

ORDINARY MEETING OF COUNCIL

Minutes of the
Ordinary Meeting of Council held at the
Council Chambers, 15 Stead Street, Ballan on
Wednesday 20 February 2013,
at 7:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

AGENDA

1.	OPENING OF MEETING AND PRAYER	4
2.	PRESENT.....	4
3.	APOLOGIES	4
4.	CONFIRMATION OF MINUTES	4
4.1	<i>Ordinary Meeting of Council – Wednesday 6 February 2013</i>	<i>4</i>
5.	DISCLOSURE OF CONFLICT OF INTEREST	5
6.	MAYOR’S REPORT	7
7.	COUNCILLORS’ REPORTS.....	9
8.	PUBLIC QUESTION TIME.....	11
9.	PETITIONS.....	13
10.	PRESENTATIONS / DEPUTATIONS	14
11.	OFFICER’S REPORTS.....	16
11.1	CHIEF EXECUTIVE OFFICER.....	16
11.1.1	<i>Moorabool Shire Council General Elections 2012 VEC Report</i>	<i>16</i>
11.2	GROWTH AND DEVELOPMENT	19
11.2.1	<i>Planning Permit 2012-110; Development and Use of a Dwelling at Crown Allotment 2F, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton.....</i>	<i>19</i>
11.2.2	<i>Planning Permit 2012-112; Development and Use of a Dwelling at Crown Allotment 2E and 2H, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton.....</i>	<i>47</i>
11.3	COMMUNITY SERVICES.....	72
11.3.1	<i>National Aborigines and Islanders Day Observance Committee (NAIDOC) Week Activities</i>	<i>72</i>
11.4	INFRASTRUCTURE SERVICES	78
11.4.1	<i>Bacchus Marsh Freeway Interchange Options – Anthony’s Cutting Realignment Project</i>	<i>78</i>
11.5	CORPORATE SERVICES.....	103
12.	OTHER REPORTS	104
12.1	<i>Assembly of Councillors.....</i>	<i>104</i>
13.	NOTICES OF MOTION.....	105

14.	URGENT BUSINESS	106
15.	CLOSED SESSION OF THE MEETING TO THE PUBLIC	107
16.	MEETING CLOSURE	108

1. OPENING OF MEETING AND PRAYER

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

2. PRESENT

<i>Cr. Pat Toohey (Mayor)</i>	<i>Woodlands Ward</i>
<i>Cr. Paul Tatchell</i>	<i>Central Moorabool Ward</i>
<i>Cr. Allan Comrie</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Peter Hawkins</i>	<i>Manager Planning and Building</i>
<i>Ms. Genevieve Clark</i>	<i>Communications/PR Officer</i>
<i>Ms. Debra Absolom</i>	<i>Minute Taker</i>

3. APOLOGIES

Mr. Shane Marr *General Manager Corporate Services*

4. CONFIRMATION OF MINUTES**4.1 Ordinary Meeting of Council – Wednesday 6 February 2013**

Resolution:

Crs. Comrie/Sullivan

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 6 February 2013.

CARRIED.

5. DISCLOSURE OF CONFLICT OF INTEREST

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

Definitions of the class of the interest are:

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

Time for Disclosure of Conflicts of Interest

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

Section 79(6) of the Act states:

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

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

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

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

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

Nil.

6. MAYOR'S REPORT

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

Cr Pat Toohey – Mayor's Report	
February, 2013	
7 February	Rural Growth Strategy S86 Committee Meeting
10 February	9th Anniversary Service – The Australian Ex-Prisoners of War Memorial
11 February	MAV Rural South Central Region Forum, Geelong
12 February	Regional Business Leaders Forum on key local business issues for the Grampians Region of Victoria
13 February	Grand Opening Ceremony Ballan's New Hospital, opened by the Hon David Davis, Minister for Health and Minister for Ageing. Simon Ramsay, Member for Western Victoria regarding Feast of March funding. Barry Wilkins, Chair, Tourism Moorabool
15 February	Western Highway Action Committee Meeting Unicycle Ride for Breast Cancer – Charity Event
17 February	Ballan Vintage Machinery Club Rally
18 February	Meeting with Edward O'Donohue, Parliamentary Secretary for Transport and Member for Eastern Victoria; Paul Roth, Road Advisor for Minister Terry Mulder and Simon Ramsay, Member for Western Victoria. Meeting with Paulo Lay, DSE Director of Environmental Flows regarding the stressed situation of the Moorabool River.
20 February	Assembly of Council – Blackwood Community Fire Refuge, Update from the Fire Services Commissioner

	<p><i>Assembly of Council – Wool Scour Waste Long Forest</i></p> <p><i>Assembly of Council – Recreation Reserve Funding Policy</i></p> <p><i>Assembly of Council – Wind Farms</i></p> <p><i>Ordinary Meeting of Council.</i></p>
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Resolution:

Crs. Sullivan/Edwards

That the Mayor's report be received.

CARRIED.

7. COUNCILLORS' REPORTS

Cr. Spain	
February 2013	
13 February, 2013	Grand Opening of Ballan Hospital
15 February, 2013	Aquatic Centre Consortium meeting

Cr. Tatchell	
February 2013	
7 February, 2013	Rural Growth Strategy Meeting
10 February 2013	9th Anniversary Service – The Australian Ex-Prisoners of War Memorial
13 February 2013	Grand Opening of Ballan Hospital
15 February 2013	Book Launch Ballarat – Concourt Publishers of Ballan
17 February 2013	Ballan Vintage Machinery Club Rally Yaloak Polo
19 February 2013	Heritage Advisory Group Meeting

Cr. Edwards	
February 2013	
8 February 2013	Peri Urban Group – Elected President
17 February 2013	Yaloak Polo

Cr. Sullivan	
February 2013	
11 February 2013	Rural South Central Region Forum
13 February 2013	Yendon Recreation Reserve.

Cr. Dudzik	
February 2013	
12 February 2013	Mr Edward Grout – Bacchus Marsh Food Bus
12 February 2013	Koorie Engagement Officer
13 February 2013	Grand Opening Ballan Hospital
14 February 2013	Mr and Mrs Mortimer RE: Windfarm near their property in SA
15 February 2013	Western Highway Action Committee Meeting
15 February 2013	Unicycle Ride for Breast Cancer.

Resolution:

Crs. Sullivan/Spain

That the Councillors' reports be received.

CARRIED.

8. PUBLIC QUESTION TIME

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

Public Question Time is required to be conducted in accordance with the requirements contained within the **Public Question Time Protocols and Procedural Guidelines**.

The person asking the question is to stand and identify themselves before asking the question.

All questions are to be directed to the Mayor, 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 one question is to be asked by any one person at any one time.

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 beyond the power or duties of Council;

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

To be confidential in nature or of legal significance;

To be repetitive of a question already answered (whether at the same or any earlier meeting);

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 matters affecting the security of Council property;

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 responded to at the meeting:

Ms. Debra Bullock – Love Close, Maddingley

Mr. Bruce Bullock – Maddingley – Permit to Keep Livestock in Residential Areas.

Mr. Damian Strangio – Bacchus Marsh Avenue Preservation Group – Celebrations for Centenary of the Avenue of Honour

9. PETITIONS

No petitions have been made to Council for consideration as part of this Agenda.

10. PRESENTATIONS / DEPUTATIONS

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

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

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

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

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

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

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

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

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

Item No	Description	Name	Position
11.3.1	National Aborigines and Islanders Day Observance Committee (NAIDOC) Week Activities	Danielle Cooper	Supporter
11.4.1	Bacchus Marsh Freeway Interchange Options . Anthony's Cutting Realignment Project	Robert Reid	Objector
11.4.1	Bacchus Marsh Freeway Interchange Options . Anthony's Cutting Realignment Project	Graham Hooper	Objector

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

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

Item No	Description	Name	Position
11.2.1	Planning Permit 2012-110; Development and Use of a Dwelling at Crown Allotment 2F, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton.	Eddie Davis and Robert Eskdale	Applicant and Representative
11.2.2	Planning Permit 2012-112; Development and Use of a Dwelling at Crown Allotment 2E and 2H, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton	Eddie Davis and Robert Eskdale	Applicant and Representative

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

11.1.1 Moorabool Shire Council General Elections 2012 VEC Report

Introduction

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

Background

The Victorian Electoral Commission (VEC), pursuant to clause 1(2)(c) of Schedule 2 of the Local Government Act 1989 (the Act), was appointed by Council to conduct the 2012 General Election which was held on Saturday 27 October 2012.

In accordance with clause 14(1) of Schedule 3 of the Act, the Returning Officer must prepare a report to the Chief Executive Officer on the conduct of the election within the period of 3 months after Election Day.

On Friday 25 January, 2013, Council received the VEC Election Report for the Moorabool Shire Council General Elections 2012 and pursuant to clause 14(1) of Schedule 3 of the Act, the report has been attached for Council's reference.

Proposal

The Report provides an overview on the conduct of the General Elections 2012 and the outcomes of each process throughout the election period. The Report highlights the results of the election inclusive of figures pertaining to each ward and candidate and an evaluation summary.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our Community
Strategic Objective	Good governance through effective systems and procedures.
Strategy	Ensure policies and good governance are in accordance with legislative requirements and best practice.

Financial Implications

There are no financial implications.

Risk & Occupational Health & Safety Issues

There are no risk and occupational health and safety issues identified in relation to this report.

Communications and Consultation Strategy

The VEC General Elections Report 2012 will be available at each Council office and will be published on Council's website at www.moorabool.vic.gov.au

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 clause 14(1) of Schedule 3 of the Local Government Act 1989, the VEC Election Report for the Moorabool Shire Council General Elections 2012 is presented to Council for consideration.

Resolution:

Crs. Comrie/Dudzik

That Council, in accordance with clause 14(1) of Schedule 3 of the Local Government Act 1989, receive the VEC Election Report for the Moorabool Shire Council General Elections 2012.

CARRIED.

Report Authorisation

Authorised by:



Name: Shane Marr
Title: General Manager
Date: Wednesday 20 February 2013

11.2 GROWTH AND DEVELOPMENT

11.2.1 Planning Permit 2012-110; Development and Use of a Dwelling at Crown Allotment 2F, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton

Application Summary:	
Permit No:	PA2012-110
Lodgement Date:	6 June 2012
Planning Officer:	Natalie Robertson
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	14 October 2012
Address of the land:	Crown Allotment 2F, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton
Proposal:	Development and Use of a Dwelling
Lot size:	15.77 hectares
Why is a permit required	Clause 35.07-1 . Dwelling in Farming Zone Clause 42.01-2 . Buildings and works in Environmental Significance Overlay Schedule 1 Clause 44.06-1 . Buildings and works in Bushfire Management Overlay
Restrictive Covenant / 173 Agreement	Not applicable
Public Consultation:	
Number of notices to properties:	6
Notices on site:	1
Notice in Moorabool Newspaper:	Not applicable
Number of Objections:	None
Consultation meeting:	Not applicable.

Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Provide a high quality and timely development application processing system.
Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Peter Hawkins</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Natalie Robertson</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
<p>The application is for development and use of the land for a dwelling on land that is made up of three lots with Mahers Lane East, Mount Egerton identified on title as the road name. The total land area for the subject site is 15.7 hectares.</p> <p>The subject land is located on the southern side of Ballan-Egerton Road, approximately 250m from the Township Zone of Mount Egerton and within less than 1km from central township area of Mount Egerton. In respect to this proposal, the combined subject site is rectangular in shape.</p> <p>The proposal provides for the construction of a single storey dwelling on the site comprising four bedrooms plus study, 2 bathrooms, separate lounge, combined kitchen/dining area together with a double car garage.</p>	

The supplementary information states that the principle land is not high quality farmland and the lot is only suitable for a hobby farm, grazing or tree crops.

This application and the adjoining site application, states that the intention of the application is to obtain a planning permit to assist in the sale of the property.

The proposal does, however fail to justify that there would be an overriding need to establish a dwelling on this lot or the adjoining land in order to manage any proposed agricultural business.

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

It is considered that the proposed application is generally inconsistent with the State and Local Planning Policies of the Moorabool Planning Scheme, including the provisions of Clauses 11.05-2, 14.01, 21.03-5 and 22.03.

The application was referred to all appropriate authorities and within Council departments for comment. No objections from referral authorities were raised provided certain conditions were placed on any permit granted.

Summary Recommendation:

It is recommended that Council resolve to refuse to grant a permit for this application in accordance with Section 61(1) of the Planning and Environment Act 1987, on the grounds stated.

Proposal

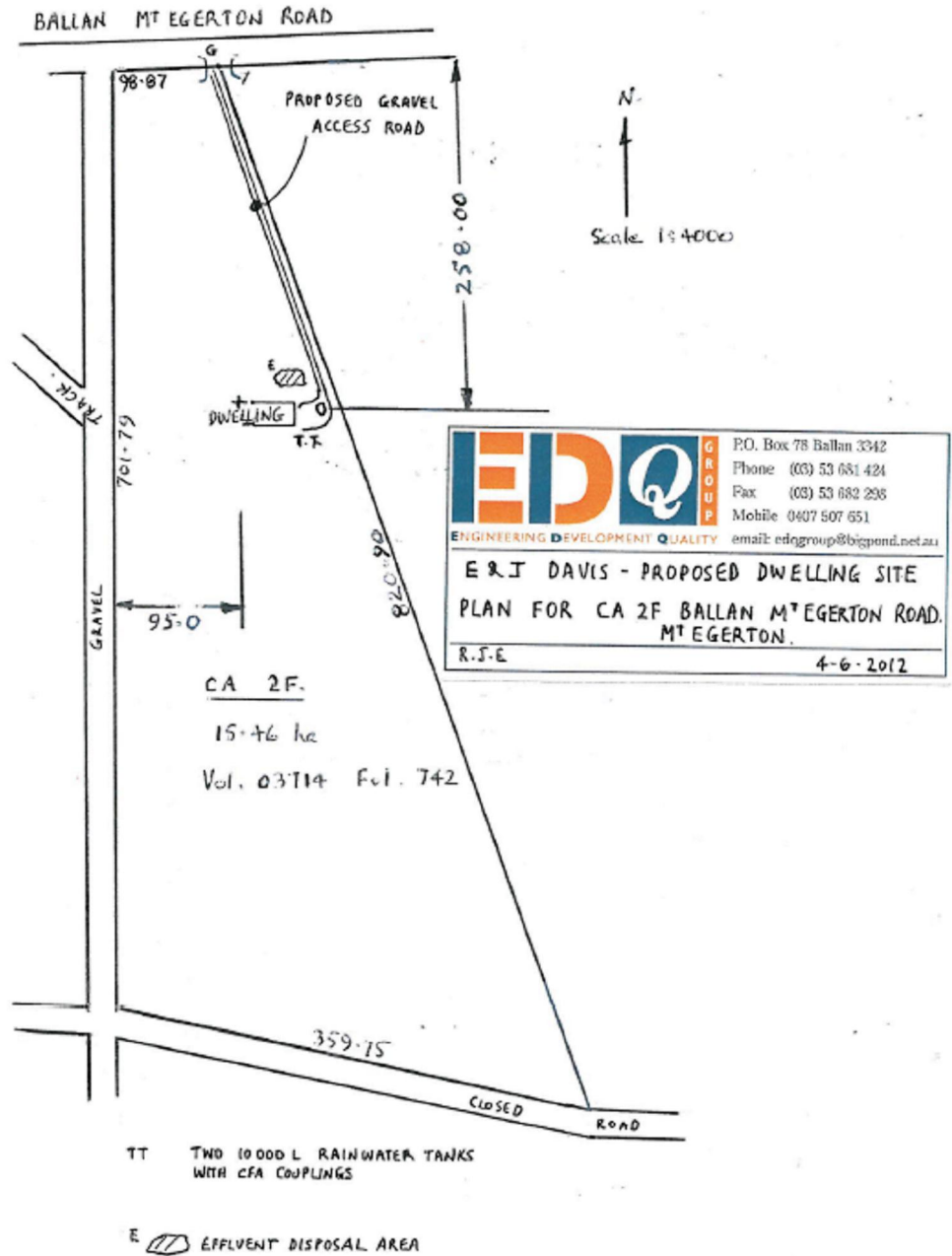
The proposal involves the development of a single dwelling on the subject site. The proposed dwelling comprises four bedrooms plus study, 2 bathrooms, a separate lounge room, a combined kitchen/living area and a double garage. The proposed dwelling will be sited approximately 258m from the Ballan-Egerton Road and 95m from the western boundary. The proposed dwelling would have a total floor area of 315.32sq m.

The land title states that road name as Mahers Lane East, however the lot adjoins Ballan-Egerton Road facing north and is the more likely point of access.

The proposal is one of two similar applications for development and use of a dwelling within the Farming Zone on three adjoining land parcels.

Proposed Site Plan, Floor Plan and Elevations

APPENDIX C.

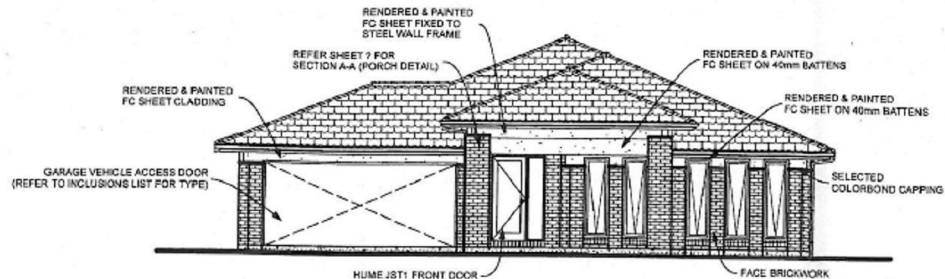


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APPENDIX B.

