5.3 500-502 Highbury Road Mount Waverley – The construction of six dwellings - Extension of time

(TPA/33547:EE:HM)

Ward: Mount Waverley
Responsible Director: Paul Kearsley
Reason for Council Consideration: Fifth Extension of Time
Cost of Development: $780,000
Statutory Processing Date: N/A
Pre-Application Meeting: No

RECOMMENDATION

That Council having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to grant the extension of time for Planning Permit 33547 under the provisions of the Monash Planning Scheme in respect of the land known and described as 500-502 Highbury Road, Mount Waverley for the construction of six dwellings and issue an extended permit with extension dates as follows:

- The development is not started before 7 July 2013.
- The development is not completed before 7 July 2015.

BACKGROUND

Planning Permit 33547 was issued on the 7 July 2006 for six dwellings at the direction of the Victorian Civil and Administrative Tribunal. The permit has been extended on 4 previous occasions and is due to expire on 7 July 2012 as the permitted development has not commenced.

The reason for the first extension request was a sudden death in the owners family. The reason for the second extension request was the economic downturn and a lack of finances. The third request was due to the building contractor going into liquidation. The fourth extension request was due to a family dispute whereby all assets were frozen pending a court decision.

There were 13 objections to the original application. The application was refused by Council on the grounds of neighbourhood character, front setback, vehicles movement and an objection from VicRoads. Subsequently, the Victorian Civil and Administrative Tribunal overturned Council’s decision and directed that a permit issue.

Locality and Neighbourhood Plans are at Attachment 1.

PROPOSAL

It is proposed to extend the time to commence the development and/or use for a period of 12 months.
Plans and elevations of the proposal are at Attachment 2.

**POLICY IMPLICATIONS**

The request for an extension of time is in accordance with the requirements of Section 69 of the Planning and Environment Act 1987.

**ASSESSMENT**

The total elapse of time between the date of issue of the permit and the date of the request to extend the permit is 5 years and approximately 9 months.

In that time frame, the land has been in the same ownership. The development has not commenced for personal and economic reasons. Due to ongoing Family Law proceedings any developments that had either commenced or were about commence have been placed on hold. According to legal advice these proceedings are almost at an end and at this stage a final request for an extension of time has been made.

It is noted that the owner is only seeking an extension of 12 months to enable commencement of the project. As such, it is not considered that the owner of the land is seeking to “warehouse” the permit.

Since the issue of the original permit there have been no changes in town planning policy which would militate against the grant of a permit for the proposed development.

Given these circumstances it would be unreasonable that the applicant should be held to the time originally fixed, an additional 12 months should be granted to commence and ultimately complete the development.

**CONCLUSION**

It would be appropriate to allow an extension of 1 year for the commencement of the development consistent with Council policy.