

ORDINARY MEETING OF COUNCIL

Minutes of the Ordinary Meeting of Council
held at Council Chambers, 15 Stead Street, Ballan
on Wednesday 18 September 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

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1. OPENING OF MEETING AND PRAYER

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

2. PRESENT**Members:**

<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>

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Robert Fillisch</i>	<i>Statutory Planning Coordinator</i>
<i>Mr. Steve Ivelja</i>	<i>Finance Manager</i>
<i>Ms. Lisa Gervasoni</i>	<i>Strategic Planning Coordinator</i>
<i>Mr. Damian Drew</i>	<i>Senior Strategic Planner</i>
<i>Ms. Natalie Robertson</i>	<i>Senior Statutory Planner</i>
<i>Ms. Vicki Mack</i>	<i>Statutory Planner</i>
<i>Ms. Deb Absolom</i>	<i>Minute Taker</i>

3. APOLOGIES

<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Shane Marr</i>	<i>General Manager Corporate Services</i>

4. CONFIRMATION OF MINUTES**4.1 Ordinary Meeting of Council – Wednesday 4 September 2013****Resolution:**

Crs. Comrie/Spain

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 4 September 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. Pat Toohey, attended the following meetings and activities:

<i>Cr Pat Toohey – Mayor's Report</i>	
<i>September 2013</i>	
<i>6 September</i>	<i>The Literacy Trail</i>
<i>10 September</i>	<i>Port Phillip & Westernport Groundwater Atlas Stakeholder Reference Group Meeting</i>
<i>11 September</i>	<i>Assembly of Council – Update on Gordon and Bacchus Marsh Activity Structure Plans</i> <i>Assembly of Council – Regional Growth Plan Update</i> <i>Assembly of Council – VLGA Councillor Code of Conduct</i> <i>Assembly of Council – Scheduling of AoC's and Workload Planning</i>
<i>14 September</i>	<i>Central Highlands Football League President's Grand Final Afternoon Tea</i>
<i>18 September</i>	<i>Assembly of Council – Customer Service Strategy</i> <i>Assembly of Council – Update on Planning Permits on Restricted Covenants</i> <i>Assembly of Council – MSC Investment Attraction Assistance Policy</i> <i>Ordinary Meeting of Council</i>

Resolution:

Crs. Comrie/Sullivan

That the Mayor's report be received.

CARRIED.

7. COUNCILLORS' REPORTS

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

Cr. Edwards	
September 2013	
17 September	2013 Atherstone City of Melton business breakfast
17 September	Realistic Race

Cr. Tatchell	
September 2013	
6 September	Literacy Trail
6 September	Bacchus Marsh Aerodrome
9 September	Regional Advisory Committee
12 September	Ballan District Health Fundraising
15 September	Ballan Bowling Club Opening
16 September	Ballarat Football League Vote Count
17 September	Realistic Race
18 September	Ballan Police Meeting

Cr. Dudzik	
September 2013	
6 September	Literacy Trail
9 September	Long Forest Residents Meeting
12 September	Moorabool Family Violence Prevention Network Meeting
15 September	United Nations International Day of Peace
15 September	Opening Pulse Art Exhibition
17 September	Realistic Race
18 September	Identifying Family Violence Training

Cr. Comrie	
September 2013	
6 September	Bacchus Marsh Aerodrome
10 September	Relay For Life
16 September	Djerriwarrh Health Forum

Cr. Sullivan	
September 2013	
12-13 September	Timber Towns Regional Meeting

Resolution:

Crs. Edwards/Spain

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. Julie Dawson – Long Forest – Odour emanating from Long Forest Road, causing distress to residents.

Ms. Paula Cameron-Smith – Long Forest – Health effects from odour at Long Forest Road.

Mr. Bill Mansell – Long Forest – VCAT Order for odour at Long Forest Road

Ms. Kerrie Palmer – Long Forest – Actions being taken in regard to odour at Long Forest Road

QUESTION ON NOTICE

Ms. Danielle Cooper raised the following question at the Ordinary Meeting of Council on Wednesday 4 September, which was taken on notice by the Chair for further investigations to be undertaken:

Query in relation to maintenance of grounds opposite Darley Neighbourhood House.

RESPONSE TO QUESTION

In response to the question raised by Ms. Danielle Cooper at the Ordinary Meeting of Council on Wednesday 4 September 2013, Council's General Manager, Community Services has advised the following:

Maintenance to the reserve adjacent to the Darley Neighbourhood House occurs at a three week interval and is considered appropriate. Playgrounds are regularly inspected for defects and rectification scheduled accordingly. Other issues identified are reported through Council's Customer Request Management System and an officer will inspect and schedule works as necessary. An officer has inspected the site and will take action as required.

QUESTION ON NOTICE

Ms. Ange Greenland raised the following question at the Ordinary Meeting of Council on Wednesday 4 September, which was taken on notice by the Chair for further investigations to be undertaken:

Query in relation to requirement for permit for a shipping container.

RESPONSE TO QUESTION

In response to the question raised by Ms. Ange Greenland at the Ordinary Meeting of Council on Wednesday 4 September 2013, Council's General Manager, Growth and Development has advised the following:

A meeting was held between the General Manager Growth and Development, Statutory Planning Coordinator and Ms Greenland at her property to discuss the requirements for applying for a permit for a shipping container.

QUESTION ON NOTICE

Mr. Cameron Milson raised the following question at the Ordinary Meeting of Council on Wednesday 4 September, which was taken on notice by the Chair for further investigations to be undertaken:

Query in relation to condition of property proposed for 14 unit development in Maddingley.

RESPONSE TO QUESTION

In response to the question raised by Mr. Cameron Milson at the Ordinary Meeting of Council on Wednesday 4 September 2013, Council's General Manager, Growth and Development has advised the following:

The Community Safety Unit has investigated the property and appropriate action is being taken to address the situation.

9. PETITIONS

Nil.

10. PRESENTATIONS / DEPUTATIONS

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

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

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

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

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

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

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

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

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

Item No	Description	Name	Position
11.2.4	<i>Amendment C53 – Gordon Structure Plan</i>	Ian Woodhouse <i>Mr Robert Eskdale spoke on behalf of Mr Woodhouse</i>	Supporter
11.2.5	<i>Amendment C51 – Bacchus Marsh Activity Centre Structure Plan</i>	Pauline Madden	In Support of the Recommendation

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 Officers report on the planning item.

Item No	Description	Name	Applicant/ Objector
11.2.1	<i>Planning Application PA2013-145; Development of Nine (9) Dwellings, Lot 34 on PS510006U, 39 Maddison Circuit, Darley.</i>	Bart Hand	Objector
11.2.1	<i>Planning Application PA2013-145; Development of Nine (9) Dwellings, Lot 34 on PS510006U, 39 Maddison Circuit, Darley.</i>	Rosemary Prelec	Objector
11.2.1	<i>Planning Application PA2013-145; Development of Nine (9) Dwellings, Lot 34 on PS510006U, 39 Maddison Circuit, Darley.</i>	Wayne Smith	Objector
11.2.1	<i>Planning Application PA2013-145; Development of Nine (9) Dwellings, Lot 34 on PS510006U, 39 Maddison Circuit, Darley.</i>	Mark Winzar	Objector
11.2.1	<i>Planning Application PA2013-145; Development of Nine (9) Dwellings, Lot 34 on PS510006U, 39 Maddison Circuit, Darley.</i>	Julie Reynolds	Objector
11.2.2	<i>Planning Permit PA2013-042; Development and Use of a Dwelling in Association with a Vineyard at CA32A Section4 Parish of Gorong, 102 Gilletts Lane, Ingliston</i>	Justin Carroll	Applicant
11.2.2	<i>Planning Permit PA2013-042; Development and Use of a Dwelling in Association with a Vineyard at CA32A Section4 Parish of Gorong, 102 Gilletts Lane, Ingliston</i>	Robert Eskdale	Applicant

11.2.2	<i>Planning Permit PA2013-042; Development and Use of a Dwelling in Association with a Vineyard at CA32A Section4 Parish of Gorong, 102 Gilletts Lane, Ingliston</i>	Graham Cox	Objector
11.2.2	<i>Planning Permit PA2013-042; Development and Use of a Dwelling in Association with a Vineyard at CA32A Section4 Parish of Gorong, 102 Gilletts Lane, Ingliston</i>	Brian Barry	Objector
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Kathleen Littlejohn	Objector
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Daniel Camilleri	Supporter
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Nathan Camilleri	Supporter
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Frank Impala	Supporter

11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerrit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Dylan Finegan	Supporter
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerrit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Gaylene Martin	Objector
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerrit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Peter Martin	Objector
11.2.3	<i>Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerrit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352</i>	Charmaine Redford	Objector

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

11.1.1 CEO Annual Leave

Introduction

File No.: Personnel File
Author: Rob Croxford

Background

This report requests approval of the Council for the CEO to take leave in October/November 2013 and January 2014.

Proposal

It is requested that the Council approve annual leave for the periods:

- 14 October to 18 October, 2013 inclusive . 5 days
- 4 November 2013 . 1 day
- 25 December 2013 to 10 January 2014 inclusive . 13 days

The acting CEO for the period 14 October to 18 October 2013, inclusive will be Shane Marr, General Manager Corporate Services.

The action CEO for the period 4 November 2013 and 25 December 2013 to 10 January 2014 inclusive will be Satwinder Sandhu, General Manager Growth and Development

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.

Author – Rob Croxford

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

Conclusion

That the CEO be granted annual leave and that Shane Marr be appointed Acting CEO for the period 14 October to 18 October, 2013 inclusive and Satwinder Sandhu for the period 4 November 2013 and 25 December 2013 to 10 January 2014 inclusive.

Resolution:

Crs. Edwards/Sullivan

1. ***That the CEO, Robert Croxford be granted annual leave for the following periods:***
 - ***14 October to 18 October, 2013 inclusive – 5 days***
 - ***25 December 2013 to 10 January 2014 inclusive – 13 days***
2. ***That the acting CEO for the period 14 October to 18 October, 2013 inclusive will be Shane Marr, General Manager Corporate Services.***
3. ***That the acting CEO for the period 4 November 2013 and 25 December 2013 to 10 January 2014 inclusive will be Satwinder Sandhu, General Manager Growth and Development.***

CARRIED.

Report Authorisation

Authorised by: 

Name: Rob Croxford
Title: Chief Executive Officer
Date: Thursday 12 September 2013

11.2 GROWTH AND DEVELOPMENT**11.2.1 Planning Application PA2013-145; Development of Nine (9) Dwellings, Lot 34 on PS510006U, 39 Maddison Circuit, Darley.**

Application Summary:	
Application No:	PA2013-145
Lodgement Date:	24 June 2013
Planning Officer:	Natalie Robertson
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	27 August 2013
Address of the land:	Lot 34 on PS 510006U 39 Maddison Circuit, Darley
Proposal:	Development of nine (9) dwellings
Lot size:	2351 sq m
Restrictive covenant	Covenant X528665D Covenant PS510006U Covenant AD000059T
Why is a permit required?	Under Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to construct two or more dwellings on a lot.
Public Consultation:	
Number of notices to properties:	Twenty Six (26)
Notices on site:	One
Notice in Newspaper:	Nil
Number of objections:	Twenty Nine (29)
Submission of support:	Nil
Consultation meeting:	The number of objections and the inadequacies of the proposal determined that consultation could not satisfactorily resolve any issues.

Policy Implications:	
Key Result Area -	Enhanced Infrastructure and Natural Built Environment.
Objective -	Effective and efficient land use planning and building controls.
Strategy -	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>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.</p> <p><i>Author – Senior Statutory Planner, Natalie Robertson</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	

Executive Summary:

The application is for the construction of nine (9) double storey dwellings on Lot 34, 39 Maddison Circuit, Darley. This application is before Council due to the inadequacies of the proposal and due to the receipt of twenty eight objections from nearby neighbours.

The site has an area of 2351 sqm. While the proposed development provides housing choice for a range of households, which accords with State and Local Planning Policies, and the objectives of the zone, it is considered that the location, layout and design of the development is not in accordance with the character of the surrounding area.

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

Objections relate to dwelling density, traffic in the street, car parking, overdevelopment, waste collection, infrastructure provision and neighbourhood character. Details of the objector's concerns and response to the key issues have been provided in the report.

It is considered that the proposal is inconsistent with the pattern of development and discernible character in this Estate and does not meet the requirements of Restrictive Covenant AD00059T.

Summary Recommendation:

The proposal has been assessed against the relevant components of the Planning and Environment Act 1987, particularly with regard to Section 61 (4), the Moorabool Planning Scheme, particularly those set out in the State and Local Planning Policy Framework, Clause 32.01-4 - Residential 1 Zone . and Clause 55 of the Moorabool Planning Scheme (Rescode). It is considered that the proposed development fails to comply with Restrictive Covenant AD00059T and is generally inconsistent with requirements of the scheme which is outlined in detail in this report.

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

Site and Surrounds

The subject site abuts the south side bend in Maddison Circuit and the north side of Grey Street, Darley. The subject site is within a newer subdivision area, less than 15 years old, approximately 1km west of the Darley Plaza Activity Centre and Western Freeway interchange. The subject site is also within 1km of the Pentland Hills Primary School and Civic and Community Hub.

The subject site is best described as triangular in shape, within a combined frontage to Maddison Circuit of 18.27 m, a rear boundary abutting Grey Street of 71.43 m, an east and west boundary of 78.43 m and 50.00 m, respectively. The site is 2351 sq m, vacant with a significant fall from north to south.

The site is encumbered by a 2m wide easement along the rear boundary and has a hatched portion of land, as the shown on the title plan, on the south east corner that must not contain any buildings except for fencing and has been identified as an area that cannot be sewered under a Section 173 Agreement. The subject site is located on the bend of the southeast corner of the Circuit which provides for a street frontage which affords some constraints with regard to on street parking.

There are dwellings on each side of the subject site with 5m to 6m setbacks. These dwellings, as with most in the neighbourhood are single storey with double garages and generous side setbacks from side and rear boundaries. The dwelling on the northeast boundary has several habitable room windows which face the subject site.

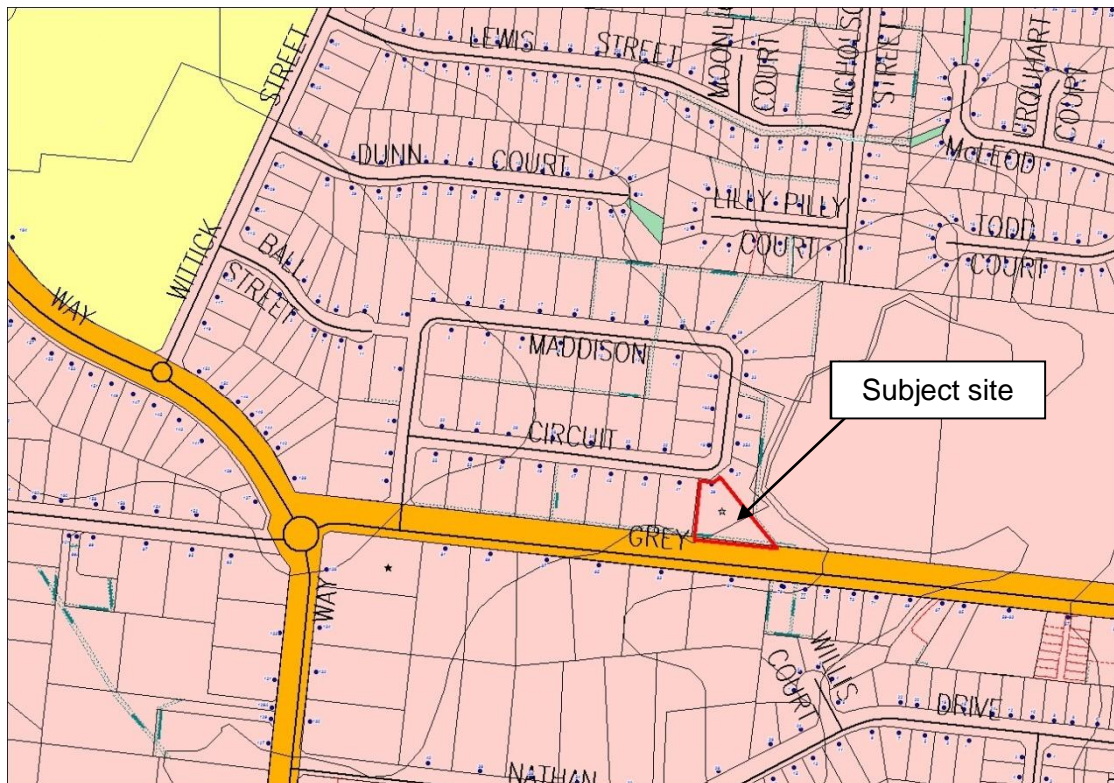
The subject site is located within a residential neighbourhood of Darley which was established approximately 2001 with a mix of newer dwellings and some vacant land. The area is elevated with significant views to the north east, east, south east and south. The subject site itself is described as having panoramic views from the site to the southeast. The site adjoins the land previously used as a landfill site by Council.

Maddison Circuit provides for two way traffic, kerb and channel, footpaths and crossovers.

There is a pedestrian path to Ball Street on the western side of Maddison Circuit which provides access to the Pentland Primary School. A public bus stop is located on the corner of Maddison Circuit and Grey Street.

Whilst the southern properties on Maddison Circuit share a rear boundary with Grey Street, Maddison Circuit itself has a distinct character. The dwellings are large single dwellings on generous lots with substantial open space. Maddison Circuit may only be accessed via Grey Street and may consider a small neighbourhood within itself. There are no other multi dwelling developments within the Circuit.

There is no significant vegetation on the subject site.



Proposal

The proponent seeks approval for the construction of nine (9) dwellings on the lot.

The dwellings would be located in two columns on either side of a new crossover from Maddison Circuit (which would require modification of the existing single crossover) which would run through the centre of the development. Proposed Dwellings 1 and 9 would front Maddison Circuit with five (5) dwellings proposed along the eastern side boundary and four (4) dwellings proposed along the western side boundary fronting the internal driveway.

Each of the nine (9) dwellings would be double storey with open plan living areas on the ground floor and three bedrooms on the second floor with five dwellings proposing a retreat area on the second floor landing. Each dwelling would provide a single car garage and open car space in tandem.

Two visitor car spaces are proposed at the rear boundary next to Dwelling 6 with turning areas that would allow for exit of the site in a forward direction.

Dwelling 1 and 9 would be setback 6m from the front boundary. The maximum height of the development exceeds 8 m above natural ground level; site coverage is stated to be 33% and permeability 53%.

No walls are proposed on boundaries with the closest setback being 1.8m and the average setback approximately 4 m. Dwellings 5 and 6 would be setback approximately 3 m from the Grey Street rear boundary.

The proponent states that overlooking would be prevented by orientation of most first floor habitable room windows away from adjoining dwellings or private open space or through the provision of screening (obscure glazing or fixed screens) to a height of 1.7 m for any windows facing an external boundary within 9 m of Grey

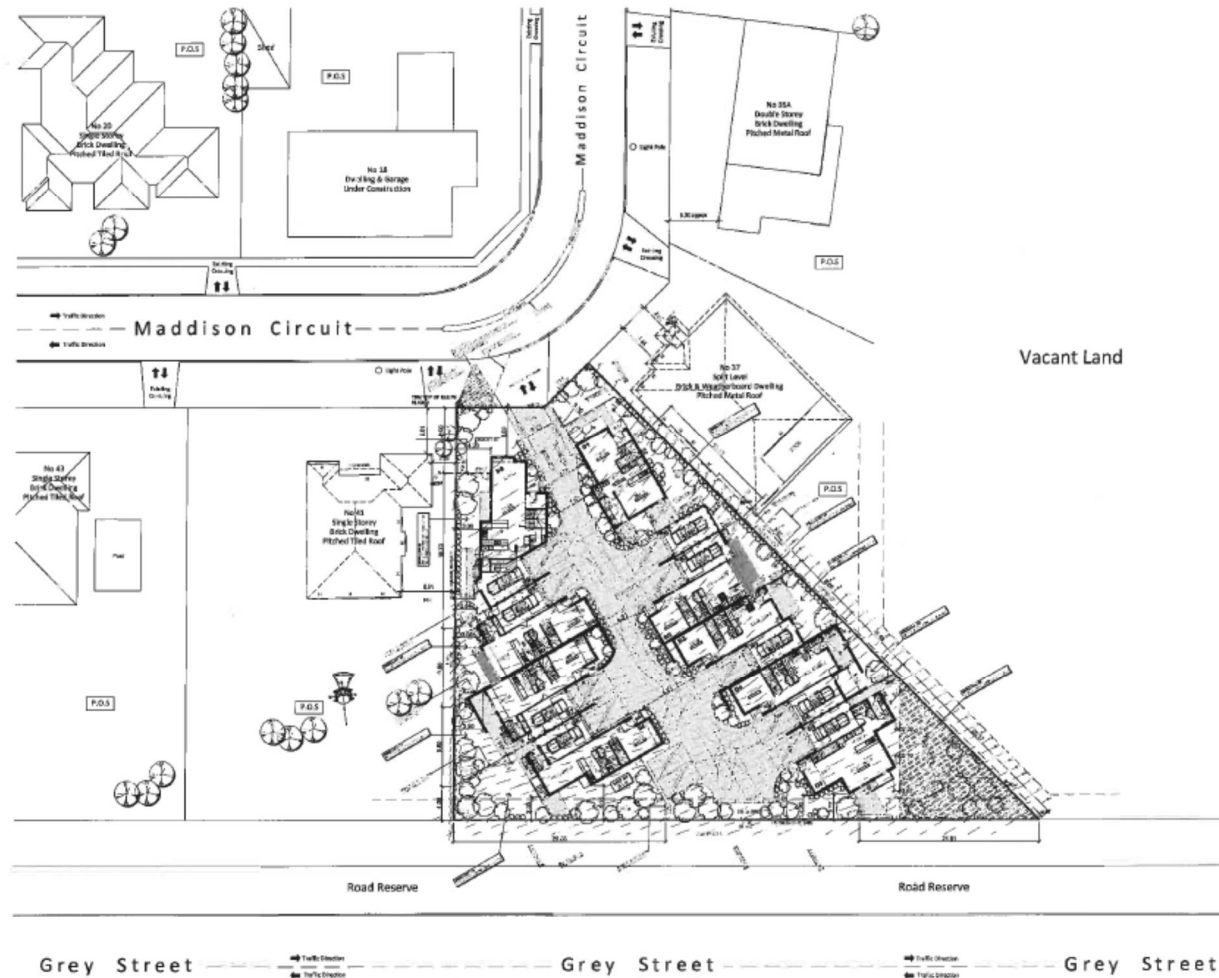
Street. It is proposed to screen the rear deck of Dwelling 8 and at ground level, overlooking would be prevented by internal and external boundary fencing. Internal overlooking is proposed to be prevented by the orientation of first floor windows away from secluded private open space of the dwellings.

The dwellings would have a contemporary design described as appropriate to newer suburban areas at the edge of a country town. The dwellings would present with a mix of face brick, weatherboard or rendered walls at both floors and hipped, Colorbond® roofs with eaves.

No front fence to Maddison Circuit is proposed. No provision has been made for domestic storage, refuse storage, mail boxes, however the proponents states that they can be provided.

The dwellings are configured as follows:

Sq m	Dwelling 1	Dwelling 2	Dwelling 3	Dwelling 4	Dwelling 5	Dwelling 6	Dwelling 7	Dwelling 8	Dwelling 9
Ground floor	76.74	58.34	63.27	63.68	74.91	69.90	72.19	72.19	78.79
First floor	71.83	76.67	78.83	78.56	77.56	77.68	81.49	81.35	78.87
Porch	2.40	1.44	1.44	1.44	2.59	1.44	1.44	1.44	2.70
Total	150.97	136.45	143.54	143.68	155.06	149.02	155.12	154.98	160.36
Garage	23.71	23.16	23.52	23.28	22.36	22.35	22.35	22.35	26.93
Deck	-	13.62	-	-	-	-	-	5.33	-
Total	174.68	173.23	167.06	166.96	177.42	171.37	177.47	182.66	187.29
Secluded POS	78.00	39.46	39.74	40.76	191.00	146.00	56.00	38.26	60.00



TOWN PLANNING SUBMISSION

**PROPOSED DEVELOPMENT
39 MADDISON CIRCUIT
DARLEY**

**SITE
DESIGN RESPONSE**

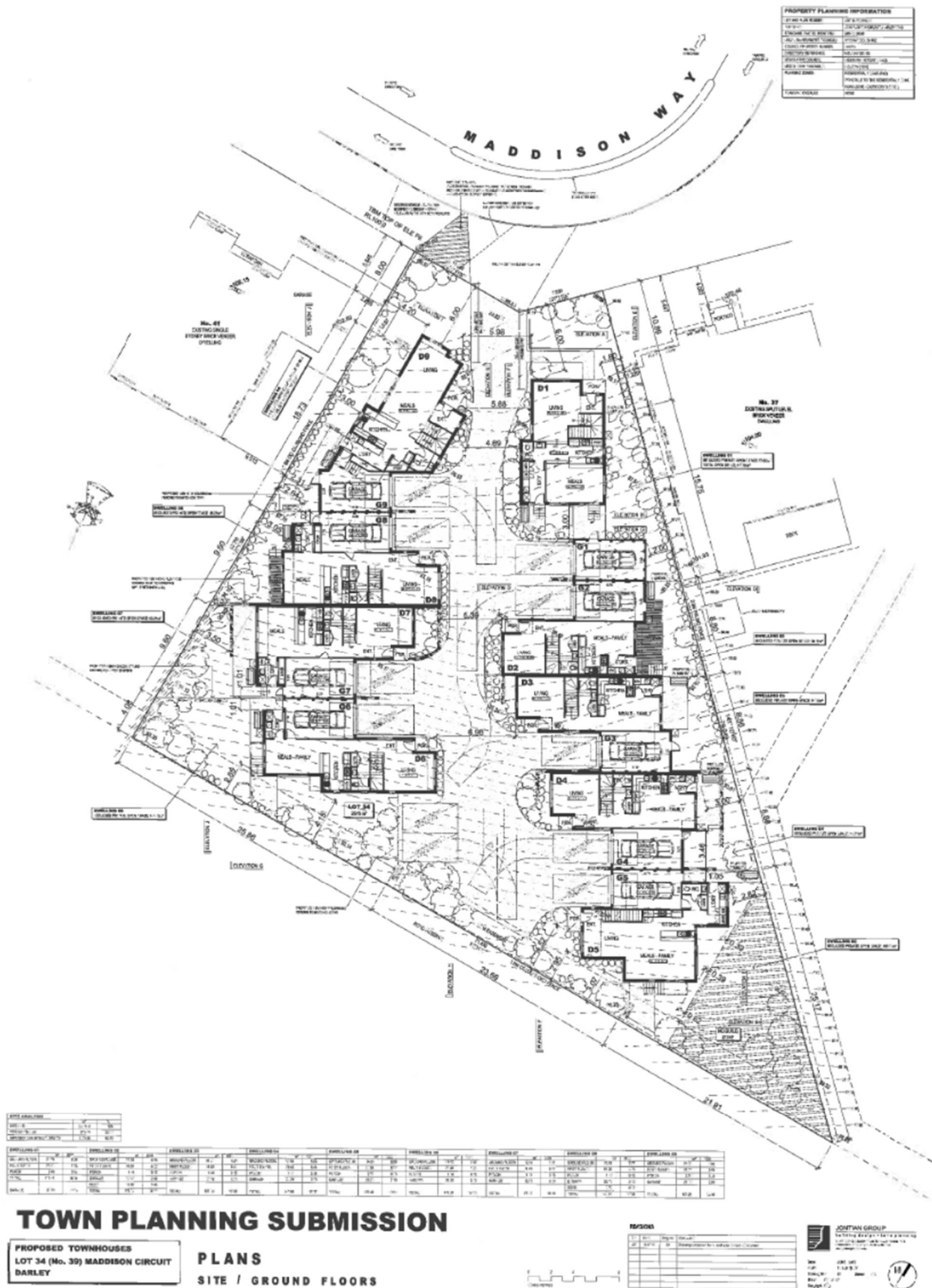


REVISIONS

No.	Date	By	Comments

JONTIAN GROUP
 building design + town planning
 Level 2, 215 Pitt Street, Sydney, NSW 2000
 150 Pitt Street, Sydney, NSW 2000

Date: 29/08/2013
 Scale: 1:200 @ A1
 Drawing No.: 01
 Sheet: 01 of 05
 Design: ©





PROPERTY PLANNING INFORMATION	
LOT NO.	34
SECTION	1
DATE OF SUBMISSION	15/09/2013
DATE OF APPROVAL	
APPLICANT	JOINTAN GROUP
DESIGNER	JOINTAN GROUP
PROJECT NAME	PROPOSED TOWNHOUSES
ADDRESS	LOT 34 (No. 39) MADDISON CIRCUIT, DARLEY
SCALE	1:100

TOWN PLANNING SUBMISSION

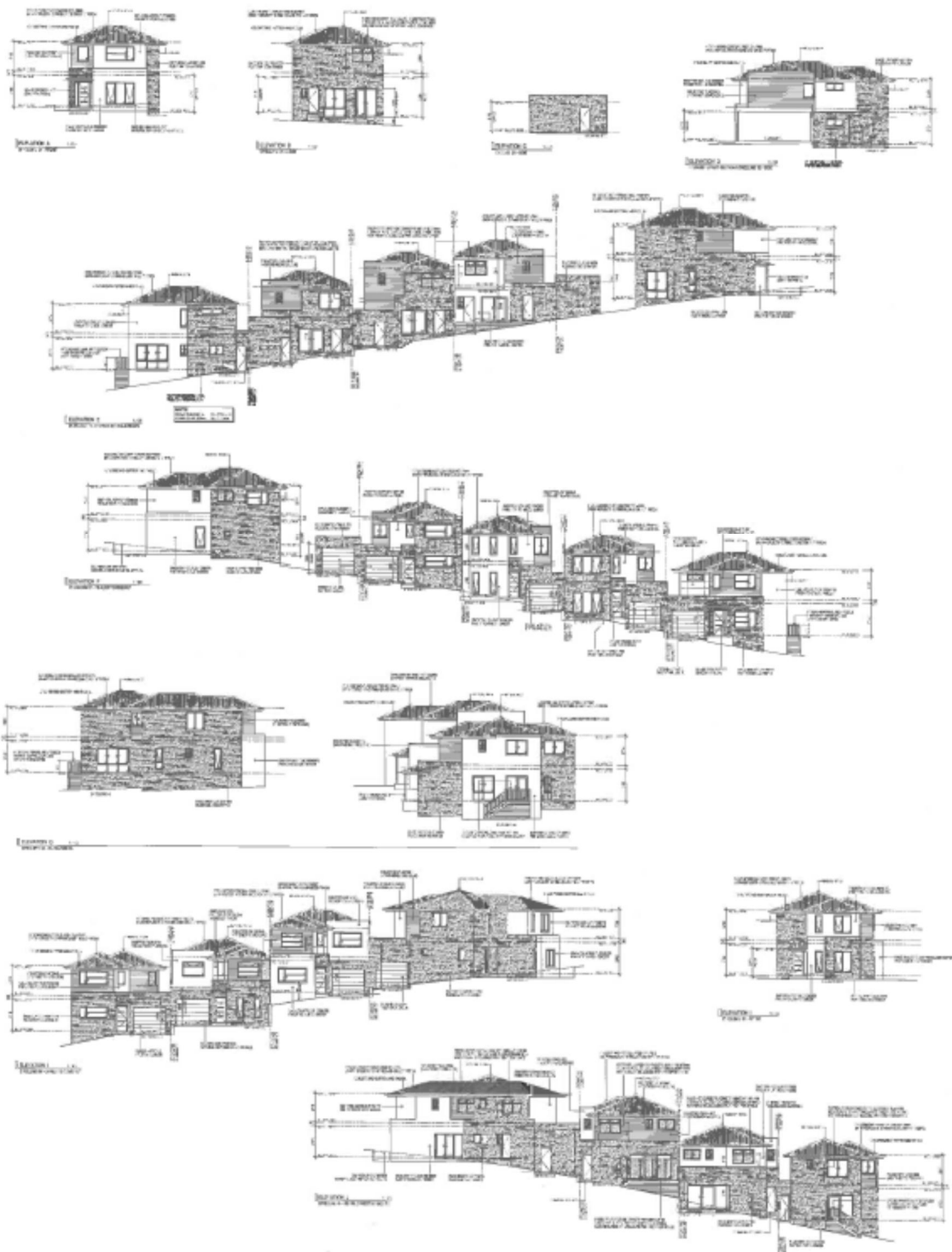
PROPOSED TOWNHOUSES
LOT 34 (No. 39) MADDISON CIRCUIT
DARLEY

PLANS
FIRST FLOORS

JOB NO.	
1	15/09/2013
2	15/09/2013
3	15/09/2013
4	15/09/2013
5	15/09/2013
6	15/09/2013
7	15/09/2013
8	15/09/2013
9	15/09/2013
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42	15/09/2013
43	15/09/2013
44	15/09/2013
45	15/09/2013
46	15/09/2013
47	15/09/2013
48	15/09/2013
49	15/09/2013
50	15/09/2013

JOINTAN GROUP
ARCHITECTURAL DESIGNERS
15/09/2013

SCALE: 1:100



TOWN PLANNING SUBMISSION

PROPOSED TOWNHOUSES
 LOT 34 (No. 36) MADISON CIRCUIT
 DANLEY

ELEVATIONS

NO. 10000	DATE	BY	CHKD.



