



# **MINUTES**

## **Development Assessment Committee Meeting**

**Wednesday, 13 December 2023**

**Date: Wednesday, 13 December 2023**

**Time: 6.00pm**

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

## Order Of Business

<b>1</b>	<b>Opening .....</b>	<b>3</b>
<b>2</b>	<b>Present and Apologies.....</b>	<b>3</b>
<b>3</b>	<b>Recording of Meeting .....</b>	<b>3</b>
<b>4</b>	<b>Confirmation of Minutes .....</b>	<b>3</b>
<b>5</b>	<b>Matters Arising from Previous Minutes.....</b>	<b>3</b>
<b>6</b>	<b>Disclosure of Conflicts of Interests .....</b>	<b>4</b>
<b>7</b>	<b>Community Planning Reports .....</b>	<b>7</b>
7.1	PA2023061 - Use and Development of a Child Care Centre at 113 Masons Lane, Bacchus Marsh.....	7
7.2	PA2022261 - Development of Two Dwellings to the rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan .....	17
7.3	PA2013284-2 - Amendment to Allow for the Manufacturing, Storage and Packaging of Plant Based Drinks and Removal of Shed 2 on the Endorsed Plans at 2830 Old Melbourne Road, Dunnstown .....	30
7.4	PA2023051 - Development of One Storage Shed and Retrospective Approval for an Existing Shed at 25 Abbington Park Road, Gordon.....	41
7.5	PA2022078 - Use and Development for a Dwelling at Spargo-Blakeville Road, Blakeville.....	53
7.6	PA2023074 - Use and development of a Rural Industry facility (Potato Processing Industry) at 12 Aerodrome Road, Parwan .....	69
<b>8</b>	<b>Update on Trends, Issues and Other Matters .....</b>	<b>88</b>
<b>9</b>	<b>Update on VCAT Decisions.....</b>	<b>88</b>
<b>10</b>	<b>Other Business .....</b>	<b>88</b>
<b>11</b>	<b>Date of Next Meeting .....</b>	<b>88</b>
<b>12</b>	<b>Meeting Close .....</b>	<b>88</b>

**1 OPENING**

The Mayor opened the meeting at 6pm.

**2 PRESENT AND APOLOGIES**

Cr Ally Munari, Mayor	Woodlands Ward
Cr Rod Ward	East Moorabool Ward (online)(left the meeting at 7.17pm)
Cr Moira Berry	East Moorabool Ward (online)
Cr Tonia Dudzik	East Moorabool Ward
Cr David Edwards	East Moorabool Ward
Cr Paul Tatchell	Central Moorabool Ward
Cr Tom Sullivan	West Moorabool Ward

**IN ATTENDANCE:**

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

**APOLOGIES:**

Nil.

**3 RECORDING OF MEETING**

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

**4 CONFIRMATION OF MINUTES****COMMITTEE RESOLUTION**

Moved: Cr Tom Sullivan  
Seconded: Cr David Edwards

That the minutes of the Development Assessment Committee Meeting held on Wednesday 15 November 2023 be confirmed.

**CARRIED**

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**5 MATTERS ARISING FROM PREVIOUS MINUTES**

Nil.

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## 6 DISCLOSURE OF CONFLICTS OF INTERESTS

Cr Paul Tatchell declared a Conflict of Interest in relation to Item 7.3 – PA2013284-2 – Amendment to allow for the Manufacturing, Storage and Packaging of Plant Based Drinks and Removal of Shed 2 on the Endorsed Plans at 2830 Old Melbourne Road, Dunnstown.

### DEPUTATIONS/PRESENTATIONS

Item	Report	Speaker/s	Position	Attendance
7.1	PA2023061 - Use and Development of a Childcare Centre at 113 Masons Road, Bacchus Marsh	Chris Niessen	Objector	In person
7.1	PA2023061 - Use and Development of a Childcare Centre at 113 Masons Road, Bacchus Marsh	Peter Veal	Objector	In person
7.1	PA2023061 - Use and Development of a Childcare Centre at 113 Masons Road, Bacchus Marsh	Tajit Singh Arora and Tinesh Mann	Applicant	In person
7.1	PA2023061 - Use and Development of a Childcare Centre at 113 Masons Road, Bacchus Marsh	Bianca Gordon	Objector	Written submission
7.1	PA2023061 - Use and Development of a Childcare Centre at 113 Masons Road, Bacchus Marsh	Phil Homewood	Objector	Written submission
7.2	PA2022261 - Development of Two Dwellings to the rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Maxine Wilkinson with advocates Lachlan Linsdell and Tzeyi	Objector	In Person
7.2	PA2022261 - Development of Two Dwellings to the rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Robert Eskdale on behalf of Judith Hodgson	Objector Representative	In Person
7.2	PA2022261 - Development of Two Dwellings to the rear of an Existing Dwelling, Three Lot Subdivision and Removal of Vegetation at 80 Inglis Street, Ballan	Julie Dargan	Objector	Written submission

Item	Report	Speaker/s	Position	Attendance
7.3	PA2013284-2 - Amendment to allow for the Addition of Manufacturing, Storage and Packaging of Plant Based Drinks and the Removal of Shed 2 on the Endorsed Plans at 2830 Old Melbourne Road, Dunnstown	Rachel Weston John Murphy Ray Barber Jo Barber	Objectors	Online
7.3	PA2013284-2 - Amendment to allow for the Addition of Manufacturing, Storage and Packaging of Plant Based Drinks and the Removal of Shed 2 on the Endorsed Plans at 2830 Old Melbourne Road, Dunnstown	John Glossop of Glossop Town Planning	Applicant	Online
7.4	PA2023051 - Development of One Storage Shed and Retrospective Approval for an Existing Shed at 25 Abbington Park Road, Gordon	Adrian Farrier	Objector	In Person
7.4	PA2023051 - Development of One Storage Shed and Retrospective Approval for an Existing Shed at 25 Abbington Park Road, Gordon	Margie Cooper	Objector	In Person
7.4	PA2023051 - Development of One Storage Shed and Retrospective Approval for an Existing Shed at 25 Abbington Park Road, Gordon	Ken Hutchins	Applicant	In Person
7.4	PA2023051 - Development of One Storage Shed and Retrospective Approval for an Existing Shed at 25 Abbington Park Road, Gordon	Charlotte Harvard	Objector	Written submission
7.5	PA2022078 - Use and Development for a Dwelling at Spargo-Blakeville Road, Blakeville	James Robson	Applicant Representative	In Person
7.5	PA2022078 - Use and Development for a Dwelling at Spargo-Blakeville Road, Blakeville	Anita Godfrey	Applicant	In Person

<b>Item</b>	<b>Report</b>	<b>Speaker/s</b>	<b>Position</b>	<b>Attendance</b>
7.5	PA2022078 - Use and Development for a Dwelling at Spargo-Blakeville Road, Blakeville	Neil Hayden	Supporter	Written submission
7.6	PA2023074 - Use and Development of a Rural Industry (Processing Potato Industry) at 12 Aerodrome Road, Parwan	Coral Young	Objector	Written submission
7.6	PA2023074 - Use and Development of a Rural Industry (Processing Potato Industry) at 12 Aerodrome Road, Parwan	Luke Chamberlain	Applicant	Online

## 7 COMMUNITY PLANNING REPORTS

Chris Niessen addressed the Committee as an objector to Item 7.1.

Peter Veal addressed the Committee as an objector to Item 7.1.

Tajit Singh Arora addressed the Committee as the applicant to Item 7.1.

Bianca Gordon provided a written submission to the Committee as an objector to Item 7.1.

Phil Homewood provided a written submission as an objector to Item 7.1.

### 7.1 PA2023061 - USE AND DEVELOPMENT OF A CHILD CARE CENTRE AT 113 MASONS LANE, BACCHUS MARSH

**Author:** Justin Rocio, Statutory Planning Officer

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

**Attachments:** Nil

#### APPLICATION SUMMARY

**Permit No:** PA2023061

**Lodgement Date:** 2 May 2023

**Planning Officer:** Justin Rocio

**Address of the land:** 113 Masons Lane, Bacchus Marsh

**Proposal:** Use and Development of a Child Care Centre

**Lot size:** 1,677.31sqm

**Why is a permit required?** Clause 32.08-2 General Residential Zone Schedule 2 – Use of the land for a Child Care Centre; Clause 32.08-9 General Residential Zone Schedule 2 – Buildings and works associated with a Section 2 Use; Clause 44.05-2 Special Building Overlay – Buildings and works

#### 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 Planning Permit PA2023061 for the Use and Development of a Child Care Centre at 113 Masons Lane, Bacchus Marsh on the following grounds:**

1. The proposal will increase amenity impacts to nearby residential properties.
2. The proposal will create unacceptable traffic impacts to local roadways.
3. The proposal does not represent the orderly planning of the area.

**CARRIED**

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site?	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	Nine objections.
Consultation meeting:	No.

## POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

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

**Priority 3.2: Align services to meet the needs of the 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 – Justin Rocio*

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

## EXECUTIVE SUMMARY

Application referred?	Yes, Melbourne Water, Council's Development Infrastructure, Environmental Health and Council's Social and Community Planner.
Any issues raised in referral responses?	No.
Preliminary concerns?	No.
Any discussions with applicant regarding concerns?	Yes. After advertising and objections received.



Any changes made to the application since being lodged?	Yes, after objections were received, the applicant reduced the capacity of the child care centre and included an additional car parking space which removed the request for a car parking reduction.
Brief history.	Not applicable.
Previous applications for the site?	No.
General summary.	<p>The proposal provides the minimum number of car parking spaces onsite.</p> <p>The proposed development is designed with adequate setbacks and articulation to positively contribute to the neighbourhood character of the area.</p> <p>The proposal was referred through to Melbourne Water as the development is subject to flooding. Melbourne Water have consented to the proposal subject to conditions including raised finished floor levels.</p> <p>It is recommended to approve the proposal subject to conditions.</p>
<b>Summary of Officer's Recommendation</b>	
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 PA2023061 for the Use and Development of a Child Care Centre at 113 Masons Lane, Bacchus Marsh, subject to the conditions contained within this report.	

## SITE DESCRIPTION

The site is located near the eastern edge of the urban area of Bacchus Marsh. Many of the properties west of the site are larger blocks within the Farming Zone containing larger residential properties and agricultural properties within the Bacchus Marsh Irrigation District. Properties north and south and mainly consist of smaller residential blocks with lot areas ranging between 250sqm to 1,100sqm. Many of the dwellings in the area are single storey, with the exception of the double storey units located directly north of the property. There is neighbouring recreation reserve surrounding the site from the east and south. Bacchus Marsh Primary School is located just south of the subject site.

The site is a corner block within the General Residential Zone and has an area of 1,677.31sqm. There is an existing dwelling and ancillary outbuilding on the site. Vegetation on the property is mainly present along the two street frontages and towards the eastern boundary. The site has generally flat topography with a gentle slope towards the east.



Figure 1: Aerial Photograph

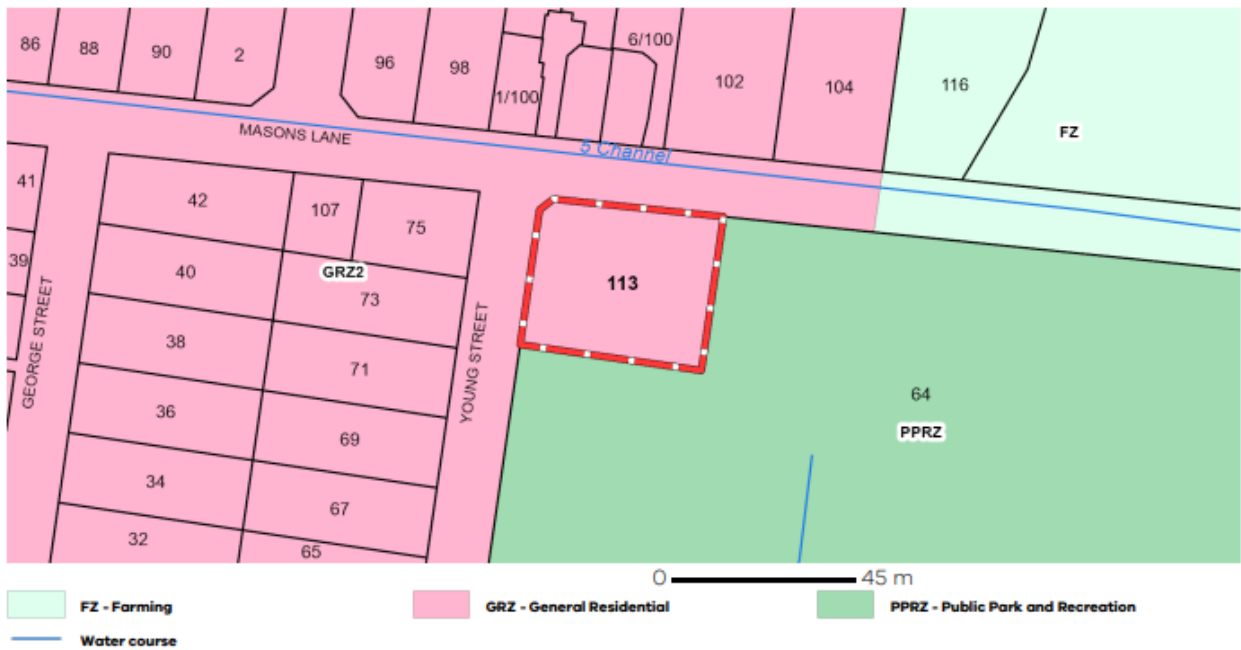


Figure 2: Zone map

**PROPOSAL**

Is it proposed to use and development the land for a child care centre with a capacity of 76 children. The facility will operate during the weekdays between 6:30am to 6:30pm.

The child care centre will have four children’s rooms with rooms separated by a partition wall. There will be two prep rooms and two junior toilets to serve the centre as follows:

- Room 1 will be 58sqm, with a capacity of 12 children;
- Room 2 will be 81 sqm with a capacity of 20 children;
- Rooms 3 will be 73sqm and each will have a capacity of 22 children; and
- A staff kitchen, staff room, staff toilet, laundry and manager’s cabin will be located on the southern side of the building as well as a reception and waiting area near by the foyer of the building.

The building will have a 20.2m setback from Young Street, 17.4m setback from Masons Lane and a 1.5m setback along the eastern and southern boundary.

The child care centre will have 15 carparking spaces plus one accessible parking space and occupy an area will be 481.5sqm. The car park will be accessed from a new crossover on the south western corner of the lot along Young Street.

There will be an outdoor play area on the northern side of the property with an area of 595sqm and a covered verandah on the northern side of the building with an area of 69.3sqm.

The overall height of the child care centre will be 5.395m (2.7m floor to ceiling height). There will be a metal picket fence constructed along the southern and eastern boundary at a height of 1.8m.

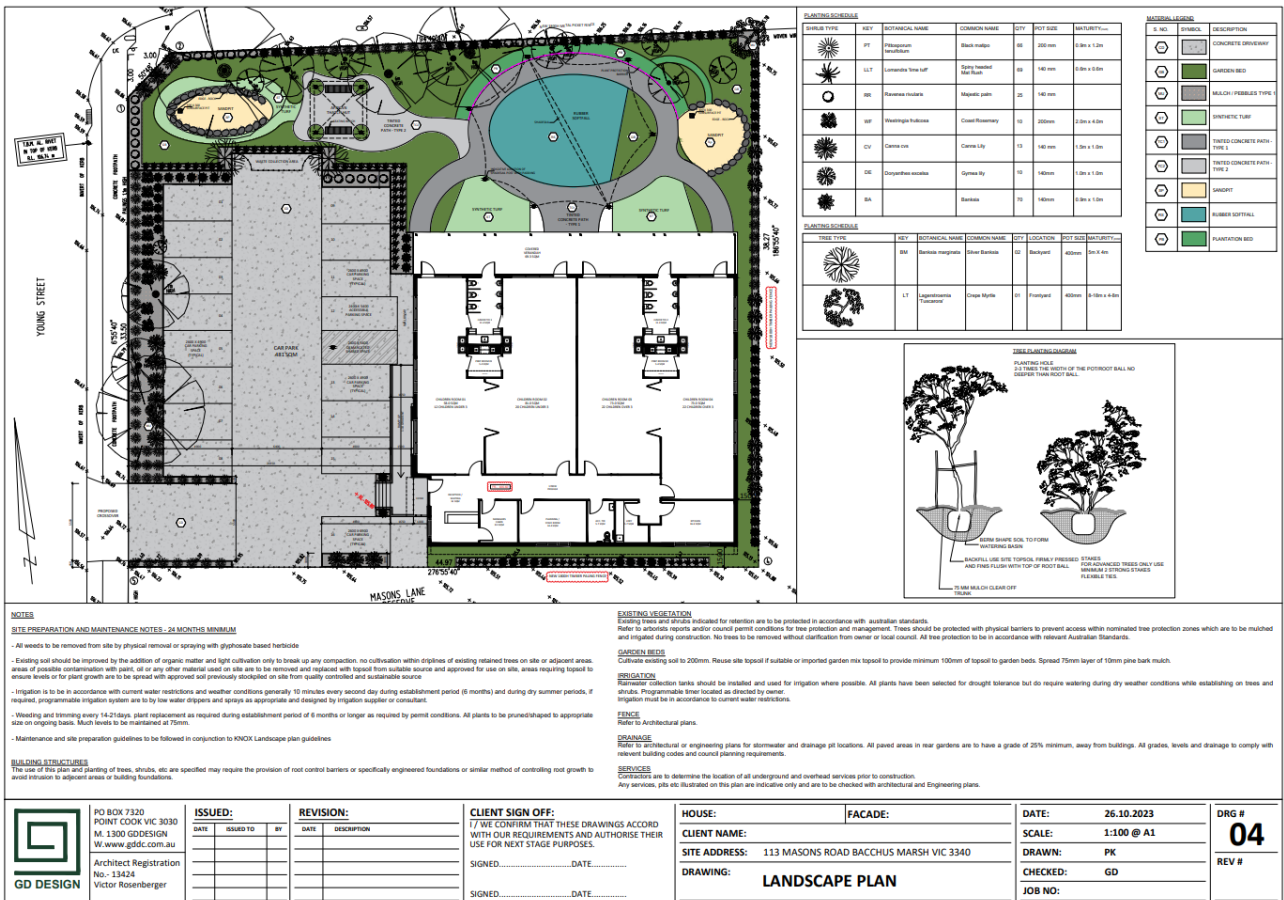


Figure 3: Proposed Landscape Plan

## BACKGROUND TO CURRENT PROPOSAL

The initial proposal was a child care centre with a capacity of 84 children and a request for the reduction of one car parking space. This initial application was advertised to neighbouring properties and nine objections were received. After notifying the applicant of the objections, the applicant reduced the capacity of the child care centre to 76 children and included an additional car parking space to meet the car parking requirements. The objectors were notified of this amendment. No objections were withdrawn.

