



AGENDA

Development Assessment Committee Meeting Wednesday, 14 December 2022

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

Date: Wednesday, 14 December 2022

Time: 6.00pm

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

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

Order Of Business

1	Opening	3
2	Present and Apologies	3
3	Recording of Meeting	3
4	Confirmation of Minutes	3
5	Matters Arising from Previous Minutes.....	3
6	Disclosure of Conflicts of Interests	3
7	Community Planning Reports	4
7.1	PA2021132 - Multi-Lot Staged Subdivision, Creation and Variation of Easements and Removal of Vegetation at 174 Mortons Road, Pentland Hills	4
7.2	PA2022092 - Development and Use of a Dwelling and Ancillary Shed at Tierneys Road, Dunnstown	42
7.3	PA2022117 - Development of a Residential Aged Care Facility, Associated Vegetation Removal and Reduction in Car Parking at 166 and 168 Inglis Street, 33 Cowie Street and 91 Simpson Street, Ballan	55
8	Update on VCAT Decisions.....	75
9	Other Business	75
10	Date of Next Meeting	75
11	Meeting Close	75

1 OPENING**2 PRESENT AND APOLOGIES****3 RECORDING OF MEETING**

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

4 CONFIRMATION OF MINUTES

Wednesday 16 November 2022.

5 MATTERS ARISING FROM PREVIOUS MINUTES**6 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.

7 COMMUNITY PLANNING REPORTS

7.1 PA2021132 - MULTI-LOT STAGED SUBDIVISION, CREATION AND VARIATION OF EASEMENTS AND REMOVAL OF VEGETATION AT 174 MORTONS ROAD, PENTLAND HILLS

Author: Jyoti Makan, Senior Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: 1. Proposed layout and slope analysis (under separate cover)

APPLICATION SUMMARY

Permit No: PA2021132

Lodgement Date: 22 June 2021

Planning Officer: Jyoti Makan

Address of the land: 174 Mortons Road Pentland Hills, Underbank Estate (Lot S7 on Plan of Subdivision 725408Y)

Proposal: Multi-lot staged subdivision, creation and variation of easements and removal of vegetation

Lot size: 117.3ha

Why is a permit required? Clause 32.08-3 - Subdivide land; Clause 42.01-2 – Building and Works within Environmental Significance Overlay Schedule 2; Clause 42.01-2 - Subdivide land; Clause 52.02 – Create or vary an easement; Clause 52.17 - Remove native vegetation

RECOMMENDATION

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue Planning Permit PA2021132 for a Multi-Lot Staged Subdivision, Creation and Variation of Easements and Removal of Vegetation at 174 Mortons Road, Pentlands Hills, subject to the following conditions:

Endorsed Plans:

1. Before the plan of subdivision is certified, 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. 2000150, Version No: 04, dated 09.06.21 prepared by Beveridge Williams and amended to show:
 - (a) The subdivision extending to the top of bank on the southern side of the tributary (north), creating a reserve for the tributary which extends a minimum of 40m from each side of the top of bank of the tributary to meet the requirements of the Development Plan endorsed under Development Plan Overlay – Schedule 6 (DPO6). Note: a larger reserve width may be required as a result of the updated Stormwater Management Strategy. Cross sections must be submitted to demonstrate that compliance with this condition is achieved.

- (b) The subdivision extending to the waterway of Korkuperrimul Creek, creating a minimum reserve width of 60m for Korkuperrimul Creek from the top of bank of the creek to meet the requirements of the Development Plan endorsed under DPO6. Cross sections must be submitted to demonstrate compliance with this condition.
 - (c) Any changes to plans required as a result of the revised Stormwater Management Strategy required to be approved under this Planning Permit.
 - (d) An amended staging plan that includes the waterway reserves detailed in Condition 1(a) and 1(b).
 - (e) Dimensioned plans which demonstrate that the stormwater treatment assets proposed in the Korkuperrimul Creek reserve area are located outside the 40m core riparian buffer area.
 - (f) The width of Road M (Mortons Road) to facilitate the required infrastructure for unimpeded flow of traffic, to be generally in accordance with the Infrastructure Design Manual and approved Underbank Development Plan.
 - (g) Complete cross-sections of all roads in compliance with Infrastructure Design Manual and Melbourne Water's conditions.
 - (h) Location, heights, and materials of all retaining walls.
 - (i) Amend the landscape masterplan in accordance with the Condition 16 set out in this Permit.
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.

Subdivision:

- 3. 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.
- 4. All staging must be provided in numerical sequence, unless otherwise agreed in writing by the Responsible Authority.
- 5. The plan of subdivision submitted for certification must include a creation of restriction. The wording of the creation of restriction shall be as follows:

Land to Benefit: All lots on this Plan.

Land to be Burdened: All lots above the 60dba acoustic noise buffer in accordance with the Acoustic Report, drafted by Marshal Day Acoustics, dated 8 April 2022 for Stages 24-26 of the Underbank Estate for Kataland Investments Pty Ltd. All individual lot numbers burdened by this restriction must be determined at the time of certification of the plan of subdivision in accordance with the *Subdivision Act 1988*.

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

Description of Restriction:

- (a) No development is permitted unless a suitably qualified Acoustic Engineer approves the building design to ensure the noise level is less than 60dba inside any dwelling prior to a building permit being issued as stated in the Acoustic report, drafted by Marshall Day Acoustics, dated 8 April 2022 for Stages 24-26 (Permit 2021132) of the Underbank Estate for Kataland Investments Pty Ltd.

6. All Infrastructure must be constructed in sequence and as identified for construction in the endorsed stage plans, unless otherwise agreed in writing by the Responsible Authority.
7. Prior to the issue of Statement of Compliance for each stage, engineering details of all retaining walls located on lot boundaries must be provided to incorporate their extension for a standard 1.8m fence. These engineering plans are to be supplied to each initial future lot purchaser.
8. Development staging must provide for the timely provision and delivery of:
 - (a) Connector streets.
 - (b) Street links between properties, constructed to the property boundary.
 - (c) Connection of the on-road and off-road pedestrian and bicycle network.
 - (d) Utility service substations, kiosk sites and the like must not be located on any land identified as public open space or land to be used for any municipal purpose unless otherwise agreed by the Responsible Authority.

Development Plan Overlay:

9. Prior to any works commencing on the land a Construction Management Plan must be prepared to the satisfaction and approval of the responsible authority, detailing how the developer will manage the environmental and construction issues associated with the development. The plan must address, but not be limited to the following:
 - (a) How the land is to be accessed during the construction period;
 - (b) All measures to be introduced to ensure that construction on the land does not impact on any vegetation to be retained;
 - (c) All measures to be introduced to minimise soil erosion and runoff;
 - (d) Details relating to the storage of all plant and equipment during the construction period; and
 - (e) Measures to be implemented to ensure the containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside of the site.
10. Developer contributions are required for the provision of infrastructure on the developable land. A condition must be provided requiring the payment of the development contribution in accordance with an agreement made with Moorabool Shire Council under section 173 of the *Planning and Environment Act 1987*.

Section 173 Agreement:

11. Before the statement of compliance is issued under the *Subdivision Act 1988* the owner must enter into an agreement with the responsible authority under Section 173 of the *Planning and Environment Act 1987*. The Agreement must state the following:
 - (a) The land developer under this permit must construct and maintain for a period of 24 months, Mortons Road to the satisfaction of the Responsible Authority, generally in accordance with the Infrastructure Design Manual and the approved Underbank Development Plan.
 - (b) Incorporate the staging of the construction of the extension of Mortons Road, to the satisfaction of the responsible Authority.

12. The landowner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.
13. The Owner and the Responsible Authority agree to do all things necessary to register a memorandum of this Agreement on the title of the land pursuant to Section 181 of the *Planning and Environment Act 1987*.

Telecommunications:

14. 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.
15. 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.

Landscaping:

16. Prior to the certification of the first stage in the subdivision, a landscape master plan for the area must be prepared by suitably qualified person, generally in accordance with Underbank Master Plan Park View dated 5 August 2022, taking into consideration the Underbank Development Plan, Stormwater Management Plan and Environmental Management Plan. The landscape master plan must be drawn to scale, submitted for approval to Melbourne Water and the Responsible Authority. The landscape masterplan must indicate all relevant concept layouts and sections/elevations, including but not limited to the following:
 - (a) Additional native species.
 - (b) Detail the revegetation areas and consideration for bushfire risks.
 - (c) A Landscape Design Statement addressing issues such as design intent; design principles; response to heritage and environment.
 - (d) A Landscaping Theming Document consisting of graphical concepts depicting the landscape character including the surface finishes and materials, fencing, retaining walls and planting palette.
 - (e) Tree protection plan showing all tree protection zones, critical root zones, heights

and dimensions relevant to the protected trees.

- (f) Tree removal plan showing all trees to be removed and its associated information.
- (g) The location of open space.
- (h) Entrance treatments and signage if applicable.
- (i) Site connectivity and relationship to existing context i.e., pedestrian paths, pram crossings, and any other infrastructure associated with the landscaping.
- (j) Provides specific detail relating to the recommended number of each species for revegetation, density of plantings, and location of the species (including the creeks).
- (k) Identify locations where seeds collected from all remaining Melbourne Yellow-gum are planted, in accordance with the recommendations in the Abzeco Biodiversity Assessment Ver. 3.0 dated August 2022.
- (l) Identify all hollows being retained or relocated which support habitats to retain and encourage wildlife.

When approved, the plan will be endorsed and will then form part of the permit.

17. Prior to the statement of compliance for the relevant stage, a detailed landscape plan, generally in accordance with the approved Landscape Master Plan, must be submitted for each stage and approved to the satisfaction of the Responsible Authority and Melbourne Water in accordance with Moorabool Shire Council's Landscape Design Manual and Melbourne Water's conditions. The landscape plan must show:

- (a) All new plantings, vegetation for retention and removal.
- (b) Street trees at the rate of one tree per lot frontage and one tree per lot sideage, with an approved species to the satisfaction of the Responsible Authority and in accordance with the Moorabool Shire's Landscape Design Manual, Street Tree Strategy and in accordance with functional layout plans and detailed design.
- (c) Tree protection zones complying with AS4970-2009 Protection Trees on Development Sites.
- (d) Public open space reserves including the location of playground equipment.
- (e) Any site services such as toilets/drinking fountains/lighting.
- (f) Locations, widths and materials of footpaths, bike paths and shared paths.
- (g) Associated safety signage.
- (h) Any landscape features and irrigation systems.
- (i) Details of planting in the areas adjacent to the waterways.
- (j) Planting solutions which are designed to respond to soil type and prevent erosion.
- (k) Details of vegetation removal in the areas adjacent to the waterways.
- (l) A maintenance regime to ensure the success of any planting.
- (m) Details of any waterway crossings and shared paths.

Landscape Completion:

18. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, or by any later date that is approved in writing by the Responsible Authority, the landscape works shown on the endorsed landscape plans must be carried out and completed to the satisfaction of the Responsible Authority and Melbourne Water and in accordance with Moorabool Shire Council's Landscape Design Manual.
19. Prior to the issue of a Statement of Compliance for the relevant stage, all the landscaping works and public features of the public open spaces with the shared accessway adjacent to the creek must be located and constructed to the satisfaction of the Responsible Authority and Melbourne Water.

Tree Protection Zones:

20. At all times during the development of the land, the trees identified for retention and within Tree Protection Zones 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.
21. Prior to the commencement of works, tree protection fencing must be erected around the Tree Protection Zone of all trees to be retained on or adjacent to works (including street trees) prior to the commencement of works. The fence must remain in place until all works are completed to the satisfaction of the Responsible Authority.
22. 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.
23. The retained vegetation within the fenced area must be established as a No-Go-Zone with appropriate signage, to prohibit the following, except with the written consent of the Responsible Authority:
 - (a) vehicular or pedestrian access;
 - (b) trenching or soil excavation;
 - (c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;
 - (d) entry and exit pits for underground services; and
 - (e) any other actions or activities that may result in adverse impacts to retained native vegetation.
24. Any encroachment into the Tree Protection Zone will condition a requirement to submit a Tree Management Plan as per AS4970-2009 to the satisfaction of the Responsible Authority.

Landscape Maintenance:

25. All landscaping and open space reserves created as part of any subdivision, must be maintained to the satisfaction of the Responsible Authority, as per the Landscape Design Manual, before the Council takes over maintenance responsibilities.

Open Space Delivery:

26. Prior to the issue of a Statement of Compliance of the relevant stage, all Open Space must be finished to a standard that satisfies the requirements of the Responsible Authority as per the adopted Landscape Design Manual prior to the transfer of the open space to Council.

Biodiversity:

27. All recommendations and management actions stated in the Kangaroo Management Plan drafted by Abzeco Report 11028 Version 1.0 dated November 2021, must be complied with to the satisfaction of the Responsible Authority.
28. Prior to commencement of works on the site, plant seeds collected from all remaining Melbourne Yellow-Gum within the subject site, in accordance with the recommendations in the Abzeco Biodiversity Assessment Ver. 3.0 dated August 2022.

Tree Removal Works:

29. Prior to any trees being removed on the site, all trees must be inspected and supervised by a qualified zoologist to ensure that any wildlife encountered is appropriately handled and relocated, in accordance with the ABZECO Biodiversity Assessment Ver. 1.2 dated March 2021.
30. Prior to any works commencing, the tree removal works, erosion conduction, tree protection zones, weed management, vehicle hygiene, fauna salvage and relocation must be conducted in accordance with approved landscape plans and to the satisfaction of the Responsible Authority.

Site Environmental Management Plan:

31. Prior to commencement of any works associated with a permit, a Site Environmental Management Plan (SEMP), in accordance with the Landscape Plans and Site Management Plan submitted with the application, must be prepared approved by the Responsible Authority and Melbourne Water and will then form part of the permit. The SEMP applies to all land works approved in this Permit up to where public land is handed over (and accepted) by the relevant authority and the remainder is completely in private ownership. This plan must include all relevant conditions set out by Melbourne Water in this Permit. This SEMP must include but not limited to the following:
- (a) Access to the site must always be made available for Council representatives to monitor the implementation of the SEMP.
 - (b) Prior to the commencement of works, contractors must be inducted into the SEMP and all flora and fauna conservation requirements.
 - (c) Prior to commencement of works, the works zone must be enclosed by secure and obvious temporary fencing. The work zone fence must remain in place until works are completed. Fill machinery and building materials must not be placed outside of the works zone.
 - (d) All litter and building waste must be contained on the site and must not be allowed to leave the site until the time it is correctly disposed of.
 - (e) Remnant trees that are being retained in public open space and reserves must have bollards placed around the Tree Protection Zone (as defined by Australian Standard AS4970). The area under the tree must be mulched and planted with appropriate

ground cover species to the satisfaction of the Responsible Authority.

- (f) All recommendations, protection and management conditions of the Cultural Heritage Management Plan (CHMP) 15876 approved by Wurundjeri Woi-wurrung must be complied with.
- (g) Identify locations where seeds collected from all remaining Melbourne Yellow-gum are planted, in accordance with the recommendations in the Abzeco Biodiversity Assessment Ver. 3.0 dated August 2022.

Weed Control:

- 32. Any weed infestations resulting from soil disturbance and/or the importation of sand, gravel and other material must be controlled during the construction period to ensure that there is no weed spread outside of the subject site to the satisfaction of the Responsible Authority.
- 33. Prior to the issue of a Statement of Compliance of the relevant stage, all noxious weeds and mulch on the land must be eradicated to the satisfaction of the Responsible Authority.

Operational:

- 34. Appropriate sediment controls to the satisfaction of the Responsible Authority must be in place during the entire construction phase to prevent sediment runoff into the creek.
- 35. All filling on the site must be carried out, supervised, completed and recorded in accordance with AS 3798 (Guidelines on earthworks for commercial and residential developments) to specifications to the satisfaction of the Responsible Authority.

Infrastructure:

- 36. 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.
- 37. 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 be 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) The drainage design must take into account any applicable drainage or flood management strategy.
38. Prior to works commencing for each stage a detailed Bulk Earthworks plan including erosion control treatments during, and post construction stages is to be submitted and approved by the Responsible Authority. The plan is to detail the treatments that will be implemented to control the erosion not only during the construction phase as well as post Statement of Compliance award to ensure that the erosion from the construction works is in line with the Infrastructure Design Manual.
39. Prior to the issue of the Detailed Design, the internal and external road network layout (including all associated infrastructure) must be designed and constructed to the standards detailed in the Infrastructure Design Manual, to the satisfaction of the Responsible Authority and generally in accordance with the approved Underbank Development Plan. A justification to the satisfaction of the Responsible Authority is to be provided to any variation/discrepancy to the Infrastructure Design Manual. In the event of a variation from the Infrastructure Design Manual is required, the landowner must provide a reasonable justification for the variation. The layout is to be in line with the Development Plan and to the satisfaction of the Responsible Authority.
40. Design computations for all road pavement construction, based on a geotechnical investigation of the site, must be prepared and submitted to the Responsible Authority for approval prior to the detailed design being issued.
41. Traffic management treatments must be provided in the form of Linemarking, signage, intersection upgrades external to the site as required and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority and approved prior to construction commencing.
42. Prior to the submission of the detailed design and certification of each stage, Functional Layout plans are to be submitted and approved by the Responsible Authority. Following the approval of the Functional Layout plans by the Responsible Authority, a submission can be made to Council for the Detailed Design. The submission is to include but not limited to all construction issued plans in line with the Infrastructure Design Manual, all appropriate reports and investigations, a completed checklist from the infrastructure design manual and any other documents/information to support the Detailed Drainage design.
43. 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.
44. An Environmental/Construction Management Plan for the construction works must be submitted to the and approved by the Responsible Authority prior to the commencement of construction. All works must be performed in accordance with the approved
-

Environmental/Construction Management Plan. The Environmental/Construction Management Plan shall include (but not limited to the following items):

- (a) Details of Site security.**
 - (b) Off Street parking for employees and site access for construction vehicles and equipment.**
 - (c) Public safety in the event that the construction site is adjacent to public active areas.**
 - (d) Provisions for loading and unloading.**
 - (e) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site.**
 - (f) Details of management of storm water run-off and the proposed sediment and erosion control measures including the location of any rubble grids.**
 - (g) Details of any air and dust management.**
 - (h) Details of noise and vibration controls.**
 - (i) Provision of Traffic Management Plan and Traffic Control Plans.**
 - (j) Proposed start and completion time of construction activities including the delivery of material to site.**
- 45. 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).**
- 46. No work shall commence onsite until all approvals are obtained by the relevant authority. The approvals include, but not limited to:**
- (a) Detailed Designs in the form of Stamped for Construction Plans.**
 - (b) Approved Environmental / Construction Management Plan.**
- 47. A copy of all approved documents must be kept onsite at all times and consent from the relevant authority is required for any departure to the approvals. Works are to be carried out in line with the endorsed documents and no works are to occur onsite which do not comply with the endorsed documents.**
- 48. Prior to the issue of Statement of Compliance for each stage, 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.**
- 49. Street names and street signs must be provided to the satisfaction of the Responsible Authority.**
- 50. Prior to the issue of a Statement of compliance for each stage of the subdivision, the developer must pay:**
- (a) 0.75% of the total estimated cost of works for the checking of engineering plans associated with that stage of the development.**
 - (b) 2.5% of the total estimated cost of works for the supervision of works associated**
-

with that stage of the development.

