

ORDINARY MEETING OF COUNCIL

Minutes of the
Ordinary Meeting of Council held at
the James Young Room, Lerderderg Library,
215 Main Street, Bacchus Marsh on
Wednesday 2 December 2015,
at 5:00 p.m.

Members:

Cr. Allan Comrie (Mayor)	East Moorabool Ward
Cr. Paul Tatchell	Central 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
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

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1. OPENING OF MEETING AND PRAYER

The Mayor, Cr. Comrie, opened the meeting at 5.00pm with the Council Prayer.

2. ACKNOWLEDGEMENT TO COUNTRY

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

3. PRESENT

<i>Cr. Allan Comrie</i>	<i>East Moorabool Ward</i>
<i>Cr. Paul Tatchell</i>	<i>Central Ward</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Andrew Goodsell</i>	<i>Manager Strategic and Sustainable Development</i>
<i>Ms. Lisa Gervasoni</i>	<i>Coordinator Strategic Planning</i>
<i>Mr. John Miller</i>	<i>Manager Asset Management</i>
<i>Ms. Kate Diamond-Keith</i>	<i>Manager Community Development</i>
<i>Mr. Troy Scoble</i>	<i>Manager Recreation and Youth Development</i>
<i>Ms. Sam Romaszko</i>	<i>Manager Engineering Services</i>
<i>Ms. Melissa Hollitt</i>	<i>Minute Taker</i>

4. APOLOGIES

Nil.

5. CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council – Wednesday 4 November 2015

Resolution:

Crs. Spain/Edwards

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 4 November 2015.

CARRIED.

5.2 Special Meeting of Council – Wednesday 25 November 2015

Resolution:

Crs. Spain/Toohey

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 25 November 2015.

CARRIED.

6. DISCLOSURE OF CONFLICT 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.

6.1 Disclosure of a Direct Conflict of Interest

Cr. Sullivan declared a Direct Conflict of Interest in relation to Item 10.2.1 - Planning Permit Application PA2007-006; Request for fifth extension of time for Development and Use of Offices, Advertising Signage and Subdivision of Land at 28 Grant Street, Bacchus Marsh, 3340. The nature of the Conflict of Interest is due to Cr. Sullivan having previously worked as a surveyor for the applicant.

6.2 Disclosure of a Direct Conflict of Interest

Cr. Sullivan declared a Direct Conflict of Interest in relation to Confidential Item 16.2.

6.3 Disclosure of a Direct Conflict of Interest

Cr. Sullivan declared a Direct Conflict of Interest in relation to Confidential Item 16.3.

6.4 Disclosure of a Direct Conflict of Interest

Cr. Comrie declared a Direct Conflict of Interest in relation to Item 10.2.4 - Planning Permit Application PA2015-055; Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store on Crown Allotment 5, Parish of Parwan, 18 Fiske Street Maddingley. The nature of the Conflict of Interest is due to Cr. Comrie being related to the applicant.

6.5 Disclosure of an Indirect Conflict of Interest

Cr. Edwards declared an Indirect Conflict of Interest (section 78) in relation to Item 10.2.8 - Adoption of Planning Scheme Amendment C58 – Camerons Road. The nature of the Conflict of Interest is due to Cr. Edwards being related to people who are part of the consortium doing the amendment.

7. PUBLIC QUESTION TIME

The Council makes provision in the business of the Ordinary Meetings of the Council for the holding of a Public Question Time. It is provided to enable members of the public to submit questions to Council.

Public Question Time is conducted in accordance with Clause 57 in the Council's *Local Law No. 8 Meeting Procedure Local Law Division 8*.

The person asking the question is to stand and identify themselves by name and residential address before asking the question.

All questions are to be directed to the Mayor as Chairperson, who shall determine the appropriate person to respond to the question.

All questions and answers must be as brief as possible and no discussion may be allowed other than for the purposes of clarification. Three minutes is considered to be an appropriate time limit. The question is not to be debated.

At the discretion of the Mayor, a lengthy question may be required to be placed into writing by the person asking the question. The Mayor may accept a question on notice, in the event that research is required to provide a response. In the case of questions taken on notice, the question shall be recorded in the Minutes of the Meeting. The response to the question will also be recorded in the Minutes of the Ordinary Meeting when that response is provided to the Council.

Clause 57.6 of Local Law No. 8 outlines the circumstances when a question may be disallowed. It includes questions that the Chairperson determines to be defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance, or is aimed at embarrassing a Councillor or a member of Council staff.

QUESTION ON NOTICE – FROM ORDINARY MEETING OF COUNCIL ON 4 NOVEMBER 2015

Ms. Sivvy Orr raised the following question at the Ordinary Meeting of Council on Wednesday 4 November 2015, which was taken on notice by the Chair for further investigations to be undertaken:

Is it correct that members of the public are not able to obtain copies of documents from planning applications?

RESPONSE TO QUESTION

In response to the question raised by Ms. Sivvy Orr at the Ordinary Meeting of Council on Wednesday 4 November 2015, Council's General Manager Growth and Development has advised the following:

Council is required to make certain planning application documents available for viewing by the public from the time a planning application is accepted up until a decision is made by

Council. There is also an additional period after the decision if there are appeal rights with VCAT.

Council provides a copy of required application documents at all our offices during office hours while the application is on advertising. The application is also available for viewing at all times as per paragraph 1 above at our Darley office by speaking to the planner who is assessing the application.

Council uses a program called Greenlight to manage planning applications, this program provides public access to certain information. Required documents are available on Greenlight at all times until the application is finalised as per paragraph 1 above.

Should a person wish to obtain copies of documents they are encouraged to access them from our Greenlight system. However some people are unable to access Greenlight and they can obtain copies of documents by attending Council offices during office hours. There is a charge for printing these documents.

8. PETITIONS

Nil.

9. PRESENTATIONS / DEPUTATIONS

The Council has made provision in the business of the Ordinary Meetings 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 Council on a matter included in the agenda shall inform Council 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 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 other than in relation to a planning item listed on the agenda:

Item No	Description	Name	Position
10.2.5	<i>Ballan Structure Plan – Adoption</i>	Gabrielle Fidler	Objector
10.2.5	<i>Ballan Structure Plan – Adoption</i>	Concetta McFall	Objector
10.3.2	<i>Bacchus Marsh West Golf Club Lease Agreement</i>	Dean Cowan	Supporter
10.3.2	<i>Bacchus Marsh West Golf Club Lease Agreement</i>	Bruce Fordyce	Supporter

List of Persons making Presentations/Deputations to a planning item listed on the agenda:

Individuals seeking to make a presentation to the Council on a planning item listed on the agenda for consideration at the meeting will be heard by the Council immediately preceding consideration of the Council Officers report on the planning item.

Item No	Description	Name	Applicant/ Objector
10.2.3	<i>Planning Permit Application PA2015-024; Development and use of a Dwelling and Ancillary Outbuilding on 137 Woolpack Road, Maddingley</i>	Graham Dawson	Supporter
10.2.4	<i>Planning Permit Application PA2015-55; Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store on Crown Allotment 5, Parish of Parwan, 18 Fiskin Street, Maddingley</i>	Michael Kratochvil	Objector
10.2.4	<i>Planning Permit Application PA2015-55; Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store on Crown Allotment 5, Parish of Parwan, 18 Fiskin Street, Maddingley</i>	Joel Watson	Applicant

10. OFFICER'S REPORTS**10.1 CHIEF EXECUTIVE OFFICER****10.1.1 Ballarat Rail Action Committee (BRAC)**

File No.: 02/01/015
Author: Rob Croxford

Background

The City of Melton has written to all Councils along the Ballarat Rail Line with a view to providing a group of Councils interested in advocating for improved rail services for their communities.

A meeting of officers was convened on 25 November, 2015 to discuss the broad focus of such a group, governance matters and ongoing advocacy programs and funding.

Proposal

It is proposed to form a committee along the lines of the Western Highway Action Committee (WHAC) to advocate for improved services.

It is envisaged that the Mayors/Administrators of Brimbank, Melton, Moorabool, Ballarat, Pyrenees and Ararat would make up the Committee with a Subcommittee of technical officers focussing on common projects and advocacy material. PTV, DOT and the Committee for Ballarat will also be invited to participate in the Committee.

Melton is prepared to provide secretariat services. Ongoing costs, in addition to officer time, will be largely related to the development of advocacy material.

The Moorabool Shire Council recent submission to the Regional Network Development Plan and the Integrated Transport Strategy when adopted will frame this Council's involvement in the Committee.

It appears that there is a favourable disposition from the State Government and the Turnbull Federal Government to address the capacity and frequency of the Ballarat Line train service. Duplication of the whole line and electrification to Melton have been touted as a key first step to improving services to all communities along the alignment as far as Ararat.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural Environment
Objective	Ensure current and future infrastructure meets the needs of the community.

Strategy

Provision of effective and safe transport networks

The proposal to form a BRAC is consistent with the 2013 - 2017 Council Plan.

Financial Implications

There will be no membership fees or secretariat costs. It is envisaged that advertising and advocacy material will be shared by all Councils based on a population or passenger trips basis. It is estimated that the costs will amount to several thousand dollars in the 2016/17 year and will be included in the appropriate budget.

Risk & Occupational Health & Safety Issues

There are no OHS risks associated with the formation of the committee.

Communications and Consultation Strategy

A strategy will be developed after the inaugural meeting of the Committee which is anticipated to be in mid-December 2015, to coincide with a public announcement of the formation of the BRAC and the start of advocacy to government. It is important to alert local press prior to the Christmas break.

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.

Author – Rob Croxford

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

Conclusion

That the Council agree to participate in the formation of a Ballarat Rail Action Committee (BRAC) that will focus on advocating for improved rail services for communities along the Ballarat line.

Recommendation:

- 1. That the Council agrees to participate in the Ballarat Rail Action Committee (BRAC) to improve services for communities along the Ballarat Rail Line.**

2. That the Mayor Allan Comrie be appointed to the Committee for 2016/17 and that Cr _____ be appointed as a proxy.
3. That the CEO and GM Infrastructure Services be appointed to the Ballarat Rail Action Committee.
4. That ongoing membership be reviewed at the Annual Statutory Meeting of Council.

Resolution:

Crs. Dudzik/Tatchell

1. *That the Council agrees to participate in the Ballarat Rail Action Committee (BRAC) to improve services for communities along the Ballarat Rail Line.*
2. *That the Mayor Cr. Comrie be appointed to the Committee for 2016/17 and that Cr. Edwards be appointed as a proxy.*
3. *That the CEO and GM Infrastructure Services be appointed to the Ballarat Rail Action Committee.*
4. *That ongoing membership be reviewed at the Annual Statutory Meeting of Council.*

CARRIED.

Report Authorisation

Authorised by:

Name: Rob Croxford
Title: Chief Executive Officer
Date: Wednesday, 25 November 2015.



10.2 GROWTH AND DEVELOPMENT

Cr. Sullivan declared a Direct Conflict of Interest in relation to Item 10.2.1 - Planning Permit Application PA2007-006; Request for fifth extension of time for Development and Use of Offices, Advertising Signage and Subdivision of Land at 28 Grant Street, Bacchus Marsh, 3340. The nature of the Conflict of Interest is due to Cr. Sullivan having previously worked as a surveyor for the applicant.

Cr. Sullivan left the meeting at 5.06pm and did not participate in discussion or voting on the Item.

10.2.1 Planning Permit Application PA2007-006; Request for fifth extension of time for Development and Use of Offices, Advertising Signage and Subdivision of Land at 28 Grant Street, Bacchus Marsh, 3340

Application Summary:	
Permit No:	PA2007-006
Lodgement Date:	21 July, 2015
Planning Officer:	Rob Fillisch / Victoria Mack
Address of the land:	Lot 1 on TP 877059J 28 Grant Street, Bacchus Marsh, 3340
Proposal:	Request for fifth extension of time. Two (2) years requested.
Lot size:	785.53sqm
Why is a permit required	The permit expired on 24 May 2015.
Public Consultation:	
Was the application advertised?	A request for an Extension of Time is not required to be advertised in accordance with section 69 of the Planning and Environment Act 1987.
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.

Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>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.</p>	
Officer's Declaration of Conflict of Interests	
<p>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.</p> <p><i>Acting Manager – Rob Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Victoria Mack</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application Referred?	Not required to be referred
Any issues raised in referral responses?	N/A
Preliminary Concerns?	The application is for a fifth extension of time and it is considered that the applicant is warehousing the permit as no development has commenced on the site other than the construction of sewer works and the demolition of ancillary buildings.
Any discussions with applicant regarding concerns?	The applicant has been advised that the application will be determined by Council with a recommendation for refusal.
Any changes made to the application since being lodged?	Minor changes to the endorsed plans were approved under secondary consent provisions on 23 December 2014.
VCAT history?	Nil
Previous applications for the site?	Nil

General Summary:

The application is for a fifth extension of time. The permit was originally issued 8 years and 6 months ago.

Apart from the demolition of ancillary buildings and structures on part of the site and the construction of sewer works some years ago, no development or building works have commenced on the site.

It is considered that a fifth extension of time for a requested additional further two (2) years is an unreasonable request in this instance. The request was evaluated using the *Kantor test*, and based on that assessment is considered that the permit is being warehoused and should be refused.

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issues a Refusal to extend the time of the planning permit 2007-006 for a further 2 years for completion of the development and for certification of a Plan of Subdivision.

Background

An application for the Development and Use of Offices, Advertising Signage and Subdivision of Land was received on 2 January 2007.

- The application was advertised and no objections were received.
- The permit was issued under delegation on 24 May, 2007 with conditions, including a condition 1 plan requirement.
- Condition 1 plans were endorsed on 29 July, 2011.
- The original permit expiry conditions were:
 - Development completion by 24 May, 2009;
 - Plan of Subdivision certification by 24 May, 2009; and
 - Registration of the Plan of subdivision within five years of the date of certification.

A first extension of time (E1) was granted on 9 September 2009 for two (2) years, based on the premise that the development had commenced with the construction of the sewer works on the site and the demolition of ancillary buildings and structures. The sewer works were tendered as evidence that the development had commenced.

- The expiry conditions were extended as follows:
 - Development completion by 24 May, 2011;
 - Plan of subdivision certification by 24 May, 2011; and
 - The registration of the subdivision within five (5) years of the date of certification.

A second extension of time (E2) of two years was granted on 29 July, 2011.

- The expiry conditions were extended as follows:
 - Development completion by 24 May, 2013;
 - Plan of subdivision certification by 24 May, 2013; and

- The registration of the subdivision is not completed within five (5) years of the date of certification.

A third extension of time (E3) of one (1) year was granted on 4 June, 2013.

- The expiry conditions were extended to:
 - Development completion by 24 May, 2014;
 - Plan of Subdivision certification by 24 May, 2014; and
 - Registration of the Plan of subdivision within five years of the date of certification.

A fourth extension of time (E4) of one (1) year was granted on 6 May, 2014.

- The expiry conditions were extended to:
 - Development completion by 24 May, 2015;
 - Plan of Subdivision certification by 24 May, 2015; and
 - Registration of the Plan of subdivision within five years of the date of certification.

A fifth extension of time (E5), being this application, was received on 21 July, 2015.

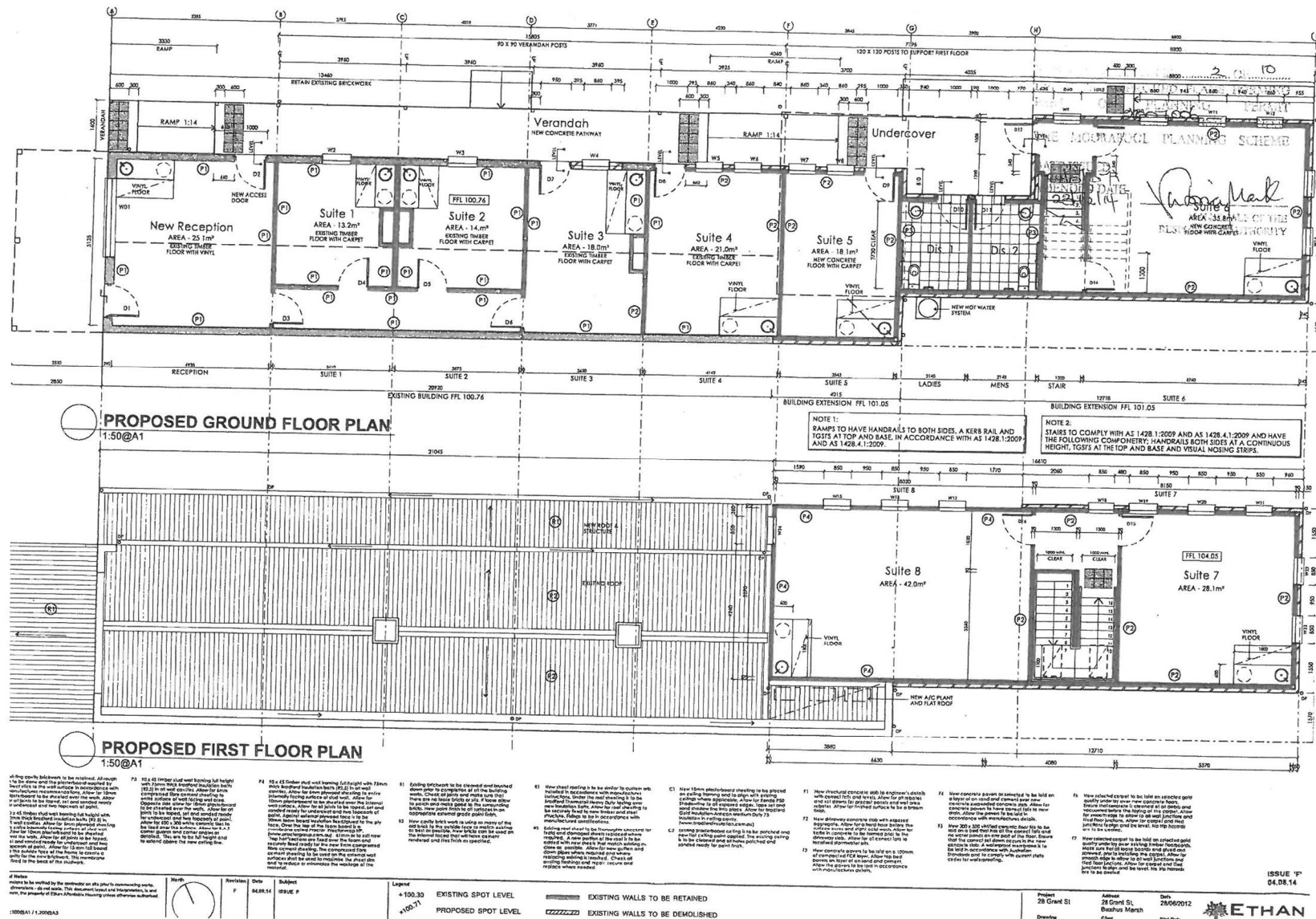
Details of the approved development

Below is a photo of the site taken on 8 November 2015 showing that no works have been undertaken since the sewer works and demolition of ancillary buildings:

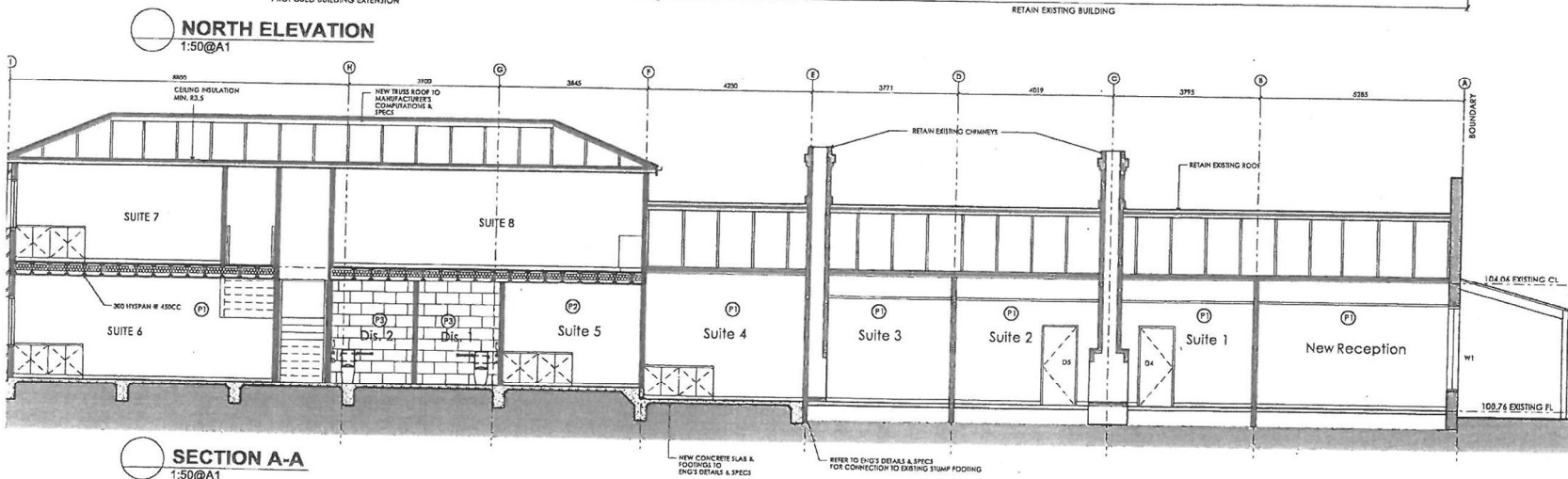
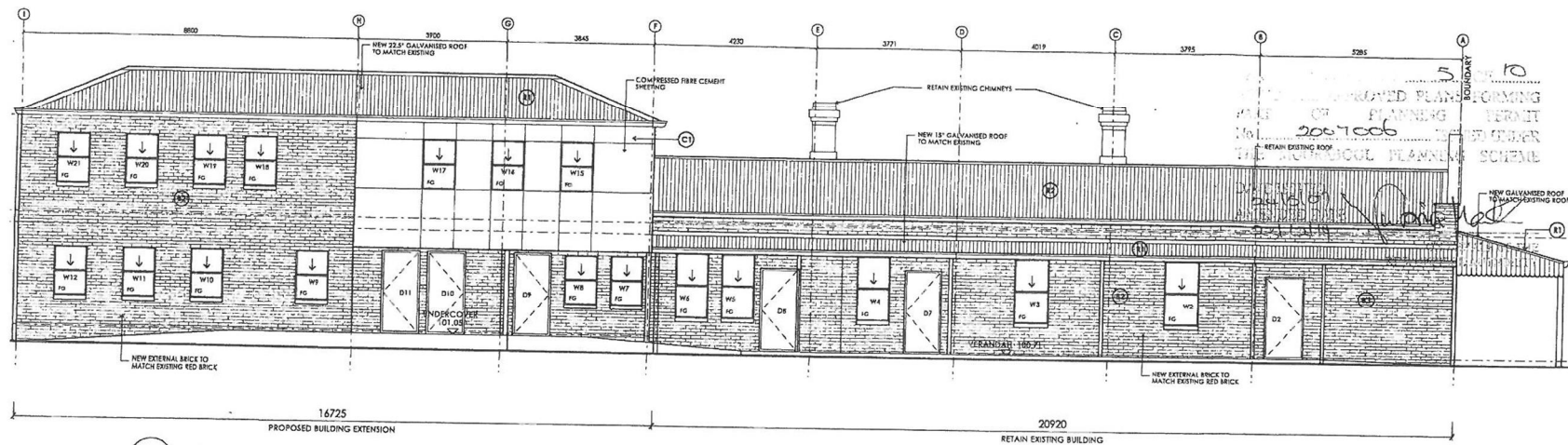


The endorsed site plan and elevations plans are included below:








[illegible]

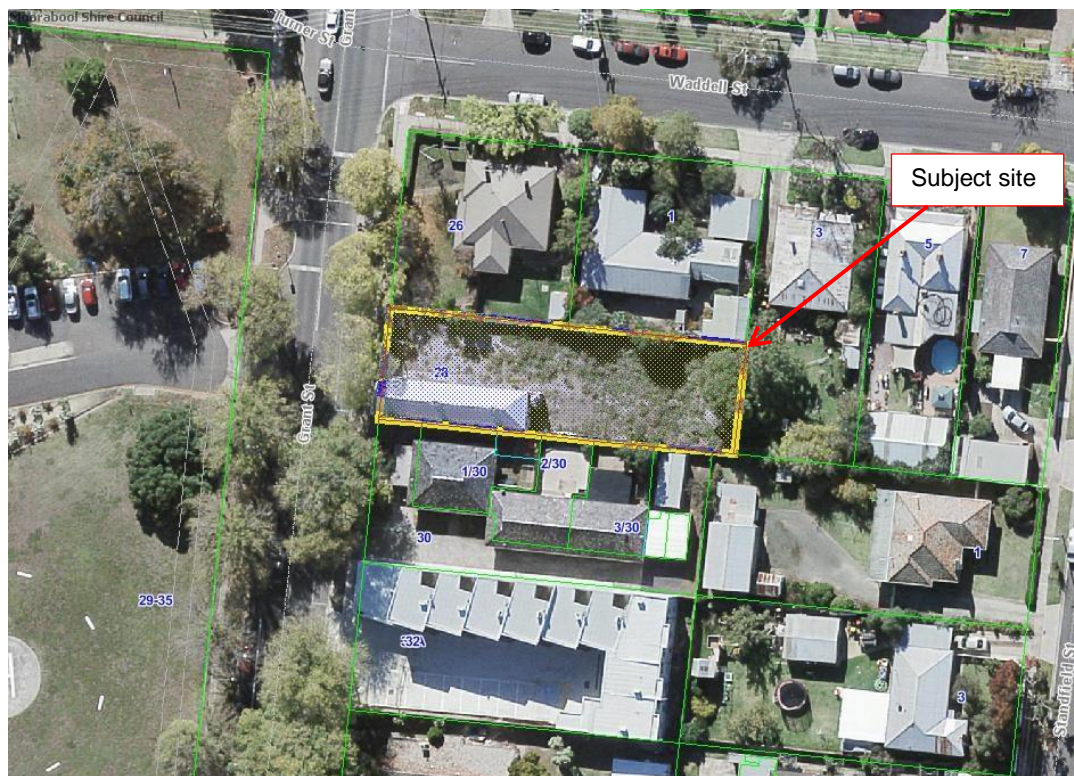
- [illegible]

- 14 New selected carpet to be laid on selected solid quality underlayment over new concrete floor. Ensure that concrete is cleaned of all dust and vacuumed before the laying of the carpet. Allow for smooth edges to occur in all wall junctions and floor junctions. Allow for carpet and floor junctions to be level. No trip hazards are to be created.
- 15 New selected carpet to be laid on selected solid quality underlayment over existing timber floorboards where new carpet is to be installed. Ensure that floorboards are in good condition and are properly sanded, prior to installing the carpet. Allow for smooth edges to occur in all wall junctions and floor junctions. Allow for carpet and floor junctions to be level. No trip hazards are to be created.

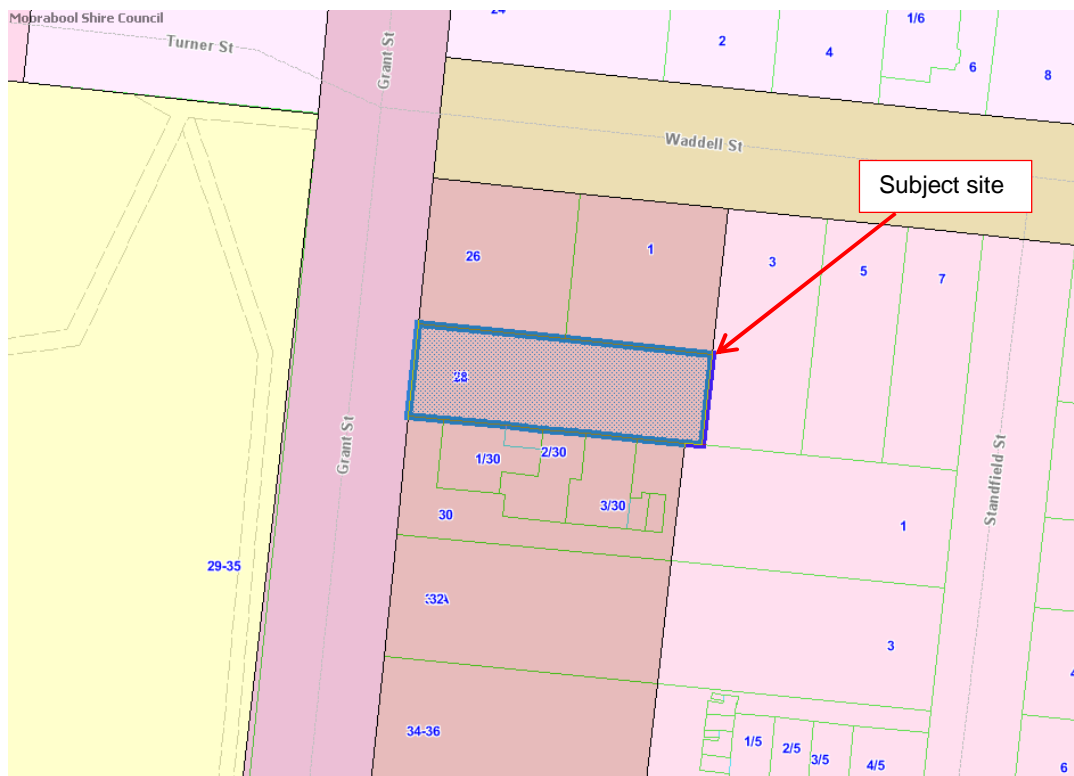
ISSUE 'F'
04.08.14

of Name	North	Revision	Date	Subject	Legend
work to be verified by the contractor on site prior to commencing work. If the contractor does not have the necessary resources, the contractor must obtain them. The contractor must obtain the necessary resources and submit them to the project manager for review and approval. The contractor must obtain the necessary resources and submit them to the project manager for review and approval. The contractor must obtain the necessary resources and submit them to the project manager for review and approval.		F	04.01.14	ISSUE F	

Project 28 Grant St	Address 28 Grant St, Beachmarsh Marsh	Date 28/08/2012	 ETHAN <small>ARCHITECTS</small>
Drawing 1.00 - Section 4.4	Client	Plot Date	

Locality Map - aerial view of the subject site below:

Zone map: The land is in the Mixed Use Zone and abuts Grant Street which is a Category 1 Road. No overlays cover the site. The zone map is below:



Mixed Use Zone

The land is in the Mixed Use Zone where a permit is required to use land for offices and for subdivision.

The purpose of the zone is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

It is noted that the use of offices in the Mixed Use Zone only triggers a permit if the leasable floor area is greater than 250sqm. A permit is required for subdivision and business identification signage.

Road Zone Category 1

The land is adjacent to a road in a Road Zone Category 1. There is existing access to the site from Grant Street and no new or alteration to the access is required.

Overlays

No overlays apply to the land.

Public Notice

There is no requirement to advertise a request to extend the time of a planning permit under Section 69 of the Planning and Environment Act 1987.

The approved development has the following specifications:

The proposal is to redevelop an existing shop/building to provide a total of 8 office suites with shared reception at the front of the building with access from Grant Street. A covered verandah on the north side of the building would provide access to each of the suites. Two toilets with disabled access would be constructed at ground level also accessed via the verandah. The rear suites, numbered 7 and 8 would be contained within an upper story at the rear of the development. The upper floor would be accessed via a staircase.

The development would provide a common property all weather driveway with access to 8-9 car spaces on the site including 1-2 car spaces for use by people with disabilities.

The area would be landscaped and a landscape plan was endorsed with the Condition 1 plans.

The land is flat without any significant vegetation. There is an existing crossover from Grant Street.

The site is opposite the Bacchus Marsh hospital. The precinct has mixed uses including dwellings, shops, offices, medical suites and medium density dwelling developments.

Assessment of Extension of time applications – Kantor test

There are no specific controls in the Planning Scheme relating to the assessment of an extension of time of a permit. However, there are some general guidelines or ~~tests~~ that can be applied to guide an assessment of an extension of time application.

Such guidance was provided by His Honour Mr. Justice Ashley in considering a number of Tribunal decisions in *Kantor v. Murrindindi Shire Council* 18 AATR 285 where His Honour stated that a Responsible Authority ~~may~~ rightly consider the following:

- Whether there had been change in planning policy;
- Whether the landowner is seeking to ~~warehouse~~ the permit;
- Intervening circumstances as bearing upon grant or refusal;
- The total elapse of time;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the landowner by the permit; and
- The probability of a permit issuing should a fresh application be made.

It is important to note that most of the above decisions do not necessarily provide clear direction on the ~~weighting~~ that should be applied to the various criteria and it is important that each proposal be assessed on the merits of the individual circumstances.

Whilst the above case relates to a request for an extension of time where the development had not commenced by the specified date, the guidelines contained are still generally applicable to an application for extension for the completion of a development.

The Kantor test is generally used by the Moorabool Shire Planning Department to assess extension of time applications, and an assessment against the Kantor ~~test~~ questions is detailed later in this report.

Kantor test

1. Whether there has been change in planning policy

- When the application was originally assessed, the land was zoned Mixed Use Zone.
- VC90 introduced on 5 June 2012 changed the Victorian Planning Provisions (VPP) and all planning schemes to amend Clause 52.06 . Car Parking and amended Clauses 54.03 and 55.03 to remove references to car parking rates and design.

- VC99 introduced minor changes to Clause 55 ~~Rescode~~ on 10 December 2013 including:
 - Modifying Standards B17, B18 and B20 in Clauses 55.04-1, 55.04-2 and 55.04-4 to:
 - Increase the distance between a wall and a side or rear boundary threshold from 150mm to 200mm for the wall to be considered a wall on boundary.
 - Increase the average maximum height of a wall on boundary from 3.0 metres to 3.2 metres.
- Update Diagrams A1 and B1 . Side and rear setbacks and Diagrams A3 and B3 . North-facing windows to include dimensions up to 13.5 metres.
- VC 100 was gazetted into the Moorabool Planning Scheme on 15 July 2013 and amended changes the VPP and all planning schemes to introduce reformed zones including Clause 32.04 Mixed Use Zone to align them with the three residential zones introduced by Amendment V8. VC100 made consequential changes to Clauses 15 and 17 of the State Planning Policy Framework, and Clauses 52, 54, 55, 56 and 57 of the Particular Provisions and to other zones and overlays.
- It is not considered that Planning Scheme changes would materially alter the assessment of this application in the Mixed Use Zone today.

2. Whether the landowner is seeking to “warehouse” the permit.

- It is considered that the current owner is warehousing the permit as irrespective of the claim to having commenced with the construction of sewer works to the site and the demolition of a carport and some ancillary structures attached to the building, no other works have taken place on the site.

3. Intervening circumstances as bearing upon grant or refusal

- There have been no intervening circumstances that would have a bearing on this decision. Council has granted four (4) previous extensions to the permit allowing the owner / applicant sufficient time to advance the proposed development.

4. The total elapse of time since the permit was issued.

- The permit was issued on 24 May 2007, or 8 years and 6 months ago. It is not unreasonable for a permit to take some years to be acted upon especially when it is a larger sized development. That said no effort has been made since the permit was issued to construct the development other than the sewer works and minor demolition of ancillary structures.

5. Whether the time limit originally imposed was adequate.

- It is considered that the time originally imposed was adequate and four extensions of time (E1, E2, E3 and E4) have already been granted.

6. The economic burden imposed on the landowner by the permit.

- It is not considered that any economic burden was imposed on the landowner.

7. The probability of a permit issuing should a fresh application be made.

- The original application was assessed against standards of the Moorabool Planning Scheme at the time of application. If a new application was received today it would be assessed on its merits against the current Moorabool Planning Scheme.

Financial Implications

If Council was to refuse the application it is possible that the applicant would appeal the decision at VCAT. There are associated costs to Council to defend the decision.

Risk and Occupational Health and Safety Issues

The recommendation of approval of this development does not implicate any risk or OH & S issues to Council.

Communications Strategy

Pursuant to Section 69 of the Planning and Environment Act 1987 no advertising of the application was required to be given; and no appeal right is available to a person or persons to appeal a Responsible Authority Decision to extend a permit. The applicant has appeal rights if Council was to refuse the application.

Options

If Council was to grant this application for a fifth extension of time there is no guarantee that the development would actually be started. The cover letter with the E5 application gave no indication of any imminent development plans.

Discussion

The application before Council is for a fifth extension of time for a lawfully approved planning permit. Apart from demolition and sewer works no construction has commenced on the site in 8 years and 6 months. It is considered that the applicant is warehousing the permit.

There are two options available to Council based on the *Kantor test* which is accepted as a planning tool for the assessment of extensions of time requests:

1. Approve the request for an extension of time; or
2. Refuse the application with clear grounds of refusal.

Assessment of the extension of time application must only consider the extension of time, and is not an opportunity to revisit the original application which has already been approved.

In this instance, it is considered that a fifth extension of time is an unreasonable request. No significant development has commenced on the site since minor works were completed many years ago.

