



# **AGENDA**

## **S86 Development Assessment Committee Meeting**

**Wednesday, 16 October 2019**

**I hereby give notice that a S86 Development Assessment Committee Meeting will be held on:**

**Date: Wednesday, 16 October 2019**

**Time: 3.30pm**

**Location: Council Chamber, 15 Stead Street, Ballan**

**Derek Madden  
Chief Executive Officer**

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**1 OPENING****2 PRESENT AND APOLOGIES****3 RECORDING OF MEETING**

As well as the Council for its minute taking purposes, the following organisations have been granted permission to make an audio recording of this meeting:

- The Moorabool News; and
- The Star Weekly.

**4 CONFIRMATION OF MINUTES**

S86 Development Assessment Committee Meeting - Wednesday 18 September 2019

**5 MATTERS ARISING FROM PREVIOUS MINUTES****6 DISCLOSURE OF CONFLICTS OF INTERESTS**

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

Definitions of the class of the interest are:

- A direct interest (section 77A, 77B)
- An indirect interest (see below)
  - indirect interest by close association (section 78)
  - indirect financial interest (section 78A)
  - indirect interest because of conflicting duty (section 78B)
  - indirect interest because of receipt of gift(s) (section 78C)
  - indirect interest through civil proceedings (section 78D)
  - indirect interest because of impact on residential amenity (section 78E)

**Time for Disclosure of Conflicts of Interest**

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

Section 79(6) of the Act states:

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

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

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

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

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

## **7 COMMUNITY PLANNING REPORTS**

### **7.1 PA2018306 - 3 DWELLING DEVELOPMENT. 8 STANDFIELD STREET, BACCHUS MARSH**

**Author:** Victoria Mack, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development

**Attachments:** 1. Development plans

#### **APPLICATION SUMMARY**

**Permit No:** PA2018306

**Lodgement Date:** 14/11/2018

**Planning Officer:** Victoria Mack

**Address of the land:** 8 Standfield Street, Bacchus Marsh

**Proposal:** Development of three (3) dwellings

**Lot size:** 668 m2

**Why is a permit required?** Clause 32.08-6 — General Residential Zone — Construction of two or more dwellings on a lot

#### **RECOMMENDATION**

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

1. The application does not accord with the referred Neighbour Character of Precinct 22 of the Bacchus Marsh Housing Strategy.
2. The application does not comprehensively accord with all of the objectives of Rescode.
3. The double storey form extends to the rear of the lot creating excessive visual bulk and massing when viewed from the secluded private open space of adjacent properties.
4. A lack of upper floor setbacks and insufficient levels of building articulation that fails to respect the existing and preferred neighbourhood character.
5. The secluded private open space areas do not meet the reasonable recreational needs of future residents and does not respect the preferred neighbourhood character.
6. The egress from Unit 3 car space does not allow for safe and convenient vehicle movement.
7. The application is considered an overdevelopment of the site in this location.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes (25 March 2019 – 15 April 2019)
Notices on site:	1
Notice in Moorabool Newspaper:	No
Number of objections:	3
Consultation meeting:	15 July 2019

### **POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

#### **Strategic Objective 3: Stimulating Economic Development**

##### **Context 2A: Built Environment**

The proposal for the development of three dwellings is consistent with the Council Plan 2017 – 2021.

### **VICTORIAN CHARTER OF HUMAN RIGHTS & 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.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the General 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?	Melbourne Water, Department of Human Services and Council's Infrastructure Department.
Any issues raised in referral responses?	No
Preliminary concerns?	Rescode
Any discussions with applicant regarding concerns?	A request for further information was sent to applicant detailing concerns in relation to the proposal according with Rescode objectives and standards; and that the proposal did not adequately accord with Precinct 22's preferred Neighbourhood Character statement.

Any changes made to the application since being lodged?	Amended dwelling plans and site plan were provided by the applicant, however, not all requirements have been met, however, these could be conditioned.
Brief history.	The site contains an existing single storey older style weatherboard dwelling and outbuildings which is setback 9m from the street.
Previous applications for the site?	No previous applications are recorded on the site.
General summary.	The application is for three double storey dwellings on a lot of 668sqm with a frontage width of 16.31m. The proposal does not accord with the preferred Neighbourhood Character of Precinct 22 of the Bacchus Marsh Housing Strategy. The front dwelling does not meet the required setback from the street. The common property is not functional and the movement of vehicles in this area would be congested. Objectors are concerned that this multi-unit development will exacerbate already congested on-street parking. On balance it is considered that the proposal is an overdevelopment of the site in this area of Standfield Street.
<b>Summary Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issues a Refusal to Grant a Planning permit for the development of three (3) dwellings at 8 Standfield Street, Bacchus Marsh, otherwise known as Lot 8 on PS 018218.	

### SITE DESCRIPTION

The site is flat and has an area of 668sqm and is rectangular in shape. It contains a single storey older style weatherboard dwelling and ancillary outbuildings in a garden setting. Access is via a constructed concrete crossover on the northern side of the frontage to the lot.

The dwelling is likely to be more than 40 years old and is in reasonable condition.

Below is an aerial photo of the site.



The surrounding area generally contains single-storey dwellings on similar sized allotments in attractive garden settings. There is also a small number of multi-dwelling developments in Standfield Street and the surrounding area. Immediately opposite the site are two established multi-dwelling development lots with four units in each. These developments would be greater than 20 years old. The total area of both these lots is approximately 940sqm.

Standfield Street has a width of approximately 15.5sqm and has established street trees particularly along the southern end of the street.

The site is located approximately 453m south south-east of the intersection of Gisborne Road, Grant Street and Main Street in Bacchus marsh. The site is approximately 1.3kms north of the Bacchus Marsh railway station.

**PROPOSAL**

The application is for 3 dwellings on a lot.

A summary of the development is as follows:

	Dwelling 1	Dwelling 2	Dwelling 3
Bedrooms	3	3	2
Car spaces	2	2	1
Private open space	81.1sqm	40.1sqm	52.8sqm
Secluded private open space	25.3sqm	26.8sqm	26.6sqm
Total floor area including ground and upper floors, porch and garage	171.3sqm	151.5sqm	166.7sqm

The dwellings would be constructed with brick wall cladding, aluminium windows and doors and concrete tiled roofs. The ground floors would generally contain the living areas and upper floors would contain bedrooms, with the exception of dwelling 1 which has a bedroom on the ground floor and a retreat on the upper floor; and dwelling 3 which has a retreat on the upper floor.

### **BACKGROUND TO THE PROPOSAL**

The original proposal consisted of 3 x three-bedroom dwellings on the site with a common property access along the southern side of the development. Dwelling 2 and 3 each required 2 car spaces (a total of 4 car spaces) accessed via a common property driveway.

In accordance with Clause 52.06-9 where an accessway serves 4 or more car spaces the accessway must be designed so that cars can exist the site in a forward direction.

- The original layout did not allow vehicles to exit in a forward direction.

Other issues identified in the original plans included that:

- The front setback of dwelling 1 did not meet standard B6 requirement of 6.5m.
- The landscape plan did not provide canopy trees to each dwelling.
- Some upper windows in the dwellings needed to be treated with obscure glazing or replacement with highlight windows to avoid overlooking neighbouring private open space.
- One window of a habitable room in Dwelling 2 abutting the shared accessway did not meet the required setback.
- Garden area calculations were not provided.

Following a request for further information the applicant provided amended development plans.

These included:

- The removal of one bedroom from dwelling 3 which reduced the car space requirement from 2 spaces to 1.
- In this instance, the removal of 1 bedroom from Dwelling 3 resulted in the development not being required to meet the requirement of Clause 52.06-9 where vehicles must exit the site in a forward direction.
- The layout means that a vehicle from dwelling 3 cannot exit the site in a forward direction as dwelling 2's second car space is directly behind dwelling 2's single garage. Reversing from dwelling 3 along the accessway to the street would be required.
- The overlooking issue was addressed with the addition of obscure glazing to windows on the upper floors of the northern elevation.
- The removal of one bedroom from Dwelling 3 resulted in the area being changed to a "living space" which could still be used as a third bedroom. This was required to be corrected which was done.
- The garden area calculation was provided showing the garden area requirement could be met.

### **HISTORY**

There is no relevant history to this proposal.

**PUBLIC NOTICE**

The application was notified to adjoining and surrounding landowners and 3 objections were received.

**SUMMARY OF OBJECTIONS**

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

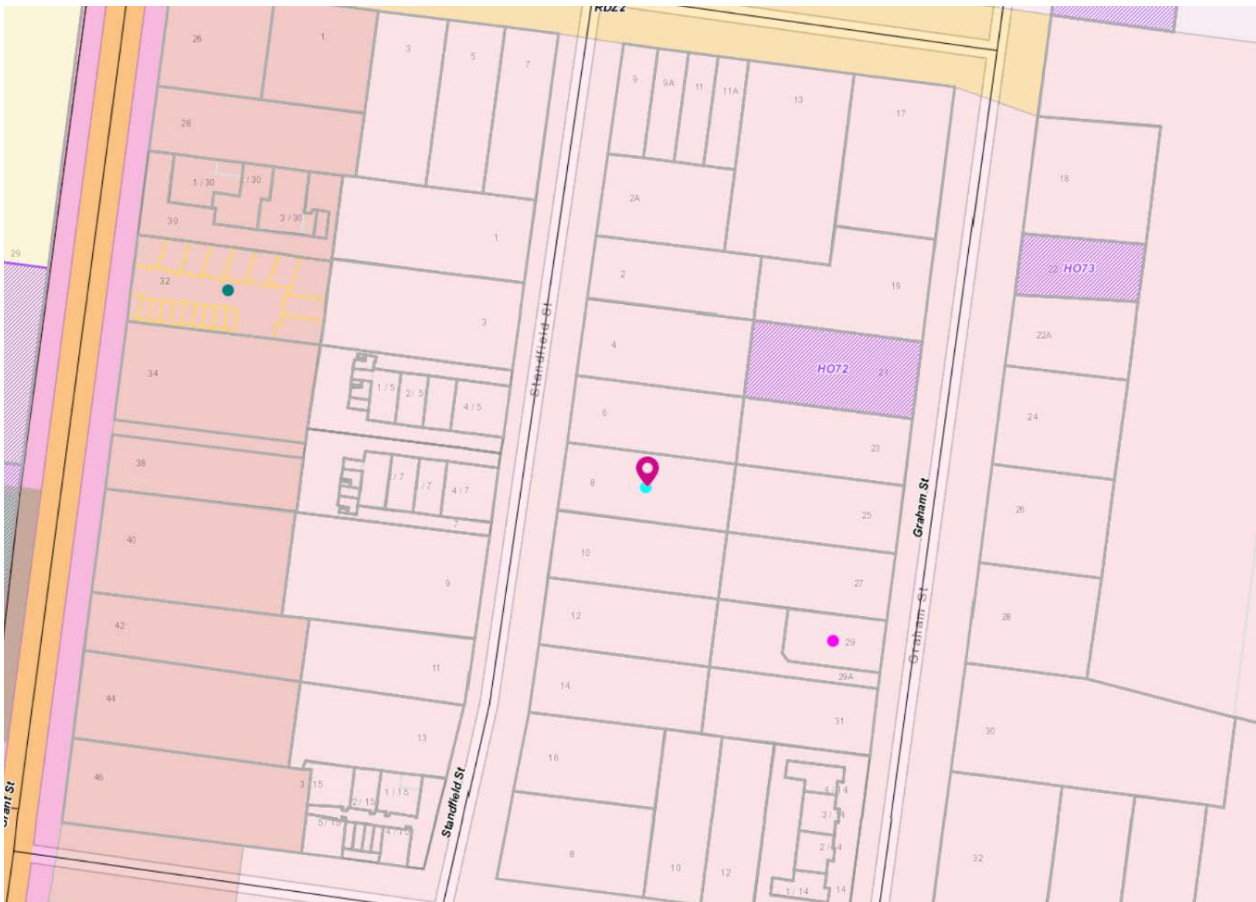
Objection	Any Relevant Requirement
Overlooking private open space. Concern that some of the windows overlook private open space and these should all be frosted or obscure glazing.	Requirement under ResCode
<b>Officer's Response:</b> Overlooking has been addressed by the applicant proposing the inclusion of highlight windows and/or obscure glazing to all upper storey windows where overlooking is an issue.	
There is inadequate car parking on the site, where only a one car space/garage is provided for each dwelling with the second car space for dwellings 1 and 2 as tandem car spaces.	Requirement under Clause 52.06-5 Table 1
<b>Officer's Response:</b> The number of car spaces provided for each dwelling meets the requirements of the Moorabool Planning Scheme.	
The units across the road already cause traffic and parking congestion in the street and this development will make it worse.	Requirement under ResCode
<b>Officer's Response:</b> The number of car spaces provided for each dwelling meets the requirements of the Moorabool Planning Scheme.	
Having two crossovers will reduce the available on-street parking and force visitors to park in front of other houses on an already busy street.	Requirement under ResCode
<b>Officer's Response:</b> There would be 8m available for parking in front of the site. It is agreed that the second crossover would reduce on-street parking by one car space.	
<p>If the owners wish to replace the fence around the property, they should do so at 100% their expense. There is nothing wrong with the current fence.</p> <p>If the fence is replaced, we would require immediate replacement as we have a dog and child and being without a fence would risk our pets and family. cannot have a gaping</p>	Fencing Amendment Act 2014 and Fencing Act 1968.
<b>Officer's Response:</b> Fencing issues must be negotiated with the developer.	



<p>Parking on both sides of Standfield Street and traffic in the street is exacerbated by parking demand from the Grant Street shops, the hospital and medical services. It places increased stress on Standfield Street home owners just trying to get out of their driveways.</p>	<p>Infrastructure Design Manual (IDM)</p>
<p><b>Officer's Response:</b> Traffic management is the responsibility of Council's Infrastructure and Assets Departments.</p>	
<p>The increased traffic and parking issues will inevitably create access issues for Council's garbage and recycling collection and street sweeping as well as the emergency services.</p>	<p>Requirement under ResCode</p>
<p><b>Officer's Response:</b> Traffic management is the responsibility of Council's Infrastructure and Assets Departments.</p>	
<p>If the dwellings are owned by families, there is not enough outdoor play area allocated to each dwelling for children.</p>	<p>Requirement under ResCode</p>
<p><b>Officer's Response:</b> The dwelling generally meets the minimum requirements for private open space under Rescode.</p>	

## 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:

- 11.03-3S Peri-urban areas
- 11.03-2S Growth areas
- 15.01-1S Urban design
- 15.01-5S Neighbourhood character
- 16.01-1S Integrated housing
- 16.01-2S Location of residential development
- 16.01-3S Housing diversity
- 21.03-2 Urban Growth Management
- 21.03-3 Residential Development
- 21.03-4 Landscape and Neighbourhood Character
- 21.07 Bacchus Marsh

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 15.01-5S	Neighbourhood character	<p>Objective: to recognise, support and protect neighbourhood character, cultural identity, and sense of place. Strategies are to ensure development responds to cultural identity and contributes to existing or preferred neighbourhood character.</p> <p>The bulk and scale of the proposed double storey multi-unit development is not in keeping with the predominant character of the surrounding area. While housing stock does need to be upgraded from time to time, this proposal is inconsistent with the preferred Neighbourhood Character for Precinct 22.</p>
<b>LPPF</b>		
Clause 21.03-4	Residential Development	An increase in double storey town house development is not in character with the surrounding area

## ZONE

### General Residential Zone, Schedule 2 – Natural and greenfield residential growth

The purposes of the General Residential Zone include to:

- *Implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *Encourage development that respects the neighbourhood character of the area.*
- *Encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *Allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The Neighbourhood character objectives contained in Schedule 2 to the General Residential zone include to:

- *Encourage new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.*
- *Encourage an increase in landscaping within the public and private realm.*
- *Encourage new development to respect existing setbacks within the streetscape.*
- *Encourage new development to have minimal or low scale front fencing. To ensure garages, carports, and second storey development do not visually dominate dwellings or streetscapes.*

Under Clause 32.08-6 a permit is required for the development of two or more dwellings on a lot. A development must meet the requirements of Clause 55.

A lot with an area greater than 650sqm must provide a minimum of 35% of the lot for as garden area.

Pursuant to Clause 32.08-7, Schedule 2 does not vary any of the Clause 55 requirements.

Although the proposed development demonstrates a level of compliance with the provisions of the zone, a number of standards / objectives impacting neighbourhood character has not been satisfactorily addressed, eg. streetscape setback and detail design.

## **OVERLAYS**

### *Design and Development Overlay, Schedule 12 - Residential Land between Waddell Street and Werribee River East of Grant Street*

The Design Objectives contained in Schedule 12 include to:

- *Encourage a residential neighbourhood with a consistent built form that maintains generous setbacks to maintain and enhance the country town character of Bacchus Marsh.*
- *Encourage the development of a built form character that responds to the existing site characteristics including creating appropriate interfaces with Grant Street to the west and the River to the south.*
- *Encourage new development that maintains the country town character and provides for and maintains an openness to the streetscapes by creating generous road reserves, low front fencing and spacious garden settings for dwellings.*
- *Ensure new residential development in the Werribee River environs is sited to maximise opportunities for passive surveillance of the riverside footpaths.*
- *Ensure residential development abutting streets is appropriately set back to allow for canopy tree planting to maintain the country town character.*
- *Minimise traffic conflicts between local residential traffic and through traffic.*

The proposal does not necessarily meet all the above objectives particularly the requirement for generous street setbacks and spacious garden settings for dwellings.

Design and Development Overlay, Schedule 15

The application was referred to DHHS in accordance with DDO15 due to its proximity to the hospital and helipad associated flight paths and they have no objection to the application.

**RELEVANT POLICIES**Planning Scheme Amendment C79 - Bacchus Marsh Housing Strategy

One of the objectives of the strategy is to:

*Provide a clear direction and policy guidance to enable orderly growth, managed change and retention of key elements of character including Neighbourhood Character mapping and character precinct brochures.*

The site is located in Precinct 22 of the Settlement Framework Plan, identified as an 'Increased Residential Growth Area', which "generally applies to residential land that is well located to services and facilities and has been identified as suitable for infill and increased densities of development. This will include a range of multi units, townhouses and alternative housing options within a walkable catchment of residents' daily needs."

The Existing Character statement for Precinct 22 is as follows:

*This precinct covers an older area of Bacchus Marsh that has several strong character elements, including a range of dwellings with heritage values and representing renowned architectural styles. The precinct adjoins the Bacchus Marsh town centre and therefore is within a walkable catchment of many services and facilities including the Bacchus Marsh train station to the south of the precinct.*

*Street tree plantings are inconsistent throughout the precinct, however the plantings that are established often have strong canopy cover, which contributes to the character of the precinct.*

*Most lots have low scale front fencing constructed out of a range of materials, with small brick walls and timber picket fences being prominent throughout the precinct. A range of car parking arrangements exist within the precinct with carports or garaging to the side of the dwelling prevalent.*

*A wide street network, traditional front setbacks and relatively low site coverage contributes to a sense of openness within the precinct.*

*There is evidence of some change occurring with the precinct, with contemporary and multi-dwelling developments also existing. Multi dwellings and are often attached, which is notably atypical for the precinct.*

The Preferred Neighbourhood Character for Precinct 22 can be summarised as follows as it relates to this application:

- *This precinct will allow for increased housing choice over time given its proximity to several services and facilities.*
- *Site coverage will be increased, however new development, including multi dwelling developments will need to ensure adequate private open space and garden plantings are provided.*
- *Front setbacks will be sufficient to allow for enhancement of the front garden character, including increasing canopy tree plantings.*
- *New developments will minimise the need for additional crossovers to the street and have a positive street interface to ensure strong passive surveillance is achieved.*
- *Garages and carports that do not visually dominate dwellings or streetscapes are encouraged and should be recessed from the front building line or located to the side or rear of the dwelling.*
- *Innovative and unique development that enhances the character of the precinct is encouraged.*

## **PARTICULAR PROVISIONS**

### Clause 52.06 Car Parking

The proposal includes the required number of resident car spaces, being 2 spaces for each three-bedroom dwelling (dwelling 1 and 2) and 1 space for the 2-bedroom dwelling 3. The car spaces are tandem with only one car space provided within the garage.

The proposed crossover and accessway widths satisfy the minimum requirements.

### Clause 55 Two or More Dwellings on a Lot

Clause 55 provides objectives and standards for residential development of two or more dwellings on a lot. This clause requires the submission of detailed information. Residential development must meet all the objectives and should meet all of the standards of this clause.

The proposal complies with the objectives and standards of Rescode (Clause 55) except for the following:

<b>Clause ResCode</b>	<b>Title</b>	<b>Response</b>
Clause 55. 03-1 Standard B6	Table B1 Street setback	The setback from the street should be the average between the setbacks of the front walls of neighbouring dwellings which is 6.5m. The development provides a setback of 5.5m which does not meet the requirements.
Clause 55.04-5 Standard B22	Overlooking objective	Obscure glazing has been added to most, but not all, of the upper floor windows in the amended plans.
Clause 55.061 Stanard B31	Detailed design objective	The objective is to encourage design detail that respects the existing or preferred neighbourhood character. It is considered that the current layout and façade of

		dwelling 1 does not meet preferred character of this precinct and design lacks character. It is considered that the layout is an overdevelopment of the site.
Clause 55.03-10 Standard B15	Parking Location	The proposed development does not meet the objective to provide convenient parking for residents.

## DISCUSSION

The application is for three dwellings. The proposal fails to meet the key objectives and standards contained in Rescode, at Clause 55 of the Moorabool Planning Scheme, including front setback to dwelling 1 not meeting the requirement; that the common property driveway to dwellings 2 and 3 does not allow for adequate garden plantings and garden character; and that the layout, density and design (continues double storey built form) does not meet the preferred neighbourhood character of the precinct.

The objectors to the application were concerned that the proposal would place an additional burden on vehicle movements in the street and on-street parking for all residents in this location.

A review of the Housing Bacchus Marsh to 2041 strategy's Neighbourhood Character brochures reveals that the subject site is within Precinct 22.

It is considered that the development does not meet the Preferred Neighbourhood Character for Precinct 22 as follows:

The proposal does not ensure adequate private open space and garden plantings are provided. The primary neighbourhood character concern is with the bulk and scale of development along its total length. In addition, there is inadequate secluded private open spaces. The application states that a total of 40.1sqm of private open space is provided for dwelling 2. However, this includes a 1m wide strip at the front of the dwelling and a 1m wide strip at the east side of the dwelling. These areas (totalling 13.3sqm) provide for limited useable private open space for dwelling 2 which leaves only 26.3sqm at the rear of usable private space.

The front setback of dwelling 1 does not meet Rescode Standard B6 where a setback of at least 6.5m is required. The front setback in this application is a maximum of 5.5m. It is considered that this setback is not sufficient to for enhancement of the front garden character, including canopy tree plantings.

The garage for dwelling 1 is not recessed sufficiently from the front building line.

new development, including multi dwelling developments, will need to ensure adequate private open space and garden plantings are provided. Front setbacks will be insufficient to allow for enhancement of the front garden character, including increasing canopy tree plantings. Front fences will be low or absent, allowing for views into front gardens. It is considered that the development of three (3) double storey townhouses on this site of 668sqm is an overdevelopment and would not afford a reasonable standard of amenity for future residents. The number of fatal Rescode non compliances cannot be addressed through conditions without triggering a complete re-design.

## 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**

Authority	Response
Dept of Human Services	Consent, no conditions
Infrastructure	Consent with conditions

**FINANCIAL IMPLICATIONS**

It is thought that the recommendation of refusal does not represent any financial risk or implications to Council.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

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

**COMMUNICATIONS STRATEGY**

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

**OPTIONS**

Council could consider the following options:

1. Issue a refusal to the planning permit in accordance with the recommendations of this report;
2. Should Council wish to consider an approval of the application, Councillor's need to explore reasons based on the proposal complying with the Moorabool Planning Scheme, policies and consider the potential to create a precedent.

**CONCLUSION**

It is not considered that this application meets the requirements. The layout is overly compact for the site with car parking and vehicle movement to the garages of dwellings 2 and 3 being unacceptably tight. The front setback standard has not been achieved, and the garage for dwelling 1 is not recessed from the front building line. The proposal is considered to be an overdevelopment of the site. The applicant was advised of this view but has not agreed to amend the application. Therefore, it is considered the application proposes should be refused.





VIEW A



VIEW B

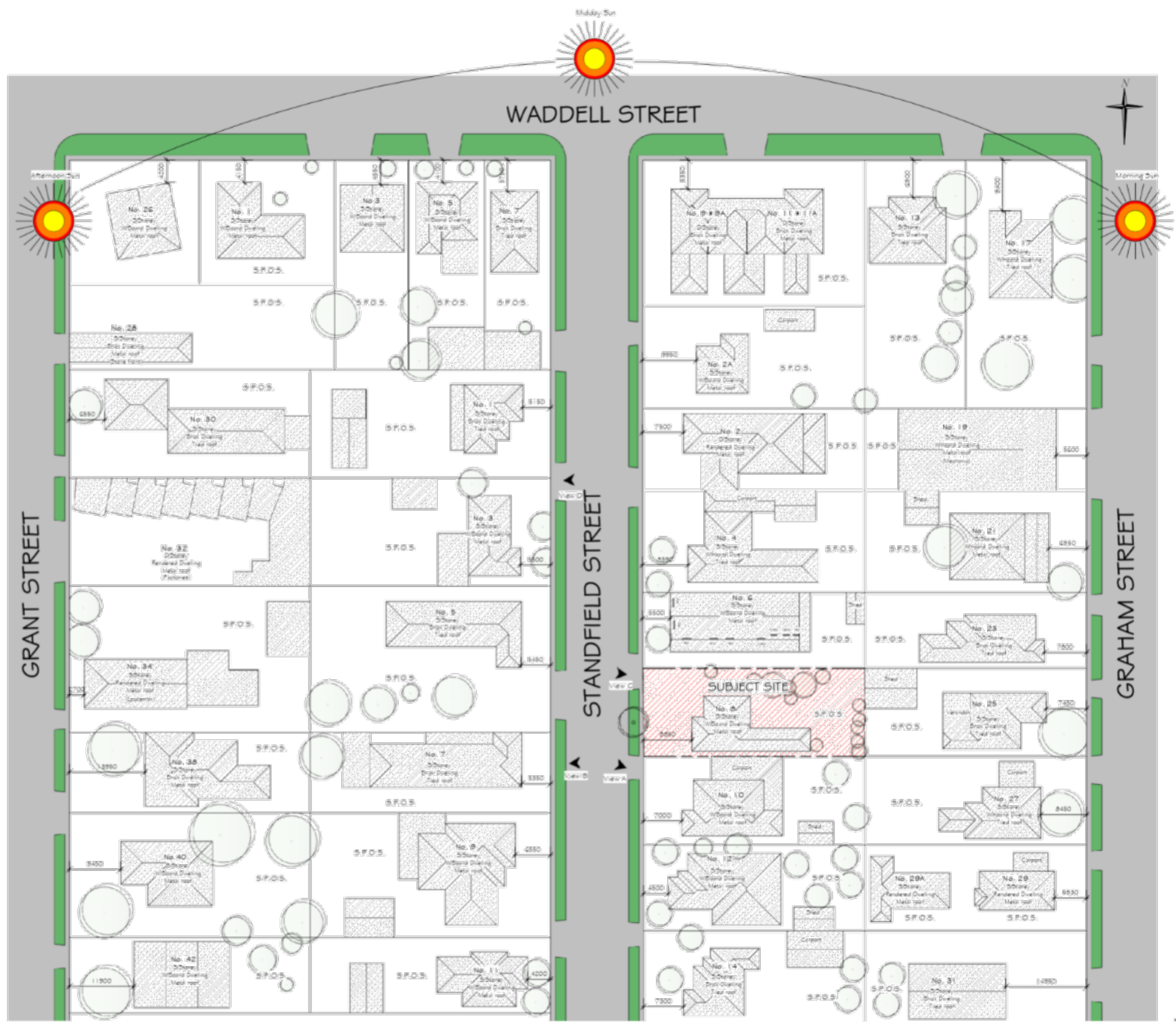


VIEW C



VIEW D

**LEGEND**  
 SW - Storm-water drain  
 SP - Sign post  
 EP - Electric Pit  
 TP - Telephone  
 LP - Lamp pole  
 RP - Rowen-pole  
 FH - Fire hydrant  
 HW - Hand-hole cover  
 HPS - Horizontal pipe  
 Note: Drawing frontal setbacks are approximate



**1 Neighbourhood & Site Description**  
 1 : 500

**Draft Comps Services**  
 ARCHITECTURAL, DRAINING, & ENGINEERING SOLUTIONS  
 5/46 COBBLE ROAD, MERRITT - P.O. BOX 224, MERRITT, VIC 3307  
 PH: 0393 2885 Fax: 0393 2492 email: dcomps@draftcomps.com.au

