



MINUTES

Development Assessment Committee Meeting

Wednesday, 19 March 2025

Date: Wednesday, 19 March 2025

Time: 6.00pm

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

Order Of Business

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1 OPENING

The Mayor opened the meeting at 6:00 pm

2 RECORDING OF MEETING

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

3 PRESENT

Cr Paul Tatchell, Mayor

Cr Rod Ward, Deputy Mayor

Cr Moira Berry

Cr Jarrod Bingham

Cr Sheila Freeman

Cr Ally Munari

Cr Tom Sullivan

Cr Steven Venditti-Taylor

IN ATTENDANCE

Derek Madden Chief Executive Officer

Henry Bezuidenhout Executive Manager Community Planning & Development

Mark Lovell Coordinator Planning Services

Joe Spiteri Manager Governance and Civic Support

4 APOLOGIES

Cr John Keogh

5 CONFIRMATION OF MINUTES**COMMITTEE RESOLUTION**

Moved: Cr Ally Munari

Seconded: Cr Moira Berry

That the minutes of the Development Assessment Committee Meeting held on Wednesday 19 February 2025 be confirmed.

CARRIED

6 MATTERS ARISING FROM PREVIOUS MINUTES

Nil.

7 DISCLOSURE OF CONFLICTS OF INTERESTS

Cr Tatchell, Mayor declared a Conflict of Interest in relation to Item 9.2 PA2024023 – Earthworks associated with a Trotting Track (Retrospective) at 90 Carween Lane, Ballan.

8 PRESENTATIONS/DEPUTATIONS

| Item | Report | Speaker/s | Position | Attendance |
|------|--|---|-----------------------------|------------|
| 9.1 | PA2024054 - Earthworks to a Creek Crossing (Retrospective) at 202 Mt Blackwood Road, Myrniong | Bryce McGrath | Applicant/ Landowner | In Person |
| 9.2 | PA2024023 - Earthworks associated with a Trotting Track (Retrospective) at 90 Carween Lane, Ballan | Carly Burke | Objector representative | In Person |
| | | Johan Mangion and Andrew Rawlings | Applicant | In Person |
| 9.4 | 7.4 PA2024044 - Development of Three Dwellings at 12 Millbank Street, Bacchus Marsh | Lorraine Stupak | Landowner representative | In Person |

Bryce McGrath addressed the Committee as the Applicant/Landowner to Item 9.1.

9 COMMUNITY PLANNING REPORTS

9.1 PA2024054 - EARTHWORKS TO A CREEK CROSSING AT 202 MT BLACKWOOD ROAD, MYRNIONG

Author: Mark Lovell, Coordinator Planning Services

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: Nil

APPLICATION SUMMARY

Permit No: PA2024054

Lodgement Date: 9 May 2024

Planning Officer: Mark Lovell

Address of the land: 202 Mt Blackwood Road, Myrning

Proposal: Earthworks to a creek crossing (Retrospective)

Lot size: 81.92ha

Why is a permit required? Clause 35.07-4 Farming Zone – Earthworks which change the rate of flow or the discharge point of water across a property boundary
Clause 42.01-2 Environmental Significance Overlay Schedule 2 - Works

COMMITTEE RESOLUTION

Moved: Cr Jarrod Bingham

Seconded: Cr Tom Sullivan

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2024054 for earthworks to a creek crossing (retrospective) at 202 Mt Blackwood Road, Myrning subject to the following conditions:

Endorsed Plans:

1. Within 3 months of the issue of a planning permit, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) Site plan annotated with a width dimension of the creek crossing.

Earthworks:

2. Unless with the written consent of the Responsible Authority, no additional site cutting or site filling of current works area is permitted.
3. Sediment control measures as outlined in the EPA's publication No 275 Sediment Pollution Control shall be maintained until the disturbed area has been fully revegetated.

Permit Expiry:**4. This permit will expire if:**

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

CARRIED

| PUBLIC CONSULTATION | |
|---------------------------------|-------------------------------|
| Was the application advertised? | No. |
| Notices on site: | No. |
| Notice in Moorabool Newspaper: | No. |
| Number of objections: | One |
| Consultation meeting: | Discussion with the objector. |

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments**Priority 2.3: Enhance our natural environments**

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

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

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

Executive Manager – Henry Bezuidenhout

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

Author – Mark Lovell

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

EXECUTIVE SUMMARY

| | |
|-------------------------------|---|
| Application referred? | Yes, Council's Development Infrastructure and Melbourne Water |
| Any issues raised in referral | Melbourne Water sort advice regarding an application |

| | |
|--|---|
| responses? | for consent for minor waterway work |
| Preliminary concerns? | Earthworks were previously undertaken on site without planning approval. |
| Any discussions with applicant regarding concerns? | No. |
| Any changes made to the application since being lodged? | No. |
| Brief history. | Earthworks were previously undertaken on site without prior planning approval. The applicant was also advised that works to a waterway requires consent from Melbourne Water. |
| Previous applications for the site? | Nil. |
| General summary. | <p>This proposal seeks retrospective approval for earthworks in form of rock material to allow vehicle access across Korkuperrimul Creek and some works to creek corridor.</p> <p>It is noted that advertising of the application is not required for earthworks however, one objection was received from a neighbouring property.</p> <p>The existing earthworks have not created detrimental impacts through sediment run off and have not adversely affected water flow through the property. Melbourne Water as the responsible waterways authority has consented to the application. It is recommended for approval with conditions.</p> |
| Summary of Officer's Recommendation | |
| <p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, the Development Assessment Committee a Notice of Decision to Grant Planning Permit PA2024054 for earthworks to a creek crossing (Retrospective) at 202 Mt Blackwood Road, Myrniong, subject to the conditions contained within this report.</p> | |

SITE DESCRIPTION

The site and surrounding area are large farming lots on undulating terrain with several natural waterways. There are well vegetated woodlands located to the north located in a Public Park and Recreation Zone.

The entire lot has a total area of 81.92 hectares over four original titles. The site is adjacent to the eastern side of Mount Blackwood Road and contains an existing dwelling towards the south-west corner. There are informal vehicle tracks through the site.