SEASPRAY 260

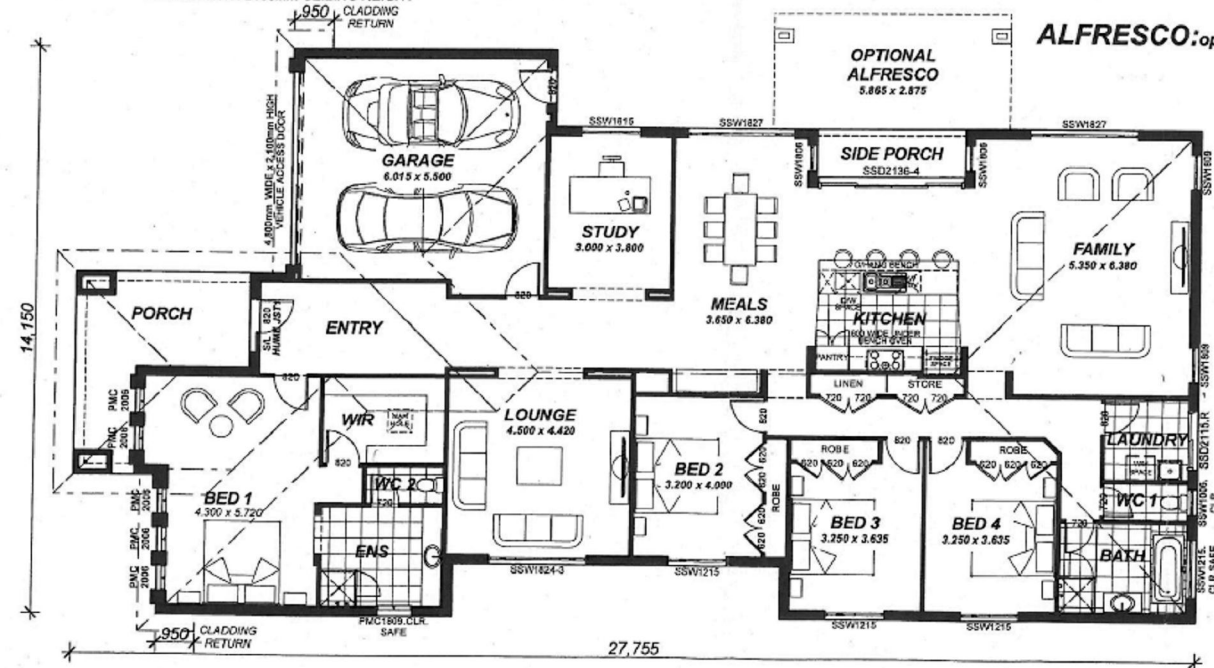
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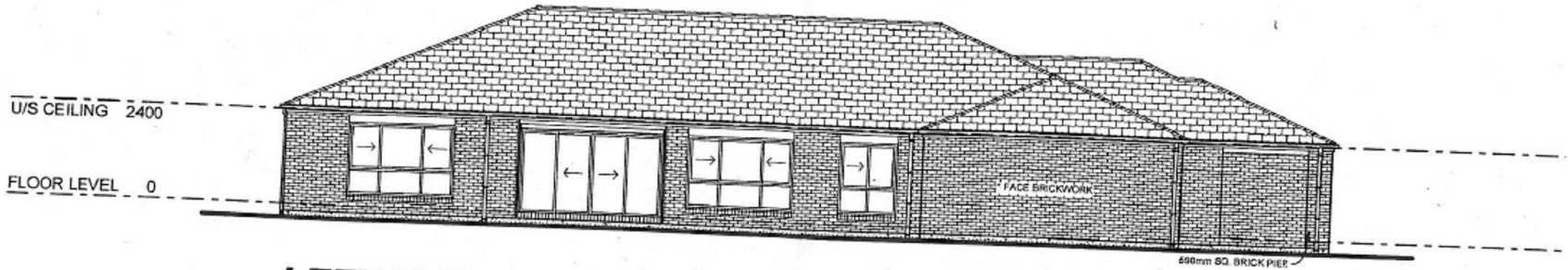
FRONT ELEVATION SCALE 1:100
DRAWN WITH 2400mm CEILING HEIGHT

AREAS:
RESIDENCE: 259.34m² (27.92sqs)
GARAGE: 37.35m² (4.02sqs)
PORCH FRONT: 14.21m² (1.53sqs)
PORCH SIDE: 4.42m² (0.48sqs)
TOTAL: 315.32m² (33.95sqs)

ALFRESCO: optional 21.28m² (2.29sqs)



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	<p>MANAGING DIRECTOR</p>	<p>PRODUCT DEVELOPMENT MANAGER</p>	<p>DATE</p>	<p>SIGNED</p>	<p>DATE</p>	<p>SIGNED</p>	<p>DRAWN: RAC</p>	<p>LAST RELEASED DATE: 22/07/09</p>



LEFT ELEVATION SCALE:1:100

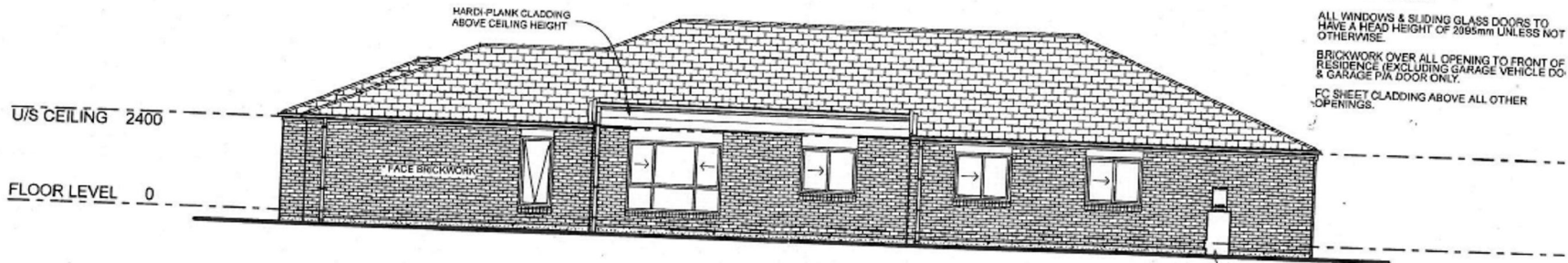
ALL WINDOWS TO BE ALUMINIUM FRAMED WITH SLIDING SASHES (AWNING MOCK CASEMENT WHERE SHOWN) ALL GLAZING TO COMPLY WITH A.S. 1288-2006 (WINDOWS & DOORS) THERMALLY IMPROVED
NO EAVE FROM BRICKWORK

ARTICULATION JOINTS AS PER ENGINEER'S SPECIFICATION WHERE ARTICULATION IS NOMINATED ADJACENT TO ANY EXTERNAL WINDOW OR DOOR A CONTINUOUS FLEXIBLE JOINT IS TO BE PROVIDED FOR THE FULL HEIGHT OF THE WALL


ALL WINDOWS & SLIDING GLASS DOORS TO HAVE A HEAD HEIGHT OF 2065mm UNLESS NOT OTHERWISE

BRICKWORK OVER ALL OPENING TO FRONT OF RESIDENCE (EXCLUDING GARAGE VEHICLE DOOR & GARAGE PIA DOOR ONLY)

FC SHEET CLADDING ABOVE ALL OTHER OPENINGS



RIGHT ELEVATION SCALE:1:100

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		<p>MANAGING DIRECTOR</p>		<p>PRODUCT DEVELOPMENT MANAGER</p>					<p>ALFRESCO: (optional) 21.28m²</p>	<p>DRAWN: RAC</p>	<p>LAST RELEASED DATE: 22/07/09</p>	<p>SHEET: 12 of 17</p>
		<p>DATE</p>	<p>SIGNED</p>	<p>DATE</p>	<p>SIGNED</p>							

Site Description

An inspection of the site was undertaken on Monday, 23 July 2013.

The subject site appears on title as Lot 2F on Mahers Lane East, Mount Egerton. Mahers Lane forms a gravel track on the eastern boundary of the adjoining land parcel in the same ownership. The northern boundary of the site abuts Ballan-Egerton Road and access from Ballan-Egerton road is available and considered more appropriate than via Mahers Lane.

The site forms the eastern land parcel of three land parcels in the same ownership and is one of two applications for dwellings on the adjoining land parcels. The subject site is 15.77 hectares with three lots forming 31.64 hectares in total.

Each application must be considered and determined on its merits and the decision guidelines require that the responsible authority consider, amongst other matters, the orderly planning of the area and the affect on the amenity of the area together with any proposals or permits granted in the surrounding or adjoining area.

The subject land parcel is triangular in shape, has vegetation along the northern boundary, southern boundary and along the length of the western boundary.

The Bushfire Management Overlay covers the site in the form of a 90m by 750m rectangle running north south. The proposed dwelling is set outside the Bushfire Management Overlay, but the BMO requirements must still be met.

The Planning Permit (No. 2009012877) for Use and Development of a 107 Wind Turbine facility and associated buildings and works as approved by the Minister for Planning in October 2010 includes a turbine 2.5 kilometres to the east.

Access to the site is via an unmade crossover on the far eastern side of the Ballan-Egerton Road boundary. There is a hayshed on site and a dam to the rear of the site.

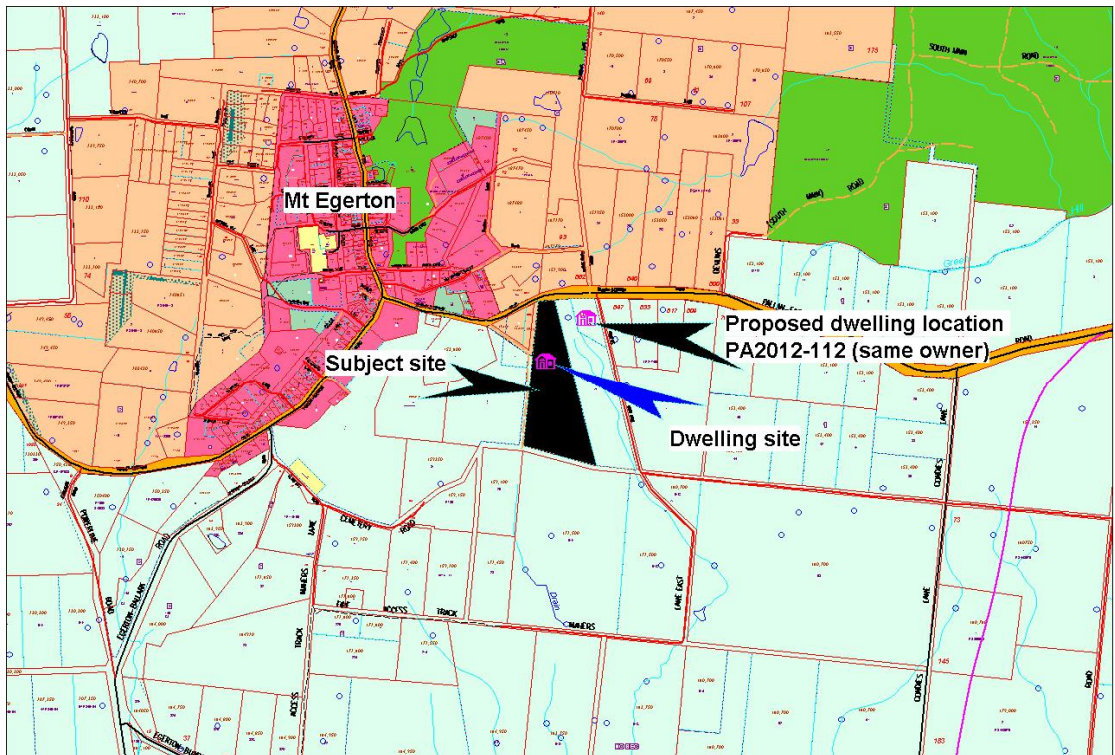
The application states that the land is used for grazing and a drainage line transverses the lots north to south.

The application states that the land is used for grazing and is being progressively developed for an orchard. No evidence of an orchard was found at the time of inspection on 23 July 2012.

The land parcels shares the western boundary with a parcel of land zoned Rural Living and another zoned Farming. Directly adjacent to the north the land is zoned Rural Living and the Township zone of Mount Egerton is within 230m to the west of the site.

There are several dwellings in close proximity to the site including one to the west that is approximately 110m from the proposed dwelling.

Subject Site



Planning Scheme Provision

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

SPPF		
Clause 11.05-2	Melbourne's hinterland areas	<p>The objective of this policy is to manage growth in Melbourne's hinterland, the area immediately beyond Metropolitan Melbourne and within 100 kilometres of the Melbourne's Central Activities District and to:</p> <ul style="list-style-type: none"> • Provide for development in selected discrete settlements within the hinterland of Metropolitan Melbourne having regard to complex ecosystems, landscapes, agricultural and recreational activities in the area. • Prevent dispersed settlement. <p>Does not comply.</p>

11.05-3	Rural productivity	<p>The objective of this policy is to manage land use change and development in rural areas to promote agriculture and rural production aiming to:</p> <ul style="list-style-type: none"> • Prevent inappropriately dispersed urban activities in rural areas. • Limit new housing development in rural areas, including: <ul style="list-style-type: none"> • Directing housing growth into existing settlements. • Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses. <p>Does not comply.</p>
Clause 14.01-1	Protection of agricultural land	<p>The objective of this policy is to protect productive farmland which is of strategic significance in the local or regional context and to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.</p> <p>The agricultural quality and productivity of the land must be assessed and the permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.</p> <p>In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.</p> <p>Does not comply.</p>

Clause 14.01-2	Sustainable agricultural land use	<p>The objective of this policy is to encourage sustainable agricultural land use and to ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.</p> <p>Does not comply.</p>
Clause 14.02-2	Water quality	<p>The objective of this policy is to protect water quality and to protect reservoirs, water mains and local storage facilities from potential contamination.</p> <p>Does not meet the decision guidelines for dwelling in potable water catchments.</p>
Clause 16.02-1	Rural residential development	<p>The objective of this policy is to identify land suitable for rural living and rural residential development and to:</p> <ul style="list-style-type: none"> • Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. • Reduce the proportion of new housing development provided in rural areas and encourage the consolidation in existing settlements where investment in physical and community infrastructure and services has already been made. <p>Does not comply.</p>

LPPF		
Clause 21.01-2	Municipal context, Key Issues, Economic development	<p>It is important to ensure planning to accommodate demand for rural living opportunities produces enhanced environmental outcomes and also protects agricultural production, particularly highly productive areas in the west of the Shire + There is an ongoing need to manage existing and potential conflict between residential, rural residential and agricultural and horticultural production.</p> <p>Does not comply.</p>
Clause 21.03	Settlement and Housing . Key issues and influences	<p>The communities and towns of Moorabool Shire have a very strong rural setting and character that is defined by the local agricultural base, spectacular scenic landscapes and diverse vegetation. There is a need to ensure that these values, which draw people to the area, are protected.</p> <p>Does not comply.</p>
Clause 21.03-2	Urban Growth Management	<p>The objective of this policy is to plan and manage sustainable urban growth that is concentrated in and around the Shire's major towns and to avoid urban development where it is likely to impact on highly productive agricultural land, environmental values and the long-term sustainability of natural resources and to ensure a clear separation between urban development and farming activities.</p> <p>Does not comply.</p>

Clause 21.03-4	Landscape and Neighbourhood Character	<p>The objective of this policy is to ensure new development in all zones respects the existing character, landscape setting and amenity of the local area and to:</p> <ul style="list-style-type: none"> • Retain non-urban breaks between towns and settlements. • Avoid residential development in the farming areas unless it is required for the agricultural use of the land. <p>Does not comply.</p>
Clause 21.04-1	Key issues and influences, agriculture and horticulture	<p>The diversity in agricultural production and potential across the Shire is an economically valuable resource. Where irrigation water or higher rainfall combines with highly productive soil types, the Shire supports intensive horticultural pursuits.</p> <p>The protection of agricultural and horticultural production is an important planning outcome.</p> <p>The Shire's agricultural base and attractive rural setting are important drivers in attracting people to live in Moorabool. Council supports rural living development where it does not compromise the long term productive use of rural land for agriculture and horticulture, maintains the Shire's environmental qualities, and provides services and infrastructure to support such development.</p> <p>Farm businesses need to be able to retain the capacity to operate as agricultural enterprises.</p> <p>The Shire's horticultural land resources are important economically in supporting tourism and the lifestyle appeal of the area.</p> <p>Does not comply.</p>

Clause 22.03	Houses and House Lot Excisions in Rural Areas	<p>This policy applies to all land within the Farming Zone.</p> <p>Agriculture is still the major land use in the Shire and a significant component of the economy. The Shire is committed to facilitating sustainable agriculture and protecting the long term supply of productive agricultural and horticultural land. There is need to avoid fragmentation of land suitable for rural production by discouraging subdivision and houses that are unrelated to the rural use of the land. It is also important to ensure that farm production is not compromised or adversely affected by residents living in rural areas.</p> <p>Does not comply.</p>
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Zone

Farming Zone

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

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

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

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

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

Farming Zone . decision guidelines

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

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

Design and Development Overlay – Schedule 2

The site is covered by the Design and Development Overlay . Schedule 2.

Pursuant to Clause 43.02-2 of the Moorabool Planning Scheme a permit is required to construct a building or construct or carry out works unless the schedule to the Overlay says that a permit is not required. The schedule to the Overlay states that a permit is only required if the development is to be constructed with reflective materials. In this instance a permit is not triggered as no reflective materials are proposed to be used.

Environmental Significance Overlay – Schedule 2

The site is covered is by the Environmental Significance Overlay . Schedule 1, Proclaimed Water Catchment Areas.

Pursuant to Clause 42.01-2 of the Moorabool Planning Scheme a permit is required to construct a building or construct or carry out works unless the schedule to the Overlay says that a permit is not required. The schedule to the Overlay states that a permit is required to construct a dwelling in the Farming Zone where the lot is less than 40 hectares.

In this respect, Barwon Water are the Section 55 referral authority and the proposal was referred to Barwon Water and Council's Environmental Health Department for comment.

Both Barwon Water and Environmental Health have no objection to the proposal subject to conditions that relate to wastewater and effluent treatment, stormwater and adherence to the recommendations of the Land Capability Assessment of the site provided as part of the application.

Despite approval by the Water Authority, the *Guidelines for Planning Permit applications in open, potable water supply catchment areas*, May 2009 adopted by the Minister for Planning for the purposes of Section 60(1A)(g) of the Act 1987 state:

Where a planning permit is required to use the land for a dwelling or to subdivide land:

- *the density of dwellings should be no greater than one dwelling per 40 hectares (1:40ha)..'*

Not including the Township Zone, which provide as of right use, there are 16 dwellings in the applicable area. The 1:40 ratio provides a calculation of 1.1 dwelling per 19.6 hectares. With the inclusion of this proposal into the calculation the ratio becomes 1 dwelling per 18 hectares. To further include the second application by the existing landowner the ratio becomes 1 dwelling per 16.5 hectares.

The proposal therefore fails to meet Guideline 1 for Density of Dwellings.

Bushfire Management Overlay

The site is partially affected by a Bushfire Management Overlay.

Pursuant to Clause 44.06-1a permits required to construct a building or to carry out works associated with accommodation (which includes a dwelling).

In this respect, the Country Fire Authority are the Section 55 referral authority and the proposal was referred to CFA together with the relevant BMO Statement and Bushfire Attack Level Statement. CFA have consented to the proposal subject to conditions.

Particular Provisions

No particular provisions apply to this application.