DRAWN	DC / ML
CHECKED	Ted Lord
Building Practitioners Board Reg No DP - AD1195	

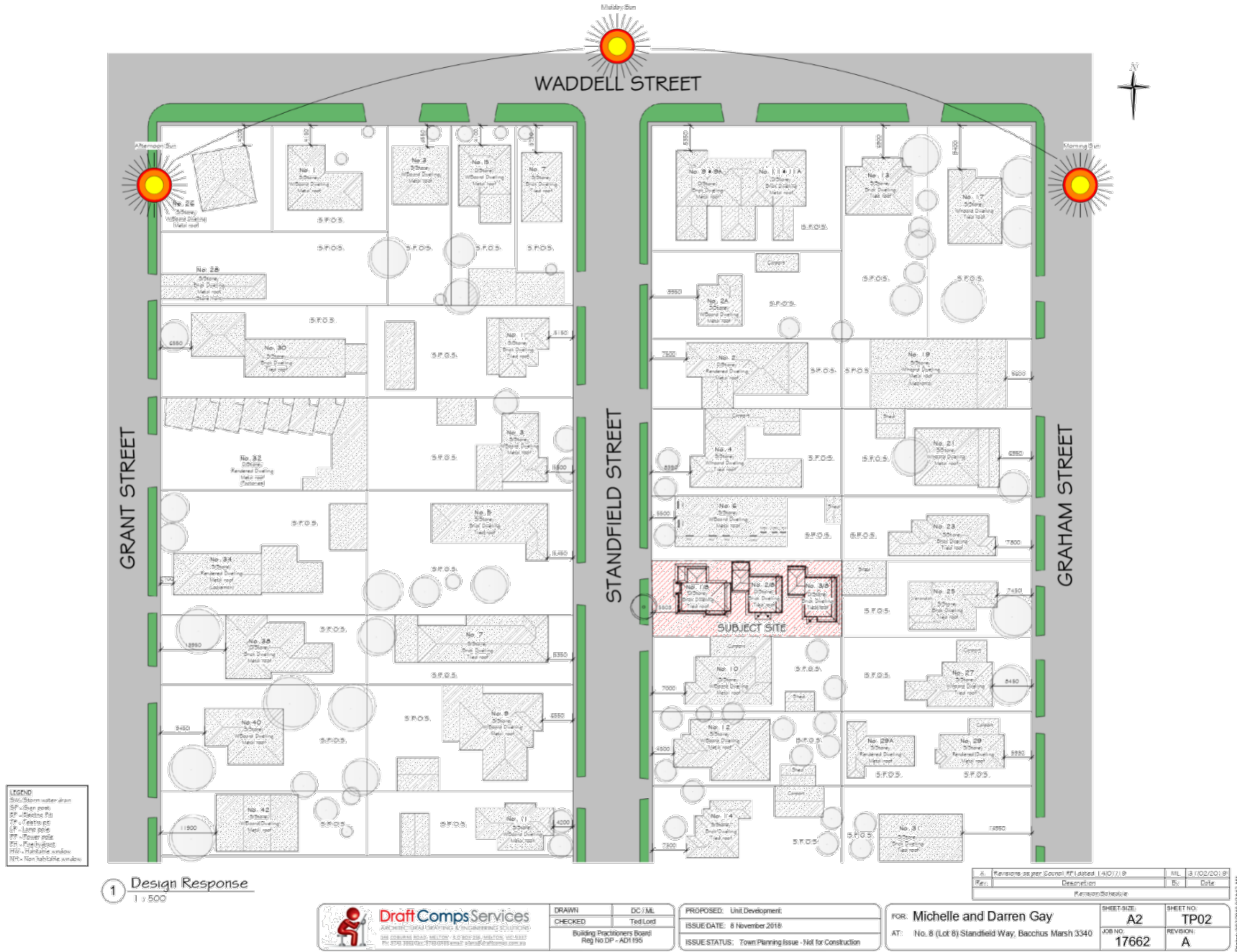
PROPOSED	Unit Development
ISSUE DATE	8 November 2018
ISSUE STATUS	Town Planning Issue - Not for Construction

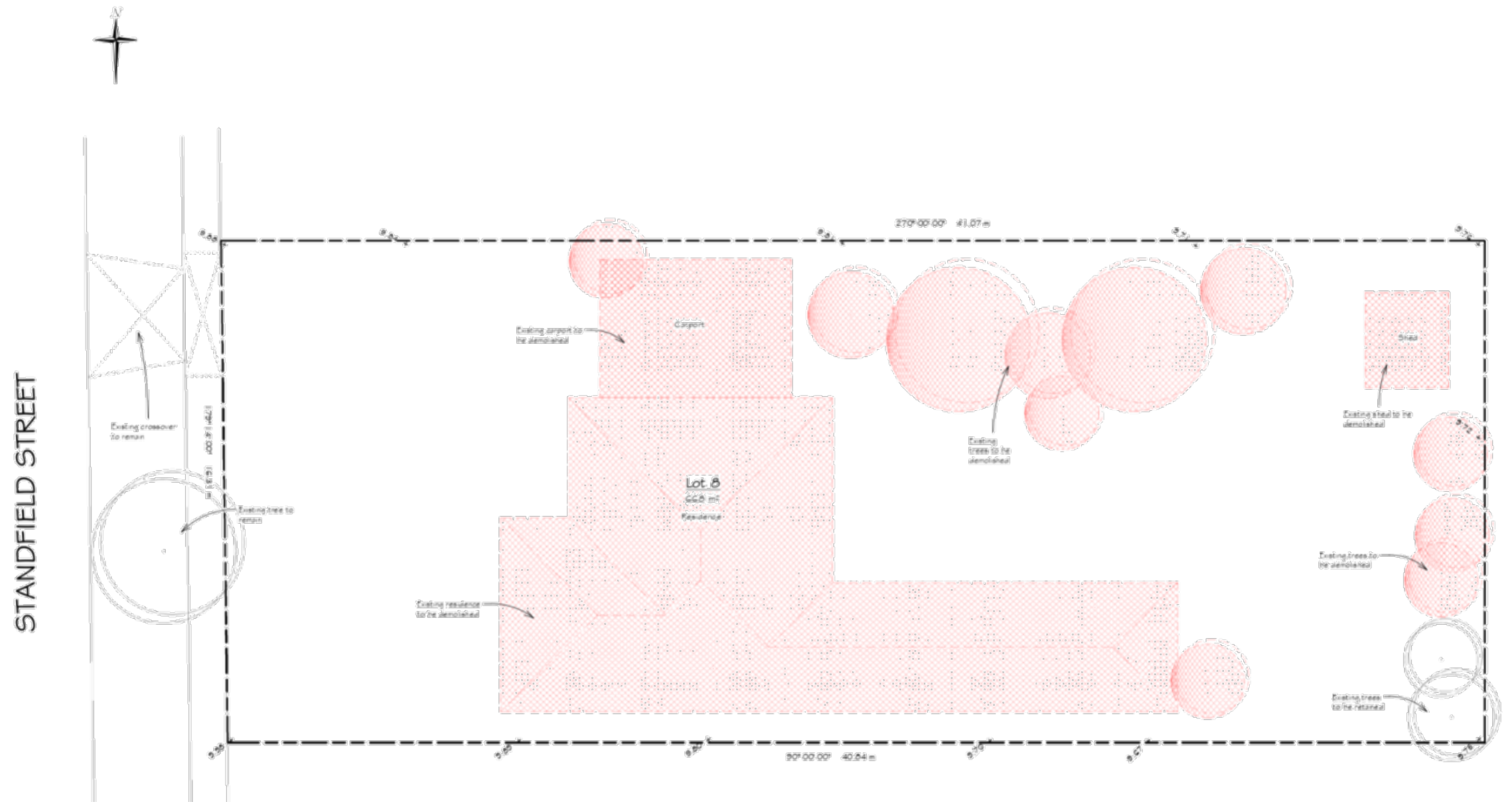
FOR:	Michelle and Darren Gay
AT:	No. 8 (Lot 8) Standfield Way, Bacchus Marsh 3340

SHEET SIZE:	A2	SHEET NO.:	TP01
JOB NO.:	17662	REVISION:	

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1 Demolition Plan  
1 : 100

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DRAWN	DC / ML
CHECKED	Ted Lord
Building Practitioners Board Reg No DP - AD1195	

PROPOSED: Unit Development
ISSUE DATE: 8 November 2018
ISSUE STATUS: Town Planning Issue - Not for Construction

FOR: Michelle and Darren Gay
AT: No. 8 (Lot 8) Standfield Way, Bacchus Marsh 3340

SHEET SIZE: A2	SHEET NO: TP03
JOB NO: 17662	REVISION:

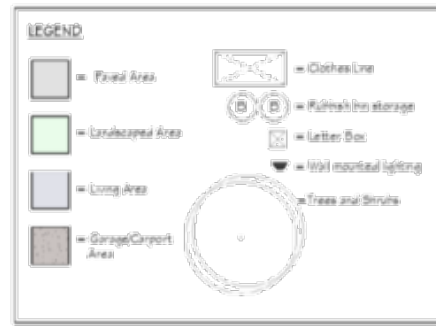
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Note: Green hatched area denotes garden area



1 GROUND FLOOR PLAN  
1:100



Site Area

Site area:	668.00m <sup>2</sup>
Building area:	281.00m <sup>2</sup>
Coverage:	42.07%
Furnishability:	30.73%

GARDEN AREAS:

Garden area (net):	35%
Site area:	668.00m <sup>2</sup>
Garden area:	234.40m <sup>2</sup>
Garden area %:	35.09%

Area Schedule (Unit 1)

Name	Area	Squares
Living (Ground Floor)	74.6 m <sup>2</sup>	8.0
Living (First Floor)	70.7 m <sup>2</sup>	7.6
Porch	2.8 m <sup>2</sup>	0.3
Garage	23.4 m <sup>2</sup>	2.5
Grand total	171.3 m <sup>2</sup>	18.4

Area Schedule Unit 1 Private Open Space

Name	Area	Squares
U1 S.P.O.S.	25.3 m <sup>2</sup>	2.7
U1 P.O.S.	55.8 m <sup>2</sup>	6.0
Grand total	81.1 m <sup>2</sup>	8.7

Area Schedule (Unit 2)

Name	Area	Squares
Living (Ground Floor)	59.5 m <sup>2</sup>	6.4
Living (First Floor)	64.9 m <sup>2</sup>	7.0
Porch	0.0 m <sup>2</sup>	0.0
Garage	24.9 m <sup>2</sup>	2.7
Grand total	151.3 m <sup>2</sup>	16.8

Area Schedule Unit 2 Private Open Space

Name	Area	Squares
U2 S.P.O.S.	26.6 m <sup>2</sup>	2.9
U2 P.O.S. 1	7.8 m <sup>2</sup>	0.8
U2 P.O.S. 2	5.5 m <sup>2</sup>	0.6
Grand total	40.1 m <sup>2</sup>	4.3

Area Schedule (Unit 3)

Name	Area	Squares
Living (Ground Floor)	67.3 m <sup>2</sup>	7.2
Living (First Floor)	72.8 m <sup>2</sup>	7.8
Porch	1.8 m <sup>2</sup>	0.2
Garage	24.8 m <sup>2</sup>	2.7
Grand total	166.7 m <sup>2</sup>	17.9

Area Schedule Unit 3 Private Open Space

Name	Area	Squares
U3 S.P.O.S.	26.0 m <sup>2</sup>	2.8
U3 P.O.S.	26.2 m <sup>2</sup>	2.8
Grand total	52.2 m <sup>2</sup>	5.7



2 FIRST FLOOR PLAN  
1:100

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DRAWN: DC / ML  
CHECKED: Ted Lord  
Building Practitioners Board  
Reg No DP - AD1195

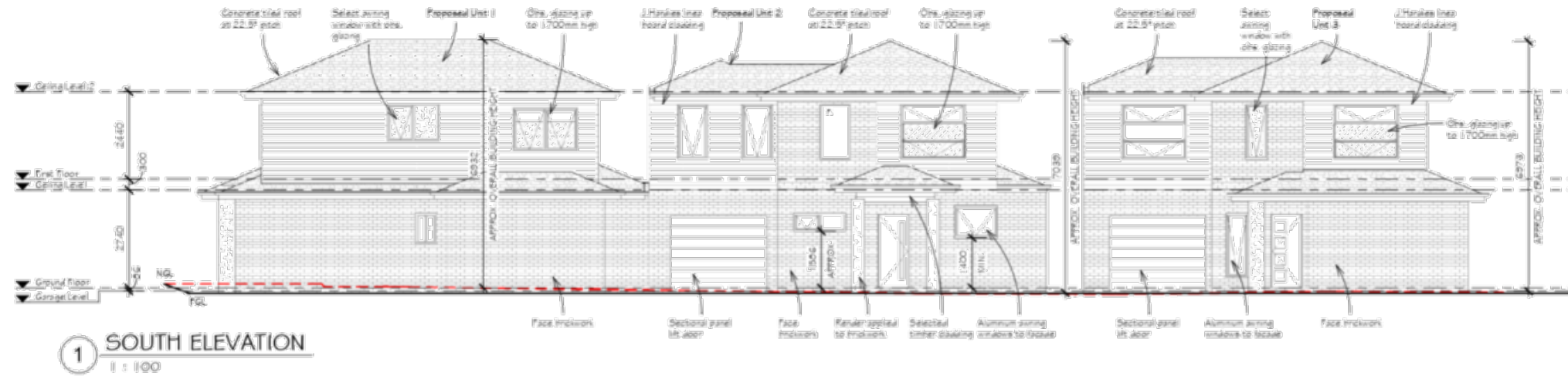
PROPOSED: Unit Development  
ISSUE DATE: 8 November 2018  
ISSUE STATUS: Town Planning Issue - Not for Construction

FOR: Michelle and Darren Gay  
AT: No. 8 (Lot 8) Standfield Way, Bacchus Marsh 3340

SHEET SIZE: A2  
JOB NO: 17662  
SHEET NO: TP04  
REVISION: A

Revisions as per Council #1 dated 14/07/18	ML	13/10/2019
Revisions as per Council #2 dated 14/07/18	DC	13/10/2019
Revisions as per Council #3 dated 14/07/18	DC	13/10/2019

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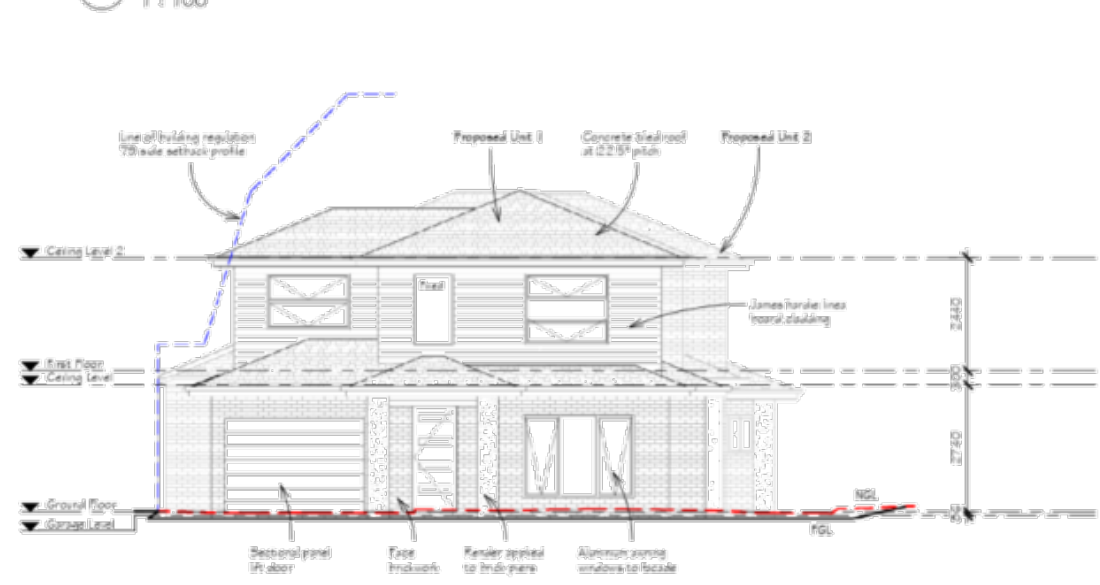
**COLOURS AND MATERIALS SCHEDULE**

Floor	- Concrete tile	- Simine Ebony
Facework	- Steel	- Colonial Monument
Gutter	- Steel	- Colonial Monument
Downpipes	- Steel	- Colonial Monument
Cladding	- Brick	- Advance Choklat
	- Weatherboard	- Classic Cream
Windows	- Aluminium	- Wintspray
Front door	- Timber	- Natural
Garage door	- Fine LRT	- Colonial Monument
Driveway	- Coloured concrete	- Charcoal

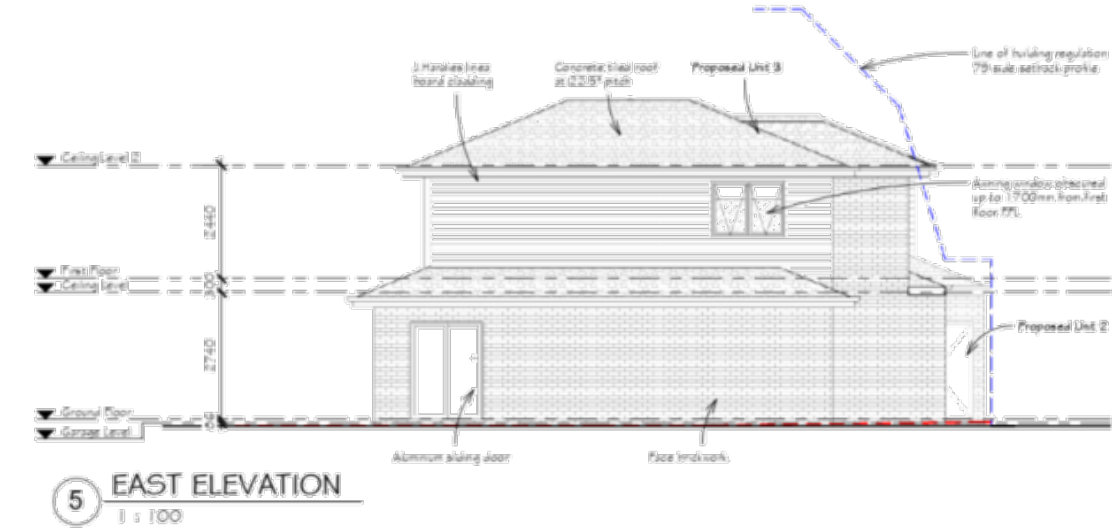
1 SOUTH ELEVATION  
1 : 100



2 NORTH ELEVATION  
1 : 100



3 WEST ELEVATION  
1 : 100



5 EAST ELEVATION  
1 : 100

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CHECKED	Ted Lord
Building Practitioners Board Reg No DP - AD1195	

PROPOSED:	Unit Development
ISSUE DATE:	8 November 2018
ISSUE STATUS:	Town Planning Issue - Not for Construction

FOR:	Michelle and Darren Gay
AT:	No. 8 (Lot 8) Standfield Way, Bacchus Marsh 3340

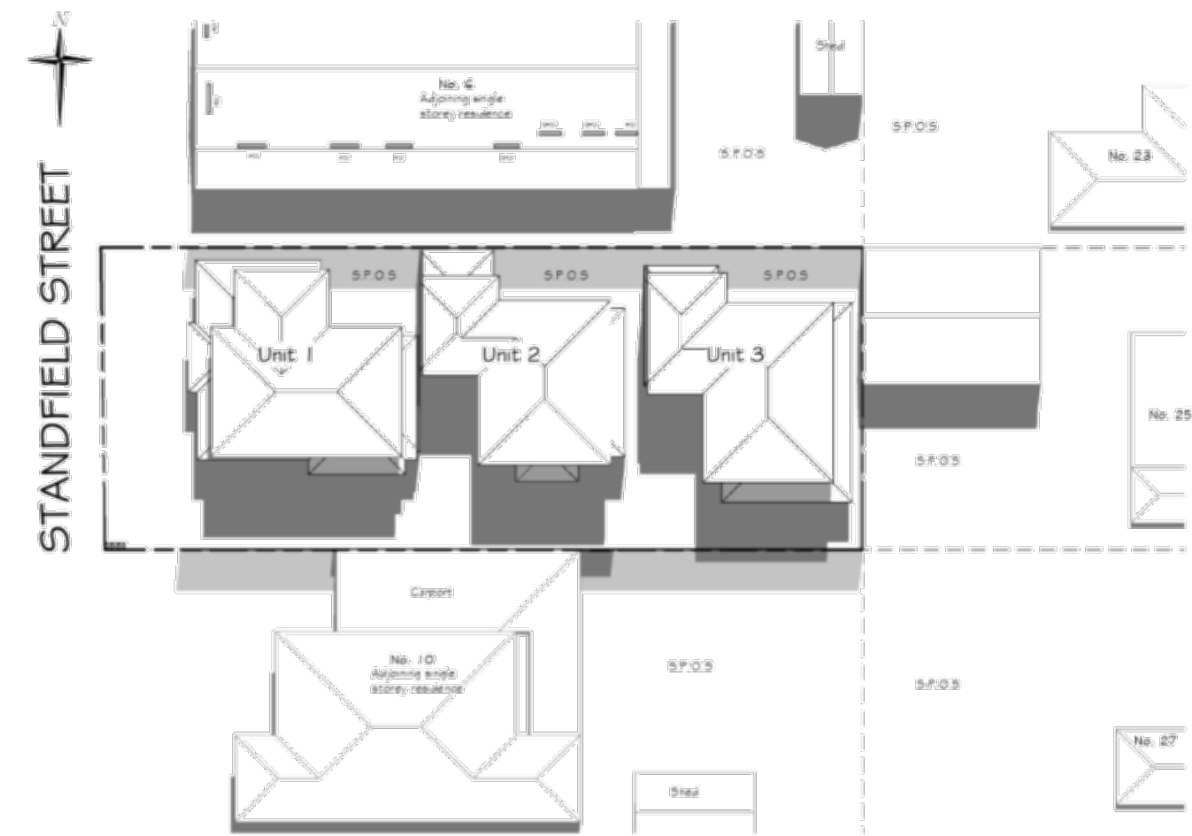
SHEET SIZE:	A2	SHEET NO:	TP05
JOB NO:	17662	REVISION:	

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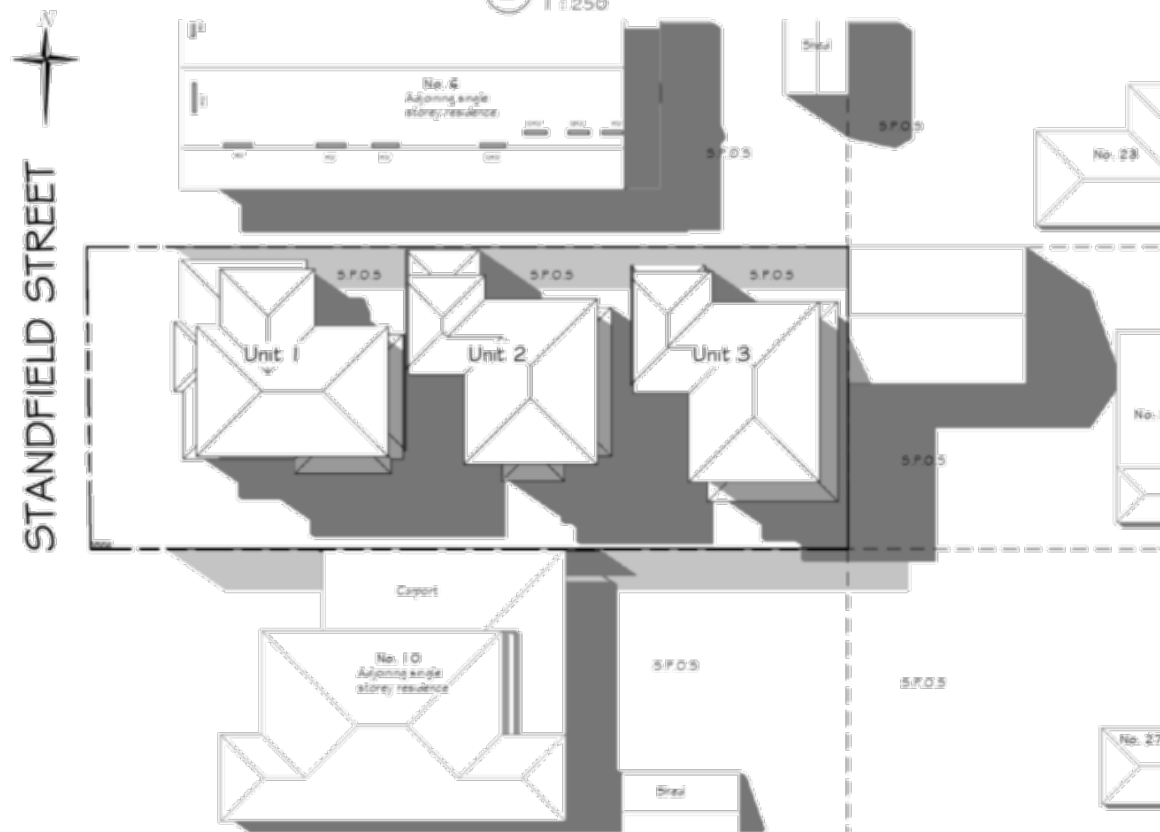




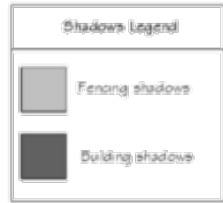
1 Shadow Diagram @ 9am on 22nd Sep  
1 : 250



2 Shadow Diagram @ 12pm on 22nd Sep  
1 : 250



3 Shadow Diagram @ 3pm on 22nd Sep  
1 : 250



ADJOINING WINDOWS:  
HW: Horizontal window  
VW: Vertical window

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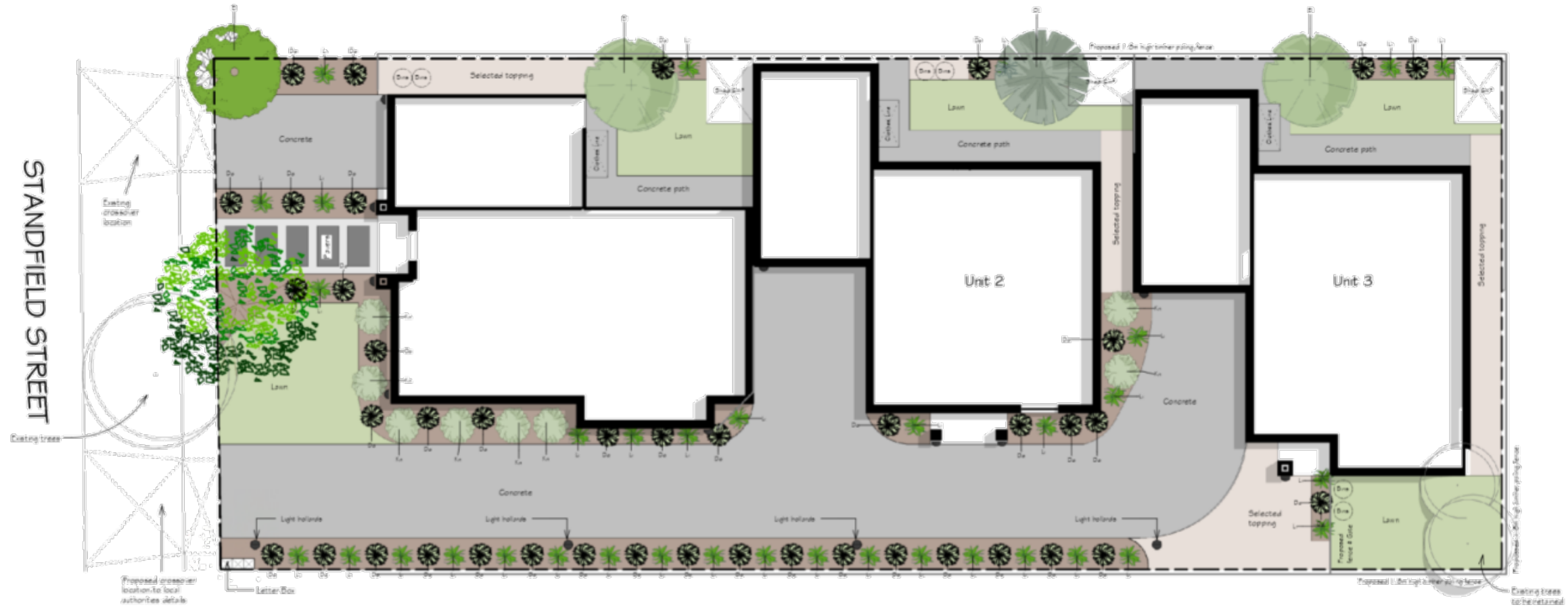
DRAWN	DC / ML
CHECKED	Ted Lord
Building Practitioners Board Reg No DP - AD1195	

PROPOSED:	Unit Development
ISSUE DATE:	8 November 2018
ISSUE STATUS:	Town Planning Issue - Not for Construction

FOR:	Michelle and Darren Gay
AT:	No. 8 (Lot 8) Standfield Way, Bacchus Marsh 3340

SHEET SIZE:	A2	SHEET NO:	TP06
JOB NO:	17662	REVISION:	

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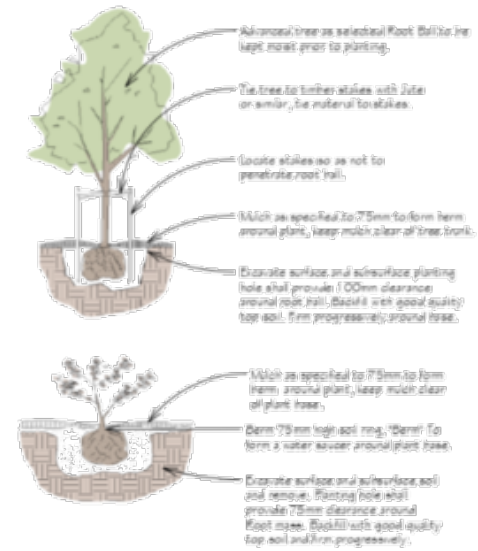
1 Landscape Plan  
1:100



**Legend**

- Concrete area
- Barbed gravel area
- Topping
- Lawn - *Pennisetum clandestinum* Fairy or *Duchassaingiana* Knapthorn

Key	Botanical Name	Common Name	Mature Height	Mature Width	Qty.
<b>TREES</b>					
Ca	<i>Corymbia Wattle</i>	Wattle Gum	8000	8000	1
Cl	<i>Leucocarpus reticulatus</i>	Primo donna	6000	8000	1
Ol	<i>Olea Europaea</i>	Olive Tree	8000	8000	1
Et	<i>Petaloporum banculatum</i>	Petaloporum silver sheen	8000	8000	2
<b>SHRUBS</b>					
Ks	<i>Knapthorn</i>	Winter Cheer	3500	1000	8
<b>GRASSY PLANTS</b>					
Da	<i>Dianella Caerulea</i>	King Aithea	800	700	41
Li	<i>Limoge/Alouan</i>	Evergreen Gladiolus	800	700	38



**LANDSCAPE NOTES**

**SERVICES** - The contractor shall verify the location and depth of all services prior to commencing on site. The contractor shall be liable for any damage to services during landscape work.

