AGENDA
SECTION 86 DEVELOPMENT ASSESSMENT
COMMITTEE MEETING

Wednesday, 10 August 2016
Council Chambers,
15 Stead Street, Ballan
4.00pm

MEMBERS

Cr. David Edwards (Chair)  Councillor – East Moorabool Ward
Cr. Allan Comrie (Mayor)  Councillor – East Moorabool Ward
Cr. Tonia Dudzik  Councillor – East Moorabool Ward
Cr. Paul Tatchell  Councillor – Central Moorabool Ward

OFFICERS

Mr. Satwinder Sandhu  General Manager Growth & Development
Mr. Rob Fillisch  Manager Statutory Planning and Community Safety
Ms. Sam Romaszko  Manager Engineering Services

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<td>Resolution</td>
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<td>4.3</td>
<td>PA2016 072; Use and Development of a Store (Self-Storage Units), Development of a Restricted Retail Premises (Automotive Parts &amp; Accessories Sales), Display of Associated Signage, Alteration of Access to a Road Zone Category 1 and a Reduction of Car Parking at Lot 1 on TP 823249H, 210 Main Street, Bacchus Marsh VIC 3340</td>
<td>T Tonkin</td>
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<td>Resolution</td>
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<td>4.4</td>
<td>PA2016 016; Liquor Licence Associated with a Packaged Liquor Outlet at Lot 1 on PS 146410F, 13 Grant Street, Bacchus Marsh VIC 3340</td>
<td>T Tonkin</td>
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<td>Resolution</td>
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<td>Update on Trends, Issues and Other Matters</td>
<td>S. Sandhu</td>
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<td>Discussion</td>
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<td>Update of VCAT Decisions</td>
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<td>Resolution</td>
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<td>Noting</td>
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<td>7.1</td>
<td>Wednesday, 14 September 2016 4.00pm - James Young Room, Lerderderg Library, 215 Main Street, Bacchus Marsh</td>
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<td>8.</td>
<td>Meeting Close</td>
<td>Chair</td>
<td></td>
<td>Noting</td>
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</table>
Item 4.1 Planning Permit Application PA2016-034

PA2016-034 27 Crook Court, Ballan; Staged 12 Lot Subdivision and Removal of an Easement

<table>
<thead>
<tr>
<th>Application Summary:</th>
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<tbody>
<tr>
<td>Permit No:</td>
</tr>
<tr>
<td>Lodgement Date:</td>
</tr>
<tr>
<td>Planning Officer:</td>
</tr>
<tr>
<td>Address of the land:</td>
</tr>
<tr>
<td>Proposal:</td>
</tr>
<tr>
<td>Lot size:</td>
</tr>
</tbody>
</table>
| Why is a permit required                 | Clause 32.08-2 – General Residential Zone – subdivision  
                                           Clause 42.01-2 – Environmental Significance Overlay – subdivision  
                                           Clause 52.02 – Easements, Restrictions and Reserves – removal of an easement |

<table>
<thead>
<tr>
<th>Public Consultation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Was the application advertised?</td>
</tr>
<tr>
<td>Notices on site:</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
</tr>
<tr>
<td>Number of Objections:</td>
</tr>
<tr>
<td>Consultation meeting:</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Policy Implications:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Result Area</td>
</tr>
<tr>
<td>Objective</td>
</tr>
</tbody>
</table>
| Strategy                                 | Implement high quality, responsive, and efficient processing systems for planning and building applications  
                                           Ensure that development is sustainable, resilient to change and respects the existing character. |
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 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

Manager – Robert Fillisch

In providing this advice to Council as the 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:

<table>
<thead>
<tr>
<th>Application Referred?</th>
<th>Referred to external authorities and within Council.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>Yes. Council officers’ preference was for the road reserve for the proposed cul de sac to extend to the south title boundary to enable a road connection to the adjoining lot, and the potential for an integrated development on both lots.</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns</td>
<td>The applicant advised that the original design would enable lots in the proposed cul de sac to drain to the road, which is the standard preferred engineering design, and to maintain this any extension of the road would result in a road pavement level substantially higher than the ground level of the adjoining lot to the south which would make a road connection difficult. Council officers considered this to be reasonable justification for maintaining the original design.</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>No</td>
</tr>
<tr>
<td>VCAT history?</td>
<td>None</td>
</tr>
<tr>
<td>Previous applications for the site?</td>
<td>PA2004-207 – Two lot subdivision approved 7 January 2005. This permit was not acted on and has expired. PA2012-171 – Development of a Garaport Ancillary to an Existing Dwelling approved 17 October 2012. PA2014-112 – 12 Lot Subdivision and Removal of an Easement was withdrawn by the applicant.</td>
</tr>
</tbody>
</table>
General summary

The application is for a staged 12 lot subdivision of the site, and removal of an easement. The subdivision would be completed in two stages, and lot sizes would range from 477sq m to 1328sq m. Lots would either face existing streets or a proposed cul de sac via Creek Court. Frontage widths would be 13.0-34.73m. A 4.0m wide disused drainage easement would be removed. Objections to the proposal generally relate to infrastructure and services. It is noted that the proposal is only partly consistent with the Ballan Structure Plan because some proposed lot sizes are less than 600sq m. The proposal meets the relevant objectives of State and local planning policy and all ResCode requirements, subject to conditions. Overall, the proposal is a reasonable design response, contributes to housing growth within the township and is acceptable with regard to the amenity of the area.

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to Grant a Permit for this application in accordance with Section 61 of the Planning and Environment Act 1987, subject to conditions detailed at the end of this report.

Background

PA2014-112 proposed the same subdivision layout as that now being considered but was withdrawn by the applicant after advertising attracted objections, including from two of the objectors to the current application. At that time Creek Court, constructed as part of an 8 lot subdivision on the adjoining property, was privately owned meaning some of the lots had no legal point of access. Creek Court is now a Council owned road directly adjoining the subject site.

Public Notice

Notice of the application was given to adjoining and nearby landowners by mail on 19 April 2016 and a sign erected on site facing Crook Court from 26 April until 9 May 2016. Three (3) objections were received.

Summary of Objections

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
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<tr>
<td>If the easement is removed where will services be located, including to service our property?</td>
<td>Clause 52.02</td>
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</table>

Officer’s response -
The existing drainage easement is disused. The Stormwater Management Strategy (SWMS) submitted by the applicant indicates that the proposed stormwater system would require an easement. Modification of this plan to require a services pit adjacent to the objector’s land would facilitate future connection of services on that land via the required easement. It is recommended that a condition of approval require this to be facilitated in the interests of orderly planning.
Additional traffic with only one access point to Old Melbourne Road. | Clause 56.06
---|---
**Officer’s response** - The application was referred to Council’s Infrastructure unit who consent to the proposal subject to conditions. These include upgrades to Crook Court in front of the subject site to ensure that as land is developed in the area Crook Court is upgraded to accommodate the additional traffic.

Small lots will give children limited outdoor play space meaning they will play on the road, causing a safety hazard. | Clause 56.04-2
---|---
**Officer’s response** - The proposed lot dimensions would ensure sufficient private open space provision to meet the relevant requirements of the Moorabool Planning Scheme. The personal safety of children or others using a road reserve for recreation is the responsibility of the individual.

Public footpaths should be constructed to link with existing footpaths. | Clause 56.06-5
---|---
**Officer’s response** - A condition of approval would require the construction of public footpaths on Crook Court and Creek Court adjoining the subject site, to link with the existing footpath network in those streets.

The development will benefit from existing recently constructed drainage infrastructure servicing lots in PS 713326T and thus the developer should make a financial contribution. | NA
---|---
**Officer’s response** - Council cannot require the developer to contribute financially to existing infrastructure for which they had no responsibility to provide.

Would any easements be required which would encumber the objector’s land and where would be the legal point of discharge for drainage? | NA
---|---
**Officer’s response** - The SWMS submitted by the applicant proposes to direct all stormwater runoff from the subject land to the existing underground drainage system in Creek Court.

The location of any services should not jeopardise existing services installed in Creek Court to service lots in PS 713326T. | NA
---|---
**Officer’s response** - It is the developer’s responsibility in the design and construction of the development to ensure that no underground services are damaged. If services are required to be relocated to allow passage of underground drainage etc., it is the developer’s responsibility to ensure this is undertaken correctly.

The overland flow pass is inappropriate and inadequate. A more appropriate drainage route would be directly to the reserve east of the lots in 713326T which would require an easement. | NA
---|---
**Officer’s response** - The SWMS submitted by the applicant proposes to provide overland flow paths using the proposed internal road, and the existing road in Creek Court. It is a reasonable proposal, and is normal practice.
An engineering plan pursuant to Section 15 of the Subdivision Act should be required for services to the subject land and the objector allowed to comment on it with regard to how it might affect lots in 713326T.

Officer’s response -
Section 15 refers to the preparation of detailed plans for approval by Council, or another authority e.g., Powercor, after a planning permit is issued. The design is based on the information provided in the planning permit, and any other applicable standards, e.g., The Infrastructure Design Manual. It is the responsibility of Council and the various authorities to ensure that the approved plans are satisfactory.

If a permit is to issue Council should require the subdivider to contribute to the cost of upgrading and maintaining existing public utility services installed and/or maintained at the cost of the objector, and the objector’s contributions reduced proportionally.

Officer’s response -
The Council has not implemented a Development plan or Developer Contribution Levy for the Crook Court precinct. There is no mechanism in place to allow Council to impose such a charge.

Proposal

It is proposed to develop the site for a staged 12 lot subdivision and to remove an easement. The subdivision would include a cul de sac accessed from Creek Court. Lot 1 would comprise an existing dwelling and an existing outbuilding on a lot of 1328sq m. Remaining garages and sheds would need to be demolished or removed. The remaining lots would vary in size from 477sq m to 805sq m. The mean lot size would be 647.58sq m with lots generally rectangular in shape. Lot frontage widths would vary from 13.0m to 34.73m. A 4.0m wide drainage easement parallel to the east title boundary would be removed.

Lots 1-3 would front Crook Court, lot 4 would front Creek Court, and lots 5-12 would front the proposed cul de sac.

The subdivision would be developed in two (2) stages: Stage 1 would comprise Lots 1-4, and Stage 2 lots 5-12.

Easement E-1 shown on title is an unused 4.0m wide drainage easement parallel to the east title boundary, and is proposed to be removed. New easements would be created as may be required by servicing authorities to service the subdivision.

