

Delegate's Report

Application No: 2018/199

Application Type: Development Only

Received: 16 August 2018

The Applicant:

Name: South Gippsland Drafting Service
 Address: Bob Collins
 40 Samman Road
 Fish Creek VIC 3959

The Proposal:

Proposal: Development of land with a horse arena and machinery shed

The Land:

Land Address: 10 Lance Drive Yanakie VIC 3960
 Land Description: L1 PS537376H Parish of Yanakie

Assessment:

By: Siobhan Matthews

Planning Scheme and/or Planning and Environment Act Definition

Land Use

Animal Husbandry – Section 1 use

Development

Construct a building or construct or carry out works

Zone and Overlays:

Farming Zone
 Significant Landscape Overlay - Schedule 3
 Environmental Significance Overlay - Schedule 3
 Bushfire Management Overlay (development not affected)

Why is a Permit Required?

Zone

Use

N/A – permit not required for section 1 use

The intended use of the proposed development is to provide an area (dressage area and surrounding track) in which to ride, exercise and enjoy the horses (3) that will be kept on the property for personal use. Furthermore, the machinery shed portion of the proposed development will be used to store a tractor, horse float, hay and other equipment needed to maintain the horses and property. Clause 73.03 defines 'animal husbandry' as "land used to keep, breed,

board, or train animals including birds". As the proposal involves the keeping and caring of horses for personal/private use it is considered to be 'animal husbandry'. Clause 73.03 states that 'animal husbandry' falls within the broader definition of 'agriculture'.

In order to determine which is the most appropriate definition, the VCAT decision *Palmer v Macedon Ranges SC & Ors* [2017] VCAT 1857 (14 November 2017) was reviewed and further information was sought from the applicant. The owners of the land confirmed via phone conversations and email that there is no intention to use the land for any clubs, events, riding lessons/training, horse racing or competing. Instead they have made clear that their intention is to use the land to keep the horses they own for their own personal use and enjoyment. This will involve the feeding, caring and grazing of the horses kept on the land and the riding of these horses. The owners also confirmed that the proposed horse arena is not intended to be used by horses not owned by themselves and kept on the land. It should also be noted that in *Palmer*, Member Blackburn formed the view that an almost identical proposal would be characterised as 'Extensive animal husbandry', which fell within the definition of 'animal husbandry' at the time. Member Blackburn properly characterised it as the more specific 'extensive animal husbandry' rather than the broader 'animal husbandry' definition at the time. However, 'extensive animal husbandry' has been removed as a definition and effectively replaced with a new suite of definitions under a broader 'animal production' definition. This was done by the State Government after extensive consultation in order to clarify and simplify the agricultural land use definitions. It is considered that the current proposal and the proposal before the Tribunal at the time would not fall within the 'animal production' definition or its sub-definitions. That is because 'animal production' is defined as "Land used to keep or breed farm animals for the production of livestock, eggs, fibre, meat, milk or other animal products." Whilst horses are considered to be 'farm animals', they are not being kept or bred for the production of livestock, eggs, fibre, meat milk or other animal products. As such, it cannot be characterised as a form of 'animal production'. Even if some horses were bred incidental to the main use, it in itself would not mean that the use would become animal production.

In *Palmer*, Member Blackburn also discusses why the proposal cannot or should not be characterised as 'horse riding school', 'horse stables' (within 'animal training') or 'animal keeping', which would all be section 1 uses in the Farming Zone anyway. Member Blackburn also discusses why it should not be 'leisure and recreation' or 'place of assembly'.

The use is considered to be properly characterised as 'animal husbandry' which falls within 'agriculture'. According to clause 35.07-1, 'agriculture' is a section 1 use and therefore not permit is required for the use.

Development

N/A – permit not required for buildings and works associated with section 1 use. Also the building is more than 20m from a road, 5m from a side or rear boundary, 100m from a dwelling in separate ownership and 100m from a waterway.

Overlays

Clause 42.03-2 (SLO3) – A permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required. Schedule 3 to the SLO does not contain a relevant exemption because the proposed shed exceeds 250m².

Clause 42.01-2 (ES03) – A permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required. Schedule 3 to the ESO does not contain a relevant exemption for the proposed shed.

