

ORDINARY MEETING OF COUNCIL

Notice is hereby given of the
Ordinary Meeting of Council to be held at
Council Chambers, 15 Stead Street, Ballan on
Wednesday 17 April 2013,
commencing at 7:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

Almighty God be with us as we work for the people of the Shire of Moorabool.

Grant us wisdom that we may care for the Shire as true stewards of your creation.

May we be aware of the great responsibilities placed upon us.

Help us to be just in all our dealings and may our work prosper for the good of all.

Amen

2. PRESENT

3. APOLOGIES

4. CONFIRMATION OF MINUTES

4.1 Ordinary Meeting of Council – Wednesday 3 April 2013

Recommendation:

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 3 April 2013.

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.

6. MAYOR'S REPORT

To be presented at the meeting by the Mayor.

Recommendation:

That the Mayor's report be received.

7. COUNCILLORS' REPORTS

To be presented at the meeting by Councillors.

Recommendation:

That the Councillors' reports be received.

8. PUBLIC QUESTION TIME

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

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

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

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

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

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

Procedural Guidelines – Public Question Time

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

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

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

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

The Mayor may disallow any question, which is considered:

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

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

To be confidential in nature or of legal significance;

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

To relate to personnel matters;

To relate to the personal hardship of any resident or ratepayer;

To relate to industrial matters;

To relate to contractual matters;

To relate to proposed developments;

To relate to legal advice;

To relate to matters affecting the security of Council property; or

To relate to any other matter which Council considers would prejudice the Council or any person.

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

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

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
-	-	-	-

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

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

Item No	Description	Name	Applicant/ Objector
-	-	-	-

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

No reports for this meeting

11.2 GROWTH AND DEVELOPMENT

11.2.1 Planning Application 2012-137; Construction of Second Dwelling; Lot 6 on PS 61184, 18 Fitzroy Street, Darley.

Application Summary:	
Application No:	2012-137
Lodgement Date:	4 July 2012
Planning Officer:	Satyen Kothari
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	2 September 2012
Address of the land:	Lot 6 on PS 61184 18 Fitzroy Street, Darley
Proposal:	Construction of a second dwelling
Lot size:	764 sq m
Moorabool Planning Scheme (Relevant details):	
State Planning Policy Framework (SPPF):	Clause 11 Settlement Clause 11.05-2 Melbourne’s hinterland Clause 16.01-2 Location of Residential Development Clause 16.01-4 Housing diversity
Local Planning Policy Framework (LPPF):	Clause 21.03-3 Residential Development Clause 21.03-4 Landscape and Neighbourhood Character Clause 21.07 Bacchus Marsh
Zone:	Residential 1 Zone (R1Z)
Overlays:	Nil
Particular provisions:	Clause 52.06 Car parking Clause 55 More than one dwelling on a lot (Rescode)
General provisions:	Clause 65 Decision guidelines
Why is a permit required?	Under Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to construct a dwelling if there is at least one dwelling on a lot.

Public Consultation:	
Number of notices to properties:	Fourteen (14)
Notices on site:	Two
Notice in Newspaper:	N/A
Number of objections:	One
Submission of support:	Nil
Consultation meeting:	N/A
Policy Implications:	
Key Result Area -	Enhanced Natural and Built Environment.
Objective -	Effective and efficient land use planning and development.
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 Statutory Planning and Building – Peter Hawkins</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Satyen Kothari</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	

Executive Summary:

The application seeks permission for the construction of a second dwelling at 18 Fitzroy Street, Darley. This application is before Council due to the receipt of one objection from adjoining property owners to the north.

The site has an area of 764 sq m. The layout of the existing and proposed dwelling satisfactorily meets the requirements of Clause 55 (Rescode) of the Moorabool Planning Scheme. Private open spaces associated with each of the dwellings exceed the standard requirements. The provision of two car spaces for each dwelling satisfies the requirements of Clause 52.06. Issues in relation to the internal amenity of existing dwelling and the interface with the public domain can be addressed through permit conditions.

Objections relate to the proposed front and northern side boundary fencing. Details of the objectors' concerns and response to issues have been provided in the report.

The proposed development makes efficient use of the site, improves housing choice for a range of households and generally respects the neighbourhood character.

The proposal is consistent with State and Local Planning Policies, the objectives of the zone, and particular provisions in relation to medium density housing and car parking.

Summary Recommendation:

That Council resolve to issue a Notice of Decision to Grant a Permit for the construction of a second dwelling at 18 Fitzroy Street, Darley, pursuant to Section 60(1) of the Planning and Environment Act 1987.

Site History

No planning permits are recorded as having been issued for the subject site.

