**AGENDA**

**SECTION 86 DEVELOPMENT ASSESSMENT COMMITTEE MEETING**

**Wednesday, 12 October 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 |
| Mr. Mark Lovell | Senior Statutory Planner |
| Mr. Thomas Tonkin | Statutory Planning Officer |
| Ms Victoria Mack | Statutory Planning Officer |
| Ms Jacquie Elliott | Minute taker |

<table>
<thead>
<tr>
<th>Item</th>
<th>Title</th>
<th>Responsibility</th>
<th>Page No.</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Welcome, Present and Apologies</td>
<td>Chair</td>
<td></td>
<td>Noting</td>
</tr>
<tr>
<td>2.</td>
<td>Meeting Minutes</td>
<td>Chair</td>
<td></td>
<td>Noting</td>
</tr>
<tr>
<td>2.1</td>
<td>Confirmation of previous minutes 21.09.16</td>
<td></td>
<td></td>
<td>Resolution</td>
</tr>
<tr>
<td>3.</td>
<td>Conflict of Interest</td>
<td>Chair</td>
<td></td>
<td>Noting</td>
</tr>
<tr>
<td>4.</td>
<td>Growth &amp; Development Reports</td>
<td>S. Sandhu</td>
<td></td>
<td>Discussion</td>
</tr>
<tr>
<td>4.1</td>
<td>Planning Permit Application PA2016079; Development of Additions Ancillary to an Existing Store and a Reduction of Car Parking and Loading Facilities at Lot 1 on TP535118E, 32 Candelero Street, Bacchus Marsh VIC 3340.</td>
<td>T. Tonkin</td>
<td>Page 3</td>
<td>Resolution</td>
</tr>
<tr>
<td>4.2</td>
<td>Planning Permit Application PA2016 096; Three lot (staged) subdivision on 12 Corbetts Road, Gordon.</td>
<td>M. Lovell</td>
<td>Page 18</td>
<td>Resolution</td>
</tr>
</tbody>
</table>
Planning Permit Application PA2016109; 250 Main Street, Bacchus Marsh; 2 Lot Re-Subdivision and Creation of Access to a Road Zone, Category 1. T. Tonkin Page 32 Resolution

Planning Permit Application PA2016074; Development of Six (6) Dwellings and a Waiver of the Visitor Car Space at Crown Allotment 3, Section 14, Parish of Parwan, 54 Griffith Street, Maddingley VIC 3340. T. Tonkin Page 46 Resolution

Planning Permit Application PA2016102; Rutherford Court Maddingley - Lot 3 on PS 317065 - Development and use of self-storage units (78) and reduction in car-parking. V. Mack Page 63 Resolution

Planning Permit Application PA2016050; 131 Halletts Way Darley. Lot 2 on PS209749Q – Two (2) lot subdivision. V. Mack Page 76 Resolution

Planning Permit Application PA2016100; Development and use of a dwelling and Farm Shed in association with the use of the land for agriculture, at 286 Mahars Road, Bungaree; Lots 1 and 2 on TP746985B. V. Mack Page 94 Resolution

Planning Permit 2015 283; Two lot subdivision at Myrtle Grove, Ballan M. Lovell Page 111 Resolution

5. Update on Trends, Issues and Other Matters S. Sandhu Discussion

6. Update of VCAT Decisions Chair Resolution

7. Date of Next Meeting Chair Noting

7.1 Wednesday, 23 November 2016 4.00pm James Young Room, Lerderderg Library Bacchus Marsh

8. Meeting Close Chair Noting
**GROWTH & DEVELOPMENT REPORTS**

**Item 4.1 Planning Permit Application PA2016 079**

Planning Permit Application PA2016 079; Development of Additions Ancillary to an Existing Store (for storage of building materials) and a Reduction of Car Parking and Loading Facilities at Lot 1 on TP 535118E, 32 Candeloro Street, Bacchus Marsh VIC 3340.

<table>
<thead>
<tr>
<th>Application Summary:</th>
</tr>
</thead>
<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>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 35.07-4 – Farming Zone – buildings and works</td>
</tr>
<tr>
<td>Clause 52.06-3 – Car Parking – reduction of car parking</td>
</tr>
<tr>
<td>Clause 52.07 - Loading and Unloading of Vehicles – reduction of loading facilities</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Restrictions registered on title</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
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</table>

**Public Consultation:**

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

<table>
<thead>
<tr>
<th>Number of notices to properties?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eight (8)</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Number of Objections?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two (2)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Consultation meeting?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. One objector did not wish to consult and the applicant chose not to consult with the other objector.</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><strong>Objective</strong></td>
<td>Effective and efficient land use planning and building controls.</td>
</tr>
<tr>
<td><strong>Strategy</strong></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>

### Victorian Charter of Human Rights and Responsibilities Act 2006

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

### Officer’s Declaration of Conflict of Interests

Under section 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 Melbourne Water, and internally to Council’s Infrastructure and Environmental Health units.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No</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>PA2011-328 Development of Additions Ancillary to an Existing Warehouse (for storage of building materials) was issued by Council on 22 January 2013. The development did not commence and the permit has lapsed and expired.</td>
</tr>
</tbody>
</table>
**General summary**

This application seeks to allow the construction of additional storage facility at the rear of an existing building.

The proposed 597sq m building would be set towards the rear of the lot providing the maximum buffer to any nearby residential properties. The proposal includes on-site car parking and space for medium rigid vehicles to enter and exit the site in a forward direction.

Objections generally relate to associated truck movements, the potential expansion of the current use facilitated by the proposed development, suitability of the existing use in an agricultural area and hours of operation.

Subject to conditions, the proposal is considered to be generally in accordance with the relevant Moorabool Planning Scheme provisions.

**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.

**Background**

PA2011328, issued by Council on 22 January 2013, approved the development of additions ancillary to an existing store (for storage of building materials), including endorsed plans almost identical to the current application. The approved development did not commence and the permit lapsed and expired in 2015.

To assess that application, Council required the applicant to demonstrate that the site had existing use rights as a store for building materials warehouse, which at that time was a prohibited use in the Farming Zone. Demonstrating existing use rights enabled Council to assess the development application.

After PA2011328 was issued, Amendment VC103 to the Victoria Planning Provisions and the Moorabool Planning Scheme was gazetted in August 2013. The amendment included reformed Farming Zone provisions which changed a warehouse from being prohibited to needing a permit. It is understood that the site has since continued to be used for a store for building materials warehouse and a Certificate of Compliance was issued for this use.

**Public Notice**

The application was advertised to adjoining and nearby landowners by mail on 18 April 2016 and a sign placed on site from 2-26 May 2016. Two (2) objections were received.
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>The scope of this proposal is outside that of farming zoned land.</td>
<td>Clause 35.07</td>
</tr>
</tbody>
</table>

**Officer’s response** -
Because the proposal is for development associated with an existing use of the land for storage of building materials as defined by their Certificate of Compliance, the land use per se cannot be assessed. The application is recommended for approval, subject to conditions which limit the use and limit the impact on the amenity of the surrounding area.

There is insufficient space in the road reserve for trucks to manoeuvre when reversing from the site to turn and drive forwards along Pearce Street. An existing gate in the Candeloro Street road reserve may need to be relocated to rectify the aforementioned issue but this would create a safety hazard with trucks reversing and potentially damaging our property.

**Officer’s response** -
A permit condition would require the car parking area to be designed to enable a medium rigid vehicle to turn within the site to exit forwards. However, some medium rigid vehicles would be unable to conveniently manoeuvre within the site and would need to turn within the road reserve. This is not an uncommon arrangement and in this instance would not be expected to pose a traffic safety hazard.

It is unclear why the gate has been placed on the roadway from a Council perspective; however there is no intension for this gate to be removed on the basis of this application. Its presence may create issues with regard to liability which are separate to the application.

The design of the proposal, including toilets and car parking, suggests that future use may be more commercial in nature compared to storage, and would detrimentally affect residential amenity.

**Officer’s response** -
The provision of a toilet is considered reasonable, similarly six (6) car spaces given the Moorabool Planning Scheme requirements. A warehouse is defined as “land used to store or display goods. It may include the distribution and the wholesale selling of the goods.” A change of use to a non-prohibited commercial use would require separate planning approval.

The land is zoned rural, not commercial.

**Officer’s response** -
The site is in the Farming Zone, and currently used for storage of building materials. The use has been previously established and a Certificate of Compliance issued for storage of identified building materials.

The noise of delivery vehicles from 7.00am-8.00pm is inconsiderate of dwellings in Pearce Street.

**Officer’s response** -
Pearce Street is at the interface of the General Residential Zone and the Farming Zone, and residential amenity will be affected to some extent by non-residential uses. Weekday delivery hours of 7.00am-8.00pm are not considered unreasonable.
The existing dilapidated and largely disused shed is far smaller than its proposed extension.

Clauses 15.01-5, 21.03-4, 35.07-6 & 43.02.

**Officer’s response**

The condition of the existing building is irrelevant, as is the size of the proposed development compared to that of the existing building. The appearance of the proposed development is assessed against the relevant provisions of the Moorabool Planning Scheme.

The existing building is not believed to be a warehouse with only the area in front of the building used for storage.

Clause 74

**Officer’s response**

The use for storage of building materials has been previously established and a Certificate of Compliance issued for storage of identified building materials. In any case land use definitions typically apply to land, not buildings.

**Proposal**

The application seeks to construct a new building for the storage of building materials on the site.

It is proposed to retain the existing 99sq m shed and to construct an additional 597sq m warehouse on the northern end of the site. The two sheds would be linked via a gravel walkway.

The front setback of the existing shed would include six (6) car spaces, a turning area sufficient for a medium rigid truck to turn within the site, and three (3) 18sq m storage sheds.

Current vehicle access to Pearce Street would be relocated to near the eastern side boundary and upgraded to a 5 metre wide crossover with a new sliding gate.

The proposed rear storage shed would be 14.92m wide x 40.0m long, with a low pitched roof and Colorbond clad walls and roof, a 4.65m eave height and 6.11m ridge height. Access to the proposed shed would be via a 4.0m x 4.0m roller door and a pedestrian access door. The interior layout of the building would be open plan with a separate toilet and washbasin at the front of the building.

The shed is proposed for the storage of building materials.

It is recommended that a condition of approval require elevations of the 18sq m storage sheds located at the front of the site are to be provided.

The proposed plans are included at Attachment 1.

**Site Description**

The site is identified as Lot 1 on TP 535118E and known as 32 Candeloro Street, Bacchus Marsh. The site is rectangular in shape with a width of 15.24m, length of 100m and area of 1524sq m, with minimal fall. The site contains an existing shed, shipping container, small demountable building and miscellaneous goods stored outdoors in the front setback.

The subject site is located on the north side of Candeloro Street opposite the intersection with Pearce Street. The site and surrounding land to the north, west and east is in the Farming Zone and used primarily for horticulture. Land to the south and southwest is in the General Residential Zone and developed with dwellings accessed via Pearce Street.
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 – Central Highlands regional growth
- 15.01-5 Cultural identity and neighbourhood character
- 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 35.07-1 (Farming Zone) of the Moorabool Planning Scheme, the use of land for a store is a Section 2 use, requiring a permit. Under Clause 35.07-4 a permit is required to construct buildings and works associated with a Section 2 use. It is noted that no permit has been granted to use the land for a store, rather existing use rights have previously been demonstrated in accordance with the provisions of Clause 63 of the Moorabool Planning Scheme.

Farming Zone

The purpose of the Farming Zone is to:

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

Overall, the proposed development is considered to be generally consistent with the Farming Zone provisions.

Overlays

The subject site is affected by Design and Development Overlay, Schedule 2 (DDO2). Under Clause 43.02-2 a permit is required to construct buildings and works, however the schedule provides an exemption where non-reflective exterior cladding is proposed. In this instance a permit is not required.
Relevant Policies

Council adopted the Rural Growth Policy Statement at the OMC of 5 September 2012. Whilst not a formal planning policy in the Moorabool Planning Scheme, Council may consider the document under the provisions of s.60 (1A)(g) of the Planning and Environment Act 1987.

This policy seeks “to articulate the Council’s support for resilient and integrated rural communities and agricultural enterprises”. This policy has been considered to the extent appropriate in the preparation of this report.

Particular Provisions

Clause 52.06 Car Parking

Under Clause 52.06-5 the proposal would require the following number of car parking spaces:
- Warehouse: two (2) spaces to each premises plus 1.5 spaces to each 100sq m net floor area = 11 spaces.
- It is proposed to provide 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 given the nature of the proposal for storage of building materials is likely to generate few car trips, with larger vehicles anticipated to use the site more frequently.

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

There is no designated loading and unloading bay proposed, however the design of the development, with 4.0m wide x 4.0m high roller doors would satisfy the minimum clearances under this clause, and the building dimensions would enable delivery vehicles to conveniently manoeuvre inside. In addition there is a turning area provided in the front setback to enable vehicles to turn within the site to exit forwards.

General Provisions

Clause 63 Existing Uses

An existing use right is established if proof of continuous use for 15 years is established. A permit may be granted for associated buildings and works. A Certificate of Compliance has previously been issued for the use of the land for a store for building materials.

Discussion

Overall, the proposal is considered to be generally in accordance with relevant provisions of the Moorabool Planning Scheme.

The proposal is for the development of additional storage space and associated car parking and access ancillary to an existing store with a specific use right. The site is currently developed with a dilapidated shed and goods stored outdoors, and the proposal would contribute to the more orderly development of the site to maximise the potential of the existing store use.
The site is in the Farming Zone, and surrounded by horticultural land on three (3) sides, with land to the south and southwest in the General Residential Zone developed with dwellings. The proposed development of a 597sq m building would not have a detrimental impact on surrounding agricultural uses. Some overshadowing of land to the east and west would occur for parts of the day, and whilst the subject site is presumably capable of productive agricultural use it has been long established for storage of building materials. The shed would be relatively large compared to other nearby buildings but its form and scale is not dissimilar to some farm sheds in the local area. Furthermore, the position of the building relative to nearby dwellings mean it would not be visually dominant when viewed from residential areas or even readily visible from some properties. Non-reflective exterior cladding is proposed, recommended to be reinforced by permit condition, and it is further recommended that colours be muted to blend with the surrounding countryside.

Recommended permit conditions would require Pearce Street to be constructed to Council standard which is expected to substantially improve the amenity for local residents, particularly with regard to vehicles accessing the subject site. The previous approval on the land, PA2011328 had a similar condition requiring the upgrade to Pearce Street to a Council standard.

The application was referred to Melbourne Water given the site has been mapped as flood prone, and permit conditions including for finished floor levels set at 300mm above the flood level provided, and recommended to be applied. It is recommended the plans be amended to show the required floor level.

**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 referral was 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 development plan.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
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<tbody>
<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>Environmental Health</td>
<td>Consent subject to conditions</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 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 development would have a detrimental impact on the amenity of the area.

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

Conclusion

The proposed development of an existing warehouse facility is considered to be generally in accordance with State and local planning policy, the Farming Zone, Design and Development Overlay, and relevant Particular and General Provisions of the Moorabool Planning Scheme.

It is recommended that the application be approved, subject to conditions.

Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.

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 079 for Development of Additions to an Existing Store (for storage of building materials) and a Reduction of Car Parking and Loading Facilities at Lot 1 on TP 535118E, 32 Candeloro Street, Bacchus Marsh VIC 3340 subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   a) The elevation drawings notated with the correct orientations;
   b) Colour swatches of the exterior building cladding and boundary fencing to blend with the surrounding countryside;
   c) Elevations of the proposed storage sheds in the front setback; and
   d) Notations in accordance with the requirements of Condition No. 21.

   Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

2. The building/s may only be used for the storage of building materials.
3. Except with the written consent of the Responsible Authority, hours of operation associated with the use are limited to the following:
   
a) Monday to Friday 7.00 am to 8.00 pm; and  
b) Weekends and public holidays 9.00 am to 2.00 pm.

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

5. The development must be managed so that the amenity of the area is not detrimentally affected, 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; and  
d) presence of vermin.

Infrastructure conditions:

6. A standard urban industrial vehicle crossing must be provided on Pearce Street to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.

7. The proponent must at their own cost construct Pearce Street from Main Street to the entrance to the subject land to the following standard:
   
a) a 6.2 metre wide carriageway with a pavement of approved granular material to a minimum compacted depth of 150 millimetres;  
b) table drainage as required to minimum width 2.0 metres and depth 0.2 metres, constructed to ensure that any water drains to the underground drainage system in Pearce Street;  
c) the pavement shall be formed to facilitate water runoff to the table drains;  
d) culverts of minimum 375 millimetre diameter installed as required to facilitate drainage;  
e) a turning area for service and emergency vehicles to be provided at the termination of the road works;  
f) Traffic signage as required; and  
g) all works to be completed to the satisfaction of the Responsible Authority.

8. All road and drainage works must be maintained in good condition and repair for a minimum of 6 months after completion of the works, to the satisfaction of the Responsible Authority.

9. A security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 6 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.
10. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:

   a) location and extent of the works;
   b) typical cross-section details;
   c) location of culverts as required; and
   d) civil notes as required to ensure the proper construction of the works to the satisfaction of the responsible authority.

