

## ORDINARY MEETING OF COUNCIL

**Minutes** of the Ordinary Meeting of Council  
held at the Gordon Public Hall, 64 Main Street, Gordon on  
Wednesday 7 September 2016,  
commencing at 5:00 p.m.

### Members:

Cr. Allan Comrie (Mayor)	East Moorabool Ward
Cr. Paul Tatchell	Central Ward
Cr. David Edwards	East Moorabool Ward
Cr. John Spain	East Moorabool Ward
Cr. Tonia Dudzik	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**

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**1. OPENING OF MEETING AND PRAYER**

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

**2. ACKNOWLEDGEMENT TO COUNTRY**

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

**3. PRESENT**

<i>Cr. Allan Comrie</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. Paul Tatchell</i>	<i>Central Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West 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. Andrew Goodsell</i>	<i>Manager Strategic and Sustainable Development</i>
<i>Mr. Steve Ivelja</i>	<i>Manager Finance</i>
<i>Mr. Troy Scoble</i>	<i>Manager Recreation and Youth Development</i>
<i>Mr. Mark Lovell</i>	<i>Senior Statutory Planner</i>
<i>Mr. John Whitfield</i>	<i>Governance Coordinator</i>
<i>Ms. Melissa Hollitt</i>	<i>Minute Taker</i>

**4. APOLOGIES**

*Cr. John Spain* *East Moorabool Ward*  
*(Leave of Absence – Refer Item 16.1 of the Minutes of the Ordinary Meeting of Council held 3 August 2016)*

**5. CONFIRMATION OF MINUTES**

**5.1 Ordinary Meeting of Council – Wednesday 3 August 2016**

**Resolution:**

**Crs. Edwards/Sullivan**

***That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 3 August 2016.***

**CARRIED.**

## 6. 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.

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

***Cr. Sullivan declared an Indirect Conflict of Interest (Section 78A) in relation to Item 10.2.2 Planning Permit PA2015-293; Development and use of a dwelling and ancillary outbuilding on Mahars Road, Leigh Creek. The nature of the Conflict of Interest is due to Cr. Sullivan having acted for an objector to this item, in his role as a surveyor on a proposed subdivision in the City of Ballarat.***

## 7. 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.

***Nil.***



**8. PETITIONS**

***A petition was submitted to Council by Cr. Paul Tatchell at Item 15. Urgent Business.***

***Please refer to Item 15.5 Urgent Business Item for further detail.***

## 9. 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
10.3.4	<i>Youth Spaces Feasibility Study</i>	Jarrold Bingham	Supporter
10.3.4	<i>Youth Spaces Feasibility Study</i>	Leading Snr Constable James Ross	Supporter
10.3.4	<i>Youth Spaces Feasibility Study</i>	Tom Bamford	Supporter
10.3.4	<i>Youth Spaces Feasibility Study</i>	Anthony Pearce	Supporter
10.3.4	<i>Youth Spaces Feasibility Study</i>	Chelsea McKean	Supporter
10.3.4	<i>Youth Spaces Feasibility Study</i>	Shania McPhan	Supporter
10.3.4	<i>Youth Spaces Feasibility Study</i>	Brie Lowe	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.

<b>Item No</b>	<b>Description</b>	<b>Name</b>	<b>Applicant/ Objector</b>
10.2.2	<i>Planning Permit PA2015-293; Development and use of a dwelling and ancillary outbuilding on Mahars Road, Leigh Creek</i>	John Frawley	Supporter
10.2.2	<i>Planning Permit PA2015-293; Development and use of a dwelling and ancillary outbuilding on Mahars Road, Leigh Creek</i>	Keith Parry	Objector
10.2.3	<i>Planning Application PA2016-030 – 456 Navigators Road, Navigators; Use and Development of a Dwelling and Ancillary Outbuilding</i>	Peter Jewell	Supporter
10.2.4	<i>Planning Application PA2016-031 – 456 Navigators Road, Navigators; Use and Development of a Dwelling and Ancillary Outbuilding</i>	Peter Jewell	Supporter
10.2.5	<i>Planning Application PA2016-032 – 456 Navigators Road, Navigators; Use and Development of a Dwelling and Ancillary Outbuilding</i>	Peter Jewell	Supporter

## 10. OFFICER'S REPORTS

### 10.1 CHIEF EXECUTIVE OFFICER

#### 10.1.1 Adoption "in principle" of the 2015/16 Financial Statements for Submission to the Victorian Auditor-General for Certification

##### Introduction

File No.: 02/02/002  
Author: Steven Ivelja  
General Manager: Phil Jeffrey

##### Background

The following report presents the 2015/16 Financial Statements for adoption "in principle" by Council for submission to the Auditor-General for certification.

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

##### **S. 131 Annual report**

- (1) *A Council must prepare an annual report in respect of each financial year*
- (2) *An annual report must contain the following, in respect of the financial year reported on—*
  - (a) *a report of operations of the Council;*
  - (b) *an audited performance statement;*
  - (c) *audited financial statements;*
  - (d) *a copy of the auditor's report on the performance statement, prepared under section 132;*
  - (e) *a copy of the auditor's report on the financial statements under Part 3 of the Audit Act 1994;*
  - (f) *any other matter required by the regulations.*
- (5) *The financial statements in the annual report must—*
  - (a) *include any other information required by the regulations;*  
*and*
  - (b) *be prepared in accordance with the regulations.*

##### **S. 132 Annual Report - Preparation**

- (1) *A Council must submit the performance statement and financial statements in their finalised form to the auditor for auditing as soon as possible after the end of the financial year.*
- (2) *The Council, after passing a resolution giving its approval in principle to the performance statement and financial statements, must submit the statements to the auditor for reporting on the audit.*

(3) *The auditor must prepare a report on the performance statement.*

*Note: The auditor is required under Part 3 of the Audit Act 1994 to prepare a report on the financial statements.*

(4) *The auditor must not sign a report under subsection (3) or under Part 3 of the Audit Act 1994 unless the performance statement or the financial statements (as applicable) have been certified under subsection (5).*

(5) *The Council must ensure that the performance statement and financial statements, in their final form after any changes recommended or agreed by the auditor have been made, are certified in accordance with the regulations by—*

- (a) *2 Councillors authorised by the Council for the purposes of this subsection; and*
- (b) *any other prescribed persons.*

(6) *The auditor must provide the Minister and the Council with a copy of the report on the performance statement as soon as is reasonably practicable.*

## **Proposal**

The 2015/16 Financial Statements have been prepared in accordance with the requirements of the Local Government Act, Local Government (Planning and Reporting) Regulations 2014 and Australian Accounting Standards.

In accordance with Council's Governance protocols, the reports will be presented to Council's Audit Committee for review and recommendation to Council for adoption "in principle" and authorisation of two Councillors, being the Councillor members of the Audit Committee, to sign the audited statements.

In summary, the statements indicate the following results for 2015/16:

1. Financial Statements: reflect the comparative performance to the previous financial year.
  - Comprehensive Income Statement – The result reflects a total comprehensive gain of \$23.532 million. Included within this result are the following significant items:
    - \$15.707 million in net asset revaluation increments as a result of the revaluation of Councils infrastructure assets.
    - \$5.304 million decrease in 'Grants – Operating' mainly due to the early payment of Financial Assistance grants as advised by Local Government Victoria in late June 2015.
    - \$1.633 million increase in 'Contributions – Non-Monetary' due to an increase in completed subdivisions throughout the Shire. The result being a large amount of infrastructure assets being handed over to Council.

- \$0.889 million increase in 'Other Income' which relates to a reimbursement for costs incurred for the Scotsburn Fire in December 2015.
- Balance Sheet – The movement in net assets reflects the total operating gain of \$23.532 million. Included within this result are the following significant items:
  - A \$1.106 million increase in 'Other Assets' which relates to the accrual for costs to be reimbursed for the Scotsburn Fire.
  - An increase in 'Property, Infrastructure, Plant and Equipment' mainly due to the revaluation of Roads.
  - A net \$3.012 million increase in 'Interest-Bearing Loans and Borrowings' which reflects new borrowings of \$4.476 million, and repayments of \$1.464 million in 2015/16.
- Cash Flow Statement – The movement in cash held at the end of the year is an increase of \$0.279 million. Included within this result are the following significant items:
  - Net cash flows from operating activities decreased by \$1.775 million from last year to \$11.233 million. This is mainly due to Council receiving half of the Grants Commission allocation in the previous financial year.
  - Net cash used in investing activities has increased by \$4.275 million to \$13.242 million. This is due to the commencement of major capital works projects such as Darley Children's Hub and Hallett's Way Extension. There was also the completion of various projects carried forward from 2014/15.
  - Net cash used for financing activities was \$3.731 million more than last year, due primarily to new borrowings of \$4.476 million in 2015/16. The new borrowings were required to fund major projects in the capital improvement program.
- Statement of Capital Works – In comparison to the 2014/15 year, overall capital expenditure for 2015/16 is \$4.412 million higher than the previous year made up of the following items;
  - Capital Expenditure on Road Infrastructure projects in 2015/16 was \$1.934 million greater than the comparative year due to the construction of a number of larger road reconstruction and rehabilitation projects.
  - Expenditure on Recreational, Leisure and Community Facilities was \$1.389 million greater in 2015/16, largely due to the commencement of the Darley Children's Hub \$1.343 million.
  - Expenditure on Footpaths was \$0.660 million more than 2014/15 due mainly to projects completed for Main Street, Bacchus Marsh and Hallett's Way, Darley.
  - Rehabilitation works on Bridges in 2015/16 was higher than the previous year by \$0.651 million mainly due to the completion of works at Lees Road and Clarendon-Blue Bridge Road.

As per the changes with the Local Government Reporting Framework, Council is no longer required to prepare a set of Standard Statements. A set of alternative note disclosures have now been included as part of the Financial Statements to replace the Standard Statements.

### **Policy Implications**

The 2013–2017 Council Plan provides as follows:

<b>Key Result Area</b>	Continuous Improvement in Council Services
<b>Objective</b>	Sound long term financial management
<b>Strategy</b>	Develop and maintain a long term financial planning, management and reporting system, which ensures resources to deliver services and manage Council's assets.

The 2015/16 financial statements are consistent with the 2013-2017 Council Plan.

### **Financial Implications**

The financial statements detail Council's financial performance and position for 2015/16. They demonstrate that over time Council has steadily improved its financial position, but indicates that there are still numerous financial challenges that lay ahead which will require responsible fiscal stewardship.

### **Communications Strategy**

The Annual Financial Statements and Performance Statements are reported to Council to adopt "in principle" for submission to the Auditor-General for certification. Audited Statements are then incorporated into Council's Annual Report, which is completed by Council by 30 September each year.

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

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

### Officer's Declaration of Conflict of Interests

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

*General Manager – Phil Jeffrey*

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

*Author – Steven Ivelja*

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

### Conclusion

The attached Financial Statements for 2015/16 have been prepared in accordance with the requirements of the Local Government Act.

At the time of printing this document, Council's Financial Statements were included on the Agenda for consideration at the Audit and Risk Committee Meeting on Wednesday 7 September 2016, with a recommendation that the Audit and Risk Committee recommend that Council adopt the statements "in principle".

Following a resolution, the Financial Statements will then be submitted to the Auditor-General for certification. Council is also required to authorise two Councillors to sign the Financial Statements on behalf of Council, as required under the *Local Government Act 1989*.

It is practice for the Councillor members of the Audit Committee to sign the certified statements on behalf of Council.

#### Resolution:

**Cr. Edwards/Dudzik**

#### *That Council:*

1. ***In accordance with S. 132 of the Local Government Act (1989):***
  - a) ***adopt in principle and submit the 2015/16 Financial Statements to the Auditor-General for certification; and***
  - b) ***authorise the Council's Audit Committee Representatives, Cr. Edwards and Cr. Dudzik, to certify the 2015/16 Financial Statements in their final form, after any changes recommended, or agreed to by the Auditor, have been made.***

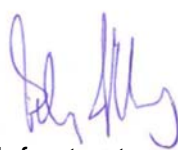
**CARRIED.**

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#### Report Authorisation

##### Authorised by:

**Name:** Phil Jeffrey  
**Title:** General Manager Infrastructure  
**Date:** Wednesday, 17 August 2016





### 10.1.2 Adoption “in principle” of the 2015/16 Performance Statement for submission to the Victorian Auditor-General for certification

#### Introduction

File No.: 02/02/002  
Author: John Whitfield  
General Manager: Satwinder Sandhu

#### Background

The 2015/16 Performance Statement has been prepared to meet the requirements of the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014* for adoption “in principle” by Council for submission to the Auditor-General for certification.

Legislation was introduced in early 2014 which set up the requirement for Councils to report on their performance through their annual report to their community.

Pursuant to Section 131(4) of the *Local Government Act 1989*, the performance statement in the annual report must—

- (a) contain the following—
  - (i) for the services funded in the budget for the financial year reported on, the prescribed indicators of service performance required by the regulations to be reported against in the performance statement and the prescribed measures relating to those indicators;
  - (ii) the prescribed indicators of financial performance and the prescribed measures relating to those indicators;
  - (iii) the prescribed indicators of sustainable capacity performance and the prescribed measures relating to those indicators;
  - (iv) results achieved for that financial year in relation to those performance indicators and measures referred to in subparagraphs (i), (ii) and (iii);
  - (v) any other information required by the regulations; and
- (b) be prepared in accordance with the regulations.

#### Proposal

In accordance with Council’s governance protocols, the Performance Statement will be presented to Council’s Audit and Risk Committee on Wednesday 7 September 2016 for review and recommendation to Council for adoption “in principle” and authorisation for two Councillors, being the Councillor members of the Audit Committee, and the Chief Executive Officer to sign the audited statements.

The Performance Statement includes the results of the prescribed sustainable capacity, service performance and financial performance indicators and measures together with a description of the municipal district and an explanation of material variations in the results for the 2015/16 year.

Overall there are 35 performance indicators that have been mandated for an independent audit. Of these indicators six (6) relate to sustainable capacity, seventeen (17) relate to service performance and twelve (12) relate to financial performance.

The *Local Government (Planning and Reporting) Regulations 2014* requires explanation of any material variations in the results contained in the performance statement. This is the second year of reporting under the new framework. As such, the performance indicator results for 2015/16 will be compared to the results for the previous financial year for the first time.

The forecast figures included in the performance statement are those adopted by Council in its Strategic Resource Plan on 29 June 2016 and which forms part of the Council Plan. The Strategic Resource Plan includes estimates based on key assumptions about the future that were relevant at the time of adoption and aimed at achieving sustainability over the long term.

In relation to the financial performance Indicators, some of the major trends include;

- E1 Revenue Level – in 2015/16 average residential rates per residential property assessments amounted to \$1,460.85. The forward outlook for future years will be impacted by rate capping, and the calculation basis used for calculating rate revenue in future years.
- L1 Working Capital – in the 2015/16 year, Council's working capital ratio of 195.20% is high compared to previous years indicating a high level of liquidity. The increase is due to a number of major capital works projects being carried forward into 2016/17. The forward outlook for working capital indicates that this ratio is likely to decline in 2016/17 but then increase over the further 3 years. This is predominantly due to the MAV bond issuance, which will require Council to set aside cash on an annual basis in reserve to discharge the debt facility at the end of the bond term.
- L2 Unrestricted cash – unrestricted cash levels are at 33.65% as at 30 June 2016 which is a decrease from 2015. Due to the impact of the Scotsburn Fires, Council was required to fund restoration and remedial works through cash and working capital. Council has submitted a claim for costs of \$1.031m and is expecting to receive the funds in the 2016/17 financial year. In addition to this, unrestricted cash was negatively impacted by the delay in the sale of a significant land parcel. The land sale is now expected to be settled in the 2016/17 financial year. After taking into account these timing delays, Council's levels of unrestricted cash would have improved.
- O1 Asset Renewal – Asset renewal expenditure for the 2016 Actual was greater than anticipated due in large part to the receipt of additional Blackspot funding. The 2017 forecast will also be favourably impacted by the receipt of additional Roads to Recovery funding. Over the long term, asset renewal expenditure is expected to progressively increase. This is due to an increase in Council's capacity to internally fund asset renewal with a reduced reliance on government grants to fund future renewal programs.
- O2 Loans and Borrowings – as the 30 June 2016, loans and borrowings were 51.28% of rate revenue. In the 2015/16 financial year, Council took up additional borrowings to progress a number of important projects including the Darley Early Years Hub and the construction of Halletts Way. Council is likely to continue to utilise debt borrowings as a source of project funding to fund the development of strategically important projects to the community. The proposed level of loan borrowings is scheduled to remain comfortably with prudential limits and external benchmarks set down by the State.

- OP1 Adjusted Underlying Result – the adjusted underlying deficit for 2015/16 is 2.64%. The early payment of 2015/16 Victorian Grants Commission funding into the previous financial year has impacted the results of both 2014/15 and 2015/16 financial years. As a result of this, Council is reporting a small adjusted underlying deficit in 2015/16. The future outlook for this measure is improving.
- S1 Rates Concentration - Council rates compared to adjusted underlying revenue was 70.41% in the 2015/16 financial year. Moorabool Shire has a relatively high reliance on Rates. This is primarily due to Moorabool receiving significantly lower levels of recurrent government funding on a per capita basis as compared to the Victorian average. Moorabool Shire also has a limited capacity to raise significant levels of income through user fees and statutory charges.

### Policy Implications

The 2013 - 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of our community
<b>Objective</b>	Good governance through open and transparent processes and strong accountability to the community.
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice.

The proposal to present the 2015/16 Performance Statement to Council is consistent with the 2013-2017 Council Plan.

### Financial Implications

There are no financial implications from this report. The preparation and presentation of the 2015/16 Performance Statement has been performed within the allocated budget.

### Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Inadequate performance by Council	Inability to meet attainable levels of performance	Medium	Systems, processes and measures to provide comprehensive performance information that meets the needs of a number of audiences

## **Communications Strategy**

The Performance Statement will be presented to the Victorian Auditor General's Office for review and certification. The Performance Statement will form part of the Council's Annual Report which will be lodged with the Minister for Local Government prior to 30 September 2016. The Annual Report will be made publically available on Council's website and at all office locations early in October 2016.

## **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 – John Whitfield*

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

## **Conclusion**

The 2015/16 Performance Statement has been prepared to meet the requirements of the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014* for adoption "in principle" by Council for submission to the Auditor-General for certification.

At the time of printing this document, Council's Performance Statement was included on the Agenda for consideration at the Audit and Risk Committee Meeting on Wednesday 7 September 2016, with a recommendation that the Audit and Risk Committee recommend that Council adopts the statement "in principle".

Following a resolution, the Performance Statement will then be submitted to the Auditor-General for certification. Council is also required to authorise two Councillors to sign the Performance Statement on behalf of Council, as required under the *Local Government Act 1989*.

It is practice for the Councillor members of the Audit and Risk Committee to sign the certified statements on behalf of Council.

**Resolution:****Crs. Edwards/Tatchell*****That Council, in accordance with S. 132 of the Local Government Act 1989:***

- 1. adopts 'in principle' the 2015/16 Performance Statement and submits the Performance Statement, subject to no material change, to the Victorian Auditor-General for certification; and***
- 2. authorises the Council's Audit and Risk Committee Representatives, Cr. Edwards and Cr. Dudzik, to certify the 2015/16 Performance Statement in its final form, after any changes recommended, or agreed to by the Auditor, have been made.***

**CARRIED.**

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

Satwinder Sandhu

**Title:**

General Manager Growth and Development

**Date:**

Thursday, 25 August 2016

### 10.1.3 2016 Governance and Management Checklist

#### Introduction

File No.: 02/06/011  
Author: John Whitfield  
General Manager: Satwinder Sandhu

#### Background

The 2016 Governance and Management Checklist (Checklist) is a component of the new Local Government Performance Reporting Framework (LGPRF) and is a requirement of Section 131(3) of the *Local Government Act 1989* and Regulation 12 of the *Local Government (Planning and Reporting) Regulations 2014*.

Section 131(3)(ii) provides that Council must contain in its report of operations the results, in the prescribed form, of the Council's assessment against the prescribed governance and management checklist and indicators. The checklist is then certified by the Mayor and Chief Executive Officer.

#### Proposal

The Governance and Management Checklist contains 24 items relating to Council plans, policies, strategies, frameworks and reporting. This checklist is reviewed by the Chief Executive Officer and presented to both the Audit and Risk Committee and Council for adoption prior to its incorporation into Council's 2014/15 Annual Report and submission to Local Government Victoria and published on the newly established 'Know Your Council' website.

Overall, from the 24 listed items on the Checklist, 23 items are established and in operation, with the remaining items in progress. The item currently in progress relate to a Disaster Recovery Plan with this plan expected to be finalised by December 2016.

#### Policy Implications

The 2013–2017 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of Our Community
<b>Objective</b>	Good governance through open and transparent processes and strong accountability to the community.
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice.

The Governance and Management Checklist is consistent with the 2013-2017 Council Plan.

### **Financial Implications**

There are no financial implications relating to the 2016 Governance and Management Checklist.

### **Communications Strategy**

The Governance and Management Checklist will be published in Council's Annual Report and available for review on the Local Government Victoria "*Know Your Council*" website.

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

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

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

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

*General Manager* – Satwinder Sandhu

In providing this advice to Council as the 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**

The 2016 Governance and Management Checklist has been prepared and certified by the Mayor and Chief Executive Officer in accordance with *Local Government Act* 1989.

At the time of printing this document, Council's Governance and Management Checklist was included on the Agenda for consideration at the Audit and Risk Committee Meeting on Wednesday 7 September 2016, with a recommendation that the Audit and Risk Committee recommend that Council adopts the Checklist prior to its inclusion to the 2015/16 Annual Report and submission to Local Government Victoria for publication on the "Know Your Council" website.

**Resolution:**

**Crs. Tatchell/Dudzik**

***That Council adopts the 2016 Governance and Management Checklist for inclusion in the 2015/16 Annual Report and submission to Local Government Victoria for publication on the "Know Your Council" website.***

**CARRIED.**

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**Report Authorisation**

**Authorised by:**



**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Wednesday 17 August 2016



### 10.1.4 Office Arrangements - Christmas / New Year Period 2016/17

#### Introduction

File No.: 02/08/004  
 Author: Natalie Abbott  
 CEO: Rob Croxford

The following report proposes closure arrangements for the Christmas/New Year period 2016/17 for the Council offices, Works Depots, Library Services, Maternal & Child Health Centres, Lerderderg Children Centre and Aged & Disability Services.

#### Background

Officers have reviewed arrangements for the forthcoming Christmas/New Year period. In previous years the practise is to close the office during the Christmas/New Year period and have in place emergency and basic maintenance operations.

#### Proposal

Public holidays provided to staff are to be in accordance with gazetted public holidays provided for by the State Government. Public Holidays for 2016/17 are as per the information released by Information Victoria – For Information on State Government.

With respect to the upcoming Christmas period the public holiday's arrangements are:

2016	The Christmas Day Public Holiday will be held on <b><i>Tuesday 27 December 2016</i></b> Boxing Day 2016 Public Holiday will be held on <b><i>Monday 26 December, 2016</i></b>
2017	New Year's Day Public Holiday will be held on <b><i>Monday 2 January 2017</i></b>

Subject to Council approval, it is proposed that Council's offices will be closed to the public for the period commencing on the afternoon from 12.30pm **Friday 23 December 2016**, with the offices reopening on Tuesday 3 January, 2017 as in previous years.

In accordance with the proposal to close the Council Offices for the Christmas period, it is also proposed to close the Lerderderg Library for the same period.

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

Incorporating public holidays, it is proposed the offices would be closed on the following days:

- Friday 23 December, 2016 from 12.30pm
- Monday 26 December, 2016 (Boxing Day Public Holiday)
- Tuesday 27 December 2015 (Christmas Day Public Holiday)
- Wednesday 28 December, 2016
- Thursday 29 December, 2016
- Friday 30 December, 2016
- Monday 2 January, 2017 (Public Holiday)

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

- Christmas Day – Sunday 25 December, 2016
- New Year's Day – Sunday 1 January, 2017

Offices will re-open at 8.30am on Tuesday 3 January, 2017.

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 2013 – 2017 Council Plan provides as follows;

<b>Key Result Area</b>	Representation and Leadership of our Community
<b>Objective</b>	Good governance through open and transparent processes and strong accountability to the community.
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice.

This proposal is consistent with the 2013-2017 Council Plan.

### **Financial Implications**

Leave and absences will be taken via normal annual leave or rostered day off entitlements which are budgeted for. The holidays will only be undertaken in lieu as they are gazetted or they will be taken as annual leave.

### **Communications Strategy**

Closure will be communicated via public notices in the local media, 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 – Natalie Abbott*

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, Lerderderg Childrens Centre and Aged & Disability 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. Tatchell/Dudzik**

#### **That:**


- 1. Council approve the closure of Council Offices, Works Depots, Library Services, Maternal & Child Health, Lerderderg Children Centre and Aged & Disability for the period from 12.30pm on the afternoon of Friday 23 December, 2016 with the offices reopening on Tuesday 3 January, 2017.**
- 2. Appropriate Public Notices be placed in the local media to inform the public of the closure, emergency and after hours telephone numbers and contacts available during the closure.**

**CARRIED.**

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### Report Authorisation

**Authorised by:**

**Name:** Rob Croxford 

**Title:** Chief Executive Officer

**Date:** Wednesday, 17 August 2016.

## 10.2 GROWTH AND DEVELOPMENT

### 10.2.1 Submission to the Act for the Future/Directions for a new Local Government Act paper

#### Introduction

File No.: 02/09/002  
Author: John Whitfield  
General Manager: Satwinder Sandhu

#### Background

As Councillors are aware the state government is in the process of reviewing the Local Government Act 1989. It has reached a stage where it has released a paper entitled "Act for the future – Directions for a new Local Government Act".

A link to the Directions Paper can be found here.

<http://www.yourcouncilyourcommunity.vic.gov.au/DirectionsPaper>

This paper outlines 157 proposed Directions and seeks comment on the review of the Act based on these Directions. Responses to the proposed reforms are due by Friday 16 September 2016 at 5pm.

The Council considered a Memo at an Assembly of Council on Wednesday 24 August 2016 that contained:

- A Briefing Note
- A DRAFT Response to the Local Government Act Review Directions Paper using the Submission Template provided by the state government
- An Act for the future Factsheets Kit
- The MAV Submission Local Government Electoral Review in 2014
- The OMC Agenda report for 5 November 2014 relating to the Local Government Electoral Review Submission

#### Proposal

In its Directions paper, the state government provides the following overview of the proposed reforms.

#### **Revitalising local democracy**

*The role of councils will be made clearer. They will be charged with planning for and ensuring the delivery of services, infrastructure and amenity for their municipality, collaborating with other levels of government and advocating for their communities.*

*Mayors will be put in charge of councils by giving them longer terms and by expanding their role to lead councillors in developing strategic directions. The mayor will lead an in-depth deliberative community engagement process to shape a four-year council plan, lead the monitoring of its implementation and report back annually to the community on progress. Mayors will be expected to exercise visible, sustained and accountable leadership.*

*Council structures and election processes will be simplified and made more consistent and representative. They will reinforce municipality-wide governance. Voting rules will be aligned with state elections to reduce confusion and informal voting. The franchise will be modernised to reinforce the integrity of the council roll and improve voter participation; and candidates will compete on a level playing field, with equal quotas.*

*The state government, through the minister, will have the tools to intervene to ensure the integrity of the sector as a whole and to address governance issues in individual councils early and effectively, minimising the need to suspend or dismiss entire councils.*

### **Innovative, collaborative and efficient councils**

*Innovation and collaboration with other councils, levels of government and organisations will be the rule and not the exception. Existing hurdles to collaboration between councils and others will be removed.*

*The new Act will support councils to embrace new technological opportunities as they emerge. It will be flexible enough to enable councils to embrace a new information age based around ever-increasing individual choice and globalisation via social media and whatever replaces the current platforms that have emerged over the past decade.*

*A stronger legislative framework will support sound financial management, sustainable rating policies and modern, integrated strategic planning. Long-term asset management and financial management plans will be required, and these will be integrated with the four-year council plan which will become the primary policy instrument of all councils. In an increasingly data-rich society, sharing information in these plans can unleash sustained citizen participation and co-production capacity.*

*Unnecessary red-tape requirements will be removed from the Act. The focus will move to delivery of required outcomes, consistently prescribed and monitored. So long as councils demonstrate they comply with principles of good governance and sound financial management, the business of how they achieve outcomes will be left largely in their hands.*

### Easy-to-read, accessible Act

*The Act will set out the principles by which councils are to achieve outcomes, which will be clearly expressed in the Act. Regulations will specify the processes required to achieve these outcomes. The minister will be empowered to exempt a council from the requirements if it can show it is achieving the outcomes required by the Act in other ways. The minister will have the power to issue non-legislative guidelines on any matter in the Act.*

The following table lists the ten major proposed reform directions set out in the Directions paper.