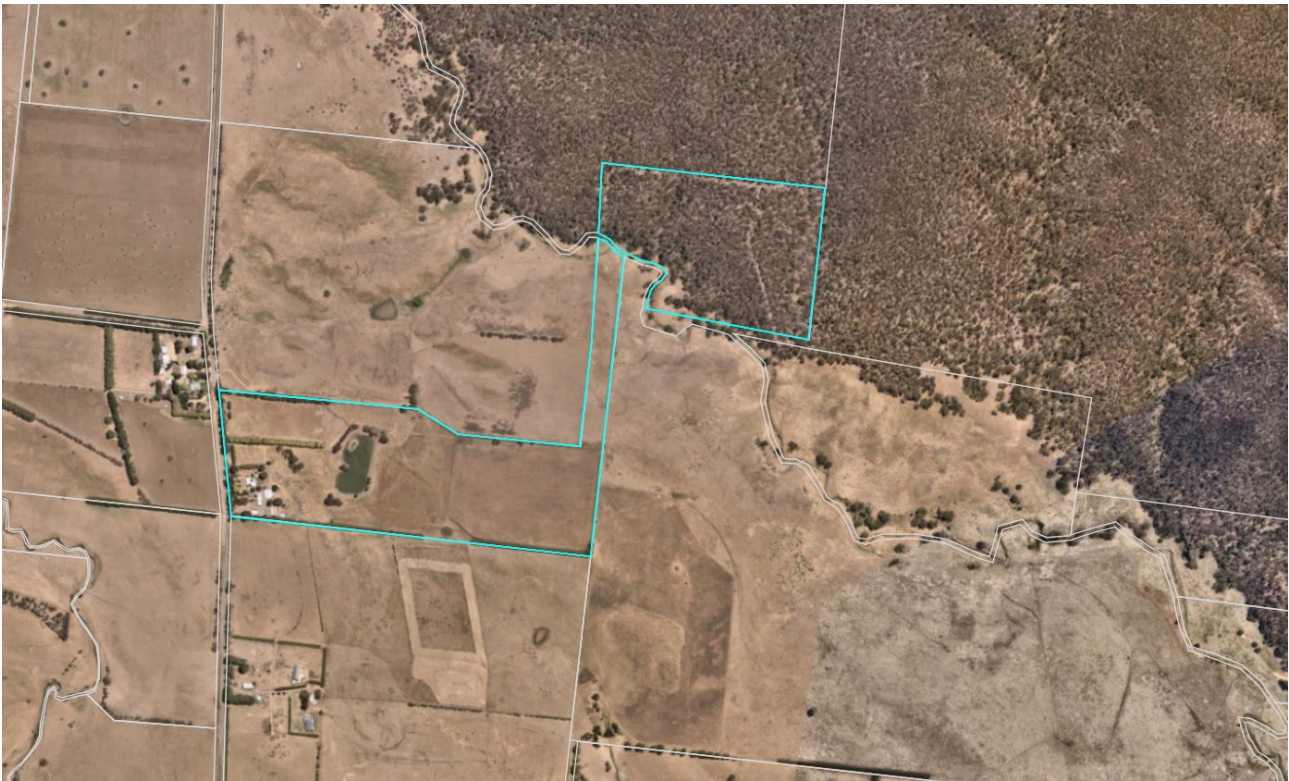


Figure 1: Aerial Photograph of the site

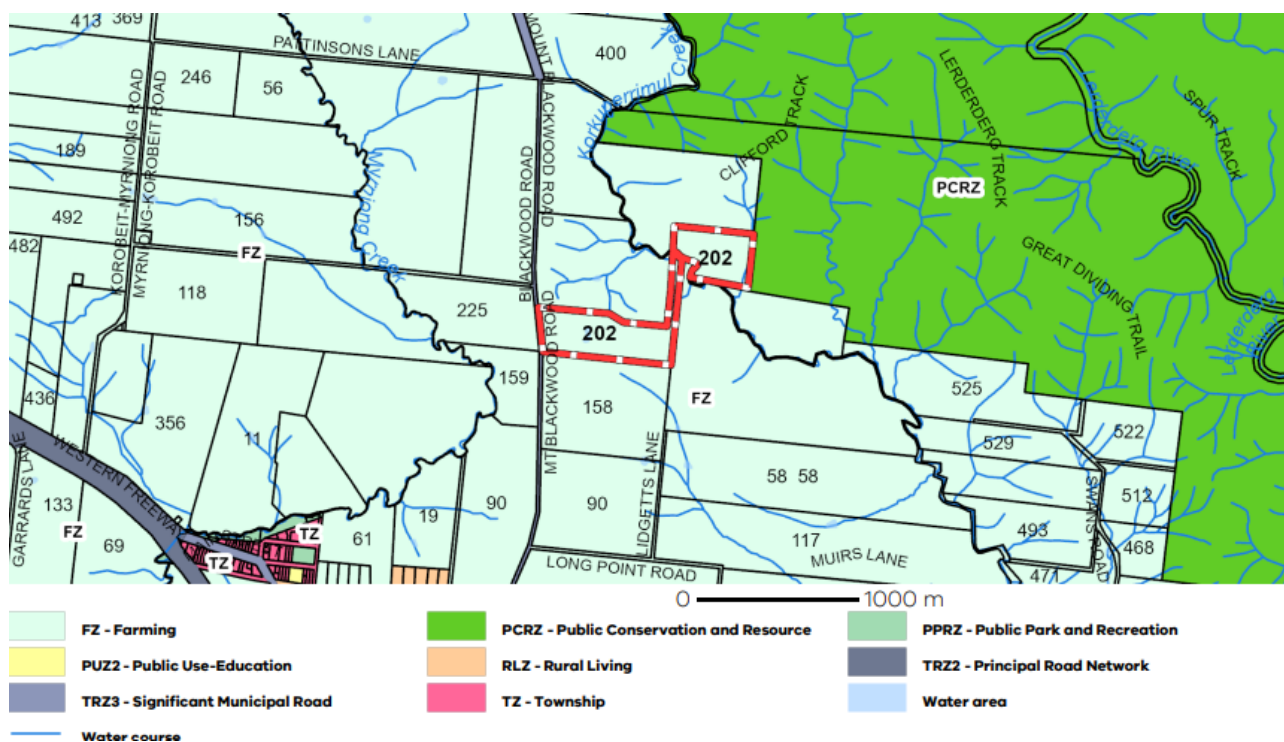


Figure 2: Zone Map

PROPOSAL

It is proposed to seek retrospective approval for works to Korkuperrimul Creek to allow vehicle access from the southern side of the bank to the norther side of the bank. The applicant has undertaken works along the creek corridor by flattening the topography to make suitable for vehicle access.



Figure 3: View of works area with disturbed soil in March 2024



Figure 4: Earthworks in August 2024 with revegetation

BACKGROUND TO CURRENT PROPOSAL

The applicant has previously conducted earthworks without planning permission. Enforcement action was undertaken, and no further works have occurred to the creek corridor.

HISTORY

No previous applications associated with the site.

PUBLIC NOTICE

The application was not notified to adjoining and surrounding landowners.

One objection was received.

SUMMARY OF OBJECTIONS

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

| Objection | Any Relevant Requirement |
|--|---|
| This area of the Korkuperrimul Creek system is in the location of the start of a series of natural spring systems and permanent water pools that run from above, through and below this area. I believe these are integral to the current environment and integrity of the Korkuperrimul Creek system and the surrounding land/ecosystems/surface water supplies upstream, around and downstream from this location and requires protection from potential inadvertent adverse impacts of these works by appropriate risk mitigation, particularly given the works already undertaken in this and surrounding areas. | Clause 42.01 Environmental Significance Overlay Schedule 2. |
| Officer's Response: Based on a site inspection and an assessment conducted by Melbourne Water, there is no evidence of erosion or sediment runoff causing an impact to a natural waterway, Korkuperrimul Creek. | |
| I am concerned about impacts to the cadastral title boundary of this property through potential erosion and/or alteration of the water flow and course resulting from this development | Clause 42.01 - Environmental Significance Overlay Schedule 2. |
| Officer's Response: The rock material within the creek has minimal impact and does not cause adverse flow impacts or bank erosion as advised by Melbourne Water who conducted a site inspection of the completed works. | |

PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 12.01-1S – Protection of biodiversity
- Clause 12.01-1L – Biodiversity
- Clause 12.05-1S – Environmental sensitive areas
- Clause 12.05-2S – Landscapes
- Clause 12.05-2L – Landscapes in Moorabool
- Clause 14.02-2S – Water quality

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

ZONE

Farming Zone

A permit is required for earthworks under Clause 35.07-4 which changes the rate of flow or the discharge point of water across a property boundary.

OVERLAYS

Environmental Significance Overlay Schedule 2.

A permit is required for works under Clause 42.01-2.

The environmental objectives of the Schedule 2 are:

- To protect the habitat significance of vegetation.
- To provide for appropriate development of land within 100 metres of either side of a waterway.
- To prevent pollution and increased turbidity of water in natural waterways.
- To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of waterways.
- To conserve existing flora and fauna habitats close to waterways and to encourage generation and regeneration of habitats.

PARTICULAR PROVISIONS

No particular provisions apply.

DISCUSSION

Works were undertaken to a creek corridor without planning approval. The most recent site photos of the works area have shown the vegetation has regrown in a previously cleared area and the vehicle access is only evident by the tyre tracks. Korkuperrimul Creek is flowing and not significantly impeded to cause localised flooding or erosion of the creek banks. The most recent site inspection also confirmed that there is no evidence of sediment runoff into the creek.

Melbourne Water as the responsible waterway authority undertook a separate site inspection and advised in writing that the works have disturbed the waterway but the area seems to be stabilising and there is no requirement for further stabilisation or rectification works. Melbourne Water has consented to the proposal with no conditions demonstrating the proposal complies with the objectives of the Environmental Significance Overlay Schedule 2. The slight change with additional material does not adversely affect the rate of water flow across the property in accordance with the objectives of the Farming Zone.

Standard sediment control measures need to apply, and a more detailed site plan needs to be provided that nominates the width the crossing to ensure the works area is not expanded into the future. The application for works to waterways subject to conditions is recommended for approval.

GENERAL PROVISIONS

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

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

REFERRALS

| Authority | Response |
|--------------------------------------|------------------------|
| Melbourne Water | Consent, no conditions |
| Council's Development Infrastructure | Consent, no conditions |

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

That the Development Assessment Committee could consider the following options:

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

CONCLUSION

The earthworks to a creek crossing are generally in accordance with the relevant planning provisions and the Planning Policy Framework of the Moorabool Planning Scheme. The existing earthworks will not create sediment runoff issues as the works area has been stabilised through recent revegetation. This will be further controlled through sediment control permit conditions. It is therefore recommended that the application be supported subject to conditions.

At 6:05 pm, Cr Paul Tatchell left the meeting, having declared a Conflict of Interest to Item 9.2.

COMMITTEE RESOLUTION

Moved: Cr Tom Sullivan

Seconded: Cr Jarrod Bingham

That Cr Rod Ward assume the chair for Item 9.2.

CARRIED

Carly Burke addressed the Committee as the Objector representative to Item 9.2.

Johan Mangion and Andrew Rawlings addressed the Committee as the Applicant to Item 9.2.

9.2 PA2024023 - EARTHWORKS ASSOCIATED WITH A TROTTING TRACK AT 90 CARWEEN LANE, BALLAN

Author: Victoria Mack, Senior Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: Nil

APPLICATION SUMMARY

Permit No: PA2024023

Lodgement Date: 22 February 2024

Planning Officer: Victoria Mack

Address of the land: 90 Carween Lane, Ballan

Proposal: Earthworks associated with a trotting track (Retrospective)

Lot size: 10.69ha

Why is a permit required? Clause 35.07-4 Farming Zone - Earthworks which change the rate of flow or the discharge point of water across a property boundary
Clause 42.01-2 Environmental Significance Overlay Schedule 1 - Works
Clause 36.04-2 Transport Zone 2 - Carry out works.

COMMITTEE RESOLUTION

Moved: Cr Ally Munari

Seconded: Cr Steven Venditti-Taylor

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to Grant Planning Permit PA2024023 for Earthworks associated with a trotting track (Retrospective) at 90 Carween Lane, Ballan otherwise known as Pt Crown Portion 3, Section 6, Parish of Gorong subject to the following conditions:

Endorsed plans

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

Development Infrastructure

2. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of with a legal point of discharge issued by the Responsible Authority. If applicable, overflows from on-site storage systems must be directed away from any wastewater disposal areas.
3. 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) and civil construction, building and demolition guide (EPA 2020).
4. Dust generation must be minimised to ensure there is no health risk or loss of amenity and dust suppression measures must be put in place during dry and dusty conditions.
5. 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.
6. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Management identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Greater Western Water

7. There must be no discharge of contaminated water from the track to Werribee River or any other drains which discharge to any waterways. All manure from the track must be collected and removed off-site to the satisfaction of Council's Environmental Health Department. Any stockpile areas must be appropriately bunded to ensure contaminated run-off cannot be discharged from the area.
8. The track and any associated works such as rainwater tanks must be located at least 30m from Werribee River. There must be no removal of any riparian vegetation within 30 metres of the river.

