

ORDINARY MEETING OF COUNCIL

Minutes of the
Ordinary Meeting of Council to be held at
Elaine Community Hall, 20 Pearsons Road, Elaine
on Wednesday 5 March 2014,
at 5:00 p.m.

Members:

Cr. Paul Tatchell (Mayor)	Central Ward
Cr. Allan Comrie	East Moorabool Ward
Cr. David Edwards	East Moorabool Ward
Cr. John Spain	East Moorabool Ward
Cr. Tonia Dudzik	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

Officers:

Mr. Rob Croxford	Chief Executive Officer
Mr. Shane Marr	General Manager Corporate Services
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Community Services

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

The Mayor, Cr. Tatchell, opened the meeting with the Council Prayer at 5.00 pm.

2. PRESENT

<i>Cr. Paul Tatchell</i>	<i>Central Ward</i>
<i>Cr. Allan Comrie</i>	<i>East Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Shane Marr</i>	<i>General Manager Corporate Services</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Gavin Alford</i>	<i>Manager Strategic and Sustainable Development</i>
<i>Ms. Cherie Graham</i>	<i>Municipal Emergency Manager</i>
<i>Ms. Lisa Gervasoni</i>	<i>Coordinator Strategic Planning</i>
<i>Ms. Sian Smith</i>	<i>Manager Statutory Planning and Community Safety</i>
<i>Ms. Lace Daniel</i>	<i>Minute Taker</i>

3. APOLOGIES

Nil.

4. CONFIRMATION OF MINUTES

4.1 Ordinary Meeting of Council – Wednesday 5 February 2014

Resolution:

Crs. Spain/Sullivan

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 5 February 2014.

4.2 Special Meeting of Council – Wednesday 19 February 2014

Resolution:

Crs. Spain/Edwards

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 19 February 2014.

CARRIED.

5. DISCLOSURE OF CONFLICT OF INTEREST

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

Definitions of the class of the interest are:

- a direct interest
 - (section 77A, 77B)
- an indirect interest (see below)
 - indirect interest by close association (section 78)
 - indirect financial interest (section 78A)
 - indirect interest because of conflicting duty (section 78B)
 - indirect interest because of receipt of gift(s) (section 78C)
 - indirect interest through civil proceedings (section 78D)

Time for Disclosure of Conflicts of Interest

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

Section 79(6) of the Act states:

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

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

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

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

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

Nil.

6. MAYOR'S REPORT

Since the last Ordinary Meeting of Council, the Mayor, Cr. Tatchell, attended the following meetings and activities:

Cr. Tatchell - Mayor	
February 2014 – March 2014	
6 February	Rural Advisory Committee Meeting
7 February	Media Launch: Yendon Community Space Project
9 February	<ul style="list-style-type: none"> The 10th Anniversary Service of the Australian Ex-Prisoners of War Memorial, Ballarat.
10 February	<ul style="list-style-type: none"> S86 Urban Growth Strategy Committee Meeting Heritage Advisory Committee Meeting Rural Advisory Committee Meeting
12 February	<ul style="list-style-type: none"> Assembly of Councillors – SFP and Rating Strategy Workshop Assembly of Councillors – Draft AOC Schedule
17 February	<ul style="list-style-type: none"> MAV Rural South Central Region Meeting
19 February	<ul style="list-style-type: none"> M2041 New Residential Zones Project Assembly of Councillors – Walking Trails Project Update Assembly of Councillors – Recreation and Leisure Committee Assembly of Councillors – Rural Advisory Committee Special Meeting of Council
21 February	<ul style="list-style-type: none"> Central Highlands Mayors & CEOs Forum Meeting with Geoff Howard

26 February	<ul style="list-style-type: none">• <i>Assembly of Councillors – Capital Improvement Projects, Carry Forwards and Advocacy Projects</i>• <i>Assembly of Councillors – Councillor Training Program</i>• <i>Ballan Shire Historical Society Annual General Meeting</i>
5 March	<ul style="list-style-type: none">• <i>Bacchus Marsh Harvest Festival Preview Launch</i>• <i>Assembly of Council – Leisure Services Review Contract</i>• <i>Ordinary Meeting of Council, Elaine</i>

Resolution:**Crs. Comrie/Edwards*****That the Mayor's report be received.*****CARRIED.**

7. COUNCILLORS' REPORTS

Since the last Ordinary Meeting of Council, Councillors have attended the following meetings and activities:

Cr. Sullivan	
February 2014	
24 February	Highlands Regional Waste Management Group Meeting

Cr. Dudzik	
February 2014 – March 2014	
24 February	Central Highlands Local Learning and Employment Network Meeting
4 March	Victoria Government's ANZAC Centenary Seminar

Cr. Toohey	
February 2014	
10 February	Gordon Recreation Reserve Committee Meeting

Resolution:

Crs. Sullivan/Comrie

That the Councillors' reports be received.

CARRIED.

8. PUBLIC QUESTION TIME

The Council has made provision in the business of the Ordinary Meetings of the Council for the holding of a Public Question Time.

Public Question Time is required to be conducted in accordance with the requirements contained within the Public Question Time Protocols and Procedural Guidelines as provided for in the *Local Law No. 8 Meeting Procedure Local Law* Division 8 . Clause 57.

The person asking the question is to stand and identify themselves by name and residential address before asking the question.

All questions are to be directed to the Mayor as Chairperson, who shall determine the appropriate person to respond to the question.

The person asking the question must be present in the gallery when the question is considered and may be asked for clarification by the Mayor.

At the discretion of the Mayor, a lengthy question may be required to be placed into writing by the person asking the question. The Mayor may accept a question on notice, in the event that research is required to provide a response. In the case of questions taken on notice, both the question and response shall be recorded in the Minutes of the Meeting.

The following question was taken on notice by the Chair at the meeting:

Mr. Chris Sharkey – Balliang East – Rating Strategy querying number quoted (1,507 rate assessments issued to farming properties)

Further investigations are to be undertaken in regard to this question and a written response will be provided in the next Council Minutes upon completion of the investigations.

9. PETITIONS

Nil.

10. PRESENTATIONS / DEPUTATIONS

The Council has made provision in the business of the Ordinary Meetings of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Presentations or deputations are required to be conducted in accordance with the requirements contained within the **Presentation/Deputations Protocols and Procedural Guidelines**.

Persons wishing to make a presentation or deputation to Council on a matter included in the agenda shall inform Council prior to the meeting by contacting the Chief Executive Officer's office and registering their name and agenda item being spoken to.

At the meeting the Mayor will invite the persons wishing to make a presentation or delegation to address the Council on the agenda item.

The person making the presentation or deputation is to stand and address Council on the item. No debate on the item is permitted between the person making the presentation or delegation and the Council.

A maximum of three minutes per presentation or delegation will be allocated. An extension of time may be granted at the discretion of the Mayor.

Councillors, through the Mayor, may ask the person making the presentation or delegation for clarification of matters presented.

The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

List of Persons making Presentations/Deputations other than in relation to a planning item listed on the agenda:

Item No	Description	Name	Position
11.2.1	<i>Amendment C53 – Gordon Structure Plan</i>	Andrew Finlayson	
11.2.7	<i>Amendment C06 – Part 3 – Bacchus Marsh Heritage Study</i>	Jo Merrylees	Acting on behalf of Objector

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.

Nil.

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

No reports for this meeting

11.2 GROWTH AND DEVELOPMENT

11.2.1 Amendment C53 - Gordon Structure Plan

Introduction

File No.: 13/06/059
Author: Gavin Alford
General Manager: Satwinder Sandhu

Background

The Planning Panel reviewing submissions on Amendment C53 has provided its report and recommendations to Council (See Attachment 11.2.1).

Amendment C53 is a Council initiated amendment to give effect to the Gordon Structure Plan, which was adopted on 1 June, 2011. The Structure Plan has been based on an extensive community consultation process and sets out a plan to guide and manage the future development of the township and its surrounds. It addresses land use, zoning, urban design, visual amenity, facilities and infrastructure.

The Structure Plan recommended that changes be made to the Planning Scheme, including the rezoning of some land, the addition of planning provisions to guide the form and type of uses and developments to be supported, and strategies and policies that Council will apply to the future planning and development of Gordon.

The Amendment has undergone public exhibition over a period of four weeks between 6 June, 2013 and 5 July, 2013.

A total of 15 submissions, including five (5) late submissions, were received in response to Amendment C53, of which two (2) supported the amendment or offered no objection, two (2) supported the amendment but requesting alterations/changes, five or six (5) offering no objection but requesting alterations/changes, one (1) offering no position, and two (2) opposed the Amendment.

Three (3) submissions offered comment but neither supported nor objected to the Amendment.

Submissions in response to the amendment cover a range of issues. The key issues include:

- Support for the proposed Gordon township boundary
- Support for the Gordon Structure Plan vision for the town
- Expansion of the extent of the township boundary, i.e., requests from landowners for rezoning for residential development
- Refinements are needed to the MSS policy and Overlay controls
- Expansion of the extent of the Business 1 Zone and Significant Landscape Overlay - Schedule 2
- Impacts of the application of the proposed Overlays
- Bushfire risk

- Gas Transmission Pipeline
- Application of the new Residential Zones.

On 18 September, 2013, Council resolved to request the appointment of a Planning Panel by the Minister for Planning to consider the submissions received. Council resolved to submit the exhibited amendment to the Panel, subject to the recommended changes.

This report recommends the adoption of Amendment C53, modified in accordance with the Panel recommendations.

Proposal

The Amendment

Amendment C53 seeks to implement the *Gordon Structure Plan 2011*, which was adopted by Council on 1 June, 2011, by making the following changes to the Moorabool Planning Scheme:

Municipal Strategic Statement

- Amending the existing Clause 21.09 %Small Towns+(Gordon) to reflect the new land use directions and policies identified in the *Gordon Structure Plan 2011*.
- Amending the existing Clause 21.11 by adding the *Gordon Structure Plan 2011* to the list of reference documents to the Moorabool Planning Scheme.

Zoning and Overlays

- Rezoning the identified commercial area of Gordon from Township Zone to Business 1 Zone.
- Rezoning the remaining Gordon residential area from Township Zone to Residential 1 Zone.
- Rezoning an area of 1.26 hectares of land associated with the properties known as No.s 1, 5 and 7 Russell Street from Rural Living Zone to Residential 1 Zone, to remove the existence of two zones from these properties.
- Rezoning lot from Rural Living Zone to Public Use Zone (PUZ5) to reflect the use of land.
- Applying the Significant Landscape Overlay - Schedule 2 "*Gordon Town Centre, Township and Surrounds*" to the Gordon Town Centre and to the rural living surrounds.
- Applying a new Design and Development Overlay - Schedule 5 "*Gordon Town Centre, Township and Surrounds*" to the Gordon Town Centre and to the rural living surrounds.

The purpose of the Design and Development Overlay (DDO) Schedule 5 is to ensure that any development and subdivision responds to the country town feel of Gordon, and it contains objectives and guidance for the siting and design of buildings in relation to character and amenity.

In addition, the DDO seeks to protect the spacious character of the township by maintaining larger lot sizes and to ensure equitable development of land within the spare capacity in the reticulated sewerage system.

This overlay ensures a planning permit is not required to construct a building or undertake works, if the following requirements are met:

- Buildings or extensions to existing buildings with a minimum side setback of 2 metres from either boundary, and a minimum rear setback of 5 metres.
- The site area covered by buildings does not exceed 40 per cent.
- Total floor area of all buildings does not exceed 300 square metres in floor area.
- Buildings under 9 metres in height.
- Earthworks under 1 metre in depth or height.
- Where all external walls and roof areas are clad with non-reflective materials.

The Significant Landscape Overlay (SLO) - Schedule 2 seeks to:

- To retain and protect significant trees, vegetation and windbreaks that are significant component of local identity and landscape of the township character of Gordon.
- To protect vegetation and trees of special significance, natural beauty, interest and importance.
- To retain trees where they have high amenity value, unless identified as an environmental weed.
- To support the retention and planting of further exotic and indigenous trees.

The SLO will introduce a permit trigger for the removal of canopy trees and does not prohibit development or tree removal. Standard exemptions for lopping or removal for safety reasons will still apply.

Public Exhibition Process

Amendment C53 was exhibited in accordance with the provisions of the Planning and Environment Act 1987 between 6 June, 2013 and 5 July, 2013. Notice was provided to all relevant Government Departments, Statutory Authorities and affected landowners and occupiers. Notices were placed in the Moorabool News, Council's web site, Government Gazette and the Moorabool Matters publications.

Public information sessions were held in the Gordon Hall on Tuesday 11 June and Wednesday 13 June, 2013, with a Council officer in attendance.

A total of 15 submissions, including five (5) late submissions, were received in response to Amendment C53, of which two (2) supported the amendment or offered no objection, two (2) supported the amendment but requesting alterations/changes, five or six (5) offering no objection but requesting alterations/changes, one (1) offering no position, and two (2) opposed the Amendment.

Three (3) submissions offered comment but neither supported nor objected to the Amendment.

Submissions in response to the Amendment covered a range of issues. The key issues included:

- Support for the proposed Gordon township boundary
- Support for the Gordon Structure Plan vision for the town
- Expansion of the extent of the township boundary, i.e., requests from landowners for rezoning for residential development
- Refinements are needed to the MSS policy and Overlay controls
- Expansion of the extent of the Business 1 Zone and Significant Landscape Overlay - Schedule 2
- Impacts of the application of the proposed Overlays
- Bushfire risk
- Gas Transmission Pipeline
- Application of the new Residential Zones.

Panel Process

A Planning Panel was appointed by the Minister for Planning to consider and hear submissions in response to Amendment C53 on 11 October, 2013, under the provisions of Sections 153 and 155 of the *Planning and Environment Act 1987*.

All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. All submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

The Panel conducted a directions hearing which was held on 1 November 2013 and the hearing proper on 2 December, 2013 at the Lerderderg Library. In addition to Council, five parties made written and oral submissions at the hearing. Expert evidence was presented on behalf of one submitter, Mr Andrew Findlayson (civil engineering).

In reaching its conclusions and recommendations, the Panel has read and considered the submissions and a range of other material which was provided by Council and other parties. This material includes written submissions, evidence and verbal presentations.

Panel Findings and Recommendations

In summary, the Panel supports the Amendment and found that it was generally sound. Whilst the Panel did not support the adoption and referencing of the Structure Plan, as presently drafted, in its view this is not a ground for abandoning the Amendment.

In the Panel's opinion, as proposed, the value of the Structure Plan for Gordon is limited to ensuring that residential development within the Town occurs in a manner which preserves its village character. It considers that the Plan does not extend to the study of the business area in the Town, in determining how it should develop, and where its focus should be in providing the appropriate level of commercial services to residents of Gordon.

Thus, the Panel is of the opinion that the absence of any analysis of commercial uses is a matter which needs to be rectified before zones are selected and applied to land in Gordon's town centre.

Although Main Street is the likely location for the Town's commercial hub, the Panel believes that the required strategic analysis has not been undertaken to support the extent and split of the Business 1 Zone, as proposed under the Amendment.

Therefore, the Panel has recommended that the land bounded by Brougham, Tennyson, Lyndhurst and Urquhart Streets (the core town centre) should be retained in the Township Zone, until this analysis has been completed.

This analysis should identify the likely demand for and type of businesses required to service the Gordon community and the extent of land that will need to be rezoned to accommodate these uses. As well as considering the future zoning of this core town centre of Gordon, the Panel believes that consideration should be given to the application of zones which would support the objective *to encourage medium density dwellings in the central area of Gordon*.

Until this work is finalised the Panel does not support referencing the Structure Plan in the Scheme. However, the Panel sees no reason to delay the Amendment, in so far as it applies the residential zone and overlays at Gordon.

It is also noted that there has been a trend in recent times for Panels not to recommend Structure Plans become reference documents within Planning Schemes. Reasons for this include, in part, the volume of planning documentation that is becoming entwined with Planning Scheme. One of the initial objectives of the introduction of New Format Planning Schemes was to streamline the system. Since that time Planning Authorities have been attempting to tailor schemes to local needs. One approach has been to prepare a specific plan for a specific area, include this plan as a reference document to help guide decision making, whilst also at the same time seeking to make a number of changes to Planning Scheme policy and tools.

The Panel supports the application of the Residential 1 Zone at Gordon and the adoption of the schedules to the overlays, generally as revised by Council post exhibition, but with some further minor revisions, as outlined in the Appendices to its Report. In addition, the Panel supports the revised version of Clause 21.09-1 Small Towns - Gordon, subject to further revisions recommended in its Report.

The Panel recommended that Amendment C53 to the Moorabool Planning Scheme be adopted as exhibited, subject to a number of recommendations.

The Panel recommendations and Council officers' response are outlined below:

1. Gordon Structure Plan 2013 not be adopted as a Reference Document.

Officer comment

The Panel is of the opinion that the predominant focus of the Structure Plan is on the residential areas of the town, with only fleeting references to business activity and provision of land for commercial purposes in Gordon.

In the Panel's view, *"the absence of analysis concerning the demand for commercial land uses and where they should be located is a failing of the structure planning process, which needs to be addressed before the Structure Plan is referenced in the Planning Scheme"*.

Preparation of the Structure Plan was undertaken in anticipation of the provision of reticulated sewerage to Gordon and was primarily intended to manage the additional residential growth facilitated by the availability of this infrastructure.

The Panel recommendation not to adopt the Gordon Structure Plan as a Reference Document, at this stage, is not supported. Including the Structure Plan in its current form would assist and further articulate the preferred directions for Gordon and highlight the strategic intent for the township. It is noted that the Panel did not dismiss the Structure Plan per se, rather said that it was incomplete.

It is considered, however, that the analysis of commercial demand and is not an onerous requirement and could be undertaken expeditiously, subject to the availability of funding.

Once the revised Structure Plan is completed a subsequent planning scheme amendment could then be prepared to include a revised Structure Plan as a reference document in the Moorabool Planning Scheme, as per Panel recommendation 3(a).

In the interim the Gordon Structure Plan could be considered as the reference document. Most structure plans need to be updated from time to time and this is also the case with the Gordon Structure Plan.

2. Delete reference to the Gordon Structure Plan 2013 under Clause 21.09-1 and Clause 21.11.

Officer comment

The Panel recommendation for these changes is not supported.

The current Structure Plan will provide a sound basis for the immediate development of the Gordon township and provides opportunities for infill development whilst ensuring it occurs in a manner which preserves its village character.

It is considered that the Gordon Structure Plan should be a Reference Document in the Moorabool Planning Scheme and Clauses 21.09-1 and Clause 21.11 should be amended as exhibited.

3. Amend Clause 21.09-1, under the heading 'Further Strategic work', to include a further dot point:

- a) Prepare a revised Structure Plan for Gordon.**

Officer comment

The Panel has recommended that a revised Structure Plan for Gordon should be prepared, essentially because the Plan does not extend to the study of the business area in the Town, in determining how it should develop, and where its focus should be in providing the appropriate level of commercial services to residents of Gordon.

As noted above, the current Structure Plan will provide a sound basis for the immediate development of the Gordon township and provides opportunities for infill development whilst ensuring it occurs in a manner which preserves its village character.

It is considered that the revisions recommended by the Panel could be undertaken expeditiously and will not be an extensive reworking of the Gordon Structure Plan. It would ensure that appropriate guidance would be provided for the development of the town over the planning period of twenty years until 2030.

Officers agree with the Panel recommendation and will seek to progress this action subject to the availability of funding.

4. Amend dot point nine of the Strategies to Clause 21.09-1 to read:

- a) Ensure that new development in the township responds to bushfire risk in a way that minimises loss of the environmental values of the surrounding landscape.**

Officer comment

This change reflects the position adopted by Council in response to submissions. At the Panel Hearing, Council suggested an addition to strengthen Clause 21.09-1 . Gordon, to recognise bushfire risk affecting the township and surrounds, and to ensure that development within Gordon responds to and mitigates any identified bushfire risks

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

5. Retain land bounded by Brougham Street, Tennyson Street, Urquhart Street and Lyndhurst Street in the Township Zone.

Officer comment

In light of the Panels previous recommendations, specially relating to the need for additional commercial analysis be undertaken and a revised Structure Plan be prepared, Officers agree with the Panel recommendation not to rezone land in Gordon for commercial purposes, due to the need for further analysis of future commercial development needs for the town.

Retention of the Township Zone will enable appropriate commercial development to occur, subject to planning approval, in the Town Centre, while a review of the Structure Plan is undertaken in accordance with Recommendation No. 3 of the Panel Report.

6. Except for that part of the residential area to be retained in the Township Zone, adopt the Residential 1 Zone, as exhibited.

Officer comment

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly. This recommendation accords Council's decision to rezone the majority of the township to the Residential 1 Zone, via the exhibited Amendment.

7. Adopt Schedule 2 to the Significant Landscape Overlay, as revised by Council post exhibition, and included at Appendix D in this Report (*Appendix D of the Panel report*)

Officer comment

The modifications proposed reflect the changes to the wording of Schedule 2 to the Significant Landscape Overlay in response to submissions, outlined and supported by Council during the Panel Hearing.

Council submitted to the Panel that changes should be made to the Schedule, to address matters raised by submitters and to improve the functionality of the control. The main change is to include ~~Application requirements~~ in the Schedule to specify the level of documentation to accompany applications for planning permits.

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

- 8. Remove reference to “(Commercial Zones)” in the heading “General design objectives for the core town centre” in Schedule 5 to the Design and Development Overlay and adopt the revised post exhibition version, as included at Appendix E in this Report.**
(Appendix E of the Panel report)

Officer comment

Given that the Panel recommended that land in Gordon should not be rezoned for commercial purposes, the reference to Commercial Zones is not required in Schedule 5 to the Design and Development Overlay.

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

Zoning of other land not part of the Amendment

The Panel noted that it is clear that the expectations of submitters, whose land was included in the Study Area for the Gordon Structure Plan but not subject to the Amendment, have not been met.

It was satisfied that the intention of containing the town boundaries is ultimately in the interest of retaining the village character of Gordon and understands that determining boundaries will never satisfy all parties. In addition, the Panel acknowledged that the current Amendment is limited to the immediate township area and is silent on the land the subject of two submissions for inclusion in the R1Z and one submission for inclusion in the LDRZ, even though these properties are within the Gordon Structure Plan Study Area.

The Panel believes that any consideration of these requests would constitute a transformation of the Amendment and could prejudice other parties who have not had the opportunity to make submissions.

Transforming an amendment is changing it in a fundamental way so that, in effect, it becomes a different amendment.

It is only possible to consider such significant changes to an amendment if the rules of natural justice are adhered to. The particular rule of natural justice, which must be satisfied, is the requirement that all matters upon which a decision will be based are revealed to all parties and they are given an opportunity to be heard.

In relation to submissions to have other land rezoned, the Panel advised those present at the Hearing that any such changes would transform the Amendment.