General Provisions

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.

- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

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:

- Support the agricultural sector so that it can be more productive, diverse, resilient and adaptive to changing agricultural trends, including supporting agricultural activities that recognise Moorabool's advantageous proximity to market;
- Protect agricultural land use from permanent loss and allow development that increases agricultural productivity;
- Supports investment and development in innovative agricultural activities and agricultural diversity;
- Recognise that there are substantial existing lots under 40 hectares capable of supporting the viable operation of agricultural enterprises.
- The policy states that Council should be mindful of the aim to facilitate growth of existing farm businesses and to facilitate the establishment of new agricultural enterprises.

The proposal does not fall within the requirements of Council's Rural Growth Policy.

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

Referrals

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

Authority	Response
Country Fire Authority Barwon Water	Consent, subject to conditions Consent, subject to conditions
Infrastructure Environmental Health Coordinator	Consent, subject to conditions Consent, subject to conditions

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

Public Notice

Notification of the proposal was undertaken. The application was advertised to nearby adjoining owners and occupiers on 31 July 2012 by mail. A total of six (6) notices were provided to properties within the surrounding area together with a sign being placed on the site, facing Ballan-Egerton Road between 31 July 2012 and 14 August 2012.

No objections were received.

Discussion

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

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

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

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

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

- whether the use or development will support and enhance agricultural production;
- whether the use or development will permanently remove land from agricultural production;
- the potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- the capacity of the site to sustain the agricultural use;
- the agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- any integrated land management plan prepared for the site.

In considering the application in this area of Mount Egerton and particularly its proximity to the township of Mount Egerton a primary question is whether the dwelling is reasonably required for the use of the land for agricultural. The second consideration is whether the land should be preserved for agricultural use to protect the future land use for the area.

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

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

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

Preserving such a agricultural land from urban encroachment, by defining and maintaining a strong urban growth boundary would come under increasing pressure from development applications unless State and local policies are upheld.

Generally these policies enshrine the protection of productive agricultural land from non-agricultural uses and dwellings unless strong justification can be made that such dwellings are required to support the agricultural use.

The applicant has not made a case for the use of the land for the dwelling to support a horticultural or agricultural business. There are residential areas within 250m of the subject site which would provide accommodation for the landowner without imposing a significant burden on them being able to access their land for farming.

As part of a request for additional information the Proponent was asked to provide documentation that would assist in the assessment of a dwelling on the site, particularly a farm management plan. The application states that the landowners intend to use this Planning Permit to assist in the sale of the property which would likely result in the land being used for some sort of hobby farm.

The use of land for dwellings in the Farming Zone that is less than 40ha, as specified in the schedule to the Farming Zone in this instance, is discouraged unless it can be demonstrated that the dwelling is reasonably required to achieve a productive agricultural use of the land. The proposal does not make any attempt to justify the dwelling in respect to agricultural use.

In addition, the applicant suggests that the opportunity to purchase rural property with the ability to construct a dwelling is a pathway for people to enter agriculture. In this instance, by granting a permit without consideration of a Farm Management plan that requires a dwelling in support of agricultural use presents possible land use conflicts and further, is contrary to the objectives of the Farming Zone by attempting to bypass the mechanisms that ensure that agricultural activity continues on the site.

In previous applications in Moorabool that have been determined by VCAT, Members have commented that as there is no guarantee that the primary production described would occur or continue to occur, the Member would have to grant a temporary permit which would require the removal of the dwelling should the agricultural activity cease. Such a permit would not be appropriate and so the Tribunal refused to grant a permit in a similar case. (McDonald v Moorabool SC [2005]).

Ideally this site should be consolidated with one or more adjoining land parcels.

Also, ample opportunity exists within the Mount Egerton, Gordon or Ballan Townships to meet the housing needs of potential residents. This includes tracts of land zoned Rural Living which are available for development. The compromising of agricultural land at this location is not warranted. Further, there is nothing to guarantee that in the future the dwelling might not be sold to other parties without the intent to farm.

Many farmers are able to farm their land without residing in such close proximity to their crops in order to continue farming. It has not been established that the construction of the dwelling is essential to farm the land.

There is no reason why the land cannot be farmed with the owners and/or new owners residing a short distance away in suitably zoned residential areas.

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

The planning scheme specifically recognises threats to agricultural land use from non-agricultural land uses such as dwellings which can impact on the fragmentation and restriction on the viability and potential for agricultural land uses to operate.

The Tribunal is generally consistent in its assessment of applications for dwellings on small lots in the Farming Zone.

In *Strachan v LaTrobe CC (2012)* Member Tracey Bilston-McGillen stated that:

In considering applications for dwellings in the Farming Zone, the Tribunal has on a number of occasions commented on the adverse impact on agricultural production associated with the intrusion of dwellings on small lots in the Farming Zone. In particular the Tribunal has commented that the impact of permitting dwellings in small rural lots in the Farming Zone is incremental in nature and that care must be exercised not to lose sight of the cumulative impact of each dwelling when considering applications for individual proposals.

The failure to do so lead inevitably to the circumstances where the proliferation of dwellings on small lots changes the character of a locality to rural residential and productive agricultural land is lost forever.

The strong guidance provided by the Moorabool Planning Scheme supports the protection of agricultural land and it is therefore reasonable to suggest that this agricultural land should be protected and that the use of the land for a dwelling should not be supported.

Further, the proposal fails to meet Guideline 1 of the Guidelines for Planning Permit applications in open, potable water supply catchment areas.

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~~ 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 increase 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 is part of a wider opportunity to increase investment within the agricultural enterprise.

If the application was to be supported together with the application for the adjoining land parcel it would, in effect, fragment the farming land, and once a dwellings are 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 a refusal of this development would not represent any financial implications to Council.

Risk & Occupational Health & Safety Issues

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

Communications Strategy

Notice was undertaken for the application, in accordance with the Planning and Environment Act 1987, and no objections were received. The applicant was informed that this matter would be heard by Council and was advised of their right to address Council. The applicant will be advised of Council's determination.

Conclusion

It is considered that the application is not consistent with the State and Local Planning Policy Framework or the Municipal Strategic Statement of the Moorabool Planning Scheme. The proposal is also considered to be inconsistent with the purpose of the Farming Zone and fails to protect the potable water supply catchment from the cumulative threat of concentrated effluent disposal.

Consideration of Deputations – Planning Permit Application No. 2012-110.

Mr. Eddie Davis and Mr. Robert Eskdale addressed Council as the applicant and representative of the planning permit for the application.

The business of the meeting then returned to the agenda.

Recommendation:

That, having considered all matters as prescribed by s.60 of the Planning and Environment Act, Council issues a Refusal to Grant A Planning Permit PA2012110 for Use and Development of Dwelling on Crown Allotment 2F, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton subject to the following grounds:

- 1. The applicant has failed to provide sufficient information that provides a nexus between agricultural use and the need for a dwelling on the subject site.**
- 2. The proposal is not supported by the State Planning Policies.**
- 3. The proposal is not supported by the Local Planning Policies**
- 4. The proposal is not supported by the purpose of the Farming Zone.**
- 5. The proposal fails to meet the Guidelines, May 2009 for Planning Permit applications in open potable water supply catchments.**

Resolution:**Crs. Sullivan/Comrie**

That, having considered all matters as prescribed by s.60 of the Planning and Environment Act 1987, Council issues a Planning Permit PA2012-110 for Development and Use of a Dwelling at Crown allotment 2F, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton subject to the following grounds:

- 1. Before the use and development starts, a Farm Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit.**
- 2. The use or development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
- 3. Before the use or development commences the proponent must enter into an agreement with the responsible authority made pursuant to Section 173 of the Planning and Environment Act 1987 to provide the following:**
 - (a) The owner of the land must acknowledge that while the land remains zoned as Farming Zone, or its equivalent replacement, the lands primary use is for agricultural activities and the use of the dwelling must be in conjunction with an approved agricultural activity.**
 - (b) The agricultural activities identified in the endorsed Farm Management Plan as reasonably requiring the approved dwelling must be undertaken on the land and must be in accordance with the Farm Management Plan endorsed under Condition 1 of Planning Permit No. PA2012110.**
 - (c) Before an Occupancy certificate issued under the Building Act for the dwelling, application must be made to the registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act.**
 - (d) The owner must provide evidence of registration of the Agreement to the responsible authority as soon as possible after registration has occurred.**

The owner/operator under this permit must arrange for the preparation of the Section 173 Agreement at his/her cost before submitting the responsible authority for approval. The owner/operator under this permit must pay the costs of execution and registration of the Section 173 agreement.

4. ***All conditions of Provincial Geotechnical Pty Ltd report ref number E2059 dated 22nd May 2012 are to be strictly adhered to.***
5. ***The dwelling or any building associated with the agricultural use must not have wall or roof cladding of reflective material unless with the prior written approval of the responsible authority.***
6. ***A standard rural vehicle crossing with culvert must be provided on Ballan-Egerton Road to the satisfaction of the responsible authority. A vehicle crossing must be taken out for the construction of the vehicle crossing.***
7. ***The property access and the internal driveways must be constructed in accordance with the requirements specified in the CFA publication "Building in a Wildfire Management Overlay".***
8. ***Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the responsible authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.***
9. ***Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).***
10. ***Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
11. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the responsible authority.***

Barwon Water conditions:

12. ***As a minimum, wastewater is to be treated to a primary standard, as recommended in the Land Capability Assessment – Report No E2059.***
13. ***All components of the wastewater management system including the effluent disposal area must be located at least 100m from any surface waterway.***
14. ***All stormwater must be directed away from the effluent disposal area and rood stormwater must not be disposed to the effluent disposal area.***

15. ***The effluent disposal field must be protected by being isolated from any buildings, driveway, livestock, and vehicles.***
16. ***Monitoring, Operation and Maintenance must be undertaken in accordance with section 7 of the Land Capability Assessment Report No E2059.***

Country Fire Authority Conditions:

Buildings and Works

17. ***The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply, and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorized by this permit has been completed.***

Static Water Supply

18. ***Prior to the initial occupation of the dwelling a static water supply must be provided on the land and must meet all of the following requirements:***
 - (a) ***The water supply must have a minimum capacity of 10,000 litres that is maintained solely for fire fighting purposes.***
 - (b) ***The water supply must be stored in an above ground water tank constructed of concrete, steel or corrugated iron.***
 - (c) ***The water supply must be located within 60 metres of the outer edge of the dwelling (including any obstructions).***
 - (d) ***The water supply outlet/s must be attached to the water tank and must face away from the building if located less than 20 metres from the building to enable access during emergencies.***
 - (e) ***All pipe work between the water supply and the outlet/s must be a minimum of 64 mm nominal bore.***
 - (f) ***All fixed above-ground water pipelines and fittings must be non-corrodible and non-combustible materials.***

- (g) The water supply must:**
- (a) Be located so that the fire brigade vehicles are able to get to within 4 metres of the water supply outlet.**
 - (b) Incorporate an additional 64 mm (Minimum) gate or ball valve and 64 mm (fixed size), 3 threads per inch, male fitting to suit a CFA coupling.**
 - (c) Incorporate a vortex inhibitor or additional water must be provided to ensure that the volume of water available is not restricted by a vortex. Refer to Section 5 of AS.2419 for requirements for vortex inhibitors.**
- (h) The water supply outlet must incorporate a ball or gate valve to provide access to the water by the resident of the dwelling.**
- (i) All below-ground water pipelines must be installed to at least the following depths:**
- (a) Subject to vehicle traffic: 300 mm**
 - (b) Under dwellings or concrete slabs: 75 mm**
 - (c) All other locations: 225 mm**
- (j) The water supply must be readily identifiable from the building or appropriate signage must be provided which:**
- (a) Has an arrow pointing to the location of the water supply and visible from the entry of the property.**
 - (b) Have dimensions of not less than 310 mm high and 400 mm long.**
 - (c) Is red in colour, with blue reflective marker attached?**
 - (d) Is labeled with a "W" that is not less than 15cm high and 3 cm thick.**

Access

- 19. Access to the building must be designed to allow emergency vehicles access. The minimum design requirements (including gates, bridges and culvers) are as follows:**
- (a) Curves in the driveway must have a minimum radius of 10 metres.**

- (b) *The average grade must be no more than 1 in 7 (14.4%), however an absolute maximum of 1 in 5 (20%) is allowed for a maximum of 50 metres.*
- (c) *Dips must have no more than a 1 in 8 (12.5%, 7.1 degree) entry and exit angle.*
- (d) *Must be designed, constructed and maintained for a load limit of at least 15 tonnes and be of all weather construction.*
- (e) *Must provide a minimum trafficable width of 3.5 metres and be clear of encroachments for 4 metres vertically and 0.5 metres each side of the driveway.*

Inner Protection Zone of 57 metres from the building:

- 20. *Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the building such as windows, decks and eaves.*
- 21. *Trees must not overhang the roofline of the building, touch walls or other elements of a building.*
- 22. *Grass be no more than 5 centimetres in height. All leaves and vegetation debris are to be removed at regular intervals.*
- 23. *Shrubs must not be placed under trees and separated by at least 1.5 times their mature height.*
- 24. *Plants greater than 10 centimetres in height at maturity must not be placed directly in front of a window or other glass feature.*
- 25. *Tree canopy separation of 2 metres and the overall canopy cover of no more than 15 percent at maturity.*
- 26. *Tree branches below 2 metres from ground level must be removed.*

Outer Protection Zone of 24 metres from the inner protection zone:

- 27. *Grass must be no more than 10 centimetres in height and leaf and other debris mowed, slashed or mulched.*
- 28. *Shrubs and/or trees must not form a continuous canopy.*
- 29. *Tree branches below 2 metres from ground level must be removed.*
- 30. *Trees may touch each other with an overall canopy cover of no more than 30 percent at maturity.*

31. ***Shrubs must be in clumps of no greater than 10 square metres, which are separated from each other by at least 10 metres, to the satisfaction of the CFA.***

Building Construction Standard

32. ***A site assessment for the purpose of determining the bushfire attack level for the site has been considered as part of the application for the planning permit. The construction of buildings must be to a minimum bushfire attack level of BAL 12.5 in accordance with the relevant sections to AS3959-2009.***

33. ***This permit will expire under the following circumstances:***

- (a) ***The use and development is not commenced within two years of the date of this permit: or***
- (b) ***The development is not completed within four years of the date of this permit.***

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

Permit Notes:

Environmental Health:

The proponent must apply to Council's Environmental Health Department for a permit to install a septic system.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 20 February 2013

11.2.2 Planning Permit 2012-112; Development and Use of a Dwelling at Crown Allotment 2E and 2H, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton

Application Summary:	
Permit No:	PA2012-112
Lodgement Date:	6 June 2012
Planning Officer:	Natalie Robertson
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	14 October 2012
Address of the land:	Crown Allotment 2E and 2H, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton
Proposal:	Development and Use of a Dwelling
Lot size:	13.51 hectares and 2.36 hectares
Restrictive Covenant/Section 173 Agreement	Not applicable
Why is a permit required	Clause 35.07-1 . Dwelling in Farming Zone Clause 42.01-2 . Buildings and works in Environmental Significance Overlay Schedule 1
Public Consultation:	
Number of notices to properties:	6
Notices on site:	1
Notice in Moorabool Newspaper:	Not applicable
Number of Objections:	None
Consultation meeting:	Not applicable.

Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Provide a high quality and timely development application processing system.
Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Peter Hawkins</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Natalie Robertson</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
<p>The application is for development and use of the land for a dwelling on land that is made up of two lots on Mahers Lane East, Mount Egerton.</p> <p>This proposal seeks use and development of a dwelling on the 2.36 hectare parcel of land (Crown allotment 2H) with access via crown allotment 2E a 13.63 hectare land parcel.</p> <p>The subject land is located on the southern side of Ballan-Egerton Road, 230m from the Township Zone of Mount Egerton and within less than 1km from central township area of Mount Egerton. In respect to this proposal, the combined subject site is rectangular in shape.</p> <p>The proposal provides for the construction of a single storey dwelling on the site comprising four bedrooms plus study, 2 bathrooms, separate lounge, combined kitchen/dining area together with a double car garage.</p>	

The supplementary information states that the principle land is not high quality farmland and the lot is only suitable for a hobby farm, grazing or tree crops.

This application and the adjoining site application, states that the intention of the application is to obtain a planning permit to assist in the sale of the property.

The proposal does, however fail to justify that there would be an overriding need to establish a dwelling on this lot or the adjoining land in order to manage any proposed agricultural business.

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

It is considered that the proposed application is generally inconsistent with the State and Local Planning Policies of the Moorabool Planning Scheme, including the provisions of Clauses 11.05-2, 14.01, 21.03-5 and 22.03.

The application was referred to all appropriate authorities and within Council departments for comment. No objections from referral authorities were raised provided certain conditions were placed on any permit granted.

Summary Recommendation:

It is recommended that Council resolve to refuse to grant a permit for this application in accordance with Section 61(1) of the Planning and Environment Act 1987, on the grounds stated.

