

Wednesday 20 June

Council Chambers 15 Stead Street, Ballan 4.00pm

	BERS				
Cr. Pau	ul Tatchell (Mayor)	Councillor – Centra	al Moorabool Wa	ard	
Cr. Joh	nn Keogh (Deputy Mayor)	Councillor – East N	loorabool Ward		
Cr. Jar	rod Bingham	Councillor – East N	100rabool Ward		
Cr. To	nia Dudzik	Councillor – East N	100rabool Ward		
Cr Dav	id Edwards	Councillor – East N	100rabool Ward		
OFFICI	ERS				
Mr. Sa	twinder Sandhu	General Manager	Growth & Develo	opment	
Mr. Ro	bb Fillisch	Manager Statutory	/ Planning and Co	ommunity S	Safety
Ms. Br	onwyn Southee	Coordinator Statut	cory Planning		
Mrs. Ja	acquie Younger	Minute taker			
Item	Title		Responsibility	Page No.	Action
1.	Welcome, Present and Apologie	es	Chair		Noting
2	Recording of Meeting		Chair		Noting
3.	Meeting Minutes		Chair		Noting
3. 3.1	Meeting Minutes Confirmation of previous minute	es 16 May, 2018.	Chair		Noting Resolution
	-	es 16 May, 2018.	Chair		-
3.1	Confirmation of previous minute				Resolution
3.1 4.	Conflict of Interest	s PA2018 045 – and for Animal in racing dogs, 50	Chair	Page 3	Resolution Noting

SHIRE COUNCIL

5.3	Planning Permit PA2017 118— Development of Four (4) Offices and Four (4) Dwellings, eight lot subdivision, reduction to the standard car parking requirement at 68 Steiglitz Street, Ballan.	Mark Lovell	Page 34	Resolution
5.4	Planning Permit 2010 002— Amended Permit Condition, Condition 19 to allow for an amended Bird and Bat Plan at 2043 Glenmore Road, Mount Wallace.	Mark Lovell	Page 59	Resolution
5.5	Planning Permit Application PA2017 262 – Development and Use of a Dwelling and Sheds at Yendon-Egerton Road, Mount Egerton.	Tom Tonkin	Page 67	Resolution
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 18 July, 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 045 – Development and Use of land for Animal Husbandry (Keep, breed and train racing dogs, 50 Greyhounds)at 2612 Bacchus-Marsh Balliang Road, Rowsley.

Application Summary:	
Permit No:	PA2018 045
Lodgement Date:	22 February, 2018
Planning Officer:	Bronwyn Southee
Address of the land:	2612 Bacchus-Marsh Balliang Road, Rowsley
Proposal: Lot size:	Development and Use of land for Animal Husbandry (Keep, breed and train racing dogs, 50 Greyhounds) 38.5ha
Why is a permit required	Clause 52.40 -1 – Racing Dog Keeping and Training Clause 35.07 – Farming Zone – Use of Racing Dog Keeping and Training 35.07-4 Buildings and works
Why is this application being presented to Council?	2 objections received during public notice.
Public Consultation:	
Was the application advertised?	Yes
Notices on site:	One
Notice in Moorabool Newspaper:	No
Number of Objections:	Two (2)
Consultation meeting:	Yes, arranged for 22 May 2018, however objectors were unable to attend.
Policy Implications:	
Strategic Objective 2:	Minimising Environmental Impact
Context 2A:	Built Environment
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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 – Bronwyn Southee

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, Strategic Planning, Community Safety, Environmental Health officer, Greyhound Racing Victoria, Southern Rural Water, and Melbourne Water.
Any issues raised in referral responses?	No
Preliminary Concerns?	No
Any discussions with applicant regarding concerns	The Council officer wrote to the applicant about some general concerns.
Any changes made to the application since being lodged?	Yes additional information was provided to ensure it meet the Planning requirements for racing dog keeping and training.
VCAT history?	None
Previous applications for the site?	None
General summary	The application is for Development and Use of land for Animal Husbandry (Keep, breed and train racing dogs, 50 Greyhounds) There have been two objections received which raise concerns about the proximity of this facility to another greyhound facility which they believe will compound noise issues. Council has not received any noise complaints for the already operational site. The application originally lacked some information in relation to the acoustics and locking of the animal pens, therefore, it didn't originally meet the <i>Planning requirements for racing dog keeping and training</i> which would have exempted it from public notification.
	Since then the applicant has provided this information and it now satisfies the requirements.

Summary Recommendation:

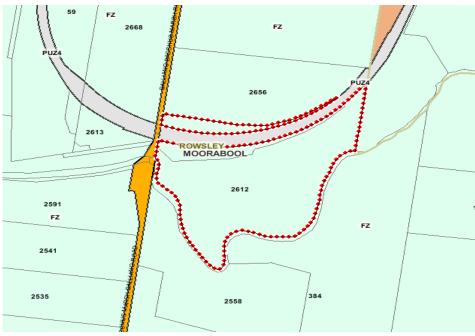
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Permit for the Development and Use of land for Animal Husbandry (Keep, breed and train racing dogs, 50 Greyhounds) at 2612 Bacchus-Marsh Balliang Road, Rowsley.

Site Description

The site is identified as 2612 Bacchus-Marsh Balliang Road, Rowsley, and is irregular in shape, approximately 38.5ha in size. The site has a single dwelling on it and associated outbuilding. It is predominately cleared for grazing however it is also screened by being nestled within a gorge and by perimeter screening trees around the property.

The site and surrounding land is in the Farming Zone, with some smaller farming lots developed for residential purposes surrounding the property. There is also another greyhound facility located within 1km of the site.





Proposal

The application is for the Development and Use of land for Animal Husbandry (Keep, breed and train racing dogs, 50 Greyhounds)(puppies included in the total 50). The total greyhound facility area including the enclosure, training areas, straight track and exercise yards is approximately 2.6ha.

Within the greyhound facility it is proposed to construct an insulated shed with a floor area of 182sqm consisting of internal kennels to house the greyhounds. Each internal kennel would be 2.4m long x 1.2m wide to house the greyhound adults and the shed would also contain a separate feeding and whelping section. The proposed kennel would be constructed with colourbond steel cladding in wilderness green and proposed to be setback in excess of 500m (approximately 540m) from the nearest neighbour at 558 Bacchus Marsh-Balliang Road, Rowsley. The dog entrance door (roller door) would be facing away from the nearest neighbour.

The proposed shed would be constructed with colourbond steel cladding and would be insulated with batts with to achieve a rating of no less than Rw30. Additionally, the interior would be lined with concrete fibro sheeting which would also act as a noise buffer and assist with the interior kennel temperature.

The greyhounds would be housed within the shed and each sleeping quarter would be constructed with galvanized steel so the greyhounds cannot see each other. Included within the greyhound kennel is a vet room for the treatment of greyhounds, also a food preparation area.

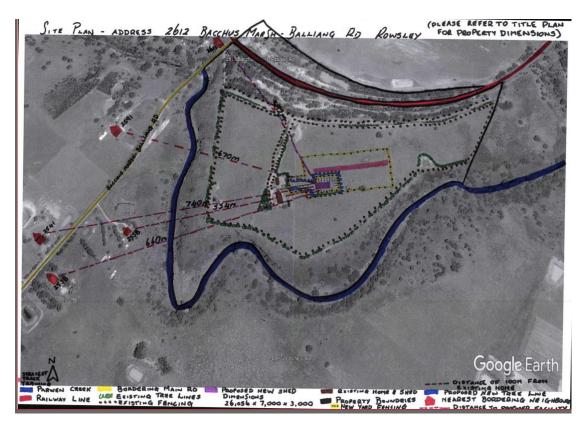
The greyhound facility would have fencing made up of cyclone chain wire and gates of 1.5m, surrounding the greyhound day yards there would be 1.8m colorbond fencing with colorbond gates. The boundary fence of the facility would be dog mesh. Once completed there would be at least 4 fences securing the dogs in the event that a dog may escape.

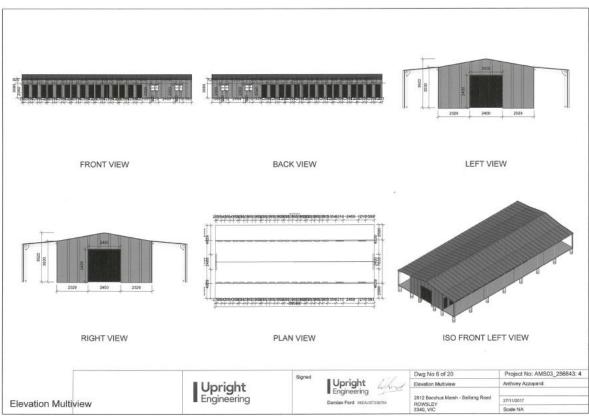
The majority of the gates would be padlocked. The fenced off runs within the facility would be located 70m from the primary caretaker's dwelling and 470m from the nearest sensitive receptor. The greyhounds would be trained and exercised on the property in a fenced off area which includes exercise areas and training areas. These sessions occur 6 times per day at the following times: 7am, 10am, 1pm, 3pm, 6pm and 9pm and then the dogs are enclosed in their sleeping quarters from 10pm-7am the next day. The greyhounds are required to have a regimented training schedule which operates from 8am-10am every day.

The applicant is proposing a maximum of 50 greyhounds (which is inclusive of puppies). The plan includes breeding 1 - 2 litters a year as future racers. However, the maximum number of 50 greyhounds on the property at any one time would be maintained at 50.

The applicants are professional/public greyhound trainers and therefore this is their primary business, currently they are operating their business from a greyhound facility in Myrniong.

The application details that all kennels and greyhound accommodation proposed would meet the animal welfare standards and codes of practice for racing, keeping and training facility for greyhounds.





See appendix for detail plans.

Background to Current Proposal

Site visit, liaison with landowner. Attempt to have consultation meeting but dates were not suitable.

Public Notice

52.40-2 Exemption from notice and review.

An application to which the requirement in Clause 52.40-1 applies is exempt from the notice requirements of section 52(1)(a),(b) and(d), the decision requirements of section 64(1), (2) and (3) and the review rights of section82(1) of the Act if the approved measures specified in *Planning requirements for racing dog keeping and training* (Department of Environment, Land, Water and Planning, August 2017) are met.

The application was advertised as it did not originally meet all of the requirements for racing dog keeping and training. Notice of the original application was given to adjoining and surrounding landowners within a 1km radius of the site by mail on 19 March 2018. A sign was also erected on site for 14 days.

Two (2) objections were received to the proposal. The objections mainly focused on concerns regarding the proximity of the site to another greyhound establishment and this possibly encouraging barking and noise nuisance through the compounding of facilities.

It is important to note that the application was modified and now complies with the requirements of Clause 52.40, should Council approve the permit for this facility the objectors would not have a right of appeal through VCAT.

Summary of Objections

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

Objections	Any relevant requirements
Proximity of this proposed facility to the existing facility resulting in a noise nuisance from combined facilities and channelling of noise.	EPA noise guidelines – SEPP N-1. Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017).
Officer's response – The Shire's records were inspected received in relation to the adjoining facility and it was deceived for this site. The applicant has detailed that it racing dog keeping and training (Department of Environ 2017). In relation to setback distances and acoustic bafflir conditions being imposed it is considered every reas addressed in this application.	determined that no complaints have been complies with <i>Planning requirements for</i> nment, Land, Water and Planning, August ng, therefore, in addition to recommended
This site's possible impact and inappropriate use due to proximity to smaller Farming zone allotments.	Amenity
Officer's response – The subject site is in the Farming there are smaller farming zoned lots in proximity to appropriate for the proposed use. In addition the app which affords the least visual impact to surrounding pro	this site, it is considered that this site is licant has selected a location on the site
Number of dogs.	

Objections

Any relevant requirements

Officer's response – Clause 52.40 of the Moorabool Planning Scheme limits the maximum number of dogs to 50 for this site. The application indicates that a maximum of 50 dogs, including puppies, will be housed on the site. It is therefore compliant.

Hours of noise creating possible nuisance.

Officer's response – The applicant is required to be compliant with noise regulations as specified above. In addition to this, there are strict exercise, training and feeding times for the dogs, which will be enforced should they obtain a permit from council.

Locality Map

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



Planning Scheme Provisions

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

The relevant clauses are:

- Clause 14 Natural resource management.
- Clause 14.01-1 Protection of agricultural land.
- Clause 14.01-2 Sustainable agricultural land use.
- Clause 14.02-2 Water quality.
- Clause 21.02 Natural environment.
- Clause 21.02-3 Objective—Water and Catchment Management.
- Clause 21.04 Economic development and employment.
- Clause 21.04-2 Objective—Agriculture.
- Clause 22.02 Special water supply catchments.
- Clause 22.04 Animal Keeping.

The proposal generally complies with the relevant sections of the SPPF and LPPF with the following comments:

- The proposal seeks permission to develop and use a greyhound facility on the site, which takes up a total area of 2.6ha. An assessment was undertaken in accordance with the planning requirements for racing dog keeping and training.
- The assessment included the zone, number of dogs permitted on the zone, setback distances, proposed building materials, insulation, landscaping, screening and proposed noise. The application meets all of the approved measures. Originally the application was unclear on compliance with the fencing and noise objectives from the training area. Due to this the application was deemed not to be exempt from notice and the application was advertising to neighbouring land owners and occupiers within a 1km radius of the site. However, the application has since been clarified to confirm it complies.
- Waste is addressed separately and both the Environmental Health Officer and relevant Catchment Authorities have raised no concern in relation to the proposed use and waste management process.
- How the development responds to Clause 22.04 Animal Keeping is addressed further in this report.