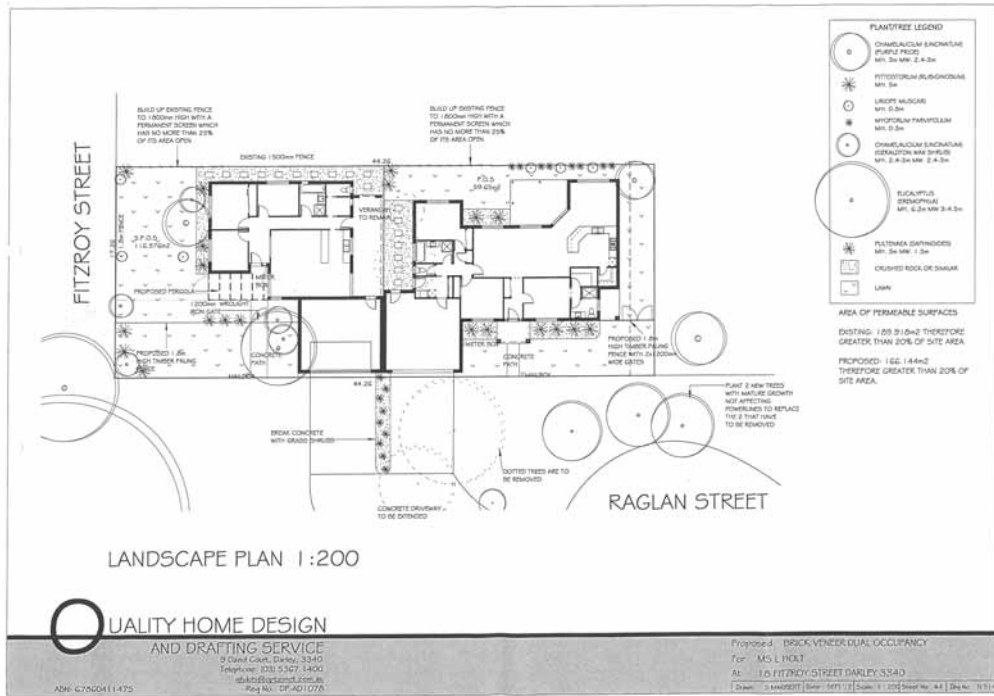
Proposal

Approval is sought for the construction of a single-storey brick dwelling located on the east side of the existing dwelling. Similar to the existing dwelling, the proposed dwelling faces the reserve at the end of Raglan Street.

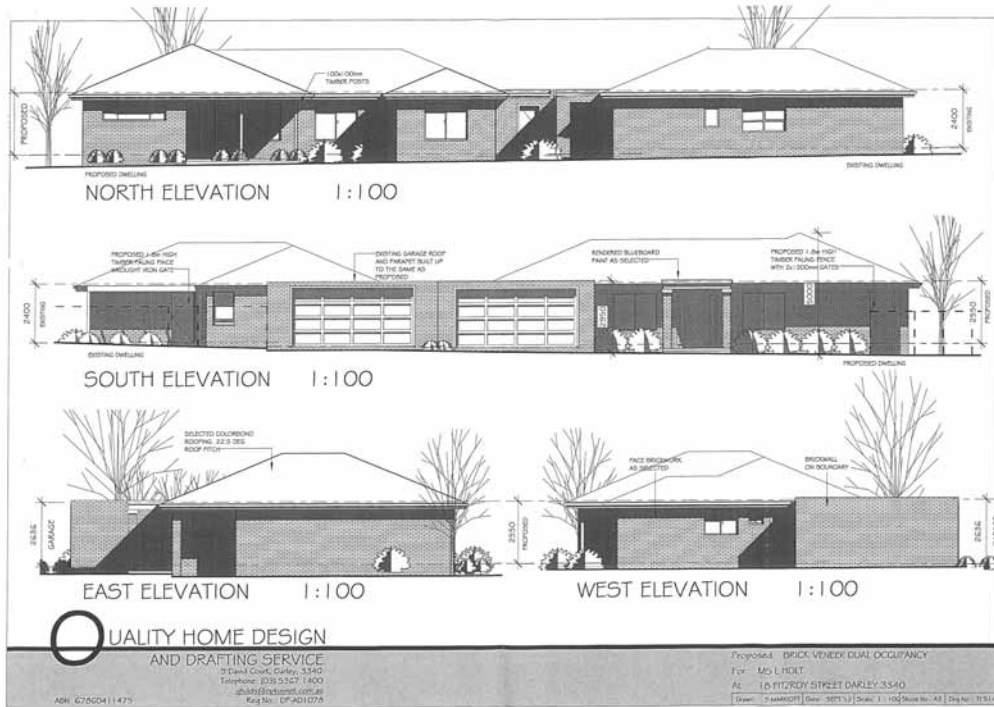
Alterations to the existing dwelling include the relocation of a doorway to the living room, the construction of a pergola at the front entry, extension of the garage wall height to match the proposed garage, and a new garage door to match the proposed garage.

