

MINUTES

SECTION 86 DEVELOPMENT ASSESSMENT COMMITTEE MEETING

Wednesday 14 June, 2017
James Young Room, Lerderderg Library
Bacchus Marsh
4.00pm

MEETING OPENING

Councillor Pat Toohey as the Chair welcomed all and opened the meeting at 4.05pm.

ATTENDANCE

Cr. Pat Toohey (Chair)	Councillor – Woodlands Moorabool Ward
Cr. Tonia Dudzik (Deputy Mayor)	Councillor – East Moorabool Ward
Cr. John Keogh	Councillor – East Moorabool Ward
Cr. Paul Tatchell	Councillor – Central Moorabool Ward
Mr. Satwinder Sandhu	General Manager Growth & Development
Mr. Robert Fillisch	Manager Statutory Planning and Community Safety
Mr. Mark Lovell	Senior Statutory Planner
Mr. Thomas Tonkin	Statutory Planning Officer
Ms. Judy Lotz	Minute taker

2. CONFIRMATION OF PREVIOUS MEETING MINUTES

Resolution:

Moved: Cr. Keogh
Seconded: Cr. Dudzik

That the Minutes of the Section 86 Development Assessment Committee for 10 May, 2017 be confirmed as a true and correct record.

CARRIED.

3. CONFLICT OF INTEREST

No conflicts of interest were declared at the meeting.

4. GROWTH & DEVELOPMENT REPORTS

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|-----|---|---------|
| 4.1 | Planning Permit 2016101; Ten lot subdivision on 51 Main Street, Bacchus Marsh. | Page 4 |
| 4.2 | Planning Permit 2016183; Development of Telecommunication Facility on Old Ballanee Road, Ballan. | Page 23 |
| 4.3 | Planning Permit 2016240; Two lot subdivision, removal of carriageway easements and creation of a carriageway easement at 62 Cowans Drive, Hopetoun Park | Page 35 |

4.4	Planning Permit Application PA2016248; Seven (7) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Land in PC 109432, 445 Old Melbourne Road, Ballan VIC 3342.	Page 48
4.5	Planning Permit Application PA2016249; Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan VIC 3342.	Page 64
4.6	Planning Permit Application PA2017-026; Two lot subdivision, Lot 2 on PS 426517L, 3 Hogan Road, Ballan	Page 80
4.7	Planning Permit 2016-255; Eleven lot staged subdivision on 82 Haywood Road Lal Lal	Page 92

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
4.1	Planning Permit 2016101; Ten lot subdivision on 51 Main Street, Bacchus Marsh.	Esbjorn Torstensson	Objector
4.1	Planning Permit 2016101; Ten lot subdivision on 51 Main Street, Bacchus Marsh.	Ray Newland	Objector
4.2	Planning Permit 2016183; Development of Telecommunication Facility on Old Ballanee Road, Ballan.	Vincent Smoors	Objector
4.2	Planning Permit 2016183; Development of Telecommunication Facility on Old Ballanee Road, Ballan.	Kaylene Smoors	Objector
4.2	Planning Permit 2016183; Development of Telecommunication Facility on Old Ballanee Road, Ballan.	Theresa Maskell	Objector
4.2	Planning Permit 2016183; Development of Telecommunication Facility on Old Ballanee Road, Ballan.	Victor Buttigieg	Supporter
4.2	Planning Permit 2016183; Development of Telecommunication Facility on Old Ballanee Road, Ballan.	James McIver	Applicant

4.3	Planning Permit 2016240; Two lot subdivision, removal of carriageway easements and creation of a carriageway easement at 62 Cowans Drive, Hopetoun Park	Nick Delios	Objector
4.4	Planning Permit Application PA2016248; Seven (7) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Land in PC 109432, 445 Old Melbourne Road, Ballan VIC 3342	Robert Eskdale	Applicant
4.5	Planning Permit Application PA2016249; Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan VIC 3342	Robert Eskdale	Applicant
4.7	Planning Permit 2016-255; Eleven lot staged subdivision on 82 Haywood Road Lal Lal	Nick Ford	Supporter
4.7	Planning Permit 2016-255; Eleven lot staged subdivision on 82 Haywood Road Lal Lal	Josh Ford	Supporter
4.7	Planning Permit 2016-255; Eleven lot staged subdivision on 82 Haywood Road Lal Lal	Kaz Fergus	Objector
4.7	Planning Permit 2016-255; Eleven lot staged subdivision on 82 Haywood Road Lal Lal	Alan Kitchingman	Objector

GROWTH & DEVELOPMENT REPORTS

Item 4.1 Planning Permit Application PA2016 101

PA Planning Permit 2016-101; Ten lot subdivision on 51 Main Street, Bacchus Marsh.

Application Summary:	
Permit No:	PA2016101
Lodgement Date:	21 April, 2016.
Declaration for Amendment:	2 December, 2016
Planning Officer:	Mark Lovell.
Address of the land:	Lot 1 on TP229939T 51 Main Street, Bacchus Marsh.
Proposal:	Ten lot subdivision (as amended).
Lot size:	8900m2.
Preamble diWhy is a permit required	Clause 32.08-2 –General Residential Zone Schedule 1 – Subdivision of land. Clause 43.01-1 – Heritage Overlay – Subdivide land.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Seven objections.
Consultation meeting:	Consultation meeting held with the applicant and objectors. Issues were discussed in detail but were largely unresolved. One objector's request to remove a retained tree was supported by the applicant and therefore resolved.
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	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	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application Referred?	Yes, Melbourne Water, Western Water, Powercor Australia, Downer Utilities, VicRoads, and Council Infrastructure.
Any issues raised in referral responses?	Yes, Council's Infrastructure required more detailed information including a stormwater management strategy and a traffic management plan.
Preliminary Concerns?	No.
Any discussions with applicant regarding concerns	No.
Any changes made to the application since being lodged?	<p>The applicant in the early stages of the application changed the number of lots from twelve to eleven.</p> <p>Then as a result of a request for further information from Council's Infrastructure, the applicant provided a traffic management plan and stormwater management plan which resulted in altering the layout of the subdivision and reducing the number of lots from eleven to ten.</p> <p>Reducing the number of lots would not cause any increase in material detriment and the amended plans were not re-advertised.</p>
VCAT history?	No.
Previous applications for the site?	No.

General summary (Pro's/Con's of the proposal)	<p>Overall, the proposed subdivision based on the latest set of plans is acceptable and represents an appropriate lot arrangement, allows retention of the heritage significant existing dwelling, allows for some retention of existing trees, and will not adversely affect the amenity of the surrounding area.</p> <p>The proposed subdivision will result in the removal of some existing trees and reduce the extent of the existing tree canopy backdrop that is gained by some adjacent properties.</p>
Summary Recommendation:	
That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for a ten lot subdivision on Lot 1 TP29939T known as 51 Main Street, Bacchus Marsh.	

Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large on site for period of fourteen days. A statutory declaration verifying display of the large notice was received on 12 July, 2016.

Summary of Objections

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

Objection	Any relevant requirements
Heritage Impacts/Historical Impact.	Clause 43.01
Officer's response – An assessment was undertaken against Clause 43.01 which deemed the proposal would not adversely affect the significance of the heritage place subject some changes such as the material of internal accessway, and enlarging Lot 7 containing the existing dwelling. There are no tree controls under the schedule to this heritage site.	
Tree removal/too many trees been removed/Adverse impact on protected trees	
Officer's response – The applicant has allowed for the retention of some trees which in conjunction with new landscaping treatments will maintain the streetscape and landscape character of the area. The site has 59 trees and not all can be retained due to the layout of the internal access ways and requirements to construct a future dwelling on each lot. The applicant will retain 15 trees which are a mixture of exotic, native and indigenous trees. The retained trees is a good outcome considering the trees are scattered throughout the site rather than clustered which could have allowed for the creation of a public open space reserve within the site. Most lots will have at least one retained tree.	
Request Tree No. 47 and 48 be removed due to the danger of falling.	
Officer's response – The applicant has agreed to this objector's request and this can be satisfied through the submission of revised plans.	
Safety concerns for vehicles/ Major accident risk/Vehicle congestion/pedestrian safety	Clause 52.06/Traffic Management Report.

Officer's response – The applicant has provided a traffic report and the application has been examined by Council's Infrastructure and VicRoads. There were no objections based on road safety considerations. The site will generate more traffic movements but this not unreasonable within an established residential precinct. The subdivision is small scale at ten lots and therefore does not warrant signalised intersection works in Main Street.	
Habitat/Wildlife Corridor	
Officer's response – There will be disturbances during the construction phase of the subdivision and during any development of the vacant lots. Retaining some trees on site and new landscaping associated with new dwellings will provide some habitat value. New landscaping should include native trees which can assist in maintaining an environment suitable for a local habitat.	
Advertising period too short	Planning & Environment Act 1987.
Officer's response – The proposal was advertised in accordance with the timeframes of Section 52 of the Planning & Environment Act which requires 14 clear days for any planning application to be advertised.	
Overlooking and Eastern views restricted	Building Regulations.
Officer's response - There will be detached dwelling in each lot which creates separation between dwellings and some view lines to the east. Any future dwelling will have to have screening of any overlooking windows or overlooking balconies in accordance with requirements under the Building Regulations.	
Subdivision pattern/neighbourhood character	Clause 56
Officer's response – The subdivision pattern of proposal is similar in lot size and lot configuration to the surrounding residential lots.	
Burden on sewerage system	
Officer's response - There were no objections from the relevant sewerage authority, Western Water who have examined the sewerage capacity and the additional load created from the subdivision.	

Proposal

It is proposed to subdivide the land into ten lots, all accessed via an internal accessway that connects to the existing crossover in Main Street. The lots will be arranged as follows:

Lot 1 has 19.70 metres wide frontage facing Main Street in a rectangular lot arrangement with a maximum length of 33.50 metres adjacent to the western property boundary for a total area of 642m². Two trees, tree numbers 8 and 9 will be retained on this lot.

Lot 2 has 19.00 metres wide frontage facing Main Street in a rectangular lot arrangement with a maximum length of 33.50 metres adjacent to the western and eastern property boundaries for a total area of 636m². Three trees, tree numbers 10, 13 and 14 will be retained on this lot.

Lot 3 has 20.00 metres wide frontage facing Main Street in a rectangular lot arrangement with a maximum length of 33.50 metres adjacent to the eastern property boundary for a total area of 645m². Two trees, tree numbers 16 and 18 will be retained on this lot.

Lot 4 has 30.90 metres wide frontage facing Main Street in a rectangular lot arrangement with a maximum length of 49.82 metres adjacent to the western property boundary for a total area of 942m². Three trees, tree numbers 19, 25 and 26 will be retained on this lot.

Lot 5 has a 7.00 metres wide frontage facing the internal accessway in a rectangular lot arrangement with a maximum length of 39.18 metres adjacent to the eastern property boundary for a total area of 731m². No trees will be retained on this lot.

Lot 6 has a combined 12.17 metres wide frontage facing the internal accessway in a triangular lot arrangement with a maximum length of 43.09 metres adjacent to the southern property boundary for a total area of 615m². No trees will be retained on this lot

Lot 7 has a 32.68 metres wide frontage facing the internal accessway in a rectangular lot arrangement with a maximum length of 39.19 metres adjacent to the western property boundary for a total area of 1087m². The lot contains the existing dwelling that will be retained. No trees will be retained on this lot.

Lot 8 has a 12.00 metres wide frontage facing the internal accessway in a rectangular lot arrangement with a maximum length of 33.50 metres adjacent to the southern property boundary for a total area of 585m². No trees will be retained on this lot.

Lot 9 has a combined 13.50 metres wide frontage facing the internal accessway in a rectangular lot arrangement with a maximum length of 33.50 metres adjacent to the northern property boundary for a total area of 511m². Two trees, tree numbers 49 and 51 will be retained on this lot.

Lot 10 has a 5.00 metres wide frontage facing the internal accessway in a rectangular lot arrangement with a maximum length of 36.00 metres adjacent to the northern property boundary for a total area of 540m². One tree, tree number 47 will be retained on this lot.

The road reserve will include an internal court bowl to allow vehicles to turn around and exit in a forward direction and there will be 208m² drainage reserve located adjacent to the Main Street frontage.

Site Description

The subject site is located on the southern side of Main Street, west of Gisborne Road, Bacchus Marsh. The site is comprised of an existing single storey brick dwelling well setback from the street frontage and partly obscured due to the extent of trees and other vegetation. There is a prominent, solid, low rise brick fence adjacent to the street frontage. There is a meandering internal accessway that leads to an existing shed. The site has a sloped topography and according to the contour plan submitted with the application is from RL126 in the north-east corner up to RL135 on the north-west corner, a difference of 9 metres.

According to the Heritage Citation Report, the dwelling was originally known as “Banoole” was built in 1929. It has local architectural significance as an important representative example of the Bungalow style within an appropriate context. This dwelling is noted as perhaps the finest example of a 1920’s Bungalow of which there are 26 recorded in the township of Bacchus Marsh.

The immediate surrounding properties are comprised of older styled single storey dwellings on moderate sized lots. The area has established landscaping and dwellings are setback from side and rear property boundaries.

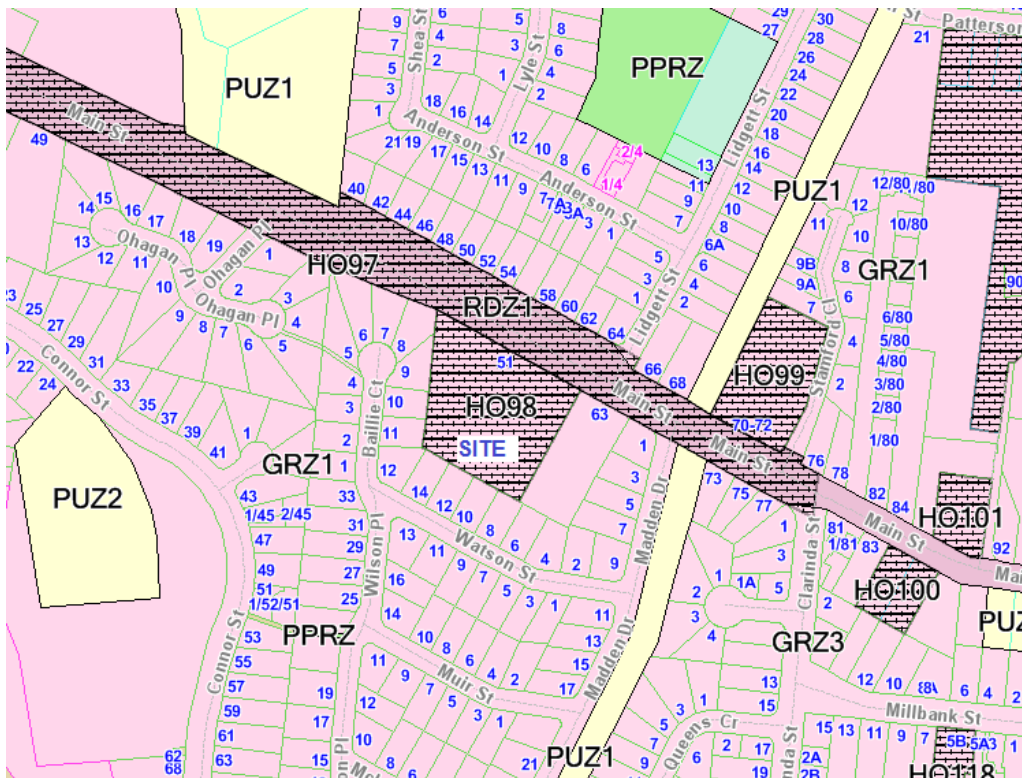
The site and surrounding area is zoned in a General Residential Zone Schedule 1 with Main Street a designated Road Zone Category 1. The commercial centre of Bacchus Marsh is located only 400 metres to the east and contains a diverse range of retail and community services.