Zone

Farming Zone

The land is within the Farming Zone which is Clause 35.07 of the Moorabool Planning Scheme.

In accordance with Clause 35.07-1, Section 2, a permit is required to use land for Animal Husbandry which includes animal keeping and racing dog training and breeding.

In accordance with Clause 35.07-4, a permit is required for buildings and works associated with the use of the land for animal husbandry.

The purposes of the Farming Zone include to:

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

It is considered that greyhound establishments are best suited to the Farming Zone provided the amenity impacts of nearby residents is not unreasonably affected.

Overlays

Airport Environs Overlay 1

The subject site is impacted by the Airport Environs Overlay.

The objective of this overlay is to ensure appropriate development and use that does not conflict with operation of airports or is sensitive to aircraft noise. The application is required to obtain approval for buildings and works within this overlay. It is considered the proposal complies with the requirements.

Environmental Significance Overlay – Schedule 2 (ESO2)

The subject land perimeter is impacted by the ESO2. A permit is required for buildings and works within a 100m setback of the western boundary and should be avoided where possible. An application for buildings and works in the ESO2 should be supported by the following:

- Provide satisfactory evidence as to why the proposed buildings and/or works cannot be located elsewhere on the land other than land covered by the overlay.
- Provide satisfactory evidence that the location of buildings and works will not compromise the
 quality of water in the waterways, nor result in the deterioration of flora and fauna habitats close
 to waterways.

All proposed development is setback more than 100m from the ESO2.

Design and Development Overlay – Schedule 2

In accordance with Clause 43.02 of the Moorabool Planning Scheme a permit is required if the external cladding of buildings or works are constructed using reflective materials. In this instance as the cladding for the various kennels has not been nominated a permit would be required if reflective materials were to be used. However, permit conditions would be used to ensure that the kennels cannot be constructed with reflective materials.

Relevant Policies

Moorabool Planning Scheme - Clause 22.04 Animal keeping

This policy addresses key issues associated with the use and development of land for animal keeping in particular the keeping and breeding of dogs, which includes animal boarding, dog breeding and greyhound training.

Animal keeping facilities are an important local industry; however, the keeping and breeding of dogs can have an adverse effect on the extensive animal husbandry industry and can compromise the amenity of nearby residents.

Careful consideration needs to be given to the location, siting, design, and management of dog keep and breeding facilities and in this regard the policy draws from guidelines prepared by the Environment Protection Authority (Noise Control Guidelines TG 302/29).

The objective of the policy is to ensure that animal keeping establishments are appropriately located, sited, designed, and managed so they will not have an adverse effect on the environment, the amenity of nearby residents, and the operation of surrounding animal husbandry enterprises.

It is policy to:

- Discourage the keeping and breeding of dogs in areas that are:
 - predominantly used for extensive animal husbandry;
 - have a significant number of dwellings in close proximity; and
 - Adjacent to significant wildlife habitats.
- Require the following measures to be applied in the siting and design of dog keeping and breeding establishments:
 - facilities should be located at least 500 metres away from residential areas and a substantial proportion of this buffer must be provided within the boundary of the subject site;
 - facilities should be sited to use the surrounding topography to reduce noise;
 - facilities should be fully contained by appropriate fencing including a fully enclosed or acoustically baffled area to house particularly noisy animals at a ratio of 1:15;
 - facilities should be constructed or landscaped as appropriate to visually screen stimuli from other dogs, animals, traffic or passers-by; and
 - Kennels should be constructed in materials that reduce the emission of noise.
- Electronic masking or other noise suppressing measures may be required to reduce audible stimuli to the dogs.
- Reference the EPA Guidelines (TG302/92) (replaced by Publication 1254 October 2008) in applying conditions relating to the management, control of noise and the siting and design of kennels.
- Ensure adequate effluent treatment facilities are provided to contain, treat, and dispose of effluent within the boundaries of the site; to prevent the pollution of any surface or ground water; and to prevent the emission of offsite odours.

EPA Noise Control Guidelines

The EPA Publication 1254, October 2008, requires in relation to Dog Kennels:

- The kennels should be located at least 500 metres from residential areas.
- Some fully enclosed or acoustically baffled kennels should be available to house particularly noisy animals, at a ratio of 1:15.
- Electronic masking noise devices should be provided to reduce audible stimuli to the dogs.
- Kennels should be constructed to visually screen stimuli such as other dogs, animals, traffic or passers-by.
- Access to kennels should be restricted solely to staff.
- Feeding of the dogs should be restricted to the daytime hours of 7.00am-6.00pm.
- Exercise of the dogs may only be performed between the hours of 9.00am and 5.00pm.
- A responsible person must be available on site 24 hours per day.
- Kennels should be constructed of such a material so as to provide an appropriate reduction in the emission of noise. Materials such as masonry and cement sheeting would provide a suitable structural basis.
- The kennels should be positioned so as to utilise the ability of the topography to reduce noise.

Note: Noise originating from dog kennels may be assessed using State Environment Protection Policy (Control of noise from commerce, industry and trade) No. N-1.

Permit conditions can ensure that the site is managed to comply with EPA noise guidelines.

Code of Practice for the Operation of Greyhound establishments.

The applicant has responded to the key management requirements contained within the Code of Practice and stated that all requirements will be met.

Particular Provisions

52.40 RACING DOG KEEPING AND TRAINING

Purpose

To ensure the use and development of land for racing dog keeping and racing dog training is consistent with orderly and proper planning.

52.40-1 Requirement

An application to use land, or construct a building or construct or carry out works, for racing dog keeping or racing dog training under a provision of a rural zone must comply with Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017).

52.40-2 Exemption from notice and review An application to which the requirement in Clause 52.40-1 applies is exempt from the notice requirements of section 52(1)(a),(b) and(d), the decision requirements of section 64(1), (2) and (3) and the review rights of section82(1) of the Act if the approved measures specified in Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017) are met.

For large greyhound establishments the reference document entitled *Planning Requirements for racing dog keeping and training* must meet all of the objectives of Clause 4.0 and should meet all of the approved measures of this clause which includes the following key areas:

- 4.1.1 Facility scale objective;
- 4.1.2 Setback objective from property boundary and neighbouring dwellings;
- 4.1.3 Visual amenity objective;
- 4.1.4 Landscaping objective;
- 4.1.5 Fencing and gates objective;
- 4.1.6 Screening objective;
- 4.1.7 Site Management objective; and
- 4.1.8 Noise objective.

The proposal seeks permission to use and develop a greyhound facility on the site, which takes up a total 2.6ha in area. An assessment was undertaken in accordance with the planning requirements for racing dog keeping and training. The assessment included the details above and it was determined that the application meets the approved measures for all of these requirements. Originally the application was unclear on compliance with the fencing requirements and noise objectives for the training area and hence the application was advertised. However these issues have since been clarified to confirm the proposal and facility complies.

Waste is addressed separately and both the Environmental Health Officer and relevant Catchment Authorities have raised no concern in relation to the proposed use and waste management process.

The nearest sensitive receptors (dwellings) to the facility are 470m from the boundary of the training yard and 554m from the kennels. Both of the objectors are located over 500m away from the subject site: objector 1 is located approximately 670m from the facility; and objector 2 is located 740m away from the proposed facility.

Permit conditions can ensure that the site is managed to comply with requirements this policy.

Discussion

As stipulated above, the application was assessed in accordance with section 52.40 of Moorabool Planning Scheme. Originally it complied with all of the objectives apart from:

- 4.5 Fencing and gates objective regarding the locking information; and
- 4.8 Noise objective it was unclear as to the acoustic compliance based on distance of the greyhound facility.

On this basis it was considered appropriate to advertise the application for public comment. Two objections were received during this period and the applicant also supplied information in relation to the locking mechanisms to be used, and the setback distances from the greyhound facility, and both these requirements now comply. Therefore, it is considered as the application is fully compliant with Clause 52.40 of the Moorabool Planning Scheme, should Council decide to support the application, it must issue a Permit and not a Notice of Decision to Grant a Permit. The objections received do not have appeal rights through VCAT.

General Provisions

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

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

Referrals

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

Authority	Response
Southern Rural Water	Consent with conditions
Greyhound Racing Victoria	No comment
Melbourne Water	Consent with conditions
Infrastructure	Consent with conditions
Community Safety	Consent.
Environmental health	Consent with conditions
Strategic Planning	Consent with Comments

Comment:

The application was referred to Strategic Planning to ensure it was consistent with Council's strategic direction. Strategic Planning provided the following comment:

The proposal for a planning permit for the use and development of the land for keeping and training Greyhounds and associated buildings and works at 2612 Bacchus Marsh Balliang Road, Rowsley is **supported** by Strategic Planning for the following reasons.

- The proposal is consistent with the Urban Growth Framework in that it is for a non-sensitive land use.
- The proposal is considered compatible the existing sensitive use interfaces.
- The proposal is unlikely to prejudice the future investigation and eventual development of this precinct, noting that this project is identified as 'long term 10+ years'.

Financial Implications

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

Risk and Occupational Health and Safety Issues

The recommendation of approval of this use and development 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 was invited to attend this meeting and address Council if desired.

Options

Council has the following options it could consider:

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

Conclusion

The proposed application for the use and development of a greyhound facility for a maximum of 50 dogs (inclusive of puppies) has been assessed in accordance with all relevant legislation above and Subject to conditions, it satisfies all relevant planning scheme provisions for the use and development of a greyhound facility. It is considered that the proposal would not detrimentally impact the protection of landscape and environmental values, and would not have any detrimental amenity impacts.

It is acknowledged that there were concerns raised from neighbouring properties regarding the appropriateness of this proposal. As stipulated above greyhound applications that are compliant with Clause 52.40 of the Moorabool Planning Scheme and the referenced document planning requirements for the racing dog keeping and training are exempt from public notice in accordance with 52.40-2 of the Scheme. Due to uncertainty regarding compliance with clauses 4.5 and 4.8 the application was advertised with two objections received.

Subsequently he applicant was able to provide information to clarify the unsatisfied clauses, deeming the application compliant.

In addition, a site visit was undertaken by the Coordinator Statutory Planning, Statutory Planner and Community Safety Officer where it could be clearly seen that the choice of location of the proposed facility was well considered, well screened from the primary and secondary road frontages by vegetation and the surrounding topography.

In relation to acoustics of the structure and noise concerns, the planning requirements stipulate that if the kennel is situated more than 500m away from the nearest receptor it is not required to have an acoustic report undertaken as by nature of distance it complies.

In addition to this the applicant also stipulated that the fenced off exercise and training area is approximately 470m from any sensitive receptor (that isn't the operators house). The Local policy at Clause 22.04 of the Moorabool Planning Scheme in relation to animal keeping and the EPA Noise Guidelines in relation to dog kennels both suggest that dog related enterprises should be at least 500m from residential areas. So the application is well compliant with the requirements and will also be required to comply with the EPA noise requirements.

Based on the information above, it is recommended that the application should be supported, subject to conditions.

Recommendation

That, having considered all relevant matters as required by the Planning and Environment A1987, Council issue a Permit for Development and Use of land for Animal Husbandry (Keep, breed and train racing dogs, 50 Greyhounds) at 2612 Bacchus-Marsh Balling Road, Rowley, subject to the following conditions;

Endorsed Plans

- 1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:
 - a) Internal layout of the shed housing the kennels;
 - b) Details of acoustic treatment of the shed and kennels;
 - c) Exercise and training areas;
 - d) Location of all fencing and gates; and
 - e) Details of any other details to demonstrate the development complies with the *Planning* requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017.

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.

Operational:

- 2. A landscape plan to the satisfaction of the Responsible Authority must be provided showing vegetation screening to be planted on the site including species to be planted, number of plants and protection and maintenance measures until the vegetation is established.
- 3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.
- 4. The dogs must be contained within the acoustically baffled kennels between the hours of 10pm and 7am each day.
- 5. Greyhound exercising can only occur between 7.00amand 6.00pm.
- 6. Greyhound training shall only occur between 8.00am to 10.00am daily.

- 7. Feeding times are only permitted to occur between the hours of 7.00am to 6.00pm. Feeding times must be managed and supervised to minimise noise emissions from the site. Feeding must be undertaken within the confines of the acoustically baffled kennels.
- 8. All external walls and roof areas of all proposed buildings on the subject site are to be clad with non-reflective materials to the satisfaction of Council.
- 9. No more than 50 dogs (including puppies) may be accommodated on the land at any one time to the satisfaction of the Responsible Authority.
- 10. The proposed animal keeping and animal training facility must at all times be conducted in accordance with *Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017* to the satisfaction of the Responsible Authority.
- 11.All gates and doors to the perimeter fencing of the Animal Boarding facility are to be selfclosing and self-locking to the satisfaction of the Responsible Authority.
- 12. Noise levels emanating from the kennel facility must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 ('SEPP N-1').
- 13. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) Appearance of any building, works or materials;
 - b) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - c) Presence of vermin; and
 - d) Any other detrimental impact that may arise as a result of the proposed use being conducted on the subject site.
- 14.All on site works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of Council.
- 15. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.

Environmental Health conditions

- 16. Solid waste from facility must be removed at a suitable frequency to prevent a public health or environmental nuisance.
- 17. Wastewater/wash down water generated from the animal keeping facility must not be directed into the onsite septic system.
- 18. Wastewater/Wash down water generated from the animal keeping facility must be managed, treated and disposed of in a manner which prevents a public health or environmental nuisance.

Infrastructure conditions

19. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of Council. Overflows from on-site storage systems must be directed away from any waste water disposal areas.

- 20. 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)".
- 21. Unless otherwise approved by Council there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
- 22. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Assets 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 Council.

Permit Expiry:

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

- The development and the use are not started within two years of the date of this permit; and
- b) The development is not completed within four years of the date of this permit.