#### MAJOR REFORM DIRECTIONS

No.	Major reform direction
1	<b>Mayors leading councils:</b> Enable a mayor to provide greater leadership to their council by having two-year terms and extending their powers and responsibilities.
2	<b>Consistent representative structures:</b> Improve the consistency of council representative structures by establishing a consistent formula for determining councillor numbers and having councils be unsubdivided or consist entirely of uniform multi-member wards.
3	<b>Consistent, simpler voting arrangements:</b> Simplify voting arrangements for council elections by using the state roll to determine eligible voters (except in the City of Melbourne), introducing partial preferential voting and having a consistent voting method for all council elections determined by the minister.
4	<b>Deliberative community engagement:</b> Require councils to undertake a deliberative community engagement process before adopting a four-year council plan by December of the year after their election.
5	<b>Integrated, strategic planning and reporting:</b> Require councils to have an integrated strategic planning and reporting framework including (as well as the four-year council plan) a 10-year community plan, 10-year financial plan and 10-year asset plan.
6	<b>Effective ministerial intervention:</b> Strengthen the minister's powers to deal with individual councillors who are contributing to or causing serious governance failures at a council.
7	<b>Transparent CEO employment and performance:</b> Require all councils to have a CEO remuneration policy and to have an independent advisory mechanism to guide recruitment, contractual arrangements and performance monitoring of CEOs.
8	<b>Power to innovate and collaborate:</b> Improve the financial sustainability of councils and strengthen their capacity to be innovative and to undertake collaborative activities.
9	<b>A consistent rating system:</b> Establish a single method for valuing land for rates, modernise exemptions from rates and increase transparency in the levying of differential rates.

<b>10</b>	<b>Autonomous decision-making balanced by a principle-based Act:</b> Extend autonomy to councils by deregulating council decision-making processes and replacing them with high-level principles requiring transparency and accountability.
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The table below outlines timeline for the review and adoption of a new Local Government Act.

Phase	Year
Issues identification	2015–16
Consultation	
Reform directions	2016
Consultation	
Exposure draft Bill	2016
Consultation	
Bill	2017
Act	2018

The attached draft submission has been prepared by staff for Council's consideration. It uses the submission template supplied by the state government for response to the Directions paper. If approved by the Council, a submission will be made to the state government by the deadline of Friday 16 September 2016 at 5.00pm.

On Wednesday, 31 August 2016, the MAV forwarded by email their draft submission to the Directions Paper for Victorian Councils to comment on. The MAV draft submission is also attached to this report. Because of the late arrival of the MAV draft submission there has been no reconciliation of Moorabool Shire Council's draft response to the Directions Paper to the response of the MAV at the time of writing this report.

### Policy Implications

The 2013 – 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of our Community
<b>Objective</b>	Good governance through open and transparent processes and strong accountability to the community
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice.

The preparation of this draft submission to the Act for the future - Directions for a new Local Government Act paper is consistent with the 2013-2017 Council Plan.



### **Financial Implications**

No financial implications to Council.

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

No Risk and Occupational Health and Safety issues apply to Council unless the relevant Council officers do not receive the appropriate instrument of appointment and authorisation from Council.

### **Communications Strategy**

A copy of Council's submission, should it choose to make one will be posted on the Council's website. It will also be available on the Local Government Act review website at [www.yourcouncilyourcommunity.vic.gov.au](http://www.yourcouncilyourcommunity.vic.gov.au)

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

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

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

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

*General Manager – Satwinder Sandhu*

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**

We have concerns with the principle of stripping down the act and using regulations and guidelines that will be issued by the minister without the rigour of consultation on the Act changes. That is, we are not sure what we are agreeing on in principle at a high level not having been exposed to the detail.

Further, the act is not empowering local government as claimed in the presentations by DELWP staff. The Act is tightening control of the sector through prescription and direction.

There are reservations around the use of Ministerial direction to impose additional requirements upon local government which will again result in 'big brother' approach and introduction of more prescriptive requirements. We need more of a self-governing approach to local government, and let the local community be its jury, not the state government

State government should work with the local government sector on a partnership approach to achieve consistency of best-practice throughout councils. This will lead to greater knowledge sharing, collaboration and partnership on best-practice and service delivery. In this way the needs and diversity of the local government sector will be reflected.

It is recommended that the draft submission to the Act for the future - Directions for a new Local Government Act paper as attached to this report and with any changes made at the Council meeting, be submitted to the state government.

**Recommendation:**

**That in relation to the Act for the future - Directions for a new Local Government Act paper, the Council makes a submission as per Attachment 10.2.1(a) to this report adjusted to reflect any amendments to that submission made at this meeting.**

**Resolution:**

**Crs. Sullivan/Tatchell**

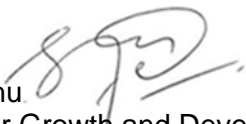
*That in relation to the Act for the future - Directions for a new Local Government Act paper, the Council makes a submission as per Attachment 10.2.1(a) to this report with an amendment to Direction 43 – to support option 1 and not support option 2 and to Direction 122 – to not support option 1 and to support option 2.*

**CARRIED.**

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**Report Authorisation**

**Authorised by:**

**Name:** Satwinder Sandhu   
**Title:** General Manager Growth and Development  
**Date:** Friday, 19 August 2016

***Cr. Sullivan declared an Indirect Conflict of Interest (Section 78A) in relation to Item 10.2.2 Planning Permit PA2015-293; Development and use of a dwelling and ancillary outbuilding on Mahars Road, Leigh Creek. The nature of the Conflict of Interest is due to Cr. Sullivan having acted for an objector to this item as a surveyor on a proposed subdivision in the City of Ballarat.***

***Cr. Sullivan left the meeting at 5.15pm and did not participate in voting on the Item.***

***Consideration of Deputations – Planning Permit Application No. PA2015-293***

***Mr. John Frawley addressed Council in favour of the granting of a planning permit for the application.***

***Mr. Keith Parry addressed Council as an objector to the granting of a planning permit for the application.***

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

**10.2.2 Planning Permit PA2015-293; Development and use of a dwelling and ancillary outbuilding on Mahars Road, Leigh Creek**

<b>Application Summary:</b>	
Permit No:	PA2015 293.
Lodgement Date:	14 December, 2015.
Planning Officer:	Mark Lovell.
Address of the land:	Five titles – Crown Allotment 26, Section 4 Parish of Warrenheip; Crown Allotment 6 Section 2 Parish of Warrenheip; Crown Allotment 8 Section 2, Parish of Warrenheip; Lot 1 on Title Plan 599359U and Lot 1 on Title Plan 645593H.  Mahars Road, Leigh Creek.
Proposal:	Development and Use of a Dwelling and ancillary outbuilding
Lot size:	Combined land area of 24.11 hectares.
Why is a permit required?	Clause 35.07-1 and Clause 35.07-4 Farming Zone - Use and development of land for a Dwelling and ancillary outbuilding on a lot less than 40 hectares.

<b>Public Consultation:</b>	
Was the application advertised?	Yes, nine (9) notices to neighbouring owners and occupiers.
Notices on site:	Yes, two (2) signs on site.
Notice in Moorabool Newspaper:	No.
Number of Objections:	One objection to the application and five letters supporting the application.
Consultation meeting:	No formal mediation meeting, but discussions were held with both the applicant and objector. The objector offered an alternative lot arrangement with a land sale but this was not accepted by the applicant. The objection remains unresolved.
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	

<b>Officer's Declaration of Conflict of Interests</b>	
<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>	
<b>Executive Summary:</b>	
Application Referred?	Yes. Referred to internally to Council's Environmental Health and Infrastructure sections.
Any issues raised in referral responses?	No.
Preliminary Concerns?	Yes. Dwelling use on a small parcel of land within a Farming Zone.
Any discussions with applicant regarding concerns.	Yes. The applicant provided additional written information.
Any changes made to the application since being lodged?	The applicant has provided additional information regarding the background to the previous refusal to grant a permit for a dwelling and differences with the current application.
VCAT history?	Yes, VCAT appeal P251/2015 dated 5 October, 2015 overturned Council's Notice of Decision to Grant a permit and directed no permit to be issued for the construction of a dwelling and shed in association with an agricultural business.
Previous applications for the site?	PA2104172. A Notice of Decision was issued at the direction of Council on 4 March, 2015. The decision was overturned by VCAT on review.
General summary (Pro's/Con's of the proposal).	The primary concern with this application is the use of the land for a dwelling within a Farming Zone.
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for the use and development of a dwelling with ancillary outbuilding at Crown Allotment 26, Section 4 Parish of Warrenheip; Crown Allotment 6 Section 2 Parish of Warrenheip; Crown Allotment 8 Section 2, Parish of Warrenheip; Lot 1 on Title Plan 599359U and Lot 1 on Title Plan 645593H known as Mahars Road, Leigh Creek.</p>	

## Public Notice

The application was notified to adjoining and surrounding landowners and by placing two large notices on site, one of each side of Mahars Road for a period of fourteen days. One (1) objection was received. Also, five letters supporting the application were received after the completion of the advertising period.

## Summary of Objections

The objection received is detailed below with officer's comments accompanying them:

Objection	Any relevant requirements
The application is no difference to last application lost at VCAT.	Reasons of VCAT order P521/2015
<b>Officer's response:</b> The application has changed considerably by including additional land in the same ownership which increases from 11.75 hectares to 24.11 hectares. The applicant has changed their Farm Management Plan from a Low Line Cattle Stud to a Beef Cattle Farm.	

Objection	Any relevant requirements
<b>Inconsistencies in the Farm Management Plan</b>	Farm Management Plan.
<b>Officer's response:</b> This can be rectified by ensuring the detailing of the plan matches the financial statement included within the plan.	
No legitimate justification for a dwelling (theft and checking stock) and the owner has previously lodged a fictitious Farm Management Plan to obtain a permit in order to sell the property.	
<b>Officer's response:</b> To ensure the site is used strictly in accordance with Farm Management Plan, a Section 173 agreement will be required. This does not prevent a future sale of the site but ties the use of the dwelling to a specific agricultural use which in this instance is a Beef Cattle Farm.	

## Proposal

The proposed dwelling will consist of three bedrooms, an open study, combined kitchen and meals room, combined lounge and family room with associated amenities. The dwelling will have a maximum width of 10.30 metres and a maximum length of 19.60 metres for a total floor area of 185.30m<sup>2</sup>. The dwelling is setback 40 metres from the southern side of Mahars Road, and setback 25 metres from the eastern side boundary. The dwelling will be accessed via a 6 metres in width gravel driveway and a new proposed pipe vehicle crossover. The dwelling will have a floor to ceiling height at 3.0 metres and an overall height of 6.9 metres. The dwelling will be comprised of weatherboard clad walls, Colorbond pitched roofing, and unspecified window frames.

The applicant also intends to construct an ancillary outbuilding to be used as a farm shed. The building will be 12.05 metres in width and 15.09 metres in length for a total floor area of 181.83m<sup>2</sup>. The building will have an overall height of 8.06 metres and will consist of Coloured trimdeck clad walls and Colorbond roofing. The building is located to the western side of the proposed internal driveway. The total area occupied by the dwelling, shed and associated open spaces separate from the farming land is 976.45m<sup>2</sup> or 4.05% of the total land area covering five titles.

### Site Description

The subject site is split between the northern side of Mahars Road and the southern side of Mahars Road, west of Forbes Road, Leigh Creek. The site is comprised of five separate titles, three titles to the north of Mahars Road and two titles to the south of Mahars Road with a combined land area of 24.11 hectares. The site is comprised of vacant land with slight sloped topography. The site has been cleared and does not contain any canopy trees.

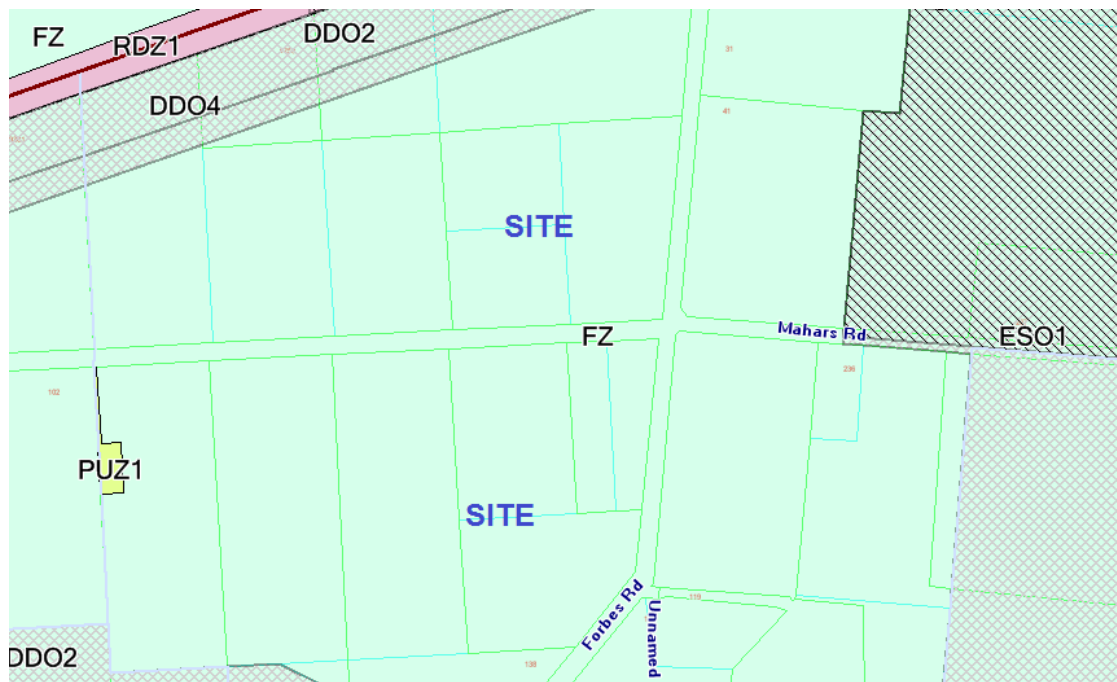
To the south, visible from the site is Kryal Castle, a major tourist attraction (place of assembly) with a woodlands hill further to the south. To the north, are open agricultural uses with scattering of farm sheds. There are a small number of dwellings in the area. The site is conveniently positioned near the Western Highway located to the north-west which provides easy access the Ballarat Activity Centre which contains a diverse range of retail and commercial uses.

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

### Locality Map

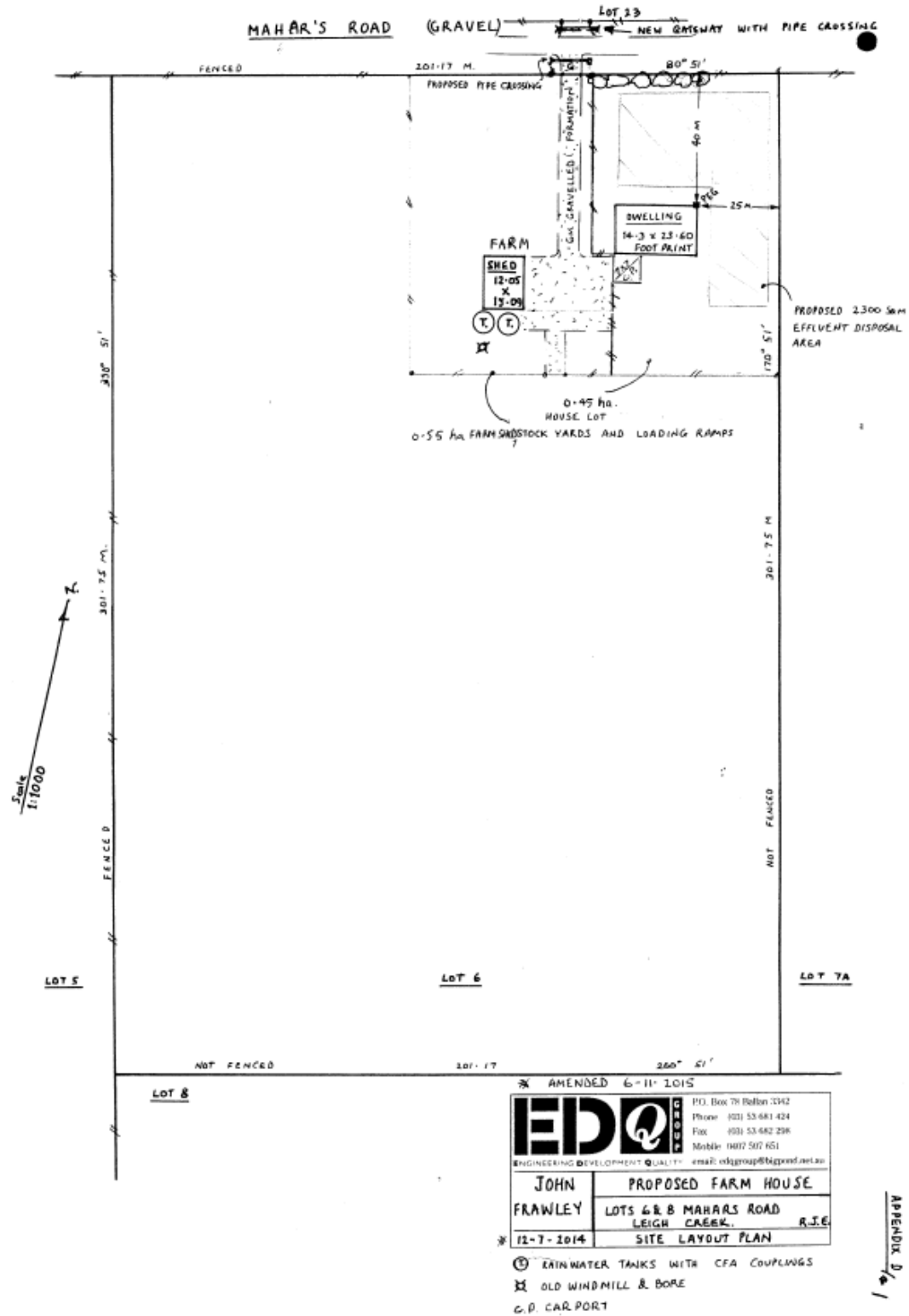


### Zone Map



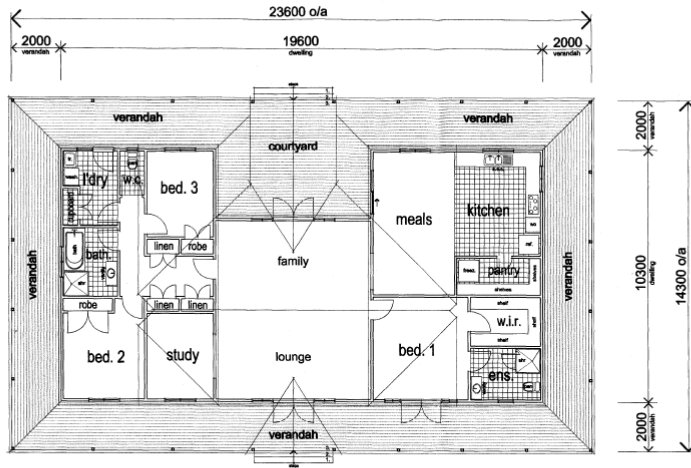
The surrounding properties are within a Farming Zone under the Moorabool Planning Scheme





Site plan

APPENDIX B  
1/1



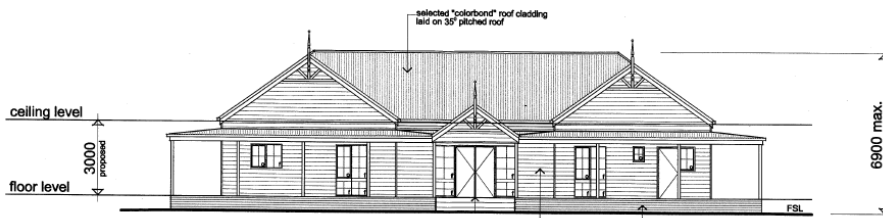
proposed floor plan  
SCALE 1:100

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

<p>The drawings have been prepared for the use of: "Architect, Design, Drafting, and Site/Trade Services" and other associated services only. The drawings are not to be used for any other purpose or in any other context without the written consent of the author.</p> <p>NO LIABILITY FOR CONSTRUCTION OR CONSTRUCTION OF ANY PART OF THE DRAWINGS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS.</p>		<p><b>Architectural Services</b> Architectural Services 12-439 1 3 12-439 1 3 12-439 1 3</p>	<p>proposed dwelling and verandahs JOHN FRAWLEY LOT 6 MAHARS ROAD LEIGH CREEK.</p>	<p>proposed floor plan PLANNING USE ONLY not for construction 12-439 1 3</p>

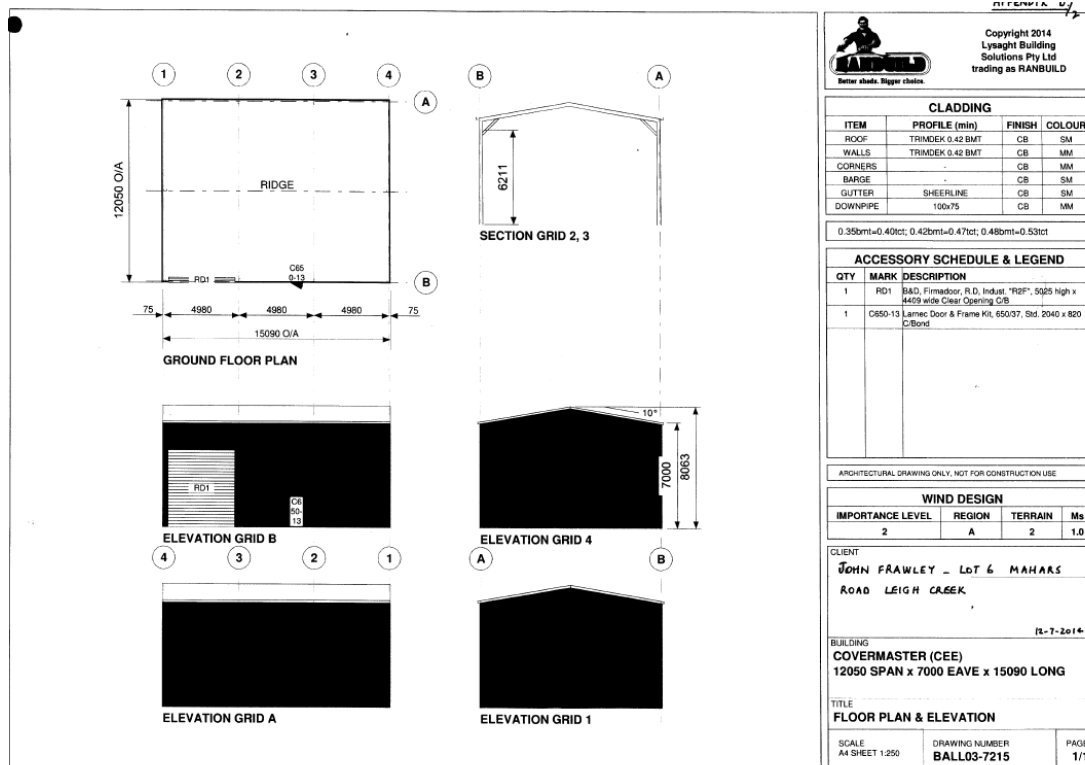
Floor Plan

APPENDIX B  
1/2



<p>The drawings have been prepared for the use of: "Architect, Design, Drafting, and Site/Trade Services" and other associated services only. The drawings are not to be used for any other purpose or in any other context without the written consent of the author.</p> <p>NO LIABILITY FOR CONSTRUCTION OR CONSTRUCTION OF ANY PART OF THE DRAWINGS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THE DRAWINGS.</p>		<p><b>Architectural Services</b> Architectural Services 12-439 1 3 12-439 1 3 12-439 1 3</p>	<p>proposed dwelling and verandahs JOHN FRAWLEY LOT 6 MAHARS ROAD LEIGH CREEK.</p>	<p>proposed elevations PLANNING USE ONLY not for construction 12-439 3 3</p>

### Elevation Plan



### Shed 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 11.05-2 Melbourne's hinterland areas.
- Clause 14.01-1 Protection of Agricultural Land
- Clause 16.01-2 Location of Residential Development
- Clause 16.01-5 Housing Affordability,
- Clause 21.03-4 Landscape and Neighbourhood Character.
- Clause 21.03-5 Rural Lifestyle Opportunities.
- Clause 21.04-2 Agriculture.
- Clause 22.03 House and House lot excisions in Rural Areas.

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

<b>SPPF</b>	<b>Title</b>	<b>Response</b>
Clause 14.01-1	Protection of Agricultural land.	The proposed dwelling will not impact upon the continuation of primary production on adjacent land. The use of part of land for dwelling will reduce the total area devoted to the agricultural use.
Clause 16.01-2	Location of Residential Development	The proposed dwelling is not located near an activity centre or an employment corridor.
<b>LPPF</b>		
Clause 21.03-4	Landscape and Neighbourhood Character	A strategy of this Clause is to avoid residential development in farming areas unless it is required for the agricultural use for the land. A Farm Management Plan demonstrates a nexus between the occupation of the dwelling and the use of the land for Beef Cattle farm.

### **Zone**

The site is located in a Farming Zone under the Moorabool Planning Scheme. The purpose of the Farming 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 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 provisions.

The decision guidelines under dwelling issues has the following objectives:

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

A planning permit is required use the land for a dwelling where a lot is less than 40 hectares.

A planning permit is required for building and works for a Section 2, permit required use.

The proposal is considered consistent with the objective to ensure that non-agricultural uses do not adversely affect the use of surrounding land for agriculture.

### **Overlays**

This site is not affected by overlay controls.

### **Relevant Policies**

#### **Council's Rural Growth Policy**

Council's Rural Growth Policy Statement was adopted by Council on 19 September, 2012. The document applies to all land in Farming Zone under the Moorabool Planning Scheme. The policy states:

- Encourage dwellings in areas nominate in Map 1 of Council Rural Growth Policy Statement;
- Ensure the siting of any dwellings is designed to have a minimal impact on any existing or future agricultural activities on the site and on surrounding.
- Ensure it is clear whether the dwelling is required for agricultural operation use or to maintain rural communities;
- Ensure sufficient infrastructure is available or that alternative methods are available which do not required normal infrastructure;
- Encourage development of dwellings to support communities of land which is unlikely to support agricultural land which still considering any other overlays which may impact the land. This is land which is constrained for use as agriculture by other environment factors such as vegetation, slope, soil quality, etc; and
- Ensure any subdivision is undertaken in accordance with the scheme in order to discourage fragmentation of agricultural land. Subdivision in accordance with the scheme.

The proposed dwelling is considered not have an impact upon the continued of the surrounding land for agricultural use.

## **Council's Rural Housing Policy**

Council's Rural Housing Policy has been developed to provide direction for how limited farming potential rural dwellings should be considered, and more broadly, rural settlement patterns. The policy seeks to articulate support for resilient and integrated rural communities and agricultural enterprises, recognising that 'State Government Planning Policy Framework does not adequately recognise or support agriculture trends and rural settlements in the Moorabool Shire'.

The principles of the policy relevant to this application include:

- Support the agriculture sector so that it can be more productive, diverse, resilient and adaptive to changing agricultural trends, including supporting agricultural activities that recognise Moorabool's advantageous proximity to market;
- Protect agricultural land use from loss and allow development that increases agricultural productivity;
- Focus growth opportunities in settlements along major transport corridors, in particular where there is physical and social infrastructure and services;
- Recognise that there is substantial existing lots under 40 hectares capable of supporting the viable operation of agricultural enterprises;
- Promote a rural housing market that meets the needs of the Shire's rural communities; and
- Land parcels for the proposed on farm living dwellings are to have a minimum lot size of 8 hectares as identified in Map 1.

The subject land is located in an area designated on Map 1 as a rural development area.

The proposed development of a dwelling easily achieves the minimum land area of 8 hectares under this policy with a combined land area of 24.11 hectares. The dwelling is linked to a Farm Management Plan (FMP) thereby supporting continued agricultural use of the land.

### **Particular Provisions**

There are no particular provisions affecting the subject land.

### **Discussion**

#### VCAT Decision.

The same permit applicant and land owner previously applied for a dwelling associated with an agriculture use on the same site except for a smaller land area of 11.55 hectares. On review against Council's Notice of Decision to grant a permit, VCAT determined the application and directed no permit be issued.

Member Watson made several statements in her order which are relevant to the current application. She noted the proposed dwelling and shed occupied 8.5% of the total land which was considered to be a large loss of productive agricultural land contrary to the purpose of the Farming Zone and would undermine state and local policies which seek to protect productive agricultural land. The member was also not persuaded by the contents of the Farm Management Plan and believed the calving process could be successfully undertaken by personnel living off site and did not believe the farm equipment requires twenty four surveillance in order to be properly secured.

The current application seeks to consolidate five land titles for a total area of 24.11 hectares. Using the same land area taken by the dwelling and shed, this would equate to approximately 4.05% of the total land. It is considered that this a minimal amount of the total land to be devoted to a dwelling and shed. The site also includes three unencumbered parcels of land on the northern side of Mahars Road which are not affected by any of the building works. The consolidation of the titles would deter additional dwellings occupying this area.

The site comprising five titles is now of a sufficient land area and can still be used for productive agricultural use consistent with the objectives of the Farming Zone.

