

# AGENDA

## SECTION 86 DEVELOPMENT ASSESSMENT COMMITTEE MEETING

**Wednesday 10 May, 2017**

Council Chambers  
15 Stead Street, Ballan  
4.00pm

### MEMBERS

Cr. Pat Toohey (Chair)	Councillor – Woodlands Moorabool Ward
Cr. Tonia Dudzik (Deputy Mayor)	Councillor – East Moorabool Ward
Cr. John Keogh	Councillor – East Moorabool Ward
Cr. Paul Tatchell	Councillor – Central Moorabool Ward

### OFFICERS

Mr. Satwinder Sandhu	General Manager Growth & Development
Mr. Rob Fillisch	Manager Statutory Planning and Community Safety
Ms. Sam Romaszko	Manager Engineering Services
Mr Mark Lovell	Senior Statutory Planner
Mr. Thomas Tonkin	Statutory Planning Officer
Ms. Victoria Mack	Statutory Planning Officer
Ms. Kathleen Ly	Statutory Planner
Ms. Jacquie Elliott	Minute taker

Item	Title	Responsibility	Page No.	Action
1.	Welcome, Present and Apologies	Chair		Noting
2.	Meeting Minutes	Chair		Noting
2.1	Confirmation of previous minutes 12 April, 2017			Resolution
3.	Conflict of Interest	Chair		Noting
4.	Growth & Development Reports	S. Sandhu		Discussion
4.1	Planning Permit PA2016-275 – Use of an Existing Warehouse for a Fitness Centre and a Reduction to the Standard Car Parking Rate.	K. Ly	Page 3	Resolution
4.2	Amended Planning Permit PA2003-004 – Use of an Existing Dwelling as a Place of Assembly (Emergency Food Relief, Personal Support and Referral to Counselling) and the Development of an Access Ramp for Disabled Access.	K. Ly	Page 17	Resolution

4.3	Planning Permit 2016-108; Development of a Shed Ancillary to an Existing Dwelling at 29 Main Street, Myrning.	M Lovell	Page 27	Resolution
4.4	Planning Permit Application PA2016-182; Development and use of land for agriculture (table egg production from 800 open range hens) and development of a shed on Crown Allotment 6B, Section 17, Parish of Moorabool West, otherwise known as 68 Callaghans Lane, Gordon VIC 3345.	V. Mack	Page 37	Resolution
4.5	Planning Permit 2016-194; Two (2) Lot Re-subdivision and Reduction to the Standard Car Parking Rate for the Existing Hotel at Lot 1 on TP99725J known as 151 Inglis Street, Ballan.	M. Lovell	Page 51	Resolution
4.6	Planning Permit Application PA2016-248; Seven (7) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Land in PC 109432, 445 Old Melbourne Road, Ballan VIC 3342.	T. Tonkin	Page 64	Resolution
4.7	Planning Permit Application PA2016-249; Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan VIC 3342.	T. Tonkin	Page 77	Resolution
4.8	Amended Planning Permit 2013-118; Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture; at Crown allotment 1, Section 2, Parish of Warrenheip; Mahars Road, Warrenheip VIC 3352.	V. Mack	Page 110	Resolution
4.9	Planning Permit Application PA2014-010; 151-155 Main Street, Bacchus Marsh – Five (5) lot subdivision, creation of a carriageway easement and reduction in car parking (10 car spaces).	V. Mack	Page 123	Resolution
<b>5.</b>	<b>Update on Trends, Issues and Other Matters</b>	<b>S. Sandhu</b>		<b>Discussion</b>
<b>6.</b>	<b>Update of VCAT Decisions</b>	<b>Chair</b>		<b>Resolution</b>
<b>7.</b>	<b>Date of Next Meeting</b>	<b>Chair</b>		<b>Noting</b>
7.1	Wednesday 14 June, 2017 4.00pm James Young Room, Lerderderg Library, Bacchus Marsh			
<b>8.</b>	<b>Meeting Close</b>	<b>Chair</b>		<b>Noting</b>

## GROWTH & DEVELOPMENT REPORTS

### Item 4.1 Planning Permit Application PA2016-275

**Planning Permit PA2016-275 – Use of an Existing Warehouse for a Fitness Centre and a Reduction to the Standard Car Parking Rate.**

<b>Application Summary:</b>	
Permit No:	PA2016-275
Lodgement Date:	2 November, 2016
Planning Officer:	Kathleen Ly
Address of the land:	Lot 1 on TP 182514K 1 Park Street, Maddingley 3340
Proposal:	Use of an Existing Warehouse for a Fitness Centre and a Reduction to the Standard Car Parking Rate
Lot size:	1200 square metres
Why is a permit required	Clause 33.02-1 Section 2 Use Clause 52.06-3 Permit Requirement 52.06-5 - Reduction of car parking (18 car spaces).
<b>Public Consultation:</b>	
Was the application advertised?	No, as the subject site is not located within 30m from land within a residential zone. It is therefore exempt from public notification.
Notices on site:	N/A
Notice in Moorabool Newspaper:	N/A
Number of Objections:	N/A
Consultation meeting:	N/A
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	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.

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
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.	
<b>Officer's Declaration of Conflict of Interests</b>	
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 – Kathleen Ly</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes, to Council's Infrastructure Department.
Any issues raised in referral responses?	A Car Parking Demand Assessment Report was requested by the Infrastructure Department.
Preliminary Concerns?	The fitness centre was arisen from enforcement. Initial concerns were in regards to insufficient provision of car parking spaces.
Any discussions with applicant regarding concerns	Yes. The applicant was advised to engage with a private Traffic Engineer to prepare a Car Parking Demand Assessment Report and negotiated additional car spaces on the property.
Any changes made to the application since being lodged?	An amended site plan which provides an additional nine (9) car parking spaces.
VCAT history?	None
Previous applications for the site?	PA2002-234 issued on 8 August 2002 granted a planning permit for the Use of an Existing Factory for Motor Vehicles repairs, Panel beating and Car sales.

General summary	<p>Before the use of the land as a fitness centre, the land was previously used for motor vehicle repairs, a panel beating service and car sales. The applicant who purchased the property was not aware that a change of use permit for the fitness centre was required.</p> <p>In accordance with Clause 52.06-5A, Council's Infrastructure Department have determined that the provision of 31 spaces is required. With only four (4) spaces provided, the applicant initially sought approval for a reduction of 27 spaces.</p> <p>Notwithstanding the above, negotiations were conducted with the applicant to encourage a greater provision of car spaces. An amended site plan was submitted on 22 March, 2017 which provided a total of 13 car parking spaces and as such, the approval for a reduction of 18 spaces is now sought.</p>
<b>Summary Recommendation:</b>	
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue to Grant a Planning Permit for the Use of an Existing Warehouse for a Fitness Centre and a Reduction to the Standard Car Parking Rate for Lot 1 on TP 182514K located at 1 Park Street, Maddingley subject to the following conditions.	

### Public Notice

An application in the Industrial 2 Zone is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This exemption does not apply to land within 30 metres from land (not a road) which is in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

As the subject land is not within 30m of a residential zone, hospital or education centre the application was assessed as being exempt from notice provisions.

### Proposal

The proposal is for the change of use of an existing warehouse for a fitness centre and a reduction to the standard car parking rate. Arising from an enforcement matter, the property has been operating as a fitness centre for approximately one year. The existing warehouse was originally used for motor vehicle repairs, panel beating and car sales. There have been internal renovations completed to convert the warehouse into a fitness centre with no alterations to the façade of the building. The centre is an open structure with various fitness equipment dispersed. The fitness centre's operating hours are Monday to Friday 6am – 8:30pm and Saturday 7:30am – 12pm, with one hour in duration group sessions of 2 - 30 people held daily. The centre employs six staff members comprising of three permanent part-time staff and three casual staff, with 1 - 4 members on site whilst sessions are held.

**EXISTING SITE PLAN**  
1 : 200

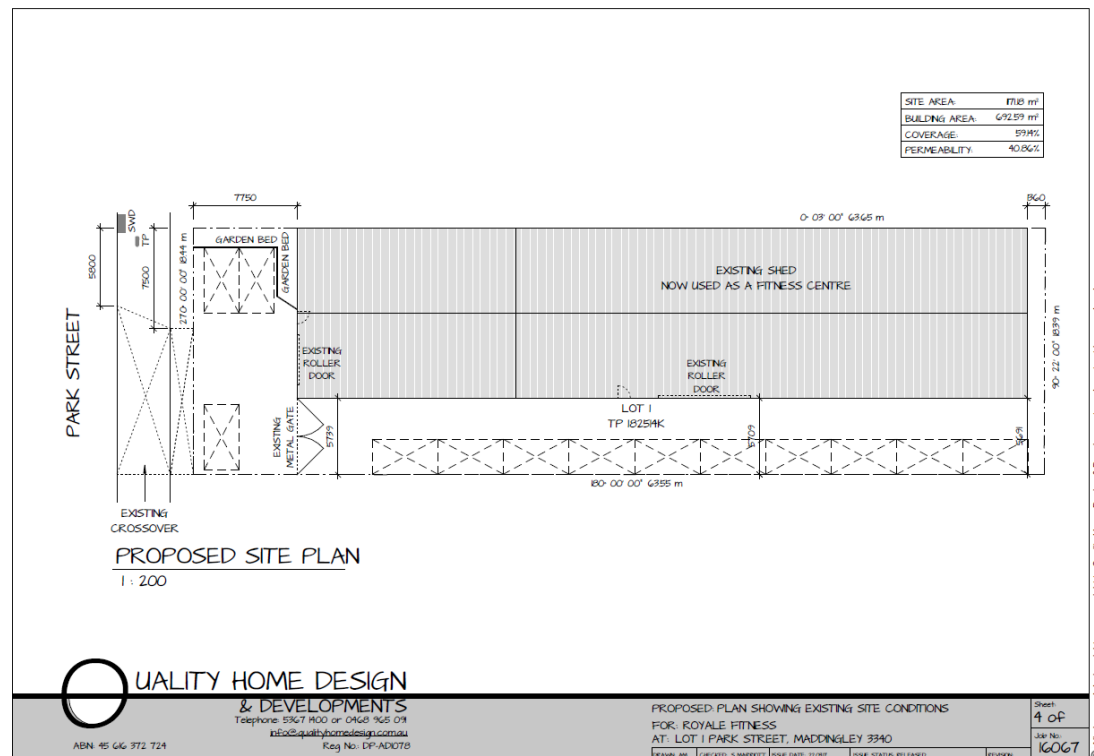
SITE AREA	1780 m <sup>2</sup>
BUILDING AREA	672.59 m <sup>2</sup>
COVERAGE	39.1%
PERMEABILITY	40.85%

**QUALITY HOME DESIGN AND DRAFTING SERVICE**  
 9 David Court, Darby, 3104  
 Telephone 9767 1000 or 0868 765 078  
 info@qualityhomedesign.com.au  
 Reg No. DP-AD078

PROPOSED: PLAN SHOWING EXISTING SITE CONDITIONS  
 FOR: ROYALE FITNESS  
 AT: LOT 1 PARK STREET, MADONGLEY 3940

DRAWN BY	CHECKED: S. HOPKOTT	ISSUE DATE: 27/06/20	ISSUE STATUS: RELEASED	REVISION
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Sheet 3 of 7  
 Job No. 16067



## 6

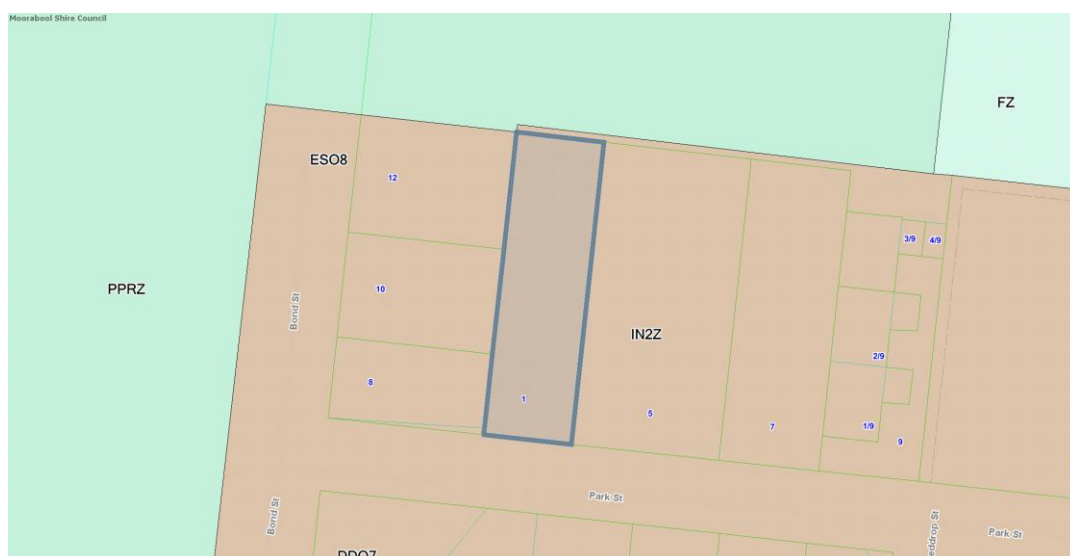
The subject site is known as Lot 1 on TP 182514K at 1 Park Street, Maddingley. Located on the northern side of Park Street is a 0.12 hectare narrow rectangular lot. The site is situated within the Industrial 2 Zone, and partly affected by the Environmental Significance Overlay – Schedule 8. The site is flat with no vegetation. There is currently an existing warehouse which has a total floor area of 692.59 square metres, extending along the western boundary. Four (4) parking spaces are currently provided at the front of the warehouse.

The site abuts the rear boundary of four smaller lots with residential dwellings. To the east is a premix concrete supplier and adjacent to the site is the Bacchus Marsh Coaches facility. The Bacchus Marsh train station is located further south and to the west, across from Bond Street, is Maddingley Park.



### Locality Map

The map below indicates the location of the subject site and the zoning of 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 17.01-1 Business;
- Clause 17.02 Industry;
- Clause 18.02-5 Car Parking;
- Clause 21.04-3 Commerce;
- Clause 21.04-4 Industry; and
- Clause 21.07 Bacchus Marsh.

## Policy Context

The State and Local planning policies identified above encourages the development of land in locations with access to physical and community infrastructure to meet the communities' needs. The proposal meets Clauses 17.01-1 and 21.04-3, which specifically encourages the provision of residential, commercial and industrial land uses within Bacchus Marsh. Clauses 17.02 and 21.04-4 discourages the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability. The proposal is not considered an industrial use, however it has been determined that it will not cause unreasonable adverse effects to the surrounding land uses. The traffic generated by the use would appear to be relatively modest with after school hours and weekends being more common high demand periods.

The proposal does not comply with the clauses outlined in the table below:

SPPF	Title	Response
Clause 18.02-5	Car Parking - To ensure an adequate supply of car parking that is appropriately designed and located.	The property is currently operational with the use of four (4) car parking spaces, which is inadequate and inconsistent with this policy.

## Zone

### Industrial 2 Zone

The site is located within the Industrial 2 Zone. Under Clause 33.02-1, a planning permit is required for the use of land as a recreation and leisure centre (fitness centre).

The key objectives of the Industrial 2 Zone, relevant to this application are:

- *To provide for manufacturing industry, the storage and distribution of goods and associated facilities in a manner which does not affect the safety and amenity of local communities.*
- *To promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone.*



- *To keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises.*

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The suitability of the proposed buildings or works for the types of industries and warehouses shown in the table to Clause 52.10.*
- *Any natural or cultural values on or near the land.*
- *Streetscape character.*
- *Built form.*
- *Landscape treatment.*
- *Interface with non-industrial areas.*
- *Parking and site access.*
- *Loading and service areas.*
- *Outdoor Storage.*
- *Lighting.*
- *Stormwater discharge.*

## **Overlays**

### Environmental Significance Overlay – Schedule 8

The site is partly affected by the Environmental Significance Overlay – Schedule 8. A planning permit is not required for the use of land as a recreation and leisure centre (fitness centre).

## **Relevant Policies**

At its Ordinary Meeting on 7th October 2015 Council adopted a policy that Council:

*Ensure all planning applications that require a reduction for car parking provisions are only approved by either the Development Assessment Committee (DAC) or at an Ordinary Meeting of Council.*

This application is being tabled at a Council meeting for a decision because the application seeks a reduction in car parking provision of 18 car spaces.

## **Particular Provisions**

### Clause 52.06 - Car Parking

The key objectives of Clause 52.06 are:

- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*

- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

In accordance with Clause 52.06-5A, where a use is not specified, the car parking spaces should be provided to the satisfaction of the responsible authority.

Council's Infrastructure Department determined that a minimum rate of 4.5 spaces/100 square metres and a desirable rate of 7.5 spaces/100 square metres. It is noted that the minimum rate would apply when there are readily available public transport or available car parking nearby. As the property is conveniently located approximately 150 metres from the Bacchus Marsh train station, the minimum rate of car spaces is deemed appropriate. The property is currently operational and has been utilizing the four (4) spaces that are currently provided at the front of the property. The existing warehouse has a total floor area of 692.59 square metres, therefore a provision of 31 spaces is required.

The proposed site plan shows a total of 13 car spaces which requires a reduction of 18 car spaces.

A Car Parking Demand Assessment has been provided which addressed the following issues:

- *The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.*
- *The variation of car parking demand likely to be generated by the proposed use over time.*
- *The short-stay and long-stay car parking demand likely to be generated by the proposed use.*
- *The availability of public transport in the locality of the land.*
- *The convenience of pedestrian and cyclist access to the land.*
- *The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.*
- *The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.*
- *Any empirical assessment or case study.*

Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- *The Car Parking Demand Assessment.*
- *Any relevant local planning policy or incorporated plan.*
- *The availability of alternative car parking in the locality of the land, including:*
  - *Efficiencies gained from the consolidation of shared car parking spaces.*
  - *Public car parks intended to serve the land.*
  - *On street parking in non residential zones.*
  - *Streets in residential zones specifically managed for non-residential parking.*
- *On street parking in residential zones in the locality of the land that is intended to be for residential use.*
- *The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.*
- *Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.*
- *The future growth and development of any nearby activity centre.*
- *Any car parking deficiency associated with the existing use of the land.*

- *Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.*
- *Local traffic management in the locality of the land.*
- *The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*
- *The need to create safe, functional and attractive parking areas.*
- *Access to or provision of alternative transport modes to and from the land.*
- *The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.*
- *The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.*
- *Any other matter specified in a schedule to the Parking Overlay.*
- *Any other relevant consideration.*

## **Discussion**

The proposal requires assessment against the Industrial 2 Zone and Clause 56.06 Car Parking. The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Use of the land as a Restricted Recreation Facility;
- Amenity impacts; and
- Provision of car parking spaces.

Assessment of these issues will be discussed in the remainder of this report.

The proposal for a fitness centre and a reduction to the standard car parking rate is generally in accordance with the State and local planning policies.

### Use of the land as a Restricted Recreation Facility

The Industrial Zone seeks to protect industrial zoned land for the purposes of industrial uses. Any use and development within this area should not create detrimental effects to the surrounding land uses. The site is located in an area which is predominately commercial/industrial in nature and does not have proximate residential zoned land. This is of advantage in respect of the proposed early and late hours of operation of the use, and noise emission from music associated with training sessions. The proposed use will assist in meeting State and Local Planning Policies which encourage the establishment of businesses in appropriate locations to take advantage of the existing infrastructure and services. Subject to conditions of the permit which limit the hours of operation of the use and which limit the noise generation from the use, the proposal is appropriate for this site.

### Amenity Impacts

The proposed use will not have any detrimental impacts on surrounding land uses. There is a mix of different commercial, industrial and public uses within the area and surrounding the subject site - none of which will be detrimentally impacted by this proposal. Furthermore, the proposed use will be setback a minimum of 150 metres from any residential zoned land. The street view of the property will remain unchanged as no external buildings and works are proposed. In addition to the above, this use will not be out of character within the immediate area and will not be a dominant use within the local area. Located approximately 250 metres

from the town centre, the property can take advantage of all available modes of transport whilst complying with the State and local planning policies and zone objectives.

The proposed use will need to ensure proper noise insulation is installed. The floors are currently insulated with rubber matting to avoid excessive noise from the dropping of weights, which is considered acceptable. Conditions will be placed on the permit to further alleviate potential noise emissions which include music and mechanical noise.

Overall, it is considered the proposed use will not have an unreasonable amenity impact on the surrounding land uses or any nearby sensitive uses.

#### Provision of car parking spaces

Clause 52.06-5 Table 1 of the Moorabool Planning Scheme does not give guidance on the number of car spaces prescribed for a restricted recreation facility. An assessment was therefore made by Council's Infrastructure Department which determined the provision of car spaces required based on the total floor area used as the fitness centre. The site currently has four (4) car spaces, but has the ability to fit five (5), which has been deemed sufficient according to the submitted Car Parking Demand Assessment Report. The report gathered data around the current mode of travel to the fitness centre and the available alternative car parking within the locality. The mode of travel survey determined that the traffic generation rate was 0.8 spaces per member. The report also identified that the peak demand was 26 spaces which occurred at 5:30pm on Friday evening. The site currently relies heavily on on-street parking of up to 21 spaces, and the available active and public transport.

The lack of car spaces on the property does not appear to have created any unreasonable adverse impacts to the surrounding land uses. The property generates peak car parking demands at a different time of day to the surrounding land uses. Weekends and after school hours are the busiest times for classes when industrial activities in the surrounding area are closed. This allows for the co-utilization of parking opportunities. As classes are one hour in duration, the turnover rate would be quite high, meaning that the parking demand would be of short duration. The applicant has also proposed an additional nine (9) spaces along the eastern boundary. This can alleviate the reliance on on-street car parking spaces. It is also noted that the property is located within walking distance to the Bacchus Marsh train station, which has connecting bus services to Hillview Estate, Darley and Telford Park.

#### **General Provisions**

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

*Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*

- *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.*

- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

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.

<b>Authority</b>	<b>Response</b>
Infrastructure	Consent

### **Financial Implications**

The recommendation of approval of this application would not represent any financial implications for 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 not undertaken for the application, in accordance with s.52 of the Planning and Environmental Act 1987. Under Clause 33.02-2, the application is exempt from notice requirements as it is not located within 30 metres from land in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

### **Options**

An alternative recommendation would be to refuse the application on the grounds that the reduction in car parking is insufficient and the proposed use is inconsistent with the provisions of the Industrial 2 Zone.

As there are no objectors, approving the application will not result in an application for review of Council's decision with VCAT

## **Conclusion**

The proposed use and reduction of car parking spaces is generally in accordance with the State and Local planning policies, the objectives of the Industrial 2 Zone and Clause 56.06.

The proposal will not cause any detrimental effects to the surrounding industrial area. The property is located within close proximity to the Bacchus Marsh town centre, which promotes the use of available public transport and active transport methods such as walking and cycling. No buildings and works are proposed and as such, any effects on the existing area are considered negligible.

The site is suitably located and configured for the proposed use. Overall, the proposal is considered appropriate and as such, warrants support.

## **Recommendation**

**That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Planning Permit for the Use of an Existing Warehouse for a Fitness Centre and a Reduction to the Standard Car Parking Rate for Lot 1 on TP 182514K located at 1 Park Street, Maddingley subject to the following conditions:**

### **Endorsed Plan**

- 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) Site plan demonstrating the provision of one disabled car parking space.**
  - (b) Notation of rubber matting inside the fitness centre.**

**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.**

### **Infrastructure**

- 2. 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. A Stormwater Point of Discharge permit must be obtained from the Assets Unit of the responsible authority prior to the commencement of the works associated with the permit.**
- 3. 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).**

4. 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.
5. 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 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.

#### **Amenity**

6. The facility must be managed so that the amenity of the area is not detrimentally affected, 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; and
  - (e) Any other way.
7. Mechanical noise emanating from the premises must comply with the State Environment Protection policy N-1 'Control of Noise from Commerce, Industry and Trade.'
8. Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Public Premises), No. N-2.

#### **Operation**

9. The hours of operation are as follows and cannot be varied without the written consent of the responsible authority:
  - (a) Monday to Friday 6.00am – 8.30pm;
  - (b) Saturday 7.30am – 12.00pm.

#### **Car Parking**

10. The area set aside for car parking and access lanes must not be used for any other purposes.
11. A minimum of 13 on-site car parking spaces inclusive of one disabled space must be provided at all times.

#### **Permit Expiry**

12. This permit will expire if one of the following circumstances applies:
  - (a) The use is not started within two 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

Except where no permit is required under the provisions of the Moorabool Planning Scheme, no additional advertising signage is permitted on, or outside the subject site, except with the further written approval of the responsible authority.

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#### Report Authorisation

Authorised by:

Name:



Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

11 April, 2017



## Item 4.2 Planning Permit Application PA2003-004

### Amended Planning Permit PA2003-004 – Use of an Existing Dwelling as a Place of Assembly (Emergency Food Relief, Personal Support and Referral to Counselling) and the Development of an Access Ramp for Disabled Access

<b>Application Summary:</b>	
Permit No:	PA2003-004
Lodgement Date:	5 December, 2016
Planning Officer:	Kathleen Ly
Address of the land:	Lot 1 on TP 166556 77 Main Street, Bacchus Marsh 3340
Proposal:	Amendment of Condition 4 to extend trading hours from Monday, Wednesday, Friday 9:30am to 3pm, to Monday to Friday 9:30am – 3pm.
Lot size:	718 square metres
Why was permit required to the original approval:	Clause 32.08-1 Section 2 Use
<b>Public Consultation:</b>	
Was the application advertised?	Yes, six (6) letters
Notices on site:	No
Notice in Moorabool Newspaper:	No
Number of Objections:	One
Consultation meeting:	Not required, as the applicant has been unable to provide methods to mitigate the objector's concerns
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	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.

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<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>	
<b>Officer's Declaration of Conflict of Interests</b>	
<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 – Robert 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 – Kathleen Ly</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
Application Referred?	No
Any issues raised in referral responses?	Not applicable
Preliminary Concerns?	None
Any discussions with applicant regarding concerns?	No
Any changes made to the application since being lodged?	No
VCAT history?	None
Previous applications for the site?	No
General summary (Pro's/Con's of the proposal)	<p>Planning permit PA2003-004 was issued on 26 May 2003 for the Use of an Existing Dwelling as a Place of Assembly (Emergency Food Relief, Personal Support and Referral to Counselling) and the Development of an Access Ramp for Disabled Access, subject to 13 conditions.</p> <p>An application to amend the planning permit was received on 5 December 2016. The amendment involves extending the hours of operation from three days a week to five days.</p>

	<p>Public notification was given to the surrounding properties by way of six letters. One objection was received, which raised concerns with the proposal whereby the extended hours will cause the owner's dogs to create noise and nuisance. The objector requested soundproof fencing to be provided at the cost of the applicant.</p> <p>The applicant was unable to provide any methods to mitigate these concerns.</p>
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to Amend a Permit to extend the hours of operation to Monday to Friday 9:30am to 3pm at Lot 1 on TP 166556 located at 77 Main Street, Bacchus Marsh, subject to condition amendments.</p>	

### Public Notice

The application was notified to adjoining and surrounding landowners by way of six (6) letters.

### Summary of Objections

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

Objection	Any relevant requirements
Unfamiliar individuals entering the property, causing their dogs to bark and create a nuisance.	
<b>Officer's response – The above objection is not a planning matter and as such, was not a consideration in this assessment.</b>	

### Proposal

The applicant seeks approval for the amendment of Condition 3 and 4 to extend the hours of operation and conduct on-site financial counselling. Monday, Wednesday and Friday will remain open from 9:30am to 3pm. The amendment includes the addition of Tuesday and Thursday 9:30am to 3pm for Personal Support. This involves interviewing applicants for no-interest-personal-loans (NILS) and providing on-site financial advice. The applicant would like to start conducting this service in the interview room, which is currently occupied on Monday, Wednesday and Fridays.

Condition 3 states:

*The use of the site is limited to emergency food relief, personal support and referral to off-site financial counselling, and associated meetings only, unless otherwise approved in writing by the Responsible Authority.*

Amendment of Condition 3 to:

*The use of the site is limited to emergency food relief, personal support and on-site financial counselling, and associated meetings only, unless otherwise approved in writing by the Responsible Authority.*

Condition 4 states:

*The hours of operation are limited to Monday, Wednesday and Friday from 9:30am to 3pm only, except that Committee Meetings may take place at any time from Monday to Friday until 10:00pm, unless otherwise approved in writing by the Responsible Authority.*

Amendment of Condition 4 to:

*The hours of operation are limited to Monday, Wednesday and Friday from 9:30am to 3pm and for personal support on Tuesday and Thursday 9:30am to 3pm except that Committee Meetings may take place at any time from Monday to Friday until 10:00pm, unless otherwise approved in writing by the Responsible Authority.*

### **Site Description**

The subject site is identified as Lot 1 on TP 166556 located at 77 Main Street, Bacchus Marsh. The trapezium shaped lot is approximately 718 square metres and located within the General Residential Zone – Schedule 3 adjacent to a Road Zone Category 1. The site is generally flat with a gentle slope from a south-east to north-west direction. The vegetation on the site is of low density. The site is currently operating as a Christian not-for-profit organisation who aims at assisting disadvantaged people. Known as The Neighbours Place, the organisation has been operating since June 2003.

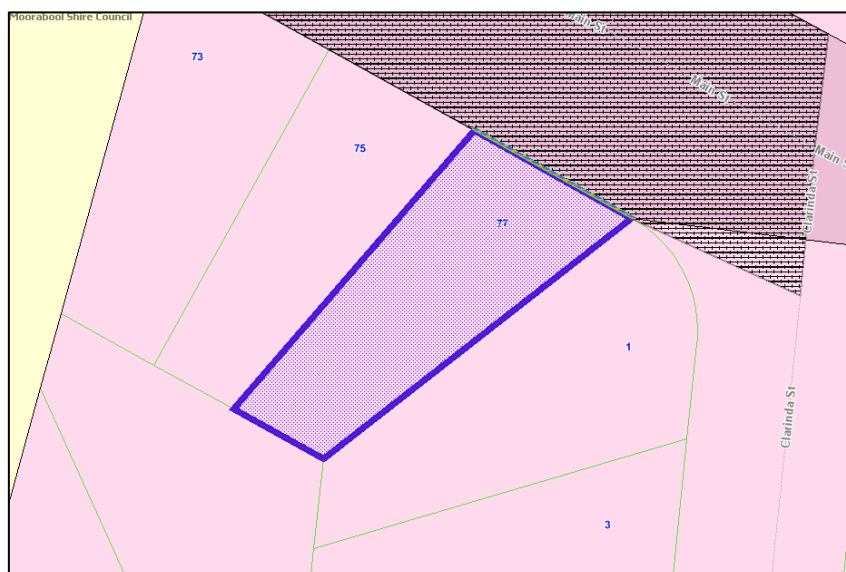
There is currently an existing weatherboard dwelling with a pitched roof and three sheds located at the rear of the site. The dwelling consist of a visitor's lounge, interview room, kitchen, storage, office, toilet and food supplies room. The site has no easements. A driveway is located along the northern boundary. There is an existing service road which runs parallel and provides access to Main Street.

The surrounding area is characterised by single dwellings on a lot, encompassing a pitched roof design. The adjoining property is currently operating as a pet supply shop, further west is the 7-Eleven service station, and the Werribee River is located further south. The site is located approximately 250 metres from the Bacchus Marsh Town Centre. The Bacchus Marsh train station is a 3 minute bus ride away, serviced by the 433 and 434 bus.



### Locality Map

The map below indicates the location of the subject site and the zoning of 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 11.01 Activity Centres;
- Clause 21.05 Development and Community Infrastructure; and
- Clause 21.07 Bacchus Marsh.

## Policy Context

The General Residential Zone seeks to provide educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations. The State and local planning policies identified above encourage the consolidation of a variety of land uses within the inner area of Bacchus Marsh. The proposal is consistent in this regard as the site is conveniently located approximately 250 metres from the Bacchus Marsh Town Centre, taking advantage of all available modes of transport whilst complying with the neighbourhood character and amenity provisions outlined in the scheme.

## **Zone**

### General Residential Zone – Schedule 3

The subject site is located in the General Residential Zone – Schedule 3.

The objectives of the General Residential 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 encourage development that respects the neighbourhood character of the area. To implement neighbourhood character policy and adopted neighbourhood character guidelines.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

Decision guidelines for non-residential use and development:

- *Whether the use or development is compatible with residential use.*
- *Whether the use generally serves local community needs.*
- *The scale and intensity of the use and development.*
- *The design, height, setback and appearance of the proposed buildings and works.*
- *The proposed landscaping.*
- *The provision of car and bicycle parking and associated accessways.*
- *Any proposed loading and refuse collection facilities.*
- *The safety, efficiency and amenity effects of traffic to be generated by the proposal*

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *Whether the use or development is compatible with residential use.*
- *Whether the use generally serves local community needs.*
- *The scale and intensity of the use and development.*
- *The design, height, setback and appearance of the proposed buildings and works.*
- *The proposed landscaping.*
- *The provision of car and bicycle parking and associated accessways.*
- *Any proposed loading and refuse collection facilities.*
- *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*

The proposed amendment does not have any bearing on the planning controls required by the zone.

## Overlays

The site is not affected by any overlays.

## Relevant Policies

Council adopted the Urban Growth Policy Statement on 19 September, 2012. Council can give weight to this documents under the provisions of section 60(1A)(g) of the *Planning and Environment Act 1987*.