11. Prior to the commencement of works in Pearce Street, the proponent must submit a Traffic Management Plan for the roadworks. Works must not commence until the Traffic Management Plan is approved in writing by the responsible authority.

12. Prior to the development and use commencing, engineering drainage plans and computations must be submitted to the Responsible Authority for approval and shall incorporate the following:

   a) The development as a whole must be self-draining and must be connected to an approved point of discharge in an approved manner to the satisfaction of the Responsible Authority;
   b) The peak discharge of water from the development in a 10% AEP storm shall not exceed the 10% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority;
   c) Underground piped drainage for the whole development shall cater for 10% AEP storm; and
   d) Overland 1% AEP flow path(s) for the development must be shown on layout plans and shall ensure that no property is subject to inundation by such a storm to the satisfaction of the Responsible Authority.

13. Storm water drainage from the proposed buildings and impervious surfaces must be directed to the legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of a stormwater drainage system.

14. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

15. 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.

16. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

17. Prior to the use commencing, the car park areas must be constructed with a sealed surface, line-marking and drainage to the satisfaction of the responsible authority, and shall incorporate the following:

   a) Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall be a minimum of 5.4m x 3.2m;
   b) Designated loading areas shall be shown on layout plans;
c) The parking areas shall be provided with an asphalt or concrete surface and associated drainage;
d) Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles; and
e) The car park must provide sufficient space for a service truck to enter and exit the site in a forward direction. The service truck shall comply with the medium rigid vehicle detailed in AS2890.2 section 2.2. Turning templates shall be submitted for approval.

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

Environmental Health condition:

19. All wastewater fixtures and equipment shall be connected to reticulated sewerage.

20. Melbourne Water conditions:

21. The warehouse must be constructed with finished floor levels set no lower than 97.37 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 97.07 m to AHD.

22. All open space within the property must be set at existing natural surface level so as not to obstruct the passage of floodwaters.

23. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

Expiry condition:

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

   a) the development is not started within two years of the date of this permit; and
   b) the development is not completed within four years of the date of this permit.

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.

Melbourne Water permit note:

For a storm event with a 1% chance of occurrence in any one year, the applicable flood level for the property is 97.07 metres to Australian Height Datum (AHD).

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 272561.

Report Authorisation:

Authorised by:  
Name: Satwinder Sandhu  
Title: General Manager Growth and Development  
Date: 14 September 2016
**Item 4.2 Planning Permit Application PA2016-096**

Planning Permit 2016-096; Three lot (staged) subdivision on 12 Corbetts Road, Gordon.

### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2016 096</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>14 April, 2016.</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Mark Lovell.</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>Lot 2 on PS729816L</td>
</tr>
<tr>
<td></td>
<td>12 Corbetts Road, Gordon.</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Three lot staged subdivision</td>
</tr>
<tr>
<td>Lot size:</td>
<td>4968m².</td>
</tr>
</tbody>
</table>

Why is a permit required

- Clause 32.09-2 Neighbourhood Residential Zone Schedule 1 – Subdivision of land.
- Clause 42.01-2 – Environmental Significant Overlay – Subdivide land.
- Clause 43.02-3 – Design & Development Overlay Schedule 5.
- Clause 44.06-1 – Bushfire Management Overlay – Subdivide land.

### Public Consultation:

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
<th>Yes.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notices on site:</td>
<td>Yes.</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>No.</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>No objections.</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>None held.</td>
</tr>
</tbody>
</table>

### Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Natural and Built Environment.</th>
</tr>
</thead>
<tbody>
<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 – Mark Lovell

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>Yes, to Central Highlands Water, Barwon Water, Powercor Australia, Downer Utilities, CFA, and Council’s Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No.</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>No.</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns</td>
<td>No.</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>No.</td>
</tr>
<tr>
<td>VCAT history?</td>
<td>No.</td>
</tr>
<tr>
<td>Previous applications for the site?</td>
<td>PA2013244 was issued on 28 November, 2013 authorising the removal of vegetation.</td>
</tr>
<tr>
<td></td>
<td>PA2014181 was issued on 31 October, 2014 authorising vegetation removal and development of dwelling. The dwelling has been completed with a Certificate of Occupancy.</td>
</tr>
<tr>
<td>General summary (Pro’s/Con’s of the proposal)</td>
<td>The proposal is been undertaken by a land owner with a direct relation to a member of staff in the planning department.</td>
</tr>
<tr>
<td></td>
<td>The proposal creates three lots each greater than 800m2 of which two lots will be vacant land.</td>
</tr>
<tr>
<td></td>
<td>Overall, the proposed subdivision is acceptable and represents a suitable subdivision arrangement to allow for a new dwelling to be established in the two vacant lots, subject to further planning approval.</td>
</tr>
</tbody>
</table>
Summary Recommendation:

That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a permit for a three lot staged subdivision at Lot 2 on PS729816L known as 12 Corbetts Road, Gordon.

Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large notice on each street frontage for period of fourteen days. Advertising was completed satisfactorily on 11 August, 2016.

There were no objection received.

Proposal

It is proposed to subdivide the land into three lots all accessed via a direct street frontage.

Lot 1 has a 23.39 metres wide frontage to Corbetts Road in a rectangular lot arrangement with a maximum length of 65.44 metres adjacent to the eastern side boundary for a total lot area of 1521m2.

Lot 2 has a 36.66 metres wide frontage to Corbetts Roads in a rectangular lot arrangement with a maximum length of 68.44 metres adjacent to the eastern property boundary for a total lot area of 2586m2. This lot contains a centrally located single storey dwelling.

Lot 3 has 26.10 metres wide frontage to O’Donnell Street in a square shaped lot arrangement with a maximum length of 33.29 metres adjacent to the eastern property boundary for a total lot area of 861m2.

The applicant’s written report states the plan is a staged subdivision but has not submitted a staging plan. This could be addressed through the submission of revised plans.

Site Description

The site identified as Lot 2 on PS729816L known as 12 Corbetts Road. The site is located on the northern side of Corbetts Road and the southern side O’Donnell Street with a third frontage to Government Road.

The irregular L shaped lot is 4968m2 in area and is not affected by any easements. The site has a moderate sloped topography and according to the survey plan slopes from RL566.16 in the south-east corner up to RL572.42 in the north-west corner, a difference of 6.26 metres. The south-eastern lot, Lot 2 contains a recently constructed single storey dwelling.

The immediate surrounding area is comprised of older single storey dwellings on large lots giving the area an open feel. Vegetation is this section of Gordon is scattered however some native trees are present. There is a compact woodlands located to the north-east.

The site and surrounding area is zoned in a Neighbourhood Residential Zone. The Gordon township is located to the south offering a small range of retail uses within the main street.
The site below indicates the location of the subject site and the zoning applicable to the surrounding area.

Locality Map

Zone Map
Subdivision Plan

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:

- Clause 11.02-1 Supply of urban land
- Clause 11.05-1 Melbourne’s hinterland areas
- Clause 11.06 Central Highlands regional growth
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 15.01-5 Cultural identity and neighbourhood character
- Clause 16.01-1 Integrated housing
- Clause 16.01-2 Location of residential development
- Clause 21.03-2 Urban Growth Management
- Clause 21.03-3 Residential Development

Zone

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

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 recognise areas of predominantly single and double storey residential development.
• To limit opportunities for increased residential development. To manage and ensure that
development respects the identified neighbourhood character, heritage, environmental or
landscape characteristics.
• To implement neighbourhood character policy and adopted neighbourhood character guidelines.
• To allow educational, recreational, religious, community and a limited range of other
nonresidential uses to serve local community needs in appropriate locations.

Under Clause 32.09-2 a permit is required to subdivide land. An application to subdivide land must meet
the relevant requirements of Clause 56 for a residential subdivision.

Under Part 1.0 of Schedule 1, the minimum lot size for a subdivision is 800 square metres

Overlays

The site is covered by an Environmental Significance Overlay, Bushfire Management Overlay, Design &
Development Overlay and a Significant Landscape Overlay.

Environmental Significance Overlay Schedule 1 (ES01)

The subject site is in the Environmental Significance Overlay Schedule 1 and the provisions of Clause 42.01
apply.

The purpose of the overlay is:
• To implement the State Planning Policy Framework and the Local Planning Policy Framework,
  including the Municipal Strategic Statement and local planning policies.
• To identify areas where the development of land may be affected by environmental constraints.
• To ensure that development is compatible with identified environmental values.

Under Part 2 of Schedule 1 of the overlay has the following environmental objectives to be achieved:
• To protect the quality and quantity of water produced within proclaimed water catchments.
• To provide for appropriate development of land within proclaimed water catchments.

Under Clause 42.01-2 a planning permit is required to subdivide land.

Significant Landscape Overlay (SLO)

The subject site is in Significant Landscape Overlay and the provisions of Clause 42.03 apply.

The purpose of the overlay is:
• To implement the State Planning Policy Framework and the Local Planning Policy Framework,
  including the Municipal Strategic Statement and local planning policies.
• To identify significant landscapes.
• To conserve and enhance the character of significant landscapes.

A permit is not required to subdivide land.

Design & Development Overlay Schedule 2 (DDO2)

The subject site is in the Design & Development Overlay Schedule 2 and provisions of Clause 43.02 apply.
The design objectives of Schedule 2 of the overlay are:

- To enhance visual amenity in rural, township and vegetated areas of the Moorabool Shire.
- To encourage the use of external cladding, such as non-reflective materials for building construction.
- To discourage the use of materials, such as reflective cladding for building construction, which could have a detrimental effect on amenity.

A permit is not required to subdivide land.

**Design & Development Overlay Schedule 5 (DDOS)**

The subject site is in the Design & Development Overlay Schedule 5 and provisions of Clause 43.02 apply.

The general design objectives of Schedule 5 of the overlay are:

- To reinforce and strengthen the distinctive character of the Gordon town centre.
- To maintain the pedestrian scale of the existing town centre.
- To maintain the low rise character of the town centre.
- To provide for commercial development with retail uses and active frontages.
- To allow some opportunity for medium density residential development.
- To provide for advertising signs that are in character with the town centre.

A permit is required to subdivide land under Part 3 of Schedule 5 and following also applies:

- Subdivision of lots within the residential zoned areas must have a minimum lot size of 800 square metres to retain the spacious nature of the township.
- Subdivision design should respond to existing site features and vegetation.
- Subdivision design is to respond to the pattern of development and the character of the township.

**Bushfire Management Overlay**

The subject site is in the Bushfire Management Overlay and the provisions of Clause 44.06 apply.

The purpose of the overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A permit is required to subdivide land under Clause 44.06-1.

**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. This could be addressed by a permit condition.
Clause 52.47 (Planning for Bushfires)

Clause 52.47 covers planning for bushfire and has relevant objectives for subdivision applications.

Under Clause 52.46-2 the subdivision objectives are:

- To provide lots that are capable of being developed in accordance with the objectives of Clause 52.47.
- To specify at the subdivision stage bushfire protection measures to develop a lot with a single dwelling on land zoned for residential or rural residential purposes.

Clause 56 (Rescode)

The proposal complies with ResCode (Clause 56). The service authorities have been notified of the application and have not identified any servicing concerns with the lot arrangement. The site is located within an established residential precinct containing existing roadways. Each lot will have an active street frontage and lot sizes are of a sufficient size to easily accommodate the minimum building envelope of 10 metres by 15 metres under Clause 56.04-2. The site has convenient access to the Gordon township.

Discussion

The lot sizes achieve the minimum requirement under the Design & Development Overlay Schedule 5 of at least 800m2. The creation of vacant lots, Lots 1 and 3 are of suitable proportions, have a frontage to a roadway and have sufficient depth to accommodate a future dwelling which would be subject to separate planning permission. The lot sizes are different and reflect subdivision pattern of the surrounding area which contains lot sizes and shapes without a uniform pattern which supports the current subdivision arrangement.

The applicant has provided a Bushfire Management Plan to demonstrate that a future building envelope would achieve adequate protection from a fire risk. CFA have consented to the application subject to approval of the Bushfire Management Plan.

With reference to Section 18 of the Subdivision Act, the proposed subdivision of land into three lots replacing one dwelling on the land will result in an increased population and will result in a greater demand for public open space for recreational needs. The land area contained in the subdivision is too small to enable the applicant to provide a public open area reserve. There will be a requirement to pay a 5% public open space contribution fee prior to the issue of a Statement of Compliance under the Subdivision Act.

All the referral authorities have consented to the issue of a planning permit and have not identified any servicing concerns. The applicant will be required to lodge a heavyweight plan of subdivision prior to the certification in accordance with Section 6 of the Subdivision Act.

General Provisions

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

- The suitability of the land for subdivision;
- The existing use and possible future development of the land and nearby land;
- The availability of subdivided land in the locality, and the need for the creation of further lots; the effect of development on the use or development of other land which has a common means of drainage; the subdivision pattern having regard to the physical characteristics of the land including existing vegetation;
- The density of the proposed development;
- The area and dimensions of each lot in the subdivision;
- The layout of roads having regard to their function and relationship to existing roads;
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots;
- The provision and location of reserves for public open space and other community facilities;
- The staging of the subdivision;
- The design and siting of buildings having regard to safety and the risk of spread of fire;
- The provision of off-street parking;
- The provision and location of common property; the functions of any body corporate; the availability and provision of utility services, including water, sewerage, drainage, electricity and gas;
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot; and
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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>
</tr>
</thead>
<tbody>
<tr>
<td>CFA</td>
<td>Consent, subject to two conditions</td>
</tr>
<tr>
<td>Central Highland Water</td>
<td>Consent subject to five conditions</td>
</tr>
<tr>
<td>Barwon Water</td>
<td>Consent subject to two conditions.</td>
</tr>
<tr>
<td>Powercor</td>
<td>Consent</td>
</tr>
<tr>
<td>Downer Utilities</td>
<td>Consent</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Consent subject to fourteen conditions</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 subdivision 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 applicant was 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 subdivision does not match the subdivision pattern of the local area.

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

Conclusion

The proposed subdivision creates three suitably sized lots that can accommodate future dwelling with reference to the two remaining vacant lots. The proposed subdivision respects the existing subdivision pattern of the area and complies with the planning scheme provision including the minimum lot size under the Design & Development Schedule 5. The proposed subdivision should be supported.

Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a permit for a three lot staged subdivision for Lot 2 on PS729816L known as 12 Corbetts Road, Gordon subject to the following conditions:

Endorsed Plans

1. Before the subdivision starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:

   a) Subdivision staging plan clearing identified each stage and each lot number; and
   b) Feature survey plan showing the exact location of the existing dwelling on Lot 2.

   Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

Subdivision

2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

3. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to 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.
Telecommunications

4. 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 provide by optical fibre.

5. 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.

Barwon Water

6. Each lot created in the development must be connected to a reticulated sewerage system.

7. No stormwater is to be discharged less than 100 metres from a waterway unless into an approved drainage system.

Central Highlands Water

8. 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.

9. 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.

10. 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.

11. 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.

12. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.
Country Fire Authority

13. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987.

The agreement must:
- State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-1 of the Moorabool Planning Scheme.
- Incorporate the plan prepared in accordance with Clause 52.47-2.4 of this planning scheme and approved under this permit.
- State that if a dwelling is constructed on the land without a planning permit that the bushfire mitigation measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

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

14. The Bushfire Management Plan (Figure 10 in report by Regional Planning & Design Pty Ltd, Ref No.13.187, Report Version B, Dated 10/3/2016) must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority. When endorsed the plan must be included as an annexure to the section 173 agreement prepared for Lots 1 & 3, to give effect to Clause 44.06-3 of the Moorabool Planning Scheme.

Infrastructure

15. Prior to the issue of a Statement of Compliance for the subdivision, each lot must be provided with a standard rural residential vehicle crossing to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.

16. The property access and the internal driveways to each lot must be constructed in accordance with the requirements specified in Table 5 of Clause 52.47-3 of the Moorabool Planning Scheme, to the satisfaction of the responsible authority.

17. Prior to the issue of a Statement of Compliance for the Subdivision, the proponent must at their own cost construct Odonnell Street from the existing end up to the proposed access to the proposed lot 3 to the following standard:
   i. A 7.0 metre wide carriageway of which the central 4.0 metre section shall have a pavement of approved granular material to a minimum compacted depth of 150 millimetres;
   ii. Table drainage as required to minimum width 2.0 metres and depth 0.2 metres;
   iii. The pavement shall be formed to facilitate water runoff to the table drains;
   iv. Culverts of minimum 375 millimetre diameter installed as required to facilitate drainage;
   v. A turning area for service and emergency vehicles to be provided at the termination of the road works;
   vi. Traffic signage as required; and
   vii. All works to be completed to the satisfaction of the Responsible Authority.
18. All road and drainage works must be maintained in good condition and repair for a minimum of 6 months after completion of the works, to the satisfaction of the Responsible Authority.

19. A security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 6 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.

20. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
   i. Location and extent of the works;
   ii. Typical cross-section details;
   iii. Location of culverts as required; and
   iv. Civil notes as required to ensure the proper construction of the works to the satisfaction of the responsible authority.

21. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
   i. The development as a whole must be self-draining. Moorabool Shire Council Engineering Services;
   ii. Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority;
   iii. Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority; and
   iv. Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.

22. 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.

23. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.

24. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

25. A landscape plan must be prepared and submitted to the responsible authority for approval detailing all proposed landscaping and proposed tree removal, ensuring that no tree or shrub is planted over existing or proposed drainage infrastructure and easements. The landscape plan must include a plant legend with botanical name, quantity, pot size at time of planting and details of ground treatments.

26. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
27. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

28. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
   i. Location of vehicle crossings;
   ii. Details of the underground drainage;
   iii. Location of drainage legal points of discharge;
   iv. Standard details for vehicle crossings and legal points of discharge; and
   v. Civil notes as required to ensure the proper construction of the works to Council standard.

Permit Expiry

29. 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; and
   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.

Report Authorisation:

Authorised by:
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 September 2016
### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2016109</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>29 April 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Tom Tonkin</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>Lots 1 and 2 on TP 893679K, 250 Main Street, Bacchus Marsh 3340</td>
</tr>
<tr>
<td>Proposal:</td>
<td>2 Lot Re-Subdivision and Creation of Access to a Road Zone, Category 1</td>
</tr>
<tr>
<td>Lot sizes:</td>
<td>1154sq m and 4452sq m</td>
</tr>
</tbody>
</table>

### Why is a permit required

- Clause 32.08-2 – General Residential Zone – subdivision
- Clause 43.01-1 – Heritage Overlay – subdivision
- Clause 52.29 – Land Adjacent to a Road Zone, Category 1 – subdivision and creation of access to a Road Zone, Category 1

### Public Consultation:

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
<th>The application was advertised due to the proposal’s potential to cause material detriment. Three (3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notices on site:</td>
<td></td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>None</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>One (1)</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>Yes, held 24 August 2016 with the applicant and objector. No changes were made to the application and the objector maintains their objection.</td>
</tr>
</tbody>
</table>

### Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Natural and Built Environment.</th>
</tr>
</thead>
<tbody>
<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>The application was referred to external authorities and to Council’s Infrastructure unit.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>None</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>Several, for minor buildings and works, display of advertising signs and a liquor licence.</td>
</tr>
</tbody>
</table>

General summary

The application is for a 2 lot re-subdivision of the site and creation of vehicle access to Main Street. The subdivision would create Lot 1 being 5203sq m, and Lot 2 being 453sq m. Proposed Lot 2 contains a shed ancillary to the Avenue Bowling Club and is intended as a residential lot. Proposed Lot 1 would contain the bowling greens, clubrooms and car park. The objection to the proposal primarily relates to the potential impacts of future development of Lot 2. Subject to conditions, the proposal meets the relevant objectives of State and local planning policy, the Heritage Overlay and all ResCode requirements. Overall, the proposal is an acceptable design response, contributes to housing growth and is responsive to the character and 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.

Public Notice

Notice of the application was given to adjoining and nearby landowners by mail on 13 July 2016 and signs erected on site from 14-31 July. One (1) objection was 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>
</tr>
</thead>
<tbody>
<tr>
<td>2008 Planning Scheme Amendment C14 introduced a flood overlay, and any residential development could have a detrimental impact on drainage issues and affect our property.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>The planning scheme amendment was proposed but never implemented. This application was referred to Melbourne Water given the site’s location in a mapped flood prone area. Melbourne Water consent to the proposal, subject to conditions.</td>
<td></td>
</tr>
<tr>
<td>Future development would overshadow our property and block sunlight to our dwelling and garden. Our outlook would be a brick wall.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>Lot 2 is expected to be developed for a future single dwelling, requiring a building permit which includes consideration of amenity impacts including overlooking, overshadowing and boundary wall construction. If a dwelling design did not comply with the off-site amenity requirements of the building permit the objector would have an opportunity to object as an affected landowner. This application does not include assessment of dwelling plans. Lot 2 would have sufficient dimensions to accommodate development in accordance with Clause 56 without any unreasonable amenity impacts.</td>
<td></td>
</tr>
<tr>
<td>Lot 2’s 14m frontage does not allow space for onsite manoeuvring of vehicles to exit forwards which is dangerous and illegal.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>Lot 2’s 14m lot width would allow space for turning within the site to possibly exit forwards, however this is not a specific requirement. VicRoads and Council’s Infrastructure unit both consent to the application and raised no concerns about vehicle access safety.</td>
<td></td>
</tr>
<tr>
<td>Future development could damage the Elm trees on Main Street.</td>
<td>Clause 43.01</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>The Elm trees are affected by Heritage Overlay, Schedule 204, which affects a portion of the subject site. Any future development of that portion of land must obtain planning approval which would assess the impact of development on the trees. It is noted that the current application would require construction of a vehicle crossover to Main Street for Lot 2. This aspect of the proposal has been assessed by Council’s Infrastructure unit and any approval would require tree protection measures during construction of the crossover.</td>
<td></td>
</tr>
<tr>
<td>Asbestos sheeting is known to be buried in a trench on the site near the Main Street frontage which becomes a hazard if disturbed.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> -</td>
<td></td>
</tr>
<tr>
<td>The safe removal of asbestos would be managed when excavation occurs as part of the proposed subdivision and/or future development, and is not relevant to consideration of this application.</td>
<td></td>
</tr>
</tbody>
</table>
The application incorrectly states that both proposed lots are connected to sewer.

**Officer’s response -**
Noted, however both proposed lots, in particular Lot 2, are able to connect to sewer.

**Proposal**

It is proposed to re-subdivide the site into 2 lots. Lot 1 with an area of 5203sq m would contain the existing Avenue Bowling Club comprising two greens, clubrooms and car parking on an L-shaped lot with three street frontages. Lot 2 would have a width of 14m and depth of 32.39m yielding an area of 453sq m, and contain a storage shed and landscaped area with a frontage to Main Street.

The proposed plan of subdivision is provided in Attachment 1.

**Site Description**

The site is identified as Lots 1 and 2 on TP 893679K. Lot 1 is a rectangular shaped lot of 1154sq m fronting Candeloro Street and containing the Avenue Bowling Club car park and a portion of the clubrooms. Lot 2 is a rectangular lot of 4452sq m containing the bowling greens, clubrooms, storage shed, car parking and landscaped areas, and has frontages to Main, Crook and Candeloro Streets, but with vehicle access from Candeloro Street only.

The site and surrounding land is in the General Residential Zone. Surrounding development comprises predominantly dwellings including several medium density housing developments and a variety of lot sizes. Land to the northeast is in the Farming Zone.
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 Central Highlands regional growth
- 15.01-3 Neighbourhood and subdivision design
- 15.01-5 Cultural identity and neighbourhood character
- 15.03-1 Heritage conservation
- 16.01-1 Integrated housing
- 16.01-2 Location of residential development
- 21.03-2 Urban Growth Management
- 21.03-3 Residential Development
- 21.03-4 Landscape and Neighbourhood Character
- 21.07 Bacchus Marsh
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 partly affected by Heritage Overlay, Schedule 204 which relates to elm trees along Bacchus Marsh Road. Under Clause 43.01-1 a permit is required to subdivide land. The proposal is considered to be generally consistent with the overlay provisions.

**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.

Council has also adopted a Housing Strategy called Housing Bacchus Marsh to 2041 at its Ordinary Meeting of Council held on 3 August, 2016. Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

The strategy is to address how Council will manage growth pressures and preserve important neighbourhood character into the future.
The site and surrounds are located within Precinct 22 which is recommended for increased residential growth. The preferred character statement is that is to allow for increased housing choice over time given its proximity to services and facilities.

**Particular Provisions**

**Clause 52.01 Public Open Space Contribution and Subdivision**

Under Clause 52.01-1 a subdivision is exempt from a public open space requirement if it subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided. In this instance it is considered likely that further subdivision of Lot 1 will occur in future given its zoning for residential purposes, and therefore a public open space contribution should apply.

**Clause 52.29 Land Adjacent to a Road Zone, Category 1**

The site adjoins Main Street to the south, which is in a Road Zone, Category 1. Under Clause 52.29 a permit is required to subdivide land adjacent and create access to a Road Zone, Category 1. The proposal is consistent with the provisions of this clause.

**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, Heritage 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 Bacchus Marsh as regionally significant in terms of its role as a key 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. The proposal would take advantage of under-utilised land to create an additional residential lot. 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 developed with dwellings on a range of lot sizes, reflecting more recent medium density housing developments nearby.

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.

Subject to conditions, the proposal complies with the relevant requirements of Clause 56 for residential subdivision. The proposal is generally consistent with the neighbourhood character of the area, creating a residential lot similar in size to some nearby lots. There would be no loss of significant vegetation on
site and existing street trees would be retained. Solar orientation is acceptable and no common property is proposed.

In its current form, the proposed subdivision and creation of access to Main Street satisfies the 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.52 or 55 of the Planning and Environment Act 1987 and Council’s Infrastructure department was provided with an opportunity to make comment on the application.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Melbourne Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Consent with conditions</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 within the Bacchus Marsh township and proximate to a range of services and facilities. All reticulated services are available to the site.
The lot design yields an additional residential lot of 453sq m which is generally consistent with the existing residential character of the area which includes a range of lot sizes. The lot dimensions would allow acceptable space for future development and reasonable amenity for future residents without any unreasonable amenity impacts on adjoining properties. The design integrates acceptably with the existing street network and would maintain the safe operation of Main Street.
Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant a Permit for PA2016-109 for a Two (2) Lot Re-subdivision and Creation of Access to a Road Zone, Category 1, of Lots 1 and 2 on TP 893679K, 250 Main Street, Bacchus Marsh, 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. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

5. 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.
6. Prior to the issue of a Statement of Compliance for the subdivision, any existing outbuilding/s on Lot 2 must be removed.

Servicing:

7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority’s requirements and relevant legislation at the time.

8. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

Infrastructure:

9. Prior to the issue of a Statement of Compliance for the subdivision, Lot 2 must be provided with a rural standard residential vehicle crossing with culvert on Main Street to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.

10. Prior to the construction of the vehicle crossing, a tree protection fence must be erected around the existing street trees in Main Street in front of the site, at a radius of 1.5 metres from the base of the trunk to define a “Tree Protection Zone”, to the satisfaction of the responsible authority. The fence must be constructed of materials approved by the responsible authority, and remain in place until construction is completed.

11. Except with the written consent of the responsible authority, within the Tree Protection Zone:
   a) No vehicular or pedestrian access, trenching or soil excavation is to occur.
   b) No storage or dumping of tools, equipment or waste is to occur.

12. Any pruning of the canopy or the root system of the existing street trees must be undertaken by a qualified arborist in accordance with the Australian Standard AS4373-1996 Pruning of Amenity Trees, in consultation with and to the satisfaction of the responsible authority.

13. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
   a) The development as a whole must be self-draining.
   b) Lot 2 must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.

14. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.

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).

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

17. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing
damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

18. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
   a) Location of vehicle crossings;
   b) Details of the underground drainage;
   c) Location of drainage legal points of discharge;
   d) Standard details for vehicle crossings and legal points of discharge; and
   e) Civil notes as required to ensure the proper construction of the works to Council standard.

Melbourne Water conditions:

19. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains or waterways.

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

VicRoads conditions:

21. Access arrangement on Main Street for Lot 2 must be constructed to the satisfaction of Responsible Authority and also subject to no impact on trees and services.

Expiry condition:

22. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.

   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.

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 277085.

Report Authorisation

Authorised by:
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 September 2016
# PLAN OF SUBDIVISION

## LOCATION OF LAND
- **Parish:** KORKUPERRMUL
- **TOWNSHIP:**
- **SECTION:**
- **CROWN ALLOTMENT:** 9 (PART)
- **CROWN PORTION:**
- **TITLE REFERENCE:** VOL. 19977 FOL. 166

## LAST PLAN REFERENCE:
- **LOT 1 & 2 ON TP093679K**

## POSTAL ADDRESS:
- **250 MAIN STREET, BACCHUS MARSH, VIC, 3340**

## MGA CO-ORDINATES:
- **E: 274 774**
- **N: 5 827 017**
- **ZONE: 55**
- **GDA 94**

## VESTING OF ROADS AND/OR RESERVES

<table>
<thead>
<tr>
<th>IDENTIFIER</th>
<th>COUNCIL/BODY/PERSON</th>
</tr>
</thead>
<tbody>
<tr>
<td>NIL</td>
<td>NIL</td>
</tr>
</tbody>
</table>

## NOTATIONS

**THIS IS A SPEAR PLAN**

**DEPTH LIMITATION DOES NOT APPLY**

**SURVEY:**
This plan is based on survey.

**STAGINGS:**
This is not a staged subdivision.
Planning Permit No.

This survey has been connected to permanent marks Nos. KORKUPERRMUL PM 54 & KORKUPERRMUL PM 45 in Proclaimed Survey Area No.

## EASEMENT INFORMATION

**EASEMENTS AND RIGHTS (IMPLIED BY SECTION 122) OF THE SUBDIVISION ACT 1989 APPLY TO ALL THE LAND IN THIS PLAN**

<table>
<thead>
<tr>
<th>Easement Reference</th>
<th>Purpose</th>
<th>Width (Metres)</th>
<th>Origin</th>
<th>Land Benefited/In Favour Of</th>
</tr>
</thead>
</table>

**Adept Surveys Pty Ltd**
161 Sydney Road
Colac 3250
PD Box 45 Morikland 3058
Ph: (03) 9383 7878
A.C.N. 152 478 503

**SURVEYORS FILE REF:** 9800

**ORIGINAL SHEET SIZE:** A3
**SHEET 1 OF 2 SHEETS**

**JEREMY C. PEARCE, VERSION 1**
### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2016074</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>23 March, 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Tom Tonkin</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>Crown Allotment 3, Section 14, Parish of Parwan, 54 Griffith Street, Maddingley VIC 3340</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Development of Six (6) Dwellings and a Waiver of the Visitor Car Space</td>
</tr>
<tr>
<td>Lot size:</td>
<td>1718sq m</td>
</tr>
</tbody>
</table>

#### Why is a permit required?

Clause 32.08-4 – General Residential Zone – to construct two or more dwellings on a lot.

Clause 52.06-3 – Car Parking – reduction of car parking

#### Restrictions registered on title

None.

### Public Consultation:

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
<th>The application was advertised due to the proposal’s potential to cause material detriment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of notices to properties?</td>
<td>10</td>
</tr>
<tr>
<td>Notices on site?</td>
<td>Two (2)</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper?</td>
<td>None</td>
</tr>
<tr>
<td>Number of Objections?</td>
<td>None</td>
</tr>
<tr>
<td>Consultation meeting?</td>
<td>Not required</td>
</tr>
</tbody>
</table>
Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Infrastructure and Natural Built Environment.</th>
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<tbody>
<tr>
<td>Objective</td>
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<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>
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</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 Council’s Infrastructure unit.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>None raised, subject to conditions being placed on a permit.</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>The Council officer primarily had concerns with the layout and appearance of the proposed dwellings from Griffith and Barry Streets.</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns?</td>
<td>Council wrote to the applicant before the application was advertised about the aforementioned concerns.</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>Yes. On 23 June 2016, before advertising, the applicant submitted amended plans in response to Council’s request for further information dated 20 April 2016. The amended plans adequately addressed the Council officer’s concerns.</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 the development of six (6) single storey dwellings, and a waiver of the visitor car space. Each dwelling would comprise three (3) bedrooms and the usual utilities and each have a separate street frontage. Vehicle access to the site would be via six (6) crossovers with each dwelling provided with two (2) car spaces, at least one of which would be in a garage. The waiver of visitor car parking is considered to be acceptable in this instance. The proposal meets the relevant objectives of State and local planning policy, and all ResCode requirements. Overall, the proposal is an acceptable response to the character and amenity of the area.

Summary Recommendation:

It is recommended that Council issue a Planning 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 landowners by mail on 1 July 2016 and signs placed on site from 14 to 30 July 2016. No objections were received.

Proposal

It is proposed to develop the site with six (6) single storey dwellings and to waive the visitor car space. Units 1 and 2 would be semi-detached fronting Griffith Street, with minimum 8.5m front setbacks. Units 3-6 would be detached fronting Barry Street, with minimum 3.0m front setbacks. Each dwelling would have three (3) bedrooms, main with en suite, bathroom, laundry, and open plan kitchen, meals and living area leading to secluded private open space at the side or rear of each dwelling. Garages would be incorporated under the dwelling roofline, with Units 1 and 2 each provided with a double garage and Units 3-6 each with a single garage and tandem car space. No front fencing is proposed. No common property is proposed.

Vehicle access to each dwelling would be via proposed 3.0m wide crossovers, one (1) to Griffith Street for Unit 1, and five (5) crossovers to Barry Street for Units 2-6.

Unit 1 would be constructed to the west title boundary for a length of 6.47m. Side and rear setbacks would vary from 1.09m to 4.5m.

No vegetation removal is proposed.

The proposed plans are included at Attachment 1.

