

## ORDINARY MEETING OF COUNCIL

**Minutes** of the  
Ordinary Meeting of Council to be held at  
the James Young Room, Lerderderg Library,  
215 Main Street, Bacchus Marsh on  
Wednesday 19 June 2013,  
commencing 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****ACTING CHAIR**

Crs. Comrie/Edwards

*That Cr. Sullivan be appointed Acting Chair for consideration of the remaining business.*

**CARRIED.**

*The Chair, Cr. Sullivan, opened the meeting with the Council Prayer at 7.00pm.*

**2. PRESENT**

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

**In attendance**

Mr. Rob Croxford	Chief Executive Officer
Mr. Shane Marr	General Manager Corporate Services
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Danny Colgan	General Manager Community Services
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Rob Fillisch	Coordinator Statutory Planning
Mr. Glenn Townsend	Manager Operations
Ms. Victoria Mack	Statutory Planner
Ms. Deb Absolom	Minute Taker

**3. APOLOGIES**

Cr. Pat Toohey (Mayor)	Woodlands Ward
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**4. CONFIRMATION OF MINUTES**

**4.1 Ordinary Meeting of Council – Wednesday 5 June 2013**

**Resolution:**

**Crs. Edwards/Spain**

***That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 5 June 2013.***

**CARRIED.**

**4.2 Special Meeting of Council – Wednesday 12 June 2013**

**Resolution:**

**Crs. Edwards/Spain**

***That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 12 June 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.

#### **5.1 Disclosure of an Indirect Conflict of Interest**

***Cr. Sullivan declared a conflict of interest in regards to Item 11.2.2 – Planning Application 2012-047; Staged Five (5) Lot Subdivision and Development of Five (5) Dwellings, and alteration to Access to a Road Zone Category 1 for; Crown Allotment 7, Section 37, Parish of Ballan, 54 Inglis Street, Ballan. The nature of the Conflict of Interest is due to Cr. Sullivan previously representing the owners of the adjoining properties in his role as a surveyor.***

#### **5.2 Disclosure of an Indirect Conflict of Interest**

***Cr. Sullivan declared a conflict of interest in regards to Item 11.2.4 Planning Application PA2013-033; Development and use of a dwelling; Lot 1 on TP 83675L, Bourkes Road, Darley. The nature of the Conflict of Interest is due to previously representing the owners of the adjoining properties in his role as a surveyor.***

**6. MAYOR'S REPORT**

The Mayor's Report was not presented due to the Mayor being an apology.



## 7. COUNCILLORS' REPORTS

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

<b>Cr. Tatchell</b>	
<b>June 2013</b>	
<b>7 June</b>	<b>Annual Rotary Club Bacchus Marsh Art Show</b>
<b>9 June</b>	<b>Cancer Research Fundraiser, The Plough Myrniong</b>
<b>18 June</b>	<b>Heritage Advisory Committee Meeting</b>

<b>Cr. Edwards</b>	
<b>June 2013</b>	
<b>14 June</b>	<b>Peri Urban Meeting with The Hon. Matthew Guy MLC</b>
<b>16 June</b>	<b>Friends of Werribee River</b>
<b>16 June</b>	<b>Elaine Rec Reserve Tennis Court Opening</b>
<b>17 June</b>	<b>Western Institute</b>

<b>Cr. Dudzik</b>	
<b>June 2013</b>	
<b>7 June</b>	<b>Annual Rotary Club Bacchus Marsh Art Show</b>
<b>13 June</b>	<b>Embrace ASD Autism Spectrum Disorder</b>
<b>16 June</b>	<b>Public Meeting Ballan, to call for the establishment of a Secondary College in Ballan</b>
<b>18 June</b>	<b>NAIDOC Week Planning Meeting</b>

<b>Cr. Comrie</b>	
<b>June 2013</b>	
<b>6 June</b>	<b>Bacchus Marsh Secondary Joint Use with Leisure Centre</b>
<b>7 June</b>	<b>Annual Rotary Club Bacchus Marsh Art Show</b>
	<b>DMR Board Meeting</b>

<b>Cr. Spain</b>	
<b>June 2013</b>	
<b>6 June</b>	<b>Bacchus Marsh Secondary Joint Use with Leisure Centre</b>
<b>7 June</b>	<b>Annual Rotary Club Bacchus Marsh Art Show</b>
<b>16 June</b>	<b>Friend of Werribee River</b>
<b>16 June</b>	<b>Elaine Recreation Reserve Tennis Court Opening</b>

<b>Cr. Sullivan</b>	
<b>June 2013</b>	
<b>16 June</b>	<b>Elaine Recreation Reserve Tennis Court Opening</b>

**Resolution:**

**Crs. Comrie/Edwards**

***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 question was taken on notice by the Chair at the meeting:***

**Mr. Ronald Griffin – Maddingley – Public Transport in Hillview area.**

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

**9. PETITIONS****9.1 Street Trees - Ballan**

Council has received a petition containing 546 signatures pertaining to a request to provide minimal pruning under power lines maintaining tree health and beauty and requesting that power lines be put underground for fire safety.

**Resolution:****Crs. Spain/Comrie**

*That the petition containing 546 signatures pertaining to a request to provide minimal pruning under power lines maintaining tree health and beauty and requesting that power lines be put underground for fire safety, be received by Council and that a report be prepared by officers for Council's consideration.*

**CARRIED.**

## 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 Officers office and registering their name and agenda item being spoken to.

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

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

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

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

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

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

**Nil.**

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

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

<b>Item No</b>	<b>Description</b>	<b>Name</b>	<b>Applicant/ Objector</b>
11.2.2	<i>Planning Application 2012-047; Staged Five (5) Lot Subdivision and Development of Five (5) Dwellings, and alteration to Access to a Road Zone Category 1 for; Crown Allotment 7, Section 37, Parish of Ballan, 54 Inglis Street, Ballan</i>	Dean Kendrick	Owner
11.2.4	<i>Planning Application PA2013-033; Development and use of a dwelling; Lot 1 on TP 83675L, Bourkes Road, Darley</i>	Charles Bibawi Robert Eskdale	Owner Applicant

## **11. OFFICER'S REPORTS**

### **11.1 CHIEF EXECUTIVE OFFICER**

#### **11.1.1 Adoption of the 2013-2017 Council Plan**

##### **Introduction**

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

The following report is presented for Council to adopt the 2013-2017 Council Plan, including the Strategic Resource Plan.

##### **Background**

In accordance with Section 125 of the Local Government Act 1989 (the Act) Part 6 Section 125 determines that Council must prepare a Council Plan within 6 months after each general election or by the next 30 June.

Following elections held in October 2012 Council began preparation of its Council Plan. Following input from Councillors, staff and the community the following draft Council Plan was produced. This Council Plan will be in operation from 2013 until 2017 when a newly elected Council shall prepare and adopt the new Council Plan.

As resolved by Council on Wednesday 1 May 2013, the Council Plan was placed on public exhibition, calling for submissions as required under Section 223 of the Act. Advertisements appeared in both the regional and local newspapers being the Ballarat Courier and Moorabool News respectively.

Three written submissions were received by the closure date for public submissions of Tuesday 4 June 2013 and were considered by Council at its Special Meeting of Council on Wednesday 12 June 2013.



Submitter	Submission Point	Response
<b>Robyn Salt</b>	<ul style="list-style-type: none"> <li>• Concerned that the Shire would not be able to sustain an aquatic centre.</li> <li>• Items to be included in future plans:               <ul style="list-style-type: none"> <li>• access for people with a disability</li> <li>• family rooms so people can assist those in need . inclusive of change table to adults and children</li> <li>• that all toilets are accessible . not segregated into male/female/disabled</li> <li>• have a section of the pool with a ramp and not steps.</li> </ul> </li> </ul>	<p><i>Council is continuing to undertake Business modeling to ensure it can sustain and operate an Indoor Aquatic Facility in Bacchus Marsh.</i></p> <p><i>The design process undertaken considers all requirements of relevant acts and regulations in regards to accessibility to ensure that the facility constructed will be accessible for all abilities.</i></p>
<b>Jeremy Maddox</b>	<ul style="list-style-type: none"> <li>• Supportive of Advocacy priorities of Gordon . would like to see extension of sewerage in Gordon</li> </ul>	<p><i>The sewerage provision is based on provision of approximately an extra 150-190 connections. This represents around a doubling of the size of Gordon. The Gordon Structure Plan, which is being exhibited until 5 July 2013 as part of Planning Scheme Amendment C53, provides strategic direction to guide the future development the town. Should the town grow very rapidly and sewerage capacity reaching capacity, it would then be timely to revise the Gordon Structure Plan including articulating the preferred future direction of town growth and sewerage provision.</i></p>

	<ul style="list-style-type: none"> <li>• Would like Council to consider construction of a Wind Farm Policy supporting construction of more wind turbines in Moorabool.</li> <li>• Rejects the implication under %Community Wellbeing+ that wind turbines are a threat to residents health &amp; well-being:- there is scant evidence for this.</li> </ul> <p>Taken in conjunction with %Review Council's wind farm policy in line with Council policy+ Reads this as support for an anti-turbine position and suggests can only be a response to the agitation of a very small minority of residents.</p> <ul style="list-style-type: none"> <li>• States that residents who live in close proximity to proposed turbines should have their interests considered and protected to a reasonable degree, but the phrase %impacted by the effects of wind farms+ presupposes adverse effects.</li> <li>• Suggests that the statement %Review Council's wind farm policy in line with Council policy+, is not an honest, clear statement of position or intent; it implies but does not expose a discrepancy between the two.</li> <li>• Suggests that the strategy to pursue initiatives to reduce greenhouse gases could be strengthened to %support initiatives to reduce greenhouse gases or prevent their increase+.</li> <li>• Suggests that Council not advocate but %give consideration to the wellbeing of residents living near proposed wind farms+.</li> </ul>	<p><i>There is an existing Council Wind Energy Facility Policy. This policy does not preclude the construction of 'wind farms' in the municipality. Rather, it outlines Council's preferred development approach so that all community and stakeholder interests are taken into account.</i></p> <p><i>Council has four wind farms approved within its Municipality. At this stage, regardless of forming any policy for Wind Energy Facilities the requirements under the State Government guidelines, specifically regarding not within 2km of a dwelling without consent, means there would be very few new wind farm locations available within the Shire that have not already received a permit.</i></p> <p><i>The series of points point regarding "Community Wellbeing" are noted.</i></p>
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<p><b>Margaret Scarff</b> <b>Items 1 - 11</b></p>	<p>1. Road infrastructure in the centre of Bacchus Marsh, especially Grant Street and Gisborne Road, cannot accommodate any new growth especially an increase in cars coming from the new estate in Maddingley. Halletts Way on/off ramps have not yet been funded by State government and traffic has to come into town to get to the new estate West of Bacchus Marsh.</p> <p><i>It is not correct therefore to say Bacchus Marsh has established infrastructure to accommodate growth.</i></p>	<p><i>The Moorabool 2041 Growth Strategy Framework will incorporate an integrated approach to long term infrastructure planning, including consideration of traffic and transport issues.</i></p> <p><i>Bacchus Marsh does have an array of infrastructure and services that can be built upon as the town grows. However, this growth will need to be carefully planned and managed so that infrastructure gaps – such as road capacity issues – can be accommodated. The Moorabool 2041 Framework seeks to achieve this outcome.</i></p>
	<p>2. We will value our people, providing them with learning opportunities, leadership development, a safe and functional workplace and a sense of wellbeing.+ <i>Who are “our people”? If they are staff why not say so.</i></p>	<p><i>The term ‘our people’ refers to staff and is an acknowledged turn of phrase.</i></p>
	<p>3. Relations between Council and other levels of government deteriorated during the previous Council, and continues to deteriorate.</p> <p><i>A concerted effort is needed to build relations between Council and other levels of government.</i></p>	<p><i>This key result area states that "Council will build mutually beneficial partnerships with federal and state governments"</i></p>
	<p>4. Under Advocacy Priorities - Resources for our growing community+ <i>What do ‘resources’ cover?</i></p>	<p><i>Resources cover all services and facilities to support the needs of our growing community.</i></p>

	<p>5. Undertake training of staff in the use of Council's Community Engagement ...+</p> <p><i>Include all Councillors in the Community Engagement Framework training.</i></p>	<p><i>The Councillors are committed to Community Engagement and the adopted Community Engagement Framework and are well equipped to undertake community engagement.</i></p>
	<p>6. Advocate for the health and wellbeing of our residents impacted by the effects of wind farms+</p> <p><i>The same advocacy needs to happen for the potential effects of new coal mines on the health and wellbeing of residents. Council should give equal importance to the development of policy on coal mining as it does to wind farms.</i></p>	<p><i>At its meeting of Wednesday 15 May 2013, Council resolved the following:</i></p> <ol style="list-style-type: none"> <li><i>1. To note the many legitimate concerns regarding the exploration for and extraction of coal and coal seam gas and calls on the Victorian Government to address these concerns including the impacts of coal and coal seam gas extraction on: -</i> <ol style="list-style-type: none"> <li><i>a. The sustainability of water resources including aquifers;</i></li> <li><i>b. Productive farmland and local food security;</i></li> <li><i>c. Local community health and wellbeing over the long term;</i></li> <li><i>d. Natural biodiversity; and</i></li> <li><i>e. Levels of greenhouse gas emissions.</i></li> </ol> </li> <li><i>2. To write to the State and Federal Ministers responsible for energy and earth resources requesting that Council be advised of:</i> <ol style="list-style-type: none"> <li><i>a. Progress on discussions with the Federal Government on the National Harmonisation Regulation Framework for Coal Seam Gas;</i></li> <li><i>b. Any potential changes to legislation relating to mineral exploration or extraction of coal and coal seam gas, and</i></li> </ol> </li> </ol>

		<p>c. <i>The potential impact of the draft framework and legislative and policy changes on Moorabool Shire.</i></p> <p>3. <i>To call on the Victorian Government to institute a moratorium on all new coal and on-shore unconventional gas operations until there has been a thorough, independent investigation into the likely impacts of this industry on water resources, farmland and food security, local communities, natural biodiversity and greenhouse emissions.</i></p>
	<p>7. <i>Support police and other community safety initiatives and programs.+</i></p> <p><i>Council needs to consider what it can do to improve safety for women including exploring ways to include safety concerns into all town planning activities and initiatives like walking tracks and new estates. All town planning proposals should have to say how they have considered the safety of women e.g. natural surveillance and lighting.</i></p>	<p><i>The planning scheme is based on policy, zones, overlays, particular and general provisions and incorporated documents.</i></p> <p><i>Policies are intended to be considered in every exercise of discretion (PSA or permit). There are several state policies relating to "community safety" in the wider sense (safer by design, healthy, flood / fire / landslip/ contamination/ buffers etc. These are often reinforced in zones decision guidelines, specific overlays and in particular provisions and incorporated documents.</i></p> <p><i>To use the example given - safety of women / lighting / surveillance, there is state policy on urban design, neighbourhood design and design for safety.</i></p>

	<p>8. Pursuing efficiencies in managing sporting facilities in partnership with Section 86...+</p> <p><i>What initiatives are being considered? As with many of the statements throughout this plan they are vague and lacking detail or even a hint of what is to come.</i></p>	<p><i>Council will be reviewing its policies and procedures in the management of recreation reserves and the support of Section 86 Committees of Management. These include the Appointment and Delegations Policy, Sports ground Management processes and procedures and the Reserve Funding Policy.</i></p> <p><i>Council will continue to advocate to State and Federal Government for financial support toward the development of reserve infrastructure and facilities.</i></p>
	<p>9. Number of groups assisted by community grants+</p> <p><i>How can this number increase past 45 when the amount of grant money hasn't increased? This indicator would result in selectors favouring small grants so they can approve more.</i></p>	<p><i>The Community Grants Program is currently under review, with a revised program to be implemented for the Winter round 2013. This review will consider a broad range of issues with the aim of improving the equity and accessibility of the grant program. Number of groups assisted by the community grants refers to increasing the number of applicants to the grant program to ensure that a range of both projects and community groups from across the Shire are considered each round, not the number of grants funded.</i></p>

	<p>10. <del>N</del>Number of library items borrowed+</p> <p><i>This is only one indicator. Suggest others such as the number of people using the bank of computers to access the Internet; the number of people attending events like book readings and children's programs. These add value to the library. To only record book borrowings is an old fashioned indicator and doesn't represent the many services offered at our library.</i></p>	<p><i>The Council has adopted a Library Strategic Plan that contains a number of key performance indicators that encompass a wide variety of functions of the library, including participation in library programs, use of the library website and people using the library. The Library Strategic Plan contains a number of key actions aimed to achieve these key performance indicators. The draft Council Plan has reflected one of these key performance indicators; however the library service will be measured on all key performance indicators contained in the Library Strategic Plan</i></p>
	<p>11. Councillors and management rely heavily on reports written by staff to help the decision making process.</p> <p><i>They must be well researched, rigorous and less biased toward working to Council's 'desired' outcome. There is room for more credible data and analysis. An indicator for this may see improvement.</i></p>	<p><i>Council Officers are skilled and knowledgeable in their areas of expertise and conduct research according to all legislative acts and regulations inclusive of obtaining data and analysis relevant to the matter for consideration.</i></p>

After consideration of each written submission at the Special Meeting of Council no amendments were made to the 2013-2017 Council Plan. As indicated, the Strategic Resource Plan was subject to the adoption of the 2013/14 Proposed Budget and as required, amendments have now been included into the Plan.