### Urban Growth Policy

The Urban Growth Policy states that:

*The Moorabool Growth Strategy 2041 aims to provide a vision for the type of community Moorabool Shire will be in 2041 and to outline how Council can facilitate an outcome that both allows for growth and keeps the community connectedness, character and sense of place so valued by our current residents.*

*The urban strategy is about planning and managing the pressures of growth in a proactive manner so that a sustainable environment where people can live, work, access retail, social and recreational services and be involved and connected. The strategy looks at what our future population will be and what employment, services and infrastructure will be required to meet their needs so that Council can identify what growth options will meet these needs in a sustainable and cost effective manner.*

## Particular Provisions

### Clause 52.29 Land Adjacent to a Road Zone Category 1, or a Public Acquisition Overlay for a Category 1 Road

The site is located adjacent to Main Street, which is a Road Zone Category 1. The proposed amendment does not have any bearing on the planning controls required by the overlay.

## Discussion

The proposal requires assessment against the General Residential Zone. The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Amenity impacts.

Assessment of these issues will be discussed in the remainder of this report.

### Amenity Impacts

The site is located within the General Residential Zone – Schedule 3. The use and development of land within this zone should be compatible with the surrounding residential area.

Two of the primary objectives of the General Residential Zone is to provide for residential development and a range of educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations. The amendment is in keeping with these objectives and will continue to offer the township of Bacchus Marsh a personal support centre. This property is currently being utilised as an emergency food relief, personal support and referral to counselling centre three days a week. The proposed amendment will extend the hours of operation to Monday to Friday.

The amendment will not have any detrimental impacts on the adjoining residential lots. The extended operating hours are considered respectful to other residential uses within close proximity to the site, with the maximum number of people to utilise the facility in any one month period remaining unchanged – 150 people. The street view of the property will remain unchanged as no external buildings and works are proposed. In addition to the above, this use will not be out of character within the immediate area and will not be a dominant use within the local area. Located approximately 250 metres from the town centre, the property can take advantage of all available modes of transport whilst complying with the State and local planning policies and zone objectives.

The property is currently accessed via a service road, which runs parallel to Main Street. Any additional vehicles will not affect the existing traffic flow on Main Street. Although the current hours of operation are limited to Monday, Wednesday and Thursdays, the alternative days are currently open for Committee Meetings until 10:00pm. The amendment to the hours will not unreasonably affect the existing conditions of the area.

An objection was raised by the adjoining property in regards to an increase in their dogs creating a nuisance from unfamiliar individuals entering and exiting the property. The concern was not considered a planning matter and therefore could not be resolved.

### **General Provisions**

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

*Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*

- *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.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*



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

### **Referrals**

The application was not required to be referred to any authority under Section 55 of the Planning and Environment Act 1987.

### **Financial Implications**

The recommendation of approval of this application would not represent any financial implications for 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 submitter and the applicant were invited to attend this meeting and invited to address Council if desired.

### **Options**

An alternative recommendation would be to refuse the application on the grounds that the proposal is inappropriate in a residential area and will cause detriment to the surrounding amenity.

Refusing the application may result in the proponent lodging an application for review of Council's decision with VCAT.

### **Conclusion**

The proposed amendment is generally in accordance with the State and Local planning policies and the objectives of the General Residential Zone.

The amendment will not cause any detrimental effects to the surrounding residential area. The General Residential Zone encourages a range of non-residential facilities in appropriate locations. The property is located within close proximity to the Bacchus Marsh town centre, which promotes the use of available public transport and active transport methods such as walking and cycling. No buildings and works are proposed and as such, any effects on the neighbourhood character are considered negligible.

Overall, the proposed amendment is considered appropriate and as such, warrants support.

## **Recommendation**

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Amend a Permit to extend the hours of operation to Monday to Friday 9:30am to 3pm at Lot 1 on TP 166556 located at 77 Main Street, Bacchus Marsh, subject to the following condition amendments:

### **1. Amend Condition 3:**

The use of the site is limited to emergency food relief, personal support and on-site financial counselling, and associated meetings only, unless otherwise approved in writing by the Responsible Authority.

### **2. Amend Condition 4:**

The hours of operation are limited to Monday, Wednesday and Friday from 9:30am to 3pm and for Personal Support on Tuesdays and Thursdays 9:30am to 3pm, except that Committee Meetings may take place any time from Monday to Friday until 10:00pm.

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#### **Report Authorisation:**

**Authorised by:**

**Name:**

  
**Satwinder Sandhu**

**Title:**

**General Manager Growth and Development**

**Date:**

**11 April, 2017**

**Item 4.3 Planning Permit Application PA2016-108****Planning Permit 2016-108; Development of a Shed Ancillary to an Existing Dwelling at 29 Main Street, Myrniong**

<b>Application Summary:</b>	
Permit No:	PA2016-108
Lodgement Date:	26 April, 2016.
Planning Officer:	Mark Lovell.
Address of the land:	Crown Allotment 8. 29 Main Street, Myrniong.
Proposal:	Development of a Shed Ancillary to an Existing Dwelling
Lot size:	1619m2.
Why is a permit required	Clause 43.01-1 – Heritage Overlay – Building and Works
<b>Public Consultation:</b>	
Was the application advertised?	No.
Notices on site:	No.
Notice in Moorabool Newspaper:	No.
Number of Objections:	No objections.
Consultation meeting:	None held.
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	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.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
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.	

<b>Officer's Declaration of Conflict of Interests</b>	
<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 – Robert 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 – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
Application Referred?	Yes, Infrastructure and Environmental Health
Any issues raised in referral responses?	Yes, Environmental Health requested a plumber's report to assess the septic system and effluent field.
Preliminary Concerns?	
Any discussions with applicant regarding concerns	Yes, several verbal and written correspondences and a meeting at Council offices.
Any changes made to the application since being lodged?	No.
VCAT history?	No.
Previous applications for the site?	2004-193 was issued on 4 September, 2004 for the use as a restricted retail premise, building and works associated with the use and a reduction of car parking requirement by four spaces.
General summary (Pro's/Con's of the proposal)	<p>The building works are consistent with the objectives of the Heritage Overlay.</p> <p>The concerns with the new building works is that they may compromise the effluent field associated with the existing septic system. The applicant does not want to engage a plumber to verify the location of the effluent field. There is no certainty that the proposed building works will avoid a situation of wastewater extending beyond the boundaries of the site and thereby affecting adjacent properties or the roadway.</p>
<b>Summary Recommendation:</b>	
<p>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 the Development of a Shed Ancillary to an Existing Dwelling at Crown Allotment 8, known as 29 Main Street, Myrniong.</p>	

## **Background**

The permit applicant was advised on 26 August, 2016 to provide a plumber's report with site plan showing the exact location of the septic system and the extent of the effluent field. This information was required to determine if there is sufficient area for the new building works without compromising the septic system.

The applicant initially indicated there was difficulties getting a plumber, then was considering withdrawing the application and then advised on 6 February, 2017 that he would not provide a report and requested a decision be made.

## **Public Notice**

The application was exempt from the notice requirements under Clause 43.01-2 of the Moorabool Planning Scheme.

## **Summary of Objections**

No objections received.

## **Proposal**

It is proposed to construct a detached ancillary shed. The ancillary outbuilding will be 9 metres in width and 18 metres in length for a total area of 162m<sup>2</sup> and have an overall height of 3.97 metres. The ancillary outbuilding is setback 4 metres from the rear of the existing shed building, setback 1.61 metres from the eastern and western side boundaries, and setback 1.25 metres from rear southern property boundary. The shed will have two roller doors at 3.05 metres in width and the shed will be comprised of an unspecified metal material. The new downpipes to the shed will be connected to water tanks which then overflow to the existing stormwater system.

## **Site Description**

The subject site is located on the southern side of Main Street and accessed via a service lane. The lot has a maximum width of 20.12 metres and a maximum length of 80 metres from a total lot area of 1619m<sup>2</sup>. The site contains a bluestone residence, detached barn and detached Colorbond shed. The site has a slight slope upwards towards the southern property boundary.

According to the Heritage Citation Report, the former Myrniong Police Station and Goal were erected in 1870 by John Swannel with the bluestone obtained from Swannel's own quarry. The station was closed in 1877 and then used as a residence for teachers at Myrniong Primary School and then sold to private interests in 1919.

The surrounding area is characterised by a consistent streetscape of detached single storey dwellings which have setbacks from both side boundaries, landscaped front setback areas and side driveways leading to carport/garage and ancillary sheds.

## Locality Map

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



Figure 1: Locality Map

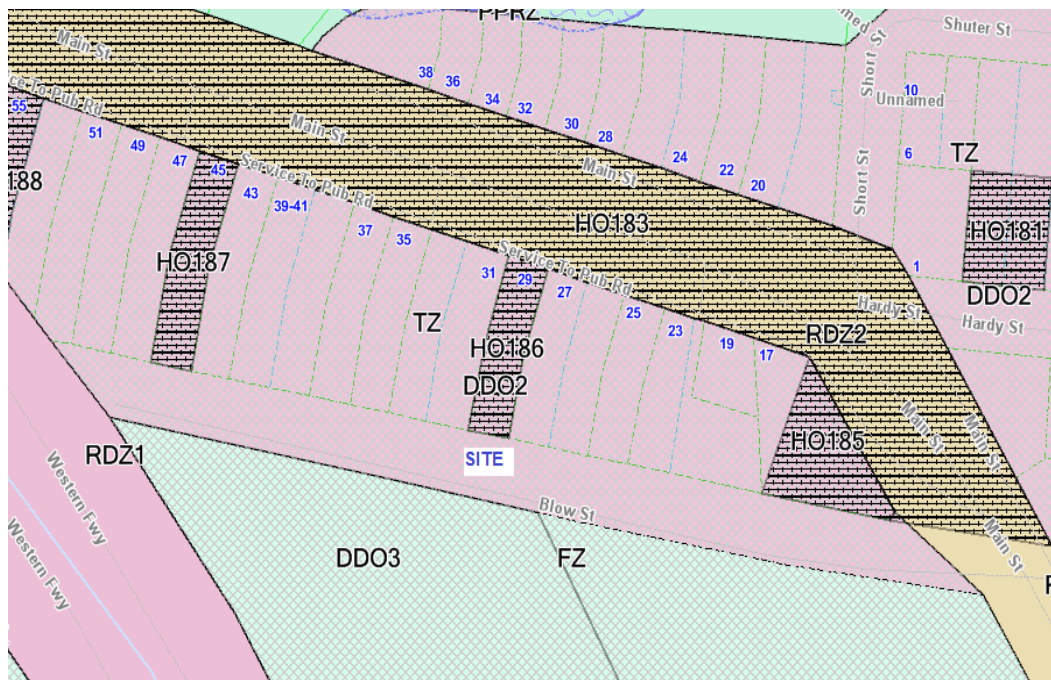
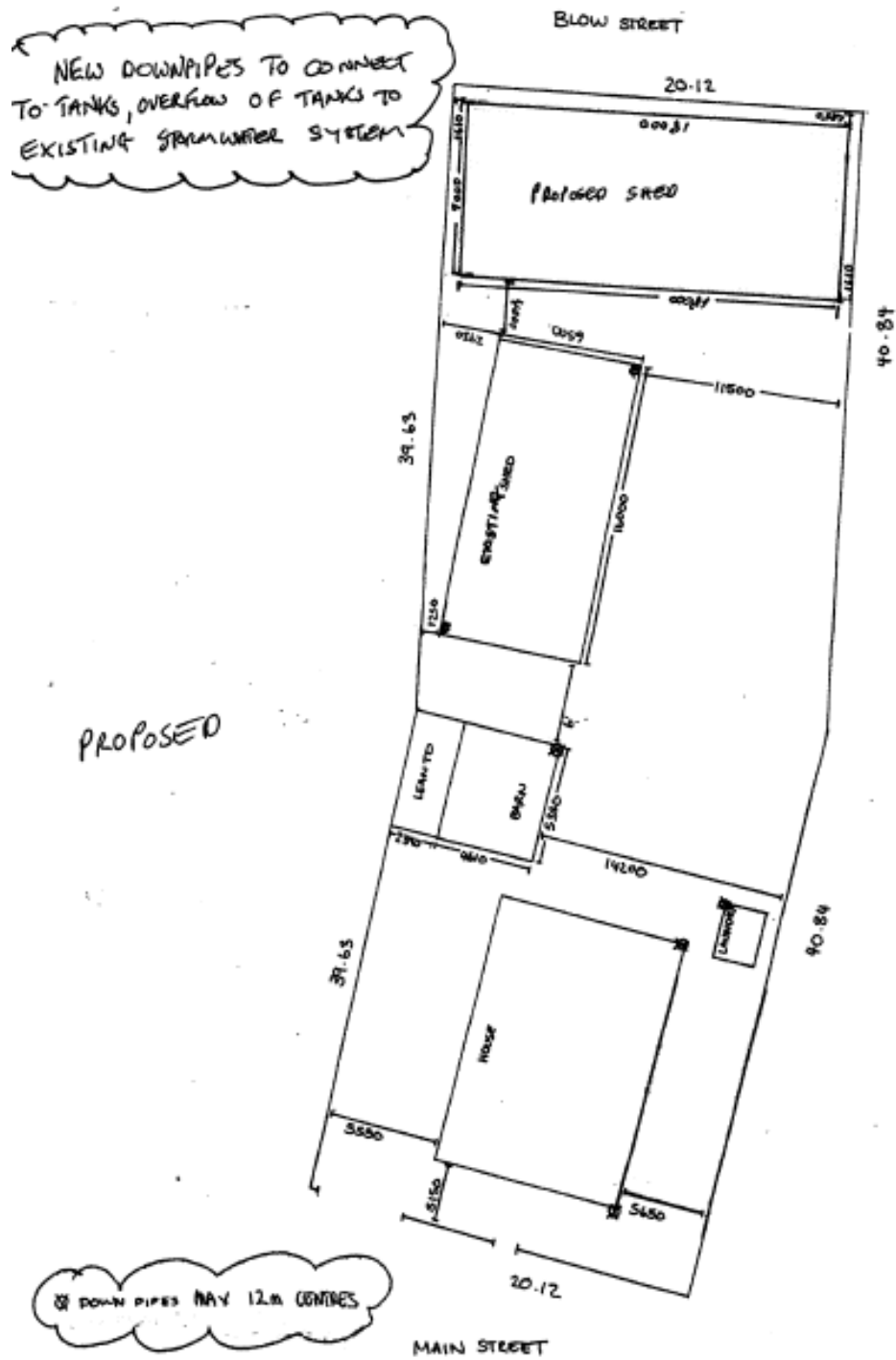
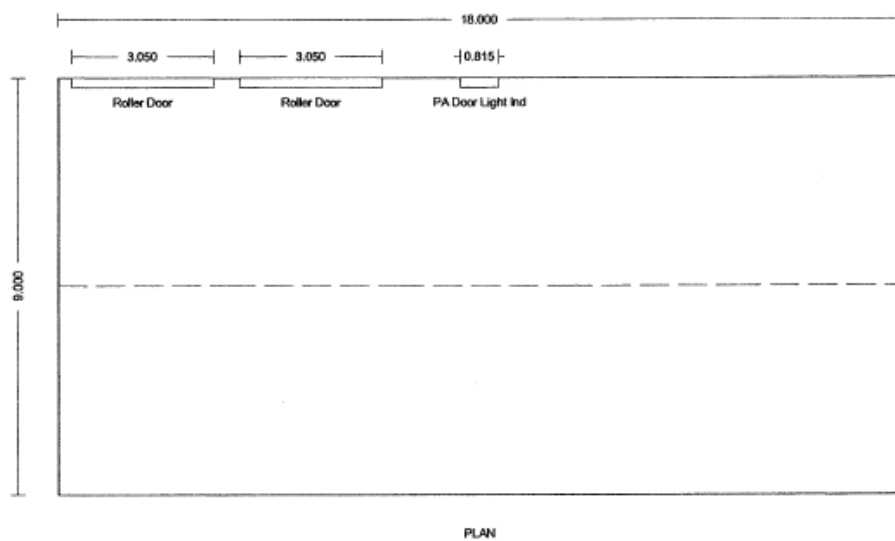


Figure 2: Zone Map

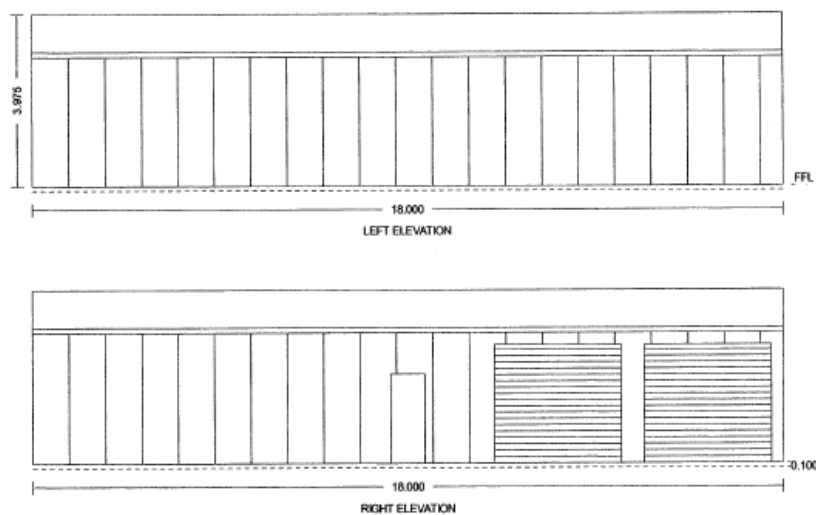
# Site Plan



## Floor Plan



## Elevation Plan



## 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 11.02-1 Supply of urban land;
- Clause 11.07-1 Regional Planning;
- Clause 11.07-2 Peri-Urban Areas;
- Clause 11.08-1 Planning for growth;
- Clause 14.02-2 Water Quality;
- Clause 15.03-1 Heritage conservation;
- Clause 21.06-2 Objective – Enhance and Preserve Cultural Heritage; and
- Clause 21.09-3 Other Small Towns - Key Issues and Influences.



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 14.02-2	Water Quality	Without evidence that the proposed building will not impact upon the existing effluent field, there is the potential of discharging contaminated runoff or wastes to waterways and thereby adversely affecting the environment.

## Zone

The subject site is in the Township Zone (TZ).

The purpose of the Township 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 residential development and a range of commercial, industrial and other uses in small towns;
- To encourage development that respects the neighbourhood character of the area;
- To implement neighbourhood character policy and adopted neighbourhood character guidelines; and
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate location.

A planning permit is not required for building and works ancillary to an existing dwelling on a lot greater than 300m<sup>2</sup>.

## Overlays

### Heritage Overlay:

The subject site is located within a Heritage Overlay (H0186). The schedule is H0186.

The purpose of the Heritage Overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve and enhance heritage places of natural or cultural significance. To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Under Clause 43.01-1, a permit is required for building and works. Decision guidelines are listed under Clause 43.01-4.

## Design & Development Overlay Schedule 2

The subject site is also covered by a Design & Development Overlay Schedule 2 (DD02)

The purpose of the Design & Development Overlay is:

- 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 planning permit is not required under this overlay as the proposed building can utilise non reflective building materials which could be addressed by permit conditions.

### **Particular Provisions**

There are no particular provisions apply to this site.

### **Discussion**

The proposed shed is located adjacent to the rear property boundary and will be difficult to view from the street frontage or from oblique views. The shed will be adjacent to an existing Colorbond shed and is well separated from the dwelling, allowing the development not to impact upon the significance of the heritage place. The proposed development is considered consistent with the purpose of the Heritage Overlay with no external changes proposed to the former police building and goal located at the front of the site.

After discussions with Council's Environmental Health Officer, the applicant was advised in August, 2016 to provide a plumber's report to show the location of the septic system and its effluent field. This request for further information was done outside of the 28 statutory days since lodgment of the application and therefore does not stop the statutory clock.

Despite several correspondences and a meeting, the applicant has not provided this report. Instead, the applicant has notified Council in February, 2017 that they will not provide a report and believe it is not necessary. This area does have septic failures due to the age of existing septic systems and the lack of effluent fields with some filtering onto the roadway. The plumber's report is an appropriate document to ensure that any new building structures do not compromise the existing septic system and its associated effluent field. Without this report, there is no certainty that wastewater can be contained within the boundaries of the site.

### **General Provisions**

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

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 Environmental Health	No objection subject to four conditions Request for plumbers report

## Financial Implications

The recommendation of refusal of this application would not represent any financial implications for Council.

## Risk and Occupational Health and Safety Issues

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

## Communications Strategy

The application was exempt from the notice provision under Clause 43.01-2 of the Moorabool Planning Scheme. The applicant was invited to attend this meeting and invited to address Council if desired.

## Options

An alternative recommendation would be to support the application on the grounds will not impact upon the existing wastewater system.

As there are no objectors, approving the application will not result in an application for review of Council's decision with VCAT

## Conclusion

The proposed development complies predominately with the State and Local Planning Policy Framework, the Township Zone, the Design & Development Overlay Schedule 2 and the Heritage Overlay Schedule 186. The primary concern is the impact the proposed building will have the existing septic system and its associated effluent filed. The applicant has been given ample opportunities to provide a plumber's report to show how wastewater will be managed with the proposed building. This report could also identify potential concerns with the location or floor area of the proposed building which can be addressed at the planning permit stage. Without the plumber's report, Council can not be satisfied that the proposal will not create adverse amenity impacts as a result of wastewater discharge.

## **Recommendation**

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a refusal to grant a permit PA2016-108 for the Development of a Shed Ancillary to an Existing Dwelling at Crown Allotment 8, known as 29 Main Street, Myrniong with the following grounds of refusal

1. The lack of plumber's report detailing the septic system and its effluent field does not demonstrate that wastewater with the proposed building can be contained within the boundaries of the site.
2. The proposal does not represent the orderly planning of the area.

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## **Report Authorisation:**

**Authorised by:**

**Name:**

  
**Satwinder Sandhu**

**Title:**

**General Manager Growth and Development**

**Date:**

**11 April, 2017**

#### Item 4.4 Planning Permit Application PA2016-182

**Planning Permit Application PA2016-182; Development and use of land for agriculture (table egg production from 800 open range hens) and development of a shed on Crown Allotment 6B, Section 17, Parish of Moorabool West, otherwise known as 68 Callaghans Lane, Gordon VIC 3345.**

<b>Application Summary:</b>	
Permit No:	PA2016-182
Lodgement Date:	4 August 2016
Planning Officer:	Victoria Mack
Address of the land:	Crown Allotment 6B, Section 17, Parish of Moorabool West.  68 Callaghans Lane, Gordon VIC 3345.
Proposal:	Development and use of land for agriculture (table egg production from 800 open range hens) and development of a shed.
Lot size:	8.6ha (approximately)
Why is a permit required	Use of the land for agriculture in the Rural Living Zone (RLZ)  Buildings and works in the RLZ  Buildings and works in the Environmental Significance Overlay – Schedule 1 (ESO1)
<b>Public Consultation:</b>	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	2
Consultation meeting:	Not held
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.

<b>Strategy</b>	<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>
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<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>	
<b>Officer's Declaration of Conflict of Interests</b>	
<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 – Robert 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>	
<b>Executive Summary:</b>	
Application Referred?	Barwon Water and Council's Environmental Health and Infrastructure Departments.
Any issues raised in referral responses?	Barwon Water has imposed a maximum limit of 800 birds on the site and requires that the chickens be managed in accordance with the relevant Code of Practice for the Welfare of Poultry.
Preliminary Concerns?	Whether the proposed egg production enterprise meets the definition of extensive animal husbandry because, if not, intensive animal husbandry is prohibited in the Rural Living Zone.
Any discussions with applicant regarding concerns	The applicant was asked to justify that his proposal would meet the definition of extensive animal husbandry where the animals' main food source is obtained by grazing, browsing, or foraging on plants grown on the land. It should be noted that the preamble provided by the applicant is incorrect and as a minimum should have referred to "extensive agriculture", even though Council officers made it clear that the use was "intensive agriculture".

Any changes made to the application since being lodged?	Additional information was provided.
VCAT history?	Nil
Previous applications for the site?	PA2011049 for the Development and Use of a Dwelling & Ancillary Outbuilding issued on 12 September 2011.
<b>General summary</b>	
<p>It is proposed to develop and use of land for agriculture (table egg production from 800 open range hens) which has an area of 8.6ha. It is also proposed to construct an additional shed.</p> <p>The land is in the Rural Living Zone where the use of the land for agriculture is a section 2 use and a permit is required, but the use of land for intensive animal husbandry is a prohibited use.</p> <p>The applicant was advised in a pre-application meeting that they needed to demonstrate that the proposal satisfied the definition of extensive animal husbandry, otherwise that intensive animal husbandry is prohibited in the RLZ and an application could not be supported.</p> <p>The applicants have not satisfactorily demonstrated that they can achieve the requirements of extensive animal husbandry on this site, nor have they been able to convince officers that the majority of the chickens nutritional requirements can be sourced on the property.</p> <p>The application was advertised and two (2) objections were received from neighbours which included concern about the scale of the operation, noise from roosters, proximity of the operations to neighbouring dwellings and the unsuitability of the site for this type of intensive farming enterprise.</p> <p>An application for intensive animal husbandry is prohibited in the Rural Living Zone and therefore the application must be refused.</p>	
<b>Summary Recommendation:</b>	
<p>That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Planning Permit for the Development and use of land for agriculture (table egg production from 800 open range hens) and development of a shed on Crown Allotment 6B, Section 17, Parish of Moorabool West, otherwise known as 68 Callaghans Lane, Gordon VIC 3345 on grounds detailed at the end of this report.</p>	

### Public Notice

The application was notified to adjoining and surrounding landowners and two objections were received.

## Summary of Objections

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

Objection	Any relevant requirements
There are many roosters on the property which start crowing at 3am. The noise from the roosters is very loud and the number of roosters should be controlled.	Environmental Protection Authority (EPA) Noise control guidelines.
<b>Officer's response</b> – It is agreed that rooster numbers should be controlled to a minimum or roosters not permitted at all where they are close to neighbouring dwellings; if a small number of roosters were to be kept they must be housed in an acoustically baffled facility so noise does not disrupt any neighbours at 3am. Any roosters kept should be relocated to another area of the farm away from neighbouring dwellings during other times.	
The proximity to the nearest neighbour is approximately 20m and having such a large number of chooks so close to a house will mean the odour, noise and dust is too close to a dwelling. The chooks should be housed at the rear of the property.	Rural Living Zone
<b>Officer's response</b> – the nearest neighbouring dwelling is close to the proposed enterprise. The chickens should be removed from around the house site to a location elsewhere on the land to minimise odour, noise and dust.	
What measures will Council put in place to ensure the controls stated in the Farm Management Plan will be upheld?	Section 173 agreement
<b>Officer's response</b> – In accordance with Council policy a Section 173 agreement would be required to be registered on the title to the land that the enterprise is conducted strictly in accordance with an endorsed Farm Management Plan.	
Are the number egg laying hens the limit to the number of chooks that can be kept on the property, or can the breeding business continue as a separate business?	
<b>Officer's response</b> – in their referral response Barwon Water has imposed a condition that number of chickens must not exceed 800.	

## Background

The applicant was advised at a pre-application meeting that any application for intensive agriculture must be refused, because intensive animal husbandry is a prohibited use in the Rural Living Zone.

## Proposal

It is proposed to run up to 800 laying hens on the property for open range egg production.



The original proposal was for the use of the land for agriculture (free range egg production) and the development of a shed. A Food Safety Management Plan was provided with the original application as well as a soil test report and a Farm Management Plan but no response to any relevant code of practice was provided. The Farm Management Plan (FMP) was not comprehensive but included the following:

- a) A solar power system would service refrigeration, air conditioning and lighting requirements.
- b) All water requirements would be provided by a dam and tank collection.
- c) A 10m wide buffer zone from property boundaries would be planted over a five year period with local native plant species.
- d) The FMP included a timelines plan which included: fencing; proposed farm improvements; pest animal control; weed control; and odour noise and dust control.
- e) The proposal relies on the production of high quality pastures and fodder conservation including cereal crops and the use of mobile chicken coops / egg laying sheds to rotate the chickens around the property.
- f) The existing shed on the land has a floor area of approximately 300sqm including an open sided skillion and would be used for egg grading and processing.
- g) The shed would be extended to add a store room. A new hayshed would be constructed on the south side of the existing shed. No detailed plans were provided for the proposed sheds.

Further information was requested in relation to the source of the fodder being fed to the chickens and how the chicken's nutritional needs would be met.

In response the applicant also included responses to referral authority requirements.

The applicant's response included that: eggs would be washed in accordance with the *Code of practice for shell egg production grading packaging and distribution (2010)*; that the domestic septic system would be used for small amounts of egg wash waste, that any dead birds would be handled in accordance with the Code of Practice; odour would be managed by rotating the chickens in portable chicken coups under a free range production system; and that the operation would be conducted in accordance with Infrastructure's and Barwon Water's requirements.

Determining the main source of the chickens' food to supply their nutritional needs is a critical determinant to whether the application should be classified as extensive animal production or intensive animal production. Extensive animal production requires that the chicken's main food source comes from the property.

However, where most of the chicken's food is imported from outside the enclosures the enterprise would be classified as an intensive animal husbandry which is prohibited in the Rural Living Zone.

The applicant provided information that the free ranging chicken flock was sourcing 64% of their daily intake from forage grown on the property with 36% of daily intake sourced from purchased feed. Raw data and photos were provided to support this claim.

The application was subsequently amended in process to change the permit being requested to "the use and development of the land for agriculture (table egg production from 800 open range hens) and development of a shed for dry storage".

The applicant provided a range of reports to support the proposal that a percentage of chicken's nutritional needs can be sourced from foraging on pastures and crops grown on a property.

However, there was a strong assumption in these reports that while pasture can meet some of the chicken's nutritional needs that productive poultry flocks require "concentrate" to meet the majority of their nutritional requirements.

### Site Description

The property is on the south side of Callaghans Lane in Gordon and is approximately 8ha in area.

The site has been used for the small scale hatching of pure chicken breeds by the current owner for some time, to provide pure bred pullets to poultry fanciers.

The land is rectangular in shape and is a long land parcel with a width of 103m and a length of 755m. There is an existing dwelling on the site and a large shed. The house area is surrounded by small to medium chicken coops and enclosures of various types, some of which are moveable chicken coops. Most of these smaller enclosures are fenced with high netting fencing and at least one such enclosure is covered with light netting.

Some chickens have free range to forage on the land at the rear of the property.

Below is an aerial map of the site. The map does not show a new dwelling constructed on the eastern side of the site at 88 Callaghans Lane after this aerial photo was taken.



The nearest neighbouring dwelling is located on the eastern side of the subject land approximately 60m from the dwelling and approximately 80m from the shed.

The next nearest neighbouring dwelling is located very close to the west side boundary of the subject land and is approximately 64m south west of the dwelling and approximately 38m south west of the existing large shed.

The land has a gradual slope from the south side rear of the site to the north side front of the site.

There is a stand of established native vegetation at the front of the site and a plantation has been established along the west side boundary for approximately 100m. The balance of the land is cleared and pastured.

Access to the site is via a crossover from Callaghans Lane and a meandering drive way approximately 178m in length across a waterway which dissects the north-west corner of the site.

A stock and domestic dam is located on the property approximately half way along the west side boundary.

Land to the north-east, east, south and west and of the subject site is in the Rural Living Zone. Land to the north across Callaghans Lane is in the Farming Zone.

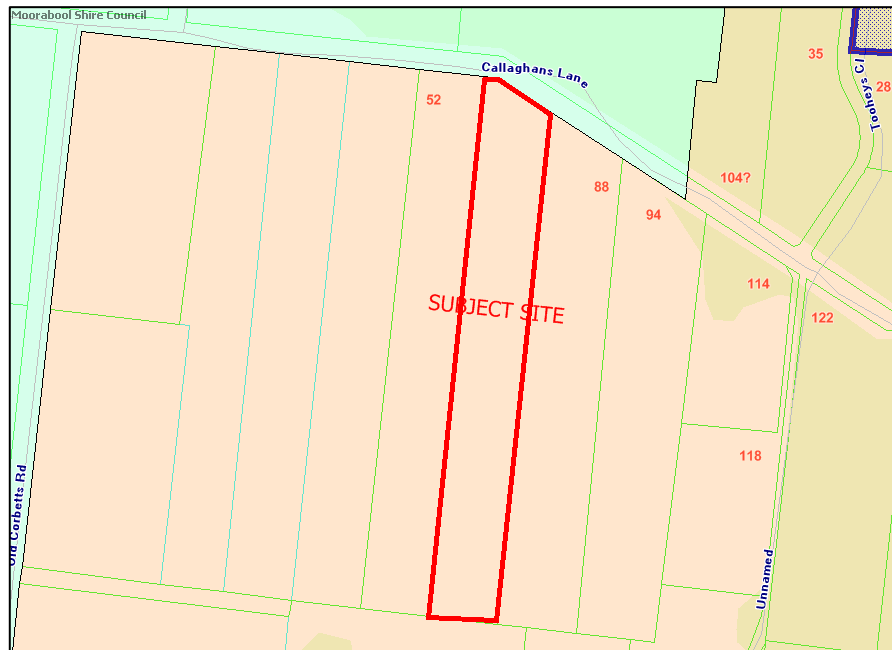
Surrounding lots on the south side of Callaghans Lane are generally cleared with scattered native vegetation and used for small scale agricultural or lifestyle activities. One neighbouring parcel has a trotting style track. Land to the north is generally forested country and some lots have dwellings. Land to the east is similarly forested country with dwellings.

Neighbouring lots are generally of similar size to the subject land.

The site is located approximately 700m east of the intersection of Callaghans Lane with Old Corbetts Road and approximately 450m west of the intersection of Callaghans Lane with Tooheys Close. The site is approximately 4km north of the Western Freeway and approximately 6km north of the Gordon township.

