

# MINUTES

## SECTION 86 DEVELOPMENT ASSESSMENT COMMITTEE MEETING

**Wednesday 9 August, 2017**  
James Young Room, Lerderderg Library  
Bacchus Marsh  
4.00pm

### 1. MEETING OPENING

In absence of the Chairperson, Cr. Pat Toohey, the Mayor Cr. David Edwards took the chair for the meeting. Cr. Edwards welcomed all and opened the meeting at 4.05 pm.

### ATTENDANCE

Cr. David Edwards (Mayor)	Councillor – East Moorabool Ward
Cr. Tonia Dudzik (Deputy Mayor)	Councillor – East Moorabool Ward
Cr. John Keogh	Councillor – East Moorabool Ward
Cr. Paul Tatchell	Councillor – Central Moorabool Ward
Mr. Satwinder Sandhu	General Manager Growth & Development
Mr. Robert Fillisch	Manager Statutory Planning and Community Safety
Mr. Mark Lovell	Senior Statutory Planner
Ms. Bronwyn Southee	Coordinator Statutory Planning
Mr. Thomas Tonkin	Statutory Planning Officer
Ms. Victoria Mack	Statutory Planning Officer
Mrs. Terri Richards	Minute Taker

### APOLOGIES

Cr. Pat Toohey (Chair)	Councillor – Woodlands Moorabool Ward
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### 2. RECORDING OF MEETING

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

- The Moorabool News; and
- The Star Weekly.

### 3. CONFIRMATION OF PREVIOUS MEETING MINUTES

**Resolution:**

<b>Moved:</b>	<b>Cr. Dudzik</b>
<b>Seconded:</b>	<b>Cr. Keogh</b>

**That the Minutes of the S86 Development Assessment Committee for 12 July, 2017 be confirmed as a true and correct record.**

**CARRIED.**

#### 4. CONFLICT OF INTEREST

No conflicts of interest were declared at the meeting.

5.	Growth & Development Reports	S. Sandhu		Discussion
5.1	Planning Permit Application PA2017-026; Two (2) Lot Subdivision; Lot 2 on PS 426517L known as 3 Hogan Road, Ballan	Mark Lovell	Page 4	Resolution
5.2	Planning Permit Application PA2016-183; Development of a Telecommunications Facility on Old Ballanee Road, Ballan	Mark Lovell	Page 16	Resolution
5.3	Planning Permit Application PA2017-053; Development and Use of a Dwelling Callaghans Lane Gordon - Crown Allotment 4A, Section 20, Parish of Moorabool West.	Victoria Mack	Page 30	Resolution
5.4	Planning Permit Application PA2017-069; Development of a Shed Ancillary to an Existing Dwelling; known as 15 Pedrettis Road, Rowsley	Tom Tonkin	Page 45	Resolution
5.5	Planning permit Application PA2017-089 Lot 2 on PS 143591; 232 Main Street, Bacchus Marsh	Tom Tonkin	Page 55	Resolution
5.6	Planning Permit Application PA2016-261; Development of a Second Dwelling and Ancillary Outbuilding at Lot 2 on PS 729816L, 12 Corbetts Road Gordon VIC 3345	Tom Tonkin	Page 65	Resolution
5.7	Planning Permit Application PA2006-269; Use and Development of a Dwelling; Lot 1 on PS 345500E; 98 Osborne Street Maddingley	Mark Lovell	Page 80	Resolution

## PRESENTATIONS/DEPUTATIONS

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

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

Item No	Description	Name	Applicant/ Objector
5.2	Planning Permit Application PA2016-183; Development of a Telecommunications Facility on Old Ballanee Road, Ballan	James McIver Les Martin Vincent Smoors	Applicant Supporter Objector
5.3	Planning Permit Application 2017-053; Development and Use of a Dwelling Callaghans Lane Gordon - Crown Allotment 4A, Section 20, Parish of Moorabool West.	Robert Eskdale Jenny Barrett Greg Pettiona Mellissa & Duane Kirk	Applicant Applicant Objector Objectors
5.4	Planning Permit Application PA2017-069; Development of a Shed Ancillary to an Existing Dwelling; known as 15 Pedrettis Road, Rowsley	Raquel Keating	Applicant
5.7	Planning Permit Application PA2006-269; Use and Development of a Dwelling; Lot 1 on PS 345500E; 98 Osborne Street Maddingley	Trevor Elwell	Applicant

## GROWTH & DEVELOPMENT REPORTS

### Item 5.1 Planning Permit Application PA2016-026

**Planning Permit Application PA2017-026; Two lot subdivision, Lot 2 on PS 426517L, 3 Hogan Road, Ballan**

<b>Application Summary:</b>	
Permit No:	PA2017-026.
Lodgement Date:	14 February 2017.
Planning Officer:	Mark Lovell
Address of the land:	Lot 2 on Plan of Subdivision 426517L 3 Hogan Road, Ballan.
Proposal:	Two lot subdivision.
Lot size:	4000m <sup>2</sup> .
Why is a permit required	Clause 32.03-3 – Low Density Residential Zone – a permit is required to subdivide land  Clause 42.01-2 – Environmental Significance Overlay – a permit is required to subdivide land
<b>Public Consultation:</b>	
Was the application advertised?	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Three objections.
Consultation meeting:	Meeting held with the applicant to discuss the proposed refusal grounds.
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Infrastructure and Natural and Built Environment
<b>Objective</b>	Effective and efficient land use planning and building control
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications. Ensure that development is sustainable, resilient to change and respects the existing character.

## Victorian Charter of Human Rights and Responsibilities Act 2006

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

## Officer's Declaration of Conflict of Interests

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

*Manager – Robert Fillisch*

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

*Author – Mark Lovell*

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

## Executive Summary:

Application Referred?	Yes, Southern Rural Water, Western Region Water Authority, and Council's Infrastructure.
Any issues raised in referral responses?	No.
Preliminary Concerns?	No.
Any discussions with applicant regarding concerns?	No.
Any changes made to the application since being lodged?	No.
VCAT history?	No.
Previous applications for the site?	<p>PA2004-199: Use and development of a dwelling on a lot of less than 6 hectares</p> <p>PA2005-029 Use and development of a dwelling on a lot of less than 6 hectares.</p>

General summary (Pro's/Con's of the proposal)	<p>The proposed subdivision is based on the minimum subdivision area (2000sqm) currently allowable under the relevant zoning (LDRZ) of the Scheme.</p> <p>Council's adopted strategy for the future planning of Ballan, Ballan Structure Plan 2015, recommends a minimum subdivision area of 4000sqm for the subject site and surrounding area. This is due to the impact subdivision may have on neighbourhood character, township consolidation and important views.</p>
<b>Summary Recommendation:</b>	
That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council refuse to grant a planning permit for the proposed two lot subdivision, Lot 2 on PS 426517L, known as 3 Hogan Road, Ballan.	

## Background

Council was expected to determine this application during the 14 June, 2017 DAC meeting. At the applicant's request, the item was deferred to allow the applicant further opportunities to discuss the proposed refusal grounds.

## Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a sign on site for period of fourteen days.

Three objections were received from neighbouring properties. A declaration verifying display of the large notice was received on 18 April, 2017.

## Summary of Objections

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

Objection	Any relevant requirements
Deleterious impact upon visual amenity	Ballan Structure Plan, Clause 12.04-2 and Clause 21.08
<b>Officer's response</b> – Subdivision has the potential to impact views and vistas as outlined within the following sections of this report. The application is not in accordance with Council's adopted <i>Ballan Structure Plan 2015</i> .	
Disrespect of neighbourhood character	Ballan Structure Plan, Clause 15.01-3, Clause 15.01-5 and Clause 21.08
<b>Officer's response</b> – Subdivision will disrupt the general pattern of lots west of Hogan Road. Full assessment against neighbourhood character objectives is provided in the following sections of this report. The application is not in accordance with Council's adopted <i>Ballan Structure Plan 2015</i> .	
Deleterious impact on the natural environment	Clause 12.04-1
<b>Officer's response</b> – The impact of the proposal in relation to the environmental significance of the site and wider area is discussed in the following sections of this report.	

## **Proposal**

It is proposed to subdivide the land into two lots, with both lots accessed via Hogan Road. The resulting lots will be irregular in shape.

Lot 1 will contain a 40.32m eastern frontage to Hogan Road and a maximum depth of 73.74m along its northern boundary. The western and southern interfaces of the lot are irregular. The western (rear) portion of the site contains a sharp fall towards Werribee River with a sewerage easement running along the ridge of the escarpment to the rear of the habitable portion of the lot. A building envelope is shown, containing the existing dwelling.

Lot 2 will contain a 55.20m eastern frontage to Hogan Road with a maximum depth of approximately 49m. The lot contains irregular side and rear boundaries with a sharp fall towards the rear of the site. A sewerage easement runs along the ridge of the escarpment and out to the front of the site approximately 17.5m from of the southern boundary. A building envelope of approximately 298sqm is shown at the northern end of the lot.

No existing vegetation of note will be removed.



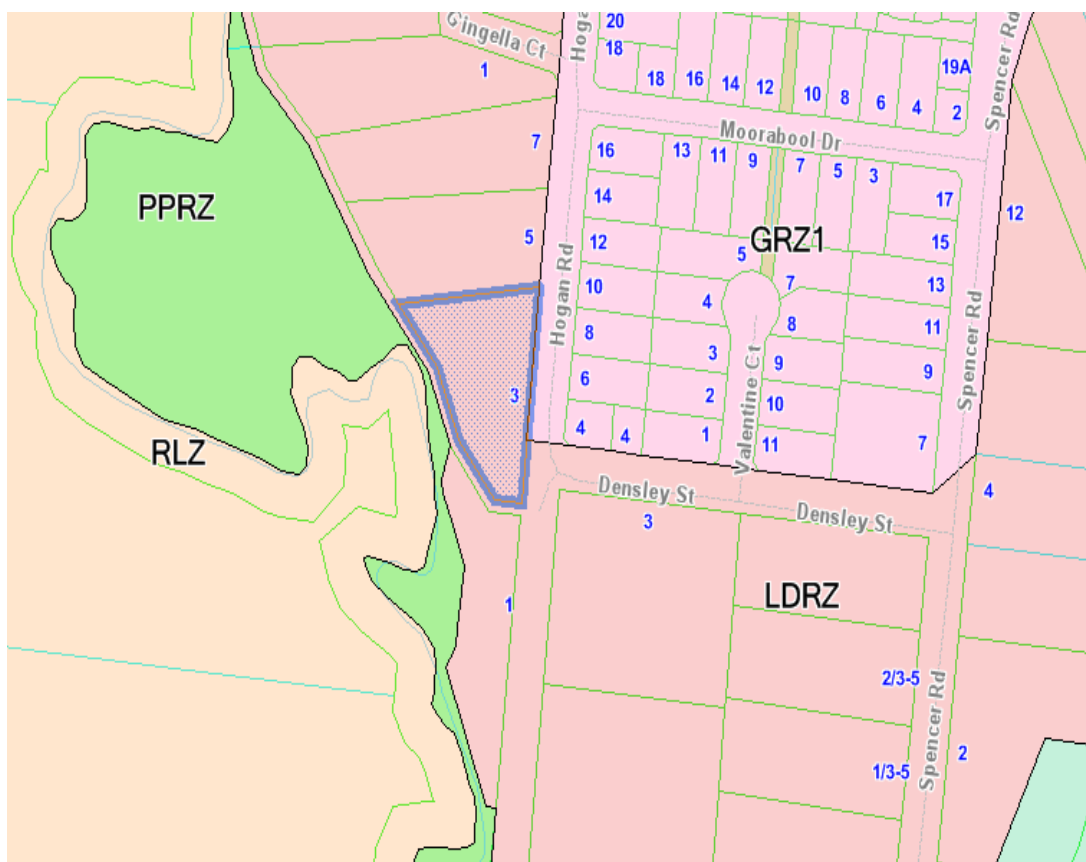


**Figure 1: Subdivision Plan**

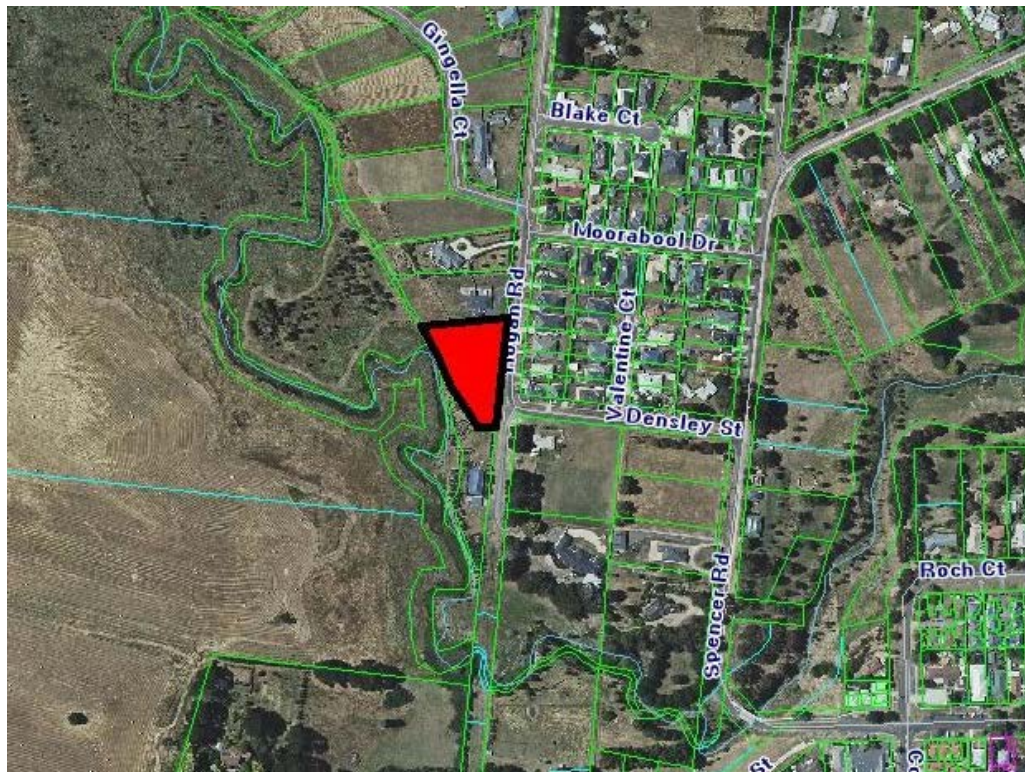
The subject site is an irregular shaped allotment fronting Hogan Road in the north west of Ballan. The site is situated at the intersection of Hogan Road and Densley Street.

The site is approximately 4000sqm in area with an eastern frontage to Hogan Road. The western interface of the site is defined by the course of the Werribee River and a sharp fall off the escarpment.

The site is currently occupied by a centrally located single dwelling. There is no substantial vegetation of note.



**Figure 2: Zoning map of the subject site and surrounding area**



**Figure 3: Aerial photograph of the subject site and surrounding area**

### Planning Scheme Provisions

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

The relevant clauses are:

- Clause 11.02-1 Supply of urban land
- Clause 11.03-1 Open space planning
- Clause 11.07-1 Regional Victoria
- Clause 12.04-1 Environmentally sensitive areas
- Clause 12.04-2 Landscapes
- 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 19.03-2 Water supply, sewerage and drainage
- Clause 19.03-3 Stormwater
- Clause 21.03-2 Urban Growth Management
- Clause 21.03-3 Residential Development
- Clause 21.08 Ballan

## Zone

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

The purposes of the Zone are:

- 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 low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

Under Clause 32.03-3 a permit is required to subdivide land. Pursuant to this Clause each lot must be at least the area specified for the land in a schedule to this zone. Any area specified must be at least:

- 0.4 hectare for each lot where reticulated sewerage is not connected. If no area is specified each lot must be at least 0.4 hectare.
- 0.2 hectare for each lot with connected reticulated sewerage. If no area is specified each lot must be at least 0.2 hectare.

An application to subdivide land must meet the relevant requirements of Clause 56 for a residential subdivision.

## Overlays

The subject site is located within the Environmental Significance Overlay Schedule 1 and Schedule 2 (ESO1 and ESO2)

The purposes of the overlay is to:

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

Under Clause 42.01-2, a permit is required to subdivide land. Decision guidelines are listed under Clause 42.01-4.