The proposed dwelling is setback 4.5 m from the street/reserve and the proposed garage abuts the reserve. Minimum setbacks from side and rear boundaries are 1.2 and 2.8 m respectively. The dwellings and garages occupy 47% of the site, and permeable surface occupies close to 50% of the site.

The access to the proposed new dwelling requires applicant to remove two native trees from the road reserve.



Site Plan



Elevation Plan

The design of the dwelling is contemporary, constructed in face brickwork with pitched Colorbond® roof. The internal layout provides for an open plan kitchen dining living area, three bedrooms, two bathrooms and laundry.

Post development, the existing dwelling has 58 sqm of secluded private open space within the front setback area, and the proposed dwelling has 60 sqm of secluded private open space on the north side of the open plan living area.

There are two secure car spaces associated with each three-bedroom dwelling. Access to the car spaces is via a widened driveway through Raglan Street reserve.

The proposed landscaping involves the removal of two trees adjacent to the rear verandah and two trees from the reserve. Trees within the front setback area are to be retained. New landscaping consists of lawn and shrubs.

There is no fencing in front of the proposed dwelling, and new fencing is proposed to a height of 1.8 m along part of Fitzroy Street. It is also proposed to extend the fence height from 1.5 to 1.8 m along the northern side boundary. Conditions on any permit that may issue would require amended plans to indicate the fencing fronting Fitzroy Street to be setback from the boundary by three metres.

Site Description

The site is located at the north east corner of Fitzroy Street and Raglan Street Reserve, diagonally opposite Darley Park.

It has a rectangular shape with a street frontage width of 17.26 m (Fitzroy Street), a depth of 44.26 m and an area of 764 sq m. The land is generally flat with a slight fall from Fitzroy Street towards the rear boundary. A 2.01-m wide sewerage and drainage easement is located adjacent to the rear boundary.

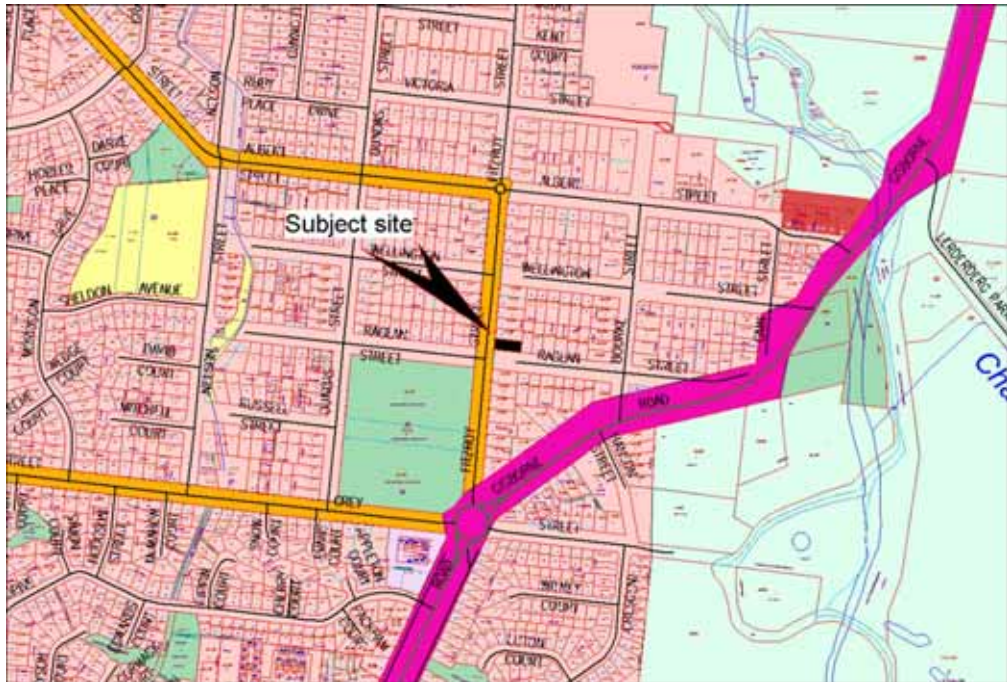
The site has been developed with a three-bedroom, single-storey, brick veneer dwelling setback 7.6 m from the street frontage and 6.3 m from the reserve. The dwelling faces the reserve, and a double garage to the east of the front entry abuts the reserve. Vehicle access from the end of Raglan Street road is via a shared gravel driveway and pedestrian way. Outbuildings at the rear of the dwelling include two small sheds, an aviary and shade structure. Vegetation consists of lawn areas and a few trees in close proximity to the dwelling. There is no front fencing along Fitzroy Street and part of Raglan Street reserve, and high paling fencing along the remainder of Raglan Street.

