

## ORDINARY MEETING OF COUNCIL

**Minutes** of the  
Ordinary Meeting of Council  
held at the James Young Room, Lerderderg Library,  
215 Main Street, Bacchus Marsh on  
Wednesday 16 October 2013 at 7:00 p.m.

### **Members:**

Cr. Pat Toohey (Mayor)	Woodlands 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. Paul Tatchell	Central Ward
Cr. Tom Sullivan	West Moorabool 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**

## AGENDA

<b>1.</b>	<b>OPENING OF MEETING AND PRAYER .....</b>	<b>4</b>
<b>2.</b>	<b>PRESENT.....</b>	<b>4</b>
<b>3.</b>	<b>APOLOGIES .....</b>	<b>4</b>
<b>4.</b>	<b>CONFIRMATION OF MINUTES .....</b>	<b>4</b>
4.1	<i>Ordinary Meeting of Council – Wednesday 2 October 2013.....</i>	<i>4</i>
<b>5.</b>	<b>DISCLOSURE OF CONFLICT OF INTEREST .....</b>	<b>5</b>
<b>6.</b>	<b>MAYOR’S REPORT .....</b>	<b>7</b>
<b>7.</b>	<b>COUNCILLORS' REPORTS.....</b>	<b>8</b>
<b>8.</b>	<b>PUBLIC QUESTION TIME.....</b>	<b>10</b>
<b>9.</b>	<b>PETITIONS.....</b>	<b>13</b>
<b>10.</b>	<b>PRESENTATIONS / DEPUTATIONS .....</b>	<b>14</b>
<b>11.</b>	<b>OFFICER'S REPORTS.....</b>	<b>16</b>
<b>11.1</b>	<b>CHIEF EXECUTIVE OFFICER.....</b>	<b>16</b>
11.1.1	<i>Councillor Code of Conduct.....</i>	<i>16</i>
<b>11.2</b>	<b>GROWTH AND DEVELOPMENT .....</b>	<b>19</b>
11.2.1	<i>Planning Permit PA2011-290; Two (2) lot subdivision, application to amend a permit condition; Lot 1 on PS208765X; 8 Flack Street, Ballan .....</i>	<i>19</i>
11.2.2	<i>Planning Application 2013-118; Development and Use of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture; at Crown allotment 1, Section 2, Parish of Warrenheip; Mahars Road, Warrenheip VIC 3352. ....</i>	<i>27</i>
11.2.3	<i>Allocation of 2013/14 Tourism Funding.....</i>	<i>47</i>
<b>11.3</b>	<b>COMMUNITY SERVICES.....</b>	<b>57</b>
<b>11.4</b>	<b>INFRASTRUCTURE SERVICES .....</b>	<b>58</b>
<b>11.5</b>	<b>CORPORATE SERVICES.....</b>	<b>59</b>
11.5.1	<i>Councillor and Members of Council Committees Expenses Entitlement and Resources Policy.....</i>	<i>59</i>
<b>12.</b>	<b>OTHER REPORTS .....</b>	<b>63</b>
12.1	<i>Assembly of Councillors.....</i>	<i>63</i>
12.2	<i>Section 86 - Delegated Committees of Council - Reports .....</i>	<i>65</i>

<b>13.</b>	<b>NOTICES OF MOTION .....</b>	<b>66</b>
13.1	<i>Cr Comrie: N.O.M. No. 234 – Redistribution of Daylesford &amp; Macedon Ranges Regional Tourism Board (DMRRTB) Contribution.....</i>	<i>66</i>
<b>14.</b>	<b>URGENT BUSINESS .....</b>	<b>68</b>
<b>15.</b>	<b>CLOSED SESSION OF THE MEETING TO THE PUBLIC .....</b>	<b>69</b>
<b>16.</b>	<b>MEETING CLOSURE .....</b>	<b>70</b>

**1. OPENING OF MEETING AND PRAYER**

*The Mayor, Cr. Toohey, opened the meeting with the Council Prayer at 7.00 pm.*

**2. PRESENT**

<i>Cr. Pat Toohey (Mayor)</i>	<i>Woodlands 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. Paul Tatchell</i>	<i>Central Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>

**In Attendance**

<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>Mrs. Sian Smith</i>	<i>Manager Statutory Planning &amp; Community Safety</i>
<i>Ms. Vicki Mack</i>	<i>Statutory Planner</i>
<i>Ms. Deb Absolom</i>	<i>Minute Taker</i>
<i>Ms. Sharon Duff</i>	<i>Observer</i>

**3. APOLOGIES**

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
-------------------------	--------------------------------

**4. CONFIRMATION OF MINUTES****4.1 Ordinary Meeting of Council – Wednesday 2 October 2013**

**Resolution:**

**Crs. Comrie/Spain**

*That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 2 October 2013.*

**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. Toohey, attended the following meetings and activities:*

<b>Cr. Toohey - Mayor</b>	
<b>October 2013</b>	
<b>Friday 4 October</b>	<ul style="list-style-type: none"> <li>• <b>City of Melton Plate</b></li> </ul>
<b>Wednesday 9 October</b>	<ul style="list-style-type: none"> <li>• <b>Assembly of Councillors – Melbourne Growth Plan (via telephone)</b></li> <li>• <b>Interviews with various press and media outlets regarding the Melbourne Growth Plan</b></li> </ul>
<b>Friday 11 October</b>	<ul style="list-style-type: none"> <li>• <b>Western Highway Action Committee Meeting (attended with Phil Jeffrey)</b></li> <li>• <b>Civic Reception commemorating the visit of His Excellency the Honourable Alex Chernov AC QC, Governor of Victoria and Mrs Chernov</b></li> <li>• <b>Community Information Session on Bushfire Management Overlays, Council Chambers, Ballan</b></li> </ul>
<b>Monday 14 October</b>	<ul style="list-style-type: none"> <li>• <b>MAV Rural South Central Region Forum</b></li> </ul>
<b>Wednesday 16 October</b>	<ul style="list-style-type: none"> <li>• <b>Assembly of Councillors – Draft Capital Investment Guidelines</b></li> <li>• <b>Assembly of Councillors – 2012/13 Capital Improvement Program Carry Forwards</b></li> <li>• <b>Assembly of Councillors – Hike and Bike Strategy</b></li> <li>• <b>Assembly of Councillors – Meeting Procedure: Local Law</b></li> <li>• <b>Assembly of Councillors – Councillor Training Needs</b></li> <li>• <b>Ordinary Meeting of Council</b></li> </ul>

**Resolution:**

**Crs. Sullivan/Comrie**

*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:*

<b>Cr. Tatchell</b>	
<b>October 2013</b>	
<b>Monday 7 October</b>	<b>Rural Advisory Committee</b>
<b>Friday 11 October</b>	<b>Meeting with Rural Advisory Committee and Simon Ramsay, MP</b>
<b>Monday 14 October</b>	<b>AGM Ballan Eco Village</b>
<b>Tuesday 15 October</b>	<ul style="list-style-type: none"> <li>• <b>Meeting with Bacchus Marsh Pool Consortium</b></li> <li>• <b>Agripac Walk Through</b></li> </ul>

<b>Cr. Spain</b>	
<b>October 2013</b>	
<b>Friday 11 October</b>	<b>Community Information Session on Bushfire Management Overlay</b>

<b>Cr. Edwards</b>	
<b>October 2013</b>	
<b>Wednesday 9 October</b>	<b>Bacchus Marsh Racecourse Reserve Meeting</b>
<b>Friday 11 October</b>	<b>Peri Urban Group of Councils</b>
<b>Wednesday 16 October</b>	<b>Meeting with Damian Drum on behalf of Peri Urban</b>

<b>Cr. Sullivan</b>	
<b>October 2013</b>	
<b>Monday 14 October</b>	<b>MAV Rural South Central Region Forum</b>



<b>Cr. Comrie</b>	
<b>October 2013</b>	
<b>Tuesday 15 October</b>	<ul style="list-style-type: none"><li>• <b>Urban Growth Strategy Meeting</b></li><li>• <b>Meeting with Bacchus Marsh Pool Consortium</b></li></ul>

**Resolution:**

**Crs. Comrie/Tatchell**

***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**.

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.

### ***Procedural Guidelines – Public Question Time***

A maximum of two questions may be asked by any one person at any one time.

If a person has submitted 2 questions to a meeting, the second question: may, at the discretion of the Mayor, be deferred until all other persons who have asked a question have had their questions asked and answered; or may not be asked if the time allotted for public question time has expired.

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

The Mayor will nominate the appropriate person to respond to each question. In the event that the question is directed for response by a Council Officer, it shall be referred through the Chief Executive Officer.

The Mayor may disallow any question, which is considered:

To relate to a matter outside the duties, functions and powers of Council;

To be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or substance;

To be confidential in nature or of legal significance;

To deal with a subject matter already answered; To be aimed to embarrass any person;

- To relate to personnel matters;
- To relate to the personal hardship of any resident or ratepayer;
- To relate to industrial matters;
- To relate to contractual matters;
- To relate to proposed developments;
- To relate to legal advice;
- To relate to matters affecting the security of Council property; or
- To relate to any other matter which Council considers would prejudice the Council or any person.

The Mayor has the discretion to seek clarification of the question if deemed necessary but otherwise the person asking the question is not permitted to enter into debate with or directly question the Mayor or Chief Executive Officer.

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

***The following questions were responded to at the meeting:***

***Ms. Robyn Johnson – Bacchus Marsh – Concerns over future development in Bacchus Marsh.***

***Mr. Ron Stickland – Greendale – Would like an explanation on the fire services levy residential charge.***

***Mr. Scott Bailey – Maddingley – Service road access changes.***

**QUESTION ON NOTICE**

**Mr. Scott Bailey of Maddingley raised the following question at the Ordinary Meeting of Council on Wednesday 2 October, which was taken on notice by the Chair for further investigations to be undertaken:**

***Query in relation to works to be completed affecting Grant Street service road.***

**RESPONSE TO QUESTION**

In response to the question raised by Mr. Scott Bailey at the Ordinary Meeting of Council on Wednesday 2 October 2013, Council's General Manager, Infrastructure has advised the following:

*The Grant Street / Labilliere Street intersection safety improvement project was included in Council's Capital Improvement Program in 2010/11. The project has been carried forward to this year because of negotiations for contributions associated with nearby residential development.*

*When the project was in the design phase, a consultation process was undertaken that included all affected businesses including Mr Bailey.*

*Following this, the design was finalised. The project is now ready to commence and further correspondence was sent to local businesses given the amount of time from the initial consultation.*

*Since, officers have held further discussions with Mr Bailey regarding concerns over the impact of the proposed works. Feedback has been received from him and will be considered in conjunction with traffic movements and pedestrian safety prior to tendering the project. A response will be provided to Mr Bailey following assessment of his submission.*

**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:**

Nil.