Permit Expiry

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

Permit Note:

This permit has authorised works on DTP land with their written consent.

CARRIED

| PUBLIC CONSULTATION | |
|---------------------------------|---|
| Was the application advertised? | Yes. |
| Notices on site: | Yes. |
| Notice in Moorabool Newspaper: | Not required. |
| Number of objections: | One objection. |
| Consultation meeting: | Consultation meeting held on 24 October 2024, but no resolution achieved. |

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 1: Healthy, inclusive and connected neighbourhoods

Priority 3.1: Listen, analyse and understand community needs

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

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

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

Executive Manager – Henry Bezuidenhout

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

Author – Victoria Mack

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

EXECUTIVE SUMMARY

| | |
|--|---|
| Application referred? | Yes, Council's Development Infrastructure, Council's Strategic Planning, Department of Transport and Planning, Greater Western Water and Southern Rural Water |
| Any issues raised in referral responses? | No issues were raised. |
| Preliminary concerns? | The trotting track and associated earthworks have been constructed on land that is part of the Western |

| | |
|---|--|
| | Freeway alignment and without planning approval. |
| Any discussions with applicant regarding concerns? | There have been extensive discussions with the applicant. |
| Any changes made to the application since being lodged? | No changes made. |
| Brief history. | <p>The construction of the trotting track on Freeway land was brought to Council's attention in 2022.</p> <p>An application submitted for retrospective earthworks could not be accepted until a cultural heritage assessment was received.</p> <p>The owners then negotiated with the Department of Transport and Planning to secure a lease for grazing and a horse exercise track for the section of the trotting track that had been constructed on the Freeway land.</p> |
| Previous applications for the site? | PA2022272 was approved on 25 January 2023 for the Development of a Shed. |
| General summary. | <p>This proposal seeks retrospective approval for earthworks associated with a trotting track that partially covers land owned by Department of Transport and Planning.</p> <p>The application was advertised, and one objection was received concerning loss of potential road extension of Carween Lane and access to freeway land.</p> <p>The earthworks are minimal in height and standard conditions can protect surrounding land from sediment runoff. It is recommended for approval.</p> |
| Summary of Officer's Recommendation | |
| <p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, the Development Assessment Committee issues a Notice of Decision to Grant Planning Permit PA2024023 for Earthworks associated with a trotting track (retrospective) at 90 Carween Lane, Ballan subject to conditions contained in this report.</p> | |

SITE DESCRIPTION

The site is located approximately 3.3kms from the centre of the Ballan township and comprised of moderate sized farming lots surrounded by smaller Rural Living lots. The site is 10.69ha in area and approximately rectangular in shape. It is flat and contains an existing modern style dwelling, sundry outbuildings and horse yards. There is minimal vegetation.



Figure 1: Aerial photograph of the site

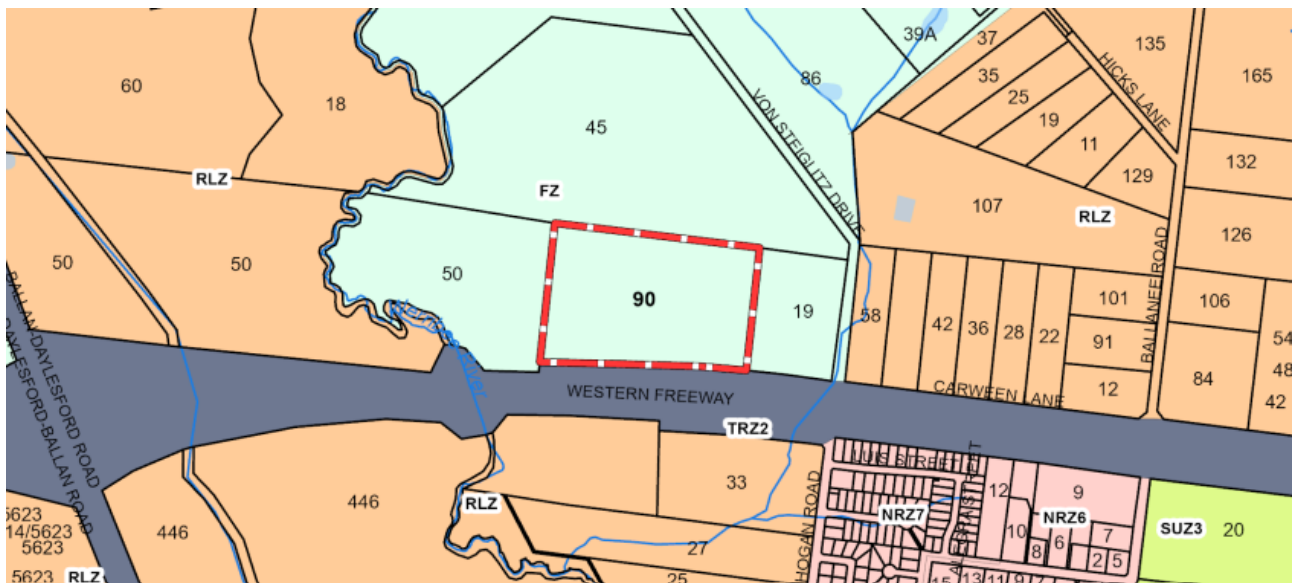


Figure 2: Zone Map

PROPOSAL

The works involved scraping a track using existing topsoil, lowering the inside of the track and raising the outside of the track. A drain was constructed on the south boundary.



Figure 3: A photo of the constructed trotting track

BACKGROUND TO CURRENT PROPOSAL

The applicant has previously conducted earthworks without planning permission and on land managed by Department of Transport and Planning. Enforcement action was undertaken, and no further works have occurred.

PUBLIC NOTICE

The application was notified to adjoining landowners with one objection being received.

SUMMARY OF OBJECTIONS

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

| Objection | Any Relevant Requirement |
|--|--------------------------|
| <p>The eastern boundary of my property, at 50 Ballan Daylesford Road, abuts the western boundary of the applicant's land. A section of my land is located on the eastern side of the Werribee River.</p> <p>I am unable to obtain access with heavy trucks and machinery, to undertake normal farming activities</p> | |

| | |
|---|--|
| <p>such as carting livestock, fertilising the land with heavy machinery, feeding the livestock with tractors etc. Whilst I own the land over the Werribee River, there is only access to this land via a small bridge that does not support bulk movement of livestock or heavy machinery or transport vehicles common in farming activities.</p> <p>My only option is to access this part of my land from Carween Lane, which I cannot now do, as the applicant has installed a gate along Carween Lane, a trotting track and drainage (1 meters in depth in some places) that would prevent carriageway across it.</p> | |
| <p>Officer's Response: Access rights over Department of Transport and Planning land needs to be resolved with lease or agreement with the freeway authority. Carween Lane is located within the Transport Road Zone 2 (Western Freeway road reserve) and any use of the land must be with the approval of the Department of Transport and Planning.</p> | |
| <p>I require access along Carween Lane, over the Roadside Land and down to my eastern land. Without said access the eastern land is landlocked with the Freeway to the South, a neighbouring property to the North and the Subject Land to the East. This access has been provided to the eastern Land in this exact way since the Western Freeway was acquired by the relevant road authority in the mid 1970's. The Applicant further acknowledges the existence of the road and Roadside Land as part of the Planning Permit Application under 'Southern Boundary Error', therefore acknowledging the existence of such access prior to becoming the registered proprietors. Without the required access, I cannot appropriately farm my eastern Land.</p> <p>The Applicant did not comply with the local government laws in obtaining a Planning Permit first for the permitted use and construction of the trotting track. The applicant having been the proprietor of the Subject Land since November 2020 was and is aware of my requirement for access along the Roadside Land to access my eastern land.</p> | |
| <p>Officer's Response: Access rights over Department of Transport and Planning land needs to be resolved with lease or legal agreement with the freeway authority. Carween Lane is located within the Transport Road Zone 2 and is not in private ownership. Informal tracks or access on the Western Freeway road reserve has to be approved by the Department of Transport and Planning. The applicant has obtained a lease of the DTP land for the trotting track as constructed.</p> | |

PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 12.05-1S – Environmental sensitive areas
- Clause 12.05-2S – Landscapes
- Clause 12.05-2L – Landscapes in Moorabool
- Clause 14.02-2S – Water quality

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

ZONE

Farming Zone

In accordance with Clause 35.07-4 a permit is required for earthworks which change the rate of flow across a property boundary.

The proposal is generally in accordance with the purpose of the zone and decision guidelines.

Transport Zone 2

In accordance with Clause 36.04-2 of the Moorabool Planning Scheme a permit is required for works.

OVERLAYS

Environmental Significance Overlay – Schedule 1

In accordance with Clause 42.01, and Schedule 1 of the Moorabool Planning Scheme a permit is required for earthworks.

Design and Development Overlay – Schedule 2

In accordance with Clause 43.02, and Schedule 2, of the Moorabool Planning Scheme relating to Visual Amenity and Building Design, a permit is not required for earthworks.

Design and Development Overlay – Schedule 3

In accordance with Clause 43.02, and Schedule 3 of the Moorabool Planning Scheme, relating to National Route 8 (Western Freeway/Highway) Environs a permit is not required for earthworks.

