- 70 The Farming Zone (FZ) requires permission to use the land for the purpose of a dwelling. I have already explained why I do not agree with council about this land use not being in accordance with the planning policy framework.
- 71 Clause 35.07-2 of the FZ sets out requirements that must be met when a lot is used for a dwelling. This includes an all-weather road, wastewater treated and retained within the lot, a potable water supply with adequate storage for domestic use as well as for firefighting purposes and a



reticulated electricity supply. There are no material or submissions before me that suggest these requirements are not met. The earlier extract of the Bushfire Management Plan includes water tanks adjacent to both the outbuilding and the dwelling with a separate firefighting water tank near the dwelling. The LCA states the preferred area for the effluent irrigation system is to the east of the proposed dwelling. This is because it is a maximum distance from the dam to the northwest and the drainage line feeding the dam to the north. The effluent system can be accommodated in this location.

- 72 The dwelling's location is influenced by the soil condition, shallow groundwater and existing vegetation. The dwelling will be located closest to the eastern property boundary; therefore it is this interface that needs to be considered regarding the potential for adverse impacts between the dwelling and the agricultural activities on this adjoining eastern property. The applicant points out in front of the dwelling (to the north) will be pastures generally consistent with what already exists in the broader area, therefore this design has very little capacity for land use conflicts in that direction.
- 73 The applicant submits the adjoining land to the east could be used for cropping and grazing. This is similar to what is contemplated on this site, albeit at a potentially different (larger) scale. Now, the applicant submits the adjoining land does not have potable water to enable it to intensify its farming activities. Also, there is evidence of river red gum regeneration on this land, which the applicant states is indicative that the land to the east has not been actively farmed for the last 18 months or so.
- 74 The land to the east is also zoned Farming and could be used for agricultural purposes depending upon the quality of the soil. It is also affected by the SMO and EMO; therefore it is also possible that its agricultural activities may be somewhat restricted. For these reasons, I am not persuaded the use of part of this site for the purpose of a dwelling will create unacceptable adverse effects on this adjoining agricultural land. Nor will the dwelling potentially limit the operation and expansion of any adjoining agricultural activities.

Development of a dwelling is acceptable

- 75 The extent of development includes a 270-metre circular driveway with a passing area for firefighting access, a four-bedroom single storey dwelling with an attached double garage, and an outbuilding of 288 square metres. They are all located on the part of the site to be managed for soil improvement and future agricultural use.
- 76 The dwelling will be constructed of brick with a colorbond roof. The applicant advises it will be constructed on footings because of the salinity. The outbuilding will be constructed of zincalume corrugated wall cladding.

- 77 The dwelling will have a floor area of 240 square metres. It will be located about 195 metres south of Logan Road and 30 metres from the eastern property boundary. The applicant explains the house is being placed in a cleared area of rocky skeletal soils that has no ability for agriculture. Where the outbuilding is proposed, the applicant explains the soil is fairly bleached and lacking in nutrients. The effluent areas for the dwelling are in a cleared area, free of shallow groundwater.
- 78 The key issue council has raised about the development of the dwelling is that it will be sandwiched between crops/agriculture and the remnant vegetation at the rear (that council describes as forest), therefore creating potential bushfire risk to human life in the future. Council contrasts this dwelling location with existing houses that are closer to Logan Road. Council submits any dwelling on this site should be closer to Logan Road.
- 79 The type of landscape across this site is typical to that existing already along this section of Logan Road. There are pastures/crops close to the road as well as a couple of dwellings. Remnant indigenous vegetation is located some distance away from Logan Road. The CFA supports the applicant's Bushfire Management Plan that includes BAL29 for the construction of the dwelling. The applicant points out the location of the outbuilding is between the dwelling and the rear forested area and submits it provides a shield for the dwelling from radiant heat. Also, the applicant points out the defensible space determination assumes a forest, but it is not expected that cropping on the land will be more than 6 tonnes a hectare.
- 80 During the preparation of these reasons, planning scheme amendments came into effect changing and updating the bushfire planning policy and provisions in the planning scheme, including Amendment VC248. Both parties were given the opportunity to consider the changes made (acknowledging this site is already affected by a BMO) and make a response if they wished about the relevance to the merits of this proposal.
- 81 Council considers the Bushfire Management Plan should be updated to consider the policy changes of clause 13.02-1 and the Plan be re-referred to the CFA for assessment. The applicant advises the changes are 'minor administration changes' that do not impact on the merits of this proposal that is already being considered under the Bushfire Management Overlay. The applicant also advises they contacted the CFA about the changes and, as a result, do not propose to update the Bushfire Management Plan.
- 82 I accept the applicant's submission that the Bushfire Management Plan considerations do not significantly change the consideration of the merits of this proposal under the BMO. While the policy in clause 13.02-1 has changed, in this case it does not change the need to consider the bushfire implications of this proposal. This is an issue that has already been addressed, and the CFA supports the proposal subject to permit conditions.

