

# **HEPBURN SHIRE COUNCIL**

## **ORDINARY MEETING MINUTES**

7pm Tuesday  
16 January 2007  
Creswick RSL

## HEPBURN SHIRE COUNCIL – COUNCIL PLAN 2006-2011

### **VISION STATEMENT:**

**Hepburn Shire will be a vibrant, creative rural Shire with strong and healthy connected communities. Our Council will govern with integrity and inclusiveness. Our natural environment, productive agricultural land and rich heritage will remain valued and protected as assets for residents and visitors to appreciate and enjoy.**

Council has in the COUNCIL PLAN established 5 objectives to enable your Team of Councillors and Officers to move forward.

### **Objective One – Strengthening Communities**

Council will engage with and support our diverse communities to realise their potential and determine and achieve their aspirations.

- 1.1 To be a leader in community consultation, advocacy & engagement
- 1.2 Enhance community connectedness, capacity building and leadership
- 1.3 Enhance external relationships

### **Objective Two – Service Delivery**

Council will deliver responsive services to our community within available resources.

- 2.1 Improve service delivery
- 2.2 Improve internal and external communication
- 2.3 Further develop the range of facilities and programs

### **Objective Three – Asset and Resource Management**

Council will effectively manage our assets and resources to create a better Shire for our community.

- 3.1 Improve the management of our assets
- 3.2 Foster & encourage leadership
- 3.3 Responsible financial management
- 3.4 Promote and encourage innovation
- 3.5 Tight, sharp, focussed, professional administration

### **Objective Four – Economic Development**

Council will strengthen our local economy by working in partnership with business and community.

- 4.1 Develop partnerships with educational and research organisations
- 4.2 Promote and market the Shire
- 4.3 Encourage and support diversity of economic activity and employment

### **Objective Five – Heritage and Environment**

Council, in partnership with our community will ensure that our cultural, natural and built environment is protected, conserved and enhanced for future generations.

- 5.1 Promote & practise environmental management and sustainability
- 5.2 Respect and honour our unique historical and cultural attributes

*Council has committed itself to these philosophies, to the five objectives, to the strategies of implementation and to being accountable to all of the Hepburn Shire.*

*Hepburn Shire is a wonderful home for all of us. Our Council Plan and the Community Plan provide a direction for the future.*

**MINUTES OF THE ORDINARY MEETING  
OF THE HEPBURN SHIRE COUNCIL HELD AT  
CRESWICK RSL ON 16 JANUARY 2007,  
COMMENCING AT 7 PM**

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**CR DAVID SMITH  
MAYOR 2006-07  
17 JANUARY 2007**

## **ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

We would like to acknowledge we are meeting on Jaara people country, of which members and elders of the Dja Dja Wurrung community and their forebears have been custodians for many centuries.

On this land the Jaara people have performed age old ceremonies of celebration, initiation and renewal.

We acknowledge their living culture and their unique role in the life of this region.

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**PRESENT:** Mayor, Cr David Smith; Councillors Janine Booth, Tim Hayes, Bill McClenaghan and Heather Mutimer.

### **IN ATTENDANCE:**

Acting Chief Executive Officer, Rod Conway; Director Corporate Services, Chris Cowley; Executive Assistant, Mary Ashdown; Manager Planning, Sylvester Tan.

The Mayor to open the meeting at 7pm with a reading of the Council prayer.

### **OPENING PRAYER**

Almighty God, we ask your blessing upon this council.  
direct and guide our deliberations.

We ask you to grant us wisdom and sensitivity as we deal with  
the business of our Shire.

May each decision that we make advance the wellbeing of all our  
residents.

This we pray. Amen

### **1. APOLOGIES:**

Nil

### **2. DECLARATION OF PECUNIARY INTEREST:**

Nil

### **3. CONFIRMATION OF MINUTES:**

## **ORDINARY MEETING OF 19 DECEMBER 2006**

### **Recommendation:**

*That item 3.1 Minutes of the Ordinary Meeting of Council held on 19 December 2006 (**Attachment 1**), be confirmed, as required under Section 93 (2) of the Local Government Act 1989.*

### **Moved the Officer's Recommendation**

**Moved:** Cr Tim Hayes  
**Seconded:** Cr Bill McClenaghan  
**Carried.**

#### **4. PETITIONS AND PUBLIC QUESTION TIME**

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This part of the Council Meeting allows 30 minutes for:

- tabling of petitions by Councillors and Officers;
- questions to be asked by members of the public on general matters or on specific items appearing elsewhere in this Agenda.

Where you have more than one question or questions are lengthy or complex it would assist if you could provide a written copy so that we can accurately record it and respond. If you have more than one question please indicate this. In the interests of fairness and equity, one opportunity is normally provided for any person during this part of the Meeting.

Questions may be taken on notice and responded to later. Separate forums and Council processes are provided for deputations or for making submissions to Council.

If you have questions about specific items in this Agenda, Council encourages you to attend the Agenda Meeting held a week before the Council Meeting. This allows reasonable time for us to consider your question or comment before making the decision at the Council Meeting.

Nil Petitions received.

#### **Public Question Time**

**Mr Bob Orr, Creswick -**

#### **Availability of Meeting Space for Community Groups in Creswick**

Mr Orr pointed out that with the conversion of the Creswick Council Chamber into offices for Council staff, community groups who previously use this facility for free were without a meeting place. The RSL had introduced a charge of \$15 an hour for non-profit group.

Questions:

1. Is Council aware that the RSL is now charging community groups previously allowed free use of Council facilities for the use of its Hall?
2. Does Council agree with the introduction of these charges?
3. Will Council address the inequitable situation which exists between Daylesford and Creswick community groups in regard to payment for the use of meeting places (and not I stress by introducing charges for the use of facilities by Daylesford groups)?
4. Will Council made alternative appropriate quality Council controlled accommodation available in Creswick for use for community group meetings.

Response: Director of Corporate Services.

Director Corporate Services apologise to Mr Orr and stated that an error had been made earlier in the day and that an officer had committed to call Mr Orr back. The fee would be waived.

**Mr Kel Brodie, Drummond -**

#### **Clean up of his Drummond Property**

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**4. PETITIONS AND PUBLIC QUESTION TIME**

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Further to the discussion at the November Council Meeting, Mr Brady advised that an overall tidy up was occurring not a clean out. He further requested that the permit be extended etc.

Response: Acting Chief Executive Officer

Mr Conway advised that Council Officer Kevin Clohesy and Peter Jackson would continue to work with Mr Brady, provide feedback to achieve Council's goal.

## 5. REPORTS FROM COUNCILLORS

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### **Cr Bill McClenaghan – Holcombe Ward.**

December and January are relative quiet times on Council usually, however the pace has picked up rather quickly this year in Holcombe Ward. On December 21<sup>st</sup>, the Mayor and I attended an official launch and photo shoot of the new Glenlyon Dam fire tanker filling area, which has received earthworks, circular road access and a concrete hard standing area right next to the water. This will allow for several tankers to fill up simultaneously on hard standing should the need ever arise. I suppose that this is Glenlyon's answer to the Franklinford brigade's permanent water supply tanks and filling area and our region's good preparedness for fire emergencies.

Also at Glenlyon, additional works on the fire access track middle section of Tori's Road has seen some more widening and clearing of vegetation to give safe passage to fire trucks and other vehicles even in a fire situation. Issues with "trees in the middle of the road" have now been resolved to the satisfaction of the Glenlyon CFA and the Glenlyon Group.

There have been some planning matters that have needed resolution and several on site visits have been made to resolve some outstanding planning applications and other planning issues.

Glenlyon again, and the annual New Years Sports Day was bigger and better than ever with many more people attending this year than last. Unlike last year, the rain held off until very much later (when it was greatly welcomed) and ended another fabulous community event in fine form. Congratulations to the organising committee at Glenlyon and the local CFA for another terrific contribution to community and family life in our Shire. Word is now travelling that Glenlyon on New Year's Day is the place to be.

The Hepburn Pool Advisory Committee has met for the first time this year to consider a permit proposal to Heritage Victoria for necessary safety works at the Hepburn Pool. There is also the need to gain approval from the Ballarat aboriginal co-op for works at the pool should artefacts be discovered. The aboriginal member of the committee is attending to this requirement. The committee was advised by letter from Grant Hull of DSE that the state government has now formally approved an allocation of \$100,000 for safety works at the pool, providing that these works are completed in full by the end of this financial year. Therefore, it is vital that our committee advances its plans without delay and gets all of this money spent.

It is now agreed that the Hepburn Pool will not be drained and cleaned out at this stage. Whilst the results of water testing have come back to say that the water quality is OK, the full results of the sludge and mud in the pool are not available yet although it appears that this is also OK. The North Central Catchment Management Authority have reportedly said that the pool should not be drained and cleaned out at this stage to prevent sedimentation of the creek downstream. However, it is clear that the pool and the Hepburn Weir (slightly upstream) must be cleaned out sooner or later as they are both sediment traps and will eventually cause sedimentation downstream once they both become full of mud & sediment. But right now, nobody is keen to drain any water storage when the summer fire season is upon us and all available water may be needed to combat fires.

Hepburn Bath House & community matters being handled by the Bathhouse Business and Community Liaison Group are also up and running already this year. We called an emergency meeting last week to consider a number of issues of concern that emerged over the Christmas / New Year shutdown period. A satellite visitor information centre signboard erected at the mouth of the Mineral Springs Reserve was pretty light on for information initially and not all that obvious to the visitor. These issues have now been corrected but, there is always more to do. Council's [spatown.com.au](http://spatown.com.au) website is up and



## 5. REPORTS FROM COUNCILLORS

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running providing information on line of most health, wellness and therapy providers in the district. New pamphlets promoting the area and Hepburn Springs village / Shepherds Flat are also in general circulation despite some early difficulties encountered.

Another issue causing a significant degree of angst in the community is the effect of the drought on the priceless and irreplaceable trees in the Wombat Hill Botanic Gardens. As chair of Council's Wombat Hill Botanic Gardens Advisory Committee, I have met with members of the "friends" group to brainstorm ideas and solutions to the problem including the possibility of using redundant Central Highlands Water infrastructure to store recycled waste water for gardens use only, thus creating no further imposition on treated town water supply. This and the possibility of emergency watering of drought affected trees and shrubs is being seriously considered as important initiatives for the long term preservations of our iconic botanic gardens.