## HISTORY

No previous planning applications on this site.

## PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners and sign on each street frontage.

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Increased traffic in the area resulting in potential safety issues.	Clause 52.06.
<b>Officer's Response:</b> The Traffic Impact Assessment Report was assessed by Council's Development Infrastructure and no traffic concerns were identified. A site visit was undertaken, and a low volume of cars have been observed along both Young Street and Masons Lane. Both streets are able to cater for the additional traffic during the brief peak periods of the child care centre being drop off and pick up times.	
On street car parking is heavily utilised.	Clause 52.06.
<b>Officer's Response:</b> The applicant amended the application reducing the capacity of the child care centre and included an additional car parking space removing the need to apply for a car parking reduction. The proposed car park complies with the minimum requirements of Clause 52.06 and is unlikely to cause any demand for on street parking spaces.	
The resultant noise from the child care will have a negative impact on the amenity of the surrounding area.	
<b>Officer's Response:</b> Amenity conditions can be in place to protect nearby properties from noise emission including the use of loudspeakers. The child care centre is not immediately adjacent residential properties thereby minimising direct noise impacts.	

## PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 02-03-1 – Settlement

- Clause 02.03-5 – Built Environment
- Clause 11.01-1S – Settlement
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.01-1L-02 – Bacchus Marsh
- Clause 13.03-1S – Floodplain management
- Clause 15.01S – Urban design
- Clause 15.01-1L – Urban design
- Clause 15.01-2S – Building design
- Clause 15.01-2L-01 – Building design
- Clause 15.01-5S – Neighbourhood character
- Clause 15.01-5L – Landscape and neighbourhood character

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

## **ZONE**

### General Residential Zone Schedule 2

A planning permit is required under Clause 32.08-2 to use the land as a child care centre. A planning permit is required for works associated with any Section 2 (permit required) uses under Clause 32.08-9.

## **OVERLAYS**

### Special Building Overlay

A planning permit is required under Clause 44.05-2 for buildings and works located within the overlay.

## **Relevant Policies**

### Bacchus Marsh Urban Growth Framework

This proposal promotes the objectives identified in this strategy which seeks to increase employment growth, servicing populations, supporting residential development, and delivering infrastructure to cater for the service delivery needs of the neighbourhood.

## **Particular Provisions**

### Clause 52.06 Car Parking

This clause specifies car parking requirements as Child Care Centre as 0.22 car spaces to each child.

As the proposed child care centre is for 76 children, the required parking under the scheme equates to 16.72, rounded down to the nearest whole number which is 16 parking spaces. The proposed provided the minimum car parking requirement.

The proposal overall satisfies the minimum dimensions under Design Standard 2.

## **DISCUSSION**

### Use

The General Residential Zone allows for non-residential uses to serve community needs in appropriate locations. The proposed building being located on street corner is well separated from the existing dwellings in the area. The adjacent land to the south and east serves the neighbouring recreation reserve which is not considered to be negatively impacted by the proposal. Noise generated from the child care centre will be minimal and the centre is not immediately adjacent to sensitive interfaces. Permit conditions provide amenity protection from noise and other emissions.

### Building Form and Neighbourhood Character

The existing area generally consists of single storey developments with the exception of the neighbouring double storey townhouses across Masons Lane to the north. The single storey child care centre with a maximum height of 5.39m will respect the height of the general area.

The neighbourhood character objectives in Schedule 2 to the General Residential Zone encourages ‘innovative and unique development that enhances and responds positively to the existing neighbourhood character.’ The contemporary architectural elements particularly on the northern and western sides of the building will add to the architectural interest of the locality.

### Internal Amenity

The proposed development takes advantage of the site by orienting the play areas and children’s rooms to the north, maximising energy efficiency. The internal rooms provide functionality with the partitioning of all four rooms being able to be used separately or to be used as two larger rooms.

### Traffic

One of the key concerns from objectors is related to the increase of traffic along Young Street and Masons Lane resulting from the proposed child care centre. Objectors raised that the existing streets will not be able to cater for the added capacity of cars during the peak periods especially after the recent works done on Masons Lane, narrowing the roadway for a wider footpath. Peak periods for picking up and dropping of children off in the morning and afternoon are also typically very brief and any increased traffic as a result of this development can be accommodated in the existing road network based on evidence contained in the submitted traffic report. The applicant’s traffic report was reviewed by Council’s Development Infrastructure and no traffic concerns were identified. It is concluded that the road network is adequate to cater for the increased traffic.

### Car Parking

There are a total of 16 car parking spaces proposed on site, which meets the minimum car parking requirements of the Planning Scheme pursuant to Clause 52.06. The applicant’s decision to amend the plans to reduce the capacity of the child care centre and the inclusion of an additional car parking space meets the minimum car parking requirement.

### Flooding

Part of the site and the surrounds are located within the Special Building Overlay which identifies land in urban areas liable to inundation from the urban drainage system. To ensure that the proposal maintains the free passage of floodwaters and minimises any potential flood damage, the application was referred to Melbourne Water who consented to the application subject to conditions. These conditions require increase finished floor level to at least 300mm above the

applicable flood level. These building changes will allow the development to comply with the objectives of the Special Building Overlay.

Overall, the proposed use and development will meet the growing community need for child care centre. The site is located in a residential precinct which encourages walking to and from the centre. The site is not immediately adjacent to dwellings, therefore minimising off site impacts. The proposed development integrates with the existing neighbourhood character.

### GENERAL PROVISIONS

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

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

### REFERRALS

Authority	Response
Melbourne Water	Consent with conditions.
Council's Development Infrastructure	Consent with conditions.
Environmental Health	Consent with conditions.
Community Development	Consent.

### FINANCIAL IMPLICATIONS

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

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

### COMMUNICATIONS STRATEGY

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

### OPTIONS

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

### CONCLUSION

The proposed use and development of a child care centre is generally in accordance with the relevant provisions of the Moorabool Planning Scheme and the objectives within the General Residential Zone Schedule 2 and the Special Building Overlay.

The area can support the additional brief peak traffic periods generated by the child care centre. The child care centre respects the existing neighbourhood character of the area which is mostly single storey dwellings and the architectural features on the northern and western facades of the building further enhances this character. The flood risk has been addressed by the conditions imposed by Melbourne Water, as the responsible authority. The amenity of nearby residents can be protected by standard amenity conditions including limiting the hours of operation and the number of children in the child care centre. It is recommended that the application be supported.



Maxine Wilkinson (and advocate Lachlan Linsdell) addressed the Committee as objectors to Item 7.2.

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

Julie Dargan provided a written submission to the Committee as an objector to Item 7.2.

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

**Author:** Justin Rocio, Statutory Planning Officer

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

**Attachments:** 1. Latest set of plans (under separate cover)

**APPLICATION SUMMARY**

**Permit No:** PA2022261

**Lodgement Date:** 1 December 2022

**Planning Officer:** Justin Rocio

**Address of the land:** 80 Inglis Street, Ballan

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

**Lot size:** 1,103.68sqm

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

**COMMITTEE RESOLUTION**

Moved: Cr Paul Tatchell

Seconded: Cr Tonia Dudzik

That the Development Assessment Committee defer Item 7.2 to the end of the meeting.

**CARRIED**

**COMMITTEE RESOLUTION**

Moved: Cr Paul Tatchell

Seconded: Cr Tom Sullivan

**That the Development Assessment Committee defer this Item to a future Development Assessment Committee meeting so that a request for additional information can be made that a feature survey plan be prepared by a licensed surveyor showing the natural growing level pre-construction and an updated development plan showing finished floor levels to the Australian Height Datum.**

**CARRIED**

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

### **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

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

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

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

### **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

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

### **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

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

*Executive Manager – Henry Bezuidenhout*

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

*Author – Justin Rocio*

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

### **EXECUTIVE SUMMARY**

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

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

## SITE DESCRIPTION

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

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

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

retained. The site has a well vegetated area behind the existing dwelling. The site slopes down to the north.



Figure 1: Aerial photograph of the site and surrounds

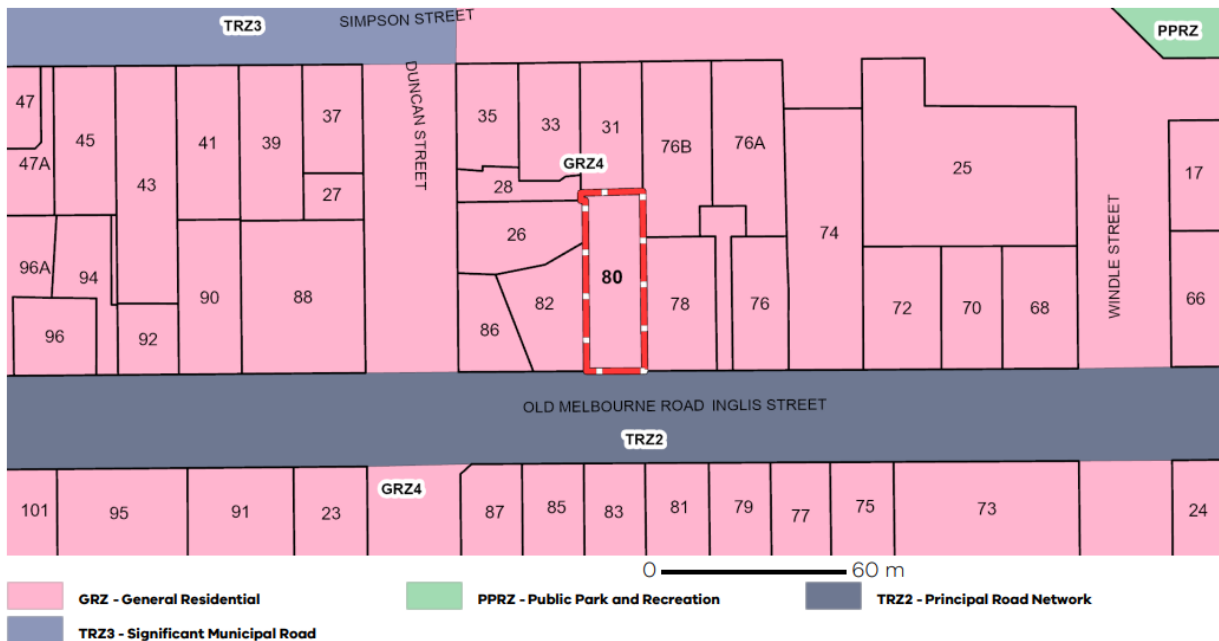


Figure 2: is a zone map.