- (c) The fees are to be determined based on the requirements as specified within the Infrastructure Design Manual and the *Subdivision Act 1988*.

51. Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, after all engineering works pertaining to the stage have been completed in accordance with the approved plans, the following “as constructed” details must be submitted in the specified format and approved by the Responsible Authority:
 - (a) Drainage construction details in “D-Spec” format.
 - (b) Roadworks construction details in “R-Spec” format.
 - (c) Open space details in “O-Spec” format.
 - (d) As built plans clearing detailing any changes from the as approved drawings.
 - (e) CCTV for all stormwater drainage infrastructure.
 - (f) All relevant test results, including but not limited to, compaction test of each road layer, compaction test of earthworks and certificates for the soil used.
52. Upon the completion of all works as approved by the relevant authority for each appropriate stage, a minimum of seven days’ notice is to be provided to the relevant authority for the purpose of organising an on-maintenance inspection.
53. All road, drainage and infrastructure works must be maintained in good condition and repair for a minimum of three months after completion of the works, to the satisfaction of the Responsible Authority.
54. Prior to the issue of a Statement of compliance for each stage of the subdivision, a security deposit of 5% of the total value of engineering works for that stage as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, three months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.
55. Prior to landscaping works being undertaken and prior to the issue of Statement of Compliance, a landscaping plan must be submitted to the satisfaction of the Responsible Authority. Landscaping within the development must be provided in accordance with this approved landscape plan, to the satisfaction of the responsible authority. All landscape plans and associated works must comply with Moorabool Shire’s Landscape Design Manual.
56. Street trees must be provided at approved locations in all internal roads of the subdivision at a rate of one tree per lot frontage and one tree per lot frontage, 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.
57. Street trees and 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.
58. A security deposit equal to 150% of the cost of planting street trees and landscaping must be lodged with the Council. The deposit will be returned after the final inspection of street trees, 24 months after the completion of planting of the trees, only if Council requires no

further maintenance of the trees to be undertaken.

59. Prior to the issue of a Statement of Compliance for the last stage, the extension to Mortons Road must be constructed to the satisfaction of the Responsible Authority, in accordance with the endorsed plans and executed Section 173 Agreement.

Risk Assessment – Geotechnical:

60. Prior to works commencing for any stage, all recommendations contained in the Geotechnical Assessment prepared by Tonkin and Taylor Pty Ltd dated June 2020 must be complied with.

Cultural Heritage Management Plans:

61. Prior to works commencing on any stage in the subdivision, the Cultural Heritage Management conditions stipulated in the approved Cultural Heritage Management Plan (CHMP) 15876 prepared by Heritage Insight, dated 14 June 2019, must be complied with. Failure to comply with the CHMP conditions is an offence under Section 67A of the *Aboriginal Heritage Act 2006*.
62. A copy of the CHMP must be held on site at all times. Section 2.6 – Compliance checklist of the CHMP AV Management Plan Number: 15876 must be verified by the site manager.

Melbourne Water:

63. Prior to the endorsement of any plans, amended plans to the satisfaction of Melbourne Water and the Responsible Authority must be submitted to and approved by Melbourne Water and the Responsible Authority. The plan must be generally in accordance with the Indicative Subdivision and Staging Plan, Version 04 but modified to show:
- (a) The subdivision extending to the top of bank on the southern side of the tributary (north), creating a reserve for the tributary which extends a minimum of 40m from each side of the top of bank of the tributary to meet the requirements of the Development Plan endorsed under Development Plan Overlay – Schedule 6 (DPO6).
- Note: A larger reserve width may be required as a result of the updated Stormwater Management Strategy. Cross sections must be submitted to demonstrate that compliance with this condition is achieved.
- (b) The subdivision extending to the waterway of Korkuperrimul Creek, creating a minimum reserve width of 60m for Korkuperrimul Creek from the top of bank of the creek to meet the requirements of the Development Plan endorsed under DPO6. Cross sections must be submitted to demonstrate compliance with this condition.
 - (c) Any changes to plans required as a result of the revised Stormwater Management Strategy required to be approved under this Planning Permit.
 - (d) An amended staging plan that includes the waterway reserves detailed in (a) and (b).
 - (e) Dimensioned plans which demonstrate that the stormwater treatment assets proposed in the Korkuperrimul Creek reserve area are located outside the 40m core riparian buffer area.
64. Unless otherwise approved in writing by Melbourne Water, prior to the certification of the first stage of the subdivision, a detailed design of Korkuperrimul Creek and Tributary (north) must be submitted to and approved by Melbourne Water and the Responsible Authority. The design must include:

- (a) detail design of road crossing and transition areas of both Tributaries (South and North) that addresses the risk of gully head erosion migration up the tributaries from Korkuperrimul Creek and the road crossings themselves.
- (b) The safe removal/decommissioning of all existing farm dams within Tributary (North).
- (c) That address the issues of waterway incision, bank erosion, piping and dispersity of the soils.
- (d) Detail construction landscape plans for the rehabilitation of the corridors that includes the management and removal of weeds and revegetation with local indigenous plant species.
- (e) Solution and recommendations for the erosional gullies identified in the Geotechnical Report.
- (f) Confirmation of top of bank.
- (g) Confirmation suitable setbacks have been adopted for the development to be protected from erosion within the drainage corridors.

All to the satisfaction of Melbourne Water and the Responsible Authority. Guidance can be found at <https://www.melbournewater.com.au/building-and-works/apply-build-or-develop/drainage-design-review-and-acceptance>.

65. Prior to the certification of the first stage of the subdivision and following detailed design of Korkuperrimul Creek and the Tributary (north), an amended Surface/Stormwater Management Strategy (SWMS) generally in accordance with the Surface/Stormwater Management Strategy and Geomorphic Assessment: Underbank Farm, Parkview Precinct. Korkuperrimul Creek, Kataland Group, Alluvium, January 2022 must be submitted to and approved by Melbourne Water and the Responsible Authority. The SWMS must include:
- (a) Outcomes of the detailed design of Korkuperrimul Creek and its tributaries.
 - (b) Detailed design for the rock chutes.
 - (c) Further detail of the treatments designed to retard flows within the development to ensure that waterways are not eroded; and must include timing for the delivery of works linking back to the staging of the subdivision.
 - (d) A Sediment Transport Control Study which assesses the catchment area associated with the proposed development area, including the Korkuperrimul Creek catchment, to demonstrate functionality; and which details the maintenance regime for the ponds to ensure their ongoing functionality to protect the quality of the receiving waterway. The study should also detail any methods required to prevent sediment from degrading the instream habitat reaching the Werribee River. The delivery of any required works should link back to the staging of the subdivision.
 - (e) Details of a design solution for the connection of tributaries to Korkuperrimul Creek, demonstrating that the proposed design takes into account factors such as the angle of entry, flow velocity and erosion protection/bank stability; and timing for delivery of works, linking back to the staging of the subdivision.
 - (f) Detailed designs and erosion report of the Korkuperrimul Creek, including waterway stabilisation design and its tributaries associated with this subdivision. The design plans should include mitigation details for issues like waterway incision, side channel

incision/propagation, bank erosion and piping. The designs should provide a solution and recommendations for the erosional gullies identified in the Geotechnical Report and confirm that suitable setbacks have been adopted for the development to protect from erosion. The timing for delivery of works should link back to the staging of the subdivision.

- (g) Further details about the fill shown in Figure 19 and consideration given to the major flows planned to sheet flow over the roads towards the south-eastern side of the development, including details of any mitigation measures required to manage flows to ensure that there is no damage to the creek through erosion. The timing of works must link back to the staging of the subdivision.
- (h) Consideration of the major sheet flows over the new roads and towards Korkuperrimul Creek at the south-eastern side of the subdivision and details of how these flows will enter the creek without erosion or damage occurring. The timing for the delivery of any works should link back to the staging of the subdivision.
- (i) Specification of ownership and future maintenance responsibilities of any drainage assets vested with Council.
- (j) A summary of works to be constructed within Korkuperrimul Creek and Tributary (North) as part of the development permitted by this permit.
- (k) Details of the stormwater runoff from the subdivision and how the development will 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.

When approved, the SWMS must be approved under the Planning Permit and the SWMS must be implemented to the satisfaction of Melbourne Water and the Responsible Authority.

66. Prior to the certification of the first stage of the subdivision, an amended Landscape Master Plan to the satisfaction of Melbourne Water and the Responsible Authority must be submitted to and approved by Melbourne Water and the Responsible Authority. The Landscape Master Plan must be generally in accordance with the Landscape Master Plan, Underbank, Park View issued 5 August 2022 but modified to show:
- (a) the location of the shared path and crossing as it affects Korkuperrimul Creek;
 - (b) the location of stormwater quality treatment assets located in the waterway corridor areas, noting that Melbourne Water will not accept stormwater quality treatment assets in the 40m core riparian buffer of Korkuperrimul Creek;
 - (c) concepts for the treatments of the riparian environment adjacent to Korkuperrimul Creek, extending to the waterway of Korkuperrimul Creek to show how the environmental values of the waterway will be improved and enhanced, as required by the Development Plan endorsed under DPO6;
 - (d) concepts for the treatment of the riparian environment for the Tributary (north), extending to the entirety of the reserve area shown on the endorsed plans, demonstrating how the environmental values of the waterway will be improved and enhanced, as required by the Development Plan endorsed under DPO6; and
- all to the satisfaction of the Responsible Authority and Melbourne Water.

67. Prior to certification of the first stage of the subdivision, a program of works within Korkuperrimul Creek and Tributary (north) against each stage of the subdivision must be submitted to and approved by Melbourne Water and the Responsible Authority. When approved, the plan will form part of this permit and must be implemented to the satisfaction of Melbourne Water and the Responsible Authority.
68. Prior to the certification of each stage of the subdivision, a detailed landscape plan for that individual stage, generally in accordance with the endorsed Landscape Master Plan must be submitted to and approved by the Responsible Authority and Melbourne Water. The plans must show:
- (a) details of planting in the areas adjacent to the waterways;
 - (b) planting solutions which are designed to respond to soil type and prevent erosion;
 - (c) details of vegetation removal in the areas adjacent to the waterways;
 - (d) a maintenance regime to ensure the success of any planting;
 - (e) details of any waterway crossings and shared paths; and
- all to the satisfaction of Melbourne Water and the Responsible Authority.
- Note: further approval is required from Melbourne Water for waterway crossings design and construction.
69. Unless otherwise approved in writing by Melbourne Water, prior to the issue of a Statement of Compliance for each stage of the subdivision, the landscaping works shown in the waterway corridors on the endorsed landscape plan must achieve Practical Completion.
- Note: An inspection by Melbourne Water must be arranged to verify that this condition has been met.
70. Prior to the issue of a Statement of Compliance for the first stage of the subdivision a Weed and Pest Management Plan to the satisfaction of Melbourne Water and Responsible Authority must be submitted to and approved by Melbourne Water and the Responsible Authority. When approved, the plan will form part of this permit and must be implemented to the satisfaction of Melbourne Water and the Responsible Authority. The plan must detail for the reserves of Korkuperrimul Creek and Tributary (north):
- (a) a site plan that identifies weeds and pest animals, predominantly rabbits and feral cats, present on the site;
 - (b) a weed list, including species listed by common and scientific names;
 - (c) methods of control for each species;
 - (d) timing of control linked to staging of the subdivision;
 - (e) frequency of control;
 - (f) weed management techniques to be undertaken prior to the handover of the reserve;
 - (g) measures to be put in place where there is large scale removal of weeds required to be undertaken and importation of topsoil to allow the riparian environment to be improved and enhanced as shown on the Landscape Master Plan. Measures should include management of sediment and erosion;

- (h) recommended weed management regime for a three-year period following handover of the reserve;
- (i) a pest list;
- (j) monitoring techniques for pests;
- (k) timing of pest management and control linked to the staging of the subdivision;
- (l) recommended pest management techniques for a three-year period following handover of the reserve; and

all to the satisfaction of Melbourne Water and the Responsible Authority.

- 71. Prior to the issue of a Statement of Compliance for each stage of the subdivision, the weed and pest management activities identified in the Weed and Pest Management Plan must be completed to the satisfaction of Melbourne Water and the Responsible Authority. Note: An inspection by Melbourne Water must be arranged to verify that this condition has been met.
- 72. Prior to the issue of a Statement of Compliance for each stage of the subdivision, all new lots must be filled to a minimum of 600mm above the 1% AEP year flood level associated with an existing or proposed Melbourne Water waterway to the satisfaction of Melbourne Water. A certified survey plan, prepared by a licensed land surveyor, must be submitted to Melbourne Water to demonstrate that the land has been filled in accordance with Melbourne Water's requirements including the provision of the associated waterway 1% AEP flood levels.
- 73. Prior to certification of each stage of the subdivision, the permit holder must enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from that relevant stage of subdivision 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.
- 74. Unless otherwise approved in writing by Melbourne Water, prior to the issue of a Statement of Compliance for each stage of the subdivision, all conditions contained in the Works Offer/ Non- Works Offer must be completed to the satisfaction of Melbourne Water.
- 75. Prior to the issue of a Statement of Compliance for each stage of the subdivision, the permit holder may lodge an incomplete works bond, cash bond or bank guarantee, for the value of any unconstructed works and landscaping; the value of the bond is to be to the satisfaction of Melbourne Water and such bond or bank guarantee will only be refunded or discharged as per Melbourne Water's Security and Retention for Developer Instigated Works Policy.
- 76. Prior to the issue of a Statement of Compliance for the relevant stages, approval must be obtained from Melbourne Water for any new or modified storm water connection to Melbourne Water's drains or watercourses: <https://www.melbournewater.com.au/building-and-works/apply-to-build-or-develop/stormwater-connection>
- 77. Prior to certification for the first stage of the subdivision a Site Environment Management Plan (SEMP) prepared by a suitably qualified professional must be submitted to and approved by Melbourne Water and the Responsible Authority. The SEMP must include:
 - (a) detailed pollution and sediment control measures which ensure that pollution and

sediment laden runoff is not discharged directly or indirectly into Melbourne Water's drains or waterways;

- (b) vegetation management techniques;
- (c) access tracks;
- (d) spoil stockpiling;
- (e) machinery/ plant locations;
- (f) exclusion fencing around native vegetation and habitat; and

all to the satisfaction of Melbourne Water and the Responsible Authority.

When approved, the SEMP will be endorsed under the planning permit and all works during the construction phase must be undertaken in accordance with the SEMP to the satisfaction of Melbourne Water and the Responsible Authority.

Greater Western Water:

- 78. Payment of new customer contributions for each lot created by the development, such amount being determined by Greater Western Water at the time of payment.
- 79. Provision of reticulated water mains and associated construction works to front each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Greater Western Water.
- 80. Any existing water service which crosses any of the proposed allotment boundaries within the proposed development must be disconnected and relocated at the developer's expense, to be wholly within one allotment only and to the satisfaction of Greater Western Water.
- 81. Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of Greater Western Water.
- 82. The owners shall reach an agreement with Greater Western Water regarding the construction of any Shared Assets (potable water mains that are greater than 150mm diameter and gravity sewerage mains that are greater than 225mm diameter), required to service the subdivision/development.
- 83. Provision of easements in favour of Greater Western Water over all existing and proposed sewer mains located within private property. The easement shall be 3m wide for combined sewer and drainage easements and 2.5m wide for dedicated sewerage easement.
- 84. Pursuant to Section 36 of the *Subdivision Act 1988*, Greater Western Water considers that for the economical and efficient subdivision and servicing of the land covered by the Application for Permit it requires the owner of the land to acquire an easement over other land in the vicinity, namely, any land not owned by the Developer through which sewerage extension servicing the development is to be located. The easements created shall be in favour of Greater Western Water.
- 85. The developer must produce for approval by Greater Western Water an Integrated Water Management Plan (IWMP) that incorporates water efficiency measures and water-sensitive urban design techniques that reduce reliance on potable water by increasing utilisation of fit for-purpose alternative water supplies.