**PLANTS AND PLANTING** - All plants are to be healthy, disease-free specimens. Over-irrigate all plant holes by at least twice the volume. There are to be placed above the rootball with (1) barbed stakes and secured with a figured loop of rubber or jute twine.

**MAINTENANCE** - All gardens and lawn areas are to be maintained to a high standard, including lawnmowing, pruning, fertilising, watering, and weeding. Garden beds and lawn areas are to be regularly mowed during the establishment period and dry spells.

**SUBSTITUTIONS** - Every effort has been made to specify plants and recommended pot sizes that are available from a local specialist indigenous nursery. However, if a plant is unavailable in the nominated size, the next smallest size is to be used. If a plant is not available at all, contact the Landscape Architect for a suitable substitute plant.

**FINISHES** - Finishes as selected.

**MORTAR** - Mortar slurry or equivalent to fix paving material where required to a depth of 20mm.

**FINES** - Fine crushed rock base, 100mm depth. Compact it and set above stabilised base. Finer areas to drain at 2% away from any building.

Rev.	Revisions as per Council #1 dated 14/07/18	ML	31/02/2019
	Description	By	Date

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**DRAWN** DC / ML  
**CHECKED** Ted Lord  
Building Practitioners Board  
Reg No DP - AD1195

**PROPOSED:** Unit Development  
**ISSUE DATE:** 8 November 2018  
**ISSUE STATUS:** Town Planning Issue - Not for Construction

**FOR:** Michelle and Darren Gay  
**AT:** No. 8 (Lot 8) Standfield Way, Bacchus Marsh 3340

**SHEET SIZE:** A2  
**JOB NO:** 17662  
**SHEET NO:** TP07  
**REVISION:** A

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**7.2 PA2019034 - TWO LOT SUBDIVISION AT 3/3-5 SPENCER ROAD, BALLAN**

**Author:** Thomas Tonkin, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development

**Attachments:** 1. Attachment 1

**APPLICATION SUMMARY**

**Permit No:** PA2019034

**Lodgement Date:** 15 February 2019

**Planning Officer:** Tom Tonkin

**Address of the land:** 3/3-5 Spencer Road Ballan

**Proposal:** Two lot subdivision

**Lot size:** 4054sq m

**Why is a permit required?** Clause 32.03 Low Density Residential Zone - Subdivision  
Clause 42.01 Environmental Significance Overlay, Schedule 1 - Subdivision

**RECOMMENDATION**

That Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues a Notice of Decision to Grant Planning Permit No. 2019-034 for Two Lot Subdivision at Lot 1 on PS 525692P, 3/3-5 Spencer Road, Ballan, 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.

**Servicing:**

2. 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.
3. 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.
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.

**Telecommunications:**

5. 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 provided by optical fibre.
6. 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.

**Subdivision:**

7. The plan of subdivision submitted for certification must include a creation of restriction. The wording of the creation of restriction shall be as follows:

**Description of Restriction:**

**Land to be Burdened:** All lots on this plan.

**Land to Benefit:** All lots on this plan.

**Creation of restriction:** Upon registration of this plan, the following restriction is created.

**Description of Restriction:** No less than a 5.0 metre wide native vegetation buffer shall be provided parallel to the street boundaries, except where vehicle access between each lot and the street is required, planted and maintained to the satisfaction of the Responsible Authority. No street boundary fencing shall be of any construction other than post and wire, post and rail or otherwise more than 50 per cent permeable and shall be no higher than 1.5 metres. No solid fencing shall be erected within 5.0 metres of the street boundaries.

**Variation:** The restriction can only be varied with the written consent of Moorabool Shire Council.

**Infrastructure:**

8. Prior to the issue of a Statement of Compliance for the subdivision, Lot 1 must be provided with an urban standard reinforced concrete vehicle crossing on Spencer Road, and Lot 2 must be provided with a rural standard vehicle crossing with culvert on Densley Street to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the

**Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.**

9. **Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
  - (a) **The development as a whole must be self draining.**
  - (b) **Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.**
  - (c) **Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.**
10. **Prior to the commencement of the development design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.**
11. **Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the responsible authority prior to the commencement of the works associated with the permit.**
12. **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).**
13. **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.**
14. **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.**
15. **Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:**
  - (a) **location of vehicle crossings.**
  - (b) **details of the underground drainage.**
  - (c) **location of drainage legal points of discharge.**
  - (d) **standard details for vehicle crossings and legal points of discharge.**
  - (e) **civil notes as required to ensure the proper construction of the works to Council standard.**

**Vegetation Removal:**

16. Except where exempt under the Moorabool Planning Scheme, no vegetation shall be removed without further planning approval.

**Western Water and Southern Rural Water:**

17. The plan of subdivision submitted for certification must be referred to the relevant Water Authority in accordance with Section 8 of the Subdivision Act 1988.
18. Each allotment must be connected to the reticulated sewerage system and stormwater infrastructure.
19. The owner of the land must enter into an agreement with the relevant authority for the provision of water in accordance with the authority's requirements and relevant legislation at the time.

**Permit Expiry:**

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

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

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	3
Consultation meeting:	No. The applicant made a written reply to the objections but did not wish to have a consultation meeting.

**POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 2: Minimising Environmental Impact****Context 2A: Built Environment**

The proposal is consistent with the Council Plan 2017 – 2021.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Tom Tonkin*

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

**EXECUTIVE SUMMARY**

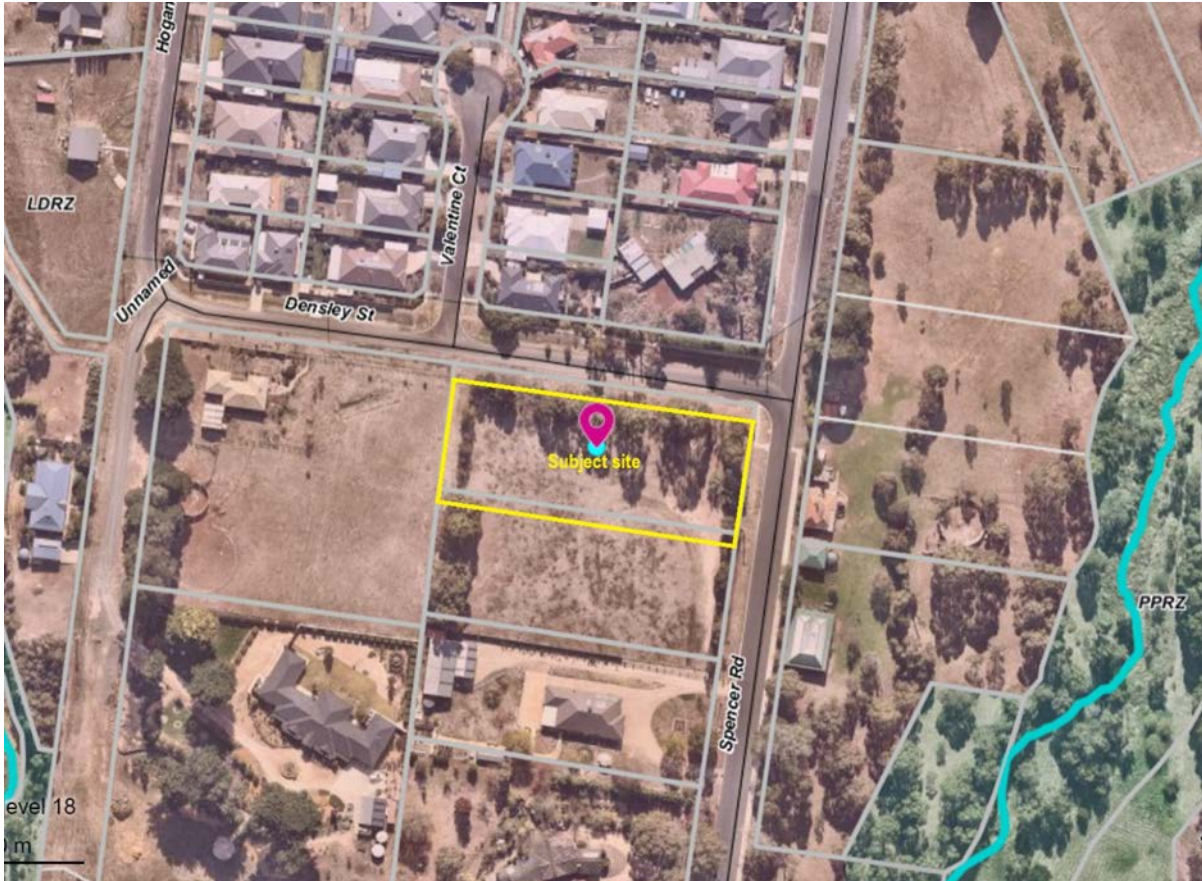
Application referred?	Yes, to Council's Infrastructure and Strategic Planning units.
Any issues raised in referral responses?	Yes, see 'History' below.
Preliminary concerns?	None.
Any discussions with applicant regarding concerns?	No.
Any changes made to the application since being lodged?	No.
Brief history.	See 'History' below.
Previous applications for the site?	None.
General summary.	It is proposed to subdivide the land into two lots of 2017sq m and 2037sq m. The proposed subdivision is generally consistent with relevant planning policy and the surrounding neighbourhood character, and also consistent with Council's adopted Planning Scheme Amendment C88 which recommends retaining the existing 2000sq m minimum lot size requirement for this site.
<b>Summary Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue a Notice of Decision to Grant a Permit for this application in accordance with Section 61 of the Planning and Environment Act 1987, subject to the conditions included in this report.	

**SITE DESCRIPTION**

The subject site is identified as Lot 1 on PS 525692P and known as 3/3-5 Spencer Road, Ballan, and is a roughly rectangular shaped lot located on the southwest corner of Spencer Road and Densley Street. The site has a 41.49m frontage to Spencer Road, 98.67m frontage to Densley Street and an area of 4054sq m with vehicle access obtained via a single crossover to Spencer Road located towards the south title boundary. The site slopes gently by approximately 2.0m from the northwest to the southeast and vegetation comprises a fenced strip of planted trees and shrubs along the north and east boundaries.

The site and surrounding land to the east, west and south is in the Low Density Residential Zone and either vacant or developed with single dwellings on lots of a generally similar or larger size than the subject site. To the south is a vacant 4055sq m lot fronting Spencer Road. To the west is a lot of approximately 8100sq m containing a single dwelling fronting Densley Street. To the east, across Spencer Road, are lots of generally 3800sq m – 5900sq m either vacant or containing single dwellings. To the north, across Densley Street, is land in the General Residential Zone generally developed with single dwellings on lots of mostly 800sq m.

All reticulated services are available to the site.



## PROPOSAL

It is proposed to subdivide the site into two lots. Lot 1 would be located on the southwest corner of Spencer Road and Densley Street, roughly rectangular in shape with a 41.49m frontage to Spencer Road, 49.34m frontage to Densley Street and an area of 2037sq m. Lot 2 would also be roughly rectangular in shape, have a 49.33m wide frontage to Densley Street, maximum depth of 41.08m and an area of 2017sq m. No vegetation removal is proposed. The proposed plans are included in Attachment 1.

## BACKGROUND TO CURRENT PROPOSAL

Not applicable.

## HISTORY

Council resolved at the 17 July 2019 Development Assessment Committee meeting that Planning Permit application PA2019034 be deferred to the next available Development Assessment Committee meeting.

The subject site is subject to Planning Scheme Amendment C88 which publicly exhibited a proposal to increase the minimum allowable lot size for new subdivisions from 0.2ha to 0.4ha. Council's Strategic Planning unit originally objected to the application due to the proposed lot sizes being inconsistent with the lot sizes proposed by Planning Scheme Amendment C88. Following exhibition, an independent Planning Panel has made several recommendations including that the minimum allowable lot size for some properties, including the subject site, be retained as 0.2ha. Council officers have considered the Panel's recommendations and support the Panel's position. Council resolved at its Ordinary Meeting of Council on 2 October 2019 to accept the Panel's recommendations, adopt the Amendment and submit the Amendment to the Minister for Planning for approval.

## PUBLIC NOTICE

The application was advertised to adjoining and nearby landowners.

## SUMMARY OF OBJECTIONS

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

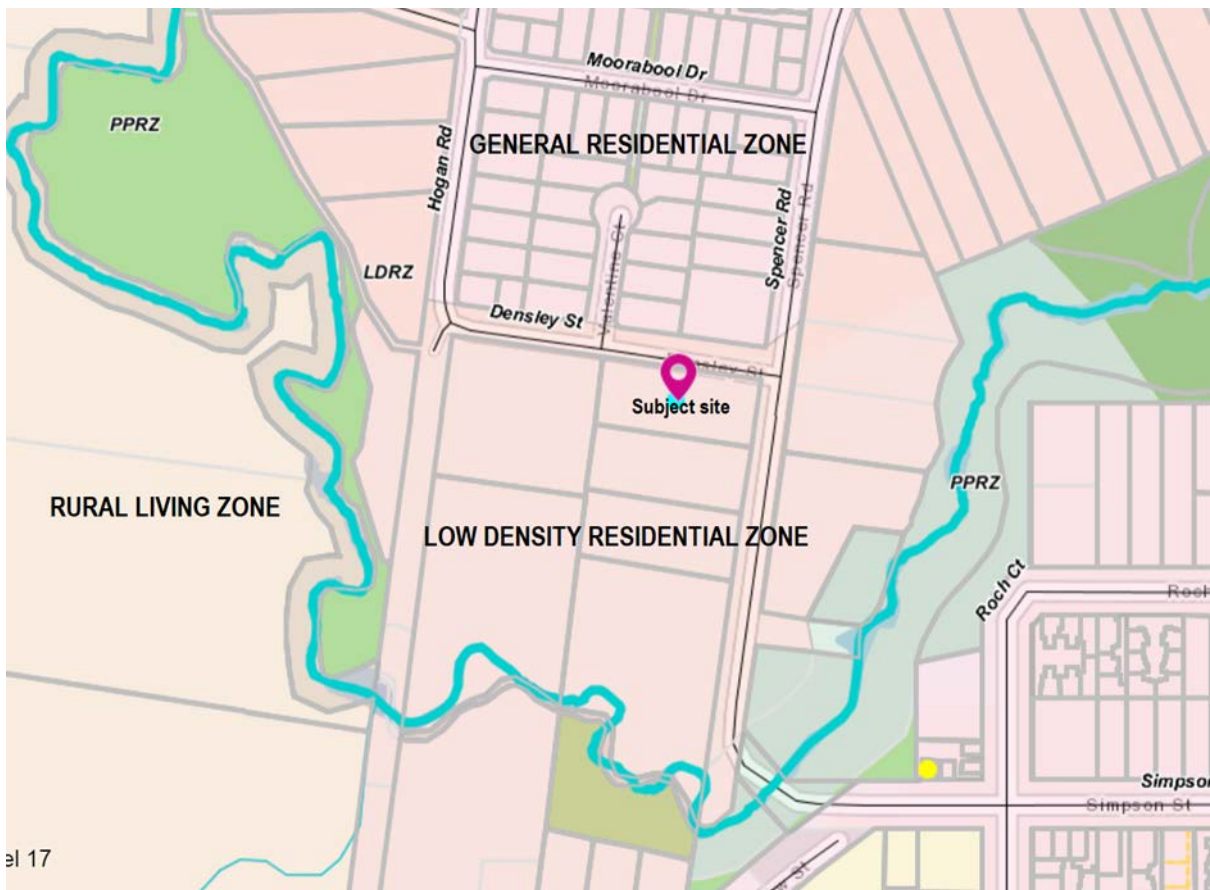
Objection	Any Relevant Requirement
The average size of surrounding lots in the Low Density Residential Zone is 4000sq m which retain the country feel to this area and act as a buffer from the higher density housing north of Densley Street.	Clauses 15.01-3S, 15.01-5S, 21.03-3, 21.03-4, 21.08 and 32.03.
<b>Officer's Response:</b> The proposal is consistent with Planning Scheme Amendment C88 adopted by Council in October 2019 and is considered to maintain the low density character of the area.	
Impact on traffic flow given Densley Street is already inadequate to carry existing traffic and future traffic associated with residential development further north. New crossovers to Densley Street would impede vehicles negotiating an already constrained carriageway. The junction of Densley Street and Spencer Road is also narrow and tight which impedes vehicles turning into Densley Street.	Clause 21.03-2.
<b>Officer's Response:</b> The proposal would only generate traffic associated with one additional household compared to what could currently be developed which would generally be expected to have negligible impact on traffic flows and the current condition of Densley Street would not be considered reasonable grounds to refuse the application. The proposal is generally consistent with Council's strategy for the area, as reflected in the adopted Amendment C88.	
Vegetation removal	Clause 42.01
<b>Officer's Response:</b> The proposal does not include vegetation removal. Future potential vegetation removal would	



<p>be required under Clause 42.01 of the Moorabool Planning Scheme due to the site's location in a Special Water Supply Catchment. A recommended permit condition would preserve the existing vegetation buffer parallel to the north and east property boundaries.</p>	
<p>Stormwater runoff from future dwellings will impact on the Werribee River's water quality.</p>	<p>Clauses 14.02 &amp; 42.01</p>
<p><b>Officer's Response:</b> Recommended permit conditions would be imposed to manage and treat stormwater to Council's requirements which includes meeting best practice requirements for treating stormwater runoff.</p>	
<p>No other existing lots in the surrounding Low Density Residential Zone are as small as the proposed lots. The proposal is not in keeping with the surrounding character. The rapidly diminishing rural heritage and ambience should be protected.</p>	<p>Clauses 15.01-3S, 15.01-5S, 21.03-3, 21.03-4, 21.08 and 32.03.</p>
<p><b>Officer's Response:</b> The proposal is consistent with the Amendment C88 adopted by Council in October 2019 which seeks to protect and enhance the low density character of this part of Ballan.</p>	

**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 Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- 11.03-3S Peri-urban areas
- 14.02 Water
- 15.01-3S Subdivision design
- 15.01-5S Neighbourhood character
- 16.01-2S 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
- 22.02 Special Water Supply Catchments.

The proposal generally complies with the relevant sections of the PPF and LPPF.

## ZONE

The subject site is in the Low Density Residential Zone (LDRZ).

The purpose of the Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

Under Clause 32.03-3 a permit is required to subdivide land. Any area must be at least 0.2 hectares.

Overall the proposed subdivision is consistent with the zone provisions.

## OVERLAYS

The site is affected by Environmental Significance Overlay, Schedule 1. Under Clause 42.01-2 a permit is required to subdivide land. There are no relevant exemptions under Schedule 1.

Subject to conditions, the subdivision would be generally consistent with the overlay provisions.



**Relevant Policies****Ballan Strategic Directions**

Ballan Strategic Directions sets out objectives, strategies and actions for the long term planning of Ballan relating to:

- Urban form and character
- Residential development
- Movement network and connectivity
- Open space and recreation
- Community facilities
- Non-residential uses and local employment

Drainage and servicing. The subject site is in Precinct F in the Ballan Settlement Framework Plan, with Design Objectives specified for each of the town's established residential precincts. The design objectives for Precinct F are:

- Maintain the open and spacious character through large lots that are occupied by single dwellings, wide frontages and substantial setbacks around the dwellings.
- Built form will continue to occupy a low proportion of the site and dwellings will stand in expansive grounds where openness, landscaping and vegetation will dominate.
- Built form will complement and preserve the natural characteristics, including the use of muted colours and tones that blend with the existing landscape.
- No front fencing or otherwise low scale timber post and rail or rural wire fencing is encouraged.

Carports, garages and outbuildings should not dominate the streetscape and are encouraged to be located to the side or rear of the dwelling. To assist in achieving the above objectives, it was proposed to amend the zone schedule to apply a minimum lot size of 0.4 hectares.

However, although Amendment C88 to the Moorabool Planning Scheme generally seeks to implement the recommendations of Ballan Strategic Directions, the adopted Amendment recommends that 0.2ha minimum lot sizes in this location would meet the strategic objectives for Ballan.

**Particular Provisions****Clause 53.01 Public Open Space Contribution and Subdivision**

A subdivision is exempt from a public open space requirement specified in this scheme if it subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.

It is noted that a public open space contribution was made under Section 18 of the Subdivision Act 1988 when the subdivision which includes the subject site was created, therefore no further contribution would be required.

## DISCUSSION

Overall, the proposal is considered to be generally consistent with relevant State and local planning policy and the Low Density Residential Zone in the Moorabool Planning Scheme, and Council's adopted Planning Scheme Amendment C88.

The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Ballan as one of several towns which will support an increased population to absorb growth pressures in the region. The proposal would contribute to consolidated growth of the town, take advantage of existing infrastructure, and contribute to housing diversity and affordability. Growth must be balanced with the need for new development to respect the existing neighbourhood character and integrate with the surrounding urban environment.

The subject site and most surrounding land is in the Low Density Residential Zone (LDRZ). Surrounding land is mostly developed with single dwellings on lots typically larger than 4000sq m, apart from land to the north in the General Residential Zone which is more intensively developed for housing. The purpose of the LDRZ is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

Relevant planning policy at the State and local level requires consideration of a range of policy directions which generally seek to support the valued character of Melbourne's peri-urban settlements whilst ensuring the consolidation of growth in suitable locations to ensure no detrimental impacts to the environment or rural land uses. Local policy recognizes Ballan's role in supporting residential growth as the Shire's second largest town and particularly encourages growth concentrated in areas which have the appropriate infrastructure to support new development.

The site is in the Low Density Residential Zone with a sewer connection readily available. The key consideration is therefore considered to be whether the proposal is sufficiently responsive to State and local planning policy for neighbourhood character. The character of the area south of Densley Street which includes the subject site and land to its east and west is typified by lots mostly at least 4000sq m in size which stretch mostly along the north side of the Werribee River and nearby and enhance the waterway environs creating a more spacious character compared to those established areas of the town further away from the river, particularly to the south and the area north of Densley Street. There is space for large areas of open space around dwellings and for trees and landscaping and the general effect softens the more heavily developed areas, in this particular location north of Densley Street. Subdivision of the subject site would maintain this spacious character to an acceptable extent, providing a reasonable balance between housing growth and neighbourhood character. It is recommended that a condition be imposed to retain that section of the site currently planted with trees as a vegetated buffer with associated fencing requirements, given the contribution this area makes to the neighbourhood character and consistent with the relevant design objectives in Ballan Strategic Directions.

## 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**

Authority	Response
Strategic Planning	Consent
Infrastructure	Consent with conditions

**FINANCIAL IMPLICATIONS**

There are no financial implications for Council in approving the application.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

The recommendation to approve the application does not have any risk or OH&S implications for 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 required.

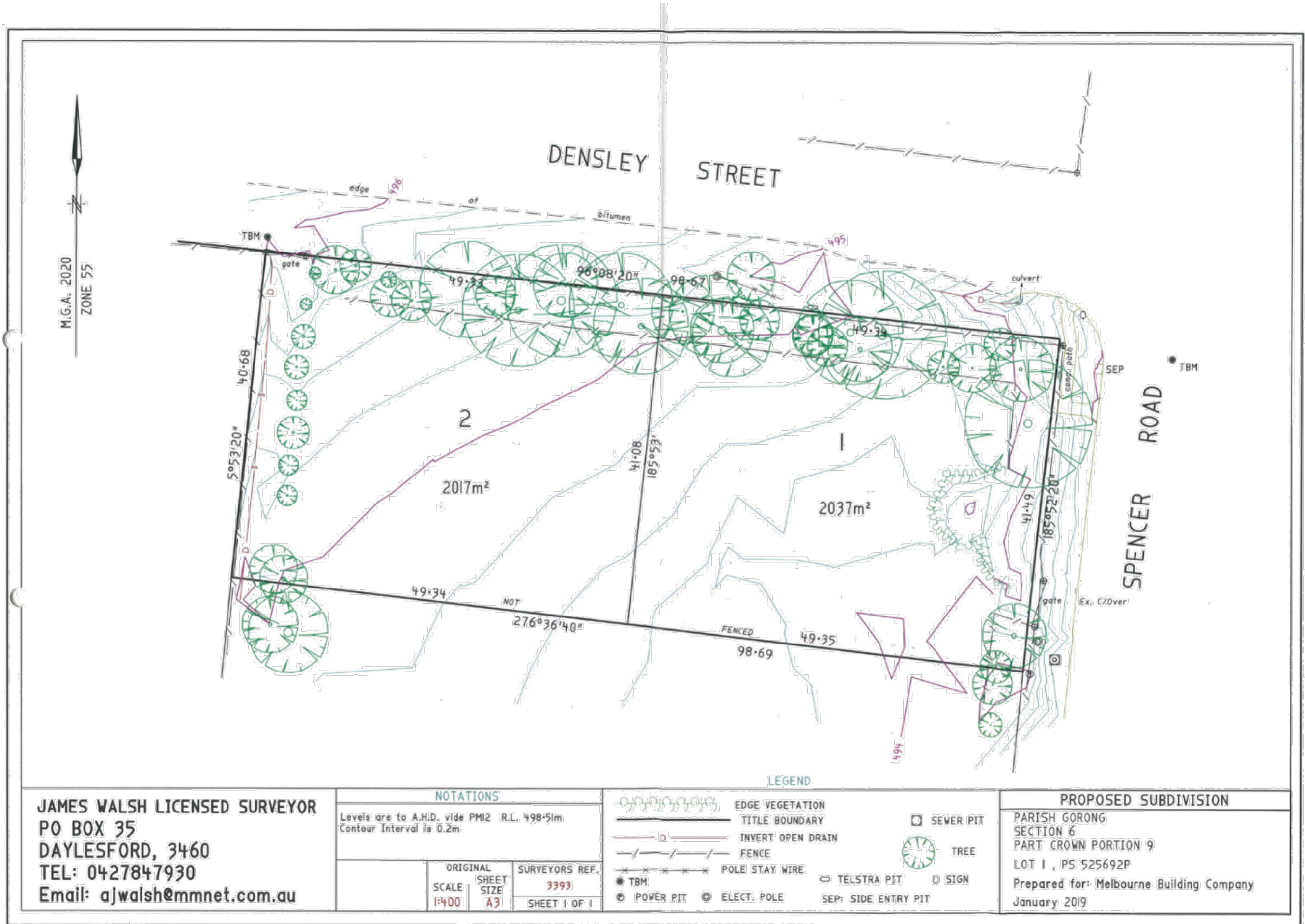
**OPTIONS**

- Issue a Notice of Decision to Grant a Permit in accordance with the recommendations of this report;
- Issue a Notice of Decision to Grant a Permit with amendments to the conditions in the recommendation of this report; or
- Should Council wish to refuse the application, consider if there are reasonable grounds in accordance with the provisions of the Moorabool Planning Scheme. This option may result in the permit applicant appealing Council's decision at VCAT.

**CONCLUSION**

The proposal to subdivide the land into two lots is generally supported by relevant State and local planning policy and the Low Density Residential Zone provisions. Subject to conditions, the proposal would be generally consistent with the surrounding neighbourhood character. Furthermore, the proposal is consistent with Council's adopted Planning Scheme Amendment C88.





**7.3 PA2019037 - TWO LOT SUBDIVISION AND NATIVE VEGETATION REMOVAL**

**Author:** Thomas Tonkin, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development

**Attachments:** 1. Attachment 1

**APPLICATION SUMMARY**

**Permit No:** PA2019037

**Lodgement Date:** 15 May 2019

**Planning Officer:** Thomas Tonkin

**Address of the land:** 54 Nightingale Street Gordon

**Proposal:** Two Lot Subdivision and Native Vegetation Removal

**Lot size:** 5407sq m

**Why is a permit required?** Clause 32.09-3 Neighbourhood Residential Zone, Schedule 1 - Subdivision  
Clause 42.01 Environmental Significance Overlay, Schedule 1 – Subdivision and vegetation removal  
Clause 42.03 Significant Landscape Overlay – Vegetation Removal  
Clause 43.02 Design and Development Overlay, Schedule 5 - Subdivision  
Clause 52.17 Native Vegetation – Native vegetation removal

**RECOMMENDATION**

That Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues a Notice of Decision to Grant Planning Permit No. 2019-037 for Two Lot Subdivision and Native Vegetation Removal at Crown Allotment 5, Section 36, Township of Gordon, Parish of Kerit Bareet, 54 Nightingale Street, Gordon, subject to the following conditions:

**Endorsed 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 generally in accordance with the plans identified as Proposed Plan rev. A and Native Vegetation Plan rev. A dated 12/6/2019 prepared by NR Links P/L but modified to show:
  - (a) The building envelope on Lot 2 deleted and replaced with a building exclusion zone to the satisfaction of the Responsible Authority;
  - (b) All trees marked for retention unless required to facilitate the subdivision;
  - (c) All requirements of Condition no. 3.