Heritage Overlay (HO22)

In accordance with Clause 43.01 and HO22 of the Moorabool Planning Scheme, relating to the Carween Homestead, a permit is not required for earthworks to the trotting track.

PARTICULAR PROVISIONS

No Particular Provisions apply.

DISCUSSION

A permit is triggered by the Farming Zone, the Transport Zone 2 and the Environmental Significance Overlay, Schedule 1 for the earthworks.

The applicant has acknowledged that they have constructed their trotting track on Western Freeway land managed by the Department of Transport and Planning. The applicant has recently obtained a lease for this land from the Department of Transport and Planning to keep their trotting track as constructed. When Department of Transport and Planning either need to extend

Carween Lane or need the land for a freeway extension or improvements, the trotting occupying their land will be removed in accordance with the lease conditions. With consent from the Department of Transport and Planning, the proposed works not related to the freeway can be approved.

The earthworks are minimal in height and are just a slight change in topography compared to the natural surface level. These earthworks do not affect the rate of flow across the property due to the absence of any significant site cutting or filling. Standard conditions will ensure sediment runoff from around the track is controlled in accordance with the objectives of the Environmental Significance Overlay Schedule 1. The water catchment authorities have consented to the application.

The proposal is recommended for approval with standard conditions.

GENERAL PROVISIONS

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

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

REFERRALS

The application was referred as follows:

| Authority | Response |
|--------------------------------------|------------------------------|
| Greater Western Water | Consent with conditions. |
| Southern Rural Water | No objection, no conditions. |
| Department of Transport and Planning | No objection, no conditions. |
| Council's Development Infrastructure | Consent with conditions. |
| Council's Strategic Planning | Consent, no conditions. |

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

OPTIONS

That the Development Assessment Committee consider the following options:

- Issue a Notice of Decision to Grant a Planning Permit in accordance with the conditions and the recommendation contained in this report; or

- issue a Refusal to Grant a Planning permit on specific grounds. The Development Assessment Committee would need to consider what reasonable grounds there would be to refuse the application.

CONCLUSION

The earthworks to form a trotting track are generally in accordance with the relevant planning provisions and the Planning Policy Framework of the Moorabool Planning Scheme. The existing earthworks will not create sediment runoff issues due to the flat topography. The relevant freeway authority, Department of Transport and Planning, has consented to the works on their land. It is therefore recommended that the application be supported subject to conditions.

At 6:27 pm, Cr Paul Tatchell returned to the meeting and resumed as Chair.

9.3 PA2024082 - TWO LOT SUBDIVISION AT 112 NAVIGATOR-DUNNSTOWN ROAD, NAVIGATORS

Author: Victoria Mack, Senior Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: Nil

APPLICATION SUMMARY

Permit No: PA2024082

Lodgement Date: 30 April 2024

Planning Officer: Victoria Mack

Address of the land: 112 Navigator-Dunnstown Road Navigators Vic 3352

Proposal: Two Lot Subdivision (Boundary Realignment)

Lot size: 40.709ha over two lots

Why is a permit required? Clause 35.07-3 Farming Zone – Subdivide land.
Clause 42.01-2 Environmental Significance Overlay, Schedule 1 – Subdivide land.

MOTION

Moved: Cr Tom Sullivan

Seconded: Cr Jarrod Bingham

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Planning Permit PA2024082 for Two (2) Lot Subdivision (Boundary Realignment) at 112 Navigator-Dunnstown Road, Navigators subject 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.

Section 173 Agreement:

2. Before the issue of a Statement of Compliance the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority:
 - (a) The land cannot be further subdivided to create any additional disposable lots.
 - (b) Lot 1 must have an area of no less than 8000sqm.

An application must be made to the Register of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act and the owner must provide evidence of that registration of the Agreement to the Responsible Authority before the issue of a Statement of Compliance.

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

Subdivisions:

3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services (where it is proposed to be connected) to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
4. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
5. 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.

Development Infrastructure:

6. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991) and civil construction, building and demolition guide (EPA 2020).
7. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the

property.

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

Central Highlands Water:

9. The owner must enter into an agreement with Central Highlands Region Water Corporation (CHW) and the responsible authority under Section 173 of the Planning and Environment Act 1987, requiring that:
 - (a) The land shall not be further subdivided to create any additional disposable lots.
10. The Owner and the Council agree to do all things necessary to register a memorandum of this Agreement on the title of the land pursuant to Section 181 of the Planning and Environment Act 1987. This includes the owner paying all costs associated with the preparation, negotiation, registration, and enforcement of the agreement.
11. The wastewater management system for the proposed new lot containing the existing dwelling must be wholly contained within the boundaries of the new lot created by the subdivision.
12. 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.

Permit Expiry:

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

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

CARRIED

| PUBLIC CONSULTATION | |
|---------------------------------|--|
| Was the application advertised? | Yes. |
| Notices on site: | Yes. |
| Notice in Moorabool Newspaper: | No. |
| Number of objections: | No objections received. |
| Consultation meeting: | Not required as recommendation for refusal |

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 2: Liveable and thriving environments

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

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

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

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

Executive Manager – Henry Bezuidenhout

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

Author – Victoria Mack

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

EXECUTIVE SUMMARY

| | |
|---|---|
| Application referred? | The application was referred Council's Development Infrastructure, Council's Public Health and Central Highlands Water. |
| Any issues raised in referral responses? | Central Highlands Water expressed concern that the consolidation of lots required by permit PA2018116 for the Development and Use of a Dwelling on the land had not been completed. |
| Preliminary concerns? | Use of the land for a dwelling was approved on the basis it must be in conjunction with an approved agricultural activity and the endorsed Farm Management Plan. The proposal seeks to have dwelling separated from agricultural use. |
| Any discussions with applicant regarding concerns? | The applicant was advised of the concerns. |
| Any changes made to the application since being lodged? | The applicant in response to the dwelling having been completed and occupied in breach of a permit condition requiring consolidation of titles, have completed a certification process and a new title has been released. |
| Brief history. | The site is occupied by an existing and associated with cattle production. |
| Previous applications for the site? | PA2018116 - Development and Use of a Dwelling & Development of a Machinery Shed issued on 15 |

| | |
|---|--|
| | January 2019. CA2024030 - Consolidation of land. |
| General summary. | <p>It is proposed to subdivide the land to excise off a dwelling lot from the remaining agricultural land.</p> <p>The existing dwelling was approved in association with a Farm Management Plan relating to hay and cattle production. A Section 173 agreement registered on title states that the use of the land for a dwelling must be in conjunction with an approved agricultural activity.</p> <p>It is considered that the proposal is not an orderly planning outcome in the Farming Zone.</p> <p>It is recommended that the application be refused.</p> |
| Summary of Officer's Recommendation | |
| <p>That the Development Assessment Committee, having considered all matters as prescribed by the <i>Planning and Environment Act 1987</i>, issue a refusal to grant Planning Permit PA2024082 for a two lot subdivision (boundary realignment) at 112 Navigator-Dunnstown Road, Navigators on the grounds contained in this report.</p> | |

SITE DESCRIPTION

Surrounding land is in the Farming Zone and generally is used for livestock grazing and hay production. The site is located approximately 4.5kms northwest of the Yendon township and approximately 5kms southwest of Dunnstown.

The site has a total area of 40.709ha. It is irregular in shape. The land is used for hay and cattle production. The site contains a dwelling in the northern section of the land with access to the Navigator-Dunnstown Road.

The owners also lease VicTrack land that runs parallel to the south boundary.

The land is flat to undulating and pastured with little vegetation except scattered vegetation along drainage lines and waterways.



Figure 1: Aerial photo of the site



Figure 2: Zone Map

It is proposed to re-subdivide two existing tittles the land into two lots as follows:

- Lot 1 is at 8000sqm in area which would contain the existing dwelling and driveway with access to Navigator-Dunnstown Road.
- Lot 2 is at 39.89ha in area which would contain three sheds, the cattle yards and all dams with access to Navigator-Dunnstown Road.