 APTAL GROUP
 ARCHITECTURE & INTERIORS
 10/100 BROADWAY
 MELBOURNE VIC 3000
 Tel: 03 9594 1000
 Fax: 03 9594 1001
 www.aptalgroup.com.au

Restrictive Covenant

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

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

The following table outlines the covenants on the land title and where this proposal fails to comply with the requirements.

The proponent has failed to seek to allow the removal of or variation to these covenants.

Generally variation may be sought through Condition plans for alteration of building materials and building size; however given that the application fails in other areas of the Moorabool Planning Scheme the breach of the restrictive covenant has been identified and included as part of the grounds for refusal.

Covenant	Restriction	Comment
X528665D	<i>That no residential buildings or improvements within 33.35 metres of the eastern boundary shall be permitted on the subject site.</i>	Complies
AD000059T	<i>(a) Erect or cause to be erected a dwelling with external walls consisting of materials other than brick, brick veneer or stone on the lot.</i>	Does not Comply The proponent proposes use of materials other than brick, brick veneer and stone. The building would consist of weatherboard cladding.
	<i>(b) Erect or construct a dwelling house on the land having a floor area of less than 140 sqm within the outer walls which area shall be calculated without taking into account the area of carports, garage, terraces, pergolas and/or verandas or any other buildings or constructions or structure.</i>	Does not Comply Dwelling 2 has a floor area of 135.01sqm.
	<i>(c) Erect or cause to be erected any outbuildings prior to the construction of the dwelling house.</i>	Complies

	<i>(d) Erect or construct a boundary fence on the land from materials other than brick, stone, timber or color bonded steel or aluminium cladding.</i>	Complies
	<i>(e) Permit iron, steel or aluminium cladding to be used on external walls or as roofing material on any outbuilding, unless such material is colour bonded.</i>	Complies
	<i>(f) Permit access to any allotment from Grey Street frontage.</i>	Complies
	<i>(g) Permit any external wall of any outbuilding facing the street frontage of any allotments to be constructed of materials other than the same materials used in the external walls of the dwelling.</i>	Complies
	<i>(h) Permit handmade or machine mud bricks in the construction of any buildings</i>	Complies
	<i>(i) Permit such dwelling house to be used for other than a private and non-commercial residential purposes excepting where the dwelling is to be used as a display home for a period of not exceeding 12 months.</i>	Complies
AC675221C	<i>The owner agrees that the area for a width of 33.375 metres west of Reserve No 1 being the land marked hatched on the plan annexed and marked "A" cannot be serviced by the Western Water sewer.</i>	Complies. This area is set aside on the plan.

Planning Scheme Provisions

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

SPPF		
Clause 11	Settlement	The proposal for nine dwellings is inconsistent with this policy, which advocates sustainable development that takes full advantage of existing settlement patterns. The dwellings are not consistent with the developments within the balance of the neighbourhood.

Clause 11.02-1	Supply of urban land	Responding to urban consolidation strategies, the size of the site makes it suited to some form of medium density housing, however the character of the area, the constraints of the lot and the overall design make the proposal inconsistent with the objectives of this policy.
Clause 11.05-2	Melbourne's hinterland	Providing for residential development within the urban growth boundary of the Bacchus Marsh township is supported by this policy.
Clause 16.01-2	Location of Residential Development	In accordance with policy, the site has good access to public transport, which provides a direct link to the Bacchus Marsh township.
Clause 16.01-4	Housing Diversity	The proposed development does not provide within the development housing diversity, The development provides nine double storey dwellings with no diversity of choice.
LPPF		
Clause 21.03-3	Residential Development	The proposal is consistent with strategies to extend the range of housing types and densities to improve resident choice and meet changing housing needs, however, the development itself offers only one form of housing choice and does not cater to the aged, aging in place or those with limited mobility,
Clause 21.03-4	Landscape and Neighbourhood Character Objective	The proposal is inconsistent with the emerging built form of the subdivision. The location of the proposed development is out of character with the pattern of development in this neighbourhood and an overdevelopment in terms of design and visual bulk.
Clause 21.07	Bacchus Marsh	The proposal encourages consolidation and urban growth within the inner area of Bacchus Marsh. Any medium density development in the outer areas should be of high quality.

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 construct two or more dwellings on a lot.

The purpose of the zone is:

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

Overlay:

The site is not affected by an Overlay.

Particular Provisions:

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

Clause	Title	Standard	Compliance
Rescode			
55.02-1	Neighbourhood Character Objectives	B1	Does not comply The proposal does not consider an appropriate design response to the neighbourhood as it fails to respect existing character, fails to respond to the site features and fails to attempt to integrate with the existing neighbourhood character.
55.02-2	Residential Policy	B2	Complies In that the application addresses housing policies in the SPPF, LPPF and MSS and local policies. Whilst this policy encourages medium densities in areas to take advantage of public transport and community infrastructure and services, it does not encourage overdevelopment of the site.

55.02-3	Dwelling diversity	B3	N/A
55.02-4	Infrastructure	B4	Complies The development is likely to have connection to all services. There is a restriction of the title that demonstrates the corner portion of the allotment cannot connect to Western Water sewerage and if a permit were to issue compliance would have to be demonstrated.
55.02-5	Integration with Street	B5	Partially complies Whilst the front Dwellings 1 and 9 are orientated to the street the existing dwellings do not integrate with the street.
55.03-1	Street setback	B6	Complies The dwellings proposed meet the average setback of the adjoining existing buildings.
55.03-2	Building height	B7	Does not Comply The proposal fails to consider the height of proposed buildings against the height of existing buildings. The design response fails to consider visual impact of the buildings when viewed from the street and from adjoining properties.
55.03-3	Site coverage	B8	Complies The proposal states that the land parcel is 2616 sqm however the title and Council records indicate land size at 2351 sqm. Remove from this the undevelopable portion of land which reduces the land parcel by approximately 190 sqm therefore making the site area 2161 sqm which equates to 39.63 %. Whilst this complies with the standard it does not consider the impact of the second storey.

55.03-4	Permeability	B9	<p>Complies.</p> <p>The applicant states that the site permeability provides for at least 20% of the site not covered by impervious surfaces.</p>
55.03-5	Energy efficiency	B10	<p>Partially does not comply.</p> <p>Dwelling 2 to 5 are not oriented to make appropriate use of solar energy.</p>
55.03-6	Open space	B11	N/A
55.03-7	Safety	B12	<p>Does not comply</p> <p>The recessed style of development which sites entrances to dwellings on the far side furthest from the front of the lot means that the entrances for dwellings 3, 4 and 7 does not comply.</p>
55.03-8	Landscaping	B13	<p>Does not comply</p> <p>Plans are only indicative. Should a permit issue more detailed landscaping plans would be required.</p>
55.03-9	Access	B14	<p>Does not comply.</p> <p>There is shared vehicle and pedestrian access via Maddison Circuit.</p> <p>The proposal seeks a double crossover on a bend. Whilst the proposed crossover would remove retention of on street car parking there is also the issue that there can be no on street parking due to the location of the site.</p>

55.03-10	Parking location	B15	<p>Complies Car spaces are reasonably located for residents and noise sensitive rooms.</p> <p>There shared access way where it does not meet the 1.5m from habitable room windows has provided the window sills at least 1.4 m above the access way.</p> <p>No lighting has been nominated.</p>
55.04-1	Side and rear Setbacks	B17	<p>Complies Complies within the standard but does not ensure that the height and setback respects existing neighbourhood character and therefore limits the amenity on existing dwellings.</p>
55.04-2	Walls on Boundaries	B18	N/A
55.04-3	Daylight to existing windows	B19	Complies
55.04-4	North facing windows	B20	N/A
55.04-5	Overshadowing open space	B21	Complies
55.04-6	Overlooking	B22	<p>Complies Whilst the proposal complies with this standard it has done so by provision of screening via obscure glazing or fixed screens.</p> <p>In this regard the screening is required as all second storey windows overlook the adjoining neighbours.</p>
55.04-7	Internal Views	B23	Complies
55.04-8	Noise impacts	B24	Complies

55.05-1	Accessibility	B25	Complies Whilst access to the ground floor of dwellings is accessible to people with limited mobility. The design of all dwellings does not cater to those with limited mobility. No bedrooms are provided on the ground floor and access to private open space is also via stairs.
55.05-2	Dwelling entry	B26	Partially complies Dwelling entries only partially comply. Dwellings 3, 4 and 7 are obscured from the street and other public areas.
55.05-3	Daylight to new windows	B27	Complies
55.05-4	Private open space	B28	Does not comply Dwellings 2, 3 and 8 have less than the minimum 40sq m of secluded private open space (SPOS).
55.05-5	Solar access to open space	B29	Complies
55.05-6	Storage	B30	Does not comply Plans do not indicate access to a minimum of 6m ³ of externally accessible, secure storage space.
55.06-1	Design detail	B31	Does not comply The Design of the buildings fails to respect existing neighbourhood character. Particularly where the decision guidelines require consideration of the effect of visual bulk of the building and whether this is acceptable in the neighbourhood setting.
55.06-2	Front fences	B32	N/A
55.06-3	Common property	B33	Complies
55.06-4	Site services	B34	Does not comply No area is shown for mail boxes, bin and recycling enclosures.

Clause 65.02- Decision Guidelines

This report has considered the decision guidelines of Clause 65.

Referrals:

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

Authority	Response
Infrastructure	No objection . subject to conditions

Public Notice:

The application was advertised to adjoining owners and occupiers by sending individual notices on 16 July 2013 and a sign placed on the site from 19 July 2013 to 3 August 2013.

Twenty Nine objections were received.

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

Summary of Objections:

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

Objection	Officer's response
The proposal is not consistent with the neighbourhood character. Dwellings are generally large on substantial lots with access to generous private open space.	The proposal would make fundamental changes to the neighbourhood character as stated throughout this report. The area is recognised for large allotment with larger style homes, generous open space.
The development would dominate the estate for the adjoining neighbors and from Grey Street	The proposal would dominate the estate and would create an impact due to the overdevelopment of the site and visual dominance of the two rows of buildings as they would sit on the subject site.
Limited street parking	There is limited street parking. Certainly there would be none in front of the subject site. A double crossover is proposed in the centre of the lot. The crossover would dominate the front of the lot and would provide for no on street parking whatsoever in front of the site.

<p>Limited access to the relevant site due to the narrow street and median cement barriers on a tight bend which is likely to be dangerous.</p>	<p>There is a median barrier on the bend which implies that access to the site must only be via the a left turn from the site onto Maddison Circuit and from a right turn from Maddison Circuit requiring any resident of the subject land to have to use the full circuit before entering the site.</p> <p>This presents an unreasonable outcome that impacts the entire Circuit.</p>
<p>Potential for traffic issues including danger to pedestrians, increase in traffic, and location of site.</p>	<p>There would certainly be an increase in traffic. Traffic movements per day are calculated at 10 per residence. This equates to approximately 90 vehicle movements per day. As the proposal currently presents all traffic must exit the site from the left and enter from the right of Maddison Circuit which does impact not just the southern portion of Maddison Circuit but the whole neighbourhood.</p> <p>There is a median barrier which prevents access to the site from the right hand side of the road. Whilst this may be modified the intent of the barrier was created for safety purposes.</p> <p>It is very likely that this proposal would impact all residents as there is only one access to Maddison Circuit via Grey Street and an increase of at least 9 and possibly 18 vehicles which is the norm for three bedroom dwellings would impact the surrounding area.</p>
<p>Multi dwelling development would decrease property values. Should the development go ahead we would seek an independent valuation and expect an appropriate rate reduction.</p>	<p>Whilst the Victorian Civil and Administrative Tribunal state that property value is not a planning consideration. Certainly planning cannot speculate how development may affect the value of its surrounds.</p> <p>The adjoining residents do however, have the right to seek independent valuation and seek any reduction to rates where appropriate.</p>

<p>Approval of such a development would encourage other like development.</p>	<p>It is generally agreed that such development does set a precedent for similar development within a neighbourhood. Council has many examples of this including areas such Fredrick Street and Ross Street which is dominated by multi dwelling development.</p> <p>Whilst multi dwelling development is not discouraged it should be in a manner that sits comfortably within an area with such a distinct character.</p>
<p>Waste collection would see 18 additional bins lining the street</p>	<p>There would only be an area of 7.6m on the front boundary that would available for bins given the width of the proposed crossover.</p> <p>In this regard 18 bins on rubbish and recycling days would be located in this area and likely onto the adjoining neighbour's property.</p> <p>This does have an amenity impact on adjoining properties and should a permit issue waste and recycling should be via private collection.</p>
<p>Disruption to the neighbourhood during the building phase</p>	<p>This is true of any development. Whilst there is often an impact on existing residents it is reasonable to expect that development in a Residential 1 Zone is expected.</p> <p>There are regulations that must be adhered by any contractors, builders etc, however it is likely that given that the development proposes nine dwellings the buildings phase will cause disruption to the neighbourhood through noise and vehicle congestion.</p>
<p>The proposal is not suitable for anyone with limited mobility or the elderly and therefore does not provide for variety</p>	<p>The proposal does not cater to those with limited mobility, the aged and those wishing to age in place.</p> <p>The land slope and design layout have failed to offer a diversity of styles to cater to the above.</p>

<p>There is likely to be sewerage and storm water issues with this site.</p>	<p>The land is encumbered by an envelope on the south east rear corner which states that Western Water Sewer cannot be provided to this location.</p> <p>Whilst not a Section 55 Referral Authority Western Water has indicated that should a permit issue thorough consultation would be required.</p> <p>Council's Infrastructure department have advised that should a Notice of Design to grant a permit be issued particular requirements with regard to preparation of a stormwater drainage plan must first be submitted and approved by Council.</p>
<p>There is no compromise as we would oppose anything other than a single dwelling on the lot.</p>	<p>Council's Planning department must accept any application by a proponent for assessment.</p> <p>Provided the site is not encumbered by a restriction that prevents multi dwelling development each application must be assessed on its own merits.</p>
<p>The restrictive covenant requires only one dwelling on any lot.</p>	<p>The land does have a number of restrictive covenants and as discussed in this report the proposal does breach Items (a) and (b) of AD000059T, however these are related to building materials and building size.</p> <p>None of the restrictions prevent multi dwelling development on the subject site.</p>
<p>Multi dwelling development attracts a different demographic to the area that would not suit the family orientated environment that currently exists.</p>	<p>Council's Local Planning Policy encourages a range of housing types available to provide resident choice and meet changing household needs.</p> <p>The policy encourages high quality living environments which can be adaptable for use by smaller households, the aged and people with disabilities.</p>

Assessment of Application

It is considered that the proposal intends to support the purpose of the Residential 1 Zone by increasing the range of dwelling types to enhance consumer choice; however it considered that the proposal fails to deliver a range of dwelling types and style that would enhance consumer choice. The location of the proposed dwellings at this particular site is inappropriate, out of character with the Estate and essentially an overdevelopment of the lot.

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

The Estate generally comprises large single storey dwellings facing Maddison Circuit with garages at the side which are clearly visible from the street, and tandem parking on driveways, which is a common feature. Established landscaping and no front fencing.

The key issues arising from this proposal are:

1. The development is not respectful of the prevailing neighbourhood character and is an overdevelopment of the site.
2. The proposal has unreasonable impacts on adjoining properties.
3. The development breaches a restrictive covenant.

The development is not respectful of the prevailing and preferred neighbourhood character and is an overdevelopment of the site.

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

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

This development is intensive. All dwellings have three bedrooms on the first floor.

All dwellings are double storey. Whilst two storey developments should not be ruled out in Residential 1 Zone the overall massing of built form in this development does not reflect the prevailing neighbourhood character.

The long gun barrel driveway which is at least 60 m in length to the rear of the site is also inadequate and presents a great deal of hard surface area which is not responsive to the character of the area.

Given that all are three bedroom double storey dwellings there is further no contribution to objectives of dwelling diversity which could balance against the intensification of density. Further, the dwellings provided offer no options for those with limited mobility, the aged or the opportunity for aging in place. Access to most areas including the first floor or to rear open space is via stairs.

The proposal has unreasonable impacts on adjoining neighbours

All dwelling in this locality are detached dwellings. Attached dwellings are foreign to the streetscape. The very fact that the proposal involves two rows of attached highly visible double storey dwellings is a bold and intensive approach to put before the adjoining and surrounding neighbours.

The proposal as it responds to its adjoining neighbours on the adjoining boundary and as part of it visual impact to Grey Street to use the words of Senior Member Byard is too big, too high and too invasive of the privacy of the back yards of the existing dwellings and generally too dominating of the neighbourhood.

The visual bulk presented to the adjoining neighbours would be a long line of built form. The drop in the site does not eliminate this issue given that the site extends beyond the adjoining neighbours boundaries and is highly visible from Grey Street.

Further the site itself provides insufficient visitor parking to meet the likely user demand and no on street parking may be provided safely due to the location of the site on the Circuit bend.

The development breaches a restrictive covenant.

The proposed development fails to comply with restrictions imposed on the land title under Restrictive Covenant AD000059T and for this purpose entirely cannot be given a Notice of Decision to Grant a Permit.

Conclusion:

The proposal introduces a built form which does not respect the prevailing character, offers bulk and visual dominance to adjoining neighbours and fails to offer diversity of choice.

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

The proposed development further fails to comply with restrictions imposed on the land title under Restrictive Covenant AD000059T and would therefore be in breach of Section 61 (4) of the Planning and Environment Act 1987 to provide a Notice of Decision to Grant a Permit.

Consideration of Deputations – Planning Permit Application No. PA2013-145.

Mr. Bart Hand addressed Council as an objector to the granting of a planning permit for the application.

Ms. Rosemary Prelec addressed Council as an objector to the granting of a permit for the application.

Mr. Wayne Smith addressed Council as an objector to the granting of a permit for the application.

Mr. Mark Winzar addressed Council as an objector to the granting of a permit for the application.

Ms. Julie Reynolds addressed Council as an objector to the granting of a permit for the application

The business of the meeting then returned to the agenda.

Resolution:

Crs. Comrie/Dudzik

That Council having considered all relevant matters as prescribed by s.61(1) and s. 61(4) of the Planning and Environment Act 1987 for Planning Application PA2013-145 issue a Refusal to Grant a Permit for the development of nine (9) dwellings at Lot 34 on PS 510006U 39 Maddison Circuit, Darley on the following grounds:

- 1. The proposal would authorise something that would result in a breach of a registered restrictive covenant.**
- 2. The development is an overdevelopment of the site in the context of the subdivision in which it is located and with respect to neighbourhood character.**
- 3. The development does not satisfy a number of the Recode standards nor achieves the objectives contained within Clause 55 of the Moorabool Planning Scheme.**

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 6 September 2013



11.2.2 Planning Permit PA2013-042; Development and Use of a Dwelling in Association with a Vineyard at CA32A Section4 Parish of Gorong, 102 Gilletts Lane, Ingliston

Application Summary:	
Permit No:	PA2013-042
Lodgement Date:	4 March 2013
Planning Officer:	John Edwards
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	15 May 2013
Address of the land:	Crown Allotment 32A Section 4 Parish of Gorong; 102 Gilletts Lane, Ingliston 3342
Proposal:	Development of a Dwelling in Association with a Vineyard
Lot size:	2.50 hectares
Restrictive Covenant/Section 173 Agreement	None
Why is a permit required	Clause 36.01-1 Use of land for a dwelling Clause 36.01-2 Construct a building or construct or carry out works Clause 42.01-2 Construct a building or construct or carry out works
Public Consultation:	
Number of notices to properties:	Seven (7)
Notices on site:	One (1)
Notice in Moorabool Newspaper:	Not applicable
Number of Objections:	Two (2)

<p>Consultation meeting:</p>	<p>A consultation meeting was held with the council planning officer, both objectors and the applicant representatives.</p> <p>Strong opposition was relayed due to the perception of a second dwelling not meeting the requirements of the Farming Zone.</p> <p>No objections were withdrawn as a result, but it was agreed that should a permit be granted for a dwelling in association with a vineyard that permit conditions should include both that no processing or sales should occur directly at the subject land, and that at the owners expense the gravel road should be extended to the property and include a turning circle for trucks on the road way in front of the property.</p>
<p>Policy Implications:</p>	
<p>Key Result Area</p> <p>Objective</p> <p>Strategy</p>	<p>Enhanced Natural and Built Environment.</p> <p>Effective and efficient land use planning and building control.</p> <p>Implement high quality, responsive, and efficient processing systems for planning and building applications.</p> <p>Ensure that development is sustainable, resilient to change and respects the existing character.</p>
<p>Victorian Charter of Human Rights and Responsibilities Act 2006</p>	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – John Edwards

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

Executive Summary:

The application is for development of the land for a dwelling in association with a vineyard, at 102 Gilletts Lane in Ingliston.

The proponent seeks to develop a dwelling upon the 2.5 hectare land parcel primarily to oversee the proposed very small-scale vineyard encompassing 600m² of the total 2.5 hectares of land so as to develop the very small vineyard to its full potential.

While Viticulture (vineyard) is an undisputed intensive agricultural activity, the size of the proposed vineyard in this instance is considered to be inadequate to justify the reasonable requirement for a dwelling as part of the agricultural pursuit.

The proposal is for a three-bedroom brick veneer dwelling with colorbond roofing and colorbond shed.

The single storey dwelling will include an under-roofline double garage and cover 243m². This will be positioned 20m from the southern / front boundary, 60m from the western side boundary, and 22.4m from the eastern side boundary.

The colorbond shed will be approximately 5m from the southern / front boundary and 30m from the western side boundary, in close proximity to the Gilletts Lane road access which abuts the southwestern corner of the lot.

The subject land at CA32A is currently zoned as Public Use Zone . Category 6 (Local Government) and was purchased from Council by previous owners in the 1990s by the adjoining land owner of CA32 where a dwelling exists on that 36.31ha lot. The land should have been rezoned to Farming Zone at the time but did not occur. This adjoining land and surrounding land is within the Farming Zone, and the application needs to be viewed in consideration of the surrounding zoning, dwellings present, and rural production undertaken.

The current zoning of PUZ6 requires a permit for a dwelling. It should also be noted that Farming Zone applications for a dwelling on land less than 40 hectares in size also requires a permit. The land is predominantly

covered by the Environmental Significance Overlay . Schedule 2 Waterway Protection (ESO2). The ESO requires a permit to construct a building or to carry out works.

Land within the surrounding environs consists of land parcels primarily of 19ha . 40ha in size. Other lots are far larger than this size.

The applicant has indicated the intention to plant 0.6ha (1.5acre) vineyard consisting of 1000 plants/vines on the 2.5ha (5acre) allotment at CA32A and alleges that a dwelling is reasonably required in association with this vineyard.

Following this train of thought, the request for a dwelling at CA32A could logically be considered as an application for a second dwelling on the joint 38.81ha land parcel. An application for a second dwelling in the Farming Zone (FZ) and PUZ6 requires a planning permit regardless of land size. Taking into consideration that this lot is surrounded by Farming Zone land, the applicant has agreed that assessing the application against the provisions of the Farming Zone would be most relevant, even though the current zoning of the privately owned land is Public Use-Local Government (PUZ6).

The use of land for a dwelling within PUZ6 requires a permit for a dwelling but does not identify any specific requirements within PUZ6. The requirements of the relevant sections of the Planning Scheme applicable to the use for a dwelling are to be considered, as well the relationship of the land to the abutting zone, being FZ.

Any application to use a lot for a dwelling in the Farming Zone (FZ) would be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone. Agricultural, Dwelling, Environmental, Design and Siting issues must be addressed in responding to the decision guidelines.

The applicant has voluntarily sought to address the Decision Guidelines of the FZ in his application within the PUZ6, seeing the direct correlation of these requirements for his proposed development.

As well, Moorabool Planning Scheme's Local Planning Policy 22.02 Houses and House Lot Excisions in Rural Areas encourages consolidation of small lots and states implicitly that two hectares is considered an appropriate area for a house lot (for domestic purposes within the rural area).

This proposal is to construct a 243m² dwelling in support of the proposed vineyard.

CA32A has a total lot size of 2.5ha (25,000m²) where the applicant is proposing a vineyard, large shed and a dwelling. At 6000m² / 1000 vines, the vineyard will occupy 24% of the small lot.

A definitive purpose of the Farming Zone is to encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

The supplied Farm Management Plan indicates that once in full production this vineyard will result in the production of 500-600 bottles of wine (processed and bottled offsite) to create an annual income of \$5,000 less expenses. The smaller scale of the operation allows the dwelling occupier to be able to undertake the day-to-day care of the vineyard as well as spend time offsite marketing and selling the Brefney Estate label wines.

It is proposed that the applicant will live in the proposed dwelling and be responsible for the day-to-day management of this proposed vineyard as well as conducting the marketing and sales for the Brefney Estate wines.

Viticulture (vineyard) is an acknowledged intensive agricultural activity. The size of the proposed vineyard in this instance is relatively small at only 0.6ha, though the request for a dwelling as a reasonable requirement for oversight of a vineyard of any size is to be considered.

There are three dwellings fronting Gilletts Lane, with the most northerly dwelling at 102 Gilletts Lane (on CA32 portion) being in the same ownership as that of the owner/applicant.

The proposal was advertised to surrounding and adjoining landowners and two objections were received from both other landowners with a dwelling fronting the eastern side of the same road. Notably the objections primarily related not to the agricultural use *per se* but to its impact on the low quality shared road access; upon general amenity to the adjoining neighbours; that the application should be considered an application for a second dwelling by the land owner; and their belief that the supplied Farm Management Plan fails to justify reasonable need for a dwelling associated with a vineyard.

A consultation meeting was held with the council planning officer allowing the opportunity for the objectors and the applicant(s) to discuss the relevant issues and seek resolution. At the conclusion of the meeting no objections were withdrawn, but it was agreed that should any permit be issued that it would include conditions that will not allow for the processing into wine onsite nor should sales occur directly at the subject land, and that at the owner's expense the formed gravel road should be extended to the property entrance and include a turning circle for trucks on the road way in front of the property.

The application was forwarded to relevant referral authorities and internal Council departments for comment. No objections were offered from internal departments or referral authorities provided certain conditions were placed on any permit granted.

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 Frameworks, the Clause 36.01-Public Use Zone, Clause 35.07-Farming Zone, and Clause 42.01 Environmental Significance Overlay . Schedule 2 Waterways Protection (ESO2).

Summary Recommendation:

That Council resolve to issue a Notice of Decision to Grant a Permit for the Development of a Dwelling in association with a Vineyard, subject to conditions.

Proposal

The proposal involves the development of a single storey brick veneer dwelling and shed upon 2.5 hectare land parcel at Crown Allotment 32A Section 4 Parish of Gorong (part of 102 Gilletts Lane) in support of a proposed vineyard. The land parcel at the end of Gilletts Lane in Ingliston is Public Use Zone- Local Government (PUZ6) and surrounded by the Farming Zone (FZ).

The proposed dwelling comprises three (3) bedrooms, 2 bathrooms, laundry, kitchen, meals/family room, lounge room/study, entry foyer/powder room, and double garage. The under-roofline area covers 243 square metres, including the double garage (36.35m²).