## PROPOSAL

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

### Existing Dwelling 1

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

### New Dwelling 2

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

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

### Dwelling 3

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

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

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

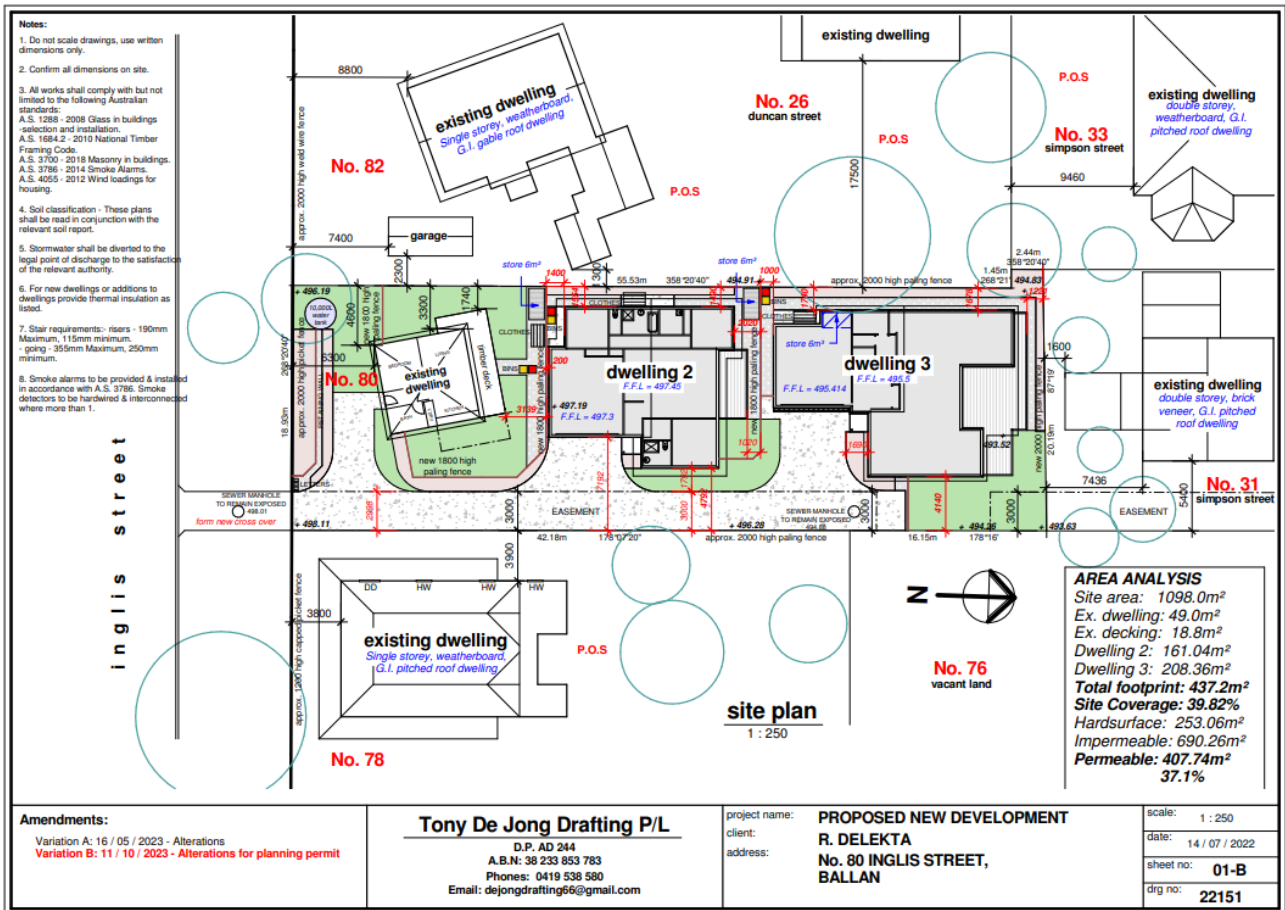


Figure 3: Site Plan

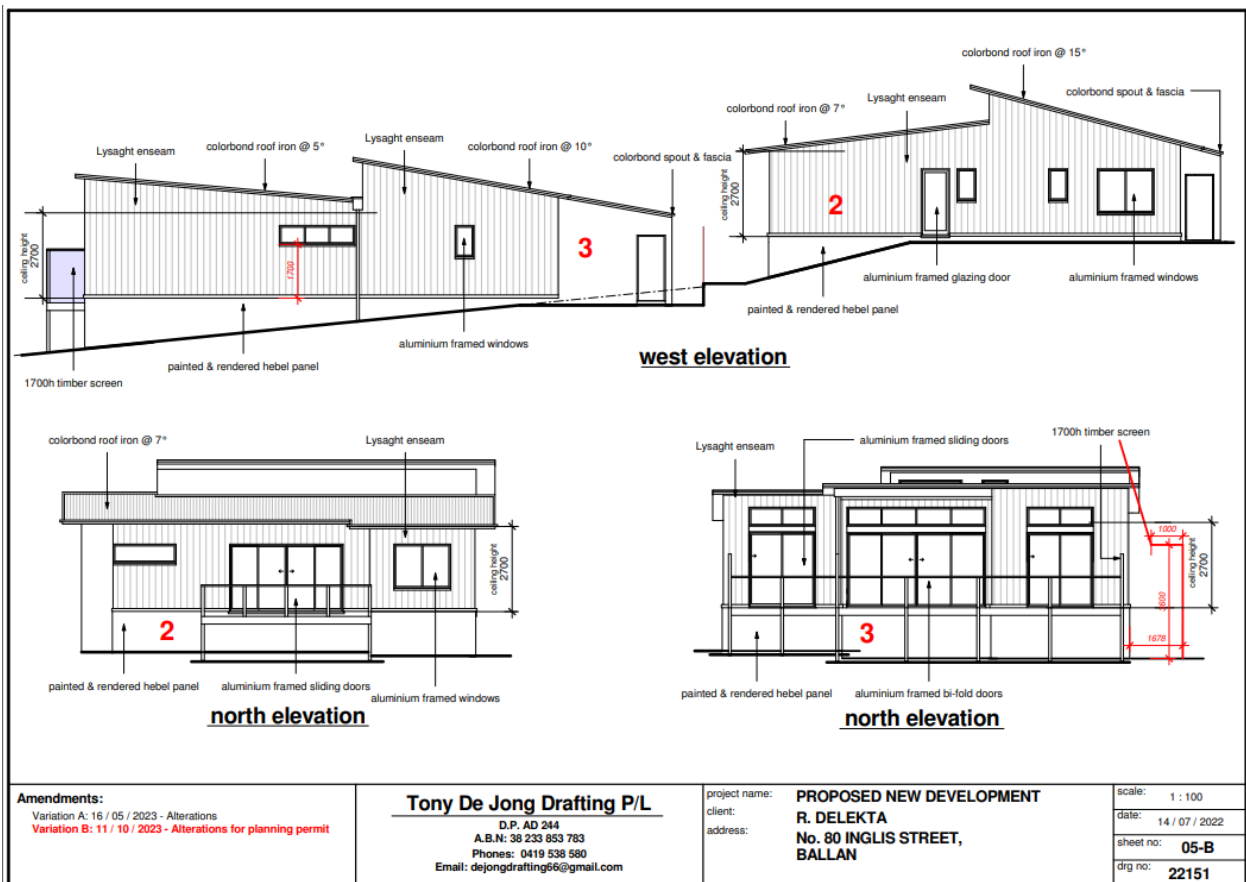
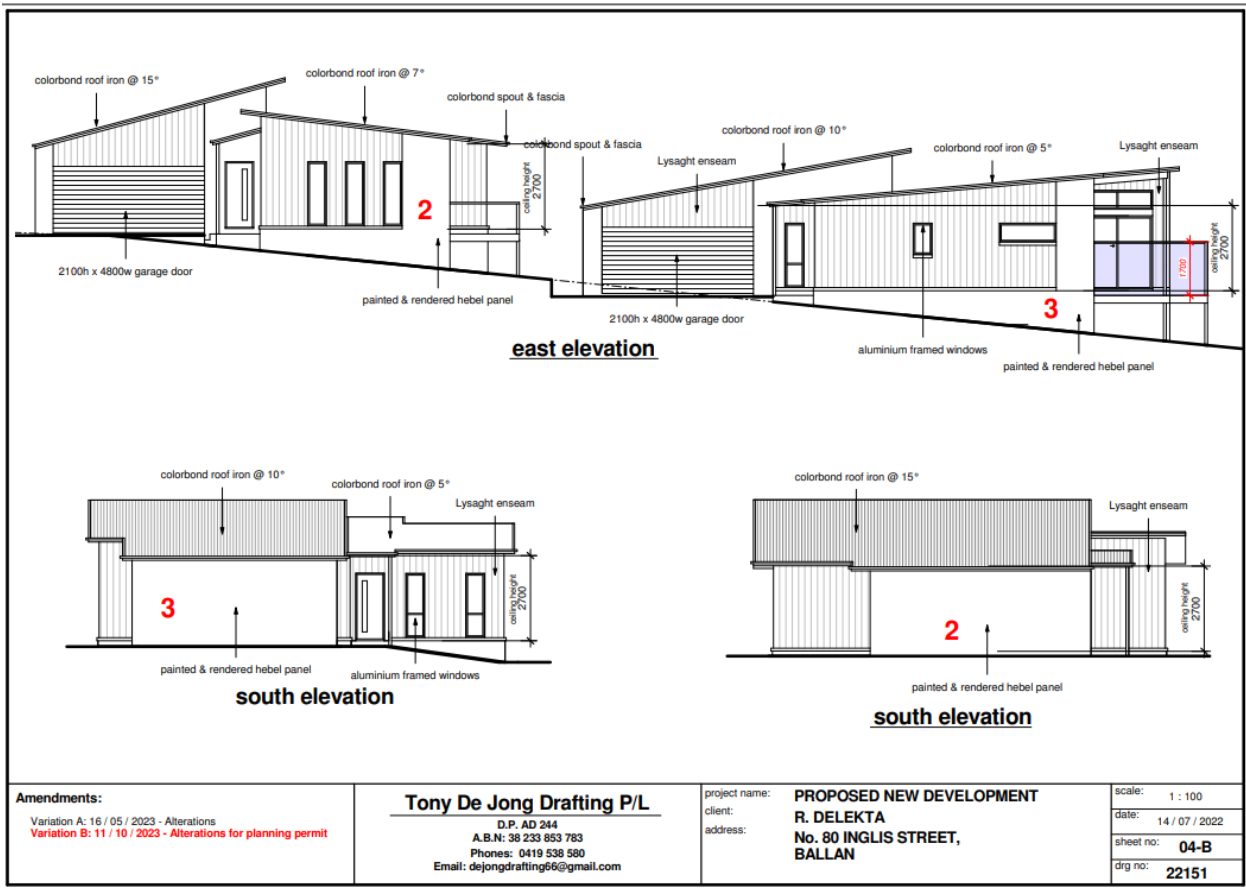


Figure 4 and 5: Elevation Plans



## BACKGROUND TO CURRENT PROPOSAL

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

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

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

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

## HISTORY

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

## PUBLIC NOTICE

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

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Overshadowing impacts	Clause 55.04-5 – Overshadowing open space objective
<b>Officer's Response:</b> The shadow diagrams provided demonstrate that the impacts of shadowing on secluded private open spaces of neighbouring properties will be minimal. The secluded private open space at 26 Duncan Street will only be impacted by overshadowing at 9am which complies with the ResCode standard.	
Overlooking impacts	Clause 55.04-6 – Overlooking objective
<b>Officer's Response:</b> The proposal will include a timber screen along the edges of the deck of Dwelling 3. The applicant amended the proposal to reduce the height of the deck of Dwelling 3 through a 540mm site cut. This will limit views into the neighbouring properties. A further privacy screen to the northern side of the deck to Dwelling 3 will reduce the overlooking which complies with the overlooking standard of ResCode.	

Tree removal	
<b>Officer's Response:</b> The only trigger for vegetation removal under this overlay is the Environmental Significance Overlay Schedule 1. The only consideration under the Environmental Significance Overlay Schedule 1 for vegetation removal is the impact the removal may have on the water catchment. The catchment management authorities were notified and consent to the application, subject to standard conditions.	
Stormwater from the proposed dwellings can flow down and inundate the neighbouring dwellings to the north.	
<b>Officer's Response:</b> The applicant provided a Stormwater Management Plan. The plan is considered appropriate subject to conditions. It is noted there is no flooding for this property caused by discharge from the main drainage system or overland flows from natural watercourses.	
Structural integrity of the retaining wall.	
<b>Officer's Response:</b> Retaining walls are not a planning consideration. Retaining walls less than 1m in depth do not require a Building Permit. If walls exceed 1m in height, a building permit will need to be issued by a Private Building Surveyor in accordance with the Building Regulations.	

### PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 11.01-1S – Settlement
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.01-1L-03 – Ballan
- Clause 15.01-1S – Urban design
- Clause 15.01-1L – Urban design
- Clause 15.01-2S – Building design
- Clause 15.01-2L-01 – Building design
- Clause 15.01-5S – Neighbourhood character
- Clause 15.01-5L – Landscape and neighbourhood character
- Clause 15.01-2S – Aboriginal cultural heritage
- Clause 16.01-1S – Housing supply
- Clause 16.01-1L – Housing supply in Moorabool
- Clause 16.01-2S – Housing affordability

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

**ZONE**General Residential Zone Schedule 4

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

**OVERLAYS**Environmental Significance Overlay Schedule 1 and 2

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

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

**Relevant Policies**

None.

**Particular Provisions**Clause 52.29 – Land Adjacent to Transport Road Zone 2

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

ResCode

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

**DISCUSSION**

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

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

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

The ground of objection related to issues regarding overshadowing, overlooking, stormwater issues and retaining wall integrity. It has been explained to the objectors during the consultation meeting that grounds such as stormwater design detail and construction of retaining walls are building permit considerations. The stormwater plan was approved by Council's Development Infrastructure on engineering detail. The applicant was willing to address the overlooking issues to the properties to the rear by including a timber screening to the rear of Dwelling 3. Dwelling 3 has also been slightly lowered which in effect helps to further reduce potential overlooking impacts onto the secluded private open space to the neighbouring dwellings to the north. To further mitigate any potential overlooking, there will be a requirement to include an additional northern privacy screen with a maximum 25% opening while not adversely affecting the internal amenity to

the rear proposed dwelling. The shadow diagrams provided in accordance with the equinox show some overshadow impacts to parts of the neighbouring dwelling at 82 Inglis Street at 9am. The overshadowing of parts of the neighbouring dwelling impacts a small portion of the building and will not impact the secluded private open space of the neighbouring dwelling which is located further west of the property. The proposed does not adversely impact any adjacent property to the maximum requirement of this ResCode standard.

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

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

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

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

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

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

## GENERAL PROVISIONS

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

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

## REFERRALS

Authority	Response
Greater Western Water	Consent.
Southern Rural Water	Consent.
Central Highlands Water	Consent with conditions.
Melbourne Water	Consent with a condition.
Powercor	Consent with conditions.

Downer Utilities	No response provided.
Department of Transport	Consent with conditions.
Council's Development Infrastructure	Consent with conditions.

### FINANCIAL IMPLICATIONS

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

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

### COMMUNICATIONS STRATEGY

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

### OPTIONS

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

### CONCLUSION

Overall, the proposal has undergone a number of amendments to have the dwellings compliant with the ResCode standards and address some of the issues received from objectors.

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

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

At 7.18pm, Cr Paul Tatchell left the meeting.

Rachel Weston, John Murphy, Ray Barber and Jo Barber addressed the Committee as objectors to Item 7.3.

John Glossp, Glossop Town Planning addressed the Committee as the applicant to Item 7.3.

**7.3 PA2013284-2 - AMENDMENT TO ALLOW FOR THE MANUFACTURING, STORAGE AND PACKAGING OF PLANT BASED DRINKS AND REMOVAL OF SHED 2 ON THE ENDORSED PLANS AT 2830 OLD MELBOURNE ROAD, DUNNSTOWN**

**Author:** Jyoti Makan, Senior Statutory Planner

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

**Attachments:** 1. Proposed Site Plan (under separate cover)

**APPLICATION SUMMARY**

**Permit No:** PA2013284-2

**Lodgement Date:** 21 June 2023

**Planning Officer:** Jyoti Makan

**Address of the land:** 2830 Old Melbourne Road, Dunnstown titled as Lot 2 on PS110736 and Lots 1 and 2 on TP227183L and Lot 1 on PS540921Q

**Proposal:** Amendment to include plant-based manufacturing and remove Shed 2 from the endorsed plans

**Lot size:** 40.8ha

**Why is a permit required?** Amendment to the planning permit application

**COMMITTEE RESOLUTION**

Moved: Cr Tom Sullivan

Seconded: Cr Rod Ward

**That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a refusal to amend the planning permit PA2013284-2 to Allow for the Manufacturing, Storage and Packaging of Plant Based Drinks and Removal of Shed 2 on the Endorsed Plans at 2830 Old Melbourne Road, Dunnstown on the following grounds:**

- 1. The proposed amendment will increase amenity impacts to adjacent and nearby properties.**
- 2. The proposed amendment does not result in the orderly planning of the area.**

Councillor David Edwards called for a division

**In Favour:** Crs Tom Sullivan, Ally Munari (casting vote) and Moira Berry

Against: Crs Tonia Dudzik, David Edwards and Rod Ward

**THE MAYOR DECLARED THE MOTION CARRIED**

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<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of objections:	Fourteen.
Consultation meeting:	A consultation meeting took place on 13 September 2023 with objectors and the applicant.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

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

#### **Priority 2.4: Grow local employment and business investment**

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

## **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

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

## **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

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

*Executive Manager – Henry Bezuidenhout*

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

*Author – Jyoti Mekan*

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

## **EXECUTIVE SUMMARY**

Application referred?	Yes, Environmental Protection Authority, Central Highlands Water, Department of Transport and Planning, Council's Development Infrastructure and Environmental Health.
Any issues raised in referral responses?	No issues stemming from the referral responses considering that the site is connected to reticulated sewerage.



Preliminary concerns?	Volumes and capacity, internal operations including operating hours, noise and odour risks to the environment including surrounding landowners.
Any discussions with applicant regarding concerns?	Yes, several verbal and written communications took place with the applicant.
Any changes made to the application since being lodged?	None.
Brief history.	The site has a permit to use the use and development of the land for industry (bottling plant for spring water and the manufacture of soft drinks) and the construction of industrial buildings.  There have been several enforcement matters in relation to the site and this application is a result of enforcement action in relation to the proposed additions of plant based milk.
Previous applications for the site?	PA2013284 Use and Development of the Land for Industry (bottling plant for spring water and the manufacture of soft drinks), Development of Two Industrial Buildings and Waiver of Car Parking.
General summary.	The proposal is an amendment to the planning permit and endorsed plans to include plant based drinks and remove the second shed from the endorsed plans.  The application was referred to the relevant authorities and advertised to the neighbouring properties, a total of 14 objections were received.  A consultation meeting took place with several objectors and the applicant.
<b>Summary of Officer's Recommendation</b>	
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 an Amended Planning Permit PA2013284-2 for the Use and Development of the Land for Industry (bottling plant for spring water and the manufacturing of soft drinks and plant based drinks), Development of One Industrial building and Waiver of Car Parking, subject to the conditions contained within this report.	

## SITE DESCRIPTION

The site is located within the Farming Zone and covered by the Environmental Significance Overlay and Design and Development Overlay Schedule 2 and partially covered by the Heritage Overlay and Bushfire Management Overlay.

The majority of the adjacent and nearby land is utilised for farming purposes; however, several dwellings are scattered throughout the surrounding area. The township of Dunnstown is located to the south covering both sides of Old Melbourne Road.

The subject site is accessed from Old Melbourne Road and slopes from north-west to south.

Existing car parking and relevant tanks associated with the operations are constructed adjacent to the existing manufacturing building located towards the Old Melbourne Road frontage.

The site is now connected to reticulated sewerage which was at the cost of the landowner and governed by Central Highlands Water.



