



ORDINARY MEETING OF COUNCIL

Minutes of the Ordinary Meeting of Council
held at Council Chamber, 15 Stead Street, Ballan
on Wednesday 2 August 2017,
at 5:00 p.m.

Members:

Cr. David Edwards (Mayor)	East Moorabool Ward
Cr. Tonia Dudzik (Deputy Mayor)	East Moorabool Ward
Cr. Paul Tatchell	Central Moorabool Ward
Cr. Jarrod Bingham	East Moorabool Ward
Cr. John Keogh	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

Officers:

Mr. Rob Croxford	Chief Executive Officer
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Social and Organisational Development

Rob Croxford
Chief Executive Officer

AGENDA

1.	OPENING OF MEETING AND PRAYER	4
2.	ACKNOWLEDGEMENT TO COUNTRY.....	4
3.	RECORDING OF MEETING	4
4.	PRESENT	4
5.	APOLOGIES.....	4
6.	CONFIRMATION OF MINUTES	5
6.1	<i>Ordinary Meeting of Council – Wednesday 5 July 2017</i>	<i>5</i>
6.2	<i>Special Meeting of Council – Wednesday 19 July 2017</i>	<i>5</i>
7.	DISCLOSURE OF CONFLICT OF INTEREST	6
7.1	<i>Disclosure of an Indirect Conflict of Interest.....</i>	<i>7</i>
8.	PUBLIC QUESTION TIME	8
9.	PETITIONS	10
10.	PRESENTATIONS / DEPUTATIONS	11
11.	OFFICER'S REPORTS	14
11.1	CHIEF EXECUTIVE OFFICER.....	14
11.1.1	<i>Office Arrangements - Christmas / New Year Period 2017/18.....</i>	<i>14</i>
11.2	GROWTH AND DEVELOPMENT	18
11.2.1	<i>Amended Planning Permit Application PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334.....</i>	<i>18</i>
11.2.2	<i>Planning Permit Application PA2003-472, PA2003-473, PA2003-474 and PA2003-475; Conroys Lane, Wallace - Request for a fourth extension of time for the development and use of a single dwelling over four lots.....</i>	<i>39</i>
11.2.3	<i>Planning Permit 2016-282; Construction of ten dwellings and a waiver one visitor car space at 32 Grant Street, Bacchus Marsh.....</i>	<i>52</i>
11.2.4	<i>Planning Scheme Amendment C76 (Moorabool Agribusiness Industrial Area) – Adoption of Amendment.....</i>	<i>69</i>
11.2.5	<i>Ballarat Line Upgrade – Proposed Submission of Support.....</i>	<i>86</i>
11.3	SOCIAL AND ORGANISATIONAL DEVELOPMENT	90
11.3.1	<i>2013-2017 Council Plan Actions Progress Report for 2016/17 Financial Year.....</i>	<i>90</i>
11.4	INFRASTRUCTURE SERVICES	94
11.4.1	<i>Capital Improvement Program Quarterly Report – June 2017.....</i>	<i>94</i>
11.4.2	<i>Petition; Road Safety & Parking Arrangements for Gordon Primary School (Dicker Street, Gordon).....</i>	<i>101</i>
12.	OTHER REPORTS	107
12.1	<i>Assembly of Councillors.....</i>	<i>107</i>
12.2	<i>Section 86 – Delegated Committees of Council - Reports.....</i>	<i>108</i>
12.3	<i>Advisory Committees of Council - Reports.....</i>	<i>109</i>

13.	NOTICES OF MOTION	110
14.	MAYOR'S REPORT.....	111
15.	COUNCILLORS' REPORTS.....	112
16.	URGENT BUSINESS.....	113
16.1	<i>Roads - Shoulder Maintenance.....</i>	<i>113</i>
17.	CLOSED SESSION OF THE MEETING TO THE PUBLIC	114
17.1	<i>Confidential Report</i>	<i>114</i>
18.	MEETING CLOSURE	120

1. OPENING OF MEETING AND PRAYER

The Mayor, Cr. Edwards, opened the meeting with the Council Prayer at 5.00 pm.

2. ACKNOWLEDGEMENT TO COUNTRY

We respectfully acknowledge the traditional owners of this land, their spirits and ancestors.

3. RECORDING OF MEETING

As well as the Council for its minute taking purposes, the following organisations have been granted permission to make an audio recording of this meeting of Council:

- The Moorabool News; and
- The Star Weekly

4. PRESENT

<i>Cr. David Edwards (Mayor)</i>	<i>East Moorabool Ward</i>
<i>Cr. Jarrod Bingham</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. John Keogh</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Cr. Paul Tatchell</i>	<i>Central Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Social and Organisational Development</i>
<i>Mr. Rob Fillisch</i>	<i>Manager Statutory Planning & Community Safety</i>
<i>Mr. Mark Lovell</i>	<i>Senior Statutory Planner</i>
<i>Mr. John Whitfield</i>	<i>Governance Coordinator</i>
<i>Mr. Tristian May</i>	<i>Senior Project Engineer</i>
<i>Ms. Melissa Hollitt</i>	<i>Minute Taker</i>

5. APOLOGIES

Nil.

6. CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council – Wednesday 5 July 2017

Resolution:

Crs. Bingham/Tatchell

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 5 July 2017.

CARRIED.

6.2 Special Meeting of Council – Wednesday 19 July 2017

Resolution:

Crs. Tatchell/Bingham

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 19 July 2017.

CARRIED.

7. 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)
 - indirect interest because of impact on residential amenity (section 78E)

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.

7.1 Disclosure of an Indirect Conflict of Interest

Cr. Sullivan declared an Indirect Conflict of Interest (Section 78A) in relation to Item 11.2.3 Planning Permit 2016-282; Construction of Ten Dwellings and a Waiver of Visitor Car Space at 32 Grant Street, Bacchus Marsh. The nature of the Conflict of Interest is due to Cr. Sullivan currently carrying out survey work at another property for the owner of this property. Cr. Sullivan has not carried out any survey work on the property which is the subject of Item 11.2.3.

8. PUBLIC QUESTION TIME

The aim of Public Question Time is to provide an opportunity for the public to ask general questions at Council Meetings requiring routine responses. Public Question Time is conducted in accordance with Section 6.9 of the Council's *Meeting Procedure Local Law No. 9*.

Questions must be in writing on the form provided by the Council and submitted by 5.00pm on the day before the meeting. Members of the public can contact a Councillor and raise a question which the Councillor will submit on their behalf.

A question will only be read to the meeting if the Chairperson or other person authorised for this purpose by the Chairperson has determined that:

- i) the person directing the question is present in the gallery;
- ii) the question does not relate to a matter of the type described in section 89(2) of the Act (for confidential matters);
- iii) the question does not relate to a matter in respect of which Council has no power to act;
- iv) the question is not defamatory, indecent, abusive or objectionable in language or substance;
- v) the question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
- vi) the question is not asked to embarrass a Councillor, member of Council staff or member of the public.

A Councillor or Council officer may:

- i) immediately answer the question asked; or
- ii) elect to have the question taken on notice until the next Ordinary meeting of Council; at which time the question must be answered and incorporated in the Agenda of the meeting under Public Question Time; or
- iii) elect to submit a written answer to the person asking the question within 10 working days.

Responses to public questions answered at the meeting, will be general in nature, provided in good faith and should not exceed two minutes. These responses will be summarised in the minutes of the meeting.

Public Question Time does not substitute for other forms of communication with or other formal business procedures of the Council.

Mr. Jason Watts was not in attendance however had submitted the following question.

Question:

Why aren't Council spending money on Youth and Sporting facilities? I would like to see more money spent on these items.

I would like to request the Darley Hub to be named after me (Jason Watts) as I have put a lot of work into facility or a sign with acknowledgment.

Response:

The Council's investment in Youth and Sporting Facilities is guided by the Council's Youth Strategy and Recreation and Leisure Strategy. The Youth Strategy is to be revised this financial year and will be the subject of community engagement through which community members can provide input into the strategic direction of the service.

Council invests significantly in the maintenance and operation of sport and recreation facilities across the Shire through the provision of maintenance and operational grants to reserve committees of management, facility upgrades and improvements via the Capital Improvement Program, assisting clubs and community organisations with State and Federal Government grant applications (including Council financial contribution), and strategic /master planning at reserves to identify key development priorities.

In the 2017/2018 budget, the Council has allocated significant funds towards the development of the Bacchus Marsh Racecourse and Recreation Reserve as a Regional Sports Hub. The Council has also allocated funds to the development of a master plan for the Ballan Recreation Reserve.

Annually the Council invests a considerable amount of money in the provision of youth services. In the 2015/ 2016 financial year, the Council invested \$250,000 for the provision of Youth Services. This budget allows the Youth Services Team to deliver a range of programs, services and events that provide support for and benefit to young people, their families and the community.

Council has allocated a space (former studio 22) at the Darley Civic & Community Hub as a designated Youth space and the team is currently working with agencies to make the space active and accessible to young people. The Youth Services Team works closely with other agencies and school across Moorabool to deliver services to young people and continue to seek external funding to support the development of programs, events and services that have a positive impact on the youth of Moorabool.

The Council officially named the site the Darley Civic and Community Hub in 2011. The name has become familiar to many community members and organisations and represents well the uses at the site being civic (Council) and community. The Geographic Place Names convention doesn't allow for naming of facilities after living persons.

9. PETITIONS

Nil.

10. PRESENTATIONS / DEPUTATIONS

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

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

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

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

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

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

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

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

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

Item No	Description	Name	Position
11.2.5	Ballarat Line Upgrade – Proposed Submission of Support	Mark Havryluk Project Director Ballarat Line Upgrade	Supporter

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	Agenda Recommendation - Supporter/Objector
11.2.1	Amended Planning Permit Application PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334.	Andrew John Ryan	Objector
11.2.1	Amended Planning Permit Application PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334.	Paul Ryan	Objector
11.2.1	Amended Planning Permit Application PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334.	Andy Medic	Objector
11.2.1	Amended Planning Permit Application PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334.	David King	Representing the Applicant

11.2.2	Planning Permit Application PA2003-472, PA2003-473, PA2003-474 and PA2003-475; Conroys Lane, Wallace - Request for a fourth extension of time for the development and use of a single dwelling over four lots.	Ramon Jimenez	Applicant
11.2.3	Planning Permit 2016-282; Construction of ten dwellings and a waiver one visitor car space at 32 Grant Street, Bacchus Marsh.	Robert Reid	Supporter
11.2.4	Planning Scheme Amendment C76 (Moorabool Agribusiness Industrial Area) – Adoption of Amendment	Julie Lancashire	Supporter

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

11.1.1 Office Arrangements - Christmas / New Year Period 2017/18

Introduction

File No.: 02/08/004
 Author: Vanessa O'Toole
 CEO: Rob Croxford

The following report proposes closure arrangements for the 2017/18 Christmas/New Year period for the Council offices, works depots, library services, Maternal & Child Health Centres, Darley Early Years Hub, outdoor pools, Bacchus Marsh Leisure Centre and aged & disability services.

Background

In previous years the practise has been to close the offices during the Christmas/New Year period and have in place emergency and basic maintenance operations. Officers have reviewed arrangements for the forthcoming Christmas/New Year period for 2017/18.

Proposal

Public holidays provided to staff are to be in accordance with gazetted public holidays provided for by the State Government. Public Holidays for 2017/18 are as per the information provided by Victorian State Government.

With respect to the upcoming Christmas period, the public holiday arrangements are as follows:

2017	The Christmas Day Public Holiday will be held on Monday 25 December 2017 Boxing Day 2016 Public Holiday will be held on Tuesday 26 December, 2017
2018	New Year's Day Public Holiday will be held on Monday 1 January 2018

Subject to Council approval, it is proposed that Council's offices will be closed to the public for the period commencing from 12.30pm Friday 22 December 2017, with the offices reopening on Tuesday 2 January, 2018 at 8.30am as in previous years. This is set out in detail below:

- Friday 22 December, 2017 from 12.30pm
- Monday 25 December, 2017 (Christmas Day Public Holiday)
- Tuesday 26 December 2017 (Boxing Day Public Holiday)
- Wednesday 27 December, 2017
- Thursday 28 December, 2017
- Friday 29 December, 2017
- Monday 1 January, 2018 (New Year's Day Public Holiday)

In accordance with the proposal to close the Council offices for the Christmas period, it is also proposed to close the Darley Early Years Hub for the same period.

Waste and recycling collection will be collected on an alternative date which will be advertised closer to the collection day.

The Ballan Transfer Station, Mt Egerton Transfer Station and Bacchus Marsh Transfer Station will be closed on:

- Christmas Day – Monday 25 December, 2017
- New Year's Day – Monday 1 January, 2018

Given that the Leisure Centre and pools are being directly managed by Council as from 1 July 2017, council officers are in the process of determining whether the pools will be open on Boxing Day and New Years' Day. A decision in respect to opening times during the proposed closure period will be taken in the next few months. Opening of the pools on either day will be dependent upon temperatures exceeding 23 degrees.

Staff rosters will be initiated during this period to ensure that emergency staffing and basic maintenance operations are not impacted by the Christmas closure.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective:	Providing good governance and leadership
Context:	Our people
Action:	Customer Service

The proposal to close Council's offices to the public for the period commencing from 12.30pm on Friday 22 December 2017 to Monday 1 January 2018 is consistent with the Council Plan 2017 – 2021.

Financial Implications

During this period staff will be paid for each gazetted public holiday and leave for the other days will be taken via normal annual leave or rostered day off entitlements which are budgeted for.

Communications Strategy

Closure will be communicated via public notices in the local media, Council's website and appropriate signage at Council offices.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council the report author 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 CEO, I have no interests to disclose in this report.

Author – Vanessa O'Toole

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

Conclusion

Council approval is sought to close Council offices, works depots, library services, maternal & child health, Darley early years hub, outdoor pools, Bacchus Marsh Leisure Centre and aged & disability services between the Christmas and New Year period.

Emergency arrangements will be put in place in areas such as works, maternal & child health and the aged & disability services. Recommencement of occasional care sessions will be advertised closer to the Christmas period.

Waste and recycling collection will be collected on an alternative date which will be advertised closer to the collection day.

Resolution:

Crs. Dudzik/Keogh


- 1. That Council approve the closure of Council offices, works depots, library services, maternal & child health, Darley early years hub and aged & disability services for the period from 12.30pm on the afternoon of Friday 22 December, 2017 with the offices reopening on Tuesday 2 January, 2018.***
- 2. That appropriate public notices be placed in the local media and on Council's website to inform the public of the closure, emergency and after hour's telephone numbers and contacts available during the closure.***

CARRIED.

Report Authorisation

Authorised by:

Name: Rob Croxford
Title: Chief Executive Officer
Date: Thursday 13 July 2017



11.2 GROWTH AND DEVELOPMENT***Consideration of Deputations – Planning Permit Application No. PA2009-088***

Mr. Andrew John Ryan, Mr. Paul Ryan and Mr. Andy Medic addressed Council as objectors to the Agenda recommendation.

Mr. David King addressed Council on behalf of the applicant in favour of the Agenda recommendation.

The business of the meeting then returned to the agenda.

11.2.1 Amended Planning Permit Application PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334.

Application Summary:	
Permit No:	PA2009-088
Lodgement Date:	1 December 2015
Planning Officer:	Victoria Mack
Address of the land:	CA 44, Parish of Borhoneyghurk 89 Jordan's Lane Elaine VIC 3334.
Proposal to amend the planning permit:	Amended plans for the <i>Use and development of animal keeping and training (120 dogs)</i>
Lot size:	16.30ha
Why is a permit required	Farming Zone – development of buildings and works Buildings and works in the Environmental Significance Overlay – Schedule 1 (ESO1)

Public Consultation:	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	5
Consultation meeting:	Not held
Policy Implications:	
Strategic Objective 2	Minimising Environmental Impact
Context 2A	Built Environment
Context 2B	Natural Environment
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 – Satwinder Sandhu</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 – Robert Fillisch</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	

Executive Summary:	
Application Referred?	Barwon Water, Corangamite Catchment Management Authority, Greyhound Racing Victoria and Council's Environmental Health and Infrastructure Departments.
Any issues raised in referral responses?	Barwon Water requested further information in relation to waste water treatment and drainage. Greyhound Racing Victoria requested an audit of the site which was held with the applicant, his planning consultant, GRV, Barwon Water and Council to assess the operations on the site.
Preliminary Concerns?	The applicant submitted Condition 1 plans for endorsement. The submitted plans were not considered to be generally in accordance with the original plans. The applicant was asked to lodge an application to amend the permit.
Any discussions with applicant regarding concerns	Several discussions, email communications and meetings with the applicant occurred since the amended permit application was lodged. After the submission of acoustic reports changes to the kennel design and construction materials to improve acoustic performance of the site, particularly at night were provided.
Any changes made to the application since being lodged?	Changes to the site plan; changes to the kennel design and construction materials to improve acoustic performance; adjusted response to relevant code of practice for the operation of greyhound establishments.
VCAT history?	Nil
Previous applications for the site?	PA2009-088 (this permit) being for: <i>Development and use of an animal boarding facility (70 dogs and 50 cats) issued on 10 March 2010.</i> Plans were endorsed. The permit was amended in 28 May 2014 to change what the permit allows to: <i>Use & Development of Animal Keeping and Animal Training (120 dogs).</i> No plans were endorsed. Condition 1 required amended plans. Extension of time (1) 24 February 2012 for two years. Extension of time (2) 14 February 2014 for two years Extension of time (3) issued on 23 May 2017 for one (1) year for completion.

General summary

(Pro's/Con's of the proposal)

A permit has been granted for the use and development for an animal keeping facility consisting of 120 dogs. The applicant has submitted revised plans as amended permit request to extend the facility to include dog runs across the land. The proposal has the potential to cause noise impacts to adjacent owners and occupiers. Acoustic reports submitted demonstrate that subject to conditions including acoustic treatments of the kennels can ensure the amenity of adjacent owners and occupiers is sufficiently protected. A landscaping screen will minimise the visual impact of the facility when viewed from adjacent properties. New conditions will be in place to ensure the site is effectively managed in accordance with the planning scheme provisions and the relevant Code of Practice applying to greyhound establishments.

Summary Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant an Amended Planning permit for the *Use and development of animal keeping and training (120 dogs)* on Crown Allotment 44, Parish of Borhoneyghurk otherwise known as 89 Jordan's Lane Elaine VIC 3334.