The land is also covered by a Design & Design & Development Overlay - Schedule 2.

The purpose of the overlay is to:

- 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

No permit is required under the Design & Development Overlay Schedule 2

## Particular Provisions

Clause 56 (Residential Subdivision) applies.

## Discussion

### Strategic Context and Ballan Structure Plan (2015)

At a broad scale, Ballan contains a poorly consolidated urban form north of the Werribee River. Council adopted document *Ballan Structure Plan 2015* (BSP) identifies the subject site as being within the North Ballan Residential Area. According to the BSP, the LDRZ precinct west of Hogan Road within the North Ballan Residential Area requires a minimum subdivision area of 4000sqm to fulfil character and environmental objectives and promote a positive urban form. New development is promoted elsewhere in the township. Topographical and environmental constraints result in poor strategic justification for development within the vicinity of the subject site.

Lots within proximity to the subject site are generally larger than 4000sqm, providing a buffer between the general residential area east of Hogan Road and the surrounding Rural Living Zone, ensuring Ballan retains its character elements from key vantage points.

### Subdivision pattern and neighbourhood character

The subdivision pattern is somewhat varied within the immediate vicinity. The western side of Hogan Road consists of lots greater than 4000sqm, with frontages typically greater than 40 metres. East of Hogan Road generally consists of smaller lots, generally with frontages of approximately 20 metres.

The surrounding area is typified by a general suburban character towards the east, with an open 'country' feel to the north, west and south of the subject site including larger lot sizes and the significant character contribution of the Werribee River corridor. Views from public vantage points towards the site promote a 'country' feel.

It is considered that the proposal does not adequately meet neighbourhood character objectives of the Scheme nor befit the subdivision pattern of the western side of Hogan Road, due to the usable (plateaued) area of the site cannot adequately accommodate a 2000sqm usable area for each lot to fulfil character objectives and promote a 'country' feel. Public vantage points will incur undue detriment and will not maintain a sense a spaciousness.

An adequate buffer in terms of urban density will not be achieved between the General Residential Zone to the east and the Rural Living Zone to the north and to the west. Township growth is directed to other precincts under Ballan Structure Plan and the subject site is not required nor promoted for urban consolidation.

### Environmental Objectives and ESO1 and ESO2

Given the site's proximity to Werribee River and the difficult topography of the site, and within the context of the Ballan Structure Plan, it is considered the proposal does not adequately meet the environmental objectives of the Scheme due to the location of the site on the edge of the Werribee River escarpment promotes poor planning practice by increasing dwellings within proximity to the river corridor and increasing the potential consequences of flooding and landslide events. The topography of the site does not promote subdivision at this location.

The proposal would result in increased impermeable surfaces within direct proximity to a designated waterway, increasing stormwater turbulence and sediment runoff.

For the above reasons, the proposal does not meet the relevant neighbourhood character, landscape and environmental objectives of the Scheme and does not warrant approval.

#### Clause 56 (Rescode)

The proposal generally achieves compliance with the standards of Clause 56, Rescode but for the following:

Clause Rescode	Title	Response
56.03-5	Neighbourhood Character (C6)	The proposal will not be in keeping with the character of lots on the western side of Hogan Road and the intended character of the precinct under Council adopted strategy the Ballan Structure Plan 2015.

#### **General Provisions**

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

- The suitability of the land for subdivision;
- The existing use and possible future development of the land and nearby land;
- The availability of subdivided land in the locality, and the need for the creation of further lots; the effect of development on the use or development of other land which has a common means of drainage; the subdivision pattern having regard to the physical characteristics of the land including existing vegetation;
- The density of the proposed development;
- The area and dimensions of each lot in the subdivision;
- The layout of roads having regard to their function and relationship to existing roads;
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots;
- The provision and location of reserves for public open space and other community facilities;
- The staging of the subdivision;
- The design and siting of buildings having regard to safety and the risk of spread of fire
- The provision of off-street parking;
- The provision and location of common property; the functions of any body corporate; the availability and provision of utility services, including water, sewerage, drainage, electricity and gas;
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot;
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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

## Referrals

The following referrals were made pursuant to S55 of the Planning and Environment Act 1987 and Council departments were provided with an opportunity to make comment on the proposal.

Authority	Response
Southern Rural Water	Consent.
Western Water	Consent.
Infrastructure	No objection subject to 7 conditions

## Financial Implications

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

## Risk and Occupational Health and Safety Issues

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

## Communications Strategy

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

## Options

An alternative recommendation would be to approve the application. This would directly contravene Council's adopted policy. Approving the application may result in objectors lodging an application for review of Council's decision with VCAT.

## Conclusion:

The proposed subdivision does not comply with Council's adopted policy *Ballan Structure Plan 2015* and the strategic direction of the township. The subject area is designated for larger lot sizes (greater than 4000sqm) to retain character and environmental attributes.

Given this strategic direction and the assessment provided above, neighbourhood character, landscape and environmental objectives are not considered met. Urban growth can be accommodated elsewhere in the township.



**Resolution:**

**Moved:** Cr. Tatchell  
**Seconded:** Cr. Dudzik

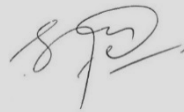
That, having considered all matters as prescribed by the Planning and Environment Act, Council refuse to grant a permit for application PA2017-026 for a two lot subdivision, Lot 2 on PS 426517L, 3 Hogan Road, Ballan based on the following grounds:

1. The proposed subdivision does not comply with the Council's adopted Ballan Structure Plan
2. The proposal does not comply with neighbourhood character and landscape objectives of the Moorabool Planning Scheme
3. The proposal does not comply with environmental objectives under the Environmental Significance Overlay Schedule 1 and 2.
4. The proposed subdivision does not represent the orderly planning of the area.

**CARRIED.**

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**Report Authorisation:**



**Authorised by:**

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** 9 August, 2017

## Item 5.2 Planning Permit Application PA2016-183

### Planning Permit 2016-183; Development of Telecommunication Facility on Old Ballanee Road, Ballan

Application Summary:	
Permit No:	PA2016-183
Lodgement Date:	4 August, 2016.
Declaration for Amendment:	13 February, 2017.
Planning Officer:	Mark Lovell
Address of the land:	Portions 22, 23 and 24, Section 6. Parish of Gorong. Old Ballanee Road, Ballan
Proposal:	Development of a Telecommunication Facility.
Lot size:	Title area which is only part of the entire site is at 6.02 hectares
Why is a permit required	Clause 52.19 – Telecommunications – Building and Works
Public Consultation:	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	Nineteen objections. One objection was a petition with 23 signatures.  <i>A petition, with 214 signatures supporting the application, was submitted by the secretary of Ballan Golf Club Inc.</i>
Consultation meeting:	Meeting held which resulted in the applicant revising plans.
Policy Implications:	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications



Ensure that development is sustainable, resilient to change and respects the existing character.	
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.  <i>Manager – Robert Fillisch</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.  <i>Author – Mark Lovell</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes, Southern Rural Water and Council's Infrastructure.
Any issues raised in referral responses?	No.
Preliminary Concerns?	No.
Any discussions with applicant regarding concerns	No.
Any changes made to the application since being lodged?	Yes, the application submitted an application in process whereby the proposed tower has been moved further way from the Old Ballanee Road by approximately 80 metres, the tower has been reduced in height by 5 metres, and the headframe reduced to a slimline design.
VCAT history?	No.
Previous applications for the site?	Nil.
General summary (Pro's/Con's of the proposal)	The proposed tower has been lowered in height and located further away from the Old Ballanee Road frontage to reduce its impacts to the nearest residential properties and is a better planning outcome compared to the initial plans submitted. The applicant is unable to further relocate the tower due to operational reasons and coverage capacity of the tower.

	<p>The proposal complies with the particular provisions for a telecommunication facility.</p> <p>The tower will still have some visibility from residential properties that surround the Ballan Golf Course.</p>
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to Grant for development of a Telecommunication Facility at Portion 22, 23 and 24, Section 6, Parish of Gorong known as Old Ballanee Road, Ballan.</p>	

### Background

Council was expected to determine this application during the 14 June, 2017 DAC meeting. Council determined to defer the item to examine if there could be an alternative location for the tower.

The applicant advised that, due to the operational performance of the facility, it could not be relocated further to the east or north. They have already reduced the height compared to the initial advertised plans which has reduced the potential coverage capacity. The applicant also took photos from the frontage of the objector's properties to demonstrate the limited visual impact of the proposed tower and submitted a petition with 214 signatures supporting the planning application.

### Public Notice

The application was notified to adjoining and surrounding landowners by mail and by placing a large notice on the Old Ballanee Road frontage for a period of fourteen days. The revised plans were advertised by mail to adjoining and surrounding landowners and occupiers.

### Summary of Objections

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

Objection	Any relevant requirements
Health impacts/Safety from electromagnetic emissions/Radiation	Clause 52.19
<p><b>Officer's response</b> – The site complies with the Australia Standard for electromagnetic emissions and based on the current standards provides an acceptable level of emissions. This is not considered a valid ground of objection.</p>	
Visual impact of the tower - The tower is too close to the Old Ballanee Road frontage.	Clause 52.19

<p><b>Officer's response</b> – The tower has been relocated to further reduce its visual impacts and the tripod headframe at the top of the tower has been removed and replaced with a slimline design structure.</p> <p>In the revised plans, the total height (ground level to the top of antennas) has been reduced from 37.60 metres to 34.80 metres. Height of the monopole (without antennas) has been reduced from 35 metres to 30 metres. The tower cannot be reduced further in height without impacting upon the coverage capacity of the tower.</p>	
Lack of community consultation - The Golf Course Committee did not advise of the application as part of pre-application discussions with the local residents.	
<p><b>Officer's response</b> –The application was lodged, has been advertised in accordance with the requirements of the Planning &amp; Environment Act and a consultation meeting with local residents has been conducted. The planning permit process has allowed for adequate community consultation.</p>	
Tree removal - The Golf Club has removed a number of trees without approval.	Clause 43.01
<p><b>Officer's response</b> – The proposal does not include tree removal. The golf course have advised they have removed non-native trees and were unaware this was done without the required planning approval under the Environmental Significance Overlay Schedule 1. No new tree removal is proposed as part of this application.</p>	
Property devaluation	
<p><b>Officer's response</b> – Property devaluation has been examined in previous VCAT hearings and has been deemed not a valid planning consideration</p>	
Tower not necessary - There is already good mobile phone reception in Ballan	
<p><b>Officer's response</b> – The applicant has advised that it is required for the operation of the Optus service to Ballan.</p>	
Obstacle to the golf course - Effect the operation of the golf course.	
<p><b>Officer's response</b> – The Golf Club would accept all liability for damage caused by stray golf balls hitting any part of the facility. Maintenance will need to be carried out when the golf greens are not in active use to ensure there is no conflict between recreational users and maintenance workers.</p>	
Power supply problems - Power disconnection in Old Ballanear Road	
<p><b>Officer's response</b> – The facility will need to be connected to an appropriate power source in accordance with the requirements from the relevant electricity provider, Powercor Australia.</p>	

Inaccurate application - The site plan does not nominate exact dimensions or setbacks.	
<b>Officer's response</b> –The plans are to scale and dimensions can be calculated. The plans can however have written dimensions and this can be addressed through the submission of revised plans that includes exact property setbacks and complete elevation plans of the equipment shelter.	
Traffic/damage to roadway - Trucks will be present in the area during the construction phase	
<b>Officer's response</b> – Any damage to Council's assets including the roadway and road reserve will need to be reinstated. This can be addressed by a standard permit condition.	
Does not comply with the Special Use Zone objectives	Clause 37.01
<b>Officer's response</b> – The proposal is not required for the operation and the use of a golf course. Telecommunication facilities can occur within a Special Use Zone and can effectively co-exist with an operating golf course or any other recreational use within this zone.	

### Proposal

It is proposed to construct a telecommunication facility which will be comprised of 30 metres high monopole with three antenna headset at 3 metres in height attached to the top of the pole. Also attached to the monopole will be 1200mm in diameter parabolic antenna located 29 metres above ground level. There will be a detached equipment shelter building that is 2.38 metres in width, 3.150 metres in length and 3 metres in height. The equipment shelter is connected to the monopole by 450mm wide cable ladder.

The total area occupied by the lease area inclusive of the tower and the equipment shelter is 62.40m<sup>2</sup>. The lease area is setback approximately 200 metres from the Old Ballanee Road frontage and approximately 119 metres from the northern, Western Freeway frontage.

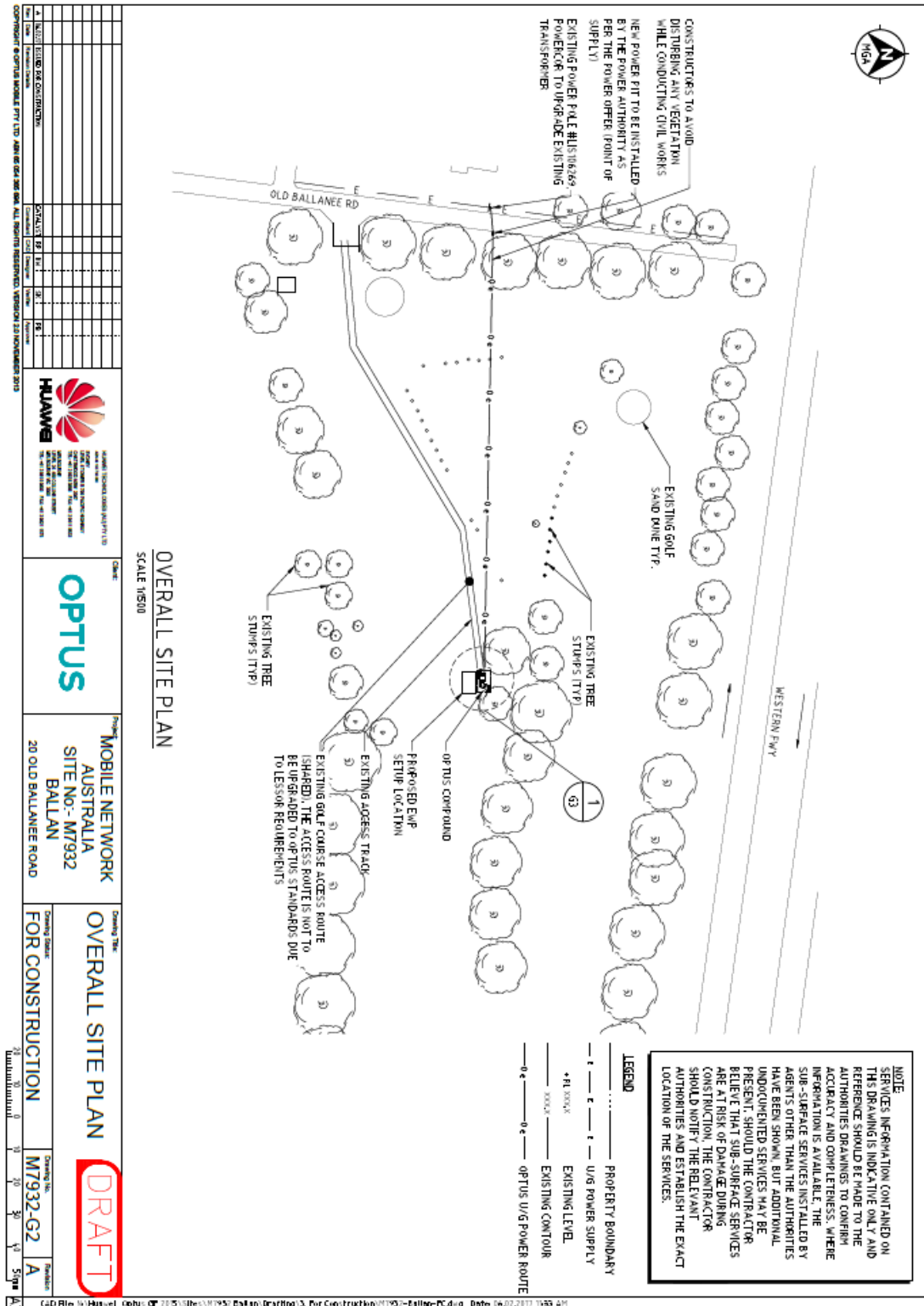
### Site Description

The subject site is comprised of the Ballan Golf Course. The subject land is bounded by the eastern side of Old Ballanee Road, the northern side of Berry Street, the north-western side of Gorong Street, and the southern side of the Western Freeway. The site is comprised of golf greens with native and non-native trees forming borders to each golf green with associated equipment facilities.

