AGENDA
SECTION 86 DEVELOPMENT ASSESSMENT
COMMITTEE MEETING

Wednesday, 23 November 2016
Council Chambers,
15 Stead Street, Ballan
4.00pm

MEMBERS
Cr. Tonia Dudzik
Councillor – East Moorabool Ward
Cr. John Keogh
Councillor – East Moorabool Ward
Cr. Paul Tatchell
Councillor – Central Moorabool Ward
Cr. Pat Toohey
Councillor – Woodlands 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

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<td>Appointment of Chair</td>
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<td>3.1</td>
<td>Confirmation of previous minutes 12 October 2016.</td>
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<td>Resolution</td>
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<td>Development of a Shed Ancillary to an Existing Dwelling.</td>
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<td>5.2</td>
<td>Planning Permit 2016 098 – Development of a shed ancillary to the use of the land for crop raising – 28 Stanley Street, Gordon – Crown Allotment 12, Section 24, Parish of Kerrit Bareet.</td>
<td>V. Mack</td>
<td>Page 24</td>
<td>Resolution</td>
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5.3 Planning Permit 2015 283 - Two lot subdivision at Myrtle Grove, Ballan.

Planning Permit PA 2015108 - Staged Subdivision (9 lots), Development of Five (5) Retail Shops and

5.4 Four (4) Dwellings, a Reduction of Eleven (11) Car Spaces and removal of vegetation – 22 Fisken Street Ballan, Lot 1 on TP015046E.

Planning Permit PA2015 228 - Development of three (3) dwellings and three (3) lot subdivision on Lot 1 on PS025453, 23 Stead Street, Ballan VIC 3342.

5.5

S. Sandhu

6. Update of VCAT Decisions

Chair

Discussion

Resolution

7. Date of Next Meeting

Chair

Noting

7.1 Date, time and venue for January 2017 to be confirmed.

8. Meeting Close

Chair

Noting
## Item 5.1 Planning Permit Application PA2015 005

Amendment to Planning Permit PA2015 005 – Development of a Shed Ancillary to an Existing Dwelling.

<table>
<thead>
<tr>
<th>Application Summary:</th>
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<tbody>
<tr>
<td>Permit No:</td>
</tr>
<tr>
<td>Lodgement Date:</td>
</tr>
<tr>
<td>Planning Officer:</td>
</tr>
<tr>
<td>Address of the land:</td>
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<tr>
<td>Proposal:</td>
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<tr>
<td>Lot size:</td>
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<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 42.03-2 – Significant Landscape Overlay – Buildings and works</td>
</tr>
</tbody>
</table>

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

<table>
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<tr>
<th>Policy Implications:</th>
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<tbody>
<tr>
<td>Key Result Area</td>
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<tr>
<td>Objective</td>
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<tr>
<td>Strategy</td>
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</tbody>
</table>
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 – Satwinder Sandhu*

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

*Author – Robert Fillisch*

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

**Executive Summary:**

<table>
<thead>
<tr>
<th>Application Referred?</th>
<th>No, the amendment was not required to be referred.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>See ‘Background’ below</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>
</tbody>
</table>
| Previous applications for the site? | PA2003-043 for Development of a Shed and Pergola was issued by Council on 23 April 2003. The shed constructed (Shed E on the plans) was not done in accordance with the endorsed plans.

PA2009-200 for Development of an Outbuilding to be used in Association with the Existing Dwelling was issued by Council on 2 November 2009. The shed was constructed but includes a verandah which was not approved (Shed B on the plans).

PA2011-035 for Development of an Outbuilding Ancillary to an Existing Dwelling was issued by Council on 3 May 2011. Amended plans were subsequently approved by Council on 2 September 2011. It is understood that the constructed shed (Shed C on the plans) complies with the permit and endorsed plans. |
PA2015-005 for Development of a Shed Ancillary to an Existing Dwelling was issued by Council on 22 January 2015. The shed constructed (Shed F on the plans) was not done in accordance with the endorsed plans.

| General summary | The application seeks to amend a current permit to obtain retrospective approval for five outbuildings ancillary to a dwelling. The outbuildings are located in the front, side and rear setbacks and vary in size and appearance, being constructed of either Colorbond or timber, with pitched Colorbond roofs. An objection to the application relates generally to the siting and appearance of the outbuildings, loss of views and amenity, neighbourhood character, vehicle crossovers, earthworks and objects in the front setback. Overall, the outbuildings are generally considered to be acceptably sited and designed. It is therefore recommended that the application be approved, subject to conditions. |
| 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 an Amendment to Planning Permit PA2015-005 in accordance with Section 61 of the Planning and Environment Act 1987, subject to conditions detailed at the end of this report. |

**Background**

The current application has arisen as a result of enforcement action taken by Council against the landowner for outbuildings constructed on the land without the required planning or building approvals. Complaints from the objector have also been previously received regarding construction and earthworks. Retrospective planning approval is sought in order for the existing buildings to remain as constructed. While retrospective building approval cannot be issued the applicant can gain appropriate documentation which confirms the construction of the buildings does comply with current building regulations.

**Public Notice**

Notice of the application to amend was given to adjoining and nearby landowners by mail on 25 April 2016. 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>Notice of previous applications was not received and thus there was no opportunity to object to the existing structures.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>Officers’ assessment of each permit application determined that notice of the application was not deemed necessary because it was not considered that the proposed development would cause material detriment to any person. Regardless of this adjoining landowners have now been given opportunity to comment.</td>
<td></td>
</tr>
<tr>
<td>Shed A, as per the plans, is located outside the building envelope, near the road reserve, and shelters old farm machinery and equipment which is visually offensive and inappropriate to the area.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>There is no building envelope registered as a restriction on the plan of subdivision attached to the title. It is understood this is something that was anticipated to be included at the point of sale but was not enacted. The siting and appearance of the shed is discussed below.</td>
<td></td>
</tr>
<tr>
<td>Shed F, as per the plans, was built before PA2015-005 was issued and was extended in March 2015 and was not constructed in accordance with the planning permit, and is closer to the front and side boundaries than was approved.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>The current amendment application seeks retrospective approval for the current siting of this shed. The siting of the shed is discussed below.</td>
<td></td>
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<tr>
<td>The extension to Shed F is not visually sympathetic to homes in the area and built on fill. The east-facing wall is clad with corrugated iron, the crossover is positioned on a tight inner kerb of the court bowl.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>The appearance of the shed is discussed below.</td>
<td></td>
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<tr>
<td>Shed E, as per the plans, is elevated on hundreds of cubic metres of fill from offsite, obscures views and elevated so that even a 2.95m high boundary fence does not limit its overlooking of our yard. The shed has also devalued our property.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>The siting and appearance of Shed E is discussed below. VCAT has consistently determined that devaluation of property is generally not a valid consideration in assessing planning applications.</td>
<td></td>
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<tr>
<td>Shed D, as per the plans, is built outside the building envelope and on fill, necessitating high screen fencing.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>There is no building envelope registered as a restriction on the plan of subdivision attached to the title. The siting and appearance of the shed is discussed below.</td>
<td></td>
</tr>
<tr>
<td>Shed B, as per the plans, has a planning permit but no building permit, and the later addition of a lean to was not approved.</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Officer’s response -</strong></td>
<td></td>
</tr>
<tr>
<td>The current application seeks retrospective approval for the current siting of this shed. The siting of the shed is discussed below.</td>
<td></td>
</tr>
<tr>
<td>There are three vehicle entries to the site from McKenzie Court.</td>
<td>NA</td>
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<tr>
<td>Officer’s response -</td>
<td></td>
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<tr>
<td>The construction of vehicle crossovers to McKenzie Court do not require a planning permit, however separate approval is required from Council.</td>
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<thead>
<tr>
<th>Officer’s response -</th>
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<tbody>
<tr>
<td>Significant ground and construction works since 2003 have severely impacted our lifestyle and prompted construction of fencing for privacy and as a buffer against significant machinery noise.</td>
<td>NA</td>
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<table>
<thead>
<tr>
<th>Officer’s response -</th>
<th></th>
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<tbody>
<tr>
<td>Works associated with the outbuildings are addressed below.</td>
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<thead>
<tr>
<th>Officer’s response -</th>
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<tbody>
<tr>
<td>The numerous sheds and old farm machinery are visually inappropriate in the streetscape. Original planning requirements for the subdivision state only approved materials are to be used for building construction.</td>
<td>NA</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Officer’s response -</th>
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<tbody>
<tr>
<td>The existence or appearance of the farm machinery is not a planning consideration, given they are not buildings or works. There are no restrictions registered on title which restrict building materials. The only particular restriction on construction materials is through the Moorabool Planning Scheme, specifically the Design and Development Overlay, Schedule 2, under which a permit is required to use reflective building cladding. The use of zincalume cladding would require a permit however other building materials have been used. The appearance of the buildings is discussed below.</td>
<td></td>
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<table>
<thead>
<tr>
<th>Officer’s response -</th>
<th></th>
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<tbody>
<tr>
<td>The owner has blatant disregard for permit requirements.</td>
<td>NA</td>
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</tbody>
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<tr>
<th>Officer’s response -</th>
<th></th>
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<tbody>
<tr>
<td>The current application is part of enforcement action being taken by Council against the applicant to achieve compliance with planning permit requirements. Retrospective approval of buildings is objected to, they should be removed, the natural site contours recreated and the old farm machinery removed.</td>
<td>Clause 56.06-8</td>
</tr>
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<tr>
<th>Officer’s response -</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>The existence or appearance of the farm machinery is not a planning consideration, given they are not buildings or works. An assessment of the outbuildings is provided below.</td>
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</table>