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

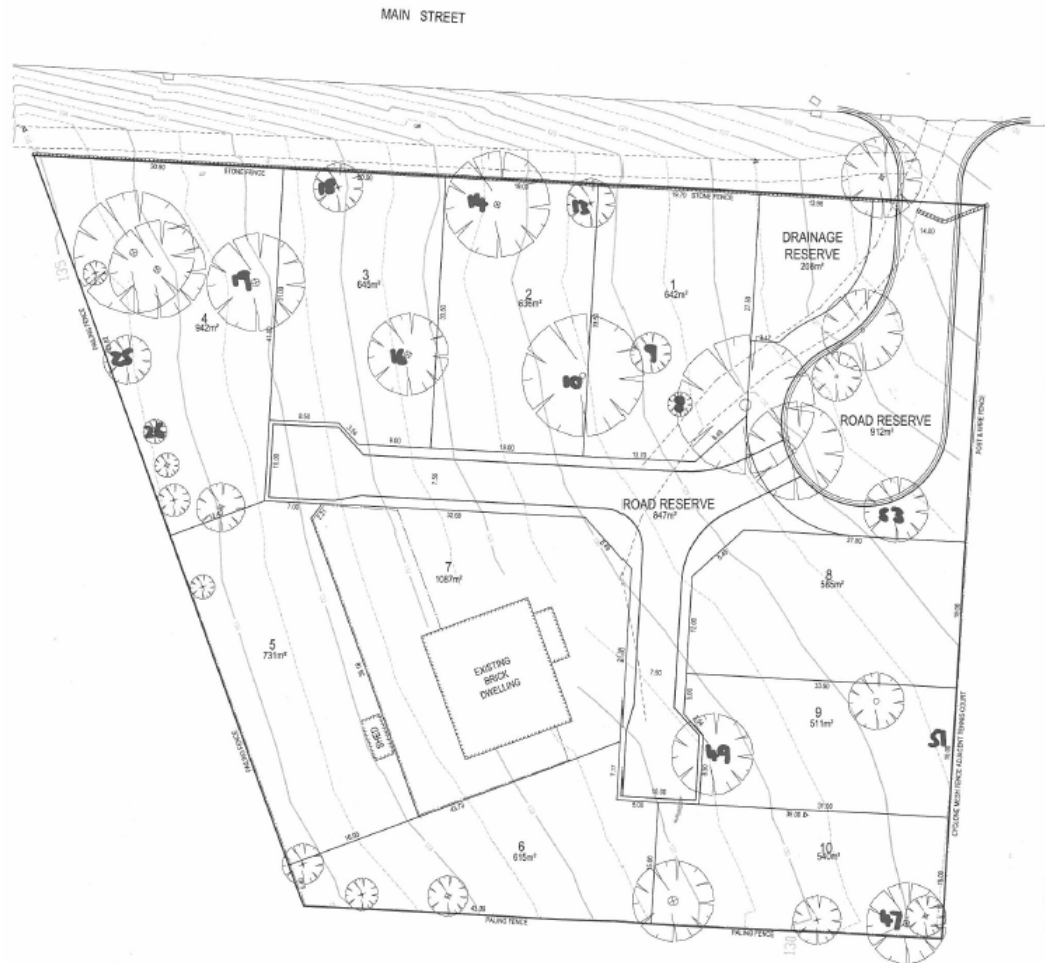
Locality Map



Zone Map



Subdivision plan with retained trees numbered.



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 11.04-1 Open space planning
- Clause 11.07-1 Regional Planning
- Clause 11.07-2 Peri-Urban Areas
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 15.01-5 Cultural identity and neighbourhood character
- Clause 15.03-1 Heritage conservation
- Clause 16.01-2 Location of residential development
- Clause 21.03-2 Urban Growth Management
- Clause 21.03-3 Residential Development
- Clause 21.07 Bacchus Marsh

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

SPPF	Title	Response
Clause 15.01-3	Neighbourhood and Subdivision Design.	The objective of this clause is to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. The revised plans which have reduced the number of lots now achieves compliance with this clause.

Zone

The subject site is in the General Residential Zone, Schedule 1 (GRZ1).

The purpose of the Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To implement neighbourhood character policy and adopted neighbourhood character guidelines.
- To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.

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

Overlays

The subject site is located within a Heritage Overlay, H098. The schedule H098 includes external paint controls.

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 conserve and enhance heritage places of natural or cultural significance. To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Under Clause 43.01-1, a permit is required to subdivide land. Decision guidelines are listed under Clause 43.01-4.

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

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

As the proposal does not comply with the class exemptions, an assessment must be undertaken Section 18 of the Subdivision. With reference to Section 18 of the Subdivision Act, the proposed subdivision of land into ten lots with a new dwelling in nine of the lots will result in an increased population and will result in a greater demand for public open space for recreational needs. The land area contained in the subdivision is too small to enable the applicant to provide a public open area reserve within the site. There will be a requirement to pay a 5% public open space contribution fee prior to the issue of a Statement of Compliance. This will be addressed by a permit condition.

Clause 52.29 Land Adjacent to a Road Zone

A new or modified access to a Road Zone Category 1 requires a permit under Clause 52.29. The applicant will utilise the existing crossover and therefore no permit is required under this particular provision.

Clause 56 (Rescode)

Clause Rescode	Title	Response
56.03-5	Neighbourhood Character	The proposed subdivision pattern of predominately rectangular lots with lot size of at least 511m ² respect the existing neighbourhood character of moderate sized lots.

All standards are Rescode are satisfied.

Discussion

Subdivision in a Heritage Overlay

The existing dwelling has heritage significance and it is important that the subdivision does not compromise the heritage value of this building. The proposed subdivision has correctly retained the entire dwelling and provided sufficient setbacks from lot boundaries which can be used as future open space areas. This prevents attached building forms against the retained dwelling and creates a good level of separation with future dwellings in abutting Lots 5 and 6. The location of the internal accessway angled from the existing crossover provides for some good sight line views of the existing dwelling from the street frontage and is further exposed by the removing of trees in the proposed roadway reserve. The internal accessway abuts two frontages of Lot 7 containing the existing dwelling, leading to a future corner site and therefore it will become a prominent lot within the subdivision. The lot containing the existing dwelling is the largest in subdivision at 1087m² and will not compromise the significance of the heritage place. An advantage with the heritage overlay covering the entire site, is any future dwelling on any abutting lots will require planning permission

and Council can ensure setback from boundaries, materials of new dwellings and external design elements do not adversely affect the existing dwelling retained on the land. The proposed subdivision is considered consistent with the objectives of the Heritage Overlay.

To ensure officers have correctly assessed the heritage considerations, an external heritage consultant was engaged and reviewed the file, plans and the applicant's heritage report. The consultant identified a number of design changes to better address the heritage value of the existing dwelling. The heritage concerns were the removal of the front entry brick piers, alignment material of the internal roadways and the amount of front setback provided to the retained dwelling to allow for a garden setting. The consultant identified these heritage concerns could be addressed by adequate permit conditions. One of the major changes would be to move the eastern boundary of Lot 7 by 2 metres which would result in altering the location of the internal driveway, removing retained Tree Number 49 and reducing the length of Lots 8 and 9.

These changes would ensure the subdivision would not adversely affect the significance of the heritage place. The applicant has been advised of these heritage recommendations.

Subdivision pattern

The site is located within a General Residential Schedule 1 and has convenient access to a diverse range of commercial and recreation services provided in the Bacchus Marsh township. The close proximity to the commercial centre of Bacchus Marsh which is within easy walking distance is a positive aspect for this subdivision application.

Servicing authorities have been notified of the application and have not expressed any concerns with providing infrastructure to the proposed individual lots. The applicant has provided a traffic management report demonstrating safe vehicle access to the site.

The lot sizes are a mixture from 511m² to 942m² excluding the existing dwelling in proposed Lot 7. This offers for a range of housing types that can meet future housing demands. The lot sizes reflect the wider area and therefore will be consistent with the prevailing subdivision pattern in this section of Bacchus Marsh. The proposal achieves compliance with the standards of Clause 56, Rescode.

Tree Removal

The proposal does involve the removal of some existing trees. The proposal however does not 'moonscape' site and allows for 15 trees to be retained due to their age, health and location of the land with respect to the proposed accessway and likely location of future dwellings. These retained trees will assist with providing landscaping value for the area. The design of the subdivision has allowed for a significant number of trees to be retained and is considered a positive aspect with the proposal.

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 anybody corporate; the availability and provision of utility services, including water, sewerage, drainage, electricity and gas;
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot; and
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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

Referrals

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

Authority	Response
Western Water	No objection subject to nine conditions
Melbourne Water	No objection subject to two conditions
Powercor	No objection subject to two conditions
Downer Utilities	No objection subject to one condition
VicRoads	No objection.
Infrastructure	No objection subject to twenty four 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 refuse the application on the grounds that it does not comply with the planning scheme provisions including the heritage controls, does not match the subdivision pattern of the surrounding area and result is too result of too many trees.

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

Conclusion

The proposed subdivision complies fully with the State and Local Planning Policy Framework, the General Residential Zone Schedule 1 and in part the Heritage Overlay Schedule H079.

The lot size and proportions of the proposed subdivision match the prevailing subdivision pattern of the area. The lot arrangement will not restrict future development opportunities and will create a consistent streetscape pattern.

Improvements to the design of the roadways, increasing the open space area to the retained dwelling and specific fencing treatments should ensure the heritage elements of the proposal do not adversely affect the significance of the heritage place with reference to the Heritage Overlay. Any future development of any dwelling in a vacant lot will require planning approval under the Heritage Overlay which will ensure the existing dwelling is further protected and proposed conditions attached this subdivision are strictly adhered to in accordance with the planning scheme.

The proposed ten lot subdivision should be supported subject to the submission of revised plans.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to grant a permit for application 2016-101 for a ten lot subdivision at Lot 1 on TP229939T, known as 51 Main Street, Bacchus Marsh with the following conditions:

Endorsed plans

1. Before the plan of subdivision is certified under the Subdivision Act 1988, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application/other specified plans but modified to show:
 - a) Internal accessways altered from straight edges to long sinuous curves.
 - b) Internal accessway to be comprised of sandy coloured finish and not black asphalt.
 - c) Kerb and channeling to be comprised of sandy coloured finish
 - d) The front (eastern) boundary of Lot 7 increased by 2 metres in width with resultant relocation of the internal accessway and a reduction in the length of Lots 8 and 9
 - e) Plans annotated that internal street frontage to lots and first 3 metres of side boundary fences to be comprised of rubble stone fence similar to the existing front rubble stone fence.
 - f) Remaining boundary fences are to be comprised of timber palings.
 - g) No front fence on the front boundary to the existing dwelling in Lot 7.

- h) Brick piers to the existing entry area that involve removal are to be relocated/reconstructed to the edge of the new entry area.
- i) Plans annotated that the existing crossover will be retained.
- j) Plans annotated that existing dwelling to be retained will be adequately protected and maintained during the construction phase of the subdivision.
- k) The retained tree plan revised to reflect the amended subdivision layout consisting of 10 lots and altered internal accessway.
- l) The retained tree plan to show removal of Tree Number 47 as identified in Arboricultural Report dated 23 May, 2016 and located within proposed Lot 10.

Subdivision

- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
- 3. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.
- 4. The on-going maintenance and repair of the retained front stone fence facing Main Street must be managed by the Owners Corporation associated with this subdivision in accordance with an approved maintenance program to the satisfaction of the Responsible Authority attached to the body corporate rules.

Telecommunication conditions

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

Infrastructure conditions

7. Prior to the commencement of the development, the internal road layout must be redesigned to ensure that both the road reserve and the carriageway widths are compliant with Table 1 - Clause 56.06-8 of the Moorabool Planning Scheme and Table 2 "Urban Road/Street Characteristics" of the Infrastructure Design Manual, to the satisfaction of the responsible authority.
8. Prior to the certification of the plan of subdivision, the amended layout must be submitted for the approval of the responsible authority.
9. The subdivision must be provided with drainage system to a design approved by the Responsible Authority and must ensure that:
 - i. The subdivision as a whole must be self draining.
 - ii. All drainage courses within the subdivision must pass through easements or reserves shown on the plan of subdivision.
 - iii. All outfall drainage passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.
 - iv. Volume of water discharging from the subdivision in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of retardation basin(s) located and constructed to the satisfaction of the Responsible Authority.
 - v. Flow paths of the 1% AEP storm must be determined and the subdivision designed so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
 - vi. The drainage system must be designed to include provision to intercept litter.
 - vii. All lots must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
 - viii. The drainage design must take into account any applicable drainage or flood management strategy, and the "Stormwater Management Strategy Revision A – Ref 1125401 dated 18 October 2016" prepared by Tomkinson and Associate

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

10. Design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval, and must include analysis of the existing stormwater drainage system in the area to determine:
 - i. the requirements for drainage of the whole site.
 - ii. if the existing drainage network has sufficient capacity to cater for the additional runoff from the ultimate development.
 - iii. If additional outfall drainage or upgrading of the existing drainage network is required.
11. The internal road network layout must be designed and constructed to the standards detailed in the Infrastructure Design Manual, to the satisfaction of the Responsible Authority.
12. Design computations for all road pavement construction, based on a geotechnical investigation of the site, must be prepared and submitted to the Responsible Authority for approval.
13. Plans and specifications of all road, traffic and drainage works must be prepared and submitted to the responsible authority for approval prior to the commencement of such works and all such works must be carried out in accordance with the approved plans to the satisfaction of the Responsible Authority.

14. 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.
15. An Environmental Management Plan for the road construction works must be submitted to the Responsible Authority for approval prior to the commencement of construction. All works must be performed in accordance with the approved Environmental Management Plan.
16. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991) and "Environmental Guidelines for Major Construction Sites" (EPA 1995).
17. Traffic management treatments must be provided in the form of linemarking, signage and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority.
18. Prior to the issue of Statement of Compliance for each stage, street lighting must be provided in accordance with the requirements of AS1158 – Lighting for Roads and Public Places, to the satisfaction of the Responsible Authority. All lighting fittings must be "Standard" fittings maintained by the electricity network provider at no additional cost to Council. All lights must utilise LED type luminaires where available.
19. The development must be provided with open access underground conduits to carry optical fibre at the development stage. (This may be waived if the responsible authority considers provision is unwarranted.) A development plan must show the conduit network for the subdivision, to the satisfaction of the responsible authority. Conduits must be provided in accordance with a plan approved by the responsible authority. Ownership of a conduit is to be vested in Council and may be transferred to another agency or telecommunications carrier at such time as it may be required. Where the conduit crosses private land known as (#) an easement is required in favour of Moorabool Shire Council.
20. Street names and street signs must be provided to the satisfaction of the responsible authority.
21. Permanent survey marks must be provided at a maximum spacing of 200 metres and registered, to the satisfaction of the Responsible Authority.
22. Street trees must be provided at approved locations in all internal roads of the subdivision at a rate of one tree per lot frontage and one tree per lot sideage, with an approved species to the satisfaction of the responsible authority. All street trees must have an existing height of 1.5 metres upon planting, must be planted to an approved standard incorporating two hardwood stakes, tree ties, Ag pipe, water crystals, 100 mm of mulch and initial watering, to the satisfaction of the responsible authority.
23. Street trees must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.
24. A security deposit equal to 150% of the cost of planting street trees must be lodged with the Council. The deposit will be returned after the final inspection of street trees, 18 months after the completion of planting of the trees, only if Council requires no further maintenance of the trees to be undertaken.

25. Landscaping within the development must be provided in accordance with an approved landscape plan, to the satisfaction of the responsible authority.
26. Landscaping must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.
27. A security deposit equal to 150% of the cost of the landscaping must be lodged with the Council. The deposit will be returned after the final inspection of landscaping, 18 months after the completion of landscaping, only if Council requires no further maintenance of the landscaping to be undertaken.
28. Prior to the issue of a Statement of compliance for each stage of the subdivision, the developer must pay:
- i. 0.75 % of the total estimated cost of works for the checking of engineering plans associated with that stage of the development.
 - ii. 2.50 % of the total estimated cost of works for the supervision of works associated with that stage of the development.
29. After all engineering works pertaining to each stage of the subdivision have been completed and prior to the issue of a statement of compliance for the subdivision, the following "as constructed" details must be submitted in the specified format to the Responsible Authority:
- i. Drainage construction details in "D-Spec" format.
 - ii. Roadworks construction details in "R-Spec" format.
30. All road and drainage works must be maintained in good condition and repair for a minimum of 3 months after completion of the works, to the satisfaction of the Responsible Authority.
31. Prior to the issue of a Statement of compliance for the subdivision, a security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 3 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.
32. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Western Water

33. Payment of new customer contributions for each lot created by the development, such amount being determined by Western Water at the time of payment;
34. Provision of reticulated water mains and associated construction works to front each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Western Water;
35. Any existing water service which crosses any of the proposed allotment boundaries within the proposed development must be disconnected and relocated at the developer's expense, to be wholly within one allotment only and to the satisfaction of Western Water;

- 36.Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Western Water;
- 37.Disconnection of any existing house connection drain, and each allotment to be independently and directly connected to a sewer main of Western Water;
- 38.Provision of easements in favour of Western Water over all existing and proposed sewer mains located within private property. The easement shall be 3.0 metres wide for combined sewer and drainage easements and 2.5m wide for a dedicated sewerage easement;
- 39.Preparation of a digitised plan of subdivision and ancillary requirements in accordance with Western Water's drafting standards and practices;
- 40.The operator under this permit shall be obliged to enter into an Agreement with Western Water relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Western Water. The owner/applicant shall make a written request to Western Water for the terms and conditions of the agreement;
- 41.All contractors engaged on construction of Subdivision Infrastructure obtain a Water Carters Permit from Western Water and comply with that permit at all times. The permit will include a requirement for the Water Carter Permit holder to:
- * Own a metered hydrant approved by Western Water;
 - * Meter and pay for all water taken;
 - * Display a Western Water Permit Number Sticker on the tanker;
 - * Only take water from nominated hydrants or standpipes;
 - * Only use water for the purpose approved in the Water Carters Permit;
 - * Avoid wastage of water on site; and
 - * Comply with any water restrictions imposed by Western Water at the time water is used.

For the purpose of this condition, Subdivision Infrastructure includes new and alterations to existing: roads, drains, water mains, sewer mains, power supply, telephone, gas and any other service infrastructure required by this permit and dust suppression during construction of the same. Notwithstanding the above, a Water Carters Permit is not required if the permit holder and contractors engaged by the permit holder can demonstrate to the satisfaction of Western Water that water is not required from Western Water's town water supply systems to construct Subdivision Infrastructure as defined above.