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

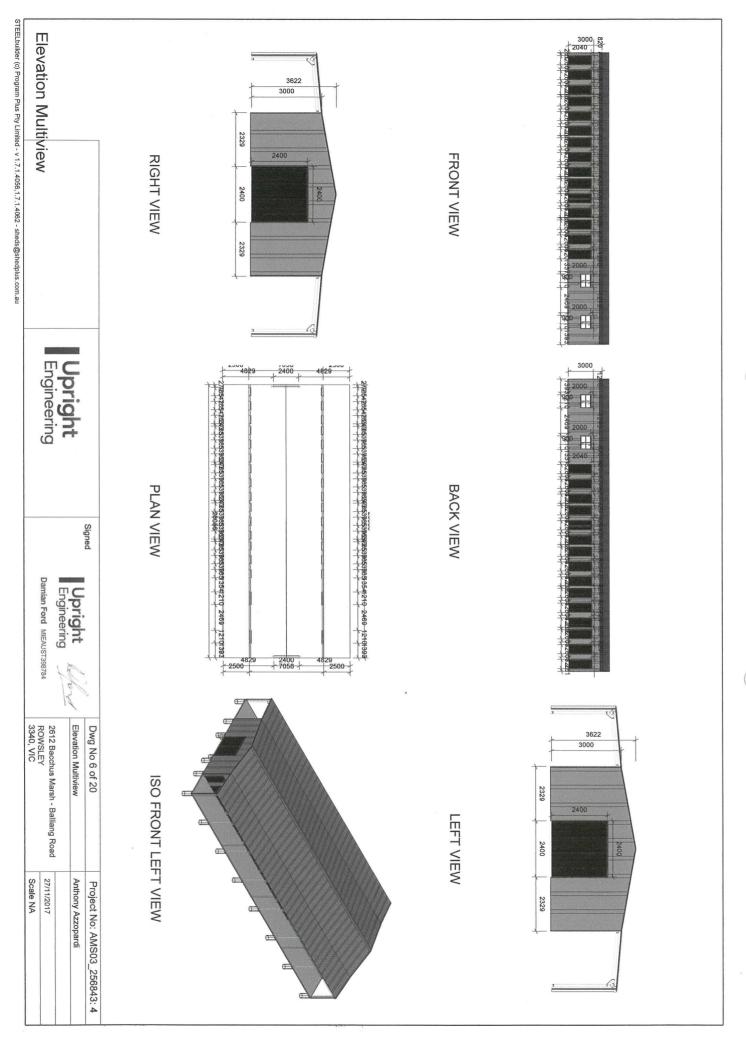
Report Authorisation:

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 28 May, 2018



Item 5.2 Planning Permit PA2017 283 – Use and Development of the land for materials recycling at 53B Seereys Track, Coimadai

Application Summary:	
Permit No:	PA2017 283.
Lodgement Date:	10 October, 2017.
Planning Officer:	Mark Lovell
Address of the land:	Crown Allotment 53B, Parish of Coimadai. 53B Seereys Track, Coimadai.
Proposal:	Use and Development of the land for material recycling.
Lot size:	Irregular - 8 hectares.
Why is a permit required	Clause 35.07-1 - Farming Zone - Use of land for materials recycling
	Clause 35.07-4 Farming Zone - Works associated with a use in Section 2
	Clause 44.06-2 Bushfire Management Overlay Building and works for Industry
Why is the application being presented to	Recommendation for refusal
Council?	Four objections received
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Four objections
Consultation meeting:	No, as the recommendation is for refusal
Policy Implications:	<u> </u>
Strategic Objective 2:	Minimising Environmental Impact
Context 3A:	Land Use Planning
Victorian Charter of Human Rights and Respo	onsibilities Act 2006
In developing this report to Council, the officer	considered whether the subject matter raised any

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

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Mark Lovell

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

Executive Summary:	
Application Referred?	The application was referred to Council's Environmental Health, Council's Infrastructure, EPA, CFA, Western Water and Melbourne Water.
Any issues raised in referral responses?	Council's Infrastructure recommended refusal. They noted that extensive upgrading road works would be necessary to achieve a suitable level of function and safety for the development to proceed.
Preliminary Concerns?	Concerned about the use incompatible with the zoning of the land and surrounding site context, access and environmental sensitivity.
Any discussions with applicant regarding concerns	The applicant was advised the application would not be supported.
Any changes made to the application since being lodged?	No.
Brief history	Nil.
Previous applications for the site?	Nil.
General summary	The applicant proposes to utilise a cleared section of land for material recycling. The site is unusual for industry type land use with extensive native trees, close proximity to a waterway, undulating terrain and roadways not suitable for heavy vehicles.
	The activity has commenced on site and is currently under investigation through planning enforcement. It is evident that rubbish/recycling materials are contained within the soil. The applicant has also widened the internal access way resulting in the removal of numerous native trees without planning permission.
	The site is isolated from the nearest main road and activity on the land has the potential to contaminant soils and waterways thereby creating adverse environmental impacts.
	Adjoining landowner concerns have been taken into consideration in the planning assessment.

This location is unsuitable for material recycling and
does represent the orderly planning of the area.

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a permit for the Use and Development of the land for materials recycling at Crown Allotment 53B, Parish of Coimadai known as 53B Seereys Track Coimadai.

Site Description

The subject site is located on the eastern side of Seereys Track, north of Seereys Road, Coimadai and is bounded on the western side by Goodman's Creek. The lot is irregular in shape and has a maximum length of 375 metres and a maximum width of 294 metres for an approximate area of 8 hectares. The site is heavily treed with native vegetation. There is an internal access way located near the northern side boundary that provides access to a central cleared section of land. The topography is undulating with cleared area at a high point in the land.

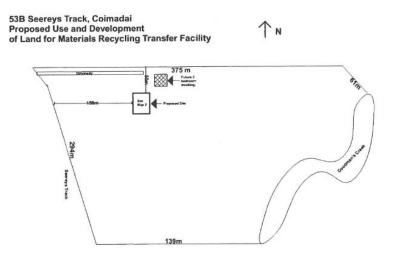
The surrounding land is also heavily treed along Seereys Track and there are a scattering of residential dwellings that are within the Farming Zone. There does not appear to be any productive or agricultural use of the land. The nearest main road is Gisborne Road located to the east and is accessed via Seereys Road and Russells Road. Access to the site involves utilising gravel tracks on undulating terrain. To the east, adjacent to Gisborne Road is vacant land intended for a future sand quarry and is located within a Special Use Zone.

Proposal

The permit applicant operates a family owned business called Skip n Tip. It is proposed to use land for material recycling. Material recycling under the Clause 74 of the planning scheme is defined as land used to collect, dismantle, treat, process, store, recycle, or sell, used or surplus materials.

Under this proposed material recylcing use, materials are brought to the site via skip bins, sorted on site and taken to licensed landfills. Materials will include general waste, green waste, metal waste, clean concrete, rock and brick, and clean soil. According to the applicant there will be no chemicals or asbestos. To conduct the use, there will be a skip truck, tipper truck, 2 excavators, and a front end loader. The use will have two staff and the hours of operation will be between 8am to 5pm Monday to Friday. There will be a maximum of four vehicle trips per day.

The applicant also proposes building and works with a concrete floor 12.2 metres in width by 12.2 metres in length with two sides containing shipping containers that support a domed roof over the concrete area. The minimum clearance height will be 9.5 metres. There will be water tank located to the western side of the concrete area and a portable toilet.



See appendix for detail plans.

History

As result of a site inspection which revealed that numerous native trees have been removed or lopped to facilitate widening of the internal access way and use has already commenced on site, Council has instigated compliance action.

Under this compliance action, the applicant has been required to cease all works. The applicant has advised that have ceased works and moved their business to Laverton.

Public Notice

The application was notified to adjoining and surrounding landowners by mail and by placing a large notice on site for a period of fourteen days. Starting from 3 May, 2018 till 30 May, 2018.

Summary of Objections

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

Objection	Any relevant requirements	
Truck access/Road safety with trucks/Seereys Track is steep and erosion prone/ Narrow Track.		
Officer's response – Council's Infrastructure section have identified that the local roadways are inadequate for truck access and has the potential to lead to traffic conflicts.		
Noise and smell/Industrial operation	Clause 13.04-1 Noise Abatement	
Officer's response – The proposal is near sensitive receptors such as residential dwellings and has		
the potential to cause adverse amenity impacts through noise and smell.		
Proximity to Goodman's Creek and State Park/Toxic runoff	Clause 14.02-2 Water Quality	
into Goodman's Creek		

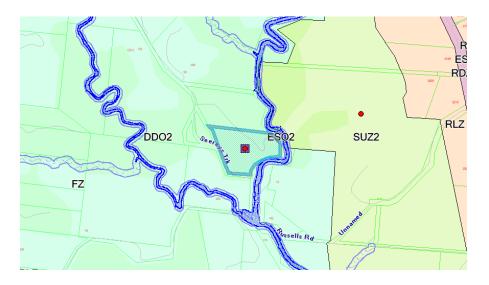
Objection	Any relevant requirements	
Officer's response – The proposal is located on a site bounded by a natural waterway in		
Goodman's Creek which is covered by an Environmental Significance Overlay. The activity could		
affect the water quality through leeching of the soils or ma	nterials escaping from the site and	
entering the waterway. The use is likely to involve different w	aste materials which will be stored	
in close proximity to a waterway.		
Considerable environmental damage/clearing of bush	Clause 12.01-1 Protection of	
	Biodiversity/Clause 52.17 Native	
	Vegetation	
Officer's response – The applicant has removed a significant number of native trees without		
planning permission. The removal of native vegetation advers	sely affects the biodiversity value of	
the area.		
Dumping unknown rubbish including asbestos/ Deposit of		
unintended materials		
Officer's response – The applicant has advised he does not receive asbestos materials, chemicals		
or flammable liquids.		

Locality Map

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



Red outline = Subject lot.



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 11.07-1	Regional Victoria.
•	Clause 12.01-1	Protection of Biodiversity.
•	Clause 13.04-1	Noise Abatement.
•	Clause 13.05-1	Bushfire Planning.
•	Clause 14.01-1	Protection of Agricultural Land.
•	Clause 14.02-1	Catchment Planning and Management.
•	Clause 14.02-2	Water Quality.
•	Clause 17.01-1	Business.
•	Clause 17.02-2	Design of industrial development.
•	Clause 19.03-5	Waste and Resource Recovery.
•	Clause 21.02-3	Water and Catchment Management.
•	Clause 21.03-2	Urban Growth Management.
•	Clause 21.04-2	Agriculture.

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 12.01-1	Protection of Biodiversity	The proposal will result in the loss of biodiversity value which would also be undermined by soil contamination.
Clause 13.04-1	Noise Abatement	The proposal can have the potential to cause noise impacts. The site is surrounded by sensitive receptors with residential dwellings contained on lots with no productive agricultural use. Proper acoustic assessment of the site has not been undertaken.
Clause 14.02-2	Water Quality	The proposal has the potential for runoff or waste to enter the waterway. The applicant has not provided a stormwater management plan.
Clause 19.03-5	Waste and Resource Recovery	The proposal is not designed, sited and operated to minimise impacts on surrounding communities and the environment.

Zone

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

The purpose of the Farming Zone is:

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

The decision guidelines under general issues has the following objectives:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management. Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

Overlays

Environmental Significance Overlay

The subject site is partly covered by the Environmental Significance Overlay Schedule 2. The provisions of Clause 42.01 apply.

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

- To protect the habitat significance of vegetation.
- To provide for appropriate development of land within 100 metres of either side of a waterway.
- To prevent pollution and increased turbidity of water in natural waterways.
- To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of waterways.
- To conserve existing flora and fauna habitats close to waterways and to encourage generation and regeneration of habitats.

Under Clause 42.01-2 a planning permit is required to carry out works.

Bushfire Management Overlay

The site is covered by Bushfire Management Overlay. The provisions of Clause 44.06 apply.

The purpose of this 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 ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A permit is required for buildings and works associated with industry. Materials recycling is nested under Industry.

Design & Development Overlay Schedule 2

The subject site is located in Design & Development Overlay Schedule 2.

The purpose of Schedule 2 is:

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

A permit is required to construct a building in reflective materials. A corresponding condition can ensure non-reflective materials are used to accord with the overlay provision.

Particular Provisions

Clause 52.45 Resource Recovery

The purpose of this particular provision

 To facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area.

Under Clause 52.45-3 before deciding on an application, in addition to the Decision Guidelines of Clause 65, the responsible authority must consider:

- The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.
- The impact of the proposal on the amenity of the surrounding area.
- The Statewide Waste and Resource Recovery Infrastructure Plan (Sustainability Victoria, 2015).
- Any Regional Waste and Resource Recovery Implementation Plan including the Metropolitan Waste and Resource Recovery Implementation Plan (Metropolitan Waste and Resource Recovery Group, 2016).
- Relevant guidelines applicable to the application including the guideline for Designing, Constructing and Operating Composting Facilities (Environmental Protection Authority, 2015), the Guide to Best Practice for Organics Recovery (Sustainability Victoria, 2009) and the Guide to Best Practice at Resource Recovery Centres (Sustainability Victoria, 2009).

The subject land has not been identified as a strategic location for materials recycling.

Discussion

Use of the land

The site context presents challenges in seeking alternative land uses. As previously mentioned, the site and surrounding area are heavily vegetated with native trees on undulating terrain that is not used for any productive agricultural or farming activity. Surrounding properties contain dwellings that are linked to Land Management Plans rather than Farm Management Plans. The proposal is for an industry type activity in materials recycling. The use is not prohibited under the zoning and depending on its extent and location may or may not be appropriate.