Development of the outbuilding

- 83 It is proposed to construct the outbuilding about 63 metres south of the dwelling and set back about 16 metres from the eastern property boundary in a cleared area.
- 84 The size of the outbuilding needs planning permission under the FZ, EMO and SMO. There are no submissions or material before me to suggest that the size will have a detrimental impact on the land, particularly when considering erosion and salinity management issues.
- 85 The applicant has identified one of the reasons planning permission is required for the outbuilding is because it is a bit hard to tell where the extent of the EMO falls. Despite this, council considers the outbuilding is outside of the EMO as the line is 'quite far south'. Although, council acknowledges it has not considered any vegetation affected and requiring removal because of the defensible space requirements.
- 86 As explained earlier, I advised the parties the permit application sought EMO permission, and the public notice of the application included the EMO permission. I asked the parties that, if there is any doubt about whether permission is required, why wouldn't the application be considered under the EMO? Both parties agreed to proceed on the basis that permission is required for building and works under the EMO.
- 87 Any vegetation removal for the defensible space of the outbuilding is either limited or non-existent. The applicant had potentially identified one tree for removal associated with the original shed proposal. This is the 'worst case' noting that the outbuilding is now smaller. There is nothing before me to suggest that
- i the potential loss of one tree will increase the possibility of erosion or landslip susceptibility or other land degradation processes; or
 - ii access and servicing of the outbuilding location or the layout of the outbuilding is likely to result in erosion or landslip.
- 88 For these reasons, the modified smaller outbuilding is supported.

Retrospective approval of the dam is acceptable

- 89 The applicant advises the dam was excavated in May 2023.
- 90 Council stated in the hearing it is of the view the creation of the dam is earthworks affecting the flow of water and planning permission is required under the Farming Zone. I have no information from either party to demonstrate the rate of flow before or after the dam construction. So, I have proceeded to consider this planning permission on the basis that the parties agree it is a relevant planning permission.
- 91 The planning application report version B and council at the start of the hearing had identified that planning permission was required under the EMO. However, upon looking at the mapping of the EMO during the



hearing, council agrees with its officer report that the works associated with the dam are outside of the EMO area on the site.

- 92 At the start of the hearing, council pointed out VicPlan has a blue line going through the property suggesting there is a watercourse. However, the applicant has confirmed with North Central Catchment Management Authority (NCCMA) that that is an error, and the line is not a defined watercourse. It is a 'drainage line'. NCCMA advise 'the property has been identified as potentially subject to overland flows associated with the local drainage system'.⁸
- 93 Goulburn-Murray Water (GMW) inspected the property in 2023 to carry out a 'waterway identification' as defined under section 3 of the *Water Act 1989* (Vic). GMW determined that 'there is not a waterway/watercourse'. GMW also advised the applicant no works licence is required to conduct work unless the dam met particular requirements, including a wall height of 5 metres or more above ground and a capacity of 50 megalitres or more. The dam is not that large and does not have a wall of that height. GMW also advised the applicant that it had 'completed a catchment yield assessment' and 'the proposed storage volume is within the estimated accessible yield available for harvest at the site'.⁹
- 94 The applicant provided a plan of the dam that shows a tree adjacent to it on its eastern side as well as the spillway on its western side (extract on the following page). Council is concerned that tree may be considered lost pursuant to clause 52.17 given its close proximity to the edge of the dam. The location of this tree is evident in the photograph on the front page of the applicant's Planning Permit Report (as extracted below).