On major projects, works are powering ahead on the Hepburn Springs Bathhouse refurbishment and the Daylesford ARC with both contracted builders hard at it. The Bathhouse is on target for early 2008 and the ARC should be ready to open in November this year.

Another major festival occurred in Daylesford last weekend for singing and music enthusiasts. The Boite Festival featured several concerts and numerous workshops on song writing and various singing and music styles. Again, a wonderful achievement run by a dedicated band of volunteers who converge on Daylesford each year on the second weekend in January from all over. Truly an enriching experience for all who attended and another opportunity to showcase Daylesford and our wonderful local community facilities as one of the rich and vibrant places to be.

### **Cr Heather Mutimer – Coliban Ward**

No report tabled.

### **Cr Janine Booth – Creswick Ward**

In December as well as attending the normal forward planning, Agenda meeting and monthly meeting of Council, I have also chaired a public meeting in Creswick to discuss the proposed new swimming supervision and tower access arrangements for Calembreen Park recreational water facility.

The meeting was attended by the Manager of Recreation Mr. Geoff Ryan, YMCA Staff who have been engaged by Council to manage the supervision and residents of Creswick.

There was good participative discussion of the issues between Officers and residents and hopefully all parties left the meeting better informed and understanding the challenges that Council faces in the safe management of this historically and sentimental place of swimming history.

Work on the safety fence around the Tower is expected to commence on Monday with supervision being provided soon upon completion.

I have also attended another meeting held with interest groups in regard to the provision of the new Creswick comfort station or Amenities building as we like to call it. The group met with Councils Building surveyor Craig Fletcher and Architects from Terrence Carey Architects and received an overview of the project master planning and design.

On behalf of Council I will continue to work with my Community and the Officers on the development of these two important Creswick projects.

This past month my Council duties have taken on a less demanding role taking into account the Xmas and New Year break and I am pleased to say I feel refreshed and eager to take on the challenges of this New Year.

### **Cr Tim Hayes – Cameron Ward**

No report tabled.

## 5. REPORTS FROM COUNCILLORS

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### **Cr David Smith – Birch Ward**

Hoping that everyone had a pleasant Christmas with family and friends and I wish one and all best wishes for 2007

I attended lunch at the Bowling Club with staff members from Duke Street and Town Hall staff after they had finished work for the Christmas break.

I attend the Christmas Carols down at the Sound Shell at Hepburn. Those who attended thoroughly enjoyed the family night, the Daylesford Brass band were on stage and organized the evening, with the Daylesford Pipes and Drums making a special appearance. Well done to all who took part.

New Years Eve parade in Daylesford was another huge success with good weather and huge crowds in the street. It pleasing to have our Brass band and our Highland band in the parade again this year. Plenty of visitors also in the street to watch the parade. After the parade was over, I invited the Rotarians and organizers up into the Council Chamber for a drink and nibbles to show the Councils appreciation for running this event , then they were all off to there own New Year's Eve parties.

My apologies were sent to Glenlyon for the New Year's Day Sports Day.

Wednesday 3<sup>rd</sup> January saw a meeting of Fire Awareness at the Daylesford Town Hall with speakers from the Shire, C.F.A.and D.S.E. This meeting was well attended by the people of Daylesford, Hepburn and Hepburn Springs and around the area. They will be followed up meetings across the Shire within the next few weeks.

Creswick RSL. - 22<sup>nd</sup> January at 4 p.m.

Hepburn Springs, Peppers Springs Retreat - 24<sup>th</sup> January at 4 pm

Trentham Mechanics Institute - 5<sup>th</sup> February at 7 pm

Clunes Town Hall - 7<sup>th</sup> February at 7 pm

Also meet with the Mayor of Golden Plains - Cr.David Cotsell.

The Shire organized a meeting with government bodies so that we can plan a Drought Committee and this will be followed up with further meetings in March but committee meetings are taking place weekly.

Attended the Mayors' & CEOs' meeting at Ballan last Friday.

Have had a number of site inspections as well as many telephone calls from concerned ratepayers.

### **Recommendation:**

*That Council:*

5.1 *Receive and note the reports of Councillors.*

### ***Moved the Recommendation***

***Moved: Cr Bill McClenaghan***

***Seconded: Cr Heather Mutimer***

***Carried.***

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## 6. GOVERNANCE MATTERS

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### 6.1 APPOINTMENT OF CONTRACT VALUER

(A/O – Director Corporate Services)

File Ref: 52/08/02

#### Synopsis

The intention of this report is to award a two year contract, with an option for a further two years, to a registered valuer to carry out the 2008 general revaluation of the municipality and supplementary valuations from the awarding of the contract until the next contract is let.

This report recommends that Council appoint Rating Valuation Services as its municipal valuer.

#### Report

A general valuation must be made of all rateable land in a municipality in accordance with the requirements of the Valuation of Land Act 1960 Sec 2.

The purpose of a general valuation is to provide an equitable means of apportioning the rating burden of a municipality. It is a means of raising the revenue necessary for the administration and provision of services, facilities and development.

In practice, general valuations are carried out by municipal councils and can be used by other rating authorities such as the State Revenue Office and the various Water Authorities, each of who contributes towards the cost of producing the valuation used.

General valuations of all councils throughout the State are required to be returned on a biennial cycle i.e. every 2 years. However, councils have the right to undertake annual valuations if they so decide.

Every council must carry out a valuation of rateable land within its municipal district. This valuation must be made and returned after 1 January and before 30 June.

General valuations carried out by councils also service the needs of all other rating and taxing authorities in Victoria. For example, all councils must return the site value basis of valuation for use by the State Revenue Office even though the majority of councils do not require this basis.

To comply with the Valuation of Land Act 1960 Council is required to appoint an independent valuer to carry out the 2008 general revaluation. Council may only appoint a person who holds the qualifications or experience specified from time to time by the Minister by notice published in the Government Gazette.

At the present time the specifications are:

1. A valuer is a member of the Australian Property Institute (API); or
2. A person registered with the Valuers Qualification Board in Victoria on 31 December 1994; or
3. A person who is registered or licensed as a valuer in any other state in Australia; or
4. A person who holds a Bachelor of Business/Science (Valuation/Property) majoring in the valuation stream from RMIT or the University of Melbourne, and who has had a minimum of two years full-time supervised valuation practical experience [Valuation of Land Act 1960 S13D \(1A\)](#).

Council has sought tenders for this activity and has received one tender from Rating Valuation Services.

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## 6. GOVERNANCE MATTERS

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Rating Valuation Services have provided Council with municipal valuation services for the past four years. The service provided has been very professional with all deadlines and requirements of the Valuation of Land Act 1960 being met. They have maintained a consistent valuation methodology which has resulted in a significant reduction in the number of objections received by Council.

The amount tendered is in line with the cost of previous valuations, allowing for inflationary increases and is in line with Council's expectations.

**Relevant Policies / Council Plan implications:**

Valuation of Land Act 1960

**Community / Engagement / Communication / Consultation:**

N/A

**Financial & Resource Implications Initial & Ongoing**

The amount tendered is in line with Council's expectations and will be factored into the 2007/08 budget. Almost half of the tender amount will be reimbursed by the State Revenue Office.

**Recommendation:**

*That Council:*

- 6.1.1 *Appoint Rating Valuation Services to provide Council's valuation services for the 2008 general revaluation for the amount of \$131,210;*
- 6.1.2 *Appoint Rating Valuation Services to provide Council's supplementary valuations from the start of this contract through to the beginning of the next contract.*

***Moved the Officer's Recommendation***

***Moved: Cr Heather Mutimer***

***Seconded: Cr Tim Hayes***

***Carried.***

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## 6. GOVERNANCE MATTERS

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### 6.2 CENTRAL HIGHLANDS REGIONAL LIBRARY CORPORATION SUPPLEMENTARY AGREEMENT

(A/O – Director Corporate Services)

File Ref:40/04/01

#### **Synopsis**

The Southern Grampians Shire Council was admitted into the Central Highlands Regional Library Corporation on 1 July 2006. To ensure that the primary Regional Library Agreement takes this into consideration, a supplementary agreement has been prepared. The Supplementary Agreement sets out the terms and conditions on which Southern Grampians is admitted to membership of the Corporation and becomes party to the Primary Agreement.

#### **Report**

The Regional Library Supplementary Agreement is a formal document requiring endorsement with Council's seal. Use of the seal requires the consent of Council. Each Council who is a member of the Central Highlands Regional Library Corporation has been requested to sign and seal the document before forwarding it on to the next Council, until it has been signed by all parties.

The following Councils are members of the Central Highland Regional Library Corporation:

- Ararat Rural City Council
- Ballarat City Council
- Central Goldfields Shire Council
- Hepburn Shire Council
- Moorabool Shire Council
- Pyrenees Shire Council
- Southern Grampians Shire Council

Council is therefore requested to authorise the signing and sealing of the Supplementary Agreement to enable it to be forwarded to the next Council.

#### **Relevant Policies / Council Plan implications:**

Local Law No.1

#### **Community / Engagement / Communication / Consultation:**

Public submissions were sought for the original Regional Library Agreement, however as this is a supplementary agreement as prescribed in section 12 of the original agreement, further public consultation is not required.

#### **Financial & Resource Implications Initial & Ongoing**

Nil impact on Councils budget. As a result of allowing Southern Grampians to become a member of the Corporation, all member shires will have access to much larger mobile library which is one of the major assets that Southern Grampian is contributing to the corporation.

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## 6. GOVERNANCE MATTERS

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### **Recommendation:**

*That Council:*

- 6.2.1 Endorse the Supplementary Agreement to the Regional Library Agreement;
- 6.2.2 Authorise the Chief Executive Officer to sign and seal the documents.

### ***Moved the Officer's Recommendation***

***Moved: Cr Tim Hayes***  
***Seconded: Cr Janine Booth***  
***Carried.***

**6. GOVERNANCE MATTERS**

**6.3 MONTHLY FINANCIAL REPORT 1/7/06 – 31/12/06**

(A/O – Director Corporate Services)

File Ref: 30/08/14

**Synopsis**

A summary report on the Council's financial performance for the financial year to the 31 December 2006 is provided for information.