Proposal

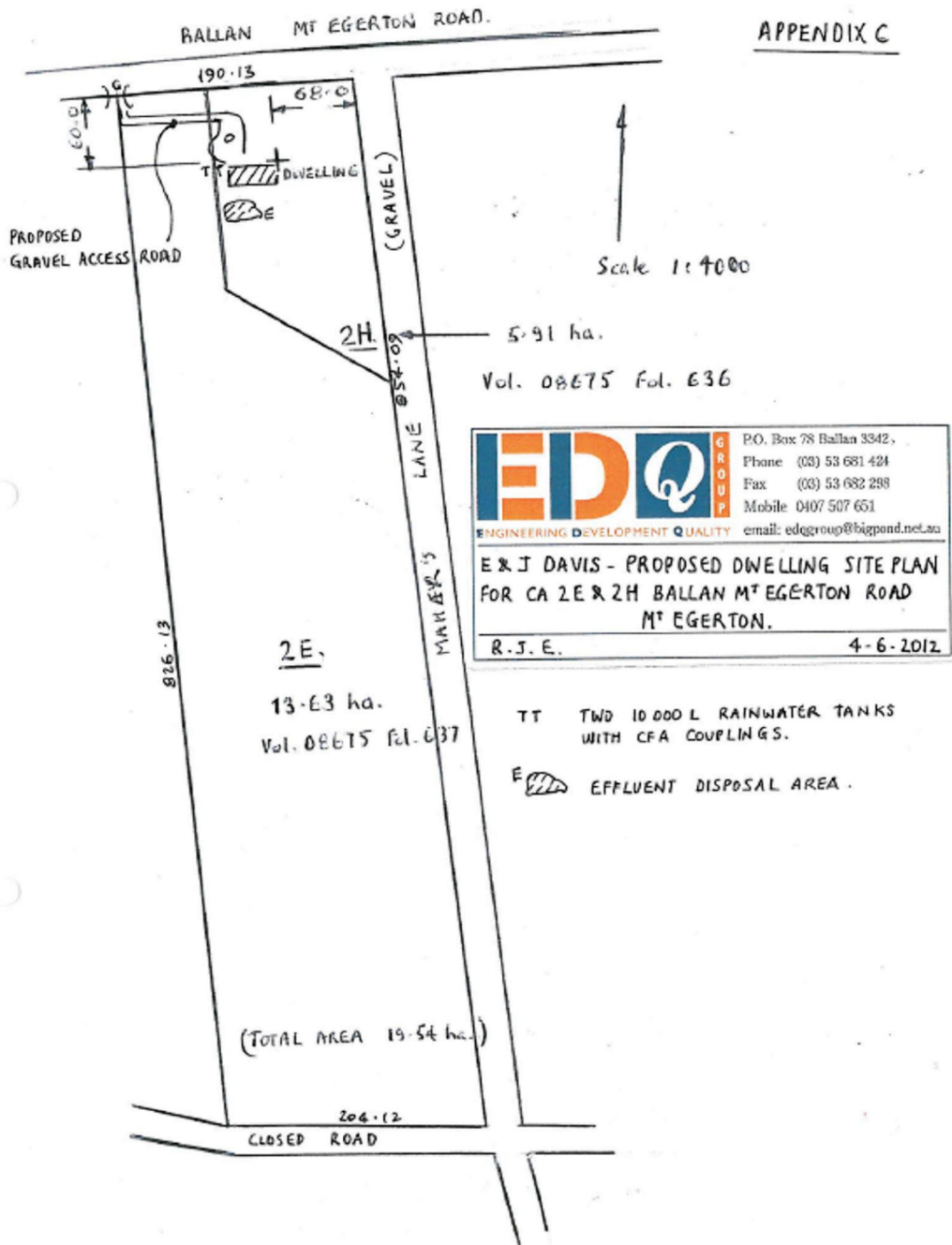
The proposal involves the development of a single dwelling. The application states that the land is 5.91 and 13.63 hectares, however the land is actually 2.36 and 13.63 hectares respectively.

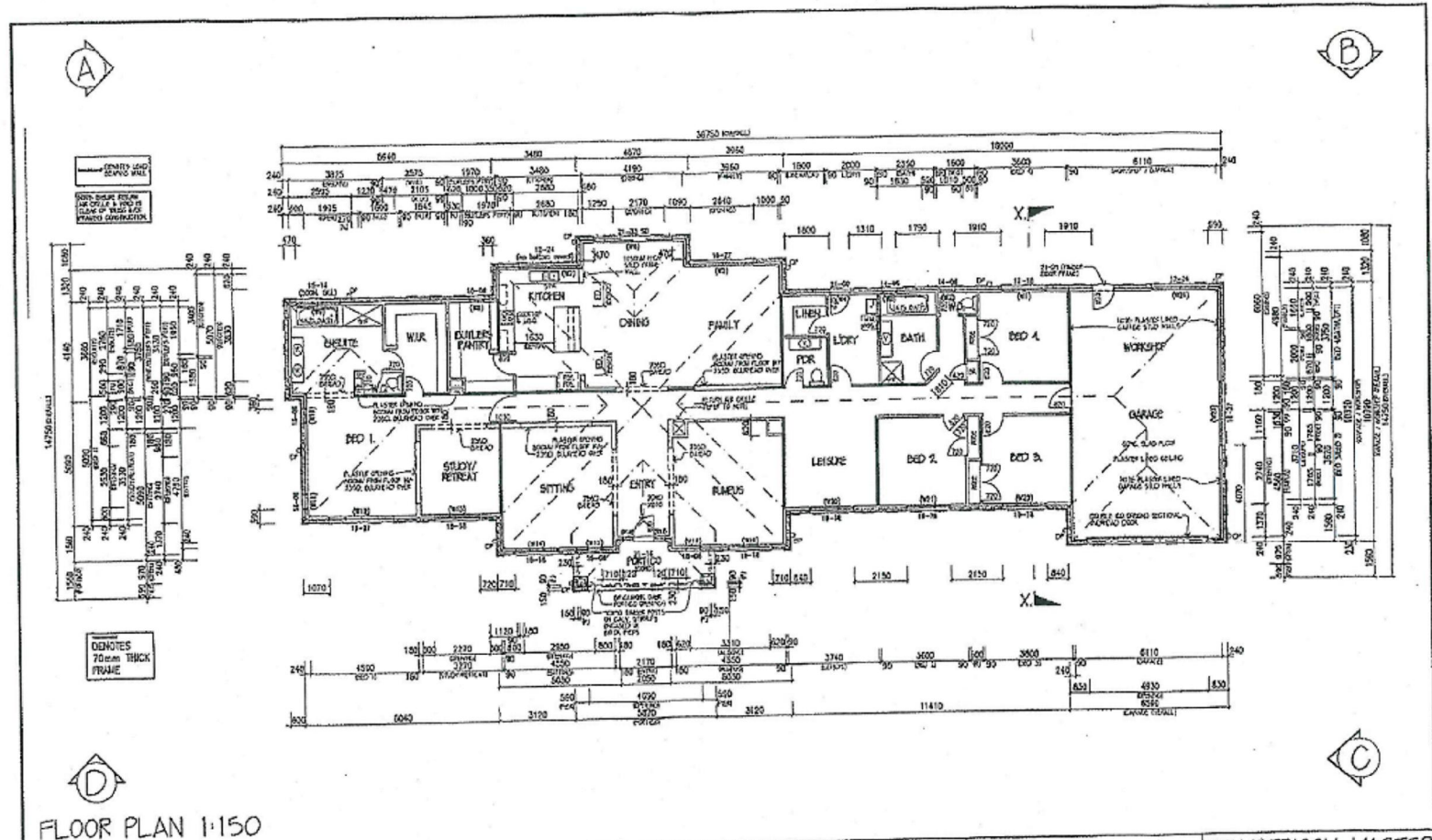
The proposed dwelling comprises four bedrooms plus study, 2 bathrooms, a sitting room, rumpus room, leisure room, a combined kitchen/living area and a double garage. The proposed dwelling would be sited approximately 60m from the Ballan-Egerton Road and 68m from Mahers Lane East. The proposed dwelling would have a total floor area of 331.91sq m.

The land title states that road name as Mahers Lane East, however the lot adjoins Ballan-Egerton Road facing north and is the more likely point of access.

The proposal is one of two similar applications for development and use of a dwelling within the Farming Zone on three adjoining land parcels.

Proposed Site Plan, Floor Plan and Elevations





FLOOR PLAN 1:150

NOTES:
 * FINISH DIMENSIONS TAKE PRECEDENCE OVER SCALE.
 * FLOOR PLAN DIMENSIONS ARE TO FRAME SEE ONLY.
 * WINDOW SIZES ARE NOMINATED AS GLAZING CODES.
 * FIRST 2 NUMBERS REFER TO HEIGHT & SECOND 2 REFER TO WIDTH.
 * ALL GLAZING TO COMPLY WITH A.S. 1288-2006 GLASS IN BUILDINGS, & WITH A.S. 4525-1992 FOR WINDOWING.
 * WINDOW SUPPLIER TO PROVIDE COVER BOARDS TO ALL COVER WINDOWS UNTO.
 * GARAGE ROOF TO BE TIED DOWN MIN. 1200 INTO SPOCKERS WITH 3000mm HIGH STRAPS.
 * ALL WATER FIXTURES TO BE REMOVABLE IN

VARIATIONS(V), RE-PREP(R), AMENDMENTS(A):				NOTES:				
No.	Date	Drawn/Checked	Rev.	Date	Drawn/Checked	CRP FLS	NO. OF SQM	
VO1	-/-/-	-	-	-	-			
-	-	-	-	-	-			
-	-	-	-	-	-			
-	-	-	-	-	-			
SUBTOTAL:							30.49	504
TOTAL:							412.97	504
							645	508

DESIGN: DENVER 43	FRACADE: TRADITIONAL CEILING: 24 L
GARAGE: DOUBLE	LOCATION: F
FLOOR PLAN	
VEDERSTRAS 1	
METRICON HOLDS OWNERS COPYRIGHT IN THIS DRAWING. UNAUTHORISED USE, REPRODUCTION OR ADAPTATION IS FORBIDDEN AND WILL BE PROSECUTED.	

DESIGNER
REGIONAL SPEC.
metricon
 501 Stockburn Road, Mount Waverley Vic 3149
 P.O. Box 257, Mount Waverley Vic. 3149
 Telephone 03 9815 5777 Fax 03 9222 5143
 Building Practitioner Reg. No. 03-148923 A.C.N. 003 188 752
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OWNER: METRICON MASTER	
501 BLACKBURN ROAD	
MOUNT WAVERLEY	
JOB NO:	DATE: 02 MAY 2009
P.C. DATE: 02 MAY 2009	LAST VER: P. 18 NOV 2009
PERMIT No:	
DRAWN: [Signature]	CHECKED: [Signature]
SHEET: 2 of 8	

IMPORTANT NOTE
REFER TO FACADE DETAIL
REF. NO. S-TYP-TRAD-01

ELEVATION D.

IMPORTANT NOTE:
REFER TO SOIL ENGINEERS PLANS
FOR ARTICULATION JOINT LOCATIONS

ELEVATION A.

ELEVATION C.

IMPORTANT NOTE:
PROVIDE INSECT SCREENS TO ALL
OPENABLE WINDOWS/SLIDING DOORS.

ELEVATION D.

IMPORTANT NOTE:
PROVIDE INSECT SCREENS TO ALL
OPENABLE WINDOWS,
AND EXTERNAL HINGED DOORS
(EXCLUDING REAR GARAGE
PEDESTRIAN DOOR)

IMPORTANT NOTE:
PROVIDE INSECT SCREENS TO ALL
OPENABLE WINDOWS/SLIDING DOORS.

ELEVATION D.

IMPORTANT NOTE:
PROVIDE INSECT SCREENS TO ALL
OPENABLE WINDOWS/SLIDING DOORS.

ELEVATIONS 1:150

NOTES:
* WINDOW SUPPLIER TO SUPPLY COVER BOARDS TO ALL CORNER WINDOWS U.N.D.
* ALL GLAZING TO COMPLY WITH A.S. 1220 - 2008 GLASS IN BUILDINGS, & WITH A.S. 4055 - 1992 FOR WINDLOADING.
* WINDOW HEAD HEIGHT DIMENSIONS TO BE TAKEN TO THE NEAREST CORRESPONDING BRICK COURSE.

DESIGN: **DENVER 43**
FACADE: TRADITIONAL CEILING: 24' L
GARAGE: DOUBLE LOCATION: F

DESIGNER
REGIONAL SPEC.
metricon
501 Blackburn Road, Mount Waverley Vic 3149
P.O. Box 857, Mount Waverley Vic 3149
Telephone 03 9915 5777 Fax 03 9222 5143
Building Practitioner Reg. No. DB-09229 ACN. 015 108 792
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OWNER: **METRICON MASTER**
501 BLACKBURN ROAD
MOUNT WAVERLEY

JOB NO: DATE: 00 MM YYYY
F.C. DATE: 00 MM YYYY MST VER: P 16 NOV 2009
PERMIT No.
DRAWN: [] CHECKED: [] SHEET: 5 of 6

OMC - 20.

Site Description

An inspection of the site was undertaken on Monday, 23 July 2013.

The subject site appears on title as Lot 2H on Mahers Lane East, Mount Egerton. Mahers Lane forms a gravel track on the eastern boundary of the site. The northern boundary of the site abuts Ballan-Egerton Road and access from Ballan-Egerton road is available via Lot 2E and would be considered more appropriate than via Mahers Lane.

The site forms the far eastern land parcel and is the smallest of three land parcels in the same ownership and is one of two applications for dwellings on the adjoining land parcels. The site proposed for the dwelling is 2.36 hectares and access would be via Lot 2E which is 13.51 hectares with the third lot forming 31.64 hectares in total.

Each application must be considered and determined on its merits and the decision guidelines require that the responsible authority consider, amongst other matters, the orderly planning of the area and the affect on the amenity of the area together with any proposals or permits granted in the surrounding or adjoining area.

The subject land parcel is irregular in shape, has vegetation along the northern boundary and western boundary.

The Planning Permit (No. 2009012877) for Use and Development of a 107 Wind Turbine facility and associated buildings and works as approved by the Minister for Planning in October 2010 includes a turbine 2.5 kilometres to the east.

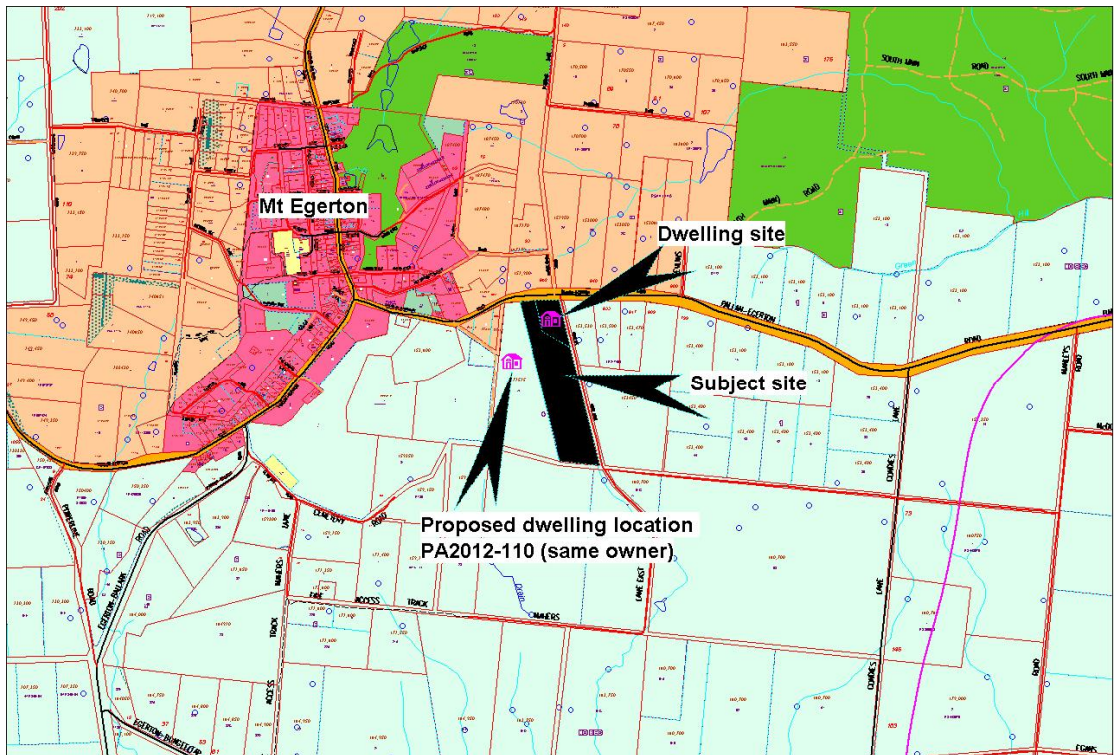
Access to the site is via an unmade crossover from the adjoining lot off the Ballan-Egerton Road boundary.

The application states that the land is used for grazing and a drainage line transverses the lots from north to south.

The land to the west, east and south are zoned Farming Zone and land to the north is zoned Rural Living. The Township zone of Mount Egerton is within 450m to the west of the site.

Given the Rural Living and township Zone there are several dwellings in close proximity to the site.

Subject Site



Planning Scheme Provisions

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

SPPF		
Clause 11.05-2	Melbourne's hinterland areas	<p>The objective of this policy is to manage growth in Melbourne's hinterland, the area immediately beyond Metropolitan Melbourne and within 100 kilometres of the Melbourne's Central Activities District and to:</p> <ul style="list-style-type: none"> • Provide for development in selected discrete settlements within the hinterland of Metropolitan Melbourne having regard to complex ecosystems, landscapes, agricultural and recreational activities in the area. • Prevent dispersed settlement. <p>Does not comply</p>

<p>11.05-3</p>	<p>Rural productivity</p>	<p>The objective of this policy is to manage land use change and development in rural areas to promote agriculture and rural production aiming to:</p> <ul style="list-style-type: none"> • Prevent inappropriately dispersed urban activities in rural areas. • Limit new housing development in rural areas, including: <ul style="list-style-type: none"> • Directing housing growth into existing settlements. • Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses. <p>Does not comply</p>
<p>Clause 14.01-1</p>	<p>Protection of agricultural land</p>	<p>The objective of this policy is to protect productive farmland which is of strategic significance in the local or regional context and to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.</p> <p>The agricultural quality and productivity of the land must be assessed and the permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.</p> <p>In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.</p> <p>Does not comply.</p>

Clause 14.01-2	Sustainable agricultural land use	<p>The objective of this policy is to encourage sustainable agricultural land use and to ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.</p> <p>Does not comply.</p>
Clause 14.02-2	Water quality	<p>The objective of this policy is to protect water quality and to protect reservoirs, water mains and local storage facilities from potential contamination.</p> <p>Does not meet the decision guidelines for dwellings in open potable water supply catchments.</p>
Clause 16.02-1	Rural residential development	<p>The objective of this policy is to identify land suitable for rural living and rural residential development and to:</p> <ul style="list-style-type: none"> • Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. • Reduce the proportion of new housing development provided in rural areas and encourage the consolidation in existing settlements where investment in physical and community infrastructure and services has already been made. <p>Does not comply.</p>

LPPF		
Clause 21.01-2	Municipal context, Key Issues, Economic development	<p>It is important to ensure planning to accommodate demand for rural living opportunities produces enhanced environmental outcomes and also protects agricultural production, particularly highly productive areas in the west of the Shire... There is an ongoing need to manage existing and potential conflict between residential, rural residential and agricultural and horticultural production.</p> <p>Does not comply.</p>
Clause 21.03	Settlement and Housing . Key issues and influences	<p>The communities and towns of Moorabool Shire have a very strong rural setting and character that is defined by the local agricultural base, spectacular scenic landscapes and diverse vegetation. There is a need to ensure that these values, which draw people to the area, are protected.</p> <p>Does not comply.</p>
Clause 21.03-2	Urban Growth Management	<p>The objective of this policy is to plan and manage sustainable urban growth that is concentrated in and around the Shire's major towns and to avoid urban development where it is likely to impact on highly productive agricultural land, environmental values and the long-term sustainability of natural resources and to ensure a clear separation between urban development and farming activities.</p> <p>Does not comply.</p>

<p>Clause 21.03-4</p>	<p>Landscape and Neighbourhood Character</p>	<p>The objective of this policy is to ensure new development in all zones respects the existing character, landscape setting and amenity of the local area and to:</p> <ul style="list-style-type: none"> • Retain non-urban breaks between towns and settlements. • Avoid residential development in the farming areas unless it is required for the agricultural use of the land.
<p>Clause 21.04-1</p>	<p>Key issues and influences, agriculture and horticulture</p>	<p>The diversity in agricultural production and potential across the Shire is an economically valuable resource. Where irrigation water or higher rainfall combines with highly productive soil types, the Shire supports intensive horticultural pursuits.</p> <p>The protection of agricultural and horticultural production is an important planning outcome.</p> <p>The Shire's agricultural base and attractive rural setting are important drivers in attracting people to live in Moorabool. Council supports rural living development where it does not compromise the long term productive use of rural land for agriculture and horticulture, maintains the Shire's environmental qualities, and provides services and infrastructure to support such development.</p> <p>Farm businesses need to be able to retain the capacity to operate as agricultural enterprises.</p> <p>The Shire's horticultural land resources are important economically in supporting tourism and the lifestyle appeal of the area.</p> <p>Does not comply.</p>

Clause 22.03	Houses and House Lot Excisions in Rural Areas	<p>This policy applies to all land within the Farming Zone.</p> <p>Agriculture is still the major land use in the Shire and a significant component of the economy. The Shire is committed to facilitating sustainable agriculture and protecting the long term supply of productive agricultural and horticultural land. There is need to avoid fragmentation of land suitable for rural production by discouraging subdivision and houses that are unrelated to the rural use of the land. It is also important to ensure that farm production is not compromised or adversely affected by residents living in rural areas.</p> <p>Should a permit be granted for this proposal permit conditions must be imposed that require the landowner to consolidate land parcels 2E and 2H.</p> <p>Does not comply.</p>
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Zone

Farming Zone

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

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

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

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

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

Farming Zone . decision guidelines

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

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

Design and Development Overlay – Schedule 2

The site is covered by the Design and Development Overlay . Schedule 2.

