

# Delegate Report

File Number: DA7684  
Planning Application No. P038/21  
Responsible Officer: Claire Wilkinson - Statutory Planner  
Attachments: N/A

## Conflict of Interest

In accordance with Sections 127 and 128 of the Local Government Act 2020, the author does not have a conflict of interest in this matter.

<i>Application Details</i>	
<b>APPLICANT</b>	Nick Vlahandreas - Mountain Planning (Ross and Andrea Drayton)
<b>PROPOSAL</b>	Development of land for a dwelling, associated bed and breakfast and outbuilding ancillary to a dwelling
<b>APPLICATION LODGED</b>	20 April 2021 Current application amended under Section 57A of the Planning and Environment Act received 28 October 2021
<b>STATUTORY DAYS</b>	82 (as at 15 February 2022)
<b>NOTICE AND SUBMISSIONS</b>	One objection received
<i>Property Details</i>	
<b>PROPERTY ADDRESS</b>	21 High Street, Merrijig
<b>LAND DESCRIPTION</b>	Lot 15 PS516121
<b>RESTRICTIVE COVENANTS</b>	None registered on title
<b>LAND AREA</b>	1,252 sqm
<b>EXISTING USE</b>	Vacant
<i>Planning Provisions</i>	

<b>ZONE</b>	Clause 32.05 Township Zone – (TZ)
<b>OVERLAYS</b>	<p>Clause 42.01 Environmental Significance Overlay – Schedule 2 (ESO2)- Catchments at medium risk of water quality impacts</p> <p>Clause 42.03 Significant Landscape Overlay (SLO1)- Alpine approach significant landscape area</p>
<b>PLANNING POLICY FRAMEWORK</b>	<p>Clause 12.05-1S Environmentally sensitive areas</p> <p>Clause 12.05-2S Landscapes</p> <p>Clause 13.02-1S Bushfire planning</p> <p>Clause 14.02-1S Catchment Planning and Management</p> <p>Clause 17.01-1R Diversified Economy- Hume</p> <p>Clause 17.04-1S Facilitating Tourism</p>
<b>LOCAL PLANNING POLICY FRAMEWORK</b>	<p>Clause 21.05-3 Water Catchment Planning</p> <p>Clause 21.10-2 Merrijig</p> <p>Clause 22.02 Design and siting guidelines in rural areas and upon significant ridgelines</p>
<b>PARTICULAR PROVISIONS</b>	Clause 52.06 Car parking
<b>GENERAL CONDITIONS</b>	Clause 65 Decision guidelines
<i>Permit Triggers</i>	
<b>SIGNIFICANT LANDSCAPE OVERLAY- SCHEDULE 1</b>	Clause 42.03-2 A permit is required to construct or carry out works
<i>Other</i>	
<b>CULTURAL SENSITIVITY</b>	Yes
<b>DWMP RISK RATING (IF RELEVANT)</b>	Medium
<b>SITE INSPECTION</b>	Yes – 12 May 2021