Conclusion

Using the Kantor test it is considered the applicant is warehousing the permit and an application for a fifth extension of time should be refused.

Resolution:

Crs. Toohey/Edwards

That, having considered all matters as prescribed by the Planning and Environment Act, Council Refuses to issue an Extension of Time for Planning Permit No. PA2007-006 - Request for extension of time for Development and Use of Offices, Advertising Signage and Subdivision of Land at 28 Grant Street, Bacchus Marsh, on the following grounds:

- 1. Four extensions of time have been granted to the permit holder with no evidence of substantial works having commenced on the site in 8 years and 6 months.***
- 2. The permit holder is warehousing the permit.***

CARRIED.

Cr. Sullivan returned to the meeting at 5.07pm.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday, 12 November 2015



10.2.2 Planning Permit Application PA2014-153; Subdivision of the land into two lots at Crown Allotment 2, Section 13, Parish of Kerit Bareet, 323 Millbrook-Egerton Road, Gordon

Application Summary:	
Permit No:	PA2014-153
Lodgement Date:	23/06/2014
Planning Officer:	Nicholas Harrison
Address of the land:	Crown Allotment 2, Section 13, Parish of Kerit Bareet, 323 Millbrook-Egerton Road, Gordon
Proposal:	Subdivision of the land into two lots
Lot size:	24.08 hectares
Why is a permit required	<p>Clause 35.07 Farming Zone . Permit required for subdivision.</p> <p>Clause 42.01 Environmental Significance Overlay . Buildings and works</p>
Public Consultation:	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Number of notices to properties:	Six (6)
Notices on site:	One (1)
Notice in Moorabool Newspaper:	None
Number of Objections:	None
Consultation meeting:	None held
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	<p>Implement high quality, responsive, and efficient processing systems for planning and building applications</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>

Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>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.</p>	
Officer's Declaration of Conflict of Interests	
<p>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.</p> <p><i>Manager – Sian Smith</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Nicholas Harrison</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application Referred?	<p>The application was referred externally to Barwon Water and Department of Environment, Land, Water & Planning.</p> <p>The application was referred internally to Infrastructure and Environmental Health.</p>
Any issues raised in referral responses?	None raised, subject to conditions being placed on a permit.
Preliminary Concerns?	The applicant must provide a plan showing the location of the existing dwellings onsite waste water management system, including tank and effluent lines in relation to the proposed subdivision boundaries. This is required as Environmental Health needs evidence that the proposed subdivision will not impact on the existing system.
Any discussions with applicant regarding concerns	The applicant responded to the abovementioned matters by providing a plan indicating the location of the effluent disposal field.
Any changes made to the application since being lodged?	Provision of plan indicating the location of the effluent disposal field.
VCAT history?	None
Previous applications for the site?	None

General summary?	<p>The application is for the subdivision of the land at Allotment 2, Section 13, Parish of Kerit Bareet, 323 Millbrook-Egerton Road, Gordon into two lots. The total land area for the subject site is 24.08 hectares.</p> <p>The subject site is located on the corner of Boundary Road and Millbrook-Egerton Road approximately 1.5 kilometres to the south of the Gordon Township.</p> <p>The proposed subdivision would be a house lot excision with the exiting dwelling on the land to be located on a new 2 hectare lot, while the remainder of the land will continue to be used for agricultural purposes.</p> <p>It is considered that that proposal is considered inconsistent with relevant State and Local Planning Policies of the Moorabool Planning Scheme, which is discussed later in this report.</p> <p>While Council's Rural Housing Policy recognises that there are a variety of lots sizes in the rural areas of Moorabool Shire and allows for the development of dwellings on lots smaller than 40 hectares it does not encourage the creation of further lots smaller than 40 hectares in the Farming Zone.</p> <p>The proposed subdivision will result in fragmentation of land suitable for agriculture and will break the nexus between the existing dwelling on the land and the potential agricultural activities that can be carried out on the land.</p> <p>In effect the proposed subdivision would result in the creation of a rural lifestyle lot that will reduce the area of land available for agriculture, reduce the agricultural productivity of the land and will have the potential for adverse impacts on farm production through land use conflicts.</p> <p>The use of a Section 173 Agreement requiring that the new lots not be further subdivided and that no additional dwellings be erected on either lot was considered.</p> <p>This, however, would not overcome the fundamental issue of creating a small rural residential lot now, or future conflict between residents of the house and surrounding farming activities which may change over time and may be more intensive.</p>
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Summary Recommendation:

It is recommended that Council issue a Notice of Refusal to Grant a Permit in accordance with Section 61 of the Planning and Environment Act 1987 for the reasons outlined in the recommendation section of this report.

Background

None

Public Notice

The application was advertised to adjoining landowners by mail on 12 September 2014 and a sign placed on site from 2 to 17 December 2014. No objections were received.

Proposal

It is proposed to subdivide the land into two lots.

Lot 2 will contain the existing dwelling on the land and associated outbuildings. The lot is rectangular in shape and is located adjacent to the Millbrook-Egerton Road boundary. The lot will have a 266.87m long frontage to Millbrook-Egerton Road and an average depth of 75 metres.

Lot 1 consists of the remainder of the subject site and will have an area of 22.08 Hectares.

Site Description

- The subject site is located on the corner of Boundary Road and Millbrook-Egerton Road approximately 1.5 kilometres to the south of the Gordon Township.
- Boundary Road and Millbrook-Egerton Road are both sealed roads.
- The site is rectangular in shape and has a 281m wide frontage to Boundary Road, a 865m wide frontage to Millbrook-Egerton Road and a total area of 24.08 hectares.
- The site is relatively flat. Wollen Creek runs through the site from the north to south with a small dam near the middle of the site. There is native vegetation located on the watercourse to the north and south of the dam.
- There is a dwelling and associated outbuildings located 50 metres from the Millbrook-Egerton Road frontage near the centre of the frontage. The remainder of the land is used for agriculture.

Surrounding land to the north south and west is in the Farming Zone and the pattern of subdivision and land ownership varies although examples of numerous contiguous land parcels held in single ownership are evident in the surrounding area. Surrounding land is mostly cleared of vegetation and predominately used for grazing. Dwellings are not uncommon in the area, although given the pattern of land ownership described above there are numerous undeveloped lots.

Land to the east is in the Rural Living Zone where lots are uniformly smaller, many of which are developed with single dwellings.

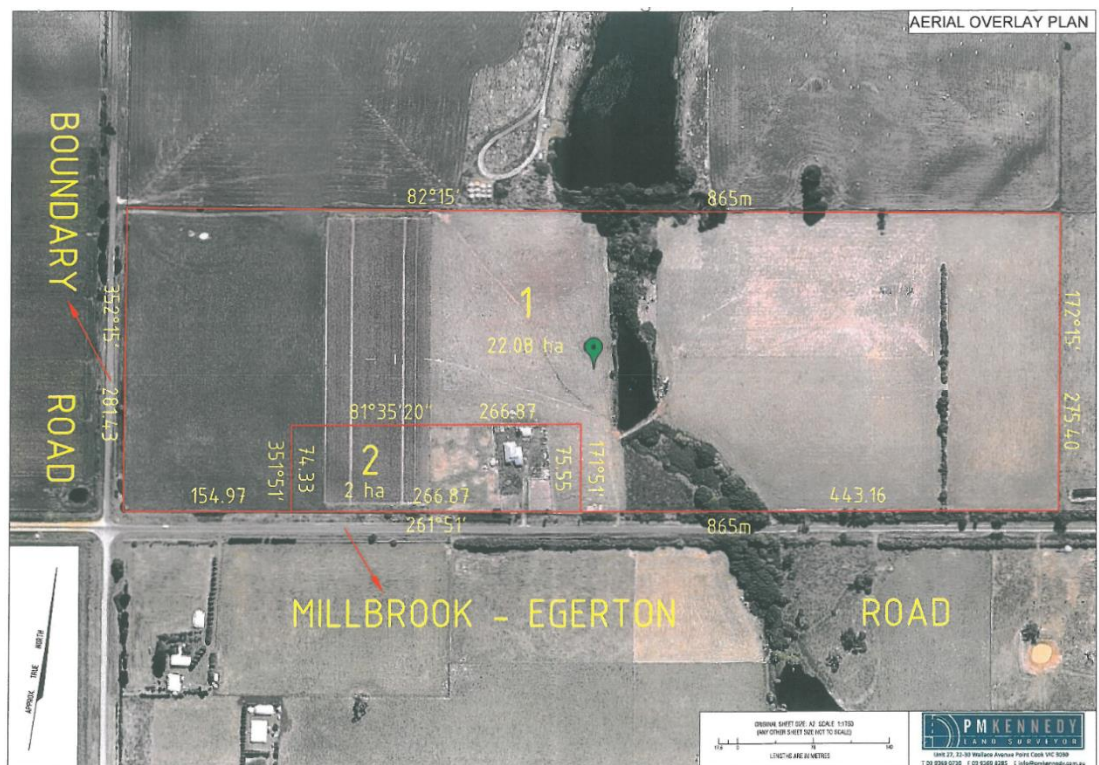


Figure 1: Aerial photograph of the subject site

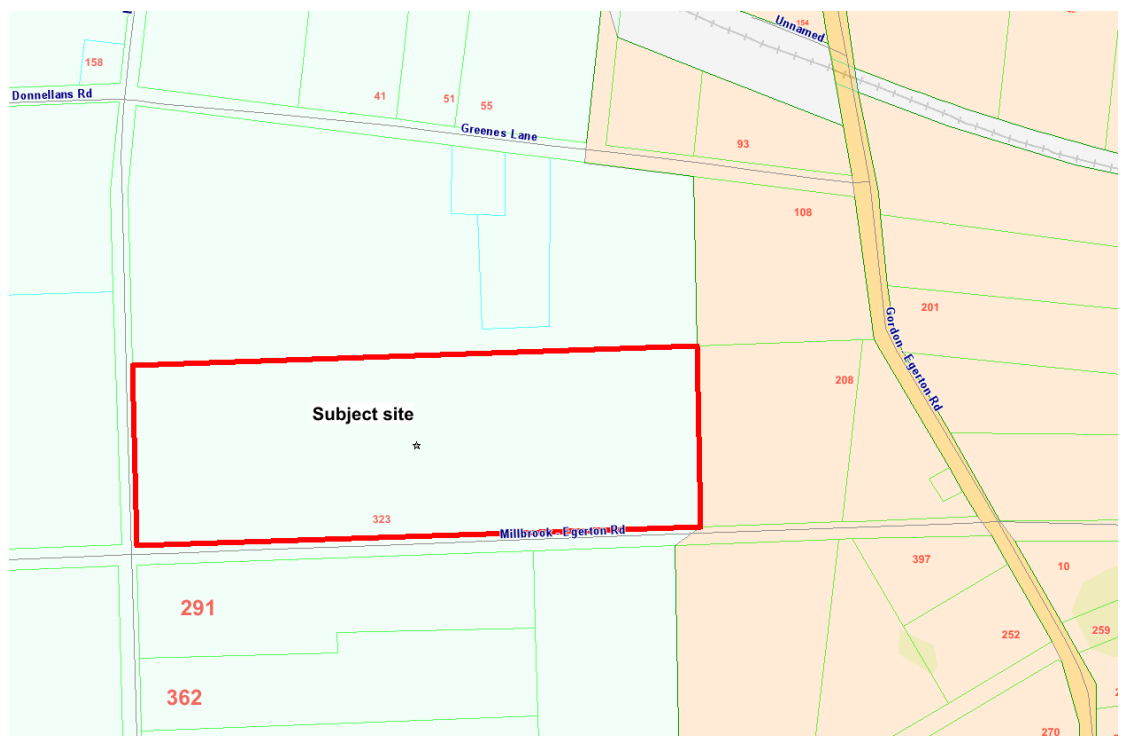


Figure 2: Locality and Zoning map

Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the State Planning Policy Framework (SPPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- 11.05-3 Rural productivity
- 11.06-8 Agricultural productivity
- 14.01-1 Protection of agricultural land
- 16.02-1 Rural residential development
- 21.02-3 Water and Catchment Management
- 21.03-4 Landscape and neighborhood character
- 21.03-5 Rural lifestyle opportunities
- 22.02 Special Water Supply Catchments
- 22.03 Houses and house lot excisions in rural areas

The proposal complies with the relevant sections of the SPPF and LPPF, with the exception of the clauses outlined in the table below:

SPPF	Title	Response
11.05-3	Rural productivity	<p>The objective of this policy is to manage land use change and development in rural areas to promote agriculture and rural Production.</p> <p>One of the strategies to achieve this objective is to Limit new housing development in rural areas, including discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.</p> <p>It is considered that the proposed subdivision is not consistent with this objective as it will create a small lot in the farming zone for a single dwelling.</p>
11.06-8	Agricultural productivity	<p>The objective of this clause is to support long-term agricultural productivity.</p> <p>The proposed subdivision will not support the ongoing viability of agriculture as the existing dwelling on the land will no longer support agricultural activities on the same lot and will have the potential to impact on farming practices on the larger lot to be created.</p>

14.01-1	Protection of agricultural land	<p>In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:</p> <ul style="list-style-type: none"> • The desirability and impacts of removing the land from primary production, given its agricultural productivity. • The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production. • The compatibility between the proposed or likely development and the existing uses of the surrounding land. • Assessment of the land capability. <p>Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land.</p> <p>The proposed subdivision will detract from the long-term productive capacity of the land by reducing the area available for agriculture and detract from the long-term productive capacity of the land.</p>
16.02-1	Rural residential development	<p>Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.</p> <p>Ensure planning for rural living avoids or significantly reduces adverse economic, social and environmental impacts by Discouraging development of isolated small lots in rural zones from use for rural living or other incompatible uses.</p> <p>It is considered that the creation of a small lot in the farming zone for rural living is not consistent with the rural residential development policy.</p>
LPPF		
21.03-4	Landscape and neighbourhood character	<p>One of the strategies to achieve the Landscape and neighbourhood character objective is to avoid residential development in the farming areas unless it is required for the agricultural use of the land.</p> <p>The proposed subdivision is not consistent with this objective as it will result in the existing dwelling no longer being required for the agricultural use of the land.</p>

21.03-5	Rural lifestyle opportunities	<p>The strategies to achieve the Rural lifestyle opportunities objective include:</p> <ul style="list-style-type: none"> • Prevent the fragmentation of farm land through inappropriate subdivisions. • Limit residential development in areas without reticulated services where the development would compromise water quality (particularly in Special Water Supply Catchments), adversely affect agricultural production, or impact on native vegetation and habitat values. <p>The proposed subdivision is not consistent with the objective as it will result in further fragmentation of rural land and would result in the creation of a rural lifestyle lot which may adversely affect agricultural production.</p> <p>There is ample land to accommodate rural lifestyle opportunities in the surrounding area including the land to the east that is zoned Rural Living.</p>
22.02	Special Water Supply Catchments	<p>It is policy under this clause to strongly discourage the subdivision of the land in proclaimed water catchment areas.</p> <p>The proposed subdivision is not consistent with this clause as it will result in the subdivision of land in a proclaimed catchment area.</p>
22.03	Houses and house lot excisions in rural areas	<p>The policy basis of this clause is:</p> <p>Agriculture is still the major land use in the Shire and a significant component of the economy. The Shire is committed to facilitating sustainable agriculture and protecting the long term supply of productive agricultural and horticultural land. There is need to avoid fragmentation of land suitable for rural production by discouraging subdivision and houses that are unrelated to the rural use of the land. It is also important to ensure that farm production is not compromised or adversely affected by residents living in rural areas.</p> <p>It is policy to:</p> <ul style="list-style-type: none"> • Discourage subdivision and dwellings unless they are directly related to the agricultural use of land. • Discourage non-agricultural use and development in areas of productive agricultural land. • Encourage the consolidation of small lots.

		<ul style="list-style-type: none"> • Ensure that lots created under Clause 35.07-3 have a maximum area of two hectares. • Maintain the right of existing farms to continue their operations without being adversely affected or constrained by residential concerns. • Include the following requirements on a permit to excise a lot for a dwelling where it is considered this would facilitate ongoing agricultural use of the remaining land: <ul style="list-style-type: none"> ○ Consolidate all of the remaining land with the title of an existing farm; or ○ If the remainder land is less than 40ha, require the landowner to enter into an agreement under S173 of the Planning and Environment Act that no further applications will be made to erect a dwelling on the balance allotment. <p>This clause clearly discourages the type of subdivision proposed in this application as the subdivision of the land is not directly related to the agricultural use of the land.</p> <p>The subdivision is not required to increase agricultural productivity of the land and will actually result in the productivity of the land being reduced.</p> <p>The proposed subdivision will result in fragmentation of land suitable for agriculture and will break the nexus between the existing dwelling on the land and the potential agricultural activities that can be carried out on the land.</p> <p>The subdivision will result in the creation of a rural lifestyle lot surrounded by a larger lot that will be used for agricultural activities. This will lead to an increase in the number of residents living in the area that do not live in dwellings that are related to the rural use of the land and potential conflicts with adjoining agricultural uses.</p>
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Zone

Under Clause 35.07-1 (Farming Zone) of the Moorabool Planning Scheme, a permit is required to subdivide land.

Farming Zone

The purpose of the Farming Zone is to:

- Implement the State and Local Planning Policy Frameworks, including the Municipal Strategic Statement and local planning policies;
- Provide for the use of land for agriculture;
- Encourage the retention of productive agricultural land;

- Ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture;
- Encourage the retention of employment and population to support rural communities; and
- Encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

The proposed subdivision will result in the removal of 2 hectares of agricultural land. Lot 2 will be too small for any meaningful agricultural uses. Lot 1 is already relatively small and any reduction in the size of this lot will reduce its agricultural viability. The creation of a new lot containing a dwelling will also reduce the viability of the adjoining land.

The new lot will be surrounded on 3 sides by the larger lot and the dwelling on the new lot will only be around 10 metres from the boundary.

Overall, the proposed subdivision of the land into two lots is not considered to be consistent with the purpose and decision guidelines of the Farming Zone, as discussed below.

Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 (ESO1), and Design and Development Overlay, Schedule 2 (DDO2).

Under Clause 42.01 (ESO) of the Moorabool Planning Scheme, a permit is required to subdivide the land. There are no applicable exemptions under Schedule 1.

Under Clause 43.02 (DDO) of the Moorabool Planning Scheme, Schedule 2 (DDO2), subdivision does not require a permit.

Relevant Policies

Council's Rural Housing Policy, adopted on 19 September 2012, gives direction for assessing planning permit applications which propose new residential development of land in the Farming Zone. The Policy encourages residential development in farming areas which satisfies the purpose of the Farming Zone and supports agricultural opportunities. The policy does not specifically address subdivision of land in the farm zone or house lot excisions.

Particular Provisions

None applicable.

Discussion

In the context of State and Local Policy it is considered that the proposed use and development generally does not satisfy the relevant provisions of the Moorabool Planning Scheme.

There is a plethora of policies in the State and Local Planning Policy Frameworks that reinforces the objectives of retaining and promoting agricultural activities in the Farming Zone.

In the State Planning Policy Framework, Clauses 11.05-3, 11.06-8 and 14.01 set out the clear intent of maintaining agricultural uses in rural areas. Clause 16.02-1 (Rural Residential Development) takes a step further to state that rural residential use should take place in an orderly fashion: that is to direct such uses to land identified as suitable for such purposes instead of taking up agricultural land. This is to protect agricultural activities in farming areas, to maintain a buffer separating farming and rural activities from residential uses, to ensure that rural residential uses do not encroach on high quality productive agricultural land, and to ensure that land zoned for rural living or rural residential are located close to towns and urban centres.

In the Local Planning Policy Framework, Clauses 21.03-421.03-5, 22.02, 22.03 reaffirmed these sentiments. Clause 22.03 is the specific local policy relating to house lot excisions in rural areas. This policy acknowledges the need to avoid fragmentation of land suitable for rural production by discouraging subdivision and houses that are unrelated to the rural use of the land. It also acknowledges the impacts that rural residential use can have on farm production through land use conflicts.

The subdivision is not required to increase agricultural productivity of the land and will actually result in the productivity of the land being reduced.

The proposed subdivision will result in fragmentation of land suitable for agriculture and will break the nexus between the existing dwelling on the land and the potential agricultural activities that can be carried out on the land.

The subdivision will result in the creation of a rural lifestyle lot surrounded by a larger lot that will be used for agricultural activities. This will lead to an increase in the number of residents living in the area that do not live in dwellings that are related to the rural use of the land and potential conflicts with adjoining agricultural uses.

While Council's Rural Housing Policy recognises that there are a variety of lots sizes in the rural areas of Moorabool Shire and allows for the development of dwellings on lots smaller than 40 hectares it does not encourage the creation of further lots smaller than 40 hectares in the Farming Zone.

Given the trend and likely event that the dwelling is not connected to the farming operation of the parent lot, its use is inherently contrary to the policies in the State and Local Planning Policy Frameworks to retain and maintain agricultural land and to discourage incompatible land uses such as residential to adversely impact on such farming activities.

Although the applicant has stated that the lots will be retained within the same family it is not demonstrated that it would be the case in the future. It is entirely plausible that the new owner of the dwelling will treat the property as a life style property and expect quiet country living which may not be delivered by the legitimate farming operations around the land.

The use of a Section 173 Agreement requiring that the new lots not be further subdivided and that no additional dwellings be erected on either lot was required by the water authority and the issue of a permit with such a condition has been considered. It would prevent the further use and development of a dwelling and excision of another rural residential lot in the future.

This, however, does not overcome the fundamental issue of creating a small rural residential lot now, or future conflict between residents of the house and surrounding farming activities which may change over time and which may be more intensive or moving farming nodes closer to the dwelling than at present.

The proposed subdivision would still not have policy support even with such an agreement in place.

General Provisions

Clause 65 . Decision Guidelines have been considered by officers in evaluating this application as appropriate.

Referrals

The following referral was made pursuant to s.55 of the *Planning and Environment Act 1987*:

External Authority (Section 55)	Response
Barwon Water	No objection subject to conditions
Department of Environment, Land, Water & Planning	No objection.

The following referrals to Council departments were made pursuant to s.52 of the *Planning and Environment Act 1987*:

Internal referral (Section 52)	Response
Infrastructure	No objection subject to conditions
Environmental Health	No objection subject to conditions

Financial Implications

The recommendation of an approval of this development would not represent any financial implications to Council.

Risk and Occupational Health and Safety Issues

The recommendation of approval of this development does not implicate any risk or OH & S issues to Council

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The applicant has been invited to attend this meeting and invited to address Council if desired.

Options

The responsible authority could consider to issue a Notice of Decision to grant a permit for the use with relevant conditions including a Section 173 Agreement requiring that the new lots not be further subdivided and that no additional dwellings be erected on either lot.

Conclusion

The proposal is considered inconsistent with relevant policies contained within the Moorabool Planning Scheme. The subject site is productive agricultural land located within the farming zone where this type of subdivision is discouraged by state and local policies.

The proposed subdivision is not consistent with the objective as it will result in further fragmentation of rural land and would result in the creation of a rural lifestyle lot which will have the potential for adverse impacts on farm production through land use conflicts.

In accordance with Section 60(1) of the Planning and Environment Act, 1987 the Responsible Authority should refuse the application on grounds outlined in the recommendation section of this report.

Recommendation:

That, having considered all matters as prescribed by s.61 of the Planning and Environment Act 1987, Council Refuse to Grant Permit PA2014 153 for the subdivision of the land into two lots at Crown Allotment 2, Section 13, Parish of Kerit Bareet, 323 Millbrook-Egerton Road, Gordon for the following reasons:

- 1. The proposed subdivision is not consistent with the objectives of Clause 22.03 as it will not increase agricultural productivity and will increase the potential for adverse impacts on farm production through land use conflicts.**
- 2. The proposed subdivision is not consistent with the purpose of the Farming Zone as the subdivision will result in the fragmentation of productive agricultural land.**
- 3. The proposed subdivision is not consistent with the State Planning Policy Framework, Clauses 11.05-3, 11.06-8, 14.01 and 16.02-1.**
- 4. The proposed subdivision is not consistent with the Local Planning Policy Framework, Clauses 21.03-421.03-5 and 22.02.**

Resolution:**Cr. Sullivan/Toohey**

That, having considered all relevant matters as required by s.60 of the Planning and Environment Act 1987, Council issues a Notice of Decision to Grant Permit PA2014 153 for the subdivision of the land into two lots at Crown Allotment 2, Section 13, Parish of Kerrit Bareet, 323 Millbrook-Egerton Road, Gordon for the following reasons:

Endorsed plans:

- 1. The formal plan of subdivision lodged for certification must be generally in accordance with the endorsed plan and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.***

Subdivision:

- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***

Servicing:

- 3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 4. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***

Section 173 Agreement:

- 5. Before the use and/or development start(s), the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act to provide the following:***
 - a) Each lot created shall not be further subdivided to create any additional lots.***
 - b) No additional dwellings shall be erected on either lot.***

Before (specify time or event), application must be made to the Register of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred.

The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it the Responsible Authority for approval.

The owner/operator under this permit must pay the costs of execution and registration of the section 173 agreement.

Infrastructure:

- 6. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).***
- 7. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
- 8. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.***

Environmental Health:

- 9. The onsite wastewater management system and the land application area must be contained on the one site and not affecting the subdivision.***

Central Highlands Water:

- 10. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.***
- 11. Prior to a Statement of Compliance being issued for the subdivision the applicant shall enter into an agreement pursuant to Section 173 of the Planning and Environment Act with the Shire of Moorabool & Central Highlands Water that:***
 - a) Each lot created shall not be further subdivided to create any additional lots.***
 - b) No additional dwellings shall be erected on either lot.***
- 12. The Owner and the Shire agree to sign all necessary documents and do all necessary things to register a memorandum of this Agreement on the title of the land prior to the issue of a Statement of Compliance.***

Permit expiry:

- 13. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.***

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

Statement of Compliance must be achieved and certified plans registered at Titles office within five (5) years from the date of certification.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday, 12 November 2015



10.2.3 Planning Permit Application PA2015-024; Development and use of a Dwelling and Ancillary Outbuilding on 137 Woolpack Road, Maddingley

Application Summary:	
Permit No:	PA2015-024.
Lodgement Date:	18 February, 2015.
Declaration for Amendment:	18 June, 2016.
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	17 August, 2015.
Planning Officer:	Mark Lovell/Robert Fillisch.
Address of the land:	Lot 2 on Plan of Subdivision PS607883B 137 Woolpack Road, Maddingley.
Proposal:	Development and Use of a Dwelling and Ancillary Outbuilding.
Lot size:	5.094 hectares.
Why is a permit required?	<p>Clause 35.07-1 Farming Zone - Use and development of land for a Dwelling on a lot less than 40 hectares.</p> <p>Clause 35.07-4 Farming Zone - Building and Works.</p> <p>Clause 43.02-2 Significant Landscape Overlay - Building and Works.</p>
Public Consultation:	
Was the application advertised?	Yes, five (5) notices to neighbouring owners and occupiers.
Notices on site:	Yes, one (1) sign on site.
Notice in Moorabool Newspaper:	No.
Number of Objections:	One objection.
Consultation meeting:	No formal meeting however discussions were held with both the applicant and objector together.

Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
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. <i>Manager – Robert Fillisch</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author – Mark Lovell</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
Executive Summary:	
Application Referred?	Yes.
Any issues raised in referral responses?	No.
Preliminary Concerns?	Yes. Dwelling use on a small parcel of land within a Farming Zone. Proximity of the dwelling within the separation area of the existing Broiler farm adjoining the property.
Any discussions with applicant regarding concerns	Yes.

Any changes made to the application since being lodged?	The applicant has substituted plans and revised the description of the proposal
VCAT history?	No.
Previous applications for the site?	PA2008-289 was refused by Council on 21 July 2010 for the development and use of a second dwelling. PA2008-140 was issued by Council on 1 August, 2008 for development of an Outbuilding (Machinery Shed) Ancillary to the Use of the Land for Agriculture.
General summary (Pros/Cons of the proposal)	The primary concern with this application is the location of the use of the land for a dwelling within the separation distance to an existing Broiler farm located within a Farming Zone.
Summary Recommendation:	
That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for development and use of a dwelling and ancillary outbuilding at Lot 2 on PS607883B, 137 Woolpack Road, Maddingley.	

Public Notice

The application was notified to adjoining and surrounding landowners.

Summary of Objections

The objections received are detailed below with officers' comments accompanying them:

Objection	Any relevant requirements?
Existing broiler farm and the planned dwelling does not comply with the Broiler Code separate distance.	Victorian Code for Broiler Farms (Department of Primary Industries, 2009). The code must be considered under Clause 14.01-2 of the Moorabool Planning Scheme.
Officers' response: The proposed dwelling use does not comply with the minimum separation distance of 418 metres under the Victorian Code for Broiler Farms.	

Proposal

New Shed:

- The applicant has proposed a detached Colorbond® shed to be used for storage purposes centrally located on the lot.
- The shed will be 18 metres in length, 9 metres in width, and has a floor to ceiling height of 3 metres.

- The shed is setback approximately 430 metres from the eastern property boundary and is accessed by its own 4.5 metres in width, all weather access road.
- The shed has hinged shutters, two pedestrian doors and two roller doors.
- The shed will consist of Colourbond trim deck wall cladding coloured ~~Asperq~~and Colorbond roof cladding coloured ~~Surfmistq~~

After a discussions with Council officers, it was identified that the existing dwelling located near the northern side of the lot had not been occupied by residents and was in poor condition unfit for occupation. The dwelling has not been occupied for more the two years and has therefore lost its existing use right under Clause 63 of the Moorabool Planning Scheme.

The shed located to the southern side of the lot has not yet received a final inspection from the relevant Building Surveyor. The owner has then expressed a desire for a replacement dwelling to be centrally located on the lot between the existing water tanks and the existing Colorbond Shed and to renew approval for the existing shed to allow for a Certificate of Final Inspection to be issued. The application as amended proposes:

Existing shed:

- The shed located to the southern side of the lot contains an open store, wash room, storage room, feed store and tack room.
- The shed has a maximum width of 30.13 metres, maximum width of 17.70 metres and a floor to ceiling height varying between 2.20 metres to 3.6 metres.
- The shed is well setback from southern, western and eastern property boundaries.
- The shed is accessed by an existing internal all weather roadway that loop through the shed building with vehicle access doors located on the eastern and western sides on the shed.
- The shed will consists of a mixture of Colourbond wall cladding coloured ~~Surfmistq~~and stack stone walls and custom orb roof cladding coloured ~~Surfmistq~~

Dwelling:

- The proposed dwelling is single storey in height in a U shaped configuration.
- The dwelling will contain two bedrooms both with ensuites, open study, living area, kitchen, laundry and a double car garage.
- The dwelling is setback approximately 350 metres from the eastern property boundary and approximately 375 metres to the north of the existing shed building.
- The dwelling has a floor to ceiling height of 2.7 metres and an overall height of about 3.8 metres.
- The dwelling will consist of stack stone walls, custom orb roofing, Colorbond guttering and roof fascias, and Colorbond verandah posts.

Site Description

The subject site is located on the northern side of Woolpack Road, north of Bacchus Marsh - Geelong Road. The lot is irregular in shape and has significant slope running from a south up to a north direction.

The surrounding area contains a mixture of lot sizes and uses. The immediate property to the east contains a single storey dwelling located near the Woolpack frontage and has an overall lot area of 3.238 hectares.

The property to the immediate south contains a centrally located shed building on lot area of 4.925 hectares.

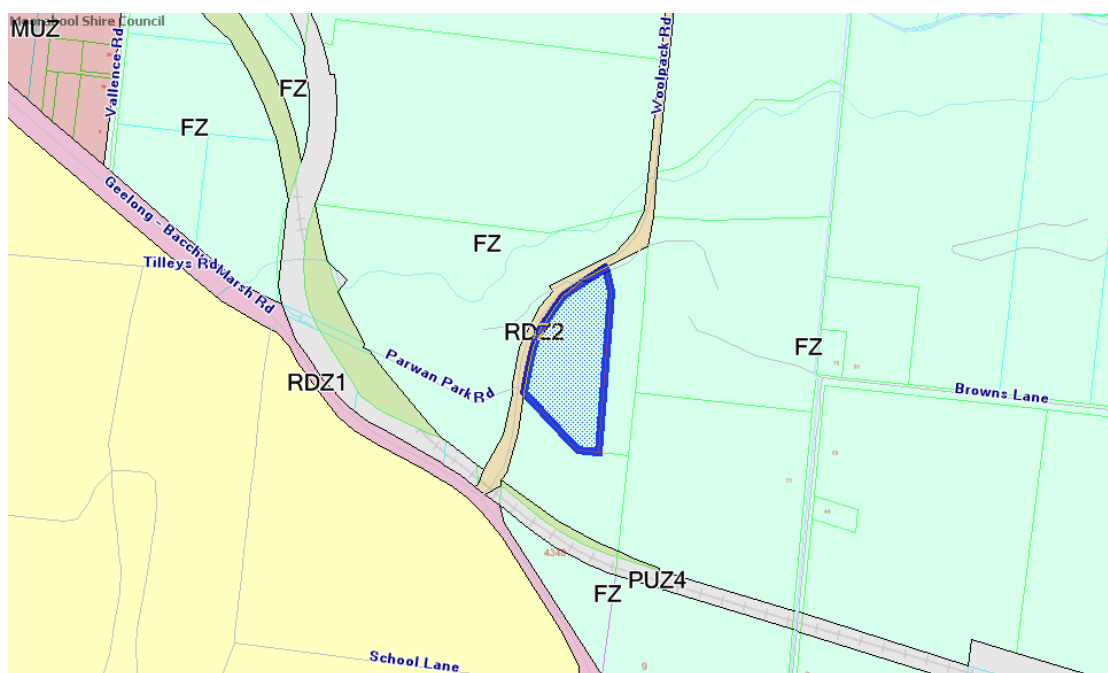
The property to the south-east is a large broiler farm buildings located close to its western property boundary with vehicle access from Browns Lane.

There is minimal vegetation which is concentrated adjacent to the Woolpack roadway.

The surrounding properties are within a Farming Zone under the Moorabool Planning Scheme.



Locality Map



The site above indicates the location of the subject site and the zoning applicable to the surrounding area.

Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the State Planning Policy Framework (SPPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.05-2 Melbourne's hinterland areas.
- Clause 11.06-7 Environmental Assets.
- Clause 13.04-2 Air Quality.
- Clause 14.01-1 Protection of Agricultural Land
- Clause 14.02-1 Catchment Planning and Management.
- Clause 16.01-2 Location of Residential Development
- Clause 16.01-5 Housing Affordability,
- Clause 21.02-3 Water and Catchment Management.
- Clause 21.03-4 Landscape and Neighbourhood Character.
- Clause 21.03-5 Rural Lifestyle Opportunities.
- Clause 21.04-2 Agriculture.
- Clause 21.05-2 Water Supply.
- Clause 22.03 House and House lot excisions in Rural Areas.

The proposal complies with the relevant sections of the SPPF and LPPF, with the exception of the clauses outlined in the table below:

SPPF	Title	Response
Clause 13.04-2	Air Quality	The proposed dwelling does not ensuring adequate separation with land uses that reduce amenity.
Clause 14.01-1	Protection of Agricultural land.	The proposed dwelling may impact upon the continuation of primary production on adjacent land.
Clause 16.01-2	Location of Residential Development	The proposed dwelling is not located near an activity centre or employment corridor.
LPPF		
Clause 21.03-4	Landscape and Neighbourhood Character	A strategy of this Clause is to avoid residential development in farming areas unless it is required for the agricultural use for the land.
Clause 22.03	House and House lot excisions in rural areas.	The proposed dwelling may not maintain the right of existing farms to continue their operations without being adversely affected or constrained by residential concerns.

Zone

The site is located in a Farming Zone under the Moorabool Planning Scheme. The purpose of the Farming Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provisions.*

The decision guidelines under dwelling issues has the following objectives:

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*

- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

A planning permit is required use the land for a dwelling where a lot is less than 40 hectares.

A planning permit is required for building and works for a Section 2, permit required use.

The proposal is considered inconsistent with the objective to ensure that non-agricultural uses do not adversely affect the use of surrounding land for agriculture

Overlays

This site is covered by a Significant Landscape Overlay - Schedule 1 (Scenic Hilltops and Ridge Lines Areas). The objectives of this schedule are:

- *To protect the natural scenic qualities of the hilltops and ridge line areas.*
- *To minimise the visual impact of development.*

A planning is required for building and works.

The site is also covered by a Design & Development Overlay - Schedule 2 (Visual Amenity & Building Design). The design objectives of Schedule 2 are:

- *To enhance visual amenity in rural, township and vegetated areas of the Moorabool Shire.*
- *To encourage the use of external cladding, such as non-reflective materials for building construction*
- *To discourage the use of materials, such as reflective cladding for building construction, which could have a detrimental effect on amenity*

A permit is not for building and works where all external materials are clad with non-reflective material. Colorbond is regarded as a non-reflective metal material.

