

AGENDA

SECTION 86 DEVELOPMENT ASSESSMENT COMMITTEE MEETING

Wednesday 17 October, 2018
North Wing Room 2 & 3
Darley Civic and Community Hub,
182 Halletts Way, Darley
5.00pm

MEMBERS

Cr. Paul Tatchell (Mayor)	Councillor – Central Moorabool Ward
Cr. John Keogh (Deputy Mayor)	Councillor – East Moorabool Ward
Cr. Jarrod Bingham	Councillor – East Moorabool Ward
Cr. Tonia Dudzik	Councillor – East Moorabool Ward
Cr David Edwards	Councillor – East Moorabool Ward

OFFICERS

Mr. Satwinder Sandhu	General Manager Growth & Development
Mr. Rob Fillisch	Manager Statutory Planning and Community Safety
Mr. Ewen Nevett	Manager Engineering Services
Ms. Bronwyn Southee	Coordinator Statutory Planning
Mrs. Jacquie Younger	Minute Taker

Item	Title	Responsibility	Page No.	Action
1.	Welcome, Present and Apologies	Chair		Noting
2	Recording of Meeting	Chair		Noting
3.	Meeting Minutes	Chair		Noting
3.1	Confirmation of previous minutes 19 September, 2018.			Resolution
4.	Conflict of Interest	Chair		Noting
5.	Growth & Development Reports	S. Sandhu		Discussion
5.1	Planning Permit Application PA2018112 – Use for a Medical Centre (Psychology Practice), Reduction of Car Parking (Eight Car Spaces) and Display of Business Identification Signage at 243 Main Street, Bacchus Marsh.	T. Tonkin	Page 3	Resolution

5.2	Planning Permit Application PA2018055– Six (6) lot staged subdivision at 40 Corbetts Road, Gordon.	M. Lovell	Page 17	Resolution
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6.	Update on Trends, Issues and Other Matters	S. Sandhu	Discussion
7.	Update of VCAT Decisions	Chair	Resolution
8.	Date of Next Meeting	Chair	Noting
8.1	Wednesday 21 November, 2018 5.00pm North Wing Room 2 & 3 Darley Civic and Community Hub, 182 Halletts Way, Darley		
9.	Meeting Close	Chair	Noting

GROWTH & DEVELOPMENT REPORTS

Item 5.1 Planning Permit Application PA2018 112 – Use for a Medical Centre (Psychology Practice), Reduction of Car Parking (Eight Car Spaces) and Display of Business Identification Signage at 243 Main Street, Bacchus Marsh.

Application Summary:	
Permit No:	PA2018 112
Lodgement Date:	17 May, 2018
Planning Officer:	Tom Tonkin
Address of the land:	Lot 1 on TP 202548U 243 Main Street, Bacchus Marsh 3340
Proposal:	Use for a Medical Centre (Psychology Practice), Reduction of Car Parking (Eight Car Spaces) and Display of Business Identification Signage.
Lot size:	791sq m
Why is a permit required	Clause 32.08 – General Residential Zone – Use for a medical centre Clause 52.05-13 – Signs – Display of business identification signage Clause 52.06-3 – Car Parking – Reduce car parking
Why is this application being presented to Council?	Reduction of car parking and objection received.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Two (2).
Notice in Moorabool Newspaper:	No.
Number of Objections:	One (1).
Consultation meeting:	Yes, held 24 August, 2018 with the applicant and an objector representing all objectors.
Policy Implications:	
Strategic Objective 3:	Stimulating Economic Development.
Context 3A:	Land Use Planning.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

In providing this advice to Council as the 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 Infrastructure.
Any issues raised in referral responses?	No.
Preliminary Concerns?	None.
Any discussions with applicant regarding concerns	Not applicable.
Any changes made to the application since being lodged?	No.
VCAT history?	None.
Previous applications for the site?	None.
General summary	<p>Retrospective approval is sought to use the site for a psychology practice, reduce the parking requirement by eight spaces and display signage.</p> <p>The proposal is generally consistent with the relevant provisions of the Moorabool Planning Scheme. It is considered the use would contribute to local employment without any detrimental amenity impacts on the neighbourhood, and there is sufficient on-street parking available to absorb the expected parking demands.</p>

Summary Recommendation:

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

Site Description

The site is identified as Lot 1 on TP 202548U and known as 243 Main Street, Bacchus Marsh. The lot is proximately rectangular with an area of 791sq m located on the southeast corner of Main and Fiskien Streets. The site contains a building occupied by a dwelling and psychology practice with ancillary outbuildings located to the rear. Vehicle access is via a crossover to Fiskien Street.

The site and surrounding land to the east and, across Fiskien Street to the west, is in the General Residential Zone, Schedule 1 and comprises mostly single dwellings and the occasional unit development. To the north, across Main Street, is land in the Commercial 1 Zone at the eastern end of the Bacchus Marsh commercial centre, with a plumbing supplies shop located directly opposite the subject site. Further to the east is land in the General Residential Zone, mostly occupied by dwellings. Further east again, on the northeast corner of Crook Street and Main Street and within 100m of the subject site, is the Avenue Bowling Club. To the south, behind the subject site, is land in the Farming Zone used for a market garden.



Proposal

Retrospective approval is sought to use part of the site for a psychology practice, reduce the car parking requirement and display business identification signage. The background to the current use of the site is provided in 'Background' section of this report.

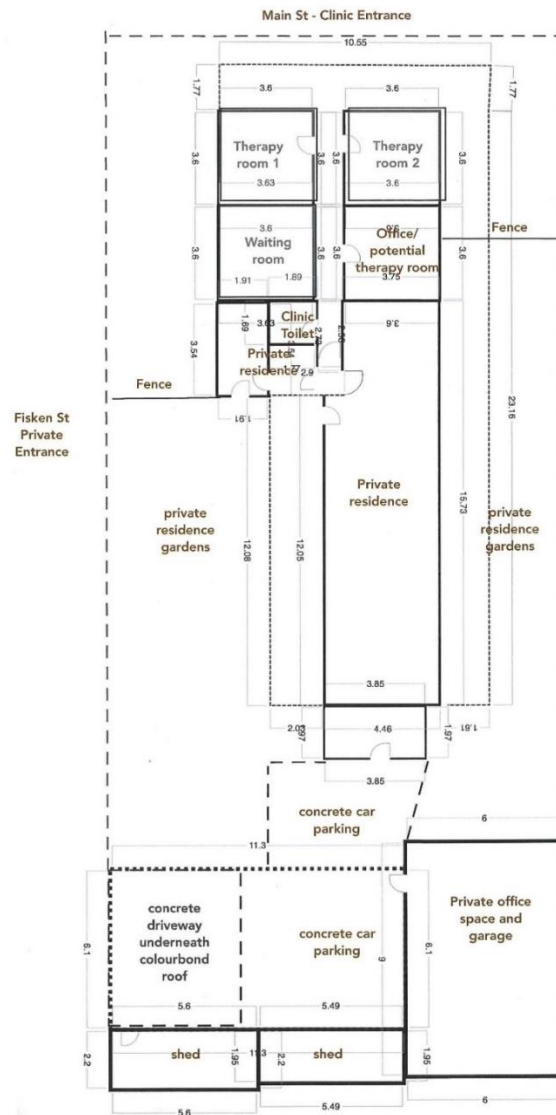
The front of the building would be occupied by two consulting rooms, an office or third consulting room, waiting room and toilet. The layout is shown on the plan below. Parking for up to three (3) staff members is accommodated on the site, accessed from Fiskien Street.