Melbourne Water conditions

- 42.Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways
- 43.Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988

Powercor conditions

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

45.The applicant shall:

- (a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
- (b) Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- (c) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- (d) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- (e) Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.

Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.

- (f) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.
- (g) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- (h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- (i) Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- (j) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Downer Utilities condition

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

Permit Expiry

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

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

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

Melbourne Water footnote:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 275718.

Powercor footnote:

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

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

Consideration of Deputations – Planning Permit Application No. PA2016101

Esbjorn Torstensson addressed Council as the objector to the granting of a planning permit for the application.

Ray Newland addressed Council as the objector to the granting of a planning permit for the application.

Resolution:

Moved: Cr. Dudzik

Seconded: Cr. Keogh

The application is refused and Council's General Manager Growth and Development to create full list of refusal reasons in accordance with alternative recommendation listed in the options section of this report.

CARRIED.

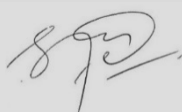
Report Authorisation:

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 14 June, 2017



Item 4.2 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.
Consultation meeting:	Meeting held which resulted in the applicant revising plans.
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	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	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
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)	<p>The proposed tower has been lowered in height and located further away from 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 proposal complies with the particular provisions for a telecommunication facility.</p> <p>The tower will still be visible from residential properties that surround the Ballan Golf Course.</p>
Summary Recommendation:	
<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</p>	

Telecommunication Facility at Portion 22, 23 and 24, Section 6, Parish of Gorong known as Old Ballanee Road, Ballan.
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Public Notice

The application was notified to adjoining and surrounding landowner 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 landowner.

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
Officer's response – 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.	
Visual impact/Height of tower	Clause 52.19
Officer's response – The tower is close to the Old Ballanee Road frontage. The tower has been relocated to further reduce its impacts and the tripod headframe at the top of the tower has been removed and replaced with a slimline design structure. Total height (ground level to the top of antennas) reduced from 37.60 metres to 34.80 metres. Height of the monopole (without antennas) reduced from 35 metres to 30 metres.	
Lack of consultation	
Officer's response – Despite previous assurances, the Golf Couse Committee do not advise of the application as part of pre-application discussions with local residents. The application has been lodged and a consultation meeting has now been conducted.	
Tree removal	Clause 43.01
Officer's response – The proposal does not include tree removal. The golf course have advised they have removed a non-native tree and were unaware this was done without the required planning approval under the Environmental Significance Overlay Schedule 1.	
Property devaluation	
Officer's response – Not a valid planning consideration	
Tower not necessary	
Officer's response – The applicant has advised that it is required for the operation of the Optus service to the local area.	
Obstacle to the golf course	
Officer's response – The applicant would accept all liability for damage caused by stray golf balls hitting any part of the facility. Maintenance will need to be carried when the golf greens are not in active use.	
Power supply	
Officer's response – The facility will need to connect to an appropriate power source in accordance with the requirements from the relevant power provider.	
Inaccurate application	
Officer's response – The site plan does not show accurate dimensions. This can be addressed through the submission of revised plans showing the exact property setbacks and complete elevation plans of the equipment shelter.	
Traffic/damage to roadway	

Officer's response – Trucks will be present in area during the construction phase. Any damage to Council's assets including the roadway and road reserve will need to be reinstated. This can be addressed by a permit condition.

Special Use Zone objectives

Clause 37.01

Officer's response – 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 coexist with operating golf course or any other recreational use.

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 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 equipment shelter is 62.40m². 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 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 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 carport and garages accessing single car width crossovers. The surrounding land is located within a General Residential Zone under the Moorabool Planning Scheme.

Locality Map

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

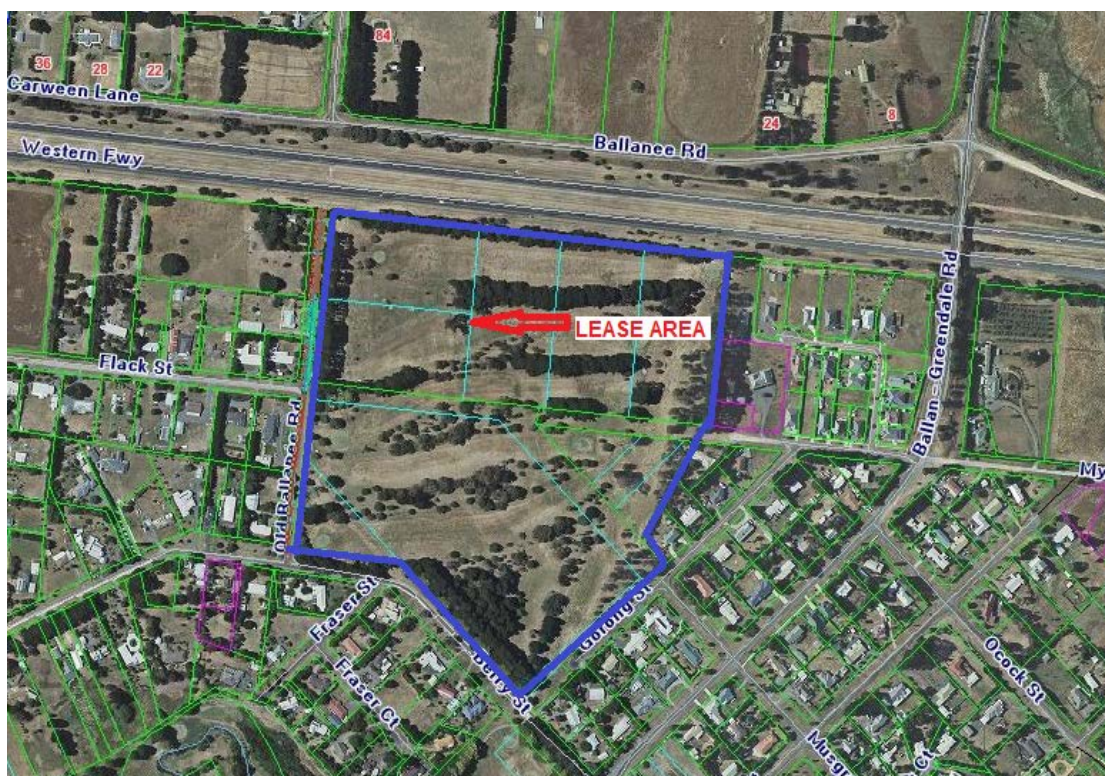


Figure 1: Locality Map

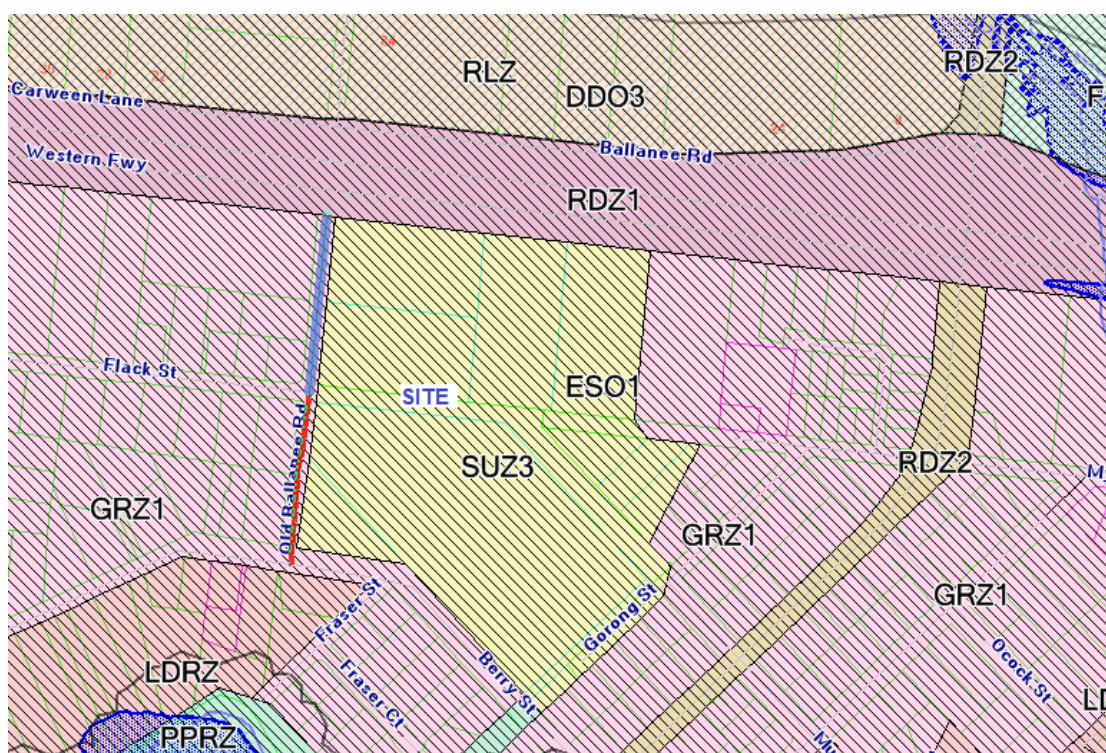
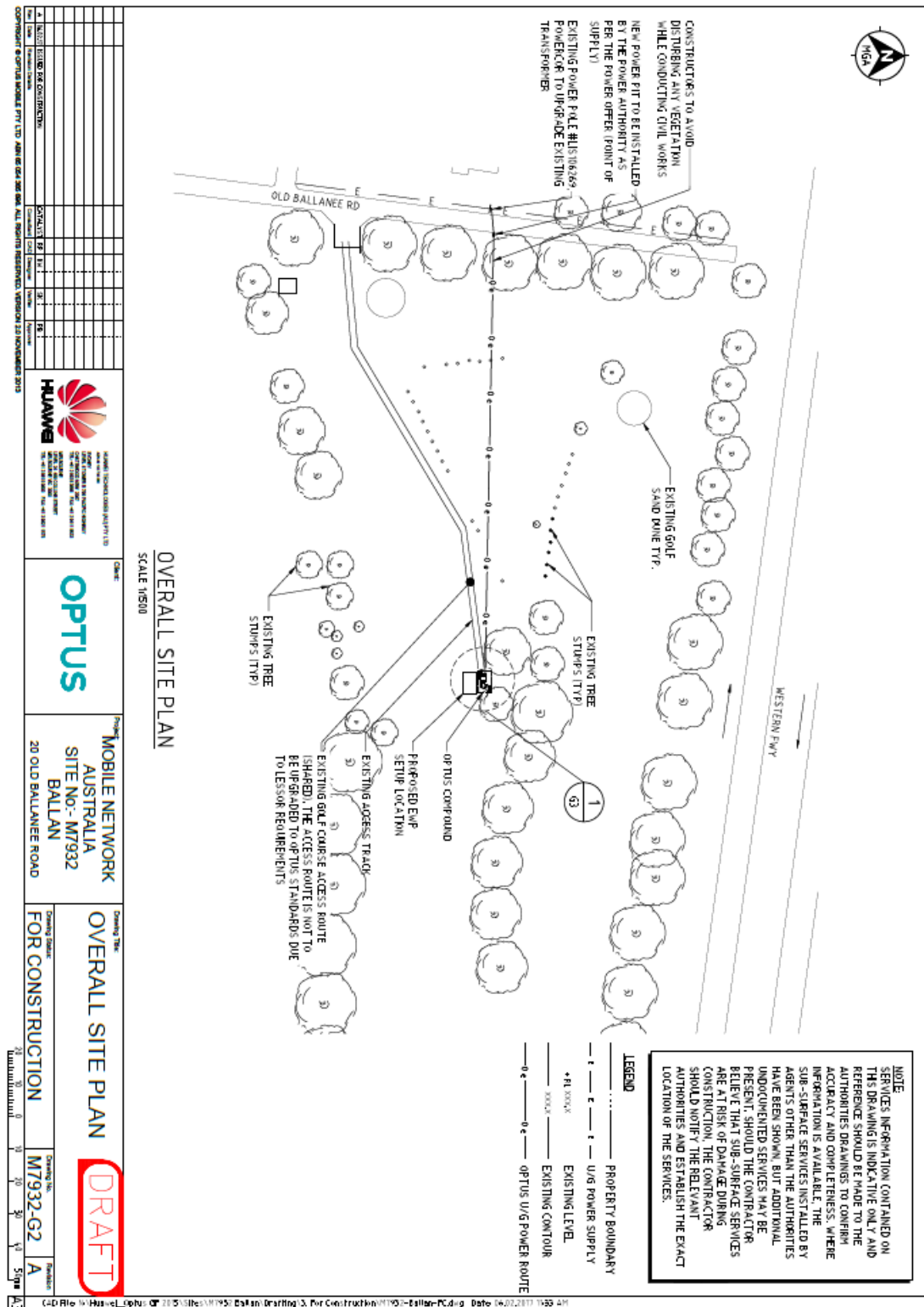
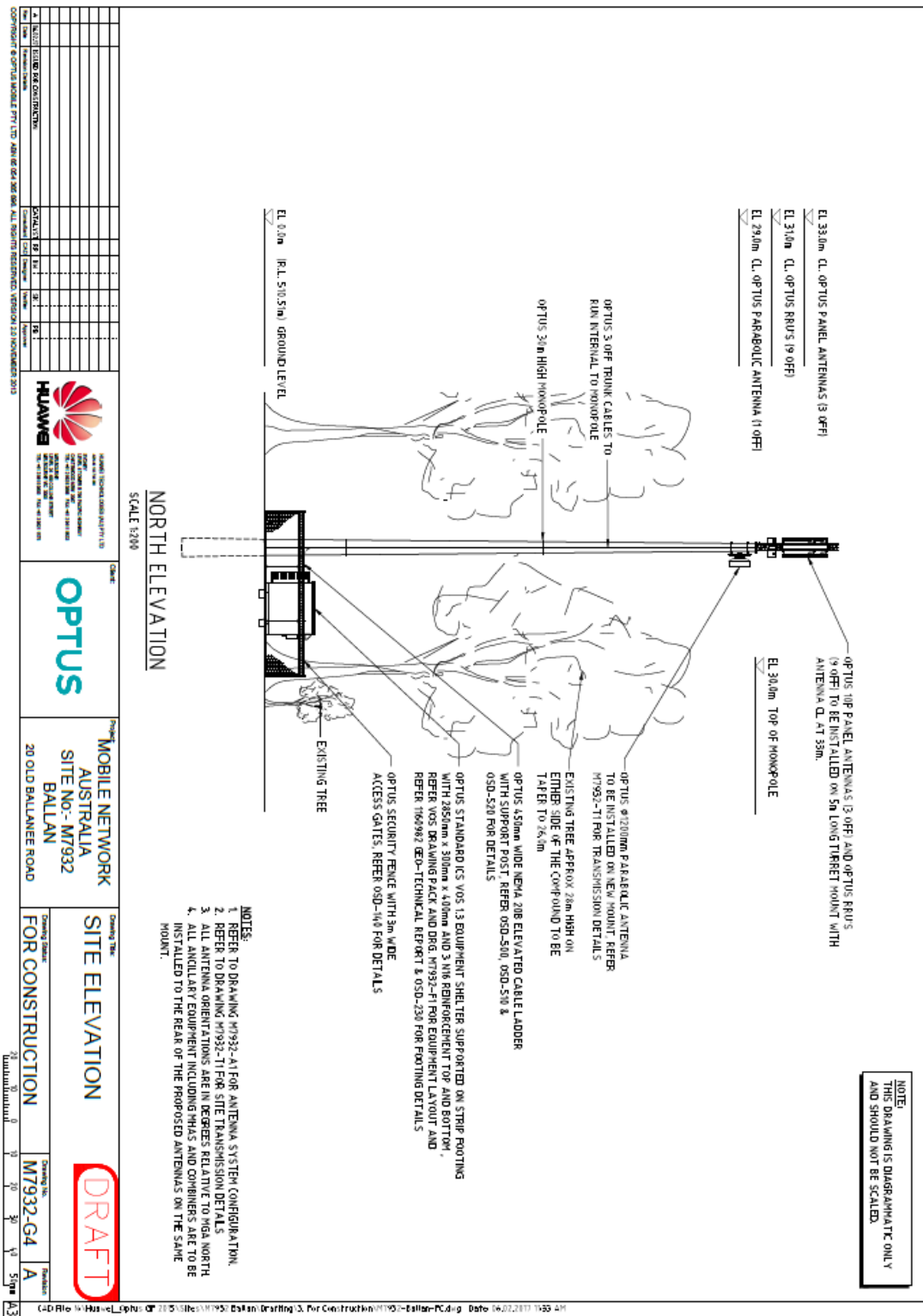


Figure 2: Zone Map

Site Plan



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 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 tree 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. This is acknowledged as not the best location within golf course from a visual amenity prospective however does achieve a balance allowing the carrier to achieve optimal coverage from the facility while reducing its impact to nearest residential properties.

The golf course does have rows of trees which form the border 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 unless planning approval is sort.

Safety

The applicant is required to meet Australian Standards 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 with slimline headset design. The proposed facility is now acceptable when considering the visual amenity surrounding properties.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Planning Permit PA2016-183 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.
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.

Southern Rural Water

6. 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

7. 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
8. The telecommunication facility must comply with the "Code of Practice for Telecommunications Facility in Victoria".
9. 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

10. 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; and
- b) The development is not completed within four years of the date of this permit.

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

Permit Note:

No trees can be removed on site without a planning permit being issued by the Responsible Authority.