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

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

Item No	Description	Name	Applicant/ Objector
11.2.1	<i>Planning Permit PA2011-290; Two (2) lot subdivision, application to amend a permit condition; Lot 1 on PS208765X; 8 Flack Street, Ballan</i>	John Dymock	Applicant

11.2.2	<i>Planning Application PA2013-118; Development and Use of a Dwelling and outbuilding (shed) in association with the use of land for agriculture; at Crown allotment 1, Section 2, Parish of Warrenheip; Mahars Road, Warrenheip VIC 3352</i>	James Iles	Applicant
11.2.2	<i>Planning Application PA2013-118; Development and Use of a Dwelling and outbuilding (shed) in association with the use of land for agriculture; at Crown allotment 1, Section 2, Parish of Warrenheip; Mahars Road, Warrenheip VIC 3352</i>	Keith Parry	Objector

## 11. OFFICER'S REPORTS

### 11.1 CHIEF EXECUTIVE OFFICER

#### 11.1.1 Councillor Code of Conduct

##### Introduction

File No.: 01/03/002  
Author: Shane Marr  
Chief Executive Officer: Rob Croxford

##### Background

Section 76C of the Local Government Act 1989 (the Act) requires Council to develop and approve a Councillor Code of Conduct within the period of 12 months after a general election.

Pursuant to section 76C (3) of the Act, the Code of Conduct must contain:

- a) The Councillor Conduct Principles set out in sections 76B and 76BA of the Act,
- b) A process for resolving internal disputes between Councillors; and
- c) Any other matters relating to the conduct of Councillors which the Council considers appropriate.

##### Proposal

This Code of Conduct, as attached, is part of Council's commitment to governing our Shire effectively and adhering to the principles of good governance. The Code of Conduct sets out the principles underpinning good relationships and behaviour.

Good governance is the combination of implementing decisions and following processes in accordance with relevant legislation that make the best use of the available people, resources and time to ensure the best possible outcomes for our community.

##### Policy Implications

The 2013 - 2017 Council Plan provides as follows:

**Key Result Area** Representation and Leadership of our Community

**Objective** Good governance through open and transparent processes and strong accountability to the community.



**Strategy**

Ensure policies and good governance are in accordance with legislative requirements and best practice.

**Financial Implications**

The implementation of this Code of Conduct will be resourced as part of Council's adopted budget; as such, there are no additional financial implications.

**Risk & Occupational Health & Safety Issues**

<b>Risk Identifier</b>	<b>Detail of Risk</b>	<b>Risk Rating</b>	<b>Control/s</b>
Failure to comply with the standards of conduct that the Act requires of Councillors.	Reduction in public confidence in the office of Councillor and of Council	High	Coherent framework to guide the conduct of individual Councillors and to manage cases of misconduct

**Communications and Consultation Strategy**

Councillors have attended workshops and provided a high level of input towards the development of the Councillor Code of Conduct.

**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.

*Chief Executive Officer – Rob Croxford*

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

*Author – Shane Marr*

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

**Conclusion**

In presenting this Councillor Code of Conduct to Council for its consideration and adoption, Council will comply with Section 76C of the Local Government Act 1989 (~~the Act~~) which requires Council to develop and approve a Councillor Code of Conduct within the period of 12 months after a general election.

**Resolution:****Crs. Dudzik/Comrie**

***That Council, in accordance with the requirements of section 76C of the Local Government Act 1989 ("the Act"), adopts the Councillor Code of Conduct.***

**CARRIED.**

---

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

**Name:** Rob Croxford  
**Title:** Chief Executive Officer  
**Date:** Thursday 3 October 2013

## 11.2 GROWTH AND DEVELOPMENT

### 11.2.1 Planning Permit PA2011-290; Two (2) lot subdivision, application to amend a permit condition; Lot 1 on PS208765X; 8 Flack Street, Ballan

<b>Application Summary:</b>	
Application No:	PA2011-290
Lodgement Date:	26 August 2013
Planning Officer:	Victoria Mack
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	18 October 2013
Address of the land:	Lot 1 on PS208765X 8 Flack Street, Ballan VIC 3342
Proposal:	Amend permit condition number 6.
Lot size:	4080sqm
Restrictive covenant	Nil
Why is a permit required?	Section 72(1) of the Planning and Environment Act 1987.
<b>Public Consultation:</b>	
Notice of application	No notice was required to be given.
<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Enhanced Infrastructure and Natural Built Environment.
<b>Objective -</b>	Effective and efficient land use planning and building controls.
<b>Strategy -</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications  Ensure that development is sustainable, resilient to change and respects the existing character.

### **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 Growth and Development – Satwinder Sandhu*

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

*Author – Victoria Mack*

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

### **Executive Summary:**

The planning permit was issued on 21 March 2012 for the subdivision of land into two (2) lots. The application to amend the permit relates to condition 6 of the permit.

Condition 6 requires a Public Open Space Contribution payable to Council for the proposed subdivision at a rate of 5% of the total site value of the subject land in accordance with the Subdivision Act 1988.

The applicant has requested a reduction in the rate payable to 2.5% for reasons that are discussed further in this report.

This application is before Council due to the officer's recommendation to refuse to amend condition 6 to reduce the Public Open Space Contribution to 2.5%.

The recommendation is discussed further in this report.

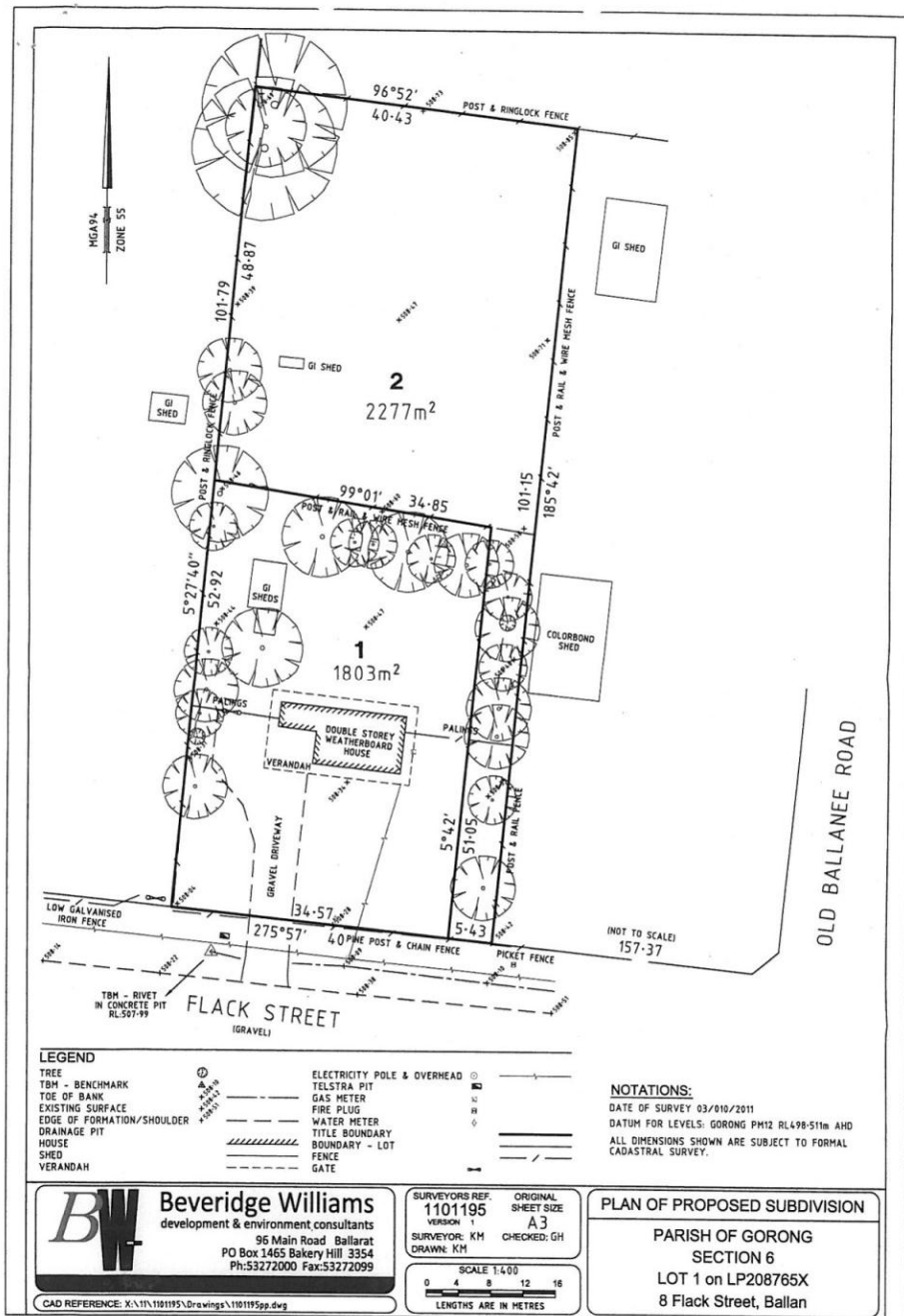
### **Summary Recommendation:**

The proposal has been assessed against the relevant components of the Moorabool Planning Scheme.

It is recommended that pursuant to Section 61(1) of the Planning and Environment Act 1987 Council resolve to Refuse to amend condition 6 of the planning permit on the grounds detailed later in this report.

**Site History:**

Planning permit PA2011-290 for a two (2) lot subdivision on the subject land was issued on 21 March 2012.



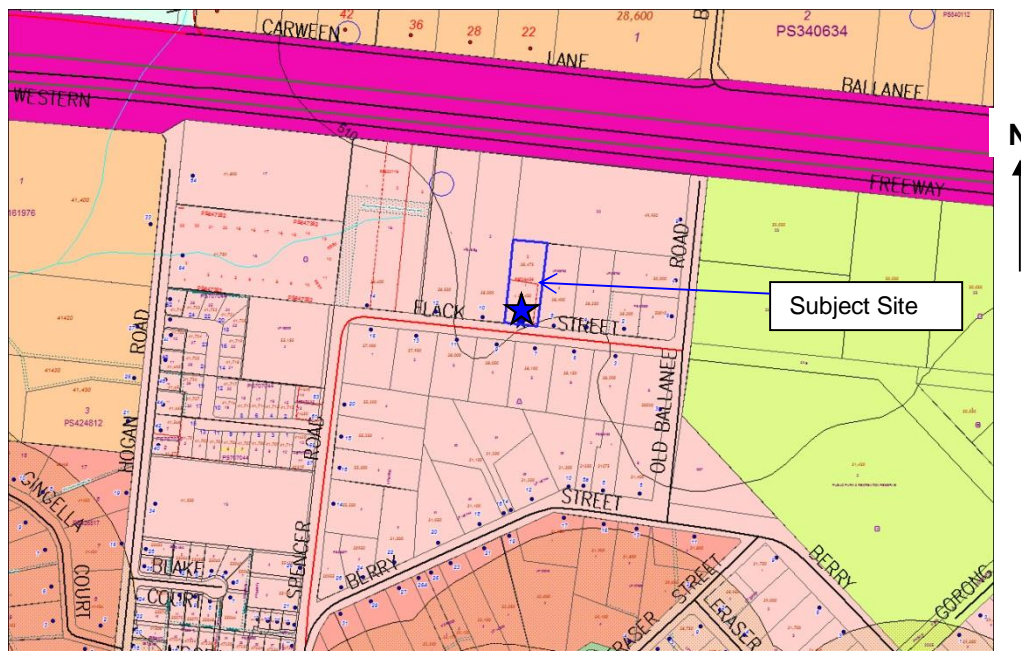
APPENDIX C

**Site and surrounds:**

The subject site is located at 8 Flack Street, Ballan also known as Lot 1 on Plan of Subdivision 208765X.