The practice operates by appointment only for one (1) hour long visits. The following is based on the applicant's three (3) month survey of the practice from February until April, 2018 and advice as to the practice's maximum potential client numbers:

Day	Hours	Total average actual clients	Maximum possible client numbers
Tuesday	9.00am-5.00pm	4	10
Wednesday	9.00am-8.00pm	6.6	16
Thursday	9.00am-8.00pm	6.9	16
Friday	9.00am-12 noon	1	10
Saturday	9.00am-12 noon	0	6

The applicant notes that an individual psychologist would see no more than five (5) to six (6) clients per day across an eight (8) hour period, and that the practice's busiest times are first thing in the morning and later in the day.

Existing signage is located on the front pedestrian entrance gate to the site and on the front of the building.



Background to Current Proposal

The existing psychology practice on the site has operated since October, 2016 and came to Councils attention following a complaint by a neighbouring resident in early, 2018. Prior to the practice commencing, the applicant obtained independent planning advice that it could operate as a 'home based business', which under Clause 52.11 of the Moorabool Planning Scheme has specific requirements. If requirements are met enables such a business to operate without a planning permit. These requirements include that a business must not adversely affect the amenity of the neighbourhood in any way. Following the complaint received by Council, officers advised the owner to apply for a planning permit for a Medical Centre.

Public Notice

Notice of the application was given to adjoining and surrounding landowners by mail on 18 June, 2018 and signs erected on site from 19 June until 5 July, 2018. One objection was received on behalf of the owners' corporation of an adjoining residential property.

Summary of Objections

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

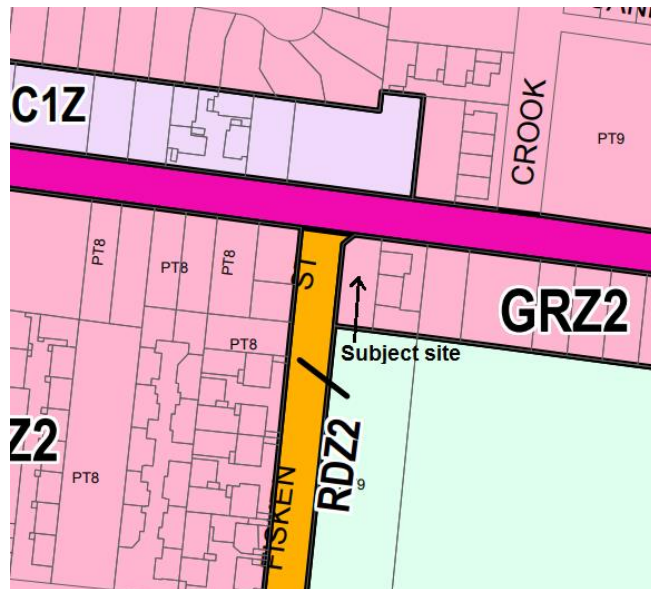
Objection	Any Relevant Requirements
The application is from an individual and the business operation is not cited on the application form.	N/A
Officer's Response: The application form states that the proposal is for a Medical Centre and refers to an attached statement which provides more detailed information about the proposal. The applicant's status as an individual is inconsequential to the assessment of the application.	
Did Council approve the home based business or has it been operating without a permit?	Clause 52.11
Officer's Response: See 'Background' above.	
How would any changes to the business be policed by Council, such as additional practitioners or the nature of clients' mental health issues?	N/A
Officer's Response: Planning permit conditions would specify matters including practitioner numbers and operating hours. Beyond specifying the use being for a psychology practice, and reducing car parking, no other specific aspect of the business would be relevant to deciding the planning permit application.	
Who is responsible for the practice whilst the owner is absent?	N/A
Officer's Response: This is irrelevant to assessing the planning permit application.	
If the permit is granted and the property is later sold and used by another business would the planning permit continue to have effect?	N/A
Officer's Response: The permit applies to the land and would remain valid provided the permitted use and conditions are complied with, regardless of ownership.	
Can agricultural land to the rear of the property be used for client car parking?	Clause 52.06
Officer's Response: The land to the rear of the site is a market garden which appears not to have capacity for car parking. In any case, any such arrangement would be a decision between the respective landowners. Council would not require any of this land to be set aside for car parking.	

Objection	Any Relevant Requirements
Is one toilet adequate for this business?	N/A
Officer's Response: There is no requirement for the business to register with Council regarding this aspect of the proposal, and it is not a specific planning permit consideration.	
The claim that the garden area could not be converted to car parking whilst the owner resides on the site is not substantiated.	N/A
Officer's Response: The plans show that existing on-site car parking areas will be used and that no area of the garden is proposed for car parking. No further substantiation is required.	
The applicant's statement about income generated by the practice cannot be validated by the objector.	N/A
Officer's Response: This is irrelevant to assessing the planning permit application.	
Main Street in front of the subject site is a no standing zone, with the next nearest parking available in front of the objectors' property directly to the east, directly impacting on the availability of car parking for visitors to the objectors' property.	52.06
Officer's Response: Whilst noting that on street parking in front of the objector's property is publicly accessible and unrestricted the applicant advised that the practice's clients have been requested not to park in front of the objectors' property out of consideration for the objectors.	
'No standing' signs on Fiskin Street adjoining and nearby the subject site mean that no on street parking is available adjoining the subject site.	N/A
Officer's Response: The positioning of the 'no standing' signs on the east side of Fiskin Street may appear confusing, but Council officers can confirm that there is on street parking on Fiskin Street directly adjoining the subject site, with space for two cars, and further south, beyond the entry to the farm directly to the rear of the subject site, is unrestricted informal parking available on the grassed Fiskin Street verge.	
Information in the application regarding average and maximum client numbers seems dishonest.	N/A
Officer's Response: It appears that the objector has misunderstood the applicant's intention. Data provided on average and maximum client numbers indicates the difference between the practice's recent activity compared to its maximum potential capacity. The assessment herein is based on the maximum potential capacity to account for the highest possible parking demand and intensity of the use.	

Objection	Any Relevant Requirements
It is noted that there is no public transport in the vicinity of the site	52.06
Officer's Response: This is noted and has been considered in the assessment of the proposal.	
Vehicles parked on the east side of Fiskin Street abutting the site would obstruct school buses turning left from Main Street in the mornings.	52.06
Officer's Response: It is noted that on-street parking on the east side of this section of Fiskin Street is allowed and that given the timing of bus runs with the practice's opening hours the potential for conflict is minimised. Furthermore, there are other on-street parking options available within convenient walking distance of the site.	