The Panel noted that Council may, at some future time, consider other land suitable for low density residential use as a transition to the township or an extension of the R1Z if there is the demand for these lots and of infrastructure is available. In addition, is open to any owner to request that Council to rezone land at any time.

However, if a proposed rezoning does not have strategic justification, for example, is not supported by a Structure or Framework Plan, it may not be able to be supported and may not gain Ministerial approval.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Effective and efficient land use planning and building controls
Strategy	<p>Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support the social, economic, environment and well-being of the Shire.</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>

The proposed Amendment C53 is consistent with the 2013-2017 Council Plan.

The Structure Plan is consistent with all relevant State and Council planning policies, which have been described and discussed in detail in the Structure Plan.

Financial Implications

The revised Local Planning Policy and accompanying zone and overlay changes will not place any substantial additional burden on the resources or administrative costs of Council.

It is anticipated that the cost of obtaining the specialist material required to revise the Gordon Structure Plan as recommended by the Panel would be in the order of \$25,000. In light of current Strategic Planning work priorities no new initiative bid has been submitted to undertake this work at the current time.

Risk & Occupational Health & Safety Issues

Adopting a planning scheme amendment is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to adopt Amendment C53 in accordance with the recommendations of the Planning Panel.

There are unlikely to be any occupational health and safety implications for Council in relation to this amendment.

Community Engagement Strategy

From the inception of the project in 2008 to date, significant public consultation and engagement has been undertaken, including three stakeholder workshops and three community workshops which were held at various stages of the Structure Plan preparation process.

The draft Structure Plan itself was the subject of a further two stakeholder workshops and two community workshops. In addition, letters were sent to each landholder in the study area.

Public exhibition of Amendment C53 has been undertaken in accordance with the provisions of the *Planning and Environment Act 1987*.

The Gordon Structure Plan has previously been publicly exhibited through an informal consultation process. All affected landowners have been notified of the changes that are proposed to the planning scheme, thus offering an opportunity to further participate in the planning process.

Formal notification by mail, newspaper advertisement, government gazette (as required by legislation), was undertaken as part of the exhibition of the amendment. Public information sessions were held in the Gordon Hall on Tuesday 11 June and Wednesday 13 June, 2013. These sessions enabled members of the community to discuss any issues in relation to Amendment C53 and the adopted Structure Plan with a Council officer.

The Independent Panel conducted its public hearing in Bacchus Marsh, and provided the opportunity for submitters to attend the hearing and make a presentation to the Panel. The Panel Hearing was the culmination of all previous consultation undertaken in relation to the Gordon Structure Plan and Amendment C53.

Communications Strategy

All submitters will be notified of the date of the meeting when this report will be presented to Council.

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.

General Manager – Satwinder Sandhu

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

Author – Gavin Alford

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

Conclusion

The Gordon Structure Plan provides the framework for future planning of the township.

Amendment C53 to implement the Structure Plan is supported by the Planning and Environment Act 1987, Council's Municipal Strategic Statement and the State Planning Policy Framework. It proposes to implement Design and Development (DDO), and Significant Landscape Overlays (SLO) and rezone land to the Residential 1 Zone.

The proposed DDO and SLO will provide statutory requirements for new development within Gordon, which will ensure that new development achieves the preferred character and is sympathetic to, and maintains, the existing built form.

The Panel did not recommend that the commercial area of Gordon be zoned Business 1 at this time, rather recommending that a larger area remain Township Zone subject to further work being undertaken.

If the panel recommendation is support the proposed amendment, however, will maintain the Main Street's role in being the location for commercial and retail uses, with the wider area being rezoned to Residential 1 with minimum lot sizes, to enable the sense of space, which is part of the country village character to be maintained and further enhanced.

To provide direction to Council as to how best to proceed with the amendment, a Planning Panel was appointed to consider these issues. All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. The Panel reviewed the merits of the Amendment, and all submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

The Panel Hearing process and findings provides a significant planning milestone for Council. It represents a culmination of a significant planning process, which commenced in 2009. A significant amount of community and stakeholder engagement has occurred to the stage of enabling the Amendment to be considered for adoption.

Therefore, it is considered that the Panel's Report, which supports the adoption of the Amendment, is a significant step towards providing the clear articulation of Council's planning policies for Gordon, and will result in a better understanding of the future vision for the township.

Whilst the Panel has recommended that the Amendment be adopted by Council, subject to some changes, it is noted that many of these changes were suggested in Council's submission to the Panel.

Therefore, it is recommended that the modified amendment be submitted to the Minister for Planning for approval.

Consideration of Deputations – Amendment C53 - Gordon Structure Plan

Mr. Andrew Finlayson addressed Council in relation to Amendment C53 – Gordon Structure Plan.

The business of the meeting then returned to the agenda.

Recommendation:

That Council, having considered the recommendations of the Planning Panel's Report regarding Moorabool Planning Scheme Amendment C53, pursuant to Section 27 of the Planning and Environment Act 1987, resolves to:

- 1. Adopt Amendment C53, with changes as recommended by the Panel as follows:**
 - a. Amend Clause 21.09-1, under the heading 'Further Strategic work', to include a further dot point:**
 - i. Prepare a revised Structure Plan for Gordon.**
 - b. Amend dot point nine of the Strategies to Clause 21.09-1 to read:**
 - i. Ensure that new development in the township responds to bushfire risk in a way that minimises loss of the environmental values of the surrounding landscape.**
 - c. Retain land bounded by Brougham Street, Tennyson Street, Urquhart Street and Lyndhurst Street in the Township Zone.**
 - d. Except for that part of the residential area to be retained in the Township Zone, adopt the Residential 1 Zone, as exhibited.**
 - e. Adopt Schedule 2 to the Significant Landscape Overlay, as revised by Council post exhibition, and included at Appendix D in the Panel Report.**
 - f. Remove reference to "(Commercial Zones)" in the heading "General design objectives for the core town centre" in Schedule 5 to the Design and Development Overlay and adopt the revised post exhibition version, as included at Appendix E in the Panel Report.**
- 2. Not accept the Panel recommendation 1 and 2 that the Gordon Structure Plan 2013 not be adopted as a Reference Document and Delete reference to the Gordon Structure Plan 2013 under Clause 21.09-1 and Clause 21.11.**
- 3. Submit the adopted Amendment C53, together with the prescribed information, to the Minister for Planning requesting approval pursuant to Section 31(1) of the Planning and Environment Act 1987.**
- 4. Note the Panel's recommendations about the issues to be addressed in reviewing the Gordon Structure Plan.**

SUSPENSION OF STANDING ORDERS 5.10PM**Resolution:**

Crs. Edwards/Dudzik

That Standing Orders be suspended to facilitate a discussion on Item 11.2.1.

CARRIED.

RESUMPTION OF STANDING ORDERS 5.12PM**Resolution:**

Crs. Edwards/Toohey

That Standing Orders now be resumed to facilitate a return to the business of the Agenda.

CARRIED.

The business of the meeting then returned to the Agenda. Item 11.2.1 Titled Amendment C53 - Gordon Structure Plan.

Resolution:

Crs. Toohey/Sullivan

That Council, having considered the recommendations of the Planning Panel's Report regarding Moorabool Planning Scheme Amendment C53, pursuant to Section 27 of the Planning and Environment Act 1987, resolves to:

- 1. *Adopt Amendment C53, with changes as recommended by the Panel as follows:***
 - a. *Amend Clause 21.09-1, under the heading 'Further Strategic work', to include a further dot point:***
 - i. *Prepare a revised Structure Plan for Gordon.***
 - b. *Amend dot point nine of the Strategies to Clause 21.09-1 to read:***
 - i. *Ensure that new development in the township responds to bushfire risk in a way that minimises loss of the environmental values of the surrounding landscape.***
 - c. *Retain land bounded by Brougham Street, Tennyson Street, Urquhart Street and Lyndhurst Street in the Township Zone.***

- d. ***Except for that part of the residential area to be retained in the Township Zone, adopt the Residential 1 Zone, as exhibited.***
 - e. ***Adopt Schedule 2 to the Significant Landscape Overlay, as revised by Council post exhibition, and included at Appendix D in the Panel Report.***
 - f. ***Remove reference to “(Commercial Zones)” in the heading “General design objectives for the core town centre” in Schedule 5 to the Design and Development Overlay and adopt the revised post exhibition version, as included at Appendix E in the Panel Report.***
2. ***Not accept the Panel recommendation 1 and 2 that the Gordon Structure Plan 2013 not be adopted as a Reference Document and Delete reference to the Gordon Structure Plan 2013 under Clause 21.09-1 and Clause 21.11.***
 3. ***Submit the adopted Amendment C53, together with the prescribed information, to the Minister for Planning requesting approval pursuant to Section 31(1) of the Planning and Environment Act 1987.***
 4. ***Note the Panel’s recommendations about the issues to be addressed in reviewing the Gordon Structure Plan.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Friday, 14 February 2014

11.2.2 Amendment C70 – Anomalies (Correction of Mapping Errors within the Moorabool Planning Scheme)

Introduction

File No.: U/MPS
Author: Shane Schmidt
General Manager: Satwinder Sandhu

Background

In the last two years a number of errors in the planning scheme and maps have been identified. These errors are clerical in nature or are result of public land returning to private without necessary zoning changes. A planning scheme amendment is required to correct these errors and can be done under Section 20(1) of the *Planning and Environment Act 1987* which exempts the amendment from the public notice requirements of section 20(2) of The Act.

The Amendment

Amendment C70 seeks to fix twenty. one (21) errors within the Moorabool planning scheme including 18 mapping errors and 3 policy errors. These errors are found in Attachment 11.2.2.

Discussion

Correcting the identified errors will have no impact on the amenity, planning policies, owners and surrounding owners of the subject properties. The amendment is clerical in nature with no policy implications. For this reason it is recommended Council seek an exemption from notification of the amendment under *section 20 (2) of the Planning and Environment Act 1987*.

Notification may still be necessary to relevant authorities and prescribed ministers under *section 20 (2)* of the act, however the Minister may remove the requirement to be sent to landowners affected by the amendment therefore removing the need for a planning panel and lengthy amendment process.

Policy Implications

The 2013. 2017 Council Plan provides as follows:

Key Result Area	Enhanced natural and Built Environment
Objective	Effective and efficient land use planning and building control
Strategy	Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support the social, economic, environment and well-being of the Shire.

Financial Implications

Council officer time and resources are involved in the preparation of the amendment documentation. It is not expected more than normal administration costs will be required for the amendment process.

Risk & Occupational Health & Safety Issues

There are unlikely to be any risk and occupational health and safety implications for Council.

Communications Strategy

Council will be seeking an exemption from normal exhibition advertising that takes place in the Amendment process. There may still be notification to relevant authorities and prescribed ministers.

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.

General Manager – Satwinder Sandhu

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

Author – Shane Schmidt

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

Conclusion

The proposed amendment is to correct errors found in the Moorabool planning scheme over time with a majority being minor map changes and rezoning of land to reflect ownership and location. No policy implications will be a result of the amendment and it is therefore requested to seek exemption from normal notification under the *Planning and Environment Act 1987*.

Resolution:**Crs. Sullivan/Toohey*****That Council:***

- 1. Requests authorisation from the Minister for Planning to prepare an amendment which seeks to amend the mapping and planning scheme errors indicated in Attachment 11.2.2.***
- 2. In accordance with section 20(1) of the Planning and Environment Act 1987 (The Act), requests that the Minister for Planning exempt the amendment from the public notice requirements of section 20(2) of The Act, except for the requirement to notify the land owners of the affected sites and the prescribed Ministers.***
- 3. Send out required notice of the amendment in accordance with Section 20 of the Planning and Environment Act 1987.***

CARRIED.

Report Authorisation**Authorised by:****Name:**

Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Friday, 21 February 2014

11.2.3 Planning Application PA2012-244; Proposed dwelling at Lot 1 on PS 435803J, Mt Blackwood Road, Myrniong 3341

Application Summary:	
Permit No:	PA2012-244
Lodgement Date:	12 October 2012
Planning Officer:	Rob Fillisch
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	30 December 2013
Address of the land:	Mt Blackwood Road, Myrniong
Proposal:	Proposed dwelling and shed
Lot size:	4.35 hectares
Why is a permit required	<p>Clause 35.07-1 . Farming Zone . use falls within Section 2</p> <p>Clause 43.02 . Design & Development Overlay (DDO2) . buildings and works</p>
Public Consultation:	
Number of notices to properties:	8
Notices on site:	One
Notice in Moorabool Newspaper:	No
Number of Submissions:	Eighteen (18)
Consultation meeting:	No consultation meeting was held as the permit applicant following the public notice period decided to amend the application by deleting the proposed intensive animal husbandry component. A second public notice period took place after the application was amended.

Policy Implications:	
Key Result Area	Enhanced Infrastructure and Natural Built Environment.
Objective	Effective and efficient land use planning and building controls.
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. <i>Manager – Sian Smith</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author – Robert Fillisch</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
Executive Summary:	
The planning application seeks approval for the erection of a dwelling and shed. Initially, the application included the use of the site for intensive animal husbandry (raising chickens). The application has been advertised twice and eighteen submissions were received, all but one being objections. The objections primarily focused on the use of the site for intensive animal husbandry. The permit applicant subsequently amended the planning application to delete the intensive animal husbandry component. The subject site is a battle-axe shape with the western portion adjacent to Mt Blackwood Road being largely cleared. The property has two portions divided by the Korkuperrimal Creek, which is within a reserve vested in Council. The eastern area of the site has native tree cover.	

The proposal is to construct a dwelling and shed on the western portion of the site close to Mt Blackwood Road. No native vegetation removal is proposed. Properties on the west side of Mt Blackwood Road contain large holdings used for agricultural purposes. Properties on the eastern side of Mt Blackwood Road in this vicinity have relatively smaller holdings and have less of an agricultural capability.

The application was referred to all appropriate authorities and within Council departments for comment. Additional information was requested with regards to the potential impacts of the intensive animal husbandry component of the proposal. The application, post amendment has been re-referred to the same agencies. None have objected subject to the inclusion of permit conditions.

The application was reviewed against the provisions of the Moorabool Planning Scheme.

The pre-amended application (i.e. with the intensive animal husbandry component) was problematic on several planning grounds. The deletion of this contentious element removes a number of the grounds of concern. The immediate area is of a low-density rural residential appearance with an attractive native vegetation backdrop. Dwellings are evident from Mt Blackwood Road.

This report recommends that Council issue a Notice of Decision to Grant a permit for the use and development of a dwelling and shed.

Summary Recommendation:

That having considered all relevant matters as required by s.60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to Grant a Permit to use and develop the land for a dwelling and shed at Lot 1 on PS 435803J, Mt Blackwood Road, Myrniong subject to permit conditions.

Background

The original application sought approval for a dwelling, outbuilding and the use of the site for intensive animal husbandry. The application was accompanied by a farm management plan and a land capability assessment. A number of the submissions received from nearby landowners identified deficiencies with the detail and projections associated with the intensive animal husbandry component.

The State Government amended the provisions of the Farming Zone on the 5 September 2013. One of the changes was the removal of the requirement that an applicant show a nexus between a proposed dwelling and the agricultural activity onsite. Council is still required to consider any potential adverse impact on surrounding agricultural activities by a proposed dwelling.

The permit applicant on the 27 September 2013 decided to amend the application to delete the intensive animal husbandry component. The application now only seeks approval for the use and development of a dwelling and shed.

A previous permit PA2001-327 was issued for the construction of a dwelling in 2002. The dwelling was commenced with the installation of stumps, however no further progress was made and the permit has now expired. This application is to construct the same dwelling.

Proposal

It is proposed to construct a dwelling and shed within the eastern portion of the site. Details of the proposal can be summarised as follows:

- The dwelling will be single storey.
- It will have a footprint of 17m x 11m.
- The dwelling will have a pitched roof and with maisonette walls.
- The shed will be located to the south west of the dwelling and setback approximately 6m from the west (front) boundary.
- The shed will have a height of 3m. It will have a footprint of 14.4m x 9m.
- Vehicle access would be via an existing accessway to Mt Blackwood Road.
- No vegetation would be removed to construct the building or works.
- A septic system is located to the south east of the dwelling.

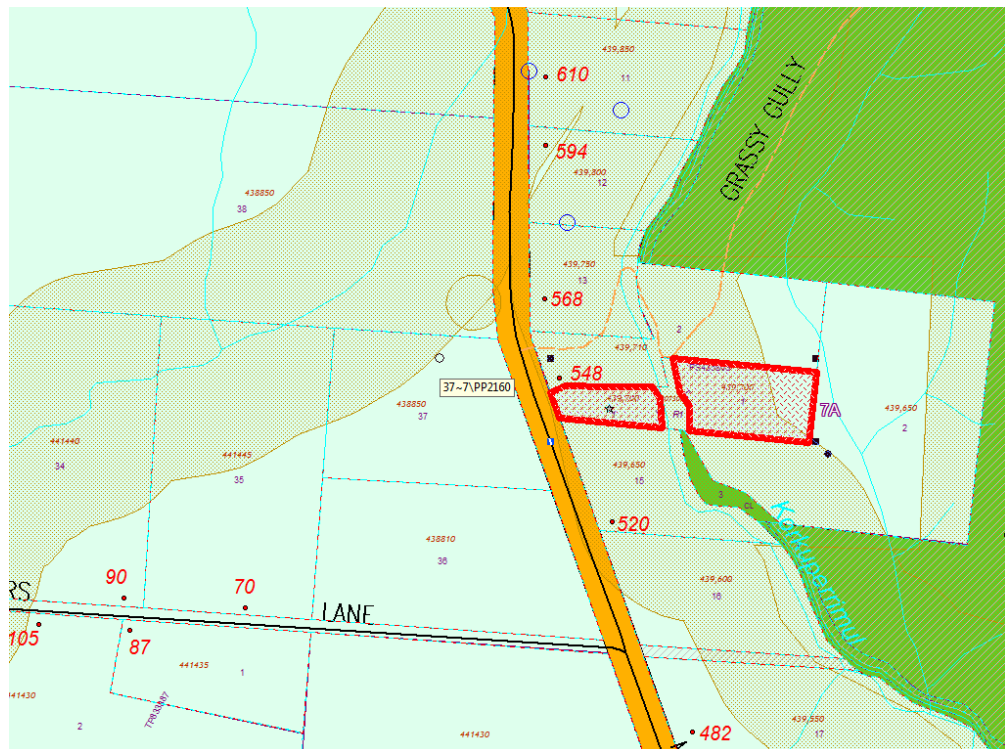
Site Description

The subject site has a battle-axe shape with a frontage of 49.27m to Mt Blackwood Road. The land area is 4.35 hectares. The eastern portion of the site is largely cleared and there is an outbuilding located centrally to the frontage. The eastern portion of the site slopes down to the Korkuperrimal Creek, which runs north south in this location. The creek and immediate surrounds are contained within a reserve that is vested in Council. The eastern and western portions of the subject site are joined on the title by a vinculum. The land is not actively used for agriculture.

There are agricultural properties set on large lots on the west side of Mt Blackwood Road. Properties on the eastern side of Mt Blackwood Road are typically smaller and have rear abuttal to the Lerderderg State Forest. A number of these properties have dwellings on them and low scale agricultural activity.

Locality Map

The map below indicates the location of the subject site and the zoning applicable to 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).

SPPF		
Clause 12.01	Biodiversity/Native Vegetation	Planning policy seeks to protect and enhance the natural environment. The proposal does not include the removal of native vegetation as the area designated for development is cleared.
Clause 13.05	Bushfire	The eastern area of the subject site is located in an area identified as being at risk of bushfire. As the buildings are proposed outside the area of the site covered by the Bushfire Management Overlay these provisions do not apply. Nonetheless Council's Infrastructure Department has required a condition relating to achieving suitable access.

Clause 14.01-1	Protection of agricultural land use	<p>The objective of this policy is to protect productive farmland of strategic significance in the local or regional context.</p> <p>The proposal is not considered to adversely impact on the agricultural capacity of nearby land. The subject site has only limited potential for agriculture given the topography, split holdings (i.e. caused by the creek) and native tree coverage.</p>
Clause 14.02	Water Quality	<p>Planning policy seeks to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment. Appropriate conditions can be placed on the operation of the proposed septic system.</p>
LPPF		
Clause 21.02	Natural Environment	<p>Policy seeks to protect the ecological values of places such as the Lerderderg State Forest and Korkuperrimal Creek. The proposed septic system is separated some distance from the creek. No native vegetation will be lost as part of the proposal.</p>
Clause 21.02-3	Water catchment and management	<p>Policy seeks to ensure that the removal of all storm water and effluent caused by new development is undertaken in a way which is not to the detriment of the quality or quantity of water in local watercourses and limits downstream effects.</p>
Clause 21.04-2	Agriculture	<p>The policy aims to protect good quality land and support the productivity and sustainability of existing and future agricultural and horticultural activities. The proposal will not adversely impact on the agricultural capacity of surrounding land.</p>

Zone

The land is zoned Farming under the Moorabool Planning Scheme. Pursuant to Clause 35.07-1, a planning permit is required to use and develop a dwelling on a lot less than 40 hectares.

The purpose of the zone is:

- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To protect and enhance natural resources and the biodiversity of the area.*

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider the decision guidelines under the zone provisions.

Overlays

The area where the proposed development is to occur is within the Design and Development Overlay . Visual amenity and building design (DDO2).

Pursuant to Clause 43.02-2, a planning permit is required to construct a building if external walls or roof areas are clad with non-reflective materials.

The design objectives are:

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

In this instance the DDO2 does trigger the requirement for a planning permit.

A Bushfire Management Overlay and Environmental Significance Overlay (Schedule 2) cover the eastern portion of the site but not the development area and therefore these provisions do not apply to the application.

General Provisions

Under Clause 65, the responsible authority must consider, as appropriate:

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

Discussion

State and Local Planning Policies

Several different strands of planning policies of the Moorabool Planning Scheme are relevant to the assessment of the proposal. The planning policies and controls seek the protection of both agricultural capacity and the natural ecology.

The site locational characteristics are of fundamental importance in the application of the planning scheme policies.

The site is not presently used for agriculture. The building of a house on a small part of the site will not restrict the land for being used for agricultural activities in the future. A dwelling in this location should not adversely impact upon the agricultural activities undertaken on nearby land.

Much of the land contains native vegetation although not where the proposed dwelling is proposed to be located. The proposed dwelling setback at 31.5m from the frontage is considered suitable given the pattern of development. The position of the shed within the front setback would normally not be considered appropriate; however the site is limited due to the topography. In reality the selected site is the only place a shed could be constructed, and it is well screened by existing vegetation and therefore considered to limit the impact on the amenity of the surrounding area.

A Land Capability Assessment submitted with the application recommends an aerated wastewater treatment plan in conjunction with shallow sub-surface irrigation system. Subject to conditions, the proposed use and development should not adversely impact on the quality of the adjacent creek.

