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Statement of Existing Use

Rights

1280 Barwon Heads Road, Connewarre – former Connewarre Hall (HO1704)

Property	1280 Barwon Heads Road, Connewarre VIC 3227 — Lot 1 on Title Plan 971677F (SPI 1\TP971677)
Zone / overlays	Farming Zone (FZ); Heritage Overlay HO1704; Public Acquisition Overlay PAO3
Use relied upon	Dwelling (existing residential use of the land)

1 Purpose

This statement sets out the basis on which the residential use of the land at 1280 Barwon Heads Road, Connewarre is relied upon as an existing use and is provided with the planning application for the conservation and adaptive reuse of the former Connewarre Memorial Hall as a dwelling. It responds to Council's pre-application advice (PRE-70-2026), which recommended that a written statement detailing the existing use rights of the dwelling accompany the application.

2 Why an existing use right is relied upon

The land is within the Farming Zone. In that zone, the use of land for a dwelling requires a planning permit unless the lot meets the minimum area specified in the schedule (30 hectares in the Bellarine area). The subject lot is approximately 0.5 hectare and is well below

that threshold. The residential use of the land has continued the land for many years. The application therefore does not seek a permit to use the land for a new dwelling; it relies on the continuation of the existing residential use and seeks a permit only for the associated buildings and works, demolition and tree removal.

3 Legal basis – Clause 63

An existing use right may be established under Clause 63 of the Greater Geelong Planning Scheme. As there is no permit trail for the dwelling, the applicable route is Clause 63.11 (Proof of continuous use), which allows an existing use right to be established by proving that the use has been carried on continuously for a 15-year period. As amended by Amendment VC254 (gazetted 12 February 2024), the 15-year period need not be the period immediately before the application — it may be any 15-year period — provided that:

- no court or the Tribunal has held the use to be unlawful (at any time);
- the responsible authority has not issued a clear and unambiguous written direction to cease the use during that period; and
- the use has not ceased between the end of the chosen 15-year period and the date of the application.

Under Clause 63.06 (Expiration of an existing use right), an existing use right expires only if the use stops for a continuous period of two years, or for two or more periods that together total two years in any three-year period. “Continuous” use therefore does not require unbroken occupation to the day; only a two-year vacancy (or cumulative vacancies totalling two years in any three-year window) would extinguish the right. The onus of proof rests with the applicant.

4 The 15-year period relied upon

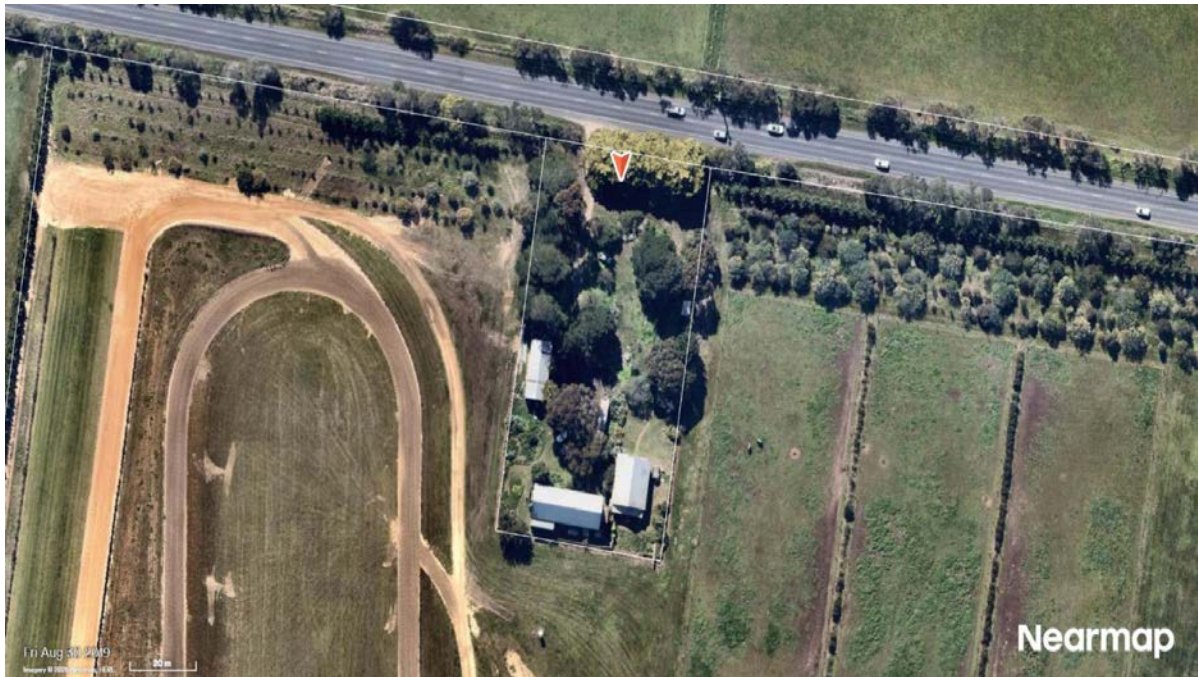
The applicant relies on the period from **9 November 2009 to the present** — a continuous span of more than sixteen years, which comfortably exceeds the 15-year period required by Clause 63.11. Throughout this period the land has contained, and been occupied as, a dwelling.

5 Evidence of continuous use

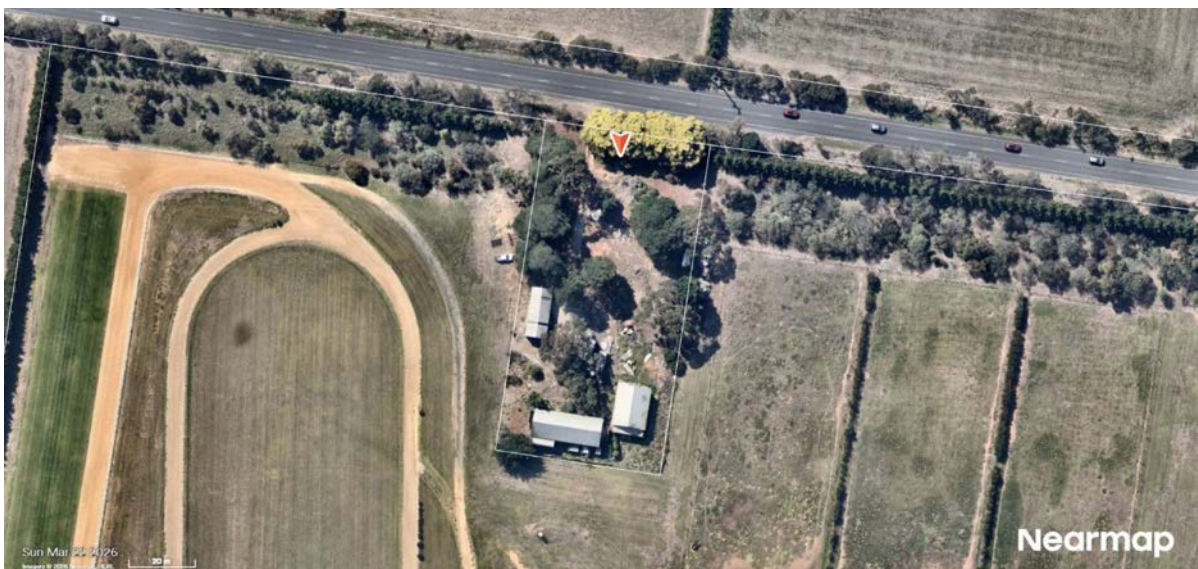
The primary evidence of continuous residential occupation is a series of dated aerial photographs of the subject land (Nearmap), comprising 51 images captured between 9 November 2009 and 22 March 2026. Across the full series, the dwelling and its associated outbuildings are clearly present on the land, together with a maintained residential curtilage (garden, driveway and vehicles), and there is no image in the series in which the dwelling is absent, demolished or the site vacant. The imagery therefore demonstrates the continuous physical presence and residential occupation of the dwelling across the entire period, with no break of the kind that would engage Clause 63.06. Representative images from the start, middle and end of the series are reproduced below; the complete dated series is provided as an attachment.



Subject land, 9 November 2009 — dwelling and outbuildings present and occupied (Nearmap).



Subject land, 30 August 2019 — dwelling and outbuildings present and occupied (Nearmap).



Subject land, 22 March 2026 — dwelling and outbuildings present and occupied (Nearmap).

This aerial evidence is corroborated by the vendor statement (Section 32) for the land, which records that the registered proprietor's address of record was the subject property itself, that electricity and water are connected to the land, and that the property is rated by Council — each consistent with a habitable, occupied dwelling.

6 No disqualifying break or finding

On the evidence, none of the disqualifying circumstances in Clauses 63.11 and 63.06 arises:

- the dwelling was not vacant for any continuous two-year period, nor for cumulative periods totalling two years within any three-year period, at any point in the relied-upon window — the dated aerial series shows the dwelling continuously present and occupied;
- there is no court or Tribunal finding that the residential use of the land is unlawful; and
- Council has not issued any clear and unambiguous written direction to cease the use.

7 Conclusion

The residential use of the land at 1280 Barwon Heads Road, Connewarre has been carried on continuously for a period well in excess of 15 years, as evidenced by the dated aerial photography and corroborated by the vendor statement. No disqualifying vacancy, court or Tribunal finding, or direction to cease the use has occurred. On this basis, an existing use right for the dwelling is established under Clause 63.11 of the Greater Geelong Planning Scheme, and the residential use of the land may lawfully continue. The accompanying planning application accordingly seeks a permit for buildings and works, partial demolition and tree removal only, and not for the use of the land.