Figure 1: Aerial Photograph

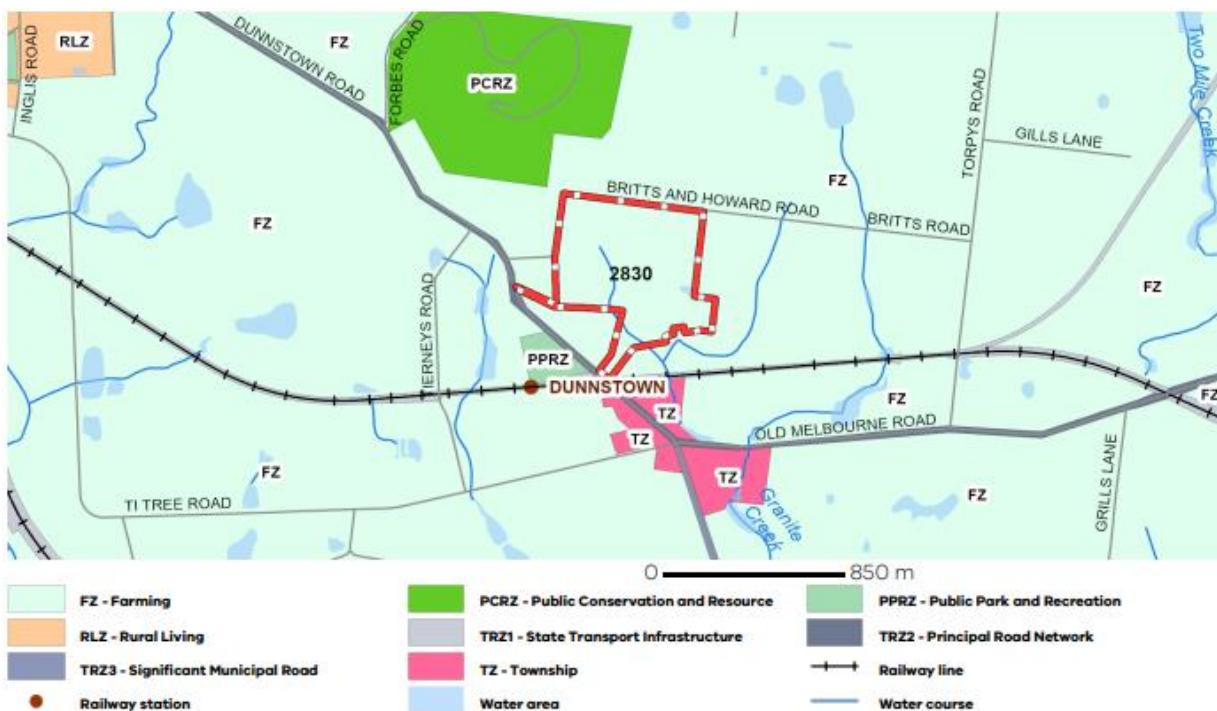


Figure 2: Zone Map

## PROPOSAL

The proposal is an amendment to Planning Permit PA2013284-2 to add the use of manufacturing of plant based drinks within the existing Shed 1.

The proposal also includes the removal of approved Shed 2 from the endorsed plans.

## HISTORY AND BACKGROUND

PA2013284 - issued on 22 May 2014 for the Use and Development of the Land for Industry (bottling plant for spring water and the manufacture of soft drinks), development of Two Industrial Buildings and Waiver of Car Parking. This permit allowed for the development of the main Shed 1 to allow for the manufacturing operations to be undertaken.

PA2013284-1 – An amendment to a planning permit was lodged on 24 December 2021 to change the permit preamble to allow for plant based milk manufacturing. The amendment was advertised, and 72 objections were received. The application was withdrawn on 19 September 2022. The applicant then sourced their own legal advice including whether an amended permit was required.

## PUBLIC NOTICE

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

Fourteen objections were received.

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Farming Zone and Compliance	Clause 35.07
<p><b>Officer's Response:</b> The proposed and approved use is a Section 2 permissible use within the Farming Zone. The site has a planning permit for water bottling.</p> <p>The EPA are aware of the compliance issues and stated the various monitoring and evaluation that needs to be undertaken.</p>	
Soil Contamination	Clause 13.04 – Soil Degradation
<p><b>Officer's Response:</b> The site is connected to Central Highlands reticulated network; therefore, all contamination and degradation has been mitigated.</p>	
Air Pollution - Odour	Clause 13.06 – Air Quality
<p><b>Officer's Response:</b> The EPA Act governs the general environmental duties of the landowner who is required to undergo ongoing monitoring and evaluation to ensure the odour risks are minimised and mitigated.</p>	
EPA comments	
<p><b>Officer's Response:</b> The EPA assessed the submitted reports and did not object to the amended application.</p>	
Township Zone in close proximity	Clause 13.07 – Land Use Compatibility
<p><b>Officer's Response:</b> The existing and proposed conditions provide an adequate level of protection to the nearby Township Zone.</p>	

Expansion of operation	Clause 13.07 – Land Use Compatibility
<p><b>Officer’s Response:</b> The application does not show any additional production lines to extend the production however there is the ability to diversify the use on one production line which requires appropriate amenity conditions to protect surrounding properties from noise, waste and other emissions.</p> <p>The Central Highlands Water Trade Waste Agreement provides for the monitoring of the volumes of waste stemming from the facility.</p>	
Safety	Clause 13.07 – Land Use Compatibility
<p><b>Officer’s Response:</b> The proposal is not considered to cause any additional safety risk to surrounding properties subject to conditions.</p>	

### 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 02.03-2 – Environmental and landscape values
- Clause 02.03-3 – Environmental risks and amenity
- Clause 02.03-5 – Built environment and heritage
- Clause 14.02-1S – Catchment planning and management
- Clause 14.02-2S – Water quality
- Clause 17 – Economic Development

### ZONE

The site is in the Farming Zone.

There are no new buildings proposed as a result of the amended permit application.

### OVERLAYS

The site is fully covered by the Environmental Significance Overlay Schedule 1 and the Design and Development Overlay Schedule 2 and partially covered by the Bushfire Management Overlay and Heritage Overlay Schedule 33.

There are no new buildings proposed as a result of the amended permit application.

The new wastewater arrangement requires referral to Central Highlands Water in accordance with the Environmental Significance Overlay.

### Particular Provisions

#### Clause 52.06 – Car Parking

A permit is required before a new use commences. The original permit required a car parking waiver. The completed construction of Shed 1 includes an area for car parking of 20 car parking spaces. The use of the land as an Industry remains the same, the floor area is not increased. The removal of the second shed will reduce car parking demand on the existing car parking area.

### Clause 53.10 – Uses and Activities with Potential Adverse Impacts

This is applicable now that plant-based drinks are proposed. The maximum production is 50,000 litres a day. The site is within 500m from the nearest dwelling therefore triggered to requirement for a referral to the EPA.

#### **DISCUSSION**

##### Amended proposal

The current permit allows for the bottling of spring water and the manufacturing of soft drinks. The application states that the term plant based drinks refer to non-dairy drinks that are derived from plant based products that include oat milk, almond milk or other such type drinks. As such, this application proposes to amend the preamble to allow for plant based drinks to be manufactured on site using the existing facility.

The applicant is removing the development of the approved Shed 2 on the endorsed plans as it is no longer needed for the long term operation of the site.

##### Reticulated sewerage and Trade Waste Agreement

Central Highlands Water confirmed that the site is connected to reticulated sewerage at the cost of the landowner. The pipeline is a pressure sewer main at approximately 3km long. The full construction of the pipeline was made by the landowner of the site and not Central Highlands Water therefore the reticulated sewerage was made purposefully for the treatment of waste from the subject site and not based on the surrounding property waste. A Trade Waste Agreement was signed between Central Highlands Water and the applicant for all waste will now be treated waste from the subject site.

All monitoring and evaluation processes will take place in accordance with the Trade Waste Agreement and based on Central Highlands Water respective inspectors on the volume indicators of the waste stemming from the subject site. The current pump station, effluent wastewater tank and cooling tank are shown below.



**Rising Sewer Main Pump Station (left) Cooling Tower, Cooling Tower Water Tank and Effluent Wastewater Tank (right)**

**Figure 3:** Pump station, cooling tower, cooling water tank and effluent wastewater tank.

##### Odour assessment report

The wastewater connection to reticulated sewerage system minimises odour emission rather than storing waste that could spill or failure releasing odours to surrounding properties.

### Amenity Considerations

The application proposes the addition of plant based milk to the current manufacturing operation. The manufacturing of plant based milk had commenced on site and was subject to enforcement investigation, this application was lodged following enforcement direction. Several complaints were received from the community in relation to amenity impacts from the manufacturing of plant based milk and breaches to the planning permit.

The site is now connected to the reticulated sewerage system reducing potential environmental impacts related to soil degradation and air quality from potential spills and odours that previously occurred with the onsite storage of waste products.

Advice provided by Central Highlands Water and the EPA signifies that the operations on the site can be managed through continuous monitoring and evaluation processes given that the sewer pipeline has completed construction and that the landowner has the General Environmental Duty (GED) to ensure that the *Environmental Protection Act* requirements are met.

The proposed amendment does not require any new buildings and works. The reduction in the building footprint by removing the second shed leads to a reduction in built form without increasing visual amenity concerns.

With an additional manufacturing component, being plant based milk, there can be additional amenity protections added to the existing approval such as noise controls in accordance with EPA requirements, restrictions of delivery vehicle operating times and the management of waste products. While there were no amenity conditions placed on the original use approval, further diversification to include bottling water, soft drinks and plant based drinks located within the Farming Zone requires appropriate conditions. New amenity conditions will not adversely affect the existing operation and ensure that off site impacts are minimised.

Further to the above, the recommendation also includes new conditions regarding loading areas, dimensioned car parking, additional landscaping to further screen existing buildings, provision of a comprehensive Site Environmental Management Plan and submission of waste management plans. These conditions will further protect surrounding owners and occupiers given that the one production line can accommodate three separate products through the new permit description.

Subject to additional conditions, the proposed diversification of the use can be supported and effectively managed.

### **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**

<b>External Authority</b>	<b>Response</b>
Department of Transport	No objection.
Central Highlands Water	Consent with conditions.
Environmental Protection Authority	Recommendations for notes on a permit.

<b>Internal Authority</b>	<b>Response</b>
Development Infrastructure	No objections.
Environmental Health	Consent with conditions.

### **FINANCIAL IMPLICATIONS**

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

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

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

### **COMMUNICATIONS STRATEGY**

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

### **OPTIONS**

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

### **CONCLUSION**

The existing planning permit allows for bottling of spring water and manufacturing of soft drinks, the application proposes to utilise the existing facility to manufacture plant based drinks. The relevant authorities are satisfied with the amended proposal.

The amendment application was assessed against the planning scheme and is considered appropriate subject to additional conditions relevant to the proposed amendment and diversification of the manufacturing use.

At 7.52pm, Cr Paul Tatchell returned to the meeting.

**ADJOURNMENT**

**COMMITTEE RESOLUTION**

Moved: Cr Tom Sullivan  
Seconded: Cr David Edwards

That the meeting now stand adjourned for a period of 5 minutes

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**CARRIED**

**RESUMPTION OF STANDING ORDERS**

**COMMITTEE RESOLUTION**

Moved: Cr Tom Sullivan  
Seconded: Cr Tonia Dudzik

A motion was moved that Council resume standing orders.

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**CARRIED**



Adrian Farrier addressed the Committee as an objector to Item 7.4.

Margie Cooper addressed the Committee as an objector to Item 7.4.

Ken Hutchins addressed the Committee as the applicant to Item 7.4.

Charlotte Harvard provided a written submission to the Committee as an objector to Item 7.4.

#### **7.4 PA2023051 - DEVELOPMENT OF ONE STORAGE SHED AND RETROSPECTIVE APPROVAL FOR AN EXISTING SHED AT 25 ABBINGTON PARK ROAD, GORDON**

**Author:** Justin Rocio, Statutory Planning Officer

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

**Attachments:** Nil

#### **APPLICATION SUMMARY**

**Permit No:** PA2023051

**Lodgement Date:** 11 April 2023

**Planning Officer:** Justin Rocio

**Address of the land:** 25 Abbington Park Road, Gordon

**Proposal:** Development of One Storage Shed and Retrospective Approval for an Existing Shed

**Lot size:** 1.14ha

**Why is a permit required?** Clause 42.01-2 Environmental Significance Overlay Schedule 1 – Construction of buildings associated with a dwelling in an unsewered area with a total floor area greater than 30sqm

#### **COMMITTEE RESOLUTION**

Moved: Cr Paul Tatchell

Seconded: Cr David Edwards

**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 PA2023051 for the Development of One Storage Shed and Retrospective Approval for an Existing Shed at 25 Abbington Park Road, Gordon subject to the following conditions:**

#### **Endorsed Plans:**

- 1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:**
  - a) Nominate the areas of the site plan for re-vegetation works in accordance with Condition 4 contained herein.**
  - b) Show Tree Protection Zones for any trees within 5m of the development in**

accordance with Condition 6 contained herein.

**Materials and Colour:**

2. All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.

**Shed Requirements:**

3. No business is to run from any of the sheds on the property to the satisfaction of the Responsible Authority.

**Vegetation:**

4. Re-Vegetation of recently cleared areas must be undertaken within 12 months of the issue of a planning permit and to the satisfaction of the Responsible Authority.
5. A re-vegetation plan using advanced trees of no less 1.5m in height must be submitted specifying species, spacing and maintenance plan to the Responsible Authority.
6. The re-vegetation must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
7. No vegetation may be removed, destroyed or lopped unless where specifically exempt under the provisions of the Moorabool Planning Scheme.
8. At all times during the development of the land, the trees identified for retention and within Tree Protection Zones on the endorsed plans of this permit must be protected by the use of temporary fencing that extends out to the drip line of the trees. The fences will serve to increase contractor awareness, whilst maintaining the safety and integrity of the existing vegetation and preventing the parking of vehicles or stockpiling of soil or materials under the canopy of the trees.

**Development Infrastructure:**

9. Stormwater drainage from the proposed buildings and impervious surfaces must be retained and disposed of with a legal point of discharge issued by the Responsible Authority. If applicable, overflows from on-site storage systems must be directed away from any wastewater disposal areas.
10. 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 Civil Construction, Building and Demolition Guide (EPA 2020).
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. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's 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:**

13. The sheds must not be used for any habitable purposes.

14. The owner must alter the existing wastewater management system (the land application area) to ensure the existing effluent disposal area is kept free from stock, buildings, driveways, and service trenching to the satisfaction of the Responsible Authority.

**Barwon Water:**

15. The permitted buildings must not be used for any habitable purpose and must not be used for any commercial or industrial purpose, except in accordance with the provisions of the Moorabool Planning Scheme.
16. The owner must alter the existing wastewater management system to ensure the existing effluent disposal area is kept free from stock, buildings, driveways, and service trenching to the satisfaction of Barwon Water and Moorabool Shire Council's Environmental Health Officer.
17. Stormwater must not be released directly into any waterway and must be directed away from any existing or approved effluent fields.
18. Sediment control measures outlined in the Environment Protection Authority's (EPA) publication No 275, Sediment Pollution Control, shall be employed during construction and maintained until the disturbed area has been revegetated.
19. The use, storage, and disposal of fuel and chemicals must be managed in accordance with EPA's publication 1698 Liquid Storage and Handling Guidelines. Chemicals and fuels used on site must be registered by the Australian Pesticides and Veterinary Medicines Authority and contamination in flood or overland flow events.

**Permit Expiry:**

20. 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.

**Permit Note:**

The recently constructed crossover must be removed unless approval is obtained from Council's Asset Management.

**CARRIED**

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Not required.
Number of objections:	Three objections.
Consultation meeting:	No. The applicant removed two proposed sheds however re-advertising of the application did not result in any withdrawal of objections.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

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

#### **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 – Justin Rocio*

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, Country Fire Authority, Council's Development Infrastructure and Environmental Health.
Any issues raised in referral responses?	Yes, CFA advised that a permit is not required under Bushfire Management Overlay and the submitted Outbuilding Bushfire Management Plan does not require endorsement.