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 must include a creation of restriction. The wording of the creation of restriction shall be as follows:

**Description of Restriction:**

- (a) Land to be Burdened: All lots on this plan.
- (b) Land to Benefit: All lots on this plan.
- (c) Creation of Restriction: Upon registration of this plan, the following restriction is created.

- (d) Description of Restrictions:

No buildings or works except where allowed for under this restriction or where otherwise exempt from requiring a building permit shall be constructed or undertaken within the building exclusion zone shown on the plan of subdivision.

- (e) No fencing on a street boundary, or internal fencing within 30 metres of Nightingale Street or within 10 metres of Stanley Street shall be of any construction other than post and wire, post and rail or otherwise more than 50 per cent permeable and shall be no higher than 1.5 metres, except for fencing on the boundaries of lots not part of this subdivision.
- (f) Variation: The restrictions can only be varied with the written consent of Moorabool Shire Council.

**Servicing:**

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. 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.

**Telecommunications:**

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 provided 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.

**Environmental Planning:**

9. To offset the removal of 0.122ha of native vegetation, including five large trees, the permit holder must secure a native vegetation offset in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017), as specified below:
  - (a) A general offset of 0.021 general habitat units:

Located within the Corangamite Catchment Authority boundary or Moorabool Shire municipal district;

With a minimum strategic biodiversity score of at least 0.112 and five large trees.
10. Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of Council. This evidence is one or both of the following:
  - (a) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site; and/or
  - (b) Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the Responsible Authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.
11. In the event that a security agreement (first party offset) is entered into as per Condition 9(a), the permit holder must provide the annual offset site report to the Responsible Authority by the anniversary date of the execution of the offsets security agreement for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.



**Vegetation Removal:**

12. Except where exempt under the Moorabool Planning Scheme, no vegetation shall be removed without further planning approval.

**Infrastructure:**

13. Prior to the issue of a Statement of Compliance for the subdivision, each lot must be provided with a rural standard vehicle crossing to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the roadside drain and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
14. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
  - (a) The development as a whole must be self draining.
  - (b) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
  - (c) Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
  - (d) Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.
15. Prior to the commencement of the development design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.
16. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the responsible authority prior to the commencement of the works associated with the permit.
17. 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).
18. 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.
19. 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.
20. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:

- (a) location of vehicle crossings.
- (b) details of the underground drainage.
- (c) location of drainage legal points of discharge.
- (d) standard details for vehicle crossings and legal points of discharge.
- (e) civil notes as required to ensure the proper construction of the works to Council standard.

**Barwon Water:**

- 21. Each lot created in the development must be connected to a reticulated sewerage system.
- 22. No stormwater is to be discharged less than 100 metres from a waterway unless into an approved drainage system.
- 23. Sediment control measures outlined in the EPA's publication No. 275, Sediment Pollution Control, must be employed and maintained until the disturbed area has been permanently stabilised and/or revegetated.

**Permit Expiry:**

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

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

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Two.
Notice in Moorabool Newspaper:	No.
Number of objections:	2
Consultation meeting:	Yes, held 1 August with the applicant, proponent and objectors. There were no subsequent changes made to the application.

**POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 2: Minimising Environmental Impact**

**Context 2B: Natural Environment**

The proposal to subdivide land and remove native vegetation is consistent with the Council Plan 2017 – 2021.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Tom Tonkin*

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

**EXECUTIVE SUMMARY**

Application referred?	Yes, to Council's Infrastructure unit and Environmental Planner and the relevant water board and utility authorities.
Any issues raised in referral responses?	No.
Preliminary concerns?	Impact the initially proposed 3 lot subdivision would have on tree removal and neighbourhood character.
Any discussions with applicant regarding concerns?	Yes, the officer wrote to the applicant regarding the abovementioned concerns.
Any changes made to the application since being lodged?	Yes. Before notice of the application, amended plans were submitted to address the abovementioned concerns. See 'Proposal' for further details of changes.
Brief history.	Not applicable.
Previous applications for the site?	PAP99/190 for Development and use of a Dwelling and ancillary buildings was approved on 8 November 1999. PA2013249 for Use of the land for a Store (Rubbish Bin Skips) was approved on 24 January 2014.
General summary.	The proposal is generally consistent with the relevant provisions of the Moorabool Planning Scheme. The proposed subdivision would facilitate consolidated development within the existing township generally in keeping with the surrounding neighbourhood character typified by spacious lot sizes. Subject to conditions, vegetation removal would be confined to enable provision of easements for underground services and the vegetation retained would ensure that the

	neighbourhood and landscape character is not unreasonably impacted.
<b>Summary Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue a Notice of Decision to Grant a Permit for this application in accordance with Section 61 of the Planning and Environment Act 1987, subject to the conditions included in this report.	

## SITE DESCRIPTION

The subject site is identified as Crown Allotment 5, Section 36, Township of Gordon, Parish of Kerrit Bareet and known as 54 Nightingale Street, Gordon, and is a trapezoid shape with an area of 5407sq m. The site is on the northwest corner of Nightingale and Stanley Streets and has gently undulating topography and generally falls to the southwest and northeast. The site contains a single storey brick dwelling sited towards the north boundary and facing Nightingale Street with a front setback of approximately 33m and vehicle access via a single crossover to Stanley Street leading to a circular driveway in the east side setback and a garage in the rear setback. The eastern half of the site is heavily vegetated with well-established large native trees whilst the balance of the land is occupied by the aforementioned buildings and otherwise cleared apart from scattered planted trees.

The site and surrounding land to the north, west and east is in the Neighbourhood Residential Zone and characterised by lots of a similar or smaller size than the subject site. To the west of the site is a 4761sq m lot containing a dwelling. To the north are two lots of approximately 4970sq m and 4500sq m each containing a single dwelling and ancillary outbuildings. To the east, across Stanley Street are lots of approximately 2270sq m and 2200sq m each containing a single dwelling and ancillary outbuildings. To the south, across Nightingale Street, is land in the Rural Living Zone characterised by lots of generally 3-7ha in size mostly developed with single dwellings and ancillary outbuildings. Vegetation cover in the area is variable, with many lots planted with well-established trees and vegetation whilst also comprising of areas cleared of vegetation.

The site is connected to reticulated water, sewer and power supply and within walking distance of some town amenities, notably Gordon Primary School.



## PROPOSAL

Originally the application proposed a three lot subdivision and removal of native vegetation. Following discussion with the Council officer regarding concerns with that proposal, the application was amended prior to advertising to subdivide the site into two lots and remove native vegetation. Lot 1 would occupy the western portion of the site and contain the existing dwelling on 3431sq m with a 42.46m frontage to Nightingale Street. Lot 2 would be 2004sq m and occupy the eastern portion of the site with a 23m frontage to Nightingale Street and 72.91m frontage to Stanley Street. Future vehicle access to Lot 1 would be via a new crossover to Nightingale Street whilst Lot 2 would benefit from the existing crossover to Stanley Street. No common property is proposed.

Proposed vegetation removal would comprise 7 trees on proposed Lot 2 to facilitate future development.

The proposed plans are provided in Attachment 1.

## HISTORY

The previously approved use for the site for a Store (Rubbish Bin Skips) has ceased as it has not been used for a store for a minimum of two years.

## PUBLIC NOTICE

Notice of the application was given to adjoining and nearby landowners and occupants by mail on 13 June 2019 and signs erected on site from 26 June until 10 July 2019. Two objections were received.

**SUMMARY OF OBJECTIONS**

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

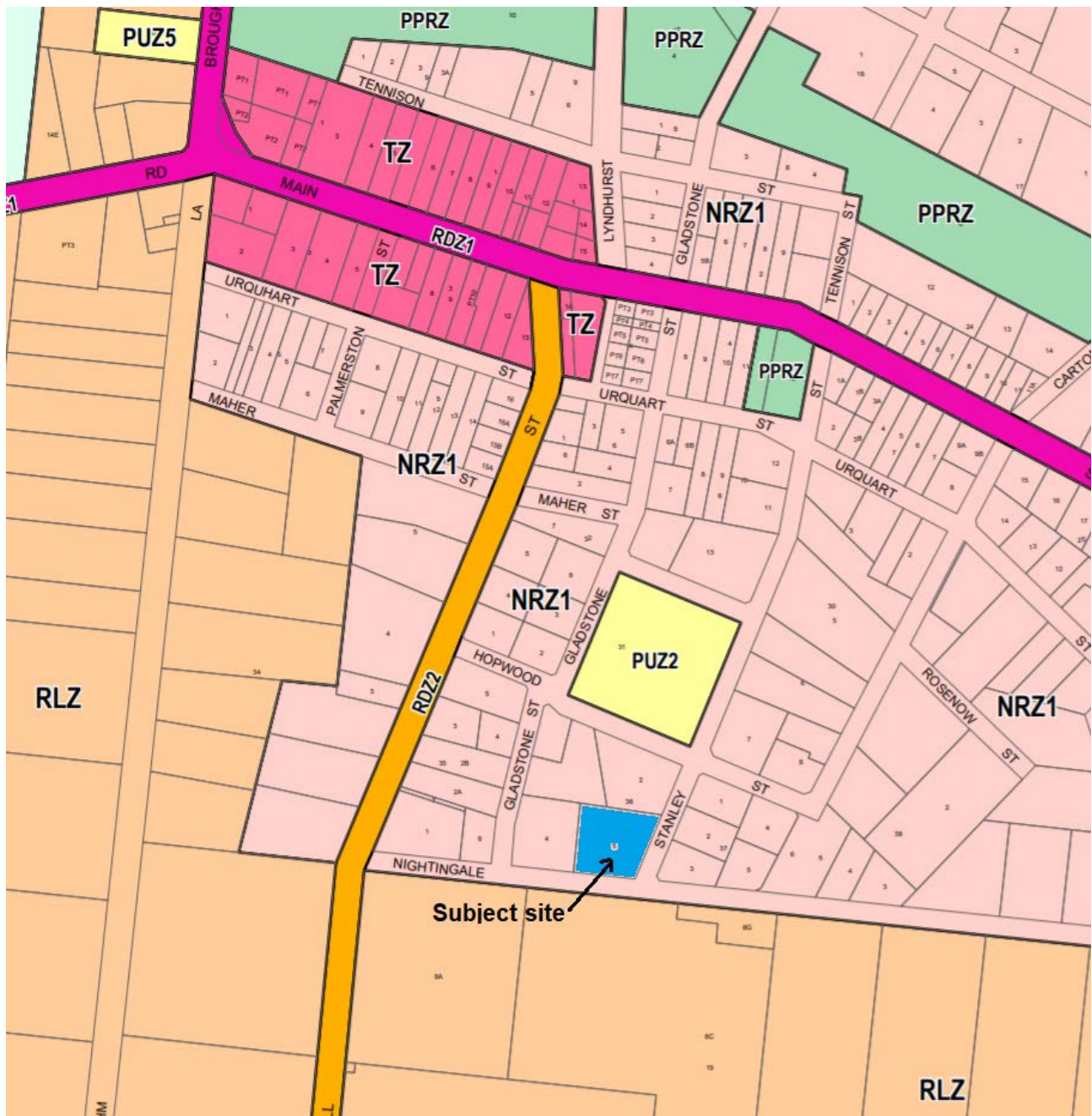
Objection	Any Relevant Requirement
The proposal is not in keeping with the character and appearance of the streetscape or the area and will have a dramatic negative visual impact on me and the neighbours.	Clauses 15.01-5S, 21.03-4 & 42.03.
<p><b>Officer's Response:</b></p> <p>Subject to conditions, the proposal is considered to be a suitable response to the competing policy demands for township growth and protection of the natural environment and landscape values. See 'Discussion' below.</p>	
The removal of trees will destroy an important wildlife corridor and habitat for a wide variety of native animals and birds.	Clause 21.02-4.
<p><b>Officer's Response:</b></p> <p>The patch of native trees on the site is relatively isolated and has limited habitat value given the overall fragmented quality of native habitat in the wider area. The native vegetation assessment submitted by the applicant identifies that the proposed vegetation removal would not have a significant impact on any habitat for rare or threatened species. Notwithstanding this, whilst other native species may be affected, subject to conditions most if not all the trees would be retained, and future development of the site is expected to result in the majority of trees being retained. See 'Discussion' below.</p>	
The tree removal will diminish the rural nature of the area.	Clauses 15.01-5S, 21.03-4 & 42.03.
<p><b>Officer's Response:</b></p> <p>The site is located on the existing fringe of Gordon township in an area developed for housing on relatively large allotments. Subject to conditions, most if not all of the trees would be retained, and future development of the site is expected to result in the majority of trees being retained. See 'Discussion' below.</p>	
The trees absorb and protect residents from a lot of the dust generated by traffic along Nightingale Street.	Clause 65.01.
<p><b>Officer's Response:</b></p> <p>Subject to conditions, the extent of tree retention on the site now and in future would be expected to still absorb dust and protect residents' amenity.</p>	
I moved to Gordon because of the beautiful natural environment and the tree removal will affect my quiet enjoyment of my property and the visiting wildlife which lives in the trees.	Clause 65.01.

<b>Officer's Response:</b>	
Planning policy applicable to this site requires a balance between encouraging development whilst protecting and enhancing the environmental values and landscape character. See 'Discussion' below.	
Tree removal should be done in non-breeding season to allow baby birds and animals to leave nests/breeding grounds.	Clause 21.02-4.
<b>Officer's Response:</b>	
Subject to conditions, it is recommended that most if not all of the existing trees be retained as part of the approval of this application. Future vegetation removal would therefore be subject to separate planning approval which could include consideration of this issue, but it is acknowledged that there is no particular guideline in the Moorabool Planning Scheme for consideration of this issue.	
Objection to further subdivision of the proposed lots.	Clauses 32.09, 42.01 & 43.02.
<b>Officer's Response:</b>	
Any future subdivision proposal would be subject to the assessment of a separate planning permit application.	
There are two trees proposed for removal on the proposed common boundary. Why is this necessary?	Clauses 13.02-1S, 15.01-5S & 43.02.
<b>Officer's Response:</b>	
The applicant has revised this aspect of the proposal so only one these trees is proposed for removal, to facilitate adequate defensible space around a future dwelling on Lot 2. However, as discussed below, it is recommended that unless tree removal is required to facilitate the subdivision, all trees should be retained as part of this application. Any future proposal for tree removal should be assessed based on its merits.	
The incremental subdivision of Gordon is resulting in a mix of large, small and very small allotments mixed together which is changing the town's look and feel into a messy hodgepodge of properties.	Clauses 11.03-3S, 15.01-3S, 15.01-5S & 21.03-4.
<b>Officer's Response:</b>	
To a large extent it is considered that the mix of property sizes is a legacy of the mix of older lot sizes, areas of irregular older subdivision layouts and the incremental subdivision which has occurred over the past few years and will continue to occur given the town has been identified to accommodate residential growth.	



## 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 Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- 11.03-3S Peri-urban areas.
- 12.01-2S Native vegetation management.
- 14.02-2S Water quality.
- 15.01-3S Subdivision design.



- 15.01-5S Neighbourhood character.
- 16.01-2S Location of residential development.
- 21.02-2 Non-urban landscapes.
- 21.02-3 Water and Catchment Management.
- 21.02-4 Biodiversity.
- 21.03-3 Residential development.
- 21.03-4 Landscape and Neighbourhood Character.
- 21.03-5 Small Town Development.
- 21.09-2 Gordon.
- 22.02 Special Water Supply Catchments.

The proposal generally complies with the relevant sections of the PPF and LPPF.

### **ZONE**

The subject site is in the Neighbourhood Residential Zone, Schedule 1. Under Clause 32.09-3 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for residential subdivision.

Schedule 1 to the zone specifies a minimum lot size of 800sq m.

The purpose of the Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To recognise areas of predominantly single and double storey residential development.*
- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Overall, the proposal is considered to be generally consistent with the purpose of the NRZ1, as discussed below.

### **OVERLAYS**

The site is affected by Environmental Significance Overlay, Schedule 1 (ESO1), Design and Development Overlay, Schedules 2 and 5 (DDO2 & 5) and Significant Landscape Overlay, Schedule 2 (SLO2).

The ESO1 applies to land in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to subdivide land and remove vegetation. The site is in the Special Water Supply Catchment and has access to reticulated sewer in Nightingale and Stanley Streets. The site is more than 100m from a waterway and, subject to conditions, the proposal would satisfy the provisions of the ESO1.

The DDO5 applies to the Gordon township and rural surrounds. Under Clause 43.02-3 a permit is required to subdivide land, with a minimum lot size requirement of 800sq m. Both proposed lots are substantially above the minimum 800sq m stipulated under the NRZ1 and DDO5 and generally

in keeping with the characteristically larger lots in this area of the town. The proposal is generally in accordance with the purpose and relevant design objectives of the DDO5.

The DDO2 applies to development using reflective exterior cladding and is not relevant to this proposal.

Under the SLO2 there is no permit requirement for subdivision, but a permit is required to remove vegetation. Subject to conditions, the proposal is considered to be generally consistent with the SLO2 provisions.

### **Relevant Policies**

#### Gordon Structure Plan 2013

The Structure Plan identified that the construction of a sewerage treatment plant and the sewerage of the core township area by Central Highlands Water would boost demand for further residential development and provide opportunities for infill development and increased densities of residential and other development in the sewerage area.

Accordingly, the Structure Plan sets out requirements for the preferred form and scale of future development. Consultation with the community indicated a strong community desire to retain the small town feel and the quality of the rural setting.

The town's landscape character was also acknowledged as quite complex, comprised of a diverse range of elements – natural, introduced and built – with considerable care needed to ensure that the location, scale and form of new development reinforces the qualities and character of that landscape. It acknowledged there are considerable opportunities to reinforce the landscape and character of the town particularly through further carefully selected and sited planting associated with new development and along key roads and routes.

It was noted that future development based on higher density and smaller lot residential development should be focused in the area bound by Urquhart, Lyndhurst, Tennyson Streets and the western edge of the established township area.

An identified principle of the Structure Plan was 'the retention of the rural character of the township area and surrounds is paramount to retaining the lower density scale residential and vegetated areas in the surrounds and the wider rural living setting of the township'.

### **Particular Provisions**

#### Clause 52.17 Native Vegetation

Under Clause 52.17-1 a permit is required to remove, destroy or lop native vegetation, including dead vegetation. Under Clause 52.17-5 the biodiversity impacts of removal or lopping must be offset in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines). The conditions on the permit for the removal, destruction or lopping of native vegetation must specify the offset requirement and the timing to secure the offset.

In accordance with the Guidelines, although not all native vegetation on the site is proposed for removal, all native vegetation has been assessed as being removed from the site and the strategic biodiversity value accounted for to determine the required offset for removal. This is because if the land is subdivided as proposed, there would be no future opportunity to require offsets for removal or lopping under Clause 52.17 due to the proposed lot sizes being less than 0.4ha. One patch of native vegetation, including 5 large trees (as defined in the Guidelines) totalling an area of 0.122ha would require an offset for removal, but it is noted that the bulk of this area is identified

on the plans for retention and a condition of approval would require additional vegetation to be retained as part of this proposal. Recommended permit conditions would specify the offset requirement and timing to secure the offset. The extent of the proposed removal is considered acceptable.

#### Clause 53.01 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. A subdivision is exempt from a public open space requirement specified in this scheme if it subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.

Whilst both proposed lots are of a size which could enable further subdivision, the particular features of this site significantly limit the potential for either lot to be further subdivided. The location of the existing dwelling and garage, native vegetation cover and minimum 800sq m lot size requirement combine to significantly constrain future subdivision. For these reasons it is recommended that no contribution be imposed.

#### Clause 56 Residential Subdivision

Clause 56 provides objectives and standards for residential subdivision. This clause requires the submission of detailed information. A subdivision must meet all of the objectives and should meet all of the standards of this clause.

The proposal meets the relevant standards and objectives of Clause 56 for residential subdivision. The lot design is generally consistent with the existing neighbourhood character and the lot dimensions would comfortably accommodate a single dwelling on each lot. Both lots would be oriented to achieve acceptable solar access, no common property is proposed and site management during development would be managed by way of permit conditions.

### **DISCUSSION**

Overall, the proposed subdivision and vegetation removal is considered to be generally in accordance with relevant State and local planning policy, the Neighbourhood Residential Zone, relevant Overlays and Particular and General Provisions of the Moorabool Planning Scheme.

Gordon is in the Central Highlands region and located in the Melbourne-Ballarat corridor with convenient vehicle connections to the Western Freeway and rail in Ballan. The subject site is in a sewered area zoned for residential purposes and within convenient walking distance of a limited number of town amenities. The site is relatively large and heavily vegetated in part with large established native trees which make a significant contribution to the site's unique qualities compared to most surrounding lots.

The proposal is to subdivide the site into two (2) lots of 3431sq m and 2004sq m and remove seven (7) trees. Assessment of the proposal under the Moorabool Planning Scheme requires consideration of several layers of planning controls which relate to both the intensification of development within the existing township and the protection and enhancement of valued characteristics relating to neighbourhood character, the contribution of trees and vegetation to landscape character and protection of potable water supply. In this context, an appropriate balance must be achieved between supporting growth in appropriate locations whilst protecting those site characteristics which contribute to the neighbourhood and landscape character of the site. Subject to conditions, it is considered that the proposal would make a modest contribution

to Gordon's growth, maintaining the low scale character of the township without any detrimental impacts on the neighbourhood character or landscape values of the site, as discussed below.

The key points for consideration in the assessment of the proposal are as follows:

- Are the proposed lot sizes and layout appropriate? and
- Is the proposed extent of vegetation removal appropriate?

Are the proposed lot sizes and layout appropriate?

The proposed lot sizes are generally consistent with adjoining and nearby lots, noting the varied lot sizes in the area and in Gordon township more generally. Both lots would be substantially larger than the minimum 800sq m required in the Moorabool Planning Scheme and designed to generally maintain the spacious character of this part of the township. In particular, proposed Lot 2 which contains most of the established native trees would, subject to conditions, enable future development to occur whilst retaining the majority of established trees which contribute significantly to the local neighbourhood character.

The proposed lot frontage widths generally respond to the streetscape character in this area, typified by wide frontages either unfenced or with visually permeable fencing. It is recommended that a condition of approval require that a restriction be imposed on the title to each lot which restricts fencing adjoining a street boundary, any fencing within each lot or on the common boundary which is within 30m of Nightingale Street or within 10m of Stanley Street, to a maximum 1.5m height and of post and rail, post and wire or fifty percent permeable construction, to reflect the surrounding character and limit the construction of solid or more prominent fencing readily visible from the street.

The proposed lot design also supports the retention of the majority of the established vegetation, in particular in the eastern half of the site. Whilst an indicative building envelope is shown on the plans for Lot 2, a building exclusion zone on Lot 2 should be imposed to give clear guidance to any future landowner and to Council officers assessing any future application for development or vegetation removal of the desired location for future development in consideration of preserving the majority of trees on the site. This approach is considered to be consistent with the applicant's proposed plans for tree removal.

It is noted that the trees identified by the applicant for removal are included in Lot 2's future developable area, but it is recommended that these trees be retained as a condition of approval unless it can be demonstrated to Council's satisfaction that their removal is required to facilitate the subdivision, such as to create easements. It is recommended that conditions of approval require a plan showing building exclusion zones be prepared for endorsement to the satisfaction of Council officers and registered as a restriction on the title.

Is the proposed extent of vegetation removal appropriate?

The applicant has identified 7 native trees for removal. The critical consideration regarding the proposed tree removal is what impact there would be on the landscape character of the area as identified in the Significant Landscape Overlay, Schedule 2 (SLO2).

As previously stated, most if not all these trees are not required for removal to facilitate the subdivision. Whilst removal of most if not all of these trees would likely be required to facilitate future development, further planning approval would be required which would be assessed on its merits, and for any trees with a single trunk circumference of more than 0.4m Council officers would have the opportunity to require the applicant to undertake suitable revegetation works

taking account of the particular layout of a future development application. This approach is consistent with the provisions of the SLO2 and recent subdivision approvals in Gordon.

Having regard for the competing policy demands applicable to this application, subject to conditions the extent of vegetation removal is considered reasonable.

### 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

Authority	Response
Barwon Water	Consent with conditions
Central Highlands Water	Consent with conditions
Downer Utilities	Consent
Powercor	Consent with conditions
Infrastructure	Consent with conditions
Environmental Planning	Consent with conditions

It is recommended that the Powercor and Central Highlands Water conditions not be imposed because those referrals were made based on the original 3 lot proposal. A 2 lot subdivision application is exempt from those particular referrals.

### FINANCIAL IMPLICATIONS

The recommendation for approval of this application does not have any financial implications for Council.

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation for approval of this application does not have any risk or OH&S implications for 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 submitters and the applicant were invited to attend this meeting and address Council if required.