The proposed plan of subdivision is provided in Attachment 1.

Site Description

The site is identified as Lot 20 on PS 209801R and known as 27 Crook Court, Ballan. The site is on the southeast corner of Crook Court and Creek Court, approximately 225m south of Old Melbourne Road. The site is 8729sq m in size and roughly rectangular in shape, and created as part of a multi-lot subdivision approved in 1988. The site contains a single storey brick dwelling, ancillary outbuildings and planted vegetation clustered towards the northwest corner of the land, the balance of the land being vacant. Vehicle access is via two existing crossovers to Crook Court and all reticulated services are available to the site.
The site falls gradually from the west to the east.

The site and surrounding neighbourhood is towards the western periphery of the Ballan Township in the General Residential Zone. Crook Court is a cul-de-sac approximately 400 metres long, accessed from Old Melbourne Road to the north, and approximately 1.0km west of the Ballan town centre.

Lot sizes in the area range from 375sqm to 1.518ha, the variability reflecting recent subdivision which has created smaller residential lots. Although the semi-rural character of Crook Court is still evident, the area is clearly transitioning to more intensive residential development. Notwithstanding this, the semi-rural character is still evident, defined by single storey dwellings on large otherwise mostly vacant allotments. Landscaping typically comprises a mix of native and exotic trees either scattered or planted as windbreaks.

To the south of the subject site is a lot of 8649sq m containing a brick dwelling and ancillary outbuildings, which has current approval for a two (2) lot subdivision. To the east, is an eight (8) lot residential subdivision accessed via Creek Court, with lot sizes ranging from 375sq m to 934sq m, only one of which have been developed. To the north, across Creek Court, is a 15 lot staged subdivision fronting Crook Court, Graham Street and Woodhouse Court, with lot sizes ranging from 556sq m to 1085sq m, five of which have been developed. To the west, across Crook Court, are two lots fronting Crook Court. The more northerly is a lot of 1.127ha occupied by a single dwelling and ancillary outbuildings clustered towards the front of the lot. The more southerly is a vacant lot of 1.131ha which has current approval for a 12 lot subdivision, with approved lot sizes ranging from 648sq m to 855sq m.
Locality Map

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

Planning Scheme Provisions

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

The relevant clauses are:

- 11.05-1 Melbourne’s hinterland areas
- 11.06 Central Highlands regional growth
- 14.02 Water
- 15.01-3 Neighbourhood and subdivision design
- 15.01-5 Cultural identity and Neighbourhood character
- 16.01-1 Integrated housing
- 16.01-2 Location of residential development
- 21.02-.3 Water and Catchment Management
- 21.03-2 Urban Growth Management
- 21.03-3 Residential Development
- 21.03-4 Landscape and Neighbourhood Character
- 21.08 Ballan
- 22.02 Special Water Supply Catchments.

The proposal generally complies with the relevant sections of the SPPF and LPPF.

Zone

The subject site is in the General Residential Zone, Schedule 1.

The purpose of the Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
To encourage development that respects the neighbourhood character of the area.
To implement neighbourhood character policy and adopted neighbourhood character guidelines.
To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.
To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.

Under Clause 32.08-2 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for residential subdivision.

The proposed subdivision is generally consistent with the General Residential Zone.

Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 due to the site being in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to subdivide land. Reticulated sewer is available, and subject to conditions the proposal would meet the requirements of this overlay.

Relevant Policies

Council adopted the Ballan Structure Plan on 17 December 2015 and authorised Council officers to prepare a planning scheme amendment to implement the Plan. This includes applying a new schedule to the zone of the subject site and surrounding land requiring minimum 600sq m lot sizes. In its current form, the proposal does not fully accord with the Structure Plan.

Particular Provisions

Clause 52.01 Public Open Space Contribution and Subdivision

Under Clause 52.01 the proponent must pay a contribution to Council for public open space, being a percentage of the site value. It is recommended that a condition on the permit require payment of a 5% contribution.

Clause 52.02 Easements, Restrictions and Reserves

Under Clause 52.02 a permit is required to remove an easement. Before deciding on an application Council must consider the interests of affected people.

Clause 56 Residential Subdivision

The proposal complies with the relevant ResCode (Clause 56) provisions.

Discussion

Overall, the proposal is considered to be generally consistent with relevant State and local planning policy, the General Residential Zone, Environmental Significance Overlay, relevant Particular Provisions and the decision guidelines at Clause 65 of the Moorabool Planning Scheme.

The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Ballan as regionally significant in terms of its role as a local and sub-regional service centre and location for increased population growth. The proposal would facilitate consolidated growth within the existing township, take
advantage of existing infrastructure and services and reduce pressure on outward growth. In an area dominated by single detached dwellings on varied lot sizes the proposed lots and configuration are generally consistent with recent nearby subdivisions. Growth must be balanced with the need for new development to respect the existing neighbourhood character and integrate with the surrounding urban environment.

The subject site and surrounding land is in the General Residential Zone, Schedule 1 (GRZ1). Surrounding land is mostly developed with single dwellings on lots generally ranging in size from 375sq m to 1.518ha.

The purpose of the GRZ includes the following:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.

The purpose of the GRZ indicates that a balance must be achieved in responding to the range of applicable policies.

Ballan is within a Special Water Supply Catchment, and under the Environmental Significance Overlay a permit is required to subdivide land. Reticulated sewer is available and a condition of any approval would require all lots to be connected to sewer. The application was referred to the relevant water authorities who consent to the proposal, and it is considered that subject to conditions the proposal does not present an unreasonable threat to drinking water quality.

Subject to conditions, the proposal complies with the relevant requirements of Clause 56 for residential subdivision. All relevant referral authorities consent subject to conditions.

In December 2015 Council adopted the Ballan Structure Plan, to help guide the future growth and development of Ballan. Changes to the Moorabool Planning Scheme are required to implement the Ballan Structure Plan, and Council has sought authorization from the Minister for Planning to prepare a planning scheme amendment. This amendment includes a proposed schedule to the General Residential Zone requiring minimum 600sq m lot sizes where subdivision is proposed. The current proposal does not entirely support Council’s preferred outcome for future development of the site, with lot sizes as small as 477sq m proposed. However, the Moorabool Planning Scheme does not currently impose a minimum lot size for land in Ballan, thus the application can be considered by Council. Furthermore, the proposed planning scheme amendment to implement the Ballan Structure Plan has not yet been exhibited, after which Council would consider any submissions and decide on progressing the amendment to an independent planning panel and ultimately whether to adopt the amendment.

The character of the area is typified by a mix of vacant and developed lots of widely varying sizes. Recent subdivision proposals have been approved and begun to be developed for single dwellings on lots of a similar size to those proposed by this application. These new developments are incrementally increasing the density of development in this part of Ballan, and the area gradually changing to a more urban less rural character. The current proposal is generally consistent with the emerging character of the Crook Court area.

It is also proposed to remove a disused drainage easement. A stormwater management plan submitted with the application indicates that drainage from the lots in the proposed cul de sac would be via the proposed and existing road network, and is considered to be acceptable.
In its current form, the proposed staged subdivision and removal of an easement satisfies the current relevant provisions of the Moorabool Planning Scheme.

**General Provisions**

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

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

**Referrals**

The following referrals were made pursuant to s.55 of the Planning and Environment Act 1987 and Council departments were provided with an opportunity to make comment on the proposed development plan.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
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<tbody>
<tr>
<td>Western Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Southern Rural Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Melbourne Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Central Highlands Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Powercor</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Downer</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>GIS Officer</td>
<td>For information only</td>
</tr>
</tbody>
</table>

**Financial Implications**

The recommendation of approval of this application would not represent any financial implications for Council.

**Risk and Occupational Health and 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 Council if desired.

**Options**

An alternative recommendation would be to refuse the application on the grounds that the proposed subdivision does not respond appropriately to the amenity of the area.

Refusing the application may result in the proponent lodging an application for review of Council’s decision with VCAT.
Conclusion

Overall, the proposal represents the orderly development of urban land for housing. The site is in the General Residential Zone towards the periphery of Ballan township. All reticulated services are available to the site which is located proximate to local services and facilities in Ballan.

The lot design yields 12 lots at a density generally consistent with recent subdivision approvals in the immediate neighbourhood. The lot dimensions would allow acceptable space for future development and reasonable amenity for future residents. The design integrates acceptably with the existing and proposed street network.

Recommendations

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant a Permit for PA2016-034 for a Staged 12 Lot Subdivision and Removal of an Easement at Lot 20 on PS 209801R, 27 Crook Court Ballan, subject to the following conditions:

Endorsed Plans

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

Telecommunications

2. The owner of the land must enter into agreements with:

   a. A telecommunications network or service provider for the provision of telecommunication service to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

   b. A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

3. Before the issue of Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

   a. A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and

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

4. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.

5. Prior to the issue of a Statement of Compliance for Stage 1 of the subdivision, existing outbuildings on Lots 2 and 4 must be removed.

Infrastructure

6. Prior to the issue of a Statement of Compliance for the subdivision, each lot must be provided with a standard residential vehicle crossing to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.

7. Prior to the development commencing, the “Stormwater Management Strategy” must be reviewed and updated as required to accord with the proposed layout. The Strategy must:
   a. Encompass the entire area of the development.
   b. Propose techniques to manage the quantity and quality of stormwater emanating from the site during construction and after completion of the development in accordance with the Best Practice Guidelines.
   c. Provide for outfall drainage from the site connecting to an approved discharge point.
   d. Provide for an extension of the underground drain running along the eastern boundary of the subject land, to the southeast corner of the subject land to provide a drainage point of discharge to the property to the south.
   e. Propose techniques to manage the overland flow paths within the development for the 1% AEP storm for the catchment.

Once approved, the stormwater strategy will form the basis for preparation of detailed design documentation of a stormwater system for the development.

8. The subdivision must be provided with a drainage system to a design approved by the Responsible Authority and must ensure that:
   a. The subdivision as a whole must be self draining.
   b. All drainage courses within the subdivision must pass through easements or reserves shown on the plan of subdivision.
   c. All outfall drainage passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.
   d. Volume of water discharging from the subdivision in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of retardation basin(s) located and constructed to the satisfaction of the Responsible Authority.
   e. Flow paths of the 1% AEP storm must be determined and the subdivision designed so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
   f. The drainage system must be designed to include provision to intercept litter.
   g. All lots must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
   h. The drainage design must take into account any applicable drainage or flood management strategy.
If required, the layout of the subdivision must be modified based on the approved stormwater design.