Public Notice

The application was notified to adjoining and surrounding landowners and five (5) objections were received.

Summary of Objections

The objections received are detailed below with officer's comments accompanying them:

Objection	Any relevant requirements
Noise from barking and howling dogs is untenable and disrupts sleep and family life. Noise can be at any time of the day or night but worse in the early hours of the morning.	Existing permit conditions; EPA noise guidelines – SEPP N-1.
Officer's response – After the permit was amended on 28 May 2014 the property was sold and later the greyhounds arrived on the site. Since then Council has received persistent complaints of noise from barking dogs. All objectors state that noise can heard at different times including day or night.	
Visual impact of the scale of the partially constructed development on the western skyline will destroy view of sunset.	Amenity
Officer's response – The applicant has provided plans showing vegetation between the kennel complex and the paddock runs to reduce visual impact. Additional conditions will require some form of screening to reduce the visual impact of the kennels.	

Pollution in the waterway (that runs from north to south through the property and then onto neighbouring properties to the south), from dog droppings and other dog wastes. Dog droppings are not collected from the long dog runs or paddocks.	Code of Practice for the Operation of Greyhound Establishments.
Officer's response – The Code of Practice requires adequate facilities for the disposal of waste.	
The use has increased traffic on the road, dust and smell.	Permit condition 8 to be renumbered to 13
<p>Officer's response – Permit condition 8 to be renumbered 13 states that:</p> <p>The use and development must be managed so that the amenity of the area is not detrimentally affected through the:</p> <ul style="list-style-type: none"> a) Appearance of buildings. Works or materials; b) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, ash dust waste water, waste products, grit or oil; c) Presence of vermin; d) Any other detrimental impact that may arise as a result of the proposed use being conducted on the subject site. <p>The purpose of this condition is to ensure that the amenity of the area is not unreasonably impacted. It needs to be considered that many developments will cause some amenity impacts as they change the nature of the site but the impacts must be unreasonable.</p>	
It is alleged that when the operators leave the site for extended times that noise can get out of control.	Code of Practice for the Operation of Greyhound Establishments.
Officer's response – The Code of Practice for the Operation of Greyhound Establishments specifies the number of full time kennel assistants required based on the operations of the establishment and varies depending on whether the establishment is breeding, spelling, boarding, racing or breaking, and whether these activities are external or internal. The number of full time kennel assistants ranges from 1 to 50 greyhounds down 1 to 25 greyhounds where training and breaking are involved. At no time can greyhounds be left unattended.	
Loss of amenity	Moorabool Planning Scheme
Officer's response – The objectors have detailed the impact of the noise from the greyhound establishment on their quality of life. It is proposed to include conditions in accordance with the acoustic report that should mitigate the noise impacts during the night.	

Animal interest and exercise	Code of Practice for the Operation of Greyhound Establishments.
Officer's response – The objectors maintain that the greyhounds run free most of the time which creates more noise and yelping from fighting as the dogs are generally without supervision.	

Proposal

The proposal is to amend the development plans to allow for an expansion of the proposed site for a greyhound establishment. The original proposal prior to the approved amendment was to be confined to a location in the north-west corner of the site. This proposal is to extend the development across the entire property consisting of kennels, yards, large runs and training facilities.

Development plans are included as Attachment 11.2.1.

It was noted at a site inspection that much of the infrastructure detailed on the plans and below had already been constructed without endorsed plans.

The amended plans show there would be:

- 24 X 15.4sqm spelling kennels, notated also as shelters, which have already been constructed in the north-west corner of the site each with an outdoor run of 60sqm in area.
- In front of the 24-kennel complex are two large paddock runs which have 2m high wire fencing.
- Fencing has been installed across the site to assist in the management of the dogs so that they cannot escape from the property.
- A circular dog running track has been constructed between the above kennels and the existing dwelling.
- Around the dwelling are 6 X whelping kennels, a food preparation shed, sundry shedding for machinery, a waste storage skip, a car parking area, 2 X isolation pens, rainwater tanks and a septic effluent system and field at the rear of the dwelling.
- To the east and south-east of the dwelling there would be 37 X rearing kennels each of 15.4sqm and each would have a long run to the east with an area of 380sqm and width of approximately 4m. Many of these have already been constructed.

To the east of the kennel complex and abutting Jordan's Lane are 4 X large paddock runs. These have been fenced with 2m high wire fencing.

Between the southern two paddocks and the northern two paddocks is a building containing a car motor and pulley for lure chasing mechanism for the training of young greyhounds. The lure track runs east west.

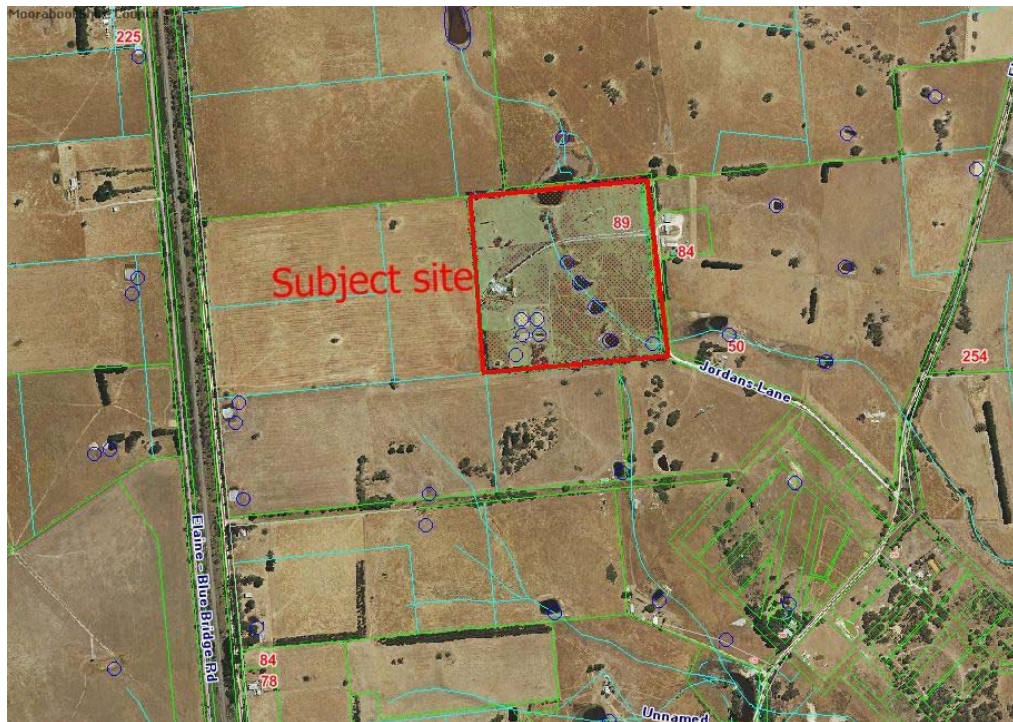
A vegetation screen is proposed to be planted at the western end of these paddocks runs.

Background

There has been extensive discussion and negotiations with the permit applicant since the application to amend the permit was lodged.

Site Description

The aerial map below shows the location of the subject site.



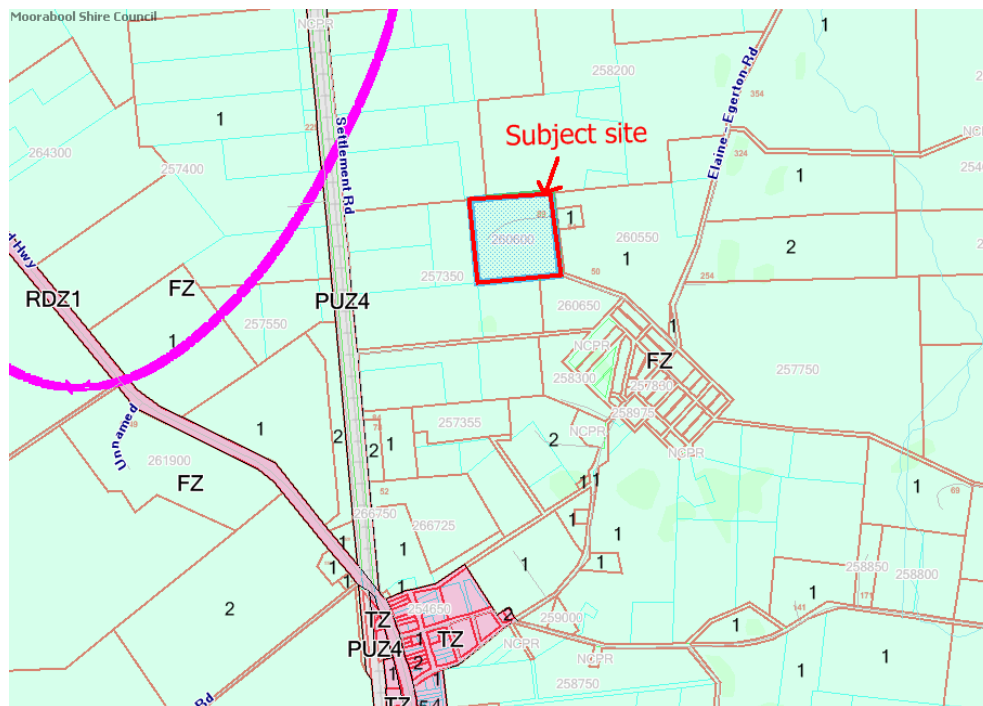
A waterway runs from approximately the centre of the north side boundary to the south-east corner of the property. A number of existing small dams have been located along this waterway to take advantage of the winter flooding that can intermittently occur along the waterway. The land has a natural fall from north and west down to south and south-east, with a flatter area around the west side boundary where the dwelling is located.

Jordan's Lane is a dead-end road with the subject site being at the last property on the road on the west side. The site is located approximately 3km north-east of the township of Elaine.

The Elaine farming district is closely held pastoral country with sheep grazing being the predominant land use but also some cropping and mixed farming. Surrounding land is in the Farming Zone. Native vegetation is generally confined to roadsides and property boundary plantations.

Neighbouring lots are generally of similar size or larger than the subject land.

The map below indicates the location of the subject site and the zoning of the surrounding area.



Access to the site is via Jordan's Lane. The nearest neighbouring dwelling is located opposite the subject site on the east side of Jordan's Lane. This dwelling is approximately 350m from the kennel complex to the west but the exercise paddocks are approximately 50m from the neighbouring dwelling.

The next nearest neighbouring dwelling is located approximately 480m south east of the kennel complex but the exercise paddocks are approximately 160m from the neighbouring dwelling.

The site has plantations of native vegetation along boundary fence lines to the north-west and west, some along the east boundary abutting Jordan's Lane and a few clumps of vegetation around dams and around the dwelling. Otherwise the land is cleared grazing land.

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).

The relevant clauses are:

- Clause 14 - Natural resource management
- Clause 14.01-1 - Protection of agricultural land
- Clause 14.01-2 - Sustainable agricultural land use
- Clause 14.02-2 - Water quality
- Clause 21.02 - Natural environment
- Clause 21.02-3 - Objective—Water and Catchment Management

- Clause 21.04 - Economic development and employment
- Clause 21.04-2 - Objective—Agriculture
- Clause 22.02 - Special water supply catchments
- Clause 22.04 - Animal Keeping

The proposal generally complies with the relevant sections of the SPPF and LPPF with the following comments:

The proposal seeks permission to extend the greyhound establishment across the site. A large number of dogs will be housed across the whole site poses a potential risk from dog waste contamination if the wastes are not collected. Without appropriate management, there is a potential risk of downstream contamination to the water catchment.

It is important that the site is managed sustainably to ensure the land is not degraded by the animal keeping operations.

How the development responds to Clause 22.04 Animal Keeping is addressed further in this report.

Zone

Farming Zone

The land is within the Farming Zone which is Clause 35.07 of the Moorabool Planning Scheme.

In accordance with Clause 35.07-4, a permit is required for buildings and works associated with the use of the land for animal keeping.

The purposes of the Farming Zone include to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Provide for the use of land for agriculture.
- Encourage the retention of productive agricultural land.
- Ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- Encourage the retention of employment and population to support rural communities.
- Encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

It is considered that greyhound establishments are best suited to the Farming Zone provided the amenity impacts of nearby residents is not unreasonably affected.

Overlays

Environmental Significance Overlay – Schedule 1

In accordance with Clause 42.01 and Schedule 21 of the Moorabool Planning Scheme a permit is required for buildings and works.

The statement of environmental significance states that the purpose of the ESO1 is:

- to protect the quality and quantity of water produced within proclaimed water catchments; and
- to provide for appropriate development of land within proclaimed water catchments.

Design and Development Overlay – Schedule 2

In accordance with Clause 43.02 of the Moorabool Planning Scheme a permit is required if the external cladding of buildings or works are constructed using reflective materials. As the cladding for the various kennels has not been nominated a permit would be required if reflective materials were to be used. However, permit conditions would be used to ensure that the kennels cannot be constructed with reflective materials.

Relevant Policies

Moorabool Planning Scheme - Clause 22.04 Animal keeping

This policy addresses key issues associated with the use and development of land for animal keeping in particular the keeping and breeding of dogs, which includes animal boarding, dog breeding and greyhound training.

Animal keeping facilities are an important local industry; however, the keeping and breeding of dogs can have an adverse effect on the extensive animal husbandry industry and can compromise the amenity of nearby residents.

Careful consideration needs to be given to the location, siting, design, and management of dog keep and breeding facilities and in this regard the policy draws from guidelines prepared by the Environment Protection Authority (Noise Control Guidelines TG 302/29).

The objective of the policy is to ensure that animal keeping establishments are appropriately located, sited, designed, and managed so they will not have an adverse effect on the environment, the amenity of nearby residents, and the operation of surrounding animal husbandry enterprises.

It is policy to:

- *Discourage the keeping and breeding of dogs in areas that are:*
 - *predominantly used for extensive animal husbandry;*
 - *have a significant number of dwellings in close proximity; and*
 - *adjacent to significant wildlife habitats.*

- *Require the following measures to be applied in the siting and design of dog keeping and breeding establishments:*
 - *facilities should be located at least 500 metres away from residential areas and a substantial proportion of this buffer must be provided within the boundary of the subject site;*
 - *facilities should be sited to use the surrounding topography to reduce noise;*
 - *facilities should be fully contained by appropriate fencing including a fully enclosed or acoustically baffled area to house particularly noisy animals at a ratio of 1:15;*
 - *facilities should be constructed or landscaped as appropriate to visually screen stimuli from other dogs, animals, traffic or passers-by; and*
 - *kennels should be constructed in materials that reduce the emission of noise;*
- *Electronic masking or other noise suppressing measures may be required to reduce audible stimuli to the dogs.*
- *Reference the EPA Guidelines (TG302/92) (replaced by Publication 1254 October 2008) in applying conditions relating to the management, control of noise and the siting and design of kennels.*
- *Ensure adequate effluent treatment facilities are provided to contain, treat, and dispose of effluent within the boundaries of the site; to prevent the pollution of any surface or ground water; and to prevent the emission of offsite odours.*

The two closest dwellings are 350m to the east and 480m to the south-east respectively from the kennel complex. The occupiers of both properties are objectors to this application.

Permit conditions can ensure that the site is managed to comply with this policy.

EPA Noise Control Guidelines

The EPA Publication 1254, October 2008, requires in relation to Dog Kennels:

- *The kennels should be located at least 500 metres from residential areas.*
- *Some fully enclosed or acoustically baffled kennels should be available to house particularly noisy animals, at a ratio of 1:15.*
- *Electronic masking noise devices should be provided to reduce audible stimuli to the dogs.*
- *Kennels should be constructed to visually screen stimuli such as other dogs, animals, traffic or passers-by.*
- *Access to kennels should be restricted solely to staff.*
- *Feeding of the dogs should be restricted to the daytime hours of 7 am-6 pm.*
- *Exercise of the dogs may only be performed between the hours of 9 am and 5 pm.*
- *A responsible person must be available on site 24 hours per day.*

- *Kennels should be constructed of such a material so as to provide an appropriate reduction in the emission of noise. Materials such as masonry and cement sheeting would provide a suitable structural basis.*
- *The kennels should be positioned so as to utilise the ability of the topography to reduce noise.*

Note: Noise originating from dog kennels may be assessed using State Environment Protection Policy (Control of noise from commerce, industry and trade) No. N-1.

Permit conditions can ensure that the site is managed to comply with EPA noise guidelines.

Code of Practice for the Operation of Greyhound establishments.

The applicant has responded to the key management requirements contained within the Code of Practice and stated that all requirements will be met. The Audit undertaken by Greyhound Racing Victoria showed that the establishment was compliant in part with a list provided with matters that needed to be addressed. All of these matters were rectifiable.

It is noted that no feeding times are nominated in the Code of Practice.

Acoustic Reports

Two acoustic reports were prepared for the site. One was prepared for the applicant by Acoustic Sound Surveys. The other was prepared for Council by Renzo Tonin & Associates.

Both reports indicated that the facility in its current form was likely to not meet acoustic requirements – SEPP-N1 and NIRV – particularly at night.

- **Day** is defined as weekdays 7am – 6pm; Saturdays 7am – 1pm. Sundays N/A
- **Evening** is defined on weekdays as 6pm to 10pm; Saturdays 1pm – 10pm; Sundays 7am – 10pm
- **Night** is defined as all days between 10pm – 7am.

Acoustic Sound Surveys

The report commissioned by the applicant suggested that ‘currently there is the remote possibility the noise level of the barking of the greyhounds may exceed the noise limits by SPP-N1 and NIVR’.

On that basis however, the applicant’s consultant recommended that the greyhounds be secured during the night period in a building with a minimum noise attenuation of at least 10dB(A). The day and evening noise limits for SEPP-N1 and NIVR are above the nocturnal noise level, therefore the greyhounds do not need to be secured in a building during the day and evening periods.

He continued that ‘a properly constructed building clad with metal skinned styrene foam panels would provide a noise attenuation of approximately 27dB(A). The building must not have any windows or openings in its eastern

side facing the nearest neighbour. Openings to the north, south and west sides of the building would be acceptable as the possible barking noises from the greyhounds would no longer breach the SEPP-N1 and NIRV noise limits'.

Renzo Tonin & Associates

The report prepared for Council reported that the subject land may be in breach of the planning permit with SEPP-N1 night time criterion being exceeded.

The report found variability of the noise emissions from the site but could not determine if this was due to particular operations, number of animals, or other potential variables.