The applicant has modified their Farm Management Plan to a high value Beef Cattle Farm. The new Farm Management Plan advised that the property has the potential capacity for 23 heifers. The intent is to purchase calving heifers in autumn and spring and sell the cow and calf in a 6 month cycle. The financial statement projects a profit for the next five years using this process. The applicant has presented a scenario for a viable farming activity. The objector has advised that this is an unusual farming process and suggested that there is a lack of knowledge of breeding cattle by the applicant. Based on the information presented in the Farm Management Plan suggests that site will operate successfully and will be used for the purpose of a beef cattle farm. The dwelling on site ensures livestock losses are minimised to prevent the beef cattle business from not being financially viable in the future.

#### Dwelling in a Farming Zone

The dwelling is positioned in the north-east corner of Lot 6. This has limited the extent of the area covered by the dwelling with its associated effluent field, ancillary shed and the internal accessway to allow most of the land to be unencumbered for agricultural use. There will be a permit condition requiring consolidation of all five titles to prevent any lots been sold off and restricts further development of the land.

The applicant has advised that their client is a legitimate farmer who has resided in the local area for a long period of time. The owner has submitted a statement advising their intent is to build a family home to enable three generations of Frawley farmers to continue to live and work on the original 30 acre property his father bought on the northern side of Mt Warrenheip. The information presented including the Farm Management Plan provides adequate evidence that a viable farming activity will be undertaken on the property in association with a dwelling. The proposal is considered to be consistent with the objectives of the Farming Zone and would not be undermined by one dwelling covering five farming lots that will be consolidated into one lot. The proposal in its current form, covering 24.11 hectares is appropriate for a one dwelling development that is associated with an agricultural activity. On this basis, the application should be supported.

### 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
Infrastructure	No objection subject to five conditions
Environmental Health	No objection subject to one condition.

### Financial Implications

The recommendation for approval would not represent any financial implications for Council.

### Risk and Occupational Health and Safety Issues

The recommendation for 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. The submitter and the permit applicant were invited to attend this meeting and invited to address Council if desired.

## Options

An alternative recommendation would be to refuse the application on the grounds that the proposed use and development of a dwelling is inappropriate and inconsistent with the Farming Zone provisions which seek to retain productive agricultural land.

Refusing the application may result in the objector lodging an application for review of Council's decision with VCAT.

## Conclusion

The proposed use and development for a dwelling and ancillary outbuildings does satisfactorily address the decision guidelines of the Farming Zone. The site area has been enlarged compared to the previous application that was refused and allows for the consolidation of five farming lots which can be satisfied by a permit condition. The associated Farm Management Plan demonstrates a viable farming activity and will be linked to the subject land via a Section 173 agreement that will be registered on title. The objector concerns have not been fully resolved but will partly satisfied by a consolidation of titles to prevent their individual sale. The proposed use and development of a dwelling and ancillary outbuilding should be supported.

### Resolution:

#### Crs. Toohey/Edwards

***That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to grant a permit for application PA2015293 for the development and use of a dwelling and ancillary outbuilding at Crown Allotment 26, Section 4 Parish of Warrenheip; Crown Allotment 6 Section 2 Parish of Warrenheip; Crown Allotment 8 Section 2, Parish of Warrenheip; Lot 1 on Title Plan 599359U; and Lot 1 on Title Plan 645593H, known as Mahars Road, Leigh Creek with the following conditions.***

#### ***Endorsed plans***

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

- a) ***The site plan to show all five lots and the plan annotated that the lots will be consolidated into one new lot.***
- b) ***The paddock plan attached to the Farm Management Plan to show all five lots only and not the adjacent property to the east of Crown Allotment 6 Section 2, Parish of Warrenheip.***

***Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.***

#### ***Operational***

2. ***Before the use and development commences, all five titles consisting of Crown Allotment 26, Section 4 Parish of Warrenheip; Crown Allotment 6 Section 2 Parish of Warrenheip; Crown Allotment 8 Section 2, Parish of Warrenheip; Lot 1 on Title Plan 599359U; and Lot 1 on Title Plan 645593H must be consolidated in accordance with the Subdivision Act and registered with Land Victoria.***

#### ***Dwelling Requirements***

3. ***Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.***
4. ***The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.***
5. ***The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.***
6. ***The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.***

#### ***Farm Management Plan***

7. ***A Farm Management Plan to the satisfaction of the Responsible Authority must be endorsed as part of this permit, and cannot be varied without the written consent of the Responsible Authority.***
8. ***Prior to the issue of a building permit, sufficient work must have occurred in accordance with the five (5) year plan of the Farm Management Plan to the satisfaction of the Responsible Authority.***
9. ***Before the issue of a Building Permit the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority:***
  - a) ***The owner of the land must acknowledge that while the land remains zoned as Farming Zone or its equivalent successor the primary use of the land is for agricultural activities and the***

- use of the dwelling must be in conjunction with an approved agricultural activity.*
- b) Agricultural activities and environmental management identified in the endorsed Farm Management Plan must be undertaken on the land and must be in accordance with the Farm Management Plan endorsed under Condition 7 of the Planning Permit and cannot be varied without the written consent of the Responsible Authority.*
  - c) Before a Building Permit is issued for the dwelling, application must be made to the Register of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act and the owner must provide evidence of that registration of the Agreement to the Responsible Authority.*
  - d) The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.*

#### **Materials and Colors**

- 10. All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.*

#### **Infrastructure**

- 11. A standard rural residential vehicle crossing must be provided on Mahars Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.*
- 12. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.*
- 13. 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).*
- 14. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.*
- 15. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.*

#### **Environment Health**

- 16. The recommendations of the Land Capability Assessment prepared by Provincial Geotechnical Pty Ltd, 30 June 2014 Reference No: F4126 must be adhered to.*

**Permit Expiry**

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

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

**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.**

**Permit Note**


**A permit to install an onsite wastewater management system must be submitted to Environmental Health.**

**CARRIED.**

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**Report Authorisation**

**Authorised by:**

**Name:** Satwinder Sandhu   
**Title:** General Manager Growth and Development  
**Date:** Thursday, 18 August 2016

**Cr. Sullivan returned to the meeting at 5.32pm.**

**Consideration of Deputations – Planning Permit Application PA2016-030, PA2016-031, PA2016-032**

**Mr. Peter Jewell addressed Council in favour of the granting of planning permits for the following applications: PA 2016-030, PA2016-031 and PA2016-032 referred to as Items 10.2.3, 10.2.4 and 10.2.5 in the Agenda.**

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

**10.2.3 Planning Application PA2016-030 – 456 Navigators Road, Navigators; Use and Development of a Dwelling and Ancillary Outbuilding**

<b>Application Summary:</b>	
Permit No:	PA2016-030
Lodgement Date:	5 February 2016
Planning Officer:	Tom Tonkin
Address of the land:	Crown Allotment 2, Section 20A, Parish of Warrenheip, 456 Navigators Road, Navigators 3352
Proposal:	Use and Development of a Dwelling and Ancillary Outbuilding
Lot size:	6.11ha
Why is a permit required	Clause 35.07 – Farming Zone – use and development Clause 42.01-2 – Environmental Significance Overlay – development
<b>Public Consultation:</b>	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Notices on site:	Two (2)
Notice in Moorabool Newspaper:	None
Number of Objections:	Five (5). A sixth objection was withdrawn.
Consultation meeting:	Yes, held 27 April 2016 and attended by the applicant and objectors from two properties. Fundamental objections remain unresolved.

<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
<b>Officer's Declaration of Conflict of Interests</b>	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest. <i>Manager – Robert Fillisch</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author – Tom Tonkin</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
<b>Executive Summary:</b>	
Application Referred?	Referred to Central Highlands Water and within Council.
Any issues raised in referral responses?	No
Preliminary Concerns?	Yes, concerns were raised that the siting of the dwelling may limit the agricultural productivity of the site.
Any discussions with applicant regarding concerns	No

Any changes made to the application since being lodged?	Yes. Council officers wrote to the applicant requesting justification for the proposed siting of the dwelling, which was provided. Later, after advertising, Council requested the Farm Management Plan be amended to address concerns about the capability of the land to support the proposed farming enterprise, including stock numbers. An amended Farm Management Plan was submitted which more than halved stock numbers to 35 ewes and made consequential changes to the plan.
VCAT history?	None
Previous applications for the site?	None
General summary	The proposal is for use and development for a dwelling and ancillary outbuilding on a 6.11ha lot. A farm management plan is provided in support of the proposal. Objections to the proposal relate mainly to fragmentation of agricultural land, environmental impacts on the potable water supply catchment, unsustainability of the proposed farming activities and impact on rural character. Overall, the proposal is inconsistent with relevant State and local planning policy and does not contribute to the orderly use and development of productive agricultural land.
<b>Summary Recommendation:</b>	
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act</i> 1987, on the grounds detailed at the end of this report.	

## Background

With this application the applicant concurrently submitted two other applications – PA2016-031 and PA2016-032 – both for use and development of a dwelling and ancillary outbuilding on adjacent lots also forming part of 456 Navigators Road, Navigators. Objectors made either identical or near identical submissions to all the applications.

## Public Notice

Notice of this application was given to adjoining and nearby landowners and occupiers by mail on 7 March 2016 and signs erected on site facing Navigators Road and Pound Creek Road from 17-31 March 2016. Six (6) objections were received, one (1) of which was subsequently withdrawn.

## Summary of Objections

The objections received are detailed below with officer's accompanying comments. As previously mentioned objections received were not only to this application but also PA2016-031 and PA2016-032, and frequently refer to the objections as a whole. This is sometimes reflected in the summary below:

Objection	Any relevant requirements
The proposal will increase noise levels, dust and traffic, particularly on Pound Creek Road, affecting the rural ambience and set a precedence for similar development of multi lot farms, creating a suburban environment.	N/A
<b>Officer's response -</b> It is not considered that the proposal would not increase noise, dust or traffic to unacceptable levels given the modest nature of the proposal. There is an existing issue in part with the condition of Pound Creek Road which is separate to the consideration of this permit.	
The proposal does not comply with Clause 16.02-1 of the planning scheme. The sale and development of individual lots which formed part of larger agricultural landholdings impacts on the economic viability of farming by inflating land prices.	Clause 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The site is currently for sale, and the submitted farm management plan is generic, unrealistic and not tailored to a particular landowner's activities. The proposal could lead to a hobby farm use once the land is sold with a permit, and not contribute to agriculture in the area.	Clauses 14.01-1 and 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The submitted farm management plan has discrepancies and inconsistencies, and would see overstocking of the land.	N/A
<b>Officer's response -</b> This objection is discussed below.	
There is no absolute need for a dwelling on the site based on the farm management plan. The land has been farmed for generations without the need for a dwelling. The proposal does not comply with Clauses 35.07 or 22.03 of the planning scheme.	Clauses 22.03 and 35.07
<b>Officer's response -</b> This objection is discussed below.	



The findings of the Land Capability Assessment, conducted in summer during a drought, do not reflect winter conditions when the land can be soggy and waterlogged. The report may not have captured all accurate information.	N/A
<b>Officer's response -</b> The report was prepared by a suitably qualified person and the application, including the report, referred to Council's Environmental Health Officer and Central Highlands Water, the relevant water board who are a determining referral authority, who consent to the proposal subject to conditions.	
The property is within the Two Mountains Koala Trail and the proposal, including increased traffic would impact on koalas. The objector quotes a decision guideline from Clause 35.03-5.	Clause 35.07
<b>Officer's response -</b> Clause 35.03-5 relates to land in the Rural Living Zone. The subject site is in the Farming Zone, which includes the following decision guideline: "The impact of the use or development on the flora and fauna of the site and its surrounds."	
Additional dwellings and chemical use for weed control within the water catchment will reduce the quality and quantity of water. The objector quotes policy from Clause 22.02.	Clause 22.02
<b>Officer's response -</b> Use of chemicals for weed control is not relevant to consideration of this application. As previously mentioned the impact of development in the water catchment may be mitigated by the siting of development and permit conditions which regulate the proper functioning of the wastewater treatment system on an on-going basis. The first policy statement quoted is: "Strongly discourage the subdivision of the land in proclaimed water catchment areas", which is not relevant to this proposal which is for development of existing lots. The other policy statement quoted is: "Discourage land use and development that has the potential to reduce the quality or quantity of water produced." The application included a Land Capability Assessment prepared by a suitably qualified person and the application, including the report, referred to Council's Environmental Health Officer and Central Highlands Water, the relevant water board who are a determining referral authority, who consent to the proposal subject to conditions. Whilst the proposal has potential to affect water quality it is considered that adequate provision has been made to mitigate the impacts.	
Can the electricity supply to the area cope with the additional demand?	N/A
<b>Officer's response -</b> Any condition of approval would require a dwelling to be connected to reticulated electricity or have an alternative energy source. Any issues regarding electricity supply are a matter for the landowner to resolve with Powercor.	
Is the effluent field at least 100m from the existing dam?	Clause 42.01, Schedule 1
<b>Officer's response -</b> The effluent field would be 85-90m from the dam, which is not on a waterway.	

Growth in the area would require local roads to be upgraded to cope with additional traffic.	N/A
<b>Officer's response -</b> Road upgrades are separate to the consideration of this permit application.	
Additional dwellings affect fire and flood management in the area, increase the hazard and put pressure on emergency services.	N/A
<b>Officer's response -</b> These matters are not directly relevant to the consideration of this permit application but are broader strategic matters involving several agencies.	
CA2 includes an existing hay shed, therefore no additional sheds should be needed.	NA
<b>Officer's response -</b> The applicant advises that this shed has been sold and will be removed from the site.	
Daily traffic and noise and dust from construction of the proposed dwellings will impact on farms and crops nearby.	NA
<b>Officer's response -</b> The disruption normally expected during construction of a dwelling would not be considered unreasonable. Any unreasonable offsite impacts would be dealt with as part of the building permit approval.	
Is compliance with farm management plans monitored by Council?	NA
<b>Officer's response -</b> Any approval should require the farm management plan to be endorsed, which means it must be complied with. However, Council does not proactively enforce permit conditions due to limited resources, but would investigate any reported breach of conditions.	
Weed control is expensive, and less likely to be done where there is minimal or no economic/agricultural imperative to do so, such as on a small property. This impacts neighbouring properties due to spread of weeds, and also creates a fire hazard.	Clauses 14.01-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
The proposed division of a single property into multiple smaller properties is contrary to planning policy.	Clauses 16.02-1
<b>Officer's response -</b> The site comprises several lots on separately disposable titles, however it is recognized that the proposal would contribute to the potential for more likely permanent fragmentation of the current landholding. This objection is discussed further below.	
Rotation of stock on smaller properties would increase stock crossing of Pound Creek, causing erosion of the embankment and reduced water quality.	Clauses 14.01-1 & 16.02-1
<b>Officer's response -</b> This objection is discussed below.	

Navigators is in a high fire danger area – increased population is a risk, and motorbikes, farm machinery and unmanaged weeds adds fuel, and is a fire risk.	
<p><b>Officer's response -</b> Some nearby land, including to the west of the subject site, is affected by the Bushfire Management Overlay, the purpose of which includes “to ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.” Under this overlay, development associated with some land uses, including dwellings, requires a planning permit. Development directly associated with agriculture does not require a permit under this overlay. An assessment of fire risk or hazard is not relevant to this application.</p>	
The need for increased population in Navigators to sustain community sporting groups, for example, is disputed.	Clause 16.02-1
<p><b>Officer's response -</b> Council's Rural Housing Policy seeks to ensure the viability of rural communities by increasing population growth. There is no policy particular to Navigators in this regard, and the objector's claim is anecdotal but not disputed.</p>	
Introducing new crops like canola to the area introduces new pests and diseases. Pest control can in turn impact on birds, and there is abundant birdlife in the area.	NA
<p><b>Officer's response -</b> The application is for use and development of a dwelling and includes consideration of a farm management plan, discussed below. The planting of crops falls within the definition of crop raising, a use of land which (except from rice growing and timber production) in the Farming Zone does not require a planning permit.</p>	
Local wildlife is affected by increased population and the associated pollution and disturbance of the environment.	Clause 35.07-6
<p><b>Officer's response -</b> The Moorabool Planning Scheme does not identify any notable environmental values on the site or surrounding area, but the statement is considered to be broadly valid in considering such an application.</p>	
Previous permit applications by locals to develop or subdivide land have been refused. If rules have changed ratepayers should be notified.	NA
<p><b>Officer's response -</b> This objection is not directly relevant to this application, but it is acknowledged that Council should consider its role in communicating planning policy changes to the community.</p>	
It was understood that given the location in a Special Water Supply Catchment the area would not be developed. This proposal could set a precedent for more development and fragmentation of productive farm land.	Clauses 22.02 & 42.01, Schedule 1 Clauses 14.01-1, 16.02-1 and 35.07-6

<b>Officer's response -</b> Over the years State and local policies have changed regarding land in Special Water Supply Catchments. In particular, Council adopted its Domestic Wastewater Management Plan (DWMP) in October 2014, in accordance with the Minister for Water's guidelines. The DWMP guides Council in managing existing onsite wastewater systems and new housing development in water catchment areas. It is noted that Central Highlands Water (CHW) had input into the preparation of the DWMP, and as a determining referral authority can object to a planning permit application in this particular catchment, which would mean that a permit could not be granted. CHW have no objection to this application, subject to conditions. Concerns about precedence and land fragmentation are discussed below.	
Traffic safety on Pound Creek Road would be compromised due to the location of proposed crossovers.	N/A
<b>Officer's response -</b> The application was referred to Council's Infrastructure unit who made no objection to the application. This objection was discussed at the consultation meeting with objectors who attended and it was resolved that, notwithstanding the concerns raised, the proposed crossover location was in the best possible position.	
External fences do not have ring lock fencing to restrict sheep from straying onto the road.	N/A
<b>Officer's response -</b> This objection is not directly related to the assessment of this application.	
The proposal encourages fragmentation of land for non-rural use by splitting up a productive enterprise.	Clauses 14.01-1, 16.02-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
The Farm Management Plan is unviable and makes a mockery of how the systems, process and policies should be applied.	Clauses 14.01-1 and 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
Unviable farm plans reduce the amount of land available for sustainable agriculture.	Clause 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The proposal would lead to a concentration of dwellings, meaning the land would no longer be used for agriculture, and result in an unacceptable change in rural outlook from our property.	Clauses 14.01-1, 16.02-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
Loss of neighbourhood amenity due to development density creating smaller lot sizes.	Clauses 15.01-5, 35.07-6 & 65.01

<b>Officer's response -</b> It is noted that the proposal would not create smaller lot sizes but to develop an existing lot with a dwelling. The lot size is not uncommon in the area but development of a dwelling on such a lot that does not form part of a larger landholding is uncommon.	
The application does not accord with relevant policy for water catchments in Moorabool.	Clauses 14.01, 19.03, 22.02 and 42.01, Schedule 1
<b>Officer's response -</b> The objector appears to quote from a particular policy but the source is unclear. Nevertheless the information quoted is generally consistent with the guidelines in 'Planning permit applications in open, potable water supply catchment areas' (November 2012). In short, planning policy is often discretionary, as in this instance, and the application was referred to Central Highlands Water (CHW) as the relevant water board for consent, which was given subject to conditions.	
The Land Capability Assessment was conducted during the driest time in years and does not fully assess or reflect the true features and conditions of the land, and therefore its conclusions regarding proposed development setbacks from Pound Creek are questionable.	Clauses 14.02 and 22.02.
<b>Officer's response -</b> The report was prepared by a qualified professional and the application referred to Central Highlands Water as the relevant water authority, and to Council's Environmental Health Officer, who consent to the proposal.	
Additional traffic on roads already in poor condition.	N/A
<b>Officer's response -</b> This objection is not directly related to the application. The existing condition of roads is a separate matter for consideration.	
Proximity of dwelling would impede vermin control using firearms and alternative methods such as poison could impact on wildlife and livestock.	Clause 35.07-6
<b>Officer's response -</b> It is acknowledged the dwelling could impede the objector's land management practices.	
The proposal is at odds with State planning policy which is to maintain productive farm sizes and discourage fragmentation of farm land dwellings unrelated to farming.	Clauses 11.05-3, 14.01-1 and 16.02
<b>Officer's response -</b> This is discussed below.	
Constraints imposed by the zoning and drinking water supply catchment location should apply to this proposal.	Clauses 14.02 and 22.02
<b>Officer's response -</b> The application has been assessed under the current relevant provisions of the Moorabool Planning Scheme.	

Given the site is for sale there is no certainty that a prospective buyer would act on the proposal if a planning permit is granted.	N/A
<b>Officer's response -</b> This is discussed below.	
The proposed site is likely to be used for rural residential purposes for grazing horses and some cattle, as the soil quality, drainage and rainfall do not support the proposed long term intensive farming pursuits proposed.	Clauses 14.01-1 and 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
Approval of the application would be to ignore Council's local planning policies.	Clauses 22.02 and 22.03
<b>Officer's response -</b> These Council policies are discretionary but give clear guidance as to their intent. It is agreed that the proposal does not comply with local planning policy.	
The proposal would not contribute to local employment or enterprise given the unsuitability of the site for the proposed farming enterprise.	Clause 35.07
<b>Officer's response -</b> Noted.	

## Proposal

It is proposed to use and develop the site for a dwelling located on CA3. Details of the proposal are as follows:

- Single storey, comprising three (3) bedrooms, main with en suite, lounge, study, open plan kitchen, meals and family area, separate lounge and rumpus, bathroom and laundry, with an attached double garage and verandah along part of the north and west façades.
- Set back 30m from Pound Creek Road and approximately 60m from the south title boundary. The dwelling would be constructed of face brick with a low pitched Colorbond roof.
- Ancillary shed positioned southeast of the dwelling, both contained in a 40m x 50m (2000sq m) building envelope.
- Effluent field located in the north side setback.
- Farm management plan provided detailing farming activity as grazing prime lambs and growing cereal crops.

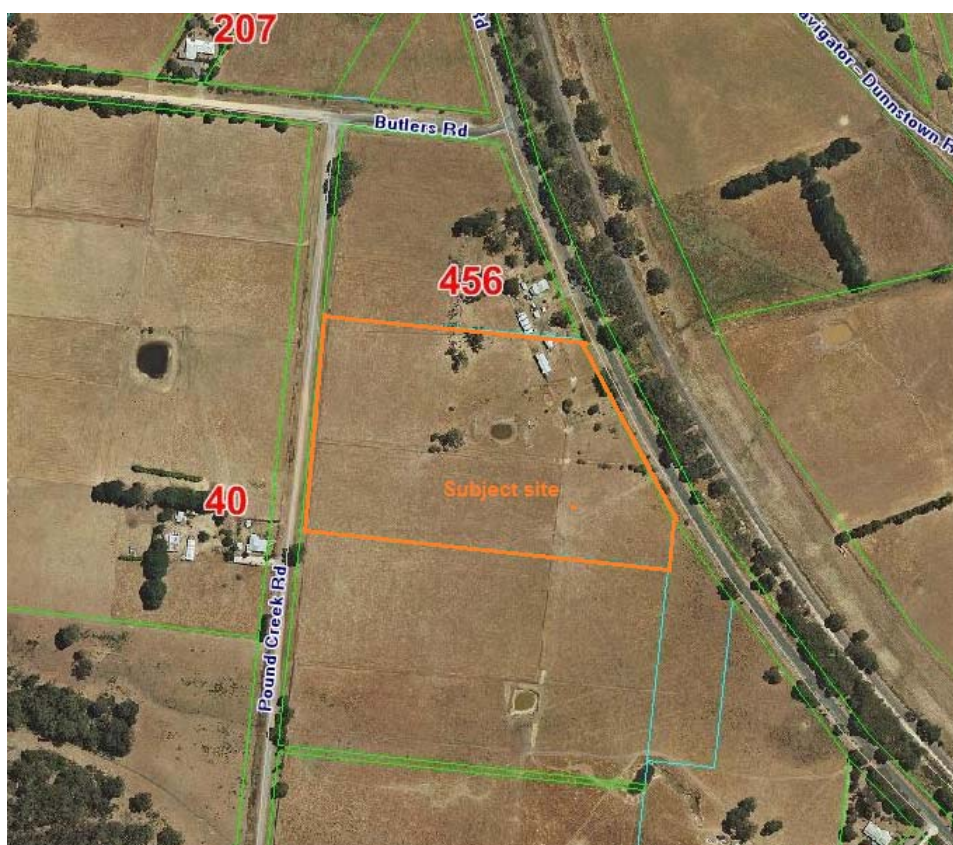
The plans are provided in Attachment 10.2.3.

## Site Description

Site and surrounding area details are as follows:

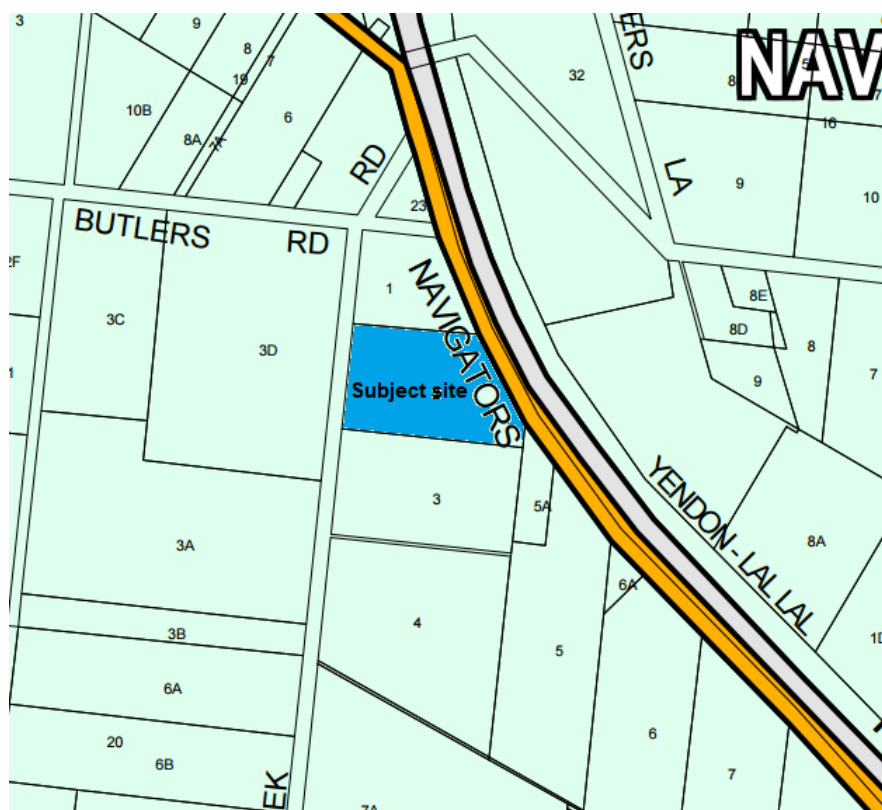
- Identified as Crown Allotment 2, Section 20A, Parish of Warrenheip and known as 456 Navigators Road, Navigators.
- Located on the east side of Pound Creek Road, approximately 175m south of Butlers Road.

- Roughly rectangular in shape with a maximum depth of 338.36m, width of 201.3m and area of 6.11ha.
- Slightly undulating topography, vacant apart from a small dam towards the centre of the lot, scattered vegetation, and a shed towards the northeast corner of the lot.
- Forms part of 456 Navigators Road which comprises seven (7) contiguous lots, only one of which is currently developed with a dwelling.
- The site and surrounding area is in the Farming Zone and characterised by flat to gently undulating land mostly cleared of vegetation and used predominantly for grazing and fodder crops. Heavily forested areas exist further to the west and southwest.
- The surrounding subdivision pattern is not uniform and a number of lots are developed with dwellings. In particular:
  - To the south is a vacant lot forming part of the property and subject to PA2016-031.
  - To the east is Navigators Road and the Geelong-Ballarat railway line, beyond which is vacant farming land.
  - To the west, across Pound Creek Road is a lot of 16ha developed with a dwelling.
  - To the north is a vacant lot 3.37ha forming part of the property and containing a single dwelling fronting Navigators Road.



## Locality Map

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



## 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:

- 11.05-1 Melbourne's hinterland areas
- 11.05-3 Rural productivity
- 11.06 Central Highlands regional growth
- 14.01-1 Protection of agricultural land
- 14.02 Water
- 15.01-5 Cultural identity and neighbourhood character
- 21.02-2 Non Urban Landscapes
- 21.02-.3 Water and Catchment Management
- 21.03-4 Landscape and Neighbourhood Character
- 21.03-5 Rural Lifestyle Opportunities
- 22.02 Special Water Supply Catchments
- 22.03 Houses and House Lot Excisions in Rural Areas

Overall the proposal does not comply with the relevant sections of the SPPF and LPPF.



## Zone

The subject site is in the Farming Zone.

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 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.*

Under Clause 35.07 a permit is required for use and development of a lot of less than 40ha for a dwelling.

Overall, the proposed use and development is inconsistent with the Farming Zone provisions.

## Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required for development. Reticulated sewer is not available to the site, and there are no relevant exemptions under the Schedule. The application was referred to Central Highlands Water as the determining referral authority, and to Council's Environmental Health officer, who both consented subject to conditions.

## Relevant Policies

Council's Rural Housing Policy, adopted on 19 September 2012, gives direction for assessing planning permit applications which propose new residential development of land in the Farming Zone. The Policy encourages residential development in farming areas which satisfies the purpose of the Farming Zone and supports agricultural opportunities. The proposal is broadly in accordance with this policy.

## Particular Provisions

None applicable.