Consideration of Deputations – Planning Permit Application No. PA 2016183

Vincent & Kaylene Smoors addressed Council as objectors to the granting of a planning permit for the application.

Theresa Maskell addressed Council as the objector to the granting of a planning permit for the application.

James McIver addressed Council as the applicant to the granting of a planning permit for the application.

Victor Buttigieg addressed Council as the supporter to the granting of a planning permit for the applicant.

Resolution:

Moved: Cr. Tatchell

Seconded: Cr. Keogh

That the matter lay on the table until the next available S86 Development Assessment Committee meeting.

CARRIED.


Report Authorisation:

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: 14 June, 2017



Item 4.3 Planning Permit Application PA2016 240

Planning Permit 2016-240; Two lot subdivision, removal of carriageway easements and creation of a carriageway easement at 62 Cowans Drive, Hopetoun Park.

Application Summary:	
Permit No:	PA2016 240
Lodgement Date:	27 September, 2016.
Planning Officer:	Mark Lovell.
Address of the land:	Lot 2 on PS427137R 62 Cowans Drive, Hopetoun Park.
Proposal:	Two lot subdivision, removal of carriageway easements and creation of a carriageway easement (as amended)
Lot size:	3.306 hectares
Why is a permit required	Clause 35.07-3 – Farming Zone – Subdivision of land.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	One objection.
Consultation meeting:	Discussions between the parties but no resolution.
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	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	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application Referred?	Yes, Melbourne 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?	Applicant has included a proposed carriageway easement to allow access from Cowans Drive to the southern adjacent titles via Lot 2.
VCAT history?	No.
Previous applications for the site?	2000-084 was issued on 15 September, 2000 for a two lot subdivision.
General summary (Pro's/Con's of the proposal)	<p>The proposed subdivision boundaries are acceptable as they separate two existing dwellings into two separate lots.</p> <p>The objector has rightly advised they have a benefit of carriageway easements running through the subject land. This objector does not want the easements removed or relocated despite not reflecting the existing accessway which was intended to be created as Easement E-4. Given the objection from a benefiting property, easement rights will need to be retained and this part of the application can not be supported.</p>
Summary Recommendation:	
<p>That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for a two lot subdivision at Lot 2 on PS427137R known as 62 Cowans Drive, Hopetoun Park.</p>	

Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large on site for period of fourteen days. A statutory declaration verifying display of the large notice was received on 10 November, 2016.

Summary of Objections

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

Objection	Any relevant requirements
Removal of easement which benefits their land	
Officer's response – This component can be removed from the application	
Revegetation not carried out by applicant but Melbourne Water	Planning permit 2000-084
Officer's response – The previous planning permit required revegetation works and the owner paid bond for completion of satisfactory works. This current application does not require any additional or new revegetation works.	
Area under the minimum of requirement of Farming Zone.	Clause 35.07-3
Officer's response – Under the Farming Zone the minimum lot size is 15 hectares (Map 1 to schedule to the Farming Zone). Clause 35.07-3 does allow a subdivision to create a lot for an existing dwelling and it must be a two lot subdivision. The proposal complies with this Farming Zone provision.	
Landholding of Lot 1 has not been amalgamated with other landholdings	
Officer's response – There is no requirement under the previous development or subdivision applications to consolidate landholdings in the same ownership. This application only covers the subject land, 62 Cowans Drive, Hopetoun Park.	
Problems with septic systems	
Officer's response – Existing septic systems will need to be maintained in accordance with the requirements of Council's Environmental Health Officer and any relevant EPA guidelines.	

Proposal

It is proposed to subdivide the land into two lots and to create and remove carriageway easements.

Lot 1 is 8053m² in area and contains a detached single storey dwelling which according to the applicant was constructed in 1945. There are two ancillary sheds and some scattered trees. The lots accesses an appurtenant easement A-1 which then connects to Cowan Drive roadway. Lot 2 is 2.501 hectares in area and contains a detached stone house which according to the applicant was constructed 1853. There are several detached sheds and some rows on of non-native trees mixed with a scattering of native vegetation. The lot has access to an internal driveway that cuts through proposed Lot 1 and connects to appurtenant easement A-1 which then connects to the Cowans Drive roadway.

The proposal also includes the removal of three carriageway easements and create one new carriageway easement, as follows:-

The applicant proposes to remove Easement E-1 and E-2 which are 5.03 metres in width and provides connection between appurtenant easement A-1 (within the adjacent eastern title) and appurtenant easement A-1 (within the southern adjacent title). The southern adjacent titles have registered owners as N Dellios and Dellios Bros Pty. Ltd.

The applicant proposes to remove Easement E-3 which is 23 metres in width and provides connection between appurtenant easement A-1 and Lot 1 on TP427137R. The owner of this adjacent title is N Dellios. Physical access via the existing easement on the site would require some form of bridge or culvert construction over Pyrites Creek.

The applicant proposes to create a carriageway easement, Easement E-4 which is 5 metres in width and provides connection between appurtenant easement A-1 (within the adjacent eastern title) and appurtenant easement A-1 (within the southern adjacent title). This carriageway is to align with the location of the current accessway.

It must be noted the current accessway does not follow the alignment of the carriageway easement as shown on title. The carriageway easement on title is unconstructed and goes through hilly land whereas the existing accessway travels through the flat part of the site. It would appear the easements on title were created as the most direct route on paper rather than reflecting the topography and physical constraints of the land.

Site Description

The site identified as Lot 2 on plan of Subdivision PS427137R. The lot is located on the southern end of Cowans Drive which is located south of the old Western Freeway in Hopetoun Park. The lot has total area of 3.0306 hectares and Pyrites Creek forms its northern boundary. The site is comprised of two existing dwellings and there are rehabilitation works been undertaken to the creek with new vegetation treatments. Both dwellings are accessed by an internal driveway.

The immediate surrounding area is comprised of open produce growing fields with a scattering of farm sheds to the west and steep and hilly country to the east and north reflective of a natural river valley. The Western Freeway bridge over Pyrites Creek is located to the south.

The site and surrounding area is zoned in a Farming Zone. Hopetoun Park residential estate is located approximately 900 metres to the south of the subject land.

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



Figure 1: Locality Map

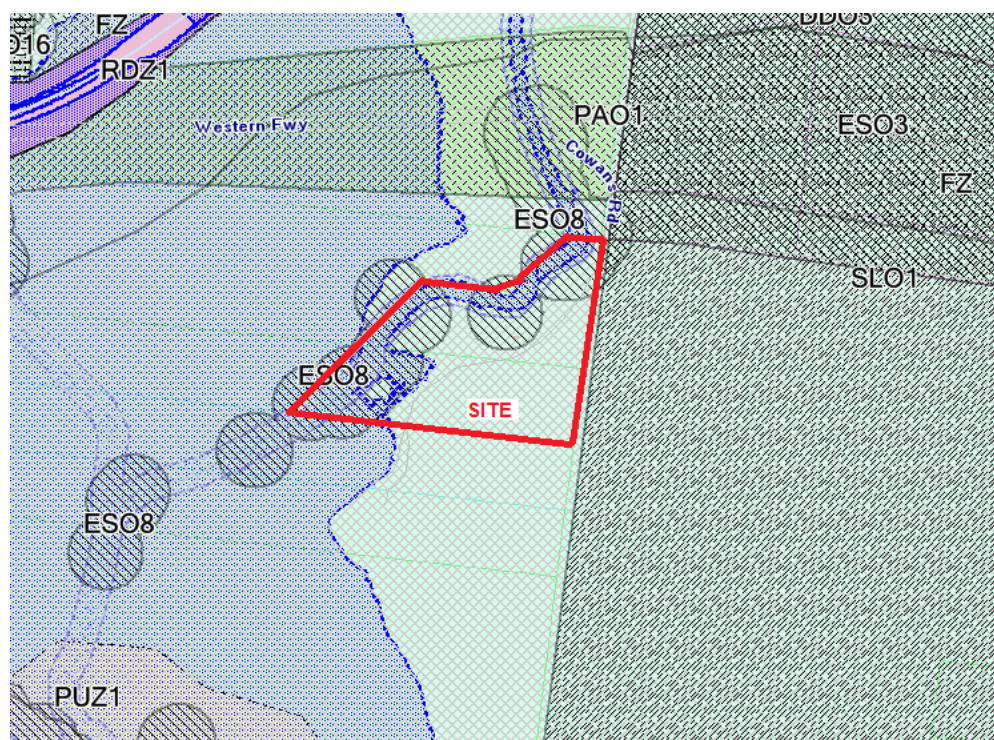
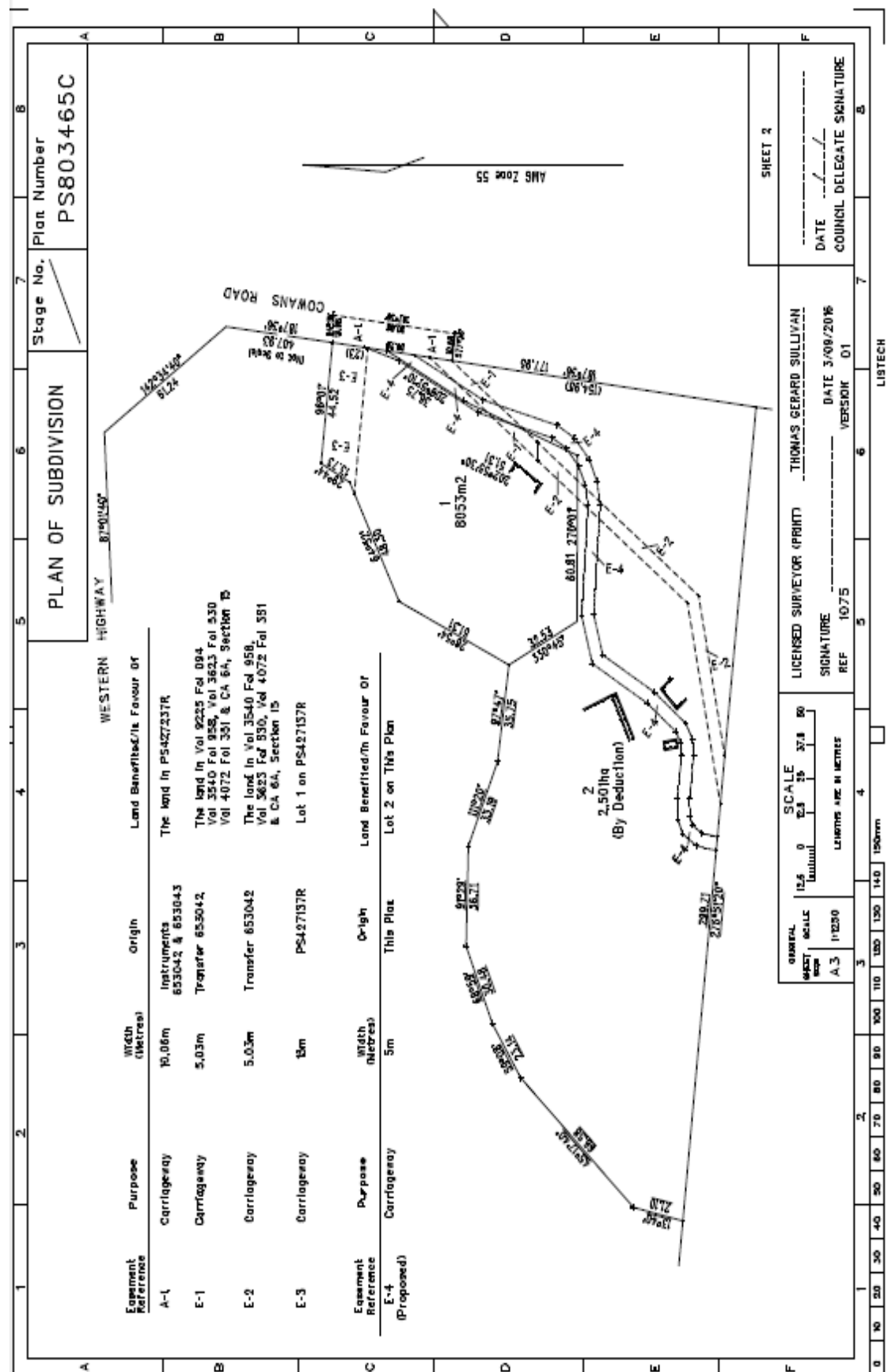


Figure 2: Zone map with Melbourne Water flooding map (shaded blue)

Subdivision Plan



Planning Scheme Provisions

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

The relevant clauses are:

- Clause 11.02-1 Supply of urban land.
- Clause 11.07-1 Regional Victoria.
- Clause 11.07-2 Peri-Urban Areas.
- Clause 15.01-3 Neighbourhood and subdivision design.
- Clause 15.01-5 Cultural identity and neighbourhood character.
- Clause 16.01-1 Integrated housing.
- Clause 22.03 Houses and House lot Excisions.

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

SPPF	Title	Response
Clause 15.01-3	Neighbourhood and Subdivision Design	The objective of this clause is to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. The revised plans now achieve compliance with this clause.

Zone

The subject site is in the Farming Zone - FZ.

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 35.07-3 a permit is required to subdivide land. A permit may be granted to create a smaller lot if any following apply:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

Overlays

Environmental Significance Overlay Schedule 8 (ES08)

The subject site is partly in the Environmental Significance Overlay Schedule 8 and the provisions of Clause 42.01 apply.

The purpose of the overlay is:

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

Under Part 2 of Schedule 8 of the overlay has the following environmental objectives to be achieved.

- Retain all hollow bearing trees.
- Minimisation of disturbance to the Tree Protection Zone for all River Red Gums.
- Support the regeneration of River Red Gums by protecting the growth of young trees.

No tree removal is proposed within the area covered by the ES08 and therefore no permit is required under this overlay.

Design & Development Overlay Schedule 2 (DD02)

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

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 which are affected by specific requirements relating to the design and built form of new development.

Part 1 of Schedule 2 of the overlay has the following design objectives.

- 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 am

The proposed subdivision does not require a planning permit under this schedule.

Relevant Policies

Clause 22.03 Houses and House lot Excision in Rural Areas

This policy applies to all land within the Farming Zone.

The objectives of this local policy are

- To ensure that subdivision and dwellings in rural areas are required to increase agricultural productivity.
- To minimise the potential for adverse impacts on farm production through land use conflicts.

The policy directives are:

- Discourage subdivision and dwellings unless they are directly related to the agricultural use of land.
- Discourage nonagricultural use and development in areas of productive agricultural land.
- Encourage the consolidation of small lots.
- Ensure that lots created under Clause 35.07-3 have a maximum area of two hectares.
- Maintain the right of existing farms to continue their operations without being adversely affected or constrained by residential concerns. Include the following requirements on a permit to excise a lot for a dwelling where it is considered this would facilitate ongoing agricultural use of the remaining land.
- Consolidate of the remaining land with the title of an existing farm; or If the remainder land is less than 40ha, require the landowner to enter into an agreement under S173 of the Planning and Environment Act that no further applications will be made to erect a dwelling on the balance allotment.

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

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

As this is a two subdivision unlikely to be further subdivided and given the zoning of the land which has restriction attached to land subdivisions, there is no requirement for a public open space contribution fee.

Clause 52.02 Easements, Restrictions and Reserves

A permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.

Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

Discussion

Subdivision layout

The proposed subdivision is a sensible separation between two existing dwellings with some surrounding areas available for existing and future sheds. There was a prior re-subdivision of the land that was comprised of two titles which resulted in the agricultural productive part of the land located west Pyrites Creek into one lot and the two dwellings located to the east of the Pyrites Creek into the second lot. This prior subdivision did not impose any conditions preventing a further subdivision of land containing the two existing dwellings. The proposed subdivision will create

irregular shaped lots due to the presence of a meandering watercourse, Pyrites Creek located along the northern boundary of both lots however the subdivision will allow two well-proportioned lots each containing an existing dwelling.

Easements

The site and some surrounding lots have carriageway easements as they are land locked without an abuttal to a roadway. The subject site is not adjacent to Cowans Drive but can access appurtenant easement A-1 to gain access to the southern extent of Cowans Drive. Other surrounding titles also gain access to Cowans Drive but have carriageway rights over the subject land. The adjacent titles are used for produce growing fields and occasionally require truck access through the subject land.

The applicant has applied to remove the carriageway easements on title and proposes a new carriageway easement to reflect the alignment of the existing accessway.

On site, there is a locked gate preventing vehicle access and warning sign of private property. On title, the southern adjacent title needs to use the subject land for access between Cowan Drive and their farming properties as there are no other access points.

The applicant has designed the carriageway easement to reflect the existing accessway on site and remove easements which have no existing carriageway use and also go through steep topography that would involve costly works to allow for a constructed accessway surface. The objector is aware of the physical constraints of Easement E-2 and that Easement E-3 may never be used unless a costly bridge construction is undertaken. The objector wants the carriageway easements to remain in their current form and does not want the existing accessway to be covered by a carriageway easement. In accordance with Clause 52.01, Council must consider the interests of affected persons. In this instance, the creation and removal of easements will not be supported and this component of the application will be required to be removed as part of the submission of revised plans.

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; and
- 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.

Clause 66.01 Mandatory telecommunication conditions.

Clause 66.06-1 allows permits to subdivide land in rural zones not to include standard telecommunication conditions. These condition were not included.