### **Proposal**

That Council, having completed all statutory requirements, adopts the 2013-2017 Council Plan and Strategic Resource Plan and gives public notice as required under the Local Government Act that the proposed plans are available for public review.

### **Financial Implications**

In accordance with Section 126 of the Local Government Act 1989, Council has prepared the 2013-2018 Strategic Resource plan that details the resources required to achieve the objectives and strategies outlined in the 2013-2017 Council Plan.

The Strategic Resource Plan includes the following information in respect of the next five years commencing from 1 July 2013 and concluding 30 June 2018.

- the standard statements describing the required financial resources in the form and containing the information required by the regulations; and
- statements describing the required non-financial resources, including human resources.

### **Communications and Consultation Strategy**

In accordance with the Local Government Act 1989 the draft 2013-2017 Council Plan is progressing through the final adoption process.

<b>Timetable for the Proposal and Adoption of Council Plan and Strategic Resource Plan</b>	
Formally adopt 2013-2017 Council Plan and Strategic Resource Plan	19 June 2013
Public Notice - Adoption of 2013-2017 Council Plan and Strategic Resource Plan	22 June 2013
Submit 2013-2017 Council Plan and Strategic Resource Plan to Minister for Local Government by:	27 June 2013

### **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 – Shane Marr*

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

*Author – Shane Marr*

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

### **Conclusion**

In accordance with Part 6 Section 125 and Section 223 of the Local Government Act 1989, the 2013-2017 Council Plan and Strategic Resource Plan are now presented to Council for adoption.

### **Recommendation:**

1. **That Council, having advertised the draft 2013-2017 Council Plan, received and considered the three written submissions, resolves to:**
  - (a) **adopt the 2013-2017 Council Plan.**
  - (b) **in accordance with Section 125 of the Act, notify and place on public notice its adoption of the 2013-2017 Council Plan.**
  - (c) **in accordance with Section 125 of the Act, submit a copy of the 2013-2017 Council Plan to the Minister for Local Government.**
2. **That following the adoption of the 2013-2017 Council Plan the Chief Executive Officer provide a response to each submitter.**

### **Resolution:**

**Crs. Edwards/Dudzik**

1. ***That Council, having advertised the draft 2013-2017 Council Plan, received and considered the three written submissions, resolves to:***
  - (a) ***adopt the 2013-2017 Council Plan.***
  - (b) ***in accordance with Section 125 of the Act, notify and place on public notice its adoption of the 2013-2017 Council Plan.***

- (c) *in accordance with Section 125 of the Act, submit a copy of the 2013-2017 Council Plan to the Minister for Local Government.*
  - (d) *adopt the Council Plan with an amendment on Page 7 to include the wording "Working towards improving infrastructure".*
2. *That following the adoption of the 2013-2017 Council Plan the Chief Executive Officer provide a response to each submitter.*

**CARRIED.**

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**Report Authorisation**

**Authorised by:**

**Name:** Shane Marr  
**Title:** General Manager Corporate Services  
**Date:** Thursday 13 June 2013



**11.2 GROWTH AND DEVELOPMENT****11.2.1 Planning Application 2003-472, 2003-473, 2003-474 and 2003-475-E2; Use and Development of a Dwelling of a single dwelling on property known as Lots 1 & 2 on PS 503064U, Crown Allotments 11-15 in PC 365342W & Crown Allotments 15-120 in PC 365343U at Conroys Lane Wallace.**

<b>Application Summary:</b>	
Application No:	2003-472, 473, 474, 475-E2
Lodgement Date:	13/03/2013
Planning Officer:	Satyen Kothari
Address of the land:	Lots 1 & 2 on PS 503064U, Crown Allotments 11-15 in PC 365342W & Crown Allotments 15-120 in PC 365343U at Conroys Lane Wallace Vic 3352
Proposal:	Extension of time to a planning permit 2003-472, 473, 474, 475-E2; Use and Development of a Dwelling of a single dwelling on property known as Lots 1 & 2 on PS 503064U, Crown Allotments 11-15 in PC 365342W & Crown Allotments 15-120 in PC 365343U at Conroys Lane Wallace.
Lot sizes:	Total area of all the lots is 9.67 ha
Zone:	Farming Zone (FZ)
Overlays:	Design and Development Overlay-Schedule 2; Design and Development Overlay-Schedule 3; Environmental Significance Overlay-Schedule 1; Restructure Overlay- Schedule 2; Road Closure Overlay.
Restrictions or agreements registered on title	Nil
Particular provisions:	Nil
General Provisions:	Clause 65 and 66
Why is a Council decision required	Delegation is not provided by Council to refuse to extend the time of a planning permit
Public Consultation:	Not applicable

<b>Policy Implications:</b>	
<b>Key Result Area: - 3</b>	Enhanced Natural and Built Environment.
<b>Objective:</b>	Effective and efficient land use planning and building control.
<b>Strategy:</b>	Provide a high quality and timely development application processing system.
<p><b>Victorian Charter of Human Rights and Responsibilities Act 2006</b></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>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>General Manager – 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 – Satyen Kothari</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
<p>The applicant seeks an extension of time to a planning permit 2003-472, 2003-473, 2003-474 and 2003-475-E2; Use and Development of a Dwelling of a single dwelling on a lot form by consolidating four land parcels into a lot approved under direction of VCAT on 27 April 2006.</p> <p>The original application was lodged with Moorabool Shire Council on 13 December 2003. The applicant made applications for development of a dwelling in each of the four lots. Council refused to grant an approval to all the four applications on 25 May 2005. The decisions for all the four refusals were contested at VCAT. Applicant tabled amended plans at VCAT hearing. VCAT after going through all the four applications approved only one dwelling subject to a condition that applicant would consolidate all the four parcels into 1 lot thus on the direction of VCAT. The Tribunal decision lacked clarity and failed to mention which permits were to be refused and which one was to be granted.</p>	

At the time, the interpretation by the Planning Unit was that the permit was to include all the numbers mentioned above.

Council issued a planning permit approving a dwelling with conditions requiring applicant to consolidate land into a single title. The planning permit was issued on 23 November 2006. Condition required amendment to the proposed design of a dwelling and site plan as above prior the start of the development.

Following the site inspection it was determined that the development has not been commenced since the date of issue of the permit. As per the VCAT directions and conditions on the permit, the applicant was required to amend the drawings that were submitted at VCAT hearing. To date the applicant has not submitted amended drawings for endorsement. In last seven years the applicant has made no apparent effort to act on the permit that has been approved.

As per the Planning and Environment Act, extension to the permit can be lodged till three months after the planning permit has expired. The application to extend the permit has been made within the prescribed period.

It is considered that the permit is being warehoused and fails the test provided by the Supreme Court of Victoria.

**Summary Recommendation:**

That Council refuse to grant an extension of time to commence a planning permit 2003-472, 473, 474, 475-E2; Use and Development of a Dwelling of a single dwelling on a lot form by consolidating four land parcels into a lot which was approved under direction of VCAT on 27 April 2006.

**Proposal**

The application is to extend the time to commence the planning permit to allow for the Use and development of a dwelling on a lot.

**Original Approval**

The original planning permit allows for development of a dwelling after consolidation of all the lots.

The applicant made four separate applications. The original application was to construct one dwelling on each of four lots. Council had refused the application. VCAT partially overturned Council's decision. VCAT approved one dwelling on the condition that the four lots be consolidated into one.

The applicant had tabled a new set of plans at the VCAT hearing prepared on 29 March 2006. VCAT considered those plans during the hearing and approved them with 15 conditions. Two(2) of those 15 conditions were required to be completed prior to commencement of the work.

Condition 1 required the set of plans submitted at the VCAT hearing to be amended.

Condition 14 required applicant to enter into a Section 173 agreement. The restriction/ agreement was requested by Central Highlands Water (CHW). Condition 14 (f) required applicant to consolidate all four lots into on single lot.

Condition 15 provided additional time for applicant to commence the development and to complete the development and consolidation. VCAT provided 5 years to start and 7 years to complete the development.

Condition 14, which requires the landowner to enter into the agreement under section 173 of the P&EA, has not been registered on the title.

### **Permit History**

The property was assessed against the provisions of Rural Zone, Design and Development Overlay-Schedule 2; Design and Development Overlay-Schedule 3 and Environmental Significance Overlay-Schedule 1.

Council received two submissions from the community for all four applications. On the recommendation of the officer Council refused to grant the permit to this application on 25 May 2005 for all four applications.

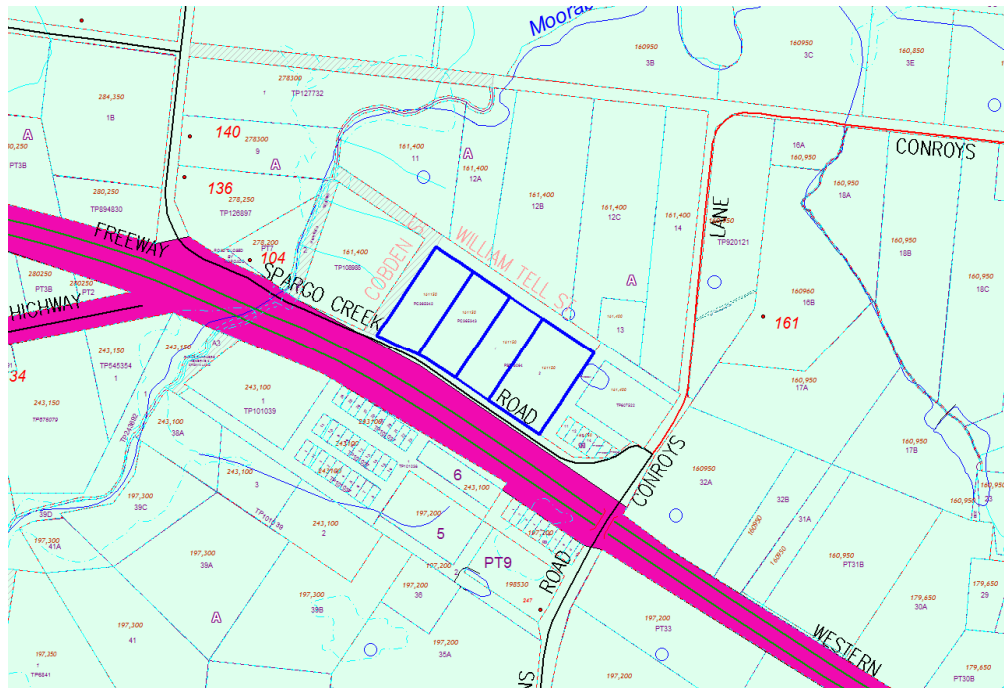
The decision was partially overturned by VCAT on 27 April 2006. VCAT approved construction of a single dwelling on lot created by consolidating all the four land parcel into a single lot. The original planning permit 2003-472,473,474,475 was issued at the direction of VCAT on 27 April 2006.

Just before the end of 5 years an application to extend the planning permit was made. Council provided extension for two additional years. Thus the development was now required to be commenced by 27 April 2013.

### **Site Description**

The subject site is located to the northern side of Spargo Creek. The subject site is an irregular shape property with a frontage of 430m to Spargo Creek Road / Conroys Lane and with a maximum depth of 220 meters. The total area of the subject site is 9.67 hectares.

## Locality Map



## Planning Controls

### Planning and Environment Act 1987

Section 69 of the Planning and Environment Act 1987 relating to extension of time provides that:

- (1) Before the permit expires or within three months afterwards, the owner or the occupier of the land to which it applies may ask the responsible authority for an extension of time.
- (2) The responsible authority may extend the time within which the use or development or any stage of it is to be started or the development or any stage of it is to be completed or within which a plan under the Subdivision Act 1988 is to be certified.
- (3) If the time is extended after the permit has lapsed the extension operates from the day the permit expired.

### Planning Scheme

The proposed use and development is considered to be consistent with State Planning Policy Framework and Local Planning Policy Framework including the Municipal Strategic Statement.

As per the current planning scheme provision the subject land is within Farming Zone. During the time of the original application the subject land was zoned as Rural Zone.

Planning Scheme Amendment C50 introduced Farming Zone in the Moorabool Planning Scheme on 2 August 2007. The original proposal was assessed against the decision guidelines of the Rural Zone which is different from the decision guidelines of the Farming Zone.

The subject land is required to be connected to septic tank. Land Capability Assessment (LCA) report prepared with the original application in 2004 cannot be considered valid as the septic tank requirements and requirement for preparing LCA has changed.

Thus due to the above concerns it is highly likely that the proposed development would have different outcome to the permit approved on 27 April 2006. At the bare minimum additional information would be required to fully assess any new application.

### **Referrals**

The application for an extension of time was not referred externally pursuant to Section 55 of the Act.

#### Notification

There is no provision under the Planning and Environment Act 1987 for extension of time applications to be advertised.

### **Planning Officer Assessment**

The Supreme Court of Victoria (Kantor v Murrindindi SC) in the past has provided assessment criteria to assess an application for an extension of time to planning permit.

#### **1. Whether there has been a change of planning policy.**

Since this application was initially considered the following amendments have been made to the Moorabool planning scheme:

Amendment the C50 came into operation on 2 August 2007 and was subsequently incorporated into the Moorabool Shire Planning Scheme. This amendment introduced Farming Zone into the Scheme and rezoned the subject land to Farming Zone from Rural Zone.

Following C50 amendment, various amendments were introduced to Moorabool Planning Scheme to ensure the better and consistent planning outcome for assessing application within farming zone. This amendment includes VC49 (introduce on 15/09/2008); C34 (26/02/2009); VC71 (20/09/2010); VC77 (23/09/2011); VC83 (18/11/2011); VC87 (08/08/2012).

Amendment C34 . Clause 20, Operation of the Local Planning Policy Framework, Municipal Strategic Statement was gazetted on 26 February 2009. Amendment VC71 was gazetted on 20 September 2010 . the amendment has altered State Planning Policy.

Re-assessing the application against the above mentioned amendments requires applicant to lodge a fresh application addressing the decision guidelines of Farming Zone and would require to prepare new Land



Capability Assessment report as per the new guidelines which have been amended twice since the 2003.

However considering the purpose of the Farming Zone it is considered that consolidation would create a better outcome for Farming Zone, but the applicant would be required to provide Council with a Farm Management Plan to justify need for a dwelling. It is important to note that the applicant is not conducting any farming activities on the site.

Therefore it is considered that the above amendments to the Moorabool Planning Scheme would affect granting the approval to the extension to the planning permit PA 2003-472,473,474,475.

**2. Whether the land owner is seeking to “warehouse” the permit.**

Warehousing permits is when applicants obtain a planning permit without the intention to commence a use or development, but rather hold the permit until such time as the property is sold with a permit in place which would potentially increase the sale price.

The site inspection has revealed that the applicant has not commenced work since the approval in 2006. The applicant was provided with an extension in 2010. The landowner had indicated that financial difficulties had setback the development and thus requires an extension in order to commence the work after 2013.

However in seven years the applicant has neither commenced work nor is doing any farming activity. As per the permit, prior to commencing the work the applicant requires to amend the plans that were tabled at VCAT hearing prepared on 29 March 2006. In last seven years the applicant has not even made amendment to the drawings that were tabled at VCAT hearing to get planning permit.

Thus it is apparent that the owner/applicant is ~~warehousing~~ this permit and will be highly unlikely to start the development if extension is granted.

**3. Any intervening circumstances which bear upon grant or refusal.**

The amendment to the planning scheme since the initial approval cannot be considered minor in nature and thus it restricts the approval of permit in its current form.

**4. Whether the time limit originally imposed was adequate.**

The original time frame and the extension of the time was adequate to commence the work.

**5. The economic burden imposed on the landowner by the permit.**

There is no undue economic burden posed by the development upon the permit holder beyond that associated with the development.