86. The IWMP must set out subdivision outcomes that appropriately respond to the site and its context for integrated water management to the satisfaction of Western Water. When approved by Western Water, the IWMP must be endorsed and form part of the permit.
87. Prior to Certification of the Plan of Subdivision Developer Design Guidelines must be submitted to Council for approval and endorsement. Any requirement for a rainwater tank at an individual lot level must be included and mandated within the endorsed Developer Design Guidelines.
88. The operator under this permit must enter into an Agreement with Greater Western Water relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Greater Western Water. The owner/applicant shall make a written request to Greater Western Water for the terms and conditions of the agreement.
89. All contractors engaged on construction of the Subdivision Infrastructure obtain a Water Carters Permit from Greater Western Water and comply with that permit at all times. The permit will include a requirement for the Water Carter Permit holder to:
 - (a) own a metered hydrant approved by Western Water;
 - (b) meter and pay for all water taken;
 - (c) display a Western Water Permit Number Sticker on the tanker;
 - (d) only take water from nominated hydrants or standpipes;
 - (e) only use water for the purpose approved in the Water Carters Permit;
 - (f) avoid wastage of water on site; and
 - (g) comply with any water restrictions imposed by Western Water at the time water is used.

For the purpose of this condition, Subdivision Infrastructure includes new and alterations to existing: roads; drains; water mains, sewer mains; power supply; telephone; gas; and any other services infrastructure required by this permit and dust suppression during construction of the same.

Notwithstanding the above, a Water Carters Permit is not required if the permit holder and contractors engaged by the permit holder can demonstrate to the satisfaction of Greater Western Water that water is not required from Greater Western Water's town water supply systems to construct Subdivision Infrastructure as defined above.

PowerCor:

90. 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.
91. 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.

92. 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.

93. 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.

94. 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 Width (Metres) Origin Land Benefited / In Favour Of Power Line Section 88 - *Electricity Industry Act 2000* Powercor Australia Ltd.

Transport for Victoria:

95. Cross Sections for roads identified as potential bus routes must be in accordance with the approved cross sections within the Underbank Development Plan. Any alteration to the approved cross sections in the Underbank Development Plan must be referred to the Head, Transport for Victoria for approval.
96. Any roundabouts constructed on roads designated a future public transport route within the subdivision, must be designed to accommodate ultra-low floor buses, to the satisfaction of the Head, Transport for Victoria.
97. Intersections, slow points, splitter islands and any other local area traffic management treatments must be designed and constructed in accordance with the Public Transport Guidelines for Land Use and Development. The use of speed humps, raised platforms, one-way road narrowing and 'weave points' must not be constructed on any portion of a road identified as a potential bus route.

Department of Transport:

98. Prior to any stage of subdivision being issued with Statement of Compliance, an acoustic fence must be erected generally in accordance with the acoustic report prepared by Marshall Day dated 8 April 2022 (Report number 001 2022050). This acoustic fence must:
- (a) be designed, independently proof engineered and constructed:
 - i. by entities prequalified to an appropriate level in VicRoads' qualification scheme;
 - ii. to the satisfaction of and at no cost to the Head, Transport for Victoria; and
 - (b) Be shown, by means of architectural drawings and engineering specifications, to have a design life of at least 40 years.
99. Plans for the proposed acoustic fence must be first submitted to the Head, Transport for Victoria for approval.

Downer:

- 100. The plan of subdivision submitted for certification must be referred to AusNet Gas Services in accordance with Section 8 of the *Subdivision Act 1988*.**

Department of Environment Land Water and Planning:

- 101. The native vegetation permitted to be removed, destroyed or lopped under this permit is hectares of native vegetation, which is comprised of:**
- (a) 1.631ha of native vegetation with a strategic biodiversity value of 0.508;**
 - (b) 14 scattered large trees; and**
 - (c) four scattered small trees.**
- 102. To offset the removal of 1.631ha 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) A general offset of 0.490 general habitat units must:**
 - (i) be located within the Port Phillip and Westernport Catchment Management boundary or Moorabool municipal area; and**
 - (ii) have a minimum strategic biodiversity value of at least 0.406.**
 - (b) The offset(s) secured must also protect 14 large trees.**
- 103. Before the issue of a Statement of Compliance, evidence that the required offset by this permit or for each stage of the subdivision has been secured must be provided to the satisfaction of Moorabool Shire Council. 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.**
- 104. A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit.**
- 105. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Grampians.planning@delwp.vic.gov.au.**
- 106. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.**
- 107. Before works start, a plan to the satisfaction of the Moorabool Shire Council identifying all native vegetation to be retained and describing the measures to be used to protect the identified vegetation during construction, must be prepared and submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will form part of this permit. All works constructed or carried out must be in accordance with the endorsed plan.**
- 108. Except with the written consent of the Moorabool Shire Council, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the**

permitted use and/or development, the following is prohibited:

- (a) vehicular access;
- (b) trenching or soil excavation;
- (c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;
- (d) entry and exit pits for the provision of underground services; and
- (e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Country Fire Authority (CFA):

109. The subdivision as shown on the Plan of Subdivision must not be altered without the consent of CFA.

110. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:

- (a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120m and the hydrants must be no more than 200m apart. These distances must be measured around lot boundaries.
- (b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority. Note –CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site (www.cfa.vic.gov.au)

111. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- (a) The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50m. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
- (b) Curves must have a minimum inner radius of 10m.
- (c) Have a minimum trafficable width of 3.5m and be clear of encroachments for at least 0.5m on each side and 4m above the access way.
- (d) Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

Permit Expiry:

112. This permit will expire if:

- (a) the first stage of the plan of subdivision is not certified within two years of the date of issue of the permit; and
- (b) each subsequent stage is not certified within two years of the date of certification of the previous stage.

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

Permit Notes:

Greater Western Water:

Where the land is to be developed in stages, Greater Western Water conditions apply to any subsequent stage of the estate development. However, as any future stages of the development will be connected to Western Water's water supply and sewerage systems independently of this stage, Western Water reserves the right to revise any conditions applicable to any subsequent stages lodged.

DELWP

Before any works on public land start, a permit to take protected flora under the *Flora and Fauna Guarantee (FFG) Act 1988* may be required. An application can be completed on Application to Take Protected Flora. To obtain an FFG permit or further information, please contact a Natural Environment Program officer in the Grampians Region at grampians.environment@delwp.vic.gov.au.

Before any works start, the applicant must comply with applicable Commonwealth, State and local legislation, regulations and permits.

Department of Transport

Prior to the works commencing, the applicant must enter into a works agreement with the Department of Transport confirming design plans and works approvals processes, including the determination of fees, ongoing (10 year) maintenance fee for the noise wall and the level of the Department of Transport's service obligations.

PUBLIC CONSULTATION	
Was the application advertised?	No exempt from notice provisions as the proposal is generally in accordance with the approved Underbank Development Plan.
Notices on site:	No.
Notice in Moorabool Newspaper:	No
Number of objections:	n/a
Consultation meeting:	n/a

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**

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 – Jyoti Mekan

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

EXECUTIVE SUMMARY

Application referred?	The application was referred to all relevant authorities as specified in the referrals section of this report.
Any issues raised in referral responses?	Stormwater management, flooding, safety of creeks and landscaping, road alignment, density.
Preliminary concerns?	Setbacks of development from the creeks, slope and density, northern road alignment from the proposed noise wall.

Any discussions with applicant regarding concerns?	Several meetings took place with the applicant and developer to ensure that the best possible design outcome will be achieved.
Any changes made to the application since being lodged?	Several changes were made to the plans by changing lot sizes, realignment and orientation of lots, permeability through the road network including a road along the northern boundary, setbacks from the escarpment to avoid erosion.
Brief history.	This super lot was created as 8 December 2017 known as Lot S7 and comprises of the remaining land within Underbank Estate. The current subdivision will create new lots within part of the super lot.
Previous applications for the site?	Yes, there have been previous subdivisions associated with the earlier stages of Underbank Estate.
General summary.	The proposed subdivision is located in the Underbank Estate and will be known as the Parkview Precinct located directly south of the Western Freeway and East of Mortons Road. The site is divided by Korkuperrimal Creek.
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, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i> , issue Planning Permit PA2021132 for a Multi-Lot Staged Subdivision, Creation and Variation of Easements and Removal of Vegetation at 174 Mortons Road, Pentlands Hills, subject to the recommendations stated in this report.	

SITE DESCRIPTION

The site was originally known as 174 Mortons Road, Pentland Hills and comprises several land parcels. The site has been previously subdivided for residential precincts associated with the Underbank Estate. The proposed subdivision falls within Lot S7 (Part) in Plan of Subdivision 725408Y which comprises the balance of land yet to be subdivided for the Underbank Estate. Land within Lot S7 has been cleared of previously existing agricultural buildings in preparation for the future development of the site, with the land previously associated with agricultural purposes. Lot S7 has access points to the north and south eastern boundaries, comprising of made and informal roads. Vegetation within Lot S7 is located generally to the creek banks and along ridges. The topography of the site is undulating, with steep slopes of up to 20% around ridgelines. Land within the proposed subdivision area contains slopes ranging from 2% to 20%.

PROPOSAL

The proposal includes a staged multi lot subdivision, consisting of six stages from Stage 24 to Stage 29. The total number of lots proposed is 141 supported by a road network, reserve and open space in a precinct area of 20.65ha. The proposed average lot size is 589sqm which totals to 10.8 lots per hectare. The proposal includes the creation of reserves, easements and restrictions. The subdivision will connect via 16m wide streets. All roads are proposed to accommodate on-street parking, treed nature strips and pedestrian paths.

The proposal includes the creation of easements in the future as part of servicing connection and development of the site.

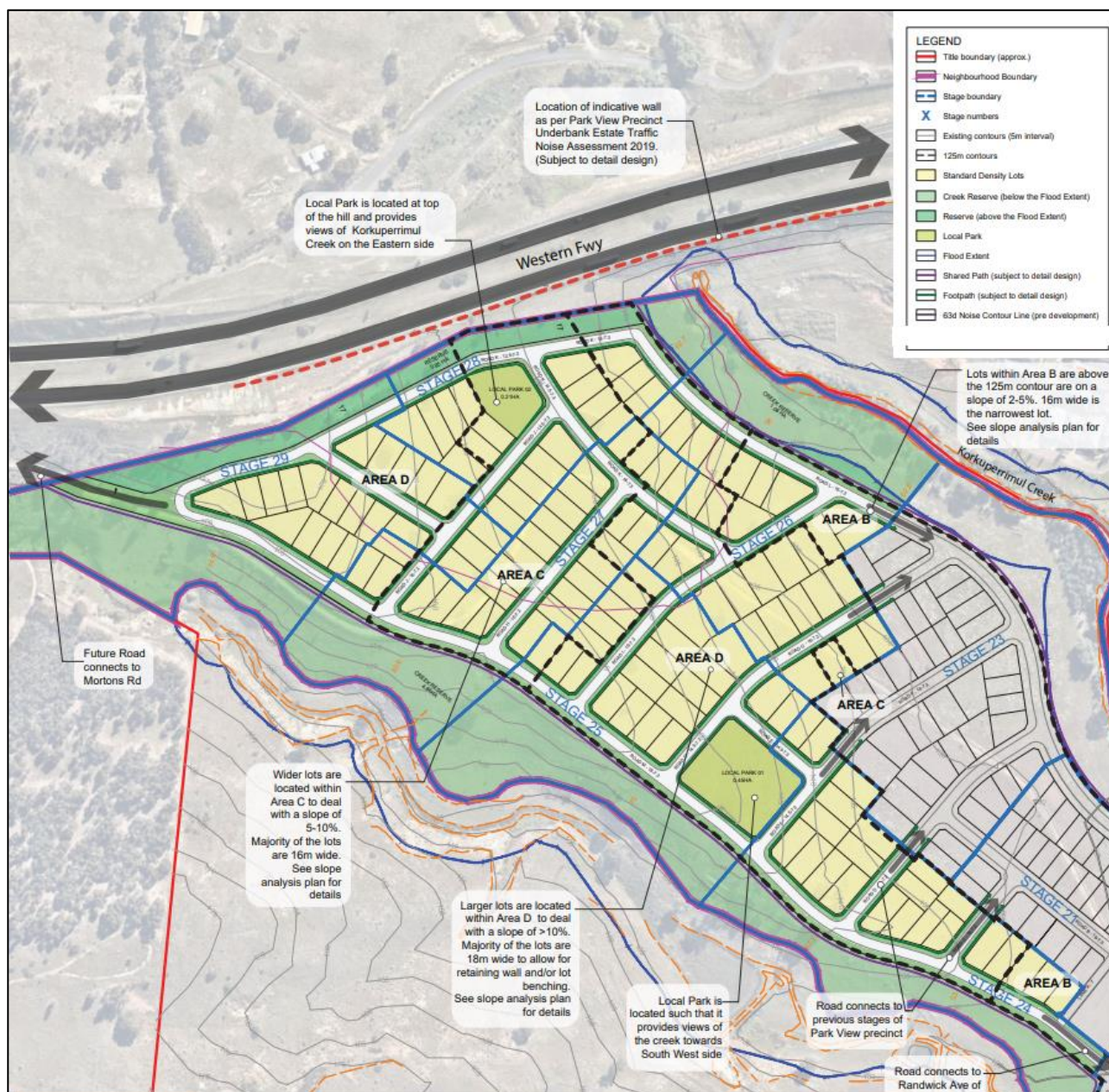


Figure 1: Proposed layout

BACKGROUND TO CURRENT PROPOSAL

The application was lodged on 22 June 2022 and included a subdivision of 142 lots. The layout was present with lots facing the northern boundary where a future noise wall and freeway were in close proximity. A request for further information consisted of showing the future Mortons Road connection clearly, cut and fill plans, cross sections, footpaths and shared paths, rest nodes and water refill stations, staging of infrastructure, contours, fencing, norther road boundary alignment, amended traffic impact assessment, a tree removal and retention plan, integrated water management plan, revegetation of the creeks and notification of concerns of lot sizes.

Several discussions took place with the applicant and resulted in a road along the northern site boundary along the freeway and amended lot layout as a result of the changes road alignment.

Several discussions also took place regarding the Mortons Road construction to meet the general accordance of the approved Development Plan.

HISTORY

- PA2011170 was issued 11 May 2012 for staged subdivision of land in accordance with the endorsed plans. This subdivision consisting of 106 lots.
- PA2016266 was issued on 31 August 2017 for land sales signage.
- PA2017043 was issued 26 September 2017 for a staged subdivision, variation of an easement and associated works. This subdivision consisted of 110 lots and was known as Stages 5 to 8 of Underbank Estate. The permit was amended on 9 August 2018 to amend the permit preamble from stages subdivision, variation of an easement and associated works and building and works with ES02. The plans were amended under the secondary consent provisions on 24 August 2018 altering the staging plan.
- PA2018137 was issued on 09 October 2019 for a Staged Subdivision, Removal and Vegetation, Removal, Variation and Creation of Easements, Buildings and Works within the Environmental Significance Overlay – Schedule 2. – Amendment application PA2018137-1 to alter stage boundaries is currently being processed and assessed by Council.
- PA2020158 was issued on 19 May 2021 for a Staged Multi-lot subdivision and Creation and Removal of Easements.

PUBLIC NOTICE

The application was considered exempt from the notice provisions in accordance with Development Plan Overlay Schedule 6, as the proposal is generally in accordance with the approved Development Plan.