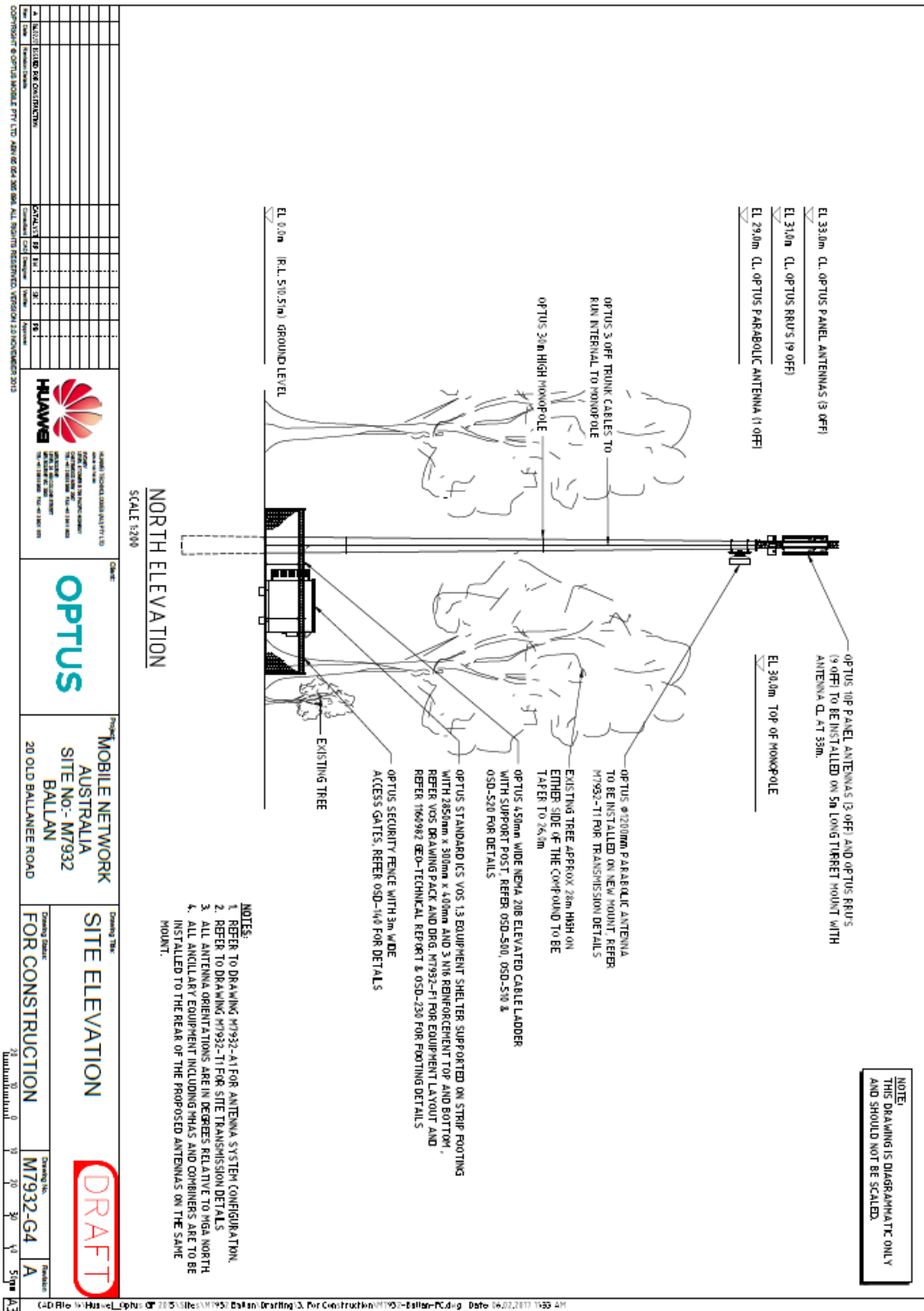
The surrounding area is comprised of residential dwellings, predominately single storey in height and located on moderate lots sizes with well-established landscaping treatments in the front setback areas and single carports and garages accessing single car width crossovers. The surrounding land is located within a General Residential Zone under the Moorabool Planning Scheme.







Site Plan



### Elevation plan

## **Planning Scheme Provisions**

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

The relevant clauses are:

- Clause 11.02-1 Supply of urban land
- Clause 11.07 Regional Victoria.
- Clause 11.08-2 A diversified economy
- Clause 11.08-7 Environmental Assets
- Clause 19.03 Telecommunications

## **Zone**

The subject land is located in a Special Use Zone Schedule 3. (Golf Courses).

The purpose of the Schedule 3 of the Zone is

- To provide for golf courses and uses compatible with enhancing golf courses as an entertainment and recreation venue.

A planning permit is not required for use or building and works under Clause 37.01-4 for a telecommunication facility as the particular provisions of Clause 52.19 apply.

## **Overlays**

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.

A planning permit is not required building and works for a telecommunication facility as the particular provisions of Clause 52.19 apply.

There is no requirement to remove trees which would trigger a permit under this overlay.

## **Particular Provisions**

Clause 52.19 Telecommunication Facility

The purpose of this particular provisions is



- To ensure that telecommunications infrastructure and services are provided in an efficient and cost effective manner to meet community needs.
- To ensure the application of consistent provisions for telecommunications facilities.
- To encourage an effective statewide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Victoria as set out in section 4 of the Planning and Environment Act 1987.
- To encourage the provision of telecommunications facilities with minimal impact on the amenity of the area.

Decision guidelines are listed Under Clause 52.19-6

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

- The principles for the design, siting, construction and operation of a Telecommunications facility set out in A Code of Practice for Telecommunications Facilities in Victoria.
- The effect of the proposal on adjacent land.
- If the Telecommunications facility is located in an Environmental Significance Overlay, a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, a Design and Development Overlay or an Erosion Management Overlay, the decision guidelines in those overlays and the schedules to those overlays.

## **Discussion**

### Visual impact

As a result of the consultation meeting, the applicant revised plans to relocate the facility a further 80 metres to the east and more central within the golf course site, reduced the height of the monopole and replaced the tripod headset with a slimline design. These measures have reduced the impact of the facility from the nearest residential properties in Old Ballanee Road. As a result of the June DAC meeting, the applicant was required to explore alternative locations. Due to operational reasons, the tower could not be further relocated and disputed the visual impact of the facility by taking photos from the surrounding residential streets towards the tower site.

The current position allows the carrier to achieve optimal coverage from the facility while reducing its impact to the nearest residential properties compared to the initial plans submitted. The applicant has advised that a further relocation would present operational difficulties including ongoing maintenance concerns.

The golf course does have rows of trees which form the borders of the individual greens. This has assisted in reducing the visual impact along the southern and northern aspects while there are limited vegetation treatments along the western boundary. There will be permit conditions in place to prevent the removal of trees including non-native trees unless planning approval is sort.

### Safety

The applicant is required to meet the Australian Standard for Electromagnetic Emissions. The proposed facility has a maximum EME level 0.28% of public exposure limit and is well under the maximum requirement of 1%. A permit condition will be in place to ensure the facility does not exceed this level.

## General Provisions

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

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

## Referrals

The following referrals were made pursuant to 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	No objection subject to one condition
Infrastructure	No objection subject to three conditions.

## Financial Implications

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

## Risk and Occupational Health and Safety Issues

The recommendation of approval of this 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

An alternative recommendation would be to refuse the application on the ground that it does not comply with the planning scheme provisions and creates an unacceptable visual impact upon the nearest residential properties.

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

## **Conclusion**

The proposed development complies with the State and Local Planning Policy Framework, the Special Use Zone Schedule 3, the Environmental Significance Overlay and the particular provisions for telecommunication facilities.

The revised plans have addressed some concerns expressed by resident objectors by moving the facility further away from the Old Ballanee Road frontage and reducing the height of the monopole, and altering the bulky headset design. The proposed facility is now acceptable when considering the visual amenity impacts upon surrounding properties. The tower cannot be completely obscured from view to the nearest residential properties and the particular provisions for telecommunication facilities which are the state controls for all telecommunications facilities in Victoria accept there will be some visual impact.

The applicant has mitigated the visual impacts of the tower by relocating the tower to a more central location within the Ballan Golf Course and has reduced the impact of the tower through a reduction in height and removing the headset frame at the top of the tower. The proposed tower complies with the telecommunication provisions, Clause 52.19 of the Moorabool Planning Scheme.

**Resolution:**

**Moved:** Cr. Tatchell  
**Seconded:** Cr. Dudzik

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Planning Permit PA2016-183 for the development of a telecommunication facility at Portions 22, 23 and 24, Section 6. Parish of Gorong known as Old Ballanee Road, Ballan subject to the following conditions.

**Amended 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) Site plan to nominate all distances from the lease area to all property boundaries.
  - b) Separate elevation plans of the equipment shelter.

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

**Material and Colours**

2. All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (no zincalume) except with the written consent of the Responsible Authority.

**Infrastructure**

3. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).
4. Unless otherwise approved by the responsible authority there must be no buildings, structures or improvements located over proposed drainage pipes and easements on the property.

Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

**Southern Rural Water**

5. Sediment control measures as outlined in the EPA's publication No 275 Sediment Pollution Control must be employed during the construction of the dwelling and maintained until the disturbed areas have been regenerated.

#### Telecommunications

6. All noise emanating from any mechanical plant on the site must comply with the Environment Protection Authority's (EPA's) regulations and Council Environmental Health department requirements
7. The telecommunication facility must comply with the "Code of Practice for Telecommunications Facility in Victoria".
8. The telecommunications facility must be designed and installed within the maximum electromagnetic emissions (EME) as calculated for RFNSA site 3342006 being 0.28% of the public exposure limit.

#### Permit Expiry

9. This permit will expire if one of the following circumstances applies:
  - a) the development 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.

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


#### Permit Note:

No trees can removed on site without a planning permit being issued by the Responsible Authority in accordance with the Environmental Significance Overlay Schedule 1.

**CARRIED.**

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#### Report Authorisation:



#### Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 9 August, 2017

### Item 5.3 Planning Permit Application PA2017-053

**Planning Permit 2017 053 – Development and Use of a Dwelling Callaghans Lane Gordon - Crown Allotment 4A, Section 20, Parish of Moorabool West.**

<b>Application Summary:</b>	
Permit No:	PA2017-053
Lodgement Date:	6 April 2017
Planning Officer:	Victoria Mack
Address of the land:	Callaghans Lane Gordon Crown Allotment 4A, Section 20, Parish of Moorabool West
Proposal:	Development and Use of a Dwelling
Lot size:	4855sqm
Why is a permit required	<u>Farming Zone</u> Clause 35.07-1, section 2, use of a dwelling on less than 40ha; Clause 35.07-4, buildings and works associated with the use in Section 2 of Clause 35.07-1. <u>Environmental Significance Overlay</u> Clause 42.01 and Schedule 1, buildings and works. <u>Bushfire Management Overlay</u> Clause 44.06 – development of buildings and works associated with accommodation.
<b>Public Consultation:</b>	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	Five (5)
Consultation meeting:	No, but some objectors requested a meeting with the planner which was held.

<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications  Ensure that development is sustainable, resilient to change and respects the existing character.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.  <i>Manager – Rob Fillisch</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.  <i>Author – Victoria Mack</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes
Any issues raised in referral responses?	No
Preliminary Concerns?	Size of allotment; justification for the use of the dwelling not satisfied
Any discussions with applicant regarding concerns	A written response to the Farming Zone Decision Guidelines was requested when the application was first lodged. The application was not accepted until the requested information was provided.
Any changes made to the application since being lodged?	No
VCAT history?	Nil
Previous applications for the site?	Nil

General summary	<p>The application is for the development and use of a dwelling on a lot of 4855sqm in the Farming Zone. The size of the land is such that the application was not accompanied by a land use statement or farm management plan. It was acknowledged by the applicant that the dwelling would be for rural living purposes.</p> <p>There have been five objections to the application from neighbouring land owners, who are all farmers. They object to the proposal on the grounds that:</p> <ul style="list-style-type: none"> <li>• a residential use in this location is incompatible with surrounding agricultural uses and farming activities</li> <li>• if approved it risks future land use conflict; and</li> <li>• the proposal is inconsistent with Council's policies and the Moorabool Planning Scheme.</li> </ul> <p>The objectors are concerned that their right to farm will be detrimental impacted if residential uses are allowed to occur in farming areas and that if this dwelling is approved it will set a precedent for all Farming Zoned land in the surrounding area.</p> <p>The application has been assessed against the Moorabool Planning Scheme and is inconsistent with the State and local planning policies and the purpose and decision guidelines of the Farming Zone.</p> <p>The application has also been assessed against Council's Rural Housing Policy criteria for dwellings on lots under 8ha in the Farming Zone. The application does not satisfactorily meet any of the assessment criteria.</p> <p>It is considered that the application should be refused.</p>
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit a Planning Permit for the Development and Use of a Dwelling at Callaghans Lane Gordon otherwise known as Crown Allotment 4A, Section 20, Parish of Moorabool West.</p>	



## Background

The subject land has been held by the current owners since 1989 who also own a small dwelling on land nearby at 210 Calway Lane, Gordon.

## Public Notice

The application was notified to adjoining and surrounding landowners and a sign was placed on the site for a minimum of 14 days. Five (5) objections were received.

## Summary of Objections

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

Objection	Any relevant requirements
Neighbouring properties are not "hobby farms" as claimed in the Planning Report. The properties surrounding the site are working farms. If a dwelling is approved on this site potential land use conflict between a residential use and a farming use is a very real risk and should be refused.	Clause 35.7 Farming Zone, decision guidelines Council's Rural Housing Policy Local Policy at Clause 22.03 - Houses and House lot excisions in rural areas
<b>Officer's response</b> – The Farming Zone, Rural Housing Policy and Local Policy at Clause 22.03 of the Moorabool Planning Scheme all discourage the potential risk of land use conflict between farming activities and residential concerns.	
It is Council policy to 'ensure the siting of any dwelling is designed to have minimal impact on any existing or future agricultural activities on the site and surrounding land'. If this dwelling is approved it would be in contravention of this policy.	Council's Rural Housing Policy Local Policy at Clause 22.03 - Houses and House lot excisions in rural areas
<b>Officer's response – this statement is contained in</b> Council's Rural Housing Policy (p.4). Local Planning Policy at Clause 22.03 of the Moorabool Planning Scheme includes specific policies to discourage non-agricultural use and development in areas of productive agricultural Land; and to maintain the right of existing farms to continue their operations without being adversely affected or constrained by residential concerns.	
Approving this application will create a precedent which is in direct contravention of Council's Rural Housing Policy.	Council's Rural Housing Policy
<b>Officer's response</b> – this matter is discussed in the assessment section of this report.	

Direct land use conflict risk to farming activities undertaken close to the proposed dwelling including the potential risk to livestock from domestic (non-farming) dogs in an agricultural region.	<p>Clause 35.7 Farming Zone, decision guidelines</p> <p>Council's Rural Housing Policy</p> <p>Local Policy at Clause 22.03 - Houses and House lot excisions in rural areas</p>
<b>Officer's response</b> – the impact of non-farm dogs attacking livestock is a well-documented risk in farming areas.	
<p>Farmers' right to farm' should be protected from residential developments in the Farming Zone which is a zone meant for genuine farming and agricultural activities.</p> <p>Farmers have a right to undertake all regular activities without risking complaints from non-farming residents.</p>	<p>Clause 35.7 Farming Zone, decision guidelines</p> <p>Council's Rural Housing Policy</p> <p>Local Policy at Clause 22.03 - Houses and House lot excisions in rural areas</p>
<b>Officer's response</b> – this matter is discussed in the assessment section of this report.	