As evident from a site inspection, the site is poorly managed and the current material recycling undertaken without planning permission is causing adverse environmental impacts as the rubbish and materials are sinking into the soil and potentially contaminating the soil which can leech towards nearby waterways. Material recycling if not managed correctly can create adverse amenity impacts. The site with good existing environmental qualities will be detrimentally affected by the change of use. The site is also not well serviced by roadways, with gravel tracks in the form of Seereys Track and Seereys Road on undulating terrain which is not ideal for heavy vehicle movements and can lead to vehicle conflicts. It would be expected that heavy vehicle use of gravel roadways will create ongoing maintenance issues for Council. Material recycling which requires truck usage should be located adjacent to main roads which reduces the impact of trucks using the local road network.

The location of the site is inappropriate for the use of the land for materials recycling. The proposed use does not represent the orderly planning area.

Development works

The development works consisting of concrete pad and shipping containers supporting a domed roof are minor and will not be visible from the street frontage. There was no detail regarding storm water run-off which would need to be managed and retained on site. This part of the application could be resolved through permit conditions.

General Provisions

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

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

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

Referrals

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

Authority	Response
Melbourne Water	Consent no conditions
EPA	Consent with twelve conditions
CFA	No comment
Western Water	No comment, not in a Western Water area
Infrastructure	Objection
Environmental Health	Consent with one condition

Financial Implications

The recommendation to refuse this application would not represent any financial implications for Council.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

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

Options

Council has the following options it could consider:

- Refuse to issue a permit in accordance with the recommendation of this report.
- Should Council wish to consider approval of the application Councilors need to explore conditions based on the proposal complying with the Moorabool Planning Scheme.

Conclusion

The proposed use and development does not comply with the planning scheme including the State Planning Policy Framework, the Local Planning Policy Framework, Farming Zone provisions, the Environmental Significance Overlay provisions and particular provisions for Resource Recovery. The use is inappropriate on a site with environmental values such as large extent of retained native vegetation and bounding by a natural waterway, Goodman's Creek. The building works are not designed to fully contain all the recycling activity and there is potential for the contamination of soil and watercourses. Trucks using the site have inadequate existing roadways which have not been designed for such vehicles or for such use of the land. The use and development should be refused with specified grounds.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Refusal to Grant a permit for the Use and Development of the land for materials recycling at Crown Allotment 53B, Parish of Coimadai known as 53B Seereys Track Coimadai with the following grounds of refusal

- 1. The proposed use and development is inconsistent with the objectives of the Farming Zone by not allowing for sustainable land management practices and providing for adequate infrastructure provisions.
- 2. The proposed use and development is inconsistent with the objectives of the Environmental Significance Overlay by not conserving existing flora and fauna habitats close to waterways and preventing pollution entering the waterway.
- 3. The proposed use and development does not comply with the purpose of Clause 52.45, Resource Recovery.
- 4. The location of the use has not taken into account the surrounding site context and environmental value of the subject land and surrounding land.
- 5. The local roadways are not designed to support vehicles required by the materials recycling use.
- 6. The proposed use and development does not represent the orderly planning of the area.

Report Authorisation:

Authorised by:

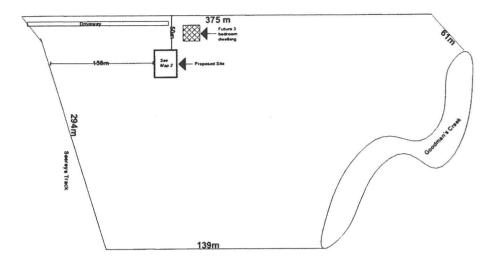
Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 28 May, 2018

53B Seereys Track, Coimadai Proposed Use and Development of Land for Materials Recycling Transfer Facility



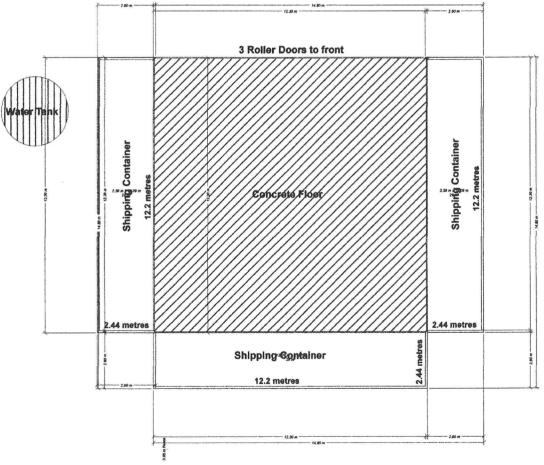


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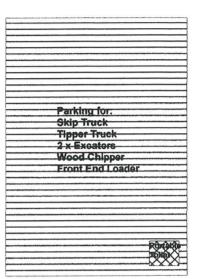
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53B Seereys Track, Coimadai Proposed Use and Development of Land for Materials Recycling Transfer Facility





^{*} Shipping containers are 9.5 metres high



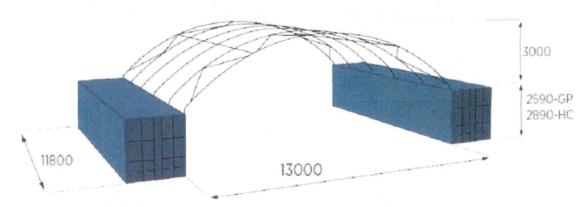
Along with the 3 shipping containers a dome roof will be installed. (see brochure below)



head office: 1300 793 822 e info@containerdomes.com.au 26 Page Street Kunda Park Qld 4556

DN 74 931 749 850

13m Dome Shelter



*Standard lengths are 6m and 12m. Custom sizes (widths, lengths and heights) are also available.







- 10 year structural warranty on frame and cover
- · Galvanised steel frame and bracing
- · Engineer certified to Wind Regions A, B, C or D
- Certified to leave cover on in winds up to 300km per hour
- All Dome Shelters are engineer certified to terrain category 2, level of importance 2, as per AS/NZS 1170.2.2011
- Designed and manufactured in Australia, using Australian products
- Australian made Canvacon 7000E PE fabric cover (white/silver as standard for temperature control)
- Full or partial end wall available for one or both ends
- Easy to read assembly instructions for DIY installation
- Full installation service available, or supervisor only installation service also available
- Certified to be container mounted, ground mounted or post mounted.

Item 5.3 Planning Permit PA2017 118- Development of Four (4) Offices and Four (4) Dwellings, eight lot subdivision, reduction to the standard car parking requirement at 68 Steiglitz Street, Ballan

Application Summary:		
Permit No:	PA2017 118	
Lodgement Date:	20 June, 2017.	
Amended application lodged:	13 March, 2018.	
Planning Officer:	Mark Lovell	
Address of the land:	Lot 1 and 2 on TP00964G 68 Steiglitz St Ballan	
Proposal:	Development of Four (4) Offices and Four (4) Dwellings, eight lot subdivision, and a reduction to the standard car parking requirement	
Lot size:	1073m2	
Why is a permit required?	Clause 34.01-4 Commercial 1 Zone - Building and Works.	
	Clause 32.01-3 Commercial 1 Zone -Subdivide land.	
	Clause 42.01-2 Environmental Significance Overlay - Building and Works. Clause 52.06 – Reduction to the standard car parking requirement.	
Why is this application being presented to Council?	One objection received.	
Public Consultation:		
Was the application advertised?	Yes.	
Notices on site:	Yes.	
Notice in Moorabool Newspaper:	No.	
Number of Objections:	One (1).	
Consultation meeting:	Yes, meeting held with the objector. The objection was not resolved.	
Policy Implications:		
Strategic Objective 2:	Stimulating Economic Development	
Context 2A:	Built Environment	

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Mark Lovell

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

Executive Summary:	
Application Referred?	Yes, Council's Infrastructure, Council's SSD, Western Water, Melbourne Water, Southern Rural Water, Downer Utilities and Powercor
Any issues raised in referral responses?	No.
Preliminary Concerns?	Yes, with the design of the dwellings.
Any discussions with applicant regarding concerns	Yes, the applicant engaged the services of a town planning consultant and explored alternative design responses. The applicant then submitted revised plans including altered layouts, setbacks and external form.
Any changes made to the application since being lodged?	Yes, the applicant submitted revised plans which substantially altered the layouts and design of the development. This is significantly a better design outcome.
Brief history	Nil.
Previous applications for the site?	PA20202-376 PA2005-348 PA2011-183
General summary	The application proposes a mixed development of offices on the ground floor and dwellings on the first floor contained within one building structure with a subsequent eight lot subdivision The applicant has taken on board initial concerns raised by Council and re-designed the development
	which has significantly improved the external design and improved the car parking and pedestrian arrangements.

The proposal in the latest set of plans represent an effective utilisation of the space and provides good level of amenity to future residents. The re-design has also reduced off site impacts to adjacent properties.

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 permit for Development of Four (4) Offices and Four (4) Dwellings, eight lot subdivision and a reduction to the standard car parking requirement at Lot 1 and 2 on TP00964G otherwise known as 68 Steiglitz Street, Ballan.

Site Description

The subject site is located the northern side of Steglitz Street approximately 20.12 metres east of Fisken Street, Ballan. The site is comprised of two titles with a combined width of 21.33 metres and a maximum length of 50.29 metres for a total land area of 1074.38. The site has a relatively flat topography and according to the spot level slopes from 504.44 in the north-west corner up to 505.101 in the south-east corner. The site contains two attached metal sheds with separate driveways. The shed building is well setback from the street frontage, constructed against the eastern side boundary, setback approximately 2.7 metres from the western side boundary and approximately 11.3 metres from the rear northern boundary. The building is unoccupied, poorly maintained and contains rubbish in the front setback area.

The surrounding area is predominately detached single storey dwellings on moderate lots sizes with established front garden spaces. Steiglitz Street is a wide road reserve containing gravel car parking spaces and established street trees. The adjacent western property contains a detached single storey dwelling however has planning approval under Planning Permit PA2015108 for Staged Subdivision (9 lots), Development of Five (5) Retail Shops and Four (4) Dwellings, a Reduction of Eleven (11) Car Spaces and Removal of Vegetation. Works have not commenced on this development at this stage. The site is conveniently located to main commercial centre of Ballan with Inglis Street to the north and is in close proximity to the Council offices on the corner of Steiglitz Street and Stead Streets.

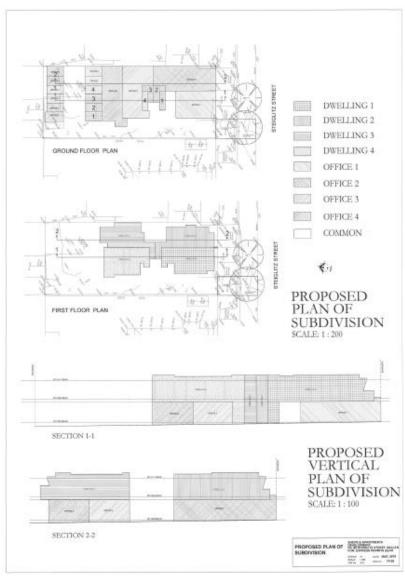
Proposal

It is proposed to construct a double storey building. At the ground floor level there will be four offices, two offices facing the Steiglitz Street frontage and two offices facing an internal access way adjacent to the western property boundary. Behind the offices will be car park consisting of 12 car spaces. Between the sets of offices will be common ground floor lobby area to providing access to the first floor. The first floor will consist of four apartments each consisting of 2 bedrooms, combined living/meals, kitchen, bathroom and cupboard laundry. Unit 1, 3, and 4 will have one balcony space accessed from a living spaces while Unit 2 will have two balcony spaces, one accessing from s living room and the other from Bed 1. The building is constructed in part against the front property boundary, constructed in part against the eastern side boundary, setback 3.0 metres from the western side boundary and 17.2 metres from the rear northern boundary. Overall height is at 6.9 metres with a relatively flat roof form. The building will consist of a mixture of external materials such as painted scyon cladding, rendered cladding, block work, timber cladding, powder coated aluminium framed windows, Colorbond roofing and cladding.

The subdivision will follow the building areas of the offices and dwellings. The applicant has submitted a vertical subdivision plan as some lots will only be at the ground level and some lots will only be at the first floor level.







See appendix for detail plans.

Background of Current Proposal

The applicant initially submitted plans for three shops and three dwellings above. The design and layout was poorly arranged and the applicant was advised on 14 July, 2017 that the application would not be supported in conjunction with a request for further information. The applicant lodged an application in process on 13 March, 2018 with a complete re-design and different development proposal consisting four offices and four dwellings.

History

There have been a number of permits issued for the subject land.

PA2002-376 was issued on 11 March, 2003 authorising the use of land for car sales and display of ancillary advertising signage.

PA2005-348 was issued on 25 November, 2005 authorising the use of the land for industry (water bottling) and construction of building and works.

PA2011183 was withdrawn on 16 April, 2014 for an on premises liquor license.

Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large on site for period of fourteen days. A statutory declaration verifying display of the large notice was received on 17 April, 2018.