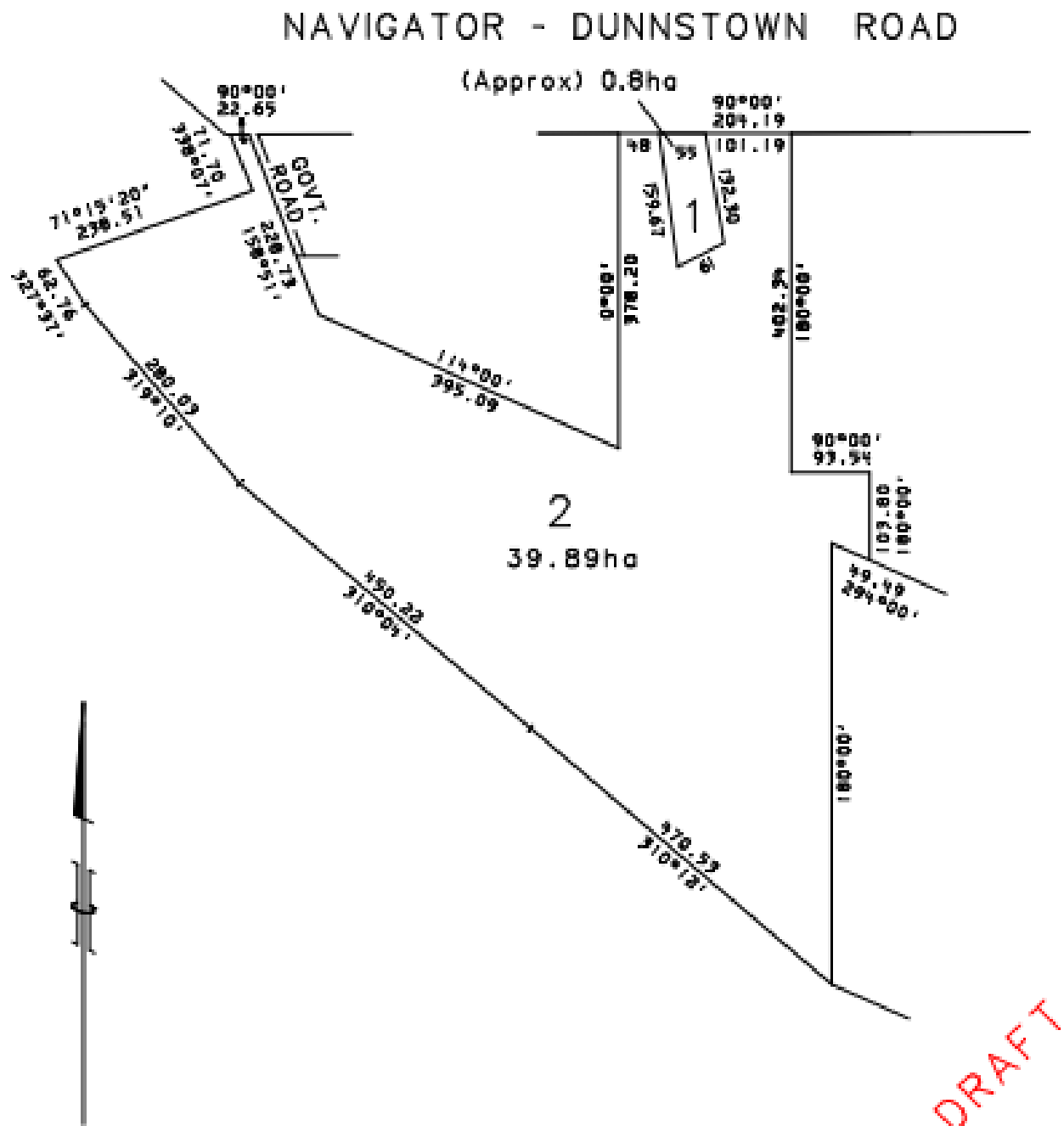


Figure 3: Proposed Plan of Subdivision

BACKGROUND TO CURRENT PROPOSAL

Permit number PA2018116 issued on 15 January 2019 approved a dwelling and a machinery shed on the land in association with a Farm Management Plan related to hay and cattle production. A condition on the permit required consolidation of lots, five titles comprising an area of 31.06ha.

A second lot in the same ownership immediately adjacent to the consolidated lot is 9.649ha in area.

PUBLIC NOTICE

The application was notified to adjoining and surrounding landowners, and a sign was placed on the site.

No objections were received.

PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 02.03-4 – Natural Resource Management - Agriculture
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.03-3S – Peri-Urban Areas
- Clause 14.01-1S – Protection of agricultural land
- Clause 14.01-1L – Agriculture, rural dwellings and subdivision
- Clause 14.02-1L – Declared special water supply catchments
- Clause 15.01-6S – Design for rural areas
- Clause 16.01-3S – Rural residential development
- Clause 16.01-3L-01 – Rural residential development in Moorabool

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

| PPF | Title | Response |
|--------------------|---|--|
| Clause 02.03-4 | Natural Resource Management - Agriculture | <p>The objectives of this clause are:</p> <ul style="list-style-type: none"> • Protect good quality agricultural land and support the productivity and sustainability of existing and future agricultural and horticultural activities. • Ensure that subdivision and dwellings in rural areas will result in increased agricultural productivity. <p>It is not considered that the application meets these policy objectives.</p> |
| MPS | Title | Response |
| Clause 11.01-1L-01 | Settlement in Moorabool | <p>It is policy to:</p> <ul style="list-style-type: none"> • Direct rural residential and rural living development to strategic growth areas where |

| | | |
|-----------------|--|--|
| | | <p>they will not impact on agricultural and horticultural production.</p> <p>The creation of a small rural residential lot in an agricultural region and in the Farming Zone is not an orderly planning outcome.</p> |
| Clause 14.01-1S | Protection of agricultural land | <p>It is policy to limit new housing development in rural areas by:</p> <ul style="list-style-type: none"> Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses. Encouraging consolidation of existing isolated small lots in rural zones. <p>The proposal does not accord with this policy as it creates an isolated small lot in the Farming Zone.</p> |
| Clause 14.01-1L | Agriculture, rural dwellings and subdivision | <p>It is policy to:</p> <ul style="list-style-type: none"> Discourage subdivision and dwellings unless they are directly related to the agricultural use of land. Allow the excision of a lot for a dwelling where it would facilitate the ongoing agricultural use of the remaining land. Maintain productive farm sizes by discouraging fragmentation of land for non-rural use and development. <p>The future of a small residential lot if sold will have no nexus with the surrounding farming land.</p> |
| Clause 14.02-1L | Declared special water supply catchments | <p>It is policy to:</p> <ul style="list-style-type: none"> Avoid the subdivision of land in Declared Water Supply Catchment Areas. <p>The proposal is not in accordance with this policy.</p> |

ZONE

Farming Zone

A permit is required under Clause 35.07-3 to subdivide land.

OVERLAYS

Environmental Significance Overlay – Schedule 1

A permit is required under Clause 42.01 to subdivide land.

Design and Development Overlay, Schedule 2.

In accordance with Clause 423.02 of the Moorabool Planning Scheme a permit is not required to subdivide land.

RELEVANT POLICIES**Rural Land Use Strategy (RLUS)**

The RLUS was adopted by Council in 2024.

The site is in Policy Area 3 of the strategy.

Area 3 has the potential to support a diverse mix of agricultural activities, but more aligned to broadacre cropping and grazing activity. This is assisted by Area 3 having less land fragmentation overall and the largest rural allotments (i.e. 80+ hectares) being located through the centre, south and southwest. Large scale farming and agricultural activities which benefits from available lot size will be considered the highest priority for Area 3. Additional rural lifestyle dwellings in Area 3 will be directed to existing Rural Living Zone (RLZ) land.

The statement of intent for Area 3 includes:

- To retain large productive lot sizes and avoid the fragmentation of land.
- To actively encourage and support consolidation of land for agricultural use.
- To prevent proliferation of dwellings, and avoid locating conflicting and sensitive uses in farming areas

There is no policy support within Area 3 to fragment agricultural land or to create a small housing lot that can not be used productive farming purposes.

It must also be noted that the subject site is in close proximity to Area 1 which is the most productive agricultural land in the Moorabool Shire.

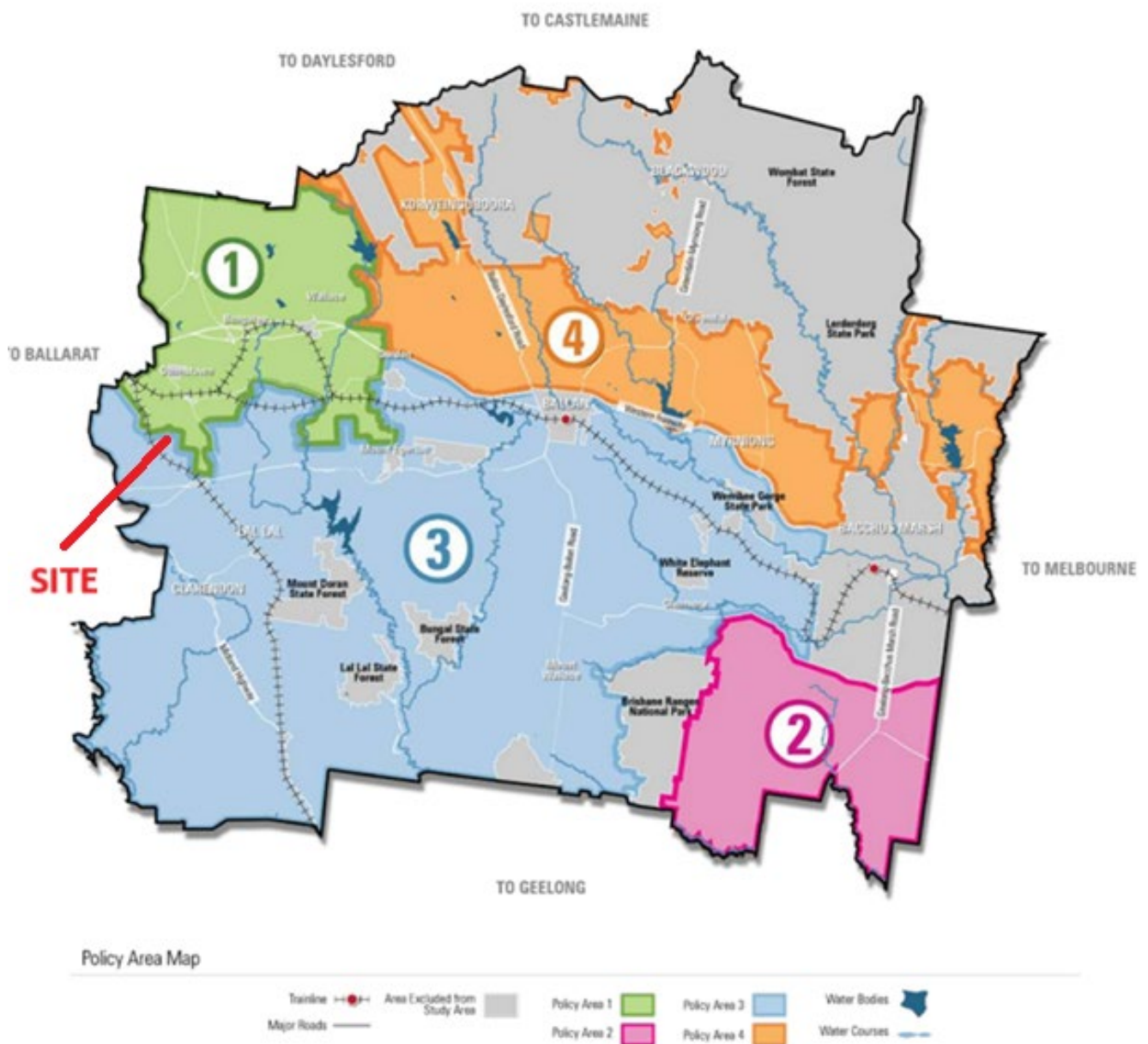


Figure 4: Site in relation to Rural Land Use Strategy map

This application does not accord with the intent of this policy. The creation of a small lot for a dwelling would fragment the use of the land for agriculture where the dwelling would not have a direct relationship with an agricultural use.

