



MINUTES

Development Assessment Committee Meeting

Wednesday, 15 June 2022

Date: Wednesday, 15 June 2022

Time: 6.00pm

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

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1 OPENING

The Mayor opened the meeting with the Council Prayer at 6:00pm

2 PRESENT AND APOLOGIES

Cr Tom Sullivan, Mayor	West Moorabool Ward
Cr Tonia Dudzik, Deputy Mayor	East Moorabool Ward
Cr David Edwards	East Moorabool Ward
Cr Paul Tatchell	Central Moorabool Ward
Cr Ally Munari	Woodlands Ward
Cr Rod Ward	East Moorabool Ward

IN ATTENDANCE:

Derek Madden	Chief Executive Officer
Henry Bezuidenhout	Executive Manager, Community Planning & Economic Development
Robert Fillisch	Manager, Statutory Planning & Building Services
Mark Lovell	Coordinator, Statutory Planning

APOLOGIES:

Cr Moira Berry	East Moorabool Ward
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3 RECORDING OF MEETING

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

4 CONFIRMATION OF MINUTES**COMMITTEE RESOLUTION**

Moved: Cr Rod Ward
Seconded: Cr Tonia Dudzik

That the minutes of the Development Assessment Committee Meeting held on Wednesday 18 May 2022 be confirmed.

CARRIED

5 MATTERS ARISING FROM PREVIOUS MINUTES

Nil.

6 DISCLOSURE OF CONFLICTS OF INTERESTS

Cr Tom Sullivan declared a Conflict of Interest in relation to Item 7.6 – PA2021148 – Three Lot Subdivision, Vegetation Removal and Creation of an Access to a Transport Road Zone 2 at 85 Inglis Street, Ballan due to working on the matter as a professional surveyor on this application.

PRESENTATION/DEPUTATIONS

Item	Community Planning & Economic Development	Speaker/s	Position	Attendance
7.1	PA2021192 – Variation of Restriction at 69 Darley Drive, Darley	Corey Freeman	Applicant	In person
7.5	PA2021169 – Four Lot Subdivision and Vegetation Removal at 2 and 8 Urquhart Street, Gordon	James Robson	On behalf of the Applicant	Online
7.6	PA2021148 – Three Lot Subdivision, Vegetation Removal and Creation of an Access to a Transport Road Zone 2 at 85 Inglis Street and 20 Duncan Street, Ballan	Linda Small	Objector	In Person
7.7	PA2021225 – Use and Development of a Dwelling and Building and Works to enlarge a Dam at Betsons Road, Mount Doran	Ronnie Reissenweber	Applicant	In Person
7.7	PA2021225 – Use and Development of a Dwelling and Building and Works to enlarge a Dam at Betsons Road, Mount Doran	Brydon King	Town Planning Consultant	In Person

7 COMMUNITY PLANNING REPORTS

Corey Freeman spoke to Item 7.1.

7.1 PA2021192 - VARIATION OF RESTRICTION AT 69 DARLEY DRIVE, DARLEY

Author: Victoria Mack, Statutory Planner

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

Attachments: Nil

APPLICATION SUMMARY

Permit No: PA2021192

Lodgement Date: 5 August 2021

Planning Officer: Victoria Mack

Address of the land: 69 Darley Drive, Darley known as Lot 56 on PS 635007U

Proposal: Variation of restrictions

Lot size: 1,000sqm

Why is a permit required? Clause 52.02 - A permit is required to create, vary or remove a restriction registered on title.

COMMITTEE RESOLUTION

Moved: Cr David Edwards

Seconded: Cr Tonia Dudzik

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Refusal to Grant a Planning Permit for the Variation of Restriction at 69 Darley Drive, Darley otherwise known as Lot 56 on PS 635007U, on the following grounds:

- 1. The proposed variation of covenant will likely cause owners benefiting from the restriction to suffer detriment including perceived detriment.**

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Yes.
Number of objections:	Three.
Consultation meeting:	Not held.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

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

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?	Not required.
Any issues raised in referral responses?	Not applicable.
Preliminary concerns?	Rationale and justification for varying the restrictions.
Any discussions with applicant regarding concerns?	Extensive discussions held with the applicant including advice that the application would not be supported.

Any changes made to the application since being lodged?	The application was amended in process to include further variation to the covenant. A basic landscape concept plan was provided showing the planting of exotic ornamental pears and gardenias to support the removal of the vegetation buffer through this application.
Brief history.	PA2005365 approved an 80-lot staged subdivision on 7 August 2006.
Previous applications for the site?	None recorded.
General summary.	<p>The application is to vary nearly all parts of the restrictions registered on title.</p> <p>The application was advertised and beneficiaries to the restriction have objected.</p> <p>Approval of this application would be detrimental to other lot owners who have purchased lots knowing of the existence of the restrictions and constructed in accordance with the restrictions. It would also be damaging to the purpose of restrictions to define design and layout features of a subdivision and an environmental buffer.</p> <p>It is recommended that this application is refused.</p>
Summary of Officer's Recommendation	
<p>That the Development Assessment Committee, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i>, issue a Refusal to Grant a Planning Permit for the Variation of Restriction at 69 Darley Drive, Darley otherwise known as Lot 56 on PS 635007U on the grounds contained in this report.</p>	

SITE DESCRIPTION

The subject site is known as Lot 56 on PS635007U.

The lot is vacant land, rectangular in shape with an area of 1,000sqm. The land slopes down from the west to the east with a fall of approximately 6m.

Darley Drive Estate is quite square in shape and comprises 80 lots, being:

- 38 lots on the outside of Darley Drive.
- 17 lots on the inside of Darley Drive.
- 20 lots facing Halletts Way.
- 5 lots in Angliss Court.

The lots in the Estate generally consist of single storey dwellings, with 30% of the lots yet to be developed.

A 5m wide planted landscape buffer is located around the perimeter of the Estate, with vegetation patchy in some places. The south side lots do not contain the landscape buffer.

There is only one access to Darley Drive located in the south-east corner of the Estate from Links Road.

Surrounding land to the west and north is zoned Low Density Residential. Land to the east is zoned Neighbourhood Residential, Schedule 2. Land to the south of the Estate, across Halletts Way is zoned Public Park and Recreation Zone and General Residential Zone, Schedule 2.

A public bus service runs along Links Road. The Darley Drive Estate is located approximately 2km north-west of the Darley Shopping Centre, 2.6km north of the Western Freeway and approximately 4km north-west of the Bacchus Marsh Town Centre.



Figure 1: Aerial Image

PROPOSAL

The application is to vary a Restrictive Covenant on Lot 56 on PS 635007U. A separate application has also been received to vary the Section 173 Agreement also registered on title.

The Covenant was registered on title on 22 March 2011. The Section 173 Agreement was registered on title on 25 November 2010.

Both restrictions cover similar matters and are being dealt with concurrently. However, the variation of a covenant is assessed under Section 60 of the *Planning and Environment Act 1987* and is determined by a Planning Permit, whereas the process for amending a Section 173 Agreement is covered by Section 178 of the Act and is a separate non-permit process.

Both assessment processes are covered separately in the discussion section of this report.

THE RESTRICTIONS

Details of the restriction and variation sought are as follows:

Covenant PS635007U

The application seeks to allow:

- The construction of an 8m x 8m shed and a 1.8m paling fence within the 5m landscape buffer at the rear of the lot.
- The construction of an access through the landscape buffer to Links Road.

Section 173 Agreement No. AH636444H

The application seeks to allow:

- The construction of an 8m x 8m shed within the 5m landscape buffer.
- The removal of existing vegetation plantings.
- The erection of a 1.8m wooden paling fence in lieu of a 1.2m post and wire fence on the east side of the landscape buffer, and a 1.2m picket fence in lieu of a post and wire fence on the front west boundary.
- The construction of an access through the landscape buffer to Links Road.

The relevant specific obligations of the Section 173 Agreement are:

- 7(ii) No buildings shall be constructed within the 5m landscape buffer areas located to the north, west and east boundaries of the subject site (parent title).
- 7(iii) The 5m landscape buffer (as noted on the plan of subdivision) shall be planted and maintained with vegetation and shall not be used for any other purpose. Responsibility for the ongoing maintenance of vegetation within the landscape easement shall fall to the future landowners of affected lots. To this end **no direct access to Links Road will be made available** to lots 16, 17, 53, 54, 55, 56, 57 & 76.
- 7(iv) The future landowners of lots 16, 17, 53, 54, 56, 57 and 76 will maintain the rural post and wire fencing located along the east boundaries of each of the lots. Should the fencing require replacement, it must be replaced with a new post and wire fence. No other form of front fencing is to (be) installed other than a post and wire fence to a height of 1.2m.

The landscaping buffer is marked as a hatched area on the plan of subdivision which is attached to the Certificate of Title:



Figure 2: Subdivision plan attached to the title

HISTORY

An 80-lot staged subdivision was approved by Planning Permit PA2005365 on 7 August 2006. The restriction on title were a requirement of Council. It is understood that the construction of rear boundary fences, and rear access on the lots abutting Links Road would not have been an orderly planning outcome when the subdivision was approved. It was considered that a 5m wide environmental buffer, once established with trees and shrubs, would provide a softer frontage appearance to Links Road as well as adequate back yard screening to the lots.

The plan of subdivision was registered with the Titles office on 22 March 2011.

PUBLIC NOTICE

Notice of the application was given all beneficiaries of the covenant which included adjoining and surrounding landowners by way of letters to landowners and occupiers, a notice on site and a

Public Notice in the Moorabool News, a newspaper circulating in the local area. The application was required to be advertised twice due to the application being amended in process.

A total of three objections were received.

SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
I object to the proposal for the "construction of a crossover to Links Road". There are currently no crossovers accessing Links Road between Halletts Way and Swans Road, a length of about 800m. This area involves the development of three separate estates to my knowledge dating back over 30 years. I assume there was a good planning reason for this in the first place which the applicant has failed to address in the application.	Restrictions registered on title.
Officer's Response: There is no crossover to Links Road permitted by the covenant as each property has their own primary street frontage. The objective was to restrict sheds and garages and other structures accessing Links Road so as to maintain the landscape appearance.	
The first covenant the property owner wants removed is part 7.1 (ii) which requires that no building shall be constructed within the 5m landscape buffer area. In the case of this property the landscape buffer area is about a 100sqm or 10% of the land and leaves the property owner 900sqm to locate a house, garage and shedding. By comparison, a number of properties have a larger percentage of their land included in the landscape buffer area up to about 30%.	Restrictions registered on title.
Officer's Response: This applicant wants to maximise the use of the land for a shed with access to Links Road. The intent of the covenant was to control development within a defined area.	
This landscape buffer area was planted with Australian natives as part of development of the estate. Since acquiring my property five years ago I have observed several bird species on the property most of which are in or adjacent to the buffer area. I have seen birds, lizards and markings in the soil that suggest an echidna had visited the buffer zone. I believe this shows that the landscape buffer area has an important role in supporting local wildlife.	Restrictions registered on title.
Officer's Response: The landscape buffer aimed to enhance biodiversity and environmental values of the Estate.	

<p>The applicant has requested to amend the west boundary wire fence and replace it with a timber picket fence 1.2m in height. However, there is no wire fence on the west side of Lot 56. It is noted that no properties on the estate to date have built a front fence thereby conforming with the Council's preferred character statement, within Neighbourhood Character Precinct 4, which states "Landscaped front gardens, with minimal front fencing are preferred".</p>	<p>Neighbourhood character Precinct 4</p>
<p>Officer's Response: The post and wire fencing aimed to create a rural amenity across the Estate.</p>	
<p>I would suggest the existing landscape buffer area on the east boundary, which includes Acacia rostriformis (Bacchus Marsh Wattle), callistemons, native hibiscus, Acacia implexa (Lightwood) and yellow gum, would provide height to 2m or more along with Dianella, Correas, Eremophilas and Westringia providing a dense under story equalling or exceeding the privacy of a 1.8m wooden fence.</p>	<p>Restrictions registered on title.</p>
<p>Officer's Response: The landscape buffer was to allow for a landscaping setting surrounding the rear of the lots of the Estate.</p>	
<p>Issues raised by two similar objections.</p> <p>The proposal is:</p> <ul style="list-style-type: none"> a) Out of the neighbourhood character (no approved crossovers to Links Road from Darley Drive blacks) b) Dangerous to reverse out of giving the steep nature of the site. c) The shed is unsightly and intrusive giving the size 8mx8m within the environmental buffer. d) The siting of the cross over will be unsafe for any cars that pullover along Links Road given the steep natural gutter on the side of the road. e) The Environmental buffer provides a natural animal protection that is uninterrupted currently. Disturbing this would cause harm to animals. 	<p>Neighbourhood character Precinct 4</p>
<p>Officer's Response: These concerns accord with the issues raised above. There is a steep embankment to Links Road from the site.</p>	

LOCALITY MAP

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

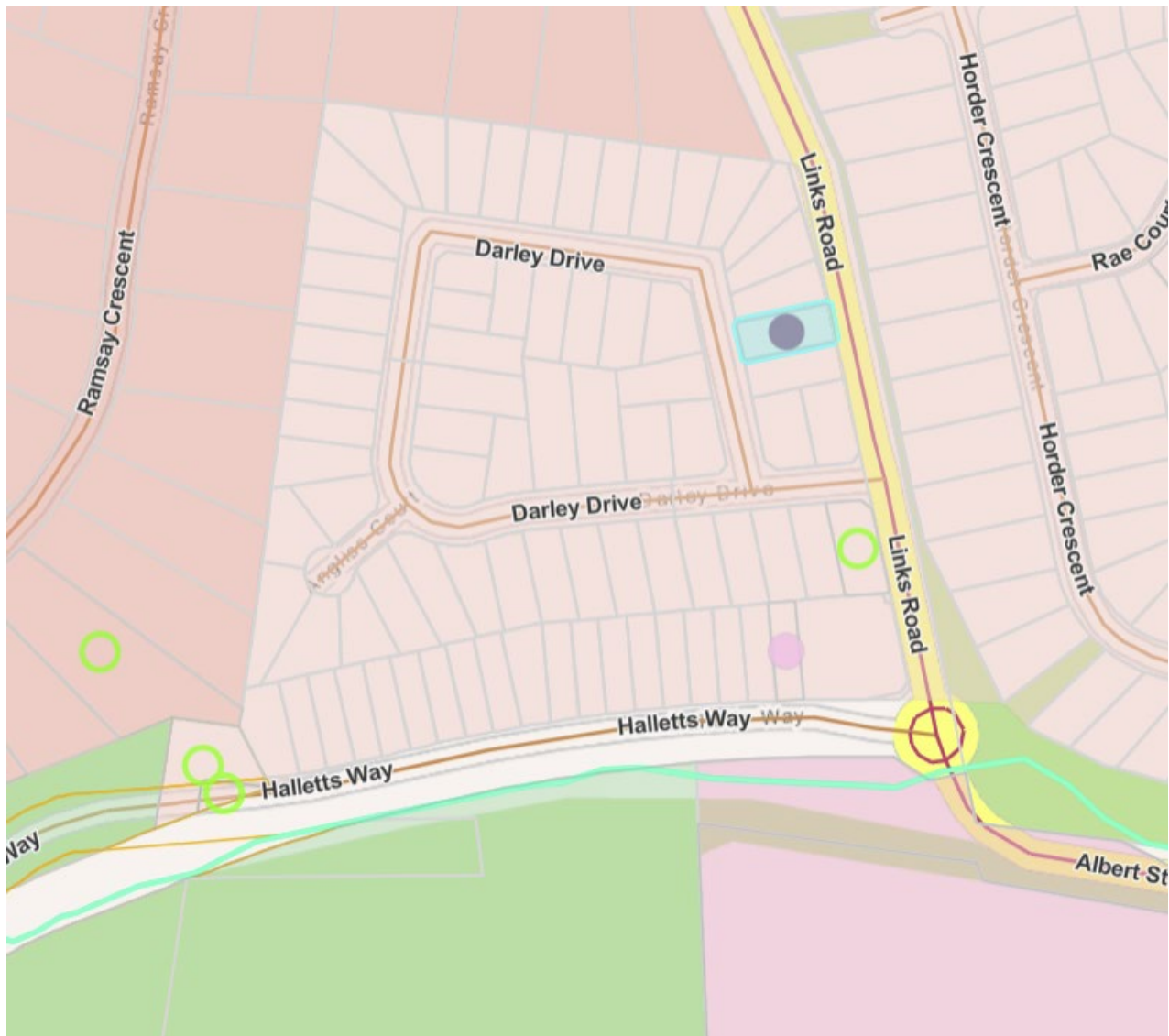


Figure 3: Zone Map

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 11.03-3S Peri-urban areas
- Clause 15.01-5S Neighbourhood character
- Clause 21.03-4 Landscape and Neighbourhood Character

Objections raised include concerns about the negative impact of the covenant removal on the neighbourhood character and amenity of the area.

ZONE

Neighbourhood Residential Zone, Schedule 2

The purpose of the Neighbourhood Residential Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise areas of predominantly single and double storey residential development.
- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Schedule 2 relates to “areas identified for minimal residential growth areas (parts of Darley only)”. Whilst there is no permit requirement under the zone to remove a restrictive covenant, the following neighbourhood character objectives for Schedule 2 provide relevant policy context for the objections about neighbourhood character:

- To maintain a streetscape rhythm of detached dwellings set behind landscaped front gardens.
- To encourage new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- To encourage new development to be sympathetic to the existing landscape.
- To encourage an increase in landscaping within the public and private realm.
- To ensure garages, carports, and second storey development do not visually dominate dwellings or streetscapes

A planning permit is not required to vary a covenant under the zone provisions.

OVERLAYS

The subject site is not affected by any Overlays.

RELEVANT POLICIES

There are no Council policies applicable to the assessment of this application.

PARTICULAR PROVISIONS

Clause 52.02 Easements, Restrictions and Reserves

In accordance with Clause 52.02 of the Moorabool Planning Scheme a permit is required under Section 23 of the *Subdivision Act 1988* to create, vary or remove an easement or restriction.

The decision guidelines under Clause 52.02 require that before deciding on an application, in addition to the decision guidelines in clause 65, the Responsible Authority must consider the interests of affected people.

DISCUSSION

The restrictions registered on the titles of lots in the Estate including an environmental buffer and the use of post and wire fencing, rather than solid fencing, aimed to create an open environmental and rural character in the Estate. This is the first application seeking to vary the covenant.

Variation to a Restrictive Covenant (Planning Permit Assessment)

The relevant consideration for assessment of this application are the provisions of Section 60 of the *Planning and Environment Act 1987*. Subsection (4) makes the distinction between restrictions created before and after 25 June 1991.

In this instance the restrictions were created after 25 June 1991 which means that that subsection (6), is applicable to this application and states as follows:

'If an application for a permit to remove or vary a restriction referred to in subsection (4) was made on or after 25 June 1991 and the Responsible Authority had made a decision in respect of the application before the commencement of section 15 of the Planning and Environment Act 1993, the Tribunal must determine in accordance with subsection (5) any appeal under this Act in respect of that decision'.

Therefore subsection (5) applies as follows:

'The Responsible Authority must not grant a permit which allows the removal or variation of a restriction referred to in subsection (5) unless it is satisfied that—

- (a) the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer any detriment of any kind (including any perceived detriment) as a consequence of the removal or variation of the restriction; and*
- (b) if that owner has objected to the grant of the permit, the objection is vexatious or not made in good faith'.*

As outlined above, objections were received to the application including from beneficiaries of the covenant, primarily relating to the potential impact on the neighbourhood character and amenity of the area if the covenant was varied. In consideration of the objections received and the provisions of section 60(5)(a) and (b) it is deemed that Council is unable to satisfy itself that any of the beneficiaries would be unlikely to suffer any detriment of any kind, including perceived detriment, because of the proposed variation of the covenant.