9. Prior to the commencement of the development, design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval, and must include analysis of the existing stormwater drainage system in the area to determine:
   a. the requirements for drainage of the whole site.
   b. if the existing drainage network has sufficient capacity to cater for the additional runoff from the ultimate development.
   c. If additional outfall drainage or upgrading of the existing drainage network is required.

10. The internal road network layout must be designed and constructed to the standards detailed in the Infrastructure Design Manual, to the satisfaction of the Responsible Authority.

11. Prior to the issue Statement of Compliance Crook Court must be constructed along the frontage of the property, to the satisfaction of the responsible authority with:
   a. Kerb and channel, and pavement widening of approximately 1 (one) metre along the frontage of the site,
   b. Stormwater drainage,
   c. Nature strip and landscaping,
   d. Public lighting,
   e. A 1.5m concrete footpath from the Southern boundary of the subject site to Creek Court.

12. Prior to the issue of Statement of Compliance a 1.5m wide concrete footpath must be provided for the whole length of the subject site along Creek Court, connecting the newly constructed footpath within the development to the east of the subject site to Crook Court.

13. Plans and specifications of all road, traffic and drainage works must be prepared and submitted to the responsible authority for approval prior to the commencement of such works and all such works must be carried out in accordance with the approved plans to the satisfaction of the Responsible Authority.

14. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.

15. 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).

16. Traffic management treatments must be provided in the form of linemarking, signage and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority.

17. Prior to the issue of Statement of Compliance for each stage, street lighting must be provided in accordance with the requirements of AS1158 – Lighting for Roads and Public Places, to the satisfaction of the Responsible Authority.

18. Street names and street signs must be provided to the satisfaction of the responsible authority.

19. Permanent survey marks must be provided at a maximum spacing of 200 metres and registered, to the satisfaction of the Responsible Authority.
20. Street trees must be provided at approved locations in all internal roads of the subdivision at a rate of one tree per lot frontage and one tree per lot sideage, with an approved species to the satisfaction of the responsible authority. All street trees must have an existing height of 1.5 metres upon planting, must be planted to an approved standard incorporating two hardwood stakes, tree ties, Ag pipe, water crystals, 100 mm of mulch and initial watering, to the satisfaction of the responsible authority.

21. Street trees must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.

22. A security deposit equal to 150% of the cost of planting street trees must be lodged with the Council. The deposit will be returned after the final inspection of street trees, 18 months after the completion of planting of the trees, only if Council requires no further maintenance of the trees to be undertaken.

23. Landscaping within the development must be provided in accordance with an approved landscape plan, to the satisfaction of the responsible authority.

24. Landscaping must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.

25. A security deposit equal to 150% of the cost of the landscaping must be lodged with the Council. The deposit will be returned after the final inspection of landscaping, 18 months after the completion of landscaping, only if Council requires no further maintenance of the landscaping to be undertaken.

26. Prior to the issue of a Statement of compliance for each stage of the subdivision, the developer must pay:
   a. 0.75 % of the total estimated cost of works for the checking of engineering plans associated with the development.
   b. 2.50 % of the total estimated cost of works for the supervision of works associated with the development.

27. After all engineering works pertaining to each stage of the subdivision have been completed, the following “as constructed” details must be submitted in the specified format to the Responsible Authority:
   a. Drainage construction details in “D-Spec” format.
   b. Roadworks construction details in “R-Spec” format.

28. All road and drainage works must be maintained in good condition and repair for a minimum of 3 months after completion of the works, to the satisfaction of the Responsible Authority.

29. Prior to the issue of a Statement of compliance for each stage of the subdivision, a security deposit of 5% of the total value of engineering works for that stage as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 3 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.

30. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.
Central Highlands Water conditions:

31. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.

32. Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.

33. A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.

34. The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.

35. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

Melbourne Water conditions:

36. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water’s drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.

37. Runoff from the site is to be treated through onsite treatment works to Best Practice Standards for pollution removal, complying with Clause 56.07 of the Victorian Planning Provisions.

38. Prior to requesting Statement of Compliance, Melbourne Water requires the submission for our records, a copy of the MUSIC Model and detailed designs for the stormwater quality works along with written confirmation of acceptance of the stormwater quality works by the Responsible Authority. If an alternative arrangement has been negotiated with the Responsible Authority, Melbourne Water requires a copy of any written documentation detailing that arrangement for our records prior to requesting Statement of Compliance.

39. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.

40. Prior to the commencement of works separate application, direct to Melbourne Water, must be made for any works on or around our mains, drains and waterways. Applications shall be made online via the Melbourne Water website. Prior to the issue of a Statement of Compliance, copies of all relevant signed practical completion forms from Asset Services must be submitted. For queries contact Asset Services on telephone 9679 6614 or assetservices@melbournewater.com.au <mailto:assetservices@melbournewater.com.au>.
41. Engineering plans of the subdivision (in electronic format) are to be forwarded to Melbourne Water for comment/approval. A Certified Survey Plan may be required following our comments on the engineering drawings.

42. Local drainage must be to the satisfaction of Council.

43. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council’s satisfaction.

44. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual.

45. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

Western Water conditions:

46. Each allotment must be connected to reticulated sewerage system and stormwater infrastructure to the satisfaction of Western Water and the Responsible Authority.

Southern Rural Water conditions:

47. All lots must be connected to Central Highlands Water reticulated sewerage system.

48. All lots must be connected to an approved stormwater drainage system which complies with the Water Sensitive Urban Design Standards.

49. The plan of subdivision submitted for certification must be referred to the relevant Water Authority in accordance with Section 8 of the Subdivision Act 1988.

Downer conditions:

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

Powercor conditions:

51. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.

52. The applicant shall:
   a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor’s requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
   b. Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
   c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
d. Any construction work must comply with Energy Safe Victoria’s “No Go Zone” rules.

e. Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.

f. Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of “Powercor Australia Ltd” for “Powerline Purposes” pursuant to Section 88 of the Electricity Industry Act 2000.

g. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.

h. Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.

i. Obtain Powercor Australia Ltd’s approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.

j. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Expiry condition:

53. This permit will expire if one of the following circumstances applies:

- a. The first stage of the plan of subdivision is not certified within two (2) years of the date of issue of the permit;
- b. Each subsequent stage is not certified within two years of the date of certification of the previous stage.

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

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

Permit Note:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 268915.

Report Authorisation:

Authorised by: 
Name: Satwinder Sandhu 
Title: General Manager Growth and Development 
Date: 13 July 2016
DENOTES PROPOSED STAGE BOUNDARY

EASEMENT TO BE REMOVED & RE-CREATED AS REQUIRED

EXPLANATORY NOTES
1. DATA ON THIS PLAN MAY ONLY BE SUPPLIED WITH THE PERMISSION OF TGM GROUP.
2. THIS PLAN USES GROUND LEVELS SHOWN ARE TO: AHD / MGA GRID / LOCAL
3. THE PLAN USES DETAIL LOCATION ±0.05m.
4. THIS HARDCOPY PLAN IS A VERIFICATION ACCURACY OF REDUCED LEVELS ±0.02m
5. ONLY SIGNIFICANT TREES HAVE BEEN LOCATED AND SHOWN ON THIS PLAN.
6. TGM GROUP.
7. SURVEYS HAVE BEEN FOOD IN THE FIELD
8. ACCURACY OF DETAIL LOCATION ±0.05m.
9. CONTOURS SHOWN TO 0.2m INTERVALS.
10. DATA ON THIS PLAN MAY ONLY BE SUPPLIED WITH THE PERMISSION OF TGM GROUP.

RELOCATION SURVEY SHOULD BE UNDERTAKEN TO DEFINE POSITIONS SHOWN HERE.
PA2016 052 – 20 View Gully Road, Hopetoun Park; Variation of Restrictive Covenant AL526742D (item M) to allow Development of a Dwelling with a Ridgeline of maximum 10 metres height above Finished Surrounding Ground Level

<table>
<thead>
<tr>
<th>Application Summary:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit No:</td>
<td>PA2016052</td>
</tr>
<tr>
<td>Lodgement Date:</td>
<td>23 February 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Tom Tonkin</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>Lot 143 on PS 628117C, 20 View Gully Road, Hopetoun Park 3340</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Variation of Restrictive Covenant AL526742D (Item M) to allow development of a dwelling with a ridge line of maximum 10 metres height above finished surrounding ground level</td>
</tr>
<tr>
<td>Lot size:</td>
<td>1.0ha</td>
</tr>
<tr>
<td>Why is a permit required</td>
<td>Clause 52.02 – Easements, Restrictions and Reserves – variation of a covenant</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Consultation:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Was the application advertised?</td>
<td>The application was advertised due to the proposal’s potential to cause material detriment.</td>
</tr>
<tr>
<td>Notices on site:</td>
<td>One (1)</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>Yes</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>One (1)</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>No. The objector did not wish to consult.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Policy Implications:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Result Area</td>
<td>Enhanced Natural and Built Environment.</td>
</tr>
<tr>
<td>Objective</td>
<td>Effective and efficient land use planning and building control.</td>
</tr>
<tr>
<td>Strategy</td>
<td>Implement high quality, responsive, and efficient processing systems for planning and building applications</td>
</tr>
<tr>
<td></td>
<td>Ensure that development is sustainable, resilient to change and respects the existing character.</td>
</tr>
</tbody>
</table>
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 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

*Manager – Robert Fillisch*

In providing this advice to Council as the 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:**

<table>
<thead>
<tr>
<th>Application Referred?</th>
<th>No, not required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>No</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>No</td>
</tr>
<tr>
<td>VCAT history?</td>
<td>None</td>
</tr>
<tr>
<td>Previous applications for the site?</td>
<td>None</td>
</tr>
</tbody>
</table>

**General summary**

The application is for variation of a covenant to allow development of a dwelling with a maximum ridge height of 10.0 metres above the surrounding ground level. Item (m) of covenant AL526742D currently restricts development to 9.0 metres.

One objection to the application was received on the grounds that the proposal would disrupt views of the surrounding landscape and be detrimental to the character of the area.

The proposal does not satisfy all the relevant tests at Section 60(2) of the Planning and Environment Act 1987, as discussed herein, and overall is not considered to be an acceptable response to relevant planning policy.
**Summary Recommendation:**

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the *Planning and Environment Act 1987*, on the grounds detailed at the end of this report.