The proposed dwelling would be sited approximately 60m from the western side boundary, 22.4m from the eastern side boundary, 20m from the southern side boundary, and 160m from the rear northern boundary.

The proposed four bay shed will be 7m x 15.2m occupying 106.4m². The wall/eave height will be 3.6m and the gable roof peak height will be 4.2m achieved across 10degree roof pitch angle. The external surfaces will be of colorbond metal sheeting (stated colour evening haze) with a roller door positioned on the northern side at the western end. This end bay will form an enclosed area 3.8m x 7m, and the remaining three bays will have open fronts to the north and encompass an enclosed area of 11.4m x 7m.

The proposed shed will be positioned approximately 5m from the southern boundary and 30m from the western side boundary, in close proximity to the Gilletts Lane access. The open bays will be accessed directly from the proposed driveway on the north side.

Two (2) minimum volume 10,000 litre water tanks with CFA coupling outlets will be provided with one adjacent to the dwelling and the other adjacent to the shed.

The subject land is accessed at the southwestern corner from the end of the 20.12m wide road reserve known as Gilletts Lane.

The proposed buildings are to be situated approximately 1200m north of the intersection of Gilletts Lane with Ingliston Road, and 300m north of the existing dwelling under the same ownership and fronting the eastern side of Gilletts Lane upon Crown Allotment 32 Section 4 Parish of Gorong.

Both CA32A being the subject of this application, and CA32 are known jointly as 102 Gilletts Lane, Ingliston.

The dwelling and outbuilding are to be constructed and used in association with the proposed vineyard. The vines are to be planted in an area 60m x 100m (0.6ha), setback to the north of the road frontage and southern boundary by approximately 75m.

A Land Capability Assessment Report (LCA) has been provided with the application which demonstrates that the site is suitable for a sustainable onsite wastewater management system to meet the needs of a new residence on the allotment. The land siting identified for the land application of wastewater will not impact on the dwelling, shed or trafficable areas nor the proposed vineyard location.

A Farm Management Plan (FMP) is provided in support of the application for a dwelling in association with a vineyard identified as *Farm Management Plan for Lot 32A Gilletts Lane, Ingliston – Intensive agriculture: Vineyard – Brefney Estate – Prepared by: Christopher and Justin Carroll, February 2013*.

The FMP indicates that the grapevines will rely on local rainfall for growth (non-irrigated), though they will require approximately 22,500 litres (5000 gallons) per year during the first three years through the initial establishment growth phase. It is stated that this will be provided as required from the two water tanks collecting water off the house and shedding.

The FMP further states that approximately 0.6ha (1.5 acres) comprising 1000 vines will be planted for the purpose of growing cool climate quality vines. Vines will be hand-pruned, fruit will be hand-picked, and all vineyard operations conducted by hand to ensure optimum treatment of the vines, the soil and environment. The fruit is to be transported off-site to be made into premium bottled wine.

A previous owner of the neighbouring Lot CA32 bought this vacant 2.5ha lot CA32A from the local council. Both lots were subsequently jointly sold to the current owner in 2011. Since purchasing the contiguous lots, the 2.5ha lot at CA32A and the abutting 36.31ha lot at CA32 which has an existing dwelling, the focus has been on improving soil quality with organic fertilizers, weed removal and pest-reduction. The subject site is considered by the owner to be ideal for viticulture considering the volcanic basalt soils and the north-facing aspect.

The FMP includes economic outcomes for the intended enterprise *Brefney Estate*. This asserts that due to the four-year lead time before the growing vines can produce sufficient quality fruit, selected fruit from similar vineyards throughout Victoria will be purchased and made into wine to initiate marketing and branding purposes and to create income for 2014-2017.

When in full production, the grapes from 1000 vines are expected to produce 500-600 bottles of wine annually. Potential sales are considered to be one quarter direct, and the remainder through wholesalers. Priced at RRP \$24.00 and wholesale \$16.00 and with production costs of \$8.00, this would yield profit of approximately \$16.00 or \$8.00 per bottle respectively. This is expected to provide an estimated income of \$5000 annually from the fourth year, resulting in a profit of \$4000 per annum (labour costs excluded).

The current applicant as well as the owner previously set up a 2ha (5 acre) vineyard near Ballarat in 1996 with 3000 pinot noir vines known as *White Swan Estate*. This fruit was successfully on-sold to a prominent 5-star winery to be sold under their existing wine label, with the vineyard still operating today.

The applicant and the owner acquired considerable knowledge from that experience and have maintained industry contacts and networks to assist in this new viticultural venture.

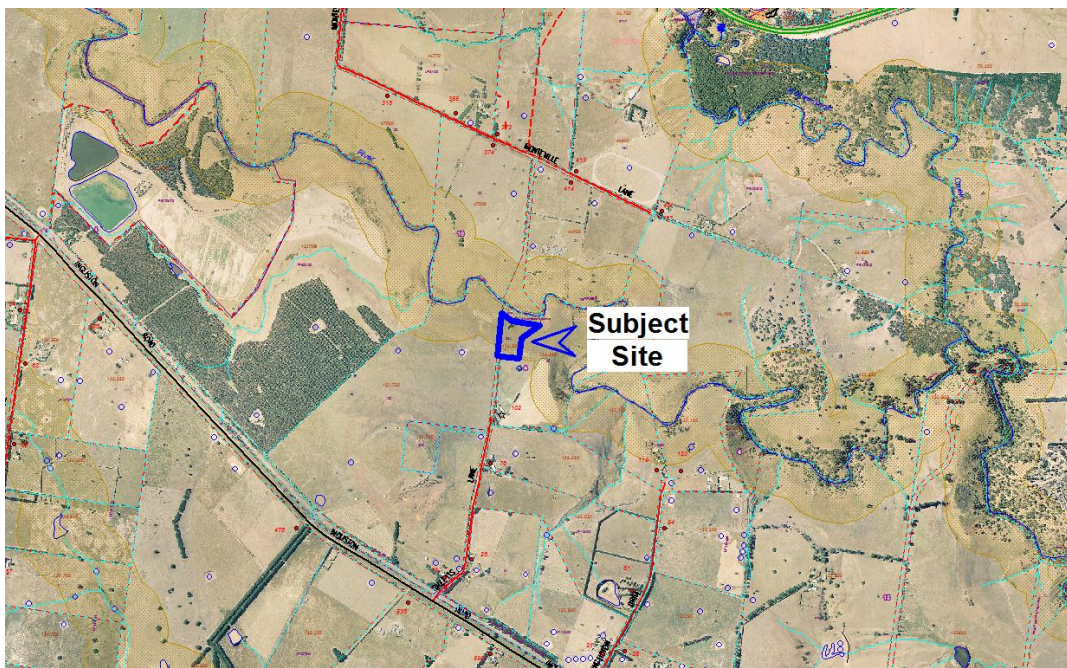
It is proposed that the applicant will live in the dwelling and be responsible for the day-to-day management of the proposed very small-scale vineyard as well as conduct the marketing and sales for *Brefney Estate* wines.

The owner will be responsible for managing and overseeing Asset management, Project coordination, hiring local contractors, future planning and development, and oversee the whole property (CA32A and CA32) eco-management.

The applicant seeks to live onsite to monitor the vines closely and prevent damage from any livestock that may break through fences or somehow make their way into the vineyard. For example, a wandering feral goat from the Werribee Gorge could do serious damage to the vines and fruit.

During grape ripening, bird nets need to be applied, monitored and kept in place. Nets can rip, be blown away and require repair and maintenance to keep fruit free from birds. Harvest time is seasonably variable, and as such in the weeks leading up to harvest the grapes must be monitored daily for sugar content and ripeness, prior to the eventually determined picking day.

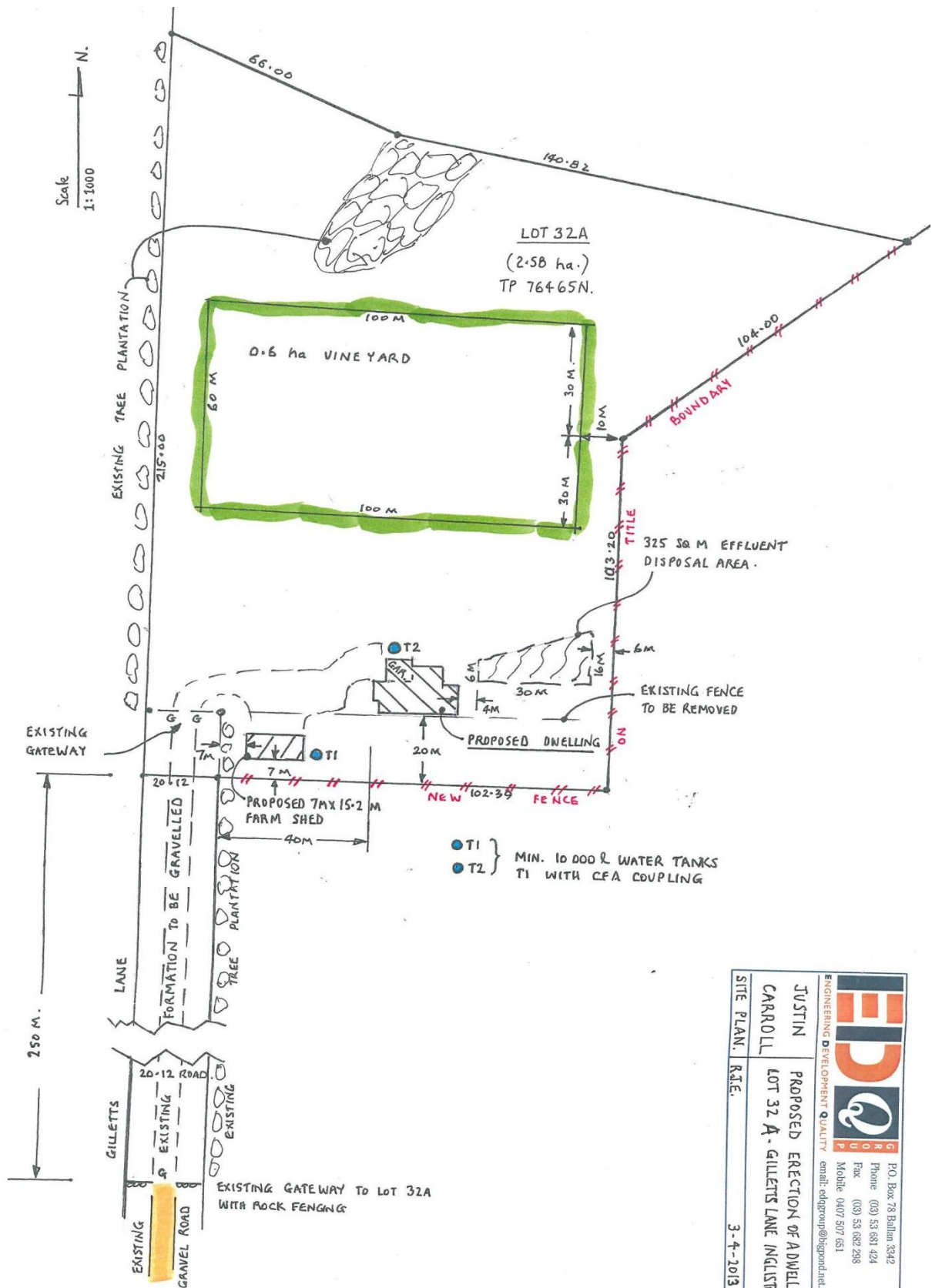
Locality Plan



Proposed Site Plan (superimposed aerial view)

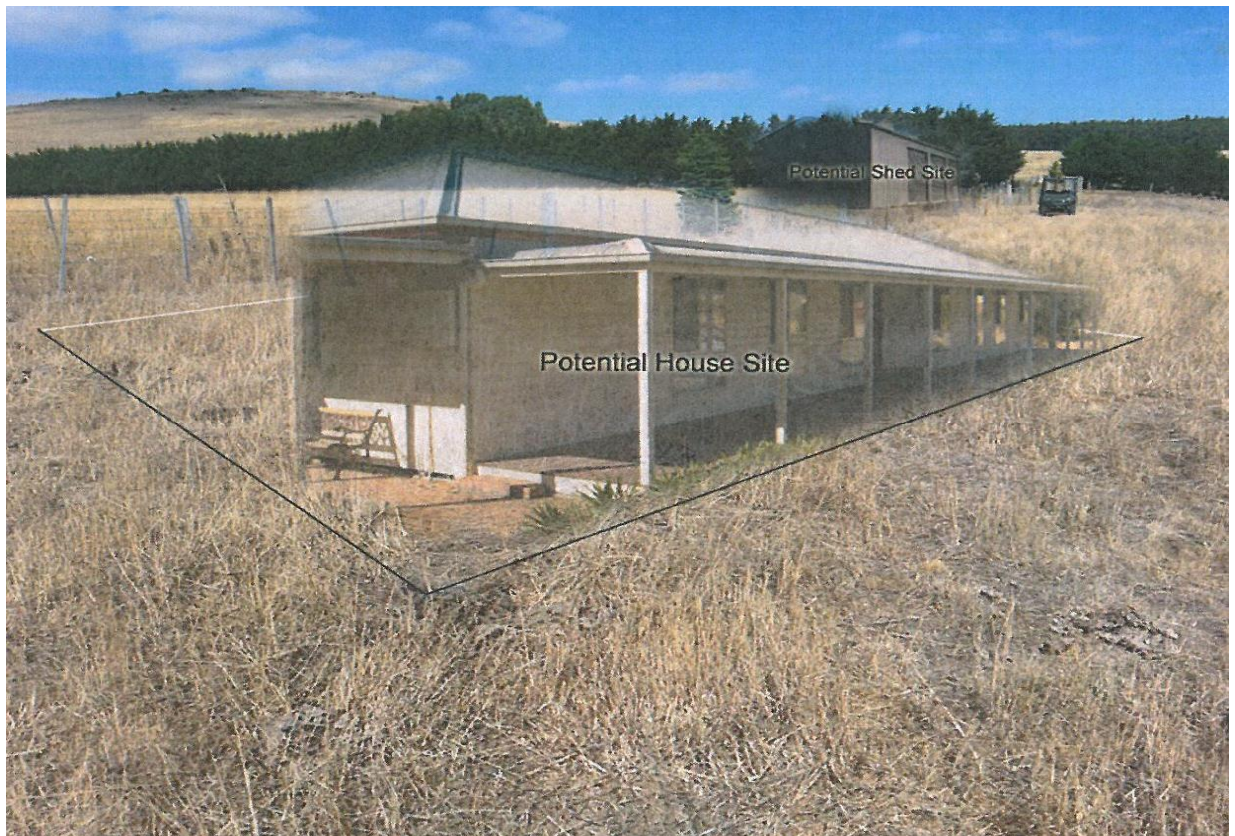


Proposed Site Plan

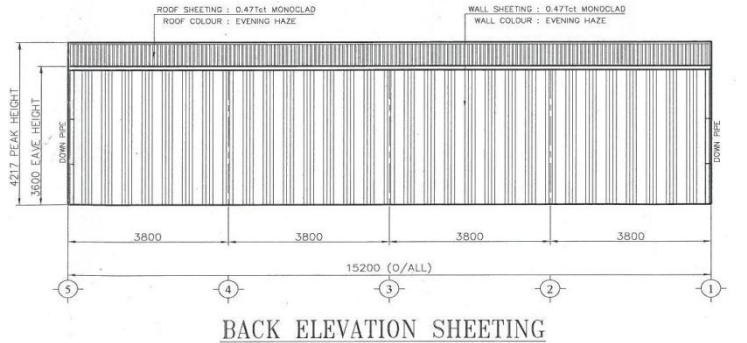
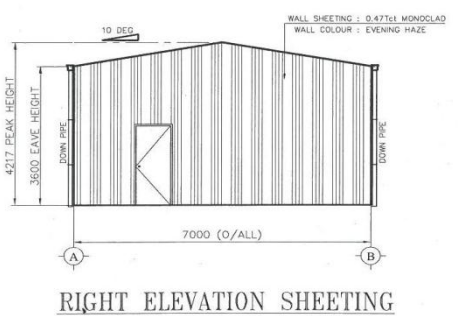
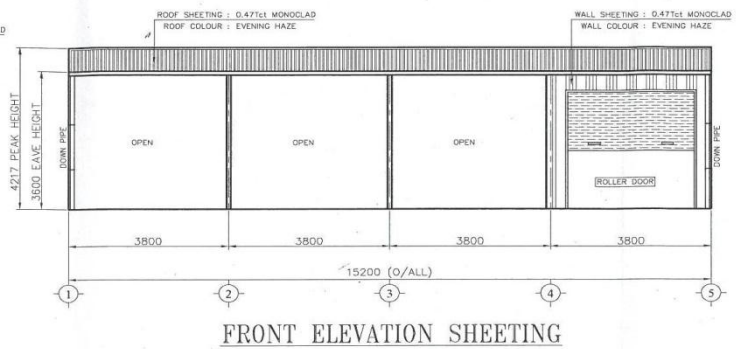
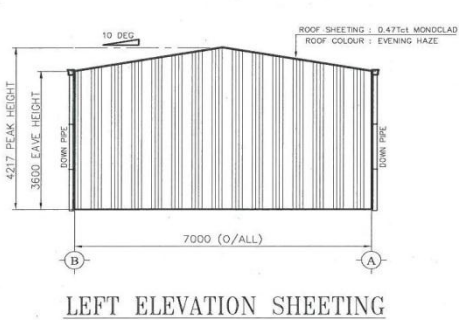


 ENGINEERING DEVELOPMENT & QUALITY	JUSTIN CARROLL	PROPOSED ERECTION OF A DWELLING	P.O. Box 78 Ballan 3342 Phone (03) 53 691 424 Fax (03) 53 692 298 Mobile 0407 507 051 email: edqgroup@edqgroup.net.au
	SITE PLAN	LOT 32 A - GILLETTS LANE INGLISTON	RITE

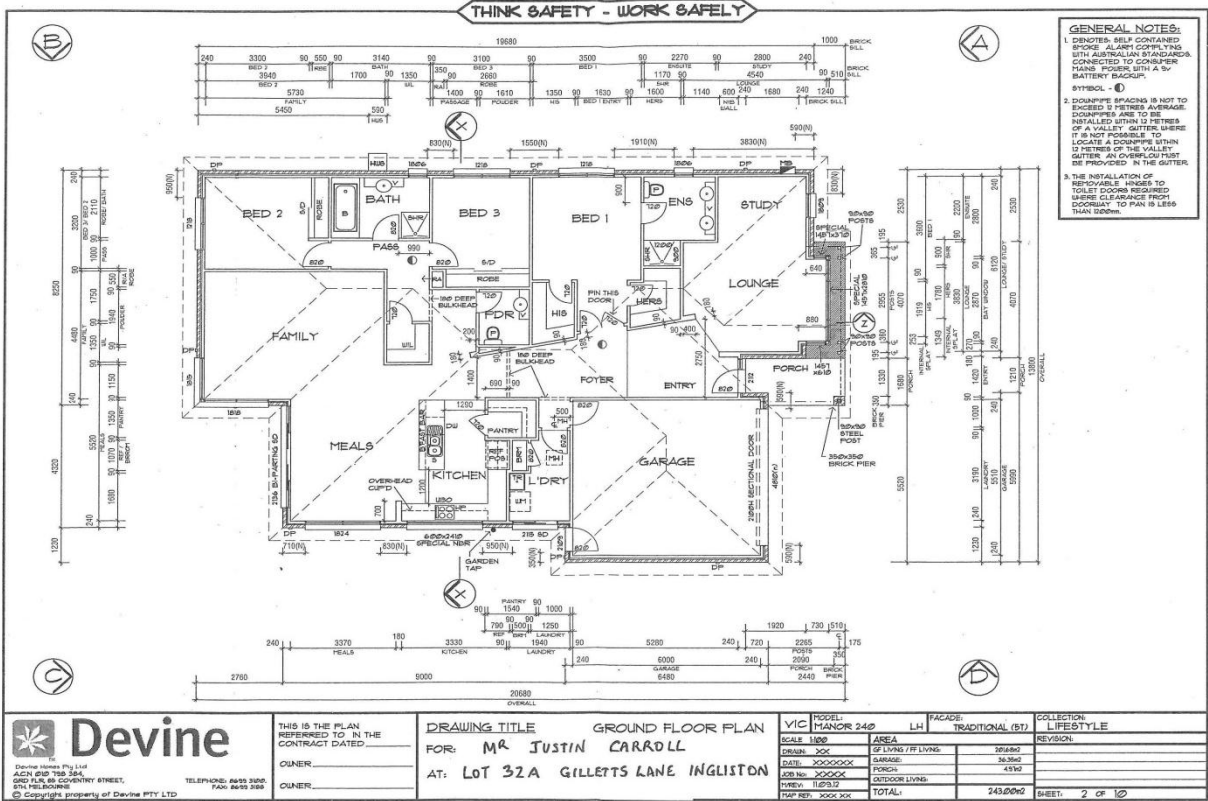
Proposed Dwelling and Shed Plans (3D superimposition example)



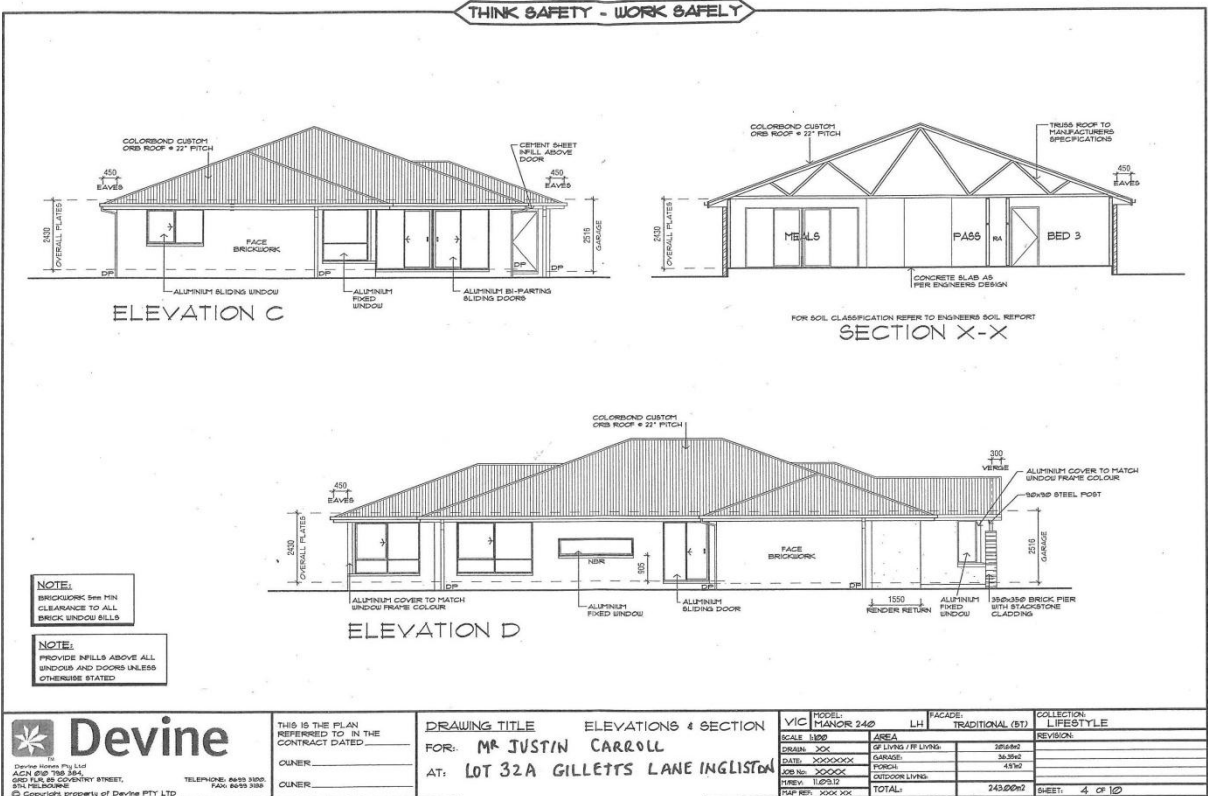
Proposed Shed Plans



Proposed Dwelling Floor Plans



Proposed Dwelling Elevation Plans



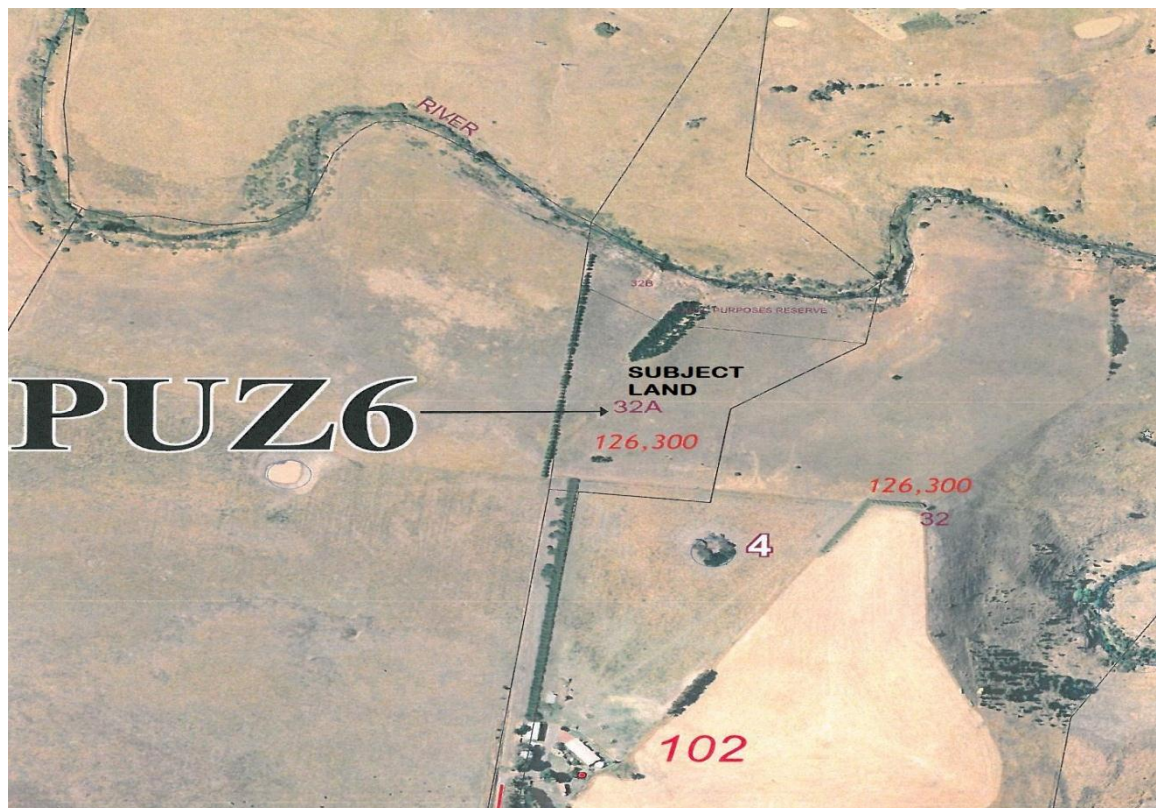
Site Description

The subject site appears on title as Crown Allotment 32A Section 4 Parish of Gorong. CA32A and CA32 are jointly known as 102 Gilletts Lane, and are in one ownership.

CA32 is 36.31ha in size, is irregular in shape, and has an existing dwelling fronting Gilletts Lane situated approximately 900m north of the intersection of Gilletts Lane with Ingliston Road.

CA32A is positioned at the northern end of Gilletts Lane, which terminates at the southern boundary of this lot. This is approximately 1200m north of Ingliston Road. This lot contains no relevant development or buildings, being used for grazing purposes since the previous owners (who already owned CA32) bought it from Council in 1998. It contains several tree plantations. Extensive plantings and other restoration works have been completed in recent years upon the abutting CA32 in conjunction with Melbourne Water along the Werribee River frontage to the north.

The subject land parcel (CA32A) is 2.5ha in size and irregular in shape. The southern portion is relatively square in shape at approximately 100m at the southern, western and eastern sides. The western side boundary totals approximately 214m in length; with the northern boundary forming two straight edged sections in a convex shape adjoining the CA32B Public Purposes Reserve along river frontage at around 67m and 141m respectively. The eastern side boundary forms two straight edged sections in a convex shape, with the lower 103m section aligned with the western boundary, and the upper 104m diverging eastwards to create a north-easterly triangle with the northern boundary.



The subject land contains a defined tree plantation along the western property boundary, and centrally in a south-westerly direction across the northern boundary, as well as dispersed scattered trees towards the southern boundary. Other than this the land is predominantly cleared. Beyond the northern boundary there are extensive plantings along the river frontage to the north within land parcel CA32B.

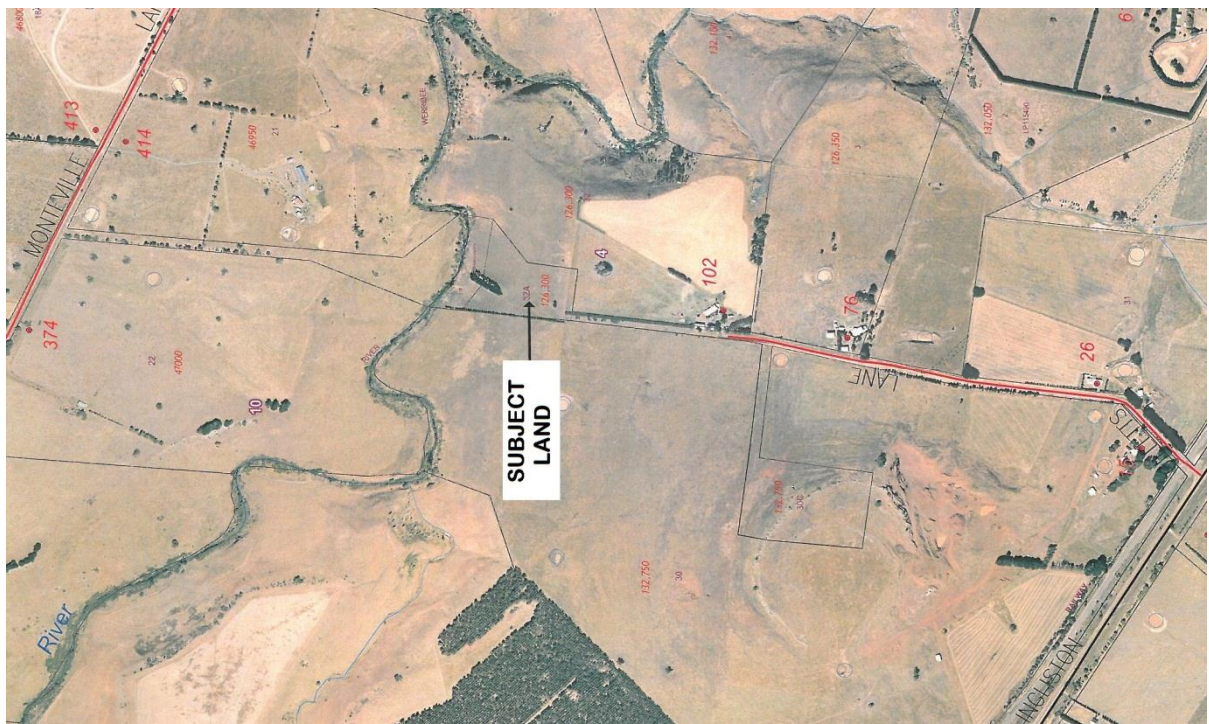
Both these two lots (CA32 & CA32A) are currently used for grazing, as is surrounding land, especially to the west, southwest, east and north.