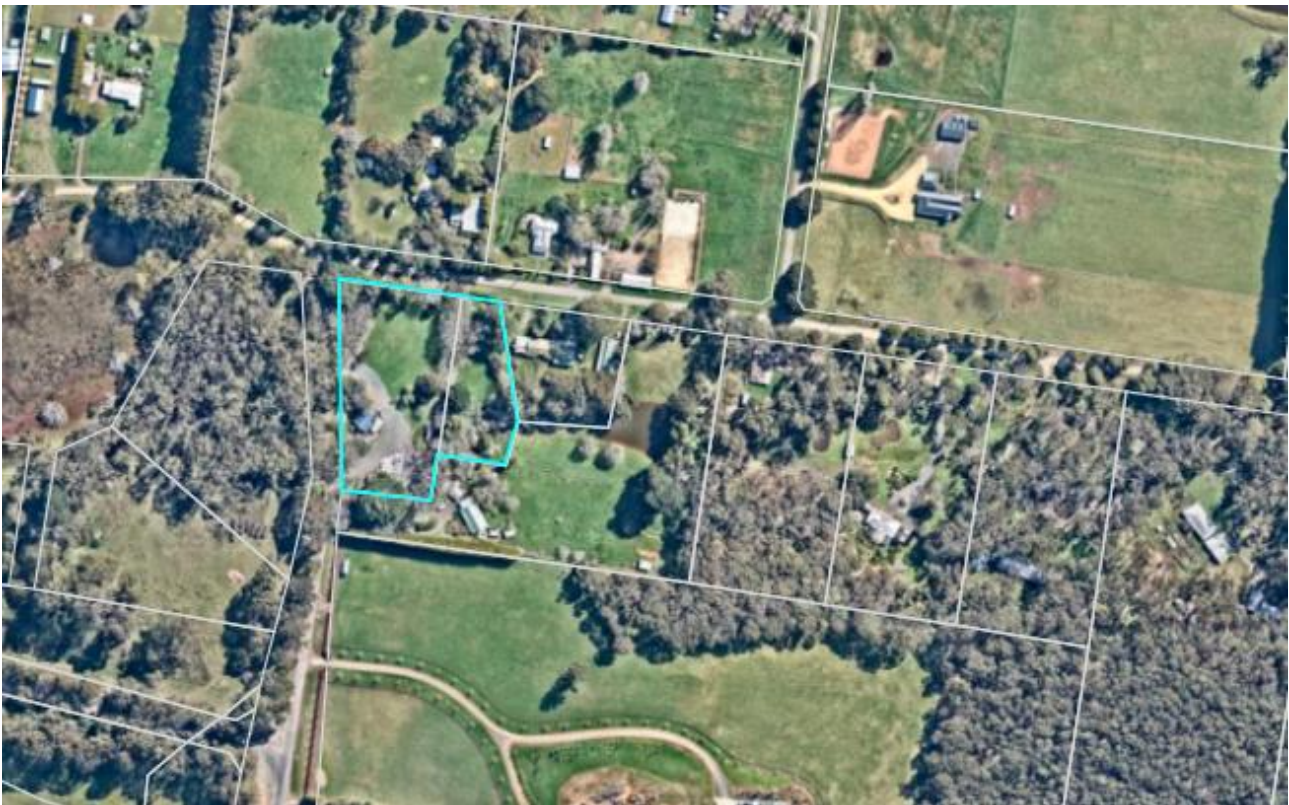
Preliminary concerns?	Works undertaken on site without planning and building approval.
Any discussions with applicant regarding concerns?	Yes, applicant was advised of non-compliances.
Any changes made to the application since being lodged?	Yes, the applicant has since removed two proposed sheds from the initial planning permit application.
Brief history.	One of the sheds was constructed without a planning permit and vegetation was also removed without a planning approval under the Environmental Significance Overlay.
Previous applications for the site?	PA2002207 – Development and Use of a Dwelling VS2023004 – Development of Three Storage Sheds
General summary.	The proposed sheds would be ancillary to an existing dwelling. The floor area, setbacks and overall height are considered appropriate for a Rural Living lot. The application was advertised, and three objections were received concerning the potential industrial use of the two sheds and vegetation removal. The applicant submitted within the planning documentation that the sheds are intended to be used for domestic storage ancillary to the dwelling. Subject to conditions and protection of adjacent trees, the proposal is recommended for approval.
<b>Summary of Officer's Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue an issue a Notice of Decision to Grant Planning Permit PA2023051 for the Development of One Storage Shed and Retrospective Approval of an Existing Shed at 25 Abbington Road, Gordon subject to the conditions contained within this report.	

## SITE DESCRIPTION

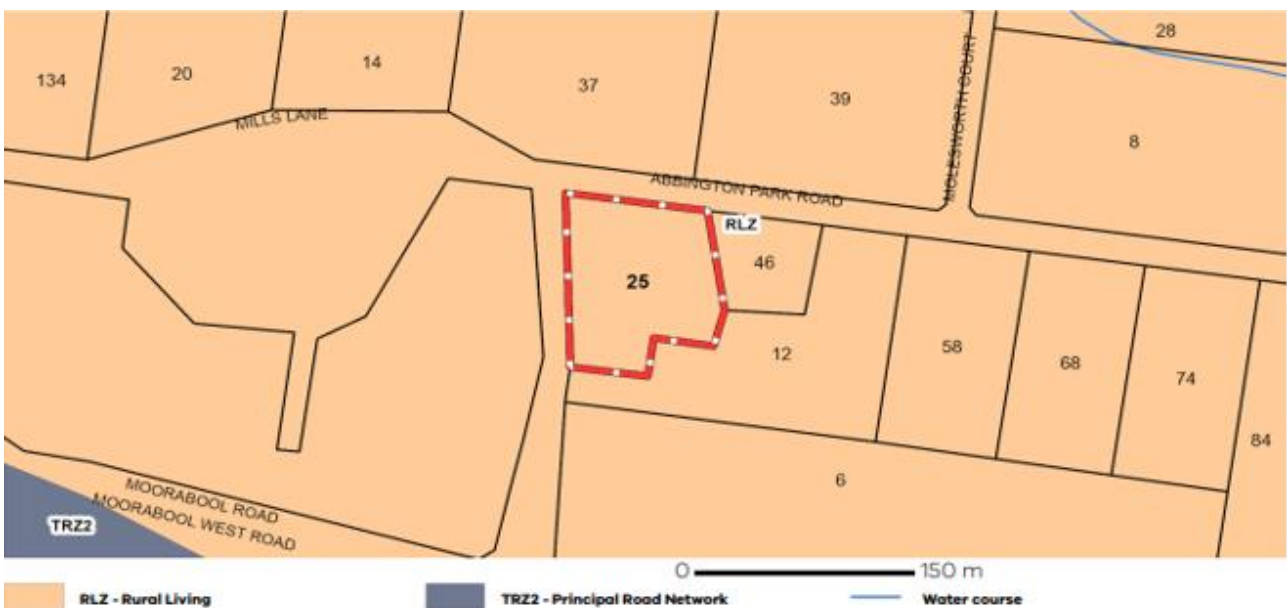
The site is located northern of the township of Gordon. The surrounding area is unsewered and is located within a proclaimed water catchment managed by Barwon Water. There are several single dwellings in the area with each having ancillary sheds. The Western Freeway is located south of the property.

The subject land is irregularly shaped with an area of approximately 1.14ha. The trees currently on the site are located concentrated along the property boundaries. It is noted that existing trees had been removed from the site without planning approval.

There is a single dwelling on site, positioned near the western boundary of the property with access to Abbington Park Road. The land has a slight sloped topography.



**Figure 1:** Aerial photograph of the subject site.



**Figure 2:** Zone Map

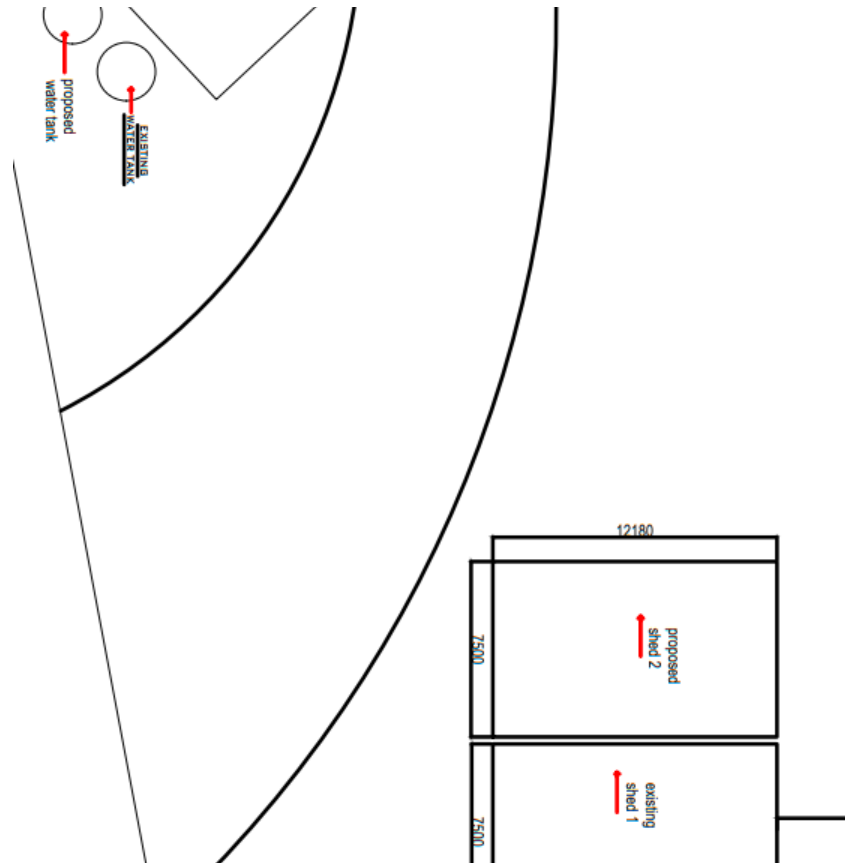
**PROPOSAL**

It is proposed to construct a new shed and retrospective planning approval on an existing shed. Both sheds will be 12.18m x 7.5m (approx. 90.91sqm total area) and will have an overall height of 4.26m. Both sheds will have a sliding door along the northern elevation.

The existing shed is located along the southern boundary and is setback 1.5m from the neighbouring property at 12 Abbington Park Road. The proposed shed will be located just north of

the existing shed. Both of sheds will be for personal use with the applicant providing in writing that no business will be running from either of the sheds.

A re-establishment survey plan was undertaken by a licensed land surveyor which highlighted that a new cyclone fence has been constructed inside the title boundary rather than on the title boundary with a discrepancy of up to 1.42m in favour of the adjacent eastern property.



**Figure 3:** Partial site plan of the proposed development.

## BACKGROUND TO CURRENT PROPOSAL

It is noted that works were undertaken on site without planning and building approval. As a result of enforcement action, a planning application was lodged seeking retrospective approval.

The initial proposal was to construct three sheds plus the retrospective approval of the existing shed for a total of four sheds. The initial application was advertised to the neighbouring properties and three objections were received. After notifying the applicant about the objections, the applicant has since amended the application to remove two sheds from the initial plans. The objectors were notified regarding these amendments. None of the objectors withdrew their objections and still expressed concerns with the removal of vegetation and an alleged business running from the shed.

## HISTORY

PA2002207 – Permit issued on 9 September 2002 for the Development and Use of a Dwelling.

VS2023004 – Application for the Development of Three Storage Sheds. was withdrawn on 23 March 2023.

## PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners twice. The second round of advertising was undertaken after the applicant amended the application.

Three objections remain following the second round of advertising.

## SUMMARY OF OBJECTIONS

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

Objection	Any Relevant Requirement
Removal of vegetation detracts from the leafy character of the area and will create additional noise from the nearby Western Freeway.	Clause 42.01-2 – Environmental Significance Overlay Schedule 1
<b>Officer's Response:</b> The applicant has been contacting Landcare to revegetate the area that was cleared of vegetation without planning approval. A condition will be included to have the area revegetated should a permit be granted. It can be noted however that, the only trigger to remove vegetation is the Environmental Significance Overlay Schedule 1 where notification is only required to the relevant water catchment authority. The relevant catchment authority has no objection to the trees that have already been removed. The addition of a Tree Protection Zone will be included to protect adjacent trees from lopping or pruning.	
A business will be run inside the sheds creating further amenity impacts to the surrounding area.	
<b>Officer's Response:</b> The applicant has provided in writing to Council that there will be no business running from the sheds.  Conditions will be included to prohibit a commercial or industrial business from running within the sheds.	



The existing shed is not compliant with the Bushfire Management Plan requirement – that vegetation should not be overhanging or touching the building.	
<b>Officer's Response:</b> The CFA advised in writing that a planning permit is not required under the Bushfire Management Overlay and the submitted Bushfire Management Plan will not be endorsed as there is permit trigger.	
The size and number of sheds will be too extensive of the subject land and will detract from the character at Abbingdon Park Road.	
<b>Officer's Response:</b> The applicant has taken this into account and have since amended the application in process to remove Sheds 3 and 4 from the proposal.	

### PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 11.01-1S – Settlement
- Clause 11.03-6S – Regional and local places
- Clause 13.02-1S – Bushfire planning
- Clause 14.02-1S – Catchment planning and management
- Clause 14.02-1L – Declared special water supply catchment
- Clause 14.02-2S – Water quality
- Clause 15.01-2S – Building design
- Clause 15.01-2L-01 – Building design
- Clause 15.01-5S – Neighbourhood character
- Clause 15.01-5L – Landscape and neighbourhood character
- Clause 15.01-6S – Design for rural areas

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

### ZONE

#### Rural Living Zone

A permit is not required under the Clause 35.02-4 because the total area of all buildings will not exceed 250sqm.

## OVERLAYS

### Relevant Policies

#### Bushfire Management Overlay

Pursuant to Clause 44.06 a planning permit is not required to construct a building ancillary to a dwelling each having a floor area not exceeding 100sqm.

#### Design and Development Overlay Schedule 2

As the proposed and existing sheds are clad with non-reflective materials, no permit is required under this overlay.

#### Environmental Significance Overlay Schedule 1

Pursuant to Clause 41.02 a planning permit is required to construct a building ancillary to a dwelling in an unsewered area with a floor area exceeding 30sqm.

Barwon Water manages the water catchment in this area and have consented to the application with conditions.

### Particular Provisions

#### Clause 52.17 – Native Vegetation

The proposal is exempt from the removal of native vegetation due to proximity to a common fence line.

## DISCUSSION

#### Building Form / Rural Living Zone

One of the sheds has already been constructed and currently used to store personal goods and trees have been removed without the required planning approval. This application needs to consider both the recently constructed shed and proposed shed against the relevant provisions of the Moorabool Planning Scheme. Retrospective approval cannot be considered for tree removal.

The applicant has been able to significantly reduce the impact of the development to address some of the concerns expressed by resident objectors. A 21m x 21m (441sqm) shed and 10m x 7.5m (75sqm) shed, totalling 516sqm of building area has been removed from the development proposal. This has brought the total building area of the application down to 181.82sqm that is now under the Rural Living Zone planning permit trigger of 250sqm and therefore no longer needs to be assessed under Clause 35.02 of the Moorabool Planning Scheme.

The concerns from the objectors that a business will be running from the shed can be controlled by adding conditions that prohibits any commercial or industrial business from running in the sheds if the application were to be approved. The applicant has also provided in writing that the sheds on the land will be used for personal storage of hobby equipment (cars).

#### Catchment Planning

Tree removal only requires a planning permit under Environmental Significance Overlay which seeks the protection of the water catchment from sediment run off. A permit cannot be granted for retrospective tree removal.

The applicant has been in contact with Landcare to revegetate the area that was cleared of vegetation. A permit condition will be required to revegetate the area to assist with compensating the loss of vegetation on site.

To ensure the continued protection of the proclaimed water catchment, the application was referred through to Barwon Water. A request for further information was initially made to the applicant asking for an updated site plan showing the location of the wastewater field and setback distances of the proposed sheds which has been provided. The catchment authority has since consented to the application with standard conditions. Barwon Water had no concerns with the trees that were already removed from the site. The existing and proposed shed will not be near any waterways and will not lead to any the degradation of the water catchment. The conditions set out by Barwon Water will ensure the development complies with the objectives of the Environmental Significance Overlay Schedule 1.

#### Bushfire Management

The applicant has submitted an outbuilding bushfire management plan. This plan is not required as there is no permit trigger under the Bushfire Management Overlay as advised by the CFA. Only plans related to the permit triggers can be endorsed.

#### Development Conditions

An internal referral through to Council's Development Infrastructure and Environmental Health have also been undertaken with both referrals consenting to the application with conditions.

The proposed development of having two ancillary sheds to the existing dwelling is compliant with the relevant planning provisions and specifically the Planning Policy Framework of the Moorabool Planning Scheme.

### **GENERAL PROVISIONS**

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

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

### **REFERRALS**

<b>Authority</b>	<b>Response</b>
Barwon Water	Consent with conditions.
Country Fire Authority	Advice provided.
Council's Development Infrastructure	Consent with conditions.
Council's Environmental Health Officer	Consent with conditions.

### **FINANCIAL IMPLICATIONS**

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

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

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

### **COMMUNICATIONS STRATEGY**

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the

application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee.

### **OPTIONS**

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

### **CONCLUSION**

The proposed shed and existing shed will be ancillary to the existing dwelling is generally in accordance with the relevant planning provisions and the Planning Policy Framework of the Moorabool Planning Scheme, including the relevant water catchment authority. In response to objections, conditions will be placed such as replanting of cleared vegetation and prohibiting any commercial or industrial business operating from the sheds. The proposed sheds will not negatively impact the water catchment in the area based on the assessment of the water catchment authority. It is recommended that the application be supported subject to conditions.

James Robson addressed the Committee as the applicant representative to Item 7.5.

Neil Haydon provided a written submission to the Committee as a supporter to Item 7.5.