They concluded as follows - 'as Renzo Tonin & Associates has found exceedances of the SEPP-N1 night time criterion within the first few days of monitoring, we believe that it is likely that future exceedances will occur. We also believe that the evening criterion is also vulnerable to future exceedances due to their marginal compliance during the assessed times'. It should be noted that this report was compiled without noise attenuation measures in place.

Acoustic response to building construction to reduce noise emissions

The applicant's acoustic surveyor submitted a response to building construction that would address noise emissions from the site at night.

The report suggests that acoustic compliance can be achieved if the kennels are constructed with suitable sound mitigating materials and the dogs are contained within the building at night

Particular Provisions

No particular provisions are relevant to this application.

Discussion

This application is to amend the permit and in particular the changed development plans. The application does not propose to amend the current use of the land permitted under the existing permit.

In March 2014, the permit was amended from a boarding enterprise for dogs and cats to an animal keeping enterprise for 120 dogs. Condition 1 of the permit required amended plans generally in keeping with the original plans submitted but modified to show any changes to buildings and works or the site layout plan and the location of waste storage bins.

Council is not therefore reviewing the use allowed by the permit, but rather the manner in which the development would be constructed on the site. The original plans showed that a kennel complex would be located in a shed in the north-west corner of the site.

The plans submitted were not generally in accordance with the original plans and the applicant was advised that an amended application was required.

The amended layout plan submitted with this application shows a significant expansion of the development across the western half of the site including a total of 67 individual kennels with both small and large outdoor runs and a circular dog running track. On the eastern side would be four large paddock runs as well as the lure training track.

What this application is about is whether the location of the proposed kennels to be used for greyhound keeping establishment will cause a detriment to neighbours and to the impact of the development on environmental values including water quality.

The objectors state that the noise coming from the site is impacting severely on their amenity.

The Local policy at Clause 22.04 of the Moorabool Planning Scheme in relation to animal keeping and the EPA Noise Guidelines in relation to dog kennels both suggest that dog related enterprises should be at least 500m from residential areas. In this case there are two neighbouring dwellings that are affected however the area is not a residential area. Both policies also refer to actions to be taken to mitigate noise emissions from a site.

The acoustic reports that were prepared for the site both concluded that noise emissions from the site may exceed the minimums for night time. Renzo Tonin suggested that noise emissions at other times, such as Day and Evening might also risk being exceeded from time to time depending on variables including number of dogs and particular operations, which might include feeding or other stimuli.

The suggestion by both reports that an acoustically baffled kennel complex to house dogs at night in particular would appear to be required for this establishment to mitigate the noise issues.

The applicant has also shown vegetation screening on the plans which will reduce the visual impact between the kennel complex and the paddock runs

The applicant has submitted a written response to the Code of Practice for this establishment which simply states that they will comply with the required standards. It is the responsibility of Greyhound Racing Victoria to monitor compliance in accordance with the Code of Practice, or the Department of Economic Development, Jobs, Transport and Resources.

The application was referred and all authorities consented to the application subject to conditions.

It is recommended that subject to additional conditions the application should be supported. These conditions would include that all kennels are constructed, or retrofitted as applicable, with materials that meet the SEPP-N1 and NIRV standards for noise at all times but specifically at night between the hours of 10pm and 7am in accordance with acoustic report recommendations.

General Provisions

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

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.

Authority	Response
Barwon Water	Consent subject to conditions
Department of Economic Development, Jobs, Transport and Resources	Consent subject to conditions

The following referrals were made pursuant to s.52 of the Planning and Environment Act 1987:

Authority	Response
Greyhound Racing Victoria	Consent subject to conditions
Corangamite Catchment Management Authority	No comment

Council departments were provided with an opportunity to make comment on the proposed development plan.

Department	Response
Infrastructure	Consent subject to conditions
Environmental Health	Consent subject to conditions
Community Safety	No comment

Financial Implications

The recommendation of refusal of this application may represent a financial implication for Council. The objectors may lodge an application for Review of Council's decision with VCAT.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

Options

An alternative recommendation would be to issue a Refusal to Grant an amendment to the Permit. The applicant could apply to VCAT for a Review of Council's Decision with associated cost to Council in defending the decision.

Conclusion

The Acoustic report prepared by Acoustic Sound Surveys shows that existing and future noise emissions can be satisfied by new acoustic treatment to the kennel facility which will provide an adequate level of amenity to adjacent land owners and occupiers.

The provision and implementation of a landscape plan to the satisfaction of the responsible authority will provide improved visual screening of the kennel site from neighbours.

The owner needs to ensure that he manages the site in accordance with sustainability principles, the Code of Practice for the Operation of Greyhound Establishments, acoustic standards SEPP-N1 and NIRV, and the requirements of the Moorabool Planning Scheme.

Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant an Amended Planning Permit for the Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334 subject to following permit changes:

New conditions added to the permit: 1, 3, 4, 5, 6, 7 and 15-27 and permit expiry condition 28, altered to completion only.

Endorsed plans:

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

- a) **Elevations and floor plans of the proposed kennels to house a maximum of 120 dogs constructed in accordance and compliant with the Department of Environment and Primary Industries codes of practice for animal keeping and animal training establishments.**
 - b) **A site plan showing the proposed location of the kennel complex and including the access driveway, appropriate parking spaces and the setback distances of the facility from both the existing dwelling and the west side boundary.**
 - i. **Animal keeping must be restricted to the land on the western side of the waterway and dams.**
 - c) **The location of waste storage areas.**
 - d) **A landscape plan in accordance with condition 3 and 26.**
 - e) **Acoustic construction plans in accordance with condition 7.**
2. **The use/and or development as shown on the endorsed plans must not be altered without the written consent of Council.**

Operational:

3. **A landscape plan to the satisfaction of the Responsible Authority must be provided showing vegetation screening to be planted on the site including species to be planted, number of plants and protection and maintenance measures until the vegetation is established. The landscape plan will be in accordance with plan submitted No. 401-TP-01-C but modified to show additional landscaping along the Jordans Lane property boundary.**
4. **The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.**
5. **The dogs must be contained within the acoustically baffled kennels between the hours of 10pm and 7am each day.**
6. **Feeding times must be managed and supervised to minimise noise emissions from the site. Feeding must be undertaken within the confines of the acoustically baffled kennels.**
7. **Information and plans provided demonstrating that the construction works to construct, or retrofit, the kennels will achieve the minimum attenuation required during the night period. This will include specifications in accordance with Acoustic Sound Surveys letter dated 16 February 2017; and SEPP N-1. The plans will be endorsed and will form part of the permit.**

8. **All external walls and roof areas of all proposed buildings on the subject site are to be clad with non-reflective materials to the satisfaction of Council.**
9. **No more than 120 dogs may be accommodated on the land at any one time to the satisfaction of Council.**
10. **The proposed animal keeping and animal training facility must at all times be conducted in accordance with the Department of Environment and Primary Industries codes of practice for animal keeping and animal training establishments.**
11. **All gates and doors to the perimeter fencing of the Animal Boarding facility are to be self-closing and self-locking to the satisfaction of the Responsible Authority.**
12. **Noise levels emanating from the kennel facility must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 ('SEPP N-1').**
13. **The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:**
 - a) **appearance of any building, works or materials;**
 - b) **emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;**
 - c) **presence of vermin;**
 - d) **any other detrimental impact that may arise as a result of the proposed use being conducted on the subject site.**
14. **All on site works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of Council.**

Environmental Health conditions

15. **Solid waste from facility must be removed at a suitable frequency to prevent a public health or environmental nuisance.**
16. **Wastewater/wash down water generated from the animal keeping facility must not be directed into the onsite septic system.**
17. **Wastewater/Wash down water generated from the animal keeping facility must be managed, treated and disposed of in a manner which prevents a public health or environmental nuisance.**

Infrastructure conditions:

18. Prior to the commencement of the use, the proponent must install at their own expense, traffic warning signs in accordance with AS1742-2003 Manual of Uniform Traffic Control Devices as follows: a) at the approaches to the bends in Jordan's Lane, W1-3A "curve" warning signs; and b) at the approach to the grove of trees in Jordan's Lane, W4-3A "road narrows" warning signs.
19. Positioning and installation of the signs must be undertaken to the satisfaction of Council.
20. 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 Council. Overflows from on-site storage systems must be directed away from any waste water disposal areas.
21. 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)".
22. Unless otherwise approved by Council there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
23. Prior to the commencement of the use any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of Council.

Barwon Water conditions:

24. The following shall be undertaken to the requirements of Barwon Water and to the satisfaction of the responsible authority:
 - a) All waste and wastewater resulting from the animal keeping must be managed, treated and disposed as approved by the Moorabool Shire Council's Environmental Health Officers.
 - b) All stormwater and wash-water must be directed away from the existing effluent disposal area and roof stormwater must not be disposed to the effluent disposal area.
 - c) The effluent disposal field must be protected by being isolated from any building, driveway, livestock, vehicles and service trenching.
 - d) Sediment control measures as outlined in the EPA's publication No 275 Sediment Pollution Control shall be employed during the construction of the dwelling and maintained until the disturbed area has regenerated.

Greyhound Racing Victoria conditions:

25. The facility will be managed in accordance with the requirements of the Code of Practice for the Operation of Greyhound Establishments prepared by the Department of Environment and Primary Industries or equivalent Code of Practice under Section 63 (AC) of the Domestic Animals Act 1994 to the satisfaction of the responsible authority.
26. Vegetation should be planted on the east side of the land to reduce stimuli. The planting needs to be with medium height shrubs and understory species to approximately 2-4m in height. A vegetation plan must be provided.

Corangamite Catchment Management Authority condition:

27. There shall be no filling or raising of ground levels within the flood extent of the property without the consent of the Authority.

Expiry condition:

28. This permit will expire if one of the following circumstances applies:
 - a) The development is not completed by 10 March 2018.

Council may extend the period referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

Resolution:

Cr. Sullivan/Keogh

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant an Amended Planning Permit for the Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordan's Lane Elaine VIC 3334 on the following grounds:

1. *The plans submitted with the application to amend the permit are not in accordance with the intent of the original permit.*
2. *The application is not in accordance with Local Planning Policy at Clause 22.04 of the Moorabool Planning Scheme in relation to Animal Keeping.*
3. *The application is not in accordance with State Environment Protection Policy (Noise from Industry in Regional Victoria (SEPP N-1)).*

4. *The proposal is not in accordance with the orderly planning of the area.*

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 13 July 2017



**Cr. Bingham left the meeting 5.50pm.
Cr. Bingham returned to the meeting 5.52pm.**

**Consideration of Deputation – Planning Permit Application
PA2003-472, PA2003-473, PA2003-474 and PA2003-475**

**Mr. Ramon Jimenez addressed Council as the applicant and an
objector to the Agenda recommendation.**

The business of the meeting then returned to the agenda.

**11.2.2 Planning Permit Application PA2003-472, PA2003-473, PA2003-474 and
PA2003-475; Conroys Lane, Wallace - Request for a fourth extension of
time for the development and use of a single dwelling over four lots**

Application Summary:	
Permit No:	PA2003-472, PA2003-473, PA2003-474 and PA2003-475
Lodgement Date:	28 April, 2017.
Planning Officer:	Mark Lovell
Address of the land:	Lots 1 & 2 on PS503064U, Crown Allotment 11-15 in PC365342, Crown Allotment 15-120 in PC365343U Conroys Lane Wallace
Proposal:	Fourth extension of time
Lot size:	9.7 hectares over four titles.
Why is a permit required?	The permit has expired as the development was not commenced by 27 April, 2017.
Public Consultation:	
Was the application advertised?	No. A request for an extension of time is not required to be advertised under Section 69 of the Planning & Environment Act.
Policy Implications:	
Strategic Objective 2	Minimising Environmental Impact
Context 2A	Built Environment
Context 2B	Natural Environment

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 – Robert Fillisch</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 – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application referred?	Not required to be referred.
Any issues raised in referral responses?	N/A
Preliminary concerns?	This is the fourth extension of time application and applicant has previously acknowledged in writing that they would not apply for a further extension of time approval to the commencement date. Without works commencing on site, it is considered the applicant is warehousing the permit and an excessive amount of time has passed since the issue of the permit eleven years ago.
Any discussions with applicant regarding concerns	The applicant was advised their application would not be supported.
Any changes made to the application since being lodged?	Nil.
VCAT history?	Yes, The permit was issued at the direction of VCAT on 27 April, 2006 which set aside Council's refusal to grant a planning permit for a single dwelling on a single lot for each of the four planning applications covering four lots. VCAT resolved to issue one permit for one dwelling over four lots provided they were consolidated into a single lot.

Previous applications for the site?	Nil.
General Summary:	
<p>The application is for a fourth extension of time of an approved development which has not commenced. The applicant has provided a timeline from 1998 onwards detailing the difficulties in first obtaining a permit and then with financial problems.</p> <p>No development has commenced on site.</p> <p>The application has been considered using the <i>Kantor test</i> and based on this assessment it is considered the applicant is warehousing the permit and an unreasonable amount of time has been expended since the issue of the permit eleven years ago. The applicant acknowledged in writing in that the second extension of time approval would be the last for the commencement of works.</p> <p>It is therefore considered that a fourth extension of time should not be supported as the permit is being warehoused and an excessive amount of time has passed since the permit was issued in 2006.</p>	
Summary Recommendation:	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council refuse the application to extend the time for commencement of planning permit numbers PA2003-472, 2003-473, 2003-474 and 2003-475.</p>	

Background

An application for a single dwelling on a single lot covering four lots under four separate planning applications were lodged on 15 December, 2003.

- The application was advertised and objections were received including from a Section 55 referral authority - Central Highlands Water.
- All four planning permit applications were refused on 25 May, 2005.
- The applicant appealed against each of these decisions to VCAT who determined all four applications together and resolved to issue a planning permit for one dwelling covering four lots on 27 April, 2006.
- Condition 15 of the permit contained a five years commencement date and seven years completion date with the following expiry dates
 - The development and use is started by 27 April, 2011
 - The development and use is completed by 27 April, 2013

A first extension of time (E1) of two (2) years was granted on 28 September, 2010.

- The reasons given for the request were:
 - Adversely affected by the Global Financial Crisis with tightening of the credit markets.
 - The applicant was unable to raise funds to take any steps to advance the development.

- The expiry conditions were extended to:
 - The development and use is started by 27 April, 2013.
 - The development and use is completed by 27 April, 2015.

A second extension of time (E2) of three years was granted on 25 July, 2013.

- The reason given for the request was:
 - Lack of availability of finance for the project
 - The ongoing global financial instability that started in 2008 has resulted in tightening of credit markets and impacted on the financial position of the applicant.
- The expiry conditions were extended to:
 - The development and use is started by 27 April, 2016.
 - The development and use is completed by 27 April, 2018.

During the assessment of the second extension of time application, discussions were held with the applicant who was advised at that time that Council officers were recommend refusal. The grounds of refusal were to be warehousing the permit given the length of time passing since approval. A report was being prepared for Council to consider refusal. The applicant offered to provide an assurance that the development would commence in a three years period and they would not seek any further extensions to the commencement date.

The applicant then confirmed in a written correspondence dated 18 June, 2013 *'I confirm that our application for an extension of time is to be resolved on the basis that you will approve extensions of three and two years respectively to the start and completion dates...you will not give a further extension to the start date, however you may grant an extension to the completion date if more time is needed to complete the building and other works.*

A third extension of time (E3) was granted on 6 July, 2016. Council officers recommended refusal to the third of extension of time and Council determined at its Ordinary Meeting of Council held on 6 July, 2017 to allow another 12 months to the commencement and completion dates.

Council by approving this extension advised they would support any further extensions of time as the applicant was about to commence construction.

- The reason given for the request was:
 - The applicant stated as a result of funds becoming available in late 2015 the applicant has begun discussion with builders including Porter Davis and taken the necessary steps to progress the project including updated reports.
- The expiry conditions were extended to:
 - The development and use is started by 27 April, 2017.
 - The development and use is completed by 27 April, 2019.

A fourth extension of time (E4) was lodged on 28 April, 2017 which is within 6 month grace period to apply for an extension of time.

- The reason given for the request was:
 - Hampered by financial difficulties.
 - Commencement of preparation of fully dimensioned plans to be submitted to Council for endorsement.

Details of the approved development

Plans have not been endorsed at this stage.

Assessment of Extension of time applications – *Kantor test*

There are no specific controls in the Planning Scheme relating to the assessment of an extension of time of a permit. However, there are some general guidelines or “tests” that can be applied to guide an assessment of an extension of time application.

Such guidance was provided by His Honour Mr. Justice Ashley in considering a number of Tribunal decisions in *Kantor v. Murrindindi Shire Council 18 AATR 285* where His Honour stated that a Responsible Authority “may rightly consider” the following:

- Whether there had been change in planning policy;
- Whether the landowner is seeking to “warehouse” the permit;
- Intervening circumstances as bearing upon grant or refusal;
- The total elapse of time;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the landowner by the permit; and
- The probability of a permit issuing should a fresh application be made.

It is important to note that most of the above decisions do not necessarily provide clear direction on the “weighting” that should be applied to the various criteria and it is important that each proposal be assessed on the merits of the individual circumstances.

The *Kantor test* is generally used by the Moorabool Shire Planning Department to assess extension of time applications, and an assessment against the *Kantor “test”* questions is detailed later in this report.

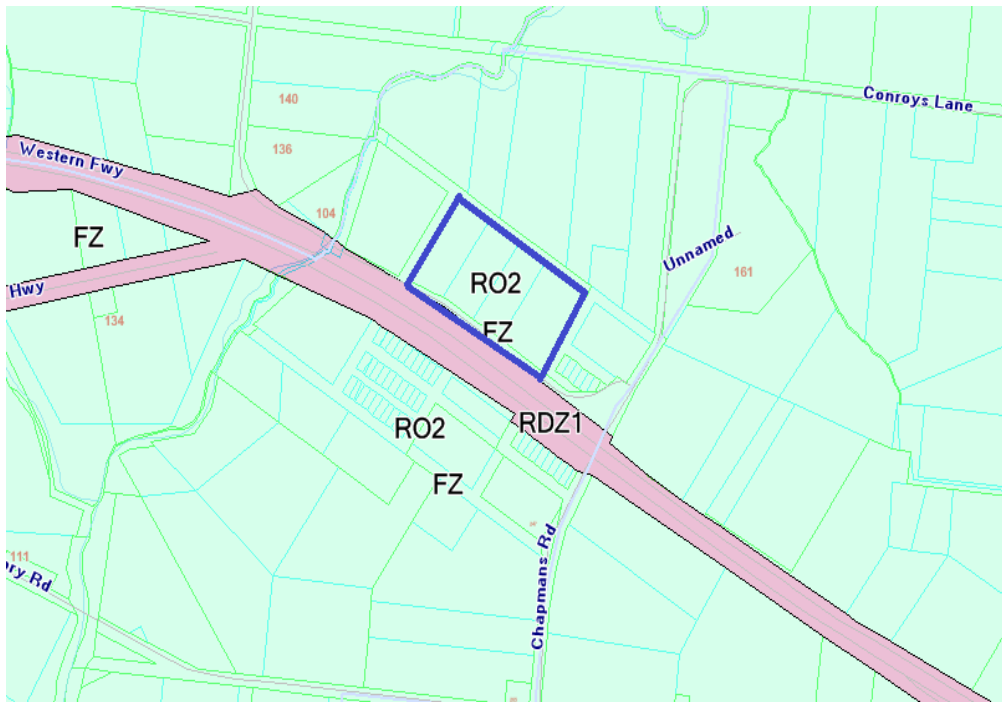
Public Notice

Nil - there is no requirement to advertise a request to extend the time of a planning permit under Section 69 of the Planning and Environment Act 1987.

