

SPECIAL MEETING OF COUNCIL

Minutes of a Special Meeting of Council
held in the Supper Room,
Main Street, Bacchus Marsh
Tuesday 11 March 2014,
at 5:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING

The Mayor, Cr. Tatchell, opened the meeting at 5.00 pm.

2. PRESENT

<i>Cr. Paul Tatchell</i>	<i>Central Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. Allan Comrie</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Gavin Alford</i>	<i>Manager Strategic and Sustainable Development</i>
<i>Ms. Lisa Gervasoni</i>	<i>Coordinator Strategic Planning</i>
<i>Mr. Shane Schmidt</i>	<i>Strategic Planner</i>
<i>Ms. Melissa Hollitt</i>	<i>Minute Taker</i>

3. APOLOGIES

<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>
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4. DISCLOSURE OF INTERESTS OR CONFLICTS OF INTEREST

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

Definitions of the class of the interest are:

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

Time for Disclosure of Conflicts of Interest

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

Section 79(6) of the Act states:

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

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

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

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

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

Nil.

5. PRESENTATIONS/DEPUTATIONS

The Council has made provision in the business of the Special Meeting 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 the Council on a matter included in the agenda shall inform Council by 1pm on the Friday 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 the 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 to an item listed on the agenda:

Item No	Description	Name	Position
6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Peter Matters	Objector
6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Jeff Moran	Objector
6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Pat Griffin	Objector

6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Adrian Rowell	Objector
6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Robert Clarke	Objector
6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Jocelyn Williams	Objector
6.1	<i>Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions</i>	Nick Hooper	Proponent

6. BUSINESS

6.1 Amendment C62 – Underbank Rezoning Proposal – Consideration of Submisisions

Introduction

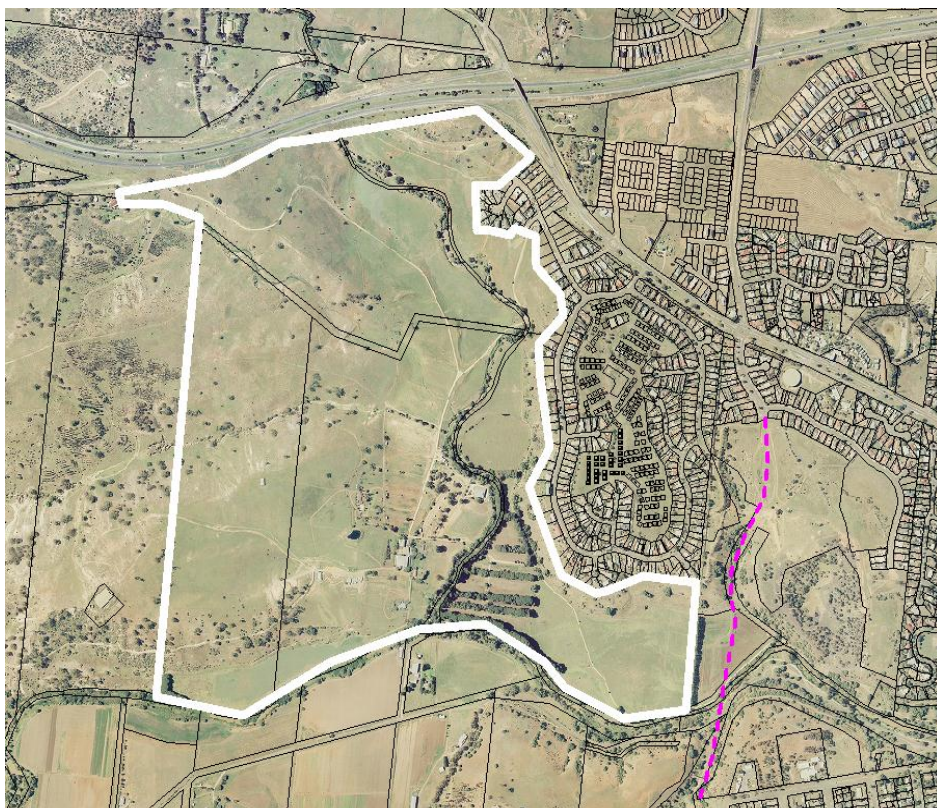
File No.: 13/06/62
Author: Shane Schmidt
General Manager: Satwinder Sandhu

Background

An application to rezone the Underbank Stud Farm in Bacchus Marsh was submitted in 2011 by Taylors on behalf of Kataland Developers.