Proposal

It is proposed to amend planning permit PA2015-005 to change the endorsed plans and what the permit allows. The amendment seeks retrospective approval for the construction of several outbuildings for which no planning permission was sought. As described above, previous planning permits have been approved by Council, however in all except one instance the constructed buildings do not match what was approved to be built. This amendment also seeks approval for these buildings. The buildings for which approval is sought are as follows:

- **Shed A** – 12.0m long x 5.25m wide (63.0sq m) is an open sided building with a high pitched corrugated iron roof with timber clad gable ends and includes a low pitched skillion roof section. The shed has post heights of 2.5m and a maximum height of 4.5m and houses a vintage wagon. The shed is set at an angle to the front title boundary, with a front setback of between 6.15m and 13.0m.
- **Shed B** – 10.0m long x 7.4m wide (74.0sq m) is a cottage style building comprising a single room of 35.5sq m and a verandah at both ends. This building, not including the verandahs, was approved under planning permit PA2009-200. The shed has a 30 degree pitched Colorbond roof with weatherboard gable ends. The verandahs have low pitched skillion roofs supported by Red Gum posts. The shed is constructed of timber sleeper offcuts and has a brick chimney on one side. The shed has a maximum height of 4.14m and is set back a minimum 3.0m to the east of Shed A approximately 18m from the front title boundary.
• Shed D – 8.8m long x 6.35m wide (55.88sq m) clad with Colorbond with a low pitched roof. The shed has a wall height of 2.7m and maximum height of 3.56m. The shed has two roller doors for vehicle access on its north side. The shed is in the east side setback of the dwelling and set back from the east title boundary by 10.34m-11.1m and is constructed on fill.

• Shed E – 12.1m long x 9.8m wide (118.58sq m) clad with Colorbond with a low pitched roof. The shed comprises an enclosed area of 93.6sq m and a 24sq m verandah on its west side. The shed is accessed from its west side by two roller doors and a pedestrian door. The shed is sited southeast of the dwelling and set back from the east title boundary by 13.2m-14.3m and is constructed on fill. It appears that Shed E was constructed following the grant of PA2003-043, but not in accordance with the endorsed plans which allowed a smaller shed set back further from the east title boundary.

• Shed F – two sections, one is 9.0m long x 7.22m wide (65sq m) with a varied roof form incorporating a pitched gabled section and two skillion sections and a single door access. The other section of the shed is 9.52m long x 4.13m wide (39.3sq m) and partially attached to the northeast side of the first section. This section is accessed by double doors leading to a driveway and separate crossover to McKenzie Court. This portion has a hipped gable roof. The shed is sited near the front northeast corner of the site, and set back a minimum 5.75m from the nearest side boundary and 12.9m from the front boundary. The shed is constructed at least partly on fill. It appears that the 65sq m section was constructed following the grant of PA2015005, issued on 22 January 2015, but not in accordance with the endorsed plans which allowed a slightly smaller shed oriented on a generally north-south axis and set back more than 20m from the front boundary and 10m from the nearest side boundary. The 39.3sq m section was not approved as part of PA2015005.

The plans are shown in Attachment 1.

Site Description

The site is identified as Lot 3 on PS 306123E and known as 10 McKenzie Court, Merrimu. The site is on the south side of the street, roughly rectangular in shape and has an area of 1.24ha. The site contains a single storey brick dwelling, swimming pool and several ancillary outbuildings mostly clustered in the front half of the site, and established native trees, particularly towards the rear of the site. The site falls generally from north to south, with the rear of the site experiencing substantial fall to the southeast.

The site and surrounding land is in the Farming Zone, however land in McKenzie Court and in Wells Road to the west is mostly developed with single dwellings on lots more characteristic of rural residential development than farming type development. Further to the south and east however are properties developed primarily for agricultural use.
Locality Map

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

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

The relevant clauses are:

- 11.05-1 Melbourne’s hinterland areas.
- 11.06 Central Highlands regional growth.
- 12.04-2 Landscapes.
- 15.01-5 Cultural identity and Neighbourhood character.
- 21.03-4 Landscape and Neighbourhood Character.

Overall, the development generally complies with the relevant policy provisions above.

Zone

The subject site is in the Farming Zone.

The purpose of the Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for 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.

Under Clause 35.07-4 a permit is required to construct buildings and works associated with a dwelling on a lot of less than 40ha. Under the schedule to Clause 35.07 a permit is also required for development within certain setbacks of roads, title boundaries, dwellings in separate ownership and waterways, and for earthworks which change the rate of flow or the discharge point of water across a property boundary.

Overall, the proposal is generally consistent with the Farming Zone provisions.

Overlays

The site is affected by Design and Development Overlay Schedule 2, and Significant Landscape Overlay Schedule 1.

Under the Design and Development Overlay a permit is required to construct buildings and works, however under the schedule there is an exemption where non-reflective exterior cladding is proposed. As no reflective cladding has been used a permit is not required under this Overlay.

Under the Significant Landscape Overlay a permit is required to construct buildings and works and to remove, destroy or lop vegetation. The schedule does not apply any exemptions therefore a permit is required under this Overlay.
The proposal generally complies with the Significant Landscape Overlay provisions, discussed below.

Relevant Policies

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

The policy states that:

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

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

Particular Provisions

None applicable.

Discussion

The current application seeks retrospective approval for several outbuildings, and has been considered against relevant State and local planning policy, the Farming Zone, Significant Landscape Overlay and decision guidelines at Clause 65 of the Moorabool Planning Scheme.

Overall, the outbuildings are considered to generally satisfy the relevant planning provisions, particularly having regard for the Farming Zone and Significant Landscape Overlay provisions, and State and local planning policy for neighbourhood character.

The key aspects of the proposal for discussion are considered to be:

- Do the outbuildings respond appropriately to the objectives and decision guidelines of the Significant Landscape Overlay, including Schedule 1 to the overlay?
- Are the outbuildings an acceptable response to the neighbourhood character and amenity of the area?
**Significant Landscape Overlay**

The purpose of the Significant Landscape 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 required to construct buildings and works.

Schedule 1 to the Overlay relates to the scenic hilltops and ridge lines around Bacchus Marsh described as follows: *The hilltops and ridge lines encircling the township of Bacchus Marsh provide significant scenic views and are a significant contributor to the valued rural town ambience.*

The objectives of Schedule 1 are:

- To protect the natural scenic qualities of the hilltops and ridge line areas.
- To minimise the visual impact of development.

In addition to the decision guidelines under the Significant Landscape Overlay, Schedule 1 includes the following:

- Before the responsible authority considers an application to construct a building or to construct or carry out works, it must consider the impact of a proposal on visual amenity, both from adjoining properties and from the township of Bacchus Marsh.