There are only three dwellings fronting Gilletts Lane. Two of these dwellings front the eastern side of Gilletts Lane at numbers 76 and 26. Both these properties are approximately 20ha in size.

The one property situated between numbers 76 and 26 has a dwelling facing the road frontage to Ingliston Drive in the east and consists of 30ha.

The entire western side of Gilletts Lane is in one ownership, over 100ha in size, with the dwelling fronting the northwest corner of Gilletts Lane and Ingliston Road (no.15).

Gilletts Lane consists of a 20.12m wide road reserve with a narrow single lane formed gravel road. The existing gravel road terminates at the driveway to the existing dwelling at CA32 / 102 Gilletts Lane, while the road reserve continues for approximately 300m northwards to the entry to the lot at CA32A / 102 Gilletts Lane.



Planning Scheme Provisions

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

State Planning Policy Framework

Clause 11.05-2 Melbourne's hinterland areas

The objective of this policy is to manage growth in Melbourne's hinterland, the area immediately beyond Metropolitan Melbourne and within 100 kilometres of the Melbourne's Central Activities District and to:

- Provide for development in selected discrete settlements within the hinterland of Metropolitan Melbourne having regard to complex ecosystems, landscapes, agricultural and recreational activities in the area.
- Prevent dispersed settlement.

This dwelling is proposed in support of a proposed vineyard on the agricultural land. It would add another dwelling upon a small 2.5ha lot on land surrounded by the Farming Zone. It would add to and not prevent dispersed settlement/dwelling development.

Clause 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.
- Limit new housing development in rural areas, including:
- Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.

The proposal would create the development of a single dwelling in association with a vineyard on a small isolated lot in the rural zones. This clause seeks to discourage such development when created for rural living purposes or other non-agricultural purposes.

Clause 14 Natural Resource Management

Clause 14.01-1 Protection of agricultural land

Objective

To protect productive farmland which is of strategic significance in the local or regional context.

Strategies (include but are not limited 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.

Take into consideration regional, state and local issues and characteristics in the assessment of agricultural quality and productivity.

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.

In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:

- The desirability and impacts of removing the land from primary production, given its agricultural productivity.
- The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.

This 2.5ha land at CA32A is now used for extensive agriculture/grazing as part of the agricultural activity of CA32 which consists of 36.31ha. This proposal seeking a dwelling under land in the same ownership for another agricultural use, albeit intensive agriculture (viticulture). It will not be removing the land from agriculture. While a small portion will be utilised for the dwelling, another portion will intensify agricultural activity through viticulture. Land Capability Assessment (LCA) provided with the application clearly identifies the capability of the land to support both the dwelling and the vineyard.

Clause 14.01-2 Sustainable agricultural land use

The objective of this policy is to encourage sustainable agricultural land use and to ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources

The proposal is for a dwelling in association with viticulture (vineyard). The Farm Business Plan states that the owner who does not live at the site will continue to be responsible for long term sustainable use and management of the whole property (CA32 & CA32A), and the occupant for the proposed dwelling will be responsible for the day-to-day operations of the vineyard on CA32A. The FMP also identifies the owner's current strong commitment to restoration works and replantings especially along the river frontage in association with Melbourne Water Authority.

Local Planning Policy Framework

Clause 21.04-1 Key issues and influences, agriculture and horticulture

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.

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.

Farm businesses need to be able to retain the capacity to operate as agricultural enterprises. The Shire's horticultural land resources are important economically in supporting tourism and the lifestyle appeal of the area.

This proposal seeks approval for a dwelling in association with viticulture. The Scheme supports intensive horticultural pursuits such as viticulture where it does not compromise the long term productive use of the land. The establishment of a vineyard on this allotment is by persons who have previously established another successful vineyard.

Clause 22.03 Houses and House Lot Excisions in Rural Areas

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.

The objectives are:

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

It is policy to:

- Discourage subdivision and dwellings unless they are directly related to the agricultural use of land.
- Discourage non agricultural use and development in areas of productive agricultural land.
- Encourage the consolidation of small lots.
- Ensure that lots created under Clause 35.07-3 have a maximum area of two hectares.
- Maintain the right of existing farms to continue their operations without being adversely affected or constrained by residential concerns.
- Include the following requirements on a permit to excise a lot for a dwelling where it is considered this would facilitate ongoing agricultural use of the remaining land:

- Consolidate of the remaining land with the title of an existing farm; or
- If the remainder land is less than 40ha, require the landowner to enter into an agreement under S173 of the Planning and Environment Act that no further applications will be made to erect a dwelling on the balance allotment.
- This policy further supports the Scheme objectives in that dwellings should be directly related to agricultural use of the land, should be associated with an increase in agricultural production outputs, and should not adversely affect surrounding agricultural production. This matches well with the information provided by the application. The matters relating to subdivision hold no bearing upon this application.

Zoning

The subject land is still covered by the Public Use Zone . Schedule 6 Local Government (PUZ6) at Clause 36.01. This was the applicable zoning when the land was owned by the council. It passed from local government into private ownership in 1998, but the zone was not changed to the applicable Rural Zone, or its successor the Farming Zone.

Clause 36.01 Public Use Zone

The applicable purpose of the PUZ is:

- To implement the State Planning Policy Framework and the Local Planning Policy

Framework, including the Municipal Strategic Statement and local planning policies. Clause 36.01-2 states that a permit is required to Construct a building or construct or carry out works for any use in Section 2

In this case, the Section 2 . Permit Required- means a use that is not carried out by or on behalf of local government.

In addition, both the responsible authority and the applicant agreed that the application should be viewed in light of the surrounding zone, the Farming Zone, being the most applicable zone to the application.

As such, the provisions of the Farming Zone are taken into consideration as part of the assessment of this application.

It should be noted however that State Government has made changes to the Farming Zone as at 5 September 2013 which impact directly on the development of dwellings within the Zone. The requirement for Farm Management Plans addressing the development of a dwelling in support of rural activities will no longer be required as part of the changes. This in effect significantly relaxes the justification of a dwelling in association with an agricultural activity.

Clause 35.07 Farming Zone

The purpose of the FZ is:

- To provide for the use of land for agriculture
- To encourage the retention of productive agricultural land
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provisions.

Clause 35.07-2 states that a planning permit is required for the use of a dwelling on a lot size less than 40 hectares.

Clause 35.07-5 requires an application to use a lot for dwelling be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

The applicant provided written documentation supporting the application as well as the Farm Management Plan.

Clause 35.07-6 Decision Guidelines:

General, Agricultural, Dwelling, Environmental, Design & Siting issues must be addressed in responding to the decision guidelines.

The applicant submitted a written statement addressing the Decision Guidelines of the Farming Zone, stating the following:

- The proposal does not fragment highly productive agricultural land. The 2.58ha (6.5ac) property is to be used for a viable farming use (Vineyard) and is surrounded by other farming properties all sited on good quality productive farm land abutting the Werribee River.
- The Farm Management Plan for the Brefney Vineyard supports the application for a dwelling.
- Living on the site, Mr Carroll will be able to farm and manage the farm on a more regular productive basis . not wasting time travelling each time he comes to the property. He will also be on site to assist his parents run the abutting farm.
- The site is currently used for grazing of cattle and once Justin Carroll is living on site he will progressively develop a vineyard on the site. The site has a water supply from the Werribee Rive and related infrastructure already established, suitable to be further developed and for the construction of a dwelling. Additional fencing along the eastern and southern boundaries will be required immediately.
- The new dwelling will not affect farming activities on the abutting properties.
- Demonstrated need for the dwelling.

- Justin Carroll needs to live on their evolving vineyard property to manage and to develop it to its full potential as a vineyard. He must be on site daily to attend the various aspects of their property to achieve sustainable management. To implement and enhance the farm, Justin Carroll realises that he will have to live on the property so that he can maintain, develop and look after his vines and other farm activities that he wishes to pursue in line with ~~Best Practice~~. It would not be possible to develop a productive and viable vineyard if he was not able to live on the property. Living on site will assist in the surveillance of the assets to protect the farm during grass fires, and act as a deterrent to vandalism.

Clause 35.07-6 Decision Guidelines - General Issues

The capability of the land to accommodate the proposed use or development, including the disposal of effluent.

How the use or development relates to sustainable land management.

Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

The dwelling, sheds and driveway (the domestic footprint) is proposed close to the southern boundary /access from Gilletts Lane. This utilises an area for domestic purposes which minimises impact on agricultural activity.

The applicant has identified that the volcanic basalt soils and northerly aspect of the land are attributes which suit the growing of vines for high quality wine production, and the dwelling is proposed in support of this rural activity.

The Land Capability Assessment provided by the applicant shows the land is capable of treating and disposing of domestic wastewater effluent associated with the dwelling. It identifies a suitable area for land wastewater application which will not impact on the vineyard proposal or be effected by vehicle movements or domestic outdoor activities.

The land is a small title of 2.58ha, and the proposal for 6000m² vineyard would cover 24% of the lot. While no such intensive agricultural activity currently occurs in the locale as surrounding farm land is used predominantly for grazing livestock, the encouragement of establishment of intensive horticultural pursuits is a recognised objective within the Local Planning Policy Framework (21.04-1 Key influences). The applicant further states that the dwelling occupant will manage the vineyard (CA32A), undertake marketing & sales for the wine label, and also help out on the rest of the farm (CA32). The Farm Management Plan also reiterates the land owner's history of land restoration activity and continuing commitment to sustainable land management, especially in undertaking restoration works in conjunction with Melbourne Water along the northern boundary river frontage.

The site is suitable for septic system wastewater management and thus development of a dwelling. The use of the dwelling will allow increased agricultural production, albeit viticulture. This is compatible with the surrounding predominantly extensive agriculture, including that of the land owner.

Clause 35.07-6 Decision Guidelines - Agricultural Issues

Whether the use or development will permanently remove land from agricultural production.

The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural issues.

The proposed development of a dwelling on the land will remove a small portion of land from agricultural production currently used for grazing. It would probably be in the vicinity of 1000m² of land. A further 6000m² is proposed to be transformed to intensive agriculture (Vineyard) which will be an overall intensification of agricultural activity, albeit on a small scale.

The addition of a dwelling and vineyard at the subject site would not limit the continued grazing activities on nearby land, and provides an additional dwelling for further supervision of agricultural activities on land under the same ownership.

Clause 35.07-6 Decision Guidelines - Dwelling Issues

Whether the dwelling will result in the loss or fragmentation of productive agricultural land.

The proposed dwelling (and vineyard) has the potential to result in fragmentation and loss of agricultural land should the 2.58ha subject land be ultimately sold off separately after establishing the dwelling, and should the new owners allow the vineyard activity to cease. This CA32A land parcel of 2.58ha is currently farmed contiguously with the CA32 land parcel of 36.31ha, operating as one farming unit under one ownership, and viewed in this light it is an improved farm output through use of land for intensive agriculture. The permit will link the dwelling to the agricultural activity.

Whether the dwelling will be adversely affected by agriculture activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.

There is little likelihood of the dwelling being impacted by neighbouring rural activity as livestock grazing is the current status quo.

Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

The presence of another dwelling in the area will have little impact on existing agricultural operations that occur on adjoining land, and will enable more support for rural activity conducted on CA32A and CA32, both jointly known as 102 Gilletts Lane.

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.

The proposed dwelling on such a small lot will lead to a higher concentration of dwellings in the area, but the proposal as presented offers a positive impact on agricultural use of the land.

Clause 35.07-6 Decision Guidelines - Environmental Issues

The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.

The land is relatively flat and heavily grazed in the past. The proposed vineyard and dwelling will have little impact on the physical features. There is however risk of impact on water quality in particular if the vineyard is mismanaged or the septic system not maintained as the Werribee River is not far away. Hence the land being covered by the Environmental Significance Overlay Schedule 2 Protection of Waterways (ESO2). The proposed dwelling and septic system are to be located beyond the southern edge of the ESO2.

The impact of the use or development on the flora and fauna on the site and its surrounds.

The land has been heavily grazed in the past so impacts in this area are negligible.

The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.

The property owner has already done extensive reparation works within the riparian sector along the Werribee River frontage in conjunction with Melbourne Water. The owner has indicated that this will continue. Weed control and soil revitalisation works have been progressively undertaken and will continue.

The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

The placement of the dwelling maximises the distance from the boundary with riparian frontage to the north, and close proximity to the southern road frontage. This is beyond the boundary of the ESO2 as mentioned above.

While the Water Authorities preferred maximum dwelling density ratios are 1:40ha, the dwelling density on land between Gilletts Lane and Ingliston Drive to the east is currently 1:27.5ha and would alter marginally to 1:22ha with the introduction of this new dwelling. This will have a negligible impact on the status quo.

Clause 42.01 Environmental Significance Overlay

The purpose of the Overlay is:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Clause 42.01-2 requires a planning permit to construct a building or construct or carry out works.

Schedule 2 Waterway Protection (ESO2)

The subject land is partially affected by the Environmental Significance Overlay . Schedule 2 Waterway Protection (ESO2). This covers the Werribee River and environs at the northern end of the subject land.

The proposed dwelling and septic system are to the south and beyond the edge of the ESO2 so that they do not impact on the ESO2 in this instance...

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 as follows:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

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

Referrals

The following referrals were made pursuant to s.52 of the Planning and Environment Act 1987 and Council Departments were provided with an opportunity to make comment on the application.

Authority	Response
Southern Rural Water	Consent, subject to conditions
Infrastructure Environmental Health	Consent, subject to conditions Consent, subject to conditions

All consented to the application for a dwelling subject to conditions being placed on any permit issued.

Public Notice

Notification of the proposal was undertaken by placing a sign on site in a prominent location, and by written notification to nearby adjoining owners and occupiers. A public Notice was also placed in the relevant locally circulating newspaper.

Two objections were received and the issues presented are detailed and addressed below.

Objection	Response
Increase in dust and noise through increased vehicle use on Gilletts Lane	Increase in traffic flow will be from 3 dwellings in the lane to 4 dwellings in the lane, ie. A domestic/household increase of 33%. The small scale nature of the vineyard also means the vast majority of the work will be done by members of the household, rather than through contractors, etc.
Increased fire risk on roadside grass verge through increase occurrences of vehicles passing on single lane gravel road in Gilletts Lane	The increase is from members of one additional household (from 3 to 4). This should not be an unacceptable increase, considering the above lack of hired personnel travelling the road as mentioned above.
Loss of enjoyment of current privacy, isolation and serenity.	Provided that the bulk of the increase in traffic is associated with domestic purposes of the occupants of the new dwelling this should be tolerable. It is intended to restrict customer/public access by prohibiting farm gate sales.

<p>No retail activity to be allowed at the vineyard (Cellar door sales, online sales where the property may be used for a warehouse, vineyard tours, etc) Overuse and damage to minimal standard road would result, as well as loss of privacy, isolation and serenity.</p>	<p>The objector is clearly concerned about excessively increasing traffic flow caused by customers travelling along the narrow low grade roadway Gilletts Lane.</p> <p>The applicant/objectors have agreed at the consultation meeting to prohibiting onsite wine production and cellar door sales. This should keep the increase in traffic flow to a minimum.</p>
<p>Guaranteeing that the dwelling must continue to be used in association with a vineyard/rural activity</p>	<p>Any permit if issued would link the dwelling to the continued rural activity it is in association with. It should be noted that the provision of the Farming Zone have changed on 5 September reducing the need to justify the dwelling is required for an agricultural activity.</p>
<p>Risk of dwelling becoming a place of business rather than a dwelling</p>	<p>Dwelling occupants are allowed to undertake home occupation related activities. The key consideration here is that this should not result in increased traffic flow resulting from the visitation of customers, reps etc.</p>
<p>102 Gilletts Lane is shown as one property in planning documentation, but is two titles CA32 and CA32A. The property has an existing dwelling on CA32 300m from the proposed dwelling. This seems to be a request for a second dwelling for 102 Gilletts Lane.</p>	<p>Whether perceived as second dwelling at 102 Gilletts Lane (CA32 & CA32A) or a single dwelling on CA32A, both options are uses/developments for which a permit can be sought.</p>
<p>Very small PUZ6 lot is an anomaly, and is being used to get a dwelling by trying to get around the general principles of the Farming Zone and clearly goes against the spirit of the Farming Zone.</p>	<p>Though zoned PUZ6 the applicant has agreed to and addressed the requirements of the Farming Zone in justifying the need for a dwelling.</p>
<p>In Farm Management Plan, the Key argument for dwelling centres on need for occupants to be in extremely close proximity and on site at all times to respond to the demands of a small boutique vineyard. There is an existing dwelling on 102 Gilletts</p>	<p>The applicant is seeking a dwelling in association with the rural activity conducted on the same allotment CA32A. This proposal aims to provide a complete package agricultural activity, providing an intensive agricultural activity and supporting dwelling all upon one land parcel.</p> <p>Though only 300m to the south, the existing dwelling is on a different land title being</p>

<p>Lane only 300m away from proposed dwelling site.</p>	<p>CA32 and part of an extensive agriculture / grazing farm (even though they are both listed as 102 Gilletts Lane because they have the same landowner).</p> <p>The FMP indicates that the vineyard will be a boutique operation utilising predominantly hand weeding and picking. As such the proposed 0.6ha vineyard (1000 vines) will be of size where the dwelling occupant can perform the bulk of the plant care personally. The proponents mention a previous vineyard venture in which they grew 3000 vines over 2ha, so this is a similar ratio of vines at 0.6ha/1000 vines.</p>
<p>Many of the risk factors used for needing a dwelling onsite such as wandering stock and theft could be mitigated by high quality fencing at significantly less cost than a dwelling.</p>	<p>This is an option, but the proponents do also mention the day-to-day activities with the need for pruning, trellising, etc.</p> <p>The amount of money to be spent on a venture is the domain of the proponent.</p>
<p>The FMP implies that the vineyard needs to be constantly monitored but takes 5 years to achieve a profit of \$1000. Therefore alternative income must be generated offsite (therefore not being there) or through other onsite business activity.</p>	<p>The income levels generated by this intensive agriculture activity are relatively low, but the scale of the venture is such that the dwelling occupant can undertake the day-to-day operations for the vineyard as well as perform the offsite sales and marketing of the Brefney Estate wines as stated within the FMP provided.</p>
<p>Responsible for day-to-day operations and management of vineyard including pruning, training, fencing and trellising and pest control, data collection and analysis. Will also conduct marketing and sales. Partner will help with accounts, administration and record keeping.</p> <p>These statements are open ended and implies that this second dwelling will also be used for other business activity, not just the vineyard.</p>	<p>The applicant will be undertaking the day-to-day management. In the first years prior to the vines reaching full production, the applicants have stated that they will be buying appropriate grapes elsewhere for processing into wine offsite and to promote their own wine label.</p> <p>While warehousing of goods is not acceptable within farm zones, the storage of goods associated with the occupation of the resident is permissible.</p> <p>The applicant has agreed to the inclusion of a permit condition prohibiting on-farm/cellar door sales to help keep traffic to a minimum on Gilletts Lane.</p>

Gilletts Lane is a single lane gravel road access. It is extremely difficult to turn around on the road and people already use objectors driveway for this. However the very low volume traffic currently makes this tolerable.	The land owner/applicant has agreed to complete the gravel road through to the CA32A entrance as well as provide a gravel all-weather turning circle at this northern end of the road reserve so that vehicles can turn around without difficulty within the road reserve to exit back down the Lane.
Object to non-farming activities being conducted from this location.	Every effort has been made in negotiations with the objectors and representatives of the application to create conditions to minimise the increase in traffic flow on Gilletts Lane, restricting it to predominantly residential traffic.

Discussion

The bulk of the objections presented relate to retaining the current level of amenity for the area. Gilletts Lane is a small narrow gravel roadway which currently only services three dwellings. This proposal is to create a fourth dwelling at the northern most end of the road, and associated with a new intensive agriculture activity.

The small scale boutique nature of the proposed vineyard appears to respect the isolation, privacy and serenity enjoyed by the current residents.

The grapes will be covered with netting for bird protection thus negating the need for use of scare guns.

Increased traffic flow on Gilletts Lane will be predominantly domestic in nature. There will be very minimal increase from customer or worker visits to the site at CA32A, as the bulk of the work will be done by the dwelling occupants, and planning permit conditions for any permit issued would prohibit onfarm/cellar door sales from CA32A on Gilletts Lane.

The objectors have not objected to the viticulture (vineyard) *per se* but rather to their belief that the reasonable need for a dwelling in association with the vineyard is not justified, especially when a dwelling already exists only 300m south of the proposed dwelling on land under the same ownership and listed as the same property address being 102 Gilletts Lane.

The income levels generated by this intensive agriculture activity are relatively low, but the scale of the venture is such that the dwelling occupant can undertake the day-to-day operations for the vineyard as well as perform the offsite sales and marketing of the Brefney Estate wines.

The Moorabool Planning Scheme provides discretion for a permit to be granted to use and develop land for the purposes of a dwelling within the PUZ6.

The applicant has voluntarily agreed that the correlation with the requirements of the neighbouring Farming Zone (FZ) would be most applicable to this location and this proposal. A dwelling in the FZ on a lot less than 40ha requires a permit. 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.

And also to consider:

- whether the use or development will support and enhance agricultural production;
- whether the use or development will 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.
- any integrated land management plan prepared for the site.

The application is for a dwelling in association with a vineyard. While the process of viticulture *per se* achieves all the Farming Zone requirements, the key factors in this instance relate to the level of viticulture activity (0.6ha) and whether this is significant enough to justify a dwelling associated with the activity. The scale of the activity seems commensurate with the boutique operation providing the ability for the dwelling occupier to undertake the day-to-day operations of caring for the vineyard as well as undertaking the offsite marketing and sales of wines under the Brefney Estate label.

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 State Planning Policies, Clause 11.05-3 relating to rural productivity and Clause 14.01-1 relating to the protection of agricultural land, stress the need to protect productive farming land from encroachment by non-agricultural activities and potential future land use conflicts from 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.

Further, Clause 11.05-3 Rural Productivity stresses the need to prevent dispersed settlement (dwellings on isolated lots); while Local Planning Policy, specifically Clause 21.04-1 Key issues and influences-agriculture and horticulture, stresses the importance of protecting long term productive use of rural land and the need to need to manage existing and potential land use conflicts between rural residential and agricultural or horticultural production.

The applicant has provided justification for the development of a dwelling in support of a boutique vineyard where the scale of operation allows the dwelling occupier to undertake the day-to-day care of the vineyard as well as spend time offsite promoting the sales and marketing of the Brefney Estate wine label.

Clause 22.03 Houses and House Lot Excisions in Rural Areas further supports the Scheme objectives in that dwellings should be directly related to agricultural use of the land, should be associated with an increase in agricultural production outputs, and should not adversely affect surrounding agricultural production.

Within the PUZ6 zoning a permit is required for a dwelling. Within the Farming Zone a permit is required for a dwelling on land less than 40ha and for a second dwelling. The applicant has voluntarily addressed the more onerous requirements applicable to the Farming Zone even though the subject land is within the PUZ6, as the surrounding land including the contiguous land parcel are within the Farming Zone.

In assessing an application for a dwelling upon this PUZ6 land, the responsible authority considers the objectives of the planning scheme and relevant planning policies as well as the zone. The existence of this PUZ6 land within an area surrounded by FZ land, all of which are used for farming purposes, means that serious consideration would be given to the expectations of development within the abutting zoning as they are clearly delineated.

This is further strengthened when taking into consideration the relaxation of the need to justify a dwelling in association with an agricultural activity as a consequence of the changes to the Farming Zone introduced on 5 September 2013. This was undertaken by the Victorian government through changes to the Victoria Planning Provisions.

Considerable objection also related to amenity and the condition of Gilletts Lane. The roadway is a narrow formed single lane gravel road with grass verges. It is currently in effect a low use residential laneway servicing the three (3) existing dwellings fronting Gilletts Lane. Concern was expressed that more extensive traffic . including heavy vehicles for farming purposes, customer sales by roadside/on-farm/cellar door sales, vineyard tour buses . would create increased dust, noise and deterioration of the road and existing driveways. It was mentioned that currently Gilletts Lane road users use the existing driveways to turn around on as the road is too narrow to turn in, and this has been causing damage to the edging and formation of the crossovers.

These issues were predominantly resolved in the meeting between objectors, applicant(s) and council's officer with the agreement of the applicants to the inclusion of permit conditions aimed at reducing amenity impact by requiring the applicant to:

- Extend the gravel road formation from the existing end through to the CA32A lot entry point in the north at the landowner's expense.
- Create a formed all-weather gravel surfaced turning circle at the end of Gilletts Lane adjacent to the entry to CA32A at the landowner's expense.
- Exclude roadside/on-farm/cellar door sales from CA32A
- No wine production to occur upon the subject land

Every effort has been made during negotiations with the objectors and representatives of the applicant to create conditions to maintain current amenity through minimising the increase in traffic flow and improving the road conditions, restricting it to predominantly residential traffic.

The application was assessed by relevant authorities and internal Council departments with no objections being offered subject to several conditions provided being included on any planning permit issued.

Considering the provisions of the Moorabool Planning Scheme, the State and Local Planning Policy Frameworks, the Clause 42.01 Environmental Significance Overlay . Schedule 2 Water way Protection, the Clause 36.01-Public Use Zone, and the correlation with Clause 35.07-Farming Zone; as well as the resolutions achieved for some of the objectors' concerns, it is considered appropriate to recommend approval of the proposed development.

Other Policies/Procedures

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

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

Financial Implications

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

Risk & Occupational Health & Safety Issues

The recommendation of a refusal of this development does not create 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 two objections were received. A Consultation Meeting was undertaken by Council with the objectors and the representatives of the applicant to seek resolution of any issues if possible. The applicant and objectors were informed that this matter would be heard by Council and were further advised of their right to address Council. The parties will be advised of Council's determination.

Conclusion:

The proposal has been assessed against the relevant components of the Moorabool Planning Scheme, the State and Local Planning Policy Frameworks, the Clause 42.01 Environmental Significance Overlay . Schedule 2 Water way Protection, the Clause 36.01-Public Use Zone, and the correlation with Clause 35.07-Farming Zone.

It is recommended that having considered the requirements of the Moorabool Planning Scheme that council resolve to issue a Notice of Decision to Grant a Permit.

Consideration of Deputations – Planning Permit Application No. 2013-042.

Mr. Justin Carroll addressed Council as the applicant in favour of the granting of a planning permit for the application.

Mr. Robert Eskdale addressed Council as the applicant in favour of the granting of a planning permit for the application.

Mr. Graham Cox addressed Council as an objector to the granting of a permit for the application.

Mr Brian Barry addressed Council as an objector to the granting of a permit for the application.

The business of the meeting then returned to the agenda.

Resolution:**Crs. Edwards/Spain**

That Council resolve to issue a Notice of Decision to Grant a Permit PA2013-042 pursuant to Section 60(1) of the Planning and Environment Act 1987, for the Development of a Dwelling in association with a Vineyard on Crown Allotment 32A Section 4 Parish of Gorong, part of 102 Gilletts Lane, Ingliston subject to the following conditions:

Conditions

- 1. Unless specifically required otherwise by any other condition of this permit and except with the prior written consent of the responsible authority to any variation, the dwelling must be sited and constructed in accordance with the approved plans.***
- 2. No roadside sales or direct on-farm sales or cellar door sales will be permitted from the subject land.***
- 3. No wine production will be permitted upon the subject land.***

Infrastructure Conditions

- 4. The proponent must at his own cost construct Gilletts Lane from the end of the existing works to the northern end of the road reserve to the following standard:***
 - a. a 7.0 metre wide carriageway of which the central 4.0 metre section shall have a pavement of approved granular material to a minimum compacted depth of 150 millimetres;***
 - b. table drainage as required to minimum width 2.0 metres and depth 0.2 metres;***
 - c. the pavement shall be formed to facilitate water runoff to the table drains;***
 - d. culverts of minimum 375 millimetre diameter installed as required to facilitate drainage;***
 - e. a turning area for service and emergency vehicles to be provided at the termination of the road works;***
 - f. Traffic signage as required;***
 - g. all works to be completed to the satisfaction of the Responsible Authority.***
- 5. All road and drainage works must be maintained in good condition and repair for a minimum of 6 months after completion of the works, to the satisfaction of the Responsible Authority.***

6. ***A security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 6 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.***
7. ***A standard rural vehicle crossing with culvert must be provided on Gilletts Lane 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.***

Environmental Health Conditions

12. ***A wastewater treatment system that produces wastewater to a minimum standard of secondary treatment with disinfection is recommended 20/30/10 (BOD / suspended solids / E.coli) in an Aerated Wastewater Treatment System (AWTS) must be installed.***
13. ***As the site has considerable and variable fall to the north, the effluent field needs to be located on the flattest part of the block on the southern boundary.***
14. ***The proposed septic tank system (treatment and disposal) shall be installed and maintained in accordance with the Land Capability Assessment by Provincial Geotechnical Pty Ltd, dated 8th February 2013, Reference No. B3009.***

Southern Rural Water Conditions

15. *In the absence of a reticulated sewer disposal system, permits for buildings with the potential to generate effluent shall require that the site is capable of containing an appropriate water treatment system and that the set back distance for the disposal of septic tank effluent be in accordance with EPA's Code of Practice – Septic Tanks 2013.(publication 891-3).*
16. *Sediment control measures outlines in EPA's publication No 275, Sediment Pollution Control, shall be employed during construction works and maintained until disturbed areas have regenerated.*
17. *If any works will impact on a waterway or groundwater or will include the use of water from these resources or from a dam, soak or spring, it will be necessary for the applicant to apply to SRW for a licence in accordance with Section 51 or 67 Water Act 1989.*

Expiry Condition

18. *This permit will expire if one of the following circumstances applies:*
 - a. *The development is not started within two years of the date of this permit.*
 - b. *The development is not completed within four years of the date of this permit.*
 - c. *The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.*

CARRIED.