The beneficiaries have described what they believe the actual or perceived negative consequences of removal of the covenant. Furthermore, there is nothing in the beneficiaries' objections to suggest that they are vexatious or not made in good faith. The interests of non-beneficiaries also need to be considered under Clause 52.02. It is considered that the application cannot be approved based on these objections.

Restrictions are placed on titles to ensure certain design and layout features are met. They should only be changed if there are sound planning reasons in situations where no objections have been received by beneficiaries.

It is not considered that the reasons put forward in this application are sound, or that there is planning merit in varying the covenant. It would alter the preferred neighbourhood character objective determined as part of the subdivision. The applicant does not meet the test of perceived detriment that can arise from change in neighbourhood character.

The subject site has an area of 1,000sqm which can easily accommodate a dwelling and detached outbuilding that can be accessed from Darley Drive. There are no site constraints, and the applicant did not provide sufficient justification for support of this application.

Variation to the Section 173 Agreement (Planning and Environment Act Assessment)

Section 178 of the *Planning and Environment Act 1987* sets out the process to be followed to make an application to end or amend a Section 173 Agreement.

Under Section 178A(3) the responsible authority must notify the owner as to whether it agrees in principle to the proposal under subsection (1).

In principle agreement was initially given, considering that the agreement and covenant were lodged together and cover similar matters. The applicant amended the application to extend the changes under the agreement.

In making a decision on an application Section 178B requires consideration of the following:

- (a) the purpose of the agreement; and
- (b) the purpose of the amendment
- (c) whether any change in circumstances necessitates the amendment; and
- (d) whether the amendment would disadvantage any person, whether or not a party to the agreement; and
- (e) the reasons why the responsible authority entered into the agreement; and
- (f) if the amendment is to remove land from the application of the agreement, whether the land is subject to any further liability under the agreement; and
- (g) any relevant permit or other requirements the land is subject to under the *Subdivision Act 1988*; and
- (h) any other prescribed matter.

Section 178C relates to giving notice of an application. In this application Notice was given and three objections were received.

Section 178E relates to the responsible authority making a decision on the application taking into consideration the matters in Section 178B.

In consideration of Section 178B(d) it is considered that varying the agreement would disadvantage other parties to the agreement being other lot owners and the responsible authority who imposes the requirement for an agreement.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate the relevant sections of Clause 65.

These include:

- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

It is considered that this application does not protect existing or native vegetation or the planting of new native vegetation in accordance with the Covenant and Section 173 Agreement that established a native vegetation buffer around the whole of the site.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

The application was not required to be referred.

FINANCIAL IMPLICATIONS

The recommendation of refusal of this application may have financial implications to Council.

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation of refusal 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

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 a Notice of Decision to Grant a Permit with conditions. Council would need to satisfy itself that the covenant beneficiaries would be unlikely to suffer any detriment of any kind, including perceived detriment, because of the variation of the covenant. This option may result in the objectors appealing Council's decision to VCAT and beneficiaries could make a claim for costs. Approval of a variation to the Section 173 Agreement would also need to be given.

CONCLUSION

The restrictions on title were imposed by Council to create design outcome on an 80-lot staged subdivision under planning permit PA2005365 in 2006.

Based on the objections received including from the beneficiaries of the covenant, Council would not be able to satisfy itself that the owners benefitting from the restriction would be unlikely to experience any detriment including perceived detriment if the covenant was to be varied. Against the relevant provisions of the Moorabool Planning Scheme and Section 60(5) *Planning and Environment Act 1987* it is recommended that this application to vary restrictive covenant PS635007U be refused.

The application also seeks to vary the Section 173 Agreement. As the matters covered by this Agreement are similar to those in the covenant, it is considered that an application to vary the S173 Agreement should also be refused.

Other landholders have generally adhered to the requirements of the restrictions, and they also benefit from the restriction. With beneficiaries objecting to the application and these objections being made in good faith, it is considered that there are no planning grounds to support the application.

7.2 PA2021249 - DEVELOPMENT AND USE OF FOUR WAREHOUSES, BUSINESS IDENTIFICATION SIGNAGE AND A REDUCTION IN CAR PARKING (THREE CAR PARKS) AT 27-29 OSBORNE STREET, MADDINGLEY

Author: Jyoti Makan, Senior Statutory Planner

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

Attachments: 1. Annexure A - Proposed Plans

APPLICATION SUMMARY

Permit No: PA2021249

Lodgement Date: 03 November 2021

Planning Officer: Jyoti Makan

Address of the land: 27-29 Osborne Street, Maddingley

Proposal: Development and Use for Four Warehouses, Business Identification Signage and Associated Reduction in Car Parking (three Car Parks).

Lot size: Lot 4 on Plan of Subdivision 218449C -

Why is a permit required? Clause 33.02-1 – a permit is required to use the land for warehousing.
Clause 33.02-4 – a permit is required to construct a building or construct, or car out works.
Clause 52.06 – Reduction to the standard car parking requirement
Clause 52.05 – A permit is required for advertising signage (Category 2)

COMMITTEE RESOLUTION

Moved: Cr Rod Ward

Seconded: Cr Paul Tatchell

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues Planning Permit PA2021249 for the Development and Use of Four Warehouses, Business Identification Signage and a Reduction in the Car Parking (Three Car Parks) at 27-29 Osborne Street Maddingley, subject to the following recommendations:

Endorsed Plans:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:
 - (a) Elevations, heights and materials schedule of retaining walls.
 - (b) Landscape plan in accordance with Condition 10.

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 each warehouse for the storage and collection of garbage and other solid waste. Skip bins must not be located external to the building.
6. 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:

7. The signs must not be illuminated by external or internal light except with the written consent of the Responsible Authority.
8. The location, design, content, colours and materials of all advertising signs must not be altered without the written consent of the Responsible Authority.
9. The advertising signs must be not contain any moving parts or flashing lights.

Landscaping:

10. Before the use and development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must show:
 - (a) Details of surface finishes of the accessway.
 - (b) 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.
 - (c) Landscaping and planting within all open areas of the site.

Species selection shall be to the satisfaction of the Responsible Authority.

11. 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.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Infrastructure:

13. A standard industrial vehicle crossing must be provided on Murdoch Court to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
14. The development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
 - (a) The development as a whole must be self draining.
 - (b) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
 - (c) All units must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority.
15. Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".
16. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.
17. Prior to the commencement of the development, design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.
18. 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.
19. 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).
20. Prior to the commencement of the development, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing change 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.
21. 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 of vehicle crossings
 - (b) details of the underground drainage
 - (c) location of drainage legal points of discharge
 - (d) standard details for vehicle crossing and legal point of discharge.

- (e) civil notes as required to ensure the proper construction of the works to the satisfaction of the responsible authority.
22. Prior to the use commencing, the car park areas must be constructed with a sealed surface, line-marking and drainage to the satisfaction of the responsible authority, and shall incorporate the following:
- (a) A minimum of 18 car spaces must be provided at all times.
 - (b) Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.
 - (c) Designated loading areas shall be shown on layout plans.
 - (d) The parking areas shall be provided with an asphalt or concrete surface and associated drainage.
 - (e) Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.
 - (f) The car park must provide sufficient space for a service truck to enter and exit the site in a forward direction. The service truck shall comply with the medium rigid vehicle detailed in AS2890.2 section 2.2. Turning templates shall be submitted for approval.
23. Prior to streetscaping works being undertaken and prior to use, a streetscape 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. Street trees must be provided at approved locations on both street frontages, 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.
24. Council 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. A security deposit equal to 150% of the cost of planting street trees & 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.

Melbourne Water:

25. Prior to commencement of construction a Site Environmental Management Plan (SEMP) must be submitted to Melbourne Water for approval, specifying relevant actions in a practical way to ensure that they are implemented effectively. The SEMP must include a site map detailing the location and design of all measures including the following:
- (a) Silt fencing.
 - (b) Access tracks.
 - (c) Spoil stockpiling.
 - (d) Trenching locations.
 - (e) Machinery/Plan Locations.

Greater Western Water:

26. Warehouse 1 and 2 must be serviced with water and sewerage independently from warehouse 3 and 4.
27. 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.

Permit Expiry:

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

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	No, application exempt pursuant to the notice requirements under the Industrial Zone 2 and the car parking provisions of Clause 52.06.
Notices on site:	No.
Notice in Moorabool Newspaper:	No.
Number of objections:	No.
Consultation meeting:	Not applicable.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments**Priority 2.4: Grow local employment and business investment**

The proposal is 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?	Yes, the application was referred to Melbourne Water, Greater Western Water and Council's Infrastructure Department.
Any issues raised in referral responses?	Car parking location and vehicle movements, stormwater management.
Preliminary concerns?	Separation of car park limits forward motion.
Any discussions with applicant regarding concerns?	Several discussions took place with the applicant regarding the car parking location and the movement of vehicles.
Any changes made to the application since being lodged?	The plans were amended to ensure that vehicles will ingress and egress the site in a forward motion to encourage safety.
Brief history.	None applicable.
Previous applications for the site?	None.
General summary.	The proposal includes the development and use of the land for four warehouses. Landscaping and raingarden areas are also proposed to cater for stormwater. To provide a better and safer outcome for vehicle movements, car parking was reduced from 21 spaces to 18 spaces. A car parking demand assessment was submitted which justified the supply and demand of car parking for the proposal was acceptable.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development and Use of Four Warehouses, Business Identification Signage and a Reduction in the Car Parking (Three Car Parks) at 27-29 Osborne Street, subject to the conditions contained within this report.	

SITE DESCRIPTION

The site is located at the corner of Osborne Street and Murdoch Court, Maddingley. Murdoch Court ends in a cul-de-sac containing seven lots. The title shows that no restrictions apply to Lots 3

PROPOSAL

Each warehouse is proposed with a typical flat roofline and concrete panels for walls. A Each retaining wall is proposed to manage the risks associated with slope between Warehouse 2 and 3. Each warehouse has a floor to cling of 5m and maximum overall height of 6.35m.

A total of 18 car spaces are provided and four bicycle spaces are provided.

Signage is also proposed for each warehouse, to be positioned above the roller door entry. The dimensions of proposed signage will be 4m X 1.2m and is intended for business identification signage.



Figure 2: Site plan

PUBLIC NOTICE

The application was not notified to adjoining and surrounding landowners. The application is exempt from notice provisions as it is more than 30m away from Residential zones. The site is more than 250m away from residential development. There is no advertising requirement for reduction in the standard car parking requirement.

LOCALITY MAP

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

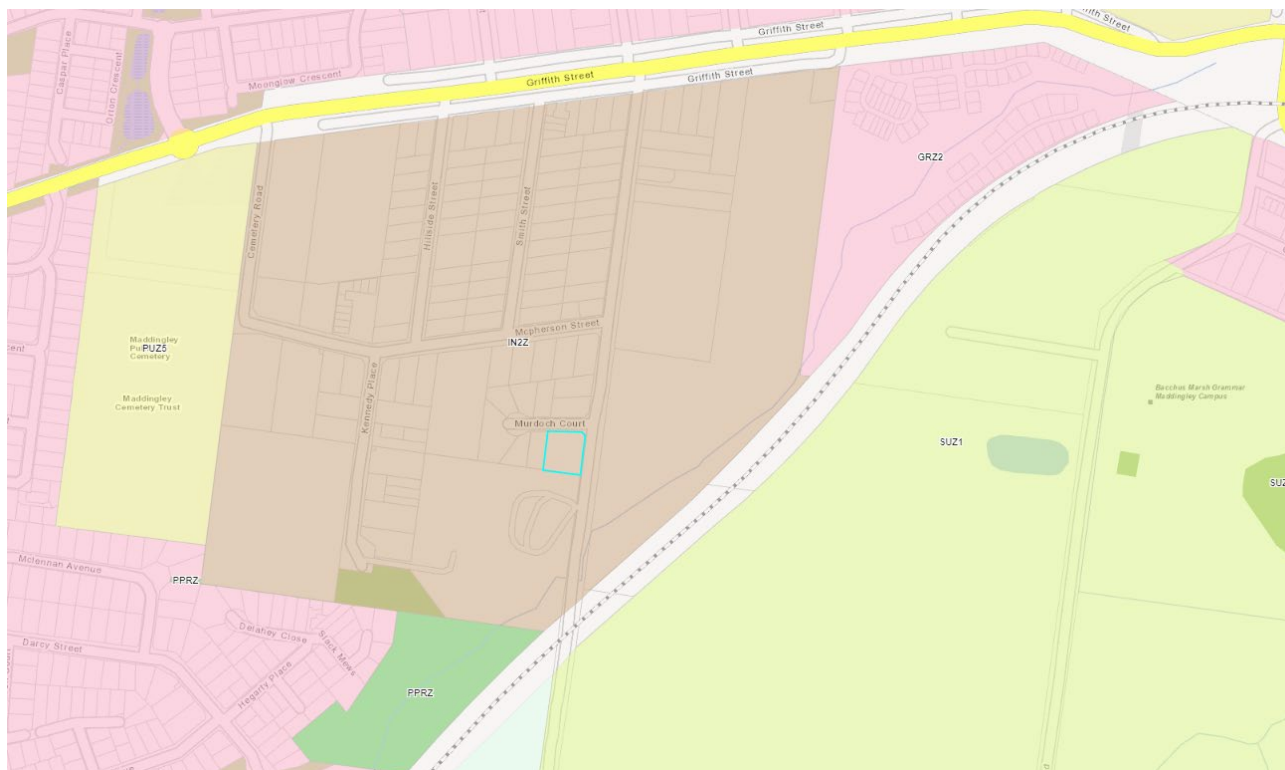


Figure 3: Locality map (site highlighted in blue)

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 – Settlement
- Clause 15.01 – Built Environment
- Clause 15.-02 – Sustainable Development
- Clause 17 – Economic Development
- Clause 18 Transport

ZONE

The site is located in the Industrial Zone 2 which has the purpose to

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for manufacturing industry, the storage and distribution of goods and associated facilities in a manner which does not affect the safety and amenity of local communities.

- To promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone.
- To keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises.

A permit is required to use and construct buildings and works for a warehouse in an Industrial Zone 2.

OVERLAYS

No overlays applying to the land.

Relevant Policies

Bacchus Marsh Urban Growth Framework – August 2018

The Maddingley area was investigated together with road networks, housing employment, rail corridors, local services, open spaces and other opportunities. The subject site is located in an identified industrial area which in part aims to *unify Bacchus Marsh where all neighbourhoods from Parwan to Darley are connected and integrated*. Maddingley is one of the key growth neighbourhoods. Warehousing and Transport make up for more than 1000 jobs according to the Bacchus Marsh Urban Growth Framework, 2018.

Particular Provisions

Clause 53.18 – Stormwater Management and Urban Development

Objectives: Clause 53.18 has the purpose 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.

- To minimise damage to properties and inconvenience to the public from stormwater.
- To ensure that the street operates adequately during major storm events and provides for public safety.
- To minimise increases in stormwater and protect the environmental values and physical characteristics of receiving waters from degradation by stormwater.
- To encourage stormwater management that maximises the retention and reuse of stormwater.
- To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.

Clause 52.05 – Signs

Purpose:

- To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.

- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

With relevance to the proposal and pursuant to Clause 52.05-12, a permit is required for a total display area of all business identification signs exceeding 8sqm.

Clause 52.06 – Car parking

Purpose:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- 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 parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

A permit is required to reduce the required number of car parking bays.

For warehouses the car parking requirement is two bays for each premises plus 1.5 bays for every 100sqm of net floor area. The minimum car parking requirement is 21 spaces with the applicant proposing 18 spaces, a reduction of 3 spaces from the standard car parking requirement.

Clause 52.34 – Bicycle facilities

Pursuant to Clause 52.34-1 Provision of bicycle facilities, a new use must not commence, or 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. The requirements for bicycle spaces are not listed for a “warehouse”.

DISCUSSION

The application proposes four warehouses which are between 268 and 298sqm each. Eighteen on-site car parking bays are proposed and four bicycle bays. Each warehouse will include warehousing floor space, amenities, loading bays and a 25sqm office at its frontage. The front setbacks are between 16m and 19m from Murdoch Court. The side street is proposed with mature landscaping. All warehouses will be accessed from Murdoch Court.

The design is simple industrial form with front canopy to add to architectural interest in the development. The large front setback comprising the car parking, accessways and landscaping reduced the prominence of the built form.

Waste collection would be once weekly or fortnightly. Waste storage areas to each warehouse in internal and will not be exposed outside of the building. Each warehouse also facilities an 8000l water tank.

The signage areas proposed is 4m X 1.2m totalling 4.8sqm for each warehouse which is minimal for an industrial area to identify a warehouse business. A total of 19.2sqm of signage is proposed for all four warehouses. Each sign will be located above each warehouse roller door at the entry.

The proposed signage was assessed against the decision guidelines pursuant to Clause 52.05-8 resulting in no cumulative impact of signs on the character of the area nor visual disorder and clutter. The signs are located above each roller door and is reasonable for a warehouse and industrialised area. No internal illumination is proposed resulting in limited impact on drivers' line of sight or glare. The car park will be landscaped which will enhance the grid block design of the buildings as well as balance the impact of signage. Conditions are placed on the permit to ensure that no flashing lights, internal illumination is proposed without written consent from the Responsible Authority.

One of the main concerns with the application was the inability for large vehicle to turn within the site and be able to exit in a forward direction. After several meetings with the applicant and the Council's Infrastructure resulted in the altering the car parking area to create a shared area that allow vehicle turning. This improved internal arrangement resulted in the on site car parking reducing from 20 space to 18 spaces.

The submitted Traffic Report drafted by TTM Consulting included a car parking demand assessment inclusive of traffic impacts. It was stated that the immediate site frontage has capacity for three spaces on Murdock Court and seven spaces on Osborne Street which equate to 10 spaces. Accounting for vehicle crossings, the traffic report states that this is well above the parking reduction of three spaces being sought.

During the assessment, the loss of the three parking spaces was considered reasonable and accepted as it includes the addition of the bicycle parking, inclusion of rainwater gardens, landscaping and importantly safer vehicle movements and egress.

The proposal includes rain gardens to improve the treatment of stormwater onsite before it exists into the offsite system. Conditions are recommended to ensure that the development is self-draining and must be connected to an approved point of discharge and meet water sensitive urban design principles of the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".

The car parking layout provides for disabled access in accordance with AS1428 and provides for landscaping. These items are further enforced by recommending conditions for landscaping plans and compliance with the relevant standards.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

Authority	Response
Council's Infrastructure	Consent with conditions.
Greater Western Water	Consent with conditions.
Melbourne Water	Consent with conditions.

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

Council could consider the following options:

- issue an approval (in accordance with the recommendations of this report; or
- should the Development Assessment Committee wish to refuse the application, the Committee needs to explore reasons for refusing the proposal and compliances with the Moorabool Planning Scheme.

CONCLUSION

The proposed use and development for warehouses, signage, and reduction in three car parking bays is considered appropriate within the Industrial Zone. Sufficient space is provided for vehicles to move in a forward motion. Stormwater management plans provide that water sensitive urban design principles can be met, including EPA requirements. A retaining wall is proposed to cater for the slope between the warehouses which will in turn minimise risks associated with erosion and drainage. During consultations with the applicant and negotiating sustainable outcomes for the industrial site, efforts were made towards sustainable practices such as raingardens, water tanks, landscaping, and bicycle racks. These practices will aim to eliminate waste, reduce, re-use and recycle where possible to safeguard the environment as well as set cooler environments for large scale warehouse buildings which are encouraged by the planning policy framework. As established industrial developments lack these sustainable practices, this proposal is considered to have positive environmental impact and is recommended for approval subject to conditions.