Summary of Objections

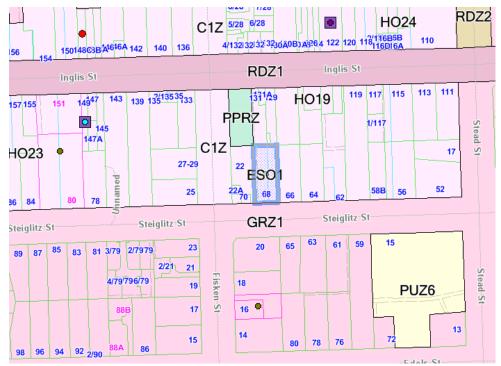
The objections received are detailed below with officer's comments accompanying them:

Objection	Any relevant requirements
Client has exclusive use of carriageway easement A-1 and	Certificate of Title
under no circumstances can the development seek use of	
carriageway easement A-1	

Officer's response – There is an easement for the purpose of carriageway on Lot 2 of Title Plan TP9764G. This easement allows the adjacent land owner at 131 Inglis Street to use the land at 68 Steiglitz Street as a carriageway. The easement rights do not changes as a result of the development application. The objector is incorrect in that owner of the land cannot undertake works on their land. The development plans show the driveway will occupy the land covered by the easement and will continue to provide carriageway access in accordance with the title documents. The objector disagrees with the officer's assessment and wishes to take the matter to VCAT.

Locality Map

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



Subject lot = Blue hatched



Planning Scheme Provisions

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

The relevant clauses are:

- Clause 11.02-1 Supply of urban land.
- Clause 11.03-1 Open space planning.
- Clause 11.07-1 Regional Victoria.
- Clause 11.07-2 Peri-urban areas.
- Clause 11.06-2 A diversified economy.
- Clause 11.08-1 Planning for Growth.
- Clause 13.04-1 Noise abatement.
- Clause 15.01-3 Neighbourhood and subdivision design.
- Clause 15.01-5 Cultural identity and Neighbourhood character.
- Clause 16.01-1 Integrated housing.
- Clause 16.01-2 Location of residential development.
- Clause 16.01-4 Housing Diversity.
- Clause 16.01-5 Housing Affordability.
- Clause 17.01-1 Business.
- Clause 18.02-5 Car Parking.
- Clause 21.03-2 Urban Growth Management.
- Clause 21.03-3 Residential Development.
- Clause 21.03-4 Landscape and Neighbourhood Character.
- Clause 21.04-3 Commerce.
- Clause 21.08-2 Ballan Township Growth.

Zone

The subject site is located in a Commercial 1 Zone (C1Z).

The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Office and Accommodation are Section 1, permit not required uses, under Clause 34.01.

Under Clause 34.01-4 a permit is required for building and works.

Under Clause 34.01-5 an application must be accompanied by neighbourhood and site description and design response for construction of two or more dwelling on the lot.

Decision guidelines are listed under Clause 34.01-8, as follows:

General

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The interface with adjoining zones, especially the relationship with residential areas.

Building and Works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from
 the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and
 backs of buildings and their appurtenances, illumination of buildings or their immediate spaces
 and the landscaping of land adjoining a road.
- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved area.
- Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.
- The availability of and connection to services.
- The design of buildings to provide for solar access.
- The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to an apartment development.
- For an apartment development, the objectives, standards and decision guidelines of Clause 58.

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

Decision guidelines are listed under Clause 34.01-8, as follows:

Subdivision

- Provision for vehicles providing for supplies, waste removal and emergency services and public transport.
- The effect the subdivision will have on the potential of the area to accommodate the uses which will maintain or enhance its competitive strength.

Overlays

Environmental Significance Overlay Schedule 1

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

The purpose of the overlay is:

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

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

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

Under Clause 42.01-2, a permit is required for building and works and to subdivide land.

Relevant Policies

Ballan Strategic Directions guides development in Ballan and identifies growth precincts for the town. Council adopted Ballan Strategic Directions as its Ordinary Meeting on 1 November 2017.

The subject site is located in Precinct A which is described as a 'precinct that forms part of the original settlement and is dominated by a strong grid network, with wide roads reserve (30m) and a mix of formal and informal street tree plantings. Due to the age of this Precinct, with street trees and other plantings having had the opportunity to mature therefore good canopy cover exists. The Precinct has a strong sense of openness mainly due to the Precinct being dominated with larger residential lots (average of approximately 980sqm) and wide road reserves, which often have a gravel edge and informal car parking arrangements'. Built form varies within the Precinct from original weatherboard dwellings including Late Victorian, Federation and interwar Bungalow styled dwellings through to more contemporary brick dwellings. Built form is generally of a modest scale constructed of brick or weatherboard, single storey with generous front and side setbacks surrounded by established landscaped gardens. Front fencing is generally low scale or non-existent and where fencing does exist it is often constructed of timber and or wire with a high level of permeability which assists in contributing to the openness of the Precinct. There is evidence of some change occurring within the Precinct, with multi-dwelling developments also existing.

This part of precinct A is identified as a residential area of natural change. Under the strategic direction natural residential growth areas are defined as 'natural change over time ...Appropriate well designed, infill development, including multi-unit developments that complement the preferred character of the area, while providing for a variety of housing options will be encouraged in suitable locations'.

The guiding principles for development in natural growth areas are:

- Maintain a streetscape rhythm of detached dwellings with conventional front and side setbacks.
- Built form to one boundary may be appropriate where the preferred character of the Precinct is not compromised.
- Boundary to boundary development should be avoided.
- Built form will be of a modest scale and be sympathetic to the existing character of the Precinct, however innovative and unique built form that enhances the character of the Precinct will be encouraged.
- Multi-dwelling developments should minimise the need for additional crossovers to the street, be located on lots within the Precinct that are within a walkable distance of some services and facilities and have minimal impact on the streetscape rhythm and pattern. Therefore, some lots within the Precinct may not be suitable for further intensification.
- Open front gardens will blend into the public realm, with minimal or low scale front fencing.
 Residential Development A
- Built form will not dominate the lot which will allow for generous private open space and garden plantings.
- Increasing canopy tree cover within lots will assist in improving the landscape within the Precinct, while also achieving a balance between open space and built form.
- New development located in close proximity to dwellings that exhibit historical architectural styles should ensure built form complements these dwellings.
- Increasing the diversity in housing products within the Precinct is desirable including alternative housing products that allow for a variety of housing choices in areas accessible to services and facilities.

It is considered the proposed development complies with Ballan Strategic Directions by avoiding building to one side boundary, having one crossover access, and offering a diversity housing stock with two bedroom sized residential dwellings.

Particular Provisions

Clause 52.06 Car Parking

Under Clause 52.06-2, before a new use commences; or the floor area or site area of an existing use is increased; or an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use, the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority.

The proposed use is offices. Based on the net floor area requires a total of 13 spaces to the combined four offices. The applicant is proposing two car spaces to each office for a total of 8 office spaces, a shortfall of 5 spaces. The proposed dwellings are 2 bedrooms each and therefore require 1 car space in accordance with Scheme requirements. Each dwelling has 1 car space, for a total of four. The combined uses have total of 12 on site car spaces which is a combined shortfall of 5 spaces in total.

USE	PLANNING SCHEME REQUIREMENT	PROVIDED	SHORTFALL
Dwellings	4 dwellings x 1 car space = 4 spaces	4	0
Offices	3.5 per 100m2 of floor area = 13.59 (13) spaces	8	5
TOTAL	Combined uses = 17 spaces	12	5

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

- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.
- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
- The workability and allocation of spaces of any mechanical parking arrangement.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area. Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).
- The relevant standards of Clauses 56.06-2, 56.06-4, 56.06-5, 56.06-7 and 56.06-8 for residential developments with accessways longer than 60 metres or serving 16 or more dwellings.
- Any other matter specified in a schedule to the Parking Overlay.

Clause 52.01 Public open space contribution

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988. As the proposal does not comply with class exemption, an assessment must be undertaken Section 18 of the Subdivision.

The proposal will result in a greater demand for public open space with four dwellings at 2 bedroom each occupying a former non residential property. Due to the land size, the applicant is unable to provide a public open space reserve within the subdivision. In this instance there will be a requirement for a public open space fee not exceeding 5% of the site value of the land.

Clause 52.34 Bicycle Parking

Under Clause 53.34-1 a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area of the use.

Employee and visitor bicycle spaces for offices is only required when the net floor area exceeds 100 square metres. The total combined floor area does not exceed this requirement, therefore no bicycle parking is required under this clause.

Clause 55 Rescode

The proposal complies with ResCode (Clause 55/56), with the exception of the following:

Clause Rescode	Title	Response
55.03-1	Front setback	The original design introduced in large front setback however this congested the development leading to excessive visual bulk and massing. The current design has no front setback which is appropriate for ground floor offices to easily accessible from the street frontage. A zero front setback is acceptable in this instance.
55.05-5	Solar Access to Open Space	Unit 1 has a south facing balcony that does not comply with the minimum setback from a wall to the north of the space. This balcony is largest in size and will meet reasonable recreational needs of future residents. While the solar access does not comply this unit 1 does have north facing Bed1 window to allow for adequate internal amenity.

Discussion

Design and form

The proposal offices are well designed and contain a mixture of external materials and finishes to effectively blend with the existing housing stock that is predominate land use of surrounding properties. As presented in the streetscape elevation the height is not excessive and does not dominate the two adjacent properties. The design has utilised large windows area/glass doors facing the Steiglitz Street which assist in reducing visual bulk and allows for an active street frontage. The first floor to the residential dwellings are recessive and includes staggered setbacks which improves building articulation and reduces off site impacts.

Waste Management

The applicant has provided an internal bin room between the rear of Office 1 and the lobby to the residential dwellings. Permit conditions will be in place to ensure this area is maintained and kept in a clean and tidy manner.

Environmental Assessment

The site has been used previously for an industrial activity and the proposal includes sensitive lands uses including residential dwellings. A comprehensive environmental assessment was undertaken by JET Environmental. They identified zinc and xylenes exceeding accepted levels and also found traces of asbestos fragments in building debris on site. Based on the results, the applicant will need to submit a Certificate or Statement of Environmental Audit which can include measures to remediate the site.

Adequacy of car parking

The site is located within an established commercial precinct. The change of use will result in a reduction in the standard car parking rate by 5 spaces. The applicant will provide 2 car spaces for each office, a total of 8 office spaces which does not achieve the minimum requirement of 13 spaces. Office uses do not generate high patron use compared to retail shops and the small floor area proposed to each office, between 87.55m2 and 110.25m2 are unlikely to generate high employee numbers. The two car spaces provided to each office should be adequate to cater to existing and future demand.

The central location of the site that abuts existing residential zones can also be utilised by pedestrian traffic or via other short distance transport modes such as bicycles. An advantage for the site is mixture of uses with the office car spaces occupied during daylight hours and the residential use occupied during night time hours. This allow the offices car spaces to be utilised by residents after business hours. The different land uses on the same site with different peak periods supports a reduction to the standard requirement.

Pedestrian and Car parking access

The rear of the site contains twelve car space including a dedicated accessible car space. The applicant has created a separate pedestrian path accessing the central lobby from the adjacent driveway to prevent pedestrian and vehicle conflicts. The end car space adjacent to the eastern boundary are wider in length than minimum requirement to allow vehicles to enter and exit in a forward direction. The common driveway completes covers the entire carriageway easement on title thereby still allow continued for the adjacent property owner who has carriageway rights.

Landscaping

The applicant has provided landscape strip adjacent to the driveway and separating the pedestrian path which will create a positive visual appeal to the development and also assist in breaking up hard surface paving. There will be permit conditions in place ensure the landscaped areas are maintained to the satisfaction of the Responsible Authority.

<u>Subdivision</u>

The boundaries of the subdivision accord with the location of the buildings proposed as part of the development. The applicant has placed all landscaped areas and accessways within common property which will be managed by an owner's corporation. The car spaces are allocated correctly with one space to each dwelling and two spaces to each office.

General Provisions

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- 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 anybody 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
Western Water	Consent
Southern Rural Water	Consent with three conditions
Melbourne Water	No comment
Powercor	Consent with two conditions
Downer Utilities	Consent with one condition
Infrastructure	Consent with twelve conditions
SSD	No comment

Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Communications Strategy

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

Options

Council has the following options it could consider:

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

Conclusion

The proposed development consisting of offices and residential dwellings above generally complies with the State Planning Policy Framework, Local Planning Policy Framework and particular provision including the Rescode standards and objectives.

The development is well designed, the internal layouts are functional and off site impact have been minimised with first floor setbacks and a lowered overall height. The subdivision boundaries match the proposed building areas. The proposed car parking reduction is justified due to the small floor area to the offices and the mixture of uses of the land that will have different car parking peak periods.

The objectors concerns are unable to be resolved and there will be no change to the current easement rights registered on title as a result of this development and subdivision, however as stipulated in the officers response above will not have a detrimental planning outcome. There will be permit conditions in place to protect the amenity of the surrounding areas and to ensure the site is correctly remediated as part of a Certificate or Statement of Environmental Audit.

The proposed development and subdivision should be supported with conditions.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to grant a permit for the Development of Four (4) Offices and Four (4) Dwellings, eight lot subdivision and a reduction to the standard car parking requirement at Lot 1 and 2 on TP00964G otherwise known as 68 Steiglitz Street, Ballan with the following conditions:

Endorsed plans

- 1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:
 - a) Landscape plan in accordance with condition 20 contained herein

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.

Environmental Audit

- 2. Prior to the commencement of any works, use and development the applicant is to provide to Council either:
 - i) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
 - ii) An environmental auditor appointed under the Environment Protection Act 1970 must make a Statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

Amenity

- 3. The area coverage by carriageway easement E-1 on Title Plan TP9764G must not blocked or obstructed.
- 4. Mechanical noise emanating from the premises must comply with the State Environment Protection policy N-1 'Control of Noise from Commerce, Industry and Trade.
- 5. Goods, equipment or machinery must not be stored or left exposed in a position that can be seen from the street.
- 6. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.
- 7. Any security alarm or similar device installed must be of a silent type.
- 8. The walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the responsible authority.
- 9. All service pipes, fixtures and fittings, other than stormwater downpipes, must be concealed on exposed elevations to the satisfaction of the responsible authority.

10. The bin storage must be kept in a clean and tidy manner and be regular maintained to the satisfaction of the Responsible Authority.

