



MINUTES

Development Assessment Committee Meeting

Wednesday, 17 April 2024

Date: Wednesday, 17 April 2024

Time: 6.00pm

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

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1 OPENING

The Mayor opened the meeting at 6pm.

2 PRESENT AND APOLOGIES

Cr Ally Munari, Mayor	Woodlands Ward
Cr Rod Ward	East Moorabool Ward
Cr Moira Berry	East Moorabool Ward
Cr Tonia Dudzik	East Moorabool Ward
Cr Paul Tatchell	Central Moorabool Ward
Cr Tom Sullivan	West Moorabool Ward

IN ATTENDANCE:

Mr Derek Madden	Chief Executive Officer
Mr Henry Bezuidenhout	Executive Manager Community Planning & Development
Ms Celeste Gregory	Executive Manager Democratic Support & Corporate Governance
Kaitlyn Zeeck	Manager Statutory Planning & Regulation (online)
Mr Mark Lovell	Coordinator Statutory Planning

APOLOGIES:

Nil.

3 RECORDING OF MEETING

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

4 CONFIRMATION OF MINUTES**COMMITTEE RESOLUTION**

Moved: Cr Rod Ward
Seconded: Cr Paul Tatchell

That the minutes of the Development Assessment Committee Meeting held on Wednesday 20 March 2024 be confirmed.

CARRIED

5 MATTERS ARISING FROM PREVIOUS MINUTES

Nil.

6 DISCLOSURE OF CONFLICTS OF INTERESTS

Nil.

PRESENTATIONS/DEPUTATIONS

Item	Report	Speaker/s	Position	Attendance
7.2	PA2022261 – Development of Two Dwellings to the Rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Greg Linsdell	Objector	Written Submission
7.2	PA2022261 – Development of Two Dwellings to the Rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Robert Eskdale on behalf of Judith Hodgson	Objector	In Person
7.2	PA2022261 – Development of Two Dwellings to the Rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Mandy & Ryan Delekta	Landowner	In Person
7.2	PA2022261 – Development of Two Dwellings to the Rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Julie Dargan	Objector	In Person
7.2	PA2022261 – Development of Two Dwellings to the Rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	James Eskdale	Objector	In Person

7 COMMUNITY PLANNING REPORTS

7.1 PA2023180 USE AND DEVELOPMENT FOR FIVE WAREHOUSES AND A REDUCTION OF CAR PARKING (TWO CAR SPACES) AT 15-19 HILLSIDE STREET, MADDINGLEY

Author: Thomas Tonkin, Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: 1. Proposed plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2023180

Lodgement Date: 5 December 2023

Planning Officer: Tom Tonkin

Address of the land: 15-19 Hillside Street, Maddingley

Proposal: Use and Development for Five Warehouses and a Reduction of Car Parking (two car spaces)

Lot size: 2,382sqm

Why is a permit required? Clause 33.02 Industrial 2 Zone – Use and development for warehouses: Clause 52.06 Car Parking – Reduction of car parking

COMMITTEE RESOLUTION

Moved: Cr Rod Ward

Seconded: Cr Tonia Dudzik

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue Planning Permit PA2023180 for the Use and Development for Five Warehouses and a Reduction of Car Parking (two car spaces) at Lot 1 on TP 181371L, Lot 1 on TP 181372J and Lot 1 on TP 181370N known as 15-19 Hillside Street, Maddingley, subject to the following conditions:

Endorsed Plans:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans identified as Job No. 230723, Drawing No.'s TP01 & TP02 rev. B dated 14 February 2024 prepared by JDZ Building Design P/L but modified to show:
 - a) A landscape plan in accordance with Condition no. 10.
2. Unless otherwise approved in writing by the Responsible Authority, all buildings and works must be constructed or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

Use:

3. The use of the site must comply with the requirements of Clause 53.10 (Uses with Adverse Amenity Potential) of the Moorabool Planning Scheme or separate planning approval obtained.

Operational:

- 3. The loading and unloading of goods and materials from vehicles must only be carried out on the land.**
- 4. Provision must be made within each warehouse for the storage and collection of garbage and other solid waste. Skip bins must not be located external to the building.**

Amenity:

- 5. The amenity of the area must not be detrimentally affected by the use or development, through the:**
 - a) transport of materials, goods or commodities to or from the land;**
 - b) appearance of any building, works or materials;**
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;**
 - d) presence of vermin; or**
 - e) any other way.**
- 6. Effective noise levels from the use of the premises must not exceed the recommended levels as set out in the Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.**
- 7. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.**
- 8. Any security alarm or similar device installed must be of a silent type.**
- 9. Goods, equipment or machinery must not be stored or left exposed in a position that can be seen from the street.**

Landscape Plans:

- 10. Before the use and development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and must show:**
 - a) Details of surface finishes of the accessway.**
 - b) A planting schedule which must incorporate a mix of trees, shrubs and ground covers and include botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. All proposed trees must have a minimum planting height of 1.5m**
 - c) Landscaping and planting within all open areas of the site**
 - d) Details of raingardens or other environmental sustainable works.**

Species selection must include indigenous species and shall be to the satisfaction of the Responsible Authority.

- 11. Before the 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.

- 12. 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.**

Signage:

- 13. Except where exempt under the Moorabool Planning Scheme, advertising signage must not be constructed or displayed without separate planning approval.**

Development Infrastructure:

- 14. Prior to commencement of the development, an easement must be created under the *Subdivision Act 1988* to protect identified drainage assets within the property.**
- 15. Prior to the occupation of the development, three new industrial vehicle crossings must be provided on Hillside 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. The industrial vehicle crossings must be generally in accordance with Standard Drawing 250 of the Infrastructure Design Manual unless an alternative design is approved under the vehicle crossing permit.**
- 16. Unless otherwise approved by the Responsible Authority there must be no buildings, trees, structures, or improvements located over any drainage pipes and easements on the property.**
- 17. Prior to the development and use commencing, engineering drainage plans and computations must be submitted to the Responsible Authority for approval and shall incorporate the following:**
 - a) The development as a whole must be self-draining and must be connected to an approved point of discharge in an approved manner to the satisfaction of the Responsible Authority.**
 - b) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.**
 - c) Overland 1% AEP flow path(s) for the development must be shown on layout plans and shall ensure that no property is subject to inundation by such a storm to the satisfaction of the Responsible Authority.**
- 18. Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.**
- 19. Storm water drainage from the proposed buildings and impervious surfaces must be directed to the 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.**
- 20. Prior to the use commencing, the car park areas must be constructed with an all-weather surface, line-marking and drainage to the satisfaction of the Responsible Authority, and shall incorporate the following:**

- a) **Parking bays and aisle widths of the car park shall comply with Clause 52.06-9 of the Moorabool Planning Scheme. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.**
 - b) **Designated loading areas shall be shown on layout plans.**
 - c) **The parking areas shall be provided with an all-weather surface and associated drainage.**
 - d) **Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.**
21. **The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.**
 22. **Prior to the works commencing on the development, notification including photographic evidence must be sent to Council’s Infrastructure Services 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.**
 23. **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).**

Permit Expiry:

24. **This permit will expire if:**
 - a) **The development and the use are 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.**

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	No. The application is exempt from the notice requirements under the Moorabool Planning Scheme.
Notices on site:	None.
Notice in Moorabool Newspaper:	No.
Number of objections:	None.
Consultation meeting:	Not applicable.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.4: Grow local employment and business investment

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, to Council's Development Infrastructure.
Any issues raised in referral responses?	Yes. Proposed construction of a building over a Council drainage asset, requiring a re-design and creation of a drainage easement. Additionally, a detailed traffic engineering report and stormwater management information were requested.