**Report**

The report shows the annual budget and year to date actuals with a percentage calculation based on the actual expenditure or income to the end of the reporting period. This should be viewed against the percentage of year completed which is shown in the report heading of 50%.

**Hepburn Shire Council  
Monthly Financial Report December 2006  
Percentage of year complete 50%**

	Annual Budget 000's	Actual Dec-06 000's	Percentage of Budget
<b>1. Administration</b>			
Expenditure	4,706	2,171	46%
Income	(10,666)	(9,363)	88%
<b>1. Administration</b>	<b>(5,959)</b>	<b>(7,192)</b>	
<b>2. Human And Community Services</b>			
Expenditure	2,216	1,003	45%
Income	(1,573)	(759)	48%
<b>2. Human And Community Services</b>	<b>643</b>	<b>244</b>	
<b>3. Regional Development/promotion</b>			
Expenditure	1,750	884	51%
Income	(487)	(282)	58%
<b>3. Regional Development/promotion</b>	<b>1,263</b>	<b>602</b>	
<b>4. Public Safety</b>			
Expenditure	586	266	45%
Income	(244)	(85)	35%
<b>4. Public Safety</b>	<b>342</b>	<b>181</b>	
<b>5. Recreation</b>			
Expenditure	1,124	602	54%
Income	(127)	(106)	84%
<b>5. Recreation</b>	<b>997</b>	<b>496</b>	
<b>6. Infrastructure Development</b>			
Expenditure	4,442	1,580	36%
Income	(3,112)	(1,341)	43%
<b>6. Infrastructure Development</b>	<b>1,330</b>	<b>239</b>	

**6. GOVERNANCE MATTERS**

**Hepburn Shire Council  
Monthly Financial Report December 2006  
Percentage of year complete 50%**

	Annual Budget 000's	Actual Dec-06 000's	Percentage of Budget
<b>7. Waste &amp; Environment</b>			
Expenditure	1,314	586	45%
Income	(1,410)	(1,380)	98%
<b>7. Waste &amp; Environment</b>	<b>(95)</b>	<b>(794)</b>	
<b>8. Unclassified</b>			
Expenditure	86	0	0%
Income	(233)	0	0%
<b>8. Unclassified</b>	<b>(147)</b>	<b>0</b>	
<b>9. Capital Works And Projects</b>			
Expenditure	6,590	1,668	25%
Income	(4,964)	(187)	4%
<b>9. Capital Works And Projects</b>	<b>1,626</b>	<b>1,481</b>	
<b>Report Total</b>	<b>(0)</b>	<b>(4,744)</b>	

The report has been produced at a summary level to provide Council with a snap shot as at the end of December 2006. There are a number of areas where the percentage varies significantly from the year completed percentage they are:-

Administration – Income. This relates to the recognition of all the rate income being included in the July figures which is when it is raised.

Human and Community Services – Expenditure. Some of this work is provided under contract with contract payments traditionally a month behind, e.g. the December account is normally paid in January.

Regional Development/Promotion - Income. 50% of budgeted planning permit fees already received.

Public Safety – Expenditure. Environmental officer appointed commences in Jan 07.

Public Safety – Income. This relates mainly to health regulation fees due in January 07 and animal registrations where virtually all income is received by the end of April.

Recreation – Income. Bathhouse rent will be received in the early part of the year only

Infrastructure Development - Expenditure. This is lumpy due to large contract works ie road seals which are traditionally undertaken in February 07.

Infrastructure Development - Income The Roads to Recovery grant is paid on completion of works.



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## 6. GOVERNANCE MATTERS

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Waste & Environment – Expenditure. The majority of this work is provided under contract with contract payments traditionally a month behind, e.g. the December account is normally paid in January.

Waste & Environment – Income. This relates to the recognition of all the income for the Waste Management Charge, Garbage Charge and Recycling charge being included in the July figures which is when they are raised.

Unclassified –Expenditure & Income. Transfers to and from reserves are carried out at the end of year.

Capital & Projects – Expenditure & Income. Projects in this area are traditionally lumpy as such will be reported on separately when the December quarterly review is undertaken.

### **Relevant Policies / Council Plan Objectives**

The Management of Council financials is in line with objective 3.3 of the adopted Council Plan 2006 – 2011.

### **Community / Engagement / Communication / Consultation:**

N/A

### **Financial & Resource Implications Initial & Ongoing**

Nil

### **Recommendation:**

*That Council:*

6.3.1 *Receive and note the December 2006 Finance Report.*

### ***Moved the Officer's Recommendation.***

***Moved:***                    ***Cr Janine Booth***  
***Seconded:***            ***Cr Bill McClenaghan***  
***Carried.***

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## 6. GOVERNANCE MATTERS

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### 6.4 GRANT ASSISTANCE

(A/O – Acting Chief Executive Officer)

File Ref: 30/14/03  
16/04/08

#### Synopsis

Three requests for immediate funding have been received by Council.

#### Report

1. Daylesford & District Business Group

A request from Jane Penberthy has been received for seeding funding for the establishment of a new business group. The previous Manager Planning & Economic Development had been working with this group and was most supportive of their establishment prior to her resignation from Council.

Council has in the past provided seed funding for the establishment of such groups. A seeding grant of \$500 is recommended to be debited against the Economic Development Operating Expenses Account.

2. Zonta Club of Ballarat Inc.

The Zonta Club of Ballarat host a successful women's event annually on International Women's Day. They are seeking sponsorship of this event – Platinum \$750, Gold \$500, Silver \$250. In the past some Councillors and staff have chosen to attend this event.

Hepburn Shire now holds its own highly successful event on International Women's Day and it is felt that money could be better spent within our own community. It is therefore recommended that Council not sponsor the event but write wishing them every success and outlining our own event to them.

3, 1<sup>st</sup> Creswick Scouts Support Committee

The Creswick Scouts have reformed and now has 9 Cubs and 3 Scouts after many years in recession and are currently struggling to operate in a hall that badly needs repairs.

The group have applied for and been accepted for "work for the dole scheme" to begin in January. Other repairs have been carried out by parents. The Club is seeking \$600 to buy paint and floor sealer to update and improve the 1<sup>st</sup> Creswick Scout Hall.

The 1<sup>st</sup> Creswick Scouts received \$700 in the 90's.

#### Relevant Policies / Council Plan implications:

In accordance with the 2006-2011 Council Plan.

1. Strengthening Communities
2. Service Delivery
3. 3.2 Foster and encourage leadership  
3.4 Promote and encourage innovation
4. Economic Development

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## 6. GOVERNANCE MATTERS

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### **Community / Engagement / Communication / Consultation:**

Daylesford & District Business Group and the 1<sup>st</sup> Creswick Scouts have been actively seeking membership and publicly promoting their groups. As a condition of any grant approved Council would seek adequate acknowledgement.

### **Financial & Resource Implications Initial & Ongoing**

Economic Development Marketing/Promotions A/c No. 3430 001

Budget \$5,000

Actual & committed expenditure to date: \$3763

Public Halls – Other A/C No. 4060 109

Budget \$25,000

Actual & committed expenditure to date: \$10,532

### **Recommendation:**

*That Council:*

- 6.4.1 *Provide a seeding grant of \$500 to Daylesford and District Business Group from Economic Development Marketing/Promotions Account 3430 001;*
- 6.4.2 *Write to the Zonta Club of Ballarat wishing them success with their event and advising of Council's International Women's Day Event – no funding;*
- 6.4.3 *Provide a \$600 grant to the 1<sup>st</sup> Creswick Scouts for upgrade to the hall from Public Halls Other Account 4060 109 and wish them every success.*

### ***Moved the Officer's Recommendation.***

***Moved: Cr Heather Mutimer***

***Seconded: Cr Tim Hayes***

***Carried.***

**6. GOVERNANCE MATTERS**

**6.5 HEPBURN HEALTHY COMMUNITIES PROJECT – APPOINTMENT OF  
ADVISORY COMMITTEE 2007**

(A/O – Manager Community Services)

File Ref: 50/12/05

**Synopsis**

The purpose of this report is for Council to consider community and professional nominations for appointment to the Hepburn Healthy Communities Advisory Committee.

**Report**

Council adopted the Hepburn Healthy Communities Plan in March 2005. A recommendation of the Plan was the formation of an Advisory Committee.

The purpose of the Hepburn Healthy Communities Advisory Committee is to provide strategies and policy advice on planning, implementation and evaluation of the Hepburn Healthy Communities Project including the Municipal Public Health Plan 2005 – 2008 and the Hepburn Shire Social Plan 2005 – 2015 to the Chief Executive Officer, to ensure they benefit the local communities of the Shire.

A copy of the Terms of Reference, previously adopted by Council are attached (Appendix 2).

The Advisory Committee is a community based committee appointed by Council. Hepburn Shire Council will:

- Receive guidance and advice from the Advisory Committee
- Seek specific advice on policy and strategic issues
- Refer issues to the Advisory Committee

Nominations for the Advisory Committee were advertised in the Advocate in October 2006.

Five vacancies were created through resignation during 2006. The State Government Officer had not been filled.

The following community members have nominated to be on the Advisory Committee. ® - indicates reappointment for 2007

\* Position vacant at 2005 nomination, since filled by appointment in March 2006

®Maureen Gleeson (leave of absence until July 2007 – replaced by Max Watson Acting Manager of Community Health – July 2006 July 2007) Hepburn Health Service	Whole of Shire
®Janet McKay – Child & Family Services	Daylesford (Whole of Shire)
®Jo Kidd	Daylesford (Whole of Shire)
®Sussan Smith	Creswick
®Kathleen Brannigan – Daylesford Neighbourhood Centre	Daylesford (Whole of Shire)
®Fiona Robson	Daylesford
®Lorena Ordenes	Daylesford
®State Govt Officer – to be advised	Department of Human Services or Department for Victorian Communities – Ballarat (Whole of Shire)

## 6. GOVERNANCE MATTERS

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*Michelle Leishman	Clunes
Julia McGrath– Hepburn Youth Council	Creswick - (Whole of Shire)
Ally Parnaby - Hepburn Health Service	Whole of Shire
Dianne Parsons	Trentham
Mary-Faeth Chenery	Daylesford

All nominees meet the eligibility criteria as detailed in the Terms of Reference and offer a mix of community and skill based representation.