7.3 PA2021164 - MULTI-LOT SUBDIVISION, DEVELOPMENT OF THREE DWELLINGS ON LOTS LESS THAN 300SQM AND REMOVAL OF NATIVE VEGETATION AT MCCORMACKS ROAD, MADDINGLEY (STAGES 26-29 STONEHILL ESTATE)

Author: Jyoti Makan, Senior Statutory Planner

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

Attachments:

1. Subdivision Plan Revision G (under separate cover)
2. West Maddingley Development Plan - Detailed Assessment (under separate cover)

APPLICATION SUMMARY

Permit No: PA2021164

Lodgement Date: 26 July 2021

Planning Officer: Jyoti Makan

Address of the land: McCormacks Road, Maddingley being Lot A on Plan of Subdivision 807655A (Stonehill Estate)

Proposal: Multi-Lot Subdivision, Development of Three Dwellings on lots less than 300sqm and Removal of Native Vegetation

Lot size: 22.5ha

Why is a permit required? Clause 32.08-2 - Subdivision on land
Clause 32.08-5 - Construction of a dwelling on a lot less than 300sqm,
Clause 52.17 - Remove, destroy, or lop any native vegetation

COMMITTEE RESOLUTION

Moved: Cr Rod Ward

Seconded: Cr Paul Tatchell

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue Planning Permit PA2021164 Multi-Lot Subdivision, Development of Three Dwellings on lots less than 300sqm and Removal of Native Vegetation 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 drawn to scale with dimensions and must be generally in accordance with the plans identified as:
 - (a) The Subdivision Plan in accordance with version (g) dated 19 April 2022 prepared by SMEC with Stage 29 to have a maximum of 34 lots.
 - (b) An additional concrete footpath being a minimum of 1.5m wide along the

escarpment side of Stages 26 to Stages 28.

Subdivision:

2. The plan of subdivision submitted for certification must include a creation of restriction. The wording of the creation of restriction shall be as follows:
 - (a) Land to be Burdened: All lots on this Plan.
 - (b) Land to Benefit: All lots on this Plan.
 - (c) Creation of restriction: Upon registration of this plan, the following restriction is created:

Description of Restriction: No further subdivision to create additional lots is permitted.
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. Before the plan of subdivision is certified under the *Subdivision Act 1988*, a Memorandum of Common Provisions must be submitted to and approved by the Responsible Authority which provides design guidelines for:
 - (a) Lots less than 300sqm which demonstrate full compliance with Clause 54 of the Moorabool Planning Scheme and requires that corner lots be developed with two storey dwellings.
 - (b) Lots less than 300sqm that addresses front setbacks, garage design, dwelling entry design, roof forms, dwelling separation, window design, materials and colours, fencing and driveway.

Telecommunications:

5. 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 requirement 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 optic fibre.
6. 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 telecommunication 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 in an area where the National Broadband Network will not be provided by optical fibre.

Vegetation:

7. Native vegetation including dead standing native vegetation is not to be removed from the land without further the written consent of the Responsible Authority.

DELWP:

8. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associate statutory requirements or approvals.
9. The native vegetation permitted to be removed, destroyed or lopped under this permit is 1.617ha of native vegetation (and 5.225ha of previous removal), which is comprised of:
- (a) 1.6.7ha of native vegetation;
 - (b) Including two trees; and
 - (c) With a strategic biodiversity value of 0.400.
10. Before works start, a plan to the satisfaction of the Responsible Authority must be prepared and submitted to and approved by the Responsible Authority. The plan must:
- (a) Identify all native vegetation to be retained within the road reserves; and
 - (b) Describe the measures to be used to protect the identified vegetation both during the construction and the operation (ongoing management) stages.

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.

11. Except with the written consent of the Responsible Authority, 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 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 the provision of underground services.
 - (e) Any other actions or activities that may result in adverse impacts to retained native vegetation.
12. To offset the removal of 1.617ha of native vegetation, the permit holder must secure a native vegetation offset in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DEWLP 2017), as specified below:
- (a) A general offset of 0.334 general habitat units must meet the following criteria:
 - i. located within the Port Phillip and Westernport Catchment Management Authority boundary or Moorabool Shire Council municipal area;
 - ii. within a minimum strategic biodiversity score of at least 0.429; and
 - iii. the offset(s) secured must also protect two large trees.
13. Before the commencement of works approved by this permit, evidence that the required offset by this permit has been secured must be provided to the satisfaction of the

Responsible Authority. This evidence must be one or both of the following:

- (a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and/or
 - (b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
14. A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit.
15. Prior to the commencement of any works, a Tree Protection Zone must be established and maintained during, and until completion, of all buildings and works, around all the retained vegetation as identified on the endorsed plans, in accordance with the Australian Standard 4970-2009 and to the satisfaction of the Responsible Authority.
16. No excavation, heavy machinery, construction works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the Tree Protection Zone unless otherwise approved within this permit or with the written consent of the Responsible Authority.

Development Plan Overlay:

17. Prior to any works commencing on the land a “Construction Management Plan” (CMP) 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 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.
18. Developer contributions are required for the provision of infrastructure on the developable land, and also where the development impacts on infrastructure demand beyond the developable area, including social and road network infrastructure based on the Community Infrastructure Report and Traffic Impact Assessment Report, and must be provided for within an agreement made with Moorabool Shire Council under section 173 of The Act.

Powercor:

19. 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.
20. 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.

21. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliance 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.

22. 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.

23. 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.

Greater Western Water:

24. 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.

25. Fencing must be provided around GWW Maddingley Tank site at the developer's expense and to the satisfaction of Greater Western Water.

26. 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.

27. 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.

28. 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.

29. The owner 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.

30. Provision of easements in favour of Greater Western Water Corporation over all existing

and proposed sewer mains located within private property. Easement widths and sewer offsets must comply with the current version of the Gravity Sewerage Code of Australia – Melbourne Retail Water Agencies.

31. 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 a sewerage extension servicing the development is to be located. The easements created shall be in favour of City West Water Corporation.
32. 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.
33. The IWMP must set out subdivision outcomes that appropriately respond to the site and its context for integrated water management to the satisfaction of Greater Western Water. When approved by Greater Western Water, the IWMP must be endorsed and form part of the permit.
34. Prior to Certification of the Plan of Subdivision Developer Design Guidelines must be submitted to Council for approval and endorsement. Any requirement for a rain water tank at an individual lot must be included and mandated within the endorsed Developer Design guidelines. Alternatively, prior to Certification of the Plan of Subdivision a Restriction must be created on the Plan requiring all dwellings to incorporate dual plumbing for connection to a rainwater tank with a minimum 3,000L capacity, for use in toilet flushing and garden watering.
35. 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.
36. All contractors engaged on construction of 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 Greater 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 for standpipes.
 - (e) Only use water for the purpose approved in the Water Carters Permit.
 - (f) Avoid wastage of water on site.
 - (g) Comply with any water restrictions imposed by Greater 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 supply systems to construct Subdivision Infrastructure as defined above.

Melbourne Water:

37. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
38. Prior to Certification of any stage of this subdivision, Melbourne Water requires that the applicant submit and receive approval for a detailed Drainage and Stormwater Management Strategy, which demonstrates how stormwater runoff from the subdivision will achieve flood protection standards and State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater.
39. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the *Subdivision Act 1988*.
40. Prior to Certification, the Developer must ensure adequate outfall from the site. A copy of written approval from the relevant affected parties to the satisfaction of Council for the arrangement of appropriate drainage outfall for the subdivision must be provided to Melbourne Water. A copy of Council's acceptance of the SWMS for any assets under Council's maintenance shall be provided to Melbourne Water for its records.
41. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.
42. Prior to the commencement of works, any proposed Wetland treatment works to be constructed for treatment of stormwater runoff is to be designed and built to Council's requirements. Council's approval to the design and acceptance of ownership and all future maintenance responsibilities of the Wetland shall be submitted to Melbourne Water prior to the commencement of works.
43. Prior to the issue of a Statement of Compliance for the subdivision, engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and any overland flow paths for the 100-year ARI storm event.
44. Prior to the issue of a Statement of Compliance for the subdivision, a certified survey plan prepared by or under the supervision of a licensed land surveyor, showing finished lot levels reduced to the Australian Height Datum, must be submitted to Melbourne Water for its records.
45. Prior to the issue of a Statement of Compliance for the subdivision, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.

46. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
47. The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves.
48. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
49. Easements or reserves shall be created over existing and proposed Melbourne Water assets on the Plan of Subdivision to the satisfaction of Melbourne Water.
50. Any temporary outfall is to be arranged to the satisfaction of Melbourne Water, Council and the affected downstream property owner(s).
51. Prior to the issue of a Statement of Compliance for the subdivision, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.
52. Prior to the issue of a Statement of Compliance, the drainage outfall must be to the satisfaction of Council. Written confirmation of the acceptance of the drainage outfall by Council must be sent to Melbourne Water for its records.

Infrastructure:

53. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over any drainage pipes and easements on the property.
54. 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 undertaken in accordance with the Infrastructure Design Manual and Australian Rainfall and 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 outfall 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 as storm. The flow paths must be indicated on the engineering plans.

(h) The drainage system must be designed to include provision to intercept litter.

The drainage design must take into account any applicable drainage or flood management strategy.

- 55. Prior to works commencing a detailed Bulk Earthworks plans including erosion control treatments during, and past 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.**
- 56. 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. A justification to the satisfaction of the Responsible Authority is to be provided to any variation/discrepancy to the Infrastructure Design Manual. The layout is to be in line with the Development Plan and to the satisfaction of the Responsible Authority.**
- 57. 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.**
- 58. Traffic management treatments must be provided in the form on 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. Prior to the issue of the Functional Layout Plan approval, a detailed assessment is to be undertaken to detail all traffic attenuation devices required within the roads being constructed as part of the development as well as McCormacks Road.**
- 59. Prior to the submission of the detailed design, Functional Layout Plans are to be submitted and approved by the Responsible Authority. The Function Layout Plan is to include all internal roads proposed to be constructed as well as McCormacks Road frontage. Following the approval of the Functional Layout Plan(s) 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.**
- 60. 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 Responsible Authority.**
- 61. An Environmental/Construction Management Plan for the construction works must be submitted to 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 for 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 (TMP) and Traffic Control Plans (TCP).
 - (j) Proposed start and completion time of construction activities including the delivery of material to site.
62. 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).
63. 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 Management Plan.
 - (c) Approved Construction Management Plan (which is to include TMP, Pedestrian Management Plan).
 - (d) Any other approvals forming part of other planning Certificate conditions.
64. A copy of all approved documents are to 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.
65. 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.
66. Street names and street signs must be provided to the satisfaction of the Responsible Authority.
67. 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*.
- 68. 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 clearly 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.
- 69. 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.
- 70. 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.
- 71. 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.
- 72. 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 work must comply with Moorabool Shire’s Landscape Design Manual.
- 73. 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.
- 74. 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.
- 75. 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.

76. Prior to landscaping works being undertaken and prior to the issue of Statement of Compliance, a Buloke Conservation Area Management Plan (BCAM) must be submitted to the satisfaction of the Responsible Authority. The BCAM must include specific detail on Escarpment Revegetation, Stabilisation and Management. Landscaping within the Buloke Conservation Area must be provided in accordance with this approved BCAM, to the satisfaction of the Responsible Authority.
77. Landscaping and revegetation identified in the BCAM must be maintained by the developer (including watering, mulching, weeding and formative pruning) for a minimum of five years to the satisfaction of the Responsible Authority. The developer must obtain receipt of an off-maintenance certificate by the Responsible Authority (and endorsed by Council's Environment) to end the maintenance period.
78. The cost of extra planting to replace failed revegetation, and any additional stabilisation/erosion prevention measures must be borne by the developer during the maintenance period. Any required replacement plantings incur an additional 24 month maintenance period.

Country Fire Authority

79. 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 Country Fire Authority (CFA):
 - (a) Above or below ground operable hydrants must be provided. The maximum distance between the 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 CFA.
80. 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 50m. Dips must have no more than 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.

Downer:

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

Environmental Planning:

82. Prior to the commencement of works the applicant must provide a Site Management Plan (SMP) for approval by the Responsible Authority. When approved the SMP will be endorsed as part of the permit.
83. The SMP must include the following (but not limited to):
- (a) The management of areas of disturbance, material stockpiles, no-go zones and vehicle parking during and after construction.
 - (b) Rehabilitation of the site and native vegetation.
 - (c) Pest plant and animal control across the site on an ongoing basis.

Permit Expiry:

84. The permit will expire if one of the following circumstances applies:
- (a) The development is not started within two years of the date of this permit;
 - (b) the development is not completed within four years of the date of this permit; and
 - (c) the subdivision is not certified within two years of the date of issue of the permit.
- Statement of compliance must be achieved, and certified plan registered at the Titles Office within five years from the date of certification.

Permit Notes:**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. To obtain an FFG permit or further information, please contact a Natural Environment Program officer at the Grampians Regional Office of the Department of Environment, Land, Water and Planning on Grampians.environment@delwp.vic.gov.au

Before any works on public land start, the applicant must comply with applicable commonwealth, state and local legislation, regulations and permits.

Condition 19 - 'The Act' is the *Planning and Environment Act 1987*.

CFA:

The Country Fire Authority requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications of the CFA website (www.cfa.vic.gov.au).

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Not required as the development is generally in accordance with the approved West Maddingley Development Plan.
Notices on site:	No.
Notice in Moorabool Newspaper:	No.
Number of objections:	No objections.
Consultation meeting:	Nil.

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 Makan

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 Melbourne Water, PowerCor, Downer, Country Fire Authority, Greater Western Water, DELWP, Council's Infrastructure, Strategic Planning, Environmental Management and Connected Communities.
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Any issues raised in referral responses?	<p>Non-compliance with Infrastructure Design Manuel, drainage issues.</p> <p>Urban Design response to demonstrate designing around site features and meeting the generally in accordance provisions with the approved Development Plan.</p> <p>Bushfire risk near the conservation reserve area.</p>
Preliminary concerns?	Density levels proposed on steep topography.
Any discussions with applicant regarding concerns?	Several discussions occurred with the applicant regarding erosion, interface issues, bulk earthworks on sloping land, biodiversity impacts, access for emergency vehicles, setbacks and buffer distances from the escarpment area. This resulted in reduced lot numbers where there were significant site constraints.
Any changes made to the application since being lodged?	Lot reduction, original proposal included 235 lots which resulted in a lower average lot size, now reduced to 204 lots. Reduced number of lots less than 300sqm, now three proposed lots. Included the perimeter road in Stage 27 and the provision of a shared path.
Brief history.	The West Maddingley Development Plan (approved 2011) specified larger lot sizes in this section of the Estate due to the steep topography. The Development Plan provides for a staged approach, and the current stages under consideration proposes to develop residential lots, road construction, parks, rehabilitation works to the existing quarry and earthworks in accordance with the Development Plan.
Previous applications for the site?	<p>Nil with this section of Stonehill Estate.</p> <p>Several previous permits issued for earlier stages.</p>
General summary.	<p>This proposal includes the subdivision of 204 lots in four stages. The proposal is generally in accordance with the approved Development Plan, however, the number of lots were reduced in areas of steep topography to ensure better outcomes.</p> <p>Native vegetation removal can be managed through appropriate offsets.</p> <p>The proposed subdivision is recommended for approval subject to permit conditions.</p>

Summary of Officer's Recommendation

That, having considered all relevant matters as required by the *Planning and Environment Act 1987*, Council issue planning permit PA2021164 for a Multi-Lot Staged Subdivision, Development of three Dwellings on lots less than 300sqm and Removal of Vegetation at McCormacks Road Maddingley Stages 26-29 Stonehill Estate (Lot A on Plan of Subdivision 807655A) subject to the conditions contained within this report.

SITE DESCRIPTION

The site is approximately 22ha and located about 2kms west of Bacchus Marsh main activity node. The site is highly undulating and characterised with steep slopes from the south to the north and from the west to the east. The south-western corner is the highest point. There is an interface with agricultural land to the north and east, McCormacks Road to the south and an escarpment to the west. The north-western portion within the site is allocated towards conservation.

The site is also characterised as emerging residential development as part of the Stonehill Estate. Development is guided by the approved West Maddingley Development Plan. (WMDP).

PROPOSAL

The application proposes a staged multi-lot subdivision and removal of native vegetation.

A total of 204 lots is proposed on 16ha of developable area. The average lot size is 788sqm across the four proposed stages which includes three lots being less than 300sqm.

A local park is proposed within the Buloke Conservation Area to the west. The existing quarry site is proposed as a passive open space which will be vegetated and rehabilitated.

According to the Biodiversity Assessment prepared by Ecology and Heritage Partners, the extent of vegetation removal is 1.456ha and requires an offset of 0.310 General Habitat Units. Several patches of native vegetation are required to be removed which are identified as Plains Woodland with several patches of native grasses.

The development of the three proposed lots less than 300sqm will be guided by a Memorandum of Common Provisions (housing design guidelines) as was previously dealt with within the Stonehill Estate. These provisions allow for higher quality housing as all dwellings must meet every ResCode standard and no variations are permitted.

BACKGROUND TO CURRENT PROPOSAL

In response to further Information request the overall yield was reduced from 235 lots to 211 lots however due to the steep slopes some lots in certain areas still required a few more changes to the plans relating to lot sizes being increased, accessibility and cut and fill diagrams to show how the site will be built in the future. The lot number was further reduced to 204 lots.

HISTORY

The Minister for Planning prepared and approved a Planning Scheme Amendment C49 on 19 November 2009 which rezoned the land known as West Maddingley from Farming Zone to Residential 1 Zone and also placed a Development Plan Overlay, Schedule 3 on the land. The land parcels rezoned were identified through Amendment C34. The Panel examined residential land supply and supported Council's view that the subject land was a suitable area for residential

growth. The West Maddingley Development Plan covers an area of 168km and consists of approximately 1,450 residential lots, as well as a Private Primary School site and Neighbourhood Activity Centre. The total number of lots approved to date amounts to 1115 (Stages 1-25) and the proposed stages 26-29 form part of the last stages to complete Stonehill Estate.

PUBLIC NOTICE

If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987*.

The application was not advertised in accordance with this exemption.

LOCALITY MAP

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



Figure 1: Locality Map

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 11.02-3S – Sequencing of development
- Clause 11.03-5S – Distinctive areas and landscapes
- Clause 11.03-2S – Growth Areas
- Clause 12.01-2S – Native vegetation management
- Clause 15.01-3S – Subdivision Design
- Clause 15.01-4S – Healthy Neighbourhoods
- Clause 15.01-5S – Neighbourhood Character
- Clause 15.03-1S – Heritage Conservation

- Clause 15.03-2S – Aboriginal Cultural Heritage
- Clause 15.01-3S – Subdivision Design
- Clause 15.01-4S – Healthy Neighbourhoods
- Clause 15.01-5S – Neighbourhood Character
- Clause 15.02-1S – Energy and Resource Efficiency
- Clause 15.03-1S – Heritage Conservation
- Clause 15.03-2S – Aboriginal Cultural Heritage
- Clause 16.01-1S – Housing Supply
- Clause 17 – Economic Development
- Clause 18 – Transport
- Clause 19 – Infrastructure

ZONE

The subject site falls within the General Residential Zone – Schedule 2 (GRZ2) which is applied to natural and greenfield residential growth areas.