Preliminary concerns?	The proposed landscaping was deemed to be inadequate and incomplete title documents were submitted.
Any discussions with applicant regarding concerns?	The applicant was advised in writing of the preliminary concerns.
Any changes made to the application since being lodged?	Yes, the application was amended on 1 March 2024 to reduce the number of warehouses from six to five. The amended layout resolved the officer concerns to construction over Council drainage assets.
Brief history.	Not applicable.
Previous applications for the site?	None.
General summary.	It is proposed to develop the site for five warehouses and reduce the car parking requirement by two spaces. Subject to conditions, the proposal satisfies all relevant planning provisions and is site responsive. The proposed reduction of car parking is acceptable considering the nature of the proposed use and on-street parking demand as demonstrated by the submitted traffic impact assessment. The proposal complies with the Industrial Zone provisions.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue Planning Permit PA2023180 for the Use and Development for Five Warehouses and a Reduction of Car Parking (two car spaces) at Lot 1 on TP 181371L, Lot 1 on TP 181372J and Lot 1 on TP 181370N known as 15-19 Hillside Street, Maddingley, subject to the conditions contained within this report.	

SITE DESCRIPTION

The subject site and surrounding area is in the Industrial 2 Zone and used for various purposes, mainly small-scale manufacturing, service industry and warehousing. To the south is a steel-clad warehouse/factory building with an approximate floor area of 290sqm. To the north is a brick and steel-clad warehouse/factory building with an approximate floor area of 360sqm. To the west, fronting McPherson Street, is a complex of nine warehouses with floor areas varying from 134-227sqm used for various purposes including storage, dog day care and motor vehicle repairs. To the east across Hillside Street, are warehouse/factory buildings occupied by businesses including a rubbish and waste removal depot and a retaining wall construction business.

The subject site comprises three contiguous lots identified as Lot 1 on TP 181371L, Lot 1 on TP 181372J and Lot 1 on TP 181370N, known as 15-19 Hillside Street, Maddingley. The site is located on the west side of Hillside Street, with an area of 2,382sqm, a 60.36m frontage and no noticeable fall. The site is currently developed with a single storey brick office building, three ancillary outbuildings, a portable fuel station and car parking and vehicle circulation areas. Vegetation comprises shrubs and small to medium sized canopy trees planted in the front building setback and near the side and rear property boundaries. Vehicle access is via two crossovers. The current use of the site is as depot.



Figure 1: Aerial photograph



Figure 2: Zone Map

PROPOSAL

It is proposed to use and develop the subject site for five warehouses and reduce the car parking requirement by two car spaces. The existing buildings on the site would be demolished and vegetation removed.

An attached building form totalling of 1,390sqm would contain the five warehouses, each varying in size from 227.7sqm to 430sqm. Each warehouse would have a similar layout, incorporating an office space, bathroom, kitchenette and loading bay.

One warehouse building will be constructed against the southern side property boundary and all five warehouses will be constructed against the rear western property boundary. The front setback area will contain landscaping and car parking.

Vehicle access via three proposed crossovers would provide access to three separate car parking areas. A total of 25 car spaces would be provided, with a reduction of two spaces overall consisting of one space to Warehouses 1 and 3.

The warehouse building would be 8.5m in height and of contemporary appearance, constructed of concrete tilt up panels with the front façade incorporating glazing, textured finishes and steel clad features. Roller doors to each warehouse would be 3.6m-5m wide by 5m high, with separate pedestrian entries.

Signage panels of 4sqm to each warehouse would also be incorporated on the front façade but signage does not form part of this application. Landscaping would be provided in the front building setback and north side setback.

A detailed landscaping plan incorporating raingardens has not been submitted.