## Locality Map

The map below indicates the location of the subject site and the zoning of 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 14 Natural resource management
- Clause 21.02 Natural environment
- Clause 21.04 Economic development and employment
- Clause 22.02 Special water supply catchments

The proposal complies with the relevant sections of the SPPF and LPPF.

## Zone

### Rural Living Zone

The land is within the Rural Living Zone which is Clause 35.03 of the Moorabool Planning Scheme.

In accordance with Clause 35.03-1, section 2 a permit is required for the use of the land for agriculture.

In accordance with Clause 35.03-1, Section 3 the use of land for intensive animal husbandry is a prohibited use.

In accordance with Clause 35.03-4 a permit is required for an outbuilding associated with an existing dwelling where the floor area of the outbuilding exceeds 100sqm.

The purpose of the Rural Living Zone is to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Provide for residential use in a rural environment.
- Provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- Protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- Encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

### **Overlays**

#### Environmental Significance Overlay – Schedule 1

In accordance with Clause 42.01 and Schedule 21 of the Moorabool Planning Scheme a permit is required for buildings and works.

#### Design and Development Overlay – Schedule 2

In accordance with Clause 43.02 of the Moorabool Planning Scheme a permit is required if buildings or works are constructed using reflective materials. As the shed cladding has not been nominated a permit would be required if reflective materials were to be used. However permit conditions would be used to ensure that the shed cannot be constructed with reflective materials.

### **Relevant Policies**

There are no relevant Council policies that relate to the proposed use.

### **Particular Provisions**

No particular provisions are relevant to this application.

### **Discussion**

The land is in the Rural Living Zone where in accordance with Clause 35.03-1, Section 2 of the Moorabool Planning Scheme the use of land for agriculture (other than Animal keeping, Apiculture, Intensive animal husbandry and Timber production) requires a permit. It is noted that Intensive Animal Husbandry is a section 3 use in the Rural Living Zone and is a prohibited use.

Therefore the application to keep up to 800 chickens on the subject land must satisfy Council that it meets the definition of extensive animal husbandry. If not, the application would be intensive animal husbandry which is a prohibited use of the land in the Rural Living Zone.

Agriculture is defined in Clause 74 of the Moorabool Planning Scheme as:

*Land used to:*

- a) propagate, cultivate or harvest plants, including cereals, flowers, fruit seeds, trees, turf, and vegetables;*
- b) keep, breed, board, or train animals, including livestock, and birds; or*
- c) propagate, cultivate, rear, or harvest living resources of the sea or inland waters.*

Extensive animal husbandry is defined in Clause 74 of the Moorabool Planning Scheme as:

*Land used to keep or breed farm animals, including birds, at an intensity where the **animals' main food source is obtained by grazing, browsing, or foraging on plants grown on the land.***

*It includes:*

- a) emergency and supplementary feeding; and*
- b) the incidental penning and housing of animals, including birds, for brooding, weaning, dipping, or other husbandry purposes.*

Intensive animal husbandry is defined in Clause 74 of the Moorabool Planning Scheme as:

*Land used to keep or breed farm animals, including birds, **by importing most food from outside the enclosures.***

*It does not include:*

- a) an abattoir or sale yard; and*
- b) emergency and supplementary feeding if incidental to the use of land for extensive animal husbandry; or*
- c) the penning and housing of animals, including birds, for brooding, weaning, dipping or other husbandry purposes if incidental to the use of land for extensive animal husbandry.*

In July 2015 the Victorian Civil and Administrative Tribunal (VCAT) was asked to make a declaration under Section 149B of the Planning and Environment Act 1987 in relation to the definition of intensive animal husbandry as it related to an application for a free range piggery . The declaration is referenced as *Yarra Ranges SC v Happy Valley Free Range Pty Ltd (Includes Summary) (Red Dot) [2015] VCAT 1058 (16 July 2015)*. The matter was heard before Deputy President Helen Gibson.

While the case relates to a free range piggery the declaration is informative as to how the use of the land should be characterised in terms of whether it is extensive animal husbandry or intensive animal husbandry, an issue that is relevant to the current permit application.

The declaration raised the following points:

1. The key issue in deciding how the use of the land should be characterised, in terms of whether it is extensive animal husbandry or intensive animal husbandry, depends on a consideration of all the food eaten by the animals and the proportion of food imported from outside the property compared to that derived from grazing, browsing, or foraging on plants grown on the land.

2. Part of this consideration is the question of whether those respective proportions should be considered on the basis of the simple volume of food type consumed or on the percentage of the animals' nutritional needs that each food type provides.
3. Herbage must be present year round and in adequate supply. Unfortunately herbage is not necessarily available throughout the year and the period of high nutrient quality is very limited. Even when herbage is initially available in the paddock the foraging and rooting activity of the animals (pigs) can rapidly remove the herbage, leaving overturned and bare earth for the remainder of the paddock occupation period.
4. In approaching the task of characterisation, I do not consider that the free range nature of the pigs' activities is determinative of whether the use is extensive animal husbandry or intensive animal husbandry .... Instead, the emphasis in the definitions of extensive animal husbandry and intensive animal husbandry is on the main source of food for the animals and whether it comes from the land itself or is imported.
5. In deciding whether land is used for the purpose of intensive animal husbandry or extensive animal husbandry, what must be considered is the source of the food from which the animals derive their main nutritional needs, rather than simply looking at the volume of food consumed and its sources. If the majority of the animals' nutritional requirements come from food imported onto the land, in other words the food on which they depend to survive and thrive, the use will be characterised as intensive animal husbandry. If the majority of the animals' nutritional requirements come from food obtained by grazing, browsing or foraging on plants grown on the land, the use will be characterised as extensive animal husbandry.

The declaration specified that it was not the volume of feed that should necessarily be considered but rather the purpose of supplying food to farm animals, which is to supply them with sufficient nourishment to keep them alive and to promote their growth – in other words, to maintain their life and growth.

Research has revealed that there a strong debate running in the egg production industry in Australia over the definition of free or open range production, and the more recent movement to what is being called pastured egg production.

Information obtained from the website of the organisation PROOF – *Pastured Raised On Open Fields* – is informative - <https://www.proof.net.au/>

This organisation is dedicated to the licencing of producers who can meet strict quality control and management standards for pastured egg production.

On the PROOF website in relation to the nutrition required for hens for egg production it was stated that:

*Well managed pastures will provide some nutrition for the birds but just how much will depend on the species of fodder or grass, the growing season, maintenance of the pasture (mowing) and availability of irrigation. **It is possible to provide up to 20% of the birds nutritional needs from pasture** but it is recommended to have feed available to the birds at all times and to formulate the correct diet.*

*In a study by Golden, Arbona, & Anderson (2012) it was found that grazing available to free-range hens on pasture did not provide hens with high enough protein levels, as was not of a composition necessary to support the same level of production as caged hens that were being fed a concentrated and balanced diet so productivity could be slightly lower than caged birds.*

Other literature demonstrates that chickens cannot achieve optimum production on pastures alone and that supplementary feeding is required with at least 16% protein as well as carbohydrates.

On the owners figures each chicken consumes between 65-180 grams of feed per day. 800 chickens would require between 18 and 52 tonnes of grain per year to satisfy their nutritional requirements. Industry standards indicate the higher rate is more appropriate for producing hens.

The applicants claim that the property can provide 64% of the chickens nutritional needs over the whole year from the 8.6ha property to maintain profitable egg production.

However, it is not considered that there is sufficient land available on the property to be able to grow the grain to feed the chickens for a whole year and also allow the chickens to forage on pasture or crops.

In considering the VCAT declaration referred to above, Deputy President Helen Gibson stated that 'what must be considered is the source of the food from which the animals derive their main nutritional needs, rather than simply looking at the volume of food consumed and its sources. If the majority of the animals' nutritional requirements come from food imported onto the land, in other words the food on which they depend to survive and thrive, the use will be characterised as intensive animal husbandry

Based on the VCAT Declaration report and other research it is considered that to ensure profitable egg production and healthy chickens that the main food source for the chickens on this property would come from grain and supplementary feed or "concentrate" imported onto the farm.

The land is in the Rural Living Zone (RLZ) and two objections have been received to the application.

The purpose of the RLZ is in part to provide for residential use in a rural environment and provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.

It is considered that an enterprise with 800 chickens would pose a detriment to neighbours two of which have dwellings within 100m from the centre of the current chicken operation.

It is considered that the egg production proposal is on land in the RLZ is in the wrong zone for this type of enterprise and that the Farming Zone is more suitable.

The application was referred to the required referral authorities that did not object to the application subject to conditions.



Barwon Water imposed that a maximum of 800 chickens are allowed to be run on the site and the enterprise be run in accordance with the Code of Practice for the Welfare of Poultry. Environmental Health required specific matters be addressed including egg washing systems, waste management, dead poultry disposal and that the operation must not pose a detriment to neighbours.

### **General Provisions**

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

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.

<b>Authority</b>	<b>Response</b>
Barwon Water	Consent subject to conditions
Infrastructure	Consent subject to conditions
Environmental Health	Consent subject to conditions

### **Financial Implications**

The recommendation of refusal of this application may represent a financial implication for Council. The applicant may lodge an application for Review of Council's decision with VCAT.

### **Risk and Occupational Health and Safety Issues**

The recommendation of refusal of 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**

In this case there is no other option for Council to consider. As detailed in the discussion the use of the land is considered "intensive agriculture" which is a prohibited use in the Rural Living Zone. Council has no discretion to issue a permit for a prohibited use.

## Conclusion

The proposal is to produce open range eggs from up to 800 egg laying chickens where the majority of the chickens nutritional needs are provided from fodder grown the land.

However, it is not considered that the chickens nutritional needs can be obtained by grazing, browsing, or foraging on plants grown on the land or that there is sufficient area of land to grow cereal crops to support the chickens nutritional and production needs.

It is considered that this proposal is intensive animal husbandry where the majority of the chickens nutritional needs are met by importing most food from outside the enclosures.

Research suggests that forage may provide 20 – 30% of the chickens nutritional needs but that significant supplementary fodder would be required to be imported to the property.

The zoning of the subject land is unsuitable for the proposal as intensive animal husbandry is prohibited in the Rural Living Zone.

## Recommendation

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Planning Permit for the Development and use of land for intensive agriculture (table egg production from 800 open range hens and development of a shed on Crown Allotment 6B, Section 17, Parish of Moorabool West, otherwise known as 68 Callaghans Lane, Gordon VIC 3345 on the following grounds:**

- 1. The proposed use is defined in the Moorabool Planning Scheme as ‘intensive agriculture’ which is a prohibited use in the Rural Living Zone.**

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## Report Authorisation

**Authorised by:**

**Name:**

**Title:**

**Date:**



**Satwinder Sandhu**

**General Manager Growth and Development**

**11 April, 2017**

#### Item 4.5 Planning Permit Application PA2016-194

**Planning Permit 2016-194; Two (2) Lot Re-subdivision and Reduction to the Standard Car Parking Rate for the Existing Hotel at Lot 1 on TP99725J known as 151 Inglis Street, Ballan.**

<b>Application Summary:</b>	
Permit No:	PA2016-194
Lodgement Date:	10 August, 2016.
Planning Officer:	Mark Lovell.
Address of the land:	Lot 1 on TP99725J 151 Inglis Street, Ballan
Proposal:	Two (2) Lot Re-subdivision and Reduction to the Standard Car Parking Rate for the Existing Hotel
Lot size:	3958m2.
Why is a permit required	Clause 34.01-3 – To subdivide land  Clause 52.06-3 – Reduction to the standard car parking rate.
<b>Public Consultation:</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	One objection.
Consultation meeting:	None held. Verbal discussions with the objector who do not want to attend a formal consultation meeting
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	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.

*Manager – Robert Fillisch*

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

*Author – Mark Lovell*

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

**Executive Summary:**

Application Referred?	Yes, referred to Southern Rural Water, Western Water and Council's Infrastructure.
Any issues raised in referral responses?	No.
Preliminary Concerns?	Initial concern with a reduction of the car parking provision, access to the car park area and the lack of a written car parking assessment.
Any discussions with applicant regarding concerns	The applicant has subsequently provided a written Clause 52.06 car parking assessment.
Any changes made to the application since being lodged?	No.
VCAT history?	No.
Previous applications for the site?	<p>2005-105 was issued on 17 June, 2010 for development of additions ancillary to an existing hotel and waiver of car parking. This showed the provision of 15 car spaces.</p> <p>2004-348 was issued on 5 January, 2005 for Buildings and Works Associated with Alterations and Additions to an Existing Building (New Amenity Facilities).</p>

General summary (Pro's/Con's of the proposal)	<p>The proposed re-subdivision provides for the efficient use of the total land area and removal of a long standing title boundary anomaly that cuts the existing hotel into two sections.</p> <p>The primary concerns is the extent of the reduction to the standard car parking requirement. The site has ample opportunities to provide additional car spaces to ensure the future viability of the existing hotel is not undermined. This concern can easily be addressed through the submission of revised plans.</p>
<b>Summary Recommendation:</b> <p>That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for the Two (2) Lot Re-subdivision and Reduction to the Standard Car Parking Rate for the Existing Hotel at Lot 1 on TP99725J known as 151 Inglis Street, Ballan.</p>	

## Background

The subject site has an existing planning permit which requires a minimum of 15 car spaces to be provided for the existing hotel building. The large rear informal open area with a vehicle crossover to the second street Steiglitz Street provides for ample on site car parking to the existing hotel building well exceeding the requirement for 15 car spaces.

## Public Notice

The application was notified to adjoining and surrounding landowners and by placing a large notice on each street frontage for a period of fourteen days. A statutory declaration verifying display of the large notice was received on 24 October, 2016.

## Summary of Objections

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

Objection	Any relevant requirements
Reduced car parking	Clause 52.06.
<b>Officer's response</b> - This is similar to Council's initial concern. This can be addressed by providing additional car spaces and moving the proposed boundary line between the two lots further to the south.	
Dispute that the hotel has 50 patrons.	
<b>Officer's response</b> – There is no existing permit which stipulates maximum patron numbers for the hotel. The advice the applicant provided must be taken as the patron capacity based on the existing operation.	

Objection	Any relevant requirements
Centre Based Approach to Car Parking/VCAT decisions	Clause 52.06
<b>Officer's response</b> – Centre Based approach to Car Parking is often used to justify significantly reduce car spaces in an activity centre that are well connected to public transport. However, a Clause 52.06 assessment including a review of available car spaces is the correct approach for the Ballan Township not a centre based approach.	

### Proposal

It is proposed to undertake a two re-subdivision of two existing titles.

Lot 1 at 1387m<sup>2</sup> in area incorporates an existing hotel building and proposes twelve car spaces to the rear of the building accessing a single lane accessway and crossover adjacent to the western property boundary.

Lot 2 at 2571m<sup>2</sup> in area is vacant and has a street frontage to Steiglitz Street. There are no development plans at this stage for this lot.

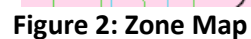
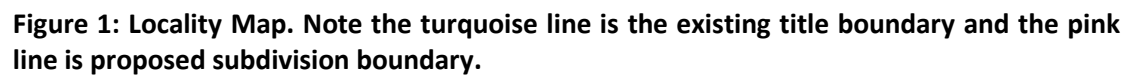
### Site Description

The subject site is comprised of two titles being Volume 03350 Folio 867 and Volume 09624 Folio 713. The titles split the site approximately in half with boundary line running in a north-south direction. The existing hotel building has been constructed over both title boundaries and is unable to be sold off individually without demolition of the existing building on site.

The existing hotel is a double storey in height with simple detailing such as rectangular shaped windows, front parapet wall, bullnose verandah canopy and pitched metal roofing. There is a gravel driveway adjacent to the western property boundary which leads to a wooden shed. There is a large open informal car park area with access to Steiglitz Street.

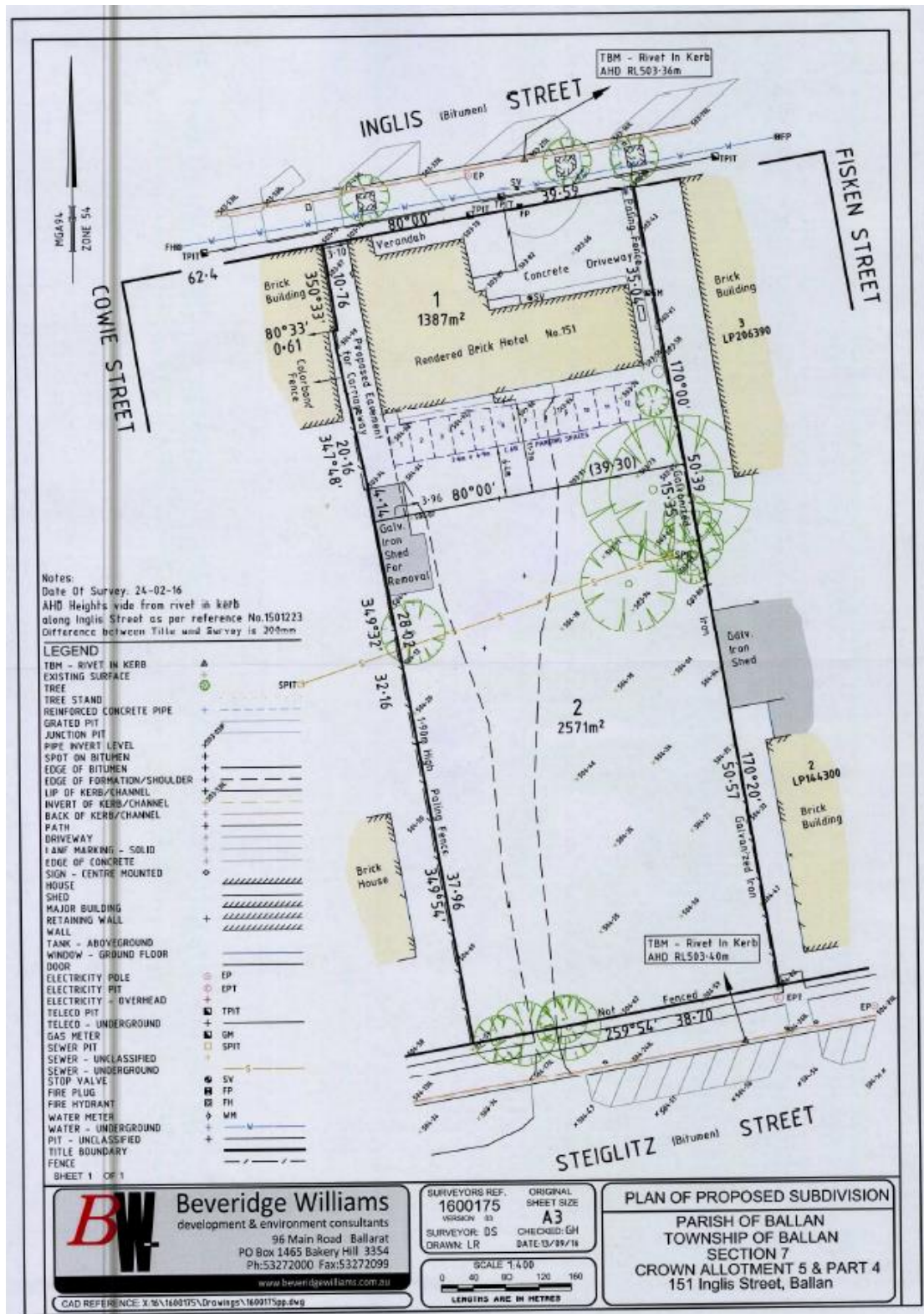
The surrounding area is comprised of a mixture of retail and commercial premises predominately with minimal front setbacks and some built boundary to boundary. There are on street car parking bays in Inglis Street and some street trees within the pedestrian pavement area.

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





## Subdivision plan





## 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).

- Clause 11.02-1 - Supply of urban land;
- Clause 11.03-2 - Activity centre planning;
- Clause 11.07-1 - Regional Planning;
- Clause 11.07-2 - Peri-Urban Areas;
- Clause 11.08-1 - Planning for Growth;
- Clause 15.01-3 - Neighbourhood and subdivision design;
- Clause 15.01-5 - Cultural identity and neighbourhood character;
- Clause 17.01-1 – Business;
- Clause 18.02-5 - Car Parking; and
- Clause 21.04-3 - Commerce.

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 18.02-5	Car Parking	The objective of this clause is to ensure an adequate supply of car parking that is appropriately designed and located. The proposal seeks a reduction car parking which could affect the future operation of the hotel and may create off site impacts. Providing additional car spaces can be addressed through the submission of revised plans.

## Zone

The subject site is in the Commercial 1 Zone – C1Z.

The purpose of the 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 create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Under Clause 34.01-3 a planning permit is required to subdivide land.

## Overlays

### Environmental Significance Overlay Schedule 1

The subject site is in the Environmental Significance Overlay Schedule 1 and the provisions of Clause 42.01 apply.

The purpose of the Overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Under Part 2 of Schedule 1 of the overlay has the following environmental objectives to be achieved.

- To protect the quality and quantity of water produced within proclaimed water catchments.
- To provide for appropriate development of land within proclaimed water catchments.

Under Clause 42.01-2 a planning permit is required to subdivide land.

### **Particular Provisions**

#### Clause 52.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988.

As this is a two subdivision that does not create an additional lot being a re-subdivision of two existing titles, there is no requirement for a public open space contribution.

#### Clause 52.06 Car Parking

The existing use is a hotel which has planning approval for 15 car spaces as part of previously approved development. The applicant is proposing to provide 12 car spaces for the hotel use which is a further reduction of 3 on site car spaces.

Before deciding that a plan prepared under Clause 52.06-7 is satisfactory, the responsible authority must consider, as appropriate:

- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.
- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.

- The workability and allocation of spaces of any mechanical parking arrangement.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area. Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).
- The relevant standards of Clauses 56.06-2, 56.06-4, 56.06-5, 56.06-7 and 56.06-8 for residential developments with accessways longer than 60 metres or serving 16 or more dwellings.
- Any other matter specified in a schedule to the Parking Overlay.

#### Clause 52.07 Loading and Unloading of Vehicles

The purpose of this provision is to set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety

The hotel use has an existing loading arrangement unaffected by the subdivision and does not require any new facility. In this instance, there is no requirement for a new loading bay.

#### **Discussion**

##### Subdivision layout

The existing titles boundaries does not bear resemblance to the existing well established hotel building on site. The current titles boundaries cut the existing hotel in half and therefore does not represent the orderly planning of the area. The re-subdivision effectively utilises the available land area by having the hotel and its car park entirely within one lot and the remaining land unencumbered with buildings within another lot with its own street frontage. The re-subdivision reflects the prevailing subdivision pattern of the surrounding area comprised of large commercial lots.

##### Car parking

The primary concern with the subdivision is the amount of onsite car spaces provided. The future viability of the hotel should not be weakened through a lack of onsite car spaces as a result of a re-subdivision of existing titles. The previous development approval allowed for a reduction of car parking and approved fifteen on site car spaces.

The proposed subdivision line can be moved 5 metres to the south that could allow for another row of car spaces achieving the minimum car parking requirement and therefore not requiring any further reduction to the standard car parking rate. The car parking area could adequately address the present and future needs of hotel patrons and thereby maintaining a vibrant commercial precinct in Ballan. The applicant has stated that the typical patron car parking demand is 5 car spaces during the daily lunch period and up to 15 car spaces during Saturday night. These numbers are low based on 50 patrons to the existing hotel. However, it considered providing adequate on site car parking ensures the hotel is not constrained in the future during any redevelopment or improvements projects.

It is considered that providing additional car spaces compared to the advertised plans represents a good balance of ensuring adequate on site car parking to an existing hotel use while still providing a large section of vacant commercial zoned land that could still have a variety of development opportunities.

### **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.

<b>Authority</b>	<b>Response</b>
Western Water	No comment
Southern Rural Water	No objection subject to three conditions
Infrastructure	No objection subject to three conditions

### **Financial Implications**

The recommendation of approval of this application would not represent any financial implications to Council. Should Council consider refusing this application there would be costs associated with any VCAT appeal.

### **Risk and Occupational Health and Safety Issues**

The recommendation of approval of this subdivision 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**

An alternative recommendation would be to refuse the application on the grounds that it does not comply with the planning scheme provisions and does not provide adequate on site car parking.

Refusing the application may result in the applicant lodging an application for review of Council's decision with VCAT

## **Conclusion**

The proposed re-subdivision complies with the State and Local Planning Policy Framework, the Commercial 1 Zone and the Environmental Significance Overlay.

The lot size and proportions of the proposed subdivision match the prevailing subdivision pattern of the area and is a more effective use of the available land area compared to the existing title boundaries. A slight increase in Lot 1 to provide additional onsite car parking spaces is a more appropriate arrangement to maintain the hotel use without causing any off site impacts due to car parking demand.

The proposed two lot re-subdivision should be supported, subject to the submission of revised plans to increase the proposed on site car parking provision to the existing hotel use.

## **Recommendation**

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Planning Permit PA2016-194 for the Two (2) Lot Re-subdivision and Reduction to the Standard Car Parking Rate for the Existing Hotel at Lot 1 on TP99725J known as 151 Inglis Street, Ballan, subject to the following conditions:**

### **Amended plans**

- 1. Before the plan of subdivision is certified under the Subdivision Act 1988, 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 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/other specified plans but modified to show:**
  - a) The boundary line between Lots 1 and 2 moved 5 metres to the south to allow for at least 3 additional car spaces to be provided south of the proposed 6.4 metres wide internal accessway within Lot 1.**
- 2. 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**

- 3. 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.**

4. 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.
5. 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.
6. Prior to the issue of Statement of Compliance, the existing shed contained within Lots 1 and 2 must be demolished to the satisfaction of the Responsible Authority.

#### **Telecommunication conditions**

7. The owner of the land must enter into agreements with:
  - a) A telecommunications network or service provider for the provision of telecommunication service to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provide by optical fibre.
8. Before the issue of Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
  - a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is an area where the National Broadband Network will not be provided by optical fibre.

#### **Infrastructure conditions**

9. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991)
10. 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.

11. 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 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.

#### **Southern Rural Water conditions**

12. All lots must be connected to Central Highlands Water reticulated sewerage system.

13. All lots must be connected to the town's stormwater drainage system.

14. The plan of subdivision submitted for certification must be referred to Southern Rural Water in accordance with Section 8 Subdivision Act 1988.

#### **Permit Expiry**

15. 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.

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#### **Report Authorisation**

**Authorised by:**

**Name:**

**Title:**

**Date:**



**Satwinder Sandhu**

**General Manager Growth and Development**

**11 April, 2017**

#### Item 4.6 Planning Permit Application PA2016-248

**Planning Permit Application PA2016-248; Seven (7) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Land in PC 109432, 445 Old Melbourne Road, Ballan VIC 3342.**

<b>Application Summary:</b>	
Permit No:	PA2016248
Lodgement Date:	10 October 2016
Planning Officer:	Tom Tonkin
Address of the land:	Land in PC 109432, 445 Old Melbourne Road, Ballan 3342
Proposal:	Seven (7) Lot Subdivision and Alteration of Access to a Road Zone, Category 1
Lot size:	3642sq m
Why is a permit required?	Clause 32.08 – General Residential Zone –Subdivision Clause 42.01 – Environmental Significance Overlay – Subdivision Clause 52.29 – Land Adjacent to a Road Zone, Category 1 – Subdivision and alteration of access
Restrictions registered on title	None
<b>Public Consultation:</b>	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Notices on site:	One (1)
Notice in Moorabool Newspaper:	None
Number of Objections:	One (1)
Consultation meeting:	Not held at applicant's request
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	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.



<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
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.	
<b>Officer's Declaration of Conflict of Interests</b>	
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 – Tom Tonkin</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes, the application was referred to relevant utility providers and Council's Infrastructure unit.
Any issues raised in referral responses?	Infrastructure requested the applicant prepare a Stormwater Management Strategy to enable a proper assessment of the proposal.
Preliminary Concerns?	Yes. In addition to the above matter, the Council officer wrote to the applicant about concerns with the proposed lot sizes' inconsistency with the Ballan Structure Plan and surrounding neighbourhood character. Additionally, further information was requested about the vehicle accessway design's provision for a visitor car space.
Any discussions with applicant regarding concerns?	Yes, regarding stormwater, as to the particular information required by Council.
Any changes made to the application since being lodged?	No
VCAT history?	None
Previous applications for the site?	PA2001160 Development and Use of a Dependent Person's Unit approved 6/7/2001.

General summary	<p>The application is for a seven (7) lot subdivision of the site. Lot sizes would vary from 450-466sq m with access from a common accessway via a new crossover.</p> <p>The proposal satisfies some relevant provisions of the Moorabool Planning Scheme, but fails to adequately respond to the neighbourhood character of the area which mostly features substantially larger lots which are a key contributor to neighbourhood character in this prominent 'gateway' location in Ballan. The proposal is not considered to be sufficiently site responsive and should be refused.</p>
<b>Summary Recommendation:</b>	
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i> , on the grounds detailed at the end of this report.	

## Public Notice

Notice of the application was given to adjoining and nearby landowners and occupiers by mail on 24 January 2017 and a sign erected on site from 28 January until 13 February 2017. One (1) objection was received.

## Summary of Objection

The objection received is detailed below with officer's accompanying comments:

Objection	Any relevant requirements
The proposal is premature in the absence of a structure plan	Ballan Structure Plan (December 2015)
<b>Officer's response -</b> Ballan Structure Plan was adopted by Council in December 2015 which recommends minimum 600sq m lot sizes in this area.	
The proposal is contrary to the requirement of the Ballan Framework Plan that urban development only occur in accordance with Local Structure Plans.	Clause 21.08
<b>Officer's response -</b> This objection relies on a statement in Clause 21.08, the intent of which is somewhat ambiguous. A literal interpretation would mean that only development in accordance with a structure plan may be allowed. However, Council must also consider other relevant planning scheme provisions.	
The proposal is not in accordance with Council's adopted Ballan Structure Plan which designates this area for low density development.	Ballan Structure Plan (December 2015)

Objection	Any relevant requirements
<b>Officer's response -</b> Ballan Structure Plan adopted by Council in December 2015 recommends minimum 600sq m lot sizes in this area. The proposed lot sizes do not meet this recommendation.	
Does not respect the neighbourhood character, the main western gateway to Ballan consisting of large lots with wide frontages and large front setbacks.	Clauses 11.07-2, 11.08, 21.03, 21.08-3, 32.08 & 56.03-5
<b>Officer's response -</b> This objection is addressed below.	
Sets an adverse precedent, and is contrary to the existing and likely preferred future neighbourhood character.	Clauses 11.07-2, 11.08, 21.03, 21.08-3, 32.08 & 56.03-5
<b>Officer's response -</b> This objection is addressed below.	
The proposal will lead to the spacious treed rural town appearance of the town entry being replaced with a compact metro suburban appearance.	Clauses 11.07-2, 11.08, 21.03, 21.08-3, 32.08 & 56.03-5
<b>Officer's response -</b> This objection is addressed below.	
There is no policy imperative for higher density development because the site is not within easy walking distance of the town centre.	Clauses 11.07-2, 11.08-1, 21.03, 21.08 & 32.08
<b>Officer's response -</b> Ballan is identified as regionally important in terms of its capacity to absorb population growth in a manner which responds to particular opportunities and constraints. This is discussed in more detail below.	
Adverse impact on function and appearance of Old Melbourne Road.	Clause 52.29
<b>Officer's response -</b> No further information is provided by the objector so it unclear what the particular concerns relate to. The appearance of the proposal, regarding neighbourhood character, is discussed below. VicRoads, as the relevant road manager, consents to the application subject to conditions.	
Insufficient information to assess the application in terms of vehicle access and the site's context.	Clauses 32.08-10 & 56.01
<b>Officer's response -</b> The application is considered to include sufficient information for a decision to be made.	
The proposal does not satisfy several particular clauses of the planning scheme.	Clauses 15.01-1, 15.01-2, 15.01-3, 56.01-1, 56.01-2 & 56.03-5
<b>Officer's response -</b> Clause 15.01-2 is irrelevant to this proposal. Assessment against the other clauses listed is made elsewhere in this report.	
Increased traffic and demand for on-street parking, posing a safety issue.	

Objection	Any relevant requirements
<b>Officer's response -</b> The application was referred to VicRoads and Council's Infrastructure unit, both of whom consent to the application, subject to conditions. Old Melbourne Road is capable of absorbing additional traffic associated with the proposal. It is acknowledged that there are no defined on-street parking areas in the vicinity. Parking on the south side of Old Melbourne Road is constrained by an existing pedestrian path adjoining the road shoulder. On the north side of Old Melbourne Road, beyond the road shoulder and parallel to the road, is a swale drain, beyond which is a wide grassed verge, however access to this area is constrained by the drain. It is considered that the lack of convenient on-street parking poses a potential safety issue.	
The proposal constrains the future design and placement of a single dwelling on the objector's vacant property adjoining the subject site.	N/A
<b>Officer's response -</b> It is unclear how development of the objector's land would be constrained by the proposal. In any case, other than the Ballan Structure Plan, there is no development plan giving guidance to the desired future development of the area, therefore the application must be assessed based on the existing context, including existing neighbourhood character.	
Impact on view from the objector's property	N/A
<b>Officer's response -</b> There are no known particular vistas or notable views from this location. Loss of views is not generally a valid objection.	

## Proposal

It is proposed to subdivide the land into seven lots. The lots would form a U-shape around a central accessway held as common property. Lots 1, 2, 4, 6 and 7 would each be 450sq m, and Lots 3 and 5 each 466sq m, all generally rectangular in shape. Lots 1 and 7 would have a direct frontage to Old Melbourne Road. Common property would include space for a visitor car space at the front of the site, adjoining Lot 7. There is no proposed access to Graham Street at the rear of the site.