## Proposal

It is proposed to construct a dwelling on the subject site which has an area of 4855sqm.

The land is approximately square in shape and has scattered trees, particularly in the south-east corner of the site. The balance of the land is cleared and pastured. The land is relatively flat with a slight slope down to the north and north-east.

The dwelling would be located slightly to the west off the centre of the site.

The single-storey dwelling would be rectangular in shape with a skillion roof and constructed with Colorbond® wall and roof cladding on a concrete slab. The dwelling would comprise the following:

- Three bedrooms, the master bedroom with ensuite and walk-in-robe; an open plan kitchen, dining and lounge area; a separate family bathroom; a separate laundry and WC; a two car space tandem garage; and a roof line that would cover outdoor deck areas on one side of the dwelling and provide for generous eaves on all sides.
- The dwelling would have a total floor area of 168sqm.
- The dwelling would be setback approximately 25m from the frontage to Callaghans Lane and 16m from the west side boundary.
- A crossover and driveway would be constructed to the dwelling from Callaghans Lane from the south-west corner of the site.

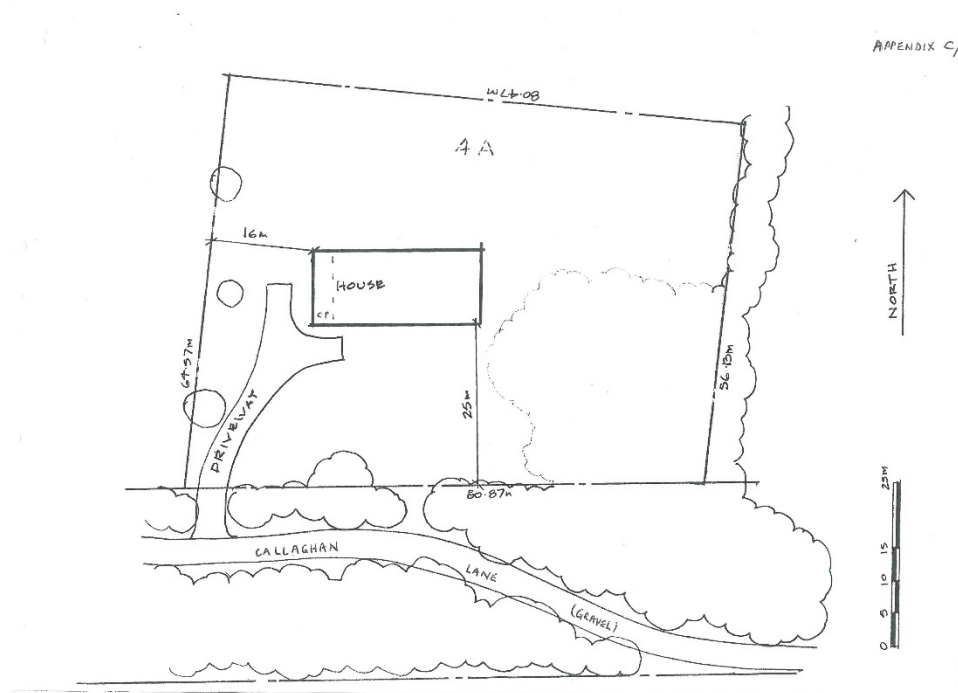
The application was accompanied by a Land Capability Assessment, for the waste water treatment system, and a Bushfire Management Statement, as required by the Bushfire Management Overlay.

However, as the land is only 4855sqm the application was not accompanied by either a farm management plan or land use statement.

The application was not originally accepted until a written response to the Farming Zone decision guidelines was provided.

The site plan is shown below. Copies of the dwelling floor plan and elevations plans are provided as an Attachment to this report.

**The nearest waterway is approximately 175m to the north of the site.**



## Site Description

The site is located on the north side of Callaghans Lane. It has an area of 4855sqm. The application documents suggest that it was a former "school site", however, there is no evidence that a school was ever constructed on the site.

There is significant native vegetation along the Callaghans Lane road reserve and also a patch of native vegetation in the south-east corner of the site which extends up the east side boundary including on neighbouring land. There are also a few scattered trees across the site and there is evidence of natural regeneration of native trees and understory. Land to the north and north-west is forested land.

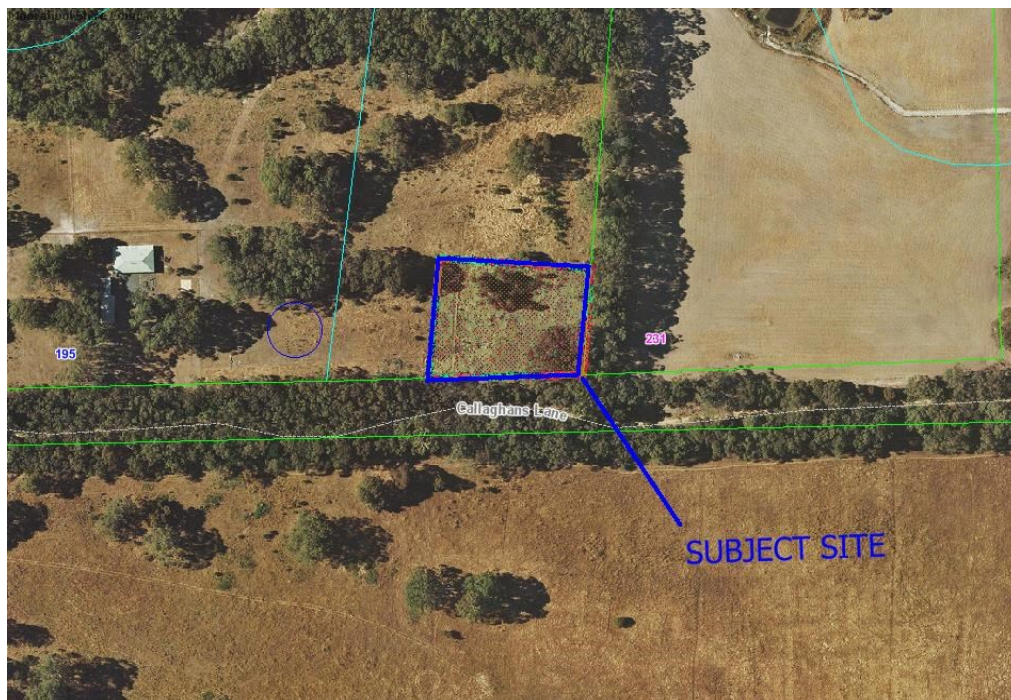
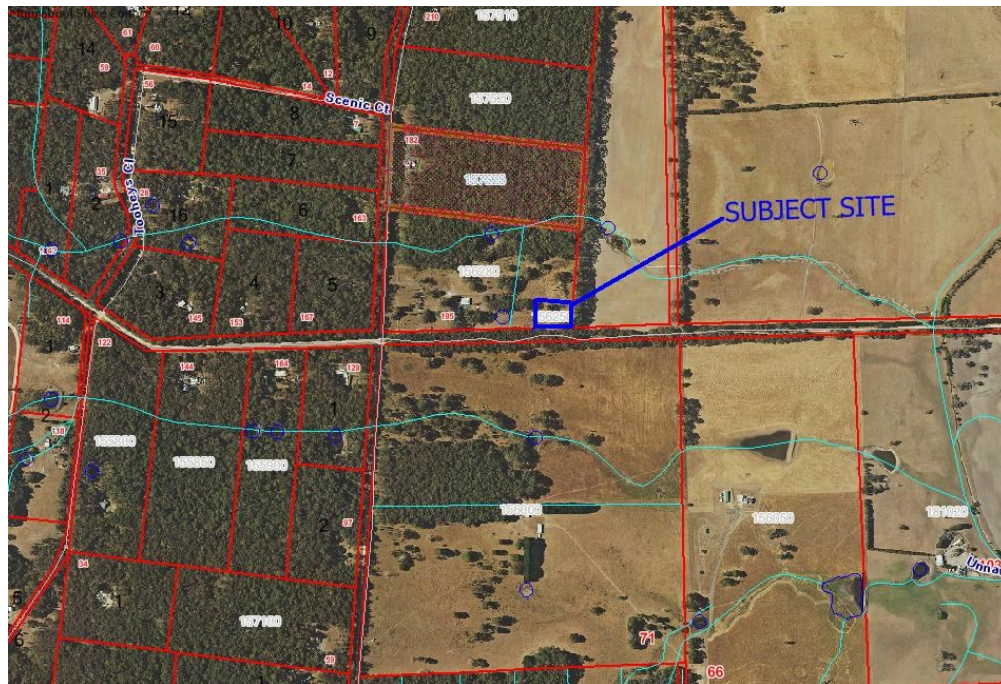
The site is vacant and has been used for grazing including neighbouring livestock as the fences are not altogether stock proof.

Surrounding land is in the Farming Zone and generally has been cleared and is used for farming and agricultural activities. Neighbours who objected to this application documented the types of farming activities that they undertake on tier farms.

The site is located approximately 5.3kms north of the Western Freeway and approximately 7km by road north of the Gordon township on the south side of the Western Freeway.

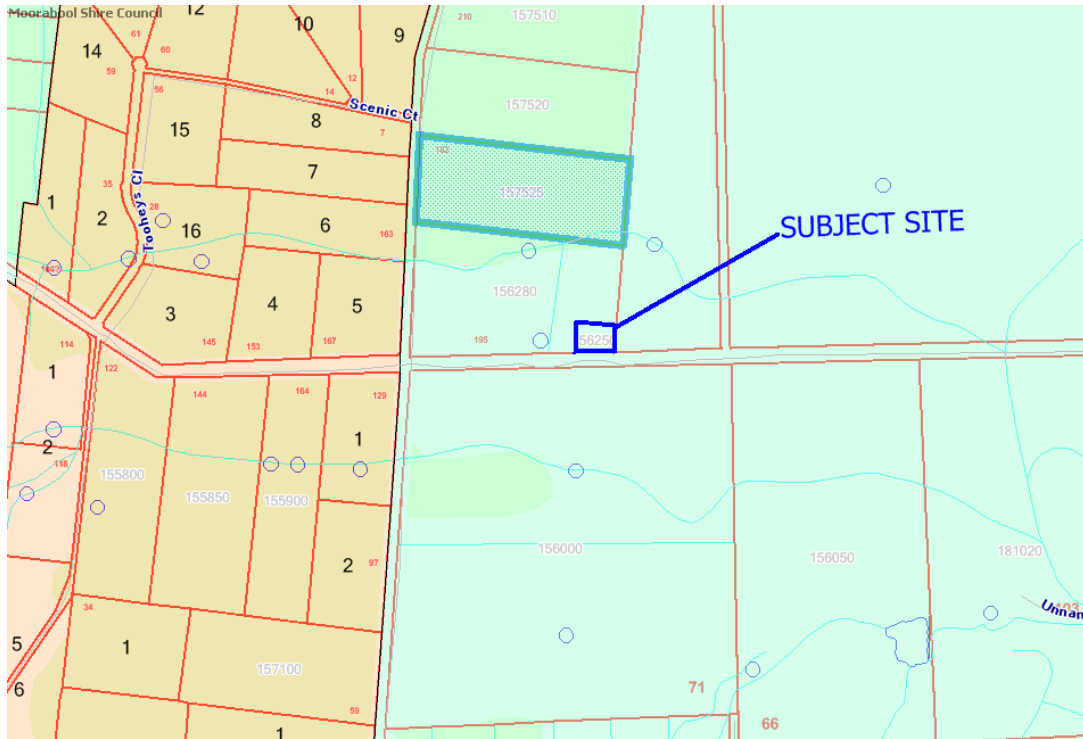


Below are two aerial maps showing the subject site, one showing the surrounding site and the other showing the subject site in more detail:



Locality Map

A zone map is provided below. Rural Living zoned land is located approximately 360m to the west of the site.



### 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 Regional Victoria
- 11.08 Central Highlands
- 14.01-1 Protection of agricultural land
- 14.01-2 Sustainable agricultural land use
- 14.02 Water
- 16.02-1 Rural residential development
- 21.02-3 Water and Catchment Management
- 21.02-5 Objective—Wildfire
- 21.03-2 Objective—Urban Growth Management
- 21.03-4 Objective—Landscape and Neighbourhood Character
- 21.03-5 Objective—Rural Lifestyle Opportunities
- 22.03 Houses and House Lot Excisions in Rural Areas

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

SPPF	Title	Response
Clause 14.01-1	Protection of agricultural land	The aim is to protect productive farmland which is of strategic significance in the local or regional context by preventing inappropriately dispersed urban activities in rural areas; limiting new housing development in rural areas and discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.
Clause 14.01-2	Sustainable agricultural land use	The aim is to encourage sustainable agricultural land use.
Clause 16.02-1	Rural residential development	The aim is to identify land suitable for rural living and rural residential development by managing development in rural areas to protect agriculture and avoid inappropriate rural residential development.
LPPF		
Clause 21.03-2	Objective—Urban Growth Management	It is policy to avoid urban development where it is likely to impact on highly productive agricultural and, environmental values and the long-term sustainability of natural resources.
Clause 21.03-4	Objective—Landscape and Neighbourhood Character	It is policy to ensure new development in all zones respects the existing character, landscape setting and amenity of the local area; and avoid residential development in the farming areas unless it is required for the agricultural use of the land.
Clause 21.03-5	Objective—Rural Lifestyle Opportunities	It is policy to 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 22.03	Houses and House Lot Excisions in Rural Areas	It is policy to minimise the potential for adverse impacts on farm production through land use conflicts.



## **Zone**

### **Farming Zone**

In accordance with Clause 35.07-1, section 2 a permit is required to use land for a dwelling on land that less than 40ha.

In accordance with Clause 35.07-4 a permit is required for buildings and works associated with a use in section 2 of Clause 35.07-1

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 provision.

The proposed use and development is inconsistent with the Farming Zone provisions.

This application has received 5 objections particularly in relation to the use and development of a dwelling for residential purposes in areas which are used for legitimate agricultural and farming activities.

The objectors are concerned that a strictly residential use will adversely impact on their right and ability to use their land for normal farming activities.

## **Overlays**

### **Environmental Significance Overlay and Schedule 1 (ESO1)**

In accordance with Clause 42.01 and Schedule 1 to the ESO, a permit is required for buildings and works in a proclaimed water catchment area.

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 to the application subject to conditions.

### **Bushfire Management Overlay (BMO)**

In accordance with Clause 44.06 – a permit is required for the development of buildings and works associated with the use of accommodation. An application under Clause 44.06 must meet the standards contained in Clause 52.47 – Planning for Bushfire.

## Relevant Policies

Council's Rural Housing Policy, adopted on 19 September 2012, gives direction for assessing planning permit applications which propose new residential development of land in the Farming Zone. The Policy encourages residential development in farming areas which satisfies the purpose of the Farming Zone and supports agricultural opportunities.

The policy has a specific assessment section for land with an area of less than 8ha. As the subject site is only 4855sqm the assessment criteria do not apply to this application as the land is too small to meet the criteria.

## Particular Provisions

### Clause 52.17 – Native vegetation

The land contains native vegetation particularly in the south-east corner of the site. The Bushfire Management Statement provided with the application shows that the allowable defendable space that could be cleared around the dwelling, if approved, would result in some significant native vegetation being permitted to be cleared without a permit.

### Clause 52.47 – Planning for Bushfire

This clause applies to an applications under Clause 44.06 of the Moorabool Planning Scheme in relation to the Bushfire Management Overlay.

Clause 52.47-2 applies to all applications in the Farming Zone. An application under Clause 52.47-2 must meet all the approved measures.

## 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 a 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 a dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses;*
- *the potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture;*
- *whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses;*
- *any integrated land management plan prepared for the site.*



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

- *Protection of agricultural land from non-agricultural uses.*
- *land use conflict between a residential use in an area used for agricultural production and farming.*
- *Residential use on a small lot not being compatible with surrounding agricultural land use.*

#### Protection of agricultural land

The use and development of a 4855sqm site for a dwelling in the Farming Zone was not accompanied by a farm or land management plan which is understandable due to the size of the land.

The pattern of subdivision in the area varies. To the east and south are larger holdings with a majority being approximately 35-40ha in area to larger parcels of approximately 150-200ha in area. These larger cleared and pastured farming lots are generally used for livestock production and some cropping.

