

**Rod Davison**

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**From:** Stephen Vereker [REDACTED]  
**Sent:** Monday, 31 August 2020 10:35 PM  
**To:** Rod Davison; Info  
**Cc:** Ana Mitrov; G&S Vereker  
**Subject:** Re: Response to C91 Amendment - Moorabool Shire (Moorabool Planning Scheme Amendment C91 - Flood overlays)

**Importance:** High

Moorabool Shire Council,

Further to the below emails (including submission extension) and other related communications, please see and process the below submission.

Please also confirm receipt of this submission.

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Attention: Moorabool Shire Council (MSC)

Date: Monday 31 August 2020

Dear Moorabool Shire Council,

Further to communications re Amendment C91, please find below our response.

We vehemently oppose the planned Amendment C91 in so far that it plans to impose an LSIO on our property Millbank House at 37-41 Grant St Bacchus Marsh. The reasons for our objection include the following:

- **Insufficient consideration given to Bacchus Marsh history**

There was a very substantial failure to sufficiently take into account 150 years of available flood history which shows that our property has not been subject to inundation/flood. This history can be evidenced through past Shire reports, newspapers, photos and eye-witness accounts. This historical information can not be simply dismissed as being just anecdotal, or dismissed for reason of lack of availability (or claimed/inferred modelling superiority).

Our property is not one of the areas of flood prone land where flooding has impacted the natural and built environment (and there is insufficient basis to claim that it will become a flood prone area). There are no land use or vegetation changes that have led to the occurrence of flooding of our property, in fact, the reverse (to flooding) is true – it is drought that has been the impact to date and will be ongoing, not flood.

- **The latest flood mapping work done identifies our property as candidate for LSIO - this modelling/mapping is insufficiently accurate.** (Note that our property under the latest LSIO mapping is border-line/fringe as only a very small portion of the property has been projected as subject to inundation).

This borderline LSIO mapping of our property is inaccurate and the inaccuracy can be proven. Numerous flaws in Modelling have caused insufficient accuracy in results. Modelling flaws include a failure to sufficiently describe the projected precedent of how our particular Grant St property actually gets inundated/flooded. Only a computer modelled mapping analysis is supplied. And with this, there has been a failure of sufficient site inspection and analysis. (Inspections done from our sources refute the modelling results in relation to our property.)

The flood mapping reports prepared are neither sufficiently accurate nor comprehensive in relation to our property. The report's inaccuracies are the reason it contradicts actual occurrences and history in relation to our property (one of the oldest properties in Bacchus Marsh.)

- **LSIO will de-value our property by 10's of 1000's of dollars**

We believe that our property will be de-valued by an LSIO. This can easily be evidenced via an independent valuation on our property with the LSIO and without. Prospective purchasers, or tight bank valuers, will not warm to flood/LSIO features of our property. (In booming Melbourne areas where property is heavily sought after and scarce, LSIO is really a minor consideration. However, in quieter, more modest Bacchus Marsh, an LSIO is much more of a consideration.) It should be noted that a de-valuation in property value should lead to a reduction in rates and possible other consequences.

- **LSIO - a retrospective change to our well established 150 year old property**

When we purchased our property, we had the property's Section32 documentation thoroughly checked by our solicitor. This check did not reveal any proposed LSIO/flood related changes to the property. Subsequently we question the appropriateness of plans to now impose a LSIO on our property and find such plans totally unacceptable.

- **Absence of detailed flood mitigation feasibility studies or other flood mitigation possibilities**

Commendable past efforts by Councils and residents have been made to give greater flood protection to the many rate-payer homes in the town centre, yet further efforts to do such seem to now be dismissed/disregarded without detailed cost-benefit investigation or other reasonable efforts. We request that a mitigation feasibility study be commissioned as early as possible and that the current Amendment 91 LSIO mapping for our property be suspended until such time as the results of such a study can be evaluated.

Given the above, we call for the C91 Amendment to be altered to remove our property from the planned LSIO.

We look forward to your earliest response to this submission.