**Background**

The applicant advised that he sought the prior written approval of the Transferor to construct the proposed dwelling higher than 9.0 metres, however permission was not given. Therefore a planning permit is required to vary the covenant.

**Public Notice**

Notice of the application was given to beneficiaries of covenant AL526742D by mail on 22 March 2016, a sign erected on site from 4 to 17 April 2016 and a notice published in the Moorabool News on 5 April. One (1) objection was received from a beneficiary of the covenant.

**Summary of Objections**

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>We should have rights in keeping the covenant unchanged.</td>
<td>Clause 52.02</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>Notice of the application was given to beneficiaries of the covenant, to give an opportunity for their interests to be heard.</td>
<td></td>
</tr>
<tr>
<td>The proposed building will block views of hills and surrounding area and will not blend aesthetically with the surrounding countryside.</td>
<td>Clause 52.02</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>Loss of views is generally not a valid objection to a planning permit application given there are no applicable planning controls affecting this area. This matter is discussed in more detail below.</td>
<td></td>
</tr>
<tr>
<td>We and other neighbours specifically bought land because of the existing covenants, to enjoy the character of the area. There are already ‘eyesores’. The proposal will be detrimental to the area.</td>
<td>Clause 52.02</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>A planning permit may be applied for to remove or vary a covenant, and the application assessed against the relevant tests in Section 60(2) of the Planning and Environment Act as discussed below.</td>
<td></td>
</tr>
<tr>
<td>The applicants bought their land fully aware of the restrictive covenants and now want to destroy the character and atmosphere of Hopetoun Park by building something which belongs in suburbia.</td>
<td>Clause 52.02</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>A planning permit may be applied for to remove or vary a covenant, and the application assessed against the relevant tests in Section 60(2) of the Planning and Environment Act as discussed below.</td>
<td></td>
</tr>
</tbody>
</table>
Proposal

It is proposed to vary item (m) of covenant AL526742D to facilitate the development of a dwelling with a maximum height of 10 metres above surrounding ground level.

Covenant AL526742D states that “the Transferee with the intent that the benefit of this covenant shall be attached to and run at law an in equity with every lot on Plan of Subdivision No. PS628117C other than the Lot hereby transferred and that the burden of this covenant shall be annexed to and run at law and in equity with the said Lot hereby transferred does hereby covenant from himself/herself, their heirs, executors, administrators and transferee and the registered proprietor or proprietors for the time being of every lot described in the said Plan of Subdivision (other than the Lot hereby transferred) that the Transferee, his/her executors, administrators and transferees will not erect or construct on the Lot hereby transferred a dwelling house with a ridge line or highest point which exceeds 9 metres above the finished surrounding ground level without the prior written approval of the Transferor, and the above covenant shall appear as an encumbrance on the Certificate of Title to be issued in respect of the Lot hereby transfer.”

Site Description

The site is identified as Lot 143 on PS 628117C and known as 20 View Gully Road, Hopetoun Park. The site is on the northeast corner of View Gully Road and Thomas Drive, 1.0ha in size, roughly rectangular in shape and experiences minimal fall. The site contains an existing shed constructed towards the north boundary. Vehicle access is via an existing crossover to View Gully Road and all reticulated services are available to the site.

The site is towards the eastern side of Hopetoun Park in a newly established residential area where lots are gradually being developed with single dwellings. To the north of the subject site is a single storey dwelling currently under construction. To the west, across View Gully Road are a single storey dwelling and a double storey dwelling. To the south, across Thomas Drive are single storey dwellings and a vacant lot. To the east is a single storey dwelling. Further to the east the land falls steeply to Djerriwarrh Creek. The lots identified below with their development status are, other than the subject site, the beneficiaries of the covenant proposed to be varied.
Locality Map

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

Planning Scheme Provisions

Zone

The subject site is in the Low Density Residential Zone.

The purpose of the Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

No permit is required under the zone provisions to vary a covenant.

Overlays

The site is affected by Development Plan Overlay, Schedule 2. No permit is required under the overlay provisions to vary a covenant.

Relevant Policies

There are no adopted Council policies relevant to this application.
Particular Provisions

Clause 52.02 Easements, Restrictions and Reserves

Under Clause 52.02 a permit is required to vary a restriction. Before deciding on an application Council must consider the interests of affected people.

General Provisions

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

Pursuant to Clause 65 of the Moorabool Planning Scheme, the responsible authority must consider, among other things, the matters set out in Section 60 of the Planning and Environment Act 1987.

Under Section 60(2) of the Act, the responsible authority must not grant a permit which allows the variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer:

(a) financial loss; or
(b) loss of amenity; or
(c) loss arising from change to the character of the neighbourhood; or
(d) any other material detriment - as a consequence of the removal or variation of the restriction.

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

Discussion

The relevant consideration for assessment of this application are the provision of Section 60(2) of the Planning and Environment Act 1987, as outlined above.

The four tests are addressed as follows:

(a) financial loss

VCAT have consistently stated that the impact of financial loss cannot be easily determined and would require expert evidence. The objector has not provided any information which convinces Council that this is the case.

(b) loss of amenity

The covenant currently allows for the development of a dwelling with a maximum height of 9.0 metres, which would facilitate double storey development, depending on the dwelling design. The proponent seeks approval to vary the covenant to allow an additional 1.0 metre height. The site is zoned for residential use and many lots in the area are now developed with dwellings. It is not considered likely that the objector, or any other beneficiary of the covenant, would experience loss of amenity as a result of the proposed variation of covenant. Overshadowing, overlooking and noise would be within acceptable limits, and there would be no impact on daylight to windows. Currently the objector enjoys views of the distant landscape to the east and northeast, across the subject site, which would be disrupted to some extent by future development. It is considered that any 9.0 metre high dwelling, allowed by the covenant, would disrupt existing views, and in comparison a 10.0 metre high dwelling would have negligible impact on views. In any case, the loss of views is not considered to be a valid objection to development where no planning controls exist to protect views.
(c) loss arising from change to the character of the neighbourhood

The character of the neighbourhood is defined by single dwellings on lots of roughly 5500sq m to 1.0ha in size. Dwellings are predominantly single storey with only the occasional double storey dwelling evident. The area is characterised by its lot sizes and configuration, general low rise scale of development and views of the distant landscape in some areas. Several nearby vacant residential lots and sparsely developed land in the Farming Zone further to the north enhance this character. Large bulky sheds are occasionally present but visually prominent, also contributing to the character of the area. The subject site and surrounding lots, including the objector’s property, are affected by a covenant which allows for development of dwellings up to 9.0 metres in height. It is reasonable to conclude that the covenant envisages double storey development on these lots, although most lots have been developed with single storey dwellings thus far. It is noted that the existing double storey dwelling opposite both the subject site and the objector’s property is less than 8.0 metres high.

The applicant wishes to construct to 10.0 metres height to facilitate his preferred design. The covenant allows for dwellings with a maximum height of 9.0 metres, which in many instances would enable double storey construction. As discussed above, dwellings in the area are predominantly single storey, and although the area is still being developed it is considered that single storey development exemplifies the existing neighbourhood character. Council must satisfy itself that the covenant's beneficiaries will be unlikely to suffer loss arising from change to the character of the neighbourhood if the maximum allowable height is increased from 9.0 metres to 10.0 metres. The development of a 10.0 metre high dwelling would not be in keeping with the neighbourhood character, as described above, and notwithstanding the allowance for 9.0 metre high dwellings the character is strongly defined by single storey development. The objector has expressed concerns that the character of the area would change as a result of the proposed variation of the covenant. Based on this, and on observations of the site and surrounding area, it is difficult to argue that a beneficiary of the covenant would not be unlikely to suffer loss arising from change to the character of the neighbourhood.

(d) any other material detriment

The objector did not identify any other material detriment, and based on site observations it is not considered that the proposal would cause any other material detriment.

Referrals

The application was not required to be referred.

Financial Implications

The recommendation of approval of this application would not represent any financial implications for Council.

Risk and Occupational Health and 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 Council if desired.
Options

An alternative recommendation would be to approve the application, subject to standard conditions.

Approving the application may result in the objector lodging an application for review of Council’s decision with VCAT.

Conclusion

Overall, the proposal does not fully satisfy the requirements of Section 60(2) of the Planning and Environment Act 1987. It is considered that the proposed variation of a covenant to increase the maximum allowable height for a dwelling would not be in keeping with neighbourhood character, and likely to cause loss to a beneficiary of the covenant as a result of a change to the character of the neighbourhood.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Refusal to Grant a Permit for PA2016-052 for Variation of Restrictive Covenant AL526742D (Item M) to allow development of a dwelling with a ridge line of maximum 10 metres height above finished surrounding ground level at Lot 143 on PS 628117C, 20 View Gully Road Hopetoun Park, on the following grounds:

1. This proposed variation does not satisfy all of the tests in Section 60(2) of the Planning and Environment Act 1987.

Report Authorisation:

Authorised by:  
Name: Satwinder Sandhu  
Title: General Manager Growth and Development  
Date: 13 July 2016
**Item 4.3 Planning Permit Application PA2016-072**

**PA2016 072; Use and Development of a Store (Self-Storage Units) and Development of a Restricted Retail Premises (Automotive Parts & Accessories Sales), Display of Associated Signage, Alteration of Access to a Road Zone Category 1 and a Reduction of Car Parking at Lot 1 on TP 823249H, 210 Main Street, Bacchus Marsh VIC 3340.**

