



# **AGENDA**

## **Development Assessment Committee Meeting**

**Wednesday, 16 April 2025**

**I hereby give notice that a Development Assessment Committee Meeting will be held on:**

**Date: Wednesday, 16 April 2025**

**Time: 6.00pm**

**Location: Council Chamber, 15 Stead Street, Ballan & Online**

**Henry Bezuidenhout  
Executive Manager Community Planning & Development**



**Order Of Business**

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## **1 OPENING**

## **2 RECORDING OF MEETING**

In accordance with Moorabool Shire Council's Governance Rules, the meeting will be livestreamed.

## **3 PRESENT**

## **4 APOLOGIES**

## **5 CONFIRMATION OF MINUTES**

### **RECOMMENDATION**

That the Minutes of the Development Assessment Committee held on Wednesday 19 March 2025 be confirmed.

## **6 MATTERS ARISING FROM PREVIOUS MINUTES**

## **7 DISCLOSURE OF CONFLICTS OF INTERESTS**

Conflict of interest laws are prescribed under the *Local Government Act 2020* (the Act) and in the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations). Managing conflicts of interest is about ensuring the integrity and transparency of decision-making.

The conflict of interest provisions under the Act have been simplified so that they are more easily understood and more easily applied. The new conflict of interest provisions are designed to ensure relevant persons proactively consider a broader range of interests and consider those interests from the viewpoint of an impartial, fair-minded person.

Section 126 of the Act states that a Councillor has a conflict of interest if they have a general conflict of interest or a material conflict of interest. These are explained below:

- A Councillor has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the member's private interests could result in them acting in a manner that is contrary to their public duty as a Councillor.
- A Councillor has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

A relevant person with a conflict of interest must disclose the interest in accordance with Council's Governance Rules and not participate in the decision-making process on the matter. This means the relevant person must exclude themselves from any discussion or vote on the matter at any Council meeting, delegated committee meeting, community asset committee meeting or, if a Councillor, any other meeting conducted under the auspices of the Council. The relevant person must also exclude themselves from any action in relation to the matter, including an action taken to implement a Council decision, for example, issuing a planning permit.

## **8 PRESENTATIONS/ DEPUTATIONS**

## 9 COMMUNITY PLANNING REPORTS

### 9.1 PA2024070 - DEVELOPMENT AND USE OF A DWELLING AND ANCILLARY SHED AND TWO LOT RESUBDIVISION AT POWELLS ROAD, BULLAROOK

**Author:** Victoria Mack, Senior Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** 1. PA2024070 Farm Management Plan (under separate cover)

#### APPLICATION SUMMARY

**Permit No:** PA2024070

**Lodgement Date:** 13 February 2024

**Planning Officer:** Victoria Mack

**Address of the land:** Powells Road, Bullarook

**Proposal:** Development and Use of a Dwelling and Ancillary Shed and Two Lot Re-subdivision

**Lot size:** 39.95ha

**Why is a permit required?** Clause 35.07 Farming Zone – Use of land for a Dwelling; Clause 35.07 Farming Zone – Development of a Section 2 land use; Clause 35.07 Farming – Subdivide land; Clause 42.01 Environmental Significance Overlay, Schedule 1 - Buildings and Works ; Clause 42.01 – Environmental Significance Overlay, Schedule 1 – Subdivide land

#### RECOMMENDATION

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a refusal to grant Planning Permit PA2024070 for the development and use of a dwelling and ancillary shed and two lot re-subdivision at Powells Road, Bullarook, otherwise known as Crown Allotment 1A, Section 18, Parish of Bungaree and Lot 2 on PS 128379 based on the following grounds:

1. The proposed subdivision of land, development and use of a dwelling does not comply with the objectives of the Farming Zone, Clause 35.07 of the Moorabool Planning Scheme, and fragments an agricultural lot.
2. The proposed subdivision of land, development and use of a dwelling will result in the creation of a small lot without a direct connection to agriculture.
3. The proposed subdivision of land, development and use of a dwelling does not comply with the Municipal Planning Strategy and Planning Policy Framework seeking protection of land for productive agricultural purposes.
4. The proposed subdivision of land, the development and use of a dwelling does not represent the orderly planning of the area.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	One objection.
Consultation meeting:	No, as recommendation is for refusal.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

### **Strategic Objective 2: Liveable and thriving environments**

#### **Priority 2.1: Develop planning mechanisms to enhance liveability in the Shire.**

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

## **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Victoria Mack*

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

## **EXECUTIVE SUMMARY**

Application referred?	Yes, Council's Public Health Team, Council's Development Infrastructure and Central Highlands Water.
Any issues raised in referral responses?	No.
Preliminary concerns?	The excision of a 1.5ha housing lot to construct a new dwelling on a land area of 39.95ha.
Any discussions with applicant regarding concerns?	The applicant has been advised of concerns.

Any changes made to the application since being lodged?	No changes made.
Brief history.	The applications total area from the titles is 39.36ha. The land is used for irrigated agriculture produces potatoes (producing over 7,000 tonnes per year), canola, pyrethrum, turnips, rape, lucerne, oats, hay and produce prime lamb and beef cattle.
Previous applications for the site?	None recorded.
General summary.	<p>The application would create a small lot of 1.5ha and would be used for the development of a new dwelling.</p> <p>The site is located in Area 1 of the Rural Land Use Strategy which is comprised of the highest quality agricultural land in the Shire.</p> <p>The proposed fragments farming zone land and does not comply with provision of the planning scheme.</p> <p>The subdivision and development are recommended for refusal.</p>
<b>Summary of Officer's Recommendation</b>	
<p>That the Development Assessment Committee, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i>, issue a refusal to grant Planning Permit PA2024070 for the development and use of a dwelling and ancillary shed and two lot re-subdivision at Powells Road, Bullarook, otherwise known as Crown Allotment 1A, Section 18, Parish of Bungaree and Lot 2 on PS 128379 based on the grounds contained within the report.</p>	

## SITE DESCRIPTION

The site is within the Pootilla and Clarkes Hill agricultural district. The use of surrounding land is all related to intensive irrigated agriculture specifically cropping and livestock.

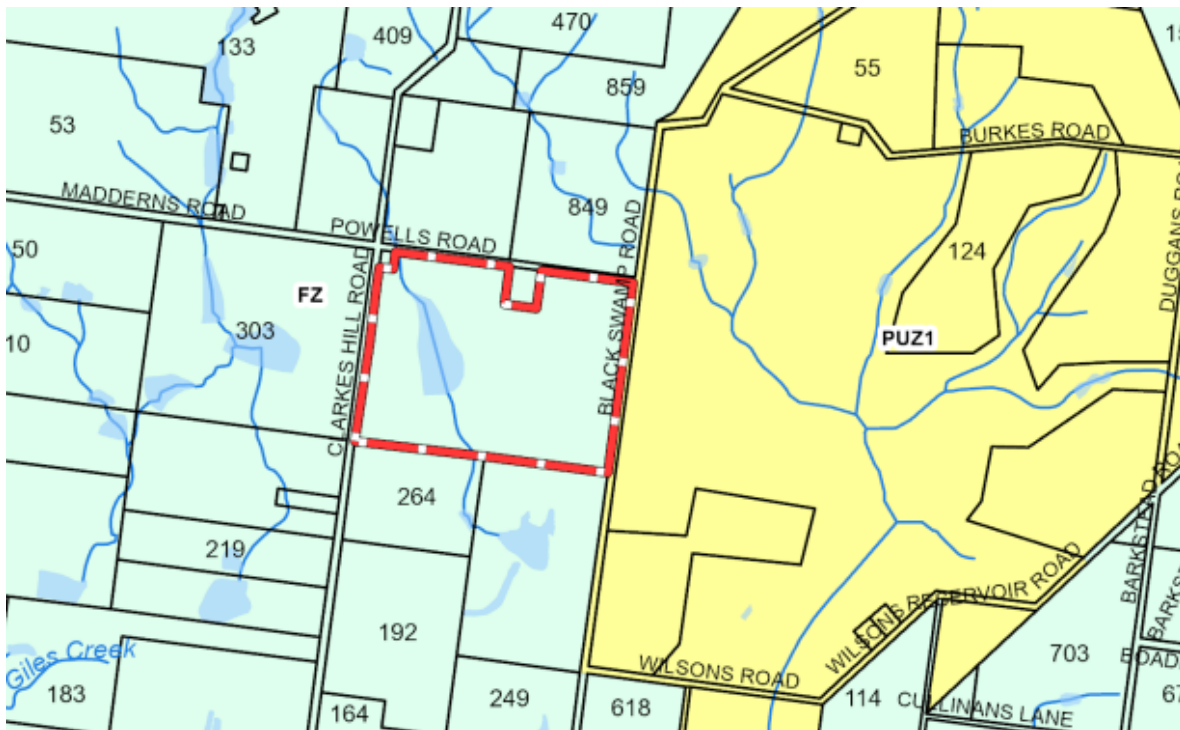
The site comprises two lots. It is rectangular in shape and gently sloping to undulating. Powells Road is located on the north boundary and Clarkes Hill Road on the west boundary. There is no native vegetation on the site. In the centre of the site is a large dam with a surface area of approximately 4ha. A section of a dry-stone wall is present on the north boundary abutting Powells Road. Access to the property is from both Powells Road and Clarkes Hill Road.

Land abutting the site on the east boundary is in the same ownership as the subject site. It has an area of approximately 37ha.





**Figure 1:** Aerial Photograph of the site (western lot only)



**Figure 2:** Map Zone

**PROPOSAL**

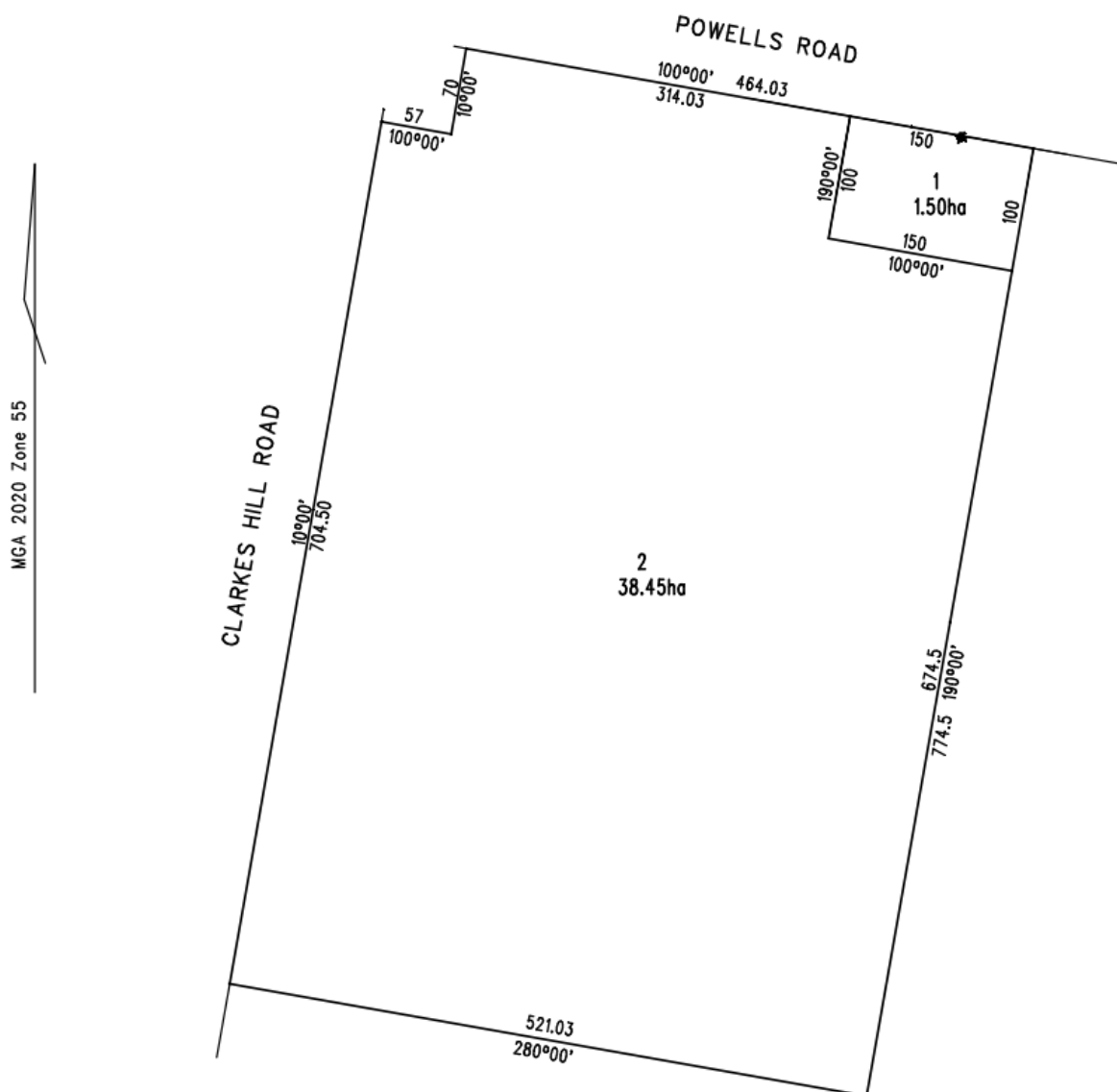
It is also proposed to re-subdivide the land to create two lots.

Lot 1 which would have an area of 1.5ha would contain the new dwelling and outbuilding.

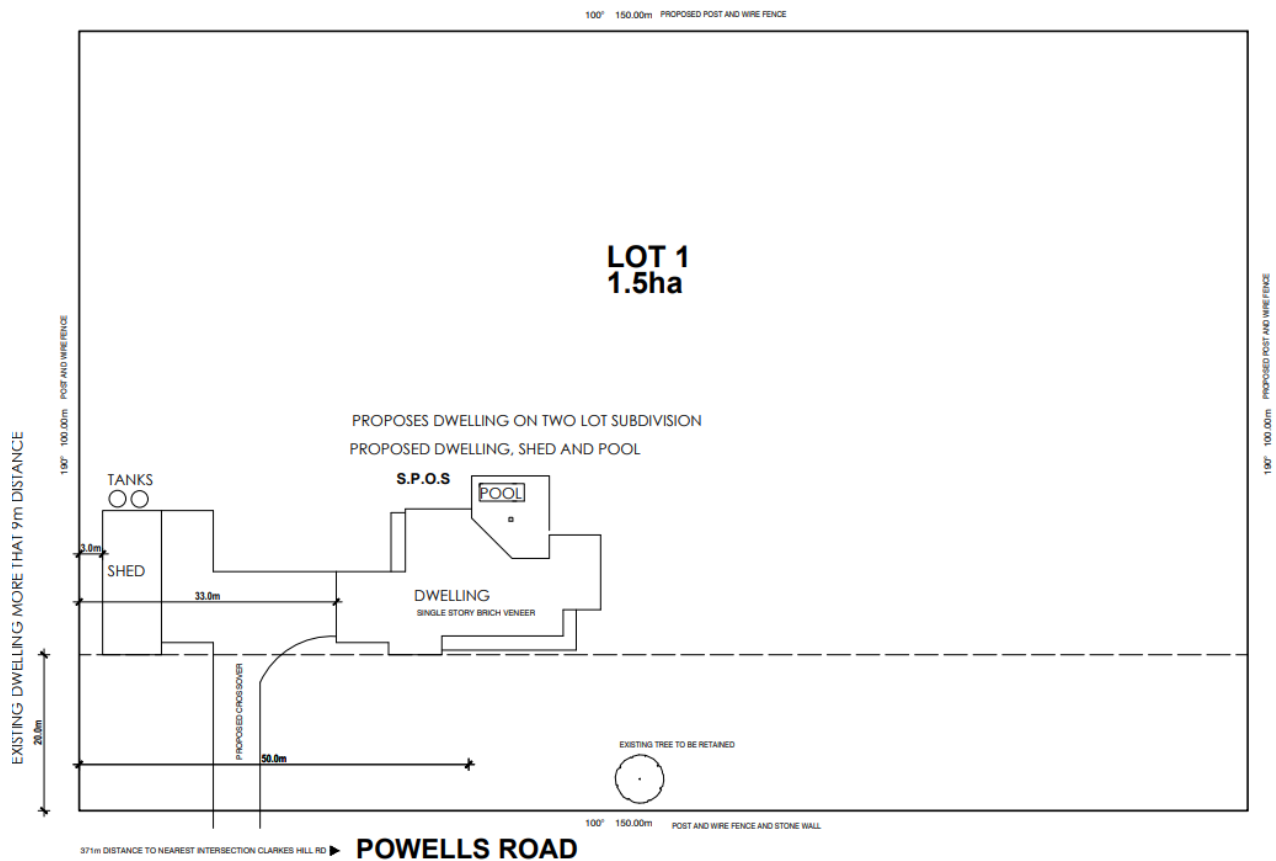
Lot 2 would remain farming land with an area of 38.45ha.