The adjoining property to the north has been developed with a single-storey brick dwelling setback approximately 8.8m from the Fitzroy Street and 6.0m from the common boundary. There are several south-facing windows. A carport, secluded private open space and two sheds abut the common boundary. The driveway in front of the carport is setback 1.0m from the common boundary. There is no front fencing.

The adjoining property to the east has been developed with a single-storey brick veneer dwelling setback approximately 10.2 m from Raglan Street and 2.0 m from the common boundary. There is one west-facing window. Vehicle access is on the east side of the dwelling, and secluded private open space at the rear is north of the subject site. Front fencing consists of timber pickets to a height of around 1.0 m.

Either side of the Darley Park, properties on the opposite sides of Fitzroy and Raglan Streets have been developed with single-storey brick dwellings setback behind low or no fencing. The property on the opposite side of Raglan Street also relies on vehicle access through the reserve.

Darley Plaza is approximately 300 m south, just beyond Darley Park. A bus stop providing direct access to Bacchus Marsh Shopping Centre is 50 m away on the opposite side of Fitzroy Street.



Locality Map

Planning Scheme Provisions

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

SPPF		
Clause 11	Settlement	In accordance with policy, the construction of a second dwelling promotes sustainable development that takes full advantage of existing settlement patterns.
Clause 11.05-2	Melbourne's Hinterland	Providing for residential development within the urban growth boundary of the Bacchus Marsh township is supported by this policy.

Clause 16.01-2	Location of Residential Development	In accordance with policy, the site has good access to public transport, which provides a direct link to Bacchus Marsh township.
Clause 16.01-4	Housing Diversity	The proposed development makes efficient use of the site and improves housing choice.
LPPF		
Clause 21.03-3	Residential Development	The proposal is consistent with strategies to extend the range of housing types and densities to improve resident choice and meet changing housing needs.
Clause 21.03-4	Landscape and Neighbourhood Character Objective	The proposal respects the established built form and landscape character of Darley.
Clause 21.07	Bacchus Marsh	The proposal is consistent with strategies aimed at consolidating urban growth within the inner area of Bacchus Marsh.

Zone

The site is located within the Residential 1 Zone. Pursuant to Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to construct a dwelling if there is at least one dwelling on a lot.

The purpose of the zone is:

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

It is considered that the proposal supports the purpose of the Residential 1 Zone by increasing the range of dwelling types in an established urban area.

Overlay

The site is not affected by any Overlay.

Particular Provisions

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

The provision of two car spaces for each dwelling satisfies the requirements of Clause 52.06-5.

As per Clause 52.17, a planning permit is required to remove native vegetation unless exempt. Clause 52.17-6 states a planning permit is not required to remove native vegetation for a Minor utility installation.

The vegetation to be removed is beneath the electric power line. Council's Parks and Gardens Department suggested that, Council is required to remove the vegetation beneath the powerline, thus by removal of native vegetation for creation of the new access does not need a planning permit.

Pursuant to Clause 55, an application to construct two or more dwellings on a lot must meet all of the objectives of this clause and should meet all of the standards of this clause. The development generally complies with the particular provisions with conditions.

Clause 65.02- Decision Guidelines

This report has considered the decision guidelines of Clause 65.

Other Policies/Procedures

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

The policy seeks "To ensure that future housing development compliments the character of the town". This policy has been considered to the extent appropriate in the writing of this report.

Referrals

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

Authority	Response
Infrastructure	No objection – subject to 12 conditions
Parks and Gardens	No objection to tree removal subject to replacement

Public Notice

The application was advertised to opposite and adjoining owners and occupiers by sending individual notices on 15 October 2012 and a sign placed on the site from 16 to 30 October 2012. There has been one objection received.

Summary of Objections

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

Objection	Officer’s response
<p>The proposed front fence and the height extension of existing side boundary fence will block views and pose a danger when exiting adjoining property to the north.</p>	<p>Council officers have identified the merit of this point and propose that the fencing facing the Fitzroy Street frontage be setback three metres from the boundary. The permit condition requiring a proposed fence height of 1.8 m tapering to 1.0 m at the Fitzroy Street boundary contributed to the acceptability of this application. This is taking into account the low number of vehicle movements generated by a single dwelling and the absence of a footpath adjacent to the street frontage.</p>
<p>Building up the existing side boundary fence, which is over 40 years old and in advanced stages of decay, is inappropriate.</p>	<p>A 1.8 m side fence boundary is considered appropriate in an urban context and a requirement to taper the fence to the street is in keeping with the existing conditions.</p>

Discussion

In accordance with urban consolidation policies, the proposed development increases dwelling density in close proximity to shops, public transport and public open space. The construction of a second dwelling also makes efficient use of the site, improves housing choice and promotes wider choice.