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;
- 11.03-6S Regional and local places;
- 13.07-1S Land use compatibility;
- 17.01-1R Diversified economy-Central Highlands;
- 17.01-1S Diversified economy;
- 21.03-2 Urban Growth Management; and
- 21.04-5 Local Employment.

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

Zone

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

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 32.08-2 a medical centre is a Section 1 use not requiring a permit but conditional on the following:

- The gross floor area of all buildings must not exceed 250 square metres.
- Must not require a permit under Clause 52.06- 3.
- The site must adjoin, or have access to, a road in a Road Zone.

In this instance the proposal does require a permit under Clause 52.06-3 and would thus be a Section 2 use which requires a permit.

Overall, the proposed use is consistent with the purpose of the zone, subject to conditions.

Overlays

There are no overlays affecting the site.

Relevant Policies

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

Urban Growth Policy

The Urban Growth Policy states that:

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

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

Particular Provisions

Clause 52.05 Signs

Pursuant to Clause 32.08-13 (General Residential Zone) sign requirements are at Clause 52.05. The zone is in Category 3.

Under Clause 52.05-13 (Category 3 – High amenity areas), display of business identification signage requires a permit. The purpose of Category 3 is:

- *To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*

Clause 52.06 Car Parking

Under Clause 52.06-5 the parking requirement for a medical centre is:

Rate	Car parking measure
5	To the first person providing health services plus
3	To every other person providing health services

Up to three (3) persons providing health services may be present on the site at a given time, therefore 11 spaces would be required. The applicant is providing three (3) car spaces, therefore a reduction of eight (8) spaces is required.

Discussion

Overall, the proposed use of the site for a psychology practice is generally consistent with State, Regional and Local Planning Policy, the General Residential Zone, Clause 52.06 and relevant General Provisions of the Moorabool Planning Scheme.

The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Bacchus Marsh as regionally significant in terms of its role as a key service centre and location for increased population growth. The proposal would contribute to specialized local health services to meet the needs of the local and wider Moorabool population and contribute to the local economy.

The subject site is in the General Residential Zone, Schedule 1, and mostly developed with a mix of single dwellings and medium density housing developments. The purpose of the GRZ includes the following:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Relevant State and local planning policy, and the General Residential Zone purpose, indicate that a balance must be achieved between supporting economic growth and protecting amenity.

The objective of State policy Clause 13.07-1S (Land use compatibility) is:

- To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

A relevant strategy is to:

- Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by directing land uses to appropriate locations.

Strategies under Clause 17.01-1R, which is specific to the Central Highlands region, include:

- Support greater economic self-sufficiency for the region.
- Support growth through the development of employment opportunities in towns identified for population growth.

The objective of State policy Clause 17.01-1S (Diversified economy) is:

- To strengthen and diversify the economy.

Relevant strategies include:

- Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.
- Improve access to jobs closer to where people live.

The objective of local planning policy Clause 21.04-5 (Local Employment) is to:

- Support the development and facilitation of increased local employment opportunities in order to strengthen the local economy.

The key issues for consideration are:

- Is the proposed car parking reduction acceptable?
- Is the proposed use appropriate for this location?

Is the proposed car parking reduction acceptable?

As previously stated, a reduction of eight (8) car spaces would be required based on there being up to three (3) practitioners at a given time.

The applicant has provided data for a recent three (3) month period from February to April, 2018 indicating the practice has operated from Tuesday to Friday, with the highest average number of clients per day being seven (7) on a Thursday when the practice is open from 9.00am-8.00pm.

The applicant has also provided the following data indicating the maximum possible client numbers if the practice were to operate at capacity:

Day	Hours	Maximum possible client numbers
Monday	Closed	0
Tuesday	9am-5pm	10
Wednesday	9am-8pm	16
Thursday	9am-8pm	16
Friday	9am-12 noon	10
Saturday	9am-12 noon	6
Sunday	Closed	0

On-street parking within 100m of the subject site is not metered or otherwise time restricted, and the availability of parking in the area is generally sufficient to absorb the parking requirements of the proposed use. It is also noted that the parking demand generated by the proposal is generally incompatible with a medical centre or other allied health services, where appointments are usually more frequent and administrative staff are present which generate greater parking demands than the proposed use.

It is recommended that the hours of operation be enforced as conditions on the permit, noting that the recommended hours extend the closing time by one (1) hour on Tuesdays, Fridays and Saturdays based on the applicant's request. Based on the assessment of the parking demand herein, it is considered that the recommended closing times on the abovementioned days would have negligible amenity or traffic impacts.

Is the proposed use appropriate for this location?

The site is located in the General Residential Zone, on the corner of Main and Fiskens Streets. As previously described, the site is in an area characterised by a mix of residential, commercial, agricultural and community uses. In this context, and in consideration of the scale of the proposal and the parking demands discussed above, the use is considered acceptable. People attending the site would be spread across the operating hours, with noise levels considered to be negligible compared to a residential use. The use serves local community needs and supports local employment, consistent with the intent of State, Regional and Local Planning Policies.

The display of business identification signage is considered appropriate, being relatively small and discrete and located and designed to have no impact on the visual amenity of the area. It is recommended that as a condition of approval plans of the signage be submitted for endorsement.

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

Councils Infrastructure department was provided with an opportunity to make comment on the proposal.

Authority	Response
Infrastructure	Consent with conditions

Financial Implications

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

Risk and Occupational Health and Safety Issues

The recommendation of approval of this proposal 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 applicant and objectors were invited to attend this meeting and address Council if desired.

Options

Council could consider the following options:

- Issue a permit in accordance with the recommendation of this report;
- Issue a permit 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

The proposal is generally consistent with the relevant provisions of the Moorabool Planning Scheme, in particular balancing support for local business with protection of neighbourhood amenity.

It is proposed to use the site for a psychology practice, reduce the parking requirement by eight (8) spaces and display business identification signage. The use is generally consistent with the mix of uses in the immediate area and there is sufficient on-street parking to absorb the anticipated parking demands. The display of signage is visually discrete and does not detract from the residential amenity of the area.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Planning Permit for use for a Medical Centre (Psychology Practice), Reduction of Car Parking (Eight Car Spaces) and Display of Business Identification Signage at Lot 1 on TP 202548U, 243 Main Street, Bacchus Marsh 3340, subject to the following conditions:

Endorsed Plans:

- 1. Before the use starts, additional 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 must show:**
 - a. Details of the existing business identification signage, including the:**
 - i. Sign dimensions and content;**
 - ii. Location of the signage on the property; and**
 - iii. Height about ground level.**
 - b. Details of three onsite car parking spaces available for customers.**
- 2. The use as shown on the endorsed plans must not be altered without the written approval of the Responsible Authority.**

Amenity:

- 3. No more than three practitioners may see clients on the premises at a given time.**
- 4. Each practitioner shall have no more than three appointments every two hours.**

5. Except with the written consent of the Responsible Authority, the use may operate only during the following hours:

Tuesday:	9.00am-6.00pm
Wednesday:	9.00am-8.00pm
Thursday:	9.00am-8.00pm
Friday:	9.00am-6.00pm
Saturday:	9.00am-1.00pm

6. Any security alarm or similar device installed must be of a silent type.

Infrastructure:

7. The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.

Signage:

8. The location, design, content, colours and materials of all advertising signage must not be altered without the written consent of the Responsible Authority.