## **7.5 PA2022078 - USE AND DEVELOPMENT FOR A DWELLING AT SPARGO-BLAKEVILLE ROAD, BLAKEVILLE**

**Author:** Thomas Tonkin, Statutory Planner

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

**Attachments:**

1. Proposed plans (under separate cover)
2. Blakeville Restructure Plan (under separate cover)

### **APPLICATION SUMMARY**

**Permit No:** PA2022078

**Lodgement Date:** 4 May 2022

**Planning Officer:** Tom Tonkin

**Address of the land:** Spargo-Blakeville Road, Blakeville

**Proposal:** Use and Development of a Dwelling

**Lot size:** 2.06ha (combined parcels)

**Why is a permit required?** Clause 35.06 Rural Conservation Zone – Use and development of a dwelling; Clause 44.06 Bushfire Management Overlay – Buildings and works associated with accommodation; Clause 45.05 Restructure Overlay – Buildings and works

### **COMMITTEE RESOLUTION**

Moved: Cr Tonia Dudzik

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 PA2022078 for Use and Development for a Dwelling at Crown Allotments 5, 6, 7, 8, 9 and 10, Section 2; Crown Allotment 2, Section 5; and Crown Allotments 1, 2 and 3, Section 14, Parish of Moorarbool East known as Spargo-Blakeville Road, Blakeville, subject to the following conditions:**

#### **Endorsed Plans:**

1. The use and development 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.

#### **Land Management:**

2. Before the issue of a Building Permit 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) **Environmental management and any agricultural activities identified in the endorsed Land Management Plan must be undertaken on the land and must be in accordance with the Land Management Plan endorsed under Condition No. 3 of Planning Permit PA2022078 and cannot be varied without the written consent of the Responsible Authority.**
  - b) **Before a Building Permit is issued for the dwelling, application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act and the owner must provide evidence of that registration of the Agreement to the Responsible Authority.**
  - c) **The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.**
3. **A Land 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.**

**Dwelling Requirements:**

4. **The dwelling must be connected to a reticulated sewerage system if available. If reticulated sewerage is not available all wastewater from the dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.**
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.**

**Subdivisions:**

8. **Prior to the issue of a building permit, Crown Allotments 5, 6, 7, 8, 9 and 10, Section 2; Crown Allotment 2, Section 5; and Crown Allotments 1, 2 and 3, Section 14, Parish of Moorabool East must be consolidated in accordance with the *Subdivision Act 1988*.**

**Materials:**

9. **All external walls and roof areas of the proposed building are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.**

**Vegetation:**

10. **Except where exempt under the Moorabool Planning Scheme, native vegetation must not be removed, destroyed or lopped without further planning approval.**

**Development Infrastructure:**

11. **A standard rural vehicle crossing must be provided on Herrods Lane to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.**

12. **Property access between Herrods Lane and the proposed vehicle crossing 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 Certificate of Occupancy, the internal driveway 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.**
14. **Stormwater 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.**
15. **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).**
16. **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.**
17. **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.**

#### **Environmental Health:**

18. **The land application area and all conditions must be in accordance with the Land Capability Assessment prepared by Provincial Geotechnical Pty Ltd, ref number 158820L dated 4 February 2021 or any approved amendment.**
19. **An onsite wastewater management system with the capacity to treat effluent to a minimum of 20mg/L BOD and 30mg/L Suspended Solids must be installed.**
20. **Effluent disposal must be undertaken via subsurface irrigation system designed and installed by a wastewater irrigation expert in accordance with the EPA Code of Practice for Onsite Wastewater.**
21. **The approved dwelling's wastewater must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.**
22. **The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.**
23. **All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4.**
24. **The owner must maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.**

#### **Country Fire Authority:**

25. **The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply**

and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

26. Before the development starts, the Bushfire Management Plan prepared by Central Highlands Environmental Consultancy (Version 2, dated 13 June 2022) must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by Country Fire Authority (CFA) and the Responsible Authority.
27. Before the development starts, the Land Management Plan prepared by EDQ Town Planning (Version 2, dated 18 January 2023) must be endorsed by the Responsible Authority. Once endorsed, the site must be generally managed in accordance with the plan, and the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

#### Central Highlands Water:

28. The dwelling and effluent disposal system must be located in accordance with the Land Capability Assessment by Provincial Geotechnical Pty Ltd reference 158820L dated 4 February 2021.
29. The owner must install a wastewater management system that provides a primary level of treatment of wastewater, in accordance with the recommendations in section 5 of Land Capability Assessment by Provincial Geotechnical Pty Ltd reference 158820L dated 4 February 2021.
30. Any wastewater management system installed must be regularly serviced by an approved service agent in accordance with the relevant EPA Code of Practice, certificate of approval and Australian Standard.

#### Southern Rural Water:

31. A wastewater treatment system that produces wastewater to a minimum standard of 20/30/10 (BOD/suspended solids/E.Coli) must be installed to the satisfaction of the Council's Environmental Health Officer to treat all sullage and sewage waste on site.
32. Wastewater must be dispersed to the satisfaction of Council's Environmental Health Officer using methods that will prevent waste and treated waste from discharging from the property at all times.
33. The effluent system must be maintained by a suitably qualified person in accordance with the manufacturer's specifications and EPA requirements.
34. The wastewater effluent being released from the treatment facility must be monitored annually to ensure compliance with the 20/30/10 standard.
35. Reports on water quality and maintenance must be submitted to the Responsible Authority at the completion of each maintenance period. This report must be made available to Southern Rural Water on request.
36. The owner must carry out such works including replacing effluent treatment, storage pumping and disposal systems within the time specified to do so by the Council's Environmental Health Officer or Greater Western Water to cease and prevent waste and treated waste from discharging from the property.
37. If the wastewater program proves to be unsustainable, the land holder must immediately



rectify the sewerage disposal system.

38. The owner must have the wastewater treatment system desludged at least once every three years and evidence of this fact shall be provided in the annual written report.
39. The effluent disposal field must be protected by being isolated from any building, driveway, livestock, vehicles or permanent recreational area that could render it unavailable in the future and should be planted with suitable grasses that will aid in moisture removal.
40. The wastewater treatment and disposal systems cut off drains and pumping system must be installed in accordance with the Land Capability Assessment.
41. No other building works shall be undertaken on the subject land without written approval of the relevant authority.
42. Sediment Pollution Controls shall be employed during construction and maintained until the disturbed area has been regenerated.
43. Stormwater is to be managed in a way to minimise risk to erosion of the surrounding land. No stormwater should be allowed to move into the effluent disposal fields.
44. Low volume water fittings such as water efficient showerheads, dual flush toilets and tap aerators are to be fitted to all water fixtures.

**Greater Western Water:**

45. Prior to a building permit being granted for the development of a dwelling, the owner of the land must enter into a Section 173 Agreement with Greater Western Water and the Council agreeing that:
  - a) A wastewater treatment system that produces wastewater to a minimum standard of 20/30/10 (BOD/suspended solids/E.Coli) must be installed to the satisfaction of the Council's Environmental Health Officer and Greater Western Water to treat all sillage and sewage waste on site.
  - b) Wastewater must be dispersed to the satisfaction of Council's Environmental Health Officer and Greater Western Water using methods that will prevent waste and treated waste from discharging from the property at all times.
  - c) The effluent system must be maintained by a suitably qualified person in accordance with the manufacturer's specifications and EPA requirements.
  - d) The wastewater effluent being released from the treatment facility must be monitored annually to ensure compliance with the 20/30/10 standard.
  - e) Reports on water quality and maintenance must be submitted to the Responsible Authority at the completion of each maintenance period. This report must be made available to Greater Western Water on request.
  - f) The Owner must meet the costs of the inspections and reports referred to in Conditions c), d) and e).
  - g) The owner must carry out such works including replacing effluent treatment, storage pumping and disposal systems within the time specified to do so by the Council's Environmental Health Officer or Greater Western Water to cease and prevent waste and treated waste from discharging from the property.
  - h) If the wastewater program proves to be unsustainable, the land holder must

**immediately rectify the sewerage disposal system.**

- i) The owner must have the wastewater treatment system desludged at least once every three years and evidence of this fact shall be provided in the annual written report referred to in Condition e).**
- j) The effluent disposal field must be protected by being isolated from any building, driveway, livestock, vehicles or permanent recreational area that could render it unavailable in the future and should be planted with suitable grasses that will aid in moisture removal.**

**46. The obligations under this agreement shall run with the land.**

**47. The applicant shall pay the Council's reasonable costs associated with the registration and enforcement of the Section 173 Agreement.**

**48. No other building works shall be undertaken on the subject land without written approval of Greater Western Water.**

**49. Sediment Pollution Controls shall be employed during construction and maintained until the disturbed area has been regenerated.**

**50. The existence of this agreement shall not preclude the land being included in a future sewerage scheme for the area.**

**51. Stormwater is to be managed in a way to minimise risk to erosion of the surrounding land. No stormwater should be allowed to move into the effluent disposal fields.**

**52. Low volume water fittings such as water efficient showerheads, dual flush toilets and tap aerators are to be fitted to all water fixtures.**

**Permit Expiry:**

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

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

**Permit Notes:**

**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.**

Councillor Cr David Edwards called for a Division

In Favour: Crs Tonia Dudzik, Paul Tatchell, Ally Munari and Rod Ward

Against: Crs David Edwards, Tom Sullivan and Moira Berry

**CARRIED 4/3**

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Not required.
Number of objections:	None.
Consultation meeting:	Not required.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

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

#### **Priority 2.3: Enhance our natural environments**

The proposal is 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 – Tom Tonkin*

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Not required.
Number of objections:	None.
Consultation meeting:	Not required.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

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

#### **Priority 2.3: Enhance our natural environments**

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

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*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, Central Highlands Water, Greater Western Water, Southern Rural Water, Melbourne Water, Country Fire Authority and Council's Development Infrastructure and Environmental Health.
Any issues raised in referral responses?	Country Fire Authority requested further information.

Preliminary concerns?	Clarification was sought regarding the inconsistency with required lot consolidation as shown in the approved Blakeville Restructure Plan. Additionally, further information was requested regarding title documents and proposed land management.
Any discussions with applicant regarding concerns?	Yes.
Any changes made to the application since being lodged?	Yes, submission of a Land Management Plan and legal advice in support of the proposed application.
Brief history.	Not applicable.
Previous applications for the site?	None.
General summary.	<p>It is proposed to use and develop the site for a dwelling.</p> <p>The application was advertised, and no objections were received.</p> <p>As part of the proposal, the 10 lots comprising the subject site would be consolidated, however the proposed restructured lot does not accord with the Blakeville Restructure Plan which is an Incorporated Document in the Moorabool Planning Scheme.</p> <p>Legal advice obtained by Council agreed the proposal does not comply with the Restructure Overlay. For this reason, the application is not supported.</p>
<b>Summary of Officer's Recommendation</b>	
<p>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 PA2022078 for the Use and Development of a Dwelling at Crown Allotments 5, 6, 7, 8, 9 and 10, Section 2; Crown Allotment 2, Section 5; and Crown Allotments 1, 2 and 3, Section 14, Parish of Moorabool East known as Spargo-Blakeville Road, Blakeville, on the grounds included in this report.</p>	

## SITE DESCRIPTION

The subject site and immediate surrounding land are in the Rural Conservation Zone and characterised by a mix of forested and cleared land. The pattern of subdivision is highly irregular, with a small number of lots developed with single dwellings. Surrounding Blakeville in all directions is forested land located in a Public Conservation and Resource Zone.

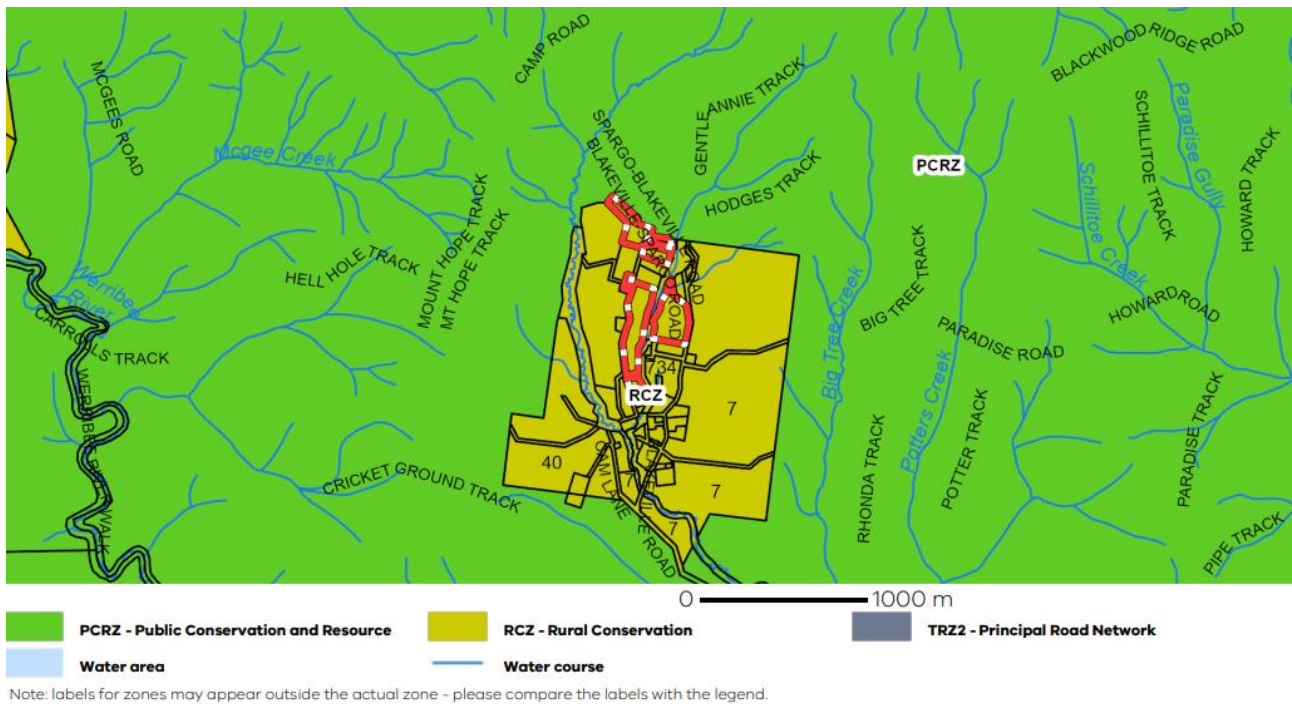
To the east of the site is an unnamed waterway contained within a Crown land reserve and to the north of the site are dwellings fronting Herrods Lane. To the west is a vacant forested parcel of land and to the south is cleared vacant land.

The subject site is identified as Crown Allotments 5, 6, 7, 8, 9 and 10, Section 2; Crown Allotment 2, Section 5; and Crown Allotments 1, 2 and 3, Section 14, Parish of Moorabool East and known as Spargo-Blakeville Road, Blakeville. The 10 lots are in the same ownership, have a total area of

2.06ha and are cleared of vegetation, with gently undulating topography (currently used for grazing purposes).



**Figure 1:** Aerial photograph of the subject site comprising of 10 lots



**Figure 2:** Zone map

**PROPOSAL**

It is proposed to use and develop the site for a dwelling located on Crown Allotment 3, Section 14, Parish of Moorarbool which is the northern most lot forming part of the subject site, abutting Herrods Lane.

The proposed dwelling would have a 40m front setback from Herrods Lane, be single storey and comprise of three bedrooms, two bathrooms and the usual amenities, with car parking provided in an attached double garage. The dwelling would be constructed of brick with a low pitched hipped Colorbond roof. Vehicle access would be via a proposed crossover to Herrods Lane leading to a proposed accessway with vehicle turning area in the front setback.

The 10 lots comprising the subject site would be consolidated.

**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.

**PLANNING SCHEME PROVISIONS**

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

The relevant clauses are:

- Clause 02.03-2 – Environmental and landscape values
- Clause 02.03-3 – Environmental risks and amenity
- Clause 02.03-4 – Natural resource management
- Clause 02.03-5 – Built environment and heritage
- Clause 11.01-1R – Settlement - Central Highlands
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.03-3S – 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 15.01-2L-01 – Building design
- Clause 15.01-5L – Landscape and neighbourhood character
- Clause 15.01-6S – Design for rural areas
- Clause 16.01-3S – Rural residential development
- Clause 16.01-3L-01 – Rural residential development in Moorabool

## **ZONE**

### Rural Conservation Zone

Pursuant to Clause 35.06-1 a dwelling is a Section 2 use which requires a permit.

Pursuant to Clause 35.06-5 a permit is required for building and works associated with a Section 2 use.

Overall, the proposal is consistent with the purpose of the zone.

## **OVERLAYS**

### Design and Development Overlay - Schedule 2

Pursuant to Clause 43.02-3 a permit is required to construct buildings and works. Pursuant to 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.

### Bushfire Management Overlay

Pursuant to Clause 44.06-2 a planning permit is required to construct buildings and works associated with Accommodation (which includes a Dwelling).

Subject to conditions the proposal is consistent with the purpose of this overlay.

### Restructure Overlay

Pursuant to Clause 45.05-2 a permit is required to construct a dwelling. A permit must be in accordance with a restructure plan for the land listed in a schedule to the overlay.



In this instance, the relevant plan is the Blakeville Restructure Plan which identifies that the lot proposed to be built on must be consolidated with nine other lots and a section of an unmade road reserve.



**Figure 3:** Blakeville Restructure Plan with the subject Restructured Lot (RL) marked red

### **Particular Provisions**

#### Clause 53.02 Bushfire Planning

The application meets the applicable requirements of Clause 53.02-4 of the Moorabool Planning Scheme.

### **Relevant Policies**

Not applicable.

### **DISCUSSION**

#### Rural Conservation Zone

The proposed use and development do not affect any biodiversity value in the area which is largely comprised of cleared land. The location of the dwelling, setback from boundaries and the use of external material such as Colorbond roofing complements the rural setting.