Relevant Policies

Council's Rural Growth Policy Statement was adopted by Council on 19 September, 2012. The document applies to all land in Farming Zone under the Moorabool Planning Scheme. The policy states:

- *Encourage dwellings in areas nominate in Map 1 of Council Rural Growth Policy Statement*
- *Ensure the siting of any dwellings is designed to have a minimal impact on any existing or future agricultural activities on the site and on surrounding.*

- *Ensure it is clear whether the dwelling is required for agricultural operation use or to maintain rural communities.*
- *Ensure sufficient infrastructure is available or that alternative methods are available which do not required normal infrastructure.*
- *Encourage development of dwellings to support communities of land which is unlikely to support agricultural land which still considering any other overlays which may impact the land/ This is land which is constrained for use as agriculture by other environment factors such as vegetation, slope, soil quality, etc.*
- *Ensure any subdivision is undertaken in accordance with the scheme in order to discourage fragmentation of agricultural land. Subdivision in accordance with the scheme.*

Particular Provisions

There are no particular provisions affecting the subject land. The proposal includes two car spaces to the proposed dwelling in accordance with the minimum requirement of Clause 52.06-5 of the Moorabool Planning Scheme.

Discussion

The existing and proposed shed building do not present any planning concerns and are consistent with the zone and overlay controls although they have not specifically been shown to be used for the purpose of the Farming Zone. The sheds are essentially being used for domestic purposes and therefore needs to be in association with a dwelling.

There is an established Broiler farm located to the south-east of the subject land. The Victorian Code for Broiler Farms acknowledges all emissions from such farms cannot contained within the property boundaries and set out separation distances to ensure existing sensitive uses including dwellings are not adversely affected by emissions.

Based on the farm capacity of 160,000 birds, the Code has a separation distance of 418 metres (See Figure 1). The proposed dwelling is approximately 250 metres from the north-east edge of the broiler farm building. The Code also ensures opportunities remain on adjoining and nearby vacant land to establish a dwelling outside the required separation distance provided there is suitable assessment. A review of the area shows two properties with dwellings on the eastern side of Browns Lane within separation area required by this Code. However they were well established on site reflecting the existing site conditions prior to the adoption of the Code. This proposal seeks to introduce a new dwelling within close proximity to an operating Broiler Farm.

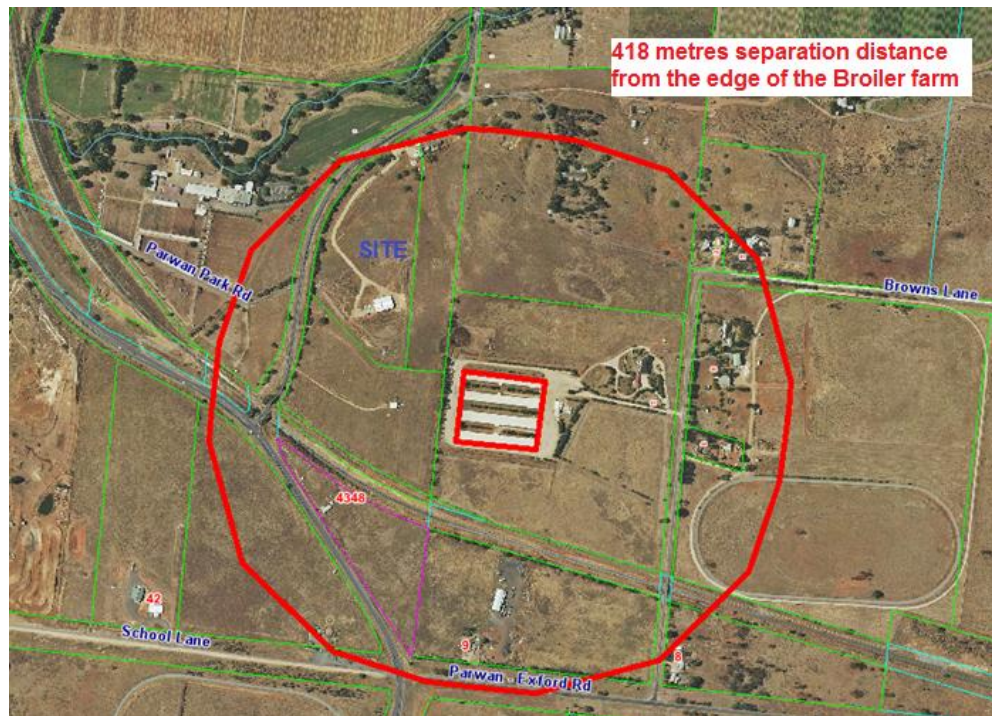


Figure 1.

The decision guidelines for the Farming Zone makes it clear that the new dwelling should not be subjected to adverse amenity impacts that can generated from existing agricultural activity and additional sensitive uses such as a dwelling can impede the current or future operation of an existing agricultural use. The siting of the proposed dwelling has be done to maximise view lines of the surrounding area. Any new dwelling uses should be appropriately sited to ensure existing agricultural land can be fully utilised and it required have opportunities for future expansion without be subjected to residential concerns regarding emissions from the site. The zone controls identify agricultural activity needs to be protected from non-agricultural uses. The proposal will create both conflict with an existing agricultural use and may affect the amenity of future residents.

During discussion with both the applicant and the objector it was proposed to look at incorporating a Section 173 agreement to assist with the issue of the adjoining Broiler farm. While this may provide an appropriate result for the existing applicant and owner of the Broiler farm it provides limited certainty in the future. The risk to Council would be that they would be responsible for the implementation of such an agreement even with the change of ownership of both parties.

On this basis, the application should not be supported.

General Provisions

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*

Clause 66 - stipulates all the relevant referral authorities to which the application must be referred.

Referrals

The following referrals were made pursuant to s.55 of the Planning and Environment Act 1987 and Council departments were provided with an opportunity to make comment on the proposed development plan.

Authority	Response
Infrastructure	No objection subject to four conditions
Environmental Health	No objection and noted ensure buildings are not built over existing onsite wastewater management system and any existing effluent lines

Financial Implications

- There are no financial implications.

Risk and Occupational Health and Safety Issues

The recommendation for this application does not implicate any risk or OH&S issues to Council.

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

Options

This section would include what other recommendations could be considered as it relates to a proposal. This section should also include possible consequences with choosing an alternative option than what is recommended under the ~~Recommendation~~ section of this report.

Conclusion

The proposed use and development for a dwelling and ancillary outbuildings does not satisfactorily address the decision guidelines of the Farming Zone.

Consideration of Deputations – Planning Permit Application No. PA2015-024.

Mr. Graham Dawson addressed Council in favour of the granting of a planning permit for the application.

The business of the meeting then returned to the agenda.

Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Refusal to Grant Permit PA2015-024 for the development and use of a dwelling and ancillary outbuilding at Lot 2 on PS607883B 137 Woolpack Road, Maddingley, on the following grounds:

1. The proposal does not comply with Clause 13.04 (Air Quality) of the Moorabool Planning Scheme by not ensuring adequate separation with land uses that reduce amenity.
2. The proposal does not comply with Clause 14.01 (Agriculture) of the Moorabool Planning Scheme, by adversely impacting upon the continuation of primary production on adjacent or nearby land.
3. The proposed dwelling use does not comply with the minimum separation distance under the Victorian Code for Broiler Farms (2009).
4. The proposal does not comply 22.03 (House and House Lot Excisions) of the Moorabool Housing Scheme, as it does not maintain the right of existing farms to continue their operations without being adversely affected or constrained by residential concerns.
5. The proposal is inconsistent with the purpose and decision guidelines of the Farming Zone, Clause 35.07 of the Moorabool Planning Scheme, as it will be adversely affected by agricultural activities on adjacent and nearby land and will adversely affect the operation and expansion of adjoining and nearby agricultural land.
6. The location of the proposed dwelling and its occupants have a high potential to be subject to nuisances as defined by the Health Act 1958. Nuisances that may be generated include (but not limited to) odour, dust, light and noise.

Resolution:**Crs. Toohey/Edwards**

That, having considered all relevant matters as required by s.60 of the Planning and Environment Act 1987, Council issues a Notice of Decision to Grant Permit PA2015-024 for the development and use of a dwelling and ancillary outbuilding at Lot 2 on PS607883B 137 Woolpack Road, Maddingley for the following reasons:

Endorsed plans:

- 1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:***

- a) Landscape plan in accordance with Condition 9.***

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

- 2. Unless otherwise specifically required by any other condition of this permit and except with prior written consent of the responsible authority to any variation, the development must be sited and constructed in accordance with the endorsed plans.***

Section 173 Agreement:

- 3. Before the use and/or development start(s), the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act to provide the following:***

- a) The owner acknowledges that the surrounding land is used for agricultural purposes and this may have limited amenity impacts on the dwelling.***
- b) The owner is aware that the dwelling has been constructed within the buffer area of the established broiler farm adjoining the site.***
- c) The present owner will have no right to appeal the activities that are being carried on the adjoining property with the existing broiler farm operation.***

Before (specify time or event), application must be made to the Register of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner

must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred.

The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it the Responsible Authority for approval.

The owner/operator under this permit must pay the costs of execution and registration of the section 173 agreement.

Dwelling:

- 4. The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.***
- 5. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.***
- 6. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.***
- 7. Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.***

Non Reflective Materials:

- 8. All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.***

Landscaping:

- 9. A landscape plan to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:***
 - a) A survey (including botanical names) of all existing vegetation to be retained and / or removed;***
 - b) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and the quantities of each plant; and***
 - c) A corridor of tree planting along the eastern boundary of the property to be maintained by drip irrigation system to screen the adjoining broiler farm.***
- 10. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority within three months of the grant of the permit.***

11. *The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including any dead, diseased or damaged plants are to be replaced.*

Infrastructure:

12. *Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.*
13. *Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).*
14. *Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.*
15. *Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing Moorabool Shire Council Engineering Services damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.*

Environmental Health:

16. *Ensure the proposed shed is not built over any existing onsite wastewater management system and any existing effluent lines.*
17. *As Constructed plan, plumber's compliance certificate, manufacturer's commissioning report and signed servicing agreement must be submitted to Council's Environmental Health Unit to issue a Certificate of Use.*

Permit expiry:

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

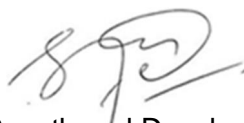
Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday, 12 November 2015



Cr. Comrie declared a Direct Conflict of Interest in relation to Item 10.2.4 - Planning Permit Application PA2015-055; Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store on Crown Allotment 5, Parish of Parwan, 18 Fiskin Street Maddingley. The nature of the Conflict of Interest is due to Cr. Comrie being related to the applicant.

Cr. Comrie left the meeting at 5.20pm and did not participate in the discussion or voting on the item.

ACTING CHAIR

Resolution:

Crs. Edwards/Toohey

That Cr. Spain be appointed Acting Chair for consideration of Item 10.2.4 - Planning Permit Application PA2015-055; Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store on Crown Allotment 5, Parish of Parwan, 18 Fiskin Street Maddingley.

CARRIED.

10.2.4 Planning Permit Application PA2015-055; Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store on Crown Allotment 5, Parish of Parwan, 18 Fiskin Street Maddingley.

This application would normally go before the Development Assessment Committee for a decision as less than 10 objections from separate properties have been received. However the last time this application went to Council several Councillors declared a conflict. If it was to go to DAC only two Councilors' would be in a position to vote.

Application Summary:	
Permit No:	PA2015-055
Lodgement Date:	12 March, 2015
055Planning Officer:	Robert Fillisch
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	7 December, 2015
Address of the land:	Crown Allotment 5, Parish of Parwan 18 Fiskin Street Maddingley
Proposal:	Use and Development of the Land For Rural Industry (Grain Packing) and Rural Store
Lot size:	3.82 hectares

Why is a permit required	<p>Clause 35.07-1 . Farming Zone . Use of land for Rural Industry (Grain Packing) and Rural Store</p> <p>Clause 35.07-4 . Farming Zone . Buildings and Works</p>
Public Consultation:	
Number of notices to properties:	71
Notices on site:	One (1)
Notice in Moorabool Newspaper:	No
Number of Submissions:	<p>Total of 25 submissions</p> <p>20 of support</p> <p>Five (5) objection</p>
Consultation meeting:	None held.
Policy Implications:	
<p>Key Result Area</p> <p>Objective</p> <p>Strategy</p>	<p>Enhanced Infrastructure and Natural Built Environment.</p> <p>Effective and efficient land use planning and building controls.</p> <p>Implement high quality, responsive, and efficient processing systems for planning and building applications</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>
Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>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.</p>	
Officer's Declaration of Conflict of Interests	
<p>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.</p> <p><i>Manager – Satwinder Sandhu</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p>	

Author – Robert Fillisch

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

Executive Summary:

The applicant seeks approval to use and develop the land for the purpose of Rural Industry (Grain Packaging) and Rural Store. The land is to be used in conjunction with approved permit PA2013272 which allows for the Use and Development of the Land for an Agricultural Transport Depot.

This application is retrospective as the applicant has been using the site for the above purposes since late 2013 and has also been subject to enforcement proceedings as detailed in the background section of this report.

Should approval be granted this would formalise the following development which has occurred on the site:

- Construction of five conjoined silos with a capacity to hold 600 tonnes of grain. The silos are connected at the top and bottom with a delivery system that allows them to be individually filled or emptied. The individual silos have an individual floor area of approximately 20 square metres and are constructed on a single concrete pad 5 metres wide and 30 metres long.
- A delivery auger for the loading of containers which includes a concrete pad for trucks.
- An additional turning area north of the weighbridge allowing trucks to access the weighbridge once loaded prior to leaving the site. This area is currently a dirt track and is devoid of an all-weather surface.
- An additional turning area south of the silos. This area has been constructed with an all-weather surface (crushed rock).

The site will rely on parking areas which have been approved under PA2013272. The weighbridge is considered ancillary to both this proposed use and the approved use under PA2013272. It is also noted that access to the site will also be consistent with the approved use PA2013272 which requires the trucks to ingress the site via Fiskin Street and egress the site via Taverner Street.

The proposed use would allow the following:

- Storage of grain within the five silos with a maximum of 600 cubic metres of storage.
- Handle approximately 25 000 tonnes of grain per year.
- Filling containers from the silos on site.
- A maximum of 15 containerised trucks leaving the site per day.
- Operating hours between 6.00am and 9.00 pm Monday to Friday and 7.00am and 7.00pm Weekends and Public Holidays.

Council officers are not opposed in principle to the business however the location is an issue. The site is in close proximity to existing residential land and land opposite the site is currently being considered for rezoning to

residential land under planning scheme amendment C51. While the Farming Zone can allow for the use it is considered that such a use is more appropriate in the Industrial Zone. However given the decision of VCAT to approve PA2013272 Council officers are supporting this application subject to stringent conditions to protect nearby residential amenity.

Summary Recommendation:

That, having considered all relevant matters as required by s.60 of the Planning and Environment Act 1987, Council approve to grant a Notice of Decision for Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store at Crown Allotment 5, Parish of Parwan otherwise known as 18 Fiskens Street Maddingley.

Background

In June 2012 Council received correspondence advising that the site was being used for the storage of grain trucks. This was subsequently investigated and confirmed the site was being used for truck storage. This included up to 10 B-double grain trucks stored overnight. Truck drivers arrive at the site in private vehicles which are left on site while they drive the trucks during the day.

Council officers took this matter to VCAT and during a hearing in November 2013 highlighted the additional issue of the use of the land for Rural Industry and the construction of the silos.

A preliminary VCAT hearing on 13 March 2015 provided opportunity to the applicant to include the aspects of this application in the current appeal with regard to the Agricultural Transport Depot. The applicant did not take up this opportunity, rather lodged this current application directly with Council.

The VCAT hearing for the Agricultural Transport Depot was held on 5 August 2015 with a subsequent order issued on 16 September 2015. This order provided the following:

- Approval of PA2013-272 Use and Development of the Land for an Agricultural Transport Depot
- Confirmation that a planning permit is required to use the land for a Rural Industry.
- Confirmation that a planning permit is required to use the land for a Rural Store.
- Enforcement order with regard to the use of the land for Rural Industry, which requires the use for Rural Industry to cease by 16 October 2015 unless a planning permit is granted for the uses.
- Enforcement order stating the silos comprising the Rural Store must not be refilled before 16 November 2015 except with the written consent of the Responsible Authority.
- Enforcement order which requires all works comprising the Rural Store to be removed from the site by 30 January 2016 unless a planning permit is granted for these works.

Proposal

The applicant seeks approval to use and develop the land for the purpose of Rural Industry (Grain Packaging) and Rural Store. The land is to be used in conjunction with approved permit PA2013 272 which allows for the Use and Development of the Land for an Agricultural Transport Depot.

The application was lodged on 12 March, 2015 for the Use of the land for Rural Industry on a without prejudice basis as the applicant did not believe a permit was required due to the size of the operation.

The application documents refer to the following:

- The site is proposed to be used to store and pack grain products and to store vehicles and equipment that are used as part of the owners business, such as farm equipment, trucks, cars and other vehicles.
- Silos to store the grain with a floor area of 98 square metres and have the capacity to store 600 tonnes of grain. Silos are constructed with a matt finished zincalume product. Electric augurs are used to control the movement of the grain with the exception of one tractor driven auger which is used to fill the silos. It is anticipated this tractor driven auger will be replaced with an electric auger within 12 months.
- The silos have been constructed on a concrete pad and the cost of the silos and footings is \$120 000.
- A weighbridge has been installed to comply with all road rules at the cost of \$96 000. The weighbridge is mobile and has been constructed on a crushed rock foundation.
- Hours of operation are proposed to be 6.00am to 9.00pm Monday to Friday and 8.00am and 8.00pm on Weekends and Public Holidays.
- Feature and level survey plan which was to detail the area to be used for Rural Industry as packing area. It is noted that the plan provided does not specifically identify any area for the purpose of packing.
- A maximum of 15 trucks will be on site at any time with a maximum of 15 truck movements per day to the site.
- All vehicles will access the site from the south end of Fiskin Street with the option to use Station Street. Signage would be set up to make drivers aware of traffic flows on the site.
- A cypress tree hedge would be planted and maintained along the Fiskin and Taverner Street boundaries. These trees have now been planted.
- No work lights or security alarms would be installed on site. No additional sheds would be required.
- The site would be accessed via Fiskin and Taverner Street. To limit reversing beepers entry would be via Fiskin Street and exit via Taverner Street.

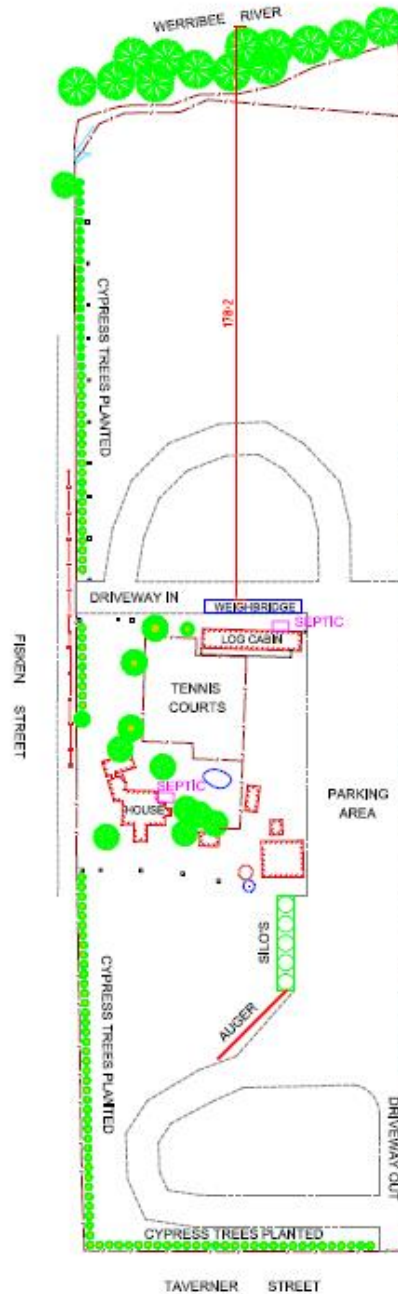
As a result of a referral to the EPA that applicant provided the following additional information in May 2015:

- The site will package approximately 25 000 tonnes of grain per annum.
- Grain will be packed in 20 foot shipping containers which will be loaded into the containers while they are on the truck.

Since the VCAT order dated 16 September, 2015 there have been discussion between the applicant and Council officers. The order has made it clear that both Rural Industry and Rural Store require planning approval. It was acknowledge during these discussions that the use of the land for Agricultural Transport Depot allowed the use of the existing hard stand area, movement of 15 trucks in and out of the site per day, hours of operation and ingress/egress for the site.

The applicant was advised by Council officers that the application required amending to capture all of the uses that required approval. Also required was an updated plan which identified all activities to occur on the site including additional internal tracks which allowed trucks to manoeuvre through the site and onto the weighbridge.

The applicant submitted an application to amend an application in progress on 5 October 2015. This amended the application to ~~Use~~ and Development of the Land for Rural Industry (Grain Packing) and Rural Storeq An updated plan was provided and is detailed below.



Notations
Date of Survey: 04/03/2015

Scale 		CLIENT Joel Watson PROJECT 18 Flaken Street Bacchus Marsh		
Sheet 1 of 1	Date: 20/05/15	A3	DETAILS Feature and Level Survey	
Drawn: JGS	Drawing No. 034101AE		sosh@soosurveying.com.au P 1200 887 319 F 1500 887 1981 A 254 88 151 722 755 P.O. Box 3253 Flakem East, Victoria 3181	

Site plan.

Aboriginal Cultural Heritage

Part of the site is located in an area of cultural heritage sensitivity which is the area 200 metres from the named waterway which in this case is the Werribee River.

The proposal includes an area north of the weighbridge for the provision of a truck turning area in the form of a formed road which is fully located within the area of cultural heritage sensitivity.

In accordance with the Aboriginal Heritage Regulations 2007 a road which includes significant ground disturbance requires a Cultural Heritage Management Plan (CHMP) if the use was not lawfully established prior to 28 May 2007. There is an exemption if the ground has been significantly disturbed in the past.

Satisfactory evidence has been provided by the applicant in the form of a report by Clarkeology dated 26 February 2015 stating the ground has been significantly disturbed. This report was submitted to VCAT during the previous hearings and has also been accepted by VCAT.

Site Description

The site is located on the eastern outskirts of the Bacchus Marsh Township approximately one kilometre southeast the town centre. The site is located within the farming zone and is approximately 3.8 hectares in size. The site is rectangular in shape with a frontage to Fiskin Street of 360 metres and to Taverner Street of 100 metres. The site extends from Taverner Street through to the Werribee River.

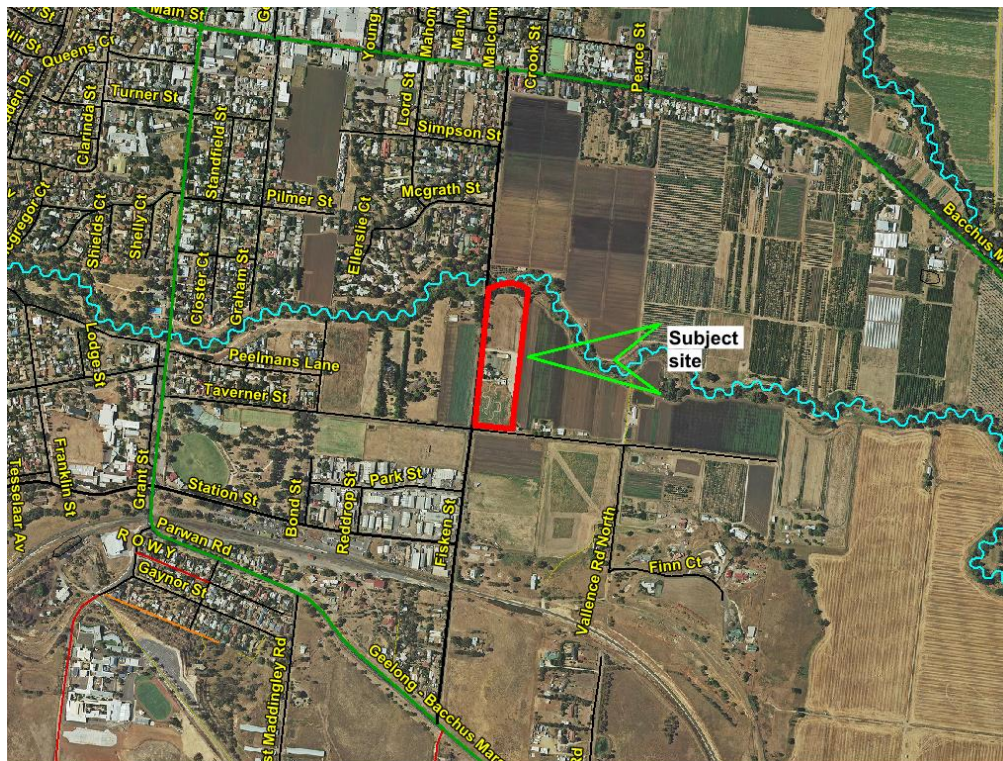
The site currently contains a single dwelling associated shedding and a tennis court. An ancillary building on the site appears to be an old tennis court clubhouse. The dwelling is located in the centre of the property. The land surrounding the site is used for the purpose of cropping. The site has recently been granted a permit to operate an Agricultural Transport Depot.

Land surrounding the site to the north east and south is prime agricultural land which is used for the production of a variety of vegetables which are destined for the market across the state. The historic Chicory Kiln is located on the east of the site and is heritage listed under HO14.

The land directly opposite to the west is currently being assessed under planning scheme amendment C51 and is proposed to be rezoned from farming to residential zone. Fiskin Street forms the boundary between the farming zone to the east and residential to the North West and industrial to the south west bordering the railway land south of the site. The Bacchus Marsh railway station is located approximately 700 metres south west of the site.

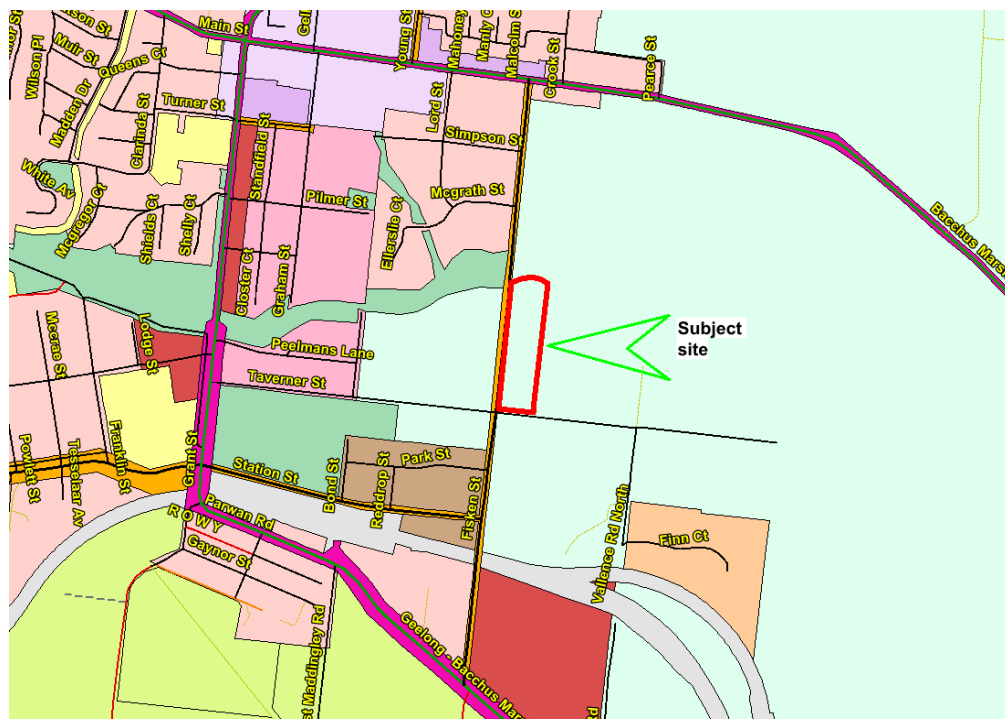
Two dwellings are located some 150 metres from the hardstand area. However the northern boundary is only some 35 and 90 metres from the dwellings located at 26 and 30 Taverner Street respectively.

Fiskin Street is a category 2 road which is maintained by Council.



Locality Map

The site below indicates the location of the subject site and the zoning applicable to the surrounding area.



Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the State Planning Policy Framework (SPPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

SPPF		
Clause 11	Settlement	<p>Council initially considered this proposal as being inconsistent with this policy due to the proximity to the proposed residential land opposite the site. However VCAT in the recent hearing for the agricultural transport depot have indicated that it may be appropriate to allow this use with conditions.</p> <p>Should this proposal be approved the onus would be on Council to ensure it would have appropriate conditions on any future subdivision of adjoin residential land to protect this development.</p>
Clause 11.01-1	Activity centre	The land is in close proximity to the Bacchus Marsh railway station. The railway station area is likely to be an activity centre in the future due to its transport links.
Clause 11.02.1	Supply of urban land	The parcel to the west of this site has been identified in planning scheme amendment C51 for residential development. This proposal would have negative amenity impacts on the land use proposed by this application.
Clause 11.02.2	Planning for growth areas	<p>The proposed truck route is along Fiskens Street, Station Street and Grant Street.</p> <p>However this is the current situation which is likely to change in the future once an appropriate resolution to the truck bypass is implemented.</p>
Clause 11.04-1	Delivering jobs and investment	<p>The proposal will provide for local jobs in the immediate local area.</p> <p>There is also the knock on effect for other local businesses in the area to provide services for this business.</p>

Clause 11.04-4	Liveable communities and neighbourhoods	The proposal does not support this policy as it is unlikely to create safe communities and healthy lifestyles due to the potential amenity impacts of the proposed use on the proposed adjoining residential land.
Clause 11.05-2	Melbourne's hinterland	Providing for this use within the border of the farming and residential zone can be acceptable subject to appropriate conditions.
Clause 11.05-3	Rural productivity	While the proposal does not necessarily add to the rural productivity of the land in terms of agricultural output it does provide for an agricultural use on the land. The proposed use is consistent with what could be expected to occur on a rural property.
Clause 11.06-3	Regional links	The proposal supports the economic growth within the Bacchus Marsh township.
Clause 11.06-8	Agricultural productivity	The application does not provide any improvement to agricultural productivity within the site. However the packaging is a related agricultural activity.
Clause 13.04-1	Noise abatement	The applicant has conceded that there will be noise impacts. These will be managed by permit conditions including hours of operation. The applicant will be required to accord with the Noise from Industry in Rural Victoria EPA publication.
Clause 14.01-1	Protection of agricultural land	The site is currently being used as an agricultural transport depot and the addition of this activity is unlikely to impact on the surrounding agricultural land.
Clause 14.01-2	Sustainable agricultural land use	While some of the land will be removed from agricultural production the balance of the land will continue to be used for cropping. The size of the parcel limits the amount of agriculture that can occur on the site.
Clause 14.02-2	Water quality	It is considered unlikely that the proximity of this development to the Werribee River would create any risk to water quality in the Werribee River.
Clause 17.02-1	Industrial land development	This proposal provides a limited buffer between the adjoining sensitive land use west of the site.

Clause 18.01-1	Land use and transport planning	The site is isolated from existing truck routes.
Clause 18.01-2	Transport system	<p>The objective of this policy is to coordinate the development of a comprehensive transport system.</p> <p>It specifically requires new routes to take into consideration of adjoining land uses to minimise disruption of residential uses and their amenity.</p> <p>It also recommends higher residential density around railway stations.</p>
LPPF		
Clause 21.01-2	Settlement	<p>This policy identifies that the Moorabool Shire has constraints which impact on the ability to provide urban growth.</p> <p>This proposal could limit the uptake of residential land in the proposed rezoning to the west.</p> <p>The Werribee River is noted as supplying water for both agricultural and domestic use. Given the proximity of this proposal to the river there is potential for contamination.</p>
Clause 21.04-1	Agriculture and horticulture	<p>This clause seeks to protect agricultural land particularly the irrigated areas. This is a small parcel of land that is not currently being used for any active agricultural purpose.</p> <p>This policy recognises that there have been inappropriate industrial zonings within the Bacchus Marsh township which have the potential to limit its growth. It specifically identifies that these industrial areas are rezoned to reduce this impact. Approval of this proposal could exacerbate this issue.</p>
Clause 21.04-2	Objective Agriculture	This objective seeks to protect good quality agricultural and supports productivity and sustainability of existing agricultural land.
Clause 21.04-4	Objective Industry	This policy seeks to provide for appropriate industry development which avoids off site impacts on residential amenity or agricultural values.

Clause 21.05-1	Road network and infrastructure	This proposal will add to the issue of heavy vehicles in the commercial hub.
Clause 21.05-3	Objective . Road network and infrastructure	This policy requires the minimisation of noise from traffic.
Clause 21.07-1	Bacchus Marsh . Key issues and influences	This policy identifies the Werribee River is associated with highly productive irrigated river flats. Identifies the area to the west as opportunity for planned residential areas.

Zone

The development lies within the Farming Zone and the provisions of Clause 35.07 apply. A permit is required for the proposed retrospective use and includes development of the hardstand area.

The following is the purpose of the zone (35.07-1) with provisions relevant to this application in bold:

- ***To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.***
- ***To provide for the use of land for agriculture.***
- ***To encourage the retention of productive agricultural land.***
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

Clause 35.07-4 requires a permit for works when associated with a Section 2 use.

The provisions of the farming zone require an assessment against the relevant decision guidelines (clause 35.07-6) as follows:

General issues

- *How the use or development relates to sustainable land management?*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses?*

Comment

It is considered that appropriate conditions can be attached to the permit to limit the impact of the operation on adjoining residential land uses.

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production?*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production?*
- *The capacity of the site to sustain the agricultural use?*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure?*

Comment

The proposal can be considered an ancillary use to agriculture. The benefit to agriculture is not directly related to the site but to agriculture in general.

The proposal permanently only removes a small portion of the land from agricultural use in the traditional manner, it will support an industry directly related to agriculture.

The site is well placed for sustainably agricultural use in the form of horticulture.

The site is identified as high quality agricultural land which is suitable for horticultural enterprises as it is located within the irrigation district.

Environmental issues

The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality?

Comment

There is potential for adverse impact on soil and water quality if the proposed industrial use was approved. This can be limited by way of conditions.

Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

Comment

The site has an approval for the use as an agricultural transport depot and it was considered that the road network was sufficient to support this.

Overlays

The site is partly covered by the Environmental Significance Overlay (ESO) Schedule 2 and 8.

The ESO schedule 2 covers the site for a distance of 100 metres from the Werribee River. Its purpose is for waterway protection. The proposed development of the site is not within the area that is covered by this schedule and therefore does not require consideration.

The ESO schedule 8 covers part of the site on the western boundary. Its purpose is protection of River Red gums in the Bacchus Marsh Valley. This overlay includes identified river red gums and their root zone area. It is the root zone area that is located on the subject site. This area is included in the accessway for the proposed development. The accessway is currently used for the existing dwelling and a considerable distance from the river red gum tree it protects. There is no additional works proposed for this accessway to facilitate this proposal.

Particular Provisions

Clause 52.06 . Car Parking

This clause relates to the provision of on site car parking for the proposed use. Car parking requirements are not specified for this particular use. Car parking on this site would be limited to the truck drivers. It is considered that the site has sufficient area to facilitate the car parking requirements of the proposed use.

Clause 52.07 . Loading and unloading

This clause relates to the provision of sufficient areas dedicated to loading and unloading commercial vehicles to prevent loss of amenity and adverse impacts on traffic flow and road safety. While dedicated areas have not been provided for loading and unloading of vehicles it is considered the site is of sufficient size to contain this activity on site and therefore will not impact on traffic flow and road safety.

Given the nature of the one way in and one way out design an internal turning area is required.

General Provisions

The following Clause 65 . Decision Guidelines have been considered by officers in evaluating this application.

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*

Referrals

The following referrals were made pursuant to Section 55 & 52 of the *Planning and Environment Act* 1987. Council departments were also provided with an opportunity to make comment on the proposed development plan.

Section 55 Authority	Response
Melbourne Water	No objection subject to conditions
Section 52 Authority	Response
Western Water	No response
Southern Rural Water	No objection
EPA	Consent with conditions
Heritage Victoria	Comment with regard to proximity to the chicory kiln
Internal Referral	Response
Infrastructure	No objection
Environmental health	No objection
Strategic	Objection on the grounds of planning scheme amendment C51 and implementation of strategic direction.

Public Notice

The application was notified to adjoining and surrounding landowners and by sign on site for the period 4 May 2015 to 9 April 2015.

Council received 20 letters of support from suppliers in the area or employees of Watsons Bulk Logistics.

Council received five objection to the proposal.