LOCALITY MAP

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

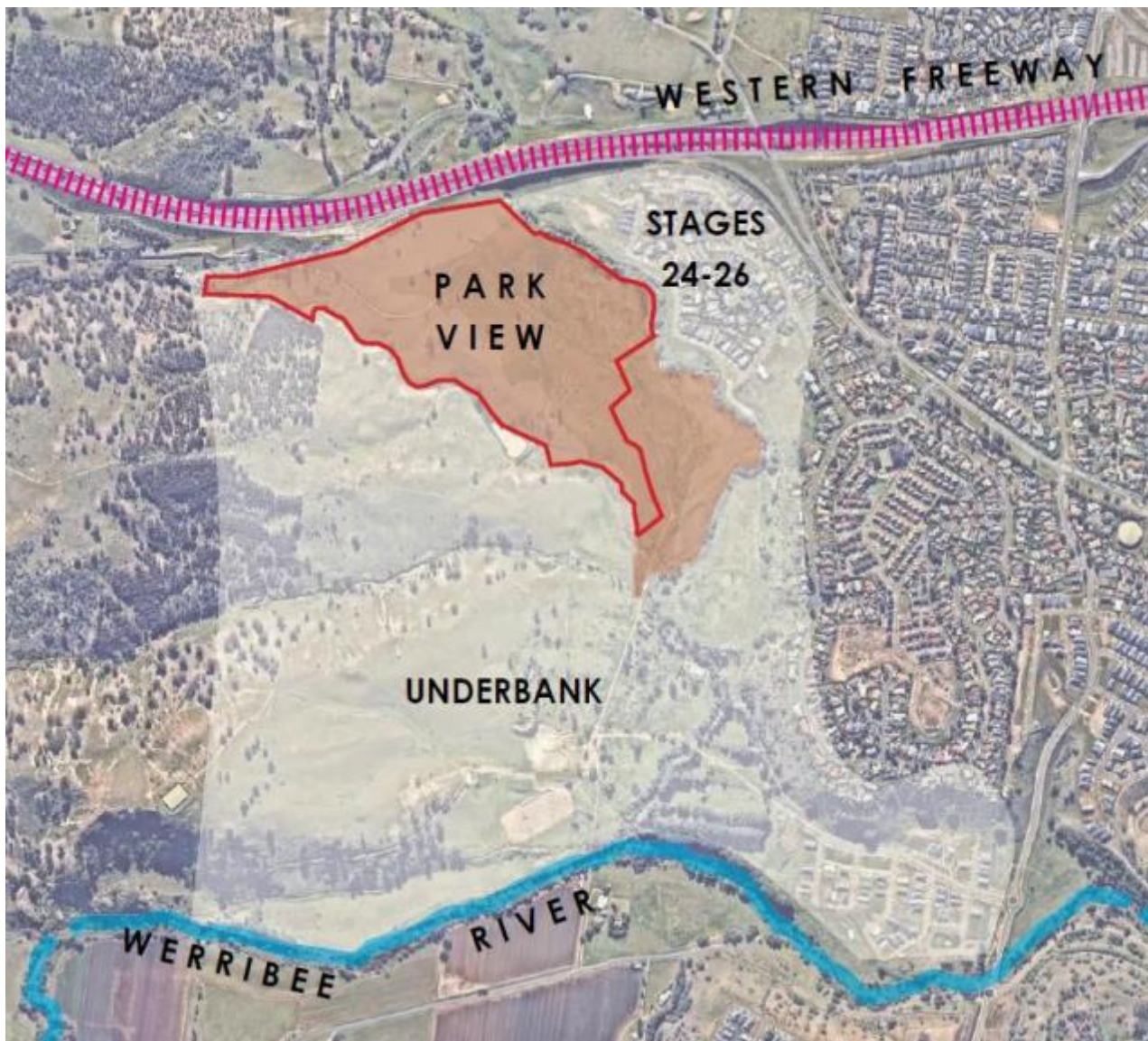


Figure 2: Locality Plan (Site highlighted in red)

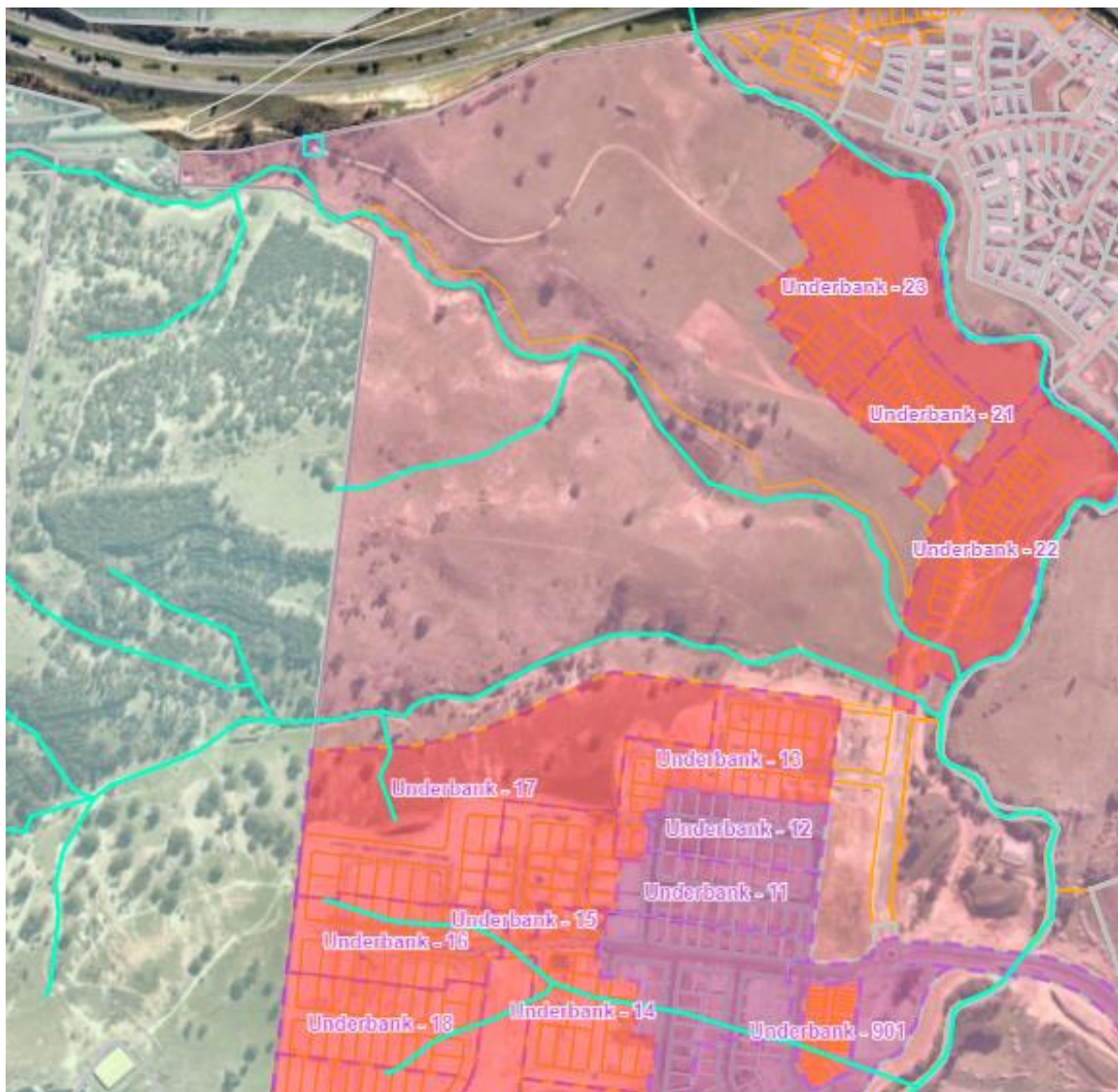


Figure 3: Existing stages approved in Underbank

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.01-1S – Settlement
- Clause 11.02-1S – Supply of urban land
- Clause 11.02- 3S – Sequencing of development
- Clause 11.03-2S – Growth Areas
- Clause 12.01-1S –Protection of biodiversity
- Clause 12.01-2S – Native vegetation management
- Clause 12.03-1S – River corridors, waterways, lakes and wetlands VPP

- Clause 12.05-1S – Environmentally sensitive areas
- Clause 12.05-2S – Landscapes
- Clause 12.05-2 – Landscapes - Central Highlands

ZONE

The subject site is in the General Residential Zone, Schedule 2 (GRZ2).

Under Clause 32.08-3, a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for a residential subdivision.

Clause 32.08-3 states an application to subdivide land that would create lots less than 400sqm capable of a development for a dwelling must ensure the vacant lot contains at least 25% as garden space. This does not apply to a lot created where a Development Plan has been approved. in accordance with an approved development plan. With an approved development plan under the Development Plan Overlay Schedule 6, the garden space provisions do not apply.

Decision guidelines are listed under Clause 32.08-12. Under the subdivision section has the following decision guidelines:

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

With reference to Schedule 2, the neighbourhood character objectives are:

- To encourage new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- To encourage an increase in landscaping within the public and private realm.
- To encourage new development to respect existing setbacks within the streetscape.
- To encourage new development to have minimal or low scale front fencing.
- To ensure garages, carports, and second storey development do not visually dominate dwellings or streetscapes.

OVERLAYS

Development Plan Overlay Schedule 6

Pursuant to Clause 43.04-1 of the Moorabool Planning Scheme a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the Responsible Authority. This does not apply if a schedule to this overlay specifically states that a permit may be granted before a development plan has been prepared to the satisfaction of the Responsible Authority.

A permit granted must:

- Be generally in accordance with the development plan.
- Include any conditions or requirements specified in a schedule to this overlay in accordance with the Development Plan.

The objectives of Schedule 6 of the Development Plan Overlay are:

- Planning for residential and associated development in a logical, cost effective and sequential manner.

- Efficient use of infrastructure, and land, and management of any impacts on the environment and amenity.
- Identification and effective management of sites of environmental, heritage and landscape significance.
- Co-ordinated provision of utility services and drainage.
- Co-ordinated provision of physical and community infrastructure and public open space that enhances the amenity, safety and liveability of the precinct and surrounds.
- Preparation of an integrated development plan generally in accordance with the Underbank Farm Concept Plan shown in Clause 5.0 of this Schedule.

Environmental Significance Overlay Schedule 2

This overlay covers waterways protection. The objectives under Part 2.0 are

- To protect the habitat significance of vegetation.
- To provide for appropriate development of land within 100 metres of either side of a waterway.
- To prevent pollution and increased turbidity of water in natural waterways.
- To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of waterways.
- To conserve existing flora and fauna habitats close to waterways and to encourage generation and regeneration of habitats.

A permit is required under Clause 42.01-2 to subdivide land. Decision guidelines are listed Schedule 2 Part 4.0.

Relevant Policies

Housing Bacchus Marsh to 2041

This policy addresses the management of growth, housing and guides neighbourhood character in Bacchus Marsh and surrounds. Maddingley is one of the three suburbs within close proximity to Bacchus Marsh in terms of both physical proximity as well as significant natural features and distance with the Western Freeway warranting the adoption of planning and housing strategies to support sustainable neighbourhoods. This policy guides development towards sustainable principles such as:

- Environmentally Sustainable Design;
- Compact Neighbourhoods;
- Walkable and Pedestrian Scale;
- Mixed Land Uses;
- Diverse Housing, Streets and Public Spaces;
- Interconnected Streets;
- Variety of Transport Options; and
- Range of green spaces as features

Open Space Framework to 2041

The Bacchus Marsh and Ballan Open Space Framework 2041 includes the following objectives which have been considered in the design and provision of open space:

- Be designed for maximum community benefit and consider all potential opportunities and activities to facilitate the development of the site (e.g., funding, community involvement and social engagement).
- Provide quality and accessible open space for all residents.
- Be a connected and safe network for all the community to use.
- In existing areas of Bacchus Marsh & Ballan all residents should be within:
- 400m of an area of open space.
- New greenfield developments must provide publicly accessible open space within a 400m walkable catchment.
- Reflect the landscape and Indigenous and European cultural heritage of Moorabool.
- Identify and budget for future maintenance and staff resourcing requirements

Particular Provisions

Clause 52.17 Native Vegetation

Under Clause 52.17-2 a permit is required to remove, destroy or lop native vegetation, including dead native vegetation. Decision guidelines are listed under Clause 52.17-5. Department of Environment, Land, Water and Planning (DELWP) had no objection to vegetation removal subject to offset conditions.

Clause 53.01 Public Open Space Contribution and Subdivision

The slope shown in the attached Landscape Masterplan dated 05 August 2022 reflects a maximum fall of 1:20, cross-sections are provided showing how the terraced areas face the open space kickabout area and has direct interface and surveillance to the street. The two open spaces provide 0.66ha of open space in a Net Developable Area of 13ha, therefore sufficient space is provided as part of this precinct and in accordance with the approved Development Plan.

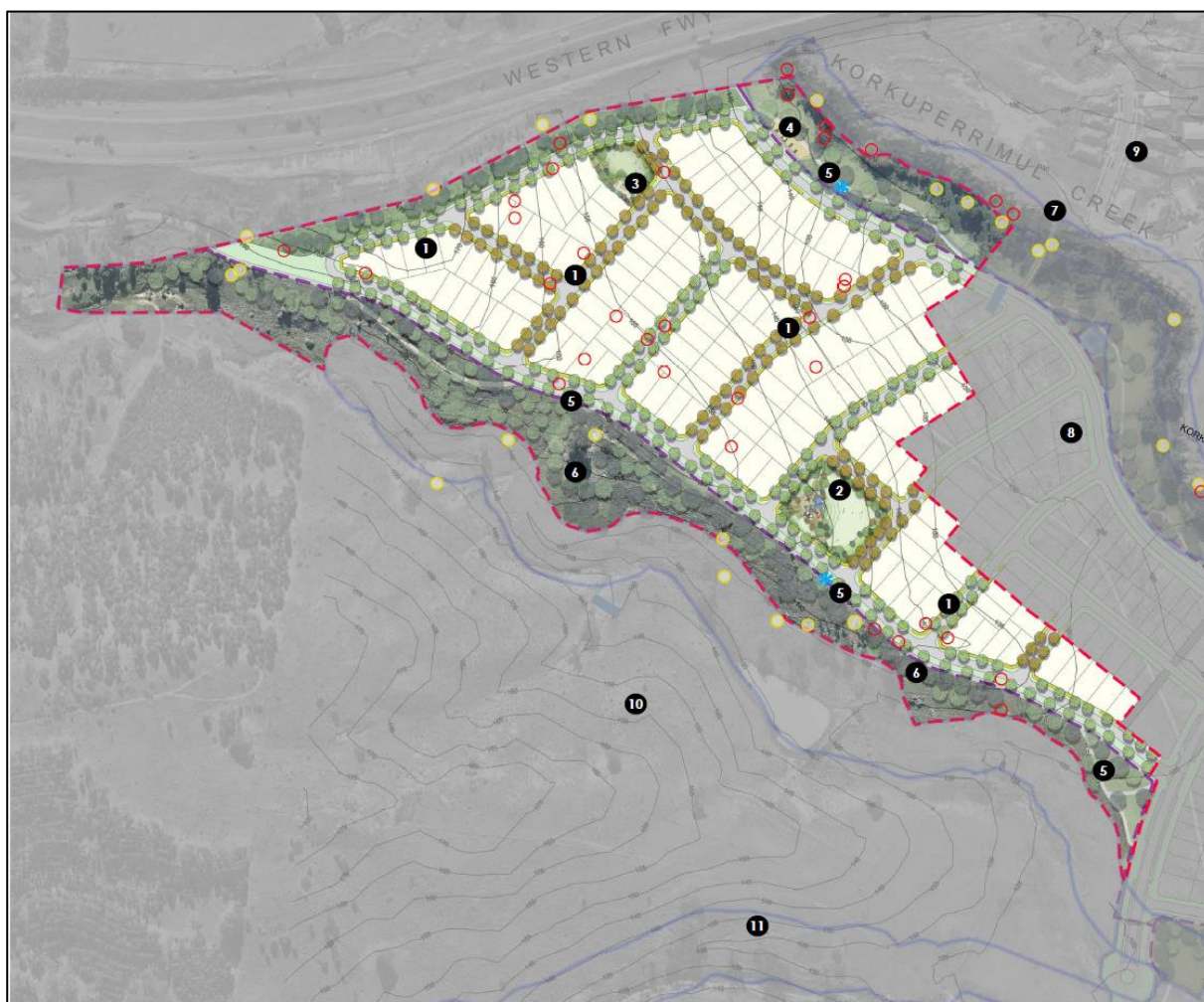


Figure 4: Landscape Masterplan

DISCUSSION

Site and Proposed Context

The permit area is 20.65ha in extent with an irregular shape between two creeks. The Western Freeway abuts the northern boundary and Mortons Road along the western boundary. Lots are designed with buffers and setbacks from the escarpment areas by means of road reserves, shared paths and landscaping.

The site is identified in Precinct 26 (Greenfield Residential Growth Area) of the Neighbourhood Character Broachers informed by the Housing Bacchus Marsh to 2041 Strategy. This identifies *“land located on the fringe that has been identified as land suitable for future residential development or is in the process of being developed for residential purposes, often over a number of years”*.

With this said, the preferred character guides developments towards diverse housing choice, while ensuring a sense of place and encouraging landscaping, canopy tree cover and avoid excessive site disturbance.

The subdivision is proposed with diverse lot widths and orientated to increase housing diversity in the area. Each lot has the opportunity to provide canopy tree planting and additional landscaping to enhance its future built form. All lots proposed vary in size ranging from 433sqm to 819sqm. A total of 141 lots are proposed in 13ha of Net Developable Area. The total site area is 20.64ha. The lots are designed to interface the road network which is generally in accordance with the

development plan. Lots are also designed in consideration to interface the creek and to ensure that they are functional and accessible.

Strategic Basis and Earthworks

The approved Underbank Development Plan makes reference to the lot sizes and density levels as follows:

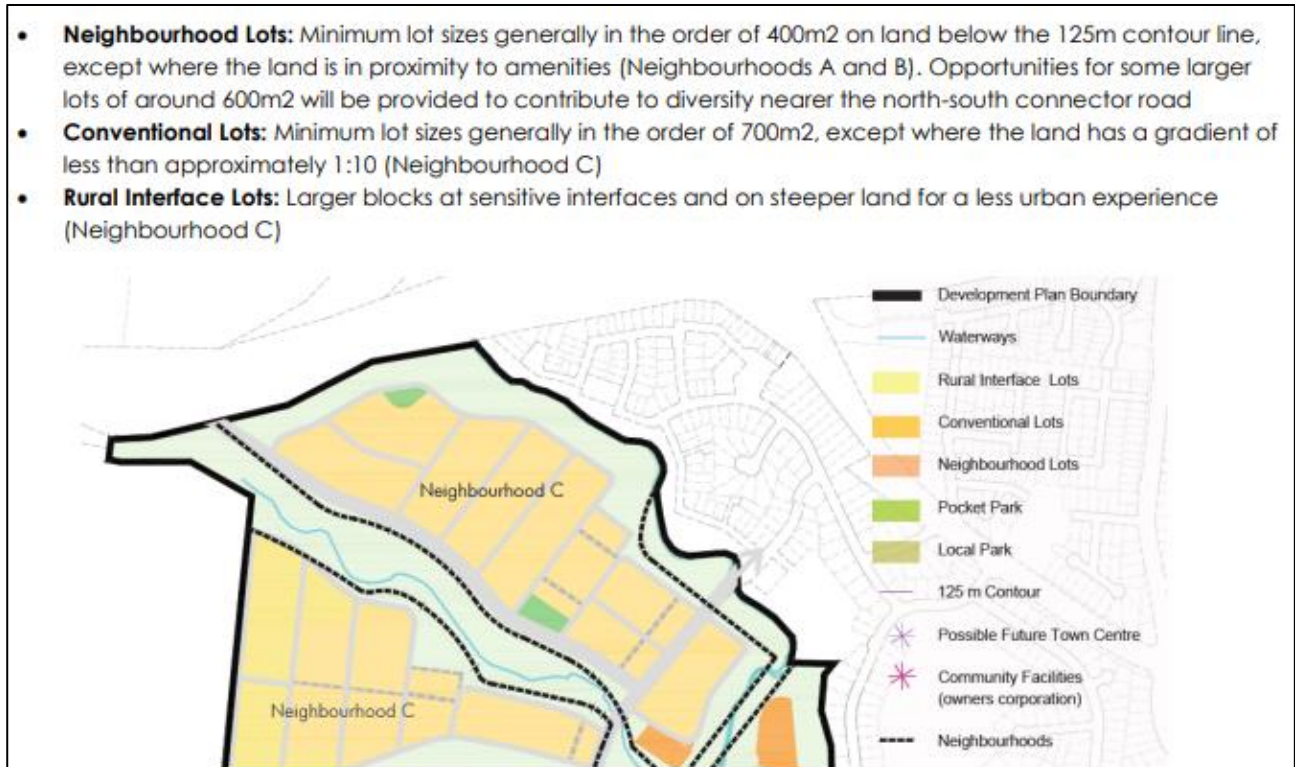


Figure 5: Excerpt from the approved Underbank Development Plan

The site is located in Neighbourhood Lot C and is intended for conventional and rural interface lots which may be larger than the previous stages of Underbank. As stated in the background section above, several discussions took place with the applicant about lot sizes, slopes and understanding the intent of the approved development plan. The information submitted in response to the request for further information provided support for the proposed lot sizes showing how they would function and respond to the site features and steep slopes. The earthworks plan proposed to support the residential development provides the extent of batters and future building pads are acceptable to Council's Infrastructure. Land will be engineered by means of cutting and filling processes to allow for the lots to be developed within the parameters of Moorabool's planning scheme incorporated Infrastructure Design Manual (IDM).