SUBSEQUENT MOTION

Crs. Sullivan/Dudzik

That the zoning anomaly be corrected as part of the next anomaly amendment.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 6 September 2013



11.2.3 Planning Application PA2013-103; The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign; CA87B, Parish of Kerrit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352.

Application Summary:	
Application No:	PA2013-103
Lodgement Date:	8 May 2013
Applicant:	Inca Roads Inc. c/- Daniel Camilleri
Planning Officer:	Victoria Mack
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	2 September 2013
Address of the land:	CA87B, Parish of Kerrit Bareet, Yendon Egerton Road, VIC Mount Egerton, 3352
Proposal:	The Use of the land for a Place of Assembly (Music Festival) and a Business Identification Sign.
Lot size:	8.33ha
Moorabool Planning Scheme (Relevant details):	
State Planning Policy Framework (SPPF):	Clause 14.02-1, Catchment planning and management
Local Planning Policy Framework (LPPF):	Clause 21.03-5 Rural Lifestyle Opportunities.
Zone:	Farming Zone (FZ)
Overlays:	Environmental Significance Overlay . Schedule 1 (ESO1, Proclaimed Water Catchment Areas) Design and Development Overlay . Schedule 2 (DDO2 Visual amenity and building design)
Particular Provisions	Clause 52.05, Advertising signs.
General Provisions	Clause 65 Clause 66
Why is a permit required?	Provisions of the Farming Zone and Environmental Significance Overlay . Schedule 1

Public Consultation:	
Number of notices to properties:	16
Notices on site:	1
Notice in Moorabool Leader Newspaper:	No
Number of Objections:	5
Consultation meeting:	14 August 2013. Attended by all objectors.
Policy Implications:	
Key Result Area -	Enhanced Infrastructure and Natural Built Environment.
Objective -	Effective and efficient land use planning and building controls.
Strategy -	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
Victorian Charter of Human Rights and Responsibilities Act 2006	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
Officer's Declaration of Conflict of Interests	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest. <i>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 – Victoria Mack</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	

Executive Summary:

This application is before Council owing to the receipt of five (5) objections from neighbouring landowners and occupiers.

The key concerns of objectors include: excessive noise; the disruption to the peaceful rural amenity of the area; the risk that the patrons may create a detriment to themselves and neighbours; fire risk; and increased traffic on local roads.

The application is for an annual three day music festival and despite the concerns of objectors it is considered that the applicant has demonstrated that the festival can be managed appropriately and securely, that noise emissions can be controlled to meet EPA guidelines and the traffic which would be generated by the event is modest when spread over the three days.

It is noted that a number of neighbours attend the event. The music is not of the rave style and it is not considered that this festival would become a future Woodstock.

It is considered that appropriate measures have been taken to conduct a music festival in a responsible manner and would provide small economic benefits to local businesses within the municipality.

Summary Recommendation:

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, Clause 35.07-1 and Clause 35.07-6 Decision guidelines of the Farming Zone and it is considered that the proposed use is generally consistent with requirements of the scheme.

It is recommended that Council resolve to issue a Notice of Decision to Grant a Permit for this application pursuant to Section 61(1) of the Planning and Environment Act 1987 subject to conditions contained later in this report.

Site History

A search of Council Records reveals that no planning permits have been issued on the subject land. A music festival was conducted on the land in both 2011 and 2012 without a permit, but after investigation following two complaints from neighbours in 2012 no enforcement was undertaken.

Proposal

Inca Roads proposes to conduct a Music Festival on the land from Friday 29 November 2013 to Sunday 1 December 2013. The site would be set up the day prior and clean up would occur the day following. The application can be summarised as follows:

- " The applicant: Inca Roads is an incorporated not-for-profit charitable music club and claims to celebrate the best in young talent by encouraging new performers to perform at the event in a family friendly environment; and provide a professional platform for artists as young as 15 years of age.
- " Music type: A mix of classic genre's such as soul, jazz & rhythm and blues; as well as modern day pop, rock and acoustic music.
- " Attendees / patrons: All festival patrons would be required to be members of Inca Roads. No tickets are proposed to be sold at the gate on the event weekend. A membership database is kept.
- " Age demographic: The documentation provided states that the demographic would be from 15 to 80 years of age, with the majority of attendees being between 25 and 35 years of age.
- " Participants numbers: The three day music festival would be capped at a maximum of 650 people including members (500), organisers and volunteer staff (50) and performing artists (100).
- " Hours of festival: Live music would be played at the following times:
 - Friday 29th November: 1pm . 1am (Saturday)
 - Saturday 30th November: 11am . 1am (Sunday)
 - Sunday 1 December: 10am . 1.45pm.
- " Performance breaks: There would be 30-45 minute performances followed by 30-45 minute breaks.
- " Entrance and exit: Entrance and exit from the site would be from the Yendon Egerton Road, in the north-east corner of the site and an alternative emergency exit is also suggested to the west along the south side boundary of the site across neighbouring land to Lillis Road, but no easements are registered on title nor is there an unused government road.
- " Traffic: The organisers estimate that the maximum number of cars that would be on the site over the three days would be 200, with some traffic movements on each day as performers and others arrive or depart the venue. It is estimated that approximately 150 cars would be on the site at any one time. An in-paddock parking area for 159 cars (including two (2) disabled spaces) is noted on the site plan as well as an additional 40 car spaces for artists, closer to the performing area. It is not anticipated by the applicant that there would be a peak time for arrivals or departures.
- " Traffic Management: There would be no queuing on the Yendon Egerton Road and cars would enter the site where there would be a waiting area able to accommodate at least 30 cars. Traffic management volunteers would control and direct all cars from this assembly area.
- " Signage: One (1) sign would be erected on the gate to the property which would be 1m long x 0.5 wide. No other signage would be erected on the property or any other roads.

- Alcohol: No alcohol would be sold on the site but patrons would be able to bring their own alcohol to the event. A Liquor Licence would not be required as alcohol is not being sold at the event. A copy of an email response from the Victorian Commission for Gambling and Liquor Regulation was received which indicated that in this instance where there was no liquor being sold to the public and the premises was not a club and not a premises where meals or light refreshments are normally served to the public, that a Liquor Licence was not required.
- “ Accommodation: Patrons and organisers would bring their own tents for overnight accommodation. Three camping areas are noted on the site plan.
- “ Food: No cooking equipment would be allowed on the site, or any fires. Food during the event would be provided either by a general BBQ for members, supplied by participants themselves, or purchased from food vans to be available during the event. Perishable food would be stored in a refrigerator on the site. Insurance and registration for any vendors on site would be required.
- “ Waste management: Rubbish bags would be provided to members on arrival and waste bins would be available around the site. Bins would be emptied into a waste disposal area which is noted on the site plan, to be located behind an existing shed on the land and screened by trees. Collected waste would be disposed of in a Council waste handling facility after the event.
- “ Portable toilets: Twenty four (24) portaloos and one (1) disabled toilet would be provided on the site by Palmer Hire for the duration of the event. This equates to one cubicle per 25 patrons, Washbasins and soap would be provided and volunteers would check the cubicles each 6 hours. The location of the portaloos is marked on the site plan.
- “ Showers: Six (6) shower bays are noted on the site plan.
- “ Stage and performing area: The stage area would contain a site induction point, a drinking water point, a food vending and service area, a first aid tent and a disabled viewing area, all to be located south east of the main stage. The stage would be rented for the event and have a floor area of 20sqm (4m x 5m) with scaffolding and a tarpaulin. Some plywood would also be used on the roof and walls to be constructed by a licenced carpenter. Details of the stage area are marked on the site plan.
- “ Staff: All staff would be volunteers and would be inducted at least one hour prior to their shift about the site's safety and operational procedures.
- “ Security: Would be provided by Regional Security Services, with one (1) security guard per 50 patrons.
- “ First Aid: There would be at least one Chief First Aid and OH&S officer on shift and at least two General First Aid officers on shift.
- “ Land: The land is owned by a relative of the applicant.
- “ Water: would be free to participants.
- “ Power and lighting: A 15Kva generator would power the site with smaller generators for night lighting. The camp areas will be lit between the hours of 8pm and 4am. Low level lighting would be used for the stage and surrounds - no laser lighting would be used.
- “ Risk: Public and Products Liability Insurance would be in place with Hohan Group as underwriters.

- " Fire risk: a 25,000L water supply would be available with appropriate CFA connections. The grass would be mown to approximately 5cm in height and cleared of debris prior to the event.
- " Local suppliers: would be used to provide security, coffee, food and local farm products.
- " Video: A video of the 2012 event is available at: <http://vimeo.com/72242628>
- " Acoustic Report: An acoustic report has been provided prepared by Sound and Acoustic Engineer, Dom Watson, from ATC Productions.

The summary of the acoustic report findings (August 2013) stated as follows:

Measurements were taken at key points along the boundary of the property, within the festival site and at neighbouring properties. With a 112dB(A) weighted peak output one metre from the source location this was found to be well within the limits of EPA regulations at all properties in the local area. All properties were well within the 65dB (A) EPA limit. See also recommendations.

All objectors are those most minimally impacted with recordings of less than 45dB (A). Interestingly readings of 4WD's trucks and V6 cars driving down the road easily reached 75-85dB (A).

Based on these results, it is my strong belief that the operating of this festival will not have any adverse effects on the neighbouring properties or objectors and will cause minimal disruption to the surrounding area.

It was also noted by the acoustic consultant that the audio system to be used in 2013 is superior to that used in previous events and that the greater amount of headroom the less sonic distortion and shorter distance the sound travels.

Recommendations to dampen sound leakage (summarised):

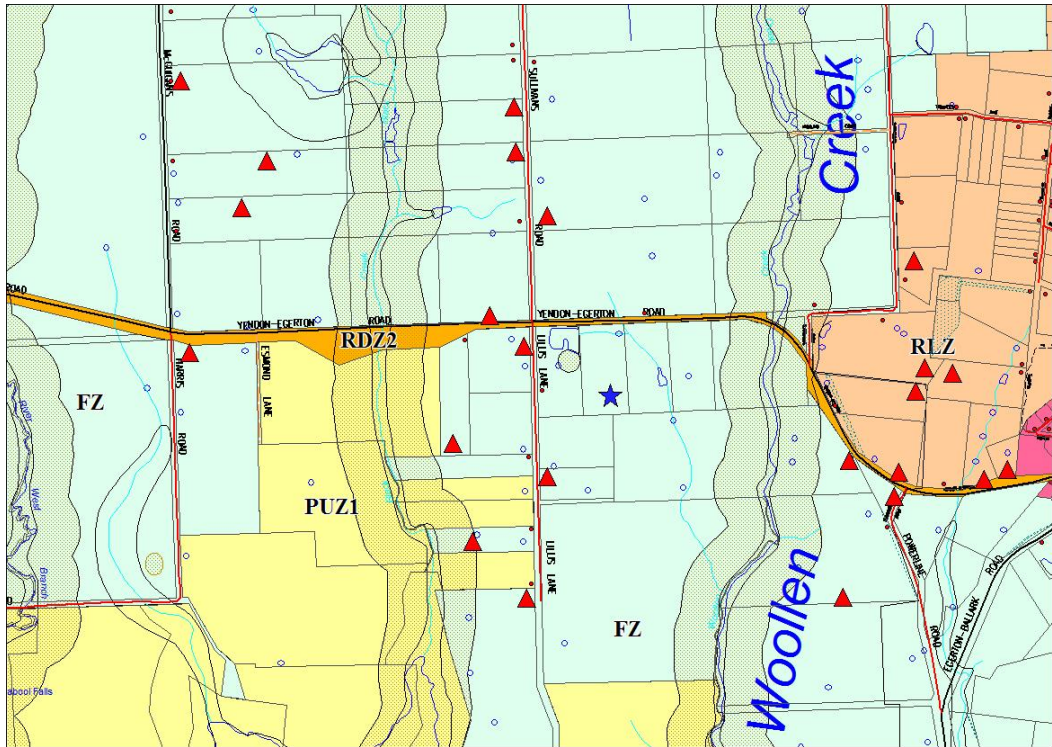
1. Insulate three (3) walls of the stage with large square straw bales (approx. 150kg each).
2. Add artificial barriers to reduce noise escaping from the site.
3. Consult with festival sound engineer to arrange speaker directions to cancel out any reverberating frequencies during the event, such as using cardioid array to minimise effect of bass frequencies.
4. Provide a public complaint hotline operator in event of noise exceedance.
5. Procedure in place to monitor and act upon sound exceedance.

The applicants have stated they will use a digital decibel meter to determine sound levels across all spectrums prior to the commencement of the event and will comply with the following:

- " The Reasonable Noise and Reasonable duration of amplified sound of s48A of the EPA Production Act 1970;
- " EPA (Residential Noise) Regulations 2008
- " s46 and s48B (Entertainment Venue / Concert restrictions) Duration of Sound.

The applicants have stated that they will undertake hourly checks of noise to ensure the mix is not travelling long distances; and instruct the Sound Engineer will remove all low end and subbass frequencies from the mix. After 10pm the volume will be reduced by 15% every hour until 1am.

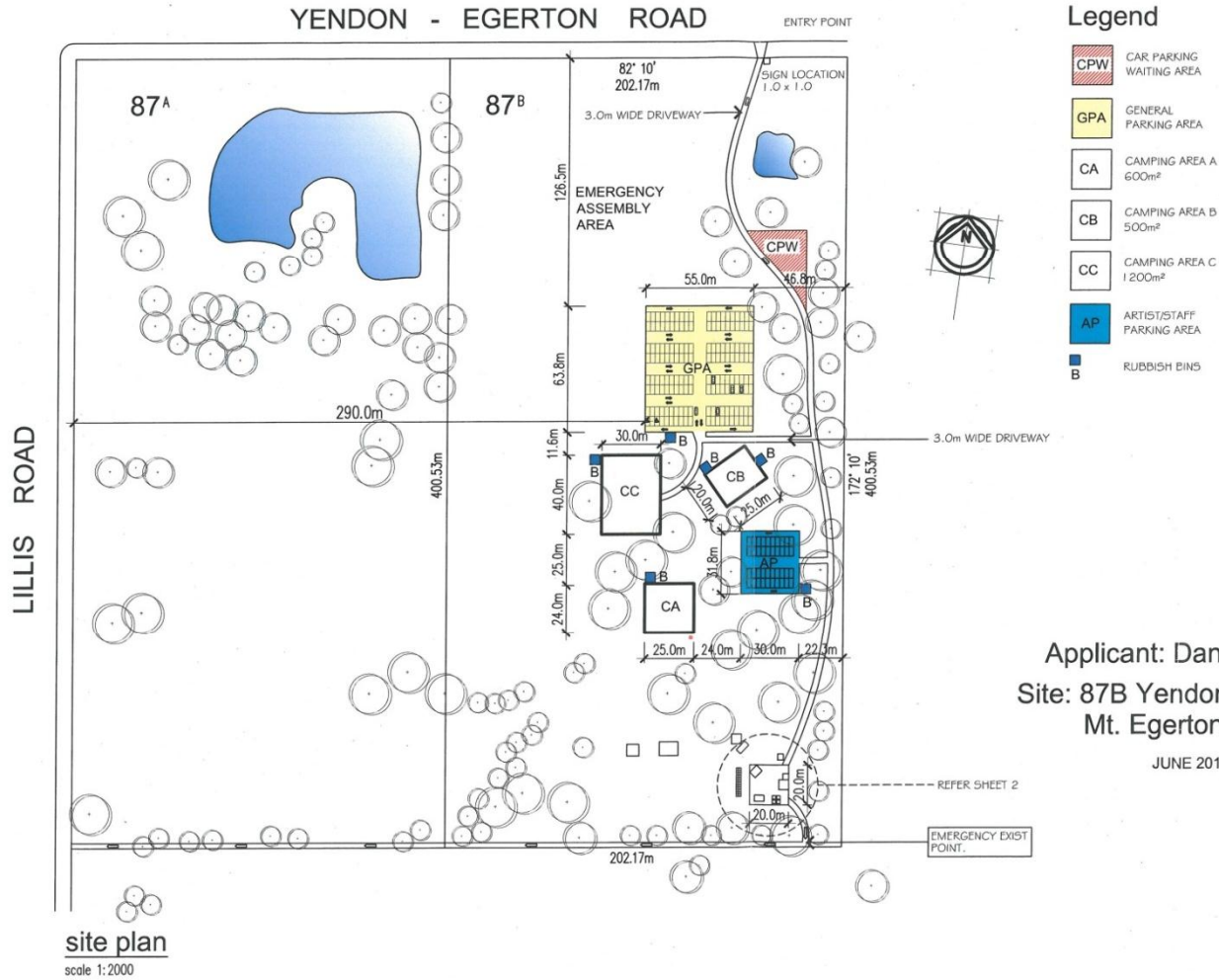
Site Map



LEGEND ▲ = EXISTING DWELLING
 ★ = SUBJECT SITE

SITE PLAN

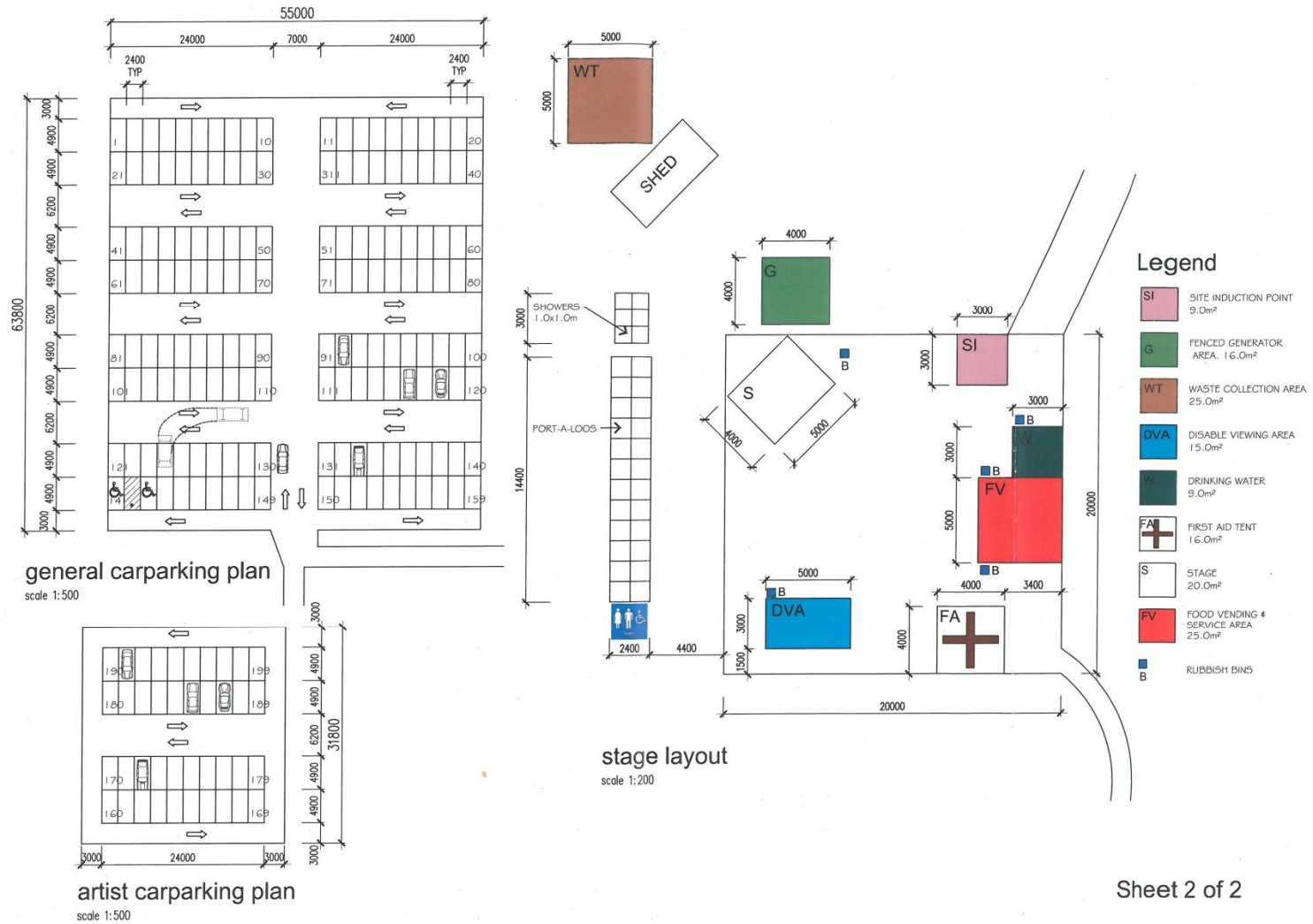
"Inca Roads Music Festival"



Applicant: Daniel Camilleri
 Site: 87B Yendon-Egerton Road
 Mt. Egerton
 JUNE 2013

Sheet 1 of 2

DETAILED STAGE AND CAR PARKING PLAN



Sheet 2 of 2

Site Description

The site is vacant farming land with an area of 8.33ha. The entrance to the land is via a crossover and a farm gate from the Yendon Egerton Road located in the north east corner of the site. The property is accessed from this gateway via a gravel farm track. There is a small dam in this corner of the allotment setback approximately 28m south of the road.

Two waterways are also located in the north east corner of the site - one running east west parallel with the road which also runs through the dam and which then connects with the other which clips the north east corner of the site and flows to the south east across neighbouring land.

The pastured grazing land is undulating rising to the rear south side boundary of the allotment. There is native vegetation along the east side boundary and then scattered native vegetation across the southern half of the site.

Neighbouring land is used for predominantly grazing and fodder conservation. To the east, south and west of the site the land is generally cleared with vegetation more generally limited to windbreaks and a few scattered trees. To the north of the site the land is also used for grazing but has medium density scattered native vegetation.

Neighbouring allotments are generally of similar size or larger some with dwellings. It is estimated that there are approximately 13 dwellings within a 1km radius of the site.

Planning Scheme Provisions

State Planning Policy Framework

Clause 14.02-1, Catchment planning and management

" The objective of this policy is to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.

Local Planning Policy Framework

Clause 21.03-5 Rural Lifestyle Opportunities

" The objective of this policy is to support development in small towns and rural lifestyle opportunities as an additional residential choice.

Zone

Farming Zone

Pursuant to Clause 35.07-1, Section 2 of the Moorabool Planning Scheme a planning permit is required to use land for a Place of Public Assembly (Music Festival).

Overlays

Environmental Significance Overlay – schedule 1

Pursuant to Clause 42.01-2 of the Moorabool Planning Scheme a planning permit is required to construct or carry out works.

Design and Development Overlay – Schedule 2

A permit is not required to construct or to carry out works where all external walls and roof areas are clad with non-reflective materials.

Particular Provisions

Advertising Signage

Pursuant to Clause 52.05-9, a permit is required to display a business identification sign.

The objectives for advertising signs are:

- " To regulate the display of signs and associated structures.
- " To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- " To ensure signs do not contribute to excessive visual clutter or visual disorder.
- " To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

In Category 4 . sensitive areas . the total advertisement area to each premises for a Business Identification must not exceed 3 sqm.

Only one (1) sign is proposed which would be located on the front gateway to the property and which would have an area of 0.5 sqm. More particularly, the scale and form of the sign proposed would only be erected for the duration of the festival.

General Provisions

Clause 65 sets out a list of criteria that the responsible authority must consider as appropriate, including the following:

- " The matters set out in Section 60 of the Act. (This is the consideration of objections);
- " The State Planning Policy Framework (SPPF) and the Local Planning Policy (LPPF), including the Municipal Strategic Statement (MSS) and local policies.
- " The purpose of the zone, overlay or other provisions;
- " Any matter required to be considered in the zone, overlay or other provisions:
 - " The orderly planning of the area;
 - " The effect on the amenity of the area;
 - " The proximity of the land to any public land
 - " Factors likely to cause or contribute to land degradation, salinity or reduce water quality
 - " The extent and character of native vegetation and the likelihood of destruction
 - " Whether native vegetation is to be or can be protected, planted or allowed to regenerate

Referrals

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

Authority	Response
Central Highlands Water	No objection subject to one (1) condition

The application was referred internally to Council's Environmental Health Officer and Infrastructure departments, both of whom offer no objection to the proposed development subject to conditions.

Public Notice

The application was advertised to adjoining owners and occupiers within a one (1) kilometre radius of the site by sending individual notices on 2 July 2013 and a sign placed on the site from 3 July 2013 to 18 July 2013. Five (5) objections were received.

A consultation meeting was held on 14 August 2013 at Ballan Council Chambers between 5pm and 6.30pm and was attended by all objectors.

Summary of Objections

A summary of the objections are as follows:

Objection	Officer's response
<p>Noise</p> <p>The objector's overriding concern was the noise emanating from the festival and that the operating hours proposed are excessive for families with young children. More generally the concern was that the event would disturb the peaceful rural amenity of the area.</p> <p>There was also concern that the physical address of the venue could be easily found on the internet, and that this could easily attract gate crashers to the event.</p>	<p>At the consultation meeting objectors acknowledged that the noise from the event in 2012 was not as invasive as in 2011. It was also noted that some neighbours do attend the event.</p> <p>The applicant has provided an acoustic report which demonstrates that the noise leakage from the stage area can be contained within acceptable levels, with both an improved sound system, as is proposed in 2013, and also with specific sound engineering controls to minimise noise travelling long distances.</p> <p>Most objectors live more than 750m north and west of the proposed site.</p> <p>The applicant has endeavoured to have all references to the address removed from internet sites that he controls.</p>
<p>Alcohol and drugs</p> <p>Objectors were concerned about over consumption of alcohol and the possibility of prohibited drugs. They wanted to know how will the organisers ensure that the patrons did not end up overdosed or out of control over the three days.</p>	<p>The applicant has contracted Regional Security Services to be on site for the duration of the event. This firm was also present in 2012. It is not considered that this event would get out of control; however, a strong security presence should address all issues that arise, as well as qualified staff with appropriate first aid training and appropriate staff and patron induction procedures.</p>
<p>Traffic</p> <p>Increased traffic created by the event would create a detriment to local road users.</p>	<p>The traffic will arrive and depart throughout the event, and the organisers claim that there is no peak period for arrival or departure. There would be no queuing in the Yendon Egerton Road.</p> <p>Council's Infrastructure Department as a condition of permit requires that a traffic report is provided to them prior to the event.</p>

<p>Fire risk Fire risk if the season dries off early. Objectors questioned how such a large crowd of people could be evacuated if there was a bushfire.</p> <p>Cigarettes cause a fire risk.</p>	<p>While there is some risk of fire at this time of year, often at the end of November grass is still green, and bushfires at the end of November are not common. The applicant has stated that there would be a static water supply is available on site in the event of fire and appropriate fire control measures in place if a fire was to start on the site. If the grass is cut early in November this usually encourages fresh grass growth.</p>
<p>Rubbish Clean-up of the site, including cigarette butts.</p>	<p>A satisfactory waste plan has been submitted and the requirement for a full clean-up of the site can be conditioned.</p>
<p>Why here? Why couldn't the festival be held in an alternative venue better suited for the purpose.</p>	<p>The applicants have stated that they are a charitable organisation run by volunteers and do not have a big budget. The aim is to give young and emerging performers an opportunity to perform in front of an audience, and to run the event at relatively low cost.</p>

Assessment of Application

The application is for an annual three day music festival. The applicants have conducted this festival twice on the land, in 2011 and 2012, without a permit. Three complaints about noise were received by Council in early December 2012 about noise. Investigation of these events resulted in the operators being told that must obtain a Planning Permit if they proposed to run the event in 2013.

The event is operated by Inca Roads Inc. which is a not-for-profit arts organisation that claims to have been created to provide a genuine platform where musicians and artists are provided a place to perform and collaborate, in a family friendly environment.

The maximum number of people that would attend would be 650, made up of 500 members (patrons), 100 artists, and 50 organisers and support volunteers.

Attendees would all be members of the Inca Roads organisation, and attendance would be pre-arranged and as part of the membership arrangements with no tickets being sold at the gate during the event, which should be made a condition of permit.

The applicant has provided details of how the event would be conducted and managed to ensure safety and security, and minimise risk. Documentation includes: Member site entry notifications; Evacuation procedures; Volunteer site induction; Traffic management guidelines; Tasks and responsibilities; First aid; Standard Operating Procedures; and General Logistics.

The application was advertised and five (5) objections were received. While all objectors were concerned about the impost of this event on their peaceful rural amenity two also stated at the consultation meeting that the noise from the festival in 2012 was not as invasive as it had been in 2011.

The concern of the objectors was based on their previous negative experience of the festival's noise and also internet research which revealed some social media style reports of the festival experience by patrons which ranged from complimentary to a bit wild.

However, it is considered that the organisers have tried to accommodate these concerns and they have developed a management response for the 2013 event which should satisfactorily address noise emissions, security, risk and traffic management.

It is considered that the event should be allowed to be conducted in 2013, with a review to be conducted by Council four (4) months after the event to assess whether future events should be permitted.

It is also recommended that a condition of the permit should restrict the permit to Inca Roads Inc. only and in this instance that the permit does not run with the land.

The application was referred to Council's Infrastructure Department and Environmental Health who did not object to the application subject to conditions. The application was also referred to Central Highlands Water who did not object to the application subject to one condition.

The applicant has submitted an application for a Temporary Occupancy Permit from Council's Building Department . Form 5 (Place of Public Entertainment - POPE) with Council's Building Department. This has been assessed by the Municipal Building Surveyor and that based on the information provided by the applicant that in accordance with the Building Amendment (Place of Public Entertainment) Regulations 2013, a POPE is not required. The POPE application accords with the information provided for this Planning Permit application.

Consideration of Deputations – Planning Permit Application No. 2013-103.

Ms. Kathleen Littlejohn addressed Council as an objector to the granting of a permit for the application.