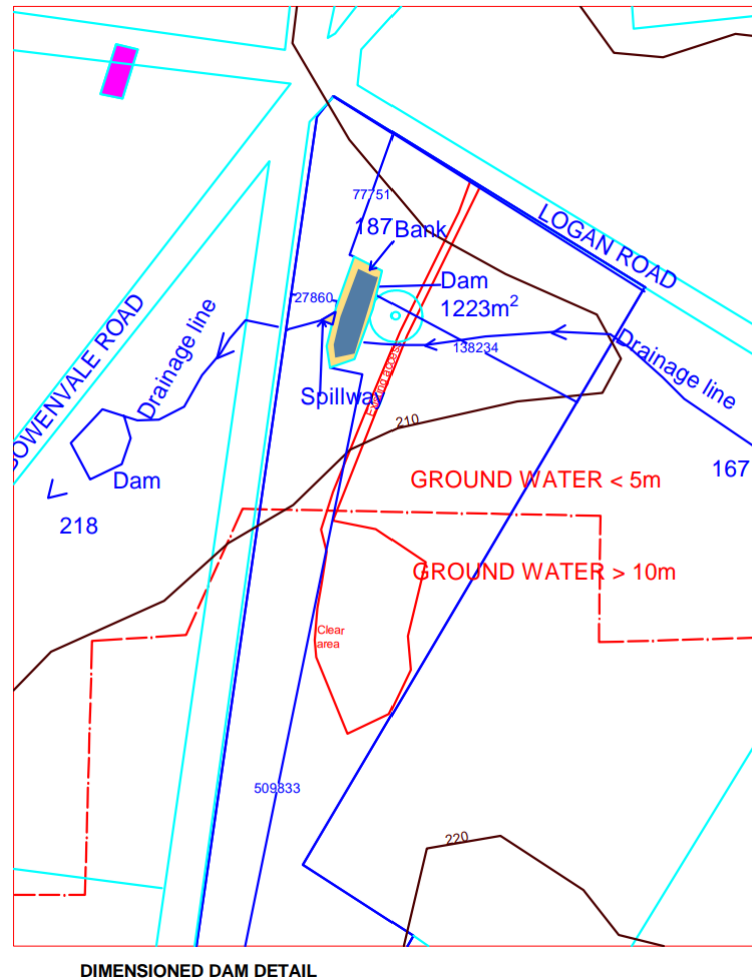


- 95 There is no material before me to suggest that the tree is in a detrimental state because of the construction of the dam. It is possible that the tree may be considered lost under clause 52.17. This planning permission is included

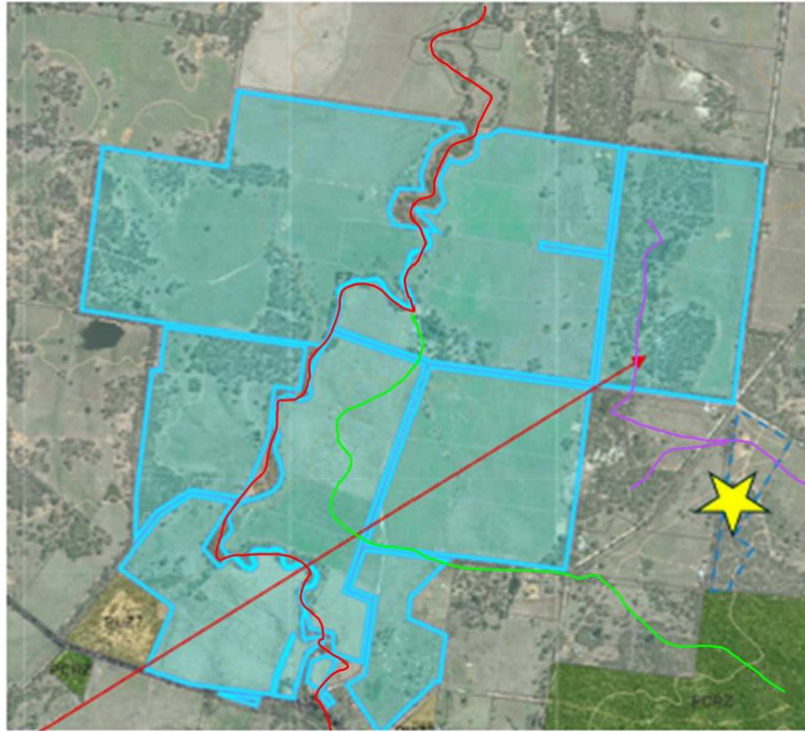
⁸ Extract from NCCMA letter to Julie Lee dated 26 June 2024.

⁹ GMW letter to the applicant dated 10 February 2023.

in this application, so an appropriate offset and/or new plantings can be included on the site as part of the permit conditions.