9. The advertising signage must be not contain any moving parts or flashing lights.

10. Except where no permit is required under the Moorabool Planning Scheme, the signage must not be illuminated by external or internal light.

11. Customer car park signage.

Permit Expiry:

12. This permit will expire if the following circumstance applies:

- a. The use is not commenced within two years of the date of this permit.

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

Report Authorisation:

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 24 September, 2018



The site plan illustrates the layout of the proposed medical facility and its surrounding areas. The building footprint includes several rooms: Therapy room 1 (3.63), Therapy room 2 (3.6), Waiting room (1.91), Office/potential therapy room (3.75), Clinic (3.63), Toilet (2.75), and Private residence (2.9). The building is situated within a larger plot, with private residence gardens (12.08, 12.05, 15.73, 23.16) and a concrete car parking area (11.3, 6.1, 5.49, 5.6, 1.95, 2.2, 5.49, 6). A concrete driveway underneath a colourbond roof is also shown. The plan includes dimensions for various areas and a scale bar.

Item 5.2 Planning Permit Application PA2018 055– Six (6) lot staged subdivision at 40 Corbetts Road, Gordon.

Application Summary:	
Permit No:	PA2018 055
Lodgement Date:	22 February, 2018.
Planning Officer:	Mark Lovell
Address of the land:	Lot 4 on PS612676C 40 Corbetts Road, Gordon.
Proposal:	Six (6) lot staged subdivision
Lot size:	6624m2.
Why is a permit required	<p>Clause 32.09-3 – Neighbourhood Residential Zone – Subdivide land.</p> <p>Clause 42.01-2 – Environmental Significance Overlay – Subdivide land.</p> <p>Clause 43.02-3 – Design and Development Overlay – Subdivide land.</p>
Why is this application being presented to Council?	Eight (8) objections received.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Eight (8) objections.
Consultation meeting:	Consultation meeting held on 30 July, 2018 between the parties but no resolution achieved.
Policy Implications:	
Strategic Objective 2:	Minimising Environmental Impact
Context 2A:	Built Environment
Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Mark Lovell

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

Executive Summary:

Application Referred?	Yes. Barwon Water, Central Highlands Water, Downer Utilities, Powercor Australia, and Council's Infrastructure Department.
Any issues raised in referral responses?	No.
Preliminary Concerns?	Yes, with the lot size proposed and how they relate to neighbourhood character.
Any discussions with applicant regarding concerns	<p>The applicant provided a more detailed neighbourhood character written assessment.</p> <p>Further discussions with the applicant revealed they were positive to changing the boundaries of Lots 1 and 2 to better respect the existing neighbourhood character. This was satisfied through the submission of revised plans.</p>
Any changes made to the application since being lodged?	Yes, the applicant amended the lot boundaries between 1, 2 and 6 to better respect the preferred neighbourhood character objectives.
Brief History	This is the second attempt for a subdivision of land which proposed an eight (8) lot staged subdivision was refused by Council and then upheld at VCAT on review.
Previous applications for the site?	PA2012158 for an eight (8) lot staged subdivision was refused on 16 November, 2016. The refusal decision was affirmed on review at VCAT.

General Summary	<p>The site is connected to reticulated sewerage and not encumbered by extensive native vegetation. This provides an opportunity to subdivide the land.</p> <p>The primary concern is neighbourhood character which was a key ground in affirming Council's refusal decision at VCAT. The applicant has made some attempts with good sized proportioned lots facing Corbetts Road and Gladstone Street. The initial problem was with the narrow lots, Lots 1 and 2 facing Faheys Road.</p> <p>The revised plans have adequately addressed the neighbourhood character objectives of the planning scheme by re-organising the boundaries of these lots. All lots are now consistent with the neighbourhood character objectives of the scheme.</p>
Summary Recommendation:	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a planning permit for a six (6) lot staged subdivision at Lot 4 on PS612676C otherwise known as 40 Corbetts Road, Gordon.</p>	

Site Description

The subject site is bounded by three (3) street frontages being Corbetts Road, Faheys Road and Gladstone Street. The subject lot is an irregular rectangular shape with a maximum width 80.26 metres adjacent to the northern property boundary and a maximum length of 95.31 metres adjacent to the eastern property boundary for a total area of 6624m². The site has moderate sloped topography from RL 573 in the south-west corner up to RL 583 in the north-east corner, a difference of 10 metres. There is a triangular shaped easement in the south-east corner that is up to 4.57 metres in width for the purpose of electricity supply. The easement currently contains an overhead powerline.

The site is largely cleared land with grass height maintained and a scattering of small trees. There are more established trees within the road reserves. Corbetts Road is a wide single lane roadway, Faheys Road is a maintained single lane gravel track and Gladstone is a poorly maintained in part gravel track that appears to be infrequently used. The surrounding area reflects a spacious residential character with detached single storey dwellings on large lots sizes. Dwellings are predominately located on sites with generous front, side and rear setbacks and generally occupying lots with mixed landscape treatments that includes native and non-native trees.

Proposal

It is proposed to subdivide land into six (6) lots as part of a two (2) staged subdivision. Stage 1 will consist of five (5) lots being Lots 1, 2, 3, 4, and 5 and Stage 2 will consist of one (1) lot being Lot 6.

Lot 1 has a street frontage maximum width of 34.83 metres and a maximum length of 27.75 metres for a total lot area of 1003m². The lot is vacant and faces Faheys Road.

Lot 2 has a street frontage maximum width of 8.17 metres in a battle axe arrangement and a maximum length of 53.69 metres for a total lot area of 1157m². The lot is vacant and faces Faheys Road.

Lot 3 has a maximum width of 25.16 metres and a maximum length of 40.34 metres for a total lot area of 1078m². The lot is vacant and faces the street corner of Faheys and Corbetts Road.