No significant vegetation removal would be required; in any case, vegetation removal has not been included as part of this application.

The proposed plan is provided in Attachment 1.

## Site Description

The site is identified as Land in Plan of Consolidation PC 109432 and known as 445 Old Melbourne Road, Ballan. The site is on the south side of the road approximately 185m east of Geelong-Ballan Road and 300m west of Crook Court, and is rectangular in shape with a width of 40.23m and depth of 90.53m, yielding an area of 3642sq m. The site experiences a fall of 0.87m to the southeast and is occupied by a single storey dwelling and ancillary outbuildings which would be demolished to enable the proposed development. Vehicle access is obtained via a single crossover to Old Melbourne Road. The site contains several small to medium sized canopy trees planted near the title boundaries. Existing boundary fences are post and wire.

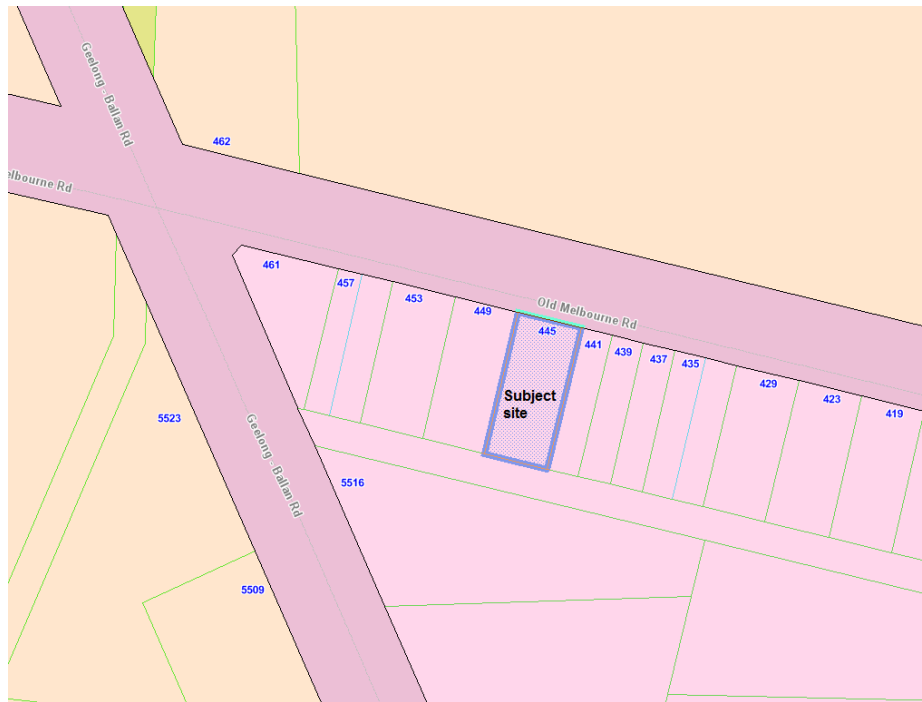
The subject site is near the western edge of Ballan township in the General Residential Zone. Lot sizes on the south side of this section of Old Melbourne Road are generally uniform and consistent with the size of the subject site, although some smaller lots are evident. The lot pattern supports a generally consistent residential form of substantial sized dwellings in spacious surroundings with ample opportunities for landscaping and tree planting. Fences, including side fences, are often either permeable or not readily visible from the street; rather established vegetation creates privacy between neighbours. Further to the south, beyond Graham Street, is land fronting Geelong-Ballan Road which is also in the General Residential Zone and largely developed with single storey dwellings on lots with a semi-rural character.

To the east of the subject site is a vacant lot of approximately 1800sq m. To the south, across Graham Street, is a lot of approximately 1.44ha containing a dwelling and ancillary outbuilding towards the front of the lot. To the west is a lot of approximately 3640sq m containing a dwelling and ancillary outbuildings. To the north, across Old Melbourne Road, is grazing land in the Rural Living Zone.



## Locality Map

The map below indicates the location of the subject site and the zoning of 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:

- 11.07-2 Peri-urban areas;
- 11.08 Central Highlands;
- 15.01-3 Neighbourhood and subdivision design;
- 15.01-5 Cultural identity and neighbourhood character;
- 16.01-1 Integrated housing;
- 16.01-2 Location of residential development;
- 21.02-3 Water and Catchment Management;
- 21.03-2 Urban Growth Management;
- 21.03-3 Residential Development;
- 21.03-4 Landscape and Neighbourhood Character;
- 21.08 Ballan; and
- 22.02 Special Water Supply Catchments.

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 11.07-2	Peri-urban areas	The proposed development does not adequately respond to the character and amenity of the area.
Clause 15.01-3	Neighbourhood and subdivision design	The proposal does not respond positively to the character of the area.
Clause 15.01-5	Cultural identity and neighbourhood character	The proposal does not respond positively to the character of the area.
LPPF		
Clause 21.03-4	Landscape and neighbourhood character	The proposal does not respond positively to the character of the area.
Clause 21.08-3	Housing	The proposal would not be sufficiently in keeping with the character of the area.

## Zone

The subject site is in the General Residential Zone, Schedule 1.

The purpose of the 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 encourage development that respects the neighbourhood character of the area.*
- *To implement neighbourhood character policy and adopted neighbourhood character guidelines.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

Under Clause 32.08-2 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for residential subdivision.

The proposed subdivision does not properly satisfy the purpose of the General Residential Zone. The proposal does not respect the neighbourhood character of the area.

## Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to subdivide land.

The proposal is consistent with the provisions of the Environmental Significance Overlay.

## Relevant Policies

Council adopted the Ballan Structure Plan on 17 December 2015 which recommends minimum 600sq m lot sizes in this area of Ballan. The proposal is not in accordance with the Structure Plan.

## Particular Provisions

### Clause 52.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988. If a permit were to issue, a condition of approval should require payment of a public open space contribution of 5% of the site value.

### Clause 52.29 Land Adjacent to a Road Zone, Category 1

Under Clause 52.29 a permit is required to alter access and subdivide land adjacent to a Road Zone, Category 1. The application was referred to VicRoads who consented subject to conditions. The proposal is consistent with the provisions of this clause.

### Clause 56 Residential Subdivision

Subject to standard permit conditions, the proposal would comply with the relevant ResCode (Clause 56) provisions, except for the following:

ResCode Clause	Title	Response
56.03-5	Neighbourhood character objective	The proposed subdivision does not support the development of the site in a manner consistent with the surrounding neighbourhood character.

## Discussion

Overall, the proposal is considered to be inconsistent with relevant State and local planning policy, the General Residential Zone and Clause 56 of the Moorabool Planning Scheme.

The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Ballan as a town intended to support increased population growth. The proposal would contribute to consolidated growth of the town and take advantage of existing infrastructure. However, growth must be balanced with the need for new development to respect the existing neighbourhood character and integrate with the surrounding environment. This proposal does not achieve that desired balance, as discussed below.



Other relevant State and local planning policy emphasizes a range of concerns, including the need to:

- Provide for development in established settlements with a capacity for growth;
- Strengthen and enhance the character, identity, attractiveness and amenity of peri-urban towns;
- Create a strong sense of place;
- Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation;
- Extend the range of housing types available to provide resident choice and meet changing housing needs;
- Ensure new development in all zones respects the existing character, landscape setting and amenity of the local area; and
- Provide diversity in housing that is in character with the township and provides for continued growth of the town as a regional centre.

The subject site and most surrounding land is in the General Residential Zone, Schedule 1 (GRZ1), and mostly developed with single dwellings with very few examples of similar medium density development and associated subdivision in the area.

The purpose of the GRZ includes the following:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*

The purpose of the GRZ, and the range of applicable State and local planning policies, indicate that development must achieve a balance between providing for increased growth and protecting the character and amenity of the area.

The key issue for discussion is considered to be:

- Does the proposed subdivision respect neighbourhood character?

The site and surrounding area is in an established area of Ballan, but near the western edge of the town, and characterised by mostly spacious sized lots with substantial sized dwellings and space for landscaping and tree planting. Many lots are planted with well-established trees and shrubs, sometimes obscuring the view of dwellings from the street. Land on the northern side of this section of Old Melbourne Road mostly comprises grazing land. These features distinguish the area from many other parts of the township where dwellings on smaller lots contribute to a more compact, strongly residential character. The appearance of this section of Old Melbourne Road, towards the edge of Ballan and one of the key 'gateways' to the town, provides a visual transition between the countryside and the town centre, and the density and appearance of development is critical to maintaining and enhancing this character.

The subject site is 3642sq m, consistent with numerous other lots along this side of Old Melbourne Road west of Old Geelong Road. There are some smaller lots of approximately 1800sq m, and an existing medium density development at 397 Old Melbourne Road containing seven lots of at least 500sq m each.

The proposal introduces lot sizes of 450-466sqm, substantially smaller than those in the surrounding area, and not in keeping with the aforementioned character of the area.

The proposal is inconsistent with the Ballan Structure Plan, adopted by Council in December 2015, which recommends minimum lot sizes of 600sq m for this site and the surrounding residential area.

Overall, the proposed subdivision is not considered to be suitably site responsive and does not respect the neighbourhood character. It is considered that the proposal is fundamentally an overdevelopment of the site and should not be approved.

### **General Provisions**

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

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's Infrastructure unit was provided with an opportunity to comment on the application.

<b>Authority</b>	<b>Response</b>
Western Water	Consent
Southern Rural Water	Consent with conditions
Melbourne Water	Consent with conditions
Central Highlands Water	Consent with conditions
Powercor	Consent with conditions
Downer	Consent
VicRoads	Consent with conditions
Infrastructure	Consent with conditions

### **Financial Implications**

The recommendation of refusal of this application would not represent any financial implications for Council.

### **Risk and Occupational Health and Safety Issues**

The recommendation of refusal of 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. The applicant and objector were invited to attend this meeting and address Council if desired.

## Options

An alternative recommendation would be to approve the application subject to conditions.

Approving the application may result in the objector lodging an application for review of Council's decision with VCAT.

## Conclusion

The proposed subdivision does not adequately respond to relevant State and local planning policy, the General Residential Zone or Clause 56 of the Moorabool Planning Scheme.

The proposal is not considered to be suitably site responsive and does not respect the neighbourhood character. State and local planning policy and the General Residential Zone require development to achieve a balance between growth and protection of amenity and character. In this regard the proposal is not adequately site responsive. It is considered that there are more suitable locations in Ballan for development at the density proposed, and that in this 'gateway' location to the town development must be managed to protect the valued character of the area for both residents and visitors. The proposal is also inconsistent with the adopted Ballan Structure Plan which recommends minimum 600sq m lot sizes for this site. For these reasons the proposal is not considered to be sufficiently site responsive and should be refused.

## Recommendation

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2016248 for a Seven (7) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Land in PC 109432, 445 Old Melbourne Road, Ballan, on the following grounds:**

- 1. The proposed subdivision does not satisfy the relevant provisions of the Moorabool Planning Scheme relating to neighbourhood character and amenity.**
- 2. The proposal is inconsistent with the recommended lot sizes in the Ballan Structure Plan (December 2015).**

---

## Report Authorisation

**Authorised by:**

**Name:**

**Title:**

**Date:**



**Satwinder Sandhu**

**General Manager Growth and Development**

**11 April, 2017**



#### Item 4.7 Planning Permit Application PA2016-249

**Planning Permit Application PA2016-249; Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan VIC 3342.**

<b>Application Summary:</b>	
Permit No:	PA2016249
Lodgement Date:	4 October, 2016
Planning Officer:	Tom Tonkin
Address of the land:	Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan 3342
Proposal:	Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1
Lot size:	1792sq m
Why is a permit required?	<p>Clause 32.08 – General Residential Zone – Development of two or more dwellings and subdivision</p> <p>Clause 42.01 – Environmental Significance Overlay – Subdivision</p> <p>Clause 52.29 – Land Adjacent to a Road Zone, Category 1 – Subdivision and alteration of access</p>
Restrictions registered on title	None
<b>Public Consultation:</b>	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Notices on site:	One (1)
Notice in Moorabool Newspaper:	None
Number of Objections:	None
Consultation meeting:	Not required
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	<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>

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
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.	
<b>Officer's Declaration of Conflict of Interests</b>	
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 – Tom Tonkin</i>	
In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes, the application was referred to relevant utility providers and Council's Infrastructure unit.
Any issues raised in referral responses?	No
Preliminary Concerns?	Yes. The Council officer wrote to the applicant to advise of concerns about the impact of high front fencing, proposed front setbacks, extent of site coverage and boundary walls, overlooking, location of the visitor car space and proposed lot sizes non conformity with the Ballan Structure Plan, and requested to know the width of the proposed crossover.
Any discussions with applicant regarding concerns	In response to the above concerns, the applicant provided a written response but did not make any changes to the plans in response to the key concerns. In relation to the 6.5m front setback, the applicant stated a willingness to increase the setback to 7.5m but requested Council impose this as a condition of future approval. The officer wrote to the applicant to advise that this was not the appropriate process and accordingly the applicant amended the plans to provide a 7.5m front setback.
Any changes made to the application since being lodged?	As described above.
VCAT history?	None

Previous applications for the site?	PA2013086 for a Four Lot Staged Subdivision was approved by Council in 2013. The subdivision was completed with Lot 1 being subject to the current application. An amendment to PA2013086 to create a five lot staged subdivision, by reducing the size of Lot 1 to accommodate an additional lot, was sought by the current applicant but later withdrawn following advice from the Council officer that it would not be supported.
General summary	<p>The application is for the development of five (5) single storey dwellings and a five (5) lot subdivision of the site. Each dwelling would have three (3) bedrooms, the usual utilities and two (2) car spaces accessed via a common accessway. Lot sizes would be 300-320sq m.</p> <p>The proposal satisfies some relevant provisions of the Moorabool Planning Scheme, but fails to adequately respond to the neighbourhood character of the area and does not satisfy all of the relevant objectives and standards of Clauses 55 and 56 for development and subdivision. For these reasons the proposal is not considered to be sufficiently site responsive and should be refused.</p>
<b>Summary Recommendation:</b>	
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i> , on the grounds detailed at the end of this report.	

## Public Notice

Notice of the application was given to adjoining and nearby landowners and occupiers by mail on 19 January 2017 and a sign erected on site from 27 January until 13 February 2017. No objections were received.

## Proposal

It is proposed to develop the site for five single storey dwellings and to subdivide the land into five lots. Vehicle access to the site would be via a proposed crossover to Old Melbourne Road leading to a common property accessway through the centre of the site. Units 1 and 2 would be located at the front of the site, oriented to the accessway rather than the street, with Units 3, 4 and 5 located to the rear, each oriented to the front of the site. Each dwelling would comprise three (3) bedrooms and the usual utilities. Unit 1 and 2's secluded private open space would be located in the setback to Old Melbourne Road, separated from the road by a minimum 1.8m high fence set back 3.0m from the front title boundary. Unit 3, 4 and 5's secluded private open space would be provided to the side and rear of the dwellings.

Units 1 and 2 would be set back 7.5m from the front title boundary. Minimum side setbacks would range from 1.0-1.3m, and minimum rear setbacks from 4.0-4.2m.

Each dwelling would be provided with two car spaces in either a double garage (Units 3 and 5) or a single garage and tandem car space (Units 1, 2 and 4). All garages except Unit 4's would be built to the side boundaries. A visitor car space would be provided in the front setback, near Unit 2.

The dwellings would be of a traditional design, incorporating brick and weatherboard cladding and low pitched hipped and gabled Colorbond roofs with no eaves and front verandahs with skillion roofs. Boundary walls would be of brick construction.

Proposed lots 1 to 5 would correspond with the above described Unit numbers. Lot sizes would range from 300-320sq m. Common property would comprise the accessway, visitor car space and an additional area in the front setback for mail boxes.

Several medium sized canopy trees would require removal to facilitate the proposal.

The proposed plans are provided in Attachments 1, 2 and 3.

### **Site Description**

The site is identified as Lot 1 on PS 700827S and known as 403 Old Melbourne Road, Ballan. The site is on the south side of the road approximately 41.0m east of Crook Court, and is rectangular in shape with a width of 40.29m and depth of 44.48m, yielding an area of 1792sq m. The site experiences a fall of approximately 0.75m to the east and is occupied by a single storey brick dwelling with a low pitched hipped roof and an attached carport. Vehicle access is obtained via two single crossovers to Old Melbourne Road, leading to a semi-circular driveway in the front setback. Existing trees and vegetation are located in the front and rear setbacks. An existing 1.8m high Colorbond fence is located approximately 3.0m parallel to the front title boundary but substantially obscured from the street by trees and shrubs planted between the fence and title boundary.

The subject site is near the western edge of Ballan township in the General Residential Zone. Lot sizes on the south side of this section of Old Melbourne Road are generally uniform and consistent with the size of the subject site, although some smaller lots are evident. The lot pattern supports a generally consistent residential form of substantial sized dwellings in spacious surroundings with ample opportunities for landscaping and tree planting. Fences, including side fences, are often either permeable or not readily visible from the street; rather established vegetation creates privacy between neighbours. Further to the south, beyond Graham Street, is land in Crook Court which is also in the General Residential Zone and developed with single dwellings on lots of widely varying sizes, reflecting the recent and ongoing subdivision of larger semi-rural lots creating a more compact urban form of development.

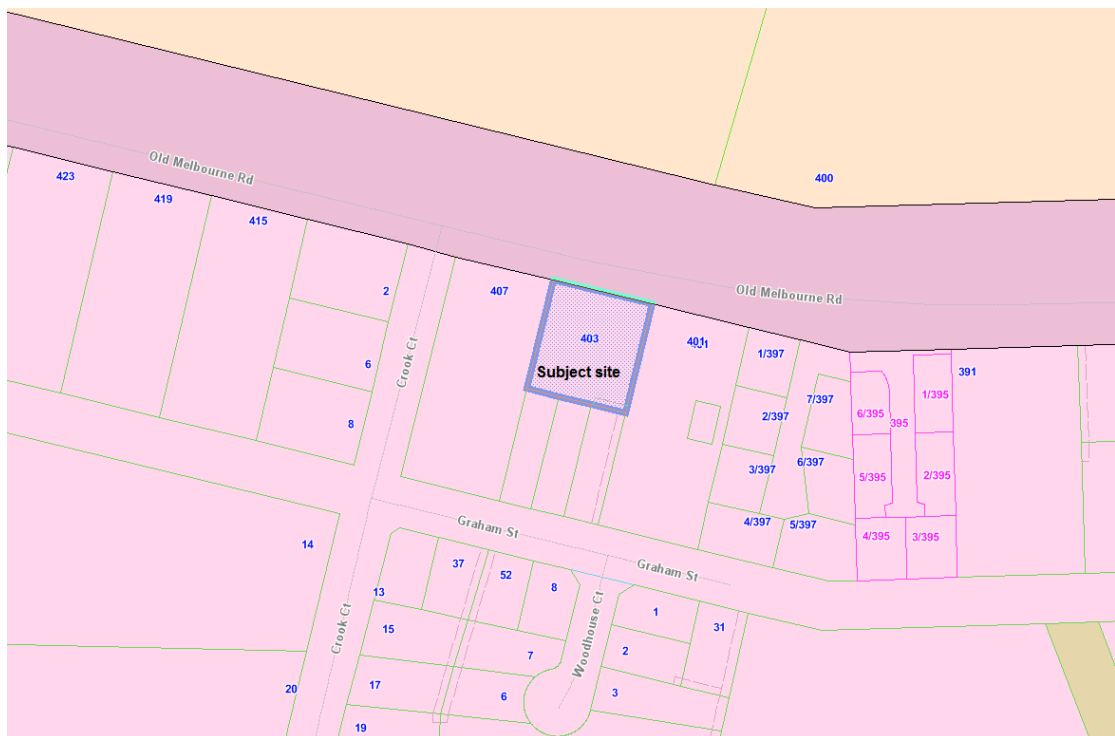
To the east of the subject site is a lot of approximately 3140sq m containing a single storey brick dwelling fronting Old Melbourne Road and two sheds in the rear setback. To the south are three lots of 602-652sq m fronting Graham Street, currently being developed with single dwellings. To the west is a single storey brick dwelling with ancillary outbuildings to the rear on the corner of Old Melbourne Road and Crook Court on a lot of 3642sq m. To the north, across Old Melbourne Road, is grazing land in the Rural Living Zone.





## Locality Map

The map below indicates the location of the subject site and the zoning of 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:

- 11.07-2 Peri-urban areas;
- 11.08 Central Highlands;
- 15.01-3 Neighbourhood and subdivision design;
- 15.01-5 Cultural identity and neighbourhood character;
- 16.01-1 Integrated housing;
- 16.01-2 Location of residential development;
- 16.01-4 Housing diversity;
- 21.02-3 Water and Catchment Management;
- 21.03-2 Urban Growth Management;
- 21.03-3 Residential Development;
- 21.03-4 Landscape and Neighbourhood Character;
- 21.08 Ballan; and
- 22.02 Special Water Supply Catchments.

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 11.07-2	Peri-urban areas	The proposed development does not adequately respond to the character and amenity of the area.
Clause 15.01-3	Neighbourhood and subdivision design	The proposal does not respond positively to the character of the area.
Clause 15.01-5	Cultural identity and neighbourhood character	The proposal does not respond positively to the character of the area.
Clause 16.01-4	Housing diversity	The proposal does not respond positively to the character of the area.
<b>LPPF</b>		
Clause 21.03-4	Landscape and neighbourhood character	The proposal does not respond positively to the character of the area.
Clause 21.08-3	Housing	The proposed development would not be sufficiently in keeping with the character of the area.

## Zone

The subject site is in the General Residential Zone, Schedule 1.

The purpose of the 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 encourage development that respects the neighbourhood character of the area.*

- *To implement neighbourhood character policy and adopted neighbourhood character guidelines.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

Under Clause 32.08-2 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for residential subdivision.

Under Clause 32.08-4 a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

The proposed development and subdivision does not properly satisfy the purpose of the General Residential Zone. The proposal does not respect the neighbourhood character of the area.

### **Overlays**

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to subdivide land, construct buildings and works and remove vegetation. Under Schedule 1 the proposal satisfies an exemption for the development of a dwelling in a residential zone connected to reticulated sewerage and storm water is not discharged within 100m of a waterway unless into an approved drainage system.

The proposal is consistent with the provisions of the Environmental Significance Overlay.

### **Relevant Policies**

Council adopted the Ballan Structure Plan on 17 December 2015 which recommends minimum 600sq m lot sizes in this area of Ballan. The proposal is not in accordance with the Structure Plan.

### **Particular Provisions**

#### Clause 52.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988. If a permit were to issue, a condition of approval should require payment of a public open space contribution of 5% of the site value.

#### Clause 52.06 Car Parking

Under Clause 52.06-5 each three (3) bedroom dwelling must be provided with two (2) car spaces, one (1) of which must be under cover. Additionally, for every five (5) dwellings one (1) visitor car space must be provided. The resident and visitor parking provision, garage dimensions and accessway widths meet the relevant requirements of Clause 52.06-5 and 52.06-8.

#### Clause 55 Two or More Dwellings on a Lot and Residential Buildings

The proposal complies with the relevant ResCode (Clause 55) provisions, except for the following:

<b>ResCode Clause</b>	<b>Title</b>	<b>Response</b>
55.02-1	Neighbourhood character objectives	The density of development, reduced front setback, significant site coverage, boundary wall construction and high front fences do not respect the neighbourhood character.
55.03-1	Street setback objective	The proposed 7.5m front setback does not comply with the minimum 9.0m.
55.03-3	Site coverage objective	The proposed 56% coverage complies with the standard for a maximum 60% but does not satisfy the objective.
55.04-1	Side and rear setbacks objective	The proposed side setbacks, and the extent of built form near the side boundaries, do not respect the neighbourhood character.
55.04-2	Walls on boundaries objective	The length and height of proposed boundary walls meets the standard but is not in keeping with neighbourhood character.
55.06-2	Front fences objective	The proposed high fencing would not be in keeping with neighbourhood character.

#### Clause 56 Residential Subdivision

The proposal complies with the relevant ResCode (Clause 56) provisions, except for the following:

<b>ResCode Clause</b>	<b>Title</b>	<b>Response</b>
56.03-5	Neighbourhood character objective	The proposed subdivision does not support the development of the site in a manner consistent with the surrounding neighbourhood character.
56.04-4	Street orientation objective	Lot 1 and 2's orientation to the common accessway rather than to the Old Melbourne Road frontage, does not comply with this standard.

## Discussion

Overall, the proposal is considered to be inconsistent with relevant State and local planning policy, the General Residential Zone and Clause 56 of the Moorabool Planning Scheme.

The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Ballan as a town intended to support increased population growth. The proposal would contribute to consolidated growth of the town and take advantage of existing infrastructure. However, growth must be balanced with the need for new development to respect the existing neighbourhood character and integrate with the surrounding environment. This proposal does not achieve that desired balance, as discussed below.

Other relevant State and local planning policy emphasizes a range of concerns, including the need to:

- Provide for development in established settlements with a capacity for growth;
- Strengthen and enhance the character, identity, attractiveness and amenity of peri-urban towns;
- Create a strong sense of place;
- Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation;
- Extend the range of housing types available to provide resident choice and meet changing housing needs;
- Ensure new development in all zones respects the existing character, landscape setting and amenity of the local area;
- Provide diversity in housing that is in character with the township and provides for continued growth of the town as a regional centre.

The subject site and most surrounding land is in the General Residential Zone, Schedule 1 (GRZ1), and mostly developed with single dwellings with very few examples of similar medium density development and associated subdivision in the area.

The purpose of the GRZ includes the following:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*

The purpose of the GRZ, and the range of applicable State and local planning policies, indicate that development must achieve a balance between providing for increased growth and protecting the character and amenity of the area.

The key issue for discussion is considered to be:

- Does the proposed development and subdivision respect neighbourhood character?

The site and surrounding area is in an established area of Ballan, but near the western edge of the town, and characterised by mostly spacious sized lots with substantial sized dwellings and space for landscaping and tree planting. Many lots are planted with well-established trees and shrubs, sometimes obscuring the view of dwellings from the street. Land on the northern

side of this section of Old Melbourne Road mostly comprises grazing land. These features distinguish the area from many other parts of the township where dwellings on smaller lots contribute to a more compact, strongly residential character. The appearance of this section of Old Melbourne Road, towards the edge of Ballan and one of the key 'gateways' to the town, provides a visual transition between the countryside and the town centre, and the density and appearance of development is critical to maintaining and enhancing this character.

The subject site is 1792sq m, consistent with some other lots along this side of Old Melbourne Road west of Old Geelong Road. There are numerous larger lots of approximately 3640sq m, and an existing medium density development at 397 Old Melbourne Road containing seven lots of at least 500sq m each. The proposal introduces lot sizes of 301-320sq m, substantially smaller than those in the surrounding area, and not in keeping with the aforementioned character of the area.

Various aspects of the design, assessed under Clause 55 and identified in the relevant table above, do not comply with relevant objectives of the planning scheme with regard to neighbourhood character. The combined effect of the 7.5m front setback, boundary wall construction, side setbacks and 56% site coverage are all symptomatic of overdevelopment of the site. Although the proposal would contribute to housing diversity in this area of Ballan it would be to the detriment of the character and amenity of the area. The compact style of development proposed is better suited to the inner area of Ballan where opportunities exist for such development to integrate with the surrounding area.

The proposal is inconsistent with the Ballan Structure Plan, adopted by Council in December 2015, which recommends minimum lot sizes of 600sq m for this site and the surrounding residential area.

Overall, the proposed development and subdivision is not considered to be suitably site responsive and does not respect the neighbourhood character. It is considered that the proposal is fundamentally an overdevelopment of the site and should not be approved.

### **General Provisions**

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

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's Infrastructure unit was provided with an opportunity to comment on the application.

<b>Authority</b>	<b>Response</b>
Western Water	Consent
Southern Rural Water	Consent with conditions
Melbourne Water	Consent with conditions
Central Highlands Water	Consent with conditions
Powercor	Consent with conditions

Authority	Response
Downer	Consent with conditions
Infrastructure	Consent with conditions

### **Financial Implications**

The recommendation of refusal of this application would not represent any financial implications for Council.

### **Risk and Occupational Health and Safety Issues**

The recommendation of refusal of 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. The applicant was invited to attend this meeting and address Council if desired.

### **Options**

An alternative recommendation would be to approve the application subject to conditions.

Approving the application would not result in any appeal of Council's decision at VCAT given there were no objections to the application.

### **Conclusion**

The proposed subdivision does not adequately respond to relevant State and local planning policy, the General Residential Zone or Clause 56 of the Moorabool Planning Scheme.

The proposal is not considered to be suitably site responsive and does not respect the neighbourhood character. State and local planning policy and the General Residential Zone require development to achieve a balance between growth and protection of amenity and character. In this regard the proposal is not adequately site responsive. It is considered that there are more suitable locations in Ballan for development at the density proposed, and that in this 'gateway' location to the town development must be managed to protect the valued character of the area for both residents and visitors. The proposal is also inconsistent with the adopted Ballan Structure Plan which recommends minimum 600sq m lot sizes for this site. For these reasons the proposal is not considered to be sufficiently site responsive and should be refused.

## **Recommendation**

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2016249 for Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan, on the following grounds:

1. The proposed development and subdivision do not satisfy the relevant provisions of the Moorabool Planning Scheme regarding neighbourhood character and amenity.
2. The proposed development does not satisfy all the relevant objectives of Clause 55 of the Moorabool Planning Scheme.
3. The proposed subdivision does not satisfy all the relevant objectives of Clause 56 of the Moorabool Planning Scheme.
4. The proposal is inconsistent with the recommended lot sizes in the Ballan Structure Plan (December 2015).