Referrals

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

Authority	Response
Melbourne Water	Consent, subject to two conditions
Infrastructure	Consent subject to three 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 subdivision does not implicate any risk or OH & S issues to Council.

Communications Strategy

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

Options

An alternative recommendation would be to refuse the application on the grounds that it does not comply with the planning scheme provisions and does not match the subdivision pattern of the surrounding area.

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

Conclusion

The proposed subdivision complies fully with the State and Local Planning Policy Framework, the Farming Zone, the Environmental Significance Overlay Schedule 8 and the Design & Development

Overlay Schedule 2. The lot size and proportions reflects the location of the two existing dwellings on the land.

With an objector having benefit over carriageway easements, this component of the application is not supported and can be removed through the submission of a revised subdivision plan.

Consideration of Deputations – Planning Permit Application No. PA 2016240

Nick Delios addressed Council as the objector to the granting of a planning permit for the application.

Resolution:

Moved: Cr. Keogh

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 permit for application PA2016240 for a two lot subdivision at Lot 2 on PS427137R known as 62 Cowans Drive, Hopetoun Park with the following conditions:

Endorsed plans

- 1. Before the plan of subdivision is certified under the Subdivision Act 1988, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application/other specified plans but modified to show:**
 - a) Plan of Subdivision not include any removal or creation of easements for the purpose of carriageway.**

Subdivision

- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

Servicing

- 3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 4. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**

Infrastructure conditions

5. 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).
6. 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.
7. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Moorabool Shire Council.

Melbourne Water

8. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
9. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

Permit Expiry

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

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

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

Melbourne Water footnote:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 152285.

Pyrites creek is running at the northern edge of the property. For management of the waterway, Melbourne Water will require an easement/ reserve in its favour from the top of each bank (width to be advised) and other conditions to comply with at further subdivision of the property.

CARRIED.

Report Authorisation



Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 June, 2017

Item 4.4 Planning Permit Application PA2016 248

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

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

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

Executive Summary:

Application Referred?	Yes, the application was referred to relevant utility providers and Council's Infrastructure unit.
Any issues raised in referral responses?	Infrastructure requested the applicant prepare a Stormwater Management Strategy to enable a proper assessment of the proposal.
Preliminary Concerns?	Yes. In addition to the above matter, the Council officer wrote to the applicant about concerns with the proposed lot sizes' inconsistency with the Ballan Structure Plan and surrounding neighbourhood character. Additionally, further information was requested about the vehicle accessway design's provision for a visitor car space.
Any discussions with applicant regarding concerns?	Yes, regarding stormwater, as to the particular information required by Council.
Any changes made to the application since being lodged?	No
VCAT history?	None
Previous applications for the site?	PA2001160 Development and Use of a Dependent Person's Unit approved 6/7/2001.
General summary	<p>The application is for a seven (7) lot subdivision of the site. Lot sizes would vary from 450-466sq m with access from a common accessway via a new crossover.</p> <p>The proposal satisfies some relevant provisions of the Moorabool Planning Scheme, but fails to adequately respond to the neighbourhood character of the area which mostly features substantially larger lots which are a key contributor to neighbourhood character in this prominent 'gateway' location in Ballan. The</p>

	proposal is not considered to be sufficiently site responsive and should be refused.
Summary Recommendation:	
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i> , on the grounds detailed at the end of this report.	

Public Notice

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

Summary of Objection

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

Objection	Any relevant requirements
The proposal is premature in the absence of a structure plan	Ballan Structure Plan (December 2015)
Officer's response - Ballan Structure Plan was adopted by Council in December 2015 which recommends minimum 600sq m lot sizes in this area.	
The proposal is contrary to the requirement of the Ballan Framework Plan that urban development only occur in accordance with Local Structure Plans.	Clause 21.08
Officer's response - This objection relies on a statement in Clause 21.08, the intent of which is somewhat ambiguous. A literal interpretation would mean that only development in accordance with a structure plan may be allowed. However, Council must also consider other relevant planning scheme provisions.	
The proposal is not in accordance with Council's adopted Ballan Structure Plan which designates this area for low density development.	Ballan Structure Plan (December 2015)
Officer's response - Ballan Structure Plan adopted by Council in December 2015 recommends minimum 600sq m lot sizes in this area. The proposed lot sizes do not meet this recommendation.	
Does not respect the neighbourhood character, the main western gateway to Ballan consisting of large lots with wide frontages and large front setbacks.	Clauses 11.07-2, 11.08, 21.03, 21.08-3, 32.08 & 56.03-5
Officer's response - This objection is addressed below.	
Sets an adverse precedent, and is contrary to the existing and likely preferred future neighbourhood character.	Clauses 11.07-2, 11.08, 21.03, 21.08-3, 32.08 & 56.03-5
Officer's response - This objection is addressed below.	
The proposal will lead to the spacious treed rural town appearance of the town entry being replaced with a compact metro suburban appearance.	Clauses 11.07-2, 11.08, 21.03, 21.08-3, 32.08 & 56.03-5
Officer's response - This objection is addressed below.	

There is no policy imperative for higher density development because the site is not within easy walking distance of the town centre.	Clauses 11.07-2, 11.08-1, 21.03, 21.08 & 32.08
Officer's response - Ballan is identified as regionally important in terms of its capacity to absorb population growth in a manner which responds to particular opportunities and constraints. This is discussed in more detail below.	
Adverse impact on function and appearance of Old Melbourne Road.	Clause 52.29
Officer's response - No further information is provided by the objector so it unclear what the particular concerns relate to. The appearance of the proposal, regarding neighbourhood character, is discussed below. VicRoads, as the relevant road manager, consents to the application subject to conditions.	
Insufficient information to assess the application in terms of vehicle access and the site's context.	Clauses 32.08-10 & 56.01
Officer's response - The application is considered to include sufficient information for a decision to be made.	
The proposal does not satisfy several particular clauses of the planning scheme.	Clauses 15.01-1, 15.01-2, 15.01-3, 56.01-1, 56.01-2 & 56.03-5
Officer's response - Clause 15.01-2 is irrelevant to this proposal. Assessment against the other clauses listed is made elsewhere in this report.	
Increased traffic and demand for on-street parking, posing a safety issue.	
Officer's response - The application was referred to VicRoads and Council's Infrastructure unit, both of whom consent to the application, subject to conditions. Old Melbourne Road is capable of absorbing additional traffic associated with the proposal. It is acknowledged that there are no defined on-street parking areas in the vicinity. Parking on the south side of Old Melbourne Road is constrained by an existing pedestrian path adjoining the road shoulder. On the north side of Old Melbourne Road, beyond the road shoulder and parallel to the road, is a swale drain, beyond which is a wide grassed verge, however access to this area is constrained by the drain. It is considered that the lack of convenient on-street parking poses a potential safety issue.	
The proposal constrains the future design and placement of a single dwelling on the objector's vacant property adjoining the subject site.	N/A
Officer's response - It is unclear how development of the objector's land would be constrained by the proposal. In any case, other than the Ballan Structure Plan, there is no development plan giving guidance to the desired future development of the area, therefore the application must be assessed based on the existing context, including existing neighbourhood character.	
Impact on view from the objector's property	N/A
Officer's response - There are no known particular vistas or notable views from this location. Loss of views is not generally a valid objection.	

Proposal

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

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

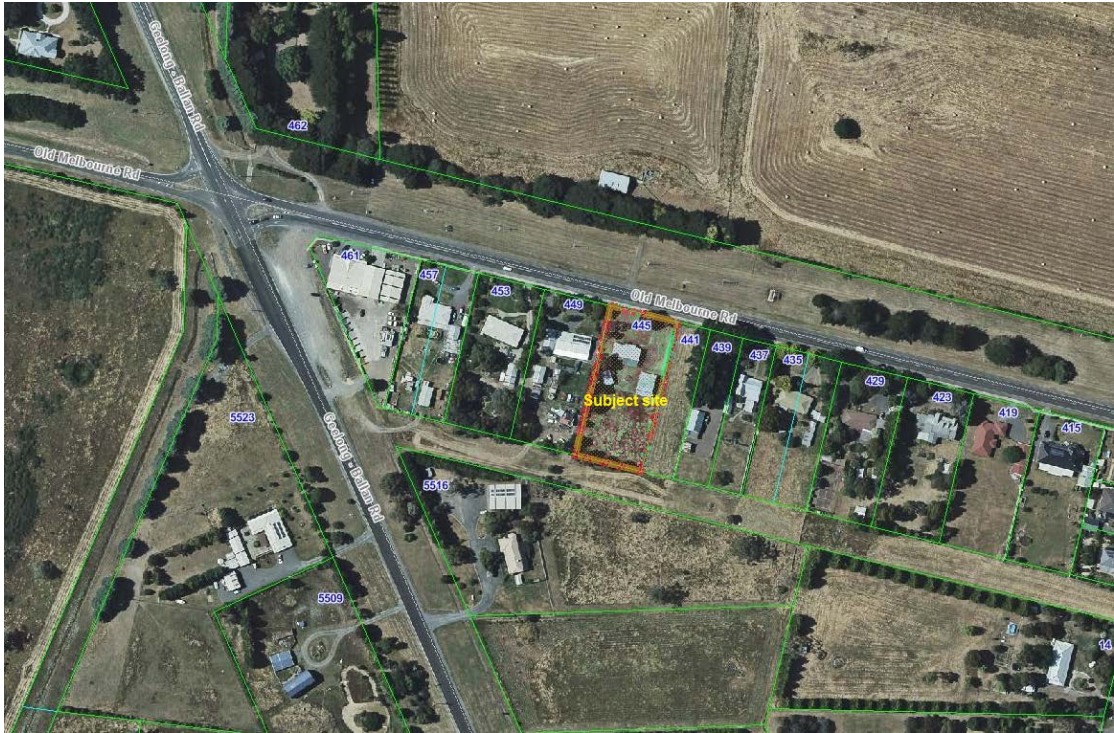
The proposed plan is provided in Attachment 1.

Site Description

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

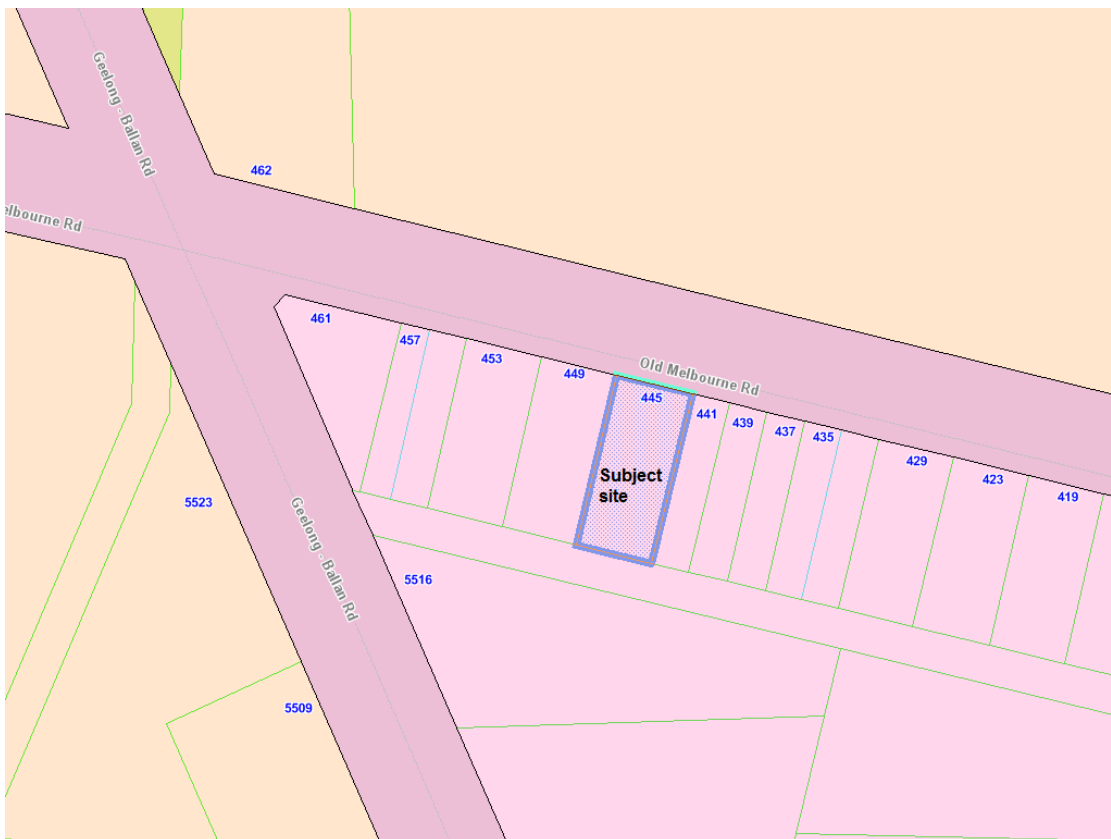
The subject site is near the western edge of Ballan township in the General Residential Zone. Lot sizes on the south side of this section of Old Melbourne Road are generally uniform and consistent with the size of the subject site, although some smaller lots are evident. The lot pattern supports a generally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

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



Locality Map

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



Planning Scheme Provisions

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

The relevant clauses are:

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

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

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

Zone

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

The purpose of the Zone is:

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

- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

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

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

Overlays

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

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

Relevant Policies

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

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

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

Clause 52.29 Land Adjacent to a Road Zone, Category 1

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

Clause 56 Residential Subdivision

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

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

Discussion

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

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

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

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

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

The purpose of the GRZ includes the following:

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

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

The key issue for discussion is considered to be:

- Does the proposed subdivision respect neighbourhood character?

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

edge of Ballan and one of the key 'gateways' to the town, provides a visual transition between the countryside and the town centre, and the density and appearance of development is critical to maintaining and enhancing this character.

The subject site is 3642sq m, consistent with numerous other lots along this side of Old Melbourne Road west of Old Geelong Road. There are some smaller lots of approximately 1800sq m, and an existing medium density development at 397 Old Melbourne Road containing seven lots of at least 500sq m each. The proposal introduces lot sizes of 450-466sq m, substantially smaller than those in the surrounding area, and not in keeping with the aforementioned character of the area.

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

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

General Provisions

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

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

Referrals

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

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

Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Communications Strategy

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

Options

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

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

Conclusion

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

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

Recommendation

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

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

Consideration of Deputations – Planning Permit Application No. PA2016248

Robert Eskdale addressed Council as the applicant to the granting of a planning permit for the application.

Resolution:

Moved: Cr. Tatchell

Seconded: Cr. Dudzik

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

Endorsed Plans:

1. The formal plan of subdivision lodged for certification must be generally in accordance with the endorsed plan and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.

Section 173 Agreements:

2. Before the development starts, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act to provide the following: (a) Medium sized canopy trees (minimum six (6) metres height at maturity) must be planted and maintained in the north setback of any lots which directly adjoin Old Melbourne Road to the satisfaction of the Responsible Authority. (b) This Agreement shall only apply to Lots 1 and 7 on the proposed plan of subdivision or any lots which directly adjoin Old Melbourne Road. Before the issue of a Statement of Compliance for any stage of the subdivision, application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred. The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it the Responsible Authority for approval. The owner/operator under this permit must pay the costs of execution and registration of the section 173 agreement.

Telecommunications:

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

- a. A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b. A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is an area where the National Broadband Network will not be provided by optical fibre.

Subdivision:

5. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.

Infrastructure:

6. Prior to the issue of a Statement of Compliance for the subdivision, a standard double width residential vehicle crossing must be provided on Old Melbourne Road to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the footpath and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
7. Prior to the issue of a Statement of Compliance for the subdivision, the common property driveway must be constructed in reinforced concrete to a depth of 125 mm. The layout of the driveway must be designed and constructed in accordance with Clause 52.06-8 of the Moorabool Planning Scheme.
8. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
 - a. The development as a whole must be self draining.
 - b. Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
 - c. Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
 - d. Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)"
9. 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.
10. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.
11. 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).

12. A landscape plan must be prepared and submitted to the responsible authority for approval detailing all proposed landscaping and proposed tree removal, ensuring that no tree or shrub is planted over existing or proposed drainage infrastructure and easements. The landscape plan must include a plant legend with botanical name, quantity, pot size at time of planting and details of ground treatments and must include medium sized (minimum six (6) metres height at maturity) canopy trees planted in the front setbacks of Lots 1 and 7 or any lots which directly adjoin Old Melbourne Road.
13. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
14. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.
15. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
 - a. location of vehicle crossings
 - b. details of the underground drainage
 - c. location of drainage legal points of discharge
 - d. standard details for vehicle crossings and legal points of discharge
 - e. civil notes as required to ensure the proper construction of the works to Council standard.

VicRoads:

16. Prior to a Statement of Compliance, for the subdivision the vehicle crossing must be constructed to the satisfaction of the Responsible Authority and VicRoads.
17. The disused or redundant vehicle crossing must be removed and the area reinstated to the nature strip to the satisfaction of and at no cost to the Roads Corporation prior to the commencement of the works hereby approved.
18. The proposed subdivision requires reinstatement of the existing crossover to the kerb and channel. Separate approval under the Road Management Act for this activity may be required from VicRoads (the Roads Corporation), Please contact VicRoads prior to commencing any works.