Particular provisions

N/A

Particular provisions that are relevant but do not trigger a permit

N/A

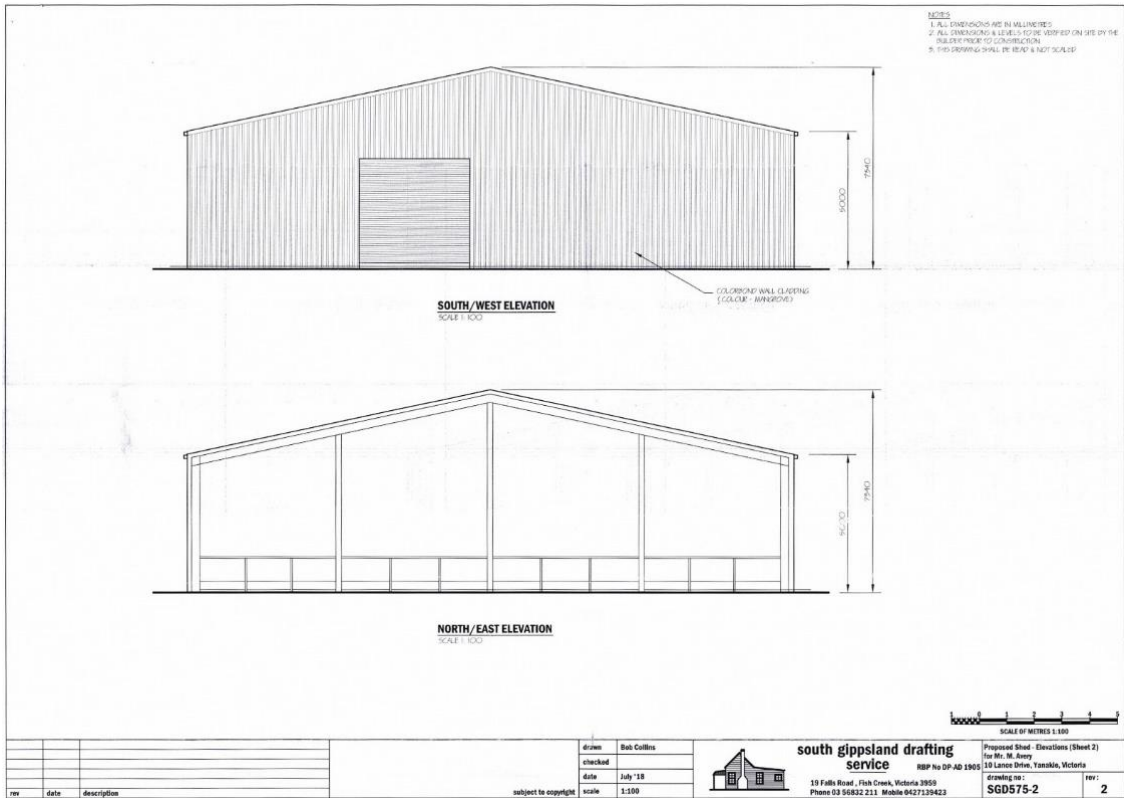
Proposed development

The applicant seeks to develop a horse arena and machinery shed for private use at 10 Lance Drive, Yanakie. The proposed development will be sited in the north-west corner of the property.

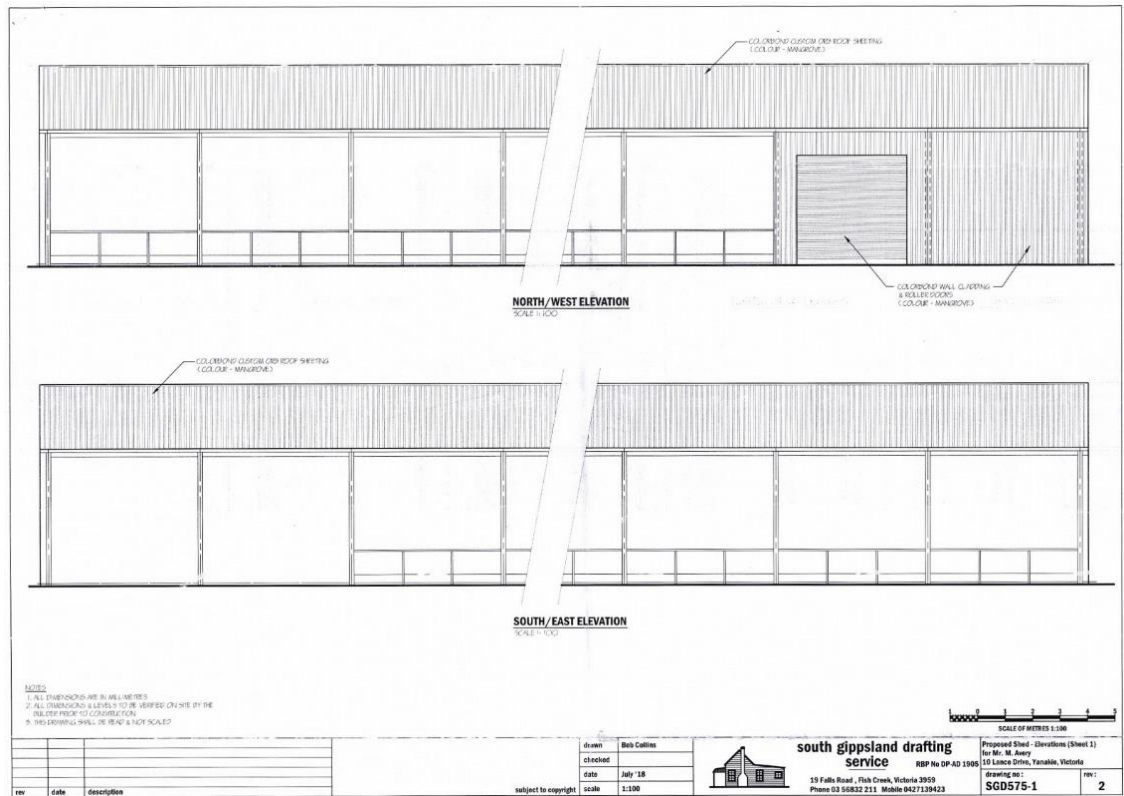
The application was lodged with Council on 14 August 2018.

Measure	Horse Arena	Machinery Shed
Height	5m to eave, total 7.34m	5m to eave, total 7.34m
Length	60.92 m	11.08 m
Width	22 m	22 m
Area	1340.24 m	243.76 m
Total area = 1584 m		