<table>
<thead>
<tr>
<th>Application Summary:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit No:</td>
</tr>
<tr>
<td>PA2016 072</td>
</tr>
<tr>
<td>Lodgement Date:</td>
</tr>
<tr>
<td>15 March, 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
</tr>
<tr>
<td>Tom Tonkin</td>
</tr>
<tr>
<td>Address of the land:</td>
</tr>
<tr>
<td>Lot 1 on TP 823249H, 210 Main Street, Bacchus Marsh VIC 3340</td>
</tr>
<tr>
<td>Proposal:</td>
</tr>
<tr>
<td>Use and Development of a Store (Self-Storage Units) and Development of a Restricted Retail Premises (Automotive Parts &amp; Accessories Sales), Display of Associated Signage, Alteration of Access to a Road Zone Category 1 and a Reduction of Car Parking</td>
</tr>
<tr>
<td>Lot size:</td>
</tr>
<tr>
<td>2760sq m</td>
</tr>
<tr>
<td>Why is a permit required?</td>
</tr>
<tr>
<td>Clause 34.01-1 – Commercial 1 Zone – use of a Store</td>
</tr>
<tr>
<td>Clause 34.01-4 – Commercial 1 Zone – buildings and works</td>
</tr>
<tr>
<td>Clause 52.05-7 – Advertising Signs – display of signage</td>
</tr>
<tr>
<td>Clause 52.06-3 – Car Parking – reduction of car parking</td>
</tr>
<tr>
<td>Clause 52.29 - Land Adjacent to a Road Zone, Category 1 – Alteration of access</td>
</tr>
<tr>
<td>Restrictions registered on title</td>
</tr>
<tr>
<td>None</td>
</tr>
</tbody>
</table>

**Public Consultation:**

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
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</thead>
<tbody>
<tr>
<td>The application was advertised due to the proposal’s potential to cause material detriment.</td>
</tr>
<tr>
<td>Number of notices to properties?</td>
</tr>
<tr>
<td>19</td>
</tr>
<tr>
<td>Notices on site?</td>
</tr>
<tr>
<td>Two (2)</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper?</td>
</tr>
<tr>
<td>None</td>
</tr>
<tr>
<td>Number of Objections?</td>
</tr>
<tr>
<td>One (1)</td>
</tr>
<tr>
<td>Consultation meeting?</td>
</tr>
<tr>
<td>No, it was deemed that informal consultation was appropriate in dealing with the objection.</td>
</tr>
</tbody>
</table>
Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Infrastructure and Natural Built Environment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objective</td>
<td>Effective and efficient land use planning and building controls.</td>
</tr>
<tr>
<td>Strategy</td>
<td>Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.</td>
</tr>
</tbody>
</table>


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 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

Manager – Robert Fillisch
In providing this advice to Council as the 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:

<table>
<thead>
<tr>
<th>Application referred?</th>
<th>The application was referred to VicRoads and Melbourne Water, and internally to Council’s Infrastructure and Strategic Planning units.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>Apart from Strategic Planning, none raised, subject to conditions being placed on a permit. The Strategic Planning unit objected to the proposal, as discussed below.</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>Council wrote to the applicant before the application was advertised about concerns with the design and layout of the development.</td>
</tr>
</tbody>
</table>
Any discussions with applicant regarding concerns?
The applicant made changes to the plans in response to some of Council’s concerns. Discussion was had before and after advertising, including with the landowner and their planning consultant, about concerns with the proposed design. The applicant provided further amended plans after advertising for informal feedback, however these plans did not resolve fundamental concerns with the design.

Any changes made to the application since being lodged?
Yes. On 2 May 2016 the applicant submitted amended plans in response to Council’s request for further information dated 12 April 2016.

VCAT history?
None

Previous applications for the site?
PA2014-299 Development of the Land for a Fast Food Restaurant and Associated Signage was approved by Council on 21 January 2016.

General summary
The application is for the redevelopment of a vacant site for a self-storage facility and restricted retail premises (automotive parts & accessories sales), with associated signage, and to alter access to Main Street and reduce car parking.

The proposal would comprise two buildings, car parking to the front and rear of the site, and facilitate vehicles to exit via Young Street as well as Main Street.

The objection to the development relates to overlooking and loss of privacy.

The proposed design does not adequately address the relevant planning scheme provisions, in particular the Design and Development Overlay affecting the Main Street commercial precinct, or have respond appropriately to the residential interface, resulting in a loss of amenity.

Overall, the proposal is not suitably site responsive to the character and amenity of the area.

Summary Recommendation:
It is recommended that Council issue a Refusal to Grant a Permit for this application in accordance with Section 61 of the Planning and Environment Act 1987, on the grounds detailed at the end of this report.

Background
PA2014-299, issued by Council on 21 January 2016, approved the development of the site for a Fast Food Restaurant and Associated Signage. Development. The approved development has not commenced and the site has since been sold.
Since the current application was lodged, Amendment C51 to the Moorabool Planning Scheme was approved by the Minister for Planning and gazetted on 23 June 2016. Among other changes to the planning scheme, the amendment introduced Design and Development Overlay, Schedule 11, which affects the subject site and considered in the assessment of the proposal, as discussed below.

Since the application was lodged, Council has abandoned Amendment C73 which, in the case of the subject site, proposed to apply the Land Subject to Inundation Overlay to most of the site. The proposed overlay reflects Melbourne Water flood mapping. The application was referred to Melbourne Water for comment under s.52 of the Planning and Environment Act 1987, and responded with consent subject to conditions.

Public Notice

The application was advertised to adjoining and nearby landowners by mail on 3 June 2016 and signs placed on site from 3-28 June 2016. One (1) objection was received.

Summary of Objection

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of information regarding boundary fencing. Loss of privacy due to overlooking of secluded private open space.</td>
<td>Clause 43.02, Schedule 11</td>
</tr>
</tbody>
</table>

Officer’s response -
The objector indicated that erection of a 2.0 metre high boundary fence would resolve their concerns, and is also considered to be an acceptable planning outcome. If a permit is to issue, it is recommended that a condition require a boundary fence to be erected on the common boundary at minimum 2.0 metre height above the subject site’s finished ground level.

Proposal

It is proposed to develop the site for a restricted retail premises (SuperCheap Auto) and a self-storage facility with associated car parking and advertising signage, and to alter vehicle access to Main Street.

The development would comprise two (2) buildings. Details are as follows:

- The restricted retail premises would be contained in a 797sq m building set back 20.8m from Main Street, 4.23m from the west side boundary and constructed to the east side boundary for a length of 31.6m. In addition to retail floor space the building would include an ancillary office, staff room and toilet. The building would have a maximum front and rear parapet height of 6.3m and boundary wall height of 5.7m. The building would be constructed of precast concrete panels, with a branded paint finish consistent with the SuperCheap Auto brand, and have an awning for the length of the front façade. Fourteen car spaces would be provided in the front setback, accessed via a modified crossover to Main Street positioned towards the west title boundary. An additional four (4) car spaces would be located at the rear of the building, accessed via an accessway adjoining the west side boundary.
The self-storage facility would be contained in a double storey building with a building footprint of 482sq m, in the northeast corner of the site adjoining the east side boundary for a length of 31.1m and the north rear boundary for a length of 15.5m. The building would contain multiple storage units on the ground and upper floors, and an ancillary office and toilet at ground level. The building would have a maximum height of 7.34m, with a low pitched roof. The building would be set back from 11.78m from the west side boundary, and the upper storey set back 1.0m from the east and north boundaries. The ground floor would be constructed of precast concrete panels and the upper storey clad with Colorbond on the west and south walls, and lightweight Hebel Powerpanel on the east and north walls. Roof cladding would be Colorbond for the ground floor sections and zinalume for the upper storey. A 7.6m x 3.6m loading bay would be provided on the west side of the building, and six (6) car spaces provided adjoining the west side boundary.

Vehicles accessing the self-storage facility and car parking and loading area to the rear of the retail premises would be required to exit the site via Young Street to the west of the site.

The following advertising signs are proposed:
- A freestanding internally illuminated sky sign, maximum 9.0m high x 2.5m wide with business identification information and an advertising area of 10.0sq m on both sides. The sign would face east-west and be erected adjoining the Main Street frontage. The underside of the sign would be 5.0m above the finished ground level. The advertising area of the sign would contain business information for both premises on the site. Sign colours were not provided but would be expected to be consistent with SuperCheap Auto branding for that component of the advertising space.
- Numerous business identification and promotional signs affixed to the front façade of the restricted retail premises, including internally illuminated and panel signage. The signage would advertise SuperCheap Auto in a style consistent with the business’ branding and products. The combined size of these signs would exceed 40.0sq m.
- A 4.27sq m business identification sign facing Young Street, elevated above the exit accessway from the site, advertising the self-storage facility. The sign would have a maximum height of 5.5m, and the underside would be 4.5m above ground level.

All reticulated services are available to the site.
The proposed plans are included at Attachment 1.

Site Description

- The subject site is a vacant lot with no front fencing or significant vegetation and relatively flat topography. The site is used as an informal parking area and has a primary frontage to Main Street and secondary frontage to Young Street.
- The site is in a Commercial 1 Zone under the Moorabool Planning Scheme. Buildings to the west and east comprise of a mix of retail and light industrial uses including a café, service station, motor vehicle repairs and retail sales.
- The opposite side of Main Street comprises a contemporary designed public library.
- To the north and north-east are detached residential dwellings on moderate sized lots with secluded private open space areas abutting the subject land. These dwellings are located within a General Residential Zone Schedule 2 under the Moorabool Planning Scheme.
- The site is encumbered by sewerage easements through the centre of the site and generally parallel to the west title boundary.
Locality Map

The map below shows the location of the subject site and the zoning of the surrounding area.
Planning Scheme Provisions

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

The relevant clauses are:
- 11 – Settlement
- 11.05-2 – Melbourne’s hinterland areas
- 11.06-1 – Planning for growth
- 15.01-2 – Urban design principles
- 17.01-1 – Business
- 21.03-2 – Urban Growth Management
- 21.03-4 – Landscape and Neighbourhood Character
- 21.04-3 – Commerce
- 21.07 – Bacchus Marsh

The proposal only partly complies with the relevant sections of the SPPF and LPPF.

Zone

Under Clause 34.01-1 (Commercial 1 Zone) of the Moorabool Planning Scheme, the use of land for a restricted retail premises falls within the definition of a shop, which is a Section 1 use not requiring a permit. The use of land for a store falls within the definition of a warehouse, which is a Section 2 use and does require a permit. Under Clause 34.01-4 a permit is required to construct buildings and works associated with both uses.

Farming Zone

The purpose of the Commercial 1 Zone is to:
- Implement the State and Local Planning Policy Frameworks, including the Municipal Strategic Statement and local planning policies;
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses;
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Overall, the proposed use of the land for a store (noting that the use of restricted retail premises does not require a permit) is considered generally acceptable. However, the proposed development for both uses does not adequately respond to the decision guidelines under Clause 34.01-8, and therefore is not considered to satisfy the requirements of the Commercial 1 Zone, as discussed below.