The subject site and surrounding lots are in an elevated location with views of the township and surrounds to the west and south.

Sheds A, B and F in the front setback generally accord with the provisions of this overlay. These buildings, whilst readily visible within the streetscape, and partly visible from adjoining properties, do not obstruct significant views nor are they visible from a distance, being visible only within McKenzie Court. Shed F is partly visible from the objector’s property but is not considered to obstruct any significant views. This is notwithstanding that Shed F has been constructed at least partly on fill which increases its prominence from the objector’s property. The location of Shed D is considered acceptable, as whilst being partly visible from the objector’s property it does not obstruct any significant views and is not visible from a distance.

Shed E is readily visible from the objector’s land, notwithstanding that from some vantage points it is partly obscured by vegetation. The shed appears to obscure more westerly views however more southerly view lines remain unimpeded. Shed E is also not visible from any significant distance. Overall, Shed E’s location is considered to be generally acceptable having regard for the overlay provisions.

**Neighbourhood Character and Amenity**

The subject site and surrounding land in McKenzie Court forms part of a rural residential subdivision developed in the early 1990’s. Although the land is in the Farming Zone the lot sizes and pattern of development is considered to be atypical of Farming zoned land, having no nexus with agriculture, instead having a distinctly residential character. Native vegetation makes a strong contribution to the area, as does the elevated location and views of the surrounding landscape as previously discussed.
Dwellings are typically single storey with spacious setbacks and ancillary outbuildings usually present but not prominent in the streetscape.

The development of outbuildings on the subject site is unusual for the area, particularly in the front setback, where a cluster of outbuildings A, B, C and F are a prominent feature in the streetscape. Shed C is not considered under this application, having been constructed in accordance with a previous permit. Sheds A, B and F are generally considered to be acceptable having regard for neighbourhood character, for the following reasons:

- The sheds are of a generally consistent form, scale and appearance to each other, including materials, finishes, colours and articulation.
- The sheds' roof forms, pitch, materials and colours generally match Shed C and the dwelling on the site.
- Whilst the sheds are clustered in one part of the site their setbacks from each other, and the open-sided construction of Shed A and part of Shed B, minimise visual bulk to an acceptable degree.

Sheds B and F, and D and E further towards the rear of the site, are partly visible from the objector’s property, notwithstanding that they have constructed a 2.95m high fence to limit views of these structures. The limited visibility of Shed B is considered to be acceptable, and Shed D’s visibility is mitigated to some extent by its siting relative to an existing outbuilding on the objector’s land and its limited visibility from the objector’s dwelling. Shed E is more readily visible, as previously discussed, to the extent that it is considered appropriate that a condition of approval require suitable landscaping to substantially limit its visibility from the objector’s land. Shed F, in particular the rear section shown on the plans as ‘Extension to Shed F’, is also readily visible from the objector’s land. However, the extent of its visibility is not considered to have a detrimental impact on the character of the area or on the amenity of the objector.

**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 application to amend the permit and endorsed plans was not required to be referred to any authority.

**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. The objector 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 none of the outbuildings for which approval is sought respond appropriately to the neighbourhood character or amenity of the area.

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

**Conclusion**

The application seeks to amend a current permit to obtain retrospective approval for five outbuildings ancillary to a dwelling. The outbuildings are located in the front, side and rear setbacks and vary in size and appearance, being constructed of either Colorbond or timber, with pitched Colorbond roofs.

Subject to conditions, the outbuildings are considered to be generally in accordance with the Moorabool Planning Scheme having regard for the relevant provisions, in particular the Farming Zone and Significant Landscape Overlay.

**Recommendation**

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant an Amendment to Planning Permit PA2015-005 for the Development of Outbuildings Ancillary to an Existing Dwelling at Lot 3 on PS 306123E, 10 McKenzie Court Merrimu, 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 copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

   a) A landscape plan in accordance with Condition no. 3.

   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.
Materials and Colour

2. All external walls and roof areas of the building are to be clad with non-reflective materials to the satisfaction of the responsible authority.

Landscape Plans

3. Within two (2) months of approval of the amendment, 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 plan must show:
   a) Screening vegetation to substantially limit visibility of Shed E from the adjoining land at 23 McKenzie Court;
   b) buildings and trees on 23 McKenzie Court within three metres of the boundary;
   c) details of surface finishes of pathways and driveways around Shed E; and
   d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

All species selected must be to the satisfaction of the responsible authority.

4. Within two (2) months of endorsement of the landscape plan 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.

5. 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.

Environmental Health:

6. The existing effluent disposal areas must be kept free from stock, buildings, driveways and service trenching.

7. The permitted buildings must not be used for any habitable purpose and must not be used for any commercial or industrial purpose, except in accordance with the Moorabool Planning Scheme.

Infrastructure

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

9. 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).
10. 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.

11. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the responsible authority.

Expiry condition

12. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two (2) years of the date of this permit; and
   b) The development is not completed within four (4) 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

Unless no permit is required under the Moorabool Planning Scheme, vegetation must not be removed, destroyed or lopped without planning approval.

Report Authorisation:

Authorised by: 
Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: 19 October 2016
IMPORTANT NOTE:

For Extension to Shed "F" Existing Shed "A", "D" & "E" have a planning permit. All other buildings have a Town Planning application for existing Shed "A", "D", & "E".
EXISTING SHED "A" PLAN

EXISTING SHED "A" SOUTH ELEVATION

EXISTING SHED "A" EAST ELEVATION

EXISTING SHED "A" WEST ELEVATION

EXISTING SHED "A" EAST ELEVATION

EXISTING SHED "A" NORTH ELEVATION

PROPOSED SHED EXTENSION WITH EXISTING SHEDS

CLIENT: Ross Huntly

ADDRESS: LOT 3, NO. 10 McKENZIE COURT MERRIMU 3040

CORRUGATED SHEET ROOFING @ 45° PITCH AS SELECTED

TREATED PINE TIMBER POST WITH SELECTED FINISH

TREATED PINE TIMBER POST WITH SELECTED FINISH

TIMBER CLAD PANELLING

TIMBER CLAD PANELLING

CORRUGATED STEEL POCS.

LOT 3, NO. 10 McKENZIE COURT MERRIMU 3040

ADDRESS:

PROPOSED SHED EXTENSION WITH EXISTING SHEDS

CLIENT: Ross Huntly

ADDRESS: LOT 3, NO. 10 McKENZIE COURT MERRIMU 3040

CORRUGATED SHEET ROOFING @ 45° PITCH AS SELECTED

TREATED PINE TIMBER POST WITH SELECTED FINISH

TREATED PINE TIMBER POST WITH SELECTED FINISH

TIMBER CLAD PANELLING

TIMBER CLAD PANELLING

CORRUGATED STEEL POCS.
EXISTING SHED "F" NORTH ELEVATION

EXISTING SHED "F" SOUTH ELEVATION

EXISTING SHED "F" WEST ELEVATION

EXISTING SHED "F" EAST ELEVATION

CORRUGATED SHEET ROOFING @ 30° PITCH AS SELECTED

TREATED PINE TIMBER POST WITH SELECTED FINISH

TIMBER DOORS AND WINDOWS TYP.AS PER SCHEDULE

300 TREATED PINE TIMBER POST WITH SELECTED FINISH

200 x 50 TIMBER SLEEPERS INFILL

F.C SHEETING WITH SELECTED FINISH

CORRUGATED SHEET ROOFING @ 7.5° PITCH AS SELECTED

GUTTER AND FASCIA AS SELECTED

CORRUGATED SHEET ROOFING @ 30° PITCH AS SELECTED

CORRUGATED SHEET ROOFING @ 7.5° PITCH AS SELECTED

TREATED PINE TIMBER POST WITH SELECTED FINISH

300 TREATED PINE TIMBER POST WITH SELECTED FINISH

200 x 50 TIMBER SLEEPERS INFILL

F.C SHEETING WITH SELECTED FINISH

CORRUGATED SHEET ROOFING @ 7.5° PITCH AS SELECTED

EXISTING SHED "F" NORTH EAST ELEVATION

EXISTING SHED "F" EAST ELEVATION

EXISTING SHED "F" SOUTH ELEVATION

EXISTING SHED "F" WEST ELEVATION

CORRUGATED SHEET ROOFING @ 30° PITCH AS SELECTED

TREATED PINE TIMBER POST WITH SELECTED FINISH

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200 x 50 TIMBER SLEEPERS INFILL