Summary of Submissions

The submissions received are detailed below with officers' comments accompanying them:

<p>Submission (In Support)</p> <p>Watson's Bulk Logistics are a valued customer and allows them to prosper in the Moorabool Shire.</p> <p><i>This was the content of submission was repeated in 20 of the submissions.</i></p>
<p>Officer's Comments</p> <p>Council officers are not unsupportive of the proposed business in principle but have concerns with the location and proximity to the residential areas. It is considered that there may be more appropriate sites within the Bacchus Marsh area which could facilitate the proposed development without causing negative impacts on adjoining properties.</p>
<p>Submission (In Support)</p> <p>They work for Watson's Bulk Logistics and wish to continue to do so as it provides a good work life balance.</p> <p><i>The content of this submission was repeated in 8 of the submissions.</i></p>
<p>Officer's Comments</p> <p>As above</p>
<p>Submission (In Support)</p> <p>The applicants live and work in the community and strongly support local business.</p> <p>They have maintained the property to a high standard. They are actively involved in different parts of the community. They don't believe there are other sites available in the Bacchus Marsh area which could accommodate the needs of their business.</p>
<p>Officer's Comments</p> <p>Same as above.</p> <p>Industrial land is available within the Bacchus Marsh area which could facilitate the proposal.</p> <p><i>However the site now has approval for an agricultural transport depot.</i></p>
<p>Submission (Objection)</p> <p>Use of heavy vehicles is inappropriate for the road network. Trucks are required to go through the town centre. Cost of maintaining the roads on the community. Cost relating to the preparation of the previous VCAT processes.</p>
<p>Officer's Comments</p> <p>The cost of maintaining some of the roads proposed to be used will be borne by Council.</p> <p>The cost of the VCAT processes are irrelevant as this is one of the processes available to Council to ensure that land is used in accordance with the Moorabool Planning Scheme. Costs will be determined by VCAT at the appropriate time</p>

Discussion

This application has come before Council through a long drawn out enforcement issue including an enforcement order at VCAT. This is the second application that applies to the site as a result of those proceedings. VCAT have determined that the use of the site as an agricultural transport depot is appropriate and as such have directed Council to issue a permit.

The VCAT determination takes Council and the applicant through some other issues which relate to this application such as the requirement for a permit for both Rural Industry and Rural Store which is now the subject of this application. Through the earlier VCAT determination VCAT made it clear that while they agreed it was appropriate to issue a permit for an agricultural transport depot they did see some issues that relate to uses subject to this application. It is important to acknowledge that VCAT did not make a full assessment of the matters related to this application but did provide some guidance.

Council officers have since meet with the applicant and clarified some of the details for this application. This has provided some clarity on the actual uses and development proposed for this site.

While Council officers have some concerns of the potential amenity impacts on the land adjoining proposed to be residential it does consider that a permit could be granted subject to conditions. This will however mean that if the adjoining land is re zoned to residential as expected then Council will need to manage the expectations of any new residents by informing them of the activities on this site. This may require a section 173 agreement to apply to any subdivision of residential land to acknowledge the use of the land at 18 Fiskin Street.

Notwithstanding the above the operator of 18 Fiskin Street will need to strictly comply with the proposed conditions. It is considered the conditions will allow the development to occur and provide an acceptable level of amenity to the potential residential land.

The site now operates as an agricultural transport depot under planning permit PA2013-272 recently granted by VCAT. It is anticipated that there may be an increase in truck movements of a maximum of 15 per day over and above what is already approve. In the context of the area this is considered acceptable.

The main amenity issues that may occur through the propose use will be noise and dust. The applicant has indicated that noise can be mitigated via the installation of an electric auger.

Dust has the potential to be an issue through the delivery of vehicles causing dust to be created from the access roads and dust escaping while grain is loaded or unloaded into the silos.

It terms of road dust conditions will be included on the permit to require dust suppression to be place on the hard surface areas. A condition also requires all internal roads to be constructed with a bitumen surface. The applicant has also indicated that they would like two turning areas for the trucks on the site. In order to limit the dust a condition has been included to require the removal of the turning area south of the silos. This is the area closest to the proposed residential area and it is considered that the applicant can manage turning on the site with one turning area.

Local employment is important to the community as is the use of local services. The approval of this application would support local employment.

Financial Implications

There are some financial implications with regard to this application as the matter has been before VCAT. Regardless of Council's determination of this matter the applicant or objector will have a right to lodge a review with VCAT. Should such an application be lodged then Council would defend its position at VCAT.

Risk and Occupational Health and Safety Issues

The recommendation of refusal of this development does not implicate any risk or OH & S issues to Council

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

Conclusion

The proposal was assessed on its merits and is considered on balance to be consistent with the relevant policies of the Moorabool Planning Scheme. It provides a direct nexus between the proposed use and the agricultural use of the land in the Bacchus Marsh area.

The location of the site may have negative amenity impacts on the surrounding land to the west. C51 is in the process of rezoning the land directly west of the site is currently being considered for residential use. Consideration to this was given when recommending approval and with conditions is appropriate.

Council officers have given this application much consideration and has ultimately come to the conclusion that it can be supported.

Consideration of Deputations – Planning Permit Application No. PA2015-055

Mr. Michael Kratochvill addressed Council as an objector to the granting of a planning permit for the application.

Mr. Joel Watson addressed Council as the applicant in favour of the granting of a planning permit for the application.

The business then returned to the agenda.

Recommendation:

That, having considered all relevant matters as required by s.60 of the *Planning and Environment Act 1987*, Council issues a Notice of Decision to Grant Permit PA2015-055 for the Use and Development of the Land as an Agricultural Transport Depot at Crown Allotment 5, Parish of Parwan otherwise known as 18 Fiskin Street Maddingley for the following reasons:

Endorsed plans:

- 1. Amended plans to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
 - a) Delete the turning area to the south of the silos.**
 - b) Detailed surface finishes of the site access points, crossovers and driveways and concreted areas.**
 - c) The surfacing of internal roadways with a bitumen surface in accordance with condition 25.**
 - d) Landscape plan in accordance with condition 21.**
 - e) Notation detailing the electric auger as required by condition 7.**
- 2. Unless otherwise specifically required by any other condition of this permit and except with prior written consent of the responsible authority to any variation, the development must be sited and constructed in accordance with the endorsed plans.**
- 3. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**

Use:

- 4. The site is limited to handling a maximum of 18 000 tonnes of material per calendar year. The permit holder must on the request of the responsible authority provide written evidence of the total tonnage for the calendar year.**
- 5. A maximum of 600 tonnes of grain to be stored on the site at any time. All grain must be stored in silos.**

6. No additional silos are to be constructed.
7. An electric auger to fill the silos must be installed within twelve months of the granting of this permit.
8. Dust suppression must be used on all hard surface areas with the exception of bitumen accessways to the satisfaction of the responsible authority.
9. The daily maximum number of trucks that may exit the site in connection with the approved use is 15, except with the prior consent of the Responsible Authority. This number is in addition to trucks that have consent under planning permit No.2013-272.
10. The use, including unloading and loading of vehicles may only operate between the hours of:
6.00 am and 9.00 pm Monday to Friday; and
7.00 am and 7.00 pm weekends.
The use must not operate on public holidays except with the written consent of the Responsible Authority.
11. Within two months of the date of this permit, a vehicle management plan showing truck routes including the delivery of and disposal of surplus materials from the site (if any) must be submitted to and approved by Council. This plan must include the following and must be provided to all drivers of vehicles on the site and updated as necessary:
 - a) All ingress to the site by heavy vehicles via Fiskin Street and all egress from the site by heavy vehicles via Taverner Street.
 - b) Anticipated vehicle movements per day.
 - c) Types of vehicles and hours between which this route is required for vehicles associated with the use.
 - d) Restrictions on travel within local residential streets (speed, hours etc).
 - e) Any required works to the entrance of the site.
 - f) Methods and timing of response to rectify spilt debris and mud from vehicles, including appropriate contact details if required. This includes debris and mud that occurs along any part of an approved Truck Route.
 - g) During construction of works under this permit, access to and egress from the subject land must only be via a route as shown on an approved Truck Route Plan.
12. Within two months of the grant of this permit, a night/day camera with digital recording capability (including time recording) must be installed to capture all trucks entering and exiting the subject land within three months of the grant of this permit, with general views of the Fiskin Street/Taverner Street intersection. The camera must be operational at all times and must be maintained by the permit holder to the satisfaction of the responsible authority. Recordings must be kept for at least 3 months. The permit holder must provide a copy of any images recorded to the council within 7 days of a request made to it in writing.
13. The permit holder must maintain all necessary consents to use heavy vehicles on local roadways from the relevant authority/authorities at all times, to the satisfaction of the Responsible Authority.

14. If damage to road surfaces adjacent to the entry/exit to the subject land can reasonably be attributed to vehicles associated with the approved use, the permit holder must repair or resurface these roads/surfaces to the standard of surrounding roadways, upon written request by the Responsible Authority.
15. Within two months of the grant of this permit, permanent weatherproof signs must be erected at each access and egress point to the satisfaction of the responsible authority directing truck drivers to the parking area and alerting them to prohibited turning movements and must be located and maintained the satisfaction of the responsible authority.

The area of each sign must not exceed 0.3 sq. m.

Amenity:

16. The amenity of the area must not be detrimentally affected by the use or development, through the:
 - a) Transport of materials, goods or commodities to or from the land;
 - b) Appearance of any building, works or materials;
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d) Presence of vermin;
 - e) Any other way.
17. All grain must have water added at a rate of 1% to minimise dust to the satisfaction of the responsible authority.
18. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia Limited and be connected to a security service.
19. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
20. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.

Landscaping:

21. Within 60 days of the date of this planning permit, a landscape plan to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
 - a) A survey (including botanical names) of all existing vegetation to be retained and / or removed;
 - b) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and the quantities of each plant; and
 - c) A corridor of tree planting along the southern and western boundaries of the property to be maintained by drip irrigation system.

- d) Suitable screening planting along the full length of the west side of the silos. Plants are to be located within 10 metres of the silos and designed to minimise dust.
- 22. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority within three months of the grant of the permit.
- 23. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including any dead, diseased or damaged plants are to be replaced.

Infrastructure:

- 24. The vehicle crossing to Fiskin Street and Taverner Street must be upgraded to urban industrial standard with culverts as required, to the satisfaction of the responsible authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.
- 25. The internal roads and trafficable areas must be provided with a sealed surface and maintained so as to prevent a dust nuisance to adjoining properties, to the satisfaction of the responsible authority.
- 26. All heavy vehicle movements on Fiskin Street Generated by the development must be restricted to the South of the bridge crossing the Werribee River near the Northern Boundary of the subject land, to the satisfaction of the responsible authority.
- 27. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.
- 28. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).
- 29. Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
- 30. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the responsible authority.

Southern Rural Water:

- 31. The works must not interfere with any nearby assets of Southern Rural Water including water supply and drainage systems.
- 32. No permanent buildings or fixtures shall be placed on the easement located on the property.

EPA:

- 33. Mechanical noise emanating from the premises must comply with the State Environment Protection policy N-1 'Control of Noise from Commerce, Industry and Trade.'
- 34. Nuisance dust must not be discharged beyond the boundaries of the premises.

35. Fumigation of grain silos must comply with The State Environment Protection Policy (Air Quality Management) 2001 and EPA Publication 798 Protecting the Ozone Layer 2001 or as amended.
36. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
37. Stormwater contaminated with waste such as oil, grease, chemicals, leachate or sediments and be collected and disposed of off-site by an EPA approved contractor or sent to sewer under a Trade Waste Agreement.
38. A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.

Permit expiry:

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

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

Permit Note:

Neither Fiskin Street nor Taverner Street is an approved B-Double Route. Any B-Double or Higher Mass Limits vehicle operating the site must carry a permit to use both streets, issued by the National Heavy Vehicle Regulator.

Resolution:

Crs Toohey/Dudzik.

That, having considered all relevant matters as required by s.60 of the Planning and Environment Act 1987, Council issues a Notice of Decision to Grant Permit PA2015 055 for the Use and Development of the Land for Rural Industry (Grain Packaging) and Rural Store at Crown Allotment 5, Parish of Parwan otherwise known as 18 Fiskin Street Maddingley for the following reasons:

Endorsed plans:

1. *Amended plans to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in*

accordance with the plans submitted with the application but modified to show:

- a) **Delete the turning area to the south of the silos.**
 - b) **Detailed surface finishes of the site access points, crossovers and driveways and concreted areas.**
 - c) **The surfacing of internal roadways with a bitumen surface in accordance with condition 25.**
 - d) **Landscape plan in accordance with condition 21.**
 - e) **Notation detailing the electric auger as required by condition 7.**
2. **Unless otherwise specifically required by any other condition of this permit and except with prior written consent of the responsible authority to any variation, the development must be sited and constructed in accordance with the endorsed plans.**
 3. **The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**

Use:

4. **The site is limited to handling a maximum of 18 000 tonnes of material per calendar year. The permit holder must on the request of the responsible authority provide written evidence of the total tonnage for the calendar year.**
5. **A maximum of 600 tonnes of grain to be stored on the site at any time. All grain must be stored in silos.**
6. **No additional silos are to be constructed without the prior written consent of the Responsible Authority.**
7. **An electric auger to fill the silos must be installed within twelve months of the granting of this permit.**
8. **Dust suppression must be used on all hard surface areas with the exception of bitumen access ways to the satisfaction of the responsible authority.**
9. **The daily maximum number of trucks that may exit the site in connection with the approved use is 15, except with the prior consent of the Responsible Authority. This number is in addition to trucks that have consent under planning permit No.2013-272.**
10. **The use, including unloading and loading of vehicles may only operate between the hours of:
6.00 am and 9.00 pm Monday to Friday; and
8.00 am and 5.00 pm Saturday; and
10.00 am and 5.00 pm Sunday.
The use must not operate on public holidays except with the written consent of the Responsible Authority.**
11. **Within two months of the date of this permit, a vehicle management plan showing truck routes including the delivery of and disposal of surplus materials from the site (if any) must be submitted to and approved by Council. This plan must include the following and must be provided to all drivers of vehicles on the site and updated as necessary:**
 - a) **All ingress to the site by heavy vehicles via Fiskin Street and all egress from the site by heavy vehicles via Taverner Street.**
 - b) **Anticipated vehicle movements per day.**

- c) *Types of vehicles and hours between which this route is required for vehicles associated with the use.*
 - d) *Restrictions on travel within local residential streets (speed, hours etc).*
 - e) *Any required works to the entrance of the site.*
 - f) *Methods and timing of response to rectify spilt debris and mud from vehicles, including appropriate contact details if required. This includes debris and mud that occurs along any part of an approved Truck Route.*
 - g) *During construction of works under this permit, access to and egress from the subject land must only be via a route as shown on an approved Truck Route Plan.*
12. *Within two months of the grant of this permit, a night/day camera with digital recording capability (including time recording) must be installed to capture all trucks entering and exiting the subject land within three months of the grant of this permit, with general views of the Fiskin Street/Taverner Street intersection. The camera must be operational at all times and must be maintained by the permit holder to the satisfaction of the responsible authority. Recordings must be kept for at least 3 months. The permit holder must provide a copy of any images recorded to the council within 7 days of a request made to it in writing.*
13. *The permit holder must maintain all necessary consents to use heavy vehicles on local roadways from the relevant authority/authorities at all times, to the satisfaction of the Responsible Authority.*
14. *If damage to road surfaces adjacent to the entry/exit to the subject land can reasonably be attributed to vehicles associated with the approved use, the permit holder must repair or resurface these roads/surfaces to the standard of surrounding roadways, upon written request by the Responsible Authority.*
15. *Within two months of the grant of this permit, permanent weatherproof signs must be erected at each access and egress point to the satisfaction of the responsible authority directing truck drivers to the parking area and alerting them to prohibited turning movements and must be located and maintained the satisfaction of the responsible authority. The area of each sign must not exceed 0.3 sq. m.*

Amenity:

16. *The amenity of the area must not be detrimentally affected by the use or development, through the:*
- a) *Transport of materials, goods or commodities to or from the land;*
 - b) *Appearance of any building, works or materials;*
 - c) *Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;*
 - d) *Presence of vermin;*
 - e) *Any other way.*
17. *All grain must have water added at a rate of 1% to minimise dust to the satisfaction of the responsible authority.*

18. ***All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia Limited and be connected to a security service.***
19. ***No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.***
20. ***External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.***

Landscaping:

21. ***Within 60 days of the date of this planning permit, a landscape plan to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:***
 - a) ***A survey (including botanical names) of all existing vegetation to be retained and / or removed;***
 - b) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and the quantities of each plant; and***
 - c) ***A corridor of tree planting along the southern and western boundaries of the property to be maintained by drip irrigation system.***
 - d) ***Suitable screening planting along the full length of the west side of the silos. Plants are to be located within 10 metres of the silos and designed to minimise dust.***
22. ***The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority within three months of the grant of the permit.***
23. ***The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including any dead, diseased or damaged plants are to be replaced.***

Infrastructure:

24. ***The vehicle crossing to Fiskin Street and Taverner Street must be upgraded to urban industrial standard with culverts as required, to the satisfaction of the responsible authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.***
25. ***The internal roads and trafficable areas must be provided with a sealed surface and maintained so as to prevent a dust nuisance to adjoining properties, to the satisfaction of the responsible authority.***
26. ***All heavy vehicle movements on Fiskin Street Generated by the development must be restricted to the South of the bridge crossing the Werribee River near the Northern Boundary of the subject land, to the satisfaction of the responsible authority.***

27. ***Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.***
28. ***Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).***
29. ***Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
30. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the responsible authority.***

Southern Rural Water:

31. ***The works must not interfere with any nearby assets of Southern Rural Water including water supply and drainage systems.***
32. ***No permanent buildings or fixtures shall be placed on the easement located on the property.***

EPA:

33. ***Mechanical noise emanating from the premises must comply with the State Environment Protection policy N-1 'Control of Noise from Commerce, Industry and Trade.'***
34. ***Nuisance dust must not be discharged beyond the boundaries of the premises.***
35. ***Fumigation of grain silos must comply with The State Environment Protection Policy (Air Quality Management) 2001 and EPA Publication 798 Protecting the Ozone Layer 2001 or as amended.***
36. ***Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.***
37. ***Stormwater contaminated with waste such as oil, grease, chemicals, leachate or sediments and be collected and disposed of off-site by an EPA approved contractor or sent to sewer under a Trade Waste Agreement.***
38. ***A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.***

Permit expiry:

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

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

Permit Note:

Neither Fiskin Street nor Taverner Street is an approved B-Double Route. Any B-Double or Higher Mass Limits vehicle operating the site must carry a permit to use both streets, issued by the National Heavy Vehicle Regulator.

CARRIED.

Cr. Comrie returned to the Meeting at 5.29pm.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 25 November 2015



10.2.5 Ballan Structure Plan - Adoption

Introduction

File No.: 02/14/005
Author: Lisa Gervasoni
General Manager: Satwinder Sandhu

Background

The reports recommends that Council resolve to adopt the Ballan Structure Plan and authorise the Chief Executive Officer to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment to implement the key policy changes within the document into the Moorabool Planning Scheme. This will include recommended changes to the Municipal Strategic Statement, the residential and industrial zones applicable, utilisation of overlays and provisions and the use of the Urban Growth Zone for the western corridor (requiring future precinct structure plan to be prepared and implemented via a proponent lead planning scheme amendment process).

In 2011, Council resolved to formulate a new structure plan for the Ballan Township. The Structure Plan was to:

- Provide detail on the form and shape of Ballan over the next 15 year period.
- Identify necessary physical and social infrastructure to support the projected growth of Ballan, including open space; recreational facilities; roads; stormwater and community facilities.
- Provide detailed policy directions and urban design requirements.
- Incorporate a streetscape master plan for the main street of Ballan (Inglis Street).
- Engage the community and other stakeholders in the process.

The Structure Plan is to help guide local planning policies and update planning zones. The Structure Plan will also provide more detailed policy direction and urban design requirements for residential, commercial and industrial development including addressing image, character and design responses. It will help guide Council's consideration of proposed rezonings and applications for planning permits. Implementation of the Ballan Structure Plan will provide certainty for residents, landowners and developers regarding the future planning direction for the township.

Since its inception the Ballan Structure Plan has been based on a strong community consultation process. The consultation draft was prepared prior to the release of the new residential zones and therefore discussed the land use outcomes that will be achieved. The final Structure Plan addresses the comments from the Residential Zones Standing Advisory Committee (RZSAC). Council has undertaken additional assessments in accordance with the RZSAC recommendations for inclusion in the Ballan Structure Plan. During that time other strategies, such as Recreation and Leisure Strategy have been released. The strategy document has been refined to ensure consistency in direction.

The Consultation Draft document contained information that explained how the issues raised by the community were addressed in the structure plan. The greater detail of this has been removed from the document with the focus on the key land use and development outcomes to be achieved and the type of planning tools that will be utilised to deliver the preferred outcome.

Drafting the Plan

Ascertaining the community's vision for the future of Ballan is an important component of the Plan preparation process. However, it is not the only consideration. As the primary purpose of the document is to guide the land use and development of Ballan over the next 15 years, the community desires need to be assessed against the ability for these desires to be implemented in the planning system and financial capacity to be delivered.

Throughout the process specific sub consultancies such as those for traffic and landscape have been undertaken. Following the completion of the consultation process the key themes identified were assessed by Council staff through a series of background papers considering: demography; infill development; heritage; environment; and servicing. Detailed mapping was undertaken post Draft amendment C72 to address the findings of the RZSAC process. Additional work was also undertaken to consider open space needs and heritage (West Moorabool Heritage Study).

Public Comment

The Ballan Structure Plan was placed on public comment for a 4 week period in 2013. 43 submissions were received and a briefing report outlining submissions and proposed responses was prepared for Council in November 2013. This summary forms Attachment 1 to this report.

Whole of township Structure Plan processes are challenging. They are a strategic document that guides planning scheme controls, but should not duplicate the planning scheme controls themselves. They are an important document to demonstrate Council's strategic vision to assist statutory planning in determining and guiding the assessment of planning applications where discretion exists.

There is rarely a consensus on strategic visions. They involve choices and what is best for the current and future community as a whole when considering competing demands. Exhibition of the Structure Plan raised many issues and for every request for one action there was a submission requesting the opposite. A brief outline of the key issues is included below. Attachment 1 includes the detail of each submission and the officer response.

The key issues raised and the response is outlined by theme below.

The key issues raised were:

- É *No Further Development /Support for higher density housing;*
- É *Support & objection to Southern Growth Corridor;*
- É *Support & objection to Western Growth Corridor;*
- É *Protection of Werribee River Corridor;*
- É *Need for more trees and concern with impact of powerlines on tree scape;*
- É *Identification of Infill site to east;*

- É *Issues in North Ballan;*
- É *Industrial Land;*
- É *Drainage;*
- É *Concerns about Design and Development Overlay (DDO)/Heritage Overlay (HO) in town centre / Need to protect Heritage;*
- É *Need for a Town Square;*
- É *Grassfire risk;*
- É *Need for Secondary School;*
- É *Paths, Signage and wayfinding;*

Funding body (RDV / DELWP) comments on the exhibited plan were as follows:

1. The Structure Plan needs to be clear in what direction the town is growing.
2. Needs to cater for medium to long term growth of Ballan.
3. The findings of the initial consultation could be attached as an appendix rather than a major part of the plan.
4. More implementation actions are required in the final plan.

The Ballan Structure Plan addresses issues one to three via a revised Ballan Framework Plan. It was intended that the final Structure Plan not discuss initial consultation, however it was critical to include this information for community understanding of how the structure plan responds to their input as well as to the technical planning requirements which Council must consider. Chapter 7 of the Consultation Draft addressed implementation tools. These have been included within the relevant section.

No Further Development /Support for higher density

One submission was received stating no further development should occur in Ballan. The Central Highlands Regional Growth Plan and the Moorabool Shire Urban Growth Policy envisage growth in Ballan. A submission also sort high density in the existing area so that growth areas were not required. The primary objective of the Ballan Structure Plan is to ensure that growth can occur without impacting on the character elements of Ballan that give its identity and sense of place.

As a Planning Authority Council has a responsibility to maintain a 15 year supply of zoned land. If greenfield site are not available greater density infill will be required. As the process of rezoning, development plan preparation, planning permit and subdivision processes take 3-5 years before land is available for release, it is common for plans to identify medium to long term land supply requirements and development expectations via a Framework Plan in the Municipal Strategic Statement (MSS). This affords landholders greater certainty prior to expending resources on background technical reports and rezoning processes.

The Ballan Structure Plan will allow for the provision of a 15 year land supply (Western Corridor / Eastern Infill) as well as identifying a long term growth corridor in the framework plan. It also encourages well designed infill development close to health services, transport and retail. Development in these areas should be suited for those with mobility restrictions wherever possible.

Southern Growth Corridor

Many submissions were received in relation to the Southern Growth corridor. Some residents were opposed to growth in the area whilst others stated this should be the only growth corridor.

Some submissions stated that Council had erred in stating there were infrastructure issues in the area however infrastructure agencies submitted on the provision of service difficulties in the area. Others stated that a larger southern growth corridor should be supported or that an expanded growth corridor may conflict with the wind farm.

Infrastructure issues do not rule out development proceeding, however they do impact on the costs of development and its commercial feasibility. For upgrades to be viable generally larger development areas, to contribute to infrastructure upgrades will be required.

Some submitters were concerned with references to buffers to the existing industrial area. This is an existing land use which any subsequent rezoning must take into account. The Ballan Structure Plan maintains reference to considerations of the proximity of sensitive uses in protecting employment land for their intended purpose

The consultation draft identified the likely need for a larger %southern growth corridor+to allow for infrastructure improvements and to centre the township around the railway in the longer term.

The structure plan recommends that an expanded Southern Growth Corridor be identified within the Ballan Structure Plan as a direction for medium to longer term growth. The extent of the growth area would be defined by proponents (based on infrastructure reports (ICP); flora and fauna studies; cultural heritage plans and consideration of buffer issues (including industrial; rail; gas; windfarm). The Urban Growth Zone would be utilised in the future, requiring proponent led precinct structure plans to be prepared (industrial, commercial or residential). Identified as a medium to long term Urban Growth Zone area.

The gas line will be identified within the Ballan Framework Plan.

Western Growth Corridor

As with the Southern Growth Corridor there were submissions for and against this growth corridor being shown within the Structure Plan. This corridor is however already identified in the Ballan Framework Plan as the next growth area.

Submissions were received stating the ability to service the area was limited. However the land owner in question has undertaken initial investigations which provide the basis to be able to apply the Urban Growth Zone. In turn, a proponent led precinct structure plan will need to be prepared and implemented via the standard planning scheme amendment process.

Submissions were received stating concern with open space provision at the site and requesting an arboretum as part of the ultimate open space network. Many submissions were received regarding the impact of the corridor on the Werribee River and requesting landscape setbacks. These issues were addressed within the consultation draft of the structure plan.

The precinct structure plan / development plan processes are where the detail of development is resolved. The Ballan Structure Plan reinforces the requirements to consider the Werribee River Corridor, a range of wide tree lined streets and the inclusion of screening plantings.



There was support for the Werribee River Corridor but differing opinions on how it should be achieved. The River is well considered within the report. There were calls for the inclusion of an Environment Significance Overlay to protect the river. As the Moorabool Planning Scheme currently includes this control structure plan does not need to support its introduction.

The Ballan Golf Club were concerned regarding any future public access change impacting on their course. The structure plan does not propose access changes in this section given the nature of the course and public safety concerns. Pedestrian linkages in this section will be via the existing street network.

There were many calls for a Significant Landscape Overlay for the Werribee River. There is no strategic work to justify the control and the South West Landscape Assessment Study did not recommend such a control.

The role of the corridor as a landscape, habitat and passive recreational link is reinforced via the structure plan and proposed changes to the Ballan Framework Plan.

Trees and Powerlines

Ballan residents value the tree lined streets and autumnal species. The Structure Plan recognises this but foreshadows the need to be careful with species selection in the town centre due to conflict with powerlines. This will be achieved via a street tree plan to be prepared by Council's Infrastructure Department. Work on suitable autumnal species that are under 4m in height have been forwarded to Infrastructure.

Powercor via their submission have reinforced the legislative requirements to maintain clear zones around powerlines and are pleased that the structure plan addresses the issue. In new development areas, where the power supply is underground, there is the opportunity to select different species where the road reservation width allows.

The Structure Plan supports wider streets in new subdivisions (greater than the ResCode minima) to reflect the streetscape character of the town centre and to allow for street tree plantings.

Infill Site

A submission has been received seeking support for the future rezoning of land opposite Sunline Court. Initial analysis has demonstrated that carefully planned development on this site would not be visible from the township entry. The eastern infill site would see a more uniform eastern edge to Ballan. The slope of the land would allow for development controls to be created which would soften the visual impact of the development (would be less prominent than Sunline Court).

The site contains significant areas of floodplain that would be transferred into public ownership improving opportunities for the use of the Werribee River as a passive recreation link. The floodplain also presents opportunities for riparian planting and the creation of an arboretum planting. The Ballan Structure Plan proposes to include this site as short term growth in the Ballan Framework Plan. The rezoning would need to be via a proponent led process incorporating a site specific Development Plan Overlay and Infrastructure Contributions Plan.

Keep Residential 1 Zone (General Residential Zone) in north Ballan

Some landholders are concerned with suggestions of restricting housing density in the north of Ballan. Much of the area is already zoned Low Density Residential. The road layout in north Ballan does not support intensive residential development.

Detailed mapping has been undertaken in accordance with the recommendations of the RZSAC. This has quantified the average lot size in Ballan North. A series of Schedules to the Neighbourhood Residential Zone is proposed to maintain existing character (density of development). The newer subdivisions in the area achieve an average of 850 - 950 square metres per lot

This is a large residential block and is similar in size to lots in the town centre. These lots do not present the same character as central Ballan or Ballan North due to the narrow road reserve and lack of canopy trees. Schedules in these areas address site coverage and provision of canopy tree plantings. Street widths should be in accordance with the Infrastructure Design Manual.

Industrial Land

Submissions were received in relation to the industrial estate and its impacts on the southern growth corridor. Submissions were also received regarding why future expansion was identified. The expansion of the industrial area is identified in the current Ballan Framework Plan. Over time, industrial uses in the commercial centre are likely to relocate.

The Ballan Structure Plan reinforces and strengthens the objectives of the current framework plan in relation to protecting and enhancing this important employment area for Ballan. It recommends correcting the zoning anomaly (IN2) to IN1. Future precinct structure plans for the southern growth corridor may consider IN3; C2; or PPRZ zones to the west of the current estate as a buffer to future residential areas.

Drainage

The adequacy of existing drainage was a common issue raised in submissions. While this is generally an infrastructure gap issue in existing areas plans from Melbourne Water for drainage retardation areas to the south of the railway have been identified. Infrastructure is currently assessing how to address drainage capacity in central Ballan.

Requests for water sensitive urban design (WSUD) as well as submissions against the use of WSUD were received. Drainage is a permit assessment consideration. Drainage is a key issue to be addressed in development plan or precinct structure plan process (new zoned areas).

One submitter expressed concern with an ephemeral stream being located within their property. This stream is on the state topographic maps and therefore will be considered a waterway under legislation whether identified on the Structure Plan or not. The flood mapping prepared by Melbourne Water has identified the general areas as being subject to inundation in a 1% recurrence interval event.

The Structure Plan identifies drainage strategies for growth areas and provides conceptual locations for remedial drainage works. Council has previously resolved to seek authorisation for the flood amendment which is currently being scheduled for public exhibition.

Bike Paths / Footpaths

The desire for footpath networks was a key issue in pre draft consultation. Several submissions raised the issue in regard to more paths or railway crossings. The structure plan included priority paths which were discussed in the tracks and trails process to ensure consistency.

It is acknowledged that Council funding or special rates and charges schemes will be required for paths within existing developed areas and that bike paths and footpaths will be required in the growth corridors. A priority network to link passive recreational areas, commercial areas, the railway and community facilities to residential areas has been identified.

There was a desire for VicTrack to fund a pedestrian overpass. VicTrack require Council or developers to fund crossing improvements which are triggered by increased movements across railway lines due to urban expansion.

Concerns about DDO/HO in town centre / Need to protect Heritage

DTPLI (transport) submitted that overlay controls should not be placed on land in the township core and that 15 dwellings per hectare should be achieved across Ballan. Many other people submitted in support of recognising the township character areas. Overlays do not preclude medium density development. They facilitate designs which are respectful of the setting.

The Central Highlands Regional Growth Plan identifies the need to preserve the historic character of Ballan, which has been referenced in the Ballan Structure Plan. The Minister for Planning has funded Stage 2a to the West Moorabool Heritage Study which has been documenting the proposed heritage precinct as well as individual sites within Moorabool. Landowner consultation will occur in 2016. This document has supported the application of heritage overlays to the places identified in Stage 1.

The heritage overlay does not prevent change but instigates a process in which the impact of change can be considered. Many towns have extensive heritage overlay areas. Unit development (rear of the property) is an example of the type of change which can be achieved in a heritage overlay area while protecting the character contribution these places make to the urban fabric of the town.

New growth corridors may achieve a higher density. Increasing density in the town core is supported, especially in identified areas close to shops and the hospital where unit development suited for those with limited mobility is encouraged.

Maintaining sites that give Ballan its identity and sense of place assists in ensuring growth and development does not change what gives Ballan its distinct character. New development should seek to reinforce the key elements without reproduction. This may be through wider tree lined streets and reduced setbacks but with excellence of design from the current era achieved.

Detailed mapping has been undertaken which demonstrates that all but one of the residential blocks in the town centre have the parameters which would support the neighbourhood residential zone. Some blocks near the hospital have been maintained as general residential to allow higher density development. Where the neighbourhood residential zone is applied density decreases further from the centre to ensure a range of lot sizes is maintained and increase density in more walkable locations. Unit style development on vacant sites will be encouraged and these sites will have a lower average lot size.

Town Square Town Centre

During consultation there was a desire expressed for a town square. Indicative sites for a town square were nominated in the consultation draft however the development of the site would need to be via future development. The existing commercial area in Ballan has a mix of residential and industrial uses. Commercial expansion can be absorbed within the existing land area, with several areas being suited to acquisition of land area to provide for a larger format development. An indicative concept plan is include to show how a new commercial building could be provided including creation of a civic space as an interface between traditional main street and rear of block development.

A Design and Development Overlay is proposed for the commercial area in Inglis Street. There is little control in the Business 1 Zone on the form of commercial development. To ensure that the character of the main street is maintained by new development an overlay control is required. Maintaining a zero lot line (zero setback) as well as being respectful to the bulk, scale and roofline of surrounding development will be the focus of the control.

Grassfire Risk

The CFA has confirmed that Ballan is at risk from grassfire and this should be included in strategic documentation. This will be included in the Ballan Framework Plan. There will need to be a balance between managing fire risk and maintaining the treed character of Ballan.

Signage and Wayfinding

Suggestions were made regarding the need for interpretation signage (heritage; environment) and the creation of trails. The need for better wayfinding / directional signage was raised. Providing for better directional signage should be considered as part of any pedestrian path upgrades.

This is an operational process. Community grants may be made of interpretative signage. The West Moorabool Heritage Study will assist in providing material for inclusion in any interpretative trails.

Secondary School

Several submissions have been received requesting the provision of a site for a secondary school. Local Government is not responsible for planning educational facilities. The State Planning Policy Framework required Council to consider growth that would trigger the need for education facilities in conjunction with the education provided. Ballan is not at a population level that would trigger the need for a secondary school during the life of the structure plan. Site identification requires the acquisition authorities consent. If the landowner of the identified site asked Department of Education to acquire the site and they decline then the site can and will be developed for residential purposes.

If, in the longer term, there is demonstrated need for a secondary school it can be included in the precinct structure planning processes for the Southern Growth Corridor. This will be outside the 15 year horizon of the Structure Plan.

Hospital Expansion

Ballan Hospital is a key community facility. Its central location provides challenges for future expansion. The Structure Plan identifies the hospital as well as potential expansion opportunities in the surrounding areas. All normal feasibility and approvals would be required to support any future expansion proposals where the Minister for Health exemption is not utilised (does not apply to all approvals).

CFA

Council is supportive of planning for a CFA training facility in the general vicinity of the Ballan Industrial Estate.

Open Space / Major Recreation

The consultation draft of the Ballan Structure Plan has identified the range of local active and passive recreational facilities to be provided by development. Under the current system Clause 52.01 of the Planning Scheme allows Council to vary the standard 5% of developable land for open space provision or embellishment. The figure utilised must be strategically supported.

Ballan is currently well served for senior active recreation but many areas do not have a local park within walkable distance. Passive recreation is focused on the Werribee River Corridor. In the longer term a two oval facility active recreation facility will be required. As the existing reserve is not large enough additional, additional land would need to be acquired either adjacent to the existing facility or a larger area within a growth corridor. Land acquisition at either location would be valued at residential value (developable land).

For subdivision of existing zoned land where an open space contribution has not been made a lower figure is proposed. This will generally be a cash contribution to allow for acquisition and embellishment of land for a local park and / or for improvements in the passive recreation corridor.