### OPTIONS

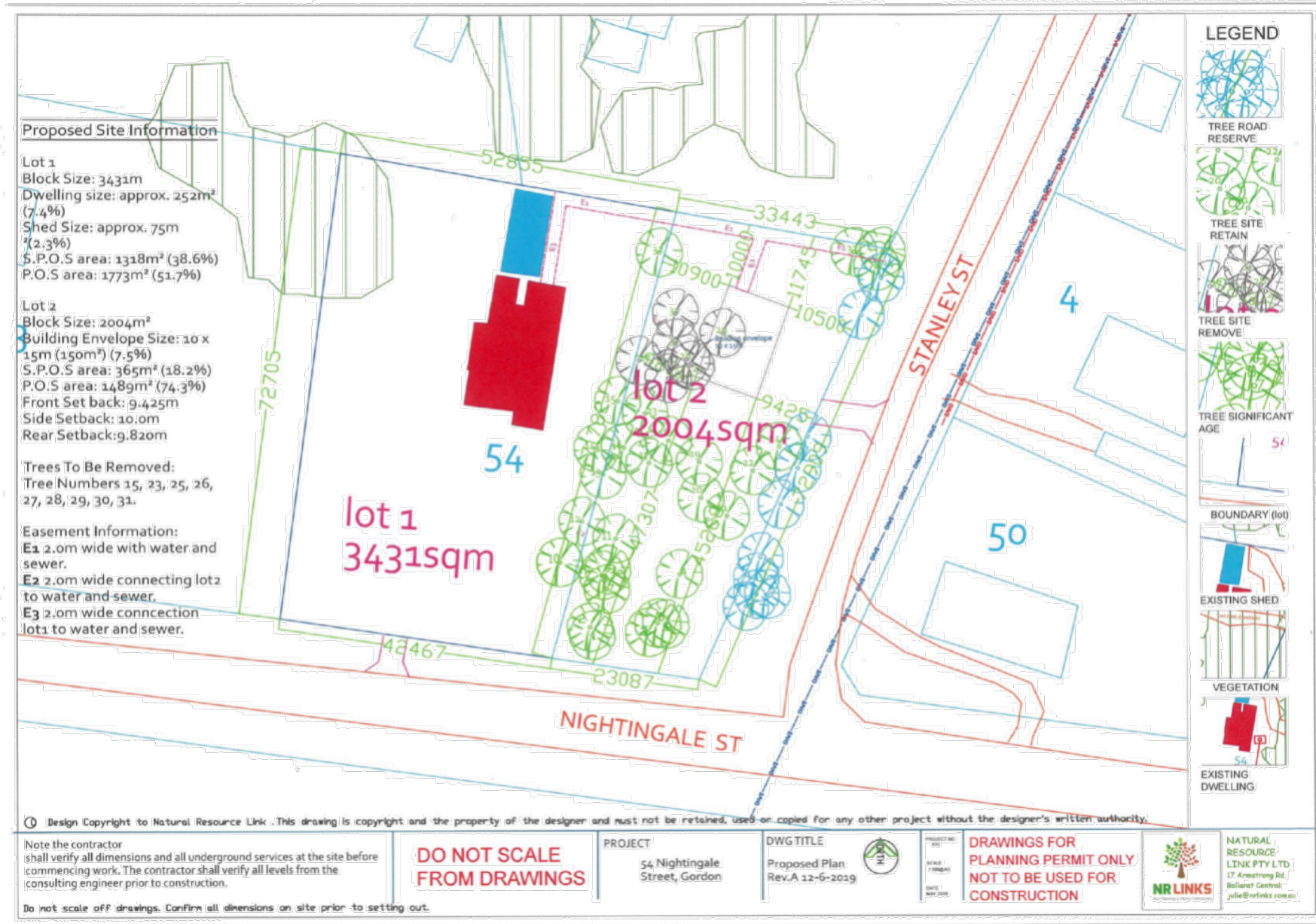
Council could consider the following options:

- Issue a Notice of Decision to Grant a Permit in accordance with the recommendations in this report;
- Issue a Notice of Decision to Grant a Permit with amendments to recommended conditions in this report; or

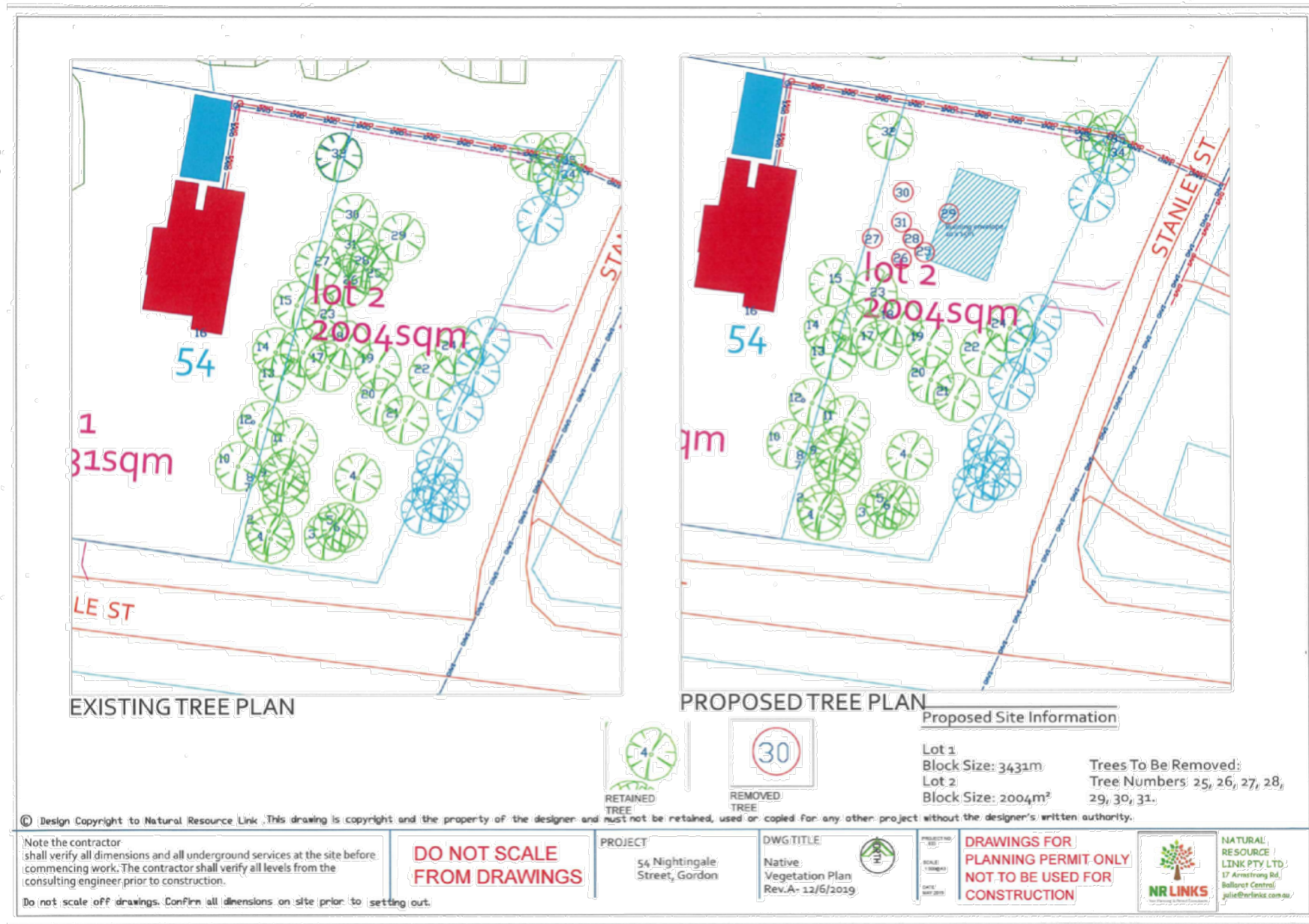
- Should Council wish to refuse the application, consider if there are reasonable grounds in accordance with the provisions of the Moorabool Planning Scheme. This option may result in the permit applicant appealing Council's decision at VCAT.

## **CONCLUSION**

Subject to conditions, the proposal is generally consistent with the relevant provisions of the Moorabool Planning Scheme. The proposed subdivision would facilitate consolidated development within the existing township generally in keeping with the surrounding neighbourhood character typified by spacious lot sizes. Subject to conditions, vegetation removal would be confined to enable provision of easements for underground services and the vegetation retained would ensure that the neighbourhood and landscape character is not unreasonably impacted. Any future vegetation removal would be subject to a separate planning assessment.









#### 7.4 PA2015249 - AMENDED PERMIT FOR STAGED SUBDIVISION AND REMOVAL OF NATIVE VEGETATION. 233 WERRIBEE VALE ROAD MADDINGLEY

**Author:** Mark Lovell, Senior Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development

**Attachments:** Nil

##### APPLICATION SUMMARY

**Permit No:** PA2015249

**Lodgement Date:** 25 June, 2019

**Planning Officer:** Mark Lovell

**Address of the land:** Lot 2 on PS642482W, 233 Werribee Vale Road, Maddingley

**Proposal:** Amended permit for a staged subdivision and removal of native vegetation

**Lot size:** 12.08 hectares

**Why is a permit required?** Amended permit to increase lot numbers and have an altered subdivision pattern

##### RECOMMENDATION

That Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues a refusal to amend a permit for staged subdivision and removal of vegetation at 233 Werribee Vale Road, Maddingley based on the following grounds

1. The proposed subdivision is not generally in accordance with the development plan approved under Development Plan Overlay Schedule 3 of the Moorabool Planning Scheme.
2. The proposed subdivision lot sizes and lot widths are too small and narrow and will result in a poor design outcome.
3. The reduction in the size of the Cultural Heritage Significant site, Reserve No. 1, does not have the approval of the Registered Aboriginal Party (RAP).
4. The subdivision does not comply with the objectives and strategies of Clause 15.01-3S, Subdivision Design.

PUBLIC CONSULTATION	
Was the application advertised?	No, the application is exempt from advertising.
Notices on site:	Nil.
Notice in Moorabool Newspaper:	Nil.
Number of objections:	None.
Consultation meeting:	Not applicable.

**POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 3: Stimulating Economic Development****Context 3A: Land Use Planning**

The proposal is consistent with the Council Plan 2017 – 2021.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive 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, Powercor Australia, Melbourne Water, Downer Utilities, Western Water, CFA, DELWP, Council's Infrastructure and Council's Strategic Planning teams
Any issues raised in referral responses?	Council's Strategic Planning
Preliminary concerns?	Intensification of the number of lots from the previous application within a reduced developable area.
Any discussions with applicant regarding concerns?	Yes, advised the lots sizes were not consistent with endorsed development plan under the Development Plan Overlay.
Any changes made to the application since being lodged?	No.
Brief history.	This lot is independent of Stonehill Estate undertaken by the Devine Group, however makes part of the DP03 and would be developed with connecting roads that access adjoining estates in consistency with the DP03.
Previous applications for the site?	There have been several permits issued with the DP03 area.
General summary.	The applicant has revisited the existing approval and identified that road gradients and that location of open

	spaces were not appropriate. The applicant has reduced the developed area with Reserve No. 3 to be more consistent with the Development Plan Overlay. The applicant has decided to increase the number of lots into a smaller developable area resulting in reduction of lot sizes. This part of DP03 was intended for larger lots sizes and therefore the amended proposal is inconsistent with the DP03. It is recommended the application be refused.
<b>Summary Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue a refusal to grant an amended permit for a staged subdivision and removal of vegetation at 233 Werribee Vale Road, Maddingley.	

### SITE DESCRIPTION

The subject site is known as Lot 2 on PS642482W. The lot is irregular in shape with a maximum width of 320.07 metres and maximum length of 540.27 metres for a total area of 12.08 hectares.

The site has significant slope with some flatter sections near the southern boundary with an overall slope of 40 metres. The site is vacant land with some scattered trees. The site abuts Stonehill residential estate which will consist of 1400 lots and requires completion of stages to gain vehicle access to the subject site. The western side boundary is adjacent to an unmade Government Road that will be partly constructed to allow development of Stages 24 and 25 of Stonehill Estate. To the north, are agricultural fields that are located within a Farming Zone under the Moorabool Planning Scheme.

### PROPOSAL

Amendments to the plans are as follows:

- Reduction in the lot size from an average of 778m<sup>2</sup> to 644m<sup>2</sup>.
- Increase in total public open space from 29,297m<sup>2</sup> to 35,991m<sup>2</sup>.
- Reduce the Cultural Heritage Management Reserve from 900m<sup>2</sup> to 117m<sup>2</sup>.
- Replacing the looped/perimeter roadway with connecting roadways and introducing a new courtbowl roadway.
- The overall amendment is a reduction in the developable area by increasing public open spaces with a greater number of lots within the developable area by reducing lot sizes.

The breakup of the lot sizes for the first two stages are as follows:

Lot Size	Number of lots	% of total lots	% difference compared to the endorsed plans
Less than 300m <sup>2</sup>	0	0	0
300m <sup>2</sup> -400m <sup>2</sup>	0	0	0
400m <sup>2</sup> -500m <sup>2</sup>	19	32%	0 lots in the original approval, +32%
500m <sup>2</sup> -600m	19	32%	5 lots in the original approval, +26%
600m <sup>2</sup> +	24	36%	76 lots in the original approval, - 58%
TOTAL	62 (Stages 1 and 2)	100%	81 lots

The applicant has not provided plans for Stage 3 as it dependent upon the final make up of Stages 24 and 25 of Stonehill Estate.

Existing Permit Overlayed on Development Plan

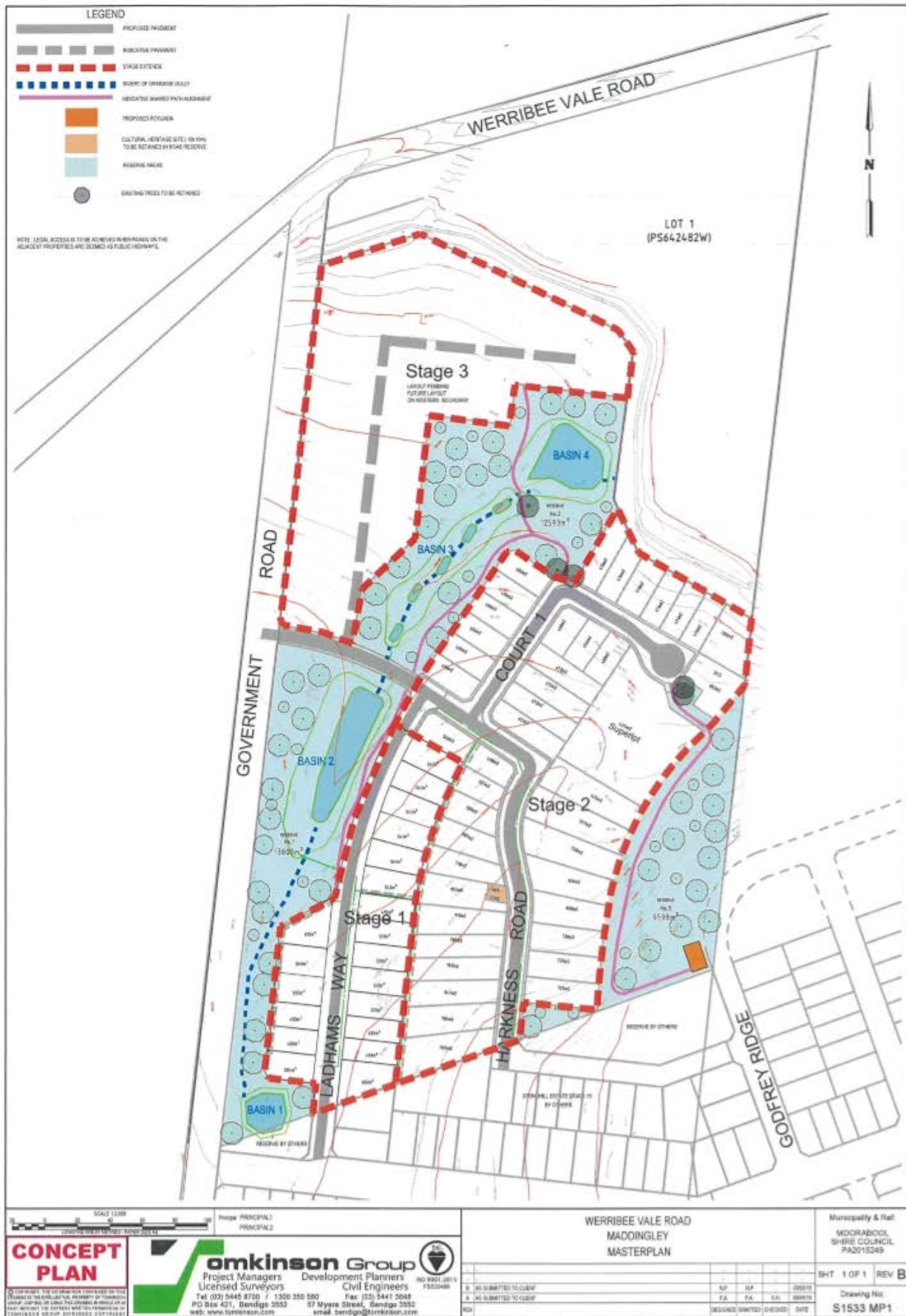


Proposed MasterPlan Overlayed on Development Plan



Existing permit developable area (shaded red)

Amended permit developable area (shaded red)



Proposed subdivision plan

## BACKGROUND TO CURRENT PROPOSAL

PA2015249 was issued on 5 July, 2016 authorising a staged subdivision and removal of native vegetation. A total of 81 lots were approved. An extension of time approval was issued on 9 May, 2018 with the certification expiry extended to 5 July, 2020. Plans in accordance with condition 1 of the permit were approved on 20 August, 2019.

## HISTORY

There have several permits issued within DPO3 with the majority contained in Stonehill Estate resulting in the following outcomes:

- Development stages approved: 20 Stages
- Residential lots approved: 788 lots
- Other (associated approvals)
  - Neighbourhood Activity Centre
  - Removal of native vegetation
  - Creation of reserves and easements
  - Display homes

Please refer the list below for the individual Planning Permit approvals.

- PA2010216 - Staged Subdivision of West Maddingley Part 2. A total of 146 lots approved.
- PA2011054 - Stage 1 and 2 of West Maddingley Part 1. A total of 121 lots approved.
- PA2011313 - Stage 3 of West Maddingley Part 1. A total of 45 lots approved.
- PA2011352 - Stage 5, 6 and 7 West Maddingley Part 1. A total of 108 lots approved.
- PA2011345 - Use of the Land for a Display Village, Associated Car parking, Landscaping and Buildings & Works, West Maddingley Part 1
- PA2013044 - Development of Six Dwellings
- PA2013135 - Staged subdivision Stage 4. A total of 38 lots approved.
- PA2013301 - Development of Eight Dwellings.
- PA2014170 - Stage 8 and 9 West Maddingley Part 1. A total of 43 lots approved.
- PA2014256 - Two lot re-subdivision.
- PA2014279 - Two lot subdivision.
- PA2015048 - Two lot subdivision.
- PA2015086 - Subdivision (Stage 10) of land, creation of reserve and development of 11 dwellings, West Maddingley Part 1. A total of 163 lots approved.
- PA2015091 - Staged Subdivision (Stages 11-16) creation of reserve, removal of native vegetation and development of 17 dwellings. West Maddingley Part 1. A total of 169 lots approved.
- PA2015142 - Removal of native vegetation
- PA2015166 - Two lot subdivision and creation and removal of easements at 165 Werribee Vale Road, Maddingley.
- PA2016136 - Three lot subdivision, West Maddingley Part 1.



- PA2017063 - Staged 65 subdivision (Stages 17 and 18) West Maddingley Part 1. A total of 65 lots approved.
- PA2018121 - 44 lot subdivision and development of dwellings on lots less than 300m2. Stage 19, West Maddingley Part 1. A total of 44 lots approved.
- PA2018242 – Issued at the direction of VCAT for fifty seven (57) lot subdivision and construction of three dwellings on lots less than 300m2 in area. Stage 20A, West Maddingley Part 1. A total of 57 lots approved
- PA2018274 – 92 lot staged subdivision (Stage 20B and 21), Development of a Dwelling on lots less than 300m2 and removal of native vegetation. A total of 92 lots approved.
- PA2019002 – 21 lot staged subdivision and removal of vegetation (Not part of Stonehill Estate). A total of 21 lots approved.

### PUBLIC NOTICE

The application is considered exempt from the notice provisions as the Stonehill project was subject of extensive public advertisement process through the West Maddingley Development Plan pursuant to the Development Plan Overlay, Schedule 3. The development plan showed road layout and lot layout orientations.

The initial approval and this current amended permit proposal were not advertised.

### LOCALITY MAP

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



Map 1: Zone Map



Map 2: Aerial photograph.

### PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 11.01-1R Settlement Central Highlands.
- Clause 11.02-1S Supply of urban land
- Clause 11.03-3S Peri-urban areas.
- Clause 12.01-2S Native Vegetation Management
- Clause 12.05-2R Landscapes Central Highlands.
- Clause 15.01-3S Subdivision Design.
- Clause 15.01-5S Neighbourhood Character.
- Clause 18.02-2S Public Transport
- Clause 19.03-3S Water supply, Sewerage and Drainage
- Clause 21.03-2 Urban Growth Management.
- Clause 21.03-3 Residential Development.
- Clause 21.02-3 Biodiversity
- Clause 21.03-4 Landscape and Neighbourhood Character.
- Clause 21.07-2 Bacchus Marsh

**ZONE**

The subject site is in the General Residential Zone, Schedule 2 (GRZ2).

The purpose of the Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Under Clause 32.08-3, a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for a residential subdivision.

Clause 32.08-3 states an application to subdivide land that would create a lots less than 400 square metres capable of a development for a dwelling must ensure the vacant lot contains at least 25 percent as garden space. This does not apply to a lot created in accordance with an approved development plan. With an approved development plan under the Development Plan Overlay Schedule 3, the garden space provisions does not apply.

Decision guidelines are listed under Clause 32.08-12. Under the subdivision section has the following decision guidelines:

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

Part 1 of the Schedule 2 has the following neighbourhood character objectives.

- To encourage new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- To encourage an increase in landscaping within the public and private realm.
- To encourage new development to respect existing setbacks within the streetscape. To encourage new development to have minimal or low scale front fencing.
- To ensure garages, carports, and second storey development do not visually dominate dwellings or streetscapes.

**OVERLAYS****Development Plan Overlay Schedule 3**

Pursuant to Clause 43.04-1 of the Moorabool Planning Scheme a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority. This does not apply if a schedule to this overlay specifically states that a permit may be granted before a development plan has been prepared to the satisfaction of the responsible authority.





## Relevant Policies

Council has prepared a housing strategy called Housing Bacchus Marsh to 2041, to address how it will manage growth pressures and preserve important neighbourhood character into the future. Bacchus Marsh has been specifically identified in Plan Melbourne and the Central Highlands Regional Growth Plan as a suitable location to accommodate growth. Key reasons for this strategic direction relate to Bacchus Marsh's regional service centre role, its relative accessibility to Melbourne, Geelong and Ballarat, its well established town centre and the availability of greenfield and infill development opportunities. Housing Bacchus Marsh 2041 is one of several key projects that will be inputs into the preparation of Moorabool 2041.

Stonehill Estate/West Maddingley is a greenfield estate that will support a master planned residential development as approved under the Development Plan Overlay, Schedule 3. The proposed subdivision supports the broad objectives of Moorabool 2041.

## Particular Provisions

### Clause 52.17 – Native Vegetation

The initial approval was designed to retain 18 scattered trees by positioning the super lot and drainage reserve to cover these tree locations. The initial approval allowed the removal of one scattered tree and 0.074 hectares Plains Grassy Woodland. The amended proposal results couple additional scattered tree removal adjacent to the western side of Ladhams Way which could be addressed by changing the offset condition.

### Clause 53.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to 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.

An open space requirement exceeding 5% of the total area was done in accordance with Development Plan Overlay, Schedule 3. No further requirement can be made. The amended proposal increases public open space over the entire lot.

### Clause 56 Rescode

The subdivision can be considered to accord with most of the Rescode requirements regarding providing infrastructure services and each lot is capable of accommodating one dwelling. The exception is

Clause ResCode	Title	Response
Clause 56.03-5	Neighbourhood Character	<p>The standard of this clause is to respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme.</p> <p>The subdivision introduces lots backing onto the drainage reserve and public open spaces area which fails to activate public open spaces and create safety concerns for future residents.</p>

**DISCUSSION**Development Plan Overlay Schedule 3

The development plan correctly acknowledged that the northern parts of West Maddingley are covered by a river escarpment and sloping land which requires a different design response compared to the flatter section of land. The development plan showed larger open spaces including spaces encumbered by sloping land along this northern side with smaller developable areas. The northern section is where almost a majority land will be used as open space rather than set aside for residential lots unlike other parts of what is known as Stonehill Estate.

The applicant in the initial approval stated that lots are larger than normal due to the constraints of existing vegetation and the steepness of the land. The large lot sizes assist future owners in working with the topography or undertaking site cuts that could reduce the extent of useable secluded private open spaces. In the initial approval, 81 lots were granted which exceeded the developable area compared to the development plan. The applicant instead designed their open space for the drainage reserve, to retain nearly trees on site and suitable sized cultural heritage management site. The developable area was increased in comparison to the endorsed plans under Development Plan Overlay to allow for larger lots. Only 5 lots out of the 81 approved were less than 600m<sup>2</sup> in area with the average size been 778m<sup>2</sup>.

The applicant in the amended proposal has identified some problems with the original approval include road gradients and sections of sloping land creating design problems. The applicant wants to depart for the concept of larger lots and wants to be similar to the lot sizes within the existing stages of Stonehill Estate.

The subdivision in the amended proposal still addresses the drainage reserve and the existing vegetation to be retained. The weakness with the subdivision design is with less developable area they are not reducing the number of lots instead increasing the number of lots. This has been achieved by reducing lots sizes, adding lots to the outer edge of the former perimeter road which leads to lots backing onto public open spaces areas, and reducing the cultural heritage management reserve. Having quite a number of lots, 38 lots less than 600m<sup>2</sup> in area, will create future problems for residents when cutting into the site to make sites level and thereby reducing side setbacks between dwellings.

The subject site is difficult in terms of terrain and providing infrastructure services. A large component of the subdivision is the drainage reserve which covers this lot rather than existing stages within Stonehill Estate which do not have large drainage reserves. The site has a smaller dwelling yield compared to existing stages of Stonehill Estate which are located in flatter sections of land and some stages having all residential lots reliant on other stages for their public open space areas in accordance with the development plan overlay. The solution to increase lot numbers by reducing the lot sizes is not appropriate and will not provide sufficient levels of amenity to future residents. The initial approval while not exactly in accordance with the development plan with a larger developable area was deemed acceptable based on the design response. The current applicant can still undertake this 81 lots subdivision as approved which may need some slight changes due to the current engineering information suggesting some steep road gradients and lots that have slope issues would need to be revised. However a major departure which seeks to increase lot numbers is considered unacceptable and could undermine the liveability of future residents.



## 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

Authority	Response
Western Water	
Melbourne Water	Consent
Powercor	Consent with six revised conditions
Downer	Consent with same condition
CFA	Consent with three revised conditions
Infrastructure Strategic Planning	Consent

## FINANCIAL IMPLICATIONS

The recommendation of refusal to amended proposal to an existing approved staged subdivision would not represent any financial implications for Council.

## RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation of refusal of the amendment request does not implicate any risk or OH&S issues to Council.

## COMMUNICATIONS STRATEGY

Notice was not undertaken for the application as proposal was exempt from the notice provisions. the applicant were invited to attend this meeting and invited to address Council if required.

## OPTIONS

Council could consider the following options:

- Issue a refusal to amend a permit in accordance with the recommendations of this report;
- Should Council wish to consider approving the amendment, Councilor's need to explore reasons based on the proposal not complying with the Moorabool Planning Scheme.

## CONCLUSION

The site has a current valid planning permit to subdivide the land into 81 lots and removal of vegetation. The amended proposal seeks to alter the developable area to provide more open space acknowledging some parts of site have steep topography. The applicant wants to increase lot numbers which is not considered the appropriate design response, which will furthermore create lots that would be problematic for construction. This includes lots backing onto public open spaces reducing the activation of those areas and creating a visual barrier with rear fences. While other lots increase in area at the expense of the cultural heritage management site designed as a linear park between two street frontages and was deemed worthy of protection in this linear arrangement. Overall the amended permit application should be refused.

**7.5 PA2019080 - CONSTRUCTION OF TWO DWELLINGS. 5/36 SOMERTON COURT, DARLEY****Author:** Mark Lovell, Senior Statutory Planner**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development**Attachments:** 1. PA2019080 - Plans**APPLICATION SUMMARY****Permit No:** PA2019080**Lodgement Date:** 28 March 2019**Planning Officer:** Mark Lovell**Address of the land:** Lot 6 on Plan of Subdivision PS647243P 5/36 Somerton Court, Darley**Proposal:** Construction of two dwellings**Lot size:** 495m<sup>2</sup>**Why is a permit required?** Clause 32.08-6 - Construction of two or more dwellings**RECOMMENDATION**

That Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a refusal to grant a planning permit for the construction of two dwellings based on the following the grounds.

1. The proposed development does not respect the existing or preferred neighbourhood character by being isolated from the nearest street frontage.
2. The proposed dwelling represents of an overdevelopment of a lot without a street frontage.
3. The proposed development does not comply with the Rescode standards B5 (Integration with Street) and Rescode standard B12 (Safety).
4. The wrong design response has been undertaken of poorly positioned existing lot and does not comply with the objectives of Clause 55.02-1, Neighbourhood Character.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	One.
Consultation meeting:	Yes, issues discussed in detail, but no resolution achieved between the parties.

**POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 2: Minimising Environmental Impact****Context 2A: Built Environment**

The proposal is consistent with the Council Plan 2017 – 2021.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive 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, Council's Infrastructure.
Any issues raised in referral responses?	No.
Preliminary concerns?	No.
Any discussions with applicant regarding concerns?	No.
Any changes made to the application since being lodged?	No.
Brief history.	The site is vacant land contained within a residential subdivision and located within an established residential precinct.
Previous applications for the site?	PA2011160 approved a 13 lot subdivision of the parent title. PA2012249 was refused for the construction of three single storey dwellings
General summary.	The proposal is for two dwellings on a small sized residential lot that is vacant. The lot is located away from the nearest street frontage which is not an ideal site for development. The site can accommodate one

	dwelling and any further intensification is unsuitable within this site context.
<b>Summary Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue refusal to grant a permit for the construction of two dwellings at 5/36 Somerton Court, Darley.	

## SITE DESCRIPTION

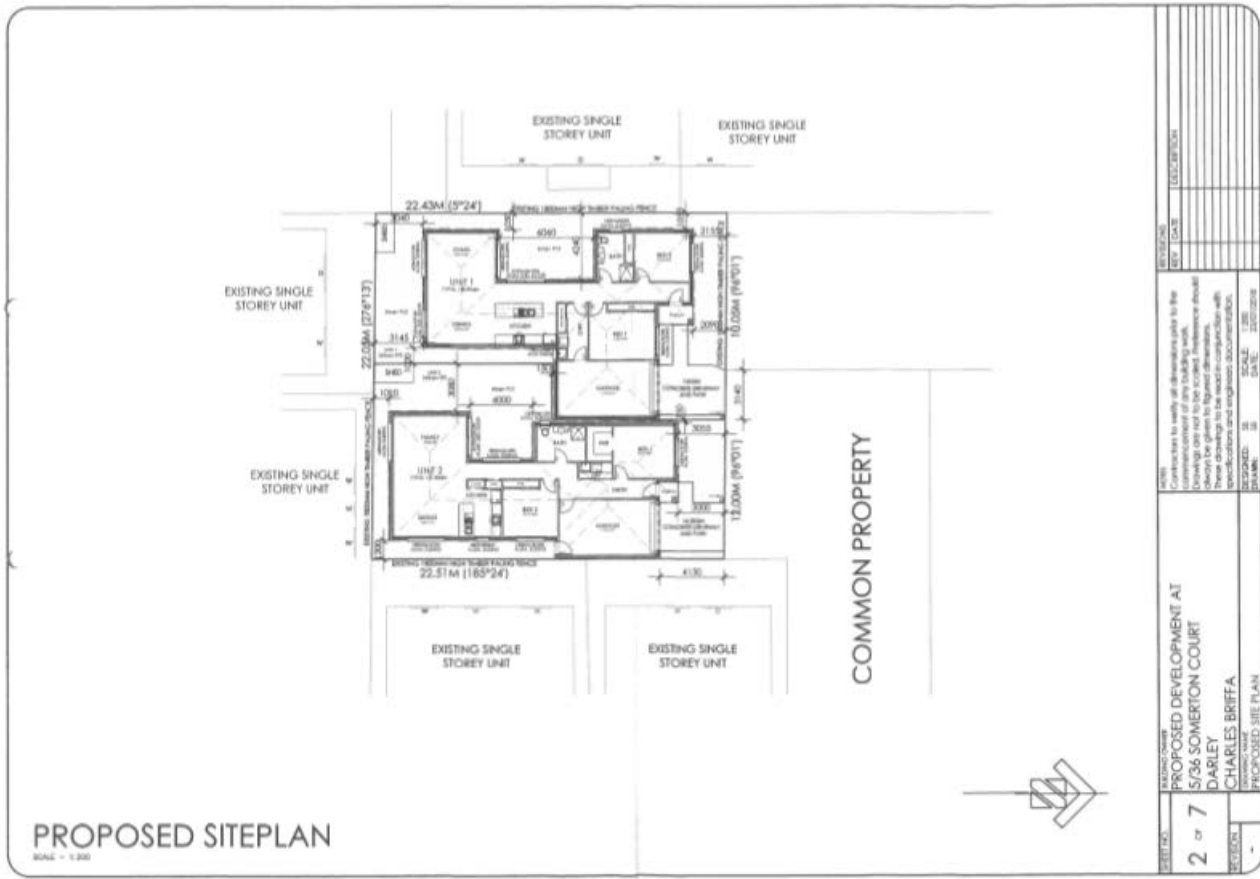
The subject lot is located to the rear of 13 lots and a common property area but does not have an abuttal to a street frontage. The lot is square shaped with a maximum width of 22.05 metres and a maximum length of 22.51 metres for a total area of 495m<sup>2</sup>. The site is vacant land without trees and any other significant vegetation. Lots 1 to 12 except the subject lot all contain existing single storey dwellings that all access a common driveway positioned against the eastern boundary property boundary. The topography is relatively flat.