Schedule 6 of the Development Plan Overlay provides mandatory conditions which are required under a permit issued for subdivision within the Underbank Estate. One of which is a Construction Management Plan which is placed within Council's Infrastructure conditions so that all construction works are managed appropriately to the satisfaction of the Responsible Authority.

Public Realm and Environmental Management

The indicative Tree Protection Zones are identified around the trees to be retained and the lost trees are due to the impact of the proposed infrastructure. The response to the request for further information included a shared path masterplan as shown in the figure below (pink highlight

wrapping the Parkview precinct). The shared path is proposed to be constructed with each stage construction.

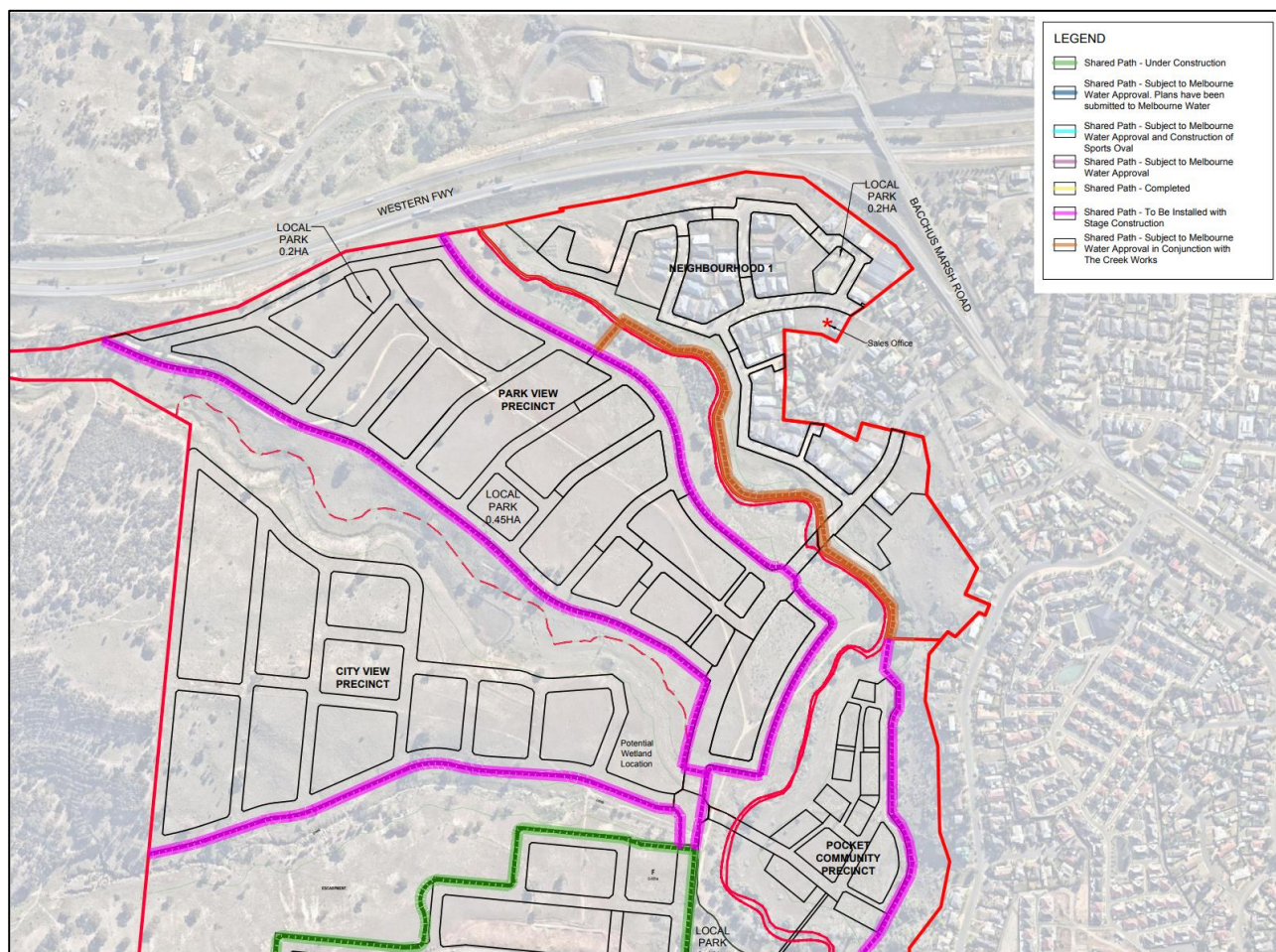


Figure 5: Shared Path Masterplan

Furthermore, a Site Environmental Management Plan is required for endorsement and must be in accordance with the indicative site management plan and landscape masterplan submitted with the application.

The approved Underbank Development Plan signifies the flora and fauna present in Habitat 1. The development plan also shows development of roads and lots within Habitat 1. Several discussions related to maintaining the habitat was discussed with the applicant. The applicant engaged a consultant to provide assessment of the biodiversity and geotechnical aspects of the site to meet the requirements of the policy provisions and overlays relevant to the site and its development. Whilst Habitat Zone 1 is lost, the report recommends that all habitats are unlikely to hold flora and fauna occurrences. All recommendations contained in these assessments must be complied with ensuring the construction activities and offsets are required for vegetation being removed from the site. DELWP provided conditions which are recommended as permit conditions.

Revegetation of the creeks are required to avoid excessive sediment discharge, habitat loss and flooding. Melbourne Water visited the site with Council Officers and the applicant's engineers to understand the challenges faced by the slope, erosion risks and proposed engineering works would have on the creeks and mitigate flood risks. No lots were supported 40m from the Creek (top of bank). The concerns were also related to the major sheet flows over the proposed roads

and towards the creek without erosion or damage. Melbourne water provided their conditions which are recommended in this report.

A landscape masterplan was submitted with the application. However due to the nature of the application, conditions for an amended landscape masterplan and detailed landscape plans are required from Council and Melbourne Water due to the two creeks, revegetation, reserves, parks, shared paths and to ensure that all matters relating to the public realm are complied with to the satisfaction of Melbourne Water and the Responsible Authority. All submitted plans will need to be in accordance with the amended and approved Stormwater Management Strategy, Condition 1 plans (amended plans) the Moorabool Shire Council's Street Tree Strategy, Landscape Design Manual and in accordance with detailed engineering plans.

Cultural Heritage and Bushfire Objectives

Due to the close proximity of the creeks, a Cultural Heritage Management Plan (CHMP) was submitted and approved and as common practice the includes management conditions that must take place prior to works commencing on the site. Consequently, a condition is recommended to ensure that all recommended management conditions in the CHMP are complied with prior to any works taking place on the site.

The land is within a Bushfire Prone area and all development must meet the CFA requirements and bushfire protection methods in accordance with Clause 13.02-15. Access is a main point of consideration and the conditions of the planning permit ensure that sufficient access is provided to the subdivision i.e., Mortons Road to the Freeway and through Randwick Avenue. Although the creeks will be revegetated, the escarpment, proposed development, emerging residential neighbourhood and connector streets allow for adequate buffer distances. Each property is subject to building permit approval which will be required to meet all fire regulations.

Infrastructure

A Traffic Assessment drafted by Traffix Group dated May 2022, states that there are minimal traffic impacts to surrounding connections because traffic will be distributed to Randwick Avenue and link to the surrounding road network via Ascot Avenue or Underbank Boulevard, prior to the Mortons Road connections being established. It was also stated that the minimal traffic impacts will be suitably supported by Randwick Avenue until future connections are established.

In the light of collaborating referral responses and assessment of the approved development plan, the applicant was requested to acknowledge that the development plan reflected two main points of ingress and egress to the Underbank Estate, that being Mortons Road and Randwick/Adelong Way. These streets directly connect residents in and out of the development. The proposed precinct/subdivision is closest towards the Mortons Road exit. Clearly, the approved Underbank Development Plan requires that Mortons Road and Randwick/Adelong Way be constructed to provide links to the Freeway and should not only rely on the proposed traffic assessment which states that Randwick Avenue would support the proposed subdivision. The Underbank Development Plan requires that both Morton Road extensions and Randwick Avenue extension support in access to and from the proposed residential development in the Underbank Estate. Apart from the requirements in the approved development plan, Moorabool's Infrastructure Units' Officers assess that the Mortons Road route is a quicker route to the freeway for those in the proposed precinct when compared to Randwick Avenue. Morton's Road could highly likely be used ongoingly by residents together with the use of Randwick Avenue being another point of access. As a result, conditions requesting amended plans to show that the cross-sections of all internal roads and the Mortons Road extension to allow for ease of access and unimpeded flows of traffic. The roadworks necessary was discussed with the applicant who agreed that Mortons

Road could be extended in line with approved development plan but modified to suit the needs of the development and that any variations to the cross-section must be to the satisfaction of the Responsible Authority. At this stage, Council Officers agreed towards an 18m wide cross section which includes parking on one side, nature strips on both sides, carriageway and footpaths.

Parking on one side is a result of the consideration that a shared path, creek vegetation and escarpment area will be located on the southwestern side of the road reserve in accordance with the proposed Landscape Masterplan and approved Development Plan. A Section 173 Agreement recommendation covers some of the development and infrastructure issues. A condition is also recommended for a permit to ensure that the matters relating to the existing Section 173 Agreements applying to the land are fully complied with prior to Statement of Compliance for each stage.

Noise barriers from the Freeway

As a consequence of the adjacent Freeway interface, an acoustic report which was drafted by Marshall Day Acoustics accompanied the application and provided noise modelling demonstrating that noise levels can be mitigated to achieve the VicRoads 63dB design targets. The noise barrier/acoustic wall is recommended at 3.5m high adjacent to the Western Freeway.

Several lots were affected by the 60-63bda noise buffer. The acoustic report mentioned several recommendations for the future building design of dwellings/traffic control measures subsequently, conditions are recommended as a restriction on the plan of subdivision to ensure that all affected lots comply with the recommendations contained in the Acoustic Report.

As mentioned in the background to this application, the initial subdivision layout plan indicated residential lots backing onto the acoustic wall boundary. After several discussions with the applicant, the subdivision layout plan was amended to show a road along the northern boundary resulting in a positive outcome because the residential lots are setback further from the noise wall/acoustic wall.

The final noise barrier design and façade treatments will be confirmed during the detailed design phase of the development. The matters relating to the acoustic report was discussed with the Department of Transport who had no expertise present to advise on the acoustic report. It is therefore Officer recommendations to ensure that the Acoustic report and its recommended noise control measures be complied with by all future landowners within the 60-63dB buffer area. The individual lots will need to be determined at the time of the certification of the plan of subdivision in accordance with the *Subdivision Act 1988*. To ensure that each landowner is aware of this, a restriction is placed on the title in the form of a covenant.

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.
Downer	Consent with condition.
DELWP	Consent with conditions.
Melbourne Water	Consent with conditions.
Department of Transport	Consent with conditions.
Powercor	Consent with conditions.
CFA	Consent with conditions on initial referral then letter of advice relating to possible bushfire risks associated with vegetated creek works.
Infrastructure	Consent with conditions.
Strategic Planning	No objection.
Environmental Management	Consent with conditions.

FINANCIAL IMPLICATIONS

There are no financial implications in approving the subdivision application.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

Council could consider the following options:

- Issue an approval in accordance with the recommendations of this report; or
- should Council wish to refuse the application, Councillor's need to explore reasons for refusing the subdivision based on non-compliances with the Moorabool Planning Scheme.

CONCLUSION

The proposal for a removal of vegetation and a mutli-lot staged subdivision consisting of 141 lots in six stages, with a lot size average of 589sqm in 13ha of Net Developable Area has been assessed against the planning scheme, referred to the relevant authorities and results in an outcome acceptable to cater for a functional neighbourhood design. The proposal is subject to several conditions to ensure that that functionality, engineering design details, landscape details and works progress in an acceptable manner and according to Council's adopted Infrastructure Design

Manual, Landscape Design Manual and construction management to ensure that construction takes place without negative impacts on existing infrastructure nor creeks and nature reserves.

The proposal includes local parks, creek and reserve works and a road network to improve public accessibility and to enhance amenity and environmental values.

The proposed lot sizes, the road and lot boundary alignments, acoustic measures, infrastructure works, stormwater management and environmental works were negotiated from the early stages of the application which led to a positive outcome.

Overall, the proposal is generally in accordance with the approved Underbank Development Plan, lot sizes were reduced only in areas where slope permitted.

The risks of flooding, erosion, habitat loss, noise and bushfires were resolved with the creation of road reserves, engineered slopes, acoustic noise walls and road buffers, revegetation, stormwater management strategies and geotechnical recommendations. The proposal is therefore recommended for approval subject to planning permit conditions.

7.2 PA2022092 - DEVELOPMENT AND USE OF A DWELLING AND ANCILLARY SHED AT TIERNEYS ROAD, DUNNSTOWN

Author: Victoria Mack, Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments:

1. Dwelling Floor Plans & Elevations (under separate cover)
2. Dwelling Site Plans (under separate cover)
3. Shed Plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2022092

Lodgement Date: 1 June 2022

Planning Officer: Victoria Mack

Address of the land: Tierneys Road, Dunnstown.
Lot 1 on TP099313J & Land in Plan of Consolidation PC 154465

Proposal: Development and Use of a Dwelling and Ancillary Shed

Lot size: 10.99ha

Why is a permit required? Clause 35.07-1 Farming Zone - Use of a land for dwelling on a lot less than 40ha; Clause 35.07-4 Farming Zone - Buildings and Works for a Section 2 use; and Clause 42.01-2 Environmental Significance Overlay Schedule 1 - Buildings and Works.

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 PA2022092 for Development and Use of a Dwelling and Ancillary Shed at Tierneys Road, Dunnstown, otherwise known as Lot 1 on TP099313J and Land in Plan of Consolidation PC 154465 on the following grounds:

1. The proposal is inconsistent with the purpose and decision guidelines of the Farming Zone.
2. The proposal does not comply with the Planning Policy Framework or the Local Planning Policy Framework of the Moorabool Planning Scheme relevant to the development and use of rural land.
3. The proposed dwelling will lead to fragmentation and an unreasonable loss of viable agricultural land and the opportunity to sustainably farm the land.
4. There has been insufficient justification provided to support a dwelling is reasonably required to undertake an agricultural activity on Farming Zone land.
5. The proposed use and development does not represent the orderly planning of the area.

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes, one notice.
Notice in Moorabool Newspaper:	No.
Number of objections:	Nil.
Consultation meeting:	N/A

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

Priority 2.3: Enhance our natural environments

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?	The application was referred to Barwon Water, Agriculture Victoria and Council's Environmental Health and Infrastructure Services.
Any issues raised in referral responses?	Agriculture Victoria provided comments and recommendations which are included in the Discussion section of this report.
Preliminary concerns?	The scale of the agricultural enterprise proposed to justify the development and use of a dwelling on the land.

Any discussions with applicant regarding concerns?	A request for further information was sent to the applicant. Agriculture Victoria's referral response was also provided to the applicant.
Any changes made to the application since being lodged?	The Farm Management Plan was amended to address the issues raised.
Brief history.	The site contains an existing farm shed. The land has more recently been used for potato production and cattle grazing. Water from the dam on the property is currently sold to a neighbouring potato farmer.
Previous applications for the site?	PA2018132 - Development and use of a hayshed approved on 9 August 2018.
General summary.	<p>The land is prime agricultural land demonstrated by a previous lease of the land for potato production. The land has since been resown to pasture.</p> <p>The proposed farming use to raise 20-25 calves a year on this property which is known to be highly productive agricultural land does not demonstrate that the development and use of a dwelling on the site is reasonably required for this enterprise.</p> <p>It is considered that the application should not be supported.</p>
Summary of Officer's Recommendation	
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 PA2022092 for the Development and Use of a Dwelling and Ancillary Shed at Tierneys Road, Dunnstown, otherwise known as Lot 1 on TP099313J and Land in Plan of Consolidation PC 154465 subject to the grounds contained within this report.	

SITE DESCRIPTION

The site is 10.993ha comprising two lots. The northern lot is 3.936ha in area and the southern lot is 7.057ha in area. The land is generally flat with quality perennial pasture established by the current owner. A large dam in the centre of the property has a surface area of 2.7ha including surrounding riparian vegetation particularly in the northern section. A waterway runs through the centre of the dam.



Figure 1: Aerial photo of the subject site.