F.C SHEETING WITH SELECTED FINISH

CORRUGATED SHEET ROOFING @ 7.5° PITCH AS SELECTED

EXISTING SHED "F" EAST ELEVATION

EXISTING SHED "F" SOUTH ELEVATION

EXISTING SHED "F" WEST ELEVATION

EXISTING SHED "F" NORTH ELEVATION

CORRUGATED SHEET ROOFING @ 30° PITCH AS SELECTED

TREATED PINE TIMBER POST WITH SELECTED FINISH

TIMBER DOORS AND WINDOWS TYP.AS PER SCHEDULE

300 TREATED PINE TIMBER POST WITH SELECTED FINISH

200 x 50 TIMBER SLEEPERS INFILL

F.C SHEETING WITH SELECTED FINISH

CORRUGATED SHEET ROOFING @ 7.5° PITCH AS SELECTED

GUTTER AND FASCIA AS SELECTED

CORRUGATED SHEET ROOFING @ 30° PITCH AS SELECTED

CORRUGATED SHEET ROOFING @ 7.5° PITCH AS SELECTED

SHED ELEVATIONS "F"
 CLIENT: R & L Huntly
 JOB No.: 10-010
 JOB ADDRESS: Lot 3, 10 McKenzie Crt (Bacchus Marsh)

Typical section A - A scale 1:100

- Colorbond roofing at 30 deg slope
- Truss roof at 30 deg slope
- Brick chimney extend 300mm past roof
- Weatherboard infills at both ends
- Timber doors and windows typ. as per schedule
- 200 x 200 red gum posts typical

Rear elevation scale 1:100
- Colorbond roofing at 30 deg slope
- Walls from sleeper off cuts 2.4m long

End elevation scale 1:100
- Trusses as per Manuf. spec's
- Post to slab connection as per detail

Front elevation scale 1:100
- Timber doors and window as per schedule

Typical section A - A scale 1:100
- Patio slab connection as per detail
- Guttering and 100 x 50 D/pipes

End elevation scale 1:100
- Weatherboard infills at both ends
- Timber doors as per schedule

End elevation scale 1:100
- Timber doors as per schedule

Typical section A - A scale 1:100
- Colorbond roofing at 30 deg slope
- Truss roof at 30 deg slope
- Brick chimney extend 300mm past roof
- Weatherboard infills at both ends
- Timber doors and windows typ. as per schedule
- 200 x 200 red gum posts typical

Rear elevation scale 1:100
- Colorbond roofing at 30 deg slope
- Walls from sleeper off cuts 2.4m long

End elevation scale 1:100
- Trusses as per Manuf. spec's
- Post to slab connection as per detail

Front elevation scale 1:100
- Timber doors and window as per schedule

Typical section A - A scale 1:100
- Patio slab connection as per detail
- Guttering and 100 x 50 D/pipes

End elevation scale 1:100
- Weatherboard infills at both ends
- Timber doors as per schedule

End elevation scale 1:100
- Timber doors as per schedule

Typical section A - A scale 1:100
- Colorbond roofing at 30 deg slope
- Truss roof at 30 deg slope
- Brick chimney extend 300mm past roof
- Weatherboard infills at both ends
- Timber doors and windows typ. as per schedule
- 200 x 200 red gum posts typical

Rear elevation scale 1:100
- Colorbond roofing at 30 deg slope
- Walls from sleeper off cuts 2.4m long

End elevation scale 1:100
- Trusses as per Manuf. spec's
- Post to slab connection as per detail

Front elevation scale 1:100
- Timber doors and window as per schedule

Typical section A - A scale 1:100
- Patio slab connection as per detail
- Guttering and 100 x 50 D/pipes

End elevation scale 1:100
- Weatherboard infills at both ends
- Timber doors as per schedule

End elevation scale 1:100
- Timber doors as per schedule
### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2016 098</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>20 April 2016</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Victoria Mack</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>28 Stanley Street, Gordon Crown Allotment 12, Section 24, Parish of Kerrit Bareet</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Development of a shed ancillary to the use of the land for crop raising</td>
</tr>
<tr>
<td>Lot size:</td>
<td>8090sqm</td>
</tr>
<tr>
<td>Why is a permit required</td>
<td>Buildings and works in Neighbourhood Residential Zone – Schedule 1 and Environmental Significance Overlay – Schedule 1</td>
</tr>
</tbody>
</table>

### Public Consultation:

<table>
<thead>
<tr>
<th>Was the application advertised?</th>
<th>Yes</th>
</tr>
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<tbody>
<tr>
<td>Notices on site:</td>
<td>1 notice</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>No</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>Nil</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>Not applicable</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.
**Executive Summary:**

<table>
<thead>
<tr>
<th>Application Referred?</th>
<th>Barwon Water, Environmental Health, Infrastructure Department.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No.</td>
</tr>
<tr>
<td>Preliminary Concerns?</td>
<td>Use of the land for crop raising in a residential zone. No existing use rights were established.</td>
</tr>
<tr>
<td>Any discussions with applicant regarding concerns</td>
<td>Further information was requested asking for details of the agricultural uses on the land. Concern was expressed informally to the applicant about existing use rights not being established.</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>PA2012 092 Two lot subdivision.</td>
</tr>
</tbody>
</table>

**General summary**

The application is for a shed that is required to support the use of the land for crop raising (haymaking) which is an agricultural use of the land. It is alleged that haymaking has been occurring on the land which requires the development of a shed to store hay and hay making equipment.

It is noted that in the Neighbourhood Residential Zone, and the former Township zoning pre 2013, agriculture is a section 2 use and requires a permit.

No permit has been issued on the land for the use of the land for agriculture.

Neither was evidence provided that the land has been used for crop raising (haymaking) for a continuous period of at least 15 years which is a requirement under Clause 63.11 of the Moorabool Planning Scheme is relation to establishing Existing Use Rights.

It is considered that an existing use right for the use of the land for crop raising has not been established.

The application did not seek a permit for the use of the land for agriculture.

The land is within the Gordon township boundary. It has an area of 8090sqm, or just over two acres in area. However, the land has a substantial dam in the center of the lot which
further reduces the available land for haymaking to approximately 6200sqm. The dam contains a diving platform.

Native and exotic species of trees have been planted along the driveway and across the site.

The land did have an older style galvanized iron shed on the site but this was removed prior to the application being assessed. In accordance with Clause 63 of the Moorabool Planning Scheme, when more than 50% of a building is destroyed, any existing use rights that the building may have had, are also extinguished.

The land is also the subject of a two lot subdivision application which has been certified, but for which Statement of Compliance has not yet been issued.

An application for a shed in the Neighbourhood Residential Zone is prohibited unless in association with an existing use of the land.

The development of a shed on land prior to the development of a dwelling is generally not supported by the planning scheme unless it can be established that the shed is in association with the use of the land for a legitimate agricultural activity.

In this application it is considered that evidence of a legitimate agricultural activity has not been provided.

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to grant a planning permit for the Development of a shed ancillary to the use of the land for crop raising at 28 Stanley Street, Gordon otherwise known as Crown Allotment 12, Section 24, Parish of Kerrit Bareet.

Public Notice

The application was notified to adjoining and surrounding landowners. No objections were received.

Proposal

Plans for this application are included in the Attachment to this report.

It is proposed to construct a shed on the land to be used for storing agricultural machinery associated with the use of the land for crop raising (hay production).

The barn style shed would be 12m long, 11.2m wide and would have a maximum height of 5.308m. The total floor area would be 134.4sqm.

The shed would be setback 10m from the south side boundary and 5m from the east side boundary and approximately 133m from the west side front boundary and would be accessed via an existing driveway and crossover from Stanley Street.