Figure 3: Proposed site and floor plan

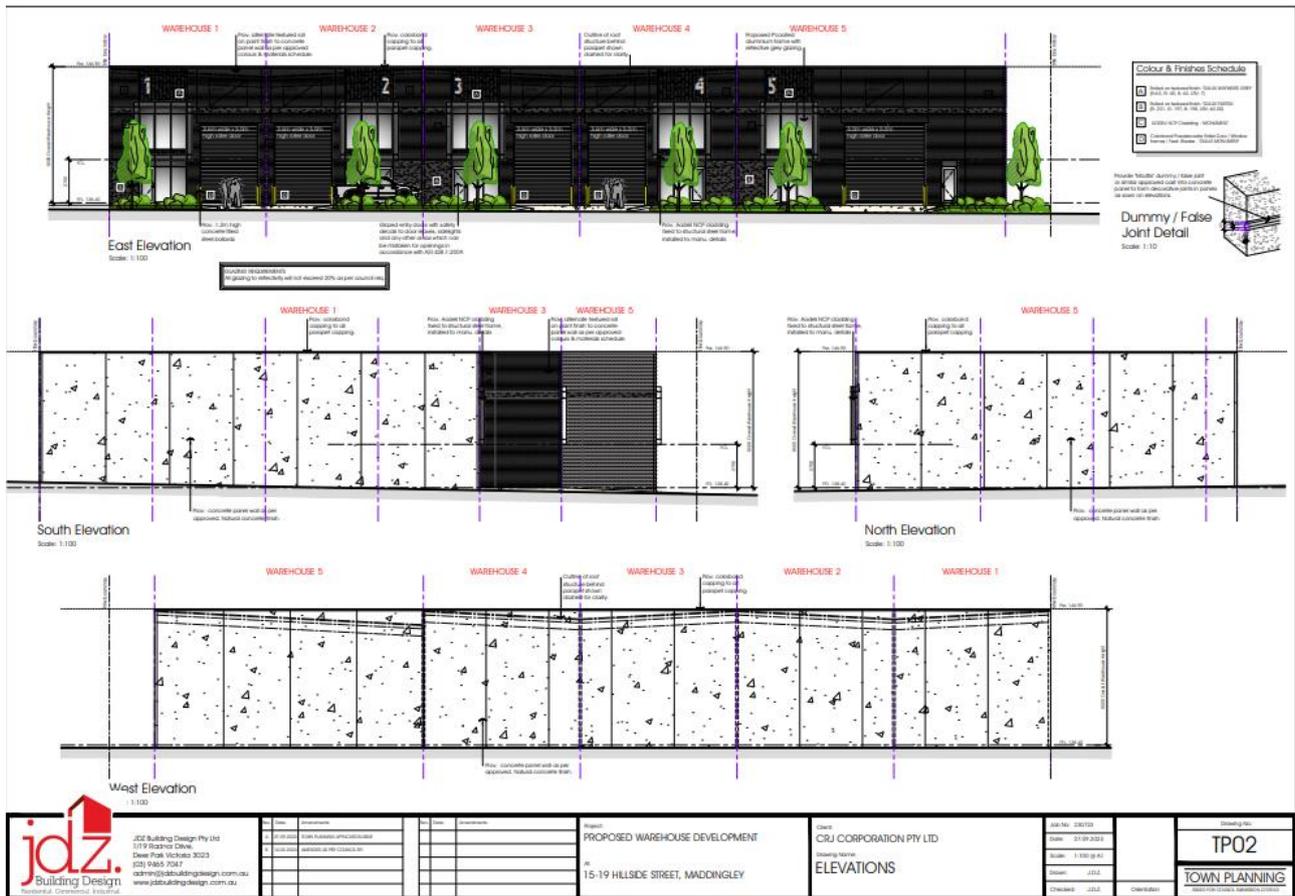


Figure 4: Elevation Plan

BACKGROUND TO CURRENT PROPOSAL

Not applicable.

HISTORY

Not applicable.

PUBLIC NOTICE

The application is exempt from notice under Clauses 33.02-4 and 52.06-4 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 and Planning Policy Framework (PPF).

The relevant clauses are:

- Clause 02.03-1 – Settlement, including Bacchus Marsh –
- Clause 02.03-5 – Built environment and heritage
- Clause 02.03-7 – Economic development, including Local employment
- Clause 11.01-1L-01 – Settlement in Moorabool

- Clause 11.01-1L-02 – Bacchus Marsh
- Clause 11.03-3S – Peri-urban areas
- Clause 13.07-1S – Land use compatibility
- Clause 15.01-1S – Urban design
- Clause 15.01-2S – Building design
- Clause 15.01-2L-02 – Industrial development
- Clause 15.01-5L – Landscape and neighbourhood character
- Clause 17.01-1S – Diversified economy
- Clause 17.01-1R – Diversified economy - Central Highlands
- Clause 17.02-1S – Business

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

ZONE

The subject site is in the Industrial 2 Zone (IN2Z).

Under Clause 33.02-1 a permit is required for the use for warehouses and under Clause 33.02-4 for building and works to Section 2 land use.

OVERLAYS

The subject site is not affected by any Overlays.

Relevant Policies

The Moorabool Industrial Areas Strategy, 2015 is a reference document in the Moorabool Planning Scheme. The strategy's key recommendations are not directly relevant to the current proposal, and the proposal would not prejudice the implementation of any of the recommendations.

Council's Parking Provision and Management Policy (July 2023)

The site is located outside of the specific car parking precinct for the Bacchus Marsh Industrial Area.

Particular Provisions

Clause 52.06 Car Parking

Under Clause 52.06-5 each warehouse requires two car spaces plus 1.5 car spaces to each 100sqm of proposed net floor area. The proposed net floor areas of each warehouse equate to 27 car spaces. Twenty-five car spaces are proposed, therefore a reduction of two car parking spaces is required.

Clause 52.34 Bicycle Facilities

There is no specified requirement for the provision of bicycle facilities for a Warehouse.

Clause 53.10 Uses with Adverse Amenity Potential

Detailed information about the use of the proposed warehouse is not known at this stage with no listed end users.

Clause 53.18 Stormwater Management in Urban Development

Subject to conditions the proposal meets the provisions of this clause.

DISCUSSION

The subject site is in an established industrial precinct in Maddingley with all utilities available and the proposed use for warehouses is generally consistent with the surrounding mix of industrial land uses.

Clause 15.01-2L-02 - Industrial development

The proposed development is generally consistent with Council's policy for industrial development at Clause 15.01-2L-02 of the Moorabool Planning Scheme. The building footprint would be 58.38% of total site area, less than the maximum requirement of 60%. External building materials and finishes would complement the area and be non-reflective. The 13.57m minimum front setback would accommodate car parking and easily satisfy the minimum 7.5m setback requirement. Proposed landscaping would be integrated with the car parking areas to complement the streetscape and soften the site appearance and would achieve the preferred minimum 10% of total site coverage.

The design response is generally site responsive and would complement the surrounding industrial area. It is recommended that a condition of approval require a landscape plan to be submitted for endorsement.

Clause 33.02 Industrial 2 Zone

The proposal is generally consistent with the Industrial 2 Zone provisions.

The proposed building would be contemporary in appearance and would complement the surrounding area, providing facilities able to accommodate small to medium-scale warehouse uses. The proposal supports consolidated growth of the Shire's largest township and would contribute to local economic growth, in particular catering to the local demand for warehouse facilities.

Whilst the specific future warehouse uses are unknown at this stage, subject to conditions there would be no detrimental amenity impacts. The surrounding road network can readily accommodate traffic associated with the development. The proposed streetscape presentation would provide for landscaped areas in the front setback capable of being planted to complement and soften the appearance of the built form. The proposed design and front façade of building are well articulated and remain generally consistent with the scale of nearby industrial buildings. Detailed information on stormwater management was submitted by the applicant and would be managed by permit conditions.

Clause 52.06 Car Parking

Under the car parking provisions at Clause 52.06-5 of the Moorabool Planning Scheme, the proposal requires 27 car spaces to be provided. Twenty-five car spaces are proposed and therefore a reduction of two car spaces is required, one for each of Warehouses 1 and 3.

Overall, the proposed parking provision is deemed to be adequately responsive to the proposed use and the site features and context. A car parking assessment was submitted with the application, including an empirical study of car parking requirements for warehouses based on floor area. The empirical study shows that for each 100sqm of net floor area, one car space would be required. Based on the proposed plans this equates to a requirement for 12 car spaces for the entire development consisting of two car spaces for each of Warehouses 1-4 and four car spaces

for Warehouse 5. In this instance the provision of 25 car spaces is considered adequate to cater to the anticipated parking demand.