A ten percent figure is sought in the growth corridors which will be split between land (local parks / potential active open space) as well as cash for embellishment of passive recreational areas. Where cash is provided (not land) that is used to compensate the landholder who is providing the land for open space (equalisation).

Changes to the Development Contributions System

The method of seeking development contributions is changing. Full cost apportionment contributions plans are being replaced by standard schedules and charges. It is likely that the per hectare rate will not be based on the infrastructure to be provided or the costs of providing that infrastructure but on the zone utilised and the population size of the centre. It is likely that Council will need to utilise the Urban Growth Zone in the corridors to minimise the cost to Council in funding major infrastructure upgrades.

A lower rate will be applicable to infill sites where limited need for augmentation will be required.

Form of New Development

Consultation issues

- Concern with out of character subdivision
- Support for well designed density
- Some concern with Western corridor visibility

Structure Plan Responses:

- Development Plan Overlay . residential re-subdivision where better connectivity can be supported
- DPO or PSP process in new residential areas to ensure range of types of roads in new subdivisions that allow for street tree planting.
- Design and Development Overlay for key infill sites in central Ballan to allow for more intensive development which is respectful to character;
- Applying schedules to the General Residential and Neighbourhood Residential Zones to clearly message future density and also ensure that space for canopy trees are included in development
- Identifying that both Corridors are required in the longer term but that the Western Corridor remains the short term option.
- Identifying the design parameters to be addressed in future urban areas . whether to be introduced via the Urban Growth Zone (precinct structure plan) or the General Residential Zone and Development Plan Overlay) including landscaped setback for Western Corridor (included in consultation draft).

Policy Implications

The 2013-2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Effective and efficient land use planning and building control
Strategy	<p>Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support social, economic, environment and wellbeing of the Shire.</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>

The proposal of the implementation of the Ballan Structure Plan is consistent with the 2013-2017 Council Plan. The implementation of the Ballan Structure Plan via a planning scheme amendment is a 2015/16 funded project.

Financial Implications

Council officer and contracted staff are involved in the preparation and exhibition of the amendment. As Council will be the proponent of the Amendment the expected costs of the amendment including statutory fees, panel fees and peer review / expert witnesses have been included in the 2015-16 budget allocation.

Risk & Occupational Health & Safety Issues

There is unlikely to be risk or occupation health and safety implications for Council from adoption of the Structure Plan. Key policy issues have been considered in the document and it does not facilitate growth in areas of natural hazard.

Communications and Consultation Strategy

The Structure Plan has been consulted on. The implementation of the structure plan (amendment process) will include statutory notification processes. Submitters to the Planning Scheme Amendment will have the ability to present to a Planning Panel to be appointed by the Minister for Planning.

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 – Lisa Gervasoni

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

Conclusion

The Ballan Structure Plan has been prepared after consulting with the community about what their future vision for Ballan. These strategic directions in turn have been tested against the responsibilities of a planning authority (as expressed in the *Planning and Environment Act 1987*, as amended, and the *Victoria Planning Provision*) and any constraints in the natural environment or physical & financial ability to provide services.

The submissions received do not raise any issues that require a major departure in the direction of the document. Ballan is a town undergoing change. The Structure Plan acknowledges that this will continue but aims to identify how change can happen without impacting on the cherished cultural identity of Ballan.

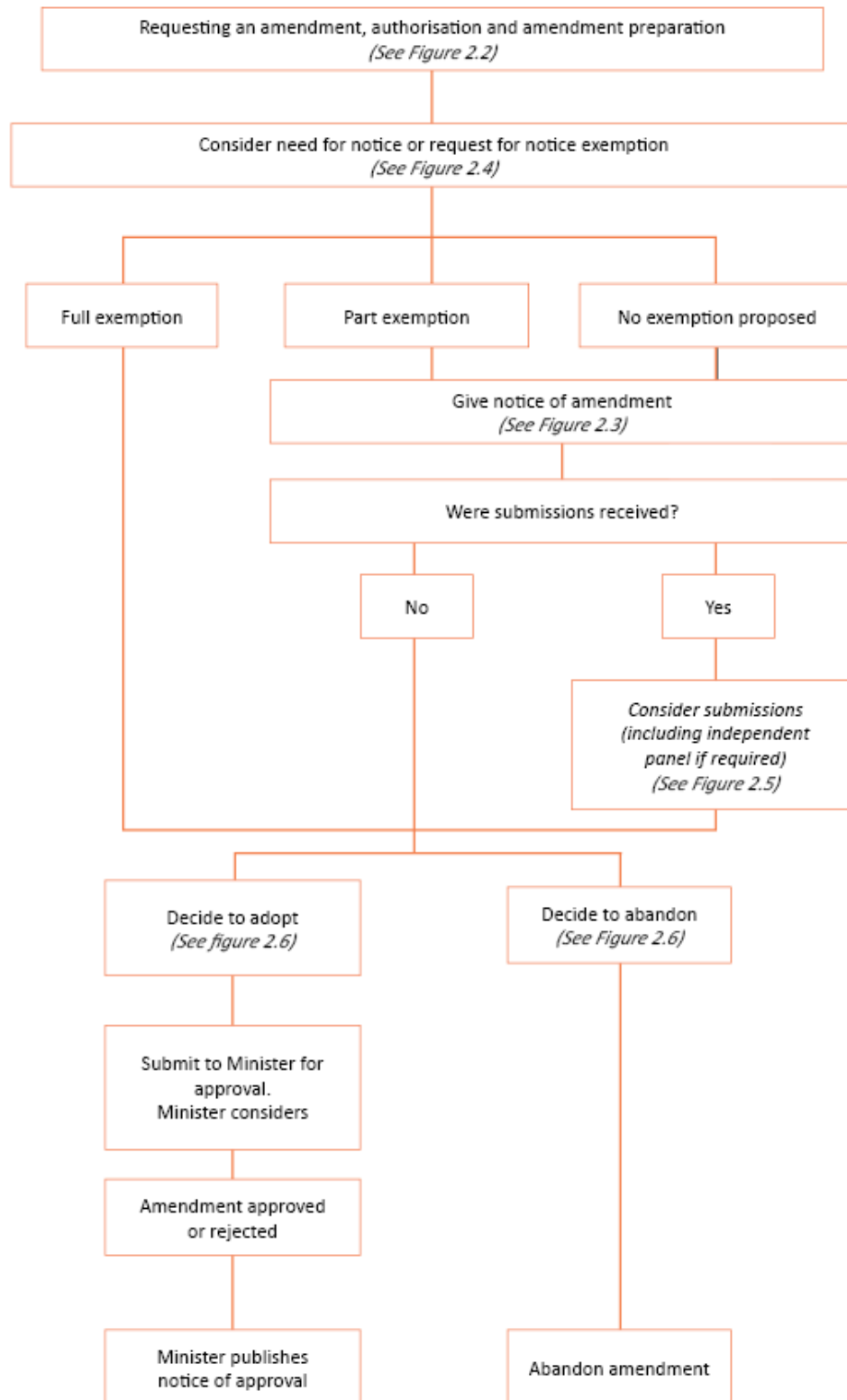
The adoption of the Ballan Structure Plan represents the culmination of a lengthy development and consultative process, whilst establishing the strategic basis for the long term planning for the township.

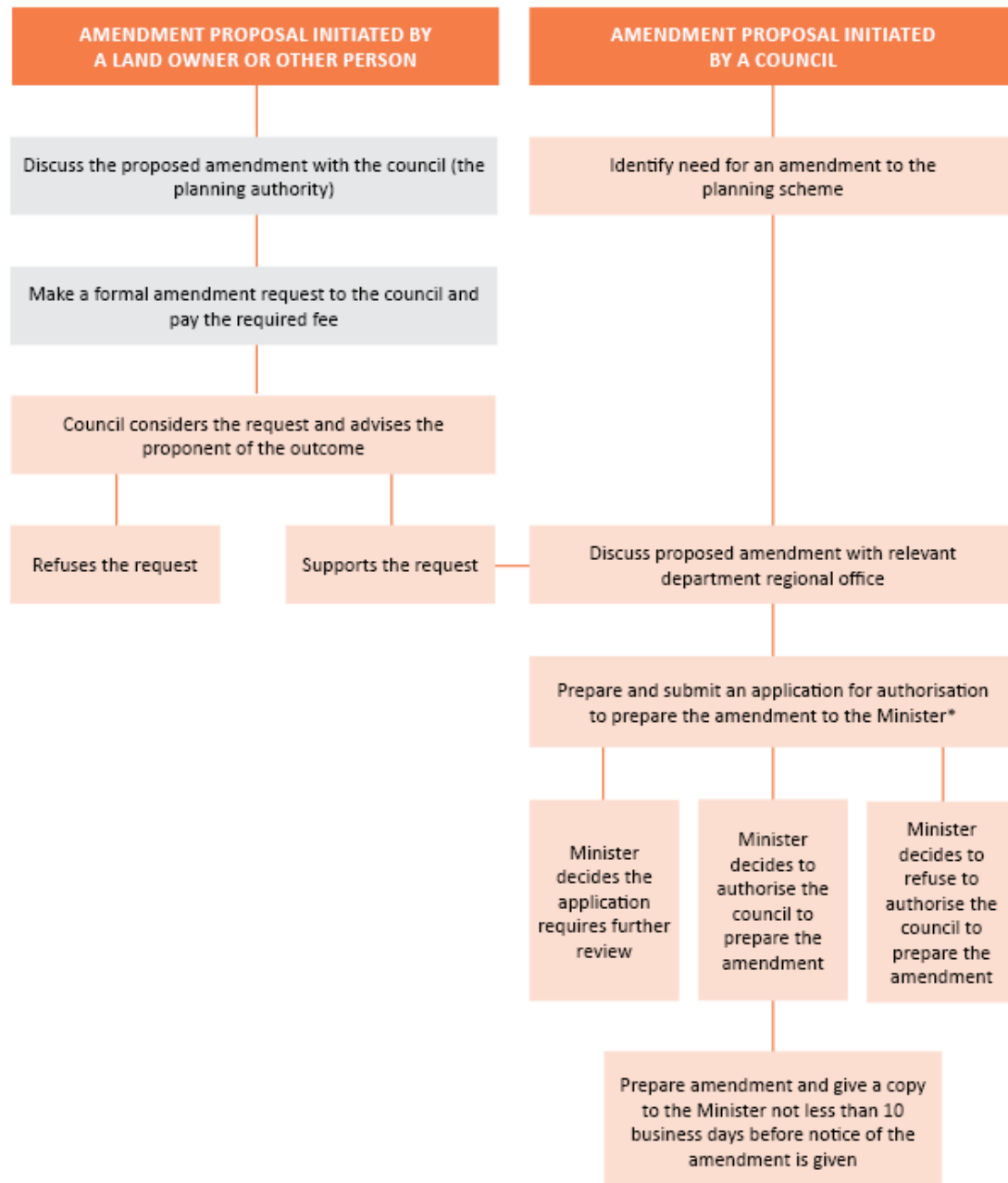
The implementation of the Ballan Structure Plan will be staged with the initial amendment (C69) consisting of:

- Updated Clause 21.08 to the Moorabool Planning Scheme (concept draft forms Attachment 2);
- Application of Neighbourhood Residential Zone (with schedules) and General Residential Zone (with schedules) as outlined in the Structure Plan;
- Rezoning of western growth corridor to Urban Growth Zone;
- Implementation of development plan overlays and design and development overlays as indicated in the document;
- Application of a schedule to clause 52.01 in accordance with the table in the structure plan.

Implementation of policy based changes will be undertaken via the regular planning scheme amendment process. Proponent lead amendments will also be via that process, however the proponent will be responsible for the provision of background information in support of the change. The Structure Plan should be adopted prior to implementation and include information regarding implementation. If the Ballan Structure Plan is amended prior to adoption following the recommendations of Panel, Council then adopts the amendment and amended version of the Structure Plan.

- Step 1: Requesting an amendment (if proponent based)
- Step 2: Authorisation (Council resolution . current stage)
- Step 3: Preparation
- Step 4: Exhibition
- Step 5: Submissions, panels & advisory committees
- Step 6: Adoption
- Step 7: Approval





Consideration of Presentation

Ms. Gabrielle Fidler addressed Council in relation to the Ballan Structure Plan.

Ms. Concetta McFall addressed Council in relation to the Ballan Structure Plan.

The business of the meeting then returned to the agenda.

Recommendation:**That Council:**

- 1. Adopts for the purposes of exhibiting a planning scheme amendment, the Ballan Structure Plan, as tabled in Attachment 3, and authorises its publication on the Moorabool Shire Council web site.**
- 2. Resolves to authorise the CEO to prepare planning scheme amendments documents to implement the Ballan Structure Plan into the Moorabool Planning Scheme, including:**
 - a. Replacement of Clause 21.08 of the Ballan Structure Plan to reflect the content of the Ballan Structure Plan;**
 - b. Application of the Rural Growth Zone to the Western Corridor as outlined in the structure plan;**
 - c. Application of Neighbourhood Residential Zone and General Residential Zone with associated schedules as outlined in the structure plan;**
 - d. Replacement of the Industrial 2 Zone with the Industrial 1 Zone as outlined in the structure plan;**
 - e. Application of Design and Development Overlays as outlined in the structure plan;**
 - f. Application of Development Plan Overlays / or local policies as outlined in the structure plan;**
 - g. Introduction of a schedule to Clause 52.01 as outlined in the structure plan.**
- 3. Authorises the CEO to request the Minister for Planning to authorise Moorabool Shire Council to prepare an amendment to the Moorabool Planning Scheme to introduce generally in accordance with the attached documents forming Attachments 1 and 2 pursuant to Sections 8A(4) and 9(2) of the *Planning and Environment Act 1987*.**
- 4. Following receipt of authorisation exhibit the amendment in accordance with the requirements of Part 3 Division 1 of the *Planning and Environment Act 1987*.**

Resolution:

Crs. Dudzik/Tatchell

That this item be deferred to a Special Meeting of Council in Ballan to be held prior to Christmas 2015.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 25 November 2015



10.2.6 Southern Rural Water Amendments – Government Land Sales

Introduction

File No.: 02/14/005
Author: Lisa Gervasoni
General Manager: Satwinder Sandhu

Background

Southern Rural Water have identified two land parcels in the Merrimu Reservoir vicinity which are surplus to requirements. They have hired GHD to prepare background reports and draft amendment documents to support the rezoning of these sites to facilitate their sale.

Section 12 of the *Planning and Environment Act* outlines the considerations that Council must make in ascertaining whether to undertake a Planning Scheme Amendment. These are:

- Must have regard to the Minister's directions and the Victoria Planning Provisions;
- Must have regard to any municipal strategic statement, strategic plan, policy statement, code or guideline which forms part of the scheme; and
- Must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment; and
- Must take into account its social effects and economic effects.

The Strategic Assessment Guidelines provide more detail on how to ensure compliance with s12 considerations. They are:

In order for Council to meet the requirements of the Act and consider any rezoning request the following information is required to accompany any request to prepare a planning scheme amendment:

- A response to the Strategic Assessment Guidelines;
- Any relevant back ground reports to demonstrate the suitability of the land for the proposed purpose;
- Letters from relevant authorities in relation to issues to be considered in any proposed controls;
- A complete set of draft amendment documents for consideration;
- The initial fee required under the Planning and Environment (Fees) Regulations;
- Acknowledgement of willingness to meet all statutory fees and future panel costs if Council were to proceed with the amendment.

GHD has provided the following information to Council, which was circulated to relevant agencies for their consideration. DELWP and EPA provided advice to Council:

- Planning Report
- Amendment documentation, including draft permit where relevant
- Desktop cultural heritage assessment
- EPBC considerations (unlikely to trigger controlled action)
- Flora and Fauna Assessment (FFGA permit may be required Quarry Block)
- Infrastructure and Serving Report (availability of water, sewer, drainage, electricity, gas, telecommunications)
- Bushfire Assessment (Long Forest)
- Agency consultation (VicRoads, DELWP, CFA)

On site waste disposal would be required at both sites.

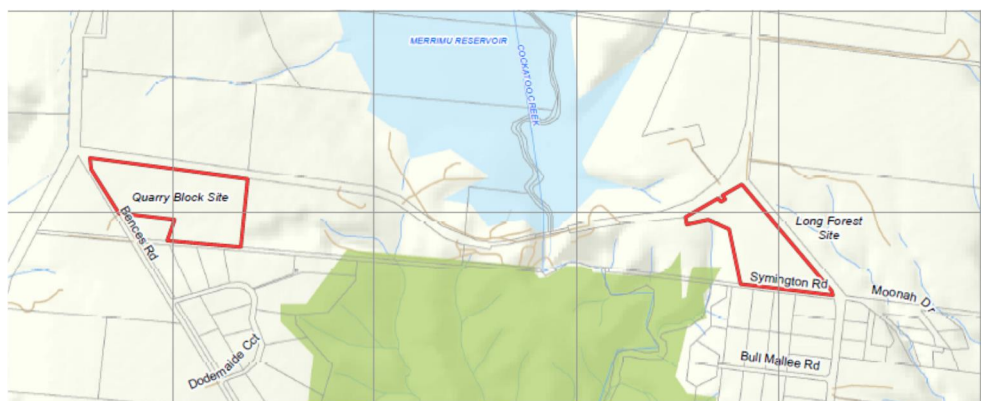
For the Long Forest site the draft planning permit includes building envelopes which cannot be varied. This allows avoidance of significant vegetation and consideration of BAL.

Site 1 . Quarry Block site (Attachment 1)

Lot 2 PS 221537M on Diggers Rest-Coimadai Road. Seeks rezoning from Public Use Zone 1 (PUZ1) to a Rural Conservation Zone (RCZ). The original submission was for rezoning to Rural Living and the issuance of a permit for subdivision. Given its location to the north of the Bences Road Rural Conservation Zone Council officers suggested that the adjoining zone should be utilised.

Site 2 . Long Forest site (Attachment 2)

The Amendment applies to land know as Lot 1 PS 348971 on Diggers Rest-Coimadai Road. Seeks rezoning from Public Use Zone 1 . Service and Utility (PUZ1) to a Rural Living Zone (RLZ) and concurrently seek a planning permit to subdivide the land and associated native vegetation removal.



Proposal

Response from proponent to Strategic Assessment Guidelines

	Quarry Site	Long Forest Site
Why is an amendment required?	Facilitate sale and development of a dwelling on the site.	<p>The amendment is required to facilitate the residential subdivision and future use of the land, which is not consistent with the purpose of the PUZ1.</p> <p>Rezoning to the Rural Living Zone is a more appropriate zone and will be consistent with adjacent residential land use and development.</p>
Does the amendment implement the objectives of planning and any environmental, social and economic effects?	<ul style="list-style-type: none"> Provides for the fair and orderly, economic and sustainable use and development of land; Secures a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; Balances the present and future interests of all Victorians. <p>The amendment ensures that the planning objectives in Victoria are met by providing the fair, orderly, economic and sustainable use of land by including the subject site in the most appropriate zone.</p> <p><u>Environmental Effects</u></p> <p>The amendment would facilitate the future subdivision of the site for residential purposes.</p> <p>Any future subdivision of the site would need to assess the impact of access and building locations on native vegetation. It is expected that a future subdivision can be undertaken in a manner that would minimise impacts on native vegetation.</p>	<ul style="list-style-type: none"> 4(1)(a) to provide for the fair, orderly, economic and sustainable use, and development of the land; 4(1)(b) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and 4(1) (g) to balance the present and future interests of all Victorians. <p>The amendment provides land for residential development in an appropriate location and which responds to local housing demands.</p> <p><u>Environmental Effects</u></p> <p>The amendment facilitates the subdivision of the site to allow for the future construction of two dwellings for rural living purposes, which can be undertaken in a manner that has minimal impact on the environment.</p> <p>A flora and fauna assessment of the site has been undertaken, which revealed that the site contains patches of</p>

	Quarry Site	Long Forest Site
	<p>Future allotments can be connected to existing water infrastructure established adjacent to the subject site.</p> <p>The proposed rezoning will not prejudice the long-term availability and management of Victoria's natural resources. It is noted that the subject land is not productive agricultural land and the site is not located within a special water supply catchment area under the <i>Catchment and Land Protection Act 1994</i>.</p> <p><u>Social Effects</u></p> <p>The proposed rezoning is not anticipated to result in any significant social effects. The Rural Conservation Zone will facilitate the future subdivision of the land for residential purposes, which will contribute the housing needs of the municipality and provide for housing diversity and choice.</p> <p>The proposed rezoning is consistent with the surrounding land use and will be a continuation of the existing rural residential development located south of the subject land. As a result the proposed zoning will be compatible with the surrounding area.</p> <p>The amendment will have positive social effects as it provides the opportunity for the orderly provision of residential subdivision that makes effective use of existing and proposed social and physical infrastructure in the surrounding area.</p> <p><u>Economic Effects</u></p> <p>The amendment may result in a positive economic impact by providing additional land suitable for residential land use within the municipality. Future subdivision of the land is likely</p>	<p>Grassy Woodland native vegetation patches of varied quality. The future development of the site shown by the proposed building envelopes will require the removal of approximately 0.5-0.6 hectares of native vegetation including species of the threatened Grey Box Woodlands and derived grassland of south-eastern Australia vegetation community.</p> <p>This is considered a small area comparative to the overall size of the subject site and the extent and density of native vegetation on the subject site and within adjoining road reserves. The native vegetation to be removed will be offset to ensure no net loss of biodiversity results from the proposal.</p> <p>The extent of native vegetation to be removed has been minimized by locating building envelopes within cleared areas of the site and the location of access ways to minimise impacts on significant native vegetation. The site is situated in modified rural landscape context and as such changes to the rural landscape character of the local area are considered to be negligible.</p> <p>The proposed allotments can be connected to existing water infrastructure established adjacent the subject site. Each allotment also has sufficient area to accommodate an on-site effluent disposal system to appropriately minimise nutrient loading within the site boundaries.</p> <p>The proposed rezoning will not prejudice the long-term availability and management of Victoria's natural resources. It is noted that the subject land is not productive agricultural land and the site is not located within a special water supply catchment area under the <i>Catchment and Land Protection Act 1994</i>.</p>

	Quarry Site	Long Forest Site
	<p>to result in flow-on economic effects to the local construction industry through the construction of additional housing.</p> <p>The amendment will not impact upon natural resources such as agricultural land or the sand quarry which are identified as being fundamentally important to the local and state economy.</p> <p>The amendment will result in negligible administrative costs to the responsible authority given the rezoning only affects one site.</p>	<p><u>Social Effects</u></p> <p>The proposed rezoning is not anticipated to result in any significant social effects. The Rural Living Zone will facilitate the subdivision of the land for rural residential purposes, which will contribute the housing needs of the municipality and provide for housing diversity and choice.</p> <p>The proposed rezoning is consistent with the surrounding land use and will be a continuation of the existing rural residential development located south of the subject land. As a result the proposed zoning will be compatible with the surrounding area.</p> <p>The amendment will have positive social effects as it provides the opportunity for the orderly provision of rural residential type subdivision that makes effective use of existing and proposed social and physical infrastructure in the surrounding area.</p> <p>Bushfire hazard risks associated with future rural residential use of the proposed allotments can be appropriately managed as demonstrated through the capacity to provide appropriate defensible space, water supply and vehicle access for each dwelling.</p> <p>Two additional dwellings are likely to generate fewer than 20 vehicle trips per day on average (ie. 10 per dwelling), and is therefore likely to have minimal impact on the safety and free flow of traffic on the local road network.</p> <p><u>Economic Effects</u></p>

	Quarry Site	Long Forest Site
		<p>The amendment may result in a positive economic impact by providing new rural residential land within the municipality.</p> <p>The amendment will not impact upon natural resources such as agricultural land and the sand quarry which are identified as being fundamentally important to the local and state economy.</p> <p>The amendment will allow the future owners of the proposed allotments to construct a new dwelling and associated outbuildings on each allotment, which have the potential to provide a positive economic effect on the local construction industry. The flow-on economic effects resulting from two additional households are expected to be small on the local area.</p> <p>The amendment will result in negligible administrative costs to the responsible authority given the rezoning only affects a single parcel.</p>
Does the amendment address relevant bushfire risk?	<p>The site is not affected by the Bushfire Management Overlay. Notwithstanding this, it is anticipated that any future dwellings would have water tanks with a sufficient supply of water to assist in localised firefighting efforts.</p>	<p>The site is affected by a Bushfire Management Overlay. A Bushfire Management Assessment has been undertaken which has confirmed that the site is suitable to be developed for rural residential purposes subject to appropriate bushfire protection measures being implemented on each lot.</p>
Does the amendment comply with all the relevant Minister's Directions?	<p>The amendment has been prepared in accordance with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Planning and Environment Act 1987.</p> <p>The amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments). This report contains an evaluation and discussion on how the</p>	<p>The amendment has been prepared in accordance with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Planning and Environment Act 1987.</p> <p>The amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments). This report contains an evaluation and discussion on how the amendment</p>

	Quarry Site	Long Forest Site
	<p>amendment addresses the strategic considerations outlined in the Ministerial Direction and provides sound strategic basis and an appropriate level of justification for the amendment.</p> <p>No specific Ministerial Direction applies to the proposed amendment.</p>	<p>addresses the strategic considerations outlined in the Ministerial Direction and provides sound strategic basis and an appropriate level of justification for the amendment.</p>
<p>Does the amendment support or implement the State Planning Policy Framework?</p>	<p>The proposed amendment directly supports an implementation of the State Planning Policy Framework through the following:</p> <ul style="list-style-type: none"> • The subject site will provide rural conservation zoned land that is readily accessible to services and infrastructure to support rural residential housing • The subject site will provide opportunity to increase the supply of housing in a peri-urban setting • The site provides an opportunity for future subdivision of a site that is no longer required by Southern Rural Water for the infrastructure purposes. <p>Specifically, the proposed amendment responds to the provisions of the State Planning Policy Framework as follows:</p> <p><u>Clause 12.06 Central Highlands Regional Growth</u></p> <p>The objective of this Clause is to plan for population growth in sustainable locations throughout the region.</p> <p>The amendment implements this objective by providing residential land supply in a peri-urban context that has access to services and infrastructure.</p> <p><u>Clause 12.01 Biodiversity</u></p> <p>Clause 12.01 includes objectives for the protection of habitat, native vegetation management and the preparation of</p>	<p>The proposed amendment directly supports an implementation of the State Planning Policy Framework through the following:</p> <ul style="list-style-type: none"> • The subject site will provide rural living zoned land that is readily accessible to services and infrastructure to support rural residential housing; • The subject site will increase the supply of housing in the rural context; and • The site provides an opportunity for redevelopment and subdivision of a site that is no longer required by Southern Rural Water for the infrastructure purposes. <p>Specifically, the proposed amendment responds to the provisions of the State Planning Policy Framework as follows:</p> <p><u>Clause 12.06 Central Highlands Regional Growth</u></p> <p>The objective of this Clause is to plan for population growth in sustainable locations throughout the region.</p> <p>The amendment implements this objective by providing land supply in a rural residential context that is accessible to servicing and infrastructure.</p> <p><u>Clause 12.01 Biodiversity</u></p> <p>Clause 12.01 includes objectives for the protection of habitat, native vegetation management and the preparation of</p>

	Quarry Site	Long Forest Site
	<p>biodiversity strategies. Furthermore, this Clause also seeks to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.</p> <p>The subject site contains significant areas that are unaffected by native vegetation. Accordingly, it is expected that any future subdivision can be undertaken in a manner that would minimise impacts on biodiversity in the area.</p> <p><u>Clause 13.04 Noise and Air</u></p> <p>Clause 13.04 includes objectives to in assist the control of noise effects on sensitive land uses and assist the protection and improvement of air quality.</p> <p>The amendment supports these objectives as sufficient separation can be provided between the sand quarry at Bacchus Marsh-Gisborne Road and potential future residents on the subject land.</p> <p><u>Clause 13.05 Bushfire</u></p> <p>Clause 13.05 includes the objective to assist to strengthen community resilience to bushfire.</p> <p>The amendment responds appropriately to this objective on the basis that the subject land is not located in an area covered by the Bushfire Management Overlay. Furthermore, future residential development of the site could be designed with sufficient on-site water supply for firefighting purposes.</p> <p><u>Clause 15.03-2 Cultural Heritage</u></p>	<p>biodiversity strategies. Furthermore, this Clause also seeks to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.</p> <p>The Flora and Fauna Assessment undertaken for the subject land confirms that the proposal will not result in a significant loss of native vegetation or biodiversity on the subject site and adjoining road reserves. The proposed subdivision layout has been configured to minimise impacts on vegetation.</p> <p>Any loss of native vegetation will be appropriately offset to ensure there is no net loss of biodiversity in Victoria. Accordingly, the amendment supports the biodiversity objectives of the SPPF.</p> <p><u>Clause 13.05 Bushfire</u></p> <p>Clause 13.05 includes the objective to assist to strengthen community resilience to bushfire. The site is within a Bushfire Management Overlay (BMO). A bushfire site-based assessment has been undertaken which has confirmed that subject to bushfire protection measures being implemented, the site is suitable for a two-lot subdivision. On this basis, the amendment implements the objectives of this clause.</p> <p><u>Clause 15 Built Environment</u></p> <p>Clause 15 seeks to ensure that land use and development appropriately responds to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. The amendment implements this objective by ensuring that the subdivision design takes into account the landscape and</p>

	Quarry Site	Long Forest Site
	<p>Clause 15.03-2 includes the objective to ensure the protection and conservation of places of Aboriginal cultural heritage significance.</p> <p>The amendment has considered this objective in the early planning stages, with a desktop assessment undertaken confirming that the site is not within an area of cultural sensitivity.</p> <p><u>Clause 16.02-1 Rural Residential Development</u></p> <p>Clause 16.02-1 includes the objective to identify land suitable for rural living and rural residential development.</p> <p>The proposed amendment would facilitate the future subdivision of the site for residential development that is compatible with existing residential development in the surrounding area.</p> <p>Accordingly, the proposed amendment would assist in implementing the above clause.</p> <p><u>Clause 19.02-3 Water Supply, Sewerage and Drainage</u></p> <p>Clause 19.02-3 includes the objective to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.</p> <p>The proposal implements this objective by ultimately facilitating future subdivision that is capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot and will be connected to potable water and electricity supply.</p>	<p>surrounding built form. The amendment proposes a two lot subdivision that is consistent with the pattern of development immediately south of the subject land.</p> <p><u>Clause 15.03-2 Cultural Heritage</u></p> <p>Clause 15.03-2 includes the objective to ensure the protection and conservation of places of Aboriginal cultural heritage significance. The amendment implements the objective, as a desktop assessment has confirmed that the site is not in an area of cultural sensitivity.</p> <p><u>Clause 16.02-1 Rural Residential Development</u></p> <p>Clause 16.02-1 includes the objective to identify land suitable for rural living and rural residential development.</p> <p>The amendment implements this objective as the subject land is located close to the township of Bacchus Marsh, is adjacent to existing rural residential development, can be serviced with electricity and water, has sufficient area to accommodate on-site effluent disposal and has good access to existing roads.</p> <p><u>Clause 19.02-3 Water supply, sewerage and drainage</u></p> <p>Clause 19.02-3 includes the objective to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.</p> <p>The amendment implements this objective by creating a subdivision that is capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot and is capable of being supplied with electricity and water.</p>

	Quarry Site	Long Forest Site
Does the amendment support or implement the Local Planning Policy Framework?	<p>The amendment supports and implements the Local Planning Policy Framework of the Moorabool Planning Scheme, including the Municipal Strategic Framework and the Local Planning Policies as follows:</p> <p><u>Clause 21.02 Natural Environment</u></p> <p>Clause 21.02 seeks to maintain and enhance the natural environment and the Shire's rural identity and character.</p> <p>The subject site contains significant areas that are unaffected by native vegetation. Accordingly, it is expected that a future subdivision can be undertaken in a manner that would minimise impacts on the biodiversity in the area.</p> <p><u>Clause 21.02-2 Non-Urban Landscapes</u></p> <p>Clause 21.02-2 seeks to maintain and enhance the natural environment and the Shire's rural identity and character.</p> <p>The subject site contains significant areas that are unaffected by native vegetation. Accordingly, it is expected that a future subdivision can be undertaken in a manner that would not create any significant impacts on biodiversity in the area.</p> <p><u>Clause 21.02-5 Wildfire</u></p> <p>The objective of the clause is to minimise the risk of wildfire.</p> <p>Notwithstanding no subdivision or development is currently proposed for the site, provision can be made for on-site water storage tanks associated with future residential use of the site.</p> <p><u>Clause 21.03 . Settlement and Housing</u></p> <p>It is expected that outward pressure from the Melbourne metropolitan area, the location of the Shire on one of the</p>	<p>The amendment supports and implements the Local Planning Policy Framework of the Moorabool Planning Scheme, including the Municipal Strategic Framework and the Local Planning Policies as follows:</p> <p><u>Clause 21.02 Natural Environment</u></p> <p>Moorabool Shire's natural environment, towns, rural landscapes, and forested areas are important elements of the Shire's character. Clause 21.02 seeks to maintain and enhance the natural environment and the Shire's rural identity and character.</p> <p>The flora and fauna assessment undertaken in support of the project has considered the potential impacts a rural residential subdivision will have on the environment. The subdivision layout has been designed to minimise impacts to the natural environment whilst also maintaining the rural landscape character.</p> <p><u>Clause 21.02-2 Non-Urban Landscapes</u></p> <p>Clause 21.02-2 seeks to maintain and enhance the natural environment and the Shire's rural identity and character.</p> <p>The projects flora and fauna assessment has considered potential impacts the proposed subdivision may have on the environment and local biodiversity, which are not considered significant and will be appropriately offset.</p> <p>The subdivision layout has been designed to minimise impacts to the natural environment whilst also maintaining the rural landscape character, noting historical occupation and disturbance on the site</p>

	Quarry Site	Long Forest Site
	<p>State's major regional transport corridors and proximity to the regional centres of Ballarat and Geelong will continue to reinforce the advantages of the Shire as a place to live and invest.</p> <p>The proposed amendment would ultimately facilitate a response to the known demand for rural residential type allotments in the local area.</p> <p><u>Clause 21.03-4 Landscape and Neighbourhood Character</u></p> <p>Clause 21.03-4 seeks to ensure that new development in all zones respects the existing character, landscape setting and amenity of the local area.</p> <p>The proposed rezoning will be consistent with relevant strategies for this clause as the proposed rural conservation zone will complement the rural residential use and zoning of adjoining land to the south.</p> <p><u>Clause 21.03-5 Rural Lifestyle Opportunities</u></p> <p>Clause 21.03-5 relates to rural lifestyle opportunities and seeks to support development in small towns and rural lifestyle opportunities as an additional residential choice. The proposed rezoning supports this strategy by providing an opportunity for rural residential development on the subject site that would not adversely affect agricultural production and would have minimal impact to native vegetation and habitat values.</p> <p><u>Clause 21.07 Bacchus Marsh</u></p> <p>Clause 21.07-4 refers specifically to rural residential development in Bacchus Marsh. The objective of this Clause is to provide high amenity rural lifestyle opportunities while</p>	<p><u>Clause 21.02-5 Wildfire</u></p> <p>The objective of the clause is to minimise the risk of wildfire. A bushfire assessment has been prepared which has guided the design of the proposed two lot subdivision in terms of lot boundaries, location of building envelopes and impacts to vegetation.</p> <p>On this basis it is considered that the subdivision supports this Clause.</p> <p><u>Clause 21.03 . Settlement and Housing</u></p> <p>It is expected that outward pressure from the Melbourne metropolitan area, the location of the Shire on one of the State's major regional transport corridors and proximity to the regional centres of Ballarat and Geelong will continue to reinforce the advantages of the Shire as a place to live and invest.</p> <p>The proposed subdivision responds to identified demand for rural residential type allotments in this location.</p> <p><u>Clause 21.03-4 Landscape and Neighbourhood Character</u></p> <p>Clause 21.03-4 seeks to ensure that new development in all zones respects the existing character, landscape setting and amenity of the local area.</p> <p>The proposed rezoning will be consistent with relevant strategies for this clause as the proposed rural living zoning will complement the rural residential use and zoning of adjoining land to the south. It is also envisaged that the future rural residential use of the land will not require significant removal of existing vegetation and any future building can be constructed with a minimum setback of 40 metres of adjoining</p>

	Quarry Site	Long Forest Site
	<p>protecting irrigated horticultural land and the sustainability of environmental assets. The Clause recognises the importance and attractiveness of rural residential and rural lifestyle living as an alternative living environment in designated areas around Bacchus Marsh and seeks to ensure that rural residential development is consistent with the Bacchus Marsh Framework Plan.</p> <p>The subject land is not included in the Bacchus Marsh Framework Plan. However, the land immediately south and west of the site is subject to the provisions of the Bacchus Marsh Framework Plan and is identified as an area for <i>low density and environmentally sensitive housing opportunities</i>.</p>	<p>road reserves. Accordingly, the proposed rezoning will not result in any unreasonable impact on the landscape character of the local area.</p> <p><u>Clause 21.03-5 Rural Lifestyle Opportunities</u></p> <p>Clause 21.03-5 relates to rural lifestyle opportunities and seeks to support development in small towns and rural lifestyle opportunities as an additional residential choice. The proposed rezoning supports this strategy by providing an opportunity for limited rural residential development on the subject site that would not adversely affect agricultural production and would have minimal impact to native vegetation and habitat values.</p> <p>The proposed subdivision is capable of satisfying environmental and physical requirements, including appropriate on-site treatment of effluent and stormwater management, reticulated water services are provided and sealed access roads service all lots. Further to this, the proposed subdivision is consistent with the pattern of existing rural living development to the south of the site.</p> <p><u>Clause 21.05 . Development and Community Infrastructure</u></p> <p>The rezoning supports and implements this Clause by enabling financial contributions to the provision of infrastructure such as public facilities, public transport, and roads.</p> <p><u>Clause 21.07 Bacchus Marsh</u></p> <p>Clause 21.07-4 refers specifically to rural residential development in Bacchus Marsh. The objective of this Clause is to provide high amenity rural lifestyle opportunities while</p>

	Quarry Site	Long Forest Site
		<p>protecting irrigated horticultural land and the sustainability of environmental assets.</p> <p>The Clause recognises the importance and attractiveness of rural residential and rural lifestyle living as an alternative living environment in designated areas around Bacchus Marsh and seeks to ensure that rural residential development is consistent with the Bacchus Marsh Framework Plan.</p> <p>The subject land is not included in the Bacchus Marsh Framework Plan. However, the land immediately south and west of the site is within the Bacchus Marsh Framework Plan and is identified as an area for low density and environmentally sensitive housing opportunities.</p> <p>The rezoning implements this clause as it will facilitate rural residential development without impacting upon agricultural land or the environment.</p>
Does the amendment make proper use of the Victoria Planning Provisions?	<ul style="list-style-type: none"> SRW have identified that the site is surplus to its operational requirements and intends on selling the property. In accordance with the VPPs it would be inappropriate to have privately owned land included within a Public Use Zone. The RCZ has been applied to land immediately south of the site and is considered the most appropriate zone to apply over the subject site. The proposed rezoning would form a logical extension of the RCZ to allow the land to be development for rural residential purposes. The ESO affecting the subject site will not be altered by the proposed amendment. 	<p>The amendment makes the proper use of the Victorian Planning Provision (VPPs), as:</p> <ul style="list-style-type: none"> SRW have identified that the site is surplus to its operational requirements and intends on selling the property. In accordance with the VPPs it would be inappropriate to have privately owned land included within a Public Use Zone. The RLZ has been applied to land immediately south of the site and is the most appropriate zone to apply. The proposed rezoning would form a logical extension of the RLZ to allow the land to be development for rural residential purposes.