Pursuant to Clause 43.02-2 of the Moorabool Planning Scheme a permit is required to construct a building or construct or carry out works unless the schedule to the Overlay says that a permit is not required. The schedule to the Overlay states that a permit is only required if the development is to be constructed with reflective materials. In this instance a permit is not triggered as no reflective materials are proposed to be used.

Environmental Significance Overlay – Schedule 2

The site is covered is by the Environmental Significance Overlay . Schedule 1, Proclaimed Water Catchment Areas.

Pursuant to Clause 42.01-2 of the Moorabool Planning Scheme a permit is required to construct a building or construct or carry out works unless the schedule to the Overlay says that a permit is not required. The schedule to the Overlay states that a permit is required to construct a dwelling in the Farming Zone where the lot is less than 40 hectares.

In this respect, Barwon Water are the Section 55 referral authority and the proposal was referred to Barwon Water and Council's Environmental Health Department for comment.

Both Barwon Water and Environmental Health have no objection to the proposal subject to conditions that relate to wastewater and effluent treatment, stormwater and adherence to the recommendations of the Land capability Assessment of the site provided as part of the application.

Despite approval by the Water Authority, the *Guidelines for Planning Permit applications in open, potable water supply catchment areas*, May 2009 adopted by the Minister for Planning for the purposes of Section 60(1A)(g) of the Act 1987 state:

Where a planning permit is required to use the land for a dwelling or to subdivide land:

- *the density of dwellings should be no greater than one dwelling per 40 hectares (1:40ha)..'*

Not including the Township Zone, which provide as of right use, there are 16 dwellings in the applicable area. The 1:40 ratio provides a calculation of 1.1 dwelling per 19.6 hectares. With the inclusion of this proposal into the calculation the ratio becomes 1 dwelling per 18 hectares. To further include the second application by the existing landowner the ratio becomes 1 dwelling per 16.5 hectares.

The proposal therefore fails to meet Guideline 1 for Density of Dwellings.

Particular Provisions

No particular provisions apply to this application.

General Provisions

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

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

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:

- Support the agricultural sector so that it can be more productive, diverse, resilient and adaptive to changing agricultural trends, including supporting agricultural activities that recognise Moorabool's advantageous proximity to market;
- Protect agricultural land use from permanent loss and allow development that increases agricultural productivity;
- supports investment and development in innovative agricultural activities and agricultural diversity;
- recognise that there are substantial existing lots under 40 hectares capable of supporting the viable operation of agricultural enterprises.
- The policy states that Council should be mindful of the aim to facilitate growth of existing farm businesses and to facilitate the establishment of new agricultural enterprises.

The proposal does not fall within the requirements of Council's Rural Growth Policy.

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

Referrals

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

Authority	Response
Country Fire Authority Barwon Water	Consent, subject to conditions Consent, subject to conditions
Infrastructure Environmental Health Coordinator	Consent, subject to conditions Consent, subject to conditions

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

Public Notice

Notification of the proposal was undertaken. The application was advertised to nearby adjoining owners and occupiers on 31 July 2012 by mail. A total of six (6) notices were provided to properties within the surrounding area together with a sign being placed on the site, facing Ballan-Egerton Road between 31 July 2012 and 14 August 2012.

No objections were received.

Discussion

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

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

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

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

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

- whether the use or development will support and enhance agricultural production;
- whether the use or development will permanently remove land from agricultural production;
- the potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- the capacity of the site to sustain the agricultural use;
- the agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- any integrated land management plan prepared for the site.

In considering the application in this area of Mount Egerton and particularly its proximity to the township of Mount Egerton a primary question is whether the dwelling is reasonably required for the use of the land for agricultural. The second consideration is whether the land should be preserved for agricultural use to protect the future land use for the area.

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

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

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

Preserving such a agricultural land from urban encroachment, by defining and maintaining a strong urban growth boundary would come under increasing pressure from development applications unless State and local policies are upheld.

Generally these policies enshrine the protection of productive agricultural land from non-agricultural uses and dwellings unless strong justification can be made that such dwellings are required to support the agricultural use.

The applicant has not made a case for the use of the land for the dwelling to support a horticultural or agricultural business. There are residential areas within 450m of the subject site which would provide accommodation for the landowner without imposing a significant burden on them being able to access their land for farming.

As part of a request for additional information the Proponent was asked to provide documentation that would assist in the assessment of a dwelling on the site, particularly a farm management plan. The application states that the landowners intend to use this Planning Permit to assist in the sale of the property+which would likely result in the land being used for some sort of hobby farm+.

The use of land for dwellings in the Farming Zone that is less than 40ha, as specified in the schedule to the Farming Zone in this instance, is discouraged unless it can be demonstrated that the dwelling is reasonably required to achieve a productive agricultural use of the land. The proposal does not make any attempt to justify the dwelling in respect to agricultural use.

In addition, the applicant suggests that the opportunity to purchase rural property with the ability to construct a dwelling is a pathway for people to enter agriculture. In this instance, by granting a permit without consideration of a Farm Management plan that requires a dwelling in support of agricultural use presents possible land use conflicts and further, is contrary to the objectives of the Farming Zone by attempting to by pass the mechanisms that ensure that agricultural activity continues on the site.

Further, the proposal seeks to utilize the smaller lot (2H) for a dwelling with access via the larger land parcel (2E). Should a permit issue, at all, the landowner must be required through permit conditions to consolidate the land parcels. Should this not be addressed, there is potential for the larger lot to be the subject another planning permit application for a dwelling.

In previous applications in Moorabool that have been determined by VCAT, Members have commented that as there is no guarantee that the primary production described would occur or continue to occur, the Member would have to grant a temporary permit which would require the removal of the dwelling should the agricultural activity cease. Such a permit would not be appropriate and so the Tribunal refused to grant a permit in a similar case. (McDonald v Moorabool SC [2005]).

Ideally this site should be consolidated with one or more adjoining land parcels.

Also, ample opportunity exists within the Mount Egerton, Gordon or Ballan Townships to meet the housing needs of potential residents. This includes tracts of land zoned Rural Living which are available for development. The compromising of agricultural land at this location is not warranted. Further, there is nothing to guarantee that in the future the dwelling might not be sold to other parties without the intent to farm.

Many farmers are able to farm their land without residing in such close proximity to their crops in order to continue farming. It has not been established that the construction of the dwelling is essential to farm the land.

There is no reason why the land cannot be farmed with the owners and/or new owners residing a short distance away in suitably zoned residential areas.

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

The planning scheme specifically recognises threats to agricultural land use from non-agricultural land uses such as dwellings which can impact on the fragmentation and restriction on the viability and potential for agricultural land uses to operate.

The Tribunal is generally consistent in its assessment of applications for dwellings on small lots in the Farming Zone.

In *Strachan v LaTrobe CC (2012)* Member Tracey Bilston-McGillen stated that:

In considering applications for dwellings in the Farming Zone, the Tribunal has on a number of occasions commented on the adverse impact on agricultural production associated with the intrusion of dwellings on small lots in the Farming Zone. In particular the Tribunal has commented that the impact of permitting dwellings in small rural lots in the Farming Zone is incremental in nature and that care must be exercised not to lose sight of the cumulative impact of each dwelling when considering applications for individual proposals.

The failure to do so lead inevitably to the circumstances where the proliferation of dwellings on small lots changes the character of a locality to rural residential and productive agricultural land is lost forever.

The strong guidance provided by the Moorabool Planning Scheme supports the protection of agricultural land and it is therefore reasonable to suggest that this agricultural land should be protected and that the use of the land for a dwelling should not be supported.

Further, the proposal fails to meet Guideline 1 of the Guidelines for Planning Permit applications in open, potable water supply catchment areas.

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 increase 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 is part of a wider opportunity to increase investment within the agricultural enterprise.

If the application was to be supported together with the application for the adjoining land parcel it would, in effect, fragment the farming land, and once a dwellings are 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 a refusal of this development would not represent any financial implications to Council.

Risk & Occupational Health & Safety Issues

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

Communications Strategy

Notice was undertaken for the application, in accordance with the Planning and Environment Act 1987, and no objections were received. The applicant was informed that this matter would be heard by Council and was advised of their right to address Council. The applicant will be advised of Council's determination.

Conclusion

It is considered that the application is not consistent with the State and Local Planning Policy Framework or the Municipal Strategic Statement of the Moorabool Planning Scheme. The proposal is also considered to be inconsistent with the purpose of the Farming Zone and fails to protect the potable water supply catchment from the cumulative threat of concentrated effluent disposal.

Consideration of Deputations – Planning Permit Application No. 2012-112.

Mr. Eddie Davis and Mr. Robert Eskdale addressed Council as the applicant and representative of the planning permit for the application.

The business of the meeting then returned to the agenda.

Recommendation:

That, having considered all matters as prescribed by s.60 of the Planning and Environment Act, Council issues a Refusal to Grant A Planning Permit PA2012-112 for Use and Development of Dwelling on Crown Allotment 2E and 2H, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton subject to the following grounds:

1. The applicant has failed to provide sufficient information that provides a nexus between agricultural use and the need for a dwelling on the subject site.
2. The proposal is not supported by the State Planning Policies.
3. The proposal is not supported by the Local Planning Policies
4. The proposal is not supported by the purpose of the Farming Zone.
5. The proposal fails to meet the Guidelines, May 2009 for Planning Permit applications in open potable water supply catchments.

Resolution:

Crs. Sullivan/Comrie

That, having considered all matters as prescribed by s.60 of the Planning and Environment Act 1987, Council issues a Planning Permit PA2012-112 for Development and Use of a Dwelling at Crown allotment 2E and 2H, Section 4, Parish of Bungal, Mahers Lane East, Mount Egerton subject to the following grounds:

1. ***Before the use and development starts, a Farm Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit.***
2. ***Before the use and development starts, the land known as Crown allotment 2E and 2H, Section 4, Parish of Bundal, Mahers Lane, Mount Egerton must be consolidated to form one land parcel.***

3. ***The use or development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.***
4. ***Before the use or development commences the proponent must enter into an agreement with the responsible authority made pursuant to Section 173 of the Planning and Environment Act 1987 to provide the following:***
 - (a) ***The owner of the land must acknowledge that while the land remains zoned as Farming Zone, or its equivalent replacement, the lands primary use is for agricultural activities and the use of the dwelling must be in conjunction with an approved agricultural activity.***
 - (b) ***The agricultural activities identified in the endorsed Farm Management Plan as reasonably requiring the approved dwelling must be undertaken on the land and must be in accordance with the Farm Management Plan endorsed under Condition 1 of Planning Permit No. PA2012112.***
 - (c) ***Before an Occupancy certificate issued under the Building Act for the dwelling, application must be made to the registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act.***
 - (d) ***The owner must provide evidence of registration of the Agreement to the responsible authority as soon as possible after registration has occurred.***

The owner/operator under this permit must arrange for the preparation of the Section 173 Agreement at his/her cost before submitting the responsible authority for approval. The owner/operator under this permit must pay the costs of execution and registration of the Section 173 agreement.

5. ***All conditions of Provincial Geotechnical Pty Ltd report ref number E2057 dated 23rd May 2012 are to be strictly adhered to.***
6. ***The dwelling or any building associated with the agricultural use must not have wall or roof cladding of reflective material unless with the prior written approval of the responsible authority.***
7. ***A standard rural vehicle crossing with culvert must be provided on Ballan-Egerton Road to the satisfaction of the responsible authority. A vehicle crossing must be taken out for the construction of the vehicle crossing.***

8. ***The property access and the internal driveways must be constructed in accordance with the requirements specified in the CFA publication "Building in a Wildfire Management Overlay".***
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 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.***

Barwon Water conditions:

13. ***As a minimum, wastewater is to be treated to a primary standard, as recommended in the Land Capability Assessment – Report No E2057.***
14. ***All components of the wastewater management system including the effluent disposal area must be located at least 100m from any surface waterway.***
15. ***All stormwater must be directed away from the effluent disposal area and rood stormwater must not be disposed to the effluent disposal area.***
16. ***The effluent disposal field must be protected by being isolated from any buildings, driveway, livestock, and vehicles.***
17. ***Monitoring, Operation and Maintenance must be undertaken in accordance with section 7 of the Land Capability Assessment Report No E2057.***
18. ***This permit will expire under the following circumstances:***
 - (a) ***The use and development is not commenced within two years of the date of this permit: or***

(b) The development is not completed within four years of the date of this permit.

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

Permit Notes:

Environmental Health:

The proponent must apply to Council's Environmental Health Department for a permit to install a septic system.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 20 February 2013

11.3 COMMUNITY SERVICES

11.3.1 National Aborigines and Islanders Day Observance Committee (NAIDOC) Week Activities

Introduction

File No.: 02/14/003
General Manager: Danny Colgan

The purpose of this report is to outline Council's current commitments to Indigenous People; seek endorsement to host a flag raising ceremony to celebrate National Aborigines and Islanders Day Observance Committee (NAIDOC) week; and the preparation of a draft policy in relation to Council's commitment to Indigenous People.

Background

Council acknowledges the Indigenous history of Moorabool Shire. The land was traditionally occupied by and connected to a number of Aboriginal communities, most notably the Wathaurong Tribe in the south and east, the Djadja Wurrung Tribe in the northern ranges and the Wurundjeri Tribe in the east.

Current Council Activities

The Council has a commitment and practice to acknowledging the traditional owners of the land at significant Council and community events. An invitation is extended to representatives of the local Indigenous communities to citizenship ceremonies and major Council events and community celebrations.

The Council has a commitment and practice of flying the Aboriginal Flag at the Ballan Office during National Aborigines and Islanders Day Observance Committee (NAIDOC) Week (7-14 July 2013), National Sorry Day (26 May), Reconciliation Week (27 May - 3 June) and when directed by state and federal governments.

Council services and facilities are inclusive and accessible to all members of Moorabool communities with access to some governed by eligibility criteria.

Council is a funded HACC Assessment Service (HAS) and through our HACC Diversity Plan have committed to review all current activities that promote services to Aboriginal people in the community including initiatives such as:

- Acknowledgement of country on website, newsletters and publications
- Joint promotional materials with Ballarat and District Aboriginal Cooperative (BADAC): posters and flyers
- Flying the Aboriginal and Torres Strait Islander flags
- Using Aboriginal artwork in offices and on publications
- Ensuring appropriate cultural diversity material in client handbooks

- Ensuring a wide range of staff undertake E-learning program (when available) as introduction to Aboriginal culture.
- Advocate within the organisation for widespread development of policies and practice that build cultural awareness.

The Council's Home and Community Care (HACC) Service has undertaken to plan, develop and implement Reconciliation Week activities such as:

- Delivering social support programs with a reconciliation theme
- Working with the Cultural Education staff at the Aboriginal Co-operative to run activities across the organisation . eg Family Day, Library events, children's events and Senior Citizens Centres.
- Promoting organisational awareness: Councillors, Senior Management Team and all service units.
- Promoting Reconciliation Week within the organisation and inviting BADAC staff/ Directors to attend events and activities.
- Providing information regarding reconciliation in newsletters, bulletins and publications.

Council fulfil its statutory obligations in relation to cultural heritage management under the Aboriginal Heritage Act 2006 and Aboriginal Heritage Regulations 2007, by advising developers that when an activity is proposed on a sensitive site, an approved Cultural Heritage Management Plan must be submitted prior to a planning permit being considered. Council also undertakes the preparation of Cultural Heritage Management Plan when planning for works on sensitive sites.

The terms of reference for the Council's Heritage Advisory Committee include representation from local Indigenous communities.

Establishment of Local Indigenous Group

Members of the Bacchus Marsh community are planning on establishing a local Indigenous Group and have are holding their inaugural meeting at the Bacchus Marsh Public Hall Supper Room on the 26 March. It is proposed that assistance in establishing and operating the group (including hosting initial meetings) be provided by Council staff consistent with support provided to other community groups in Moorabool. The group will be encouraged to continue to meet at the Bacchus Marsh Town Hall Supper room given its central and relatively accessible location and would support the Hall Committee that is promoting greater use of the Hall. The local Indigenous group could become a user group at the Hall similar to arrangements at other halls across the shire. The group will be encouraged as with other groups to operate inter-dependently from Council including seeking grants to fund its operation including ongoing room hire expenses. It is also proposed that Council staff assist the group in enhancing its expertise in securing grants to support its operation and planned activities. Council staff would also assist the group in conducting meetings and connecting with other groups and organisations to further enhance their skill set consistent with support provided to a wide range of other community groups across the municipality.