Should the permit fail to be extended by VCAT; the landowner would have to apply for a fresh application, with proper Farm Management Plan, Updated LCA and bear all the associated costs along the process.

**6. The probability of a permit issuing should a fresh application be made.**

It is considered that should a new application be lodged, it is unlikely that Council would grant a permit as there is neither any farming activity nor there is any farm management plan proposed with the original application.

Changes to the guidelines for dwellings in portable water supply catchments also mitigates against granting a permit.

**Other Policies/Procedures**

Council adopted the Rural Growth Policy Statement at the Ordinary Meeting of Council of 5 September 2012. Whilst not a formal planning policy within the Moorabool Planning Scheme, 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 a refusal to grant an extension of time for this permit will not represent any financial implications to Council.

**Risk & Occupational Health & Safety Issues**

The recommendation of a refusal to grant an extension of time for this permit does not implicate any risk or OH & S issues to Council

**Communications Strategy**

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

**Conclusion**

The application has lapsed pursuant to section 69 of the Planning and Environment Act 1987. Having considered all the matters Council refuses to approve an extension of time for the permit 2003-472,473,474,475 -E2.

**Recommendation:**

That Council refuse to grant an extension of time for planning permits 2003-472, 473, 474, 475 -E2 for Use and Development of a dwelling on a consolidated lot ( Lots 1 & 2 on PS 503064U Lots 1 & 2 on PS 503064U, Crown Allotments 11-15 in PC 365342W & Crown Allotments 15-120 in PC 365343U) approved on 23 November 2006 on the following grounds:

1. The application fails the tests established in the Kanto decision.
2. Applicant has been warehousing the permit.

*The planning permits 2003-472, 473, 474, 475 -E2 were withdrawn at the request of the applicant.*

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

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Thursday 13 June 2013



***Cr. Sullivan declared a conflict of interest in regards to Item 11.2.2 – Planning Application 2012-047; Staged Five (5) Lot Subdivision and Development of Five (5) Dwellings, and alteration to Access to a Road Zone Category 1 for; Crown Allotment 7, Section 37, Parish of Ballan, 54 Inglis Street, Ballan. The nature of the Conflict of Interest is due to Cr. Sullivan previously representing the owners of the adjoining properties in his role as a surveyor.***

**11.2.2 Planning Application 2012-047; Staged Five (5) Lot Subdivision and Development of Five (5) Dwellings, and alteration to Access to a Road Zone Category 1 for; Crown Allotment 7, Section 37, Parish of Ballan, 54 Inglis Street, Ballan**

**ACTING CHAIR**

***Crs. Comrie/Spain***

***That Cr. Edwards be appointed Acting Chair for consideration of Item 11.2.2 Planning Application 2012-047; Staged Five (5) Lot Subdivision and Development of Five (5) Dwellings, and alteration to Access to a Road Zone Category 1 for; Crown Allotment 7, Section 37, Parish of Ballan, 54 Inglis Street, Ballan and Item 11.2.4 Planning Application PA2013-033; Development and use of a dwelling; Lot 1 on TP 83675L, Bourkes Road, Darley.***

**CARRIED.**

<b>Application Summary:</b>	
Application No:	PA2012047
Lodgement Date:	Original Application;16 March 2012 Amendment Application: 7 March 2013
Planning Officer:	Natalie Robertson
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	3 June 2013
Address of the land:	Crown Allotment 7, Section 37, Parish of Ballan 54 Inglis Street, Ballan
Proposal:	Staged Five (5) Lot Subdivision and Development of Five (5) Dwellings
Lot size:	2306 sq m
Restrictive Covenant/173 Agreements	Nil

<b>Moorabool Planning Scheme (Relevant details):</b>	
State Planning Policy Framework (SPPF):	Clause 11 Settlement Clause 11.02-1 Supply of urban land Clause 11.05-2 Melbourne's hinterland Clause 16.01-1 Integrated housing Clause 16.01-2 Location of Residential Development Clause 16.01-4 Housing diversity
Local Planning Policy Framework (LPPF):	Clause 21.03-3 Residential Development Clause 21.03-4 Landscape and Neighbourhood Character
Zone:	Clause 21.08 Ballan Residential 1 Zone (R1Z)
Overlays:	Environmental Significance Overlay Schedule 1 (ESO1)
Particular provisions:	Clause 55, more than one dwelling on a lot
General provisions:	Clause 65, decision guidelines Clause 66, referrals
Why is a permit required?	Under Clause 32.01-2 of the Moorabool Planning Scheme, a planning permit is required to subdivide the land.  Under Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to construct two or more dwellings on a lot.
<b>Public Consultation:</b>	
Number of notices to properties:	Eight (8)
Notices on site:	One
Notice in Newspaper:	Nil
Number of objections:	Three (3)
Submission of support:	Nil
Consultation meeting:	

<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Enhanced Natural and Built Environment.
<b>Objective -</b>	Effective and efficient land use planning and development.
<b>Strategy -</b>	Provide a high quality and timely development application processing system.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>General Manager Growth and Development – Satwinder Sandhu</i> In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.</p> <p><i>Author – Natalie Robertson, Senior Statutory Planner</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
<p>This application was originally submitted to Council for a six lot staged subdivision and development of 6 dwellings. The proposal received three objections and also presented a development that was considered bulky and an overdevelopment of the site.</p> <p>The original application was listed for consideration at the 19 September 2012 Ordinary Meeting of Council, where at the request of the applicant, the matter was deferred.</p>	

Subsequently, an application to amend a planning permit application was made on 7 March 2013 which revised the proposal to a stage five (5) lot subdivision and construction of five (5) dwellings. This application is before Council due to the receipt of three objections from nearby neighbours.

The site has an area of 2306 sq m. The layout of the dwellings on the site satisfactorily meets the requirements of Clause 55 (Rescode) of the Moorabool Planning Scheme. Private open space associated to each of the dwellings meets the standard requirements. Minor issues can be addressed through permit conditions.

Objections relate to: Stormwater and flooding; Building height; Site permeability; Crossover location and fall; Garage walls on boundaries; Overlooking; Solar access to open space; Bins and recycling services; Property values; Staging gives no time limit; and Noise impact.

The application proposes the subdivision and development of five single storey dwellings within the Ballan township on the subject site included in the Residential 1 Zone and surrounded by a mix of single dwelling development on a mix of residential lot sizes. Whilst there is some multi dwelling density in the area, generally two or three dwellings, this type of dwelling density development is not within the immediate area.

The proposal also triggers a permit for the Alteration to access to a Road Zone Category 1, Inglis Street.

The proposed development contributes to 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 proposal is consistent with the emerging pattern of development in the Ballan residential area.

#### **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 32.01-4 - Residential 1 Zone . and Clause 55 of the Moorabool Planning Scheme.

It is considered that the proposed development is generally consistent with the State and Local Planning Policies of the Moorabool Planning Scheme, the Residential 1 Zone and Clause 55 (Rescode).

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.

#### **Proposal**

Approval is sought for a five (5) lot staged subdivision and the construction of five (5) dwellings. The site contains an existing dwelling which is proposed to be removed to make way for the proposed development.

The proposal provides for access from Inglis Street with a common property driveway for dwellings located on either side. The proposed dwellings would provide:

Dwelling 1 . to front Inglis Street with two bedrooms, study, two bathrooms, combined living/dining/kitchen area, laundry and detached double garage (182 sq m including garage). The proposed lot size would be 325 sq m.

Dwelling 2 . to front Inglis street with two bedrooms, two bathrooms, combined living/dining/kitchen area, laundry and detached single garage (153 sq m including garage). The proposed lot size would be 281 sq m.

Dwelling 3 . north of Dwelling 2 with three bedrooms, two bathrooms, combined living/dining/kitchen area, laundry and attached garage. Garage shares wall with Dwelling 1 garage. (182 sq m including garage). The proposed lot size would be 287 sq m.

Dwelling 4 . to western boundary rear of lot with three bedrooms, two bathrooms, combined living/dining/kitchen area, laundry and attached double garage. (193 sq m including garage). The proposed lot size would be 378 sq m.

Dwelling 5 . to eastern boundary rear of lot with three bedrooms, two bathrooms, combined living/dining/kitchen area, laundry and attached double garage. (193 sq m including garage). The proposed lot size would be 382 sqm.

Common property inclusive of the driveway, two visitor car parks and a communal open space area proposed on the western boundary to the rear of Dwelling 1 would be 653 sq m in total.

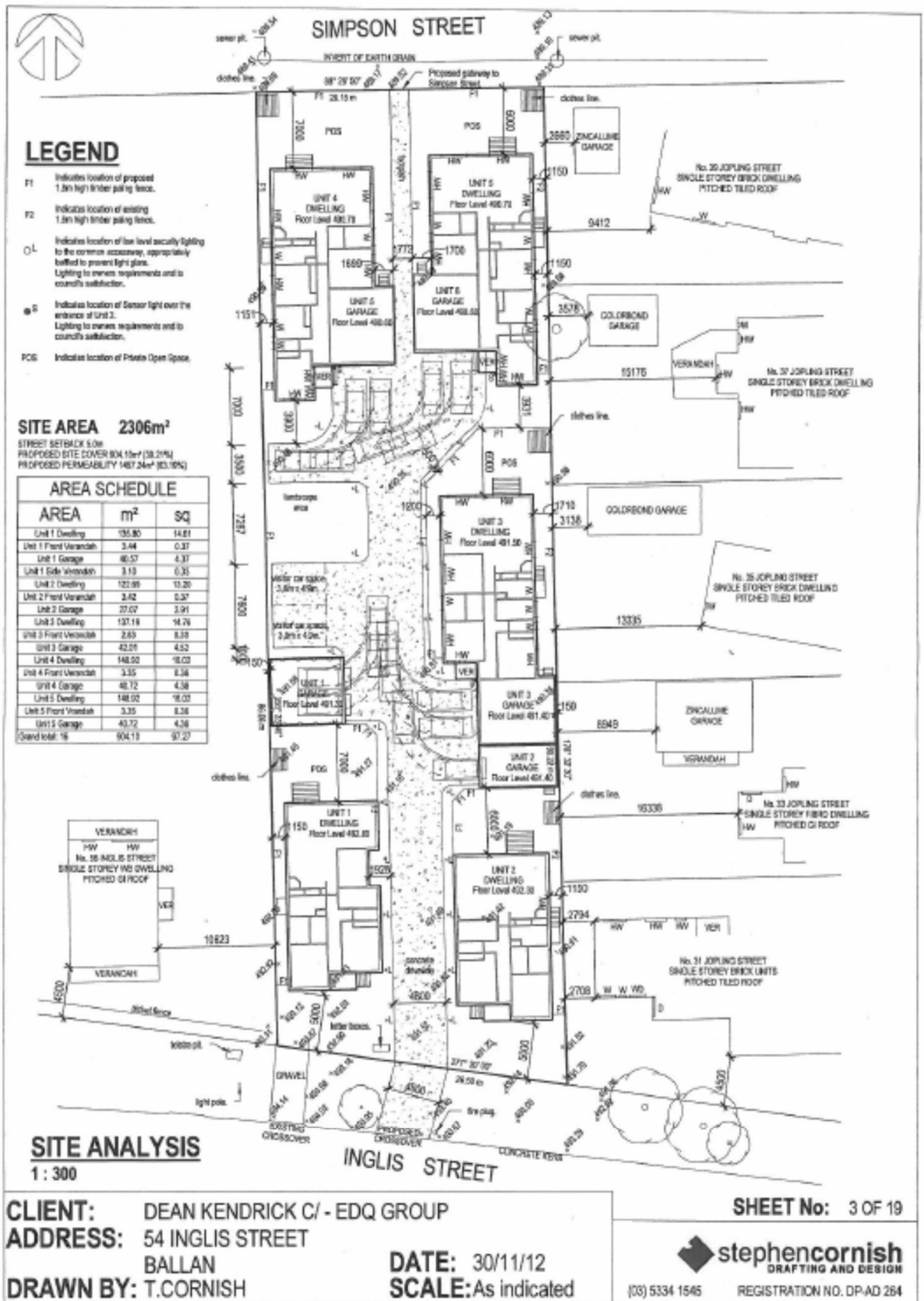
The development is setback 5 m from the street, at least 1.15m from side boundaries and 7m and 6 m from the rear boundary for Dwelling 4 and Dwelling 5 respectively. Buildings occupy 39.21% of the site, and permeable surface takes up 63% of the site. The design of the dwellings is contemporary, constructed of face brickwork with aluminum window frames and pitched Colourbond® roofs.

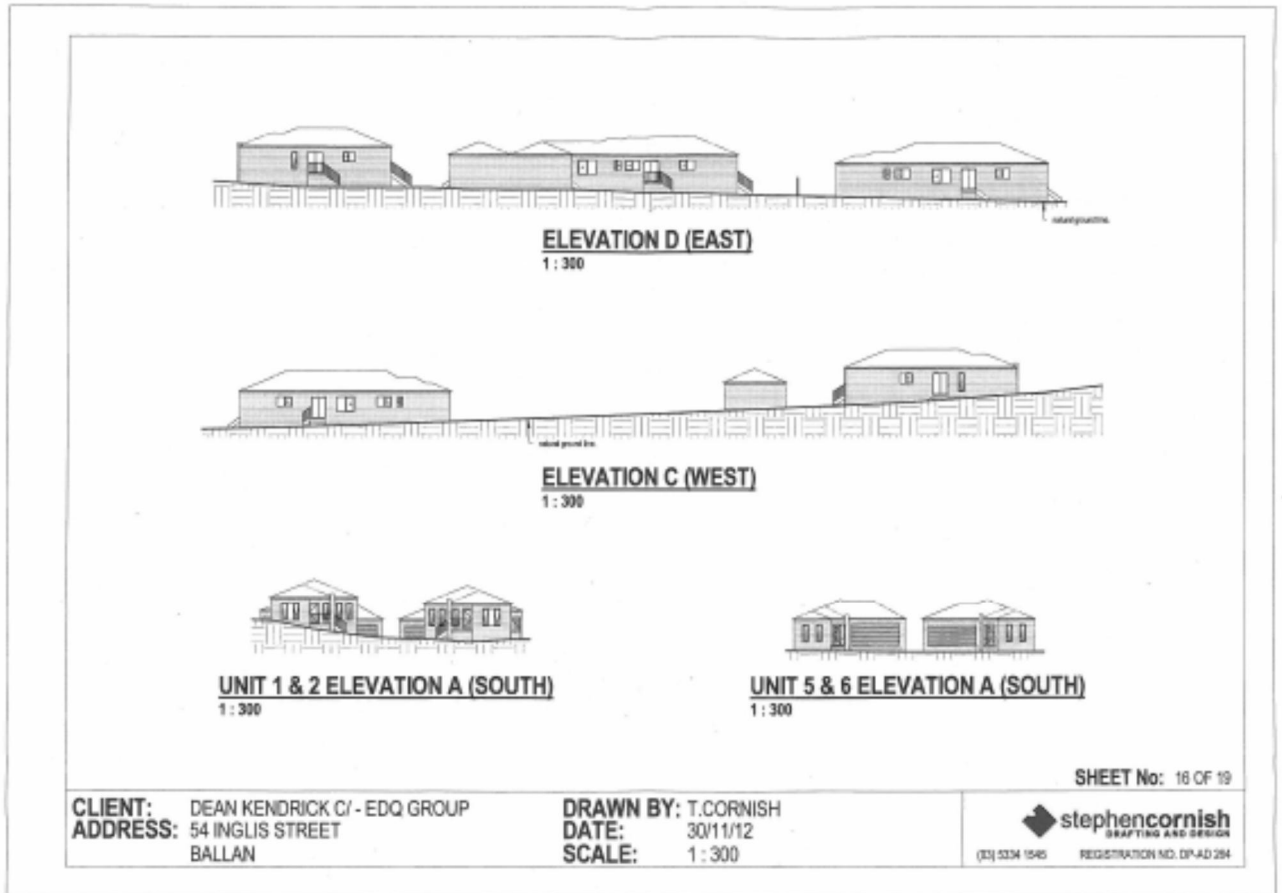
Private open space associated with each of the dwellings is in excess of 40 sq m including 25 sq m area for secluded private open space with a minimum dimension of 3m.