The Advisory Committee will continue to have the power to co-opt expertise and knowledge and to establish working groups to manage specific priorities.

Council's Community Strengthening Co-ordinator – Brian Dunn will act as the Executive Officer of the Advisory Committee and various other officers such as the Chief Executive Officer, Senior Environmental Health Officer, Manager Tourism and Recreation will assist in resourcing the Committee.

Under the Terms of Reference, the Advisory Committee will:

- Ensure that Council is fully informed as to the community's needs and priorities
- Undertake the implementation and evaluation of outcomes of the Plans in a timely manner
- Evidence based research and evaluation of strategies and solutions for integrated local area planning.
- Advise Council on evidence-based findings that will add value and promote good practice to achieve effective and efficient outcomes for residents.
- Work to develop sustainable indicators and benchmarks based on Best Value, to grow capacity within Council and the Community.

### Relevant Policies/Council Plan Objectives

- Council Plan  
Objective 1 – Strengthening the Community;  
Enhance community connectedness, capacity building, leadership and external relationships

### Financial/Resource Implications Initial & Ongoing

Project funding of \$300,000 was received from the Community Support Fund to resource the Hepburn Healthy Communities Project. In addition Council has allocated resources within 2006/07 budget to support the project including the Advisory Committee.

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## 6. GOVERNANCE MATTERS

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### **Recommendation:**

*That Council:*

- 6.5.1 *Appoint Michelle Leishman, Mary-Faeth Chenery, Dianne Parsons, Ally Parnaby and Julia McGrath and Reappoint Maureen Gleeson (or her delegate), Janet McKay, Jo Kidd, Sussan Smith, Kathleen Brannigan, Fiona Robson, Lorena Ordenes, to the Hepburn Healthy Communities Advisory Committee for a period of one year;*
- 6.5.2 *Appoint the Manager Community Services chair of the Advisory Committee;*
- 6.5.3 *Actively pursue the recruitment of a State Government representative from the Department for Victorian Communities or the Department of Human Services for the Hepburn Healthy Communities Advisory Committee.*

### **Motion Moved at the Meeting:**

*That Council:*

- 6.5.1 ***Appoint Michelle Leishman, Mary-Faeth Chenery, Dianne Parsons, Ally Parnaby and Julia McGrath and Reappoint Maureen Gleeson (or her delegate), Janet McKay, Jo Kidd, Sussan Smith, Kathleen Brannigan, Fiona Robson, Lorena Ordenes, to the Hepburn Healthy Communities Advisory Committee for a period of one year;***
- 6.5.2 ***Amend the Terms of Reference to Include a Councillor on the Committee***
- 6.5.3 ***Actively pursue the recruitment of a State Government representative from the Department for Victorian Communities or the Department of Human Services for the Hepburn Healthy Communities Advisory Committee.***

**Moved: Cr Bill McClenaghan**

**Seconded: Cr Janine Booth**

### **AMENDMENT MOVED:**

**That :**

***the Advisory Committee nominate a Chair  
the nomination come back to Council for final approval.***

**Moved: Cr Tim Hayes**

**Seconded: Cr Bill McClenaghan**

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**6. GOVERNANCE MATTERS**

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**MOTION TOGETHER WITH THE AMENDMENT CARRIED.**

*Motion Moved at Meeting then read as follows:*

*That Council:*

- 6.5.1** *Appoint Michelle Leishman, Mary-Faeth Chenery, Dianne Parsons, Ally Parnaby and Julia McGrath and Reappoint Maureen Gleeson (or her delegate), Janet McKay, Jo Kidd, Sussan Smith, Kathleen Brannigan, Fiona Robson, Lorena Ordenes, to the Hepburn Healthy Communities Advisory Committee for a period of one year;*
- 6.5.2** *Amend the Terms of Reference to Include a Councillor on the Committee*
- 6.5.3** *Actively pursue the recruitment of a State Government representative from the Department for Victorian Communities or the Department of Human Services for the Hepburn Healthy Communities Advisory Committee.*
- 6.5.4** *That :*  
**6.5.4.1** *the Advisory Committee meet and nominate a Chair*  
**6.5.4.2** *the nomination come back to Council for final approval.*

**CARRIED.**

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## 6. GOVERNANCE MATTERS

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### 6.6 MANAGER PLANNING INSTRUMENT OF DELEGATION

(A/O – Director Infrastructure & Development)

File Ref: Personal File

#### Synopsis

Mr. Sylvester Tan has been appointed to the position of Manager Planning and commenced on 15 January 2007.

This report has been prepared to enable Council to formally delegate to Mr. Tan the powers, discretions, functions and duties as delegated to the previous Manager.

#### Report

It is necessary to formally delegate appropriate powers under the Planning & Environment Act, the Subdivision Act, and Division 5 Section 88 (Mediation) of the Victorian Civil and Administrative Tribunal 1998 to Mr Tan in order to deal with the day to day functions, roles and responsibilities of Council as a responsible authority and a planning authority with respect to administering the Hepburn Planning Scheme, complying with the requirements of the Planning & Environment Act, as well as undertaking the administrative procedures required under the Subdivision Act to certify subdivision plans.

A formal resolution of Council is required to enable this delegation.

A copy of the instrument of delegation is attached (Attachment 3).

#### Relevant Policies / Council Plan implications:

Delegations

#### Community / Engagement / Communication / Consultation:

Nil

#### Financial Implications

Nil

#### Recommendation

*That Council:*

6.6.1 *Sign and seal the instrument of delegation to Mr. Sylvester Tan as presented to this meeting.*

#### **Moved the Officer's Recommendation.**

**Moved:** Cr Tim Hayes

**Seconded:** Cr Janine Booth

**Carried.**



**6. GOVERNANCE MATTERS**

**6.7 ARC – MONTHLY REPORT**

(A/O – Director Infrastructure & Development)

File Ref: H164

**Synopsis**

Monthly report on the ARC project.

**Report**

There has been little change since the last report to Council due to the normal building closure period to mid January.

S J Weir , the building contractor appointed for this project has completed:

Sewer & stormwater works;  
Internal demolition of change-rooms;  
Structural steel ordered; and  
Earthworks for new building.

Works in progress:  
Internal fit-out of theatre.

The internal renovation works (school component) are programmed for completion in February/March 2007 with the new building (Council component) hand-over planned for November 2007, weather permitting.

**Relevant Policies / Council Plan implications:**

Council Plan – Service Delivery

**Community / Engagement / Communication / Consultation:**

Extensive community consultation and engagement has occurred with this project.

**Financial & Resource Implications Initial & Ongoing**

ARC - DAYLESFORD REC CENTRE BUDGET	BUDGET 20-Sep-05	REVISED BUDGET Aug-06	ACTUALS 2002/2003	ACTUALS 2003/2004	ACTUALS 2004/2005	ACTUALS 2005/2006	ACTUALS 2006/2007 11-Jan-07	TOTAL ACTUAL 11-Jan-07	PROJECTIONS 11-Jan-07
<b>EXPENDITURE - 9550 815</b>									
Architect & Sub consultants	\$ 112,500	\$ 124,500			19,400	101,100	-	\$120,500	\$ 124,500
Contract Admin	\$ 5,500	\$ 5,500					1,032	\$1,032	\$ 5,500
Building 2 courts, entry, kiosk & amenities	\$ 1,360,000	\$ 1,484,800						\$0	\$ 1,529,228
Variations 2 courts,entry,kiosk, etc									\$ 75,000
Building School refurbishment	\$ 560,000	\$ 560,000					114,785	\$114,785	\$ 302,730
Variations School building refurbishment									\$ 257,270
Legals	\$ 1,500	\$ 1,500						\$0	\$ 1,500
Planning Permit	\$ 1,160	\$ 2,100			96	1,975		\$2,071	\$ 2,100
Tender costs	\$ 1,500	\$ 1,500					676	\$676	\$ 1,500
Opening function & marketing	\$ 5,000	\$ 5,000				183	315	\$498	\$ 5,000
Fitout - equipment & furniture	\$ 25,000	\$ 25,000						\$0	\$ 25,000
Fundraising Committee	\$ 12,094	\$ 12,100	120	11,974				\$12,094	\$ 12,094
Carparking	\$ 90,000	\$ -						\$0	\$ -
Drainage & Authority Headworks Charges	\$ 100,000	\$ 70,000				66,646		\$66,646	\$ 70,000
Contingencies	\$ 167,746	\$ 150,000					237	\$237	\$ 30,578
<b>TOTAL EXPENDITURE</b>	<b>\$ 2,442,000</b>	<b>\$ 2,442,000</b>	<b>\$ 120</b>	<b>\$ 11,974</b>	<b>\$ 19,496</b>	<b>\$ 169,904</b>	<b>\$ 117,045</b>	<b>\$318,538</b>	<b>\$ 2,442,000</b>
									<b>\$ -</b>
<b>INCOME - 9550948</b>									
SRV - (DVC)	\$ 500,000	\$ 500,000				100,035		\$100,035	\$ 500,000
COUNCIL	\$ 300,000	\$ 300,000		5,000		295,000		\$300,000	\$ 300,000
FEDERAL GRANT	\$ 120,000	\$ 120,000	-	-		-		\$0	\$ 120,000
COM FACILITIES GRANT (DET)	\$ 1,222,000	\$ 1,222,000						\$0	\$ 1,222,000
COMMUNITY FUNDRAISING	\$ 300,000	\$ 300,000		7,000				\$7,000	\$ 300,000
<b>TOTAL INCOME</b>	<b>\$ 2,442,000</b>	<b>\$ 2,442,000</b>	<b>\$ -</b>	<b>\$ 12,000</b>	<b>\$ -</b>	<b>\$ 395,035</b>	<b>\$ -</b>	<b>\$ 407,035</b>	<b>\$ 2,442,000</b>

As at 11 Jan 2007:

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**6. GOVERNANCE MATTERS**

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Progress payments to builder	\$114,785
Claims to be processed	\$ 90,375

Approved variations to date:	
School component of the building works	\$19,700
Council component of the building works	\$nil

**Recommendation:**

*That Council:*

6.7.1 *Note & receive the report.*

***Moved the officer's Recommendation.***

***Moved: Cr Bill McClenaghan***

***Seconded: Cr Heather Mutimer***

***Carried.***

**7. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND**

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Nil

## **8. COUNCIL SECTION 86 ADVISORY AND COMMITTEES OF MANAGEMENT**

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### **8.1 SECTION 86 COMMITTEE & ADVISORY COMMITTEE MINUTES**

(A/O – Manager Administration)

File Ref: Various

#### **Synopsis**

Section 86 Committee and Advisory Committee Minutes are tabled for noting.