	Quarry Site	Long Forest Site
		<ul style="list-style-type: none"> The ESO and BMO affecting the subject site will not be altered by the proposed amendment
How does the amendment address the views of any relevant agency?	<p>Southern Rural Water, as proponent for the amendment, has consulted with a number of relevant agencies in preparing the amendment. The agencies whose views have been addressed in this amendment are listed below:</p> <ul style="list-style-type: none"> Moorabool Shire Council . as the planning authority for the Moorabool Planning Scheme Department of Environment, Land, Water and Planning (DEWLP) . on behalf of the Minister for Planning responsible for authorising the amendment; VicRoads . as the road manager of the Diggers Rest-Coimadai Road; Department of State Development, Business and Innovation (DSDBI) . as administer of the Mineral Resources Sustainable Development Act 1990 which covers extractive industries and mining and in relation to the existing quarries on Diggers Rest-Gisborne Road. 	<p>SRW, in the course of preparing this amendment request, has consulted with a number of relevant agencies in preparing the amendment. The agencies whose views have been addressed in this amendment are listed below:</p> <ul style="list-style-type: none"> Moorabool Shire Council . as the planning authority for the Moorabool Planning Scheme Department of Transport, Planning and Local Infrastructure (now Department of Environment, Land, Water and Planning) . on behalf of the Minister for Planning responsible for authorising the amendment VicRoads . as the road manager of the Diggers Rest-Coimadai Road Country Fire Authority . as the relevant fire authority.
Does the amendment address the requirements of the Transport Integration Act 2010?	<p>The amendment is not considered to have any impact on the transport system, as defined by the Transport Integration Act 2010.</p>	<p>The amendment is not considered to have any impact on the transport system, as defined by Section of the Transport Integration Act 2010.</p> <p>There are no applicable statements of policy principles prepared under Section 22 of the Transport Integration Act 2010.</p>

	Quarry Site	Long Forest Site
What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?	<p>The new planning provisions will have a minor impact only on the resource and administrative costs of the Moorabool Shire Council, as the relevant responsible authority.</p> <p>The amendment only affects land that would facilitate future subdivision of the site. A small number of subdivision and residential use planning permit applications would likely be generated as a result of the amendment.</p>	<p>The new planning provisions will have a minor impact on the resource and administrative costs of the Moorabool Shire Council, as the relevant responsible authority.</p> <p>The amendment only affects land subject to the proposed rural residential subdivision for which a planning permit is concurrently being sought. A number of planning permit applications will likely be required to establish buildings and works on each allotment in association with rural residential use.</p>

Officer Assessment

Both amendments are site specific rezonings which are generally not supported. In this instance if the land was sold without a rezoning Council would be required to undertake an anomaly amendment to correct the application of the Public Use Zone to private land. Anomaly amendments apply the underlying zoning (what the land would be zoned if not in the public use zone). The zones selected by GHD in discussion with Council and agencies are the underlying zones.

GHD has provided technical assessment of relevant considerations such as flora and fauna and bushfire risk. They undertook a desktop assessment of cultural heritage which deemed a Cultural Heritage Management Plan would not be required.

Council referred the amendments to relevant agencies including CFA, Aboriginal Affairs Victoria, Registered Aboriginal Parties, (due diligence in case an unmapped site was present) DELWP and EPA. Comments were received from DELWP and EPA. These submissions raise issues, similar to those experienced with Amendment C58, which are likely to be able to be resolved prior to seeking authorisation.

Issues such as landscape level risk considerations in siting dwellings (Long Forest); any history of storage of chemicals on site or use of agricultural chemicals (Ministers Direction No 1) and improved Transport Integration Act statements would need to be resolved prior to seeking authorisation.

Given the location of the sites there will be no certainty in outcome as there is no specific strategic support for the amendment. The proponent has undertaken assessments to support the rezoning and development of the sites. If Council was willing to consider undertaking an unbudgeted proponent led amendment it is likely that refinement of the amendments could be undertaken to the satisfaction of the Chief Executive Officer prior to exhibition of the amendment. The proponent would be required to undertake any additional work required to gain authorisation or to address submissions at Panel.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Effective and Efficient Land Use Planning and Building Controls
Strategy	Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support social, economic, environmental and well-being of the Shire.

Financial Implications

Fees received by Council do not cover the costs incurred by Council in the amendment, which includes advertising and notices. The proponent will be required to pay all panel costs and statutory fees. Being site specific the number of notifications and submissions are unlikely to be significant. Staff time in processing the amendment (0.25 EFT) would not be available to undertake strategic work on behalf of Council.

Risk & Occupational Health & Safety Issues

The processing of the amendment will have minimal risk for Council. Work Programs in SSD would need to be amended to recognise the additional task and the flow on impacts on delivering of other projects as once authorised Ministers Direction No 15 establishes times for actions to be undertaken in.

Community Engagement Strategy

Exhibition is a statutory requirement and must be undertaken in accordance with the Planning and Environment Act.

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 – Lisa Gervasoni

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

Conclusion

Southern Rural Water have prepared the amendment to a level where it is appropriate to determine whether Council is willing to act as Planning Authority. If Council is willing to seek authorisation of the amendment, to be generally in accordance with the lodged documents, with the CEO to authorise any variations to address pre authorisation comments from agencies and ministerial directions, then officers would work with GHD to finalise the amendment for exhibition.

Recommendation:**That Council resolves:**

1. To support, in principle, the request to:
 - a. Rezone Lot 2 PS 221537M Diggers Rest-Coimadai Road, Merrimu from Public Use Zone 1 – Service and Utility (PUZ1) to a Rural Conservation Zone (RCZ).
 - b. Rezone Lot 1 PS 348971 Diggers Rest-Coimadai Road, Merrimu from Public Use Zone 1 – Service and Utility (PUZ1) to a Rural Living Zone (RLZ), and concurrently consider a planning permit application to subdivide the land and remove native vegetation.
2. Defer any further consideration of the amendment request pending the outcome of the preparation of the Bacchus Marsh Framework Plan by the Metropolitan Planning Authority (MPA).

Resolution:

Crs. Toohey/Dudzik

That Item 10.2.6 - Southern Rural Water Amendments – Government Land Sales, is deferred to address discrepancies within the report.

CARRIED.

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday, 12 November 2015



10.2.7 Advice to Municipal Association of Victoria on Planning & Environment (Fees) Regulations Review and Planning Scheme Amendment procedures

Introduction

File No.: 02/14/005
Author: Lisa Gervasoni
General Manager: Satwinder Sandhu

Background

The Municipal Association of Victoria (MAV) is now seeking feedback regarding planning fees for input into the review of the *Planning and Environment (Fees) Regulations*. For many years the MAV has focused on planning permit fees, rather than questioning the level of subsidisation generated by not having cost recovery built into planning scheme amendments fees. Knowing that the *Planning and Environment (Fees) Regulations* were likely to be reviewed, and that previous submissions had been ignored as there was no documentation of fees, at the April 1 2015 Ordinary Meeting of Council, a resolution was passed forward to the MAV State Council to allow the industry time to document real costs of stages of the process. Unfortunately this resolution was incorrectly rolled in to a resolution regarding planning permit fees.

Subsequent discussions with the MAV saw this proposal included in their discussions with the Minister for Planning. Selected Councils have been tracking planning scheme amendment costs (October - December 2015) which will be utilised to help understand the true resource implication of processing planning scheme amendments. We are unsure as to what stages of the amendment process is being covered or the complexity of issues being considered.

To assist the MAV in providing a response to the Minister the previous work, which was the basis of the Council resolution, has been updated and forms Attachments 1 and 2 to this report.

It takes longer to process an amendment where there is not strong strategic support; comprehensive technical reports on key strategic issues and proposed controls which address the recommendations of the technical reports. Working with proponents on these matters prior to seeking authorisation, for example the Underbank proposal in Bacchus Marsh, ensured a more efficient amendment process and more certainty for the public in that there was not substantial change from what was exhibited. Formalising the processes for consideration of amendments and placing this information in the public domain will be essential to controlling costs and workload.

Proposal

Fees Review

It is proposed that Council reasserts its 1 April 2015 position in regards to planning scheme amendment fees for the following reasons:

- Other jurisdictions do not include this process in the statutory fees and leave it up to Council to decide whether to charge full cost recovery or to subsidise the process.
- The level of complexity of the system has increased markedly, with the Auditor General finding the average processing time was 22 months. However the fees in real terms have gone backwards from the 1988 figure.
- Government authorities, who may act as planning authorities, are shifting costs on to Council as it is cheaper to pay \$2,000 for Council to undertake this time consuming process.
- Providing a minimum of \$18,000 subsidy to private developers per amendment is not sustainable in the current Victorian climate of rate capping.
- Undertaking amendments on behalf of proponents is impacting on council ability to fund strategic work and maintain their planning scheme (such as through amendments).
- The Government has not undertaken any regulatory impact statement to quantify that the costs of processing amendments when contemplating changes to the planning system and legislation.

Revised Submission to MAV

Moorabool Shire Council is concerned regarding the continuing cost shifting by State Government to Local Government across a range of service responsibilities. Councils in Victoria are facing increasing difficulties in funding core functions many of which are devolved from State Government. This is especially relevant in relation to the impact of the inclusion of Planning Scheme Amendment Fees within the Planning and Environment (Fees). The inequity in the level of subsidisation of the planning scheme amendment process is a key example which the sector would appreciate the assistance of the MAV in addressing with the State Government.

A planning scheme amendment is a change in subordinate legislation. When proponent led there is generally a set of end users who directly benefit with little wider community benefit. Moorabool Shire Council believes that:

- The Planning Scheme Amendment Process should be removed from the Planning Fees Regulations;
- State agencies act as planning authorities for key processes such as the implementation of controls to manage natural hazard;
- That the State pay for Planning Panel costs for strategic / Council led amendments.

If this cannot be achieved then the State Government should undertake detailed documentation of the costs of the current process as no regulatory impact statement has taken into account the impact of system changes to the level of subsidisation within the regulations. Given the number of council reports required in the process, without taking into account administration,

consideration of submission and panel processes, the total fee received by Council is \$2000 which includes covering all notices (often greater than this). A week of consultant planner time is at a minimum \$6000 the fees regulations assume that the whole process will take less than a day of officer time.

The VAGO "Fees and Charges- cost recovery by Local Government" of April 2010 highlighted the principles which should apply to fees and charges. In this instance Councils in Victoria have no ability to set fees and charges as they are established under the Planning and Environment Fees Regulations. The fees received by Council, which cover the full extent of actions, including notice, are often less than the cost to Council of giving notice (which is explicitly covered in the regulations).

The State has not reviewed the basis of the regulation since its gazettal in 1988. Since that date the complexity of the system has increased markedly, including:

- Removal of regional planning authorities to undertake wider strategic planning and scheme content;*
- Marked decrease in Agencies acting as planning authority;*
- Creation of Ministerial directions, including on form and content;*
- Introduction of the VPPs which require detailed strategic planning for proper information;*
- Introduction of the strategic assessment guidelines for all amendments;*
- Reduction in the use of 20(2) and 20(4) amendments to correct errors.*

Councils receive just over \$2000 to process a planning scheme amendment. Out of this "income" they must pay for newspaper and gazette notices and letters at the commencement of the processes, correspondence throughout the process and newspaper notices and letters at the end of the process. Given the ever increasingly complexity of the process it costs Councils in personnel cost between \$20,000 for a well prepared 'simple' amendment to \$100,000 for a complex amendment where technical documents must be sought, reviewed and converted into statutory controls and where significant policy / submissions are made. Attachment 1 outlines the list of tasks to be performed.

In New South Wales Councils there is no such regulation and Councils can fully cost recover the process. This may be a set fee by complexity, such as used in Singleton, or an initial fee with full cost recovery / control of background reports, such as Lake Macquarie. In Singleton a rezoning which has complex issues or leads to more than 3 lot yield has a \$16,000 fee. In Lake Macquarie an initial fee for consideration is \$8,875 (\$798 in Victoria) and an initial payment of \$6,900 once Council agrees to commence the process. Once this fee is reached the proponent is billed monthly for the time spend on the amendment (7 hourly rates). The Council charges market cost for any external consultant fees incurred and the Advertising charge is \$1505 (included in the initial \$798 in Victoria). In Tasmania local government set their own fees for amendment processing.

Previous reviews of the fees have required councils to make a business case to Government regarding the inherent subsidisation by the Local Government sector of the planning scheme amendment process. One of the challenges for the sector in addressing this cost shifting is that there is often no data available on the actual time taken to process an amendment. Given that the regulations have not substantively changed from when there were regional planning authorities; no Victoria Planning Provisions and no strategic assessment guidelines or practice notes the onus should be on the Government to demonstrate that Council can undertake all processes and cover advertising for \$2000. The Minister should establish the real cost of undertaking the process. If Local Government is expected to "subsidise" private expenses then the Minister should outline why the rate payers are subsidising private gain and that cost be accepted by the Essential Services Commission as justification for a rate increase above CPI..

Internal Practice

It is proposed that Council promote the requirements it seeks for proponent lead amendment requests. These will be assessed internally for legislative and policy compliance and the use of the most appropriate planning tools prior to reporting to Council. Once a resolution to seek authorisation is made there is little incentive for proponents to revise their proposal which may increase the workload for officers and the cost to Council.

At present proponent requests, once authorised, are in effect prioritised over Council amendments. The costs of undertaking the process has not been considered within the budget process. Where the request is strategically supported but is site specific in nature, Council may resolve to seek authorisation but will specify that authorisation will not be sought until a certain date. For instance undertaking site specific amendments like an anomalies amendment . as a group and on a planned cycle . for instance every 18 months. This then allows for one set of advertising, statutory fees, and council reporting . which is a key component of officer time.

The proposed information for the Council web page on amendment processes forms Attachment 3.

Policy Implications

The proposal, although not identified by a specific strategy, is consistent with the 2013-2017 Council Plan Strategic Objectives of:

- Sound, long term financial management;
- Effective business and strategic planning for a growing community.

Financial Implications

The current regulated fees system is a major impost on Council. Each proponent lead amendment may cost Council between \$20,000 to \$100,000 to process from pre lodgement to approval. As a simple amendment takes 12 weeks equivalent full time staff (EFT) and a complex amendment upwards of 26 weeks EFT to process Council can only undertake 3-5 amendments per year, including Council led amendment with existing staff resources. Some processes may cross several years.

Some proponent led proposals may have wider community benefit which may justify Council support or prioritisation however many apply to single sites where only the owner only benefits.

Learning from both good and bad process experiences and implementing a standard process to ensure fully informed decisions and undertaking site specific amendments in an efficient manner may improve the likelihood of a 2 week+outcome.

Risk & Occupational Health & Safety Issues

Under the current system workload management is a key issue. Once authorisation is granted then there is a Minister's direction outlining time for each process. Without careful consideration regarding commencement of processes there can major workload conflicts requiring significant unpaid overtime by officers.

The processes outlined here will help minimise risk through:

- Appreciating the true costs to Council in undertaking amendments;
- Improving information to applicants on process and what is required of them;
- Improving internal processes to ensure that requests are strategically supported and robust prior to seeking Council consent to request authorisation;
- Scheduling site specific amendments to minimise reporting and administration times.
- Ensuring that officers have time to deliver the workload that has been determined through the Council budget process.

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 – Lisa Gervasoni

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

Conclusion

The current situation where the Government sets fees for a process that Local Government must undertake on its behalf without consideration of the true costs is unequitable. It creates a situation where Council may not be able to afford to implement its strategic priorities due to the costs encountered in processing proponent lead amendments. This has impacts on the public perception of Council as well as on staff retention and morale when unplanned tasks are expected to be undertaken without impact on delivery of the budget program.

It is vital that Council seek the MAV to improve the cost recovery elements of planning scheme amendments and looks at process improvements to reduce cost and improve certainty of outcome.

Resolution:

Crs. Spain/Tatchell

That Council:

- 1. Writes to the Municipal Association of Victoria, as outlined in the body of the report, seeking their assistance in achieving a fairer share of costs of processing a planning scheme amendment between Council and the proponent.***
- 2. Writes to the Minister for Planning requesting that:***
 - a) Planning Scheme Amendment Process should be removed from the Planning Fees Regulations to allow full cost recovery by Councils;***
 - b) That if Planning Scheme Amendments are maintained in the regulations then the regulations should be amended to ensure proponents pay for notification and panels and that staged fees reflect full cost recovery of the average of that 'class' of amendment.***
 - c) State agencies act as planning authorities for key processes such as the implementation of controls to manage natural hazard;***
 - d) State agencies or corporations act as planning authorities for rezonings to facilitate land sales with Local Government as a mandatory referral***
 - e) that the state pay for Planning Panel costs for strategic / natural hazard Council led amendments.***
- 3. Approves the utilisation of the material outlined in Attachment 10.2.7c for publication on the Council website.***
- 4. Resolves to require Council officers to fully assess amendment requests, including internal and external referral and review of controls prior to seeking authorisation by Council.***

CARRIED.

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday, 12 November 2015



Cr. Edwards declared an Indirect Conflict of Interest (section 78) in relation to Item 10.2.8 - Adoption of Planning Scheme Amendment C58 – Camerons Road. The nature of the Conflict of Interest is due to Cr. Edwards being related to people who are part of the consortium doing the amendment.

Cr. Edwards left the meeting at 5.52pm and did not participate in discussion and voting on the Item.

10.2.8 Adoption of Planning Scheme Amendment C58 – Camerons Road

Introduction

File No.: 13/06/054
Author: Lisa Gervasoni
General Manager: Satwinder Sandhu

Background

This Amendment applies to approximately 500 ha of land held in multiple ownerships west of Gisborne Road and north of Darley, generally bounded by Goodmans Creek to the east, the Lerderderg River to the south and west, and the Lerderderg State Park to the north (otherwise known as Camerons Road).

Changes to the planning scheme sought by Amendment C58 (as exhibited) are as follows:

- Rezone the land from the Farming Zone to the Rural Living Zone, with a 6 hectare minimum lot size for subdivision.
- Amend Clause 21.07 (Municipal Strategic Statement) by modifying the Bacchus Marsh Framework Plans' reference to the potential of Cameron's Road as a rural living area to "Cameron's Road rural living area."
- Apply the Design and Development Overlay - Schedule 6 (DD06) to the rezoned area to guide the future development of the land.
- Amend the schedule to Clause 66-06 to identify notice requirements to the Department of Environment and Primary Industries, for proposed dwellings within 500 metres of the Lerderderg State Park.

Council forwarded the submissions to Panel noting that there were policy implications for the proponent to overcome. Council was supportive of changes to the amendment to address policy concerns of key agencies. The report of the Panel forms Attachment 1 to this report.

Panel has recommended that the following changes be made to the amendment prior to adoption.

Changes to Schedule 5 to the Design and Development Overlay

1. *Revise the proposed Schedule 5 to the Design and Development Overlay to provide greater certainty that the dwelling envelopes shown on the map to the overlay indicate the limit of additional development.*

2. *Show dwelling envelopes for lots of less than 12 hectares that do not currently have a dwelling on them on the Dwelling Envelopes Plan that forms part of the proposed Schedule 5 to the Design and Development Overlay.*
3. *Review the location of indicative envelopes for lots subject to the Bushfire Management Overlay that rely on Camerons Road for access (Lots A, C, P, Q, H, I, L and G) to identify optimum development envelopes. This review should occur before the Amendment is adopted and should:*
 - a) *Ensure long driveways are avoided and the separation from the fuel hazard is maximised.*
 - b) *Consider whether there should be a combination of more generous defendable space and more robust construction standard than is normally required by the Bushfire Management Overlay to address the risk of fire from the landscape.*
 - c) *Continue to preclude further residential development in the north- west of the Amendment Area, being the land that was excluded from Terramatrix assessments and Lot N.*
4. *Change the proposed Schedule 5 to the Design and Development Overlay as illustrated in Appendix C, including:*
 - a) *Explicitly address the landscape scale bushfire risk by indicating that:*
 - i. *Bushfire protection measures in excess of those required under the Bushfire*
 - ii. *Bushfire protection measures specified under the Bushfire Management Overlay apply to Bushfire Prone areas on the eastern side of Camerons Road.*
 - b) *Add an objective, subdivision requirement and decision guideline that focus on the mitigation of bushfire risk and integrating this consideration with responses to other environmental issues.*
 - c) *Explicitly indicate that the Dwelling Envelopes Plan shows the number and location of additional dwellings to be accommodated.*
 - d) *Specify a minimum setback of dwellings from a road of 30 metres and 50m for outbuildings.*
 - e) *Refer to slope in terms of both percentage (%) and degrees (°).*
5. *Revise the proposed Schedule 5 to the Design and Development Overlay to prohibit development of dwellings and other sensitive uses within 500 metres of the Special Use Zone to the east of the Amendment Area.*
6. *Require a Land Management Plan to be submitted with planning permit applications for land subdivision and new dwellings.*
7. *Revise the text relating to Land Management Plans in proposed Schedule 5 to the Design and Development Overlay to the following:*

A Land Management Plan which includes:

- *Description of natural and associated features of the land including topography, soils, vegetation type, land use potentials, and threats to the sustainability of the land and its associated biodiversity values.*
 - *Management requirements to achieve sustainable land use covering:*
 - *Access arrangements*
 - *Pest plants and animals control*
 - *Biodiversity management including the protection / enhancement of native vegetation*
 - *Drainage and soil conservation*
 - *Screening vegetation (if required)*
 - *Any other matter considered to be of relevance to the responsible authority.*
8. *Include a decision guideline in proposed Schedule 5 to the Design and Development Overlay relating to whether a Land Management Plan contributes to the sustainable ongoing management of the land.*

Zones

9. *Apply the Rural Conservation Zone to land in the Amendment Area to the west of Camerons Road.*
10. *Include in the schedules to the Rural Living Zone and the recommended Rural Conservation Zone a lot size averaging provision which:*
- *Is linked to environmental gains;*
 - *Specifies that no lot should have an area of less than two hectare;*
 - *Precludes further subdivision of the larger lot(s).*

Consent to the buildings envelopes was received by Council in October 2015.

Pre exhibition

Council first sought authorisation for Amendment C58 in October 2010. In August 2011 authorisation was granted subject to 4 conditions:

- **Condition 1: Responding to Bushfire risk and Native Vegetation qualities**
The amendment documents must include detail on how the proposed rezoning will balance the bushfire management overlay requirements and bushfire characteristics of the land and the native vegetation qualities of the land and surrounding land.
- **Condition 2: Strategic justification for rural residential development**
The practice note for rural residential development, May 2012 must be fully addressed including demonstration of how the proposal supports the strategic framework, meets housing needs and the housing objectives of the area and why the location is suitable for rural residential development.

- Condition 3: Mining industry protection
The amendment documents must include a strategic assessment of planning provisions and local planning policy that recognise the significance of the nearby extractive industry and continued mineral extraction.
- Condition 4: Relevant Authorities responses
The Department of Primary Industry, the Country Fire Authority and the Department of Sustainability and Environment must be consulted in the preparation of the amendment documents and provided with notice of the amendment during exhibition.

The proponent has responded to the conditions of authorisation by supplying the following documents:

- Planning Report 'Cameron's Road Bacchus Marsh Rural Living Opportunities' prepared by Isis Planning Updated Report 17 September 2013.
- Preliminary Flora and Fauna Assessment - Rezoning investigation for Camerons Road, Coimadai - Oekologie Nov 2012.
- "Bushfire Development Report for the proposed rezoning of properties in Camerons Road, Bacchus Marsh", Terramatrix November 2012.
- Supplementary Report on Landscape Risk for the proposed Report, TerraMatrix September 17 2013.

Change to the nature of the amendment was not made to reflect the technical reports. Council officers discussed utilising the Rural Conservation Zone and building envelopes to assist in response to authorisation, however the proponents wished to proceed with the 2010 amendment.

At the April 2014 Ordinary Meeting of Council a resolution was made to seek reauthorisation of the amendment. Re-authorisation of the amendment was sought and it was re-authorised in 2014 with the following conditions which were addressed prior to exhibition.

Provide a complete package of amendment details prior to exhibition, including:

- A reworked Clause 21.07 Bacchus Marsh Framework Plan to properly identify and describe the area subject to the amendment, and substituting a more appropriate reference to the subject land; and
- Detail of the proposed DDO schedule and the extent of the area that the schedule will apply to.

Provide supporting documents as a part of the exhibition package, including the Terramatrix reports.

As the proposed Amendment affects Crown land, Native Title Services Victoria must be given notice of the Amendment.

Exhibition

Amendment C58 was placed on exhibition from 31 July 2014 to 1 September 2014. sixty one (61) submissions to the Amendment had been received by Council, with over three quarters (47) within the statutory time. Eight (8) submissions were opposed to the rezoning I requesting change; two (3) submissions were received from agencies which make no objection and fifty (51) submissions were in support of the proposal.

The key issues in relation to the Amendment were:

- Strategic support for the amendment;
- Concern regarding time taken to rezone the land;
- Fire risk;
- Native vegetation;
- Protection of Industry;
- Suitability of the land for agriculture/environmental management;
- Amenity; and
- Errors/omissions.

Panel considerations

The Planning Panel heard submissions to the Amendment in January 2015 and reported its findings to Council on 31 March 2015. In accordance with the provisions of the Act the Panel report was available to the public (including proponent and submitters) at the end of April 2015. The Panel supported limited further subdivision and housing in the area based on additional work to be undertaken by the proponent and substantive changes to the nature of the amendment.

Panel was given a wide gambit of consideration by the nature of Council's consideration of submissions. The amendment as exhibited did not gain the support of key agencies on policy grounds. As a Planning Authority Council was bound to seek an outcome that supported state policy positions but also wanted to provide opportunities for limited subdivision and dwellings in the area.

The conclusion of the report to the Ordinary Meeting of Council which considered submissions was to support the Amendment once changes were made to address key policy issues. It provides context to the discussion at Panel in relation to how to determine a planning scheme outcome that allowed development without significant policy conflict.

There are fundamental policy issues to this Amendment proceeding in the form exhibited. If Council resolves to proceed with the amendment it will require the proponent to respond to the three key policy issues:

1. *fire risk;*
2. *potential loss of native vegetation; and*
3. *impact on industry.*

This may require consideration of whether a change in zone and overlay is required in addition to other tools to restrict new dwellings to the building envelopes outside the buffers to both the Lerderderg State Park and the Special Use Zone.

Although Council understands the seriousness of these policy issues, it sought authorisation of the Amendment as it considered that the proponents should be provided with the opportunity to resolve these issues.

Proceeding to Panel will allow the proponents to consider what changes to the exhibited Amendment may mitigate any policy or implementation concern of submitters, for discussion by all parties at Panel.

State policy in relation to bushfire management and protection of industry continue to be significant issues for this Amendment. Given the evolution of State policy following the recommendations of the Bushfires Royal Commission it will be critical for the proponents to address how the amendment as a whole meets the tests within Clause 13.05-1 to: -

- Prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire.*
- Where appropriate, apply the precautionary principle to planning and decision-making when assessing the risk to life, property and community infrastructure from bushfire.*

If the Amendment is to proceed, revision by the proponent will be required to ensure that the practical outcomes of the Amendment prioritise human life, will not impact on areas of high environmental value and do not impact on significant mining and extractive industries.

Council resolved to %Accept the policy issues outlined in submissions by the Country Fire Authority; the Environment Protection Authority and Tract consultants as valid issues for response and rectification by the proponent.+ The comments of the Panel support their recommended changes to the Amendment so that a practical outcome can be achieved which prioritises human life with minimal impact on areas of high environmental value or significant mining and extractive industries.

Summary of Panel discussion of key issues

Fire

State planning policy makes it clear that the risk to life and property from bushfire is to be minimised and the protection of human life is to take priority over other policy considerations. However, this policy imperative does not mean that new residential opportunities should be created if the achievement of acceptable bushfire safety will undermine biodiversity objectives.

The bushfire risk across the Amendment Area varies. Conditions within most of the Amendment Area are within the parameters anticipated by Bushfire Management Overlay (BMO) provisions. However, there is potential for extreme fire behaviour and the risk of neighbourhood-scale destruction due to the fire hazard in the landscape to the north and north-west. This risk is

exacerbated by poor egress opportunity, particularly from the northern parts of the Amendment Area.

The Panel agrees with the CFA that the land in the north-west of the Amendment Area has the highest bushfire risk, and that the planning framework should not provide for additional housing in this area.

The Terramatrix bushfire risk assessment provides an appropriate level of confidence that dwelling envelopes can be identified for potential new lots in the other parts of the Amendment Area that will enable BMO standards to be met. However, we consider the landscape scale risk warrants a precautionary approach. Given the variation in risk across the Amendment Area, before the Amendment is approved, there should be a site by site review in the area subject to the BMO by the CFA and Council, in consultation with landowners and their bushfire expert. This review should address:

- The location of dwelling envelopes (and the driveways to them); and
- Appropriate risk mitigation measures over and above the standard BMO requirements.

This precautionary approach also extends to applying BMO standards to the bushfire prone areas that are not subject to the BMO.

Biodiversity

The biodiversity assessments of the Amendment Area demonstrate that the rural living development that would be facilitated by the Amendment can be located to avoid significant vegetation. The recommended review of indicative dwelling envelopes should continue to avoid significant native vegetation. If acceptable bushfire risk mitigation cannot be achieved while protecting significant vegetation, then additional development opportunities should not be identified for that lot. We also endorse Land Management Plans (LMPs) as an important mechanism for the enhancement of biodiversity assets, and this should be explicitly addressed in the schedule to schedule 5 to the Design and Development Overlay (DD05).

Protecting Adjoining Extractive industry

The Panel considers the planning framework should be strengthened to prohibit additional residential development within the 500 metre separation distance from the adjoining Special Use Zone (SUZ) to the east that covers adjacent quarries.

The Planning Framework

The Panel endorses the rezoning to Rural Living Zone (RLZ) on the eastern side of Camerons Road as recognising the established function of the area. However, in view of the bushfire risk and environmental challenges on the western side of Camerons Road, we consider the Rural Conservation Zone (RCZ) would provide a more appropriate planning framework than the exhibited RLZ.

The Panel has accepted that, having regard to the range of planning objectives and the constraints affecting the area, it is reasonable to establish a limit on additional development facilitated by the Amendment to approximately 20 additional dwellings. We have also recommended that lot size averaging be allowed if it is linked to environmental gains. The changes to 0005 that are recommended by the Panel are illustrated in Appendix C.

Addressing the recommendations of Panel

The changes required by Panel help give greater certainty to what may be permitted by the changes and therefore reduce the potential for strategic policy conflict. The proponents, for many years, have stated that the amendment will facilitate around 22 new dwellings in the area however the documents did not explicitly deliver this outcome, nor did key agencies have the level of certainty they desired in relation to the location of future dwelling to minimise impact to extractive industry operations, avoid impact native vegetation or minimise bushfire attack levels.

The changes recommended by Panel are generally in accordance with pre exhibition advice from officers. The Rural Conservation Zone is to be applied to land to the west of Camerons Road where there is landscape level fire risk. Location specific building envelopes have been identified, which are limited in number, and which minimise bushfire risk. Minimising impact on native vegetation was considered in the siting of envelopes however the ODO does not permit a dwelling if there is an unacceptable impact on native vegetation.

The Rural Living Zone has been kept to land to the east of Camerons Road. Building envelopes are specified so that no dwelling may be constructed within the extractive industry buffer.

Council received a copy of the Design and Development Overlay Schedule changes from the proponent and additional work by Terramatrix which identified a range of building envelope locations which were prepared at meetings between landholders and the consultants. The proponents response forms Attachment 2 to the report.

As the Panel recommendations required CFA to be on site for these considerations a meeting was held with CFA to determine whether they could consent to the envelopes without a site inspection. CFA determined that a site visit was required. The comments from the CFA (Attachment 3) were forwarded to the proponent for preparation of a revised building envelopes map for inclusion in the schedule to the Design and Development Overlay. As this was not received by the close of the agenda a hand annotated map in accordance with the comments of the CFA has been provided. The amendment will not be lodged for approval until the final map has been received.

Minor changes to the wording of the DDO schedule have been made in conjunction with the proponent to reflect the inclusion of a series of maps (one indicative building envelope map for the entire area, as well as detailed property maps showing the indicative lot and alternative lots where a site was available). As the schedule indicates that lots must meet all the provisions it is clarified that the indicative lot is the preferred site but if all other requirements are not met at this site the alternative lot should be considered.

Proposal

It is proposed that Council adopts Planning Scheme Amendment C58 with changes from the exhibited amendment to accord with the recommendations of the Planning Panel.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and natural and Built Environment
Objective	Effective and Efficient Land Use Planning and Building Controls
Strategy	Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support social, economic, environmental and well-being of the Shire.

Financial Implications

Amendment C58 is a proponent led amendment. Council incurred unbudgeted expenses to hire legal representation to facilitate resolution of policy issues during the Panel process. The proponent has paid the Planning Panel fees and will be responsible for paying the statutory fees associated with consideration of the amendment for approval.

Risk & Occupational Health & Safety Issues

There is little financial or reputational risk for Council in proceeding in accordance with the recommendations of Panel. Adopting the amendment without the changes recommended by the Panel would limit the likelihood of approval by the Minister. By foreshadowing the preparedness to change the nature of the amendment to deliver a preferred outcome, and the ability of all parties to the amendment to submit on the key outcomes to be achieved, Council believes that re-exhibition or re-notification of the amendment is not required to implement the recommendations of Panel.

Panel has applied the precautionary principle by addressing recommending changes to the documentation to reflect landscape level risk and minimise risk beyond that delivered by the BAL system alone.

Council has made a decision within 40 business days of the receipt of all information required by the Panel in order to be able to adopt the amendment.

Community Engagement Strategy

The amendment was exhibited in accordance with the Planning and Environment Act 1987. A Panel was appointed by the Minister for Planning to consider submissions to the amendment via public hearing.

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 - Lisa Gervasoni

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

Conclusion

Since the receipt of the report of the Planning Panel the proponent has been working with its consultants and relevant agencies to alter the amendment in accordance with the recommendations of the Planning Panel. This includes a change of zone to the western portion of the land and the specification of building envelopes outside which development cannot occur. These changes minimise risk to life and property from bushfire and protect state significant extractive industry whilst allowing limited additional dwelling opportunities within the development area.