The shed would be clad with Colorbond in dark to mid grey tonings.

No vegetation would be removed to construct the shed.
Site Description

An aerial photo of the site is below:

The site is relatively flat with a slight slope downwards to the north to the Paddock Creek reserve.

The land did have an older style shed on the site as shown is the aerial map but this shed had been demolished at the time of a site inspection after application.

The land is in a residential area with the rear boundaries of established dwellings abutting on the south side boundary of the site. These lots are approximately 1000sqm in area and front Main Street, Gordon.

There is a large dam on the subject property which takes up a substantial portion of the site as shown in the aerial map. The dam has a diving platform constructed on the north side bank.

The owner of the subject land has also planted native species around the site, particularly on the south side boundary, and exotic species along the side of the driveway and scattered across the open areas of the site.

The north side boundary of the site is in the Public Park and Recreation Zone and comprises the “paddock creek” reserve. Native vegetation has been planted along the creek corridor by local volunteers.

To the east of the site are slightly larger residential lots, either vacant or with dwellings.

To the west of the site across Stanley Street are vacant lots each of about 200sqm. One has a permit to construct a dwelling which has just commenced.
The land has an approved permit for subdivision into two lots, PA2012092 which was certified on 16 May 2013. Lot 1 would contain the dam and would be 4298sqm with a new access from Stanley Street. Lot 2 would contain a long driveway to the rear and would be 3799sqm. Statement of Compliance has not yet been issued.

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area. The proposed subdivision plan is also shown on this map.

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:

- 11.06 Central Highlands regional growth.
- 12.04-2 Landscapes.
- 14.02 Water.
- 21.02-3 Water and Catchment Management.
- 21.03-4 Landscape and Neighbourhood Character.
- 21.09-1 Gordon.
- 22.02 Special Water Supply Catchments.

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

Neighbourhood Residential Zone – Schedule 1 (NRZ1)

A permit is required for the Development of a shed ancillary to the use of the land for crop raising which is an agricultural use. A permit is also required in the NRZ1 to use land for agriculture. This application is premised on the proposed shed being ancillary to an existing use of the land for agriculture (hay making). Existing use rights for hay making have not been established. No previous permit for the use of the land for agriculture has been issued on the land.

In the NRZ1 a shed is prohibited without being in associated with an existing or approved use.

The purpose of the NRZ1 is to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Recognise areas of predominantly single and double storey residential development.
- Limit opportunities for increased residential development.
- Manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- Implement neighbourhood character policy and adopted neighbourhood character guidelines.
- Allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

It is not considered that an agricultural use such as hay making accords with the purpose of the zone. Only an existing use can allow this activity without an application for use of the land for agriculture.

Overlays

Environmental Significance Overlay – Schedule 1

In accordance with Clause 42.01 of the Moorabool Planning Scheme a permit is required to construct buildings and works where land is not connected to a reticulated sewerage scheme. While the Gordon sewerage scheme is accessible to this property on the south side boundary it is not known if the land is currently connected to the scheme. However, the subdivision in process would require both lots to be connected to the sewerage scheme.

Significant Landscape Overlay – Schedule 2

In accordance with Clause 43.03-2 a permit is required to:

- Construct a building or construct or carry out works. This does not apply:
  - If a schedule to this overlay specifically states that a permit is not required.
  - To the conduct of agricultural activities including ploughing and fencing (but not the construction of dams) unless a specific requirement for that activity is specified in a schedule to this overlay.
Clause 3.0 of schedule 2 to the overlay states that:

- A permit is not required to construct a building or construct or carry out works which are at least 4 metres from the base of a tree having a single trunk circumference of 40 centimetres or less at a height of 1.3 metres above ground level.
- The schedule does not specify that a permit is required to conduct agricultural activities.

In this instance as no vegetation would be removed to construct the shed a permit is **not required** under the Significant Landscape Overlay - Schedule 2.

**Design and Development Overlay – Schedule 2**

*Visual amenity and building design.*

In accordance with Clause 43.02-2 and Clause 2.0 of Schedule 2 to the overlay a permit is **not required** to construct a building or works where the external cladding of a building would be constructed with non-reflective materials. In this instance a permit is not required as the proposed shed would be constructed with grey toned Colorbond cladding.

**Design and Development Overlay – Schedule 5**

In accordance with Clause 43.02-2 and Clause 2.0 to the overlay a permit is not required for buildings and works that meet the following requirements:

- Buildings or extensions to existing buildings with a minimum side setback of 2 metres from either boundary and a minimum rear setback of 5 metres.
- The site area covered by buildings does not exceed 40 per cent.
- Total floor area of all buildings does not exceed 300 square metres in floor area.
- Buildings under 9 metres in height from natural ground level.
- Earthworks under 1 metre in depth or height.
- Where all external walls and roof areas are clad with non-reflective materials.

The proposed shed meets the requirements in the DDO5 and a permit is **not required** under the DDO5.

**Relevant Policies**

**Gordon Structure Plan**

The structure plan identifies the subject land as being within the township boundary. The structure plan covers the future residential development of Gordon with an emphasis on maintaining the rural qualities of the township and protecting the landscape and the tree-cape values which are a feature of Gordon.

No reference is made to agricultural activities in the Gordon structure plan.

**Particular Provisions**

There are not particular provisions that apply to the site.
General Provisions

Clause 63 Existing uses.

The relevant clauses are:

Clause 63.05 - Section 2 and 3 uses

The provision states that:

A use in Section 2 or 3 of a zone for which an existing use right is established may continue provided:

The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

If an existing use was established on the subject site, an assessment would need to be made as to whether the addition of a new shed would damage the amenity of the precinct.

Clause 63.10 - Damaged or destroyed buildings or works

In relation to the shed that was removed from the site prior to application being assessed:

If at least 50 percent of the gross floor area of a building or at least 50 percent of the area of any works is damaged or destroyed so that the use cannot continue without the building or works being reconstructed, the land must be used in conformity with this scheme, unless a permit is granted to continue the use, and to construct or carry out buildings or works.

As the former shed was removed from the land prior to an application being made for Certificate of Compliance, the shed that is the purpose of this application must be assessed as a new shed and not a replacement shed.

Clause 63.11 - Proof of continuous use

In relation to the existing use of the land for crop raising:

If, in relation to an application or proceeding under the Act or this scheme, including an application for a certificate of compliance under Section 97N of the Act, the extent of any existing use right for a period in excess of 15 years is in question, it is sufficient proof of the establishment of the existing use right if the use has been carried out continuously for 15 years prior to the date of the application or proceeding.

An existing use right may be established under this clause even if the use did not comply with the scheme immediately prior to or during the 15 year period.

No evidence was provided in the application to establish if an existing use right should be considered.

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

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

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

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barwon Water</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 no conditions</td>
</tr>
</tbody>
</table>

Discussion

The application is for a shed required to support the use of the land for crop raising (haymaking) which is an agricultural use of the land. It is alleged that haymaking has been occurring on the land which requires the development of a shed to store hay and hay making equipment.

It is noted that in the Neighbourhood Residential Zone, and the former Township zoning pre 2013, agriculture is a section 2 use and requires a permit.

No permit has been provided detailing the land has been used for agriculture.

Neither was evidence provided that the land has been used for crop raising (haymaking) for a continuous period of at least 15 years which is a requirement under Clause 63.11 of the Moorabool Planning Scheme is relation to establishing Existing Use Rights.

It is considered that an existing use right for the use of the land for crop raising has not been established.

The application did not seek a permit for the use of the land for agriculture.

The land is within the Gordon township boundary. It has an area of 8090sqm, or just over two acres in area. However, the land has a substantial dam in the center of the lot which further reduces the available land for haymaking to approximately 6200sqm.

The land did have an older style galvanized iron shed on the site but this was removed prior to the application being assessed. In accordance with Clause 63 of the Moorabool Planning Scheme, when more than 50% of a building is destroyed, any existing use rights that the land may have had, are also extinguished.

The land is also the subject of a two lot subdivision application which has been certified, but for which Statement of Compliance has not yet been issued. This further clouds the ongoing use of the land for agricultural activities. The dam contains a diving platform and native and exotic species of trees have been planted along the driveway and across the site.