The proposal for a dwelling and shed on the site is considered reasonable given the locational characteristic subject to permit conditions.

Environmental Significance

The proposed position of the dwelling and shed is within a cleared area of the site. The existing accessway is available from Mt Blackwood Road. The Land Capability Report makes recommendations concerning the proposed septic system. The new development is within a fairly level area of the site well removed from the adjacent creek. The proposal should cause no undue adverse environmental outcomes

Clauses 35.07, 43.02 & 65 – Decision Guidelines

The proposal is considered to be consistent with the zoning and overlay provisions.

The proposed development occurs within the most suitable area of the site where there are minimal topographical or vegetation issues. The proposal would be consistent with the general pattern of development on the east side of Mt Blackwood Road.

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. Notice was also provided to Council departments and internal sections of Council who were provided with an opportunity to make comment on the proposed development plan.

Referrals/Notice	Response
Section 55 Referrals: Western Water Southern Rural Water Port Phillip CMA	No objection No response No response
Section 52 notice: Melbourne Water	No objection.
Internal Council Referrals Environmental Health Officer Infrastructure	Consent with conditions. Consent with conditions.

Public Notice

Notice of the application consisted of notice to nearby landowners and an onsite notice. The advertising process was from 8 April 2013 to 22 April 2013. Following the amendment of the application with the deletion of the intensive animal husbandry component, the application was readvertised by mail on the 15 October 2013. A total of eighteen (18) submissions were received over both advertising periods.

Two objections from the same person were withdrawn when the application was amended to a dwelling and shed only.

Summary of Objections

The objections received are detailed below with officer's comments accompanying them. The primary focus of many of the objections related to the intensive animal husbandry component. As this no longer forms part of the application, comment is limited to issues associated with the proposed dwelling and shed.

Objection	Officer's response
The buildings are too close to the frontage.	As discussed in the report there is limited provision for a shed on the site due to the topography. The shed will be close to the frontage however this is well screened by existing vegetation.
An increase in dwelling density would have adverse impacts on the amenity of the area.	A number of dwellings front the east side of Mt Blackwood Road. These properties have low scale agricultural activity. The proposal fits with the general pattern of development in the locality.
Access to the eastern portion of the block is uncertain.	The eastern and western portions of the land are separated by the Korkuperrimal Creek, which runs north south in this location. There is a bridge located adjacent the site, the legal status of which in terms of rights of way is uncertain. The proposed dwelling and shed are located on the western portion of the site with direct access to Mt Blackwood Road; therefore the status of the bridge is irrelevant to the consideration of the application and is a civil matter.
An increase in traffic will occur.	The application has been assessed by Council's Infrastructure Department and found to be satisfactory subject to the inclusion of permit conditions.

Other policies/procedures

Council adopted the Rural Growth Policy Statement at the Ordinary Meeting of Council of 5 September 2012. Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

This policy seeks to articulate the Council's support for resilient and integrated rural communities and agricultural enterprises. This policy has been considered to the extent appropriate in the writing of this report.

Financial Implications

The recommendation of approval of this development does not implicate any Financial risk issues to 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. A consultation meeting has not taken place as the application was amended in such a way whereby the primary contentious element was deleted.

Conclusion

The proposal is considered to be an appropriate use and development of the site. The proposal is not expected to compromise the agricultural capability of surrounding land and will be generally consistent with the established pattern of development.

The application has been assessed against the relevant sections of the Moorabool Planning Scheme, and found to be consistent with the provisions therein. The application can be issued with a Notice of Decision to Grant a Permit.

Resolution:

Crs. Toohey/Sullivan

That having considered all matters as prescribed by s.60 of the Planning and Environment Act, Council issues a Notice of Decision to Grant a Permit PA2012-244 for the development and use of a dwelling and shed at Lot 1 on PS 435803J, Mt Blackwood Road, Myrniong subject to the following conditions:

1. ***Before the development starts, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the plans submitted but modified to show:***
 - a) ***An amended site plan showing the effluent field in accordance with the recommendations in the Land Capability Assessment report by Provincial Geotechnical Pty Ltd (Ref. A3090, 26 January 2013).***
 - b) ***Elevation and floor plans showing the proposed dwelling.***
 - c) ***The dwelling and shed elevations be modified to show a non-reflective roofing material.***

Such plans must be to the satisfaction of the Responsible Authority and when approved, will be endorsed and form part of this permit.
2. ***The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
3. ***All external materials to be used in the construction of the dwelling and shed hereby permitted shall be of muted toning and non-reflective and shall not result in any adverse visual impact on the amenity of the surrounding area to the satisfaction of the Responsible Authority.***
4. ***Prior to the issue of Certificate of Occupancy for the dwelling the permit holder must provide a Land Management Plan to the satisfaction of the Responsible Authority. When endorsed the Land Management Plan will form part of the permit.***

Environmental Health

5. ***An Aerated Wastewater Treatment System (AWTS) that produces wastewater to a minimum standard of 20/30 (BOD/suspended solids) must be installed.***
6. ***Due to the nature of the soil on site, soil conditioning must be applied to the effluent disposal field area to facilitate improved effluent drainage.***
7. ***All conditions by the Land Capability Assessment by Provincial Geotechnical Pty Ltd (Ref. A3090, 26 January 2013) must be adhered to.***

8. ***The applicant must submit an application to install a septic system.***

Infrastructure

9. ***A standard rural vehicle crossing with culvert must be provided on Mt Blackwood Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.***
10. ***The property access and the internal driveways must be constructed in accordance with the requirements specified in the CFA publication "Building in a Wildfire Management Overlay".***
11. ***Stormwater drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any wastewater disposal areas.***
12. ***Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).***
13. ***Unless otherwise approved by the Responsible Authority, there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
14. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.***

Expiry

15. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit.***
 - b) ***The development is not completed within four years of the date of this permit.***

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

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Thursday, 13 February 2014



11.2.4 Planning Application PA2013-236; Two (2) Lot Subdivision and Development of Two (2) Dwellings, Lot 3 on PS536561T, 43 Inglis Street, Ballan.

Application Summary:	
Application No:	PA2013-236
Lodgement Date:	8 October 2013
Planning Officer:	Natalie Robertson
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	8 December 2013
Address of the land:	Lot 3 on PS 536561T 43 Inglis Street, Ballan
Proposal:	Two Lot Subdivision and Development of Two (2) Dwellings
Lot size:	442 sq m
Restrictive covenant	Covenant PS536561T
Why is a permit required?	Pursuant to the Moorabool Planning Scheme, Clause 32.01-2 a permit is required to subdivide land and under Clause 32.01-4 a planning permit is required to construct two or more dwellings on a lot.
Public Consultation:	
Number of notices to properties:	Nine (9)
Notices on site:	One
Notice in Newspaper:	Nil
Number of objections:	Two (2)
Submission of support:	Nil
Consultation meeting:	The inadequacies of the proposal determined that a recommendation for refusal would be put to Council and therefore no consultation meeting was held.

Policy Implications:	
Key Result Area -	Enhanced Infrastructure and Natural Built Environment.
Objective -	Effective and efficient land use planning and building controls.
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. <i>Manager – Sian Smith</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author –Natalie Robertson</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	

Executive Summary:

The application is for the construction of two (2) double storey dwellings on Lot 3, 43 Inglis Street, Ballan. This application is before Council due to the inadequacies of the proposal and receipt of two objections from nearby neighbours.

The site has an area of 430 sq m and a restrictive covenant which limits dwelling development to within a building envelope of 150sqm. While the proposed development provides housing choice for a range of households, which accords with State and Local Planning Policies, and the objectives of the zone, it is considered that the layout and design of the development is not in accordance with the character of the surrounding area and does not provide for an amenable living environment.

The layout of the dwellings on the site does not meet all the requirements of Clause 55 (Rescode) of the Moorabool Planning Scheme.

Objections relate to lack of aesthetics, design character, overshadowing, overlooking and suitability of the development on the site. Details of the objectors concerns and response to the key issues have been provided in the report.

It is considered that the proposal is inconsistent with the pattern of development and character in the area and further the proposed development fails to comply with some requirements of Clause 55.

Summary Recommendation:

The proposal has been assessed against the relevant components of the Planning and Environment Act 1987, particularly with regard to Section 61 (4), the Moorabool Planning Scheme, particularly those set out in the State and Local Planning Policy Framework, Clause 32.01-4 - Residential 1 Zone . and Clause 55 of the Moorabool Planning Scheme (Rescode). It is considered that the proposal is generally inconsistent with requirements of the scheme which is outlined in detail in this report.

It is recommended that Council resolve to Refuse to Grant a Permit for this application pursuant to Section 61(1) and (4) of the Planning and Environment Act 1987 on grounds contained later in this report.

Site and Surrounds

The subject site is on the southern side of Inglis Street, Ballan close to the eastern gateway to the township. The site is almost triangular in shape with a frontage of 14.7m, rear of 14.51m, western side boundary of 31.59m and eastern side boundary of 29.27m. The site is 442sqm in area, however dwelling development is limited to a building envelope of 150sqm. A crossover is provided to the site.

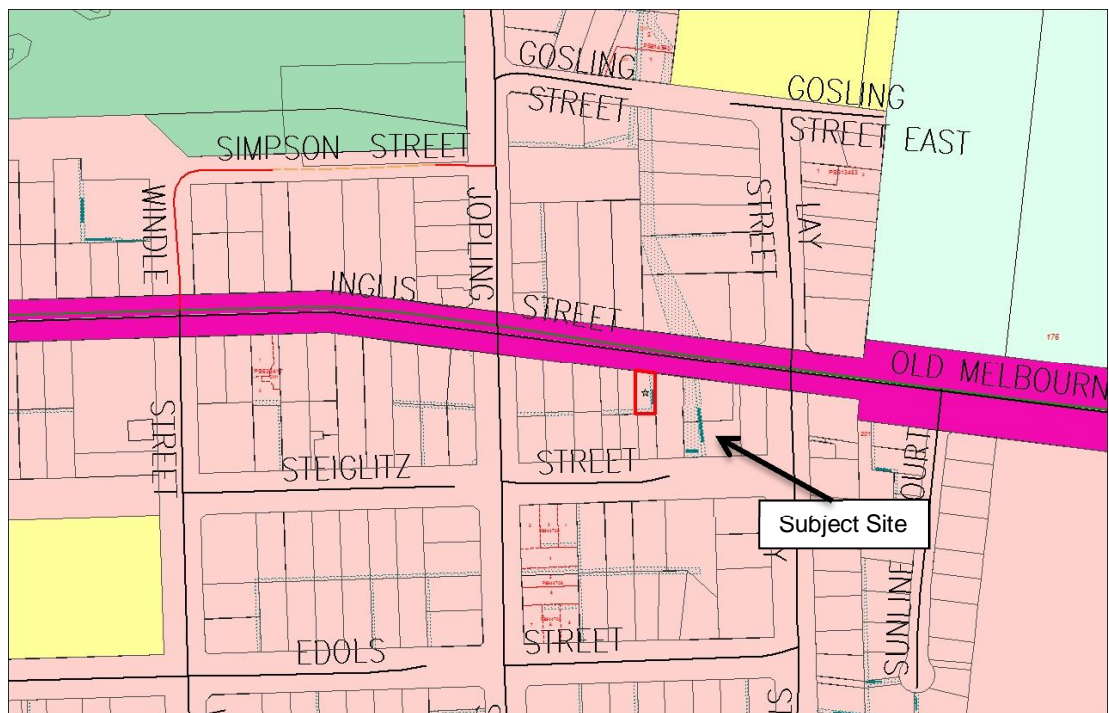
The site is encumbered by a 3m wide easement along the length of the rear and eastern side boundary and the building envelope is shown as a hatched portion of land on the title plan.

There are dwellings on each side of the subject site with 9m to 8m setbacks. These dwellings, as with most in the neighbourhood are single storey. Dwellings styles vary greatly and there are multi dwelling developments within the area

The area is zoned Residential 1 and is a mixture of new and older dwellings with varied styles and lot sizes. The subject site is 620 m east of the commercial area of Ballan. There is access to public open space and is within a reasonable distance to community facilities and services such as schools, shopping, medical facilities and approximately 1km north of the Ballan train station. There is no bus service within Ballan.

Inglis Street is a Road Zone Category 1 road with a 12m wide sealed road, a wide grassed nature strip and concrete footpath passing the site.

There is no significant vegetation on the subject site, however a mature tree of at least 6m in height sits within the road reserve.



Proposal

The proponent seeks approval for the construction of two (2) dwellings and a two lot subdivision of the land.

The dwellings would be double storey dwellings which share a central common wall. The dwellings would be located within the building envelope and each dwelling would comprise:

Ground Floor:

- Kitchen
- Meals / living area
- Laundry
- Stairway
- Storage area under stairwell
- Single car garage

First Floor:

- Bedroom 1 with ensuite;
- Bedroom 2
- Bathroom
- Linen closet
- First floor land

The dwellings would be rectangular and have a north south orientation with some site levelling proposed. Dwelling 1 has a setback of 7.184m and dwelling 2 a setback of 7.860m. Each dwelling has a ground floor area of 82.09sqm and first floor area of 55.97sqm with a total floor area for each dwelling being 138.06sqm.

Dwelling 1 has private open space of 57.38sqm with secluded private open space totalling 43.82sqm.

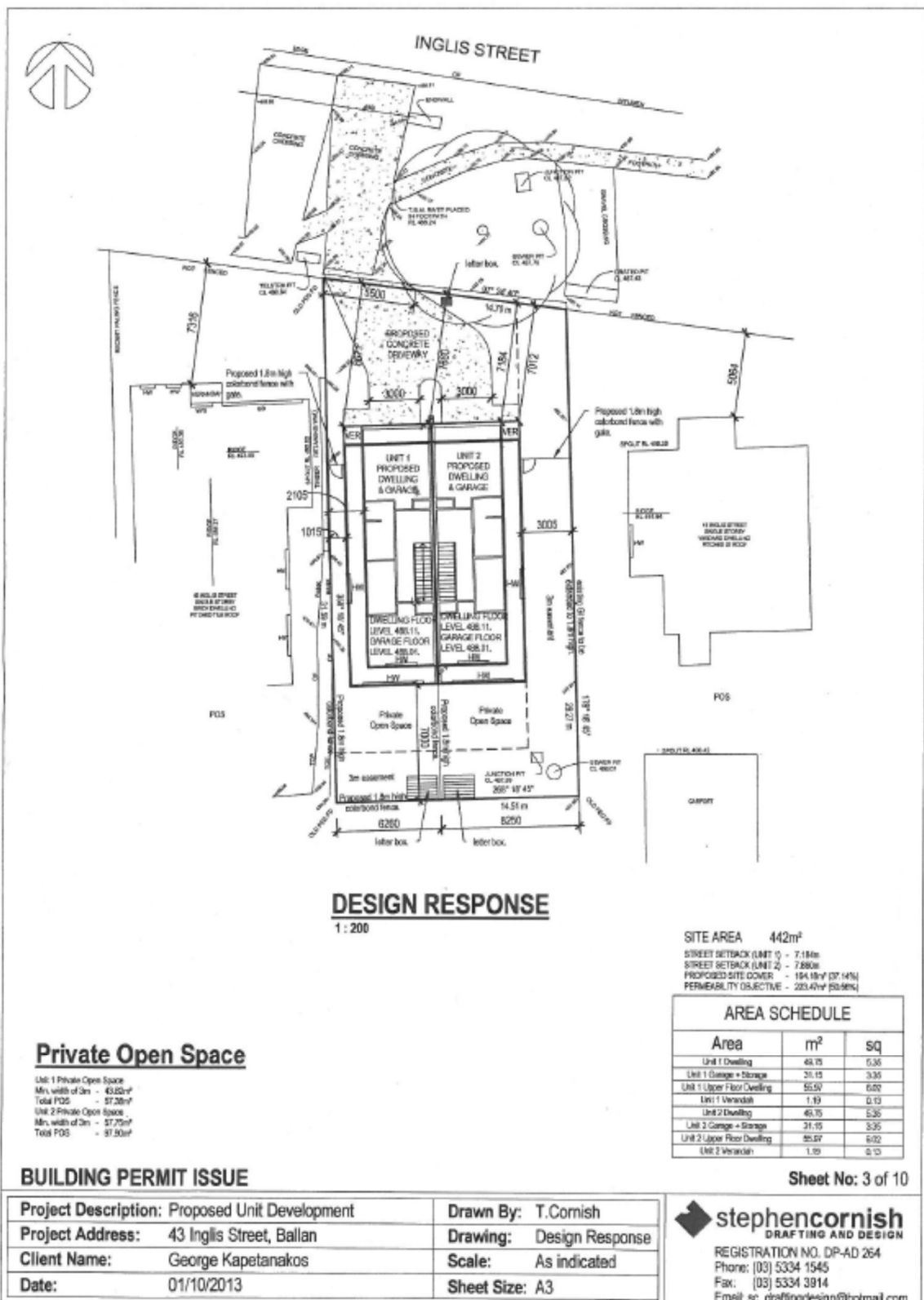
Dwelling 2 has private open space totalling 97.90sqm with private open space totalling 57.75sqm.

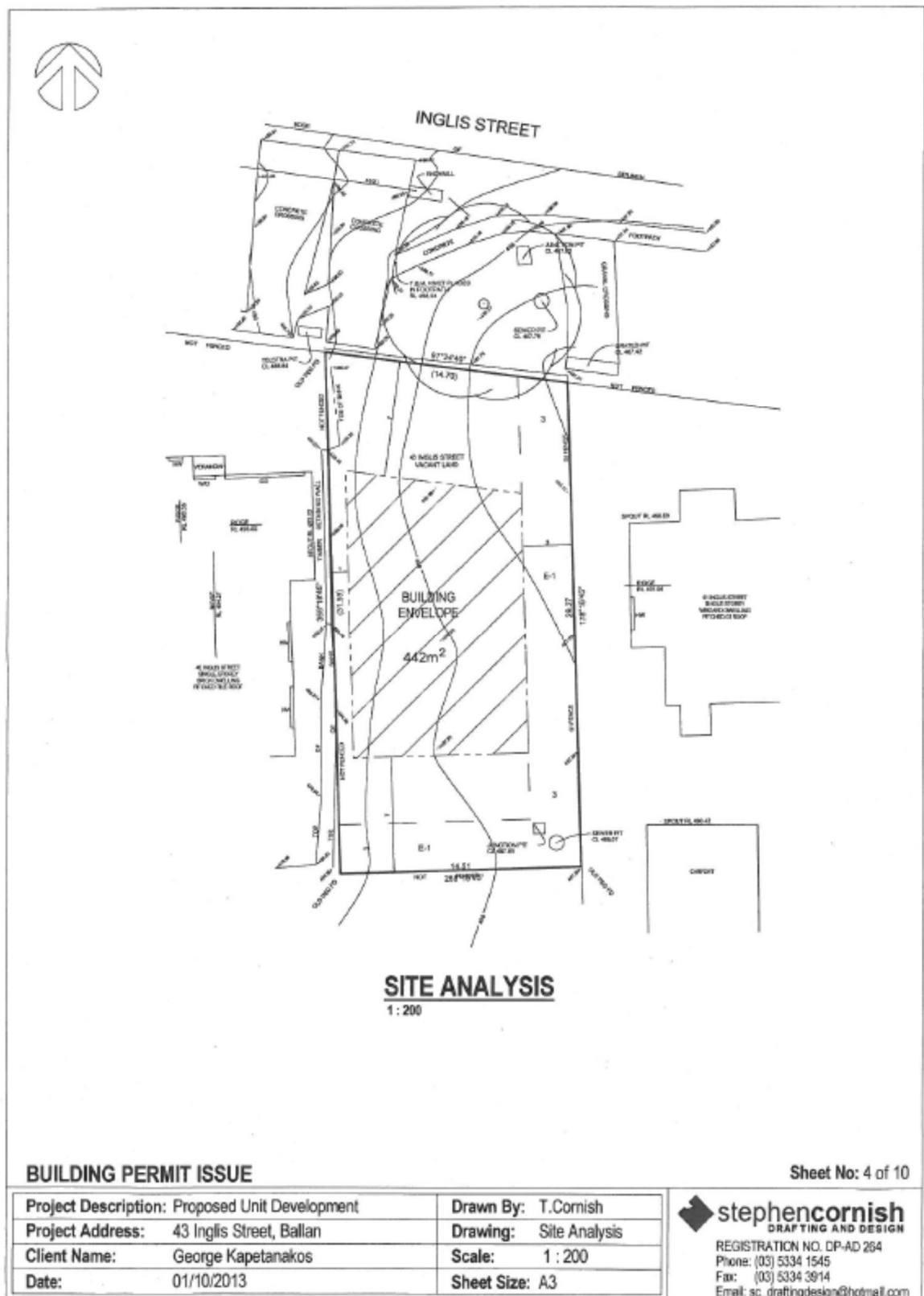
Access is via an existing single concrete crossing onto a curved concrete driveway.

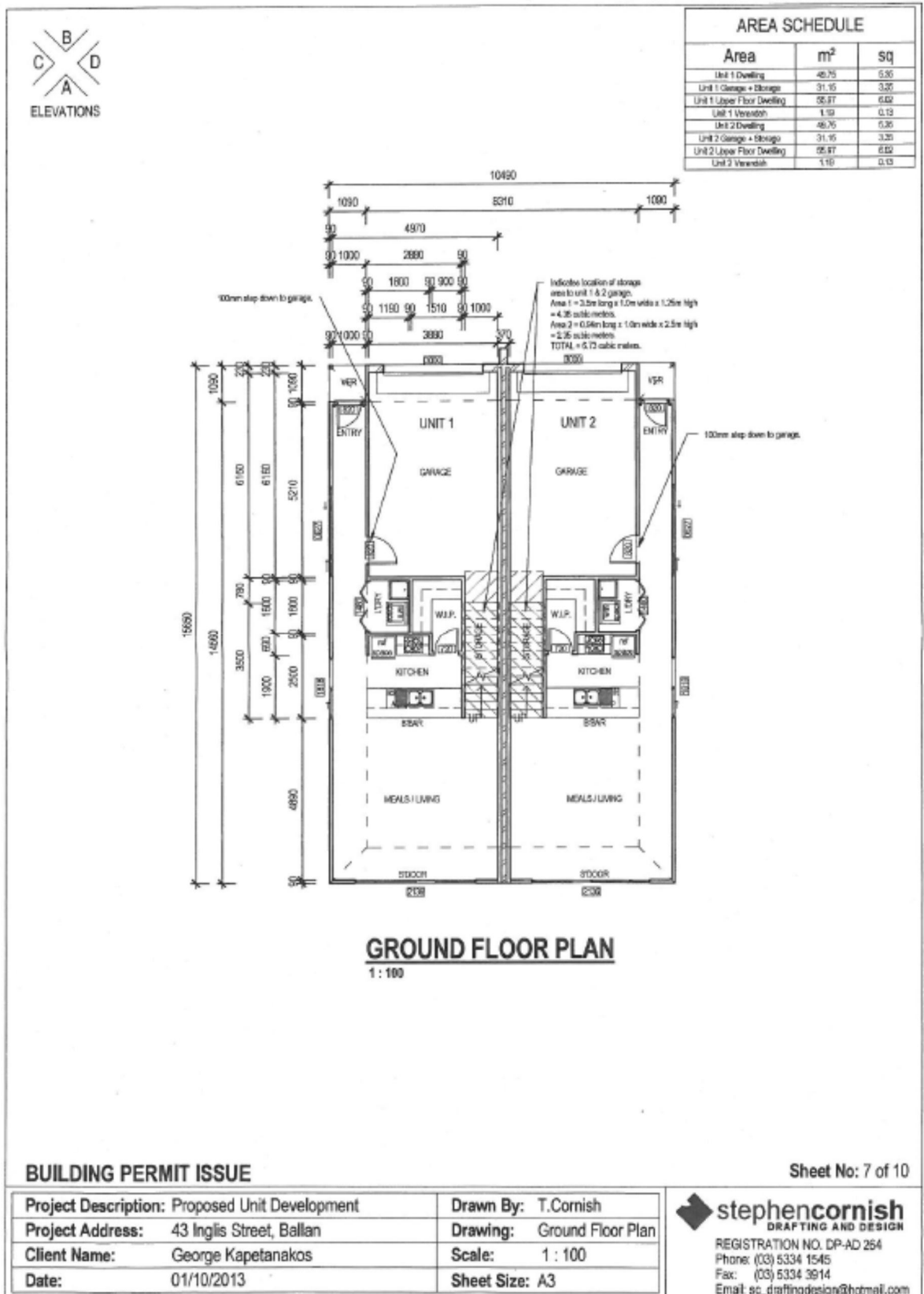
No front fence to Inglis Street is proposed.