PARTICULAR PROVISIONS

No Particular Provisions apply.

DISCUSSION

The proposal seeks to create a small lot of 8000sq.m in the Farming Zone with a dwelling, which was approved in 2019 in association with a Farm Management Plan for hay and cattle production on the land.

A Section 173 agreement under the *Planning & Environment Act 1987* was a condition of this permit which required that the use of the land (totalling 31.06 ha in area) for a dwelling must be in conjunction with an approved agricultural activity and the endorsed Farm Management Plan (FMP).

The applicant stated that cattle production does not require a dwelling on the same title which is inconsistent with the justification of the dwelling in 2018 planning application that was required to support cattle production.

The current proposal would separate the dwelling from the balance of the land.

There is no policy support for this arrangement within the Planning Policy Framework or Municipal Policy Statement that seeks the protection of agricultural land from fragmentation preventing the creation of small residential sized lots in the rural zones. Policies specifically discourage the creation of small lots where future land use conflicts may arise between the residents of small lots and regular farming activities. Policies also aim to protect good quality agricultural land and support the productivity and sustainability of existing and future agricultural and horticultural activities. The application does not accord with policy objectives of the Moorabool Planning Scheme.

Lot 1 at 8000sqm containing a centrally located dwelling will never be able to be used for a productive farming use and creates a poor precedent where dwellings are approved in the Farming Zone in order to sustain a particular agricultural activity and then not used for the that purpose. Agricultural production needs to be protected and not undermined through land fragmentation.

There is no policy support for creating a small housing lot based on the location of the site in Area 3 of Council's adopted Rural Land Use Strategy. The Rural Land Use Strategy aligns with State Government policy directives under Melbourne's Green Wedges and Agricultural Land Action Plan 2024 which seeks to protect agricultural land.

It is considered that the application is not an orderly planning outcome.

The application is inconsistent with the Farming Zone objectives of the Moorabool Planning Scheme and should be refused.

GENERAL PROVISIONS

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

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

REFERRALS

| Authority | Response |
|--------------------------------------|--------------------------|
| Central Highlands Water | Consent with conditions |
| Council's Development Infrastructure | Consent with conditions. |
| Council's Public Health Team | Consent, no conditions. |

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & 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. The applicant was invited to attend this meeting and invited to address the Development Assessment Committee if required.

OPTIONS

That the Development Assessment Committee could consider the following options:

- Issue a Refusal to Grant a Permit with specified grounds as listed in the recommendation of this report; or
- issue a Notice of Decision to Grant a Planning Permit. The Development Assessment Committee would need to consider what reasonable grounds there would be to support the application under the Moorabool Planning Scheme.

CONCLUSION

The proposal creates a small housing lot in the Farming Zone isolating the dwelling from the surrounding agricultural land. Fragmenting farming zoned land does not comply with the objectives of the Clause 35.07 of the Moorabool Planning Scheme and undermines planning policies that seeks to support agricultural production. The application is recommended for refusal with specified grounds.

Lorraine Stupak addressed the Committee as the Landowner representative to Item 9.4.

9.4 PA2024044 - DEVELOPMENT OF THREE DWELLINGS AT 12 MILLBANK STREET, BACCHUS MARSH

Author: Justin Rocio, Statutory Planner

Authoriser: Henry Bezuidenhout, Executive Manager Community Planning & Development

Attachments: Nil

APPLICATION SUMMARY

Permit No: PA2024044

Lodgement Date: 24 April 2024

Planning Officer: Justin Rocio

Address of the land: 12 Millbank Street, Bacchus Marsh

Proposal: Development of Three Dwellings

Lot size: 1007sqm

Why is a permit required? Clause 32.08-7 General Residential Zone Schedule 3 – Construction of two or more dwellings on a lot.
Clause 43.02-2 Design and Development Overlay Schedule 15 – Construction of buildings exceeding 100.8 metres above the Australian Height Datum (AHD)

COMMITTEE RESOLUTION

Moved: Cr Tom Sullivan

Seconded: Cr Rod Ward

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, to issue a Notice of Decision to Grant Planning Permit PA2024044 for the Development of Three Dwellings at 12 Millbank Street, Bacchus Marsh, subject to the following conditions:

Endorsed Plans

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:
 - (a) The private open space area to Unit 1 to be increased to 35sqm and the 6m³ external storage to be relocated within the proposed double garage.
 - (b) Pot size of the canopy trees in the front setback to Unit 1 to be a minimum height of 1.5m.

Landscaping

2. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including any dead, diseased or damaged plants are to be replaced.

Development Infrastructure

4. Unless otherwise approved by the Responsible Authority there must be no buildings, tree structures, or improvements located over any drainage pipes and easements on the property.
5. Two (2) new urban vehicle crossings must be provided on Millbank Street to the site to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing with any redundant crossings being removed and restored to the satisfaction of the Responsible Authority. The Urban vehicle cross over is to be generally in accordance with Standard Drawing 240 or Standard Drawing 245 of the Infrastructure Design Manual unless an alternative approval has been approved through the vehicle cross over permit.
6. The common property driveway must be constructed in reinforced concrete to a depth of 125mm. The layout of the driveway must be designed and constructed in accordance with Clause 52.06-8 of the Moorabool Planning Scheme.
7. Prior to the construction commencing, engineering drainage plans and detailed computations must be submitted and approved by the Responsible Authority. The drainage plans are to undertake in accordance with the Infrastructure Design Manual and Australian Rainfall & Runoff 2016 and shall incorporate (but not limit to) the following:
 - (a) The development for each dwelling must be self-draining to the legal point of discharge.
 - (b) All outfall drainage land passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.
 - (c) Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.
 - (d) Each dwelling must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
 - (e) Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)"
 - (f) Flow paths of the 1% AEP storm must be determined, and the subdivision designed so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
8. Stormwater drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the responsible authority prior to the commencement of works

associated with the permit.

9. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared, submitted and approved by the responsible authority, detailing but not limited to the following
 - (a) Location of vehicle crossings
 - (b) Details of the underground drainage
 - (c) Location of drainage legal points of discharge
 - (d) Standard details for vehicle crossings and legal points of discharge
 - (e) Civil notes as required to ensure the proper construction of the works to Council standard.
10. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991) and civil construction, building and demolition guide (EPA 2020).
11. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Management identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Gas Services

12. Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

Department of Families, Fairness and Housing

13. Should any cranes be used for construction (including demolition) details of the equipment location and height, demonstrating that the equipment does not penetrate the flight path Obstacle Limitation Surface of 112m AHD, must be advised to the Department of Health, at least five business days prior to commencement.

Permit Expiry

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

CARRIED

| PUBLIC CONSULTATION | |
|---------------------------------|------|
| Was the application advertised? | Yes. |
| Notices on site: | Yes. |
| Notice in Moorabool Newspaper: | No. |

| | |
|-----------------------|--|
| Number of objections: | Six. |
| Consultation meeting: | A consultation meeting between the applicant and the objectors was requested however the applicant declined the offer. |

POLICY IMPLICATIONS

The Council Plan 2021-2025 provides as follows:

Strategic Objective 1: Healthy, inclusive and connected neighbourhoods

Priority 1.1: Improve the health and wellbeing of our community

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

VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006

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

OFFICER'S DECLARATION OF CONFLICT OF INTERESTS

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

Executive Manager – Henry Bezuidenhout

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

Author – Justin Rocio

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

EXECUTIVE SUMMARY

| | |
|---|---|
| Application referred? | Yes, Council's Development Infrastructure and Department of Families, Fairness and Housing (DFFH) |
| Any issues raised in referral responses? | Yes, Stormwater management strategy was requested and relocation of a service cove/ pit. |
| Preliminary concerns? | No. |
| Any discussions with applicant regarding concerns? | Not applicable. |
| Any changes made to the application since being lodged? | Yes, the applicant has submitted a detailed Stormwater Management Plan and amended drawings to address Infrastructure's initial concerns. |
| Brief history. | The subject site contains an existing single storey dwelling. |
| Previous applications for the site? | No. |
| General summary. | The application is for the development of three |

| | |
|--|--|
| | <p>double storey dwellings on residential zoned land. The application was advertised, and six objections were received.</p> <p>The proposed development meets the objectives and standards of Recode as contained in Clause 55 of the Moorabool Planning Scheme. The proposal is generally in accordance with the neighbourhood character objectives and dwelling layouts are site responsive.</p> <p>It is recommended that the proposal be approved subject to conditions.</p> |
| Summary of Officer's Recommendation | |
| <p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, the Development Assessment Committee issue a Notice of Decision to Grant Planning Permit PA2024044 for development of three dwelling at 12 Millbank Street, Bacchus Marsh subject to the conditions contained within this report.</p> | |

SITE DESCRIPTION

The subject site is located immediately to the west of the Bacchus Marsh town centre. The Western Freeway is located north of the property. There is a property within the Heritage Overlay (HO100 – Dwelling “Pentland”) to the rear of the site.