The main concerns relate to the internal amenity of the existing dwelling and the interface with the public domain. In particular, the proposed high paling fence enclosing the front setback area and front entry offers a poor sense of address and unsympathetic response to surrounding properties that have no front fencing. To improve the sense of address, it is considered that the front fence should be setback from Fitzroy Street boundary by three metres. In regard to the northern side boundary fence, which tapers down to 1.0 m at the street frontage, it is considered that replacement of a 40-year old fence with a new paling fence to a height of 1.8m will better protect privacy, visual amenity and the streetscape than building up the fence with new or second hand materials.

Another concern is the construction of a dividing fence abutting the rear verandah, depriving the kitchen living area of daylight and sunlight, and leaving no reasonable space for clothes-drying. As the verandah does not form part of the main roof, demolition or removal of the verandah is more appropriate.

It is considered that all of the above concerns can be addressed by conditions of the permit.

While there is no direct access from the living area of the existing dwelling to secluded private open space within the front setback area, the relocation of internal doors facilitates access via the front entry and short path below the proposed pergola. Otherwise, the size and location of secluded private open spaces offer good usable spaces and excellent access to sunlight.

In terms of the layout and building mass, the only non-compliance with ResCode relates to the proposed garage abutting the side street compared to the required setback of 3.0 m. However, the garage on the boundary matches the zero setback of existing garage on the boundary, and the location of the garages abutting the reserve at the end of the road have a negligible impact on the streetscape.

There will be no overshadowing or potential for overlooking, no loss of privacy within the development, and no adverse impact on the visual amenity of adjoining properties.

From a design perspective, the proposed dwelling offers a contemporary response with reasonable articulation and detailing in keeping with the neighbourhood character.

Financial Implications

Determining this application would not represent any financial implications to Council.

Risk and Occupational Health and Safety Issues

The recommendation of approval of this development does not create any risk or Occupational Health and Safety issues to Council.

Conclusion

The proposed development with minor changes to the existing dwelling and fencing offers an appropriate response to the site and its immediate context with no significant impact on the adjoining properties, the streetscape or neighbourhood character. The proposal is consistent with State and Local Planning Policies, the objectives of the zone, and particular provisions in relation to medium density housing and car parking.

Recommendation:

That Council having considered all relevant matters as prescribed by s.60 of the Planning and Environment Act, issue a Notice of Decision to Grant a Permit PA2012-137 for the construction of a second dwelling at 18 Fitzroy Street, Darley also known as Lot 6 on PS 61184 subject to the following conditions:

1. **Before the development starts, plans and other matters as listed below must be completed to the satisfaction of the responsible authority. The plans must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must generally be in accordance with the plans submitted but modified to show:**
 - a) **Demolition/removal of verandah at the rear of existing dwelling.**
 - b) **A plan notation indicating the replacement of existing northern boundary fence with a new paling fence to a height of 1.8 m to the junction of the front fence as required by condition 1(c) and thereafter tapering to 1 m at the Fitzroy Street boundary.**
 - c) **Realignment of the proposed fence setback three metres from the Fitzroy Street boundary.**
 - d) **The fencing on the south side of the secluded private open space is to be terminated at the junction of with the front fence, which is to be positioned in accordance with Condition 1(c).**

Such plans must be submitted with at least one plan in A3 format or electronically submitted to allow for reproduction in A3 format, and must be to the satisfaction of the Responsible Authority and when approved, will be endorsed and form part of this permit.

2. **The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
3. **Before the occupation of the development or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**
4. **All landscaping works shown on the endorsed landscape plans must be maintained and any dead, diseased or damaged plant replaced to the satisfaction of the Responsible Authority for a period of twelve months from the date of the issuing of an Occupancy Certificate by the relevant building surveyor.**
5. **A standard urban residential vehicle crossing must be provided to the new proposed dwelling on Raglan Street to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.**

6. **The development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
 - a) **The development as a whole must be self-draining;**
 - b) **Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority;**
 - c) **Each dwelling must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority; and**
 - d) **Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".**
7. **Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.**
8. **Prior to the commencement of the development, design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.**
9. **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.**
10. **If required, the layout of the development must be modified based on the approved stormwater design.**
11. **Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991).**
12. **A landscape plan must ensure that no tree or shrub is planted over existing or proposed drainage infrastructure and easements.**
13. **Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**
14. **Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the Responsible Authority for approval, detailing but not limited to the following:**
 - a) **location of vehicle crossings;**
 - b) **details of the underground drainage;**
 - c) **location of drainage legal points of discharge;**
 - d) **standard details for vehicle crossing and legal point of discharge; and**

- e) **civil notes as required to ensure the proper construction of the works to the satisfaction of the Responsible Authority.**
- 15. This permit will expire if either of the following circumstances applies:**
- a) **The development is not started within two years of the date of this permit;**
 - b) **The development is not completed within four years of the date of this permit.**