Mr. Daniel Camilleri addressed Council in favour of the granting of a permit for the application.

Mr. Nathan Camilleri addressed Council in favour of the granting of a permit for the application.

Mr. Frank Impala addressed Council in favour of the granting of a permit for the application.

Mr. Dylan Finegan addressed Council in favour of the granting of a permit for the application.

Ms. Gaylene Martin addressed Council as an objector to the granting of a permit for the application.

Mr. Peter Martin addressed Council as an objector to the granting of a permit for the application.

Ms. Charmaine Redford addressed Council as an objector to the granting of a 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.60 (1) of the Planning and Environment Act 1987 issue a Notice of Decision to Grant a Permit PA2013-103 for The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign at CA87B, Parish of Kerit Bareet, also known as 87B Yendon Egerton Road, Mount Egerton, 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. This permit can only be operated by Inca Roads Inc. and is not transferable to any other body without the consent of the Responsible Authority.**
- 3. At least three weeks prior to the event the site must be slashed to remove the grass burden to reduce risk of fire.**
- 4. No more than 650 people are permitted to attend the Music Festival which includes members, artists and paid or voluntary staff.**
- 5. The entrance to the site must be kept clear of vehicles and be securely staffed at all times.**
- 6. All attendees must be members of Inca Roads and no entrance fees are permitted to be collected at the gate.**
- 7. Appropriately trained security personnel must be in attendance for the duration of the event at a minimum ratio of one to fifty members.**
- 8. Live music can only be played at the following times:**
 - a. Friday: 1pm – 1am (Saturday)**
 - b. Saturday: 11am – 1am (Sunday)**
 - c. Sunday: 10am – 1.45pm.**
- 9. Within four (4) months of the completion of the 2013 festival the applicant must provide to Council a 2013 Music Festival report of the event including:**

- a. The number of persons who attended the event including members, artists and volunteers;
- b. Security and incident report;
- c. Acoustic report; and
- d. Complaints report (as applicable).

The use of the land for future festivals will be conditional upon the 2013 festival being conducted in an appropriate manner to the satisfaction of the Responsible Authority. Council reserves the right to cancel the permit if compliance has not been achieved.

10. The location, dimensions and features of the approved sign (including the design, colours, materials and sign type) shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
11. The sign must be only displayed immediately prior to and during the event and must be removed within 3 days of the conclusion of the event to the satisfaction of the Responsible Authority.
12. Within seven (7) days of the completion of the event the site must be cleaned of all waste and all structures are to be removed.
13. Areas set aside for the parking and movement of vehicles as shown on the endorsed plan must be made available for such use and must not be used for any other purpose.

Infrastructure condition

14. Not less than twenty eight days prior to the event, the proponent must submit to the Responsible Authority a Traffic Management Plan, detailing the location and type of all advance warning signs and all signs at the entrance to the event.

Environmental Health conditions

15. All temporary and mobile food vendors must be registered under the Food Act 1986 with the appropriate authority on Streatrader, online database for mobile and temporary food premises, and submit a Statement of Trade to Moorabool Shire Council at least 5 working days prior to the first day of the festival.
16. All drinking water provided at the festival must be potable water which meets the requirements of the Australian Drinking Guidelines 2011 and be contained on site in a secure, clean and sanitary container/tank.
17. All waste water generated on site from the toilets, showers and wastewater from food vending activities must be suitably contained on-site and removed off-site by an approved waste water management contractor/company.

Central Highlands Water condition

18. Wastewater generated onsite during the event must be collected and disposed of through the use of portable sanitary facilities.

Expiry condition

19. This permit will expire if:
- a. The use is not started within one year of the date of this permit.

This permit expires on 30 April 2014. The Responsible Authority may extend the period referred to subject to a satisfactory report being received as per condition 9 of this permit and a request is made in writing before the permit expires or within three months afterwards.

Permit Note:

The applicant must apply for a Temporary Occupancy Permit from Council's Building Department – Form 5 (Place of Public Entertainment).

Resolution:**Crs. Dudzik/Spain**

That Council having considered all relevant matters as prescribed by s.60 (1) of the Planning and Environment Act 1987 issue a Notice of Decision to Grant a Permit PA2013-103 for The Use of the land for a Place of Assembly (Music Festival) and a Business Identification sign at CA87B, Parish of Kerrit Bareet, also known as 87B Yendon Egerton Road, Mount Egerton, 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. *This permit can only be operated by Inca Roads Inc. and is not transferable to any other body without the consent of the Responsible Authority.*
3. *At least three weeks prior to the event the site must be slashed to remove the grass burden to reduce risk of fire. That there be prominent signage to emergency exits on site.*
4. *No more than 650 people are permitted to attend the Music Festival which includes members, artists and paid or voluntary staff.*
5. *The entrance to the site must be kept clear of vehicles and be securely staffed at all times.*

6. **All attendees must be members of Inca Roads and no entrance fees are permitted to be collected at the gate.**
7. **Appropriately trained security personnel must be in attendance for the duration of the event at a minimum ratio of one to fifty members.**
8. **Live music can only be played at the following times:**
 - a. **Friday: 1pm – 1am (Saturday)**
 - b. **Saturday: 11am – 1am (Sunday)**
 - c. **Sunday: 10am – 1.45pm.**

8a. **This permit allows only the November 2013 3 day music festival to take place.**

A further application will be required for any further events on this site and will take into account adherence to council requirements.
9. **Within four (4) months of the completion of the 2013 festival the applicant must provide to Council a 2013 Music Festival report of the event including:**
 - a. **The number of persons who attended the event including members, artists and volunteers;**
 - b. **Security and incident report;**
 - c. **Acoustic report; and**
 - d. **Complaints report (as applicable).**

The use of the land for future festivals will be conditional upon the 2013 festival being conducted in an appropriate manner to the satisfaction of the Responsible Authority. Council reserves the right to cancel the permit if compliance has not been achieved.

9a. **There will be no lights in the sky or projecting onto other properties**
10. **The location, dimensions and features of the approved sign (including the design, colours, materials and sign type) shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
 - 10a. **Inca Roads invite properties immediately adjoining festival site.**
11. **The sign must be only displayed immediately prior to and during the event and must be removed within 3 days of the conclusion of the event to the satisfaction of the Responsible Authority.**

12. ***Within seven (7) days of the completion of the event the site must be cleaned of all waste and all structures are to be removed.***
13. ***Areas set aside for the parking and movement of vehicles as shown on the endorsed plan must be made available for such use and must not be used for any other purpose.***

Infrastructure condition

14. ***Not less than twenty eight days prior to the event, the proponent must submit to the Responsible Authority a Traffic Management Plan, detailing the location and type of all advance warning signs and all signs at the entrance to the event.***

Environmental Health conditions

15. ***All temporary and mobile food vendors must be registered under the Food Act 1986 with the appropriate authority on Streatorader, online database for mobile and temporary food premises, and submit a Statement of Trade to Moorabool Shire Council at least 5 working days prior to the first day of the festival.***
16. ***All drinking water provided at the festival must be potable water which meets the requirements of the Australian Drinking Guidelines 2011 and be contained on site in a secure, clean and sanitary container/tank.***
17. ***All waste water generated on site from the toilets, showers and wastewater from food vending activities must be suitably contained on-site and removed off-site by an approved waste water management contractor/company.***

Central Highlands Water condition

18. ***Wastewater generated onsite during the event must be collected and disposed of through the use of portable sanitary facilities.***

Expiry condition

19. ***This permit will expire if:***
 - a. ***The use is not started within one year of the date of this permit.***

This permit expires on 30 April 2014. The Responsible Authority may extend the period referred to subject to a satisfactory report being received as per condition 9 of this permit and a request is made in writing before the permit expires or within three months afterwards.

Permit Note:

The applicant must apply for a Temporary Occupancy Permit from Council's Building Department – Form 5 (Place of Public Entertainment).

The resolution was determined to be LOST on a Casting Vote by the Mayor.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 5 September 2013



11.2.4 Amendment C53 – Gordon Structure Plan

Introduction

File No.: 13/06/059
Author: Damien Drew
General Manager: Satwinder Sandhu

Background

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

The Structure Plan recommended that changes be made to the Planning Scheme, including the rezoning of some land, the addition of planning provisions to guide the form and type of uses and developments to be supported, and strategies and policies that Council will apply to the future planning and development of Gordon. In addition to the above, Council as part of the 2013-14 budget have also allocated funds for further infrastructure planning for the Gordon township.

At its Ordinary Meeting held on 1 June, 2011, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment (C53) for the purpose of implementing the recommendations of the Gordon Structure Plan 2011.

On 26 July, 2011, Council wrote to the Minister for Planning requesting authorisation to prepare and exhibit an amendment to the Moorabool Planning Scheme. Further information was sought by the Department of Planning and Community Development on 16 September, 2011, which led to Council making changes to the proposed amendment, in particular, proposing to apply the Residential 1 Zone to the township rather than the Low Density Residential Zone. Subsequently, the Minister for Planning authorised the preparation and exhibition of Amendment C53 on 7 February, 2012.

The authorisation required that consultation occur with the Regional Office of the Department of Planning and Community Development in the preparation of the amendment prior to exhibition, to discuss the Schedules to the Design and Development Overlay and Clause 21.09.

Internal reviews occurred through the period from 7 February, 2012, and on 23 March, 2013, the Minister for Planning granted an extension of six months to the Authorisation A02038 to prepare the planning scheme amendment C53 to the Moorabool Planning Scheme.

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

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

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

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

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

In accordance with the *Planning and Environment Act 1987*, Council must now either change the Amendment in the manner requested by the submissions, refer submissions to an Independent Panel appointed by the Minister for Planning, or abandon the Amendment or part of the Amendment.

This report considers submissions received in relation to the Amendment and recommends that all submissions be referred to an Independent Panel for consideration.

Proposal

The Amendment

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

Municipal Strategic Statement

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

Zoning and Overlays

- Rezoning the identified commercial area of Gordon from Township Zone to Business 1 Zone;

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

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

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

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

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

The Significant Landscape Overlay - Schedule 2 seeks to:

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

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

Public Exhibition Process

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

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

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

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

Submission Review

Under the Section 23 of the Act, the Council is required to consider all submissions made to an Amendment and must:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a panel appointed under Part 8; or
- (c) abandon the amendment or part of the amendment.

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

The objections

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

The table at Attachment 1: Amendment C53 . Review of Submissions outlines the specific issues raised in the submissions and provides the officer response. In the event these submissions are referred to an Independent Planning Panel appointed by the Minister for Planning, as recommended, these responses will be the basis for Council's presentation to the Panel.

Key Issues Raised in Submissions

Expansion of the Extent of the Township Boundary

A number of submissions make comment concerning the future growth of Gordon and, in particular, the areas to the west of Old Melbourne Road and north of Corbetts Road.

Although Gordon is the third largest town in the Shire, the draft Central Highlands Regional Growth Plan does not envisage a major growth in the town during the life of the Structure Plan (15 year planning period). It is anticipated that infill development and consolidation land within the township boundary will accommodate the projected population growth in Gordon during the life of this Structure Plan.

As per State and Local Planning Policy, consolidation of the existing township area is encouraged, having consideration to respecting neighbourhood character and environmental factors, such as, retention of remnant vegetation.

In addition, Clause 16 of the SPPF, encourages compactness of settlements to provide for optimal use of local infrastructure. Compact development can result in healthy walkable settlements that support local businesses and community enterprises.

Therefore, in accommodating future population growth in Gordon, it is important to consolidate areas within the township boundary.

The adopted Structure Plan does not contemplate greenfields development to facilitate growth of the town. Given that the Structure Plan does not include an assessment of whether land requested for rezoning in the submissions is suitable for urban development, and the implications of significant development on sites, which are not within the existing township, it is difficult to recommend that there is adequate strategic justification to expand the township boundaries.

Whilst these sites are on the fringes of the existing township and within proximity to the town centre, the Structure Plan seeks to avoid an oversupply of residential land in the short term. It is considered that these areas do not present the same short-term opportunities provided by infill areas and urban consolidation, and have additional environmental and servicing considerations.

Given the significant implications of the rezoning of greenfield areas and the lack of reference to the land requested for rezoning as short-term development areas in the exhibited amendment, a Panel is unlikely to be able to support the proposition that these landholdings now be identified as short-term development areas.

In addition, if the land subject to the submissions had been identified for short-term development in the exhibited amendment and the adopted Structure Plan, Council may have received submissions expressing differing views in relation to this matter.

Therefore, changing Amendment C53 to identify greenfields land for short-term development could be considered to constitute a transformation of the amendment by a Planning Panel.

Central Highlands Water has recently delivered the required infrastructure and servicing for reticulated sewerage in Gordon. It is anticipated that the provision of sewerage within the Township will add a significant positive attribute for living in Gordon. Provision of this infrastructure is likely to create a higher residential development rate within the existing township boundaries.

However, the Gordon Sewerage system has a limited capacity. Central Highlands Water (CHW) identified 141 existing properties to be serviced by reticulated sewerage and has provided for an upper limit of 280 property connections in the declared sewerage district.

While the capacity of 280 property connections provided by CHW does not create a fixed upper limit for the township, (although the ultimate capacity of the sewerage treatment works is not clear), any additional connections beyond the 280 limit would be required to meet the full cost of connections and any upgrade in infrastructure. These requirements could mean that further connections beyond that number will be severely constrained.

Thus, there is only capacity for the creation of an additional 139 infill lots within the Gordon sewerage district and rezoning of land outside the existing township boundary cannot be supported on that basis.

Overlay Controls

The Amendment proposes to apply the Design and Development Overlay to all land proposed to be rezoned to the Residential 1 Zone, Business 1 Zone and areas in the existing Rural Living Zone, to implement the urban design guidelines outlined in the adopted *Gordon Structure Plan*.

These guidelines were formed to help manage the design, siting and layout of buildings and works within the township and surrounds, and their translation into a Design and Development Overlay encourages specific design and development outcomes, which have been developed through the Gordon Structure Plan process.

The Amendment implements a DDO, which seeks to preserve a number of the elements, considered to make strong contributions to the existing character of Gordon and which, through careful planning, can be enhanced as the town develops and grows.

A Design and Development Overlay (DDO) Schedule 5 is proposed to apply to the Gordon Town Centre and to the rural living surrounds. The purpose of this overlay is to ensure that any development and subdivision responds to the characteristics of Gordon, and it contains objectives and guidance for the siting and design of buildings in relation to character and amenity.

It seeks to reinforce and strengthen the distinctive character of Gordon, to ensure that buildings with visible roof form make a positive contribution to the character of the township, and to protect the spacious character of the township by maintaining larger lot sizes.

In addition, the DDO aims to maintain the country town feel of Gordon now that reticulated sewerage is available in the township. Development will be permissible, but at a larger lot size to encourage the maintenance of vegetation and to ensure a more equitable development of land within the spare capacity in the sewerage system.

Canopy vegetation, particularly indigenous vegetation, contributes positively to the neighbourhood character in Gordon and its presence in the Town should be maintained and enhanced. However, the current planning controls applying to Gordon do not include specific vegetation controls.

It is proposed to apply Significant Landscape Overlay (SLO) - Schedule 2 "*Gordon Town Centre, Township and Surrounds*" to the Gordon Town Centre and to the rural living surrounds. This provision is intended to protect the character created by canopy trees and prevent lots from being moon-scaped prior to development as is often the case during subdivision.

Unlike the DDO controls, the SLO will allow consideration of the role of significant trees in the landscape character and it will inform design and siting of residential development with respect to landscape aesthetics.

The SLO simply introduces a permit trigger and does not prohibit development or tree removal. Standard exemptions for lopping or removal for safety reasons will still apply. Assessment of development will be based on not only the objectives and decision guidelines of the schedule, but will be supported by the local planning policy at Clause 21.09-1 . Gordon.

The Department of Environment & Primary Industries (DEPI) has suggested that in Schedule 2 to the Significant Landscape Overlay . Clause 3.0 definition should be based on trunk diameter measured at breast height, which is 1.3 metres above the ground (DBH). This is the accepted scientific method for tree trunk measurement and accordingly, the SLO Schedule should be amended to refer to trunk diameter measured at breast height.

In addition, DEPI has requested that removal of standing dead native trees should not be exempt from requiring planning approval. It is recognised that dead native trees can have significant habitat value, and requiring a proper assessment (planning approval) prior to removal will ensure that the environmental features valued by the Gordon community will be appropriately protected.

Another submitter has suggested that the SLO schedule should be amended to provide clarity regarding the level of documentation required for any planning permit application. It is agreed that application requirements would improve the clarity of the SLO. The application requirements of VPO1, SLO1 and Clause 52.17 of the Moorabool Planning Scheme could be used to form the basis of application requirements for this Overlay Schedule.

The requested extension of the area to be covered by SLO2 is beyond the scope of this amendment, and where such an extension would affect private land, public consultation would be required by notice to affected landowners.

It is usually only possible for a Panel to consider changes to an amendment or proposal, especially significant changes, if there is adherence to the rules of natural justice.

The particular rule of natural justice, which must be satisfied, is the requirement that all matters upon which a decision will be based are revealed to all parties and they are given an opportunity to be heard.

If a wider extent of SLO2 had been foreshadowed in the exhibited amendment, then Amendment C53 may have attracted further submissions on this issue.

Therefore, the transformation of an amendment or proposal would normally require re-exhibition, which is not appropriate or practical as it could cause unnecessary delay or protraction of process in the case of this Amendment.

There are a significant number of property owners affected by the proposed Overlays, all of whom were directly notified of this Amendment. The receipt of only two objecting submissions indicates strong community and landowner support for the application of the Overlay controls.

Application of the Overlay controls is proposed to facilitate appropriate development, and enable the main elements of the character to be retained in the township and surrounds. These Overlays will not prevent development of land, but will require more detailed consideration of built form, density, landscape values, and a sensitive design response, as part of development proposals.

The DDO and SLO are planning tools forming part of the Victorian Planning Provisions and their application is not considered to be overly prescriptive or seriously impose on property owners' rights.

Town Centre and Business 1 Zone

The proposed Business 1 Zone will provide opportunities for commercial uses as part of the town centre, for limited expansion along Main Street, and recognises some existing non-residential uses in Main Street.

The rezoning of a wider area to Business 1 would be premature and is not justified by current growth projections for Gordon. It would be likely to saturate the supply of land for retail development in the town.

It is considered that the Amendment will rezone sufficient land for commercial purposes, in the town centre (Main Street), to cater for demand during the life of the Structure Plan.

Rezoning of land for commercial purposes to the south of Main Street, in particular, No. 32 Russell Street, would fragment the town centre and is not supported by the Structure Plan.

The owners of No. 69 Main Street have advised that their property consists of two adjoining titles and the Amendment proposes to rezone one title to Business 1 Zone and the other to Residential 1 Zone. They believe that it would be more desirable and practical to rezone both titles to the Business 1 Zone.

It is considered that the change requested by the owners of No. 69 Main Street has some merit and should be considered by a Planning Panel. The current Township Zone seeks to provide for a range of commercial uses in small towns, subject to planning approval. Thus, it is possible that a Planning Panel could find that changing the Amendment to rezone the whole of No. 69 Main Street to the Business 1 Zone (now Commercial 1 Zone) may not be of such significance to constitute a transformation of the Amendment.

Whilst some concerns have been raised regarding the quality of the Structure Plan document, in relation to the directions for the Town Centre, it is considered that DDO5 will appropriately translate those directions into the planning scheme.

Bushfire Risk

Some submitters, in particular, the CFA, has raised concerns in relation to the consideration of bushfire risk as part of the Amendment. The CFA stated that in preparing the Amendment, Council may not have adequately considered Clause 13.05 in general, and any potential changes to the Bushfire Management Overlay (BMO) specifically. Additional areas within proposed DDO5 and SLO2 may be subject to the revised extent of the BMO.

Other issues raised by the CFA relate to the consistency between the exemptions (10/30 & 10/50 rules) allowed under Clause 52.48 and the controls in the proposed SLO2, and the need to recognise the bushfire risk in, and around, the township in Clause 21.09-1 . Gordon.

The Bushfire Management Overlay applies to portions of land in the east and north-eastern areas of Gordon. It is applied to land where *"bushfire hazard requires specified bushfire protection measures for subdivision and building and works to be implemented"*.

Completion of the Gordon Sewerage Project now enables land in the current Township Zone to be subdivided into lots of 300 square metres or greater (and less if permitted by a development permit). In this context, it is considered that if further subdivision of land is fully realised under the existing Township Zone, the cumulative impacts of this pattern of development may lead to adverse bushfire planning outcomes and risk to future residents on these lots.

Council is required to pursue the most appropriate planning scheme arrangements, beyond the Bushfire Management Overlay, which assist in the provision of a safe settlement pattern. Council has given consideration to Clause 13.05 by proposing to apply planning controls to limit subdivision and further development in Gordon. In particular, the application of DDO5 will specify a minimum lot size of 800 square metres in the township, thus limiting the density of residential development in the town.

It should be noted that the proposed Significant Landscape Overlay 2 (SLO2) only regulates the removal of large trees and exempts the clearing of vegetation with higher fuel loads, such as, understorey vegetation, smaller shrubs, etc.

In the area now covered by the BMO, the 10/50 metre rule applies via Clause 52.48. Landowners can clear vegetation within the prescriptions of Clause 52.48 without a planning permit, but they are not compelled to undertake clearing.

In the BMO area, the 10/50 provisions of Clause 52.48 will override the vegetation protection provisions of the SLO2 where clearing is undertaken for bushfire protection, effectively rendering the SLO provisions null and void for removal of trees to 10 metres out from an existing dwelling.

In relation to recognising the exemptions contained in Clause 52.48 in the SLO schedule, previous Panels have considered that cross-referencing and/or duplication of planning scheme clauses are neither necessary nor desirable.

This practice should be avoided, as it will make the planning scheme even larger and more complex than it is already. It is incumbent on a landowner wishing to undertake an action (in this case vegetation clearing), to review the planning scheme themselves, and seek advice from Council or a planning specialist, as necessary, to determine the layers of the scheme which are relevant to their particular circumstances.

It is appropriate to strengthen Clause 21.09-1 . Gordon, to recognise bushfire risk affecting the township and surrounds, and to ensure that development within Gordon responds to and mitigates any identified bushfire risks.

Referral to a Planning Panel will assist in determining whether the Amendment meets the objective of Clause 13.05-1 (Bushfire) and gives effects to the strategies of the policy. The Panel will evaluate the CFA submission and determine whether any changes should be made to the Amendment.

Gas Transmission Pipeline

APA requests that development is restricted in its gas transmission pipeline easement; and that ~~Sensitive~~uses, such as, schools, hospitals, aged care facilities and prisons and ~~high density~~land uses, such as, multi-storey development predominates or where large numbers of people congregate in the normal use of the area preferably be separated approximately 316 metres from the edge of the easements for public safety and not within approximately 193 metres from the edge of the easements.

Development will be restricted in proximity to the gas transmission pipeline easement located on the southern boundary of the current Township Zone (along the southern side of Nightingale Street).

The Amendment does not make any significant changes to the land use zoning in proximity to the alignment of the gas transmission pipeline. It does include the application of a DDO, which seeks to place controls on development, particularly applying a minimum lot size.

It is considered that the Amendment addresses issues raised by APA by limiting the density of development in the proposed Residential 1 Zone.

New Zones

On 1 July 2013, the Victorian State Government introduced a suite of new planning zones that would supersede and / or replace current zones within the planning scheme.

The Minister for Planning amended the Victorian Planning Provisions on 15 July 2013 to replace the five business zones with two commercial zones. The rezoning of properties in the Town Centre was exhibited as Business 1 Zone and under the new zones will be Commercial 1 Zone. The purpose of the new zone is to create vibrant mixed-use commercial centres and for residential uses that complement to the commercial centre. The new zone increases the types of uses allowable without the need for a planning permit (permits are still required for buildings and works as normal in these zones).

The new Commercial Zones (CZ1 and CZ2) were not operable at the time of preparation and exhibition of this Amendment and were, therefore, not able to be included as part of the exhibited amendment package. With the introduction of this suite of commercial zones, the Amendment will need to be altered to give effect to these new zones.

In addition, the new suite of Residential Zones came into effect on 15 July, 2013 and aim to:

- improve the range of residential zones to better manage growth and protect and maintain liveability and neighbourhood character
- simplify requirements with greater certainty and clearer rules
- allow a broader range of activities to be considered
- provide greater clarity about the type of use and development, which can be expected in residential areas.

A council will be able to use the residential zones to better specify strategic locations where increased densities should be provided, and limit residential change in areas where neighbourhood character, environmental and other characteristics should be protected. The new zones are intended to provide positive economic, environmental and social effects to residential areas throughout Victoria.

The Central Highlands Water (CHW) submission notes the introduction of three new residential zones into the planning system, which will replace the application of the Residential 1 Zone by July 2014. Given that the sewerage system has limited additional capacity, CHW has recommended the application of the Neighbourhood Residential Zone to the Township, which is consistent with the outcomes sought by Council's proposed DDO5.

As Council is required to implement the new residential zones by July 2014, this Amendment should be altered to give effect to these zones. It is considered that the Neighbourhood Residential Zone is appropriate for Gordon, as suggested by CHW.

The Gordon Structure Plan does not anticipate population growth of the level that would warrant the application of application of the General Residential Zone or Residential Growth Zone within the Township, and CHW has advised that significant upgrades to the sewerage system may be required to service future development under this scenario.

Revised amendment documentation, which considers the application of the new Commercial 1 Zone and Neighbourhood Residential Zone will be prepared and provided to all submitters along with Planning Panels Victoria at the Directions Hearing. This documentation will form the basis for discussion of application of the new zones at the Panel Hearing.

Changes to the Amendment

As a result of the submissions and administration errors, the following changes are proposed for consideration by the Panel:

- Update the former Business 1 Zone to the new Commercial 1 Zone as per Ministerial changes.
- Update the former Residential 1 Zone to the new Neighbourhood Residential Zones as per Ministerial changes.
- Change the proposed zoning of No. 69 Main Street, Gordon from part Business 1 Zone and part Residential 1 Zone, to the new Commercial 1 Zone to address the owners submission.
- Make changes to the exhibited documents to address issues outlined in this report
- Make minor administrative corrections to the exhibited documents to address any identified clerical errors.

Planning Panel

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

- give submitters an opportunity to be heard in an independent forum and in an informal, non-judicial manner. A panel is not a court of law.
- give independent advice to the planning authority (Council) and the Minister for Planning about an amendment and about submissions referred to it. A panel makes a recommendation to the planning authority. It does not formally decide whether the amendment is to be approved.

When considering an amendment a panel will address:

- the merits of the amendment;
- the issues raised in the submissions;
- the strategic context and implications of the amendment;
- the matters identified in the Planning Practice Note Strategic Assessment Guidelines for Planning Scheme Amendments; and any other relevant matters.

A Panel prepares a report to record its considerations and recommendations in relation to an amendment. The purpose of a Panel report is to:

- Record the outcome of the public consultation process involving exhibition, submissions and Hearing.
- Provide an independent assessment of the issues arising from that process.
- Provide recommendations about the decisions, which should be made.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

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

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

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

Planning and Environment Act

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

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

The Gordon Structure Plan and its implementation via the Moorabool Planning Scheme are considered to be consistent with the objectives of planning in Victoria.

Environmental Effects

The development of the Structure Plan has regard to environmental issues and constraints.

The Structure Plan identifies a township boundary, which will see population increases accommodated within the existing urban area, minimising urban sprawl and protecting the surrounding rural environment.

The proposed amendment will result in positive environmental benefits by integrating any new development within the area affected by the Structure Plan and incorporating principles of environmentally sensitive urban design through the use of built form controls to be implemented through Schedules to the Design and Development Overlay.

The Gordon Structure Plan and associated changes to the Moorabool Planning Scheme clearly outline the future development potential of the township and immediately surrounding areas. Protection and enhancement of areas of high environmental significance such as the existing trees, proclaimed water supply catchment, Paddock Creek and adjacent rural landscapes will be strengthened by the amendment.

Economic Effects

The proposed amendment will have positive economic effects and will assist in supporting business and potentially generate new employment opportunities. The Amendment has the potential to have positive economic impacts by creating a greater critical mass of activity within Gordon.

In addition, the proposed amendment supports continued growth and development of existing commercial and retail type businesses in Gordon.

The proposed Amendment will provide for land supply in the short to medium term for commercial uses, which were identified in the Structure Plan.

Future retail and community development will provide increased opportunities for local employment and retail activity to the benefit of the wider community, in a manner and scale that will not detract from the retail roles of nearby towns and the regional centre of Ballarat.

State Planning Policy Framework

The State Planning Policy Framework informs planning authorities of the State policy to be taken into account when making decisions. The following clauses should be considered in the assessment of the recommendations made in the Gordon Structure Plan:

Clause 11.02-1- Supply of Urban Land

This clause seeks to ensure there is a sufficient supply of land available for residential, commercial, industrial, recreational, institutional, and other public uses.

The clause states that planning authorities should plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur.

Clause 11.02-3- Structure Planning

This clause aims to facilitate the orderly development of urban areas and ensure effective planning and management of the land use and development of an area through the preparation of strategic plans, statutory plans, development and conservation plans, development contribution plans and other relevant plans.

Clause 11.03-1 -Open space planning

Clause 11.03-1 of the Scheme relates to the provision of open space and creation of a diverse and integrated network of public open space commensurate with the needs of the community.

Open space networks should be linked through the provision of walking and cycle trails and should incorporate links between major parks and activity areas, along waterways and natural drainage corridors and connect places of natural and cultural interest.

Clause 11.05-1 Regional Settlement Networks

The state policy objective in relation to regional settlement networks seeks to promote the sustainable growth and development of regional Victoria through a network of settlements.

The strategies for this policy objective include:

Deliver networks of high-quality settlements by:

- Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.
- Developing networks of settlements that will support resilient communities and the ability to adapt and change.
- Balancing strategic objectives to achieve improved land-use and development outcomes at a regional, catchment and local level.
- Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.
- Encouraging an integrated planning response between settlements within regions and in adjoining regions and states.
- Providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs.
- Improving connections to regional and metropolitan transport services and urban connectivity.