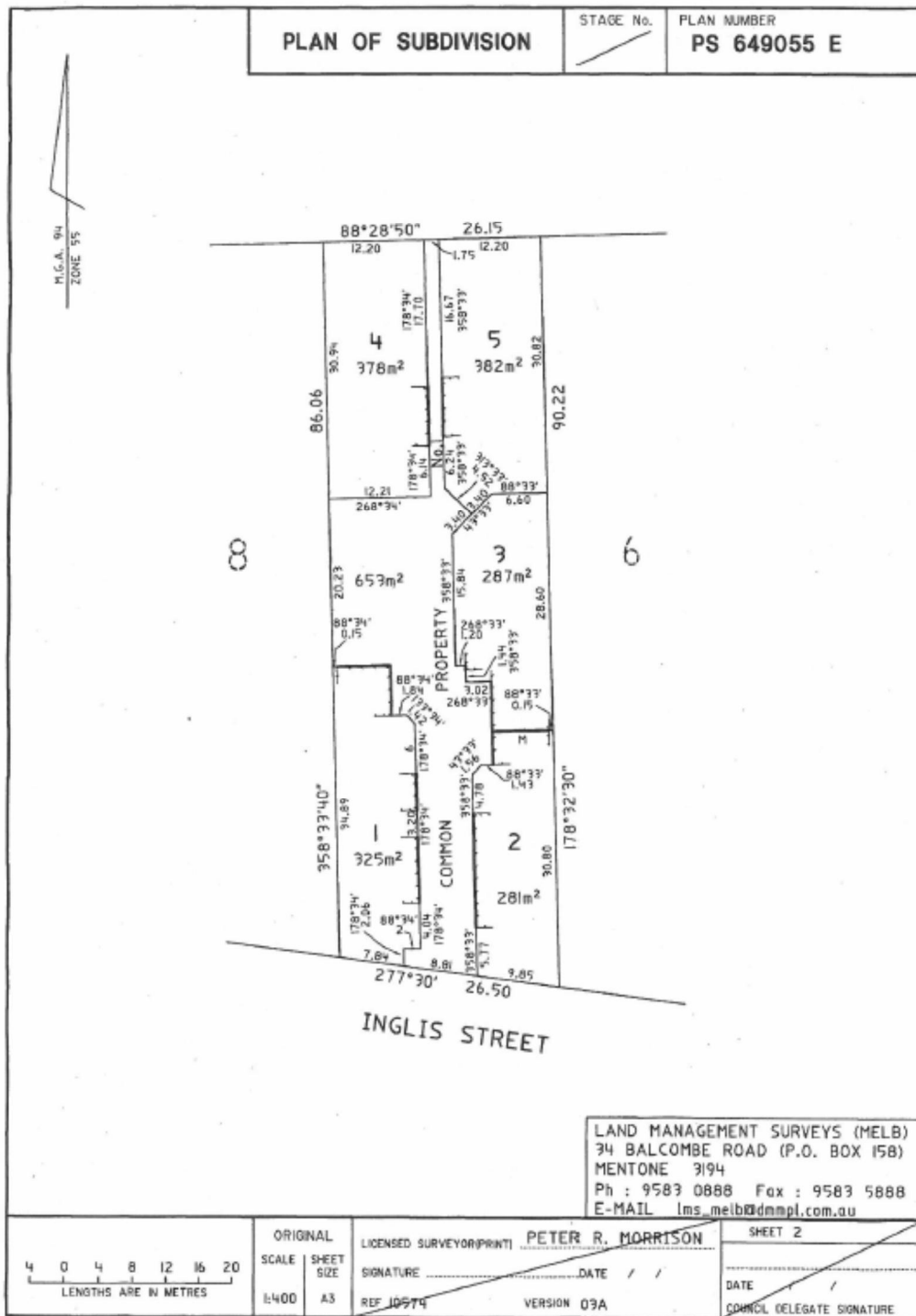
There are two secure car spaces associated with each of the three bedroom dwellings, and a single secure car space for the two bedroom dwelling. There are two visitor car spaces, centrally located on the western side boundary of the site. Vehicle access is via a proposed new crossover from Inglis Street.

The landscaping will be required to provide for lawn areas, shrubs and 10 trees that can grow to a height of 8 or 9m. There is no front fencing.









## Site and Surrounds

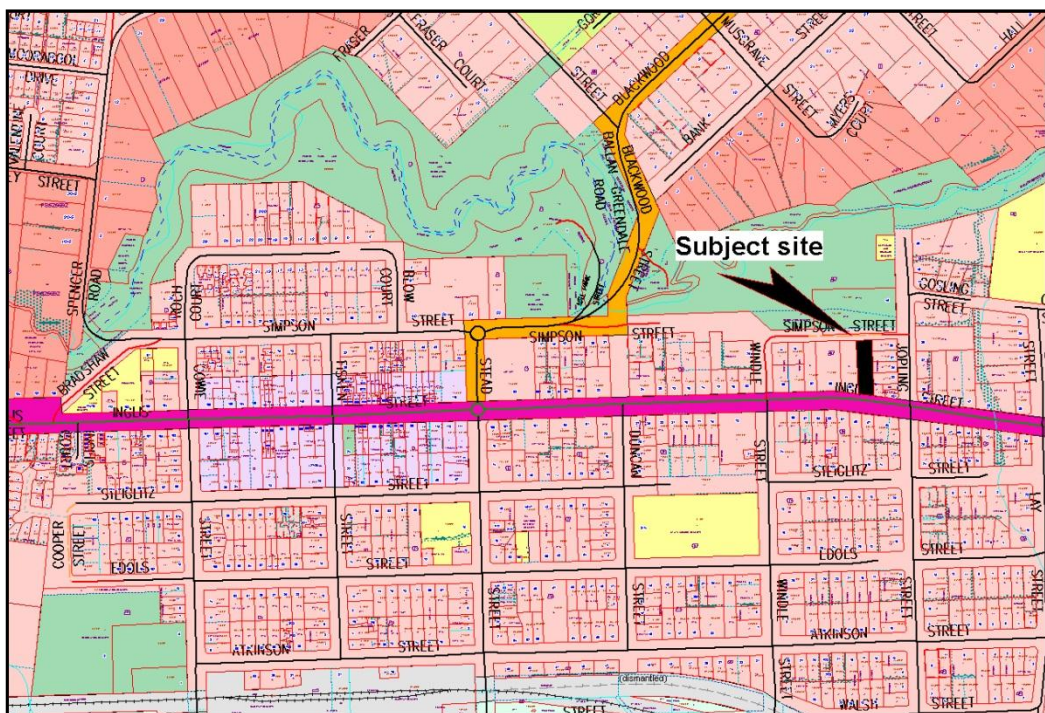
The site is surrounded by developed sites comprising a mix of single dwellings on a range of lots sizes varying from over 2000 sq m to 300 sq m. The subject land has a total area of 2306 sq m. The land on the western boundary comprises one land parcel of 2224 sq m and the land on the eastern boundary (Jopling Street) forms 4 land parcels. 1 Jopling Street comprising a two dwelling development with land parcels 332 sq m and 282 sqm and additional lots approximately 700 . 720 sq m.

The site is rectangular in shape and is bounded by residential dwellings to the east, west and south. The Inglis Street frontage is 26.5 mm, the western side boundary 86.06 m, the eastern side boundary 90.22 m and the rear Simpson Street boundary 26.15 m. The portion of Simpson Street that makes up the rear boundary is unmade with a DPCD Reserve with group accommodation to the northern boundary. The site had a reasonable slope to the west to east and south to north.

The site is located on the eastern portion of the Ballan Township on the main entry road to the Ballan Township. The site is within the Residential 1 Zone and the surrounding properties generally reflect the zoning. The locality is best described as developed with single dwellings on varied allotments. There are no multi dwelling development of this type in the immediate area. The nearest similar multi dwelling development is Jopling Street between Steiglitz and Edols Street.

The subject site is approximately 600m from the Ballan town centre and approximately 1km from the train station. There is no bus service available in the township.

The site is has no significant vegetation.



## 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).

<b>SPPF</b>		
Clause 11	Settlement	The proposal for five dwellings is consistent with this policy, which advocates sustainable development that takes full advantage of existing and emerging settlement patterns.
Clause 11.02-1	Supply of urban land	Responding to urban consolidation strategies, the size of the site makes it suitable to medium density housing.
Clause 11.05-2	Melbourne's hinterland	Providing for residential development within the urban growth boundary of the Ballan township is supported by this policy.
Clause 16.01-2	Location of Residential Development	In accordance with policy, the site has good access to town centre and public transport.
Clause 16.01-4	Housing Diversity	The proposed development makes efficient use of the site and promotes housing choice.
<b>LPPF</b>		
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.
Clause 21.03-4	Landscape and Neighbourhood Character Objective	The proposal respects the emerging built form of the new estates within the township.

<p>Clause 21.08</p>	<p>Ballan</p> <p>Ballan Structure Plan Concept</p>	<p>The proposal is consistent with strategies aimed at consolidating urban growth within the inner area of Ballan.</p> <p>Although not formally adopted by Council, the Ballan Structure Plan Concept has received feedback from the community. Four areas have been identified that will provide for the spatial vision of the plan. One of these Key Elements being Future Development. From the concept Plan it states that measures that may ensure the orderly township growth of Ballan include . Encouraging development of vacant / underutilised land that is currently zoned Residential 1.</p> <p>Community consultation has also indicated that the community would like to retain the rural nature of the Ballan township. An investigation of the Ballan township details this in the large open nature of the street network more so than the setbacks of current development.</p> <p>This proposal falls within this vision and therefore should be supported.</p>
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<p>GD008/001</p>	<p>Council Urban Growth Policy Statement</p>	<p>The Policy aims to provide a vision for the type of community Moorabool Shire will be in 2041 and to outline how Council can facilitate an outcome that both allows for growth and keeps communities connectedness, character and sense of place valued by current residents.</p> <p>The policy recognises Ballan and Gordon as an area to accommodate further growth when un constrained land within Bacchus Marsh becomes scarce.</p> <p>Whilst the policy focuses on Bacchus Marsh if development is to be encouraged in Ballan and Gordon it should:</p> <ul style="list-style-type: none"> <li>- Maintain the towns character;</li> <li>- Enhances quality of life and community pride;</li> <li>- Enhances a unique character and sense of place;</li> <li>- Provides a sense of continuity by creating a perception of lower rate of change, which maintains the country feel.</li> </ul> <p>The development itself respects the town character in the dwellings are single storey single dwellings which reflect a similar merging style within the Residential area of Ballan.</p> <p>The dwellings are modest in context and are in keeping with this policy.</p>
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**Zone:**

The site is located within the Residential 1 Zone. Pursuant to Clause 32.01-2 and 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to subdivide the land and 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.*

It is considered that the proposal supports the purpose of the Residential 1 Zone by increasing the range of dwelling types in keeping with the emerging character of the area.

**Overlay:**

The subject site is affected by the *Environmental Significance Overlay – Schedule 1* (ESO1). Under the requirements of the ESO all permits to subdivide land trigger a planner permit and the proposal must be referred to the relevant water authorities pursuant to Section 55.

**Particular Provisions:**

Pursuant to Clause 52.01 would require a contribution toward public open space of 5% of the site value of the land. Where a permit to be granted, such a contribution should be required by permit condition.

Pursuant to Clause 52.06 of the Moorabool Planning Scheme, the car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority.

Under Clause 52.06-5, a two-bedroom dwelling requires the provision of one car space, a three-bedroom dwelling requires the provision of two car spaces, and five dwellings requires the provision of at least one visitor car space.

The proposal satisfies the requirements of Clause 52.06-5.

Under Clause 52.29 Land adjacent to a Road Zone Category 1.

VicRoads as the relevant road authority has not objected to the granting of a permit.

The proposal has been assessed against Clause 55 of the Moorabool Planning Scheme where an application to construct two or more dwellings on a lot must meet all of the objectives of this clause and should meet all of the standards of this clause.



An assessment against Clause 55 is as follows:

Clause	Title	Detail	Compliance
Rescode			
55.01-1	Neighbourhood and site description	Site description and design response	<b>Complies</b> The application was accompanied by a neighbourhood and site description, and design response.
55.02-1	Neighbourhood Character Objectives	Standard B1	<b>Complies.</b> The site is located close to the entry of the Ballan township. Within the context of new dwellings in the area the proposed single-storey brick dwellings respect the town character.
55.02-2	Residential Policy objectives	Standard B2	<b>Complies.</b> A written statement has been provided which covers the requirements.
55.02-3	Dwelling Diversity	Standard B3	N/A (applies to 10 or more dwellings)
55.02-4	Infrastructure	Standards B4	<b>Complies.</b> The proposal will not exceed the capacity of utilities.
55.02-5	Integration with street	Standard B5	<b>Complies.</b> Dwellings located one behind the other, either side of a central driveway, integrates with the street. No front fencing is proposed.
55.03-1	Street setback	Standard B6	<b>Complies.</b> The proposed setback of 5m and is greater than the average setback of dwellings on the adjoining properties.
55.03-2	Building height	Standard B7	<b>Complies.</b> The proposed single-storey height is well below the maximum height of 9m.

55.03-3	Site coverage	Standard B8	<b>Complies.</b> Buildings occupying approximately 40% of the site is less than the maximum site coverage standard of 60%.
55.03-4	Permeability	Standard B9	<b>Complies.</b> Permeability is 47%, exceeding the minimum permeability standard of 20%.
55.03-5	Energy efficiency	Standard B10	<b>Complies.</b> The layout of the dwellings maximises sunlight to indoor and outdoor living spaces. There will be no reduction in the energy efficiency of existing dwellings and will provide for a 6 Star Energy Rating.
55.03-6	Public Open space	Standard B11	N/A
55.03-7	Safety	Standard B12	<b>Complies.</b> Good lighting, visibility and surveillance of common property provides for the safety and security of residents.
55.03-8	Landscaping	Standard B13	<b>Does Not Comply.</b> A satisfactory landscape plan must be provided should a permit issue that would provide for canopy trees and suitable percentage of native species.
55.03-9	Access	Standard B14	<b>Complies.</b> Shared vehicle and pedestrian access is safe, manageable and convenient. All vehicles are able to exit the site in a forward direction. A minor concern relates to a steep gradient at the crossover access which can be addressed by a condition of the permit.

55.03-10	Parking location	Standard B15	<b>Partially complies.</b> Car spaces are conveniently located for residents and visitors, and noise sensitive rooms less than 1.5m from the common driveway for Dwelling 3 must include raised sill heights.
55.03-11	Parking provision	Standard B16	<b>Complies</b> The design of car parking and access areas should be easy to maintain under body corporate agreement.
55.04-1	Side and rear setbacks	Standard B17	<b>Complies.</b> New walls of 3.6m high setback at least 1m from side and rear boundaries comply with the minimum setback requirement of 1m.
55.04-2	Walls on boundaries	Standard B18	<b>Complies.</b> Does not exceed. The wall on boundary for dwelling 2 and 3 garage does not exceed 10m (9.9m) and does not exceed the average of 3m and no part is higher than 3.6 m.
55.04-3	Daylight to existing windows	Standard B19	<b>Complies.</b> There will be no loss of daylight to existing windows on the adjoining properties.
55.04-4	North-facing windows	Standard B20	N/A
55.04-5	Overshadowing open space	Standard B21	<b>Complies.</b> There will be no significant overshadowing of adjacent secluded private open spaces and the single-storey construction.
55.04-6	Overlooking	Standard B22	<b>Complies.</b> The single-storey construction provides for reasonable setbacks to avoid and floor levels approximately 1m above ground level limits the potential for overlooking from habitable rooms.

55.04-7	Internal views	Standard B23	There is no potential for overlooking secluded private open spaces within the development.
55.04-8	Noise impacts	Standards B24	<b>Complies.</b> No unreasonable noise is envisaged.
55.05-1	Accessibility	Standard B25	<b>Does not comply.</b> Due to the land slope all dwellings are set above ground level and accessed via stairs. To meet the accessibility standard dwellings would have to be modified to provide access to people with limited mobility.
55.05-2	Dwelling entry	Standard B26	<b>Complies.</b> Front entries provide shelter and a clear sense of address.
55.05-3	Daylight to new windows	Standard B27	<b>Complies.</b> All habitable room windows have good access to natural daylight.
55.05-4	Private open space	Standard B28	<b>Complies.</b> The provision of secluded private open space with a minimum dimension of 3m associated with each of the dwellings exceeds the standard requirement for 40sqm of private open space including 25sqm with a minimum dimension of 3m.
	Solar access to open space	Standard B29	<b>Complies</b> All secluded private open spaces have good access to sunlight at some part of the day.
55.05-6	Storage	Standard B30	<b>Complies.</b> Each dwelling has sufficient area to accommodate 6 cubic metres of externally accessible secure storage.