The site is located in the Residential 1 Zone and is covered by the Environmental Significance Overlay . Schedule 1.

The land is located on the north side of Flack Street approximately 178m west of the intersection with the Old Ballanee Road, 100m south of the Western Freeway, and 970m north of Inglis Street which is the main street running through the township of Ballan. The site is approximately 550m north of the Werribee River.



The allotment is flat and has a depth of approximately 101m and a width of approximately 40m with a total area of 4080sqm.

The proposed Lot 1 would contain an existing dwelling and would have an area of 1803sqm. The proposed Lot 2 would be vacant land and would have an area of 2277sqm.

There is an existing double storey dwelling located approximately centrally in the proposed Lot 1 and setback approximately 19m north of Flack Street. The dwelling is constructed with weatherboard cladding and has a grey Colorbond® roof. There is a small galvanised steel garden shed located immediately behind the dwelling, and a smaller galvanised steel shed located further north on the proposed Lot 2.

There is an existing vehicle crossover and driveway to the dwelling on the proposed Lot 1 which is located on the western side of the allotment leading to a two car space car port located within the footprint of the dwelling. A new crossover and driveway are proposed to service Lot 2 and would be located on the eastern side of the allotment. The rear of the land is pastured and currently used for grazing.

Indicative lot sizes in the immediate area range in size from between approximately 2000sqm and 10,000sqm with the majority having an average lot size of approximately 4000sqm.

The emerging pattern of development in the immediate area is a reduction in lot size from 4000sqm to 2000sqm, but in the slightly wider neighbourhood subdivision to more standard Residential 1 Zone densities is seeing subdivisions in the 700-800sqm lot configuration.

**Proposal:**

The application requests that condition 6 of the permit is amended. Condition 6 requires that a monetary Public Open Space Contribution is payable to Council for the proposed subdivision at a rate of 5% of the total site value of the subject land in accordance with the Subdivision Act 1988.

The application requests that the Public Open Space (POS) Contribution is reduced to 2.5% of the site value of the land based on the following grounds:

- a) It is agreed by the applicant that the proposed Lot 2 could potentially be further subdivided.
- b) It is not agreed by the applicant that the proposed Lot 1 would be further subdivided as the existing dwelling is located in the centre of the lot.
- c) It is suggested by the applicant that the POS contribution should only apply to Lot 2 and that this would be the equivalent to a 2.5% POS Contribution based of the site value the whole of the existing Lot.

**Restrictive Covenant:**

No restrictions are registered on the title to the subject allotment.

**Zone:**

Residential 1 Zone

The site is located within the Residential 1 Zone. Pursuant to Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to subdivide land.

**Overlay:**

Environmental Significance Overlay – schedule 1

The site is located within the Environmental Significance Overlay . Schedule 1. Pursuant to Clause 42.01-2 of the Moorabool Planning Scheme, a planning permit is required to subdivide land.

**Particular Provisions:**

Clause 52.01 Public Open Space Contribution and Subdivision

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

public open space may still be required under Section 18 of the Subdivision Act 1988.

A public open space contribution may be made only once for any of the land to be subdivided.

A subdivision is exempt from a public open space requirement, in accordance with Section 18(8) of the Subdivision Act 1988, if:

- It subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.

### **Section 18 of the Subdivision Act 1988**

Section 18 of the Subdivision Act 1988 states as follows:

Council may require public open space:

- (1) If a requirement for public open space is not specified in the planning scheme, a Council, acting as a responsible authority or a referral authority under the Planning and Environment 1987 may require the applicant who proposes to create any additional separately disposable parcel of land by a plan of subdivision to:
  - (b) pay or agree to pay to the Council a percentage of the site value if all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent (5%).

### **Clause 65.02- Decision Guidelines:**

This report has considered the decision guidelines of Clause 65.02 in relation to an application to subdivide land.

### **Referrals:**

The application to amend the permit condition was not required to be referred to any authority.

### **Public Notice:**

The application to amend the permit condition was not required to be advertised.

### **Assessment of Application**

The applicant has requested that the Public Open Space Contribution is varied to 2.5% of total site value as they argue that the proposed Lot 1 with the existing dwelling is exempt from POS pursuant to Clause 52.01 as it is unlikely that the land will be further subdivided. The applicant does agree that the proposed Lot 2 could be further subdivided and is therefore not exempt from a POS contribution. They submit therefore that a 50% reduction in POS applies in this instance.



It is agreed with the applicant that the proposed Lot 2 could be further subdivided and that a POS contribution applies. However, it is also considered that as Lot 1 would have an area of 1802sqm that a future two or three lot subdivision would be possible on this lot, with one lot containing the existing dwelling.

No amount is specified as the recommended percentage of the site value of land for a Public Open Space Contribution (POS) in the schedule to Clause 52.01 of the Moorabool Planning Scheme. However, Section 18 of the Subdivision Act 1988 states that the maximum percentage that is able to be charged is 5%.

The Moorabool Shire has consistently applied a rate of 5% to be charged for POS for the development of land, including in other two lot subdivisions. It is considered that both of the proposed lots could be further subdivided and it is therefore considered that a POS Contribution equally applies to both of the proposed lots and a variation to the POS contribution payable does not apply.

It is recommended that an amendment to condition 6 is refused, and the POS contribution remains at 5% of total site value.

***Consideration of Deputations - Planning Permit Application No 2011-290.***

***Mr. John Dymock addressed Council in favour of the granting of a planning permit for the application.***

***The business of the meeting then returned to the agenda.***

**Recommendation:**

**That Council having considered all relevant matters as prescribed by s.61(1) of the Planning and Environment Act 1987 for Planning Permit PA2011-290 issue a Refusal to Grant an amendment to the permit at Lot 1 on PS208765X, otherwise known as 8 Flack Street, Ballan VIC 3342 on the following grounds:**

- a. The Flack Street precinct is designated within the Ballan Structure Plan as an established residential area.**
- b. It is considered that pursuant to Clause 52.01 of the Moorabool Planning Scheme that the proposed subdivision of the land into two lots is not exempt from the requirement to pay Public Open Space Contribution as it is considered that both lots could be further subdivided.**
- c. Public Open Space contributions are set at 5% for all subdivisions in the Moorabool Shire.**

**Resolution:****Crs Dudzik/Tatchell**

*That more information be obtained, and the matter lay on the table until the next council meeting.*

**LOST.****Resolution:****Crs. Sullivan/Edwards**

*That Council having considered all relevant matters as prescribed by s.61(1) of the Planning and Environment Act 1987 for Planning Permit PA2011-290 issue a Refusal to Grant an amendment to the permit at Lot 1 on PS208765X, otherwise known as 8 Flack Street, Ballan VIC 3342 on the following grounds:*

- a. *The Flack Street precinct is designated within the Ballan Structure Plan as an established residential area.*
- b. *It is considered that pursuant to Clause 52.01 of the Moorabool Planning Scheme that the proposed subdivision of the land into two lots is not exempt from the requirement to pay Public Open Space Contribution as it is considered that both lots could be further subdivided.*
- c. *Public Open Space contributions are set at 5% for all subdivisions in the Moorabool Shire.*

**CARRIED.**

---

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

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Friday 4 October 2013

**11.2.2 Planning Application 2013-118; Development and Use of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture; at Crown allotment 1, Section 2, Parish of Warrenheip; Mahars Road, Warrenheip VIC 3352.**

<b>Application Summary:</b>	
Permit No:	PA2013-118
Lodgement Date:	27 May 2013
Planning Officer:	Sian Smith
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	7 October 2013
Address of the land:	Crown allotment 1, Section 2, Parish of Warrenheip; alternatively known as Mahars Road, Warrenheip VIC 3352.
Proposal:	Development and Use of a Dwelling and outbuilding (shed) in association with the use of the land for agriculture
Lot size:	8.65 hectares
Why is a permit required	Farming Zone: Clause 35.07-1, section 2, use of a Dwelling on land less than 40ha. Farming Zone: Clause 35.07-4, Buildings and works for a use in section 2 of Clause 35.07-4.
Restrictions registered on title	Covenant F465143 in relation to a Gas & Fuel easement on the land
<b>Public Consultation:</b>	
Number of notices to properties:	8
Notices on site:	1
Notice in Moorabool Newspaper:	Not applicable
Number of Objections:	1
Consultation meeting:	Not held

<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Enhanced Infrastructure and Natural Built Environment.
<b>Objective -</b>	Effective and efficient land use planning and building controls.
<b>Strategy -</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.  <i>General Manager Growth and Development – Satwinder Sandhu</i> In providing this advice to Council as the General Manager, I have no interests to disclose in this report.  <i>Author – Sian Smith</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
The application is for development and use of the land for a dwelling on land that is identified at CA1, Section 2, Parish of Warrenheip at Mahars Road, Warrenheip. The total land area for the subject site is 8.65 hectares.  The proposal seeks planning approval for the construction of a single dwelling on the site and a 200sqm shed.  The subject land is located on the southern side of Mahars Road approximately 360m south of the Western Freeway and approximately 7kms east of the centre of the City of Ballarat.  The Farm Plan states that the site is highly productive agricultural land and would be used for the production of potatoes, cereal and prime lambs.	

The proposal has been assessed against the relevant components of the Moorabool Planning Scheme, particularly those set out in the State and Local Planning Policy Framework and Clause 35.07, Farming Zone.

It is considered that the proposed application is generally consistent with the State and Local Planning Policies of the Moorabool Planning Scheme, although it does challenge the use and development of land which is of high agricultural value, which is discussed later in this report.

The proposed development on 8.65ha demonstrates through a Farm Management Plan that a dwelling and shed is not adversely affect the viability of the land for agriculture. Responsible Authorities are tasked through State and Local policies to discourage the inappropriate development of isolated small lots in the rural zones from use for single dwellings, rural living and other incompatible uses. They are also required to manage development in rural areas to protect agriculture uses from land use conflicts and fragmentation.