#### **Report**

Please see listed below the minutes of Section 86 and Advisory Committees for your information.

- Minutes of Hepburn Healthy Communities Advisory Committee dated 27 November 2006

#### **Relevant Policies / Council Plan implications:**

2.2 – Improve internal and external communication.

#### **Community / Engagement / Communication / Consultation:**

Members of the community are represented on these committees.

#### **Financial Implications**

Nil

#### **Recommendation:**

*That Council note the Minutes of the:*

*8.1.1 Hepburn Healthy Communities Advisory Committee  
dated 27 November 2006.*

#### ***Moved the Officer's Recommendation***

***Moved: Cr Heather Mutimer***

***Seconded: Cr Tim Hayes***

***Carried.***

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## 9. STATUTORY MATTERS

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### 9.1 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, AND ANTHONY WILLIAM RYAN AND ELIZABETH ANTOINETTE RYAN, PLANNING PERMIT NO 2006/9065

(A/O – Planning Administration Officer)

File Ref: 1/1780/01158/P

#### Synopsis

This report concerns a Section 173 Agreement that allows the owner to install a dependent persons unit.

Applicant: ANTHONY WILLIAM RYAN AND ELIZABETH ANTOINETTE RYAN

Property: 4399 CRESWICK-SMEATON ROAD, BROOMFIELD  
LOT 1 PS 132482, PARISH OF CRESWICK

#### Report

The land owner/applicant is to enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987, in accordance with the planning permit.

The agreement provides that the nominated person to occupy the dependent unit allowed under this permit is Mrs Valma Keating. In the event the dependent unit is no longer required for the nominated person, the Owners undertake to remove the dependent unit.

#### Relevant Policies / Council Plan implications:

#### Community / Engagement / Communication / Consultation:

#### Financial Implications

Nil

#### Recommendation:

*That Council:*

- 9.1.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, and Anthony William Ryan and Elizabeth Antoinette Ryan, as detailed under item 9.1.*

#### ***Moved the Officer's Recommendation.***

***Moved: Cr Janine Booth***  
***Seconded: Cr Bill McClenaghan***  
***Carried.***

## 9. STATUTORY MATTERS

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### 9.2 7 Golden Springs Avenue, Hepburn Springs

(A/O – Statutory Planner & Planning Investigations Officer) File Ref: 3/2810/00800/P

#### Synopsis

This report concerns the proposed demolition of a dwelling, outbuildings and reinstatement of site at 7 Golden Springs Avenue, Hepburn Springs following illegal earthworks / excavation exceeding 1 metre in depth, in accordance with VCAT Enforcement Order P170/2006 issued 19 July 2006. Request for quotes were sent out to 3 companies with only one providing a quote for these works. The works would be carried out initially at Council's expense, but would become a charge against the property whereby Council would ultimately recover costs via the proper process.

#### Report

In late 4 April 2005 the respondent carried out or directed or permitted excavation works at 7 Golden Springs Avenue Hepburn Springs (not their primary place of residence) including sections of the road reserve to a depth exceeding 1 metre without the required planning approval from the Responsible Authority, despite having been previously advised in person by Council Planning & Building Departments regarding the need for a planning & building permits to undertake the works.

The respondent was also issued a Building Notice by Council's Building Surveyor, requesting him to Show Cause to include an engineer's structural report on 5<sup>th</sup> April 2005 with no satisfactory reply from the respondent.

On the 1<sup>st</sup> June 2005 Council's Planning Department issued the respondent with Planning Infringement Notice (2005/14) including a fine of \$511.25 and additional steps to expiate the offence being;

- 1. You must, no later than 20 June 2005, provide Council with professionally prepared drawings which identify the extent of the Works, and provide a solution for the backfilling and stabilisation of the site cut.*
- 2. You must carry out the required backfilling and stabilisation works, in accordance with the approved drawings and any other requirements imposed by Council, within 30 days after the drawings are approved by Council.*

To date the respondent has not rectified this breach nor submitted a planning permit application including professionally prepared drawings for re-stabilisation and backfilling of the site in accordance with Planning Infringement Notice 2005/14.

The respondent's actions have left the property in a derelict and potentially hazardous state, with excavation occurring under the dwelling.

The lack of action and communication by the respondent prompted Council to commence enforcement proceedings in February 2006 by seeking an Enforcement Order from VCAT (P170/2006) for the respondent to make a planning application with professionally drawn plans to undertake reinstatement works at the respondent's expense. At this point Council had used every means possible to make contact and serve the respondent with VCAT documents. On 22 March 2006 the Tribunal made orders for Council to amend the enforcement application to restore the land via the demolition of the dwelling, outbuildings and reinstatement of the site and to serve the amended application on the respondent.

18 April 2006 the respondent made contact with Council and advised that private health circumstances had hindered any action been taken. The respondent however agreed and gave a verbal undertaking to sign draft orders to the following;

## 9. STATUTORY MATTERS

---

*That the Respondent must, within 2 months of the date of this Order:*

- 1. Demolish the dwelling, outbuilding (with the appropriate building permission) and reinstate the site to the satisfaction of the responsible authority.*
- 2. If the works required in Order 1 are not completed in the time stipulated, then the applicant may arrange for the works to be carried out at the cost of the respondent*

In a sign of good faith to resolve this issue quickly, Council agreed to withdraw Planning Infringement 2005/14 including the fine of \$511.25. Council did not hear nor received the signed draft orders sent to the respondent following the discussions on the 18 April 2006, until 26 June 2006. The signed draft orders by both parties were forwarded to VCAT and consequentially by consent the order was issued on 19 July 2006 by the Tribunal and forwarded to the respondent.

Over the last six (6) months Council has attempted to make contact with the respondent on a number of occasions via mail and phone with no positive reaction and a recent inspection from the road side indicates that no works nor attempts to comply with VCAT Enforcement Order P170/2006. Council has made all reasonable attempts to contact and assist the respondent to comply with order.

In addition to the authority contained in the VCAT Order itself, there is also authority in the Planning & Environment Act. Section 123 of the Act provides that the responsible authority may carry out any work which an enforcement order required to be carried out and which was not carried out within the period specified in the order, and may recover the costs of the work from the person in default in any court of competent jurisdiction as a debt.

Therefore, it is recommended that Council proceed to engage a professional demolisher to carry out the works.

### **Relevant Policies / Council Plan implications:**

Council Plan – Key Objective 5 – Heritage & Environment - ... natural & built environment is protected.

In addition Section 14(a) of the Planning and Environment Act 1987 provides that it is a duty of the responsible authority to enforce its own planning scheme.

### **Community / Engagement / Communication / Consultation:**

Nil

### **Financial & Resource Implications Initial & Ongoing**

Council wrote to a number of registered contractors requesting quotations to carry out the required works with only one (1) quote having been received to carrying out the demolition works including debris removal to the value of \$8,500 (plus GST).

Section 123(2) of the Act provides that “The responsible authority or other person carrying out any work under sub-section (1) may sell any [building](#), equipment or other materials salvaged in carrying out that work if the authority or person is satisfied that the [building](#) equipment or materials is or are the property of the [land owner](#) or the person against whom the order is made and apply the proceeds of the sale toward payment of the expenses incurred in carrying out the work.” This has already been factored by the demolishers into the quotes they have provided.

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## 9. STATUTORY MATTERS

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In the event that the owner does not pay the debt, Council would need to charge this debt over the property and therefore there is a low risk that Council might never recover the funds.

**Recommendation:**

*That Council:*

- 9.2.1 *Resolve to engage contractor(s) to carry out the works required in VCAT Enforcement Order P170/2006 dated 19 July 2006, namely the demolition of dwelling, outbuildings and reinstatement of site at 7 Golden Springs Avenue, Hepburn Springs (Lot 2 on PS 509855D, being the land described in Certificates of Title Volume 10742 Folio 832;*
- 9.2.2 *That the cost of the work be levied as a charge against the property.*

***Motion moved at Meeting.***

***That this item be deferred to the February Meeting.***

***Moved:*** ***Cr Heather Mutimer***  
***Seconded:*** ***Cr Bill McClenaghan***  
***Carried.***



## 9. STATUTORY MATTERS

### 9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL

(A/O – Planning Officer 4)

File Ref: 5/7300/07500/P

#### Synopsis

Applicant: Mr Kim Lyden

Location: 12 Vincent Street, Daylesford  
CA 6, Section 5, Parish of Wombat

Proposal: Change of use of dwelling to café, retail and plant nursery. Dispensation of car parking for 21 spaces.