The amendment proposes to rezone the land from the Farming Zone (FZ) to the General Residential Zone (GRZ), introduce a Development Plan Overlay and associated Schedule 6 (DPO6); and delete the Design and Development Overlay (DDO) Schedules 2 and 3 from the area affected by the amendment.

The site is generally comprised of 174 Morton Road Pentland Hills and the southern corner of 5 Randwick Avenue, Bacchus Marsh. This parcel of land covers approximately 153 hectares of farming land, currently zoned Farming Zone (FZ) and Residential 1 Zone under Clause 35.07 of the Moorabool Planning Scheme.



Council officers requested further information to support the request. The following documents have been provided by the applicants:

- Flora, Fauna & Net Gain Assessment
- Surface Water Assessment
- Traffic impact assessment
- Road Networks Upgrade discussion paper
- Due Diligence Archaeological Assessment
- Retail and service needs
- Agricultural Capability
- Land Supply Analysis
- Site Analysis
- Land Contamination
- Concept Plan
- Planning assessment

At its Ordinary Meeting held of the 13 July 2013, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment (C62) to:

1. *Endorse the preparation of an agreement in accordance with Section 173 of the Planning and Environment Act 1987 that details the development contribution requirements associated with the rezoning of the land to residential.*
2. *Pursuant to Section 9 (2) of the Planning and Environment Act 1987, request the Minister for Planning to authorise Moorabool Shire Council to prepare and exhibit Amendment C62, in general accordance with the documents attached to this report .*

On 26 July, 2011, Council wrote to the Minister for Planning requesting authorisation to prepare and exhibit an amendment to the Moorabool Planning Scheme. Authorisation A02678 was granted on 6 November 2013 with conditions. The authorisation required that consultation occur with the Regional Office of the Department of Planning Transport and Local Infrastructure (DPTLI) in the preparation of the amendment prior to exhibition, to discuss the Schedules to the Design and Development Overlay and Clause 21.09.

The Amendment has undergone public exhibition over a period of eight weeks between 28 November, 2013 to 26 January, 2014. A total of 18 submissions were received in response to Amendment C62 during this time. The background technical reports were available in the 3 physical exhibition points.

In accordance with the *Planning and Environment Act 1987*, Council must now either change the Amendment in the manner requested by the submissions, refer submissions to a Planning Panel appointed by the Minister for Planning, or abandon the Amendment or part of the Amendment.

This report considers submissions received in relation to the Amendment and recommends that all submissions be referred to a Planning Panel for consideration.

Proposal

The Amendment

Amendment C62 was exhibited to be rezoned General Residential Zone (GRZ) under Clause 32.01 to enable the development of the land for residential purposes. The proposal also includes insertion of a new Schedule to the Development Plan Overlay (DPO) at Clause 43.04 and the subsequent deletion of Design and Development Overlay (DDO) Schedules 2 and 3 at Clause 43.02 from the subject land.

The exhibited rezoning of the land to GRZ will allow for residential development in accordance with the purpose of the zone, specifically providing residential development at a range of densities with a variety of dwellings and in appropriate locations allowing for recreational, community and other limited non-residential uses to serve local community needs.

The rezoning is proposed to be supported by a site specific Schedule to the Development Plan to provide the necessary guidance to ensure the coordinated and considered planning and development of the land.

The use of the Development Plan Overlay allows Council to have greater control over the specific planning outcomes for the site and ensure increasingly levels of detail are provided (above those required to support rezoning) to guide subdivision applications so as to achieve a master planned development outcome.

The draft Schedule to the Development Plan Overlay requires that the Development Plan be generally in accordance with a Concept Development Plan that was submitted with the amendment request. The Development Plan must also provide details on how the following elements will be addressed:

- Development staging;
- Infrastructure and servicing
- Neighbourhood design;
- Neighbourhood and density objectives;
- Community facilities and services;
- Open space, escarpment and landscaping
- Traffic and movement networks; and
- Environmental Considerations.+

The amendment will remove DDO2 and DDO3 which will be superseded by the suite of controls within the amendment. The management of noise effects from the Western Freeway will continue in the way that has been required for the existing residential zoned land. Either buffers or noise attenuation methods will be required in immediate proximity to the freeway reserve.

One of the methods to achieve development contributions is via a voluntary agreement registered on title under section 173 of the Planning and Environment Act . To ensure that, if the land is rezoned, the appropriate contribution is made, a section 173 Agreement has also been entered into with the applicant to ensure development contributions resulting from the development are spent on community infrastructure, community facilities, road upgrades and other necessary works to ensure the development addresses the needs of the community. If the section 173 Agreement was negotiated at a later stage as part of any future Development Plan it would be contestable at VCAT.