Yours faithfully,

Stephen and Geraldine Vereker (GV cc'd here-in)

Millbank House  
37-41 Grant St Bacchus Marsh 3340



## Submission to Planning Scheme Amendment 91

Submitted By : Graeme Payne

Organisation Name : Payne's  
Orchards

Phone :

Email :

### Q.1 How do you want to provide your feedback?

- A.  Upload submission  
 Enter text

#### Please enter text

Regarding 372 Bacchus Marsh Rd, adjoining the Werribee River at the south end of the lot. Since 1955 there has been only one flood that has covered the orchard - 1995. On that one occasion the water ran up from Fiskin St rather than break the banks behind us. That flood did cover the orchard but not the house. The river has since been cleared more, and there's been no significant flooding since. Of course there are high water level events periodically, but unlike some parts of Australia, prone regularly, this is not a flood prone area in my lifetime here. The two rivers, Lerderderg and Werribee, merge further down. It is important in authorities' management of both that obstruction is managed, so water flow, in natural deluge conditions, can always drain sufficiently. Beyond thoughtful management of the waterways, we have not, and do not, believe particular change is necessary to manage flood risk here. To claim that the paddocks nearby the rivers are flood prone is incorrect in my experience. I oppose any increased rigour being considered in this respect. Graeme Payne  
14 August 2020

To Council,

Below is the planning scheme amendment c91, LSIO on Golden Point Road Blackwood. I am a resident of 4 Albert st Blackwood.



Due to the lack of documentation on Blackwood inundation, my skepticism on the approximated modelling is evident. It seems whereas the lower Lerderderg catchment, Bacchus Marsh and Ballan get in depth reports, Blackwood receives jack squat to consolidate the accuracy of your amendments. It is interesting to note that unlike other areas in the Moorabool Shire, Blackwood is situated on the Great Dividing Range and therefore rainfall patterns correlate to dendritic drainage. This also provides challenges when modelling inundation to this area. Historical evidence of flooding in the Gully would be a minimum, as well as past flood measurement in this area. Although this may just be conjecture, I have also not been able to recover any data on government websites to support your amendment. Therefore I can only assume that this has been modelled using rainfall data which is inefficient due to the before mentioned dendritic drainage system even when making an approximation. I am in no means an expert, but based on the topography on the land and previous flood events, your modelling is overstating a flood extent. This may not mean much, but based off my, my fathers and grandfathers experience at 4 Albert st Blackwood the probability that the road will ever be subject to inundation is nil.

Additionally, to emphasize my doubts to you, this modelling stops just after the drain that runs under the road. It seems strange that flooding does not continue beyond this point given the topography of the area. Also why does it merge off my property at that given point? There is no way that would happen unless the above modelling shows runoff from the Lerderderg and not Jacksons Gully. But again this doesn't make sense as the gully floor is 4 meters lower than the road. It doesn't make sense to me that this gully would get to 4 meters high when it isn't even receiving floodwater from the Lerderderg. Again I know the modelling is based off a 1% chance, but still it seems ridiculous.



In addition based off your amendments, the road in which the residents of Golden Point area use for transport would be cut off and we would be stranded. I am no expert in Government regulations or acts, but as this road will now be subject to flooding, doesn't this have an impact on the transport system as defined by Section 3 of the Transport Integration Act 2010"?

Now as the pipe cannot facilitate water levels during a 1 in 100 year flood, this now redirects water onto my property. Section 16(1) of the Water Act 1989 provides that the person who causes a flow of water which is "not reasonable" onto other land is liable for the injury, loss or damage caused by the water. Does this leave you responsible?

Please address other issues like property devaluation, insurance and future building permits on land under your amendments. Also, please review your modelling of this area as it seem absurd. I'm sure if you go to this place yourself you will see why. Therefore at this time, I reject your planning scheme c91 amendment.

Thanks for your time,

Kelly Matheson-Miller

**DOCUMENT (Inbound)**

**Summary Information** Planning Scheme Amendment C91 - [REDACTED]  
**Comments/Notes**

**DETAILS**

**Status** New **Deadline** 24/09/2020  
**Priority** Medium **Received** 10/09/2020 04:44:27 PM  
**Type** Email **Ref** IN20/2FB0C086

**RELATED DOCUMENTS**

**PEOPLE (2)**

**Owner** Rod Davison  
**Manager** Sarah Kernohan  
**Reader**

**CONTACTS ()**

**Name**  
**Company**  
**Email**  
**Phone**

**FOLDER (1)**

Number	Part	Name	Organisat	Unit
13/06/093	1	Planning and Land Use\Mooraboo...Amenc C91 - Flood Controls	Moorabool Shire Council	Rec

**WORKFLOW**

No records found.