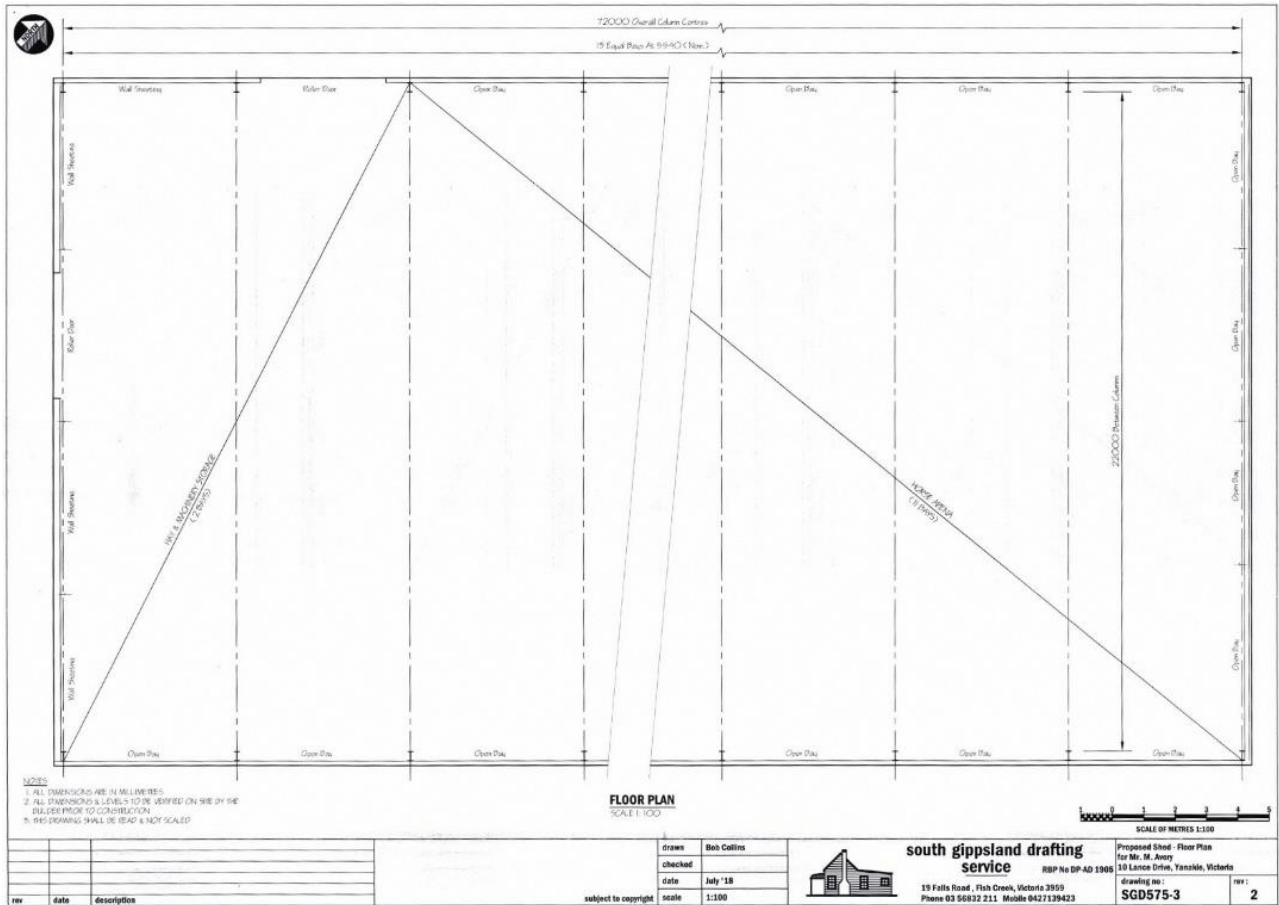
The horse arena portion of the development contains open bays throughout. Whilst the machinery shed portion is enclosed on two sides. The proposed development will utilise colourbond for the wall cladding, roller doors and roofing (mangrove colour).



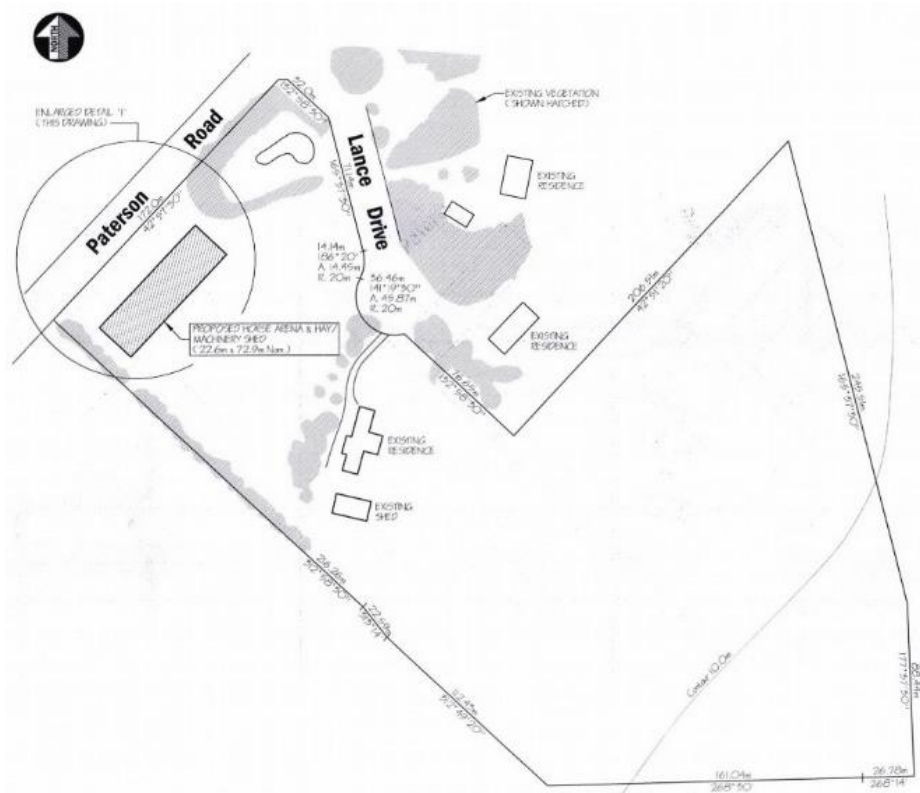
(Elevations – retrieved from the application documents)