## BACKGROUND

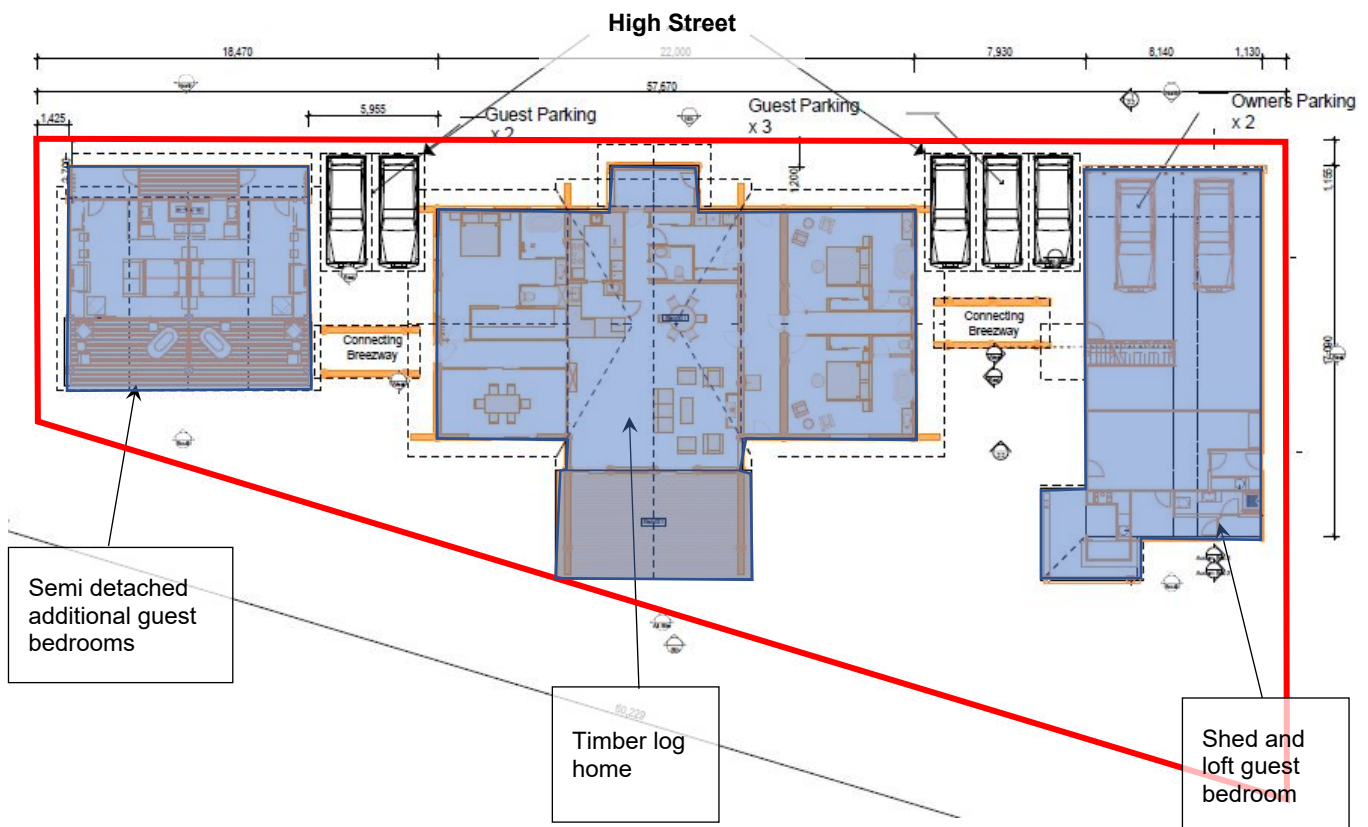
### Proposal

The current proposal is for the development of land for a dwelling (bed and breakfast), outbuilding ancillary to a dwelling and licenced premises.

The proposed estimated cost of works for the dwelling, detached annexes and shed outbuilding is \$1.5 million and this has been provided in the application details. Council Policy for statutory

planning applications requires referral to Council where the dollar value of the application exceeds one million dollars.

The overall footprint and scope of proposed works is outlined in Figure Five. The applicants have indicated that they will reside in the central main timber log home and run the property as a bed and breakfast establishment. Overall, the buildings and works will provide for a total of six bedrooms with five guest bedrooms being used as part of the bed and breakfast (one loft bedroom in the shed, two bedrooms in the timber log home and two bedrooms in the semi detached extension to the main dwelling).



**Figure 1: Site Plan and proposed footprint of works**

#### Dwelling- "Kiriwina Lodge"

The applicant is proposing to construct a three bedroom dwelling in the centre of the site off the northern boundary on the existing flat area of the site that overlooks the mountains to the south. The main dwelling is proposed to be situated 1.2 metres from the front property line. The dwelling is a generously proportioned timber log home comprising a master bedroom with ensuite, central living area, formal dining / inner and outer kitchen area and two guest bedrooms. The applicant is proposing that the dwelling will be constructed to include a commercial grade kitchen to prepare meals for bed and breakfast guests.

The exterior finish will be timber logs in natural finish and the roof of the dwelling will be colourbond in "monument" colour.

An adjoining covered entertainment area and alfresco deck is to be located off the southern elevation of the dwelling to take advantage of the views to the south side of the property across the Merrijig farming area across to Mt Timbertop and Mt Buller. The proposed dwelling will establish access off High Street. The height of the proposed dwelling will be 5.92 metres to roof peak.

The entry to the dwelling will be situated on the northern elevation. The proprietors of the dwelling will have two car parking spaces located within the outbuilding to the east of the dwelling.