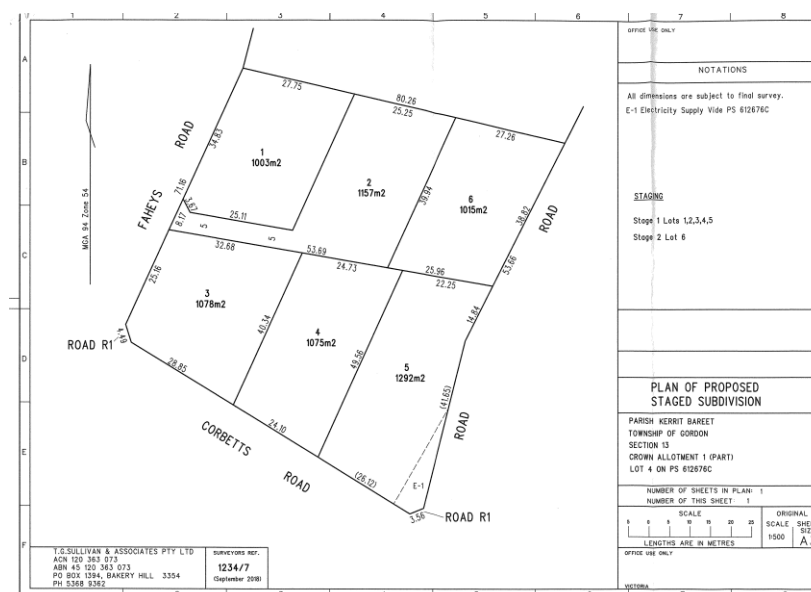
Lot 4 has a street frontage maximum width of 24.10 metres and a maximum length of 49.56 metres for a total lot area of 1075m². The lot is vacant and faces Corbetts Road.

Lot 5 has a maximum width of 26.12 metres and a maximum length of 49.56 metres for a total lot area of 1292m². The lot is vacant and faces the street corner of Corbetts Road and Gladstone Street.

Lot 6 has a street frontage maximum width of 38.82 metres and a maximum length of 27.26 metres for a total lot area of 1015m². The lot is vacant and faces Gladstone Street.

As part of the application, it proposed to plant 24 trees along the border of the proposed lots comprising of 8 Blackwood trees, 4 Black Sheoak trees, 4 Broad Leaved Peppermint trees and 8 Red Box trees.

Latest Subdivision Plan



History

PA2012 158 was a planning application for an eight (8) lot staged subdivision undertaken by the same permit applicant and same land owner as the current application. The application was refused at Council's Ordinary Meeting of Council (OMC) held on 16 November, 2016. The grounds of refusal were:

1. *The subdivision does not meet the purpose of Clause 32.09 (Neighbourhood Residential Zone) of the Moorabool Planning Scheme.*
2. *The subdivision does not meet the relevant design objectives, requirements and decision guidelines under Clause 43.02 (Design and Development Overlay, including Schedule 5) of the Moorabool Planning Scheme.*

3. *The subdivision does not satisfy the relevant State Planning Policy Framework and Local Planning Policy Framework policies in the Moorabool Planning Scheme for neighbourhood character and landscape values.*
4. *The subdivision does not meet the objective or standard of Clause 56.03-5 of the Moorabool Planning Scheme.*

The applicant appealed to VCAT against this refusal decision. The VCAT hearing was conducted on 6 July, 2017. VCAT determined to uphold Council's decision and directed no permit to be issued.

The tribunal assessment detailed succinctly the neighbourhood character issue in paragraph 39 of their order. The member stated:

'If lots of 800m² [800m²] as proposed here were to be replicated across the local area, I accept that this would impact on the existing spacious character. It would also result in substantial growth in the northern residential precinct within the town, at a density that is not anticipated in either the planning scheme as it stands or in the 2013 Gordon Plan. Local street frontages will exceed the 18 to 24m frontages proposed in the current proposal and I agree that the size of existing lots provides for ample tree and shrub vegetation at frontages and other parts of lots that will not be achieved on lots of 800m². Such vegetated appearances do not occur or are not easily achieved or aspired to by many residential land owners on standard sized residential lots. I accept that this is not an issue in most urban residential settings where native/natural features apart from landform are largely eradicated. However, in this location the planning scheme repeatedly pursues the need for spaciousness and retention of natural character'.

Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large notice on site for period of fourteen days. A statutory declaration verifying display of the large notice was received on 6 June, 2018. There were eight (8) objections received to this proposal. The revised plans were not re-advertised as there were no additional lots created and no increase in material detriment.

Summary of Objections

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

Objection	Any relevant requirements
Subdivision does not respond to the pattern and character of the area/Inappropriate subdivision density/at odds with surrounding lots/does not maintain the village feel.	Clause 21.09-1, Clause 32.09, and Clause 56.
Officer's response – Neighbourhood Character has been partly resolved with the previous eight (8) lot subdivision being refused informing the new design of six (6) lots. Further improvements undertaken to the Faheys Road facing lots to create better proportioned lots more reflective of the prevailing subdivision pattern of the area has been undertaken in the latest set of plans.	
Visual amenity/Smog from wood fires.	
Officer's response – The number of lots with a future dwelling in each lot should not significantly cause visual amenity impacts or smog. The landscape plan submitted with the application proposes a number of trees which will assist with screening of the future dwellings.	

Objection	Any relevant requirements
Does not comply with the local planning policy/ does not comply with the Gordon Structure Plan/ does not comply with zone and overlay controls.	Clause 21.09, Clause 32.09, Clause 43.02 Clause 56
Officer's response – The current subdivision layout adequately addresses the local planning policy for Gordon, the zone and overlay provisions.	
Has not responded to the issues of the VCAT decision.	
Officer's response – The applicant made a brief written response to the neighbourhood character issues raised by VCAT. The applicant has reduced the number of lots from eight (8) to six (6) to better address the neighbourhood character issues raised by VCAT.	
Repeat application that does not address the Reichert principles.	
Officer's response – The application is not a repeat as the number of lots has changed from eight (8) to six (6).	
Roads are unsealed and subject to erosion.	
Officer's response – Gladstone Street is in poor condition and would require an upgrade to ensure any vehicle would have appropriate access to the lot.	
Traffic is already at a high level.	
Officer's response – Traffic levels will not be adversely affected by six (6) new lots. There are good vehicle sight lines as the road reserve are quite wide. Roads would be upgraded to facilitate the subdivision of the land.	

Locality Map

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

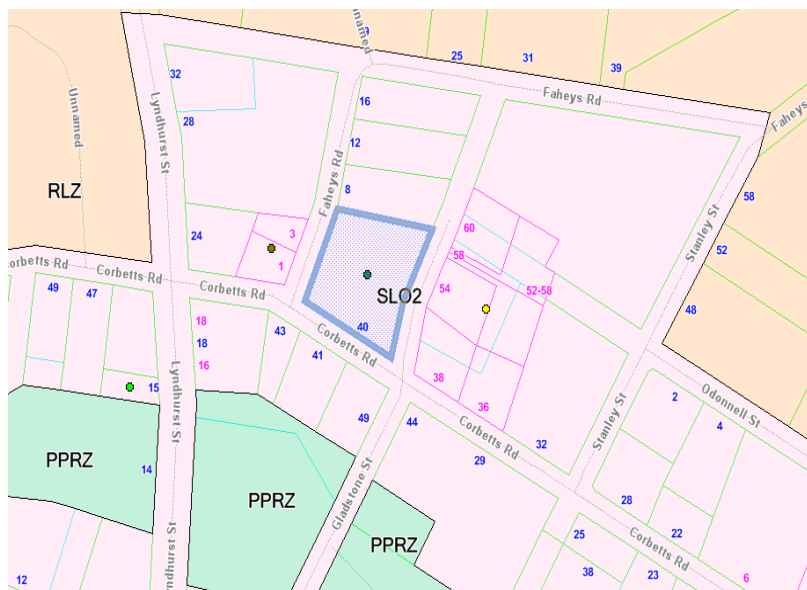


Figure 1: Zone Map. Subject site highlighted in blue.