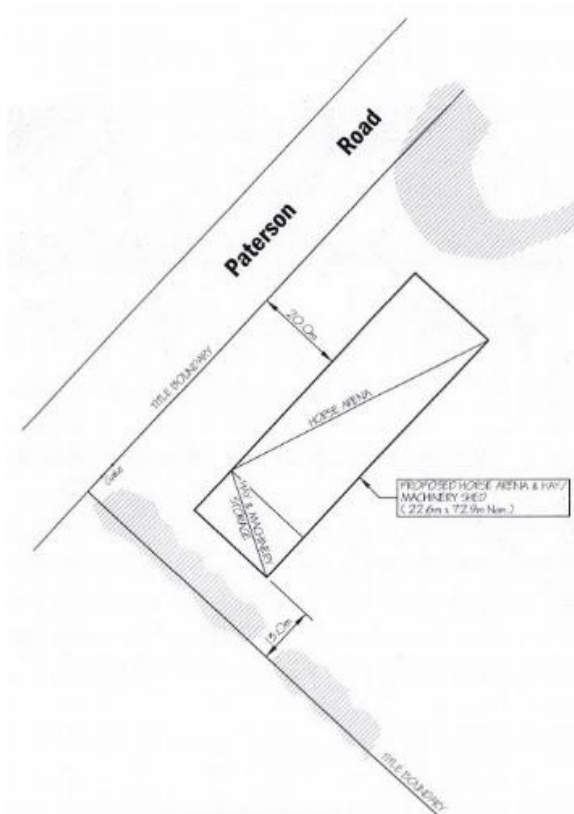
(Elevations – retrieved from the application documents)



(Floor plan – retrieved from the application documents)



(Site plan – retrieved from the application documents)



(Enlarged site plan – retrieved from the application documents)



(Subject land – retrieved from Intra-maps 2018 aerial)

Site and surrounding area

The subject site is an irregular shape, with a total size of 8.499 ha. The site has approximately 153m of frontage to Lance Drive and also abuts approximately 172m of Paterson Road. The subject land is generally flat and contains an existing dwelling, two outbuildings and very minimal vegetation.

The wider area is characterised by a mixture of rural lifestyle and farming properties. The immediately abutting properties are:

15 Lance Drive – a mostly rectangular shaped lot of approximately 1.72 ha. The land contains an existing dwelling and outbuilding. The lot contains some existing vegetation near the dwelling and outbuilding as well as along the north-western boundary. The dwelling on this property is located approximately 170m from the proposed horse arena / machinery shed.

5 Lance Drive – a mostly rectangular shaped lot of approximately 1.72 ha. The land contains an existing dwelling and detached garage. The lot contains some existing vegetation along the frontage and north-western boundary as well as a small section along the south-east boundary. The dwelling on this property is located approximately 176m from the proposed horse arena / machinery shed.

310 Paterson Road – a mostly rectangular shaped lot of approximately 1.75 ha. The land contains an existing dwelling, detached garage, outbuilding and dam. The lot contains some existing vegetation along the majority of the property borders. The dwelling on this property is located approximately 204m from the proposed horse arena / machinery shed.

309 Paterson Road – an irregular shaped lot of approximately 50.53 ha. The land contains an existing dwelling, outbuilding and dams. The lot contains existing vegetation along the driveway, as well as near the dwelling. The dwelling on this property is located approximately 716m from the proposed horse arena / machinery shed.

259 Paterson Road – a large property made up of several lots totalling approximately 186.38 ha. The land contains two existing dwellings, numerous outbuilding and several dams. The lot contains minimal existing vegetation sporadically throughout the property. The nearest dwelling on this property is located approximately 280m from the proposed horse arena / machinery shed.

288 Paterson Road - an irregular shaped lot of approximately 15.37 ha. The land is currently vacant. However, the lot contains two dams, a waterway and existing vegetation along the waterway near the eastern border of the property.



(Subject land and surrounds – retrieved from Intra-maps 2018 aerial)

Previous planning permits associated with subject property:

Application No.	Proposal	Decision	Date
2004/462	2 Lot subdivision (realignment)	Issued	5 January 2005
2015/231	Extension to existing dwelling	Issued	4 September 2015

Size of the Land (Square meters or hectares):

The land is approximately 8.499 ha.

Is there a registered restrictive covenant or a Section 173 Agreement on the title? If so, does the proposal comply with the restriction or Section 173 Agreement?

No.

Does the land abut a Road Zone Category 1 or a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road?

No.

Is there a designated waterway on the land?

No. However, there is a designated waterway within 270m of the proposed shed/horse arena site.

Is the land within a Special Water Supply Catchment Area listed in Schedule 5 of the Catchment and Land Protection Act 1994?

No.

Does the application require car parking / bicycle facilities?

No car parking or bicycle facilities are required by Clauses 52.06 or 52.34 of the Planning Scheme.

Is an Aboriginal Cultural Heritage Management Plan required?

No, a CHMP is not required because the proposed development is not in an area of cultural heritage sensitivity.

Was Further Information Requested under Section 54?

No further information was required.

Inspections:

Date Inspected	Observations
30/08/18	<p>The site has frontage to Lance Drive of approximately 111m. Vehicular access is from Lance Drive.</p> <p>The land is generally flat with only minor fall across the site.</p> <p>There is some vegetation located near the existing dams as well as near the existing dwelling and sheds.</p> <p>There is an existing dwelling and shed located in the western portion of the site.</p>

	The site appears to have access to reticulated power, telecommunications, but not water or sewer.
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Was notice of the application given under Section 52(1), 52(1AA), 52(3) or 57B?

The application was notified to adjoining/adjacent owners and occupiers. The application was also notified by placing an advertisement on the Council website.

Were there any objections received?

There were a total of 5 objections/submissions received. The issues raised are summarised and responded to below:

Main Issues & Concerns	Assessment
<p>The size, height and visual bulk of the development. Drawing comparison to industrial buildings or a "Bunnings".</p>	<p>The proposed development has an eave height of 5m with a maximum roof apex of 7.34m and totals an area of approximately 1584m². The proposed horse arena is designed to be completely open except for the roof (11 bays). The proposed machinery shed (connected to the horse arena) with an area of approximately 243.76m (2 bays) is the only part that is semi-enclosed on two sides. It is noted that the nearest dwelling is located approximately 170m from the proposed development and that the majority of existing dwellings in the surrounds are surrounded by substantial existing vegetation.</p> <p>The height of the building is not considered to be excessive or an issue. It is under the preferred maximum building height of 7.5m which is expressed as a planning permit trigger under the Significant Landscape Overlay – Schedule 3 (SLO3). It should be noted that some people's dwellings or other structures in the locality are greater in height than the proposed shed (including one of the objector's dwellings). To suggest that the height of the building is an issue when it is under the preferred height limit that triggers a planning permit would be counterintuitive to setting a preferred height limit in the locality.</p> <p>Whilst the size and bulk of the development is large, this must be tempered against the relevant context of the development and the relevant decision guidelines of the Overlays that trigger the planning permission. The proposed structure's bulk is also reduced by the fact that a majority of it will not have walls and therefore if viewing it from the road, you would see the open farmland beyond it, rather than looking at a large expanse of blank wall. It should also be noted that large sheds associated with agriculture, or a number of smaller sheds that have a large combined area, are common within the Farming Zone and even in the locality. Within 1km of the site, another property on Paterson Road has a number of sheds that are clustered together within 20m of Paterson Road and combined they have the same overall area as the proposed building. Another farm, belonging to one of the objectors has a smaller, but still</p>

	<p>sizeable shed of approx. 250m² and a feed silo in a very prominent location approximately 1m from the Paterson Road boundary. Arguably, that shed presents a more prominent and less desirable visual impact than the proposed building when viewed from Paterson Road. Another farm, belonging to another objector contains a dwelling that has a footprint exceeding 500m² with a height exceeding the preferred 7.5m contained within the SLO3. It is effectively a three storey building. In context, it too was supported for different reasons. However, someone could arguably suggest that their dwelling is similarly too large in terms of height, scale and bulk.</p> <p>The proposal is assessed against the Overlays in greater detail later in the report. Suffice to say that both the size and bulk are considered acceptable in this instance, subject to any permit containing a condition requiring screening vegetation along the southern boundary, the Lance Road frontage and along the Paterson Road frontage, to the satisfaction of the Responsible Authority. Without such a condition, it is considered that the development should not be supported in its proposed location.</p> <p>The assertion by some objectors that it is an industrial building or akin to a Bunnings (which is actually a form of retail) is considered an exaggeration and misguided. Just because a building has a large footprint, does not mean that it will be used for an industrial or commercial use. That aspect is discussed separately below. The proposal is also not considered to look anything like a Bunnings given that it would be approximately half the footprint, approximately half the height and almost completely open sided when compared to a typical Bunnings building.</p>
<p>The location/siting of the development near the front west boundary (along Paterson Road).</p>	<p>The proposed location and siting of the machinery shed and horse arena are considered acceptable. This is also discussed further in the report. However, it should be noted that the proposed setback is 20m from the Paterson Road frontage, which is the minimum setback to a road before a planning permit is even triggered. Whilst broader landscape considerations under the Overlays can dictate whether this is appropriate site or not, it must be assumed that for the purpose of the Farming Zone, it is acceptable. If a permit is not even required under the Farming Zone because compliance with a minimum setback is achieved, then it would be illogical to suggest that the setback from the road is not acceptable. Similarly, the building is proposed to be setback 13m from the southern (side) boundary. The minimum side setback in the Farming Zone is 5m before a permit is even required.</p> <p>In terms of context, it should be noted that there are six existing dwellings or sheds along Paterson Road that are setback less than 20m from Paterson Road, with the closest one being approximately 1m. They all have varying degrees</p>

	<p>of vegetation screening from the road and vary in size/bulk. Some are well screened while others are not. The agricultural shed that is 1m from the road is not well screened and also has a tall silo structure next to it, which would be unlikely to be supported under current planning provisions. However, it is part of the existing streetscape/landscape and must be taken into consideration.</p> <p>Whilst there is no existing vegetation screening within the subject site along Paterson Road, a condition of the proposed permit would require planting of such. It should also be noted that a number of surrounding dwellings on adjoining properties contain their own significant vegetation screening from the site.</p> <p>Furthermore, moving the building toward the east would also place it closer to the coastal foreshore which is not desirable for other reasons. That part of the land is an area of cultural heritage sensitivity and is impacted by the BMO. Whilst moving it slightly to the east would provide a larger setback to the road, it is not considered necessary because it can be adequately screened from the road and is also not expected to have an undesirable impact in terms of the relevant considerations under the SLO3 and ES03.</p>
<p>The development will result in increased road use and impacts (noise, dust, traffic, road wear/damage etc.).</p>	<p>The proposed development of a horse arena and machinery shed is for private use and therefore, is unlikely to result in an increase of traffic on Paterson Road. However, the suggestion that the development will result in additional noise, dust, traffic or road damage is also considered to be misguided. That is because the landowner can already carry out the use, or a more intense use without any planning permission. The proposed development only triggers a planning permit due to Overlay provisions that do not concern themselves with land use issues. Put another way, the applicant could have an uncovered horse arena with visitors to the site, without any planning permission.</p>
<p>The development has potential commercial business / public use and application.</p>	<p>The applicant has stated that the proposed horse arena and machinery shed will only be for private and personal use. Furthermore, it is noted that Council only need consider the application before it, not potential and/or possible development/use. It should also be noted that at the moment, the use of the land for either 'horse riding school' or 'horse stables' would also be exempt under the Planning Scheme. As such, the use could already be more intense and of a commercial nature irrespective of the current permit application for development.</p>
<p>The development is the first stage of larger development and/or change in land use.</p>	<p>This is considered to be nothing more than speculation. However, even if it were true, it is irrelevant because the intensification of use or development will either be subject to another planning permit at which point Council can reassess the appropriateness of such, or a future use or development could be exempt from planning permission and therefore does not warrant further discussion.</p>
<p>The development will lead to a</p>	<p>A semi-enclosed shed and an open-sided horse arena is not</p>