It is not unusual for farmers in the area to form a larger agricultural landholding made up of a number of lots, not necessarily contiguous.

State and Local Planning Polies are clear in their intent to:

- protect productive farmland which is of strategic significance in the local or regional context by preventing inappropriately dispersed urban activities in rural areas; limiting new housing development in rural areas and discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses (Clause 14.01-1)
- identify land suitable for rural living and rural residential development by managing development in rural areas to protect agriculture and avoid inappropriate rural residential development; and to manage land use change and development in rural areas to promote agriculture and rural production. (Clause 16.02-1).
- avoid urban development where it is likely to impact on highly productive agricultural land, environmental values and the long-term sustainability of natural resources. (Clause 21.03-2)
- ensure new development in all zones respects the existing character, landscape setting and amenity of the local area; and avoid residential development in the farming areas unless it is required for the agricultural use of the land (Clause 21/03-4).
- 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).
- minimize the potential for adverse impacts on farm production through land use conflicts (Clause 22.03)

The objectors to this application regard the construction of a dwelling on this small lot as potentially impacting on agricultural production and farming operations. They are concerned that the ownership of the land will likely change and that new owners will not appreciate that there are farming activities occurring all around the site. This could create land use conflict between faming uses and residential uses.

The site is not likely to be used for any form of agricultural production or land management.

The lot is in fact an anomaly which was allegedly created for a school site although it is understood that a school was never constructed on the site.

Council's Rural Housing Policy asks planners to consider a range of factors in applications for dwellings in the Farming Zone, with a specific section for lots less than 8ha.

However the criteria contained within the category do not apply to this lot which is too small to meet the criteria.

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.*

If this permit was to be approved a precedent could be set for similar applications in the future. The strong 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 that the use of the land for a dwelling should not be supported.

If the application was to be supported it would, in effect, give a green light to dwellings on inappropriate Farming Zone lots. Once a dwelling is permitted it permanently alters the use of the land.

This would be in conflict with policies of the State and Local Planning policies which aim to manage land use change and development in rural areas to protect agricultural land and prevent inappropriately dispersed urban activities in rural areas by avoiding inappropriate rural residential development.

Overall, the proposed use and development is considered to be inconsistent with relevant State and local planning policy and the purpose and decision guidelines of the Farming Zone in respect to the protection of agricultural land, rural housing development and avoiding potential land use conflicts. The proposal is strictly for a residential use within a farming area which is inconsistent with the Moorabool Planning Scheme.

### **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
Barwon Water	Consent with conditions
Country Fire Authority	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 for Council.

## Risk and Occupational Health and Safety Issues

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

## Communications Strategy

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

## Options

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

Approving the application may result in the objectors lodging an application for review of Council's decision with VCAT with associated costs to Council.

## Conclusion

The proposal is for use and development for a dwelling on a lot of 4855sqm. Neither a farm or land management plan was provided in support of the proposal which is understandable due to the size of the land.

Objections to the proposal strongly contend that the approval of a dwelling on this small site risks future land use conflict between a residential use and neighbouring farming and agricultural activities. It is considered that the proposal is incompatible with surrounding land uses.

Overall, the proposal is inconsistent with relevant State and local planning policy, the purpose and decision guidelines of the Farming Zone and Council's Rural Housing Policy and does not contribute to the orderly use and development of productive agricultural land in surrounding area.

**Resolution:**

**Moved:** Cr. Tatchell  
**Seconded:** Cr. Dudzik

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit a Planning Permit (PA2017-053) for the Development and Use of a Dwelling at Callaghans Lane Gordon otherwise known as Crown Allotment 4A, Section 20, Parish of Moorabool West, on the following grounds:

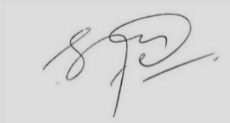
1. The proposal does not comply with State and local planning policy for the protection of agricultural land from residential development.
2. The proposal does not comply with the purpose and decision guidelines of the Farming Zone.

The applicant has not provided any justification that the dwelling will be used to support agricultural activities on the site.

**CARRIED.**

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**Report Authorisation:**



**Authorised by:**

**Name:** Satwinder Sandhu

**Title:** General Manager Growth and Development

**Date:** 9 August, 2017

#### Item 5.4 Planning Permit Application PA2017-069

**Planning Permit Application PA2017-069; Development of a Shed Ancillary to an Existing Dwelling at Crown Allotment 33, Parish of Gorrockburkghap, 15 Pedrettis Road, Rowsley 3340.**

<b>Application Summary:</b>	
Permit No:	PA2017-069
Lodgement Date:	24 April 2017
Planning Officer:	Tom Tonkin
Address of the land:	Crown Allotment 33, Parish of Gorrockburkghap, 15 Pedrettis Road, Rowsley 3340
Proposal:	Development of a Shed Ancillary to an Existing Dwelling
Lot size:	1.64ha
Why is a permit required?	Clause 35.07 – Farming Zone –Buildings and works >100sq m ancillary to a dwelling Clause 42.01 – Environmental Significance Overlay – Buildings and works Clause 45.05 – Restructure Overlay – Buildings and works
Restrictions registered on title	None
<b>Public Consultation:</b>	
Was the application advertised?	The application was not advertised due to the minor nature of the proposal, having regard for the applicable planning controls and site context.
Notices on site:	None
Notice in Moorabool Newspaper:	None
Number of Objections:	None
Consultation meeting:	Not applicable

<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications  Ensure that development is sustainable, resilient to change and respects the existing character.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.  <i>Manager – Robert Fillisch</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.  <i>Author – Tom Tonkin</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Yes, the application was referred to the relevant Council units.
Any issues raised in referral responses?	None
Preliminary Concerns?	None
Any discussions with applicant regarding concerns?	Not applicable
Any changes made to the application since being lodged?	No
VCAT history?	None

Previous applications for the site?	None
General summary	It is proposed to construct a 144sq m Colorbond® shed ancillary to an existing dwelling, to be used for domestic storage purposes. The shed would be sited in the same location as a recently demolished shed. The property is affected by a Restructure Overlay, which requires that a development permit be in accordance with the Rowsley Restructure Plan. The proposed development would not accord with the Restructure Plan, and cannot be conditioned to comply, and is therefore recommended for refusal.
<b>Summary Recommendation:</b>	
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i> , on the grounds detailed at the end of this report.	

## Background

The land is located in an area that was originally laid out as the proposed Rowsley Township, and comprises numerous undeveloped lots and crown allotments that do not reflect the predominant and well-established use and development of the area for small-scale farming and rural residential activities.

Accordingly the land is affected by a Restructure Overlay (RO4) which requires that before any use or development is approved that landowners be required to consolidate all lots in accordance with the Rowsley restructure plan, shown in Attachment 1.

The Restructure Overlay impedes the proposed development given the applicant does not own the adjoining land which with the subject site is shown on the Rowsley restructure plan as a restructure lot, to comply with the purpose of the Restructure Overlay.

Without complying with the requirements of the Restructure Overlay planning officers are bound to recommend refusal of a development application.

## Public Notice

After inspecting the property, notification was deemed unnecessary. The proposed development is relatively minor in nature and would not cause material detriment to any persons. The application has therefore been deemed to not require notice under Section 52 of the Planning and Environment Act 1987.

## Proposal

It is proposed to construct an outbuilding ancillary to an existing dwelling. The proposed outbuilding would replace a partially demolished outbuilding which has been affected by termites, and would utilise the existing building slab. The outbuilding would be located to the rear of the dwelling, be



12m x 12m with an area of 144sq m, have a pitched skillion roof with wall heights of 4.0-5.26m and be clad with Colorbond®. The outbuilding would be used for general domestic storage purposes.

The proposed plans are provided in Attachment 2.

### Site Description

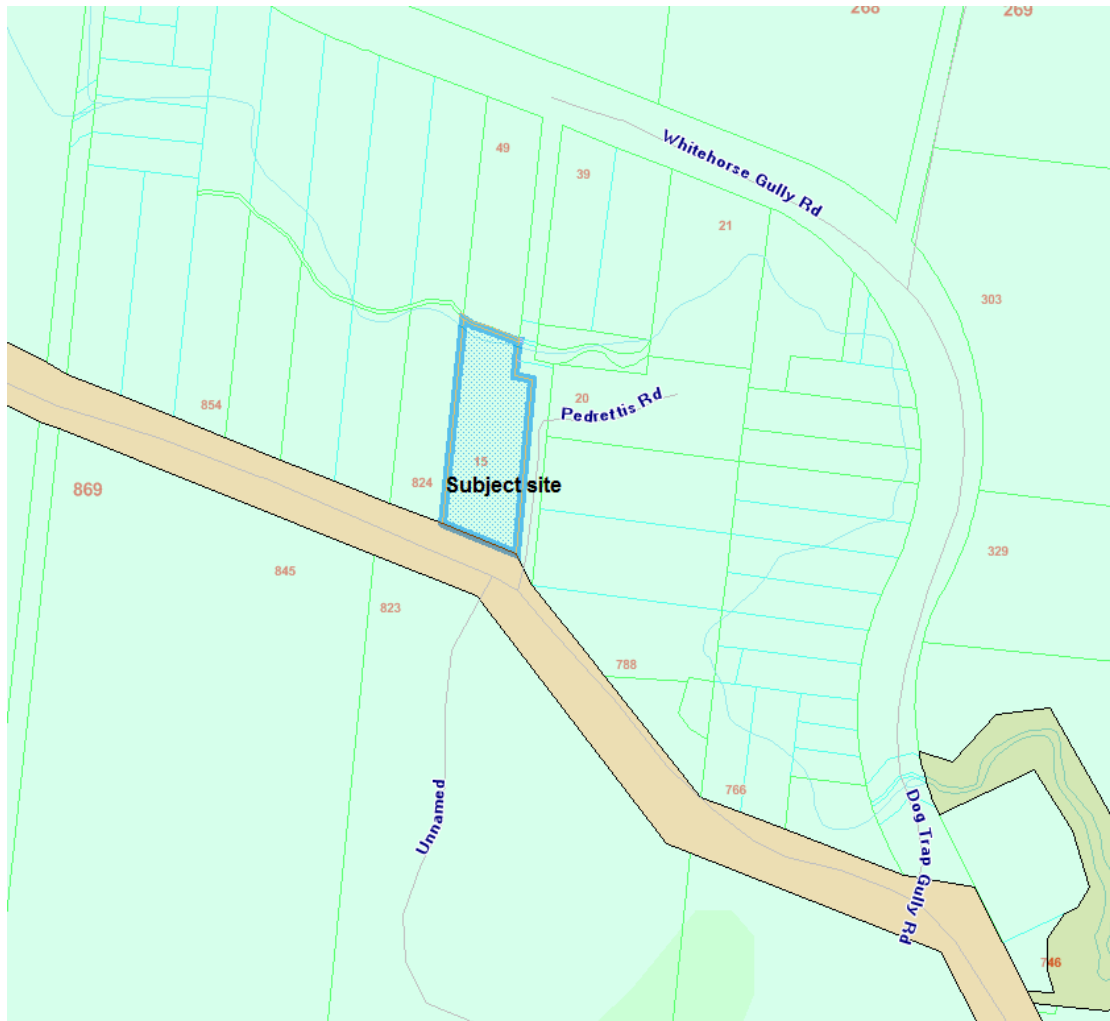
The site is identified as CA 33, Township of Rowsley, Parish of Gorrockburkghap and known as 15 Pedrettis Road, Rowsley. The site is roughly rectangular in shape with an area of 1.64ha, bounded by Parwan Creek to the north, Glenmore Road to the south, Pedrettis Road to the east and private land to the west. The site and surrounding land is in the Farming Zone and characterised by rural lots of a similar size to the subject site, several of which are developed with single dwellings and outbuildings. The area is characterised by an old subdivision and consequently many properties, but not the subject site, comprise more than one parcel.



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
- 14.02 Water
- 15.01-5 Cultural identity and neighbourhood character
- 21.02-2 Non-Urban Landscapes
- 21.02-3 Water and Catchment Management
- 21.02-6 Environmentally Sustainable Development
- 21.03-4 Landscape and Neighbourhood Character
- 22.02 Special Water Supply Catchments

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

## 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 35.07-4, a permit is required to construct buildings and works associated with a Section 2 Use. It is noted that the proposed outbuilding does not meet any applicable exemption given it is >100sq m in size.

The proposed development generally satisfies the purpose of the Farming Zone.

## Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to construct buildings and works. There are no relevant exemptions under Schedule 1. The proposal is consistent with the provisions of the Environmental Significance Overlay.

The site is affected by Design and Development Overlay, Schedule 2. Under Clause 43.02-2, a permit is required to construct buildings and works. Schedule 2 provides an exemption from this requirement if the external walls and roof are clad with non-reflective materials. In this instance a permit is not required.

The site is affected by a Restructure Overlay. Under Clause 45.05-2, a permit is required to construct a building. A permit must be in accordance with a restructure plan for the land listed in a schedule to this overlay. This does not apply if:

- No restructure plan is listed in the schedule and the permit is required to extend an existing dwelling or other building.
- The land is a lot for which a permit has been granted under Clause 45.05-1.

Neither of these exemptions apply. The Rowsley restructure plan listed in the overlay affects the subject site, and is provided in Attachment 1. The plan shows the subject site and property to the west as one of several restructure lots, which are the preferred lots to be achieved through lot consolidation, in this instance as a condition of approval of this permit application. However, the subject site and adjoining property are in different ownership and cannot be readily consolidated as a condition of approval. Unless the lots are consolidated a permit granted for the development would not be in accordance with the Rowsley restructure plan, and therefore in breach of the Moorabool Planning Scheme.

## Discussion

Overall, the proposal is considered to be inconsistent with the relevant provisions of the Moorabool Planning Scheme, in particular the Restructure Overlay.

As described above, the key issue is that a permit cannot be granted consistent with the Rowsley restructure plan. The subject site and adjoining lot to the west would need to be consolidated to create a restructure lot, consistent with the Restructure Overlay. This would otherwise be required as a condition of approval, but in this instance, as both properties are in separate ownership, cannot be imposed. As Clause 45.05-2 states that a permit must be in accordance with the relevant restructure plan, it is recommended that the application be refused.

## General Provisions

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

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

## Referrals

The following referrals were made pursuant to s.55 of the Planning and Environment Act 1987 and Council's Infrastructure unit was provided with an opportunity to comment on the application.

Authority	Response
Infrastructure	Consent with conditions

## Financial Implications

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

## Risk and Occupational Health and Safety Issues

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

## Communications Strategy

Further correspondence is required to the permit applicant as a result of a decision in this matter. The applicant was invited to attend this meeting and address Council if desired.

## Options

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

Approving the application would be in breach of the Moorabool Planning Scheme.

## Conclusion

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

## **Recommendation**

**That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2017-069 for the Development of a Shed Ancillary to an Existing Dwelling at Crown Allotment 33, Parish of Gorrockburkghap, 15 Pedrettis Road, Rowsley, on the following grounds:**

- 1. The applicant cannot comply with the requirements of the Restructure Overlay on the land which requires that the permit must be in accordance with the restructure plan for the land listed in the schedule to this overlay.**
- 2. The applicant is unable to restructure his land through the consolidation of his lot with a neighbouring land parcel in accordance with the Rowsley restructure plan.**

**Resolution:**

**Moved:** Cr. Keogh  
**Seconded:** Cr. Tatchell

That, having considered all matters as prescribed by the Planning and Environment Act, Council Grant a Permit for PA2017-069 for the Development of a Shed Ancillary to an Existing Dwelling at Crown Allotment 33, Parish of Gorrockburkghap, 15 Pedrettis Road, Rowsley, on the following grounds:

**Endorsed Plans:**

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. All buildings and works must be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the responsible Authority. All buildings and works must be located clear of any easements or water and sewer mains or septic tank and effluent lines unless written approval is provided by the relevant authority.

**Infrastructure:**

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

**Material and Colour:**

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

**Southern Rural Water:**

7. The permitted building must not be used for any habitable purpose and must not be used for any commercial or industrial purpose except in accordance with the provisions of the Moorabool Planning Scheme.