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

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 17 April 2013



11.2.2 Planning Application 2007-156-E1; Development and Use of a Dwelling on property known as Lot 3 on PS 219620P, Malones Road, Mount Egerton Vic 3340

Application Summary:	
Application No:	2007-156-E1
Lodgement Date:	14/12/2012
Planning Officer:	Satyen Kothari
Address of the land:	Lot 3 on PS 219620P, Malones Road, Mount Egerton Vic 3340
Proposal:	Extension of time to a planning permit 2007-156-E1 for Development and Use of a dwelling.
Permit history	The original application was lodged with Moorabool Shire Council on 21 May 2007. The application did not receive any objection. Planning Permit 2007-156 was issued by Council on 24 August 2007
Lot sizes:	Total area of all the lots is 0.962 ha
Zone:	Rural Living Zone (RLZ)
Overlays:	Environmental Significant Overlay Schedule 1 and Design Development Overlay Schedule 2
Restrictions or agreements registered on title	Section 173 R805524W
Particular provisions:	Nil
General Provisions:	Clause 65 and 66
Why is a Council decision required	Delegation is not provided by Council to refuse to extend the time of a planning permit
Public Consultation:	Not applicable

Policy Implications:	
Key Result Area -	Enhanced Natural and Built Environment.
Objective -	Effective and efficient land use planning and development.
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 briefing officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</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 Statutory Planning and Building – Peter Hawkins</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Satyen Kothari</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
<p>The applicant seeks an extension of time for the development and use of dwelling approved by planning permit PA2007-156 on Lot 3 of PS 219620P, Malones Road, Mount Egerton Vic 3340.</p> <p>The original application was lodged with Moorabool Shire Council on 21 May 2007. The application did not receive any objection. Planning Permit 2007-156 was issued by Council on 24 August 2007.</p> <p>Since the permit has been issued, the development has commenced but the applicant has been unable to complete the development in prescribed timeframe. As per the Planning and Environment Act, extension to the permit can be lodged till three months after the planning permit has expired.</p> <p>Since the extension has been applied for 15 months after the expiry of the permit Council under the current legislative arrangements cannot extend the permit.</p>	

Summary Recommendation:

That the Council refuses to grant an extension of time for the development and use of dwelling approved by planning permit PA2007-156 on Lot 3 of PS 219620P, Malones Road, Mount Egerton Vic 3340.

Proposal

The proposal is for an extension of time for the development and use of dwelling approved by planning permit PA2007-156 on Lot 3 of PS 219620P, Malones Road, Mount Egerton Vic 3340.

The planning permit PA2007-156 allows for the construction of a double storeyed 2 bedroom dwelling with an attached lean to garage on a 0.96 Ha site. The dwelling design would be a barn like structure and would have a maximum height of 6.7 m from natural ground level. The dwelling would be setback 10 m from the south side boundary an 32 m from east side. The dwelling would be accessed off the Malones Road frontage and would be setback by 153.5 m from the front boundary (Western Boundary).

Site Description

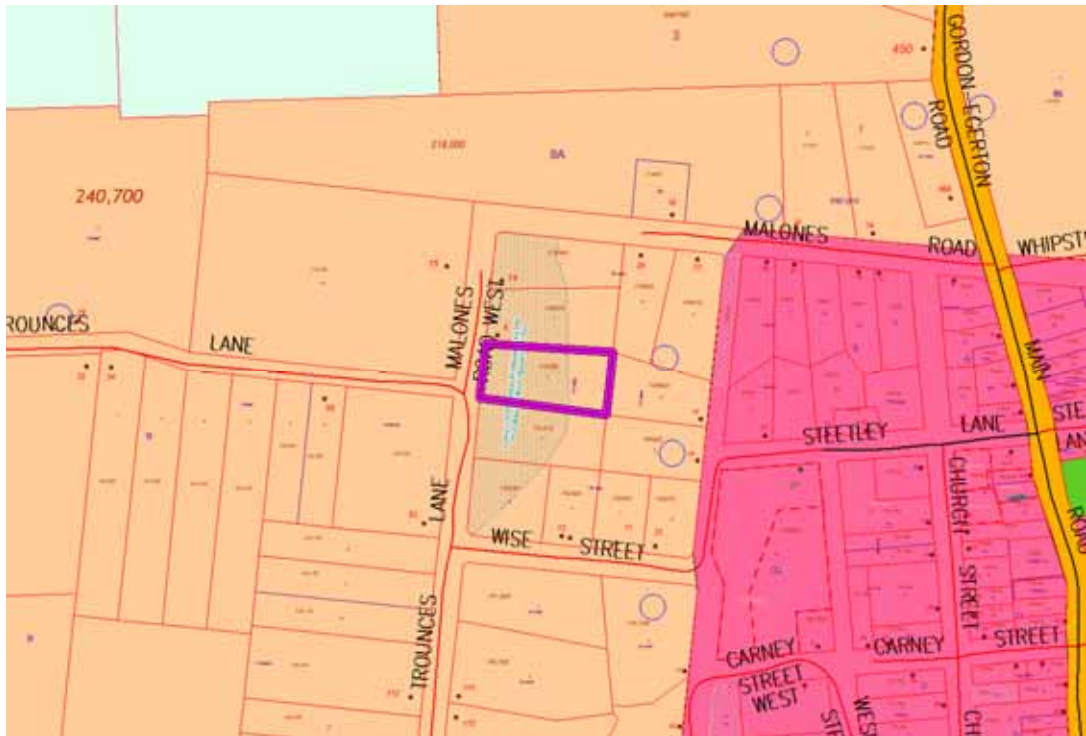
The subject site is located to the eastern side of the Malones Road which is running in an east west direction. The subject site is an irregular shape property with a frontage of 65m to Malones land and with maximum depth of 193.5 meters. The total area of the subject site is 0.962 hectares.