## Discussion

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

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

- *Will result in the loss or fragmentation of productive agricultural land;*

- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

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

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

The following are considered to be the key issues, discussed in more detail below:

- Fragmentation of viable agricultural land;
- Unviable and speculative nature of the farm management plan; and
- Impact on the character of the rural landscape.

#### Fragmentation of viable agricultural land

The use and development of a 7.89ha site (two consolidated lots) for a dwelling is stated to be in support of a farming enterprise growing cereals and grazing prime lambs. As previously stated the site comprises two lots which form part of 456 Navigators Road which comprises seven lots. Six of those lots form part of the same landholding, and two other applications lodged simultaneously propose dwellings on two of the lots and in support of almost identical farm plans. It is understood that the sites proposed for dwellings are currently offered for sale or subject to sale conditional on the applicable permit being granted. It is understood the sites are being marketed for 'rural lifestyle' development and Council has been contacted by prospective buyers.

The pattern of subdivision in the area, including the subject site, is relatively fragmented. It is not unusual, however, for contiguous small lots to form part of a larger agricultural landholding, such as the subject site. There are also several lots in the surrounding area, from smaller than 1ha up to 10ha in size, in single ownership, many of which contain single dwellings. Many of these lots have significant tree coverage and dwellings are generally not prominent in the landscape. Whilst these small separate lots in single ownership are in the Farming Zone they are generally not bona fide agricultural landholdings.

Some objectors have raised concerns that the proposal contributes to fragmentation of the property known as 456 Navigators Road. It should be noted that each lot comprising the property is separately disposable and theoretically can be held in different ownership. This could occur regardless of this or the other planning permit applications submitted for dwellings on the land. In a sense, the land is already

fragmented. However, the likelihood of each lot being sold separately to facilitate non-residential use is minimal given the impracticality of using such small lots for agriculture. Offered for sale separately and particularly with the possibility of dwellings, the potential for the long term fragmentation of bona fide agricultural land is undeniable. Such an outcome is not supported by either State or local planning policy which includes the following objectives:

- *To manage land use change and development in rural areas to promote agriculture and rural production. (Clause 11.05-3);*
- *To protect productive farmland which is of strategic significance in the local or regional context. (Clause 14.01-1); and*
- *To maintain and enhance the natural environment and the Shire's rural identity and character. (Clause 21.02-2).*

State and local planning policy includes the following relevant strategies:

- *Prevent inappropriately dispersed urban activities in rural areas. (Clause 11.05-3);*
- *Limit new housing development in rural areas, including:*
  - *Directing housing growth into existing settlements.*
  - *Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.*
  - *Encouraging consolidation of existing isolated small lots in rural zones. (Clause 11.05-3);*
- *Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. (Clause 14.01-1);*
- *Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity. (Clause 14.01-1);*
- *Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors. (Clause 14.01-1);*
- *In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals. (Clause 14.01-1);*
- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. (Clause 16.02-1);*
- *Demonstrate need and identify locations for rural residential development through a housing and settlement strategy. (Clause 16.02-1); and*
- *Focus rural living development in areas close to urban centres with good access to services and facilities where there is minimal impact on productive agriculture and horticulture or areas with environmental values. (Clause 21.03-5).*

The site is evidently productive for grazing, in terms of the climate, soil conditions and water supply, and forms part of a larger rural area in the west of the Shire and the Ballarat rural hinterland. Nearby development, as described above, has taken place over several decades, and notwithstanding that some development has a 'rural residential' character, the site is clearly suited to primarily agricultural use, and this application must be assessed against current planning policy, as outlined above.

### Unviable and speculative nature of the farm management plan

A Farm Management Plan was provided with the original application. Some objections raised issues with the plan, including that the site would be unable to support the intensity of the farming activity proposed, and that given the speculative nature of the proposal due to the land being for sale the plan does not indicate any seriously entertained plan to farm the land. The applicant subsequently amended the farm plan, reducing the stock numbers by half and making consequential changes. Whilst this presumably makes the farm plan more viable it does not change its speculative nature. Whilst permit conditions can allow for changes to be made to a farm plan after a permit is granted, for the particular benefit of a prospective future landowner, this application is unusual given the speculative nature of the farm plan has been apparent from the outset. The applicant advised that the plan had been prepared in consultation with a prospective buyer, however given the plan is practically identical to those plans submitted with applications for the adjoining lots, it is difficult to reconcile the two. Furthermore, Council has been approached by prospective buyers who have admitted to not being advised of the requirement to comply with a farm management plan should they acquire the land with a permit, which casts further doubt on the legitimacy of the plan.

### Impact on the character of the rural landscape

In isolation, the proposed dwelling would be no more conspicuous in the landscape than any other dwelling nearby not substantially screened by vegetation. However, the application is being considered concurrently with dwelling applications on adjoining lots, and the combined visual impact of dwellings in this location will be noticeable and largely at odds with the rural character of the area. This is notwithstanding the modest scale and form of the dwelling, but it cannot be denied that the proposals introduce a more urban character to an area which is otherwise distinctly rural.

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

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

*In considering applications for dwellings in the Farming Zone, the Tribunal has on a number of occasions commented on the adverse impact on agricultural production associated with the intrusion of dwellings on small lots in the Farming Zone. In particular the Tribunal has commented that the impact of permitting dwellings in small rural lots in the Farming Zone is incremental in nature and that care must be exercised not to lose sight of the cumulative impact of each dwelling when considering applications for individual proposals. The failure to do so lead inevitably to the circumstances where the proliferation of dwellings on small lots changes the character of a locality to rural residential and productive agricultural land is lost forever.*

If this permit was to be approved a precedent could be set for similar applications in the future. The strong guidance provided by the Moorabool Planning Scheme supports the protection of agricultural land, and it is therefore reasonable to suggest that this land should be protected and that the use of the land for a dwelling should not be supported.

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

Overall, the proposed use and development is considered to be inconsistent with relevant State and local planning policy and the Farming Zone in respect of agricultural land use and rural housing development. The proposal is not sufficiently responsive to the site and surrounding land's features and would not support a sustainable farming operation.

### **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 and Council departments were provided with an opportunity to make comment on the application.

<b>Authority</b>	<b>Response</b>
Central Highlands Water	Consent with conditions
Infrastructure	Consent with conditions
Environmental Health	Consent with conditions

### **Financial Implications**

The recommendation of approval of this application would not represent any financial implications for Council.

### **Risk and Occupational Health and Safety Issues**

The recommendation of approval 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 approve the application subject to conditions.

Approving the application may result in any of the objectors lodging an application for review of Council's decision with VCAT.

## Conclusion

The proposal is for use and development for a dwelling and ancillary outbuilding on a 6.11ha lot. A farm management plan is provided in support of the proposal.

Objections to the proposal relate mainly to fragmentation of agricultural land, environmental impacts on the potable water supply catchment, unsustainability of the proposed farming activities and impact on rural character.

Overall, the proposal is inconsistent with relevant State and local planning policy and does not contribute to the orderly use and development of productive agricultural land.

***The Chair, with the consent of the Council, determined that Items 10.2.3 to 10.2.5 of the Agenda would be put to the vote as an aggregate at this point in the meeting.***

### Resolution:

**Crs. Edwards/Toohey**

***That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2016-030 for Use and Development of a Dwelling and Ancillary Outbuilding at Crown Allotment 2, Section 20A, Parish of Warrenheip, 456 Navigators Road, Navigators 3352, on the following grounds:***

- 1. The proposal does not comply with State and local planning policy for the protection of agricultural land from residential development.***
- 2. The proposal does not comply with the purpose and decision guidelines of the Farming Zone.***

**CARRIED.**

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### Report Authorisation

Authorised by:

  
**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Thursday, 18 August 2016

#### 10.2.4 Planning Application PA2016-031 – 456 Navigators Road, Navigators; Use and Development of a Dwelling and Ancillary Outbuilding

<b>Application Summary:</b>	
Permit No:	PA2016-031
Lodgement Date:	5 February 2016
Planning Officer:	Tom Tonkin
Address of the land:	Crown Allotments 3 and 5A, Section 20A, Parish of Warrenheip, 456 Navigators Road, Navigators 3352.
Proposal:	Use and Development of a Dwelling and Ancillary Outbuilding.
Lot sizes:	6.88ha and 1.19ha
Why is a permit required	Clause 35.07 – Farming Zone – use and development. Clause 42.01-2 – Environmental Significance Overlay – development.
<b>Public Consultation:</b>	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Notices on site:	Two (2).
Notice in Moorabool Newspaper:	None.
Number of Objections:	Five (5). A sixth objection was withdrawn.
Consultation meeting:	Yes, held 27 April 2016 and attended by the applicant and objectors from two properties. Fundamental objections remain unresolved.
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications.  Ensure that development is sustainable, resilient to change and respects the existing character.

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>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 – Tom Tonkin</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
Application Referred?	Referred to Central Highlands Water and within Council.
Any issues raised in referral responses?	No
Preliminary Concerns?	Yes, concerns were raised that the siting of the dwelling may limit the agricultural productivity of the site.
Any discussions with applicant regarding concerns	No
Any changes made to the application since being lodged?	Yes. Council officers wrote to the applicant requesting justification for the proposed siting of the dwelling, which was provided. Later, after advertising, Council requested the Farm Management Plan be amended to address concerns about the capability of the land to support the proposed farming enterprise, including stock numbers. An amended Farm Management Plan was submitted which halved stock numbers to 45 ewes and made consequential changes to the plan. Additionally, a plan was provided showing tree plantation screen planting on the southern boundary of CA 5A and common boundary of CA 3 and CA 5 to address the privacy concerns of an objector.



VCAT history?	None
Previous applications for the site?	None
General summary	<p>The proposal is for use and development for a dwelling and ancillary outbuilding on a 7.89ha land parcel (combined two lots). A farm management plan is provided in support of the proposal.</p> <p>Objections to the proposal relate mainly to fragmentation of agricultural land, environmental impacts on the potable water supply catchment, unsustainability of the proposed farming activities and impact on rural character.</p> <p>Overall, the proposal is inconsistent with relevant State and local planning policy and does not contribute to the orderly use and development of productive agricultural land.</p>
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i>, on the grounds detailed at the end of this report.</p>	

### **Background**

With this application the applicant concurrently submitted two other applications – PA2016030 and PA2016032 – both for use and development of a dwelling and ancillary outbuilding on adjacent lots also forming part of 456 Navigators Road, Navigators. Objectors made either identical or near identical submissions to all the applications.

### **Public Notice**

Notice of this application was given to adjoining and nearby landowners and occupiers by mail on 7 March 2016 and signs erected on site facing Navigators Road and Pound Creek Road from 17-31 March 2016. Six (6) objections were received, one (1) of which was subsequently withdrawn.

## Summary of Objections

The objections received are detailed below with officer's accompanying comments. As previously mentioned objections received were not only to this application but also PA2016030 and PA2016032, and frequently refer to the objections as a whole. This is sometimes reflected in the summary below:

Objection	Any relevant requirements
The proposal will increase noise levels, dust and traffic, particularly on Pound Creek Road, affecting the rural ambience and set a precedence for similar development of multi lot farms, creating a suburban environment.	N/A
<b>Officer's response -</b> It is not considered that the proposal would not increase noise, dust or traffic to unacceptable levels given the modest nature of the proposal. There is an existing issue in part with the condition of Pound Creek Road which is separate to the consideration of this permit.	
The proposal does not comply with Clause 16.02-1 of the planning scheme. The sale and development of individual lots which formed part of larger agricultural landholdings impacts on the economic viability of farming by inflating land prices.	Clause 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The site is currently for sale, and the submitted farm management plan is generic, unrealistic and not tailored to a particular landowner's activities. The proposal could lead to a hobby farm use once the land is sold with a permit, and not contribute to agriculture in the area.	Clauses 14.01-1 and 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The submitted farm management plan has discrepancies and inconsistencies, and would see overstocking of the land.	N/A
<b>Officer's response -</b> This objection is discussed below.	
There is no absolute need for a dwelling on the site based on the farm management plan. The land has been farmed for generations without the need for a dwelling. The proposal does not comply with Clauses 35.07 or 22.03 of the planning scheme.	Clauses 22.03 and 35.07
<b>Officer's response -</b> This objection is discussed below.	
The findings of the Land Capability Assessment, conducted in summer during a drought, do not reflect winter conditions when the land can be soggy and waterlogged. The report may not have captured all accurate information.	N/A

<b>Officer's response -</b> The report was prepared by a suitably qualified person and the application, including the report, referred to Council's Environmental Health Officer and Central Highlands Water, the relevant water board who are a determining referral authority, who consent to the proposal subject to conditions.	
The property is within the Two Mountains Koala Trail and the proposal, including increased traffic would impact on koalas. The objector quotes a decision guideline from Clause 35.03-5.	Clause 35.07
<b>Officer's response -</b> Clause 35.03-5 relates to land in the Rural Living Zone. The subject site is in the Farming Zone, which includes the following decision guideline: "The impact of the use or development on the flora and fauna of the site and its surrounds."	
Additional dwellings and chemical use for weed control within the water catchment will reduce the quality and quantity of water. The objector quotes policy from Clause 22.02.	Clause 22.02
<b>Officer's response -</b> Use of chemicals for weed control is not relevant to consideration of this application. As previously mentioned the impact of development in the water catchment may be mitigated by the siting of development and permit conditions which regulate the proper functioning of the wastewater treatment system on an on-going basis. The first policy statement quoted is: "Strongly discourage the subdivision of the land in proclaimed water catchment areas", which is not relevant to this proposal which is for development of existing lots. The other policy statement quoted is: "Discourage land use and development that has the potential to reduce the quality or quantity of water produced." The application included a Land Capability Assessment prepared by a suitably qualified person and the application, including the report, referred to Council's Environmental Health Officer and Central Highlands Water, the relevant water board who are a determining referral authority, who consent to the proposal subject to conditions. Whilst the proposal has potential to affect water quality it is considered that adequate provision has been made to mitigate the impacts.	
Can the electricity supply to the area cope with the additional demand?	N/A
<b>Officer's response -</b> Any condition of approval would require a dwelling to be connected to reticulated electricity or have an alternative energy source. Any issues regarding electricity supply are a matter for the landowner to resolve with Powercor.	
Is the effluent field at least 100m from the existing dam?	Clause 42.01, Schedule 1
<b>Officer's response -</b> The effluent field would be 85-90m from the dam, which is not on a waterway.	
Growth in the area would require local roads to be upgraded to cope with additional traffic.	N/A
<b>Officer's response -</b> Road upgrades are separate to the consideration of this permit application.	
Additional dwellings affect fire and flood management in the area, increase the hazard and put pressure on emergency services.	N/A

<b>Officer's response -</b> These matters are not directly relevant to the consideration of this permit application but are broader strategic matters involving several agencies.	
CA2 includes an existing hay shed, therefore no additional sheds should be needed.	NA
<b>Officer's response -</b> The applicant advises that this shed has been sold and will be removed from the site.	
Daily traffic and noise and dust from construction of the proposed dwellings will impact on farms and crops nearby.	NA
<b>Officer's response -</b> The disruption normally expected during construction of a dwelling would not be considered unreasonable. Any unreasonable offsite impacts would be dealt with as part of the building permit approval.	
Is compliance with farm management plans monitored by Council?	NA
<b>Officer's response -</b> Any approval should require the farm management plan to be endorsed, which means it must be complied with. However, Council does not proactively enforce permit conditions due to limited resources, but would investigate any reported breach of conditions.	
Weed control is expensive, and less likely to be done where there is minimal or no economic/agricultural imperative to do so, such as on a small property. This impacts neighbouring properties due to spread of weeds, and also creates a fire hazard.	Clauses 14.01-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
The proposed division of a single property into multiple smaller properties is contrary to planning policy.	Clauses 16.02-1
<b>Officer's response -</b> The site comprises several lots on separately disposable titles, however it is recognized that the proposal would contribute to the potential for more likely permanent fragmentation of the current landholding. This objection is discussed further below.	
Rotation of stock on smaller properties would increase stock crossing of Pound Creek, causing erosion of the embankment and reduced water quality.	Clauses 14.01-1 & 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
Navigators is in a high fire danger area – increased population is a risk, and motorbikes, farm machinery and unmanaged weeds adds fuel, and is a fire risk.	

<b>Officer's response -</b> Some nearby land, including to the west of the subject site, is affected by the Bushfire Management Overlay, the purpose of which includes "to ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level." Under this overlay, development associated with some land uses, including dwellings, requires a planning permit. Development directly associated with agriculture does not require a permit under this overlay. An assessment of fire risk or hazard is not relevant to this application.	
The need for increased population in Navigators to sustain community sporting groups, for example, is disputed.	Clause 16.02-1
<b>Officer's response -</b> Council's Rural Housing Policy seeks to ensure the viability of rural communities by increasing population growth. There is no policy particular to Navigators in this regard, and the objector's claim is anecdotal but not disputed.	
Introducing new crops like canola to the area introduces new pests and diseases. Pest control can in turn impact on birds, and there is abundant birdlife in the area.	NA
<b>Officer's response -</b> The application is for use and development of a dwelling and includes consideration of a farm management plan, discussed below. The planting of crops falls within the definition of crop raising, a use of land which (except from rice growing and timber production) in the Farming Zone does not require a planning permit.	
Local wildlife is affected by increased population and the associated pollution and disturbance of the environment.	Clause 35.07-6
<b>Officer's response -</b> The Moorabool Planning Scheme does not identify any notable environmental values on the site or surrounding area, but the statement is considered to be broadly valid in considering such an application.	
Previous permit applications by locals to develop or subdivide land have been refused. If rules have changed ratepayers should be notified.	NA
<b>Officer's response -</b> This objection is not directly relevant to this application, but it is acknowledged that Council should consider its role in communicating planning policy changes to the community.	
It was understood that given the location in a Special Water Supply Catchment the area would not be developed. This proposal could set a precedent for more development and fragmentation of productive farm land.	Clauses 22.02 & 42.01, Schedule 1 Clauses 14.01-1, 16.02-1 and 35.07-6

<b>Officer's response -</b> Over the years State and local policies have changed regarding land in Special Water Supply Catchments. In particular, Council adopted its Domestic Wastewater Management Plan (DWMP) in October 2014, in accordance with the Minister for Water's guidelines. The DWMP guides Council in managing existing onsite wastewater systems and new housing development in water catchment areas. It is noted that Central Highlands Water (CHW) had input into the preparation of the DWMP, and as a determining referral authority can object to a planning permit application in this particular catchment, which would mean that a permit could not be granted. CHW have no objection to this application, subject to conditions. Concerns about precedence and land fragmentation are discussed below.	
Traffic safety on Pound Creek Road would be compromised due to the location of proposed crossovers.	N/A
<b>Officer's response -</b> The application was referred to Council's Infrastructure unit who made no objection to the application. This objection was discussed at the consultation meeting with objectors who attended and it was resolved that, notwithstanding the concerns raised, the proposed crossover location was in the best possible position.	
External fences do not have ring lock fencing to restrict sheep from straying onto the road.	N/A
<b>Officer's response -</b> This objection is not directly related to the assessment of this application.	
The proposal encourages fragmentation of land for non-rural use by splitting up a productive enterprise.	Clauses 14.01-1, 16.02-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
The Farm Management Plan is unviable and makes a mockery of how the systems, process and policies should be applied.	Clauses 14.01-1 and 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
Unviable farm plans reduce the amount of land available for sustainable agriculture.	Clause 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The proposal would lead to a concentration of dwellings, meaning the land would no longer be used for agriculture, and result in an unacceptable change in rural outlook from our property.	Clauses 14.01-1, 16.02-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
Loss of neighbourhood amenity due to development density creating smaller lot sizes.	Clauses 15.01-5, 35.07-6 & 65.01
<b>Officer's response -</b> It is noted that the proposal would not create smaller lot sizes but to develop an existing lot with a dwelling. The lot size is not uncommon in the area but development of a dwelling on such a lot that does not form part of a larger landholding is uncommon.	

The application does not accord with relevant policy for water catchments in Moorabool.	Clauses 14.01, 19.03, 22.02 and 42.01, Schedule 1
<b>Officer's response -</b> The objector appears to quote from a particular policy but the source is unclear. Nevertheless the information quoted is generally consistent with the guidelines in 'Planning permit applications in open, potable water supply catchment areas' (November 2012). In short, planning policy is often discretionary, as in this instance, and the application was referred to Central Highlands Water (CHW) as the relevant water board for consent, which was given subject to conditions.	
The Land Capability Assessment was conducted during the driest time in years and does not fully assess or reflect the true features and conditions of the land, and therefore its conclusions regarding proposed development setbacks from Pound Creek are questionable.	Clauses 14.02 and 22.02.
<b>Officer's response -</b> The report was prepared by a qualified professional and the application referred to Central Highlands Water as the relevant water authority, and to Council's Environmental Health Officer, who consent to the proposal.	
Additional traffic on roads already in poor condition.	N/A
<b>Officer's response -</b> This objection is not directly related to the application. The existing condition of roads is a separate matter for consideration.	
Proximity of dwelling would impede vermin control using firearms and alternative methods such as poison could impact on wildlife and livestock.	Clause 35.07-6
<b>Officer's response -</b> It is acknowledged the dwelling could impede the objector's land management practices.	
The proposal is at odds with State planning policy which is to maintain productive farm sizes and discourage fragmentation of farm land dwellings unrelated to farming.	Clauses 11.05-3, 14.01-1 and 16.02
<b>Officer's response -</b> This is discussed below.	
Constraints imposed by the zoning and drinking water supply catchment location should apply to this proposal.	Clauses 14.02 and 22.02
<b>Officer's response -</b> The application has been assessed under the current relevant provisions of the Moorabool Planning Scheme.	
Given the site is for sale there is no certainty that a prospective buyer would act on the proposal if a planning permit is granted.	N/A
<b>Officer's response -</b> This is discussed below.	

The proposed site is likely to be used for rural residential purposes for grazing horses and some cattle, as the soil quality, drainage and rainfall do not support the proposed long term intensive farming pursuits proposed.	Clauses 14.01-1 and 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
Approval of the application would be to ignore Council's local planning policies.	Clauses 22.02 and 22.03
<b>Officer's response -</b> These Council policies are discretionary but give clear guidance as to their intent. It is agreed that the proposal does not comply with local planning policy.	
The proposal would not contribute to local employment or enterprise given the unsuitability of the site for the proposed farming enterprise.	Clause 35.07
<b>Officer's response -</b> Noted.	

### Proposal

It is proposed to use and develop the site for a dwelling located on CA3. Details of the proposal are as follows:

- Single storey, comprising three (3) bedrooms, main with en suite, lounge, open plan kitchen and family area and separate open plan dining and lounge, bathroom and laundry, with an attached double garage and verandah along the north and south façades and part of the west façade.
- Set back >120m from Pound Creek Road and approximately 105m from the CA3 north title boundary. The dwelling would be constructed of face brick with a low pitched Colorbond roof.
- Ancillary shed positioned southeast of the dwelling, both contained in a 53m x 46m (2438sq m) building envelope.
- Effluent field located in the front setback.
- Farm management plan provided detailing farming activity as grazing prime lambs and growing cereal crops.

The plans are provided in Attachment 10.2.4.

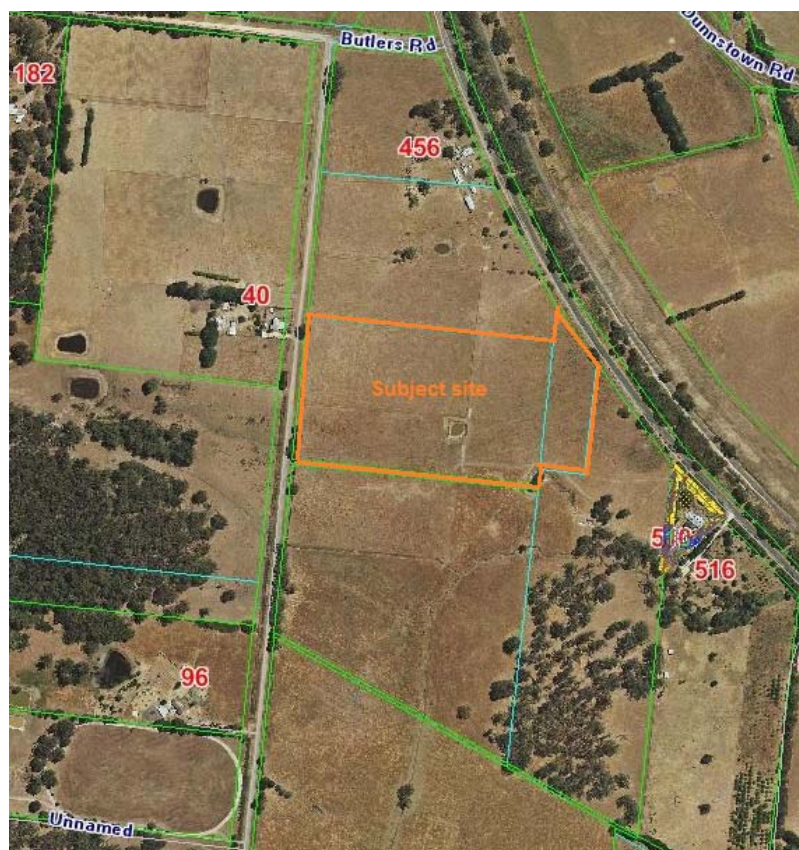
### Site Description

Site and surrounding area details are as follows:

- Identified as Crown Allotments 3 and 5A, Section 20A, Parish of Warrenheip and known as 456 Navigators Road, Navigators.
- CA3 is located on the east side of Pound Creek Road, approximately 380m south of Butlers Road.
- CA3 is rectangular in shape with a maximum depth of 338.36m, width of 210.97 and area of 6.88ha.
- CA5A is a trapezoid shape with a width of 60.35m, maximum depth of 223m and area of 1.19ha, with a 93.0m frontage to Navigators Road.
- Slightly undulating topography, both lots are vacant apart from a small dam towards the centre of CA3, cleared of vegetation, and used for grazing.
- Both lots form part of 456 Navigators Road which comprises seven (7) contiguous lots, only one of which is currently developed with a dwelling.

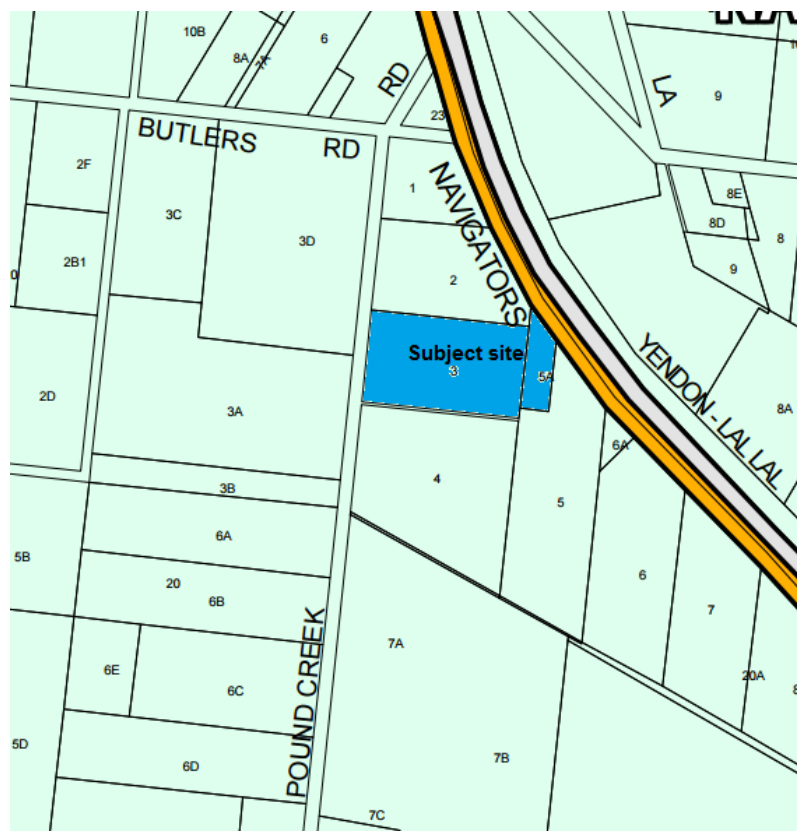


- The site and surrounding area is in the Farming Zone and characterised by flat to gently undulating land mostly cleared of vegetation and used predominantly for grazing and fodder crops. Heavily forested areas exist further to the west and southwest.
- The surrounding subdivision pattern is not uniform and a number of lots are developed with dwellings. In particular:
  - To the south is an unmade Government road reserve, beyond which is a vacant lot forming part of the property and subject to PA2016032. Further to the south is a 27ha lot developed with a dwelling.
  - To the east is a vacant lot forming part of the property, and further to the east are two lots developed with dwellings. These lots are 0.47ha and 8.4ha in size.
  - To the east of CA5A is Navigators Road and the Geelong-Ballarat railway line, beyond which is vacant farming land.
  - To the west, across Pound Creek Road are two lots of 16ha each, both developed with dwellings.
  - To the north is a vacant lot 6ha forming part of the property and subject to PA2016030.