The subject land is prime agricultural land which is of strategic significance in the local and regional context. There is a concern that continued approval of these proposals could lead to a concentration or proliferation of dwellings in the area which would result in the loss of productive agricultural land due to a permanent change in land use.

The protection of agricultural and horticultural land is an important planning outcome. When considering the merits of this application, the strategic context of this particular site, the existing land use and the proposal, which includes a Farm Management Plan, it is recommended that this application be supported.

#### **Summary Recommendation:**

It is recommended that Council resolve to issue a Notice of Decision to Grant a Planning Permit for this application in accordance with the *Planning and Environment Act 1987*, subject to the conditions outlined further in this report.

### **Proposal**

The proposal involves the development of a *Dennis Family Homes Devonport 341* single storey dwelling on the subject site. The proposed dwelling would have a total floor area of approximately 280sq and would comprise four bedrooms, a study, 2 bathrooms, a separate living room, a combined kitchen/family meals area, a separate games room and a double garage.

The proposed dwelling would be sited approximately 25-27m from Mahars Road and approximately 25m from the western boundary.

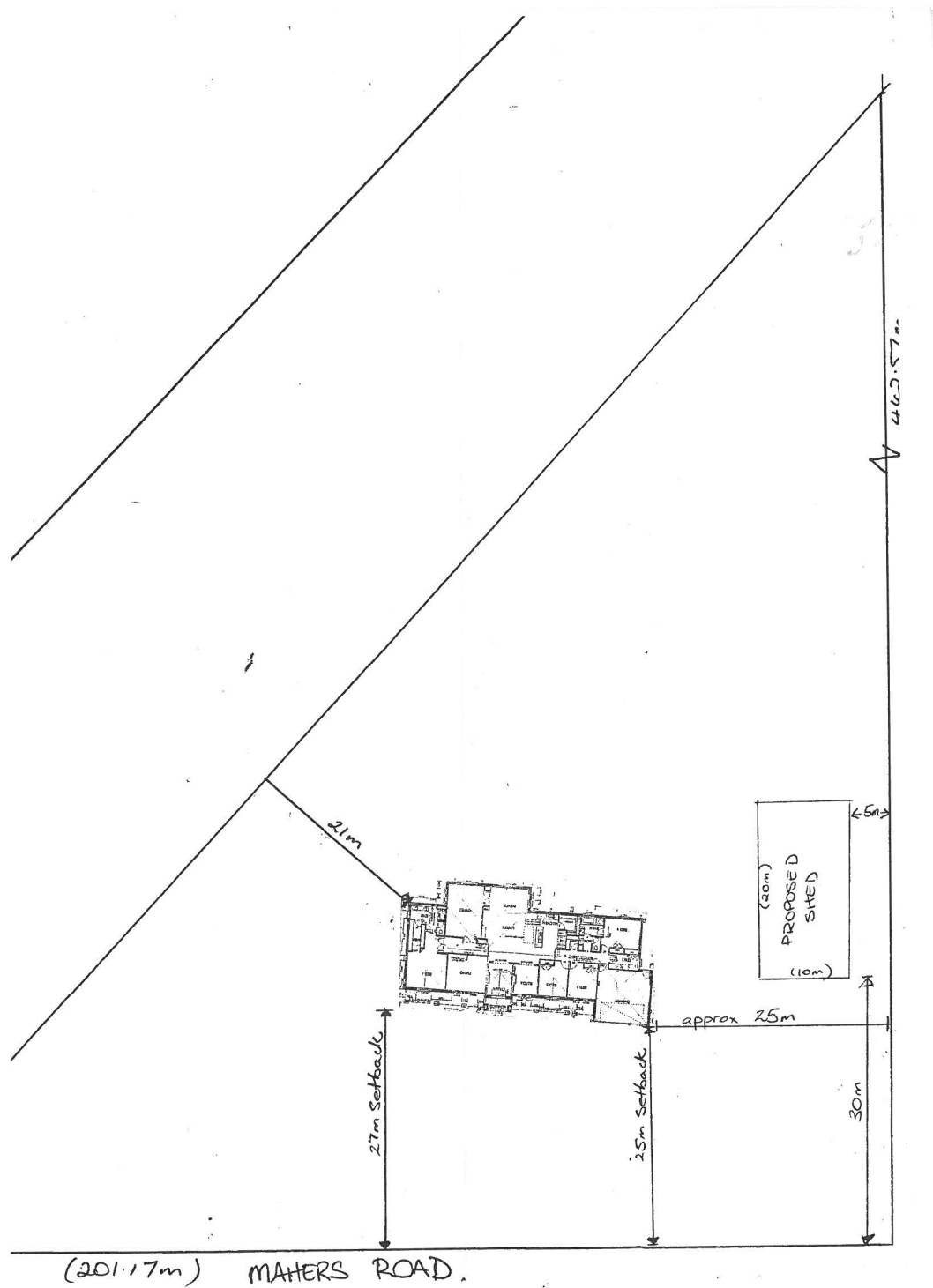
A new access from Mahars Road would be constructed in the north-west corner of the site.

A 200sqm shed would be constructed approximately 25m west of the dwelling and would be located 5m from the west side boundary.

A Farm Management Plan (FMP) was provided with the application. The FMP states that site contains soils of high agricultural productivity.

The application states that the land would be used for the production of potatoes, cereals and prime lambs. It is also stated that the land is not presently used for a rural purpose. The farm plan is discussed later in this report.

**Proposed Site Plan, Floor Plan and Elevations**





**ELEVATION A**

**ELEVATION C**

**ELEVATION B**

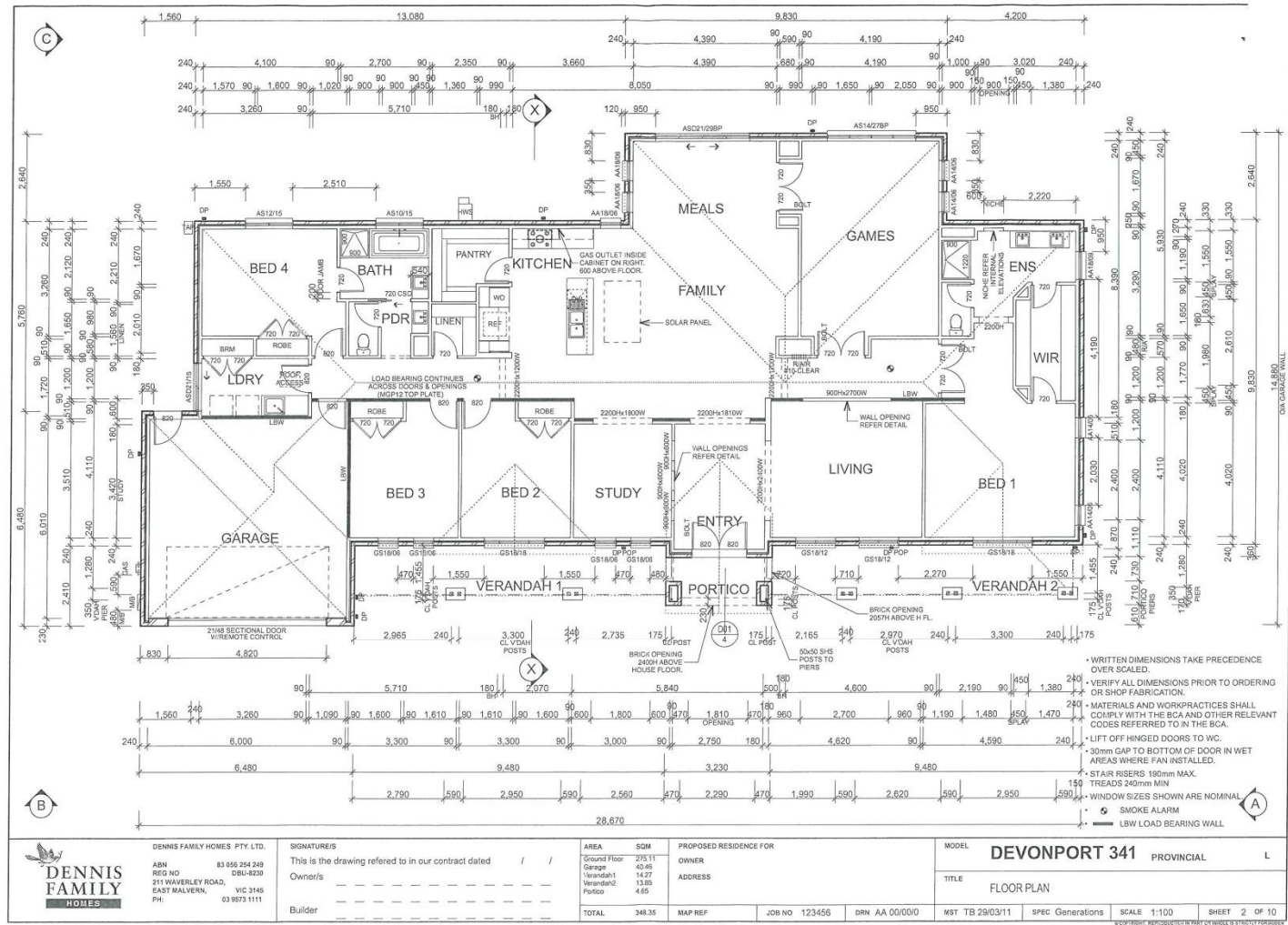
**ELEVATION D**

**WIND RATING XX**

- REFER ENGINEERS' DESIGN FOR ARTICULATION JOINTS.
- TOP OF METER BOX 2000mm MAX ABOVE FINISHED GROUND LEVEL.
- WINDOWS TO BE ALUMINIUM, SASHES AS INDICATED.
- FC SHEET INFILL OVER EXTERNAL DOORS AND WINDOWS WHERE SHOWN.
- BRICKWORK OVER FRONT FACADE WINDOWS AND DOORS.
- FLY SCREENS TO ALL OPENABLE SASHES. (EXCL. GARAGE IF SHOWN ON PLANS)

<p>DENNIS FAMILY HOMES PTY. LTD.                  ABN: 83 050 284 249                  REG NO: 59819320                  211 WAVERLEY ROAD,                  EAST MALVERN, VIC 3145                  PH: 03 9573 1111</p>	<p>SIGNATURES                  This is the drawing referred to in our contract dated / /                  Owner's _____                  Builder _____</p>	<p>PROPOSED RESIDENCE FOR                  OWNER                  ADDRESS</p>	<p>MODEL  <b>DEVONPORT 341</b> PROVINCIAL L</p>			
		<p>MAP REF</p>	<p>JOB NO 123456</p>	<p>DRN AA 00/00/0</p>	<p>MST TB 29/03/11</p>	<p>SPEC Generations</p>





DENNIS FAMILY HOMES PTY. LTD.  
 ABN 83 955 254 249  
 REG NO 83 955 254 249  
 211 WAVERLEY ROAD, VIC 3146  
 EAST MALVERN, PH. 03 9573 1111