The subject site is located on the edge of Mt Egerton and is surrounded by similar sized lots located within an area developed for rural residential living. The closest dwelling would be located approximately 70 m to the north on the adjacent site.

The site is elevated and maintains a relatively moderate gradient. There is very little vegetation apart from sporadic native trees located to the west of the site. Approximately 2/3rd of the site and adjoining sites are affected by a wetland. A Section 173 Agreement affecting several lots in the vicinity prohibits the construction of a dwelling or any building, septic or any effluent lines within the affected area. Thus the sitting of the house is located outside the affected area.

Roads in the area are a combination of sealed bitumen and unsealed gravel roads.

Locality Map



Planning Controls

Planning and Environment Act 1987

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

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

This request was not made in writing prior to the permit expiring for the extension of time. Council has no option but to refuse to grant the extension of time.

Planning Scheme

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

In addition, the proposal has been assessed against the provisions of the Moorabool Planning Scheme and is still considered to be consistent with the relevant planning scheme controls.

Referrals

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

Notification

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

Planning Officer Assessment

The Tribunal in the past has provided assessment criteria to assess an application for an extension of time to planning permit.

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

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

Amendment C18 came into operation on 4 March 2010 and was subsequently incorporated into the Moorabool Shire Planning Scheme. This amendment revised the existing Wildfire Management Overlay (WMO) and the subject site is no longer impacted by the overlay. Thus WMO does not have any bearing on this particular application.

Amendment VC71 came into operation on 20 September 2010 and was subsequently incorporated into the Moorabool Shire Planning Scheme. This amendment revised the State Planning Policy Framework (SPPF) by replacing Clauses 10 to 19 in an effort to modernise the themes of policy to assist in reflecting contemporary planning issues.

It is not considered that these changes to the SPPF would affect the granting of a permit for this application.

2. Whether the land owner is seeking to 'warehouse' the permit.

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

The applicant has made clear progress with the current permit and it has been acknowledge through the endorsing of the plans that the development was always to be done in stages. The applicant has commenced the development however he needs more time to complete the development. It has only been an oversight of the applicant which has led to the permit expiring.

It is clear with the works progressing that the applicant is not seeking to 'warehouse' this permit.

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

The changes in the planning scheme since the initial approval are minor in nature with the exception of the Bushfire Management Overlay (BMO) now being incorporated on this site. Thus the applicant does not need to address the new requirement.

4. The total elapsed time between the permit issuing and the request.

Planning Permit 2007-156 was issued by Council on 24 August 2007. The permit was for the development and use of dwelling. The expiry date was two years for commencement of use and four years to complete the development from the permit issue date.

As per the permit the development must commenced before 24 August 2009 and must be completed by 24 August 2011. The development did commenced before 24 August 2009 however was not completed by 24 August 2011.

The application for the extension of the time was lodged 15 months after the expiry of the development.

5. Whether the time limit originally imposed was adequate.

The time limit originally imposed of four years for the development to be completed is in excess of section 68(1)(b) of the Planning and Environment Act 1987.

It is considered to be reasonable time for the development of single dwelling to be completed as per the endorsed plans. However the applicant was unable to complete the development in time and had also failed to comply with the expiry date of the permit.

It is considered that an extension of at least two years to complete all development would provide the applicant with a reasonable amount of time. However in this case Council is unable to approve the extension of time, but can indicate to VCAT it direction should it have been able to approve the extension.

6. The economic burden imposed on the landowner by the permit.

Should the permit fail to be extended by VCAT, the landowner may have to demolish the dwelling work that has been undertaken to date, with the associated costs involved. It would be possible for the landowner to make another application to finish the construction.