Development at Underbank is envisaged in the Bacchus Marsh Framework Plan. The s173 agreement funds a number of major projects to the value of \$13 million will be secured. This will assist council in ensuring that the creation of these new communities provides a legacy benefit to the whole Bacchus Marsh community. The following projects intend to be funded in full or part via the development contributions collected during the life of the development.

Project Type	Infrastructure Item
Road and Paths	Halletts Way extension
	Bacchus Marsh Rd / Halletts Way roundabout upgrades
	Grant St / Main St / Gisborne Rd intersection upgrades
	Werribee Vale Rd upgrades and shared path
	Grant St / Meikle St intersection
	Bacchus Marsh Rd / Underbank Blvd intersection upgrades
	Ascot Ave / Rosehill St upgrades and pedestrian link
Recreation and Community	Construction of a new integrated recreation and community facility, including football / cricket oval, tennis courts, netball courts, multi-purpose pavilion and community meeting space
	Regional open space upgrades (1% of open space requirement in lieu)
	Integrated path and passive open space network
	Family & Children Services facility upgrades

Note: the detail delivery of projects will be determined at construction based on technical considerations at the time of construction.

During the preparation and finalisation of the Development Plan, which this amendment will help facilitate, a number of other issues will need further refinement. This would include further road design work by Council for projects listed on the S173 agreement.

Public Exhibition Process

Amendment C62 was exhibited in accordance with the provisions of the *Planning and Environment Act 1987* between 28 November, 2013 to 24 January, 2014. Notice was provided to all relevant Government Departments, Statutory Authorities and affected landowners and occupiers. Notices were placed in the Moorabool News, Council's web site, Government Gazette and the Moorabool Matters publications.

A total of 18 submissions were received in response to Amendment C62, of which three (3) offered no objection, fifteen (14) opposed the Amendment and one (1) was supplementary information from the applicant. Two supplementary submissions were submitted late from the applicant.

Submission Received

Under the Section 23 of the Act, the Council is required to consider all submissions made to an Amendment and must:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a panel appointed under Part 8; or
- (c) abandon the amendment or part of the amendment.

Submissions in response to the amendment cover a range of issues. The key issues include:

- Traffic / transport network
- Amendment contrary to Councils Policies
- Environmental considerations
- Amenity issues

Discussion of Submission received from proponent

The table at Attachment 6.1(a): Amendment C62 . Review of Submissions outlines the specific issues raised in the submissions and provides the officer response. In the event these submissions are referred to a Planning Panel appointed by the Minister for Planning, as recommended, these responses will be the basis for Council's presentation to the Panel. Out of eighteen (18) submissions, eleven (11) submissions cannot be resolved through minor changes to the proposed controls or agreements exhibited.

An amendment to the submission from the proponent was received on 28 February 2014 after originally objecting to the following conditions in the proposed DPO.

- *Ninety per cent of allotments shall have a minimum frontage width of 16 metres*
- *Achieve an overall density of 11 lots per gross developable hectare across the Development Plan*

The proponent wishes to reword their submission to replace these conditions with the following:

1. *Dwelling densities should generally reflect the opportunities and constraints of the land. Lower densities should generally be provided on the sloping land in the western portion of the site, whilst higher densities should generally be provided on the flatter land in the eastern portion of the site. Opportunities for the highest density development will be possible in proximity to the proposed neighbourhood centre.*
 - *For land generally above the 125 metre contour line, the minimum lot size should be generally in the order of 700sqm, except where the land has a gradient of less than approximately 1:10.*
 - *For land generally below the 125 metre contour line, the minimum lot size should be generally in the order of 400sqm, except where the land is in close proximity of the proposed neighbourhood centre.*
2. *Replace the Underbank Farm Concept Plan included on the DPO with the attached revised plan. The revised plan is the same as the exhibited plan but clearly references the 125 metre contour.*

This proposed change came about through discussions with Council officers and expert planning advice and are seen to achieve the same outcomes as the original controls the proponent sought to clarify. Council Officers believe these new requirements respond to the topography of the site and are acceptable in relation to the SPPF & the Council's intent of the draft Development Plan Overlay schedule. The new requirement is as follows

- *"Facilitates lot widths and configurations that are designed to accommodate landscaping in front setbacks and avoid excessive areas of paving. Battle-axe style lots should be avoided".*

See Attachment 6.1(b): Proposed Development Overlay schedule 6q for a plan of contours and proposed new conditions.