The two lots look distinctly like future residential lots, rather than an agricultural land parcel.

It is considered that this application is attempting to gain approval for a shed, which is defined in the planning scheme as a store where there is no dwelling on the land. However, an application for a store in the Neighbourhood Residential Zone must be in association with a dwelling on the land.
The development of a shed on land prior to the development of a dwelling is generally not supported by the planning scheme unless it can be established that the shed is in association with the use of the land for a legitimate agricultural activity.

In this application it is considered that evidence of a legitimate agricultural activity has not been provided.

**Financial Implications**

The recommendation of refusal of this application may represent a financial implication for Council. The applicant may lodge an application for Review of Council’s decision with VCAT.

**Risk and Occupational Health and Safety Issues**

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

**Communications Strategy**

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. No objections were received. The applicant was invited to attend this meeting and invited to address Council if desired.

**Options**

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

**Conclusion**

The application is for the Development of a shed ancillary to the use of the land for crop raising in a residential area within the Gordon township. The arable land available for agricultural use is approximately 6200sqm. It is not considered that such a small land area is sufficient to conduct a haymaking enterprise. Further the land is subject to a two lot subdivision which will likely further reduce the likelihood of agricultural activities being undertaken on the land.

It is considered that the application should be refused.

**Recommendation**

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a refusal to grant a planning permit for the Development of a shed ancillary to the use of the land for crop raising at 28 Stanley Street, Gordon otherwise known as Crown Allotment 12, Section 24, Parish of Kerrit Bareet on the following grounds:

1. The development of a shed in the Neighbourhood Residential Zone is prohibited unless in association with an existing use.
2. No permit has been issued for the use of the land for agriculture.
3. The land area, particularly if the subdivision is completed, does not accord with land areas required to support a hay making operation.

Report Authorisation

Authorised by: 

Name: Satwinder Sandhu 
Title: General Manager Growth and Development 
Date: 20 October 2016
Attachment - PA2016098 328 Stanley Street, Gordon - Development of a shed ancillary to the use of the land for crop raising
SHED ELEVATIONS & STRUCTURAL DETAIL

PROPOSED Shed 11.200x12.000x3.000x4.500
At Stanley Street Gordon

For Mr A Winter

Wall Colour - 1
Roof colour - 1
Barge Colour - 1
Roller Door Colour - 1

Job no 938383 Quote No Qta 9907 Scale 1:100

All Work To Be In Accordance With Accompanying Engineers Details

Eureka Garages & Sheds
202 Learmonth Street Alfredton Vic 3350

NOT FOR CONSTRUCTION

Copyright (C) 2008-2015 Datum Tech Pty Ltd  Version 04.03
Attachment: PA2016098328 Stanley Street, Gordon - Development of a shed ancillary to the use of the land for crop raising
### 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</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Two lot subdivision (as amended).</td>
</tr>
<tr>
<td>Lot size:</td>
<td>4000m².</td>
</tr>
</tbody>
</table>

**Why is a permit required**

Clause 32.08–2—General Residential Zone
Schedule 1 – Subdivision of land.

Clause 42.01–2 – Environmental Significant 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>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 being amended to a two lot subdivision.</td>
</tr>
</tbody>
</table>

### Policy Implications:

**Key Result Area Objective**

Enhanced Natural and Built Environment. Effective and efficient land use planning and building control.

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.
### Executive Summary:

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Any issues raised in referral responses?</td>
<td>No.</td>
</tr>
<tr>
<td>Preliminary Concerns?</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.

The application was considered at Council’s Development Assessment Committee (DAC) meeting held on 12 October, 2016. It was determined that there was insufficient time between the submission of the revised plans and the committee meeting to enable objectors to properly prepare their presentations. It was determined to defer the application to the next available meeting.

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>
</tbody>
</table>
**Officer’s response** – The revised plans are now consistent with the Ballan Structure Plan.

<table>
<thead>
<tr>
<th>Proposal does not account for higher traffic usage.</th>
<th>Clause 52.06.</th>
</tr>
</thead>
</table>

**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.

Proposal has not considered the block gradient

**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 Environmental 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.
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.

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; 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>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 be supported.

**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 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.
   IV. 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.

   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.

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

9. 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.

10. 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

11. 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.
12. 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.

13. 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.

14. 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.

15. 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.

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

Melbourne Water conditions

17. 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.

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

19. 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

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

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

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

Powercor conditions

23. 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.
24. 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.
   (g) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
   (h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
   (i) Obtain Powercor Australia Ltd’s approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
   (j) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Downer Utilities condition

25. 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

26. 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.
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: 20 October 2016
### Item 5.4 Planning Permit Application PA2015 108

Planning Permit PA 2015 108 - Staged Subdivision (9 lots), Development of Five (5) Retail Shops and Four (4) Dwellings, a Reduction of Eleven (11) Car Spaces and removal of vegetation – 22 Fisken Street Ballan, Lot 1 on TP015046E.

#### Application Summary:

<table>
<thead>
<tr>
<th>Permit No:</th>
<th>PA2015108</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodgement Date:</td>
<td>26 May 2015</td>
</tr>
<tr>
<td>Planning Officer:</td>
<td>Victoria Mack</td>
</tr>
<tr>
<td>Address of the land:</td>
<td>22 Fisken Street Ballan Lot 1 on TP015046E</td>
</tr>
<tr>
<td>Proposal:</td>
<td>Staged Subdivision (9 lots), Development of Five (5) Retail Shops and Four (4) Dwellings, a Reduction of Eleven (11) Car Spaces and removal of vegetation.</td>
</tr>
<tr>
<td>Lot size:</td>
<td>1012sqm</td>
</tr>
<tr>
<td>Why is a permit required</td>
<td>Subdivision, buildings and works, reduction in car parking.</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>Two – one facing Fisken Street and one facing Steiglitz Street.</td>
</tr>
<tr>
<td>Notice in Moorabool Newspaper:</td>
<td>No.</td>
</tr>
<tr>
<td>Number of Objections:</td>
<td>Three.</td>
</tr>
<tr>
<td>Consultation meeting:</td>
<td>Not held; one objector was contacted. He was not prepared to change his objection or attend a consultation. Another objection was withdrawn and latter re-lodged.</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 – 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.

Any issues raised in referral responses? No.

Preliminary Concerns? Rear access way to the dwellings, access to the loading bay, and the car parking reduction.

Any discussions with applicant regarding concerns? Yes.

Any changes made to the application since being lodged? Yes, the application was amended significantly.

VCAT history? Nil.

Previous applications for the site? Nil.

General summary

The application would provide five new retail shops facing Fisken Street, close to the main street of Ballan. It would also provide four upper floor two bedroom dwellings above the shops. The existing dwelling on the site would be demolished.

The development provides nine (9) car spaces on the site – one for each of the dwellings and one for each of the five (shops). A car space reduction of eleven (11) car spaces has been requested.

A loading bay has been nominated on the site.

Amended plans have been provided and are an improvement on the original concept. The design has an improved interface with the street and the public realm to the north and the streetscape to the south. The bulk of the building has been broken up with distinct features including balconies, windows, a mix of external materials and some landscaping.

While it is not considered that the architectural form of the proposed development would necessarily be suitable in the main street of Ballan, in Fisken Street the development
provides for functionality, a diversity in accommodation choice and a number of small shops, or potentially office spaces, to enable growth in the retail spaces available in Ballan.

The location of the proposed development is close to the centre of the township and also close to public off-street parking to the east along Steiglitz Street.

**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 permit PA2015108 for a Staged Subdivision (9 lots), Development of Five (5) Retail Shops and Four (4) Dwellings, a Reduction of eleven (11) Car Spaces and removal of vegetation at 22 Fisken Street Ballan otherwise known as Lot 1 on TP015046E subject to conditions.

**Background**

The original application showed the development of six shops at ground level and the development of three upper floor dwellings with rear access which would have made use of a carriageway easement on land on the east side boundary owned by others. The applicant failed to gain consent for this use of this carriageway easement and the application and plans were amended so that all access was contained within the subject site.