8. The existing or proposed effluent disposal areas (if applicable) must be kept free from stock, buildings, driveways and service trenching.
9. Stormwater must not be released directly into any waterway and must be directed away from any existing or approved effluent fields.
10. Sediment control measures outlined in the EPA's publication No 275 Sediment Pollution Control, shall be employed during construction and maintained until the disturbed area has been revegetated.

**Permit Expiry:**

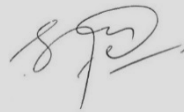
11. This permit will expire if one of the following circumstances applies:

- a. The development 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.

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

**CARRIED**

**Report Authorisation:**



**Authorised by:**

**Name:** Satwinder Sandhu

**Title:** General Manager Growth and Development

**Date:** 9 August, 2017

## Item 5.5 Planning Permit Application PA2017-089

**Planning Permit Application PA2017-089; Reduction of Car Parking (one (1) car space) at Lot 2 on PS 143591, 233 Main Street, Bacchus Marsh VIC 3340.**

<b>Application Summary:</b>	
Permit No:	PA2017-089
Lodgement Date:	23 May, 2017
Planning Officer:	Tom Tonkin
Address of the land:	Lot 2 on PS 143591, 232 Main Street, Bacchus Marsh VIC 3340
Proposal:	Reduction of Car Parking (one (1) car space)
Lot size:	724sq m
Why is a permit required?	Clause 52.06-3 – Car Parking – reduction of car parking
Restrictions registered on title	None
<b>Public Consultation:</b>	
No	No. The application is exempt from notice, as described below.
Number of notices to properties?	None
Notices on site?	None
Notice in Moorabool Newspaper?	None
Number of Objections?	Not applicable
Consultation meeting?	Not applicable
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Infrastructure and Natural Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building controls.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications

	Ensure that development is sustainable, resilient to change and respects the existing character.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.  <i>Manager – Robert Fillisch</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report.  <i>Author – Tom Tonkin</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application referred?	The application was referred to Council's Infrastructure and Strategic Planning units.
Any issues raised in referral responses?	No
Preliminary Concerns?	None
Any discussions with applicant regarding concerns?	Not applicable
Any changes made to the application since being lodged?	No
VCAT history?	None
Previous applications for the site?	None
General summary	<p>The application is for a reduction of car parking (one (1) space) associated with an increase in the number of practitioners at an existing medical centre providing allied health services. In addition to the seven (7) existing car spaces, two (2) spaces would be provided, leaving a shortfall of one (1) space.</p> <p>The nature of the business mean fewer staff and patients attend the premises than a typical medical centre, and an empirical study shows that the existing</p>



	<p>on-site car parking is rarely at capacity and that on-street parking is often available nearby during business hours.</p> <p>Overall, the proposal is acceptable regarding the availability of on-site and off-site parking, the amenity of the area and the local economy.</p>
<b>Summary Recommendation:</b>	
<p>It is recommended that Council issue a Planning Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i>, on the grounds detailed at the end of this report.</p>	

### Public Notice

An application under Clause 52.06-3 is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act if the application is only for a permit under Clause 52.06-3.

### Proposal

It is proposed to reduce the number of car spaces by one (1) space, associated with an increase in the number of medical staff working at the Western Region Health clinic at a time from three (3) to four (4).

The proposed parking layout plan is included at Attachment 1.

### Site Description

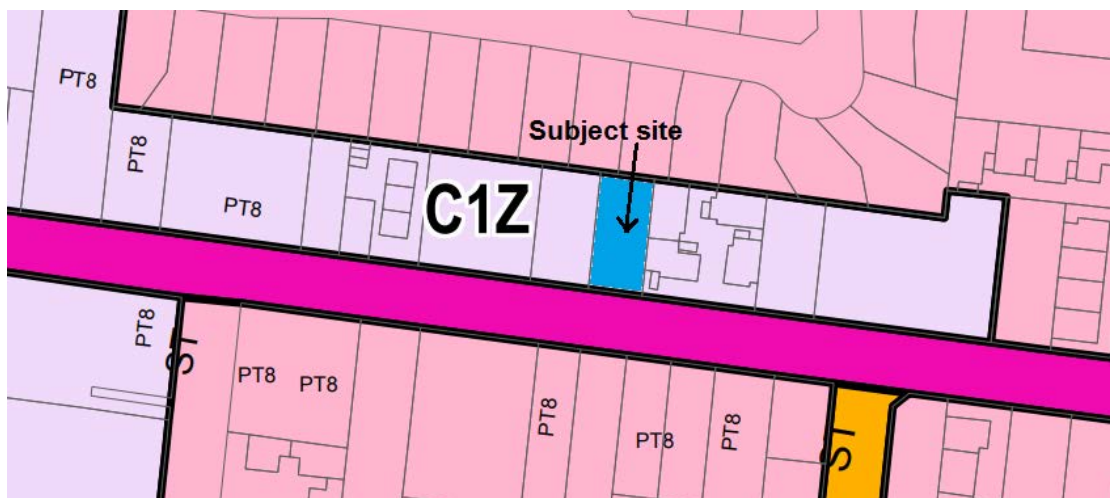
The subject site is identified as Lot 2 on PS 143591 and known as 232 Main Street Bacchus Marsh. The site is rectangular in shape with an area of 724sq m, located on the north side of the street 160m west of Crook Street and 225m east of Young Street. The site is occupied by a single storey building with car parking provided in the front setback and further towards the rear of the rear of premises, with vehicle access obtained via two single crossovers to Main Street. Western Region Health have occupied the premises since 2005 and provide allied health services.

The site and surrounding land to the east and west is in the Commercial 1 Zone, whilst to the north, fronting Malcolm Street, and south, across Main Street, is land in the General Residential Zone. The site is at the eastern periphery of the Bacchus Marsh commercial hub and the area is characterised by a mix of commercial, community and residential uses. To the west of the site is an ambulance, to the north and east dwellings, and to the south across Main Street a training college and employment agency.



### Locality Map

The map below shows 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
- 11.08-2 A diversified economy
- 17.01-1 – Business
- 21.04-3 – Commerce
- 21.07 – Bacchus Marsh

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

## Zone

The site is located in the Commercial 1 Zone.

Under Clause 34.01 of the Moorabool Planning Scheme, the purpose of the Commercial 1 Zone is to:

- *Implement the State and Local Planning Policy Frameworks, 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.*

The proposal to reduce car parking associated with the existing use of the premises as a medical centre does not require a permit under the Zone provisions.

## Overlays

The subject site is affected by Design and Development Overlay, Schedule 11 (DDO11). The proposal does not require a permit under this overlay.

## Relevant Policies

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

The policy states that:

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

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

## Particular Provisions

### Clause 52.06 Car Parking

Under Clause 52.06-5, where an existing use is increased by the measure specified in Column C of Table 1 for that use, the car parking requirement only applies to the increase, provided the existing number of car parking spaces currently being provided in connection with the existing use is not reduced.

It is proposed to increase the number of practitioners from three (3) to four (4). The use of the land is best defined as a medical centre, and under Clause 52.06-5 of the Moorabool Planning Scheme the additional practitioner would require three (3) additional car spaces to be provided. Two (2) additional spaces are proposed, therefore a permit is required under Clause 52.06-3 to reduce the number of car spaces by one (1) space.

#### Clause 52.34 Bicycle Facilities

Under Clause 52.34-3 a medical centre is required to provide one (1) employee bicycle space to each eight (8) practitioners, and one (1) visitor bicycle space to each four (4) practitioners. If in calculating the number of bicycle facilities the result is not a whole number, the required number of bicycle facilities is the nearest whole number. If the fraction is one-half, the requirement is the next whole number. Therefore one (1) employee space and one (1) visitor space are required.

#### **Discussion**

This application is to reduce car parking by one (1) space associated with an increase in practitioners from three (3) to four (4). There are currently seven (7) car spaces on site, and the applicant proposes to increase that number to nine (9) spaces by utilising space occupied by a recently demolished outbuilding, which is a shortfall of one (1) space pursuant to Clause 52.06-5 of the Moorabool Planning Scheme.

The proposed reduction is associated with a medical centre, providing allied health services, including but not limited to osteopathy. Appointments are for a minimum 30 minutes, but usually 60 minutes, consequently the overall demand for parking is significantly lower than for a typical medical practice. The following maximum vehicle movements are anticipated on a daily basis:

- 4-5 staff (including an administrative staff member) – arriving at the beginning of each shift and leaving at the end of each shift.
- 16 patients per practitioner arriving and leaving every 30-60 minutes.

Modelled on 30 minute appointments there would be a maximum 138 vehicle movements each day, compared to 394 movements for a typical medical practice modelled on 10 minute appointments. However, actual vehicle numbers would usually be much less than 138 due to the following:

- The Bacchus Marsh clinic is a satellite clinic and administrative staff are often not on-site, but manage the clinic and appointments from Melton.
- A large number of patients currently walk (approximately 25%), or catch taxis or community transport to appointments.
- Practitioners providing massage services will usually have 1-1.5 hour appointments, further reducing the demand for parking.
- Practitioners involved in the palliative care program do not treat patients on-site, but will use a treatment room for administration associated with the program, therefore generating no patient parking for his service.

The applicant provided an empirical study of the parking demand for both on-site and off-site parking within 100m of the site. This shows that on almost all occasions there is at least one (1) space available in the clinic car park and usually 6-20 on-street spaces within 20m of the site, and 7-28 on-street within 100m of the site.

The five (5) rear car spaces would be for staff use, leaving the front four (4) car spaces for customers.

Traffic lanes and car spaces would be of sufficient dimensions to meet the standards at Clause 52.06-8.

In accordance with the purpose of Clause 52.34 of the Moorabool Planning Scheme, it is recommended that a condition of approval require the provision of two (2) bicycle parking spaces – one (1) for staff and one (1) for visitors – on the premises. There is sufficient space for bicycle parking near the entrance to the building for a bicycle rail and potentially a lockable compound for the staff member. Signage on the outside of the premises should be provided to alert visitors to the location of the bicycle parking.

### **General Provisions**

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

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

### **Referrals**

Under s.52 of the *Planning and Environment Act 1987* Council departments were provided with an opportunity to make comment on the application.

Authority	Response
Infrastructure	Consent subject to conditions
Strategic Planning	Consent

### **Financial Implications**

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

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

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

### **Communications Strategy**

The Moorabool Planning Scheme exempts the application from the notice requirements of Section 52 of the *Planning and Environment Act 1987*. Further correspondence is required with the applicant as a result of a decision in this matter, and the applicant was invited to attend this meeting and address Council if desired.

### **Options**

There are no reasonable grounds to refuse the application. Acceptable justification for the reduction of car parking has been provided to satisfy the purpose of Clause 52.06 of the Moorabool Planning Scheme.

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

**Conclusion**

It is considered that the application is, overall, consistent with relevant provisions of the Moorabool Planning Scheme, having regard for the provision of adequate car parking on the subject site, the availability of on-street parking in the vicinity, the amenity of the area and the local economy.

It is therefore recommended that the application be approved by Council, subject to conditions.



**Resolution:**

**Moved: Cr. Tatchell**

**Seconded: Cr. Keogh**

That, having considered all relevant matters as required by the Planning and Environment Act 1987, under Section 60, Council issue Planning Permit PA2017-089 for a Reduction of Car Parking (one (1) car space) at Lot 2 on PS 143591, 232 Main Street, Bacchus Marsh VIC 3340 subject to the following conditions:

**Endorsed Plans**

1. Before the use (fourth practitioner) 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 plan submitted with the application (identified as Attachment C-Proposed Site Plan prepared by David Harries, dated 12 May 2017), but modified to show:
  - a) A bicycle rail to accommodate parking for two (2) bicycles.
2. The use as shown on the endorsed plans must not be altered without the written approval of the Responsible Authority.

**Amenity**

3. No more than four (4) health practitioners may see patients on the premises at a given time.
4. This permit allows the use of the land only by Western Region Health. Except with the written consent of the Responsible Authority, if Western Region Health ceases to use the land, this permit will expire.
5. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.
6. Signage directing cyclists to the bicycle parking area must be displayed outside the building to the satisfaction of the Responsible Authority.

#### Permit Expiry

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

- a) The use (for a fourth practitioner) is not started within two (2) years of the date of this permit.

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

**CARRIED.**

#### Report Authorisation:



Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 9 August, 2017



## Item 5.6 Planning Permit Application PA2016-261

### Planning Permit Application PA2016-261; Development of a Second Dwelling and Ancillary Outbuilding at Lot 2 on PS 729816L, 12 Corbetts Road Gordon VIC 3345

Application Summary:	
Permit No:	PA2016-261
Lodgement Date:	12 October 2016
Planning Officer:	Tom Tonkin
Address of the land:	Lot 2 on PS 729816L, 12 Corbetts Road, Gordon 3345
Proposal:	Development of a Second Dwelling and Ancillary Outbuilding
Lot size:	4968sq m
Why is a permit required	<p>Clause 32.09-6 – Neighbourhood Residential Zone – development of a second dwelling on a lot</p> <p>Clause 43.02-2 – Design and Development Overlay – Buildings and works</p> <p>Clause 44.06 – Bushfire Management Overlay – Buildings and works associated with a dwelling</p>
Restrictions registered on title	None
Public Consultation:	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment. One (1)
Notices on site:	None
Notice in Moorabool Newspaper:	One (1)
Number of Objections:	No. It was not considered that the objection would be resolved through consultation given the concerns raised.
Consultation meeting:	
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.

<b>Strategy</b>	<p>Implement high quality, responsive, and efficient processing systems for planning and building applications</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Tom Tonkin</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
Application Referred?	Referred to relevant external authorities and within Council.
Any issues raised in referral responses?	No
Preliminary Concerns?	Yes, in relation to aspects of the proposed dwelling design and siting.
Any discussions with applicant regarding concerns	The Council officer wrote to the applicant regarding the above concerns.
Any changes made to the application since being lodged?	Yes, the applicant amended the plans in response to the above concerns prior to advertising.
VCAT history?	None
Previous applications for the site?	<p>PA2013-244 for Removal of Vegetation was approved on 28 November 2013.</p> <p>PA2014-181 for Vegetation Removal and Development of a Dwelling was approved on 31 October 2014.</p> <p>PA2016-096 for a Staged Three (3) Lot Subdivision was approved on 12 October 2016.</p>

General summary	<p>The application is for the development of a second dwelling and ancillary outbuilding on the site. The dwelling would be sited to the west of the existing dwelling, fronting Corbetts Road, be single storey</p> <p>The objection to the proposal relates to previous approved tree removal and subdivision, and impacts on air quality.</p> <p>The proposal generally satisfies the relevant objectives of State and local planning policy, the zone and relevant overlays, and most ResCode requirements, subject to conditions.</p> <p>The proposal is an acceptable design response to the site and surrounding area.</p>
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act</i> 1987, subject to the conditions detailed at the end of this report.</p>	

## Background

PA2016-096 for a Staged Three (3) Lot Subdivision was approved on 12 October 2016, but the subdivision is yet to be certified, or a Statement of Compliance attained. The dwelling and outbuilding proposed under the current application would be contained on proposed Lot 1, with an area of 1521sq m. It is understood that the benefit of making the current application would enable construction of the proposed development to occur before the abovementioned subdivision is finalised, as a permit for the proposed development would have been required even after the subdivision was approved.

## Public Notice

Notice of the application was given to adjoining landowners by mail on 30 March 2017 and a sign erected on site facing Corbetts Road from 1-20 April 2017. One (1) objection was received.

## Summary of Objection

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

Objection	Any relevant requirements
Concerns about how the tree removal, as approved under PA2014-181, was carried out.	N/A
<b>Officer's response -</b> This objection is not relevant to the current application.	
In relation to State planning policy, how can using a lot that previously contained a single dwelling, subdividing it into three lots and building on same conform with existing settlement patterns?	