The purpose of the General Residential Zone is:

- To implement the PPF and the LPPF Framework, including the MSS and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

Clause 32.08-2 of the General Residential Zone requires a planning permit to subdivide land.

Pursuant to 32.08-5 of the Moorabool Planning Scheme, a permit is required for a dwelling on a lot of less than 300sqm.

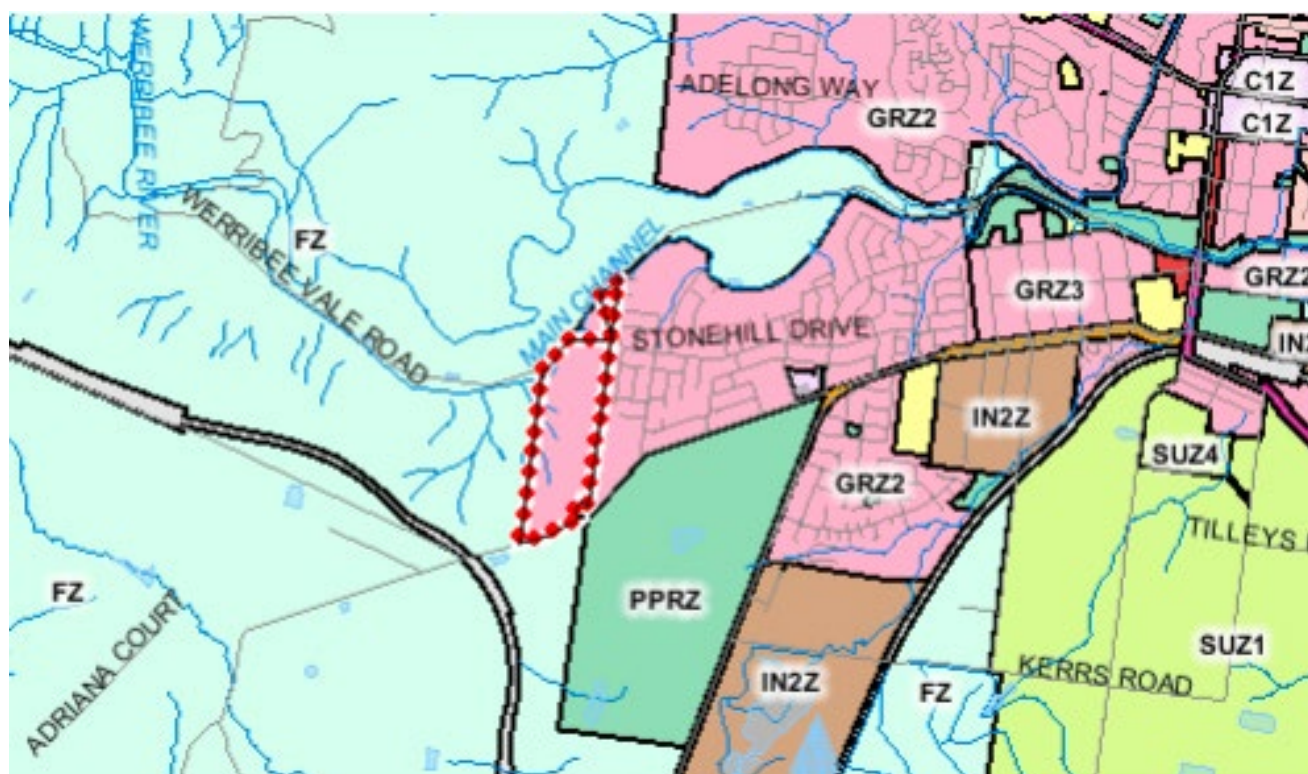


Figure 2: Zone Map. Area coloured pink is in General Residential Zone Schedule 2 with the adjacent Farming Zone in light green.

OVERLAYS

Development Plan Overlay – Schedule 3

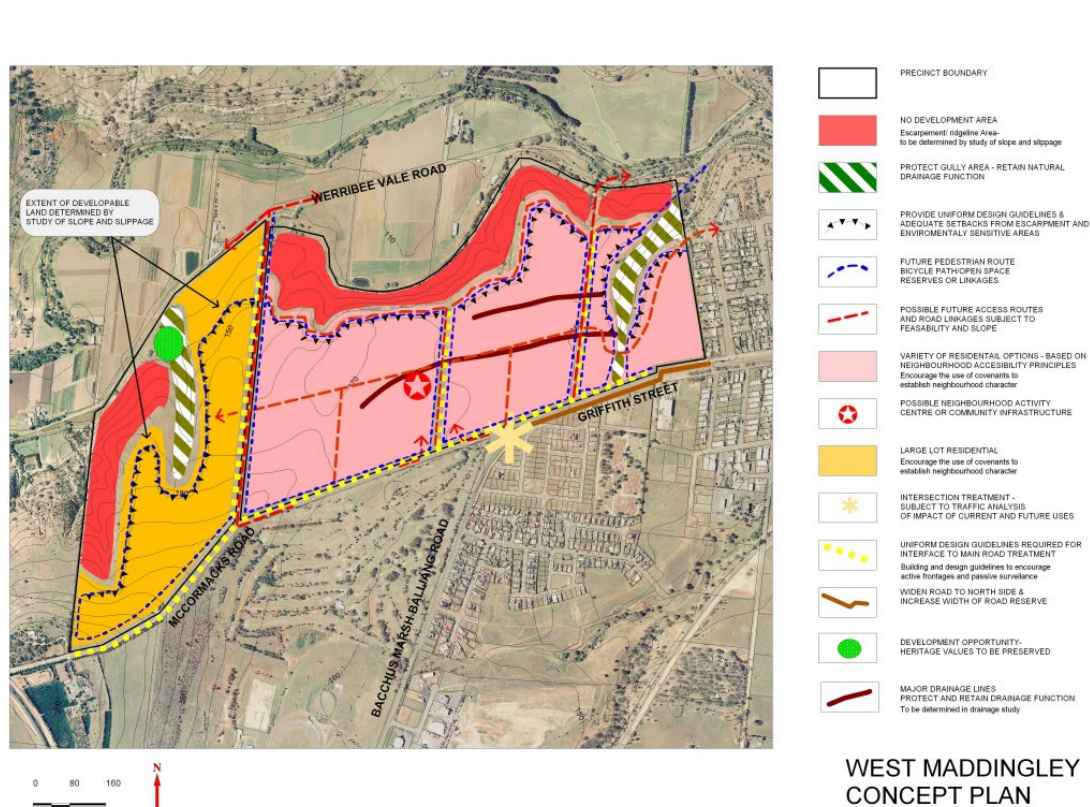


Figure 3: West Maddingley Development Plan. Area coloured yellow comprising the subject land is subject significant topography constraints.

The West Maddingley concept plan part of Schedule 3 to the overlay states that the subject site is identified for large lot residential development and that covenants to establish neighbourhood character be encouraged. It also states that uniform urban design guidelines and adequate setbacks from escarpment and environmentally sensitive area be provided.

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
- Range of green spaces as features

The Housing Strategy identifies this location as Precinct 27 which is earmarked for greenfield residential growth.

Particular Provisions

Clause 52.01 (Public Open Space Contribution and Subdivision):

This provision requires that a person who proposes to subdivide land must make a contribution to the Council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial, or commercial purposes, or a percentage of the site value of such land, or a combination of both). The schedule to Clause 52.01 does not specify a percentage for public open space.

The proposal provides a local park and works within the existing quarry site to rehabilitate the land as well as a playground within the conservation reserve and a shared path for walkability in this reserve. The proposal exceeds the minimum open space provision under the Clause.

Clause 52.17 (Native Vegetation):

This provision seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy, or lop native vegetation.

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation. DELWP have supported the native vegetation removal subject to offsets. Refer to DELWP conditions in the recommendation of this report.

Clause 54(Dwellings on Lots Less than 300sqm):

Purpose:

To achieve residential development that respects the existing neighbourhood character, or which contributes to a preferred neighbourhood character.

- To encourage residential development that provides reasonable standards of amenity for existing and new residents.
- To encourage residential development that is responsive to the site and the neighbourhood.

The dwellings on lots less than 300sqm will be required to comply with every standard of ResCode through a Memorandum of Common Provision (MCP).

Clause 56 (Residential Subdivision):

This clause seeks to create liveable and sustainable neighbourhoods and urban places with character and identity and to achieve residential subdivision outcomes that appropriately respond to the site and its context.

The proposed subdivision complies with the provisions of Clause 56.

DISCUSSION

The proposal is required to be assessed against the Development Plan (strategic aspects and development outcomes) and the various overlays and provisions within the Moorabool Planning Scheme. The development as discussed below demonstrates a high level of compliance and achieves the intended outcome. Please also refer to Attachment 2 which provides further detail on the assessment against the West Maddingley Development Plan.

Clause 56 of the Moorabool Planning Scheme provides standards and objectives to create liveable and sustainable communities. One of the standards of this clause is to ensure that a subdivision is designed around the features and constraints of the site. One of the main constraints of the site is the steep slopes with a gradient of 1:3 which results in earthworks to ensure that the land would sustain future built form. Other site features include a conservation reserve, existing quarry and a Greater Western Water storage facility.

It is a requirement under the Moorabool Planning Scheme to demonstrate that new subdivisions respond to the features of the site through activating interfaces to open spaces, connecting key pedestrian paths and vehicle access provision around the public realm.

The proposal provides a functional planning outcome based on the earthworks proposed on the site. The proposal includes a mix of lots sizes to facilitate housing diversity across the emerging neighbourhood. Lot sizes were increased up to more than 1,000sqm in certain parts where slopes are steeper in response to site constraints. Where the slope is moderate, lots are more conventional around 400sqm similar to the existing approved stages in Stonehill Estate.

Based on the slop constraints, this proposal had to provide each site with a building pad and private open space that is functional and achieves a sufficient area for a future dwelling. In achieving this outcome, a plan was submitted to Council identifying the location of retaining walls and the extent of cut and fill. The plan was revised which has reduced the number of lots on steep slope to achieve the objectives of the Development Plan.

The majority of the lots are configured to have direct street frontage and meet solar access standards. The number of lots not having direct street frontage are limited (battle-axe arrangement) are limited to five lots in Stage 29 and these range between 1,380sqm and 1,813sqm.

The landscape masterplan provides for a local park and works within the existing quarry site to rehabilitate the land as well as a playground within the conservation reserve and a shared path (4m wide track) for walkability in this reserve to the satisfaction of Council.

For ease of access and connectivity towards the conservation reserve, a track is provided along the southern edge of the conservation reserve and local park. This track will also allow emergency vehicles and Council to access to the site. This is considered a good outcome as the applicant agreed to provide additional land for this track, by mutual agreement.

The proposal as presented for approval has been assessed and supported by all relevant internal Council departments and referral agencies and their conditions included in the recommendation.

McCormacks Road is earmarked for the future public transport route. In the interim, the existing public transport service from Griffith Street (connects from McCormacks Road) will service the proposal. Considering that the existing bus stop approximately 2.1km away from the site, it is recommended that Council continue to advocate for improved public transport services within this future development, noting that the Department of Transport did not require additional services.

In terms of the Traffic Impact Assessment (TIA), which highlights the need for traffic attenuation measures in McCormacks Road to reduce speeds. These measures will also reduce potential traffic conflicts for vehicles egressing from lots adjacent to McCormacks Road.

Biodiversity

Several patches of native vegetation were found within the site including along McCormacks Road. Such as Plains Woodlands and Plains Grassy Woodland. According to the Native Vegetation Management Report and Biodiversity Assessment Report prepared by Ecology Heritage and Partners (EHP) dated November 2021, some scattered trees were also found. A detailed assessment pathway was used to determine the vegetation loss and offset targets. The offset requirement for the native vegetation removal is 0.310 General Habitat Units and two large trees within the vicinity of Port Phillip and Westernport Catchment Management Authority/Moorabool Shire Council.

DELWP raised initial concerns with native vegetation impacts from the proposed construction activities. Following a revision of the proposal and increased offsets, DEWLP consented to the application.

Cultural Heritage Management

The site is classified as a cultural heritage sensitive area and requires an approved CHMP. The Wathaurung Aboriginal Corporation (trading as Wathawurrung), acting as the Registered Aboriginal Party issued a Notice of Approval for the Cultural Heritage Management Plan (11480) on 22 August 2018 in accordance with Section 64(1) of the *Aboriginal Heritage Act 2006*.

GENERAL AND OPERATIONAL 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
Section 55	
DELWP	Consent with conditions.
Downer	Consent with condition.
Melbourne Water	Consent with conditions.
PowerCor	Consent with conditions.
Greater Western Water	Consent with conditions.

Department of Transport	No objection.
Country Fire Authority (CFA)	Consent with conditions.
Section 52	
Council's Infrastructure Strategic Planning Environmental Management (Environmental Planner, Landscape Architect and Waste Management) Connected Communities	Consent with conditions. Consented. Consented. Consented.

FINANCIAL IMPLICATIONS

The recommendation of approval of this application does not implicate any risk or OH&S issues 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 not undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, The applicant was 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 Planning Permit in accordance with the conditions in the recommendation of this report; or
- issue a Planning Permit with amendments to the conditions contained in the recommendation of this report; or
- issue a Refusal to Grant a Permit on grounds. The 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

Upon receipt of the application for a multi-lot subdivision, removal of vegetation and development of three dwellings on lots less than 300sqm, further information was required to assess the proposal and formulate a recommendation.

The applicant has made substantial changes to the plans to address all key issues, including a reduction in the number of lots.

Council officers are satisfied that the proposed subdivision can be supported subject to conditions.

7.4 PA2021070 - DEVELOPMENT OF A SECOND DWELLING AT 5 LIDGETT STREET BACCHUS MARSH

Author: Jyoti Makan, Senior Statutory Planner

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

Attachments: 1. Plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2021070

Lodgement Date: 6 April 2021

Planning Officer: Jyoti Makan

Address of the land: 5 Lidgett Street Bacchus Marsh

Proposal: Development of a Second Dwelling

Lot size: 577.5sqm

Why is a permit required? Clause 32.08-6 – Develop the land for more than one dwelling

COMMITTEE RESOLUTION

Moved: Cr Rod Ward

Seconded: Cr Paul Tatchell

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issues a Notice of Decision to Grant Planning Permit PA2021070 for the Development of a Second Dwelling at 5 Lidgett Street Bacchus Marsh:

- 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 (Rev B and C - AD20053 drafted by Arkham Design) but modified to show:**
 - (a) Materials and colour schedule to show the garage being rendered and painted to match the proposed house colour.**
 - (b) Landscape plan to include:**
 - i) a detailed plant schedule including all proposed trees, shrubs, cover and climbing plant species, botanical names, common names, pot sizes, sizes at maturity, plant densities and quantities of each plant with reference to the relevant Australian Standards and NATSPECS. 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.**

- ii) **At least one canopy tree provided in the front setback area and secluded private open area to each dwelling.**

Landscaping:

- 2. **Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**
- 3. **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.**

Amenity:

- 4. **All pipes, fixtures, fittings and vents servicing any building on the site, other than storm water down pipes, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.**

Car Parking:

- 5. **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.**

Infrastructure:

- 6. **A standard urban residential vehicle crossing must be provided to each dwelling on Anderson Street to the satisfaction of the Responsible authority. Any redundant vehicle crossing must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the Responsible Authority.**
- 7. **The development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
 - (a) **The development as a whole must be self draining.**
 - (b) **Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.**
 - (c) **All units must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority.**
- 8. **Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".**
- 9. **Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the Responsible Authority prior to the commencement of the works associated with the permit.**
- 10. **Prior to the commencement of the development design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.**
- 11. **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.

12. 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).
13. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset 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.
14. 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 of vehicle crossings.
 - (b) Details of under underground drainage.
 - (c) Location of drainage legal points of discharge.
 - (d) Standard details for vehicle crossings and legal points of discharge.
 - (e) Civil notes as required to ensure the proper construction of the works to Council standard.

Department of Health and Human Services:

15. Cranes and other associated construction equipment must be fitted and continuously operated low intensity steady red obstruction lighting in accordance with the Civil Aviation Safety Authority (CASA) Part 139 (Aerodromes) manual of Standards 2019 Chapter 9 Division 4 – Obstacle Lighting at their highest point(s) to ensure that they can be seen within the helicopter flight paths.
16. Should any cranes and associated construction equipment be used, details of the crane location and height must be provided in writing to the Department of Health at least five days prior to commencement of development.

Permit Expiry:

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

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Yes. .
Notices on site:	Yes.
Notice in Moorabool Newspaper:	None.
Number of objections:	One.
Consultation meeting:	A consultation meeting occurred on 22 February 2022.

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 Makan

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

EXECUTIVE SUMMARY

Application referred?	Yes, the application was referred to the Department of Human and Health Services (DHHS) and Council's Infrastructure.
Any issues raised in referral responses?	Height levels to Australian Height Datum were required for DHHS to make an assessment.
Preliminary concerns?	Location of car parking, and sustainability in regard to building footprints.
Any discussions with applicant regarding concerns?	Several discussions took place with the applicant to understand our requirements and to meet the

	objectives of the planning scheme which is to ensure that development does not compromise open space and landscaping.
Any changes made to the application since being lodged?	Yes, the plans were amended several times with latest plans proposing a double storey dwelling to gain more open space and car parking compared to the original single storey dwelling proposal.
Brief history.	The application was lodged showing the existing dwelling and proposed a new single storey dwelling. Each with separate access due to the corner lot arrangement. The two buildings compromised open spaces and car parking. Changes were made to the location of the car parking, increased private open spaces, reduced building footprint with retention of the existing dwelling.
Previous applications for the site?	No previous applications.
General summary.	The proposal to retain the existing dwelling and proposing a double storey dwelling facing Anderson Street. An objection was received relating to neighbourhood character, overshadowing, and overlooking. The application met the ResCode objectives, zone provisions and overlay requirement. The site is located within close proximity to the Bacchus Marsh town centre and proposed efforts towards increasing open spaces, retaining the corner open spaces with additional landscaping throughout the site and reducing the building footprint. Car parking alterations were made to allow for at least two car spaces to each unit. The proposal is recommended for an approval subject to conditions.
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 issues a Notice of Decision to Grant Planning Permit PA2021070 for the Development of a Second Dwelling at 5 Lidgett Street Bacchus Marsh, subject to the conditions contained within this report.	

SITE DESCRIPTION

The site is located in at the corner of Anderson Street and Lidgett Street Bacchus Marsh.

The site undulates to a lower topography towards the eastern boundary where a crossover and access is existing to service the existing dwelling. The site is present of a three-bedroom single storey dwelling with vehicular access from Lidgett Street but front entry towards Anderson Street.

The surrounding area is present of residential dwellings, built at single storey level with mainly weatherboard materials. Front setbacks in the surrounds vary from 7m to 9m. Two bus stops are located along Main Street about 260m from the site. The Lidgett Street Reserve, St Bernards School and Bacchus Marsh main commercial precinct is located within 500m from the site.



Figure 1: Aerial photograph of site.

PROPOSAL

A second dwelling unit is proposed fronting Anderson Street behind the existing dwelling that will result in the demolition of existing rear outbuildings. The proposed dwelling features include the following:

- Three bedrooms – two bedrooms on the first floor and one bedroom on the ground floor.
- A single garage and one tandem car parking space fronting Anderson Street.
- The kitchen and living areas are located on the ground floor at the rear of the building.
- A six cubic metre storage shed, clothesline, 2,000L water tank and two bin spaces are provided within the secluded private open space.
- Bath and toilet facilities are located over both floors.
- Double storey at the height of 7.39m from floor level to the pitch of roof. The height of the ground floor and first floor walls are 2.55m
- The existing steel garage and outbuilding will be demolished. The proposed car space for the existing dwelling is located along the southern boundary.
- A new crossover accessed from Anderson Street will serve the proposed dwelling.