The amended application was considered to not satisfy the requirements of the Moorabool Planning Scheme resulting in a new and significantly amended application involving the existing dwelling on the site being demolished and a completely new development constructed.

**Public Notice**

The application was advertised to adjoining and surrounding landowners and three objections were received. One objection was from a beneficiary of the carriageway easement on the east side land parcel which the applicant was hoping to utilise within this application. The application was amended to exclude the carriageway easement from the application. This objector withdrew his objection.

The amended application was also advertised and this attracted additional objections.

**Summary of Objections**

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

<table>
<thead>
<tr>
<th>Objection</th>
<th>Any relevant requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>A partial reduction of car spaces is unacceptable. There is no existing on street parking available especially for the additional demand these shops will place on the adjacent and surrounding streets. Car parking is essential for residents to access the existing services in Ballan.</td>
<td>Clause 52.06 Car parking. The application requires a total of 20 car spaces – one space for each of the 4 x two bedroom dwellings, and combined 16 spaces for the 5 shops. Nine spaces would be provided meaning that waiver of 11 car spaces is required.</td>
</tr>
</tbody>
</table>
**Officer’s response** – There is a Council car park in Steiglitz street, and Ballan is a relatively small town. The application has provided one car space for each of the shops at the rear of the development, but 16 spaces are required based on the floor area of the shops with a reduction of 11 spaces requested.

<table>
<thead>
<tr>
<th>The amended application increases the density of the development by adding additional shops and dwellings and increases the car space reduction requested. This is a back door attempt to increase the value of the property.</th>
</tr>
</thead>
</table>

**Officer’s response** – The original proposal was for six shops and three dwellings. The proposal is now for five shops and four dwellings. The rear entry for the dwellings along a single accessway was deemed to be a less than desirable outcome, and no satisfactory provision was made for loading and unloading of vehicles on the site. After discussion with the planning department a more suitable layout was submitted which is the current application.

| Car parking waivers should not be approved in Ballan which will inevitably increase congestion in the centre of the town. Exempting a developer from their car space obligations effectively donates public land for the developers car use. Council should recover from the developer funds to purchase and construct public parking areas or if not developers should provide adequate parking on the site. |
| Clause 52.06 Car parking requirements. |

**Officer’s response** – The four dwellings are all provided with one car space which meets the requirements of Clause 52.06 of the Moorabool Planning Scheme in relation to car parking. Shops 1 to 4 require 2 spaces each with the larger shop, Shop 5 requiring 8 spaces for total shop parking rate of 16 spaces. The application provides only one car space per shop. A discussion about car space provision is included later in this report.

| Five new shops creates too many shops for the area and would have a detrimental effect on the value and rental return of my client’s premises. |
| Commercial 1 Zone. |

**Officer’s response** – The four dwellings are all provided with one car space which meets the requirements of Clause 52.06 of the Moorabool Planning Scheme in relation to car parking. Shops 1 to 4 require 2 spaces each with the larger shop, Shop 5 requiring 8 spaces for total shop parking rate of 16 spaces. The application provides only one car space per shop. A discussion about car space provision is included later in this report.

| Five new shops creates too many shops for the area and would have a detrimental effect on the value and rental return of my client’s premises. |
| Commercial 1 Zone. |

**Officer’s response** – The land is within a commercial precinct in a growing township. If Ballan is to prosper new development needs to be accommodated.

| The dividing fence between the subject site and the property on the east side boundary is adequate. If the developer wishes to install a new fence then they should meet 100% of the cost. |
| Shared boundary fencing is governed by the Fences Act 1968 and the Fences Amendment Act 2014 not the Planning and Environment 1987. |

**Officer’s response** – Fencing is a matter to be negotiated between the parties. Dispute settlement procedures would apply.

| The residential units will overlook the shops to the north and east impacting on privacy and property values; as well as increase burglaries by providing more ready access. |
| The eastern side of the residential units will have highlight windows limiting overlooking to the properties to the east. Parking in the general vicinity will become more difficult and congested. |
| There is a public Council car parking area to the east of this lot which is often underutilised. Shop owners should make their patrons aware of this facility. |
Proposal

Plans of the proposed development are included in the attachment.

It is proposed to develop five retail shops and four dwellings on the site and demolish the existing building on the site. The development would comprise two stories.

Exotic vegetation including garden plantings would be removed to construct the development.

Shops

The retail floor area of shops 1-4 shops would range from 45 – 47 sqm. The fifth shop would have an upper level with a total floor area of 210.58sqm. Each shop would be accessed via a doorway inset into the building facing Fisken Street and would have a large shop window also facing Fisken Street. Each shop would contain a disabled unisex WC and hand basin.

Each shop would have a dedicated car space at the rear of the development secured by a roller door via a rear access way and rear doorway.

The access way would have two ingress and egress points - one form Steiglitz Street and the other from Fisken Street which would run through the centre of the development. The access way would also contain a loading bay and would be generally one way in and one way out.

Shop is double storey with a stairway leading to the upper floor. Windows on both levels would face to the north and west and there would be a balcony overlooking Fisken Street.

Dwellings

The four upper storey dwellings would have two bedrooms, the master bedroom with a WIR and an ensuite, a second bathroom, a separate laundry and an open plan kitchen living and dining room facing west. The floor area of each dwelling would range between 137 and 139sqm. Each dwelling would have a single car space garage which would be 3.7m x 6m or 22.25sqm in area.

Each dwelling would have a balcony overlooking Fisken street with an area of slightly greater than 8sqm. Access to the dwellings would be via a front doorway and staircase from Fisken Street and via a rear door way from the single car space garage at the rear.

The rear access way from Steiglitz Street would service nine (9) car spaces and would be 4.69m wide. The access would include a driveway between shops 1 and 2 and shops 3, 4 and 5. This accessway would be 6.6m wide. It would contain a loading bay and passing lane. Some limited landscaping would be incorporated into the rear of the site around doorways.

The land would be subdivided into 9 lots. Each of the 5 shops and 4 dwellings would then have separate titles.
Site Description

Below is an aerial map of the site:

The site is flat and contains an existing older style single storey weatherboard dwelling at the southern end of the site. The dwelling was most probably constructed in the 1940s. The balance of the land comprises garden plantings particularly birch trees. There is limited native vegetation on the site.

Currently access to the site is available from both Fisken Street and Steiglitz Street.

The surrounding area to the south, south-west and south-east generally contains similar older style single storey brick or weatherboard dwellings. To the west across Fisken Street is the CFA fire station. To the north is land owned by the Moorabool Shire which includes the comfort station and a small park.

To the east are three industrial buildings used for light fabrication and service activities.

The land is located on the north-east corner of the intersection of Fisken Street and Steiglitz Street and approximately 70 metres south of the intersection of Fisken Street with Inglis Street which is Ballan’s main street.

The site is also approximately 370 metres north of the Ballan Railway Station.

A two storey development in this location is not necessarily out of character with the surrounding commercial centre of Ballan.
Locality Map

The map below indicates the location of the subject site and the zoning applicable to 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:

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.
16.01-5 – Housing affordability.
17 – Economic development.
17.01-1 Business.
21.03-2 – Urban Growth Management.
21.03-3 – Residential Development.
21.03-4 – Landscape and Neighbourhood Character.
21.04 - Economic development and employment.
21.04-1 - Key Issues and Influences.
21.08 – Ballan.

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

Commercial 1 Zone (C1Z).

In accordance with Clause 34.01-1 of the C1Z, a permit is not required to use land for a shop or to use land for accommodation provided any frontage at ground floor level does not exceed 2m.

In accordance with Clause 34.01-3 of the C1Z a permit is required to subdivide land.

In accordance with Clause 34.01-4 of the C1Z a permit is required for buildings and works.

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

It is considered that the application is generally in accordance with the purpose of the zone.

Overlays

Environmental Significance Overlay – Schedule 1 (ESO1)

In accordance with Clause 42.02-2 of the ESO1, a permit is required to subdivide land and to remove, destroy or lop any vegetation including dead vegetation.

Relevant Policies

Council’s Urban Growth Policy, 2012 forecasts Ballan will become home to up to 4,500 residents by 2041, and promotes well designed and located infill development.

