

PLANNING REPORT

Lot 14, 9 Towilla Way Killarney VIC 3282

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ATTACHMENT LIST

- Application Form
- Copy of Title
- Plan Pack
- Land Capability Assessment

ACKNOWLEDGEMENTS

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DOCUMENT CONTROL

This document has been prepared to aid the submission of a planning permit application for 9 Towilla Way Killarney VIC 3282

Revision 1 03/02/2025

OVERVIEW

It is proposed to construct a double storey dwelling with attached garage on the existing property at 9 Towilla Way Killarney.

The property is currently developed with a modest shed which has been in-situ for more than 17 years. The current landowners have owned the property since 2005.

PROPOSAL

It is proposed to retain the existing shed and construct a dwelling with a garage to the south of the lot. The dwelling is centrally located within the property, and setback a minimum of 30m from the rear boundary.

The dwelling is serviced by water tanks and a new septic system as detailed in the LCA. The existing power connection will be extended to service the dwelling.

The dwelling has a maximum height of 7.9m to the peak of the roof and is constructed of a mix of blockwork, and Colorbond style cladding in dark tones with feature timber to the balconies.

The dwelling contains the following amenities to the ground floor:

- Entry areas
- Family room
- Three bedrooms
- Main Bathroom
- Laundry
- And stairwell with provision for a future lift.

The first floor contains the main living/kitchen/dining areas, a WC and Master suite including ensuite and WIR. There are two balconies, one to the north west and one to the south.

The garage includes a double-parking area, with roller doors to each side, and an open workshop area and includes direct access to the dwelling. Landscaping is proposed around the dwelling, and all other established landscaping will be retained on site. The existing driveway will be extended to service the dwelling.



Figure 1 - 3D render of proposed new dwelling by Peter Jackson Design Pty Ltd

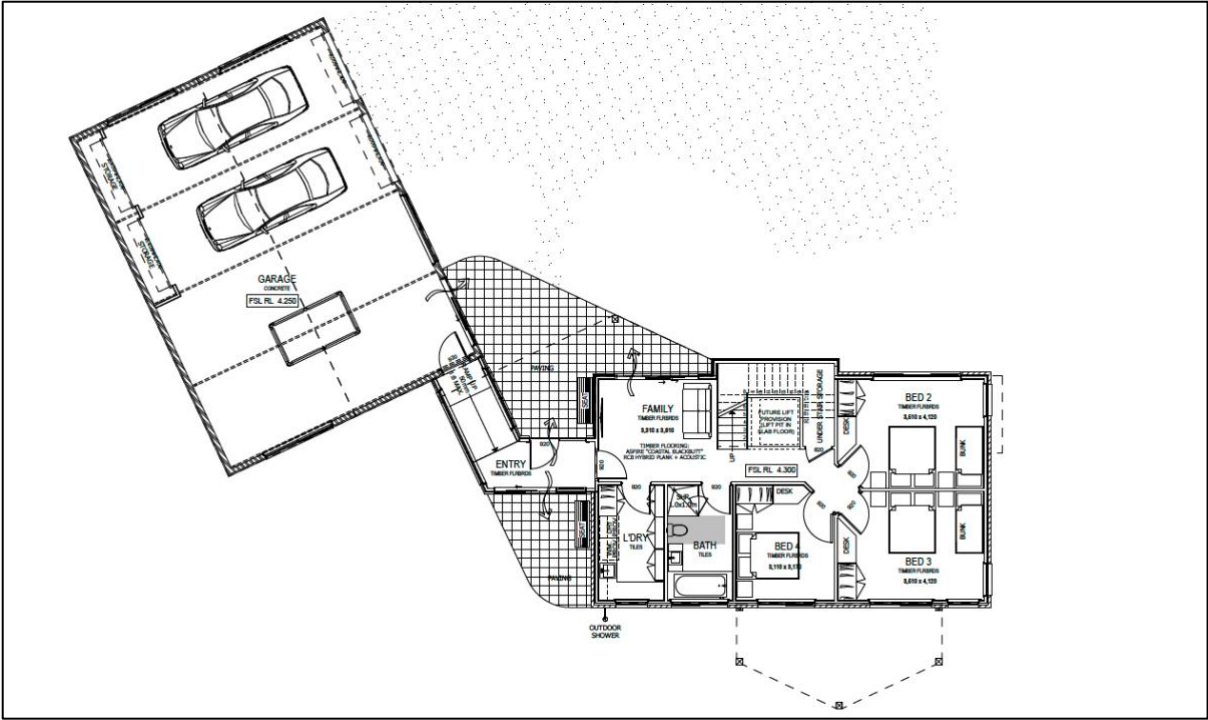


Figure 3 - Proposed ground floor plan by Peter Jackson Pty. Ltd.

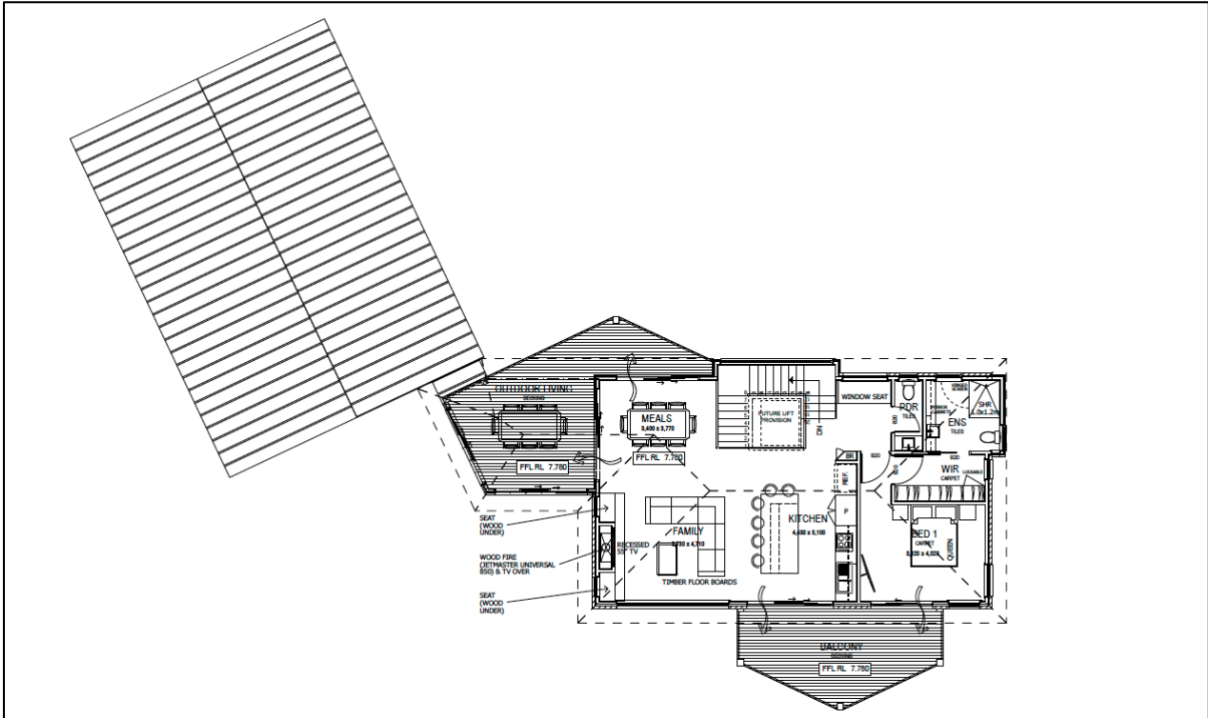


Figure 2 - Proposed first floor plan by Peter Jackson Pty. Ltd.

PLANNING CONTROLS

The Planning Controls which apply to the property are as follows:

- The property is located in the Rural Living Zone - Schedule 1
- The property is located in a Significant Landscape Overlay - Schedule 5

The lot has an area of 1.4ha.

RURAL LIVING ZONE

A permit **is not** required for the use of the dwelling under Clause 35.03-1 as the following requirements Section 1 Conditions are met:

- The lot meets the minimum lot area (1ha).
- The dwelling is the only dwelling on the lot.
- The dwelling meets the requirements of Clause 35.03-2 in terms of servicing
- The dwelling is located more than 500m from any Work Authority.

A permit **is not** required for buildings and works under the RLZ1 Clause 35.03-4 as the following setbacks are met:

- The buildings and works are not within 50m of a Transport Zone 2 Road.
- The buildings and works are not within 20m of any other road
- The buildings and works are not within 30m of a small second dwelling not in the same ownership.
- There is not setback specified for a dwelling not in the same ownership.
- The buildings and works are not within 100m of a waterway, wetlands or flood plain (See below).



Figure 4 Subject site (blue dash) showing closest wetland no 26063 and 100m buffer distance around wetland in the Belfast Coastal Reserve.

SIGNIFICANT LANDSCAPE OVERLAY

A permit is required to construct or carry out works. This does not apply if a schedule to the overlay specifically states that a permit is not required.

Several permit exemptions are listed at Schedule 5 Clause 3.0 – all of the requirements need to be met for a permit not to be required.

The following requirements are not met by the proposal triggering a permit:

- Buildings are setback less than 200m from the sea, estuary or wetlands.
- The southern corner of the lots is approximately 130m from the high tide mark (rocky outcrop on the beach), with a 30m boundary setback, the dwelling is approximately 160-170m from the sea, thereby requiring a planning permit. .



Figure 5 Setback from approximate lot boundary to Sea (131m)

NOTICE AND APPEAL RIGHTS

An application Clause 42.03 Significant Landscape Overlay of this planning scheme **is not** exempt 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.

ANALYSIS

SITE ANALYSIS

The site is narrow to the street frontage, widening to the southern boundary. There is mature vegetation in patches along the front and side boundaries, with grass cover to the central parts of the property. The lot is generally flat with slight undulations over the property.

An existing 36sqm shed is located to the north of the lot, screened from the road by the mature vegetation, accessed by an informal driveway. The shed houses equipment used to maintain the property and has a WC connected to an existing septic which is located south of the building. The shed has a water tank on the western side collecting stormwater. The remainder of the lot is open grassland areas.



Figure 6 - Aerial image of subject land and surrounding area (Source: NearMap Nov 2024)

SURROUNDING CHARACTER

The site forms part of a rural residential style subdivision which was completed in the early 2000s. Many of the lots have been developed with contemporary styled double storey dwellings, and landscaping has been established on each lot.

The Towilla Way subdivision was re-zoned to Rural Living Zone Schedule 1 under Amendment C70 in November 2023.

There is a mix of dwelling locations within the lots, with some being located with a paddock at the front (30-50m from the rear boundary) and some being located near the front with a paddock behind (30-50m from front boundary). There are four other lots which haven't yet been developed with dwellings in the subdivision.

To the street frontage is the court bowl, with central parking spaces (now faded), with an access road/track located to the western boundary leading to the Belfast Coastal Reserve and Killarney beach.

RESTRICTIONS ON TITLE

There are two restrictions on title –

- Agreement under S173 of the P&E Act 1987 – W83224T
- Agreement as to rights W899535V

There is also an easement 2m in width providing pedestrian access to other lots within the subdivision along the southern boundary.

The proposed dwelling does not contravene the requirements of either agreement.

W899535V – RIGHTS AGREEMENT WITH FRAMLINGHAM ABORIGINAL TRUST

3.7 – Specifies the restricted development part is a 30m wide Development Exclusion Zone on the south boundary of the relevant lots.

Section 6 –

6. REQUIREMENTS IN RESTRICTED DEVELOPMENT AREA

Subject to clause 8, within the restricted development area the following controls apply:

6.1. EXCAVATION

No excavation (as defined) shall be permitted without community consent.

6.2. DEVELOPMENT

6.2.1. No occupiable dwelling will be constructed.

6.2.2. No overhead power lines will be constructed.

6.2.3. No vehicular access tracks or other development will be constructed without obtaining community consent.



6.3. FIRES

No fires may be lit save in a properly constructed fire-place from which the fire is protected from escape.

6.4. OTHER PROHIBITED USES

The Owner will not permit any trade industry or business, including the recreational use of trail bikes or motor vehicles, the storage of rubbish or materials, or any other activities not consistent with the objectives of this agreement.

The proposal complies with the requirements of Section 6 in relation to the restricted development area (within 30m of the southern lot boundary).

W832264T – S173 AGREEMENT DATED 17/3/2000

6.1. GENERAL CONTROLS

The Owner agrees and acknowledges that the lots:

- 6.1.1. Will be used only for residential and rural residential purposes.
- 6.1.2. Will be developed by the construction of one dwelling only on each lot with its associated outbuildings.
- 6.1.3. Will not be used for a re-located dwelling a caravan or a movable dwelling as defined in the Residential Tenancies Act 1997 within the meaning of the term in Part 14 of that Act.

6.2. THE OWNER FURTHER AGREES THAT:

- 6.2.1. The maximum height of any building shall not exceed 8 metres above natural ground level.
- 6.2.2. No building or formed vehicular track shall be developed within 20 metres of the southern boundary of lots 11,12,13,14 and 15.

6.3. SEWERAGE AND SULLAGE

All sewerage, sullage and drainage shall be disposed and contained in accordance with the requirements of the Environment Protection Act 1970, the Health Act 1958 and Council. All effluent shall be disposed within the relevant lot and shall not drain directly or indirectly onto an adjoining lot, street, water course or drain. Sitings of any buildings shall be such that sufficient land shall be set aside and kept available for the purpose of effluent disposal.

6.4. CONDITIONS ON CONSTRUCTION OF ANY DWELLING

- 6.4.1. Before commencement of construction of any dwelling permitted by the Scheme, properly drawn, scaled and dimensioned plans showing the site, layout and floor plan, with elevations and complete detail of external materials and finishes, shall be submitted to the Council and endorsed by Council.
- 6.4.2. The external finishes and colours of all dwellings shall be of muted tones to blend in with the landscape to the satisfaction of Council.
- 6.4.3. Before commencement of construction of any dwelling permitted by the Scheme, the owner of the relevant lot must submit to Council and have endorsed by Council a Landscaping Plan. The Landscaping Plan must be prepared by a person competent in landscape design and show at least the following

6.4.3.1. All proposed surface treatments.

6.4.3.2. The botanical name, height and width at maturity and proposed location of all vegetation intended to be planted.

6.4.3.3. The location of existing vegetation.

W832264T - S173 303



DW832264T-8-7

6.5. FENCING

Any fence constructed on a lot shall be constructed of materials and to a height to the satisfaction of the Council.

Section 4 – Upon registration of the approved development plans, the affected land shall not be subdivided further to create any additional lots.

Section 6 – Applies to Lots 1-17 on PS422537B (Subject property is Lot 14) – see above.

The proposal complies with all parts of Sections 6-1-6.5 as outlined above and in the agreement. Notable the dwelling is less than 8.0m in height, is clad in muted tones, is accompanied by a LCA and Landscape Plan and is not located within 20m of the southern boundary of Lot 14.

PLANNING POLICY

2.03-1 Settlement Hierarchy

Towilla Way is categorised as a Hamlet.

Hamlets are identified as having no/low growth capacity due to constraints.

Response

The lot proposed to be used for residential uses does not require a planning permit under the zone, and it located centrally within the hamlet. It does not increase the capacity of the settlement.

11.01-1L-01 Settlement Moyne

- Not support further intensification of lot densities in Towilla Way.

Response

The proposal does not provide for the intensification of lot density in Towilla Way.

RURAL LIVING ZONE 1

A permit is not required under the zone.



Figure 7 - Looking north from dunes across rear of subject land and adjoining properties



Figure 8 - View of subject land frontage to Towilla Way.

SIGNIFICANT LANDSCAPE OVERLAY SCH. 5

The landscape character objectives to be achieved by the SLO5 provisions are (emphasis added):

- To increase the coverage of native and indigenous vegetation, both in corridors throughout the landscape, and associated with landscape features.
- To ensure that shelter belt planting remains a feature of rural areas of the landscape.
- To protect locally significant views and vistas that contribute to the character of the landscape, such as extensive vistas to low dunes and the open hinterland from the Princes Highway, and spectacular long range views to Tower Hill, and from other localised rises throughout.
- To ensure that development in and around settlements and along main roads and touring routes does not impact on the characteristics of the landscape, including key views and viewing opportunities.
- To ensure that long stretches of the coastal strip between Port Fairy and Warrnambool, retain a dominant natural character, free of visually intrusive development.
- To retain an undeveloped appearance from foreshore and other public use areas.
- To improve the appearance of low density and rural residential development, particularly on the outskirts of Warrnambool.
- To ensure the ridge tops and visually prominent hill faces, are largely kept free of development.
- To ensure clear visual separation between Port Fairy and Killarney.
- To reduce the visual impact of infrastructure throughout the landscape.
- To protect landscape character and attributes that are consistent with the Aboriginal cultural heritage values of the area.
- To recognise, and protect, the landscape of the Port Fairy to Warrnambool Coast as a place of significant Aboriginal cultural heritage value.

As relevant to the proposal and in response to the above landscape character objectives, the following is provided to demonstrate that the application meets each of the objectives:

INCREASE INDIGENOUS VEGETATION

The application proposes to add a substantial amount of indigenous vegetation back into the landscape using plantings along the internal accessway and around the dwelling. The use of indigenous vegetation from the following Ecological Vegetation Classes (EVC) have been used:

- Plains Grassy Woodlands and Forest; and
- Riparian Scrubs or Swampy Scrubs and Woodlands

The use of species from these EVC lists are generally local to this area and will provide a better chance of health and future growth of planted vegetation once established.

SHELTER BELT PLANTING

Shelter belt planting is already mature around the property boundaries and has been maintained by the landowners over their long ownership.

PROTECT LOCALLY SIGNIFICANT VIEWS

Landscape values are:

- Views to the Belfast Coastal Reserve and back of dune system adjoining Killarney Beach

Towilla Way is not visible from the Princes Highway. The property is locally visible and appears within a cluster of rural residential lots which adjoin the Belfast Coastal Reserve.

The proposed dwelling and associated works have been purposely located towards the south end of the lot to ensure that distant views through the narrow site frontage do not block wider views towards the reserve from the road. Views from the pedestrian walkways and easements towards the coastal reserve will not be affected in a negative manner by the dwelling due to the considered siting, central location and 30m setback from the southern boundary.



Figure 9 - Looking north from south-west corner of subject land.

RETAIN A DOMINANT NATURAL CHARACTER AT COASTAL STRIP

The coastal strip in the surrounding area is made up of two main landscape features. The landscape features in the coastal strip at Rutledge's Cutting comprise of:

- The primary dune system and beach at the ocean front; and
- The waterway and surrounding wetland that is located in between the primary dune system and the subject land.

From a number of public vantage points along the beach at the ocean front, the subject land cannot be seen, and therefore there is limited interaction with the primary coastal strip.

The subject land is visible when viewed from the northern side of the primary dune and along the Belfast Coastal Reserve and wetland. While this visibility is acknowledged, the following response is provided to demonstrate that the proposal remains consistent with the landscape character objective:

- The dwelling and associated works are located off the southern property boundary and include dark colours and tones.
- The dwelling is setback from side boundaries where mature vegetation is located.
- The dwelling will be considered as one in a series of rural residential style dwellings located towards the southern end of lots in Towilla Way.
- The orientation of the dwelling is consistent with the orientation and setbacks of other dwellings located towards the southern end of their lots (setbacks between 30-50m from the southern boundary)
- The use of dark muted tones for exterior cladding for the dwelling, landscaping and natural materials for other external structures will ensure that the buildings and works blend into the natural features of the rural hinterland across the wetland.
- The use of dark muted tones is a well-established landscape mitigation technique and has been shown to be effective in landscape assessment in reducing built form impact in broad landscapes.
- The use of considerable landscaping around the dwelling will add additional visual screening of the new structure and soften the appearance in the natural landscape.

DECISION GUIDELINES

The following decision guidelines apply to an application for a permit under Clause 42.03, in addition to those specified in Clause 42.03 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal will result in an increase in habitat vegetation species, particularly around the coastal hinterland and wetlands.
Yes – there is significant landscaping proposed to create a local native garden centrally on the site to support the existing mature native boundary landscaping.
- Whether the proposal includes the retention and/or reinstatement of Monterey Cypress trees in areas of limited numbers.
N/A
- Whether any proposed new shelterbelt plantings are sited to retain important view lines.
N/A No new shelterbelt plantings are proposed.
- Whether the proposal includes the retention and increase of planting through north-south indigenous vegetation corridors.
Yes – the proposal includes a significant increase of indigenous vegetation through the site.

- Whether developments that occur in view fields are designed and sited so as to retain the character and quality of views.
N/A The development is part of the Towilla Way rural living area.
- Whether development on prominent hill faces and ridge tops can be avoided.
N/A
- Whether development that cannot be avoided on ridge tops:
 - Is located to avoid the loss of vegetation.
 - Is constructed of lighter materials to minimise visibility against the sky.
 - Utilises low scale building forms, tucked into the landscape.
 N/A
- Whether the proposed development mirrors traditional homestead clusters, to reduce the impact of development on large areas of the landscape by grouping buildings in the landscape and setting back buildings a sufficient distance from roads.
Yes – the garage and dwelling are connected by a link to break the bulk of the building up and appear as a group of buildings, particularly in views from the walkway to the coastal reserve.
- Whether low density and rural residential development:
 - Uses permeable surfacing for all unbuilt areas to minimise surface run-off and to support vegetation.
Yes – the driveway is proposed to be permeable and all other unbuilt areas will be re-vegetated or maintained as managed grassland.
 - Includes the retention of trees that form part of a continuous canopy beyond the property, with new trees planted in a position where they will add to such a continuous canopy.
Yes – the existing mature trees are retained on site. These trees were planted by the owners when the first purchased the lot more than 15 years ago and have now reached maturity.
 - Utilises vegetation for screening and to delineate property boundaries, instead of fencing.
Yes – the existing mature trees are retained and delineate property boundaries, aided by post and wire fencing to ensure there are no visually intrusive fences.
- Whether ribbon development along main roads and key touring routes can be avoided.
N/A The site is not located on a main road and is not visible from key touring routes.



Figure 10 - From halfway down laneway, looking SSW across subject land to dunes.

INCORPORATED DOCUMENT

SITE SPECIFIC PROVISIONS APPLYING TO LAND AT SURVEY LANE AND ROCKS ROAD KILLARNEY

The provisions of this document expired on 21 August 2005 – none the less, the incorporated document is still within the scheme and has many similarities to the agreements registered on title. The proposal is compliant with the requirements outlined below.

1.2 Use and Development Lots 1-16

Lots 1-16 shown in diagram 1 (not attached) may be used for no more than one house provided:

All wastewater is treated and retained within the lot boundary without the construction of treatment or disposal facilities which rise above natural ground level and all stormwater is disposed of within the lot boundary or to the satisfaction of the Responsible Authority.

The responsible authority has indicated in writing that it has been satisfied that a proposed house site and its immediate surrounds are not subject to contamination which may render the site unsuitable for residential use; and

The responsible authority has indicated in writing that is has been satisfied that a proposed house site, its immediate surrounds and access to it are not subject to flooding or waterlogging which may render the site unsuitable for residential use.

In addition to any requirements relating to the use and development of the land contained within the agreement required by Clause 1.1, the following provisions apply:

- No building or formed vehicular track may be developed within 30 meters of the southern boundary of lots 11-15.
- The maximum height of any building shall not exceed 8 meters above natural ground level.

Prior to the commencement of any buildings or works on a lot illustrated on Diagram 1, plans outlining proposed building, works and landscaping must be endorsed by the responsible

authority. Such plans must include sufficient details to show the siting, design and external finishes of all building and works and proposed landscaping and revegetation of the lot. In considering the submitted plans, the Responsible Authority shall have regard to the matters listed in Clause 65 of the scheme, with particular attention to potential impact of development upon the visual amenity and the coastal environment.

SUMMARY

It is respectfully requested that Council consider the application as proposed, and subject to assessment determine to issue a planning permit. The proposed dwelling is no dissimilar to the pattern of development in the area and is accompanied by significant increases in landscaping to complement the existing mature landscaping the owners have cultivated over the last 20 years of their ownership.