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

It is considered that should a fresh application be made that the likelihood of officer support for approval would be high. Council cannot predict what the various referral authorities may determine were any new application to be referred to them.

Given changes to the EPA's Code of Practice for Onsite Wastewater Management, the landowner may have to have their septic tank permit amended by Council's Environmental Health Department.

Other policies/procedures

Council adopted the Rural Growth Policy Statement at the Ordinary Meeting of Council of 5 September 2012. Whilst not a formal planning policy within the Moorabool Planning Scheme, Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

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

Financial Implications

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

Risk and Occupational Health and Safety Issues

The recommendation of a refusal to grant an extension of time for this permit does not implicate any risk or Occupational Health and Safety issues to Council.

Communications Strategy

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

Conclusion

The application has lapsed and pursuant to section 69 of the Planning and Environment Act 1987 Council is not able to approve an extension of time for the permit.

Recommendation:

That Council having considered all relevant matters as prescribed by s60 of the Planning and Environment Act, Refuse to Grant an extension of time for the development and use of dwelling approved by planning permit PA2007-156 on Lot 3 of PS 219620P, Malones Road, Mount Egerton Vic 3340 on the following grounds:

- 1. Council is unable to extend the planning permit as Section 69 of the Planning and Environment Act 1987 states that the responsible authority may only extend a planning permit before the permit has expired or within three months after the permit has expired.**

2. **Had it not been for Section 69 of the Planning and Environment Act 1987 which prohibits Council from extending the permit, it would have approved a two year extension for both the use and to complete the development by 24 August 2013.**

Report Authorisation

Authorised by:

Name:

Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Wednesday 17 April 2013



11.3 COMMUNITY SERVICES

No reports for this meeting

11.4 INFRASTRUCTURE SERVICES

No reports for this meeting

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 3 April 2013 – Outcomes from Staff Satisfaction Survey
- Assembly of Councillors – Wednesday 3 April 2013 – Moratorium Requesting the State Government Ban all new On-Shore Coal and Unconventional Gas Operations
- Assembly of Councillors – Wednesday 3 April 2013 – Annual Budget including 2013/2014 New and Renewal Programs
- Assembly of Councillors – Wednesday 10 April 2013 – Councillor Review of Council Plan

Recommendation:

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

- **Assembly of Councillors – Wednesday 3 April 2013 – Outcomes from Staff Satisfaction Survey**
- **Assembly of Councillors – Wednesday 3 April 2013 – Moratorium Requesting the State Government Ban all new On-Shore Coal and Unconventional Gas Operations**
- **Assembly of Councillors – Wednesday 3 April 2013 – Annual Budget including 2013/2014 New and Renewal Programs.**
- **Assembly of Councillors – Wednesday 10 April 2013 – Councillor Review of Council Plan**

12.2 Central Highlands Mayors and CEO Forum - Central Highlands Regional Strategic Plan - Report

The Chief Executive Officer will provide an update to Council at the meeting.

13. NOTICES OF MOTION

13.1 Cr Dudzik: N.O.M. No. 226 – Bacchus Marsh & Community Hub

In accordance with the Council's Meeting Procedure Local Law No. 8 Section 28 – Notice of Motion, please accept this Notice of Motion for placement on the agenda of the Ordinary Meeting of Council to be held on Wednesday 17 April, 2013.

Motion

That Council Officers prepare a detailed report on rental space utilisation and availability at the Darley Civic and Community Hub, specifically providing advice and recommendations about:

1. The past effectiveness of the principles and processes used when seeking and installing tenants.
2. Future prospects for acquiring commercial and other paying tenants.
3. The current condition of the rental space and its current compliance with BCA and DDA legislation and regulations.
4. Whether, and under what conditions, unused space might be made available at affordable rates for use by local community organisations and programmes e.g. Youth Space or Youth Counselling Space.

Preamble

At the Moorabool Council Meeting 16.02.2011 a "Principles and Processes for rental space at the Bacchus Marsh Civic and Community Hub" was adopted by Council.

The Council Resolution included a requirement to "Upgrade the Science and Arts buildings to comply with current Building Code and Disability Access requirements as necessary." It states that "Council has secured grant funding under the RLCIP program to upgrade the community components of the Darley and Civic Community Hub."

It set out an Expression of Interest process for rental of the Science and Arts Buildings.

Given that it is now two years since the Council Resolution a report on the effectiveness of these principles and processes would be of interest to Councillors.

Attachment - Item 13.1

Mr Rob Croxford
Chief Executive Officer
Moorabool Shire Council
PO Box 18
BALLAN VIC 3342

10 April, 2013

Dear Rob,

Notice Of Motion – Bacchus Marsh & Community Hub

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CR TONIA DUDZIK
EAST MOORABOOL WARD

14. URGENT BUSINESS

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

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

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

16. MEETING CLOSURE