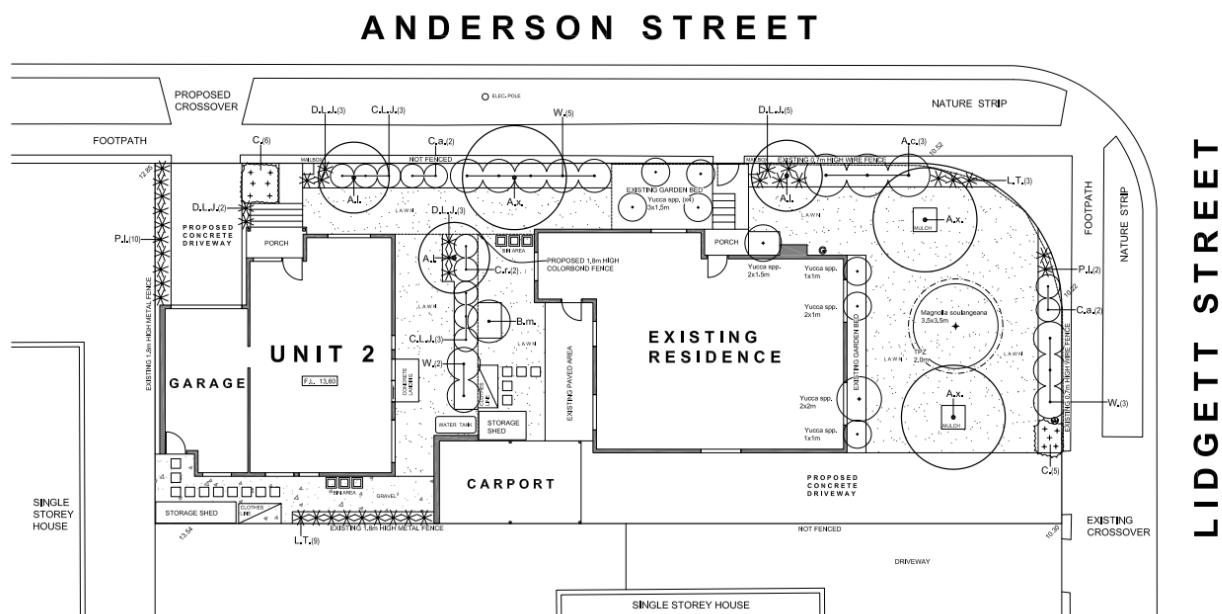


Figure 2: Proposed development

BACKGROUND TO CURRENT PROPOSAL

Due to the neighbourhood character objectives and the design of the initial proposed second dwelling unit, planning concerns were raised by Council officers. The applicant undertook substantial changes to the plans and the proposed additional dwelling was altered from a single storey dwelling to a double storey dwelling with large open spaces areas and more car parking.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners.

SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Overshadowing	Clause - 55.04-5 – Standard B21
Officer's Response	
The proposed development does not shadow more than 40sqm of neighbouring private open spaces and complies with this requirement.	
Objection	Any Relevant Requirement
Overlooking	Clause – 55.04-6 – Standard B22
Officer's Response	
No windows are proposed along the western elevation of the second dwelling.	

Objection	Any Relevant Requirement
Neighbourhood Character	Clause – 55.02-1 – Standard B1
Officer's Response	
<p>After numerous discussions with the applicants, the proposal shown in the latest set of plans sufficiently respects to the preferred neighbourhood character and responds to the features of the site.</p> <p>More fundamentally, the site is located in a corner lot which allows for the two units to have two separate access points rather than a battle axe type arrangement. The proposal now includes a smaller building footprint and has increased the height of the second dwelling to allow for adequate setbacks, car parking and solar efficient usable secluded private open spaces. The corner of Anderson and Lidgett Street is maintained as an open area and is proposed to be fully landscaped. Conditions are further placed on the permit to ensure that additional and more suitable plantings occur around the site. The development is not proposed with battle-axe access arrangements. The proposed heights do not override neighbouring properties. The proposal meets the objectives of the General Residential Zone 2.</p>	

LOCALITY MAP

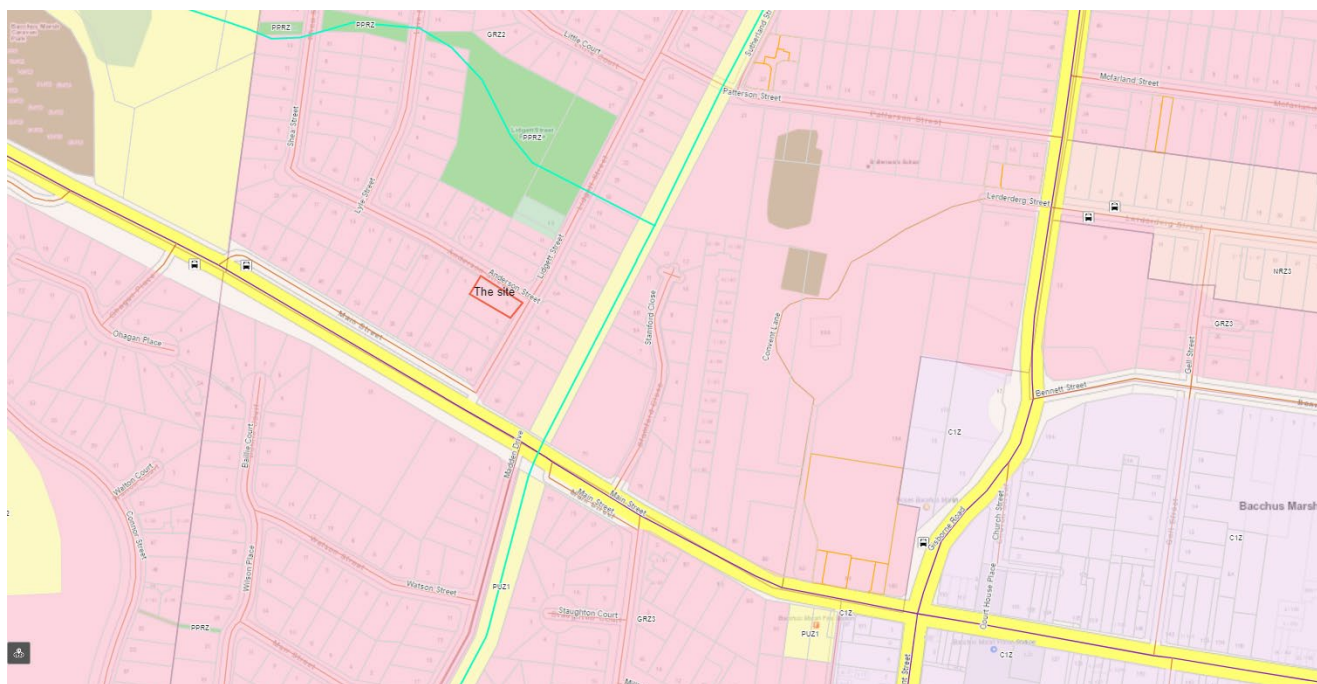


Figure 3: Zone map

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 11.02-1S Supply of Urban Land
- Clause 15.01-1S Urban Design
- Clause 15.01-2S Building Design
- Clause 21.02-6 Objective – Environmentally Sustainable Development
- Clause 21.03-2 Objective – Urban Growth Management
- Clause 21.03-2 Objective – Residential Development
- Clause 21.03-4 Objective – Landscape and Neighbourhood Character
- Clause 21.07-2 Objective – Consolidating Urban Growth in Bacchus Marsh

ZONE

General Residential Zone Schedule 2

The site is located in the General Residential Zone – Schedule 2. A planning permit is required for additional dwellings on the one lot under Clause 32.08-6.

The zone has the purpose, in part, to:

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

Part 1 of Schedule 2 has the following neighbourhood character objectives:

- Innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- Increase in landscaping within the public and private realm.
- Respect existing setbacks within the streetscape.
- Minimal or low scale front fencing.
- Garages, carports and second storey development do not visually dominate dwellings or streetscape.
- Minimal or low scale front fencing.
- Garages, carports and second storey development do not visually dominate dwellings or streetscapes.

The proposed dwelling is considered to comply with these neighbourhood character objectives.

OVERLAYS

Design and Development Overlay – Schedule 15

The site is covered by the Design and Development Overlay 15 (DDO15) relating to controlling height due to the helicopter landing site for the emergency services related to the hospital.

The relevant referral authority, DHHS had not objection to the proposed double storey dwelling subject to conditions.

Relevant Policies

Housing Bacchus Marsh to 2041

One of the objectives of the Strategy is to provide a clear direction and policy guidance to enable orderly growth, managed change, and retention of key elements of character including neighbourhood character mapping and character precinct brochures. This policy addresses the management of growth, housing and guides neighbourhood character in Bacchus Marsh and surrounds. 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
- Range of green spaces as features

The site is contained within precinct 17 of the Bacchus Marsh Housing Strategy. The preferred neighbourhood character states that “appropriate well-designed infill development, including multi-unit developments that complement the preferred character of the area, providing for a variety of housing options will be encouraged in suitable locations”. It further states that, “multi-dwelling developments should minimise the need for additional crossovers to the street, be located on lots within the precinct that are within a walkable distance of some services and facilities and have minimal impact on the streetscape rhythm and pattern. Low scale or no front fencing is preferred within will allow views into landscaped front gardens. Built form will not dominate the lot and will create opportunities for generous private open space and garden plantings. Increasing canopy tree cover within lots will assist in improving the landscape within the precinct, while also achieving a balance between open space and built form”.

Particular Provisions

Clause 55 – Two or more dwellings on a lot and residential buildings:

A permit is required to develop two or more dwellings on the land.

Clause 55 provides the opportunity to assess development to meet the following purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To achieve residential development that respects the existing neighbourhood character, or which contributes to a preferred neighbourhood character.
- To encourage residential development that provides reasonable standards of amenity for existing and new residents.
- To encourage residential development that is responsive to the site and the neighbourhood

DISCUSSION

The proposal for an additional dwelling, resulting in two dwellings on a lot was considered against the provision, decision guidelines, planning policies.

The site is located at the corner of Anderson and Lidgett Street in Bacchus Marsh and is located 0.5km from the Commercial precinct along the Main Street of Bacchus Marsh.

Neighbourhood Character

The site falls within a Natural Residential Growth Area which can allow for some level of medium density without compromising landscaping, streetscaping and crossovers.

Due to the location of the lot being on a corner, the opportunity for access points to each unit was supported. Alterations were made to the plans upon further information requests to ensure that no secluded private open spaces are located along the corner of Anderson and Lidgett Street therefore, maintaining the open streetscape rhythm. The building footprint was reduced to include a double storey rather than a single storey giving more room for private open spaces, greater landscaping opportunities and efficient car parking locations. The proposal is considered to meet the neighbourhood character objectives integrated within the zone of the site.

Double Storey Form

The proposed double storey dwelling at the rear meets the neighbourhood character objectives by providing sufficient space as secluded private open space, proposing no windows facing west towards the closest neighbouring property and the front setback of the proposed dwelling allows for canopy tree planting. The previous plans for a single storey dwelling had overshadowed secluded private open space, poor internal amenity while there was no functional on site parking spaces for the existing dwelling. The changes to the building footprint now allow landscaping treatments including canopy trees

Amenity Impacts

The proposed building does not create any adverse impacts due to the setback proposed. The proposal complies with the overlooking or overshadowing standards of Rescode. There are no windows facing west and the sill heights of the first floor windows on the eastern elevation is at 1.7m above the finished floor level in compliance with Rescode. All surrounding private open spaces will receive adequate solar access due to the orientation of the proposed dwelling. The setbacks and wall heights meet the requirements of ResCode.

Energy Efficiency

The development is designed using energy efficient standards with solar access, water tanks, and increased open spaces.

Internal Layout

The laundry is proposed in the garage due to the internal arrangements. No interleading doors are proposed from the kitchen to the garage. The south elevation shows a door at the rear of the garage and laundry area but no internal interleading are possible in the proposed layout possibly due to some plumbing and electrical connections. The living area is proposed at the rear of the building on the ground floor but the opening faces east with proposed stairs leading towards the secluded private open space.

Landscaping

The objector had concerns over the root zones and growth progression of the proposed vegetation causing drainage damages. There will be a requirement that a more detailed landscape be provided with trees to be satisfactions of the Responsible Authority.

All infrastructure including stormwater management has been assessed by Council's Infrastructure who consented subject to conditions.

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
Department of Health & Human Services	Consent with conditions.
Council's Infrastructure	Consent with conditions.

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

The Development Assessment Committee could consider the following options:

- issue an approval in accordance with the recommendations of this report; or
- should the Committee wish to refuse the application, Councillor's need to explore reasons for refusing the development based on not complying with the Moorabool Planning Scheme.

CONCLUSION

In its entirety the proposal for one additional dwelling in the area within walking distances to a services and public transport, is a reasonable proposal. The development was altered from the initially submitted plans in consultation with Council officers and tailored towards meeting the neighbourhood character objectives while provide adequate open space area and on site car parking. The applicant will retain the existing dwelling leading to a positive design response.

The proposal as shown in the latest plans will provides more landscaping to the streetscape and provide added surveillance towards both street frontages. The overall building height with the setbacks proposed complements the single storey streetscape.

The proposal is therefore recommended for approval subject to conditions contained within this report.

James Robson spoke to Item 7.5.

7.5 PA2021169 - FOUR LOT SUBDIVISION AND VEGETATION REMOVAL AT 2 & 8 URQUHART STREET, GORDON

Author: Mark Lovell, Coordinator Statutory Planning

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

Attachments: 1. Landscape Plan

APPLICATION SUMMARY

Permit No: PA2021169

Lodgement Date: 4 August 2021

Planning Officer: Mark Lovell

Address of the land: 2 Urquhart Street Gordon (Lot 1 on LP209685Q)
8 Urquhart Street Gordon (Lot 2 on LP209685Q)

Proposal: Four Lot Subdivision and Vegetation Removal (Six trees)

Lot size: 4,329 sq m

Why is a permit required? Clause 32.09 Neighbourhood Residential Zone, Schedule 1 - Subdivision
Clause 42.01 Environmental Significance Overlay, Schedule 1 – Subdivision of land and Vegetation Removal
Clause 42.03 Significant Landscape Overlay, Schedule 2 – Vegetation removal
Clause 43.02 Design and Development Overlay, Schedule 5 – Subdivision
Clause 44.06-2 Bushfire Management Overlay – Subdivision of land

COMMITTEE RESOLUTION

Moved: Cr Tonia Dudzik

Seconded: Cr Rod Ward

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 PA2021169 for Four Lot Subdivision and Vegetation Removal at 2 and 8 Urquhart Street, Gordon

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 drawn to scale with dimensions and must be generally in accordance with the plans identified as:
 - (a) Landscaping plans nominating low rise open styled fencing within the front setback to each dwelling/building envelope.

- (b) Landscape plan to annotate the three existing trees (Coast Manna Gum) in the north-west of Lot 1 marked as retained.
 - (c) Creation of Restriction of all lots to benefit and burden by the restriction. Details of the Restriction: No fencing can be constructed except in accordance with the approved landscaping plan approved under Planning Permit PA2021169.
2. The formal plan of subdivision lodged for certification, and the plan for vegetation removal, 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. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay to the Responsible Authority a sum equivalent to 5% of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.
4. Prior to the issue of a Statement of Compliance, lot boundary fencing must be completed to the satisfaction of the Responsible Authority and in accordance with the approved landscape plan.
5. Prior to the issue of a Statement of Compliance, the existing outbuilding in Lot 2 must be demolished to the satisfaction of the Responsible Authority.

Telecommunications:

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

Vegetation:

8. Except where exempt under the Moorabool Planning Scheme or as allowed for under this

planning permit, existing vegetation must not be removed, destroyed, or lopped without further planning approval.

9. 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.
10. 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:

11. Prior to the issue of a Statement of Compliance for the subdivision, each lot must be provided with a standard rural residential vehicle crossing to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the roadside reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
12. The property access and the internal driveways must be constructed in accordance with the requirements specified in Table 5 of Clause 53.02-5 of the Moorabool Planning Scheme, to the satisfaction of the Responsible Authority.
13. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
 - (a) The development as a whole must be self-draining.
 - (b) All drainage courses within the development must pass through easements or reserves shown on the plan of subdivision.
 - (c) 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.
 - (d) 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.
 - (e) Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".
14. Prior to the commencement of the development design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.
15. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.
16. 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).

17. 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.
18. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset 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.
19. 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 of vehicle crossings.
 - (b) Details of the underground drainage.
 - (c) Location of drainage legal points of discharge.
 - (d) Standard details for vehicle crossings and legal points of discharge.
 - (e) Civil notes as required to ensure the proper construction of the works to Council standard.

Barwon Water:

20. Each lot created in the development must be connected to a reticulated sewerage system.
21. No stormwater is to be discharged less than 100m from a waterway unless into an approved drainage system.
22. Sediment control measures outlined in the EPA's publication No 275, Sediment Pollution Control, must be employed and maintained until the disturbed area has been permanently stabilised and/or revegetated.

Central Highlands Water:

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

Powercor:

28. 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.
29. 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.
30. 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.
31. The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations.
32. 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.

Country Fire Authority:

33. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the defensible space must be implemented and maintained as shown on the endorsed Bushfire Management Plan, unless otherwise agreed in writing by the Country Fire Authority and the Responsible Authority.
34. The Bushfire Management Plan prepared by Regional Planning and Design Pty Ltd (Version D, dated 20 December 2021) must be endorsed to form part of the permit, be included as an annexure to the Section 173 Agreement and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.
35. *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:*
 - (a) *State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Moorabool Planning Scheme.*
 - (b) *Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under Planning Permit PA2021169.*
 - (c) *State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the Responsible Authority on a continuing basis.*
36. *The land owner must pay the reasonable costs of the preparation, execution, and registration of the Section 173 Agreement.*

37. In addition to the requirements of Clause 44.06-5 of the Moorabool Shire Planning Scheme the section 173 Agreement prepared in accordance with that clause must also specify:

- (a) Explicitly exclude Lots 1 and 4 from the following exemption under Clause 44.06-2 of the Moorabool Shire Planning Scheme: - A building or works consistent with an agreement under section 173 of the *Planning and Environment Act 1987* prepared in accordance with a condition of permit issued under the requirements of clause 44.06-5.

Permit Expiry:

38. This permit will expire if the plan of subdivision is not certified within two years of the date of issue of the permit.

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

Permit Note:

Powercor:

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.

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 the party.