To the west are a series of attached single storey units accessing an internal looped driveway and are reflective of recent architectural detailing. The dwellings have minimal front setback areas and small rear secluded private open spaces areas. Planning approval for these dwelling were issued in 2004. Council reference PA2004-194

To the east are eight dwellings contained within a large two storey building that faces towards Gisborne Road with open car parking adjacent to their western property boundary. The site had planning approval for 16 dwellings within a two storey building, issued in 2011. Council reference PA2011031.

## PROPOSAL

It is proposed to construct two attached single storey dwellings on a vacant lot. Each dwelling would have two bedrooms, combined dining/family/kitchen, bathroom and a cupboard laundry. Each single dwelling would have a lock up garage with an internal driveway accessing the common property driveway which then accesses Somerton Court. The dwellings are proposed to be setback 2.0 metres from the northern boundary, constructed in part against the eastern side boundary, setback 1 metre from the western side boundary and setback 1.1 metres from the rear southern boundary. The dwelling would be comprised of face brickwork walls, concrete tiled roofing, and aluminium framed windows.



Site/Floor Plan



Elevation plan

**HISTORY**

PA2011160 was issued on 5 January 2012 authorising a 13 lot subdivision. Titles were released on 7 June 2012. With the exception of large super lot 13 which has been further developed, the lot sizes ranged between 300m<sup>2</sup> and 495m<sup>2</sup>.

Planning application PA2012249 for 5/36 Somerton Court was refused on 21 August 2013. The proposal was for the construction of three single storey dwellings.

The grounds of refusal were:

1. The development is an overdevelopment of the site in the context of the subdivision in which it is located with respect to neighbourhood character.
2. The development does not satisfy a number of the Rescode standards nor achieves the objectives contained within Clause 55 of the Moorabool Planning Scheme.
3. The proposal does not have the consent of a majority of members of the Owners Corporation.

**PUBLIC NOTICE**

The application was notified to adjoining and surrounding landowners.

**SUMMARY OF OBJECTIONS**

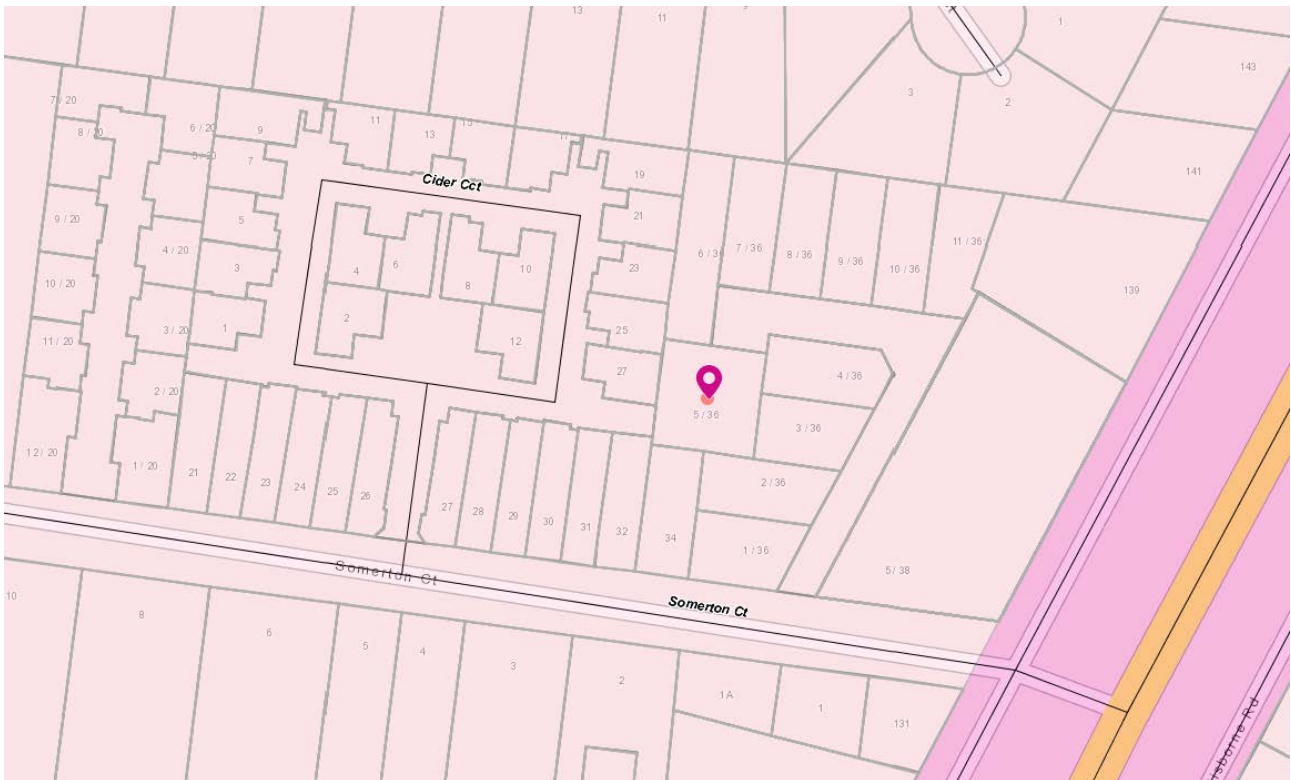
The objections received are detailed below with officer's comments accompanying them:

Objection	Any Relevant Requirement
Unacceptable high density overdevelopment Out of character with the one dwelling per lot.	Requirement under ResCode
<b>Officer's Response:</b> The objector stated all lots within this estate are one dwelling per lot. However, the original 13 lot subdivision was arranged to include a 2410m <sup>2</sup> lot, designed for medium density housing that has occurred with the construction of eight dwellings on that lot and further opportunities for more dwellings. The remaining lots due to their small land area would only be suitable for one dwelling including the subject lot.	
Traffic generation/car parking	Clause 52.06
<b>Officer's Response:</b> Two additional dwellings will not adversely affect the local traffic network nor cause any traffic congestion. Each dwelling is 2 bedroom and provides 1 on site car space in accordance with the minimum requirements of Clause 52.06. There is no requirement to provide any additional car spaces including visitor parking.	
Owner Corporation	
<b>Officer's Response:</b> The objector stated the applicant does not have owner's corporation consent. However, this a matter between the owners and managed through the relevant owner's corporation. The applicant confirmed there is no development of any common areas and all development is contained within the title boundary of the subject lot.	



**LOCALITY MAP**

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



Map 1: Zone details



Map 2: Aerial Photograph

## PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 11.03-3S Peri-urban areas
- Clause 15.01-1S Urban Design
- Clause 21.03-2 Urban Growth Management
- Clause 21.03-3 Residential Development
- Clause 21.03-4 Landscape and Neighbourhood Character
- Clause 21.07-1 Bacchus Marsh

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

LPPF		
Clause 21.07-2	Managing Urban Growth	The objective of this clause is to accommodate sustainable residential growth within the existing settlement boundary of Bacchus Marsh in the short term. A strategy to achieve this objective is to encourage high quality design of dwellings and encourage infill development that assist in creating walkable and pedestrian scale environments. This development is isolated from the nearest street frontage and is not a high quality design.

## ZONE

The subject site is in the General Residential Zone, Schedule 3 (GRZ3).

The purpose of the zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly 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 32.08-4 a lot between 400m<sup>2</sup> and 500m<sup>2</sup> must provide a minimum 25% of the lot area as garden area.

Under Clause 32.08-6 a permit is required to construct a dwelling if there is at least one dwelling existing on the lot and construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Part 1 of Schedule 3 has the following neighbourhood character objectives

- To encourage new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- To encourage sufficient front setbacks to allow for enhancement of the front garden character including increasing canopy tree plantings.
- To encourage new development to have minimal or low scale front fencing.
- To ensure new garages and carports do not dominate dwellings or streetscapes.

## **OVERLAYS**

No overlays.

## **Relevant Policies**

### Housing Bacchus Marsh to 2041

Council has prepared a housing strategy called Housing Bacchus Marsh to 2041, to address how it will manage growth pressures and preserve important neighbourhood character into the future. Bacchus Marsh has been specifically identified in Plan Melbourne and the Central Highlands Regional Growth Plan as a suitable location to accommodate growth. Key reasons for this strategic direction relate to Bacchus Marsh's regional service centre role, its relative accessibility to Melbourne, Geelong and Ballarat, its well established town centre and the availability of greenfield and infill development opportunities. Housing Bacchus Marsh 2041 is one of several key projects that will be inputs into the preparation of Moorabool 2041.

The site is located in Precinct 13 which is a precinct recommended for increased residential growth. The existing character is described as 'covers an older area of Darley that is within close proximity to numerous services and facilities, including Darley Plaza. The topography of the precinct is generally flat with some areas having a gentle slope. The street network is a modified grid with several cul-de-sacs. The precinct has a limited footpath network, with most streets having no footpaths, and therefore pedestrian connectivity is low. Minimal street tree plantings exist and as a result the precinct has a low tree canopy cover. The precinct is generally dominated by no front fencing, however some lots do have low scale fencing, often constructed of metal. Traditional front setbacks, relatively low levels of site coverage and minimal front gardens contributes to a sense of openness within the precinct. Dwellings exhibit varied styles, materials and eras with 1960s to contemporary single storey brick veneer dwellings being the most common style represented. The dwellings are generally of a modest scale and have a range of car parking arrangements from off-street with no cover, single carports and garages. There is evidence of some change occurring with the precinct, with the eastern area of the precinct containing single and double storey multi-dwelling developments. The multi dwelling developments are often attached, which is notably atypical to the character of the precinct'.

The preferred neighbourhood character is described as ‘ for increased housing choice over time in a proximate location to several services and facilities. Site coverage will be increased, however new development, including multi dwelling developments will need to ensure adequate private open space and garden plantings are provided. Front setbacks will be sufficient to allow for enhancement of the front garden character, including increasing canopy tree plantings. Front fences will be low or absent, allowing for views into front gardens. New developments will minimise the need for additional crossovers to the street and have a positive street interface to ensure strong passive surveillance is achieved. Building to both side boundaries will generally be avoided, however may be considered where the preferred character of the precinct is not compromised. Garages and carports that do not visually dominate dwellings or streetscapes are encouraged and should be recessed from the front building line, or located to the side or rear of the dwelling. Innovative and unique development that enhances the character of the precinct is encouraged’.

### Particular Provisions

#### Clause 52.06 Car Parking

The proposal includes the required number of resident car spaces, being one space for each two bedroom dwelling in accordance with Clause 52.06.

#### Clause 55 Two or More Dwellings on a Lot

Clause 55 provides objectives and standards for residential development of two or more dwellings on a lot. This clause requires the submission of detailed information. Residential development must meet all of the objectives and should meet all of the standards of this clause.

The proposal complies with ResCode (Clause 55) with the exception of the following:

Clause ResCode	Title	Response
Clause 55.05-2	Integration with the street	<p>Two of the standards are 1) developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility and 2) development should be oriented to front existing and proposed streets.</p> <p>The lot arrangement in the approved subdivision has created this lot lacking integration with the street and pedestrians have to walk a considerable distance to reach the street frontage.</p>

Clause 55.03-7	Safety	<p>The objective of this standard is to ensure the layout of development provides for the safety and security of residents and property. The standard is entrances to dwellings and residential buildings should not be obscured or isolated from the street and internal accessways</p> <p>The lot arrangement in the approved subdivision has created to this lot not providing safety for pedestrians and is the most isolated from the common driveway.</p>
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## DISCUSSION

### Existing pattern of development/Neighbourhood Character

When examining subject site and surrounding properties, it represents an example of how a large subdivision project without appropriate controls can lead to a disjointed streetscape pattern and provide poor internal amenity due to size and orientation of the lots. The initial 13 lot subdivision was designed to maximise the number of lots rather than considering the most functional and accessible internal design. The lots were arranged to be over 300m<sup>2</sup> and therefore do not require planning approval for each dwelling. Most of the dwelling are located to rear of the site and can be accessed by the side common driveway. The result is different dwelling designs with varying setbacks and odd open spaces such as the very large front open space to 6/36 Somerton Court.

The subdivision did not include building envelopes which can be applied under Clause 56.04-2 for lots less than 500m<sup>2</sup> in area and did not address common property issues such as a common mailbox area. An objective of Clause 56.04-2 is to provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features. Without building envelopes or design controls applied to each of the lot has collectively not allowed for an effective or efficient subdivision design response at 36 Somerton Court.

The subject lot is not visible from the street frontage and would need to use the full length of the common driveway to access the lot. The lot is against other clustered units and their small secluded private open space areas which requires a more sensitive approach to boundary walls constructions and location of private open spaces. The subject lot due the land area can have one dwelling however there is no control over the detailed design which only needs building approval from a registered building surveyor. A future dwelling in this lot will still be isolated from the street frontage however exacerbating this situation with two dwellings would be a poor planning outcome. The applicant can build a dwelling without planning approval and this would at least finish off the development of this lot which has remained vacant for a long period of time. Two dwellings on this lot within this site context will lead to inadequate internal amenity for future residents that would be not be expected in a new development project.



Somerton Court has achieved the broader goal of increasing housing growth with a large number of units contained in this street which have catered to different household structures. In this instance with a disconnected lot from a street frontage, the proposed development should not be supported.

### 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

Authority	Response
Infrastructure	Consent with six conditions

### FINANCIAL IMPLICATIONS

The recommendation of refusal of this development does not implicate any financial implications to Council.

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

### COMMUNICATIONS STRATEGY

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

### OPTIONS

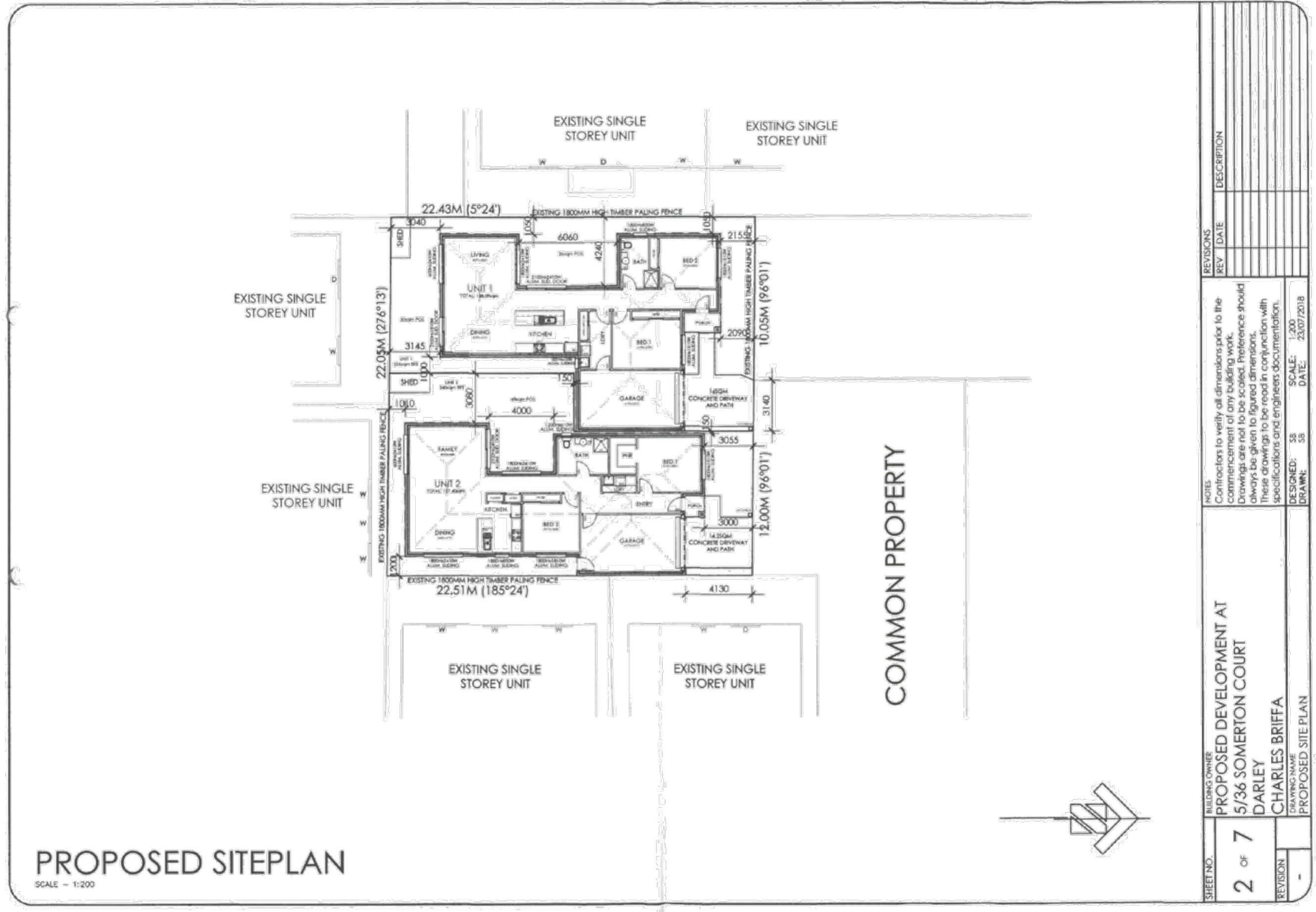
- Issue a refusal in accordance with the recommendations of this report;
- Should Council wish to consider approve the application, Councilor's need to explore reasons based on the proposal complying with the Moorabool Planning Scheme.

### CONCLUSION

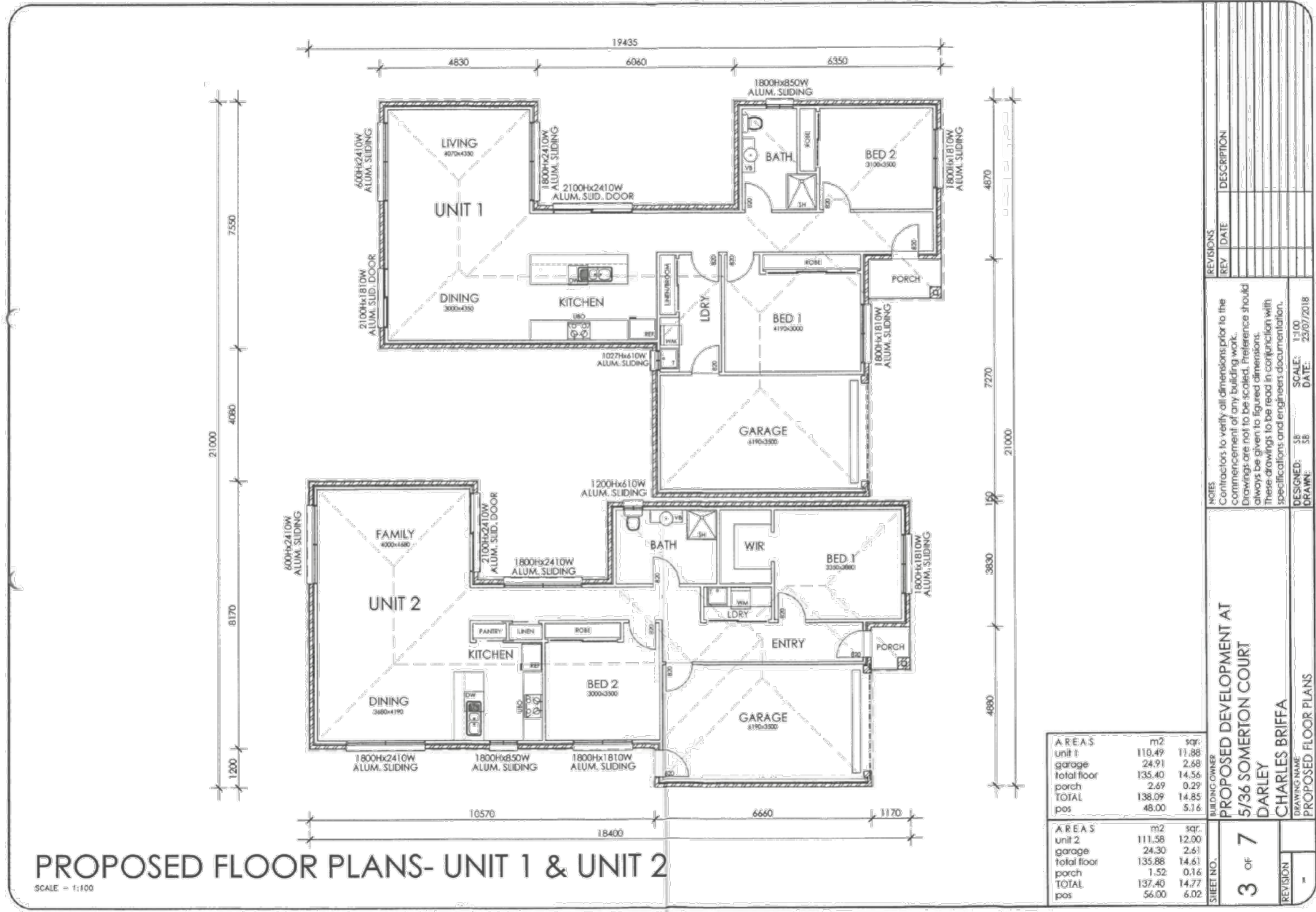
The site is located within an established residential area that supports further growth due to existing infrastructure services in place and proximity to the Bacchus Marsh town centre. The subject lot is unusual due to its location at the end of a long L shaped common driveway and is not visible from the street frontage. The lot is surrounded by other units and their small secluded private opens which requires a sensitive development response. The lot has originated from a poorly designed subdivision approval. Creating medium density housing in isolated lots that are exposed to sensitive interfaces of adjacent properties represents an inappropriate design response. This lot was arranged as a single dwelling site with the larger Lot 13 arranged for medium density housing. A further intensification of this lot is an overdevelopment of the available land area that is constrained by adjacent residential units. The proposed development should not be supported.







SHEET NO. <b>2 OF 7</b>	BUILDING OWNER <b>PROPOSED DEVELOPMENT AT 5/36 SOMERTON COURT DARLEY CHARLES BRIFFA</b>	DRAWING NAME <b>PROPOSED SITE PLAN</b>	DESIGNED: SB DRAWN: SB	SCALE: 1:200 DATE: 23/07/2018	NOTES Contractors to verify all dimensions prior to the commencement of any building work. Drawings are not to be scaled. Preference should always be given to figured dimensions. These drawings to be read in conjunction with specifications and engineers documentation.	REVISIONS	
						REV	DATE



**NOTES**  
Contractors to verify all dimensions prior to the commencement of any building work. Drawings are not to be scaled. Preference should always be given to figured dimensions. These drawings to be read in conjunction with specifications and engineers documentation.

DESIGNED: SB SCALE: 1:100  
DRAWN: SB DATE: 23/07/2018

**BUILDING OWNER**  
PROPOSED DEVELOPMENT AT  
5/36 SOMERTON COURT  
DARLEY  
CHARLES BRIFFA

**DRAWING NAME**  
PROPOSED FLOOR PLANS

**SHEET NO.**  
3 OF 7

**REVISION**  
-

REV	DATE	DESCRIPTION



**EXTERNAL MATERIALS & COLOURS:**

**UNIT 1:**  
 BRICKS: GREY PEARL  
 ROOFING: COLORBOND MONUMENT  
 GUTTER/ FASCIA: COLORBOND MONUMENT  
 WINDOWS: COLORBOND MONUMENT

**UNIT 2:**  
 BRICKS: BLACK PEARL  
 ROOFING: COLORBOND DUNE  
 GUTTER/ FASCIA: COLORBOND DUNE  
 WINDOWS: COLORBOND DUNE

**NOTES:**  
 Contractors to verify all dimensions prior to the commencement of any building work. Drawings are not to be scaled. Preference should always be given to figured dimensions. These drawings to be read in conjunction with specifications and engineers documentation.

DESIGNED: SB    SCALE: 1:100  
 DRAWN: SB        DATE: 23/07/2018

REVISIONS		DESCRIPTION
REV	DATE	

**BUILDING OWNER:**  
 PROPOSED DEVELOPMENT AT  
 5/36 SOMERTON COURT  
 DARLEY  
 CHARLES BRIFFA

**DRAWING NAME:**  
 PROPOSED NORTH & EAST ELEVATIONS

**SHEET NO.:**  
 4 OF 7

**REVISION:**  
 -

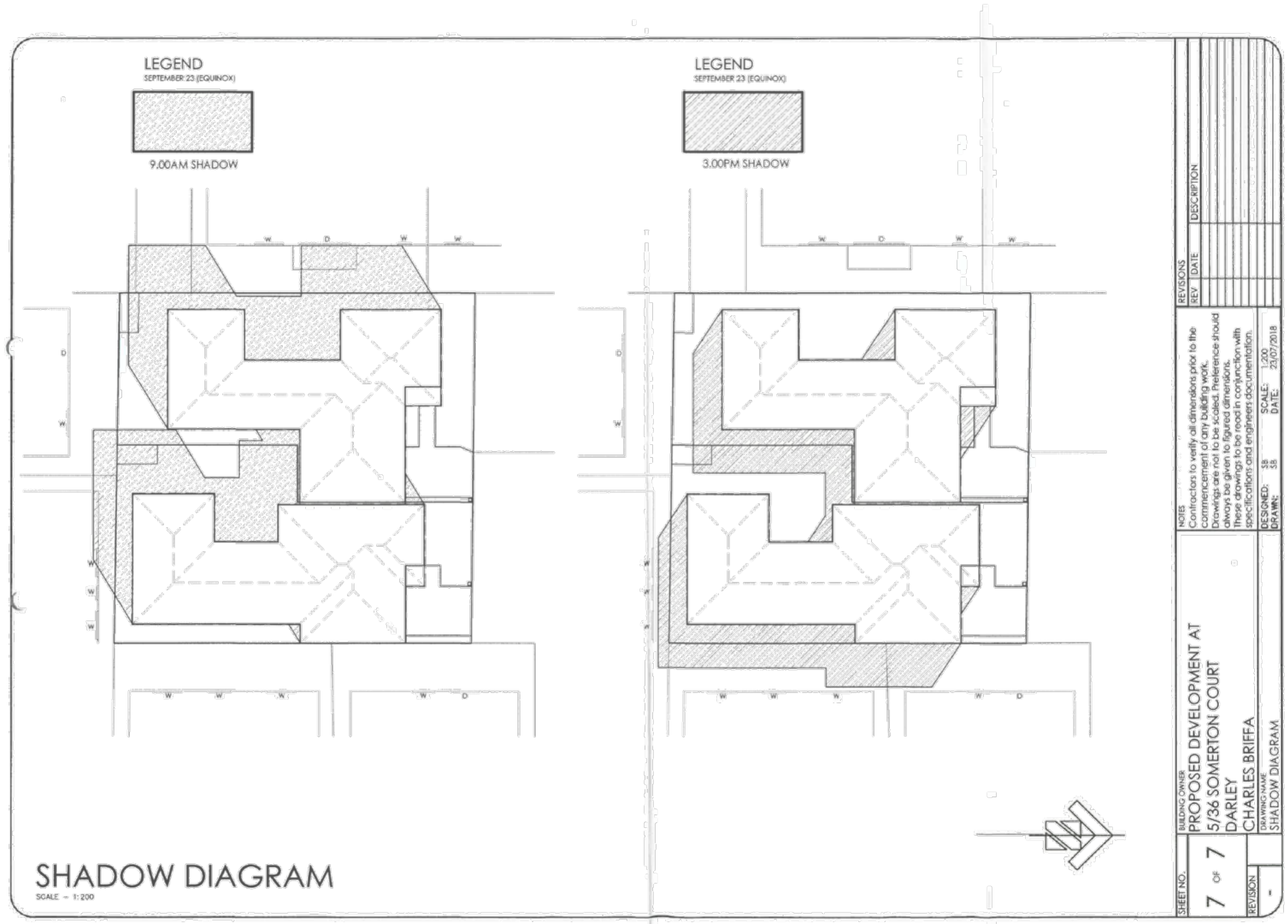
**PROPOSED NORTH ELEVATION**  
 SCALE - 1:100

**PROPOSED EAST ELEVATION**  
 SCALE - 1:100









SHEET NO. <b>7</b> OF <b>7</b>	REVISION -	BUILDING OWNER <b>PROPOSED DEVELOPMENT AT 5/36 SOMERTON COURT DARLEY CHARLES BRIFFA</b>		DRAWING NAME <b>SHADOW DIAGRAM</b>
		DESIGNED: <b>SB</b> SCALE: <b>1:200</b> DRAWN: <b>SB</b> DATE: <b>23/07/2018</b>		
NOTES Contractors to verify all dimensions prior to the commencement of any building work. Drawings are not to be scaled. Preference should always be given to figured dimensions. These drawings to be read in conjunction with specifications and engineers documentation.				
REVISIONS		REV	DATE	DESCRIPTION

**7.6 PA2018345 - SUBDIVISION - 130-144 HOLTS LANE DARLEY**

**Author:** Victoria Mack, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development

**Attachments:**

1. Site Master Plan
2. Site context plan
3. Land management plan

**APPLICATION SUMMARY**

**Permit No:** PA2018345

**Lodgement Date:** 20 December 2018

**Planning Officer:** Victoria Mack

**Address of the land:** 130-144 Holts Lane Darley

**Proposal:** 51 Lot subdivision and removal native vegetation

**Lot size:** 4.039ha

**Why is a permit required?** Clause 32.08-3 – subdivision of land in the General Residential Zone, Schedule 2

**RECOMMENDATION**

That Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues a Notice of Decision to Grant a Planning Permit for a 51 lot subdivision and removal of native vegetation at 130-144 Holts Lane, Darley, otherwise known as Crown Allotment 9, Section 16, Parish of Korkuperrimul, subject to the following conditions:

1. Before the use and/or development starts, 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 two copies must be provided. The plans must show:
  - a) The creation of restriction in accordance with the Subdivision Act (1988) which benefits and burdens all lots. The restriction must state no more than one dwelling on each lot; all boundary fencing to be no more than 2 metres in height and be of the wooden paling type; and all side fencing facing a street frontage must having no less than 20% openings;
  - b) Replace reserve No. 2 with the adjacent drainage reserve or road reserve.
  - c) An amended landscape plan showing landscaping details for Reserve No 1 including pathways and landscaping within Reserve No. 1 which will integrate with the adjacent public park and screen adjacent boundary fencing on the south and east boundaries.
  - d) Crossover locations with Lots 3, 4, 8 accessing internal roadway and not Holts Lane.