SIGNATURES  
 This is the drawing referred to in our contract dated / /  
 Owner/s \_\_\_\_\_  
 Builder \_\_\_\_\_

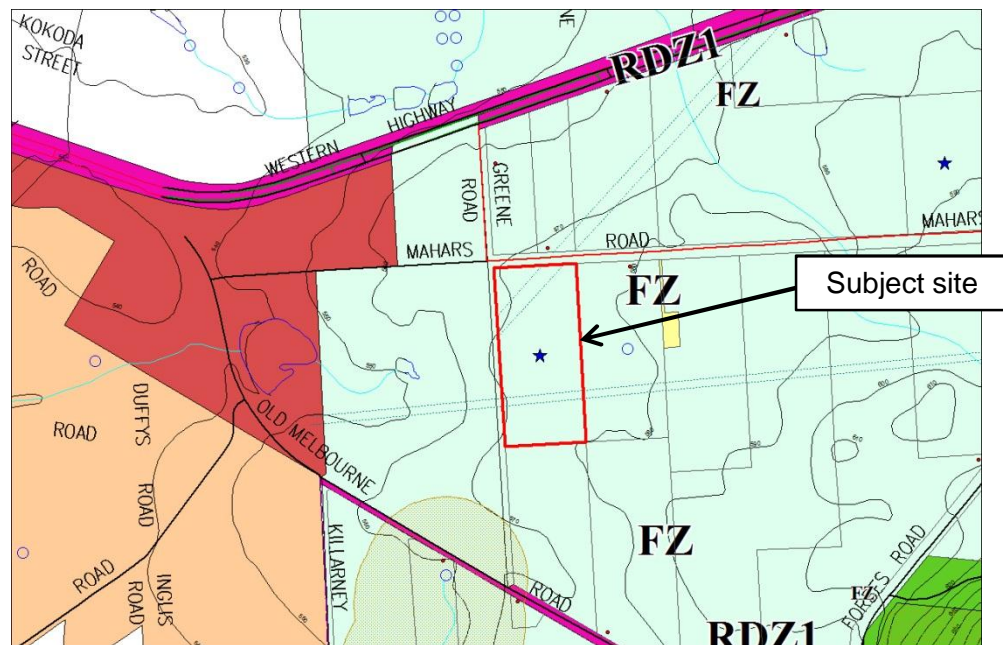
AREA	SQM
Ground Floor	215.11
Garage	43.46
Verandah1	14.77
Verandah2	13.85
Portico	4.85
<b>TOTAL</b>	<b>348.35</b>

PROPOSED RESIDENCE FOR  
 OWNER  
 ADDRESS  
 MAP REF  
 JOB NO 123456  
 DRN AA 00/00/0

MODEL	<b>DEVONPORT 341</b>	PROVINCIAL	L
TITLE	FLOOR PLAN		
MST TB 29/03/11	SPEC Generations	SCALE 1:100	SHEET 2 OF 10

## Site Description

An inspection of the site was undertaken on 30 May 2013.



The decision guidelines of the Moorabool Planning Scheme require that the responsible authority consider, amongst other matters, the orderly planning of the area and the effect of the proposal on the amenity of the area together with any proposals or permits granted in the surrounding or adjoining area.

The subject land parcel is rectangular in shape, and has no native vegetation. Access to the site is via an unmade crossover with a farm gateway on the northern boundary abutting Mahars Road. There are no improvements on the site or any water supply.

The land is located on the south east corner of the intersection of Mahars Road and Greene Road and is approximately 7kms east of the centre of the City of Ballarat.

The application states that the land is not being used for a rural purpose however it appears that the land is currently being used for grazing.

Surrounding land is zoned Farming. There are several dwellings in close proximity to the site including the nearest to the east that is approximately 110m from the proposed dwelling.

A search of Council records shows that there have been few new dwellings approvals in the Warrenheip, Dunnstown or Bungaree areas.

## Planning Scheme Provisions

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

SPPF		
11.05-3	Rural productivity	The objective of this policy is to manage land use change and development in rural areas to promote agriculture and rural production aiming to prevent inappropriately dispersed urban activities in rural areas.
Clause 14.01-1	Protection of agricultural land	<p>The objective of this policy is to protect productive farmland which is of strategic significance in the local or regional context and to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.</p> <p>The agricultural quality and productivity of the land must be assessed and the permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.</p>
Clause 16.02-1	Rural residential development	<p>The objective of this policy is to identify land suitable for rural living and rural residential development and to:</p> <ul style="list-style-type: none"> <li>▪ Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.</li> <li>▪ Reduce the proportion of new housing development provided in rural areas and encourage the consolidation in existing settlements where investment in physical and community infrastructure and services has already been made.</li> </ul>

LPPF		
Clause 21.01-2	Municipal context, Key Issues, Economic development	It is important to ensure planning to accommodate demand for rural living opportunities produces enhanced environmental outcomes and also protects agricultural production, particularly highly productive areas in the west of the Shire + There is an ongoing need to manage existing and potential conflict between residential, rural residential and agricultural and horticultural production.
Clause 21.03-2	Urban Growth Management	The objective of this policy is to plan and manage sustainable urban growth that is concentrated in and around the Shire's major towns and to avoid urban development where it is likely to impact on highly productive agricultural land, environmental values and the long-term sustainability of natural resources and to ensure a clear separation between urban development and farming activities.
Clause 21.03-4	Landscape and Neighbourhood Character	<p>The objective of this policy is to ensure new development in all zones respects the existing character, landscape setting and amenity of the local area and to:</p> <ul style="list-style-type: none"> <li>▪ Retain non-urban breaks between towns and settlements.</li> <li>▪ Avoid residential development in the farming areas unless it is required for the agricultural use of the land.</li> </ul>

Clause 21.04-1	Key issues and influences, agriculture and horticulture	<p>The diversity in agricultural production and potential across the Shire is an economically valuable resource. Where irrigation water or higher rainfall combines with highly productive soil types, the Shire supports intensive horticultural pursuits.</p> <p>The protection of agricultural and horticultural production is an important planning outcome. The Shire's agricultural base and attractive rural setting are important drivers in attracting people to live in Moorabool. Council supports rural living development where it does not compromise the long term productive use of rural land for agriculture and horticulture, maintains the Shire's environmental qualities, and provides services and infrastructure to support such development.</p> <p>Farm businesses need to be able to retain the capacity to operate as agricultural enterprises.</p> <p>The Shire's horticultural land resources are important economically in supporting tourism and the lifestyle appeal of the area.</p>
Clause 22.03	Houses and House Lot Excisions in Rural Areas	<p>This policy applies to all land within the Farming Zone.</p> <p>Agriculture is still the major land use in the Shire and a significant component of the economy. The Shire is committed to facilitating sustainable agriculture and protecting the long term supply of productive agricultural and horticultural land. There is need to avoid fragmentation of land suitable for rural production by discouraging subdivision and houses that are unrelated to the rural use of the land. It is also important to ensure that farm production is not compromised or adversely affected by residents living in rural areas.</p>

## Zone

### Farming Zone

Pursuant to Clause 35.07-1, section 2, and the schedule to the Farming Zone, a planning permit is required to use the land for a dwelling if the land is less than 40ha.

Pursuant to Clause 35.07-4 of the Farming Zone a planning permit is required for building or works associated with a use in section 2 of Clause 35.07-1.

The subject site is in the Farming Zone. The Purpose of the Farming Zone is to implement the State and Local Planning Policy Frameworks, including the Municipal Strategic Statement and local planning policies and to:

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

The lot must be at least the area specified in a schedule to this zone which states the minimum area for which no permit is required to use land for a dwelling is 40 hectares.

#### Farming Zone . decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- Whether the dwelling would result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling would be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling would adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.
- Whether the use or development will support and enhance agricultural production
- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.

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

### Overlays

No overlays cover the subject land.

### Particular Provisions

No particular provisions apply to this application.

### General Provisions

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

### Referrals

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

Authority	Response
Section 55 referrals	Nil required
Infrastructure Environmental Health Coordinator	Consent, subject to 5 conditions Consent, subject to 1 condition, and permit note.

All referral authorities consented to the application subject to conditions being placed on any permit issued.

### Public Notice

Notification of the proposal was undertaken. The application was advertised to nearby adjoining owners and occupiers on 13 August 2013 by mail. A total of eight (8) notices were provided to properties within the surrounding area together with a sign being placed on the site, facing Mahars Road between 16 August 2013 and 2 September 2013.

One (1) objection was received.

No consultation meeting was held between the applicant and the objector in this instance.

A summary of the objectors' concerns and officers comments are detailed as follows:

<b>Objection</b>	<b>Officer's response</b>
<p>The agricultural productivity of the land is compromised once it is broken up into unviable sized holdings. Contrary to what is claimed in the application report, the surrounding small farmlets are not being successfully used for agriculture. These small holdings are infested with weeds and used for hobby farming pursuits. Small scale farming is unviable and does not work, and should not be encouraged by Council.</p>	<p>The land is very close to Ballarat and will attract a premium price for the dwelling, irrespective of the agricultural merits of the land.</p> <p>Land fragmentation cannot be reversed. The impact of constraining sites with buildings that do not relate to agriculture further reduces the likelihood of these parcels of land ever being able to be used for farming purposes.</p>
<p>The applicant has a history of carving up all his land parcels (Crown Allotments) for development, not farming. This parcel of land and other land (approximately 80 acres that is left) has been farmed very successfully by a relative of the applicant who lives 4 kilometres away. The irrigation dam was drained 4 years ago that could have been used for the irrigation of potatoes, Lucerne and horticultural products. It is now being filled in for a 16 lot subdivision on the west side.</p>	<p>The land is high quality agricultural land that has been used for the production of potatoes and other crops and prime lambs, and should be preserved and protected for agricultural use.</p> <p>The use and development of a dwelling and associated dwelling is not considered to undermine the viability of the site to be used for agricultural practices.</p>
<p>The land has been farmed satisfactorily in the past, and currently (wheat, canola, and fodder) without a dwelling. This is an application to just gain a house site in the country.</p>	<p>The site is prime agricultural land and this has been demonstrated with past agricultural activities that have been undertaken on the land.</p> <p>There are obligations to use the land for farming purposes and this has can be achieved through the farm management plan.</p>



<p>It is claimed that the land will be used for growing potatoes but a farmer needs 400ha to grow potatoes not 8ha. In addition McCain\$ are not issuing any new contracts. The suggested contract price for potatoes in the report is incorrect. There is no water on the property now as the dam that was used for irrigation in the past is being decommissioned.</p>	<p>It is possible that the land may not be used for agricultural pursuits, despite this area having recognised high agricultural qualities.</p> <p>It is also possible for the land to be used for a dwelling and associated while maintaining the use of the site for agricultural purposes.</p> <p>The Farm Management Plan provides guidance around the agricultural use of the site.</p>
<p>The location for the dwelling is under a high voltage power line. If the permit is granted any future owners would try to move the dwelling location to the south end of the site to capture better views.</p>	<p>The location of the dwelling is subject to planning approval. Any movement of the dwelling further south, would require an amendment to any permit granted.</p>
<p>If this dwelling is approved it will open a can of worms and applications for dwellings on seven other twenty acre lots on Mahars Road.</p>	<p>This is possible however each application will be assessed on its own merits which includes an assessment of a farm management plan.</p>

### Discussion:

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

The purpose of the Farming Zone is to provide for the use of land for agriculture, encourage the retention of productive agricultural land and ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.