Figure 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 11.04-1 Open space planning.
- Clause 11.08-1 Planning for Growth.
- Clause 12.05-2R Landscapes Central Highlands.
- Clause 14.02-1S Catchment Planning and Management.
- Clause 15.01-3S Subdivision Design.
- Clause 15.01-5S Neighbourhood Character.
- Clause 16.01-5S Rural Residential Development.
- Clause 21.02-3 Water and Catchment Management.
- Clause 21.03-2 Urban Growth Management.
- Clause 21.03-3 Residential Development.
- Clause 21.03-4 Landscape and Neighbourhood Character.
- Clause 21.09-1 Small Town and Settlements.
- Clause 22.02 Special Water Supply Catchments.

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 21.09	Small Towns and Settlements.	<p>The vision of this clause is to promote distinctive and sustainable small towns and settlements by building clusters of linked small towns and settlements that respond to environmental risks, to ensure landscapes and heritage elements are preserved and to provide adequate community and physical infrastructure to service the community.</p> <p>The proposal due to the lot arrangement does not achieve fully a proposal that has taken into account the landscaped value of the area. This can be rectified by reorganising the narrow lots, Lots 1 and 2.</p>

Zone

The subject site is in the Neighbourhood Residential Zone, Schedule 1 (NRZ1).

The purpose of the Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To recognise areas of predominantly single and double storey residential development.
- To limit opportunities for increased residential development.
- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- To implement neighbourhood character policy and adopted neighbourhood character guidelines.
- 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 32.09-3 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for a residential subdivision.

Part 1 of Schedule 1 under the Neighbourhood Residential Zone states the minimum lot size for a subdivision is 800 square metres.

Decision guidelines are listed under Clause 32.09-12. 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.

Overlays

Environmental Significance Overlay Schedule 1 (ES01)

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

The purpose of the overlay is:

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

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

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

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

Decision guidelines are listed under Part 5 of Schedule 1.

Design & Development Overlay Schedule 2 and 5 (DD02 and DD05)

The subject site is in the Design & Development Overlay Schedules 2 and 5 and provisions of Clause 43.02 apply.

Under Schedule 2, a permit is not required to subdivide land.

Under Schedule 5 a permit is required to subdivide land.

DD05 has the following objectives:

- To protect the village character of the township.
- To ensure that buildings with visible roof forms make a positive contribution to the character of the township.
- To protect the spacious character of the township by maintaining larger lot sizes.

Under Part 3 of Schedule 5 states:

- Subdivision of lots within the residential zoned area must have a minimum lot size of 800 square metres to retain the spacious nature of the township.
- Subdivision design should respond to existing site features and vegetation.
- Subdivision design is to respond to the pattern of development and the character of the township.

Significant Landscape Overlay Schedule 2 (SLO2)

The subject site is in Significant Landscape Overlay and the provisions of Clause 42.03 apply.

Under the Significant Landscape Overlay Schedule 2, there is no permit requirement for subdivision.

Relevant Policies

Gordon Structure Plan 2013

Back in 2011, 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 different forms of residential and other development in the town such as more intensive residential development, infill development and increased densities of residential and other development in the area to be sewerage.

The Structure Plan therefore sets out requirements for the form and scale of future development. Consultation with the community had indicated a very strong community expression to retain the small township village feel and the quality of the rural setting.

The landscape character of the town was also acknowledged as quite complex and made up of a diverse range of elements, natural, introduced and built. It required considerable care to be taken 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 bounded by Urquhart, Lyndhurst, Tennyson Streets and the western edge of the built up 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'.

The Gordon Structure Plan would only see limited development that is site responsive in the locality of the current application due to its unique landscape character.

Particular Provisions

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.

The proposed subdivision will create six (6) lots which will result in a greater population density and a greater demand for public open space in the local area. The lot size is not large enough to provide a public open reserve within the subdivision. There will be a requirement for the applicant to pay a 5% public open space contribution fee.

Clause 56 Residential Subdivision

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

ResCode Clause	Title	Response
56.03-5	Neighbourhood character objective	<p>The proposed subdivision partially supports the development of the site in a manner consistent with the surrounding neighbourhood character. The lot sizes in the surrounding area which are well established are large and exceed typically 2000m².</p> <p>The subdivision provides some large lots which are expected in new subdivision in this section of Gordon. However further improvements were required to fully address the preferred neighbourhood character. The applicant has taken on board this concern and re-organised Lots 1, 2 and 6 in the latest set of plans to create good proportioned lots.</p>

Discussion

Neighbourhood Character

Council and VCAT on review, both determined the lots in the previous subdivision did not respect the existing neighbourhood character characterised by spacious lots with landscaping surrounds that are not typical of residential zoned land. The applicant in the previous application used the minimum lot size of 800m² as required under the Neighbourhood Residential Zone Schedule 1 and the Design & Development Overlay Schedule 5 in creating their eight (8) lot subdivision arrangement. The applicant instead should have examined the subdivision pattern of the area or carefully evaluated the existing and preferred neighbourhood character.

In the current proposal, the applicant has decided to not submit a complete subdivision pattern of all surrounding lots, lot sizes and lot widths to justify the current subdivision arrangement. The applicant has again adopted a lot size number at around 1050m² as the basis for the subdivision. This approach of simply increasing lots sizes from around 800m² to around 1050m² does not completely address neighbourhood character.

The VCAT decision highlighted that while all lots will generally be large for residential zoned land, they need to be quite large in area with very large open spaces in order to achieve and maintain a landscape setting that is unique within this part of the Gordon.

Lots 2, 4, 5, and 6 are well proportioned that should be able to achieve this spacious setting and should have generous side spacing's to prevent the built form from dominating their respective streetscape frontages. Lots 1 and 2 in the initial plans were considered too narrow in width at 21.50 metres which could result in dwellings being built close to side boundaries thereby making the built form overwhelm the natural or landscape character that is sort in this locality. Building close to side boundaries limits landscaping opportunities including trees with spreading crowns.

The applicant has provided in the latest set of plans the correct neighbourhood character approach by re-organising the boundaries of Lots 1 and 2, to be similar in proportions to a number of existing surrounding lots and has had the added benefit of creating a diversity of lot sizes for this subdivision. Well-proportioned lots that exceed 1000m² in area, as presented in the latest set of plans, ensures the landscape character will be most prominent part of the respective streetscapes. Well-proportioned lots provide ample room for large trees to thrive without been affected by hard surface paving, building foundations and ancillary outbuilding that would be expected with future dwellings in each lot. The current lot arrangement and proportions ensures the proposed subdivision pattern is consistent with the preferred neighbourhood character.