Zoning: Business 1 Zone

Overlay Controls: Design and Development – Schedule 1  
Environmental Significance Overlay – Schedules 1 & 2

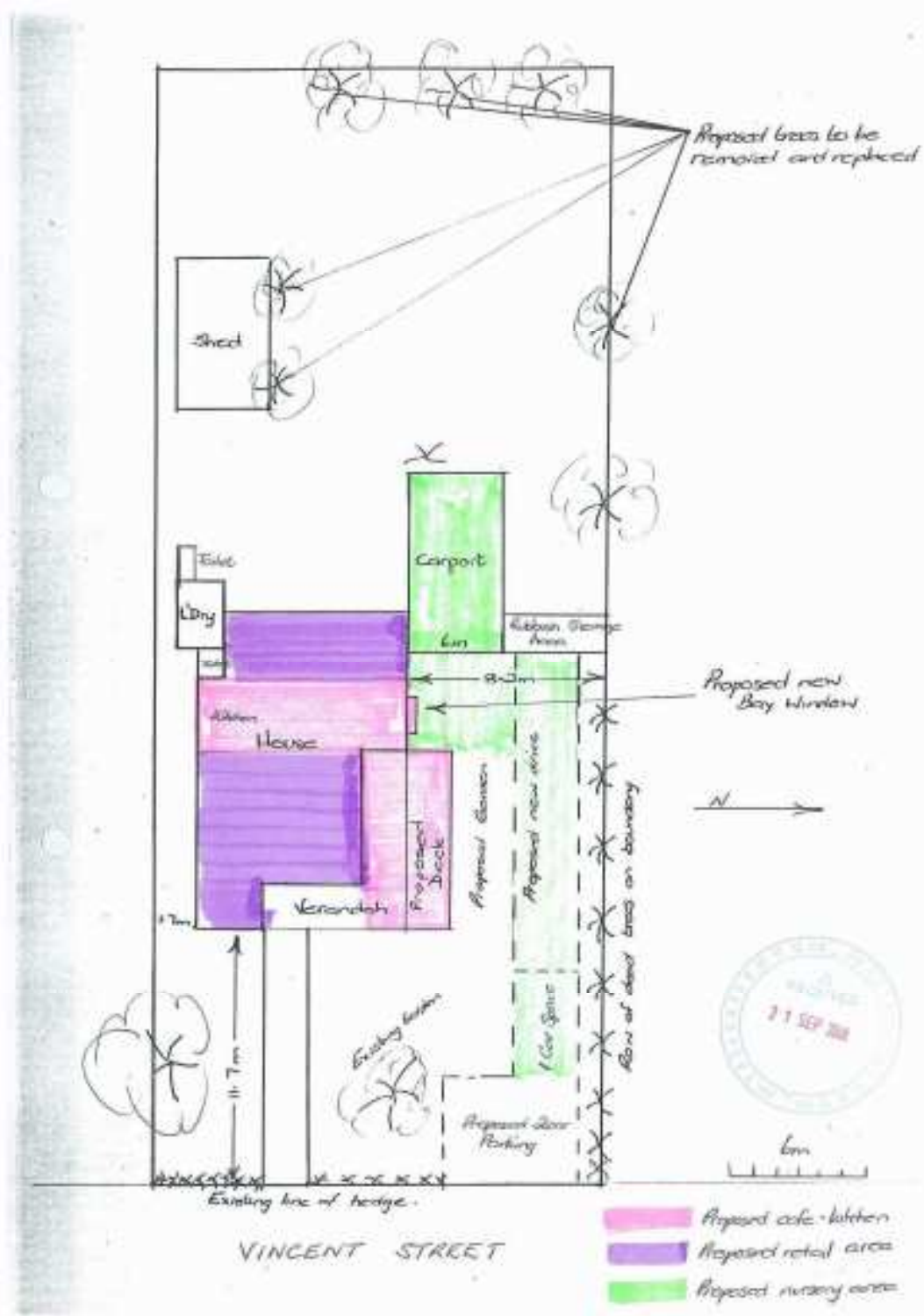
No of Objections Received: Nil

Recommendation: Issue a Planning Permit subject to conditions.



9. STATUTORY MATTERS

9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM  
RESIDENTIAL TO CAFÉ AND RETAIL



## 9. STATUTORY MATTERS

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### 9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL

#### Report

#### INTRODUCTION

The application under consideration proposes to convert the existing vacant dwelling to a café, retail shops and plant nursery. Three car spaces have been allowed for within the frontage setback of the building.

The subject site is located on the western side of Vincent Street, Daylesford, approximately 100 metres north of the intersection of Albert Street and Vincent Street. The site is located within an area which is undergoing a change in usage patterns from Residential to commercial, which reflects its zoning and proximity to the commercial core of Daylesford.

It is worthwhile at this juncture to make mention of the fact that the application originally included the removal of six (6) native trees from the land. These trees have since been removed due to the threat of damage to life and property they posed due to their poor condition. An arborist's report verifying the condition of the trees prior to felling was received by Council.

#### PROPOSAL

The retail component involves the conversion of existing rooms within the former dwelling into separate retail tenancies – with end users said by the applicants to be local artists and the like. A total of three areas are proposed.

The café component proposes to have a maximum seating capacity for thirty (30) people and include the serving of alcohol between the hours of 11.00am to 6.00pm.

The proposed retail plant nursery is to be established to the north of the dwelling, including the former garage. The rear of the dwelling will be used for cultivation of plants to be sold in the nursery.

The proposed alterations to the existing building include restumping, replacement of the front verandah and general maintenance, as the existing structural integrity and general condition of the former dwelling is poor. A return verandah is also proposed to the northern side of the building.

As mentioned above, three car parking spaces have been allowed for on the former driveway to the northern side of the site. However, the functionality of these spaces is questionable, as Vic Roads requires vehicle entry and egress in a forward motion.

#### REFERRAL AUTHORITIES

**Vic Roads** – no objection, requires the inclusion of four (4) permit conditions including the vehicular ingress/egress in forward motion as mentioned above.

**Department of Sustainability and Environment** – no objection, no conditions required.

**Goulburn Murray Water** – no objection, no conditions required.

## 9. STATUTORY MATTERS

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### 9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL

**Central Highlands Water** – no objection requires the inclusion of one (1) condition concerning a Trade Waste agreement for the Café.

REFERRAL WITHIN COUNCIL

**Engineering** – no objection, requires the inclusion of three (3) conditions.

**Environmental Health** – no objection requires the inclusion of 5 conditions on Permit based on the café health requirements.

ADVERTISING/NOTICE OF APPLICATION

The application was advertised by way of a notice on site and by the sending of notice to adjoining property owners and occupiers. In response to the notification of the proposal no objections were received.

#### Relevant Policies / Council Plan Objectives

STATE PLANNING POLICY FRAMEWORK (SPPF)

The proposal is regarded to meet the relevant State Planning Policies as it will improve the appearance of a commercial precinct, and will not have impact on ground or mineral water quality.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

The proposal is consistent with the structure plan for Daylesford as set down in Clause 1.03-3. – which designates the area within which the subject land is located as town centre and encourages the establishment of retail/commercial activities.

The proposal is thought to be not in conflict with the ideals expressed in cl 22.01 (Catchment and Land Protection), and Cl. 22.02 (Mineral Springs Protection)

ZONE AND OVERLAY PROVISIONS

**Clause 34.01-** The subject land is included within a Business 1 (B1Z) zone. The use of land for a shop and a food and drink premises within the B1Z are section 1, i.e. no permit required, uses. The plant nursery component falls within the categorisation of an unspecified retail premises, and as such requires the grant of a Planning Permit.

All of the proposed uses comply with a statement of purpose for the B1Z –

*“To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.”*

Clause 42.01 – Environmental Significance Overlay Schedules 1 & 2. The proposal will not have any effect upon ground or mineral water quality and as such will not impact upon the achievement of the purpose of the overlay.

**Clause 43.02** – Design and Development Overlay – Schedule 1. The design objectives for the Main Road Daylesford precinct relevant to this application are as follows:

- To preserve and enhance the significant visual qualities of Main Road, its environs and the semi-urban link between Daylesford and Hepburn Springs.

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## 9. STATUTORY MATTERS

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### 9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL

- To maintain the characteristic design, bulk, form and exterior finishes that form the visual element of this area.

As the proposal is not significantly altering the external appearance of the building, it is regarded that the proposal can achieve these objectives.

**Clause 52.06 - Car Parking.** Perhaps the most contentious element of this proposal is the lack of on site car parking provided on site. It has been recognised that the application did include three (3) car spaces, however due to Vic Roads requirements these are unworkable.

The planning scheme requires that a total of 26 car spaces would be required for the proposed uses. It is recognised that the provision of the full complement of car parking for businesses within core commercial areas rarely, if ever, occurs. One of the most persuasive arguments that is forwarded against parking provision is the lack of space. In the matter under consideration there is room available on site, at the rear of the building, to provide parking, at least for staff. Accordingly, it will be recommended that a condition be placed on permit that requires the submission of amending plans which show the provision of no less than five (5) car spaces on site, with ingress and egress in a forward motion.

It is considered that the shortfall of the remaining spaces can be absorbed on street. The parking on street is currently under utilized in this portion of Duke Street.

#### ASSESSMENT

The proposal under consideration is considered to be sound in planning terms and therefore worthy of support. The portion of Vincent Street in which the subject site is located is zoned for commercial purposes, and as the proposal retains and improves the existing building on site, it is regarded that the streetscape will indeed be improved.

The provision of car parking for staff, or a cash in lieu contribution to Council is considered reasonable, particularly given the large rear yard on site. Car parking on street in this area is currently under utilized; however it would be stretching the resource if staff were occupying the on street spaces as well.

The proposed uses are appropriate within the zoning and locational context, and will further the retail and dining opportunities that Daylesford is renown for.

#### **Community / Engagement / Communication / Consultation:**

The application was advertised by way of a notice on site and by the sending of notice to adjoining property owners and occupiers. In response to the notification of the proposal no objections were received.

