10.4 EXECUTIVE SERVICES CONT.

10.4.2 264 Dead Horse Lane Mansfield – Consideration of Rezoning Request

File Number: E5331
Responsible Officer: Senior Strategic Planner Kathy Richardson

Disclosure of Conflicts of Interest
The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the Local Government Act 1989.

Introduction
This report outlines a third party request for a site specific rezoning of 264 Dead Horse Lane, Mansfield from the Low Density Residential Zone (LDRZ) to the Industrial 3 Zone (IN3Z). Without Council support, the rezoning cannot proceed.

Officers consider that an Industrial 3 Zone may provide a more suitable transition between the adjacent residential zoned land and the land to the north and west zoned Industrial 1 Zone (IN1Z).

Officer recommendation is that Council support forwarding a request to the Minister for Planning for authorisation to prepare and exhibit a planning scheme amendment so that community and referral authority feedback on the proposal can be sought.

Background
The subject site is located on the southern side of Dead Horse Lane and is 1.67 hectares (16,700m2) in area. The site contains a dwelling to the north-west corner and is located adjacent to developed industrial land to the north and west and to the east a low density residential estate with a shared side boundary with two dwellings. To the south is a general residential housing estate which shares a common boundary with five dwellings. The site is generally flat and contains several mature Eucalypts. Council recently issued a permit for a seven lot residential subdivision of the land with six developable lots. It is understood that the site has now changed ownership.

Council has received a letter from North East Survey and Design on behalf of the new landowner for 264 Dead Horse Lane, Mansfield dated 5 June 2018 (see Attachment 1). This letter is in regard to a request to rezone the subject land currently LDRZ to IN3Z. The letter outlines the proponent’s strategic justification for the rezoning of the land and requests Council’s consideration and support for the rezoning. Without Council support, the rezoning cannot proceed.

The decision for Council is whether it would support the preparation and exhibition of an amendment to seek community input into the proposed IN3Z zone. Alternatively, Council can consider retaining the current LDRZ over the land and refuse to consider the preparation of an amendment to rezoned the land.
10.4.2 264 Dead Horse Lane Mansfield – Consideration of Rezoning Request Cont.

The issues with the options before Council are outlined below:

**Amenity impacts to current and future residents**

**Retain existing Low Density Residential Zone (LDRZ)**

The permit for the subdivision of additional low density lots on the subject land may lead to amenity issues for future residents due to the possibility of a suite of potential incompatible uses on the IN1Z land directly to the west and to the north.

It is noted a 10 metre wide landscape buffer was required by this recently issued permit to be provided to mitigate amenity impacts from the IN1Z, however this may not be as effective as using a ‘light’ industrial zone to provide a more robust and managed transition between industrial and residential uses. Tree protection of the existing Eucalypts was also considered in permit conditions.

Essentially this approved subdivision allows for further proliferation of residential uses adjacent to a “heavy” industrial zoning to the west. It does provide for residential use to the north of the existing dwellings to the southern boundary. There are both advantages and disadvantages for the properties to the south with a change in zoning and likewise the retention of the LDRZ.

As an example, a change in zoning to IN3Z would place an industrial zoning against those properties separated by a 10 metre buffer strip. It is, however, unlikely that this would be provided by a low density residential development and was not a requirement of the recently approved permit. A possible scenario in the LDRZ is that a shed could be placed against the boundary line and could be in use on weekends. Industrial areas are usually unoccupied on weekends.

**Rezone to Industrial 3 Zone (IN3Z)**

The intent or purpose of the IN3Z is described in the Victorian Planning Provisions as follows:

- “provide a buffer between the Industrial 1 Zone and Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community”; and
- “ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses”.

The IN3Z is a commonly used zone to provide a transition between IN1Z and residential zones. This is because it limits the types of industrial uses and controls buildings and works. It also contains provisions around amenity impacts to adjoining residents. Under the IN3Z, all but the most minor buildings and works require a planning permit. This ensures that any future development is suitable for the site; provides adequate setbacks and buffers from adjoining residential uses; appropriate hours of operation; utilizes suitable materials and finishes and is adequately serviced with car parking, loading facilities and landscaping.
10.4.2 264 Dead Horse Lane Mansfield – Consideration of Rezoning Request Cont.

Due to the proximity of the land to surrounding residential areas to the east and south, many industrial uses would not meet setback requirements to residential uses and therefore would not be able to locate on the subject site. The proponent is proposing a 10 metre vegetated buffer to the south and east of the site. This would assist to screen built form and provide a separation distance between existing residential uses and future uses of the site.

At present Dead Horse Lane is predominantly zoned INZ1. Much of the industrial zoned land is underutilised and has potential for further uses to locate and sites to be redeveloped and intensified as the pressure for industrial land strengthens. The IN1Z allows for more “heavy” as of right industrial uses to locate. This means the use would not require a planning permit. This zoning is located to the west and north of the subject site. Allowing further residential use to encroach into an area predominantly zoned IN1Z without the appropriate buffer or transitional zone is not considered orderly planning. Further to this, Dead Horse Lane is identified as part of the heavy vehicle bypass route which will result in additional heavy vehicle movements and consequent amenity impacts such as noise and road safety.