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## **Report Authorisation**

**Authorised by:**

**Name:**

**Title:**

**Date:**

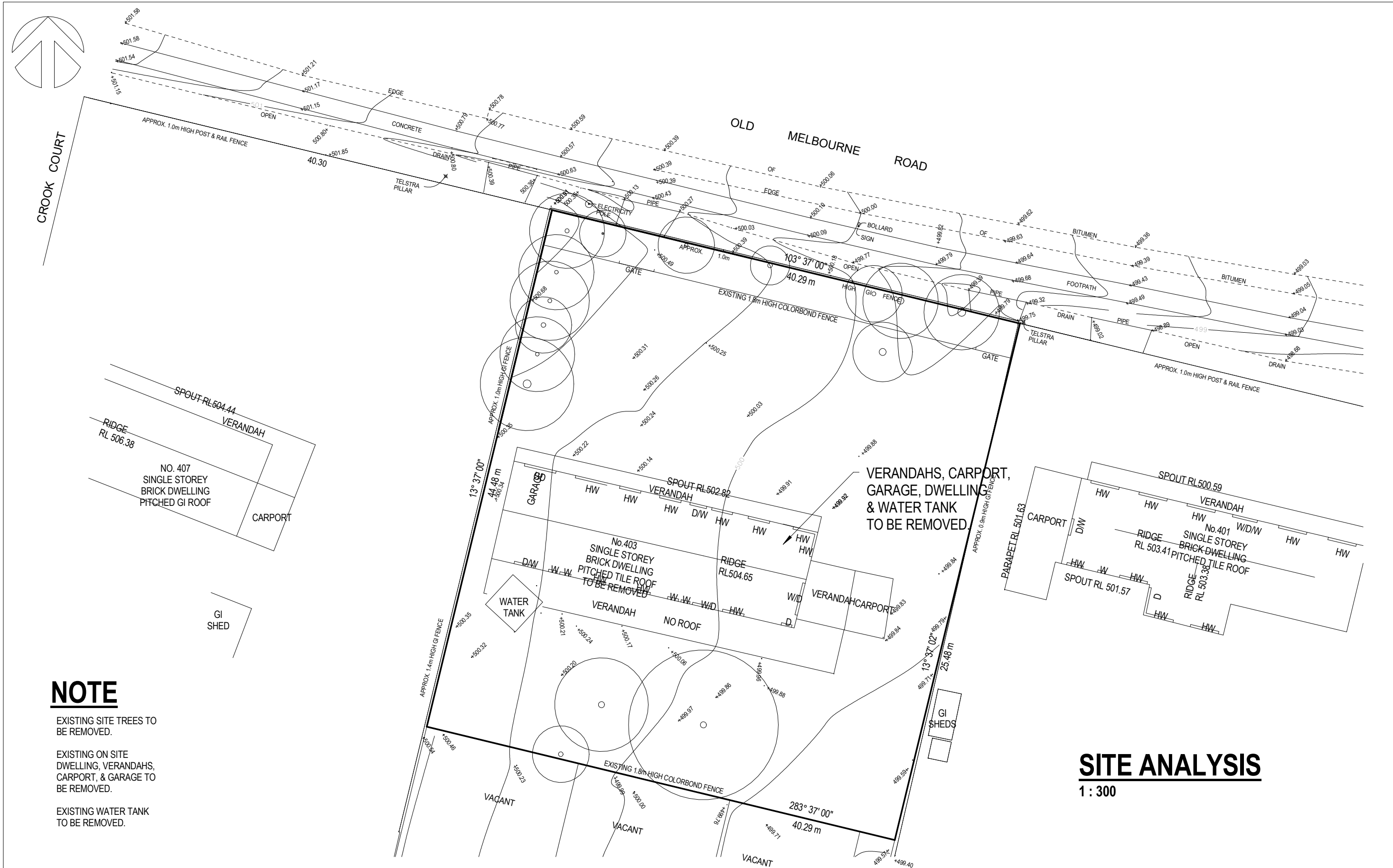


**Satwinder Sandhu**

**General Manager Growth and Development**

**11 April, 2017**





**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

## BUILDING PERMIT ISSUE

**Sheet No:** 1 OF 13

**Drawn By:** T.Cornish

**Drawing:** Site Analysis

**Scale:** As indicated

**Sheet Size:** A3

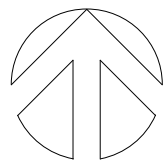


REGISTRATION NO. DP-AD 264

Phone: (03) 5334 1545

Fax: (03) 5334 3914

Email: sc\_draftingdesign@hotmail.com



AREA SCHEDULE		
Area	m <sup>2</sup>	sq
Unit 1 Dwelling	103.98	11.19
Unit 1 Garage	27.98	3.01
Unit 1 Verandah	5.14	0.55
Unit 2 Dwelling	105.37	11.34
Unit 2 Garage	27.23	2.93
Unit 2 Verandah	4.94	0.53
Unit 3 & 5 Dwelling	130.51	14.04
Unit 3 & 5 Garage	44.19	4.75
Unit 3 & 5 Verandah	7.13	0.77
Unit 4 Dwelling	108.75	11.70
Unit 4 Garage	32.79	3.53
Unit 4 Verandah	6.01	0.65

## POS

UNIT 1  
Private Open Space - 61.71m<sup>2</sup>  
Total - 71.36m<sup>2</sup>

UNIT 2  
Private Open Space - 59.94m<sup>2</sup>  
Total - 70.03m<sup>2</sup>

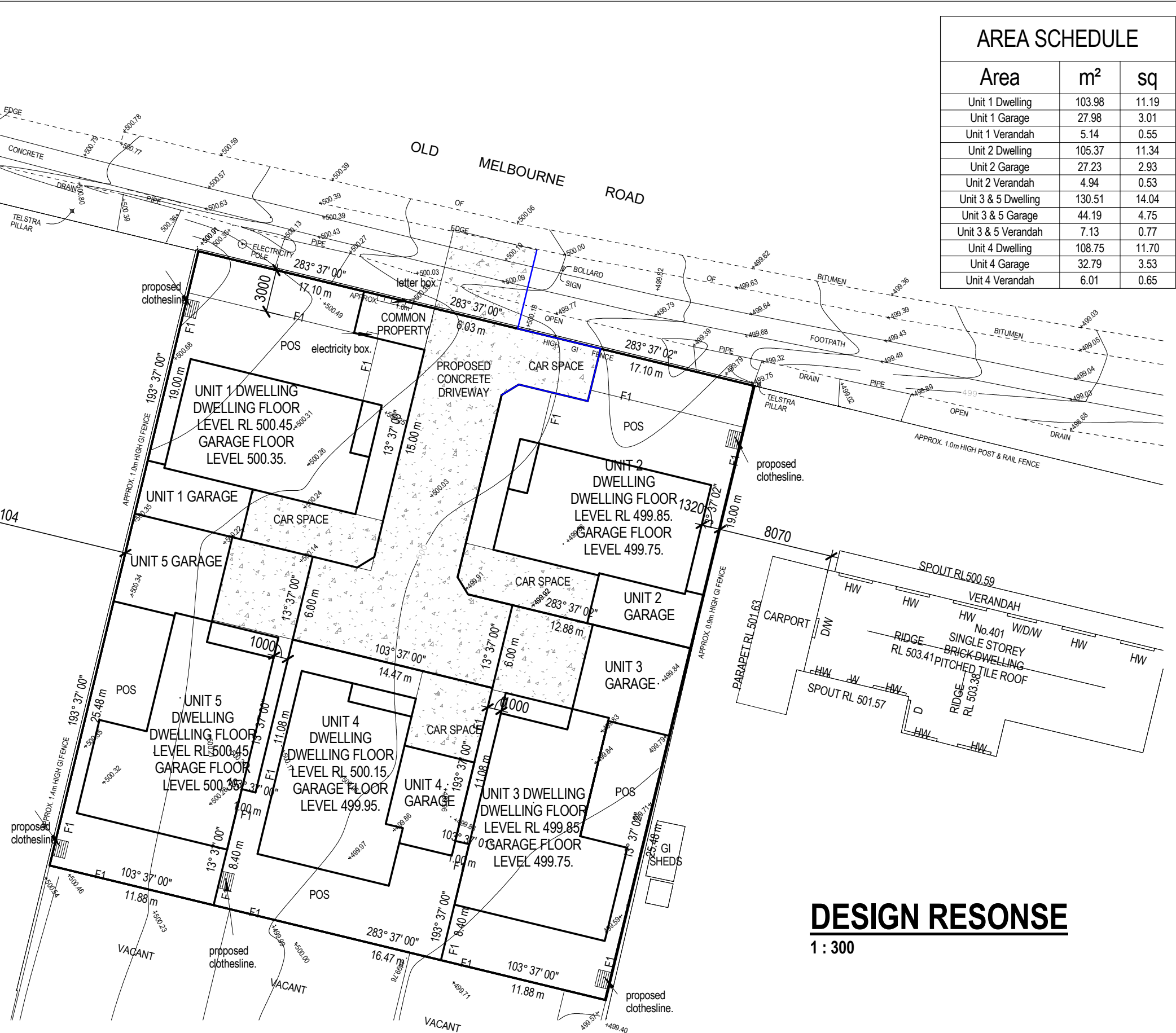
UNIT 3  
Private Open Space - 37.33m<sup>2</sup>  
Total - 102.52m<sup>2</sup>

UNIT 4  
Private Open Space - 84.69m<sup>2</sup>  
Total - 104.18m<sup>2</sup>

UNIT 5  
Private Open Space - 36.99m<sup>2</sup>  
Total - 101.62m<sup>2</sup>

## LEGEND

- F1 Indicates location of proposed 1.8m high colorbond fence.
- POS Location of private open space.



## DESIGN RESPONSE

1 : 300

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

## BUILDING PERMIT ISSUE

Sheet No: 2 OF 13

**Drawn By:** T.Cornish

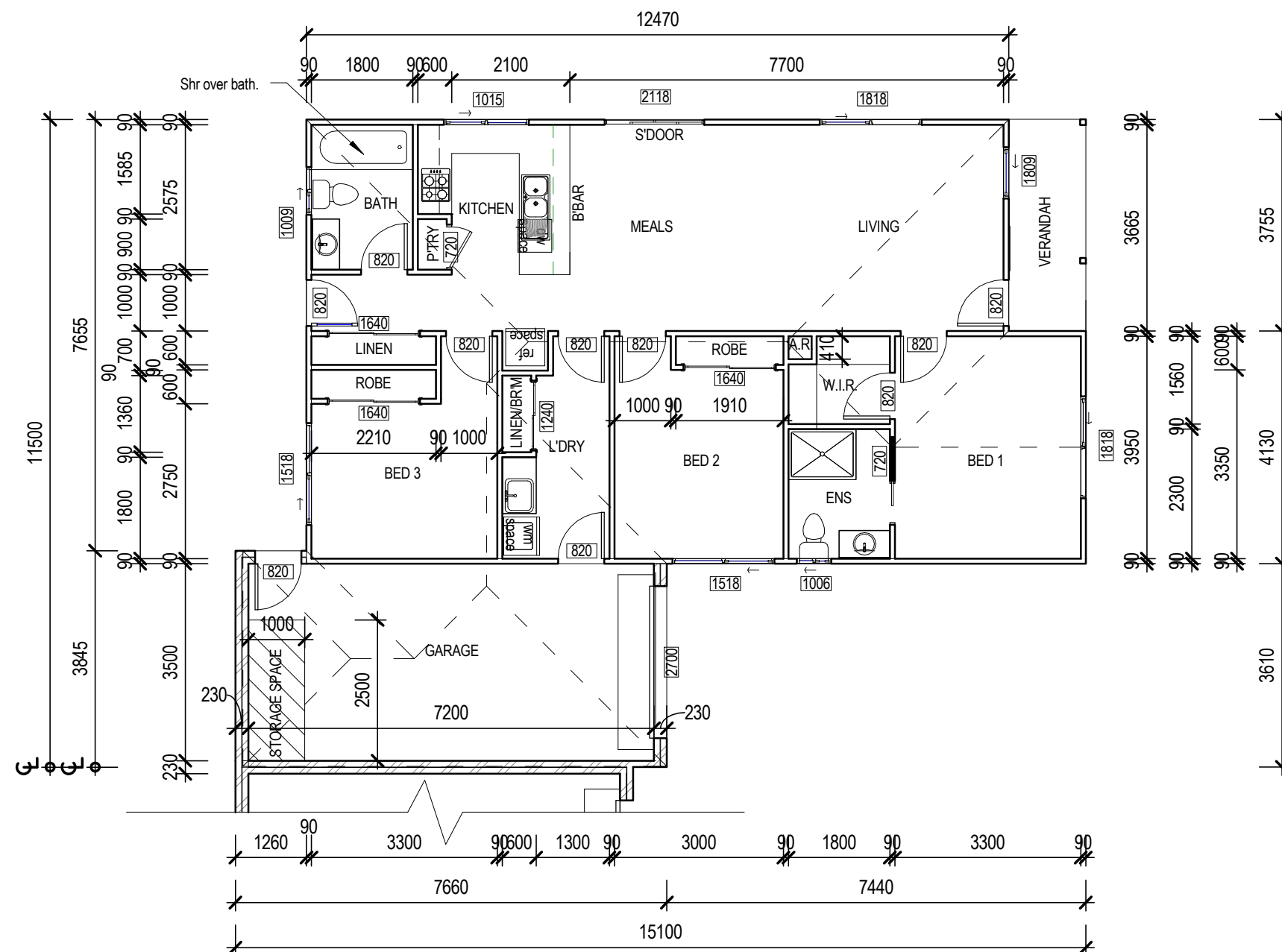
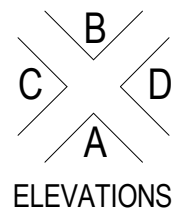
**Drawing:** Design Response

**Scale:** As indicated

**Sheet Size:** A3



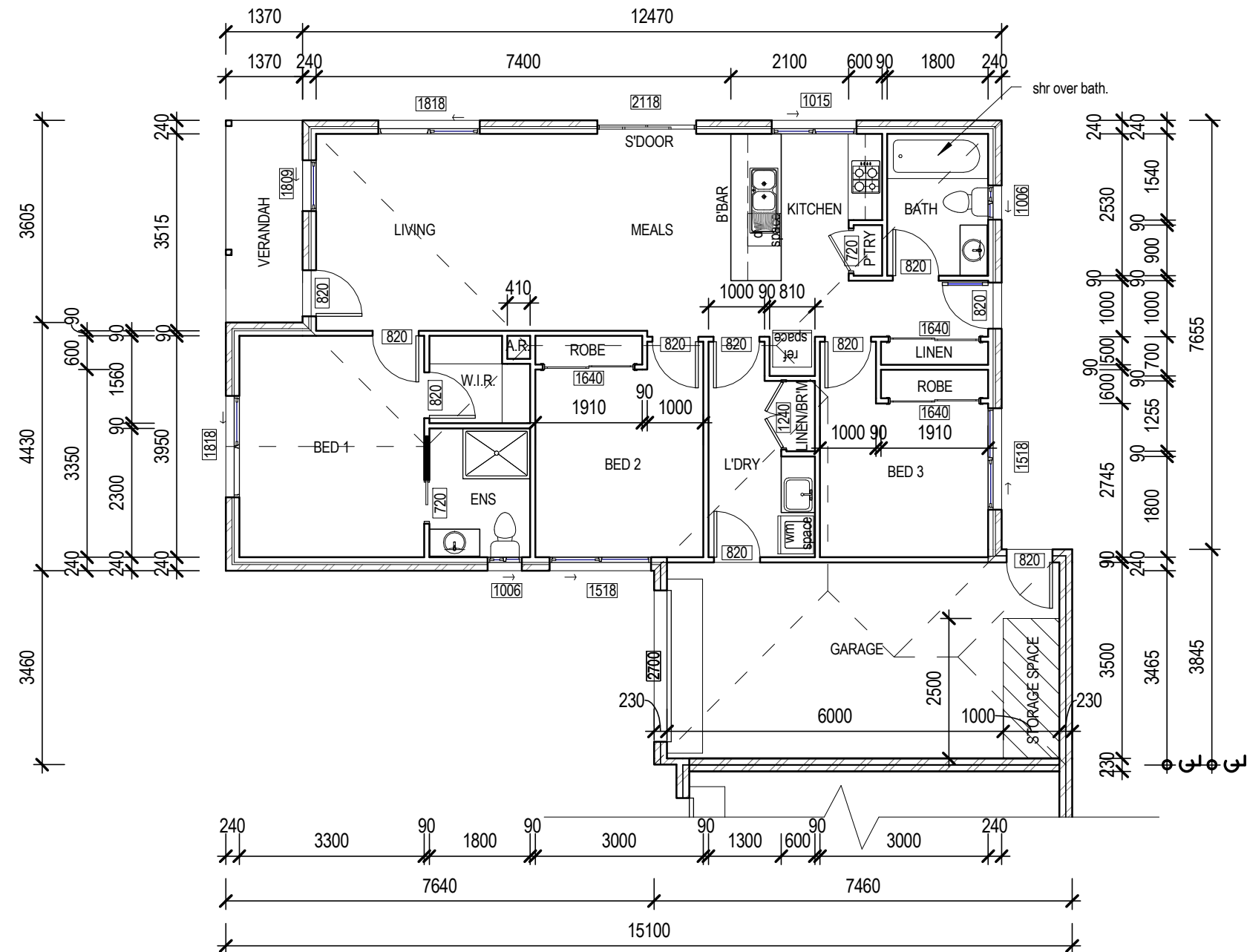
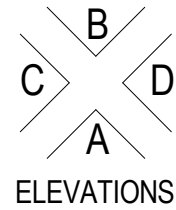
REGISTRATION NO. DP-AD 264  
Phone: (03) 5334 1545  
Fax: (03) 5334 3914  
Email: sc\_draftingdesign@hotmail.com



# FLOOR PLAN UNIT 1

1 : 100

<b>Project Description:</b> Proposed Unit Development	<b>BUILDING PERMIT ISSUE</b>  <b>Sheet No:</b> 4 OF 13	<b>Drawn By:</b> T.Cornish	 REGISTRATION NO. DP-AD 264 Phone: (03) 5334 1545 Fax: (03) 5334 3914 Email: sc_draftingndesign@hotmail.com
<b>Project Address:</b> 403 Old Melbourne Road, Ballan		<b>Drawing:</b> Floor Plan	
<b>Client Name:</b> John Wakeling		<b>Scale:</b> 1 : 100	
<b>Date:</b> 29/08/2016		<b>Sheet Size:</b> A3	



## FLOOR PLAN UNIT 2

1 : 100

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

### BUILDING PERMIT ISSUE

**Sheet No:** 5 OF 13

**Drawn By:** T.Cornish

**Drawing:** FloorPlan

**Scale:** 1 : 100

**Sheet Size:** A3



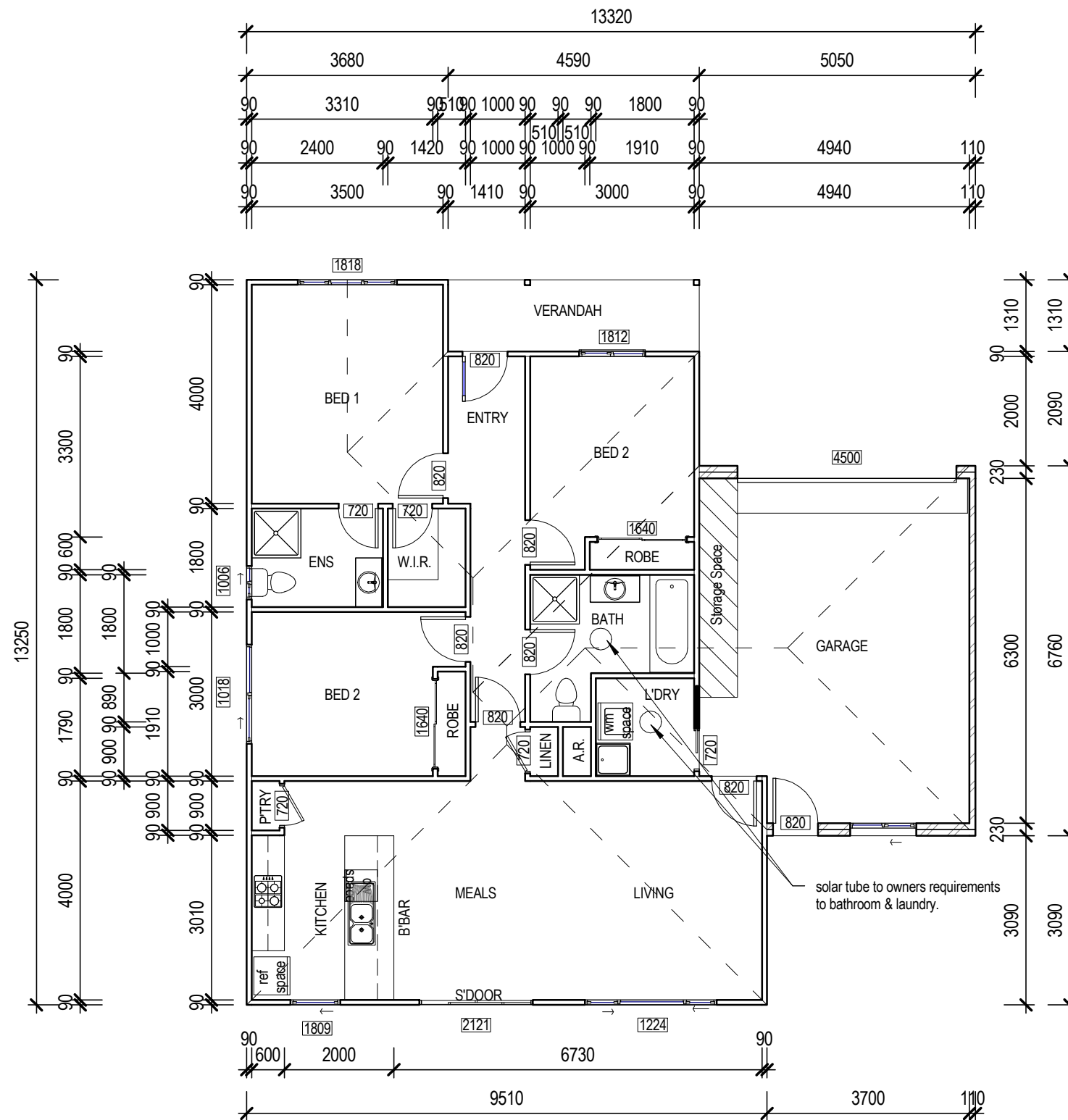
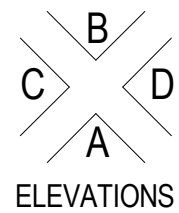
REGISTRATION NO. DP-AD 264

Phone: (03) 5334 1545

Fax: (03) 5334 3914

Email: sc\_draftingdesign@hotmail.com





# **FLOOR PLAN UNIT 4**

1 : 100

<b>Project Description:</b>	Proposed Unit Development
<b>Project Address:</b>	403 Old Melbourne Road, Ballan
<b>Client Name:</b>	John Wakeling
<b>Date:</b>	29/08/2016

## BUILDING PERMIT ISSUE

**Sheet No: 7 OF 13**

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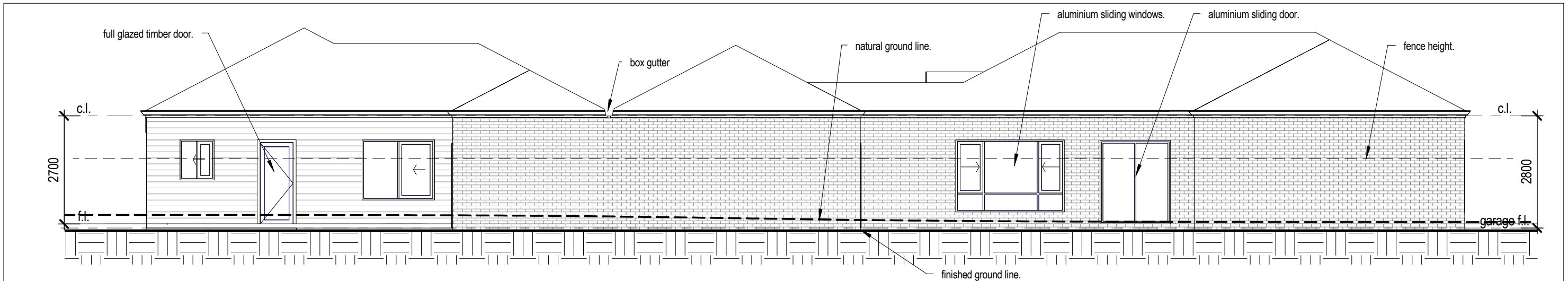
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**Sheet Size:** A3



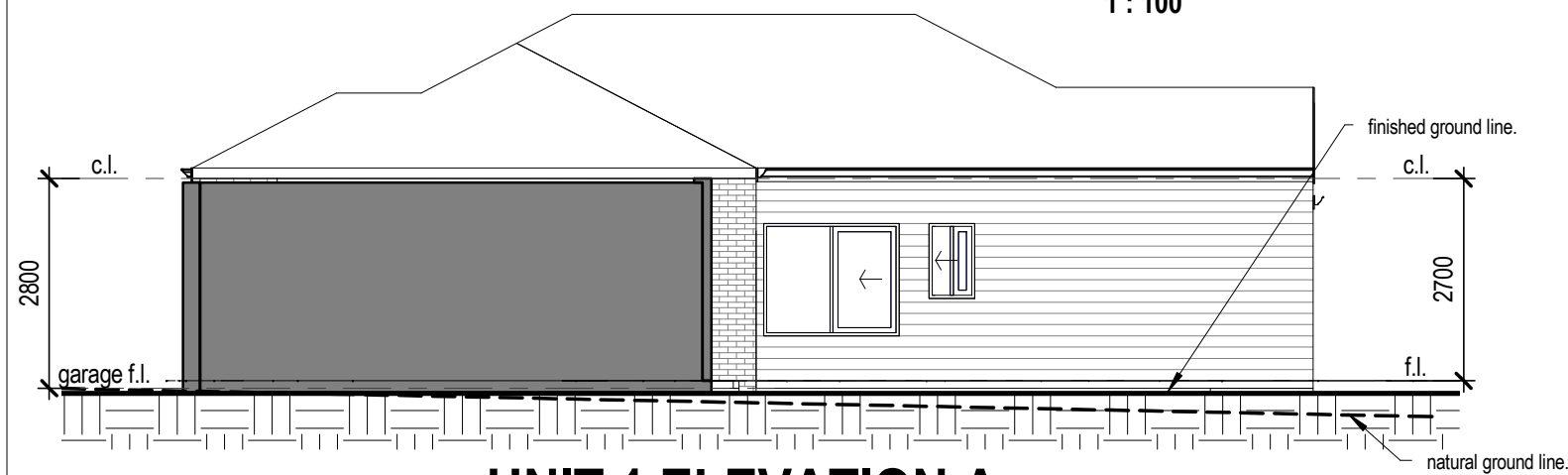
REGISTRATION NO. DP-AD 264  
Phone: (03) 5334 1545  
Fax: (03) 5334 3914  
Email: [sc\\_draftingdesign@hotmail.com](mailto:sc_draftingdesign@hotmail.com)



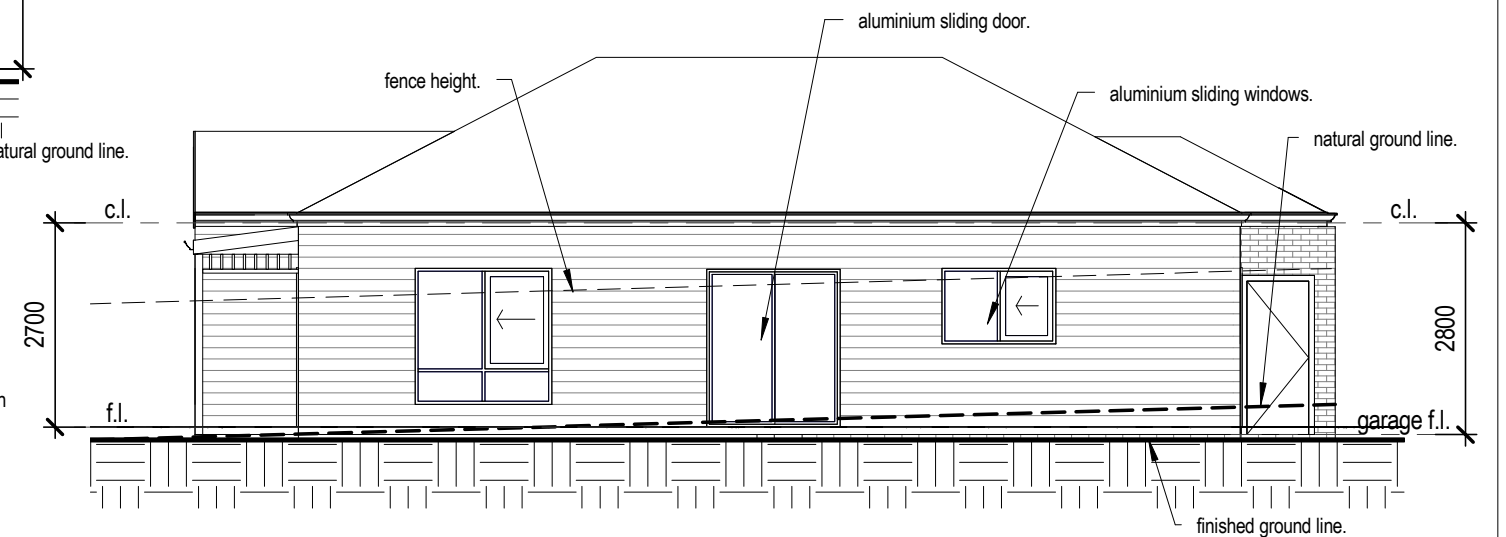
UNIT 1

**UNIT 1 & 5 ELEVATION C**  
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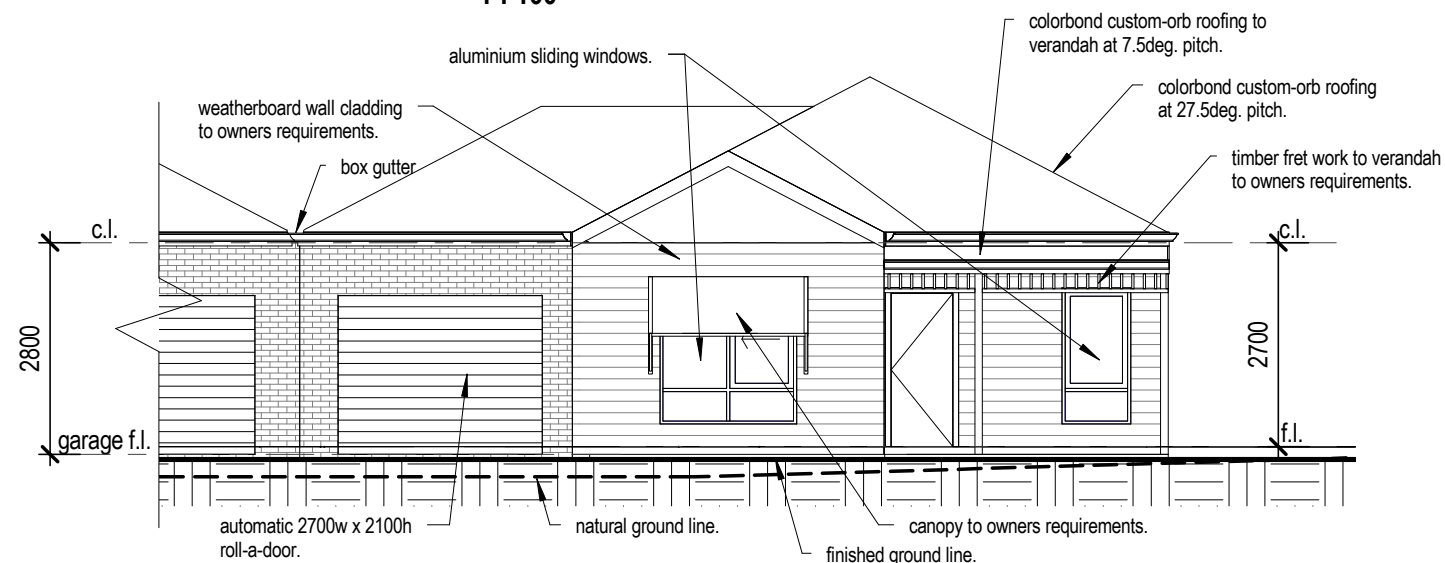
UNIT 5



**UNIT 1 ELEVATION A**  
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**UNIT 1 ELEVATION B**  
1 : 100



**UNIT 1 ELEVATION D**  
1 : 100

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

**BUILDING PERMIT ISSUE**

**Sheet No:** 9 OF 13

**Drawn By:** T.Cornish

**Drawing:** Elevations

**Scale:** 1 : 100

**Sheet Size:** A3

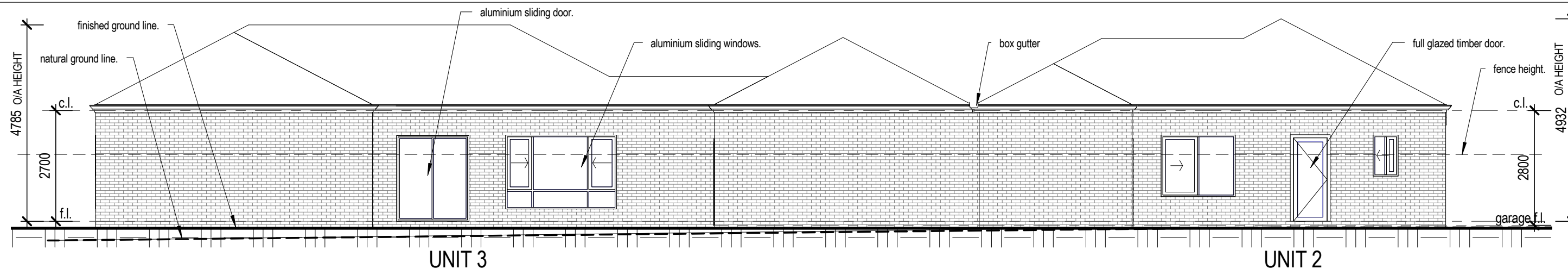
 **stephencornish**  
DRAFTING AND DESIGN

REGISTRATION NO. DP-AD 264

Phone: (03) 5334 1545

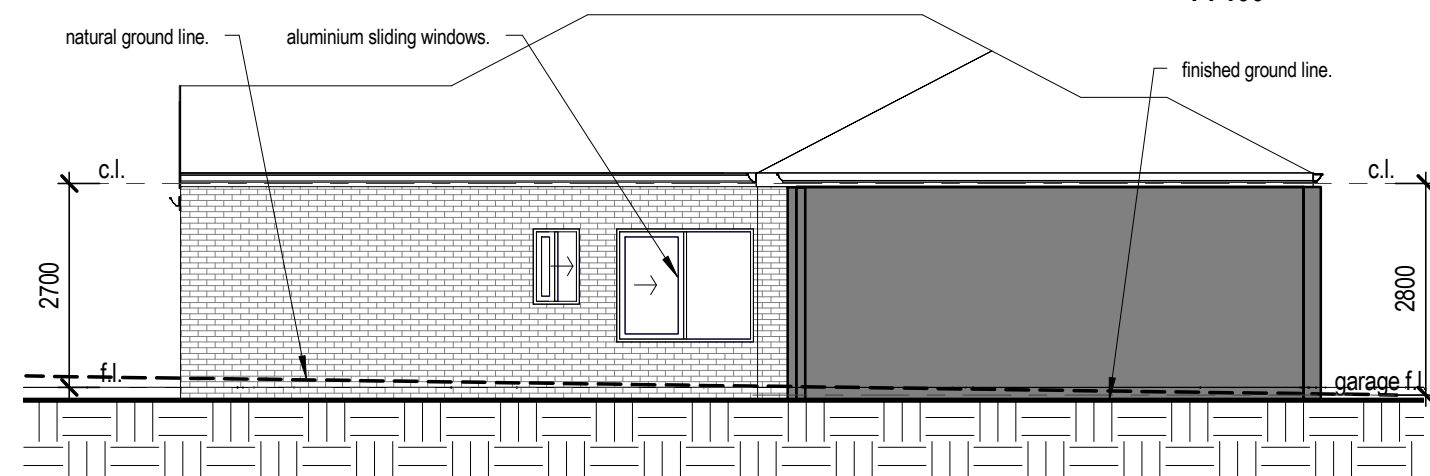
Fax: (03) 5334 3914

Email: [sc\\_draftingdesign@hotmail.com](mailto:sc_draftingdesign@hotmail.com)