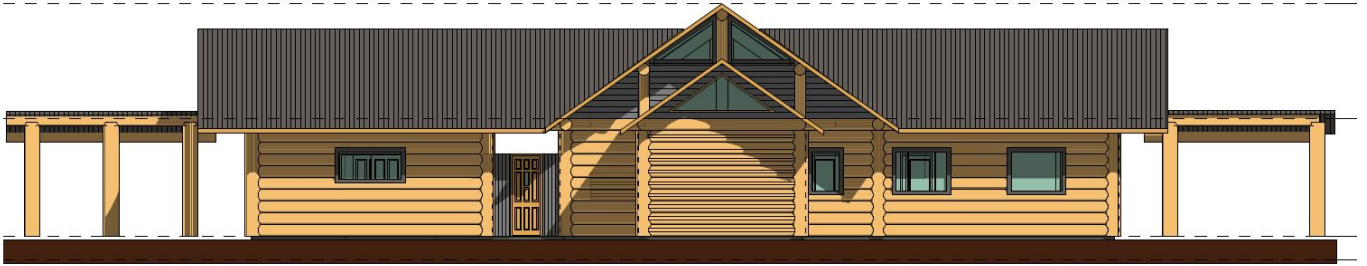


Figure 2: *North elevation (front facing High Street)*

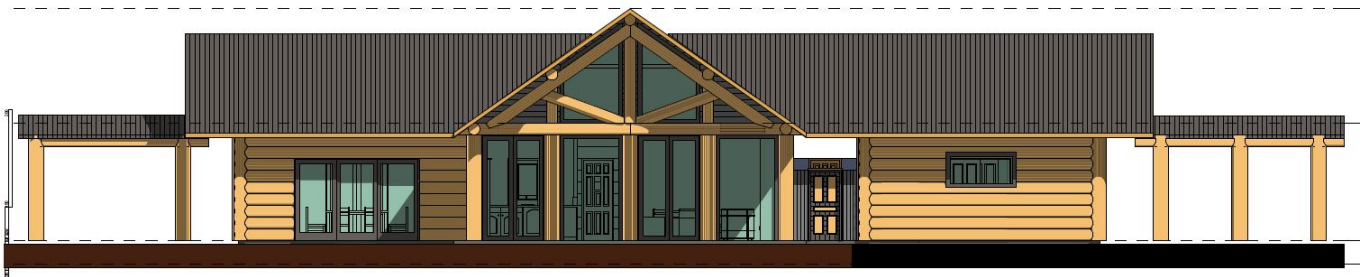


Figure 3: *South elevation*

### Additional bedrooms

To the west of the proposed dwelling will be two additional semi-detached guest bedrooms. These bedrooms will have a mirrored floorplan that is designed to include an open plan bedroom with ensuite bathroom as well as an interior sitting area. The design of the semi-detached bedrooms is shown in Figure eight. The layout will provide each bedroom with a separate entrance off the north elevation into a mudroom and then opening into the sleeping area. The two additional bedrooms will each be private with their own covered outdoor deck and spa area overlooking the Delatite River and broader landscape to the south. The guest rooms will be under a single roofline that comprises two adjoining gable roofs with cathedral internal ceilings. The total roof height to

connected to the main dwelling by a  
on is shown in Figure five, six and  
g with the aesthetic of the main log  
oms will be colorbond in "monument"



**Figure 4:** *South elevation and floorplan of two additional semi-detached bedrooms*

### Outbuilding

The proposed outbuilding is situated to the east of the proposed dwelling. The structure will be 17.09 metres by 8.09 metres with an open sided covered barbeque area adjoining the south west corner. The proposed outbuilding will be two storeys in height and 6.087 metres to the roof peak. It will be colorbond “monument” and timber clad on the second storey as shown in Figure 9. The internal layout will comprise the following:

- A loft bedroom with bathroom and living room on the second level facing the south.
- Two internal car parking spaces for the residents of the property.
- Workshop and storage area behind the car parking spaces.
- Laundry and storage room.
- An office area.
- An outdoor barbecue amenity area.



**Figure 5:** *North (front) elevation and east/ side elevation of proposed outbuilding*

### Licensed Premises

The applicant has originally submitted a red line plan for all of the proposed development on site. The supporting planning submission asserts that the sale of alcohol to guests will be provided for consumption with food for guests of the bed and breakfast. The applicant has stated that it is their intention to make alcohol available to guests who prefer to dine inhouse. It is not their intention to compete with existing licensed premises within the nearby surrounding area.

The provisions in section 6a of the *Liquor Control Reform Act 1998* specify that a “person who carries on a bed and breakfast business is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor to a person staying at the bed and breakfast business if the following conditions are complied with:



- *The liquor is not supplied to a minor; and*
- *The proprietor of the business or the business purchased the liquor on a retail basis; and not more than 750ml of liquor is supplied in any one day per room that is occupied for the purposes of temporary accommodation”.*

The applicant has submitted an amendment to the original Planning Permit application to move away from 'Group Accommodation' to the use of the site for 'Bed and Breakfast' style of short tour accommodation. There is no longer a Planning Permit trigger for the use of the subject site as a licenced premises.