It is proposed to construct a dwelling and outbuilding in the northeast corner of the site contained in new Lot 1.

The dwelling would have four bedrooms, a separate study, an open plan kitchen, meals and family area, a covered alfresco, deck and pool, a separate sitting room, three bathrooms, and an attached two car garage. The cladding would be brick with a Colorbond roofing. An outbuilding is also proposed that would be 12m wide, 18m long and with a height of 5.88m. The shed would be comprised of Colorbond cladding.



**Figure 3:** Subdivision Plan



**Figure 4:** Site plan for dwelling in new Lot 1



**Figure 5:** Dwelling Elevation Plans

## BACKGROUND TO CURRENT PROPOSAL

Nil

## PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners.

One objection was received.

**SUMMARY OF OBJECTION**

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

<b>Objection</b>	<b>Any Relevant Requirement</b>
If approved the proposal would set a precedent for further higher density living in this rural area.	Clause 35.07 - Farming Zone
<b>Officer's Response:</b> The subdivision is not in accordance with the policy objectives of the Moorabool Planning Scheme and not location for new residential development.	
If a dwelling is allowed to be built on my doorstep it will limit the rural freedom I currently enjoy.	
<b>Officer's Response:</b> The new dwelling would be 113m from the existing dwelling and does not create amenity impacts to nearby existing dwellings.	
My present house was built in the 1920's, The proximity of the proposed dwelling sets a high-density precedent by allowing a new dwelling to adjoin my existing rural property, I feel that is an invasion of my privacy.	
<b>Officer's Response:</b> The location of the new dwelling is not an orderly planning outcome on productive agricultural land in the Farming Zone.	
The dry-stone wall will be impacted by the new access proposed. It states that the fence will be retained, but in what condition, and to what standard will it be preserved and maintained?  It is concerning that the new driveway may bulldoze an access through this wall.	Clause 52.33 Post Boxes and Dry Stone Walls
<b>Officer's Response:</b> Dry-stone walls are protected in accordance with Clause 52.33 of the Moorabool Planning Scheme. A permit is required to demolish, remove or alter a dry-stone wall constructed before 1940. The application has stated that an existing access through the dry-stone-wall would be used, and the wall would not be a damaged.	
The proximity of my dwelling to the proposed shed and dwelling has not been included on the development plans. I don't think that it's necessary for them to 'snuggle up tight' to my property when there are other locations on the Quinlan farms already set up with power and water ready for his house to hook up to.	
<b>Officer's Response:</b> The new dwelling would be 113m from the existing dwelling and does not create amenity impacts to nearby existing dwellings.	

I have workshop and the luxury being able to operate my machinery "all hours" to pursue my, sometimes, noisy hobbies. I also cut my own firewood with a saw bench and wood splitter. I also enjoy Blacksmithing and do my own metal fabrication work. Having a neighbour so close to my shed will change my freedom to pursue my hobbies for fear of upsetting the neighbours.	
<b>Officer's Response:</b> Dwellings on Farming Zone land are not afforded the same amenity rights and can be subject noise and other emission from farm production. Dwellings are suited to residential zoned land.	
I am sceptical that this is part of a succession plan as stated in the subdivision proposal, but more a case of slicing off a small piece of stoney ground for a superannuation pay out for a family member.	
<b>Officer's Response:</b> The application must be assessed on its merits and under the provisions of the Moorabool Planning Scheme.	

### PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)

The relevant clauses are:

- Clause 02.03-4 – Natural Resource Management
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.03-3S – Peri-Urban Areas
- Clause 14.01-1S – Protection of agricultural land
- Clause 14.01-1L – Agriculture, rural dwellings and subdivision
- Clause 14.02-1L – Declared special water supply catchments
- Clause 15.01-6S – Design for rural areas
- Clause 16.01-3S – Rural residential development
- Clause 16.01-3L-01 – Rural residential development in Moorabool

The proposal does not comply with the relevant section of the MPS and PPF clauses outlined in the table below:

MPS	Title	Response
Clause 02.03-4	Natural Resource Management - Agriculture	The proposed dwelling is not considered justifiable and fragments agricultural land.

PPF	Title	Response
Clause 11.01-1L-01	Settlement in Moorabool	The creation of a small rural residential lot in a prime agricultural region in the Farming Zone does not represent an orderly planning outcome.
Clause 14.01-1S	Protection of agricultural land	The proposal does not accord with this policy as it creates an isolated small lot in the Farming Zone.
Clause 14.01-1L	Agriculture, rural dwellings and subdivision	The future of a small residential lot if sold will have no nexus with the surrounding farming land.

## ZONE

### Farming Zone

A permit is required under Clause 35.07-3 to subdivide land (re-subdivision), Clause 35.07-1 for the use of land for a dwelling and Clause 35.07-4 for a building or works associated with a Section 2.

A permit is also required under the schedule to the Farming Zone where the minimum setback from a side boundary is less than 5m (outbuilding).

## OVERLAYS

### Environmental Significance Overlay – Schedule 1

A permit is required under Clause 42.01 to subdivide land. and for buildings and works.

### Design and Development Overlay, Schedule 2.

In accordance with Clause 43.02 of the Moorabool Planning Scheme a permit is not required to subdivide land, or where buildings or works are not constructed with reflective material.

## RELEVANT POLICIES

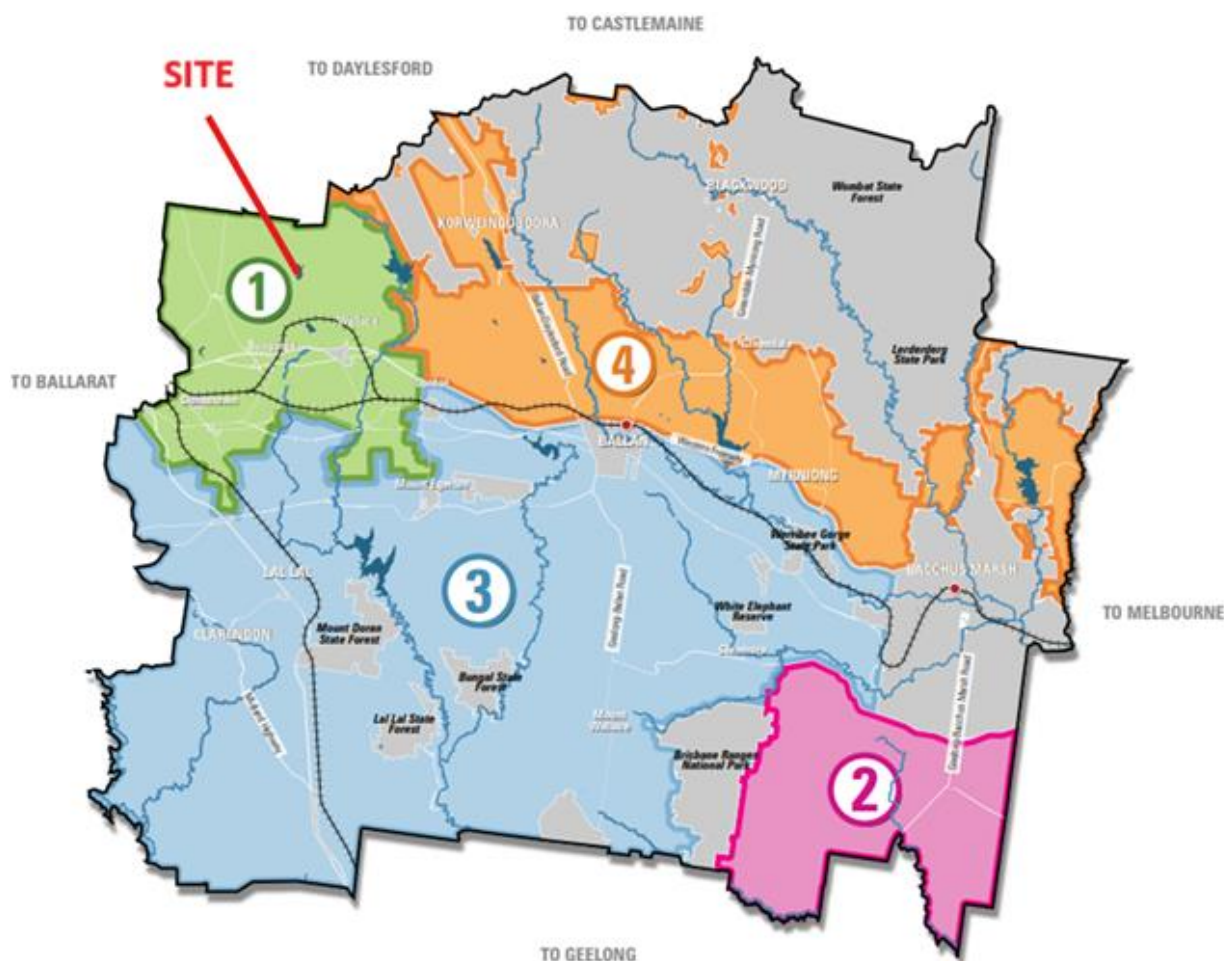
### Rural Land Use Strategy

The RLUS was adopted by Council in 2024.

Council adopted the Rural Land Use Strategy (RLUS) at the Special Meeting of Council on 11 September 2024 after consultation in August This is a seriously entertained planning policy.

The subject site is in Precinct Policy Area 1

Policy Area 1 contains the highest productive value land for commercial scale agriculture. The strategy strongly discourages the proliferation of dwellings, subdivision, fragmentation and conversion of Farming Zone land to non-soil-based use and development.



**Figure 6:** Site in relation to RLUS Area 1

The priority use of the land in Policy area 1 is for commercial scale agriculture including cropping and intensive agriculture.

Large scale farming will be considered the highest priority with new dwellings in the Farming Zone (FZ) being specifically discouraged to maintain a focus on soil based agricultural activity. Non-agricultural uses, and any conversion of high-quality agricultural land to non-soil-based use or development will be strongly discouraged. Additional rural lifestyle dwellings in Area 1 will be directed to existing Rural Living Zone (RLZ) land.

The statement of intent for Area 1 includes:

- To provide opportunities for intensive agriculture that compliments the soils quality, particularly horticulture.
- To retain large productive lot sizes and avoid the fragmentation of land.
- To actively encourage and support consolidation of land for agricultural use.
- To ensure that proposed agricultural uses are commercially viable and sustainable.
- To prevent proliferation of dwellings and avoid incompatible and sensitive uses in farming areas.



- To only support the construction of a new dwelling where it has a direct relationship with a legitimate agricultural use and would not adversely impact surrounding agricultural land use, in select circumstances.
- To promote and encourage the environmental improvement and management of land through the use of Land Management Plans and permit conditions that seek to promote revegetation.
- To strongly discourage non-agricultural uses that are unrelated to rural activities and direct towards existing urban areas.
- To protect water supply catchments.
- To encourage supplementary uses and tourism opportunities with an established nexus with agriculture, such as farm gate sales.

There is no policy support within Area 1 to fragment agricultural land or to create a small housing lot that cannot be used for productive farming purposes.

### **PARTICULAR PROVISIONS**

No Particular Provisions apply.

### **DISCUSSION**

The proposal seeks to create a small lot of 1.5ha in the Farming Zone through the re-subdivision of two large existing lots and the development of a new dwelling on new Lot 1.

The applicant stated that the dwelling is required to support intensive irrigated agriculture and is vital for future succession planning. Nonetheless the current proposal would separate the dwelling from the balance of the land and there would be no nexus between the housing lot and agricultural lot.

It is also noted that the owners also have land abutting on the east boundary. There is an opportunity to consolidate parcels in the same ownership to sustain future agricultural production rather than fragment part of the site for a dwelling.

There is no policy support for this arrangement within the Moorabool Planning Scheme that seeks the protection of agricultural land from fragmentation preventing the creation of small residential sized lots in the rural zones. Policies specifically discourage the creation of small lots where future land use conflicts may arise between the residents of small lots and regular farming activities. Policies also aim to protect good quality agricultural land and support the productivity and sustainability of existing and future agricultural and horticultural activities. The application does not accord with these policy objectives.

Lot 1 at 1.5ha and the development of a new dwelling would not be able to be used for any productive farming use and creates a poor precedent where dwellings are approved in the Farming Zone in order to sustain a particular agricultural activity and then not used for that purpose. Agricultural production needs to be protected and not undermined through land fragmentation.

There is no policy support in Council's recently adopted Rural Land Use Strategy and site is located in the most productive farming land in the Shire. The Rural Land Use Strategy aligns with State Government policy directives under Melbourne's Green Wedges and Agricultural Land Action Plan 2024 which seeks to protect agricultural land.

The application is inconsistent with the objectives of the Farming Zone and is recommended for refusal.



**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**

Authority	Response
Central Highlands Water	No objection with conditions.
Council's Development Infrastructure	Consent with conditions
Council's Public Health	Consent with conditions

**FINANCIAL IMPLICATIONS**

The recommendation of refusal of this application has no financial implications to Council.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

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

**COMMUNICATIONS STRATEGY**

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The applicant was invited to attend this meeting and invited to address the Development Assessment Committee if required.

**OPTIONS**

That the Development Assessment Committee could consider the following options:

- Issue a Refusal to Grant a Permit with specified grounds as listed in the recommendation of this report; or
- issue a Notice of Decision to Grant a Planning Permit. The Development Assessment Committee would need to consider what reasonable grounds there would be to support the application under the Moorabool Planning Scheme.

**CONCLUSION**

The proposal creates a small housing lot for a new dwelling in the Farming Zone isolating the dwelling from the surrounding productive agricultural land. Fragmenting farming zoned land does not comply with the objectives of the Clause 35.07 of the Moorabool Planning Scheme and undermines planning policies that seeks to support agricultural production and avoid land fragmentation. The application is recommended for refusal with specified grounds.