55.06-1	Design detail	Standard B31	<b>Complies.</b> The construction materials and style are not dissimilar to that which is already evident within new development in the area and is consistent with neighbourhood character.  Garages at the rear have no impact on the streetscape.
55.06-2	Front fences	Standard B32	<b>Complies.</b> There is no front fencing.
55.06-3	Common property	Standard B33	<b>Complies.</b> Common property is functional and capable of efficient management.
55.06-4	Site services	Standard B34	<b>Complies.</b> Meter and mailboxes are located at the entrance, and bins are stored within secluded private open spaces.
56.02	Policy Implementation	Standard C1	N/A
56.03-4	Built environment	Standards C2-C5	N/A
56.04	Lot design	Standards C7-C11	Standards C7-C9, C10 and C11 are met.
56.05	Urban landscape	Standards C12-C13	N/A
56.06	Access and mobility objective	Standards C14-C21	Standards C20 and C21 as applicable are met.
56.07	Integrated water management	Standards C22 . C25	Standards are met.
56.08	Site management	Standard C26	Condition(s) on any permit would ensure compliance.
56.09	Utilities	Standards C27-C30	Standards have been met.

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

This report has considered the decision guidelines of Clause 65.

## Referrals

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

Authority	Response
CFA	No objection . subject to conditions
Western Water	No objection . subject to conditions
Southern Rural Water	No objection . subject to conditions
Central Highlands Water	No objection . subject to conditions
Powercor	No objection . subject to conditions
Telstra	No objection . subject to conditions
TXU	No objection . subject to conditions
VicRoads	No objection . subject to conditions
Infrastructure	No objection . subject to conditions

## Public Notice

The amended application was advertised to adjoining owners and occupiers by sending individual notices on 20 March 2013 and a sign placed on the site from 20 March 2013 to 3 April 2013. Three objections were received. A consultation meeting of the Applicant and Submitters was arranged for 3 June 2013 at 5.30 pm at the Ballan Council Chambers. One objector although keen to attend was unable due to illness. An objector and the applicant and land owner attended the consultation meeting.

Whilst the attending objector did not withdraw the objection it is considered that the Applicant at length discussed the issues raised.

## Summary of Objections

The grounds of objection are outlined below with officers' comments accompanying them. The objector lives around the next corner to the east of the subject site.

Objection	Officer's response
<p>The applicant has failed to identify that the back part of the site is often subject to inundation from a rising water table and the applicant has not addressed how they intend to mitigate this.</p> <p>The proposal should be referred to the appropriate authority to determine if the existing soil conditions in the back half of this site are suitable for development</p>	<p>The Applicant outlined how the proposed drainage/stormwater system would in many ways alleviate some of the flooding issues to the site.</p> <p>The Applicant has explored with the objector various means of developing infrastructure that may be suited to the development and the objector who adjoins the site.</p> <p>Should a permit issue permit conditions regarding the stormwater drainage system must be addressed.</p>

	<p>Council's Infrastructure Engineer has reviewed the proposed development and has no concerns provided conditions with regard to the design of a suitable stormwater drainage system for the developed site. Conditions to be included in any permit issued.</p> <p>Relevant water authorities such as Central Highlands Water whom are the infrastructure provider to the Ballan township have also consented to the proposal subject to conditions.</p>
Increased infrastructure load	It is considered that existing infrastructure and proposed infrastructure is suitable to the proposal. Various referral authorities have been given an opportunity to review the application and have provided appropriate conditions for any permit that may issue.
The proposal does not specify maximum height to AHD for the ridge lines of the proposed dwellings.	The construction of a dwelling up to 9 metres in height is allowed under the Planning Scheme. None of the dwellings approach this height.
Inconsistency re Permeability drawings state 71% and written report states 53%	<p>The officer has calculated proposed impermeable areas amount to 37% which equates to approximately 63% pervious surfaces.</p> <p>Site coverage of buildings on the site is 904.10 sqm on a lot of 2306 sqm. This represents coverage of 39.21%.</p> <p>Both of which meet the clause 55 requirements for site coverage and permeability being a maximum of 60% site coverage and at least 20% of the site not covered with impervious surfaces.</p>

<p>Crossover location, 1.88m fall from the kerb to title boundary. Levels that the crossover and driveway will be constructed at, so that vehicles can enter and exit safely have not been identified.</p> <p>The proposal would be better suited accessing Simpson street to the north of the site.</p>	<p>The proposed crossover would be onto a Road Zone Category 1 and was therefore referred to VicRoads under Clause 65 (relevant referral authorities) for comment.</p> <p>The Council officer met with VicRoads officers as there was concern regarding the steep incline from the arterial road to the site and consideration was given to altering the proposal to gain access from the less trafficable road being Simpson Street.</p> <p>An assessment of Simpson Street determined that in order to access the site the street would have to be constructed to "Access Place" standard in accordance with the Planning Scheme and the Infrastructure Design Manual and there is insufficient space in the road reserve to achieve the necessary standards. A portion of the road has been closed and transferred to the Caravan Park Site, leaving the road reserve only ten metres wide.</p> <p>In this regard, both VicRoads and Council's Infrastructure consented to the proposal, should it be granted a planning permit, subject to the following conditions:</p> <p>VicRoads:</p> <ol style="list-style-type: none"> <li>1. The new access to the subject site must be designed so that all vehicles can be driven in a forward direction when entering or leaving the subject land.</li> <li>2. The crossover and associated works to the subject land must be located and constructed to Council's satisfaction.</li> <li>3. All works must be at no cost to VicRoads.</li> </ol> <p>Infrastructure:</p> <ol style="list-style-type: none"> <li>1. Prior to the issue of statement of compliance for Stage 1 of the subdivision, a standard double width urban residential vehicle crossing must be provided on Inglis Street to the satisfaction of the responsible authority. Any redundant vehicle crossing must be removed and the kerb and channel and nature strip reinstated to that satisfaction of the responsible authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.</li> <li>2. The common property driveway must be constructed in reinforced concrete to a depth of 125 mm. the layout of the driveway must be designed to ensure</li> </ol>
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	<p>that all vehicles are able to enter and exit the property in a forward direction in accordance with Clause 55.03-9 of the Planning Scheme.</p>
<p>Number of vehicle movements to and from site has not been addressed.</p>	<p>Normally 8 . 10 VMD is the accepted norm per dwelling. In this regard this would at the maximum equate to 50 VMD on the subject site. As the road is considered an arterial road this amount of movement is considered to be acceptable for the road capacity.</p> <p>As for the impact of vehicle movement on the site. The only benefit is that the common property drive is located internally and not along the boundary.</p> <p>It is reasonable to accept that the proposed increase in dwellings and the subsequent increase in traffic would have some impact on surrounding and adjoining neighbours.</p>
<p>There are five habitable room windows located less than 1m from shared accessway.</p>	<p>Clause 55.03-10, Parking location objective states that <i>'shared access ways or car parks of other dwellings and residential buildings should be located at least 1.5m from the windows of habitable rooms. This setback may be reduced to 1m here there is a fence at least 1.5m high or where window sill are at least 1.4 m above the access way.'</i></p> <p>As stated in the Clause 55 assessment of this application the proposal</p> <p>Dwelling 1 complies in that the habitable windows less than 1.5m from the access way would be 1.4m above the access way. The study window is recessed 1.9m.</p> <p>Dwelling 2 complies with habitable windows set 1.4m above the access way.</p> <p>Dwelling 3 . complies based on elevations as the habitable windows although only setback 1.2m for the study/bedroom and living area are higher than 1.4m above the access way based on floor level height..</p> <p>Dwelling 4 . no habitable windows against access way.</p> <p>Dwelling 5 . complies with setbacks for Bedroom 1.</p>

<p>Whilst the clause permits walls on boundaries up to 29.01m I question the need to locate garage walls on the boundary when there appears to be sufficient access way widths to facilitate vehicles using the garages with an identical setback to the proposed dwellings.</p> <p>I also question the extent to which walls on boundaries are part of the neighbourhood character.</p>	<p>The application meets Clause 55 requirements for walls on boundaries.</p> <p>Garages have been setback to boundaries in order to comply with the standards that require entry ways to dwellings not be obscured to allow safety and security for residents and allow visibility and surveillance of car parks and internal access ways.</p> <p>The required turning template for vehicles could not be achieved if the garages where to be setback 1.2m from the boundary on both the east and west sides and would make the development proposal non compliant in this respect</p> <p>Developers are permitted to construct walls on boundaries for a length of 10 metres plus 25% of the remaining boundary length.</p>
<p>Rear sliding doors of dwellings 1 and 2 require 750mm deep external landings under NCC requirements. These landing along with the kitchen window of Dwelling 2 will facilitate overlooking of adjoining properties. This could be addressed with screening.</p>	<p>Each dwelling, should a planning permit be issued, must still meet the Building Regulations and therefore any non compliance would have to be brought to standard.</p> <p>The proponent indicates that future landscaping would include fence extensions or screening to 2m to address overlooking issues.</p>
<p>Private open space to dwellings one and two do not appear to comply with the requirements of the clause, They should be setback at least 2.6 . 2.7m</p>	<p>The southern extent of Unit One and Unit 2 private open space should be setback 4.385 metres from the abutting wall to the north. The proposal meets the Standard 29.</p>
<p>No bin and recycling enclosures are identified and provided on site for convenient access by residents. Where would general waste and recycling bins be located for collection? This would equate to 12 bins placed on the road reserve and would not fit within the site boundary.</p>	<p>Provision could be made for bin and recycling storage on site by permit condition.</p> <p>VCAT has previously determined that the road reserve is public land and anyone can place their garbage bins along the road reserve, even if it has to be placed in front of adjoining properties.</p>

Noise from traffic and increased amenity impact.	Concur. A development of this type is likely to increase noise from traffic and activity on the site. The noise created may not be fatal to the application receiving a permit at VCAT based on this criteria alone.
Decrease in property values	VCAT has often ruled that property values are not a Planning consideration due to the complex nature of what affects property values.
Not characteristic of the neighbourhood	This report has addressed the officer's assessment of the proposal in this regards and is evident throughout the report.
No time limits for construction considering it would be staged and construction could take years.	Standard times for development should a permit issue are 2 years to start, 4 years to complete and 2 years for certification of the subdivision and 5 years to register each stage.  The proponent has not indicated how staging would occur. Previous applications of this type do often take several years to complete.
Vast majority of properties within the vicinity of the proposed development are single story single dwellings on large lots. One of the reasons we purchased in Ballan, specifically this end of Jopling Street was the lack of crowded lots. All adjacent blocks are single dwellings except 31 Jopling Street which has two units. Development of 5 units with the same number of garages is wholly inconsistent with this. I am not clear on what the definition of medium density is but local planning policy suggests that developments of this size should be within 500 metres of the train station and the town centre.	Dwelling density does not determine neighbourhood character impacts. Other factors such as height, setbacks and extent of site coverage are better indicators. It is considered that the proposed dwellings located one behind the other, either side of a central access way, maintains the appearance of single dwellings presenting to the street. This together with ample scope for landscaping respects the neighbourhood character.  The proper test of the impact of a proposal on neighbourhood character is whether the proposal respects or responds to neighbourhood character, not that it replicates the existing character. The state and local planning policy provisions set out in the Moorabool Planning Scheme are directed towards more efficiently using existing infrastructure and increasing densities within existing urban areas. Inevitably this means that the existing character of an area such as the one in which the subject land is located will change.  Whilst Local Policy encourages infill development of larger lots within 500 metres of the town centre and railway station it does not prohibit development within the Residential 1 Zones that provide for diversity of housing choice.

Increased light pollution will flood into our backyard and result in illumination within our property.	Rescode has lighting standards which all dwellings must comply with.
Shadow plans indicated a considerable portion of our backyard being shaded in September and this would be greater post this time and summer months lessening our enjoyment of private space.	<p>Shadow diagrams attached indicate very little impact on the adjoining allotment at 9am, no impact at noon and afterwards. There is also no overshadowing of the adjoining dwelling.</p> <p>Secluded private open space which appears to be directly to the rear of the dwelling is not impacted by overshadowing at all.</p> <p>For adjoining eastern boundary land overshadowing will not impact in the am through to noon and will encroach approximately 2m at 3pm. There is no impact the dwellings themselves and no overshadowing of adjoining properties in terms of secluded private open space.</p> <p>The standard is achieved in that no secluded private open space is impacted by overshadowing.</p>

### Assessment of Application

In light of the planning policy support for new development and subdivision at both the State and local level, combined with the purpose of the Residential 1 zone that includes providing a range of residential densities and dwelling diversity, there is no doubt that the further subdivision and development of existing lots around the Ballan township (including this site) is envisaged and encouraged in the Planning Scheme.

The proper test of the impact of a proposal on neighbourhood character is whether the proposal respects or responds to neighbourhood character, not that it replicates the existing character. The state and local planning policy provisions set out in the Moorabool Planning Scheme are directed towards more efficiently using existing infrastructure and increasing densities within existing urban areas. Inevitably this means that the existing character of areas such as the one in which the subject land is located will change.

The immediate area is characterised by a range of lot sizes developed with new or existing single-storey brick or weatherboard dwellings setback between 5 and 11m from the street. Garages at the side are clearly visible from the street, and tandem parking on driveways is a common feature. Landscaping is mixed and varied together with front fencing. Within this context, the proposed single-storey dwellings, setback 5m from the street have limited impact on the streetscape. The layout of dwellings, one behind the other, either side of the shared driveway, gives the appearance of two dwellings presenting to the street. Garages and one tandem car space at the rear are not visible from the street. This together with ample scope for landscaping and low front fencing to suit the character of Inglis Street.

In regard to building mass and layout, the only non-compliance with ResCode is access for those with limited mobility may often be achieved through ramps to doors instead of stair as internally there is only one level.

The car parking provision and access via a new crossover and shared driveway complies with Clause 52.06 and ResCode. Unlike other properties where vehicles must reverse out onto the street, all vehicles entering the subject site can exit the site in a forward direction.

From an amenity perspective, new habitable room windows have good access to natural daylight, and secluded private open spaces have good access to sunlight. The open space provision exceeds requirements, and there is good connection between indoor and outdoor living spaces. Front entries are clearly visible from the street and shared driveway, and are easily accessible to people with limited mobility. The provision of external storage for each dwelling meets the standard requirement.

In terms of off-site impacts, there is no significant overshadowing or potential for overlooking. Staggered setbacks would have achieved a better outcome to minimise the visual impact of the built form, however this is not uncommon on long narrow lots.

The design of the dwellings offers a contemporary response with reasonable articulation and detailing in keeping with the neighbourhood character. There is no front fencing, however many dwellings in Inglis Street do have front fencing. This is a secondary matter and has little bearing on the overall assessment, but low front fencing could be provided should it be necessary in the future.

### **Conclusion**

The proposed development offers energy-efficient, contemporary accommodation and common interest with no significant impact on the adjoining properties, the streetscape or neighbourhood character. The proposal is consistent State and Local Planning Policies, the objectives of the zone, and particular provisions in relation to medium density housing and car parking.