- 96 One objection received to the permit application raises concern about the location of the dam and its ‘subsequent effect on the natural water flow to other farms in the area’ including theirs. The VCAT application has not received any statements of grounds, so this is an objection only made at the planning application stage. Nevertheless, I have considered the concern raised about the construction of the dam.
- 97 The objector states their property is directly downstream of the natural water flow. They consider the dam has collected and stored water, drastically reducing the volume and flow of water that naturally flows onto their property leading to reduced irrigation water, livestock water shortages, crop damage and potential for drought conditions. Council advises this objection is from 316 Logan Road. This is a large farm holding about 1.2 kilometres to the west of this site. Council advises it is on the same drainage line that crosses this site. The illustration on the following page provided by council shows a red arrow pointing toward the objector’s dam, a star for the site and a purple line that depicts the drainage line.



Red arrow point is approximate location of objector's dam.

Star is the site with blue dashed outline.

Purple is the drainage line.

- 98 I am not persuaded that the dam on this site is having a detrimental impact on the flow of water onto the objector's land. The council officer's report contains an illustration of the number of other dams that are already located along the drainage line between this site and the objector's dam (refer to the extract of figure 7 on the following page). Any of these existing dams may have an impact on the flow of water onto the objector's land. There is no material before me to support a concern that this proposed dam is causing a lack of flow.



Figure 7 - Dams on drainage line

The objector's dam is closest to the top of the page, and the proposed dam is indicated in red. There are other dams already located in between the site and the objector's dam.

- 99 The applicant points out the drainage line is barely noticeable on this site. This is shown in the applicant's photograph below with a line illustrating the barely noticeable drainage line. Its limited visibility is suggestive of it not being a significant water source for this rural farming area.



Applicant photograph indicating the drainage line

- 100 The applicant points out the objector's land is a large land holding with multiple other water supply options and the section of their land where the dam of concern is located 'is only a very small section' of the overall land holding. The applicant also points out the objector's dam has no pumps or infrastructure for irrigation, so it is only serving a localised purpose.
- 101 Council's engineering department has not raised any concerns with the dam and is seeking conditions be included on the planning permit. The Department of Energy, Environment and Climate Action (DEECA) require that overland flows be maintained at pre-development levels. However, only the outbuilding is referred to in its letter, so I have considered these conditions are relevant to the outbuilding only. Council has confirmed DEECA was advised of the referral pursuant to the SMO. GMW does not object to the dam (as already explained).
- 102 The applicant advises the dam has an entryway (as can be seen in the above photograph) and a designed spillway, so it captures some water but also enables water to leave the dam as well. The applicant submits these arrangements are part of best practice guidelines relating to dam construction. Therefore, the applicant is confident overland flow can be maintained.

- 103 Council submits it would not have allowed the dam because it is not used for agriculture. I find the dam will serve purposes related to the active management of the land, noting that the Land/Farm Management Plan states the dam:
- a 'was constructed at the north-west corner for stock ...',¹⁰
 - b will have replanting occurring around it,¹¹ and
- it is reasonable to consider that 'all water points, troughs and lines will be installed on site' in the years 1 & 2 of the Plan may utilise or have access to the dam.¹²