Locality Map - aerial view of the subject site:



Zone map of the subject site:



Zone

The land is in the Farming Zone where a permit is required to a single dwelling on a lot less than 40 hectares.

The purpose of the zone is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Overlays

The land covered by an Environmental Significance Overlay – Schedule 1 where a permit is required for buildings and works.

The purpose of the overlay is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values

The environmental objective to be achieved.

- To protect the quality and quantity of water produced within proclaimed water catchments.
- To provide for appropriate development of land within proclaimed water catchments.

The land is also covered by a Design & Design & Development Overlay - Schedule 2.

The purpose of the overlay is to:

- To enhance visual amenity in rural, township and vegetated areas of the Moorabool Shire.
- To encourage the use of external cladding, such as non-reflective materials for building construction.
- To discourage the use of materials, such as reflective cladding for building construction, which could have a detrimental effect on amenity

The land is also covered in part by a Design & Design & Development Overlay - Schedule 3

The purpose of the overlay is to:

- To ensure that the development of land or the display of advertising signs near the alignment of the Western Freeway does not prejudice the levels of service, safety and amenity of the Western Freeway/Highway.
- To minimise any adverse effects of noise on noise sensitive uses from traffic using the Western Freeway/Highway.
- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify old and inappropriate subdivisions which are to be restructured
- To preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development.

The land is also covered by a Restructure Overlay.

The purpose of this overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify old and inappropriate subdivisions which are to be restructured
- To preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development.

The land is also by a Road Closure Overlay

The purpose of this overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify a road that is closed by an amendment to this planning scheme.

Kantor test

1. Whether there has been change in planning policy

When the application was determined the land was zoned in a Rural Zone.

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

Following C50 amendment, various amendments were introduced to Moorabool Planning Scheme to ensure the better and consistent planning outcome for assessing applications within the Farming Zone. These amendment included VC49 (introduced on 15 September, 2008); C34 (26 February, 2009); VC71 (20 September, 2011); VC77 (23 September, 2011); VC83 (18 November 2011); and VC87 (8 August, 2012).

The application would now need to be assessed in light of the objectives of the Farming Zone whereby the applicant would now need to demonstrate how an agricultural activity is linked to the proposed dwelling and would require the submission of a comprehensive Farm Management Plan. This change could alter the recommendation.

Other planning scheme changes since the permit was issued are:

VC106 gazetted on 30 May 2014 introduced changes to State Planning Policy Framework (SPPF) including the introduction of the Central Highlands regional growth plan. The changes would not alter the recommendation

Amendment VC124 was gazetted on 2 April, 2015 altering the Environmental Significance Overlay with reference to removal of native vegetation. The changes would not alter the recommendation.

Amendment VC101 was gazetted on 29 October, 2015 updating reference documents regarding wastewater management. The changes would not alter the recommendation. The applicant has updated their Land Capability Assessment prepared by Paul Williams & Associates Pty. Ltd. dated September, 2015 to address the current waste water requirements.

Amendment VC134 was gazetted on 31 March, 2017 introduced a new Metropolitan Planning Strategy and updated the State Planning Policy Framework to include Regional Planning and Peri-Urban Areas. The changes would not alter the recommendation.

2. Whether the landowner is seeking to “warehouse” the permit.

It could be considered that the land owner is warehousing the permit as this is the fourth request for an extension of time to the commencement of the development.

The applicant has been given very generous expiry dates for the commencement and completion dates. The initial permit issued at the direction of VCAT had a five years start date and seven years completion date. Typically, permits are for two years to the commencement date and four years to the completion date.

The applicant has advised of continuing financial concerns, an inability to obtain funds for this development project and existing mortgage payments on the parcels of land. Two previous extension of time requests have been approved on the basis of the applicant having financial issues. During the third extension of time request that was decided during the July 2016 OMC meeting, the applicant advised that they had obtained funds in late 2015 and were about to commence works by having discussions with a builder, Porter Davis. However in the current fourth request for an extension of time, the same applicant has stated financial difficulties which is identical in wording compared to the second request.

The second extension of time approval rather than allow a typical 12 months extension to the commencement and completion date, instead provided an additional three years to the commencement date and an additional two years to the completion date. This generous period of time to the expiry dates was given to the applicant on the basis on their written commitment to Council that they would not receive any further extension of time approval to the commencement date.

The further extension of time approval was granted as a result of a decision of the Ordinary Meeting of Council on 6 July, 2016. This overturned an officer's recommendation for refusal.

The applicant has not been able to commence works for the past eleven years. Such a lengthy period of time without works commencing clearly demonstrates a warehousing of the permit without exceptional circumstances been provided by the applicant to warrant an approval. The applicant has failed to lodge revised plans in accordance with condition 1 of the permit to at least progress the project to the Building Permit stage. The applicant has instead sort and been granted approval for a vehicle crossing which does not require planning approval under the zone and overlay provisions. The applicant has not been genuine in their attempts to commence works on site.

3. Intervening circumstances as bearing upon grant or refusal.

There have been no intervening circumstances that would have a bearing on this decision.

4. The total elapse of time since the permit was issued.

The permit was issued on 27 April, 2006, which is over eleven years ago. The project is for a single dwelling over four lots rather the intended development project which was lodged as four dwellings over four lots. It would not be expected that a development project of this small scale would not take more than 11 years to commence. Eleven years is an excessive amount of time for the commencement of a single dwelling development project.

5. Whether the time limit originally imposed was adequate.

It is considered that the time originally imposed was adequate. In good faith Council extended the permit for two (2) years in the first request (E1) and then followed by another three years in the second request (E2) and other one year in the third request (E3) to give the land owner ample time to commence the development.

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

It is not considered that any economic burden was imposed on the landowner by the issue of a planning permit.

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

If a new application was received today it would be assessed on its own planning merits against the Moorabool Planning Scheme and current adopted Council policies. The applicant would need to provide adequate information to ensure the single dwelling on land that is contained within the Farming Zone is consistent with the zone objectives and other overlay controls. It is more probable that a permit would be granted however a full assessment would need to be undertaken.

Financial Implications

If Council was to approve the application, there is no financial implication as no third parties are involved with the extension of time application.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Pursuant to Section 69 of the Planning and Environment Act 1987 no advertising of the application was required to be given and no appeal right is available to a person or persons to appeal a decision to extend a permit. The applicant has appeal rights if Council was to refuse the application.

Options

Council could support the application and determine to approval a further 12 months to commence and completion dates of the permit.

Discussion

The request is for a fourth extension of time for an approved planning permit.

The application is to be made on the set of principles from the *Kantor test*, which is accepted as a planning tool for the assessment of extensions of time requests.

It is considered that a fourth extension of time to commence the development to a permit issued eleven years ago, is warehousing and is an unreasonable amount of time that has lapsed since the issue of the permit in 2006. The applicant has not been able to commence works and has not been able to progress the development to the Building Permit stage with plans still not endorsed as required by condition 1 of the permit.

Any new application for a single dwelling in the Farming Zone would need to be subjected to a full planning assessment in accordance with the planning scheme provisions that includes notification to adjoining owners and occupiers and notification to external referral authorities.

Council has been exceptionally generous in granting previous extension of time approvals well beyond the usual 12 month extensions, to enable the applicant to commence works on site.

Conclusion

The *Kantor test* provides reasonable grounds for refusal of the application for an extension of time including:

- The applicant is warehousing of the permit as no development has commenced.
- The request for a fourth extension of time to commence is beyond a reasonable amount of time given (eleven years) since the issue of a permit.
- The applicant previously accepted that Council would not support a further request to the commencement date based on their second extension of time approval.

Recommendation:

That, having considered all relevant matters as required by the *Planning and Environment Act 1987*, Council refuse the application to extend the time for commencement of combined planning permits PA2003-472, PA2003-473, PA2003-474, and PA2003-475 on the following grounds:

- **The application does not meet the Kantor tests including no substantial commencement of the development has been undertaken.**
- **The applicant is warehousing of the permit as no development has commenced.**
- **The request for a fourth extension of time to commence is beyond a reasonable amount of time given since the issue of the permit eleven years ago.**

Resolution:

Crs. Toohey/Bingham

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council approve the application to extend the time for commencement and completion of combined planning permits PA2003-472, PA2003-473, PA2003-474, and PA2003-475 with the following amendment to the expiry dates:

The permit will now expire if one of the following circumstances applies:

- a) ***The development and use is not started by 27 April, 2018.***
- b) ***The development and use is not completed by 27 April, 2020.***

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 13 July 2017



Cr. Sullivan declared an Indirect Conflict of Interest (Section 78A) in relation to Item 11.2.3 Planning Permit 2016-282; Construction of Ten Dwellings and a Waiver of Visitor Car Space at 32 Grant Street, Bacchus Marsh. The nature of the Conflict of Interest is due to Cr. Sullivan currently carrying out survey work at another property for the owner of this property. Cr. Sullivan has not carried out any survey work on the property which is the subject of Item 11.2.3.

Cr. Sullivan left the meeting at 6.06pm and did not participate in voting on the Item.

**Cr. Toohey left the meeting 6.07pm.
Cr. Toohey returned to the meeting 6.10pm.**

Consideration of Deputations – Planning Permit Application No. PA2016-282

Mr. Robert Reid addressed Council as a supporter to the Agenda recommendation.

The business of the meeting then returned to the agenda.

11.2.3 Planning Permit 2016-282; Construction of ten dwellings and a waiver one visitor car space at 32 Grant Street, Bacchus Marsh

Application Summary:	
Permit No:	PA2016-282.
Lodgement Date:	8 November, 2016.
Planning Officer:	Mark Lovell.
Address of the land:	Lot 2 on LP143683 32 Grant Street, Bacchus Marsh.
Proposal:	Construction of ten dwellings and a waiver of one visitor car space.
Lot size:	943.96m ² .
Why is a permit required	Clause 32.04-6 – Construction of two or more dwellings on a lot. Clause 52.06-3 – Reduction to the standard car parking rate.

Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Two objections
Consultation meeting:	No consultation meeting held as the failure appeal was lodged a couple of weeks after the completion of the advertising period.
Policy Implications:	
Strategic Objective 2	Minimising Environmental Impact
Context 2A	Built Environment
Context 2B	Natural Environment
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 – Robert Fillisch</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 – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	

Executive Summary:	
Application Referred?	The application was referred to Melbourne Water and Council's Infrastructure.
Any issues raised in referral responses?	Nil.
Preliminary Concerns?	There were initial concerns that the application was lodged prematurely, prior to a determination of a VCAT hearing for the use and development of the land for offices which sort retrospective approval for the existing building on site.
Any discussions with applicant regarding concerns	The applicant agreed that notification of the application would not occur until a decision was made by VCAT for the use and development of the land for offices.
Any changes made to the application since being lodged?	Nil.
VCAT history?	<p>Yes, three previous VCAT appeals.</p> <p>VCAT directed a previous permit application PA2007-069 be issued (P1253/2007) after Council failed to make a decision within the statutory period. The permit issued on 27 November, 2007 and authorised the development of the land for the purposes of offices, altered access to a Road Zone Category 1, car parking dispensation and a 10 lot subdivision.</p> <p>VCAT determined an enforcement order (P160/2015) concerning the use of land for dwellings instead of offices and the permit expiry date. Their order dated 5 February, 2016 advised that the permit had expired due to certification of the plan of subdivision not occurring by 27 November, 2012 and what had been constructed on the land was ten dwellings. The order also required the site cannot use for dwellings unless a subsequent permit is issued.</p> <p>VCAT directed a permit to be issued (P1609/2016) after Council failed to make a decision within the statutory period. The permit was issued on 21 April, 2017 and authorised the construction of buildings and works comprising ten offices located within a part single and part double storey building each with its own access, use of land for offices and reduction in car parking requirements.</p>

<p>Previous applications for the site?</p>	<p>PA2007-069 was issued on 27 November, 2007 allowing the development of land for the purposes of offices, altered access to Road Zone Category 1, car parking dispensation and a ten lot subdivision.</p> <p>PA2015-294 was issued 21 April, 2017 allowing the construction of buildings and works comprising ten offices located within a part single and part double storey building each with its own access, use of land for offices and reduction in car parking requirements.</p> <p>PA2015-295 was withdrawn on 23 March, 2016 for the construction of 10 dwellings.</p>
<p>General summary (Pro's/Con's of the proposal)</p>	<p>The site is well serviced by a range of services due to its proximity to the Bacchus Marsh Activity Centre.</p> <p>The building on site has been constructed and laid out as an office development with an associated car park area. The proposal to convert the offices to dwellings fails to provide adequate internal amenity for future residents including insufficient private open space areas. The proposal has a number of non-compliance with the standards of Rescode which demonstrates an unsuitable dwelling conversion project.</p>
<p>Summary Recommendation:</p>	
<p>That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council advise the VCAT Registrar that Council does not support the development of the land for ten dwellings and a waiver of one visitor car space at Lot 2 on LP143683, known as 32 Grant Street, Bacchus Marsh.</p>	

Background

The applicant has constructed a double storey building comprising ten offices which have remained unoccupied for a long period of time due in part to a previous planning permit expiring. Planning Permit PA2015-294 was issued at the direction of VCAT on 21 April, 2017 which allowed for retrospective approval for the use and development of the land for offices. Condition 1 of this permit requires the submission of revised plans which has not been submitted at this stage. Therefore the site cannot be occupied by office users until plans are endorsed and the final building approval is released.



Site photo taken 22 February, 2017

The applicant has lodged an appeal with VCAT for a failure to determine the current application within the sixty day statutory time limit on 15 June, 2017. Council must notify VCAT of its position to either support or refuse the application.

Public Notice

The application was notified to adjoining and surrounding landowners and by placing a large notice for a period of fourteen days. A statutory declaration verifying display of the large notice was received on 2 June, 2017.

A total of two objections were received to the application.

Summary of Objections

The objections received are detailed below with officer’s comments accompanying them:

Objection	Any relevant requirements
Energy efficiency/ Ventilation	Rescode.
Officer’s response - The offices to be re-designed for habitation as dwellings provides limited internal energy efficiency. The western facing dwellings which have a walled private open space area that will be subject to overshadowing all day.	
Communal open space usability	Rescode
Officer’s response – The car park is not a communal open space and the units are limited to balcony spaces for their open space provision.	
No provision for canopy trees	Rescode

Officer's response – The building, as constructed, provides only a narrow landscape strip adjacent to the car parking bays and the northern side boundary. No canopy trees can be provided facing Grant Street due to the extent of hard stand area and building constructed in part against the front property boundary. There is the possibility in the rear open space to the northern dwellings (Unit 8, 9 and 10) to have some rear landscaping treatments.	
Permeability and stormwater runoff	Rescode
Officer's response –The building as constructed has limited open areas and exceeds the maximum percentage of site permeability under Rescode.	
Noise impacts	Rescode
Officer's response – Can be controlled by permit conditions.	
Functional layout of the dwellings/Amenity of living spaces.	Rescode
Officer's response – The building has been designed as offices and will have limited internal amenity.	
Conditions of Planning Permit 2015-294 have not met	Planning permit 2015-294
Officer's response – The applicant has not yet submitted plans for endorsement or prepared a Section 173 agreement. The conditions will need to be completed before the offices can be occupied.	
Errors in the applicant's planning report.	SPPF, LPPF, Rescode
Officer's response – Council is required to make its own assessment against the planning controls.	

Proposal

It is proposed to convert an office building into ten townhouses. Unit 1 is over one floor level while Units 2-10 are over two floor levels. Unit 1 is comprised of one bedroom and Units 2-10 are comprised of two bedroom in a reverse living arrangement with bedrooms on the ground floor and living and open space areas located on the first floor. Unit 1 has no open space, Units 2-10 have a first floor balcony space with Units 8 -10 also having access to a ground level open space. There is open car park with eleven spaces located adjacent to the western property boundary. There is minimal landscaping with a 700mm wide bed located adjacent to the western property boundary and some narrow beds located adjacent to the entry area to each dwelling. There is a common bin room and disabled persons toilet located to the south side of Unit 10. The building in part is constructed against the front southern boundary, eastern and western side boundaries and setback 2.5 metres from the rear northern boundary. The building has an overall height of 7.1 metres and is comprised of tilt panel walls and klip lock metal roofing.

Site Description

The subject site is located on the eastern side of Grant Street, 60.73 metres south of Waddell Street, Bacchus Marsh. The lot is 20.25 metres in width and 46.94 metres in length for a total site area of 950.53m². The site has a flat topography and there is a sewerage easement 3 metres in width running parallel with the rear property boundary. The site contains a double storey building reflecting contemporary architectural styling.

The surrounding area is comprised of a mixed land uses but predominately detached residential dwellings on moderate sized lots size with generous front setbacks and with established front landscaping treatments. There are scattering of commercial business that are constructed close the front property boundary.

The opposite side of Grant Street contains the large Bacchus Marsh & District Hospital with the main building well setback from the street frontage. There is a large open lawn area and some hard surface car parking bays and associated accessways. There are some border trees located adjacent to the Grant Street frontage.

Locality Map

The site below indicates the location of the subject site and the zoning applicable to the surrounding area.