Southern Rural Water:

19. All lots must be connected to Central Highlands Water reticulated sewerage system.
20. All lots must be connected to an approved stormwater drainage system which complies with the Water Sensitive Urban Design Standards.
21. The plan of subdivision submitted for certification must be referred to Southern Rural Water in accordance with Section 8 Subdivision Act 1988.

Melbourne Water:

- 22. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.**
- 23. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.**
- 24. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.**
- 25. Local drainage shall be to the Council's satisfaction.**

Central Highlands Water:

- 26. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.**
- 27. Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.**
- 28. A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.**
- 29. The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.**
- 30. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.**

Powercor:

- 31. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.**
- 32. The applicant shall:**
 - a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required).**
 - b. Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**

- c. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- d. Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.
- e. Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
- f. Where buildings or other installations exist on the land to be subdivided connected to supply prior to 1992 and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria's Electrical Safety System. The requirements for switchboard and cable labelling contained in the Electricity Safety (Installations) Regulations are to apply.
- g. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- h. Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- i. Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- j. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Permit expiry:

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

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

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

Permit Notes:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 281941.

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

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

CARRIED.

Report Authorisation



Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 June, 2017

Item 4.5 Planning Permit Application PA2016 249

Planning Permit Application PA2016249; Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1 at Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan VIC 3342.

Application Summary:	
Permit No:	PA2016 249
Lodgement Date:	4 October 2016
Planning Officer:	Tom Tonkin
Address of the land:	Lot 1 on PS 700827S, 403 Old Melbourne Road, Ballan 3342
Proposal:	Development of Five (5) Dwellings, Five (5) Lot Subdivision and Alteration of Access to a Road Zone, Category 1
Lot size:	1792sq m
Why is a permit required?	<p>Clause 32.08 – General Residential Zone – Development of two or more dwellings and subdivision</p> <p>Clause 42.01 – Environmental Significance Overlay – Subdivision</p> <p>Clause 52.29 – Land Adjacent to a Road Zone, Category 1 – Subdivision and alteration of access</p>
Restrictions registered on title	None
Public Consultation:	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Notices on site:	One (1)
Notice in Moorabool Newspaper:	None
Number of Objections:	None
Consultation meeting:	Not required
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	<p>Implement high quality, responsive, and efficient processing systems for planning and building applications.</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Tom Tonkin

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

Executive Summary:

Application Referred?	Yes, the application was referred to relevant utility providers and Council's Infrastructure unit.
Any issues raised in referral responses?	No
Preliminary Concerns?	Yes. The Council officer wrote to the applicant to advise of concerns about the impact of high front fencing, proposed front setbacks, extent of site coverage and boundary walls, overlooking, location of the visitor car space and proposed lot sizes non conformity with the Ballan Structure Plan, and requested to know the width of the proposed crossover.
Any discussions with applicant regarding concerns	In response to the above concerns, the applicant provided a written response but did not make any changes to the plans in response to the key concerns. In relation to the 6.5m front setback, the applicant stated a willingness to increase the setback to 7.5m but requested Council impose this as a condition of future approval. The officer wrote to the applicant to advise that this was not the appropriate process and accordingly the applicant amended the plans to provide a 7.5m front setback.
Any changes made to the application since being lodged?	As described above.
VCAT history?	None
Previous applications for the site?	PA2013086 for a Four Lot Staged Subdivision was approved by Council in 2013. The subdivision was completed with Lot 1 being subject to the current application. An amendment to PA2013086 to create a five lot staged subdivision, by reducing the size of Lot 1 to accommodate an additional lot, was sought

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

Public Notice

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

Proposal

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

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

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

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

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

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

Site Description

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

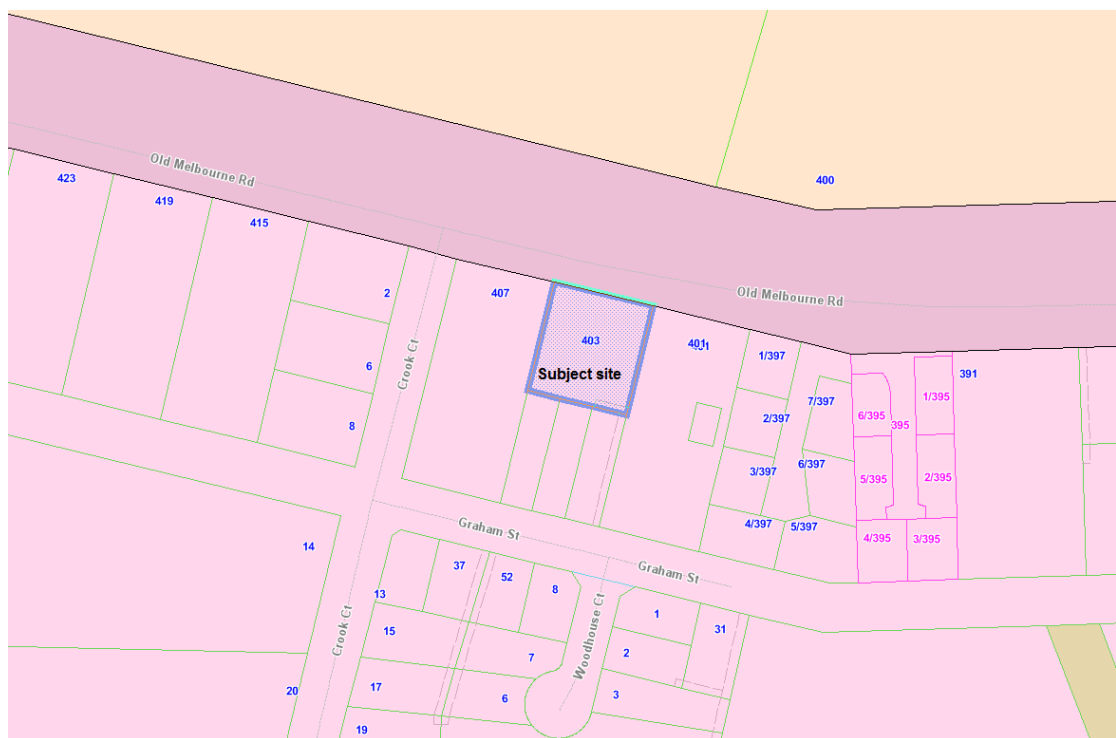
The subject site is near the western edge of Ballan township in the General Residential Zone. Lot sizes on the south side of this section of Old Melbourne Road are generally uniform and consistent with the size of the subject site, although some smaller lots are evident. The lot pattern supports a generally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

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



Locality Map

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



Planning Scheme Provisions

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

The relevant clauses are:

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

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

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

Zone

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

The purpose of the Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To implement neighbourhood character policy and adopted neighbourhood character guidelines.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

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

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

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

Overlays

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

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

Relevant Policies

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

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

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

Clause 52.06 Car Parking

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

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

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

ResCode Clause	Title	Response
55.02-1	Neighbourhood character objectives	The density of development, reduced front setback, significant site coverage, boundary wall construction and high front fences do not respect the neighbourhood character.

55.03-1	Street setback objective	The proposed 7.5m front setback does not comply with the minimum 9.0m.
55.03-3	Site coverage objective	The proposed 56% coverage complies with the standard for a maximum 60% but does not satisfy the objective.
55.04-1	Side and rear setbacks objective	The proposed side setbacks, and the extent of built form near the side boundaries, do not respect the neighbourhood character.
55.04-2	Walls on boundaries objective	The length and height of proposed boundary walls meets the standard but is not in keeping with neighbourhood character.
55.06-2	Front fences objective	The proposed high fencing would not be in keeping with neighbourhood character.

Clause 56 Residential Subdivision

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

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

Discussion

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

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

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

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

- Provide diversity in housing that is in character with the township and provides for continued growth of the town as a regional centre.

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

The purpose of the GRZ includes the following:

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

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

The key issue for discussion is considered to be:

- Does the proposed development and subdivision respect neighbourhood character?

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

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

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

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

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

General Provisions

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

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

Referrals

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

Authority	Response
Western Water	Consent
Southern Rural Water	Consent with conditions
Melbourne Water	Consent with conditions
Central Highlands Water	Consent with conditions
Powercor	Consent with conditions
Downer	Consent with conditions
Infrastructure	Consent with conditions

Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Communications Strategy

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

Options

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

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

Conclusion

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

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

Recommendation:

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

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

Consideration of Deputations – Planning Permit Application No. PA2016249

Robert Eskdale addressed Council as the applicant to the granting of a planning permit for the application.

Resolution:

Moved: Cr. Tatchell

Seconded: Cr. Dudzik

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

Endorsed Plans:

1. **The formal plan of subdivision lodged for certification must be generally in accordance with the endorsed plan and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.**

Section 173 Agreements:

- 2. Before the development starts, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act to provide the following: (a) Medium sized canopy trees (minimum six (6) metres height at maturity) must be planted and maintained in the north setback of any lots which directly adjoin Old Melbourne Road to the satisfaction of the Responsible Authority. (b) This Agreement shall only apply to Lots 1 and 2 on the proposed plan of subdivision or any lots which directly adjoin Old Melbourne Road. Before the issue of a Statement of Compliance for any stage of the subdivision, application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred. The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it the Responsible Authority for approval. The owner/operator under this permit must pay the costs of execution and registration of the section 173 agreement.**

Telecommunications:

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

Subdivision:

- 5. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.**

Amenity:

- 6. External lights must be directed away from residential areas to prevent light spill and glare to the satisfaction of the responsible authority.**
- 7. The walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the responsible authority.**
- 8. Any security alarm or similar device installed must be of a silent type.**

Landscape Plans:

- 9. Before the development is occupied 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:

- 10. Prior to the issue of a Statement of Compliance for the subdivision, a standard urban residential double vehicle crossing must be provided on Old Melbourne Road to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.**
- 11. Prior to the issue of a Statement of Compliance for the subdivision, the common property driveway must be constructed in reinforced concrete to a depth of 125 mm. The layout of the driveway must be designed and constructed in accordance with Clause 52.06-8 of the Moorabool Planning Scheme.**
- 12. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
 - a. The development as a whole must be self draining.**
 - b. Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.**
 - c. Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.**
 - d. Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".**
- 13. 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.**
- 14. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.**

15. 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).
16. A landscape plan must be prepared and submitted to the responsible authority for approval detailing all proposed landscaping and proposed tree removal, ensuring that no tree or shrub is planted over existing or proposed drainage infrastructure and easements. The landscape plan must include a plant legend with botanical name, quantity, pot size at time of planting and details of ground treatments, and must include medium-sized (minimum six (6) metres height at maturity) canopy trees planted in the front setbacks of Lots 1 and 2 or any lots which directly adjoin Old Melbourne Road.
17. 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.
18. 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.
19. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
 - a. location of vehicle crossings
 - b. details of the underground drainage
 - c. location of drainage legal points of discharge
 - d. standard details for vehicle crossings and legal points of discharge
 - e. civil notes as required to ensure the proper construction of the works to Council standard.

VicRoads:

20. Prior to a Statement of Compliance, for the subdivision the vehicle crossing must be constructed to the satisfaction of the Responsible Authority and VicRoads.
21. The disused or redundant vehicle crossing must be removed and the area reinstated to the nature strip to the satisfaction of and at no cost to the Roads Corporation prior to the commencement of the works hereby approved.
22. The proposed subdivision requires reinstatement of the existing crossover to the kerb and channel. Separate approval under the Road Management Act for this activity may be required from VicRoads (the Roads Corporation), Please contact VicRoads prior to commencing any works.

Downer Utilities:

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

Melbourne Water:

- 24. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.**
- 25. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.**

Central Highlands Water:

- 26. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.**
- 27. Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.**
- 28. Reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.**
- 29. The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.**
- 30. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.**

Powercor

- 31. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.**
- 32. The applicant shall:**
 - a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
 - b. Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
 - c. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.**
 - d. Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.**

- e. Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.
- f. Where buildings or other installations exist on the land to be subdivided connected to supply prior to 1992 and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria's Electrical Safety System. The requirements for switchboard and cable labelling contained in the Electricity Safety (Installations) Regulations are to apply.
- g. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- h. Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- i. Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- j. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Permit Expiry

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

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

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

Permit Notes:

Flooding may be associated with the Melbourne Water regional drainage system and/or the local Council drainage systems. Information available at Melbourne Water indicates that the property is not subject to flooding from Melbourne Water's drainage system, based on a flood level that has a probability of occurrence of 1% in any one year. However, to determine if a property is subject to flooding from the local Council drainage system you will need to contact the relevant Council for flood information.


If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 281997.

For the purposes of the Building Code of Australia - Building in Flood Hazard Areas, there is no applicable flow rate velocity associated with the above property. Melbourne Water does not have any information in relation to flow velocities associated with the local Council drainage system.

It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued). Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

CARRIED

Report Authorisation



Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 June, 2017

Item 4.6 Planning Permit Application PA2017 026

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

Application Summary:	
Permit No:	PA2017026.
Lodgment 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:	4000sqm.
Why is a permit required	<p>Clause 32.03-3 – Low Density Residential Zone – a permit is required to subdivide land.</p> <p>Clause 42.01-2 – Environmental Significance Overlay – a permit is required to subdivide land.</p>
Public Consultation:	
Was the application advertised?	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	3
Consultation meeting:	No consultation meeting was held.
Policy Implications:	
Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Effective and efficient land use planning and building control
Strategy	<p>Implement high quality, responsive, and efficient processing systems for planning and building applications.</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>

Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<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 – Tim Doolan</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application Referred?	Yes – Southern Rural Water, Western Region Water Authority, Council's Infrastructure
Any issues raised in referral responses?	No – Conditions provided for inclusion on any permit that may issue
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>
Summary Recommendation:	
<p>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, 3 Hogan Road, Ballan.</p>	

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 Clause 21.08
Officer's response – 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 Clause 21.08
Officer's response – 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
Officer's response – 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.

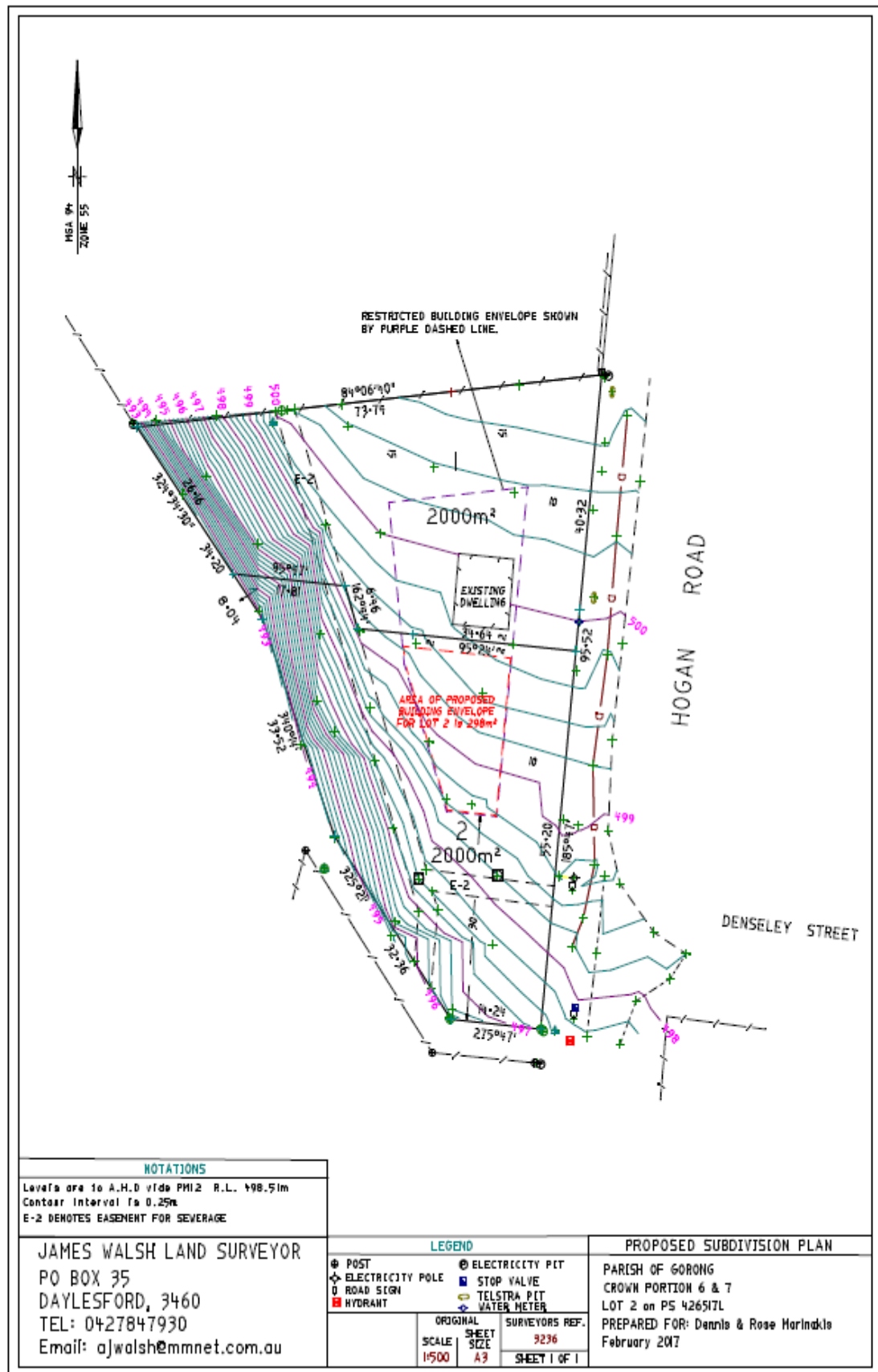
Lot 1 will contain a 40.32m eastern frontage to Hogan Road and a maximum depth of 73.74m along its northern boundary. The western and southern interfaces of the lot are irregular. The western (rear) portion of the site contains a sharp fall towards Werribee River with a sewerage easement running along 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.