Recommendation:

That Council:

- 1. In accordance with Sections 27 and 29 of the Planning and Environment Act 1987, after considering the report of the Planning Panel, adopts Amendment C58 with, as contained in Attachment 4 to this report.**
- 2. Authorises the CEO to make any changes to the explanatory report; instruction sheet or other technical amendment documents to give effect to Resolution 1 prior to submitting the amendment for approval.**
- 3. Submit the amendment for approval by the Minister for Planning once the proponent has submitted an amendment map for use in the schedule to the DDO to the satisfaction of the CFA and the General Manager Growth & Development.**

Resolution:**Crs. Dudzik/Tatchell*****That Council:***

- 1. In accordance with Sections 27 and 29 of the Planning and Environment Act 1987, after considering the report of the Planning Panel, adopts Amendment C58, as per Attachment 10.2.8(d) Schedule 5 to the Design and Development Overlay and planning Scheme maps, attached to this report.***
- 2. Authorises the CEO to make any changes to the explanatory report; instruction sheet or other technical amendment documents to give effect to Resolution 1 prior to submitting the amendment for approval.***
- 3. Submit the amendment for approval by the Minister for Planning once the proponent has submitted an amendment map for use in the schedule to the DDO to the satisfaction of the CFA and the General Manager Growth & Development.***

CARRIED.***Cr. Edwards returned to the Meeting at 5.56pm.***

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 25 November 2015



10.2.9 Victorian Environmental Assessment Council Historic Places Investigation Draft Proposals Submission

Introduction

File No.: 02/14/005
Author: Coordinator Strategic Planning Lisa Gervasoni
General Manager: General Manager Growth and Development
Satwinder Sandhu

Background

The Victorian Environmental Assessment Council (VEAC) is a body appointed by the Minister for Environment and Climate Change to provide independent advice to the Victorian Government on protection and management of the environment and natural resources of public land. They are currently investigating historic places on public land.

Terms of Reference

The Minister for Environment and Climate Change hereby requests the Victorian Environmental Assessment Council (the Council) to carry out a statewide investigation into historic places¹ on public land in Victoria.

The purpose of the Historic Places Investigation is to:

- a) review current information and information sources on historic places on public land, including the representation of historical themes;*
- b) examine and provide an assessment of current information, management arrangements for historic places in Victoria and any issues and opportunities related to their future protection, use and sustainability; and*
- c) make recommendations for opportunities to improve management arrangements to conserve, protect and enhance the historic, community and educational values of these places, including the potential for sustainable use and adaptive re-use of historic assets.*

In undertaking the investigation, the Council is requested to consider how best to manage and conserve the wide diversity of historic places on public land in the context of available resources, pressures on heritage places and emerging trends in heritage conservation. In particular, the investigation should focus on options for managing historic places that are currently difficult to manage.

In addition to the considerations in section 18 of the Victorian Environmental Assessment Council Act 2001, the Council must take into account the following matters:

- i. relevant State Government legislation, policies and strategies, Ministerial statements and reports by the Victorian Auditor-General;*
- ii. agency databases for historic places assets;*
- iii. relevant regional programs, strategies and plans; and*
- iv. relevant agreements under the Traditional Owner Settlement Act 2010 and the Conservation, Forests and Lands Act 1987.*

There are two Municipal Association of Victoria representatives (Moorabool and Murrundindi) on the Community Reference Group for the investigation. The investigation has focused primarily on crown land places managed by the State rather than local government. VEAC has toured places in Moorabool, including the Bacchus Marsh Avenue of Honour on two occasions.

VEAC are seeking submissions to their draft recommendations by 22 December 2015.

Recommendations for management accountability and strategic planning

- *R1 Accountability for public land heritage*
- *R2 Minimum standards for management of historic places on public land*
- *R3 Reliable well-managed data to inform strategic management planning*
- *R4 Identifying heritage places on public land to address under-representation of some place types on the Victorian Heritage Register*

Recommendation for acknowledging shared values

- *R5 Continuing work to recognise and protect shared values*

Recommendations for improving management arrangements

- *R6 Improving government leasehold arrangements*
- *R7 Improving arrangements and support for community-based committees of management*

Recommendations for broadening the funding base

- *R8 A trust for public land heritage*
- *R9 A revolving fund for public land heritage*

Proposal

That the Moorabool Shire make a submission to the Historic Places Investigation Draft Proposals Paper to promote understanding of the challenges for local government to continue to manage crown land on behalf of the State with a capped income stream which does not consider the extent of / cost of managing assets on crown land.

Issues

Differentiation between public land managers

The VEAC Act comprises land (including government road reserves, seabed and river beds) and freehold land owned by state government departments, agencies and bodies. Public land does not include land owned by local government however it does include crown land managed by local government. This is an impact on the applicability of recommendations in relation to funding. Local Government should ensure that any funding program established applies to public land . whether it be owned / managed by state or local agencies.

Support to local government / cost of managing places

Local Government often has a range of places important to local communities, halls, bridge, avenues, parks. Many of these places are of local heritage significance, with some of State significance. The report addresses the challenges faced by state agencies in managing heritage which is not seen as being %ore business+ despite statutory responsibility. This is also a problem for local government. In many instances it is increased as communities demand local government maintain places, such as Avenues of Honour, even if the management responsibility is with the crown. Allocating resources to these places will be a greater challenge for peri urban councils\$ under infrastructure funding pressure due to growth, a lower rate base, large geographic areas with many heritage places to manage and rate capping processes. It will be critical for local government to raise the need for funding and assistance to historic places in public ownership apply to any public land manager.

Support for local as well as state places

The report places greater emphasis on the Victorian Heritage Register. While the Bacchus Marsh Avenue of Honour is on the VHR it does not necessarily follow that it is more significant or valued by its local community than other avenues within the Shire. The process of identifying local heritage places provides data for comparative analysis for consideration of ~~an~~ exemplarsqfor the Victorian Heritage Register. The most effective way to ensure that ~~an~~ under-representedq heritage items are identified is by ensuring, by continued heritage study funding, that all Councils have undertaken a study of all places within its area and that gap studies are undertaken for studies completed before the current heritage system.

Support for documenting and funding best practice management

Preparation of conservation management plans for public heritage places ensures that management practices are undertaken on an ongoing basis and avoids or prolongs more costly intervention. Providing funds to all state and local agencies to prepare conservation management plans, and requiring conservation management plans for access to heritage funds would ensure best practice management and promote efficient and effective management of public land.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Promote, and enhance places of heritage, landscape and environmental significance.
Strategy	Develop future planning policy to ensure it: <ul style="list-style-type: none"> • Preserves the unique character and sense of place

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Management of Assets and Infrastructure.
Strategy	Develop asset management plans for all asset classes.
Key Result Area	Representation and leadership of our community
Objective	Leadership through best practice community engagement
Strategy	Pursue strategic alliances, stakeholder forums and advisory committees that assist Council in policy development and service planning.
Key Result Area	Representation and leadership of our community
Objective	Advocate for services and infrastructure that meets the Shire's existing and future needs.
Strategy	Advocate for services and infrastructure that meets the Shire's existing and future needs.

Financial Implications

Making a submission to the enquiry promoting the eligibility of local government owned or managed places may have a positive financial outcome in relation to access to funding for asset management actions at heritage places.

Risk & Occupational Health & Safety Issues

There is no risk related to making a submission to a VEAC inquiry.

Community Engagement Strategy & Communications Strategy

As VEAC are the body responsible for consultation Council's role will be to ensure that relevant community members and groups are aware of the Historic Places Investigation Draft Proposals paper. This could be promoted via social media and emails to relevant s86 committees or Reserve Committees of Management.

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 – Lisa Gervasoni

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

Conclusion

The VEAC Historic Places Investigation Draft Proposal Report identifies many of the challenges facing public land managers. Council should submit in general support of the proposals on the proviso that funding and support be offered to all public land managers, including Local Government. A copy of the submission should be forwarded to the MAV and the Minister for Local Government to seek their advocacy for the support in study and management funding to local government.

Resolution:

Crs. Spain/Tatchell

That Council:

- 1. Writes to the Municipal Association of Victoria and the Minister for Local Government seeking their support to work with the Minister for Environment and Climate Change and the Minister for Planning for ongoing and improved support to local government in the identification and management of heritage places.**
- 2. Resolves to authorise the CEO to make a submission to the Victorian Environmental Assessment Council Historic Places Investigation Draft Proposal Report that is generally in the form of the attached document.**

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Friday, 13 November 2015



10.2.10 Integrated Strategies - Adoption

Introduction

File No.: 02/14/005
Author: K. Leann Brown & Andrew Goodsell
General Manager: Satwinder Sandhu

Executive Summary

Council has prepared four integrated strategies:

- Moorabool Shire Economic Development Strategy;
- Agribusiness Analysis: Proposed Parwan Employment Precinct;
- Moorabool Industrial Areas Strategy; and
- Moorabool Shire Council Retail Strategy 2041.

These went through a public exhibition process from 9 September to 9 October, 2015. There were three submissions received which do not warrant substantial changes to any strategies. Only minor clarification has been made to the Retail Strategy.

It is proposed that Council adopt the four integrated strategies on the following basis:

- Council adoption of the strategies is required to finalise funding arrangements with Regional Development Victoria for the Moorabool Shire Economic Development Strategy and the Agribusiness Analysis: Proposed Parwan Employment Precinct;
- Public consultation has demonstrated strong support for the strategic responses within the integrated strategies;
- The four strategies are required to support grant applications for implementation initiatives; and
- The strategies are required as endorsed reference documents for planning scheme amendments.

Background

This report presents four integrated strategic projects designed to inform the overall strategic framework of Moorabool 2041. The integrated strategies presented for consideration by Council are:

- Moorabool Shire Economic Development Strategy;
- Agribusiness Analysis: Proposed Parwan Employment Precinct;
- Moorabool Industrial Areas Strategy; and
- Moorabool Shire Council Retail Strategy 2041.

The integrated approach provides a mechanism to assist Council with determining priority projects and advocacy across strategic planning, economic development and all other spheres of Council.

Strategy specific recommendations and key themes presented have been verified via feedback from the Strategy Reference Group established for the project and Public Exhibition processes.

Strategic Directions

A thematic analysis of the four strategies identified the following key themes:

- Infrastructure;
- Precinct Development;
- Industry Sectors;
- Commercial and Council Land Development;
- Employment; and
- Investment Attraction.

These themes assist Council with the process of determining priority projects, encourages stronger alignment of work programs, more strategic use of resources, and potentially better outcomes for the community.

Infrastructure

“The capacity to achieve long term economic development in Moorabool is underpinned by the need for significant investment in a range of infrastructure.”

Issues identified range from inadequate roads, traffic flow and traffic management in Bacchus Marsh to the provision of basic services (water, gas, power and sewage) at new employment clusters (i.e., Parwan and Maddingley South) and expanding industrial sites within Moorabool.

Addressing infrastructure issues should provide the foundation for existing business to expand, while improving the marketability and attractiveness of existing precincts to new investment.

Council's primary role is advocating for partnerships for infrastructure services/resources beyond those normally provided by Council, either by lobbying State and Federal governments, or through private investment and development (see MSC Parwan Servicing Plan, 2015).

Precinct Development

“Well designed and economically vibrant precincts and activity centres are strongly recommended.”

The Retail Strategy defines a four centre policy, with a major precinct at Bacchus Marsh Town Centre, neighbourhood centres at Stonehill and Darley, local activity centres (i.e., Maddingley) (p. 69), and a likely need for the future expansion of Darley Plaza.

The Town Centre retail precincts of Bacchus Marsh and Ballan require significant streetscape and place-making investment as integrated cultural spaces with services to attract residents and foster retail activity.

Identifying a location for bulky-goods retailing in Bacchus Marsh is recommended to stem escape expenditure. A methodology has been developed to enable shortlisting of preferred sites for rezoning and overlay controls.

The development of Parwan as an agribusiness employment precinct focus on supporting the expansion of existing operators, then on attracting new vertically integrated agribusinesses.

Council's role in precinct development is largely advocacy, strategic planning and investment attraction and where strategically beneficial to the community, development.

Industry Sectors

"Priority industry sectors identified for Moorabool include retail, servicing industries, and agribusiness."

Other sectors demonstrating growth, development opportunities and potential for employment are tourism, health services and education.

Council has an ongoing role to ensure that the preconditions for attracting new business and development are in place as a precondition for advocacy.

Commercial and Council Land Development

It is recommended that Council examine current land supply, including Council owned land, and how it might be developed for multiple uses and maximum community benefit. This work needs to address current and long term floor-space requirements.

Employment

The imperative for economic growth and local employment is best demonstrated by the Economic Development Strategy core objectives:

1. Advocate for new local jobs, for local people;
2. Promote a diverse and entrepreneurial local industry base; and
3. Build the capacity and diversity of our workforce.

Through advocacy, addressing infrastructure requirements and precinct development, Council can assist with establishing the pre-conditions for attracting new investment and creating new local employment opportunities.

Building business capacity and facilitating networks are integral to ensuring alignment of investment and employment opportunities with workforce needs.

Investment Attraction

“Moorabool needs to attract investment to generate local jobs.”

Key strategy recommendations focus on facilitating and expediting job-creating investment and continuing Council's case management approach to applications. Creating a business friendly environment is a whole of Council responsibility (i.e., planning, infrastructure, community planning and communications).

Targeted marketing campaigns towards prospective industry sectors will create awareness, promote key features of Moorabool and build awareness about investment opportunities. Council's branding for Live, Work, Invest and Life was meant to be easy resonates with home based business, but needs reviewing in the context of attracting identified industry sectors to the Shire.

Integrated Strategies Overview

MSC Economic Development Strategy

“The diversity of Moorabool's economy will underpin the Shire's economic resilience, while growth will drive new economic opportunities.”

With population growth comes a range of challenges such as pressure on infrastructure and how to grow a changing industry mix in a manner which generates local employment for local residents.

Prospective growth industries identified include: agribusiness processing and primary production, professional/business services, health services, retail, tourism and education. To achieve this growth, the following precincts have been identified for development:

Parwan Employment Precinct

Unlocking the potential for private agribusiness investment in Parwan will be critical to adding higher value, export oriented jobs. Resolution of infrastructure requirements is an essential pre-condition for these investments to occur.

Bacchus Marsh Town Centre

As Bacchus Marsh develops as a Regional Service Centre, greater focus needs to be placed on developing service industries. Strategic investment in Bacchus Marsh is likely to provide the largest concentration of new jobs via retail, health services and professional activities. Land supply for new initiatives (i.e., office and public space) needs investigation.

Ballan Town Centre

Ballan is well positioned for strong potential growth from population growth, health service investment and visitor servicing. Opportunity exists to promote the location as investment for tree-change professionals, tourism retailers and health service providers

Developing Service Clusters

Council needs to plan for developing service clusters in small towns (i.e., Gordon, Wallace/Bungaree, Blackwood) and hubs (i.e., Darley and Maddingley). There is an imperative to ensure the timely provision of services and diverse retail offerings.

Year One Commencement Priorities

Ten priorities (EDS, p. 33-34) are identified for Economic Development based on: achieving the biggest impact on objectives for Council resources expended; capacity to increase local jobs; ability to promote a diverse economic base and priority precinct localities.

1. Infrastructure investment to resolve traffic circulation in Bacchus Marsh.
2. Resolve infrastructure issues in Parwan Precinct to enable investment.
3. Investigate the viability of sector/interest specific business networks and the early establishment of a retail group in Bacchus Marsh.
4. Develop online presence/material for priority business precincts.
5. Establish industry led local business networking opportunities.
6. Support agricultural networks through marketing and networks.
7. Advocate for investment in health facilities and precinct planning.
8. Explore options for expediting commercial land development in Bacchus Marsh Town Centre.
9. Explore opportunities to support workforce capacity.
10. Explore opportunities to participate in regional groupings in western Melbourne and adjoining shires.

MSC Retail Strategy, 2041

“Strong growth is expected to continue for the foreseeable future with most growth occurring in the Bacchus Marsh region.”

Analysis reveals that around 6,000sq.m of bulky goods/homemaker floorspace is required at present in Bacchus Marsh to help reduce non-food retail escape expenditure from the Shire. Site selection criteria and separate rezoning processes have been developed to identify preferred locations.

Sufficient demand exists over the medium term for Darley Plaza to be expanded to include a larger supermarket and specialty shops. The planning scheme should be designed to facilitate this outcome.

Maddingley West has a permit for development, which will likely proceed once the catchment population is sufficient to support the initiative. Precinct development may be expedited with rapid population growth and appropriate investment incentives.

Current demand for floorspace in Ballan could be met by expanding the supermarket and adding additional fresh food specialty stores. By 2041 Ballan is considered able to support new cafes/restaurants, convenience retail stores, a discount variety outlet and more retail services. As retail floorspace demands increase, this could be provided across villages such as Ballan and Gordon.

Underpinning the strategy is a clear retail hierarchy with expected retail mix, floor space demand and timelines to drive strategic planning policy.

Recommendations

Moorabool Retail Strategy 2041 (p.106) recommendations are:

1. Optimise the retail mix and encourage a concentration of appropriate and diverse facilities within Bacchus Marsh Town Centre.
2. Position Bacchus Marsh Town Centre for growth, keeping its role as the key activity centre for Moorabool, and improve movement in the town centre.
3. Create a sense of place for the Bacchus Marsh Town Centre.
4. Provide a broader range of facilities and services in and around Bacchus Marsh Town Centre.
5. Develop Moorabool as a retail tourism destination.
6. New/expansions of activity centres to serve growth areas (i.e., Darley).
7. Identify out-of-centre development opportunities in Bacchus Marsh through use of site criteria (i.e. bulky goods) which in turn will drive preferred zones and overlays for these uses.
8. Facilitate improvement of the retail offer in Ballan Town Centre.
9. Encourage the small towns to reach their potential.

Agribusiness Analysis: Proposed Parwan Employment Precinct

“Key infrastructure constraints include: gas, class A water, power and poor road access.”

The project analysed current and prospective employment within the proposed precinct, focusing on long term sustainable employment through agribusiness.

Probable and best use is a range of vertically integrated businesses with the ability to drive employment growth. Currently, this includes: hydroponic glasshouse production, red meat processing and poultry production. If constraints are resolved, the most probable uses are: mix of feedlot/sale yards, mushrooms, poultry hydroponics, and associated co-located industries.

Agribusiness sectors likely to generate potential employment in the precinct:

• Hydroponics	600 employees	
• Mushrooms/composting	135	‰
• Red Meat processing	400	‰
• Feedlot/Sale Yards	15	‰
• Alternative Energy	15	‰
• Bulk Distribution	10	‰
• Poultry	6	‰
• Other	15	‰

Recommendations

The Agribusiness Analysis recommends (p.4):

- Improvement of road linkages
- Provision of natural gas
- Provision of Class A water supply
- Appropriate town planning provisions
- Potential municipal rate subsidy
- Broadband installation
- Maintenance of an adequate power supply

Moorabool Industrial Areas Strategy

“All precincts suffer from a lack of infrastructure.”

Total demand for industrial zoned land is expected to increase from 141 hectares today to 193 hectares in 2051. However, enough industrial zoned land is available to accommodate industrial business activity if adequate supporting infrastructure is in place. Forty-five percent of industrial zoned land is currently considered underutilised due to being vacant or in agricultural use.

Broadly, demand is shifting from manufacturing towards service industrial needs in the Shire as part of the changing shape of industrial land use within the Shire. Planning scheme will need to be monitored and maintained to ensure it reflects these shifts in the broader economy.

In regard to existing industrial zones in Ballan and Maddingley, it has been noted that these are impacted by residential encroachment, reducing viability as heavy industrial zones. These areas may be more suitable to manufacturing, transport and warehousing and local service industry.

Population servicing industries will continue to be the fastest growing sectors (Healthcare, Construction, and Retail) requiring the greatest levels of land supply to keep pace with growth and to provide local employment opportunities.

Strategic Directions

Strategic directions are detailed in the Moorabool Industrial Areas Strategy Executive Summary and on pages 81-85 of the report, including:

1. Alternative locations capable of accommodating heavy industry need to be identified to attract new industrial investment with appropriate buffers remote from housing.
2. Parwan identified as the best location for heavy industry due to natural advantages - proximity to Melbourne/absence of residential encroachment.
3. Parwan requires the development of a Governance Model, allocating clear stakeholder roles, for the delivery of support infrastructure including gas, water, improved road access to Western Freeway and possibly other incentives to facilitate/consolidate competitive advantages.
4. Locate industrial precincts as close to Woolpack Road as possible.

5. Provision of Eastern Bypass and the Freeway Interchange are likely to become essential projects.
6. Nominate one precinct and encourage manufacturing cluster in one location (potentially Parwan).
7. If Parwan is the preferred Manufacturing location and is suitable serviced and funded, transition plans towards lower impact activities should be encouraged for Maddingley 1 (Station St) and 2 (Hillside St) and Ballan.
8. Population servicing industries should locate in Ballan and Maddingley.

Policy Implications

Alignment exists between Plan Melbourne, the Central Highlands Growth Plan and the strategies presented in this report, particularly in the need to:

- Support population growth,
- Provide opportunities for local employment;
- Provide adequate infrastructure to support growth, and to
- Strengthen and diversify the Shire's economy.

This alignment provides a strong agenda for Moorabool 2041 in terms of driving decision making, co-ordinating actions and managing growth.

Proposal

The Integrated Strategies Report provides Council with an overview of key findings, themes and recommendations. Strategy specific recommendations and key themes have been verified via feedback from the Strategy Reference Group established for the project and Public Exhibition process.

It is proposed that Council adopts the four Integrated Strategies.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Natural and Built Environment
	Community Wellbeing
Objectives	Effective integrated strategic planning in place to create sustainable communities.
	A strong and diverse local economy.
Strategy	Adoption of Moorabool 2041 Framework.
	Investigate and plan areas for potential employment zones.

This proposal is consistent with the 2013-2017 Council Plan.

Financial Implications

Strategic directions and recommendations proposed within the Report may have financial implications for long-term planning in economic development and advocacy projects for the Shire. Potential investment and/or contributions required will be identified in work plans and Council advocacy programs.

Implementation of planning scheme amendments concerning policy and/or zoning will generate costs to be addressed in Council budgeting processes.

Risk & Occupational Health & Safety Issues

There are no O H & S issues or risks associated with this Report.

Community Engagement Strategy

Council convened a meeting of the Strategy Reference Group on 5 October 2015 to discuss the recommendations of the four strategies, key themes and commencement priorities for economic development. A total of eleven people participated in the workshop of which six were key industry leaders from the Shire:

- Noelene Watson. Managing Director, Don Watson Transport
- Robert Eskdale. President, Ballan and District Chamber of Commerce
- Joe Failli, Director, Westside Meats
- Peter Head. General Manager, Boral Quarries Southern Region
- Tony Paarhammer. Director, Paarhammer
- Geraldine Lewis. Business Development Manager, Federation University
- Andrew Goodsell. Acting Manager, Strategic and Sustainable Development (MSC).
- Peter Forbes. Manager, Economic Development and Marketing (MSC).
- Leann Brown. Economic Development (MSC).
- Satwinder Sandhu. General Manager, Growth and Development (MSC).
- Paula Lawrence. Senior Associate, Potts and Associates.

The public consultation stage for the strategies involved a four week public exhibition period from 9 September to 9 October, 2015 via Councils Have Your Say community consultation platform. Three written responses were received which were presented to Council at an AOC on 5 November, 2015.

Noting that the Retail Strategy sets out criteria for identifying suitable locations for restricted retail (bulky goods/homemaker centres), it was deemed appropriate to identify the site on the corner of Gisborne Road/Clifton Drive as a potential investigation area. The relative merits of amendment C71 (Bunnings) and future investigations of zones for these uses are separate matters.

As a result, the following minor amendments were made to the Moorabool Shire Council Retail Strategy 2041:

Dot point 1, p.58: ~~A~~ site has been identified for a proposed bulky goods facility comprising restricted retail, trade supplies and landscape gardening supplies land uses on Gisborne Road, immediately south of the Western Highway. Considering the site against the key attributes detailed above, it is considered that, without prejudice, it may be appropriate for bulky

goods/homemaker facilities. In particular, the site is located on a major road, is highly exposed to passing traffic, is large enough to accommodate a number of different bulky goods/homemaker uses, and is centrally located to residents of the total Bacchus Marsh region; and

Map on page 59 amended to read potential restricted retail site. Also, in the legend there is reference to the application of criteria contained within the Retail Strategy to undertake a more strategic site specific assessment of preferred restricted retail (bulky goods) locations.

Engagement	Stakeholder	Activities	Outcome
Collaborate	Councillors	Assembly of Council	Councillor - feedback
Consult	Business Sector Interest Groups Community Groups Key stakeholders (utilities)	Meetings & 5 Focus Groups (60 participants) Phone Survey/ Interviews (250) Surveys (125) SRG Workshop - 1 Public Exhibition Have Your Say Final SRG Workshop	Wide community /business participation in consultation activities (495+ participants) Community Key Industry Leaders
Involve	Strategy Reference Group Internal/ Cross departmental	Workshops (2) Project Control Groups Meetings. Inceptions ILM Development Meeting	60 total 4 staff 8 staff

Communications Strategy

Key Industry Stakeholders and the community have had the opportunity to participate through the development and review stages of the project as per Community Engagement Strategy.

A media release announcing the adoption of the Integrated Strategies will be circulated local newspapers and social media communications.

The Strategies will be available for viewing on Councils website.

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 – K. Leann Brown & Andrew Goodsell

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

Conclusion

This report presents the following Strategies:

- Moorabool Shire Economic Development Strategy;
- Agribusiness Analysis; Proposed Parwan Employment Precinct;
- Moorabool Industrial Areas Strategy; and
- Moorabool Shire Council Retail Strategy 2041.

A thematic analysis of the Strategies was undertaken to provide Council with a conceptual framework to assist with the process of determining priority projects, stronger alignment of work programs, more strategic use of resources and potentially better outcomes for the community.

Strategy specific recommendations and key themes have been verified via feedback from the Strategy Reference Group established for the project and Public Exhibition process.

It is proposed that Council adopt the four Strategies as tabled.

Recommendation:

That Council:

1. Adopts the following strategies:

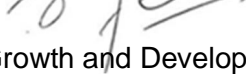
- **Moorabool Shire Economic Development Strategy;**
- **Agribusiness Analysis: Proposed Parwan Employment Precinct;**
- **Moorabool Industrial Areas Strategy; and**
- **Moorabool Shire Council Retail Strategy 2041.**

Resolution:**Crs. Spain/ Dudzik*****That Council:***

- 1. *Adopts the following strategies:***
 - ***Moorabool Shire Economic Development Strategy;***
 - ***Agribusiness Analysis: Proposed Parwan Employment Precinct;***
 - ***Moorabool Industrial Areas Strategy: and***
- 2. *Defers adoption of MSC Retail strategy 2041 pending review by the Urban Growth Strategy committee of the criteria for identifying specialized retailing locations.***

CARRIED.

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu 
Title: General Manager Growth and Development
Date: Wednesday, 25 November 2015

10.3 COMMUNITY SERVICES

10.3.1 Revised Draft Community Engagement Policy and Framework

Introduction

File No.: 12/01/001
Author: Renae Knight
General Manager: Danny Colgan

Background

The purpose of this report is to recommend that the Council endorse the Revised Draft Community Engagement Policy and Framework for the purposes of community exhibition for a period of four weeks.

Proposal

The Council Plan 2013-2017 includes an action to ~~review~~ the Community Engagement Policy and Frameworkq

The Community Engagement Policy was adopted at the Ordinary Meeting of Council on the 5 September 2012 and underpins the Community Engagement Framework and planning process. In accordance with the Council resolution, the Policy and Framework have been reviewed.

The Community Engagement Policy and Framework have been reviewed through a stakeholder engagement process, together with a literature review of similar policies and frameworks from other local governments.

The Revised Draft Community Engagement Policy contained in **Attachment 10.3.1a** outlines Council's ongoing commitment to high quality engagement processes. The Revised Draft Policy provides a definition of community engagement, examples of engagement opportunities and a Vision for Engagement.

The Revised Draft Community Engagement Framework and Template contained in **Attachments 10.3.1b & 10.3.1c** supports the implementation of the Revised Draft Community Engagement Policy by providing Council Officers with a consistent approach to planning for genuine and meaningful engagement processes. The Revised Draft Policy and Framework includes a Vision for Engagement in 2021. The Vision is as follows:

In 2021, Moorabool will be a leading regional Council in effective engagement both internally and externally by:

- Embedding engagement as integral to core business.
- Building and maintaining meaningful relationships with all stakeholders where feedback is both considered and valued.
- Informing our community and ensuring their opinions are acknowledged and considered in decision making.
- Providing feedback around the final decision making process.

To achieve this vision Moorabool Shire Council commits to:

- Advocate for and support the consistent and effective use of engagement plans.
- Effective engagement that requires acknowledgment of the engagement undertaken and commitment to the decisions made.
- Effective engagement that requires the Council to be clear about the purpose and scope of the engagement.
- Effective engagement that identifies and engages all appropriate stakeholders both internal and external.
- Effective engagement that considers a range of engagement techniques, traditional and innovative (including online engagement), that are tailored to meet the needs of different stakeholders.

The International Association of Public Participation (IAP2) continues to be recognised as the leading authority in community and stakeholder engagement practice. Accordingly, the Revised Draft Community Engagement Framework is underpinned by the IAP2 Public Participation Spectrum. The spectrum is a useful tool in determining how to most effectively engage a community and stakeholders around a particular issue or project. The spectrum defines five levels of participation . Inform, Consult, Involve, Collaborate and Empower. The Revised Draft Community Engagement Framework is underpinned by these five participation/engagement levels.

The Revised Draft Community Engagement Framework will be implemented over the next three years. This will include staff training in the use of the revised engagement planning templates and the development of an engagement knowledgebase to support the ongoing planning and delivery of genuine and meaningful engagement processes.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of Our Community
Objective	Leadership through best practice community engagement
Strategy	To make well-informed decisions based on input from the community and other key stakeholders through effective community engagement

The Revised Draft Community Engagement Policy and Framework are consistent with the 2013-2017 Council Plan.

Financial Implications

The implementation of the Draft Community Engagement Framework and Policy will be undertaken within existing resources.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community Engagement Policy and Framework	The review of the Community Engagement Policy and Framework is due for review.	Low	Council to review and adopt the draft Community Engagement Policy and receive the Community Engagement Framework.

Community Engagement Strategy

The following engagement activities have been undertaken, in accordance with the Council's Community Engagement Framework and Policy:

Level of Engagement	Stakeholder	Activities	Date	Outcome
Collaborate	Community Engagement Champions Group (which includes representatives from service units across the organisation)	A series of three collaborative workshops	April, May, July 2015	Community Engagement Champions collaborated to formulate clear recommendations for the Revised Policy and Framework. The group provided feedback on the Draft Framework and planning templates.

Level of Engagement	Stakeholder	Activities	Date	Outcome
Consult	Internal Staff	Team meetings with feedback sought from the Community Engagement Champions	April/May 2015	Internal staff provided feedback including the useability of the current Framework and templates.
Involve	Executive Group and Management Team	Initial scoping workshop, ongoing briefings and presentation from representative s from the Champions Group	March to Nov 2015	Feedback, including any concerns raised were reflected in the process and alternatives developed.

Communications Strategy

It is proposed that the Revised Draft Policy and Framework be put on exhibition for eight weeks to provide additional time over the Christmas and New Year period. The exhibition of the Revised Draft Policy and Framework will involve:

- “ The Have Your Say Moorabool website, Council’s Online Community Engagement Portal
- “ Making copies available at Council’s Customer Service locations
- “ Making copies available at the Lerderderg Library and the Ballan Library.

This process will be advertised through local newspapers and other communication processes i.e. email groups.

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 – Danny Colgan

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

Author – Renae Knight

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

Conclusion

The Revised Draft Community Engagement Policy and Framework outlines Council's commitment to genuine and meaningful community engagement. The Revised Draft Policy and Framework provides a Vision for Engagement in 2021 and a comprehensive process to assist Council Officers in planning for internal and external engagement processes.

The Revised Draft Community Engagement Policy and Framework were considered at a meeting of the Social Development Committee of Council on the 18 November 2015 with a recommendation by the Committee that it requests that the Revised Draft Community Engagement Policy and Framework (with any identified amendments) be presented to the December Ordinary Meeting of Council for endorsement for the purposes of community exhibition for a period of four weeks.

Resolution:

Crs. Spain/Tatchell

1. ***Endorse the Revised Draft Community Engagement Policy and Draft Community Engagement Framework for the purpose of community exhibition for a period of eight weeks.***
2. ***Receives a further report at the conclusion of the community exhibition period seeking adoption of the Revised Community Engagement Policy and Framework.***

CARRIED.

Report Authorisation

Authorised by:

Name:

Danny Colgan

Title:

General Manager Community Services

Date:

Monday, 23 November 2015



10.3.2 Bacchus Marsh West Golf Club Lease Agreement

Introduction

File No.: 471850
Author: Troy Scoble
General Manager: Danny Colgan

The purpose of this report is to recommend that the Council enter into a lease with the Bacchus Marsh West Golf Club Inc. situated at the Bacchus Marsh Racecourse and Recreation Reserve.

Background

The Bacchus Marsh West Golf Club Inc. (Golf Club) has operated a public golf course at the Bacchus Marsh Racecourse and Recreation Reserve for many years prior to Council being granted land management of the reserve by the Victorian Government. Prior to the Council becoming land manager, the Golf Club managed the land under a Crown Land (Reserves) Act 1978 lease agreement.

Discussions have been held with the Golf Club to establish a lease agreement that provide exclusive rights to the Bacchus Marsh West Golf Club for the management, maintenance and operation of the golf course at the Bacchus Marsh Racecourse and Recreation Reserve.

At the October 2015 Ordinary Meeting of Council, Council resolved:

1. *In accordance with section 190 of the Local Government Act 1989, gives four weeks public notice of its intention to enter into a lease with the Bacchus Marsh West Golf Club Inc. for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Golf Course under the following conditions:*
 - a) *An initial term of seven years plus two further seven year options.*
 - b) *An annual lease fee of \$1 per annum payable on request for the first seven year term of the lease with the fee to be reviewed at the conclusion of the seven year period.*
 - c) *The water allocation to the Golf Club be increased by 2.5% to 25% of Council's water rights when Council is provided with 100 per cent of the water right by Southern Rural Water. This provides the Golf Club with an additional 2.5mgl per year (25% of Council's water allocation) on current supply rates.*
 - d) *Council will maintain the water infrastructure at the South of the reserve as depicted in Attachment 10.3.7.*
 - e) *The Golf Club and Council will maintain the areas of the roadway entrance into the reserve including the car park as outlined in attached map in Attachment 10.3.7.*
 - f) *Council will be responsible for the upgrade of all external fencing of the reserve and will continue to work with the tenant to identify and source funding opportunities to improve the fencing.*

- g) *The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Golf Club. The Golf Club must agree to such works provided there is no obvious disadvantage to the Golf Club.*
2. *Receive, following the completion of the public submission process, a further report considering all public submissions received.*

Under section 190 of the Local Government Act (the Act), if a lease is to be for 10 years or more, then the Council is required to publish a public notice of the proposed lease and allow the community four weeks to make a submission under S223 of the Act.

The public notice advising of Council's intention to enter into the lease was advertised on 27th October 2015 with submissions closing on the 24th November 2015. No submissions were received.

Proposed Terms of the Lease Agreement

Tenure

It is proposed that the term of the lease be seven years with two additional seven year options. The Golf Club is supportive of the proposed terms. The proposed term of the lease is suitable given the significant investment that the Golf Club have already made to the Golf Club and the future plans the Club has to improve the facilities. It is proposed that the draft lease contain a provision that provides Council with the rights to undertake any further developments at the reserve in consultation with the Golf Club to ensure there is no disadvantage to the club. This provides Council with opportunities to consider outcomes from the master planning of the reserve in consultation with the Golf Club.

Water Allocations

The Golf Club are currently allocated 20mgl of Council's irrigation water allocation. This allocation equates to approximately 22.5% per cent of Council's water rights when Council is provided with 100 per cent of the water right by Southern Rural Water. The Golf Club proposed an increased allocation of at least 5% (currently equivalent to 28% or additional 5 mgl) of the Council's irrigation water allocation subject to the supply being made available to the Council at existing supply rates (100% of water right) by the supplier. Should the supply of water fall below the existing rate, the tenant will be provided with the proportionate percentage being offered by the supplier to the Council.

Due to the fluctuating water rights being made available, it is proposed that the water allocation to the Golf Club be increased by 2.5% to 25% of Council's water right. This provides the Golf Club with an additional 2.5mgl per year (25% of Council's water allocation) on current supply rates. Any surplus water identified toward the end of the third quarter each financial year can be negotiated with the Golf Club for allocation. The water supply also irrigates other reserves with the demand for water at these reserves expected to increase also as the reserves are further developed.

Maintenance / Management

The lease agreement provides the Golf Club with exclusive management and usage rights in return for the Golf Club undertaking the majority of maintenance required at the facility.