**CONTENT**

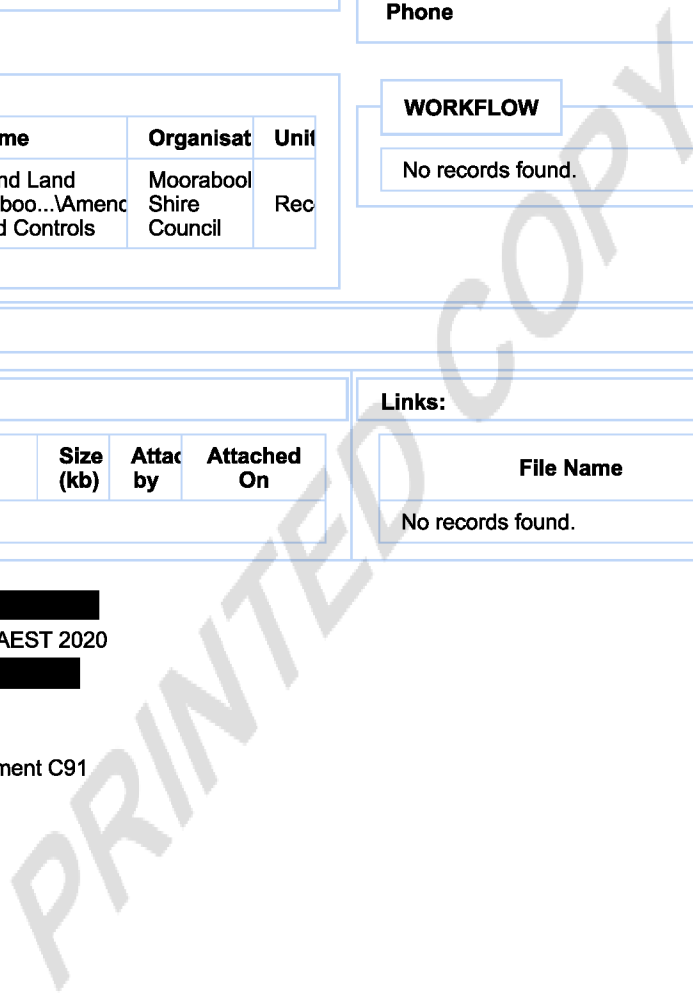
**Attachments:**

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**Links:**

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No records found.			

**From:** Nick Sher [REDACTED]  
**Date:** Thu Sep 10 04:44:27 PM AEST 2020  
**To:** Info [REDACTED]  
**CC:**  
**BCC:**  
**Subject:** Planning Scheme Amendment C91



Attention: Strategic Planning Department.  
RE: Planning Scheme Amendment C91  
Nivic Pty Ltd  
300 Ballan Greendale Road, Ballan, 3242

I was only made aware of this amendment yesterday even though there was meant to be a letter sent to our address?

There is a very shallow water course (drain) that runs through our property across the road from Connor Court. The proposed overlay on our property follows this water course but with a very "broad brush". A wide expansion far greater than we have seen in the past 25 years. There has been a number of wet winters and it has never spread out as indicated on the proposed overlay. So I want to make it clear that we object to the "width" of the overlay , which should be a much narrower band following this water course.

**Regards,  
Nick Sher**

[Redacted signature]

[Redacted contact information]

[Redacted contact information]

PRINTED COPY

# OGR Developments



16 October 2020

Moorabool Shire Council  
PO Box 16  
BALLAN VIC 3342

Attention: Strategic Planning

**(Via Email)**

Dear Sir/Madam

**Re: Submission to Amendment C91**

OGR Developments Pty. Ltd. is the owner of land situated at 65 Old Geelong Road in Ballan.

As indicated in the attached C91 plans the land does not have an LSIO but does have a SBO over a small part.