proliferation of industrial development and the coastal area having an industrial look.	considered to be an industrial development and is considered to be an appropriate development for the Farming Zone. There are similar sized agricultural buildings in the Shire such as large cattle yard covers, hay sheds or intensive animal production sheds. Large buildings in the Farming Zone are quite common. There is no evidence to suggest that this building will somehow lead to a proliferation of industrial development in the area when it is not proposed to be used for an industrial use or look like and enclosed industrial building, noting that actual 'industry' is a permitted use in the zone anyway.
No consultation with residents of properties not abutting the subject land.	All properties adjoining the subject land were notified of the proposed development in accordance with the provisions of the Planning and Environment Act. Nearby properties were not notified due to the closest dwelling (on a non-abutting property) being located approximately 345m away from the proposed development as well as the fact that there is significant existing vegetation screening many of these existing dwellings from the proposed shed. Council would not normally notify people beyond adjoining properties for a development such as this. Irrespective of the above, the person objecting on the basis of not being notified has become aware of the application and has not been denied participation in the planning process.
Potential for the machinery/hay shed to be used for accommodation.	This is also considered to be speculation. It is noted that Council only need consider the application before it, not potential and/or possible development/use. However, it is recommended that it be a condition of any permit issued that habitation of the machinery shed be prohibited. It would also be highly unlikely for someone to try and use it for some form of accommodation given that it is only semi-enclosed on two sides.
The development application has not proposed any landscaping or vegetation to reduce visual impact.	No screening vegetation or landscaping has been proposed as part of this application. However, it is recommended that any permit that is issued contain a condition requiring screening vegetation along the southern boundary, the Paterson Road frontage and Lance Drive frontage. This is considered sufficient to adequately screen the development from adjoining properties and public places.

Was the application referred under Section 55 or 57C?

No.

Were there any non-statutory or internal referrals?

No.

Planning Scheme Requirements and policies:SPPF

The following SPPF clauses are considered relevant to the assessment of this application:

11.03 PLANNING FOR PLACES

- 11.03-4S Coastal settlement

12.02 COASTAL AREAS

- 12.02-1S Protection of coastal areas

12.03 WATER BODIES AND WETLANDS

- 12.03-1R High value water body assets - Gippsland

12.05 SIGNIFICANT ENVIRONMENTS AND LANDSCAPES

- 12.05-2S Landscapes

13.02 BUSHFIRE

- 13.02-1S Bushfire planning

13.07 AMENITY

- Land use compatibility

14.01 AGRICULTURE

- 14.01-1S Protection of agricultural land

15.01 BUILT ENVIRONMENT

- 15.01-6S Design for rural areas

LPPF

The following LPPF clauses are considered relevant to the assessment of this application:

21.02 MUNICIPAL PROFILE

- 21.02-4 Environment

21.03 KEY ISSUES

- 21.03-5 Built environment and heritage

21.04 VISION

- 21.04-2 Vision

21.06 ENVIRONMENTAL AND LANDSCAPE VALUES

- 21.06-2 Coastal and hinterland landscapes

21.08 NATURAL RESOURCE MANAGEMENT

- 21.08-1 Agriculture

21.15 LOCAL AREAS

- 21.15-15 Landscape Character Areas
 - Character Area 1.5 – Waratah Bay/Corner Inlet

Clause 22 policies

There are no Clause 22 policies considered relevant to the assessment of this application.

General Assessment:State Planning Policy Framework

The proposal is consistent with the relevant objectives and strategies of the SPPF clauses listed above.

Local Planning Policy Framework and Local policies

The proposal is consistent with the relevant objectives and strategies of the LPPF clauses and Local policies listed above.

Significant Landscape Overlay – Schedule 3

Clause 42.03-2 states that a permit is required to:

Construct a building or construct or carry out works.

Given that Schedule 3 to the SLO does not contain a relevant exemption for the proposed horse arena and machinery shed, a planning permit is required.

Decision Guidelines	Assessment
The Municipal Planning Strategy and the Planning Policy Framework.	The proposed development is supported by state and local planning policies.
The statement of the nature and key elements of the landscape and the landscape character objective contained in a schedule to this overlay.	See below.
The conservation and enhancement of the landscape values of the area.	See below.
The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.	N/A – the proposed development is not affected by the BMO and no vegetation removal is proposed.
The impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance or the need to remove vegetation.	The proposed development will utilise low scale built form (i.e. less than the preferred 7.5m in the SLO3) which is equivalent to some two storey dwellings in the locality. The building cannot be tucked into the landscape very much because of the relatively flat topography of the land. However, it is proposed to use muted and non-reflective tones (Colorbond - Mangrove colour). Furthermore, 11 out of the 13 bays of the proposed development will be open bays, thus reducing the visual bulk of the building. Given that there is minimal existing vegetation on the subject land it is recommended that it be a condition of any permit to require screening vegetation. Furthermore, no vegetation removal is proposed.
The extent to which the buildings and works are designed to enhance or promote the landscape character objectives of the area.	See below.
The impact of buildings and works on significant views.	N/A – The subject land is quite low lying and relatively flat land along the coast. It is not on a ridgetop or visually prominent hill face. The proposed development would not be visible from the coast due to the vegetation in the coastal