#### **Financial & Resource Implications Initial & Ongoing**

Nil

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## 9. STATUTORY MATTERS

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### 9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL

#### Recommendation:

*That material detriment having been considered, and being of the opinion that there is no such detriment, a Permit be granted for the conversion of the existing vacant dwelling to a café, retail shops and plant nursery and waiving of car parking requirements at 12 Vincent Street, Daylesford, in accordance with the endorsed plans, that form part of this permit subject to the attached conditions:*

1. *Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
    - a) *The provision of five car parking spaces at the rear of the existing building, with access to the car parking area to be designed so that vehicles can be driven in a forward direction when entering or leaving the site. If the car parking as required cannot be provided on the land, a cash in lieu contribution for the five (5) spaces to the satisfaction of the responsible authority on the basis of a cost appraisal by the responsible authority of the relative cost of providing a car park of this number of spaces in terms of land and construction costs for the permit land.**
- "All buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use".*
2. *The various activities forming parts of the use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*
  3. *The use may operate only between the hours of 7:00am to 6:00pm without the further written consent of the Responsible Authority:*
  4. *External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.*
  5. *No more than thirty (30) seats may be made available at any one time to patrons on the premises, without the written consent of the Responsible Authority.*
  6. *At all times during the operation of the use, there must be present on the premises a person over the age of 21 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the locality to the satisfaction of the Responsible Authority (referred to in this permit as "the manager").*

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**9. STATUTORY MATTERS**

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**9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL**

*The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the Responsible Authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such officer.*

7. *Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:*

- (a) constructed;*
- (b) properly formed to such levels that they can be used in accordance with the plans;*
- (c) surfaced with an all-weather wearing course or crushed rock;*
- (d) drained;*
- (e) line-marked to indicate each car space and all access lanes;*
- (f) clearly marked to show the direction of traffic along access lanes and driveways;*

*to the satisfaction of the Responsible Authority.*

*Car spaces, access lanes must be maintained and kept available for these purposes at all times.*

*All works shall be completed in accordance with plans and specifications prepared to the satisfaction of the Responsible Authority and submitted to and approved by the Responsible Authority before the use/ occupation of the development starts.*

8. *VicRoads:*

- 8.1 Not more than one point of vehicular access is to be constructed from the development to the pavement of the declared road;*
- 8.2 Access must be designed so that all vehicles can be driven in a forward direction when entering or leaving the subject land;*
- 8.3 The crossover and associated works must be to Council's satisfaction;*
- 8.4 Any advertising signage must satisfy the VicRoads' ten point road safety checklist for advertisements and hoardings.*

9. *Council's Engineering Department:*

- 9.1 Parking to comply with AS2890.2 – 2002 Parking Facility – Off Street Commercial Vehicle.*
- 9.2 Car park to be all weather access.*

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**9. STATUTORY MATTERS**

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**9.3 APPLICATION NO 2006/9175 PROPOSED CHANGE OF USE FROM RESIDENTIAL TO CAFÉ AND RETAIL**

9.3 *All costs incurred in complying with the above conditions shall be borne by the applicant.*

10. *Council's Environmental Health Department:*

10.1 *The premises must be fitted out in accordance with the Food Act 1984 and the Food Standards Code.*

10.2 *The premises must be registered with Council under the Food Act 1984.*

10.3 *A proposed floor plan of the layout of the food preparation must be submitted to Council's Environmental Health Department for approval prior to works commencing.*

10.4 *A food safety program must be submitted to Council for the premises along with the application for registration under the Food Act 1984 prior to the commencement of business operations.*

10.5 *A Food Safety Supervisor must be nominated, who has obtained necessary competencies, prior to the commencement of business operations.*

11. *Central Highlands Region Water Authority:*

11.1 *The applicants shall provide reticulated water and sewer to the proposed café to the satisfaction of Central Highlands Water. This will include the applicant entering into a Trade Waste Agreement with Central Highlands Water. The applicant should contact CHW's Trade Waste Officers to discuss the requirements.*

12. *This permit will expire if one of the following circumstances applies:*

- *The development and use is/are not started within two years of the date of this permit*
- *The development is not completed within four years of the date of this permit*

*The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.*

**NOTE:**

*Building Approval Required*

*This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.*



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**9. STATUTORY MATTERS**

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***Alteration to Report: Page 29 fourth paragraph should read Vincent Street NOT Duke Street.***

***Moved the Officer's Recommendation with the following amendment to 1.***

- 1. Before the use and /or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:***
  - a. The provision of five car parking spaces at the rear of the existing building, with access to the car parking area to be designed so that vehicles can be driven in a forward direction when entering or leaving the site.  
"All buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use, save the car parking which may delayed for up to 12 months provided the applicant or landowner submits within one month of the date of issue of this permit a bank guarantee to the sum of \$20,000 in favour of Council as security for completion of car parking and if the car parking is not constructed within 12 months of the date of issue of this permit Council will then use the bank guarantee as cash in lieu for car parking"***

***Moved: Cr Bill McClenaghan  
Seconded: Cr Tim Hayes  
Carried.***

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**9. STATUTORY MATTERS**

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**9.4 APPLICATION NO 2006/9140, PROPOSED: ADDITION/ALTERATION TO AN EXISTING RESIDENTIAL HOTEL INCLUDING EXTENSION TO LIQUOR LICENSE AND REALIGNMENT OF BOUNDARIES.**

**and**

**APPLICATION NO 2006/9112, PROPOSED: TEMPORARY USE OF AN EXISTING BUILDING FOR THERAPEUTIC TREATMENT ROOMS FOR A PERIOD OF TWO (2) YEARS**

(A/O – Planning Officer -1)

File Ref: 3/4300/11100/P

**Synopsis**

Applicant: THA Landscape Architects P/L – S Melotte  
(Malcross Investments Pty Ltd.)

Location: 124-128 Main Road, Hepburn Springs

Proposal: Application No 2006/9140  
Addition/alteration to an existing residential hotel including construction of additional accommodation & use of existing buildings for accommodation, lap pool, extension to day spa, car park, landscaping including associated building & works, extension to liquor license and realignment of boundaries.

Application No 2006/9112  
Temporary use of an existing building for therapeutic treatment rooms for a period of two (2) years.

Zoning: Residential 1 Zone (R1Z)

Overlay Controls: Environmental Significance Overlay - Schedule 1 & Schedule 2 (ESO1 & ES02), Heritage Overlay (HO687, HO686) over the two main buildings on the site.

No of Objections Received: One (1)

Recommendation: Grant a Notice of Decision to Grant a Permit for both applications.



**9. STATUTORY MATTERS**

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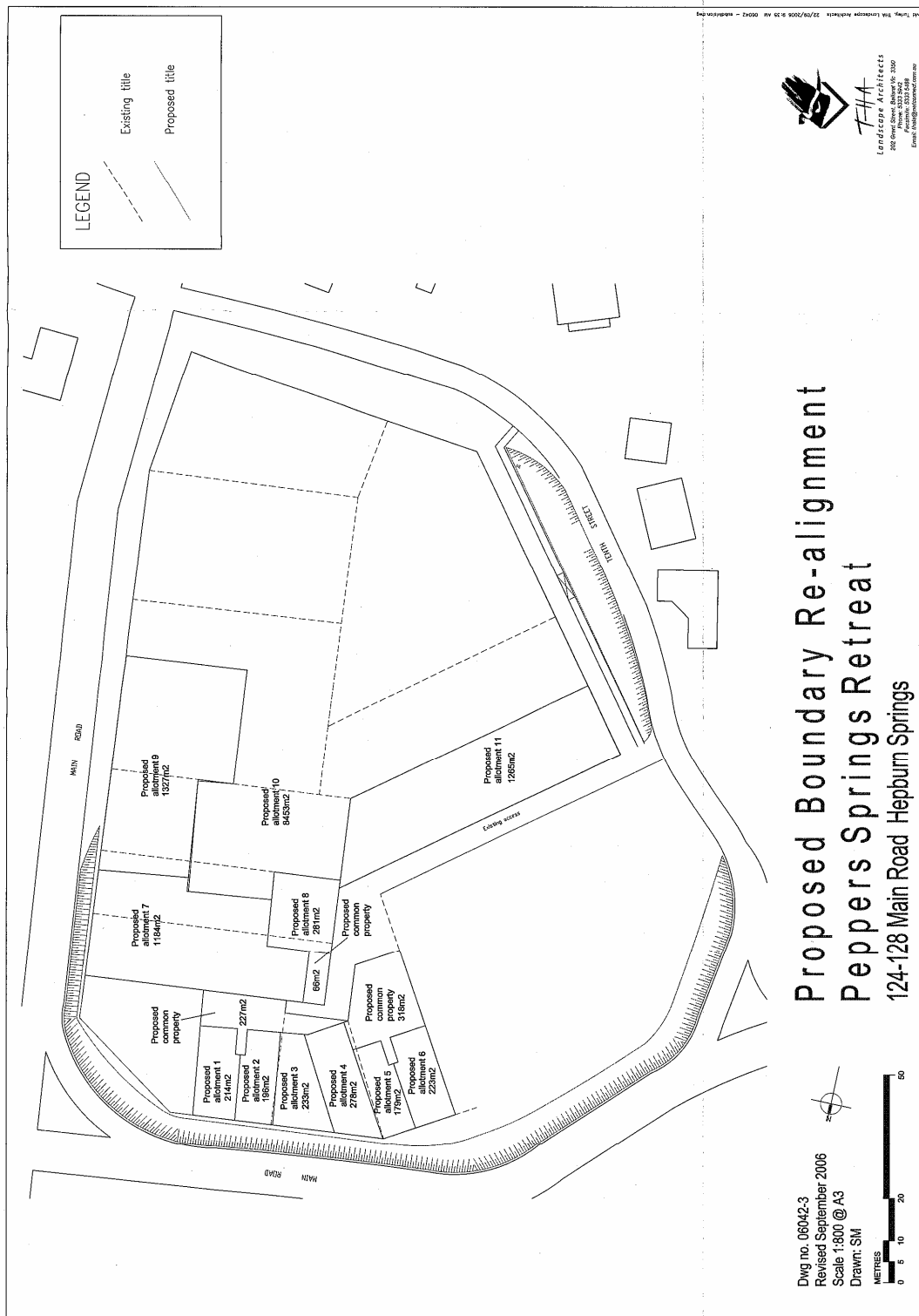
**9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112**