Furthermore, nearby on-street parking is currently in low demand and would include six on-street spaces along the frontage of the site when the development is completed with crossovers. The site is also proximate to residential areas providing some opportunity to utilise alternate modes of transport including walking and cycling. There is also a local bus route 350m away providing a connection to Bacchus Marsh Railway Station allowing for public transport linkage to the development.

Overall, there is sufficient evidence from the submitted traffic report to demonstrate that proposed on-site car parking spaces can be expected to cater to the anticipated demand, with on-street parking available if overflow parking spaces are required.

Council's Infrastructure has reviewed the car parking demand assessment and agreed with its conclusions.

Overall, the proposal is generally in accordance with the applicable provisions of the Moorabool Planning Scheme.

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.

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. The applicant was invited to attend this meeting and address the Development Assessment Committee.

OPTIONS

- Issue a Planning Permit in accordance with the conditions in the recommendation of this report; or
- issue a Planning Permit with amendments to the conditions contained in the recommendation of this report; or

- issue a Refusal to Grant a Permit on grounds. The Development Assessment Committee would need to consider what reasonable grounds there would be to refuse the application. This option may result in the applicant appealing the Committee's decision to VCAT.

CONCLUSION

The proposal is generally in accordance with the relevant planning policies, particularly the Planning Policy Framework, Industrial 2 Zone provisions and Particular Provisions for Car Parking at Clause 52.06. The proposed warehouses would contribute to the growth of the local economy and be located and designed to avoid any detrimental off site impacts. The proposed car parking reduction of two car spaces is deemed to be acceptable based on the traffic report submitted. The layout of car parking and access would provide for safe and functional vehicle access and parking. It is recommended that the application be approved, subject to standard conditions.

Greg Linsdell provided a written submission to the Committee as an objector to Item 7.2.

Robert Eskdale on behalf of Judith Hodgson addressed the Committee as an objector to Item 7.2.

Mandy and Ryan Delekta addressed the Committee as the landowner to Item 7.2.

Julie Dargan addressed the Committee as an objector to Item 7.2.

James Eskdale addressed the Committee as an objector to Item 7.2.

7.2 PA2022261 - DEVELOPMENT OF TWO DWELLINGS TO THE REAR OF AN EXISTING DWELLING, THREE LOT SUBDIVISION AND REMOVAL OF VEGETATION AT 80 INGLIS STREET, BALLAN

Author: Mark Lovell, Coordinator Statutory Planning

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments:

1. Initial Plans (under separate cover)
2. Updated Plans (under separate cover)
3. Survey Plan (under separate cover)

APPLICATION SUMMARY

Permit No: PA2022261

Lodgement Date: 1 December 2022

Planning Officer: Mark Lovell

Address of the land: 80 Inglis Street, Ballan

Proposal: Development of Two Dwellings to the Rear of an Existing Dwelling and Three Lot Subdivision and Removal of Vegetation

Lot size: 1,103.68sqm

Why is a permit required? Clause 32.08-3 General Residential Zone Schedule 4 – Residential Subdivision; Clause 32.08-6 General Residential Zone Schedule 4 – Construction of two or more dwelling on a lot; Clause 42.01-2 Environmental Significance Overlay Schedule 1 – Removal of vegetation and subdivision; Clause 42.01-2 Environmental Significance Overlay Schedule 2 – Subdivision; Clause 52.29-2 – Subdivide land adjacent to a Transport Road Zone 2

COMMITTEE RECOMMENDATION

Moved: Cr Rod Ward

Seconded: Cr Tom Sullivan

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 PA2022261 for the Development of Two Dwellings to the rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan:

Endorsed Plans:

1. **Before the 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) **Solid privacy screen on the eastern and western sides of the deck at Dwelling 3 to a height of 1,700mm above the finished floor level.**
 - b) **Addition of a privacy screen along the northern side of the deck at Dwelling 3 with a height of 1,700mm above the finished floor with a maximum opening of 25%.**
 - c) **A landscape plan in accordance with Condition 2.**

Landscaping:

2. **Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must show:**
 - a) **a survey (including botanical names) of all existing vegetation to be retained and/or removed;**
 - b) **buildings and trees (including botanical names) on neighbouring properties within 3m of the boundary;**
 - c) **details of surface finishes of pathways and driveways;**
 - d) **a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant; and**
 - e) **landscaping and planting within all open areas of the site.**
3. **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.**
4. **The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**

Development Infrastructure:

5. **Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
6. **A new Council vehicle crossing must be provided to Council's satisfaction. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.**
7. **The property access and the internal driveways must be constructed in accordance with the requirements specified in Table 5 of Clause 53.02.5 of the Moorabool Planning Scheme, to the satisfaction of the Responsible Authority.**
8. **The storm water drainage from the proposed site must be retained within the boundaries of the property to the satisfaction of the Responsible Authority. Overflows from on-site**

storage systems must be directed away from any wastewater disposal areas.

9. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Management 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.
10. 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) and civil construction, building and demolition guide (EPA 2020).

Central Highlands Water:

11. 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*.
12. 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.
13. 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.
14. 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.
15. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

Department of Transport:

16. Prior to the occupation of the development, the driveway and crossover must be constructed to the satisfaction of the Responsible Authority and at no cost to and to the Responsible Authority and the Head, Transport for Victoria.
17. Vehicles must enter and exit the site in a forward direction at all times.

Greater Western Water and Southern Rural Water:

18. Sediment control measures outlined in the EPA's publication No 275 Sediment Pollution Control, shall be employed during construction and maintained until the disturbed area has been revegetated.

Melbourne Water:

19. Before works commence, a separate application to Melbourne Water, must be approved for any new or modified storm water connection to Melbourne Water assets or waterways. Evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

Powercor:

20. 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.

21. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.

Note: 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.

22. 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.

Subdivision:

23. 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.
24. 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 five 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.
25. Prior to the issue of a Statement of Compliance, practical completion of the two new dwellings must be achieved to the satisfaction of Council's Development Infrastructure.

Telecommunications:

26. 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.
27. 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.

Permit Expiry:

28. The permit will expire if:

- a) the development and use are 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 or
- c) the plan of subdivision is not certified within two years of the date of issue of the permit.

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

In Favour: Crs Tom Sullivan, Ally Munari and Rod Ward

Against: Crs Tonia Dudzik, Paul Tatchell and Moira Berry

THE MAYOR DECLARED THE MOTION CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	Six objections.
Consultation meeting:	A consultation meeting was undertaken between the applicant, objectors and Planning officer. Key issues were discussed, and additional information was provided to objectors.

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, Greater Western Water, Southern Rural Water, Central Highlands Water, Melbourne Water, Powercor, Downer Utilities, Department of Transport, and Council's Development Infrastructure.
Any issues raised in referral responses?	No.