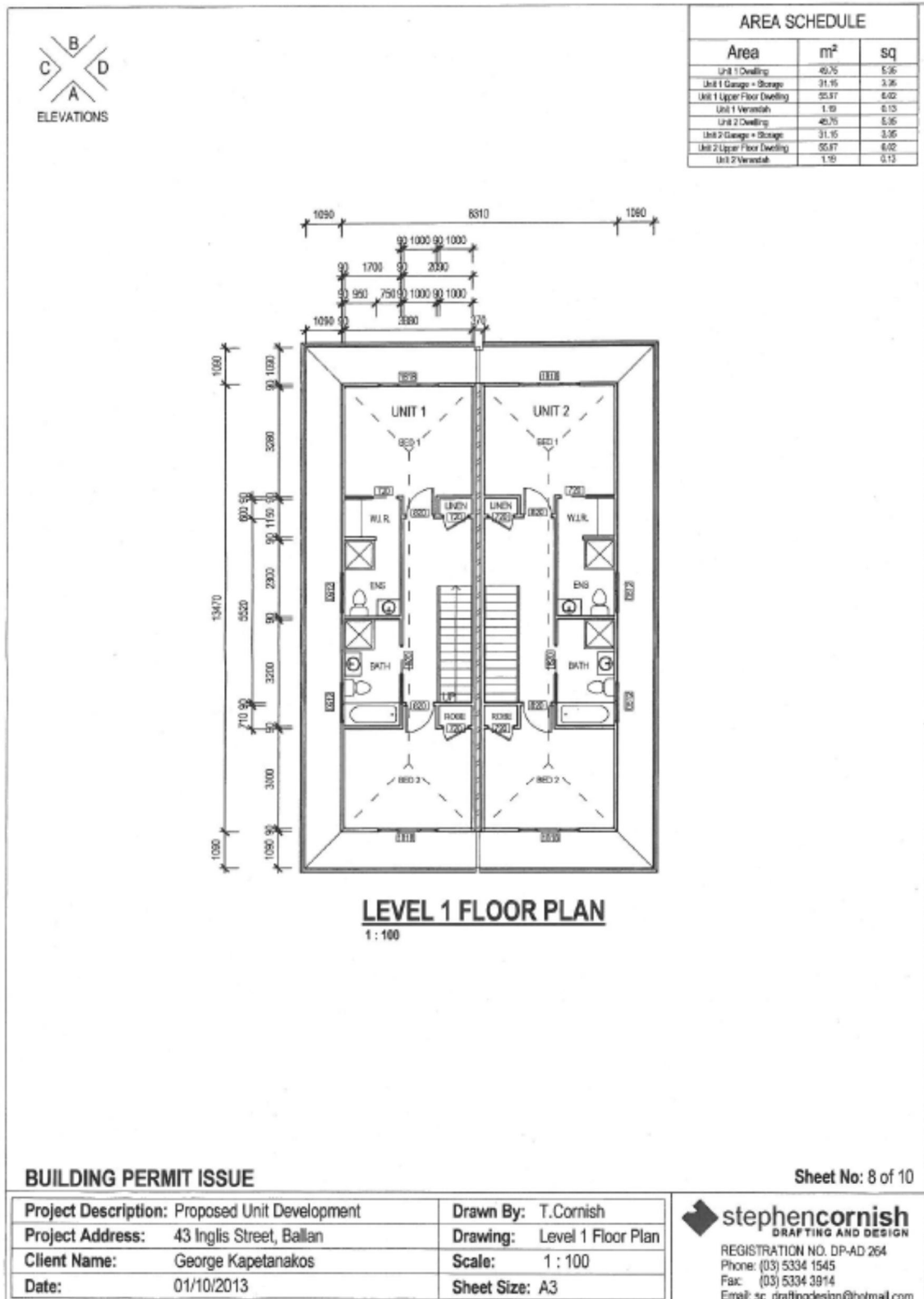


<p>DESCRIPTION OF RESTRICTION CREATED BY PS 53656IT :</p> <p>No dwelling shall be constructed on lots 1, 2 & 3 PS 53656IT other than in accordance with the dwelling envelopes shown hatched herewith.</p> <p>Any dwelling constructed on Lot 1 PS 53656IT shall have a minimum Floor Level of 489.50</p> <p>Any dwelling constructed on Lot 2 PS 53656IT shall have a minimum Floor Level of 488.60</p> <p>Any dwelling constructed on Lot 3 PS 53656IT shall have a minimum Floor Level of 488.00 (Heights indicated herein are based on A.H.D. (PM 20 BALLAN))</p> <p>VARIATIONS : Variations of these requirements will require planning approval from the Responsible Authority.</p> <p>Land to benefit : Lots on PS 53656IT. Land to be burdened : Lots on PS53656IT.</p> <p>DWELLING ENVELOPE IS INDICATED THUS : </p>	<p>PS 722250A</p>	
<p>LAND MANAGEMENT SURVEYS (MELB) 34 BALCOMBE ROAD, (P.O. BOX 158) MENTONE 3194 Ph : 9583 0888 Fax : 9583 5888 Email: lms_melb@dmpl.com.au</p>	<p>SCALE 1:150 LENGTHS ARE IN METRES</p> <p>DIGITALLY SIGNED BY LICENSED SURVEYOR: REF 10946 VERSION 01</p>	<p>Sheet 3 ORIGINAL SHEET SIZE A3</p>



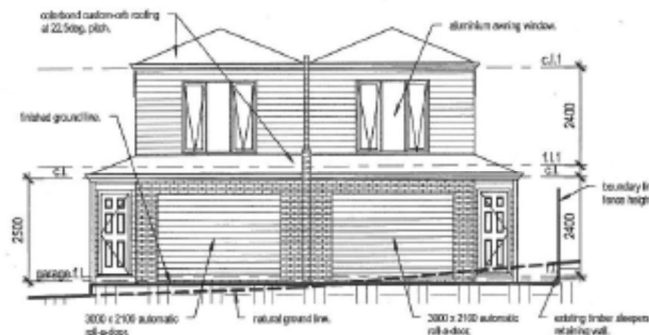






**ELEVATION A (SOUTH)**

1 : 100

**ELEVATION B (NORTH)**

1 : 100

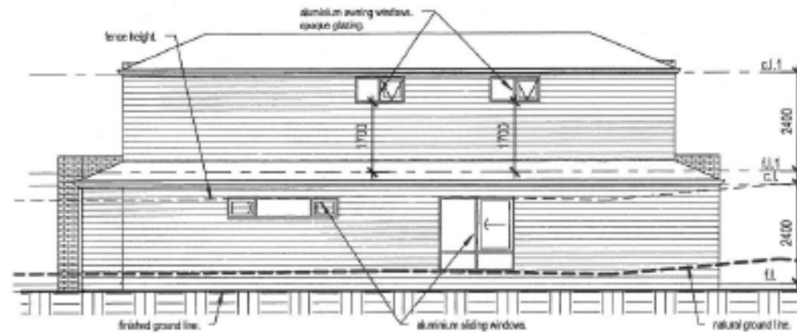
BUILDING PERMIT ISSUE

Sheet No: 9 of 10

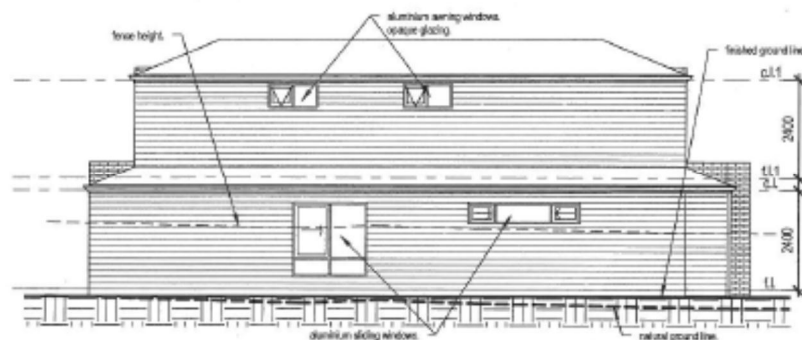
Project Description: Proposed Unit Development	Drawn By: T.Cornish
Project Address: 43 Inglis Street, Ballan	Drawing: Elevations
Client Name: George Kapetanakos	Scale: 1 : 100
Date: 01/10/2013	Sheet Size: A3

stephencornish
DRAFTING AND DESIGN
REGISTRATION NO. DP-AD 264
Phone: (03) 5334 1545
Fax: (03) 5334 3914
Email: sc_draftingdesign@hotmail.com

01/10/2013

**ELEVATION C (WEST)**

1 : 100

**ELEVATION D (EAST)**

1 : 100

BUILDING PERMIT ISSUE

Sheet No: 10 of 10

Project Description: Proposed Unit Development

Drawn By: T.Cornish

Project Address: 43 Inglis Street, Ballan

Drawing: Elevations

Client Name: George Kapetanakis

Scale: 1 : 100

Date: 01/10/2013

Sheet Size: A3

**stephencornish**
DRAFTING AND DESIGN

REGISTRATION NO. DP-AD 264

Phone: (03) 5334 1545

Fax: (03) 5334 3914

Email: sc_draftingdesign@hotmail.com

01/10/2013

Restrictive Covenant

Pursuant to Section 61 of the Planning and Environment Act 1987:

- (4) *if the grant of a permit would authorise anything which would result in a breach of a registered restrictive covenant, the responsible authority must refuse to grant the permit unless a permit has been issued, or a decision made to grant a permit to allow the removal or variation of the covenant.*

The Restrictive Covenant on the land is shown on the land title as No. PS536561T. The Restriction states:

"No dwelling shall be constructed on lots 1, 2 & 3 other than in accordance with the dwelling envelopes shown hatched herewith."

"...Any dwelling constructed on Lot 3 shall have a minimum Floor Level of 488.00."

Heights for minimum floor levels are based on Australian Height Datum (AHD).

The building envelope for the subject site is approximately 150sqm and the proposed dwellings have been presented to sit within the envelope.

Elevations do not appear to comply with the minimum floor level requirement and should a permit issue in this matter a condition would be necessary to require plans to be revised to reflect the necessary height.

Planning Scheme Provisions

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

SPPF		
Clause 11	Settlement	The proposal for two dwellings is inconsistent with this policy, which advocates sustainable development that takes full advantage of existing settlement patterns. The dwellings are not consistent with the developments within the balance of the neighbourhood.
Clause 11.02-1	Supply of urban land	Responding to urban consolidation strategies, the size of the site, and more particularly the building envelope, makes it suited to single medium density housing, however the character of the area, the constraints of the lot and the overall design make the proposal inconsistent with the objectives of this policy.

Clause 11.05-2	Melbourne's hinterland	Providing for residential development within the urban growth boundary of the Ballan township is supported by this policy.
Clause 16.01-2	Location of Residential Development	In accordance with policy, the site has reasonable access to public transport given that it is within 1 km of the Ballan train station. There is no public bus service operates in Ballan.
Clause 16.01-4	Housing Diversity	Whilst smaller dwellings cater to greater housing choice the dwellings themselves do not cater to all demographics, particularly the aged or those with limited mobility.
LPPF		
Clause 21.03-3	Residential Development	The proposal is consistent with strategies to extend the range of housing types and densities to improve resident choice and meet changing housing needs, however, the development itself offers only one form of housing choice and does not cater to the aged, aging in place or those with limited mobility,
Clause 21.03-4	Landscape and Neighbourhood Character Objective	The proposal is inconsistent with the general built form of the area. The development is fronted by two garages that visually dominate the lot.
Clause 21.087	Ballan	The proposal encourages consolidation and urban growth within the inner area of Ballan. Any medium density development in the outer areas should be of high quality.

Zone:Residential 1 Zone

The site is located within the Residential 1 Zone. Pursuant to Clause 32.01-2 and Clause 32.01-4 of the Moorabool Planning Scheme a planning permit is required to subdivide the land and a planning permit is required to construct two or more dwellings on a lot.

The purpose of the zone is:

- *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*
- *To encourage residential development that respects the neighbourhood character.*

Road Zone

A permit is required to construct a building or carry out works for a use in Section 2 of Clause 36.04-1 and to subdivide land.

As there is an existing access and it is not intended to alter the existing access to the Road Zone no planning permit is triggered in this regard.

Overlay:

Environmental Significance Overlay

The subject site is affected by an Environmental Significance Overlay . Schedule 1, Proclaimed Water Catchment Areas.

The objective of the overlay is:

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

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

Particular Provisions:

An assessment against Clause 55 of the Moorabool Planning Scheme shows compliance except in the following standards:

Clause	Title	Standard	Compliance
Rescode			
55.02-1	Neighbourhood Character Objectives	B1	Does not comply The proposal does not consider an appropriate design response to the neighbourhood as it fails to respect existing character, fails to respond to the site features and fails to attempt to integrate with the existing neighbourhood character.
55.02-2	Residential Policy	B2	Complies In that the application addresses housing policies in the SPPF, LPPF and MSS and local policies.

55.02-3	Dwelling diversity	B3	N/A
55.02-4	Infrastructure	B4	Complies The development is likely to have connection to all services.
55.02-5	Integration with Street	B5	Complies
55.03-1	Street setback	B6	Complies
55.03-2	Building height	B7	Complies
55.03-3	Site coverage	B8	Complies
55.03-4	Permeability	B9	Complies.
55.03-5	Energy efficiency	B10	Does not comply. The dwellings are not orientated to make appropriate use of solar energy.
55.03-6	Open space	B11	N/A
55.03-7	Safety	B12	Does not comply The style of development provides a front entry dominated by a garage. There is no passive surveillance of the street from the front door and the entry is obscured by the garage.
55.03-8	Landscaping	B13	Does not comply Plans are only indicative. Should a permit issue more detailed landscaping plans would be required.
55.03-9	Access	B14	Complies
55.03-10	Parking location	B15	Complies No lighting has been nominated.
55.04-1	Side and rear Setbacks	B17	Complies
55.04-2	Walls on Boundaries	B18	N/A
55.04-3	Daylight existing windows to	B19	Complies
55.04-4	North facing windows	B20	Complies

55.04-5	Overshadowing open space	B21	Complies
55.04-6	Overlooking	B22	Complies
55.04-7	Internal Views	B23	Complies
55.04-8	Noise impacts	B24	Complies
55.05-1	Accessibility	B25	Does not comply Whilst access to the ground floor of dwellings is accessible to people with limited mobility, the design of all dwellings does not cater to those with limited mobility. No bedrooms or amenity facilities are provided on the ground floor.
55.05-2	Dwelling entry	B26	Does not comply Dwelling entries only partially comply. The design obscures the dwelling entry to the street. The front elevation provides for an entry door and a garage for each dwelling. The design does not provide a sense of personal address or identity.
55.05-3	Daylight to new windows	B27	Complies
55.05-4	Private open space	B28	Complies
55.05-5	Solar access to open space	B29	Complies
55.05-6	Storage	B30	Does not comply Plans do not indicate access to a minimum of 6m ³ of externally accessible, secure storage space.

55.06-1	Design detail	B31	<p>Does not comply</p> <p>The Design of the buildings fails to respect existing neighbourhood character. Particularly where the decision guidelines require consideration of the effect of visual bulk of the building and whether this is acceptable in the neighbourhood setting.</p> <p>Further the design provides no surveillance of the street and provides a design that has no sense of identity or address or a liveable environment.</p>
55.06-2	Front fences	B32	<p>N/A</p> <p>No fence proposed</p>
55.06-3	Common property	B33	Complies
55.06-4	Site services	B34	Complies
Clause	Title	Standard	Compliance
56.03-5	Neighbourhood character	C6	<p>Does not comply</p> <p>Fails to respect existing character and does not respond or integrated with the surrounding environment.</p>
56.04-2	Lot area and building envelope objective	C8	<p>Does not comply</p> <p>Does not offer appropriate siting particularly for solar access and does not support active street frontages or street based community interaction.</p>
56.04-3	Built environment	C5	<p>Does not comply</p> <p>Does not provide a functional or attractive living environment. Does not contribute to a sense of place and identity.</p>
56.04-5	Common area	C11	Complies
56.06-8	Lot access	C21	Complies

56.07	Integrated water management	C22, C23, C24, C25, C26	Complies
56.09-2	Utilities	C27, C28	Complies

Clause 65.02- Decision Guidelines

This report has considered the decision guidelines of Clause 65.

Referrals:

Pursuant to Section 52 and 55 of the Planning and Environment Act 1987 the application was referred to the following authorities.

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

Public Notice:

The application was advertised to adjoining owners and occupiers by sending individual notices on 1 November 2013 and a sign placed on the site from 1 November 2013 to 15 November 2013.

Two objections were received.

A consultation meeting was not held on the basis of the number of objections and the officer's assessment of the proposal.

Summary of Objections:

The grounds of objection are outlined below with officer's comments accompanying them.

Objection	Officer's response
The area of Inglis Street is the gateway to Ballan so aesthetics is an important factor.	It is important to consider developments that would be reasonable within the gateway to the township. Under normal circumstance a two dwelling development would be reasonable, however the design of this proposal presents a building form that would be unacceptable in most areas of Ballan township.
The development in the narrow building envelope is unsuitable.	Due to the constraints of the building envelope the presentation of two dwellings within it is limited and subsequently the proposal fails to present dwellings of suitable standard.

Shadowing to the West from proposed 2 story building will have a large impact on existing building at No 45b Inglis Street with the living area receiving no sunshine whatsoever due to the narrowness of the subdivision of blocks at 45 a, b and 43.	The dwelling at 45b will have a degree of overshadowing and will have limited solar access available to it for most part of the day.
There will be privacy issues with overlooking into the rear yards from the second story.	<p>The proposal has provided on the second story on the eastern and western sides small windows that sit 1.7 m above floor level to prevent overlooking. These windows are suitable under Rescode and for bathroom windows.</p> <p>Windows on the southern and northern ends would not overlook any adjoining allotments.</p>
Although the application states that there are few front fences in Inglis Street, this is untrue and many homes in Inglis Street, particularly in this area have front fences. This proposal obviously cannot have front fences as the whole frontage is made up of garages.	Concur. Inglis Street has many front fences, particular 1.2m picket style fences.

Assessment of Application

The purpose of the Residential 1 Zone is to support a range of dwelling types to enhance consumer choice and to provide opportunities for affordable housing, however dwellings should provide a reasonable standard of amenity for existing and new residents.

The immediate area is characterised by large lots with an average lot size of 1500 sqm). This proposal would create nine new lots with an average lot size in the order of 250sqm (excluding the common property accessway) which is significantly smaller than the average lot size within the subdivision.

The key issues arising from this proposal are:

1. The development fails to provide a layout which integrates well with the street and provide any surveillance of the street.
2. The development would present to adjoining and surrounding neighbours, together with the entry to Ballan a street frontage of garage and does not provide a potential resident with any sense of identity and individual address within the street.
3. The development would not be respectful of the prevailing neighbourhood character and is, in a sense, an overdevelopment of the site.

4. The proposal does not provide any amenity facilities on the ground floor and therefore could not cater to any person with limited mobility or make provision for the aged, or aging in place for a potential resident.

In the matter of Chak Lai Li v Whitehorse CC (No. 1) [2005] VCAT 1274 (30 June 2005) Senior Member Byard states on the matter of ResCode:

It does not follow from this that a proposal that meets the relevant ResCode standards must necessarily receive a permit. That may be a strong indication for the grant of a permit, but it does not mean that a permit is an automatic result. There may nevertheless be vital planning considerations that indicate refusal, and that outweigh considerations in favour of the proposal.

Conclusion

The proposal introduces a built form which does not respect the prevailing character, offers bulk and visual dominance to adjoining neighbours and within the important gateway of the Ballan township.

The proposed development generally does not comply with a number of the required ResCode Standards nor does it meet a number of the objectives of Clause 55 of the Moorabool Planning Scheme.

Recommendation:

That Council having considered all relevant matters as prescribed by s.61(1) and s. 61(4) of the Planning and Environment Act 1987 for Planning Application PA2013-236 issue a Refusal to Grant a Permit for a two (2) lot subdivision and development of two (2) dwellings at Lot 3 on PS 536561T, 43 Inglis Street, Ballan on the following grounds:

1. **The development does not satisfy a number of the Recode standards nor achieves the objectives contained within Clause 55 of the Moorabool Planning Scheme.**
2. **The development fails to provide a layout which integrates well with the street and provide surveillance of the street.**
3. **The development would present to adjoining and surrounding neighbours, together with the entry to Ballan, a street frontage of garage only and does not provide a potential resident with any sense of identity and individual address within the street.**
4. **The development would not be respectful of the prevailing neighbourhood character and is an overdevelopment of the site.**

The Report, Item 11.2.4 Planning Application PA2013-236, was withdrawn at the request of the applicant.

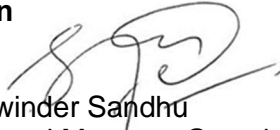
Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Thursday, 13 February 2014



11.2.5 Residential Zone Reforms for Moorabool Shire

Introduction

File No.: 13/01/014
Author: Andrew Goodsell
General Manager: Satwinder Sandhu

Background

In July 2013 the Minister for Planning issued a series of amendments to the Victorian Planning Provisions (VPP) by removing, amending and adding new residential zones for the whole of Victoria and consequently affecting all Councils.