Key issues raised in submissions from community and agencies

Traffic Issues

Traffic was the main concern by the majority of the objections. The Underbank development will result in the possibility of between 1,000-1,500 new residential allotments. Access is to be provided via Ascot Avenue, Mortons Road and a proposed extension to Halletts Way. The traffic report provided with the submission suggests the rezoning and existing developable residential land in the area will generate approximately an additional 12,000 vehicle trips per day on the Bacchus Marsh road network when fully developed.

Council commissioned TraffixGroup in 2011 to study potential impacts of future development of both Underbank and Maddingley. This report confirmed that without a Halletts Way extension and freeway access traffic volumes would be unacceptable in Grant Street and other networks in Bacchus Marsh once both sites are developed to their potential.

Figure 1 overleaf shows the 2011 existing traffic movements as well as the projected movements post full development of West Maddingley and Underbank and the construction of Halletts Way.

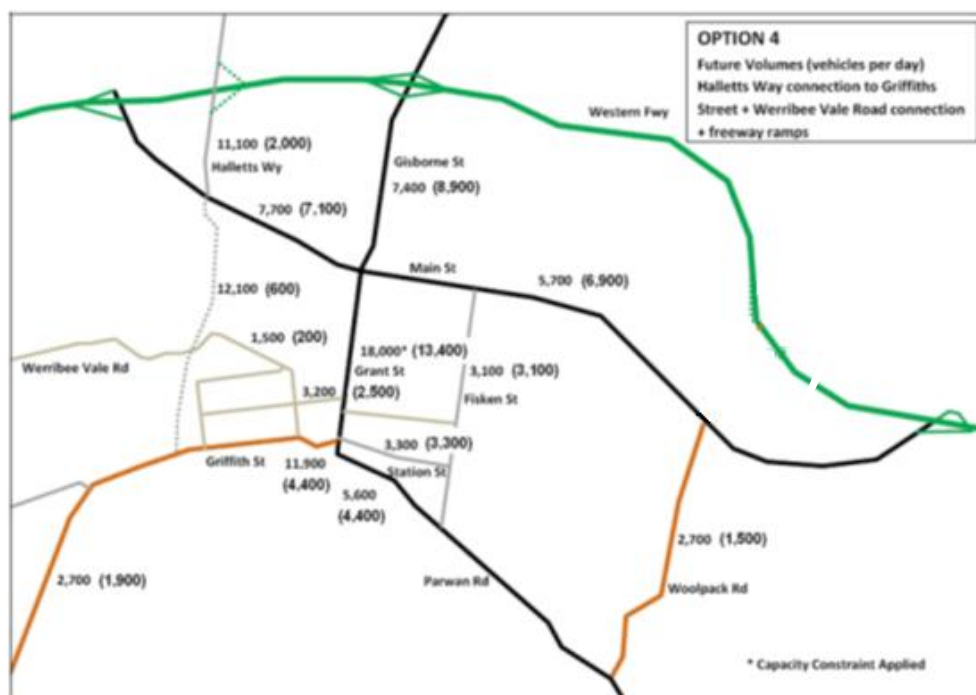


Figure 1: Proposed traffic projections from Traffixgroup report 2011 with projected traffic numbers and existing traffic numbers

The Department of Transport Planning and Local Infrastructure (DTPLI) have requested a number of changes prior to approval of the Development Plan Overlay, including the concept plan within the Development Plan showing a road network, and the requirement for an Integrated Transport Plan including the integration of Public Transport services and new traffic data.

A Section 173 Agreement has been reached with the developer to provide contributions to upgrade existing roads and extensions as part of the development. Finalisation of the design of works will need to be finalised at the time of implementation.

Ascot Avenue access

Many neighbouring residents are concerned the proposed access to the estate via Ascot Avenue will result in traffic congestion as it is currently a small neighbourhood road. The proposal and associated Section 173 agreement does allow for upgrades to Ascot Avenue however traffic assessment for the development does suggest initial traffic volumes higher than what is usually allowed for a neighbourhood collector road. The applicant has suggested the future road network of the development be designed to encourage vehicles to use the Halletts Way extension to reduce the amount of vehicles using this access.