Landscaping Treatments

The application has been sympathetic to the Significant Landscape Overlay and the existing streetscape design in the proposed landscape plan. The landscape plan depicts a number of trees within the front setback area and along the rear borders. This would allow for the grouping of trees and further reinforcement of the landscaping character once they are established. These trees could be required to be planted prior to the issue of Statement of Compliance for the subdivision and permit conditions could be implemented to protect the trees during construction phase of each dwelling. Trees would not be able to be removed without obtaining a planning permit in accordance with the Overlay Planning Provisions.

Fencing

An objector raised the issue of fencing treatments along the street frontages. The applicant is agreeable to have no fencing or open/permeable fencing. To ensure future owners are aware of this requirement, it will need to be registered on title and this can achieved via a Section 173 agreement under the Planning & Environment Act.

Infrastructure Provision

Servicing authorities did not identify any infrastructure concerns with the proposed subdivision, subject to conditions be imposed on the permit if approved. Each lot should be able to accommodate a future dwelling and can readily access local infrastructure services.

General Provisions

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

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.

- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any Body Corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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

Referrals

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

Authority	Response
Central Highlands Water	Consent subject to six (6) conditions
Barwon Water	Consent subject to two (2) conditions
Dower Utilities	Consent, no conditions
Powercor	Consent subject to two (2) conditions
Infrastructure	Consent subject to twenty-eight conditions

Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Communications Strategy

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

Options

Council could consider the following options:

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

Conclusion

The proposal based on the latest set of plans satisfies the relevant provisions of the Moorabool Planning Scheme, particularly regarding Local Planning Policies covering neighbourhood character and the relevant zone and overlay provisions for the subdivision of land in Gordon. The latest subdivision plans have created lots that reflect the spacious residential setting of the surrounding area and rectifies the deficiencies in the previous planning application for an eight (8) lot subdivision.

The site is bounded by three (3) roadways without vegetation on site and having convenient access to reticulated sewerage services that supports a break up of this existing lot into further smaller lots. The subdivision provides an opportunity for further development to occur in Gordon. The applicant has reduced the number of lots compared to the first planning application that was refused by Council and then VCAT on review.

The proposal for a staged subdivision consisting of six (6) lots should be supported subject to the submission of further revised plan with regard to the tree landscape plan.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Planning Permit for a six (6) lot staged subdivision at Lot 4 on PS612676C otherwise known as 40 Corbetts Road, Gordon, with the following conditions:

- 1. Before the subdivision starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three (3) copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:**
 - a) The Tree Landscape plan to accord the boundaries of Lots 1, 2 and 6 as shown on the latest subdivision plan.**

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

Subdivision

- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**
- 3. Before the Statement of Compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.**
- 4. The subdivision of the land must proceed in the order of stages shown on the endorsed plans except with the prior written consent of the Responsible Authority.**

Section 173 Agreement

- 5. Before the issue of a Statement of Compliance for this subdivision, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act to provide the following:**
 - a) Fencing along the street frontage to each lot either to be comprised of no fencing or an open style fence with a minimum openings of 25%.**
 - b) Trees to each lot as shown on the endorsed landscape plan must be maintained to the satisfaction of the Responsible Authority and cannot be removed from the site without planning permission.**
 - c) Any building must have a minimum front development setback of 10 metres from each primary street frontage and a minimum development side setback of 2 metres.**
 - d) No internal side fencing is permitted within the first ten (10) metres from the Faheys Road frontage of the lot boundary between Lot 1 & 2. Either side of the internal accessway for Lot 2 to be comprised of suitable landscaping treatments to the satisfaction of the Responsible Authority.**

Before a Statement of Compliance is issued, the application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred. The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it to the Responsible Authority for approval. The owner/operator under this permit must pay the costs of execution and registration of the section 173 agreement.

Telecommunications

- 6. 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.**
- 7. 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.

Landscaping

8. The landscaping works shown on the endorsed landscape plan for any stage must be carried out and completed to the satisfaction of the Responsible Authority prior to the issue of a Statement of Compliance for that stage or any other time agreed in writing by the Responsible Authority.
9. The landscaping works as shown on the endorsed landscape plan must be maintained and protected including any Tree Protection Zone (TPZ) fencing to prevent damage during the construction phase.

Barwon Water

10. Each lot created in the development must be connected to a reticulated sewerage system.
11. No stormwater is to be discharged less than 100 metres from a waterway unless into an approved drainage system.

Central Highlands Water

12. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
13. Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
14. A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
15. The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.
16. If required, the owner will provide easements to the satisfaction of Central Highlands Region Water Corporation for pipeline or ancillary purposes through other land in the vicinity, as it is considered by the Authority that such easements may be required for the economical and efficient subdivision or servicing of or access to land covered by the subdivision.
17. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

Infrastructure

18. Prior to the development commencing, a “Stormwater Management Strategy” must be prepared and submitted to the Responsible Authority for approval, based on the objectives and standards of the Moorabool Planning Scheme and the “Urban Stormwater Best Practice Environmental Management Guidelines – CSIRO 1999”. The Strategy must:

- I.** Encompass the entire area of the development.
- II.** Propose techniques to manage the quantity and quality of stormwater emanating from the site during construction and after completion of the development in accordance with the Best Practice Guidelines.
- III.** Provide for outfall drainage from the site connecting to an approved discharge point.
- IV.** Propose techniques to manage the overland flow paths within the development for the 1% AEP storm for the catchment.

Once approved, the Stormwater Strategy will form the basis for preparation of detail design documentation of a stormwater system for the development.

19. The subdivision must be provided with drainage system 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.

20. 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.

- 21.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.**
- 22.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.**
- 23.Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, Gladstone Street must be constructed to the satisfaction of the Responsible Authority, to the standard detailed:**
- I. 6.1 metre sealed pavement with 1 metre gravel shoulders on each side;**
 - II. Table drains;**
 - III. Street lighting; and**
 - IV. Vehicle crossing to each lot.**
- 24.Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, Corbetts Road must be constructed to the satisfaction of the Responsible Authority, to the standard detailed:**
- I. Street lighting;**
 - II. Vehicle crossing to each lot; and**
 - III. Reshaping of roadside drainage as required to ensure proper function of drainage system.**
- 25.Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, Faheys Road must be constructed to the satisfaction of the responsible authority, to the standard detailed:**
- I. Street lighting;**
 - II. Vehicle crossing to each lot; and**
 - III. Reshaping of roadside drainage as required to ensure proper functioning of drainage system.**
- 26.Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, the intersection of Faheys Road and Corbetts Road must be constructed to the satisfaction of the Responsible Authority, to the standard detailed:**
- I. Widening of Faheys Road as required to meet minimum standard for a rural intersection;**
 - II. Street lighting as required; and**
 - III. Upgrading of culvert crossing of Faheys Road as required to ensure proper functioning of drainage system.**
- 27.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.**
- 28.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.**