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

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

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

- Whether the dwelling would result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling would be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling would adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.
- Whether the use or development will support and enhance agricultural production
- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.

State planning policies provide guidance to Council as to the objectives that are to be achieved in relation to the protection of prime agricultural land across Victoria.

Specifically Clause 11.05-3 relating to rural productivity, Clause 14.01-1 relating to the protection of agricultural land and Clause 16.02-1 relating to rural residential development all emphasize the need to protect productive farming land from encroachment by non-agricultural activities and dwellings and that the permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.

Local planning policies, specifically Clause 21.01-2 relating to Municipal context, key issues, economic development, Clause 21.03-2 relating to urban growth management and Clause 21.04-1 Key issues and influences, in relation to agriculture and horticulture relating to rural living development all stress that protection of agricultural and horticultural land is a key consideration and the ongoing need to manage existing and potential conflict between residential, rural residential and agricultural and horticultural production.

The use of land for dwellings in the Farming Zone that is less than 40ha, as specified in the schedule to the Farming Zone in this instance, is discouraged unless it can be demonstrated that the agricultural use of the land will not be compromised and that the application will not lead to a proliferation of dwellings in the surrounding area. The proposal was accompanied by a Farm Management Plan which outlined the agricultural potential of the land in terms of horticultural crops and prime lamb production.

The zone and planning policy framework all seek to provide for the use of land for agriculture, to encourage the retention of productive agricultural land, and to encourage use and development of land based on comprehensive and sustainable land management practices.

In considering the application in this part of Warrenheip, and particularly its proximity to the City of Ballarat, a primary question is whether the dwelling will support the use of the land for agriculture, and whether the use or development of a dwelling will support and enhance agricultural production.

On balance it is considered that the use and development of a dwelling on the land, located in the north-west corner of the site, would not impact on the use of the balance of the land for agriculture.

### **Council Rural Growth Policy Statement**

A Council Policy has been developed to provide direction for how non-farm rural dwellings should be considered, and more broadly, rural settlement patterns. The policy seeks to articulate support for resilient and integrated rural communities and agricultural enterprises, recognising that State Government Planning Policy Framework does not adequately recognise or support agriculture trends and rural settlements in the Moorabool Shire.

Council believes that existing one size fits all rural land use policies have proven to be inadequate for peri urban Shires such as Moorabool; and policy direction needs to be mindful of the existing subdivision pattern, with many allotments substantially less than 40 hectares in size, and the opportunities available to support and enhance existing settlements.

The principles of the policy relevant to this application include:

- Support the agriculture sector so that it can be more productive, diverse, resilient and adaptive to changing agricultural trends, including supporting agricultural activities that recognise Moorabool's advantageous proximity to market.
- Protect agricultural land use from loss and allow development that increases agricultural productivity;
- Focus growth opportunities in settlements along major transport corridors, in particular where there is physical and social infrastructure and services;
- Recognise that there is substantial existing lots under 40 hectares capable of supporting the viable operation of agricultural enterprises; and
- Promote a rural housing market that meets the needs of the Shire's rural communities

And specifically that:

- Land parcels for the proposed on farm living dwellings are to have a minimum lot size of 8 hectares and is within the areas identified in Map 1 so as to support retain population within rural communities (Map 1 refers . red)
- The subject land is located in an area designated on Map 1 in red, as being a rural development area.

**Comment:**

The policy provides guidance with respect to farm living dwellings in this area of the Shire identified as being a rural development area. The land meets the criteria of having a minimum lot size of 8ha.

**Financial Implications**

The recommendation of a Notice of Decision to approve this development would not represent any financial implications to Council.

**Risk & Occupational Health & Safety Issues**

The recommendation of a Notice of decision to approve this development does not implicate any risk or OH & S issues to Council

**Communications Strategy**

Notice was undertaken for the application, in accordance with the Planning and Environment Act 1987, and one objection was received. The parties were informed that this matter would be heard by Council and was advised of their right to address Council. The applicant and objector will be advised of Council's determination.

**Conclusion:**

It is considered that the application is consistent with the State and Local Planning Policy Framework and the Municipal Strategic Statement of the Moorabool Planning Scheme. The proposal is also considered to be consistent with the purpose and decision guidelines of the Farming Zone.

***Consideration of Deputations - Planning Permit Application No 2013-118.***

***Mr. James Iles addressed Council in favour of the granting of a planning permit for the application.***

***Mr. Keith Parry addressed Council as an objector to the granting of a planning permit for the application.***

***The business of the meeting then returned to the agenda.***

**Resolution:****Crs. Sullivan/Comrie**

***That, having considered all matters as prescribed by s.60 of the Planning and Environment Act, Council issues a Notice of Decision to Grant Planning Permit number PA2013-118 subject to the following conditions:***

- 1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 2. The approved Farm Management Plan has been endorsed and forms part of the permit and must not be altered without the written consent of the Responsible Authority.***
- 3. Before the use of development commences the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 and to the agreement being registered on the titles to the land under Section 181 of the Act, which provides to the satisfaction of the Responsible Authority that:***
  - a) Agricultural activities identified in the endorsed Farm Management Plan must be undertaken on the land and must be in accordance with the Farm Management Plan endorsed under the relevant Condition 2 of the Planning Permit.***
  - b) The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.***
- 4. All external materials to be used in the construction of the dwelling 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.***

***Environmental Health condition***

- 5. A standard septic tank with absorption trenches or an alternative wastewater management system which treats effluent to a secondary standard with subsurface irrigation must be installed to manage wastewater generated on site as per the LCA report developed by Geotechnical Pty Ltd Reference no. F3123.***
- 6. The applicant must apply for a permit to install a septic tank.***

**Infrastructure conditions**

7. ***A standard rural vehicle crossing with culvert must be provided on Mahars Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.***
8. ***Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.***
9. ***Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).***
10. ***Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
11. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.***

**Expiry condition**

12. ***This permit will expire if one the following circumstances apply:***
  - 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 times 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:** Friday 4 October 2013

### 11.2.3 Allocation of 2013/14 Tourism Funding

#### Introduction

File No.: 19/04/004  
Author: Peter Forbes  
General Manager: Satwinder Sandhu

#### Background

This report explores four options for redistributing \$17,500 allocated in the 2013/14 Council budget as the Shire's contribution to Daylesford and Macedon Ranges Regional Tourism Board Inc.

The options and recommendation are the outcome of prior investigation and discussions held between councillors and staff at the Assemblies of Councillors held 5 June and 21 August, 2013 in the context of a broader discussion regarding economic development priorities in the Shire.

Moorabool Shire Council has contributed financially to the Daylesford and Macedon Ranges Regional Tourism Board Inc. (DMRRTB) since its inception in 2010. In return, Moorabool Shire, its tourism operators and event organisers, have had access to DMRRTB's suite of tourism development and promotional services. In practice, local tourism operators will continue to have access to DMRRTB services irrespective of Council's formal and financial support.

The original Memorandum of Understanding (MOU) between Council and DMRRTB has expired and negotiations on the new MOU, including a three year financial commitment by Council to DMRRTB have not been agreed upon. A provisional allocation of \$17,500 is included in Council's 2013/14 Budget.

Council has reassessed its priorities and has undergone a planned restructure, from specialist tourism to a broader economic development focus. DMRRTB also underwent significant change, with their CEO resigning and an independent review of DMRRTB's role and structure conducted. The final report from the independent review was presented to the DMRRTB board for the first time on Monday, 16 September, 2013 and contains approximately thirty recommendations.

DMRRTB's preference in the draft MOU is for Moorabool Shire Council to continue as a financial partner. However, review recommendation 22 in the final report does not include Moorabool Shire Council as a principle funding partner.

On the other hand, local event organisers have long regarded their limited financial and human resources as a major barrier to their sustainability and improvement. This lack of resources to adequately plan, manage risk, undertake market research, track and measure outcomes and undertake succession planning manifests itself in a cycle of events that risk under delivering, developing volunteer and participant fatigue and eventually disbandment.

Within this context, the report examines ways the \$17,500 funding could be best used to directly assist the local tourism industry.

Table 1.1 summarises the advantages and disadvantages of four options under consideration.

**Table 1.1 Options for \$17,500 tourism funding allocation**

Option	Key Expected Advantages	Potential Disadvantages
<p><b>1. Allocate to DMRRTB</b></p>	<ul style="list-style-type: none"> <li>• Supports DMRRTB's tourism promotion of Moorabool.</li> <li>• Access to DMRRTB's additional tourism services, networks and markets.</li> <li>• Aligns with Council's Tourism DMP.</li> <li>• Aligns with Tourism Victoria.</li> <li>• Supports sustainability of DMRRTB.</li> <li>• DMRRTB services align with the sequence recommended in the Tourism DMP. (industry product and brand development - then expanding tourism offer)</li> </ul>	<ul style="list-style-type: none"> <li>• Opportunity cost of not directly funding local events.</li> <li>• Relatively less control of fund allocation.</li> <li>• High staff turnover has previously impacted on DMRRTB's ability to deliver consistent service levels to local industry.</li> <li>• Daylesford focus may not directly translate to local visitation.</li> </ul>
<p><b>2. Fund local tourism event organisers via the Community Events Grant Program</b></p>	<ul style="list-style-type: none"> <li>• Directly improve the planning, management and promotion of local events</li> <li>• Can be targeted to events that align with Tourism DMP event recommendations</li> <li>• Increases the maximum funds available and/or amount of events that receive funding.</li> <li>• Demonstrates that Council is supporting local tourism events.</li> <li>• Event organisers more likely to afford professional support to improve event planning and safety.</li> <li>• Proportion of funds can be allocated to improve event organisers' skills and awareness of council requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduces bargaining power of MSC and local operators with DMRRTB</li> <li>• inconsistent with DMRRTB &amp; Tourism Victoria's Strategic Plans</li> <li>• DMRRTB may be less willing to support/endorse local event funding applications via TV.</li> </ul> <p>(above points also relevant to options 3 &amp; 4)</p>



<b>3. Fund pre-selected major tourism event organisers via direct sponsorship</b>	<ul style="list-style-type: none"> <li>• Advantages as per option 2 above plus.</li> <li>• Allows Council greater flexibility to target specific events.</li> <li>• On-going sponsorship could provide certainty to assist event organisers with longer term planning.</li> <li>• Increase event and volunteer sustainability.</li> <li>• Raises Council's profile</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of verifiable data to evaluate relative status of events.</li> <li>• Duplicates existing internal grant process</li> <li>• Less inclusive than Grants process</li> </ul>
<b>4. Fund new Economic Development Consultative Group</b>	<ul style="list-style-type: none"> <li>• Provides funds to investigate viability, role and structure of Shire Eco Dev Committee</li> <li>• Potential funds to assist set-up and promotion of Consultative Group</li> </ul>	<ul style="list-style-type: none"> <li>• stakeholder interest in forming Consultation group unknown</li> <li>• Industry associations in Bacchus Marsh have proved unsustainable</li> <li>• Strategy not yet in place to determine model</li> </ul>

### Regional Tourism Affiliation (DMRRTB)

If Council allocate funding to local events, a decision regarding the Shire's level of participation in DMRRTB is required. Council is currently a financial member with full voting rights of DMRRTB.