	reserve and within the property and also due to topography.
Any other matters specified in a schedule to this overlay.	See below.
Whether buildings are sited and designed to maximise retention of existing vegetation throughout the landscape, and whether the proposal provides for the planting of new indigenous coastal vegetation wherever possible.	No vegetation removal is proposed as part of this application. Furthermore, it is recommended that it be a condition of any permit issued that screening vegetation be planted along the southern boundary, frontage to Paterson Road and frontage to Lance Drive.
Whether landscaping around buildings uses indigenous species (e.g. Eucalyptus or Melaleuca spp.) or non-invasive exotic / native feature planting that is already a feature of the character (e.g. existing shelterbelts).	See above, the required landscaping will be indigenous.
In landscapes visible within 500 metres of Foster – Wilsons Promontory Road, whether the proposed development is sited to retain the open rural character and views to coastal landscape features.	N/A – the subject land will not be visible from Foster – Wilsons Promontory Road.
Whether ridgetops and visually prominent hill faces are largely kept free from development, particularly slopes visible from the coast and coastal hinterland such as between Mount Hoddle and Yarram.	N/A – The subject land is quite low lying and relatively flat land along the coast. It is not on a ridgetop or visually prominent hill face. It would not be visible from the coast due to the vegetation in the coastal reserve and within the property and also due to topography.
Along the South Gippsland Highway, whether buildings are sufficiently set back to avoid intrusion into views to Corner Inlet, Wilsons Promontory and the Welshpool Hills.	N/A
Whether the proposed development is kept below the dominant tree canopy height	The proposed development has an eave height of 5m and maximum height of 7.34m at the roof apex. As a result, the proposed development will not exceed the dominant tree canopy height of the local area which includes a mix of mature native and non-native trees that are well in excess of 7.34m high. As discussed above, it is also proposed to require screening vegetation directly adjacent to the building to ensure that it is screened from adjoining properties and the road.
The sparse location of buildings and structures outside of settlements, to avoid the loss of existing vegetation.	N/A - The proposed development does not require the removal of any vegetation.
Whether the proposed development reduces visual intrusion by utilising low scale building forms, tucked into the landscape, with the use of materials and colours that occur in the local area.	The proposed development will utilise low scale built form (i.e. less than the preferred 7.5m in the SLO3) which is equivalent to some two storey dwellings in the locality. The building cannot be tucked into the landscape very much because of the relatively flat topography of the land. However, it is proposed to use muted and non-reflective tones (Colorbond - Mangrove colour). Furthermore, 11 out of the 13 bays of the proposed development will be open bays, thus reducing the visual bulk of the building. Given that there is minimal existing vegetation on the subject land it is recommended

	that it be a condition of any permit to require screening vegetation.
In coastal locations, whether the proposed development utilises materials and colours that minimise contrast with the surrounding landscape and whether the visibility of buildings and structures is minimised when viewed from a distance, including from offshore.	The proposed colour of Colourbond 'Mangrove' will minimise the visibility of the building in the landscape. It is considered to minimise contrast with the surrounding landscape and the proposed development will not be visible from offshore locations.
In flatter locations (e.g. adjoining Shallow Inlet) whether the proposed development is substantially set back to minimise visual intrusion and to retain a dominant natural character within 500 metres of the edge of the coast.	The proposed development is substantially set back from the coastline abutting the subject land. The setback from the coastal waters is approximately 450m and approximately 300m to the adjoining coastal reserve. It will not be visible from the coast. In order to achieve the largest possible setback from the coast, the proposed development has a setback of approximately 20m from the Paterson Road frontage. Additionally, it is recommended that it be a condition of any permit issued that screening vegetation be planted to further minimise the visual appearance of the development.
In steep or hilly locations, whether the proposed development is designed to follow the contours or step down the site, to minimise need for earthworks on the site and whether buildings are articulated into separate elements to avoid visually dominant elevations.	N/A – the site is quite flat.
Whether the proposal includes the use of permeable surfacing for all unbuilt areas to minimise surface run-off and to support vegetation.	The proposed development will utilise existing permeable areas, with no other development proposed beyond the building footprint.
Whether the proposal includes the use of vegetation for screening and to delineate property boundaries, instead of fencing. If fencing is necessary, the proposal should include open style fencing of a type traditionally used in rural areas i.e. post and wire.	It is recommended that it be a condition of any permit issued that screening vegetation be planted as discussed above.
Whether the proposal contributes to the retention of the character of large open rural areas offering scenic views by siting developments back from roads, amongst vegetation and low in the topography.	The entire subject land is generally quite flat with little existing vegetation. The proposal does not "contribute to the retention of the character of large open rural areas" other than remaining open-sided. That is because the proposed building is located at the end of an infrequently used road that contains a variety of smaller and larger agricultural properties that contain existing vegetation in either shelter belts, along road reserves or in remnant patches. As you drive along Paterson Road toward the site there are points at which someone may experience "large open rural" views to either side of the road, however the view shed is quite limited in the context of the broader SLO landscape that is sought to be protected by the SLO3 such as Corner Inlet, Wilsons Promontory and the Welshpool Hills. As such, the immediate surrounds of this development are not considered to contribute significantly to the "large open rural" character and

	scenic views that are sought to be protected by the SLO3. In addition, it is recommended that it be a condition of any permit issued that screening vegetation be planted to further minimise the visual appearance of the development in the immediate landscape.
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Environmental Significance Overlay – Schedule 3

Clause 42.01-2 states that a permit is required to:

Construct a building or construct or carry out works.

Given that Schedule 3 to the ESO does not contain a relevant exemption for the proposed horse arena and machinery shed, a planning permit is required.

Decision Guideline	Assessment
The Municipal Planning Strategy and Planning Policy Framework.	The proposed development is supported by state and local planning policies.
The statement of environmental significance and the environmental objective contained in a schedule to this overlay.	See below.
The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.	N/A – the proposed development is not affected by the BMO and no vegetation removal is proposed.
Any other matters specified in a schedule to this overlay.	See below.
The purpose of the overlay.	<p>The purpose (objectives) of the ESO3 is:</p> <ul style="list-style-type: none"> ▪ To protect and enhance the natural beauty of the coastal area. ▪ To protect and enhance the environmental quality of the coastal area. ▪ To minimise the risk of erosion, pollution and destruction of the environment through poorly managed development. ▪ To ensure that development adjacent to coastal areas is compatible with the environment and does not result in adverse impacts on coastal processes. <p>The proposed development is located approximately 314m from the coastal reserve at its closest point. The proposed development will not lead to an increased risk of coastal erosion and will not adversely impact coastal processes. The siting of the horse arena and machinery shed at the furthest point from the coast as well as a recommended condition requiring screening vegetation will ensure the development does not</p>