The area consists of predominantly single storey detached dwellings on lots ranging between just under 400sqm to 1450sqm. However, a number of properties in the area particularly the adjacent property to the east that have undergone subdivision through battle-axe arrangements. The dwelling designs along Millbank Street are diverse with a few different architectural types with a mix of both weatherboard and brick dwellings.

The site has an area of 1007.62sqm and contains an existing dwelling. The site is relatively flat with plenty of vegetation along the front setback and a 1.5m front fence.



Figure 1: Aerial photograph of the subject site

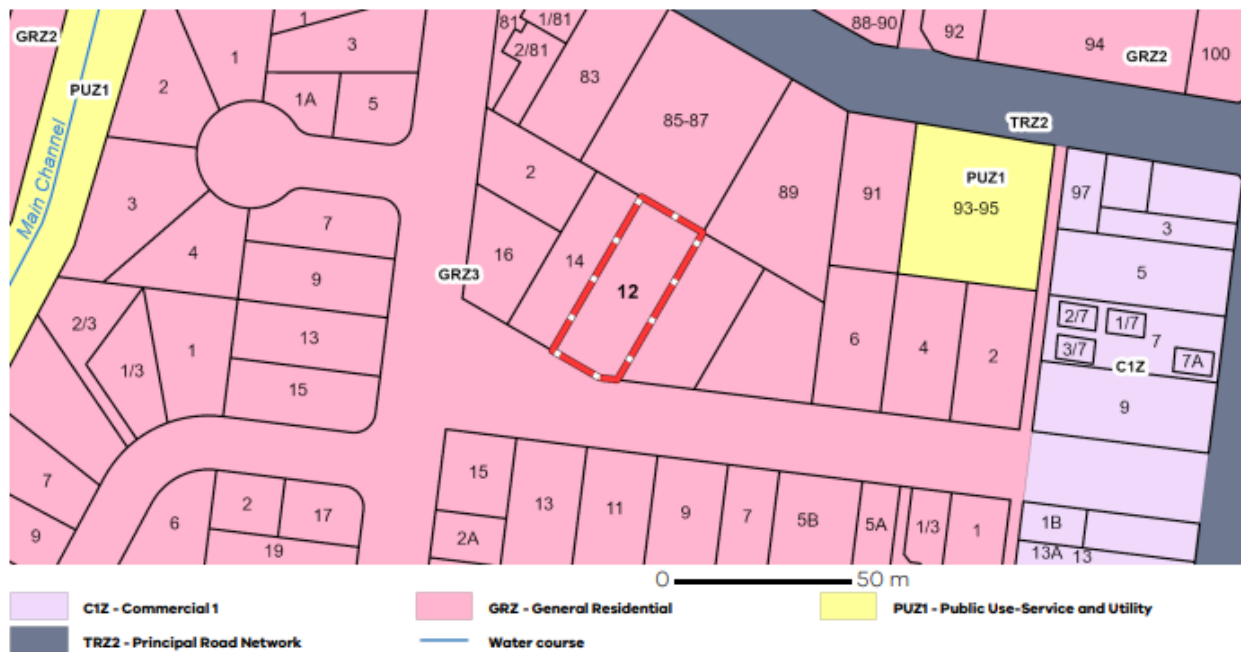


Figure 2: Zoning map

PROPOSAL

It is proposed to construct three double storey dwellings on the site in a tandem development arrangement.

The three dwellings all consist of similar floor plan layouts. Each dwelling will consist of 4 bedrooms and double garages.

The ground floor of each dwelling consists of the laundry and ground floor toilet is located near the double garages, an open living, dining and kitchen areas with walk in pantries, and a guest bedroom with an attached ensuite and walk in robe. Unit 1 will have an open study near the front entry of the dwelling.

The first floor of each dwelling will contain three bedrooms with one being the master bedroom. Units 1 and 2 have the master bedroom to the south and Unit 2 has the master bedroom to the north. All the dwellings will also contain a bathroom. Units 1 and 2 will have a rumpus room, whilst Unit 3 will have a different layout which includes a study.

Access to Units 2 and 3 will use the existing crossover while Unit 1 will be accessed through a newly constructed double crossover with the property to the west.

The ground floor of each dwelling will be clad with red recycled brick and the entry porches to each dwelling will be rendered and Monument in colour. The first floor of each dwelling will be clad with Cement Sheeting and will have a mix of Whisper White and Terrace White in colour. The roofing will be clad with Colorbond and Monument in colour. The finished floor levels on each dwelling will be 2.7m and an overall height of 7.84m.