**9.2 PA2024140 - USE AND DEVELOPMENT OF A SECOND DWELLING AT 57 CAMERONS LANE, BEREMBOKE**

**Author:** Thomas Tonkin, Senior Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** 1. Farm management plan (under separate cover)

**APPLICATION SUMMARY**

**Permit No:** PA2024140

**Lodgement Date:** 20 September 2024

**Planning Officer:** Tom Tonkin

**Address of the land:** 57 Camerons Lane, Beremboke

**Proposal:** Use and development of a second dwelling

**Lot size:** 39.89ha

**Why is a permit required?** Clause 35.07 Farming Zone – Use and development of a second dwelling on a lot

**RECOMMENDATION**

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Refusal to Grant Planning Permit PA2024140 use and development of a second dwelling at 57 Camerons Lane, Beremboke based on the following grounds:

1. The proposed use and development are inconsistent with the relevant provisions of the Municipal Planning Strategy and Planning Policy Framework of the Moorabool Planning Scheme.
2. The proposal intends to create a second dwelling in a non-residential zone that is not consistent with the purpose and decision guidelines of Clause 35.07 (Farming Zone) of the Moorabool Planning Scheme.
3. A second dwelling is not required to sustain agricultural production of the land.
4. The proposal fragments land sets aside for agricultural production.
5. The proposed use and development of a second dwelling does not represent the orderly planning of the area.

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	One.
Notice in Moorabool Newspaper:	No.
Number of objections:	Two.
Consultation meeting:	No as the recommendation is for refusal.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.1: Listen, analyse and understand community needs**

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

## **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Tom Tonkin*

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

## **EXECUTIVE SUMMARY**

Application referred?	Yes, Council's Development Infrastructure, Council's Public Health, CFA and Melbourne Water
Any issues raised in referral responses?	No.
Preliminary concerns?	Justification for the proposed second dwelling.
Any discussions with applicant regarding concerns?	Yes.
Any changes made to the application since being lodged?	Minor changes to the farm management plan to correct errors.

Brief history.	The site contains an existing dwelling, associated outbuildings and horse arena
Previous applications for the site?	PA20020238 was issued on 10 May 2002 for the use and development of a dwelling
General summary.	<p>It is proposed to create a second dwelling on a lot within the Farming Zone.</p> <p>Increased residential densities in a non-residential zone is against the relevant policies and strategies in the Moorabool Planning Scheme and further fragments agricultural land.</p> <p>It is considered that the proposal is not an orderly planning outcome in the Farming Zone.</p> <p>It is recommended that the application be refused.</p>
<b>Summary of Officer's Recommendation</b>	
That the Development Assessment Committee, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i> , issue a Refusal to Grant Planning Permit PA2024140 use and development of a second dwelling at 57 Camerons Lane, Beremboke, on the grounds contained within this report.	

## SITE DESCRIPTION

The subject site and remaining surrounding land is in the Farming Zone. The land is characterised by lots both smaller and larger than the subject site, many of which are developed with single dwellings and ancillary outbuildings. Land to the north and northwest is substantially cleared and supports mainly grazing. Other surrounding land is generally heavily treed with native vegetation. The Brisbane Ranges National Park borders part of the site to the east and is in the Public Conservation and Resource Zone.

The subject site is identified as Lot 1 on PS 529674U and known as 57 Camerons Lane, Beremboke. The site is 39.89ha in size and located on the east side of Camerons Lane, southeast of the Beremboke Road intersection. The site topography is varied but in general moderately undulating.

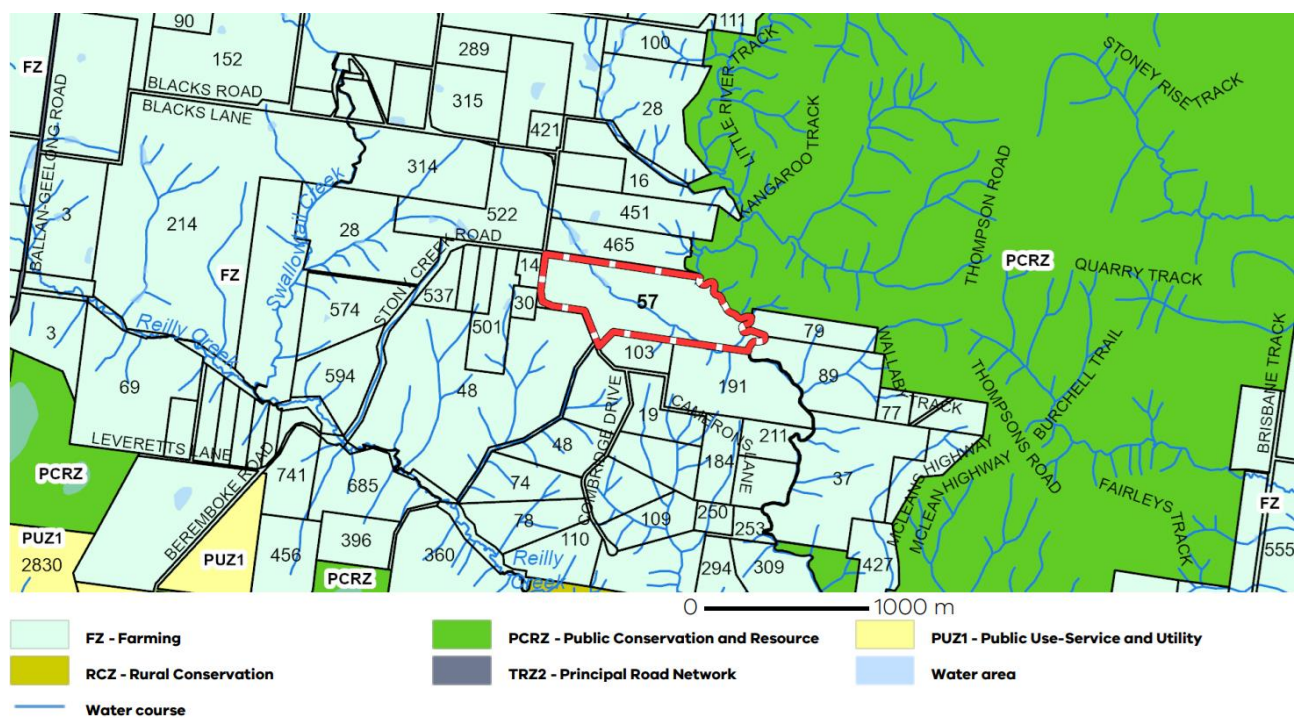
The site is developed with a dwelling and ancillary outbuildings located in the southwest part of the site, with vehicle access from Camreron Lane. Towards the northwest corner of the site is a covered horse arena, two other sheds and water tanks, with separate access from Camerons Lane. The site is substantially cleared of vegetation, apart from planted windbreaks and clusters of trees located mainly near the dwelling and Little River corridor.

The current farming enterprise comprises the following:

- the keeping, breeding, and training of high value horses.
- the keeping and breeding of 28 Angus cattle to produce 28 calves for sale to the domestic market and to assist with weed and land management.
- the keeping and breeding of working dogs, including for show purposes.



**Figure 1: Aerial photograph**



**Figure 2: Zone map**

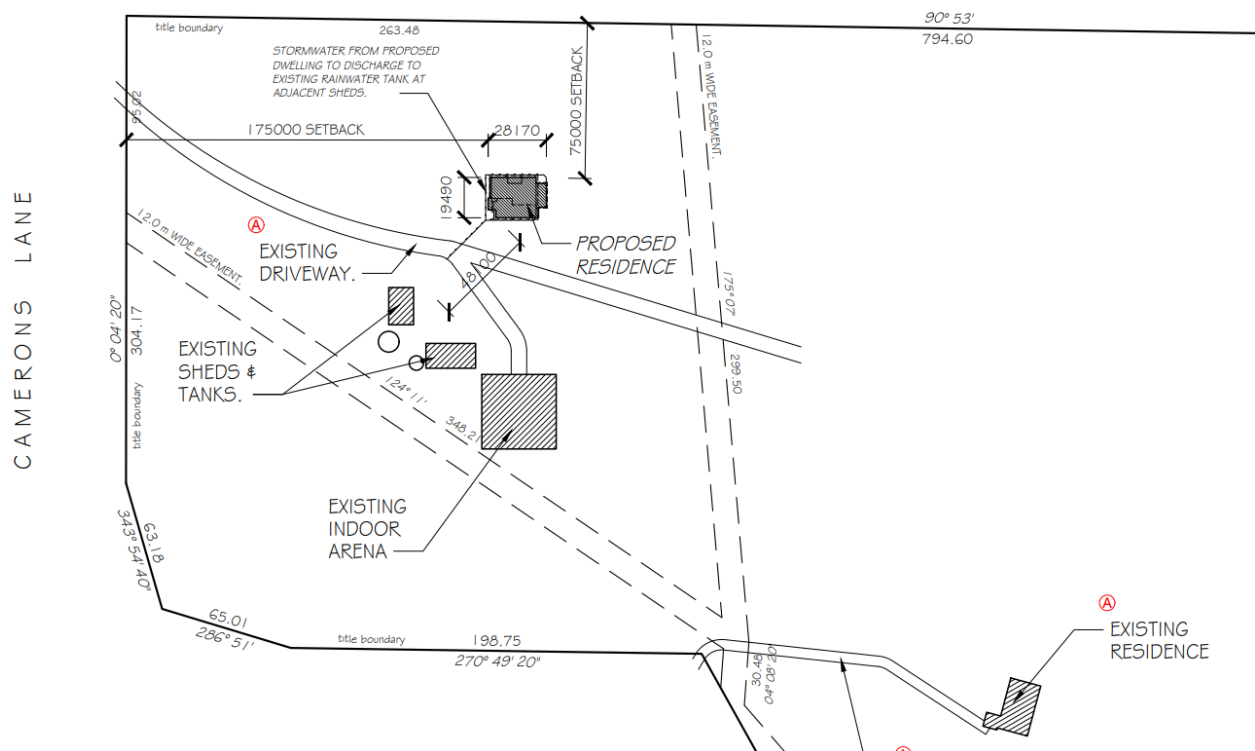
## PROPOSAL

It is proposed to use and develop the site for a second dwelling.

The dwelling would be constructed towards the northwest corner of the site and set back 175m from Camerons Lane, 75m from the north title boundary and setback approximately 300m from the existing dwelling.

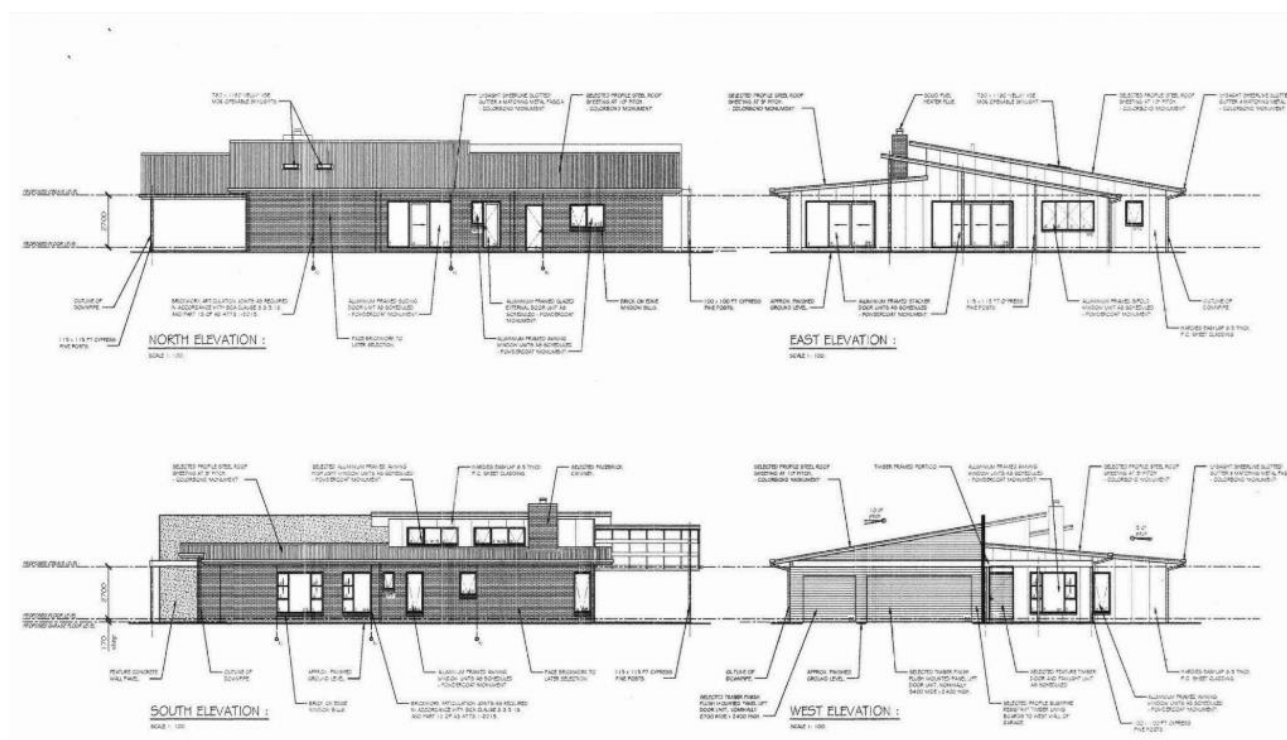
The dwelling would be single storey and comprise three bedrooms, two bathrooms, powder room, laundry, open plan kitchen, dining and family area, triple car garage and covered outdoor areas on the north and east sides of the dwelling. The dwelling would be contemporary in appearance, with a pitched Colorbond roof and a mix of brick, timber and lightweight external wall cladding.

According to the submitted Farm Management Plan, the current activities would continue and the existing farming area expanded through pasture improvement to enable increased stock numbers and the purchase of breeding cattle. Additionally, it is proposed to plant 120 hazelnut trees on which black truffles would be inoculated. Land management improvements would involve setting aside land for conservation purposes and erosion control.



**Figure 3: Proposed site plan (part)**





**Figure 4: Proposed dwelling elevations**

## BACKGROUND TO CURRENT PROPOSAL

Not applicable.

## HISTORY

PA2002038 for Development and Use of a Dwelling was approved on 10 May 2002 for land then identified as Crown Allotment 47, Parish of Beremboke, a 15.68ha parcel which included part of the subject site.

PA2003483 for re-subdivision of two existing lots was approved on 4 May 2004 and created what are now known as Lots 1 and 2 on PS 529674U, otherwise known as 57 and 103 Camerons Lane, respectively 39.89ha and 8.16ha.

PA2014223 for a two lot subdivision of 57 Camerons Lane was withdrawn by the permit applicant on 10 August 2015. The proposal was seeking to excise off the housing lot at 8.687ha in area with the remaining land for agriculture.

## PUBLIC NOTICE

Notice of the application was given to adjoining and surrounding landowners and occupiers by mail and a sign erected on site.

Two objections were received.

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
The strategic settings offer no encouragement for the proposed use and development for a second dwelling on the land. A dwelling already exists on the subject land. The subject land size is 39ha (less than the 40ha size for an as-of-right dwelling) and a second dwelling should not be permitted.	Clause 35.07 – Farming Zone
<b>Officer's Response:</b> There is no policy support within the planning scheme for a second dwelling on Farming Zone land.	
There are no examples nearby of two dwellings on land less than 40ha in the Farming Zone.	Clause 35.07 – Farming Zone
<b>Officer's Response:</b> There are examples of single dwelling on single lots but no completed developments of two dwellings on a single lot in Beremboke.	
The proposal to use and develop the land for a second dwelling is inconsistent with planning policy and contrary to the purposes and decision guidelines of the Farming Zone.	Clause 35.07 – Farming Zone
<b>Officer's Response:</b> The proposal is inconsistent with planning policies of the Moorabool Planning Scheme and Council's Rural Land Use Strategy.	
The Farming Zone is a rural zone. It is not a zone which gives encouragement for a dwelling, or for any accommodation for that matter.	Clause 35.07 – Farming Zone
<b>Officer's Response:</b> A second dwelling in the Farming Zone land is not a prohibited land use but requires an assessment against the zone objectives and decision guidelines. There is no policy support for a second dwelling within the Moorabool Planning Scheme.	