## Subject site, neighbourhood and environs



**Figure 6:** *Aerial image of subject site and existing conditions*

The subject land is shown in the aerial photographs in Figure 1, Figure 2 and Figure 3. The property is an irregular shaped parcel of land on the south side of High Street, Merrijig, approximately 19 kilometres east of Mansfield. The site is located the Township of Merrijig and the Delatite serviced holiday apartments adjoin the eastern boundary of the site. The property is situated one street off Mt Buller Road. The lot has a total area of 1,252 square metres and is located on the top of an embankment overlooking the broader Merrijig farming area. The subject site overlooks the Delatite River which runs below the property off the southern boundary.

There is no existing vehicle crossover or formal access established into the site. The land contains a former tennis court over most of the property, the balance is relatively level in topography with re-growth of blackberries. There is a 5 metre high embankment down to the

river in the south eastern corner. The subject site has access to reticulated services (sewerage, water), power and telecommunications.

The property is located within an existing subdivision shown in Figure 4 that is zoned Township Zone. The majority of allotments surrounding the site have been developed, for accommodation or residential dwellings. The site has proximity to the Merrijig Hunt Club Hotel and Post Office on the corner of Omega Street and Mt Buller Road. The location of the subject site provides outstanding broader views and vistas of the surrounding area. The property is identified as containing area of Aboriginal Cultural Heritage Sensitivity.

There are no existing easements listed on title for the property. The subject site has a Section 17(2) Agreement registered in instrument AC633706N dated 30 January 2001. This agreement relates to the obligations of the owner to provide sewer services to the subject site. The agreement also stipulates the obligations of Lot 1 to 14 of the properties directly east of the subject site. These provisions appear to have been registered as part of the Planning Permit for subdivision P0042/03 approved in March 2003.



**Figure 7:** *View of the site looking north*



**Figure 8:** *View of the site looking south*

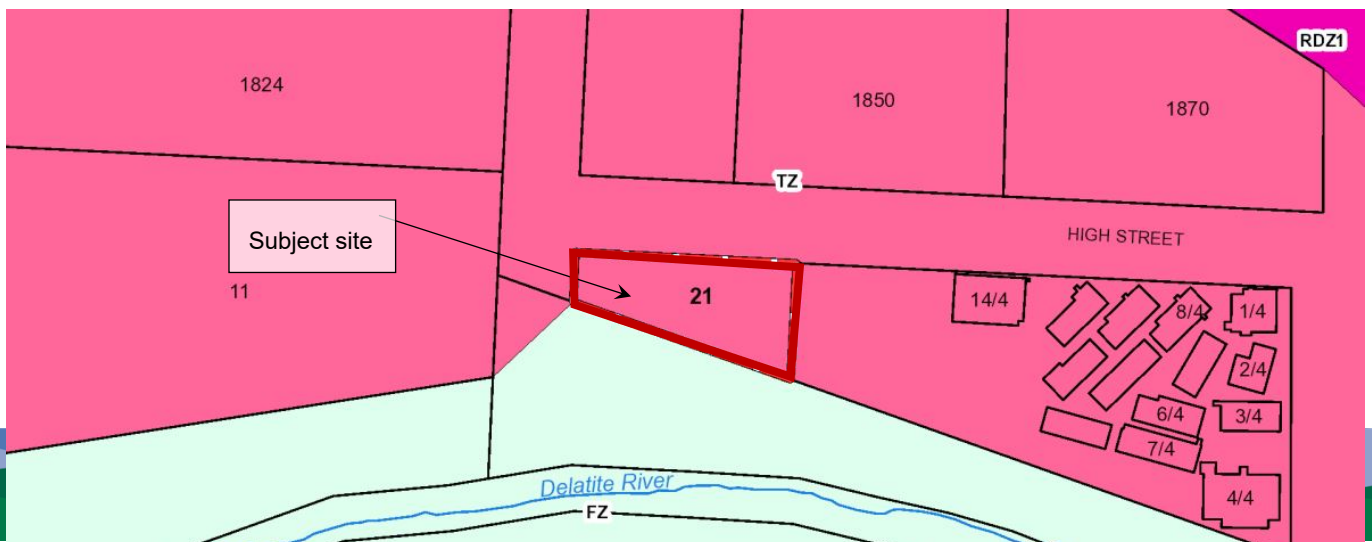


Figure 9: *Subject site zoning provisions*

## Site History

Planning permits approved for the subject land include the following:

- P0042/03 Planning Permit for the Subdivision into 15 Lots and Common Property. Issued 28 March 2003. Amended on 22 May 2003 to change the preamble from 'staged subdivision'.