These amendments (amongst other matters) remove the Residential 1 (R1), Residential 2 (R2) and Residential 3 (R3) zones from all planning schemes and introduce three new zones . the General Residential Zone (GRZ), Neighbourhood Residential Zone (NRZ) and Residential Growth Zone (RGZ). Updates were also made to the Township Zone, Low Density Residential Zone and the Mixed Use Zone.

These zone reforms introduce different controls and generate different built form outcomes. The general intent is to more clearly emphasise where development should occur through directed growth zones (RGZ) and zones where neighbourhood character takes precedent (NRZ).

Moorabool Shire Council's Planning Scheme presently applies the R1 Zone and R2 Zone to Bacchus Marsh's residential precincts, the R1 Zone to Ballan and the Township Zone to Gordon.

The Minister for Planning requires that all Councils implement the residential zone reforms by 30 June 2014. If this timeframe is not met the General Residential Zone becomes the default zone on 1 July 2014. A consequence of such a change is likely indiscriminate infill development on a case by case basis, assessed against the State Planning Policy Framework and Local Planning Policy Framework, much as is presently occurring in both Bacchus Marsh and Ballan.

Separately, Council foreshadowed in the Panels Victoria hearing on Amendment C53 Gordon Structure Plan that the Township Zone and the new suite of zones would also be addressed. The Panel has recently reported back accordingly on where the zone boundaries should be applied in Gordon involving the introduction of the new residential zones.

Given that Council is undertaking a Housing Strategy for Bacchus Marsh and has applied significant resources into structure plans to guide development in Ballan and Gordon, the above zone reforms are proposed to be applied in a way which is consistent with work now completed. Council, through the draft amendments, seek therefore to link the zone translation with the new housing strategy to better guide how, where and in what form future housing is to occur in Bacchus Marsh.

Planisphere has been appointed to undertake this work in Bacchus Marsh in concert with Council's Strategic and Sustainable Development Department. In Ballan, the structure plan will also be informed by Planisphere's work as the suite of residential zones are finalised for that town in coming months. In Gordon, the advertised structure plan and Panel report provide the basis for the intended zone changes.

The Minister, as explained in Advisory Note 50 Reformed Residential Zones, provides three scenarios as to how Councils can proceed with the necessary planning scheme amendments. These are as follows with Council's current circumstance highlighted:

Tier	Circumstance	Suggested Approach
1	Councils with existing policies.	Prepare a S20(4) amendment under the <i>Planning and Environment Act 1987</i> to exempt the Minister from giving notice . fast tracking the amendment.
2	Councils with draft policies.	Council can work to complete draft policies concurrently with work on an amendment to implement the new zones. Notification of the amendment would be required.
3	Councils with no relevant strategic policy work.	A Council can work to develop relevant policies that will provide the strategic basis for applying the new residential zones. Notification requirements are the same as for tier 2 conditions.

Table 1 Suggested Amendment Approach (source: DTPLI, 2013)

Purpose of this Report

The purpose of this report is to:

- brief Council on the zoning proposed for the residential areas in Bacchus Marsh, Ballan and Gordon;
- seek Council resolution to endorse the new residential zones proposed as a consequence of Planisphere's analysis on the appropriate application of the new zone suite; and
- advertise the draft zones for public comment for a period as required by the Ministerial Advisory Committee

The Minister's Standing Advisory Committee required councils to notify them by 21 February 2014 if Council intended to refer the introduction of the new residential zones into the Moorabool Planning Scheme to that Committee.

In light of the tight timeframes Council officers provided an interim notification to the Committee of its intention to refer this matter. Confirmation of this interim advice will be provided should Council so resolve.

Proposed Amendments

• Key Elements:

The proposal is to update the residential suite of zones within the planning scheme in relation to Bacchus Marsh, Ballan and Gordon.

To achieve this, Council will apply zones and standards delivered via schedules which direct how each precinct or area will be developed, consistent with either:

- an exhibited structure plan (Gordon);
- a structure plan in preparation and informally exhibited (Ballan);
- a housing strategy and background analysis as per work developed by Planisphere and MSC¹ (for Bacchus Marsh) as informed by Departmental Practice Notes.

In practical terms the outcome of the intended planning scheme amendments is as follows (Table 2):

	RGZ (ha)	GRZ (ha)	NRZ (ha)	Mixed Use (ha)	LDRZ (ha)	Township (ha)
Bacchus Marsh	Nil	128.3	1043.0 ²	5.0	142.9	Nil
Ballan	Nil	Nil	153.1	Nil	38.8	Nil
Gordon	Nil	Nil	105.7	Nil	Nil	9.1

Table 2 Proposed Zones

The intention of each zone flows through to the allowable uses and development standards. The RGZ Zone allows for higher density housing such as apartments at building heights up to 13.5m in height. The GRZ Zone allows for moderate growth and housing diversity, where existing neighbourhood character is to be taken into consideration and a 9m height limit applies. The NRZ zone encourages single dwelling development, limits housing to 2 dwellings on existing lots and requires greater control on site coverage, setbacks and landscape outcomes.

Noting that the GRZ Zone enables a range of non-residential uses, the view has been taken that it does not fit well with the existing or likely future character of Bacchus Marsh or any other settlements in the Shire. The stronger limitations on non-residential use characteristic of the GRZ and NRZ zones therefore have greater application, with schedules to provide a sliding scale based on accessibility to services to determine which schedule applies to particular areas.

The zones, applied as Precincts are described in Table 3 and mapped in Figure 1. NRZ applies to land zoned under Development Plan Overlays (Stonehill).

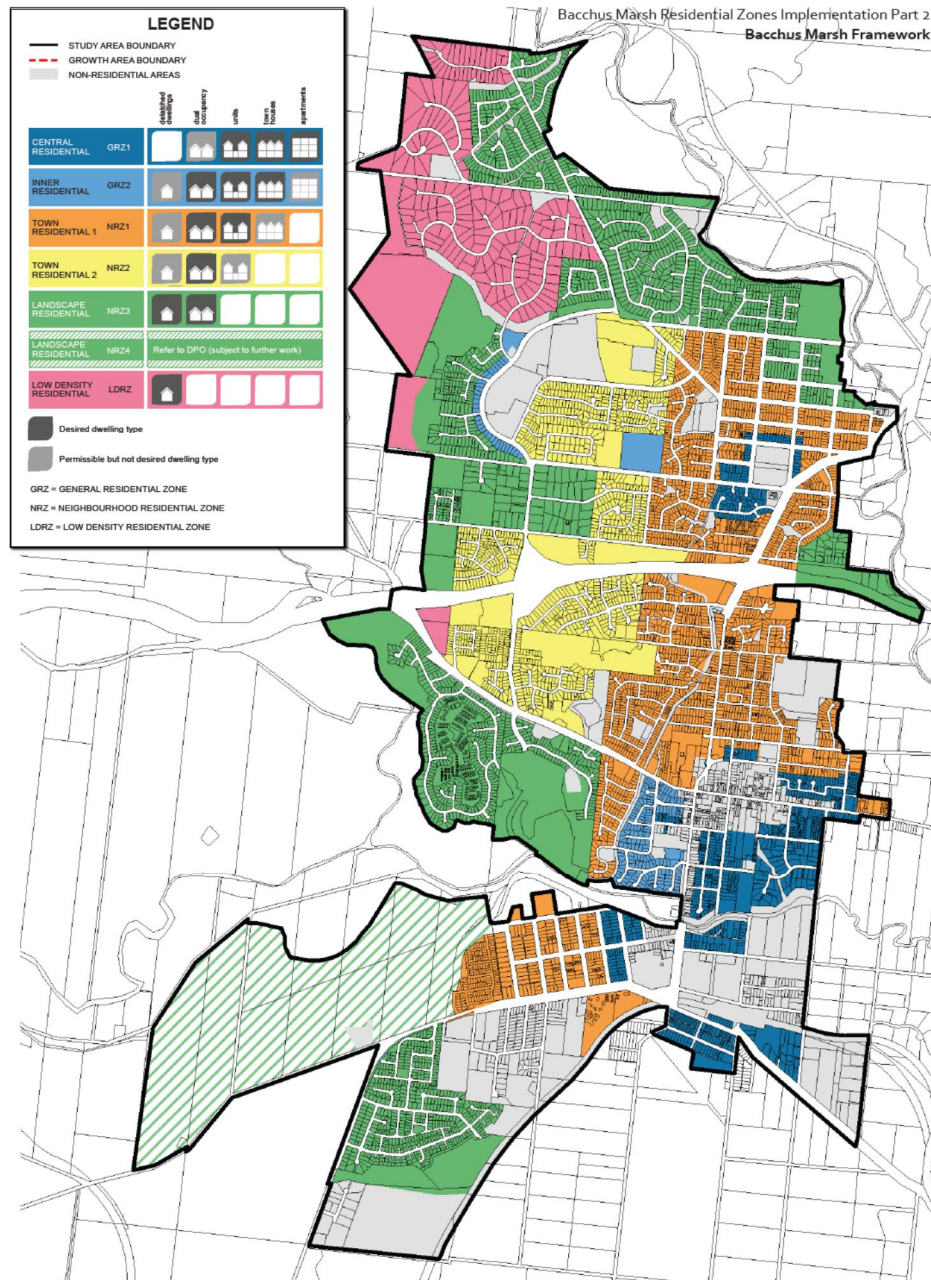
¹ Moorabool Shire Council.

² Excludes Underbank.

	GRZ1 (ha)	GRZ2 (ha)	NRZ1 (ha)	NRZ2 (ha)	NRZ3 (ha)	NRZ4 (ha)
Bacchus Marsh	93.3	46.5	328.8	154.9	517.0	181.6 ²
Ballan	Nil	Nil	49.4	103.7	86.1	Nil
Gordon	Nil	Nil	Nil	Nil	Nil	98.2 ¹

Table 3 Proposed Zones Schedule

- 1 In Gordon the Township Zone is proposed to still apply to the core main street area as per the Panel recommendation.
- 2 Underbank is excluded from these calculations.

**Figure 1** Proposed Zones for Bacchus Marsh

- Key Schedule Standards:**

Table 4 summarises the key standards to be applied across the residential zones in Bacchus Marsh, Ballan and Gordon.

Table 4 Summary of Key Standards . existing and future controls

Zone Proposed	Previous Zone	Min lot size (sq.m) ¹	Building Height (m)	Min. Front setback ⁴	Min Side setback	Max Site Coverage (%)	No of dwellings /lot	Trees/(sq.m)	Min Permeability (%)
Central Residential (GRZ1)	R1 & R2	Nil (300) ¹	9 (9 & 9)	5 (9)	1 (A10) ⁵	70 (60)	No limit (NS)	Nil (NS)	20 (20)
Inner Residential (GRZ2)	R1	Nil (300)	9 (9)	6 (9)	1 (A10)	60 (60)	No limit (NS)	1/600 (NS)	20 (20)
Town Residential 1 (NRZ1)	R1	400 (300)	8 (9)	9 (9)	2 + 1 (A10) ⁸	50 (60)	2 (2)	1/ 350 (NS)	30 (20)
Town Residential 2 (NRZ2)	R1	600 (300)	8 (9)	9 (9)	2 (A10) ⁸	40 (60%)	2 (2)	1/ 250 (NS)	50 (20)
Landscape Residential (NRZ3)	R1	800 (300)	8 (9)	9 (9)	3 (A10) ⁸	20 (60%)	2 (2)	1/ 250 (NS)	70 (20)
Landscape Residential (NRZ4)	R1 or TZ	Note 7 (300)	Note 7 (9)	Note 7 (9)	Note 7 (A10)	Note 7 (60%)	Note 7 (2)	Note 7 (NS)	Note 7 (20)

- 1 ResCode standards are shown highlighted in red.
- 2 There is no minimum lot size in the existing R1 and R2 zones. However there is a minimum lot size below which a dwelling requires a permit, being 300 sq.m. In effect the minimum lot size is dictated by this standard as there is a general preference to avoid planning permits for new dwellings and only requires a building permit.
- 3 Presently the LDRZ minimum lot size standard is 2000 sq.m due to the re-issued LDRZ provisions in mid 2013. It was historically 4000 sq.m and Council has made a submission that it remains the same.
- 4 Standard specified or average.
- 5 Standard A10 requires 1m and 0.3m for every 1m of building wall height above 3.6m.
- 6 NS = No Standard.
- 7 Defer to DDO or DPO controls.
- 8 Zero metres on one side boundary.

Concerning allowable uses, the new zones will allow a greater level of control on the types of residential use allowed in different areas within Bacchus Marsh (Figure 2). Scope for infill development clearly lessens as degree of accessibility to local facilities becomes more limited.³

³ Consistent with Table 2 Criteria for applying the NRZ, GRZ and RGZ Zones, Practice Note 78.

































TYPE	ZONE	detached dwellings	dual occupancy	units	town houses	apartments
CENTRAL RESIDENTIAL	GRZ1					
INNER RESIDENTIAL	GRZ2					
TOWN RESIDENTIAL 1	NRZ1					
TOWN RESIDENTIAL 2	NRZ2					
LANDSCAPE RESIDENTIAL	NRZ3					
LANDSCAPE RESIDENTIAL	NRZ4	Refer to DPO (subject to further work)				
LOW DENSITY RESIDENTIAL	LDRZ					
 Desired dwelling type  Permissible but not desired dwelling type		GRZ = General Residential Zone NRZ = Neighbourhood Residential Zone LDRZ = Low Density Residential Zone				

Figure 2 Dwelling types allowed by Zone (source: Planisphere)

- Key Principles**

The core element of the proposed amendments relates to zoning which directs where intensification of residential development is to occur. It only applies to areas presently zoned either R1 or R2, or, in the case of Gordon, the Township Zone.

The proposed schedule controls to manage the form of development are also addressed with intended modifications to setbacks, site coverage, fence controls, building height and landscape controls (tree planting provisions).

In Bacchus Marsh, residential growth is to be encouraged around Bacchus Marsh Activity Centre (Main Street), Darley Plaza/Darley Park precinct and Maddingley centred on the railway station/Maddingley Park precinct. Across these areas, development is to be directed and housing intensity encouraged subject to appropriate standards . consistent with the LPPF.

Structurally, Grant Street and Gisborne Road provide the arterial connections between these activity centres are also contemplated to provide zones and standards which allow managed infill development (town houses but not apartments).

In Ballan, the proposed zones and controls sought (including DDO⁴ and DPOs) are reflected in the draft Ballan Structure Plan. The intent is to preserve and manage existing built form character within the heritage streetscape of the core township grid south of the Werribee River. To do this the NRZ Zone is the logical land use control with more intense development allowed around the core areas of Inglis Street.

In Gordon, the proposed NRZ4 zone limits subdivision to 800 sq.m per lot and otherwise the DDO and SLO⁵. This is entirely consistent with the structure plan.

Key principles for the draft zones and standards are as follows:

- Direct where residential growth is to occur based on accessibility to public transport, retail services and local facilities.
- Limit where residential growth is to occur where retail facilities and/or other significant community infrastructure is absent, or where neighbourhood character requires alternative considerations (such as in Gordon).
- Avoid using zones, such as the Residential Growth Zone, which encourage wide discretion and scope for non-residential uses outside neighbourhood activity centres. This means the use of only two zones . GRZ and which provide for different development standards in each respective area.
- Tailor zones to better match with the topography or character of an area. In Bacchus Marsh basin it is logical that the controls for subdivision, use, site coverage, trees within setbacks consciously and with purpose seek to ~~green~~ and re-establish vegetation and canopy cover upon the more elevated footslopes and hills of Darley. In Ballan NRZ1 recognises the amenity and sensitive heritage landscape of Main Street, its wide main street and established built form character. Similar conditions apply in Gordon.
- Street trees and landscape already provide enhanced amenity in the older sections of Bacchus Marsh and Maddingley. There is therefore less need to require additional landscaping on individual lots. Equally, given the accessibility of these areas to services, a higher intensity of use is advocated as definable inner residential areas.

⁴ Design and Development Overlays and Development Plan Overlays.

⁵ Significant Landscape Overlay – deals with vegetation.

- **Key Deliverable**

The key deliverables which form the amendments are as follows:

- Draft zones map for Bacchus Marsh, Ballan and Gordon.
- Schedules with consistent standards for residential zones across Bacchus Marsh, Ballan and Gordon.
- An overview summary . a document which explains the key standards proposed for each zone (and schedule area) and where these depart from the ResCode controls.
- A Background Analysis summary for each of the proposed zones for Bacchus Marsh, including the analysis to date and reasoning for application of the preferred zone and schedule controls.
- Zones and standards for Ballan and Gordon that logically match with the structure plans previously exhibited.

None of the zone reforms impact on existing valid planning permits. No consideration is required of the application of the Minister's zone reforms for the other settlements in Moorabool Shire as these are zoned Township and are yet to be subject to structure plan analysis, public comment and Panel feedback in the manner of Gordon.

Further Analysis

A number of issues are not addressed by the draft amendments. These concern:

- the Mixed Use Zone in Bacchus Marsh and whether this provides appropriate controls and standards;
- future land releases in Bacchus Marsh to meet housing needs; and
- identified zoning anomalies.

Policy Implications

- **Consistency with the *Planning and Environment Act 1987***

Section 4 of the *Planning and Environment Act 1987* sets out the objectives for planning in Victoria. Relevant objectives for consideration as part of this amendment include the need for Planning:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (g) to balance the present and future interests of all Victorians.

The draft amendments are consistent with the objectives of planning in Victoria on the basis that the amendments seeks to direct and regulate residential use and development consistent with the key principles set out in the Bacchus Marsh Housing Strategy Context Report, the Gordon Structure Plan and the Ballan Structure Plan. All have been drafted with full regard to the State and Regional policy guidance set out in Melbourne 2030, Plan Melbourne and the Central Highlands Regional Growth Plan.

In preparing the amendments it is advised that each is consistent with Advisory Note 50 (July 2013) *Reformed Residential Zones*; and Planning Practice Note 78 (December 2013) *Applying the Residential Zones*.

- **Consistency with Council Plan 2013 - 2017**

The Council Plan provides as follows:

Key Result Area Enhanced Infrastructure and Natural and Built Environment.

Objective Effective and efficient land use planning and building controls.

Strategy Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support the social, economic, environment and well-being of the Shire.

Ensure that development is sustainable, resilient to change and respects the existing character.

The proposed amendments are consistent with the 2013-17 Council Plan.

- **Consistency with Moorabool 2041 (M2041)**

M2041 is a planning policy framework identified as an over-arching planning direction for the Shire across the next 30 years. It has two components, being a rural growth strategy and an urban growth strategy. The urban growth strategy component is focused on Bacchus Marsh. The rural growth strategy focuses equally upon all the Shire settlements (excluding Bacchus Marsh) and covers Ballan and Gordon.

Interwoven into the urban growth strategy is a requirement to formulate a housing strategy which addresses the required zoning reforms sought by State Government.

The zoning proposed for Ballan and Gordon respond to the community engagement and structure planning undertaken for each of these settlements. Both pre-date M2041 but are considered consistent with the key directions being advocated.

State Planning Policy and the State Planning Policy Framework (SPPF)

Draft amendments must be consistent with adopted State Planning policies and the SPPF contained within the Victorian Planning Provisions (VPP).

There are effectively two aspects of the State Planning Policy . those elements which form part of cogent strategies (Plan Melbourne, Central Highlands Regional Growth Plan etc) and the written state policies which form part of planning schemes (the SPPF controls contained within the VPP).

With respect to State and Regional Planning Policy, Melbourne 2030 (DPCD, 2002), its successor Plan Melbourne (DTPLI, 2013) and the Central Highlands Regional Growth Plan (DPCD, 2013) identify Bacchus Marsh having a key role as a regional centre. Ballan is also identified as an important township for future housing. Gordon is recognised as a small town with some expectation of limited growth.

Over time these roles have been strengthened, not weakened in the policy directions articulated, consistent with Bacchus Marsh and Ballan's locations on the Western Freeway between Western Melbourne and Ballarat (Figure 3).

The proposed amendment is consistent with these strategies as it structurally addresses the future shape and form of Bacchus Marsh, Ballan and Gordon as each seeks to manage the growth expected over the next 20-30 years.

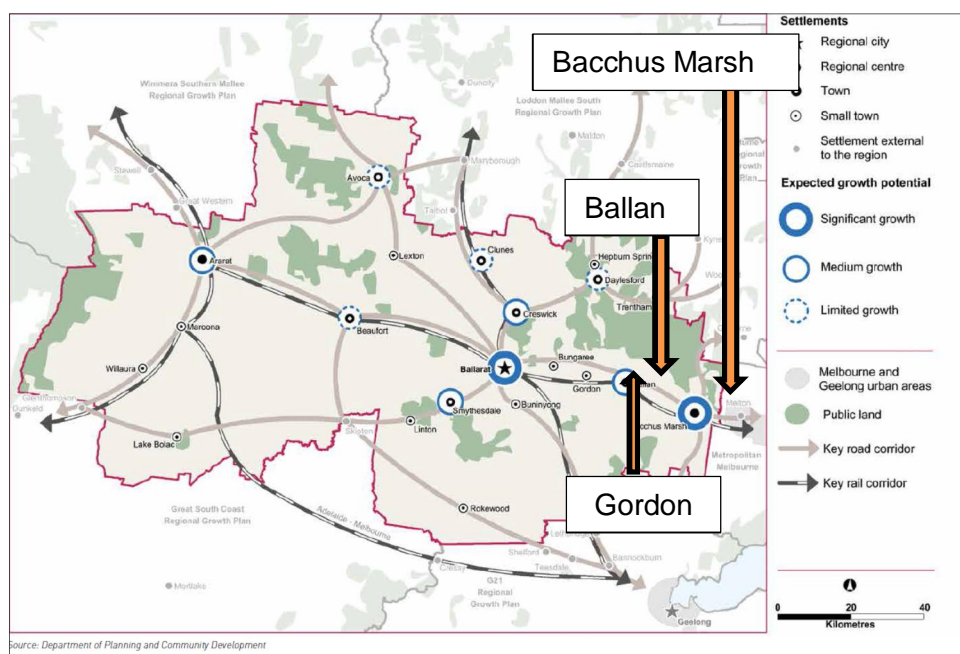


Figure 3 Expected Growth Potential, map 8 (source: DPCD, 2013)

A summary of compliance for the proposed amendments against the SPPF is provided in Table 5.