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes, two signs.
Notice in Moorabool Newspaper:	No.
Number of objections:	One
Consultation meeting:	Discussion with the objector and the applicant but no resolution achieved. The objector preferred a three lot subdivision with existing vegetation retained.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 1: Healthy, inclusive and connected neighbourhoods

Priority 1.1: Improve the health and wellbeing of our community

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

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

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

Author – Mark Lovell

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

EXECUTIVE SUMMARY

Application referred?	Yes, Barwon Water, Central Highlands Water, Powercor, Downer Utilities, Country Fire Authority (CFA) and Council's Infrastructure.
Any issues raised in referral responses?	Council's Infrastructure required a Stormwater Management Strategy, and the CFA advised the proposal did not comply with Table 6 covering

	Vegetation Management Requirements in a Bushfire Management Overlay.
Preliminary concerns?	Subdivision arrangement.
Any discussions with applicant regarding concerns?	Council had discussions with the applicant regarding the subdivision design response.
Any changes made to the application since being lodged?	The applicant provided the required information and revised the plans regarding tree removal to comply with the Bushfire Management Overlay.
Brief history.	Not applicable.
Previous applications for the site?	Nil.
General summary.	It is proposed to subdivide the land containing two existing dwellings over two titles to gain two additional vacant lots. Each lot has its own street frontage and exceeds the minimum subdivision area specified of the zone at 800sqm. Due to maintaining lot size and complying with the Bushfire Management Overlay, six trees require removal concentrated in one area that will change the existing tree canopy backdrop. On balance the proposal is considered acceptable by maintaining growth in an established residential precinct and subject to protection of the more appropriately positioned existing vegetation on the land.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2021169 for a Four Lot Subdivision and Vegetation Removal (Six trees) at 2 and 8 Urquhart Street, Gordon subject to the conditions contained within this report.	

SITE DESCRIPTION

The site is comprised of two titles and is known as 2 Urquhart Street and 8 Urquhart Street, Gordon and within one ownership. The combined titles are located on the northern side of Urquhart Street and the western side of Winter Street with a total land area is 4,329sqm. There is an existing dwelling and detached garage located in the south-eastern corner and a second dwelling located near the western property boundary, both with vehicle access to Urquhart Street. There is some well-established native and non-native vegetation giving the site a bushland feel.

The surrounding area is characterised by detached single storey dwellings on large lot sizes, with generous front and side setbacks and mostly detached carports or garages. The large lot sizes have allowed for retention of well-established trees and in conjunction with trees and shrubs located within the wide road reserves. The site is in close proximity to Main Street which contains a limited range of shops and the Gordon Recreation Reserve.



Figure 1: Aerial Photograph

PROPOSAL

It is proposed to subdivide the land into four lots and remove six trees on site. Two existing dwellings would be retained and two vacant lots would allow for a future residential dwelling. An existing carport will be demolished within Lot 2.

- Lot 1 faces Urquhart Street and has a street frontage width of 39m for a total area 1,279sqm. The lot contains an existing dwelling and outbuilding with the dwelling having an angled alignment to the street frontage.
- Lot 2 faces Urquhart Street and has a street frontage width of 23.25m for a total area 1,184sqm. The lot contains an existing carport and contains some vegetation. The applicant has shown that 15m x 20m building envelope that can be provided centrally in the lot.
- Lot 3 faces Winter Street and has a street frontage width of 25.32m for a total area 1,044sqm. The lot is vacant and contains a number of trees. The applicant has shown that 12m x 24m building envelope that can be provided centrally in the lot and a new crossover is proposed to Winter Street.
- Lot 4 faces Urquhart Street and has a street frontage width of 29.70m for a total area 823sqm. The lot contains an existing dwelling and detached single garage. Existing vehicle access is via Urquhart Street.

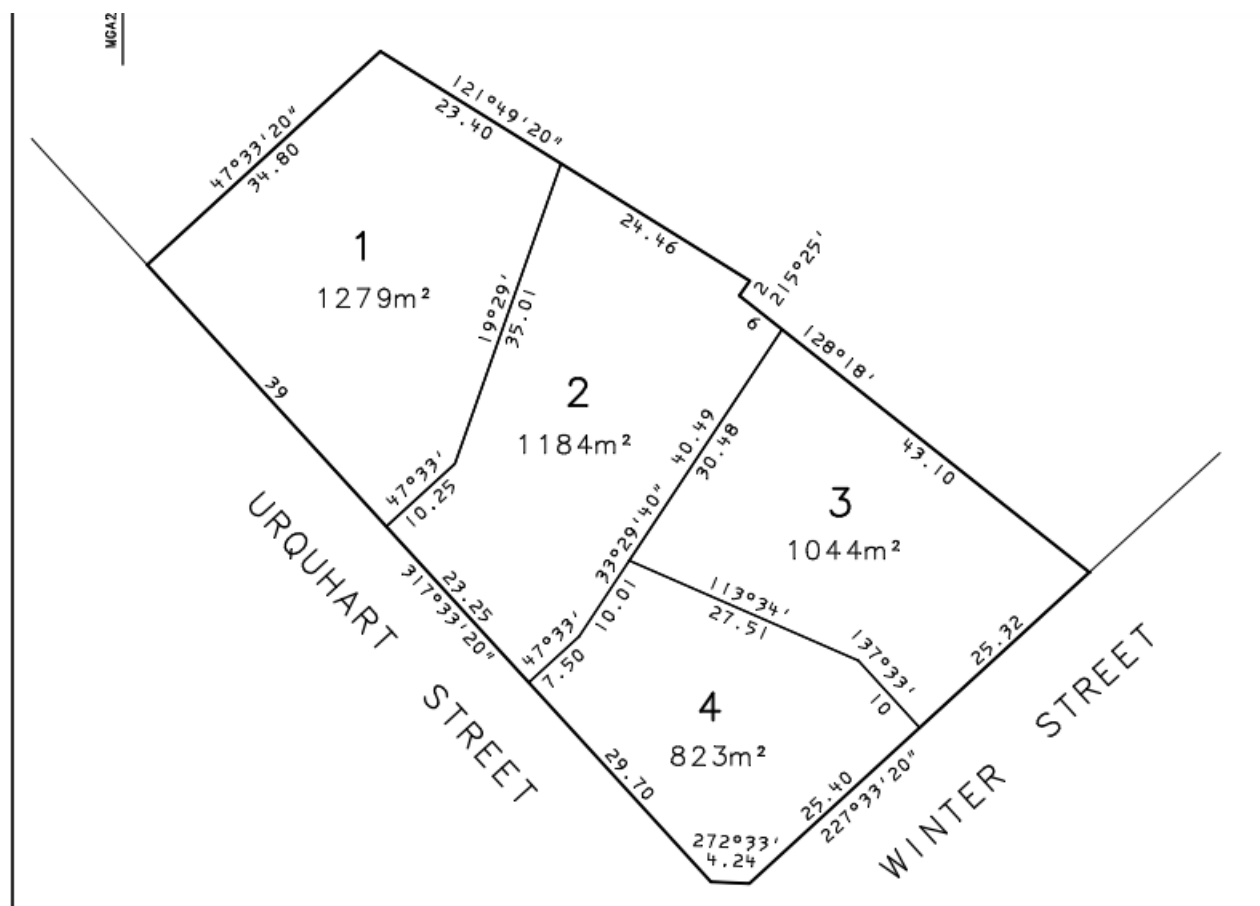


Figure 2: Subdivision Plan

BACKGROUND TO CURRENT PROPOSAL

Not applicable.

HISTORY

Nil.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners.

SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Four dwellings over two lots/subdivisions wrecking this small, beautiful town	Neighbourhood Residential Zone Design and Development Overlay 5 ResCode Clause 56
Officer's Response: The applicant has arranged the subdivision to meet the minimum lot area of 800sqm which has resulted in the irregular boundary lines between the proposed lots. The proposal is an effective subdivision of the available land area and promotes sustained growth.	

Removal of native vegetation and loss of habitat for koalas and birds	Significant Landscape Overlay Schedule 2
Officer's Response: Established trees will be removed due to location of the building envelopes and requirement to satisfy the bushfire mitigation measures under the Bushfire Management Overlay. The applicant initially wanted to retain one additional tree however CFA advised they did not comply with their vegetation management requirements. Habitat will be loss for wildlife. Existing vegetation to be retained can be protected and this can be conditioned on any approval issued.	
Loss of privacy	Significant Landscape Overlay Schedule 2
Officer's Response: Removal of large trees and constructing future dwelling in the vacant lots will remove visual screening to adjacent and nearby properties. There is no privacy provisions in the subdivision of land with any future dwelling required to comply with the relevant Building Regulations.	

LOCALITY MAP

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

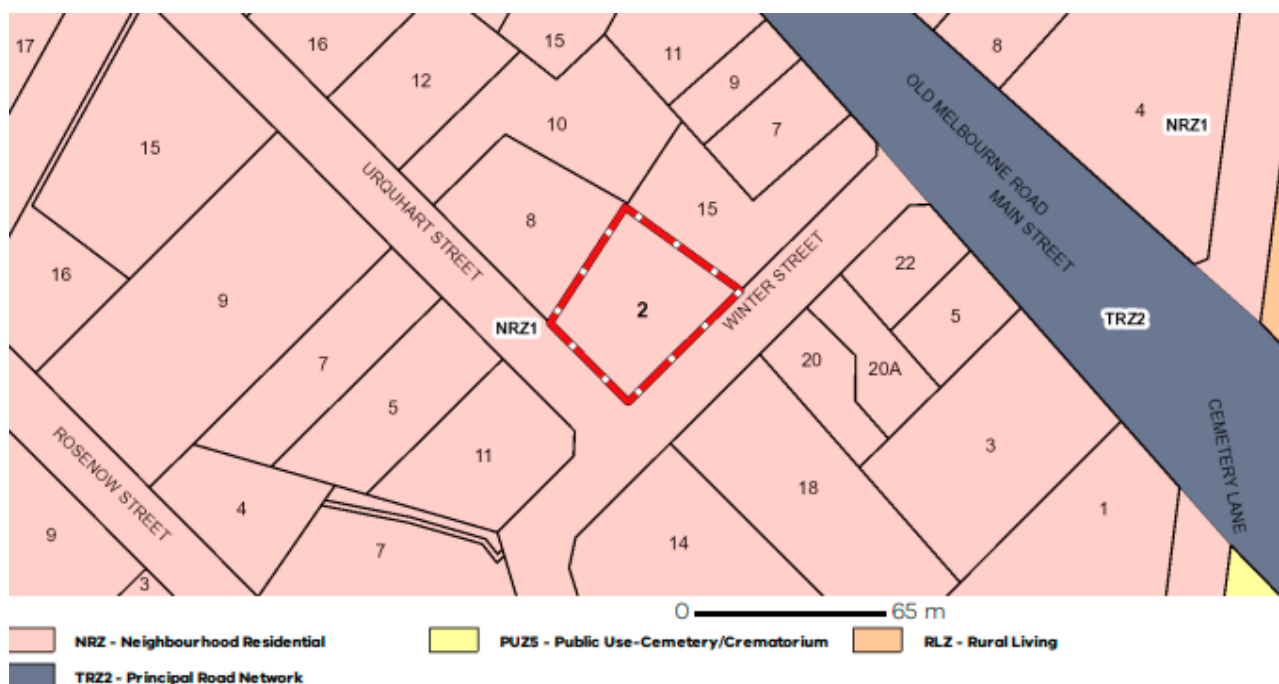


Figure 3: Zone map

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 11.03-3S Peri-urban areas
- Clause 13.03-1S Floodplain management
- Clause 14.02-2S Water quality

- Clause 15.01-3S Subdivision design
- Clause 15.01-5S Neighbourhood character
- Clause 16.01-2S Location of residential development
- Clause 21.02-3 Water and Catchment Management
- Clause 21.02-6 Environmentally sustainable development
- Clause 21.03-2 Urban growth management
- Clause 21.03-3 Residential development
- Clause 21.03-4 Landscape and Neighbourhood Character
- Clause 21.09-2 Gordon
- Clause 22.02 Special Water Supply Catchments

The proposal complies with the relevant sections of the PPF and LPPF,

ZONE

The subject site is in the Neighbourhood Residential Zone, Schedule 1 (NRZ1).

Under Clause 32.09-3 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for residential subdivision.

Schedule 1 to the zone specifies a minimum lot size of 800sqm.

The purpose of the Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise areas of predominantly single and double storey residential development.
- To manage and ensure that development respects the identified neighbourhood character, heritage environmental or landscape characteristics.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The proposed lot sizes exceed the minimum lot size requirement and the proposal generally meets the purpose of the zone.

OVERLAYS

Relevant Policies

The site is affected by several planning overlays.

Environmental Significance Overlay, Schedule 1 (ESO1)

The ESO1 applies to land in a Special Water Supply Catchment.

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

The site has access to reticulated sewerage and does not require any on site wastewater system. Subject to conditions the proposal would satisfy the provisions of the ESO1.

Design and Development Overlay, Schedules 2 and 5 (DDO2 & DD05)

The DDO2 applies to development using reflective exterior cladding and is not applicable to this proposal.

The DDO5 applies to the Gordon township and rural surrounds.

Under Clause 43.02-3 a permit is required to subdivide land, with a minimum lot size requirement of 800sqm. All proposed lots are above this minimum requirement.

The subdivision is in keeping with the characteristically larger lots in this area of the town and the proposal meets the relevant design objectives and subdivision requirements of the DDO5.

Significant Landscape Overlay, Schedule 2 (SLO2)

Under the SLO2 there is no permit requirement for subdivision, but a permit is required to remove vegetation.

The landscape objectives under Part 2 of Schedule 2:

- To retain and protect significant trees, vegetation and windbreaks that are significant component of local identity and landscape of the township character of Gordon.
- To protect vegetation and trees of special significance, natural beauty, interest and importance.
- To retain trees where they have high amenity value, unless identified as an environmental weed. To support the retention and planting of further exotic and indigenous trees.

Overall, the proposed vegetation removal consisting of six trees cannot be avoided due to the land area available and requirements of the Bushfire Management Overlay. The applicant will retain some existing vegetation and has shown Tree Protection Zones to nominated trees.

Bushfire Management Overlay

Under Clause 44.06-2 a permit is required to subdivide land.

Under this clause a permit which creates a lot for a single dwelling on land zoned for residential or rural residential purposes must include the following condition:

“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:

- (d) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the [*insert name of applicable planning scheme] Planning Scheme.*
- (e) Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.*
- (f) State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.*

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.”

Particular Provisions

Clause 53.01 Public Open Space Contribution

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the *Subdivision Act 1988*. As the proposal does not comply with class exemption, an assessment must be undertaken Section 18 of the Subdivision.

The proposal result in additional two lots and will result in an increased population when the two future dwelling are provided. There will be an increase in demand to utilise existing recreational spaces. The applicant can not provide a public open space within the subdivision and therefore it is appropriate to make a request for a public open space contribution.

Clause 56 Residential Subdivision

The proposed subdivision complies with the ResCode provisions by already having access to existing roadways and easily accessible crossover are either already provided or can be provided to each lot. There were no objection from any of the servicing authorities.

DISCUSSION

Overall, the proposed subdivision is generally in accordance with relevant State and local planning policy, the Zone, Overlays, relevant Particular Provisions and the decision guidelines at Clause 65 of the Moorabool Planning Scheme.

Planning policy supports consolidation of housing in established areas whilst ensuring that new development respects neighbourhood character. The subject site is within the Gordon township, located proximate to local facilities and with infrastructure utilities readily available.

Lot Arrangement

The proposal meets the minimum 800sqm lot size requirements under both the Neighbourhood Residential Zone and Design and Development Overlay Schedule 5. The proposed lot sizes are between 823sqm and 1,279sqm. The irregular boundaries between the lots are designed to allow both existing dwellings to be located within their lot with appropriate side setbacks and to allow for sufficient area with a rectangular building envelope for the two vacant lots. A more uniform subdivision pattern does not work on this site containing existing dwellings which have not followed a common streetscape pattern. The two proposed additional lots assist in providing continued growth within this established residential area of Gordon.

There will be a requirement to nominate fencing details along the lot boundaries as high solid fencing could detract from the open garden setting of the existing neighbourhood character. Open styled fencing typical of rural properties is an appropriate subdivision response for the front setback areas which exposed to both street frontages.

Vegetation Removal

The applicant will not completely clear vegetation from these two combined lots. With the creation of two additional lots and the proposed building envelope in compliance with the bushfire mitigation measures requires six trees to be removed. There is no ability to create new

lots without existing trees being removed. This is considered acceptable as there will be trees remaining that are retained and protected with Tree Protection Zones. The retained trees still provide the impression of a well vegetated lot and retains Gordon unique landscape setting comprised of native and non-native trees. The applicant will not be able to remove the retained trees without further planning approval.

Catchment issues

The subject site is in a Special Water Supply Catchment and accordingly the application was referred to Barwon Water, the relevant water board, who consented to the proposal subject to conditions. Reticulated sewerage is available for connection and subject to each lot being connected to sewer there would be no detriment to the potable water quality or supply. Stormwater runoff will be managed by standard infrastructure conditions.

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
Barwon Water	Consent with conditions.
Central Highlands Water	Consent with conditions.
Powercor	Consent with conditions.
Downer Utilities	Consent.
CFA	Consent with conditions.
Council's Infrastructure	Consent with conditions.

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

- Issue a Notice of Decision to Grant a Permit in accordance subject to the conditions in the recommendation of this report; or
- issue a Notice of Decision to Grant a Permit with amendments to the conditions in the recommendation of this report. Either option for approval may result in the objectors appealing the decision at VCAT; or
- issue a Refusal to Grant a Permit on grounds. This option may result in applicant appealing the decision at VCAT.

CONCLUSION

Overall, the proposed subdivision and vegetation removal is considered to be generally in accordance with the relevant provisions of the Moorabool Planning Scheme as discussed within this report. The proposed subdivision consolidates residential growth within the Gordon township in a location proximate to local services and in keeping with the preferred neighbourhood character. Subject to conditions, the proposal responds appropriately to the site containing existing dwellings while the proposed vegetation removal consisting of six trees would not have any detrimental impact on Gordon's unique landscape character. The subdivision and vegetation removal should be supported.

At 6:11 pm, Cr Tom Sullivan left the meeting, having declared a Conflict of Interest in Item 7.6, and vacated the Chair. Cr Tonia Dudzik assumed the Chair.

Linda Small spoke to Item 7.6.

7.6 PA2021148 - THREE LOT SUBDIVISION, VEGETATION REMOVAL AND CREATION OF AN ACCESS TO A TRANSPORT ROAD ZONE 2 AT 85 INGLIS STREET AND 20 DUNCAN STREET BALLAN

Author: Mark Lovell, Coordinator Statutory Planning

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

Attachments: 1. Plan of Subdivision

APPLICATION SUMMARY

Permit No: PA2021148

Lodgement Date: 15 July 2021

Planning Officer: Mark Lovell

Address of the land: 85 Inglis Street Ballan (Lot 1 on LP090732)
20 Duncan Street Ballan (Lot 2 on LP218374H)

Proposal: Three lot subdivision, Vegetation Removal and Creation of an access to a Transport Road Zone 2

Lot size: 1,363sqm

Why is a permit required? Clause 32.08-2 General Residential Zone, Schedule 4 - Subdivision
Clause 42.01 Environmental Significance Overlay,
Schedule 1 – Subdivision and Vegetation Removal
Clause 52.29-2 Creation of an Access to a Transport Road Zone 2

SUSPENSION OF STANDING ORDERS AT 6:28PM

COMMITTEE RECOMMENDATION

Moved: Cr Paul Tatchell

Seconded: Cr Rod Ward

That the Committee suspend standing orders, to discuss Item 7.6.

CARRIED

RESUMPTION OF STANDING ORDERS AT 6:30PM

Moved: Cr Rod Ward

Seconded: Cr Paul Tatchell

That Council resume standing orders.

CARRIED

COMMITTEE RESOLUTION

Moved: Cr Paul Tatchell

Seconded: Cr Rod Ward

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 PA2021148 for a Three Lot Subdivision, Vegetation Removal, and a Creation of an Access to Transport Road Zone 2 at 85 Inglis Street and 20 Duncan Street Ballan.