Landscaping

- 11.Before the use/occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
- 12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

Infrastructure

- 13. Prior to the commencement of the development, the common property driveway must be constructed in reinforced concrete to a depth of 125mm. The layout of the driveway must be designed and constructed in accordance with Clause 52.06-8 of the Moorabool Planning Scheme.
- 14.Prior to the issue of a Statement of Compliance for the subdivision, the proponent must construct a reinforced concrete footpath 1.5m wide, 125mm thick from Fisken Street to the entrance of the off-street Car Parking area in Steiglitz Street (approximately 65m to the East of the subject land), to the satisfaction of the responsible authority.
- 15. Prior to the commencement of the development, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
 - i) The development as a whole must be self draining.
 - ii) 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.
 - iii) 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.
- 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. 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.
- 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. 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).

- 20.A landscape plan must be prepared and submitted to the responsible authority for approval detailing all proposed landscaping and proposed tree removal, ensuring that no tree or shrub is planted over existing or proposed drainage infrastructure and easements. The landscape plan must include a plant legend with botanical name, quantity, pot size at time of planting and details of ground treatments.
- 21. Prior to the commencement of the development, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing change 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
- 22. 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:
 - i) location of vehicle crossings.
 - ii) details of the underground drainage.
 - iii) location of drainage legal points of discharge.
 - iv) standard details for vehicle crossing and legal point of discharge.
 - v) civil notes as required to ensure the proper construction of the works to the satisfaction of the responsible authority.
- 23. Prior to the use commencing, the car park areas must be constructed with a sealed surface, line-marking and drainage to the satisfaction of the responsible authority, and shall incorporate the following:
 - i) Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.
 - ii) Designated loading areas shall be shown on layout plans.
 - iii) The parking areas shall be provided with an asphalt or concrete surface and associated drainage.
 - iv) Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.
- 24. The building shall be provided with disabled access in accordance with the provisions of AS1428 Design for Access and Mobility.

Subdivision

- 25. 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.
- 26.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.

Telecommunications

- 27. 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.
- 28.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.

Southern Rural Water

- 29. 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.
- 30.Each allotment must be connected to the reticulated sewerage system and stormwater infrastructure.
- 31.Sediment control measures outlined in EPA's publication No 275 (Sediment Pollution Control) shall be employed during construction and maintenance until the disturbed area has been completed and/or revegetated.

Powercor

32. 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.

33.The applicant shall:

- a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor.
- b) Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria's Electrical Safety System.
- c) The applicant shall 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.
- d) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- e) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules

Downer Utilities

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

Permit Expiry

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

- a) The development and the use is not started within two years of the date of this permit;
- b) The development is not completed within four years of the date of this permit; and
- c) The plan of subdivision is not certified within two (2) years of the date of issue of the permit.

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987. Statement of Compliance must be achieved and certified plans registered at Titles office within five (5) years from the date of certification.

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.

Report Authorisation

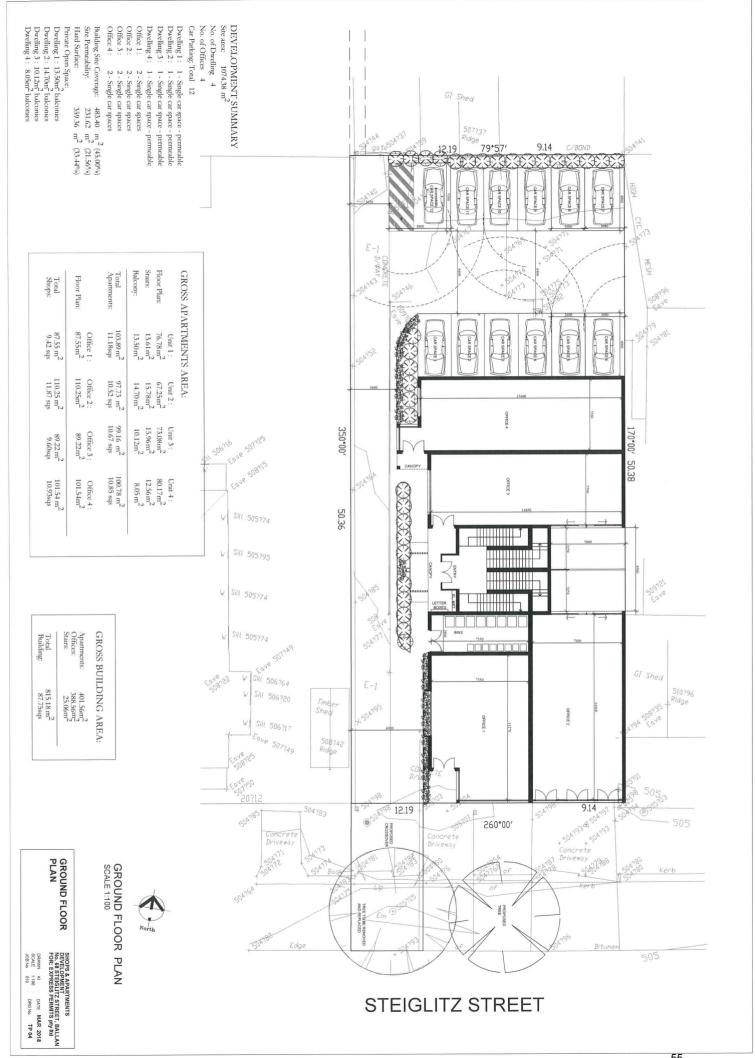
Authorised by:

Name: Satwinder Sandhu

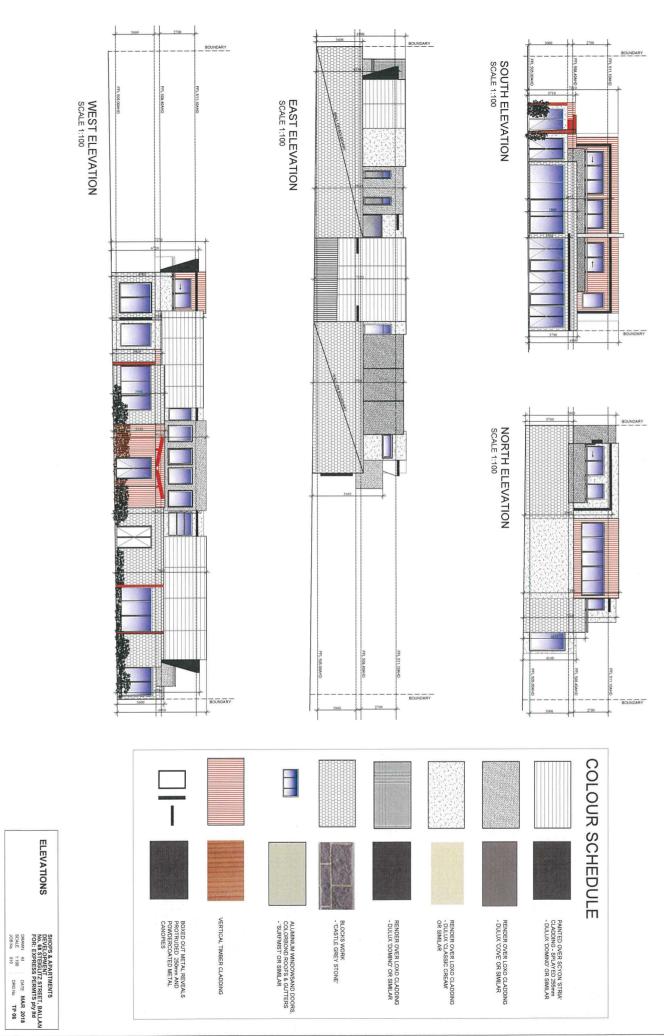
Title: General Manager Growth and Development

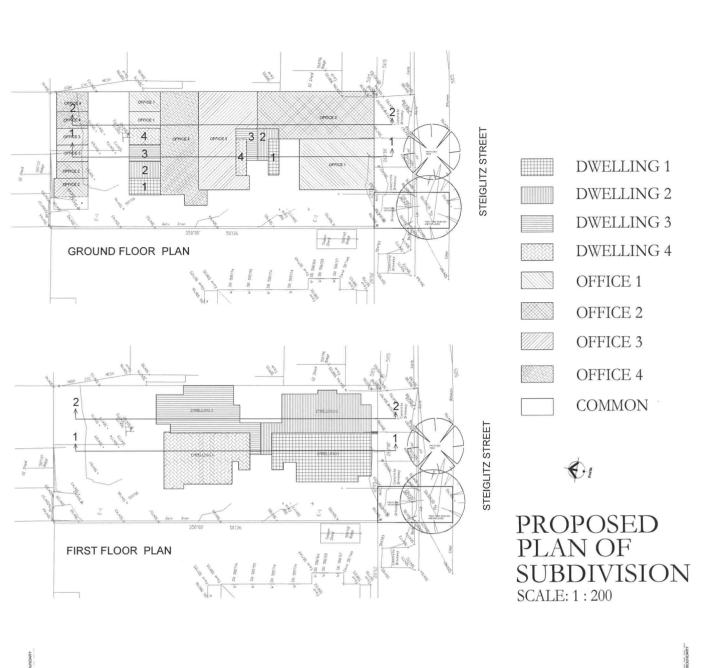
Date: 28 May, 2018

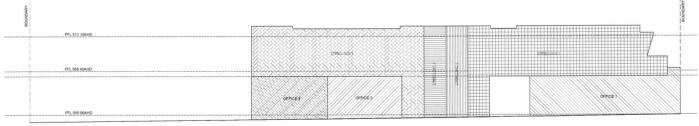




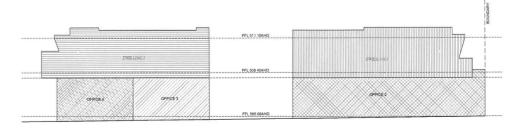








SECTION 1-1



SECTION 2-2

PROPOSED VERTICAL PLAN OF SUBDIVISION

SCALE: 1:100

PROPOSED PLAN OF SUBDIVISION

SHOPS & APARTMENTS DEVELOPMENT No. 68 STEIGLITZ STREET, BALLAN FOR: EXPRESS PERMITS pty ltd

DRAWN KI SCALE 5200 IOB No 518 DATE MAR 2018 DRG No TP 08

Item 5.4 Planning Permit PA2010 002— Amended Permit Condition, Condition 19 to allow for an amended Bird and Bat Plan at 2043 Glenmore Road, Mount Wallace.

Application Summary:		
Permit No:	PA2010 002	
Amendment Lodgement Date:	20 September, 2017.	
Planning Officer:	Mark Lovell	
Address of the land:	Various titles. 2043 Glenmore Road, Mount Wallace	
Proposal:	To amend PA2010 002 – Condition 19 to allow for an amended Bird and Bat Plan.	
Lot size:	Various	
Why is an amendment required	Change condition 19 regarding Bird & Bat Plan requirements.	
Why is this application being presented to Council?	As the proposal is to vary condition 19 of a PA2010-002 which was issued by Council at the direction of VCAT, Council is required to assess any amendments proposed to the permit. This is for the condition amendment only. The future Bird and Bat Plan would be required to be approved by the Minister of Planning.	
Public Consultation:		
Was the amendment application advertised?	No.	
Notices on site:	No.	
Notice in Moorabool Newspaper:	No.	
Number of Objections:	None.	
Consultation meeting:	No.	
Policy Implications:		
Strategic Objective 2:	Minimising Environmental Impact	
Context 2B:	Natural Environment	
Victorian Charter of Human Rights and Respo	onsibilities Act 2006	
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In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Mark Lovell

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

Executive Summary:	
Application Referred?	Yes to DELWP
Any issues raised in referral responses?	Yes, DELWP requested further discussions with the applicant regarding the frequency of monitoring identified in the Bird and Bat Plan.
Preliminary Concerns?	No.
Any discussions with applicant regarding concerns	No.
Any changes made to the application since being lodged?	No.
Brief history	The permit expires on 22 November, 2018 for completion.
Previous applications for the site?	PA2010-002 was issued on 22 November, 2010 as a direction of Council through VCAT, authorising the use and development of a Wind energy facility comprising 14 wind turbine generators and associated infrastructure including aviation safety lighting, access tracks, a permanent anemometer, underground cabling, a substation, excavation of rock and soil material, earthworks, temporary concrete batching plants, maintenance and storage facilities, car parking, and alterations to roads within the Road Zone Category 1
General summary	The applicant advised that condition 19 regarding Bird & Bat Plan was inconsistent with other wind farm approvals including the Moorabool Wind Farm. The applicant has had subsequent meetings with DELWP since the lodgement of the planning permit amendment and have come to an agreement on the wording and operation of condition 19.
	Condition 19 still contains the requirements for monitoring of bat and birds but with some less stringent changes to its operation. These changes can be effectively enforced and aligns the permit with the other windfarm permits within the Moorabool Council area.

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue an amended permit altering condition 19 of planning permit PA2010002 for the land at 2043 Glenmore Road, Mount Wallace.

Site Description

The land is comprised of multiple titles and locations. The primary address is 2043 Glenmore Road, Mount Wallace.

Proposed Amendment

There are a number of changes to the condition content

- 1. to allow the monitoring program to commence after completion of the facility rather than when the first turbine is completed;
- 2. site surveys of any mortality to be extended from once a week to once a fortnight;
- 3. from no lambing in the vicinity of the turbines changed to managing the risk of birds of prey during the lambing season; and
- 4. allow minor amendments to be assessed by the Minister of Planning.