SPPF Clause	Policy Direction	Response
Clause 11 – Settlements	<ul style="list-style-type: none"> ○ Planning is to address community needs, taking full advantage of existing settlement patterns. ○ Provide a 15 year housing supply. ○ Locate growth near high capacity public transport. ○ Direct urban growth into major regional cities as part of a regional settlement network. ○ Maintain the attractiveness and amenity of hinterland towns. ○ Prevent dispersed settlement. ○ Manage the growth of settlements to ensure development is linked to the timely and viable provision of physical and social infrastructure and employment. ○ Strengthen the character of towns. ○ Support and maintain equitable service delivery to settlements. 	<ul style="list-style-type: none"> ○ The amendments do not increase the amount of land zoned for residential purposes. ○ The controls on setbacks, subdivision and landscaping, will over time result in change in built form patterns. This in turn addresses key issues such as absence of significant landscape elements in new broadacre subdivisions, avoiding significant clusters of multi-unit housing in areas with limited accessibility to local services and encourages greater housing choice in the most appropriate locations.
Clause 13 – Env. Risks	N/A	Risks arise regardless of zoning. However the Amendment only concerns areas already zoned for residential purposes.
Clause 14 – Natural Resource Management	N/A	Amendment only concerns areas already zoned for residential purposes.
Clause 15 – Built Env. & Heritage	<ul style="list-style-type: none"> ○ Create quality built environments supporting the social, cultural, economic and environmental wellbeing of towns. ○ Encourage retention of existing vegetation or revegetation as part of subdivision and development proposals. ○ Recognise and protect cultural identity, neighbourhood character and sense of place. ○ Conserve heritage values. 	The amendments will not take away or likely adversely impact existing heritage listed buildings as these are protected via either heritage overlays or as individual properties on the heritage register.

Clause 16 – Housing	<ul style="list-style-type: none"> ○ Increase supply of housing in existing urban areas by using under-utilised urban land. ○ Ensure housing is integrated with infrastructure and services. ○ Encourage the consolidation of new housing in existing settlements where investment in infrastructure has already been made. ○ Ensure housing stock matches changing demand by widening housing choice whilst respecting neighbourhood character. 	<ul style="list-style-type: none"> ○ The draft amendments will consolidate housing around nodes of existing infrastructure. ○ The zones proposed encourage diversity of housing choice in areas convenient to local services. ○ Standards proposed identify the evolving neighbourhood character of Bacchus Marsh, Ballan and Gordon.
Clause 17 – Economic Development	N/A	The draft amendments have little direct bearing on the considerations listed under clause 17.
Clause 18 - Transport	<ul style="list-style-type: none"> ○ Create a safe and sustainable transport system by integrating land use and transport. ○ Encourage walking and cycling by creating environments that are safe and attractive. 	The draft amendment facilitates the policy outcomes by directing where intensification of residential use occurs.
Clause 19 – Infrastructure	<ul style="list-style-type: none"> ○ Strategic planning should facilitate efficient use of existing infrastructure and human services. Providers of infrastructure, whether public or private bodies, are to be guided by planning policies and should assist strategic land use planning. ○ Provide for fairer distribution of access to of social and cultural infrastructure. 	The draft amendments provide clearer focus on where key infrastructure exists and is to be utilized. Future strategic policy work includes further assessment of each neighbourhood activity centre in Bacchus Marsh and how infrastructure delivery can make these vibrant and efficient service hubs.

Table 5 Relevant State Planning Policy Guidance**Consistency with Local Planning Policy Framework (LPPF)**

A summary of compliance for the proposed amendments against the LPPF is provided in Table 6.

LPPF Clause	Policy Direction	Response
Clause 21.01 Municipal Context	<ul style="list-style-type: none"> Increased pressure to balance residential growth objectives with the protection of environmental, landscape and lifestyle values. Significant population growth in consolidated urban areas over the next 25 years is expected which requires cost effective delivery of appropriate infrastructure. Housing diversity is required to attract residents and meet the needs of an ageing population. Enhance public transport integration with the existing rail corridor along the Western Freeway between Ballarat and Melbourne. Economic development involving continued use of farming land for agricultural and horticultural purposes is required without residential encroachment. 	<ul style="list-style-type: none"> The draft amendment is consistent with the intention of balancing growth demands with residential amenity in Bacchus Marsh and Ballan through use of zone controls and schedules. The use of zones allowing either greater or lesser degrees of flexibility on the location of units, townhouses and apartments depending on location relative to public transport is consistent with the LPPF.
Clause 21 .02 Natural Environment	N/A	Not directly relevant to draft amendment.
Clause 21 .03 Settlement & Housing	<ul style="list-style-type: none"> Ensure the supply of land zoned for industry, business and residential purposes is sufficient to accommodate accelerated rates of growth. Direct population and employment growth to Bacchus Marsh with supporting growth in Ballan. 	<ul style="list-style-type: none"> In Bacchus Marsh the final zone boundaries and how greenfield opportunities will be provided is addressed in the housing strategy (in preparation). In Ballan and Gordon the structure plan addresses housing demand and zoning boundaries.
Clause 21 .04 Economic Development & Employment	N/A	Not directly relevant to draft amendment.

Clause 21.015 Development & Community Infrastructure	N/A	Not directly relevant to draft amendment.
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Table 6 Local Planning Policy Guidance**Social Considerations**

The draft amendments have been formulated with regard to feedback Council has received on structure plans such as the Bacchus Marsh Activity Centre Structure Plan (Amendment C51), the Gordon Structure Plan (Amendment C53) and Ballan Structure Plan (Amendment C69).

Further analysis and discussion will occur, especially on Bacchus Marsh as a consequence of feedback received during public advertising of the draft amendments as well as ongoing discussion as the Housing Strategy for Bacchus Marsh is workshopped with stakeholders in mid 2014 onwards.

It would, however be reasonably expected that the amendment will facilitate social improvements by greater emphasising the need to integrated land use and decision making and invest in areas around retail and service hubs.

Financial Implications

There are no financial implications from the draft amendment proceeding. Advice from the Planning and Development Manager, Grampians Region of Regional Development Victoria indicates S20(4) amendment fees will be waived.

Risk & Occupational Health & Safety Issues

No risk or occupational health and safety issues have been identified from the draft amendment proceeding. It is more reasonable to argue that there are greater risks if Council does not proceed with the amendments advocated as there is less scope to direct residential growth and infill development with transport and service infrastructure. This in turn will lead to ongoing demands for infill development, typically townhouses and villas on larger lots on the outer edges of settlement.

Community Engagement and Communication Strategy

Having regard to the timelines required by the Minister, there has been no direct community engagement to date on the draft amendment. Notwithstanding this, the Minister has made a number of public comments within the media about the new residential zones and Plan Melbourne directly makes reference to the intended outcomes.

The proposed advertising of the draft amendment for comment will enable direct community feedback and input. In time, further engagement will also occur as the housing strategy is developed. This may lead to further residential zone refinements in time, consistent with the view that the planning scheme is a living document that needs to reflect the ongoing review and upgrade of controls to meet State, Regional and local conditions.

A community engagement and communication strategy as a sub-element for the Housing Strategy has been recently discussed with Council and is expected to be finalised for progressive implementation over the next month.

An article has been released to Moorabool Matters concerning the Housing Strategy and the new zones initiative which is expected to be circulated around the Shire on or after 11 March 2014.

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.

General Manager – Satwinder Sandhu

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

Author – Andrew Goodsell

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

Conclusion

The proposed draft amendments package comprises the maps of intended residential zones, a summary of key standards and their purpose for Bacchus Marsh, Ballan and Gordon.

Whilst on the face of it there are changes envisaged which reflect the intention by Council to direct where residential development is to occur in Bacchus Marsh, Ballan and Gordon, the zones proposed by the Minister seek to do the same.

It is logical and appropriate, given work to date on the draft Housing Strategy for Bacchus Marsh to apply residential zones based on the locational characteristics of each zone. Advisory Note 50 provides a basis for applying such a method.

In respect to Ballan and Gordon, both have been subject to significant community consultation and the zones proposed are in accord with documentation advertised. It is therefore unlikely that the zones proposed will raise any planning issues not previously canvassed with the respective local communities.

Opportunity will exist for community engagement on the draft amendments before these are brought into effect. The Residential Zones Standing Advisory Committee has requested that Councils commence the notification period prior to 20 March 2014.

The Standing Advisory Committee will direct how it wishes the amendment to be formalised and finalised, given the notification process, feedback and timelines in place.

Recommendation:

Council resolves to:

1. **Confirm the request to the Residential Zones Standing Advisory Committee to review the introduction of the new residential zones into the Moorabool Planning Scheme; and**
2. **Place the proposed new residential zones and schedules as set out in the attachments to this report on public exhibition as required by the Ministerial Residential Zone Standing Advisory Committee along with other relevant supporting material.**

Resolution:

Crs. Spain/Dudzik

Council resolves to:

1. ***Confirm the request to the Residential Zones Standing Advisory Committee to review the introduction of the new residential zones into the Moorabool Planning Scheme; and***
2. ***Place the proposed new residential zones and schedules as set out in the attachments to this report on public exhibition as required by the Ministerial Residential Zone Standing Advisory Committee along with other relevant supporting material.***
3. ***Ensure that exhibited maps of the new zones clearly identify by name, freeways, major roads and significant landscapes features such as rivers.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Friday, 21 February 2014



11.2.6 Moorabool Shire Council - Municipal Emergency Plan 2014-2017

Introduction

File No.: 12/13/006
Author: Cherie Graham
Manager: Satwinder Sandhu

Background

The Emergency Management Act 1986 Part 4 Section 20 and 21 requires Municipal Councils to prepare and maintain a Municipal Emergency Management Plan. This plan must contain provisions for identifying municipal resources and other resources available to the Municipal Council for emergency prevention, response, and recovery.

Council must appoint a Municipal Emergency Management Planning Committee constituted by persons appointed by the Council.

This Committee has the function to prepare a draft Municipal Emergency Management Plan for consideration by Council. Section 21 (a) of the Act states that the Municipal Emergency Management Plan must be audited every 3 years to be assessed for compliance with guidelines.

Purpose

Moorabool Shire Council pursuant to the Emergency Management Act 1986 undertakes to prepare and maintain a Municipal Emergency Management Plan (MEMP) for the Council. This plan has a requirement that it be audited every 3 years.

As part of the audit process the MEMP needs to be assessed by guidelines and a criteria specified in the Audit Tool and Evidence Guide which has been provided by the Victorian State Emergency Service.

The purpose of this report is to present the revised Moorabool Shire Council Municipal Emergency Management Plan (MEMP) for consideration and adoption by Council.

Issues

The audit process was introduced in 2010 to establish an approach in auditing Municipal Emergency Management Plans which is based on the collection of evidence and meeting legislative requirements.

The Moorabool Shire Council MEMP is due for audit in May 2014 and the date has been set for 9 May 2014 so an endorsed reviewed plan is required.

For the Council's MEMP to remain current it has been continually reviewed and updated by the Municipal Emergency Management Planning Committee (MEMPC) and is a standard agenda item for discussion.

The Plan has been reviewed and revised in line with the EMMV (Emergency Management Manual Victoria) being used as the guide and to ensure that it meets all audit requirements.

Consultation

Development of the revised Plan has involved a wide range of people working in Emergency Management including the MEM (Municipal Emergency Manager), MERO (Municipal Emergency Resource Officer), MRM (Municipal Recovery Manager), SES (State Emergency Services) and all members of the the MEMP Committee.

The Plan was developed in accordance with the requirements of the Emergency Management Act 1986 and has been noted by the Municipal Emergency Management Planning Committee (MEMPC) at their meeting held on 11 February 2014 and who were advised it would be presented to Council for endorsement prior to the audit.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	A safe community
Strategy	Support the community in emergency management planning, response, recovery and in the prevention and mitigation of fire risks.

Risk Management

Failure to provide an adopted Municipal Emergency Management Plan may mean that Council does not meet legislation and audit requirements.

Financial Implications

Nil.

Communications Strategy

Once endorsed by Council the MEMP will be included on Council's website where community comments are welcome as the Plan will be reviewed annually by the Municipal Emergency Management Planning Committee (MEMPC).

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Authors – Cherie Graham

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

Resolution:

Crs. Sullivan/Comrie

- 1. That the Municipal Emergency Management Planning Committee endorse the Draft Municipal Emergency Management Plan 2014-2017 and endorse the appointment of the MEMP Committee for Moorabool Shire Council comprising of the following representatives:**

- **Municipal Emergency Manager (MEM)**
- **Municipal Emergency Resource Officer (MERO) /Chairperson**
- **Municipal Fire Prevention Officer (MFPO)**
- **Deputy MEROs (2)**
- **Municipal Recovery Manager (MRM)**
- **Deputy MRMs (2)**
- **MEMPC EM Administration Officer**
- **Councillor**
- **MERC / Police Representative**
- **VICSES Representative - Regional,**
- **VICSES Representative - Bacchus Marsh Unit**
- **CFA**
- **Department of Environment and Primary Industry**
- **Ambulance Victoria**
- **Health Services**
- **Australian Red Cross Representative**
- **Department of Human Services**
- **Water Authorities**
- **WICEN**
- **Others as required**

- 2. That the Municipal Emergency Management Plan be signed and sealed by Council.**

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Monday, 17 February 2014



11.2.7 Amendment C06 – Part 3 - Bacchus Marsh Heritage Study

Introduction

File No.: 13/06/007
Author: Damien Drew
General Manager: Satwinder Sandhu

Background

Moorabool Planning Scheme Amendment C6 Part 3 is seeking to implement the recommendations of the *Bacchus Marsh Heritage Study 1995*. Council received the Panel Report in relation to Part 2 (and Part 3) in May 2013. Council resolved to split the amendment into a further part, Part 3, which would consist of two properties for which an incorporated plan was to be prepared, as well as an incorporated plan comprising the statements of significance for all properties.

The Bacchus Marsh Heritage Study was prepared by Richard Peterson and Daniel Catrice for the (former) Shire of Bacchus Marsh and the (former) Historic Buildings Council in 1995.

This Study recommended that a number of culturally significant heritage places be included in the Planning Scheme (Heritage Overlay) to provide statutory protection from unplanned demolition and inappropriate development or alterations, which could adversely affect their cultural significance.

The Heritage Overlay has a focus on *'those elements which contribute to the significance of heritage places'* and ensuring *that development does not adversely affect the significance of heritage places.'*

At its Ordinary Meeting held on 20 December, 2006, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment (C06) to implement the recommendations of the *Bacchus Marsh Heritage Study 1995*.

Amendment C06 was placed on public exhibition between 14 April and the 25 June, 2010, including notices in local papers and individual letter to all affected property owners. A total of 46 submissions were received in response to the amendment during the public exhibition period, which included, 33 of opposition, seven (7) offering no objection but requesting alterations/changes, one (1) offering no position and four (4) indicating support or no objection for the amendment.

Two (2) late submissions were received after the Council Meeting held on 17 November, 2010. One of the late submissions objected to the inclusion of a property in the Heritage Overlay, and the other did not object but requested alterations/changes to the amendment.

The submissions were evaluated and consultation with the submitters was undertaken. Following this process a summary report and officer recommendations were presented to Council on 18 August, 2010. The resolution of this meeting was to defer consideration of the recommendation.

Council reconsidered the Amendment at its meeting on 17 November, 2010. Further officer advice was provided in relation to the splitting of the amendment into two parts as follows:

- a) public buildings and corrections to the existing heritage overlay; and
- b) private residences and sites with unresolved objections.

At this Meeting, Council resolved to split Moorabool Planning Scheme Amendment C06 into two parts and to adopt Amendment C06 Part 1. Eight submissions were resolved, and one submission was partially resolved, via the splitting of the Amendment and adoption of Part 1.

Amendment C6 Part 1, which included 60 sites of heritage significance (predominantly public buildings and places of assembly, geographical places of significance and commercial buildings) in the Heritage Overlay, was incorporated in the Moorabool Planning Scheme on 9 February, 2012 when that part of the Amendment was gazetted.

Amendment C06 . Part 2 comprises the balance of places (approximately 80 properties) not included within Part 1, such as, private residences and private properties with unresolvable submissions (objections). Thirty four (34) submissions remained unresolved including objections and requests for alterations/changes, in relation to 34 properties proposed to be included in the Heritage Overlay and two sites already included in the Overlay.

On 19 September, 2012, Council resolved to request the appointment of a Planning Panel by the Minister for Planning to consider the submissions received. Council resolved to submit the exhibited amendment to the Panel, subject to the recommended changes.

The Panel conducted its public hearing over a period of three days on 4 March, 2013 to 5 March, 2013 and 3 April, 2013. Two reports were submitted by the Panel, an Interim Report in relation to matters considered during the first two days of the Hearing and a Final Report containing the findings from the third day of the Hearing.

At its meeting on 5 June, 2013, Council resolved to split Amendment C6 Part 2 into two parts to enable the implementation of the majority of the Amendment (64 heritage places), as recommended by the Panel. Part 3 of the Amendment was created to enable incorporated plans to be prepared for two properties HO166 . JBD Industrial Parkq(former CSR Mill), 25 Rowsley Station Road, Maddingley and HO182 . Woodlandsq 229 Long Point Road, Myrniong, prior to approval of the Amendment.

On 21 February, 2014, Council received advice from the Department of Transport, Planning and Local Infrastructure that Amendment C6 Part 2 has been approved under powers delegated by the Minister for Planning.

In its Final Report, the Panel made the following recommendations which relate to C6 Part 3:

1. Reduce the extent of HO166 (JBD Industrial Park, Maddingley) on the west, north and east of the site to:
 - “ Exclude the new buildings on the west of the site;

- “ Exclude the chipper house (building 5 shown on Figure 2 of this report); and
 - “ Encompass only the other elements identified in the statement of significance as contributing to the heritage significance of the complex, plus a distance of five metres from the contributory around the perimeter of each contributory building (where these do not directly abut more recent buildings).
2. Council consider implementing HO166 as a separate part of the Amendment to enable the addition of an incorporated plan that is agreed between Council and the owner within three months of advice to the owner of Council's response to this recommendation (if agreement cannot be reached on a management plan within the nominated timeframe, the application of HO166 should proceed without a management plan).
 4. Alter the address in the schedule entry for HO182 . Farmhouse ~~at~~ Woodlandsq windmills and landscape . to 229 Long Point Road, Myrniong and amend the HO mapping to identify the correct property (excluding the row of pines to the south of the homestead complex, which are located on the adjoining property).
 5. If the draft incorporated plan for the property at 229 Long Point Road, Myrniong can be finalised to the satisfaction of the owner and Council within the timeframe for adoption and approval of Amendment C6 Part 2, include it as part of the amendment.
 7. Council consider preparing a document that compiles the revised statements of significance provided to the Panel (with the further revisions identified during the Hearing process) for incorporation in the planning scheme as part of Amendment C6.

Amendment C06 Part 3 is due to lapse on 19 March, 2014 and discussions with officers of the Department of Transport, Planning and Local Infrastructure have indicated that a request for an extension of time may not be approved. Council has previously been granted two extensions to enable the Amendment to be finalised. Therefore, it is necessary to consider the adoption of Amendment C6 Part 3 prior to 19 March, 2014.

It should be noted that the Amendment has been subject to a number of Council reports, most recently on 5 June, 2013, and Assemblies of Council, most recently on 20 November, 2013.

Proposal

Amendment C06 Part 3 seeks to include the following places in the Heritage Overlay of the Moorabool Planning Scheme:

Maddingley

1. HO166, 25 Rowsley Station Road, Maddingley (Industrial Buildings)

Myrniong

2. HO182, 229 Long Point Road, Myrniong (Farmhouse %Woodlands+, windmills and landscape)

In addition, it proposes to include three new incorporated plans in the planning scheme, two in the Schedule to the Heritage Overlay (for HO166 and HO182) and one in the Schedule to Clause 81 (Statements of Heritage Significance for listed properties).

Discussion

Pre-Amendment C6 review

The following review process occurred prior to the exhibition of Amendment C6:

- In 2001-2002, Council officers and consultants consulted the owners and occupiers of most places identified in the 1995 Heritage Study. Sixty-two submissions requested that properties not be included in an amendment;
- From the recommended 171 places, 48 were short-listed (presumably for inclusion in the Heritage Overlay) by the consultants;
- Council officers met with Heritage Victoria representatives in February 2002 who advised that:
 - the full list of places should be included in the formal amendment.
 - heritage places are identified on the basis of their heritage significance, and the inclusion or otherwise of a property in a control is based on merit, and not solely based on the owner's preference. Heritage Victoria, as the principal external funding body for heritage studies, was keen to see that the integrity of the study recommendations would be maintained, and
 - the correct forum for any 'culling' of the list would be at a Panel hearing.
- Due to the long delays in implementing the findings of the 1995 Heritage Study, a 'ground truthing' exercise was carried out in 2005 by Richard Allen (former Heritage Consultant). It found that 12 former heritage places no longer existed.
- After a Councillor Workshop in March 2005, inspections of places proposed for inclusion in the HO were undertaken to confirm they retain their heritage integrity.

Public Exhibition Process

Amendment C06 was exhibited in accordance with the provisions of the Planning and Environment Act 1987 between 14 April and 25 June, 2010. Notice was provided to all relevant Government Departments, Statutory Authorities and affected landowners and occupiers. Notices were placed in the Moorabool News, Council's web site, Government Gazette and the Moorabool Matters publications.

In addition, the public exhibition processes included the preparation of a public information brochure, which was distributed to all affected landowners/occupiers.

During the public exhibition period, Council officers met with many affected landowners.

A total of 48 submissions, including two (2) late submissions, were received in response to Amendment C06, of which four (4) supported the amendment or offered no objection, seven (7) offering no objection but requesting alterations/changes, one (1) offering no position, and 34 opposed the inclusion of individual properties in the Amendment.

Submissions not supporting the amendment primarily related to:

- impacts on a specific property;
- potential adverse impacts on property values and development potential;
- the need to obtain planning approval to make changes to properties;
- perceived lack of heritage significance of more recent (Post World War II) dwellings; and
- recent changes to individual buildings reducing their heritage significance.

After the splitting of the amendment, 34 submissions remained unresolved, including objections and requests for alterations/changes, in relation to 34 properties proposed to be included in the Heritage Overlay and two (2) sites already included in the Overlay.

The Part 2 review process

When Council resolved to split the Amendment on 17 November, 2010, it resolved for Part 2:

- *To develop a policy on selection criteria for inclusion in the Heritage Overlay for amendment C06 to the Moorabool Planning Scheme for Private Residences.*
- *Seek a review of the Planning Scheme Amendment work program having taken into consideration recommendation 4a) of this report and available resources and other identified priorities.*

A review of the heritage places in Amendment C06 . Part 2 was undertaken in a three-tier process. The initial process included a Council officer and the heritage adviser visiting the property and, in the majority of cases, meeting with the property owner on site. This process has assisted the affected community members in understanding the implications of the Heritage Overlay and ensured that all necessary information was provided to the heritage advisor reviewing each submission.

The second review process was revision of the full citations for 22 sites, including HO166 . 4BD Industrial Parkq(former CSR Mill), where Council Officers and Heritage Advisor recommended the retention of the place in the HO following the first stage of the review process. It was recommended these properties should remain in Part 2 to the amendment and be forwarded to a planning panel for consideration and recommendation to Council.