Three of DMRRTB's nominated LGAs (Hepburn, Macedon Ranges and Hume) have re-signed MOUs that included an increased funding commitment. The City of Melton and Mitchell Shire notionally participate, but have never contributed financially to DMRRTB. Moorabool Shire would be the only LGA that discontinued financial contributions to DMRRTB.

At this particular juncture, a continuation of the Shire's participation in DMRRTB, even as a non-financial member, has potential advantages to the Shire, local operators and DMRRTB. (See Table 1.2 below)

**Table 1.2 Justifications for staying a non-financial member of DMRRTB.**

<b>Potential advantages in MSC remaining a DMRRTB Member</b>	<b>Considerations of potential advantages</b>
<p><b>For DMRRTB</b> 1) maintain State Government funding level</p>	<p>Tourism Victoria consider Moorabool Shire part of DMRRTB and provide annual funding to DMRRTB based on it servicing six LGA's in their region.</p> <p>Formal separation from DMRRTB may potentially alter DMRRTB's future Tourism Victoria funding.</p> <p>However in practice, Tourism Moorabool has maintained funding and continued to consider other LGA's that are not actively participating such as Mitchell and Hume.</p>
<p><b>For DMRRTB</b> 2) Assist in rebuilding trust and confidence with stakeholders</p>	<p>Removing the Shire from DMRRTB may erode industry confidence in DMRRTB at a critical time in its development. DMRRTB requires continued support to implement the review recommendations.</p> <p>The Shire's lack of involvement will disadvantage DMRRTB efforts to improve its standing and effectiveness with industry stakeholders.</p>
<p><b>For Local Tourism Operators</b> 3) Operator access to DMRRTB for endorsement and services.</p>	<p>State and Federal funding applications by local tourism operators and event organisers are enhanced with the imprimatur of the Regional Tourism Board. However local tourism operators already participate and can have a direct relationship with DMRRTB in the future if they choose.</p>
<p><b>For Council</b> 4) DMRRTB provide roles previously undertaken by Tourism Moorabool and/or Council</p>	<p>Local operators will receive sector specific information about marketing, product and business development initiatives that previously would have been undertaken by Council's tourism unit as part of the Tourism DMP actions.</p> <p>However local tourism operators already participate and can have a direct relationship with DMRRTB.</p>

## **Council Participation in other Regional Tourism Boards**

Council's future options include affiliation with regional tourism boards in adjoining tourism destinations. Several LGAs are members of several different regional tourism boards, however most are financial members of at least one.

A relationship with tourism organisations representing surrounding regions close to local tourism operators such as Ballarat Regional Tourism and Destination Melbourne can provide additional specialist resources.

These organisations have expertise in either tourism events management or access to additional markets and marketing channels that Council and/or DMRRTB currently don't have. Council already participates in selected marketing with Destination Melbourne and liaises with Ballarat Regional Tourism on events that are held in Moorabool Shire. Both deal with local tourism operators within the shire.

Council participation and financial commitment level options include the following:

### Level one - Geographic basis

Inclusion by regional tourism organisations due to their remit with State government.

### Level two - Project basis

As above, plus joint project/event, attracting events and co-promotion and co-ordination.

### Level three - Campaign basis

As above, plus destination promotion buy-in via assessment of marketing prospectus.

### Level four - Formal strategic basis with board participation.

As above, plus Strategic input via a formal alignment and funding arrangement with organisation that entitles a position on their board and an investment into supporting the apparatus of RTAs.

Separate to Council, Local tourism operators are eligible to participate at all or any level with all or any regional tourism board they believe will benefit their business.

## **Option 2 Proposal – Allocation to Tourism events by Grant**

That council adopt Option 2 (reallocate the funding as grants for local events and training).

### **Funding Split**

It is recommended that the initial \$17,500 is split as follows;

<b>\$15,000</b>	Local Tourism Events
<b>\$2,500</b>	Implementation of new event process and event organisers training

The events approval process implementation and training is very important. Events operate in the environment of an increasingly litigious society and increased risk and OHS regulation at all levels of government.

Council's Risk Management Steering Committee has a strategy to reduce and manage risk in the municipality. These factors will impact on all event organisers and Council can minimise the disruption to existing events by providing some education and information to local event organisers.

### **Funding Application Process and Criteria for Option 2 Proposal**

It is recommended that the existing Community Grant Application process be utilised as the vehicle to assess and disperse the funds. The criteria should align with those already mandated for the Community Events Grant Program.

Some modifications to the existing criteria are recommended. The criteria should directly address issues identified by tourism stakeholders in the Moorabool Shire Tourism Destination Management Plan (DMP) 2013-17 (Table 2.7), Specifically:

- Insufficient separation between community and tourism focus (more clearly identify target market)
- Greater brand match (alignment with the Shire's key tourism themes eg food and wine, natural produce, heritage, nature)
- Lots of events verses a few festivals (clustering and co-branding opportunities)

Consideration may also be given to tourism events that demonstrate willingness to:

- Work co-operatively to form larger festivals; and
- Schedule or relocate their event to periods the Tourism DMP (Table 2.6) identifies as a high priority if required. (May to September, late Feb)
- Address risk management
- Measure event participation and estimate economic benefit.
- Provide a business plan.

For any event to be considered for funding from council, the event organisers must have successfully completed council's new event application process. Provision of funding for an event is separate to council's approvals processes and not to be considered approval for holding an event.

The amount of events that will receive funding in any one year will be capped at no more than four. The maximum amount an event can apply for will be capped at the total fund amount. This is to ensure sufficient resources to enact strategic change.

### **Grant Distribution and Review**

Funding for local tourism events will be advertised as a specific and additional category within the existing Community Events Grant Program framework, administered and distributed by Council's Community

Development Unit. Applicants will be required to nominate if they are a tourism or community event. They will not be allowed to apply for both.

The manager of Economic Development and Marketing will participate on the application review panel to provide an informed view of the relative merit of tourism event applications and alignment with the Tourism DMP recommendations.

### **Option 3 Proposal – Allocation to local events via Direct Sponsorship**

Alternately there is the potential to identify a maximum of four major tourism events in which to enter into a direct sponsorship arrangement.

### **Funding Application Process and Criteria for Option 3 Proposal**

Council could potentially nominate a maximum of four events and the level of funding for each event this and potentially the next financial year. This would be for an initial pilot program with a minimum two years duration.

Events selected by council would need to provide the following in order to receive the funding

- a business plan
- an indication on what the funding will be used for
- evidence of meeting the requirements of the Council event application process
- A post event report to Council

The post event report will be collated and used by Council to assess the results, report back to council and review the pilot program's effectiveness as a longer term project.

### **Proposal for Regional Tourism Authority Affiliation**

#### **Council's Regional Tourism Affiliation**

With Council's current focus and resources, the Shire's immediate participation in regional tourism boards is best accommodated at levels one to three and within the existing marketing budget for 2013/14.

## **Policy Implications**

The 2013 - 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Community Wellbeing
<b>Objective</b>	Effective strategic and business planning for a growing community
<b>Strategy</b>	Refine and implement a project management framework and processes to guide project prioritisation and delivery

The proposal to distribute the \$17,500 for tourism purposes is consistent with the 2013-2017 Council Plan.

## **Financial Implications**

The proposal will not require additional funding from the 2013/14 Council Budget.

A budget bid for an ongoing annual commitment of between \$17,500 and \$20,000 will be provided for consideration in future council budgets.

The financial implications for local events is a positive increase in financial support to the successful applicant.

## **Risk & Occupational Health & Safety Issues**

There are no additional Risk or OHS issues for Council directly attributed to this proposal. The new events application process and provision of additional funds to event organisers will increase event organisers understanding of how to mitigate risk in their events and/or afford risk and OHS professional assistance.

## **Communications and Consultation Strategy**

A letter will be prepared and sent by the CEO to inform DMRRTB of Councils decision.

If option two is adopted by council, a media release announcing the new funding for local events will be distributed. Another media release will be prepared once the new category and criteria have been embedded into the existing Community Grants Program and are ready for implementation.

## **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 – Peter Forbes*

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

### **Conclusion**

Funds allocated to tourism by council under options one two three and four would all deliver benefits to tourism in Moorabool. However there is insufficient tourism funding and resources for Council to fully participate in all of the options provided.

In the immediate term, Council should participate in DMRRTB and other RTAs at levels one, two or three, and allocate existing funds to local events to deliver the most direct benefit to local tourism.

Funding is best distributed directly via local events identified as high value opportunities that align with the issues and opportunities in the Tourism DMP.

There are two main mechanisms to allocating the funds, via council's existing community grants program or council entering into a direct sponsorship arrangement with selected events.

\$2,500 of the \$17,500 should be retained by Council to develop an improved event application process, host specific workshops to inform and educate event organisers about the new council event application approval process and explain the funding application criteria.

### **Recommendation:**

#### **That Council:**

- a. **Approves the reallocation of the \$17,500 in the 2013/14 financial year budget be redistributed as follows:**
  - i. **\$15,000 Local Tourism Events**
  - ii. **\$2,500 Implement new event process and event organisers training.**

- b. **A further report be prepared, on options available to Council for joining Regional Tourism Boards on a non-financial membership basis in order to support local tourism.**

**Resolution:**

**Crs. Sullivan/**

***That Council:***

- a. ***Approves the reallocation of the \$17,500 in the 2013/14 financial year budget be redistributed as follows:***
- i. ***\$15,000 Local Tourism Events***
  - ii. ***\$2,500 Implement new event process and event organisers training.***
- b. ***that the \$15,000 be reallocated through Council's Community Grants Program & Community Events category.***
- c. ***A further report be prepared, on options available to Council for joining Regional Tourism Boards on a non-financial membership basis in order to support local tourism.***

***The motion lapsed due to the want of a Seconder.***

---

**Report Authorisation**

**Authorised by:**

**Name:** Satwinder Sandhu

**Title:** General Manager Growth and Development

**Date:** Thursday 10 October 2013





### **11.3 COMMUNITY SERVICES**

**Nil.**

## **11.4 INFRASTRUCTURE SERVICES**

**Nil.**

## **11.5 CORPORATE SERVICES**

### **11.5.1 Councillor and Members of Council Committees Expenses Entitlement and Resources Policy**

#### **Introduction**

File No.: 01/03/001  
Author: Shane Marr  
Chief Executive Officer: Rob Croxford

#### **Background**

In accordance with section 75 of the Local Government Act 1989, a Council must reimburse a Councillor for expenses if the Councillor applies in writing to the Council for reimbursement of expenses. The Councillor must establish in the application to Council that the expenses were reasonable bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor.