104 For these reasons, the dam is acceptable.

Vegetation removal is acceptable

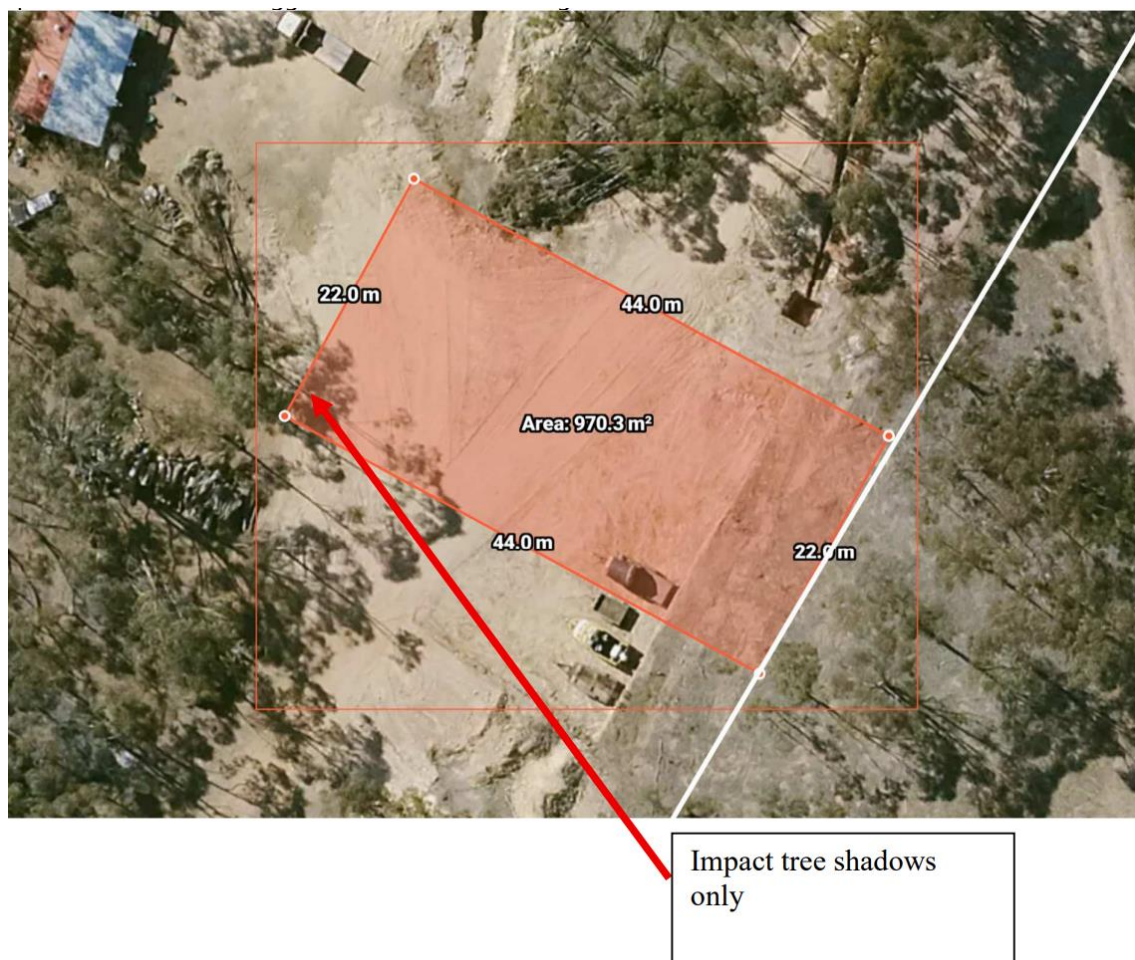
- 105 As mentioned earlier, some land on the site was cleared illegally as part of the dam construction. Council wants the Tribunal to consider that as it adds to the salinity issue in the area and, also, no native offsets or consideration has been made. Council points out the vegetation offset report only relates to the issue of vegetation removal for the outbuilding.
- 106 The removal of vegetation associated with the dam construction is not before me. The parties agree that the removal of vegetation that occurred with the construction of the dam cannot be dealt with retrospectively. This is a matter for council to undertake enforcement action about if it wishes.
- 107 The applicant submits the smaller outbuilding size means no vegetation removal will be required for the defensible space as part of this proposal.
- 108 Planning permission for vegetation removal associated with the dwelling is included in this application. The applicant points out there is very little permission being sought under clause 52.17. The extent of vegetation removal required in the defensible space is also small. With the replanting to be undertaken as part of the Land/Farm Management Plan, the applicant is confident that any loss of existing vegetation can be replaced by the new plantings.
- 109 Council advises it would prefer that there is no loss of vegetation and is suggesting a condition to this effect. Draft condition 3(d)(ii) requires a reduction in the size of the dwelling and the outbuilding so that no vegetation is required to be removed within the bushfire defensible space.
- 110 The applicant advises the already proposed reduced size of the outbuilding achieves this outcome and has provided an illustration of this (extract on the following page).

¹⁰ Farm/Land Management Plan at page 14

¹¹ Ibid at pages 37, 61, 62, 63 and 64.

¹² Ibid at page 60.





- 111 The applicant is not agreeable to reducing the size of the dwelling in draft condition 3(d)(ii). They also point out the dwelling cannot be shifted further north otherwise it will trigger vegetation removal. Instead, the applicant's written response to council's revised draft conditions suggests modifying the garage design and moving the dwelling further west into one of two locations. I am not persuaded that this is necessary and have deleted this condition.
- 112 The material before me indicates that the defensible space for the dwelling involves the removal of a small lineal line of juvenile trees. This is not a significant amount of vegetation removed. Nor is it resulting in the removal of any mature or very old trees. I am persuaded by the applicant's submission that the replanting to be undertaken as part of the Land/Farm Management Plan can replace any existing vegetation that is lost.