Whilst the boundary of the overlay appears random it largely follows the alignment of an existing open drain which drains both our land and the broader drainage catchment to the south of the railway line. This drain is indicated on the attached feature survey plan.

It can be seen from the attached plan indicating the subdivision layout over the feature survey plan that the SBO will impact parts of some of the proposed allotments.

OGR Developments did not respond prior to submissions closing on 18<sup>th</sup> August. An application for a planning permit to develop the land was lodged in November 2018 and a permit was issued on 10<sup>th</sup> August 2020 (although not received by OGR by 18<sup>th</sup>). The attached Subdivision Concept Plan was endorsed to form part of the permit on 29<sup>th</sup> September. At this point we took the view we had a "live" project. Melbourne Water imposed some 13 conditions as part of its consent to the application.

We have since lodged an application for certification of the plan of subdivision and expect the site will be developed in accordance with the requirements of the various referral authorities of which Melbourne Water is one.

The drainage solution required by Melbourne Water includes both in-ground pipes and an overland flow path utilising the proposed road network. All lots are to be filled to a minimum of 300mm above the nominated flood levels.

Our intention is to complete the designs and finalise construction of the development infrastructure by the second half of next year. At that point the various referral authorities will "sign off" and consent to Council issuing a Statement of Compliance for the subdivision.

When works are complete the lots will be filled to their required levels and the matter of the ongoing need for, and relevance of, the SBO can be called into question.

We would respectfully submit that the SBO is not required from this point given the controlling influence that Melbourne Water has to the provision of the drainage solution.



It is acknowledged that our intentions may not be achieved within our nominated timeline, or within a reasonable timeline for any number of reasons and that the site could remain undeveloped at the time this planning scheme amendment is adopted and gazetted. In that circumstance Council and Melbourne Water would require the benefit of the SBO.

The primary purpose of our submission is to invite Council to consider the inclusion of a “sunset clause” in relation to the SBO on our land.

If it can be achieved within the scope of the amendment we would request that Council insert a provision that the SBO cease to have effect on the registration of the plan at the Titles Office.

Please feel free to contact me if you require additional information or clarification of any aspect.