## Locality Map

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



## 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:

- 11.05-1 Melbourne's hinterland areas
- 11.05-3 Rural productivity
- 11.06 Central Highlands regional growth
- 14.01-1 Protection of agricultural land
- 14.02 Water
- 15.01-5 Cultural identity and neighbourhood character
- 21.02-2 Non Urban Landscapes
- 21.02-.3 Water and Catchment Management
- 21.03-4 Landscape and Neighbourhood Character
- 21.03-5 Rural Lifestyle Opportunities
- 22.02 Special Water Supply Catchments
- 22.03 Houses and House Lot Excisions in Rural Areas.

Overall the proposal does not comply with the relevant sections of the SPPF and LPPF.

## **Zone**

The subject site is in the Farming Zone.

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 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; and*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

Under Clause 35.07 a permit is required for use and development of a lot of less than 40ha for a dwelling.

Overall, the proposed use and development is inconsistent with the Farming Zone provisions.

## **Overlays**

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required for development. Reticulated sewer is not available to the site, and there are no relevant exemptions under the Schedule. The application was referred to Central Highlands Water as the determining referral authority, and to Council's Environmental Health officer, who both consented subject to conditions.

## **Relevant Policies**

Council's Rural Housing Policy, adopted on 19 September 2012, gives direction for assessing planning permit applications which propose new residential development of land in the Farming Zone. The Policy encourages residential development in farming areas which satisfies the purpose of the Farming Zone and supports agricultural opportunities. The proposal is broadly in accordance with this policy.

## **Particular Provisions**

None applicable.

## **Discussion**

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

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

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

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

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

The following are considered to be the key issues, discussed in more detail below:

- Fragmentation of viable agricultural land;
- Unviable and speculative nature of the farm management plan; and
- Impact on the character of the rural landscape.

#### Fragmentation of viable agricultural land

The use and development of a 7.89ha site (two consolidated lots) for a dwelling is stated to be in support of a farming enterprise growing cereals and grazing prime lambs. As previously stated the site comprises two lots which form part of 456 Navigators Road which comprises seven lots. Six of those lots form part of the same landholding, and two other applications lodged simultaneously propose dwellings on two of the lots and in support of almost identical farm plans. It is understood that the sites proposed for dwellings are currently offered for sale or subject to sale conditional on the applicable permit being granted. It is understood the sites are being marketed for 'rural lifestyle' development and Council has been contacted by prospective buyers.

The pattern of subdivision in the area, including the subject site, is relatively fragmented. It is not unusual, however, for contiguous small lots to form part of a larger agricultural landholding, such as the subject site. There are also several lots in the surrounding area, from smaller than 1ha up to 10ha in size, in single ownership, many of which contain single dwellings. Many of these lots have significant tree coverage and dwellings are generally not prominent in the landscape. Whilst these small separate lots in single ownership are in the Farming Zone they are generally not bona fide agricultural landholdings.

Some objectors have raised concerns that the proposal contributes to fragmentation of the property known as 456 Navigators Road. It should be noted that each lot comprising the property is separately disposable and theoretically can be held in different ownership. This could occur regardless of this or the other planning permit applications submitted for dwellings on the land. In a sense, the land is already fragmented. However, the likelihood of each lot being sold separately to facilitate non-residential use is minimal given the impracticality of using such small lots for agriculture. Offered for sale separately and particularly with the possibility of dwellings, the potential for the long term fragmentation of bona fide agricultural land is undeniable. Such an outcome is not supported by either State or local planning policy which includes the following objectives:

- *To manage land use change and development in rural areas to promote agriculture and rural production. (Clause 11.05-3);*
- *To protect productive farmland which is of strategic significance in the local or regional context. (Clause 14.01-1); and*
- *To maintain and enhance the natural environment and the Shire's rural identity and character. (Clause 21.02-2).*

State and local planning policy includes the following relevant strategies:

- *Prevent inappropriately dispersed urban activities in rural areas. (Clause 11.05-3);*
- *Limit new housing development in rural areas, including:*
  - *Directing housing growth into existing settlements.*
  - *Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.*
  - *Encouraging consolidation of existing isolated small lots in rural zones. (Clause 11.05-3)*
- *Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. (Clause 14.01-1);*
- *Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity. (Clause 14.01-1);*
- *Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors. (Clause 14.01-1);*
- *In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals. (Clause 14.01-1);*
- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. (Clause 16.02-1);*
- *Demonstrate need and identify locations for rural residential development through a housing and settlement strategy. (Clause 16.02-1); and*
- *Focus rural living development in areas close to urban centres with good access to services and facilities where there is minimal impact on productive agriculture and horticulture or areas with environmental values. (Clause 21.03-5).*

The site is evidently productive for grazing, in terms of the climate, soil conditions and water supply, and forms part of a larger rural area in the west of the Shire and the Ballarat rural hinterland. Nearby development, as described above, has taken place over several decades, and notwithstanding that some development has a 'rural residential' character, the site is clearly suited to primarily agricultural use, and this application must be assessed against current planning policy, as outlined above.

#### Unviable and speculative nature of the farm management plan

A Farm Management Plan was provided with the original application. Some objections raised issues with the plan, including that the site would be unable to support the intensity of the farming activity proposed, and that given the speculative nature of the proposal due to the land being for sale the plan does not indicate any seriously entertained plan to farm the land. The applicant subsequently amended the farm plan, reducing the stock numbers by half and making consequential changes. Whilst this presumably makes the farm plan more viable it does not change its speculative nature. Whilst permit conditions can allow for changes to be made to a farm plan after a permit is granted, for the particular benefit of a prospective future landowner, this application is unusual given the speculative nature of the farm plan has been apparent from the outset. The applicant advised that the plan had been prepared in consultation with a prospective buyer, however given the plan is practically identical to those plans submitted with applications for the adjoining lots, it is difficult to reconcile the two. Furthermore, Council has been approached by prospective buyers who have admitted to not being advised of the requirement to comply with a farm management plan should they acquire the land with a permit, which casts further doubt on the legitimacy of the plan.

#### Impact on the character of the rural landscape

In isolation, the proposed dwelling would be no more conspicuous in the landscape than any other dwelling nearby not substantially screened by vegetation. However, the application is being considered concurrently with dwelling applications on adjoining lots, and the combined visual impact of dwellings in this location will be noticeable and largely at odds with the rural character of the area. This is notwithstanding the modest scale and form of the dwelling, but it cannot be denied that the proposals introduce a more urban character to an area which is otherwise distinctly rural.

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

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

*In considering applications for dwellings in the Farming Zone, the Tribunal has on a number of occasions commented on the adverse impact on agricultural production associated with the intrusion of dwellings on small lots in the Farming Zone. In particular the Tribunal has commented that the impact of permitting dwellings in small rural lots in the Farming Zone is incremental in nature and that care must be exercised not to lose sight of the cumulative impact of each dwelling when considering applications for individual proposals. The failure to do so lead inevitably to the circumstances where the proliferation of dwellings on small lots changes the character of a locality to rural residential and productive agricultural land is lost forever.*

If this permit was to be approved a precedent could be set for similar applications in the future. The strong guidance provided by the Moorabool Planning Scheme supports the protection of agricultural land, and it is therefore reasonable to suggest that this land should be protected and that the use of the land for a dwelling should not be supported.

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

Overall, the proposed use and development is considered to be inconsistent with relevant State and local planning policy and the Farming Zone in respect of agricultural land use and rural housing development. The proposal is not sufficiently responsive to the site and surrounding land's features and would not support a sustainable farming operation.

### **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 and Council departments were provided with an opportunity to make comment on the application.

<b>Authority</b>	<b>Response</b>
Central Highlands Water	Consent with conditions
Infrastructure	Consent with conditions
Environmental Health	Consent with conditions

### **Financial Implications**

The recommendation of approval of this application would not represent any financial implications for Council.

### **Risk and Occupational Health and Safety Issues**

The recommendation of approval 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 approve the application subject to conditions.

Approving the application may result in any of the objectors lodging an application for review of Council's decision with VCAT.

## **Conclusion**

The proposal is for use and development for a dwelling and ancillary outbuilding on a 7.89ha land parcel (combined two lots). A farm management plan is provided in support of the proposal.

Objections to the proposal relate mainly to fragmentation of agricultural land, environmental impacts on the potable water supply catchment, unsustainability of the proposed farming activities and impact on rural character.

Overall, the proposal is inconsistent with relevant State and local planning policy and does not contribute to the orderly use and development of productive agricultural land.

***The resolution of Item 10.2.4 was carried as part of an aggregate motion at Item 10.2.3.***

### **Resolution:**

#### **Crs. Edwards/Toohey**

***That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2016-031 for Use and Development of a Dwelling and Ancillary Outbuilding at Crown Allotments 3 and 5A, Section 20A, Parish of Warrenheip, 456 Navigators Road, Navigators 3352, on the following grounds:***

- 1. The proposal does not comply with State and local planning policy for the protection of agricultural land from residential development.***
- 2. The proposal does not comply with the purpose and decision guidelines of the Farming Zone.***

**CARRIED.**



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**Report Authorisation**

**Authorised by:**

**Name:**

  
Satwinder Sandhu

**Title:**

General Manager Growth and Development

**Date:**

Thursday, 18 August 2016

### 10.2.5 Planning Application PA2016-032 – 456 Navigators Road, Navigators; Use and Development of a Dwelling and Ancillary Outbuilding

<b>Application Summary:</b>	
Permit No:	PA2016-032
Lodgement Date:	5 February 2016
Planning Officer:	Tom Tonkin
Address of the land:	Crown Allotments 4 and 4A, Section 20A, Parish of Warrenheip, 456 Navigators Road, Navigators 3352
Proposal:	Use and Development of a Dwelling and Ancillary Outbuilding
Lot size:	10.58ha
Why is a permit required	Clause 35.07 – Farming Zone – use and development Clause 42.01-2 – Environmental Significance Overlay – development
<b>Public Consultation:</b>	
Was the application advertised?	The application was advertised due to the proposal's potential to cause material detriment.
Notices on site:	Two (2)
Notice in Moorabool Newspaper:	None
Number of Objections:	Five (5). A sixth objection was withdrawn.
Consultation meeting:	Yes, held 27 April 2016 and attended by the applicant and objectors from two properties. Fundamental objections remain unresolved.
<b>Policy Implications:</b>	
<b>Key Result Area</b>	Enhanced Natural and Built Environment.
<b>Objective</b>	Effective and efficient land use planning and building control.
<b>Strategy</b>	Implement high quality, responsive, and efficient processing systems for planning and building applications  Ensure that development is sustainable, resilient to change and respects the existing character.

<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>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 – Tom Tonkin</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
<b>Executive Summary:</b>	
Application Referred?	Referred to Central Highlands Water and within Council.
Any issues raised in referral responses?	No
Preliminary Concerns?	Yes, concerns were raised that the siting of the dwelling may limit the agricultural productivity of the site.
Any discussions with applicant regarding concerns.	No
Any changes made to the application since being lodged?	Yes. Council officers wrote to the applicant requesting justification for the proposed siting of the dwelling, which was provided. Later, after advertising, Council requested the Farm Management Plan be amended to address concerns about the capability of the land to support the proposed farming enterprise, including stock numbers. An amended Farm Management Plan was submitted which halved stock numbers to 45 ewes and made consequential changes to the plan. The proposed siting of the dwelling and effluent field was substantially moved closer to the Pound Creek Road frontage to avoid crossing Pound Creek and increase setbacks from the creek.

VCAT history?	None
Previous applications for the site?	None
General summary.	<p>The proposal is for use and development for a dwelling and ancillary outbuilding on a 10.58ha parcel (two lots). A farm management plan is provided in support of the proposal.</p> <p>Objections to the proposal relate mainly to fragmentation of agricultural land, environmental impacts on the potable water supply catchment, unsustainability of the proposed farming activities and impact on rural character.</p> <p>Overall, the proposal is inconsistent with relevant State and local planning policy and does not contribute to the orderly use and development of productive agricultural land.</p>
<b>Summary Recommendation:</b>	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the <i>Planning and Environment Act 1987</i>, on the grounds detailed at the end of this report.</p>	

### Background

With this application the applicant concurrently submitted two other applications – PA2016030 and PA2016031 – both for use and development of a dwelling and ancillary outbuilding on adjacent lots also forming part of 456 Navigators Road, Navigators. Objectors made either identical or near identical submissions to all the applications.

### Public Notice

Notice of this application was given to adjoining and nearby landowners and occupiers by mail on 7 March 2016 and a sign erected on site facing Pound Creek Road from 17-31 March 2016. Six (6) objections were received, one (1) of which was subsequently withdrawn.

## Summary of Objections

The objections received are detailed below with officer's accompanying comments. As previously mentioned objections received were not only to this application but also PA2016030 and PA2016031, and frequently refer to the objections as a whole. This is sometimes reflected in the summary below:

Objection	Any relevant requirements
The proposal will increase noise levels, dust and traffic, particularly on Pound Creek Road, affecting the rural ambience and set a precedence for similar development of multi lot farms, creating a suburban environment.	N/A
<b>Officer's response -</b> It is not considered that the proposal would not increase noise, dust or traffic to unacceptable levels given the modest nature of the proposal. There is an existing issue in part with the condition of Pound Creek Road which is separate to the consideration of this permit.	
The proposal does not comply with Clause 16.02-1 of the planning scheme. The sale and development of individual lots which formed part of larger agricultural landholdings impacts on the economic viability of farming by inflating land prices.	Clause 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The site is currently for sale, and the submitted farm management plan is generic, unrealistic and not tailored to a particular landowner's activities. The proposal could lead to a hobby farm use once the land is sold with a permit, and not contribute to agriculture in the area.	Clauses 14.01-1 and 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The submitted farm management plan has discrepancies and inconsistencies, and would see overstocking of the land.	N/A
<b>Officer's response -</b> This objection is discussed below.	
There is no absolute need for a dwelling on the site based on the farm management plan. The land has been farmed for generations without the need for a dwelling. The proposal does not comply with Clauses 35.07 or 22.03 of the planning scheme.	Clauses 22.03 and 35.07
<b>Officer's response -</b> This objection is discussed below.	
The findings of the Land Capability Assessment, conducted in summer during a drought, do not reflect winter conditions when the land can be soggy and waterlogged. The report may not have captured all accurate information.	N/A

<b>Officer's response -</b> The report was prepared by a suitably qualified person and the application, including the report, referred to Council's Environmental Health Officer and Central Highlands Water, the relevant water board who are a determining referral authority, who consent to the proposal subject to conditions.	
The property is within the Two Mountains Koala Trail and the proposal, including increased traffic would impact on koalas. The objector quotes a decision guideline from Clause 35.03-5.	Clause 35.07
<b>Officer's response -</b> Clause 35.03-5 relates to land in the Rural Living Zone. The subject site is in the Farming Zone, which includes the following decision guideline: "The impact of the use or development on the flora and fauna of the site and its surrounds."	
Additional dwellings and chemical use for weed control within the water catchment will reduce the quality and quantity of water. The objector quotes policy from Clause 22.02.	Clause 22.02
<b>Officer's response -</b> Use of chemicals for weed control is not relevant to consideration of this application. As previously mentioned the impact of development in the water catchment may be mitigated by the siting of development and permit conditions which regulate the proper functioning of the wastewater treatment system on an on-going basis. The first policy statement quoted is: "Strongly discourage the subdivision of the land in proclaimed water catchment areas", which is not relevant to this proposal which is for development of existing lots. The other policy statement quoted is: "Discourage land use and development that has the potential to reduce the quality or quantity of water produced." The application included a Land Capability Assessment prepared by a suitably qualified person and the application, including the report, referred to Council's Environmental Health Officer and Central Highlands Water, the relevant water board who are a determining referral authority, who consent to the proposal subject to conditions. Whilst the proposal has potential to affect water quality it is considered that adequate provision has been made to mitigate the impacts.	
Can the electricity supply to the area cope with the additional demand?	N/A
<b>Officer's response -</b> Any condition of approval would require a dwelling to be connected to reticulated electricity or have an alternative energy source. Any issues regarding electricity supply are a matter for the landowner to resolve with Powercor.	
Is the effluent field at least 100m from the existing dam?	Clause 42.01, Schedule 1
<b>Officer's response -</b> The effluent field would be 85-90m from the dam, which is not on a waterway.	
Growth in the area would require local roads to be upgraded to cope with additional traffic.	N/A
<b>Officer's response -</b> Road upgrades are separate to the consideration of this permit application.	

Additional dwellings affect fire and flood management in the area, increase the hazard and put pressure on emergency services.	N/A
<b>Officer's response -</b> These matters are not directly relevant to the consideration of this permit application but are broader strategic matters involving several agencies.	
CA2 includes an existing hay shed, therefore no additional sheds should be needed.	NA
<b>Officer's response -</b> The applicant advises that this shed has been sold and will be removed from the site.	
Daily traffic and noise and dust from construction of the proposed dwellings will impact on farms and crops nearby.	NA
<b>Officer's response -</b> The disruption normally expected during construction of a dwelling would not be considered unreasonable. Any unreasonable offsite impacts would be dealt with as part of the building permit approval.	
Is compliance with farm management plans monitored by Council?	NA
<b>Officer's response -</b> Any approval should require the farm management plan to be endorsed, which means it must be complied with. However, Council investigate any reported breach of conditions.	
Weed control is expensive, and less likely to be done where there is minimal or no economic/agricultural imperative to do so, such as on a small property. This impacts neighbouring properties due to spread of weeds, and also creates a fire hazard.	Clauses 14.01-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
The proposed division of a single property into multiple smaller properties is contrary to planning policy.	Clauses 16.02-1
<b>Officer's response -</b> The site comprises several lots on separately disposable titles, however it is recognized that the proposal would contribute to the potential for more likely permanent fragmentation of the current landholding. This objection is discussed further below.	
Rotation of stock on smaller properties would increase stock crossing of Pound Creek, causing erosion of the embankment and reduced water quality.	Clauses 14.01-1 & 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
Navigators is in a high fire danger area – increased population is a risk, and motorbikes, farm machinery and unmanaged weeds adds fuel, and is a fire risk.	

<b>Officer's response -</b> Some nearby land, including to the west of the subject site, is affected by the Bushfire Management Overlay, the purpose of which includes "to ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level." Under this overlay, development associated with some land uses, including dwellings, requires a planning permit. Development directly associated with agriculture does not require a permit under this overlay. An assessment of fire risk or hazard is not relevant to this application.	
The need for increased population in Navigators to sustain community sporting groups, for example, is disputed.	Clause 16.02-1
<b>Officer's response -</b> Council's Rural Housing Policy seeks to ensure the viability of rural communities by increasing population growth. There is no policy particular to Navigators in this regard, and the objector's claim is anecdotal but not disputed.	
Introducing new crops like canola to the area introduces new pests and diseases. Pest control can in turn impact on birds, and there is abundant birdlife in the area.	NA
<b>Officer's response -</b> The application is for use and development of a dwelling and includes consideration of a farm management plan, discussed below. The planting of crops falls within the definition of crop raising, a use of land which (except from rice growing and timber production) in the Farming Zone does not require a planning permit.	
Local wildlife is affected by increased population and the associated pollution and disturbance of the environment.	Clause 35.07-6
<b>Officer's response -</b> The Moorabool Planning Scheme does not identify any notable environmental values on the site or surrounding area, but the statement is considered to be broadly valid in considering such an application.	
Previous permit applications by locals to develop or subdivide land have been refused. If rules have changed ratepayers should be notified.	NA
<b>Officer's response -</b> This objection is not directly relevant to this application, but it is acknowledged that Council should consider its role in communicating planning policy changes to the community.	
It was understood that given the location in a Special Water Supply Catchment the area would not be developed. This proposal could set a precedent for more development and fragmentation of productive farm land.	Clauses 22.02 & 42.01, Schedule 1 Clauses 14.01-1, 16.02-1 and 35.07-6



<b>Officer's response -</b> Over the years State and local policies have changed regarding land in Special Water Supply Catchments. In particular, Council adopted its Domestic Wastewater Management Plan (DWMP) in October 2014, in accordance with the Minister for Water's guidelines. The DWMP guides Council in managing existing onsite wastewater systems and new housing development in water catchment areas. It is noted that Central Highlands Water (CHW) had input into the preparation of the DWMP, and as a determining referral authority can object to a planning permit application in this particular catchment, which would mean that a permit could not be granted. CHW have no objection to this application, subject to conditions. Concerns about precedence and land fragmentation are discussed below.	
Traffic safety on Pound Creek Road would be compromised due to the location of proposed crossovers.	N/A
<b>Officer's response -</b> The application was referred to Council's Infrastructure unit who made no objection to the application. This objection was discussed at the consultation meeting with objectors who attended and it was resolved that, notwithstanding the concerns raised, the proposed crossover location was in the best possible position.	
External fences do not have ring lock fencing to restrict sheep from straying onto the road.	N/A
<b>Officer's response -</b> This objection is not directly related to the assessment of this application.	
The proposal encourages fragmentation of land for non-rural use by splitting up a productive enterprise.	Clauses 14.01-1, 16.02-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
The Farm Management Plan is unviable and makes a mockery of how the systems, process and policies should be applied.	Clauses 14.01-1 and 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
Unviable farm plans reduce the amount of land available for sustainable agriculture.	Clause 16.02-1
<b>Officer's response -</b> This objection is discussed below.	
The proposal would lead to a concentration of dwellings, meaning the land would no longer be used for agriculture, and result in an unacceptable change in rural outlook from our property.	Clauses 14.01-1, 16.02-1 & 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
Loss of neighbourhood amenity due to development density creating smaller lot sizes.	Clauses 15.01-5, 35.07-6 & 65.01
<b>Officer's response -</b> It is noted that the proposal would not create smaller lot sizes but to develop an existing lot with a dwelling. The lot size is not uncommon in the area but development of a dwelling on such a lot that does not form part of a larger landholding is uncommon.	

The application does not accord with relevant policy for water catchments in Moorabool.	Clauses 14.01, 19.03, 22.02 and 42.01, Schedule 1
<b>Officer's response -</b> The objector appears to quote from a particular policy but the source is unclear. Nevertheless the information quoted is generally consistent with the guidelines in 'Planning permit applications in open, potable water supply catchment areas' (November 2012). In short, planning policy is often discretionary, as in this instance, and the application was referred to Central Highlands Water (CHW) as the relevant water board for consent, which was given subject to conditions.	
The Land Capability Assessment was conducted during the driest time in years and does not fully assess or reflect the true features and conditions of the land, and therefore its conclusions regarding proposed development setbacks from Pound Creek are questionable.	Clauses 14.02 and 22.02.
<b>Officer's response -</b> The report was prepared by a qualified professional and the application referred to Central Highlands Water as the relevant water authority, and to Council's Environmental Health Officer, who consent to the proposal.	
Additional traffic on roads already in poor condition.	N/A
<b>Officer's response -</b> This objection is not directly related to the application. The existing condition of roads is a separate matter for consideration.	
Proximity of dwelling would impede vermin control using firearms and alternative methods such as poison could impact on wildlife and livestock.	Clause 35.07-6
<b>Officer's response -</b> It is acknowledged the dwelling could impede the objector's land management practices.	
The proposal is at odds with State planning policy which is to maintain productive farm sizes and discourage fragmentation of farm land dwellings unrelated to farming.	Clauses 11.05-3, 14.01-1 and 16.02
<b>Officer's response -</b> This is discussed below.	
Constraints imposed by the zoning and drinking water supply catchment location should apply to this proposal.	Clauses 14.02 and 22.02
<b>Officer's response -</b> The application has been assessed under the current relevant provisions of the Moorabool Planning Scheme.	
Given the site is for sale there is no certainty that a prospective buyer would act on the proposal if a planning permit is granted.	N/A
<b>Officer's response -</b> This is discussed below.	

The proposed site is likely to be used for rural residential purposes for grazing horses and some cattle, as the soil quality, drainage and rainfall do not support the proposed long term intensive farming pursuits proposed.	Clauses 14.01-1 and 35.07-6
<b>Officer's response -</b> This objection is discussed below.	
Approval of the application would be to ignore Council's local planning policies.	Clauses 22.02 and 22.03
<b>Officer's response -</b> These Council policies are discretionary but give clear guidance as to their intent. It is agreed that the proposal does not comply with local planning policy.	
The proposal would not contribute to local employment or enterprise given the unsuitability of the site for the proposed farming enterprise.	Clause 35.07
<b>Officer's response -</b> Noted.	
The proposed dwelling would detrimentally impact on Pound Creek in terms of erosion and pollution, and proximity of the effluent field.	Clauses 14.02, 22.02 and 35.07-6
<b>Officer's response -</b> As previously noted the application was amended to site the dwelling and effluent field substantially closer to Pound Creek Road to avoid crossing the creek and ensure a minimum 100m setback from the creek.	

## Proposal

It is proposed to use and develop the site for a dwelling located on CA4. Details of the proposal are as follows:

- Single storey, comprising four (4) bedrooms, main with en suite, study, open plan kitchen and meals area, family area, dining and living areas, bathroom and laundry, with an attached double garage and verandah along part of the north façade.
- Set back 30m from Pound Creek Road and approximately 15m from the south title boundary. The dwelling would be constructed of face brick with a low pitched Colorbond roof.
- Ancillary shed positioned near the dwelling, both contained in a 30m x 50m (1500sq m) building envelope.
- Effluent field located in the east rear setback.
- Farm management plan provided detailing farming activity as grazing prime lambs and growing cereal crops.

The plans are provided in Attachment 10.2.5.

## Site Description

Site and surrounding area details are as follows:

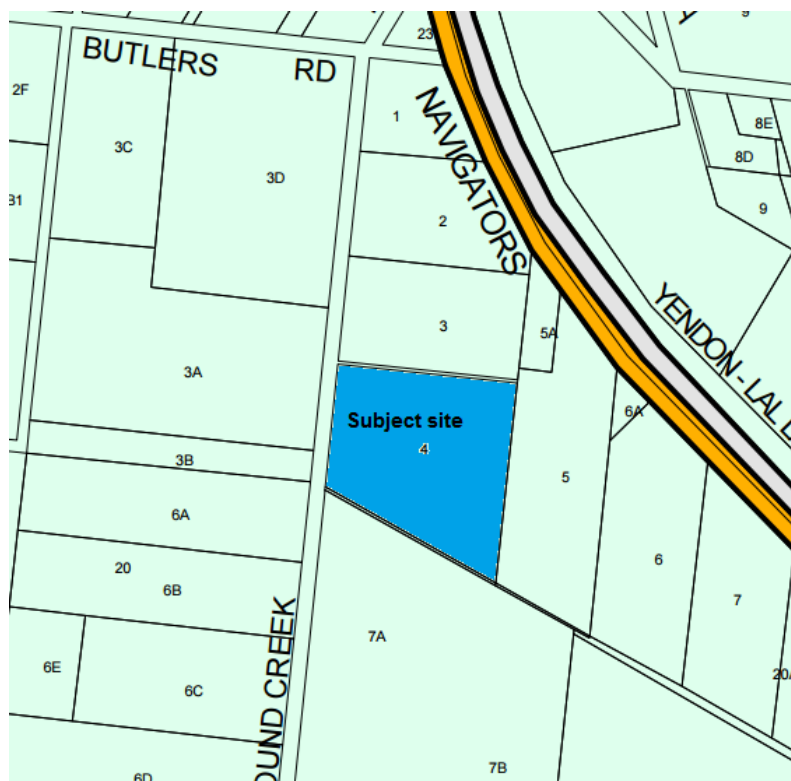
- Identified as Crown Allotments 4 and 4A, Section 20A, Parish of Warrenheip and known as 456 Navigators Road, Navigators.
- Located on the east side of Pound Creek Road, approximately 595m south of Butlers Road.

- Trapezoid shape with a maximum depth of 338.36m, width of 380m and area of 10.58ha.
- Slightly undulating topography, with Pound Creek running through the property towards the rear of the site and minimal vegetation.
- Forms part of 456 Navigators Road which comprises seven (7) contiguous lots, only one of which is currently developed with a dwelling.
- The site and surrounding area is in the Farming Zone and characterised by flat to gently undulating land mostly cleared of vegetation and used predominantly for grazing and fodder crops. Heavily forested areas exist further to the west and southwest.
- The surrounding subdivision pattern is not uniform and a number of lots are developed with dwellings. In particular:
  - To the north is a vacant lot forming part of the property and subject to PA2016031.
  - To the east is a vacant lot forming part of the property.
  - To the west, across Pound Creek Road is a lot of 16ha developed with a dwelling.
  - To the south is a lot of 27ha containing a single dwelling accessed from Pound Creek Road.



## Locality Map

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



## 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:

- 11.05-1 Melbourne's hinterland areas
- 11.05-3 Rural productivity
- 11.06 Central Highlands regional growth
- 14.01-1 Protection of agricultural land
- 14.02 Water
- 15.01-5 Cultural identity and neighbourhood character
- 21.02-2 Non Urban Landscapes
- 21.02-.3 Water and Catchment Management
- 21.03-4 Landscape and Neighbourhood Character
- 21.03-5 Rural Lifestyle Opportunities
- 22.02 Special Water Supply Catchments
- 22.03 Houses and House Lot Excisions in Rural Areas.

Overall the proposal does not comply with the relevant sections of the SPPF and LPPF.

## **Zone**

The subject site is in the Farming Zone.

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 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.*

Under Clause 35.07 a permit is required for use and development of a lot of less than 40ha for a dwelling.