Figure 1: Locality Map

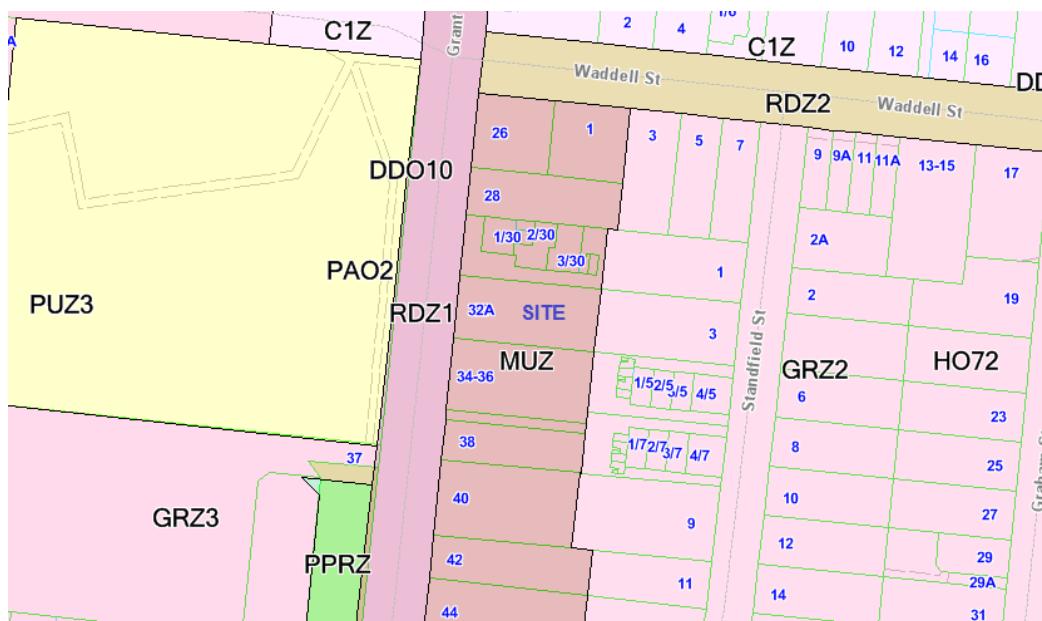


Figure 2: Zone Map

See Attachment 11.2.3 for floor and elevation plans

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).

The relevant clauses are:

- Clause 11.01-2 Activity centre planning
- Clause 11.02-1 Supply of Urban Land
- Clause 11.07-1 Regional Planning
- Clause 11.07-2 Peri-Urban Areas
- Clause 18.02-5 Car Parking.
- Clause 21.03-2 Urban Growth Management
- Clause 21.03-3 Residential Development
- Clause 21.03-4 Landscape and Neighbourhood Character
- Clause 21.07 Bacchus Marsh.

The proposal complies with the relevant sections of the SPPF and LPPF, with the exception of the clauses outlined in the table below:

SPPF	Title	Response
Clause 11.07-2	Peri-Urban Areas	A strategy for this clause is to strengthen and enhance the character, identity attractiveness and amenity of peri-urban areas. The proposal does not provide acceptable compact housing arrangements due to the existing building been designed as an office development and therefore diminishes the residential character in this mixed use precinct.
LPPF	Title	Response
Clause 21.03-4	Landscape and neighbourhood character	A strategy for this clause is that infill developments should protect and enhance the existing character built form and natural environment. The proposal does not enhance the existing residential character.
Clause 21.07-2	Bacchus Marsh	Under the consolidating urban growth objective, has a strategy to provide high quality medium density housing that is well located to services. The proposal is low quality project that provides poor internal amenity.

Zone

Mixed Use Zone

The subject site is in the Mixed Use Zone (MUZ) and the provisions of Clause 32.04 apply.

The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

Under Clause 32.04-6 a permit is required to construct two or more dwellings on a lot.

Before deciding on an application, in addition to the decision guidelines in Clause 65, the Responsible Authority must consider the following relevant decision guidelines:

General

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The objectives set out in a schedule to this zone.
- Any other decision guidelines specified in a schedule to this zone.

Construction of two or more dwellings on the lot

- The objectives, standards and decision guidelines of Clause 55.

Overlays

Design & Development Overlay - Schedule 10 (DDO10)

Planning Scheme Amendment C51 was gazetted on 23 June, 2016 and introduced a number of changes to the planning scheme in order to implement the findings and recommendations of the Bacchus Marsh Activity Centre Structure Plan, November 2011.

Design and Development Overlay Schedule 10 (Bacchus Marsh Hospital and Medical Services Precinct) covers part of Grant and Turner Streets, Bacchus Marsh.

The overlay has a number of objectives.

- To maintain and enhance the established character of the precinct.
- To encourage the provision of landscaping, where practical, within building setbacks.
- To ensure that the design of buildings provide elements which protect the amenity of and visually enhance areas of open space and residential interface.
- To encourage non residential uses buildings to have an active frontage on the ground floor, with a clearly identifiable entry.
- To ensure that the location and design of car parks, loading bays and services areas does not dominate the public domain and supports safe use and access.
- To ensure that signage and fencing on non residential uses is appropriate and sympathetic to the character of the precinct.

The proposal only partially complies with these objectives. There are no opportunities for landscaping treatments due to the extent of hard stand areas on site. No canopy trees are proposed to face the street frontage.

Clause 52.06 Car Parking

The proposal provides one space per dwelling which consists of one or two bedrooms in accordance with Clause 52.06-5. This clause also requires one visitor car space per five dwellings, therefore the applicant needs to provide two visitor spaces for the ten proposed dwellings.

The initial plans submitted showed two visitor car spaces and when the applicant was required to show dimensions of the car parking bays revealed only 11 spaces could be provided which complies with minimum width dimensions under Design Standard 2 of Clause 52.06-8. To achieve 12 car spaces, some or all of the car spaces would have to be reduced under the minimum car space width threshold. On this basis, only 11 functional car spaces can be provided.

Before deciding that a plan prepared under Clause 52.06-7 is satisfactory, the responsible authority must consider, as appropriate:

- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.
- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
- The workability and allocation of spaces of any mechanical parking arrangement.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area. Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).
- The relevant standards of Clauses 56.06-2, 56.06-4, 56.06-5, 56.06-7 and 56.06-8 for residential developments with accessways longer than 60 metres or serving 16 or more dwellings.
- Any other matter specified in a schedule to the Parking Overlay

Clause 52.29 – Adjacent to Road Zone Category 1

The land is adjacent to a Road Zone Category 1 which is Grant Street.

The purpose of this particular provision is

- To ensure appropriate access to identified roads.
- To ensure appropriate subdivision of land adjacent to identified roads

No new access is proposed and no permit required under this particular provision.

Clause 55 Two or More Dwellings on a Lot and Residential Buildings

The proposal complies with the relevant ResCode (Clause 55) provisions, except for the following:

ResCode Clause	Title	Response
55.02-1	Neighbourhood character objectives	The density of development, lack of a street setback, lack of landscaping and prominent car parking area fails to respect the existing neighbourhood character.
55.03-1	Street setback objective	The zero front setback of Unit 1 does not comply with the minimum requirement.
55.03-4	Permeability	Permeability is at 11% well under the minimum requirement of 20%.
55.03-5	Energy Efficiency	Proposal provides poor internal energy efficiency.
55.03-8	Landscaping	No areas are set aside for tree planting visible from Grant Street.
55.04-1	Side and rear setbacks objective	Two storey walls on a side boundary and does not achieve the required first floor setback.
55.04-2	Walls on boundaries objective	The length and height of proposed boundary walls does not meet the standard.
55.04-8	Noise impacts	The front unit, Unit 1 has not designed minimise noise impacts from the adjacent main road, Grant Street.
55.05-1	Accessibility	Units 2-10 are not designed for people with limited mobility.
55.05-3	Daylight to new windows	Units 2-7 have habitable room without a window facing a light court.
55.05-4	Private Open Space	Units 1 has no private open space.
55.05-5	Solar Access to Open Space	Open Spaces to Units 2-7 are completed overshadowed all day and have poor solar access.
55.05-6	Storage	No storage areas are proposed.
55.06-1	Detailed Design	The external design elements fails to express a residential setting and contain unarticulated façade treatments.

Relevant Policies

Council adopted the Urban Growth Policy Statement on 19 September, 2012 and the Housing Bacchus Marsh to 2041 strategy on 3 August 2016. Council can give weight to these documents under the provisions of section 60(1A)(g) of the *Planning and Environment Act 1987*.

Urban Growth Policy

The Urban Growth Policy states that:

The Moorabool Growth Strategy 2041 aims to provide a vision for the type of community Moorabool Shire will be in 2041 and to outline how Council can facilitate an outcome that both allows for growth and keeps the community connectedness, character and sense of place so valued by our current residents.

The urban strategy is about planning and managing the pressures of growth in a proactive manner so that a sustainable environment where people can live, work, access retail, social and recreational services and be involved and connected. The strategy looks at what our future population will be and what employment, services and infrastructure will be required to meet their needs so that Council can identify what growth options will meet these needs in a sustainable and cost-effective manner.

Housing Bacchus Marsh to 2041

One of the objectives of the strategy is to:

Provide a clear direction and policy guidance to enable orderly growth, managed change and retention of key elements of character including neighbourhood character mapping and character precinct brochures.

The subject site is within the Neighbourhood Character Precinct 22. This precinct is described as an older area of Bacchus Marsh that has several strong character elements, including a range of dwellings with heritage values and representing renowned architectural styles. The precinct adjoins the Bacchus Marsh town centre and therefore is within a walkable catchment of many services and facilities including the Bacchus Marsh train station to the south of the precinct

This precinct is recommended for increased residential growth.

The preferred character statement for this precinct is 'to allow for increased housing choice over time given its proximity to several services and facilities. Site coverage will be increased, however new development, including multi dwelling developments will need to ensure adequate private open space and garden plantings are provided. Enhancement of the front garden character, including increasing canopy tree plantings. Front fences will be low or absent, allowing for views into front gardens.'

New developments will minimise the need for additional crossovers to the street and have a positive street interface to ensure strong passive surveillance is achieved. Building to both side boundaries will generally be avoided, however may be considered where the preferred character of the precinct is not compromised. Garages and carports that do not visually dominate dwellings or streetscapes are encouraged and should be recessed from the front building line, or located to the side or rear of the dwelling. Innovative and unique development that enhances the character of the precinct is encouraged, however new development located in close proximity to dwellings that exhibit historical architectural styles should ensure built form complements these dwellings'.

Discussion

The proposal presents challenges as it seeks to convert a recently constructed building designed as offices to dwellings. The building which has been built to the property boundaries has not been designed to allow for easy conversion to dwellings. The proposal fails several standards of Clause 55, Rescode and has an inability to achieve compliance given the location of the building on the land and the extent of hard surface paving.

From a character perspective, the building has a commercial feel and lacks several of the design elements expected within a current day residential building. The unarticulated wall surfaces and the lack of mixed building materials will represent a poor example of new medium density housing dwellings.

The key failing of this development project is the amenity provided for future residents.

Unit 1 has bedroom and living spaces adjacent the street frontage and the pedestrian footpath. To maintain privacy, blinds will need to be lowered thereby preventing natural light into habitable room spaces. Unit 1 also has no private open space and no balcony and is unable to meet the recreational needs of future residents. This dwelling fails to comply with the minimum requirement of Rescode standard B28, Private Open Space. The dwelling will have poor internal amenity.

Units 2-7 have one of their two bedrooms without an opening window. Their only light source is via glass bricks that form the western boundary wall. There is no natural ventilation into these bedrooms. Units 2-7 also have a first floor balcony however they are enclosed by walls with light and air achieved from a void of any roof above the space. This is a poor planning outcome as balconies should provide a space that meets recreational needs of residents and can have a positive outlook from a living area to a dwelling. These open spaces due to the surrounding walls will be completely overshadowed all day further reducing internal amenity.

The proposal of course fails the permeability standard of Rescode due to the large extent of hard stand areas which cannot be reduced due to the location of the common accessway and the on site car spaces. There are limited opportunities for landscaping which will be small plantings at the end of the car parking bays. There are no front setback landscaped areas and no trees are able to be planted. The lack of landscaping treatments also fails to comply with the objectives of the Design & Development Overlay Schedule 10.

With the absence of storage sheds or garage spaces, bins are provided within a bin room located next to Unit 10. This communal room and adjacent toilet is located next to the bedroom of Unit 10 which can be subject to noise and smells from waste materials. Unit 1 is subjected to noise impacts by having its habitable rooms adjacent to the street frontage.

The proposal cannot provide the required two visitor car spaces under Clause 52.06. The office use had a reduction to the standard car parking rate approved under Planning Permit 2015-294. While providing adequate parking for residents, the applicant has not addressed the car parking demand by visitors and a shortfall for communal visitor parking will place pressure on the availability of on street parking spaces.

Overall, the constraints of the existing building which has only been recently constructed and does not have opportunities for a complete re-model has not allowed for a dwelling conversion to achieve the minimum standard of amenity expected in new development which has created numerous non compliances with the standards of Rescode.

General Provisions

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

- 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.

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 proposed development plan.

Authority	Response
Melbourne Water	Consent with one condition
Infrastructure	Consent with no new conditions

Financial Implications

The recommendation to not support the application would not represent any financial implications to Council. Should Council consider supporting this application, then VCAT would need to be notified and objectors would have the right for appeal.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

Options

An alternative recommendation would be to support the application subject to standard condition and accordingly notify VCAT of Council's decision.

Supporting the application may result in the objectors lodging an application with VCAT.

Conclusion

The proposal is considered to only partially comply with the broad objectives of the State and Local Planning Policy Framework, the Mixed Use zone provisions, and the Design & Development Schedule 10 provisions.

The construction of 10 dwellings within a building designed for offices fails most of the standards of Rescode demonstrating that sub-standard accommodation will be provided and a low level of amenity will be afforded to future residents. The Rescode standards seek to achieve an acceptable level of design and amenity and several non-compliances are indicative of a poor development response. The applicant is unable to undertake a complete rebuild of the site or significant modifications as the building has only recently been constructed and has not been used at this point in time for offices.

The applicant is also unable to provide all of the required visitor car parking and there is no additional land for a visitor car space. The applicant has not provided any justification for a reduction of the standard car parking requirement.

The proposal represents an overdevelopment of a small parcel of mixed use land without a proper consideration of residential amenity for future residents.


Resolution:**Crs. Dudzik/Keogh**

That, having considered all matters as prescribed by the Planning and Environment Act, Council advises VCAT that it would not support planning application number 2016-282 for the construction of ten dwellings and to waive the visitor car space at Lot 2 on LP143683 known as 32 Grant Street, Bacchus Marsh with the following Statement of Grounds:

- 1. The proposed layout and design of the dwellings does not provide for an adequate level of internal amenity.***
- 2. The proposed development does not comply with Rescode standard B1 (Neighbourhood Character), B6 (Street setback), B9 (Permeability), B10 (Energy Efficiency) B13 (Landscaping), B17 (Side and Rear Setbacks), B18 (Walls on Boundaries), B24 (Noise Impacts), B25 (Accessibility) B27 (Daylight to New Windows), B28 (Private Open Space), B29 (Solar Access to Open Space), B30 (Storage), B31 and (Design Detail).***
- 3. The applicant has not provided a justification for not complying with the standards of Rescode (Clause 55 of the Moorabool Planning Scheme).***
- 4. The proposed development does not comply with the State Planning Policy Framework and Local Planning Policy Framework with regards to providing well designed medium density housing.***
- 5. The proposal development does not comply with the objectives of the Design & Development Overlay Schedule 10 with regards to landscaping treatments including canopy trees in the front setback area.***
- 6. The applicant has not demonstrated adequate justification for the waiver of the visitor car space under Clause 52.06 of the Moorabool Planning Scheme.***
- 7. The proposed does not represent the orderly planning of the area.***

CARRIED.

Report Authorisation**Authorised by:**


Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 13 July 2017

Cr. Sullivan returned to the meeting 6.12pm.

Consideration of Presentation

Ms. Julie Lancashire addressed Council on behalf of the proponent to Planning Scheme Amendment C76 and as a supporter of Agenda recommendation.

The business of the meeting then returned to the agenda.

11.2.4 Planning Scheme Amendment C76 (Moorabool Agribusiness Industrial Area) – Adoption of Amendment

File No.: 13/06/080
Author: Rod Davison
General Manager: Satwinder Sandhu

Executive Summary

This report considers the Planning Panel's report relating to Amendment C76.

Amendment C76 is a proponent initiated amendment which seeks to effectively swap an Industrial 1 Zoned (IN1Z) parcel of land in Parwan, south of Bacchus March, with another larger parcel of land immediately to the south. Amendment C76 also seeks to apply the Development Plan Overlay Schedule 1 (DPO1) to the new IN1Z and remove the DPO1 from the previously zoned industrial land.

The proponent has indicated its intention to use and develop the subject land for an abattoir and rendering plant, however, Amendment C76 is not contingent on these particular projects and no permit application has been lodged.

The subject land is located within the proposed Parwan Employment Precinct (PEP), the detailed planning for which will occur in future.

The amendment was exhibited for a period of seven weeks in late 2016 / early 2017. A total of ten submissions were received, including one substantive objection and a number of other submissions that provided comments and suggested changes. The objection goes to the strategic justification for the amendment, whether it is premature or not, the zone sought and a range of other issues. One submitter, Western Water, sought to protect its waste water treatment plant asset through the amendment.

A Planning Panel was appointed to consider the submissions via a public hearing. The Panel concluded that there are no substantive impediments to the amendment's adoption and that it should proceed.

Consistent with the Panel's report, it is recommended that Council:

- Adopt Amendment C76 as exhibited, subject to updating the Development Plan Overlay Schedule 1 as shown in Attachment 1 to this report; and
- Submit Amendment C76 to the Minister for Planning for approval.

It is also recommended that, prior to Amendment C76 being approved by the Minister, Council should enter into two agreements with the owners of the subject land pursuant to section 173 of the *Planning and Environment Act 1987*, and apply to have the agreements registered on title. The purpose of the draft agreements is to ensure the provision of developer funded outfall drainage works, and road and drainage infrastructure projects within the general vicinity of the subject land, the provision of drainage easements, and the payment of a 'development infrastructure levy' for general infrastructure works.

Introduction

Subject Site and Surrounds

The amendment affects land known as Geelong-Bacchus Marsh Road Parwan (described as PC362391) and 3922 Geelong-Bacchus Marsh Road Parwan (described as Lots 1 and 2 TP188461, Lot 1 TP253271 and Lot 1 TP175583).