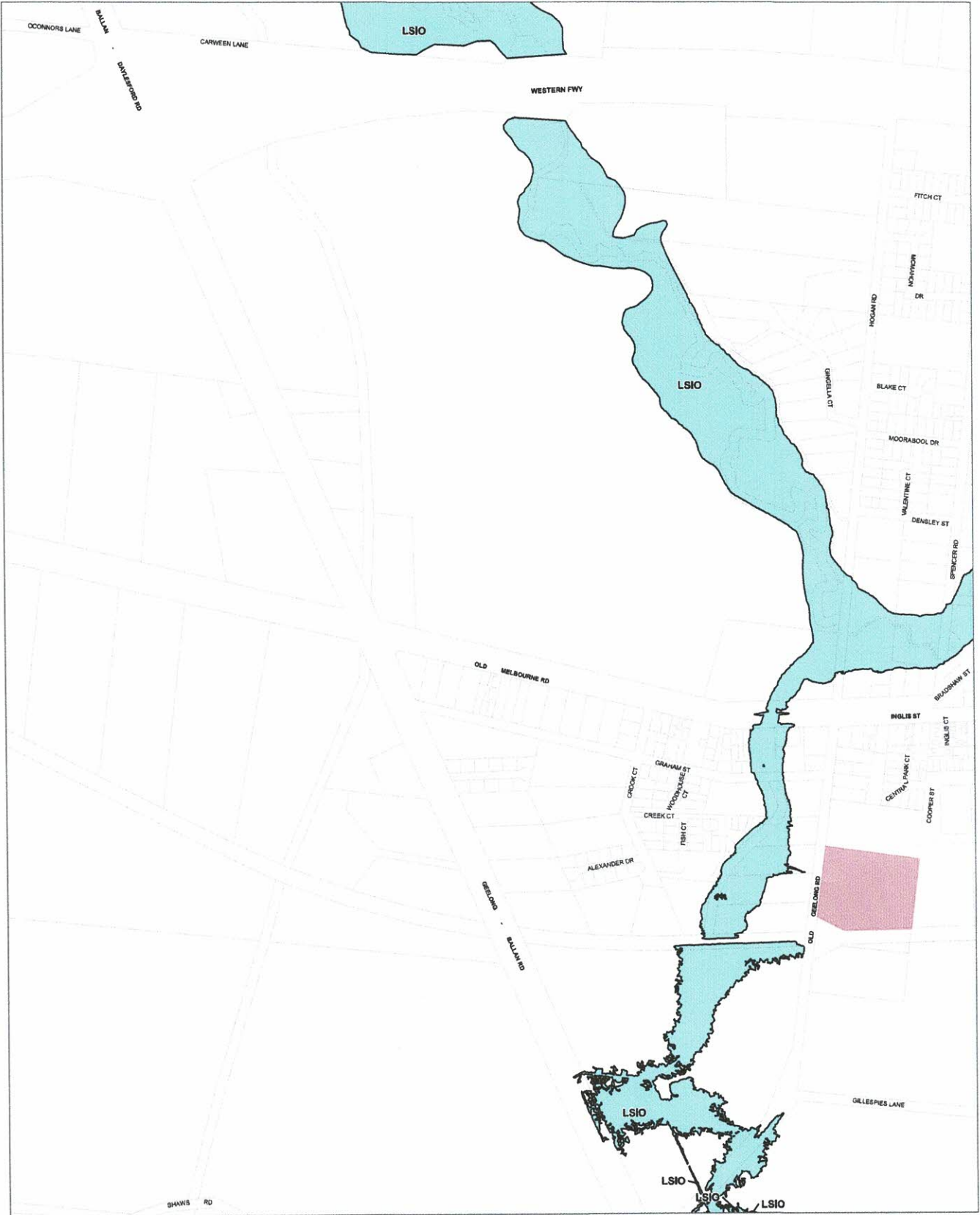
Yours sincerely



**Max McInnes**

(Director)

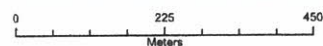
MOORABOOL PLANNING SCHEME - LOCAL PROVISION  
**AMENDMENT C91moor**



**LEGEND**  
 [Light Blue Box] LSIO - Land Subject to Inundation Overlay

[Dashed Line] Municipal Boundary

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Australian Map Grid Zone 55

**NORTH**  
 Planning Group  
 Printed: 11/10/2019  
 Amendment Version: 1



Environment,  
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**INDEX TO ADJOINING SCHEME MAPS**