Statutory Requirements
Council is required to consider a request for rezoning under its delegation as the Responsible Authority.

If Council agrees to support requesting the Minister for Planning to authorise the preparation and exhibition of an amendment it must write to the Minister seeking authorisation under section 8A of the Planning and Environment Act 1987. A rezoning of the land would see a change to the planning scheme maps to reflect the change in zoning (see Attachment 2)

Council Plan
The request to rezone from a residential zone to an industrial zone fits with the Council Plan at the Strategic Direction Two – Financial Sustainability. The Strategic Objective that fits with this report is found at:

2.7 Mansfield’s economy is diverse, with the agility to respond to changing consumer demands.

Mansfield has a lack of industrial zoned greenfield land to cater to a growing industry base as the town grows.

Financial
A set fee of $2929.30 has been paid by the proponent. This covers the request to Council for a rezoning. It also covers officer time for processing a planning scheme amendment if there are no submissions received that are not supportive of the amendment. Costs of exhibition such as public notice are additional to the base fee.

If the submissions are received from the community or referral authorities and seek a change to the amendment, the cost of this to the proponent can be significant as it will incur associated Independent Panel costs as well as a set fee for Council to consider submissions, make a submission to panel and consider the panel’s report.
10.4.2 264 Dead Horse Lane Mansfield – Consideration of Rezoning Request Cont.

For an amendment that requires the consideration of up to ten submissions the cost to the proponent by Council is $14,518.60, eleven to twenty submissions is $29,008.80 and more than twenty submissions $38,778.00. Any costs incurred with Planning Panels Victoria are also the responsibility of the proponent as well as room hire and catering.

Social
Potentially the rezoning of the land may better manage future amenity impacts from placing dwellings on the LDRZ land adjacent to an IN1Z. Given the restrictions of the IN3Z, potential amenity impacts to the residential area to the south and east could be managed. The proposed 10 metre landscape buffer may also assist to minimise any visual impact to neighbouring properties and provide a separation distance to adjoining uses.

Environmental
There are mature Eucalypts on site. Any plan of subdivision would be required to incorporate the trees where possible. All industrial uses must abide by any Environment Protection Authority requirements for noise abatement and effluent disposal and other requirements as appropriate.

Economic
The creation of additional industrial zoned land will provide local businesses with further options for location within Mansfield township in an area predominantly zoned industrial. This will help to grow Mansfield’s economic base. It may provide additional employment through the construction of the works and additional positions with the location of new industry.

Risk Management
There are no risks associated with this report.

Community Engagement
The amendment would be placed on formal exhibition for a minimum of 28 days as part of the amendment process. Letters would be sent to adjoining land owners and the wider area, as well as referral authorities and prescribed Ministers and departments.

A notice would be published in the local paper, Council’s website and Facebook page.

As part of exhibition it would be appropriate for the proponent to engage with neighbouring properties and the wider area through a consultative meeting to answer questions and try to resolve any issues.

Officer’s Comments
It is considered by officers that the request has some merit and that it warrants the preparation and exhibition of an amendment to seek community and referral authority input. Accordingly officers seek Council support for the rezoning for the purpose of requesting the Minister for Planning for authorisation to prepare and exhibit a planning scheme amendment.
10.4.2  264 Dead Horse Lane Mansfield – Consideration of Rezoning Request Cont.

It is noted that Council does have the ability at this stage to state that the proposed amendment has no merit and therefore it does not support the preparation and exhibition of the amendment.

It is also important to understand that Council may, at any time, abandon an amendment. The support for the proposed rezoning is, at present, restricted to the preparation and exhibition of a rezoning so that community comment can be sought on a proposal that may result in better land use transition and amenity outcomes.

**Councillors Sladdin/Attley:**

That Council write to the Minister of Planning to request authorisation to prepare and exhibit Amendment C41 to the Mansfield Planning Scheme to rezone the land known as 264 Dead Horse Lane, Mansfield from the Low Density Residential Zone to the Industrial 3 Zone as shown on the map attached to this report.

*Carried*
ATTACHMENT 10.4.2

264 Dead Horse Lane Mansfield – Consideration of Rezoning Request

ATTACHMENTS:
SUBMISSION
MAP
(7 PAGES)
M6216

05 June 2018

Mr Alex Green
Chief Executive Officer
Mansfield Shire Council
Private Bag 1000
Mansfield VIC 3724

Attention: Ms Kathy Richardson
Senior Strategic Planner

Dear Mr Green

Re: Mansfield Planning Scheme
Request to rezone land at 264 Dead Horse Lane Mansfield
Low Density Residential Zone to Industrial 3 Zone

I write on behalf of the landowner of 264 Dead Horse Lane Mansfield, seeking Council's support to prepare an amendment to the Mansfield Planning Scheme to rezone this land from Low Density Residential Zone to Industrial 3 Zone (IN3Z).