<p>The agricultural use proposed (truffle farming) is not sufficient to justify the need for a second dwelling on site. The existing dwelling on the land is sufficient for these purposes.</p> <p>The farm management plan fails to provide an adequate justification to warrant a second dwelling on the site for management.</p>	<p>Clause 35.07 – Farming Zone</p>
<p><b>Officer's Response:</b> Truffle farming is an addition to the existing farming operation of horses, cattle and dogs.</p>	
<p>The proposal is contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework, as it does not protect productive farmland due to inappropriate fragmentation which will compromise the long-term capacity of the land to be used for agriculture. The second dwelling will have the effect of removing productive farming land.</p>	<p>Clause 14.01 – Agriculture</p> <p>Clause 35.07 – Farming Zone</p>
<p><b>Officer's Response:</b> The proposed second dwelling does fragment agricultural land and is inconsistent with the objectives of the Farming Zone.</p>	
<p>The farm management plan provided with the application for a second dwelling refers to the operation of a commercial entity relating to planting and harvesting of truffle and hazelnut trees – neither of these practices are currently undertaken on the property.</p>	<p>Clause 35.07 – Farming Zone</p>
<p><b>Officer's Response:</b> A farm management plan can relate to farming activities either existing or proposed.</p>	

<p>It is understood that the second dwelling is for the purposes of housing a Farm Manager to assist with the operation of the property and not for family residential use. There are concerns that the proposal for a second dwelling is an initial action to establish a commercial entity on the property which is not conducive to the amenity.</p> <p>It is also understood that there are future plans to further develop the property and erect additional structures to extend the commercial activity at the property which is not conducive to the amenity of the area.</p>	<p>Clause 35.07 – Farming Zone</p>
<p><b>Officer's Response:</b></p> <p>The application is assessed on its own merits and not based on future proposals or plans.</p>	

### PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 02.03-1 Settlement
- Clause 02.03-2 Environmental and landscape values
- Clause 02.03-4 Natural resource management
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-6 Housing
- Clause 11.01-1L-01 Settlement in Moorabool
- Clause 11.03-3S Peri-urban areas
- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-1L Agriculture, rural dwellings and subdivision
- Clause 14.01-2S Sustainable agricultural land use
- Clause 14.01-2L-02 Sustainable agricultural land use
- Clause 15.01-5L Landscape and neighbourhood character
- Clause 15.01-6S Design for rural areas
- Clause 16.01-3S Rural residential development
- Clause 16.01-3L-01 Rural residential development in Moorabool

The proposal does not comply with the relevant section of the PPF and MPS clauses outlined in the table below:

<b>MPS</b>	<b>Title</b>	<b>Response</b>
Clause 02.03-4	Natural resource management – Agriculture	The proposed second dwelling is not considered justifiable regarding the existing and proposed farming enterprise.
<b>PPF</b>	<b>Title</b>	<b>Response</b>
Clause 11.01-1L-01	Settlement in Moorabool	The proposed second dwelling represents residential encroachment on farming land without sufficient need to support agriculture.
Clause 11.03-3S	Peri-urban areas	The proposal does not align with strategies to protect and enhance the attributes of the rural location.
Clause 14.01-1S	Protection of agricultural land	The proposed second dwelling does not protect agricultural land from fragmentation.
Clause 14.01-1L	Agriculture, rural dwellings and subdivision	The proposed second dwelling lacks planning justification.
Clause 14.01-2S	Sustainable agricultural land use	The proposed second dwelling does not support sustainable agricultural activities on the site.
Clause 16.01-3S	Rural residential development	The proposal represents encroachment of rural residential development in an inappropriate location on Farming Zone land.
Clause 16.01-3L-01	Rural residential development in Moorabool	There is no local planning policy support for rural residential development in Beremboke.

## **ZONE**

### Farming Zone

The subject site is in the Farming Zone.

Under Clause 35.07-1 a permit is required to use land for a dwelling.

Under Clause 35.07-4 a permit is required to construct buildings and works, including within 100m of a waterway.

## OVERLAYS

### Design and Development Overlay, Schedule 2

Under Clause 43.02-2 a permit is required to construct buildings and works. Schedule 2 provides an exemption where non-reflective building cladding is proposed, as in this instance, and therefore a permit is not required.

### Bushfire Management Overlay

The overlay only affects part of the land, not including the area proposed to be developed and therefore a permit is not required.

### Land Subject to Inundation Overlay, Schedule 1

The overlay only affects part of the land, not including the area proposed to be developed and therefore a permit is not required.

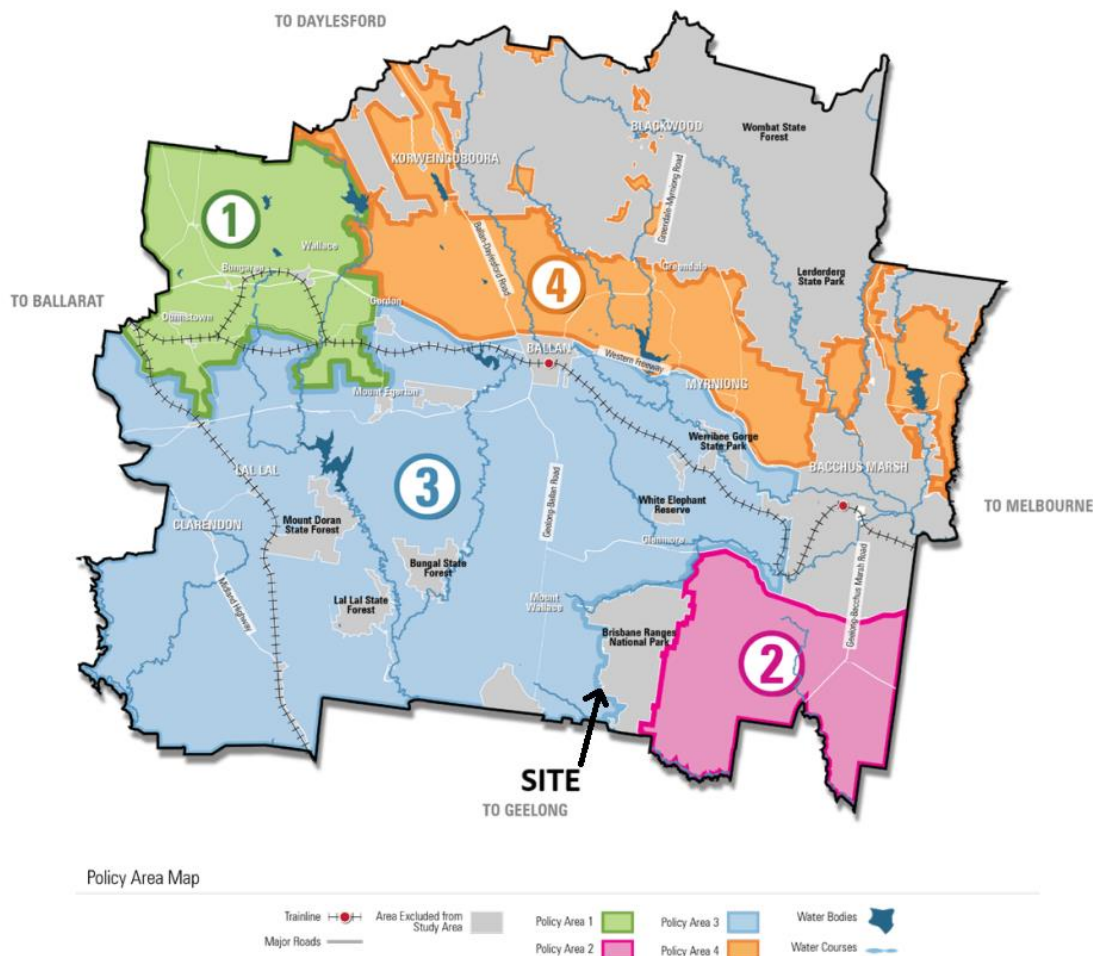
The application was referred to Melbourne Water who have decided to nominate raised finished floor levels.

## RELEVANT POLICIES

### Rural Land Use Strategy

Council adopted the Rural Land Use Strategy (RLUS) at the Special Meeting of Council on 11 September 2024 after consultation in August. This is a seriously entertained planning policy.

The subject site is in Precinct Policy Area 3 - Mixed rural and broad acre agriculture.



**Figure 5:** Site in relation to RLUS Area 3

The description of this precinct includes:

‘Farming Zone (FZ) land within Area 3 has the potential to support a diverse mix of agricultural activities, but more aligned to broadacre cropping and grazing activity. This is assisted by Area 3 having less land fragmentation overall and the largest rural allotments (i.e., 80+ ha) being located through the centre, south and southwest. Large scale farming and agricultural activities which benefit from available lot size will be considered the highest priority for Area 3. The potential approval of new dwellings in the Farming Zone (FZ) will only be supported where there is a direct relationship with farming or when a legitimate environmental benefit will be achieved on the site.’

In this instance whilst the proposal includes a stated relationship to farming, there is an existing dwelling on the property which is considered capable of supporting a farming enterprise given the site context and land size.

### **PARTICULAR PROVISIONS**

No Particular Provisions Apply.

### **DISCUSSION**

Overall, the proposal for a second dwelling is deemed to be inconsistent with the applicable provisions of the Moorabool Planning Scheme, being the Municipal Planning Strategy, Planning Policy Framework, Farming Zone and decision guidelines at Clause 65.01.

Relevant policies and strategies in the Moorabool Planning Scheme encourage the bulk of population growth to occur within established urban areas and townships. This is in part to protect agricultural land from inappropriate urban development which reduces its availability for legitimate farming activities and creates the potential for land use conflicts with established farming enterprises. Protection of rural landscape character is also recognised in State and Local policy which identifies the encroachment of urban development into rural areas as a potential threat.

The subject site is 39.89ha in size and already contains an existing dwelling that is supporting current farming activities. According to the applicant, the benefit of a second dwelling on the site is stated as being in support of maintaining existing farming activities, undertaking improvements to the property to expand the farming area, increasing productivity and to enable undertaking conservation management practices. Whilst it is understood that the expansion of farming activities requires additional labour, the requirement for an additional permanent on farm presence facilitated by a second dwelling is not justified on planning grounds. Consideration is also given that the land size at less than 40ha and not sufficiently isolated from nearby town which can be a source for farm workers. Any employees required to work the farm have accommodation options in established settlements, notably in Ballan 26km to the north, which is the second largest settlement in the Shire and where population growth is encouraged.

The proposal does not sufficiently align with the applicable aspects of the Municipal Planning Strategy or Planning Policy Framework as contained within the Moorabool Planning Scheme for the protection and enhancement of agricultural land. These policies and strategies must be considered in accordance with the Farming Zone provisions.

A second dwelling will result in further fragmentation of agricultural land and insufficient justification for a second dwelling. It is therefore considered that the existing dwelling is adequate to manage and undertake the proposed farming activities, with support from employees who are not required to live permanently on the property.

There is no strategic planning intent to have more dwellings on Farming Zone land or to support two dwellings on one lot. The proposal use and development should be refused.

### 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

Authority	Response
Melbourne Water	Consent with conditions.
CFA	Consent.
Council's Development Infrastructure	Consent with conditions.
Council's Public Health	Consent with conditions.

### FINANCIAL IMPLICATIONS

The recommendation to refuse this application has no financial implications for Council.

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation to refuse this application has no risk or OH&S implications for 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 address the Development Assessment Committee if required.

### OPTIONS

- Issue a Refusal to Grant a Permit with specified grounds as listed in the recommendation of this report.
- Issue a Notice of Decision to Grant a Permit with conditions. The Development Assessment Committee would need to consider what reasonable grounds could be imposed to support the application under the Moorabool Planning Scheme. This option may result in the objectors appealing the Committee's decision at VCAT.

### CONCLUSION

Overall, the proposed use and development for a second dwelling on a lot in the Farming Zone is inconsistent with the applicable provisions of the Moorabool Planning Scheme. The proposal is in support of expanding agricultural activities on the subject site however, there already dwelling on the land. There are no examples of two dwellings on one lot required to support either cattle, horses or dogs farming activities and employees can be sourced from nearby towns.

In this instance, based on an assessment against the Farming Zone provisions and Council's Rural Land Use Strategy, the proposed use and development should be refused.

**9.3 PA2023160 - DEVELOPMENT OF TEN DWELLINGS AND REMOVAL OF VEGETATION AT 86 ATKINSON STREET & 83 EDOLS STREET BALLAN**

**Author:** Mark Lovell, Coordinator Planning Services

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** Nil

**APPLICATION SUMMARY**

**Permit No:** PA2023160

**Lodgement Date:** 9 November 2023

**Planning Officer:** Mark Lovell

**Address of the land:** 86 Atkinson Street and 83 Edols Street, Ballan

**Proposal:** Development of Ten Dwellings and Removal of Vegetation

**Lot size:** 2089sqm

**Why is a permit required?** Clause 32.08-7 General Residential Zone Schedule 4 Development of two or more dwellings on a lot  
Clause 42.01-2 Environmental Significance Overlay Schedule 1  
Removal of vegetation

**RECOMMENDATION**

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, to issue a Notice of Decision to Grant Planning Permit PA2023160 for the development of ten dwellings and removal of vegetation at 86 Atkinson Street and 83 Edols Street, Ballan subject to the following conditions:

**Endorsed Plans:**

1. Before the use and/or 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 generally in accordance with the plans submitted with the application or some other specified plans but modified to show:
  - (a) A fence to be constructed between the common boundary of 83 Edols Street and 85 Edols Street prior to commencement of the development.
  - (b) Amended site plan to show the location of trees proposed to be planted by the applicant on Council's nature strip.
  - (c) Habitable room windows that are overlooking the secluded private open space of the properties towards the east are required to either add fixed screening or obscure glazing in accordance with the ResCode standard.
  - (d) Plan of Consolidation prepared by a licensed land surveyor showing both lots being consolidated unless 10 lot subdivision application is lodged and approved.

2. 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.

**Amenity:**

3. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.

**Vegetation Removal:**

4. No vegetation is to be removed, lopped or destroyed without the written consent of the Responsible Authority and in accordance with the Moorabool Planning Scheme provisions and the endorsed plans of PA2023160.

**Tree Protection Zone:**

5. Excavation for fence posts is to be undertaken manually with the use of hand tools within the TPZ of trees to be retained (*Trees 2, 3, 4, 5, 7, 8, 9 in Nuleaf Arboricultural Impact Assessment*). Excavating individual holes instead of trenching has a lower impact on surrounding vegetation because soil excavations are kept to a minimum. Flexibility in the placement of the posts is required to ensure that if any significant roots are discovered that posts can be moved to avoid root damage. If large roots are encountered these are to be retained and the location of the component relocated.
6. If excavation is required within Tree Protection Zones, this task should be undertaken with the use of non-destructive methods to minimize impacts on trees to be retained.
7. Excavation for crossover and driveway construction to occur within the TPZ of Tree #2 and 5 (*Nuleaf Arboricultural Impact Assessment*) is to be no greater than 200mm in depth. Excavation is to be supervised by a suitably experienced/qualified arborist. If retention of the street tree (Tree #2) is considered unviable by on-site arborist, the developer will be required to replace the tree with mature tube stock to Council's satisfaction.
8. Footpaths to be constructed in the TPZ of trees 4, 7, 8, 9 (*Nuleaf Arboricultural Impact Assessment*) is to be constructed above grade.
9. At all times during the development of the land, the trees identified for retention and within Tree Protection Zones (TPZs) on the endorsed plans of this permit must be protected by the use of temporary fencing that extends out to the drip line of the trees. The fences will serve to increase contractor awareness, whilst maintaining the safety and integrity of the existing vegetation and preventing the parking of vehicles or stockpiling of soil or materials under the canopy of the trees.
10. All tree protection zones, and fencing must comply with AS 4970-2009 Protection Trees on Development Sites and Moorabool Shire Tree Protection Guidelines to the satisfaction of the Responsible Authority.
11. No excavation, heavy machinery, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the Tree Protection Zone unless otherwise approved within this permit or with the written consent of the Responsible Authority.
12. Unless exempt under Clause 52.17 or any other relevant provision of the Moorabool Planning Scheme, native vegetation must not be removed, destroyed or lopped without further planning approval.