Draft permit conditions

- 113 The applicant advises they and council worked on the version of the draft conditions submitted by council at the end of January 2026. Council advises this version of the draft conditions contains the CFA updated conditions reflective of Rev B of the Bushfire Management Plan.

- 114 The applicant advises there are two remaining conditions in dispute, being 3(d)(ii) and 6(b). I have already considered draft condition 3(d)(ii) as part of the vegetation removal considerations.
- 115 Draft condition 6(b) requires that the shed must not commence development until the issue of the Certificate of Occupancy for the dwelling. The applicant opposes this as the purpose of the outbuilding is to store farm machinery. This was explained earlier in these reasons. The Land/Farm Management Plan includes the construction of various infrastructure during the first year including the outbuilding. It makes sense that the farm infrastructure and machinery be stored on the site, particularly as there will be no dwelling on the land for the first two years. The security of this infrastructure and machinery is reasonable. For these reasons, I have deleted this condition.
- 116 I have also made changes to other draft conditions, including conditions that are unnecessary and/or state or require similar outcomes to other conditions proposed.

Conclusion

- 117 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

Rachel Naylor
Senior Member

APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

PERMIT NO	DO89-23
PLANNING SCHEME	Central Goldfields Planning Scheme
RESPONSIBLE AUTHORITY	Central Goldfields Shire Council
ADDRESS OF THE LAND	187 Logan Road ALMA VIC 3465

THE PERMIT ALLOWS:

Development and use of the land with a dwelling, outbuilding and dam, vegetation and native vegetation removal, and associated land management.

Planning scheme clause	Matter for which the permit has been granted
Clause 35.07-1	Use of site for the purpose of a dwelling as lot (7.84ha) is less than the minimum lot size (40ha) in Farming Zone
Clause 35.07-4	Construct a building or construct or carry out works associated with a permit required land use (dwelling) in Farming Zone
Clause 35.07-4	Construct a building and construct or carry out works for an outbuilding of 288sqm in size (i.e. over 250sqm in size) in Farming Zone
Clause 35.07-4	Earthworks associated with a dam that changes the rate of flow or the discharge point of water across a property boundary in Farming Zone
Clause 44.01-2	Construct a building or construct or carry out works (including an outbuilding with an area of 120sqm or more) in Erosion Management Overlay
Clause 44.01-3	Remove, destroy or lop vegetation for a defensible space in Erosion Management Overlay
Clause 44.02-2	Construct a building or construct or carry out works (including an outbuilding with an area



	of 120sqm or more) in Salinity Management Overlay
Clause 44.02-4	Remove, destroy or lop vegetation for a defensible space in Salinity Management Overlay
Clause 44.06-2	Construct a building or construct or carry out works associated with Accommodation land uses (which includes the dwelling and associated outbuilding) in Bushfire Management Overlay
Clause 52.27	Remove, destroy or lop native vegetation, including dead native vegetation

CONDITIONS TO APPLY TO THE PERMIT:

Amended plans required

- 1 Before the use and development starts, plans must be approved and endorsed by the responsible authority. The plans must:
 - (a) be prepared to the satisfaction of the responsible authority,
 - (b) be drawn to scale with dimensions,
 - (c) be submitted in electronic form, and
 - (d) be generally in accordance with the plans forming part of the application and identified as Proposed Development Plan-Dimensioned, prepared by NRLinks, dated Oct 2024, but amended to show the following details:
 - i Removal of the awning of the outbuilding with a modified layout and size as already indicatively shown in the Bushfire Management Plan (BMP-REV-B-30-01-2026)
 - ii Provision of a minimum 10,000L water tank with a maximum allowance of 55,000L water tank to be connected to the dwelling for domestic use.
 - iii Notation on plan that the dwelling will not be used for any other purpose than domestic use.
 - iv Notation on plan that ‘The outbuilding will not be used for any other purpose than to store domestic or agricultural goods, and no goods or vehicles used as a part of a business are to be stored on the site at any time’.
 - v Notation on plan that no vehicles will be permitted in the conservation area.
 - vi Any changes required following the endorsement of the Land/Farm Management Plan in accordance with Condition 5.