The layout of the proposed subdivision is provided below.

Subdivision Plan



Site Description

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.

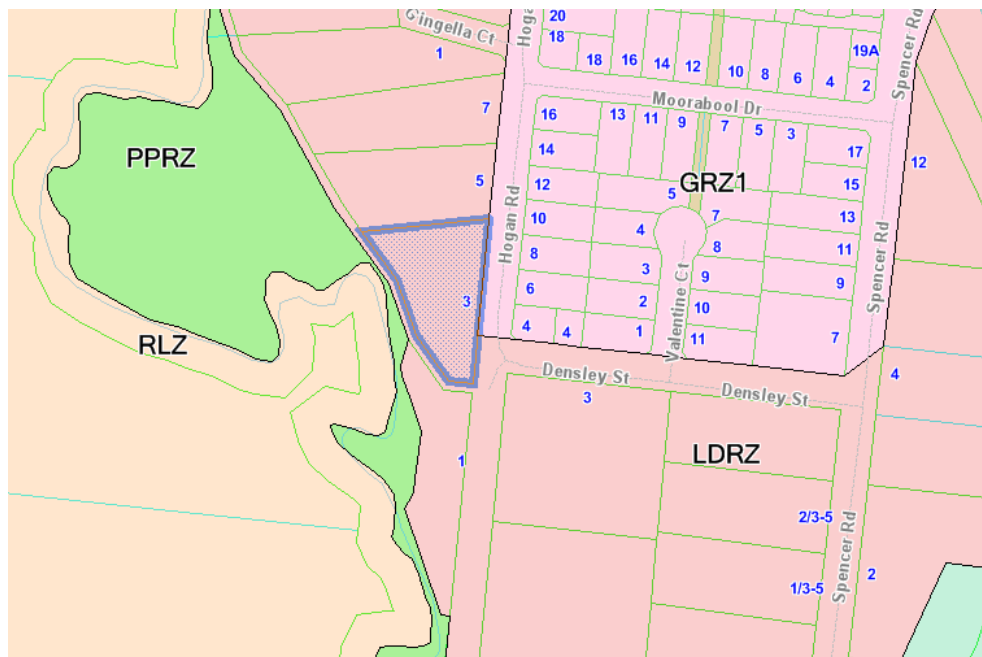


Figure 1: Zoning map of the subject site and surrounding area

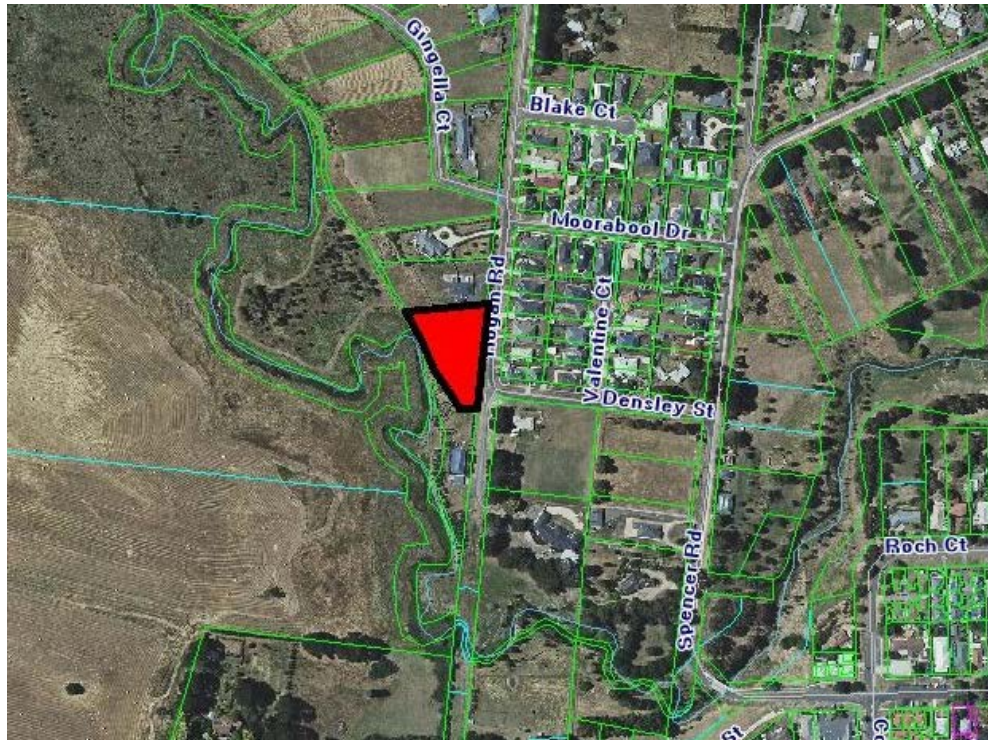


Figure 2: Aerial photograph of the subject site and surrounding area

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; and
- 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) and the Design and Development Overlay Schedule 2 (DDO2).

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

The purposes of the Environmental Significance Overlay are:

- 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.

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 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 General Residential Zone to the east and Rural Living Zone to the north and west. Township growth is directed to other precincts under Ballan Structure Plan and the subject site is not required nor promoted for urban expansion/densification.

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 BSP, 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; and
- 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	No response
Western Water	No objection
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.

Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council refuse to grant a permit for application PA2017026 for a two lot subdivision, Lot 2 on PS 426517L, 3 Hogan Road, Ballan under the following grounds:

1. The proposed subdivision does not comply with the Council 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.
4. The proposed subdivision does not represent the orderly planning of the area.

Resolution:

Moved: Cr. Tatchell

Seconded: Cr. Dudzik

The matter was deferred at the request of the applicant until the next available S86 Development Assessment Committee meeting.

Report Authorisation**Authorised by:****Name:****Satwinder Sandhu****Title:****General Manager Growth and Development****Date:****14 June, 2017**

Item 4.7 Planning Permit Application PA2016 255

Planning Permit 2016-255; Eleven lot staged subdivision on 82 Haywood Road Lal Lal

Application Summary:	
Permit No:	PA2016-255
Lodgement Date:	12 October, 2016.
Planning Officer:	Mark Lovell.
Address of the land:	Crown Allotment 19, 19A and 20, Section 12A Parish of Lal Lal Haywood Road, Lal Lal
Proposal:	Eleven lot staged subdivision
Lot size:	66.18 hectares.
Why is a permit required	Clause 35.03-3 - Rural Living – Subdivide land Clause 43.02-1 – Environmental Significance Overlay – Subdivide land Clause 44.06-1 – Bushfire Management Overlay – Subdivide land.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Eight objections
Consultation meeting:	Consultation meeting with applicant and objectors. Issues discussed in detail but no resolution achieved.
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Mark Lovell

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

Executive Summary:

Application Referred?	Yes, referred to CFA, Central Highlands Water, PowerCor Australia, Downer Utilities, GasNet Australia, Council's Infrastructure and Council's Strategic Planning
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?	Nil.
General summary (Pro's/Con's of the proposal)	<p>The subdivision creates the maximum number of lots permitted within a Rural Living Zone. The building envelopes proposed by the applicant are designed to ensure the dwellings are well separated from each other and do not impact existing vegetation and natural features.</p> <p>The subdivision is within an area with only basic infrastructure services and this will be impacted upon with more dwellings and more residents in the local area.</p>

Summary Recommendation:

That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to Grant a permit for a staged eleven lot subdivision on Crown Allotment 19, 19A and 20, Section 12A Parish of Lal Lal known as 82 Haywood Road, Lal Lal.

Public Notice

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

Summary of Objections

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

Objection	Any relevant requirements
Traffic increase	
Officer's response – There will be an increase in traffic from the occupants of eleven dwellings, this is considered acceptable increase within a rural setting.	
Intense subdivision/Overdevelopment	Clause 35.03
Officer's response – The subdivision creates average lot size of 6 hectares as stipulated by the provision of Rural Living Zone. This is the maximum number of lots that can created under the zone. The lot sizes is consistent with creating rural lifestyle blocks.	
Impact upon the water catchment/ water contamination.	Clause 43.02
Officer's response – The relevant catchment authority, Central Highlands Water had no objection subject to conditions. The applicant has also provided Land Capability Assessments for each lot to demonstrate that wastes water can managed within each lot.	
Existing infrastructure problems.	Clause 35.03
Officer's response – There are concerns about NBN, mobile phone coverage, power supply and conditions/maintenance of the local roads. The subject land needs to provide services to each lot and incur any costs associated with upgrading existing services. There is the broader issue of improving infrastructure in Lal Lal separate from this planning application and Council can advocate for improved existing services.	
Loss of views and privacy	
Officer's response – The applicant has designed the subdivision rather than as conventional building envelopes with similar setback has instead scattered the envelopes through the lots in order to retain existing vegetation which has minimised impact of future dwellings upon existing residents in the local area.	
Bushfire Risk	Clause 44.06
Officer's response – The application with accompanying Bushfire Management Statements has referred to CFA who no objection subject to conditions.	
Wildlife habitat loss	
Officer's response – Rural lifestyle lots attract people who require large parcels of land and typically improve the environment by removing vermin, maintaining the land and planting additional native landscaping rather than the existing site conditions of predominately cleared land.	

Proposal

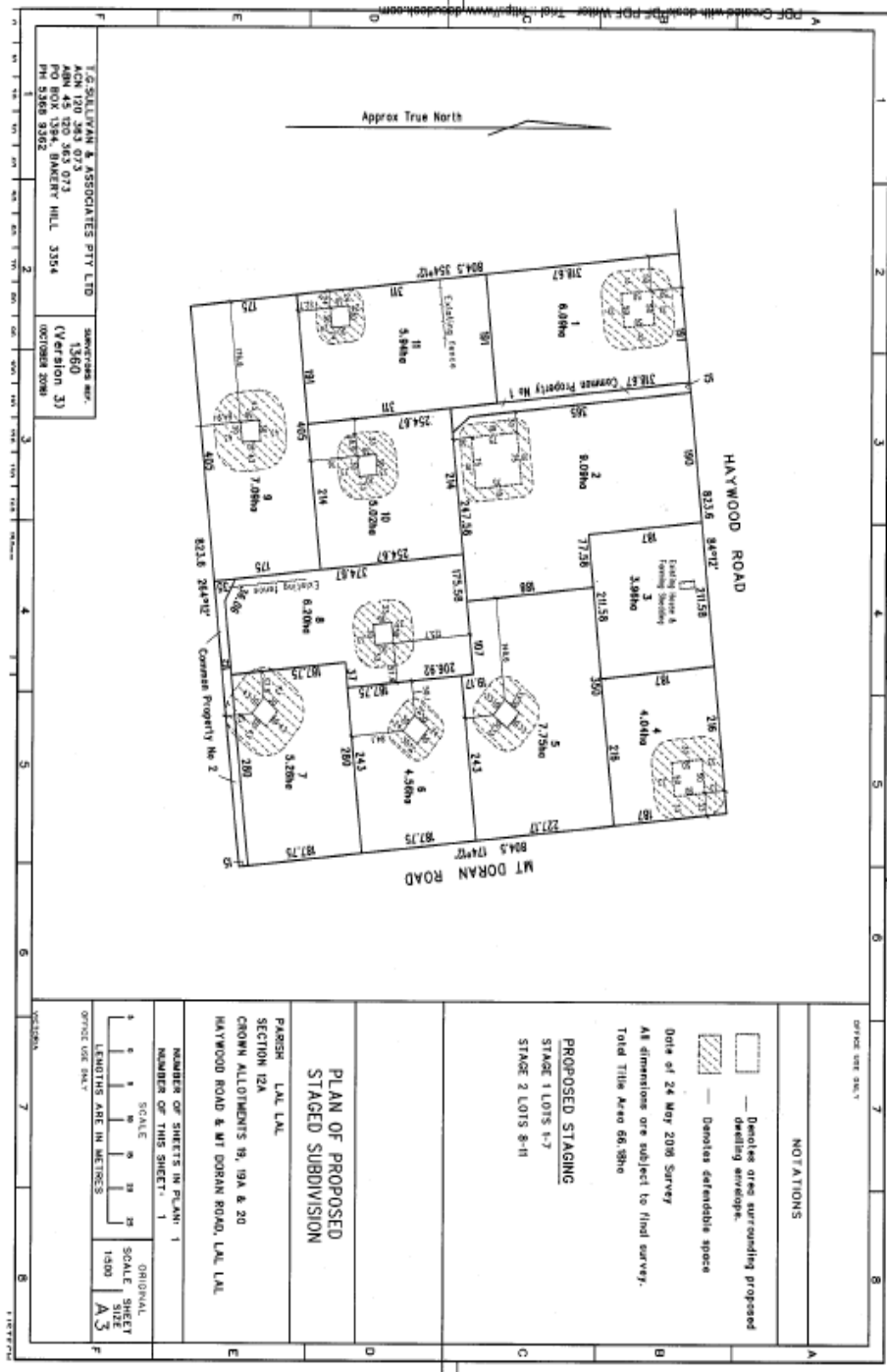
It is proposed to subdivide the land into eleven lots as part of a two stage subdivision of the land being Lots 1 to 7 in Stage 1 and Lots 8-11 in Stage 2. The lots will be arranged as follows:

- Lot 1 will have 190 metres frontage to Haywood Road and a maximum length of 365 metres for total area of 6.09 hectares. The proposed building envelope will be setback 50 metres from the Haywood Road frontage and 50 metres from the western side boundary.
- Lot 2 will have 191 metres frontage to Haywood Road and a maximum length of 316.67 metres in a L shaped configuration for total area of 9.09 hectares. The proposed building envelope is located to the rear of the lot accessing a 15 metres common driveway with Lot 10. The building envelope will be setback 30 metres from the western side boundary and 30 metres from the southern rear boundary.
- Lot 3 will have 211.58 metres frontage to Haywood Road and a maximum length of 187 metres for total area of 3.96 hectares. The existing dwelling will be contained within this lot.
- Lot 4 will have 216 metres frontage to Haywood Road and 187 frontage to Mt Doran Road for total area of 4.04 hectares. The proposed building envelope will be setback 35 metres from the Haywood Road frontage and setback 33 metres from the Mt Doran Road frontage.
- Lot 5 will have 227.17 metres frontage to Mt Doran Road and a maximum length of 350 metres for total area of 7.75 hectares. The proposed building envelope is located towards the rear of the lot. It will be setback 148.6 metres from the rear property boundary and approximately 40 metres from the southern side boundary.
- Lot 6 will have 191 metres frontage to Mt Doran Road and a maximum length of 243 metres for total area of 4.56 hectares. The proposed building envelope is located at the rear of the lot. The building envelope will be setback 50.1 metres from the rear western boundary and setback 84.1 metres from the southern side boundary.
- Lot 7 will have 187.75 metres frontage to the Mt Doran Road frontage and have a maximum length of 280 metres for total area of 5.28 hectares. The proposed building envelope will be located towards the rear of the property. It will be setback 37.8 metres from the rear western boundary and setback 43 metres from the southern side boundary.
- Lot 8 is located behind Lot 6 and 7 accessing 15 metres wide common driveway with Lot 9. The lot has a maximum width of 175.58 metres and a maximum length of 374.67 metres for total area of 6.20 hectares. The proposed building envelope is central located on the lot. It will be setback 57.9 from the eastern side boundary and 125.7 metres from the northern boundary.
- Lot 9 is located behind Lot 8 accessing 15 metres wide common driveway with Lot 8. The lot has a maximum width of 175 metres and a maximum length of 405 metres for total area of 7.09 hectares. The proposed building envelope is centrally located on the lot. It will be setback 176.8 from the western rear boundary and setback 43 metres from the southern boundary.
- Lot 10 is located behind Lot 2 accessing 15 metres wide common driveway with Lots 2 and 11. The lot has a maximum width of 214 metres and a maximum length of 254.67 metres for total area of 5.02 hectares. The proposed building envelope is located towards the rear of the lot. It will be setback 176 metres from the southern rear boundary and setback 58.9 metres from the western side boundary.

- Lot 11 is located behind Lot 1 accessing 15 metres wide common driveway with Lots 2 and 10. The lot has a maximum width of 191 metres and a maximum length of 311 metres for total area of 5.94 hectares. The proposed building envelope is located at the rear of the lot. It will be setback 24 metres from the western side boundary and setback 52.7 metres from the southern rear boundary.

Overall the proposal is 11 lots over 66.18 hectares of land for an average of 6.01 hectares per lot.

Subdivision Plan



Site Description

The subject site is located on the street corner consisting of the southern side of Haywood Road and the western side of Mt Doran Road in Lal Lal. The site is 66.28 hectares in area consisting of a dwelling located near the Haywood Road frontage and contains a large extent of cleared land and rows of planted non-native trees that have been designed as limited windbreaks. The site has a moderate sloped topography.

To the south is land within a Public Conservation and Recreation Zone and is heavily forested.