Public Notice

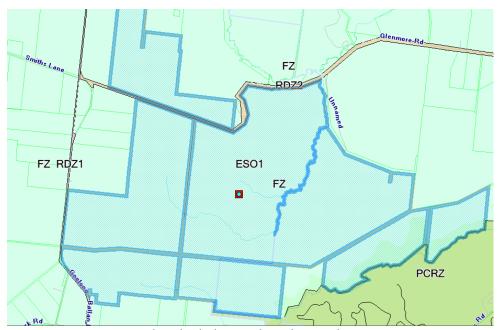
The amendment application was not advertised. The proposed amendment does not affect adjacent owners or occupiers. The plan relates to the management of birds and bats strikes and it's associated on going management.

Summary of Objections

No objections received.

Locality Map

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



Blue shaded area, the subject titles:



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 following changes to the planning scheme have occurred since the issue of the permit on 3 November, 2010:

Amendment VC101 was gazetted on 29 October, 2015 and updated reference and incorporated documents ensuring that up to date policy is reflected in the planning system. The changes would not alter the recommendation.

Amendment VC134 was gazetted on 31 March, 2017 introduced a new Metropolitan Planning Strategy and updated the State Planning Policy Framework. The changes would not alter the recommendation.

Amendment VC132 was gazetted on 19 September, 2017 made a number of administrative corrections to the Victorian Planning Provisions. The changes would not alter the recommendation.

Amendment GC13 was gazetted on 3 October, 2017 updating the Bushfire Management Controls. The changes would not alter the recommendation.

Amendment VC138 was gazetted on 12 December, 2017 reforming the native vegetation controls. The changes would not alter the recommendation.

Amendment VC142 was gazetted on 16 January, 2018 which introduced wide range of reforms that removed permit triggers, expanded permit exemptions, updated definitions and improved the usability of the VPP. The changes would not alter the recommendation.

Amendment VC145 was gazetted on 28 March, 2018 which introduced wide range of reforms that updated and amended the SPPF, permit requirements, referrals, nesting diagrams, Heritage Overlay controls and the telecommunication facility particular provision. The changes would not alter the recommendation.

There are no changes to planning scheme that would affect the request to alter the wording of one condition, condition 19.

Zone

The subject land is in Farming Zone.

There is no new permit trigger to alter a permit condition.

Overlays

The subject land is Environmental Significance Overlay, Bushfire Management Overlay (part) and Design & Design Overlay Schedule 2.

There are no new permit triggers to alter a permit condition.

Particular Provisions

Clause 52.32 Wind Energy Facility

The purpose of this particular provision:

• To facilitate the establishment and expansion of wind energy facilities, in appropriate locations, with minimal impact on the amenity of the area.

Under Clause 52.32-7 deals with amendment to approved wind facilities. Clause 52.37-2 states.

An application to amend a permit made under section 72 of the Act is exempt from the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act if the amendment of the permit does not:

- increase the number of turbines; or
- change the location of a turbine so that the centre of the tower (at ground level) is located closer to an existing dwelling (within one kilometre of a permitted turbine) than the centre of the tower (at ground level) of the closest permitted turbine to that dwelling.

Planning & Environment Act

To amend a permit condition, the provisions of Section 72 of the Planning & Environment Act apply, as follows:

Application for amendment of permit:

- 1) A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.
- 2) This section does not apply to
 - a) a permit issued at the direction of the Tribunal; or
 - b) a permit issued under Division 6.
- 3) In this section a reference to a permit includes any plans, drawings or other documents approved under a permit.

Discussion

Bird and Bat Plan (Condition 19)

The applicant after extensive negotiations with DELWP has revised the wording of the Bird & Bat Plan. There are a number of changes to the condition content to allow the monitoring program to commence after completion of the facility rather than when the first turbine is completed; site surveys of any mortality to be extended from once a week to once a fortnight; and from no lambing in the vicinity of the turbines changed to managing the risk of birds of prey during the lambing season.

DELWP in their correspondences dated 22 March, 2018 did not object to the amendment subject to the modified condition 19. There are no other authorities with an interest in the Bird & Bat Plan.

It is important for Council to understand that this is a minor amendment proposed to **one** condition of a of Yaloak Windfarm permit. Should Council grant the amendment the permit holder would still be required to obtain approval from the Minister of Planning to approve the modifications to the Bird and Bat Plan, this application is purely to amend condition 19.

To put this amendment into context, the other windfarms have a two year monitoring program as part of their Bird and Bat Management Plans, this application was originally subject to a five year monitoring program which has since been requested to be reduced to three years.

The amendment should be supported in accordance with DELWP's modified condition 19.

General Provisions

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

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

Referrals

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

Authority	Response
DELWP	Consent to the altered condition

Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Communications Strategy

No Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987.

Options

Council has the following options it could consider:

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

Conclusion

The proposed amendment to condition 19 allows for altered monitoring process. There are changes which are less stringent than the original wording however it does bring this windfarm facility in line with other facilities across the state. There are no standards, guidelines or best practice model that applies Bird & Bat Plans which is leading to inconsistency between wind farm facilities that should have the same or similar monitoring requirements. DELPWP have consented to the change and are the appropriate authority to advise Council on best practice with these proposed amendments. The proposed amendment to condition 19 should be supported.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue an amended permit altering condition 19 of planning permit PA2010002 for the use and development of a Wind Energy Facility comprising 14 wind turbine generators and associated infrastructure including aviation safety lighting, access tracks, a permanent anemometer, underground cabling, a substation, excavation of rock and soil material, earthworks, temporary concrete batching plants, maintenance and storage facilities, car parking, and alterations to roads within the Road Zone Category 1 for the land known as 2043 Glenmore Road, Mount Wallace.

New Condition 19

Before the development commences a bat and bird management plan (BBMP) must be prepared to the satisfaction of the Minister for Planning and the Department of Sustainability and Environment. When approve the plan will be endorsed and form Part of the permit. The use a development as shown on the endorsed plans must not be altered or modified without the written consent of the Minister for Planning in consultation with the Department of Environment, Land, Water and Planning.

The Bird and Bat Management Plan must include:

- a) A statement of the objectives and overall strategy for managing an mitigating any significant bird and bat strike arising from the wind energy facility operations; and
- b) A monitoring program starting from the date of the commissioning of the wind energy facility and continuing for initially for three years after the commissioning of the wind energy facility, with the provision for review at that point, in consultation with DELWP to determine the need (or otherwise) for a further 2 years based on the findings of the program.

This plan will include:

- i. Procedures for detecting and recording strikes of all native species of bats and birds including information on the species, number, age, sex (if possible), date of strikes, and seasonal and yearly variation in the number of strikes. The procedures will include a requirement for site surveys for evidence of any mortality to be carried out at least once per fortnight for the first six months following commissioning of the wind energy facility. Searches may revert to monthly after this period in consultation with DELWP unless results necessitate continuation of fortnightly program for a defined period.
- ii. Procedures for the reporting of any strikes of Wedge-tailed Eagles, Bent-wing Bats or any other species listed under the Environment Protection and Biodiversity Conservation Act 1999 and/or Flora and Fauna Guarantee Act 1988 to the Department of Sustainability and Environment within 7 days of the operator becoming aware of any strike.
- iii. Details on the efficacy of searches for carcasses of birds and bats, and where practical, information on the rate of removal of carcasses by scavengers, so that correction factors for observer efficiency can be determined to enable calculations of the total number of mortalities.
- iv. Recommendations in relation to the mortality rate for Wedge tailed Eagles or Bentwing Bats which would trigger the requirement for responsive mitigation measures to be undertaken.
- v. In addition to the other reporting requirements specified above, requirements for periodic reporting, with in agreed timeframes, of the findings of the monitoring program to the Department of Sustainability and Environment.
- c) A survey program to be carried out in at least three of the first five years after commissioning of the wind energy facility to determine the impact of the operation of the wind energy facility on the local Wedge-tailed Eagle population and will include:
 - i. i. Assessment of the presence, behaviour and movements of any Wedge-tailed Eagles especially breeding pairs in the vicinity of the wind energy facility.
 - ii. ii. Requirements for periodic reporting, within agreed timeframes, of the findings of the survey program to the Department of Sustainability and Environment.
- d) Procedures for the regular removal (at least weekly) of carrion (including livestock, native animals and pest animals) likely to attract raptors to areas near the turbines.
- e) Protocols as agreed with the land owner that the paddocks in the vicinity of the turbines are managed during lambing season in such a manner so as to reduce the risk of attracting birds of prey.
- f) A program to explore techniques such as blade marking that could result in the turbine blades being more visible to Wedge-tailed Eagles.
- g) Procedures to make available the results of the monitoring and survey programs to the community after being verified by the Department of Sustainability and Environment.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 28 May, 2018

Item 5.5 Planning Permit application PA2017 262 – Development and Use of a Dwelling and Sheds at Yendon-Egerton Road, Mount Egerton.

Application Summary:		
Permit No:	PA2017 262	
Lodgement Date:	17 November 2017	
Planning Officer:	Tom Tonkin	
Address of the land:	Lot 1 on TP 082644D (formerly pt CA90E, Parish of Kerrit Bareet)	
Proposal:	Yendon-Egerton Road, Mount Egerton 3352 Development and Use of a Dwelling and Sheds	
Lot size:	6.518ha	
Why is a permit required	Clause 35.07 – Farming Zone – Use and development of a Dwelling Clause 42.01 – Environmental Significance Overlay – Buildings and works	
Why is this application being presented to Council?	Objections received; recommendation for refusal.	
Public Consultation:		
Was the application advertised?	Yes	
Notices on site:	Two	
Notice in Moorabool Newspaper:	No	
Number of Objections:	Two	
Consultation meeting:	No	
Policy Implications:		
Strategic Objective 2:	Minimising Environmental Impact	
Context 2A & 2B:	Built Environment and Natural Environment	
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.

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, Environmental Health and Barwon Water	
Any issues raised in referral responses?	No	
Preliminary Concerns?	None apart from a request for information for particular building plan details.	
Any discussions with applicant regarding concerns	No	
Any changes made to the application since being lodged?	No	
VCAT history?	Yes. See 'Background' for details	
Previous applications for the site?	PA2001-360 for Development and Use of a Dwelling was refused by Council on 24 April 2002.	
General summary	The proposal is for use and development for a dwelling and sheds on a 6.5ha parcel. A farm management plan is provided in support of the proposal for agroforestry and heritage sheep breeding. Objections to the proposal include unviable agricultural activity associated with the proposed dwelling which would result in transformation of the land from farming to residential and the associated disadvantages. Overall, the proposal is considered to be inconsistent with relevant State and local planning policy in relation to the adequate protection and enhancement of agriculture both on the subject site and surrounding land, and does not contribute to the orderly use and development of this site in the Farming Zone.	

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit on the grounds listed below.

Site Description

The site is identified as Lot 1 on TP 082644D and known as Yendon-Egerton Road, Mount Egerton, irregular in shape with an area of 6.518ha and frontages to Yendon-Egerton Road to the north and Powerline Road to the west. The site falls generally from northwest to southeast towards a waterway running through the northeast corner of the site, and is vacant and cleared of vegetation.

The site and surrounding land to the east, west and south is in the Farming Zone and to the north in the Rural Living Zone, and comprises allotments of varying sizes, substantially cleared and used for a mix of activities including productive agriculture and hobby farming. Dwellings are not uncommon in the vicinity of the subject site but are predominantly located on lots in the Rural Living Zone. Land in the Township Zone in Mount Egerton is within 120m northeast of the site.

Apart from power supply no other reticulated services are available to the site.

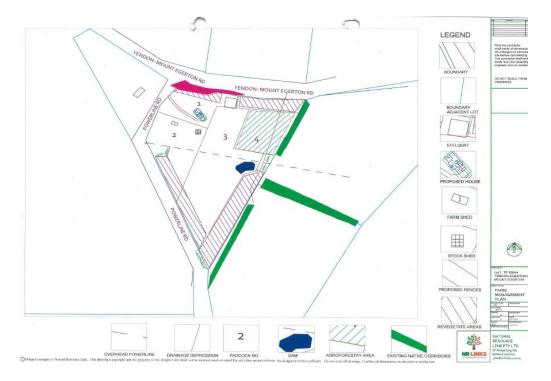


Proposal

It is proposed to use and develop the site for a dwelling and sheds in association with heritage sheep breeding and planting of River Red Gum trees for agroforestry.

The submitted Farm Management Plan identifies that the soil has poor physical structure and low fertility, best suited to growing pastures, and capability for agriculture is rated as low and restricted to grazing. With the amount of land available the number of sheep would be restricted to approximately 18, to consist of 98% breeding ewes and 2% rams with the lambs on sold annually. Stock would also be shown and could be sold for breeding to other farms. Areas for revegetation would be located along the north, east and west perimeters of the site and the area for agroforestry set aside near the northeast corner of the site which is the area most prone to waterlogging.

The dwelling would be sited towards the northwest corner of the site, and would be single storey and of a conventional design with a low pitched hipped Colorbond roof and brick walls. The dwelling would comprise four bedrooms with the usual amenities and have an attached double garage. The largest of the proposed sheds would be 6.0m x 12.0m, clad with Colorbond and positioned towards the west boundary and south of the dwelling. Other outbuildings would be 9.0m x 9.0m sheep shelters. Proposed vehicle access would be obtained via a crossover from Powerline Road.



See appendix for detail plans.

Background of Current Proposal

The previous application for the site, PA2001-360 for Development and Use of a Dwelling, was refused by Council in 2002. The permit applicant sought a review of Council's decision by VCAT, and on 26 November 2002 VCAT issued an order which affirmed Council's decision.

Public Notice

Notice of the application was given to adjoining and surrounding landowners by mail on 3 January 2018 and signs erected on site from 17 January to 7 February, 2018. Two objections was received.