The third tier was the development of a threshold policy to provide a basis for the inclusion of private residences in the Heritage Overlay. It included a review of 50 private residences, which were not subject to submissions against the threshold policy, to verify their heritage significance.

Of the 50 properties reviewed, 48 met the requirements of the threshold policy and were recommended to be retained within Amendment C06 . Part 2, with two sites recommended for removal. Revised statements of significance were prepared for the 48 properties recommended for retention in the Amendment.

Thus, the process of review responded to issues raised by submitters in relation to the justification for the inclusion of private properties within the HO by re-examining the policy and criteria that informed the site specific evaluations. Council's heritage consultants Samantha Westbrooke Pty Ltd prepared the following reports:

- *'Bacchus Marsh Heritage Study Review – C06 Part 2, Significance Threshold Policy & Peer Review of Residential Places July 2012' (the Threshold Policy report).*
- *'Moorabool Shire Council Planning Scheme Amendment C06 – Part 2, Application of Heritage Overlay, Revised citations for Properties recommended for inclusion in the Heritage Overlay, July 2012'.*

The report notes:

"Heritage assessments and studies are usually carried out by qualified and experienced professionals following the principles outlined in the Burra Charter (Australia ICOMOS Charter for the Conservation of Places of Cultural Significance). Assessment reports generally include a history and description of the site, an assessment of the condition and integrity of the place, and a comparative analysis to substantiate the significance of the place. The Statement of Significance generally identifies 'what' is historically important and 'why' it is important."

Panel Process

An Independent Panel was appointed by the Minister for Planning to consider and hear submissions in response to Amendment C06 Part 2 on 14 December, 2012, under the provisions of Sections 153 and 155 of the *Planning and Environment Act 1987*.

It is important to note that the basic role of a panel is to:

- give submitters an opportunity to be heard in an independent forum and in an informal, non-judicial manner. A panel is not a court of law.

- give independent advice to the planning authority (Council) and the Minister for Planning about an amendment and about submissions referred to it. A panel makes a recommendation to the planning authority. It does not formally decide whether the amendment is to be approved.

All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. All submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

The Panel reviewed the merits of the Amendment, including the basis for defining the heritage value of individual properties. In addition, the Panel recognised that Council responded to submissions by supporting changes to the Amendment and the Panel process has provided an opportunity for those affected to present their views.

Prior to the Panel Hearing, Council officers identified several drafting and mapping discrepancies and suggested a number of improvements to the exhibited documentation, which formed part of Council's submission to the Panel.

The Panel conducted its public hearing over a period of three days on 4 March, 2013 to 5 March, 2013 and 3 April, 2013. In addition to Council and its expert witness, seven parties made written and oral submissions at the hearing. Expert evidence was presented on behalf of two submitters, Devine Communities (heritage) and the Calleja Group of Companies (heritage and planning) in relation to HO166. 4BD Industrial Parkq(former CSR Mill).

This gap between the hearing days primarily occurred due to a request from the Calleja Group for an adjournment of the Panel Hearing. The adjournment was requested to allow further time for the preparation of expert witness reports in relation to the former CSR Mill in Rowsley Station Road.

To ensure that progress on the implementation of other elements of the Amendment (Part 2) was not delayed, the Panel agreed to provide an Interim Report. The interim report considered submissions heard on Days 1 and 2 of the hearing, and those submissions where a request had not been made to be heard (by a submitter).

Submissions addressed on Day 3 (and to be addressed in the Final Panel report) related to: 4Woodlandsq 229 Long Point Road, Myrniong (HO182); 33 Clarinda Street, Bacchus Marsh (HO59); 91 Main Street, Bacchus Marsh (HO102); and 25 Rowsley Station Road, Maddingley (HO166).

Council received an Interim Report from the Panel on 10 April, 2013 which presented the Panel findings on Amendment provisions relating to 77 of the 81 places included in Amendment C06 Part 2. The Interim Panel Report was publicly released by DPCD on 9 May, 2013.

It is noted that the Panel's assessment of the submissions made when the hearing reconvened on 3 April, 2013 were not addressed in the Interim Report, but were provided in the Final Report.

Council received the Final Panel Report on 13 May, 2013. It deals only with the submissions heard on Day 3 relating to HO166, HO59, HO102 and HO182. The conclusions and recommendations of the Interim Report are not altered by the Final Report.

The Final Panel Report is included as Attachment 11.2.7(a).

Panel Findings and Recommendations

In summary, the Panel supported the Amendment and endorsed the 1995 Heritage Study, and Council's position on the significance of the majority of places proposed for inclusion in the Heritage Overlay.

The Panel acknowledged that criteria and practice in the assessment of heritage places has evolved since the 1995 Heritage Study that underpins Amendment C6 was undertaken.

However, it was satisfied that the methodology adopted in the 1995 Heritage Study is sound and the extensive reviews undertaken preceding and through the Amendment/Panel processes have provided a significant level of scrutiny of the 1995 assessments. Overall, the Panel found that the basis provided by the study has been verified and revisions have been identified where necessary.

The Panel recommended that Council consider undertaking further work to address a number of remaining 'gaps'. It emphasised that this work should not delay the approval of Amendment C6, which is important to establish a framework to protect the places of identified heritage significance. In addition, the Panel endorsed the expert evidence that the citations for places to which the HO was applied under Part 1 of Amendment C6 should be reviewed and updated if necessary.

Further, the Panel noted that it is best practice to include statements of significance in an incorporated document to provide certainty for the decision making process. It recommended that Council should consider undertaking these further pieces of work.

The Panel recommended that Amendment C6 Part 2 to the Moorabool Planning Scheme be adopted as exhibited, subject to a number of recommendations.

Council Decision

Council adopted Amendment C6 Part 2 (comprising 64 heritage places) on 5 June, 2013 and resolved to create Part 3 to the amendment to allow time for the preparation and consideration of the incorporated plans by the owners of HO166 and HO182 (in accordance with the recommendations of the Panel outlined below).

Consolidated Recommendations

The Panel recommendations relevant to Amendment C6 Part 3 and the Council officers' response are outlined below:

Final Report

1. ***Reduce the extent of HO166 (JBD Industrial Park, Maddingley) on the west, north and east of the site to:***
 - ***Exclude the new buildings on the west of the site;***
 - ***Exclude the chipper house (building 5 shown on Figure 2 of this report); and***
 - ***Encompass only the other elements identified in the statement of significance as contributing to the heritage significance of the complex, plus a distance of five metres from the contributory around the perimeter of each contributory building (where these do not directly abut more recent buildings).***

Officer comment

Council submitted to the Panel that the JBD Industrial Park (former CSR Timbrock Mill), Maddingley should be retained in the Amendment, in accordance with the resolution of the OMC Meeting held on 19 September, 2012.

Expert evidence presented by heritage consultants at the Panel hearing on behalf of Council and the property owner (Calleja Group) concurred that the factory complex has heritage significance, however, the evidence differed on the extent of the area of significance.

It was agreed by the experts that Jack Hobbs McConnell whom CSR engaged to design the Timbrock Mill, was a leading architect whose firm was responsible for a number of other significant industrial projects in Australia.

The Panel's accompanied inspection of the site, including the interiors of the key factory buildings, confirmed the high level of intactness of the elements of complex which have been identified as significant.

It accepted the consensus view of the expert witnesses that the complex is of local heritage significance, but recommended exclusion of the chipper house from the HO as it is a relatively minor component of the original factory complex.

The Panel agreed with all parties and the experts' view that facilitating the reuse of heritage places is important and particularly challenging for industrial heritage places. It did not dismiss the implications of either the contamination issues or the integration of very substantial factory infrastructure and machinery on the reuse of the complex.

It was emphasised by the Panel that the application of the HO ensures objectives to protect places of identified heritage significance, such as the former CSR Timbrock hardboard mill, are taken into account in planning decisions, and that these objectives are balanced with the range of other planning considerations.

Although the further evaluation associated with either an application for permit or the formulation of a management plan may establish that some buildings cannot be retained, the Panel did not consider it appropriate to remove the HO from contributory buildings as part of this Amendment.

In the case of the JBD Industrial Park, any new development (buildings and works) on the site will require planning approval regardless of the Heritage Overlay, due to the industrial zoning of the land. Consideration of an application for use and development at the same time as an application to alter a heritage place is common.

As the overall site containing the JBD Industrial Park is significant, the reduction in the extent of the proposed heritage overlay will enable new large format industrial uses to be accommodated on the site without impacting on existing significant structures.

It should be noted that the Heritage Overlay has been applied to another industrial site via Amendment C6 Part 1, the Darley Refractories complex in Grey Street, Darley.

Officers agree with the Panel recommendation as it clarifies and refines the extent of significance of the former CSR mill site, and will revise the relevant amendment documentation accordingly.

A plan showing the revised extent of the proposed HO166 is included as Attachment 11.2.7(b).

- 2. Council consider implementing HO166 as a separate part of the Amendment to enable the addition of an incorporated plan that is agreed between Council and the owner within three months of advice to the owner of Council's response to this recommendation (if agreement cannot be reached on a management plan within the nominated timeframe, the application of HO166 should proceed without a management plan).**

Officer comment

Council accepted the Panel recommendation to implement HO166 as a separate part of the Amendment (splitting the Amendment into Parts 2 and 3) to enable the addition of an incorporated plan for this site.

The Panel saw merit in the development of an incorporated plan to assist the property owner by providing certainty and appropriate exemptions from planning permit requirements under the Heritage Overlay provisions.

It is the role of an Incorporated Plan to streamline the need for permits for works which do not impact upon the significant fabric of the buildings. The planning permit process is the appropriate process to consider demolition of significant structures as it allows consideration of why demolition is required; options for reuse and whether there is a net community benefit of a replacement structure to the community.

A draft incorporated plan has been prepared on behalf of the owners of HO166, and was submitted for Council's comment on 20 September, 2013.

Council officers have reviewed the Calleja Group's draft incorporated plan, and believe that it goes beyond the intent of the Panel's recommendation in relation to the significant elements on the site, i.e., it would enable demolition of contributory elements identified by the Planning Panel without planning approval.

Council officers have been in discussions with the Calleja Group in relation to the draft Incorporated Plan, and have provided an alternative draft Incorporated Plan which is considered to reflect the recommendations of Panel.

Lawyers acting for the Calleja Group have advised Council in a letter dated 20 February, 2014 that it remains opposed to the imposition of a Heritage Overlay on its site. However, the letter advised that the Calleja Group would like to have input into and discussion with Council in relation to the content of Council's proposed Incorporated Plan.

Furthermore, the Calleja Group has requested that Council delay consideration of the Planning Panel's recommendations in relation to their site is concerned in order to allow them to be able to comment in relation to Council's version of the draft Incorporated Plan.

The Panel recommended that development of an incorporated plan should not cause a significant delay in the application of the HO to the JBD Industrial Park.

It recommended that this course of action should be subject to a time limit, say 3 months, with the application of the HO proceeding without an incorporated plan if an agreement cannot be reached within that time. In addition, the Panel noted that the timeframe for dealing with the JBD Industrial Park may be influenced by the length of the extension of the authorisation of the Amendment.

The recommendation of this report is to adopt the Amendment subject to agreement being reached on an Incorporated Plan for the JBD Industrial Park by 5 April, 2014. This will provide the Calleja Group with additional time to comment on the draft Incorporated Plan, prior to Council submitting the Amendment for Ministerial approval.

- 4. *Alter the address in the schedule entry for HO182 – Farmhouse 'Woodlands', windmills and landscape – to 229 Long Point Road, Myrniong and amend the HO mapping to identify the correct property (excluding the row of pines to the south of the homestead complex, which are located on the adjoining property).***

Officer comment

Council submitted to the Panel that these changes were required to ensure that the correct property was identified in the HO Schedule and mapping.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

A plan showing the revised extent of the proposed HO182 is included as Attachment 11.2.7(c).

- 5. *If the draft incorporated plan for the property at 229 Long Point Road, Myrniong can be finalised to the satisfaction of the owner and Council within the timeframe for adoption and approval of Amendment C6 Part 2, include it as part of the amendment.***

Officer comment

Officers agree with the Panel recommendation and have commenced a process to finalise the incorporated plan for the property. Council resolved to include HO182 in Part 3 of the Amendment, to enable the finalisation of an incorporated plan that is agreed between Council and the property owner.

Prior to the Panel Hearing, Council officers prepared an incorporated plan under Clause 43.01-2 of the Planning Scheme (which would be listed in the schedule to the HO), to provide greater certainty to the owner. The draft incorporated plan was sent to the owner, following the Panel Directions Hearing to enable the owner to make comment at the Panel Hearing.

The Panel agreed with the benefits of applying an incorporated plan to assist with management of the heritage values of the place. It recognised the very significant challenges associated with both maintaining and replacing senescent windbreaks as raised by the property owner. In general terms, the Panel endorsed the provisions proposed in the draft incorporated plan, but agreed that gaining arboricultural advice on the provisions relating to tree management, particularly for the windbreaks, is highly desirable before the plan is finalised.

Additional work to assess and document the significance of vegetation on the site was undertaken by a qualified consultant on behalf of Council. The landscape assessment report was subsequently discussed at a meeting with the consultant and the property owner. Council officers have amended the incorporated plan to reflect the findings of this work and the owner is generally satisfied with the recommendations.

The incorporated plan removes the need for planning terms for vegetation which is not significant or significant vegetation which is senescent (at the end of its natural lifespan) and for planting replacement trees. In addition to assessing the condition of vegetation on the property, the landscape assessment report provides detailed advice to the owner regarding the future management of significant vegetation on the property.

A copy of the draft incorporated plan for HO182 is included as Attachment 11.2.7(d).

7. Council consider preparing a document that compiles the revised statements of significance provided to the Panel (with the further revisions identified during the Hearing process) for incorporation in the planning scheme as part of Amendment C6.

Officer comment

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly. The planning system requires applicants to respond to significance. Having statements of significance in a single document which is available to the public assists both applicants and assessors in navigating the planning permit process.

Strategic basis of the Amendment

The Panel considered a number of issues relating to the strategic basis of the Amendment, which were raised in submissions. These general issues related to: planning restrictions on owners, the protracted process and age of the 1995 Heritage Study underpinning the Amendment; whether thresholds of heritage significance for particular places were appropriate; the inconsistent treatment of tree controls and the need for further work required to address gaps (such as, precincts and drystone walls) or dated citations.

Planning restrictions on owners

The Panel commented that the HO is an appropriate mechanism to advance the objectives of planning for Victoria, State Planning Policy, Local Planning Policy and DPCD guidelines. This framework for planning in Victoria and the Moorabool Shire clearly establishes a basis for protecting heritage places via application of the HO, where appropriate assessment establishes that places are of significance to the local community or wider population.

Limitations are imposed by the HO through permit requirements, with associated costs and processes. However, the Overlay provides a range of exemptions intended to avoid unnecessary demands on landowners where proposed building or works are unlikely to affect the heritage significance of the property.

The protracted process and dated Heritage Study

It was acknowledged by the Panel that criteria and practice in the assessment of heritage places has evolved, as distinct from being transformed, since the 1995 Heritage Study. The same can be said for the assessment of places included in Part 2 of Amendment C6, which were the subject of the Panel's consideration.

The Panel noted comments in the submission presented by the National Trust at the hearing that their representative was not aware of any other heritage amendment process, which had involved so many levels of review and verification and so much additional work.

As noted earlier in this report, the Panel was satisfied that there have been extensive review processes undertaken by Council, prior to the preparation of the Amendment and through the Amendment submission and Panel processes, which have provided a significant level of scrutiny of the 1995 assessments. Overall, the basis provided by the study has been verified and revisions were recommended where necessary.

Thresholds

Various submissions argued that the level of change to the original fabric of their property compromised its heritage values to a point where its inclusion in the HO was not justified.

Assessment of significance is based on established methodology used in Australian jurisdictions, which the Panel was satisfied has been applied in this case. However, an element of expert judgement is required in the assessment process.

The submission and Panel processes allow review of that judgement. Consideration of this issue in relation to specific properties is provided in the Panel report.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	<p>Promote, and enhance places of heritage, landscape and environmental significance.</p> <p>Effective and efficient land use planning and building controls</p>
Strategy	<p>Develop future planning policy to ensure it:</p> <ul style="list-style-type: none">“ Preserves the unique character and sense of place“ Maintains the rural setting of the Shire.“ Provides a sense of connection with the town’s origins and familiarity with the country town feel. <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>

The proposed Amendment is consistent with the 2013-2017 Council Plan.

Planning and Environment Act 1987

Council has prepared the heritage study and amendment to meet its responsibilities and duties as a Planning Authority under the provisions of the *Planning and Environment Act 1987*. Section 4(d) of the Act includes and objective to *“to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.”*

Section 12 of the Act outlines the duties and power of planning authority (council) under the Act:

12(1) A planning authority must –

- (a) implement the objectives of planning in Victoria;*
- (d) prepare amendments to a planning scheme for which it is a planning authority;*

Environmental Effects

The Amendment will not have any adverse effects on the environment. Protection of heritage places will retain existing urban infrastructure and resources through the retention of significant heritage places. The protection of heritage places promotes sustainable development through conservation of, and reduced demand for new, construction materials.

Social Effects

The Amendment will have positive social effects through the protection of places of cultural heritage significance for the benefit of current and future generations. The protection of these places in the planning scheme will benefit the community by:

- Adding to the understanding of the cultural history within the Moorabool Shire.
- Recognising and realising the positive contribution that culturally significant places make to the Moorabool Shire.
- Providing a link to the past and creates a sense of place and cultural identity. Conserving cultural heritage helps ensure that this sense of place and cultural identity may be appreciated by present and future generations.

Economic effects

It is not expected that the Amendment will have any significant economic impacts. Conservation of heritage places has the potential to add to the tourism industry within the Moorabool Shire. However, the presence of the Heritage Overlay may trigger the need for planning approval which previously was not required, therefore, costs associated with altering heritage places may slightly increase.

Although the conservation of heritage values may impose some obligations on landowners, the recognition of heritage character can have positive economic benefits for specific sites. The inclusion of a site within the Heritage Overlay does not prohibit changes to that site or buildings, but rather requires an approval process whereby effects on heritage characteristics can be properly addressed.

The issue of economic and social impacts of applying the HO has been addressed in many Panel reports. In essence Panels have generally taken the view that the impact, if one actually exists more so than a perception of possible impact, is an issue that is more properly and effectively addressed for individual places at the planning permit application stage, if a permit is triggered via the HO.

In addition, in the context of the Act, social and economic effects are generally considered in relation to the broader community, whereas impacts on individual financial circumstances can be addressed through the planning permit process.

Therefore, the proper time for economic imperatives and the like to be considered is at the permit application stage when the detail of what is proposed to be done to a place is known and heritage considerations can be fairly weighed against other outcomes.

State Planning Policy Framework

The identification and protection of places of cultural significance is clearly the intent within the following State planning policy.

Clause 11 of the Scheme sets out the goals and principles of State planning policy and provides that:

“The State Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.”

The State Planning Policy for Heritage, as identified at Clause 15.03-1 - Heritage Conservation, of the Moorabool Planning Scheme has the following objective:

- *To ensure the conservation of places of heritage significance.*

The implementation of the above objective includes planning and responsible authorities through strategies, including:

- *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.*
- *Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity.*

- *Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value.*
- *Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- *Support adaptive reuse of heritage buildings whose use has become redundant.*

Local Planning Policy Framework

The following Local Planning Policies within the Moorabool Planning Scheme provides strong support for the further identification and protection of significant heritage places.

21.01 Municipal Context

Moorabool Shire is characterised by its townships in rural settings and its distinctive rural landscapes which comprise a diversity of vast ranges, plains, ancient gorges, and areas of intensive horticulture. The varied and rich topographical features are integral environmental, agricultural, and recreational resources for the Shire.

These environmental assets, as well as existing built form, historic buildings and landscapes, contribute to the Shire's numerous places of natural and cultural heritage significance."

21.01-2 Key Issues

Key issues that direct land use planning in Moorabool Shire are:

Environment

The environmental assets (including the Brisbane Ranges National Park, Lerderderg State Park, Werribee Gorge State Park, the Wombat State Forest, and Long Forest Nature Conservation Reserve), as well significant waterways, historic buildings, rural townscapes, and landscapes contribute to the Shire's numerous places of natural and cultural heritage significance. These features inter-twined to form the character and lifestyle opportunities that attract people to Moorabool Shire."

21.03 Settlement and Housing

21.03-4 Objective—Landscape and Neighbourhood Character

To ensure new development in all zones respects the existing character, landscape setting and amenity of the local area.

Strategies

- *Infill development should protect and enhance the existing character, built form and natural environment of the Shire's towns and villages including the country town scale and rural atmosphere of each town.*
- *Protect and reinforce the Shire's built and natural heritage as identified in heritage studies for the Shire."*

21.04 Economic Development and Employment

21.04-1 Key Issues and Influences

Local employment

Tourism development draws on many aspects of the Shire including recreation, leisure activities, environment, wineries, mineral springs, heritage and landscape features.

21.04-5 Objective—Local Employment

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

Strategies

- *Facilitate development of the tourism sector by protecting the natural environment, heritage and town character.*

Clause 21.06- Heritage

The objective of this clause is to preserve, promote and enhance places of heritage significance in the Shire. The strategies to achieve this objective are:

- *To preserve, promote, and enhance places of heritage significance including those of historical, aesthetic, architectural, scientific, and/or social value.*
- *Ensure new development is sympathetic to existing heritage places and makes a positive contribution to its heritage value.*
- *Where a permit is required for demolition/significant alterations of a heritage place, an application must be supported with documentation which demonstrates:*
 - *That the demolition/alterations will contribute to the long-term conservation of the significant fabric and/or part of the building.*
 - *That the demolition/alterations involve later inappropriate modifications to the heritage place.*
 - *That any cultural heritage significance of the place will be enhanced.*
 - *That any significant fabric to be unavoidably removed as part of the demolition/alterations can be re-instated.*
 - *A heritage impact statement may be required to be prepared, by a person/s of suitable experience and qualification in heritage architecture/interpretation.*

- *Protect important landscape features, views and built heritage including conservation of natural environment that have significant geological, botanical, zoological or other scientific importance.*
- *Encourage replanting of a similar type of tree where the removal of a significant tree is unavoidable.*
- *Protect known and identified sites of Aboriginal cultural heritage, including archaeological and historical places.*
- *Protect significant built heritage assets and streetscapes especially in Bacchus Marsh, Ballan, Blackwood, Gordon, and Mt Egerton.*

The implementation action is to:

- *Apply the Heritage Overlay (HO) to protect significant buildings, heritage precincts, sites, areas, and trees identified in relevant heritage studies.*

Clause 21.07- Bacchus Marsh

Clause 21.07 describes many attributes, which define the character of Bacchus Marsh, included is the significant heritage buildings. Clause 21.07 seeks to facilitate further growth within Bacchus Marsh while maintaining those key attributes that make Bacchus Marsh a unique and attractive place to live.