Site Description

The site is identified as CA 3, Section 14, Township of Bacchus Marsh, Parish of Parwan, and known as 54 Griffith Street, Maddingley. The site is rectangular in shape, with a width of 24.54m, depth of 70.01m and area of 1718sq m. The site is located on the northwest corner of Griffith and Barry Streets, with vehicle access via an existing single width crossover to Barry Street. The site falls slightly generally from the northwest to the southeast and is currently vacant. It is noted that the Griffiths Street road reserve has a
width of approximately 60m, incorporating service lanes and treed or grassed verges on either side of the main four lane carriageway. There are no street trees on the verge adjoining the subject site.

The site and surrounding land on the north side of Griffith Street is in the General Residential Zone, and mostly developed since the 1980’s with large single storey dwellings on lots of a similar size to the subject site, with generous front and rear setbacks and substantial space for landscaping. To the north is a single storey brick dwelling with a 24.4m front setback from Barry Street, built to the south title boundary and separated from the subject site by a public lane but which is apparently used exclusively to access the rear of the aforementioned dwelling. This dwelling is accessed by two single crossovers leading to a semi-circular driveway in the front setback, and has no front fence. To the west is a single storey brick dwelling with a 19.0m front setback from Griffith Street and with a minimum 2.0m side setback from the subject site’s common boundary and a detached roofed pergola in the rear setback adjoining the same boundary. This dwelling is accessed by two single crossovers leading to a semi-circular driveway in the front setback, and has no front fence. To the east, across Barry Street, is a single storey brick dwelling with a 2.5m front setback from Barry Street, with vehicle access from both Barry and Griffith Streets via single crossovers, and a front fence approximately 2.0m high. Land approximately 110m further to the west has been subdivided and developed with dwellings within the past 10 years with smaller and more varied lot sizes compared to development in the immediate vicinity of the subject site.

To the south, across Griffith Street, is land in the Industrial 2 Zone, occupied by a mix of dwellings and light industrial uses such as motor repairs premises.
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
- 15.01-5 – Cultural identity and neighbourhood character
- 16.01-1 – Integrated housing
- 16.01-2 – Location of residential development
- 16.01-4 – Housing diversity
- 21.03-2 – Urban Growth Management
- 21.03-3 – Residential Development
- 21.03-4 – Landscape and Neighbourhood Character
- 21.07 – Bacchus Marsh
The proposal generally complies with the relevant sections of the SPPF and LPPF.

**Zone**

General Residential Zone.

The subject site is in the General Residential Zone, Schedule 1 (GRZ1), and the provisions of Clause 32.08 apply.

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.

A permit is required to construct two or more dwellings on a lot under Clause 32.08-4 of the Moorabool Planning Scheme. Pursuant to this clause the development must meet the requirements of Clause 55 (Two or More Dwellings on a Lot and Residential Buildings).

Before deciding on an application to develop two or more dwellings on a lot, in addition to the decision guidelines in Clause 65, the Responsible Authority must consider the following relevant decision guidelines:
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of this zone.
- The objectives, standards and decision guidelines of Clause 55.

Overall, the proposed development is considered to be consistent with the purpose and decision guidelines of the GRZ1, as discussed below.

**Overlays**

The subject site is not affected by any Overlays.

**Relevant Policies**

Council adopted the Urban Growth Policy Statement on 19 September, 2012 and the Housing Bacchus Marsh to 2041 strategy on 3 August 2016. Council can give weight to these documents under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

**Urban Growth Policy**

The Urban Growth 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.

**Housing Bacchus Marsh to 2041**

One of the objectives of the strategy is to:

*Provide a clear direction and policy guidance to enable orderly growth, managed change and retention of key elements of character including neighbourhood character mapping and character precinct brochures.*

The site is located in Precinct 29 of the Settlement Framework Plan which is identified as an ‘Increased Residential Growth Area’. The Preferred Character Statement for this precinct gives direction to the following:

- Ensure adequate private open space and garden plantings are provided
- Front setbacks will enhance the front garden character
- New development is to minimize the need for additional crossovers
- Car parking facilities should not visually dominate the streetscape
- Increased housing choice is encouraged in areas accessible to services and facilities.

**Particular Provisions**

**Clause 52.06 Car Parking**

Under Clause 52.06-5 each three (3) bedroom must be provided with two (2) car spaces, one (1) of which must be a covered car space. The resident parking provision, garage and car space dimensions and crossover widths meet the relevant requirements of Clause 52.06-6. One (1) visitor car space must be provided to every five (5) dwellings, however under Clause 52.06-5 a permit may be granted to reduce this requirement, as in this instance. A waiver of the visitor car space is considered acceptable in this instance, as discussed below.

**Clause 55 Two or More Dwellings on a Lot**

Clause 55 provides objectives and standards for residential development of two or more dwellings on a lot. This clause requires the submission of detailed information. Residential development must meet all of the objectives and should meet all of the standards of this clause.

The proposal complies with the objectives and most of the standards of ResCode (Clause 55).

**Discussion**

Overall, the proposed development of six (6) dwellings is generally consistent with State and local planning policy. The Central Highlands Regional Growth Plan (Victorian Government 2014) identifies Bacchus Marsh as regionally significant in terms of its role as a key 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 larger allotments the proposal would also contribute to housing affordability. Growth must be balanced with the need for new development to respond positively to neighbourhood character.
The subject site and surrounding land is in the General Residential Zone, Schedule 1 (GRZ1). Surrounding land is mostly developed with single dwellings although occasional examples of medium density development are evident nearby.

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.

The site is a vacant corner lot of 1718sq m in the General Residential Zone, unencumbered by any restrictions on title, easements or other features which could substantially affect development of the site. Six (6) single storey dwellings are proposed, each with three (3) bedrooms and the usual amenities. All car parking would be provided on site, apart from the single visitor car space required under Clause 52.06-5. No vegetation removal would be required.

The proposal achieves a high level of compliance with Clause 55, meeting all objectives and most standards. Units 1 and 2 would have a reduced setback, from 9.0m to 8.5m, however this variation is considered acceptable given the appearance of the dwellings in the streetscape, opportunities for landscaping and form, scale and bulk of the development. The entries to all dwellings would be clearly visible from the street and each dwelling would have an acceptable sense of address. Garages would be set behind the front wall of each dwelling to limit their visual dominance to an acceptable degree. The single storey form respects the prevailing built form, and the roof pitch, eaves, form and bulk of the dwellings, and design detail in general, is responsive to the neighbourhood character. Setbacks between each dwelling fronting Barry Street would reduce visual bulk to an acceptable degree. Off-site amenity impacts would be limited to an acceptable level, and on-site amenity is considered to be reasonable. Passive energy efficiency to Unit 1 and 2's kitchens should be improved, given the proposed internal layout and orientation of glazing, by provision of skylights or alternative suitable option, as a condition of approval. Units 3-6 all have direct north light to a living area.

The waiver of the visitor car space is considered to be acceptable. Despite the loss of some on-street car spaces due to the proposed construction of multiple crossovers each of Units 2-6 would have space for on-street parking directly adjoining the respective dwelling. Parking in the vicinity has no time restrictions and there is generally minimal demand for on-street parking in the residential area north of Griffith Street. There is also informal parking within the Griffith Street road reserve, via the service lane in front of the property. There are no non-residential land uses nearby with a high demand for on-street parking north of Griffith Street. Furthermore, the layout of the site where no common property is proposed would not readily facilitate provision of on-site visitor car parking easily accessible to all proposed dwellings. On-site visitor car parking is usually associated with multi-dwelling developments with a common accessway where a visitor car space is readily accessible and identifiable to visitors to all dwellings.

It is also noted that since the application was referred to Infrastructure a landscape plan has been submitted and assessed as acceptable by Infrastructure, thus there is no need to include the standard Infrastructure condition requiring a landscape plan.

It is recommended that a permit be granted, subject to the following conditions.
General Provisions

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

Referrals

The following referrals were made pursuant to s.52 of the Planning and Environment Act 1987:

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure</td>
<td>No objection subject to conditions</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 applicant was 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 development and reduction of car parking would unreasonably affect the amenity of the area.

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

Conclusion

It is considered that the application is generally consistent with relevant State and local planning policy, the General Residential Zone, and the relevant Particular and General Provisions of the Moorabool Planning Scheme.

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

Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.
Recommendation

That, having considered all relevant matters as required by the Planning and Environment Act 1987, under Section 60 Council issue a Planning Permit PA2016 074; Development of Six (6) Dwellings and a Waiver of the Visitor Car Space at Crown Allotment 3, Section 14, Parish of Parwan, 54 Griffith Street, Maddingly VIC 3340 subject to the following conditions:

Endorsed Plans:

1. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three A3 size copies must be provided. The plans must be generally in accordance with the plans identified as Project No. AD15-060, Drawing No.'s A04 and A05 rev A dated 13 June 2016 prepared by Arkham Design P/L, but modified to show:

   a) Unit 1 and 2's kitchens provided with skylights or another device to provide direct natural light.
   b) Unit 1 and 5's clotheslines shown on the floor/site plan.
   c) Garage dimensions notated in accordance with the requirements of Design Standard 2 under Clause 52.06-8.

Unless otherwise approved in writing by the Responsible Authority all buildings and works are to be constructed and undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

Amenity:

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

3. External lights must be directed away from residential areas to prevent light spill and glare to the satisfaction of the responsible authority.

4. The walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the responsible authority.

Landscaping:

5. Before the occupation of the development or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

Infrastructure conditions:

6. A standard urban residential vehicle crossing must be provided to each dwelling on Barry Street to the satisfaction of the Responsible Authority. A reinforced concrete vehicle crossing with culvert must be provided to the dwelling on Griffith Street. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
7. The development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:
   a) The development as a whole must be self-draining.
   b) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
   c) All units must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority.


9. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.

10. Prior to the commencement of the development, design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.

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

12. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including “Construction Techniques for Sediment Control” (EPA 1991).

13. Prior to the commencement of the development, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing change to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

14. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:
   a) Location of vehicle crossings;
   b) Details of the underground drainage;
   c) Location of drainage legal points of discharge;
   d) Standard details for vehicle crossing and legal point of discharge; and
   e) Civil notes as required to ensure the proper construction of the works to the satisfaction of the responsible authority.
Expiry condition:

15. This permit will expire if one the following circumstances apply:

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

   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.

Report Authorisation

Authorised by:
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 September 2016
### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2016102</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>19 April 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Victoria Mack</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>Rutherford Court Maddingley Lot 3 on PS 317065</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Staged development and use of self-storage units (78) and reduction in car-parking</td>
</tr>
<tr>
<td>Lot size:</td>
<td>2350sqm</td>
</tr>
<tr>
<td>Why is a permit required</td>
<td>Clause 52.06 Table 1 - reduction in car parking requirement for a warehouse</td>
</tr>
</tbody>
</table>

### Public Consultation:

| Was the application advertised? | In the Industrial 2 Zone (IN2Z) an application for use and development was assessed as being exempt from the notice requirements and was not required to be advertised. |

### Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Natural and Built Environment.</th>
</tr>
</thead>
<tbody>
<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>

### Victorian Charter of Human Rights and Responsibilities Act 2006

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

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

Manager – Rob Fillisch

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

Author – Victoria Mack

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

Executive Summary:

<table>
<thead>
<tr>
<th>Application Referred?</th>
<th>Yes, to Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in response?</td>
<td>No</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>Width of access ways, traffic management and car parking, landscaping.</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns</td>
<td>Yes</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>Amended plans, traffic report and car parking assessment were provided.</td>
</tr>
<tr>
<td>VCAT history?</td>
<td>Nil</td>
</tr>
<tr>
<td>Previous applications for the site?</td>
<td>PA2012-251 being for Development and Use of a Warehouse issued on 11 February 2013.</td>
</tr>
</tbody>
</table>

General summary

The application is to construct seventy eight (78) self-storage units in three stages. Stage 1 would consist of 27 units, stage 2 would consist of 32 units and Stage 3 would consist of 18 units. The units would vary in size with the majority being 3m wide and 4.5m long each secured by a roller door. There would be 13 units that would be 3m x 3m and 14 units that would be 6m x 3m.

Access to the site would be from Rutherford Court via a 5m wide crossover with entry provided via an automatic sliding gate accessed by customers using a swipe keying system. The gate would remain open for a designated time and then automatically close. Exiting the site would similarly require the use of the swipe key system.

There would be three internal ‘one-way’ access ways around the site to ensure consistent traffic movement. The site would be landscaped and the front setback would contain both landscaping and car parking in accordance with Clause 22.05 of the Moorabool planning Scheme in relation to presentation of Industrial areas.

In accordance with Clause 52.06-5, Table I, relating to the car parking requirements, a warehouse of this size would require 18 car spaces to be located on the site. The application provides for three car spaces and seeks approval for a reduction of 15 car spaces.

The application is before Council due to the request for a reduction in the car parking requirements for this use.

The application was referred to Council’s Infrastructure Department who consented to the application subject to conditions. Infrastructure also consented to the requested reduction in car spaces for this application based on evidence that shows that self-storage facilities have low visitation rates from the users, and minimal staffing requirements.
Infrastructure commented that the parking demand (as opposed to visitation to access a storage unit) for self-storage facilities of less than 3000 sqm in total is not more than 6 spaces.

Infrastructure concluded that the three spaces to be provided on-site and the substantial adjacent on-street parking availability would provide ample supply for the development.

It is recommended that the application is supported.

**Summary Recommendation:**

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a planning permit for the *Staged development and use of self-storage units (78) and reduction in car-parking* at Rutherford Court Maddingley otherwise known as Lot 3 on PS 317065 subject to conditions detailed at the end of this report.

**Public Notice**

An application in the Industrial 2 Zone for use and development is not required to be advertised to adjoining and surrounding landowners because an application is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

This exemption does not apply to land within 30 metres from land (not a road) which is in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

As the subject land is not within 30m of a residential zone, hospital or education centre the application was assessed as being exempt from notice provisions.

**Proposal**

Plans for this application are available as an attachment.

- It is proposed to construct a three stage development of 78 self-storage units on the subject land which has a total area of 2350sqm.
- Stage 1 would be 28 units, Stage 2 would be 32 units and Stage 3 would be 18 units.
- The storage units would range in floor area being either 9sqm, 13.5sqm or 18sqm. The majority of the units would be 13.5sqm.
- The initial application was modified to include a car parking assessment, traffic statement, landscape plan and details of surface materials.
- The proposed storage sheds would be built in three separate rows on the land and would be finished with Colorbond cladding on the walls and roof with a 3.6 metre overall height.
- Vehicle access to the site will be from Rutherford Court via a new 5m wide crossover with a width of 5m.
- Entry would be provided via an automatic sliding gate accessed by customers using a swipe keying system. The gate would remain open for a designated time and then automatically close. Exiting the site would similarly require the use of the swipe key system.
- The swipe pad would be located at the gate as locating the swipe pad the road reserve would not be supported.
- Customer access would be available 24 hours a day, 7 days per week.
- No provision for queuing of vehicles has been provided.
• Three internal access ways would be provided each with a width of 4.9 metres traversing the site between the rows of units. Three visitor parking spaces would be provided within the site. The site would be landscaped as part of the proposal with a 3.4m wide front south side landscape bed and additional garden beds in the front south-west corner of the site. Landscaping would also occur around the perimeter of the site except on the east side boundary abutting Rutherford Court.
• The storage units would have a total floor area across the site of 1044sqm.
• Based on Clause 52.06-5 Table 1 the car parking requirement for this development categorised as a warehouse, based on 2 spaces plus 1.5 spaces for each 100sqm of net floor area, would be 18 car spaces.
• Three car spaces have been nominated on the site plan.
• The applicant is seeking a reduction in on-site car parking of 15 spaces and has submitted a Traffic report in support.
• The car parking assessment and traffic report highlighted that self-storage facilities are generally accessed infrequently and then only for a short time. The report stated that at any one time the likelihood of more than two or three vehicles being on the site at any one time is low.
• A single loading bay requirement in this instance would be varied as the loading and unloading of vehicles would occur in the front of each storage unit and a dedicated loading and unloading bay would not be required.
• Business identification signage is proposed for the site but would be less than 8sqm in total area which does not trigger a planning permit.

Site Description

Below is an aerial map of the site:

• The subject site is located within the Rutherford Court industrial estate and is included in the Industrial 2 Zone under the Moorabool Planning Scheme.
• The land is not covered by any overlays.
• The total land area is 2,350sqm and the site is flat in topography.
• The surrounding land includes various industrial buildings on industrial zoned land. There are few vacant serviced lots left in this estate.
• A permit was granted in 2013 for a warehouse on this site but while this permit is still live, it has not been progressed.
• Another self-storage facility using shipping containers was approved at 21 Rutherford Court, two lots further to the north, and issued on 3 July 2013 for approximately 50 storage units.
• The site is generally industrial. However, the Bacchus Marsh Racecourse and Recreation Reserve is located to the west which is in the Public Park and Recreation Zone. Approximately 150m to the north is residential land in the Hillview Estate in the General Residential Zone. To the east and south of the site is undeveloped land also in the Industrial 2 Zone.

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:

Clause 11.05 - 4 Regional planning strategies and principles
Clause 11.06 - Central Highlands regional growth
Clause 17.02 -1 Industrial land development
Clause 21.04-4 Objective – Industry
Clause 22.05 - Presentation of Industrial areas.