Preliminary concerns?	Initial concerns were identified regarding the secluded private open space to the existing dwelling initially nominated as a car parking space; the existing shed marked as retained by the applicant and the lack of daylight entering Bedroom 3 of Dwelling 3.
Any discussions with applicant regarding concerns?	The applicant was advised concerns during an on site meeting.
Any changes made to the application since being lodged?	Yes.
Brief history.	Concerns were identified when the application was lodged. These concerns were discussed during a site visit with the applicant resulting in submission of amended plans. The application was advertised, and six objections were received. A consultation meeting was undertaken and resulted in the applicant further amending the plans to address some of the concerns from the objectors, however, no objections have been withdrawn. The applicant then provided a feature survey plan from a licensed land surveyor demonstrating the levels on site and the existing site conditions.
Previous applications for the site?	Yes.
General summary.	<p>The proposed development and subdivision meets standards of ResCode as contained in Clauses 55 and 56 of the Moorabool Planning Scheme. The proposal is in line with the neighbourhood character objectives as stated in the Schedule and provides for appropriate design response with minimal off site impacts.</p> <p>The proposed vegetation removal will not result in the degradation of the water catchment and the site is connected to reticulated water.</p> <p>It is recommended the proposal be approved subject to conditions.</p>
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2022261 for the Development of Two Dwellings to the rear of the Existing Dwelling and Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan subject to the conditions contained within this report.	

SITE DESCRIPTION

The site is located just east of the Ballan town centre. The Werribee River runs north of the property in an east-west direction.

The general area consists of mainly detached dwellings with a range of different lot sizes between roughly 750sqm to 1,200sqm. Ballan train station is located southwest of the property.

The site itself is a rectangular block with an area 1,103.68sqm. There is an existing dwelling located at the front of the property and a shed to the northeastern corner of the site, which will be retained. The site has a well vegetated area behind the existing dwelling. The site slopes down to the north.



Figure 1: Aerial photograph of the site and surrounds

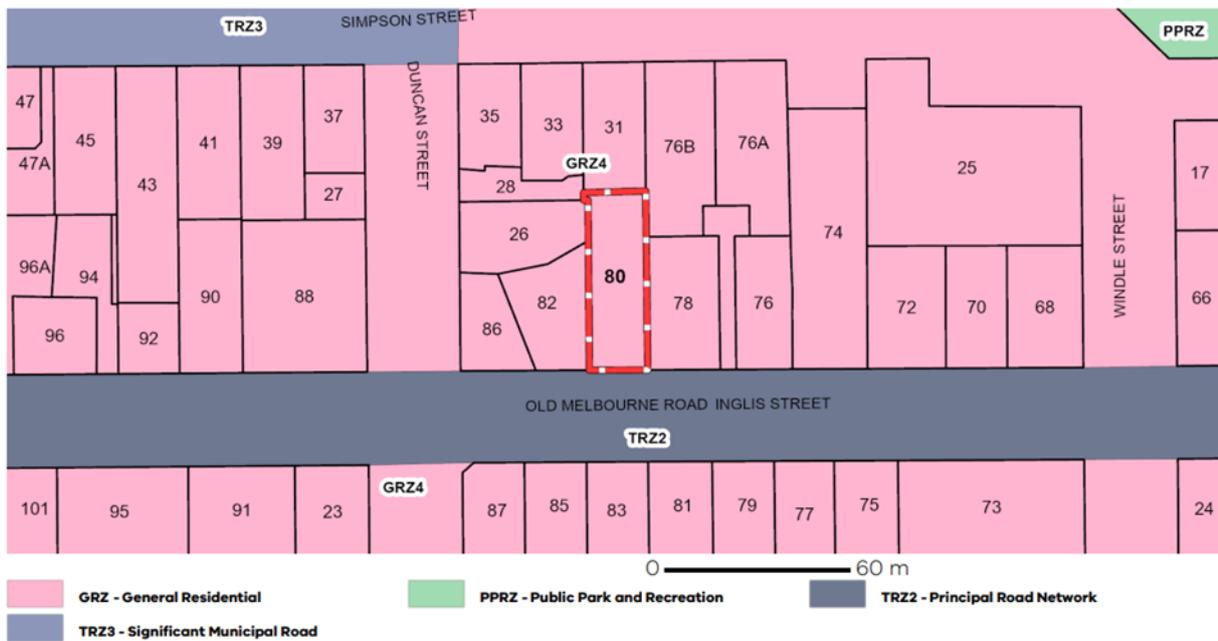


Figure 2: Zone map

PROPOSAL

It is proposed to construct two dwellings to the rear of the existing dwelling and a three lot subdivision. All three dwellings will share the existing crossover and the driveway will have a width of 3m. The roof of both dwellings will be clad with Colorbond while the walls will be clad with a mixture of painted and rendered Hebel panel and Colorbond.

Existing Dwelling 1

The existing dwelling will be retained and consists of one bedroom, bathroom and living/kitchen area. One car space is located in in the front setback area accessed from the side driveway adjacent to the eastern side boundary.

New Dwelling 2

Dwelling 2 will be three bedrooms. Bedroom 1 will be located towards the front of the dwelling with an attached ensuite and walk in robe. Bedrooms 2 and 3 will be located on the western side of the dwelling, along with the laundry, bathroom and toilet. The meals/family and kitchen areas will be open with a sliding door to the north leading out into the secluded private open space for the dwelling. A double garage will be located on the southern side of the property.

Dwelling 2 will be located 3.139m to the north of the existing dwelling and 2.02m from the boundary of proposed rear Dwelling 3. The dwelling will have a western side setback of 1.49m and eastern side setback of 4.792m.

Dwelling 3

Dwelling 3 will be three bedrooms and will be located to the rear of the site with an office located near the entry to the dwelling. The open meals/family and kitchen area will be located on the north western side of the dwelling. Two sliding doors to the north of the dwelling will lead into the secluded private open space which includes an alfresco area. The laundry room internally links the rest of the dwelling to the double garage, toilet and bathroom.

Dwelling 3 will be setback 4.14m from the eastern side boundary, 1.678m from the western side boundary, 1m from the lot boundary of proposed Dwelling 2 and 2.44m from the rear boundary to the north.

All new dwellings will adopt a contemporary styling with vertical and horizontal windows and skillion roof form with a maximum roof pitch of 15 degrees.