Werribee Vale Road/Meikle Street intersection

No submissions were received in relation to connections through the existing local street network to Werribee Vale Road. The Section 173 does allow Werribee Vale Road / Meikle Street P to provide connection to Grant Street from Werribee Vale Road/Meikle Street

Werribee Vale Road/Franklin Street/Meikle Street intersection

No submissions were received in relation to connections through the existing local street network to Werribee Vale Road. The Section 173 does allow for the Werribee Vale Road/Franklin Street/Meikle Street intersection upgrade to upgrade to T-intersection to provide east to west and west to east priority with Franklin Street being the minor road approach.

Werribee Vale Road carriageway widening

Provide for short left turn lanes and realignment and widening of approaches and departures.

Grant St / Main St / Gisborne Rd Intersection

Grant St / Main St / Gisborne Rd Intersection . convert intersection to signals.

Pedestrian links & and bus access

- Pedestrian links to north - Provide for pedestrian links to Bacchus Marsh Road
- Pedestrian/ Shared Trail - Shared Path Link from site to Griffith Street/ Station Precinct.
- Cycle lanes along Halletts Way Construction.
- Road network design to cater for future public transport provision.

Mortons Road access

Residents along Mortons Road are concerned about an increase in vehicle movements in Mortons Road. Submitters believe the road will be dangerous if traffic increases and is not upgraded for additional traffic. The traffic report with the proposed amendment suggest less than 1000 additional vehicle movement per day on this road.

Halletts Way extension

The Department of Transport Planning and Local Infrastructure (DTPLI) and residents have expressed a view that the extension of Halletts Way needs to occur before any further rezoning of the area. DTPLI also have concerns that traffic data submitted with the proposal is incorrect as it was based on a future freeway access to Halletts Way which may not occur.

The concern regarding Halletts Way Freeway interchange is not triggered wholly by this development. Council considered the quantum of demand from both West Maddingley and Underbank in determining the role and function of Halletts Way in the future. The Victorian Planning System does not require developers to wholly rectify existing infrastructure gaps, but to contribute a fair apportionment based on use generated by their development.

The site has good freeway access in the westerly direction from the existing half diamond exchange. To access the freeway in an easterly direction without utilising the Grant and Main intersection would be via Main Road (former Western Highway), Halletts Way and Holts Lane (signalised intersection with Grant St).

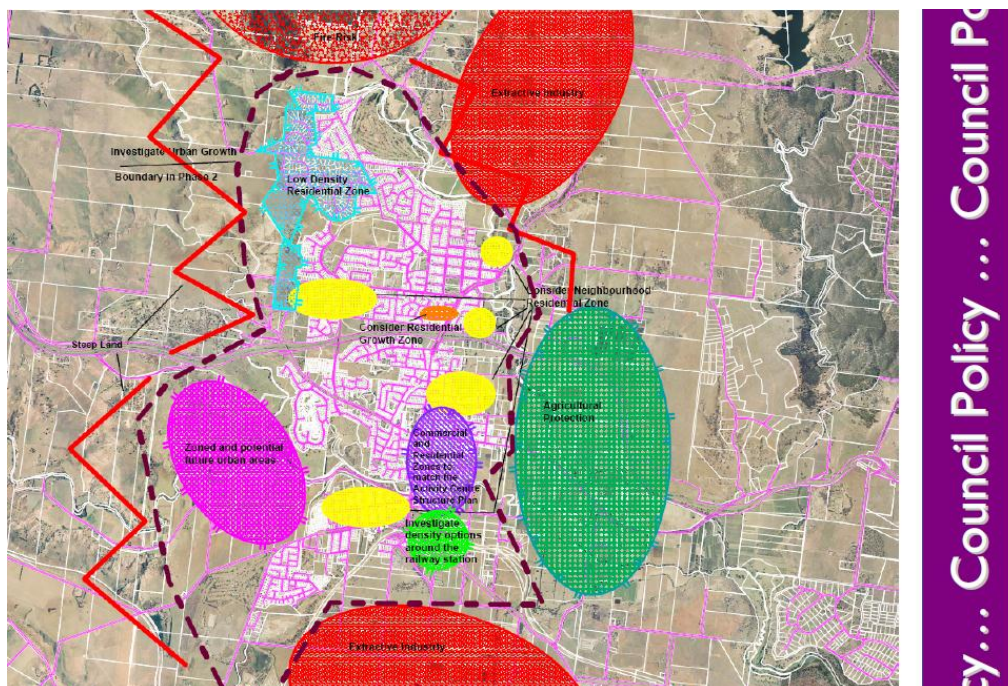
As there is capacity in the existing network it could be considered unreasonable to allow no development until the completion of Halletts Way. The Development Plan Overlay requires detailed traffic work to be undertaken before development commences. Permits can be issued in accordance with the plan so that when the trigger point is met subdivision permits cannot be granted until the infrastructure is in place.