It is proposed that as land manager the Council be responsible for the following:

- the upgrade of all external fencing to the Golf course site with the club responsible for the ongoing maintenance and upkeep. Any replacement or upgrade will be undertaken in the context of the reserve master plan and will also require funding to be secured as contained in Attachment 1.
- the initial part of the entrance roadway into the site (cross over outside the boundary fence and 50 metres of the internal access road as indicated on the attached map) leading to the car park with the Golf Club responsible for internal car parking areas and the remainder of the roadways as contained in **Attachment 10.3.2**.
- Rubbish collection in accordance with the Council's policy at other Recreation Reserves which involves the provision of six 240 litre wheelie bins collected weekly. Two bins will be collected at the cost of the Council with the remaining four bins collected at the cost of the Golf Club.
- the underground water infrastructure leading to the dam.

Under the previous agreement with the former Department of Sustainability and Environment, the Golf Club paid an annual fee of \$3,638.25. It is recommended that given the Golf Club will be responsible for the maintenance of the Golf Club and plan to invest in required capital improvements at the site that the rental is set at a peppercorn rate in the first 7 years of \$1 payable upon request. It is recommended that the fees be reviewed at the end of the first 7 years of the agreement.

Proposal

It is proposed that Council enter into a lease agreement with the Bacchus Marsh West Golf Club Inc. situated at the Bacchus Marsh Racecourse and Recreation Reserve as per the conditions outline in the body of this report.

Policy Implications

The 2013. 2017 Council Plan provides as follows:

Key Result Area	Community Well Being
Objective	Increase and encourage participation in a range of sport, recreation and leisure activities.
Strategy	Promote community health and wellbeing through the provision of recreation facilities, open space, programs and activities.

The proposed lease with the Bacchus Marsh West Golf Club is consistent with the 2013-2017 Council Plan.

Financial Implications

The Bacchus Marsh West Golf Club Lease Agreement outlines conditions of responsibility for Council to be implemented over the course of the agreement. Officers will continue to source funding and resource opportunities both internally and externally to implement these actions.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Financial	Funding required to progress conditions set out in the Draft lease agreement	Medium	Business cases will be prepared for consideration in future Council budgets along with applications for external funding.

Communications and Consultation Strategy

To comply with Section 190 of the Local Government Act 1989, the Council was required to give four weeks public notice of its intention to enter into a lease of 10 years or more for the lease of land which includes a building. The public then have the right to make public submissions in accordance with Section 223 of the Act.

Public notice was provided and no submissions were received.

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 – Danny Colgan

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

Author – Troy Scoble

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

Conclusion

The Bacchus Marsh West Golf Club has operated the golf course at the Bacchus Marsh Racecourse and Recreation Reserve as a public golf course for many years. Council officers have been in discussions with the Golf Club to establish a lease agreement that provides exclusive rights to the Bacchus Marsh West Golf Club for the management, maintenance and operation of the golf course at the Bacchus Marsh Racecourse and Recreation Reserve.

The public notice period has been completed with no submissions received. It is recommended that Council enter into the lease agreement with the Golf Club.

Consideration of Presentation

Mr. Dean Cowan addressed Council in relation to the Bacchus Marsh West Golf Club Lease Agreement.

Mr. Bruce Fordyce addressed Council in relation to the Bacchus Marsh West Golf Club Lease Agreement.

The business of the meeting then returned to the agenda.

Recommendation:

That Council resolves to enter into a lease with the Bacchus Marsh West Golf Club Inc. for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Golf Course under the following conditions:

- a. **An initial term of seven years plus two further seven year options**
- b. **An annual lease fee of \$1 per annum payable on request for the first seven year term of the lease with the fee to be reviewed at the conclusion of the seven year period**
- c. **The water allocation to the Golf Club be increased by 2.5% to 25% of Council's water rights when Council is provided with 100 per cent of the water right by Southern Rural Water. This provides the Golf Club with an additional 2.5mgl per year (25% of Council's water allocation) on current supply rates**
- d. **Council will maintain the water infrastructure at the South of the reserve**

- e. The Golf Club and Council will maintain the areas of the roadway entrance into the reserve including the car park
- f. Council will be responsible for the upgrade of all external fencing of the reserve and will continue to work with the tenant to identify and source funding opportunities to improve the fencing
- g. The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Golf Club. The Golf Club must agree to such works provided there is no obvious disadvantage to the Golf Club.

Resolution:

Crs. Edwards/Dudzik

That Council resolves to enter into a lease with the Bacchus Marsh West Golf Club Inc. for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Golf Course under the following conditions:

- a. ***An initial term of seven years plus two further seven year options***
- b. ***An annual lease fee of \$1 per annum payable on request for the first seven year term of the lease with the fee to be reviewed at the conclusion of the seven year period***
- c. ***The Golf Club will be entitled to 25% of the water allocated by SRW from Councils water right each year as at 2015 entitlements. This will mean that if Council is allocated 100 mgls in a water season the golf club will be entitled to 25 mgls. If Council is only allocated 10 mgls in a water season the Golf Club will be only entitled to 2.5 mgls. Regardless of the water being allocated, the Golf Club will be responsible to pay 25% of the water right costs. Where Council has additional water available the golf club will be given the opportunity to purchase that water on a cost recovery basis.***
- d. ***Council will maintain the water infrastructure at the South of the reserve***
- e. ***The Golf Club and Council will maintain the areas of the roadway entrance into the reserve including the car park***
- f. ***Council will be responsible for the upgrade of all external fencing of the reserve and will continue to work with the tenant to identify and source funding opportunities to improve the fencing.***
- g. ***The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Golf Club. The Golf Club must agree to such works provided there is no obvious disadvantage to the Golf Club.***

CARRIED.

Report Authorisation

Authorised by:



Name: Danny Colgan

Title: General Manager Community Services

Date: Monday, 23 November 2015

10.3.3 Gordon Recreation Reserve Masterplan

Introduction

File No: 17/02/007 (1)
Author: Troy Scoble
General Manager: Danny Colgan

The purpose of this report is to recommend that the Council adopt the Gordon Recreation Reserve Master Plan.

Background

At the Ordinary Meeting of Council on the 17 March 2010, the Council resolved to endorse a program to update Reserve Master Plans for recreation reserves.

Council's Recreation Development Unit in partnership with the Gordon Recreation Reserve Committee of Management have prepared the draft Master Plan. The master plan outlines a clear, comprehensive and logical plan for the future development of all community facilities (active and passive) provided at the reserve consistent with recommendations in Council's Recreation and Leisure Strategy 2015-2021. Importantly, the Reserve Committee of Management confirmed their written endorsement of the plans at the conclusion of the process.

At the Ordinary Meeting of Council on the 7 October 2015, the Council resolved to: (i) endorse in principle the Draft Gordon Recreation Reserve Master Plan 2015 for the purposes of public exhibition for a period four (4) weeks; and (ii) receive a further report at the conclusion of the community engagement seeking adoption of the Gordon Recreation Reserve Master Plan.

Following the Ordinary Meeting of Council, the documents were advertised locally, placed on Council's website, promoted on social media and community feedback collated via Council's online engagement portal [Have Your Say Moorabool](#).

As a result of the public exhibition process, the Draft Gordon Recreation Reserve Master Plan received 32 views, however there were no submissions or feedback received from the community.

The Gordon Recreation Reserve is Crown Land managed by a Committee of Management reporting to the Department of Environment, Land Water Planning. The reserve did not have a formal existing Master Plan prior to the development of this plan. The master plan has a focus on improving the existing facilities and infrastructure provision to cater for increased usage in the future. The key directions for the plan are to reconstruct and expand the sportsground with irrigation and drainage; improve and develop netball facilities including an additional court change space and toilet facility; install sportsground and netball court lighting to Australian standards; undertake vehicle/pedestrian management improvements, undertake general reserve improvements, and; redevelop the pavilion facilities.

The recommendations, including priorities and indicative costs, are provided under Section 5.2 of the draft Gordon Recreation Reserve Master Plan. The proposed projects have been identified to drive the development of the reserve.

Policy Implications

The 2013. 2017 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	Participation in diverse sport, recreation and leisure activities
Strategy	Promote community health and well-being through the provision of recreation facilities, open space, programs and activities

Financial Implications

A strategic approach toward project funding will be required for the successful implementation of actions outlined in the Draft Master Plan including:

- Prioritising projects in Council's Capital Improvement Program & Strategic Financial Plan
- Sourcing external funding through relevant State & Federal Government Grants.
- Collaboration with user groups, including the Recreation Reserve Committee of Management, community groups and other stakeholders to source appropriate funding contributions.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community Needs	Exposes Council to a number of service gaps if high priorities in master plan not implemented	High	Future strategic planning for high priority recommendations identified in context of other capital priorities
Financial	Funding required to progress actions set out in plan	Medium	Future budgets will need to accommodate matching funding for grants.

Communications and Consultation Strategy

The engagement process undertaken to inform the development of the plan included:

- Engagement with the Committee of Management
- Community Member Questionnaire
- User group survey submissions
- Site visits and meetings with Council Officers
- Internal stakeholder meetings

The community engagement public exhibition process for the draft master plan involved seeking comment from key stakeholders and the community throughout the Shire. The Draft Master Plan was placed on Council's online engagement portal [Have your Say](#) with the Draft Master Plan receiving 32 views and 23 downloads. However there were no submissions or feedback received.

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 . Danny Colgan

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

Author . Troy Scoble

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

Conclusion

The Gordon Recreation Reserve Master Plan provides a shared vision and framework for the future use and integrated development of the reserves. The Master Plan has been prepared and driven by the community to provide a strategic basis to source grant funding for the development of the reserves. The Master Plan has been endorsed by the Gordon Recreation Reserve Committee of Management and all current user groups, with no additional feedback provided during the community exhibition period.

It is recommended that the Gordon Recreation Reserve Master Plan is endorsed and adopted by Council.

Resolution:

Crs. Toohey/Sullivan

That the Council adopt the Gordon Recreation Reserve Master Plan.

CARRIED.

Report Authorisation

Authorised by:

Name:

Danny Colgan

Title:

General Manager Community Services

Date:

Monday, 23 November 2015



10.3.4 Establishment of Moorabool Access and Inclusion Advisory Committee

Introduction

File No.: 02/01/001
Author: Robyn Salt
General Manager: Danny Colgan

The purpose of the report is to recommend that Council establish a Moorabool Access and Inclusion Advisory Committee to assist the Council to better understand the needs of people with a disability; the obstacles that prevent people from being a full and inclusive member of the community and what needs to be developed and implemented that focuses on reducing barriers to access and inclusion.

Background

At the Ordinary Meeting of Council held on 3 June 2015, the Council resolved that: *%Officers prepare a report on the need for a new Disability Advisory Committee to be established, its proposed role and terms of reference for consideration by the Council+.*

People with a disability want to be able to live, work and socialise in the same way as everyone else. This means for example, the same opportunities to use services such as safe and reliable transport, easily accessible buildings and public spaces, and support from families, friends and communities to fulfil their aspirations.

It is estimated that almost one in five people in Australia have some form of disability, with just over one in ten people having carer responsibilities. In Moorabool, 5.6 per cent of the Shire population in 2011 or 1,309 people reported needing help in their daily lives due to disability.

The establishment of an Access and Inclusion Advisory Committee will assist the Council to better understand the needs of people with a disability; the obstacles that prevent people from being a full and inclusive member of the community and what needs to be developed and implemented that focuses on reducing barriers to access and inclusion.

Proposal

The purpose of the proposed Moorabool Access and Inclusion Advisory Committee will be to provide strategic advice into the planning and provision of services and facilities across the municipality. The proposed terms of reference of the Committee is contained in **Attachment 10.3.4**.

Specifically, the Committee will provide advice to Council relating to:

- policies and strategies being developed by Council;
- planning of facilities.

It is proposed that the Committee will:

- represent the interests of all persons with a disability in the Moorabool Shire catchment area, and others who may be affected by disability.
- promote integration of disability access and inclusion as part of the core business of Council.
- respond and advise on a range of matters impacting on disability concerns, as requested by Council.
- promote, in accordance with the relevant legislation and the Access and Inclusion Plan, universal access and inclusion to persons with disability and to the wider community.

It is expected that in the first year of its operation advice will be sought from the Committee on at least the following key projects:

- promote awareness across the wider community of the Strategy and the services, programs and facilities provided by Council and health and community service organisations for people aged over 50 years, those with a disability and carers;
- ensure that community engagement undertaken by Council is accessible to people aged over 50 years, those with a disability and carers;
- monitor developments with the rollout of the Commonwealth's Home Support Program (CHSP) and the National Disability Insurance Scheme (NDIS), in terms of the implications for Council's Home and Community Care (HACC) services and programs;
- bring together external health and community service providers through existing networks to identify opportunities for joint advocacy and service planning and coordination.

Members of the Committee shall provide technical advice based on an individual level of expertise in a particular area.

Membership of the Committee will consist of a Councillor as Chairperson and eight members drawn from across the Shire. Council's Manager Aged and Disability Services or delegate will attend committee meetings on an ex-officio basis. Committee members will be appointed on the basis of skills they are able to bring to the Committee, with appointments to be made for a term of one year with membership confirmed by the Council annually.

Nominations for membership of the Moorabool Access and Inclusion Advisory Committee shall be sought through public advertisement with appointments to the Committee made by a resolution of Council.

Minutes will be taken for each meeting of the Committee and presented to the following Ordinary Meeting of Council. Any recommendations from the Committee will be presented in an accompanying report from Officers.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Community Well Being
Objective	Responsive and Accessible Community Services.
Strategy	Advocate, support and provide aged and disability services. Ensure Council's services and facilities are accessible.

The proposed Moorabool Access and Inclusion Advisory Committee is consistent with the 2013-2017 Council Plan.

The proposed Advisory Committee is also consistent with the Council's Health and Wellbeing Plan 2013-2017 which promotes community connectedness for families, children, young people, older people and people living with disabilities. The proposed Advisory Committee is also consistent with the Council's Access and Inclusion Plan and Community Engagement Policy and Framework.

Financial Implications

The resourcing of the proposed Advisory Committee will be met through the existing budget of the Aged and Disability Services Unit.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Advisory Committee Governance Requirements	Inefficient operation of the Advisory Committee	Low	Implement Advisory Committee terms of reference
Financial	Insufficient funds to cover ongoing costs of the Access and Inclusion Advisory Committee	Medium	Annual review of the committee requirements, Actively seek funding opportunities

Communications and Consultation Strategy

Nominations for membership of the Moorabool Access and Inclusion Advisory Committee will be sought through public advertisement; Council website; Council Facebook and Twitter sites and direct mail to groups and organisations.

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 – Danny Colgan

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

Author – Robyn Salt

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

Conclusion

The establishment of the proposed Moorabool Access and Inclusion Advisory Committee will provide further opportunities for expertise and community input into the planning and provision of services and facilities across the municipality

Recommendation:

That Council:

- 1. Establishes a Moorabool Access and Inclusion Advisory Committee.**
- 2. Adopts the terms of reference for the Moorabool Access and Inclusion Advisory Committee.**
- 3. Appoints Councillor _____ to the Moorabool Access and Inclusion Advisory Committee as Chairperson.**
- 4. Seeks nominations for membership of the Moorabool Access and Inclusion Advisory Committee through public advertisement.**
- 5. Receives a further report with recommendations for membership of the Moorabool Access and Inclusion Advisory Committee.**

Resolution:

Crs. Spain/Dudzik

That Council:

- 1. Establishes a Moorabool Access and Inclusion Advisory Committee.**

2. ***Adopts the terms of reference for the Moorabool Access and Inclusion Advisory Committee.***
3. ***Appoints Cr Dudzik to the Moorabool Access and Inclusion Advisory Committee as Chairperson and Cr Spain as Deputy Chairperson.***
4. ***Seeks nominations for membership of the Moorabool Access and Inclusion Advisory Committee through public advertisement.***
5. ***Receives a further report with recommendations for membership of the Moorabool Access and Inclusion Advisory Committee.***

CARRIED.

Report Authorisation

Authorised by:

Name: Danny Colgan 
Title: General Manager Community Services
Date: Monday, 23 November 2015

10.4 INFRASTRUCTURE SERVICES

10.4.1 Bacchus Marsh Integrated Transport Strategy

Introduction

Author: Sam Romaszko
General Manager: Phil Jeffrey

Background

The purpose of this report is to present the Bacchus Marsh Integrated Transport Strategy (BMITS) to the Council for adoption, following the public exhibition period.

At the Ordinary Meeting of Council on Wednesday 07 October 2015 Council made the following resolution:

Crs. Edwards/Comrie:

That Council:

- 1. Endorses in principle the draft Bacchus Marsh Integrated Transport Strategy for the purposes of public exhibition for a period of four weeks.*
- 2. Receives a further report at the conclusion of the exhibition period seeking adoption of the Bacchus Marsh Integrated Transport Strategy.*

CARRIED.

During the public exhibition period the following activities were undertaken to seek community feedback on the draft strategy.

- A discussion forum and submissions through the Have Your Say website, the Council's online engagement portal.
- Copies were available at Council's Customer Service locations including the Lerderderg Library.
- Two drop in sessions that provided the community an opportunity to view the draft Strategy and speak to Council officers and external agencies.
- The public submission process was also advertised on Council's Facebook page, the local newspaper and on the Council website.

The public exhibition period has now closed and a total of 16 submissions were received.

Key Issues Raised in Feedback

A review of the feedback has occurred and indicates in principle support of key recommendations within the strategy.

The importance of an integrated approach to transport within Bacchus Marsh was highlighted with feedback emphasising the value of pedestrian and cycling links and public transport opportunities to key destinations. Concern was expressed at the current scheduling of bus and rail services which has been identified as an implementation action within the strategy.

Major projects including east facing ramps on Halletts Way, a Bacchus Marsh Township Eastern Bypass and Halletts Way Southern Extension were also supported and welcomed by the community.

Concern was raised regarding limited opportunities within the strategy to implement minor improvements to the road network to assist in providing immediate relief to congested roads. However, the modelling undertaken to inform the strategy indicates that major infrastructure projects are required on the road network to see congestion reduce within the township. It is noted that the construction of Halletts Way (northern and southern extensions) will assist with traffic movement by providing a western link road for the town.

A copy of the feedback received through the public exhibition process is attached, along with officers response and a summary of amendments made to the strategy as a result.

Proposal

It is proposed that the Council adopts the amended Bacchus Marsh Integrated Transport Strategy (BMITS) as attached.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Representation and leadership of our community
Objective	Advocate for services and infrastructure that meets the Shire's existing and future needs
Strategy	Advocate on behalf of the community to improve services and infrastructure within the Shire

The proposal to adopt the Bacchus Marsh Integrated Transport Strategy is consistent with the 2013-2017 Council Plan.

Financial Implications

The Bacchus Marsh Integrated Transport Study is jointly funded by Council and VicRoads. There are no direct financial implications associated with the adoption of the document. All projects will be referred to the long term Capital Improvement Program and if funded, financial commitments including capital, maintenance and operation costs will be considered by Council. Key projects identified within the strategy are the responsibility of VicRoads and require State and Federal Government funding. Council's responsibility includes

advocating to VicRoads, State and Federal Government for these necessary projects to be funded.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community need and reputation	Exposes Council to a number of infrastructure gaps if priorities in the strategy are not implemented	High	Future planning for high priority recommendations identified in context of other capital priorities
Financial	Ability to fund and progress actions set out in the strategy	High	Pursue external funding options

Community Engagement Strategy

Various community engagement activities have been undertaken in accordance with the Council's Community Engagement Policy and Framework.

Strategy Development

In June 2014, community consultation sessions were held to gain as much information as possible regarding both network issues and constraints. Further to the specific consultation session, engagement with the community has occurred through the preparation of an Urban Growth Strategy focusing on Bacchus Marsh.

Between November 2014 and January 2015 Council undertook extensive consultation on the UGS with the Bacchus Marsh district community, state agencies and representatives of the development industry. Feedback from the community through the consultation process has been included within the strategy.

Public Exhibition Period

During the public exhibition period, drop in sessions were held to provide the community with an opportunity to view the draft strategy and liaise with Council officers and external agencies. Further engagement opportunities through Have Your Say, Council's website and Facebook page also occurred.

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 – Phil Jeffrey

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

Author – Sam Romaszko

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

Conclusion

A Bacchus Marsh Integrated Transport Strategy has been developed to support a sustainable, vibrant and prosperous community by providing for equitable and efficient movement of people and freight both within Bacchus Marsh. The implementation of this strategy through key projects will ensure a higher level of service for the Bacchus Marsh community enabling growth and development.

Community consultation has occurred through the development of the Strategy, including a 4 week public exhibition period to ensure input from key stakeholders and the community.

A copy of the feedback received through the public exhibition process is attached, along with officers response and a summary of amendments made to the strategy as a result.

It is now recommended that the Council adopts the amended Bacchus Marsh Integrated Transport Strategy (BMITS) as attached.

Recommendation:

That Council:

- 1. Adopts the Bacchus Marsh Integrated Transport Strategy.**
- 2. Writes to VicRoads to thank them for their support and co-funding of the Bacchus Marsh Integrated Transport Strategy.**
- 3. Writes to relevant State and Federal members and authorities seeking their support to deliver outcomes identified in the Bacchus Marsh Integrated Transport Strategy.**

Resolution:

Crs. Spain/Dudzik.

That the adoption of the Bacchus Marsh Integrated Transport Strategy be deferred to a Special Meeting of Council to be held in December 2015.

CARRIED.

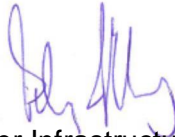
Report Authorisation

Authorised by:

Name: Phil Jeffrey

Title: General Manager Infrastructure

Date: Thursday, 26 November 2015



10.4.2 Petition; Request for Parking Restriction Amendments – Gulline Close, Bacchus Marsh

Introduction

File No.: 02/06/008
Author: John Miller
General Manager: Phil Jeffrey

Background

At the Ordinary Meeting on Wednesday 4 November 2015, Council formally received a petition containing 13 signatures, requesting that two hour parking and resident exempted parking be installed in Gulline Close, Bacchus Marsh. At that meeting it was resolved that a report be prepared by officers for Council consideration.

Gulline Close is a residential court situated opposite the emergency entrance of the Bacchus Marsh Hospital. The proximity to the hospital and limited alternative parking in the area has resulted in people, many of which work at the hospital, parking their vehicles within Gulline Close for extended periods of time. The image below shows the street configuration.



In recent years Council has also received two other requests for two hour and resident specific parking in Gulline Close, noting a lack of room to park and restricted access to homes should residents use a vehicle which has a larger turning circle. An investigation has been undertaken on both occasions and an on-site meeting held.

Traffic Count Data

Location	12m from the intersection of Clarinda Street
AADT (Average Annual Daily Traffic)	96 vehicles/day
Commercial Vehicles Per Day	4 vehicles/day
85%ile speed (speed at which 85% of vehicles travel at or below)	28km/hour

Precedence

There are currently multiple residential streets in Bacchus Marsh and metropolitan Melbourne with no parking restrictions, in the vicinity of shopping precincts, hospitals and/or business centres, including King Street and Clarinda Street.

Some streets, such as Millbank and Waddell Streets have parking restrictions on one side in order to handle the through traffic from Grant Street and to increase the amount of available parking for nearby businesses. Only streets containing businesses have parking restrictions on both sides, such as Turner or Grant Streets. Each street currently containing parking restrictions is a through road.

Parking

Recent observations have shown the current parking arrangement within the vicinity of the hospital is running close to capacity. As a result, patients and employees of the hospital are parking within the surrounding streets, such as Grant Street, Turner Street, Clarinda Street and Gulline Close.

Site visits have indicated that between 3 and 8 vehicles per day are parked in Gulline Close and are concentrated towards the Clarinda Street entrance.

Notwithstanding that, there is ample parking within Gulline Close, which could be utilised by local residents despite having off street parking within their properties.

It is also noted that in 2012/13, as part of the Clarinda Street kerb and channel replacement project, Council, in conjunction with the Bacchus Marsh Hospital, replaced existing parallel parking bays along the hospital frontage with angle parking, resulting in the creation of 15 additional parking spaces.

Proposal

As a result of the investigations, Officers found that the current unrestricted parking operates reasonably well and the road also meets on-street parking standards. Despite non-residents using the street regularly for parking, there are still space available further down the Close, even during the most congested days.

In addition, the Australian Guidelines for parking control devices do not allow special consideration for residents who own a caravan, bus, truck or other nonstandard vehicles.

It is also noted that on-street parking is a public resource, available to everyone within the community. Every endeavour is made to provide residents with parking spaces within a reasonable distance of their homes, which may include in the neighbouring streets, however there is never a guarantee that residents will be able to park directly in front of their homes.

It is considered that it is not warranted to facilitate one type of special vehicle or on-street parking within the immediate vicinity of a residence, and given the parking spaces that remain available, an amendment to the existing parking restrictions is not supported.

To increase vigilance of any illegal parking and safety issues, it may be beneficial for Council's Community Safety department to undertake regular patrols in this area in the short term.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Ensure current and future infrastructure meets the needs of the community
Strategy	provision of effective and safe transport networks

The proposal is consistent with the 2013-2017 Council Plan.

Financial Implications

There are no financial implications associated with the recommendation within this report.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues associated with the recommendation within this report.

Communications Strategy

The convener of the petition will be formally notified of Council's decision following a resolution being made.

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 – Phil Jeffrey

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

Author – John Miller

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

Conclusion

At the Ordinary Meeting on Wednesday 4 November 2015, Council received a petition requesting that two hour parking and resident exempted parking be installed in Gulline Close, Bacchus Marsh.

Following an investigation of the existing conditions, it is considered that current unrestricted parking operate reasonably well and the road also meets on-street parking standards. As such, amendments to the current parking arrangements is not considered warranted at this time.

Resolution:

Crs. Sullivan/Edwards

That Council notes the concerns of residents as outlined in the petition, however does not support amendments to the existing parking arrangements in Gulline Close at this time.

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey

Title: General Manager Infrastructure

Date: Thursday, 26 November 2015

10.4.3 Petition; Request for Traffic Calming Devices – Baker Street, Darley

Introduction

File No.: 02/06/008
Author: John Miller
General Manager: Phil Jeffrey

Background

At the Ordinary Meeting on Wednesday 7 October 2015, Council formally received a petition containing 12 signatures, requesting the installation of speed humps in Baker Street, Darley. At that meeting it was resolved that a report be prepared by officers for Council's consideration.

The construction of Baker Street, Darley, was completed in 2012 as part of the Timaru Estate subdivision (stage 2). Initially, it was constructed as a No Through Road, however following construction, a further permit was issued for the creation of 52 lots on land west of Baker Street, approving the use of Baker Street as access to this subdivision.

In 2013, the west end of Baker Street was extended to allow access to Cromarty Circuit in order to commence the construction of the new subdivision. The land highlighted in the diagram below is currently undeveloped and in private ownership, therefore connection of Cromarty Court to Silverdale Drive as an alternative access is unlikely to occur in the near future.

Around that time, Council received a complaint from a resident regarding an increase in traffic and heavy vehicle usage on Baker Street and a further request for traffic calming devices was received in late 2015.



Traffic Count Data

Location	75m south of Silverdale Drive
AADT (Average Annual Daily Traffic)	333 vehicles/day
Commercial Vehicles Per Day	10 vehicles/day
85%ile speed (speed at which 85% of vehicles travel at or below)	46km/hour
Average exceeding speed limit (average speed of vehicles traveling above the speed limit)	53.6km/hour (3.6km/hour above the speed limit)

The data shows traffic in Baker Street to have an 85th percentile speed below the zoned speed limit (50km/hr). This is not to say that there could not be isolated incidences of speeding.

Site Analysis

Baker Street is 5 metres wide, with no parking restrictions on either side, however due to its narrow width, most cars are found to park on the nature strip as can be seen in the image below.



When initially developed, Baker Street was a quiet court environment with minimal traffic, which has changed noticeably with the construction of Cromarty Court.

The combination of increased traffic volume, unrestricted parking on both sides of the street and a 5m wide road have resulted in slowing movement of traffic in Baker Street.

Generally, the traffic issues being experienced in Baker Street are:

- Increased traffic volume
- Lack of parking space
- Occasional speeding vehicles

While speed humps may assist in a reduction in speed, in this case, it will have no effect on traffic volumes as there are no alternative options for accessing Cromarty Circuit.

In relation to parking spaces, the installation of speed humps would have a negative impact as it would compromise the already limited parking spaces by eliminating the spaces immediately before and after the speed humps.

For speed humps to be effective, they need to be spaced between 80m to 150m apart, this would result in the construction of at least one calming device in Baker Street which could compromise parking spaces. The estimated cost would be in the vicinity of \$5,000.

Typically Councils follow standards and guidelines for traffic management issues. In this instance, the recorded 85th percentile speed of 46km/hr and the narrow carriageway width (5m) would not warrant installation of traffic calming devices.

It is also noted that traffic calming devices have the potential to introduce additional issues such as:

- Increase in noise and fumes next to the traffic calming structures due to slowing down and then gathering speed
- Increased glare at night from car lights
- Increased maintenance costs to Council
- Increase in traffic volume in neighboring streets as a result of eliminated car parking spaces
- Slower access for emergency vehicles.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Ensure current and future infrastructure meets the needs of the community
Strategy	Provision of effective and safe transport networks

The proposal is consistent with the 2013-2017 Council Plan.

Financial Implications

There are no financial implications associated with the recommendation within this report.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues associated with the recommendation within this report.

Communications Strategy

The convener of the petition will be formally notified of Council's decision following a resolution being made.

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 – Phil Jeffrey

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

Author – John Miller

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

Conclusion

At the Ordinary Meeting on Wednesday 7 October 2015, Council received a petition requesting the installation of speed humps in Baker Street, Darley.

Following an investigation of the existing conditions and traffic data, it is considered that the installation of traffic calming devices is not warranted at this time.

Resolution:

Crs. Sullivan/Edwards

That Council notes the concerns of residents as outlined in the petition, however does not support the installation of traffic calming devices in Baker Street, Darley, at this time.

CARRIED.

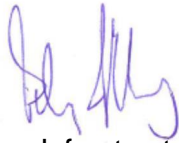
Report Authorisation

Authorised by:

Name: Phil Jeffrey

Title: General Manager Infrastructure

Date: Wednesday, 25 November 2015



11. OTHER REPORTS

11.1 Assembly of Councillors

File No.: 02/01/002

Section 76(AA) of the Local Government Act 1989 defines the following to be Assemblies of Councillors; an advisory committee of the Council that includes at least one Councillor; a planned or scheduled meeting of at least half the Councillors and one member of council staff which considers matters that are intended or likely to be:

- the subject of a decision of the Council; or
- subject to the exercise of a Council function, power or duty by a person or committee acting under Council delegation.

It should be noted, an assembly of Councillors does not include an Ordinary Council meeting, a special committee of the Council, meetings of the Council's audit committee, a club, association, peak body or political party.

Council must ensure that the written record of an assembly of Councillors is, as soon as practicable .

- a) reported to the next ordinary meeting of the Council; and
- b) incorporated in the minutes of that council meeting. (s. 80A(2))

Council also records each Assembly of Councillors on its website at www.moorabool.vic.gov.au

A record of Assemblies of Councillors since the last Ordinary Meeting of Council is provided below for consideration:

- Assembly of Councillors . Wednesday 4 November 2015 . Update on Djerriwarrh Health Services
- Assembly of Councillors . Wednesday 4 November 2015 . Integrated Studies . Community Consultation Feedback
- Assembly of Councillors . Wednesday 4 November 2015 . Lal Lal Wind Farm Project Update
- Assembly of Councillors . Wednesday 4 November 2015 . Southern Rural Water and MSC Joint Project Opportunities

Resolution:

Crs. Edwards/Tatchell

That Council receives the record of Assemblies of Councillors as follows:

- ***Assembly of Councillors – Wednesday 4 November 2015 – Update on Djerriwarrh Health Services***
- ***Assembly of Councillors – Wednesday 4 November 2015 – Integrated Studies – Community Consultation Feedback***
- ***Assembly of Councillors – Wednesday 4 November 2015 – Lal Lal Wind Farm Project Update***
- ***Assembly of Councillors – Wednesday 4 November 2015 – Southern Rural Water and MSC Joint Project Opportunities***

CARRIED.

11.2 Section 86 - Delegated Committees of Council - Reports

Section 86 Delegated Committees are established to assist Council with executing specific functions or duties. By instrument of delegation, Council may delegate to the committees such functions and powers of the Council that it deems appropriate, utilising provisions of the Local Government Act 1989. The Council cannot delegate certain powers as specifically indicated in Section 86(4) of the Act.

Section 86 Delegated Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Section 86 . Delegated Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Blacksmith's Cottage and Forge Advisory Committee of Management	17 November 2015	Cr. Comrie

Resolution:

Crs. Toohey/Spain

That Council receives the reports of the following Section 86 - Delegated Committees of Council:

- ***Blacksmith's Cottage and Forge Advisory Committee of Management meeting of Tuesday, 17 November 2015.***

CARRIED.

11.3 Section 86 - Advisory Committees of Council - Reports

Section 86 Advisory Committees are established to assist Council with executing specific functions or duties.

Advisory Committees of Council currently have no delegated powers to act on behalf of Council or commit Council to any expenditure unless resolved explicitly by Council following recommendation from the Committee. Their function is purely advisory.

Section 86 Advisory Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Section 86 . Advisory Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Audit and Risk Committee	19 August 2015 9 September 2015	Cr. Spain Cr. Dudzik

Resolution:

Crs. Dudzik/Spain.

That Council receives the reports of the following Section 86 Advisory Committees of Council:

- ***Audit and Risk Committee meeting of Wednesday, 19 August 2015.***
- ***Audit and Risk Committee meeting of Wednesday, 9 September 2015.***

CARRIED.

12. NOTICES OF MOTION

Nil.

13. MAYOR'S REPORT

Since the last Ordinary Meeting of Council, the Mayor, Cr. Comrie, attended the following meetings and activities:

Cr. Comrie - Mayor	
November/December 2015	
11 November	Bacchus Marsh Remembrance Day Service S86 Development Assessment Committee Meeting
12 November	Launch of Musical Event for Schools in Moorabool Special congratulations to students who performed so well, in particular Caitlyn Wessner (singer) and Luke Dixon (on guitar) Halletts Way Northern Extension Official Opening
13 November	Ministerial Event (sod turning) for Rowsley Crossing Loop Project
14 November	Official Opening of the Redline Raceway Race Season
16 November	Community Grants Presentation Night
17 November	Blacksmith's Cottage and Forge Committee of Management Meeting
18 November	Social Development Advisory Committee Meeting
24 November	Blacksmith's Cottage & Forge CoM Annual Christmas Dinner
25 November	S86 Rural Growth Strategy Committee Meeting Assembly of Councillors . Australia Day Selection Panel Special Meeting of Council
26 November	Mayor's Welcome with the Minister for Local Government, Melbourne
27 November	Ballan Red Cross Annual Flower Show and Luncheon
30 November	Announcement of the Blackwood Localised Septic Program
2 December	Assembly of Councillors . Bacchus Marsh Aerodrome Future Use Options Ordinary Meeting of Council

Resolution:

Crs. Sullivan/Edwards

That the Mayor's report be received.

CARRIED.

14. COUNCILLORS' REPORTS

Since the last Ordinary Meeting of Council, Councillors have attended the following meetings and activities:

Cr. Sullivan	
October 2015	
5 October	Tri-annual AGM Morrisons Recreation Reserve

Cr. Edwards	
November 2015	
18 November	Victorian Waterplan Discussion Workshop Ararat.

Cr. Spain	
November 2015	
12 November	Halletts Way Northern Extension – Official Opening. Congratulations to officers.
13 November	Ministerial Event – Sod Turning for the Rowsley Crossing Loop Project
16 November	Community Grants Presentations

Cr. Toohey	
November 2015	
17 November	National Local Roads and Transport Congress 2015
30 November	Announcement on solution for Blackwood sewerage. The Hon. Lisa Neville, Minister for Environment, Climate Change and Mary-Anne Thomas, Member for Macedon attended.

Resolution:

Crs. Sullivan/Edwards

That the Councillors' reports be received.

CARRIED.

15. URGENT BUSINESS

Nil.

ADJOURNMENT OF MEETING 6.43PM

Crs. Dudzik/Sullivan

That the meeting now stand adjourned for a period of 7 minutes.

CARRIED.

Cr Tatchell left the meeting at 6.45PM

RESUMPTION OF MEETING 6.50 PM

Crs. Edwards/Toohey

That the meeting now be resumed.

CARRIED.

16. CLOSED SESSION OF THE MEETING TO THE PUBLIC

16.1 Confidential Report

16.2 Confidential Report

16.3 Confidential Report

Resolution:

Crs. Edwards/Toohey

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*

CARRIED.

Items 16.1 . 16.3 are confidential items
and therefore not included
as part of these Minutes.

17. MEETING CLOSURE

The meeting closed at 7.19pm.

Confirmed.....Mayor.