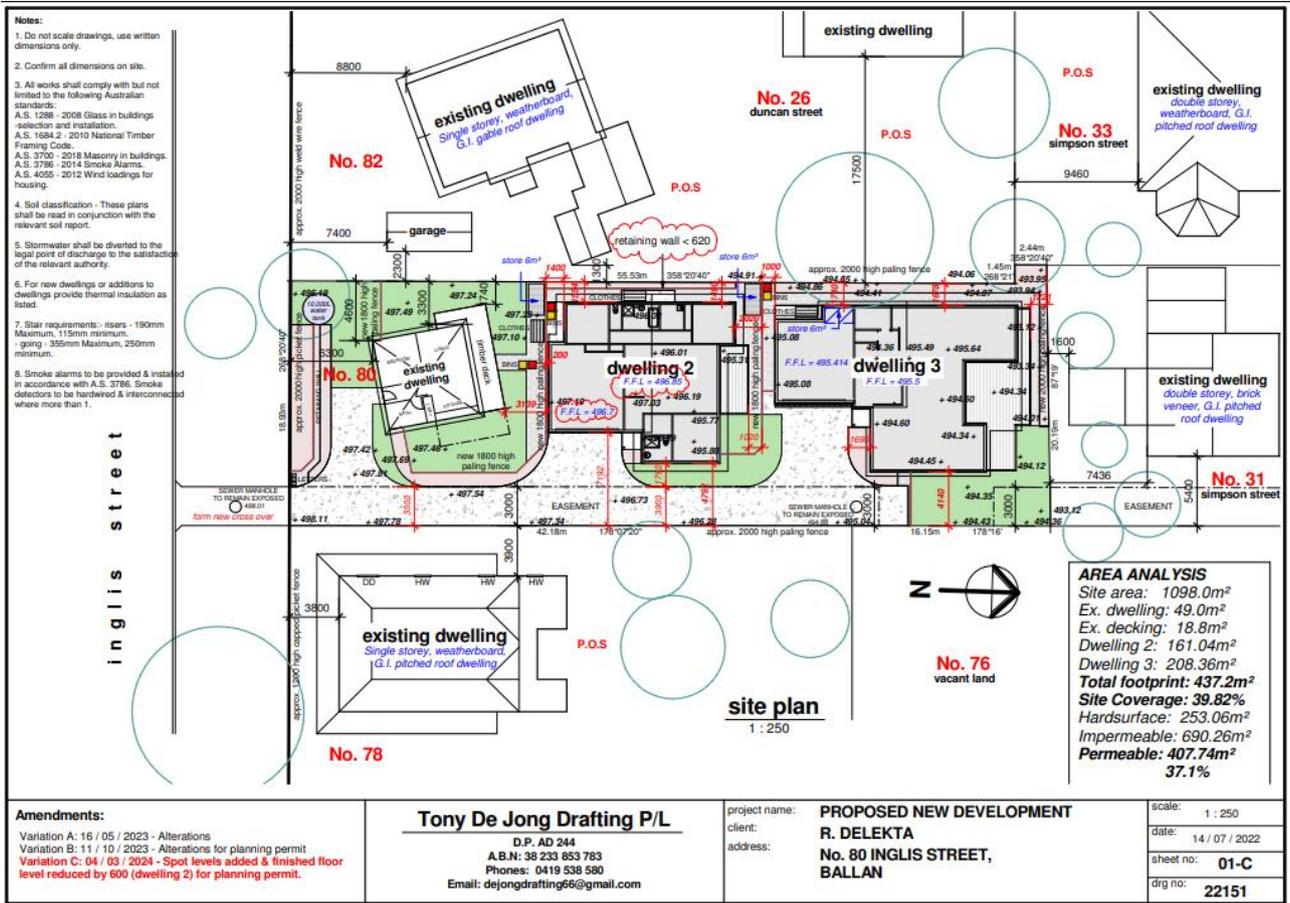


Figure 3: Site Plan (updated)