- 29. 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).**
- 30. Traffic management treatments must be provided in the form of line marking, signage and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority.**
- 31. 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 light 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.**
- 32. The development must be provided with open access underground conduits to carry optical fibre at the development stage (this may be waived if the Responsible Authority considers provision is unwarranted). A development plan must show the conduit network for the subdivision, to the satisfaction of the Responsible Authority. Conduits must be provided in accordance with a plan approved by the Responsible Authority. Ownership of a conduit is to be vested in Council and may be transferred to another agency or telecommunications carrier at such time as it may be required. Where the conduit crosses private land an easement is required in favour of Moorabool Shire Council.**
- 33. Street names and street signs must be provided to the satisfaction of the Responsible Authority.**
- 34. Permanent survey marks must be provided at a maximum spacing of 200 metres and registered, to the satisfaction of the Responsible Authority.**
- 35. 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 (2) hardwood stakes, tree ties, ag pipe, water crystals, 100 mm of mulch and initial watering, to the satisfaction of the responsible authority.**
- 36. 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.**
- 37. 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.**
- 38. Landscaping within the development must be provided in accordance with an approved landscape plan, to the satisfaction of the Responsible Authority.**
- 39. 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.**
- 40. 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.**

41. 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.**

42. After all engineering works pertaining to each stage of the subdivision 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.**

43. 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.

44. 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, three (3) months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.

45. 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.

Powercor Australia

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

47. The applicant shall:

- Provide an electricity supply to all lots in the subdivision in accordance with Powercor’s requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor. A payment to cover the cost of such work will be required. In the event that a supply is not provided, the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
- Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.**
- Any construction work must comply with Energy Safe Victoria’s “No Go Zone” rules.**
- Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for “Power Line” pursuant to Section 88 of the Electricity Industry Act 2000.**

- Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Permit Expiry

48. This permit will expire if one of the following circumstances applies:

- a) The first stage of the plan of subdivision is not certified within two (2) years of the date of issue of the permit; or
- b) Each subsequent stage is not certified within two years of the date of certification of the previous stage.

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

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

PowerCor Note

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

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

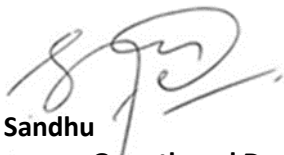
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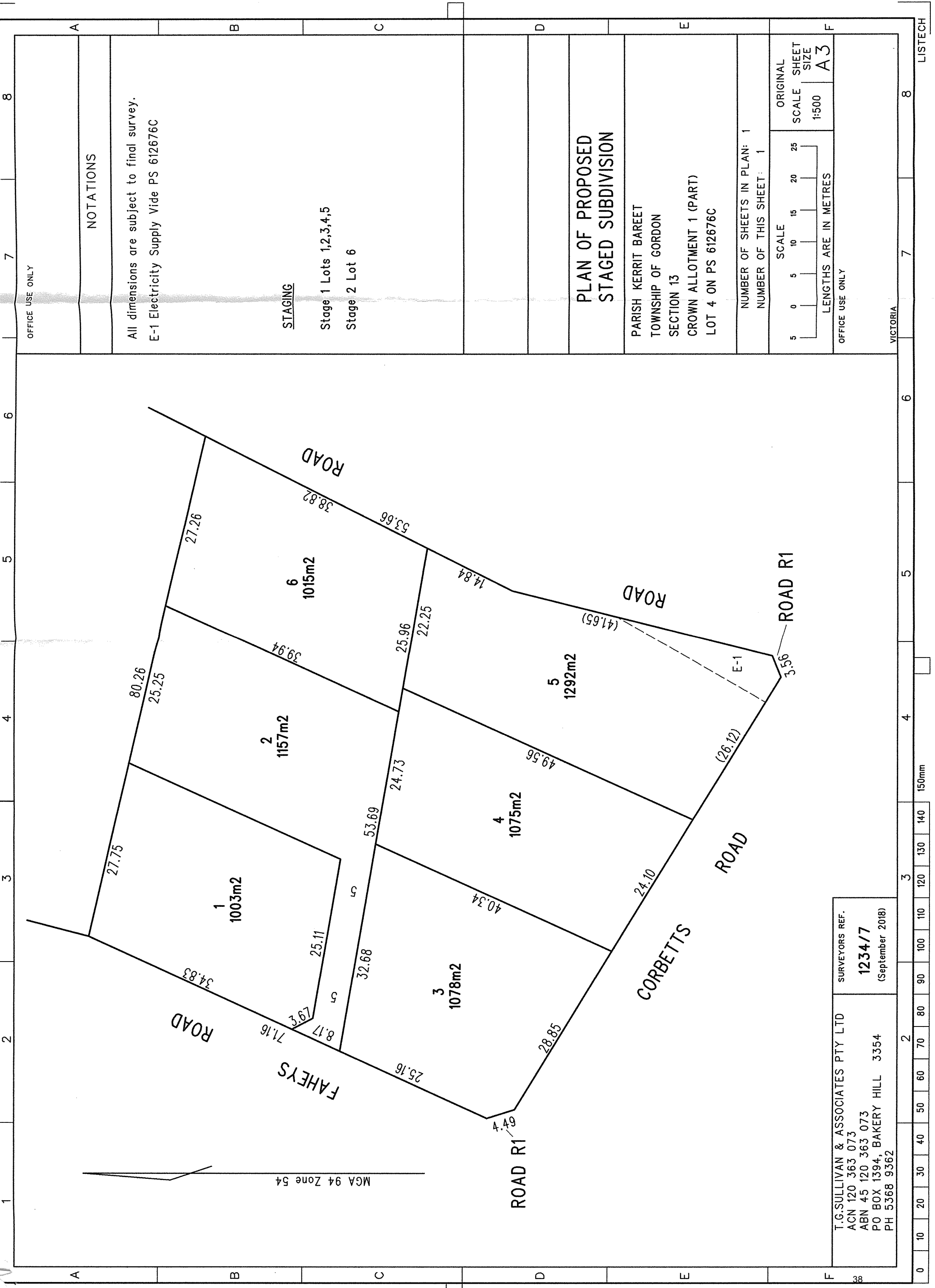
Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 24 September, 2018





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NOTATIONS

All dimensions are subject to final survey.
E-1 Electricity Supply Vide PS 612676C

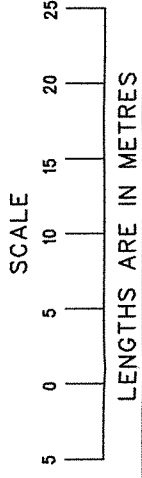
STAGING

Stage 1 Lots 1,2,3,4,5
Stage 2 Lot 6

PLAN OF PROPOSED
STAGED SUBDIVISION

PARISH KERRIT BAREET
TOWNSHIP OF GORDON
SECTION 13
CROWN ALLOTMENT 1 (PART)
LOT 4 ON PS 612676C

NUMBER OF SHEETS IN PLAN: 1
NUMBER OF THIS SHEET: 1



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SURVEYORS REF.
1234/7
(September 2018)

LISTECH