Council believes the extension of Halletts Way (Southern Link) and connection to the Western Freeway is essential, not only for this amendment but neighbouring development proposals. Connection of Halletts Way to the Western Freeway is also important for future connections of the development. Although funding for the extension is detailed in the section 173 agreement that runs alongside this amendment, further strengthening that the extension is required before development proceeds will be detailed in the proposed Development Plan Overlay. The 2011 Traffix Report prepared for Moorabool Shire Council considered Option 4 which included the delivery of Halletts Way Southern Link via contribution from West Maddingley and Underbank areas and by Council / State Government relating to demand from existing development.

Amendment contrary to Councils Policies

One submission highlighted that the proposed amendment is contrary to Councils policies in particular the *Moorabool Growth Strategy 2041* and Councils *Urban Growth Policy GD008/01 September 2012*. The submitter suggests this policy does not support the rezoning of Underbank or any further rezoning.

Councils Urban Growth Policy does state that a growth boundary should be developed for Bacchus Marsh around existing residential areas. As Underbank is already identified in the Bacchus Marsh Framework Plan it is included within the urban growth boundary in the adopted *Urban Growth Policy GD008/01 September 2012* and is identified in the approved Bacchus Marsh Framework Plan at Clause 21.07 of the Moorabool Planning Scheme.



Extract from adopted *Urban Growth Policy GD008/01 September 2012*.

Environmental Considerations

Many submissions highlighted the amount of native fauna that occurs on the Underbank site and the river corridor. Submitters objected to the rezoning of the site as it may result in the loss of this wildlife and impact the waterway quality and environment. Melbourne Water is also concerned about the potential impact of the development on threatened waterway species. An initial Flora and Fauna Study was undertaken to support the amendment request and was available at exhibition venues in Moorabool.

The proposed Development Plan Overlay requires:

- An environmental assessment of the flora, fauna and habitat significance of the land and waterways which includes recommended actions for management, revegetation and restoration of any identified conservation and vegetation protection areas where relevant. The assessment must also make recommendations with regard to management of noxious weeds as identified by the *Catchment and Land Protection Act 1994*.
- An environmental assessment of the flora, fauna and habitat significance of the land and waterways which includes recommended actions for management, revegetation and restoration of any identified conservation and vegetation protection areas where relevant. The assessment must also make recommendations with regard to management of noxious weeds as identified by the *Catchment and Land Protection Act 1994*.
- Measures to avoid and minimise potential environmental impacts including but not limited to:
 - Flora and fauna - Native vegetation removal must be avoided wherever possible. Where vegetation removal cannot be avoided, consideration should be given for any vegetation offset required, to be applied to the rehabilitation of the escarpment;

Amenity Concerns

Some submitters were concerned about the noise, visual impact and disturbance to adjoining properties the development on the site will create.

The proposed schedule to the Development Plan Overlay is requiring lot sizes to correspond to topography and site constraints to minimise visual impact of the development. Additionally changes to conditions in the DPO as a result of discussions with the applicant have strengthened requirements to provide a design of development will provide for landscaping and ranges of lot sizes.

All development is required to comply with State Environment Protection Regulations in relation to noise emissions.

Changes to the amendment in response to Submissions

In response to some of the concerns, Council officers have suggested the following changes to the Development Plan Overlay to address submissions:

- Requirement of a complete Integrated Transport Plan as well as provision of public transport prior to the approval of the Development Plan (these are generally covered within Clause 56 of the Moorabool Planning Scheme).
- A condition to ensure approval of stages of development can only occur when the road network has been upgraded accordingly.
- Conditions that limit lot sizes to match the topography and constraints of the site described as the following:
 - For land generally above the 125 metre contour line (as shown in the concept plan), the minimum lot size should be generally in the order of 700sqm, except where the land has a gradient of less than approximately 1:10.
 - For land generally below the 125 metre contour line, the minimum lot size should be generally in the order of 400sqm, except where the land is in close proximity of the proposed neighbourhood centre
 - Facilitates lot widths and configurations that are designed to accommodate landscaping in front setbacks and avoid excessive areas of paving. Battleaxe style lots should be avoided.
- Conditions required by CFA, Melbourne Water and other authorities added to the proposed Development Plan Overlay (DPO6).