# MOORABOOL PLANNING SCHEME - LOCAL PROVISION AMENDMENT C91moor



**LEGEND**

- SBO - Special Building Overlay
- Municipal Boundary

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**NORTH**

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Amendment Version: 1

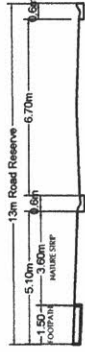
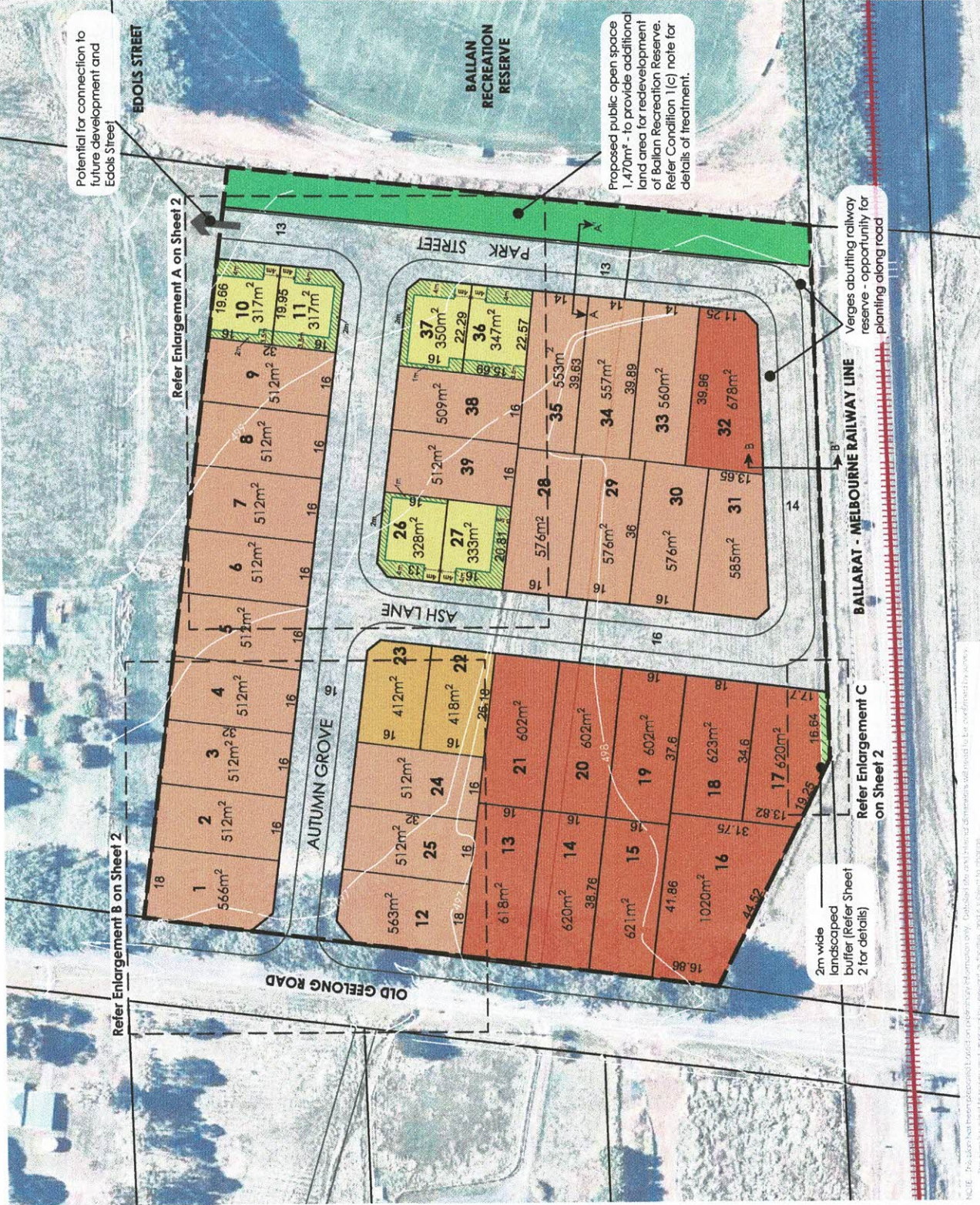
**VICTORIA**  
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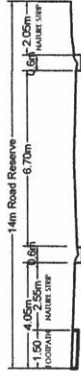
**INDEX TO ADJOINING SCHEME MAPS**







Section AA' - 13m Road Reserve



Section BB' - 14m Road Reserve

Road Cross Section - 1:200 At A3

**PA2018318 Condition 1(c):**

The intended end use of the public open space reserve is the construction of a car park in accordance with the "Ballarat Recreation Reserve Master Plan" adopted by Council.

The interim treatment of the reserve will be for the surface to be shaped, graded and left free of surface rocks and obstacles then grassed in readiness for its future development.

**LEGEND**

- Site boundary
- Contours (1m interval)
- Future road connection
- Railway
- Garden Area requirement
- 2m wide landscape buffer

**Preliminary Land Use Budget**  
Old Geelong Road, Ballarat  
Plan Ref: 18030\_SCP Revision B dated 31 August 2020

SITE AREA	HA	%
Residential area	2,068	70%
Local access streets	0,757	25%
Public Open Space	0,147	5%

**NUMBER OF LOTS**  
Average Lot Size  
**530 m<sup>2</sup>**  
**DENSITY (NDA)**

Lot Mix by Area	Number of lots	% of Total
300-399m <sup>2</sup>	6	15%
400-499m <sup>2</sup>	2	5%
500-599m <sup>2</sup>	21	54%
600m <sup>2</sup> +	10	26%
<b>TOTAL</b>	<b>39</b>	<b>100%</b>

**From:** [REDACTED]  
**To:** [Rod Davison; Info](#)  
**Cc:** ["Mike Kearney"; John Wakeling; Lloyd Robertson](#)  
**Subject:** RE: C91 Submission  
**Date:** Friday, 16 October 2020 1:13:40 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.jpg](#)  
[image005.png](#)

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Thank you for your reply Rod.