Endorsed Plan:

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 drawn to scale with dimensions and must be generally in accordance with the plans but modified to show:
 - (a) Correction to the plans to show the Lots running in numeric order from Lots 1 to 3 with the proposed vacant lot identified as Lot 3.
 - (b) A 1m landscaping buffer along the western boundary of Lot 1 on LP090732 (no hard surface) to the satisfaction of Council.

Subdivision:

2. 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.
3. Before the statement of compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay to the Responsible Authority a sum equivalent to 3% of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.
4. Prior to the issue of a Statement of Compliance, the existing outbuilding contained in the proposed vacant lot must be demolished to the satisfaction of the Responsible Authority.

Telecommunications:

5. The owner of the land must enter into an agreement with:
 - (a) a telecommunications network or service provider for the provision of telecommunication services 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.
6. 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.

Vegetation Removal:

7. Except where exempt under the Moorabool Planning Scheme or as allowed for under this planning permit, existing vegetation must not be removed, destroyed or lopped without further planning approval.

Infrastructure:

8. Prior to the issue of a Statement of Compliance for the subdivision, the existing and the new proposed vehicle crossing on Inglis Street must be constructed to urban residential standard to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings
9. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
10. The development as a whole must be self-draining.
 - (a) All drainage courses within the development must pass through easements or reserves shown on the plan of subdivision.
 - (b) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
 - (c) 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.
 - (d) Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".
11. Prior to the commencement of the development design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.
12. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.
13. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).
14. Unless otherwise approved by the Responsible Authority there must be no buildings,

structures, or improvements located over proposed drainage pipes and easements on the property.

15. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset 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.
16. 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 of vehicle crossings.
 - (b) Details of the underground drainage.
 - (c) Location of drainage legal points of discharge.
 - (d) Standard details for vehicle crossings and legal points of discharge Moorabool Shire Council Engineering Services.
 - (e) Civil notes as required to ensure the proper construction of the works to Council standard.

Central Highlands Water:

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

Southern Rural Water:

22. The plan of subdivision submitted for certification must be referred to the relevant Water Authority in accordance with Section 8 of the *Subdivision Act 1988*.
23. Each allotment must be connected to the reticulated sewerage system and stormwater infrastructure
24. The owner of the land must enter into an agreement with the relevant authority for the provision of water in accordance with the authorities' requirements and relevant legislation.

Downer Utilities:

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

Powercor:

26. 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.
27. 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.
28. 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

Permit Expiry:

29. This permit will expire if the plan of subdivision is not certified within two years of the date of issue of the permit.

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

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes, two signs
Notice in Moorabool Newspaper:	No.
Number of objections:	One
Consultation meeting:	Verbal discussions and the applicant provided a written response to the objections received.

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 not inconsistent with the Council Plan 2021 – 2025.

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

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

Author – Mark Lovell

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

EXECUTIVE SUMMARY

Application referred?	Yes, Central Highlands Water, Greater Western Water, Southern Rural Water, Melbourne Water, Powercor, Downer Utilities, Department of Transport, and Council's Infrastructure.
Any issues raised in referral responses?	Nil.
Preliminary concerns?	Nil.

Any discussions with applicant regarding concerns?	Not required.
Any changes made to the application since being lodged?	Nil.
Brief history.	Not applicable.
Previous applications for the site?	Nil.
General summary.	The proposal creates one additional lot from two existing titles each containing a dwelling. The proposal creates a large enough lot size for a future dwelling. The dwelling access for new vacant lot will be via Inglis Street and vehicles can safely enter and exit the site in a forward direction.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2021148 for a Three Lot Subdivision, Vegetation Removal and Creation of an Access to a Transport Road Zone Category 2 subject to the conditions contained within this report.	

SITE DESCRIPTION

The subject sites are two existing titles in the same ownership. 85 Inglis Street is a rectangular lot that shares its rear boundary with the side boundary of 20 Duncan Street which also has rectangular lot configuration. Each lot contains a modest single storey dwelling with large front setback and large rear secluded private open space area. There are well established trees and garden areas. The site has a relatively flat topography with a fall of 200mm from a west to east direction. There is a sewerage easement running along the southern boundary to both sites and is 3m in width and then reducing 2m in width along part of the eastern side boundary of 85 Inglis Street.

The surrounding area has similar sized lots containing older housing stock and maintained garden spaces. The Ballan Hospital site is located to the west along Inglis Street, while to the east is the commercial centre of Ballan. The site is also conveniently located to public transport, to the south in Atkinson Street is the Ballan Railway Station offering service to Ballarat and Melbourne.



Figure 1: Aerial Photograph with a blue outline of both combined lots

PROPOSAL

It is proposed subdivide two existing titles to create a third lot in a battle axe subdivision arrangement. The subdivision will result in a new crossover to Inglis Street.

- Lot 1 faces Inglis Street and is 491sqm in area containing an existing single storey dwelling. Vehicle access is via a single car width crossover from Inglis Street. Trees are required to be removed along the western side boundary to provide internal access to the proposed vacant lot.
- Lot 2 faces Duncan Street and is 371sqm in area containing an existing single storey dwelling. Vehicle access is via a single car width crossover from Duncan Street.
- Lot 3 (labelled incorrectly as Lot 2) is to the rear of Lots 1 and 2 and is mostly vacant land with an outbuilding associated with 20 Duncan Street.



Figure 2: Proposed lots marked with the red superimposed line reflecting the proposed vacant lot.

BACKGROUND TO CURRENT PROPOSAL

Nil.

HISTORY

Nil.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners.

Two objections were received.

SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
The application is not keeping with the amenity of the area. The area consists primarily of older, and well established buildings with historical pedigree. Approval of the application will make no contribution to the character of the area. Increasing physical area of flat and hardened Earth for a driveway will not support the frog and bird life in their ever decreasing presence. There are at least three different frog species in the immediate surrounds. Their numbers suffered during the dry of the mid 2000's and are only now starting to repair. Softer Earth with rotting/decaying vegetation is more conducive to survival.	ResCode (Clause 56) General Residential Zone Schedule 4
Officer's Response: Increased housing density is expected within the General Residential Zone. The proposal does result in the retention of both older styled houses with the applicant only creating one additional lot. Future gardens area within Lot 3 may assist with the local frog population.	
Noise of traffic and loss of privacy of privacy.	ResCode
Officer's Response: The new western accessway services one lot only and will not generate large volumes of traffic to cause a noise nuisance. Privacy between properties is achieved with boundary fencing.	
Approximately 17 trees have recently been removed in proposed Lot 2 which have been the habitat of possums and other native animals, several of which were heritage trees.	Environmental Significance Overlay Schedule 1
Officer's Response: Any tree removal requires planning approval under the ES01. Tree removal along the western side of Inglis Street property be avoided due the location of the new accessway. However, the new lot does allow for planting of new trees due is lot area.	
We moved to Ballan for a quiet and more relaxed lifestyle. This will no longer be the case with vehicle access along all four sides of our property	General Residential Zone Schedule 4
Officer's Response: The proposal complies with the zone provisions and there is no minimum lot size in General Residential Zone Schedule 4. Only one new accessway is proposed, along the western boundary of 85 Inglis Street.	

LOCALITY MAP

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



Figure 3: Zone Map

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 11.03-3S Peri-urban areas
- Clause 14.02-2S Water quality
- Clause 15.01-3S Subdivision design
- Clause 15.01-5S Neighbourhood character
- Clause 16.01-2S Location of residential development
- Clause 21.02-3 Water and Catchment Management
- Clause 21.02-6 Environmentally sustainable development
- Clause 21.03-2 Urban growth management
- Clause 21.03-3 Residential development
- Clause 21.03-4 Landscape and Neighbourhood Character
- Clause 21.08 Ballan
- Clause 22.02 Special Water Supply Catchments

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

ZONE

Both subject sites are in the General Residential Zone, Schedule 4 (GRZ4).

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 residential subdivision.

The purpose of the Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Schedule 4 applies to Ballan Central Residential Area. The neighbourhood character objectives are:

- 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.

The proposed subdivision is considered to comply with these character objectives.

OVERLAYS

Relevant Policies

Environmental Significance Overlay, Schedule 1 (ESO1)

The ESO1 applies to land in a Special Water Supply Catchment.

Under Clause 42.01-2 a permit is required to subdivide land and remove vegetation. The site is in the Special Water Supply Catchment and has access to reticulated sewerage.

Subject to conditions the proposal would satisfy the objectives of the ESO1.

Particular Provisions

Clause 52.29 Land Adjacent to a Principal Road Network

The objectives of this particular provision are:

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.
- To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network

Under Clause 52.29-2 a permit is required create or alter access to a road in a Transport Zone 2.

The relevant main road authority was notified of the application.

Clause 53.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the Council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial, or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the *Subdivision Act 1988*.

The proposal creates one additional lot from two existing lots. There will be an increase in population as a result of one new dwelling and a greater demand placed on existing places of public resort and recreation. Given the lot size, there is no opportunity to provide a public open space within the subdivision that can be readily accessible by the public. Therefore, there will be a requirement for a public open space contribution fee.

The proposal is for one additional lot similar to a two-lot subdivision which does not attract a public open space requirement under the *Subdivision Act 1988*. In this instance, it is appropriate to have a reduced rate from the maximum 5% to 3%. This form of subdivision where one landowner owns two separate dwellings on separate lots sharing a common boundary is unusual and is not expected to create future applications in this same form.

Clause 56 Residential Subdivision

The proposal complies with the relevant provisions of Clause 56.

DISCUSSION

Overall, the proposed subdivision is generally in accordance with relevant State and local planning policy, the Zone, Overlays, relevant Particular Provisions, and the decision guidelines at Clause 65 of the Moorabool Planning Scheme.

Planning policy supports consolidation of housing in established areas whilst ensuring that new development respects neighbourhood character. The site has very good access to services and the proposed vacant lot is located behind existing dwellings and therefore does not affect the streetscape appearance of the area characterised by older styled housing. Any new dwelling in the proposed vacant lot will have limited visibility to both street frontages.

Lot Arrangement

The proposed lot is square shaped and has an area of 502sqm with accessway up to 5m in width connecting to Inglis Street. The lot is of sufficient dimensions to allow for a future dwelling and provides ample area for private open space and on-site car parking. The proposal is an effective use of land by utilising two separate addresses facing different street frontages to allow for one additional lot. There would have been no opportunity to create a vacant lot while retaining the existing dwelling on each of the two existing titles. While the battle axe lot arrangement is not common in the immediate area, it does allow for a well-proportioned rear lot.

ResCode assessment

The proposed subdivision complies with the relevant ResCode standards and has a convenient access to infrastructure services. The proposed vacant lot is located on a north-south axis and future dwellings can maximise a northern orientation. The site is accessed allow from 3m driveway and 500mm wide landscaped strip. The frontage widens to 5m to allow for safe egress from the site. The applicant altered the subdivision plans to provide more secluded private open space to 20 Duncan Street to comply with the requirements of ResCode. Both dwellings have on site car

parking and adequate front and rear setbacks. Secluded private open spaces maintain the same rear orientation to each lot.

Vegetation Removal

The new accessway will require trees to be removed along the western boundary of 85 Inglis Street and there is no other access point possible due the location of both existing dwellings. There needs to be permit conditions in place to ensure sediment runoff does not create off site impacts to the catchment area. Both Greater Western Water and Southern Rural Water as the relevant water catchment authorities had no objection to subdivision and tree removal subject to conditions.

Access to a Transport Road Zone 2

The proposed new accessway is adequate for clear sight lines of traffic. Unlike adjacent dwellings who require vehicles to exit the site in a reverse direction, the lot size can allow for vehicle turning within the lot and enable safer vehicle egress consistent with the objectives of Clause 52.29.

GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

REFERRALS

Authority	Response
Greater Western Water	Consent.
Southern Rural Water	Consent with conditions.
Central Highlands Water	Consent with conditions.
Melbourne Water	Consent.
Powercor	Consent with conditions.
Downer Utilities	Consent with condition.
Department of Transport	No response after 10 months and repeated requests.
Council's Infrastructure	Consent with conditions.

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

- Issue a Notice of Decision to Grant a Permit in accordance subject to the conditions in the recommendation of this report; or
- issue a Notice of Decision to Grant a Permit with amendments to the conditions in the recommendation of this report. Either option for approval may result in the objectors appealing the decision at VCAT; or
- issue a Refusal to Grant a Permit on grounds. This option may result in applicant appealing the decision at VCAT.

CONCLUSION

Overall, the proposed three lot subdivision, vegetation removal and creating of an access to Transport Road Zone 2 is considered to be generally in accordance with the relevant provisions of the Moorabool Planning Scheme as discussed within this report. The proposed subdivision consolidates residential growth within a residential area of Ballan in a location proximate to local services and in keeping with the preferred neighbourhood character. This has been achieved by retaining both existing dwellings. Subject to conditions, the proposal responds appropriately to the site features while the removal of vegetation would not have any detrimental impacts on the water catchment area. The subdivision should be supported with conditions.

At 6:31pm, Cr Tom Sullivan returned to the meeting and resumed the Chair.

Brydon King spoke to Item 7.7.

Ronnie Reissenweber spoke to Item 7.7.

7.7 PA2021225 USE AND DEVELOPMENT OF A DWELLING AND BUILDING AND WORKS TO ENLARGE A DAM AT BETSONS ROAD, MOUNT DORAN

Author: Thomas Tonkin, Statutory Planner

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

Attachments: 1. Proposed plans (under separate cover)

APPLICATION SUMMARY

Permit No: PA2021225

Lodgement Date: 29 September 2021

Planning Officer: Tom Tonkin

Address of the land: Betsons Road, Mount Doran

Proposal: Use and Development of a Dwelling and Buildings and Works to enlarge a Dam

Lot size: 2.02ha

Why is a permit required? Clause 35.07 Farming Zone – Use and development of a Dwelling
Clause 42.01 Environmental Significance Overlay – Buildings and works

COMMITTEE RESOLUTION

Moved: Cr Ally Munari

Seconded: Cr Tonia Dudzik

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue Planning Permit PA2021225 for the Use and Development of a Dwelling and Ancillary Outbuilding and Works to enlarge a Dam at Lot 23 on PS 098699 known as Betsons Road, Mount Doran 3334, subject to the following conditions:

Endorsed Plans:

1. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. All buildings and works must be constructed or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority. All buildings and works must be located clear of any easements or septic tank and effluent lines unless written approval is provided by the relevant authority.

Farm Management Plan:

2. A Farm Management Plan to the satisfaction of the Responsible Authority must be endorsed as part of this permit and cannot be varied without the written consent of the

Responsible Authority.**Section 173 Agreement:**

3. Before the issue of a Building Permit for the dwelling the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority:
 - (a) The owner of the land must acknowledge that while the land remains zoned as Farming Zone or its equivalent successor the primary use of the land is for agricultural activities and the use of the dwelling must be in conjunction with an approved agricultural activity.
 - (b) The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.

Dwelling Requirements:

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

Materials and Colour:

8. All external walls and roof areas of the proposed buildings are to be clad with nonreflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.

Dam/s:

9. The dam must not exceed 2ML in capacity to the satisfaction of the Responsible Authority, except with the written consent of the Responsible Authority.
10. All soil removed to construct the dam must be retained on the property and reused, stabilized and vegetated on-site to the satisfaction of the Responsible Authority.
11. All works must be designed and constructed to avoid soil erosion. All fill must be compacted and batters are to be topsoiled and revegetated.
12. All topsoil is to be stockpiled and re-spread over exposed areas immediately following completion of works.
13. The dam must be constructed in accordance with the endorsed plans and all revegetation works must be maintained to the satisfaction of the Responsible Authority.
14. Sediment Pollution Controls must be employed during construction and maintained until all disturbed areas have regenerated.

Vegetation Removal:

15. Unless otherwise exempt under the Moorabool Planning Scheme, vegetation must not be removed, destroyed or lopped without further planning approval.

Infrastructure:

16. A standard rural vehicle crossing must be provided on Betsons Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
17. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any wastewater disposal areas.
18. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).
19. 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.
20. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Environmental Health:

21. The land application area and all conditions must be in accordance with the Land Capability Assessment prepared by EnProve AG and Environment, dated 16 August 2021 where the wastewater treatment is to achieve a minimum water quality standard of 20mg/L BOD, 30mg/L SS and 10 orgs/100ml, i.e. secondary treatment, via an EPA approved all-wastewater treatment system or any approved amendment.
22. An onsite waste water management system with the capacity to treat effluent to a primary standard, i.e. standard septic tank, must be installed in accordance with the requirements of the *Environment Protection Act 1970*, the Guidelines for Environmental Management, Code of Practice - Onsite Wastewater Management 891. 4 (2016) and the Responsible Authority.
23. The approved dwelling's wastewater treatment and management system must be contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management, the Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
24. The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.
25. The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.

Barwon Water:

26. The following shall be undertaken to the requirements of Barwon Water and to the satisfaction of the Responsible Authority:
- (a) Wastewater treatment is to achieve a minimum water quality standard of 20mg/L BOD, 30mg/L SS and 10 orgs/100ml, i.e. secondary treatment, via an EPA approved all-wastewater treatment system.
 - (b) Effluent disposal must be undertaken via a subsurface irrigation system designed and installed by a wastewater irrigation expert and to the satisfaction of Moorabool Shire Environmental Health Officer.
 - (c) All components of the wastewater management system including the effluent disposal area must be located at least 100m from any surface waterway.
 - (d) All stormwater must be directed away from the effluent disposal area and roof stormwater must not be disposed to the effluent disposal area.
 - (e) Monitoring, Operation and Maintenance must be undertaken in accordance with EPA Code of Practice for onsite wastewater management and to the satisfaction of Moorabool Shire Environmental Health Officer.
 - (f) The effluent disposal field must be protected by being isolated from any building, driveway, livestock, and vehicles.
 - (g) Sediment control measures as outlined in the EPA's publication No 275 Sediment Pollution Control shall be employed during the construction of the dwelling and maintained until the disturbed area has regenerated.
 - (h) Prior to a certificate of occupancy being issued for the dwelling the owner must enter into an agreement with the Responsible Authority and Barwon Water in accordance with Section 173 of the *Planning and Environment Act 1987* requiring that:
 - i. The Owner is to enter into a service contract to have any wastewater treatment facility and effluent disposal system for the dwelling inspected and maintained in accordance with the EPA Certificate of Approval for the installed system.
 - ii. The Owner must provide to Barwon Water and the Responsible Authority an annual report on the condition and operation of the wastewater treatment system which documents the effluent quality achieved and provides laboratory, inspection and maintenance reports for the preceding 12 months.
 - iii. The Owner shall have the wastewater treatment facility desludged at least once every 3 years or as otherwise determined by Council's Environmental Health Officer. Evidence of this desludging shall be provided in the annual report referred to in Clause (ii) here in.
 - iv. The Owner shall carry out any works considered necessary by the service contractor to ensure the satisfactory operation of the wastewater treatment facility and effluent disposal system.
 - v. The Owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.
 - vi. 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*.

- vii. The Owner shall meet all costs of inspections, reports and works referred to in Clauses (i), (ii), (iii), (iv), and (v) herein and all costs of the Responsible Authority in relation to stamping and registration of this Agreement.
- viii. The Owner shall not sell or enter into any contract to sell the land until this Agreement has been registered pursuant to Clause (vi) herein.

27. Barwon Water require the Section 173 to be signed by the Managing Director and Company Secretary and to state the following:

THE COMMON SEAL of the BARWON REGION WATER CORPORATION was hereunto affixed in the presence of.