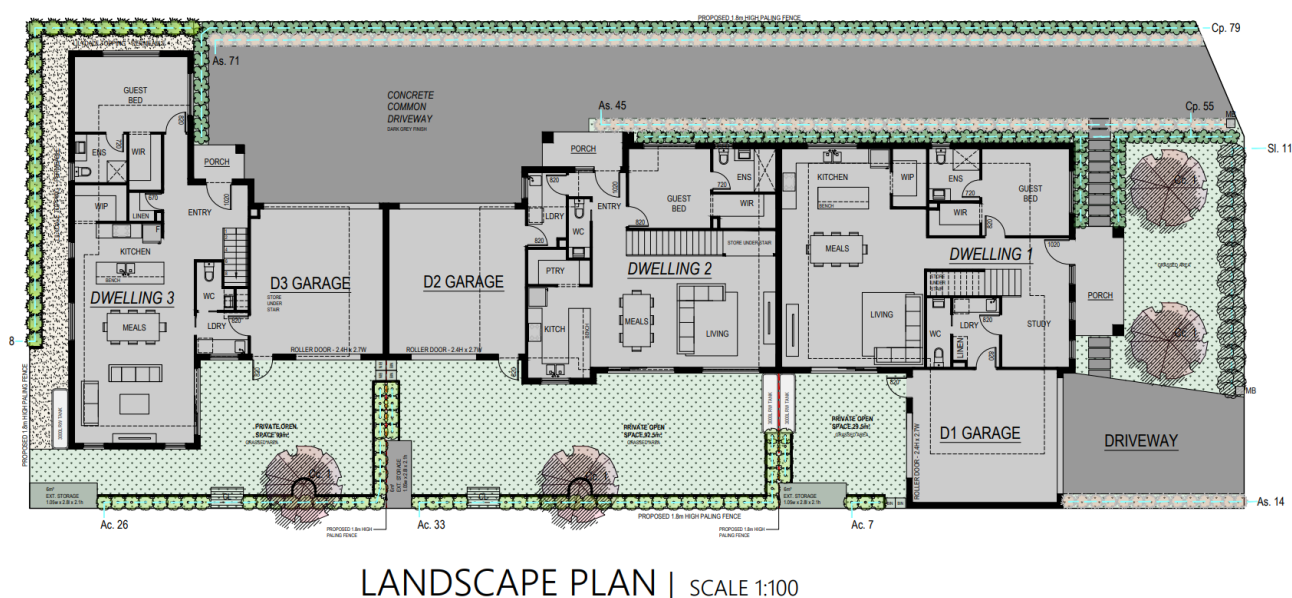


Figure 3: Ground floor/Landscape plan

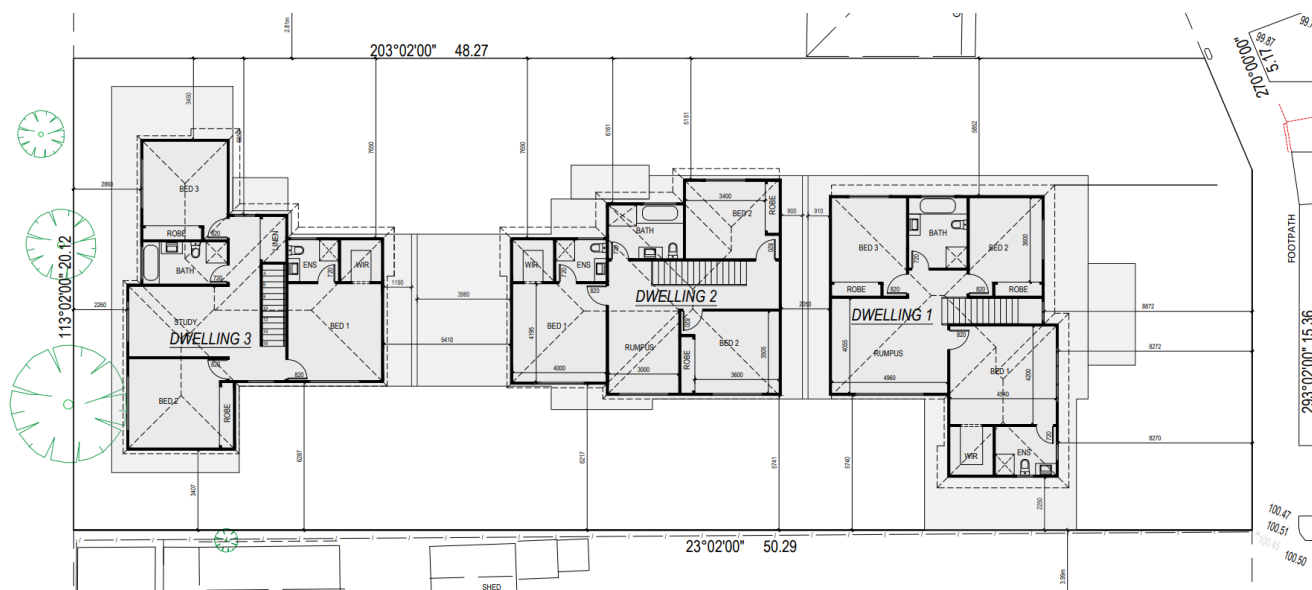


Figure 4: First Floor Plan

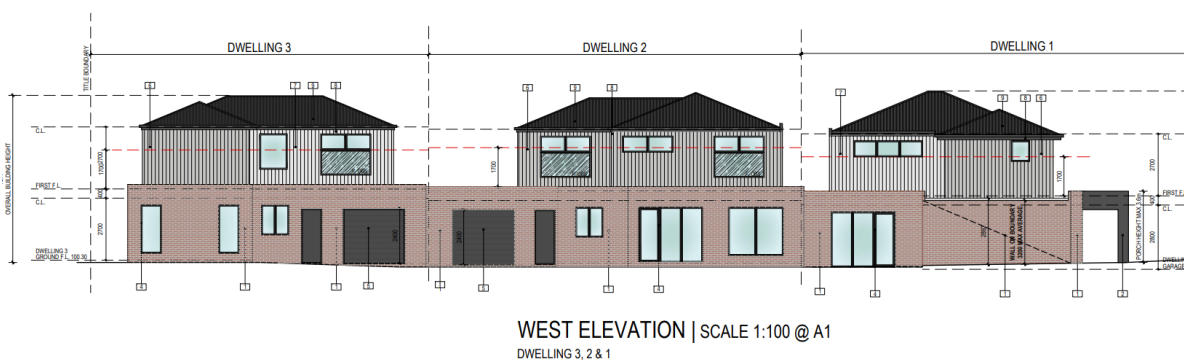


Figure 5: Elevation Plan

BACKGROUND TO CURRENT PROPOSAL

Not applicable.

HISTORY

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

PUBLIC NOTICE

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

Six objections were received.

SUMMARY OF OBJECTIONS

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

| Objection | Any Relevant Requirement |
|--|---|
| Proposed dwellings do not fit with the character of the area I find the development will be an eyesore for Millbank Street. If a proposal like this is able to go through it | Clause 55.02-1 – Neighbourhood character objectives |

| | |
|--|--|
| will open the door for more in the area, which wouldn't fit into the current environment. | |
| <p>Officer's Response: The dwellings are in a tandem development arrangement allowing one dwelling facing the street with a side common property driveway. This creates a streetscape presentation of side spacings between dwellings which fits in within the existing neighbourhood character. The dwellings are double storey in height but have first floor setbacks with different external materials and colours to reduce visual bulk impacts to the adjacent properties. The large front setback also allows for planting of canopy trees reflecting the existing garden character of the area.</p> <p>The proposal for three dwellings meets the setback, open space and site coverage standards of Rescode.</p> | |
| <p>With the current space it allows for six cars to be parked within the property, so up to three could be parked on the road outside.</p> <p>There is already an issue with parking in the street, mainly due to staff from the hospital parking all day.</p> | Clause 52.06 – Carparking |
| <p>Officer's Response: Dwellings with 3 or more bedrooms are required to provide a minimum of two car parking spaces. The applicant has shown double garages for each dwelling in compliance with the car parking rate under Clause 52.06 of the Moorabool Planning Scheme.</p> | |
| <p>Hazard for traffic entering Millbank Street from Clarinda Street past the existing mid-road island.</p> <p>Traffic congestion</p> | |
| <p>Officer's Response: Council's Development Infrastructure have reviewed the application and the proposed additional units do not have create any traffic concerns. The three dwellings will not impact traffic flow along Millbank Street.</p> | |
| The residences will overlook their one storey neighbours. | Clause 55.04-6 – Overlooking objective |
| <p>Officer's Response: The applicant has provided highlight windows with sill levels 1.7m above the finished floor level and partially obscured glazing on some of the larger windows in compliance with the overlooking standard of Rescode.</p> | |

PLANNING SCHEME PROVISIONS

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

The relevant clauses are:

- Clause 11.01-1S – Settlement
- Clause 11.01-1L-01 – Settlement in Moorabool
- Clause 11.01-1L-02 – Bacchus Marsh
- Clause 15.01-1S – Urban design
- Clause 15.01-1L – Urban design

- Clause 15.01-2S – Building design
- Clause 15.01-2L-01 – Building design
- Clause 15.01-5S – Neighbourhood character
- Clause 15.01-5L – Landscape and neighbourhood character
- Clause 16.01-1S – Housing supply
- Clause 16.01-1L – Housing supply in Moorabool
- Clause 16.01-2S – Housing affordability

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

ZONE

General Residential Zone Schedule 3

A planning permit is required under Clause 32.08-7 for the construction of two or more dwellings on a lot.

OVERLAYS

Design and Development Overlay Schedule 15 (Hospital Helicopter Flight Path)

A planning permit is required under Clause 43.02-2 for the construction of a building greater than 100.8 metres AHD.

Specific Controls Overlay Schedule 2

There is not planning permit trigger to construct three dwellings under this overlay.

PARTICULAR PROVISIONS

The proposed dwellings must comply with the relevant Rescode standards (Clause 55 of the Moorabool Planning Scheme).

The proposal complies with the Clause 52.06 car parking standard by providing two spaces to each 3 bedroom dwelling. The vehicle turning paths demonstrate vehicles can exit the site in a forward direction from the rear two units.

DISCUSSION

The proposed development demonstrates compliance with the relevant planning provisions of the Moorabool Planning Scheme.

Each dwelling has its own unique entry point and design and its own separate identity and separation between built form at the upper levels, which will not compromise the character of the area. The applicant has provided two trees (Forest Pansy) at the front of the property. These types of trees have a wide canopy width which reduces any potential visual bulk the double storey dwelling may present to the street. The tandem development arrangement has prevented a boundary to boundary development and orientated habitable windows to the east and west.

The property currently has an approximately 1.5m high non transparent wooden front fence. This will be demolished as part of the development and provide better passive surveillance towards Millbank Street. It can also be noted that a large number of properties at Millbank Street do not have a front fence and removing the high front fence is a positive streetscape improvement.

The applicant has provided a mix of highlight windows and partially obscured glazing on some of the larger windows on the first floor. This addresses any potential overlooking impacts the dwellings may have on the adjacent properties.

While the street is predominantly single storey, some other dwellings along the street have high roof pitches particularly the dwelling on 16 Millbank Street creating similar roof apex height compared to the proposed double storey dwellings. The general area has undergone a number of subdivisions such as the adjacent property at 10 Millbank Street and also at 3 Millbank Street. The nearby property at 12 Turner Street has undergone a similar development with four double storey dwellings on the lot. The proposal will further add to the dwelling diversity that is already present along Millbank Street and site advantage of being in close proximity to the Bacchus Marsh Activity Centre.

The double storey dwellings over two floor levels have allowed for an acceptable provision of secluded private open space at the ground level exceeding the minimum requirement of 25sqm in area. It should be noted however that secluded private open space is evenly distributed amongst the three dwelling. Due to this, a condition 1 requirement has been added to the permit to increase the open space of unit 1 and relocate the 6 cubic metres of external storage to the garage space.

Each dwelling is provided with double garages which meets the carparking requirements in Clause 52.06 and spaces are provided within a secure double garage. The garages to Units 2 and 3 face the common driveway thereby reducing a garage presentation to the street.

Schedule 3 of the General Residential Zone is also aimed at increased residential growth areas. The development results in increased housing within an established residential area and is in close proximity to a range of services as well as the town centre of Bacchus Marsh. The proposal meets the objectives for increased residential growth.

Overall, the development meets the requirements of the General Residential Zone, complies with the standards of Rescode and meets the minimum car parking requirements under Clause 52.06.

GENERAL PROVISIONS

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

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

REFERRALS

| Authority | Response |
|---|--------------------------|
| Department of Families, Fairness and Housing (DFFH) | Consent with a condition |
| Council's Development Infrastructure | Consent with conditions |

FINANCIAL IMPLICATIONS

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

RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

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

COMMUNICATIONS STRATEGY

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

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

OPTIONS

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

CONCLUSION

Overall, the proposal is generally compliant with the ResCode standards and provisions of the Moorabool Planning Scheme. The site is located within the General Residential Schedule 3 which seeks increased residential growth in close proximity to services. The design and layouts of the proposed dwelling complements the existing streetscape. It is recommended that this application be supported, and a planning permit issued, subject to conditions.

10 UPDATE ON TRENDS, ISSUES AND OTHER MATTERS

Nil.

11 UPDATE ON VCAT DECISIONS

Mr Lovell provided an update on one VCAT matter

- PA2024053 400 Lal Lal Falls Road, Lal Lal for the Development of a Horse Riding Arena Ancillary to an Existing Dwelling, an appeal was withdrawn on 12 March 2025 via a consent order with amended permit conditions relating to a Section 173 Agreement.

12 OTHER BUSINESS

Nil.

13 DATE OF NEXT MEETING

Wednesday 16 April 2025

14 MEETING CLOSE

The Meeting closed at 6:50 pm

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CHAIRPERSON