The subject site is located on the southern side of Dead Horse Lane, in the heart of one of Mansfield's industrial estates. The site is one of the last undeveloped sites along Dead Horse Lane, with a dwelling located in the north-western corner. The site is located adjacent developed industrial land to the north and west, and a low density residential estate to the east. The site abuts general residential development to the south.

Refer to Appendix 1 below showing the subject site in the context of surrounding land uses.

The site is currently zoned Low Density Residential Zone under the Mansfield Planning Scheme. Land to the north and west of the site is zoned Industrial 1 Zone. Land to the east is zoned Low Density Residential Zone and land to the south of the site is zoned General Residential Zone. We understand that Council has recently issued a permit for a seven lot residential subdivision of the subject land, which will allow the addition of six new dwellings on this site.

Refer to Appendix 2 below showing the current zoning of the land and surrounding properties.

An assessment of both the current land uses in this area, and the underlying zones reveals the potential for conflict between existing and future businesses and residents. The introduction of six new dwellings into an area already highly developed for industrial purposes has the potential to create ongoing amenity issues for residents, and may limit the ongoing operation and expansion of existing industrial uses.

Our request to rezone the site at 264 Dead Horse Lane, Mansfield to Industrial 3 Zone is considered an appropriate strategic response to the site and surrounds as follows:

- The Mansfield Planning Scheme identifies a shortage of vacant industrial zoned land within the Mansfield township. The proposed rezoning responds to this shortage by rezoning an area of 1.7 hectares for light industrial purposes in an established industrial estate.

- The site abuts operating industrial uses to the north and west with adverse amenity potential for new residents to the area (refer to Appendix 3 for photos of surrounding industrial uses). These uses include earthmoving; landscaping supplies; freight and logistics; automotive smash repairs and scrap metal recycling.
• The proposed Industrial 3 Zone will prevent the encroachment of further housing into this established industrial area, thereby minimising the potential for conflict between land uses.

• The purpose of the INZ3 includes to:
  o 'provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community'; and
  o 'ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses'.

• Thus, the implementation of the INZ3 will create a transition between existing dwellings and existing industrial uses.

• Dead Horse Lane has been identified as a heavy vehicle bypass route, and work has already commenced on upgrading the western section of the road to facilitate heavy vehicle movements. These upgrades will result in additional heavy vehicle movements along this road, reducing the amenity for both existing and future residents.

• Any future development of the site will include a 10 metre vegetated buffer along the eastern and southern boundaries of the site, to provide both a visual and acoustic screen for the benefit of existing residents. This buffer would include an extension to the existing shared walking/cycle path from the south-western corner of the site through this buffer area, to improve permeability for pedestrians and cyclists.

• Due to the proximity of the land to surrounding sensitive uses, there are many industrial uses that will not be possible, as statutory setback distances cannot be achieved. This proximity to sensitive uses will prevent inappropriate industrial uses from establishing on the site;

• Under the INZ3, all but the most minor buildings and works require a planning permit. This will ensure that any future development is suitable for the site; provides adequate setbacks and buffers from adjoining residential uses; utilises suitable materials and finishes and is adequately serviced with car parking, loading facilities and landscaping.

On behalf of our client, we respectfully ask that you support the proposal to rezone 264 Dead Horse Land Mansfield from Low Density Residential Zone to Industrial 3 Zone, creating a transition zone between existing residential and industrial uses, whilst responding to an identified shortage of industrial land in Mansfield township.

Please find attached documents in support of our rezoning request, as follows:

• Amendment C41 Draft Explanatory Report
• Clause 33.03 Industrial 3 Zone ‘Head of power’
• Proposed zoning map

We would be happy to provide further information to assist with your consideration of the proposal. We believe the outcome for residents and businesses in Dead Horse Lane will be the creation of a well-planned buffer between two potentially conflicting land uses. The proposal will help to provide certainty for all landowners that residential amenity and the ongoing operation and future expansion of industrial business will be protected through appropriate planning controls.

Should you have any questions or require clarification of the above proposal, please do not hesitate to contact me on 0427 152 353.

Yours sincerely,

VICTORIA MALLINDER
TOWN PLANNER
Attachment 2: Current zoning of site and surrounds

Key:

- INZ1 - Industrial 1 Zone
- GRZ1 - General Residential Zone
- LDRZ - Low Density Residential Zone
- RLZ1 - Rural Living Zone - Schedule 1
- RDZ1 - Road Zone Category 1
Attachment 3: Site and surrounding land uses

View of site from Dead Horse Lane looking south

Adjacent dwelling to the east of subject site

View of site looking south to dwellings

Adjacent low density dwellings to east of site

Examples of adjacent industrial land uses including earthmoving and garden supplies
Smash repairs adjacent subject site to the west

Buller Freight opposite the site on Dead Horse Lane

Scrap metal recycling on north-east corner of Dead Horse Lane and Mansfield-Whitfield Road