Overall, the proposed use and development is inconsistent with the Farming Zone provisions.

## **Overlays**

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required for development. Reticulated sewer is not available to the site, and there are no relevant exemptions under the Schedule. The application was referred to Central Highlands Water as the determining referral authority, and to Council's Environmental Health officer, who both consented subject to conditions.

## **Relevant Policies**

Council's Rural Housing Policy, adopted on 19 September 2012, gives direction for assessing planning permit applications which propose new residential development of land in the Farming Zone. The Policy encourages residential development in farming areas which satisfies the purpose of the Farming Zone and supports agricultural opportunities. The proposal is broadly in accordance with this policy.

## **Particular Provisions**

None applicable.

## **Discussion**

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

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

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

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

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

The following are considered to be the key issues, discussed in more detail below:

- Fragmentation of viable agricultural land;
- Unviable and speculative nature of the farm management plan; and
- Impact on the character of the rural landscape.

#### Fragmentation of viable agricultural land

The use and development of a 10.58ha site (two consolidated lots) for a dwelling is stated to be in support of a farming enterprise growing cereals and grazing prime lambs. As previously stated the site comprises two lots which form part of 456 Navigators Road which comprises seven lots. Six of those lots form part of the same landholding, and two other applications lodged simultaneously propose dwellings on two of the lots and in support of almost identical farm plans. It is understood that the sites proposed for dwellings are currently offered for sale or subject to sale conditional on the applicable permit being granted. It is understood the sites are being marketed for 'rural lifestyle' development and Council has been contacted by prospective buyers.

The pattern of subdivision in the area, including the subject site, is relatively fragmented. It is not unusual, however, for contiguous small lots to form part of a larger agricultural landholding, such as the subject site. There are also several lots in the surrounding area, from smaller than 1ha up to 10ha in size, in single ownership, many of which contain single dwellings. Many of these lots have significant tree coverage and dwellings are generally not prominent in the landscape. Whilst these small separate lots in single ownership are in the Farming Zone they are generally not bona fide agricultural landholdings.

Some objectors have raised concerns that the proposal contributes to fragmentation of the property known as 456 Navigators Road. It should be noted that each lot comprising the property is separately disposable and theoretically can be held in different ownership. This could occur regardless of this or the other planning permit applications submitted for dwellings on the land. In a sense, the land is already fragmented. However, the likelihood of each lot being sold separately to facilitate non-residential use is minimal given the impracticality of using such small lots for agriculture. Offered for sale separately and particularly with the possibility of dwellings, the potential for the long term fragmentation of bona fide agricultural land is undeniable. Such an outcome is not supported by either State or local planning policy which includes the following objectives:

- *To manage land use change and development in rural areas to promote agriculture and rural production. (Clause 11.05-3);*
- *To protect productive farmland which is of strategic significance in the local or regional context. (Clause 14.01-1); and*
- *To maintain and enhance the natural environment and the Shire's rural identity and character. (Clause 21.02-2).*

State and local planning policy includes the following relevant strategies:

- *Prevent inappropriately dispersed urban activities in rural areas. (Clause 11.05-3);*
- *Limit new housing development in rural areas, including:*
  - *Directing housing growth into existing settlements*
  - *Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses*
  - *Encouraging consolidation of existing isolated small lots in rural zones. (Clause 11.05-3);*
- *Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. (Clause 14.01-1);*
- *Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity. (Clause 14.01-1);*
- *Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors. (Clause 14.01-1);*
- *In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals. (Clause 14.01-1);*
- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. (Clause 16.02-1);*
- *Demonstrate need and identify locations for rural residential development through a housing and settlement strategy. (Clause 16.02-1); and*
- *Focus rural living development in areas close to urban centres with good access to services and facilities where there is minimal impact on productive agriculture and horticulture or areas with environmental values. (Clause 21.03-5).*



The site is evidently productive for grazing, in terms of the climate, soil conditions and water supply, and forms part of a larger rural area in the west of the Shire and the Ballarat rural hinterland. Nearby development, as described above, has taken place over several decades, and notwithstanding that some development has a 'rural residential' character, the site is clearly suited to primarily agricultural use, and this application must be assessed against current planning policy, as outlined above.

#### Unviable and speculative nature of the farm management plan

A Farm Management Plan was provided with the original application. Some objections raised issues with the plan, including that the site would be unable to support the intensity of the farming activity proposed, and that given the speculative nature of the proposal due to the land being for sale the plan does not indicate any seriously entertained plan to farm the land. The applicant subsequently amended the farm plan, reducing the stock numbers by half and making consequential changes. Whilst this presumably makes the farm plan more viable it does not change its speculative nature. Whilst permit conditions can allow for changes to be made to a farm plan after a permit is granted, for the particular benefit of a prospective future landowner, this application is unusual given the speculative nature of the farm plan has been apparent from the outset. The applicant advised that the plan had been prepared in consultation with a prospective buyer, however given the plan is practically identical to those plans submitted with applications for the adjoining lots, it is difficult to reconcile the two. Furthermore, Council has been approached by prospective buyers who have admitted to not being advised of the requirement to comply with a farm management plan should they acquire the land with a permit, which casts further doubt on the legitimacy of the plan.

#### Impact on the character of the rural landscape

In isolation, the proposed dwelling would be no more conspicuous in the landscape than any other dwelling nearby not substantially screened by vegetation. However, the application is being considered concurrently with dwelling applications on adjoining lots, and the combined visual impact of dwellings in this location will be noticeable and largely at odds with the rural character of the area. This is notwithstanding the modest scale and form of the dwelling, but it cannot be denied that the proposals introduce a more urban character to an area which is otherwise distinctly rural.

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

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

*In considering applications for dwellings in the Farming Zone, the Tribunal has on a number of occasions commented on the adverse impact on agricultural production associated with the intrusion of dwellings on small lots in the Farming Zone. In particular the Tribunal has commented that the impact of permitting dwellings in small rural lots in the Farming Zone is incremental in nature and that care must be exercised not to lose sight of the cumulative impact of each dwelling when considering applications for individual proposals. The failure to do so lead inevitably to the circumstances where the proliferation of dwellings on small lots changes the character of a locality to rural residential and productive agricultural land is lost forever.*

If this permit was to be approved a precedent could be set for similar applications in the future. The strong guidance provided by the Moorabool Planning Scheme supports the protection of agricultural land, and it is therefore reasonable to suggest that this land should be protected and that the use of the land for a dwelling should not be supported.

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

Overall, the proposed use and development is considered to be inconsistent with relevant State and local planning policy and the Farming Zone in respect of agricultural land use and rural housing development. The proposal is not sufficiently responsive to the site and surrounding land's features and would not support a sustainable farming operation.

### **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 and Council departments were provided with an opportunity to make comment on the application.

<b>Authority</b>	<b>Response</b>
Central Highlands Water	Consent with conditions
Infrastructure Environmental Health	Consent with conditions Consent with conditions

### **Financial Implications**

The recommendation of approval of this application would not represent any financial implications for Council.

### **Risk and Occupational Health and Safety Issues**

The recommendation of approval 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 approve the application subject to conditions.

Approving the application may result in any of the objectors lodging an application for review of Council's decision with VCAT.

### **Conclusion**

The proposal is for use and development for a dwelling and ancillary outbuilding on a 10.58ha parcel (2 lots). A farm management plan is provided in support of the proposal.

Objections to the proposal relate mainly to fragmentation of agricultural land, environmental impacts on the potable water supply catchment, unsustainability of the proposed farming activities and impact on rural character.

Overall, the proposal is inconsistent with relevant State and local planning policy and does not contribute to the orderly use and development of productive agricultural land.

***The resolution of Item 10.2.5 was carried as part of an aggregate motion at Item 10.2.3.***

**Resolution:**

**Crs. Edwards/Toohey**

***That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2016-032 for Use and Development of a Dwelling and Ancillary Outbuilding at Crown Allotments 4 and 4A, Section 20A, Parish of Warrenheip, 456 Navigators Road, Navigators 3352, on the following grounds:***

- 1. The proposal does not comply with State and local planning policy for the protection of agricultural land from residential development.***
- 2. The proposal does not comply with the purpose and decision guidelines of the Farming Zone.***

**CARRIED.**

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**Report Authorisation**

**Authorised by:**

**Name:**

  
Satwinder Sandhu

**Title:**

General Manager Growth and Development

**Date:**

Thursday, 18 August 2016

## 10.2.6 Draft Moorabool Sustainable Environment Strategy

### Introduction

Author: Justin Horne  
General Manager: Satwinder Sandhu

### Background

A draft Moorabool Sustainable Environment Strategy and Implementation Plan has been developed to assist Moorabool Shire Council in relation to meeting current Federal, State and Council legislative, strategic and policy statements in the areas of natural environment, pest plants and animals and sustainability.

The Strategy has been developed to comprise of two components:

- Strategic Direction 2016 - 2026
- Implementation Plan 2016 – 2021.

The purpose of the Strategic Direction component is to demonstrate how Council will work in partnership with state and federal government agencies and the community to protect and enhance the environment over the next ten years. It will also consider the interaction between community well-being and the natural environment, with a focus on the sustainability of the built environment and community resilience.

The Implementation Plan aims to identify key priority actions in the management of Council assets to improve our local environment and to reduce water and energy consumption within Council and the local community.

The Strategy also aims to identify current initiatives being implemented by Council to reduce water and energy consumption, and to provide policy and operational directions that are measureable, realistic and relevant to Moorabool Shire Council and local communities.

The development of the Strategy and Implementation Plan is in keeping with the adopted practice of local government and community expectations. The Strategy and Implementation Plan aims to provide recommendations that provide a cost benefit or are cost neutral to Council, either through process improvement or direct action (e.g. energy efficient street lighting).

The Strategy will be the key document for guiding Council planning, decision-making and activities that impact on the natural environment and sustainability in Moorabool Shire.

### ***Progress to date:***

Workshops were held with internal and external stakeholders providing input as to the actions Council has previously undertaken in relation to sustainability and environmental management. A vision and targets for the new Strategy have also been developed.

Stakeholders providing input to the draft strategy included:

Internal	External
Assets	Department of Environment, Water, Land & Planning (DELWP)
Capital Works	Department of Economic Development, Jobs, Transport & Resources (DEDJTR)
Finance	Moorabool Landcare Network
Recreation Development	Melbourne Water
Strategic Planning	Port Phillip & Westernport Catchment Management Authority
Statutory Planning	Sustainability Victoria
Environment	Grow West
Parks & Gardens	
Moorabool Landcare Advisory Committee (MLAC)	

The Strategy considers the natural values and assets of the Shire, the threats to these values and the actions Council can take to protect and enhance the natural environment both directly and by working with others. It sets directions and priorities to ensure community wellbeing and resilience through making the built environment more liveable and protect the natural environment.

Additional work was undertaken to identify Council's current energy and water consumption and to identify cost saving actions that Council could undertake. The report also included a benchmarking exercise reflecting on the performance of Baw Baw Shire Council and Macedon Ranges Shire Council.

The Strategy and Implementation Plan has been thoroughly worked through with Council's S86 Place Making Committee with revisions and actions being identified at several meetings during 2016.

At the 17 August 2016 meeting the Committee noted the upcoming Caretaker period and as such it was proposed that public consultation should occur once the new Council was elected.

However, the Committee resolved to:

1. Provide in principle endorsement of the Moorabool Sustainable Environment Strategy with the following amendments to the Implementation Plan:
  - The inclusion of a resourcing plan, outlining timeframes and priorities of proposed actions (high/medium/low), as well as indicative resourcing requirements and percentage contributions from each partner agency. (Figure 1 below shows how these recommendations have been included in the implementation plan).
  - The inclusion of references to government legislation.
2. Recommend that the draft document be presented to the September Ordinary Meeting of Council.
3. Recommend to Council that the draft document be presented to the incoming Council, with in principle endorsement.

ACTIONS	OUTCOMES	DATA COLLECTION METHODS	RESPONSIBILITY	SPHERE of INFLUENCE	TIMING	PRIORITY	RESOURCING	ADDITIONAL FUNDING	CONTRIBUTION	
OBJECTIVE 1: To increase landscape scale connectivity of remnant and other native vegetation.										
1.1	Review and consolidate existing Biolinks and Open Space Plans for Moorabool Shire, to help guide future land use planning.	Existing Biolinks Plans are reviewed and consolidated and are referred to for future land use planning.	Review Biolinks Plans. Update native vegetation and corridors mapping	LEAD: Environment and Gardens, Strategic Planning, DELWP, CMAs, Grow West, Moorabool Landcare Network, Melbourne Water, MLAC, community	Control & Influence	2016/17	Medium	Existing departmental budget	Not required	Moorabool - 100%

Figure 1: Implementation Plan - action prioritisation and allocation.

### **Proposed Strategy Vision, Strategy Directions and Priority Areas:**

During the consultation process, a Strategy Vision, four Strategy Directions and twelve Priority Areas (figure 2) were developed.

The proposed vision for the Strategy is:

*Moorabool Shire will work to ensure the Shire has healthy ecosystems, productive landscapes, sustainable communities and the capacity to adapt to future environmental challenges.*

This vision forms the direction of the strategic directions, priority areas and the actions listed in the implementation plan.



Figure 2: Proposed strategic directions and priority areas for the Moorabool Sustainability and Environment Strategy.

### **Implementation Plan 2016 - 2021:**

As stated previously, the intention of the Strategy is to provide an implementation plan to assist Council departments with the delivery of programs to ensure that the vision is achieved.

The implementation plan will have a five year lifespan, and aims to assist Council with operational actions to be delivered by 2021. These will be reviewed against the objectives of the Strategy and a new implementation plan will be developed for the period 2022-2026.

During the consultation phase, it was identified that the actions in the implantation plans must be specific, measureable and achievable. The intent is that the implementation plan is feasible to accomplish.



## Proposal

To ensure that the Moorabool Sustainable Environment Strategy (MSES) is in alignment with the expectations of the community it is proposed that the MSES is made available to the community for comment.

A copy of the draft Strategy is attached to this report for information.

## Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and Natural and Built Environment
Objective	Enhance and protect the long term integrity and biodiversity of the natural environment
Strategy	Pursue initiatives to reduce greenhouse gases, energy and water consumption  Work with Landcare networks, government and community to implement and support environmental and sustainability initiatives

The proposal is consistent with the 2013 - 2017 Council Plan.

## Financial Implications

There are no immediate financial implications associated with the consideration of this report.

It is expected that some actions will be delivered through changes in operational and purchasing procedures. However, some larger initiatives have not been costed and would require consideration from Council as part of future capital improvement programs or through external funding (e.g. state or federal government grants).

The Strategy will guide decision making in relation to environment and sustainability and a direction for the future.

Where implementation of specific recommendations requires a new capital allocation from Council, these will be presented and considered as part of the overall annual budget process.

The inclusion of these projects within the Strategy is likely to improve the opportunities for gaining co-contributions from external funding sources.

Actions identified in the Strategy fall into three broad categories:

1. Policy and procedural consideration for energy and water efficient products and design at the point of purchase or construction for all new buildings and assets.

2. Upgrades to existing assets. For example, changeover of street lights to LED. (Please note that the S86 Place Making Committee has provided in principle support for this project in the 2017/18 Capital Improvement Program).
3. Behaviour change initiatives such as reducing paper consumption, teleconferencing and turning off lights.

These actions all have the potential to provide long-term cost savings to Council, as well as, improved environmental outcomes.

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

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

### **Communications Strategy**

It is intended that the following methods be utilised to achieve a high level of response to the survey:

- Newspaper advertising
- Social Media Links (Facebook and Twitter)
- Council website
- Have Your Say website
- Media release

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

In developing this report to Council, the officer considered whether the subject matter raises 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 – Justin Horne*

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

## Conclusion

The draft Moorabool Sustainable Environment Strategy provides Council with policy direction and an implementation plan relating to its role in managing local environmental assets and promoting sustainability through a variety of actions, in partnership with other agencies.

The actions identified in the Strategy, have been developed and reviewed internally by operational departments to ensure they are achievable and provide a direct financial benefit to Council and ratepayers.

### Resolution:

**Crs. Sullivan/Dudzik**

### *That Council:*

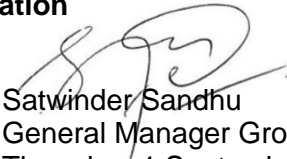
1. *In principle endorses the Draft Moorabool Sustainable Environment Strategy.*
2. *Presents the Draft Strategy to the incoming Council to commence the public consultation process.*

**CARRIED.**

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### Report Authorisation

Authorised by:

  
**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Thursday, 1 September 2016

## 10.3 SOCIAL AND ORGANISATIONAL DEVELOPMENT

### 10.3.1 Bacchus Marsh Harness Racing Club Lease Agreement

#### Introduction

File No.: 471850  
Author: Troy Scoble  
General Manager: Danny Colgan

The purpose of this report is to recommend that the Council enter into a lease with the Bacchus Marsh Harness Racing Club situated at the Bacchus Marsh Racecourse and Recreation Reserve.

#### Background

The Bacchus Marsh Harness Racing Club has operated at the Bacchus Marsh Racecourse and Recreation Reserve for many years prior to Council being granted land management of the reserve by the Victorian Government. Prior to the Council becoming land manager, the Harness Club managed the facilities they occupy under a Crown Land (Reserves) Act 1978 licence agreement.

Discussions have been held with the Harness Club to establish a lease agreement that provide exclusive rights to the clubs for the management, maintenance and operation of the Club Facilities at the Bacchus Marsh Racecourse and Recreation Reserve.

At the Ordinary Meeting of Council held on 6 July 2016, the Council resolved:

1. *That Council resolves to enter into a lease with the Bacchus Marsh Harness Racing Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Harness Racing Club Facilities under the following conditions:*
  - a) *An initial term of seven years plus two further seven year options.*
  - b) *An annual lease fee of \$3,434 GST Inc. per annum (increased annually by CPI) for the first seven-year term of the lease with the fee to be reviewed at the conclusion of the seven period.*
  - c) *Council will maintain the areas of the roadway entrance into the reserve that provides access to the Harness Club Facilities as outlined in attached map in Attachment 10.3.1.*
  - d) *The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Bacchus Marsh Harness Racing Club.*
  - e) *The leased area is to be reviewed annually on the 1st of July each year to reflect and facilitate future development or usage consistent with the Bacchus Marsh Racecourse and Recreation Reserve Master Plan.*

2. *That Council, in accordance with section 190 of the Local Government Act 1989, gives four weeks public notice of its intention to enter into a lease for a term of seven years with two seven year options with the Bacchus Marsh Harness Racing Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Harness Club Facilities and seek and consider public submissions under section 223 of the Act.*
3. *Following the completion of the public submission process, a further report be presented to Council considering all public submissions received.*

The public notice advising of Council's intention to enter into the lease was advertised on 26 July 2016 with submissions closing on the 1 September 2016. No submissions were received.

### **Proposed Terms of the Lease Agreement**

#### Tenure

It is proposed that the term of the lease be seven years with two additional seven year options. The proposed term of the lease is suitable given the significant investment that the Harness Racing Club has already made to the facilities and the future plans the Club has to improve the facilities with support of their sporting association. It is proposed that the draft lease contain a provision that provides Council with the rights to undertake any further developments at the reserve in consultation with the Club to ensure there is no disadvantage to the club. This provides Council with opportunities to consider outcomes from the master planning of the reserve in consultation with the Club in the future.

#### Maintenance/Management

The lease agreement provides the Harness Club with exclusive management and usage rights of all existing 'Infrastructure' and areas used by the club within the reserve in return for the Club undertaking the majority of maintenance required at the facilities.

It is proposed that as land manager the Council be responsible for the following:

- The initial entrance roadway into the reserve that provides access to the facilities
- Any future service infrastructure costs including sewer and power installations.

The Harness Club currently pay user fees to the value of \$3,434 GST Inc. annually for the tenancy and use of the facilities. The club has proposed to continue to pay fees at this level increased annually in accordance with the Consumer Price Index to continue to contribute toward the management and maintenance of the common areas around the facilities that provide access to their facilities. It is recommended that the fees be reviewed at the end of the first 7 years of the agreement.

## Proposal

It is proposed that Council enter into a lease agreement with the Bacchus Marsh Harness Racing Club situated at the Bacchus Marsh Racecourse and Recreation Reserve.

## Policy Implications

The 2013–2017 Council Plan provides as follows:

<b>Key Result Area</b>	Community Well Being
<b>Objective</b>	Increase and encourage participation in a range of sport, recreation and leisure activities.
<b>Strategy</b>	Promote community health and wellbeing through the provision of recreation facilities, open space, programs and activities.

The proposed lease with the Bacchus Marsh Harness Racing Club is consistent with the 2013-2017 Council Plan.

## Financial Implications

The Bacchus Marsh Harness Racing Club Draft Lease Agreement outlines conditions of responsibility for Council to be implemented over the course of the agreement. Officers will continue to source funding and resource opportunities both internally and externally to implement these actions.

The club has proposed to continue to pay an annual user fee to contribute toward the common (shared use) areas on the reserve that provide access to the Harness Club facilities

## Risk & Occupational Health & Safety Issues

<b>Risk Identifier</b>	<b>Detail of Risk</b>	<b>Risk Rating</b>	<b>Control/s</b>
Governance	Suitable agreement required to outline roles and responsibilities of Council and the user groups in the management of the Harness Club Facilities	Medium	Ensure suitable agreement is put in place to protect both parties to the agreement.

## **Communications and Consultation Strategy**

To comply with Section 190 of the Local Government Act 1989, the Council was required to give four weeks public notice of its intention to enter into a lease of 10 years or more for the lease of land which includes a building. The public then have the right to make public submissions in accordance with Section 223 of the Act.

Public notice was provided and no submissions were received.

## **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 – Troy Scoble*

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

## **Conclusion**

The Bacchus Marsh Harness Club has operated and developed the Harness Club facilities at the Bacchus Marsh Racecourse and Recreation Reserve for many years. Council Officers have been in discussions with all the Clubs at the Reserve to establish a lease agreement that provides exclusive rights to the Clubs existing infrastructure for the management, maintenance and operation of the facilities at the Bacchus Marsh Racecourse and Recreation Reserve.

### **Resolution:**

#### **Crs. Tatchell/Sullivan**

1. ***That Council resolves to enter into a lease with the Bacchus Marsh Harness Racing Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Harness Racing Club Facilities under the following conditions:***
  - a) ***An initial term of seven years plus two further seven year options.***

- b) An annual lease fee of \$3,434 GST Inc. per annum (increased annually by CPI) for the first seven year term of the lease with the fee to be reviewed at the conclusion of the seven period.**
- c) Council will maintain the areas of the roadway entrance into the reserve that provides access to the Harness Club Facilities as outlined in the site plan contained in Attachment 10.3.1.**
- d) The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Bacchus Marsh Harness Racing Club.**
- e) The leased area is to be reviewed annually on the 1 July each year to reflect and facilitate future development or usage consistent with the Bacchus Marsh Racecourse and Recreation Reserve Master Plan.**

**CARRIED.**

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#### Report Authorisation

Authorised by:



**Name:** Danny Colgan  
**Title:** General Manager Social & Organisational Development  
**Date:** Wednesday, 31 August 2016



### 10.3.2 Community Grants Program Winter 2016

#### Introduction

File No.: 06/03/004  
Author: Dawn Tschujasehenko  
General Manager: Danny Colgan

#### Background

The purpose of this report is to present the Council with an assessment of applications received under the "Winter 2016" round of Community Grants.

Community grants totalling \$140,000 per annum are available in two separate funding rounds of \$70,000 each. The Winter round of the Community Grants Program opened on the 1 July and closed on the 31 July 2016.

At the Ordinary meeting of Council held on 4 September 2013, the Council adopted the revised Community Grants Policy and Guidelines. The policy will be reviewed again in 2017. The Winter 2016 Community Grant Program represents the seventh round under the revised Community Grant Policy.

Council's Community Grants program enables not for profit community groups to apply for funding under the following three program categories:

- Community Strengthening Grants: Community projects, programs and initiatives with a specific focus on connecting communities and building community capacity (\$50,000 available per round).
- Events Grants: Non-recurrent, seed funding designed to encourage and promote the development of sustainable local events (\$10,000 available per round).
- Arts Grants: Supporting local artists and organisations to use a creative approach to the development of community projects and initiatives (\$10,000 available per round).

Community groups and organisations can apply for up to \$5,000 for Community Strengthening Grants and up to \$3,000 for Arts and Events Grants. Groups also need to demonstrate a cash or in-kind contribution toward the cost of their project on a ratio of \$1 for \$1 (Council \$1: Group \$1). Small Community Strengthening Projects under \$1,000 are not required to demonstrate a contribution.

The categories under the Community Grants Program recognise the diverse range of activities that community groups in Moorabool are engaged in and the areas in need of financial support from Council.

The Community Grants Program Policy Guidelines state that applicant groups must demonstrate the support of the committee responsible for management of the proposed facility/service. This includes demonstrating that proposed projects are consistent with the service or facilities' Master Plan, Strategic Plan or Business Plan.

The total amount available for this round of Community Development Grants is \$77,000. This includes an additional \$7,000 carry forward from unallocated Summer 2016 Events Grants funding.

### Policy Assessment Criteria:

- a. Project Description and why the applicant wants to do the project – 10%
- b. What will this project achieve? – 20%
- c. Why is this project needed in your community? – 20%
- d. Who will be involved in the project? 15%
- e. How will you carry out your project? (including risk management) – 15%
- f. Project budget and explanation of how the group arrived at the costs? 20%

Each criterion is given a score between 0 and 10 and this score is weighted according to the criteria percentage. The maximum possible score for any application is 100.

### Application Support

The Community Grants Program Policy specifies that applicant groups are encouraged to meet with a Community Development Officer prior to lodging an application. The majority of applicant groups for the Winter 2016 round of Community Grants received support and advice from Community Development Officers.

### Number of applications and amount requested

In total, 51 applications were received across the three program categories: Community Strengthening (35), Events (9) and Arts (7). A total of \$196,607 was requested with \$77,000 available (\$50,000 for Community Strengthening, \$17,000 for Events, \$10,000 for Arts).

Category	Applications Received	Amount Requested	Amount recommended	Amount Available
Community Strengthening	35	<b>\$152,808</b>	<b>\$51,095</b>	\$50,000
Events	9	<b>\$24,800</b>	<b>\$17,000</b>	\$17,000
Arts	7	<b>\$18,000</b>	<b>\$10,000</b>	\$10,000
<b>Total</b>	<b>51</b>	<b>\$195,608</b>	<b>\$78,095</b>	<b>\$77,000</b>

### Assessment

Assessment of applications was conducted by a panel of officers and ranked according to the extent to which the application addressed Council's policy assessment criteria.

### Proposal

Based on the above process and funding criteria, it is proposed that the Council allocate the grants for the "Winter 2016" round of Community Grants as follows:

**Community Strengthening Grants:**

Groups demonstrating Council Policy criteria of, or better than, a score of 75.7 may be provided with funding if Council so determine.