Permit Expiry:

28. This permit will expire if:

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

Permit Note:

Prior to installation of works commencing on the wastewater system, a permit to install an onsite wastewater management system must be submitted to Environmental Health

CARRIED

PUBLIC CONSULTATION	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	None.
Consultation meeting:	Not applicable.

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

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

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Executive Manager – Henry Bezuidenhout

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

Author – Tom Tonkin

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

EXECUTIVE SUMMARY

Application referred?	Yes, Barwon Water, Agriculture Victoria and to Council's Infrastructure and Environmental Health.
Any issues raised in referral responses?	Agriculture Victoria provided a letter of advice which concluded, in part, that the proposed agricultural pursuits could be achieved without a dwelling being present..
Preliminary concerns?	Aspects of the farm management plan needed clarification

Any discussions with applicant regarding concerns?	The applicant was advised in writing of the preliminary concerns. Further discussions occurred between the applicant and Council officers following receipt of Agriculture Victoria's advice. Council officers advised that the application would not gain support.
Any changes made to the application since being lodged?	Changes were made to the farm management plan in response to the preliminary concerns.
Brief history.	Not applicable.
Previous applications for the site?	None.
General summary.	It is proposed to develop the site with a dwelling and ancillary outbuilding in support of a proposed small mixed farming venture comprising horticulture and keeping of chickens for egg production. The application was advertised, with no objections received. Agriculture Victoria provided Council with advice on the application, including that the proposed farming venture could be undertaken without the proposed dwelling. The proposal does not reasonably meet relevant State and local planning policies or the purpose of the Farming Zone in relation to residential development and support for agriculture land.
Summary of Officer's Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Refusal to Grant Planning Permit PA2021225 for the Use and Development of a Dwelling and Works to enlarge a Dam at Lot 23 on PS 098699 known as Betsons Road, Mount Doran, on the grounds included in this report.	

SITE DESCRIPTION

The subject site, identified as Lot 23 on PS 098699 and known as Betsons Road, Mount Doran, is an irregular shaped 2.02ha lot located on the northern side of Betsons Road, approximately 420m east of Settlement Road. The site is currently developed with two sheds and a 750,000L dam but is not used for productive farming. Vegetation comprises a mix of scattered native and exotic trees. Vehicle access is via a crossover located near the southeast corner of the site. The site falls slightly, generally from north to south.

The subject site and surrounding land is in the Farming Zone. The subject site and surrounding land to the west, north and northeast forms a cluster of properties of typically 2ha to 4ha in size, most of which are developed with dwellings. Most of these properties appear to be used for rural lifestyle or hobby farming purposes rather than productive agricultural purposes.



Figure 1: Aerial photograph.

PROPOSAL

It is proposed to use and develop the site for a dwelling and ancillary outbuilding and to carry out works to enlarge a dam. The proposed dwelling would comprise four bedrooms, two bathrooms, laundry, lounge and open plan kitchen, dining and living area leading to a rear covered alfresco and uncovered deck, having a total floor area of 326sqm. The dwelling would have lightweight wall cladding and a low pitched hipped Colorbond roof. The proposed outbuilding would be positioned in the dwelling's front setback, be 136sqm in size and comprise two car spaces, workshop, gym, storage and solar plant room. The outbuilding would have a low pitched hipped Colorbond roof and Colorbond wall cladding.

Proposed water tanks would provide up to 100,000L of static water supply, 50,000L of which would be for firefighting purposes.

The existing 750,000L dam would be increased in size to approximately 2ML.

The dwelling is proposed to support a mixed farming enterprise comprising horticulture – fruit and nut trees, seasonal vegetables and wine grapes and free range chickens for egg production.

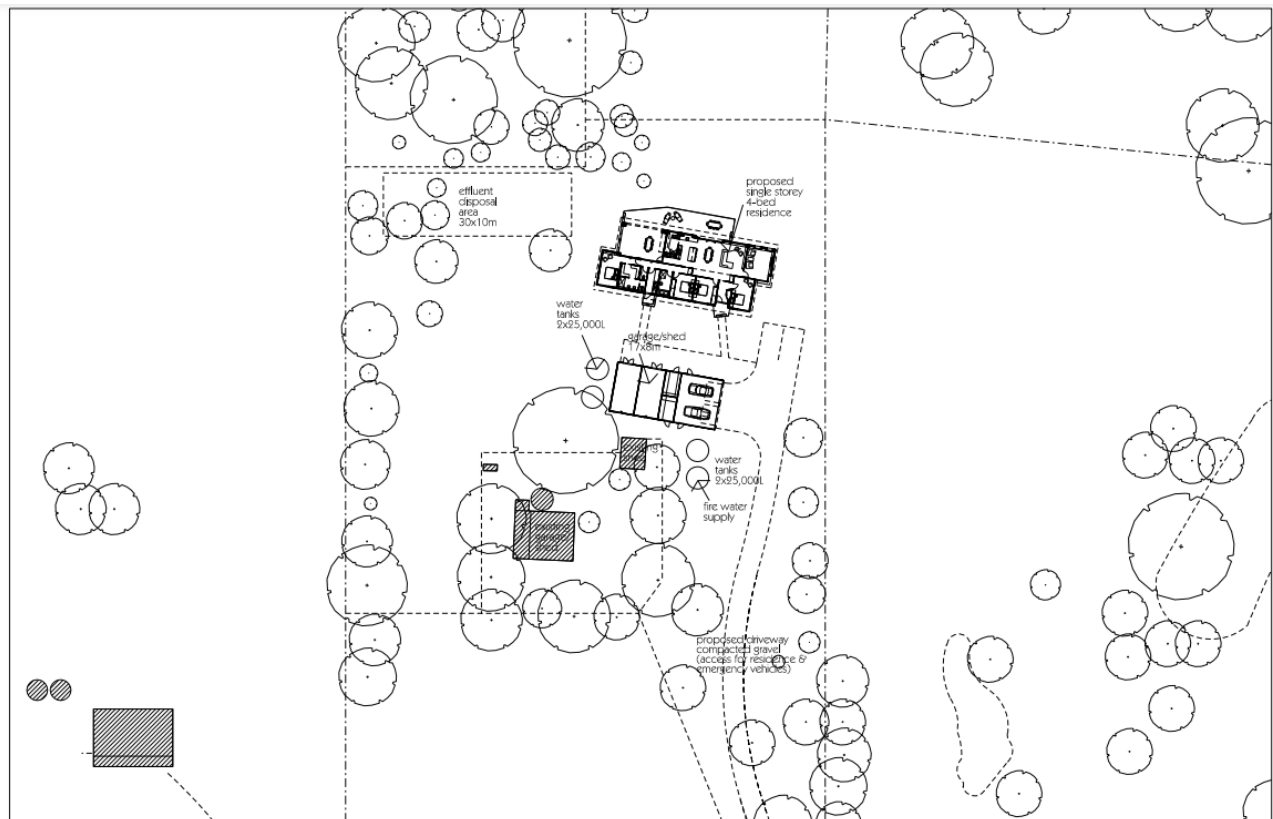


Figure 2: Proposed site plan detail.

BACKGROUND TO CURRENT PROPOSAL

Not applicable.

HISTORY

Not applicable.

PUBLIC NOTICE

Notice of the application was given to adjoining and surrounding landowners and occupiers by mail and a sign erected on site. No objections were received.

LOCALITY MAP

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

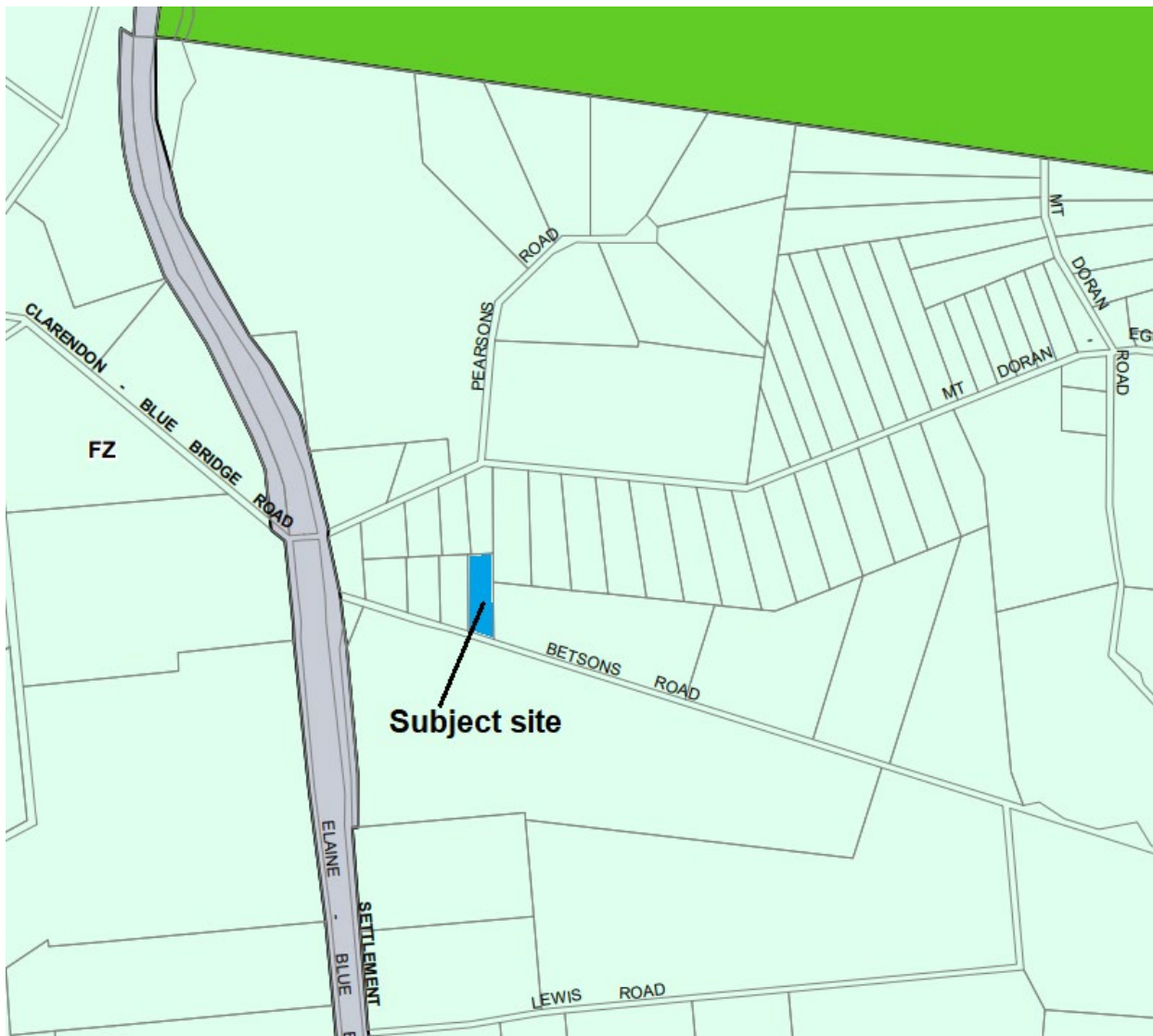


Figure 3: Zone map.

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 11.03-3S Peri-urban areas
- Clause 13.02-1S Bushfire planning
- 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 16.01-3S Rural residential development
- Clause 21.02-2 Non-urban landscapes
- Clause 21.02-3 Water and catchment management
- Clause 21.03-4 Landscape and neighbourhood character
- Clause 21.03-6 Rural lifestyle opportunities
- Clause 21.04-2 Agriculture
- Clause 21.09-1 Small towns and settlements
- Clause 22.02 Special Water Supply Catchments
- Clause 22.03 Houses and House Lot Excisions in Rural Areas

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

PPF	Title	Response
Clause 14.01-1S	Protection of agricultural land	The nature of the proposal does not sufficiently justify the need for a dwelling, the development of which reduces the already limited land size available for agricultural production.
Clause 16.01-3S	Rural residential development	The proposed dwelling lacks strategic justification consistent with this policy.
LPPF		
Clause 21.03-6	Rural lifestyle opportunities	It has not been sufficiently demonstrated that the proposed dwelling is needed to support the farming enterprise. Accordingly, it is considered that the dwelling would reduce the land available for productive agricultural purposes.
Clause 21.04-2	Agriculture	It is deemed that the proposed dwelling is not required to support the associated farming enterprise and therefore would reduce the land available for agriculture.
Clause 22.03	Houses and house lot excisions in rural areas	It is deemed that the proposed dwelling is not required to support the associated farming enterprise and therefore would reduce the land available for agriculture.

ZONE

The subject site is in the Farming Zone (FZ). The purpose of the FZ is:

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

Under Clause 35.07-1 a dwelling is a Section 2 use on a lot of less than 40ha.

Overall, the proposal is inconsistent with the purpose of the zone – see ‘Discussion’ below.

OVERLAYS

The site is affected by Environmental Significance Overlay, Schedule 1 (ESO1) and Design and Development Overlay, Schedule 2 (DDO2).

Environmental Significance Overlay, Schedule 1

Under Clause 42.01-2 a permit is required to construct buildings and works. It is noted that under Schedule 1 there is an exemption for the construction of a dam of less than 3ML not located on a waterway. The proposed dam enlargement meets this exemption, but the proposed dwelling is the not exempt and requires a permit under this overlay.

The relevant water catchment authority had no objection to the application.

Design and Development Overlay, Schedule 2

Under Clause 43.02-3 (DDO) a permit is required to construct buildings and works. Under Schedule 2 there is an exemption where non-reflective external building cladding is proposed, as in this instance. Therefore, a permit is not required under this overlay.

Relevant PoliciesCouncil’s Rural Growth Policy

Council’s Rural Growth Policy Statement was adopted by Council on 19 September 2012. The document applies to all land in Farming Zone.

The policy states:

- Encourage dwellings in areas nominated in Map 1 of Council Rural Growth Policy Statement.

- Ensure the siting of any dwellings is designed to have a minimal impact on any existing or future agricultural activities on the site and on surrounding land.
- Ensure it is clear whether the dwelling is required for agricultural operation, use or to maintain rural communities.
- Ensure sufficient infrastructure is available or that alternative methods are available which do not require normal infrastructure.
- 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 site is located in Map 1 of the Council Rural Growth Policy Statement. The policy requires justification for the dwelling based on the proposed agricultural activity. Whilst the proposal includes agricultural activities it is deemed that the success of the farming enterprise would not rely upon a dwelling on the site.

Council's Rural Housing Policy

Council's Rural Housing Policy 2012 was adopted by Council on 19 September 2012 and has been developed to provide direction for how limited farming potential rural dwellings should be considered, and more broadly, rural settlement patterns. This Policy is not incorporated into the Moorabool Planning Scheme.

The principles of the policy relevant to this application include to:

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

The proposal does not align with the above principles. The subject site is in an area shown on Map 1 where dwellings are supported on minimum 8ha lots. The subject site is only 2.02ha in size. The proposed farming enterprise does not demonstrate the need for a dwelling to enhance the enterprise and does not accord with this policy.

Particular Provisions

None applicable.

DISCUSSION

Overall, the proposed use and development for a dwelling is inconsistent with the relevant provisions of the Moorabool Planning Scheme, in particular state and local planning policies and the Farming Zone.

Relevant planning policies address a range of considerations including rural landscape values, land capability, protection of productive agricultural land and assets, and the location of rural residential development. These policies are outlined above and the proposal's non-compliance with several of these policies is also noted.

The subject site is a 2.02ha lot in Mount Doran, currently developed with a dam and sheds. Despite the site's relatively small size, poor soil, lack of water supply and high costs to achieve productivity, as stated in the applicant's farm management plan, a mixed farming enterprise is proposed as justification for a dwelling. Despite these obstacles, the Farm Management Plan comprehensively outlines how the proponent could operate a viable farming enterprise. Whilst the plan includes justification for the proposed dwelling, ultimately it is considered that the proposed agricultural activity does not require an onsite dwelling to operate viably. Horticultural activities such as fruit trees, wine grapes and seasonal vegetables can be conducted on the land successfully without the need for a dwelling.

As previously stated, the subject site forms part of a cluster of 2-4ha sized lots in this area of Mount Doran, most of which are developed with dwellings and used predominantly as rural lifestyle or hobby farming properties. Landholdings to the east and south are substantially larger and used more for farming purposes. Whilst rural residential development is evident in the immediate area, and the proposal provides a farm management plan, this is not considered to sufficiently justify support for a dwelling in the Farming Zone, based on the lack of policy support in the Moorabool Planning Scheme. Adding more dwellings in the area further erodes the land for farming purposes.

The proposal does not align with the purpose of the Farming Zone, considering that the proposed dwelling is not considered essential to operate the proposed farming enterprise. Council referred the application to Agriculture Victoria, who now provide an advisory service for the assessment of applications that include Farm Management Plans. Agriculture Victoria's advice acknowledges the site's context, as outlined above. It is noted that Agriculture Victoria's advice includes that 'generally, it is considered that the proposed agricultural pursuits can be achieved without a dwelling being present.' This advice is consistent with relevant State and local planning policies and the Farming Zone provisions, outlined above, which discourage land use change, including dwellings, which reduces land available to agriculture and results in the dispersal of urban development into rural areas beyond established townships.

In addition, Agriculture Victoria note that the success of the farming enterprise would be more contingent on the availability of irrigation water. They advise that the applicant's stated annual capture of 450,000L of water would require a larger roof area than proposed to serve anything beyond domestic needs, based on the 480mm mean annual rainfall. This is particularly relevant to a decision on this application, given that the viability of the proposal, and therefore the need for a dwelling, relies on the ready availability of irrigation water. It is also noted that there is no proposed storage space for farm equipment and plant, noting the only proposed storage space is 12sqm area within the proposed outbuilding.

Overall, the proposal is characteristic of the demand for rural residential development on lots more typical of those found in the Rural Living Zone and generally with limited potential for dwellings to reasonably support agricultural use. The proposal represents the ad hoc nature of such development, which without sufficient strategic justification pose a potentially detrimental outcome for the Shire's agricultural land base and the associated economic and environmental values. The site lies in a relatively isolated area of Mount Doran, more than 5km from the nearest services in Elaine which are limited. The development of dwellings in the Farming Zone, such as that proposed, contributes to a dispersal of scattered residential development beyond township boundaries. This threatens the rural landscape character and also undermines the potential for viable agricultural ventures to succeed on such landholdings and reduces opportunities for contiguous land parcels to be consolidated to increase potential productivity. The proposed use and development is contrary to the zone objectives.

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
Barwon Water	Consent with conditions.
Agriculture Victoria	Letter of advice.
Council's	
Infrastructure	Consent with conditions.
Environmental Health	Consent with conditions.

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation to refuse this application does not have any risk or OH&S implications for Council.

COMMUNICATIONS STRATEGY

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

OPTIONS

- Issue a Refusal to Grant a Permit in accordance with the grounds in the recommendation of this report; or
- should the Development Assessment Committee wish to support the application, issue a Planning Permit with conditions.

CONCLUSION

Overall, the proposed use and development for a dwelling does not satisfy the relevant provisions of the Moorabool Planning Scheme, in particular State and Local planning policies relating to agricultural land and residential development, and the Farming Zone provisions. There is insufficient justification for the proposal, based substantially on the proposed Farm Management Plan which does not demonstrate the requirement for a dwelling on a relatively small landholding. The proposed use and development should not be supported.

8 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS

Nil.

9 OTHER BUSINESS

Nil.

10 DATE OF NEXT MEETING

Wednesday 20 July 2022.

11 MEETING CLOSE

The Meeting closed at 6:44pm.

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CHAIRPERSON