The proposal complies with the relevant sections of the SPPF and LPPF. Clause 22.05 has been additionally addressed in the discussion section of this report.
Zone

Clause 33.02 Industrial 2 Zone

Clause 33.02-1 - permit for warehouse use in IN2Z
Clause 33.02-4 - permit for buildings and works in IN2Z

The purpose of the IN2Z is to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Provide for manufacturing industry, the storage and distribution of goods and associated facilities in a manner which does not affect the safety and amenity of local communities.
- Promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone.
- Keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises.

Overlays

No overlays apply to the subject site.

Relevant Policies

Clause 22.05 – local policy in relation to the presentation of industrial areas specifies key requirements for industrial sites in the Moorabool Shire including requirements to be met including such matters as site coverage, external finishes, site servicing, landscaping, car parking, external waste and storage areas, screen fencing and the treatment of front setbacks.

A detailed response to Clause 22.05 is included in the Discussion section of this report.

Particular Provisions

Clause 52.06 Car Parking

In accordance with Clause 52.06-5 Table 1, in relation to Car Parking requirement, the use of a warehouse is required to provide 2 cars paces plus 1.5 car spaces to each 100sqm of net floor area.

The floor area of the storage units would be 1044sqm and this would require a total of 18 car spaces to be provided on the site.

The site plan shows 3 car spaces have been provided which requires a reduction of 15 car spaces.

Clause 52.07 Loading and unloading of vehicles

In accordance with Clause 52.07 a loading bay should be provided on the site with dimensions as follows where the site is 2,600sqm in a single occupation:

- Area 27.4 sqm - Length 7.6 m, Width 3.6 m, Height clearance 4.0 m.
However, a single loading bay requirement in this instance could be varied as the loading and unloading of vehicles would occur in the front of each storage unit and a dedicated loading and unloading bay would not be required.

**Discussion**

The proposed development is considered to be an appropriate use within the Maddingley industrial estate. The proposed warehouses would be utilised by the local community and their use would not detrimentally impact upon any neighbouring properties.

Clause 22.05 of the Moorabool Planning Scheme relates to the presentation of Industrial areas and it is policy that:

- Buildings and open storage areas generally not exceed 60 per cent of the site.
- Comment: Site coverage is approximately 44%.
- The external finishes of buildings be non-reflective and of brick, stone, concrete, Colorbond or like materials.
- Comment: The self-storage units will be clad with Colorbond steel cladding.
- Development be connected to reticulated water, sewerage, power and storm water facilities.
- Comment: The site has access to services. No toilet facilities or water facilities would be provided on the site.
- Land within 7.5 metres of the front boundary be used for car parking, access and landscaping only. This area shall be maintained in a neat and tidy manner to the satisfaction of the responsible authority.
- Comment: The front setback would be 8.4m with 3.4m dedicated to landscaping, and the balance of 5m used to provide access and car parking.
- Car parking and external storage areas be surfaced with an all-weather surface to the satisfaction of the responsible authority.
- Comment: The access ways would be constructed with compacted crushed rock for dust minimisation.
- Screen fencing be erected on the site where it is to screen outdoor storage areas, loading bays or car parking areas from view. Goods or materials not be stored or displayed in a setback area.
- Comment: There are no waste storage areas are proposed. A 2.1m high cyclone fence would surround the site with three rows of barbed wire above.
- A minimum of 10% of the site be landscaped to the satisfaction of the responsible authority.
- Comment: An amended landscape plan must be provided as a condition of the permit in accordance with Infrastructure’s Condition 10.

The proposal is generally considered to meet the above requirements under Clause 22.05 in terms of overall site layout, building materials and finishes.

In accordance with Clause 52.06-5 of the Moorabool Planning Scheme, Table 1, in relation to car parking requirement, the use of land for a warehouse would require 2 spaces plus 1.5 spaces for each 100sqm of net floor area. The proposal would therefore require 18 car spaces to comply with Clause 52.06-5.

The application proposes that 3 car spaces are provided on the site and has requested a reduction of 15 car spaces.

A car parking assessment and traffic report was provided with the application.

The car parking assessment stated that the standard warehouse car parking requirement does not adequately recognise the nature of self-storage unit developments, which is characterised by the historic intermittent use of each storage unit.
The frequency of such attendances to store or remove goods are historically infrequent. The assessment stated that it is unlikely that more than two or three vehicles would be on site at any one time when the staged development is complete.

The traffic assessment reiterated that self-storage facilities are generally used intermittently and with 24 hour, seven day a week, access the likelihood of more than two or three vehicles being on the site at any one time is low.

The traffic assessment also stated that one way directional signs will be provided on a temporary basis during the staged construction, with permanent signs progressively installed on the site plan.

The three 4.9 m wide one way traffic access lanes past roller door access to each storage unit is wide enough for a standard car or station wagon to parallel park close to the target storage unit for quick loading and unloading process. This 4.9 m width will also allow for another vehicle to safely pass a parallel parked vehicle loading or unloading, should two vehicles using the one access way occur.

In regard to small self-storage units such as this, there is no requirement for employee parking as a caretaker would likely be the only employee on site. In addition, visitors tend to park alongside their storage unit for easy loading/unloading, and the 4.9m traffic aisle widths would cater for this type of arrangement. Given this, the need for 18 on-site parking spaces in accordance with Clause 52.06 is not required in this context.

Council’s Infrastructure Department in their referral response wrote:

The Moorabool Planning Scheme deems self-storage units to be a “Warehouse”. Clause 56.06-5 specifies that for this use 2 spaces plus 1.5 spaces per 100 sqm are required for parking. In this case, about 18 spaces.

In reality, the actual parking requirement for “Self-Storage” facilities is minimal. Recent research indicates that facilities such as this have low visitation rates from the users, and minimal staffing. The parking demand (as opposed to visitation to access a storage unit) for self-storage facilities of less than 3000 sqm in total is not more than 6 spaces. The three spaces on-site and the substantial adjacent on-street parking availability will provide ample supply for the development. There is no objection to reducing the parking requirement to three spaces.

Based on Infrastructure’s response and consent to the reduction in car spaces for this application, and considering the specific use patterns of self-storage facilities in this context it is considered that 3 car spaces for a self-storage facility is appropriate.

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 proposal.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 55</td>
<td>Nil required</td>
</tr>
<tr>
<td>Council’s Infrastructure Department</td>
<td>Consent with conditions</td>
</tr>
</tbody>
</table>
Financial Implications

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

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Notice was not undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987. In the Industrial 2 Zone an application for use and development is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act. This exemption applies as the site is not within 30 metres of land (not a road) which is in a residential zone or land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

Options

An alternative recommendation would be to refuse the application on the grounds that the proposed reduction in car parking is inappropriate and inconsistent with the provisions of the Industrial 2 Zone.

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

Conclusion

It is Council policy that any planning permit application which seeks a reduction in car parking is decided by Councilors at a Council meeting. In this application a reduction of 15 car spaces is requested for a self-storage facility and three spaces would be provided. This type of use does not require staff on site other than most probably a caretaker, and for the majority of visits by the public, parking would be outside their allocated storage shed for a relatively short period. Infrastructure have consented to the application stating that the provision of car spaces for this type of use is acceptable.

It is recommended that the application is supported.

Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.

Recommendation

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a planning permit for the Staged development and use of self-storage units (78) and reduction in car-parking at Rutherford Court Maddingley otherwise known as Lot 3 on PS 317065 subject to the following conditions.
Endorsed Plans

1. Before the use and/or development starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show:

   a) A site plan clearly showing three (3) dimensioned car spaces.
   b) The front access gateway indented into the site by at least 3.4m to allow queuing off the roadway and ease of access to the swipe pad for entry.
   c) Landscape plan in accordance with condition 10.

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

2. The use and development as shown on the endorsed plans must not be altered without the written approval of the Responsible Authority. All buildings shall be located clear of any easements or water and sewer mains/septic tank and effluent lines.

Infrastructure

3. A standard urban industrial vehicle crossing must be provided on Rutherford Court to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.

4. Prior to the development and use commencing, engineering drainage plans and computations must be submitted to the Responsible Authority for approval and shall incorporate the following:

   a) The development as a whole must be self-draining and must be connected to an approved point of discharge in an approved manner to the satisfaction of the Responsible Authority.
   b) Underground piped drainage for the whole development shall cater for 10% AEP storm.
   c) Overland 1% AEP flow path(s) for the development must be shown on layout plans and shall ensure that no property is subject to inundation by such a storm to the satisfaction of the Responsible Authority.

5. Storm water drainage from the proposed buildings and impervious surfaces must be directed to the legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of a stormwater drainage system.

6. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

7. 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.

8. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority. i. Prior to the use commencing, the trafficable areas must be constructed with an all-weather surface and drainage to the satisfaction of the responsible authority. The aisles must provide sufficient maneuvering space to allow a service vehicle to enter and exit the storage unit area in a forward direction. The service truck shall comply with the Small Rigid Vehicle detailed in AS2890.2 section 2.2.
9. Any office building associated with the development must be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.

10. Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscape plan must be generally in accordance with the landscape concept plan Appendix E prepared by EDQ Group except that the plan must show:

   a) Details of surface finishes of pathways and driveways.
   b) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   c) Landscaping and planting within all open areas of the site.
   d) Canopy trees (minimum two metres tall when planted) in the frontage of the property on each side of the entrance.
   e) All species selected must be to the satisfaction of the responsible authority.

11. Before the use/occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

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

Expiry

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

   f) The development and the use are not started within two years of the date of this permit; and
   g) The development is not completed within four years of the date of this permit.

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.

Report Authorisation

Authorised by: 
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 September 2016
### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2016 050</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>19 February 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Victoria Mack</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>131 Halletts Way, Darley Lot 2 on PS209749Q</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Two (2) lot subdivision</td>
</tr>
<tr>
<td>Lot size:</td>
<td>2484sqm</td>
</tr>
<tr>
<td>Why is a permit required</td>
<td>Subdivision in the General Residential Zone – Schedule 1</td>
</tr>
</tbody>
</table>

### Public Consultation:

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notices on site:</td>
<td>Yes, one notice</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>No</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>Two</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Natural and Built Environment.</th>
</tr>
</thead>
<tbody>
<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>
**Victorian Charter of Human Rights and Responsibilities Act 2006**

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

**Officer’s Declaration of Conflict of Interests**

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

*Manager – Rob Fillisch*

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

*Author – Victoria Mack*

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

**Executive Summary:**

<table>
<thead>
<tr>
<th>Application Referred?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>Drainage around the site raised in objections</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns</td>
<td>During consultation process</td>
</tr>
<tr>
<td>Any changes made to the application since being lodged?</td>
<td>No</td>
</tr>
<tr>
<td>VCAT history?</td>
<td>Nil</td>
</tr>
<tr>
<td>Previous applications for the site?</td>
<td>No</td>
</tr>
</tbody>
</table>

**General Summary:**

The land is in the General Residential Zone - schedule 1. The application is for a two lot subdivision and would create two lots. One lot would contain an existing dwelling and would be 1236sqm in area, and the second lot would be located behind the first and would be 1249sqm including the access driveway.

These lots are smaller than lots in the immediate surrounding area which range from 5000 to 2000sqm, but remain generously sized in the General Residential Zone.

Objectors to the application maintain that the subdivision is not in accordance with the open and spacious character of the area which is characterized by large lots with single dwellings and interspersed with stands of native trees and shrubs which attract wildlife.

The objectors are also concerned that storm water drainage in the immediate area is already inadequate and if another dwelling is constructed on the site the storm water drainage issues will become worse.
Council’s Infrastructure Engineer was invited to attend the consultation meeting where storm water drainage was raised as a concern but his view was that there was no serious issue that could not be addressed with appropriate permit conditions.

The subdivision generally accords with the requirements of Clause 56 of the Moorabool Planning scheme.

The additional lot would allow for infill development which takes advantage of existing services and infrastructure.

There are already three crossovers to Halletts Way in this section of the street however the addition of one more crossover was referred to Infrastructure who consented to the application subject to conditions.

The application generally accords with State and local planning policies. Clause 11.06 relates to the Central Highlands Regional Growth strategy with the objective to plan for population growth in sustainable locations throughout the region.

Clause 16.01-1 relating to residential development and integrated housing aims to promote a housing market that meets community needs and to increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.

Clause 16.01-2 aims to locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

Local policies including Clause 21.03 relating to settlement and aim to ensure that infill development protects and enhances the existing character, built form and natural environment of the Shire’s towns and villages including the country town scale and rural atmosphere of each town and ensure new development in all zones respects the existing character, landscape setting and amenity of the local area.

Objectors to this application might argue that this proposal does not accord with local policies and does not respect existing character and that the infill development is not in accordance with the surrounding spacious allotments and country feel of the precinct.

However, the proposal is not to create a very small urban allotment, but rather a lot that is spacious in the context of the General Residential Zone. It is considered that this application does not represents an over development of the site.

**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 planning permit for a two (2) lot subdivision at 131 Halletts Way, Darley otherwise known as Lot 2 on PS 209749Q subject to conditions detailed at the end of this report.
Background

The site is 2484sqm and has an existing established dwelling located at the front of the site abutting Halletts Way.

Public Notice

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

Summary of Objections

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>The subject lot and surrounding land is prone to flooding – the natural</td>
<td>Infrastructure requires that drainage plans must be provided in accordance with Clause 56.07 of the Moorabool Planning Scheme as a condition of the permit.</td>
</tr>
<tr>
<td>drainage line runs along the western boundary of the subject land and</td>
<td></td>
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<tr>
<td>there is concern that the drainage infrastructure in this area is already</td>
<td></td>
</tr>
<tr>
<td>inadequate.</td>
<td></td>
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<tr>
<td>Properties specifically affected include Nos 129A and 127 Halletts Way.</td>
<td></td>
</tr>
<tr>
<td>The subdivision, and a future dwelling or dwellings, will add to storm</td>
<td></td>
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<tr>
<td>water management issues around this site.</td>
<td></td>
</tr>
<tr>
<td>Officer’s response – Council’s Senior Development Engineer attended the</td>
<td></td>
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<tr>
<td>consultation meeting to address drainage concerns. Some issues being</td>
<td></td>
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<tr>
<td>experienced are due to natural overland flows after heavy rainfall events.</td>
<td></td>
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<tr>
<td>The Infrastructure Department did not consider that the subdivision would</td>
<td></td>
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<tr>
<td>add to any drainage issues that could not be controlled through permit</td>
<td></td>
</tr>
<tr>
<td>conditions.</td>
<td></td>
</tr>
<tr>
<td>This immediate area is characterised by large and spacious allotments</td>
<td>General Residential Zone – 1</td>
</tr>
<tr>
<td>which creates amenity that is quiet and peaceful - the proposed</td>
<td>The zoning of the land is GRZ1 which allows for appropriate subdivision to occur without a</td>
</tr>
<tr>
<td>subdivision does not suit the precinct or the rural country feel of the</td>
<td>minimum lot size.</td>
</tr>
<tr>
<td>area. The proposed small lot is out of character with the surrounding</td>
<td></td>
</tr>
<tr>
<td>lots and precinct.</td>
<td></td>
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<tr>
<td>People move to Bacchus Marsh to get away from the city not live on top of</td>
<td></td>
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<tr>
<td>each other. The ongoing development of Darley and Bacchus Marsh means the</td>
<td></td>
</tr>
<tr>
<td>town is losing everything it is known for.</td>
<td></td>
</tr>
<tr>
<td>Officer’s response – The subdivision creates two lots, Lot 1 with an</td>
<td></td>
</tr>
<tr>
<td>existing dwelling which would be 1236sqm at the front of the site abutting</td>
<td></td>
</tr>
<tr>
<td>Halletts Way, and Lot 2 at the rear of Lot 1 which would be 1249sqm with</td>
<td></td>
</tr>
<tr>
<td>access via an “axe-handle” driveway constructed along the south side</td>
<td></td>
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<tr>
<td>boundary of the site. Both lots would be greater than the traditional ‘</td>
<td></td>
</tr>
<tr>
<td>quarter acre block’ and are generous sized lots in the General Residential</td>
<td></td>
</tr>
<tr>
<td>Zone.</td>
<td></td>
</tr>
<tr>
<td>An additional driveway (4 in the immediate area) will create a danger</td>
<td>Rescode</td>
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<tr>
<td>to school children waiting at the bus stop in the immediate vicinity and</td>
<td></td>
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<tr>
<td>pedestrians around the site, particularly at peak times (morning and</td>
<td></td>
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<tr>
<td>afternoon).</td>
<td></td>
</tr>
<tr>
<td>Officer’s response - One additional dwelling would not contribute to a</td>
<td></td>
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<tr>
<td>significant increase in traffic in the immediate vicinity. Data reveals a</td>
<td></td>
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<tr>
<td>single dwelling would generate an average of 7-10 additional vehicle</td>
<td></td>
</tr>
<tr>
<td>movements per day.</td>
<td></td>
</tr>
</tbody>
</table>
There is a lot of natural greenery and open views around the site. The likelihood of a fence being erected around the new lot will detrimentally impact on the amenity of the rest of the area.