<p><b>Officer's response -</b></p> <p>The subdivision of the site into three lots was previously approved and is not subject to an assessment of this application. It is noted that since the application was submitted some relevant State planning policy has been updated and restructured. In any case, the proposal has been considered against the relevant State planning policies outlined below.</p> <p>It is further noted that all applicable planning policies must be considered and a balanced decision made on an application. An assessment of the application against relevant policy is made in more detail below.</p>	
The subdivision planned under this application will impact on the existing character and landscape.	N/A
<p><b>Officer's response -</b></p> <p>The current application is only to develop a single dwelling and ancillary outbuilding on the site. Planning permit PA2016-096 was issued for a three lot subdivision of the site but has not been acted upon yet.</p> <p>The proposed dwelling and outbuilding would be contained on the proposed Lot 1, with an area of 1521sq m, approved under PA2016-096.</p>	
Impact on air quality from increased number of wood fires.	Clause 65.01
<p><b>Officer's response -</b></p> <p>The responsible authority must assess the application's effect on the amenity of the area, however there is no specific requirement for consideration of air quality. Issues regarding smoke from wood heaters would be dealt with by Council's Environmental Health officer as they arise under the Public Health and Wellbeing Act 2008.</p>	

## Proposal

It is proposed to develop a second dwelling and ancillary outbuilding on the lot. The proposed buildings would be sited on a vacant section of the site to the west of the existing dwelling on the site. The dwelling would be set back 20.0m from the Corbetts Road frontage and be of a traditional design with a steeply pitched hipped Colorbond® roof, verandahs on all sides and walls clad with 'Lineaboard' cladding. The dwelling would comprise four (4) bedrooms, main with ensuite, laundry, bathroom, living room, open plan kitchen, meals and family area leading to a covered alfresco area at the rear. The Colorbond® clad outbuilding would be 6.0m x 11.0m (66sq m) with a pitched gabled roof and a 2.0m x 11.0m (22sq m) skillion roofed verandah along the front façade, and comprise a double garage and separate store. Several native trees may require removal.

The proposed plans are provided in Attachment 1.

## Site Description

The site is identified as Lot 2 on PS 729816L and known as 12 Corbetts Road, Gordon. The site is 4968sq m in size and is an irregular shape with a 60.0m frontage to Corbetts Road and a secondary frontage of 26.10m to O'Donnell Street to the north. To the east is an unmade government road leased by the landowner further to the east. To the west is a dwelling fronting O'Donnell Street and



to the north, across O'Donnell Street, is a heavily treed lot also containing a dwelling. To the south, across Corbetts Road, are dwellings.

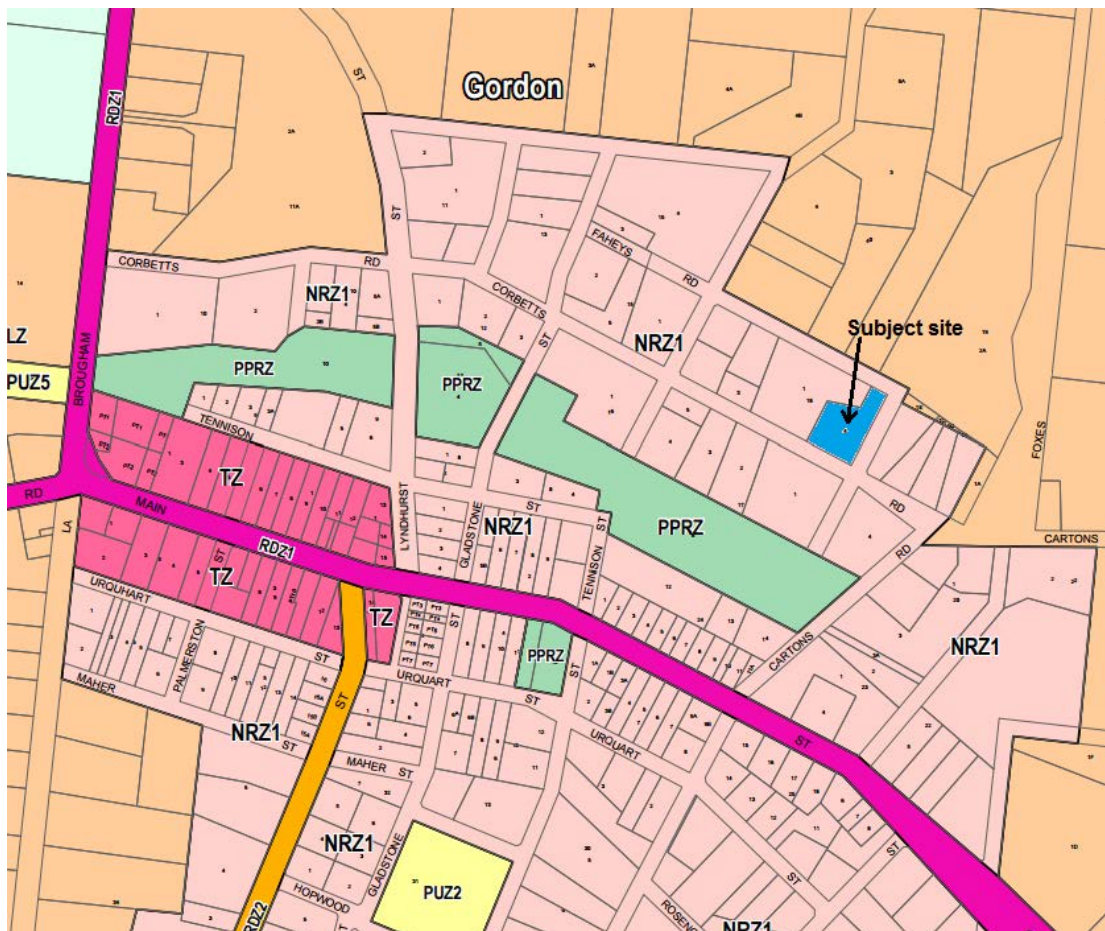
The subject site contains a single storey dwelling fronting Corbetts Road with ancillary outbuildings to the rear. The site contains several established trees and has a fall of approximately 3.6m from the northeast to the southwest.

The site and surrounding neighbourhood is towards the northern periphery of Gordon township in the Neighbourhood Residential Zone. Most nearby lots are developed with dwellings but the typically generous lot sizes, established trees, undulating and hilly topography and low scale of development contribute to a distinctly semi-rural character. This is further enhanced by nearby patches of forested land and cleared grazing and horticultural land.



### 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
- 12.04-2 Landscapes
- 13.05 Bushfire
- 14.02 Water
- 15.01-5 Cultural identity and Neighbourhood character
- 16.01-1 Integrated housing
- 21.02-3 Water and Catchment Management
- 21.03-2 Urban Growth Management
- 21.03-3 Residential Development
- 21.03-4 Landscape and Neighbourhood Character
- 21.09-1 Gordon
- 22.02 Special Water Supply Catchments.

The proposal is generally consistent with all relevant sections of the SPPF and LPPF.



## Zone

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

The purpose of the Zone is:

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

Under Clause 32.09-6 a permit is required to construct a dwelling if there is at least one dwelling existing on the lot. A development must meet the requirements of Clause 55. Pursuant to Clause 32.09-7, Schedule 1 to the Zone varies several standards of Clause 55, as described below.

It is noted that the application satisfies the transitional provisions set out at Clause 32.08-14 given the application was lodged before the approval date of Amendment VC110.

Overall, the proposed development is consistent with the Neighbourhood Residential Zone provisions.

## Overlays

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

The ESO1 applies to land in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to remove vegetation and to construct buildings and works, however this does not apply if a schedule to the overlay specifically states that a permit is not required. Under Clause 3.0 of Schedule 1, a permit is not required to construct a dwelling in the NRZ where the dwelling is connected to reticulated sewerage and no stormwater is discharged less than 100m from a waterway unless into an approved drainage system.

The site is connected to sewer and is more than 100m from the nearest waterway. Pursuant to Clause 52.48-5 the proposal is exempt from any requirement for a permit to remove vegetation.

The DDO2 and DDO5 applies to the Gordon township and rural surrounds. Under Clause 43.02-2 a permit is required to construct buildings and works. Under DDO2 there is an exemption where non-reflective building cladding is proposed.

Accordingly, in this instance a permit is not required under DDO2. Under DDO5 there is an exemption where various siting and design requirements are met. In this instance, a permit is required because development within 5.0m of the rear boundary is proposed and the total floor area of all buildings on the site exceeds 300sq m.



The SLO2 applies to Gordon township and surrounds. Under Clause 42.03-2 a permit is required to remove vegetation and to construct buildings and works, however this does not apply if a schedule to the overlay specifically states that a permit is not required.

Under Clause 3.0 of Schedule 2, a permit is not required to construct a building or works which are at least 4.0m from the base of a tree having a single trunk circumference of 40 centimetres or less at a height of 1.3m above ground level. In this instance, a permit is required to construct within 4.0m of a tree. Pursuant to Clause 52.48-5 the proposal is exempt from any requirement for a permit to remove vegetation.

The BMO applies to the site and surrounding land on three sides. Under Clause 44.06-1 a permit is required to construct buildings and works associated with a dwelling. There are no applicable exemptions.

### **Particular Provisions**

#### Clause 52.06 Car Parking

The proposal includes the required number of resident car spaces, being two (2) spaces for each three (3) or more bedroom dwelling, at least one (1) of which must be under cover. On-site visitor car spaces are not required given fewer than five (5) dwellings are proposed. The proposed garage dimensions of 6.0m length x 6.0m width meet the standard.

#### Clause 52.17 Native Vegetation

A permit is required to remove or lop native vegetation, however pursuant to Clause 52.48-5 the proposal is exempt from any requirement for a permit to remove native vegetation.

#### Clause 52.47 Planning for Bushfire

Clause 52.47-2 applies to this application to construct a second dwelling on the lot. The proposed development has been assessed as suitably sited and designed to limit the loss of life and property in the event of bushfire, subject to conditions.

#### Clause 52.48 Bushfire Protection: Exemptions

Under Clause 52.48-5, any requirement of the Moorabool Planning Scheme that requires the removal, destruction or lopping of vegetation does not apply to vegetation removal required to create defensible space around the proposed dwelling as the land is affected by a Bushfire Management Overlay, is in the Neighbourhood Residential Zone and provided the vegetation removal is required to be undertaken by a condition on the planning permit issued under Clause 44.06 (BMO) for the proposed dwelling.

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

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

As previously noted, the NRZ1 varies several standards of Clause 55, including:

- Standard B8 (Site coverage) varied from 40% to 20%.
- Standard B9 (Permeability) varied from 20% to 70%.

- Standard B13 (Landscaping) - Provide 1 tree per 250 square metres of lot size with at least 1 tree in the front setback (with trees >4 metres height and > 3 metres canopy at maturity).
- Standard B17 (Side and rear setbacks) – Rear setback and one side setback: 2.0m at ground level. Other side setback: 1.0m at ground level.
- Standard B18 (Walls on boundaries) varied from up to 10.0m to 0m.
- Standard B32 (Front fences) varied from 1.5m to 1.2m.

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

Clause Rescode	Title	Response
55.03-3	Site coverage	Approximate 30% coverage exceeds the maximum 20%.

## Discussion

The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Gordon as a small town in the Ballarat hinterland. The proposal would facilitate consolidated growth within the existing township and take advantage of existing infrastructure, in particular reticulated sewer. Growth must be balanced with the need for new development to respect the existing neighbourhood character, heritage, environmental or landscape characteristics, and integrate with the surrounding environment.

The subject site and surrounding land is in the Neighbourhood Residential Zone, Schedule 1 (NRZ1). The purpose of the NRZ includes the following:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To recognise areas of predominantly single and double storey residential development.*
- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*

The proposal complies with the objectives and most of the standards of Clause 55 for residential development. The proposal would integrate with the surrounding neighbourhood to an acceptable extent, and adopt a form and appearance similar to the existing dwelling on the site, and generally consistent with surrounding development.

The proposal would offer an acceptable level of on-site amenity for future occupants and there would be no unreasonable amenity impacts on adjoining landowners. The site coverage of 30% which exceeds the 20% maximum under the standard is considered to meet the objective of Clause 55.03-3, which is to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site. Despite the generally open, spacious character of the area there are numerous lots with building coverage exceeding 20%.

The proposal is for a single storey dwelling with a substantial front setback, and would not present any unreasonable bulk when viewed from the street or adjoining nearby properties. A substantial front setback would provide space for tree plantings to soften the appearance of the development. The design response is acceptable.

Design and Development Overlay, Schedule 5 (DDO5) applies to the wider Gordon township, and provides design objectives for development, including the following which are relevant to this application:

- *To protect the village character of the township.*
- *To ensure that buildings with visible roof forms make a positive contribution to the character of the township.*

Pursuant to Clause 2.0 of DDO5 a permit is required for the proposed development. Clause 2.0 also states that:

- *Development should not obscure views and view lines from the town and particularly the town centre to the surrounding rural landscape features.*
- *Development should have a varied and interesting roof form.*
- *Development should be stepped with slope so that changes in natural ground level do not result in built form with a visual bulk that undermines the low-rise and fine-grained character of the town centre and township area.*
- *Colours, materials, finishes, façade articulation, roof pitch and form should respond to the existing neighbourhood character.*

The proposed single storey dwelling, with a steeply pitched hipped Colorbond® roof incorporating verandahs, and with Lineaboard cladding would be designed and sited to meet the above requirements. It is recommended that a condition of any approval require a detailed colours and materials schedule to be submitted for endorsement.

Pursuant to Clause 43.02-5 and 5.0 of DDO5 the following decision guidelines are relevant to this application:

- *Whether the development responds to the design objectives of the overlay.*
- *The contribution that the development makes to the preferred character of the area.*
- *The impact of the development on visual amenity both from adjoining properties and from within the township of Gordon.*
- *The impact of the landscaping and scale of new development, particularly in open areas and locations on exposed hill tops and slopes.*
- *Whether the proposed buildings and works would have any adverse impact on the landscape and the visual amenity of the surrounding area.*
- *Whether the materials proposed to be used, and the form of development proposed would avoid or reduce any adverse impact on the landscape and the visual amenity of the surrounding area.*
- *Whether the setbacks of the proposed building and works from adjoining roads and properties will ensure that the development would avoid or reduce any adverse impact on the landscape and the visual amenity of the surrounding area.*
- *Whether any proposed landscaping around the buildings and works would reduce any adverse visual impacts on the landscape and the visual amenity of the surrounding area.*

As previously described, this part of Gordon has a country village character, with a sense of spaciousness created by the lot sizes and spacing of dwellings, vegetation cover and undulating topography.

The proposed development of a second dwelling and outbuilding would be generally in keeping with the character and appearance of adjacent and nearby dwellings, the streetscape and the area more generally. The surrounding area is notable for the variety of different lot sizes and configurations, with a non-uniform pattern of development. Nevertheless, the proposed dwelling would be sited to generally fit with the spacious character of the streetscape, with a 20.0m front setback. There would be no unreasonable impact on the visual amenity of the area – the site is on gently sloping land, with the property to the rear being slightly more elevated, and no significant view lines obscured by the proposed buildings.

The outbuilding set back 2.0m from the rear boundary is consistent with development on the property sharing that boundary which has a shed constructed in a similar position, and is acceptable. No reflective building cladding is proposed.

The site is in a Special Water Supply Catchment and connected to sewer. The proposed dwelling would be connected to sewer, meaning there would be no detrimental impact on drinking water quality in the catchment.

The site is affected by the Bushfire Management Overlay, and a permit is required for the proposal under Clause 44.06. The application was referred to the Country Fire Authority who consent, subject to conditions. The proposed dwelling would be constructed to a BAL 12.5. A 10,000L water tank would be provided for firefighting purposes for the proposed dwelling, and direct vehicle access provided via Corbetts Road.

There is an existing tree in the proposed dwelling's front setback which would be within 4.0m of the proposed dwelling, and is intended for retention. It is noted, however, that its proximity to the dwelling may require it to be removed or lopped, and is exempt under Clause 52.48-5 from needing a permit.

Under Clause 52.48 vegetation removal does not require a permit in this instance. In any case one (1) tree is proposed for removal, and whilst the tree is not particularly prominent in the local landscape, there are numerous trees recently planted on the property which, once established, will enhance the character of the area.

The proposed development satisfies the relevant provisions of the Moorabool Planning Scheme.

### **General Provisions**

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

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

### **Referrals**

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

Authority	Response
Country Fire Authority	Consent with conditions
Infrastructure	Consent with conditions

### **Financial Implications**

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

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

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

### **Communications Strategy**

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

### **Options**

Based on the above assessment there are not considered to be any reasonable grounds to refuse the application.