**Development Infrastructure:**

13. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over any drainage pipes and easements on the property.
14. Prior to the construction commencing, engineering drainage plans, and detailed computations must be submitted and approved by the Responsible Authority. The drainage plans are to undertake in accordance with the Infrastructure Design Manual and Australian Rainfall & Runoff 2016 and shall incorporate (but not limited to) the following:
  - (a) The development as a whole must be self-draining to the legal point of discharge.
  - (b) All drainage courses within the development must pass through easements or reserves shown on the plan of subdivision.
  - (c) All outfall drainage passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.
  - (d) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
  - (e) Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
  - (f) Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".
  - (g) Flow paths of the 1% AEP storm must be determined and the subdivision designed so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
  - (h) The drainage system must be designed to include provision to intercept litter.
  - (i) All lots must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority. The drainage design must take into account any applicable drainage or flood management strategy.
15. Prior to the works commencing on the development, notification including photographic evidence must be sent to Council's Infrastructure Services department identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority. If photographic evidence cannot be provided, then the damage must be fully reinstated at no cost to and to the satisfaction of the Responsibility Authority.
16. Stormwater drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the Responsible Authority prior to the commencement of the works associated with the permit.
17. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared, submitted and approved by the Responsible Authority, detailing but not limited to the following:
  - (a) location of vehicle crossings.

- (b) details of the underground drainage.
  - (c) location of drainage legal points of discharge.
  - (d) standard details for vehicle crossings and legal points of discharge.
  - (e) civil notes as required to ensure the proper construction of the works to Council standard.
18. 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).
19. Standard concrete vehicle crossings must be provided on Atkinson Street and Edols Street to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings with any redundant crossings being removed and restored to the satisfaction of the Responsible Authority.
20. Prior to the issue of a Statement of Compliance for the subdivision, the common property driveway must be constructed in reinforced concrete to a minimum depth of 125 mm. The layout of the driveway must be designed and constructed in accordance with Clause 52.06-8 of the Moorabool Planning Scheme.
21. Prior to the issue of an occupancy permit for any of the proposed dwellings, a 1.5m wide footpath must be provided on Edols Street from the western boundary of the properties up to the intersection of Fiskin Street and Edols Street.

**Waste Management:**

22. Each resident will bring their bin from their private residence to the general waste collection point located within the property the night before collection.
23. The vehicle operator will ferry the bins to and from this collection area to dispose of the waste.
24. Each resident will return their bin to the private residence promptly after the waste is emptied.
25. Bins are not to be placed on area outside of the collection area.

**Gas Services:**

26. Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

**Landscaping:**

27. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
28. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Permit Expiry:**

**29. The permit will expire if:**

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

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	Five objections.
Consultation meeting:	No, a consultation meeting was suggested to be held between the applicant and objectors, but the applicant declined the offer.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

### **Strategic Objective 1: Healthy, inclusive and connected neighbourhoods**

#### **Priority 1.1: Improve the health and wellbeing of our community**

The proposal is consistent with the Council Plan 2021 – 2025.

## **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Mark Lovell*

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

## **EXECUTIVE SUMMARY**

Application referred?	Yes, Council's Development Infrastructure, Council's Environment, Emergency & Waste and Council's Building Services.
Any issues raised in referral responses?	Yes, Preliminary Stormwater Plan, Traffic Impact Assessment, a service plan in relation to the Landscape Plan, details of Tree Protection Zones and a Waste Management Plan.
Preliminary concerns?	Protection of street tree.

Any discussions with applicant regarding concerns?	Yes, the applicant addressed the concerns by taking measures to prevent the tree from being impacted by the development.
Any changes made to the application since being lodged?	No.
Brief history.	The subject properties are separate lots with each consisting of a detached single storey dwelling.
Previous applications for the site?	PA2022097 (86 Atkinson Street) was issued on 13 January 2023 for a two lot subdivision and the development of a second dwelling. Plans were not endorsed, and permit has expired. PA2021149 (86 Atkinson Street) was issued on 18 August 2021 for the removal of five trees.
General summary.	The development is for the construction of ten dwellings and removal of vegetation. The proposal meets the objectives of the General Residential Zone Schedule 4 and complies with the ResCode standards. The application has been advertised and five objections were received. Revised plans can provide for amenity improvements and additional vegetation to allow for an acceptable design response. The application is recommended for approval.
<b>Summary of Officer's Recommendation</b>	
That the Development Assessment Committee, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i> , to issue a Notice of Decision to Grant Planning Permit PA2023160 for the development of ten dwellings and removal of vegetation at 86 Atkinson Street and 83 Edols Street, Ballan subject to the conditions contained within this report.	

## SITE DESCRIPTION

The subject sites are adjacent to each other and are located approximately 450m to the south side of the commercial area of Ballan. The sites are also in close proximity to Ballan Railway Station with convenient public transport access to Ballarat and Melbourne.

The surroundings of the site are mostly properties within the General Residential Zone Schedule 4, varying in size between 4,000sqm to less than 200sqm. The properties to the west are smaller in size than the properties to the east having these properties developed into a multi-unit lots and subdivided.

The subject site consists of two lots Lot 1/TP238197 located on 86 Atkinson Street and Lot 1/TP539512 located at 83 Edols Street. Both properties are generally flat in topography and contain several exotic trees. The property facing Edols Street contains a one single storey dwelling. The property on Atkinson Street, is also single storey dwelling reflective of simple architectural detailing.



**Figure 1:** Aerial photograph of the subject sites



**Figure 2:** Zoning map of 86 Atkinson Street (left) and 83 Edols Street (right)

## PROPOSAL

The proposed development is for the construction of ten dwellings and removal of vegetation.

Two units (Unit 1 and Unit 10) comprises of a single storey dwelling and consist of two bedrooms having one as a master bedroom with an ensuite, an open plan, one laundry room and one bathroom,

Units 2 – 9 will comprise of double storey dwellings.

Units 2, 5, 6 and 9 will have a floor plan that will comprise of an open living areas these plan and one garage space, whilst the first-floor plan in a reverse living arrangement will have one bedroom and another master bedroom with a walk-in robe and an ensuite. There will be a first floor living area with a balcony facing the western side of the property.

Units 3, 4, 7 and 8 will consist of a single garage and a laundry room and the first-floor level will also be reverse living arrangement contain and one bedroom with an ensuite, these units will have a balcony extending from the living area facing east. All these dwellings purpose built as 1 bedroom

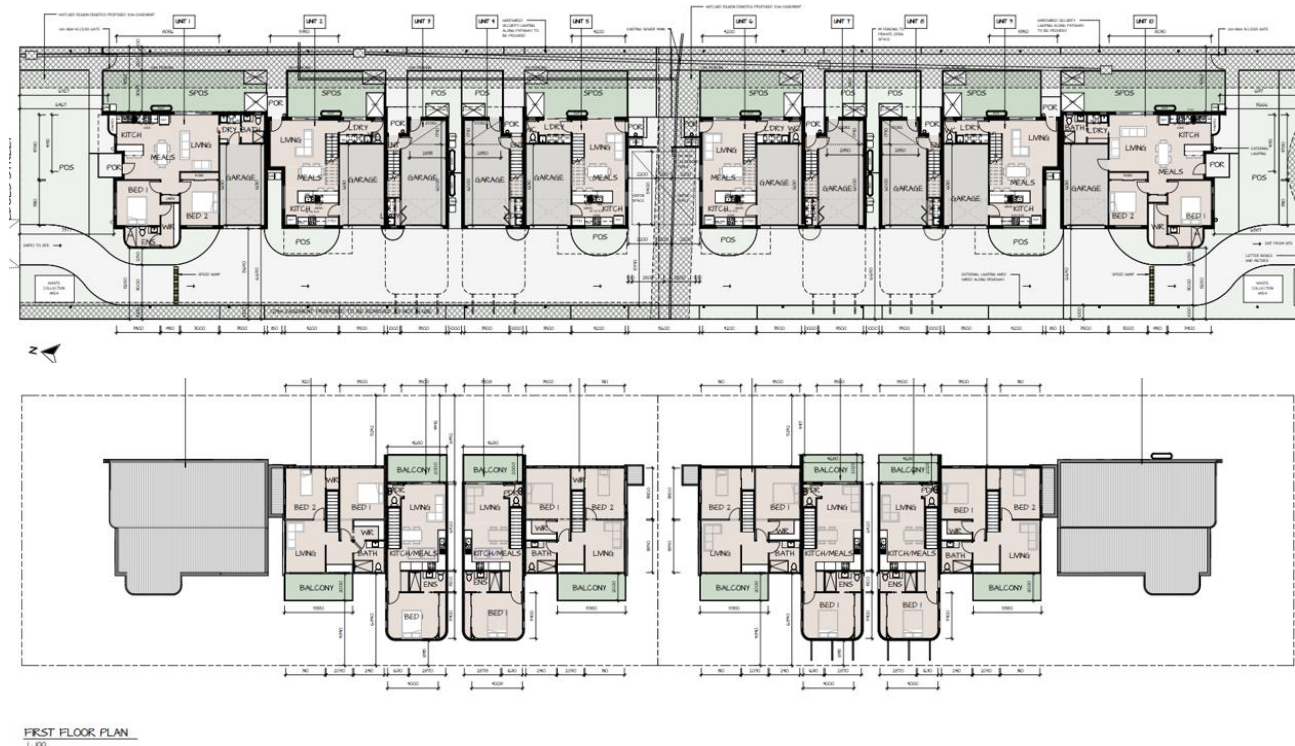
All dwellings proposed will have a single garage gaining access from the west of the property.

Each unit will have a private secluded open space, and a rainwater tank installed.

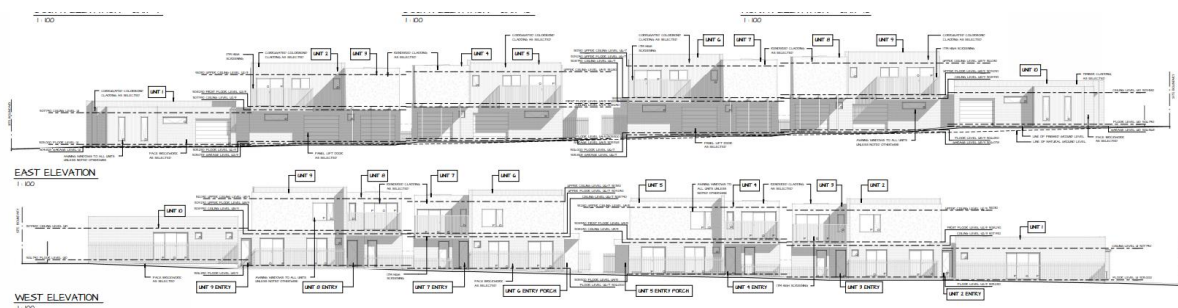


External cladding will be a mixture of brickwork, corrugated Colourbond cladding and rendering, driveways are proposed for exposed aggregate.

The existing driveway from Edols Street will be upgraded and utilised as an entry point to the site and the driveway to towards Atkinson Street will be the exit point with a width of 3m with two speed humps installed on the internal common property driveway.



**Figure 3: Ground and First Floor Plans**



**Figure 4: Side elevation plan of all dwellings**



**Figure 5: Streetscape elevation plan**

**BACKGROUND TO CURRENT PROPOSAL**

Not applicable.

**HISTORY**

PA2022097 was issued on 13 January 2023 for a two lot subdivision and the development of a second dwelling. The permit has expired.

PA2021149 was issued on 18 August 2021 is for the removal of 5 trees.

**PUBLIC NOTICE**

The application was notified to adjoining and surrounding landowners and occupiers with two signs placed on site.

Five objections were received.

**SUMMARY OF OBJECTIONS**

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

Objection	Any Relevant Requirement
This proposal, in its current form, is an overdevelopment that flagrantly disregards the policies designed to protect Ballan's unique rural character. It prioritizes yield over quality, completely failing to integrate with the town's established context. Without significant changes, this development will irreparably harm Ballan's charm and identity. The design must be reworked to reflect the policies' intent rather than being a blatant attempt to urbanize a cherished rural township.	Clausen 32.08 - General Residential Zone
<b>Officer's Response:</b> The General Residential Zone includes several purposes including the encouragement of a diversity of housing types and housing growth particularly in locations offering good access to services and transport. The site presents a good location for a multi-unit housing development near the centre of town and within a proximity to public transport. Ballan is a growth area within the Moorabool Shire representing a township character based on the Ballan Strategy directions.	



<p>B6 Street setback Atkinson Street Average setback of neighbouring dwelling = 7.04m. Proposed setback = 6.58m.</p> <p>B17 Side and rear setbacks Upper storey bedrooms to Units 3, 4, 7 &amp; 8 do not comply. These walls would have a height varying between 6.48 - 6.77m. They require a side setback of 1.86m - 1.95m</p> <p>B28 Private open space SPOS areas vary with the style of dwelling. The 1-bedroom dwellings rely mainly on balconies of over 9.4sqm, and service yards. The 2-bedroom dwellings have SPOS via a combination of ground level courtyards and balconies. Cumulatively, these exceed 39sqm in area</p>	<p>Clause 55 (ResCode)</p>
<p><b>Officer's Response:</b> The street setback does meet the Standard B6 does not meet the average setback by 0.5m, which is considered minor variation and will not have a detrimental impact on the neighbourhood character of the area.</p> <p>The side setback with the exception for Bedroom 1 for four dwelling requires a setback requirement of 1.84m whereas minimum setback requires is 1.95m, not meeting standard by 0.11m. This is minor variation which does not create adverse amenity impacts.</p> <p>Clause 55.05-4 outlines that adequate private open space is provided for the reasonable recreation and service needs of residents that has been provided by the applicant in accordance with standard B28.</p>	
<p>This development is not low to medium density as planned for this town area of Ballan. Low to medium density is designed to enhance the rural and small-town character with protective policies. The proposed development is a distinctly modern urban design is more suited to new estates not the centre of a town which is committed to retaining its country charm and appeal. This development will overdevelop the block and be a large change to the character of the area Its scale is visually very bulky/boxy even with one story units planned for the units facing Edols St and Atkinson St</p>	<p>Clause 55 (ResCode)</p>
<p><b>Officer's Response:</b> The development displays contemporary architectural detailing which is encouraged by the neighbourhood character objectives of ResCode.</p>	

Part of the rural character of Ballan is open space dwellings with substantial setbacks from the street. The proposed units are not in keeping with open space and spacious setbacks. The vegetation removal is concerning. There is a large mature gum tree that should be retained and accommodated in the driveway. Planned Removal of a tree on the Atkinson St nature strip is also not consistent with Council protection policies.	Clause 55 (ResCode)
<b>Officer's Response:</b> Ballan based on the Ballan Strategic Framework is identified to have more of a township characteristic than rural characteristics, future development near the railway lines encourages medium to density housing to be developed amongst other facilities such as educational and recreational, meeting the demands of the growth for housing supply and services. The proposed vegetation removal will be within the subject site's property boundaries, the trees located on Council's nature strip have high retention values and will not be removed from their location. The applicant will also be planting additional trees on Council land.	
Ignoring Heritage Strategy and values and overlooking units which because they are close to the Eastern boundary will spoil my back yard and personal privacy	
<b>Officer's Response:</b> The site is not affected by the Heritage Overlay and is not listed within the C85 Amendment.	
Minimal amount of landscaping has been proposed as there will be limited space for any reasonable amount of landscaping. It is considered that the proposal is contrary to the objective at Clause 55.03-8 Landscaping (Standard B13) which seeks to provide appropriate landscaping. The lack of open space areas and landscaping above single storey height will negatively impact the overall character of the neighbourhood through the built form of the proposed development being the dominant feature, rather than the sense of open yards.	Clause 55 (ResCode)
<b>Officer's Response:</b> The landscape plan proposed shows landscaping features achieving the objectives of Clause 55.03-8 that require developments that respects the landscape character of the neighbourhood and to provide appropriate landscaping.	