**Officer’s response** – The subdivision of the land into two generous sized lots (1236 and 1240sqm) with the lot to be created being behind an existing dwelling would not create a visible intrusion on the streetscape.

Impact of human development on local wildlife – prolific birds and animals in the area.

**Officer’s response** – Birds and animals should not be detrimentally affected by an additional dwelling in an area that is substantially developed with dwellings.

Developers do not have a commitment to the area – the drive to medium density is changing the country town feel and charm of Bacchus Marsh – if this is approved then it opens the door for the whole area to be further subdivided which will increase traffic and decrease amenity.

The subdivision creates a lot that could be used for a multiunit development.

**Officer’s response** – Any new dwelling constructed on the lot to be created would not be visible from the front street and would not be out of character with surrounding developments. A multi-unit development application on the site, if it occurred, would be assessed on its merits at the time.

A single dwelling covenant should be applied to protect the site from any medium density development.

**Officer’s response** – the registration of a single dwelling covenant on the land would be at the owner’s discretion, however Council has determined to apply a section 173 agreement on the land to prevent further subdivision. The subject was discussed at the consultation meeting.

The development would impact on the valuation of neighbouring properties.

**Officer’s response** - VCAT has stated that property valuations are not a planning consideration.

**Proposal**

- It is proposed to subdivide the land into two lots. The land has a total area of 2484sqm.
- The proposed Lot 1 would be 1236sqm and would contain an existing single storey brick dwelling which is located at the front of the site abutting Halletts Way. The lot would be approximately square in shape.
- Lot 2 at the rear of Lot 1 would be 1249sqm and vacant land. Access would be via an “axe-handle” driveway constructed along the south side boundary of the site.
- An existing shed on the land would either be demolished or relocated on Lot 1.
- Both lots would be over the traditional ‘quarter acre block’ in the General Residential Zone.
The plan below indicates the proposed Plan of Subdivision:
Locality Map

The maps below indicate the location of the subject site and the zoning of the surrounding area.
Site Description

- The site is relatively flat with a slight fall from the north-east to the south-west.
- The site contains some garden plantings but otherwise has no significant native vegetation. No vegetation would be removed to construct the subdivision.
- The surrounding land is in the General Residential Zone – Schedule 1.
- The immediate neighbourhood generally comprises larger lots ranging from 5000sqm down to 2000sqm. To the north across Grey Street are lots more generally about 1500sqm in area. There are few lots in the immediate area of 1200sqm or less.
- There are few vacant lots in the immediate surrounding area.
- The surrounds include scattered native vegetation including trees and shrubs, as well as garden plantings.
- There is a 2m wide drainage easement at the rear of the subject lot which is in favour of drainage and sewerage.
- The neighbouring lot to the rear of the subject land at No 129A Halletts Way gains access via an 8m wide “axe handle” that runs along the south side of the subject land.
- A dwelling to the south west of the site at No 129 Halletts Way also gains access via another 8m wide “axe handle” that runs parallel to the other.
- If the subdivision was approved there would be four access driveways running parallel to each other servicing Nos 129, 129A and 131A which would be Lot 2 in this proposal and a new driveway to service No 131 which would be Lot 1 of this proposal.
- A bus stop is located approximately 50m to the north of the site which provides access to the Bacchus Marsh township, the railway station and surrounding areas.
- The land is approximately 1.7kms west the Darley shops and approximately 3.3kms north-west of the Bacchus Marsh shopping precinct.
- The site is located approximately 2.2km to the nearest interchange to access the Western Freeway which provides car access to Melbourne to the east and Ballarat to the north.
- The site is located approximately 4.7km from the Bacchus Marsh railway station.

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
- 15.01-5 – Cultural identity and neighbourhood character
- 16.01-1 – Integrated housing
- 16.01-2 – Location of residential development
- 16.01-4 – Housing diversity
- 21.03-2 – Urban Growth Management
- 21.03-3 – Residential Development
- 21.03-4 – Landscape and Neighbourhood Character
- 21.07 – Bacchus Marsh

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

General Residential Zone

The subject site is in the General Residential Zone, Schedule 1 (GRZ1), and the provisions of Clause 32.08 apply.

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.
- Encourage development that respects the neighbourhood character of the area.
- Implement neighbourhood character policy and adopted neighbourhood character guidelines.
- Provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.
- Allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.

A permit is required to subdivide land under Clause 32.08-2 of the Moorabool Planning Scheme.

Before deciding on an application to subdivide land in addition to the decision guidelines in Clause 65, the Responsible Authority must consider the following relevant decision guidelines:

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

Pursuant to Clause 56, a two (2) lot subdivision must meet the requirements of Clause 56.03-5, 56.04-2, 56.04-3, 56.04-5, and 56.06-8 to 56.09-2.

Overall, the proposed development is considered to be consistent with the purpose and decision guidelines of the GRZ1, as discussed below.

Overlays

The subject site is not affected by any Overlays.

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.

Housing Bacchus Marsh to 2041

One of the objectives of the strategy is to:

*Provide a clear direction and policy guidance to enable orderly growth, managed change and retention of key elements of character including neighbourhood character mapping and character precinct brochures.*

The subject land in Halletts Way is located in Precinct 10 of the Settlement Framework Plan which is identified as an ‘Minimal Residential Growth Area’. The Preferred Character Statement for this precinct gives direction to the following:

- Due to this precinct being located within proximity to some services and facilities, and the precinct being surrounded by more intense residential development, further subdivision of these lots that complement the natural characteristics of the precinct may be appropriate.

- Any further subdivision should enhance the precinct and retain the natural landscape by maintaining large residential lots, with built form occupying low portions of the site, complementing the unique topography of the precinct and retaining substantial setbacks around the dwellings.

- Buildings will continue to stand in expansive grounds and enhance the existing landscape through increased native plantings. Built form will generally be of scale similar to existing development, however innovative and unique built form that enhances the precinct is desirable.

- Front fencing is discouraged and where front or side fencing is proposed it should continue with the post and wire theme that exists within the precinct. With future subdivision likely to be in the form of battle axe arrangements, the design must not compromise the character of the precinct and should include substantial driveway widths that allows for increased landscaping.

**Particular Provisions**

Clause 56 – Rescode

The proposal generally complies with all the required Clause 56 standards for a two lot subdivision. The vacant lot to be created is 1249sqm and can contain a 10m x 15m building envelope. This lot has its own access and no common property is proposed. Both lots have good solar orientation. The site can be readily serviced.

The issue that has been raised by objectors is that storm water drainage in the immediate vicinity, particularly after heavy rainfall events, is inadequate and the immediate area is prone to flooding from time to time.

**Discussion**

The application is for a two lot subdivision and would create two lots. The land is in the General Residential Zone - schedule 1. One lot would contain an existing dwelling and would be 1236sqm in area, and the second lot would be located behind the first and would be 1249sqm including the access driveway.
These lots are smaller than lots in the immediate surrounding area which range from 5000 to 2000sqm, but remain generously sized in the General Residential Zone.

Objectors to the application maintain that the subdivision is not in accordance with the open and spacious character of the area which is characterized by large lots with single dwellings and interspersed with stands of native trees and shrubs which attract wildlife.

The objectors are also concerned that storm water drainage in the immediate area is already inadequate and if another dwelling is constructed on the site the storm water drainage issues will become worse.

Council’s Infrastructure Engineer was invited to attend the consultation meeting where storm water drainage was raised as a concern but his view was that there was no serious issue that could not be addressed with appropriate permit conditions.

The subdivision generally accords with the requirements of Clause 56 of the Moorabool Planning scheme.

The additional lot would allow for infill development which takes advantage of existing services and infrastructure.

There are already three crossovers to Halletts Way in this section of the street however the addition of one more crossover was referred to Infrastructure who consented to the application subject to conditions.

The application generally accords with State and local planning policies. Clause 11.06 relates to the Central Highlands Regional Growth strategy with the objective to plan for population growth in sustainable locations throughout the region.

Clause 16.01-1 relating to residential development and integrated housing aims to promote a housing market that meets community needs and to increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.

Clause 16.01-2 aims to locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

Local policies including Clause 21.03 relating to settlement and aim to ensure that infill development protects and enhances the existing character, built form and natural environment of the Shire’s towns and villages including the country town scale and rural atmosphere of each town and ensure new development in all zones respects the existing character, landscape setting and amenity of the local area.

Objectors to this application might argue that this proposal does not accord with local policies and does not respect existing character and that the infill development is not in accordance with the surrounding spacious allotments and country feel of the precinct.

However, the proposal is not to create a very small urban allotment, but rather a lot that is spacious in the context of the General Residential Zone. It is considered that this application does not represents an over development of the site.

**General Provisions**

Clause 65.02 – Decision Guidelines in relation to subdivision 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>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure</td>
<td>Consent subject to conditions</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 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 proposal is an unacceptable design response to the neighbourhood character and amenity of the area.

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

Conclusion

It is considered that the application is generally consistent with relevant State and local planning policy, the General Residential Zone, and the relevant Particular and General Provisions of the Moorabool Planning Scheme.

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

Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.

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 planning permit for a two (2) lot subdivision at 131 Halletts Way, Darley otherwise known as Lot 2 on PS 209749Q subject to the following conditions:
Amended plan condition:

1. Before the subdivision commences amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:

   a) Submission of a Feature Survey plan showing the exact location of the existing dwelling in Lot 1 and location of the rear retaining wall.

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

Section 173 agreement condition:

3. Before certification of the plan of subdivision the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning & Environment Act to provide the following:

   a) Lot 2 must contain a single dwelling only and cannot be further subdivided.

Before certification of the plan of subdivision application must be made to the Register of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred.

The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it the Responsible Authority for approval.

The owner/operator under this permit must pay the costs of execution and registration of the section 173 agreement.

Subdivision conditions:

4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority’s requirements and relevant legislation at the time.

6. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

Telecommunications conditions:

7. 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 provide by optical fibre.

8. 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.

Infrastructure conditions:

9. Prior to the issue of a Statement of Compliance for the subdivision, lot 2 must be provided with a standard urban residential vehicle crossing on Halletts Way to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.

10. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:

    a) The development as a whole must be self-draining.
    b) Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
    c) Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.

11. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.

12. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

13. 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.

14. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.
15. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:

   a) location of vehicle crossings
   b) details of the underground drainage
   c) location of drainage legal points of discharge
   d) standard details for vehicle crossings and legal points of discharge
   e) civil notes as required to ensure the proper construction of the works to Council standard.

Expiry condition:

16. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.

17. 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.

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

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Report Authorisation

Authorised by: [Signature]
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 September 2016
Item 4.7 Planning Permit Application PA2016-100

Planning Permit Application PA2016100; Development and use of a dwelling and Farm Shed in association with the use of the land for agriculture, at 286 Mahars Road, Bungaree; Lots 1 and 2 on TP746985B.

<table>
<thead>
<tr>
<th>Application Summary:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit No: PA2016 100</td>
</tr>
<tr>
<td>Lodgement Date: 15 April 2016</td>
</tr>
<tr>
<td>Planning Officer: Victoria Mack</td>
</tr>
<tr>
<td>Address of the land: 286 Mahars Road, Bungaree</td>
</tr>
<tr>
<td>Lots 1 and 2 on TP746985B</td>
</tr>
<tr>
<td>Proposal: Development and use of a dwelling and Farm</td>
</tr>
<tr>
<td>Shed in association with the use of the land for</td>
</tr>
<tr>
<td>agriculture.</td>
</tr>
<tr>
<td>Lot size: Total land area 14.164ha</td>
</tr>
<tr>
<td>Why is a permit required</td>
</tr>
<tr>
<td>Farming Zone for the development and use of a dwelling</td>
</tr>
<tr>
<td>on land less than 40ha.</td>
</tr>
<tr>
<td>Environmental Significance Overlay – Schedule 1 for</td>
</tr>
<tr>
<td>buildings and works</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Consultation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Was the application advertised?</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>Notices on site: One</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
</tr>
<tr>
<td>Not required</td>
</tr>
<tr>
<td>Number of Objections: Two</td>
</tr>
<tr>
<td>Consultation meeting:</td>
</tr>
<tr>
<td>No formal mediation meeting was held, but the applicant</td>
</tr>
<tr>
<td>responded separately in writing to both objectors. One</td>
</tr>
<tr>
<td>objector stated they did not wish to be involved in a</td>
</tr>
<tr>
<td>mediation meeting. The other maintained that they might</td>
</tr>
<tr>
<td>reconsider their objection if their concerns were met.</td>
</tr>
<tr>
<td>These are addressed further in the report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Policy Implications:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Result Area Enhanced Natural and Built Environment.</td>
</tr>
<tr>
<td>Objective Effective and efficient land use planning and</td>
</tr>
<tr>
<td>building control.</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. |

**Victorian Charter of Human Rights and Responsibilities Act 2006**

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

**Officer’s Declaration of Conflict of Interests**

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

*Manager – Rob Fillisch*

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

*Author – Victoria Mack*

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

**Executive Summary:**

| Application Referred? | Yes. Referred to internally to Council’s Environmental Health and Infrastructure departments and externally to Central Highlands Water. |
| Any issues raised in responses? | No. |
| Preliminary Concerns? | Use of a dwelling in the Farming Zone on lot of 14.16ha. |
| Any discussions with applicant regarding concerns | Farm Management Plan required. |
| Any changes made to the application since being lodged? | The applicant provided additional written information including a Farm Management Plan |
| VCAT history? | No |
| Previous applications for the site? | Nil |

**General summary**

The primary concern with this application is the justification of the use and development of a dwelling of the land in the Farming Zone on a lot less than 40h hectares. Objectors have argued that if the application is supported the dwelling will contribute to the fragmentation and loss of highly productive agricultural land and open up the area for “life-style” uses and force real farmers out of the district.
A Farm Management Plan was provided with the application detailing the agricultural activities that would be conducted on the land including the production of prime lambs and Lucerne for hay. The plan included a five year timetable of works to be undertaken to build the necessary infrastructure to support the sheep enterprise, grow Lucerne and improve the pastures. The plan also included revegetation works to improve the environmental performance of the site with shelter belts including trees.

Support of this application in the most part hinges on the viability of the Farm Management Plan. The applicants have stated that they have over 20 years’ experience in running their own commercial farms in northern Victoria. In this instance it is considered that the land, if managed in accordance with the farm management plan, will continue to be productive to its maximum capacity.

While it could be argued that the use of land for prime lambs at such a small scale does not justify the use of the land for a dwelling, the Moorabool Shire Council’s Rural Housing Policy, particularly in the Ballarat rural corridor, in which the subject land is located, supports the development of dwellings provided such applications are supported by feasible and well considered farm management plans.

A relevant question to ask is whether the land would be better managed with day to day supervision of a farming enterprise rather than remaining a vacant block used from time to time for grazing.

In this instance it is considered that the applicants do have a legitimate plan to manage the land to maximise agricultural production and improve the sustainability and environmental performance of the site.

It is considered that the application is supported.

**Summary Recommendation:**

That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for Development and use of a dwelling and Farm Shed in association with the use of the land for agriculture on Lots 1 and 2 on TP746985B otherwise known as 286 Mahars Road, Bungaree.

**Background**

There is a very old cottage on the land circa 1920 or earlier. The original application was for a replacement dwelling, however, it would not be established that the cottage had been occupied within at least the last the two years. The application for a replacement dwelling was not supported as existing use rights could not be established, and an amended application was required for the development and use of a new dwelling.

**Public Notice**

The application was notified to adjoining landowners and by placing sign on the site for a period of fourteen days. Two (2) objections were received.
### Summary of Objections

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>We are concerned that increasingly life stylers are moving into the area and real farmers are facing opposition to their farming practices from people moving in who do not understand farming.</td>
<td>A Farm Management Plan is required to be provided for applications for dwellings in the Farming Zone on lots less than 40ha.</td>
</tr>
<tr>
<td><strong>Officer’s response</strong> – The applicants have stated that they are farmers and have owned and operated farms for over 20 years including the commercial scale production of prime lambs, fine wool merino sheep, beef cattle, cereal cropping and improved pasture production including Lucerne.</td>
<td></td>
</tr>
<tr>
<td>While the scale of the farming operations proposed on this small holding would be modest, the farm plan provided indicates that the owners of the land do have farming experience and intend to farm the land to its productive capacity.</td>
<td></td>
</tr>
<tr>
<td>We operate a diesel irrigation bore all summer which is located on the east side boundary of the subject site. We need assurance that this application will not impinge on our farming practices.</td>
<td>EPA - Environment Protection Authority - Noise from industry in regional Victoria Guidelines publication 1411 October 2011</td>
</tr>
<tr>
<td>Any permit must contain a section 173 agreement to allow us to farm and use our bore.</td>
<td></td>
</tr>
<tr>
<td><strong>Officer’s response</strong> – A farmer’s right to farm in the Farming Zone and the rights of neighbours to be protected from noise generated from industry are covered in legislation managed by the Environment Protection Authority (EPA), and not the Planning and Environment Act 1987. Section 173 agreements are not a suitable instrument to control unspecified noise from a diesel pump.</td>
<td></td>
</tr>
<tr>
<td>You do not need a house to run a “fat” lamb enterprise and the dwelling and driveway will remove land from permanent use for agriculture.</td>
<td></td>
</tr>
<tr>
<td><strong>Officer’s response</strong> - in this instance The dwelling and driveway would be located close to the north side boundary leaving the balance of the land available for farming to its capacity to produce prime lambs and Lucerne which is an effective agricultural use.</td>
<td></td>
</tr>
<tr>
<td>Another block of land will be lost to the farming sector</td>
<td></td>
</tr>
<tr>
<td><strong>Officer’s response</strong> – it is not considered that this block would be lost to farming, in fact the reverse. The applicant intends to invest in farming infrastructure and manage the land appropriately and sustainably.</td>
<td></td>
</tr>
<tr>
<td>Impossible to make the profits indicated in the farm management plan on 32 acres without buying supplementary feed.</td>
<td></td>
</tr>
<tr>
<td><strong>Officer’s response</strong> – the applicants intend to produce Lucerne which would adequately supplement the sheep during periods when pasture productivity is low such as late summer and mid-winter.</td>
<td></td>
</tr>
<tr>
<td>More housing in the area will increase land prices and make farming obsolete on some of the best red volcanic soil in the “world” – which is 200 feet deep.</td>
<td></td>
</tr>
<tr>
<td><strong>Officer’s response</strong> – in this application it is considered that the land will be farmed appropriately and to its capacity. It is acknowledged that the land in the immediate area is facing development pressures particularly being so close to Ballarat.</td>
<td></td>
</tr>
</tbody>
</table>
Proposal

A detailed site plan and dwelling plans are available as an attachment to this report.