We understand that this is not necessarily the forum to debate the merits or otherwise of our submission but your comments below give rise to the chance to reinforce one of the primary threads of that submission. Our understanding of the subdivision approvals process is that Melbourne Water will require at least the "as constructed" plans (permit condition 53) prior to consenting to the issue of the Statement of Compliance. Logic also says that the extent of the SBO can be reviewed at that time.

Our submission seeks to avoid the prospect of a future owner being caught in limbo by the non-approval of an application whilst a planning scheme amendment is initiated and allowed to run its course.

We submit that it should be possible, having accepted a situation could occur, to mitigate against that possibility in adopting this amendment C91.

Planning schemes across the state contain site specific clauses and we see our suggestion as enabling a similar outcome for our site by the inclusion of the suggested provision that the SBO cease to have effect on registration of the plan at the Titles Office.

Well written, this provision would have no impact on the capacity of Melbourne Water or Council to control the outcome by ensuring that the first two dot points below are acted upon.

If deemed appropriate, please consider this response as an addendum to our submission.

Kind regards,  
Max McInnes

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**From:** Rod Davison [REDACTED]  
**Sent:** Friday, 16 October 2020 10:03 AM  
**To:** [REDACTED]  
**Cc:** Mike Kearney [REDACTED]  
**Subject:** RE: C91 Submission

Hi Max,

I confirm that we have received your submission and we will include this in our report to Council.

In situations such as this, Melbourne Water's advice is as follows:

- Following future completion of approved drainage works, the proponent would need to prepare 'as constructed plans' and certified survey plans for the works.
- The proponent should then review the SBO extent in consultation with Melbourne Water.
- A future planning scheme amendment would then be required to implement any reduced SBO extent. Subject to Melbourne Water's agreement, this could potentially be done as a proponent initiated amendment, under section 20(4) of the *Planning and Environment Act 1987*.

A section 20(4) amendment is an amendment where the Minister for Planning acts as the planning authority, rather than Council. The Minister may exempt himself from any requirements for notification/exhibition of the amendment.

Regards,

**Rod Davison** | Senior Strategic Planner

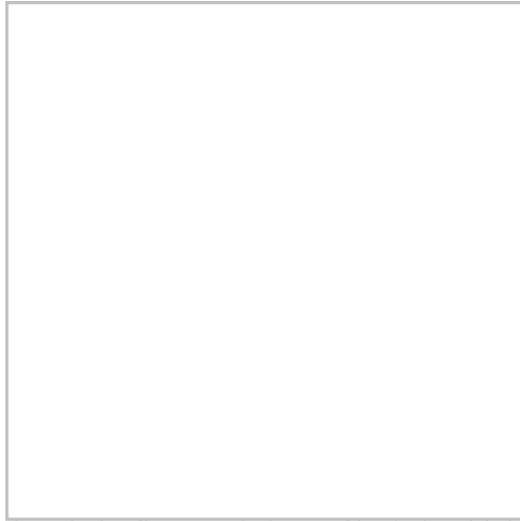


**Mail**  
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**Bacchus Marsh**  
**Darley**

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15 Stead St, Ballan  
215 Main St, Bacchus Marsh  
182 Halletts Way, Darley

**Phone** (03) 5366 7100  
**Email** [REDACTED]  
**Website** [www.moorabool.vic.gov.au](http://www.moorabool.vic.gov.au)  
**ABN** 293 5275 4296





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**From:** [REDACTED]

**Sent:** Friday, 16 October 2020 1:58 AM

**To:** Info [REDACTED]

**Cc:** Rod Davison [REDACTED]; John Wakeling [REDACTED]; Lloyd Robertson [REDACTED]

**Subject:** C91 Submission

Please find attached a submission to planning scheme amendment C91.

It is acknowledged that the closing date for submissions was 18<sup>th</sup> August but given the circumstances of our own planning application, and following a discussion with Mr Davison we have accepted an offer to lodge this late submission.

Kind regards,

Max McInnes