Summary of Objections

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

Objection	Any relevant requirements
The proposed sheep breeding enterprise is extremely unlikely	Clauses 14.01-1, 14.01-2 & 35.07
to be viable and the purpose of the application is to obtain	
approval for a dwelling with no relationship to an agricultural	
land use. In any case the proposed farm plan would almost	
certainly fail and, once the dwelling is constructed there is no	
practical alternative to return the property to an agricultural	
use. Ultimately the proposal leads to residential use of the	
site being prioritised over farming.	
Officer's response -	
This objection is discussed below.	

Objection	Any relevant requirements		
Our high intensity, certified organic farm has taken years to	Clauses 14.01-1, 14.01-2 & 35.07		
establish and may detrimentally affect residential amenity for			
future residents of the subject site, which in turn may			
adversely affect our continued operation, created by conflict			
between incompatible land uses.			
Officer's response -			
This objection is discussed below.			
There is a significant amount of undeveloped land in Mount	Clauses 14.01-1, 14.01-2, 21.09-4		
Egerton in the Township Zone and Rural Living Zone which	& 35.07		
should be utilised for development. There is no requirement			
for land in the Farming Zone to be made available for			
residential use.			
Officer's response -			
It is agreed that there is undeveloped land in the Township Zo	ne and Rural Living Zone but which		
is being incrementally developed. An application for a dwe			
considered by Council and must be considered against a ra			
Approval may be acceptable such as when the dwelling would	d have demonstrable benefit to the		
productive and sustainable farming of a site.			
Continued conversion of agricultural land to residential use	Clauses 14.01-1, 14.01-2 & 35.07		
will drive farming out of the Shire due to many of the			
abovementioned issues, further increase farm values and			
rates making agriculture unviable over the longer term.			
Officer's response -			
This objection is discussed below.	T		
A similar proposal for the site was refused by VCAT on	Clauses 14.01-1, 14.01-2 & 35.07		
grounds that remain valid for the current application.			
Officer's response -			
VCAT's decision affirmed Council's decision to refuse planning	•		
Development and Use of a Dwelling. That application did no	t include any proposed agricultural		
activity in association with the dwelling.	0 44004		
The proposed location of the wastewater treatment area is Clause 14.02-1			
opposite my property and would subject my land to odours			
especially when there is a southerly wind, and request it be			
set further to the south, away from my property.			
Officer's response - The application was referred to Barwon Water and Council's En	wirenmental Health wait which bath		
The application was referred to Barwon Water and Council's En	ivironinentai Health unit which both		

The application was referred to Barwon Water and Council's Environmental Health unit which both consent to the proposal, subject to conditions, including that the wastewater treatment system be regularly monitored and maintained to both authorities' satisfaction. This would be enforced over the longer term by way of a Section 173 Agreement registered on title. The proper maintenance of the system should ensure there are no detrimental amenity impacts.

Locality Map

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



Planning Scheme Provisions

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

The relevant clauses are:

- 11.07-2 Peri-urban areas.
- 11.08 Central Highlands.
- 14.01-1 Protection of agricultural land.
- 14.02 Water.
- 15.01-5 Cultural identity and neighbourhood character.
- 21.02-2 Non Urban Landscapes.
- 21.02-3 Water and Catchment Management.
- 21.03-3 Residential Development.
- 21.03-4 Landscape and Neighbourhood Character.
- 21.03-5 Rural Lifestyle Opportunities.
- 22.02 Special Water Supply Catchments.

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

SPPF	Title	Response
Clause 11.07-2	Peri-urban areas	The proposal contributes to dispersed settlement, which on a
		small lot in the Farming Zone, near the southwest boundary
		of Mount Egerton township, is not considered appropriate.
Clause 14.01-1	Protection of	Development of small rural lots for housing, permanent
	agricultural land	removal of productive agricultural land and conflict with
		surrounding uses should be avoided.
LPPF		
Clause 21.03-3	Residential	The proposal is not considered to provide an appropriate
	Development	balance between provision of housing and protection of
		productive agricultural land.
Clause 21.03-5	Rural Lifestyle	The policy indicates that residential development should be
	Opportunities	limited where there would be an adverse impact on
		agricultural production. In light of this policy and objections
		received the proposal is not considered appropriate.

Zone

The subject site is in the Farming Zone.

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 provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Under Clause 35.07 a permit is required to use and develop a lot of less than 40ha for a dwelling.

Overall, the proposed development is inconsistent with the zone provisions.

Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required for development. Reticulated sewer is not available to the site, and there are no relevant exemptions under the Schedule. The application was referred to Barwon Water as the determining referral authority, and to Council's Environmental Health officer, who both consented subject to conditions.

The site is also affected by Design and Development Overlay, Schedule 2. A permit is required to construct buildings and works, however there is an exemption under Schedule 2 where non-reflective building cladding is proposed, as in this instance. Accordingly, no permit is required under this overlay.

Relevant Policies

Council's Rural Housing Policy, adopted on 19 September 2012, gives direction for assessing planning permit applications which propose new residential development of land in the Farming Zone. The Policy encourages residential development in farming areas which satisfies the purpose of the Farming Zone and supports agricultural opportunities. The proposal is broadly in accordance with some aspects of this policy but for sites of less than 8ha the policy acknowledges that the threat of dwellings fragmenting farm land is greater, as in this instance. Whilst the conflict with surrounding farming activity may not be readily apparent, an objector has raised concerns that their own established productive farm may have amenity impacts for the occupants of the proposed dwelling. On balance, the proposal is considered not to be in accordance with this policy.

Particular Provisions

None applicable.

Discussion

The Moorabool Planning Scheme provides discretion for a permit to be granted to use and develop land for the purposes of a dwelling on a lot less than 40ha. Where a permit is required the decision guidelines of the Farming zone require that consideration be given to a range of matters before deciding on an application.

In relation to dwellings in the Farming Zone the decision guidelines require that the responsible authority consider whether a dwelling:

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

In relation to agricultural issues in the Farming Zone the decision guidelines require that the responsible authority also consider:

- Whether the use or development will support and enhance agricultural production;
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production;
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses;
- The capacity of the site to sustain the agricultural use;
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure; and
- Any integrated land management plan prepared for the site.

The following are considered to be the key issues, discussed in more detail below:

- Fragmentation of agricultural land; and
- The need or not for a dwelling associated with the proposed farming activity.

Fragmentation of agricultural land

The use and development of a 6.5ha site for a dwelling is stated to be in support of a farming enterprise growing River Red Gum trees for agroforestry and breeding heritage sheep.

The subdivision pattern of nearby land in the Farming Zone, including the subject site, is relatively fragmented, comprising some larger landholdings which comprise numerous smaller contiguous parcels, and smaller landholdings of individual lots similar in size to the subject site. Some of the smaller lots in individual ownership contain dwellings, but many do not. Whilst these small separate lots in single ownership are in the Farming Zone they are generally not bona fide agricultural landholdings.

An objector has raised concerns that the proposal would contribute to undermining existing bona fide farming enterprises in the immediate vicinity by having the land developed for a dwelling which is unlikely to support an agricultural use given the site features, notably its size. By allowing a dwelling on the land in support of an unviable farming enterprise, the land would be primarily for residential purposes, and given the permanency of a dwelling the land would be permanently removed from viable farming opportunities.

This is characteristic of incremental fragmentation of farming land. Such an outcome is not supported by either State or local planning policy which includes the following objectives:

- To manage growth in peri-urban areas to protect and enhance their identified valued attributes. (Clause 11.07-2)
- To protect productive farmland which is of strategic significance in the local or regional context. (Clause 14.01-1)
- To maintain and enhance the natural environment and the Shire's rural identity and character. (Clause 21.02-2)

State and local planning policy includes the following relevant strategies:

- Prevent dispersed settlement and provide for non-urban breaks between urban areas. (Clause 11.07-2)
- Establish growth boundaries for peri-urban towns to avoid urban sprawl and protect agricultural land and environmental assets. (Clause 11.07-2)
- Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. (Clause 14.01-1)
- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity. (Clause 14.01-1)
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors. (Clause 14.01-1)
- In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:
 - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
 - The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
 - The compatibility between the proposed or likely development and the existing uses of the surrounding land.
 - o Assessment of the land capability. (Clause 14.01-1)

- In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals. (Clause 14.01-1)
- Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. (Clause 16.02-1)
- Demonstrate need and identify locations for rural residential development through a housing and settlement strategy. (Clause 16.02-1)
- Focus rural living development in areas close to urban centres with good access to services and facilities where there is minimal impact on productive agriculture and horticulture or areas with environmental values. (Clause 21.03-5)

The site is evidently productive for grazing, in terms of the climate, soil conditions and water supply, and forms part of a larger rural area in the wider Melbourne and Ballarat rural hinterland.

The Tribunal is generally consistent in its assessment of applications for dwellings on small lots in the Farming Zone.

In Strachan v LaTrobe CC (2012) Member Tracey Bilston-McGillen stated that:

In considering applications for dwellings in the Farming Zone, the Tribunal has on a number of occasions commented on the adverse impact on agricultural production associated with the intrusion of dwellings on small lots in the Farming Zone. In particular the Tribunal has commented that the impact of permitting dwellings in small rural lots in the Farming Zone is incremental in nature and that care must be exercised not to lose sight of the cumulative impact of each dwelling when considering applications for individual proposals. The failure to do so lead inevitably to the circumstances where the proliferation of dwellings on small lots changes the character of a locality to rural residential and productive agricultural land is lost forever.

The guidance provided by the Moorabool Planning Scheme supports the protection of agricultural land, and it is therefore reasonable to suggest that this land should be protected and the use of the land for a dwelling should not be supported. Whist it is possible that the proposed farming enterprise may be successful, and justify the presence of a dwelling, support for a dwelling on a 6.5ha lot in the Farming Zone should be considered an exception to the rule, with its merits being compelling to the extent that the benefits to agriculture are robust and the likelihood of detriment to longer term agricultural viability is minimal. Considering the site and the nature of the proposal there is not strong policy support in either the planning scheme or Council Rural Housing Policy. This is further amplified by the objections raised by an adjoining landowner.

The need or not for a dwelling associated with the proposed farming activity

A Farm Management Plan was provided with the application. One objector raised issues with the plan, including that the site would be unable to support the proposed sheep breeding enterprise.

The applicant has stated that the site's soils are compromised by poor structure and low fertility, with capability for agriculture rated as low and restricted to grazing. Furthermore, the land class is expensive to maintain for agriculture and livestock returns are low which leads to sites being neglected. The applicant has therefore proposed that growing River Red Gum trees for an agroforestry enterprise on part of the land would be appropriate, given the soil characteristics and typical rainfall. Furthermore, deep rooted trees which also re-establish vegetation based on the pre-existing ecological values of the site would improve biodiversity and native habitat. The wood may be harvested for use for construction timber, furniture posts, firewood, charcoal and pulp for paper.

Breeding of older sheep breeds is considered important for their contribution to genetic diversity, and the applicant advises that the relatively small size of the subject site is suited to their close monitoring particularly given the risk of poaching, given their value, and to help monitor against disease and also protect stock from extreme weather. The credentials of the proponent to carry out this enterprise is apparently due to a family history of sheep farming dating back generations.

When considered in isolation from the subject site's size and the presence of a dwelling, the nature of the farming and land management activity is considered to be of value. However, the farming activity must be considered in the context of the site's size and location, the benefit of the proposed dwelling, surrounding activity and the wider policy context. The agroforestry does not require the presence of a dwelling. It is understandable that breeding heritage sheep would benefit from the farmer living on site. However, in consideration of the site's size it is difficult to support a proposal such as this. The risk of further fragmenting farm land by supporting residential development of a small lot is considerable, and there is a strong potential for precedence given there are two vacant lots to the immediate east of the site of a similar size, both in separate ownership. Whilst the applicant has indicated the site's size as beneficial to the sheep breeding, there is nothing to suggest that a larger site would be inappropriate. Objections made to the proposal in relation to impacts on farming land are highly consistent with what State and local planning policy sets out as the critical issues for consideration.

Overall, the proposed use and development is considered to be inconsistent with relevant State and local planning policy and the Farming Zone in respect of agricultural land use and rural housing development. The proposal is not sufficiently responsive to the site and surrounding land's features and would not support a sustainable farming operation.

General Provisions

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

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

Referrals

The referral to Barwon Water was made pursuant to s.55 of the Planning and Environment Act 1987 and relevant Council departments were provided with an opportunity to make comment on the proposed development plan.

Authority	Response
Barwon Water	Consent with conditions
Infrastructure	Consent with conditions
Environmental Health	Consent with conditions

Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Options

Council has the following options it could consider:

- Refuse to issue a permit in accordance with the recommendation of this report.
- Should Council wish to consider approval of the application Councilors need to explore conditions based on the proposal complying with the Moorabool Planning Scheme.

Conclusion

The proposal is for use and development for a dwelling and sheds on a 6.5ha parcel. A farm management plan is provided in support of the proposal for agroforestry and heritage sheep breeding.

Objections to the proposal include unviable agricultural activity associated with the proposed dwelling which would result in transformation of the land from farming to residential and the associated disadvantages.

Overall, the proposal is considered to be inconsistent with relevant State and local planning policy in relation to the adequate protection and enhancement of agriculture both on the subject site and surrounding land, and does not contribute to the orderly use and development of this site in the Farming Zone.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2017-262 for Use and Development of a Dwelling and Sheds at Lot 1 on TP 082644D, Yendon-Egerton Road, Mount Egerton 3352, on the following grounds:

- 1. The proposal does not comply with State and Local Planning Policy for the protection of agricultural land from residential development.
- 2. The proposal does not comply with the purpose and decision guidelines of the Farming Zone.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 28 May, 2018