***Cr. Sullivan adjourned from the meeting at 7.24pm and did not participate in the voting on the Item.***

***Consideration of Deputations – Planning Permit Application No. 2012-047.***

***Mr. Dean Kendrick addressed Council as the applicant in favour of the granting of a planning permit for the application.***

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

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

***That Council having considered all relevant matters as prescribed by s.60 of the P&EA, issue a Notice of Decision to Grant a Permit for PA2012047 for a Five (5) Lot Staged Subdivision and Development of Five (5) Dwellings at Crown Allotment 7, Section 37, Parish of Ballan, 54 Inglis Street, Ballan subject to the following conditions:***

- 1. Before the development starts, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies provided. The plans must show:***
  - a) The proposed staging of the development;***
  - b) The proposed landscape treatment of the site including the location of all existing and proposed species.***
- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 3. Prior the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.***
- 4. All landscaping works shown on the endorsed landscape plans must be maintained and any dead, diseased or damaged plant replaced to the satisfaction of the Responsible Authority.***
- 5. Before statement of compliance is issued for each stage under the Subdivision Act 1988, a payment of \$900 per lot created in that stage must be made to Council for the provision of social infrastructure.***

***Infrastructure conditions:***

- 6. Prior to the issue of a Statement of Compliance for Stage 1 of the Subdivision, a standard double width urban residential vehicle crossing must be provided on Inglis Street to the satisfaction of the responsible authority. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the responsible authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.***

7. ***The common property driveway must be constructed in reinforced concrete to a depth of 125 mm. The layout of the driveway must be designed to ensure that all vehicles are able to enter and exit the property in a forward direction in accordance with Clause 55.03-9 of the Planning Scheme.***
8. ***Prior to the issue of Statement of Compliance the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:***
  - a) ***The development as a whole must be self draining;***
  - b) ***All drainage courses within the development must pass through easements or reserves shown on the plan of subdivision.***
  - c) ***Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.***
  - d) ***Each lot must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority; and***
  - e) ***Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".***
9. ***Design computations for drainage of the whole site must be prepared and submitted to the responsible authority for approval, and must include analysis of the existing stormwater drainage system in the area to determine:***
  - a) ***The requirements for drainage of the whole site.***
  - b) ***If the existing drainage network has sufficiently capacity to cater for the additional runoff from the ultimate development.***
  - c) ***If additional outfall drainage or upgrading of the existing drainage network is required.***
10. ***Prior to the issue of a Statement of Compliance for Stage 1 of the development, the proponent must construct an underground stormwater drain from the mid-point of the title boundary of the subject land abutting Simpson Street, to the existing underground drainage system in Jopling Street, to the satisfaction of the responsible authority.***
11. ***Stormwater drainage from the development must be directed to a legal point of discharge to the satisfaction of the responsible authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.***

12. ***Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991).***
13. ***Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
14. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.***
15. ***Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the Responsible Authority for approval, detailing but not limited to the following:***
  - a) ***location of vehicle crossings;***
  - b) ***details of the underground drainage;***
  - c) ***location of drainage legal points of discharge;***
  - d) ***standard details for vehicle crossing and legal point of discharge; and***
  - e) ***civil notes as required to ensure the proper construction of the works to the satisfaction of the Responsible Authority.***
16. ***Prior to statement of compliance for each stage the owner of the land must provide Council with confirmation of a written agreement with:***
  - a) ***A telecommunications network or service provider for the provision of telecommunications services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and***
  - b) ***A suitably qualified person for the provision of fibre ready telecommunications facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.***

#### **Country Fire Authority (CFA) conditions**

17. ***Operable hydrants, above and below ground must be provided to the satisfaction of the CFA.***
18. ***The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m.***



19. **Hydrants must be identified as specified in 'Identification of Street Hydrants for Fire fighting purposes' available under publications on the Country Fire Authority website ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).**

**VicRoads Conditions:**

20. **The access must be designed so that all vehicles can be driven in a forward direction when entering or leaving the subject land.**
21. **The crossover and associated works must be to Council's satisfaction.**
22. **Vehicular access to the property from Inglis Street Ballan must be constructed to a standard approved in writing by the responsible Road Authority prior to the commencement of construction within the declared road reserve, for the development coming into use.**
23. **The redundant vehicular crossover must be removed and the footpath, nature strip and kerbing reinstated to the satisfaction of the responsible authority.**
24. **All works must be at no cost to VicRoads.**

**Central Highlands Water (CHW) Conditions:**

25. **Any plan lodged or certification must be referred to Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act 1988.**
26. **Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highland Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.**
27. **A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.**
28. **The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.**

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

**Southern Rural Water Conditions:**

30. *The plan of subdivision submitted for certification must be referred to Southern Rural Water in accordance with Section 8 of the Subdivision Act 1988.*
31. *All lots must be connected to the town sewerage and an approved drainage system.*
32. *Stormwater discharge must comply with best practice guidelines in order to ensure the removal of gross pollutants before water enters any waterway.*
33. *Sediment control measures outlined in EPA's publication No 275, Sediment Pollution Control, shall be employed during construction works and maintained until disturbed areas have regenerated.*
34. *The sue of water from groundwater and any surface water resources for onsite construction use will potentially require a licence in accordance with Section 51 or 67 of the Water Act 1989. Proper approval must be obtained from SRW.*

**Powercor Australia Ltd conditions:**

35. *The plan of subdivision for certification under the Subdivision Act 1988 shall be referred to Powercor Australia in accordance with Section 8 of that Act.*
36. *The applicant shall:*
- a) *Provide an electricity supply to lots in the subdivision in accordance with Power's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.*
  - b) *Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.*

- c) ***Any buildings must comply with the clearances required by the Electricity Safety (Network Assets) Regulations.***
- d) ***Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.***
- e) ***Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (Other than a pole mounted type) is required to service the subdivision.***

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

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

**SP AusNet (Gas) Pty Ltd conditions:**

37. ***The plan of subdivision submitted for certification must be referred to SP AusNet (GAS) in accordance with Section 8 of the Subdivision Act 1988.***

**Commencement / Completion Conditions:**

38. ***This permit will expire if either 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 plans for the first stage are not certified within two years of the date of this permit;***
  - d) ***The plans for any subsequent stage are not certified within two years of the date of the certification of the immediately preceding stage.***
  - e) ***The development of any stage is not completed within five years of the date of certification for that stage.***

***The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.***

**CARRIED.**

---

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

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Thursday 13 June 2013



**CHANGE TO ORDER OF BUSINESS**

**Crs. Comrie/Spain**

***That the order business be changed to consider Item 11.2.4 - Planning Application PA2013-033; Development and use of a dwelling; Lot 1 on TP 83675L, Bourkes Road, Darley.***

**CARRIED.**

***Cr. Sullivan returned to the meeting after consideration of 11.2.4 at 7.35pm.***

**11.2.3 Planning Application 2010-103-E1; Extension of time for the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling; Lot 7 on PS 218952S, Thomas Court, Gordon.**

<b>Application Summary:</b>	
Application No:	2010-103 E1
Lodgement Date:	26 February 2013
Planning Officer:	Roger Cooper
Address of the land:	Lot 7, Thomas Court, Gordon
Proposal:	Extension of time for the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling
Lot size:	4.124 ha
<b>Moorabool Planning Scheme (Relevant details):</b>	
State Planning Policy Framework (SPPF):	Clause 11.05 Melbourne's hinterland Clause 14.02 Water
Local Planning Policy Framework (LPPF):	Clause 21.03 Settlement and housing Clause 21.09 Gordon Clause 22.02 Special Water Supply Catchments
Zone:	Clause 35.03 Rural Living Zone (RLZ)
Overlays:	Clause 42.01 Environmental Significance (ESO1) Clause 43.02 Design and Development (DDO2) Clause 44.06 Wildfire Management (WMO)
<b>Planning controls:</b>	
Planning and Environment Act 1987	Section 68 When does a permit expire? Section 69 Extension of time
<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Enhanced natural and built environment
<b>Objective -</b>	Effective and efficient land use planning and development.
<b>Strategy -</b>	Provide a high quality and timely development application processing system.

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>
--

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

<b>Officer's Declaration of Conflict of Interests</b>
---

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

*General Manager – Satwinder Sandhu*

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

*Author – Roger Cooper*

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

<b>Executive Summary:</b>
---------------------------

The application is for an extension of time for Planning Permit PA2010103, which allows the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling on Lot 7, Thomas Court, Gordon.
---

The development and use of the approved dwelling has not commenced. Hence, the permit expired on 27 September 2012. The request for an extension of time was lodged on the 26 February 2013.
--

Council does not have the power to issue an extension of time when the request is made more than 3 months after the expiry date of the permit. The application is before Council because Council has retained unto itself the power to refuse to extend the expiry date for a permit.
---

<b>Summary Recommendation:</b>
--------------------------------

That Council resolve to refuse an extension of time for the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling on Lot 7, Thomas Court, Gordon, pursuant to Section 69 of the Planning and Environment Act 1987.
--

### Site History

The land first came to Council's attention as an enforcement matter as a shipping container was located on the land without appropriate planning permission.

Planning Permit PA2010103 was granted on 27 September 2010 allowing the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling.

Condition 13 of the permit is as follows:

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

- *The development and use is not started within two years of the date of this permit.*
- *The development is not completed within four years of the date of this permit.*

*Council may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.*

As the development and use of the dwelling has not commenced, the permit expired on 27 September 2012.

### **Proposal**

The applicant has requested an extension of time for the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling.

Failure to commence within the two-year time limit is attributed to adverse financial circumstances and health issues.

### **Site Description**

The site is located on the north east corner of Thomas Court and Moorabool West Road on the outskirts of Gordon, north of the Western Freeway.

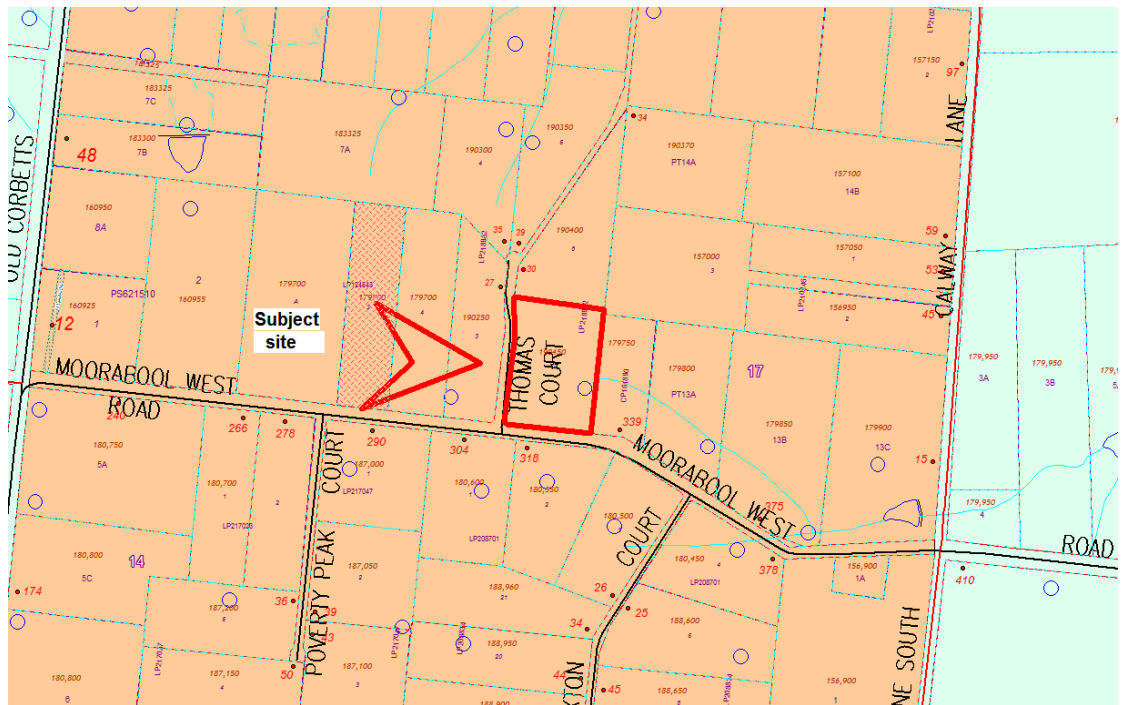
It is generally rectangular in shape with a street frontage width of 244.46 m and an area of approximately 4.124 ha. The land is gently undulating. There are no easements or restrictions affecting the land.

The site is undeveloped except for a dam adjacent to the eastern boundary and an access track from Thomas Court. The shipping container previously used as a store, no longer exists. Instead, a pile of recycled building materials and other items are stored in approximately the same location. Vegetation consists of pasture for grazing and a few isolated clumps of trees.

Surrounding properties have been developed with single dwellings and associated outbuildings.

Thomas Court is a cul-de-sac providing access to five properties ranging between 4.0 and 4.25 ha.





## Locality Plan

Site inspection conducted on 9 April, 2013.

## Planning Controls

Section 68(3) of the Planning and Environment Act 1987 provides that a permit for the development and use of land expires if-

- (a) *the development or any stage of it does not start within the time specified in the permit; or*
- (b) *the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or*
- (c) *the use does not start within the time specified in the permit, or, no time is specified, within two years after the completion of the development; or*
- (d) *the use is discontinued for a period of two years.*

Under Condition 13 of Planning Permit PA2010103 issued on 27 September 2010, the permit expired on 27 September 2012.

Section 69 of the Planning and Environment Act 1987 relating to extension of time provides that:

- (1) *Before the permit expires or within three months afterwards, the owner or the occupier of the and to which it applies may ask the responsible authority for an extension of time.*

- (2) *The responsible authority may extend the time within which the use or development or any stage of it is to be started or the development or any stage of it is to be completed or within which a plan under the Subdivision Act 1988 is to be certified.*
- (3) *If the time is extended after the permit has lapsed the extension operates from the day the permit expired.*

The request for an extension of time lodged on 26 February 2013 is more than three months after the permit expired.

### **Referrals**

Referral of the request for extension of time is not required.

### **Notification**

There is no provision under the Planning and Environment Act 1987 for extension of time applications to be advertised.

### **Planning Officer Assessment**

Notwithstanding the permit's apparent failure to meet the tests established by the Supreme Court in *Kantor v Murrindindi*, as Council does not have the discretion to approve this extension of time, this report recommends that the application be refused.

### **Financial Implications**

The recommendation of refusal to grant an extension of time for this permit will not represent any financial implications to Council.

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

The recommendation of refusal to grant an extension of time for this permit does not implicate any risk or OH & S issues to Council.

### **Communications Strategy**

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

**Resolution:****Crs. Spain/Comrie**

***That Council having considered all relevant matters as prescribed by Section 60(1) of the Planning and Environment Act, refuse the application for an extension of time for the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling on Lot 7, Thomas Court, Gordon, under Planning Permit PA2010103 for the following reasons:***

- 1. Council does not have the power to extend a planning permit when the request is made more than three months after the expiry date of the permit.***
- 2. If Council had been able to determine this application, it would have approved an extension of time for the commencement of the development until 27 September 2014 and allow for completion to be finalised by 27 September 2016.***

**CARRIED.**

---

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

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Thursday 13 June 2013



***Cr. Sullivan declared a conflict of interest in regards to Item 11.2.4 Planning Application PA2013-033; Development and use of a dwelling; Lot 1 on TP 83675L, Bourkes Road, Darley. The nature of the Conflict of Interest is due to previously representing the owners of the adjoining properties in his role as a surveyor.***

**11.2.4 Planning Application PA2013-033; Development and use of a dwelling; Lot 1 on TP 83675L, Bourkes Road, Darley.**

<b>Application Summary:</b>	
Application No:	PA2013033
Lodgement Date:	30 January 2013
Planning Officer:	Victoria Mack
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	30 March 2013
Address of the land:	Lot 1 on TP083675L, Bourkes Road, Darley
Proposal:	Development and use of a dwelling
Lot size:	7,909 sqm
<b>Moorabool Planning Scheme (Relevant details):</b>	
State Planning Policy Framework (SPPF):	Clause 11 Settlement Clause 14.01 Agriculture Clause 16.02-1 Rural Residential Development
Local Planning Policy Framework (LPPF):	Clause 21.03 Settlement and housing Clause 21.04-2 Agriculture Clause 22.03 Houses and house lot excisions in rural areas
Zone:	Clause 35.07 Farming Zone (FZ) Clause 36.04 Road Zone Category 1
Overlays:	Clause 43.02 Design and Development Overlay (DDO2 & DDO3) Schedule 2 Visual amenity and building design Schedule 3 Western freeway/highway environs
Particular provisions:	Clause 52.29 Land adjacent to a Road Zone Category 1
General provisions:	Clause 65 Decision guidelines

Why is a permit required?	<p>Clause 35.07-1 Use in FZ</p> <p>Clause 35.07-4 Buildings &amp; Works in the FZ</p> <p>Clause 43.02, Buildings &amp; Works in the Design and Development Overlay, schedule 3 (Western Freeway Environs).</p>
<b>Public Consultation:</b>	
Number of notices to properties:	4
Notices on site:	1
Notice in Newspaper:	Not required
Number of objections:	Nil
Submission of support:	Not applicable
Consultation meeting:	Not applicable
<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Sustainable agriculture and best practice environmental management.
<b>Objective -</b>	Effective and efficient land use planning and development.
<b>Strategy -</b>	Provide a high quality and timely development application processing system.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>General Manager – Satwinder Sandhu</i>          In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Victoria Mack</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 development and use of a dwelling on Lot 1, Bourkes Road, Darley. The application is before Council due to the Council Officer's recommendation to refuse the application.

The site has an area of 7909 sqm. The slope is variable with a confined area of flat ground below the Western Freeway embankment and the dwelling would be within 50m of the boundary of the Western Freeway road reserve. There is no development or significant vegetation on the site. The location and constraints of the site make it unsuitable for development. It is considered that the site should be consolidated with the adjoining Lot 2 in the same ownership, currently being developed with a dwelling, in accordance with Clause 22.03 of Council's Local Planning Policy Framework.

The proposal is inconsistent with State and local planning policies, the objectives of the zone and design requirements for sensitive uses affected by traffic noise.

**Summary Recommendation:**

That Council resolve to issue a Refusal to grant a Planning Permit for the development and use of a dwelling on Lot 1 Bourkes Road, Darley, pursuant to Section 60(1) of the Planning and Environment Act 1987.