In any case, refusing the application may result in the applicant lodging an application for review of Council's decision with VCAT.

### **Conclusion**

The proposal generally satisfies the relevant provisions of the Moorabool Planning Scheme, particularly regarding State and local planning policy, the zoning, applicable overlays and Clause 55.

The proposed development of a second dwelling on the lot and ancillary outbuilding is generally consistent with development in the surrounding neighbourhood. The proposal would provide acceptable on-site amenity and not result in any unreasonable off-site amenity impacts.

It is recommended that the application be approved, subject to conditions.

**Resolution:**

**Moved:** Cr. Tatchell  
**Seconded:** Cr. Keogh

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant a Permit for PA2016-261 for the Development of a Second Dwelling and Ancillary Outbuilding at Lot 2 on PS 729816L, 12 Corbetts Road, Gordon, subject to the following conditions:

**Endorsed Plans:**

1. Before the 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 A3 size copies must be provided. The plans must be generally in accordance with the plans identified as Sheet No.'s TP4, TP6 & TP7, revision TP4, dated 15 December 2016 but modified to show:
  - a. A landscape plan in accordance with Condition No. 3.
  - b. A colours and materials schedule, including colour samples, for the proposed dwelling and outbuilding.
  - c. Minimum 1.8m high fencing along that section of the common boundary with 6 O'Donnell Street that is to the rear of the proposed dwelling.

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.

**Amenity:**

2. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.

**Landscape Plans:**

3. Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
  - a. a survey (including botanical names) of all existing vegetation to be retained and/or removed;
  - b. details of surface finishes of pathways and driveways;
  - c. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
  - d. landscaping and planting within all open areas of the site;
  - e. One (1) tree per 250sq m of lot size with at least one (1) tree in the front setback >4.0m height and >3.0m canopy at maturity).

**All species selected must be to the satisfaction of the responsible authority.**

- 4. Before the occupation of the development 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.**

**Infrastructure:**

- 5. The property access and the internal driveways must be constructed in accordance with the requirements specified in Table 5 of Clause 52.47-3 of the Moorabool Planning Scheme, to the satisfaction of the responsible authority.**
- 6. The development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
  - a. the development as a whole must be self-draining;**
  - b. the 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.**
- 7. 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.**
- 8. Storm water drainage from the proposed building and impervious surfaces must be directed to the legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of a stormwater drainage system.**
- 9. 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).**
- 10. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
- 11. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**



**Country Fire Authority:**

12. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.
13. The Bushfire Management Plan (Figure 10 in report by Regional Planning & Design Pty Ltd, Ref No.13.187, Report Version B, dated 10/3/2016), must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

**Permit expiry:**

14. This permit will expire if one of the following circumstances applies:
  - a. the development is not started within two (2) years of the date of this permit;
  - b. the development is not completed within four (4) years of the date of this permit.

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

**CARRIED.**

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**Report Authorisation:**



**Authorised by:**

**Name:** Satwinder Sandhu

**Title:** General Manager Growth and Development

**Date:** 9 August, 2017

## Item 5.7 Planning Permit Application PA2006-269

### Planning Permit Application PA2006-269; Use and Development of a Dwelling; Lot 1 on PS 345500E, 09 Osborne Street, Maddingley

<b>Application Summary:</b>	
Permit No:	PA2006-269
Lodgement Date:	23 February, 2017.
Planning Officer:	Mark Lovell.
Address of the land:	Lot 1 PS345500E 98 Osborne Street, Maddingley.
Permit already granted:	Use and development of a dwelling
Amended Permit Proposal:	Amended plans for the construction of a temporary dwelling.
Lot size:	2.81 hectares.
Why is a permit required to the original permit	Clause 35.07-2 and 35.07-4 - Farming Zone – Use and Development of land for a Dwelling
<b>Public Consultation:</b>	
Was the amendment application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	One objection
Consultation meeting:	Separate meetings held with the applicant and the objector.
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications

	Ensure that development is sustainable, resilient to change and respects the existing character.
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<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.  <i>Manager – Robert Fillisch</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.  <i>Author – Mark Lovell</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	No.
Any issues raised in referral responses?	No.
Preliminary Concerns?	Yes, with regard to occupants residing in the building without planning or building approval.
Any discussions with applicant regarding concerns	Yes, the applicant was given a timeline to vacate the building. The applicant has now satisfied this requirement.
Any changes made to the application since being lodged?	No.
VCAT history?	No.
Previous applications for the site?	Planning permit 2006-269 was issued on 1 December, 2006. Amended plans were approved on 1 November, 2012.
General summary (Pro's/Con's of the proposal)	The pod buildings are more designed for storage purposes and need to be internally modified to reach an acceptable building standard. The proposed pods are small in area and have a minimal visual amenity impacts upon the surrounding farming zoned land.

**Summary Recommendation:**

That, having considered all relevant matters as required by Section 73 of the Planning and Environment Act 1987, Council issue a Notice of Decision to Amend a Permit for the development and use of a dwelling on Lot 1 on PS345500E known as 98 Osborne Street, Maddingley.

**Background**

Planning permit 2006-269 was issued on 1 December, 2006. Amended plans were approved on 1 November, 2012. There were five extension of time to the commencement date partly due to a change in ownership and change in Building Surveyors. The current owners have completed the worm septic system and power connection which has been deemed commencement of the dwelling. A sixth extension of time was approved on 15 March, 2017 to allow for the completion of dwelling with a new completion date of 1 December, 2017.

The owners had decided to place pod storage units on the land however have modified them to allow for habitation in breach of the endorsed plans to the planning permit and without building approval or a Certificate of Occupancy. Council's Enforcement Officer advised the owners of the non-compliances with the planning scheme and the applicant was required to vacate the site. The owner has advised in writing on 23 June, 2017 that they have vacated from the building.

**Public Notice**

The amendment application was notified to adjoining and surrounding landowners by mail and by placing a large notice on site for a period of fourteen days. A statutory declaration verifying display of the large notice was received on 3 April, 2017

**Summary of Objections**

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

Objection	Any relevant requirements
How long will the temporary accommodation boxes remain after the house is built	Permit conditions.
<b>Officer's response</b> – The pods can be modified back to storage spaces and this can be addressed by permit conditions.	
How long will it take to complete permanent dwelling	Permit conditions/Expiry dates
<b>Officer's response</b> – The applicant has provided documentation that they have engaged a new Building Surveyor, have a builder committed to the project and it is expected they will soon be able to commence the permanent dwelling on the land.	
What sewerage waste system will be used? The current pods are not connected sanitary septic system but a homemade PVC container	Land Capability Assessment

**Officer's response** – The pods will need to be connected to the approved septic system on site and if granted will not be able to connect to an unapproved container storage that is ineffective in managing waste.

### **Proposal**

It is proposed to convert two pods to be used for habitable purposes. Pod 1 will have one bedroom, bathroom, open living and kitchen area. Pod 2 will be an open storage space. Pod 1 will be have a maximum length of 12.09 metres, maximum width of 6.12 metres and an overall height of 4.08 metres. Pod 2 will be have a maximum length of 10.34 metres, maximum width of 6.12 metres and an overall height of 4.08 metres. The pods will be elevated above ground level by 600mm. The pods will be relocated from their current position to have a minimum setback 55.29 metres from the southern side boundary, 85 metres from the Osborne Street frontage and 74.95 metres from the western boundary which is adjacent to a Melbourne-Ballarat rail line. The applicant has agreed to convert the pods back to storage units upon completion of the permanent dwelling on the land.

### **Site Description**

The subject site is located on the western side of Osborne Street, 503 metres north of Kerrs Road, Maddingley. The site is comprised of vacant land and contains two building pods which are designed for storage, a shipping container and abandoned caravan. Based on the level survey, the site slopes from 135.16AHD in the north-west corner up to 143.67AHD in the south-east corner, a difference of 8 metres. The flat part of the site is concentrated to the southern side boundary. There are scatterings of remnant border plants adjacent to the railway reserve and a couple of recently planted trees. There is a crushed rock driveway and a vehicle gate located adjacent to the Osborne Street frontage.

The surrounding land to the south and east are comprised of small farm lots some of which contain dwellings. Visible from the site is the Maddingley Industrial Precinct to the north and residential dwellings within a General Residential located to the north-west on the opposite side of the railway line.



Figure 1: Locality Map

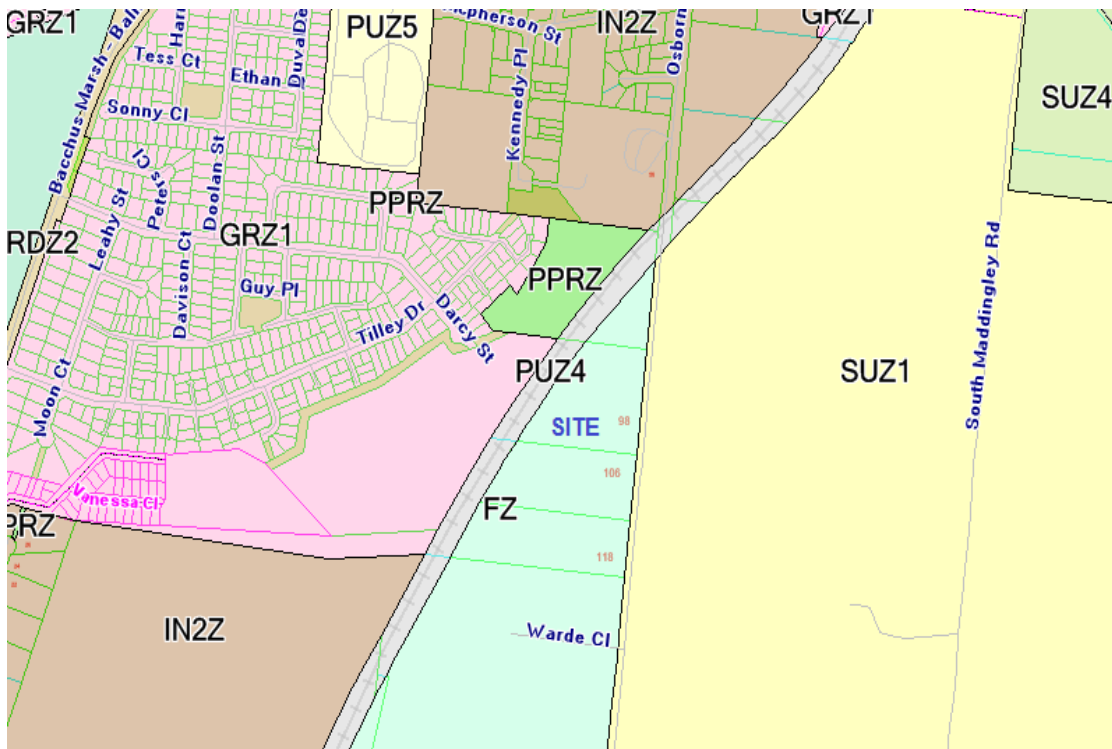


Figure 2: Zone Map



## Planning Scheme Provisions

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

The relevant clauses are:

- Clause 11.07-1 Regional Planning
- Clause 11.07-2 Peri-Urban Areas
- Clause 13.04-1 Noise Abatement.
- Clause 13.04-2 Air Quality
- Clause 14.01-1 Protection of Agricultural Land
- Clause 17.01-1 Business
- 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 14.01-1	Protection of Agricultural Land	The site is not been used for farming purposes and has limited potential for future farming use due to the small lot size, sloping land and soil quality.

## Zone

The site is located in a Farming Zone (FZ) 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.

The use of the land for a dwelling has already been approved and has commenced as part of the original permit, 2006-269.

### **Overlays**

The land is covered by a Design & Design & Development Overlay - Schedule 2.

The purpose of the overlay is to:

- 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

There is an existing permit condition in place to ensure non-reflective building materials are used.

### **Discussion**

The applicant proposes to reside in storage pods which are to be properly converted to habitable purposes in accordance with the Building Regulations as temporary accommodation while the permanent dwelling is under construction. The pods will then revert back to storage units when the permanent dwelling is completed.

The problems with the site have all stemmed from the owners moving into the pods and using them for habitation without planning or building approval. After some time, the owners have vacated from the site. The pods can be used for habitation subject to permit conditions including connection to the approved septic system.

The current position of the pods on the land close the southern side boundary is inappropriate due to the proximity to a dwelling on the adjacent southern lot, 106 Osborne Street. The proposed relocation of the pods to at least 55 metres from the southern side boundary and 100 metres from the dwelling on the southern adjacent lot is a more appropriate position and will be better connected to the proposed permanent dwelling located near the south-east corner of the lot. There will be a new permit conditions to ensure amenity impacts are minimized and the decommissioning of the habitable pods are undertaken when the permanent dwelling is completed.

The proposed amendment to the existing planning permit is acceptable and is still consistent with the Farming Zone provisions.

### **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**

There was no new referral undertaken as existing referral conditions remain in place.

## **Financial Implications**

There are no financial implications.

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

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

## **Communications Strategy**

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

## **Options**

An alternative recommendation would be to refuse the amendment application on the grounds that it does not comply with the planning scheme provisions and the temporary dwelling cannot be adequately controlled by the existing permit conditions and will create adverse amenity impacts to nearby residents.

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

## **Conclusion**

The proposal to use storage units for habitable purposes until the permanent dwelling is completed is acceptable and can still comply with the Farming Zone provisions and the Design & Development Overlay Schedule 2. There will need to be new permit conditions to ensure waste is effectively managed and the pods are decommissioned as habitable buildings when the permanent dwelling has a Certificate of Occupancy.

## **Recommendation**

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue Notice of Decision to Amend a Permit for application number PA2006-269 for the development and use of a dwelling at Lot 1 PS345500E known as 98 Osborne Street, Maddingley, subject to the following condition amendments and subsequent re-numbering of permit conditions.

### **Amended condition 1a)**

Site plan revised to show the location of the permanent dwelling that is labelled as a permanent dwelling, location of the septic system and location of the internal accessway.

### **New condition 10 to read as:**

The pods must be connected to the approved septic system to the satisfaction of Council's Environmental Health Officer.

### **New condition 11 to read as:**

The pods hereby approved by this amended permit cannot be occupied for habitable purposes until an occupancy permit has been issued by a Registered Building Surveyor authorising the pods as habitable buildings.

### **New condition 12 to read as:**

Upon the issue of a Certificate of Occupancy for the permanent dwelling by a Registered Building Surveyor, pods 1 and 2 must be decommissioned as habitable buildings and can only be used for storage purposes unless separate planning approval is obtained for an alternative use.

**Resolution:**

**Moved:** Cr. Keogh  
**Seconded:** Cr. Dudzik

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue Notice of Decision to Amend a Permit for application number PA2006-269 for the development and use of a dwelling at Lot 1 PS345500E known as 98 Osborne Street, Maddingley, subject to the following condition amendments and subsequent re-numbering of permit conditions.

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The pods must be connected to the approved septic system to the satisfaction of Council's Environmental Health Officer.

**New condition 11 to read as:**

The pods hereby approved by this amended permit cannot be occupied for habitable purposes until an occupancy permit has been issued by a Registered Building Surveyor authorising the pods as habitable buildings.

**New condition 12 to read as:**

Upon the issue of a Certificate of Occupancy for the permanent dwelling by a Registered Building Surveyor, pods 1 and 2 must be decommissioned as habitable buildings and can only be used for storage purposes. Unless separate planning approval is obtained for an alternative use, and pods 1 and 2 are not used for storage purposes, then pods 1 and 2 must be removed from the site to the satisfaction of the Responsible Authority.

**CARRIED.**

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**Report Authorisation:**



**Authorised by:**

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** 9 August, 2017

#### **UPDATE ON TRENDS, ISSUES AND OTHER MATTERS**

Robert Fillisch, Manager Statutory Planning and Community Safety provided the Committee with a verbal update on various other Planning Permit Applications that are currently in the system.

#### **DATE OF NEXT MEETING**

Wednesday 13 September 2017  
4pm to 5pm  
Ballan

#### **MEETING CLOSURE**

The Chair thanked all Committee members and attendees and closed the meeting at 5.26 pm.