“As unconstrained land in Bacchus Marsh becomes scarce Ballan and Gordon have the potential to accommodate further growth, which could absorb some of the pressure from Bacchus Marsh, and address the imbalance in growth, which is occurring in the municipality.”

“The Ballan Structure Plan should plan for initial development pressure and have an indicative urban growth boundary to provide certainty to 2041.”

Council’s Ballan Structure Plan still in draft form nominates the subject site as being within the Town Centre.

Particular Provisions

Clause 52.01 Public Open Space Contribution

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

As the proposal does not comply with the class exemptions, a requirement will be made for a 5% public open contribution fee based on the additional population generated by the development of four dwellings and the greater demand for public open space to be used for recreational purposes.

**Clause 52.05 – advertising signage**

No signage has been proposed in this application. If signage is required on the shops in the future a permit may be required.

**Clause 52.06 – car parking**

According to Table 1 of Clause 52.06-5 the application requires a total of 20 car spaces – one space for each of the 4 x two bedroom dwellings, 2 spaces for Shops 1 to 4 and 8 space for the larger shop, Shop 5.

Nine (9) spaces would be provided on site meaning that a waiver of eleven (11) car spaces is requested.

Council’s Infrastructure Department commented on the application that a car space assessment within 100m of the site showed a variation in the availability of on-street parking. However, the off-street car parking area on Steiglitz Street had only a few spaces occupied at the time of the assessment out of the available 51 car park spaces which includes 2 disabled spaces. They considered that this off-street parking area is under utilised and can accommodate the parking demand generated from the development.

In the light of Infrastructure’s comments it is considered that the reduction in car parking in this instance should be considered for approval.

**Clause 52.07 Loading and unloading of vehicles**

The application has nominated a loading bay within the boundary of the property for the loading and unloading of vehicles.

It is considered that this location on the site is acceptable.

**Discussion**

Clause 15 of the SPPF states that planning should ensure all new land use and development appropriately responds to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

Land use and development planning must support the development and maintenance of communities with adequate and safe physical and social environments for their residents, through the appropriate location of uses and development and quality of urban design. Planning should achieve high quality urban design and architecture that:

- Contributes positively to local urban character and sense of place.
- Reflects the particular characteristics, aspirations and cultural identity of the community.
- Enhances liveability, diversity, amenity and safety of the public realm.
• Promotes attractiveness of towns and cities within broader strategic contexts.
• Minimises detrimental impact on neighbouring properties.

Site analysis should consider the height, scale and massing of new development. The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

In this context this development should be assessed on its functionality, architectural form, impact on the public realm and the benefits it may provide to the development of Ballan.

The new plans are an improvement on the original concept. The design has an improved interface with the street and the public realm to the north and the streetscape to the south. The bulk of the building has been broken up with distinct features including balconies, windows, a mix of external materials and some landscaping. The colours selected for external features include shades of grey and sandstone.

While it is not considered that the architectural form of the proposed development would necessarily be suitable in the main street of Ballan, in Fisken Street the development provides for functionality, a diversity of housing choice and a number of small shops, or potentially office spaces, to enable growth in the retail spaces available to Ballan as it grows.

The location of the proposed development is close to the centre of the township, the Ballan railway station and the public off-street parking area to the east along Steiglitz Street which all provide a range of parking options for Ballan residents.

**General Provisions**

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

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

**Referrals**

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

<table>
<thead>
<tr>
<th>Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Highlands Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Southern Rural Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Melbourne Water</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Western Water</td>
<td>Consent no conditions</td>
</tr>
<tr>
<td>Powercor</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Downer</td>
<td>Consent with conditions</td>
</tr>
<tr>
<td>Council’s Infrastructure Department</td>
<td>Consent with 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. 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 proposal is an unacceptable design response to the commercial 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

Overall it is considered that the proposed development of shops and dwellings would enhance the future growth of retail and accommodation opportunities in Ballan. It is recommended that the application should be supported.

Recommendation

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to grant permit PA2015108 for a Staged Subdivision (9 lots), Development of Five (5) Retail Shops and Four (4) Dwellings, a Reduction of eleven (11) Car Spaces and removal of vegetation at 22 Fisken Street, Ballan otherwise known as Lot 1 on TP015046E subject to 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 submitted with the application but modified to show:
   a) Landscape plan in accordance with Condition 19.
   b) The provision of appropriate security lighting to the site including the access way, the garages and entrances.
   c) Nominate the sill level of the first floor east facing windows to the upper level dwellings in accordance with the screening techniques of Clause 55.04-6.
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 occupation.

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.

Building and works:

3. Any external lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site.

4. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise emanating from the site.

5. 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.

Subdivision:

6. 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.

7. 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:

8. 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.

9. 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

10. Prior to the issue of a Statement of compliance for the subdivision, standard urban vehicle crossings must be provided on Fisken and Steiglitz Streets to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and the kerb and channel and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.

11. The common property driveway must be constructed in reinforced concrete to a depth of 125 mm. The layout of the driveway must be designed to ensure that all vehicles are able to enter and exit the property in a forward direction in accordance with Clause 52.06-8 of the Planning Scheme.

12. Prior to the issue of a Statement of Compliance for the subdivision, the proponent must construct a reinforced concrete footpath 1.5m wide, 125mm thick from Fisken Street to the entrance of the off-street car Parking area in Steiglitz Street (approximately 85m to the East of the subject land), to the satisfaction of the responsible authority.

13. 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; and
c) All units must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority.


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

16. 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.

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

18. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including “Construction Techniques for Sediment Control” (EPA 1991) and “Environmental Guidelines for Major Construction Sites” (EPA 1995).
19. 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.

20. The landscape plan must include details of all works proposed for the nature strips
abutting the subject land in Fisken and Steiglitz Streets.

21. 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.

22. 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.

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

Central Highlands Water conditions:

24. 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.

25. 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.

26. 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.

27. 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.

28. If the land is developed in stages, the above conditions will apply to any subsequent
stage of the subdivision.
Melbourne Water conditions:

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

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

Powercor conditions:

31. 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.

32. 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).
   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 construction work must comply with Energy Safe Victoria’s “No Go Zone” rules.
   d) 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.
   e) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd” for “Powerline Purposes” pursuant to Section 88 of the Electricity Industry Act 2000.
   f) Where buildings or other installations exist on the land to be subdivided connected to supply prior to 1992 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 and provide to Powercor Australia Ltd a completed Electrical Safety Certificate in accordance with Electricity Safe Victoria’s Electrical Safety System. The requirements for switchboard and cable labelling contained in the Electricity Safety (Installations) Regulations are to apply.
   g) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
   h) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
   i) Obtain Powercor Australia Ltd’s approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
   j) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.
Southern Rural Water’s conditions:

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

34. All lots must be connected to the towns stormwater drainage system.

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

36. Should major excavation works be required for the removal of vegetation, sediment control measures outlined in the EPA’s publication No 275, Sediment Pollution Control, shall be employed whilst carrying out works and maintained until the disturbed areas have been revegetated.

Downer (Gas) condition:

37. 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:

38. 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;
   b) the development is not completed within four years of the date of this permit;
   c) the plan of subdivision is not certified within two (2) years of the date of issue of the permit; and
   d) 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.

Permit notes

Melbourne Water:

Preliminary land and flood level information available at Melbourne Water indicates that the above property is not subject to flooding from a Melbourne Water drain or waterway from a storm event which has a 1% chance of occurrence in any given year.

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 265229.
Powercor

It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued).

Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

Report Authorisation

Authorised by:  
Name: Satwinder Sandhu  
Title: General Manager Growth and Development  
Date: 20 December 2016
Proposed ground floor plan

Proposed retail and residential development
Cnr of Fiskin & Steiglitz Street.
For Fiskin Trust
existing dwelling
TO BE DEMOLISHED.

Proposed retail and residential development
Cnr of Fiskan & Steglitz Street.
For Fiskan Trust

section

Proposed retail and residential development
Cnr of Fiskan & Steglitz Street.
For Fiskan Trust

Catania Designs Pty.

Proposed retail and residential development
Cnr of Fiskon & Steiglitz Street.
For Fiskon Trust