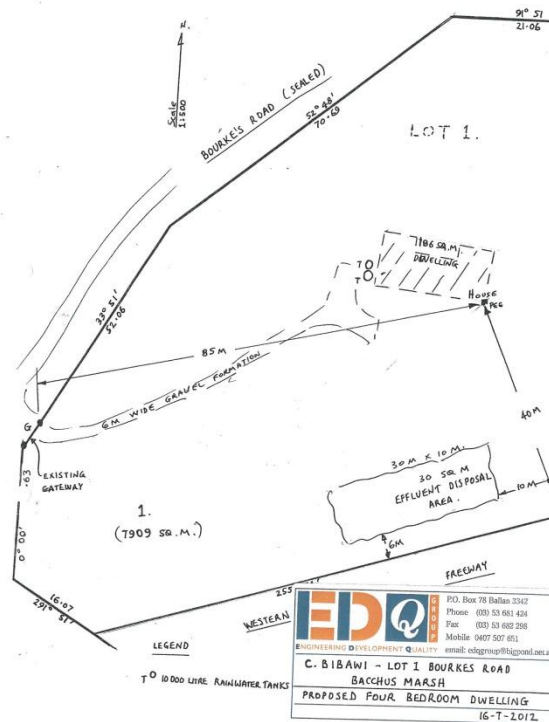
**Site History**

Planning Application No PA2012163 for the use and development of a dwelling on the subject lot lapsed on 26 October 2012, due to requested further information not being provided within the prescribed time.

Planning Application No PA2009068 for the Development and Use of a Dwelling and Ancillary Outbuilding (Shed) on Lot 2 on TP83675L was issued on 3 July 2009. This lot is in the same ownership as the subject lot. The outbuilding has been constructed on this site but not the dwelling.

**Proposal**

Approval is sought for the development and use of a dwelling on Lot 1, Bourkes Road, Darley. The proposed dwelling would be located on elevated, sloping ground, approximately 40m north of the Western Freeway, 25m from Bourkes Road and 10m from the nearest eastern side boundary.

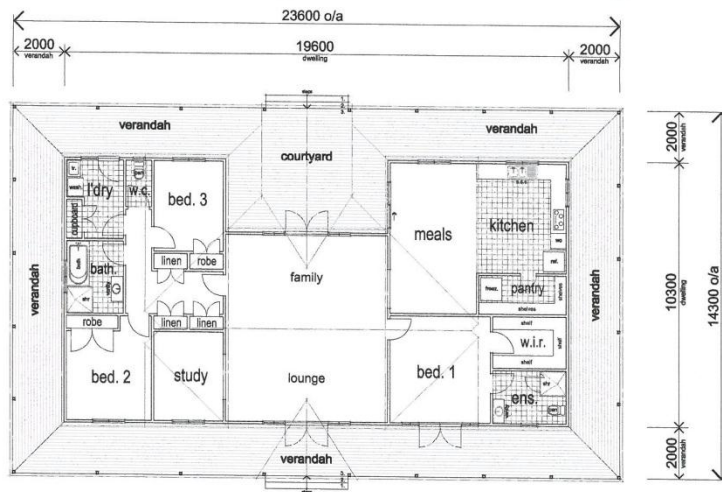


### Proposed Site Plan

The dwelling would have a total floor area of 337.5 sqm including 185 sqm of floor space and 152 sqm of verandah/covered court yard. The internal layout provides for a kitchen meals area, lounge family room, three bedrooms, a study, two bathrooms and laundry. The design of the dwelling would be contemporary, constructed with weatherboard cladding and with 35° pitched Colorbond® roof.

Vehicle access to the dwelling would be via an existing gate adjacent to Bourkes Road and a proposed 6m wide gravel driveway. No undercover parking for vehicles is proposed.

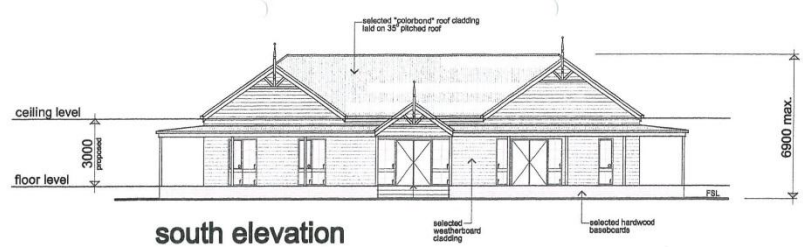
The proposed effluent disposal field occupying an area of 300 sqm would be setback 6m from the Freeway at the base of the roadside embankment.



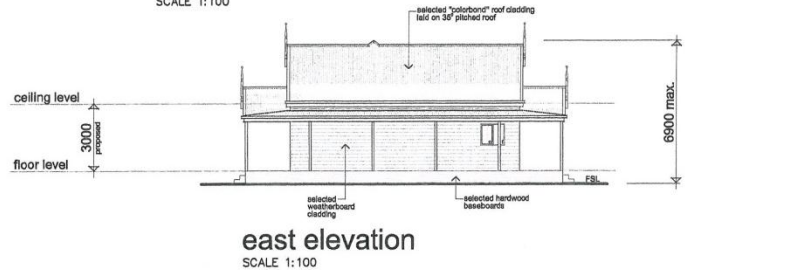
**proposed floor plan**  
SCALE 1:100

areas :	
proposed dwelling	: 185.30m <sup>2</sup>
proposed verandah	: 152.20m <sup>2</sup>
total	: 337.50m <sup>2</sup>

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**south elevation**  
SCALE 1:100



**east elevation**  
SCALE 1:100

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Proposed elevations (two elevations only provided)



## Site Description

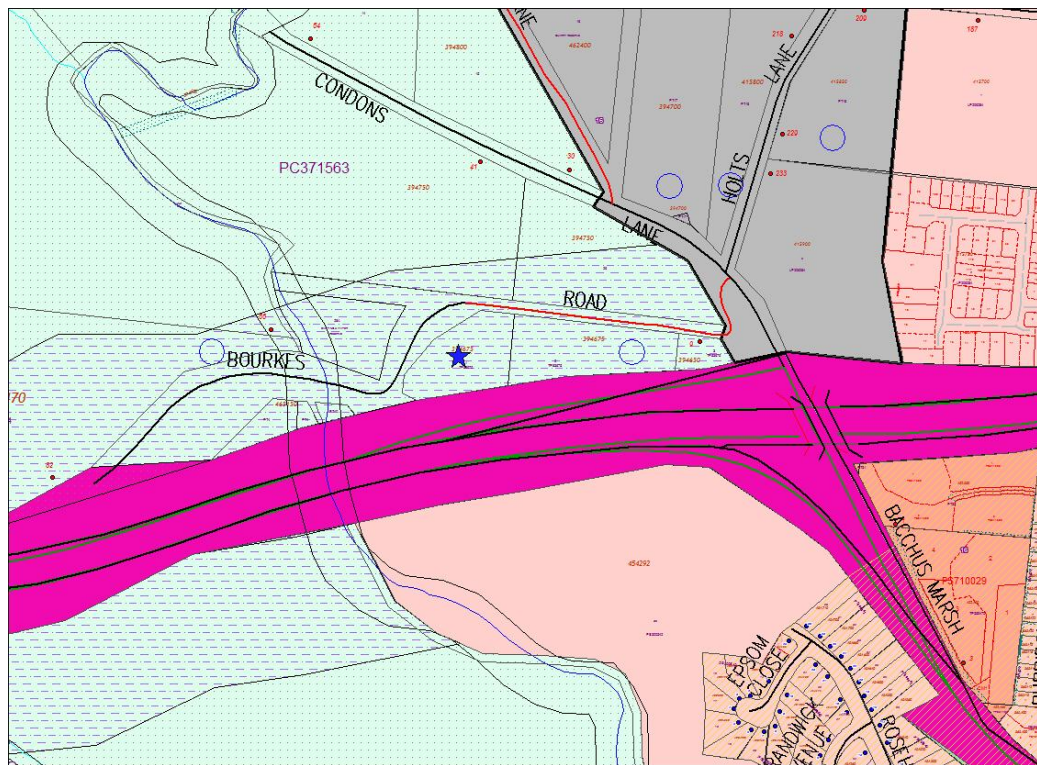
The site is located between Bourkes Road and the Western Freeway, and approximately 300 metres west of Condons Lane, which feeds into Bacchus Marsh Road.

It has an irregular shape with a road frontage width of 143.81m and an area of 7909 sqm. The land has variable slope with a confined area of flat ground below the freeway. There are no easements or restrictions affecting the land. The allotment is less than 100m to the east of the Korkuperrimul Creek.

The site is undeveloped with no significant vegetation. Informal access to the site is via a gate to Bourkes Road in the south-west corner of the site.

The adjoining property to the east with an area of 1.245ha, in the same ownership as the subject site, is currently undergoing the construction of a dwelling, approved by Planning Permit PA2009068. The property further east with an area of 2748 sqm, also abutting the Freeway, has been developed with a dwelling. Other surrounding properties north of the Freeway are typical hobby farm lots including some with dwellings.

Bourkes Road is a local winding road with gravel surface, grass verges and steep embankments. The southern boundary of the subject site abuts the Western Freeway which also includes the beginnings of the off-ramp to Condons Lane to the north-west and Bacchus Marsh Road to the south-east.



Zone map

## 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).

<b>SPPF</b>		
Clause 11.05-3	Settlement	The proposal is inconsistent with this policy which aims to: limit new housing development in rural areas, including directing housing growth into existing settlements; discourage development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses; and encouraging consolidation of existing isolated small lots in rural zones.
Clause 14.01	Agriculture	The proposal limits the potential for any sustainable small scale agricultural activities on a site. An improved outcome would be if this land was consolidated with the adjoining land in the same ownership, as supported by Council's Local Planning Policy at Clause 22.03.
Clause 16.02-1	Rural Residential Development	<p>It is policy to identify land suitable for rural living and rural residential development by managing development in rural areas to protect agriculture and avoid inappropriate rural residential development. It is also policy to discourage development of isolated small lots in rural zones from use for rural living or other incompatible uses and to encouraging consolidation of existing isolated small lots in rural zones.</p> <p>This application would provide for a rural residential development an unattractive location in close proximity to the Western Freeway and is not a desirable planning outcome for future occupants of the dwelling.</p>

LPPF		
Clause 21.03	Settlement and housing	Contrary to policy, the proposal represents an unplanned rural living development in an inappropriate, unattractive location that is less than 50m from the Western Freeway.
Clause 21.04-2	Agriculture	The proposal does not support the productivity and sustainability of existing and future agricultural and horticultural activities.
Clause 22.03	Houses and house lot excisions in rural areas	It is local policy to limit new housing development in rural areas by discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses and encouraging consolidation of existing isolated small lots in rural zones. The proposed dwelling has no relationship to an agricultural use, and a prime example of land that should be consolidated with the adjoining small lot in the same ownership.

### Zone

The site is located within the Farming Zone of the Moorabool Planning Scheme.

Pursuant to Clauses 35.07-1 and 35.07-4, a permit is required for the use and development of a dwelling on a lot less than 40 hectares.

The purpose of the zone is:

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

The proposal does not provide for the use of the land for agriculture or sustainable land management practices. It is considered that the site should be consolidated with the adjoining small lot in the same ownership.

### Overlays

The land is included in the Design and Development Overlay . Visual amenity and building design (DDO2) and National Route 8 (Western Freeway/Highway) environs (DDO3).

Pursuant to Clause 43.02-2 (DDO2), no permit is required to construct a building or carry out works where all external walls and roof areas are clad with non-reflective materials. The proposed development would be constructed with non-reflective materials and therefore a permit is not triggered under this overlay.

Pursuant to Clause 43.02-2 . Schedule 3 (DDO3) of the Moorabool Planning Scheme, a planning permit is required to construct a building or carry out works.

The purpose of the Overlay is:

- *To ensure that the development of land or the display of advertising signs near the alignment of the Western Freeway does not prejudice the levels of service, safety and amenity of the Western Freeway/Highway.*
- *To minimise any adverse effects of noise on noise sensitive uses from traffic using the Western Freeway/Highway.*

Contrary to requirements, there is insufficient information to demonstrate that the proposed dwelling is sited where the noise level would not exceed 63dB(A) or the proposed dwelling is designed and constructed to acoustic standards as set out in AS3671-1989 ~~%Acoustic~~ . Roads Traffic Noise Intrusion . Building Siting and Construction+. The proposal makes little effort to comply with the requirements of this overlay to minimize the effects of noise from the freeway.

### **General Provisions**

Pursuant to Clause 65, the responsible authority must consider State and local planning policies, the purpose of the zone and overlays, environmental impacts, the orderly planning of the area and amenity of the area. These matters are taken into account elsewhere in the report.

### **Referrals**

The application was referred to VicRoads pursuant to Section 55 of the Planning and Environment Act 1987, and Council's Infrastructure and Environmental Health Departments. The responses are summarized as follows:

<b>Authority</b>	<b>Response</b>
VicRoads	No objection subject to conditions
Infrastructure	No objection subject to conditions
Environmental Health	No objection subject to conditions

### **Public Notice**

Pursuant to Clause 52 of the Planning and Environment Act 1987, the application was advertised to the owners and occupiers of surrounding properties by sending individual notices on 24 April 2013. No objections have been received.

## Discussion

According to the land capability assessment prepared by Provincial Geotechnical Pty Ltd submitted with the application, a sustainable onsite wastewater management system could be built to meet the needs of a new dwelling on the site.

Having regard to State and local planning policies and the objectives of the zone, it is considered that the proposed development undermines the opportunity to consolidate two adjoining lots in the same ownership, one of which is currently undergoing the construction of four bedroom brick dwelling. Rather than allowing two dwellings, neither of which can support or enhance agriculture in the Farming Zone, it is considered that one consolidated lot with an area of 2 ha would create more opportunities for sustainable hobby farming and re-vegetation with less damage to the landform.

By minimizing the number of dwellings adjacent to the Western Freeway, the impact of noise on residents would also be minimized. Although VicRoads did not object to the proposal, a notable condition of any permit issued is that VicRoads accepts no liability for any claims of noise impacts from the Freeway.

According to the applicant, triple glazing and wall insulation would be used to keep noise levels inside the proposed dwelling to below the standard 63 dB(A). Doubts remain that, given the use of weatherboard external cladding as opposed to brick and the need for doors and windows to always be closed, it is not reasonable to expect that future residents will enjoy a reasonable level of amenity as expected for modern dwellings.

A for sale sign has been erected on the property, indicating that the permit applicant intends to warehouse the permit.

## Rural Growth Policy Statement

Section 60(1A)(g) of the Planning and Environment Act 1987 allows for consideration of any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council in the assessment of an application.

In this regard, Council's Rural Growth Policy Statement and Identified Areas does not identify the site as one to support dwellings, however where there is no clear strategy for the site the Policy does accept that one size fits all rural land use policies have proven to be inadequate for peri urban Shires. The policy suggests, where applicable, that council should:

- protect agricultural land use from permanent loss and allow development that increases agricultural productivity
- support investment and development in innovative agricultural activities and agricultural diversity;
- recognise that the transition arrangements around existing rural settlements need to accommodate both urban and rural needs;
- Promote a rural housing market that meets the needs of the Shire's rural communities;

- Ensure that housing stock matches changing demand by widening housing choice, particularly in rural communities, towns and settlements.

Further and more specifically:

- Encourage development that assists in retaining an increase in accommodation opportunities for the existing rural population and is appropriate in the area's local circumstances;
- Support developments that increase development opportunities for displaced, or potentially displaced rural community populations, including young residents and housing opportunities for older persons;
- Support development that are part of a wider opportunity to increase investment within the agricultural enterprise.

If the application was to be supported and a dwelling is permitted it permanently alters the use of the land. This would be in conflict with Clause 11.05-3 and Clause 16.02-1 of the State Planning Policy Framework within the Moorabool Planning Scheme and Council's Urban Growth Policy Statement, all of which aim to manage land use change and development in rural areas to protect agricultural land and prevent inappropriately dispersed urban activities in rural areas by avoiding inappropriate rural residential development.

### **Financial Implications**

The recommendation of refusal to grant a permit would not represent any financial implications to Council.

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

The recommendation of refusal to grant an extension of time for this permit does not implicate any risk or OH & S issues to Council.

### **Communications Strategy**

The applicant was invited to attend this meeting and address Council if desired. Further advice to the applicant as a result of a decision in this matter is will be undertaken.

### **Conclusion**

The proposal is an inappropriate response to the constraints of the site and its immediate context. The proposed dwelling is inconsistent with State and local planning policies, the objectives of the zone and design requirements for sensitive uses affected by traffic noise.