Layout not altered

- 2 The layout of the dwelling, outbuilding and dam must not be altered from the layout on the endorsed plans without the written consent of the responsible authority.

Use of Outbuilding

- 3 The outbuilding must be used for domestic purposes only and to accommodate farming equipment to service the property only. No storage of business equipment, goods, vehicles, services or signage is approved on the site unless permitted by the planning scheme or with the written consent of the responsible authority.

Section 173 Agreement

- 4 Before the use or development starts, the owner of the land must enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987* (Vic). The agreement must provide the following:
 - (a) That the land will be managed on an ongoing basis in accordance with the Land/Farm Management Plan as endorsed, including any endorsed amendments, as part of Planning Permit D089-23.
 - (b) That the conservation area is not to be developed for any purpose and that land is to be reserved for environmental conservation. The conservation area must not include any structures, debris or storage of any kind, animal stock must be permanently excluded.
 - (c) That there must be no removal of firewood or dead or live plant material from the conservation area and that all weeds are routinely maintained.
 - (d) That the dwelling will not be constructed until the owner of the land has demonstrated that the land has been managed for two years in accordance with the Land/Farm Management Plan.

The owner of the land must pay all of the responsible authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

Land/Farm Management Plan

- 5 Before the use and development starts, a Land/Farm Management plan for the management and operation of the land must be approved and endorsed by the responsible authority. The Land/Farm Management Plan must be generally in accordance with the Land/Farm Management Plan Rev A dated 16/10/2025 prepared by NRLinks and must be:
 - (a) be prepared to the satisfaction of the responsible authority,
 - (b) be prepared by a suitably qualified person,



- (c) be submitted in electronic form, and
- (d) include the following details:
 - i overall environmental objectives for management of the land and techniques to achieve these objectives
 - ii identification of photo points to be established on the site to allow for reporting of progress to the responsible authority
 - iii yearly action management and monitoring for a period of 10 years.
 - iv a landscape plan to improve water quality around the dam for a minimum distance of not less than 5m.
 - v any other areas in the farming and domestic zones to contain new plantings as part of the first five years of the Plan.
 - vi agricultural production system including the type and scale of production and how animal production will support the land management of the site.
 - vii techniques to protect and enhance the biodiversity of the land, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge areas.
 - viii methods for the control and timing for the eradication of weeds and pest animals.
 - ix the use of fencing which is permeable for native fauna and contains
 - x no barbed wire on any part of the fence, including a top line coated in plastic to protect for native fauna
 - xi re-vegetation of the conservation area site using native and indigenous species, including the number, type and time period for vegetation to be planted to be incorporated to the yearly action management.
 - xii improving the condition of the drainage line with vegetation
 - xiii preventing stock access to all waterways, including the drainage line
 - xiv maintaining onsite wastewater treatment systems such as septic tanks
 - xv preventing soil erosion and ameliorating any debris or sediment entering any waterway.
 - xvi using and managing nutrients wisely
 - xvii improving agricultural and land management chemical use

- xviii practices and procedures to ensure that no significant adverse environmental impacts occur as a result of the use
 - xix proposed monitoring systems
 - xx identification of possible risks of operational failure and response measures to be implemented
- 6 The Land/Farm Management Plan must be reviewed annually and updated to the satisfaction of the responsible authority and any updated plans must be submitted to the responsible authority. The responsible authority may consent in writing to any proposed amendments to the details in the Land/Farm Management Plan.

Country Fire Authority

- 7 Before the development starts, the Bushfire Management Plan prepared by NRLinks Pty Ltd (Rev B, dated 30-01-2026) must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by the CFA and the Responsible Authority.
- 8 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.

Minimising vegetation removal

- 9 The removal of vegetation must only be to the minimum extent necessary to provide for the construction of access, dwelling, outbuilding and required defendable spaces to the satisfaction of the responsible authority.

Council Environmental Health

- 10 Prior to the commencement of the dwelling and/or any other buildings, an Application for a Permit to Install an Onsite Wastewater Management System must be submitted to and approved by the responsible authority prior to any installation.

Council Engineering

- 11 Prior to the commencement of any works, including works within the road reserve or on Council assets, the permit holder must undertake the following to the satisfaction of the Responsible Authority (unless otherwise approved in writing by Council's Infrastructure Department).
- (a) Vehicle access to the development must be provided from the nominated street frontage only, to the satisfaction of the Responsible Authority. Prior to the construction of any vehicle crossing or driveway, the permit holder must obtain a Vehicle Crossing Permit

from Council, which will include approval and inspection of the works during construction.