The land has been used in the past for potato production and cattle grazing. The site has a farm shed with a floor area of approximately 200sqm and an attached water tank.

The immediate surrounds consist of smaller lots many with dwellings on the east and north sides of the site with larger vacant agricultural lots to the west and south of the site. Surrounding land is used for potato production, grazing, horticulture and cropping.

The Dunnstown Recreation Reserve is located on the east boundary, the Ballarat Melbourne train line is located on the south boundary and Tierneys Road is located on the west boundary.

The site is located approximately 800m north-west of the Dunnstown township and approximately 4.3km south of the Western Freeway.

PROPOSAL

It is proposed to construct a dwelling on the land in association with a calf rearing enterprise.

The dwelling would have four bedrooms, three bathrooms, an open plan kitchen, meals and lounge area and a separate family room. It would have verandas on three sides. External cladding would be face brick with aluminium windows and a Colorbond roof.



Figure 2: Site plan showing building envelope in aqua and the effluent disposal field in light purple

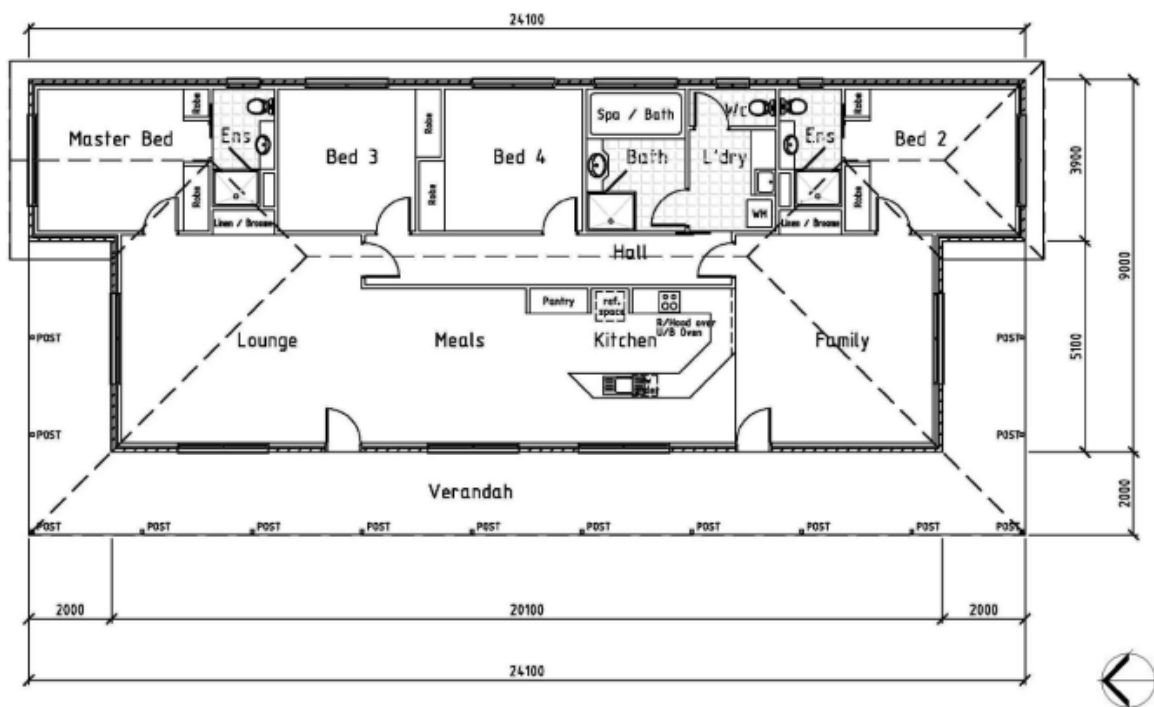


Figure 3: Dwelling floor plan

The dwelling would be orientated north south and would be located 20m east of Tierneys Road as shown in the site plan.

The land comprises two lots. The applicant was advised during the assessment process that if a permit was to be granted these lots would be required to be consolidated.

A Farm Management Plan was provided with the application which detailed the proposed agricultural use of the land. The owner wishes to live on the site to raise approximately 20-25 beef dairy cross calves per annum in two groups each of 10 -12 calves. The calves would be weaned onto the pasture, recently established on the property. A set of cattle yards would be constructed. The current machinery shed would be used for the calf rearing and a new shed would be constructed near the existing shed for hay storage.

The calves would be raised with milk replacement and gradually introduced to pasture until they are weaned at 10-12 weeks of age. They would then be grown out and sold at 12 months of age. Some supplementary feed may be used as required which could be produced on the property or purchased.

The carrying capacity would be increased using a rotational grazing system and to that end there are plans to further divide the property into several smaller paddocks. A revised paddock layout would ensure optimal pasture production and stocking density.

The current stocking capacity of the property is estimated at 19DSE/Ha. This is based on 8.0 grazable hectares running 20 weaner steers, average weight about 250kg (152 DSE). It is assumed that with supplementary feeding and better feed utilisation via the proposed internal fencing subdivision a stocking rate of 25DSE/Ha could be achieved. This will allow the proponent to run 200 DSE per annum on the property or approximately 25 animals.

The dam has a capacity of 20ML and is fed by a reliable spring. Currently this water is sold annually to a neighbouring potato farmer. In the future the proponent will look at other intensive enterprises that could be developed to utilise this farm water.

It is noted that the owner has completed a Livestock Production Assurance (LPA) program for Animal Welfare for cattle and sheep.

The applicant has stated in the event a permit is issued, they do not want to register the Farm Management Plan on title via a Section 173 Agreement believing it limits future use of the land or changing agricultural uses.

BACKGROUND TO CURRENT PROPOSAL

The site is agricultural land and contains a farm shed. Water from the dam is currently sold to a neighbouring potato farmer.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners and a large sign was placed on the site for a minimum period of 14 days.

No objections were received.

LOCALITY MAP

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

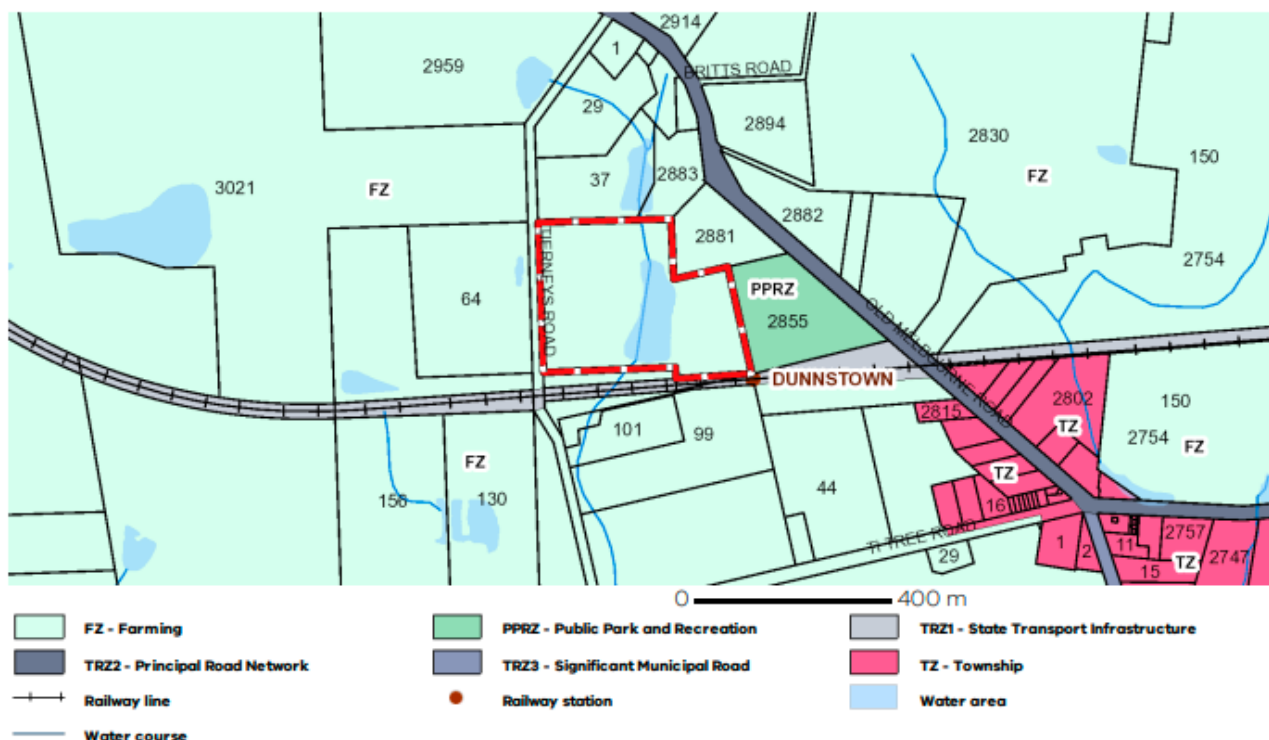


Figure 4: Map showing the zone of the land and the surrounding area.

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.03 — Peri Urban Areas
- Clause 14.01-1S — Protection of agricultural land
- Clause 14.02-1S — Catchment planning and management
- Clause 14.02-2S — Water quality
- Clause 15.01-6S — Design for rural areas
- Clause 16.01-5S — Rural residential development
- Clause 21.02-3 — Objective- Water and catchment management
- Clause 21.03-4 — Objective - Landscape and neighbourhood character
- Clause 21.03-6 — Objective - Rural lifestyle opportunities
- Clause 21.04 — Economic Development and Employment
- Clause 21.04-1 — Key issues and influences Agriculture and horticulture
- Clause 21.04-2 — Objectives - Agriculture

- Clause 22.03 — Houses and House Lot Excisions in Rural Areas
- Clause 21.04-2 — Objectives - Agriculture

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

PPF		
Clause 11.03-3S	Peri-urban areas	There is little nexus between the residential use of the land and the use of the land for agriculture.
Clause 14.01-1S	Protection of agricultural land Objective To protect the state's agricultural base by preserving productive farmland.	A dwelling intensifies the use of the land for residential pursuits. Raising 20-25 calves a year does not establish that a dwelling is reasonably required for this use of the site which was acknowledged by Agriculture Victoria.
Clause 16.01-5S	Rural residential development Objective To identify land suitable for rural residential development.	The proposal does not protect high quality agricultural land and represents inappropriate rural residential development.
LPPF	Title	Response
Clause 21.02-2	Non-Urban Landscapes.	The proposal would increase residential development in a prime rural location which erodes the rural character of the area.
Clause 21.03-4	Landscape and Neighbourhood Character	The proposed dwelling does not enhance the open landscape or rural character of the area.
Clause 21.03-6	Objective—Rural lifestyle opportunities	The proposal would fragment high value agricultural land in the Dunnstown agricultural district.
Clause 21.04-2	Objectives—Agriculture To protect good quality agricultural land and support the productivity and sustainability of existing and future agricultural and horticultural activities.	The proposal would not support productive, sustainable agriculture and food production. Raising 20-25 calves a year only requires intensive daily supervision for a short time, but once weaned the calves do not require intensive supervision.

ZONE**Farming Zone**

The purpose of the Zone is to:

- Implement the Municipal Planning Strategy and the Planning Policy Framework.
- Provide for the use of land for agriculture.
- Encourage the retention of productive agricultural land.
- Ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- Encourage the retention of employment and population to support rural communities.
- Encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- Provide for the use and development of land for the specific purposes identified in a schedule to this zone.

In accordance with Clause 35.07-1, Section 2, a permit is required to use land for a dwelling where the land is less than 40ha.

In accordance with Clause 35.07-4 a permit is required for a building or works associated with a use in Section 2 of Clause 35.07-1.

In accordance with Clause 35.07-4 a permit is required where a building is setback less than 100m from a dwelling not in the same ownership. The nearest neighbouring dwelling is located within approximately 80m of the site for the proposed dwelling and cattle rearing activities and a permit is required as the 100m setback distance cannot be achieved.

OVERLAYS**Environmental Significance Overlay, Schedule 1**

In accordance with Clause 42.01-2 a permit is required for buildings and works.

The relevant water catchment authority, Central Highlands Water, consented to the application.

Design and Development Overlay, Schedule 2

In accordance with Clause 43.02 and Schedule 2 of this overlay, a permit is not required where all external cladding of buildings is non-reflective.

In this application, there are no reflective materials proposed and therefore a permit is not required under this overlay.

RELEVANT POLICIES**Council's Rural Growth Policy Statement**

Council's Rural Growth Policy Statement was adopted by Council on 19 September 2012. GD007/01 provides guidance and direction to stakeholders within the shire on the development of rural areas within the Moorabool Shire for the next 30 years.

This document is designed to provide guidance to Council officers within the Statutory Planning Department to assess all applications for single dwellings in the Farming Zone in a fair and consistent manner. This will ensure that consistent information is provided to applicants when

seeking advice on single dwelling applications. It will also provide some clarity around the decision-making process.

This document applies to all land within the Farming Zone under the Moorabool Planning Scheme.

The policy aims to:

1. Encourage dwellings in areas nominated in Map 1 of Council Rural Growth Policy Statement.
2. Ensure the siting of any dwellings is designed to have a minimal impact on any existing or future agricultural activities on the site and on surrounding land.
3. Ensure it is clear whether the dwelling is required for agricultural operation, use or to maintain rural communities.
4. Ensure sufficient infrastructure is available or that alternative methods are available which do not require normal infrastructure.
5. Encourage development of dwellings, to support communities, on land which is unlikely to support agricultural (use) while still considering any other overlays which may impact the land. This is land which is constrained for use as agriculture by other environmental factors such as vegetation, slope, soil quality, etc.

The policy requires sufficient justification for a dwelling based on a proposed agricultural activity as is further detailed in the policy below.

It is recognised that a local population is critical to the success of small rural communities and in particular operational farming enterprises. However, this should not provide a free passage for rural areas to become quasi residential areas, which is not supported for a range of policy and logistical reasons.

Applications must be assessed against the relevant provisions of the Moorabool Planning Scheme and on its individual merits. Individual merits may include, but are not limited to, the current use of the site, surrounding land use, strategic planning for the area, historical land use, patterns of development etc. Despite these individual variables, there should be a consistent approach to assessing and deciding on these types of applications.

The key for these applications is to ensure that the location, design, access and context of a dwelling is appropriate for a dwelling to be provided on rural land without creating any land use conflicts or encouraging development that is inconsistent with the Moorabool Planning Scheme and any associated policies.

For applications where the land size is between 8ha and 20ha assessment principles include:

1. The objective of the dwelling on this size parcel of land should be to ensure that the viability of the agricultural practice or opportunities are not compromised as a result of the dwelling.
2. These applications must include a Farm Management Plan (FMP) to ensure that the obligations of the landowner/manager are met, and the agricultural practice is effective.
3. This FMP should include how the agricultural activities will be carried out and how the integrity of the site for agricultural uses will be maintained and enhanced.
4. It is also policy to minimise or avoid any land use conflict that may exist or be created as a result of the proposal.

Comment: It is not considered that running 20-25 calves on a site of approximately 8ha of available farming land justifies the use of a dwelling on the site. The calf rearing enterprise could

be conducted remotely which has been acknowledged by Agriculture Victoria in their referral response.

As stated in the policy 'it is recognised that a local population is critical to the success of small rural communities and in particular operational farming enterprises. However, this should not provide a free passage for rural areas to become quasi residential area'.

It is not considered that the objective of the dwelling on this size parcel of land is to ensure the viability of the agricultural practice, or that the FMP demonstrates that a dwelling is essential for this enterprise. The raising of young calves may require intense supervision for a few months of the year, but for the balance of the year, the cattle would graze on the land and would not require such supervision.

PARTICULAR PROVISIONS

No Particular Provisions apply to the application.

DISCUSSION

The Moorabool Planning Scheme provides discretion for a permit to be granted to use and develop land for a dwelling on a lot less than 40ha. Where a permit is required, the purpose and decision guidelines of the Farming Zone require a range of matters be considered.

The Moorabool Planning Scheme asks Council to assess whether an application for the development and use of a dwelling in the Farming Zone is reasonably required to sustain the agricultural enterprises proposed.

The Farm Management Plan provided with the application states that 20-25 calves would be run on the site, from day old calves to 12 months of age. The application provides for supplementary feeding on an "as needs" basis but specific details were not provided.

The site has a waterway and dam in central section, and soils are high quality supporting productive agricultural use. It is considered that the agricultural potential of the site is not being realised with the current application.

While it is acknowledged that raising calves is an activity that could be intensive for a few months, this does not satisfy that the dwelling is reasonably required for such a small enterprise on a permanent basis.

The application does not accord with the purposes of the Farming Zone. It does not:

- support the retention of productive agricultural land.
- ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- ensure that the use and development of land is based on comprehensive and sustainable land management practices and infrastructure provision.

In relation to dwellings in the Farming Zone, the decision guidelines require the Responsible Authority to consider whether a dwelling would result in the loss or fragmentation of productive agricultural land. In this instance it is considered the dominant land use would become rural residential with the agricultural use ancillary to the use of the dwelling.

The Rural Residential Development Practice note No. 37, June 2015, states '*Rural residential development refers to land in a rural setting, used and developed for dwellings that are not primarily associated with agriculture. Some agriculture may take place on the land however it will*

be ancillary to the use for a dwelling. It is likely to be carried on for 'lifestyle' reasons and is unlikely to provide a significant source of household income'.

This application meets this definition.

While the raising of calves and production of vealers is an agricultural activity, it has not been clearly demonstrated that the use of the dwelling is reasonably required to undertake this activity on productive agricultural land on a permanent basis.

It is reasonable to assume that the grazing of cattle on the site will continue whether a dwelling is present or not.