## CONSULTATION

### Referral Responses

Referral Agency	Response
<b>ENGINEERING</b>	Conditional consent Response dated <b>21 January 2022</b>

## Advertising

The application has been advertised to nine surrounding property owners/ occupiers (22 December – 14 January) pursuant to Section 52(1)(a) of the Planning and Environment Act. One objection has been received.

In order to address the objection, the applicant responded with an email and comments 21 January 2022, where no amendments to the proposal were provided. No further correspondence has been provided to the objector since the acknowledgement of their objection.

### Summary of objection grounds:

Area of Concern	Officer comment
<ul style="list-style-type: none"> <li>• <i>The bed and breakfast will be marketing to the tourist market and a pub and motor inn are very close by. There is no need to have yet another facility that is selling/ consuming alcohol so close to a residential area.</i></li> </ul>	Planning consideration has been based on the merits of the current application and subject site context. The proposal is considered to meet the licenced premises exemption specified as part of the Liquor Control Reform Act for bed and breakfast establishments.



	It is considered that there is no planning permit trigger for a licenced premises, and as such this ground cannot be considered.
<ul style="list-style-type: none"> <li><i>Merrijig is a high tourist area. There is concern about the increased amount of traffic that will be brought to the area with the proposed business.</i></li> </ul>	It is considered that the proposal is for a Bed and Breakfast business. The provisions of the Township Zone in which the subject site is located stipulate that a Bed and Breakfast is an as of right use provided that no more than 10 persons may be accommodated away from their normal place of residence and that at least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence. The proposed scope of works is seeking approval to operate within the as-of-right use parameters. The applicant has provided for five car parking spaces in accordance with the full planning scheme requirements for a bed and breakfast.
<ul style="list-style-type: none"> <li><i>The existing High Street is not suitable to handle the extra traffic as it bottlenecks to a single cars width above the pub and is also gravel.</i></li> </ul>	The subject site location is within the Township Zone adjoining a recognized Council road reserve. Material upgrades to the section of High Street where the subject site is located are currently underway.
<ul style="list-style-type: none"> <li><i>Dust is a major concern.</i></li> </ul>	The subject site is situated in an area where additional capital works are underway by Council to provide a bitumen seal to the section of Road in front of the subject site and extend access to the new subdivision further west of the subject site. The sealing of this road will assist to mitigate any dust impacts.
<ul style="list-style-type: none"> <li><i>The aesthetics of the proposed building do not suit the area.</i></li> </ul>	<p>The applicant has provided design revisions to the proposed buildings that have responded to further information requests that were sent from Council dated 7 May 2021 and 10 September 2021.</p> <p>A detailed design response has been provided for the proposed outbuilding in particular. Design revisions were provided by the applicant as part of an amendment to the current application that was lodged on 22 October 2021 and further updated on 19 November 2021. It is considered that the applicant has suitably responded to the requests of Council to change some aspects of the design and that the modified elevations are</p>

	not in contravention of the Planning Scheme requirements.
<ul style="list-style-type: none"> <li><i>The building will block the views of the residents from the new subdivision and the Delatite Apartments.</i></li> </ul>	<p>As no one dwelling is entitled to an exclusive view of any feature, the objection based on blocking views has not been considered as a material planning ground.</p> <p>The proposed siting of the dwelling and outbuilding is within an allotment that is zoned for residential development. The scale and scope of works proposed will provide for a six bedroom dwelling. It is considered that the decision guidelines of the significant landscape overlay have been addressed. It is considered that the impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance are not disproportionate or out of keeping to the existing development in the immediate surrounds.</p>
<ul style="list-style-type: none"> <li><i>More tourists will give rise to more disruption for neighbours and residents of the area. Loud cars or bikes coming and going early mornings or late at night, having loud music and being disruptive to a quiet area.</i></li> </ul>	<p>The objection based on tourists creating public nuisance or noise has not been considered as a material or valid planning ground, as the proposed use of land does not require a permit and assessment is limited to the development form.</p> <p>It is considered that the potential enjoyment of the objectors property can be maintained and will not be adversely affected. The potential future behaviours of tourists are hypothetical and cannot be substantiated as a real impact that may cause material detriment.</p>
<ul style="list-style-type: none"> <li><i>So many tourists coming will create unsafe surroundings.</i></li> </ul>	<p>The objection based on tourists creating unsafe surroundings has not been considered as a material or valid planning ground.</p> <p>The assertion that there is a correlation between tourists and crime is not substantiated. The current Mansfield Shire Planning Scheme includes strategies that serve to support and facilitate tourism and business. Particularly in areas that are zoned to accommodate such uses.</p>

## MANSFIELD PLANNING SCHEME CONTEXT AND ASSESSMENT

### Planning Policy Framework (PPF)

The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

The following Planning Policies and Objectives (in italics) are relevant to this application:

### Clause 12.05-1S Environmentally sensitive areas

The objective of the Clause is:

*To protect and conserve environmentally sensitive areas.*

Planning must protect environmentally sensitive areas with significant recreational value from development which would diminish their environmental conservation or recreation values.