	detract from the natural qualities of the area.
The maintenance and improvement of the stability of the coastal dunes and coastlines.	N/A – the site of proposed development is relatively flat and is not near a coastal dune.
The preservation of any existing natural vegetation.	No vegetation removal is required.
The conservation of any areas of environmental importance or significance.	No areas of environmental importance or significance will be impacted by the proposed development.
The intensity of human activity which the landscapes and the environment the area can sustain.	It is unlikely that the proposed development will increase human activity in the area as it is for private use. This decision guideline is also considered to be somewhat irrelevant given that the overlay can only control development and not use. As such, it is unclear as to why the person who drafted it thought it was relevant to consider the intensity of activity, which essentially relates to the use, not development.
The existing use and possible development of the land and nearby land.	The area surrounding the subject site is characterised by a mix of rural-residential lifestyle properties and larger farming properties. The rural lifestyle properties are likely to continue being used for such purposes and the larger farming properties are likely to be used for grazing. The subject land immediately abuts a property used for livestock production (beef cattle), however the proposed development is unlikely to affect or be affected by this operation.
The effect of development on the use and development of other land which has a common means of drainage.	N/A – the site of the proposed development gradually drains toward the coastal reserve and would not affect the development and use of other land.
Whether the development of the land will be detrimental to the natural environment.	The subject site is already clear and relatively flat. As a result, the proposed development can be accommodated without requiring the site to be significantly altered from its current state. It will not affect the natural environment because it is located in an area covered by introduced grass (grassing land).
The availability of water, sewerage, drainage, electricity and other services.	The proposed development will not produce any wastewater. Reticulated electricity is available to the site however, reticulated water and sewerage are not available to the site. It is noted that this has been provided for by a domestic water supply as well as a wastewater management system to service the existing dwelling. If required, drainage can be provided on site.
Whether or not the site is large enough to enable the adequate disposal and treatment of effluent through a septic tank system.	N/A – the proposed development will not produce any wastewater.
The siting, colour and design of buildings and works.	The proposed development will have: <ul style="list-style-type: none"> ▪ Height of approx. 5m to the eave (7.34m at roof apex) ▪ Floor area of approx. 1584m² ▪ Dimensions (Length – 72m, Width – 22m)

	<ul style="list-style-type: none"> ▪ Setback approx. 20m from west boundary (along Paterson Road) ▪ Setback approx. 13m from south-west boundary ▪ Colourbond Mangrove colour <p>The siting, colour and design is considered appropriate as previously discussed in relation to other considerations.</p>
The protection of the area for its recreational value.	N/A – the proposed development is on private property
The risk of fire.	The proposed development is located outside of the Bushfire Management Overlay. It is in a Bushfire Prone Area, as is much of the Shire, however the risk of fire as a result of the proposal or affecting the proposal is considered minimal.
Any relevant coastal study adopted by the Shire of South Gippsland.	The <i>Coastal Spaces Landscape Assessment Study</i> (2006) assesses the coastal landscapes of the Shire and identifies six perceptibly different Character Areas. The SLO3 has been applied to the area to achieve the findings of the study and to protect the values that were considered relevant. These matters have already been dealt with above by considering the provisions of the SLO3
<p>The views of the Department of Sustainability and Environment in respect to:</p> <ul style="list-style-type: none"> ▪ Subdivision applications of greater than four lots or any subdivision application which may have adverse environmental effects. ▪ Applications which immediately abut Crown Land. ▪ Applications which in the opinion of the responsible authority, may have adverse impact, on Crown Land. ▪ Applications which in the opinion of the responsible authority may adversely affect coastal processes, dune systems (including tertiary systems), have possible effect on aquatic habitat and flora and fauna habitat. ▪ Applications which in the opinion of the responsible authority may cause or otherwise cause erosion, land degradation or affect land stability on either the subject land or on adjoining land. ▪ Applications which in the opinion of the responsible authority may adversely affect wildlife habitat and sites of biological or zoological significance. 	N/A – the proposal is not considered to require the views of DELWP (formerly DSE).

65.01 Approval of an Application or Plan

Decision Guidelines	Assessment
The Municipal Planning Strategy and the Planning	See above.

Policy Framework.	
The purpose of the zone, overlay or other provision.	See above.
Any matter required to be considered in the zone, overlay or other provision.	See above.
The orderly planning of the area.	The proposed development is aligned with the planning of the area which consists of a mix of rural-residential lifestyle and farming/agriculture lots. Many of these lots contain existing sheds and outbuildings of varying sizes and setbacks. Furthermore, it is considered that a horse arena and machinery shed is an appropriate development within the Farming Zone and considering the size of the subject land.
The effect on the amenity of the area.	The nearest existing dwelling is located approximately 170m north-east of the proposed development. Additionally, all of the surrounding existing dwelling have existing vegetation surrounding them which provides some coverage from the proposed development. Therefore, it is unlikely that the proposed horse arena and machinery shed will adversely affect the amenity of the area.
The proximity of the land to any public land.	The subject land immediately abuts the coastal reserve owned by DELWP.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality.	The proposed development will not produce any wastewater. Therefore, it is unlikely it will contribute to reduced soil and water quality.
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	It is recommended that it be a condition of any permit issued that stormwater must be managed within the site.
The extent and character of native vegetation and the likelihood of its destruction.	The subject land has minimal existing vegetation and is mostly covered by grass. No vegetation will be removed, destroyed or lopped as part of this application.
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	No vegetation removal is proposed. However, it is recommended that it be a condition of any permit issued that screening vegetation be planted.
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.	The development site is not affected by any flood, bushfire or erosion overlay. As a result, the risk of the proposed development being affected by a flood, erosion or fire hazard can be effectively managed.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.	N/A – any loading or unloading of animals associated with the development can occur within the boundaries of the property and will not affect the amenity of the area, traffic flow or road safety.

Conclusion and Recommendation:

Council has considered the matters under Section 60 of the Planning & Environment Act 1987. It considers that the proposed development is appropriate having regard to the relevant matters and can be managed through appropriate conditions.

It is recommended that a report be written to the next available Council meeting supporting the development of the land with a horse arena and machinery shed, in accordance with the endorsed plans.

Signed.

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Planning Officer
Date:

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Planning Co-ordinator
Date: