

SPECIAL MEETING OF COUNCIL

Minutes of a
Special Meeting of Council
held in the James Young Room,
Lerderderg Library, Bacchus Marsh on
Wednesday 18 February 2015,
at 5:00 p.m.

Members:

Cr. Paul Tatchell (Mayor)	Central Ward
Cr. Allan Comrie	East Moorabool Ward
Cr. David Edwards	East Moorabool Ward
Cr. John Spain	East Moorabool Ward
Cr. Tonia Dudzik	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

Officers:

Mr. Rob Croxford	Chief Executive Officer
Ms. Natalie Abbott	A/General Manager Corporate Services
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Community Services

Rob Croxford
Chief Executive Officer

AGENDA

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1. OPENING OF MEETING

The Mayor, Cr. Paul Tatchell, opened the meeting at 5.00 pm.

2. ACKNOWLEDGEMENT TO COUNTRY

We respectfully acknowledge the traditional owners of this land, their spirits and ancestors.

3. PRESENT

*Cr. Paul Tatchell
Cr. John Spain
Cr. Tonia Dudzik
Cr. Allan Comrie
Cr. David Edwards
Cr. Tom Sullivan*

*Central Ward
East Moorabool Ward
East Moorabool Ward
East Moorabool Ward
East Moorabool Ward
West Moorabool Ward*

Officers:

*Mr. Rob Croxford
Mr. Phil Jeffrey
Mr. Danny Colgan
Ms. Natalie Abbott*

*Mr. Justin Horne

Ms. Lisa Gervasoni
Mr. Damien Drew
Ms. Melissa Hollitt*

*Chief Executive Officer
General Manager Infrastructure
General Manager Community Services
A/General Manager Corporate
Services
Acting Manager Strategic and
Sustainable Development
Coordinator Strategic Planning
Senior Strategic Planner
Minute Taker*

4. APOLOGIES

Cr. Pat Toohey

Woodlands Ward

5. DISCLOSURE OF INTERESTS OR CONFLICTS OF INTEREST

Under the Local Government Act (1989), the classification of the type of interest giving rise to a conflict is; a direct interest; or an indirect interest (section 77A and 77B). The type of indirect interest specified under Section 78, 78A, 78B, 78C or 78D of the Local Government Act 1989 set out the requirements of a Councillor or member of a Special Committee to disclose any conflicts of interest that the Councillor or member of a Special Committee may have in a matter being or likely to be considered at a meeting of the Council or Committee.

Definitions of the class of the interest are:

- a direct interest
 - (section 77A, 77B)
- an indirect interest (see below)
 - indirect interest by close association (section 78)
 - indirect financial interest (section 78A)
 - indirect interest because of conflicting duty (section 78B)
 - indirect interest because of receipt of gift(s) (section 78C)
 - indirect interest through civil proceedings (section 78D)

Time for Disclosure of Conflicts of Interest

In addition to the Council protocol relating to disclosure at the beginning of the meeting, section 79 of the Local Government Act 1989 (the Act) requires a Councillor to disclose the details, classification and the nature of the conflict of interest immediately at the beginning of the meeting and/or before consideration or discussion of the Item.

Section 79(6) of the Act states:

While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:

- (a) leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and
- (b) remain outside the room and any gallery or other area in view of hearing of the room.

The Councillor is to be notified by the Mayor or Chairperson of the special committee that he or she may return to the room after consideration of the matter and all votes on the matter.

There are important reasons for requiring this disclosure immediately before the relevant matter is considered.

- Firstly, members of the public might only be in attendance for part of a meeting and should be able to see that all matters are considered in an appropriately transparent manner.
- Secondly, if conflicts of interest are not disclosed immediately before an item there is a risk that a Councillor who arrives late to a meeting may fail to disclose their conflict of interest and be in breach of the Act.

Nil.

6. PRESENTATIONS/DEPUTATIONS

The Council has made provision in the business of the Special Meeting of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Presentations or deputations are required to be conducted in accordance with the requirements contained within the **Presentation/Deputations Protocols and Procedural Guidelines**.

Persons wishing to make a presentation or deputation to the Council on a matter included in the agenda shall inform Council by 1pm on the Friday prior to the meeting by contacting the Chief Executive Officer's Office and registering their name and agenda item being spoken to.

At the meeting the Mayor will invite the persons wishing to make a presentation or delegation to address the Council on the agenda item.

The person making the presentation or deputation is to stand and address the Council on the item. No debate on the item is permitted between the person making the presentation or delegation and the Council.

A maximum of three minutes per presentation or delegation will be allocated. An extension of time may be granted at the discretion of the Mayor.

Councillors, through the Mayor, may ask the person making the presentation or delegation for clarification of matters presented.

The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

List of Persons making Presentations/Deputations in relation to an item listed on the agenda:

Item No	Description	Name	Position
7.1	<i>Amendment C51 – Bacchus Marsh Activity Centre Structure Plan – Consideration of Panel Report and Adoption.</i>	Andrew Gray ARG Planning	Applicant
7.1	<i>Amendment C51 – Bacchus Marsh Activity Centre Structure Plan – Consideration of Panel Report and Adoption.</i>	Michael and Monica Kratchovil	Supporters

7. BUSINESS

7.1 Amendment C51 – Bacchus Marsh Activity Centre Structure Plan – Consideration of Panel Report and Adoption

Introduction

File No.: 13/06/058
Author: Damien Drew
General Manager: Satwinder Sandhu

Background

Amendment C51 is a Council-initiated amendment to give effect to the recommendations of the *Bacchus Marsh Activity Centre Structure Plan 2011*, which was adopted by Council on 7 December, 2011.

Council prepared the Structure Plan, with substantial financial assistance provided by the State Government, in response to the recommendations of the *Growing Moorabool, Economic Development Strategy and Action Plan*. This Strategy recommended that Council should prepare a Structure Plan for a concentrated centre of activity in the core of Bacchus Marsh, which includes extra retail floor space, offices, service industries, medical and professional suites and a range of residential offerings.

The purpose of the Structure Plan is to: *reflect the needs and aspirations of the community and reinforce Bacchus Marsh as a preferred location for activity with a suitable mix of commercial, retail, community and recreational activities to meet needs locally, reduce the town's escape expenditure and increase local employment opportunities.*

At its Ordinary Meeting held on 7 December, 2011, Council resolved to adopt the Structure Plan and to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment (C51) for the purpose of implementing the recommendations of the *Bacchus Marsh Activity Centre Structure Plan 2011*.

On 31 January, 2012, Council requested authorisation from the Minister for Planning to prepare and exhibit the amendment to the Moorabool Planning Scheme. Consequently, the Minister for Planning authorised the preparation and exhibition of Amendment C51 on 16 February, 2012.

The authorisation required that consultation occur with the regional office of the (former) Department of Planning and Community Development as part of the preparation of the amendment, including the proposed planning provisions, prior to exhibition.

Internal reviews and consultation occurred through the period from 16 February, 2012, and on 19 February, 2013, the Minister for Planning extended the Authorisation A02186 granted to Council to prepare the planning scheme amendment C51 to the Moorabool Planning Scheme.

Amendment C51 proposes to implement the recommendations of the Activity Centre Structure Plan, as follows:

- Amending the Municipal Strategic Statement (Clause 21.07 - Bacchus Marsh) to align the objectives and strategies with the recommendations of the Structure Plan.
- Including the *Bacchus Marsh Activity Centre Structure Plan 2011* as a reference document in Clause 21.11.
- Incorporating eight (8) new Design and Development Overlays in the Moorabool Planning Scheme, which introduce specific built form and urban design requirements to ensure that new development respects the prevailing character of the town.
- Rezoning the area of land known as the Taverner Street Development Area which is currently zoned Farming to Residential 1, and applying a Development Plan Overlay (DPO4) and Environmental Audit Overlay (EAO) to the land.
- Applying a Development Plan Overlay (DPO5) over the land affected by the route of The Greenway as described within the Bacchus Marsh Activity Centre Structure Plan 2011. In addition, DPO5 will facilitate the provision of the road connection between Simpson Street and Waddell Street, parallel to Main Street.

Amendment C51 was placed on public exhibition between 30 May and 28 June, 2013, including notices in local papers and individual letters to all affected property owners.

On 3 July 2013, Council resolved to accept late submissions for Amendment C51 Bacchus Marsh Activity Centre Structure Plan up to 24 July, 2013, a period of three (3) weeks to enable ratepayers and residents to complete submissions to the plan.

A total of 17 submissions were received in response to the amendment, six (6) during the formal public exhibition period, and eleven (11) late submissions. The submissions included, nine (9) of opposition, three (3) offering no objection but making comment, one (1) offering support in principle but requesting alterations/changes, and four (4) indicating support for, or no objection to, the Amendment.

Key issues raised in the submissions included:

- The role of the Structure Plan;
- The Main Street Precinct, including the Civic Precinct and application of DDO11;
- Proposed Greenway and possible adverse impacts on property values and development potential of the land, and the absence of any mechanism to provide compensation for affected landowners;

- Rezoning of the area identified as the Taverner Development Area and
- Application of the new Commercial Zones in the Town Centre.

On 18 September, 2013, Council resolved to request the appointment of a Planning Panel by the Minister for Planning to consider the submissions received. Council resolved to submit the exhibited amendment to the Panel, subject to the recommended changes.

The Panel Hearing was held on 29, 30, and 31 January, 2014 in Bacchus Marsh and Council received the Panel Report on 24 March, 2014.

In summary, the Panel found that the Amendment C51 to the Moorabool Planning Scheme is supported by the State and Local Planning Policy Frameworks. However, it recommended that the Amendment be adopted, subject to a number of modifications.

In addition, the Panel commended Council and its consultants for the extensive work, which has been undertaken, in setting the future strategic direction for development at Bacchus Marsh.

Prior to the receipt of the C51 Panel Report, Council requested that the Residential Zones Standing Advisory Committee review the introduction of the new residential zones into the Moorabool Planning Scheme. A draft amendment (C72) to implement the new residential zones in Bacchus Marsh, Ballan and Gordon was prepared by Council for the Advisory Committee's consideration.

However, Council's draft Amendment C72 to implement the new residential zones was based on more recent strategic work than the Activity Centre Structure Plan. Consequently, there were some differences between the controls included in the exhibited C51 Design and Development Overlays and the schedules to the new residential zones included in draft Amendment C72.

Thus, prior to considering the Panel's Report for this Amendment, Council officers had been awaiting the release of the recommendations of the Residential Zones Standing Advisory Committee and the Minister for Planning's decision on Amendment C72, in relation to the application of the New Residential Zones in the municipality.

The review of the recommendations of the Standing Advisory Committee and the approved Amendment C72 was necessary to ensure consistency between the planning controls being applied by the two amendments and to avoid unnecessary duplication of controls.

This report considers the Panel Report received in relation to Amendment C51 and recommends the adoption of the Amendment, modified in accordance with the Panel recommendations and the outcomes of Amendment C72, which applied the New Residential Zones in the municipality.

New Residential Zones

On 1 July, 2013, the Victorian State Government introduced a suite of new planning zones, which will supersede and / or replace current zones within all Victorian planning schemes.

These zone reforms introduce different controls and generate different built form outcomes. The general intent is to more clearly emphasise where development should occur through directed growth zones (RGZ) and zones where neighbourhood character takes precedent (NRZ).

In addition, the new suite of Residential Zones came into effect on 15 July, 2013 and aim to:

- Improve the range of residential zones to better manage growth and protect and maintain liveability and neighbourhood character;
- Simplify requirements with greater certainty and clearer rules;
- Allow a broader range of activities to be considered; and
- Provide greater clarity about the type of use and development, which can be expected in residential areas.

These amendments (amongst other matters) removed the Residential 1 (R1), Residential 2 (R2) and Residential 3 (R3) zones from all planning schemes and introduced three new zones - the General Residential Zone (GRZ), Neighbourhood Residential Zone (NRZ) and Residential Growth Zone (RGZ).

The Minister for Planning required all Councils to implement the reformed residential zones by 30 June, 2014. Where a Council had not finalised an amendment to implement the new residential zones by 1 July, 2014, it was stipulated that the General Residential Zone would be implemented as the 'default' zone to replace all land zoned Residential 1, 2 and 3.

A Standing Advisory Committee was appointed by the Minister for Planning on 5 February, 2014 to report on proposals to rezone land from the Residential 1, 2 and 3 Zones to the new Neighbourhood Residential Zone, General Residential Zone and Residential Growth Zone.

The purpose of the Committee was to advise the Minister for Planning on the method and suitability of the application of the proposed new residential zones into local planning schemes.

In addition, the Standing Advisory Committee was intended to support Councils to review matters related to introducing the new residential zones into their local planning schemes within the required timeframe.

Councils were offered the opportunity to have draft amendments to apply the new Residential Zones considered by the Advisory Committee and Moorabool Shire was one of 14 Councils, which accepted this offer.

Council prepared draft Amendment C72 to implement the new Residential Zones in Bacchus Marsh, Ballan and Gordon based on recently completed and current strategic work. The draft amendment sought to link the zone translation with the draft Housing Strategy for Bacchus Marsh to better guide how, where, and in what form, future housing is to occur in the town.

Draft Amendment C72 was placed on public notification by Council in March/April 2014. The advertising of the draft amendment enabled proposed community feedback and input in response to the implement the new residential zones.

Council and submitters presented their views to the Residential Zone Standing Advisory Committee at a hearing conducted in Bacchus Marsh in May 2014.

Matters considered by the Advisory Committee included the implications of the proposed use of the suite of residential zones on the capacity to accommodate projected population growth in the municipality.

In addition, the Committee considered the correlation between the proposed application of the new zones with overlay controls, such as, Heritage Overlays, Design and Development Overlays, and Development Plan Overlays.

However, the report of the Standing Advisory Committee was not released, and a decision was not made on draft Amendment C72, prior to 30 June, 2014.

Consequently, the State Government implemented Amendment VC 116 on 1 July, which applied the General Residential Zone to land within the former Residential 1 and Residential 2 Zones of Bacchus Marsh.

On 25 September, 2014, the Residential Zone Standing Advisory Committee Report was released by the Minister for Planning.

The conclusions of the Residential Zone Standing Advisory Committee, in relation to Bacchus Marsh, were as follows:

- Over-use of the Neighbourhood Residential Zone (NRZ) when the General Residential Zone should be more likely applied.
- The NRZ was inappropriate to apply to newly developing greenfield sites, such as, Stonehill and Underbank.
- Some of the standards proposed could not be strategically justified e.g., 20 per cent site coverage in the NRZ3 Schedule; e.g., 400 square metre lot size standard in the NRZ1 zone.
- Application of the GRZ around activity centres with the GRZ1 and GRZ2 schedules as per Council recommendations seems to be well accepted and strategically sound. These areas were considered desirable for increase housing choice and infill opportunities.

Amendment C72 – New Residential Zones

Following the release of the report of the Residential Zone Standing Advisory Committee, Amendment C72 was gazetted on 9 October, 2014. The approved Amendment included a number of changes as per the recommendations of the Residential Zone Standing Advisory Committee.

It retained the General Residential Zone in Bacchus Marsh and applied zone schedules to the Central and Inner Residential Areas, as proposed in Council's submission to the Standing Advisory Committee. These areas account for approximately 10 per cent of residential land in Bacchus Marsh.

The General Residential Zone - Schedule 2 (GRZ2) has been applied to designated areas within the Bacchus Marsh Activity Centre, and designated areas near Maddingley Park and the Bacchus Marsh Railway Station.

Schedule 3 to the General Residential Zone - (GRZ3) has been applied to designated areas near community and retail facilities, such as, Bacchus Marsh and Melton Regional Hospital.

The Schedules to the General Residential Zone provide for variations to ResCode standards as follows:

GRZ Schedule 2

The schedule includes variations to the following ResCode standards:

- Minimum street setback (Standards A3 and B6) of five metres;
- Maximum site coverage (Standards A5 and B8) of 70 per cent (instead of 60 per cent); and
- Maximum front fence height (Standards A20 and B32) of 1.2 metres.

GRZ Schedule 3

The schedule includes variations to the following ResCode Standards:

- Minimum street setback (Standards A3 and B6) of six metres;
- Landscape Standard B13 changed to require the provision of one tree per 600 square metres of lot size with at least one tree in the front setback (with trees > four metres height and > three metres canopy at maturity); and
- Maximum front fence height (Standards A20 and B32) of 1.2 metres.

Proposal

Council's Municipal Strategic Statement (MSS) identifies the opportunities for consolidated activity in the town centre as follows: "*Central Bacchus Marsh has potential to establish a best practice example of transport-oriented Activity Centre planning. Significantly-sized parcels of land between the railway station and Main Street and between Fiskin and Grant Streets provide opportunity for planned residential and mixed-use urban development*".

Moorabool Shire Council's Municipal Strategic Statement (MSS) identifies further strategic work relating specifically to Bacchus Marsh. This further strategic work includes:

Prepare and adopt a Local Area Structure Plan for the land between the railway station and Main Street and between Fiskin and Grant Streets as shown in the Growing Moorabool Economic Development Strategy.

The Structure Plan included an Implementation Strategy, which foreshadowed an amendment to incorporate the strategic directions of the Structure Plan into the Moorabool Planning Scheme.

Thus, the implementation of the *Bacchus Marsh Activity Centre Structure Plan 2011* via Amendment C51 will complete this item of further strategic work identified in the MSS.

The Amendment

Amendment C51 was subsequently prepared and included the implementation of the recommendations of the *Bacchus Marsh Activity Centre Structure Plan 2011* by:

- Amending the Municipal Strategic Statement (Clause 21.07 Bacchus Marsh) to align the objectives and strategies with the recommendations of the Activity Centre Structure Plan.
- Including the *Bacchus Marsh Activity Centre Structure Plan 2011* as a reference document in Clause 21.11.
- Incorporating eight (8) new Design and Development Overlays in the Moorabool Planning Scheme, which introduce specific built form and urban design requirements to ensure that new development respects the prevailing character of the town.
- Rezoning the area of land known as the Taverner Street Development Area which is currently zoned Farming to Residential 1.
- Applying a Development Plan Overlay (DPO4) and Environmental Audit Overlay (EAO) to the Taverner Street Development Area.
- Applying a Development Plan Overlay (DPO5) over the land described as The Greenway within the Bacchus Marsh Activity Centre Structure Plan 2011.

Each of the Design and Development Overlay Schedules contains a preferred character statement and design objectives to ensure that new development accords with the preferred character statement. In addition, the design objectives seek to provide an appropriate landscape setting for the interface between development and the future ~~Greenway~~. The Overlay Schedules ensure that planning approval is not required to construct one dwelling on a lot, or extend or alter an existing dwelling, if specified requirements are met.

DPO5 aims to ensure that the location of the ~~Greenway~~ is identified prior to the commencement of development on the affected land. The alignment of the ~~Greenway~~ is required to be determined to enable this key design and development objective of the Structure Plan to be implemented.

In addition, DPO5 will facilitate the provision of the road connection between Simpson Street and Waddell Street, parallel to Main Street. At present, the Planning Scheme does not contain any policy direction or controls, which are necessary under the planning system to facilitate the provision of this link.

The Development Plan Overlay is proposed to be applied to the ~~Taverner Development Area~~ to ensure that subdivision and development occurs in an orderly controlled manner, is designed to respond to the objectives of the Structure Plan, and achieves a master planned development outcome.

Application of the Environmental Audit Overlay (EAO) to the Taverner Street Development Area is necessary, as there is potential that the land could be contaminated due to its intensive horticultural use. It must be demonstrated that the land is free from contamination prior to being used for residential purposes.

Public Exhibition Process

Amendment C51 was exhibited in accordance with the provisions of the Planning and Environment Act 1987 between 30 May and 28 June, 2013. Notice was provided to all relevant Government Departments, Statutory Authorities and affected landowners and occupiers. Notices were placed in the Moorabool News, Council's web site, Government Gazette and the Moorabool Matters publications.

During the public exhibition period, Council officers met with a number of affected landowners.

A total of 17 submissions, including eleven (11) late submissions, were received in response to Amendment C51, of which nine (9) are objections, three (3) offer no objection but make comment, one (1) offers support in principle but requests alterations/changes, and four (4) indicate support for, or no objection to, the Amendment.

The relatively low number of submissions is indicative of a degree of community acceptance of Council's strategic directions for the activity centre and surrounds.

Submissions not supporting the amendment primarily related to:

- The role of the Structure Plan;
- Main Street Precinct, including the Civic Precinct and application of DDO11;
- Proposed ~~Greenway~~ and possible adverse impacts on property values and development potential of the land, and the absence of any mechanism to provide compensation for affected landowners;
- Rezoning of the area identified as the ~~Taverner~~ Development Area and
- Application of the new Commercial Zones in the Town Centre.

Following receipt of the Panel Report by Council, an owner of a property the eastern side of Fiskin Street enquired about the rezoning of the Taverner Street land. The owner was given the opportunity to make a late submission to Council and the Minister, however, a submission is yet to be received.

Panel Process

An Independent Panel was appointed by the Minister for Planning to consider and hear submissions in response to Amendment C51 on 11 October, 2013, under the provisions of Sections 153 and 155 of the *Planning and Environment Act 1987*.

It is important to note that the basic role of a panel is to:

- Give submitters an opportunity to be heard in an independent forum and in an informal, non-judicial manner. A panel is not a court of law.
- Give independent advice to the planning authority (Council) and the Minister for Planning about an amendment and about submissions referred to it. A panel makes a recommendation to the planning authority. It does not formally decide whether the amendment is to be approved.

All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. All submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

Prior to the Panel Hearing, Council officers identified several drafting discrepancies and suggested a number of improvements to the exhibited documentation, which formed part of Council's submission to the Panel.

The Panel conducted its public hearing on 29, 30 and 31 January, 2014 at the Lerderderg Library. In addition to Council, seven parties made written and oral submissions at the hearing. Expert town planning evidence was presented on behalf of Council and three of the submitters, Abacus Bacchus Marsh Trust (Bacchus Marsh Village Shopping Centre) and Mr Alex Ng (Foodworks), and Mr S and Mrs A Provenzano. Expert evidence in relation to acoustic engineering and buffer constraint assessment was presented on behalf of Mr David Mega in relation to the Taverner Street rezoning.

In reaching its conclusions and recommendations, the Panel read and considered all of the submissions and a range of other material, which was provided by Council and other parties. This material included written submissions, evidence and verbal presentations.

The Panel Report is included in Attachment 1 to this report.

Panel Findings and Recommendations

In summary, the Panel found that the Amendment is supported by the State and Local Planning Policy Frameworks. The Panel commended Council and its consultants for the extensive work which has been undertaken in setting the future strategic direction for development at Bacchus Marsh. However, the Panel did not support the referencing of the Activity Centre Structure Plan in the Moorabool Planning Scheme.

In the Panel's opinion, the Structure Plan is not required to be referenced in the Planning Scheme as the principal matters contained in the Plan have either been incorporated into Clause 21.07 or the Schedules to the Development Plan Overlay and the Design and Development Overlay.

In relation to the ~~Greenway~~ the Panel supported having a dedicated pedestrian-cycle link between the Main Street commercial area and the railway station.

There was broad acceptance by the parties at the Hearing that the strategic aim of achieving a safe pedestrian and cycle link, separated from vehicular traffic, and extending between Main Street and the Railway Station was desirable and would benefit the Bacchus Marsh community. Issues raised by the submitters related to the form of this link, its location and the area of land required to accommodate the link.

It was submitted by legal counsel representing the major land owners affected by the proposed ~~Greenway~~ at the Hearing, that the ~~Greenway~~ which extended the length of his clients' land, was above and beyond any normal requirement. If it was to proceed as proposed, the submission of counsel was that it should either be by way of a Public Acquisition Overlay or provision of another form of compensation to his clients.

In its findings, the Panel acknowledged the unique opportunity to provide an excellent landscape and pedestrian/cycle environment as part of any development of the vacant land south of Main Street, the major part of which is in single ownership. However, it emphasised that the design solution needs to be equitable, to prevent the cost being borne by one or two landowners. Thus, the Panel did not support Council's position that the link should be in the ~~Greenway~~ form originally proposed under the Structure Plan and in the Amendment.

Whilst the Panel did not believe that the location and design of the pedestrian/cycle link needs to be predetermined, it was mindful of the poor pedestrian/cycle outcomes of many large format retail and supermarket developments. These poor outcomes have occurred despite the existence of the Activity Centre Guidelines and other policy objectives for some time.

Accordingly, the Panel determined that reference to the pedestrian/cycle link in Clause 21.07 of the Planning Scheme and a revised Development Plan Overlay Schedule would be appropriate, and will provide Council with the strategic and statutory basis to achieve an appropriate pedestrian/cycle link between Main Street and the railway station.

Based on the discussions which occurred during the Panel ~~workshop~~ Council prepared a revised version of DPO5 and renamed it the ~~Bacchus Marsh~~ Activity Centre Link. As directed by the Panel, this version of the DPO was circulated to all parties ten days after the conclusion of the Hearing.

The Panel supported the Schedules to the DPO and DDO generally as revised by Council, post exhibition, but with some additional minor revisions. Revisions recommended by the Panel include the deletion of the maps of the areas to which the Design and Development Overlays apply and the diagrams, from the Schedules. These maps and diagrams were deemed to be unnecessary as each of the Schedules will be identified on the Overlay Maps of the Planning Scheme and details of setbacks and heights of buildings are specified in the Schedules.

In relation to the rezoning of the Taverner Street land for residential purposes, the Panel concluded that the residential use of the land is supported by its designation under the Strategic Framework Plan in the MSS and by the use of neighbouring land to its north and west. The Panel recommended that, as stated in the evidence presented during the Hearing, noise readings should be taken when the concrete batching plant in Park Street is operating and, if these readings are to the satisfaction of Council, the rezoning could proceed.

In conclusion, the Panel recommended that Amendment C51 to the Moorabool Planning Scheme be adopted, subject to a number of modifications.

The Panel recommendations and Council officers' response are outlined below:

1. *Clause 21.07 be amended to delete reference to the Structure Plan and the Strategic Vision Plan.*

Officer comments

As previously stated, the Panel concluded that the inclusion of the principal elements of the Structure Plan in the MSS and Overlays means that it is not required to be referenced in the Planning Scheme.

In addition, the Panel considered that the Strategic Vision Plan at Clause 21.07-2 was unhelpful, particularly as it applies to the Commercial 1 Zone land, and it should be deleted. Furthermore, the Panel noted that the precinct boundaries of the Strategic Vision Plan were different in the versions contained in the Structure Plan Report and Clause 21.07 under the Amendment.

Officers agree with the Panel recommendation to delete reference to the Structure Plan and the Strategic Vision Plan from Clause 21.07.

It is considered that the ~~Strategic Vision Plan~~ included in the exhibited Clause 21.07 would add little value to the Clause and may cause confusion when interpreting the Planning Scheme.

Deleting the reference to the Structure Plan in the Clause is a minor change and will not affect the intent of the Amendment, as the principal elements of the Structure Plan are retained in the objectives and strategies contained within Clause 21.07.

2. *Clause 21.07 be amended to add the following strategy:
Encourage civic and community uses on land west of Lord Street, in the vicinity of the library and public hall.*

Officer comments

Given the Panel's conclusions that the Strategic Vision Plan should be deleted from Clause 21.07-2 and the Structure Plan should not be referenced in the Planning Scheme, it recommended that a Strategy should be added to encourage the location of community uses at the eastern end of the Activity Centre.

Whether a Civic Precinct supporting community uses occurs in this area will depend on demand for and funding of such uses, by the public and/or private sectors. The Panel noted that the relocation of the Council offices has possibly diminished the focus this precinct may have previously possessed.

It is noted that the recommendation merely seeks to encourage civic uses in the vicinity of the library and public hall, and does not preclude the land from being used in accordance with the provisions of the Commercial 1 Zone.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

3. *Clause 21.11 be amended to delete the Bacchus Marsh Structure Plan as a Reference Document to the Moorabool Planning Scheme.*

Officer comment

Officers agree with the Panel recommendation not to include the Bacchus Marsh Activity Centre Structure Plan as a Reference Document in Clause 21.11 of the Planning Scheme.

Based on the changes recommended by the Panel in its report, substantial revision of the Structure Plan would be required to enable the Minister for Planning to consider its retention as a Reference Document. This work would need to be completed prior to the Amendment being adopted by Council and submitted for Ministerial approval.

Therefore, it is concurred that the inclusion of the principal elements of the Structure Plan in the MSS (objectives and strategies of Clause 21.07) and Overlay controls no longer necessitates the document to be referenced in the Planning Scheme.

4. *Map 35 be amended to include Graham Street, north of Waddell Street and land on its west side, in Schedule 11 to the Design and Development Overlay.*

Officer comments

As part of the Panel preparation process, it was realised that an incorrect version of the Design and Development Overlay (DDO) mapping was inadvertently included as part of the exhibited Amendment. The incorrectly exhibited version of the mapping omitted small areas from the proposed DDOs, including land at No. 5 Graham Street.

Notification was provided to the owners of the affected properties following the Panel Directions Hearing, which did not result in any submissions being received opposing their inclusion in the DDOs.

Therefore, the Panel recommendations support the overlay maps being amended to include this land (No. 5 Graham Street) in DDO11, which in the Panel's opinion will not transform the Amendment.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

5. *Schedule 5 to the Development Plan Overlay be adopted in the amended form included in Appendix D.*

Officer comments

It should be noted that the provision of a high quality pedestrian/cycle link from Main Street to the Bacchus Marsh Railway Station was one of the key design and development objectives of the Activity Centre Structure Plan.

To ensure that this objective can be attained it is necessary to apply a planning control to land, which is likely to contain the ~~B~~acchus Marsh Activity Centre Link~~q~~formerly known as ~~T~~he Greenway~~q~~

As part of the Amendment, Schedule 5 to the Development Plan Overlay is proposed to be applied to land affected by the likely route of the ~~A~~ctivity Centre Link~~q~~

This Schedule provides the mechanism to ensure that the alignment of the ~~A~~ctivity Centre Link~~q~~is determined via the preparation and approval of a development plan (master plan) for the land. It provides the ability for the landowners to integrate their development with the ~~A~~ctivity Centre Link~~q~~ and achieve a high quality urban design outcome, which complements the character of Bacchus Marsh. In addition, preparation of a development plan will ensure that development, which might prejudice the route of the ~~A~~ctivity Centre Link~~q~~ does not occur.

It was submitted on behalf of the major landowners affected by the proposed ~~G~~reenway~~q~~ Mr and Mrs Provenzano, that it was above and beyond any normal development requirement. In their view, if the ~~G~~reenway~~q~~was to proceed as proposed, it should be by way of either a Public Acquisition Overlay or another form of compensation to affected owners.

The owners of the other property, which may have the ~~G~~reenway~~q~~route bisecting their land, submitted that it would severely limit the land~~s~~ development potential.

As previously mentioned, the Panel acknowledged that the provision of a high quality pedestrian/cycle link from Main Street to the Railway Station is a unique opportunity for Bacchus Marsh. However, it determined that the link should be achieved without unduly burdening the two affected landowners.

Therefore, the Panel did not support Council~~s~~ position that the ~~G~~reenway~~q~~ should remain in the form proposed under the Structure Plan and in the exhibited Amendment.

The Panel held an informal ~~w~~orkshop~~q~~with Council and affected submitters as part of the Hearing, when alternatives relating to the vision and requirements for a north/south pedestrian/cycle link were discussed.

In summary, the findings from the workshop were:

- **Clause 21.07-6:** should be amended to refer to the objective of achieving a high quality pedestrian/cycle link between Main Street and the Werribee River, as part of any development of the vacant land.
- An alternative name for DPO5 could be the '**Bacchus Marsh Activity Centre Link**'.

- **DPO5:** should be amended to clarify the requirements for the pedestrian/cycle link:
 - Include the following requirement for the Commercial 1 Zone land - *to provide requirements for a safe, attractive linkage connecting Waddell and Main Streets which connects to the residential land to the south and provides separation between pedestrian/cyclists and vehicles in a safe speed environment.*
 - Include the following requirement for the Residential 1 Zone land - *to provide a safe attractive and direct linkage connecting the railway station with Waddell Street and which connects to the linkage through the commercial land to the north.*
- **DDO9:** amend the wording to reflect the need for development to provide and address the pedestrian/cycle link.

At the conclusion of the Hearing, the Panel provided the opportunity for Council to comment on draft revisions made to DPO5 - ~~Bacchus Marsh Greenway~~ during the Panel ~~workshop~~ Council provided its comments to the Panel in the form of a revised DPO Schedule and circulated it to all parties ten days after the conclusion of the Panel Hearing. Circulation of the revised DPO Schedule provided the parties who attended the Panel Hearing the opportunity to submit comments, if they wished, to the Panel.

After considering the changes discussed and generally agreed to at the ~~workshop~~ and Council's additional comments, the Panel prepared a revised form of Clause 21.07-6 and Schedules to the Development Plan Overlay and Design and Development Overlay, included as Appendices C, D and E of the Panel Report.

The Panel considered that these revisions, which strengthen the wording of Clause 21.07, and DPO5, DDO9 and DDO11, will provide Council with the strategic and statutory basis to achieve an appropriate pedestrian/cycle link between Main Street and the railway station.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

6. *Schedules 9 and 11 to the Design and Development Overlay be adopted in the amended forms included in Appendix E of this Report.*

Officer comments

The revisions to DDO9 and DDO11 recommended by the Panel will achieve the provision of adequate control over the layout and detailed design of future development to ensure that the community's aspirations for the Structure Plan are met.

These Overlays provide Council with the statutory basis to achieve an appropriate form of development in the Main Street Precinct and along the pedestrian/cycle link between Main Street and the railway station.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

7. *Map 37 be amended to include 52 Graham Street in Schedule 9 of the Design and Development Overlay.*

Officer comments

No. 52 Graham Street was another of the properties inadvertently omitted from the DDOs in the exhibited Amendment.

A meeting held with the owner of this property prior to the Panel Directions Hearing alerted Council Officers to the error in the DDO mapping exhibited as part of the Amendment.

Notification was provided to the owners of this property following the Panel Directions Hearing. The submission received in response to this notification did not oppose the Amendment but sought clarification in relation to setbacks on the property, as required by Melbourne Water from the northern bank of the Werribee River.

Therefore, the Panel supported the overlay maps being amended to include this property, which in the Panel's opinion will not transform the Amendment.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

8. *Map 37 be amended to delete Schedule 5 to the Development Plan Overlay from land south of the Werribee River.*

Officer comments

The Panel has noted that there is a discrepancy between the Schedule and Planning Scheme Map for DPO5 - ~~Bacchus Marsh Activity Centre Link~~ (formerly the ~~Greenway~~). While the Schedule refers to it as applying to land *north of Werribee River*, the Map shows it extending further to the south, over Boyes Close and the property to its east, on the northern side of Taverner Street. Based on the submissions and information provided to it by Council, the Panel did not see any need to apply DDO5 to this land.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly. A separate DPO (DPO4) will be applied to the subject land as part of this Amendment (Refer to comment on Panel Recommendations 9 and 10 below).

9. *The Taverner Street land be rezoned to Residential 1, subject to actual noise readings taken at the concrete batching plant being to the satisfaction of the Planning Authority.*

Officer comments

Based on the submissions and evidence provided in relation to this land, the Panel concluded that the residential use of the land north of Taverner Street is supported by its designation under the Strategic Framework Plan in the MSS and by the use of neighbouring land to its north and west.

However, the Panel was concerned that the evidence to support the reduction of the threshold buffer set out at Clause 52.10, in relation to the ~~Alsafeq~~ concrete batching plant was not available.

Given the evidence presented at the Hearing in relation to noise emissions, the Panel believes that before a final decision is made in relation to the rezoning of this land, arrangements should be made to take actual noise levels readings at the ~~Alsafeq~~ concrete batching plant located in Park Street.

The Panel found that:

- *“Based on its inspection and evidence provided to it, it accepts that currently the concrete batching plant operates on an infrequent basis.*
- *The buffer between the plant and land on the north side of Taverner Street complies with EPA Guidelines.*
- *Based on actual noise readings being obtained while the plant is operating, that show the appropriate buffer is provided to the satisfaction of the Council, the rezoning of the land can proceed.”*

Following the release of the Panel Report, Council officers advised the consultant acting on behalf of the future developer of the land that further information was required before a final decision can be made in relation to the rezoning.

Further noise testing of the concrete batching plant has now been undertaken on behalf of the future developer. The consultants had attended the site on a number of occasions, both before and after the Panel Hearing, however, the batching plant was not in operation on any of those occasions. The Concrete Batching Plant Noise Testing Report is included in Attachment 2 to this report.

Attended noise measurements were taken on 16 June, 2014 to characterise and assess the potential noise impact from the operation of the ~~Alsafeq~~ concrete batching plant at the Taverner Street site.

The noise measurements were performed under simulated plant operating conditions as the plant was not operational at the time the measurements were conducted.

The noise assessment has been conducted with consideration to the industrial noise criteria set out under the *State Environment Protection Policy No. N-1 (SEPP N-1)* (Victorian Government, 1989), which have been derived in previous GHD report entitled *C51 Bacchus Marsh- Taverner Street: Noise Assessment Report (January 2014)*.

Based on the assumption that the noise measurements of the simulated plant operating conditions are representative of the typical day-to-day operating conditions at the plant, the noise survey results indicated that the industrial noise emanating from the ~~Alsafeq~~ concrete batching plant complies at the Taverner Street site boundary and, therefore, would be compliant within the overall area.

Therefore, it is considered that the results of this noise testing demonstrate that the ~~Alsafer~~ concrete batching plant is unlikely to cause unreasonable noise problems for future residents of the Taverner Street land, and the rezoning should proceed.

10. *Based on the rezoning of the Taverner Street land, Schedule 4 to the Development Plan Overlay and Schedule 5 to the Design and Development Overlay be adopted in the amended forms included in Appendices D and E respectively.*

Officer comments

Although submitters argued that application of the two Overlays to the land as proposed under the Amendment was a duplication of controls, the Panel supported their retention.

As stated earlier, the purpose of applying the Development Plan Overlay to the ~~Taverner~~ Development Area is to ensure that subdivision and development is designed to respond to the objectives of the Structure Plan, occurs in an orderly manner, and achieves a master planned development outcome.

The exhibited DPO Schedule set out the requirements for preparation of the Development Plan and the matters to which the Plan must respond. These matters include infrastructure and servicing, siting and design, environmentally sustainable design and construction, open space and landscaping, traffic and movement, and environmental considerations.

However, the Panel did not support the need for a social impact assessment to be included as a requirement of the Development Plan, having regard to the facilities provided in the vicinity and that the subject land only has an area of approximately 11 hectares.

In the case of the Design and Development Overlay (DDO5), its purpose to guide the siting and design of dwellings will continue after the provisions of DPO4 have been satisfied.

Revised versions of these Schedules, to correct mapping and typographical errors were outlined in Council's submission to the Panel. Some further minor corrections were made to these documents in response to questions of the Panel at the Hearing, and the revised Schedules were forwarded to the Panel post-hearing.

The revised versions of these Schedules are included in *Appendices D and E* of the Panel Report.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

11. *Schedule 6, 7, 8, 10 and 12 to the Design and Development Overlay be adopted in the amended forms included in Appendix F.*

Officer comments

Council did not receive any submissions in relation to Schedules 6, 7, 8, 10 and 12 of the Design and Development Overlay.

As part of the Panel preparation process, it was realised that some changes to the wording of the exhibited Schedules 6, 7, 8, 10 and 12 of the Design and Development Overlay was required to correct typographical errors, clarify provisions, and more accurately reflect the intent of the Structure Plan.

Revised versions of these Schedules, to correct mapping and typographical errors were outlined in Council's submission to the Panel. Some further minor corrections were made to these documents in response to questions of the Panel at the Hearing, and the revised Schedules were forwarded to the Panel post-hearing.

The minor corrections made by Council to the subject Schedules are supported by the Panel.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

12. *Map 35 be amended to include land on the north side of Turner Street, east of Clarinda Street in Schedule 10 of the Design and Development Overlay.*

Officer comments

The Panel supported the inclusion in DDO10 of the small areas inadvertently omitted from the exhibited Amendment. Notification provided to the owners of these properties following the Panel Directions Hearing did not result in any submissions being received opposing their inclusion. Therefore, the Panel supports the overlay map being amended to include this area, which in the Panel's opinion will not transform the Amendment.

Officers agree with the Panel recommendation, and have revised the relevant amendment documentation accordingly.

Changes required to Amendment C51 subsequent to the application of the new Residential Zones

As stated earlier, Amendment C72 made revisions to the default application of the General Residential Zone in the municipality, including the application of scheduled requirements (GRZ2 and GRZ3) Schedules to land in the central and inner residential areas around activity centres in Bacchus Marsh.

The gazetted Schedules to the GRZ specify requirements in relation to minimum street setbacks (GRZ2 . 5.0 metres and GRZ3 . 6.0 metres), building site coverage (GRZ2 only), front fence heights (1.2 metres), and landscaping requirements (GRZ3 only).

However, there are some differences between the controls to manage the form of development included in the exhibited C51 Design and Development Overlays and the requirements of the Schedules for the new residential zones included in the approved Amendment C72.

The differences are due to the requirements of the Schedules included in Amendment C72 being based on more recent strategic work, Council's draft Housing Strategy for Bacchus Marsh. This Strategy has reviewed the town's future housing needs and the standards required to guide how, where, and in what form, future housing is to occur in Bacchus Marsh.

It is noted that the Residential Zones Standing Advisory Committee Stage One Overarching Issues Report made findings in relation to the application of Schedules and Overlays controls. The Committee found that where various overlays apply, the combination of zone and overlays may need to be reviewed to provide an integrated planning framework which reduces the potential for ambiguity or inconsistent provisions, and the complexity in administering the scheme.

Changes to the Design and Development Overlays

As stated above, requirements in relation to street setbacks are included in the approved GRZ Schedules, which now form part of the Moorabool Planning Scheme. To avoid duplication and/or inconsistencies between the GRZ and DDO controls, it is recommended that the street setback requirements be deleted from DDO Schedules 6, 8 and 9, which will apply to land zoned GRZ2 and GRZ3.

Taverner Street Rezoning

Council can no longer rezone the land on the northern side of Taverner Street, west of Fiskin Street, to the Residential 1 Zone, due to the implementation of the new Residential Zones. Therefore, Council must consider rezoning the land to one of the new Residential Zones.

The Residential Zones Standing Advisory Committee recommended that the GRZ, rather than the Neighbourhood Residential Zone, be preferred for broad hectare land identified for residential development, that is, in the process of subdivision and development.

Thus, Amendment C72 has applied the General Residential Zone (GRZ) - Schedule 1 to the West Maddingley growth area. Schedule 1 to the GRZ does not specify variations to any of the zone or ResCode provisions. In addition, Council recently resolved to adopt Amendment C62, which will rezone the Underbankland to GRZ1 with the application of the DPO.

Therefore, it is recommended that the Taverner Street land be rezoned to General Residential Zone (GRZ) - Schedule 1. The Amendment will still apply the Development Plan Overlay, and the Design and Development Overlay to the land, which will guide subdivision and the siting and design of dwellings, as recommended by the Panel.

It is noted that Amendment C72 does not affect this land or necessitate any changes to either of these Overlays.

The amendment documentation revised in accordance with the Panel recommendations and the approved Amendment C72, is included in Attachment 3 to this report.

Additional changes to amendment documents

Some additional changes are required to the amendment documents to ensure consistency with the form and content of planning schemes and to provide greater clarity of the intent of the provisions.

In particular, corrections have been made to wording of the front fence height requirement in the DDO Schedules 6, 9 and 12 to be consistent with the form and content of planning schemes. In addition, changes have been made to DDO Schedules to improve the clarity of the intent of the provisions.

These changes are considered to be of a minor nature and do not alter the intent or the effect of the exhibited planning controls, and will streamline the approval of the Amendment, if it is adopted by Council.

Other issues

Ministerial Direction No.15 - The Planning Scheme Amendment Process

Under the provisions of Ministerial Direction No.15, the decision on the Amendment was due to be made within 40 days of receipt of the Panel Report. Council received the C51 Panel Report on 25 March, 2014. Therefore, to meet the timeline, Council was due to consider the Panel Report and make a decision on the Amendment at the May 2014 Meeting of Council.

However, as the Amendment was affected by the New Residential Zones process (Amendment C72), Council gained an exemption from the required timeline, until 1 August, 2014 and then an extension until 1 November, 2014. Amendment C72 was gazetted on 9 October, 2014, which did not allow sufficient time for analysis of the new provisions and preparation of a report for presentation at the November 2014 Meeting of Council. A third extension to this exemption was granted by the Minister on the basis that Council would be making a decision on the Amendment at its February 2015 Meeting.

A further extension of time has now been requested as the most recent extension expired on 4 February, 2015. Council is awaiting a response in relation to this request.

Access to the undeveloped land south of Main Street

The Development Plan Overlay (DPO5) requires the preparation of a master plan to coordinate the development of the vacant commercial and residential land between Main Street and the Werribee River. It will guide the future development and subdivisional layout of the land, including determining the road network required to service the development area and connections to the existing road network.

Application of the Development Plan Overlay allows Council to have greater control over the specific planning outcomes for the site, and ensure appropriate guidance is provided for development and subdivision applications to achieve a holistic consideration of issues culminating in a master planned development outcome.

Desired development outcomes are specified in the Schedule to the Development Plan, but it provides sufficient flexibility to enable the landowners/future developers to prepare a master plan incorporating their needs, in consultation with Council officers.

The Schedule to the Development Plan includes the following requirements in relation to access to the land:

- Preparation of a traffic management plan addressing the impact of the proposed development on the arterial and local road network, addressing mitigation works required on the road network in addition to funding responsibilities.
- A through road to connect Waddell and Simpson Streets.
- Preparation of a detailed road alignment and construction report. It enables consideration of the Activity Centre Design Guidelines, including those in relation to access. These Guidelines include the following:
 - To provide a well-connected road network with co-located access for all users.
 - To provide adequate access for commercial vehicle, service, and loading activities using the activity centre streets.
 - To integrate the development with the local street network . direct links to surrounding neighbourhoods. Matters to be considered in the preparation of the development plan and traffic management plan may include:
- Opportunities to increase accessibility and permeability of the area.
- Location of vehicular and pedestrian access, the capacity of vehicular access points, and the impact of vehicular access on the surrounding road network.

- Whether new access routes will be required, such as, road access from Main Street to the land/future development.
- Traffic flow/circulation within the site.
- Emergency vehicle access.
- Location of car parking areas.

Policy Implications

The 2013 - 2017 Council Plan (revised) provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Effective and efficient land use planning and building controls
Strategy	<p>Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support the social, economic, environment and well-being of the Shire.</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>
2014/15 Projects-	<p>Finalisation of Structure Plans</p> <p>. C51 Bacchus Marsh Activity Centre Structure Plan</p>

The proposed Amendment is consistent with the 2013-2017 Council Plan.

Consistency with Moorabool 2041 (M2041)

M2041 is a planning policy framework identified as an over-arching planning direction for the Shire across the next 30 years. It has two components, being a rural growth strategy and an urban growth strategy. The urban growth strategy component is focused on Bacchus Marsh. The rural growth strategy focuses equally upon all the Shire settlements (excluding Bacchus Marsh) and covers Ballan and Gordon.

Interwoven into the urban growth strategy is a requirement to formulate a housing strategy, which addresses the required zoning reforms, sought by State Government.

Bacchus Marsh Activity Centre Structure Plan pre-dates M2041, but is consistent with the key directions being advocated. The Amendment responds to the community engagement and structure planning undertaken for the central part of Bacchus Marsh. It will assist in maintaining the character of Main Street and the surrounding residential areas, which is highly valued by the community.

Planning and Environment Act 1987

Council has prepared the Amendment to meet its responsibilities and duties as a Planning Authority under the provisions of the *Planning and Environment Act 1987*. Section 4(d) of the Act includes an objective to “to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.”

Section 12 of the Act outlines the duties and power of planning authority (council) under the Act:

12(1) A planning authority must—

(a) implement the objectives of planning in Victoria;

(d) prepare amendments to a planning scheme for which it is a planning authority;

Economic Effects

Bacchus Marsh is the Moorabool Shire's largest and most vibrant activity centre. It will continue to be the focus for economic development, as well, as residential growth in the municipality.

The Bacchus Marsh Activity Centre Structure Plan was founded upon a study, which identified the need and scope for development within Bacchus Marsh, the *Growing Moorabool: Economic Development Strategy 2006 and Action Plan*.

Amendment C51 will have positive economic effects by consolidating growth and creating a greater critical mass of activity in Bacchus Marsh. It will assist in supporting continued growth and development of existing commercial and retail businesses, and potentially generate new business and local employment opportunities, within the town.

Future retail and commercial development will provide increased opportunities for local employment and retail activity to the benefit of the wider community, in a manner and scale that will not detract from the character of Bacchus Marsh.

Thus, the Amendment will improve the economic viability of the Bacchus Marsh Activity Centre, by maintaining and enhancing the Centre's role as the Shire's main commercial and community hub.

Environmental Effects

The *Bacchus Marsh Activity Centre Structure Plan 2011* has been prepared having due regard to environmental issues and constraints. It proposes making maximum use of the existing commercial centre and its infrastructure. In addition, the Structure Plan encourages active transport through the provision of the Bacchus Marsh Activity Centre Link between Main Street and the Railway Station, landscaping treatments, and supporting footpath construction in the town.

It is considered that the Amendment will result in positive environmental benefits by integrating any new development within the area affected by the Structure Plan and incorporating principles of environmentally sensitive urban design through the implementation of built form controls via the Schedules to the Design and Development Overlay.

In addition, the Amendment is expected to have positive environmental impacts resulting from:

- The inclusion of a separate and distinct objective to create a more sustainable Bacchus Marsh, with seven strategies included to achieve that objective.
- The encouragement of environmental improvements to public realm areas, particularly the Werribee River environs.
- The inclusion of the Environmental Audit Overlay to protect future residential growth from potential contamination issues

Social Effects

The development of the Structure Plan had due regard to social and community issues, with recommendations to improve walkability/accessibility and enhance the provision of goods and services through development and investment in the town centre.

Amendment C51 will contribute to the social improvements by ensuring that land use and design outcomes meet the needs of the local community and visitors to the Activity Centre.

State Planning Policy Framework

The Amendment is supported by the following objectives and clauses in the SPPF:

Clause 11.01-1 Activity centre network

- *To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.*

Clause 11.01-2 Activity centre planning

- *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.*

Policy guidelines for achieving the objective and strategies include:

- *Activity Centre Design Guidelines (Department of Sustainability and Environment, 2005).*
- *Safer Design Guidelines for Victoria (Crime Prevention Victoria and the Department of Sustainability and Environment, 2005).*
- *Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2005).*

- *Precinct Structure Planning Guidelines (Growth Areas Authority, 2009).*

Clause 11.02-1 - Supply of Urban Land

The Amendment allows for significant infill development opportunities, thus, providing for the consolidation, redevelopment and intensification of an existing urban area. Further, the Amendment seeks to maintain and enhance the neighbourhood character of the Bacchus Marsh Activity Centre and the surrounding area.

Clause 11.02-3 - Structure Planning

The Bacchus Marsh Activity Centre Structure Plan provides the necessary framework to guide future urban development in the town, which is consistent with this objective.

Clause 11.02-4 – Urban Growth - Sequencing of development – seeks to manage the sequence of development in growth areas so that services are available from early in the life of new communities. In addition, new development should be required to make a financial contribution to the provision of infrastructure, such as, community facilities, public transport and roads.

A key priority of the Amendment is to encourage infill development and to ensure that development of vacant zoned land occurs in a manner, which enhances the provision of infrastructure, and creates safe walking and cycle links to community and retail facilities, and public transport.

Clause 11.03-1 - Open Space Planning

This Clause seeks to ensure the provision of open space and creation of a diverse and integrated network of public open space commensurate with the needs of the community.

Open space networks should be linked through the provision of walking and cycle trails and should incorporate links between major parks and activity areas, along waterways and natural drainage corridors and connect places of natural and cultural interest.

A local open space network has been provided for by the Activity Centre Structure Plan. The proposed ~~Bacchus Marsh Activity Centre Link~~ will form an important link between Main Street, the Railway Station and open space areas, such as, Maddingley Park and the Werribee River corridor.

Clause 11.05-1 - Regional Settlement Networks

The state policy objective in relation to regional settlement networks seeks to promote the sustainable growth and development of regional Victoria through a network of settlements.

Clause 11.05-2 Melbourne's hinterland areas

Bacchus Marsh is located within Melbourne's hinterland, as defined by Clause 11.05-2.

11.05-4 Regional planning strategies and principles

Consistent with the Central Highlands Regional Growth Plan, and Plan Melbourne, growth is to be more clearly directed to areas around public transport and local services.

14.02-1 - Catchment planning and management has as its Objective:

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

Land adjacent to the Werribee River is included in the area affected by the Amendment. On land already zoned for residential purposes, development proposals will be required to respond to this clause. Where land is proposed to be rezoned, reference has been made to the Werribee River corridor in the proposed Schedule to the Development Plan Overlay.

Clause 15 - Built environment and heritage, seeks to achieve high quality urban design.

The urban design principles set out in Clause 15.01-2, particularly in relation to context, the public realm, landmarks views and vistas, pedestrian spaces, heritage and consolidation of sites and development of vacant sites, are relevant in considering the Amendment. In addition, the Activity Centre Design Guidelines 2005 are relevant under State Policy, which are to be used in assessing the design and built form of new development in activity centres.

The new Schedules to the Design and Development Overlay will guide the siting and design of new development in the Bacchus Marsh Activity Centre. *Clause 16 - Housing* seeks to provide a diversity of well serviced housing with an increasing proportion being located within the established urban area particularly in activity centres.

The Amendment plans for increased housing opportunities and diversity close to transport, retail activity, and the hospital. The country town character of Bacchus Marsh will be maintained without restricting the density of development on key sites south of Main Street.

Clause 17 - Economic development seeks to foster economic growth, which meets the community's needs for services and employment opportunities. It encourages the location of commercial facilities in activity centres and discourages major commercial and recreational uses in out of centre locations. In addition, it encourages the provision of industrial areas in accessible locations and the protection of industrial uses from the encroachment of incompatible land uses.

The retention of the existing Commercial 1 Zone will enable the activity centre to expand to serve a projected future town population of 30,000 people. Furthermore it is appropriate to retain the Commercial 1 Zone south of Main Street as part of the activity centre as any reduction in this zoned area could lead to pressure for out of centre development in the town.

Clause 17.02-1 - Industrial land development - aims to ensure availability of land for industry.

Strategies include:

Protect industrial activity in industrial zones from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability.

Planning must consider as relevant:

Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection Authority, 1990).

Amendment C51 has considered these matters in relation to the proposed Taverner Street rezoning. The additional work undertaken post-Panel has demonstrated that ambient noise levels in this location should be at a level, in the open air, which is unlikely to generate complaints from residents that would affect the operation of nearby industrial land uses.

Clause 18 - Transport - seeks (amongst other things) to ensure a safe and sustainable transport system by integrating land-use and transport.

Clause 19 - Infrastructure - seeks to ensure that planning for growth and redevelopment should provide for the efficient servicing and maintenance of social and physical infrastructure. It encourages the provision of social and cultural infrastructure in locations that offer convenient access to the wider community.

Amendment C51 encourages urban consolidation within Bacchus Marsh. The preference is for vacant land within the existing urban area to be developed prior to development on the urban fringe or beyond, where there is limited infrastructure and services available and valuable agricultural land.

Local Planning Policy Framework

The Local Planning Policy Framework within the Moorabool Planning Scheme provides strong support for the finalisation and implementation of the Bacchus Marsh Activity Centre Structure Plan.

In particular, Amendment C51 supports the following local planning objectives within the MSS:

Clause 21.03 . Settlement and housing

- Urban Growth Management . The Amendment directly takes into consideration existing and proposed infrastructure capacity. It encourages the appropriate balance and intensity of uses in an area where costly infrastructure has been provided.

- Residential Development . The Municipal Strategic Statement (MSS) seeks to provide a diversity of housing types and densities near activity centres. The Amendment recognises these capacities in Bacchus Marsh and Maddingley.

Clause 21.07 of the Local Planning Policy Framework states, *“Central Bacchus Marsh has potential to establish a best practice example of transport-orientated Activity Centre planning. Significantly sized parcels of land between the railway station and Main Street and between Fiskin and Grant Streets provide opportunity for planned residential and mixed use urban development.”*

In addition, Clause 21.07 seeks to facilitate further growth within Bacchus Marsh while maintaining those key attributes that make it a unique and attractive place to live.

The Amendment responds to the need to accommodate future growth within an environmentally constrained township in a balanced manner which acknowledges Bacchus Marsh as the key centre for economic and residential growth in the Moorabool Shire.

Clause 21.07-7 Further Strategic Work - The following item is identified as a further strategic work task within the Local Planning Policy for Bacchus Marsh:

- *Prepare and adopt a Local Area Structure Plan for the land between the railway station and Main Street and between Fiskin and Grant Streets as shown in the Growing Moorabool, Economic Development Strategy, 2006.*

In addition, the Amendment is supported by the following local planning objectives within the MSS:

- Clause 21.02 . Natural Environment
- Clause 21.04 . Commerce
- Clause 21.05 . Development and Community Infrastructure
- Clause 21.06 . Heritage

Financial Implications

Significant funding was provided by the State Government's Creating Better Places grant scheme for the preparation of the *Bacchus Marsh Activity Centre Structure Plan 2011*. In addition, there has been considerable officer time expended on the preparation of the Structure Plan and the preparation and consideration of this Amendment.

The costs for the incorporation of the Amendment into the Moorabool Planning Scheme will be met within the 2014/2015 budget. Council has already incurred the majority of the costs associated with the Amendment in the 2013/2014 financial year, including convening the Planning Panel.

It is considered that the revised Local Planning Policy and proposed overlay controls being introduced by this Amendment will guide the planning permit decision-making process and reduce the need for time and resource intensive negotiations with landowners, developers and the community regarding expected development outcomes.

Thus, introducing the revised Local Planning Policy and accompanying overlay controls will not place any substantial additional burden on the resources or administrative costs of Council.

The Development Plan Overlay Schedule to be applied to the Taverner Street Development Area includes a requirement for the landowners to enter into Section 173 Agreements for the payment of development contributions.

These Agreements will need to be negotiated and executed prior to the issue of any permits to subdivide the land.

In summary, the adoption of the Amendment would provide a tangible outcome to the considerable resources already expended on the project.

Risk & Occupational Health & Safety Issues

Council can only consider strategic directions for land use in Bacchus Marsh that align with broader State Government planning policies. This proposal has been developed to meet this objective and to provide the best opportunity of being successfully implemented in the Planning Scheme.

Considerable financial support has been provided by the State Government to enable Council to prepare the Structure Plan. The grant was provided on the basis that the implementation of the Structure Plan would occur via its incorporation into the planning scheme.

Adopting a planning scheme amendment is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to adopt Amendment C51 in accordance with the recommendations of the Planning Panel.

As Council may be aware, the Minister for Planning makes the ultimate decision in regard to a Planning Scheme Amendment. To ensure that the support of the Minister can be gained for the approval of an amendment, a planning authority (Council) must follow the correct procedures and protocols, in accordance with the provisions of the *Planning and Environment Act 1987*.

Under the provisions of the Act, a Panel is appointed by the Minister for Planning to hear submissions made about amendments to planning schemes, and to make recommendations or provide expert advice about whether or not the amendment should proceed. The Act requires Council to carefully consider the recommendations of a Planning Panel prior to deciding whether the amendment is to proceed.

To minimise any risk, it is recommended that Council be guided by the Panel's findings. Any decision countering the recommendations received would need to be carefully measured given the risk of conflicting with the *Planning and Environment Act 1987*.

If Council chooses to adopt the Amendment without following the Panel's recommendations, the Minister would require significant justification to consider approving the Amendment. In addition, if Council cannot provide appropriate justification for not following the Planning Panel's recommendations, its decision may be deemed to be inconsistent with a number of the objectives of planning in Victoria.

The Panel Report represents the culmination of hard work and effort on behalf of Council and the community, as part of the community consultation processes undertaken in developing the *Bacchus Marsh Activity Centre Structure Plan 2011* and the goals and aspirations of the residents. If a decision is not made on this Amendment, there could be a loss of community confidence in Council, which could jeopardise future planning initiatives, in particular, the Moorabool 2041 project.

In making a decision on the Amendment, Council will provide certainty for land owners, particularly those affected by the proposed Greenway and the Taverner Street rezoning. Furthermore, landowners and developers will have clearer direction on the parameters for future development in the town and be able to make investment decisions accordingly.

Abandonment of the Amendment would prevent Council from being able to give effect to the recommendations within the *Bacchus Marsh Activity Centre Structure Plan 2011*.

In particular, if the Design and Development, and Development Plan Overlays are not in place to protect the Town's character assets and guide future development, there is a risk of new development eroding the character of Bacchus Marsh, which is highly valued by the community.

Furthermore, Council would not have the strategic and statutory basis to achieve an appropriate pedestrian/cycle link between Main Street and the railway station, or the provision of the road connection between Simpson Street and Waddell Street, as part of the development of the land.