Officer response: It is considered that the proposal addresses the broader framework for settlement in that it seeks to promote additional residential development in a location currently serviced by reticulated sewerage.

### Clause 12.05-2S Landscapes

The objective of the Clause is:

*To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.*

Officer response: It is considered that the proposed scope and scale of development is not of a scale that will diminish or detract from the natural qualities of the significant landscape area. The siting of the development is such that the surrounding important natural features will be maintained. The visual values of the approach to Mount Buller, other approach roads and public viewpoints will not be compromised.

### Clause 13.02-1S Bushfire

The objective of the Clause is:

*To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*

This policy must be applied to all planning decisions relating to land within a designated bushfire prone area.

Officer response: The applicant is proposing to construct a dwelling on an allotment with no existing development. The proposal is located in an area identified as being at risk of bushfire hazard (Bushfire Prone). As such, the development on site will be constructed to a Bushfire Attack Level (BAL) rating of 12.5 construction standard.

### **Clause 14.02-1S Catchment planning and management**

The objective of the Clause is:

*To assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.*

Officer response: The subject site is located within a declared catchment area. It is considered that the proposal for a large dwelling and outbuilding is within an area identified for residential development whereby the proposed development will ensure that cumulative benefits are achieved through the appropriate connection of wastewater to the existing reticulated sanitary network.

### **Clause 17.01-1R Diversified Economy - Hume**

The objective of the Clause is:

*Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.*

Officer response: The subject site adjoins an existing distinctive area of the Merrijig township that has a number of established surrounding short term accommodation offerings. The proposed development is in keeping with the strategies that promote further new economic investment in the Merrijig tourist offering.

### **Clause 17.04-1S Facilitating Tourism**

The objective of the Clause is:

*To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive and international tourist destination.*

Officer response: The subject site directly responds to the strategy that encourages the development of a range of well designed and sited tourist facilities including bed and breakfast opportunities. The proponents are seeking to invest in the tourism assets of the Shire.

### **Local Planning Policy Framework (LPPF)**

The following Local Planning Policies are relevant to this application:

### **Clause 21.05-3 Water catchment planning**

The objective of the Clause is:

*Recognise and protect the environmental significance of the Special Water Supply Catchments.*

Officer response: The policy pertains primarily to wastewater and its effect on waterways. This is in association with local policy Clause 22.04 'Managing Water Quality in Special Water Supply Catchments'. The development has been conditioned to ensure that the site is managed in a way that does not cause detriment to the catchment.



**Clause 21.10-2 Merrijig**

Relevant policy implementation for Merrijig includes:

- *Ensure development is consistent with the Merrijig Framework Plan.*
- *Promote Merrijig and other appropriate areas as providing affordable and attractive housing choices with reticulated water and sewer, excellent proximity to mountain and rural views, alpine atmosphere, and ideally situated for tourism development, holiday homes and retirement alternatives.*
- *Provide for infill housing opportunities at Merrijig between Alpha Street and Omega Street.*
- *Ensure that any redevelopment on the east side of Mount Buller Tourist Road takes access off McCormacks Road*
- *Require a 30 metre building setback to the Delatite River. Land fronting the Delatite River along the northern side of Mount Buller Road between Merrijig and Sawmill Settlement, which was previously zoned Rural and is now zoned General Residential Zone to reflect the land use and lot density, shall not be further subdivided and only one dwelling per lot is permitted.*
- *Discourage any new direct vehicle access to the Mount Buller Tourist Road.*
- *Ensure linear development along the Mount Buller Tourist Road is sensitive to the 'Alpine Approach' role of the road.*
- *Encourage commercial and retail development to complement anticipated urban growth and infrastructure improvements.*
- *Ensure future development considers bushfire risk and provides reasonable levels of safety through the accessibility of roads, water, telecommunications and other reasonable infrastructure.*
- *Encourage residential development within the existing township areas of Merrijig.*
- *Investigate the current reticulated water and sewerage provisions to ensure any required upgrades are facilitated prior to any large scale residential development occurring.*

Officer Response: The subject site is located within the Merrijig township boundary. The scope of works is not inconsistent with the local planning policy or local community plan. Merrijig is recognised as being a small town with growth potential. It is anticipated that Merrijig will develop as a tourist gateway to Mt Buller and Mount Stirling. The current planning application is considered to be in keeping with the local area implementation objectives.