The proposal is generally consistent with most of the provisions of the Moorabool Planning Scheme. It is noted that the subject site is in a Special Water Supply Catchment and is unsewered, and accordingly the applicant submitted a Land Capability Assessment in support of onsite wastewater treatment. All the water catchment authorities provided consent to the proposal.

The subject site is affected by a Bushfire Management Overlay and the applicant submitted a Bushfire Management Statement, based on which the proposed dwelling would be constructed to BAL 29 with 39m of defensible space. No vegetation removal would be required to meet the defensible space requirements.

Vehicle access from Herrods Lane is directly available with a turning area for fire trucks in the front setback area of the dwelling and direct access to a 10,000L static water supply for firefighting purposes. The proposed use and development mitigates bushfire risk to human life.

### Restructure Overlay

The key concern with this application for the use and development of a dwelling relates to the proposed restructured lot not being in accordance with the Blakeville Restructure Plan under the Restructure Overlay, an incorporated document in the Moorabool Planning Scheme.

The purpose of the Restructure Overlay is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify old and inappropriate subdivisions which are to be restructured.
- To preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development.

Pursuant to Clause 45.05-2 (Restructure Overlay), a permit is required to construct a dwelling. A permit must be in accordance with a restructure plan for the land listed in a schedule to the overlay, in this instance the Blakeville Restructure Plan. There are no relevant exemptions to allow a development not in accordance with this requirement.

The restructured lot comprising the subject site in the Blakeville Restructure Plan includes 10 lots and a section of unmade road reserve. The section of road in question is identified as a Government Road. It is noted that the road is not under licence from the Department of Energy, Environment and Climate Action (DEECA). The required inclusion of the road reserve in the restructured lot is disputed by the applicant after receiving their own legal advice.

Council has obtained legal advice which confirms that the inclusion of the road reserve as part of the restructure lot is intentional and consistent with other restructure lots in Blakeville and in other schedules of the Restructure Overlay. This intention is further reinforced as road reserves which are clearly excluded from the restructured lots are either designed to maintain current access or to allow for future access. Furthermore, excluding all unmade road reserves would be inconsistent with the holistic purpose of a Restructure Overlay in managing inappropriate historic subdivisions.

The applicant is unable to comply with the provisions of the Restructure Overlay which in this instance required the consolidation of 10 lots and part of an unmade road reserve. Council must refuse the application as it is prohibited.

## GENERAL PROVISIONS

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

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

## REFERRALS

Authority	Response
Greater Western Water	Consent with conditions.
Southern Rural Water	Consent with conditions.
Central Highlands Water	Consent with conditions.
Melbourne Water	Consent.
Country Fire Authority	Consent with conditions.
Council's Development Infrastructure	Consent with conditions.
Council's 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.

## 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. The Committee will need to consider the legal advice obtained and the proposal non-compliance with the Moorabool Planning Scheme.

## CONCLUSION

The proposal is inconsistent with the relevant provisions of the Moorabool Planning Scheme, specifically the Restructure Overlay, Clause 45.05.

The proposed use and development of the land for a dwelling does not accord with the Blakeville Restructure Plan which requires the consolidation of lots in accordance with the plan, an Incorporated Document of the Moorabool Planning Scheme. Separate legal advice obtained by

Council has confirmed the proposal cannot be supported as the consolidation is inconsistent with the restructured lot. It is therefore recommended the application be refused.

Coral Young provided a written submission as an objector to Item 7.6.

Mr Luke Chamberlain, Tract addressed the Committee as the applicant to Item 7.6.

#### **7.6 PA2023074 - USE AND DEVELOPMENT OF A RURAL INDUSTRY FACILITY (POTATO PROCESSING INDUSTRY) AT 12 AERODROME ROAD, PARWAN**

**Author:** Victoria Mack, Statutory Planner

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

**Attachments:**

1. Building Extension Plans (under separate cover)
2. Waste Management Plan (under separate cover)

#### **APPLICATION SUMMARY**

**Permit No:** PA2023074

**Lodgement Date:** 15 May 2023

**Planning Officer:** Victoria Mack

**Address of the land:** 12 Aerodrome Road, Parwan  
Lot 1 on Title Plan TP 153179L

**Proposal:** Use and Development of a Rural Industry Facility (Potato Processing Industry)

**Lot size:** 16.19ha

**Why is a permit required?** Clause 35.07-1 - Use of the land for Rural Industry (Processing Potato Industry); Clause - 35.07-4 - Building and Works to a Section 2 land use

#### **SUSPENSION OF STANDING ORDERS**

##### **COMMITTEE RESOLUTION**

Moved: Cr David Edwards

Seconded: Cr Paul Tatchell

A motion was moved that Council suspend standing orders.

**CARRIED**

#### **RESUMPTION OF STANDING ORDERS**

##### **COMMITTEE RESOLUTION**

Moved: Cr David Edwards

Seconded: Cr Paul Tatchell

A motion was moved that Council resume standing orders.

**CARRIED**

**COMMITTEE RESOLUTION**

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 PA23074 for the Use and Development of a Rural Industry (Processing Potato Industry) at 12 Aerodrome Road, Parwan otherwise known as Lot 1 on Title Plan TP 153179L subject to the following conditions:

**Endorsed plans:**

1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Submission of a Management and Maintenance Plan for the balance of the land at the rear of the site and details of how this land will be used and maintained.
  - b) A Waste Management Plan amended to details of how potato solid waste will be either disposed of or recycled.
  - c) Site Plan to nominate all outdoor areas to be set aside for storage such as palletts.
  - d) A Landscape Plan in accordance with Condition 10.

**Waste Management:**

2. A recycling or disposal management plan for all solid wastes from the potato processing operations to the satisfaction of the Responsible Authority and to form part of the Waste Management Plan.

**Amenity:**

3. 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; and
  - e) any other way.
4. Mechanical noise emanating from the building must comply with EPA Publication 1826.4 - Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues.
5. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.
6. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside omitted out of the site.
7. A full complaint register must be implemented covering all aspects of complaints (noise,

dust, odour, vermin, biosecurity, run-off, and must include the recording of complaints, action taken, corrective actions and follow up to ensure that management of the processing plant is operating within best practice at all times.

**Section 173 Agreement:**

8. Before the use/development commences, 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 that:
  - a) The potato processing facility will not commence any processing operations until a Trade Waste Agreement has been signed with Greater Western Water and the pipeline to the treatment plant has been fully constructed and is operational.
  - b) If the Trade Waste Agreement ceases to operate for any reason the operation of the processing facility must cease immediately until the Trade Waste Agreement is restored.
  - c) No solid or liquid waste shall be discharged to the site at any time.
  - d) Before the use/development commences an application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act and the owner must provide evidence of that registration of the Agreement to the Responsible Authority.
  - e) The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.

**Materials:**

9. All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.

**Landscaping:**

10. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Plan will be endorsed and will then form part of the permit. The Plan must be drawn to scale with dimensions and three copies must be provided to show:
  - a) a survey (including botanical names) of all existing vegetation on the site;
  - b) details of surface finishes of pathways and driveways; and
  - c) 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. Native vegetation is preferred.
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.
13. Unless exempt under Clause 52.17 or any other relevant provision of the Moorabool Planning Scheme, native vegetation must not be removed, destroyed or lopped without

**further planning approval.**

**Development Infrastructure:**

- 14. Unless otherwise approved by the Responsible Authority there must be no buildings, tree structures, or improvements located over any drainage pipes and easements on the property.**
- 15. Prior to the development and use commencing, engineering drainage plans and computations must be submitted to the Responsible Authority for approval and shall incorporate the following:**
  - a) The development as a whole must be self draining and must be connected to an approved point of discharge in an approved manner to the satisfaction of the Responsible Authority.**
  - b) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.**
  - c) The stormwater runoff from the proposed site should be retained and disposed of within the boundaries of the allotment. Overflow from onsite storage systems and impervious areas should be directed away from any waste water disposal areas.**
  - d) Overland 1% AEP flow path(s) for the development must be shown on layout plans and shall ensure that no property is subject to inundation by such a storm to the satisfaction of the Responsible Authority.**
- 16. An upgraded industrial vehicle crossover must be provided on Aerodrome Road to the satisfaction of the Responsible Authority. The industrial vehicle crossing permit must be taken out for the construction of the vehicle crossing. The industrial vehicle cross over is to be generally in accordance with Standard Drawing 250 of the Infrastructure Design Manual unless an alternative approval has been issued.**
- 17. The section of Aerodrome Road, starting from the upgraded industrial vehicle crossover east to the Geelong Bacchus Road intersection, must be upgraded to a minimum 6.2m sealed width with minimum 1.5m wide shoulders on both sides, including all associated drainage works, to the satisfaction of the Responsible Authority. All road upgrading works must be constructed in accordance with the Infrastructure Design Manual (IDM).**
- 18. Prior to completion of the upgraded road works as approved by the relevant authority, the developer must pay:**
  - a) 0.75 % of the total estimated cost of works for the checking of engineering plans associated with the development.**
  - b) 2.5% of the total estimated cost of works for the supervision of works associated with the development.**
  - c) The fees are to be determined based on the requirements as specified within the Infrastructure Design Manual.**
- 19. 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 must be provided to the Responsible Authority. Upon the completion of all works as approved, a minimum of seven days' notice is to be provided to the Responsible Authority for the purpose of**



organising a maintenance inspection.

20. All road, drainage and infrastructure works must be maintained in good condition and repaired for a minimum of three months after completion of the works, to the satisfaction of the Responsible Authority.
21. Prior to completion of the upgraded road works as approved by the Responsible Authority, a security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works and three months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.
22. Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.
23. Storm water drainage from the proposed buildings and impervious surfaces must be directed to the legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the Responsible Authority prior to the commencement of the works associated with the permit.
24. Prior to the use commencing, the car park areas must be constructed with an all weather surface, line-marking and drainage to the satisfaction of the Responsible Authority, and shall incorporate the following:
  - a) Parking bays and aisle widths of the car park shall comply with 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.
  - b) Designated loading areas shall be shown on layout plans.
  - c) The parking areas shall be provided with an all-weather surface and associated drainage.
  - d) Concrete kerb of a minimum height of 150mm or other physical barriers must be provided between landscaped areas and areas provided for parking and the passage of vehicles.
25. The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.
26. Prior to the works commencing on the development, notification including photographic evidence must be sent to Council’s Infrastructure Services identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority. If photographic evidence cannot be provided, then the damage must be fully reinstated at no cost to and to the satisfaction of the Responsibility Authority.
27. 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).

**Environmental Health:**

28. Prior to the commencement of works, written agreement between the landowner and the Greater Western Water (GWW) Authority must be entered into, and provided to the

**Responsible Authority, as it relates to an external trade wastewater connection/disposal outcome.**

- 29. All sewage waste must be managed through either of the following options, to the satisfaction of the Responsible Authority:**
- a) Prior to the commencement of the use, any external sewerage connection/disposal outcome as agreed with Greater Western Water must be installed and operational.**
  - b) Prior to commencement of works, a Land Capability Assessment must be conducted by a suitably qualified and experienced professional in the environmental, geotechnical, soil science and/or wastewater consulting field. This report is to be submitted to Council for assessment and comment.**
  - c) Prior to commencement of the use, the septic system must be repaired, modified or upgraded as per the recommendations in the Land Capability Assessment to the satisfaction of the Responsible Authority.**
- 30. The design and construction of the manufacturing facility must be in accordance with Food Standards Code 3.2.3 food premises and equipment.**
- 31. Prior to commencement an application to register must be submitted to the Environmental Health Team and registration under the *Food Act 1984* must be granted.**

**Permit Expiry:**

**The permit will expire if:**

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

**CARRIED**

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<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes, two notices one facing the Bacchus Marsh-Geelong Road and the second facing Aerodrome Road.
Notice in Moorabool Newspaper:	Not required.
Number of objections:	Two.
Consultation meeting:	Not held as requested by the permit applicant.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

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

#### **Priority 2.4: Grow local employment and business investment**

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

## **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

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

## **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

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

*Executive Manager – Henry Bezuidenhout*

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

*Author – Victoria Mack*

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

## **EXECUTIVE SUMMARY**

Application referred?	The application was referred to Greater Western Water (GWW), Melbourne Water, Southern Rural Water, Environment Protection Authority (EPA), Victorian Planning Authority, Bacchus Marsh Aerodrome Management Inc., Council's Development Infrastructure, Environmental Health, Strategic Planning, Economic Development, and Environment, Emergency and Waste Management.
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Any issues raised in referral responses?	Council's Environmental Health was not satisfied that trade waste management had been satisfactorily addressed in the application, and the adequacy of the existing septic system for the proposed use. Council's Development Infrastructure required a Traffic Impact Assessment Report (TIA) and a Stormwater Management Strategy Report (SWMS).
Preliminary concerns?	The original application was limited in detail about the proposed use and the industrial activities to be undertaken.
Any discussions with applicant regarding concerns?	The applicant was advised of concerns raised.
Any changes made to the application since being lodged?	The applicant provided additional plans and reports. Negotiations between the applicant and GWW resulted with in-principle agreement being granted by for GWW to accept trade and septic waste from the site.
Brief history.	A shed on the site was constructed in late 2013, which was used for mushroom production (rural industry) and operated on the site for approximately eight years.
Previous applications for the site?	None recorded.
General summary.	<p>The application is for a potato processing facility to produce fries, chips, hash browns and related potato products. The applicant anticipates processing 40 tonnes per day.</p> <p>The operation will be dependent on the construction of a new pipeline from the site to GWW's treatment plant located less than 2km to the east of the site. GWW has provided in-principle agreement to enter into a Trade Waste agreement for both potato processing and septic waste).</p> <p>The indicative location of a pipeline has been determined in conjunction with private landowners. In-principle consent has been provided based on information from the applicant.</p> <p>Amenity impacts can be addressed by permit conditions.</p> <p>A section of Aerodrome Road will require an upgrade to allow for increased truck movements.</p> <p>It is recommended that the application is supported.</p>

**Summary of Officer’s Recommendation**

That, having considered all relevant matters as required by the *Planning and Environment Act 1987*, the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2223074 for the Use and Development of a Rural Industry (Processing Potato Industry) at 12 Aerodrome Road, Parwan otherwise known as Lot 1 on Title Plan TP 153179L subject to the conditions contained within this report.

**SITE DESCRIPTION**

The subject site is located within the Parwan Employment Precinct (PEP), which is agribusiness orientated and easily accessible to main transport corridors. It is also in close proximity to the Bacchus Marsh Aerodrome, which is key land use within the PEP.

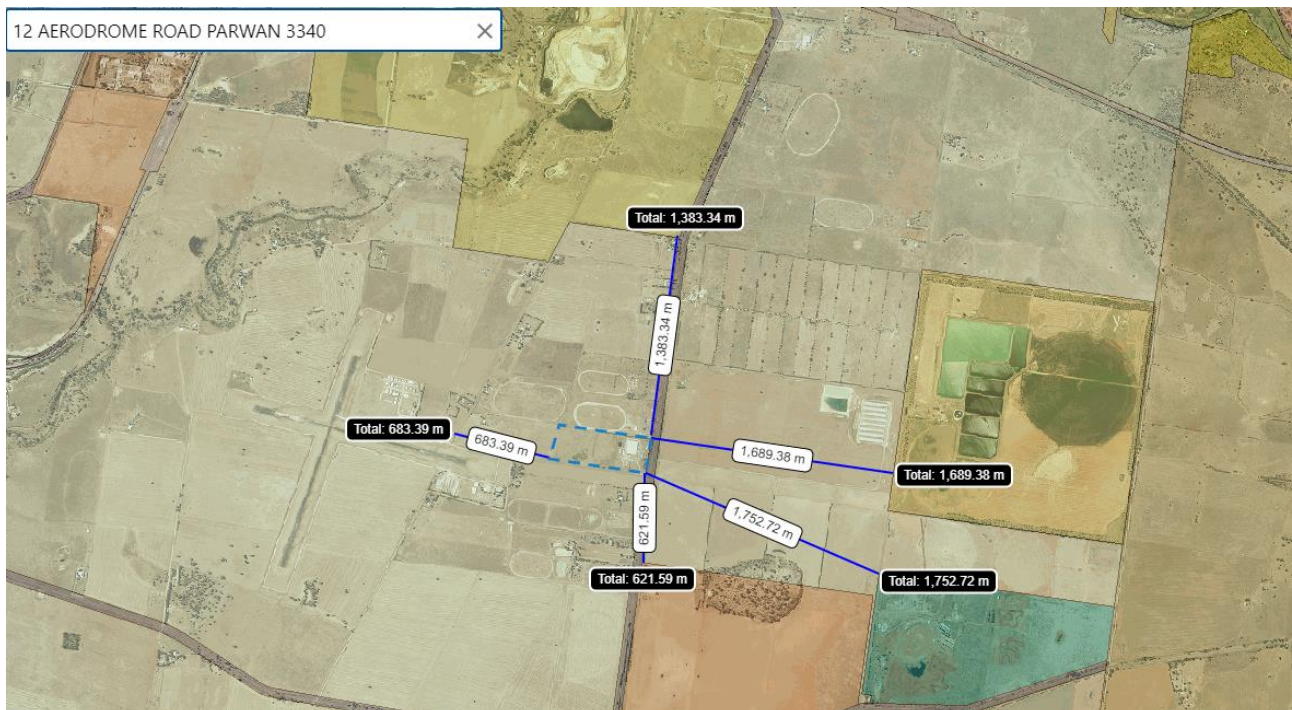
The subject site and the land surrounding the site are in the Farming Zone. Surrounding land is generally used for a range of farming activities including cropping, livestock production, harness horse training and hobby farming.