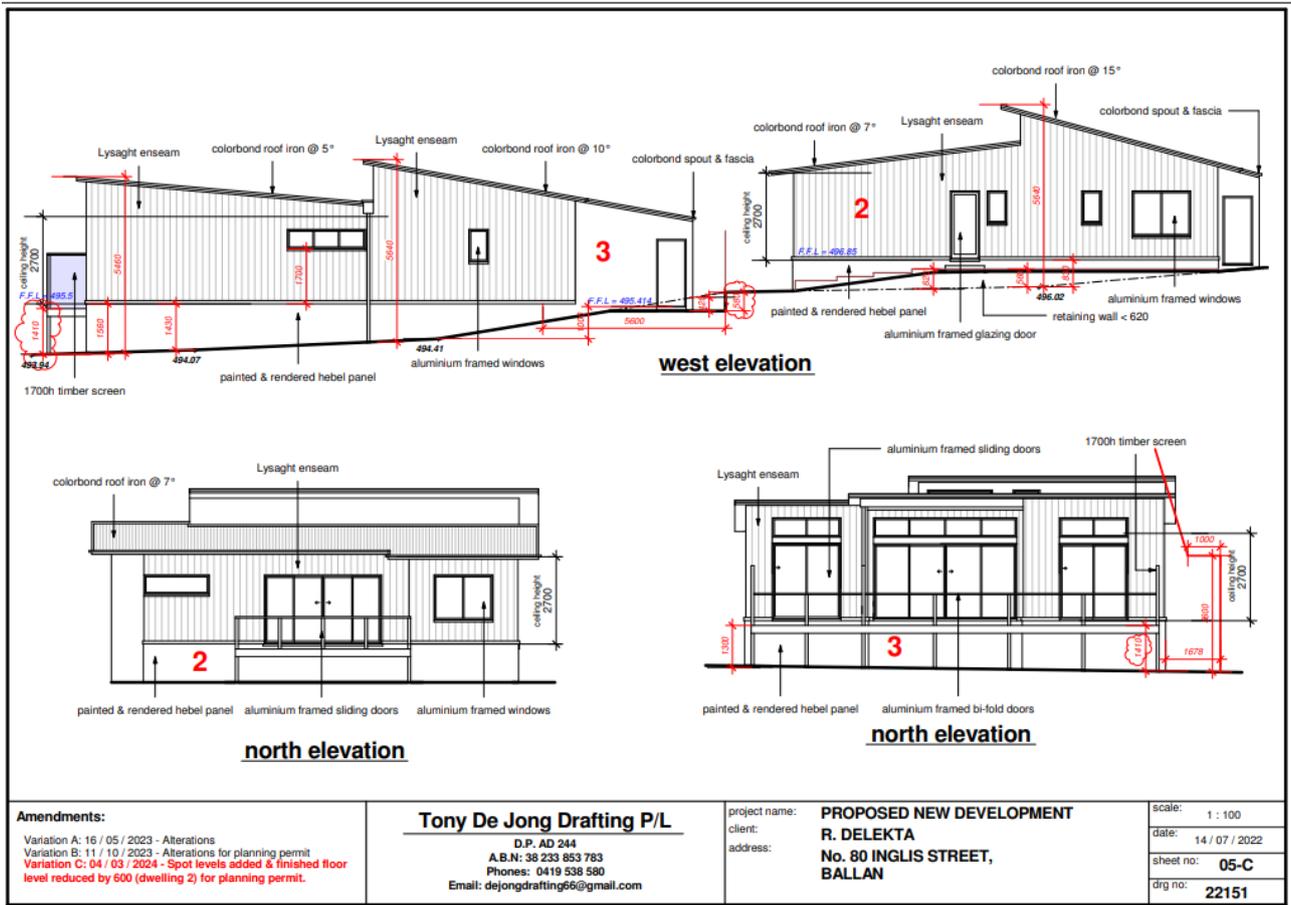
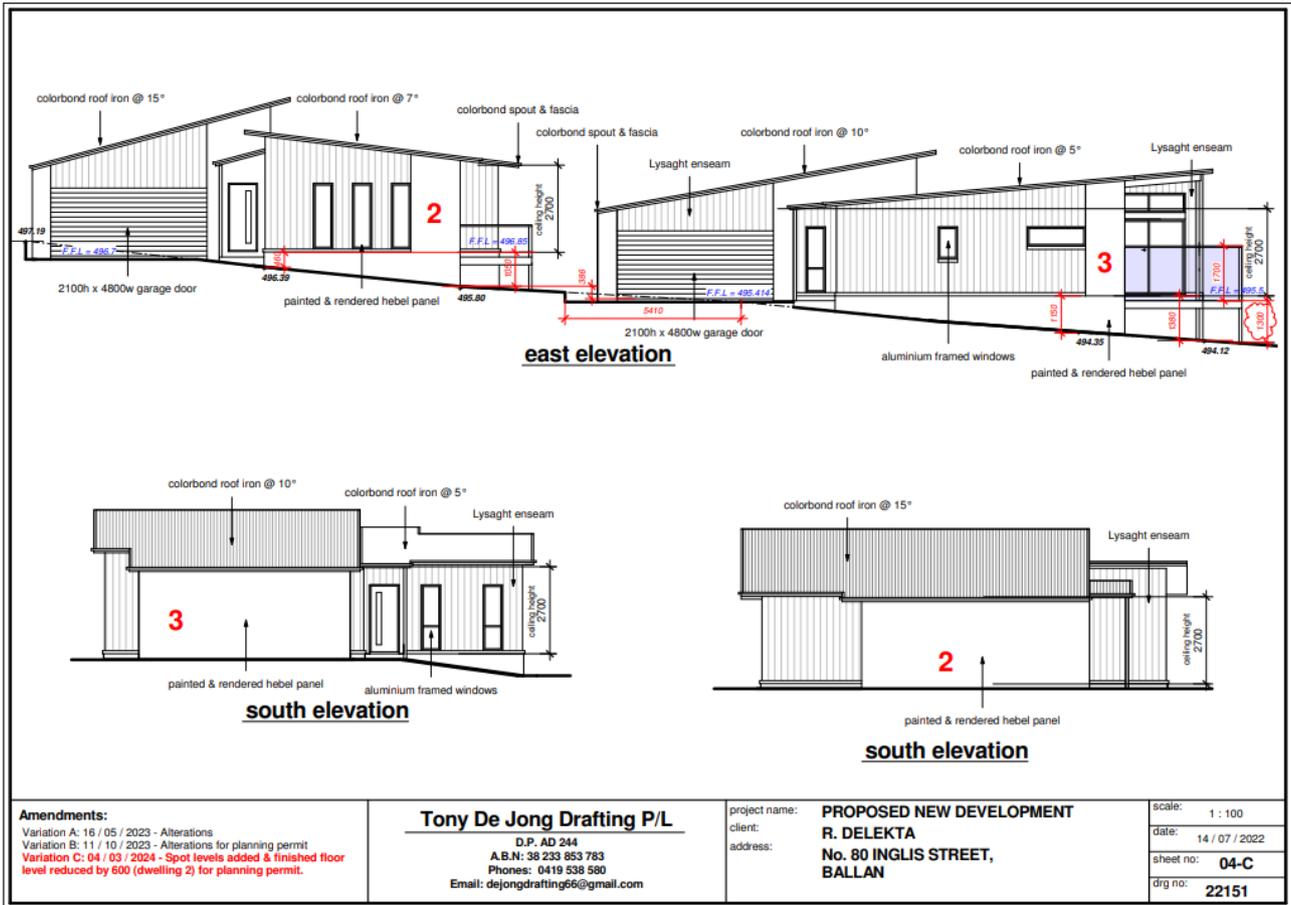


Figure 4: Elevation Plans (updated)

BACKGROUND TO CURRENT PROPOSAL

When the applicant submitted the initial proposal, concerns were identified regarding the private open space for the existing dwelling. The car parking space for the existing dwelling was initially going to be located between the rear existing dwelling and the front of proposed Dwelling 2. The existing shed in the north eastern corner of the property was going to be retained and aligned with Dwelling 3. Concerns were raised as the shed could potentially block daylight from entering the eastern side of Bedroom 1 of Dwelling 3. The initial plans had also showed the only window for Bedroom 3 being 600mm wide, limiting access to daylight and creating internal amenity concerns.

All of these concerns were discussed with the applicant onsite resulting in the submission of amended plans. These plans resulted in relocating the car parking space of the existing dwelling to its current on site location allowing more secluded private open space to be provided. The shed was removed from the plans and the addition of a skylight in Bedroom 3 included to allow more daylight into the room.

The application was then advertised with six objections received from neighbouring properties. Objections related to stormwater issues, integrity of retaining walls, increased height of the fence line and overlooking impacts from the proposed Dwelling 3.

A consultation meeting was undertaken between the applicant, objectors, and Planning officers. The applicant further amended the plans responding to the overlooking concerns by a providing a 540mm site cut for Dwelling 3 to allow lowering the deck height to 1.54m to reduce the overlooking concerns.

The Development Assessment Committee meeting held on 13 December 2023 determined to defer a decision on the basis lack of survey details on the plan. The applicant was directed to lodge a feature survey plan be prepared by a licensed surveyor showing the natural ground level pre construction and an updated development plan showing finished floor levels to the Australian Height Datum. This additional plan has now been submitted to enable a decision to be made.

HISTORY

PA2020289 – Two Lot Subdivision (Boundary Realignment) and Removal of Easement was approved 16 March 2021.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners and placing a sign on site.

SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Overshadowing impacts	Clause 55.04-5 – Overshadowing open space objective
Officer's Response: The shadow diagrams provided demonstrate that the impacts of shadowing on secluded private open spaces of neighbouring properties will be minimal. The secluded private open space at 26 Duncan Street will only be impacted by overshadowing at 9am which complies with the ResCode standard.	