**Subdivision**

2. Prior to certification, the plan of subdivision must include a creation of restriction under the Subdivision Act (1988) in accordance with the endorsed plans.
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. 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. Reserve No 1 can be included to offset the contribution requirement.

**Telecommunications**

5. 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.
6. 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**

7. Prior to the issue of a Statement of Compliance for the subdivision, each lot must be provided with an urban residential standard vehicle crossing to the satisfaction of the Responsible Authority.
8. The subdivision must be provided with drainage system in accordance with the Stormwater Management Strategy prepared by Axiom Consulting Engineers, to a design approved by the Responsible Authority and must ensure that:
  - i. the subdivision as a whole must be self-draining.
  - ii. all drainage courses within the subdivision must pass through easements or reserves shown on the plan of subdivision.
  - iii. all outfall drainage passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.

- iv. volume of water discharging from the subdivision in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of retardation basin(s) located and constructed to the satisfaction of the Responsible Authority.
- v. flow paths of the 1% AEP storm must be determined, and the subdivision designed, so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
- vi. the drainage system must be designed to include provision to intercept litter.
- vii. all lots must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
- viii. the drainage design must take into account any applicable drainage or flood management strategy.

If required, the layout of the subdivision must be modified based on the approved stormwater design.

17. Design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval, and must include analysis of the existing stormwater drainage system in the area to determine:
  - i. the requirements for drainage of the whole site.
  - ii. if the existing drainage network has sufficient capacity to cater for the additional runoff from the ultimate development.
  - iii. If additional outfall drainage or upgrading of the existing drainage network is required.
18. Prior to the issue of a Statement of Compliance for the subdivision, the missing underground drainage line in front of the property must be constructed to the satisfaction of the Responsible Authority.
19. The internal road network layout must be designed and constructed to the standards detailed in the Infrastructure Design Manual, to the satisfaction of the Responsible Authority.
20. Design computations for all road pavement construction, based on a geotechnical investigation of the site, must be prepared and submitted to the Responsible Authority for approval.
21. Plans and specifications of all road, traffic and drainage works must be prepared and submitted to the responsible authority for approval prior to the commencement of such works and all such works must be carried out in accordance with the approved plans to the satisfaction of the Responsible Authority.
22. Prior to the issue of a Statement of Compliance for the subdivision, the section of Holts Lane abutting the property must be constructed to the satisfaction of the Responsible Authority as detailed below:
  - i. Kerb and Channel, and sealed pavement widening along the frontage of the site to match the existing construction of Holts Lane to the east and west of the property.
  - ii. Stormwater drainage

**iii. Nature strip and Landscaping**

- 23. Prior to the issue of a Statement of Compliance for the subdivision, a 1.5 metre wide footpath must be constructed on the northern side of Holts Lane from the existing footpath on the western boundary of the property to the existing footpath on Halletts Way.**
  - 24. 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.**
  - 25. An Environmental Management Plan for the road construction works must be submitted to the Responsible Authority for approval prior to the commencement of construction. All works must be performed in accordance with the approved Environmental Management Plan.**
  - 26. 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) and "Environmental Guidelines for Major Construction Sites" (EPA 1995).**
  - 27. Traffic management treatments must be provided in the form of linemarking, signage and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority.**
  - 28. Prior to the issue of Statement of Compliance for each stage, street lighting must be provided in accordance with the requirements of AS1158 – Lighting for Roads and Public Places, to the satisfaction of the Responsible Authority. All lighting fittings must be "Standard" fittings maintained by the electricity network provider at no additional cost to Council. All lights must utilise LED type luminaires where available.**
  - 29. Street names and street signs must be provided to the satisfaction of the responsible authority.**
  - 30. Permanent survey marks must be provided at a maximum spacing of 200 metres and registered, to the satisfaction of the Responsible Authority.**
  - 31. Street trees must be provided at approved locations in all internal roads of the subdivision at a rate of one tree per lot frontage and one tree per lot sideage, with an approved species to the satisfaction of the responsible authority. All street trees must have an existing height of 1.5 metres upon planting, must be planted to an approved standard incorporating two hardwood stakes, tree ties, Ag pipe, water crystals, 100 mm of mulch and initial watering, to the satisfaction of the responsible authority.**
  - 32. Street trees must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.**
  - 33. A security deposit equal to 150% of the cost of planting street trees must be lodged with the Council. The deposit will be returned after the final inspection of street trees, 18 months after the completion of planting of the trees, only if Council requires no further maintenance of the trees to be undertaken.**
  - 34. Landscaping within the development must be provided in accordance with an approved landscape plan, to the satisfaction of the responsible authority.**
-

35. Landscaping must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.
36. A security deposit equal to 150% of the cost of the landscaping must be lodged with the Council. The deposit will be returned after the final inspection of landscaping, 18 months after the completion of landscaping, only if Council requires no further maintenance of the landscaping to be undertaken.
37. Prior to the issue of a Statement of compliance for each stage of the subdivision, the developer must pay:
  - i. 0.75 % of the total estimated cost of works for the checking of engineering plans associated with that stage of the development.
  - ii. 2.50 % of the total estimated cost of works for the supervision of works associated with that stage of the development.
38. Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, after all engineering works pertaining to the stage have been completed, the following “as constructed” details must be submitted in the specified format to the Responsible Authority:
  - i. Drainage construction details in “D-Spec” format.
  - ii. Roadworks construction details in “R-Spec” format.
39. Subject to the consent of the responsible authority, the data may be provided prior to the end of the maintenance period for the relevant stage of the subdivision.
40. All road and drainage works must be maintained in good condition and repair for a minimum of 3 months after completion of the works, to the satisfaction of the Responsible Authority.
41. Prior to the issue of a Statement of compliance for each stage of the subdivision, a security deposit of 5% of the total value of engineering works for that stage as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 3 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.
42. 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

**Landscape plan – Reserve No 1**

43. Before the plan of subdivision is certified under the Subdivision Act 1988, a landscape plan must be submitted to and approved by the Responsible Authority for the reserve located in north-west corner of the site. The plans must indicate as a minimum the following to the satisfaction of the Responsible Authority:
  - a) pathways linking to the existing footpath on Ross Street located to the west of the proposed Reserve1;
  - b) location and detail of furniture, rubbish bins and play equipment;



- c) site contours and any proposed changes to the existing levels including any structural elements such as retaining walls;
- d) details of surface finishes of pathways and driveways;
- e) details of fencing along common boundaries; and
- f) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

44. Prior to the issuing of a Statement of Compliance pursuant to the Subdivision Act 1988, the approved landscape plan for Reserve No.1 must be constructed and implemented at the cost of the developer and to the satisfaction of the Responsible Authority.

#### Landscape Plan – Reserve No. 2

45. Before the plan of subdivision is certified under the Subdivision Act 1988, a landscape plan must be submitted to and approved by the Responsible Authority for Reserve No. 2 located in south-west corner of the site. The plans must indicate as a minimum the following to the satisfaction of the Responsible Authority:

- a) site contours and any proposed changes to the existing levels including any structural elements such as retaining walls;
- b) details of surface finishes of pathways and driveways;
- c) details of fencing along common boundaries; and
- d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

46. Prior to the issuing of a Statement of Compliance pursuant to the Subdivision Act 1988, the approved landscape plan for Reserve No.2 must be constructed and implemented at the cost of the developer and to the satisfaction of the Responsible Authority.

#### Melbourne Water

47. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.

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

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

50. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.

51. Prior to the issue of a Statement of Compliance for the subdivision, engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for our records. These plans must show road and drainage details and any overland flow paths for the 100 year ARI storm event.

52. Prior to the issue of a Statement of Compliance for the subdivision, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.
53. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
54. The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves.
55. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
56. The drainage system of the proposed development shall be designed to ensure that increased flows from the site are restricted to existing drainage structures capacity unless increased flows are approved by Council. A copy of Council approved drainage plans and associated works shall be provided to Melbourne Water for our records.
57. Prior to the issue of a Statement of Compliance, a drainage outfall must be to the satisfaction of Melbourne Water, Council and any affected downstream property owner(s). Written confirmation of the acceptance of the drainage outfall by Council and any affected downstream property owner(s) must be sent to Melbourne Water for our records.
58. Prior to the issue of a Statement of Compliance for the subdivision, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

#### Downer Utilities Australia P/L

59. The plan of subdivision submitted for certification must be referred to AusNet Gas Services in accordance with Section 8 of the Subdivision Act 1988.

#### Powercor

60. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.
61. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.

#### Notes:

Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

62. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

#### Notes:

Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

63. The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations.

**Notes:**

Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements:

- 64. RESERVES established by the applicant in favour of the Distributor.
- 65. SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years.

The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.

- 66. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.
- 67. Existing easements may need to be amended to meet the Distributor's requirements;
- 68. Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:

Easement Reference	Purpose	Width (metres)	Origin	Land benefited/in favour of
	Powerline		Section 88 – Electricity Industry Act 2000	Powercor Australia Ltd

**Western Water**

- 69. Payment of new customer contributions for each lot created by the development, such amount being determined by Western Water at the time of payment
- 70. Provision of reticulated water mains and associated construction works to front each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Western Water
- 71. Any existing water service which crosses any of the proposed allotment boundaries within the proposed development must be disconnected and relocated at the developer's expense, to be wholly within one allotment only and to the satisfaction of Western Water;
- 72. Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Western Water
- 73. The owner shall reach an agreement with Western Water regarding the construction of any Shared Assets (potable water mains that are greater than 150mm diameter and gravity sewerage mains that are greater than 225mm diameter), required to service the subdivision/development. The construction of Shared Assets reimbursable by Western Water shall comply with Western Water's Procurement Procedure and Guide to New Customer Contributions.
- 74. Provision of easements in favour of Western Water over all existing and proposed sewer mains located within private property. The easement shall be 3.0 metres wide for combined sewer and drainage easements and 2.5m wide for a dedicated sewerage easement.

75. Pursuant to Section 36 of the Subdivision Act, Western Water considers that for the economical and efficient subdivision and servicing of the land covered by the Application for Permit it requires the owner of the land to acquire an easement over other land in the vicinity, namely, any land not owned by the Developer through which a sewerage extension servicing the development is to be located. The easements created shall be in favour of Western Water
76. The developer must produce for approval by Western Water an Integrated Water Management Plan (IWMP) that incorporates water efficiency measures and water-sensitive urban design techniques that reduce reliance on potable water by increasing utilisation of fit-for-purpose alternative water supplies.
77. The IWMP must set out subdivision outcomes that appropriately respond to the site and its context for integrated water management to the satisfaction of Western Water. When approved by Western Water, the IWMP must then form part of the permit.
78. The operator under this permit shall be obliged to enter into an Agreement with Western Water relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Western Water. The owner/applicant shall make a written request to Western Water for the terms and conditions of the agreement.
79. All contractors engaged on construction of Subdivision Infrastructure obtain a Water Carters Permit from Western Water and comply with that permit at all times. The permit will include a requirement for the Water Carter Permit holder to:
  - \* Own a metered hydrant approved by Western Water;
  - \* Meter and pay for all water taken;
  - \* Display a Western Water Permit Number Sticker on the tanker;
  - \* Only take water from nominated hydrants or standpipes;
  - \* Only use water for the purpose approved in the Water Carters Permit;
  - \* Avoid wastage of water on site; and
  - \* Comply with any water restrictions imposed by Western Water at the time water is used.

For the purpose of this condition, Subdivision Infrastructure includes new and alterations to existing: roads, drains, water mains, sewer mains, power supply, telephone, gas and any other service infrastructure required by this permit and dust suppression during construction of the same.

Notwithstanding the above, a Water Carters Permit is not required if the permit holder and contractors engaged by the permit holder can demonstrate to the satisfaction of Western Water that water is not required from Western Water's town water supply systems to construct Subdivision Infrastructure as defined above.

#### Permit expiry

80. This permit will expire if one of the following circumstances applies:
  - a) The plan of subdivision is not certified within two (2) years of the date of issue of the permit.

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

**Permit Notes****Melbourne Water**

To find out more information regarding building in flood prone areas please visit our website for more information.

For general development enquiries contact our Customer Service Centre on (03)96797531.

**Downer Utilities Australia P/L**

It is important that the applicant(s) are aware that this letter does not serve as a confirmation of gas supply availability. The owner/developer of the land may need to enter into an agreement or request a quote from a local gas retailer for provision or altering of gas services for each lot of the endorsed plan.

**Powercor**

It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link:

<https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator>

Queries about this subdivision may be directed to the Customer Requests Team on 1800 771 434 or [crr@powercor.com.au](mailto:crr@powercor.com.au) on.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of objections:	4
Consultation meeting:	Yes, held on 1 July 2019

**POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 3: Stimulating Economic Development****Context 2A: Built Environment**

The proposal to subdivide land is consistent with the Council Plan 2017 – 2021.

**VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

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

**OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

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

*General Manager – Henry Bezuidenhout*

In providing this advice to Council as the General 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?	Yes, to Downer Utilities, Melbourne Water, Powercor, Western Water, and Council's Strategic & Sustainable Development (SSD) and Infrastructure Departments.
Any issues raised in referral responses?	SSD requested that the Public Open Space should be provided as land in the north-west corner of the site to create a pocket park which would add to the existing pocket park off Ross Street. This would result in one native tree not being required to be removed. However, there are two other native trees in the northern section of the site that would be removed.
Preliminary concerns?	The original subdivision layout had only one entrance to the whole of the subdivision from Holts Lane and it was considered that two access and egress points would provide an improved planning outcome.  The original lot layout also created a number of side fences facing the street and it was requested that the lot layout was reconfigured to reduce the number of side fences facing a street.
Any discussions with applicant regarding concerns?	A number of meetings and phone discussions were held between the applicant, its engineer and Council officers.
Any changes made to the application since being lodged?	Amended plans were provided which addressed all preliminary concerns.
Brief history.	There is no relevant history on this site. It is vacant land.
Previous applications for the site?	Nil
General summary.	The application is for a 51-lot subdivision. The lots proposed range in area from 466 sqm to 825 sqm with an average lot size of 590 sqm. It is considered that the subdivision layout is acceptable providing a range of lot sizes for a variety of housing options.  However, it is considered should this application be supported by Council, that there should be restrictions



	<p>placed on the lots to ensure that lots are developed appropriately and address the preferred neighbourhood character of Housing Bacchus Marsh 2041 Precinct 12.</p> <p>These restrictions are included as conditions in this report and are detailed in the discussion section of this report.</p> <p>It is recommended that the application is supported subject to conditions.</p>
<p><b>Summary Recommendation</b></p>	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council issues a Notice of Decision to Grant a Planning Permit for a <i>51 lot subdivision and the removal of native vegetation</i> at 130-144 Holts Lane, Darley, otherwise known as Crown Allotment 9, Section 16, Parish of Korkuperrimul, subject to conditions.</p>	

## SITE DESCRIPTION

The site is 4.039ha and is square in shape. The land slopes gradually from the north-west corner to the east and the south-east. There is one native tree located in the north-west corner of the site and two small Golden Wattles located along the north side boundary of the site which would be removed. Currently there is no access to the site other than a rural style gateway. The balance of the site is pastured largely with native Wallaby Grass. There is an empty dam located towards the centre on the south side boundary of the site which would be decommissioned.

The site is vacant and there is no evidence of any development having occurred on the site. It is located on the north side of Holts Lane. To the west is the Ross Street and Fredrick Street precinct which is mostly developed with either double storey town houses or medium density single storey units. To the north and east of the site is land within the Neighbourhood Residential Zone Schedule 5 which has a minimum lot size for subdivision of 1500sqm. To the south of the site is a nearly fully developed residential subdivision in the General Residential Zone, Schedule 2.

The site is located approximately 212m west of Halletts Way which is serviced by a public bus. The bus service provides access to the Bacchus Marsh railway station and the commercial centre. The site is also located approximately 640m north-west of the Western Freeway via the new Halletts Road interchange. The site is located approximately 2.55kms from the Bacchus Marsh centre and approximately 2.14kms from the Darley shopping centre.

Below is an aerial photo of the site:



**PROPOSAL**

It is proposed to subdivide the land into 51 lots.

The original lot layout had only one entrance from Holts Lane. However, this has been amended to include two entrances to the subdivision to facilitate improved access for future residents.

The original application included lots in the north-west corner of the site. However, Council’s Strategic and Sustainable Development (SSD) requested that a pocket park was created in this corner to add to the existing park at the northern end of Ross Street of equivalent size. The applicant was willing to do this which would contribute to the Public Open Space requirement.

The original application created a number of lots with side or rear fences abutting the access street. The revised lot layout has resolved much of this issue and is a significant improvement.

The lots would range in size and number as follows:

Lot area	% of site	No of lots	% of yield
400-500 sqm	13%	8	16%
501-600 sqm	35%	20	39%
601-700 sqm	33%	15	29%
701-800 sqm	16%	7	14%
>800 sqm	3%	1	2%

Three reserves would be included within the subdivision.

1. Reserve No 1 being the “pocket park” located in the north-west corner which would be 1858 sqm.
2. Reserve No 2 located in the south-east corner on the north side of the drainage reserve which would be 236 sqm.
3. Reserve No 3 which would be a drainage reserve located in the south-east corner which would be 692sqm.

The application was accompanied by the following reports:

1. Native vegetation assessment and native vegetation removal report prepared by Mark Trengove Ecological Services dated November 2018.
2. Traffic impact assessment prepared by Driscoll Engineering Services P/L dated 12 November 2018.
3. Stormwater Strategy prepared by Axiom Consulting Engineers dated 26 September 2018.
4. Engineer Feature survey prepared by Axiom dated 6 September 2018.
5. Planning Report prepared by *iPlanning Services* dated December 2018 and further amended in April 2019).
6. Plans including Site Context Plan, Master Plan and Landscape Master Plan.

## HISTORY

There are no previous permits, or compliance notices, recorded as having been issued on the subject site.

## PUBLIC NOTICE

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

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
<p><b>Traffic:</b></p> <p>The subdivision will increase traffic in the Holts Lane and Halletts Way area. Traffic flow to and from the subdivision will be a major issue for existing residents. Vehicle infrastructure needs to be upgraded in immediate surrounding area.</p>	<p>Infrastructure Design Manual (IDM)</p>
<p><b>Officer’s Response:</b> Traffic management within the site and within the wider area is a Council Infrastructure responsibility, of which they have raised no concerns with the applicant’s Traffic Impact Assessment.</p>	

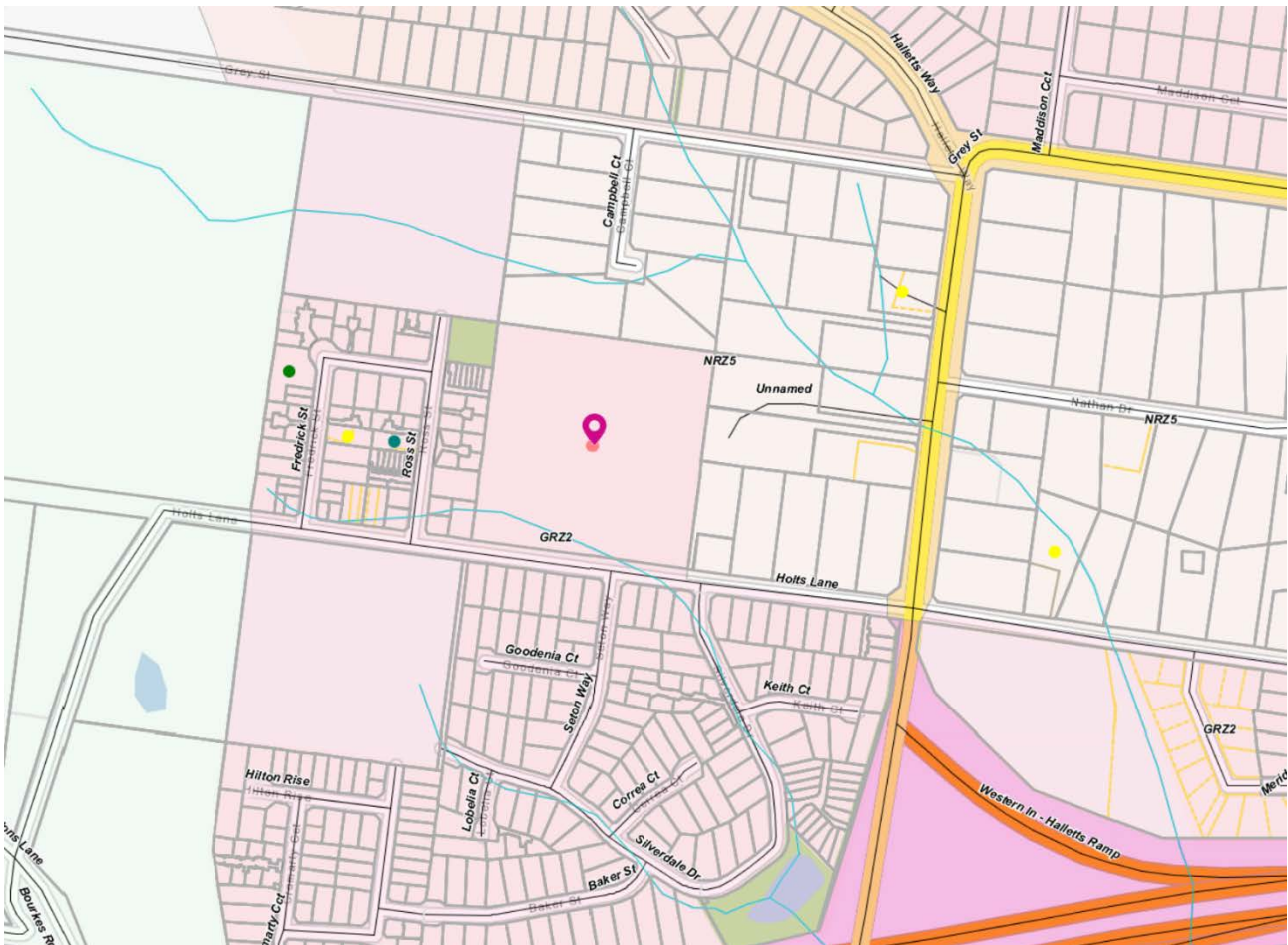
<p><b>Car parking:</b></p> <p>The narrow road width within the subdivision will see over 102 vehicles being parked on the kerbing, nature strips and footpaths. Having so many houses with such little space for parking reflects poorly on the subdivision. There is not enough space for off street parking.</p>	<p>Infrastructure Design Manual (IDM) and 'Rescode' Clause 56.06</p>
<p><b>Officer's Response:</b> Council's Infrastructure Department uses the standards for the design and construction of streets within subdivisions as specified in the IDM. Rescode Clause 52.06 also specifies the standards required of which Infrastructure has advised the application can be supported subject to conditions.</p>	
<p><b>Infrastructure:</b></p> <p>Holts lane has poor access (footpaths) and street lighting. The area needs to be upgraded with better infrastructure.</p> <p>Drainage issues across the site and in the wider area is a concern with flooding occurring to the north and east after heavy rain. This subdivision could just make it worse.</p> <p>Confirmation is needed that drainage infrastructure will address significant storm events.</p>	<p>Infrastructure Design Manual (IDM)</p>
<p><b>Officer's Response:</b> Street and site construction and drainage is an Infrastructure Department responsibility and would be subject to conditions should it be approved.</p>	
<p><b>Neighbour amenity:</b></p> <p>Need to ensure privacy to the rear open space of the north side properties and that lots 21-27 should be restricted to single storey dwellings only.</p> <p>There should also be a single dwelling covenant across the site – no units or flats.</p> <p>Concerned that this subdivision will become an overdevelopment like Ross/Fredrick streets. There needs to be restrictions placed on the permit that prevents overdevelopment of lots.</p> <p>Timber paling fencing only should be used not Colorbond, and a 2m fence along whole of northern boundary with railings facing south.</p>	<p>Moorabool 2041 Housing Bacchus Marsh to 2041</p>
<p><b>Officer's Response:</b> Unlike Ross and Fredrick Street area, there would be restrictions on title preventing multiple units on each lot. A variation of lot sizes as part of the subdivision would ensure there is good variety of lot sizes.</p>	

<p><b>General amenity:</b></p> <p>The surrounding area to the north and east has large lots – this subdivision is inappropriate for the area.</p> <p>Concern about noise (parties), bright outdoor lights, lack of privacy especially if future dwellings are double storey. Noise from so many future dwellings.</p> <p>High density subdivision does not allow for trees and gardens – just roofs.</p> <p>The development is an impost on existing ratepayers and residents.</p> <p>Considerations needs to be made for services and amenity – small school, landscaped parks and dog parks for residents.</p>	<p>Moorabool 2041</p> <p>Housing Bacchus Marsh to 2041</p>
<p><b>Officer's Response:</b> Council's Strategic and Sustainable Development (SSD) Department have provided a response to the application and consented subject to conditions. Moorabool 2041 is addressing growth across the Shire and the provision of services to support growth in Bacchus Marsh and Darley and the proposal accords with the Neighbourhood Character precinct plan 12. A variety of lot sizes including smaller lots is consistent with the strategic objectives for this site and area.</p>	
<p>Lots are too small for adequate amenity for residents.</p> <p>This is a country town, not a city – the proposal is an over-development.</p> <p>Bird life will be impacted, as well as local trees and native grasses.</p>	<p>Moorabool 2041</p>
<p><b>Officer's Response:</b> The land is zoned General Residential where lots of the size proposed are generally considered to be acceptable.</p>	
<p>Notification has been poor – should be distributed more widely around the whole area so more people know about it.</p>	<p>Council's notification policy</p> <p>Planning &amp; Environment Act (1987)</p>
<p><b>Officer's Response:</b> The application was advertised in accordance with the Planning &amp; Environment Act. Council has noted your comment and will take this into consideration when advertising future applications.</p>	
<p>Traffic and lights from the development/subdivision from west side accessway at night will shine directly into the bedroom window of 157 Holts Lane and impact on sleep.</p> <p>Trees need to be removed from nature strips and replaced with gravel for more parking off street.</p>	
<p><b>Officer's Response:</b> The objector should take up the first matter with the developer. The removal of street trees to create more off street parking is not generally supported by Council.</p>	



## 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 11.01-1R Settlement Central Highlands.
- Clause 11.02-1S Supply of Urban land.
- Clause 11.03-3S Peri-urban areas.
- Clause 15.01-3S Subdivision Design.
- Clause 17.02-1S Business.
- Clause 21.03-2 Urban Growth Management.
- Clause 21.03-4 Landscape and Neighbourhood Character.

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



## **ZONE**

*General Residential Zone, Schedule 2.*

In accordance with Clause 32.08-3 of the Moorabool Planning Scheme a permit is required to subdivide land.