- The application is for the Development and use of a new dwelling and farm shed in association with the use of the land for Agriculture.
- A Farm Management Plan and a Land Capability Assessment were submitted with the application.
- The land is approximately square in shape with a total area of 14.164 in two titles.
- The proposal is to construct a dwelling on the elevated north side boundary of the land setback 5m from the north side boundary and 88.15m from the west side boundary.
- The dwelling would have three sections connected by enclosed corridors:
  - The first section would be located on the south side and would contain an open plan kitchen, living, family and meals area with access to an alfresco area.
  - The centre section would contain three bedrooms the master bedroom with ensuite and WIRs, a study (fourth bedroom), family bathroom and laundry.
  - The north-side third section would contain a garage which would be approximately 10m x 15m, or 150sqm.
- The total area of the dwelling would be 265.86sqm.
- The dwelling would have a combination of skillion and lean-to roofing with a relatively low pitch.
- External cladding would comprise a mixture of brick, rendered board, corrugated Colorbond steel and with aluminium windows.
- Access would utilise the existing access (that originally serviced the cottage) in the north-east corner of the property and a new driveway would run along the north side boundary to the dwelling.
- A farm shed would be constructed at the rear of the existing cottage in the north-east corner of the site which and would be 15m x 10m (150sqm in area and would have roller doors at one end and a side door. The shed would be used for machinery and occasional shearing.
- The existing cottage would be decommissioned to the status of outbuilding.
- No vegetation would be removed to construct the dwelling or shed.
- A 20m wide gas easement registered on the title to the land which runs east west across the southern third of the land would not be impacted by the proposed developments.

Farm Management Plan

The applicants propose to establish a prime lamb enterprise on the property by purchasing store lambs and finishing them for resale. Lucerne will be grown for finishing the lambs.

The applicants state that they have had extensive farming experience having run their family farms at Skipton and Natimuk and their own 1500 acre wool, lamb and cropping farm at Nathalia for over 20 years. They have been active members of Landcare and soil care groups and have worked otherwise on industrial farms and have taught agriculture at secondary school level.

The applicants state that the property is currently carrying 12-14DSE/ha and with pasture improvement it is estimated that it would be raised to 15-17DSE/ha. They also propose to grow and harvest lucerne for hay production.

The shed to be constructed would double as a machinery and shearing shed. Sheep yards and a loading ramp would also be constructed.

The Farm Management Plan provided an estimate of costings and returns from the prime lamb enterprise as well as a five year development / works plan covering: infrastructure, stocking, fencing, water supply, pasture improvement and weed and pest animal control.
An annual indigenous tree planting program would be implemented along existing and new fence lines.

Site Description

- The land slopes from a high point on the north side boundary but otherwise slopes down to relatively flat land across the site to the east, west and south.
- There is no native vegetation on the site although there are shelter belts along the south side boundary and a few exotic trees around the cottage site.
- There is native vegetation along the Mahars Road reserve.
- The site is pastured grazing country which was used for cattle production. Historically the property has been used as a dairy, for potato production, and for hay and sheep production.
- The soil is rich red volcanic soil with high agricultural productivity.
- There is an abandoned old style weatherboard cottage in the north-east corner of the site and also a small red brick garage which is constructed on the front boundary of the site. There are also old stock yards and a fully operational bore with pump. The bore has a depth of 75m. The water quality is good and can be used for stock and domestic purposes. There are no dams on the property.
- The cottage site is located opposite the intersection of Mahars Road with Reidy’s Road which is a T intersection.
- The immediate surrounds consists of prime agricultural land with allotments similar in size to the subject site, although many farm holdings contain a number of allotments to make larger farming parcels.
- The site is located on the south side of Mahars Road which is located 1.3kms south of the Western Freeway and approximately 500m north-east of the foothills of Mt Bungaree.
- The site is located approximately 1.9kms east the City of Ballarat shire boundary.
- The site comprises two titles, with a total area of 14.164ha.
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:

- Clause 11.05-2 Melbourne’s hinterland areas.
- Clause 14.01-1 Protection of Agricultural Land
- Clause 16.01-2 Location of Residential Development
- Clause 16.01-5 Housing Affordability,
- Clause 21.03-4 Landscape and Neighbourhood Character.
- Clause 21.03-5 Rural Lifestyle Opportunities.
- Clause 21.04-2 Agriculture.
- Clause 22.03 House and House lot excisions in Rural Areas.

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

The site is located in a Farming Zone under the Moorabool Planning Scheme. The purpose of the Farming 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 the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provisions.

The decision guidelines under dwelling issues has the following objectives:

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

A planning permit is required use the land for a dwelling where a lot is less than 40 hectares.

Environmental Significance Overlay – Schedule 1(ESO1)

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 for development. Reticulated sewer is not available to the site, and there are no relevant exemptions under the Schedule. The application was referred to Central Highlands Water as the determining referral authority, and to Council’s Environmental Health officer, who both consented subject to conditions.

Design and Development Overlay – Schedule 2 (DDO2)

Visual Amenity and Building Design

The DDO2 requires a permit if reflective materials are to be used for the external cladding of any buildings or works. As reflective materials will not be used to construct either the dwelling or outbuilding on this site a permit is not triggered by this overlay. A permit condition will be added to ensure than only non-reflective materials are used.
Relevant Policies

Council’s Rural Growth Policy

Council’s Rural Growth Policy Statement was adopted by Council on 19 September, 2012. The document applies to all land in Farming Zone under the Moorabool Planning Scheme. This policy provides strategic direction for rural growth in Moorabool Shire specifically:

- On-farm living will be supported if the dwelling is within the Ballarat Corridor area and the development will support identified rural communities and settlements (Map 1 refers – orange).
- Land parcels for the proposed on farm living dwellings are to have a minimum lot size of 8 hectares and is within the areas identified in Map 1 so as to support retain population within rural communities (Map 1 refers – red).
- Encourage development that assists in retaining an increased accommodation opportunities for the existing rural population and is appropriate in the areas local circumstances.
- Support developments that increase accommodation opportunities for the existing rural populations, including young residents and housing opportunities for older persons.
- Support developments that are part of a wider opportunity to increase investment within the agricultural enterprise.

The policy provides a specific map outlining the areas to be supported for growth particularly in the accommodation sector.

Council’s Rural Housing Policy

Council’s Rural Housing Policy has been developed to provide direction for how limited farming potential rural dwellings should be considered, and more broadly, rural settlement patterns. The policy was adopted on 7 May 2014 and seeks to articulate support for resilient and integrated rural communities and agricultural enterprises, recognising that ‘State Government Planning Policy Framework does not adequately recognise or support agriculture trends and rural settlements in the Moorabool Shire’.

This policy provides strategic direction for rural growth in Moorabool Shire specifically to:

- Encourage dwellings in the areas nominate in Map 1 of Council Rural Growth Policy Statement – GD007/01.
- Ensure the siting of any dwelling is designed to have minimal impact on any existing or future agricultural activities on the site and on surrounding land.
- Ensure it is clear whether the dwelling is required for agricultural operation use or to maintain rural communities.
- Ensure sufficient infrastructure is available or that alternative methods are available which do not required normal infrastructure.
- Encourage development of dwellings to support communities on land which is unlikely to support agricultural land while still considering any other overlays which may impact the land. This is land which is constrained for use as agriculture by other environmental factors such as vegetation, slope, soil quality, etc.
- Ensure any subdivision is undertaken in accordance with the scheme in order to discourage fragmentation of agricultural land. Subdivision in accordance with the scheme.
- Encourage development of dwellings to support communities on land which is unlikely to support agricultural land. Such as highly vegetation sites that are still able to meet the requirements of the BMO and fire safety under state policy 13.01.
• **This policy only relates to a single dwelling on a parcel of land. Should other dwellings be required the scheme provides opportunity for other forms of accommodation which can be considered providing they do not impact on the agricultural use of the land.**

The subject land is located in an area designated on Map 1 as a rural development area within the Ballarat rural corridor.

The proposed development of a dwelling achieves the minimum land area of 8 hectares under this policy and has a combined land area of 14.164 hectares.

The dwelling is linked to a Farm Management Plan (FMP) thereby supporting continued agricultural use of the land. It is not considered that the proposed dwelling would have an impact upon the continued use of surrounding land for agriculture.

**Particular Provisions**

There are no particular provisions affecting the subject land.

**Discussion**

The Moorabool Planning Scheme provides discretion for a permit to be granted to use and develop land for the purposes of a dwelling on a lot less than 40ha. Where a permit is required the decision guidelines of the Farming zone require that consideration be given to a range of matters before deciding on an application.

In relation to dwellings in the Farming Zone the decision guidelines require that the responsible authority consider whether a dwelling:

• will result in the loss or fragmentation of productive agricultural land;
• will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
• will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
• And the potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

In relation to agricultural issues in the Farming Zone the decision guidelines require that the responsible authority also consider:

• Whether the use or development will support and enhance agricultural production.
• Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
• The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
• The capacity of the site to sustain the agricultural use.
• The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
• Any integrated land management plan prepared for the site.

The following are considered to be the key issues, discussed in more detail below:

• Fragmentation of viable and productive agricultural land
• Viability of the submitted farm management plan.
Fragmentation of viable agricultural land

The use and development of a 14.164 site (two lots) for a dwelling is supported by a farm management plan including the production of prime lambs and Lucerne for hay.

The objectors have raised concerns that the proposal would fragment the use of agricultural land with a proliferation of life-style dwellings rather than protecting the use of the prime land for productive agriculture.

State and local planning policies aim to:

- Manage land use change and development in rural areas to promote agriculture and rural production. (Clause 11.05-3).
- Protect productive farmland which is of strategic significance in the local or regional context. (Clause 14.01-1).
- Maintain and enhance the natural environment and the Shire’s rural identity and character. (Clause 21.02-2).

State and local planning policies also include the following relevant strategies:

- Prevent inappropriately dispersed urban activities in rural areas. (Clause 11.05-3).
- Limit new housing development in rural areas, including:
  - Directing housing growth into existing settlements.
  - Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones. (Clause 11.05-3).
- Ensure that the State’s agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. (Clause 14.01-1).
- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity. (Clause 14.01-1).
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors. (Clause 14.01-1).
- In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals. (Clause 14.01-1).
- Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. (Clause 16.02-1).
- Demonstrate need and identify locations for rural residential development through a housing and settlement strategy. (Clause 16.02-1).
- Focus rural living development in areas close to urban centres with good access to services and facilities where there is minimal impact on productive agriculture and horticulture or areas with environmental values. (Clause 21.03-5).

The site is clearly productive for grazing, in terms of the climate, soil conditions and water supply, and forms part of a larger rural area in the west of the Shire and the Ballarat rural corridor. Development has taken place in this area slowly over several decades, and notwithstanding that some development has a ‘rural residential’ character, the site is clearly suited to primarily agricultural use, and this application must be assessed against current planning policy, as outlined above.
It is understood that there is land use pressure on the outskirts of Ballarat along the ‘rural corridor’ and in the area where the subject land is located. This leads to conflicting objectives where local policies aim to both protect productive agricultural land but also guide development provided it is appropriate and is supported by feasible and legitimate farm management plans that will ensure that the land is retained for agricultural uses.

It is considered that this application has provided a farm management plan that demonstrates that the use of the land for productive agriculture would be retained.

**Viability of the submitted farm management plan**

One objector raised issues with the farm management plan, including that a dwelling was not required to use the land for prime lamb production at such a small scale.

While this proposition may have some merit, the applicants are farmers and have provided a realistic farm plan that would see the land managed to its capacity through the production of prime lambs and Lucerne hay. The dwelling would be located on a small section of the land leaving the balance of the land available for agricultural use.

A farm plan does not have to achieve viability in terms of providing an living income for the farmer. However, a farm plan must demonstrate that the land will be managed appropriately to achieve optimum productivity and sustainability.

**Dwelling in a Farming Zone**

The dwelling is positioned on the north-side boundary of the site. This has limited the extent of the area covered by the dwelling and its associated effluent field, and the internal access way to allow most of the land to be unencumbered for agricultural use.

There will be a permit condition requiring consolidation of the two titles to prevent any lots been sold off and restricts further development of the land.

The applicant has stated that he and his wife have been farmers at a commercial scale for over 20 years. The information presented including the Farm Management Plan provides adequate evidence that a viable farming activity will be undertaken on the property in association with a dwelling. The proposal is considered to be consistent with the objectives of the Farming Zone. The proposal in its current form, covering 14.164 hectares, is appropriate for a one dwelling development that is associated with an agricultural activity.

**General Provisions**

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

- **The matters set out in Section 60 of the Act.**
- **The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.**
- **The purpose of the zone, overlay or other provision.**
- **Any matter required to be considered in the zone, overlay or other provision.**
- **The orderly planning of the area.**
- **The effect on the amenity of the area.**

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>
</tr>
</thead>
<tbody>
<tr>
<td>Central Highlands Water</td>
<td>No objection subject to five conditions</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>No objection subject to five conditions</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No objection subject to one condition.</td>
</tr>
</tbody>
</table>

Financial Implications

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

Risk and Occupational Health and Safety Issues

The recommendation for 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 submitter and the permit 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 use and development of a dwelling is inappropriate and inconsistent with the Farming Zone provisions which seek to retain productive agricultural land.

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

Conclusion

The proposed use and development for a dwelling and ancillary outbuilding in association with the use of the land for agriculture does satisfactorily address the decision guidelines of the Farming Zone and State and local planning policies. The application is also generally supported by the Moorabool Rural Growth Policy and the Moorabool Rural Housing Policy. The submitted Farm Management Plan demonstrates a legitimate farming activity can occur on the land and this will be linked to the subject land via a Section 173 agreement that will be registered on title. The objector concerns have not been fully resolved but would in some way be satisfied by a consolidation of titles ensure the land is managed as one title. It is considered that the proposed use and development of a dwelling and ancillary outbuilding in association with the use of the land for agriculture should be supported.
Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.

Recommendation

That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for Development and use of a dwelling and Farm Shed in association with the use of the land for agriculture on Lots 1 and 2 on TP746985B otherwise known as 286 Mahars Road, Bungaree with the following conditions.

Endorsed plans:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:

   a) The site plan to show both lots and the plan annotated that the lots will be consolidated into one new lot.

   Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

Operational:

2. Before the use and development commences, the titles consisting of Lots 1 and 2 on TP746985B must be consolidated in accordance with the Subdivision Act and registered with Land Victoria.

3. Before a certificate of occupancy is issued for the replacement dwelling the existing dwelling must be decommissioned by the removal of the kitchen including food preparation facilities, cooking facilities and kitchen sink, to the satisfaction of the responsible authority. Proof of the decommissioning works, by a suitably qualified person, must be provided to the responsible authority.

Dwelling Requirements:

4. Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.

5. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.

6. The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.

7. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.
Farm Management Plan:

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

9. Prior to the issue of a building permit, sufficient work must have occurred in accordance with the five (5) year plan of the Farm Management Plan to the satisfaction of the Responsible Authority.

10. Before the issue of a Building Permit the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority:

   a) The owner of the land must acknowledge that while the land remains zoned as Farming Zone or its equivalent successor the primary use of the land is for agricultural activities and the use of the dwelling must be in conjunction with an approved agricultural activity.

   b) Agricultural activities and environmental management identified in the endorsed Farm Management Plan must be undertaken on the land and must be in accordance with the Farm Management Plan endorsed under Condition 7 of the Planning Permit and cannot be varied without the written consent of the Responsible Authority.

   c) Before a Building Permit is issued for the dwelling, application must be made to the Register of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act and the owner must provide evidence of that registration of the Agreement to the Responsible Authority.

   d) The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.