The Practice note further describes productive agricultural land as generally having one or more of the following characteristics:

- a present pattern of subdivision favourable for sustainable agricultural production;
- can be used for a variety of agricultural pursuits;
- suitable soil type;
- suitable climatic conditions;
- suitable water supply; and
- suitable agricultural infrastructure, in particular irrigation and drainage systems.

The subject site meets more than one of the above characteristics of productive agricultural land. If rural residential use was to become the dominant use, then over time the agricultural potential of the site is likely to be diminished.

The proposal is not supported by either the PPF or the LPPF which includes protection of the state's agricultural base by preserving productive farmland and maintaining and enhancing the natural environment and the Shire's rural identity and character.

It is considered that the proposal would adversely affect high quality agricultural land from being used for a wholly productive purpose with the introduction of a rural residential use. A dwelling on such a small holding is not justified in the context of a small herd of calves because apart from the more intensive bottle-feeding stage for 6 weeks for each intake, the balance of the year the calves only need to be monitored and this is not required on a daily basis.

Agricultural Victoria has noted previously that the Dunnstown area is suitable for growing almost any temperate crop, given adequate water. These soils are also used for growing cereals, oil seeds, peas, potatoes, fodder crops, pastures and Lucerne. Several successive crops can be grown with little deterioration in soil structure or fertility.

Agriculture Victoria provided comments and recommendations in relation to this application in part stated that "a land use for grazing animal production and calf rearing can be carried without the presence of a dwelling as is the current management, but regular visits would be required to ensure against any animal welfare issues".

The applicant has not demonstrated that a dwelling is reasonably required to undertake an agricultural activity which improves the agricultural use of the land. The calves could be managed on the site without a dwelling.

Given that the land is already being farmed it is considered that the proposal would not realistically achieve any greater improvement of production than what is currently occurring.

Overall, the proposed development and use of the land for a dwelling is considered to be inconsistent with the PPF and LPPF, the Farming Zone objectives and the relevant decision guidelines at Clause 65 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
Central Highlands Water	Consent with conditions.
Agriculture Victoria	Comments and recommendations.
Council's	
Infrastructure	Consent with conditions.
Environmental 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*. No objections were received. 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 in accordance with the recommendations of this report; or
- issue an approval to Grant a Permit with conditions. The Committee would need consider how a dwelling in the Farming Zone satisfies the purpose and decision guidelines of the zone.

CONCLUSION

The proposal dwelling is located on highly productive land that can be used for a range of agricultural uses. The proposed dwelling will fragment the land and reduce the extent of land for farming purposes. The small herd of calves does not require a dwelling to sustain the activity which was acknowledged by Agriculture Victoria. There is no clear nexus between the proposed farming enterprise and need for a dwelling especially calves over six months of age that do not require intensive supervision. The proposed dwelling is not supported by state or local planning policies and is inconsistent with the objectives of the Farming Zone. It is recommended a refusal to grant a permit be issued.

7.3 PA2022117 - DEVELOPMENT OF A RESIDENTIAL AGED CARE FACILITY, ASSOCIATED VEGETATION REMOVAL AND REDUCTION IN CAR PARKING AT 166 AND 168 INGLIS STREET, 33 COWIE STREET AND 91 SIMPSON STREET, BALLAN

Author: Jyoti Makan, Senior Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments:

1. Elevations (under separate cover)
2. Demolition Plan (under separate cover)
3. Site Design Response Plan (under separate cover)
4. Landscape Plan (under separate cover)

APPLICATION SUMMARY

Permit No: PA2022117

Lodgement Date: 29 June 2022

Planning Officer: Jyoti Makan

Address of the land: 166 and 168 Inglis Street, 33 Cowie Street and 91 Simpson Street Ballan

Proposal: Development of a Residential Aged Care Facility, Associated Vegetation Removal and Car Parking Reduction

Lot size: 8,773sqm combined size of five parcels

Why is a permit required? Clause 32.08-8 – Construct and carry out works; Clause 36.01-1; Clause 36.01-2 – Construct and carry out works for a Section 2 use; Clause 52.06-5 – Reduction in car parking; Clause 42.01-2 – Construct a building and carry out works and removal of vegetation

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 PA2022117 for the Development of a Residential Aged Care Facility, Associated Vegetation Removal and Reduction in Car Parking at 166 and 168 Inglis Street, 33 Cowie Street and 91 Simpson Street in Ballan subject to the following conditions:

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) An updated landscape plan in accordance with Condition 11.
 - (b) Tree Protection Zones shown on the plans for all street trees in accordance with Condition 14.

(c) Site plan showing the location bicycle spaces for staff and visitor use.

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.

General:

3. Car spaces, access lanes and driveways shown on the endorsed plan must not be used for any other purpose other than the parking of vehicles, to the satisfaction of the Responsible Authority.
4. The loading and unloading of goods and materials from vehicles must only be carried out on the land.
5. Provision must be made within the title boundaries for the storage and collection of garbage and other solid waste. Skip bins must not be located external to the building.
6. All waste management must comply with the Waste Management Plan drafted by Traffix Group Pty Ltd, Issue B (Final) dated 31 May 2022, referenced as G31795R-02B (WMP) for Permit PA2022117.
7. The waste collection times must comply with EPA Noise Control Guidelines (Publications 1254) and AS2107 acoustic requirements.
8. 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.
 - (e) Any other way.

Signage:

9. No signage must be erected unless exempt from Moorabool Planning Scheme requirements.

Vegetation:

10. No vegetation may be removed, destroyed or lopped unless where specifically exempt under the provisions of the Moorabool Planning Scheme.

Landscaping:

11. 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 landscape plan must be generally in accordance with the landscape plan submitted with the application dated (1 June 2022) prepared by (Site Image Landscape Architects), except that 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.
 - (e) Landscaping and planting within all open areas of the site.
 - (f) No shrubs or trees are placed over existing or proposed drainage infrastructure and easements.
 - (g) Annotate courtyards as communal open spaces with indicative seating, raised garden beds, plants and pathways wide enough for accessibility.
 - (h) All species selected must be to the satisfaction of the Responsible Authority.
12. 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.
13. 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.

Tree Protection Zone:

14. At all times during the development of the land, the street trees in Inglis Street, Cowie Street, Simpson Street and Bradshaw Street 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.
15. 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.
16. 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.

Infrastructure:

17. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
- (a) location and extent of the works;
 - (b) typical cross-section details;
 - (c) location of culverts as required; and
 - (d) civil notes as required to ensure the proper construction of the works to the

satisfaction of the Responsible Authority.

- 18. Prior to the use commencing, Bradshaw Street must be upgraded from Inglis Street to the property entrance, to the satisfaction of the Responsible Authority, as follows:**
 - (a) a 7m wide carriageway of which the central 4m section shall have a sealed pavement with asphalt;**
 - (b) table drainage as required to minimum width 2m and depth 0.2m;**
 - (c) the pavement shall be formed to facilitate water runoff to the table drains;**
 - (d) culverts of minimum 375mm diameter installed as required to facilitate drainage; and**
 - (e) relevant traffic signage.**
- 19. All road and drainage works must be maintained in good condition and repair for a minimum of six months after completion of the works, to the satisfaction of the Responsible Authority.**
- 20. A security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, six months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.**
- 21. Prior to the use commencing, the redundant vehicle crossing on Cowie Street must be removed, kerb and channel, and nature strip reinstated to the satisfaction of the Responsible Authority. A road opening permit must be taken out for the removal of the vehicle crossing.**
- 22. Prior to the use commencing, the proponent must do line marking for three on street car parking spaces on Cowie Street in accordance with Australian Standards and to the satisfaction of the Responsible Authority.**
- 23. 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) Underground piped drainage for the whole development shall cater for 10% AEP storm.**
 - (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.**
- 24. 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.**
- 25. 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).

26. 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.
27. 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.
28. The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.

Permit Expiry:

29. This permit will expire if:
 - (a) the development is not started within two years of the date of this permit; and
 - (b) the development is not completed within four years of the date of this permit.
-

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Nil.
Number of objections:	Two.
Consultation meeting:	Consultation meeting was held on 21 November 2022 between the parties.

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 – Jyoti Makan

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

EXECUTIVE SUMMARY

Application referred?	Department of Transport, Greater Western Water, Southern Rural Water, and Council's Infrastructure, Strategic Planning, Heritage Advisor, Active Aging and Diversity and Environmental Health.
Any issues raised in referral responses?	Privacy, amenity and quality of life, landscaping, open spaces, access, waste and goods loading and unloading areas, stormwater management.

Preliminary concerns?	Loading areas, Internal design from kitchen to dining area, lack of open space for residents, sustainability, and long-term nature of the design of the building for future residents.
Any discussions with applicant regarding concerns?	Several discussions and meetings took place.
Any changes made to the application since being lodged?	Nil.
Brief history.	The site has been used over a long period of time for medical services and has included aged care units.
Previous applications for the site?	PA2002152 – Development and Use of an Aged Care Facility and Waiver of Three Car Parks. PA2010041 – Buildings and Works including Extension of an Existing Healthcare Centre (as of right use) and Ancillary Outbuilding. PA2020003 – Re-subdivision to create Three Lots.
General summary.	<p>The application proposes to redevelop part of the existing Mecwacare aged care facility and ancillary facilities.</p> <p>The application was advertised, and two objections were received regarding the car parking reduction, internal amenity and waste management.</p> <p>The applicant submitted a traffic impact assessment, stormwater management concept plan, waste management plan, Arboricultural assessment, landscape concept plan, and a planning report to support the development.</p> <p>The proposal satisfied the planning scheme provisions and is recommended for approval subject to conditions on the permit.</p>
Summary of Officer's Recommendation	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, the Development Assessment Committee issue to Notice of Decision to grant a Permit PA2022117 for the Development of a Residential Aged Care Facility, Removal of Vegetation and Reduction in Car Parking at 166 and 168 Inglis Street, 33 Cowie Street and 91 Simpson Street Ballan, subject to the conditions contained within this report.</p>	

SITE DESCRIPTION

The site is bounded by Inglis Street, Cowie Street, Simpson Street and Bradshaw Street in Ballan and is currently being used for medical services and aged care. The site is irregular in shape and includes five parcels which total 8,773sqm. Several drainage and sewer easements traverse generally in a north south alignment through the central portion of the site. These will be relocated as part of the redevelopment of the site.

The site is generally flat at the Cowie Street corner and entrance to the building but falls from Inglis Street down to the northern boundary to Bradshaw Street.

Existing buildings comprise of a two-storey building located at the corner of Inglis and Cowie Street which is used as a gymnasium and hydrotherapy pool with admin spaces at the first floor.

The rear of 166 Inglis Street is occupied by a single storey building with a central courtyard and is used for aged care purposes comprising of 51 beds. A single storey detached kitchen building and maintenance shed is setback from Cowie Street in between the Medical Centre and Aged Care building. Some detached buildings were used for aged care hostel purposes. Some existing buildings were previously used as the Ballan Memorial Hospital. An ambulance bay exists alongside the Cowie Street frontage.

Six formal on-site car parking spaces are accessed from Inglis Street. Other car parking facilitating the use is informal mainly along the street.



Figure 1: Aerial image of the site

The site's planning context is varied with split zoning being Public Use Zone – Schedule 3 (Health and Community) and General Residential Zone - Schedule 4.

The surrounding area comprises of the Werribee River Reserve, residential developments and commercial properties. The site is conveniently located to the central commercial area of Ballan containing a wide range of shops and retail premises.

PROPOSAL

Proposed context

The application proposes to redevelop part of the existing Mecwacare aged care facility which includes buildings and works, demolition, reduction in car parking, creating a new access to Inglis Street.

It also includes for an expanded residential aged care facility which will contain a total of 60 beds (net gain of nine from existing facility) within the new building. Ancillary uses and facilities include living/dining areas, lounges, library, hairdresser, and a café.

The building design offers a maximum building height of 8.24m at the two-storey living/dining façade which adjoins Bradshaw Street.

Proposed Design

Cowie Street interface:

The proposed new building will be setback from Cowie Street between 1.3m and 1.74m with low level landscaping proposed within this space and the eastern property boundary. The existing building entry and ramp to Cowie Street (on the boundary) are maintained as the primary point of access to the building. The crossover to Cowie Street is proposed to be removed as vehicle access is no longer required in this location.

Inglis Street interface:

A secondary point of access from Inglis Street (setback 25m) is proposed with a smaller foyer and reception desk. The new two storey building to the west of the retained building fabric is setback a minimum of 2.72m from the northern boundary with the wrap-around deck extending to the northern boundary. No alterations are proposed to the crossover to Inglis Street.

Bradshaw Street interface, Loading and Waste Collection:

Waste collection and loading will continue to occur from the access from Bradshaw Street within a redesigned loading area that incorporates an appropriately sized bin enclosure and is set at a level to allow for convenient access and movement of goods and materials such as linen trolleys from the Lower Ground Floor back-of-house areas to the designated loading bay (6.5m wide x 14.2m long).

Generally, the plans show interleaving pathways, rooms, lifts and ramps. The external material and finishes palette proposed incorporates a mix of face brick, feature timber look cladding of different colours together with textured steel cladding.

The applicant does not propose development at the western portion of the site until a design is developed for Stage 2 of their project. A drainage and sewerage easement traverses the subject site and is proposed to be relocated alongside the western boundary. No signage is proposed as part of this application.

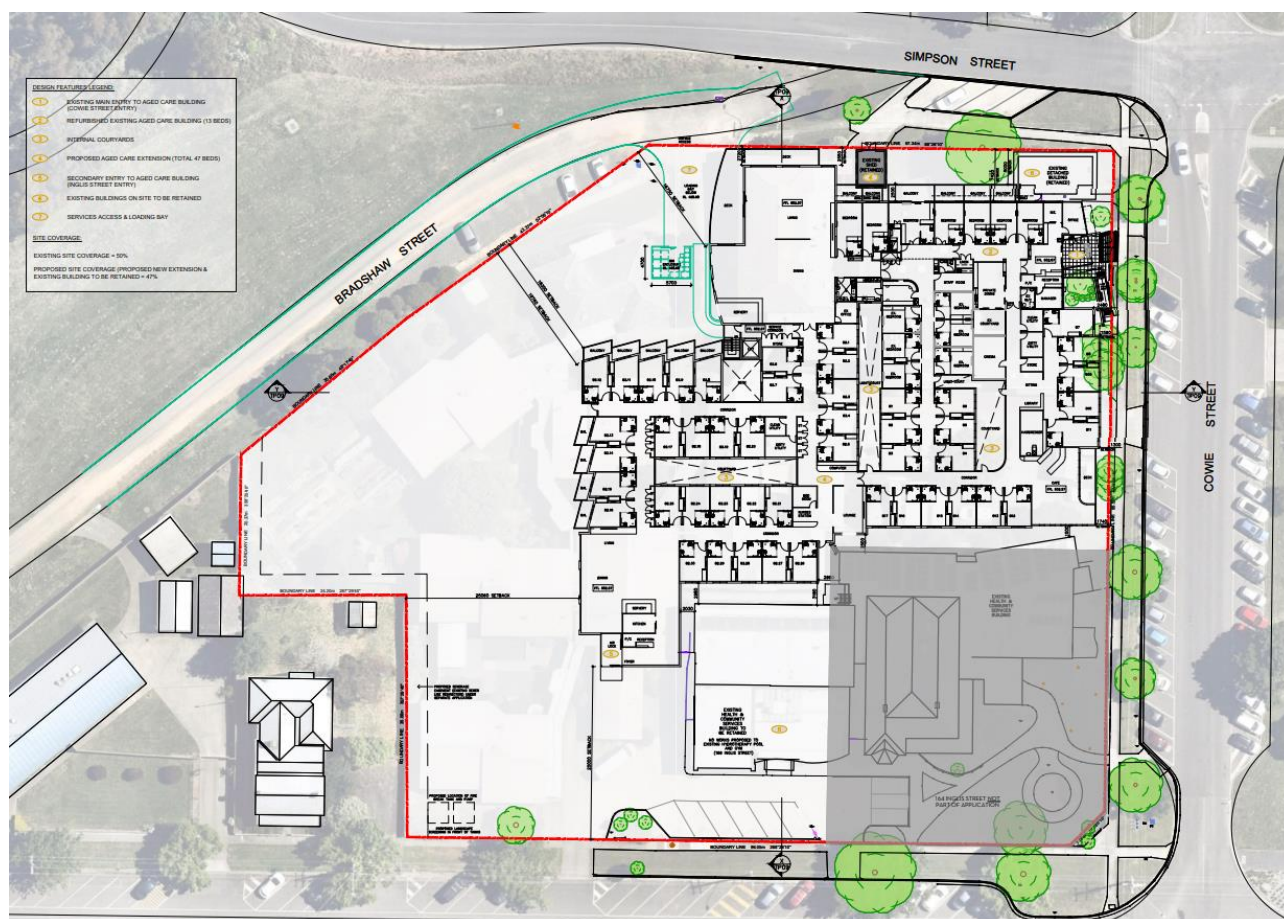


Figure 2: Proposed site plan

BACKGROUND TO CURRENT PROPOSAL

A pre-application meeting took place where draft ideas and plans were discussed which led to an application for the redevelopment of the existing aged care facility. The application was lodged on 29 June 2022 and a request for further information was sent to the applicant to address some initial officer concerns.

HISTORY

According to the submission a title search proved that the site was not publicly owned since 1991. The Ballan and District Soldiers Memorial Bush Nursing Hospital and Hostel Inc (an Australian Charities and Not-for-profit Commission (ACNC) was the owner of the subject site since 1991 and the subject site was privately owned by Mecwacare since December 2021.

The site remained in the Public Use Zone.

Previous applications for the site are as follows:

PA2002152 – Development and Use of an Aged Care Facility and Waiver of Three Car Parks

PA2010041 – Buildings and Works including Extension of an Existing Healthcare Centre (as of right use) and Ancillary Outbuilding.