Overlays

The subject site is affected by Design and Development Overlay, Schedule 11 (DDO11). Under Clause 43.02-2 a permit is required to construct buildings and works. Schedule 11 relates specifically to the Main Street precinct. Overall the proposal does not comply with the design objectives of DDO11, as discussed below.
Relevant Policies

Council adopted the Urban Growth Policy Statement at the Ordinary Meeting of Council on 19 September, 2012. Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

The policy states that:

_The Moorabool Growth Strategy 2041 aims to provide a vision for the type of community Moorabool Shire will be in 2041 and to outline how Council can facilitate an outcome that both allows for growth and keeps the community connectedness, character and sense of place so valued by our current residents._

_The urban strategy is about planning and managing the pressures of growth in a proactive manner so that a sustainable environment where people can live, work, access retail, social and recreational services and be involved and connected. The strategy looks at what our future population will be and what employment, services and infrastructure will be required to meet their needs so that Council can identify what growth options will meet these needs in a sustainable and cost effective manner._

Particular Provisions

Clause 52.05 Advertising Signs

Under Clause 52.05-7 the land, being in a Commercial 1 Zone, falls under Category 1. A permit is required for the proposed signs, based on the extent of signage and the types of signs proposed. Overall, the proposed signage is considered to be acceptable, having regard for the scale of the site and proportions of the host building, extent of illuminated signage, setbacks from sensitive areas such as residential, and no impacts on traffic safety.

Clause 52.06 Car Parking

Under Clause 52.06-5 the proposal would require the following number of car parking spaces:

- Restricted retail premises: three (3) spaces to each 100sq m leasable floor area = 23 spaces
- Store: 10% of site area = 85sq m

It is proposed to provide 18 spaces to the restricted retail premises and 76.44sq m to the store, equal to six (6) spaces. Therefore, under Clause 52.06-3 a permit is required to reduce the number of car spaces. The proposed reduction is considered acceptable for the following reasons:

- The reduction is relatively small, relative to the number of spaces technically required.
- Availability of public car parking nearby, including Council owned car parking.
- Opportunities for multi-purpose trips due to the site’s proximity to numerous other trip generators such as other commercial premises, library and other community facilities and services.

The modifications to the existing crossover are considered acceptable, allowing for a six (6) metre wide crossover to facilitate entry and egress via Main Street. Permit conditions would ensure the existing street tree adjoining the site on Main Street would be adequately protected. Traffic lanes and car spaces would be of sufficient dimensions to meet the standards at Clause 52.06-8.
Clause 52.07 Loading and Unloading of Vehicles

The proposed loading bay of 7.6m x 3.6m and unlimited height clearance, and accessway width of 4.23m, satisfy the requirements of this clause. The loading bay would be shared by both proposed premises and is suitably located for convenient access while minimizing any offsite amenity impacts.

Clause 52.20 Land Adjacent to a Road Zone, Category 1

A permit is required to alter access to a Road Zone, Category 1 (RDZ1). Main Street is in a RDZ1 and the proposal includes altering the existing crossover location. Under this clause the application was referred to VicRoads who consented to the proposal. The proposal is considered to be acceptable having regard for safety and traffic movements on Main Street.

Discussion

This application is for the proposed redevelopment of a vacant lot in Main Street, Bacchus Marsh. The site’s central location and 2760sq m size present an opportunity for a substantial development, and its location towards the eastern edge of the commercial centre means that it will have some prominence when approaching the town centre from the Avenue of Honour. The site and surrounding land along Main Street is in the Commercial 1 Zone, and characterised by a mix of uses and development styles, resulting in a mixed pattern of development in the immediate area. The two properties to the immediate east comprise a motor repairs workshop and restricted retail premises selling pet supplies. Both premises are contained in warehouse type buildings set back from the street with car parking in the front setbacks. Further to the east, amongst other premises, are a car sales yard (currently vacant), funeral parlour and medical centre, all of which have prominent car parking visible from Main Street or buildings substantially set back from the street. By contrast, to the west, the predominant built form and scale is more typical of a traditional main street with smaller scale shops, hotels, restaurants, cafés and shopfront businesses, and also a small service station on the corner of Main and Young Streets. Opposite the site is a significant community precinct comprising a public library in a contemporary cube-like single storey building, public hall and RSL building, both the latter being identified heritage buildings.

Design and Development Overlay, Schedule 11 (DDO11), applies to Commercial 1 zoned land along the Main Street spine, including the subject site. DDO11 includes a number of design objectives which essentially encourage new buildings to respond to the country town character of Main Street by adopting design characteristics which have a fine grained scale and form consistent with the prevailing form of the Main Street commercial precinct. A pedestrian friendly environment is also encouraged, as is contemporary innovative design, active frontages and minimal visual intrusion of car parking.

The proposed retail premises would face Main Street, whilst the self-storage facility would be located to the rear of the site, not visible from Main Street. The retail premises would be set back 20m from Main Street in a large warehouse type building constructed of precast concrete wall panels painted to match the branding of the proposed SuperCheap Auto occupant. The front setback would comprise vehicle access and car parking for 14 cars with a 2.0m wide landscaped edge along the front boundary. The overall design and layout of this building is generally consistent with the aforementioned premises to the east of the site – larger scale buildings with car parking dominating the front setback. However, such development is not encouraged by the DDO11; on the contrary the proposal includes prominent elements which are essentially the opposite of the overlay’s objectives. The critical issues with the proposed retail premises are the combination of dominant car parking, and the lack of fine grained detailing in the form and front façade. The proposed design does not enhance the pedestrian experience of Main Street, with car parking and the lack of opportunity for an awning above the footpath for weather protection. The building does not display any design innovation which reflects a sense of place or the
country town character of Bacchus Marsh, rather it is a generic warehouse style building with large expanses of blank front walls used for advertising space.

Furthermore, the proposed building would partly adjoin the common boundary of the residential property at 5 Malcolm Street, specifically a large part of its backyard area which it would substantially overshadow in the afternoon. The building would also be visually dominant and is not considered to be suitably responsive to the residential interface.

The proposed self-storage facility would be located at the rear of the site, constructed to the north and east boundaries which adjoin residential zoned land comprising dwellings fronting Malcolm Street. Specifically, the building would directly adjoin the front setback of 5 Malcolm Street and lie directly opposite a habitable room window of the dwelling, and adjoin the rear setback of 3 Malcolm Street. The critical concerns with the design of this building relate to its visual prominence in Malcolm Street. It is noted that with regard to the internal amenity of 5 Malcolm Street that the owner has not objected, and made arrangements with the proponent for modifications to her dwelling to address the proposed building’s amenity impact. As mentioned, Malcolm Street is a residential street adjoining the commercial precinct of Main Street which would be reasonably expected to have some impact on residential amenity. However, development must respond appropriately to its context, which in this instance the proposal fails to do. The proposed storage facility would be visually dominant and bulky in the streetscape, its form, scale and articulation consistent with a warehouse type building and not responsive to the residential character of the street. A smaller, less bulky, better articulated building may adequately resolve these issues, but in its current form the proposal is a poor urban design outcome and not considered acceptable.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in assessing this application.

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

Referrals

The following referrals were made pursuant to s.52 and 55 of the Planning and Environment Act 1987 and Council departments were provided with an opportunity to make comment on the proposed development plan.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads (s.55)</td>
<td>Consent</td>
</tr>
<tr>
<td>Melbourne Water (s.52)</td>
<td>Consent subject to conditions</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Consent subject to conditions</td>
</tr>
<tr>
<td>Strategic Planning</td>
<td>Objects</td>
</tr>
</tbody>
</table>

Financial Implications

The recommendation of an approval of this development would not represent any financial implications to Council.

Risk and Occupational Health and Safety Issues

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

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

Options

An alternative recommendation would be to approve the application subject to conditions.

Approving the application may result in the objector lodging an application for review of Council’s decision with VCAT, however this is considered to be unlikely.

Conclusion

It is considered that the application is, overall, inconsistent with relevant provisions of the Moorabool Planning Scheme, having regard for the design, layout and appearance of the proposed development.

It is therefore recommended that the application be refused by Council.

Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, under Section 60 Council issue a Refusal to Grant Permit PA2016 072 for Use and Development of a Store (Self-Storage Units) and Development of a Restricted Retail Premises (Automotive Parts & Accessories Sales), Display of Associated Signage, Alteration of Access to a Road Zone Category 1 and a Reduction of Car Parking at Lot 1 on TP 823249H, 210 Main Street, Bacchus Marsh VIC 3340 on the following grounds:

1. The proposal does not meet the objective of Clause 15.01-2 of the State Planning Policy Framework.
2. The proposal does not meet the objectives of Clause 21.03-4 or 21.07-5 of the Municipal Strategic Statement in the Moorabool Planning Scheme.
3. The proposal does not meet the design objectives of Clause 43.02, Schedule 11 (Design and Development Overlay) of the Moorabool Planning Scheme.

Report Authorisation:

Authorised by: Satwinder Sandhu
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 13 July 2016
### Item 4.4 Planning Permit Application PA2016 016

Planning Permit Application PA2016 016; Liquor Licence Associated with a Packaged Liquor Outlet at Lot 1 on PS 146410F, 13 Grant Street, Bacchus Marsh VIC 3340.