The subject site is located approximately 5.5 kilometres south of the Bacchus Marsh urban area. The land has a total area of 308 hectares and has frontages to the Geelong-Bacchus Marsh Road, Nerowie Road and Parwan South Road, of 2.28 kilometres, 1.90 kilometres and 1.48 kilometres respectively.

The land described as PC362391 is currently within the IN1Z, and is vacant farming land. The land at 3922 Geelong-Bacchus Marsh Road is currently within the FZ, and is farming land containing an old weatherboard dwelling and sheds. The topography is mildly undulating with a number of depressions which contain remnant wetlands.

The surrounding land is generally within the FZ and used for agriculture, with the exception of the following:

- Bacchus Marsh Aerodrome (FZ) – located to the west of Geelong-Bacchus Marsh Road;
- Sir Jack Brabham Park (speedway) (Comprehensive Development Zone Schedule 1) – located immediately to the east of the subject site (east side of Parwan South Road);
- Parwan Recycled Water Plant (Public Use Zone 1) – located immediately to the north-east of the subject site (east side of Parwan South Road);
- Thelma Ross Memorial Uniting Church (FZ) - located immediately to the south of the subject site (south side of Nerowie Road).

Geelong-Bacchus Marsh Road is an arterial road within the Road Zone Category 1. Nerowie Road is within the Road Zone Category 2.

What the Amendment Does

Amendment C76 seeks to make the following changes to the Moorabool Planning Scheme:

- Rezones PC362391Y from IN1Z to FZ.
- Rezones 3922 Geelong-Bacchus Marsh Road Parwan from FZ to IN1Z.
- Deletes DPO1 from PC362391Y.
- Applies DPO1 to Lots 1 and 2 TP188461.
- Amends Clause 21.01 to introduce the Moorabool Agribusiness Industrial Area as a key economic development opportunity for Bacchus Marsh.
- Amends Clause 21.04 to insert the Moorabool Agribusiness Industrial Area as a new strategy to achieve Clause 21.04-4 – industry objective.
- Amends Clause 21.07 to insert the Moorabool Agribusiness Industrial Area as a new strategy for accommodating township growth and updates the Bacchus Marsh Framework Plan to show the Moorabool Agribusiness Industrial Area.
- Amends DPO1 to facilitate the future development of Lots 1 and 2 TP188461 for industrial uses associated with agribusiness.

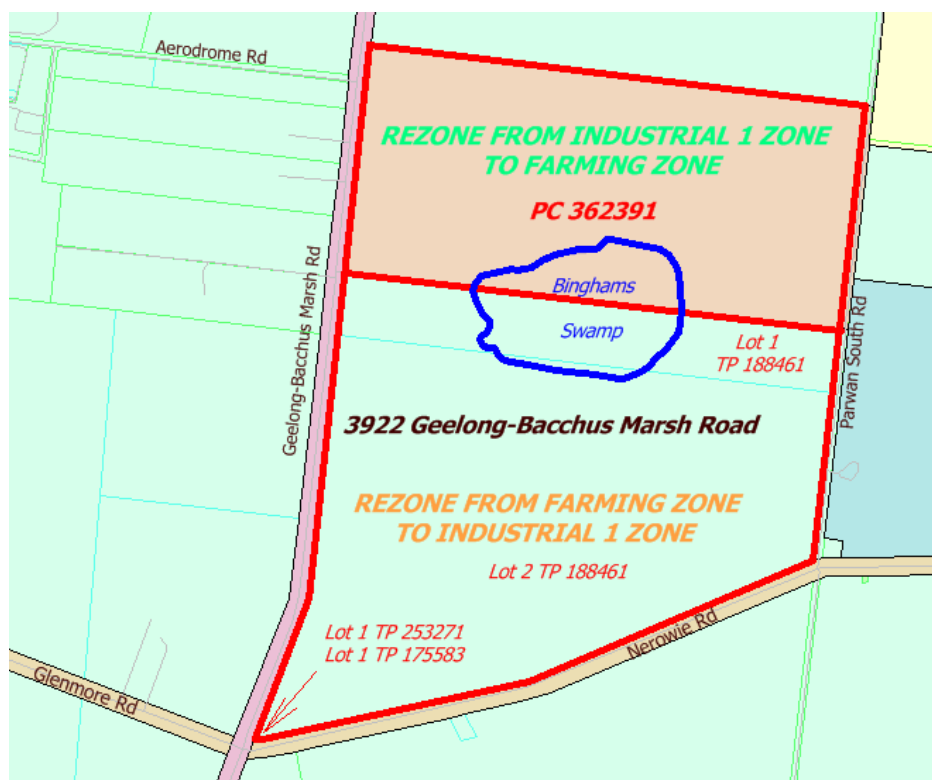


Figure 1: Land affected by the Amendment

Background

In accordance with section 8A(1) of the *Planning and Environment Act 1987*, Moorabool Shire Council is a planning authority for the Moorabool Planning Scheme.

On 10 September 2014, L & G Failli (represented by Urban Design and Management) requested Council prepare an amendment to rezone PC362391Y from IN1Z to FZ and to rezone 3922 Geelong-Bacchus Marsh Road Parwan from FZ to IN1Z.

Authorisation of Amendment C76

At its Ordinary Meeting on 3 December 2014, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C76 to the Moorabool Planning Scheme. On 6 February 2015, Council was granted authorisation by the Minister to prepare and exhibit the Amendment.

Public Exhibition Process

Amendment C76 was exhibited in accordance with the provisions of the *Planning and Environment Act 1987* from 24 November 2016 to 13 January 2017.

A total of ten submissions were received, eight of which were from agencies. Four submissions support the Amendment, one submission supports the Amendment subject to changes, four submissions make comments on the Amendment and one submission objects to the Amendment.

Consideration of Submissions

The key issues raised in relation to the Amendment include:

1. Strategic planning process;
2. Proposed planning controls;
3. Industrial land supply and demand;
4. Transport / traffic;
5. Infrastructure levies;
6. Environmental / amenity Impacts;
7. Bacchus Marsh Aerodrome.

At its Ordinary Meeting on 1 March 2017, Council resolved to request the Minister for Planning to appoint a Planning Panel to hear submissions regarding the Amendment.

A Directions Hearing was held on 3 April 2017, followed by a Panel Hearing on 1 June 2017. Both hearings were held at the Lerderberg Library in Bacchus Marsh.

A full copy of the Panel report is included in Attachment 2. The Panel did not specifically address the following matters, as it was considered they have been addressed satisfactorily or can be managed through the development process:

- Traffic; noting the expert evidence from Traffix Group and the agreed changes to the DPO Schedule 1 as shown in Attachment 1.
- Minor wording changes to DPO1 related to CASA
- Development contributions; noting that in the short term a section 173 agreement is proposed and longer term integration with the Precinct Structure Plan (PSP) development contributions scheme will be needed.

The Panel report discusses the remaining key issues under the following headings:

- The buffers to the Parwan Recycled Water Plant (RWP); and
- The matters raised in the objecting submission (submission 8) including:
 - strategic justification for the Amendment;
 - is the Amendment premature; and
 - the appropriateness of the proposed zone.

The Panel's consideration of these matters is detailed in the following extracts from the Panel report:

Buffers to the Parwan Recycled Water Plant

The Issue:

“Western Water owns and operates the Parwan RWP that treats waste water from Bacchus Marsh and surrounds. The nearest treatment ponds in the RWP are just over 1 kilometre north east of the subject site boundary.

The population serviced by the RWP is expected to grow from 23,165 people today to 41,681 in 2036. Western Water wish to protect buffers to the facility for the long term; particularly related to odour.”

Submissions:

“Western Water submitted that it did not object to the Amendment but consider that planning policy supports the retention of a buffer to the RWP; and that this buffer should be retained in the farming zone.

Western Water submitted that it was not opposed to projects such as the abattoir and other co-located industries but had concerns about other uses establishing in the industrial zone that may introduce significant numbers of employees with amenity expectations.

Western Water's fundamental concern is that increasing complaints from nearby land could lead to pressure to relocate the RWP; a cost to be borne by the community. It submitted an Environmental Significance Overlay (ESO) could be applied around the RWP to protect the buffer as is happening at other treatment plants.

Western Water submitted that the EPA Publication 1518 is appropriate for calculating buffers to the RWP.

In its submission, Council outlined the approach to buffer issues in the zone controls (including amenity for as-of-right uses and permit requirements) and the approach to identifying buffers in the DPO urban design masterplan. Council also submitted that the proposed DPO be amended to include the following:

A Parwan Recycled Water Plant Impact Assessment Report consistent with the requirements of the State Environment Protection Policy (Air Quality Management) and prepared in consultation with Western Water and the Environment Protection Authority that includes:

- An odour assessment for the proposed abattoir and rendering plant, that gives due consideration to cumulative impacts due to the proximity of the Parwan RWP and other nearby odour generating sources.*
- Buffer areas around the Parwan RWP, abattoir and rendering plant, that take into account both the current and future expected populations, designed in accordance with the relevant EPA guidelines on separation distances. (N.B. Multiple odour generating sources may impact upon a larger area, thereby requiring larger buffer distances.)*

The Proponent in its oral submissions noted that it understood Western Water's position but sought to allay its concerns in that the occupiers of the industrial estate would not be classified as a sensitive use and would not have any special amenity protection. The Proponent also noted that the ESO approach to a buffer to the RWP was probably appropriate.

The Proponent, however, objected to the text proposed in the DPO by Council on the grounds that:

- In relation to the first dot point, an odour assessment for the abattoir and rendering plant would likely be required at the permit stage and was not appropriate in the DPO.*
- The second dot point is unnecessary and not appropriate for the DPO, and such buffers if required would be to sensitive uses."*

Discussion and Conclusion:

"In principle, the Panel accepts that protection of important community infrastructure such as wastewater treatment plants is supported in policy and will often weigh heavily in the consideration of net community benefit required in planning schemes.

There are numerous recent examples where such plants have had the ESO applied to buffers to ensure that sensitive uses do not unduly encroach and apply the type of pressure to relocate identified by Western Water.

There are a number of significant characteristics of this Amendment however that mitigate against the need to impose particular buffer requirements on the proposed IN1Z land. As noted by Mr Cicero for the Proponent, the foundation of buffer principles, and as articulated in EPA Publication 1518, is that industrial uses are to be separated from sensitive uses. By definition, the uses in the proposed agribusiness industrial area will be industrial rather than sensitive uses. Even if the industrial area does attract a significant number of employees, their right to amenity protection is considerably less than people in, for example, a residential zone (residential being a sensitive use).

None of this mitigates against the need for the RWP, and new industries on the subject site, to contain their emissions on site and operate in accordance with best practice. If upset conditions occur as envisaged by EPA Publication 1518 on the industrial site or the RWP, it is sensitive uses that need to be protected rather than industrial.

The Panel has reviewed the proposed additions to the DPO as shown above and agrees with the Proponent that they should not be applied. The primary relevant purpose of the DPO is:

To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.

Buffer considerations are already required at a general level in the Urban Design Masterplan in DPO1. The first dot point of the proposed addition requires assessment of an application that has not been made, and is not part of this Amendment. If and when the abattoir and rendering plant are brought forward, then appropriate odour assessment will be made at that time, including consideration of the existing odour environment.

In addition, the Panel is not convinced that consideration of 'cumulative impacts' of odour is appropriate. The RWP and any industrial uses will be required to retain emissions on-site, so in theory cumulative impacts would require upset conditions to be occurring on multiple sites at once. The Panel accepts that odour interactions can be complex, but they are not necessarily additive in terms of the buffer required; the source of any unacceptable odour will need to be investigated and the source identified.

In relation to the second dot point, the Panel considers that the identification of buffers for the RWP is a task for Western Water; it needs to identify and delineate such buffers as necessary as has occurred at other wastewater treatment plants. It should not be a requirement for the proponent of this Amendment.

Buffers around the industrial estate and the RWP should be an important consideration in the broader landscape scale planning to be undertaken with the VPA for the wider Parwan Employment Precinct.

The Panel concludes that buffers are not an impediment to the Amendment. The Panel has recommended deleting the text related to the Parwan RWP

Submission 8

The Issue:

“One submitter (submitter number 8) questioned whether the Amendment has strategic support within the Moorabool Planning Scheme; whether it is premature and whether the appropriate zone is proposed.”

Evidence and Submissions:

“The original submission (i.e. submission number 8)..... raised a number of strategic planning issues. In response to other submissions, (submitter number 8) made another written submission dated 3 April 2017 as he was not able to attend the Hearing due to commitments overseas. In summary (submitter number 8's) issues were:

- the Amendment is premature and lacks strategic support*
- master planning and/or structure planning should occur prior to the Amendment being approved*
- the IN1Z is inappropriate and may allow a range of non-agribusiness uses; the Special Use Zone (SUZ) should be preferred*
- there is limited demand for industrial land in Bacchus Marsh/Parwan and there is adequate industrial land adjacent to the CSR site and the Maddingley Coal Mine*
- Council's Moorabool Industrial Areas Strategy Report 2015 (MIAS) is adopted by Council but does not form part of the planning scheme; similarly the case for the Moorabool Shire Economic Development Strategy (October 2015)*
- There is considerable previous Panel scepticism about industrial development in this area.*

In relation to the MIAS and economic development strategy, the Panel notes they are not in the planning scheme but considers they are still useful background information that inform the Amendment; and they have been adopted by Council with the status that conveys.

In response to the submission, Council advised that it considers the Amendment is not premature and is supported by a 'host' of strategic work. In its Part A submission it detailed at length the strategic documents said to support the Amendment and highlighted the relevant clauses of State and Local policy.

At the Hearing, Council emphasised that the Amendment is consistent with the Central Highlands Regional Growth Plan (CHRGP) which identifies the Parwan area as likely suitable for employment and agribusiness opportunities. Council stressed at the Hearing that the need is not only for more industrial land in the Shire long term, but for a greater diversity of industrial land.

It submitted that whilst there is significant further planning to be undertaken with the VPA, this is of itself not a reason to hold up the Amendment as the approach to the site is broadly consistent with the broader planning framework being prepared.

In its written submission, the VPA noted that the Urban Growth Framework (UGF) is under preparation for Bacchus Marsh and reinforced that the Parwan area is considered a future employment hub by the State government. It indicated that the future Parwan Employment Precinct (PEP) will likely require the preparation of a Precinct Structure Plan (PSP) including for facilitating development contributions.

The VPA acknowledged that the proposed zones (IN1Z and FZ) were broadly consistent with the employment hub concept but that there will be a number of technical issues to be resolved including the zoning within the larger PSP area, and ensuring use and development allowed for through the Amendment can be integrated with broader future PEP/PSP planning.

In relation to zone selection, Council acknowledged there is a 'live debate' as to whether the IN1Z or another zone, and particularly the SUZ, should be used. Council submitted that (submitter number 8) was assuming that the land will be used exclusively for agribusiness; while Council considers the IN1Z is more appropriate to allow related industrial uses to the proposed agribusiness abattoir and rendering works.

Council submitted that while a suitably tailored SUZ could be applied, it considers the IN1Z is appropriate.

In relation to the supply of existing industrial land and particularly the CSR and Maddingley Coal areas, Council relied on the MIAS Update of 2017 prepared by SGS. In particular it relied on the MIAS Update in submitting that the industrial land supply picture has changed; a predicted 152.9 hectare surplus of industrial land in 2051 is now predicted to be a 27.9 hectare deficit by 2051.

Council submitted:

The SGS analysis identified limitations to the existing industrial precincts. They concluded an alternative type and location is required and ought be complementary to the existing supply of industrial land. This is required if Moorabool is to broaden and diversify its industrial market in the long term.

The Proponent noted the extensive strategic work that has been done by Council in support of the Parwan area and the Amendment in recent years. It concluded that:

... there should be no doubt that the Amendment is underpinned by sound strategic work that is recent, contemporary and forward thinking.

In relation to whether the Amendment is premature in the face of precinct planning, the Proponent submitted that the underlying future for the land is clear and its future as an employment precinct is clearly laid out in policy.

The Proponent noted the evidence of Mr Fleming that the application of the standardised zone (IN1Z) was preferred over a specialised zone, and the vast majority of agribusiness uses could be accommodated within the IN1Z.

The Proponent also noted that the Amendment effectively 'swaps' one area of existing IN1Z for another next door; the net increase is not significant when conservation reserves are taken into account.

The evidence of Mr Fleming for the Proponent and Mr Szafraniec for Council was generally consistent with the above views and was not challenged by any party. Mr Szafraniec was of the view that a minimum subdivision lot size of 2,000 – 6,000 square metres should be considered to maintain larger lots sizes that would be a competitive feature of the precinct.

Council suggested wording accordingly and this was accepted by the Proponent. It is shown in Clause 2.0 of DPO1 in” Attached.

Discussion and Conclusion:

“From (Submission number 8) and a review of the relevant Panel reports and other material, the Panel accepts that there has been a long and complex planning history for future employment/industrial land use in the Parwan area. Essentially however, the Panel considers the three key issues are:

- Is there strategic support for industrial use and development in this area?*
- Should the Amendment proceed at this time in advance of precinct planning?*
- Is the proposed zone appropriate?*

On the first issue, the Panel is satisfied on the material before it that the broad future of the Parwan area is settled. The State, through the VPA and Council, is pursuing a significant industrial/employment precinct with the support of State and Local Policy. In material sighted by the Panel, such as the Bacchus Marsh UGF brochure from February 2017, it is clear that the likely future for most of the area south of Bacchus Marsh around the airfield and RWP, including the subject land, is earmarked at a high level for employment land. The detail of this may change but the Panel considers it highly unlikely there will be a

significant change in direction at this point to, for example, residential. On the information available, the Panel is also satisfied that there will not be a material oversupply of industrial land long term, and the different product offering at Parwan compared to the other industrial areas will be an advantage for Bacchus Marsh and Moorabool.

The second issue, and noting that detailed planning through a PSP process is to come, is whether the rezoning of this land will compromise planning for the site or broader area. The Panel does not consider that it will. The Amendment is on the southern edge of the PEP land, importantly the most removed of the PEP land from the Bacchus Marsh urban area, a benefit in terms of possible emissions from agribusiness and other IN1Z uses. The Panel notes the VPA has not objected in principle and assumes that if it had fundamental concerns, or thought the Amendment should be delayed, then they would have said so. The Panel also notes the submissions that if the Amendment does not proceed, there is still a large parcel of IN1Z land extant in the vicinity.