**Clause 22.02 Design and siting guidelines in rural areas**

Objectives

- *To ensure that all buildings are designed and sited to minimise environmental and visual impacts.*
- *To ensure that the siting of buildings does not threaten or reduce the rural capability of the land or introduce the potential for land use conflicts.*
- *To ensure that access driveways and other earthworks are designed and sited to limit environmental impact and the impact on the visual amenity.*

- *To ensure that all development is designed and located to minimise risks from natural hazards.*

It is policy that:

### Siting

- *Buildings, particularly dwellings, should be located so as not to adversely impact on the rural activities conducted on the site and adjoining land and the long term viability of rural production in the area.*
- *Buildings should be unobtrusive in the landscape, be located along tree lines or topographically obscured to reduce their visual impact.*
- *Substantial landscaping should be used to reduce the visual impact of the buildings on the landscape.*
- *Buildings should not be sited on visually exposed ridgelines, unless the visual impact is minimised by using designs and colours that merge with, or compliment, the landscape.*

Officer response: The size and design of the timber log home, semi-detached additional guest accommodation and two storey shed does occupy the majority of the subject site. It is considered that the use of non-reflective materials and improved articulation of the building facades facing High Street has been used to improve the prominence of the buildings in the landscape. The proposed location of the new dwelling and outbuilding is to be located on a level pad within the existing area that is already developed with accommodation offerings. A site inspection of the works proposed indicates that the construction materials offer low reflectivity to minimise visual impact. This is in keeping with the design and siting guidelines in rural areas.

### Zoning

#### Clause 32.05 Township Zone

The purpose of the zone is as follows:

#### Purpose

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for residential development and a range of commercial, industrial and other uses in small towns.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Officer response: A planning permit is not triggered under this zone. Clause 32.05-2 provides that a Bed and Breakfast is an as of right use provided that no more than 10 persons may be accommodated away from their normal place of residence and that at least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.

The Mansfield Shire Planning scheme defines Bed and Breakfast as:

*A dwelling use, by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence.*

The proposed scope of works is seeking approval to operate within the as-of-right use parameters.

A dwelling is also an as of right use, but it must be in accordance with Clause 32.05-3 whereby:  
*It must be connected to reticulated sewerage, reticulated potable water supply and a reticulated electricity supply.*

The dwelling will be connected to all reticulated services and as such, complies with this requirement.

## Overlays

### **Clause 42.01 Environmental Significance Overlay - Schedule 2 - Catchments at Medium Risk of Water Quality Impacts**

Purpose:

- To identify areas where the development of land may be affected by environmental constraints.*
- To ensure that development is compatible with identified environmental values.*
- In catchments identified as being at high risk of water quality impacts, the environmental objective to be achieved is to discourage development and works that potentially contribute to the degradation of water quality and quantity.*

Officer Response: The subject site is located in the catchments at medium risk of water quality impacts. A planning permit is not triggered under this overlay.

### **Clause 42.03 Significant Landscape Overlay Schedule 1**

Purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- To identify significant landscapes.*
- To conserve and enhance the character of significant landscapes.*

#### **Landscape character objective to be achieved**

- Identify and protect the visual values of the landscape of state significance on the approaches to mountains and ranges, including Mount Buller, Mount Stirling, Mount Timbertop and other significant mountains.*
- Protect short and long distance views of Mount Buller from the Mt Buller Road, other approach roads and public viewpoints.*
- Avoid the visual impact of buildings and works in the landscape.*
- Minimise the visual impact of buildings and works by requiring setbacks from prominent visual areas, ridgelines and adjoining and nearby private land.*

Officer Response: The subject site or the surrounding area is not mentioned specifically in the statement of nature and key elements of landscape. The statement specifies views Mt Buller Road to the surrounding mountain ranges as being the significant views and key elements of the landscape.

The site is located along High Street which can be seen from parts of the Mt Buller Road. The proposed dwelling is to adjoin the existing amenities (tennis court) of the neighbouring serviced apartments that are located on the corner of Omega and High Street. It is considered that the position of the new development will not be disproportionate to the existing development alongside the subject site. A site inspection and broader landscape analysis suggests that there will be little impact on views from Mt Buller Road, but there will be some visual presence when looking towards the site from the surrounding farmlands. The subject site is located in an area which is positioned at the top of a natural escarpment above the Delatite River.