Planning Scheme

Heritage Overlay

The Heritage Overlay (HO) is the planning scheme tool used to achieve objectives to conserve and enhance heritage places. It has a focus on *‘those elements which contribute to the significance of heritage places’* and ensuring *that development does not adversely affect the significance of heritage places.’*

Permit requirements under the HO are the primary mechanism in the planning scheme to provide statutory protection for heritage places from unplanned demolition and inappropriate development or alterations, which could adversely affect their cultural significance.

The Heritage Overlay controls do not affect routine maintenance, or internal works or renovations (except where the schedule requires it) and specifically, the following minor works do not require a planning approval:

- Repairs or routine maintenance, which does not change the appearance of a heritage place. The repairs must be undertaken to the same details, specifications and materials.
- Anything done in accordance with an incorporated plan specified in a schedule to the overlay.

In summary, permit requirements relate proposals to subdivide land; to demolish or remove a building; to construct a building or construct or carry out works, and to externally paint an unpainted surface. In some cases, the schedule activates provisions, such as, whether prohibited uses may be considered and controls relating to external painting, internal alterations, trees, outbuildings and fences.

Inclusion of a site within the Heritage Overlay does not automatically prevent changes from occurring on the site. Rather, the planning scheme sets in place a process to consider any proposed change against its impact on heritage significance.

In circumstances where there is little impact on key elements of significance a planning permit (under the Heritage Overlay) is likely to be issued. Where there is a greater impact on significance this needs to be evaluated and a decision made in relation to net community impact.

If a planning permit application is refused, it is possible to have that decision reviewed by the Victorian Civil and Administrative Tribunal.

Financial Implications

Substantial financial assistance has been provided to Council by the Commonwealth and State Governments to enable the preparation of the Bacchus Marsh Heritage Study and Amendment C06.

Council has received assistance from the Department of Planning and Community Development's Rural Planning Flying Squad to progress this Amendment. The Department provided funding for the preparation of draft Council reports and draft submissions/presentations to Planning Panels Victoria, which enabled staff resources to be dedicated to other projects on the strategic planning work program.

The new heritage listings are likely to generate additional planning permit applications, however, it is expected that the increase will not exceed the capacity of Council to continue to meet its statutory obligations.

Risk & Occupational Health & Safety Issues

Adopting a planning scheme amendment is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to adopt Amendment C06 in accordance with the recommendations of the Planning Panel.

As Council may be aware, the Minister for Planning makes the ultimate decision in regard to a Planning Scheme Amendment. To ensure that the support of the Minister can be gained for the approval of an amendment, a planning authority (Council) must follow the correct procedures and protocols, in accordance with the provisions of the *Planning and Environment Act 1987*.

Under the provisions of the Act, a Panel is appointed by the Minister for Planning to hear submissions made about amendments to planning schemes, and to make recommendations or provide expert advice about whether or not the amendment should proceed. The Act requires Council to carefully consider the recommendations of a Planning Panel prior to deciding whether the amendment is to proceed.

To minimise any risk, it is recommended that Council be guided by the Panel's findings. Any decision countering the recommendations received would need to be carefully measured given the risk of conflicting with the *Planning and Environment Act 1987*.

If Council chooses to adopt the Amendment without following the Panel's recommendations, the Minister would require significant justification to consider approving the Amendment. In addition, if Council cannot provide appropriate justification for not following the Planning Panel's recommendations, its decision may be deemed to be inconsistent with a number of the objectives of planning in Victoria.

If Council disregards the recommendations of the Planning Panel when submitting Planning Scheme Amendment C06 Part 3 for Ministerial approval, it could be subjected to further procedural delays or even possible changes by the Minister, under Section 35 (1) (b) of the *Planning and Environment Act 1987*.

Considerable financial support has been provided by the Commonwealth and State Governments to enable Council to prepare the Study and Amendment. These grants have been provided on the basis that the implementation of the Study would occur via its incorporation into the planning scheme.

Furthermore, if the Heritage Overlay is not in place to protect the Shire's heritage assets, there is a risk of the potential loss of significant buildings over time, ultimately eroding the heritage significance and character of Bacchus Marsh, which is highly valued by the community.

Council is in a sound position to adopt the Amendment at this time and undertake the further work recommended by the Panel prior to submitting the amendment for Ministerial approval. This approach is consistent with legal advice provided to other municipalities in relation to similar circumstance where Panels have recommended that further work be finalised prior to the approval of the Amendment.

It is appropriate for Council to adopt the amendment subject to the changes set out in its resolution being made to the satisfaction of Council's General Manager - Growth and Development.

There are unlikely to be any occupational health and safety implications for Council in relation to this amendment.

Community Engagement Strategy

Considerable consultation with affected landowners has occurred since the preparation of the Bacchus Marsh Heritage Study commenced in the early 1990s.

This planning scheme amendment has undergone a rigorous consultation process. Public exhibition was undertaken in accordance with the provisions of the *Planning and Environment Act 1987*. The exhibition process is outlined in the Discussion Section of this report.

The Independent Panel conducted its public hearings in Bacchus Marsh and Ballan, and provided the opportunity for submitters to attend the hearing and make a presentation to the Panel. The Panel hearing was the culmination of all previous consultation undertaken in relation to the BMHS and Amendment C6.

In addition, there are many people and groups in the wider community with an interest in heritage. Many have been involved with the BMHS or Stage 1 of the West Moorabool Heritage Study. There was significant media interest in 2012 in relation to the progress of heritage studies in the Shire.

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Affected landowners	Public exhibition & Informal Discussions Phone Discussions	Various	April 2010-2014	Feedback has been provided as a result of public notification via written submissions, and phone/email enquiries.
Involve	Submitters	Panel Hearing	Bacchus Marsh and Ballan	3 April 2013	Referral to the Planning Panel provided an opportunity for submitters to present their views and evidence to an independent body prior to Council determining its position.

Communications Strategy

All submitters will be notified of the outcome regarding the consideration of this report. Council officers will continue to work with affected property owners to seek the implementation of Amendment C06 Part 3.

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.

General Manager – Satwinder Sandhu

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

Author – Damien Drew

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

Conclusion

Heritage provides an essential link with the past and contributes to the creation of a sense of place for our community. The Bacchus Marsh Heritage Study has assisted Council in identifying the Shire's significant heritage places.

The only means to provide statutory protection for important heritage assets identified in the Heritage Study is through an amendment to the Moorabool Planning Scheme, which applies the Heritage Overlay to the significant sites.

Protection of these places by applying the Heritage Overlay will benefit the community through a better understanding of the Bacchus Marsh area's rich cultural history, recognising and realising the positive contribution that culturally significant places make to the Moorabool Shire, and fostering a sense of local identity.

Following the public exhibition of Amendment C06, a number of issues identified in submissions remained unresolved. In response to concerns raised in submissions, a rigorous review of Amendment C06 . Part 2 was undertaken. This review confirmed the validity of the Bacchus Marsh Heritage Study 1995 and that the majority of the properties identified, including HO166. 4BD Industrial Parkq(former CSR Mill), meet the current criteria for protection under the Heritage Overlay.

To provide direction to Council as to how best to proceed with the amendment, a Planning Panel was appointed to consider these issues. All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. All submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

The Panel reviewed the merits of the Amendment, including the basis for defining the heritage value of individual properties. It accepted the consensus view of the expert witnesses that HO166 . 4BD Industrial Parkq (former CSR Mill) is of local heritage significance, but recommended exclusion of the chipper house from the HO as it is a relatively minor component of the original factory complex.

In addition, the Panel recognised that Council responded to submissions by supporting changes to the Amendment and the Panel process has provided an opportunity for those affected to present their views.

The Panel Hearing process and findings provides a significant planning milestone for Council. It represents a culmination of a significant planning process, which commenced in 1994-95. A significant amount of community and stakeholder engagement has occurred to the stage of enabling the amendment to be considered for adoption.

Therefore, it is considered that the Panel's Report, which endorses the adoption of the Amendment, is a significant step towards providing greater certainty regarding the protection of heritage places in Bacchus Marsh and surrounds, and meeting Council's requirement as a planning authority to conserve places of heritage significance.

Furthermore, adopting Amendment C06 Part 3 will bring the Amendment closer to its conclusion, ultimately resolving uncertainty in the community in relation to the protection of places of heritage significance in Bacchus Marsh and surrounds.

This report recommends adoption of Amendment C06 Part 3, in accordance with the Panel recommendations. It is recommended that the Amendment be submitted to the Minister for Planning for approval.

Amendment C06 Part 3 is due to lapse on 19 March, 2014 and discussions with officers of the Department of Transport, Planning and Local Infrastructure have indicated that a request for an extension of time may not be approved. Council has previously been granted two extensions to enable the Amendment to be finalised. Therefore, it is necessary to consider the adoption of Amendment C6 Part 3 prior to 19 March, 2014.

Consideration of Deputations – Amendment C06 – Part 3 - Bacchus Marsh Heritage Study

Ms. Jo Merrylees addressed Council in relation to Amendment C06 – Bacchus Marsh Heritage Study.

The business of the meeting then returned to the agenda.

Recommendation:

That Council, having considered the recommendations of the Planning Panel's Interim and Final Reports regarding Moorabool Planning Scheme Amendment C06 Part 3 pursuant to Section 27 of the Planning and Environment Act 1987, resolves to:

- 1. Adopt Amendment C6 Part 3, with changes as recommended by the Panel as follows:**
 - a. Reduce the extent of HO166 (JBD Industrial Park, Maddingley) on the west, north and east of the site to:**
 - **Exclude the new buildings on the west of the site;**
 - **Exclude the chipper house (building 5 shown on Figure 2 of this report); and**
 - **Encompass only the other elements identified in the statement of significance as contributing to the heritage significance of the complex, plus a distance of five metres from the contributory around the perimeter of each contributory building (where these do not directly abut more recent buildings).**
 - b. Addition of an incorporated plan for HO166 that is agreed between Council and the owner, if agreement can be reached by 5 April, 2014.**
 - c. Alter the address in the schedule entry for HO182 – Farmhouse 'Woodlands', windmills and landscape – to 229 Long Point Road, Myrniong and amend the HO mapping to identify the correct property (excluding the row of pines to the south of the homestead complex, which are located on the adjoining property).**
 - d. Preparation of a document that compiles the revised statements of significance provided to the Panel (with the further revisions identified during the Hearing process) for incorporation in the planning scheme.**
 - e. the draft incorporated plan presented to the Panel for the property at 229 Long Point Road, Myrniong being finalised to the satisfaction of the owner and Council.**
 - f. amendment of the 'What is significant?' section of the statement of significance for 55 Main Street, Myrniong (HO188) to record that the rear hip-roofed section of the building is not significant.**
 - g. further revision of the citation for 44 Paces Lane, Rowsley (HO202) to improve the consistency of its description of the style of the house.**

2. Finalise the documents for incorporation in the planning scheme, prior to Amendment C6 Part 3 being submitted to the Minister for Planning for approval, in accordance with the Panel's recommendations, as follows:
 - the incorporated plan for HO166 if agreed upon between Council and the owner by 5 April, 2014
 - the draft incorporated plan presented to the Panel for the property at 229 Long Point Road, Myrniong to the satisfaction of the owner and Council
 - the document that compiles the revised statements of significance provided to the Panel, with the further revisions identified during the Hearing process, including:
 - amendment of the 'What is significant?' section of the statement of significance for 55 Main Street, Myrniong (HO188) to record that the rear hip-roofed section of the building is not significant.
 - further revision of the citation for 44 Paces Lane, Rowsley (HO202) to improve the consistency of its description of the style of the house.
3. Adopt the final version of Incorporated Documents subject to the changes set out in Point 2 being made to the satisfaction of the General Manager Growth and Development.
4. Submit the adopted Amendment C6 Part 3, together with the prescribed information, to the Minister for Planning requesting approval pursuant to Section 31(1) of the Planning and Environment Act 1987.

Resolution:

Crs. Edwards/Dudzik

That Council, having considered the recommendations of the Planning Panel's Interim and Final Reports regarding Moorabool Planning Scheme Amendment C06 Part 3 pursuant to Section 27 of the Planning and Environment Act 1987, resolves to:

1. ***Split the Amendment C6 Part 3 into two parts being:***
 - a. ***Part 3 comprising:***
 - ***HO182 – Farmhouse 'Woodlands', windmills and landscape – 229 Long Point Road, Myrniong; and***
 - ***documents for incorporation in the planning scheme.***
 - b. ***Part 4 comprising:***
 - ***HO166 JBD Industrial Park, 25 Rowsley Station Road, Maddingley.***

2. ***Adopt Amendment C6 Part 3, with changes as recommended by the Panel as follows:***
 - a. ***Alter the address in the schedule entry for HO182 – Farmhouse ‘Woodlands’, windmills and landscape to 229 Long Point Road, Myrniong and amend the HO mapping to identify the correct property (excluding the row of pines to the south of the homestead complex, which are located on the adjoining property).***
 - b. ***Preparation of a document that compiles the revised statements of significance provided to the Panel (with the further revisions identified during the Hearing process) for incorporation in the planning scheme.***
 - c. ***the draft incorporated plan presented to the Panel for the property at 229 Long Point Road, Myrniong being finalised to the satisfaction of the owner and Council.***
 - d. ***amendment of the ‘What is significant?’ section of the statement of significance for 55 Main Street, Myrniong (HO188) to record that the rear hip-roofed section of the building is not significant.***
 - e. ***further revision of the citation for 44 Paces Lane, Rowsley (HO202) to improve the consistency of its description of the style of the house.***
3. ***Finalise the documents for incorporation in the planning scheme, prior to Amendment C6 Part 3 being submitted to the Minister for Planning for approval, in accordance with the Panel’s recommendations, as follows:***
 - ***the draft incorporated plan presented to the Panel for the property at 229 Long Point Road, Myrniong to the satisfaction of the owner and Council.***
 - ***the document that compiles the revised statements of significance provided to the Panel, with the further revisions identified during the Hearing process, including:***
 - ***amendment of the ‘What is significant?’ section of the statement of significance for 55 Main Street, Myrniong (HO188) to record that the rear hip-roofed section of the building is not significant.***
 - ***further revision of the citation for 44 Paces Lane, Rowsley (HO202) to improve the consistency of its description of the style of the house.***

4. ***Adopt the final version of Incorporated Documents subject to the changes set out in Point 2 being made to the satisfaction of the General Manager Growth and Development.***
5. ***Submit the adopted Amendment C6 Part 3, together with the prescribed information, to the Minister for Planning requesting approval pursuant to Section 31(1) of the Planning and Environment Act 1987.***
6. ***Abandon Moorabool Planning Scheme Amendment C6 Part 4.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Tuesday, 25 February 2014



11.3 COMMUNITY SERVICES

No reports for this meeting

11.4 INFRASTRUCTURE SERVICES

11.4.1 Waste and Resource Recovery Governance Reform

Introduction

File No.: 16/05/007
Author: Glenn Townsend
General Manager: Phil Jeffrey

Background

The Environment Protection and Sustainability Victoria Amendment Bill 2014 establishes six new Waste and Resource Recovery Groups (WRRGs) across Victoria, in place of the current twelve Regional Waste Management Groups (RWMGs). The attached map shows the new Waste and Resource Recovery Regions.

It is intended that the new WRRGs will be established from 1 August 2014 and will consist of a Chief Executive Officer and board of eight directors. Four of these directors will come from Local Government in their Waste and Resource Recovery Region, and four will be nominated by the Minister.

This model provides for directors with a wider set of expertise, while retaining local government representation in recognition of its role in providing and funding waste service and infrastructure delivery.

Underneath this structure, the Victorian government is establishing a Local Government Waste Forum in each region, that will nominate the four local government directors, and be an ongoing conduit for consultation between all local governments and the new WRRGs.

The Minister for Environment and Climate Change has requested that each Council in a Waste and Resource Recovery Region nominate a councillor to be its representative on the Local Government Waste Forum by 31 March 2014. Each Council may nominate one Councillor as their representative on the Waste Forum.

Forum representatives are expected to communicate the activities and actions of the Forum back to their Council.

It is proposed that the Local Government Forums will be established under the Environment Protection Act 1970 (EP Act), subject to the passage of legislation.

Local Government Waste Forums will:

- have a statutory role to nominate to the Minister the 4 (four) persons who are to be the representative of Councils for the purposes of appointment as directors of the WRRG;
- develop procedures for the nominations of these persons;
- develop procedures for the nominations of a person to fill a vacancy in one of these positions, should this arise; and

- be a conduit for consultation between the new WRRG and local governments, and for advice to WRRG Boards on matters and issues affecting the role of local governments in waste management and resource recovery.

Proposal

Currently, Councillor Tom Sullivan is the Chair of the Highlands Regional Waste Management Group and Council representative for Moorabool Shire. It is proposed that Councillor Sullivan be nominated as the representative for Moorabool on the Local Government Waste Forum.

Policy Implications

The 2013 . 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our Community
Objective	Advocate for services and infrastructure that meets the Shire's existing and future needs
Strategy	Represent Council at a regional level to improve services and infrastructure within the Shire.

The proposal is consistent with the 2013 . 2017 Council Plan.

Financial Implications

There are no financial implications to Council associated with the recommendation contained within this report.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues to be considered in association with this report.

Communications and Consultation Strategy

Council's nomination will be communicated to the Minister for Environment and Climate Change by 31 March 2014.

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.

General Manager – Phil Jeffrey

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

Author – Glenn Townsend

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

Conclusion

Moorabool Shire Council is required to provide a nomination for appointment of a Council representative to the Grampians Central West Waste and Resource Recovery Group Local Government Waste Forum, a statutory forum under proposed amendments to the *Environment Protection Act 1970*.

Currently, Councillor Tom Sullivan is the Chair of the Highlands Regional Waste Management Group and Council representative for Moorabool Shire. It is proposed that Councillor Sullivan be nominated as the representative for Moorabool on the Local Government Waste Forum.

Resolution:

Crs. Dudzik/Spain

That Council:

- 1. *Endorse the appointment of Councillor Tom Sullivan to the Local Government Waste Forum for the Grampians Central West Waste & Resource Recovery Region, as the representative of Moorabool Shire Council.***
- 2. *Advise the Minister for Environment and Climate Change of its nomination by 31 March 2014.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: 25 February 2014

11.5 CORPORATE SERVICES

No reports for this meeting

12. OTHER REPORTS

12.1 Assembly of Councillors

File No.: 02/01/002

Section 76(AA) of the Local Government Act 1989 defines the following to be Assemblies of Councillors; an advisory committee of the Council that includes at least one Councillor; a planned or scheduled meeting of at least half the Councillors and one member of council staff which considers matters that are intended or likely to be:

- the subject of a decision of the Council; or
- subject to the exercise of a Council function, power or duty by a person or committee acting under Council delegation.

It should be noted, an assembly of Councillors does not include an Ordinary Council meeting, a special committee of the Council, meetings of the Council's audit committee, a club, association, peak body or political party.

Council must ensure that the written record of an assembly of Councillors is, as soon as practicable .

- a) reported to the next ordinary meeting of the Council; and
- b) incorporated in the minutes of that council meeting. (s. 80A(2))

Council also records each Assembly of Councillors on its website at www.moorabool.vic.gov.au

A record of Assemblies of Councillors since the last Ordinary Meeting of Council is provided below for consideration:

- Assembly of Councillors . Wednesday 29 January 2014 . Water Bill Exposure Draft
- Assembly of Councillors . Wednesday 5 February 2014 . Update on Structure Plans
- Assembly of Councillors . Wednesday 5 February 2014 . Strategic Financial Plan Presentation
- Assembly of Councillors . Wednesday 5 February 2014 . Water Bill Exposure Draft.
- Assembly of Councillors . Wednesday 12 February 2014 . Strategic Financial Plan (continuation) and Rating Strategy Workshop
- Assembly of Councillors . Wednesday 12 February 2014 . Draft AOC Schedule
- Assembly of Councillors . Wednesday 19 February 2014 . Rural Advisory Committee
- Assembly of Councillors . Wednesday 19 February 2014 . Walking Trails Project Update
- Assembly of Councillors . Wednesday 19 February 2014 . Recreation and Leisure Committee

Resolution:**Crs. Sullivan/Edwards**

That Council receives the record of Assemblies of Councillors as follows:

- ***Assembly of Councillors – Wednesday 29 January 2014 – Water Bill Exposure Draft***
- ***Assembly of Councillors – Wednesday 5 February 2014 – Update on Structure Plans***
- ***Assembly of Councillors – Wednesday 5 February 2014 – Strategic Financial Plan Presentation***
- ***Assembly of Councillors – Wednesday 5 February 2014 – Water Bill Exposure Draft.***
- ***Assembly of Councillors – Wednesday 12 February 2014 – Strategic Financial Plan (continuation) and Rating Strategy Workshop***
- ***Assembly of Councillors – Wednesday 12 February 2014 – Draft AOC Schedule***
- ***Assembly of Councillors – Wednesday 19 February 2014 – Rural Advisory Committee***
- ***Assembly of Councillors – Wednesday 19 February 2014 – Walking Trails Project Update***
- ***Assembly of Councillors – Wednesday 19 February 2014 – Recreation and Leisure Committee***

CARRIED.

12.2 Section 86 - Delegated Committees of Council - Reports

Section 86 Delegated Committees are established to assist Council with executing specific functions or duties. By instrument of delegation, Council may delegate to the committees such functions and powers of the Council that it deems appropriate, utilising provisions of the Local Government Act 1989. The Council cannot delegate certain powers as specifically indicated in Section 86(4) of the Act.

Section 86 Delegated Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Section 86 . Delegated Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Bacchus Marsh Racecourse and Recreation Reserve Committee of Management	12 February 2014	Cr. Comrie Cr. Edwards. Community Members

Resolution:

Crs. Comrie/Toohey

That Council receives the report of the following Section 86 - Delegated Committee of Council:

- Bacchus Marsh Racecourse and Recreation Reserve Committee of Management meeting of Wednesday 12 February 2014.***

CARRIED.

13. NOTICES OF MOTION

Nil.

14. URGENT BUSINESS***Resolution:******Crs. Spain/Sullivan******That Council resolves to appoint the East Moorabool Councillors as interim Chairpersons of the Masons Lane, Maddingley Park and Darley Park Committees of Management until such time as a decision of Council is made in relation to those matters.*****CARRIED.*****Resolution:******Crs. Spain/Edwards******That Council nominate the following Councillors as interim Chairpersons of the following committees:***

- 1. Cr Dudzik to the Masons Lane Committee of Management***
- 2. Cr Edwards to the Maddingley Park Committee of Management***
- 3. Cr Spain to the Darley Park Committee of Management.***

CARRIED.

15. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Nil.

16. MEETING CLOSURE

The meeting closed at 6.03pm.

Confirmed.....Mayor.