The PSP process will need to consider the detailed planning and linkages for the site into the broader precinct and eventual zoning framework, but the Panel does not consider that this suggests the Amendment should be delayed or abandoned.

Lastly, the issue of whether the IN1Z, SUZ or another zone may be more appropriate needs to be considered. The Panel is satisfied that the more general IN1Z is appropriate. This will allow for 'anchor' agribusiness use in the abattoir and rendering plant but also complementary uses, both agribusiness and other. To 'lock down' the possible uses to agribusiness only would seem to be an artificial and unnecessary constraint to possible future use. The risk with using the more general zone (IN1Z) is that if the agribusiness proposals being discussed do not proceed, then a general industrial estate may result. This is no greater risk than occurs with the existing IN1Z area and if a general industrial estate did occur it would be meeting an obvious need as determined by the market at the time.

Ultimately if a more fine-grained direction for specific sectors of industrial use is desired in the PEP, it can be addressed through the PSP process.

The Panel concludes that the Amendment is strategically justified and should proceed."

Policy Implications

The 2017 - 2021 Council Plan provides as follows:

Strategic Objective 3:	Stimulating Economic Development
Context 3B:	Investment & Employment
Action:	Facilitate Parwan Employment Precinct planning and marketing.

The proposed changes to the planning scheme are consistent with the 2017-2021 Council Plan.

Financial Implications

Amendment C76 is a proponent led amendment. Council incurred costs of approximately \$18,000 to hire legal representation to facilitate resolution of policy issues during the Panel process, together with approximately \$5,000 to engage an economist to prepare an expert witness statement (land supply and demand analysis). The proponent has paid the Planning Panel fees and will be responsible for paying the statutory fees associated with the Minister's consideration of the amendment for approval.

Risk & Occupational Health & Safety Issues

In addition to exhibiting the planning scheme amendment documentation, Council also exhibited two draft agreements pursuant to section 173 of the *Planning and Environment Act 1987*. The purpose of the draft agreements is to ensure the provision of developer funded outfall drainage works, and road and drainage infrastructure projects within the general vicinity of the subject land, the provision of drainage easements, and the payment of a 'development infrastructure levy' for general infrastructure works.

The *development infrastructure levy* is based on an overall contribution of \$500,000, being a figure that was negotiated between the landowner and Council senior management. As discussed in the report to the Ordinary Meeting of Council on 1 March 2017, there is a risk that the *development infrastructure levy* may result in underfunded infrastructure, with costs being passed on to ratepayers.

It is likely that the PEP will be the subject of a future PSP, with an accompanying Development Contributions Plan (DCP) or Infrastructure Contributions Plan (ICP) applying to the broader precinct.

As per Council's resolution of 1 March 2017, it is recommended that the draft section 173 agreement relating to 3922 Geelong-Bacchus Marsh Road (i.e. the proposed IN1Z land) be amended to include a sunset clause under Clause 15 (Ending of Agreement), in respect to the *development infrastructure levy* under Clause 4. Upon any future DCP or ICP being incorporated into the planning scheme via an overlay (i.e. DCPO or ICPO), the *development infrastructure levy* under the section 173 agreement would discontinue.

Any planning permit issued thereafter would be required to include any conditions required to give effect to any DCP or ICP levies set out in the relevant schedule to the overlay.

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Financial – Inadequate funds to provide external infrastructure	Inadequate financial management	High	Amend the draft s173 agreement relating to 3922 Geelong-Bacchus Marsh Road, to include a sunset clause in respect to the <i>development infrastructure levy</i> .

Communications and Consultation Strategy

The amendment was exhibited in accordance with the *Planning and Environment Act 1987*. A Planning Panel was appointed by the Minister for Planning to consider submissions to the amendment via a public hearing.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Rod Davison

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

Conclusion

It is proposed that Council adopt Planning Scheme Amendment C76 with changes from the exhibited amendment to accord with the recommendations of the Planning Panel.

Recommendation:**That Council:**

1. Having considered the recommendations of the Planning Panel's Report regarding Moorabool Planning Scheme Amendment C76, pursuant to Section 27 of the *Planning and Environment Act 1987*, accept the recommended changes to the Development Plan Overlay Schedule 1.
2. Pursuant to Section 29 of the *Planning and Environment Act 1987*, adopt Amendment C76 in accordance with the documents included in Attachment 1 to this report.
3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, submit the adopted amendment, together with the prescribed information, to the Minister for Planning for approval.
4. Prior to the approval of Amendment C76:
 - a) Enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987*, with the owner of PC362391 (i.e. the proposed FZ land) generally as exhibited;
 - b) Enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987*, with the owner of 3922 Geelong-Bacchus Marsh Road (i.e. the proposed IN1Z land), generally as exhibited but with the addition of the following under Clause 15 (Ending of Agreement):

“Clause 4 of this Agreement ends if a Development Contributions Plan as referred to within Part 3B of the Act or an Infrastructure Contributions Plan as referred to within Part 3AB of the Act and which applies to the whole of the Subject Land is incorporated into the Planning Scheme.”
 - c) Apply to the Registrar of Titles to have the agreements registered on title.

Resolution:**Crs. Sullivan/Keogh****That Council:**

1. ***Having considered the recommendations of the Planning Panel's Report regarding Moorabool Planning Scheme Amendment C76, pursuant to Section 27 of the Planning and Environment Act 1987, accept the recommended changes to the Development Plan Overlay Schedule 1.***
2. ***Pursuant to Section 29 of the Planning and Environment Act 1987, adopt Amendment C76 in accordance with the documents included in Attachments 11.2.4(a-h) to this report.***
3. ***Pursuant to Section 31 of the Planning and Environment Act 1987, submit the adopted amendment, together with the prescribed information, to the Minister for Planning for approval.***
4. ***Prior to the approval of Amendment C76:***
 - a. ***Enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987, with the owner of PC362391 (i.e. the proposed FZ land) generally as exhibited;***
 - b. ***Enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987, with the owner of 3922 Geelong-Bacchus Marsh Road (i.e. the proposed IN1Z land), generally as exhibited but with the amended wording under Clauses 4 and 15 of the Agreement as highlighted in GREY below.***

Under Clause 4 (Payment of Development Infrastructure Levy):

"The Owner agrees that:

- ***the Owner must pay the Development Infrastructure Levy to Council which is intended to be put by Council towards the General Infrastructure Works;***
- ***a permit granted must include conditions that give effect to the Development Infrastructure Levy;***
- ***the Development Infrastructure Levy must be paid:***
 - ***where there is a subdivision of the Subject Land and that part being subdivided has not previously paid a contribution in accordance***

with this Agreement, then in respect of the number of hectares or part of a hectare of the Subject Land in the subdivision or a Stage, before the issue of a Statement of Compliance in respect of that subdivision or that Stage; or

- o ***where there is buildings and works but no subdivision, and the part of the Subject Land on which the buildings and works are proposed has not paid a contribution previously in accordance with this Agreement, then, prior to the issue of any Certificate of Occupancy in which case the Development Infrastructure Levy must be paid in respect of each hectare of land encumbered by buildings and associated car parking, landscaping areas, loading areas, access driveways and storage areas to which the Planning Permit applies.”***

Under Clause 15 (Ending of Agreement):

“This Agreement ends in its entirety when the Subject Land has been fully developed as evidenced by the issue of a statement of compliance for the plan of subdivision relevant to each part of the Subject Land.

Clause 4 of this Agreement ends after a period of ten years from the date of this Agreement if any plan of subdivision has not been certified and a Development Contributions Plan as referred to within Part 3B of the Act or an Infrastructure Contributions Plan as referred to within Part 3AB of the Act and which applies to the whole of the Subject Land has been incorporated into the Planning Scheme.

Once this Agreement ends as to part or the whole of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under Section 183(2) of the Act to cancel the recording of this Agreement on the register as to the relevant part of the Subject Land.

On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under Section 183(2) of the Act to cancel the recording of this Agreement on the register.”

- c. ***Apply to the Registrar of Titles to have the agreements registered on title.***

CARRIED.

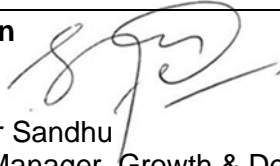
Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager, Growth & Development

Date: 19 July, 2017



Consideration of Presentation

Mr. Mark Havryluk addressed Council on behalf of Melbourne Metro Rail Authority and as a supporter of the Agenda recommendation.

The business of the meeting then returned to the agenda.

11.2.5 Ballarat Line Upgrade – Proposed Submission of Support

Introduction

File No.: 13/06/082
Author: Geoff Alexander
General Manager: Satwinder Sandhu

Background

Melbourne Metro Rail Authority (MMRA) are developing and delivering the \$518m Ballarat Line Upgrade project.

The Ballarat Line Upgrade project will improve the rail line between Deer Park West and Ballarat, increasing the number of services on the Ballarat line and increasing train frequency and reliability. Major construction will commence in early 2018.

The following permanent works are proposed in the railway corridor in Moorabool Shire:

- Removal of overnight stabling facility at Bacchus Marsh station
- Construction of a second platform at Bacchus Marsh station, providing a pedestrian link between the original and new platforms, and sealed car parking area
- Construction of new train stabling and driver facilities at Kerrs Road, Maddingley
- Construction of approximately 5km of crossing loop situated either
 - From Ingliston Road to approximately 2 km west of Ballan station; or
 - From Ballan station to just west of the East Moorabool River crossing
- Construction of a second platform at Ballan station and a pedestrian link between the original and new platform
- Construction of a new approximately 4 km crossing loop between Moorabool River and Old Melbourne Road
- Duplication of approximately 3 km of rail east of Warrenheip Road, Warrenheip.

Some private land adjoining the railway corridor has been identified for temporary construction works during the delivery of the project.

Draft Planning Scheme Amendment GC69

MMRA has produced draft Planning Scheme Amendment GC69, which includes a draft Incorporated Document for inclusion in the Melton and Moorabool Planning Schemes for the project alignment.

The incorporated document proposes to switch off the need for planning permission from Council and will replace the need for permission with requirements for a number of assessments. In addition, the document will switch off the need for planning permission to use certain areas of private property in proximity to the rail line for certain purposes during the construction process. Works must comply with the Environmental Management Framework that includes Environmental Performance

Requirements to be approved by the Minister for Planning. Using an Incorporated Document instead of seeking individual planning permits is an established method for planning approval of major projects on linear corridors. This recognises the state significance of the project.

It is understood that the rail authority has consulted with land owners and has taken into account land owner concerns regarding the future use of their land.

MMRA has requested the Minister for Planning use his powers under Section 20(4) of the *Planning and Environment Act 1987* to amend the relevant planning schemes to insert the Incorporated Document and to exempt himself from the exhibition and notice requirements in Sections 17, 18 and 19 of the *Planning and Environment Act 1987*.

Proposal

MMRA has requested that Council write to the Minister for Planning in support of both the project and the proposal to process Amendment GC69 under Section 20(4) of the *Planning and Environment Act 1987*.

The Ballarat Line Upgrade supports the Municipal Strategic Statement (MSS) at Clause 21.01-2, where the MSS specifically recognises improving public transport along the Melbourne - Ballarat railway to support future growth. It further supports the MSS at Clause 21.05-1, where that Clause recognises the important role of public transport for travel within and through the municipality, especially to both Melbourne and Ballarat.

Nonetheless the incorporated document switches off planning permit triggers when using particular private land for certain purposes during construction. It is considered appropriate for the rail authority to continue to consult with relevant land owners, to hear and address their concerns, should the use of private land change from that expressed during the preliminary consultation process.

Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective:	Stimulating Economic Development
Context:	Investment & Employment
Action:	Advocate for improved Ballarat Line rail and integrated public transport outcomes through the Ballarat Line Action Committee (BRAC)

The Ballarat Line Upgrade is consistent with the Council Plan 2017-2021.

Financial Implications

There are no financial implications for Council associated with the Planning Scheme Amendment, including the draft Incorporated Document.

Risk & Occupational Health & Safety Issues

There are no identified Risk and Occupational Health and Safety Issues identified from expressing support for the proposed project.

As a major project, there may be risks for the actual project but it is not Council's responsibility to identify the totality of risks from the project.

Communications and Consultation Strategy

Throughout the design and development phase of the Ballarat Line Upgrade, MMRA has engaged with the community, agency stakeholders and relevant local councils. MMRA has met land owners and occupiers proposed to be impacted by temporary construction sites for the project, and established ongoing discussions with those parties. MMRA has obtained the support of VicTrack, as owner of railway land in Victoria, in respect of the amendment.

Draft documents for the planning scheme amendment have been previously provided to Council officers for review and comment. No major issues were raised by officers in the drafting of Amendment GC69, including the draft Incorporated Document.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Geoff Alexander

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

Conclusion

The Ballarat Line Upgrade will improve the frequency and reliability of the Melbourne - Ballarat line, and improve the connectivity of the municipality. The proposed Draft Planning Scheme Amendment GC69, including the Incorporated Document, is considered justified. MMRA has undertaken suitable consultation with directly affected parties to support the Amendment.

Recommendation:

That Council write to the Minister for Planning in support of both the Ballarat Line Upgrade project, and in support of him using his powers under Section 20(4) of the *Planning and Environment Act 1987* to amend the relevant planning schemes, including the Moorabool Planning Scheme, with Amendment GC69 on the condition that the rail authority:

- a) **Has notified and sought to consult with all landowners directly affected by the incorporated document, heard their concerns and are working with landowners to address those concerns.**

Resolution:

Crs. Toohey/Tatchell

That Council;

- 1. write to the Minister and include Local Members of Parliament to suggest that a more wholesome consultation with the community be carried out in regards to the particular matters pertaining to the Bungaree loop.***
- 2. request that consideration be given to the importance of this community infrastructure both now and into the future particularly to service future growth and safe connectivity to the freeway and rail network servicing the community from Ballarat through Moorabool and Melton to Melbourne.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager, Growth & Development

Date: 26 July, 2017



11.3 SOCIAL AND ORGANISATIONAL DEVELOPMENT

11.3.1 2013-2017 Council Plan Actions Progress Report for 2016/17 Financial Year

Introduction

File No.: 02/02/002
Author: John Whitfield
General Manager: Danny Colgan

Background

The 2013-2017 Council Plan was revised and adopted by Council in June 2016. As part of the development of the framework of the Council Plan, Council determines appropriate actions which will support the framework, delivering agreed outcomes for the Community.

- The Council Plan outlines three key result areas (KRA) or main themes that guide new initiatives and continuing services these being: Representation and leadership of our community;
- Community Wellbeing; and
- Enhanced infrastructure and Natural and Built Environment.

Each KRA has a set of strategic objectives or desired outcomes with sets of strategies to be undertaken over the planned 4 years to achieve the objectives.

All Council actions aligned with the strategies are linked back to the Council Plan. The 2013-2017 Council Plan is reviewed annually with its final review adopted by Council in June 2016.

Discussion

The 2016/17 Council Plan Actions Fourth Quarter Progress Report contained in Attachment 11.3.1 shows each of the actions and their progress comments for the 2016/17 Financial Year.

Overall there are 32 actions with 17 actions being fully complete and 15 actions not completed. This represents an overall completion rate of 53%.

Of the incomplete Actions, 3 Actions have reached 90% or greater of their target for the period. A further 7 Actions have achieved between 60% and 90% of completion. 5 Actions remain at less than 60% of their target. The Actions still in progress will be rolled into the 2017/18 financial year and add to the Actions in the newly adopted Council Plan 2017-2021.

The following table summarises the status of the 2016/17 Council Plan Actions:

Key Result Area	Not Started	In Progress	Completed	Total
1. Representation and Leadership of our Community		6	3	9
2. Community Wellbeing		1	3	4
3. Enhanced Infrastructure and Natural Built Environment		8	11	19
Totals	0	15	17	32

Across a number of areas the Council's ability to complete Council Plan actions in 2017-18 has been impacted by position vacancies and staff illness.

To put some numbers to it, between March and June 2017 Council initiated both internally and externally, three times the amount of recruitment processes that would be usually undertaken in a 12 month period. This sometimes resulted in staff movement into other roles as in many instances internal employees were selected.

As well as the direct impact caused by a shortage of staff throughout the year, the many changes of positions had a secondary impact due to the time required to induct and train new staff.

Proposal

This report is to inform Council and the community on the progress of key Council Plan actions for the 2016/17 Financial Year.

Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective 1: Providing Good Governance and Leadership

Context 1C: Effective strategic and business planning for a growing community

Action 1: Legislative and Regulatory

Financial Implications

There are no financial implications from this report.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues in relation to this report.

Communications and Consultation Strategy

Specific projects may have their own communications strategy nevertheless this report will be displayed on Council's website and the annual progress will be reported in Council's Annual Report.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Danny Colgan

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

Author – John Whitfield

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

Conclusion

As outlined in this report and the comments made against Actions in the Attachment to this report, the 2016/17 financial year was a difficult one in a number of ways. A lack of staff resources was a major impediment to the completion of a number of the Actions within the 2013-2017 Council Plan (2016 Revision). It is now incumbent on staff to complete these Actions as soon as possible in the 2017/18 financial year.

Recommendation:

Cr. Sullivan/Dudzik

That Council receives 2013-2017 Council Plan Actions Progress Report for 2016/17 Financial Year.

CARRIED.

Report Authorisation



Authorised by:

Name: Danny Colgan

Title: General Manager Social and Organisational Development

Date: Friday 14 July 2017

11.4 INFRASTRUCTURE SERVICES

11.4.1 Capital Improvement Program Quarterly Report – June 2017

Introduction

File No.: 16/01/001
Author: Tristan May
General Manager: Phil Jeffrey

Background

The delivery of the Capital Improvement Program (CIP) is an important function of Council's operations and represents a significant portion of Council's overall expenditure. Accordingly, the status of the overall program is reported to Council every quarter.

Proposal

This quarterly report provides Council with an overview of the progress of Council's 2016/17 CIP to 30 June 2017.

Implementation of the 2016/17 Capital Improvement Program

The 2016/17 CIP consists of 70 projects, of which there are 11 projects which will be delivered by others and 6 that are inactive and cannot commence. As such, the table below reports on the 53 active projects in terms of percentage.

This list incorporates projects from various sources including but not limited to the following:

- Projects carried forward from 2015/16 program
- 2016/17 Council budgeted projects
- Grant funded projects

Also for simplicity sake the reseal, final seal, gravel road resheet and shoulder resheet programs have been listed as 4 projects in total rather than listing each individual road under each respective program.