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Brief Project Description</b>	<b>Requested Amount</b>	<b>Project Total Value</b>	<b>Progressive Total</b>	<b>Policy Score</b>	<b>Previous Community Grant awarded</b>
Gordon Football and Netball Club	Reserve Power Upgrade	Upgrade power supply to the Gordon Recreational Reserve from single phase to three phase	\$5,000	\$14,744.40	\$5,000	91.3	Summer 2015
Elaine Rec Reserve	Fire Emergency Water Storage	Water tank to capture runoff from the Cricket Club facility to provide Elaine and neighbouring townships with a water source in times of emergency	\$5,000	\$10,700	\$10,000	90	No

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Brief Project Description</b>	<b>Requested Amount</b>	<b>Project Total Value</b>	<b>Progressive Total</b>	<b>Policy Score</b>	<b>Previous Community Grant awarded</b>
Bacchus Marsh BMX Club	Electronic Scoring and Timing System	Installation of electronic scoring and timing system for competitions	\$5,000	\$10,541	\$15,000	88.5	Winter 2014
Bacchus Marsh Family Drug Support Group Auspiced by Bacchus Marsh Community Unlimited	Education and Awareness Raising	Education and awareness raising initiatives including; promotional activities, facilitated workshops and the purchase of learning resources	\$1,000	\$1,000	\$16,000	86.8	No
Gordon Primary School	Gordon Soccer Pitch	Establishment of a Soccer Pitch for use by the community	\$5,000	\$11,000	\$21,000	86.7	No

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Coimadai Avenue of Honour Restoration Association	Avenue of Honour Name Plaques	Manufacturing and installing 129 plaques on the Coimadai Avenue of Honour trees	\$5,000	\$40,012	\$26,000	85.4	No
Bacchus Marsh West Golf Club	Electrical Solar Panel Installation	Installation of electrical solar panels to offset energy costs	\$4,995	\$9,995	\$30,995	84.6	No
Bacchus Marsh Golf Club	Easy Start Golf Program	Low or no cost initiatives and infrastructure to remove barriers to school aged residents getting started in the game of golf	\$4,500	\$11,038	\$35,495	84.3	Winter 2015

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Myrniong Recreation Reserve	Exercise Stations Installation	Installation of outdoor exercise equipment for the community circuit track	\$5,000	\$23,188.00	\$40,495	80.75	No
Monday Lunch St Andrews Uniting Church Bacchus Marsh	Chair Renewal	Replacement of unsafe, dilapidated chairs for use by Monday Lunch participants (Seniors) as well as other hall user groups	\$4,600	\$9,600	\$45,095	79.55	No
Rowsley Hall and Recreation Reserve	New Boiling Water Unit	Purchase of over sink boiling water unit for use by all hall user groups	\$1,000	\$1,150	\$46,095	78.45	No

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
St Andrews Playgroup	Playgroup Hall Flooring and Storage Upgrade	Increase storage and upgrade floor covering to improve health and safety at the hall	\$5,000	\$11,044.00	\$51,095	75.7	Summer 2015
Bacchus Marsh Community Radio Group	New Broadcast Transmitter	Purchase of new broadcast transmitter	\$2,200	\$4,400	\$53,295	74.35	Winter 2015
Greendale Reserves Management Committee	Fitness Circuit, Sensory Garden Enhancement	New equipment for Fitness Circuit, enhancing sensory garden and improving signage	\$4,000	\$8,000	\$57,295	72.6	Summer 2014

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Darley Neighbourhood House	Safe as Houses	Improving security and street aesthetics to encourage community pride and increase usage at the site	\$5,000	\$10,000	\$62,295	71.35	No
Blackwood Outdoor Special School	Voyage of Discovery Rescue Boat	Purchase of rescue boat to support the Environmental Discovery Canoeing Program	\$5,000	\$20,688	\$67,295	70.45	Winter 2013
Friends of the Werribee River through Bacchus Marsh	Werribee River Furniture	Installation of benches for Werribee River Walking Track	\$5,000	\$10,000	\$72,295	69.5	No
Elaine Tennis Club	Ball Machine	Purchase of ball machine to support tennis club activities	\$2,559	\$5,118	\$74,854	68.41	Winter 2015



Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Mt Wallace Hall and Recreation Reserve	Upgrading Visitor Facilities	Upgrading the visitor facilities with shade sail, BBQ and seating	\$5,000	\$5,000.00	\$79,854	67.45	No
Ballan Community House incorporating the Mechanics Institute Ballan	Facility Enhancement	Painting the interior and exterior of the Community House, purchasing new furniture including tables and planter boxes	\$4,996.94	\$17,389.44	\$84,851	67.13	No
Balliang Public Hall	Outdoor Beautification	Balliang Hall outdoor development involving landscaping and relocation of playground	\$5,000	\$35,950	\$89,851	65.91	Winter 2014

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Hopetoun Cemetery Preservations Group	Erection of Memorial Stones and Dedication Ceremony	Memorial Granite Stones listing 257 Early Settlers and residents	\$5,000	\$10,000	\$94,851	65.3	No
Dunnstown Recreation Reserve and Community Centre	New Lawn Mower	Purchase of new lawn mower	\$5,000	\$12,500	\$99,851	65.1	No
Moorabool Catchment Landcare Group	Moorabool Landsafe Program	Farm safe training courses for farmers	\$5,000	\$10,067	\$104,851	63.7	Winter 2014
Ballan Golf Club	Tee Box Development	Increasing golf course from par 62 to par 64	\$5,000	\$10,000	\$109,851	61.91	Summer 2015
Steven Tandy Films	Short educational film on Drugs and Alcohol	Educational Short Film on Effects of Drugs and Alcohol. Written and Directed by Steven Tandy	\$5,000	\$15,000	\$114,851	58.3	No

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Darley Cricket Club	Darley Park Cricket Net Extension	Extending net facilities for club growth	\$5,000	\$71,150.00	\$119,851	57.3	Winter 2015
Ballan Arboretum Group	Community Within the Trees	A significant tree information package	\$5,000	\$10,000	\$124,851	57.15	No
Rotary Club of Bacchus Marsh (Auspice)	Tag-Less Bacchus Marsh	Seed funding for the start-up of a graffiti removal group	\$5,000	\$10,000	\$129,851	57	No
Wallace Rec Reserve	Netball Viewing Area Pavement	Paving and pathways between viewing area and courts to keep courts clean and safe for players	\$4,604	\$9,207	\$134,455	56.95	Winter 3014 Summer 2015
Australian Gliding Museum Incorporated	Toilet block/ equipment store	Establishment of toilet block and increasing equipment storage	\$5,000	\$19,810	\$139,455	56.85	No

Name of Organisation	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Bacchus Marsh Scorpions Soccer Club	Club Room Coffee Machine	Purchase of club room coffee machine for use by Mason's Lane user groups for fundraising purchases	\$1,600	\$2,090	\$141,055	56.3	No
Bacchus Marsh Soccer Club	Light Tower Tow Vehicle	Purchase of Automatic tow vehicle for light tower	\$5,000	\$7,800	\$146,055	51.8	Summer 2011
Garibaldi Landcare	Community Education and Engagement	Educational Signage at Garibaldi Bridge Reserve	\$1,753	\$3,722	\$147,808	50.9	No
Acrofun	Tumble Tracks	Purchase and install Tumble Tracks	\$5,000	\$10,000	\$152,808		Summer 2015 and 2016 Strengthening Ineligible
		<b>Total:</b>	<b>\$152,808</b>	<b>\$471,903</b>			

**Events Grants:**

Groups demonstrating Council Policy criteria of, or better than, a score of 70.00 may be provided with funding if Council so determine.

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Brief Description of Project</b>	<b>Requested Amount</b>	<b>Project Total Value</b>	<b>Progressive Total</b>	<b>Policy Score</b>	<b>Previous Community Grant awarded</b>
Wombat Arts	'Black Nite Black Lite' Ballan Winter Solstice Festival	A community event in Ballan showcasing UV lighting and fluorescent displays	\$3,000	\$6,300	\$3,000	85.63	Summer 2015
Lal Lal Anzac Commemorations Committee	Lal Lal Anzac Memorial Park Official Opening	Official Opening of the Lal Lal Anzac Memorial Park	\$3,000	\$6,418	\$6,000	82.00	No
Moorabool Laughter Yoga	Moorabool Laughter Yoga Event	A facilitated event by locals trained to teach laughter yoga to the Moorabool Community	\$3,000	\$6,000	\$9,000	78.25	No

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Brief Description of Project</b>	<b>Requested Amount</b>	<b>Project Total Value</b>	<b>Progressive Total</b>	<b>Policy Score</b>	<b>Previous Community Grant awarded</b>
Bacchus Marsh Easter Fest	Bacchus Marsh Easter Fest	Family Easter Festival that includes a Children's Easter Egg Hunt	\$3,000	\$6,001	\$12,000	76.75	No
Moorabool Relay for Life	New Venue	Venue and equipment hire associated with venue change to Darley Civic Hub Oval	\$3,000	\$7,400	\$15,000	74.75	Summer 2014 and 2015
Blackwood Academy and Review	Toilets and showers for the Blackwood Festival of Music and Culture	Toilets and showers for the Blackwood Festival of Music and Culture	\$2,000	\$25,000	\$17,000	70.00	Winter 2013

Name of Organisation	Project Name	Brief Description of Project	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Refugee Realities	Connecting with our local Islamic Community.	Community lunch promoting tolerance for the Islamic Community	\$1,800	\$3,600	\$18,800	65.63	No
Djerriwarrh Health Services	Djerriwarrh Health Services Longest Lunch	Longest Lunch event in Myrniong showcasing Moorabool Produce	\$3,000	\$17,800	\$21,800	64.98	Winter 2011
Bacchus Marsh Tourism Association	2016 Strawberry and Cherry Weekend	Strawberries and Cherries Weekend Festival	\$3,000	\$49,500	\$24,800	59.75	Summer 2012
<b>Total:</b>			<b>\$24,800</b>	<b>\$128,019</b>			

**Arts Grants:**

Groups demonstrating Council Policy criteria of, or better than a score of 71.50 may be provided with funding if Council so determine.

<b>Name of Organisation/ Artist</b>	<b>Project Name</b>	<b>Brief Project Description</b>	<b>Requested Amount</b>	<b>Project Total Value</b>	<b>Progressive Total</b>	<b>Policy Score</b>	<b>Previous Community Grant awarded</b>
Moorabool Book Group	Establishing a Moorabool Film Club	Establishing a Moorabool Film Club at the Ballan Mechanics Hall to screen films and visual media	\$2,638	\$5,276	\$2,638	77.55	No
Art Show Group of the Rotary Club Bacchus Marsh	Refurbishment of display stands	Refurbishment of display stands used in the Bacchus Marsh Rotary Art Show to prevent damage to the flooring at the Bacchus Marsh Public Hall.	\$3,000	\$6,415	\$5,638	73.34	Strengthening Summer 2015
Bacchus Marsh U3A Quilting for Others	Community Quilting	Materials to create 20 Quilts that will be donated to the Bacchus Marsh Hospital and Moorabool families in need	\$2,000	\$4,000	\$7,638	73.20	No



Name of Organisation/ Artist	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Lego Club	Moorabool Lego Club	Establishing a Lego club at the Ballan Community House to bring people of all ages together and encourage young people to develop creative and innovative skills	\$2,362	\$7,022	\$10,000	71.50	No
Moorabool Writers Craft	Moorabool Writers Craft Self-Publishing Workshops	Facilitated workshops run by a professional tutor to upskill Moorabool Residents in self-publishing	\$3,000	\$12,000	\$13,000	68.30	No

Name of Organisation/Artist	Project Name	Brief Project Description	Requested Amount	Project Total Value	Progressive Total	Policy Score	Previous Community Grant awarded
Thrifty Minx	Thrifty Art Studio	Developing a community arts studio in Ballan to create a shared space for artists, musicians and community members to come together for creative endeavours	\$3,000	\$6,000	\$16,000	64.20	No
Tripwire Theatre	<i>'Travels with My Black Dog'</i> Moorabool Performances	Outdoor theatre performance in Bacchus Marsh and Ballan educating the public on living with depression	\$2,000	\$4,432	\$18,000	64.15	No
<b>TOTAL</b>			<b>\$18,000</b>	<b>\$45,145</b>			

## Policy Implications

The 2013 - 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Community Wellbeing
<b>Objective</b>	Community Self Reliance
<b>Strategy</b>	Provide community development support and partnership projects

The proposed allocation of grants under the Community Grants Winter 2016 Program is consistent with the 2013-2017 Council Plan.

## Financial Implications

Consistent with the Community Grants Policy and 2016/17 budget allocation, a total of \$77,000 is available for allocation in the Winter 2016 round:

- \$50,000 for Community Strengthening
- \$17,000 for Events (including \$7,000 carry over from unallocated funding from the Summer 2016 round)
- \$10,000 for Arts

It is proposed that Council resolve to fund an additional \$1,095 in the Strengthening Category to enable St Andrews Playgroup to deliver their project in full. Alternatively, Council could resolve to fund this project in part or not at all and carry forward the remaining funding for the Summer 2017 round of Community Strengthening Grants.

The total of grants being recommended for allocation in this round is therefore \$78,095.

## Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk rating	Control/s
Project timelines	Grant recipients exceeding prescribed timelines	Medium	-Terms and conditions agreements required to be signed by grant recipients -Scheduled monitoring of projects
Financial	Grant recipients appropriate expenditure of Council funds	Medium	- Terms and conditions agreements required to be signed by grant recipients -Grant acquittal required upon completion of projects

### Community Engagement Strategy

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Community Groups	Meetings with applicant groups	Various	July 2016	Applicants groups supported to submit applications

### Communications and Consultation Strategy

Applicants for the Winter 2016 round of the Community Grants Program will be advised in writing that they will be notified of the outcomes of their grant applications in September 2016.

Community Development Officers will provide feedback to unsuccessful applicant groups via meetings or phone contact. Feedback will include:

- Advice to applicant groups of the relative strengths and areas for improvement in their Community Grant applications
- Options for alternative funding
- Supporting a group to re-lodge their application in the next appropriate round of Community Grants Program

### 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 – Dawn Tschujasehenko*

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

## Conclusion

Applications received under the “Winter 2016” round of Community Grants are reflective of the diverse range of activities that community groups are engaged in and the areas in need of financial support from Council. In total, 51 applications were received across the three program categories: Community Strengthening (35), Events (9) and Arts (7).

This is the seventh round of Community Grants under the revised Community Grants Policy and Guidelines, adopted by the Council on 4 September 2013. This round has resulted in a higher than average number of applications received, all of which were of a consistently high standard. This demonstrates not only the community awareness of the program, but the growth in the number of groups and organisations across the municipality seeking support for community activities. These results indicate an ongoing need to support community groups and organisations, through the Community Grants Program, to implement a variety of projects that strengthen and meet the needs of the community.

### Resolution:

#### Crs. Dudzik/Sullivan

1. ***That the Council allocates the following grants in the Community Strengthening Grant category.***

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Recommended Amount</b>
<b><i>Gordon Football and Netball Club</i></b>	<b><i>Reserve Power Upgrade</i></b>	<b><i>\$5,000</i></b>
<b><i>Elaine Rec Reserve</i></b>	<b><i>Fire Emergency Water Storage</i></b>	<b><i>\$5,000</i></b>
<b><i>Bacchus Marsh BMX Club</i></b>	<b><i>Electronic Scoring and Timing System</i></b>	<b><i>\$5,000</i></b>
<b><i>Bacchus Marsh Family Drug Support Group</i></b>	<b><i>Education and Awareness Raising</i></b>	<b><i>\$1,000</i></b>
<b><i>Gordon Primary School</i></b>	<b><i>Gordon Soccer Pitch</i></b>	<b><i>\$5,000</i></b>
<b><i>Coimadai Avenue of Honour Restoration Association</i></b>	<b><i>Avenue of Honour Name Plaques</i></b>	<b><i>\$5,000</i></b>
<b><i>Bacchus Marsh West Golf Club</i></b>	<b><i>Electrical Solar Panel Installation</i></b>	<b><i>\$4,995</i></b>
<b><i>Bacchus Marsh Golf Club</i></b>	<b><i>Easy Start Golf Program</i></b>	<b><i>\$4,500</i></b>
<b><i>Myrniong Recreation Reserve</i></b>	<b><i>Exercise Stations Installation</i></b>	<b><i>\$5,000</i></b>
<b><i>Monday Lunch St Andrews Uniting Church Bacchus Marsh</i></b>	<b><i>Chair Renewal</i></b>	<b><i>\$4,600</i></b>

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Recommended Amount</b>
<i>Rowsley Hall and Recreation Reserve</i>	<i>New Boiling Water Unit</i>	<i>\$1,000</i>
<i>St Andrews Playgroup</i>	<i>Playgroup Hall Flooring and Storage Upgrade</i>	<i>\$5,000</i>
<b>Total</b>		<b>\$51,095</b>

2. **That the Council allocates the following grants in the Community Events Grant category**

<b>Name of Organisation</b>	<b>Project Name</b>	<b>Recommended Amount</b>
<i>Wombat Arts</i>	<i>'Black Nite Black Lite' Ballan Winter Solstice Festival</i>	<i>\$3,000</i>
<i>Lal Lal Anzac Commemorations Committee</i>	<i>Lal Lal Anzac Memorial Park Official Opening</i>	<i>\$3,000</i>
<i>Moorabool Laughter Yoga</i>	<i>Moorabool Laughter Yoga Event</i>	<i>\$3,000</i>
<i>Bacchus Marsh Easter Fest</i>	<i>Bacchus Marsh Easter Fest</i>	<i>\$3,000</i>
<i>Moorabool Relay for Life</i>	<i>Change of Venue</i>	<i>\$3,000</i>
<i>Blackwood Academy and Review</i>	<i>Toilets and showers for the Blackwood Festival of Music and Culture</i>	<i>\$2,000</i>
<b>Total</b>		<b>\$17,000</b>

3. **That the Council allocates the following grants in the Community Arts Grant category**

<b>Name of Organisation/Artist</b>	<b>Project Name</b>	<b>Recommended Amount</b>
<i>Moorabool Book Group</i>	<i>Establishing a Moorabool Film Club</i>	<i>\$2,638</i>
<i>Art Show Group of the Rotary Club Bacchus Marsh</i>	<i>Refurbishment of display stands</i>	<i>\$3,000</i>
<i>Bacchus Marsh U3A Quilting for Others</i>	<i>Community Quilting</i>	<i>\$2,000</i>
<i>Lego Club</i>	<i>Moorabool Lego Club</i>	<i>\$2,362</i>
<b>Total</b>		<b>\$10,000</b>

4. ***That all applicants be notified in writing of the outcome of their application.***
5. ***That Council Staff provide feedback to unsuccessful groups and provide suggestions for alternative funding, or how the group may choose to improve and re-develop their application for submission to the next appropriate round of the Community Grants Program.***

**CARRIED.**

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**Report Authorisation**

**Authorised by:**



**Name:** Danny Colgan

**Title:** General Manager, Social and Organisational Development

**Date:** Wednesday, 17 August 2016

### **10.3.3 Provision of Aged Care and Disability Services within the National Disability Insurance Scheme (NDIS) Environment.**

#### **Introduction**

File No.: 12/10/003  
Author: Robyn Salt  
General Manager: Danny Colgan

The purpose of the report is to recommend that the Council: (i) continue to provide aged care services to people over 65 through the Commonwealth Home Support Program; (ii) continue to provide services to people under 65 through the Victorian HACC Program for Younger People; (iii) continue to strengthen its role in making Moorabool a more inclusive and accessible community and advocating for the needs of people with disabilities; (iv) not register as a provider under the NDIS and (v) work with Latrobe Community Health Services as the Local Area Coordination Service in the Central Highlands Region to support clients to transition to the National Disability Insurance Scheme and mainstream support services.

#### **Background**

At the Special Meeting of Council held on the 10 February, the Council resolved to: (i) write to the Victorian Minister for Housing, Disability and Ageing seeking clarification on the future funding arrangements for the Council's Disability Respite Service; and (ii) receive a further report on the roll-out of the National Disability Insurance Scheme in the Central Highlands Region.

A meeting was held with representatives of the Department of Health and Human Services (DHHS) on the 8 February 2016 to discuss the funding for the Disability Respite Service. At the meeting the CEO was advised that the Department will send a letter confirming the funding will continue post 30 June 2016. A letter dated 3 May 2016 was received from the Department of Health and Human Services (DHHS). The letter states that the Council can continue to provide the Disability Respite Program given Council has obtained re-accreditation as a Disability Service Provider and while it considers a decision in relation to its role in the National Disability Insurance Scheme.

#### **Proposal**

On the 16 September 2015, the Victorian and Australian Governments signed a bilateral agreement to rollout the National Disability Insurance Scheme (NDIS) across Victoria over a three year period.

As part of the bilateral agreement, the Victorian and Australian Governments agreed that management of the former Home and Community Care (HACC) Program will be split.

- Services for older people (people aged 65 and over and 50 and over for Aboriginal people) will be directly funded and managed by the Commonwealth Government under the Commonwealth Home Support Program.



- Services for younger people (people aged under 65 and under 50 for Aboriginal people) will be funded and managed by the Victorian Government under the HACC Program for Younger People.

The NDIS is administered by the National Disability Insurance Agency (NDIA) and is a national approach based on insurance principles that will provide individualised support and services for people with a disability and to a lesser extent their families and carers.

The NDIS takes a flexible, whole-of-life approach to working with participants, their families and carers, to identify the **reasonable and necessary** supports each participant will need to enable them to achieve their goals and develop individualised plans. The NDIS provides participants with more choice and control over how, when and where their supports are provided. It also provides certainty that they will receive the support they need over their lifetime. The NDIS also works to connect participants with community and mainstream supports.

The NDIS funds the additional reasonable and necessary supports to help participants pursue their goals and aspirations, and participate in daily life. Helping people to build their social and economic participation requires the NDIS to work closely with community organisations to identify opportunities for people with disability.

The introduction of the NDIS will see a shift away from generic disability block funded programs to individualised funding responses. For example, group block funded respite funded programs will move to a personalised service that is tailored to what an individual wants and needs. Disability services will move to an open market, where any organisation can offer services as long as they are registered as an NDIS service provider.

### **NDIS Model**

The NDIS has three levels, or tiers, of activity as follows: (i) direct service provision; information, linkages and capacity building; and (iii) general community support, advocacy, and inclusion activities (similar to Council's work through the Age Well Live Well & Access and Inclusion Plan (2015-2021)).

In March, the NDIA contracted the Latrobe Community Health Service as the Local Area Coordinator (LAC) for the Central Highlands Region including Moorabool. Latrobe Community Health Service is one of Australia's fastest growing health services and provides community-based health promotion programs, daily living and rehabilitation assistance, health checks and healthcare plans, medical care and nursing.

The Latrobe Community Health Service as the Local Area Coordinator for Moorabool will work with NDIS participants to:

- Provide assistance to connect to and build informal and natural supports;
- Provide assistance with the planning process and effective implementation;
- Work with non-participants as part of Information, Linkages and Capacity building functions of the NDIS; and

- Work with community, providers and mainstream to build inclusion and awareness of the needs of people with disability

The information, linkages and capacity building and general community support, advocacy, and inclusion tiers are consistent with what the Council currently working within the communities of Moorabool to make the municipality more accessible and inclusive and advocating to other levels of government consistent with Council's Access and Inclusion Plan (2015 - 2021).

### **NDIS in Moorabool**

The NDIS is scheduled to commence in the Central Highlands Region including Moorabool from the 1 January 2017 and be fully operational by 30 June 2017. Clients with complex needs are being moved onto the NDIS from the 1 July 2016.

Three months in advance of the scheduled roll out, the NDIA will make contact with people receiving existing services or those on a waitlist to receive supports, to help them to enter the NDIS.

Participants that have been on the Victoria Disability Services Register (DSR) and/or complex care clients currently held within HACC services will move over as soon as possible from this date. At the request of the DHHS on behalf of NDIA, a list of Moorabool clients that access the programs in question and HACC funded services, who we believe should be moved to NDIS packages in the first 6 months has been provided to DHHS.

### **Service Provision in Moorabool**

There are already six disability specific service providers that operate within the Shire of Moorabool: Merrimu Adult Services; Pinarc Disability Services; E.W.Tipping; Karden Support; Mambourin and the Department of Health and Human Services.

The NDIS is expected to bring about new and expanded service organisations and great range of choice and control over where people with a disability can access the supports they required. It is understood that a private health insurer is also intending to provide participants with full services.

The Council is receiving funding from the Australian Government through the Commonwealth Home Support Program to continue to provide services to people aged 65 years and over. The Council provides a wide range of services to people aged 65 years and over. Currently 967 clients are receiving services across the municipality.

The Council is also receiving funding from the Victoria Government through the Victorian Government HACC Program for Younger People for people aged 65 years and over. Currently 109 clients are receiving services across the municipality.

The services being provided to the clients are: Domestic Support; Respite; Personal Care; Social Support Groups; Individual Meals on Wheels; Senior Citizens; Vulnerable Persons; Coffee and Conversation; and Dementia Respite.

The Council has also for the past eight years through an agreement with the DHHS via Hepburn Health Services, engaged a Rural Access Worker. The funding for the Rural Access Worker is now directly paid to Council. Council plays an important part in the provision of Maternal and Child Health and other early childhood services. These mainstream services are provided through a mixture of Council and State and Federal Government funding along with user fees and charges. These services engage children with a disability as part of their universal service

The Council has a critical role in continuing to make Moorabool a more inclusive and accessible community and advocating for the needs of people with disabilities.

The Council adopted its Age Well Live Well & Access and Inclusion Plan (2015-2021) in November 2015. The Strategy represents an integrated approach in that:

- it is a 'whole of Council' strategy whereby all areas of Council have a shared responsibility to support healthy active ageing and access and inclusion for people with disabilities; and
- it is a platform for partnerships and collaboration with government departments, regional and local health and community service providers and community groups, in terms of resourcing, service planning, coordination and advocacy.

The Strategy outlines the Council has a range of roles and functions with respect to supporting healthy active ageing and access and inclusion for people with a disability. These include the following:

**Council is a provider of services**, in particular Home and Community Care (HACC) for frail aged and people with a disability, as well as other services and programs including disability, family and children, youth and recreation.

**Council is a strategic planner**, in terms of land use and the provision of physical infrastructure (e.g. roads) and social infrastructure (e.g. community facilities).

**Council develops policies, strategies and plans** to determine priorities and guide allocation of resources for services and infrastructure.

**Council is an asset manager** of a range of buildings and facilities from which it provides services directly (e.g. libraries) or in which community groups manage on behalf of Council (e.g. community halls and recreation reserves).

**Council plays an important community capacity building role**, through programs and activities that support social inclusion and health and wellbeing.

As the level of government closest to the community, **Council has an important leadership and coordination role**, whereby it partners with other levels of government and not for profit sectors to mobilise resources and deliver programs and services.

Finally, **Council plays an important role in advocating** to other levels of government on community needs and aspirations.

Local governments have a statutory obligation to plan for disability access and inclusion. As highlighted above, under the *Disability Act 2006*, local governments as public sector organisations are required to prepare an action plan that reduces barriers to accessing goods, services and facilities.

In addition, under the *Victorian Local Government Act 1989*, local governments have a responsibility to improve the overall quality of life of people in the local community and to ensure that services and facilities provided by the council are accessible and equitable.

While the NDIS represents an increase in the support available for people with the most significant disabilities, the Council plays an important role in supporting the whole population of people with a disability through meetings its commitment to increasing community inclusion, accessibility and advocacy.

The role Council plays in supporting people with a disability through advocacy, community development and community planning work has been complemented through the Rural Access Program, a partnership between the DHHS, Council and Hepburn Shire designed to make local communities more inclusive of people with a disability.

The HACC Program for Younger People funding will reduce over time as eligible clients transition to NDIS, however not all current clients are expected to be eligible for NDIS services and therefore will remain clients of Council serviced through the balance of funding that Council will retain.

It is proposed that the Council continue to provide services to people aged 65 years and over through the Commonwealth Home Support Program; services to be people aged 65 years and under; continue to strengthen its role in making Moorabool a more inclusive and accessible community and advocating for the needs of people with disabilities; not register as a provider under the NDIS and; work with Latrobe Community Health Services as the Local Area Coordination Service in the Central Highlands Region to support clients to transition to the National Disability Insurance Scheme and mainstream support services.

### **Policy Implications**

The 2013 - 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Community Wellbeing
<b>Objective</b>	Inclusive, responsive and accessible community services
<b>Strategy</b>	Advocate, support and provide aged and disability services

## Financial Implications

The Council's current direct disability services are either fully or partially funding by the State and/or Australian Government. The Victorian Department of Health and Human Services (DHHS) currently provides a total grant of \$174,000 for the Disability Respite Service. As eligible clients of the Disability Respite Service are transitioned to the NDIS, the Disability Respite funding will reduce and be discontinued after the full rollout of the NDIS in the region. Under the revised funding agreement, the Council is expected to receive \$217,000 in 2016/2017 for HACC services for people under 65 years. The funding is expected to gradually be reduced as eligible clients transfer to the NDIS.

## Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community	Reduction in services	Moderate	Continue to provide services and advocate for funding
Political and Reputation	Concerns about Council reducing services	Moderate	Continue to provide services and advocate for funding

## Community Engagement Strategy

Information has been provided to carers, families, clients; disability support services about the roll out of the National Disability Insurance Scheme including a community information forum held on 1 March in Bacchus Marsh. Further forums are scheduled to be held in Bacchus Marsh and Ballan. Information will continue to be provided on the roll out of the National Disability Insurance Scheme.

Each client and their carers have been made aware of the impending changes, each service provider and DHHS has sent out flyers to information sessions, newsletters and updates about the impending changes. The NDIA has a web site that explains these changes and how to access their services and we have placed articles in the local newspapers.

## 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.

If the funding for the program cease and alternative services aren't provided to the clients, it could be said that the Human Rights of the program clients have been limited, restricted or interfered with.

### 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 – Robyn Salt*

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

### Conclusion

The National Disability Insurance Scheme is a major social reform that will improve the services and support to people with disability. The Council is involved in supporting people with a disability in a variety of ways including the delivery of direct services and working within the communities of Moorabool to make the municipality more accessible and inclusive consistent with Council's Access and Inclusion Plan (2015 -2021).

#### Resolution:

**Crs. Sullivan/Edwards**

***That the Council:***

- 1. Continue to provide aged care services to people over 65 through the Commonwealth Home Support Program;***
- 2. Continue to provide services to people under 65 through the Victorian HACC Younger People;***
- 3. Continue to strengthen its role in making Moorabool a more inclusive and accessible community and advocating for the needs of people with disabilities;***
- 4. Not register as a provider under the National Disability Insurance Scheme and;***
- 5. Work with Latrobe Community Health Services as the Local Area Coordination Service in the Central Highlands Region to support clients to transition to the National Disability Insurance Scheme and mainstream support services.***

**CARRIED.**

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#### Report Authorisation:

Authorised by:

Name:

Danny Colgan

Title:

General Manager Community Services

Date:

Wednesday, 31 August 2016



## Consideration of Presentation

***Mr. Jarrod Bingham addressed Council in relation to the Youth Space/s Feasibility Study Report.***

***Leading Senior Constable James Ross addressed Council in relation to the Youth Space/s Feasibility Study Report.***

***Mr. Tom Bamford addressed Council in relation to the Youth Space/s Feasibility Study Report.***

***Mr. Anthony Pearce addressed Council in relation to the Youth Space/s Feasibility Study Report.***

***Ms. Chelsea McKean addressed Council in relation to the Youth Space/s Feasibility Study Report.***

***Ms. Shania McPhan addressed Council in relation to the Youth Space/s Feasibility Study Report.***

***Ms. Brie Lowe addressed Council in relation to the Youth Space/s Feasibility Study Report.***

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

### 10.3.4 Youth Spaces Feasibility Study

#### Introduction

File No.: 12/12/015  
Author: Troy Scoble  
General Manager: Danny Colgan

#### Background

The purpose of this report is to recommend that the Council endorse the Youth Space/s Feasibility Study and refer the preparation of a master plan for the Andy Arnold/Rotary Park Precinct to the 2017/2018 budget process.