GWW’s wastewater treatment plant in the Public Use Zone 1 and is located less than 2km east of the site. To the west of the site is the Bacchus Marsh aerodrome which is less than 1km southeast of the site.

The site is 16.17ha and is rectangular in shape and generally flat topography. There is the large shed to the front of the lot with ancillary outbuildings and a small number of shipping containers. There are two dams located in the front half of the site.

In the north east corner of the site there is an unoccupied weatherboard clad single story bungalow style dwelling. The rear western end of the site is pastured and without any vegetation.

The site is located approximately 7.6kms south of the Bacchus Marsh township.



**Figure 1:** Site location and proximity



**Figure 2:** Aerial photo of the site.



**Figure 3:** Zone Map

**PROPOSAL**

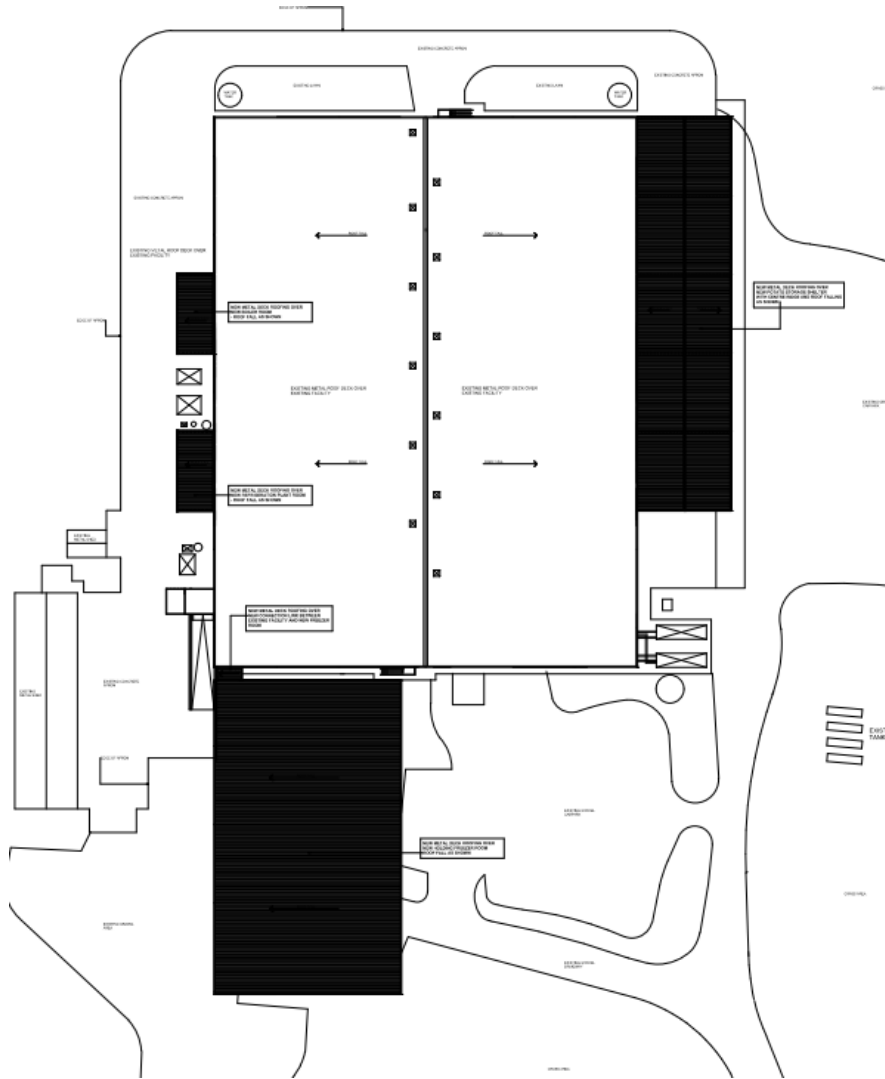
It is proposed to use the land for Rural Industry. The rural industry is to process potatoes into a range of potato products. The interior of the existing shed is proposed to be remodelled to suit the proposed use. The facility anticipates processing 40 tonnes per day and up to 75KL of wastewater a day.

It is also proposed to extend the existing large shed which has a current floor area of 5,895sqm. The extensions would be located on the west, east and southern sides of the building adding an additional 1,584sqm. The extension would include:

- a freezer holding room
- a potato storage shelter area
- a boiler room; and
- a refrigeration plant room

The potato processing at capacity times will operate 24 hours a day, seven days a week and will employ up to 40 staff. The proposed upgrade to the facility is estimated at \$4M.

There will be two semi-trailer trucks operating from the site.



**Figure 4:** The roof plan showing proposed extensions to the existing shed in black.



**Figure 5:** South elevation plan (frontage).

The submitted Waste Management Plan noted that processing typically occurs over a period of 100 days, resulting in a peak wastewater and waste production during the winter period. Waste associated with a potato processing typically includes dirt, peel, raw pieces, rejects, starch, silt sludge and wastewater and associated processing materials. Approximately 1.5L wastewater is generated for every kilogram of potatoes processed with a forecast 40 tonne/day processing capacity generating approximately 75 KL/day or 6 ML/year of wastewater.

It is the applicant’s responsibility to liaise with service providers to service the site e.g., power supply, water supply or provide alternative arrangements to service the site.

**HISTORY**

Not applicable.

**PUBLIC NOTICE**

The application was notified to adjoining and surrounding landowners and signs on site. Two objections were received.

**SUMMARY OF OBJECTIONS**

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

Objection	Any Relevant Requirement
<p>French Fry manufacturing requires intensive inputs of raw material and energy as well as large quantities of chemicals to be held on site such as Ammonia NH3 and various caustic cleaning chemicals.</p> <p>Large quantities of oil will need to be held onsite and significant risk of spills and discharge along with cleaning chemicals will likely end up in fragile waterways.</p> <p>French fry processing requires vast volumes of water in the process and discharges vast quantities of wastewater. Wastewater treatment by fry manufacturers such as McCain and Simplot is the highest capital component of a new plant and typically exceeds</p>	<p>Clause 13</p>



<p>\$15m with multiple staff to ensure it operates correctly.</p> <p>The suggestion that wastewater from French fry manufacturing can be discharged on-site and used for irrigation has frightening environmental repercussions. The creeks rivers and waterways of the area will be under great threat.</p> <p>The suggestion that no smells or odours will emanate from the proposed operation is also untrue. Frying vapours and odours from the breakdown and rot of potatoes are typical of such a facility.</p> <p>I would implore Council to refuse a permit for this heavy industrial use on environmental grounds. It does not meet the criteria for permitted use and is not a suitable site for an industrial factory.</p>	
<p><b>Officer's Response:</b> All liquid and silt waste are proposed to be discharged to GWW's treatment plant including trade waste and septic waste. This will require the applicant to construct a trade waste pipeline to GWW'S Treatment Plant. Conditions will be included on any permit to issue.</p>	
<p>The Report (<i>agon Environmental</i>) provided the following:</p> <p>Conclusions and recommendations: The transition from a Mushroom Facility to a Potato Processing plant raises several challenges in terms of wastewater and waste management. Given the location of the site and the proposed economic investment in the PEP, there are two potential wastewater management options as follows:</p> <ul style="list-style-type: none"> <li>• Disposal to sewer under a trade waste agreement; and/or</li> <li>• Storage and irrigation to land following treatment.</li> </ul>	<p>Clause 13.07</p>
<p><b>Officer's Response:</b> All liquid and silt waste are proposed to be discharged to GWW's treatment plant including trade waste and septic waste. Conditions will be included on any permit to issue.</p>	
<p>If Greater Western Water does not provide agreement for the installation of a 600mm sewerage rising main, and in the absence of details of the amount and type of waste (potentially including waste oil) concern is raised on how the waste will be dealt with on site, given the identified soil type. We acknowledge that Council would then be the responsible authority to assess and potentially approve a Trade Waste Agreement.</p>	<p>Clause 13.07</p>
<p><b>Officer's Response:</b> GWW has provided in-principle agreement that the trade waste and septic waste can be piped to their treatment plant. Conditions on any permit to issue will ensure services are in place prior to operations.</p>	

<p>Details of the location of each process within the building is required, together with details of how any offsite odour issues will be addressed (location and design of industrial exhaust systems).</p>	
<p><b>Officer's Response:</b> Basic process areas are shown on the site plans. However, the detailed information about the location of each process or emissions modelling is not required for purposes of assessing the proposed land use activity. The application was referred to the EPA who raised no concerns.</p>	
<p>For this project, consideration has been given to wastewater and silt sludge wastes only. Other wastes such as peel, waste pieces, rejects and starch have been excluded from consideration as these can be recycled or turned into other products." The application does not provide details of this process, or what the intended treatment of the "other wastes" will be.</p> <p>We acknowledge that the subject site is included in the "Parwan Employment Precinct Development Plan", and whilst Council and the Victorian Planning Authority is currently progressing the development plan, and that this process would be given due weight in this planning application, we respectfully request that due regard must be given to the existing land uses in the immediate vicinity.</p>	<p>Clause 13.07</p>
<p><b>Officer's Response:</b> Conditions on any permit to issue will ensure that waste is managed appropriately and to the satisfaction of the Responsible Authority.</p>	

## PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

### Municipal Planning Strategy (MPS)

- Clause 02.03-7 – Industry
- Clause 02.03-7 – Local employment
- Clause 13.07 – Land Use Compatibility
- Clause 14.01-1S – Protection of agricultural land
- Clause 17.01-1S – Diversified economy

The proposal complies with the relevant sections of the MPS and PPF, with comments outlined in the table below:

<b>MPS</b>	<b>Title</b>	<b>Response</b>
Clause 02.01	<p><b>Context</b></p> <p>Agriculture is a major sector in Moorabool's economy which also contributes to the rural landscape setting that typifies the Shire. Agricultural production is predominantly broad acre cropping and grazing with horticulture on irrigated land around Bacchus Marsh.</p>	The applicant proposes to source potatoes from within the Shire, surrounding regions and Australia wide.
Clause 02.03-7	The Moorabool Agribusiness Industrial Area in Parwan provides an agricultural and employment hub which is capable of implementing best practice water management techniques and encouraging local employment opportunities to assist the growing local and regional community.	The proposed use is compatible with the existing and future land uses proposed for the PEP.
Clause 02.03-7	<p>The Parwan Employment Precinct to the south of Bacchus Marsh will provide for an increasing level of local employment.</p> <p>This precinct benefits from accessibility to the Western Freeway, the Melbourne-Ballarat rail corridor, significant separation from sensitive uses and larger landholdings.</p> <p>The Parwan Employment Precinct will provide for a range of opportunities for industrial and agribusiness investment, particularly value adding enterprises that are integrated with the local agricultural sector, and which produce export products.</p>	The proposal will support local employment and benefit potato growers within the Shire.
<b>PPF</b>	<b>Title</b>	<b>Response</b>
Clause 14.01-1S	<p>Strategies:</p> <p>Identify areas of productive agricultural land, including land for primary production and intensive agriculture.</p> <p>Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.</p> <p>Avoid permanent removal of productive agricultural land from the state's</p>	The site and surrounds have been identified as a future industrial employment precinct.

	<p>agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.</p> <p>Protect productive farmland that is of strategic significance in the local or regional context.</p> <p>Protect productive agricultural land from unplanned loss due to permanent changes in land use.</p>	
Clause 17.01-1S	<p>Strategies:</p> <p>Protect and strengthen existing and planned employment areas and plan for new employment areas.</p> <p>Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities.</p> <p>Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.</p> <p>Improve access to jobs closer to where people live.</p> <p>Support rural economies to grow and diversify.</p>	<p>The site is within PEP and will contribute to the establishment of the future agribusiness and employment hub.</p>

## **ZONE**

### Clause 35.07 Farming Zone.

A permit is required to Use land for Rural Industry in accordance with Clause 35.07-1, Section 2.

Under Clause 35.07-4, a permit is required for buildings and works associated with a Section 2 use.

## **OVERLAYS**

### Clause 43.02 Design and Development Overlay, Schedule 2 (DDO2)

A permit is not required under Clause 43.02 and Schedule 2 as all external cladding materials are proposed to be with non-reflective materials.

### Clause 45.02 Airport Environs Overlay, Schedule 1 (AEO1)

A permit is not required under Clause 45.02 and Schedule 1 of the Moorabool Planning Scheme for the proposed use of a rural industry.

## RELEVANT POLICIES

There are no relevant policies that apply to the proposed use.

### Particular Provisions

#### Clause 52.29 Land Adjacent to the Principal Road Network

A permit is not required under Clause 52.29 of the Moorabool Planning Scheme as no direct access is proposed to the Bacchus Marsh – Geelong Road.

#### Clause 52.06 Car Parking

Rural Industry does not have a car parking rate under this clause.

#### Clause 53.10 Uses and Activities with Potential Adverse Impacts

An application to use land for an industry, utility installation or warehouse for a purpose listed in the table to this clause must be referred to the EPA under section 55 of the *Environment Protection Act 2017* if the threshold distance is not to be met or no threshold distance is specified.

The proposal anticipates processing 40 tonnes of potatoes per day.

The site exceeds the threshold distance of 500m for food production, including frying, drying or roasting, exceeding 200 tonnes per year.

## DISCUSSION

The proposed change of use of the shed for potato processing defined in the Moorabool Planning Scheme as Rural Industry.

### Building Works

The extension works whilst higher than the existing building are proposed to be attached to the existing building and will allow for the proposal to have purpose built freezer rooms and loading bays. The area and surrounds comprise of large scale facilities which include associated buildings and works, similar to what is proposed in this application. This application is consistent with the current and proposed character of the area.

The proposed buildings and works are setback from street frontages and external materials will be non-reflective.

### Trade Waste & Amenity Impacts

A key consideration is the management of trade waste which is required to be directed via a pipeline to the GWW treatment plant which is less than 2km east of the site.

GWW has provided in-principle agreement to take accept trade waste and septic waste from the facility. The most direct route for a pipeline would be due east across land not in the same ownership as the subject site. Landowners consent is being obtained and any permit to issue will include conditions to address this matter to the satisfaction of the Responsible Authority. In this regard, it is recommended that a section 173 agreement under the *Planning & Environment Act 1987* is required.

The two objections received generally expressed concern about waste and emissions. The Trade Waste Agreement is to address liquid waste management concerns. In relation to the emissions from the processing plant and other environmental impacts.

The application was referred to multiple referral authorities including the EPA who raised no objection to the proposed use (see Referrals below).

Appropriate conditions relating to amenity will be included in permit to be issued.

#### Balance of land not used for rural industry

A Management and Maintenance Plan for the balance of the unused land west of the shed and operation site is required to ensure this land is managed appropriately, should a permit be issued.

#### Road Upgrade

Access to the site will be from the Aerodrome Road crossover which has access to Geelong-Bacchus Road. Aerodrome Road is expected to have increased truck movements. The road needs to sustain the increased truck movements in a safe manner and requires to be upgraded to minimum of 6.2 width with 1.5m width shoulder on either side.

### **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**

<b>Authority</b>	<b>Response</b>
Greater Western Water.	No objection, no conditions.
Southern Rural Water.	No comment.
Melbourne Water.	No objection, no conditions.
Environment Protection Authority.	Advice, no conditions.
Victorian Planning Authority.	Consent, no conditions.
Bacchus Marsh Aerodrome Management Inc.	No response after repeated requests.
Development Infrastructure.	Consent with conditions.
Environmental Health.	Consent with conditions.
Strategic Planning.	No comment.
Economic Development.	No comment.
Environment, Emergency & Waste Management.	No comment.

### **FINANCIAL IMPLICATIONS**

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

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

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

### **COMMUNICATIONS STRATEGY**

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the

application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee.

### **OPTIONS**

That the Development Assessment Committee could consider the following options:

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

### **CONCLUSION**

The application for a new rural industry to the region located in an area designated as the Parwan Employment Precinct could be considered as adding value to the local agricultural sector.

It is considered that the proposal accords with the future strategic planning direction of the area and amenity impacts can be managed by permit conditions.

It is recommended that the application is supported.

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

Nil.

**9 UPDATE ON VCAT DECISIONS**

Nil.

**10 OTHER BUSINESS**

Nil.

**11 DATE OF NEXT MEETING**

Wednesday 21 February 2024.

**12 MEETING CLOSE**

**The Meeting closed at 8.58pm.**

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**CHAIRPERSON**