<table>
<thead>
<tr>
<th>Application Summary:</th>
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<tbody>
<tr>
<td>Permit No:</td>
</tr>
<tr>
<td>Lodgement Date:</td>
</tr>
<tr>
<td>Planning Officer:</td>
</tr>
<tr>
<td>Address of the land:</td>
</tr>
<tr>
<td>Proposal:</td>
</tr>
<tr>
<td>Lot size:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Why is a permit required?</th>
<th>Clause 52.27 – Licenced Premises – Liquor licence associated with a packaged liquor outlet.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Restrictions registered on title</th>
<th>None</th>
</tr>
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### Public Consultation:

<table>
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<th>Was the application advertised?</th>
<th>The application was advertised due to the proposal’s potential to cause material detriment.</th>
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</table>

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<thead>
<tr>
<th>Number of notices to properties?</th>
<th>30</th>
</tr>
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</table>

<table>
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<tr>
<th>Notices on site?</th>
<th>One (1)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Notice in Moorabool Newspaper?</th>
<th>None</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Number of Objections?</th>
<th>Six (6)</th>
</tr>
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</table>

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<tr>
<th>Consultation meeting?</th>
<th>Held 12 May 2016. Following the meeting the applicant amended the application to remove the warehouse use to address concerns about provision for loading and unloading and car parking.</th>
</tr>
</thead>
</table>

### Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Infrastructure and Natural Built Environment.</th>
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<td>Objective</td>
<td>Effective and efficient land use planning and building controls.</td>
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<tr>
<td>Strategy</td>
<td>Implement high quality, responsive, and efficient processing systems for planning and building applications</td>
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<td></td>
<td>Ensure that development is sustainable, resilient to change and respects the existing character.</td>
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</tbody>
</table>
**Executive Summary:**

<table>
<thead>
<tr>
<th>Question</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application referred?</td>
<td>The application was referred to Bacchus Marsh Police, and internally to Council’s Infrastructure unit. The police made no response to the initial referral due to it being addressed to a staff member no longer at the station, and to date no response has been provided to a more recent referral to the correct staff member.</td>
</tr>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No.</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>Council wrote to the applicant before the application was advertised requesting a car parking demand assessment given the change of land use and associated reduction in car parking based on the original plans submitted with the application.</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns?</td>
<td>Aside from the preliminary concerns raised above and as a result of the consultation meeting no other specific concerns have been raised with the applicant.</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>Yes. On 3 June 2016 the applicant submitted an amended plan which deleted the warehouse component of the proposal, changed the car parking layout and included a designated loading and unloading area.</td>
</tr>
<tr>
<td>VCAT history?</td>
<td>None</td>
</tr>
<tr>
<td>Previous applications for the site?</td>
<td>PA2001-041 Development and Use of a Storage Shed was approved by Council on 14 February 2001. PA2004-321 Buildings and Works associated with a roof over an existing storage area was approved by Council on 17 December 2004.</td>
</tr>
</tbody>
</table>
The application is for a liquor licence associated with a proposed packaged liquor outlet. Approval is sought to operate from Monday to Saturday 9am until 11pm, and Sunday 10am until 11pm. The proposal meets the purpose of Clause 52.27 of the Moorabool Planning Scheme for licenced premises. Six objections were received about amenity and safety, car parking, loading and traffic impacts. Following advertising the proposal was amended to ensure all car parking is provided on site. Overall, the proposal is an acceptable response to the amenity of the area, subject to conditions.

Summary Recommendation:

It is recommended that Council issue a Notice of Decision to Grant a Permit for this application in accordance with Section 61 of the Planning and Environment Act 1987, subject to conditions detailed at the end of this report.

Public Notice

The application was advertised to adjoining and nearby landowners by mail on 21 March 2016 and a sign placed on site from 21 March until 18 April 2016. Six (6) objections were received.

Following consultation with the objectors, the applicant amended the proposal to delete the proposed warehouse component, provide loading and unloading facilities and change the car parking layout. These changes affected the calculation of required car parking, resulting in a lesser rate of car parking than was previously required, to the extent that a reduction of car parking is no longer required. Given these changes, Council officers deemed that notice of the amended proposal was not required given the changes would result in no greater detriment than the original proposal.

Summary of Objections

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of car parking used by an existing commercial tenant in the area proposed for car parking by the packaged liquor outlet</td>
<td>N/A</td>
</tr>
<tr>
<td>Officer’s response -</td>
<td></td>
</tr>
<tr>
<td>Originally the application included a proposed reduction of car parking. The proposal has since been amended to ensure that the 24 car spaces required can be provided on the land, and does not include the eight existing on-site car spaces behind 17-23 Grant Street.</td>
<td></td>
</tr>
<tr>
<td>Will access to the car parking used by 17-23 Grant Street occupants be available outside the liquor outlet’s operating hours? 24 hour access is required.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
**Officer’s response**

This issue is not relevant to this permit application for a liquor licence, and is best resolved between the affected landowners. In any case there is an existing access easement in favour of 17-23 Grant Street, which includes the area occupied by the existing car spaces.

| The use for a warehouse is not suited to this premises given the constrained loading facilities. | N/A |

**Officer’s response**

After the application was advertised it was amended to delete the warehouse component. Now, storage would only be ancillary to the proposed retail use. There is no specific requirement for Council to consider car parking, let alone loading, given there is now no proposed reduction of car parking. Nonetheless, Council’s Infrastructure unit assessed the proposal and considers the proposed parking and loading area would be acceptable, notwithstanding that the car park would need to be almost empty to allow trucks to turn within the site. It is considered that any tenant would arrange for deliveries outside of peak times to avoid conflict with car park users.

| The proposed location proximate to a children’s dance studio and visibility en route to schools would promote underage drinking. | Clause 52.27 |

**Officer’s response**

The commercial viability of the proposed bottle shop and potential ramifications for other similar businesses is not relevant to the assessment of this proposal. Other legislation exists to control alcohol consumption by minors.

| Proximity to other liquor stores will create competition resulting in fire sale type specials and cheaper prices for underage children, promote binge drinking and increased drinking in the community generally. | |

**Officer’s response**

The subject site is zoned for commercial use and was previously used for hardware sales. It is not considered that the proposed use would have any noticeable impact on traffic flows in Grant Street. Traffic congestion in the area is symptomatic of broader transport issues in and around Bacchus Marsh.

| Increased traffic in Grant Street would exacerbate existing congestion. | N/A |

**Officer’s response**

Permit conditions can be applied to manage any amenity impacts associated with the proposal. It is also considered appropriate that any condition of approval require that the lane not be able to be used by customers to access or exit the site. Traffic noise within the site would not be expected to be unreasonable given it is buffered by the lane from residential zoned land to the west. Furthermore, the site is zoned for commercial use, and therefore some impact on amenity should be expected.

| Light spill, increased noise including from traffic and increased activity in the rear lane. | Clause 65.01 |

| There are already several packaged liquor outlets nearby. | Clause 52.27 |
Officer’s response -  
Consideration of other licenced premises in relation to this proposal is discussed in detail below.

<table>
<thead>
<tr>
<th>There are too many liquor licences within less than 500 metres.</th>
<th>Clause 52.27</th>
</tr>
</thead>
</table>

Officer’s response -  
Consideration of other licenced premises in relation to this proposal is discussed in detail below.

<table>
<thead>
<tr>
<th>Notice of the application was not received.</th>
<th></th>
</tr>
</thead>
</table>

Officer’s response -  
Notice of the application was posted to adjoining landowners and occupiers and a sign erected on site in a publicly visible location.

<table>
<thead>
<tr>
<th>The proposal will change the amenity of the area, with longer opening hours than the previous tenant increasing traffic pressures and parking availability in Grant Street until much later in the evening.</th>
<th>N/A</th>
</tr>
</thead>
</table>

Officer’s response -  
The original application was amended to ensure that all required car parking is provided on site. Current traffic pressures experienced in the area are the result of broader traffic issues in the town and any additional traffic associated with the proposed use would not be expected to result in substantially more congestion in Grant Street.

<table>
<thead>
<tr>
<th>Noise associated with opening hours until 11pm.</th>
<th>Clause 65.01</th>
</tr>
</thead>
</table>

Officer’s response -  
Permit conditions can be applied to manage any amenity impacts associated with the proposal. The site and surrounding land in Grant Street is in the Commercial 1 Zone where it is reasonably expected that residential amenity would be affected by commercial activity to some extent.

<table>
<thead>
<tr>
<th>Use for a warehouse would result in conflict between cars and delivery tucks accessing and using the car park.</th>
<th>N/A</th>
</tr>
</thead>
</table>

Officer’s response -  
The proposal has been amended to delete the warehouse use. Only trucks associated with the proposed retail premises would be expected to use the site.

<table>
<thead>
<tr>
<th>Customers who use public transport including taxis will congregate for long periods waiting for irregular transport services, with the increased risk of public drinking.</th>
<th>Clause 52.27</th>
</tr>
</thead>
</table>

Officer’s response -  
It is considered that the risk of public drinking associated with customers waiting for public transport services either outside the proposed outlet or not is likely to be relatively minimal and unlikely to have any detrimental amenity impacts.

<table>
<thead>
<tr>
<th>Customers will not use car parking located further afield and closer to other packaged liquor outlets.</th>
<th>Clause 52.06</th>
</tr>
</thead>
</table>
Officer’s response -
The original application was amended to ensure that all required car parking is provided on site. An assessment of car parking is no longer relevant to this application.

Alcohol consumption is a massive burden on the public health system. Increased alcohol sales and advertising will increase alcohol-related problems in the area. Clause 52.27

Officer’s response -
This issue is discussed below.

Associated crime and violence Clause 52.27

Officer’s response -
The proposed bottle shop’s impact on the amenity of the area is discussed below.

Although planning is primarily concerned with use, development and protection of land use, Council should hold all possible social and community impacts as important, part of ‘good governance’. N/A

Officer’s response -
A responsible authority, in this instance Council, should assess any planning permit application against the relevant provisions only. Council should consider the most relevant and effective ways of addressing other social or community impacts to create desired change.

Proposal

Approval is sought for a liquor licence associated with a proposed packaged liquor outlet (bottle shop) at 13 Grant Street, Bacchus Marsh. The proposal would utilize the existing premises including a large paved area for customer car parking and a partially enclosed section of the building for loading and unloading and staff car parking. Demolition of an existing outbuilding would be required to provide space for some of the parking.

The bottle shop hours are proposed to be as follows:
- Monday to Saturday: 9am until 11pm
- Sunday: 10am until 11pm
- ANZAC Day: 12 noon until 11pm
- Good Friday and Christmas Day: closed.

The hours are in accordance with ordinary trading hours associated with a packaged liquor licence as defined by the Liquor Control Reform Act 1998.

The proposed plans are included at Attachment 1.

Site Description

The site is identified as Lot 1 on PS 146410F and known as 13 Grant Street Bacchus Marsh. The site is on the west side of the street between Millbank and Turner Streets and occupied by the former Wilsons Hardware premises comprising a building with shopfront to Grant Street and a paved area with principal vehicle access from Grant Street. Access to the site is also available via a rear laneway adjoining the rear boundary running between Millbank and Turner Streets.
The site is approximately 2018sq m in size and is encumbered by an easement for drainage, sewerage and access, skirting the southern side of the site. The easement for access is in favour of commercial premises at 17-23 Grant Street which each use two (2) existing car parking spaces at the rear of their respective premises, located within the easement.