The character objectives identifies the necessity to protect views of significant mountains such as Mount Buller, Mount Timbertop and Mount Stirling. The proposed dwelling and outbuilding will not impact views to these mountains.

## **Particular Provisions**

### **Clause 52.06 Car Parking.**

Parking for five guest vehicles is to be situated on site. The car parking spaces are shown in Figure five and will be directly accessible off High Street. Two additional car parking spaces are to be provided for the residents of the dwelling within the proposed outbuilding. The applicant is not seeking any car parking dispensation.

## **General Provisions**

Clause 65 Decision guidelines. All decision guidelines have been addressed and met.

## **CONCLUSIONS**

It is considered that the development of land for the proposed dwelling and outbuilding is an appropriate planning outcome for the subject site and the context of the surrounding land use and development. The applicant has demonstrated that no significant detrimental impacts will result to the amenity, nor the natural environment as a likely consequence of the proposal. The proposal meets the purposes and decision guidelines of the applicable zone and overlays. A permit is recommended, subject to appropriate conditions.

## **OFFICER RECOMMENDATION**

### **PLANNING PERMIT**

That Council issue a Notice of Decision for Planning Permit No P038/21 for the Development of land for a dwelling, associated bed and breakfast and outbuilding ancillary to a dwelling at 21 High Street Merrijig being Lot 15 PS516121 in accordance with endorsed plans, subject to the conditions at attachment A of this report



## **Attachment A – Draft Conditions**

### **Development of land for a dwelling, associated bed and breakfast and outbuilding ancillary to a dwelling**

**21 High Street, MERRIJIG**

#### **Endorsed Plans**

1. The development must be in accordance with the endorsed plans forming part of this permit and must not be altered without the prior written consent of the Responsible Authority.

#### **External Materials**

2. The external materials of the building allowed under this permit, including the roof, must be constructed of materials that are of muted colours. No materials having a highly reflective surface must be used.

For the purpose of the condition “highly reflective” includes unpainted or untreated aluminium, zincalume or similar materials. Cladding materials must be coloured or treated to provide muted colours.

#### **Use of Buildings**

3. The development must only be used as a single dwelling and Bed and Breakfast as defined in the Mansfield Planning Scheme and compliant with the Section 1 Conditions in the Table of Uses at Clause 32.05-2 of the Scheme, unless a further permit is granted by the Responsible Authority.

#### **Engineering**

4. Access to the property must be via the existing driveway and crossing except with the written consent of the Responsible Authority.
5. Appropriate measures must be implemented throughout the construction stage of development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land to the satisfaction of the Responsible Authority.
6. Before the commencement of use of the dwelling hereby permitted, or by such later date as is approved by the Responsible Authority in writing, the following works must be completed in accordance with the endorsed plans and to the satisfaction of the Responsible Authority:
  - (a) All stormwater discharging from the site, buildings, vehicle access ways and works must be discharged to a water tank, soakwell or otherwise discharged so as not to cause erosion, flooding or nuisance to the subject or surrounding land to the satisfaction of the Responsible Authority. The water tank/s (if required) must be in muted, non reflective tones to the satisfaction of the Responsible Authority;
  - (b) The areas shown on the endorsed plans for vehicle access to the permitted buildings and works must be constructed in accordance with the endorsed plans and be

surfaced with concrete, reinforced concrete, brick paving, gravel, crushed rock or hot mix asphalt so as to prevent mud or other debris from being carried onto the road to the satisfaction of the Responsible Authority.

7. Any damage to Council managed assets (such as roads and stormwater infrastructure) as a result of the development must be repaired at the cost of the developer to the satisfaction of the Responsible Authority.
8. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991) to the satisfaction of the Responsible Authority.
9. All works must be undertaken in a manner that minimises soil erosion and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.
10. Prior to commencement of any building and civil works, application must be made to Council to obtain a Legal Point of Stormwater Discharge.
11. Interrupted overland flow from this development must not be allowed to impact on the adjacent lots to the satisfaction of the Responsible Authority.
12. Silt fencing material or straw hay bales (staked and keyed into the ground surface) must be placed at the bottom of the construction area prior to the commencement of site works and/or construction to prevent the transfer of sediment in stormwater run-off to the satisfaction of the Responsible Authority.

### **Permit Expiry**

13. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the [Planning and Environment Act 1987](#).