The Engineering Services unit nominates 6 key stages of the project delivery process and will report with reference to these stages in regard to the overall program status.

The table below summarises the overall program status as at 30 June 2017:

CIP Program Delivery Stage	Actual as of 30 June 2017	
	No. of Projects	%
Not Commenced (inactive or on hold)	6	-
Projects delivered by others	11	-
Not Commenced	0	0
Documentation/Design Preparation	1	1.9
Tender/Quote Stage	2	3.8
Project Awarded – Waiting Commencement	0	0
In Progress/Under Construction	5	9.4
Complete	45	84.9
TOTAL	53	100.00

The attached report (Attachment 11.4.1) details the proposed timeframe and progress of each individual project. In addition the report also provides specific comments in relation to each project and its status.

Program Status and Financial Year Performance

Of the 70 projects, there are 6 projects that have not commenced and are deemed inactive due to either unsuccessful funding applications, recent funding announcements or scheduled for completion in the 2017/18 CIP. An overview of these projects and a comment on the status are included in the attached report.

The inactive projects and projects delivered by others account for 17 projects listed in the 2016/17 CIP. These projects have not been included in the overall end of year performance calculations as the inactive projects were unable to be completed and although the projects delivered by others were closely monitored by council officers the responsibility for delivery was with the respective Committee of Management.

Of the 53 projects that could be completed, there are 8 projects that will be carried forward into the 2017/18 CIP. The table below outlines each of these projects and their current status;

Project Name	Project Status
Halletts Way / O'Leary Way – Road and Bridge Construction	Practical completion of the project is scheduled for July 2017, with an official opening and community event to be held in August, prior to the road being opened to through traffic.
Station Street, Maddingley – Urbanisation Works	This project has been awarded to Rustel Pty Ltd. Construction commenced in January 2017 and were put on hold in March due to NBN and V-Line unresolved issues. These issues have now been resolved and construction has resumed. It is anticipated the project will be complete in September 2017.
Inglis Street, Ballan – Streetscape Improvements	This project is currently in the final design phase. A funding application has is being lodged through the Regional Jobs and Infrastructure Fund program and works are anticipated in 2017/18.
Mason Lane Recreation Reserve – Sports Lighting Installation	This project has been award to Commlec Services Pty Ltd. Service connections & preliminary site works are underway. Light tower construction and lighting commissioning is expected to be complete in October 2017.
Bacchus Marsh Swimming Pool – Plant Upgrade	Quotations are currently being evaluated with the project to be completed prior to the commencement of the next pool season.
Ballan Swimming Pool – Plant Upgrade	Quotations are currently being evaluated with the project to be completed prior to the commencement of the next pool season.
Bacchus Marsh Racecourse Recreation Reserve – Active Sports Precinct Design	This project has been awarded to Group GSA Pty Ltd. Design commenced in July 2017 and scheduled for completion by December.
Masons Lane Recreation Reserve – Western Pavilion Design	This project has been awarded to Four 18 Architects. The concept design has been approved with final design and documentation anticipated to be complete in August 2017

Taking these into account, 45 of a possible 53 projects were completed resulting in 85% of the program being completed in the financial year.

Projects Yet to Commence

Of the 6 projects that are considered 'Not Commenced', there have been a number of updates to these projects in recent months. An overview is provided below;

Project Description	Project Status
Navigators Tennis Club – Fencing Improvements	This project was funded through the 2016/17 Community Development Fund. External funding applications have been unsuccessful and as a result there is an addition allocation of funds in the 2017/18 CIP to complement the existing funds to deliver the full project.
Ballan Recreation Reserve Netball/Tennis Court Reconstruction	This project was funded through the 2016/17 Community Development Fund. External funding applications have been unsuccessful and as a result, Council resolved to carry forward the funds to deliver a reduced project scope in 2017/18.
Bacchus Marsh BMX Club – New Track Construction	This project was funded through the 2015/16 Community Development Fund. Council was successful with external funding in December 2016. This project will now form part of the Bacchus Marsh Racecourse Recreation Reserve Active Sports Precinct Design project.
Butter Factory Road, Wallace – Bridge Replacement Works	The road rehabilitation and bridge replacement works were combined into one contract to achieve cost efficiencies. As part of the bridge replacement works, the contractor discovered unsuitable material to establish bridge foundations that has resulted in delays due to re-design. The project will be carried forward to next financial year to avoid inclement weather with construction now anticipated to commence in September 2017.
Butter Factory Road, Wallace – Road Rehabilitation Works	As above
Ballan Depot Preplanning	This project has been deferred by Council at the July OMC and will be subject to a further report to Council.

Program Financial Status

A review of the financial aspect of the program has been completed through comparison of expenditure against the available budget. The final expenditure has been confirmed and the program has come in under budget by a total of \$51,312.74 representing less than a 0.01% under spend in a \$25 million Capital Improvement Program.

There are two options available with the under spend. The first would be to retain the funds as consolidated revenue to improve Council's cash position. However, as has been the case in previous years with an under expenditure, the second option is to help address Council's funding gap by carrying forward the funds into additional projects. This is officers preferred option.

The 2017/18 CIP projects outlined below have had detailed scope assessments as part of the preliminary project delivery phase and have been identified to require additional funding to enable full construction.

- *Duncan Street, Ballan - Kerb & Channel (\$36,312.74)*
The project includes the replacement of Kerb & Channel in Duncan Street, Ballan from Edols Street to Steiglitz Street adjacent the Ballan Primary School. The additional allocation will fund the formalisation of the School Crossing to allow for safer passage for children, increased parking opportunities, intersection improvements.
- *Wittick Street, Darley – Footpath Construction (\$15,000.00)*
This project includes the construction of a new footpath along Wittick St, Darley connecting Halletts Way and Nicholson Street. The project includes challenging site restrictions and the additional allocation will fund the construction of extra work required to complete the project.

Policy Implications

The 2017-2021 Council Plan provides as follows:

Strategic Objective	Providing good governance and leadership
Context	Our assets and infrastructure
Action	Deliver annual Capital Improvement Programs

The Capital Improvement Program reporting is consistent with the 2017-2021 Council Plan.

Financial Implications

There are no financial implications associated with the recommendation within this report. All projects identified for funding are from existing budget allocations.

Risk & Occupational Health & Safety Issues

There are no irregular Risk and Occupational Health and Safety issues identified in this report. Specific risk elements are analysed and dealt with as part of the delivery of each individual project.

Communications Strategy

Progress on the Capital Improvement Program will be reported in the following formats:

- Infrastructure update on active projects Weekly
- Update on major projects Monthly
- Moorabool Matters Bi Monthly
- Moorabool News As required
- Report to Council Quarterly

Specific projects are communicated to the community and affected residents as required through a range of methods including but not limited to advertisements, mail outs and letter drops.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – Tristan May

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

Conclusion

This report provides a summary of the progress of the Capital Improvement Program for the final quarter of the 2016/2017 period for the information of Councillors.

A review of the overall 2016/17 Capital Improvement Program (CIP) expenditure has occurred in comparison to the available budget. The final expenditure has come under budget by a total of \$51,312.74.

It is being recommended that the left over funds be directed into the projects identified to enable the full scope of both projects to be delivered.

Resolution:

Crs. Bingham/Sullivan

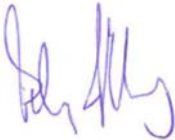
That Council;

1. ***Receives the Capital Improvement Program quarterly report to 30 June 2017.***
2. ***Allocates Capital Carry Forward surplus of \$51,312.74 to fund***
 - a) ***Duncan Street, Ballan – Kerb & Channel Replacement Works (\$36,312.74).***
 - b) ***Wittick Street, Darley – Footpath Construction (\$15,000.00).***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey 
Title: General Manager Infrastructure
Date: Thursday 13 July 2017

11.4.2 Petition; Road Safety & Parking Arrangements for Gordon Primary School (Dicker Street, Gordon)

Introduction

File No.: 07/01/016A
Author: John Miller
General Manager: Phil Jeffrey

Background

At the Ordinary Meeting of Council on Wednesday 21 June 2017, Council formally received a petition containing 123 signatures, requesting funding for the Gordon Primary School car park upgrade be included in the 2017/18 budget and that speed zones around the school be reduced to 40km/h.

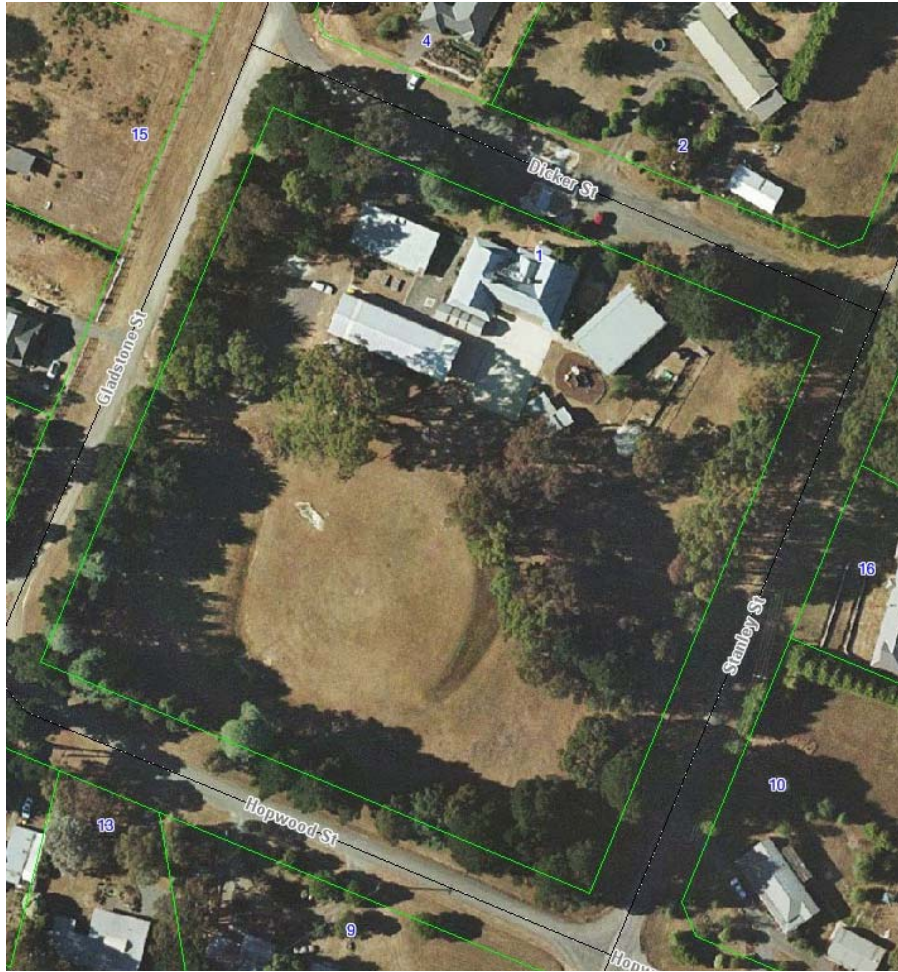
Following receipt of the petition, Council also resolved the following as an item of Urgent Business, at the Ordinary Meeting of Council on Wednesday 5 July 2017:

That Council design, consult and construct the road and the carpark on the road reserve at Gordon Primary School for a maximum cost of \$200,000 with funding to come from the Unallocated Capital budget.

CARRIED.

Site Analysis (Dicker Street)

Dicker Street provides the main student access to the school site. It is a sealed local road (Access 2) with an approximate width of 4m and length of 155 metres, running east-west between Gladstone and Stanley Streets, Gordon.





Currently, there is an informal unsealed indented car parking area on either side of the street adjacent to the Primary School. In 2009, in order to improve safety around the school, Council constructed a children's crossing immediately outside the entrance and in 2013, Council also constructed a concrete footpath the full length of Dicker Street on the southern side.

Notwithstanding the above, the Primary School has indicated to Council that they are growing school and require a review of the current parking arrangements in Dicker Street.

A site investigation completed in 2016 has found that parking issues are primarily associated with drop off and pick up of students from the school during school hours and longer parking demand from visitors and local residents. The parking area is generally full at Dicker Street between 8.00am and 9.30am, and 2.30pm and 4.00pm on school days, which leaves no space for the local residents, visitors and additional parents of the school students.

The combination of increased traffic volume and unrestricted parking on both sides of the street, has resulted in the area is experiencing traffic safety, parking and movement problems.

Proposal

In response to the concerns raised by the school, a conceptual design plan has been prepared, proposing to implement formalised sealed indented angle car parking on both sides of Dicker Street, Gordon. It is anticipated that the implementation of these parking arrangements will address the concerns of the current parking and traffic issues being experienced. Works to be included as part of the proposal are:

- Sealed angle parking on both sides of Dicker Street, including full length barrier kerb and channel and line marking
- Concrete footpath on the north side of Dicker street
- Angle parking bays, including 2 disability bays.
- Renewal of the existing road surface
- A range of parking measures to maximise the parking numbers

The below image shows the concept design proposals in a diagrammatic format;



Figure 1: Proposed 'Parking Strategy' at Dicker Street, Gordon

Speed Limited Zones

The current speed limit along Dicker Street is 40km/h. Council has received a further request from the school, which also forms part of the petition, to lower the current speed limits in Hopwood and Gladstone Streets within the vicinity of the school. These streets contain school access gates allowing the parents to pick up and drop off children due to the unavailability of parking space in Dicker Street during school times.

Council officers progressed and have received approval from VicRoads and will implement signage within coming weeks.

Policy Implications

The 2017-2021 Council Plan provides as follows:

Strategic Objective:	Providing good governance and leadership
Context:	Our assets and infrastructure
Action:	Deliver annual Capital Improvement Programs

The Capital Improvement Program reporting is consistent with the 2017-2021 Council Plan.

Financial Implications

Council has allocated a maximum of \$200,000 to the project in the 2017/18 capital budget.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues associated with the recommendation within this report.

Communications Strategy

As per the current process, the convener of the petition will be formally notified of Council's decision, following a resolution being made. Submitters to the draft 2017/18 budget have also been advised of the decision to fund the project as part of that process.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – John Miller

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

Conclusion

Following concerns from the community and Gordon Primary School about the traffic and safety issues in Dicker Street, Gordon and receipt of a petition containing 123 signatures, Council resolved to fund an upgrade project as part of the 2017/18 Capital Improvement Program. Officers will now arrange for the formal design, procurement and delivery of the project within the 2017/18 financial year.

In addition to this, amendments to the speed limits along Hopwood and Gladstone Street have also been approved by VicRoads, with signage to be implemented in the coming weeks.

Resolution:

Crs. Toohey/Keogh


That Council:

- 1. *Receives the report in relation to Dicker Street, Gordon, road safety and parking arrangements and notes the previous resolution at the Ordinary Meeting of Council on Wednesday 5 July.***
- 2. *Requests officers formally notify the convener of the petition of Council's decision, following a resolution being made.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey 
Title: General Manager Infrastructure
Date: Thursday 13 July 2017

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 5 July 2017 – Related Party Disclosures

Resolution:

Crs. Sullivan/Dudzik

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

- ***Assembly of Councillors – Wednesday 5 July 2017 – Related Party Disclosures.***

CARRIED.

12.2 Section 86 – Delegated Committees of Council - Reports

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

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

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

Committee	Meeting Date	Council Representative
Bacchus Marsh Racecourse and Recreation Reserve Committee of Management	Tuesday 11 July 2017	Cr. Bingham
Development Assessment Committee <i>To download a copy of the minutes, go to the MSC website: https://www.moorabool.vic.gov.au/my-council/council-meetings/council-committees-2017</i>	Wednesday 12 July 2017	Cr. Dudzik Cr. Keogh Cr. Tatchell Cr. Toohey

Resolution:

Crs. Bingham/Tatchell

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

- ***Bacchus Marsh Racecourse and Recreation Reserve Committee of Management meeting of Tuesday 11 July 2017***
- ***Development Assessment Committee meeting of Wednesday 12 July 2017***

CARRIED.

12.3 Advisory Committees of Council - Reports

Advisory Committees are established to assist Council with executing specific functions or duties.

Advisory Committees of Council currently have no delegated powers to act on behalf of Council or commit Council to any expenditure unless resolved explicitly by Council following recommendation from the Committee. Their function is purely advisory.

Advisory Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Advisory Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Social Development Committee	Wednesday 19 July	Cr. Bingham, Cr. Dudzik, Cr. Tatchell

Resolution:

Crs. Dudzik/Sullivan

That Council receives the report of the Social Development Committee of Management meeting of Wednesday 19 July 2017.

CARRIED.

13. NOTICES OF MOTION

Nil.

14. MAYOR'S REPORT

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

Cr David Edwards – Mayor's Report	
<i>July - August 2017</i>	
<i>July</i>	<i>2017 NAIDOC Victorian State Government</i>
<i>16 July</i>	<i>Annual Grow West Community Planting</i>
<i>19 July</i>	<i>Special Meeting of Council</i>
<i>20 July</i>	<i>Telford Park Kid's Tree Planting Day</i>
<i>23 July</i>	<i>Ballarat Rail Line Action Committee Workshop</i>
<i>2 August</i>	<i>Assembly of Councillors – CONFIDENTIAL Assembly of Councillors – Priority Projects and Advocacy to December 2018 Ordinary Meeting of Council</i>

Resolution:

Crs. Sullivan/Toohey

That the Mayor's report be received.

CARRIED.

15. COUNCILLORS' REPORTS

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

Cr. Dudzik	
July 2017	
27 July	Moorabool Kids Big Day Out

Resolution:

Crs. Sullivan/Keogh

That the Councillors' reports be received.

CARRIED.

16. URGENT BUSINESS

16.1 Roads - Shoulder Maintenance

Resolution:

Crs. Keogh/Dudzik

That a report comes back to Council that details our intervention levels on shoulder maintenance.

CARRIED.

AJOURNMENT OF MEETING – 6.49PM

Crs. Sullivan/Dudzik

That the meeting now stand adjourned for a period of 5 minutes.

CARRIED.

RESUMPTION OF MEETING – 6.57PM

Crs. Dudzik/Sullivan

That the meeting now be resumed.

CARRIED.

17. CLOSED SESSION OF THE MEETING TO THE PUBLIC**17.1 Confidential Report****Resolution:****Crs. Sullivan/Dudzik**

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*

CARRIED.

Item 17.1 is a confidential item
and therefore not included as part
of these Minutes.

18. MEETING CLOSURE

The meeting closed at 7.42pm.

Confirmed.....Mayor.