The proposal requires the provision of two visitor car parking spaces in accordance with the planning scheme. The development does not include visitor car parking spaces which will result in additional traffic and parking along the street.	Clause 52.06 Car Parking
<b>Officer's Response:</b> The floor plan provided shows two visitor car park spaces between dwelling 5 and 6. A traffic impact assessment has been undertaken that demonstrated increased traffic flow is at an acceptable level.	
The proposal therefore does not meet the objective at Clause 55.04-6 Overlooking (Standard B22) as it will result in views into my existing secluded private open space. The decision guidelines under this Clause require the proposal to consider the impact on the amenity of the secluded private open space or habitable room window and the existing extent of overlooking into the secluded private open space and habitable room windows of existing dwellings.	Clause 55 (ResCode)
<b>Officer's Response:</b> The objectives of Clause 55.04-6 have been achieved which is limiting views into existing secluded private open space and habitable room windows. Conditions can be in place to ensure obscures glazed windows are fixed.	

### PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the and the Municipal Planning Strategy (MPS) and Policy Framework (PPF).

The relevant clauses are:

- Clause 11.01-1L-01 Settlement in Moorabool
- Clause 11.01-1L-03 Ballan
- Clause 11.02-1S Supply of Urban Land
- Clause 11.03-1S Activity Centres
- Clause 11.03-2S Growth Areas
- Clause 11.03-2L Growth Areas
- Clause 12.01-1L Biodiversity
- Clause 12.01-2S Native Vegetation Management
- Clause 12.05-2S Landscapes
- Clause 14.02-1S Catchment Planning and Management
- Clause 14.02-1L Declared Special Water Supply Catchments
- Clause 14.02-2S Water Quality
- Clause 15.01-1S Urban Design
- Clause 15.01-1L Urban Design
- Clause 15.01-2S Building Design
- Clause 15.01-2L-01 Building Design
- Clause 15.01-4S Healthy Neighbourhoods
- Clause 15.01-5S Neighbourhood Character

- Clause 15.01-5L Landscape and Neighbourhood Character
- Clause 16.01-1S Housing Supply
- Clause 16.01-1L Housing Supply in Moorabool
- Clause 16.01-2S Housing Affordability

The proposal complies with the relevant sections of the MPS and PPF.

## **ZONE**

### General Residential Zone Schedule 4

A planning permit is required pursuant to Clause 32.08-7.

## **OVERLAYS**

### Environmental Significance Overlay Schedule 1

The subject site is affected by the Environmental Significance Overlay Schedule 1, a planning permit is required pursuant to Clause 42.01-2 for the removal of vegetation.

## **PARTICULAR PROVISIONS**

### Clause 55 Two or More Dwellings on a Lot

The development generally complies with the objectives of the ResCode standards.

### Clause 52.06 Car Parking

The development complies with the carparking requirement providing one car park space to each one or two dwelling and one visitor car park to every five dwellings.

## **DISCUSSION**

The proposed development of ten dwellings is consistent with the relevant Planning Scheme provisions and is in accordance with the purpose of the General Residential Zone enhancing a diversity of housing types and housing growth particularly in locations offering good access to services and transport as the development is sited between the centre of the township of Ballan and the Ballan Railway Station.

The applicant is proposing a mixture of 1 bedroom and 2 bedrooms dwelling and mixture of single and double storey dwelling providing for a unique dwelling mix that is not typical for Ballan. Increased housing mix allows for greater housing opportunities.

The dwelling facing each street frontages will be a single storey in height allowing the development to blend with predominate single storey streetscapes.

There is a mixture of ground floor secluded private open spaces while Units 3,4,7 and 8 meet the Recode standards by providing balconies to the rear of the property that are over the 8sqm requirements. The reverse living arrangement is not typical for development arrangement in Ballan.

All dwellings are provided with single garages and two visitor car parking spaces that are accessed from the western side of the property.

The layout of the development will be integrating with the streetscape of the area, as there are low height fences or no front fences along Edols Street and Atkinson Street, the subject site will incorporate with the character of the area allowing single storey dwellings facing the main streets and generous front setbacks provided that are compliant with the objectives of Clause 55.03-1. The building height standard has been achieved as the maximum building height for the double storey dwellings are 7.1m pursuant to Clause 55.03-2.

Permeability and stormwater management objectives have been achieved as the applicant had proposed a 2,000L water tank to each dwelling that will be connected to sanitary flushing systems reducing the impact of stormwater run-off on the existing drainage system, this also assists in retaining stormwater and benefiting from re-use.

Due to the shape of the site, it is impractical to design the dwellings facing north. Dwellings 1 and 10 have living areas and private open space that will be orientated towards the east where solar access is maximised during morning times achieving energy efficiency, dwelling 1 is also exposed from the north side having solar access to habitable rooms. Dwellings 3,4,7 and 8 have solar access from the east side as the secluded private open spaces and living areas are designed to the east, therefore the objectives of Clause 55.03-5 have been achieved.

Clause 55.03-7 safety objectives and standards have been met by having entrances to the dwellings and accessways obvious from the street view, no planting proposed in front of the entrances and exits ways of the site, there is a passageway to the east side boundary that is 1.2m wide, after discussions with the applicant a 1.2m gateway has been provided at the entrance and exit of the passageway that is near the secluded private open spaces of the dwellings, in addition to having 16 hardwired security lighting along that pathway this outcome achieves a high sense of security for residents.

A proper landscape plan has been provided by the applicant showing two canopy trees will be planted towards the frontage of the sites.

The east facing habitable room windows for dwellings 3,4,7 and 8 may propose overlooking to the secluded private open spaces to the adjoining properties, there will be a requirement to alter the bedroom windows by either providing fixed screens or obscure glass. Overall, the objectives of Clause 55.04-6 have been achieved limiting views into existing secluded private open space and habitable room windows.

Each dwelling has adequate storage facilities that are consistent with the objectives and standards of Clause 55.05-6 where dwellings 3,4,7 and 8 have storage spaces built within the garage whilst dwellings 1,2,5,6,9 and 10 have storage spaced in the form of a shed within the secluded private open space areas.

Overall, the development is consistent with Planning Policy Frameworks and achieves the objectives of housing affordability that facilitates a range of residential development options to enhance the diversity of housing choices and promoting urban design to minimise negative environmental impacts that respect the landscape setting and does not detract from the neighbourhood character of the area.

The proposed development should be supported due the large lot size with two titles combined and a site that is close to a range of services including the Ballan Railway Station.

### **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**

Authority	Response
Council's Development Infrastructure	Consent with conditions.
Council's Building Services	Consent with conditions.
Council Environment, Emergency & Waste Management	Consent with conditions.

**FINANCIAL IMPLICATIONS**

The recommendation of approval of this application has no financial implications to Council.

**RISK & OCCUPATIONAL HEALTH & 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 the Development Assessment Committee if required.

**OPTIONS**

- Issue a Notice of Decision to Grant a Planning Permit in accordance with the conditions and the recommendation contained in this report; or
- issue a Refusal to Grant a Planning Permit on specific grounds. The Development Assessment Committee would need to consider what reasonable grounds there would be to refuse the application based on the provisions of the Moorabool Planning Scheme.

**CONCLUSION**

The proposed development is consistent with the Municipal Planning Strategy and Planning Policy Framework. The development provides an opportunity for a variety of housing options near several community services within the town centre and having public transport with the Ballan Railway Station in close proximity. The purpose of the zone encourages housing diversity, the development proposed respects the neighbourhood character of the area in accordance with the neighbourhood character objective under the GRZ4, therefore it is recommended that the planning application is to be supported subject to conditions.

**9.4 PA2023110 - 18 LOT SUBDIVISION, VEGETATION REMOVAL AND CREATION OF AN EASEMENT AT 58 INGLISTON ROAD, BALLAN**

**Author:** Thomas Tonkin, Senior Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** 1. Proposed plan of subdivision (under separate cover)

**APPLICATION SUMMARY**

**Permit No:** PA2023110

**Lodgement Date:** 16 August 2023

**Planning Officer:** Tom Tonkin

**Address of the land:** 58 Ingliston Road, Ballan

**Proposal:** 18 lot subdivision, vegetation removal and creation of an easement

**Lot size:** 2.02ha

**Why is a permit required?** Clause 32.09 Neighbourhood Residential Zone – Subdivide land  
Clause 42.01 Environmental Significance Overlay – Subdivide land and vegetation removal  
Clause 44.04 Land Subject to Inundation Overlay – Subdivide land  
Clause 52.02 Easements, Restrictions and Reserves – Creation of an easement  
Clause 52.17 Native Vegetation – Native vegetation removal

**RECOMMENDATION**

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2023110 for an 18 Lot Subdivision, Vegetation Removal and Creation of an Easement at 58 Ingliston Road, Ballan known as, Portion 10, Section 4, Parish of Gorong, subject to the following conditions:

**Endorsed Plans:**

1. Before the certification of the plan of subdivision, 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 generally in accordance with the plans identified as Job No. JF341, Allotment Layout Plan A – Option A, Drawing No. AL100 rev. F dated 22 July 2024 prepared by Planit Consulting but modified to show:
  - (a) The proposed internal road notated as a private access road.
  - (b) All trees within the site to be removed.
  - (c) Amendments in accordance with Melbourne Water requirements herein.

- (d) A Tree Protection Zone (TPZ) for tree no.'s 28-34 and 36-43 as identified and in accordance with the Arbor Express 58 Ingliston Road Ballan VIC 3342 Arboricultural Impact Assessment prepared for Michael Zara, Project No. AIA8/10/2024 v.2 dated 10 January 2025.

- 2. The formal plan of subdivision lodged for certification must be generally in accordance with the endorsed plan and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.

**Subdivisions:**

- 3. The plan of subdivision submitted for certification must include a creation of restriction.

The wording of the creation of the restriction shall be as follows:

Land to be Burdened: Lots 1 and 18 on this plan.

Land to Benefit: All other lots on this plan.

Creation of Restriction: Upon registration of this plan, the following restriction is created.

Description of Restriction: No fencing on or within 1m of the Ingliston Road boundary shall exceed 1.2m in height within 9m of Lot 1's frontage or 12m of Lot 18's frontage.

Variation: The restriction can only be varied with the written consent of Moorabool Shire Council.

- 4. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
- 5. Before the statement of compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.

**Telecommunications:**

- 6. The owner of the land must enter into agreements with:
  - (a) A telecommunications network or service provider for the provision of telecommunication service to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - (b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 7. Before the issue of Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
  - (a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and



- (b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is an area where the National Broadband Network will not be provided by optical fibre.

**Section 173 Agreement:**

8. Before the issue of a Statement of Compliance, 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 collection of all garbage and waste from each lot must be by a private contractor or by other means to the satisfaction of the Responsible Authority.
  - (b) Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.
  - (c) Before a Statement of Compliance is issued, application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the *Planning and Environment Act 1987* 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.

**Residential Gas Service:**

9. Any lot shown on the endorsed plan must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after a statement of compliance under the *Subdivision Act 1988* has been issued and the subdivision authorised by this permit has been completed.

**General Conditions:**

10. Street trees must be provided at approved locations in the internal road/s of the subdivision in accordance with the landscape plan endorsed as part of this permit, with an approved species to the satisfaction of the responsible authority. All street trees must be installed as per the guidelines identified within Moorabool Shire's Landscape Design Manual.
11. Street trees & Landscaping must be maintained for a minimum period of 24 months including watering, mulching, weeding and formative pruning, to the satisfaction of the Responsible Authority.
12. Prior to the issue of Statement of Compliance, street lighting must be provided in accordance with the requirements of AS1158 – Lighting for Roads and Public Places, to the satisfaction of the Responsible Authority. All lighting fittings must be "Standard" fittings maintained by the electricity network provider at no additional cost to Council. All lights must utilise LED type luminaires where available.
13. Prior to the issue of Statement of Compliance, a street name and street sign/s must be provided to the satisfaction of the Responsible Authority.

14. Prior to the issue of Statement of Compliance, each lot must be provided with a standard urban vehicle crossing to the satisfaction of the Responsible Authority.
15. Prior to the issue of Statement of Compliance, footpaths must be constructed within the subdivision to the satisfaction of the Responsible Authority.

**Native Vegetation:**

16. To offset the removal of 0.019ha of native vegetation the permit holder must secure a native vegetation offset in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017), the permit holder must secure the following offsets:
  - (a) General offset of 0.011 general habitat units:  
located within the Melbourne Water Catchment Management Authority boundary or Moorabool Shire Council local government area boundary; and  
with a minimum strategic biodiversity value of at least 0.48.
17. Before any native vegetation is removed, evidence that the required offset under this permit has been secured must be provided to the satisfaction of the Responsible Authority. This evidence must be one or both of the following:
  - (a) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and/or
  - (b) Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.  
A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at Department of Energy, Environment and Climate Action (DEECA) via email [grampians.planning@delwp.vic.gov.au](mailto:grampians.planning@delwp.vic.gov.au).
18. Except where allowed for under this permit or where exempt under Clause 52.17 or any other relevant provision of the Moorabool Planning Scheme, native vegetation must not be removed, destroyed or lopped without further planning approval.

**Tree Protection:**

19. Prior to the commencement of the development, protective temporary fencing must be installed on either side of the proposed Ingliston Road site access and around areas of retained roadside vegetation to avoid machinery accidentally damaging or entering protected / retained areas of native vegetation, to the satisfaction of the Responsible Authority.
20. Prior to the commencement of any works onsite, tree no.'s 28-34 and 36-43 as shown on the endorsed plans must be protected using temporary fencing to create Tree Protection Zones (TPZs) in accordance with the Arbor Express 58 Ingliston Road Ballan VIC 3342 Arboricultural Impact Assessment prepared for Michael Zara, Project No. AIA8/10/2024 v.2 dated 10 January 2025. The fences must remain in place for the duration of works, except where temporary access is required to undertake works associated with this permit to the satisfaction of the Responsible Authority.

21. All Tree Protection Zone fencing must comply with AS 4970-2009 Protection of Trees on Development Sites (Incorporating Amendment No. 1) to the satisfaction of the Responsible Authority.
22. No excavation, heavy machinery, construction works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the Tree Protection Zones unless otherwise approved by a condition of this permit or with the prior written consent of the Responsible Authority.