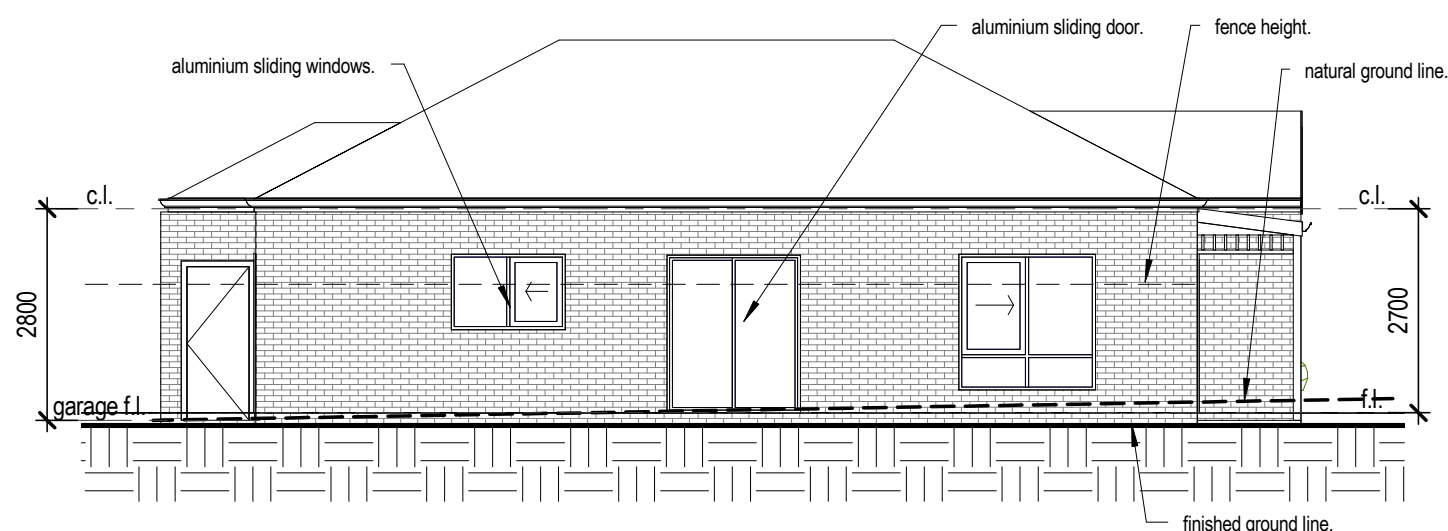
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1 : 100



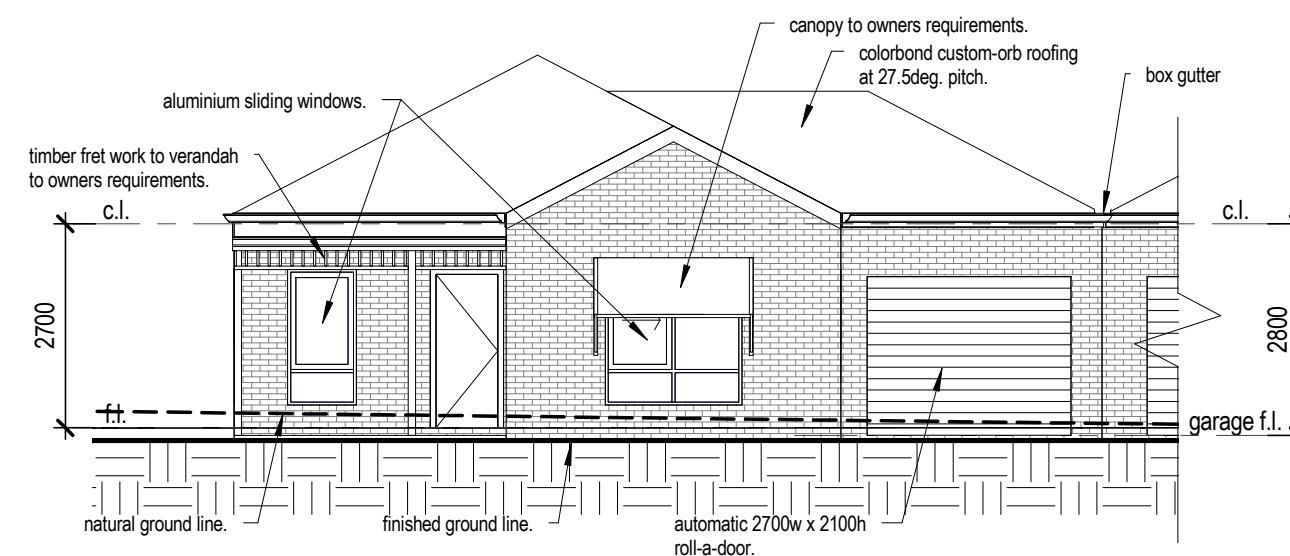
## UNIT 2 ELEVATION A

1 : 100



## UNIT 2 ELEVATION B

1 : 100



## UNIT 2 ELEVATION C

1 : 100

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

## BUILDING PERMIT ISSUE

**Sheet No:** 10 OF 13

**Drawn By:** T.Cornish

**Drawing:** Elevations

**Scale:** 1 : 100

**Sheet Size:** A3



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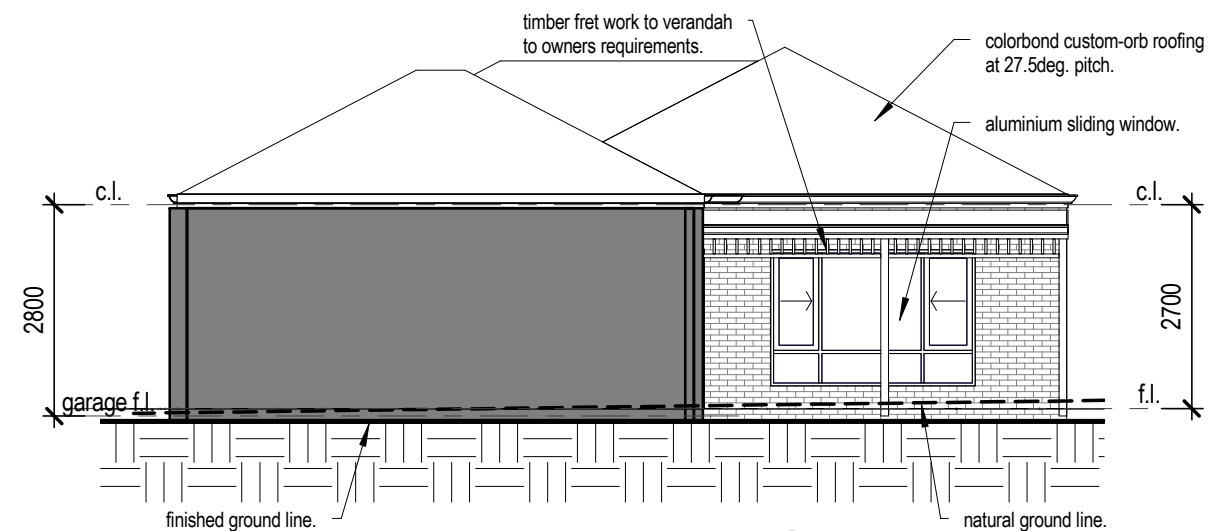
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Fax: (03) 5334 3914

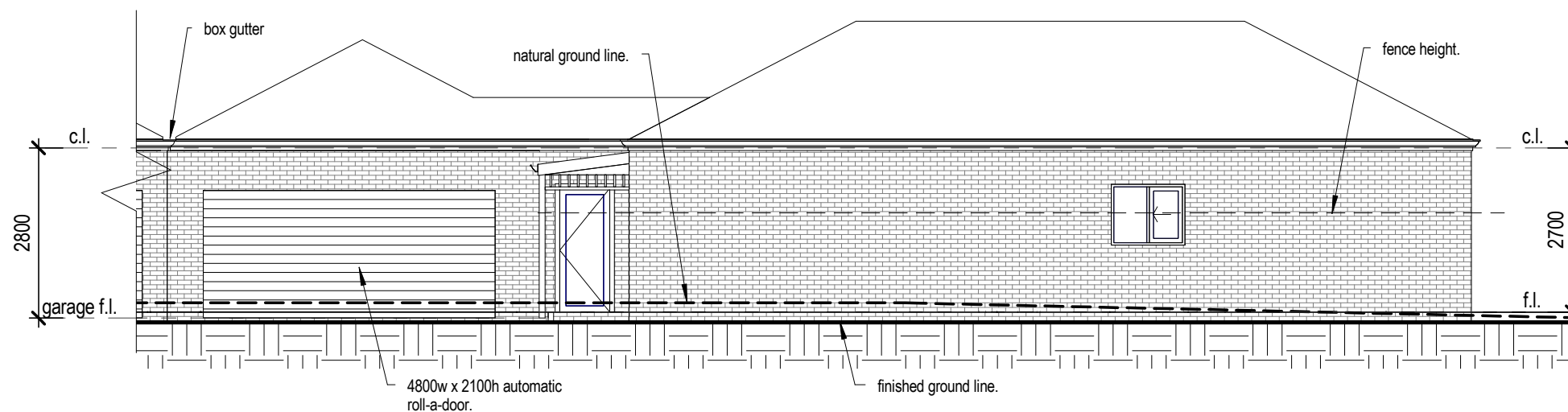
Email: sc\_draftingdesign@hotmail.com



**UNIT 3 ELEVATION A**  
1 : 100



**UNIT 3 ELEVATION B**  
1 : 100



**UNIT 3 ELEVATION C**  
1 : 100

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

## BUILDING PERMIT ISSUE

**Sheet No:** 11 OF 13

**Drawn By:** T.Cornish

**Drawing:** Floor Plans

**Scale:** 1 : 100

**Sheet Size:** A3



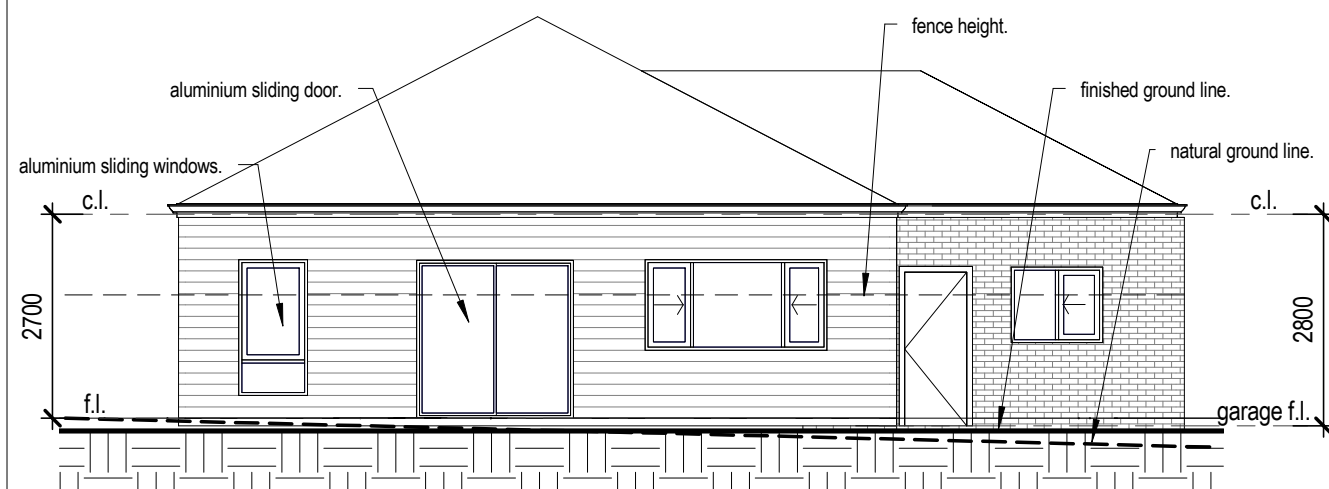
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Fax: (03) 5334 3914

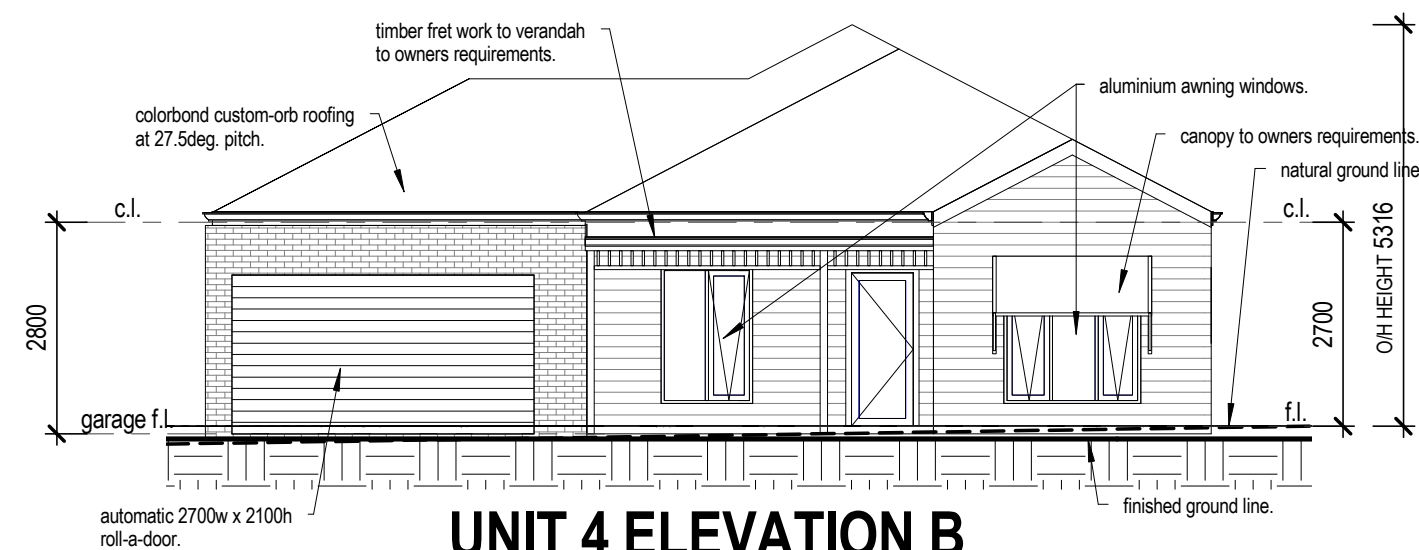
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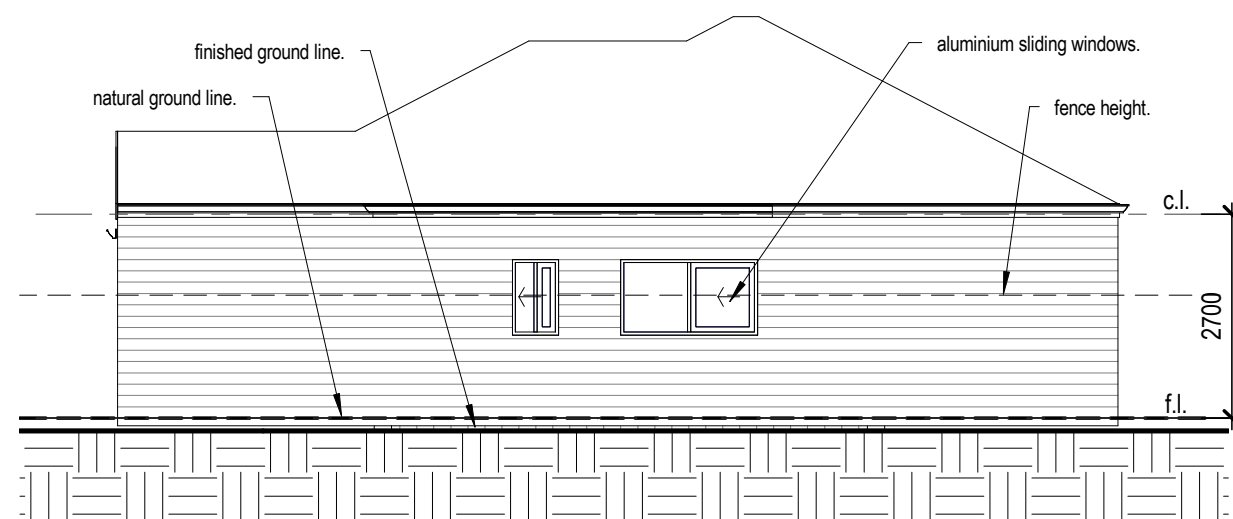
**UNIT 4 ELEVATION A**

1 : 100



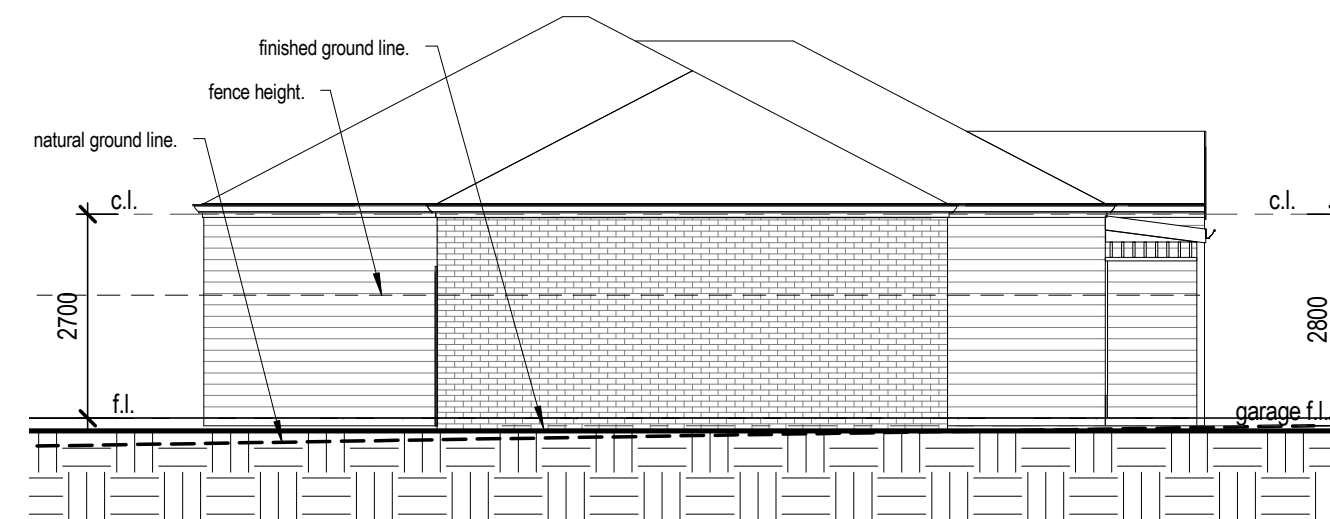
**UNIT 4 ELEVATION B**

1 : 100



**UNIT 4 ELEVATION C**

1 : 100



**UNIT 4 ELEVATION D**

1 : 100

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

## BUILDING PERMIT ISSUE

**Sheet No:** 12 OF 13

**Drawn By:** T.Cornish

**Drawing:** Elevations

**Scale:** 1 : 100

**Sheet Size:** A3



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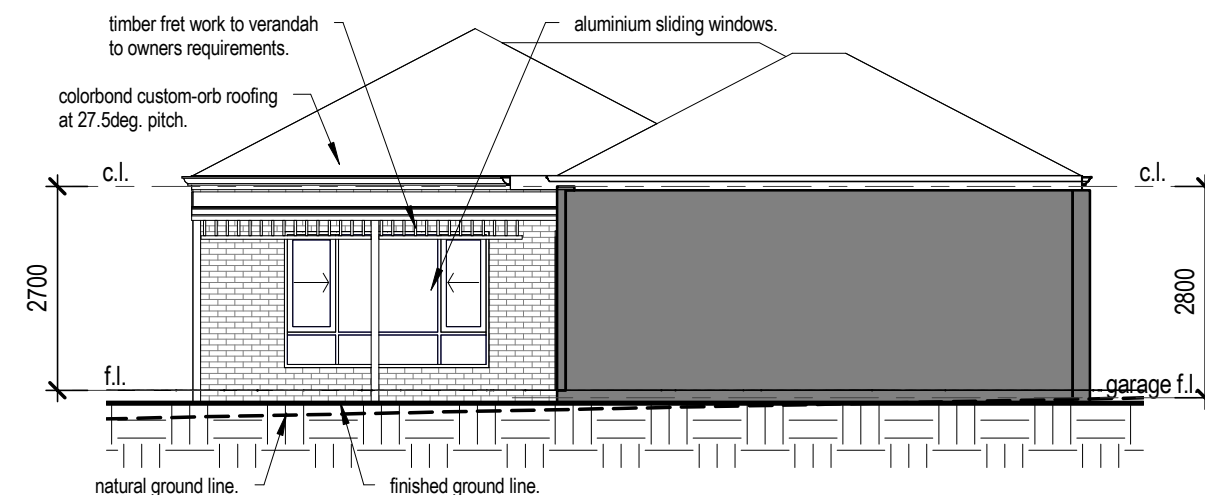
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Fax: (03) 5334 3914

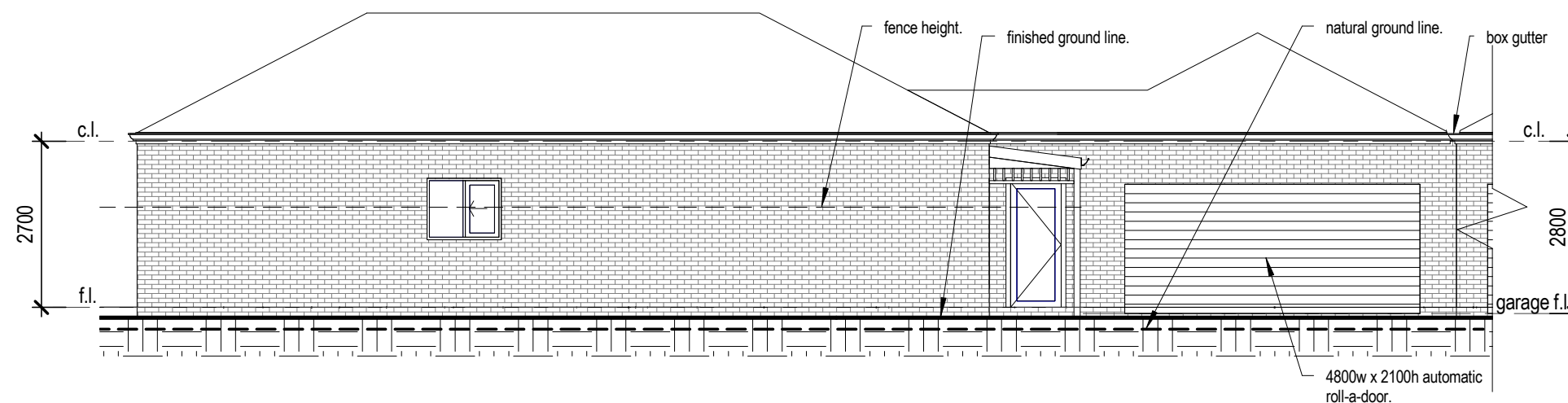
Email: sc\_draftingdesign@hotmail.com



**UNIT 5 ELEVATION A**  
1 : 100



**UNIT 5 ELEVATION B**  
1 : 100



**UNIT 5 ELEVATION D**  
1 : 100

**Project Description:** Proposed Unit Development

**Project Address:** 403 Old Melbourne Road, Ballan

**Client Name:** John Wakeling

**Date:** 29/08/2016

**BUILDING PERMIT ISSUE**

**Sheet No:** 13 OF 13

**Drawn By:** T.Cornish

**Drawing:** Elevations

**Scale:** 1 : 100

**Sheet Size:** A3

 **stephencornish**  
DRAFTING AND DESIGN

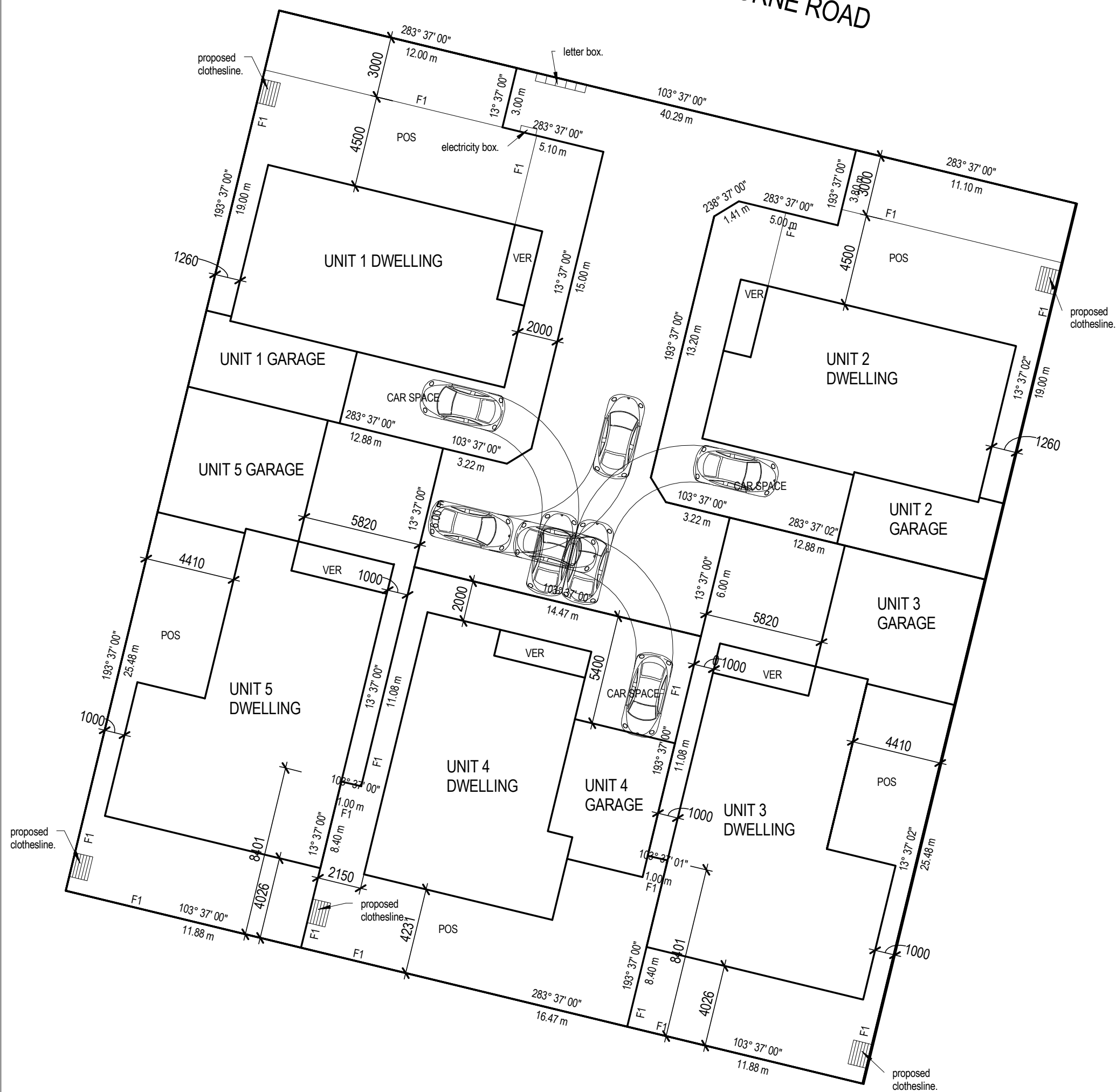
REGISTRATION NO. DP-AD 264

Phone: (03) 5334 1545

Fax: (03) 5334 3914

Email: [sc\\_draftingdesign@hotmail.com](mailto:sc_draftingdesign@hotmail.com)


OLD MELBOURNE ROAD

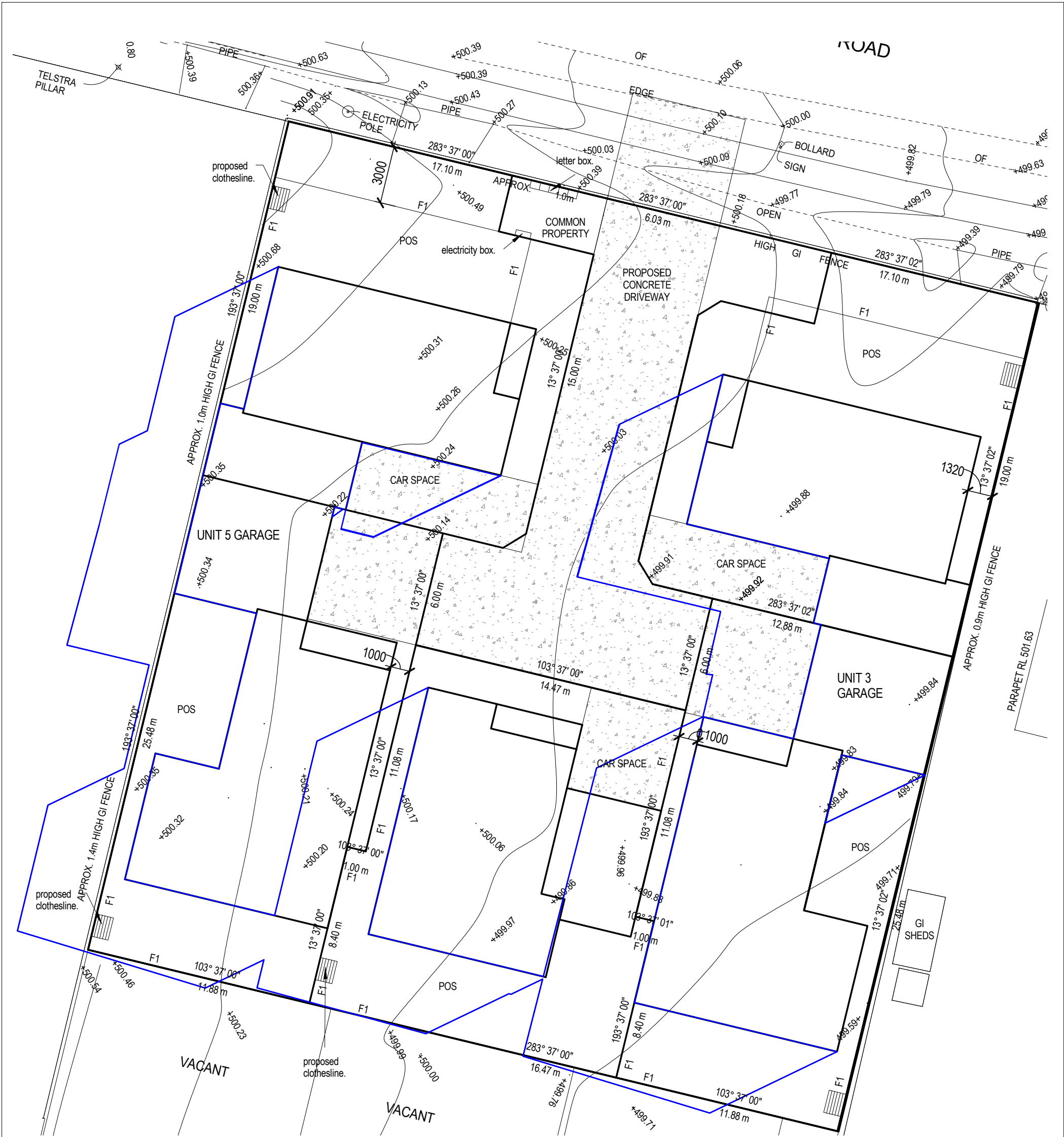


**TURNING CIRCLES UNITS 1, 2 & 4**  
1 : 200

**PLANNING PERMIT ISSUE**

Sheet No: 1 OF 2

<b>Project Description:</b> Proposed Unit Development	<b>Drawn By:</b> T.Cornish	 REGISTRATION NO. DP-AD 264 Phone: (03) 5334 1545 Fax: (03) 5334 3914 Email: sc_draftingdesign@hotmail.com
<b>Project Address:</b> 403 Old Melbourne Road, Ballan	<b>Drawing:</b> Turning Circles	
<b>Client Name:</b> John Wakeling	<b>Scale:</b> 1 : 200	
<b>Date:</b> 29/08/2016	<b>Sheet Size:</b> A3	




LEGEND

- Shadow Diagrams are for September 22nd conditions.
- 9am
- 12pm
- 3pm

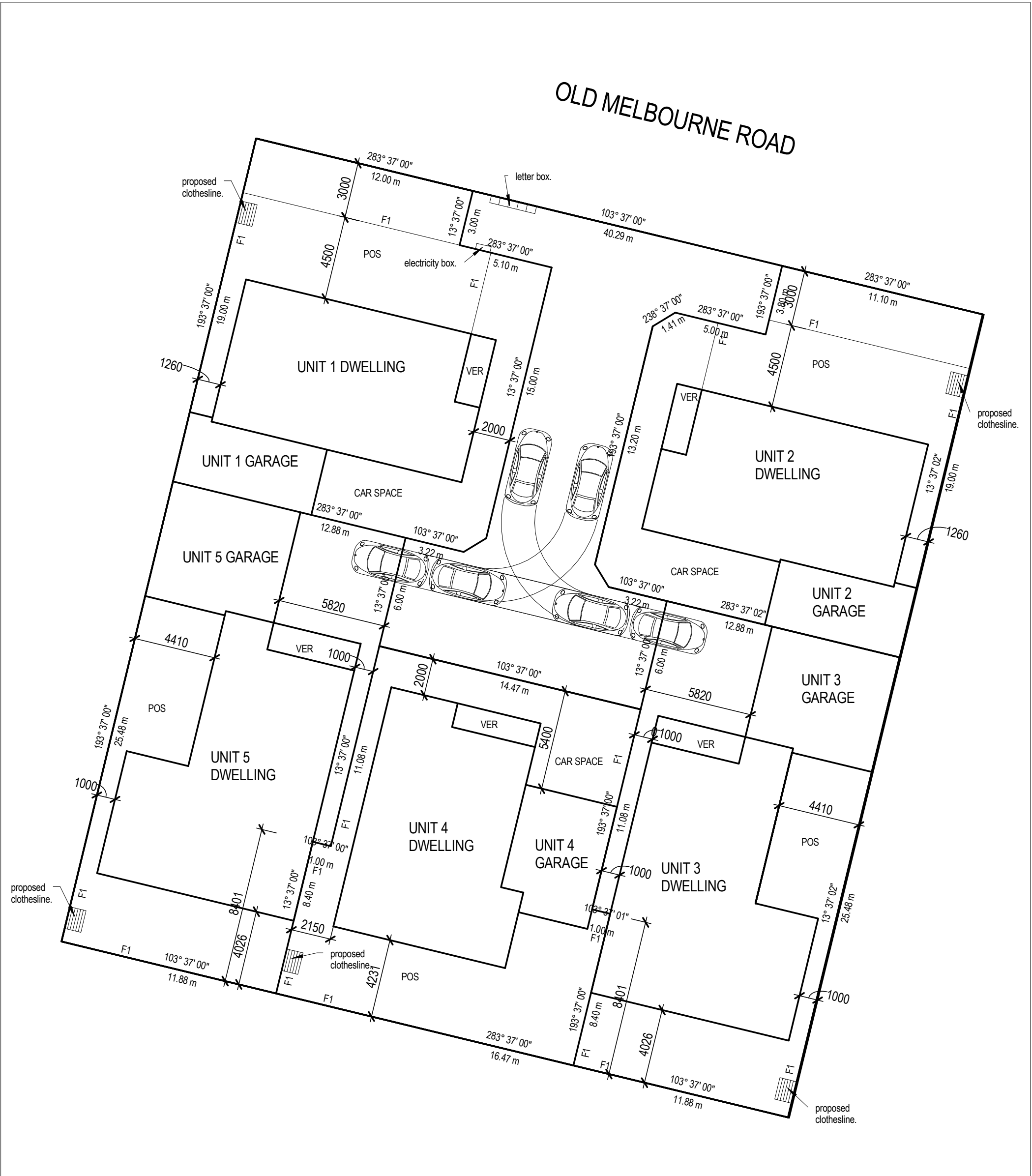
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1 : 200

PLANNING PERMIT ISSUE

Sheet No: 1 OF 3

Project Description:	Proposed Unit Development	Drawn By:	T.Cornish	 <div>REGISTRATION NO. DP-AD 264 Phone: (03) 5334 1545 Fax: (03) 5334 3914 Email: sc_draftingdesign@hotmail.com</div>
Project Address:	403 Old Melbourne Road, Ballan	Drawing:	Shadow Diagram	
Client Name:	John Wakeling	Scale:	As indicated	
Date:	29/08/2016	Sheet Size:	A3	





**TURNING CIRCLES UNIT 3 & 5**

**PLANNING PERMIT ISSUE**

Sheet No: 2 OF 2

<b>Project Description:</b>	Prroposed Unit Development	<b>Drawn By:</b>	T.Cornish
<b>Project Address:</b>	403 Old Melbourne Road, Ballan	<b>Drawing:</b>	Turning Circles
<b>Client Name:</b>	John Wakeling	<b>Scale:</b>	1 : 200
<b>Date:</b>	29/08/2016	<b>Sheet Size:</b>	A3

 **stephencornish**  
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REGISTRATION NO. DP-AD 264  
Phone: (03) 5334 1545  
Fax: (03) 5334 3914  
Email: [sc\\_draftingdesign@hotmail.com](mailto:sc_draftingdesign@hotmail.com)



# LEGEND

- Shadow Diagrams are for September 22nd conditions.