Materials and Colors:

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

Infrastructure:

12. A standard rural vehicle crossing with culvert must be provided on Mahars Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.

13. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from onsite storage systems must be directed away from any waste water disposal areas.

14. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).

15. 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.

16. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.
Environment Health:

17. An onsite waste water management system with the capacity to treat effluent to a minimum of 20/30 (BOD/Suspended Solids) must be installed.

18. The land application area and all conditions must be in accordance to the Land Capability Assessment prepared by M, Norman, ref number KS100316 dated the 14th of March 2016 are to be strictly adhered to.

19. All setback distances must be adhered to as dictated by table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.3.

20. A shallow surface water cut off drain, or surface water diversion mound, should be provided on the high side of the disposal area to divert any surface water flows around the effluent fields.

Central Highlands Water:

21. The existing dwelling on the land shall be demolished by not later than 2018, as provided for within the Farm Management Plan submitted with the application.

22. The dwelling and effluent disposal system shall be located strictly in accordance with the Land Capability Assessment KS100316 dated 14th March 2016 prepared by Ballarat Soil Testing.

23. The owner shall install a wastewater management system that provides a secondary level of treatment of wastewater, in accordance with the recommendations in section 5 of Land Capability Assessment KS100316 dated 14th March 2016 prepared by Ballarat Soil Testing.

24. Prior to a Building Permit being issued for a dwelling the owner shall enter into an agreement with Central Highlands Region Water Corporation (CHW) and the responsible authority under Sections 173 and 174 of the Planning and Environment Act 1987, requiring that:

   a) The owner shall have any wastewater treatment facility and effluent disposal system for the dwelling inspected annually by a qualified environmental health officer (“the EHO”) and shall provide annually to both the Shire and to CHW a written report from the EHO on the condition of the wastewater treatment and effluent disposal system.

   b) The Owner shall have the wastewater treatment facility desludged at least once every 3 years or as otherwise determined by the EHO and evidence of this desludging shall be provided in the EHO report referred to in Clause (a) herein.

   c) The Owner shall carry out any works considered necessary by the EHO to ensure the satisfactory operation of the wastewater treatment facility and effluent disposal system.

   d) The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.

   e) The Owner and the Shire agree to do all things necessary to register a memorandum of this Agreement on the title of the land pursuant to Section 181 of the Planning and Environment Act 1987.

   f) The Owner shall meet all costs of inspections, reports and works referred to in Clauses (a), (b), (c) and (d) herein and all costs of the Shire in relation to stamping and registration of this Agreement.
g) The Owner shall not sell or enter into any contract to sell the land until this Agreement has been registered pursuant to Clause (e) herein.

25. The landowners shall meet all the costs of preparing and recording this agreement.

Permit Expiry:

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

a) The development and the use are not started within two years of the date of this permit;

b) The development is not completed within four years of the date of this permit.

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.

Permit Note:

A permit to install an onsite wastewater management system must be submitted to Environmental Health.

Report Authorisation

Authorised by: Satwinder Sandhu
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 14 September 2016
### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2015 283</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>2 December, 2015.</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Mark Lovell.</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>Lot 8 on LP215631F, Myrtle Grove, Ballan.</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Two lot subdivision (as amended).</td>
</tr>
<tr>
<td>Lot size:</td>
<td>4000m².</td>
</tr>
<tr>
<td>Why is a permit required</td>
<td>Clause 32.08-2 — General Residential Zone Schedule 1 – Subdivision of land.</td>
</tr>
<tr>
<td></td>
<td>Clause 42.01-2 — Environmental Significant Overlay – Subdivide land.</td>
</tr>
</tbody>
</table>

### Public Consultation:

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
<th>Yes.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notices on site:</td>
<td>Yes.</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>No.</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>Two objections</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>None held. Concerns expressed by the objectors were similar Council’s initial concerns which resulted in the application been amended to a two lot subdivision.</td>
</tr>
</tbody>
</table>

### Policy Implications:

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Enhanced Natural and Built Environment.</th>
</tr>
</thead>
<tbody>
<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>
**Victorian Charter of Human Rights and Responsibilities Act 2006**

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

**Officer’s Declaration of Conflict of Interests**

Under section 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 – Mark Lovell*

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

**Executive Summary:**

<table>
<thead>
<tr>
<th><strong>Application Referred?</strong></th>
<th>Yes, to Central Highlands Water, Western Water, Melbourne Water, Powercor Australia, Downer Utilities and Council’s Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Any issues raised in referral responses?</strong></td>
<td>No.</td>
</tr>
<tr>
<td><strong>Preliminary Concerns?</strong></td>
<td>Yes, concerned about the shape and dimensions of Lot 3 to cater for future medium density housing.</td>
</tr>
</tbody>
</table>
| **Any discussions with applicant regarding concerns** | The applicant submitted two additional plans showing an indicative two 3 bedroom dwellings or three 2 bedroom dwellings within Lot 3.  
The applicant also submitted a proposed alternative four lot subdivision plan which was also considered unacceptable. The applicant has revised plans by reducing the number of lots from four to two. |
| **Any changes made to the application since being lodged?** | The applicant has lodged an application in process reducing the number of lots from four to two to enable the proposal to now be consistent with the subdivision pattern of the surrounding area. |
| **VCAT history?**                                      | No.                                                                                                                                 |
| **Previous applications for the site?**                | No planning history associated with the site.                                                               |
| **General summary (Pro’s/Con’s of the proposal)**      | The revised plans showing two lots is now acceptable. The lots sizes are generous and have sufficiently wide frontages to allow for ample land for a future dwelling in each lot. |
Overall, the proposed subdivision based on the latest set of plans is acceptable and represents an appropriate lot arrangement that will not affect the amenity of the surrounding area.

### Summary Recommendation:

That, having considered all relevant matters as required by Section 60 of the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for a two lot subdivision at Lot 8 on PS215631F, Myrtle Grove, Ballan.

### Background

The application was initially submitted and advertised as a four lot subdivision.

Council officers expressed concerns with the lot arrangement and inconsistencies with reference to the minimum lot sizes under the Ballan Structure Plan. This subdivision was altered on a couple of occasions with alternative four lot arrangements which were still deemed unacceptable by Council officers. The applicant then substantially revised the plans to a two lot arrangement. The current plans were not re-advertised as there would be less detriment to adjoining owners and occupiers.

### Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large on each street frontage for period of fourteen days. A statutory declaration verifying display of the large notice was received on 2 March, 2016.

### Summary of Objections

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Out of character with the surrounding neighbourhood</td>
<td>Requirement under ResCode (Clause 56)</td>
</tr>
<tr>
<td>Officer’s response – The revised plans showing two lots now matches the existing and preferred neighbourhood character of large lot sizes.</td>
<td></td>
</tr>
<tr>
<td>The density of the lots does not meet the objectives of the Ballan Structure Plan with a recommended density of 2000m2</td>
<td>Requirement under ResCode (Clause 56).</td>
</tr>
<tr>
<td>Officer’s response – The revised plans are now consistent with the Ballan Structure Plan.</td>
<td></td>
</tr>
<tr>
<td>Proposal does not account for higher traffic usage.</td>
<td>Clause 52.06.</td>
</tr>
<tr>
<td>Officer’s response – Any development for a single or dual occupancy dwelling on the lots would need to comply with the minimum requirements of Clause 52.06 which is one space for a 2 bedroom dwelling and two spaces to a 3 bedrooms dwelling. All access would be via Myrtle Grove and does not allow for any on street parking due to the condition and width of the gravel roadway. The reduced number of lots will reduce the potential traffic demand.</td>
<td></td>
</tr>
<tr>
<td>Proposal has not considered the block gradient</td>
<td>Environmental Significance Overlay</td>
</tr>
</tbody>
</table>
**Officer’s response** – The site slopes by over five metres from the north-eastern corner up to the south-western corner. This will require a future dwelling to match the topography or undertake some cutting and filling. Any site cutting greater than 1 metre in depth will require planning approval and referral to the relevant catchment authority under the Environment Significance Overlay.

Concerned about access to Bank Street from Lot 8

**Officer’s response** – No access is proposed from Bank Street which is not a constructed roadway in this section.

**Proposal**

It is proposed to subdivide the land into two lots all accessed via Myrtle Grove.

Lot 1 has a 25 metres wide frontage to Myrtle Grove in a rectangular lot arrangement with a maximum length of 70.71 metres adjacent to the eastern side boundary for a total lot area of 2000m². Lot 2 has a 25 metres wide frontage to Myrtle Grove in a rectangular lot arrangement with a maximum length of 89.62 metres adjacent to the eastern property boundary for a total lot area of 2000m².

**Site Description**

The site identified as Lot 8 on LP215631F known as Myrtle Grove, Ballan. The site is located on the southern side of Myrtle Grove. The site has a second street frontage to Bank Street which is vacant sloping land with no roadway. The constructed part of the Bank Street roadway terminates in a court bowl adjacent to 35 Bank Street. Myrtle Street in this section contains a centrally positioned gravel track.

The site is comprised of an irregular square shaped lot at 4000m² in area and is not affected by any easements. The site has a significant slope and according to the survey plan slopes from RL491.08 in the north-east corner up to RL497.03 in the south-west corner, a difference of 5.95 metres. The site is vacant land without any trees or vegetation.

The immediate surrounding area is comprised of older styled single storey dwellings on large lots giving the area an open feel. Further to the east is a new residential subdivision with moderate sized lots accessed from a new roadway called Morely Grove. Myrtle Grove Road, west of Ballan-Greendale Road contains recently built single storey dwellings on moderate sized lots.

The site and surrounding area is zoned General Residential Zone Schedule 1 with the Western Freeway located to the north. The Ballan township is located further to the south offering a range of commercial and retail uses.
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:

- Clause 11.02-1 Supply of urban land
- Clause 11.05-1 Melbourne’s hinterland areas
- Clause 11.06 Central Highlands regional growth
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 15.01-5 Cultural identity and neighbourhood character
- Clause 16.01-1 Integrated housing
- Clause 16.01-2 Location of residential development
- Clause 21.03-2 Urban Growth Management
- Clause 21.03-3 Residential Development

The proposal complies with the relevant sections of the SPPF and LPPF, with the exception of the clauses outlined in the table below:

<table>
<thead>
<tr>
<th>SPPF</th>
<th>Title</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 15.01-3</td>
<td>Neighbourhood and Subdivision Design</td>
<td>The objective of this clause is to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. The revised plans now achieve compliance with this clause.</td>
</tr>
</tbody>
</table>

Zone

The subject site is in the General Residential Zone, Schedule 1 (GRZ1).

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.

Overlays

Environmental Significance Overlay Schedule 1 (ES01).

The subject site is in the Environmental Significance Overlay Schedule 1 and the provisions of Clause 42.01 apply.
The purpose of the overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Under Part 2 of Schedule 1 of the overlay has the following environmental objectives to be achieved.

- To protect the quality and quantity of water produced within proclaimed water catchments.
- To provide for appropriate development of land within proclaimed water catchments.

Under Clause 42.01-2 a planning permit is required to subdivide land.

**Relevant Policies**

Council adopted the Ballan Structure Plan on 17 December 2015 and authorised Council officers to prepare a planning scheme amendment, C72 to implement the Structure Plan.

The subject site and surrounding land are identified in the plan as located in a Neighbourhood Residential area requiring a minimum 1500m² lot size. In its current form, the proposal accords with the Structure Plan with each lot at 2000m² in area.

**Particular Provisions**

**Clause 52.01 Public Open Space Contribution and Subdivision**

A two lot subdivision which is unlikely to be further subdivided is exempt from the requirements of public open space contribution in accordance with Section 18 of the Subdivision Act.

**Clause 56 (Rescode)**

The proposal complies with ResCode (Clause 56), with the exception of the following:

<table>
<thead>
<tr>
<th>Clause Rescode</th>
<th>Title</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>56.03-5</td>
<td>Neighbourhood Character</td>
<td>The revised plans now accord with the existing and preferred neighbourhood that is characterised by large lot widths.</td>
</tr>
</tbody>
</table>

**Discussion**

The site is located within a General Residential Schedule 1 and can access a diverse range of commercial and recreation services provided in the Ballan Township. The site also has convenient access to the Western Freeway.

Servicing authorities have been notified of the application and have not expressed any concerns with providing infrastructure to the proposed individual lots.
The Ballan Structure Plan correctly acknowledged the existing pattern of large lots leading to well spaced dwellings and has recommended a minimum lot size of 1500m² in this area. Using this minimum figure, the site would allow for two lots. The applicant has revised plans to achieve compliance with the Structure Plan by reducing the number of proposed lots to two. The lot arrangement now reflects and responds to the established and prevailing subdivision pattern of the area.

The proposed two lot subdivision has now considered the existing prevailing character of large lots and the proposal would create minimal off site impacts with large street frontages able to accommodate a single vehicle crossing per lot.

The proposed subdivision seeks to introduce two rectangular shaped lots that is an acceptable subdivision arrangement in an area expected to continue to experience increased population growth and development.

**General Provisions**

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

- The suitability of the land for subdivision;
- The existing use and possible future development of the land and nearby land;
- The availability of subdivided land in the locality, and the need for the creation of further lots; the effect of development on the use or development of other land which has a common means of drainage; the subdivision pattern having regard to the physical characteristics of the land including existing vegetation;
- The density of the proposed development;
- The area and dimensions of each lot in the subdivision;
- The layout of roads having regard to their function and relationship to existing roads;
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots;
- The provision and location of reserves for public open space and other community facilities;
- The staging of the subdivision;
- The design and siting of buildings having regard to safety and the risk of spread of fire
- The provision of off-street parking;
- The provision and location of common property; the functions of any body corporate; the availability and provision of utility services, including water, sewerage, drainage, electricity and gas;
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot;
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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>
</tr>
</thead>
<tbody>
<tr>
<td>Western Water</td>
<td>Consent, no conditions</td>
</tr>
<tr>
<td>Central Highland Water</td>
<td>Consent subject to six conditions</td>
</tr>
<tr>
<td>Southern Rural Water</td>
<td>Consent subject to three conditions</td>
</tr>
<tr>
<td>Melbourne Water</td>
<td>Consent subject to three conditions</td>
</tr>
<tr>
<td>Powercor</td>
<td>Consent subject to two conditions</td>
</tr>
<tr>
<td>Downer Utilities</td>
<td>Consent subject to one condition</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Consent subject to six conditions</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 subdivision 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 it does not comply with the planning scheme provisions and does not match the subdivision pattern of the surrounding area.

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

Conclusion

The proposed subdivision complies fully with the State and Local Planning Policy Framework, the General Residential Zone Schedule 1, and the Environmental Significance Overlay Schedule 1.

The lot size and proportions of the proposed subdivision match the prevailing subdivision pattern of the area. The lot arrangement will not restrict future development opportunities and will create a consistent streetscape pattern. The proposed two lot subdivision should not be supported.

Caretaker Statement

The recommended decision is not a “Major Policy Decision”, as defined in Section 93A of the Local Government Act 1989.
Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to grant a permit for application 2015 283 for a two lot subdivision at Lot 8 on LP215631F, known as Myrtle Grove, Ballan, with 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.

Subdivision

2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Telecommunication conditions

3. 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 provide by optical fibre.

4. 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.

Infrastructure conditions

5. Prior to the issue of a Statement of Compliance for the subdivision, each lot must be provided with a standard residential vehicle crossing on Myrtle Grove Road to the satisfaction of the Responsible Authority.

6. The subdivision must be provided with drainage system to a design approved by the Responsible Authority and must ensure that:
   i. The subdivision as a whole must be self-draining.
   ii. All drainage courses within the subdivision must pass through easements or reserves shown on the plan of subdivision.
iii. 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.

II. 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.

7. 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.

8. Before development starts the proponent must enter into an Agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 to provide an on-site stormwater detention system for each dwelling in a lot. Application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred.

9. The owner under this permit must arrange for the preparation of the 173 agreement at his/her cost before submitting it to the Responsible Authority for approval.

10. The owner under this permit must pay the costs of execution and registration of the section 173 agreement.

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

12. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully instated at no cost to and to the satisfaction of the Responsible Authority.

Central Highlands Water

13. 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.

14. 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.

15. 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.

16. 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.

17. The owner will provide easements to the satisfaction of Central Highlands Region Water Corporation for pipeline or ancillary purposes through other land in the vicinity, as it is considered by the Authority that such easements are required for the economical and efficient subdivision or servicing of or access to land covered by the subdivision.
18. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

Melbourne Water conditions

19. Prior to the issue of a Statement of Compliance, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water’s drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

20. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains or waterways.

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

Southern Rural Water conditions

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

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

24. The plan of subdivision submitted for certification must be referred to Southern Rural Water in accordance with Section 8 Subdivision Act 1988.

Powercor conditions

25. 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.

26. 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 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.

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

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

j) 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.

k) 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.

Downer Utilities condition

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

Permit Expiry

28. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.

29. 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.

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

Melbourne Water footnote:

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 268971.

Report Authorisation

Authorised by:
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 6 October 2016