Overlooking impacts	Clause 55.04-6 – Overlooking objective
Officer's Response: The proposal will include a timber screen along the edges of the deck of Dwelling 3. The applicant amended the proposal to reduce the height of the deck of Dwelling 3 through a 540mm site cut. This will limit views into the neighbouring properties. A further privacy screen to the northern side of the deck to Dwelling 3 will reduce the overlooking which complies with the overlooking standard of ResCode.	
Tree removal	
Officer's Response: The only trigger for vegetation removal under this overlay is the Environmental Significance Overlay Schedule 1. The only consideration under the Environmental Significance Overlay Schedule 1 for vegetation removal is the impact the removal may have on the water catchment. The catchment management authorities were notified and consent to the application, subject to standard conditions.	
Stormwater from the proposed dwellings can flow down and inundate the neighbouring dwellings to the north.	
Officer's Response: The applicant provided a Stormwater Management Plan. The plan is considered appropriate subject to conditions. It is noted there is no flooding for this property caused by discharge from the main drainage system or overland flows from natural watercourses.	
Structural integrity of the retaining wall.	
Officer's Response: Retaining walls are not a planning consideration. Retaining walls less than 1m in depth do not require a Building Permit. If walls exceed 1m in height, a building permit will need to be issued by a Private Building Surveyor in accordance with the Building Regulations.	

PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 11.01-1S – Settlement
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.01-1L-03 – Ballan
- 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 15.01-5S – 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 PPF and MPS.

ZONE

General Residential Zone Schedule 4

A planning permit is required under Clause 32.03-3 for residential subdivision. A planning permit under Clause 32.03-6 is also required for the construction of two or more dwellings on a lot.

OVERLAYS

Environmental Significance Overlay Schedule 1 and 2

A planning permit is required under Clause 42.01-2 for the removal of vegetation but not for the development as the proposed dwellings will be connected to reticulated sewer.

A planning permit is also required under Clause 42.01-2 for the subdivision of land.

Relevant Policies

None.

Particular Provisions

Clause 52.29 – Land Adjacent to Transport Road Zone 2

A planning permit is required to subdivide land adjacent to a road in a Transport Zone 2. The application was referred to the Department of Transport as the responsible main roads authority.

ResCode

The proposed dwellings and subdivision complies with all of the relevant ResCode standards (Clause 55 and 56 of the Moorabool Planning Scheme).

DISCUSSION

The proposed dwellings are single storey and located behind the existing dwelling. Having this low scale development will not compromise the character of the area. All dwellings will have a window facing the shared driveway running along the eastern side of the property. This promotes passive surveillance towards the driveway providing safety and security to the residents on each of the dwellings.

The applicant has been able to address some of the key concerns that were initially raised during the early stages of the application by providing a skylight in Bedroom 3 of Dwelling 3 and removing the existing shed on the property. These changes improve access to daylight and internal amenity.

The proposal takes advantage of the site and creating energy efficient dwellings by having the main living areas for both new dwellings to the north as well as providing north facing private open space thereby maximising solar access.

The grounds of objection related to issues regarding overshadowing, overlooking, stormwater issues and retaining wall integrity. It has been explained to the objectors during the consultation meeting that grounds such as stormwater design detail and construction of retaining walls are building permit considerations. The stormwater plan was approved by Council's Development Infrastructure on engineering detail. The applicant was willing to address the overlooking issues to

the properties to the rear by including a timber screening to the rear of Dwelling 3. Dwelling 3 has also been slightly lowered which in effect helps to further reduce potential overlooking impacts onto the secluded private open space to the neighbouring dwellings to the north. To further mitigate any potential overlooking, there will be a requirement to include an additional northern privacy screen with a maximum 25% opening while not adversely affecting the internal amenity to the rear proposed dwelling. The shadow diagrams provided in accordance with the equinox shows some overshadow impacts to parts of the neighbouring dwelling at 82 Inglis Street at 9am. The overshadowing of parts of the neighbouring dwelling impacts a small portion of the building and will not impact the secluded private open space of the neighbouring dwelling which is located further west of the property. The proposed does not adversely impact any adjacent property to the maximum requirement of this ResCode standard.

Many of the objectives in Clause 56 have been addressed in conjunction with the objectives in Clause 55. It can be added however that the subdivision pattern promotes lot diversity in the general area and provides increased housing densities closer to the Ballan town centre. The site is already connected to the infrastructure services and all lots will access an existing crossover.

There are trees on the property that are proposed to be removed to facilitate the development of the additional dwellings. Tree removal under the Environmental Significance Overlay Schedule 1 needs to consider the potentially impact on the water catchment. The water catchment authorities, Greater Western Water and Southern Rural Water only require standard sediment control condition for vegetation removal that is greater than 30m from a waterway.

As the proposal is adjacent to a Transport Road Zone 2, the application was referred through to the Department of Transport who have since consented to the application with conditions including that all vehicles must exit the site in a forward direction to allow safe egress from the site.

The proposed three lot subdivision will not pose any adverse threat to the nearby Werribee River to the north. Melbourne Water was notified of the applicant and have given consent with conditions.

The subdivision will result in a greater population with two additional dwellings on the land and the secluded private open spaces meeting the ResCode minimum standard will result in existing public open spaces being used more intensely. On this basis under Section 18 of the Subdivision Act the applicant will be required to make a 5% open space contribution prior to the issue of a Statement of Compliance.

Overall, the development and subdivision meets the requirement of the General Residential Zone and area an effective use of land within the established residential precinct with good access to public services.

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.
Southern Rural Water	Consent.
Central Highlands Water	Consent with conditions.
Melbourne Water	Consent with a condition.
Powercor	Consent with conditions.
Downer Utilities	No response provided.
Department of Transport	Consent with conditions.
Council's Development Infrastructure	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.

OPTIONS

- Issue a Notice of Decision to Grant a Planning Permit in accordance with the grounds in the recommendation of 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.

CONCLUSION

Overall, the proposal has undergone a number of amendments to have the dwellings demonstrate a high level of compliance with the ResCode standards and addresses some of the issues received from objectors.

The applicant has provided a feature survey plan (refer attachment) demonstrating sufficient details of surface levels to Australian Height Datum and allowing the elevation plans to be accurate and reflect the existing site conditions.

The proposed two new dwellings and three lot subdivision is generally in accordance with the relevant provisions of the Moorabool Planning Scheme and the objectives of the General Residential Zone Schedule 4 and the Environmental Significance Overlay.

It is recommended that the application be supported, and a permit be issued subject to conditions.

8 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS

Nil.

9 UPDATE ON VCAT DECISIONS

Nil.

10 OTHER BUSINESS

Nil.

11 DATE OF NEXT MEETING

Wednesday 15 May 2024.

12 MEETING CLOSE

The Meeting closed at 6.59pm.

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CHAIRPERSON