- 9am
- 12pm
- 3pm

## SHADOW DIAGRAMS 12pm

1 : 200

### PLANNING PERMIT ISSUE

Sheet No: 2 OF 3

Project Description:	Proposed Unit Development	Drawn By:	T.Cornish	 REGISTRATION NO. DP-AD 264 Phone: (03) 5334 1545 Fax: (03) 5334 3914 Email: sc_draftingdesign@hotmail.com
Project Address:	403 Old Melbourne Road, Ballan	Drawing:	Shadow Diagram	
Client Name:	John Wakeling	Scale:	As indicated	
Date:	29/08/2016	Sheet Size:	A3	



LEGEND

- Shadow Diagrams are for September 22nd conditions.


- 9am
- 12pm
- 3pm

SHADOW DIAGRAMS 3pm

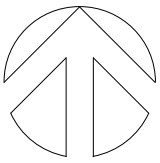
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PLANNING PERMIT ISSUE

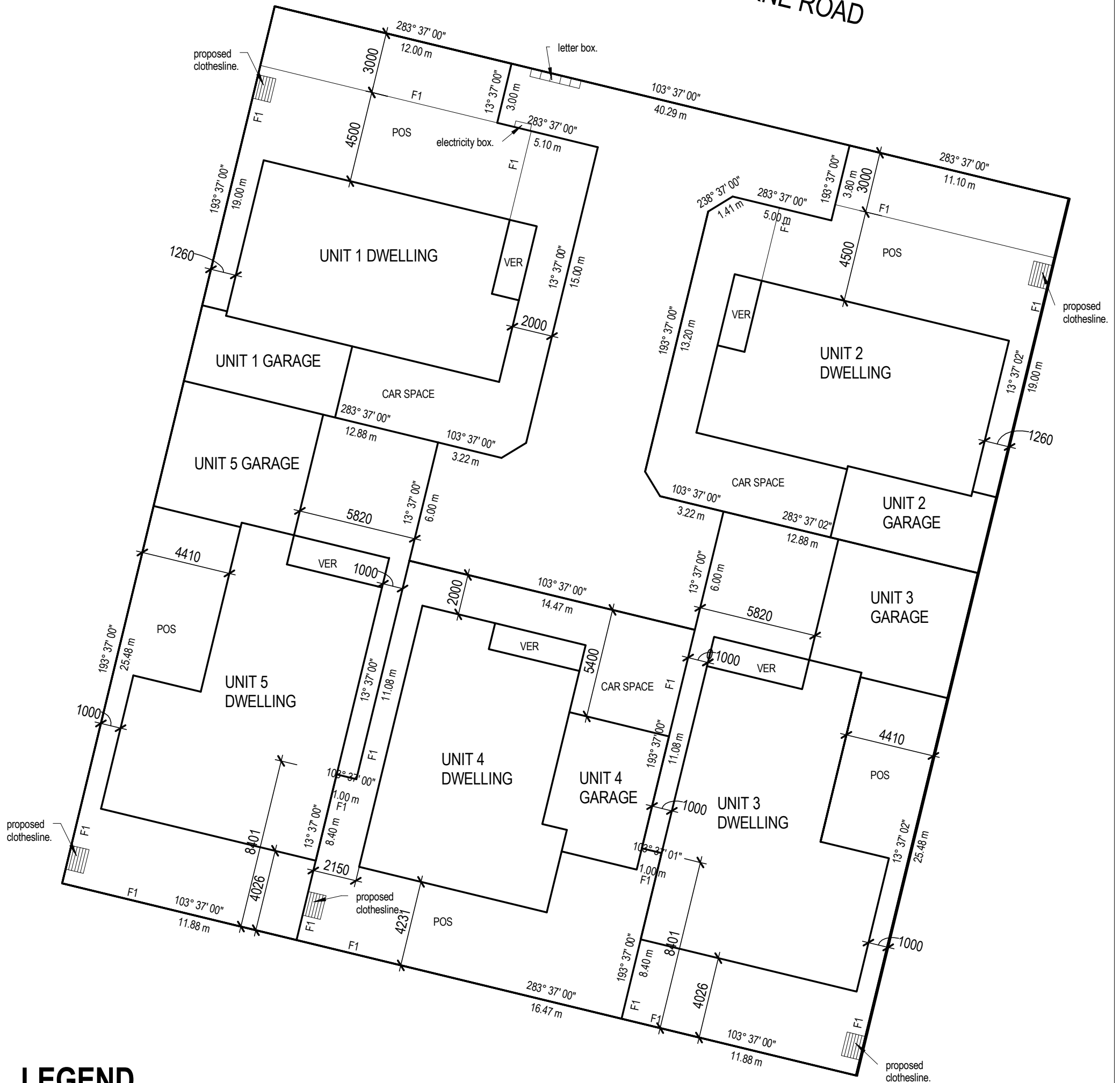
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Project Address:	403 Old Melbourne Road, Ballan	Drawing:	Shadow Diagram	
Client Name:	John Wakeling	Scale:	As indicated	
Date:	29/08/2016	Sheet Size:	A3	





OLD MELBOURNE ROAD



## LEGEND

- F1 Indicates location of proposed 1.8m high colorbond fence.
- POS Location of private open space.

## SITE PLAN

1 : 200

## PLANNING PERMIT ISSUE

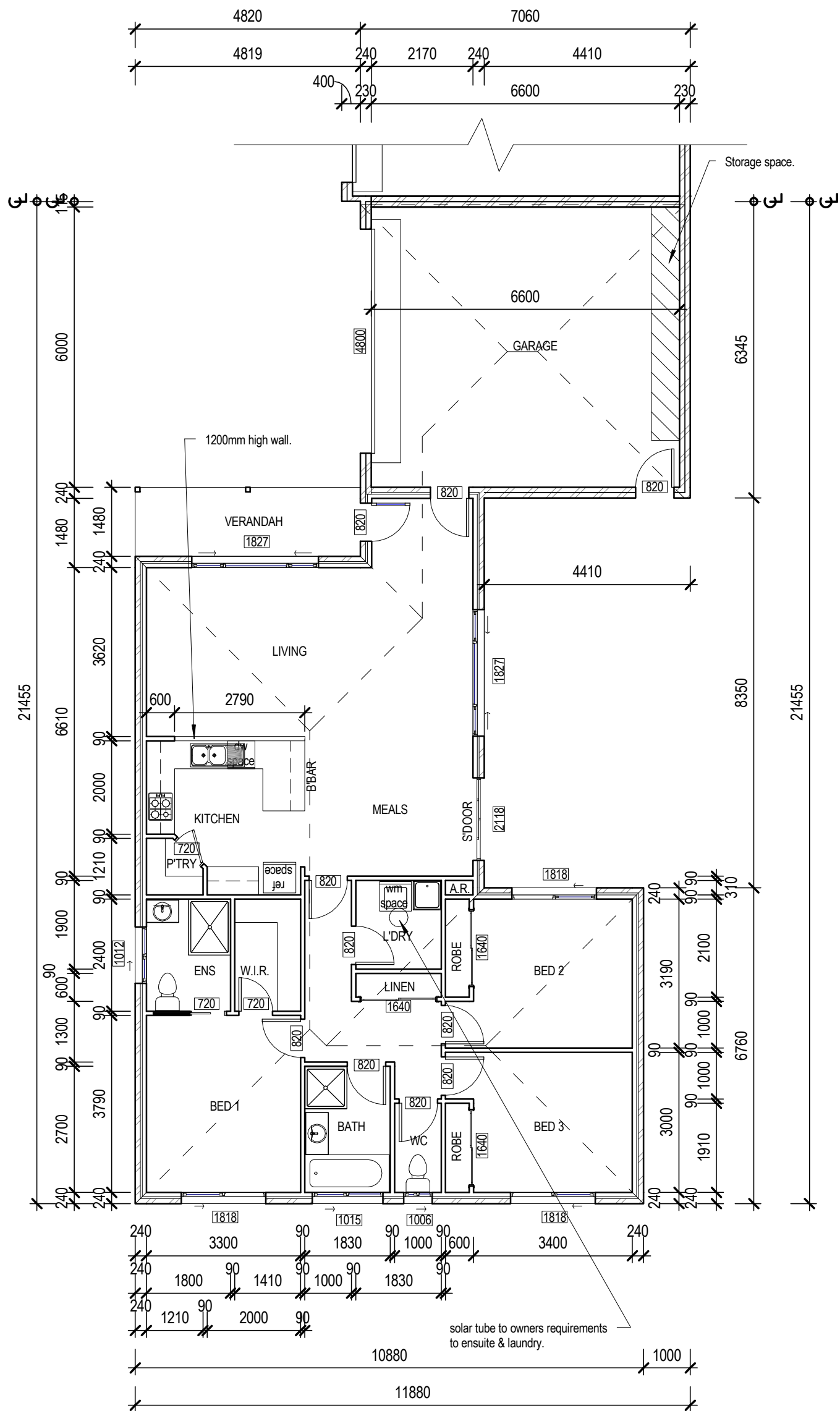
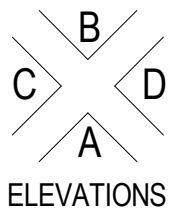
Sheet No: 3 OF 13

<b>Project Description:</b> Proposed Unit Development	<b>Drawn By:</b> T.Cornish
<b>Project Address:</b> 403 Old Melbourne Road, Ballan	<b>Drawing:</b> Site Plan & Floor Plans
<b>Client Name:</b> John Wakeling	<b>Scale:</b> As indicated
<b>Date:</b> 29/08/2016	<b>Sheet Size:</b> A3

 **stephencornish**  
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REGISTRATION NO. DP-AD 264  
Phone: (03) 5334 1545  
Fax: (03) 5334 3914  
Email: sc\_draftingdesign@hotmail.com

29/08/2016





## FLOOR PLAN UNIT 3

1 : 100

### PLANNING PERMIT ISSUE

Sheet No: 6 OF 13

**Project Description:** Proposed Unit Development

**Drawn By:** T.Cornish

**Project Address:** 403 Old Melbourne Road, Ballan

**Drawing:** Floor Plan

**Client Name:** John Wakeling

**Scale:** 1 : 100

**Date:** 29/08/2016

**Sheet Size:** A3



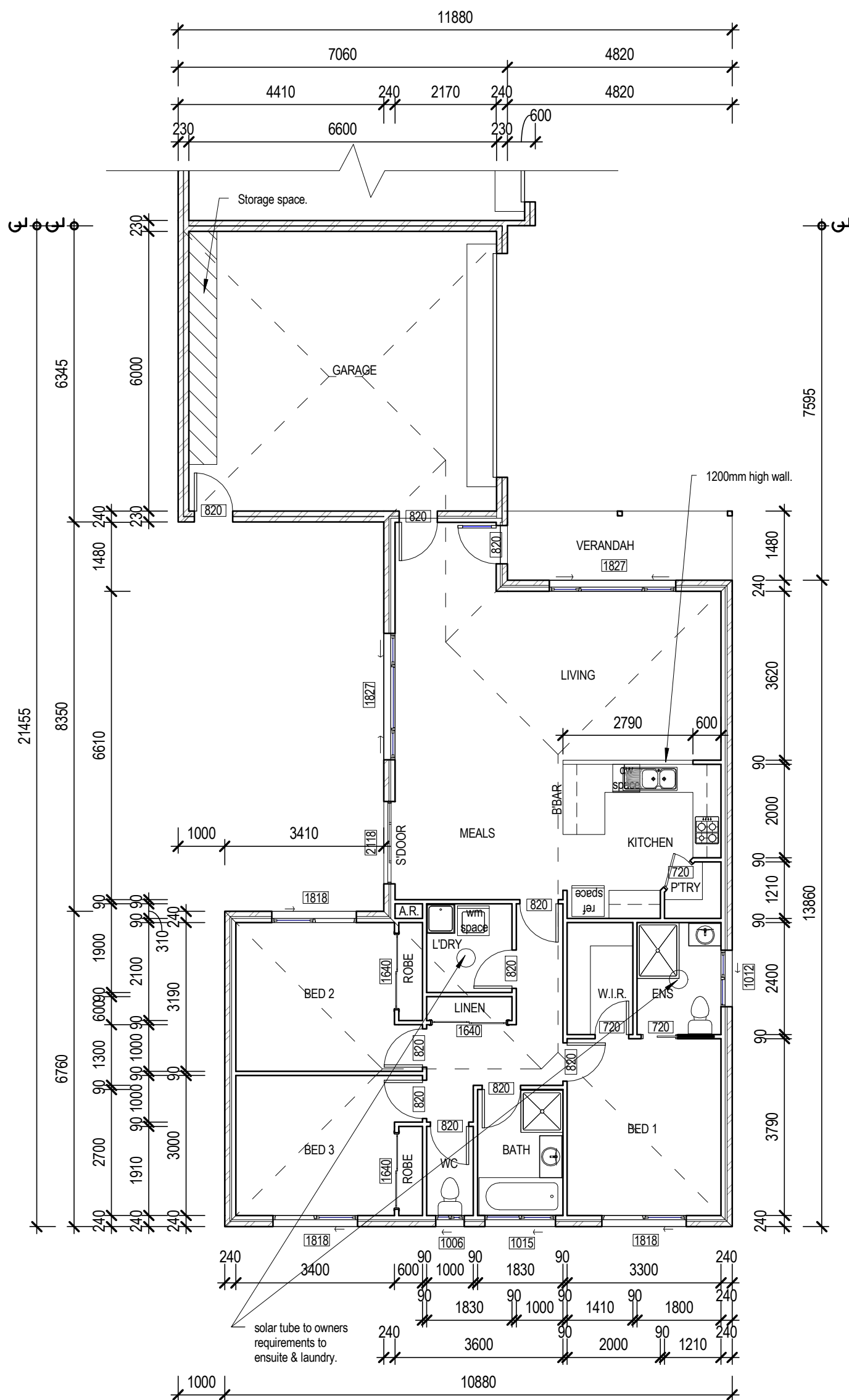
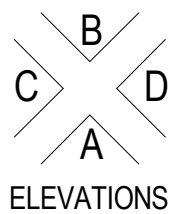
REGISTRATION NO. DP-AD 264

Phone: (03) 5334 1545

Fax: (03) 5334 3914

Email: sc\_draftingdesign@hotmail.com


29/08/2016




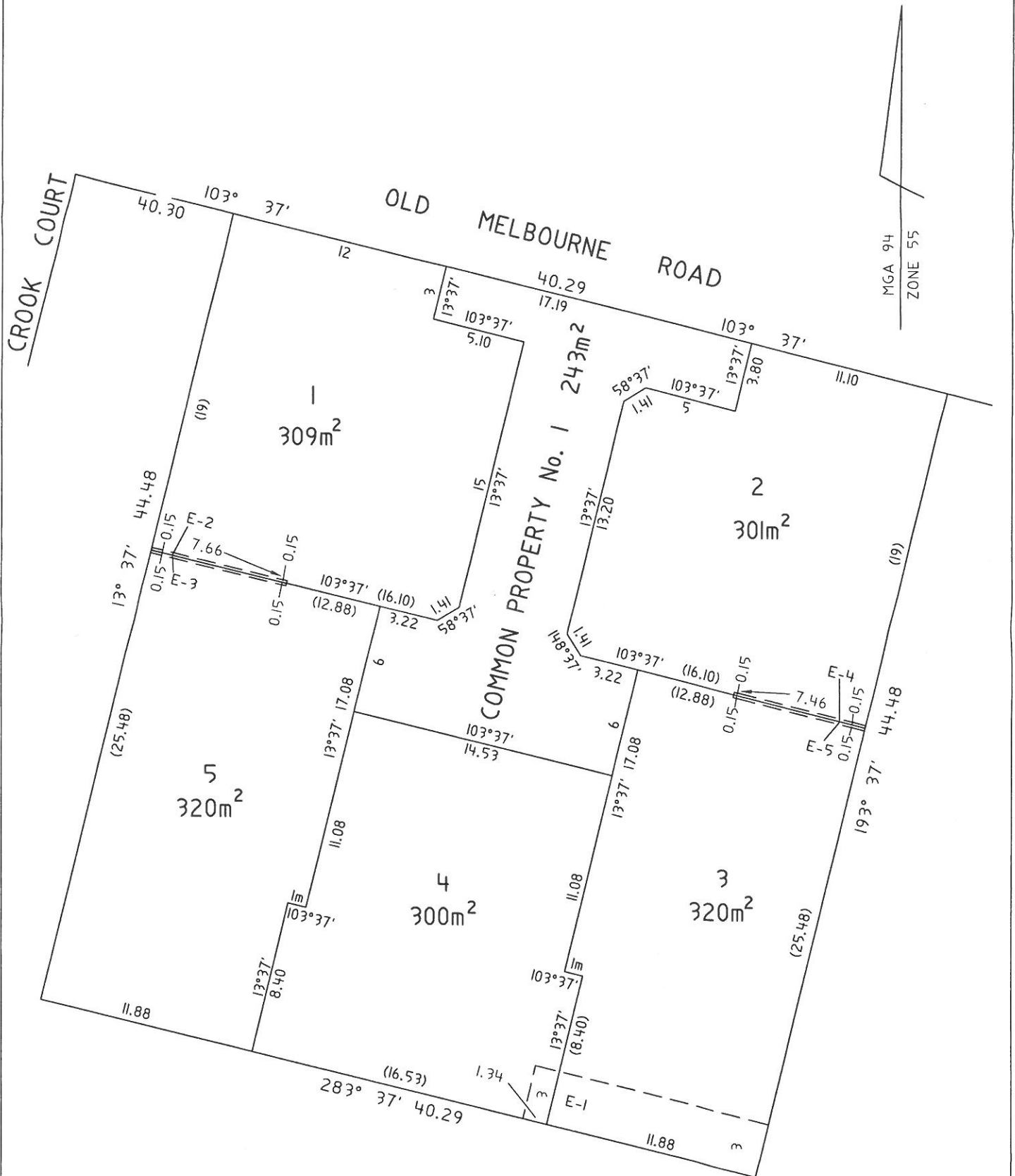
**FLOOR PLAN UNIT 5**  
1 : 100

**PLANNING PERMIT ISSUE**

Sheet No: 8 OF 13

Project Description: Proposed Unit Development	Drawn By: T.Cornish	 REGISTRATION NO. DP-AD 264 Phone: (03) 5334 1545 Fax: (03) 5334 3914 Email: sc_draftingdesign@hotmail.com
Project Address: 403 Old Melbourne Road, Ballan	Drawing: Floor Plan	
Client Name: John Wakeling	Scale: 1 : 100	
Date: 29/08/2016	Sheet Size: A3	

<b>PLAN OF SUBDIVISION</b>			EDITION 1	<b>PS 802233F</b>
<b>LOCATION OF LAND</b>  PARISH: GORONG TOWNSHIP: SECTION: 2 CROWN ALLOTMENTS: 10 (PART) & 11 (PART) CROWN PORTION: TITLE REFERENCE: VOL. 11651 FOL. 200  LAST PLAN REFERENCE: LOT 1 PS 700827S POSTAL ADDRESS: 403 OLD MELBOURNE ROAD, BALLAN 3342 (at time of subdivision)  MGA CO-ORDINATES:    E: 254 104                      ZONE: 55 (of approx centre of land    N: 5834 887                      GDA 94 in plan)			<b>MOORABOOL SHIRE COUNCIL</b>  <small>DISCLAIMER:</small> <small>WARNING: THIS PLAN IS UNREGISTERED.</small> <small>THIS PLAN WAS PREPARED BY LAND MANAGEMENT SURVEYS (MELBOURNE) TO SUPPORT AN APPLICATION UNDER THE SUBDIVISION ACT 1988 TO SUBDIVIDE THE LAND.</small> <small>THIS PLAN MAY BE SUBJECT TO AMENDMENT PRIOR TO REGISTRATION.</small> <small>LAND MANAGEMENT SURVEYS (MELBOURNE) ACCEPTS NO RESPONSIBILITY WHATSOEVER FOR ANY LOSS OR DAMAGE SUFFERED HOWSOEVER ARISING TO ANY PERSON OR ORGANISATION WHO USE OR RELY UPON THIS PLAN FOR ANY PURPOSE OTHER THAN THE PURPOSE FOR WHICH IT WAS PREPARED.</small> <small>THIS NOTE FORMS AN INTEGRAL PART OF THIS PLAN.</small>	
<b>VESTING OF ROADS AND/OR RESERVES</b>			<b>NOTATIONS</b>	
IDENTIFIER	COUNCIL/BODY/PERSON		Lots on this plan may be affected by one or more owners corporations. [See owners corporation search report(s) for details]	
NIL	NIL			
<b>NOTATIONS</b>				
DEPTH LIMITATION: DOES NOT APPLY				
SURVEY: This plan is not based on survey.  STAGING: This is not a staged subdivision. Planning Permit No.  This survey has been connected to permanent marks No(s). 12  In Proclaimed Survey Area No. 148				
<b>EASEMENT INFORMATION</b>				
LEGEND: A - Appurtenant Easement    E - Encumbering Easement    R - Encumbering Easement (Road)				
EASEMENTS AND RIGHTS IMPLIED BY SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLY TO ALL THE LAND IN THIS PLAN.				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	PIPELINE OR ANCILLARY PURPOSES	3	PS 700827S	CENTRAL HIGHLANDS REGION WATER CORPORATION
E-2	PARTY WALL	0.15	THIS PLAN	LOT 5 ON THIS PLAN
E-3	PARTY WALL	0.15	THIS PLAN	LOT 1 ON THIS PLAN
E-4	PARTY WALL	0.15	THIS PLAN	LOT 3 ON THIS PLAN
E-5	PARTY WALL	0.15	THIS PLAN	LOT 2 ON THIS PLAN
 <b>LAND MANAGEMENT SURVEYS (MELB)</b> 34 BALCOMBE ROAD (PO BOX 158), MENTONE 3194 Ph : 9583 0888    Fax : 9583 5888 Email : lms_melb@dmpl.com.au		SURVEYORS FILE REF: 10890B  ALLEN G. GIBSON / VERSION No. 03		ORIGINAL SHEET SIZE: A3  SHEET 1 OF 2



**LAND MANAGEMENT SURVEYS (MELB)**  
 34 BALCOMBE ROAD (PO BOX 158),  
 MENTONE 3194  
 Ph : 9583 0888 Fax : 9583 5888  
 Email : lms\_melb@dmmp.com.au

SCALE  
 1 : 200

2 0 2 4 6 8  
 LENGTHS ARE IN METRES

ORIGINAL SHEET  
 SIZE: A3

SHEET 2

ALLEN G. GIBSON / VERSION No. 03

## OWNERS CORPORATION SCHEDULE

PS 802233F

No. 1

Plan No. PS 802233F

Lots: ALL OF THE LOTS IN THE TABLE BELOW

Common Property No.: 1

UNLIMITED

## Notations

Totals		
	Entitlement	Liability
This schedule	100	100
Previous stages	0	0
Overall Total	100	100

## Lot Entitlement and Lot Liability

[illegible]

LAND MANAGEMENT SURVEYS (MELB)  
34 BALCOMBE ROAD (PO BOX 158), MENTONE 3194  
Ph : 9583 0888 Fax : 9583 5888  
Email : lms\_melb@dmrml.com.au

SURVEYORS FILE REFERENCE: 10890B

SHEET 1

ORIGINAL SHEET  
SIZE: A3

ALLEN G. GIBSON LS / VERSION No. 01

#### Item 4.8 Planning Permit Application PA2013-118

**Amended Planning Permit 2013-118; Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture; at Crown allotment 1, Section 2, Parish of Warrenheip; Mahars Road, Warrenheip VIC 3352.**

<b>Application Summary:</b>	
Permit No:	PA2013-118
Lodgement Date:	22 December, 2016
Planning Officer:	Victoria Mack
Address of the land:	Crown allotment 1, Section 2, Parish of Warrenheip; alternatively known as Mahars Road, Warrenheip VIC 3352.
Permit:	Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture
Proposed amendment:	Changed location of the dwelling
Lot size:	8.65 hectares
Why is a permit required	<p>Farming Zone: Clause 35.07-1, section 2, use of a Dwelling on land less than 40ha.</p> <p>Farming Zone: Clause 35.07-4, Buildings and works for a use in section 2 of Clause 35.07-4.</p>
<b>Public Consultation:</b>	
Was the application advertised?	Yes
Notices on site:	1
Notice in Moorabool Newspaper:	No
Number of Objections:	1
Consultation meeting:	No
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	<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**

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.

*Manager – Rob Fillisch*

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

*Author – Victoria Mack*

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

**Executive Summary:**

Application Referred?	Downer Gas, Central Highlands Water, Environmental Health.
Any issues raised in referral responses?	No
Preliminary Concerns?	<p>The permit for the dwelling was issued by VCAT where the location of the dwelling was mentioned in the Order as being a neutral to positive consideration for the approval of the application.</p> <p>The amended location of the dwelling would require an amended Land Capability Assessment for the waste water treatment systems.</p>
Any discussions with applicant regarding concerns	<p>An application was initially received to amend the plans to relocate the dwelling under Secondary Consent provisions.</p> <p>However, as a new location for the dwelling would also require an amended site for the waste water treatment system an amended Land Capability Assessment was required and the permit was required to be amended and Secondary Consent provisions were not applicable.</p>
Any changes made to the application since being lodged?	Amended Land Capability Assessment was provided.

VCAT history?	P2415/2013 – two days on 17 April 2014 and 9 May 2014
Previous applications for the site?	None prior to this permit
<b>General Summary</b>	
<p>The original application was for development and use of the land for a dwelling and a 200sqm shed on land that is identified at CA1, Section 2, Parish of Warrenheip at Mahars Road, Warrenheip. The total land area of the site is 8.65 hectares. Council issued a Notice of Decision to Grant a permit due to one objection being received to the original application. The objector subsequently sought a review at VCAT.</p> <p>The permit was approved to be issued by VCAT 28 May 2014.</p> <p>This application is to amend the permit and endorsed plans to change the location of the approved dwelling. The site selected would be further to the south of Mahars Road in order to move the dwelling away from the high voltage electricity transmission lines.</p> <p>The proposed new location retains a similar dwelling footprint on the land and only the additional driveway to the dwelling would take up more agricultural land than what was originally approved.</p> <p>It is also recommended that the area of the dwelling and associated infrastructure is limited to a maximum of 1000sqm and this should be made a new condition on the permit.</p>	
<b>Summary Recommendation:</b>	
<p>That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant an Amended Planning permit for Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture at Crown Allotment 1, Section 2, Parish of Warrenheip; alternatively known as Mahars Road, Warrenheip VIC 3352.</p>	

## Background

An application for the *Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture* was received on 27 May, 2013. The application was advertised and one objection was received.

Due to the objection the application was determined by Council on 16 October, 2013. Council recommended approval of the application and a Notice of Decision to Grant a Planning Permit was issued.

The objector sought a Review of Council's decision at VCAT and the Hearing took place over two separate days on 17 April, 2014 and also 9 May, 2014.

VCAT's decision was received on 28 May 2014 which affirmed Council's decision but varied conditions including adding SPI PowerNet's recommended permit conditions and making minor adjustments to the wording of permit conditions.



The permit for the *Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture* was issued on 28 May, 2014.

The permit approved the following:

A *Dennis Family Homes Devonport 341* single storey dwelling with a total floor area of approximately 280sq and which would comprise four bedrooms, a study, two bathrooms, a separate living room, a combined kitchen/family meals area, a separate games room and a double garage.

The siting of the dwelling approximately 25-27m south of the Mahars Road front boundary and approximately 25m from the western side boundary.

A new access from Mahars Road in the north-west corner of the site.

A 200sqm shed approximately 25m west of the dwelling and to be located 5m from the west side boundary.

A Farm Management Plan (FMP) for the land which was noted as having high agricultural productivity and which would be used for the production of potatoes, cereals, prime lambs and niche agricultural crops. It was also stated at the time of lodging the initial application that the land was not presently being used for a rural purpose.

It was also noted that the dwelling would be 20m north-west of the high voltage electricity transmission line which traverses the property from the north-east to south-west direction entering the property approximately midway along the frontage on Mahars Road. The transmission line is noted on the approved site plan and approved farm management site plan below.

**Figure 1: Endorsed site plan showing dwelling and shed and proximity to high voltage electricity transmission lines**



**Figure 2: Site plan to accompany the Farm Management Plan**



## Proposal

It is proposed to alter the location of the approved dwelling to a site further to the south to be further away from high voltage power lines. The dwelling floor plan and elevations would remain unchanged.

The proposed dwelling site would remain setback 25m from the west side boundary but would be pushed back 238.14m from the north side boundary abutting Mahars Road. The access driveway would be extended accordingly.

The application stated that:

*the amended location is more acceptable for the treatment of wastewater and the amended location leaves the same amount of useable area for farming as the driveway would be located along the west side boundary.*

It is noted that there is an unused government road located along the west side boundary.

A shed has already been constructed on the site in the originally approved location being 30m from Mahars Road and 5m from the west side boundary. However, the shed that has been constructed on the site is not in accordance with the endorsed plans which was to be 10m wide and 20m long. The actual shed on the site is square in shape being 8m wide and 8m long.

It is noted that the shed constructed on the site may not have needed a planning permit if used solely for agricultural purposes.

The amended site plan being requested and approved farm management plan are below:

- The amended site plan showing new location for the dwelling; and
- The amended site plan for the Farm Management Plan are included as attachments to this report.

### Public Notice

The application was notified to adjoining and surrounding landowners and one objection was received.

### Summary of Objections

The objection received is detailed below with officer's comments accompanying them:

Objection	Any relevant requirements
The house was put in its current proposed location to maximise the land area for agriculture	
<b>Officer's response</b> – the location of the dwelling was noted in the VCAT order which is discussed further in this report.	
The change of site has been selected for views and to make the property more saleable. The owners are selling up all their land and this is the last parcel.	
<b>Officer's response</b> – it is understood that the property has been advertised for sale since the permit was issued and the owner is not currently farming the land in an intensive manner.	
The approved shed was to be 20m x 10m to house machinery to support the farming enterprise but what has actually been built is an 8m x 8m car garage which is not in accordance with the permit.	
<b>Officer's response</b> – the shed constructed on the site is 8m wide and 8m deep and is not in accordance with the approved shed or the endorsed plan for the shed. It is noted that the shed constructed on the site may not have needed a planning permit if used solely for agricultural purposes.	
The site for the waste water is questionable and not a better site than previously approved.	
<b>Officer's response</b> – Council's Environmental Health have provided consent to the altered site for the waste water treatment plant.	
The farm management plan is not being implemented.	
<b>Officer's response</b> – no new agricultural production appears to be occurring on the land other than pasture production, however it should be noted that the use of the land for a dwelling has not commenced	

## Proposed Site Plan, Floor Plan and Elevations

The dwelling location is to be moved, but the dwelling floor plan and elevations would remain unchanged as per the endorsed plans.