In accordance with section 75A of the Local Government Act 1989, a Council may reimburse members of Council Committees for necessary out-of-pocket expenses incurred while performing duties as a committee member.

For Council to apply sections 75 and 75A of the Local Government Act 1989, section 75B states that a Council must adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council committees.

This policy also serves to address section 75C of the Local Government Act 1989 whereby Council must make available for the Mayor and Councillors the minimum resources and facilities prescribed for the purposes of this section.

Whilst a review of a reimbursement of expenses policy is not a statutory requirement it is considered appropriate to conduct a review of the Councillor and Members of Council Committees Expenses Entitlement and Resources Policy post the general election of Council.

In March and October 2013, Assemblies of Councillors were held to review the current policy and to seek the views of Councillors in regards to their requirements whilst performing duties as a Councillor or Member of a Council Committee. Councillors considered and agreed upon the following additions to be incorporated into the Policy:

- Resources and facilities for Councillors
- Responsibility and Accountability
- Mayor and Councillor Allowance
- Carer Expenses
- Meeting Attendance
- Public Reporting
- Public Transport and Parking

- Expenses and Facilities for Councillors with Disabilities
- Legal costs

### **Proposal**

The policy document titled 'Councillors and Members of Council Committees Expense Entitlements & Resources Policy', which formulates as an attachment to this report, is now presented to Council for consideration in accordance with the policy protocol relating to the consideration of items which affect beyond the current year.

The Policy has been prepared according to the prescribed types of Councillor out-of-pocket expenses that must be reimbursed if the expenses are reasonable and bona fide and in accordance with prescribed procedures to be followed by Council in relation to the reimbursement of out-of-pocket expenses. The policy also identifies facilities, services and resources which are made available to Councillors to assist and support them in carrying out their roles and official duties in their capacity as Councillors

### **Consideration**

The policy protocol relating to the consideration of items which affect beyond the current year is applied for consideration of matters whose impact or influence will extend to directly affect the activities and/or financial planning of Council for a period beyond the term of the Current Council Budget, and whether relating to Council policy pronouncements or specific projects.

### **Policy Implications**

The 2013 . 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of our Community
<b>Objective</b>	Good governance through open and transparent processes and strong accountability to the community.
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice.

The proposal to implement an expenses entitlement and resources policy for Councillors and Members of Council Committees is consistent with the 2013-2017 Council Plan.

### **Financial Implications**

The financial implications to Council are in accordance with budget allocations.

### **Risk & Occupational Health & Safety Issues**

<b>Risk Identifier</b>	<b>Detail of Risk</b>	<b>Risk Rating</b>	<b>Control/s</b>
Financial	Budget Allocation	Medium	Audit Control

### **Communications Strategy**

The policy document has been presented to two Assembly of Councillors for review and also reviewed internally by Council's executive group prior to being presented to Council for adoption.

### **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.

*Chief Executive Officer – Rob Croxford*

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

*Author – Shane Marr*

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

### **Conclusion**

In accordance with section 75 of the Local Government Act 1989, Council is required to adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council committees and to make available for the Mayor and Councillors the minimum resources and facilities to assist and support Councillors in carrying out their roles and official duties.

The Policy, provided as an attachment to this report, is now presented to Council for consideration in accordance with the policy protocol relating to the consideration of items which affect beyond the current year.

**Resolution:**

**Crs. Sullivan/Edwards**

*That, in accordance with Moorabool Shire Council Policy Protocol, Consideration of Items which Affect beyond the Current Year, the Councillor and Members of Council Committees Expenses Entitlement and Resources Policy – G008 Version 3, now lay on the table for further consideration at the next Ordinary Meeting of Council of Wednesday 20 November 2013.*

**CARRIED.**

---

**Report Authorisation**

**Authorised by:**

**Name:**

Shane Marr

**Title:**

General Manager Corporate Services

**Date:**

Friday, 4 October 2013



## 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](http://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 2 October 2013 . Pool Review
- Assembly of Councillors . Wednesday 2 October 2013 . Pool Sponsorship
- Assembly of Councillors . Wednesday 2 October 2013 . Budget Process, CIP and Council Plan
- Assembly of Councillors . Wednesday 2 October 2013 . MSC's Rate Strategy
- Assembly of Councillors . Wednesday 2 October 2013 . Update from Audit and Risk Committee May/August Meetings
- Assembly of Councillors . Wednesday 2 October 2013 . Bacchus Marsh Racecourse Recreation Reserve
- Assembly of Councillors . Wednesday 9 October 2013 . Domestic Wastewater Management Plan
- Assembly of Councillors . Wednesday 9 October 2013 . Council Meetings and Locations
- Assembly of Councillors . Wednesday 9 October 2013 . Review of Councillors and Members of Council Committees Expense Entitlements and Resources Policy
- Assembly of Councillors . Wednesday 9 October 2013 . Councillor Code of Conduct

- Assembly of Councillors . Wednesday 9 October 2013 . Core Business
- Assembly of Councillors . Wednesday 9 October 2013 . Melbourne Growth Plan
- Assembly of Councillors . Wednesday 9 October 2013 . Bacchus Marsh West Golf Club and User Group Licence Agreements . Bacchus Marsh Recreation and Racecourse Reserve

**Resolution:**

**Crs. Dudzik/Spain**

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

- ***Assembly of Councillors – Wednesday 2 October 2013 – Pool Review***
- ***Assembly of Councillors – Wednesday 2 October 2013 – Pool Sponsorship***
- ***Assembly of Councillors – Wednesday 2 October 2013 – Budget Process, CIP and Council Plan***
- ***Assembly of Councillors – Wednesday 2 October 2013 – MSC’s Rate Strategy***
- ***Assembly of Councillors – Wednesday 2 October 2013 – Update from Audit and Risk Committee May/August Meetings***
- ***Assembly of Councillors – Wednesday 2 October 2013 – Bacchus Marsh Racecourse Recreation Reserve***
- ***Assembly of Councillors – Wednesday 9 October 2013 – Domestic Wastewater Management Plan***
- ***Assembly of Councillors – Wednesday 9 October 2013 – Council Meetings and Locations***
- ***Assembly of Councillors – Wednesday 9 October 2013 – Review of Councillors and Members of Council Committees Expense Entitlements and Resources Policy***
- ***Assembly of Councillors – Wednesday 9 October 2013 – Councillor Code of Conduct***
- ***Assembly of Councillors – Wednesday 9 October 2013 – Melbourne Growth Plan***
- ***Assembly of Councillors – Wednesday 9 October 2013 – Bacchus Marsh West Golf Club and User Group Licence Agreements – Bacchus Marsh Recreation and Racecourse Reserve.***

**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.

<b>Committee</b>	<b>Meeting Date</b>	<b>Council Representative</b>
Bacchus Marsh Racecourse and Recreation Reserve Committee of Management	14 August 2013	Cr. Comrie Cr. Edwards
Masons Lane Recreation Reserve Committee of Management	2 September 2013	Community Members

### **Resolution:**

**Crs. Edwards/Comrie**

***That Council receives the reports of the following Section 86 - Delegated Committees of Council:***

- ***Bacchus Marsh Racecourse and Recreation Reserve Committee of Management meeting of Wednesday 14 August 2013.***
- ***Masons Lane Recreation Reserve Committee of Management meeting of Monday 2 September 2013.***

**CARRIED.**

**13. NOTICES OF MOTION****13.1 Cr Comrie: N.O.M. No. 234 – Redistribution of Daylesford & Macedon Ranges Regional Tourism Board (DMRRTB) Contribution****Motion**

That Council:

1. Not renew its contribution to the Daylesford & Macedon Ranges Regional Tourism Board (DMRRTB).
2. Advise DMRRTB of Council's decision.
3. Redistribute the 2013/2014 budget allocation of \$17,500 for DMRRTB as follows:
  - a. Sponsor events or exhibitions in the 2013 Strawberries & Cherries Weekend in Bacchus Marsh to the amount of \$5,000.
  - b. Sponsor events or exhibitions in the 2014 Bacchus Marsh Harvest Festival to the amount of \$4,000.
  - c. Sponsor events or exhibitions in the 2014 Ballan Autumn Festival to the amount of \$5,000.
  - d. Sponsor events or exhibitions in the 2014 Blackwood Woodchop & Easter Carnival to the amount of \$3,500.
4. Receive a report from officers identifying the events or exhibitions that were sponsored.
5. Receive a further report from officers on how a process might be developed to guide MSC sponsorships in 2014/2015 and subsequent years.

**Preamble**

Moorabool Shire Council is developing a multi-sector approach to economic development for the Shire. Previously tourism has largely been the focus of the economic development.

Council has been reviewing its involvement with the Daylesford & Macedon Ranges Regional Tourism Board (DMRRTB). Councillors have expressed opinions that funds contributed to DMRRTB might be better spent within the Moorabool Shire.

**Resolution:****Crs. Comrie/Tatchell*****That Council:***

- 1. *Not renew its contribution to the Daylesford & Macedon Ranges Regional Tourism Board (DMRRTB).***
- 2. *Advise DMRRTB of Council's decision.***
- 3. *Redistribute the 2013/2014 budget allocation of \$17,500 for DMRRTB as follows:***
  - a. *Sponsor events or exhibitions in the 2013 Strawberries & Cherries Weekend in Bacchus Marsh to the amount of \$5,000.***
  - b. *Sponsor events or exhibitions in the 2014 Bacchus Marsh Harvest Festival to the amount of \$4,000.***
  - c. *Sponsor events or exhibitions in the 2014 Ballan Autumn Festival to the amount of \$5,000.***
  - d. *Sponsor events or exhibitions in the 2014 Blackwood Woodchop & Easter Carnival to the amount of \$3,500.***
- 4. *Receive a report from officers identifying the events or exhibitions that were sponsored.***
- 5. *Receive a further report from officers on how a process might be developed to guide MSC sponsorships in 2014/2015 and subsequent years.***

**CARRIED.**

**14. URGENT BUSINESS**

**Nil.**

**15. CLOSED SESSION OF THE MEETING TO THE PUBLIC**

**Nil.**

**16. MEETING CLOSURE**

*The meeting closed at 8.53pm.*

*Confirmed.....Mayor.*