The proposed changes to Schedule 6 of the Development Plan Overlay is attached (Attachment 6.1(b))

The proposed schedule to the Development Plan Overlay (DPO6) with changes will be presented to the Panel as Council's response to the submissions and concerns to the amendment. Submitters also will be able to present to Panel.

Application of Schedules to the New Residential Zones

Council Officers have undertaken work to determine how best to apply the new Residential Zones in Moorabool for consideration as part of the Residential Zones Standing Advisory Committee Process. This work undertaken for Council by Planisphere determined that the Neighbourhood Residential Zone 4 (NRZ4) would be the most appropriate zone to translate the neighbouring residential greenfield development land at West Maddingley to, with attached Development Plan Overlays (DPOs) to respond to the new development areas.

It is noted that the neighbouring site currently zoned Residential 1 but covered within the Underbank Farm Concept Plan is proposed to be zoned Neighbourhood Residential Zone 3 (landscape residential) under new residential zone implementation process.

Council's position on the application of the new zones was considered at the 5 March 2014 Ordinary Meeting of Council, where Council endorsed the community consultation process as part of the *Residential Zones Standing Advisory Committee* process.

If this approach was applied to the Underbank site the appropriate zone would be Neighbourhood Residential Zone 4 (NRZ4) with the proposed Development Plan Overlay schedule 6 which responds to the constraints of the site. This includes a concept plan within the DPO schedule that requires lots on the higher steeper areas of the site to be generally 700m² and lots flatter land to be a minimum of 400m².

If the use of the Neighbourhood Residential Zone (NRZ4) is considered transformational a similar outcome could be achieved by applying two schedules to the General Residential Zone (GRZ) with the DPO schedule.

Content of Schedules to GRZ for Underbank

	Zone	Minimum Front Setback	Minimum Side Setback	Site Coverage Maximum	Minimum permeability
Underbank . Hillside Landscape &	GRZ3	6m	3m	20%	70%
Underbank - residential	GRZ4	Garage set back at least 6m	>2m one side 1m the other side	40%	30%

	Zone	Height	Trees	Fencing
Underbank . Hillside Landscape &	GRZ3	9.5m	1 per 250m ²	1.5m height limit permit trigger for fences over 1.5m
Underbank - residential	GRZ4	9m	1 tree per 450m ²	1.5m height limit permit trigger for fences over 1.5m

Decision guidelines are envisaged in relation to the 9.0m building height on slopes so that a residential building / dwelling must not exceed a height of 9.5m unless the slope of the natural ground level at any cross section wider than 8m of the site of the building is 2.5 degrees or more, in which case it must not exceed a height of 9.5m.

Financial Implications

The costs for the Amendment including Panel costs, will be met within the 2013/2014 budget.

Council will incur the costs associated with convening a planning panel. These charges are part of the normal amendment preparation process and include payment for the panel members time associated with conducting the hearing and preparing the report. The costs cover consumable times and services (as required), such as, photocopying, panel members accommodation, food and travel, and venue hire. These costs are difficult to predict, as they are dependent on the number of panel members appointed, the complexity of the issues being considered and, therefore, the time required for the panel hearing and the preparation of the subsequent report.

The referral of the Amendment to a Planning Panel would provide a tangible outcome to the considerable resources already expended on the project.

The amendment and proposed development will add significant funds to infrastructure and road upgrade projects as agreed to in the section 173 agreement prepared in unison with the amendment.

Risk & Occupational Health & Safety Issues

Referring a planning scheme amendment to a Planning Panel is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to request the appointment of a Planning Panel.

The amendment includes within the Development Plan Overlay which mitigate the likelihood of structural failure from natural hazard.

There are unlikely to be any occupational health and safety implications for Council in relation to this amendment.

If Council abandons the Amendment there is a risk that the Minister for Planning may act as Planning Authority for an amendment.

Communications and Consultation Strategy

Public exhibition of Amendment C62 has been undertaken in accordance with the provisions of the *Planning and Environment Act 1987*.

Formal notification by mail, newspaper advertisement, government gazette (as required by legislation), was undertaken as part of the exhibition. The time of exhibition was extended to two months rather than the one month due to the exhibition falling over the Christmas period. Formal notification was sent to all 300 adjacent landowners.

The Underbank proposal attracted local media articles and reports which provided further exposure of the amendment to the general public.