Clause 11.05-2 Melbourne's Hinterland Areas

The State Planning Policy for Melbourne's Hinterland area has the following objective:

- *To manage growth in Melbourne's hinterland, the area immediately beyond Metropolitan Melbourne and within 100 kilometres of the Melbourne Central Activities District.*

Policy strategies to achieve this objective include maintaining the attractiveness and amenity of hinterland towns, improving connections to regional and metropolitan transport services and managing the growth of settlements to ensure that development is linked to the timely provision of infrastructure.

Clause 11.05-4 Regional Planning Strategies and Principles

This policy has as its objective, to *"develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable"*.

Clause 12.01-1- Protection of habitat

Clause 12.01-1 of the State Planning Policy Framework outlines the State policy in relation to the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals.

This clause states that responsible authorities should ensure that the siting of new buildings and works minimises the removal or fragmentation of native vegetation.

Clause 14.02-1 Catchment Planning and Management

The objective of this policy is to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment. The Township of Gordon is physically divided within two proclaimed water supply catchments.

Clause 15.01-2 Urban Design Principles

The State Planning Policy Framework for Urban Design has the following objective:

"To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties."

To achieve the above objective, a strategy of eleven design principles have been identified, which the responsible authority must have regard to, including:

- Context
- The public realm
- Safety
- Landmarks, views and vistas.
- Pedestrian spaces
- Heritage
- Consolidation of sites and empty sites
- Light and shade
- Energy resource efficiency
- Architectural quality; and
- Landscape architecture.

Clause 19.03-2- Water supply sewerage and drainage

Clause 19.03-2 states that planning and responsible authorities should ensure that water quality in water supply catchments is protected from possible contamination by urban, industrial and agricultural land uses.

Local Planning Policy Framework

The Local Planning Policy Framework within the Moorabool Planning Scheme provides strong support for the finalisation and implementation of the Gordon Structure Plan.

Clause 21.02 Natural Environment

The local planning policy for the natural environment includes objectives, which relate to water and catchment management and non-urban landscapes. The Natural Environment policy seeks to protect the quality and quantity of water within the Moorabool Shire.

The policy objective relating to non-urban landscapes seeks to maintain and enhance the natural environment and the Shires rural identity and character.

Clause 21.03 Settlement and Housing

The Local Planning Policy for settlement and housing seeks to support the further development of small towns and rural lifestyle opportunities to ensure appropriate residential choice throughout the Moorabool municipality.

The preparation of structure plans for the township of Blackwood and Gordon are identified as further strategic work tasks for achieving the policy objective.

Clause 21.09-1 Gordon

Clause 21.09 of the Local Planning Policy Framework states, *"Gordon is the third largest town in the Shire located on the Western Freeway some 23 kilometres from central Ballarat. The town layout is characterised by two residential areas and a denser central core with larger lots on its outskirts that provide a distinctly rural character."*

The objective identified for Gordon states *"To identify and manage urban growth opportunities driven by the upcoming sewerage of Gordon and other growth drivers."*

Clause 21.09-9 Further Strategic Work

The following is identified as a further strategic work task within the Local Planning Policy for Gordon:

- Prepare and adopt a structure plan study for Gordon.

Social Considerations

The development of the Structure Plan has had due regard to social and community issues with recommendations to improve walkability/accessibility and increase goods and services provision through development and investment in Gordon.

The Amendment will contribute to the social improvements by ensuring that land use and design outcomes that meet the needs of the local community and visitors to Gordon.

Financial Implications

The costs for the incorporation of the Structure Plan into the Moorabool Planning Scheme, including Panel costs, will be met within the 2013/2014 budget.

Council will incur the costs associated with convening a planning panel. These charges are part of the normal amendment preparation process and include payment for the panel members time associated with conducting the hearing and preparing the report. The costs cover consumable times and services (as required), such as, photocopying, panel members accommodation, food and travel, and venue hire. These costs are difficult to predict, as they are dependent on the number of panel members appointed, the complexity of the issues being considered and, therefore, the time required for the panel hearing and the preparation of the subsequent report.

However, the referral of the Amendment to an Independent Panel would provide a tangible outcome to the considerable resources already expended on the project.

Risk & Occupational Health & Safety Issues

Referring a planning scheme amendment to an Independent Panel is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to request the appointment of an Independent Panel.

Furthermore, if the Design and Development, and Significant Landscape Overlays are not in place to protect the Town's character assets, there is a risk of the potential loss of significant vegetation over time, ultimately eroding the character of Gordon, which is highly valued by the community.

Major changes to the content of the amendment carry a risk that the Planning Panel will consider that the changes 'transform' the amendment. Any transformation of an amendment requires the amendment to be re-exhibited. Re-exhibition of the amendment will result in further delays as well as allow for further submissions to be made and issues to be raised.

The amendment represents the culmination of hard work and effort on behalf of Council and the community, as part of the community consultation processes undertaken in developing the Gordon Structure Plan and the goals and aspirations of the residents. Abandonment of the amendment would prevent Council from being able to give effect to the recommendations within the Gordon Structure Plan.

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

Communications and Consultation Strategy

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

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

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

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

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

Content of the submissions received has previously been discussed throughout the report.

Should Council resolve to request the appointment of an Independent Panel, the Panel would conduct a public hearing in the municipality. This hearing will provide an opportunity for those who made a submission during the exhibition period to make a presentation to the Panel based on their original submission.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Damien Drew

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

Conclusion

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

The proposed amendment C53 to implement the Structure Plan is supported by the Planning and Environment Act 1987, Council's Municipal Strategic Statement and the State Planning Policy Framework. It proposes to implement Design and Development, and Significant Landscape Overlays and rezone land to the Business 1 and Residential 1 Zones.

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

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

To provide direction to Council as to how best to proceed with the amendment, a Planning Panel should be established to consider the issues raised in the submissions.

Therefore, to progress the planning process for Gordon, it is recommended that Council refers all submissions received in response to Moorabool Planning Scheme Amendment C53, including the late submissions, for consideration by a Planning Panel to be appointed by the Minister for Planning. Each submitter would then be advised in writing by Planning Panels Victoria of how they can be involved in the Panel process.

Furthermore, in referring Amendment C53 to an Independent Panel will bring the Amendment closer to its conclusion.

Consideration of Deputations – Amendment C53

Mr. Robert Eskdale addressed Council on behalf of Mr. Ian Woodhouse in favour of Amendment C53.

The business of the meeting then returned to the agenda.

Resolution:

Crs. Spain/Comrie

That Council, having considered all submissions to Amendment C53, resolves to:

- 1. Request the Minister for Planning to appoint a Planning Panel under Part 8 of the Planning and Environment Act 1987.***
- 2. Refer Amendment C53 (including submissions) to the Planning Panel for consideration.***
- 3. Accept the late submissions and refer them to the Planning Panel for consideration.***
- 4. Submit to the Panel, a detailed response to the submissions generally as outlined in this report and in Attachment 1.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 5 September 2013



11.2.5 Amendment C51 – Bacchus Marsh Activity Centre Structure Plan

Introduction

File No.: 13/06/058
Author: Damien Drew
General Manager: Satwinder Sandhu

Background

Amendment C51 is a Council-initiated amendment to give effect to the provisions of the Bacchus Marsh Activity Centre Structure Plan 2011.

The purpose of the Structure Plan is to: *reflect the needs and aspirations of the community and reinforce Bacchus Marsh as a preferred location for activity with a suitable mix of commercial, retail, community and recreational activities to meet needs locally, reduce the town's escape expenditure and increase local employment opportunities.*"

At its Ordinary Meeting held on 7 December 2011, Council resolved to adopt the Structure Plan and to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment (C51) for the purpose of implementing the recommendations of the Bacchus Marsh Activity Centre Structure Plan 2011.

On 31 January, 2012, Council wrote to the Minister for Planning requesting authorisation to prepare and exhibit an amendment to the Moorabool Planning Scheme. Consequently, the Minister for Planning authorised the preparation and exhibition of Amendment C51 on 16 February, 2012.

The authorisation required that consultation occur with the regional office of the Department of Planning and Community Development in the preparation of the amendment, including the proposed planning provisions, prior to exhibition.

Internal reviews and consultation occurred through the period from 7 February, 2012, and on 19 February 2013, the Minister for Planning extended the Authorisation A02186 granted to Council to prepare the planning scheme amendment C51 to the Moorabool Planning Scheme.

Amendment C53 seeks to: The amendment proposes three actions, namely:

- to introduce eight (8) Design and Development Overlays to the Moorabool Planning Scheme
- to rezone one area of land in Taverner Street which is currently zoned Farming to Residential 1
- to apply a Development Plan Overlay to the above land.

All permit applications would be required to be assessed against the character definition, and how the development responds to maintaining and enhancing the country town character, as this is included in all overlays derived from the structure plan.

Amendment C51 was placed on public exhibition between 30 May and 28 June 2013, including notices in local papers and individual letters to all affected property owners.

On 3 July, Council resolved to accept late submissions for Amendment C51 Bacchus Marsh Activity Centre Structure Plan up to 24 July 2013, a period of three (3) weeks to enable ratepayers and residents to complete submissions to the plan.

A total of 17 submissions were received in response to the amendment, six (6) during the formal public exhibition period, and eleven (11) late submissions. The submissions included, nine (9) of opposition, three (3) offering no objection but making comment, one (1) offering support in principle but requesting alterations/changes, and four (4) indicating support for, or no objection to, the Amendment.

The submissions cover a wide range of issues. The key issues include:

- Role of the Structure Plan
- Main Street Precinct, including the Civic Precinct
- Proposed Greenway
- The area identified as the Taverner Development Area
- New Zones

In accordance with the *Planning and Environment Act 1987*, Council must now either change the Amendment in the manner requested by the submissions, refer submissions to an Independent Panel appointed by the Minister for Planning, or abandon the Amendment or part of the Amendment.

This report considers submissions received in relation to the Amendment and recommends that all submissions be referred to an Independent Panel for consideration.

Proposal

The Growing Moorabool, Economic Development Strategy and Action Plan recommends that Council prepare a Structure Plan for a concentrated centre of activity in the core of Bacchus Marsh which includes extra retail, offices, service industries, medical and professional suites and a range of residential offerings.

Council's Municipal Strategic Statement (MSS) identifies the opportunities for consolidated activity in the town centre as follows: "*Central Bacchus Marsh has potential to establish a best practice example of transport-oriented Activity Centre planning. Significantly-sized parcels of land between the railway station and Main Street and between Fiskin and Grant Streets provide opportunity for planned residential and mixed-use urban development*".

Moorabool Shire Council's Municipal Strategic Statement (MSS) identifies further strategic work relating specifically to Bacchus Marsh. This further strategic work includes:

Prepare and adopt a Local Area Structure Plan for the land between the railway station and Main Street and between Fiskin and Grant Streets as shown in the Growing Moorabool Economic Development Strategy.

The finalisation of the Bacchus Marsh Activity Centre Structure Plan completes this further work identified in the MSS.

The aim of the project was to prepare a structure plan, which reflects the needs and aspirations of the community and provides a clear framework for the detailed development planning at precinct level. This structure plan seeks to reinforce the Bacchus Marsh town centre as the preferred location for consolidated development with a suitable mix of commercial, retail, community and recreational activities to reduce the town's escape expenditure, create a critical mass of activity, and increase local employment opportunities.

The plan is concerned with the core of Bacchus Marsh . focussing on the land between Parwan Road (the Geelong . Bacchus Marsh Road) to the south, Bennett Street to the north, and the western extent of the study area generally follows Grant Street, but incorporates the hospital environs. Fiskin Street forms the eastern boundary of the study area.

In formulating the Plan, fifteen (15) objectives were identified:

1. *To consolidate a mix of land use activities within the Bacchus Marsh Central Activity Centre.*
2. *To provide a variety of housing in and around the Activity Centre to accommodate some of the future population growth in a managed and sustainable manner.*
3. *To accommodate the existing and future needs of the Bacchus Marsh community through the provision of appropriate and accessible community and civic services.*
4. *To ensure that new development is of an appropriate scale and form that has regard to the prevailing built form character and structure of Bacchus Marsh and creates highly active and vibrant streets.*
5. *Where appropriate, conserve the sites of identified architectural and cultural significance.*
6. *To improve access and mobility for all through enhancing and integrating new development with the existing grid-based street network.*
7. *To create a more sustainable Bacchus Marsh.*
8. *To reinforce the commercial hub role of Main Street through intensification of a mix of retail, commercial and leisure related uses within a walkable environment.*
9. *Continue to encourage the Activity Centre as the focus for employment and commercial development.*
10. *To strengthen Grant Street as the secondary activity core of the Activity Centre and the secondary location for complementary commercial/and uses.*
11. *To promote safe walking and cycling access to and through the Activity Centre.*
12. *To promote efficient traffic movement and minimise potential conflicts.*
13. *To facilitate better connections to public transport within the Activity Centre.*

14. *To maximise the efficiency of existing vehicular access and car parking facilities to supplement sustainable transport to and through the centre; and*
15. *To create a network of safe, interesting and pleasant spaces throughout the Activity Centre and the surrounding neighbourhood.*

Several new Design and Development Overlays have been proposed to be applied to the Activity Centre and surrounds. These Overlays seek to guide design and built form of new development to achieve the objectives identified within the Structure Plan.

The proposed overlays contain design objectives, which seek to maintain and enhance the country town character of Bacchus Marsh. Within the structure plan, this character is described as follows:

“The ‘country town character’ of Bacchus Marsh is highly valued by the local community, in particular the features that distinguish Bacchus Marsh from the more suburban character of other peri urban settlements. Landscape character and built form are key contributors to this character.

Main Street and environs are a focus for a wide range of community activities and have a disproportionate effect on the townships character by virtue of their high profile for locals and visitors. The significant features of Main Street's character include buildings predominantly one to two storeys in height with verandahs along shop frontages.

Civic buildings are setback from the edge of the public building and/or are distinctive by virtue of scale or design, whereas commercial buildings are built to the front boundary. Newer buildings are interspersed with heritage buildings and framed by established trees. Signage is mixed in style and size.

Residential development makes up a large proportion of land use within and surrounding the Activity Centre. In relation to character, the trees and vegetation found within reserves, streets and gardens and the resulting predominantly green skyline make a significant contribution to the town's identity.

In terms of built form, key features of the BM country town character are:

- *A prevailing pattern of low front fences;*
- *Verandahs fronting primary frontage;*
- *Relatively narrow crossovers;*
- *Significant, landscaped front and side setbacks within the established built up area; and*
- *Garages [which are] recessive (i.e., do not dominate house frontages).”*

Other characteristics that contribute to this country town character in existing buildings include comparatively narrow frontages to buildings, predominantly vertical emphasis of windows, use of eaves and use of render, brick or weatherboard as building materials.

The proposed Structure Plan should have the overall effect of:

- Reinforcing the centre as the heart of the town focused around a focal point Town square and creating a vibrant centre;
- Reducing car speeds;
- Encouraging active transport i.e. walking, riding bikes etc.;
- Reducing car dependence for local short journeys;
- Making the town centre safer through an increase in activity, social interaction and passive surveillance, and providing a more pedestrian friendly environment;
- Making the main street more attractive through landscaping, widening footpaths and other treatments, such as, shelter, shade, art and seating options;
- Providing additional spaces for people to rest, play, meet, spend time and hold special events.

The Amendment

Amendment C51 was subsequently prepared and included the implementation of the recommendations of the Bacchus Marsh Activity Centre Structure Plan 2011 by:

- amending the Municipal Strategic Statement (clause 21.07 Bacchus Marsh) to align the objectives and strategies with the recommendations of the Structure Plan.
- inserting a local policy that provides direction relating to the objectives and policies relating to the Activity Centre.
- inserting the Bacchus Marsh Activity Centre Structure Plan into clause 21.11 as a reference document.
- incorporating eight (8) new Design and Development Overlays in the Moorabool Planning Scheme, which introduce specific built form and urban design requirements to ensure that new development respects the prevailing character of the town.
- rezoning the area of land known as the Taverner Street Development Area which is currently zoned Farming to Residential 1.
- applying a Development Plan Overlay (DPO4) and Environmental Audit Overlay (EAO) to the Taverner Street Development Area.
- applying a Development Plan Overlay (DPO5) over the land described as The Greenway within the Bacchus Marsh Activity Centre Structure Plan.

Public Exhibition Process

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

During the public exhibition period, Council officers met with a number of affected landowners.

A total of 17 submissions, including eleven (11) late submissions, were received in response to Amendment C51, of which nine (9) are objections, three (3) offer no objection but make comment, one (1) offers support in

principle but requests alterations/changes, and four (4) indicate support for, or no objection to, the Amendment.

The relatively low number of submissions is indicative of a degree of community acceptance of Council's strategic directions for the activity centre and surrounds.

Submission Review

Under the Section 23 of the Act, the Council is required to consider all submissions made to an Amendment and must:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a panel appointed under Part 8; or
- (c) abandon the amendment or part of the amendment.

Submissions not supporting the amendment primarily related to:

- Role of the Structure Plan
- Main Street Precinct, including the Civic Precinct
- Proposed Greenway
- The area identified as the Faverner Development Area
- New Zones

The table at Attachment 1: Amendment C53 . Review of Submissions outlines the property specific issues raised in the submissions and provides the officer response. In the event these submissions are referred to an Independent Planning Panel appointed by the Minister for Planning, as recommended, these responses will be the basis for Council's presentation to the Panel.

Role of the Activity Centre Structure Plan

The Structure Plan has been prepared to address State and Local planning policies, which are directed towards concentration of retail and commercial premises into activity centres accessible to the community to meet the community's retail needs. The thrust of the State policy is to consolidate existing centres and to enhance the retail role of those centres.

Significant weight of both State and Local planning policy provide support for the preparation of Structure Plans generally, and specifically the Bacchus Marsh Activity Centre. Structure planning processes for activity centres, more of which are existing rather than new or proposed centres, are often undertaken with the zoning regime in place.

The Structure Plan gives consideration to future demand for retail and related services, however, it is not rigid or prescriptive in relation to land use within the Activity Centre and it does not change land use zoning in the Activity Centre.

One of the objectives of the Structure Plan is:

“To ensure that new development is of an appropriate scale and form that has regard to the prevailing built form character and structure of Bacchus Marsh and creates highly active and vibrant streets.”

It is considered that the Amendment makes proper use of the Victoria Planning Provisions (VPP) and reflects a contemporary approach to the form and structure of local planning provisions by expressing building design requirements through Design and Development Overlay controls, rather than local planning policies. It includes changes to the LPPF to address matters which cannot be appropriately dealt with through zone or overlay controls.

The Design and Development Overlay is the appropriate VPP tool to manage built form, siting, landscaping and other site-specific development considerations to ensure that new development contributes positively to local urban character.

However, the DDO can only specify requirements in relation to development, not use, and cannot change the intent of the zone, which applies, to the land concerned. Therefore, it is beyond the scope of the Amendment to incorporate controls over land use, i.e., change land use zoning in the Activity Centre.

Main Street Precinct, including the Civic Precinct

DDO11 seeks to encourage a superior built form, which reflects the role of the Main Street as the commercial hub of Bacchus Marsh. Development should provide for an inviting and pedestrian friendly public realm with street activity and provide for a high quality contemporary architectural design, which responds to the uniqueness of Main Street. To achieve this, the overlay seeks to implement design objectives, which aim to:

- Encourage contemporary design, which respects the prevailing country town character.
- Create a visual consistency in the precinct with standard wall height.
- Ensure that new development respects and sensitively designed to respond to surrounding development which is architectural/cultural significant.
- Improve pedestrian access within the precinct and provide bicycle parking.
- Encourage landscaping opportunities within the public realm.
- Minimise the visual intrusion of car parking facilities through locating facilities at the rear of shops or in a basement, and ensure that vehicle traffic does not compromise a good walking and cycling environment.

In addition, the overlay specifies building and work requirements, and seeks to limit building height to 7.5 metres and ensure that buildings have an attractive street frontage, which has a positive impact on the public realm. Additional storeys may be possible where they are entirely below the line of visibility of somebody standing within Main Street. The Overlay seeks to incorporate a framework of verandahs, which would define the precinct.

The Civic Precinct redevelopment is likely to incorporate a range of community, civic, retail and commercial uses. Whilst submitters are

concerned about a major retail development in the Civic Precinct, there is a larger undeveloped landholding within Commercial 1 Zone south of Main Street, which is likely to be more suitable for a large retail development.

Amendment C51 does not propose to back zone the land south of Main Street. It would be anti-competitive practice to exclude major retail facilities from being developed on land already within the Commercial 1 Zone.

It is not the purpose of the Amendment to regulate ownership of land in the activity centre or to apply separate DDOs to the activity centre based upon land ownership. The Civic Precinct is part of the activity centre, thus it is not necessary to introduce a separate Schedule for this area. Single DDOs have been applied to other activity centres, such as, Drouin and Warragul, so it is not mandatory that separate Schedules are required for parts of the Bacchus Marsh Activity Centre.

As a reference document, the Structure Plan will have a limited role in the decision-making process, as it will not be part of the planning scheme (*Incorporated and Reference documents Practice Note*). It will however, support the DDO11 by providing useful background information to assist in the detailed planning of individual sites, including the Civic Precinct site, and areas at the fringe of the Town Centre that have been earmarked for change in the Structure Plan.

Proposed Greenway

Land to the south of Main Street presents one of the most significant opportunities for the future development of the town centre. Given the critical location of the holdings and the location relative to the balance of the town centre, it is imperative that the development of this land is undertaken based on an overall master plan for the site, which seeks to complement and integrate with the balance of the town centre.

It is crucial that the site not be developed as a stand-alone entity, which turns its back on the balance of the town centre, as its location between the existing activity centre and the railway station presents a significant opportunity.

The Structure Plan document provides the strategic direction necessary to progress the more detailed planning of sites within the Bacchus Marsh Activity Centre and Station Precinct. In recognising the opportunities presented by the Provenzano site for retailing, including large format retailing, these opportunities should be achieved in a manner, which integrates the site into the existing Town Centre.

The Greenway is an integral component of the Structure Plan. It is intended to be a new high quality, high amenity pedestrian and cycle link connecting Main Street and the railway station, the two major nodes of activity within the Bacchus Marsh Activity Centre.

The vision seeks to build upon the country town character and environment with very high pedestrian and cyclist amenity, and provision of safety is an important element. A wide road reserve with new vegetation is a further component of the Greenway concept.

It is anticipated that the Greenway will be created as part of the development process for vacant land south of Main Street. Development of this land will require the creation of internal access roads connecting to existing roads, in particular, Waddell Street and Pilmer Street, and possibly Main Street. Thus, the Greenway will have multiple roles not only to create an attractive corridor through which people may cycle and walk, in addition to providing local vehicle access.

The Greenway will provide a higher level of amenity than usually found in similar developments and therefore, could add value to developments within the Activity Centre.

If the Greenway has a greater width than a collector road as specified in the Infrastructure Design Manual, it may be argued that Council should compensate landowners/developers for the additional land required for creation of the Greenway. Council has planned the cross section of the Greenway to minimise road pavement and verge widths, and to maximise the width of the central pedestrian / cycle path. Verge widths can be reduced, as above and below ground services usually contained in those parts of the road reserve, can be located in the central space. The development envisaged along the Greenway is at a higher density which will help equalise a per hectare development yield.

At present the alignment of the Greenway is indicative, the final alignment is proposed to be determined via the process of approving a development plan for the land south of Main Street.

There are potential alternative locations for the Greenway to link to Main Street, such as, Eddie Toole Place, which could obviate the need for the Greenway route to traverse the land at 191 Main Street. However, the principle contained in the Structure Plan to require a north - south linkage through the Provenzano site, is an important feature, which should be retained in the Structure Plan. Existing routes between Main Street and the Railway Station do not provide the same level of safety or convenient access, as the route identified in the Structure Plan.

It is considered that the land at 191 Main Street is a strategic site in the Activity Centre as it is well located to be a potential access route into the major vacant commercial site south of Main Street.

Therefore, it would be premature to remove sites from the proposed DPO prior to a Planning Panel providing advice and recommendations in relation to the Greenway. The proposed DPO is intended to ensure that the Greenway corridor is protected from unplanned development and the precise location of the Greenway is identified before the commencement of development on the affected land.

The area identified as the 'Taverner Development Area'

Council has received a number of submissions in response to the rezoning of the area identified as the 'Taverner Development Area'. Three submissions were received from landowners, with one landowner supporting the proposed rezoning, another raising concern about the duplication of planning controls and the third, which raised concerns about the heritage listing of the Osage Orange Avenue at Taverner Street.

Three referral authorities raised issues in relation to the 'Taverner Development Area'. Western Water advised that according to the last Sewerage Master Plan for Bacchus Marsh, the main parcel of land, which does not appear to be allowed for, previously in terms of servicing, is the land affected by DDO5, which is currently Farming Zone and proposed to be Mixed Density Residential.

It noted, however, that DPO4, which covers this same land, requires developers to demonstrate how infrastructure, including water supply and sewerage, will be cost effectively provided.

Southern Rural Water (SRW) expressed some concerns in relation to the rezoning of this land, as the viability of the irrigation district primarily hinges on maintaining the current level of water entitlements and agricultural development. The potential loss of revenue for the BMID, which reduces the on-going financial viability of the BMID, as the fixed costs of the district are shared over a smaller customer base.

SRW's preference is to continue to use the land for agricultural purposes and therefore maintain the land as a Farming Zone. However, if it is determined that rezoning of the land is appropriate, SRW would require infrastructure works to be funded by the developer, creation of an easement in favour of SRW containing land near and over the main irrigation supply line along the Werribee River.

Concerns have been raised in a submission from the EPA regarding the rezoning of the Taverner Street land to Residential 1 Zone and required buffer distances from Industrial zoned land to the south. It commented that the land is situated approximately 100 metres north of an existing area of land zoned Industrial 2 containing uses, which include a concrete batching plant.

The EPA recommends that Council, as proponent of the rezoning, investigate further whether the siting of residential zoned land 100 metres from the existing concrete batching plant is appropriate. It has advised that the proponent (Council) should demonstrate that the concrete batching plant is operating in compliance with relevant statutory rules and policy, and will not have an adverse impact on the proposed residential land.

Environmental risks associated with 'industry' include potential amenity issues, such as, noise, dust and lighting. These risks have to be considered in the selection of appropriate planning tools from the Victorian Planning Provisions. It is State Planning Policy to protect industry from residential encroachment.

In addition, the EPA has recommended that a noise assessment should be undertaken to ensure that the concrete batching plant complies with the recommended levels as set out in the EPA publication, Noise from Industry in Regional Victoria.

Further, the EPA has recommended that Council give further consideration to the potential for residential development in the location proposed to have an adverse impact on the viability of existing and future uses within the Industrial 2 Zone.

If Council wishes to continue with the Taverner Street Development Area rezoning and development, the EPA's requirements will need to be addressed as part of this Amendment. Addressing these issues will require undertaking additional detailed studies at additional cost.

In light of the submissions from EPA and SRW it would be recommended that Council still refer this issue to the Panel, but identify that the rezoning may be premature given the impact assessment and environmental audit issues. Future support for the re-zoning would then be dependent on landowner capacity to prepare a proposal supported by the above studies and others, such as, cultural heritage, environmental, flooding, infrastructure, traffic, and urban design assessments.

The Structure Plan provides the high level strategic support for the future use of the Taverner area as residential uses. Given this, a proponent led rezoning request might be considered in the future, with documentation required from the landowners to include a certificate of environmental audit, an acoustic report and an assessment against State Policy regarding the protection of industry from residential encroachment.

All costs associated with the preparation of an amendment would then be borne by the proponent.

New Zones

On 1 July, 2013, the Victorian State Government introduced a suite of new planning zones, which will supersede and / or replace current zones within all Victorian planning schemes.

A Ministerial Amendment, Amendment VC100 was gazetted on 15 July 2013, replaced the previous five business zones with two new Commercial Zones (CZ1 and CZ2) in all Victorian planning schemes.

The new commercial zones are intended to provide greater flexibility and growth opportunities for Victoria's commercial and business centres, responding to changing retail, commercial and housing markets by allowing for a wider range of uses to support mixed-use employment.

These changes affected the zoning of the Bacchus Marsh Activity Centre. The majority of the Activity Centre was previously within the Business 1 and 2 Zones and, under the new zones, is now within the Commercial 1 Zone. Under the new zone there are minimal changes to the uses allowed, existing floor space caps for shop and office in rural and regional Victorian planning schemes have been retained via a neutral translation to the new Commercial 1 Zone, and planning approval is still required for buildings and works in this zone.

Whilst the zone reforms allow floor space caps to be specified in the schedule to the Commercial 1 Zone in rural and regional Victoria, it is likely that a retail strategy would be required to justify any further floor space caps in the Bacchus Marsh Activity Centre.

In addition, the new suite of Residential Zones came into effect on 15 July, 2013 and aim to:

- improve the range of residential zones to better manage growth and protect and maintain liveability and neighbourhood character
- simplify requirements with greater certainty and clearer rules
- allow a broader range of activities to be considered
- provide greater clarity about the type of use and development, which can be expected in residential areas.

A council will be able to use the residential zones to better specify strategic locations where increased densities should be provided, and limit residential change in areas where neighbourhood character, environmental and other characteristics should be protected. The new zones are intended to provide positive economic, environmental and social effects to residential areas throughout Victoria.

Planning Panel

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

- give submitters an opportunity to be heard in an independent forum and in an informal, non-judicial manner. A panel is not a court of law.
- give independent advice to the planning authority (Council) and the Minister for Planning about an amendment and about submissions referred to it. A panel makes a recommendation to the planning authority. It does not formally decide whether the amendment is to be approved.

When considering an amendment a panel will address:

- the merits of the amendment;
- the issues raised in the submissions;
- the strategic context and implications of the amendment;
- the matters identified in the Planning Practice Note Strategic Assessment Guidelines for Planning Scheme Amendments; and any other relevant matters.

A Panel prepares a report to record its considerations and recommendations in relation to an amendment. The purpose of a Panel report is to:

- Record the outcome of the public consultation process involving exhibition, submissions and Hearing.
- Provide an independent assessment of the issues arising from that process.
- Provide recommendations about the decisions, which should be made.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Effective and efficient land use planning and building controls
Strategy	Ensure the Planning Scheme is reviewed and updated in order to facilitate land use and development to support the social, economic, environment and well-being of the Shire. Ensure that development is sustainable, resilient to change and respects the existing character.
2013/14 Projects-	Finalisation of Structure Plans . C51 Bacchus Marsh Activity Centre Structure Plan

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

Planning and Environment Act 1987

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

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

12(1) A planning authority must—

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

State Planning Policy Framework

This planning scheme amendment strongly supports the delivery of the SPPF, specifically it is supported by Clause 11.01-1, 11.01-2 and 15.01-2 of the Moorabool Planning Scheme.