The surrounding is an open rural setting with a scattering of dwellings which are predominately concentrated towards the eastern side of Mt Doran Road while other lots remain vacant. Road reserves consist of gravel tracks with predominately cypress pines trees within the reserves. Native vegetation is scattered throughout individual lots.

There are no immediate retail or community services with the Lal Lal township consisting of Lal Lal Hotel, which is located approximately 2.5 to the north-west.

Locality Map

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

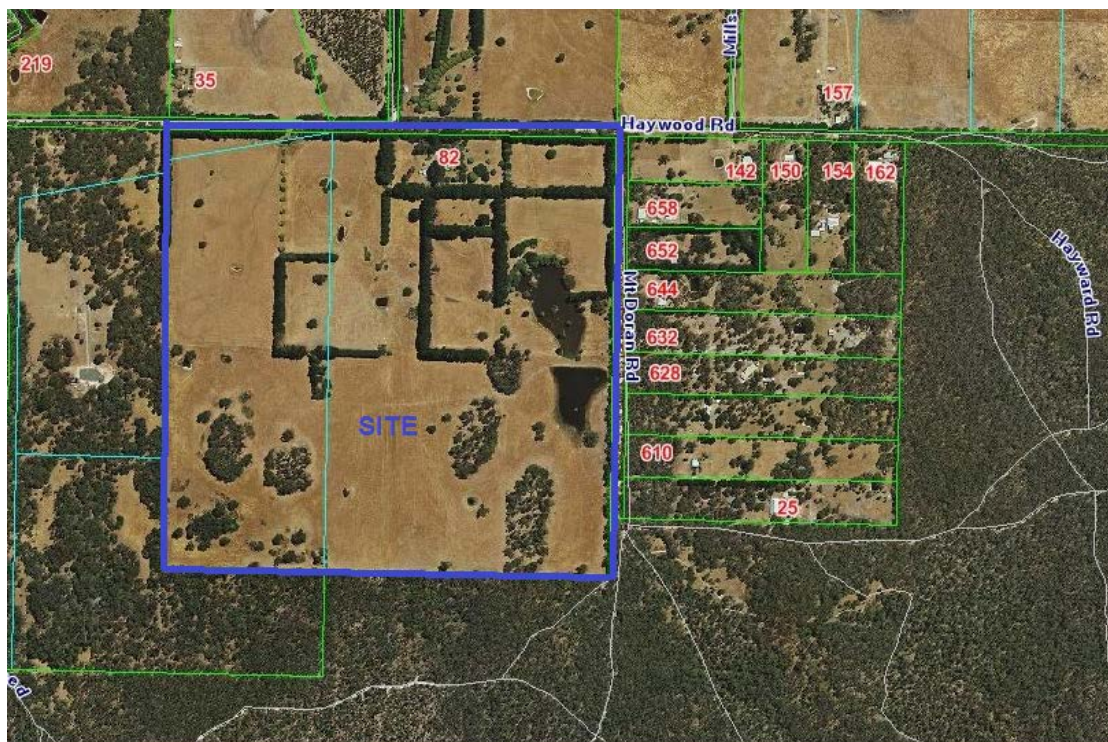


Figure 1: Locality Map

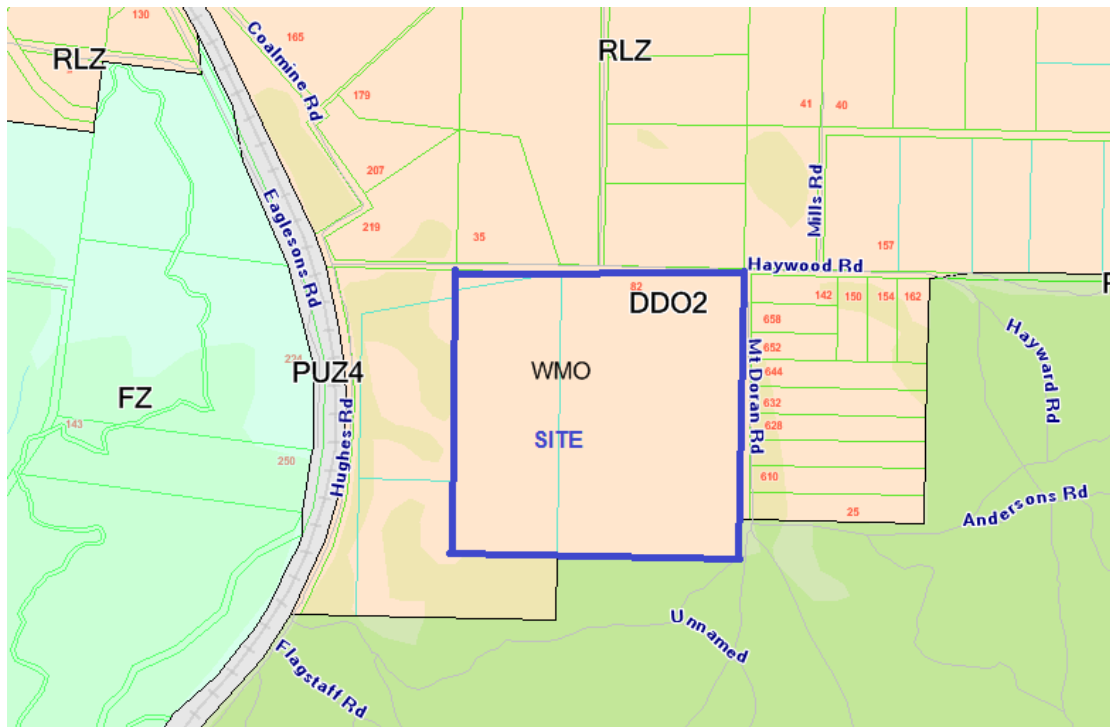


Figure 2: Zone Map

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 11.04-1 Open space planning;
- Clause 11.07-1 Regional Victoria;
- Clause 13.05-1 Bushfire planning strategies and principles;
- Clause 14.02-1 Catchment planning and management;
- Clause 15.01-3 Neighbourhood and subdivision design;
- Clause 15.01-5 Cultural identity and neighbourhood character;
- Clause 16.02-1 Rural residential development;
- Clause 21.02-3 Water and Catchment Management;
- Clause 21.02-5 Wildfire; and
- Clause 21.03-5 Rural Lifestyle Opportunities.

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

SPPF	Title	Response
Clause 15.01-3	Neighbourhood and Subdivision Design	The objective of this clause is to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. A rural setting that is not adjacent to an

		urban centre does not allow for walkable or cyclable local community.
LPPF		
Clause 21-03-5	Rural Lifestyle Opportunities	A strategy under this clause is to focus rural living development in areas close to urban centre with good access to services and facilities. The site is not adjacent to the Lal Lal township

Zone

The subject site is in the Rural Living Zone (RLZ).

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 residential use in a rural environment. To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Under Clause 35.07-3 a permit is required to subdivide land. Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 2 hectares. There is a schedule to the zone which requires a minimum lot size of 6 hectares. Decision guidelines are listed under Clause 35.03-5

Overlays

Environmental Significance Overlay Schedule 1

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

The purpose of the Overlay is

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

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

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

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

Bushfire Management Overlay

The subject is covered by a Bushfire Management Overlay. The purpose of this Overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Under Clause 44.06-1 a permit is required to subdivide land. Mandatory subdivision condition applies in accordance with Clause 44.-06-3 and the decision guidelines are under Clause 44.06-6.

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

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

As this is an eleven subdivision, there will be a requirement for a public open space contribution of 5% of the site value of the land. There will be greater population and greater demand to utilise public open spaces in Lal Lal as a result of this subdivision. The nearest reserve is Lal Lal Falls Reserve located 4 kilometres to the north

Clause 52.47 Planning for Bushfire

Clause 52.47-1 applies to an application to construct a single dwelling or construct or carry out works associated with a single dwelling.

Under Clause 52.47 2.4 has subdivision objectives.

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

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The bushfire hazard landscape assessment, the bushfire hazard site assessment and the bushfire management statement submitted with the application.
- The impact of any State, regional or local bushfire management and prevention actions occurring around the site and in the wider area on the bushfire hazard and the level of risk to the proposed development.
- Whether the proposed development meets the objectives of Clause 52.47-2 regardless of other measures which may be available, including private bushfire shelters, community shelters and the presence of places of last resort.

- Whether the proposed measures can be practically implemented and maintained in conjunction with the ongoing use of the land.
- Whether the use of an alternative measure meets the relevant objective having regard to the bushfire hazard and the nature of any constraint that prevents the applicable approved measure from being implemented.
- If one or more of the objectives in Clause 52.47-2 will not be achieved in the completed development, whether the development will, taking all relevant factors into account, reduce the bushfire risk to a level that warrants it proceeding.
- Whether the risk arising from the broader landscape can b

The applicant has provided defensible spaces in accordance with this clause around the proposed building envelopes.

Discussion

Subdivision pattern

The lot boundaries have formed an irregular or L shaped lots from a large rectangular block of land. The subdivision primary consideration has been to achieve the maximum number of allowable lots within the Rural Living Zone. This has resulted in a different pattern to an already mixed pattern of long shaped lots such as the eastern side of Mt Doran Road and the large square shaped lots to the north along Rotten Lane. The proposed subdivision will continue the mixed lot arrangement in the surrounding area. The proposed lot boundaries are arranged to minimise the loss of on-site vegetation by following natural features on site such as border and windbreak trees. This ensures the subdivision does not significantly alter the natural environment.

Servicing

All referral authorities had no objection to the application based on providing services to each of the individual lots. The land owner will be required to provide services to current day infrastructure standards.

Building envelopes

Typically on large rural living zoned properties, building envelopes are not required. The applicant has purposefully decided to ensure the amenity of new residents is not negatively impacted upon with poor dwelling siting or dwellings located too close together. This has led to a scattered building envelope arrangement which has also been designed to retain existing landscape features. There will be a requirement for the submission of revised plans to show all existing trees to be retained as this provides for some screening of dwellings especially when viewed from the existing residences in Mt Doran Road. A potential problem with the proposed dwelling envelopes is they do not cover outbuildings, sheds and other small detached non habitable buildings. It would be expected given the lots sizes that additional buildings will be placed on the land. With most of the dwelling envelopes located towards the rear of the lots, this could create unsightly outbuildings exposed to the street frontages. There will be a requirement that all outbuildings cannot be positioned forward of the front building of each dwelling (to the closest street frontage) of each lot. There will also be a requirement that the building envelopes will be registered on title via a creation of restriction attached to the Plan of Subdivision.

Bushfire Mitigation

The applicant has provided defensible spaces around each of the building envelopes in accordance with a Bushfire Management Statement prepared for each lot. CFA had no objection to the proposed defensible spaces subject to conditions which included the submission of revised plans. This should ensure each lot has adequate bushfire protection.

Catchment Planning

The applicant has provided a separate land capability assessment for each lot to effectively manage wastewater. There have no objection to these land capability assessments from the relevant catchment authority. The large lot sizes should provide adequate land for effluent fields and not impact upon the water quality within the surrounding catchment. Future planning applications for dwellings which will be required under the Environmental Significance Overlay Schedule 1 will need to amend these land capability assessment and provide additional information regarding effluent fields.

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; and
- 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.

Clause 66.01 Mandatory telecommunication conditions.

Clause 66.06-1. While the zoning of the land is rural living, there will be a requirement for each lot to be connected to telecommunication services and the NBN.

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
Powercor	No objection subject to two conditions
Central Highlands Water	No objection subject to two conditions.
Downer Utilities	No objection.
CFA	No objection subject to one condition.
Council's Infrastructure	No objection subject to seven conditions
Council's SSD	No objection with comments

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 refuse the application on the grounds that it does not comply with the planning scheme provisions, does not match the subdivision pattern of the surrounding area and the lots are isolated from the nearest township area.

Conclusion

The proposed subdivision complies predominately with the State and Local Planning Policy Framework, the Rural Living Zone, the Environmental Significance Overlay Schedule 1 and the Bushfire Management Overlay. The lot sizes achieve the maximum allowable under the Rural Living Zone.

The proposed subdivision is appropriate given the ongoing rural living amenity of existing and new residents can be protected though the building envelopes proposed subject to additional conditions and registration of a Section 173 agreement.

Nick & Josh Ford addressed Council as the supporters to the granting of a planning permit for the application.

Kaz Fergus addressed Council as the objector to the granting of a planning permit for the application.

Alan Kitchingman addressed Council as the objector to the granting of a planning permit for the application.

Resolution:

Moved: Cr. Keogh

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 permit for application PA2016255 for an eleven lot staged subdivision at Crown Allotment 19, 19A and 20, Section 12A Parish of Lal Lal known as 82 Haywood Road, Lal Lal, with the following conditions:

- 1. Before the plan of subdivision is certified under the Subdivision Act 1988, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application/other specified plans but modified to show:**
 - a) Submission of a feature survey plan detailing the location of all trees on site, fencing and all natural features.**
 - b) Building envelope plan amended to state no shed, outbuilding, garage or carport cannot be located forward of each dwelling envelope to the nearest street frontage.**
 - c) Show the location of all crossovers which must be designed to prevent or minimise the loss of native vegetation with the road reserve.**
 - d) Amended Bushfire Management Statement in accordance with condition 21 contain herein.**

Subdivision

- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**
- 3. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.**
- 4. The endorsed building envelope plan is to be registered on title by a Creation of Restriction added to the Plan of Subdivision. All lots will have benefit and burden of this restriction. The restriction cannot be altered without a planning permit.**
- 5. Vegetation as shown on the endorsed feature survey plan cannot be removed unless with the written consent of the Responsible Authority.**

Telecommunication

6. The owner of the land must enter into agreements with:

- a) A telecommunications network or service provider for the provision of telecommunication service to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
- b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provide by optical fibre.**

7. Before the issue of Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and**
 - b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is an area where the National Broadband Network will not be provided by optical fibre.**
- 8. In the event that conditions 6 and 7 cannot be complied with in accordance with the written advice from a suitably qualified person for any of the lots, the owner must enter into an agreement under Section 173 of the Planning & Environment Act (1987) advising that telecommunication services are not available for that lot(s).**

Infrastructure conditions

- 9. Prior to the issue of a Statement of Compliance for each stage of the subdivision, each lot must be provided with a rural standard vehicle crossing with culvert to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.**
- 10. Prior to the issue of a statement of compliance for the relevant stage of the subdivision, the common property roads must be constructed to all weather standard to the satisfaction of the responsible authority.**
- 11. The property accesses, internal driveways and common property roads 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.**
- 12. Stormwater runoff from future buildings and impervious surfaces within each lot in the development must be retained and disposed of within the boundaries of the lot to the satisfaction of the Responsible Authority. Prior to the issue of a Statement of Compliance for the subdivision, the applicant must give effect to this provision, by either Section 173 agreement or restriction on plan of subdivision.**

13. 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).

14. 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.

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

Powercor Australia

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

17. The applicant shall:

- a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required).**
- b) Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
- c) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.**
- d) Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.**
- e) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.**
- f) Where buildings or other installations exist on the land to be subdivided connected to supply prior to 1992 and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria's Electrical Safety System. The requirements for switchboard and cable labelling contained in the Electricity Safety (Installations) Regulations are to apply.**
- g) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**
- i) Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.**

- j) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Central Highlands Water

18. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.

19. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision

CFA

20. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-1 of Moorabool Planning Planning Scheme. Incorporate the plan prepared in accordance with Clause 52.47-2.4 of this planning scheme and approved under this permit.
- b) State that if a dwelling is constructed on the land without a planning permit that the bushfire mitigation measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

21. Before the certification is issued under the *Subdivision Act 1988*, an amended bushfire management plan which is generally in accordance with (Attachment 3 on page 16 in the report by Southern Cross Town Planning, dated 29 September 2016) must be submitted to and endorsed by the Responsible Authority. When endorsed the plan must be included as an annexure to the section 173 agreement prepared to give effect to Clause 44.06-3 of the Moorabool Shire Planning Scheme. The plan must show the following bushfire mitigation measures and site features, unless otherwise agreed in writing by the CFA and the Responsible Authority:

Water Supply

a) Show for all Lots 10,000lts of effective water supply for fire fighting purposes which meets the following requirements:

- Is stored in an above ground water tank constructed of concrete or metal.
- All fixed above-ground water pipes and fittings required for fire fighting purposes must be made of corrosive resistant metal.
- The water supply must also:
 - Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
 - The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
 - Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.
- Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

Access

b) Show for all Lots the access for fire fighting purposes which meets the following requirements:

- Curves must have a minimum inner radius of 10m.
- The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
- Have a minimum trafficable width of 3.5m of all weather construction.
- Be clear of encroachments for at least 0.5m on each side and 4m above the accessway.
- Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.
- Incorporate a turning area for fire fighting vehicles close to the building.
- Incorporate passing bays at least every 200m which must be at least 20m long and have a minimum trafficable width of 6m.

Permit Expiry

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

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

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


PowerCor Note:

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

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

CARRIED.

Report Authorisation



Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 June, 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 12 July, 2017
4.00pm
Council Chambers
15 Stead Street, Ballan

MEETING CLOSURE

The Chair thanked all Committee members and attendees and closed the meeting at 5.23pm.

A handwritten signature in black ink, appearing to read 'P. D. Noohy', is positioned on the right side of the page. The signature is fluid and cursive, with a long, sweeping underline.