## Site Description

The subject land parcel is rectangular in shape, and has no native vegetation. Access to the site is via an unmade crossover with a farm gateway on the northern boundary abutting Mahars Road. There are no improvements on the site or any water supply.

The land is located on the south east corner of the intersection of Mahars Road and Greene Road and is approximately 7kms east of the centre of the City of Ballarat.

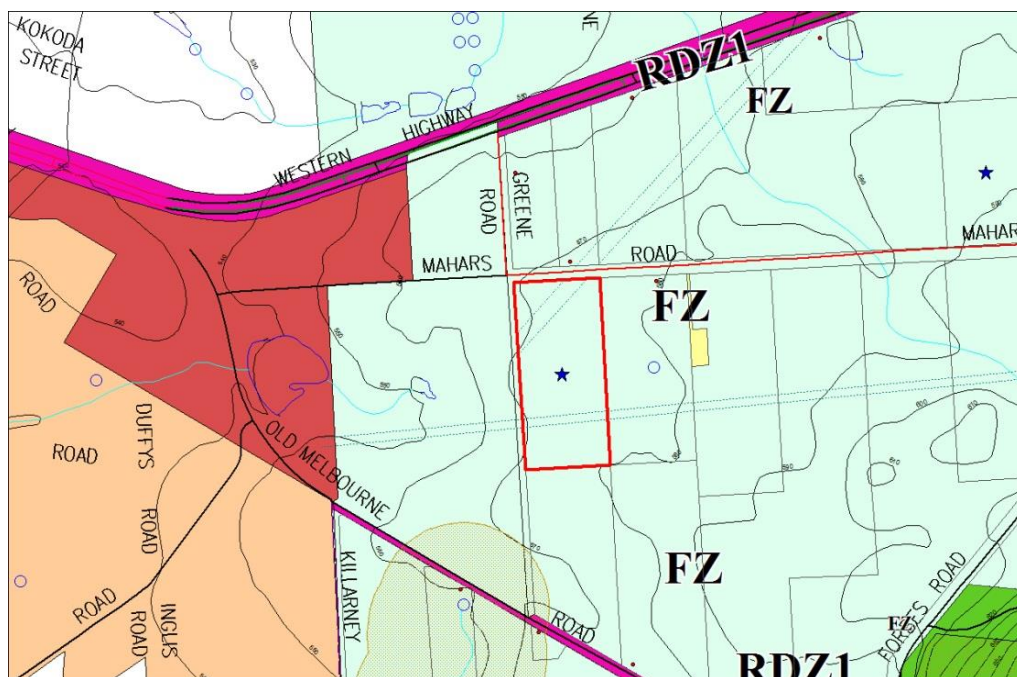
The original application stated that the land is not being used for a rural purpose and it appears that this situation is unchanged.

Surrounding land is zoned Farming. There are several dwellings around the site with the nearest being to the east that would have been 110m from the initially approved location and would be over 300m from the new location.

A search of Council records shows that there have been few new dwelling approvals in the last five years in the Warrenheip, Dunnstown or Bungaree areas.

## Locality Map

The map below indicates the location of the subject site and the zoning of 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).

In this instance a permit was issued by VCAT where the original application for the dwelling and shed were comprehensively assessed against the relevant provisions of the Moorabool Planning Scheme at the time.

## **Zone**

Pursuant to Clause 35.07-1, section 2, and the schedule to the Farming Zone, a planning permit is required to use the land for a dwelling if the land is less than 40ha.

Pursuant to Clause 35.07-4 of the Farming Zone a planning permit is required for building or works associated with a use in section 2 of Clause 35.07-1.

The subject site is in the 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 and to:

- 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 lot must be at least the area specified in a schedule to this zone which states the minimum area for which no permit is required to use land for a dwelling is 40 hectares.

### Farming Zone – decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- Whether the dwelling would result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling would 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 would 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.
- Whether the use or development will support and enhance agricultural production.
- 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 capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- 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.

### **Overlays**

No overlays cover the subject land.

### **Relevant Policies**

Moorabool Rural Growth Policy and Moorabool Rural Housing Policy.

In the VCAT Order approving the original permit both policies were assessed as they related to the application. Senior Member Baird summarized her assessment of these policies in relation to this application as follows:

*32. I understand the principles being pursued in the Policies and I appreciate that the Policies demonstrate the Council's thinking. However, for reasons such as those set out above, they cannot carry determinative or influential weight in an assessment of the permit application before me. Greatest weight is given to the policies, decision guidelines and provisions within the Scheme.*

### **Particular Provisions**

None applicable.

### **General Provisions**

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

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

### **Discussion**

The application is amend the permit and endorsed plans. The proposal is to relocate the approved site for the dwelling being 25m from Mahars Road, but also close to a high voltage electricity transmission line, to a new site that would be 238.14m south of Mahars Road.

The new site would remain the same distance from the west side boundary and the dwelling footprint would remain the same as approved. The extra driveway length required along the west side boundary would impact on available farming land to a small degree.

The original application was approved by VCAT in 2014, where Senior Member Margaret Baird noted in her final assessment of the application that:

*33. This permit application has positive, neutral and negative outcomes when assessed against the matters within the Scheme, taking into account the submissions presented. Consequently, there is a need to weigh and balance the outcomes to form a view as to whether an acceptable outcome is achieved. This is sought by Clause 10.04 where it states:*

*... responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.*

*34. On the positive or neutral side are:*

- The dwelling and associated infrastructure have been sited in the north-west corner of the review site rather than more centrally on the land where there would be a greater impost on the workability of the balance of the property for agriculture. While it was argued on behalf of the Applicant that another site may be used, plans endorsed under a permit require the dwelling to be located in the approved location.*
- The siting of a dwelling along the Mahars Road frontage is consistent with the location of other dwellings and buildings along this western end of Mahars Road. The dwelling and outbuilding will, therefore, accord with a development pattern than is evident in this locale.*
- There is a significant degree of land fragmentation in this locale.*
- The proposal has not been advanced as a stand-alone operation and hence criticisms of the Farm Management Plan that assume that the proposal is for a single viable entity are not properly founded.*
- The proposal involves more intensive agricultural production, with Frawley family interests associated with abutting land, supplemented by off-farm income which is not uncommon.*
- There is evidence of more intense and niche products/horticulture being pursued by Mr Frawley. These offer potential benefits in diversifying the agricultural base. They would benefit from the Highway proximity. They also have security requirements and, consequently, a dwelling has the real potential to increase the efficiency/diversity of the farming operation.*
- The proposal can meet requirements relating to the siting of a house, such as with respect to access and servicing.*

*35. On the negative side are:*

- It is common ground that the review site is high quality agricultural land and the siting of a dwelling and associated infrastructure will result in the permanent loss of some of that land.*
- The land can serve an agricultural role without a dwelling, as demonstrated by its past and current use.*
- The Tribunal has frequently commented on the adverse impact on agricultural production associated with the intrusion of dwellings in the Farming Zone. The impact:*
  - Can be direct, such as concerns being raised by new residents about noise and odour. This could potentially occur in the current proceeding. However, no precise issue was raised by Mr Parry in this regard. Frawley-family interests are associated with land*

*to the south and west while the properties abutting to the east were said by Mr Hawkins to involve only limited production/animal keeping.*

- *Can undermine the achievement of outcomes sought for the Farming Zone as a consequence of ad hoc, cumulative, approvals, where early decisions establish a precedent others seek to follow.*

*36. There are valid arguments in support of the cases advanced. I have decided the proposal does achieve an acceptable outcome, despite “in principle” concerns that are relevant. My conclusion has been influenced by two key considerations that tip the balance in favour of a permit being granted:*

- *The proposed dwelling is directly related to and assists a bona fide agricultural use with the real and genuine potential for enhanced production and, beyond that, possible further diversification. The outcome is consistent with the policies in Clause 22.03. I am placing weight on Mr Frawley’s evidence and his commitment to the ongoing agricultural use in reaching this conclusion.*
- *The physical characteristics of this area, including the existing pattern of building siting, with which the proposal is not at odds.*

Despite the original assessment by VCAT that the dwelling site in the north-west corner of the land as being on the positive to neutral side, it is not considered that the proposed new location would significantly diverge from that VCAT’s approval of the application. VCAT stated that

*... plans endorsed under a permit require the dwelling to be located in the approved location.*

It was not stated that the location could not be changed but rather that the location need to be approved.

Moving the dwelling further away from the powerline has positive benefits for future occupants of any dwelling constructed. The dwelling would still be on the boundary and the dwelling footprint would remain unchanged.

However it is also considered that the dwelling footprint should be controlled and that an additional permit condition is added to the permit that:

- the area of the dwelling and associated infrastructure must not exceed 1000sqm.

On balance it is considered that moving the dwelling to a site further along the west side boundary away from the powerlines is a positive outcome.



## 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
Central Highlands Water	No objection, no conditions
Downer Group (gas)	No objection, no conditions
Environmental health	No objection with 7 replacement conditions

## Financial Implications

The recommendation of approval of this application may represent a financial implication for Council. The objector may lodge an application for Review of Council's decision with VCAT.

## 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. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

## Options

The application could be refused based on VCAT's 2014 assessment that the location of the dwelling being positive to their approval of the application; and that the new location posed an unacceptable risk to the ongoing agricultural productivity of the balance of the land.

## Conclusion

It is considered that the application would not create an additional detriment to neighbours or the land to the permit that has already been approved. It is recommended that the permit is amended with new conditions added and that amended plans are endorsed.

## Recommendation

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant an Amended Planning permit for Use and Development of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture at Crown Allotment 1, Section 2, Parish of Warrenheip; alternatively known as Mahars Road, Warrenheip VIC 3352 subject to the following:**

- 1. That a new permit condition is added to the permit as condition 5 and all subsequent permit conditions are renumbered:**

- The area of the dwelling and associated infrastructure must not exceed 1000sqm.
2. That Environmental Health's conditions 6 and 7 are replaced with the following seven conditions and all subsequent permit conditions are renumbered:
- 6) *The land application area and all conditions must be in accordance to the Land Capability Assessment prepared by Provincial Geotechnical Pty Ltd, ref number 7601K dated 28 December 2016 or any approved amendment are to be strictly adhered to.*
  - 7) *An onsite waste water management system with the capacity to treat effluent to a minimum of 20/30 must be installed*
  - 8) *The wastewater management system including all effluent must be wholly contained within the property boundaries at all times.*
  - 9) *The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.*
  - 10) *All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4*
  - 11) *Subsurface Irrigation system needs to be installed to a depth of 150mm in situ or if the soil is of poor quality, imported good quality topsoil may be required, with a 1m spacing in between lines.*
  - 12) *The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.*
3. That an amended site plan is endorsed showing the new location for the dwelling.
4. That the amended Farm Management site plan is endorsed showing the new location for the dwelling.
5. That the owner submits amended the shed plans to show the correct size of the shed that has been constructed on the site.

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**Report Authorisation**

**Authorised by:**

**Name:**

  
**Satwinder Sandhu**

**Title:**

**General Manager Growth and Development**

**Date:**

**11 April, 2017**

#### Item 4.9 Planning Permit Application PA2014-010

**Planning Permit 2014-010-151: 155 Main Street, Bacchus Marsh – Five (5) lot subdivision, creation of a carriageway easement and reduction in car parking (10 car spaces)**

<b>Application Summary:</b>	
Permit No:	PA2014-010
Lodgement Date:	15 January, 2014
Planning Officer:	Victoria Mack
Address of the land:	151-155 Main Street Bacchus Marsh Lot 1 on TP65002A; and Lot 1 on TP846613U
Proposal:	Five (5) Lot subdivision, creation of a carriageway easement and reduction of car parking (10 car spaces).
Lot size:	Lot 1 on TP65002A – 1417 sqm Lot 1 on TP846613U – 2583 sqm
Why is a permit required	34.01-3 - C1Z – Subdivision. 52.02 - Creation of carriageway easement. 52.06-5 - Reduction of car parking (10 car spaces).
<b>Public Consultation:</b>	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	Nil
Consultation meeting:	Not required
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	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.

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
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.	
<b>Officer's Declaration of Conflict of Interests</b>	
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 – Rob Fillisch</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.  <i>Author – Victoria Mack</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes
Any issues raised in referral responses?	No
Preliminary Concerns?	<p>1. Existing carriageway easement to Lot 1 on TP844613U from Graham Street (on land owned by others) did not benefit the northern-most Lot 1 on TP650022A. Owners consent was required to include this land to benefit from the easement.</p> <p>2. Car parking reduction.</p>
Any discussions with applicant regarding concerns	<p>Yes. It took time to gain consent from the third part owner of the land with the existing carriageway easement to agree to the additional lot being a beneficiary to the carriageway easement.</p> <p>There was considerable discussion with the applicant about the car space reduction, the need for a loading bay and the size of the car parking area.</p>

Any changes made to the application since being lodged?	Yes, an application to amend the permit in process was made to add the creation of a second carriageway easement to Lot 1 on TP650022A. The car parking area was amended twice to adjust the number of car spaces in the common property car parking area.
VCAT history?	None
Previous applications for the site?	None
General summary:	
<p>The subject land comprises two lots:</p> <ol style="list-style-type: none"> <li>1. Lot 1 on TP 650022A being the northern lot with a building containing 4 shops and with an area of 1417sqm. Not currently a benefiting lot to the carriageway easement from Graham Street; and</li> <li>2. Lot 1 on TP844613U being a vacant lot with an area of 2583sqm. This is a benefiting lot to the carriageway easement from Graham Street.</li> </ol> <p>The application is to subdivide the four existing shops and create a common property at the rear of the shops for car parking. A new carriageway easement along the western boundary of the southern Lot 1 on TP844613U would afford permanent access to the rear of the shops.</p> <p>The new carriageway easement would be constructed across the vacant Lot 1 on TP844613U to allow access to a common property area at the rear of the shops. The new easement would link to an existing carriageway easement from Graham Street, over land owned by others, who have provided consent for the northern lot, with the shops, Lot 1 on TP 650022A, to benefit from this carriageway easement, however, their title would need to be amended to reflect this.</p> <p>The existing sealed car parking area at the rear of the shops covers both of the subject lots, in part: the southern part of Lot 1 on TP650022A and the northern part of Lot 1 on 844613U. The balance of Lot 1 on 844613U is vacant land.</p> <p>The floor area of each of the shops is such that 8 car spaces are required per shop. The shops would therefore require 32 car spaces to be accommodated in the common property area at the rear of the shops including one disabled space. Only 22 car spaces are now proposed.</p> <p>The existing car parking area if it remained unchanged would not require a car parking reduction as it currently accommodates the required 32 car spaces.</p> <p>The reason this application is before Council is that the applicant is seeking a reduction of 10 car spaces.</p> <p>The justification for the request is that the common property parking area is not for the purpose of public car parking and is restricted to the operators of each of the shops and their staff, and that 22 car spaces is adequate.</p> <p>On balance it is considered that the existing car parking area should be kept at its current size which currently accommodates 32 car spaces and meet the requirements of the Moorabool Planning Scheme.</p>	

As the owner is unwilling to make this concession the application is before Council for a decision.

It is considered that the application to reduce the car parking provision by 10 spaces should be refused.

**Summary Recommendation:**

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the *Planning and Environment Act 1987*, on the grounds detailed at the end of this report.

**Background**

Both the subject lots, including the four shops, have been in the one ownership for considerable time. The current owners, including an Estate as a part owner, are seeking now to resolve Estate issues.

The northernmost lot, Lot 1 on TP 650022A, has a car parking area which is effectively land locked. However, as land to the south, Lot 1 on TP 844613U, is in the same ownership, access to the rear of the shops has been facilitated across this lot and via a carriageway easement from Graham Street which benefits Lot 1 on TP 844613U, but not Lot 1 on TP 650022A.

Consent was required from the owners of the land with the carriageway easement from Graham Street to include Lot 1 on TP650022A as a benefiting lot. Provisional consent took some time to be obtained but was eventually granted and it is only now that the application can be tabled at a Council meeting for a decision.

The application was amended as follows throughout the assessment:

- On 21 January 2014 the original application was lodged with Council. This proposal was to retain the car parking area at its current size with 32 car spaces.
- On 12 February 2016 the subdivision application was amended to reduce the size of the common property car parking area to 13 car spaces. This would have resulted in Lot 1 on TP844613U only being affected with the provision of a carriageway easement by the subdivision.
- On 10 November 2016 the proposal was further amended to increase the size of the car parking area to 22 car spaces, which would reduce the size of Lot 1 on TP844613U.

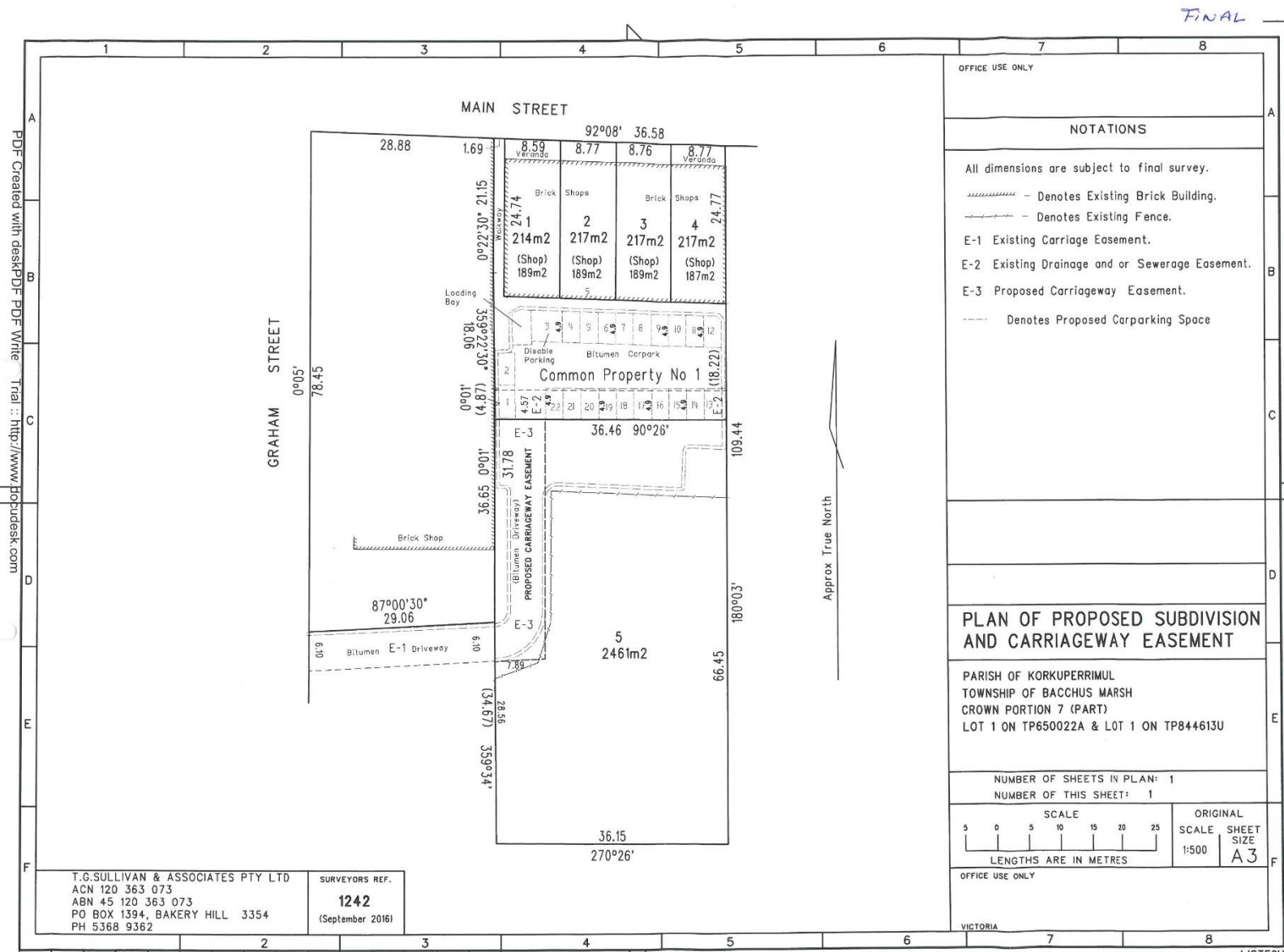
**Public Notice**

The application was notified to adjoining and surrounding landowners by letter. No objections were received.

**Proposal**

The application is for a five lot subdivision. This would include the reduction in the size of the southern-most lot and the creation of a carriageway easement and a common property car parking area with 22 car spaces including one disabled space.

Below is a plan of proposed subdivision and carriageway easement:

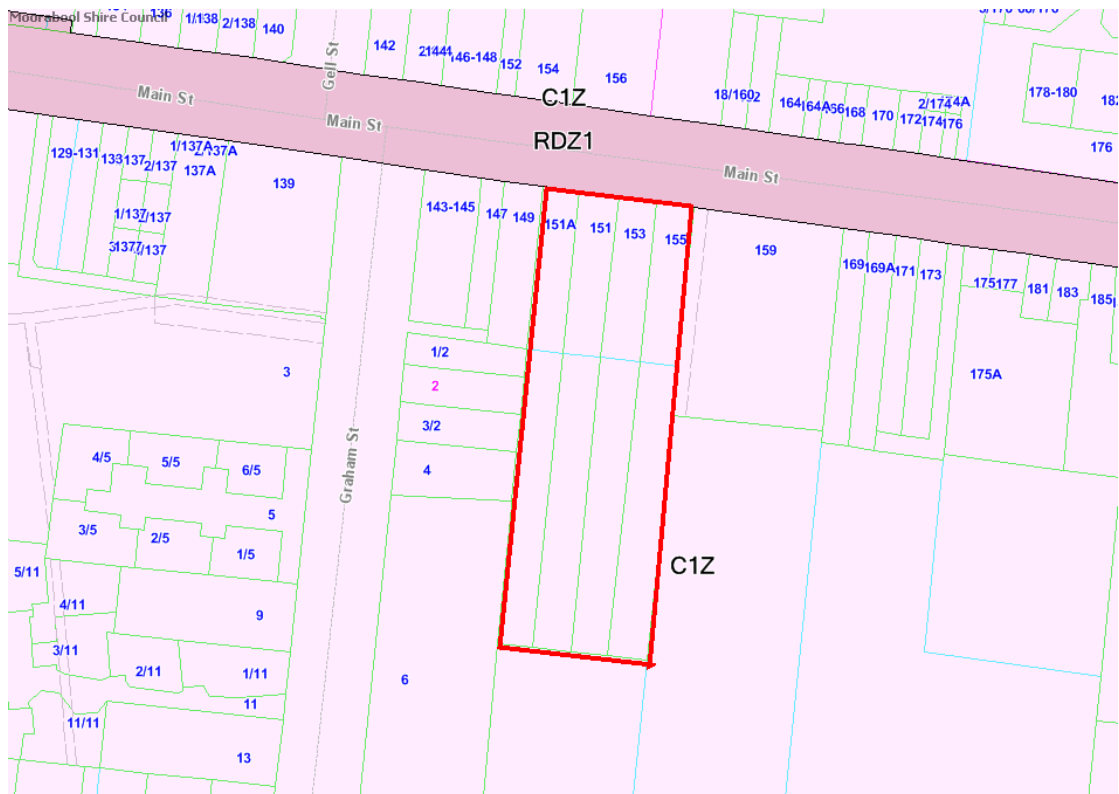


### Locality Map

The aerial site map below shows the location of the subject site.



The map below shows the zoning applicable to the site and surrounding area.





## Site Description

The site is flat. In addition to the four shops that face Main Street on the western side of the shops is a walk way that leads to the rear of the site.

At the rear of the shops is an existing car parking area which covers the south side of Lot 1 on TP 650022A and the north side of Lot 1 on TP 844613U. The car park is constructed and sealed.

The balance of the southern-most lot is vacant land. A carriageway easement across land owned by others from Graham Street affords access to Lot 1 on TP 844613U, and by default Lot 1 on TP 650022A but which does not have beneficiary status to the Graham Street carriageway easement.

To the south-east of the site is land used for agricultural purposes including horticultural purposes despite the land being in the Commercial 1 Zone.

The site is located in Main Street in the Bacchus Marsh town centre and the shops include retail and hospitality including: Ferguson Plarre, Talking Heads and Bargains on Parade.

## 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 11.06-2 A diversified economy;
- Clause 13.04-1 Noise abatement;
- Clause 17.01-1 Business;
- Clause 18.02-5 Car Parking;
- Clause 21.04-3 Commerce; and
- Clause 21.07 Bacchus Marsh.

The proposal complies with the relevant sections of the SPPF and LPPF.

## Zone

### Commercial 1 Zone (C1Z)

The land is within the Commercial 1 Zone where in accordance with Clause 34.01-3 a permit is required to subdivide land.

The purpose of the C1Z 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 create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

### Road Zone Category 1 (RDZ1)

The land is adjacent to a Road Zone Category 1, but as no new access is to be constructed to the RDZ1 a permit for not triggered by the RDZ1.

### **Overlays**

No overlays apply to the subject site.

### **Relevant Policies**

At its Ordinary Meeting on 7<sup>th</sup> October 2015 Council adopted a policy that Council:

*Ensure all planning applications that require a reduction for car parking provisions are only approved by either the Development Assessment Committee (DAC) or at an Ordinary Meeting of Council.*

This application is being tabled at a Council meeting for a decision because the application seeks a reduction in car parking provision of 10 car spaces.

### **Particular Provisions**

#### Clause 52.29 Land Adjacent to a Road Zone, Category 1

In accordance with Clause 52.29 a permit is required to subdivide land adjacent to a road in a Road Zone Category 1.

#### Clause 52.06 – Car Parking

In accordance with Table 1 of Clause 52.06-5 of the Moorabool Planning Scheme the number of car parking spaces for a shop is 4 car spaces to each 100sqm of leasable floor area.

The floor area of each of the shops in this application ranges between 214-217sqm. Table 1 requires 4 car spaces for each 100sqm of leasable floor area which equates to 8 car spaces per shop rounded to the lower whole number.

The shops would therefore require 32 car spaces and the existing car park provides for this number.

During assessment of the application the proposal was amended as follows:

- On 21 January 2014 the original application was lodged with Council. This proposal was to retain the car parking area at its current size with 32 car spaces.
  - On 12 February 2016, the subdivision application was amended to reduce the size of the common property car parking area to 13 car spaces. This would have resulted in Lot 1 on TP844613U only being affected with the provision of a carriageway easement by the subdivision.
- On 10 November 2016, the proposal was further amended to increase the size of the car parking area to 22 car spaces, which would reduce the size of Lot 1 on TP844613U. A reduction in car space provision of 10 spaces is requested.

## Discussion

The subject land comprises two lots:

1. Lot 1 on TP 650022A being the northern lot with a building containing 4 shops and an area of 1417sqm; and
2. Lot 1 on TP844613U being a vacant lot with an area of 2583sqm.

The application is to subdivide the four existing shops and create a common property at the rear of the shops for car parking. A new carriageway easement along the western boundary of the southern Lot 1 on TP844613U would afford permanent access to the rear of the shops. The vacant Lot 1 on TP844613U would be reduced in size.

The existing sealed car parking area at the rear of the shops covers both of the subject lots, in part: the southern part of Lot 1 on TP650022A and the northern part of Lot 1 on 844613U. The balance of Lot 1 on 844613U is vacant land.

The new carriageway easement would be constructed across the vacant Lot 1 on TP844613U to allow access to a common property area at the rear of the shops. The new easement would link to an existing carriageway easement from Graham Street, over land owned by others, who have provided consent for the northern lot with the shops, Lot 1 on TP 650022A, to benefit from this carriageway easement.

The carriageway easement is located on a lot owned by others being Lot 1 on TP130611F. The title to this must be amended to include the land known as Lot 1 on TP 650022A to benefit from this easement.

The floor area of each of the shops ranges between 214-217sqm. Table 1 of Clause 52.06-5 of the Moorabool Planning Scheme in relation to car parking requires 4 car spaces for each 100sqm of leasable floor area which equates to 8 car spaces per shop (rounded to the lower whole number). The shops would therefore require 32 car spaces. However, only 22 car spaces have been provided in the common property area at the rear of the shops including one disabled space. The reduction in parking provision being requested is therefore 10 car spaces.

The existing car parking area currently contains 32 car spaces which meets the requirements of Clause 53.06-5 of the Moorabool Planning Scheme. Retaining the car parking area at its current size would remove land from, and reduce the size of, the southernmost lot.

The application is before Council as the applicant is seeking a reduction of 10 car spaces.

The justification for this request is that the car parking area is not a public car park and should be for the sole use of the shop tenants including staff and customers. It is considered by the applicant that the provision of 22 car spaces is sufficient for this purpose.

The applicant also maintains that the public who know about this car parking area use it to access Main Street via the walk-way on the eastern side of the shops and the applicant is by default providing public car parking which is not their responsibility.

It is also noted that if in the future the southernmost lot was sold, the common property car parking area that would be created as part of this subdivision would not be available to the lot. Any future development of the southernmost lot would need to provide its own dedicated car parking depending on the application and planning scheme requirements at the time.

A loading bay has been included at the rear of the shops in the car parking area for the loading and unloading of vehicles.

Had the correct number of 32 car spaces been provided on the site the application for subdivision would not be considered an issue, and could have been approved under delegation by Council officers.

It is considered that the existing car parking area should remain in its current form which is compliant with the provisions of the Moorabool Planning Scheme. As the owner was unwilling to agree to Council's requirements the application is before Council for a decision.

It is recommended that the application is refused because it does not satisfactorily provide the required number of car spaces.

### **General Provisions**

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

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

Clause 66.01-1 requires mandatory conditions for subdivision permits particularly telecommunications conditions which however do not apply to a permit granted to:

- Subdivide an existing building already connected to telecommunication services.

In this instance the subdivision relates to an existing building and it is not considered that the telecommunications conditions apply.

### **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.

<b>Authority</b>	<b>Response</b>
Western Water	Consent with conditions
Melbourne Water	Consent with conditions
Powercor	Consent with conditions
Tenix	Consent with conditions
VicRoads	Consent no conditions
APA Gasnet	Consent no conditions
Infrastructure	Consent with conditions
Strategic and Sustainable Development	No comment

### **Financial Implications**

Council has acknowledged in recent policy that the provision of adequate car parking in Bacchus Marsh is a priority area for planning decisions. The reduction in car parking provision for each development or subdivision incrementally places strain on other areas of the civic precinct which is a long term cost 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 with no objections received.

## **Options**

The original proposal included using more of the southernmost lot to accommodate additional car parking spaces but this was subsequently amended to reduce the car parking area to accommodate 22 spaces.

Should the applicant revert to its original application which provided sufficient space to accommodate 32 car parking spaces then consent for approval could be supported.

## **Conclusion**

The purpose of the subdivision is acceptable and facilitates the separation of existing shops into separate titles. Access would be afforded to the rear of the shops via a dedicated carriageway easement, which would formalize what appears to be a verbal agreement and therefore provides certainty into the future. However, the reduction in car parking is the issue and in this instance it is considered that the car parking area to be provided should remain in accordance with the existing car parking area.

As the owners are not prepared to agree to this requirement it is recommended that the application be refused.

## **Recommendation:**

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Planning Permit for a *Five (5) lot subdivision, creation of a carriageway easement and reduction in car parking (10 car spaces)* on the following grounds:**

- 1. The application as presented does not meet the requirements of Clause 52.06-5 of the Moorabool Planning Scheme in relation to car parking provision.**
- 2. The existing car parking area at the rear of the site should not be reduced in area as it currently meets the car parking requirements.**

## **Alternative Motion**

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a planning permit for a Five (5) lot subdivision, creation of a carriageway easement and reduction in car parking (10 car spaces) subject to the following conditions:**

## **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. Prior to certification of the plan of subdivision the title to the land known as Lot 1 on TP130611F, on which the carriageway easement from Graham Street to the subject land is located, must be amended to include the land known as Lot 1 on TP650022A to benefit from the carriageway easement.**
- 3. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.**
- 4. 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.**

### **Infrastructure conditions**

- 5. Prior to the certification of the plan of subdivision, the status of the carriageway easement between Graham Street and the subject land must be determined to the satisfaction of the Responsible Authority.**
- 6. Prior to the issue of a Statement of Compliance for the subdivision, lot 5 must be provided with a point of drainage discharge to the property drainage system, to the satisfaction of the responsible authority.**
- 7. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.**
- 8. 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).**
- 9. 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.**
- 10. 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 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.**

### **Western Water conditions**

- 11. Provision of easements in favour of Western Water over all existing sewer mains located within private property. The easements shall be 3.0m wide for combined sewer and drainage easements and 2.5m wide for dedicated sewerage easement.**
- 12. All internal sewer and water mains must be owned and maintained by an owner's corporation.**
- 13. Preparation of a digitized plan of subdivision and ancillary requirements in accordance with Western Water's drafting standards and practices.**

#### **Powercor conditions**

**14. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.**

**15. The applicant shall:**

- a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
- b. Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
- c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.**
- d. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.**
- e. Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.**
- f. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.**
- g. Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.**
- h. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- i. Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**
- j. Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.**
- k. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.**

#### **Tenix condition**

**16. The plan of subdivision submitted for certification must be referred to SP Ausnet (Gas) in accordance with Section 8 of the Subdivision Act 1988.**

#### **Melbourne Water conditions**

**17. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.**

**18. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.**

#### **Permit expiry**

19. 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.

#### **Permit notes:**

##### **Powercor Australia Ltd**

It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued).

Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

##### **Melbourne Water**

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9679 7517, quoting Melbourne Water's reference 236268.

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#### **Report Authorisation:**

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 13 March, 2017