The site and surrounding land to the north, south and across Grant Street to the east is in the Commercial 1 Zone and occupied by a mix of commercial and residential uses. Further to the south, beyond Turner Street, is the Bacchus Marsh Hospital complex. To the west is land in the General Residential Zone predominantly developed with dwellings.
Locality Map

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

Planning Scheme Provisions

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

The relevant clauses are:
- 11.05-2 – Melbourne’s hinterland areas
- 11.06-1 – Planning for growth
- 17.01-1 – Business
- 21.03-2 – Urban Growth Management
- 21.04-3 – Commerce
- 21.07 – Bacchus Marsh

The proposal generally complies with the relevant sections of the SPPF and LPPF.

Zone

Under Clause 34.01-1 (Commercial 1 Zone) of the Moorabool Planning Scheme, the use of land for a Bottle Shop falls within the definition of a Shop, which is a Section 1 use not requiring a permit.
Overlays

The site is affected by Design and Development Overlay, Schedule 10. A permit is required to construct buildings and works. Given no development of the site is proposed a permit is not required under this Overlay.

Relevant Policies

Council adopted the Urban Growth Policy Statement at the Ordinary Meeting of Council on 19 September, 2012. Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

The policy states that:

*The Moorabool Growth Strategy 2041 aims to provide a vision for the type of community Moorabool Shire will be in 2041 and to outline how Council can facilitate an outcome that both allows for growth and keeps the community connectedness, character and sense of place so valued by our current residents.*

*The urban strategy is about planning and managing the pressures of growth in a proactive manner so that a sustainable environment where people can live, work, access retail, social and recreational services and be involved and connected. The strategy looks at what our future population will be and what employment, services and infrastructure will be required to meet their needs so that Council can identify what growth options will meet these needs in a sustainable and cost effective manner.*

Particular Provisions

Clause 52.06 Car Parking

Under Clause 52.06-5 the proposal would require the following number of car parking spaces:

- Shop: four (4) spaces to each 100sq m leasable floor area = 24 spaces.
- It is proposed to provide 30 spaces to the shop. Therefore, under Clause 52.06-3 a permit is not required to reduce the number of car spaces.
- It is noted that the 30 spaces does not include the eight (8) existing spaces used by 17-23 Grant Street.

Clause 52.27 Licenced Premises

The purpose of this clause is:

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

A permit is required to use land to sell or consume liquor if a licence is required under the Liquor Control Reform Act 1998. Under the Act a licence is required to sell packaged liquor, therefore a planning permit is required.
Discussion

This application is for a liquor licence associated with a proposed packaged liquor outlet at 13 Grant Street, Bacchus Marsh.

The premises is proposed to operate Monday to Saturday from 9am until 11pm, and on Sunday from 10am until 11pm, and on ANZAC Day, Good Friday and Christmas Day all in accordance with ordinary trading hours as defined by the Liquor Control Reform Act 1998. No onsite consumption of liquor is proposed or would be allowable under a packaged liquor licence.

In deciding the application, in addition to the decision guidelines in Clause 65, the Responsible Authority (in this case Council) must consider the following, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

The application was advertised to adjoining and nearby landowners and occupiers and six (6) objections received. Objections broadly related to amenity and safety, car parking, loading and traffic impacts. After advertising and the subsequent consultation with objectors the application was amended to delete the warehouse component and change the layout of car parking and loading areas. These changes had the benefit of ensuring that all required car parking could be provided on site. The plan was referred to Council’s Infrastructure unit, who commented that the proposed layout was acceptable, including with regard to the proposed truck unloading arrangements.

It is therefore considered that the key considerations in deciding the application are as follows:

- The impact of the proposed sale of packaged liquor on the amenity of the area
- The impact of the proposed hours of operation on the amenity of the area.
- The cumulative impact of existing licenced premises and proposed licenced premises on the amenity of the surrounding area.

The impact of the proposed sale of packaged liquor on the amenity of the area

Concerns were raised by objectors about the impact that a packaged liquor licence would have on the amenity of the area. In particular, concerns were raised about increasing the availability and visibility of alcohol, through advertising, to young people including underage drinkers, and the broader public health of impacts of alcohol consumption. No specific evidence or examples of harm associated with packaged liquor outlets was provided or referred to, and Council is not aware of any such examples or evidence. One objection also stated that the site’s proximity to other liquor stores would create competition resulting in fire sale type specials and cheaper prices for underage children, promoting binge drinking and increased drinking in the community generally. Other concerns about noise, light spill and activity associated with a commercial premises were also raised.

In VCAT decision Hunt Club Commercial Pty Ltd v Casey CC (VCAT 725) (20 May 2013) Deputy President Dwyer stated that “Whilst town planning seeks to secure a pleasant, efficient and safe working, living and recreational environment, it is not the role of town planning to address all issues of public health, nor to regulate the pricing or general availability of a product to manage the health and well being of a society.”
It is considered that the objections relating to the general availability and advertising of alcohol, and competition between businesses, are beyond the reasonable consideration of this permit application. Concerns regarding noise, light spill and the like can be managed by way of permit conditions to limit any unreasonable amenity impacts.

The impact of the proposed hours of operation on the amenity of the area
As outlined above the proposed bottle shop would operate from as early as 9am until 11pm at night. The site and surrounding land in Grant Street is in the Commercial 1 Zone and comprises a mix of uses including residential. A bottle shop is classified in Clause 74 of the Moorabool Planning Scheme as a ‘Shop’ which in the Commercial 1 Zone is a Section 1 use not requiring a permit. The permit requirement is specific to the need for a liquor licence. One objection related to the late opening hours, particularly regarding noise associated with customers coming and going and staff closing up and leaving the premises. As mentioned above, it is considered that noise can be managed by way of permit conditions to limit any unreasonable amenity impacts. It is also noted that any shop or other Section 1 use, not including other licenced premises which are discussed below, may operate in the Commercial 1 Zone at all hours, subject to compliance with any other relevant laws. Existing nearby packaged liquor outlets are licenced until 11pm and there is no reason to limit the proposed opening hours which are consistent with the ordinary trading hours described earlier in this report.

The cumulative impact of existing licenced premises and proposed licenced premises on the amenity of the surrounding area
There are 19 other licenced venues within a 500m radius of the subject site, being a mix of venues operating under various licence categories including the following:
- Packaged liquor licence – five (5) premises
- Restaurant and café licence – seven (7) premises
- Limited licence – one (1) premises (Avenue Bowling Club)
- General licence – two (2) premises (hotels)
- Late night general licence – one (1) premise (hotel)
- On-premises licence – two (2) premises (restaurant/café)
- BYO permit – one (1) premise (restaurant)

The above premises licences’ allow trading ranging until 5.30pm (one premise) through until 3am (one premise), or otherwise from 10pm until 1am. The five (5) existing packaged liquor outlets are licenced until 11pm.

In VCAT decision Sodhi v Moonee Valley SC & Anor (VCAT 564) (3 May 2012) Member Cook makes the following observation: “There will rarely, if ever, be amenity impacts associated with the immediate point of sale of packaged liquor. Therefore, one must ask the obvious question, what are the potential or likely consequences of the increased/ready availability of packaged alcohol in this area? This is the essence of an approach focusing on appropriateness of location, including an amenity assessment.”

Negative cumulative impacts of licenced premises can include noise and anti-social behavior, infrastructure capacity problems, safety issues and crime, whereas positive cumulative impacts can be increased vitality, economic benefits, status as an entertainment destination, and improved customer choice. An area may reach ‘saturation point’ where an additional premise, or type of premise, will lead to negative impact on the surrounding area.

Of the 19 existing licenced premises nearby, 16 are a mix of packaged liquor outlets, restaurants and cafés and a bowls club. The remaining three (3) are hotels. The proposed licence would not be considered to create or add to a cluster of licenced venues, particularly given the number and mix of licences and the relatively small number of hotels, in particular only one (1) holding a late night licence.
The proposed licence would not be expected to result in any significant rise in incidences of ‘pre loading’ or ‘side loading’ by hotel patrons.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in assessing this application.

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

Referrals

The following referrals were made pursuant to s.52 of the Planning and Environment Act 1987 and Council departments were provided with an opportunity to make comment on the proposed plan.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bacchus Marsh Police</td>
<td>No comment</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Consent subject to conditions</td>
</tr>
</tbody>
</table>

It is noted that Council officers have contacted Bacchus Marsh Police to respond to the referral. No response has been received.

It is noted that Infrastructure provided recommended conditions based on the original proposal which included a reduction of car parking. Given the amendment to the application to provide all car parking it is not considered appropriate to include the recommended Infrastructure conditions.

Financial Implications

The recommendation of an approval of this application would not represent any financial implications to Council.

Risk and Occupational Health and Safety Issues

The recommendation of an 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. The submitters and the applicant were invited to attend this meeting and address Council if desired.

Options

An alternative recommendation would be to refuse the application on the grounds that the proposed liquor licence would detrimentally affect the amenity and safety of the area.

Refusing the application may result in the applicant lodging an application for review of Council’s decision with VCAT.
Conclusion

Overall, it is considered that the application is consistent with the Moorabool Planning Scheme, having regard for the amenity and safety of the community and local economic growth.

It is therefore recommended that the application be approved by Council.

Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, under Section 60 Council issue a Notice of Decision to Grant Permit PA2016 016 for a Liquor Licence associated with a Packaged Liquor Outlet at Lot 1 on PS 146410F, 13 Grant Street, Bacchus Marsh VIC 3340 subject to the following conditions:

1. Unless specifically required otherwise by any other condition of this permit and except with the prior written consent of the responsible authority to any variation the use of the land for the sale of alcohol is limited to the area shown on the endorsed plan.

2. Except with the written consent of the responsible authority the use may operate only between the hours of:
   a) Monday to Saturday, 9am until 11pm
   b) Sunday, 10am until 11pm
   c) ANZAC Day, 12 noon until 11pm

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;
   e) Any other way.

4. The proprietor of the premises must not facilitate public access between the site and the lane to the rear of the site.

5. The owner, the occupier or the manager must obtain the appropriate license from the Victorian Commission for Gambling and Liquor Regulation.

6. This permit will expire if the Packaged Liquor Licence having been obtained from the Victorian Commission for Gambling and Liquor Regulation is not started within two years of the date of this permit.
Permit note

7. Unless no permit is required under the Moorabool Planning Scheme, advertising signage shall not be displayed without planning permission.

Report Authorisation

Authorised by: [Signature]
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 3 August 2016
Overall Site Plan for 13 Grant Street Bacchus Marsh