There are unlikely to be any occupational health and safety implications for Council in relation to this Amendment.

Community Engagement Strategy

From the inception of the project in 2008 to date, significant public consultation and engagement has been undertaken by Council, which included three stakeholder workshops and three community workshops held during various stages of the Structure Plan preparation process.

The draft Structure Plan was the subject of a further two stakeholder workshops and two community workshops. In addition, letters were sent to each landholder in the study area, as part of the draft Structure Plan consultation process.

A further opportunity has been afforded for parties to be involved in the statutory implementation of the Structure Plan and its supporting Policy, via the planning scheme amendment process. Public exhibition of Amendment C51 has been undertaken in accordance with the provisions of the *Planning and Environment Act 1987*.

A public hearing was conducted by the Planning Panel in Bacchus Marsh, which provided the opportunity for submitters to attend and make a presentation to the Panel. The Panel Hearing was the culmination of all previous consultation undertaken in relation to the Bacchus Marsh Activity Centre Structure Plan and Amendment C51.

Engagement	Stakeholders	Activities	Date	Outcome
Inform	Affected landowners and wider community	Formal notification by mail, newspaper advertisement, government gazette (as required by legislation), as part of the exhibition of the amendment.	30 May . 28 June, 2013	Feedback has been provided as a result of public exhibition via written submissions, and phone/email enquiries
Consult	Affected landowners and wider community	Informal Discussions & Phone Discussions	30 May . 28 June, 2013	Feedback has been provided as a result of public exhibition via written submissions, and phone/email enquiries.
Involve	Submitters	Panel Hearing	29 . 31 January, 2014	Referral to the Planning Panel provided an opportunity for submitters to present their views and evidence to an independent body prior to Council determining its position.

Communications Strategy

All submitters have been notified of the date of the meeting when this report will be presented to Council.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Satwinder Sandhu

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Damien Drew

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Conclusion

The *Bacchus Marsh Activity Centre Structure Plan 2011* provides the framework for the future planning of the heart of the town.

Implementation of the Structure Plan via this Amendment will facilitate the clear articulation of Council's planning policies for the Activity Centre, and will result in an updated and better understanding of the future vision for that part of the town.

The Amendment will reinforce the Main Street Precinct as the primary activity centre for Bacchus Marsh and guide appropriate new development in the town centre. It will apply the Development Plan Overlay to the area affected by the likely route of the Bacchus Marsh Activity Centre Link to ensure that this key objective of the Structure Plan is achieved. Another key element of DPO5 is to facilitate the provision of the road connection between Simpson Street and Waddell Street, parallel to Main Street.

In addition, the Amendment proposes to apply Design and Development Overlays to the area affected by the Structure Plan, and the rezoning of, and application of the Development Plan Overlay and Environmental Audit Overlay to, the land known as the Taverner Development Area.

The DDOs will provide statutory requirements for new development within the Activity Centre area, in relation to design and built form. Application of the DDOs will ensure that new development achieves the preferred character identified within each schedule and respects and enhances the country town character of Bacchus Marsh.

To provide direction to Council as to how best to proceed with the amendment, a Planning Panel was appointed to consider these issues. All submitters were notified of the Panel Hearing by Planning Panels Victoria, and given the opportunity to be heard at the Hearing. The Panel reviewed the merits of the Amendment, and considered all submissions, even if the submitter did not make a presentation at the Hearing.

Amendment C51 to implement the Structure Plan is supported by the Planning and Environment Act 1987, the State Planning Policy Framework and Council's Municipal Strategic Statement.

It is considered that the Panel's Report, which supports the adoption of the Amendment, is a significant step towards providing the clear articulation of Council's planning policies for the Bacchus Marsh Activity Centre, and will result in a better understanding of the future vision for the Centre.

The Panel Hearing process and findings provides a significant planning milestone for Council. It represents a culmination of a significant planning process, which commenced in 2008. In addition, a considerable degree of community and stakeholder engagement has occurred to the stage of enabling the Amendment to be considered for adoption.

Whilst the Panel has recommended that Council adopt the Amendment subject to some changes, it is noted that many of these changes were suggested in Council's submission to the Panel, or negotiated during the Hearing.

Furthermore, the Amendment has been reviewed following the release of the report of the Residential Zones Standing Advisory Committee and the approval of Amendment C72, which applied the new Residential Zones in the municipality. Some further changes to the Amendment are recommended, to ensure that it is consistent with the provisions of the new Residential Zones applied in Bacchus Marsh.

Therefore, it is recommended that the modified Amendment be submitted to the Minister for Planning for approval.

Consideration of Presentation

Mr. Andrew Gray of ARG Planning, addressed Council in support of Amendment C51 – Bacchus Marsh Activity Centre Structure Plan – Consideration of Panel Report and Adoption.

Mr. Michael Kratchovil addressed Council in support of Amendment C51 – Bacchus Marsh Activity Centre Structure Plan – Consideration of Panel Report and Adoption.

Mrs. Monica Kratchovil addressed Council in support of Amendment C51 – Bacchus Marsh Activity Centre Structure Plan – Consideration of Panel Report and Adoption.

The business of the meeting then returned to the agenda.

Resolution:**Crs. Spain/Dudzik**

That Council, having considered the recommendations of the Planning Panel's Report regarding Moorabool Planning Scheme Amendment C51, pursuant to Section 27 of the Planning and Environment Act 1987, resolves to:

- 1. Accept the changes to Amendment C51, recommended by the Panel as follows:***
 - a) Clause 21.07 be amended to delete reference to the Structure Plan and the Strategic Vision Plan.***
 - b) Clause 21.07 be amended to add the following strategy:***
 - i. Encourage civic and community uses on land west of Lord Street, in the vicinity of the library and public hall.***
 - c) Clause 21.11 be amended to delete the Bacchus Marsh Structure Plan as a Reference Document to the Moorabool Planning Scheme.***
 - d) Map 35 be amended to include Graham Street, north of Waddell Street and land on its west side, in Schedule 11 to the Design and Development Overlay.***
 - e) Schedule 5 to the Development Plan Overlay be adopted in the amended form included in Appendix D of the Panel Report.***
 - f) Schedules 9 and 11 to the Design and Development Overlay be adopted in the amended forms included in Appendix E of the Panel Report.***
 - g) Map 37 be amended to include 52 Graham Street in Schedule 9 of the Design and Development Overlay.***
 - h) Map 37 be amended to delete Schedule 5 to the Development Plan Overlay from land south of the Werribee River.***
 - i) The Taverner Street land be rezoned to Residential 1, subject to actual noise readings taken at the concrete batching plant being to the satisfaction of the Planning Authority.***
 - j) Based on the rezoning of the Taverner Street land, Schedule 4 to the Development Plan Overlay and Schedule 5 to the Design and Development Overlay be adopted in the amended forms included in Appendices D and E of the Panel Report respectively.***

- k) Schedules 6, 7, 8, 10 and 12 to the Design and Development Overlay be adopted in the amended forms included in Appendix F of the Panel Report.*
- l) Map 35 be amended to include land on the north side of Turner Street, east of Clarinda Street in Schedule 10 of the Design and Development Overlay.*
- 2. Adopt Moorabool Planning Scheme Amendment C51, with the changes recommended by the Panel and additional changes as follows:**
 - a) The Taverner Street land be rezoned to General Residential Zone – Schedule 1.*
 - b) The Schedules 6, 8 and 9 to the Design and Development Overlay be amended to delete the street setback requirement.*
 - c) The Schedules to the Design and Development Overlay containing provisions in relation to front fences be amended, to clarify those requirements.*
 - d) The Schedules to the Design and Development Overlay be amended where necessary, to clarify the intent of the provisions.*
- In accordance with the documents included in Attachment 3 to this report.*
- 3. Submit the adopted Amendment C51, together with the prescribed information, to the Minister for Planning requesting approval pursuant to Section 31(1) of the Planning and Environment Act 1987.**

CARRIED.

Report Authorisation

Authorised by:

Name:

Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Wednesday, 11 February, 2015

8. FURTHER BUSINESS AS ADMITTED BY UNANIMOUS RESOLUTION OF COUNCIL

Nil.

9. CLOSED SESSION OF THE MEETING TO THE PUBLIC**Recommendation:**

That pursuant to the provisions of the Local Government Act 1989, the meeting now be closed to members of the public to enable the meeting to discuss matters, which the Council may, pursuant to the provisions of Section 89(2) of the Local Government Act 1989 (the Act) resolve to be considered in Closed Session, being a matter contemplated by Section 89(2) of the Act, as follows:

- (a) personnel matters;**
- (b) the personal hardship of any resident or ratepayer;**
- (c) industrial matters;**
- (d) contractual matters;**
- (e) proposed developments;**
- (f) legal advice;**
- (g) matters affecting the security of Council property;**
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person;**
- (i) a resolution to close the meeting to members of the public.**

10. MEETING CLOSURE

The meeting closed at 5.10pm.

Confirmed.....Mayor.