Clause 11.01-1 Activity centre network

The State Planning Policy Framework for active centre networks has the following objective:

To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.

To achieve the above objective, the following strategies are in place:

Develop a network of activity centres that:

- *Comprises a range of centres that differ in size and function.*
- *Is a focus for business, shopping, working, leisure and community facilities.*
- *Provides different types of housing, including forms of higher density housing.*
- *Is connected by public transport and cycling networks.*
- *Maximises choices in services, employment and social interaction.*
- *Support the role and function of the centre given its classification, the policies for housing intensification, and development of the public transport network.*

Clause 11.01-2 Activity centre planning

The State Planning Policy Framework for activity centre planning has the following objective:

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.

The implementation of strategies to achieve the above objective includes:

Undertake strategic planning for the use and development of land in and around the activity centres.

Policy guidelines for achieving the objective and strategies include

- *Activity Centre Design Guidelines (Department of Sustainability and Environment, 2005).*
- *Safer Design Guidelines for Victoria (Crime Prevention Victoria and the Department of Sustainability and Environment, 2005).*
- *Guidelines for Higher Density Residential Development (Department of Sustainability and Environment, 2005).*
- *Precinct Structure Planning Guidelines (Growth Areas Authority, 2009).*

Clause 15.01-2 Urban Design Principles

The State Planning Policy Framework for Urban Design has the following objective:

To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

To achieve the above objective, eleven design principles have been identified which a responsible authority must have regard to, including:

- *Context*
- *The public realm*
- *Safety*
- *Landmarks, views and vistas.*
- *Pedestrian spaces*
- *Heritage*
- *Consolidation of sites and empty sites*
- *Light and shade*
- *Energy resource efficiency*
- *Architectural quality; and*
- *Landscape architecture.*

Local Planning Policy Framework

The Local Planning Policy Framework within the Moorabool Planning Scheme provides strong support for the finalisation and implementation of the Bacchus Marsh Activity Centre Structure Plan. Some wording changes to Clause 21.07 and 21.07-7 are proposed to reflect the new plan.

Clause 21.07 Bacchus Marsh

Clause 21.07 of the Local Planning Policy Framework states, *“Central Bacchus Marsh has potential to establish a best practice example of transport-orientated Activity Centre planning. Significantly sized parcels of land between the railway station and Main Street and between Fiskens and Grant Streets provide opportunity for planned residential and mixed use urban development.”*

Clause 21.07-7 Further Strategic Work

The following item is identified as a further strategic work task within the Local Planning Policy for Bacchus Marsh:

Prepare and adopt a Local Area Structure Plan for the land between the railway station and Main Street and between Fiskens and Grant Streets as shown in the Growing Moorabool, Economic Development Strategy, 2006.

Economic Effects

Bacchus Marsh is the Moorabool Shire's largest and most vibrant activity centre. It will continue to be the focus for economic development, as well, as residential growth in the municipality.

The Bacchus Marsh Activity Centre Structure Plan was founded upon a study, which identified the need and scope for development within Bacchus Marsh, the *Growing Moorabool: Economic Development Strategy 2006 and Action Plan*.

The proposed Amendment will have positive economic effects and will assist in supporting business and potentially generate new employment opportunities. It has the potential to have positive economic impacts by creating a greater critical mass of activity within Bacchus Marsh. In addition, the proposed amendment supports continued growth and development of existing commercial and retail type businesses in Bacchus Marsh.

Thus, the economic viability of the Centre is expected to be improved by the amendment by maintaining and enhancing its function as the Shire's main commercial and community hub.

Environmental Effects

The Structure Plan has been prepared having due regard to environmental issues and constraints. It proposes making maximum use of the existing commercial centre and its infrastructure. In addition, the Structure Plan encourages active transport methods through the provision of the Greenway linking Main Street and the Railway Station, landscaping treatments, and supporting footpath construction in the town.

The proposed amendment will result in positive environmental benefits by integrating any new development within the area affected by the Structure Plan and incorporating principles of environmentally sensitive urban design through the use of built form controls to be implemented through Schedules to the Design and Development Overlay.

The amendment is expected to have positive environmental impacts resulting from:

- the inclusion of a separate and distinct objective to create a more sustainable Bacchus Marsh, with seven strategies included to achieve that objective.
- the encouragement of environmental improvements to public realm areas, particularly the Werribee River environs.
- the inclusion of the Environmental Audit Overlay to protect future residential growth from potential contamination issues

Social Considerations

The development of the Structure Plan has had due regard to social and community issues with recommendations to improve walkability/accessibility and increase goods and services provision through development and investment in the town centre.

The Amendment will contribute to the social improvements by ensuring that land use and design outcomes that meet the needs of the local community and visitors to the Activity Centre.

Financial Implications

The development of the Bacchus Marsh Central Activity Structure Plan was funded primarily from the previous State Government's Creating Better Places grant scheme.

The costs for the incorporation of the Structure Plan into the Moorabool Planning Scheme, including Panel costs, will be met within the 2013/2014 budget.

Council will incur the costs associated with convening a planning panel. These charges are part of the normal amendment preparation process and include payment for the panel members time associated with conducting the hearing and preparing the report. The costs cover consumable times and services (as required), such as, photocopying, panel members accommodation, food and travel, and venue hire. These costs are difficult to predict, as they are dependent on the number of panel members appointed, the complexity of the issues being considered and, therefore, the time required for the panel hearing and the preparation of the subsequent report.

In addition, Council has to bear the cost of any expert assistance it requires during the course of the hearing.

However, the referral of the Amendment to an Independent Panel would provide a tangible outcome to the considerable resources already expended on the project.

The *Planning and Environment (Fees) Regulations 2011* sets the statutory fees for the preparation, exhibition, consideration and referral of submissions to a Planning Panel and approval of a planning scheme amendment.

The primary role of the Structure Plan is to identify planning controls and concepts for the development of the town centre. In most instances, development works will be part of the development costs and therefore not expected to be a Council liability. Works related to urban restoration will be costed and submitted as part of the normal budget process.

Risk & Occupational Health & Safety Issues

Council can only consider strategic directions for land use in Bacchus Marsh that align with broader State Government planning policies. This proposal has been developed to meet this objective and to provide the best opportunity of being successfully implemented in the Planning Scheme.

It is considered that there are no major risks to Council in referring this planning scheme amendment to an Independent Panel for further review.

Referring a planning scheme amendment to an Independent Panel is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to request the appointment of an Independent Panel.

Considerable financial support has been provided by the State Government to enable Council to prepare the Structure Plan. The grant was provided on the basis that the implementation of the Structure Plan would occur via its incorporation into the planning scheme.

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

Communications and Consultation Strategy

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

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

The planning scheme amendment process has afforded a further opportunity for parties to be involved in the shaping of the Structure Plan and its supporting Policy. Public exhibition of Amendment C51 has been undertaken in accordance with the provisions of the *Planning and Environment Act 1987*. The exhibition process is outlined in the Discussion Section of this report.

All submitters will be notified of the outcome regarding the consideration of this report. Should Council resolve to request the appointment of a Planning Panel, the Panel would conduct a public hearing at a convenient venue in the municipality. Once a planning panel is appointed all submitters to Amendment C51, will be notified of the hearing proceedings and be given the opportunity to present to the Panel.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Damien Drew

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

Conclusion

The Planning and Environment Act 1987, the State Planning Policy Framework and Council's Municipal Strategic Statement support the proposed amendment C51. The amendment proposes to implement Design and Development Overlays, and the rezoning of, and application of the Development Plan Overlay and Environmental Audit Overlay to, the land known as the Taverner Development Area.

The proposed DDOs will provide statutory requirements for new development within the Bacchus Marsh Activity Centre Structure Plan area in relation to design and built form. Application of the DDOs will ensure that new development achieves the preferred character identified within each schedule and respects and enhances the country town character of Bacchus Marsh.

In addition, the proposed amendment will reinforce the Main Street Precinct as the primary activity centre for Bacchus Marsh and guide appropriate new uses to the town centre.

To provide direction to Council as to how best to proceed with the amendment, a Planning Panel should be established to consider the issues raised in the submissions.

Therefore, it is recommended that Council seek the appointment by the Minister for Planning of a Planning Panel to consider submissions received in response to Moorabool Planning Scheme Amendment C51. Each submitter would then be advised in writing by Planning Panels Victoria of how they can be involved in the Panel process.

Furthermore, in referring Amendment C51 to an Independent Panel will bring the Amendment closer to its conclusion.

Consideration of Deputations – Amendment C51

Ms. Pauline Madden addressed Council in support of the recommendation pertaining to Amendment C51.

The business of the meeting then returned to the agenda.

Resolution:**Crs. Sullivan/Comrie**

That Council, having considered all submissions to Amendment C51, resolves to:

- 1. Request the Minister for Planning to appoint an Independent Panel under Part 8 of the Planning and Environment Act 1987.***
- 2. Refer Amendment C51 (including submissions) to the Independent Panel for consideration.***
- 3. Accept the late submissions and refer them to the Independent Panel for consideration.***
- 4. Submit to the Panel, a detailed response to the submissions generally as outlined in this report and in Attachment 1.***

CARRIED.

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 6 September 2013



11.3 COMMUNITY SERVICES

11.3.1 Draft Moorabool Health and Wellbeing Plan 2013-2017

Introduction

File No.: 12/01/001
Author: Kate Diamond-Keith
General Manager: Danny Colgan

Background

The purpose of this report is to recommend that the Council endorse the Draft Moorabool Health and Wellbeing Plan 2013-2017 for the purposes of public exhibition for a period of four weeks.

The Draft Moorabool Health and Wellbeing Plan 2013-2017 (draft plan) is a four year plan for enhancing the health and wellbeing of residents in the Shire. The Draft Plan provides a snapshot of the health and wellbeing status of the community and an action plan in partnership with local health providers and community organisations to improve the health and wellbeing of the Moorabool community. Local agencies, health services and organisations have demonstrated a strong commitment to the development and implementation of the Plan.

Under section 26 of the Public Health and Wellbeing Act 2008, the Council is required to develop a Health and Wellbeing Plan within 12 months of a Council Election. The Health and Wellbeing Plan must be consistent with the Council Plan and the Municipal Strategic Statement and be reviewed annually and evaluated at the end of the four year period.

The Draft Plan has been developed through extensive community engagement, including two stakeholder workshops with the Council appointed Health and Wellbeing Advisory Committee.

The Draft Moorabool Health and Wellbeing Plan outlines the:

- " State Government and legislative context;
- " Key findings of the Moorabool Health profile;
- " Council's role in health and wellbeing;
- " Strategic planning context;
- " Methodology;
- " Community Engagement undertaken;
- " Priorities and objectives;
- " Action Plan outlining key strategies and actions for each priority area; and
- " Evaluation process.

The Council's Health and Wellbeing Advisory Committee will oversee the implementation of the Plan over the next four years. The Draft Plan includes an action and evaluation plan to ensure the Draft Plan is progressed and reviewed annually.

The Draft Plan highlights the many positive health and wellbeing aspects of the Shire and further opportunities to build on these strengths including the following:

- There are many opportunities for residents and visitors to embrace a healthy lifestyle including a variety of community and sporting facilities that offer health and wellbeing outcomes.
- The Shire has the highest percentage per capita of people actively involved in sport and recreation participation across the Grampians Region (Department Planning Community Development, 2011, LGA Participation Central Highlands Wimmera).
- The Council's Healthy Communities Project is providing many new opportunities for residents to be involved in walking groups, physical activity and healthy eating programs.
- Moorabool has a high level of volunteerism. According to the 2011 Census, voluntary work performed by the population in Moorabool Shire compared to Victoria showed that there were a higher proportion of persons who volunteered for an organisation or group. Overall, 20.3 per cent of the population or over 5,700 people reported performing voluntary work, compared with 17.7 per cent for Victoria.
- The Shire's growing population provides tremendous opportunities for business growth and investment.
- The community infrastructure, sporting and social networks and character of the communities, make Moorabool an attractive place to live.
- Households in Moorabool Shire bring in an average household income 17 per cent higher than the non-metropolitan Victoria average.
- Moorabool historically has a low unemployment rate compared to the Victorian average. The latest figures show the unemployment rate in Moorabool Shire is 4.6 per cent, below the State average of 4.8 per cent.

Proposal

The Health and Wellbeing of our community is determined by not only physical and psychological factors, but also by the way we live and work, our social networks, friends and family, how we access leisure facilities, availability of services in our area, laws and regulations governing our community.

The Moorabool Health and Wellbeing Plan aims to capture the health and wellbeing status of our community and present a plan in partnership with local health providers and community organisations to improve the health of the Moorabool community.

The draft plan focuses on addressing five key health issues: mental health; obesity; drug and alcohol abuse; family violence; and access to family support services.

Four priority areas for action have been identified in the draft plan which will focus on addressing the five key health issues. The priority areas are: community connectedness; healthy and safe built environments; accessible services; and supporting healthy lifestyles and being active.

It is proposed that the Council endorse the Draft Moorabool Health and Wellbeing Plan 2013-2017 for the purposes of public exhibition for period of four weeks. Following the exhibition period and consideration of feedback, the Draft Plan will be then be presented to the Council on the 2 October 2013 for adoption.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	Inclusive, responsive and accessible community service
Strategy	Ensure Council's services and facilities are accessible

The proposal Draft Moorabool Health and Wellbeing Plan 2013-2017 is consistent with the 2013-2017 Council Plan.

Financial Implications

The Draft Moorabool Health and Wellbeing Plan 2013-2017 contains an action plan outlining key strategies and actions to be implemented over the next four years. The actions contained in year one of the action plan are actions that are already funded by either the Council, key partners or they can be completed using existing resources. Actions contained in Years 3-4 are to be implemented through a partnership funding model which may include funding from external agencies, State and Federal Government funding bodies and the Council. Council funding will be subject to approval through the Council's annual budget process.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Health and Wellbeing Plan	Council is required to develop a Health and Wellbeing Plan under the Public Health and Wellbeing Act 2008	Low	Council to develop and adopt a Health and Wellbeing Plan for the Shire.

Communications and Consultation Strategy

The following community engagement activities have been undertaken, in accordance with the Council's Community Engagement Policy and Framework:

Level of Engagement	Stakeholder	Activities	Outcome
Consult	Community members	Have Your Say Moorabool online community engagement portal	13 comments on Have Your Say
Consult	Participants at Expo	Wishing Well postcards+ at Health and Wellbeing Expo	77 people completed postcards
Consult	Residents	Face to face conversations initiated at community events in March/April 2013	56 people interviewed
Consult	Residents, parents, participants in programs	Wishing Well postcards+ offered at community programs and group activities	168 people completed postcards
Consult	Community	Community workshops	13 people attended workshop in Bacchus Marsh.
Collaborate	Key Stakeholders	Establish Health and Wellbeing Advisory Committee	Committee established and has provided input into development of priorities for the Plan.
Consult	Recreation Reserve Committees CFA Schools CWA Senior Citizens	Survey and discussions with individual groups	30 groups provided with opportunity to engage

The Draft Plan will be placed on public exhibition for four weeks. The exhibition of the draft plan will involve:

- The Have Your Say website, Council's on-line engagement portal;
- Making copies of the draft plan available at Council's Customer Service locations, Lerderderg Library, Ballan Library and all rural library sites;
- Providing a copy of the draft plan to members of the Council's Health and Wellbeing Committee, other community groups and organisations, State and Federal Government and adjoining municipalities; and
- Providing a copy of the draft plan to all Council delegated committees of management.

The process for submissions will be advertised through local newspapers and other communication processes i.e. email groups and Council's website.

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 – Danny Colgan

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

Author – Kate Diamond-Keith

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

Conclusion

The Draft Moorabool Health and Wellbeing Plan 2013-2017 is a Plan to guide future investment and direction in improving the health and wellbeing of the community for both Council and key community partners. The Draft Plan will be implemented and evaluated by the Health and Wellbeing Committee and the Committee members will be directly involved in implementing the actions in the Plan.

Resolution:

Crs Sullivan/Comrie

That Council:

- 1. endorse in principle the Draft Moorabool Health and Wellbeing Plan 2013-2017 for the purposes of public exhibition for a period of four weeks***
- 2. receive a further report at the conclusion of the exhibition period seeking adoption of the Moorabool Health and Wellbeing Plan 2013-2017.***

CARRIED.

Report Authorisation

Authorised by:

Name:

Title:

Date:



Danny Colgan

General Manager Community Services

Thursday 5 September, 2013

11.4 INFRASTRUCTURE SERVICES

No reports for this meeting.

11.5 CORPORATE SERVICES

11.5.1 Adoption “in principle” of the 2012/13 Financial Statements, Standard Statements and Performance Statement for submission to the Victorian Auditor-General for certification

Introduction

File No.: 02/02/002
Author: Steven Ivelja
General Manager: Shane Marr

Background

The following report presents the 2012/13 Financial Statements, Standard Statements and Performance Statement for adoption ~~in~~ principle+ by Council for submission to the Auditor-General for certification.

The Local Government Act 1989 requires that Council complete the following at the end of each financial year with respect to producing an Annual Report and Performance Statement:

S. 131 Annual report

- (1) A Council must, in respect of each financial year, prepare an annual report containing -
 - (b) audited standard statements for the financial year;
 - (c) audited financial statements for the financial year;
 - (d) a copy of the performance statement prepared under section 132; and
 - (e) a copy of the report on the performance statement prepared under section 133.
- (3) The standard statements in the annual report and the financial statements must -
 - (a) be prepared in the manner and form prescribed by the regulations;
 - (b) be submitted in their finalised form to the auditor for auditing as soon as possible after the end of the financial year; and
 - (c) be certified in the manner prescribed.
- (7) The Council must not submit the standard statements or the financial statements to its auditor or the Minister unless it has passed a resolution giving its approval ~~in~~ principle+ to the standard statements and the financial statements.

- (8) The Council must authorise two Councillors to certify the standard statements and the financial statements in their final form after any changes recommended, or agreed to, by the auditor have been made.

S. 132 Performance statement

- (1) As soon as is reasonably practicable after the end of each financial year, a Council must prepare a performance statement.
- (2) The performance statement must include -
 - (a) the Key Strategic Activities and performance targets and measures specified in the budget under section 127 for that financial year; and
 - (b) the actual results achieved for that financial year having regard to those performance targets and measures.
- (4) The statement must .
 - (a) be in the form; and
 - (b) contain the details - required by the regulations.
- (5) The Council must submit the statement to its auditor as soon as possible after the statement has been prepared.
- (6) The Council must not submit the statement to its auditor or the Minister unless the Council has passed a resolution giving its approval ~~to~~ principle+ to the statement.
- (7) The Council must authorise two Councillors to approve the statement in its final form after any changes recommended, or agreed to, by the auditor have been made.

S. 133 Audit report on the performance statement

The auditor must -

- (a) prepare a report on the performance statement prepared by a Council under section 132 in the form and containing the details required by the Minister, and
- (b) submit a copy of that report to the Minister and the Council as soon as is reasonably practicable after the report has been prepared.

Proposal

The 2012/13 Financial Statements, 2012/13 Standard Statements and 2012/13 Performance Statement have been prepared in accordance with the requirements of the Local Government Act, various Australian Accounting Standards and regulations.

In accordance with Council's Governance protocols, the reports will be presented to Council's Audit Committee for review and recommendation to Council for adoption on a principle basis and authorisation of two Councillors, being the Councillor members of the Audit Committee, to sign the audited statements.

In summary, the statements indicate the following results for 2012/13:

1. Financial Statements: reflect the comparative performance to the previous financial year.
 - Comprehensive Income Statement . The result reflects a total comprehensive result of \$172.352 million. Included within this result are the following significant items:
 - \$164.606 million in net asset revaluation increments as a result of the revaluation of major infrastructure asset classes namely Roads and Bridges.
 - \$3.713 million reduction in Operating grants relating to reduced levels of Natural Disaster Relief funding received for asset restoration works to repair damage incurred during the flood events. Also contributing to the reduction in Operating grants are timing issues related to the early receipt of VGC funding in 2011/12 resulting in higher revenue levels in 2011/12.
 - Materials and services \$2.071 million increase which relates to the completion of flood recovery projects for which grants were received in the prior year. Also contributing to the increase are expenditures undertaken as part of the Capital Works program which have been deemed as Operating in nature, and as such have been expensed in accordance with accounting standards.
 - \$1.151 million reduction in depreciation expense as a result of the asset revaluation. Contributing to the favourable reduction is the impact of condition assessments which have indicated that Council assets are in a better condition to that which was previously assessed. Additionally, changes to depreciation rates for roads and kerb and channel assets categories have resulted in lower depreciation charges.

- Net gain (loss) on disposal of property, infrastructure, plant and equipment and investment properties compares favourably to 2011/12. The main reason relates to the timing of the asset revaluation which was performed on July 1 2012 resulting in the written down value of roads reconstructed in 2012/13 closely reflecting its fair value at the date of reconstruction.
- Balance Sheet . The movement in net assets reflects the total surplus of \$172.352 million. Included within this result are the following significant items:
 - An increase in Property, Infrastructure, Plant and Equipment mainly due to revaluation increments in Roads and Bridges \$164.606 million.
 - \$2.395 million reduction in defined benefits liability related to the early payout of Moorabools share of the 2011/12 defined benefits shortfall. The liability was paid out in full in 2012/13 using Council cash reserves. It is anticipated that the early payout will be eventually covered by a loan which will be taken out in the 2013/14 year.
- Cash Flow Statement . The movement in cash held at the end of the year reflects a decrease in cash of \$2.568 million. Included within this result are the following significant items:
 - Net cash flows from operations decreased by \$5.408 million from last year to \$11.301 million. This mainly reflects the payout of the defined benefits liability in 2012/13 in addition to reduced levels of flood recovery grants and timing issues related to VGC payments.
 - Net cash used in investing activities has decreased by \$3.073 million to \$11.480 million. This mainly reflects the decrease in capital expenditure as compared to 2011/12.
 - Net cash used in finance activities was \$2.389 million. In 2011/12 the net cash provided for finance activities was \$1.497 million reflecting loans taken up in 2011/12. As at balance date, the defined benefits shortfall payout of \$2.395 million was not taken up as a loan and was settled in cash. Due to the comparatively high level of cash holdings at balance date, the loan will be taken up at a later stage in 2013/14 when required.

2. Standard Statements . reflect comparative performance to the 2012/13 Annual Budget adopted by Council.
- Total operating revenue of \$37.950 million was \$0.986 million (2.67%) above budget reflecting increased:
 - Other revenue of \$0.442 million which was mainly driven by a \$104K in receipts related to the new recycling contract, \$140K in additional cost recoveries as part of the debt collection contract (offset by an equivalent increase in debt collection costs) in addition to a number of other minor or miscellaneous payments and reimbursements received.
 - Interest received of \$0.259 million, Operating grants \$0.149M.
 - Total operating expenses of \$43.650 million was \$3.373 million (8.38%) above budget reflecting increased:
 - Contract Payments, Materials and Services of \$4.050 million, due to a large amount of Capital Works being expensed as they relate to Non-Council Assets and significant expenses not deemed to be capital in nature (2.668 million). There was also expenditure of \$1.29 million relating to the completion of One Off Projects and Flood Recovery projects for which funding was received in prior financial years.
 - Depreciation expense was \$1.207 million lower than budget due to the impact of the revaluation of infrastructure assets in 2012/13. The condition assessments have indicated that Council infrastructure assets are in generally better condition than previously indicated thus resulting in a reduction in depreciation charges. Additionally, changes to depreciation rates for roads and kerb and channel asset categories have resulted in lower depreciation charges.
 - The net gain (loss) on disposal of property was favourable to Budget due to the budget containing the written down value of Council owned land in Graham Street, Bacchus Marsh. This parcel of land was expected to be sold in 2012/13, however at 30 June it was yet to be sold.
 - Cash position was \$11.272 million, \$7.126 million better than budget. This has occurred mainly due to receiving grants in advance in relation to asset restoration works and half of the 2013/14 grants commission allocation in June 2013. Additionally, \$5.408 million in net expenditure has been identified as requiring to be carried forward into the 2013/14 year as a result of 12/13 projects not being completed as at the 30th June.

- Capital works - \$12.676 million program was completed during the year. Most projects were completed during the year. However, there were several projects that were incomplete and will be carried forward into 2013/14. In total, \$3.899 million in net Capital carry over expenditure has been identified as requiring carry forward into 2013/14.
3. The 2012/13 Performance Statement was prepared in accordance with the requirements of the Local Government Act 1989. In setting the targets an optimistic approach was taken with the organisation wanting to improve in all areas.
- Nine of the criteria were based on the Community Satisfaction Survey and the results of the survey showed that in four of the areas the measure was met. Areas that need improvement according to the survey include Council's performance in lobbying on behalf of the community, Council performance in community consultation and engagement, satisfaction with elderly support services and satisfaction with family support services.
 - There were seven measures of the financial performance of Council included and of these, Council was successful in achieving four of the targets.
 - A summary per Key Result Area (KRA) is:

KRA	Number of Measures	Number of Measures met
1	2	0
2	6	2
3	6	6
4	6	3
Total	20	11

Policy Implications

The 2013. 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of Community
Objective	Sound, long term financial management
Strategy	Develop and maintain a long term financial planning, management and reporting system, which ensures resources to deliver services and manage Council's assets.

The financial statements, performance statement and standard statements are consistent with the 2013-2017 Council Plan.

Financial Implications

The financial statements detail Council's financial performance and position for 2012/13. They demonstrate that over time Council has steadily improved its cash position, but indicates that there are still numerous financial challenges that lay ahead which will require responsible fiscal stewardship.

Communications Strategy

The Annual Financial, Standard and Performance Statements are reported to Council to adopt 'in principle' for submission to the Auditor-General for certification. Audited Statements are then incorporated into Council's Annual Report, which is completed by Council by 30 September each year.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Shane Marr

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

Author – Steven Ivelja

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

Conclusion

The attached Financial, Standard and Performance Statements for 2012/13 have been prepared in accordance with the requirements of the Local Government Act. Council's Audit Committee have reviewed the statements and recommended that Council adopt the statements 'in principle'. The Statements will then be submitted to the Auditor-General for certification. Council is also required to authorise two Councillors to sign the statements on behalf of Council, as required under the Local Government Act.

It is practice for the Councillor members of the Audit Committee to sign the certified statements on behalf of Council.

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

1. ***In accordance with S. 131 of the Local Government Act (1989):***
 - a. ***adopt in principle and submit the 2012/13 Standard Statements and Financial Statements to the Auditor-General for certification; and***
 - b. ***authorise the Council's Audit Committee Representatives, Cr. Spain and Cr. Dudzik, to certify the 2012/13 Standard Statements and Financial Statements in their final form, after any changes recommended, or agreed to by the Auditor, have been made.***

2. ***In accordance with S. 132 of the Local Government Act (1989):***
 - a. ***submit the 2012/13 Performance Statement to the Auditor-General for certification; and***
 - b. ***authorise the Council's Audit Committee Representatives, Cr. Spain and Cr. Dudzik, to certify the 2012/13 Performance Statement in its final form, after any changes recommended, or agreed to by the Auditor, have been made.***

CARRIED.

Report Authorisation**Authorised by:****Name:** Shane Marr**Title:** General Manager Corporate Services**Date:** Wednesday 11 September 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

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

- Assembly of Councillors . Wednesday 4 September 2013 . Youth Strategy
- Assembly of Councillors . Wednesday 4 September 2013 . Domestic Animal Management Plan
- Assembly of Councillors . Wednesday 4 September 2013 . Update on Rabbit and Weed Control Works
- Assembly of Councillors . Wednesday 4 September 2013 . Audit and Risk Committee
- Assembly of Councillors . Wednesday 11 September 2013 . Update on Gordon and Bacchus Marsh Activity Structure Plans
- Assembly of Councillors . Wednesday 11 September 2013 . Regional Growth Plan Update
- Assembly of Councillors . Wednesday 11 September 2013 . VLGA Councillor Code of Conduct

Resolution:**Crs. Comrie/Edwards**

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

- ***Assembly of Councillors – Wednesday 4 September 2013 – Youth Strategy***
- ***Assembly of Councillors – Wednesday 4 September 2013 – Domestic Animal Management Plan***
- ***Assembly of Councillors – Wednesday 4 September 2013 – Update on Rabbit and Weed Control Works***
- ***Assembly of Councillors – Wednesday 4 September 2013 – Audit and Risk Committee***
- ***Assembly of Councillors – Wednesday 11 September 2013 – Update on Gordon and Bacchus Marsh Activity Structure Plans***
- ***Assembly of Councillors – Wednesday 11 September 2013 – Regional Growth Plan Update***
- ***Assembly of Councillors – Wednesday 11 September 2013 – VLGA Councillor Code of Conduct.***

CARRIED.

12.2 Section 86 - Delegated Committees of Council - Reports

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

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

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

Committee	Meeting Date	Council Representative
Navigators Community Centre	20 June 2013	Community Members
Elaine Recreation Reserve Committee of Management	8 August 2013	Cr. Sullivan

Resolution:

Crs. Sullivan/Edwards

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

- ***Navigators Community Centre meeting of Thursday 20 June 2013.***
- ***Elaine Recreation Reserve Committee of Management meeting of Thursday 8 August 2013.***

CARRIED.

12.3 Section 86 - Advisory Committees of Council - Reports

Section 86 Advisory Committees are established to assist Council with executing specific functions or duties.

Advisory Committees of Council currently have no delegated powers to act on behalf of Council or commit Council to any expenditure unless resolved explicitly by Council following recommendation from the Committee. Their function is purely advisory.

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

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

Committee	Meeting Date	Council Representative
Lal Lal Falls Reserve Advisory Committee of Management	8 August 2013	Cr. Sullivan

Resolution:

Crs. Sullivan/Dudzik

That Council receives the report of the following Section 86 Advisory Committees of Council:

- ***Lal Lal Falls Reserve Advisory Committee of Management meeting of Thursday 8 August 2013.***

CARRIED.

13. NOTICES OF MOTION

Nil.

14. URGENT BUSINESS

Nil.

15. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Nil.

16. MEETING CLOSURE

The meeting closed at 9.38 pm.

Confirmed.....Mayor.