***Consideration of Deputations – Planning Permit Application No. 2012-115.***

***Mr. Charles Bibawi and Mr. Robert Eskdale addressed Council as the owner and applicant in favour of the granting of a planning permit for the application.***

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

**Recommendation:**

**That Council having considered all relevant matters as prescribed by s.60(1) of the P&EA, Refuse to Grant a Permit for the development and use of a dwelling on Lot 1, Bourkes Road, Darley for the following reasons:**

- 1. The proposal is an inappropriate response to the constraints of the site and its immediate context.**
- 2. The construction of a large dwelling with constant floor level on elevated sloping ground will have a detrimental impact on the landform.**
- 3. The impact of traffic noise from the adjoining freeway on future residents of the dwelling has not been adequately addressed.**
- 4. The proposal is inconsistent with local planning policy that encourages the consolidation of small lots in a Farming Zone.**
- 5. The proposal is not supported by the provisions of the DDO3 which seek to limit the impact of noise on the abutting land.**
- 6. The proposal eliminates any potential for small scale agriculture through the consolidation of an adjoining lot in the same ownership.**

**Resolution:**

**Crs: Comrie/Dudzik**

***That Council having considered all relevant matters as prescribed by s60 of the Planning and Environment Act, issue a Permit on the property known as Bourkes Road, Darley, or Lot 1 on TP083675L, subject to the following conditions:***

- 1. Before the issue of a building permit, amended plans must be submitted to the satisfaction of the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:***

- a) ***Written confirmation from a suitably qualified acoustic engineer that the plans for the dwelling meet the VicRoads standards as contained in condition 13. The acoustic engineer is required to certify that the dwelling plans are compliant with the required standards.***
2. ***Unless specifically required otherwise by any condition of this permit, and except with the prior written consent of the responsible authority to any variation, the development must be sited and constructed in accordance with the endorsed plans.***
3. ***The dwelling must not have exterior cladding of reflective materials.***
4. ***Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.***
5. ***The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from each dwelling must be treated and retained within the lot in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.***
6. ***The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply, with appropriate storage capacity, to the satisfaction of the responsible authority.***
7. ***The dwelling must be connected to a reticulated electricity supply or have an alternative energy supply to the satisfaction of the responsible authority.***

#### ***Infrastructure conditions***

8. ***A standard rural vehicle crossing with culvert must be provided on Bourkes Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.***
9. ***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.***
10. ***Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Pollution Control (EPA 1991).***



11. ***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.***
12. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.***

***VicRoads conditions***

13. ***The development must be designed and constructed to achieve the satisfactory acoustic standards set out in AS 2107-2000 "Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors". Due regard should also be given to the requirements set out in AS 3671-1989 "Acoustics – Road Traffic Noise Intrusion – Building Siting and Construction".***
14. ***VicRoads will accept no liability for any claims of noise impacts from the Western Freeway.***
15. ***An illumination from the development must not cause dazzle or glare to the Western Freeway Traffic.***

***Expiry condition***

16. ***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.***

***The responsible authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.***

**CARRIED.**

**CHANGE OF ORDER OF BUSINESS**

***With the consent of the Council, the order of business returned to consider Item 11.2.3 - Planning Application 2010-103-E1; Extension of time for the development and use of a dwelling and use of existing shipping container as a store ancillary to the dwelling; Lot 7 on PS 218952S, Thomas Court, Gordon, prior to continuing with the remaining business of the meeting.***

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**Report Authorisation**

**Authorised by:**

**Name:**

Satwinder Sandhu

**Title:**

General Manager Growth and Development

**Date:**

Thursday 13 June 2013



### **11.3 COMMUNITY SERVICES**

*No reports for this meeting.*

## 11.4 INFRASTRUCTURE SERVICES

### 11.4.1 Adoption of the Road Management Plan 2013 to Supersede Road Management Plan 2009

#### Introduction

File No.: 16/02/010  
Author: Glenn Townsend  
General Manager: Phil Jeffrey

#### Background

Moorabool Shire Council is a Road Authority as defined in Section 37 of the Road Management Act 2004, and under this legislation, road authorities may choose to develop and publish a Road Management Plan (RMP).

The RMP is an operational document that provides road users with an overview of Council's road management policy and maintenance practices.

Under the Regulations, Council is required to undertake a review of its RMP every four years, in line with Council elections and the major review of the Council Plan. The amended RMP is required to be adopted by 30 June of the year following elections, in this instance 30 June 2013.

The draft Road Management Plan 2013 was presented at the Ordinary Meeting of Council on Wednesday 1 May 2013. At that meeting the following was resolved:

*Resolution:*

*Crs. Spain/Sullivan*

*That Council:*

- 1. In accordance with the provisions of the Road Management (General) Regulations 2005, authorises the Chief Executive Officer to give public notice that the draft Road Management Plan 2013-2017 has been prepared and is available for public inspection.*
- 2. Resolves to allow 28 days for submissions to be made by members of the public.*
- 3. Requests a further report at the conclusion of the public consultation period considering all submissions received prior to formally completing its review of the Road Management Plan.*

**CARRIED.**

## Proposal

At the conclusion of the public consultation period, no submissions were received. Therefore, the proposal is to adopt the Road Management Plan 2013 as attached to this report.

## Policy Implications

The 2009. 2013 Council Plan provides as follows:

<b>Key Result Area</b>	Enhanced Natural and Built Environment
<b>Objective</b>	Effective and safe transport networks
<b>Strategy</b>	Maintain and develop roads, bridges and footpaths at appropriate standards

The proposal is consistent with the 2009-2013 Council Plan.

## Financial Implications

The resource implications, if any, resulting from the amended categorisation of road assets or associated response timeframes can be accommodated within the existing operational budget.

## Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Legal . Civil Liability	Civil liability risk to Council where it is unable to achieve the commitments within its RMP	Medium	Reasonable and achievable standards and timeframes outlined in Council's RMP

## Communications and Consultation Strategy

The review of the Road Management Plan involved a 28 day public consultation process including statutory requirements, as outlined below:

- Advertising in local newspapers and the Government Gazette on the dates listed below, advising of Council's intention to update the RMP and how the community can make submissions to the draft version
  - Ballarat Courier 4 May 2013
  - Moorabool News 7 and 14 May 2013
  - Government Gazette from 9 May
- Advertising on Have Your Say Moorabool for the full public consultation period
- Draft document uploaded onto Council's website
- Article in Moorabool Matters
- Media release

## **Victorian Charter of Human Rights and Responsibilities Act 2006**

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

### **Officer's Declaration of Conflict of Interests**

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

*General Manager – Phil Jeffrey*

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

*Author – Glenn Townsend*

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

### **Conclusion**

Having undertaken a review the Road Management Plan including a public consultation process as outline in this report, Council should now formally adopt the Road Management Plan 2013 to supersede the Road Management Plan 2009.

### **Resolution:**

#### **Crs. Comrie/Edwards**


- 1. *In accordance with section 53 of the Road Management Act 2004, formally adopts the Road Management Plan 2013-2017 as attached.***
- 2. *Makes the document publically available by placing a copy on Council's website.***
- 3. *Authorises the Chief Executive Officer to approve the annual update to the Register of Public Roads, Footpaths and Bridges.***

**CARRIED.**

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### **Report Authorisation**

**Authorised by:**

**Name:** Phil Jeffrey   
**Title:** General Manager Infrastructure  
**Date:** Thursday 13 June 2013

## 11.5 CORPORATE SERVICES

### 11.5.1 Review of Councillor and Mayoral Allowances as required under Section 74(1) of the Local Government Act 1989

#### Introduction

File No.: 01/03/001  
 Author: Michelle Morrow  
 General Manager: Shane Marr

#### Background

Under Section 74(1) of the Local Government Act 1989 (the Act) a Council must review and determine the level of the Councillor allowance and the Mayoral allowance within the period of 6 months after a general election or by next 30 June, whichever is later. The last general election was held on Saturday 27 October 2012 therefore a review must be held by the end of June, 2013.

On Wednesday 1 May 2013, Council considered a report in regard to the review of Councillor and Mayoral Allowances as required under the Act and resolved as follows:

*That Council:*

1. *in order to comply with sections 73B(5), 74 of the Local Government Act 1989, conduct a review of Councillor and Mayoral allowances based on the following annual allowance for Category as specified in the Order in Council and published in the Government Gazette on 26 October 2012:*
  - *Councillor annual allowance - \$22,405 (No increase from current allowance);*
  - *Mayoral annual allowance - \$69,325 (No increase from current allowance);*
  - *in addition to the Councillor and Mayoral allowance the equivalent of the superannuation guarantee contribution (SGC) (currently 9%) (No increase from current allowance); and*
  - *in accordance with the Superannuation Guarantee (Administration) Amendment Act 2012, increase the payment of the equivalent of the Superannuation Guarantee from 9 to 9.25% of their applicable Mayoral and Councillor allowances from 1 July 2013 and implement further increases thereafter in line with the table below, under current arrangements.*

<b>Year commencing</b>	<b>Percentage</b>
1 July 2013	9.25
1 July 2014	9.5
1 July 2015	10
1 July 2016	10.5
1 July 2017	11
1 July 2018	11.5
1 July 2019	12

2. *under Section 223 of the Local Government Act 1989 gives notice of its intention to conduct a review of Councillor and Mayoral Allowances in regional and local newspapers, inviting any person to make a public submission and how submissions will be heard; and*
3. *that a further report be presented to Council after the expiration of the public submission process, considering any public submissions received.*

Council advertised its intentions to conduct a review of Councillor and Mayoral allowances in the regional (Ballarat Courier) and local newspaper (Moorabool News) on Saturday 11 May and Tuesday 14 May respectively. At the close of the 28 day period for the public submission process, being 5.00pm, Tuesday 11 June 2013, no submissions had been received by Council

### **Proposal**

It is therefore recommended that Council adopts, subject to any changes by an Order in Council notice published in a future government gazette, the following annual Councillor and Mayoral Allowances under Category 2 in the Schedule to the Order in Council (refer attachment), applicable until the next general election of Council:

- Councillor annual allowance - \$22,405;
- Mayoral annual allowance - \$69,325;
- in addition to the Councillor and Mayoral allowance the equivalent of the superannuation guarantee contribution (SGC) (currently 9%); and
- in accordance with the Superannuation Guarantee (Administration) Amendment Act 2012, increase the payment of the equivalent of the Superannuation Guarantee from 9 to 9.25% of their applicable Mayoral and Councillor allowances from 1 July 2013 and implement further increases thereafter in line with the table below, under current arrangements.

Year commencing	Percentage
1 July 2013	9.25
1 July 2014	9.5
1 July 2015	10
1 July 2016	10.5
1 July 2017	11
1 July 2018	11.5
1 July 2019	12

### **Policy Implications**

The 2005 . 2009 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of our Community
<b>Objective</b>	Good Governance through effective systems and procedures
<b>Strategy</b>	Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting their role.

The proposal to review Councillor and Mayoral allowances is consistent with the 2005-2009 Council Plan.

### **Financial Implications**

The total annual expenditure including the superannuation guarantee contribution for Council will be \$222,092.95 as included in the 2013/14 Budget.

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

There are no risks or occupational health and safety issues in relation to this matter.

### **Communications Strategy**

Council has complied with section 223 of the Act allows Council to advertise its intentions in a newspaper/s circulating generally within the Municipality inviting public submissions within a 28 day period following the advertisement appearing in the newspaper. Council advertised its intentions to conduct a review of Councillor and Mayoral allowances in the regional (Ballarat Courier) and local newspaper (Moorabool News) on Saturday 11 May and Tuesday 14 May respectively, closing at 5.00pm on Tuesday 11 June 2013.

### **Victorian Charter of Human Rights and Responsibilities Act 2006**

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



### Officer's Declaration of Conflict of Interests

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

*Manager – Shane Marr*

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

*Author – Michelle Morrow*

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

### Conclusion

Council has now completed the review process of Councillor and Mayoral Allowances with no submissions to the review.

This report recommends that Council formally resolve to adopt the Councillor and Mayoral Allowances for the next four years subject to any changes by any Order in Council notice as published in any future government gazette until the next general Council election is held in four years.

### Resolution:

#### Crs. Edwards/Comrie

***That Council adopts the following annual Councillor and Mayoral Allowances under Category 2 in the Schedule to the Order in Council (refer attachment), applicable until the next general election of Council:***

- ***Councillor annual allowance - \$22,405;***
- ***Mayoral annual allowance - \$69,325;***
- ***in addition to the Councillor and Mayoral allowance the equivalent of the superannuation guarantee contribution (SGC) (currently 9%); and***
- ***in accordance with the Superannuation Guarantee (Administration) Amendment Act 2012, increase the payment of the equivalent of the Superannuation Guarantee from 9 to 9.25% of their applicable Mayoral and Councillor allowances from 1 July 2013 and implement further increases thereafter in line with the table below, under current arrangements.***

Year commencing	Percentage
1 July 2013	9.25
1 July 2014	9.5
1 July 2015	10


<b>1 July 2016</b>	<b>10.5</b>
<b>1 July 2017</b>	<b>11</b>
<b>1 July 2018</b>	<b>11.5</b>
<b>1 July 2019</b>	<b>12</b>

**CARRIED.**

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**Report Authorisation:**

**Authorised by:**

  
**Name:** Shane Marr  
**Title:** General Manager Corporate Services  
**Date:** Thursday 13 June 2013

## 12. OTHER REPORTS

### 12.1 Assembly of Councillors

File No.: 02/01/002

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

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

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

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

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

Council also records each Assembly of Councillors on its website at [www.moorabool.vic.gov.au](http://www.moorabool.vic.gov.au)

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

- Assembly of Councillors . Wednesday 5 June 2013 . Proposed Bacchus Marsh Indoor Aquatic Centre
- Assembly of Councillors . Wednesday 5 June 2013 . Domestic Wastewater Management Plan Part 1
- Assembly of Councillors . Wednesday 5 June 2013 . Process for Reviewing Objections in Relation to Infringements
- Assembly of Councillors . Wednesday 5 June 2013 . Port Philip Regional Catchment Management Authority

#### **Resolution:**

#### **Crs. Comrie/Spain**

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

- ***Assembly of Councillors – Wednesday 5 June 2013 – Proposed Bacchus Marsh Indoor Aquatic Centre***
- ***Assembly of Councillors – Wednesday 5 June 2013 – Domestic Wastewater Management Plan Part 1***
- ***Assembly of Councillors – Wednesday 5 June 2013 – Process for Reviewing Objections in Relation to Infringements***
- ***Assembly of Councillors – Wednesday 5 June 2013 – Port Philip Regional Catchment Management Authority***

**CARRIED.**

## 12.2 Section 86 - Delegated Committees of Council - Reports

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

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

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

<b>Committee</b>	<b>Meeting Date</b>	<b>Council Representative</b>
Elaine Recreation Reserve Committee of Management	2 April 2013	Cr. Sullivan
Elaine Recreation Reserve Committee of Management	7 May 2013	Cr. Sullivan
Blacksmith's Cottage and Forge Advisory Committee of Management	23 April 2013	Cr. Comrie
Greendale Recreation Reserve Committee of Management	22 May 2013	Cr. Toohey

### **Resolution:**

**Crs. Comrie/Spain**

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

- ***Elaine Recreation Reserve Committee of Management meeting of Tuesday, 2 April 2013.***
- ***Elaine Recreation Reserve Committee of Management meeting of Tuesday, 7 May 2013.***
- ***Blacksmith's Cottage and Forge Advisory Committee of Management meeting of Tuesday, 23 April 2013.***
- ***Greendale Recreation Reserve Committee of Management meeting of Wednesday, 22 May 2013.***

**CARRIED.**

**13. NOTICES OF MOTION**

**No notices of motion have been received for consideration as part of this Agenda.**

**14. URGENT BUSINESS**

Nil.

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

**That pursuant to the provisions of the Local Government Act 1989, the meeting now be closed to members of the public to enable the meeting to discuss matters, which the Council may, pursuant to the provisions of Section 89(2) of the Local Government Act 1989 (the Act) resolve to be considered in Closed Session, being a matter contemplated by Section 89(2) of the Act, as follows:**

- (a) personnel matters;**
- (b) the personal hardship of any resident or ratepayer;**
- (c) industrial matters;**
- (d) contractual matters;**
- (e) proposed developments;**
- (f) legal advice;**
- (g) matters affecting the security of Council property;**
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person;**
- (i) a resolution to close the meeting to members of the public**

**16. MEETING CLOSURE**

*The meeting closed at 7.41 pm.*

*Confirmed.....Mayor.*