At the Ordinary Meeting of Council on 6 July 2016, the Council resolved to: (i) endorse the Draft Youth Space/s Feasibility Study for the purpose of community exhibition for a period of four weeks; and (ii) receive a further report at the conclusion of the community exhibition period, including the next steps and timeline to progress the planning and development process.

#### Proposal

The Moorabool Youth Strategy 2013-2016 was adopted by Council at the Ordinary Meeting held in December 2013. The strategy outlines there is currently no purpose built or dedicated youth space/s within the Shire. A key recommendation of the Youth Strategy was to investigate opportunities to access existing space to provide additional youth space/s for the community. This would enable Council to provide a flexible service model, reduce costs of transport, equipment handling, venue hire and significantly enhance the youth engagement effort. It was also recommended that a report be prepared to identify the key components of a youth space/s including the size and type of space required, governance and management arrangements, capital costs, operating costs, location and potential funding sources for the consideration of the Council.

The objectives of the Youth Space/s Feasibility Study are:

- Provide a clear analysis of present and future youth space/s needs;
- Develop a report which compares costs, benefits and operational model associated with the development of a Youth Space/s across the municipality;
- Analyse opportunities for sourcing of potential external funding;
- Recommend how Council will best provide and facilitate access to Youth spaces in the future to engage young people in the Shire; and
- Prepare if possible a concept design and cost plan for development of a Youth space precinct.

The study contained in Attachment 10.3.4 examined siting/location opportunities within the Shire; accessibility; possible use of existing sites; management, governance and funding models. The study also identified the financial costs associated with any implementation and the need to examine staging options and the engagement of other youth and community groups to work collaboratively in any potential development of Youth Space(s) in Moorabool.

A significant amount of community engagement was undertaken to inform the development of the study including a public exhibition process. More than 500 young people, parents, carers and agencies have been involved in the development of the study. Council also received 40 submissions as part of the public exhibition process. The engagement contributed to the development of the vision and principles to inform future decision making in relation to any development of youth space/s across the Shire.

### **Key Issues raised during the engagement period**

The key issues/feedback raised during the engagement period were:

- Support for a staged approach to provide future space across the municipality;
- Space could support needs such as education training and employment connections, health and wellbeing initiatives and family support;
- Space to attract services that currently do not enter the municipality is much needed and overdue;
- With a current lack of access to support services for young people, a centralised space as a one stop referral point is vital and the Andy Arnold Centre in Bacchus Marsh is perfectly located with Rotary park next door;
- So many young people use rotary park so service, programs and events provided in that area is a great opportunity;
- A centralised space for youth programs and services would provide a more efficient and effective approach to working with young people in the Shire;
- 5 years is too long to be planning for additional space that is required now;
- Council's role should be to provide the space to facilitate the services;
- The study is very well prepared, considers the key points to progress future development and services for young people;
- The Andy Arnold Centre is central, accessible via public transport and a smart location for future development;



- With suicide levels, drug and alcohol abuse and domestic violence issues increasing, professional services are vital in Moorabool to support those in need, additional space could provide that;
- Access to required services are currently outside the Shire, causing many barriers to access for young people, future identifiable space would provide a significant boost to support services and structures required to meet young people need;
- An opportunity exists to have young people support any future development and make any future space more habitable;
- Refurbished space at the Andy Arnold centre would support all generations in the community.

A summary of the submissions received from the public exhibition process is contained within Appendix 5 of the study report.

Given the feedback is consistent with the draft feasibility study report, no changes have been made to the feasibility study report following the community exhibition period.

### **Key findings outlined in the study**

#### Vision and Principles

The study outlined key principles to guide future decision making regarding increased provision of youth space/s are inclusive, accessible, contemporary, safe, a place to empower and connect young people

#### Community Need / Predicted Utilisation

The study highlighted a number of youth related issues and trends in the community that additional space to attract service providers into the municipality would help to address. A significant amount of the community engaged in the study indicated likely or highly likelihood to gaining access to space providing youth related service and programs. It was identified that space would support addressing youth disengagement with school, education, employment and training opportunities, mental health and wellbeing issues, drug alcohol and substance abuse referral connections, domestic violence along with other targeted issues that young people are facing.

#### Youth Spaces Management Model Governance and Funding

Of the two management models mainly used for these type of spaces, the Study recommends that any future space developed/made available should be utilised to attract service providers into the municipality to facilitate the direct service to the community.

Funding or development of additional space is an issue as there is very limited government funding made available for these type of facilities. The study provides cost estimates for any new standalone facility along with cost estimates for refurbishing an existing facility.

### Future Location Opportunities for Youth Space/s

The study outlined criteria for evaluating existing and developing new space for youth and community related services in the future. The study found that existing spaces/facilities across the West of the Shire would provide increased opportunities for targeted programs and services for those young people in the West, however in the East of the Shire additional space will be required to meet the ongoing needs of the growing population of young people in the future.

Given the type of usage at Rotary Park and existing usage at the Andy Arnold Centre, the study recommends that these facilities be further investigated as a multi-purpose integrated community hub. The study recommends that in the future Council considers refurbishing and developing additional space to attract and provide services for young people, older adults and broader community at this location and look to master plan a community hub.

### Future Provision and Staging

The Youth Spaces Feasibility Study provides a number of options for future consideration and outlines the key components that govern how Council might develop and manage the development of any Youth spaces in the future.

The study investigated current and predicted future needs to provide a staging plan for consideration. The following staged approach to providing increased provision of youth spaces/s is considered the most viable:

- 1-3 years: Continued use of existing spaces that may be available, or become available through current developments whilst master planning for the refurbishment of the Andy Arnold Centre and Rotary Park.
- 3-5 years: Refurbishment of the Andy Arnold Centre to increase the provision of youth space/s for the community, and integrate with Rotary Park.
- 10 years+: As the population grows, further investigate the development of space for the growing needs of youth in the Shire.

### **Policy Implications**

The 2013 - 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Community Well Being
<b>Objective</b>	Inclusive, responsive and accessible community services
<b>Strategy</b>	Advocate, support and deliver youth programs and services in partnership with other agencies.

The Youth Spaces Feasibility Study is consistent with the 2013-2017 Council Plan and the Moorabool Youth Strategy 2013 -2016.

### Financial Implications

There is currently no commitment toward the development of Youth Space/s in Council's Strategic Financial Plan. Future budget implications will be referred to Council's budget process for consideration including the preparation of a master plan for Rotary Park for an estimated cost of \$30,000.

### Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community Needs	Potential service and further youth engagement gaps if outcomes of the feasibility study are not considered	Medium	Council to review outcomes of Feasibility study implementation in partnership with a range of potential funding and development options – including the upgrade of existing sites for multiple community use
Financial	Funding required to progress actions outlined in the Feasibility Study	Medium	Business cases prepared for consideration in future Council budgets.  External funding sources sought and a staged development approach

### Community Engagement Strategy

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

Level of Engagement	Stakeholder	Activities	Date	Outcome
Consult	Young people, Parents and carers, Service providers	Three focus groups with Young people in Bacchus Marsh and Ballan. Two focus groups with Service providers, parents and carers including Council, agency and school staff	August 2015  August 2015	Youth, community and service provider feedback



<b>Level of Engagement</b>	<b>Stakeholder</b>	<b>Activities</b>	<b>Outcome</b>
Consult	Internal Staff	Provided to Management Group and requests for feedback.	Multiple staff provided feedback via email and meetings.

### **Communications Strategy**

Officers will inform everyone that has contributed toward the development of feasibility of the outcome of the report and next steps. It is also proposed that Officers refer any recommendations or outcomes to future Council budget processes.

### **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 – Troy Scoble*

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

### **Conclusion**

The Youth Space/s Feasibility Study provides a vision and options for consideration for the future development of Youth Space/s in Moorabool Shire. Based on significant community engagement with a range of young people, service providers, carers and families, the study includes information regarding predicted usage, possible siting, and accessibility, possible use of existing sites, staging options, management, governance and funding models.

It is recommended that future provision of additional space for youth related services and programs be considered in the context of broader community hub opportunities in accordance with the staging plan contained in the Study report.

**Recommendation:****That the Council:**

1. **Endorse the Youth Space/s Feasibility Study Report.**
2. **Refer the preparation of a master plan for the Andy Arnold/Rotary Park Precinct to the 2017/2018 budget process.**

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

1. ***Endorse the Youth Space/s Feasibility Study Report, which recommends a youth space be established at the Andy Arnold / Rotary Park Precinct in Bacchus Marsh.***
2. ***Refer the preparation of a master plan for the Andy Arnold/Rotary Park Precinct to the 2017/2018 budget process.***

**CARRIED.**

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

Danny Colgan

**Title:**

General Manager Social &amp; Organisational Development

**Date:**

Wednesday, 31 August 2016

## 10.4 INFRASTRUCTURE SERVICES

### 10.4.1 Review of Council's Procurement Policy

#### Introduction

File No.: 03/01/007  
Author: Jacinta Erdody  
General Manager: Phil Jeffrey

#### Background

In accordance with section 186A(7) of the Local Government Act:

*“at least once in a financial year, a Council must review the current procurement policy and may, in accordance with this section, amend the procurement policy.”*

Council's existing Procurement Policy was first adopted 18 November 2009 and in accordance with legislative requirements has continued to be reviewed on an annual basis. The last formal review and adoption of the policy was 3 June 2015.

A review of the existing policy has been undertaken by the internal Procurement Steering Group (a cross functional committee that has been established to oversee all procurement related matters).

#### Proposal

As a result of the review, there are some adjustments proposed. These amendments do not affect the overall intent of the policy. The revised policy is presented as an attachment to this report.

The key changes being proposed to the policy are:

- The alteration of the procurement threshold requirements to enable Council Officers to more efficiently undertake their duties; and
- The recognition of compliance requirements to Council Fraud Management Plan.

The key change to the proposed procurement thresholds relate to purchases between \$2,501 and \$50,000. In the current procurement policy, it is a requirement for at least 2 written quotes for all purchases between \$2,501 and \$50,000. Under the proposed changes, it is recommended that for purchases between \$2,501 and \$15,000 a requirement that only 1 written quote be received. For purchases between \$15,001 and \$50,000, 2 written quotations will be required before a purchase is made.

The recommendation to alter procurement spend thresholds came about as a result of benchmarking with other Councils and a desire to improve efficiencies in day to day activities whilst maintaining accountable and responsible spending of ratepayer funds.

This policy will continue to be reviewed on an annual basis.

### **Policy Implications**

The 2013–2017 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of our Community
<b>Objective</b>	Good governance through open and transparent processes and strong accountability to the community.
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice.

### **Financial Implications**

The adoption of the revised Procurement Policy has no additional known financial implications to Council. It is not anticipated that the changes proposed will have a material financial impact on Council.

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

As the annual review of this policy is legislated, there is a risk of non-compliance with the Local Government Act if this policy is not reviewed annually.

### **Communications Strategy**

Once Council has adopted the revised Procurement Policy, the updated document will be communicated to all staff and will be placed on Council's website.

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

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

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

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

*General Manager Infrastructure – Phil Jeffrey*

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



*Author – Jacinta Erdody*

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

### **Conclusion**

After considering the revised Procurement Policy, it is recommended that Council adopt the updated document.

### **Recommendation:**

**That Council adopts the revised Procurement Policy (IS014 / Version 007).**

### **Resolution:**

**Crs. Edwards/Tatchell.**

***That the revised Procurement Policy (IS014 / Version 007) lay on the table until the appropriate meeting of the new Council.***

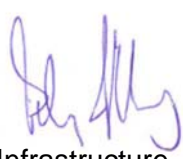
**CARRIED.**

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### **Report Authorisation**

#### **Authorised by:**

**Name:** Phil Jeffrey  
**Title:** General Manager Infrastructure  
**Date:** Wednesday, 17 August 2016



## 11. OTHER REPORTS

### 11.1 Assembly of Councillors

File No.: 02/01/002

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

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

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

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

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

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

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

- Assembly of Councillors – Wednesday 3 August 2016 – Presentation on new MSC Website
- Assembly of Councillors – Wednesday 3 August 2016 – Masons Lane Recreation Reserve
- Assembly of Councillors – Wednesday 17 August 2016 – National Disability Insurance Scheme
- Assembly of Councillors – Wednesday 17 August 2016 – Confidential Matter

#### **Resolution:**

**Crs. Sullivan/Edwards**

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

- ***Assembly of Councillors – Wednesday 3 August 2016 – Presentation on new MSC Website.***
- ***Assembly of Councillors – Wednesday 3 August 2016 – Masons Lane Recreation Reserve.***
- ***Assembly of Councillors – Wednesday 17 August 2016 – National Disability Insurance Scheme.***

- ***Assembly of Councillors – Wednesday 17 August 2016 – Confidential Matter.***

**CARRIED.**

## 11.2 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	14 June 2016	Cr. Comrie
Development Assessment Committee <i>To download a copy of the minutes, go to the MSC website: www.moorabool.vic.gov.au\Your Council\Section86 Committees\S86 Development Assessment Committee</i>	13 July 2016 10 August 2016	Cr. Comrie Cr. Dudzik Cr. Edwards Cr. Tatchell

### Resolution:

**Crs. Edwards/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, 14 June 2016.***
- ***Development Assessment Committee meeting of Wednesday 13 July 2016 and 10 August 2016.***

**CARRIED.**

### 11.3 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.

<b>Committee</b>	<b>Meeting Date</b>	<b>Council Representative</b>
Audit and Risk Committee	11 May 2016	Cr. Dudzik Cr. Edwards
Lal Lal Falls Reserve Advisory Committee of Management	11 August 2016	Cr. Sullivan
Bacchus Marsh District Trails Advisory Committee	16 August 2016	Cr. Spain

**Resolution:**

**Crs. Sullivan/Dudzik**

***That Council receives the reports of the following Advisory Committees of Council:***

- ***Audit and Risk Committee meeting of Wednesday, 11 May 2016.***
- ***Lal Lal Falls Reserve Advisory Committee of Management meeting of Thursday, 11 August 2016***
- ***Bacchus Marsh District Trails Advisory Committee meeting of Tuesday 16 August 2016.***

**CARRIED.**

**12. NOTICES OF MOTION****12.1 Cr. Toohey - Notice Of Motion 258 – Lighting to the Tennis Court/Secondary Netball Court, Wallace Recreation Reserve**

**Resolution:**

**Crs. Toohey/Sullivan**

***That Council:***

- 1. Make available \$17,780 contributed equally from the Woodlands Ward Recreation Reserve Fund and the West Moorabool Recreation Reserve Fund to complete the lighting of the tennis court and second netball court at the Wallace Recreation Reserve.***
- 2. Notes that the total cost of the project is \$34,705, which includes a \$2,000 contribution from the Committee of Management and a \$14,925 contribution in sponsorship.***
- 3. Confirms in writing that the Wallace Recreation Reserve Committee of Management will facilitate the project, will sign a Terms and Conditions document, and will comply with all relevant conditions and permits as required.***
- 4. At the conclusion of the project provide Council with an acquittal of all funds spent on the project.***

**CARRIED.**

**ACTING CHAIR 7.06PM****Crs. Sullivan/Edwards**

***That Cr. Tatchell be appointed Acting Chair for the consideration of Item 12.2 - Cr. Comrie - Notice of Motion 259 – Bacchus Marsh Tourism Association Inc – Strawberries and Cherries Event.***

**CARRIED.****12.2 Cr. Comrie - Notice Of Motion 259 – Bacchus Marsh Tourism Association Inc – Strawberries and Cherries Event****Resolution:****Crs. Comrie/Dudzic**

- 1. That Council make available an amount of \$12,000 from the New Tourism Events Grant Program as a one off payment to the Bacchus Marsh Tourism Association Inc. to deliver the expanded 2016 Strawberries and Cherries Festival.***
- 2. That at the conclusion of the project, the Bacchus Marsh Tourism Association Inc is to provide Council of an acquittal of funds spent on the project.***

**CARRIED.**

***Cr. Tatchell stood down from the role of Acting Chair at 7.10pm.***

**13. MAYOR'S REPORT**

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

<b>Cr Allan Comrie – Mayor's Report</b>	
September 2016	
10 August	S86 Development Assessment Committee Meeting
11 August	Moorabool Kids Day Out Musical Concert Committee for Ballarat Round Table Dinner
13 August	Scotsburn Community Recovery Event – Narnbool Dinner
16 August	The Reading Hour Event
17 August	Assembly of Councillors – National Disability Insurance Scheme
19 August	Central Highlands Mayors & CEOs Forum CHMCEO Lunch and Briefing & Tour of Parwan Employment Precinct
23 August	Blacksmith's Cottage & Forge Annual General Meeting Central Highlands Water 2016/17 Corporate Plan Launch
24 August	Assembly of Councillors – Local Government Act Review Update Assembly of Councillors – Regional Rail Overview
31 August	Assembly of Councillors – Darley Early Years Hub and Halletts Way Southern Extension Tour Media/Photo Opportunity – Bacchus Marsh-Balliang/Glenmore Road Intersection, Rowsley
2 September	Scotsburn Community Dinner and Media Announcement – Minister James Merlino, Minister for Emergency Services
6 September	Western Water 2016 Corporate Plan Launch
7 September	Assembly of Councillors – Draft Councillor Induction Program Assembly of Councillors – Audit Committee Presentation to Councillors Ordinary Meeting of Council



**Resolution:**

**Crs. Sullivan/Tatchell**

***That the Mayor's report be received.***

**CARRIED.**

**14. COUNCILLORS' REPORTS**

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

<b><i>Cr. Sullivan</i></b>	
<i>August/September 2016</i>	
<i>22 August</i>	<i>Millbrook Community Centre AGM</i>
<i>2 September</i>	<i>Scotsburn Fire – Clarendon Recreation Reserve Funding Announcement</i>

<b><i>Cr. Tatchell</i></b>	
<i>August 2016</i>	
<i>26 August</i>	<i>56<sup>th</sup> Anniversary of the power being connected to the Balliang community</i>

**Resolution:**

**Crs. Toohey/Sullivan**

***That the Councillors' reports be received.***

**CARRIED.**

**15. URGENT BUSINESS****15.1 Lal Lal Falls Advisory Committee**

Resolution:

Cr. Sullivan/Tatchell

1. *At the request of Lal Lal Falls Advisory Committee, that the CEO write to Central Highlands Water regarding the investigation of opening access to the old Rasmussen building including fencing, creation of a car park and reopening of the old section of Careys Road to tourist access.*
2. *That Council engage with the Lal Lal Falls Advisory Committee and keep the group fully informed during this process.*

**CARRIED.**

**15.2 Country Fire Authority Training Facility**

Resolution:

Cr. Toohey/Cr. Tatchell.

*That Moorabool Shire Council write to the Hon. James Merlino, Minister for Emergency Services and Mr. Craig Lapsley, Emergency Management Commissioner, and the Board of the Country Fire Authority, requesting consideration that if preferred suitable land in Ballan district cannot be purchased for the new CFA training facility, that the Minister can proceed to the process of compulsory acquisition of suitable preferred land to facilitate this critical community facility and secure jobs and economic benefit for the Ballan community and the region of Moorabool Shire.*

**CARRIED.**

**15.3 Racecourse Reserve – Bacchus Marsh Pony Club Relocation**

Resolution:

Cr. Edwards/Dudzik

*That Council provide a report in relation to the status and proposal to relocate the Bacchus Marsh Pony Club to the southern end of the racecourse reserve.*

**CARRIED.**

**15.4 Provision of Milk for Regional Schools**

**Resolution:**

**Crs. Tatchell/Sullivan**

*That the CEO write a letter to the Hon. Jaala Pulford, Minister for Agriculture, regarding Inglenook Dairy being the preferred supplier of school milk for our region's schools.*

**CARRIED.**

**ADJOURNMENT OF MEETING – 7.33 PM**

**Crs. Dudzik/Toohey**

*That the meeting now stand adjourned for a period of 10 minutes.*

**CARRIED.**

**RESUMPTION OF MEETING – 7.43 PM**

**Crs. Toohey/Sullivan**

*That the meeting now be resumed.*

**CARRIED.**

**15.5 Petition – Ballan Industrial Estate**

A petition was submitted by Cr. Paul Tatchell regarding inadequate street lighting in the Ballan Industrial Estate which has been a factor in an increase in the number of thefts in the area.

**Resolution:**

**Crs. Tatchell/Toohey**

*That the petition requesting street lights be erected in the Ballan Industrial Estate, along Smallmans Road and Haddon Drive, Ballan be received and that a report be prepared by officers for Council's consideration.*

**CARRIED.**

# Attachment - Item 15.5

31<sup>st</sup> August 2016

Dear Cr Tatchell,

We are writing to council to request that street lights be erected in the Ballan Industrial Estate, along Smallmans Road and Haddon Drive, Ballan.

Lighting along these roads will ensure public safety and prevent and deter thefts and break ins.

Other the last several years multiple businesses have continuously had their properties broken into and numerous items worth huge amounts of value stolen.

Most recently Terry Hodge of Hodge Earthmoving of 18 Smallmans Road has been broken into twice over the last two weeks – with perpetrators doing extensive damage by cutting the security fencing in numerous sections to gain access to the property and remove multiple items ranging from \$5000 to \$100.

Tony Paarhammer of Paarhammer's of 53 Haddon Drive over several years has had a fork lift and various tools stolen.

Jamie Beechey from J & A Automotive of 19 Smallmans Road in the last 12 months has had damage done to the perimeter of his property with his fencing being cut for perpetrators to gain access to the property and stolen car parts and tyres..

The CFA Storage Shed – Andrew Day, PAD Supervisor reported in the last 6 months pad locks had been cut and damage done to the security door from attempts to jimmy open.

Barry Sims of Ballan Storage of 41 Haddon Drive in recent months has had storage units broken into and items stolen and damage to exterior fencing by being cut for perpetrators to gain access to the property.

Adrian Abela from Body Clinic Smash Repairs of 26 Haddon Drive reported car parts stolen multiple times.

Oz Eco Solutions of 11 Smallmans Road in the last 18 months has had a variety of tools and equipment stolen.

John from Inair Custom Trailers of 36 Haddon Drive reported in the last two days he has had his security fence cut, and approximately 3 months ago was broken into with welders, tools and other work shop items valued at between \$70,00 & \$80,000 stolen.

Lachlan Dear of Grand Design Windows of Gillespies Lane Ballan in recent weeks has had numerous car part and items stolen from his property

Approximately 2 weeks ago the remains of a stolen utility vehicle was dumped outside of 19 Smallmans Road, stripped of all valuable items.

Efforts such as installing cameras and lighting by business owners to deter the thefts have been unsuccessful.

All break in's and thefts have been reported to police.

The business & property owners from the Ballan Industrial Estate, signatures attached below, along with others who were not available to comment at the time, collaboratively believe the installation of Street Lighting will assist to eliminate or reduce the amount of break ins as well as further loss and damage to properties in the area.

Please feel free to contact me on my details below should you need.

Regards,

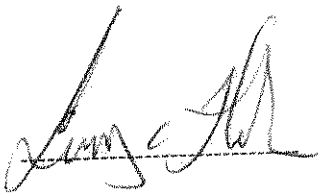
Terry Hodge - On behalf of the Ballan Industrial Estate Business & Property Owners

120 Inglis Street

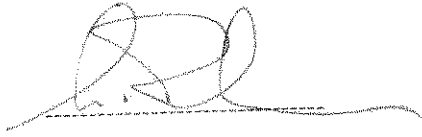
BALLAN

0497528 692

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Terry Hodge  
Hodge Earthmoving  
18 Smallmans Road



Tony Paarhammer  
Paarhammer's  
53 Haddon Drive

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Barry Sims  
Ballan Storage  
41 Haddon Drive



Andrew Day  
CFA  
Haddon Drive

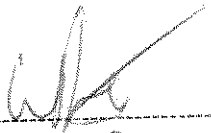


Adrian Abela  
Body Clinic Smash Repairs  
26 Haddon Drive

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John  
Inair Custom Trailer  
36 Haddon Drive

c/o BALLAN MOTOR  
WRECKERS



Nathan Dear  
Lach Deered  
Grand Design Windows  
Gillespie Lane



Jamie Beechey  
J & A Automotive  
19 Smallmans Road



Oz Eco Solutions  
11 Smallmans Lane

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**16. CLOSED SESSION OF THE MEETING TO THE PUBLIC****16.1 Confidential Report****16.2 Confidential Report****16.3 Confidential Report****16.4 Confidential Report****Resolution:****Crs. Edwards/Sullivan**

***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.**

Items 16.1 – 16.4 are confidential items  
and therefore not included  
as part of these Minutes.

**MOTION IN OPEN SESSION**

**Resolution:**

**Crs. Tatchell/Sullivan**

**That Moorabool Shire Council authorise the release of a statement by the CEO in regards to the effect:**

***The Local investigations and Compliance Inspectorate has completed an investigation into a breach of confidentiality by a former Moorabool Shire Councillor and concluded that no further action will be taken. There were no adverse findings against Council Officers or the current Council. In the spirit of full disclosure attached is the letter from the Local Investigations and Compliance Inspectorate dated 6 September 2016.***

**CARRIED.**



## Local Government Investigations and Compliance Inspectorate

GPO Box 2392  
Melbourne, Victoria 3001 Australia  
Telephone: +61 3 9665 9555

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

Dear Mr Croxford,

### **MOORABOOL SHIRE COUNCIL – INVESTIGATION OUTCOME**

I am writing to inform you of the findings and outcome of investigations by the Local Government Investigations and Compliance Inspectorate (Inspectorate) into complaints lodged by you on behalf of Moorabool Shire Council (Council) on 13 November 2013 and 12 May 2014 which alleged releases of confidential information in breach of section 77 of the *Local Government Act 1989* (Act).

The first complaint alleged a release of confidential information relating to Council's review of Family Day Care. The second complaint concerned the release of confidential information regarding Taverner Street (Siberia Land).

The Inspectorate conducted a thorough investigation of the allegations, which included the voluntary interview of all Councillors and relevant witnesses. The Inspectorate obtained and analysed relevant documentary evidence, including logs of access to the secure website, international travel movement records and subscriber information for identified IP addresses. An expert witness report regarding the secure website was also sought.

As a result of its investigation, the Inspectorate interviewed a former Councillor who was identified as the subject of this case. The former Councillor was interviewed in relation to misusing his position as a former Councillor, making improper use of information acquired as a result of being a Councillor and accessing data without authorisation.

The Inspectorate established that the former Councillor repeatedly and knowingly accessed Council's secure website without authorisation.

The Inspectorate sought legal advice on the prospect of conviction for an offence of misuse of position contrary to section 76D of the Act and a summary offence of unauthorised access to restricted data under section 247G of the *Crimes Act 1958*.

As the Inspectorate is unable to quantify to the criminal standard of proof the advantage sought to be gained by the former Councillor (for himself or for the community consortium of which he is the co-Chair) or to the detriment to Council, the Inspectorate is not able to proceed to prosecute the former Councillor for misuse of position.

The former Councillor made admissions against his interest that he knowingly accessed the secure website. The former Councillor alleged that his access was authorised by a current

Councillor but the allegations were directly contradicted by credible evidence. Although the evidence necessary to support a separate charge of unauthorised access to restricted data was obtained, statutory time limits prevent the laying of the summary offence.

While the Inspectorate is unable to proceed to prosecute the former Councillor, the conduct of the former Councillor cannot be considered to be right or in keeping with the community's expectations. Serious releases of confidential information occurred following access by the former Councillor to the secure website. Councillors and Council staff were concerned that information was being leaked from inside Council, which affected Council business, its working relationships and led to significant distress.

Please note that in accordance with its role of encouraging higher standards of integrity, accountability and transparency in local government, the Inspectorate will remind all Councils to prepare for Councillors going out of office on 22 October 2016 and ensure that only those who are authorised have access to confidential and internal Council information.

As Council implemented changes to the secure website upon detection of a possible breach, no recommendations are made regarding the current security of access.

Please note that all witnesses will be advised of the outcome of the investigations.

The Inspectorate wishes to thank all Councillors and Council staff for their valued assistance and patience throughout the investigation.

Should you have any questions or would like to discuss this matter further, please contact Aeron Rice on (03) 9665 9557 or email [inspectorate@lgici.vic.gov.au](mailto:inspectorate@lgici.vic.gov.au).

For more information about the Inspectorate go to <http://dpc.vic.gov.au> (Local Government).

Yours sincerely,



**Ross Millard**  
**Manager Investigations and Compliance**

6 / 9 / 2016

**17. MEETING CLOSURE**

*The meeting closed at 8.13PM.*

*Confirmed.....Mayor.*