- (b) Vehicle crossovers must be located a minimum of 2.5 metres from street trees and a minimum of 1.0 metre from Council infrastructure assets (including pits, poles and signage), unless otherwise approved by the Responsible Authority.
- 12 During all stages of development, the permit holder must ensure that the following requirements are complied with and maintained to the satisfaction of the Responsible Authority.
- (a) The permit holder must ensure that Council assets within and adjacent to the site (including roads, kerb and channel, footpaths, drains, pits, signage and street trees) are not damaged by the works. Any damage resulting from the works must be reinstated to Council standards at the permit holder's cost, to the satisfaction of the Responsible Authority.
 - (b) Stormwater runoff from the development must not increase the peak discharge rate or runoff volume at the approved LPOD beyond pre-development levels, unless otherwise approved by the relevant drainage authority, to the satisfaction of the Responsible Authority.
- 13 Soil erosion and sediment control measures must be implemented and maintained throughout construction to prevent sediment-laden runoff leaving the site or entering Council drains, to the satisfaction of the Responsible Authority. Measures must be in accordance with relevant EPA Victoria guidance (including EPA Publication 960 "Do it Right on Site" – Erosion and Sediment Control).
- 14 Appropriate measures must be implemented throughout construction to prevent and/or promptly remove mud, crushed rock or debris being carried onto public roads or footpaths from the site to the satisfaction of the Responsible Authority.
- 15 Prior to Council providing Acceptance of Works (or similar written confirmation that the works are acceptable), the permit holder must complete the works and satisfy the following requirements to the satisfaction of the Responsible Authority (unless otherwise approved in writing by Council's Infrastructure Department).
- 16 The permit holder must design and construct a stormwater drainage system to collect and convey runoff from the development to the approved Legal Point of Discharge (LPOD), in accordance with the IDM, to the satisfaction of the Responsible Authority.

Department of Energy, Environment and Climate Action

- 17 All earthworks are to be designed and constructed to avoid soil erosion. All fill is to be compacted, and batters are to be topsoiled and revegetated and all drainage is to be diverted around the disturbed areas/batters. Drainage from benched areas, batters and access tracks is to be diverted on non-



scouring grades to stable vegetated areas. Several drainage points are to be used to avoid concentration of drainage water.

- 18 Overland flows must be maintained at the same rate post-development as on the undeveloped land.
- 19 Storm water runoff must be connected to the legal point of discharge.

Goulburn Murray Water

- 20 All construction and ongoing activities must be in accordance with EPA Publication 1834.1 Civil Construction, Building and Demolition Guide (September 2023).
- 21 No buildings are to be constructed within 30 metres of any waterways or on any drainage lines.
- 22 All wastewater from the dwelling must be treated and disposed of using an approved system. The system must have a certificate of conformity issued by the relevant body (or equivalent approval) and be installed, operated and maintained in accordance with the relevant Australian Standard(s) and EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced.
- 23 The wastewater disposal area must be located in accordance with the setback distances set out in Table 4-10 of the EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced.
- 24 The wastewater management system must be appropriately designed to manage the potential volume of wastewater generated under full occupancy (based on a minimum 4 bedrooms), including an appropriately sized disposal area based on a full water balance specific to the proposal and subject land in accordance with the requirements of the relevant Australian Standard(s) and EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced.
- 25 The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
- 26 The outbuilding must not contain bedrooms (or rooms that could be used as bedrooms) or any facilities with the potential to produce wastewater, including toilets, kitchens or other food preparation facilities.

General amenity

- 27 The use and development must be managed so that the amenity of the area is not detrimentally affected, 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

Services and Access to property

- 28 Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate all emergency vehicles.
- 29 The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retailed within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.
- 30 The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use to a maximum of 55,000L as well as for firefighting purposes.
- 31 The dwelling must be connected to reticulated electricity supply or have an alternative energy source.

Expiry – Use and Development

- 32 This permit will expire if one of the following circumstances applies:
 - (a) The development is not started within 3 years of the issued date of this permit.
 - (b) The development is not completed within 5 years of the issued date of this permit.
 - (c) The use does not start within 2 years of completion of the development.

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

– End of conditions –