The purpose of the General Residential Zone is to:

- Implement the Municipal Planning Strategy and the Planning Policy Framework.
- Encourage development that respects the neighbourhood character of the area.
- Encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- Allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Schedule 2 to the zone relates to Natural and Greenfield Residential Growth Areas. The Neighbourhood Character objectives include to encourage:

- new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- an increase in landscaping within the public and private realm.
- new development to respect existing setbacks within the streetscape.
- new development to have minimal or low scale front fencing. To ensure garages, carports, and second storey development do not visually dominate dwellings or streetscapes.

## **GARDEN AREA**

In accordance with clause 32.08-3 in relation to required garden area the provision states that:

*An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area.*

In this application no lots would be less than 400 sqm and therefore the provision of a percentage of each lot to be retained for garden area is not required.

## **OVERLAYS**

No overlays apply to the site.

## **RELEVANT POLICIES**

### **Housing Bacchus Marsh to 2041**

Strategic and Sustainable Development wrote;

The site is located within Precinct 12 in 'Housing Bacchus Marsh to 2041 (2016) which is a reference document in the Moorabool Planning Scheme.

The preferred Neighbourhood Character in Precinct 12 is described as follows:

*New developments should create a streetscape rhythm of detached dwellings with conventional front and side setbacks. Built form to one boundary may be appropriate where the preferred and emerging character of the precinct is not compromised. Boundary to boundary development should be avoided.*

*Built form will be of a modest scale, however innovative and unique built form, that enhances the precinct will be encouraged. Open front gardens will blend into the public realm, with minimal front fencing. Built form will not dominate the lot which will allow for generous private open space and garden plantings. Ensuring new canopy tree plantings are included as part of new subdivision design will be vital to assist in developing the urban character of the precinct and allowing for a balance between open space and built form to be achieved.*

### **Particular Provisions**

Rescode Clause 56 applies to this application.

The proposal generally complies with all the objectives and standards of Clause 56.

### **DISCUSSION**

The application is for a subdivision of the land into 51 lots.

The average lot size would be 590 sqm, with overall lot sizes ranging in area from 466sqm to 852 sqm.

The original application was amended in process to add a second entrance/egress to the subdivision thereby both facilitating easier access, and also reducing the number of side and rear boundary fences facing a street.

Strategic and Sustainable Development also requested that the applicant/owner agreed to provide a reserve in the north-west corner of the site to add to an existing 'pocket park' at the end of Ross Street. The applicant agreed to this.

The area of the 'pocket park' represents 4.6% of the total site area. The applicant has included Reserve No 2 as an additional area that would contribute to the 5% public open space requirement. However, it is not considered that Reserve No 2 should be included in the Public Open Space provision as it is effectively part of the drainage reserve and not useable open space. It is likely that the developer will be required to pay a small amount of Public Open Space to meet the 5% requirement.

The application was advertised with four objections being received. Some relevant observations were made by objectors at the consultation meeting on 1 July 2019.

These included respect for the interface between the subject site and the land to the north and east of the site which is in the Neighbourhood Residential Zone, Schedule 5, where the minimum lot size is 1500 sqm.

This is considered to be a valid consideration, and it is therefore recommended that a one dwelling per lot restriction is placed on title to all lots to ensure that lots are not further developed into smaller lots which will ensure the current good mix of lots sizes.

Objectors also questioned if the subdivision would enable unfettered medium density development of the lots, similar to the Ross and Fredrick Street precinct?

It is recommended that all lots in the subdivision should be restricted to a single dwelling on each lot.

It is also recommended that all boundary and internal fencing is of the wooden paling type, and that all side fences facing a street must be semi-permeable with 20% transparency.

Two of the objectors also met with council's infrastructure department to discuss their concern about drainage in the area. the objectors appeared generally satisfied with this discussion.

It is considered that the mixed size of the lots enables a variety of residential options for future residents and that overall the application provides an acceptable balance.

### **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.

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Clause 66 – Stipulates all the relevant referral authorities to which the application must be referred.

### **REFERRALS**

<b>Authority</b>	<b>Response</b>
Western Water	Consent with conditions
Melbourne Water	Consent with conditions
Powercor	Consent with conditions
Downer	Consent with condition
Infrastructure	Consent with conditions
Strategic and Sustainable Development	Consent with conditions

### **FINANCIAL IMPLICATIONS**

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

### **RISK & OCCUPATIONAL HEALTH & 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 required.

**OPTIONS**

Council could consider the following options:

- Issue a notice of decision in accordance with the recommendation of this report;
- Issue a notice of decision with amendments to the recommended conditions of this report;  
or
- Should Council wish to consider refusing the application, Councillors need to explore reasons based on the proposal not complying with the Moorabool Planning Scheme.

**CONCLUSION**

It is proposed to subdivide the land into 51 lots and remove native vegetation (two acacia trees).

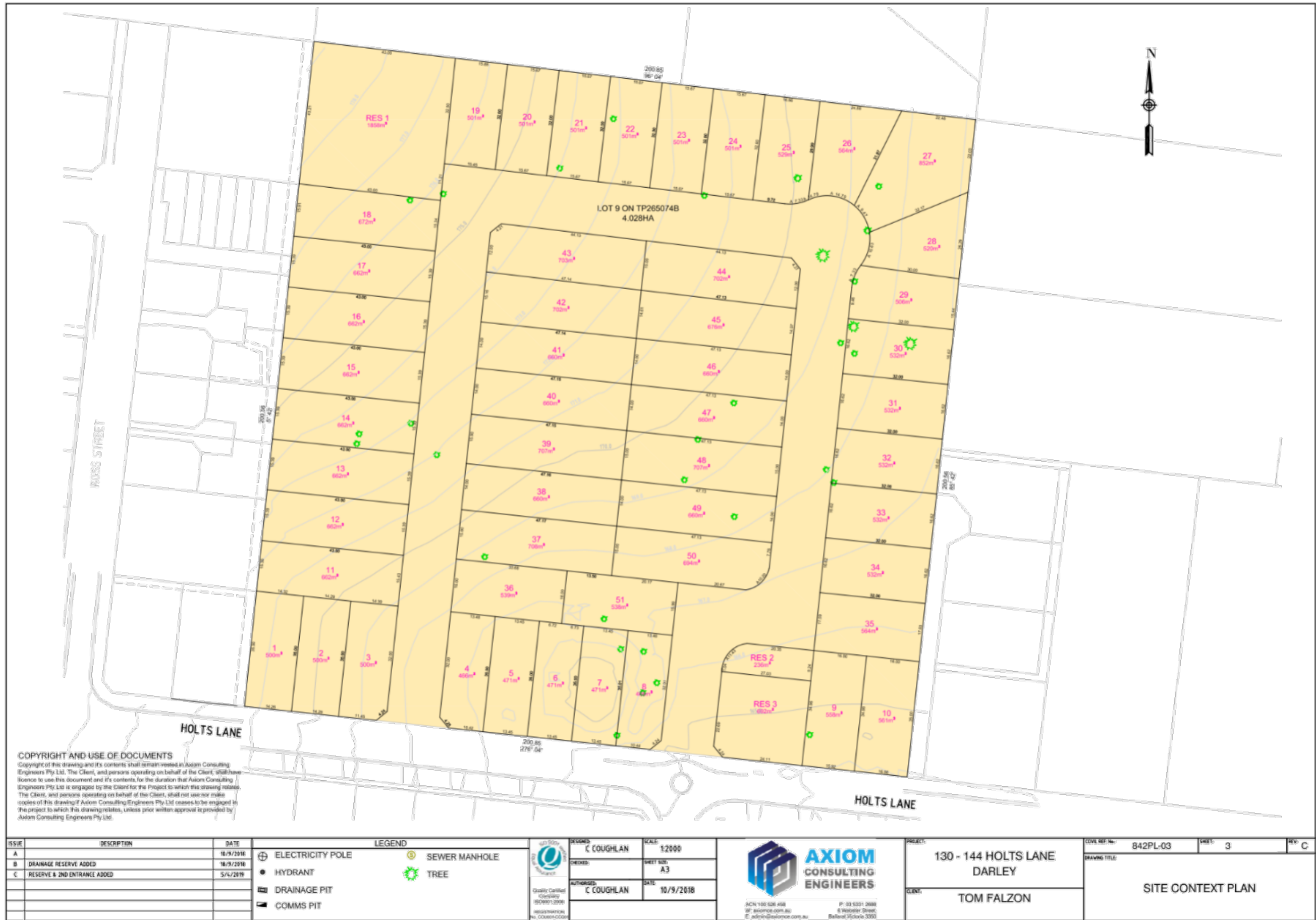
The proposal is generally consistent with the relevant provisions of the Moorabool Planning Scheme and would contribute to additional residential lots in an area which is well located in relation to infrastructure and services.

In the context the site Council's Strategic and Sustainable Development provided advice that they consider that the amended subdivision layout is acceptable. In the light of this advice it is considered that the proposal should be supported.



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ISSUE	DESCRIPTION	DATE	LEGEND	DESIGNED	SCALE	PROJECT	CLIENT	COVER SHEET No.	SHEET	REV
A		13/7/2018		C COUGHLAN	1:2000	130 - 144 HOLTS LANE DARLEY	TOM FALZON	F662PL-01	1	D
B	AMENDED DESIGN TO LOCATE ENTRANCE AT ROUNDABOUT	7/9/2018		CHECKED:	SHEET SIZE:					
C	DRAINAGE RESERVE ADDED	18/9/2018		AUTHORISED:	DATE:					
D	INCLUSION OF RESERVE 1 AND 2ND ENTRANCE	5/1/2019		C COUGHLAN	13/7/2018					
				<p><b>AXIOM CONSULTING ENGINEERS</b>                  ACN 156 526 458   P 03 5381 3698                  97 acornce.com.au   6 Wootton Street                  E admin@axiomce.com.au   Ballarat, Victoria 3200</p>		DRAWING TITLE: <b>MASTERPLAN</b>				







**LEGEND**

- Site boundary
- Proposed residential allotment
- Proposed drainage reserve
- Proposed grass naturestrip
- Proposed 1.5m wide concrete foot path (by Civil)
- Existing overhead powerlines
- Pre-development contours at 1m intervals
- Existing trees to be removed refer Vegetation Assessment by Mark Trengove

**PROPOSED STREET TREES**

- *Eucalyptus leucoxylon* 'Rosea' (Flowering Yellow Gum)
- *Hakea francisiana* (Emu Tree)
- *Pyrus calleryana* 'Cleveland Select' (Ornamental Pear)
- Drainage Reserve Trees - selected indigenous species

**Planting Palette**

Botanical Name	Common Name	Mature Size (H x W)
<b>STREET TREES</b>		
<i>Eucalyptus leucoxylon</i> 'Rosea'	Yellow Gum	10 x 6m
<i>Hakea francisiana</i>	Emu Tree	4 x 4m
<i>Pyrus calleryana</i> 'Cleveland Select'	Ornamental Pear cvt.	11 x 6m
<b>DRAINAGE RESERVE - INDIGENOUS TREES</b>		
<b>Indigenous Trees</b>		
<i>Acacia implexa</i>	Lightwood	8 x 5m
<i>Eucalyptus polyanthemus</i>	Red Box	15 x 8m

NOTE: Existing overhead powerlines along north side of Holts Lane. Tree planting to comply with power authority guidelines.

Prepared for: Axiom Consulting Engineers  
 Date: April 12, 2019  
 Scale: 1:500 @ A1 sheet size  
 Drawn: HM / YL  
 Drawing No: 1859-LMP01 RevA



# LANDSCAPE MASTER PLAN

## 130-144 Holts Lane, Darley

Scale 1:500 @ A1  
 0 5 10 20m

**THOMSON HAY**  
 LANDSCAPE ARCHITECTS



130 Howards Rd, Wattle Park VIC 3352  
 T 03 5334 5321 W www.thomsonhay.com

**7.7 PA2018217 - USE OF THE LAND FOR ANIMAL KEEPING (5 DOGS) AT 15 DUNCAN STREET, BALLAN.****Author:** Samuel Duff, Statutory Planner**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Economic Development**Attachments:** Nil**APPLICATION SUMMARY****Permit No:** PA2018-217**Lodgement Date:** 05/09/2018**Planning Officer:** Samuel Duff**Address of the land:** Lot 1 on TP 209194, located at 15 Duncan Street, Ballan**Proposal:** Use of the Land for Animal Keeping (5 Dogs)**Lot size:** 745m**Why is a permit required?** Section 2 Use in the General Residential Zone, Use of the land for Animal Keeping over 2 animals**RECOMMENDATION**

That Council, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues a refusal to issue a planning permit for planning permit application PA2018-217 on the following grounds:

1. The proposal is inconsistent with the purpose of the General Residential Zone.
2. The proposal does not accord with the relevant Planning Policy Framework(s) or the Local Planning Policy Framework of the Moorabool Planning Scheme, specifically clause 22.04.
3. This proposal would set a precedent that may impact the amenity of the area.
4. The proposal does not represent the proper and orderly planning of the area.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of objections:	One
Consultation meeting:	Offered, but none undertaken

**POLICY IMPLICATIONS**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 3: Stimulating Economic Development****Context 3A: Land Use Planning****VICTORIAN CHARTER OF HUMAN RIGHTS & 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.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Samuel Duff*

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

**EXECUTIVE SUMMARY**

Application referred?	Yes, to Councils Environmental Health and Community Safety Department
Any issues raised in referral responses?	Councils Community Safety department in their referral response wished to highlight that appropriate measures would be required to be implemented to mitigate concerns over noise, odour and general amenity impacts. Community Safety also raised concerns over the appropriateness of the use due to the small lot size and its location in a residential area.  It should be noted that that two visits have been undertaken by Community Safety Officers throughout the planning permit process.
Preliminary concerns?	Several concerns were raised from the site visit. Planning issues include the location of the use in a residential area, concerns regarding possible amenity impacts on neighbouring land owners, concerns regarding the predominance of hardstand surface which may trap odours, reverberate noise and limit natural area for the dogs.

<p>Any discussions with applicant regarding concerns?</p>	<p>A request for further information was sent to the applicant on 1 November 2018, enquiring about a management plan for the animals/site, housing plan and a disinfection/plan. Several follow up emails and calls between Council and the applicant ensued in late November.</p> <p>Another of Councils Planning Officers – Mark Lovell – advised that the application would not progress without the Further Information Request being fulfilled and advised to get a consultant to help gather the appropriate documentation.</p> <p>The applicant then advised they would employ a local consultant to help draft some documents. Late in the process (received by Council on 15 February), the application received additional information. This information did not adequately address the underlying concerns of the site. The information that was received was a Health Management Plan, Noise management Measures, Waste Removal and Hygiene Protocols as well as a site plan</p>
<p>Any changes made to the application since being lodged?</p>	<p>No</p>
<p>Brief history.</p>	<p>The applicant is seeking approval for animal keeping, specifically for the keeping and breeding of five (5) animals on the subject site. The application was lodged after a land use/compliance investigation brought the breach of the Planning Scheme to Councils attention. After this investigation, a Community Safety officer encouraged the applicant to apply for a planning permit.</p> <p>A preapplication meeting was held with the applicant and Planning and Community Safety officers.</p> <p>A site visit was undertaken on 24/09/2018 between planning and community safety. The application was advertised shortly afterwards.</p> <p>In mid-October the application received an objection. A Request for Further Information was sent in November requesting the applicant to provide documentation regarding how certain amenity impacts were running, as this may mitigate some of the issues raised by the objection and Council officers' concerns</p> <p>The application was deferred by Council at the March 2019 Development Assessment Committee meeting.</p>

Previous applications for the site?	A search of council records has revealed that there are no previous planning permits associated with the site.
General summary.	The keeping and breeding of dogs has been occurring on the subject site for several years, based on an investigation of Councils Records, however, no planning permit has been issued for the purpose of dog breeding. The application is to allow the breeding of five (5) dogs (toy breeds – Pekingese and Chinese Crested) on the subject site. The keeping of 5 Animals which requires a permit under the zoning controls. The applicant has not provided sufficient justification or information for Councils officers to be satisfied that a permit would not have a detrimental impact on the amenity of the surrounding land owners or to contravene the provisions of Clause 22.04 of the Planning Scheme
<b>Summary Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue a refusal to issue a planning permit for planning permit application PA2018-217 for the Use of the land for Animal Keeping (5 Dogs) at 15 Duncan Street in Ballan	

**SITE DESCRIPTION**

The subject site is a 745 square meter site in the General Residential Zone of Ballan. The subject site is considerably developed with a dwelling and four (4) outbuildings onsite. The land itself is rather flat, with minimal vegetation on site. There are three sheds in the back yard, one of which is used as storage and another which is filled with blankets and bedding for the animals to use as a 'bunk-house', the land between all of the outbuildings and the dwelling is concreted.

Opposite the site on Duncan Street is the Ballan Primary School in a Public Use Zone. Aside from the school, the immediate surrounds are predominantly General Residential Zone with dwellings on the vast majority. The site is approximately 250 meters to the east of the Ballan Council office and is approximately about 150 meters south of Inglis Street.



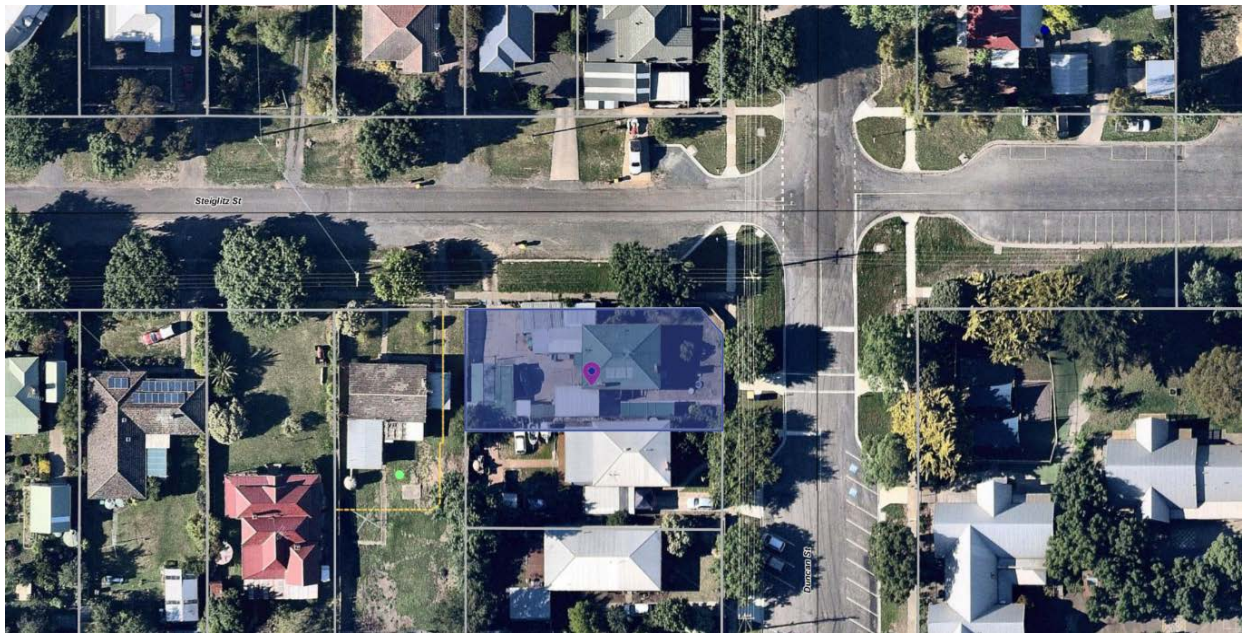


Figure 1 Subject site and surrounding built form

**PROPOSAL**

The proposal is to utilise the site to keep and breed animals, which are predominantly Pekingese dogs, which is a breed that is typically considered as a ‘toy breed’. The keeping of animals can be a section 1 use, meaning that no permit is required, provided that the number of animals kept on site is under two animals.

This application is seeking approval for five (5) breeding animals, which is a Section 2 use. This is in addition to the four (4) non-breeding animals that are kept on site as pets.

**HISTORY**

A search of Council records has revealed that there have been no other planning permit applications associated with the site. However, it appears that seven (7) dogs were registered to the site ten (10) years ago through Councils Community Safety department.

It is understood that this application was lodged because of a compliance issue. The applicant originally had 13 animals on site, however has since reduced the number to nine (9) as part of the planning application process.

Further information from the applicant claims that the use has been operating since 2002 and has been registered with Dogs Victoria since 2012.

The application was presented to the Development Assessment Committee for consideration at its March Meeting where the item was deferred subject to further discussions with the applicant.

**PUBLIC NOTICE**

The application was notified to adjoining and surrounding landowners.

**SUMMARY OF OBJECTIONS**

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

Objection	Any Relevant Requirement
The concerns that were raised include the following;	Clause 32.08



<p>That the site is within a residential area and, as such the land use is inappropriate.</p> <p>The objector advises it has previously had problems with barking and the smell of faeces emanating from the subject site.</p> <p>The objector has also raised that the applicants Membership to Dogs Victoria had expired and pondered as to why the applicant was still advertising dogs for sale.</p>	<p>Clause 22.04</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------

**Officer’s Response:**

The subject site is a small residential lot and this type of site is not preferred for the use as the guideline specified under the local policy, Clause 22.04, which identifies that dog keeping and breeding facilities should be sited at least 500 metres away from residential areas.

The Policy identifies that there should also be acoustic baffling on site to reduce noise and that adequate treatment for effluent treatment. The applicant has stated that they dispose of the solid waste into the garbage bin, which then may sit there for up to a week. The applicant has not provided details of how the liquid waste is managed.

Since the application has been lodged, the applicant has renewed their membership with Dogs Victoria.

A verbatim copy of the objection has been given to the Councillors for their consideration.

**LOCALITY MAP**

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



Figure 2 Zoning Map of the subject site and surrounding land.

**PLANNING SCHEME PROVISIONS**

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

The relevant clauses are:

Clause 11.03	Planning for Places
Clause 13.07	Amenity and Safety
Clause 14.02	Water
Clause 21.03	Settlement and Housing
Clause 21.08	Ballan
Clause 22.04	Animal Keeping

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

<b>PPF</b>	<b>Title</b>	<b>Response</b>
Clause 11.03	Planning for places	While there is no development proposed as part of this application, the use could run indefinitely. As Ballan intensifies and develops further, there could be a greater impact onto the community members.
Clause 13.07	Amenity and Safety, specifically Clause 13.07-1S – Land use Compatibility	The objective is to safeguard the community amenity against the development and uses with potential off-site impacts. In this instance the proposed use not compatible in the area, with the current amenity having already been impacted by the keeping of the animals on site.
<b>LPPF</b>		
Clause 22.05	Animal Keeping	This policy addresses the key issues associated with the use of land for animal keeping. The policies outlined identify that animal keeping and breeding facilities should be located at least 500m from residential areas. Should this be unable to be achieved, then mitigation measures such as noise baffling kennels are to be implemented to address the amenity concerns.

**ZONE****Clause 32.08 – General Residential Zone, schedule 1**

The purpose of this Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The application is not consistent with the purpose of the General Residential Zone. Animal Keeping can be a Section 1 Use, which does not require a permit, provided that there are no more than two (2) animals kept on site.

As the application is proposing to use five (5) dogs for breeding it's a Section 2 use and must be considered in accordance with the purpose and objectives of the zone, pursuant to the provisions of Clause 32.08.

**OVERLAYS****Clause 42.01 – Environmental Significance Overlay, schedule 1**

The environmental objectives to be achieved under this overlay is:

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

The land is situated in an Environmental Significance Overlay, Schedule 1, which is for the Proclaimed Water Catchment Areas of Moorabool Shire Council. There are no permit triggers that relate to the use of land under the provisions of this overlay.

**RELEVANT POLICIES**

The C88 amendment, the Ballan Strategic Directions, has been adopted by Council and is in the process to be gazetted. The subject site would be included in a rezoning from General Residential Zone, schedule 1 to schedule 4. The reason for raising this document is to bring to Councils attention the strategic intent for the area. There are examples of infill development occurring in close proximity to the subject site, with a subdivision of the lot next door to the subject site. There is a concern that should this use be approved, there may be risk of escalated land use conflict with the increasing residential development surrounding the site. It is considered that the effective management of this site is critical with the intensified residential growth encouraged within this area, this is something currently missing from the application and was requested in RFI November.

**PARTICULAR PROVISIONS**

There are not thought to be any applicable particular provisions outlined in the planning scheme.

## DISCUSSION

Residential Zone of Ballan. Existing on site, aside from the five (5) animals that have been proposed to keep breeding, there are four (4) animals that have been spayed, which are kept as pets.

The land is within a General Residential Zone (GRZ). Animal Keeping is defined under the Moorabool Planning scheme as; land used to: a) breed or board domestic pets; or b) keep, breed or board racing dogs. In the GRZ, Animal Keeping for more than two (2) animals is a Section 2 Use and therefore requires a permit, but Council, pursuant to the Zoning controls, cannot allow more than five (5) breeding animals on site. The decision guidelines for non-residential uses questions whether the use is compatible with residential uses and whether the use generally serves the local community's needs. The amenity effects should also be taken into consideration, particularly in the scale and intensity of the use. The final major issue that is to be considered is that this will likely set a precedent for this use in a residential zone within Ballan or in the municipality.

Prior to the issue being brought to Council's attention, there were more than five (5) breeding dogs on site, some of which have since been removed from the site. On balance, the use at the previous and current scale is considered inappropriate on this site. As there are four pet animals already on site and would not be removed, the total number of dogs that would be kept on site would be nine (9). The high amount of hardstand area on site would cause any noise generated to reverberate around the site and it is unknown how the liquid waste, even managed to the Dogs Victoria endorsed Waste Removal and Hygiene Protocols, or how the runoff from the backyards impermeable surfaces would impact the surrounding area.

The provisions of Clause 22.04 identifies the issues surrounding animal keeping within the Shire and identifies a series of policies to discourage keeping and breeding of dogs in areas that *"... have a significant number of dwellings in close proximity..."* and requires that *"...facilities should be located at least 500 meters from residential areas, with a significant proportion of the buffer being provided in the boundary of the site..."*.

As the site is embedded within a primarily residential area, save for the primary school, the site is considered as inappropriate for the purposes of animal keeping and breeding. There is no development proposed in this application. Council Officers cannot be satisfied that the approval of a planning permit would not have an impact on the surrounding land owners. The site in context of being in a residential area causes the appropriate buffers to not have been met.

The applicant has been served a Request for Further Information (RFI) with the intention that the applicant provide details on the following information:

- A Health Management Plan, which has been identified as a requirement under Section 3 (5) of the Code of Practice for the Operation of Breeding and Rearing Businesses as a requirement.
- Housing Plan – Under Section 6 (5)(d) of the above code of practice, this plan was determined necessary, particularly in context of asking what acoustic baffling is or would be implanted on the site
- Disinfection and Hygiene plan – this was in relation to the odour complaint.

Council asked for this information to determine if the appropriate measures could be in place in to help to mitigate the risks, as well as ensure as manage the amenity impacts. An email was sent in response which did not satisfy the requirements of the RFI.

During this period, a member of Dogs Victoria has conducted a site visit and advised Council that Dogs Victoria members are exempt from the Code of Practice, provided that they meet the Dogs Victoria Rules, Regulations and Codes of Practice. The applicant also had enlisted the assistance of a local planning consultant to assist in the preparation of the required documentation. These included a Health Management Plan, Noise Management Measures and the Dogs Victoria Waste Removal and Hygiene protocols. The Noise Management Measures states that the animals do not bark at all as they are 'well trained' and spend most of their time inside the dwelling on site. The rear yard is visually screened (fenced) to prevent the dogs barking. The animals are not allowed in the front yard during school times to reduce the increased foot traffic causing the animals to react. The statement that the animals are 'well trained' is subjective and could change between the animals that could be kept on site if a permit was to be granted, therefore additional measures would still be considered necessary should the recommendation of refusal be overturned by Council.

The *Waste Removal and Hygiene Protocols* identified that waste is picked up and disposed of in household garbage bins and that the liquid waste on the hard surfaces is hosed down on a daily basis. No details of the treatment on the concrete has been provided, including a distinct lack of details on the sealant(s) of the concrete and whether or not a membrane is installed under the concrete the concrete.

Should Council decide to overturn the decision and approve the application and grant the Notice of Decision to Grant a Planning permit, permit notes should be included that require the animals to be registered with Councils Community Safety.

### **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**

<b>Authority</b>	<b>Response</b>
Environmental Health	Consent
Community Safety	Raised issues within the referral response

### **FINANCIAL IMPLICATIONS**

The recommendation of refusal to this land use application is not thought to have any financial implications to Council

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

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

**COMMUNICATIONS STRATEGY**

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

**OPTIONS**

Council could consider the following options:

- Issue a refusal to grant a permit in accordance with the recommendations of this report;
- Issue a permit with conditions outside of the recommendation of this report; or
- Should Council wish to consider an approval of the application, Councillors should be mindful that infill development may occur in the surrounding area. Therefore, a sunset clause may be necessary to minimise future impacts on more surrounding land owners

**CONCLUSION**

It is considered that this application is not supported by the Moorabool Planning Scheme, particularly the provisions of Clauses 22.04 and 32.08. Further to this, Council officers cannot be certain that the grant of a permit could be appropriately mitigated in the future. Council should also be wary of the opportunity this application has to set a precedent for this use in the area.



- 8 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS**
- 9 PROCESS FORWARD AND WORK PROGRAM**
- 10 UPDATE ON VCAT DECISIONS**
- 11 OTHER BUSINESS**
- 12 DATE OF NEXT MEETING**
- 13 MEETING CLOSE**