PA2020003 -Re-subdivision to create Three Lots

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners by means of letters and by placing a sign on the site.

Two objections were received.

SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Car parking calculations are incorrect, impact on street car parking/ No Parking Policy in Ballan/ Street parking at capacity. Loading and waste collection.	Clause 52.06 – Car parking
Officer's Response:	
The car parking calculations are correct and based on Clause 52.06. A reduction is considered adequate for a residential aged care facility and will not adversely affect the amenity of the surrounding area. Loading and waste collection will be managed in accordance with the Waste Management Plan. Further details are in the Discussion section of this report.	
Objection	Any Relevant Requirement
Inconsistency of trees being removed Loss of community garden space Access to private open space and non-shadowed garden area	Clause 53.17 – Residential Aged Care Facilitates Clause 16.01-5S – Residential Aged Care facilities Clause 15.01-2S – Building Design Clause 13.07 – Amenity, Human Health, and Safety Clause 15.02-1S – Sustainable Development (Energy and resource efficiency)
Officer's Response:	
The proposed courtyards will be open to daylight and landscaped for communal use. Conditions are proposed for a landscape plan to include additional garden beds and seating to the satisfaction of the Responsible Authority.	
Objection	Any Relevant Requirement
Classification of type of care.	
Officer's Response:	
There is no relevant requirement under the planning scheme for a particular type of aged care.	

Objection	Any Relevant Requirement
Withholding of information on the western portion of the site.	
Officer's Response: This is the only current planning application for this site lodged with Council and under assessment.	

LOCALITY MAP

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

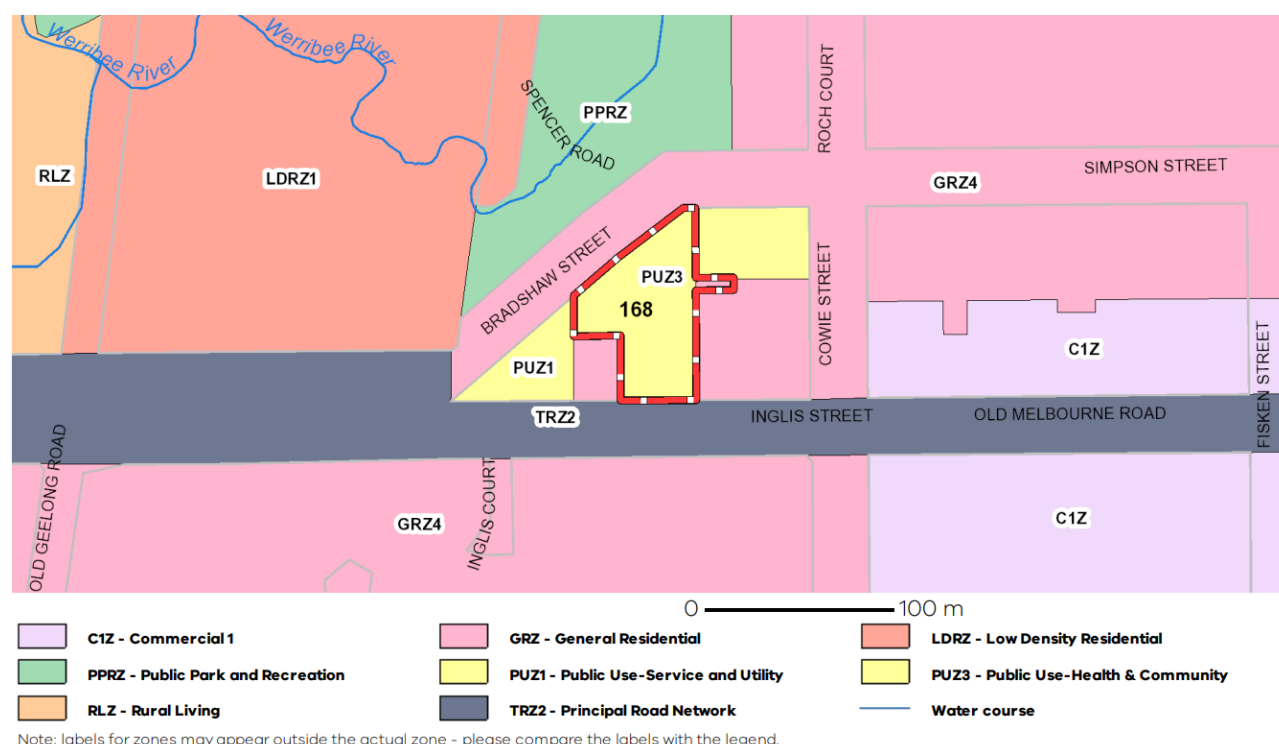


Figure 3: Zone map highlighting the location of the spilt zone boundary with the General Residential Zone.

PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.01-1R – Settlement – Central Highlands
- Clause 13 – Environmental Risks and Amenity
- Clause 13.02-1S – Bushfire Planning
- Clause 13.07 – Amenity, Human Health, and Safety
- Clause 15 – Built Environment and Heritage

- Clause 15.01-2S – Building Design
- Clause 15.02-1S – Sustainable Development (Energy and resource efficiency)
- Clause 15.03-2S – Cultural Heritage Sensitivity
- Clause 16.01-5S – Residential Aged Care facilities
- Clause 17 – Economic Development
- Clause 18 – Transport
- Clause 19.02 – Community Infrastructure

ZONE

The site is in part located in Schedule 4 of the General Residential Zone (GRZ4) and part Public Use Zone (PUZ).

General Residential Zone

The neighbourhood character objectives outlined within Clause 1.0 of GRZ4 are as follows:

- To maintain a streetscape rhythm of detached dwellings with conventional front and side setbacks.
- To provide for built form that does not dominate the lot and allows for generous private open space and garden plantings, with minimal or low scale front fencing.
- To ensure that new development does not compromise the heritage values and character of precinct.

A permit is not required for the use of the land for a Residential Aged Care Facility under the zone, but it is required to construct a building or carry out works for this use. The development must meet the requirements of Clause 53.17 – Residential aged care facility.

Public Use Zone

The purpose of the PUZ is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise public land use for public utility and community services and facilities.
- To provide for associated uses that are consistent with the intent of the public land reservation or purpose.

Clause 36.01-2 sets out that a permit is also required under the PUZ to construct a building or construct or carry out works for any use in Section 2 of Clause 36.01-1. A Residential Aged Care Facility is a Section 2 use under Clause 36.01 due to the absence of a public land manager and therefore a permit is required to construct a building or construct or carry out works associated with the proposal.

Note this application was accompanied by legal advice stating that there is no public land manager and consequently there is no consent to be obtained and Clause 36.01-3 (application requirements) is therefore does not apply.

OVERLAYS

The subject site is affected by an Environmental Significance Overlay – Schedule 1 and 2 (ESO1 and ESO2).

The purpose of the Environmental Significance Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.
- The subject site is affected by two different schedules to the ESO being Schedule 1 and Schedule 2.

A permit is required to construct a building or construct or carry out works and to remove, destroy or lop any vegetation including dead vegetation. There are no permit exemptions specified in ESO1 applying to the proposal, as such a permit is required to construct a building and construct and carry out buildings and works and to remove vegetation.

Other controls:

Aboriginal Cultural Heritage Sensitivity

The subject site is included within an area of Aboriginal Cultural Heritage Sensitivity due to the proximity to the Werribee River. Heritage Insight Pty Ltd provide advice on the *Aboriginal Heritage Regulations 2018* as it relates to the proposal for the subject site. Heritage Insight Pty Ltd prepared a due diligence assessment for the subject site having regard for the proposal and concluded that a mandatory Cultural Heritage Management Plan (CHMP) is not required.

Relevant Policies

Ballan Strategic Directions 2018

The Ballan Strategic Directions outline that the population of Ballan is forecast to grow from approx. 2,985 in 2016 to more than 5,900 in 2041. Contextually, the document identifies that Ballan is strategically located between Melbourne and Ballarat which provides opportunities for commuting to work via the Western Freeway or Train to Ballarat. The intersection of Inglis Street and Cowie Street is identified as a Main Street Gateway.

The site is identified as the Ballan District Health and Care area. Ballan District Health and Care is a thriving, contemporary health and aged care organisation offering an extensive range of holistic programs, services, and facilities to look after the needs of young children and babies right through to Palliative Care. The four major areas of services provided are:

- Hospital and 24/7 urgent care.
- Community health services – Male and female GPs and allied health services, including a hydrotherapy pool, a spa, a fully equipped gymnasium, and a multipurpose room (community members can use the pool and gymnasium facilities for rehabilitation and to improve their general fitness).
- Aged care accommodation and services.
- Community childcare centre.

Health services of this scale are unique in a town the size of Ballan, and an asset to residents of the town and the wider Region. Ballan District Health and Care is one of the largest employees within

Moorabool Shire employing over 180 people and also supported by over 80 registered volunteers. Retaining and enhancing health services is important in the long-term health and wellbeing of Ballan residents and the wider Region.

Moorabool Shire Council Small Towns and Settlements Strategy – Part A

Ballan is classified as a town that will increase in growth and population. The strategy states that *‘in the centre of the Shire, Ballan is a significant provider of services and contains 19 of 25 infrastructure types identified by Council as critical for meeting people's daily needs. Its proximity to the Freeway and main roads to Daylesford and Geelong enables Ballan to serve many of the surrounding towns within a 20-minute journey time’*.

Heritage Studies

Strategic Planning is currently preparing Amendment C85 which will introduce heritage controls to a number of properties identified within the Study.

A building located on the site ‘Annean’ is identified within the West Moorabool Heritage Study, and a heritage overlay is proposed for the building via Amendment C85. The proposal was referred to Council’s Heritage Advisor who notes that the works are set well away from ‘Annean’ and has no objections to the proposal.

Particular Provisions

Clause 52.06 – Car Parking

Purpose

This clause applies to the site as its purpose is to ensure the following:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Requirements

Each room requires 0.3 car spaces pursuant to Clause 52.06. Fifty-one beds (residential aged care facility) are existing on the site. Nine beds are added, therefore numerically, 2.7 bays are required for the additional beds. According to Clause 52.06, car parking calculations must be rounded down to the nearest whole number therefore two bays are required for the additional nine beds.

Reduction:

The application includes the reduction of the two car parking bays based on the additional rooms created on the site. This was assessed by Council’s Infrastructure based on car parking justification, demands, existing use of the land and considering the three newly created on street car parking spaces as a result of the removal of the Cowie Street crossover.

Clause 52.34 – Bicycle Facilities

The purpose of Clause 52.34 is:

- To encourage cycling as a mode of transport.
- To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

Under Clause 52.34-1, the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

There is no specified bicycle rate for residential aged care facility. There will be a requirement to show bicycle parking on the site plan.

Clause 53.17 – Residential Aged Care Facilities

The purpose of Clause 53.17 is:

- To facilitate the development of well-designed residential aged care facilities to meet existing and future needs
- To recognise that residential aged care facilities have a different scale and built form to the surrounding neighbourhood
- To ensure residential aged care facilities do not unreasonably impact on the amenity of adjoining dwellings

The provisions of Clause 53.17 apply to an application to construct a building or construct or carry out works for a residential aged care facility in the General Residential Zone.

Clause 53.17 also includes development requirements relating to building height, street setback, side and rear setbacks, walls on boundaries, daylight to existing windows, overshadowing open space and solar energy systems, overlooking, noise impacts, daylight to new windows, site coverage, access, building entry, communal open space and front fencing.

This provision sets out decision guidelines within include amenity for future residents of the residential aged care facility, the adjoining dwellings, appropriate response to the site context and effects of overshadowing on existing solar rooftops on adjoining lots.

Clause 53.18 – Stormwater Management in Urban Development

The purpose of Clause 53.18 is to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property, and public safety, and to provide cooling, local habitat, and amenity benefits.

This clause applies to the proposed application under the GRZ to construct a building or construct or carry out works.

A concept stormwater drainage plan has been prepared by BDD Engineers and submitted to Council for consideration. However, it is considered that the details of proposed stormwater management, including drainage works and retention together with detention and discharge of stormwater can be appropriately addressed through the application and by way of appropriate conditions on any permit issued.

DISCUSSION

Context

In summary the proposal is for the redevelopment and expansion of an existing aged care facility that involves the demolition of several existing buildings and construction of a new residential aged care facility. The aged care facility currently includes 51 beds, the redevelopment will increase by an additional nine beds. The redevelopment will include ancillary communal facilities such as the café, hairdresser, cinema, and library.

Building Design and Development Controls

The planning scheme provides guidance for well-designed and appropriately located aged care facilities. The proposal demonstrates that the design is recognisably different in-built form with regards to scale, height and mass to cater for aged residents. The design also demonstrates how the facility respectfully responds to the surrounding interfaces along Inglis, Cowie and Bradshaw Streets by providing similar heights (8.24m), site coverage, setbacks, materials, visually interesting street perspective and an overall a high-quality design.

The varied setbacks across the design along all street interfaces provides opportunities for landscaping, reduces negative visual bulk impacts on pedestrian and vehicle movements.

Overall, the new design is not creating adverse offsite impacts. The design and setbacks accounted for daylight to existing windows and building separation. The raised deck to the living/dining area extends to the northern boundary, which is an appropriate design response. The deck is approximately 15m long and creates visual interest and character to the streetscape. Overlooking and overshadowing does not extend beyond the subject site.

The mechanical plant and services associated with the proposed Residential Aged Care Facility is centrally located to the building to mitigate noise impacts to surrounding properties. The applicant proposes that the courtyards provide private open space to the residents.

Car parking, Loading Facilities and Waste Collection

An assessment of the proposed swept paths shows the loading bay will function with trucks moving in a forward's motion and reversing and existing via Bradshaw Street. The proposal includes loading activities along Bradshaw Street only which is an unsealed road. Permit conditions will require an upgrade of Bradshaw Street to Council's satisfaction. The development and operations are controlled by the Environmental Protection Authority (EPA) and operational plans i.e., the Waste Management Plan.

In terms of safety, the swept paths, drop off zone of the Inglis Street entrance and loading areas of Bradshaw Street shows safe access to and from the site. The Traffic Impact Assessment G31795R-01C prepared by Traffix Group Pty Ltd identify that the maximum sized trucks that access the on-site loading area, via Bradshaw Street, is an 8.8m long medium rigid vehicle.

A drop-off zone was required and is located in front of the building via the Inglis Street access point, and an accessible parking space is located along the primary entrance to Cowie Street.

The entry to the building on Cowie Street is easily accessible to the on street car parking. The covered entry of the building provides for weather protection. An accessible on street car park is available allows for pick ups and drop offs.

Car parking:

The car parking and traffic matters are unlikely to impact the surrounding areas as there are nine additional rooms. Each room requires 0.3 car spaces therefore 2.7 bays rounded down to two bays

are required pursuant to Clause 52.06. The application included a reduction of two car parking spaces which is acceptable due to the creation of three new on street car parking bays as a result of the removal of the Cowie Street crossover.

Overall, a reduction of two car parking spaces will not adversely affect the amenity of the surrounding area.

Landscaping, Amenity, Materials and Open Space

A landscape plan was provided to show how the proposal identifies, retains and protects significant vegetation which contributes to the character of the precinct and makes provision for new landscaping. Appropriate landscaping will provide for improved internal amenity and soften the external built form. Adequate open space has been provided to the residents as part of the development.

The decision guidelines under the planning scheme state that adequately sized open space and setbacks must be provided for retention and growth of existing and new canopy trees. The application proposes landscaping and existing canopy trees within the Simpson and Cowie Street setbacks. Landscaping is also evident between the Mecwacare Ballan Health and Care services and the Aged Care rooms. Timber decking with raised block planters and low-lying planting is evident on the landscape plans. The proposed materials on the landscape plan include timber, bench seating, light coloured concrete and tiles. The building materials are proposed show cladding with timber and Colorbond, brick work and perforated steel screening.

Greater Western Water and Southern Rural Water have consented to the removal of the three non-native trees in accordance with objectives of the Environmental Significance Overlay.

After an assessment of the proposal against the scheme, conditions have been included towards improving the courtyards by adding indicative seating arrangements and additional landscaping treatments.

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
External	
Department of Transport	No comment.
Greater Western Water	Consent.
Southern Rural Water	No objection.

Council's	
Infrastructure	Consent with conditions.
Strategic Planning	Consent.
Heritage Advisor	Consent.
Active Aging and Diversity	Consent, concerns over communal gardens, open spaces.

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

The Development Assessment Committee consider the following options:

- issue a Notice of Decision to Grant a Permit in accordance with the recommendation of this report; or
- issue a Notice of Decision to Grant a Permit with amendments to recommendation of this report; or
- issue a refusal to Grant a Permit. The Committee would need to consider what reasonable grounds there would be to refuse the application. This option may result in the applicant appealing the decision to VCAT.

CONCLUSION

The redevelopment and expansion of an existing residential aged care facility aligns with the aspirations set out in the Ballan Strategic Directions and enhances the Health and Community precinct in Ballan. The redevelopment will include 60 bedrooms in total.

The Public Use Zone signifies the need for Health and Community purposes. The location of the development on the edge of the Ballan Town Centre is furthermore close to other associated health facilities and services.

The design was focused on their needs such as landscaped courtyards for daylight, looped paths, interleading areas to the rest of the building and ancillary uses such as the café, hairdresser, cinema and library.

The architectural fabric is considered to enhance each street interface of the building.

A reduction of two car spaces will not impact upon the existing on street parking availability.

The overlays, zones, provisions and policy in the Planning Scheme guided the assessment of the proposal together with the relevant policies appropriate to the site. The proposal to redevelop the existing residential aged care facility should be supported subject to conditions outlined in this report.

8 UPDATE ON VCAT DECISIONS

9 OTHER BUSINESS

10 DATE OF NEXT MEETING

Wednesday 15 February 2023.

11 MEETING CLOSE