**Development Infrastructure:**

23. Unless otherwise approved by the Responsible Authority there must be no buildings, tree structures, or improvements located over any drainage pipes and easements on the property.
24. Prior to the development commencing, engineering drainage plans and detailed computations must be submitted to and approved by the Responsible Authority. The drainage plans must be in accordance with the Infrastructure Design Manual and Australian Rainfall & Runoff 2019 and shall incorporate (but not be limited to) the following:
  - (a) The development as a whole must be self-draining to the legal point of discharge.
  - (b) All drainage courses within the development must pass through easements or reserves shown on the plan of subdivision.
  - (c) All outfall drainage passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.
  - (d) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
  - (e) Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
  - (f) Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".
  - (g) Flow paths of the 1% AEP storm must be determined and the subdivision designed so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
  - (h) The drainage system must be designed to include provision to intercept litter.
  - (i) The drainage design must take into account any applicable drainage or flood management strategy.
  - (j) If required, the layout of the subdivision must be modified based on the approved stormwater design.
25. Design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval, and must include analysis of the existing stormwater drainage system in the area to determine:
  - (a) The requirements for drainage of the whole site.

- (b) if the existing drainage network has sufficient capacity to cater for the additional runoff from the ultimate development.
  - (c) If additional outfall drainage or upgrading of the existing drainage network is required.
- 26. Prior to the issue of Statement of Compliance, traffic management treatments must be provided in the form of line marking, signage and pavement markers at intersections and vehicle turning areas. These requirements must be to the satisfaction of the Responsible Authority, to a design approved prior to construction commencing.
- 27. Prior to the works commencing on the development, notification including photographic evidence must be sent to Council's Infrastructure Services department identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority. If photographic evidence cannot be provided, then the damage must be fully reinstated at no cost to and to the satisfaction of the Responsibility Authority.
- 28. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991) and "Environmental Guidelines for Major Construction Sites" (EPA 1995)

**Central Highlands Water:**

- 29. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the *Subdivision Act 1988*.
- 30. Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
- 31. A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
- 32. The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.
- 33. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

**Greater Western Water:**

- 34. The drainage system must be designed to ensure that stormwater flows downstream of the site are restricted to pre-development levels.
- 35. All drainage works must be designed to meet the current best practice performance objectives for stormwater quality.
- 36. The developer must ensure that the site be developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments or gross pollutants in accordance with currently accepted best practice.

**Southern Rural Water:**

- 37. The development must be connected to the reticulated sewage network.**

**Melbourne Water:**

- 38. Prior to endorsement, an amended plan of subdivision must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with amendment as follows:**
- (a) A minimum 4.5m wide easement must be shown on plan of subdivision with Melbourne Water's underground asset shown centrally located within the easement. The new 4.5m wide drainage easement must be shown to be in favour of Melbourne Water;**
  - (b) Underground tanks shown beneath the proposed central road and close to Melbourne Water's assets must be shown out of the future 4.5m wide Melbourne Water's easement. (Melbourne Water future easement as per (a) above);**
  - (c) Locations where flood depths are over 300mm within Lots 2 and 18 must be shown fenced off. (This must be notated on plan of subdivision)**
- 39. Prior to Certification of the plan of subdivision, a 4.5m wide easement with the underground asset centrally located within the easement must be shown in favour of Melbourne Water Corporation. This easement must be in accordance with Memorandum of Common Provisions MCP AA1106 for drainage and assets.**
- 40. Underground tanks shown beneath the proposed central road and close to Melbourne Water's assets must be shown out of the future 4.5m wide Melbourne Water's easement.**
- 41. Locations where flood depths are over 300mm within Lot 2 and 18 must be fenced off.**
- 42. Management of storm water of the subdivision development must be as per Melbourne Water approved updated Storm Water Management Plan titled "Stormwater Management Plan – 58 Ingliston Road Ballan" by: Dryside Engineering (Aust) Pty Ltd, Report No.: DSE24012REP01, Version: V03, dated 13 January 2025 with respect to retarding flows back to pre-existing conditions and treating stormwater runoff from the site to Best Practice Management Targets.**
- 43. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.**
- 44. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.**
- 45. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water in accordance with Section 8 of the *Subdivision Act 1988*.**
- 46. At development stage, a minimum freeboard of 300mm above the applicable 1% AEP flood level must be provided for dwellings on Lots 1, 2, 3, 4, 17 and 18.**

47. No fill or raising of surface levels will be permitted within the 1% AEP flood extent (overland flow path). The proposed access road within the flood extent must be set at existing natural surface levels.
48. No earth filling or lowering of the road level over Melbourne Water's underground asset will be permitted.
49. If any, proposed fences within the overland flow path must be open style with at least 50% opening from the natural surface level to the height of 1% AEP flood level. Boundary fencing are permitted to be standard timber paling style of construction. (No solid fencing such as metal/ colorbond are permitted within the flooding extent)
50. Prior to commencement of works on the accessway located over Melbourne Water's asset and easement, any earth works within 5.0m of the asset, a separate 'Build Over Application' must be made to Melbourne Water's Asset Services team for assessment and approval. Note: Fees and special conditions will apply. A Build Over Agreement may be required.
51. Landscaping/Earthworks - Cut and fill earthworks to alter existing levels (or repaving) must include the following:
  - (a) A minimum 850mm vertical cover must be maintained over the pipeline;
  - (b) The maintenance hole/ junction pits located on Melbourne Water's drain must not be covered over by the works; A loading (including construction) and vibration assessment will be required to be undertaken by a qualified structural and geotechnical engineer, where +/-500mm or greater is proposed in existing levels. The assessment must consider current condition of the drain and include any recommendations for limiting loading or vibration caused in the short (during construction) and long term (post construction), where a change in landscape is evident (e.g. nontraffic to trafficable).
  - (c) Where maintenance holes are required to be lowered/raised this must be constructed in accordance with Melbourne Water standard drawing 7251/08/417 to the finished surface level. Note: This standard is only applicable for reinforced concrete pipes, with lowering depths up to 500mm and raise heights up to 300mm only. Manhole material and depths outside of this range is to be designed from first principles by a qualified structural engineer and submitted to Melbourne Water for review.
52. Prior to works commencing, a separate new application must be submitted for approval for new or modified stormwater connection or alteration to Melbourne Water's drainage system as per legal point of discharge shown on the plan of subdivision. Note: Fees and special conditions will apply.
53. Utility Installation - No services are to be installed across Melbourne Water's Asset or within easement that is in favour of Melbourne Water unless approval in writing has been granted by Melbourne Water. Prior to installation, a separate Utility Installation application must be submitted.
54. Prior to the issue of a Statement of Compliance for the subdivision, engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for our records. These plans must show road and drainage details and the 100 year ARI flood levels associated with any proposed overland flow paths.

**55. Stormwater drainage (internal lots) is to the satisfaction of Council.**

**Powercor:**

- 56. The plan of subdivision submitted for certification under the *Subdivision Act 1988* shall be referred to the Distributor in accordance with Section 8 of that Act.**
- 57. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards. Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.**
- 58. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR). Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.**
- 59. The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations. Notes: Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements: RESERVES established by the applicant in favour of the Distributor. SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years. The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.**
- 60. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements. Notes: Existing easements may need to be amended to meet the Distributor's requirements. Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows: Easement Reference; Purpose: Power Line; Width (Metres); Origin: Section 88 – *Electricity Industry Act 2000*; Land Benefitted/In Favour Of: Powercor Australia Ltd.**

**Permit Expiry:**

- 61. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.**

**Statement of Compliance must be achieved and certified plans registered at the Titles office within five (5) years from the date of certification.**

**Permit notes:**

**Melbourne Water's Gosling Street Drain is at this location. This asset consists of a 600mm diameter pipe constructed of reinforced concrete. Further information will be required when development/ structures are proposed within the subdivision. Offsets from the edge of the asset must be shown on all development plans.**

**Buildings/structures including footings, eaves etc must be set outside the required 4.5m wide easement or a minimum 1.8m laterally clear of the outside edge of the Melbourne Water pipe, whichever is greater. Note: No overhangs or eaves are permitted within the lateral clearance zone.**

**Powercor:** It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link: <https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator>

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<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	One.
Notice in Moorabool Newspaper:	No.
Number of objections:	12.
Consultation meeting:	Yes, held on 8 October 2024 at the Ballan offices. The meeting did not result in any changes to the application.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

### **Strategic Objective 1: Healthy, inclusive and connected neighbourhoods**

#### **Priority 1.5: Provide access to services to improve community connection in the Shire**

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

## **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Tom Tonkin*

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

## **EXECUTIVE SUMMARY**

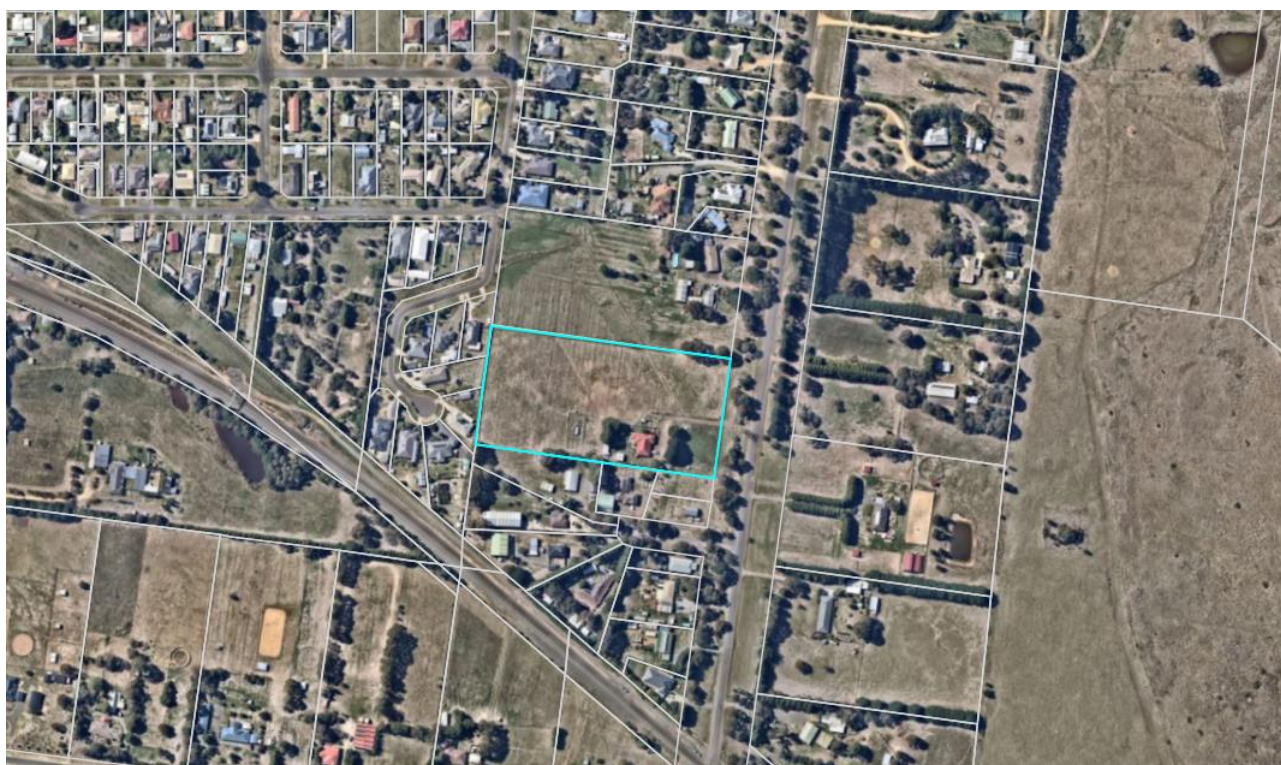
Application referred?	Yes, Council's Development Infrastructure, Council's Environment Emergency and Waste Management, Central Highlands Water, Powercor, Downer Utilities, Melbourne Water, Greater Western Water, and Southern Rural Water
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Any issues raised in referral responses?	<p>Melbourne Water and Council's Development Infrastructure requested further information related to flooding and drainage.</p> <p>Council's Development Infrastructure also requested a Traffic Impact Assessment.</p> <p>Council's Environment Emergency and Waste Management team raised concerns with vehicle crossover locations and impacts on vegetation and requested further information about the drainage easement.</p>
Preliminary concerns?	Further information was requested relating to vegetation removal, vehicle crossing locations, drainage, flood impacts, and traffic impacts.
Any discussions with applicant regarding concerns?	Yes.
Any changes made to the application since being lodged?	Yes. The proposal was amended on 31 July 2024 to reduce the number of lots from 19 to 18.
Brief history.	The site contains an existing single storey dwelling with associated outbuildings.
Previous applications for the site?	PA2022105 for a 21 Lot Subdivision and Variation of an Easement was withdrawn on 20 January 2023.
General summary.	<p>The proposal is for 18 lot residential subdivision with internal common property roadway.</p> <p>The proposed subdivision would contribute to residential growth in Ballan in an appropriate location whilst respecting the neighbourhood character. Identified drainage and flooding issues have been addressed with consent from Melbourne Water. Twelve objections were received to the application with concerns principally relating to existing flood issues in Lay Court and Lay Street. Subject to conditions, the proposed stormwater design would not contribute to flooding of other properties.</p>
<b>Summary of Officer's Recommendation</b>	
<p>That the Development Assessment Committee, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i>, issue a Notice of Decision to Grant Planning Permit PA2023110 for an 18 Lot Subdivision, Vegetation Removal and Creation of an Easement at 58 Ingliston Road, Ballan known as, Portion 10, Section 4, Parish of Gorong, subject to the conditions contained within this report.</p>	

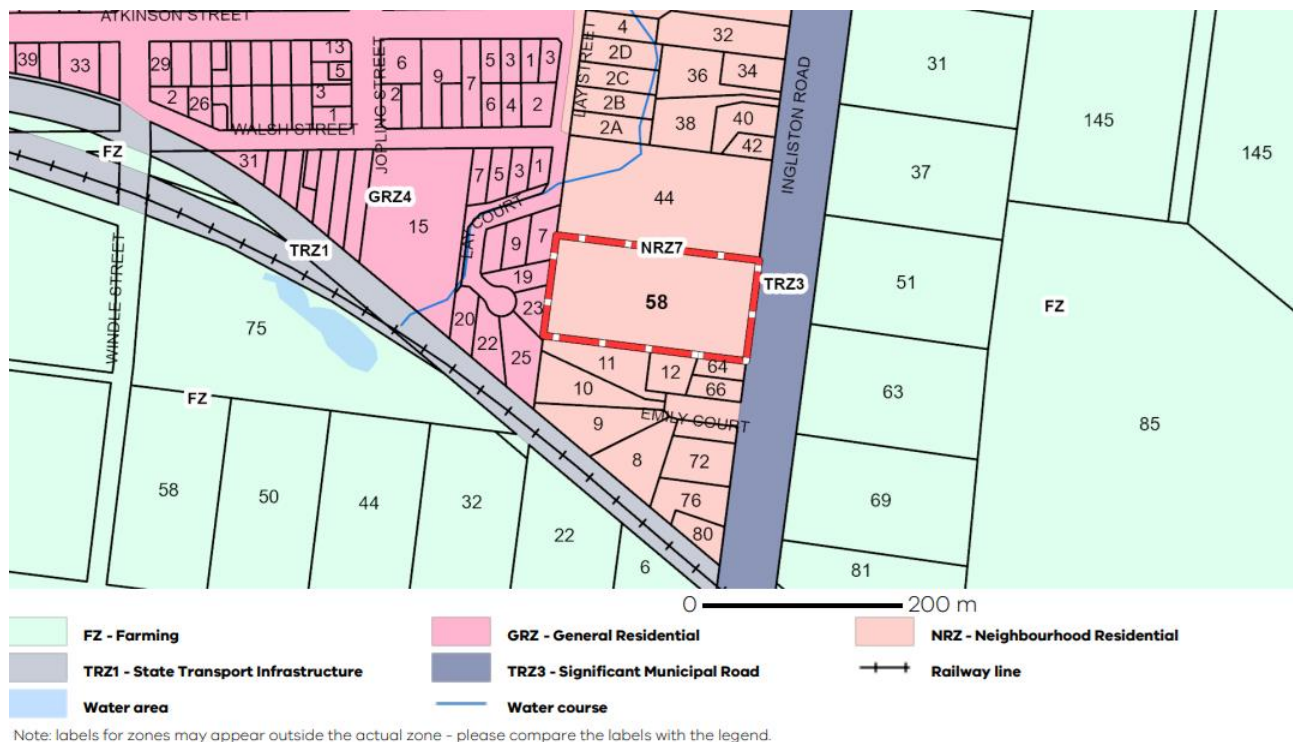
## SITE DESCRIPTION

The subject site and surrounding land to the north and south is in the Neighbourhood Residential Zone, Schedule 7. This area comprises single dwellings on a variety of lot sizes, most of which are substantially smaller than the subject site apart from the immediately adjoining lot to the north which is a similar size to the subject site. To the west of the site is land in the General Residential Zone typified by mainly single dwelling development on lots generally 900-1400sqm in size. To the east of the site, across Ingliston Road, is land in the Farming Zone, developed with single dwellings on 2ha lots used for rural lifestyle or hobby farming purposes.