Should Council resolve to request the appointment of a Planning Panel, the Panel would conduct a public hearing in Bacchus Marsh. This hearing will provide an opportunity for those who made a submission during the exhibition period to make a presentation to the Panel based on their original submission.

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 – Shane Schmidt

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

Conclusion

Amendment C62 and the rezoning of the Underbank land has raised a number of issues with residents and authorities submitting their concerns. Traffic issues are the main concern raised in submissions from both authorities and residents. The limited access to the site and use of collector roads and proposed extensions does raise questions on how the site can be accessed without causing major traffic issues to the existing developed areas of Bacchus Marsh.

The DPO has been strengthened to require the traffic impact report to identify how much development can occur before the Halletts Way extension is complete. Other concerns have also been addressed in the modified DPO6 including amenity impacts and development responding to site constraints.

To progress this amendment, it is recommended that Council refers all submissions received in response to the Moorabool Planning Scheme Amendment C62, including the late submissions, for consideration by a Planning Panel to be appointed by the Minister for Planning. It is recommended that the Panel would consist of member that is experienced with traffic issues to ensure the issues are well considered. Each submitter would then be advised in writing by Planning Panels Victoria of how they can be involved in the Panel process.

Consideration of Deputations – Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions

Mr. Peter Matters addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

Mr. Jeff Moran addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

Mr. Pat Griffin addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

Cr. Sullivan entered the meeting at 5.16pm.

Mr. Adrian Rowell addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

Mr. Robert Clarke addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

Ms. Jocelyn Williams addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

Mr. Nick Hooper addressed Council in relation to Amendment C62 – Underbank Rezoning Proposal.

The business of the meeting then returned to the agenda.

SUSPENSION OF STANDING ORDERS 6.02PM

Resolution:

Crs. Sullivan/Spain

That Standing Orders be suspended to facilitate a discussion on Item 6.1.

CARRIED.

RESUMPTION OF STANDING ORDERS 6.04PM

Resolution:

Crs. Sullivan/Comrie

That Standing Orders now be resumed to facilitate a return to the business of the Agenda.

CARRIED.

The business of the meeting then returned to the Agenda. Item 6.1 Titled Amendment C62 – Underbank Rezoning Proposal – Consideration of Submissions.

Resolution:

Crs. Sullivan/Tatchell

That Council, having considered all submissions to Amendment C62, resolves to:

- 1. Request the Minister for Planning to appoint a Planning Panel under Part 8 of the Planning and Environment Act 1987 for Amendment C62 and that the panel consist of one member with traffic expertise.***
- 2. Refer Amendment C62 (including submissions) to the Planning Panel for consideration.***
- 3. Accept the late submissions and refer them to the Planning Panel for consideration, without Council position***
- 4. Submit to the Panel for its consideration, the amended Development Plan Overlay Schedule - Attachment 6.1(b) as Council's response to the submissions which are summarised in Attachment 6.1(a).***
- 5. Submit to the Panel for its consideration that the site be rezoned Neighbourhood Residential Zone 4 (NRZ4) in accordance with latest recommendations from Planisphere in the translation of zones.***
- 6. Should the NRZ4 not proceed then Council recommends the General Residential Zone (GRZ) with schedules which are based upon the content of the Development Plan Overlay.***

LOST.

Resolution:**Crs. Spain/Sullivan**

That Council, having considered all submissions to Amendment C62, resolves to:

- 1. Request the Minister for Planning to appoint a Planning Panel under Part 8 of the Planning and Environment Act 1987 for Amendment C62 and that the panel consist of one member with traffic expertise.***
- 2. Refer Amendment C62 (including submissions) to the Planning Panel for consideration.***
- 3. Accept the late submissions and refer them to the Planning Panel for consideration, without Council position***
- 4. Submit to the Panel for its consideration, the Development Plan Overlay Schedule as it was exhibited at public exhibition.***
- 5. Submit to the Panel for its consideration that the site be rezoned Neighbourhood Residential Zone 4 (NRZ4) in accordance with latest recommendations from Planisphere in the translation of zones.***
- 6. Should the NRZ4 not proceed then Council recommends the General Residential Zone (GRZ) with schedules which are based upon the content of the Development Plan Overlay.***

The resolution was determined to be CARRIED on a Casting Vote by the Mayor.

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

Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Friday, 7 March 2014



7. FURTHER BUSINESS AS ADMITTED BY UNANIMOUS RESOLUTION OF COUNCIL

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

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

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

9. MEETING CLOSURE

The meeting closed at 6.29pm.

Confirmed.....Mayor.