NAIDOC Week Flag Raising Ceremony

It is proposed that Council host a ceremony along with raising the Aboriginal and Torres Strait Islander Flags at the Ballan and Darley Offices during National Aborigines and Islanders Day Observance Committee (NAIDOC) Week (7-14 July). Members of the local Indigenous communities would be invited to join with Councillors, Council staff and other community members. It is also proposed that Council staff seek funding to conduct other activities during NAIDOC week.

Acknowledgment of Traditional Owners

Currently there is no policy that governs the acknowledgement of the traditional owners of the land at Ordinary Meetings of Council. The Council may want to consider the development of a policy position that acknowledges the traditional owners of the land at Ordinary Meetings of Council.

Policy

It is proposed that the Council endorse the preparation of a draft policy in relation to its commitment to Indigenous People. The draft policy could include a policy position that acknowledges the traditional owners of the land at Ordinary Meetings of Council; supports an annual flag raising ceremony during NAIDOC week; a community profile of the local Indigenous communities; and promoting education to enhance the understanding and awareness of Indigenous heritage and the needs of the Moorabool Indigenous community.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	Community Reliance
Strategy	Support community and cultural events

Financial Implications

It is proposed that funding be sought for activities to celebrate NAIDOC week. Support for the establishment of a local Indigenous group will be met within the existing budget.

Risk and Occupational Health and Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
People	Low level of community interest	Medium	Undertake consultation and engagement in line with Council Community Engagement Policy and Framework
Financial	Inadequate resources to support the proposed activities	Low	Costs are expected to be minimal. Funding will be sought along with partnerships resulting in-kind contributions.
Safety	Injury occurring at engagement opportunity	Medium	All engagement activities will be carried out in line with Risk Management Policy and Procedures

Communications and Consultation Strategy

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Danny Colgan

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

Conclusion

Council acknowledges the Indigenous history of Moorabool Shire. The land was traditionally occupied by and connected to a number of Aboriginal communities, most notably the Wathaurong Tribe in the south and east, the Djadja Wurrung Tribe in the northern ranges and the Wurundjeri Tribe in the east.

Members of the Bacchus Marsh community are planning on establishing a local Indigenous Group. It is proposed that assistance in establishing and operating the group (including hosting initial meetings) be provided by Community Development staff consistent with support provided to other community groups in Moorabool.

It is proposed that the Council host a ceremony along with raising the Aboriginal and Torres Strait Islander Flags at the Ballan and Darley Offices during National Aborigines and Islanders Day Observance Committee (NAIDOC) Week (7-14 July). Members of the local Indigenous communities would be invited to join with Councillors, Council staff and other members of the community. It is also proposed that Council staff seek funding to conduct other activities during NAIDOC week.

It is proposed that the Council endorse the preparation of a draft policy in relation to its commitment to Indigenous People. The draft policy could include a policy position that acknowledges the traditional owners of the land at Ordinary Meetings of Council; supports an annual flag raising ceremony during NAIDOC week; a community profile of the local Indigenous communities; and promoting education to enhance the understanding and awareness of Indigenous heritage and the needs of the Moorabool Indigenous community.

Consideration of Deputation

Ms. Danielle Cooper addressed Council as a supporter in regard to the NAIDOC Week Activities.

Ms. Andrea Hood and Cameron Hood addressed Council as supporters in regard to NAIDOC Week Activities.

The business of the meeting then returned to the agenda.

Resolution:**Crs. Dudzik/Edwards*****That the:***

- 1. Council endorse the hosting of a ceremony along with raising the Aboriginal and Torres Strait Islander Flags at the Ballan and Darley Offices during National Aborigines and Islanders Day Observance Committee (NAIDOC) Week (7-14 July).***
- 2. Council endorse seeking funds to conduct activities during NAIDOC week.***
- 3. Council endorse the preparation of a draft Policy Statement on its commitment to Indigenous People***
- 4. Council receive a further report on the draft Policy Statement on its commitment to Indigenous People***

CARRIED.

Report Authorisation**Authorised by:** 

Name: Danny Colgan
Title: General Manager Community Services
Date: Wednesday 20 February 2013

11.4 INFRASTRUCTURE SERVICES

11.4.1 Bacchus Marsh Freeway Interchange Options – Anthony’s Cutting Realignment Project

Introduction

File No.: 2130 (1)
Author: Phil Jeffrey
Chief Executive Officer: Rob Croxford

Background

The original Western Freeway Anthony’s Cutting Realignment project included an allocation of approximately \$38 million for the construction of an extension of Woolpack Road to the Western Freeway. This proposed link was to provide a stage one north south bypass of the town and improve transport efficiency, road safety and traffic management whilst considering planning, amenity and environmental issues.

The previous Council’s objectives in relation to a new freeway connection as part of the overall project were to:

- a. Get truck traffic off the main streets of Bacchus Marsh
- b. Provide a north south by pass of Bacchus Marsh
- c. Improve the safety of the Woolpack Road / Avenue of Honour intersection
- d. Assist in preserving the longevity of the Avenue of Honour trees by removing trucks from the Avenue of Honour.

The proposed works impacted on the heritage listed Bacchus Marsh Avenue of Honour by requiring the relocation of commemorative elms and a permit for their removal and replanting was lodged with Heritage Victoria by VicRoads with support from Council in October 2010.

The permit application was rejected on 20 December 2010, citing the following:

- The works will have an adverse impact on the aesthetic significance of the Avenue of Honour.
- The removal of nine (9) commemorative elm trees will have an adverse impact on the historical significance of the Avenue of Honour.

Subsequently an appeal was lodged by Council (as a partner to the appeal) to the Heritage Council on 28 January 2011 and by VicRoads on 4 February 2011. During this process, the design was reviewed and the number of trees impacted was revised down to five. The Minister for Planning called the project in to review the Heritage Victoria decision. In considering the appeal, the Minister directed Heritage Victoria to hold a hearing on 3 June 2011 to consider submissions on the issue from key stakeholders, and provide a report back to the Minister for consideration.

It is important to note that the Heritage Council in its review of the Executive Directors decision resolved 2 to 1 to issue a permit for the tree removal and works. Following and contrary to the Heritage Council decision, the Minister for Planning announced on 26 January 2012, his decision to not allow the Woolpack Road extension to proceed.

Since the decision, VicRoads has been faced with the task of finding an alternative solution that satisfies the original funding criteria and does not impact on the Avenue of Honour. To help inform a report back to State Government, a community consultation process and further investigation ensued.

On 23 April 2012 the Minister for Roads made available a media release and map that articulated possibilities for further investigation. Given the constraints that have been placed on the project, it was no surprise that the available options included an eastern interchange known as 1A or 1B coupled with a possible southern connection to Woolpack Road with a further possibility of Melbourne bound freeway ramps at Halletts Way. Council officers have been adamant that any Halletts Way option requires pedestrian facilities to be included over the bridge for safety.

Prior to the Minister for Roads media release, Council officers put forward a number of alternative options for consideration the first being options for a southern connection from an eastern interchange to Geelong Bacchus Marsh Road. The other significant option was a possible alignment along Vallence Road / Pearce Street connecting to the freeway. This would have necessitated the removal of older non dedicated elms and some house demolition. However due to possible demolition, this was not pursued further by the State Government but the Southern Alignment Corridor was included in the 23 April media release.

The media release also stated that a commitment was given to work with Council to explore all options for an alternative entry to Bacchus Marsh that was consistent with the current needs and future development of Bacchus Marsh. Disappointingly, very limited information has been made available to Council officers during the process other than a few meetings with VicRoads officers.

Following numerous requests, Council had not been given access to the options report, associated attachments, cost estimates and detail drawings that have been produced as part of the consultation process. This was critical to enable Council to make an informed judgement on any proposal put forward.

In addition to the above and as a result of a lack of information or consultation, an urgent report was tabled at the Ordinary Meeting of Council on 19 September 2012 and the following was resolved:

Resolution

That Council:

1. *Calls on the Premier of Victoria to intervene in the process to find an alternative to the Woolpack Road / Avenue of Honour solution as a matter of urgency in order to:*
 - a. *Get truck traffic off the main streets of Bacchus Marsh*
 - b. *Provide a north south by pass of Bacchus Marsh*
 - c. *Improve the safety of the Woolpack Road / Avenue of Honour intersection*
 - d. *Assist in preserving the longevity of the Avenue of Honour trees by removing trucks from the Avenue of Honour.*
2. *Calls on the Premier to formally consider the "Memorial Mile" concept of establishing a second Avenue of Honour to commemorative soldiers that have served in conflicts post WW1.*
3. *Calls on the Premier to retain funding made available for the original project.*
4. *Calls on the Premier to review and overturn his Government's decision in relation to Woolpack Road / Avenue of honour Roundabout.*
5. *Calls on the Premier to commit in the delivery of any solution to the provision of a half diamond interchange at Halletts Way including the upgrade of the bridge to include pedestrian/cycle facilities.*

CARRIED.

The only official response to this resolution has been that the request was passed to the Minister for Transport to consider however the Minister for Roads office has verbally advised that the return to a Woolpack Road scenario is not an option.

In mid December 2012, there were discussions with VicRoads officers in relation to a potential outcome for the project and a meeting was held on 12 December to outline plans for a proposed eastern interchange. This meeting was followed by an urgent Assembly of Council that evening. Part of the discussion with VicRoads was framed around negotiating additional works for the benefit of the community as part of any works package put forward.

The Victorian Government then provided Council with formal advice detailing a package of works on 17 December and sought Council endorsement of the proposal on 19 December ahead of an announcement by the Minister for Transport in the coming days. An unreasonable timeframe to analyse and prepare a report.

The package of works that was put before Council was to fund an upgraded eastern interchange as a modification to the previously known option 1A along with Melbourne bound ramps at Halletts Way. Council was supplied concept drawings of each proposal. Below is the rationale and associated information supplied on 17 December. No other information was made available even though the BMFL Options Assessment Report was in existence that had been repeatedly requested for many months.

Rationale for selecting this package of works

VicRoads met with hundreds of members of the local community and key stakeholders during May 2012 to obtain feedback on possible options for improved access to Bacchus Marsh from the Western Freeway. This extensive consultation period closed on 8 June 2012.

VicRoads then undertook a comprehensive assessment of alternative options against a set of criteria, including long term planning needs for the future development of Bacchus Marsh, transport efficiency, road safety and environmental considerations.

All options developed were technically superior to the existing eastern interchange and all required the removal of river red gums and 1980s elm trees to differing degrees. There was a wide variance in the estimated eastern interchange costs.

This recommended package includes upgrading the eastern interchange and building east facing ramps at Halletts Way. This will give Bacchus Marsh three safe and direct access points on and off the freeway, assist with the town's current transport needs and create the backbone for future road improvements. It will provide transport efficiency and road safety improvements within a constrained physical environment and fits within the allocated budget restraints. This package of works will also assist to reduce congestion already experienced at the Bacchus Marsh . Gisborne Road interchange by a third in the morning peak.

Other options considered but not recommended include:

- Option 1 (a) included four new ramps providing all movements between the Western Freeway and Bacchus Marsh Road. This option did not perform well in terms of transport efficiency. Also the footprint required would have significantly impacted on the heritage precinct.
- Option 1 (a) . Alt 2 was a variation on Option 1 (a) however the design of the roundabout had a significant impact on Moon Reserve and would have required more trees to be removed. Also, the cost of building this option would have precluded improving Halletts Way as well.
- Option 1 (b) performed well from a technical perspective however due to cost it would not have allowed for improvements at Halletts Way.

- Option 1 (b) . Alt 1 performed well from a technical perspective however due to cost it would not have allowed for improvements at Halletts Way.
- South Eastern Alignment Corridor with Option 1(a) was not possible within the budget allocated and would have had major impacts to businesses in the area. There is also a significant amount of agricultural land that would be required for this option.

Information on the recommended package of works

Eastern Interchange

VicRoads will build a new interchange on the eastern side of the town with four new ramps providing direct access to Melbourne and Ballarat (the latter is currently not possible). This design is an amended version of what was known to the community in the consultation period as Option 1a and takes community feedback on board. It will require the removal of up to 23 river red gums, however, it has been designed to minimise impact on the very large old trees. Up to two very large old trees and two large old trees will be removed. Three of these trees are on the north side of the freeway and one on the river.

This interchange arrangement has also been designed with a minimal footprint to reduce impact on agricultural land.

Moon Reserve

Improved amenity including public toilets will be provided at Moon Reserve to accommodate for increased usage by both the local community and the travelling public.

VicRoads will salvage the timber from the river red gums that will be removed to construct the eastern interchange, and work with the Bacchus Marsh community, including the RSL and the local Wurundjeri People to ensure the timber is used to deliver community assets.

Seed will be harvested from the river red gums in the area to ensure consistency of species is used to replace the river red gums.

1980s elm trees

To continue to form an entrance to the Avenue of Honour, the 1980s elm trees being removed will be replaced, with advice from Council on the species.

Pedestrian and cyclist crossing to access the heritage precinct

VicRoads is investigating a crossing of the Lerderberg River and Western Freeway for pedestrians and cyclists who access the heritage precinct to the north of the Western Freeway. VicRoads will particularly consider any solution that is able to be implemented using the existing infrastructure. However, should existing infrastructure not provide a safe and cost effective solution, these works may be considered under future funding programs.

Flanagans Drive

A strategic planning analysis of the Merrimu area is required for land use, infrastructure and transport network perspectives. In the absence of a clear strategic plan for the Merrimu area, it is not appropriate for VicRoads to include detailed planning for the realignment of Flanagans Drive as part of this package of works.

However, the Bacchus Marsh Transport Study (jointly funded with VicRoads) will help to define the future transport demands and infrastructure needs for the Bacchus Marsh area. VicRoads will work closely with the Moorabool Shire Council on using this study to ensure the best possible future planning considerations for the area.

Road safety works in the Avenue of Honour

Truck detection and warning system

To improve safety for traffic at the intersection of Woolpack Road and Bacchus Marsh Road, a truck detection and warning system will be installed.

The system is likely to include a camera on Bacchus Marsh Road and electronic warning signs on Woolpack Road.

The advanced warning sign will improve safety by alerting motorists on Woolpack Road approaching Bacchus Marsh Road that a truck is turning from Bacchus Marsh Road into Woolpack Road and they should take extra care and make allowance for it.

Localised enhancements

Localised enhancements including line marking and improving the road surface will be completed on Woolpack Road near the intersection of Woolpack Road and Bacchus Marsh Road. VicRoads will also consider options to correct the camber of the road at one key location to improve safety of truck operations.

Council has advised that improvements to Woolpack Road such as bridge strengthening could cost in the order of several million. These works will also be considered under future funding programs should Woolpack Road become an arterial road.

The Bacchus Marsh Transport Study (jointly funded with VicRoads) will help to define the future transport demands and infrastructure needs for the Bacchus Marsh area.

Speed limit review

The speed limit along Bacchus Marsh Road will be reviewed, to potentially decrease the speed limit from Woolpack Road to approximately Crook Street to 50km/hr. This will improve road safety and encourage heavy vehicles to use Woolpack Road, Bacchus Marsh Road and the new eastern interchange instead of travelling through the Bacchus Marsh town centre.

Halletts Way

The works include east facing ramps at Halletts Way which will provide access to and from Melbourne. In addition, a dedicated path for cyclists and pedestrians will be provided over the Western Freeway.

Truck Strategy

Traffic studies show four in five trucks have local business in town, such as making deliveries, transporting fresh produce and quarry products, including sand and construction products.

Trucks with business in Bacchus Marsh should not be banned from the centre of town. But through trucks need to be encouraged to use other routes. A decrease of the speed limit along Bacchus Marsh Road would assist (from approximately Crook Street to Woolpack Road).

Essentially the proposed works package listed above only committed to an eastern interchange upgrade, Halletts Way ramps, Moon Reserve works, and electronic signage at Woolpack Road. The remaining works were for consideration only and therefore unlikely to be funded.

Following receipt of the above advice, a late report was tabled and considered at the Ordinary Meeting of Council on 19 December 2012 in relation to Freeway Interchange Options for Bacchus Marsh and the following was resolved.

Resolution

That Council:

- 1. Receives the information supplied by the State Government on 17 December 2012 but defers a decision on the matter because it is dissatisfied with the process to date, insufficient information and time provided for Council and the community to consider and make an informed judgement.*
- 2. Requests that the Options Assessment Report and associated attachments prepared as part of the community consultation process post the Woolpack Road decision be released to Council followed by a detailed briefing from VicRoads so an informed decision can be made.*

CARRIED.

The project is funded through a mix of federal and state funds. The Victorian Government provided a copy of their preferred option to the Federal Minister. His office in turn provided the proposal to the local member seeking her views. The local member is now seeking Council's view on the merit or otherwise of the proposal.

Subsequent to the 19 December resolution, the full BMFL Options Assessment Report was supplied to Council on 15 January followed by a briefing by VicRoads at an Assembly on 30 January and this report considers the proposed options using the information that has been made available.

Proposal

Council officers have reviewed the Bacchus Marsh Freeway Link (BMFL) Options Assessment Report that has been provided. The report contains much more detailed information in regard to the options available, their impact and ranking and it is still unclear why this report was previously being withheld. Nevertheless, general commentary is provided below regarding its content.

Options Considered

There are five options that were investigated for an eastern interchange for Bacchus Marsh and a further option was added being Melbourne bound ramps at Halletts Way. All eastern interchange options require the construction of a climbing lane from the eastern interchange to Hopetoun Park Road adding significant cost. Also, the South Eastern Alignment Corridor that was included in the Minister for Roads media release on 23 April 2012 was discounted following community consultation due to the perceived adverse impacts and cost. Although this doesn't preclude it being constructed in the future, it will be extremely difficult to plan and fund such a project.

Since receipt of the Options Report, more detailed drawings have been requested and received from VicRoads of each proposal. A brief summary of each option is outlined below.

Options	Description
Option 1(a)	Four new ramps providing all movements between the Western Freeway and Bacchus Marsh Road. The ramp alignments utilise the PAO boundary established in the 1990s for the Anthony Cutting realignment of the Western Highway. The ramp terminals on Bacchus Marsh Road are located south of Lerderderg River (Ballarat bound ramps) and east of Hopetoun Cemetery (Melbourne bound ramps). Both ramp terminals are T intersections.
Option 1(a) – Alt 1	Variation on Option 1(a). Melbourne bound ramps terminal moved to west side of Hopetoun Cemetery and ramps realigned. Ramp terminal intersection changed to a roundabout. Ballarat bound ramps and terminal the same as Option 1(a).
Option 1(a) – Alt 2	Variation on Option 1(a). Ballarat bound ramps terminal changed to a roundabout. Ballarat bound entry ramp moved to the west side of Bacchus Marsh Road and exit ramp alignment modified. Melbourne bound ramps and terminal the same as Option 1(a)-alt 1.