The subject site, identified as Portion 10, Section 4, Parish of Gorong and known as 58 Ingliston Road, Ballan, is a rectangular shaped 2.02ha lot located on the west side of Ingliston Road, approximately 520m south of Old Melbourne Road and 210m north of the Melbourne-Ballarat railway corridor. The site has a 100.58m width and 201.17m length and is developed with a single dwelling and ancillary outbuildings, accessed via a single width crossing to Ingliston Road. Vegetation comprises mature plantings of exotic trees to the front and rear of the dwelling, with the balance of the site vacant and fenced to create paddocks, currently used to keep horses. The site falls generally to the north by approximately 2m, with a low point located towards the front of the site, which aligns with underground drainage infrastructure flowing into the Werribee River approximately 1km to the north. The site is not encumbered by any easements.



**Figure 1:** Aerial photograph



**Figure 2: Zone map**

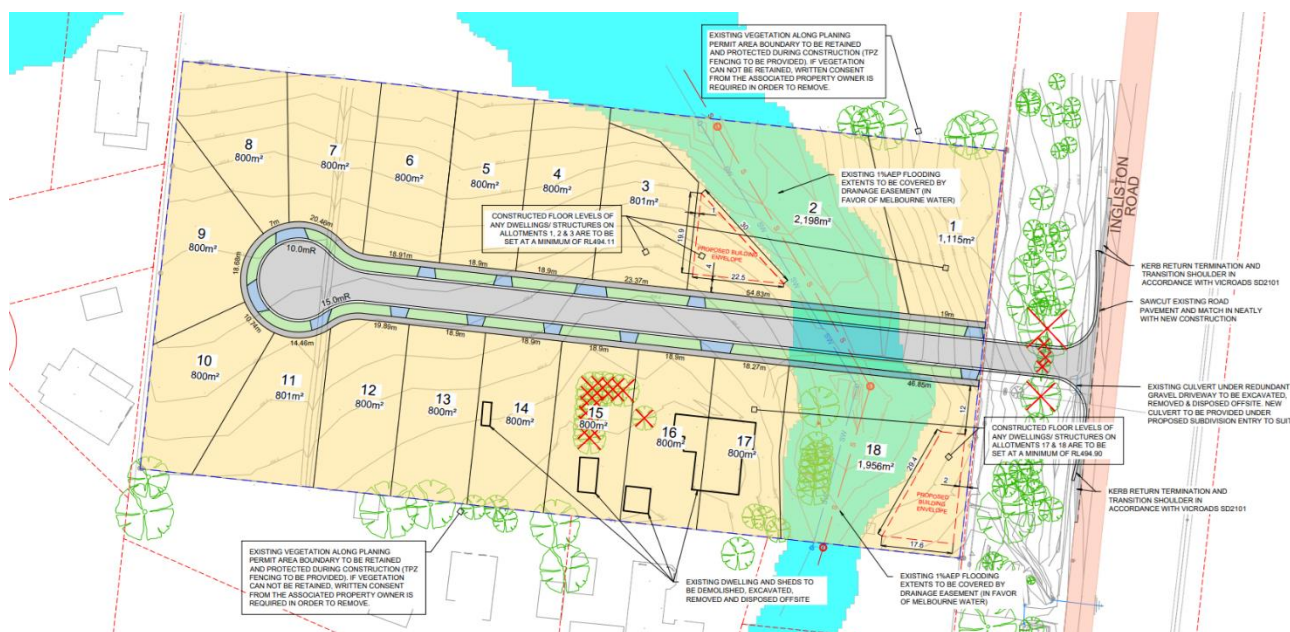
## PROPOSAL

It is proposed to subdivide the site into 18 lots, remove vegetation and create an easement. The existing dwelling and outbuildings would be demolished and vegetation removed. Site access would generally align with the existing crossover in the form of a private road to be managed as common property, terminating in a court bowl approximately 180m west of Ingliston Road. All proposed lots would be accessed via the proposed private road. Proposed lot sizes would range from 800sqm to 2198sqm, with an average lot size of 959.5sqm. The two largest lots would accommodate overland flow paths in 1% AEP flood events and be encumbered by building envelopes located to mitigate the flood risk to future occupants.

A patch of native vegetation would be removed from the Ingliston Road verge to accommodate the proposed access to the site.

The proposed easement to be created would be 4.5m in width, aligned with the existing Melbourne Water drainage asset.





**Figure 3: Proposed plan**

## BACKGROUND TO CURRENT PROPOSAL

Not applicable.

## HISTORY

PA2022105 for a 21 lot subdivision proposed a similar lot layout to the current proposal was withdrawn by the applicant on 20 January 2023.

## PUBLIC NOTICE

Notice of the application was given to adjoining and nearby landowners and occupiers by way of letters and sign erected on site.

Twelve objections were received.

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
18 lots is not in accordance with the infrastructure and rural setting of this road. Additionally, there is high traffic, buses, trucks, agricultural machinery, and the high likelihood of flooding.	Clause 32.09 – Neighbourhood Residential Zone
<p><b>Officer's Response:</b> The residential zoning specifies minimum lot sizes of 800sqm, which the proposal achieves, with several larger lots to accommodate the flood prone nature of the site. The NRZ7 zoning acknowledges this peripheral location of the township, in part based on the minimum lot size requirements whilst recognising identified capacity for population growth in Ballan.</p> <p>The traffic impact assessment submitted by the applicant was assessed by Council's Development Infrastructure. The carrying capacity of Ingliston Road and the surrounding road network is sufficient to accommodate future traffic associated with the proposal.</p>	

Flooding of residential properties in Lay Court and Lay Street from a Melbourne Water managed open channel already occurs and the proposed subdivision will exacerbate this issue. The existing drainage issues affecting Lay Court and Lay Street must be addressed before approval of the current application.	Clauses 44.04 – Land Subject to Inundation Overlay.
<p><b>Officer's Response:</b> Melbourne Water is a determining referral authority for the application and has consented to the proposal, subject to conditions to mitigate the flood risk associated with the proposal.</p> <p>The stormwater management plan submitted by the applicant is designed to restrict flows from the site to pre-development conditions. This would result in no worsening of existing flood conditions in properties currently affected by flooding.</p>	
Devaluation of property due to worsening flood impacts.	
<p><b>Officer's Response:</b> VCAT has previously determined that property values are not a relevant planning consideration.</p>	

### PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 02.03-1 – Settlement, including Ballan
- Clause 02.03-3 – Environmental risks and Amenity
- Clause 02.03-4 – Natural Resource Management
- Clause 02.03-5 – Built environment and heritage
- Clause 11.01-1R Settlement – Central Highlands
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.01-1L-03 – Ballan
- Clause 11.03-3S – Peri-urban areas
- Clause 13.02-1S – Bushfire Planning
- Clause 13.03-1S – Floodplain Management
- Clause 14.02-1S – Catchment Planning and Management
- Clause 14.02-1L – Declared special water supply catchments
- Clause 15.01-3S – Subdivision Design
- Clause 15.01-4S – Healthy Neighbourhoods
- Clause 15.01-5S – Neighbourhood Character
- Clause 15.01-5L – Landscape and Neighbourhood Character

Subject to conditions the proposal complies with the relevant sections of the Municipal Planning Strategy and Planning Policy Framework.

**ZONE**Neighbourhood Residential Zone, Schedule 7

The subject site is in the Neighbourhood Residential Zone, Schedule 7.

Under Clause 32.09-3 a permit is required to subdivide land, pursuant to which under Schedule 7 there is a minimum lot size requirement of 800sqm.

**OVERLAYS**Clause 42.01 Environmental Significance Overlay, Schedule 1

Under Clause 42.01-2 a permit is required to subdivide land and remove vegetation.

Clause 44.04 Land Subject to Inundation Overlay, Schedule 1

Under Clause 44.04-3, a permit is required to subdivide land.

**RELEVANT POLICIES**

Not applicable.

**PARTICULAR PROVISIONS**Clause 52.02 Easements, Restrictions and Reserves

Under Clause 52.02, a permit is required to create an easement.

Clause 52.17 Native Vegetation

Under Clause 52.17 a permit is required to remove native vegetation.

Clause 53.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must contribute to the Council for public open space provision. Pursuant to Section 18 of the *Subdivision Act 1988*, it is recommended that a condition of approval require payment of a contribution equal to five percent of the value of the land based on increase population from the subdivision and lack of public open space areas.

Clause 53.03 Residential Reticulated Gas Service Connection

This clause relates to prohibition of reticulated gas connection to new residential subdivisions. Subject to a standard condition, the proposal complies with this clause.

Clause 56 Residential Subdivision

A residential subdivision must meet the relevant objectives of Clause 56 and should meet the relevant standards. The proposed subdivision complies with all the standards.

**DISCUSSION**Policy framework

The Central Highlands Regional Growth Plan (Victorian Government 2014) and policies in the Moorabool Planning Scheme recognise Ballan's role in supporting residential growth as the Shire's second largest town. This must be achieved by directing growth to preferred locations with access to services and infrastructure, respect for neighbourhood character and integration with surrounding development.

The subject site and surrounding land to the north and south are in the Neighbourhood Residential Zone, Schedule 7 (NRZ7). Existing developments nearby reflect the incremental growth of this area of Ballan over several decades, typified by mostly single dwelling developments on a range of lot

sizes. The application proposes lot sizes consistent with the NRZ7 requirements for minimum 800sqm lots. The proposed lot sizes reflect the preferred neighbourhood character for development in the NRZ7 and contribute to a diversity of lots in the areas and increased housing choice in Ballan. The proposed subdivision is responsive to the policy context for consolidated township growth and integrates with its surrounding urban context, providing opportunities for housing to take advantage of existing infrastructure and services.

#### ResCode

The proposal meets the relevant requirements of Clause 56 for the assessment of residential subdivision. The proposed subdivision has at least 85% of the lots oriented to meet the solar access requirements for future development, exceeding the 70% minimum. Each lot would be directly oriented to the proposed private road to enhance social interaction and passive surveillance opportunities. Subject to conditions, the proposed common property road would be capable of efficient management by a future owner corporation. Tree planting is proposed on both sides of the proposed road, contributing to the amenity of the proposed subdivision and surrounding neighbourhood.

#### Neighbourhood character

The proposal generally responds positively to the preferred neighbourhood character, as set out in NRZ7. This is supported by the proposed lot sizes and lot dimensions including frontage widths. To maintain the preferred spacious character of the area and support passive surveillance opportunities, it is recommended that a restriction be imposed on the plan of subdivision to limit fence heights to 1.2m extending a minimum of 9m and 12m from the respective frontages of Lots 1 and 18 along the Ingliston Road boundary.

#### Flooding and drainage

Part of the site is affected by the Land Subject to Inundation Overlay, Schedule 1 (LSIO1). The applicant submitted a flood impact assessment as part of the application, which was referred to Melbourne Water, with conditional consent provided after Melbourne Water's requirements were met. The existing drainage asset would be contained within the proposed easement, and the lot design responds to the mapped extent of flooding in a 1% AEP flood event. The drainage design would retard stormwater flows to pre-development conditions. This would be achieved by various measures, including most notably underground detention tanks beneath the proposed road, which would form part of the common property to be managed by a future owner corporation, not Council.

Objections received to the application all raised concerns regarding existing flooding being exacerbated by the proposed subdivision, however the stormwater management plan was designed to avoid any increase in flooding of downstream properties.

#### Waste management

Given the proposed road will be maintained as a private road, Council's waste collection services will not be available to the proposed lots. Therefore, a condition of approval will require the need for future private waste collection to be reinforced by way of a Section 173 Agreement registered on the title to each lot.

#### Creation of easement

The proposed creation of easement would accommodate the existing drainage asset and formalise protection of the asset on title. The relevant drainage authorities have provided consent to this new easement.



### Vegetation removal

The vegetation proposed for removal from the site is established but not a significant landscape feature and is comprised of exotic species.

Native vegetation removal from the adjoining Ingliston Road verge is required to facilitate future access to the subdivision. The proposed access road is aligned with the existing driveway but requires widening which necessitates vegetation removal. No large trees would be removed, and the removal is minimised due to the proposed crossover alignment. Subject to conditions which require offsets, the proposed native vegetation removal would not have any detrimental impacts on native habitat.

Significant trees on adjoining properties close to the common boundary would be protected by tree protection zones during development of the subdivision as a condition of approval.

### Traffic and access

A Traffic Impact Assessment was submitted as part of the application and demonstrates that the surrounding road network has sufficient capacity to accommodate the additional traffic to be generated by the proposed subdivision. The design of the internal road is sufficient to accommodate the expected traffic volume, and the cul de sac provides sufficient turning space for service vehicles and fire trucks.

### Declared special water supply catchment

Reticulated sewerage is available to the subject site, and connection to all proposed lots would be required as a condition of approval. Southern Rural Water and Greater Western Water as the relevant catchment authorities both consented to the proposal.

## **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**

Authority	Response
Greater Western Water	Consent with conditions.
Southern Rural Water	Consent with conditions.
Melbourne Water	Consent with conditions.
Central Highlands Water	Consent with conditions.
Powercor	Consent with conditions.
Downer Utilities	No response.
Council's Infrastructure	Consent with conditions.
Council's Environment, Emergency & Waste Education	Consent with conditions.

## **FINANCIAL IMPLICATIONS**

The recommendation to approve this application has no financial implications for Council.

## **RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

The recommendation to approve this application does not have any risk or OH&S implications for 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 address the Development Assessment Committee if required.

**OPTIONS**

That the Development Assessment Committee could consider the following options:

- Issue a Notice of Decision to Grant a Permit in accordance with the conditions in the recommendation of this report; or
- issue a Refusal to Grant a Permit on specified grounds. The Development Assessment Committee would need to consider what reasonable grounds there would be to refuse the application under the Moorabool Planning Scheme. This option may result in the applicant appealing the Committee's decision at VCAT.

**CONCLUSION**

Overall, the proposed subdivision, creation of easement and vegetation removal is deemed to be generally in accordance with the relevant provisions of the Moorabool Planning Scheme. The proposal would facilitate housing growth in a location proximate to services and infrastructure, responsive to the preferred neighbourhood character and without any unreasonable amenity impacts. Subject to conditions, the flood prone nature of the site and surrounding land has been addressed in the proposed stormwater design which would not contribute to flooding of other properties. The proposed subdivision is recommended for approval.

**10 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS**

**11 UPDATE ON VCAT DECISIONS**

**12 OTHER BUSINESS**

**13 DATE OF NEXT MEETING**

Wednesday 21 May 2025

**14 MEETING CLOSE**