Option 1(b)	New diamond interchange west of existing Bacchus Marsh Road freeway overpass with four new ramps providing all movements between Western Freeway and Bacchus Marsh Road. Bacchus Marsh Road realigned east of Avenue of Honour 1918 trees to new interchange. Bacchus Marsh Road freeway overpass retained to connect old Western Highway alignment to the realigned Bacchus Marsh Road via a new T intersection south of Lerderderg River.
Option 1(b) – Alt 1	New diamond interchange adjacent to and west of existing Bacchus Marsh Road freeway overpass with four new ramps providing all movements between Western Freeway and Bacchus Marsh Road. All ramps located north of Lerderderg River. Existing Bacchus Marsh freeway overpass bridge becomes redundant. Existing Lerderderg River bridge retained for property access.
Halletts Way	New east facing ramps provided at Halletts Way. Existing freeway overpass bridge retained. New pedestrian bridge and access path included to remove pedestrians from existing narrow overpass bridge.

A further table summarising key information contained in the BMFL report for each option is also presented below.

Options	Cost	Freeway Entry Speed	Raw Score	Weighted Score	Avenue Trees	River Red Gums
Options 1(a)	\$26.4M	55km/hr	27.47	N/A	12	23
Option 1(a) – Alt 1	\$28.6M	77km/hr	29.10	42.52	12	23
Option 1(a) – Alt 2	\$30.2M	77km/hr	26.82	N/A	12 (Est)	26
Option 1(b)	\$32.5M	87km/hr	30.70	45.24	17	12
Option 1(b) – Alt 1	\$36.9M	83km/hr	32.93	48.12	8	20
Halletts Way	\$9.7M	N/A	38.15	N/A	N/A	N/A

Scoring Methodology

A comprehensive Objective Based Evaluation Methodology (OBEM) was used to appraise the options and makes up a large portion of the report. The methodology is consistent with the original WHACR Options Assessment Report that was used to recommend Woolpack Road and the logic of using the same methodology is sound. The main criteria used in the OBEM were:

- Transport Efficiency
- Road Safety
- Land Use Planning
- Social Impact
- European Cultural Heritage
- Flora & Fauna
- Aboriginal Cultural Heritage

Officers have reviewed the scoring convention and allocated score for each criteria and option and have no major issues with what has been documented. The use of higher weightings for Transport Efficiency and Road Safety is supported.

The only potential contrary view was associated with Lt. R.V. Moon VC Reserve (Moon Reserve) and the social impact score when this was affected by works. Although there is likely to be community angst if affected, the development of the reserve itself is recent and was officially named in 2007. If Moon Reserve was re-established or relocated, the social impact score could possibly be amended if the reserve was not lost.

Traffic Study

The traffic study contained in Appendix D of the report that VicRoads has not released publicly is a key piece of information and is likely to be heavily scrutinised if/when made public. The study was peer reviewed by GHD and some findings were made by them in a memo attached to the report.

Generally the report contains valuable information incorporating various traffic surveys that were used in a staged approach. The traffic survey utilised a methodology incorporating automated traffic counts, turning movement counts at key intersections, origin-destination survey incorporating the main town entry/exit points and recording of journey times during peak periods. The data collection was interrupted by vandalism although the traffic company has advised that the integrity of the data has not been compromised.

Officers have met with AECOM and VicRoads to flesh out identified concerns in the study and to gain a better understanding of assumptions made. As a result, VicRoads and AECOM have committed to further work on components of the report that may alter some of the results. Ultimately though, we have taken the view that it is a VicRoads report and any flaws that are identified will be revisited as part of the Transport Study that will be undertaken for Bacchus Marsh post a decision for this project. To date, no feedback relating to our concerns has been received.

The biggest concern with the report is the recommendation that the inclusion of Halletts Way ramps is not required as part of a traffic solution for Bacchus Marsh using projections to 2022. This recommendation is concerning and will most likely change if/when the concerns of officers that are outlined below are addressed. The main issues raised with VicRoads and AECOM are as follows:

1. Origin-destination data . the study looked to establish how much traffic in Bacchus Marsh is through traffic and how much is local by collection of data utilising a zone around the main entry and exit points to the town. The main concern with the origin destination data and the determination of through traffic is the limitation of 13 minutes being placed on truck entering and exiting the established zone. This means any vehicles that took longer than this time has not been counted as through traffic. Although journey time data was collected to support this assumption, officers feel that this limitation is too strict and doesn't allow for slight delays such as rail crossing closures and intersection congestion. We believe that a 20 minute limit would be more appropriate and would not inadvertently count any vehicles that stop in town. AECOM have subsequently agreed to amend this criterion but we have yet to receive revised data and what impact this has had on the results.

2. Through traffic . the study states that approximately 80% of traffic movements are %local+ based on the origin-destination boundary that was established. The increase in the 13 minute limitation discussed above may adjust these results slightly however this 80% figure is based on all entry and exit points for the town. When the Grant Street / Gisborne Road link is investigated further, the percentage of local vehicles for the AM peak is almost 60% and for heavy vehicles in isolation is up to approximately 55%. If heavy vehicles were split further between rigid and articulated vehicles, this number may be higher again. AECOM are investigating this further. This is an important factor given one of the objectives of the project has been the creation of an alternative north-south route. The boundary also excludes traffic from the quarries to the north entering the freeway or traffic from Maddingley Brown Coal being %through+traffic because of the boundary that was established. Council counted these movements as through traffic in its presentation to the heritage permit appeal.
3. Growth factor . for 2022 traffic projections a growth factor of 15% in total number was applied. This was based on a VicRoads Pro-Forma for road safety programs. Whilst 15% may be appropriate for the municipality, it is considered that this is too low for Bacchus Marsh. Using a residential growth rate of approximately 2.5% per year which is consistent with current growth levels would equate to a 25% to 30% rise in existing traffic levels in 2022. It is acknowledged that this is purely an estimate but it demonstrates that the growth rate used is too low and thus the future numbers used for intersection analysis paints a picture that is better than is likely to be the case. In addition, these growth numbers haven't seen the impact of West Maddingley yet. Although a full modelling exercise for the town is beyond the scope of the study and will be picked up as part of the upcoming transport study, it is considered that the growth factor used should be revisited. To date no revised data has been received but it is likely that this will significantly impact on the results of the study particularly the intersection analysis.
4. Intersection analysis . SIDRA software was used to analyse the intersections. This is a commonly used tool to evaluate the performance of intersections. The traffic data and turning movement surveys were used for the analysis which is supported however the standard software inputs were used for the analysis with no validation or calibration of queue lengths or other flows that exist on site. This immediately brings into question the documented results indicating that nearly all intersections are operating at good or very good conditions. It is hard to accept this as a valid result particularly for the Main Street / Grant Street roundabout and the Gisborne Road / Western Freeway signals. There are two further factors at play being that the results would be based on metropolitan Melbourne standards that is unlikely to be acceptable for a town like Bacchus Marsh. The second is the coding used for the level of acceptability is too high. It is recommended that the SIDRA analysis be revisited using calibration and revised traffic projections. This is likely to alter the stated results.

5. Terminology . officers have requested that AECOM clarify some of the terminology used in the report in particular queue length and delay. Documenting average delays of 13 seconds and queue length of 51m for Main Street / Grant Street intersection for example immediately questions the results when queue lengths of 200m to 300m and significantly longer delays are commonly experienced. A definition of queue length versus line of traffic is required.
6. Heavy vehicles . a further breakdown of heavy vehicles was requested and subsequently received. The purpose of this was to separate out rigid heavy vehicles (including buses) and articulated vehicles.

Addressing the concerns that have been raised is likely to significantly impact on some of the outcomes of the study and is likely to elevate the importance of Halletts Way as part of an overall traffic solution. Ultimately, VicRoads should prepare responses to some of the concerns and if they are not addressed immediately, Council will ensure they are considered as part of the upcoming transport study that will be undertaken post a decision being made for interchange options.

North-South Connection

None of the options provide a north-south transport solution for Bacchus Marsh and this could only ever be achieved via a future southern connection from an eastern interchange to Geelong Road within the South Eastern Alignment Corridor or another more expensive alignment. A future north connection is likely to be limited to Flanagans Road however there are opportunities to deviate from this alignment several hundred metres from Western Freeway to Bences Road to avoid existing residences but needs to be investigated further.

It is important to recognise that Woolpack Road option provided the southern connection but relied on a future north connection that has never been properly investigated, costed or planned.

With the past decision regarding relocation of trees in the Avenue of Honour basically ruling out any road options crossing its length and the unwillingness to investigate options that would require house demolition, this means that a true north-south alternate route could only effectively be via an eastern interchange in the future. There are other convoluted routes that traffic could take in the interim but the only real route remains Grant Street / Gisborne Road.

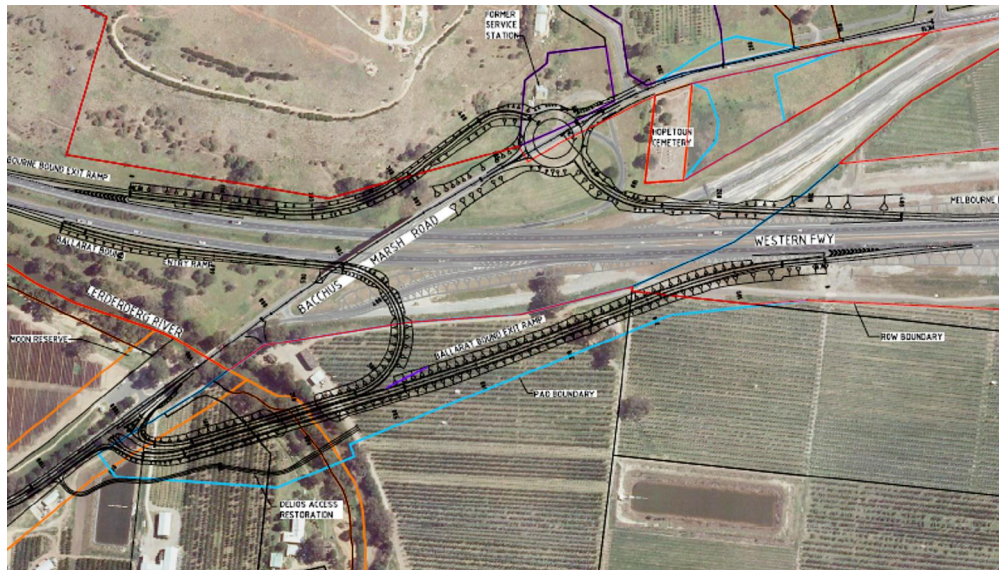
Planning Process

Regardless of the option funded, a planning process is required before works can commence on site. The time required for this needs to be factored in and VicRoads currently proposes to use a 20 (4) planning process. Effectively, this process requests Council to approve handing planning responsibility to the Minister for a decision. There is an extensive engagement process required to undertake this method and is used to expedite approvals however it takes away the right of appeal once a decision is made. This process could take up to 6 months to complete.

The alternate option is Council retaining planning authority and this would extend the approvals process by a year or more with the risk of a repeated Woolpack Road result at the end. For this reason and because of complexities around cultural heritage approvals, native flora and fauna impacts, protected river red gum removal, land acquisition and newer avenue elm impacts, it is the view of officers that planning authority would be best handled by the Minister for Planning.

Alternatively the Minister could be requested to call the matter in and require that a full panel hearing be undertaken as part of the process.

Discussion on Options - Option 1(a) . Alt 1



The eastern interchange included in the package of works put forward is an alteration of the interchange known as option 1A. It includes both Melbourne and Ballarat bound freeway ramps and retains use of the existing freeway bridge. Although the proposed interchange would significantly improve the safety of the existing layout, it is unlikely to attract the use of transport operators due to the unconventional layout and the need for a climbing lane for Melbourne bound trucks. It still doesn't address the significant safety concerns that exist at both ends of Woolpack Road.

The works also require the removal of up approximately 12 elm trees that form an extension to the 1918 plantings. These trees were planted in the 1980s and are a different species to the original avenue but still form part of the overall avenue nonetheless. No definitive strategy or plan has been proposed for their replacement other than commitment to their replacement albeit they would need to be on a different alignment.

In addition, and equally contentious, is the removal of 23 river red gums. Four of these trees are large to very large and could be 200 to 600 years old. To compensate their removal over and above any offsets required as part of native vegetation removal, the works package suggests collection of seed from existing trees and use of the timber from the trees for construction of park furniture and amenities facilities in Moon Reserve. This would be following consultation with the community.

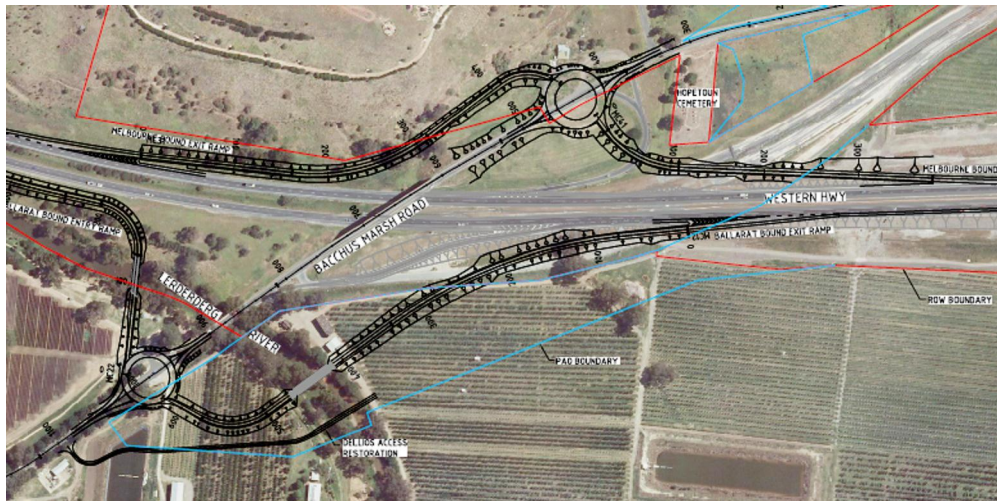
The proposal also provides for a new roundabout on the north side of the freeway. As for all options, the Melbourne bound entry ramp from this roundabout will require construction of a climbing lane for safe entry of heavy vehicles to the freeway. The climbing lane would extend from the eastern interchange to beyond Hopetoun Park Road adding a cost of \$2.5 - \$3.0 million to all options.

To the south of the freeway, the intersections with Bacchus Marsh Road will be controlled using signage only with a right turn lane included for Ballarat bound vehicles that need to cross Bacchus Marsh Road due to the unconventional layout.

No works are proposed on the freeway bridge itself which means that pedestrian access will be not be supplied to existing and future properties to the north. Although part of the package states that pedestrian facilities will be looked into for the freeway bridge and bridge over Lerderderg River, it is highly unlikely that it could be accommodated on the existing bridges without alterations. If this option was preferred, it is recommended that commitment to this element be part of the scope as budget allows and if constrained by cost, commitment to funding in future years.

This option will also require acquisition of land that is not within the existing Public Acquisition Overlay and will require planning approval for native vegetation and tree removal. Option 1(a) . Alt 1 has been put forward as part of the package of works and the counter intuitive design and associated potential road safety impacts are the major concern with this option. It is considered though that the interchange could function adequately.

Discussion on Options - Option 1(a) . Alt 2



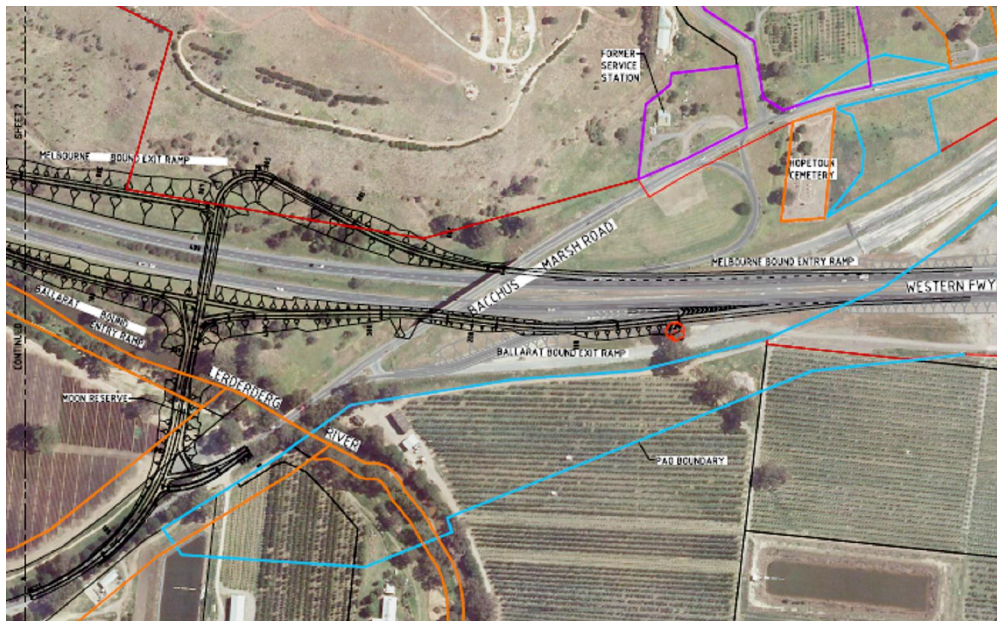
Option 1(a). Alt 2 is the same as 1(a)-Alt 1 to the north of the freeway but with the Ballarat bound ramps terminal on the south side changed to a roundabout. The west bound entry ramp is moved to the west side of Bacchus Marsh Road creating a more intuitive layout and exit ramp alignment is modified to suit. The altered layout impacts Moon Reserve.

Although this option didn't score highly, officers consider that this layout is superior to Option 1(a). Alt 1 and the impact on Moon Reserve warrants further investigation, in particular the ability to acquire more land and relocate part of the reserve to the adjacent land. This might cause concern in the community but the infrastructure of the reserve is relatively new and in the long term would provide a better transport and road safety result for the community along with a more intuitive layout. This option would result in a cost slightly over budget but given the history of the project this could be investigated further so that this discussion can be had with the State Government.

As with 1(a). Alt 1, no works are proposed on the freeway bridge itself which means that pedestrian access will not be supplied to existing and future properties to the north. This option will also require acquisition of land that is not within the existing Public Acquisition Overlay as well as planning approval for cultural heritage, flora and fauna removal, river red gum and elm tree impacts.

Option 1(a). Alt 2 has not been put forward as part of the package of works however from a purist sense offers a better solution than 1(a). Alt 1 with a more intuitive design and better road safety and transport impacts. The down side is the impact on Moon Reserve and the removal of up to 26 river red gums.

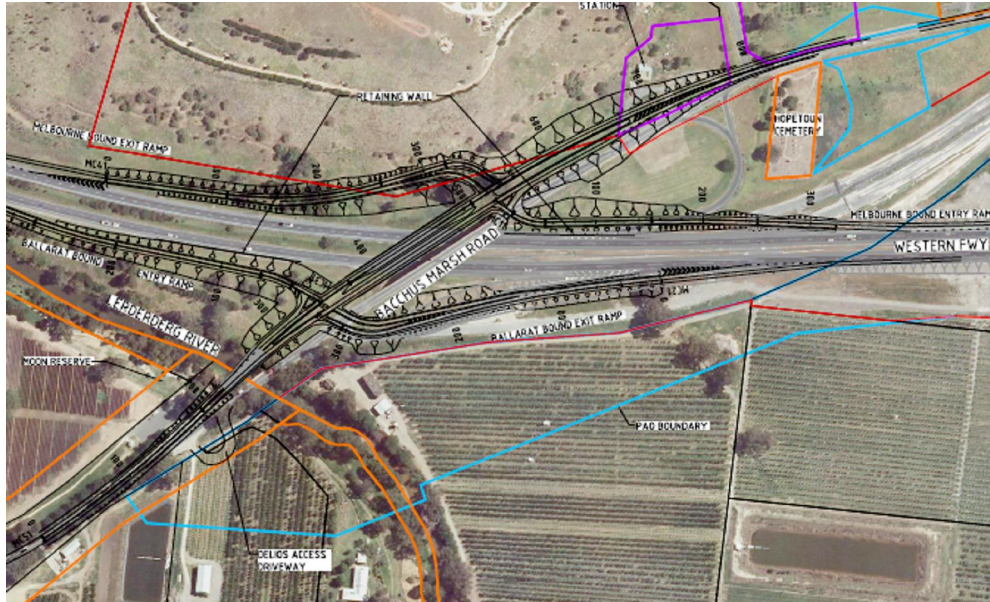
Discussion on Options - Option 1(b)



This option involves construction of a new diamond interchange west of existing Bacchus Marsh Road freeway overpass with four new ramps providing all movements between Western Freeway and Bacchus Marsh Road. Bacchus Marsh Road would be realigned east of the Avenue of Honour 1918 trees to the new interchange. The existing Bacchus Marsh Road freeway overpass would be retained to connect old Western Highway alignment to the realigned Bacchus Marsh Road via a new T intersection south of Lerderberg River.

Although this option scored well and transport links to the freeway are an improved feature of this option, a northern connection would be almost impossible given the topography immediately to the north thus ruling out a future town bypass. Therefore this option is not being supported by officers.

Discussion on Options - Option 1(b) . Alt 1



The highest ranked option in the report for both raw and weighted scores was Option 1(b) . Alt 1. It is the view of officers that this is the best eastern interchange option available particularly for transport and road safety. It also would allow construction of pedestrian facilities and flexibility for a future north connection. However due to the cost, it would preclude works at Halletts Way.

It has the same issues as the other options in terms of flora and fauna removal, cultural heritage impacts, river red gums and avenue trees albeit to a slightly lesser extent. The other downfall is that the existing bridge becomes redundant and therefore removed.

Halletts Way Ramps

The pleasing aspect of the proposed package of works is the funding of Melbourne bound Freeway ramps at Halletts Way. This has always been a high priority project for Council and was included in the recently completed Regional Transport Plan. Although essentially a local access point rather than transport related, this major piece of infrastructure will help cater for the continued residential growth of the town and the associated increase in traffic especially given the majority of the growth will continue on the west side of the town.

Another pleasing aspect is the inclusion of a pedestrian/cycle bridge on the west side of Halletts Way over the freeway. This has been a project that Council has advocated for and pursued for many years and addresses a major safety concern given the existing bridge has no pedestrian facilities and people are forced to walk on the edge of the carriageway. Integral to the

construction of the pedestrian bridge will be the construction of a shared path linking north-south. The concept plan supplied indicates a shared path from Holts Lane heading south. It is important to ensure this is a shared path and not a pedestrian path and it should be constructed on the west side between Holts Lane and Bacchus Marsh Road.

There are other issues that need to be considered as part of this aspect of the works related to native vegetation removal, overlooking and noise that result from construction of the ramps. These are not insurmountable and would need to be dealt with as part of the planning, design and construction of the project by VicRoads.

The opportunity to construct Halletts Way ramps and pedestrian facilities is appealing given most of the residential growth of Bacchus Marsh is on the west side of the town and the growing traffic pressures that exist. The ability to attract funding for this in the medium term will be difficult given the competing priorities along the Western Highway corridor and across the VicRoads network. Although it is acknowledged that it is being used as an incentive to accept a package of works, it is still an integral part of the future Bacchus Marsh road network.

If this sentiment is supported, a less performing interchange is required given budget constraints as it is unlikely that this interchange will be funded as a lone project given the criteria of the freeway project.

Woolpack Road

The proposed works package includes proposed safety improvement works at the intersection of Woolpack Road and Bacchus Marsh Road through use of vehicle detection and electronic signage technology. The proposal is that heavy vehicles in Bacchus Marsh Road would be detected and activates flashing warning signage in Woolpack Road to advise north bound motorists. This is considered as a token gesture and is unlikely to be effective especially when complacency sets in and for motorists that may not be familiar with the logic for such devices.

It fails to address the core problem with the intersection being poor sight distance and insufficient room for articulated vehicle manoeuvres. It also fails to deal with the unsafe intersection with Bacchus Marsh Geelong Road, poor condition of the existing pavement and one ageing bridge especially if trucks are being encouraged to use this route. The ownership and maintenance responsibilities of this road need to be established going forward especially if trucks will be encouraged to use this route as an alternative to Grant Street / Gisborne Road.

There is a risk to Council that a new eastern interchange will result in an increase in commercial traffic movements in Woolpack Road. This in turn will reduce the life of the pavement and increase the deterioration in condition. It will also bring forward the replacement of one of the bridges along that route. Without upgrade and safety improvement works along the full length, road safety will be compromised. This needs to be considered as part of the package of works and either funded as part of the package or by other funding sources such as state impacted roads program.

Do Nothing

One of the options available is reject all proposals because a satisfactory outcome cannot be reached. Ultimately this is likely to mean that the funding will be withdrawn. The temporary exit ramp that is in place will have to be removed because it does not meet current standards and all traffic would be forced to use either Hopetoun Park or Gisborne Road thus exacerbating the issues that exist there. The other major concern is that all traffic including significant truck traffic from local transport companies and Maddingley Brown Coal would be forced to use part of the old freeway alignment that is unsafe.

If do nothing is the result, the community is still left with the unsafe intersections and other issues at Woolpack Road and traffic pressures in a growing town without adequate connections to the freeway. A robust business case and advocacy plan would be required to fund such major pieces of infrastructure (or alternatives) in the future and would need to compete against priority projects across the entire state and national road network.

General Discussion

When looking at the project holistically and its history, the state government has constrained the options that are available. There has been repeated advice that the Woolpack Road decision will not be revisited so this eliminates any option that would cross the Avenue of Honour. It has also stated that any option that requires removal of houses will not be considered. In addition, the project forms part of the overall Anthony's Cutting Realignment and any package of works would need to relate to the freeway and meet the criteria of the original project around improving transport efficiency on the freeway.

The inability to reach agreement on a package of works is a risk to the project and the longer time goes on the risk of losing funding for the project increases.

Taking all this on board, the only realistic option is either an eastern interchange with or without Halletts Way. If Halletts Way is one of the outcomes desired then a lesser performing eastern interchange will be required because of available budget.

All eastern interchange options have impacts on flora and fauna, cultural heritage, river red gums, newer avenue elm plantings and land owners. This was a consideration when Woolpack Road alignment was chosen as the preferred option. Given that Woolpack Road is now off the table, there are impacts associated with an eastern interchange and these consequences are a reality because of past decisions.

It is considered that the best eastern interchange layout put forward is Option 1(b) . Alt 1 at an estimated cost of \$36.9M. It is also considered that the opportunity to construct Halletts Way ramps and pedestrian facilities is an opportunity for the town to implement infrastructure that is needed at an estimated cost of \$9.7M. Both these come at a cost of \$46.6M, \$8.6M over the \$38M budget. This would be the optimum outcome with the options that have been investigated however the only combination that comes in under the budget figure is the package of works that has been put forward.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area	Representation and Leadership of Our Community
Objective	Services and infrastructure that meets the Shire's existing and future needs
Strategy	Advocate and plan for improved transport services and road networks for our community

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

Financial Implications

The project has no direct impact on Council's budget however the community stands to lose \$38 million in infrastructure upgrades.

Communications and Consultation Strategy

An important component for the way forward is the level of community engagement and involvement that will be provided. An extraordinary amount of consultation has been undertaken by VicRoads to date and further engagement will be required during the planning process that will be required to implement any of the options. The importance of engagement with affected land owners and key community groups cannot be understated but equally the general community should be provided opportunity to be engaged.

It is the view of officers that the BMFL Options Assessment Report should be made available to the public to allow appropriate engagement at this level. A condensed period of time should be considered for this given there is still a risk that funding could be withdrawn.

An extensive communication strategy was undertaken by VicRoads throughout the duration of the Western Highway Realignment project, including the following:

- Public briefings and community information evenings
- Targeted consultation workshops with stakeholders
- Information booth at Bacchus Marsh Village Shopping Centre
- Community Information Centre in Main Street, Bacchus Marsh
- Project specific website (www.whrp.com.au)
- Project fact sheets
- SMS alerts and e-newsletters

- Monthly meetings of the project alliance (Moorabool, Melton, VicRoads)
- Regular meetings of the Community Reference Group
- (Moorabool and Melton officers and Councillors, VicRoads, Bacchus Marsh RSL and Historical Society, emergency services, Central Business Bacchus Marsh, Moorabool Environment Group and other community groups)
- Assemblies of Council and reports to Ordinary Meetings of Council
- Moorabool Matters community updates
- Media releases

In addition, community consultation was also undertaken in relation to the Bacchus Marsh Avenue of Honour Management Plan and Gateway Strategy, including workshops and public meetings.

It is important to note that Moorabool Shire has engaged and worked with the community for decades on this issue.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Chief Executive Officer – Rob Croxford

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

Author – Phil Jeffrey

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

Conclusion

This is a polarising issue for the community. A package of works has been put to Council seeking endorsement. Essentially the proposed works package includes an eastern interchange upgrade, Halletts Way ramps, Moon Reserve works and electronic signage at Woolpack Road.

An options assessment report including traffic modelling has recently been supplied to Council to help inform a preferred position. However, given the history of the project and previous decision regarding Woolpack Road with an unwillingness of the State Government to revisit this decision, there are limited options available for the project basically only leaving an eastern interchange with or without Halletts Way as an option.

Council has been placed in a difficult position being required to make a decision on the package of works. The Council is acutely aware that the package of works are not the optimum outcome and don't meet the original objectives of the project however officers believe a reasonable compromise has been put forward that has been adjusted with additional works for the benefit of the community.

It is the view of officers that constructing major infrastructure that would give the town three access points to the freeway (west, central and east) at least provides a foundation of possible road networks for the future with the option for alteration or upgrades. Being left with only a Gisborne Road full diamond with half diamond at Bacchus Marsh Road at the west side of town and Hopetoun Park Road on the east side of town with no plan for future projects would be a poor outcome for the community.

On balance it is being recommended that Council endorse in principle the works package put to it on 17 December 2012.

Consideration of Deputation

Mr. Robert Reid addressed Council as an objector - Bacchus Marsh Freeway Interchange Options – Anthony's Cutting Realignment Project.

Mr. Graham Hooper addressed Council as an objector - Bacchus Marsh Freeway Interchange Options – Anthony's Cutting Realignment Project.

The business of the meeting then returned to the agenda.

Recommendation:

That Council:

1. **Endorses in principle the works package being offered as an alternative to Woolpack Road extension including an upgrade to the existing Eastern Interchange for Bacchus Marsh and construction of Melbourne bound Freeway ramps at Halletts Way including pedestrian/cycle facilities subject to inclusion of the following:**
 - i. **Upgrades to Moon Reserve including provision of furniture using timber from removed trees and construction of public amenities.**
 - ii. **Construction of a right turn lane on Halletts Way for the proposed entry ramp**
 - iii. **Construction of a shared pedestrian/cycle path on the west side of Halletts Way between Holts Lane and Bacchus Marsh Road**
 - iv. **Commitment to inclusion of pedestrian/cycle facilities on Bacchus Marsh Road across Lerderberg River and the Freeway Bridge to be part of the scope as budget allows**

- and if constrained by cost, commitment to funding in future years.
- v. Upgrade of Woolpack Road including intersections at both ends, pavement, bridges and safety improvement works as part of the scope.
 - vi. Relocation of the elm trees proposed to be removed as part of the project following consultation with Council and the community.
 - vii. Harvesting of seed from river red gums proposed to be removed in the area to ensure consistency of species is used in their replacement
2. Calls on the State Government to undertake all planning and other statutory approvals required for the remainder of the project and requests that a formal proposal be supplied outlining the proposed methodology that maximises community consultation to be used during the process.
 3. That Council requests officers to continue to work with VicRoads in relation to establishing the ongoing management and maintenance of arterial roads in Bacchus Marsh including Woolpack Road.
 4. Call on the release of the Bacchus Marsh Freeway Links Options Assessment Report and stress the importance of VicRoads continuing to engage with the community and explain the final proposed solution.
 5. Advise Federal and State local members of the Council's resolution.

ADJOURNMENT OF MEETING - 8.25pm

Crs. Sullivan/Spain

That the meeting now stand adjourned for a period of 8 minutes.

CARRIED.

RESUMPTION OF MEETING - 8.33pm

Crs. Sullivan/Edwards

That the meeting now be resumed.

CARRIED.

Resolution:

Crs. Dudzik/

That Council:

- 1. Accepts the offer from Federal and State Government for the Halletts Way portion of the package of works and calls on the State Government to commence works on Halletts Way Freeway ramps as a matter of urgency including shared pedestrian/cycle path on the west side between Holts Lane and Bacchus Marsh Road.**
- 2. Accepts the offer from the Minister for Roads Terry Mulder to accept responsibility for and upgrade Woolpack Road including intersections at both ends, pavement, bridges and safety improvement works as part of the package of works.**
- 3. Doesn't accept the complete package of works as put forward by the State Government.**
- 4. Calls on the State Government to fund the following package of works:**
 - i. Construction of interchange Option 1(b) – Alt1 inclusive of pedestrian/cycle path across the Western Freeway and Lerderderg River.**
 - ii. Construction of Halletts Way Freeway ramps including shared pedestrian/cycle path on the west side between Holts Lane and Bacchus Marsh Road**
 - iii. Upgrades to Moon Reserve including provision of furniture using timber from removed trees and construction of public amenities.**
 - iv. Upgrade of Woolpack Road including intersections at both ends, pavement, bridges and safety improvement works.**
 - v. Relocation of the elm trees proposed to be removed as part of the project following consultation with Council and the community.**
 - vi. Harvesting of seed from river red gums proposed to be removed in the area to ensure consistency of species is used in their replacement**
 - vii. Refinement of the options to minimise the impact on river red gums, in particular very old river red gums.**

5. **Requests the Minister for Planning Matthew Guy to exercise his powers under Section 20 (4) of the Planning and Environment Act to approve the above works.**
6. **Calls on the release of the Bacchus Marsh Freeway Links Options Assessment Report and stress the importance of Vicroads continuing to engage with Council and the community and explain the final proposed solution.**
7. **Reserves the right to reconsider its position if the State and Federal Government don't respond to the request for increased funding.**
8. **Advise Federal and State local members of the Council's resolution.**

The Motion lapsed due to the want of a Seconder.

MOTION:

Crs. Sullivan/Comrie

That Council:

1. ***Accepts the offer from Federal and State Government for the Halletts Way portion of the package of works and calls on the State Government to commence works on Halletts Way Freeway ramps as a matter of urgency including shared pedestrian/cycle path on the west side between Holts Lane and Bacchus Marsh Road.***
2. ***Accepts the offer from the Minister for Roads Terry Mulder to accept responsibility for and upgrade Woolpack Road including intersections at both ends, pavement, bridges and safety improvement works as part of the package of works.***
3. ***Requests the Federal and State Government to ensure the existing eastern interchange is made safe for the community.***
4. ***Requests the Federal and State Government to continue to work with the Council and Community to provide an eastern interchange that meets the original objectives of the project whilst retaining the full project budget.***
5. ***Calls on the release of the Bacchus Marsh Freeway Links Options Assessment Report and stress the importance of Vicroads continuing to engage with the community and explain the final proposed solution.***
6. ***Requests the Minister for Planning Matthew Guy to exercise his powers under Section 20 (4) of the Planning and Environment Act to approve the above works.***

7. **Advise Federal and State local members of the Council's resolution.**

AMENDMENT:

Crs. Tatchell/Spain

That Item 11.4.1 be deferred to the next Ordinary Meeting of Council on 6 March 2013.

The Amendment then became the Motion and was CARRIED.

A Division was called for


Councillors Voting for the Resolution:

Cr. Tatchell, Cr. Spain, Cr. Dudzik, Cr. Edwards

Councillors voting Against the Resolution:

Cr. Sullivan, Cr. Comrie, Cr. Toohey

Report Authorisation

Authorised by: 

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Tuesday 12 January 2013

11.5 CORPORATE SERVICES

No reports for this meeting

12. OTHER REPORTS

12.1 Assembly of Councillors

File No.: 02/01/002

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

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

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

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

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

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

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

- Assembly of Councillors . Wednesday 6 February 2013 . Hike and Bike Strategy
- Assembly of Councillors . Wednesday 6 February 2013 . Council Plan

Resolution:

Crs. Sullivan /Spain

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

- **Assembly of Councillors – Wednesday 6 February 2013 – Hike and Bike Strategy**
- **Assembly of Councillors – Wednesday 6 February 2013 – Council Plan**

CARRIED.

13. NOTICES OF MOTION

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

14. URGENT BUSINESS

14.1 Elaine Recreation Reserve, Financial Contribution

Resolution:

Crs. Sullivan/Dudzik

That an amount of \$2,000 be made available from the West Moorabool Recreation Reserve Fund to the Elaine Cricket Club for the purchase of cricket training nets and secure storage of equipment at the Elaine Recreation Reserve..

CARRIED.

15. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Nil.

16. MEETING CLOSURE

The meeting closed at 9.02pm.

Confirmed.....Mayor.