Application No 2006/9140



9. STATUTORY MATTERS

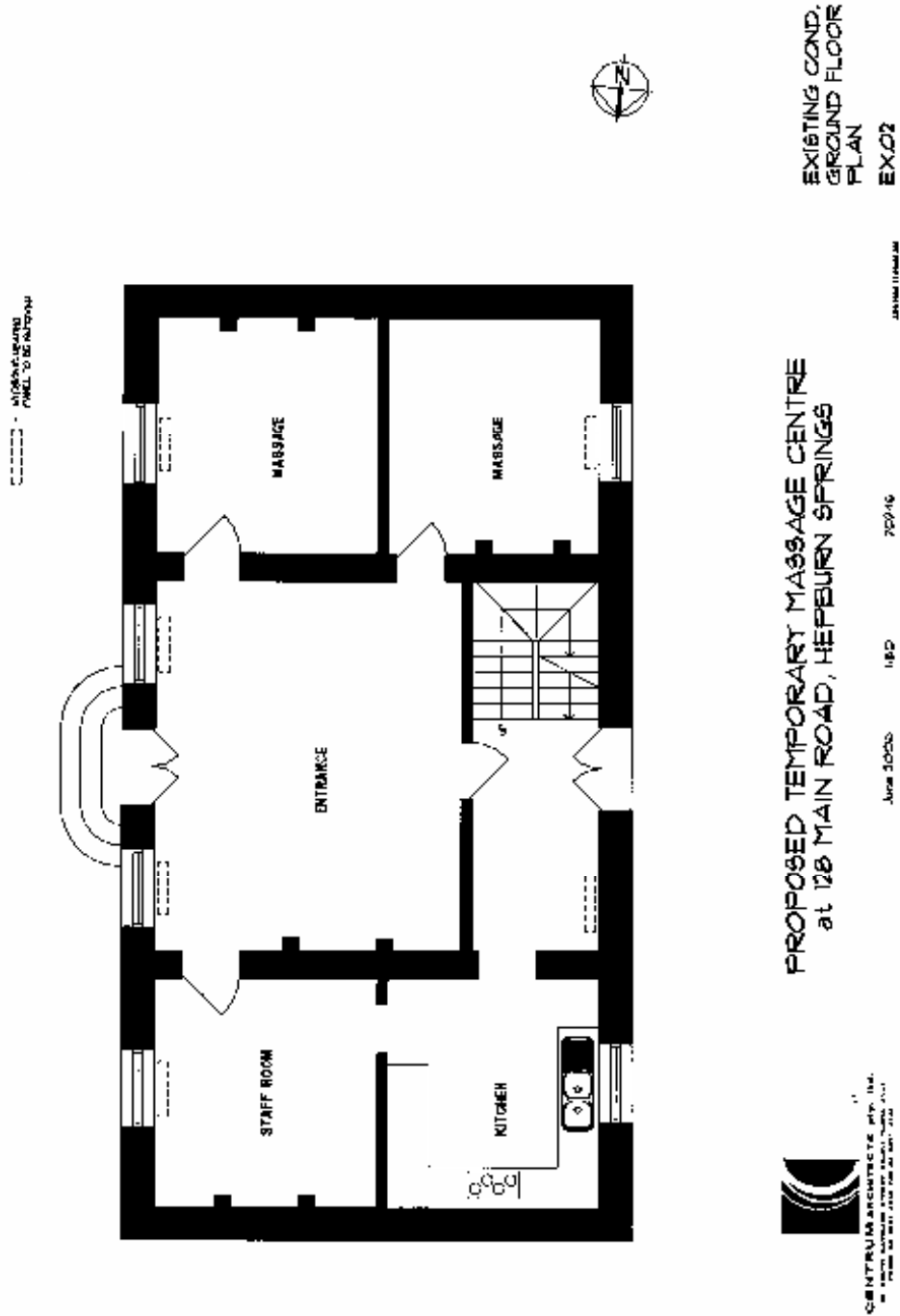
9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112



**9. STATUTORY MATTERS**

**9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112**

Application No 2006/9112



## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

#### Background and Proposal in Detail

This report covers two planning applications for further development of the “Peppers Spring Retreat” site and to temporarily use (2 years) the “Villa Parma” building for therapeutic treatment rooms.

An application to further develop the site (Peppers Springs Retreat site only) was previously supported by Council however this determination was overturned by VCAT following an appeal from former owners of Villa Parma to the immediate north. The VCAT determination noted that whilst the proposal was supported in principle there were too many changes deemed necessary to produce an acceptable outcome. One of the key concerns raised in the appeal was the impact of the proposal on the amenity of land, which formed part of the Villa Parma tenement. Subsequent to the VCAT determination the Villa Parma site and associated land has been acquired by the proponents and integrated into the Peppers Springs Retreat site, enabling the concerns in relation to Villa Parma to be ameliorated. Other key issues raised in the VCAT determination included reducing the level of development and increasing the opportunities for landscaping. The acquisition of further land has allowed these issues to be addressed in a better way in the planning application under consideration.

**Application No 2006/9140** proposes a multi-staged development as follows:

- Removal of the existing cabins (containing 10 suites) located to the west of the main Hotel building.

The proposed development seeks to provide upgraded facilities for guests to respond to market trends. This is consistent with the history of the place. It also reflects other recent development in the area. The proposed development will integrate the recently acquired Villa Parma and associated land with the existing facilities provided by Peppers Springs Retreat. Following the removal of the cabins the proposed use and development will involve:

- Four of the suites within the original Springs Hotel building will be combined to create two suites within the hotel.
- The existing main internal carpark will be rationalized to provide 36 car parking spaces with appropriate disable carparking and landscaped areas provided.
- Construction of 27 new hotel suites to the west of main Hotel building comprised of four two-storey buildings. One of the suites will specifically be designed to meet the needs of disabled persons.
- Five additional two-storey villas to be constructed at the northern end of the site, each containing two bedrooms.
- Re-alignment of the existing title boundaries is proposed to create separate titles for the Villas to allow these to be potentially sold to investors whilst still operated as accommodation through the Retreat.
- A new carparking area is proposed to the west of the suites which will contain 26 car parking spaces and will allow traffic to flow from Tenth Street through to Council owned road accessing the existing and proposed Villas.
- A further northern parking area is proposed for the existing and proposed villas at the end of the Council lane, which will comprise 14 parking spaces with one provided within the road reserve.

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

- A split level lodge is proposed to be located to the south east of the Villas which will provide communal relaxation areas and spaces for food and beverage service for those clients who do not wish to use the facilities in the main hotel building. This building will also have an important connection with the established gardens associated with Villa Parma.
- The existing day spa is proposed to be extended to the west with a split-level building generally reflecting the form of the existing day spa.
- A new outdoor heated pool is proposed to the north of the existing day spa.
- Use of Villa Parma for the purpose of accommodation as it was formally operated as a bed and breakfast.
- Creation of a new small single storey office at the southern end of the proposed suites to the west of the entrance to the main carpark.
- Extension of the general liquor licence associated with Peppers Springs Retreat over the additional area that formed part of the Villa Parma Site.
- Extensive landscaping.

The subject site bounded by Main Road Hepburn Springs to the north and east and by Tenth Street to the South and west with a Council owned and managed road providing internal access to the site from the west and is just outside the main commercial strip of Hepburn Springs. The site has an area in excess of approximately 15,800 m<sup>2</sup> in 13 titles. The subject site, including the recently acquired Villa Parma and associated land, comprises the original Springs Hotel, Mineral Day Spa, existing Conference Centre, Villa Parma, Two double storey villas used for accommodation purposes, five undeveloped titles and extensive gardens in and around the buildings. The site generally slopes down from the south to the north and has excellent views to Doctors Gully.

Of particular importance are the two historic buildings. Villa Parma and the original Springs Hotel building are of a different era and scale but contain a strong synergy in terms of connection to the areas architectural and cultural history creating a highly unique environment. The original hotel was built circa 1935 and was originally known as the Hepburn Springs Hotel. The original hotel is a landmark, massive masonry two storey building, built in a prominent hillside overlooking the Mineral Springs Reserve. It is designed in the Spanish Mission - Art Deco architectural style with grand two storey arched front entrance and decorative timber verandah above. The hotel is located in extensive grounds, formerly surrounded by mature gardens adjacent the original 1850s Swiss Italian homestead. Currently the complex includes facilities such as bar, restaurant, café, accommodation, conference and day spa etc.

The subject site is surrounded by a mix of building types and uses including Bed & Breakfast accommodation, Spa Villas and few private residences. To the north along the roadway buildings present a mix of building styles, heights and scales of corrugated iron to timber cladding, from double storey to single storey. Fence detailing consists of natural stone, to corrugated iron to horizontal timber slates to two metre high painted block work.

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## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

**Application No 2006/9112** proposes to use the Villa Parma building for the purpose of therapeutic treatment rooms temporarily for a period of two years while the Bathhouse is being redeveloped.

#### REFERRAL AUTHORITIES

Application No 2006/9140

**Central Highlands Regional Water Authority** – no objection, requires the inclusion of permit conditions.

**Powercor** - no objection, requires the inclusion of permit conditions.

**Telstra** - no objection, requires the inclusion of permit conditions.

**Department of Sustainability and Environment** – no objection and no conditions required.

**Tenix** - no objection, requires the inclusion of permit conditions.

**Goulburn Murray Water** - no objection and no conditions required.

Application No 2006/9112

**Central Highlands Regional Water Authority** – no objection and no conditions required.

All detailed comments and submissions received from all parties to the said application are on the planning file.

#### REFERRAL WITHIN COUNCIL

Application No 2006/9140

**Engineering** – no objection, requires the inclusion of permit conditions.

**Environmental Health** - no objection, requires the inclusion of permit conditions.

**Heritage Advisor** – no objection and no conditions required.

Application No 2006/9112

**Environmental Health** - no objection, requires the inclusion of permit conditions.

#### ADVERTISING/NOTICE OF APPLICATION

Public notification of the application(s) was undertaken by way of a letter to the landowners/occupiers of adjoining properties, sign on site and advertisement in the newspaper.

#### OBJECTIONS

Council has received one (1) objection to both applications to date.



## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

The objector's stated grounds of objection are:

Quote -

**"The closeness to my property of the Convention Centre and other properties. The noise from the existing Day Spa is already extremely loud on some days and I cannot imagine the effects from the other extensions to above properties which are very close to mine."**

Appropriate permit conditions are recommended in response to the objection.

#### STATE PLANNING POLICY FRAMEWORK (SPPF)

The proposal is considered to meet the relevant State Planning Policies.

#### LOCAL PLANNING POLICY FRAMEWORK (LPPF)

The Municipal Strategic Statement (MSS) acknowledges that Council's economic base is linked to retailing, tourism and local services and primary production. Tourism is a significant contributor to the local economy and will continue to provide important local employment opportunities. This application is consistent with the Municipal Strategic Statement (MSS) of the Council.

#### ZONE, OVERLAY & SCHEME PROVISIONS

The following planning permissions are required:

- The proposed buildings and works, as alterations and additions (Suites, Villas, Day Spa extension and Lodge) to an existing Section 2 Use (Residential Hotel) require a permit pursuant to **Clause 32.01-6** of the Residential 1 Zone.
- As a Residential Hotel is nested in the definition of residential building, the buildings and works need to be assessed against the provisions of Clause 55 as required by **Clause 32.04** of the Residential 1 Zone.
- Villa Parma is proposed to be used as a Residential Building as opposed to a Bed and Breakfast and as such becomes a Section 2 "Permit Required" use under the Zone controls.
- A portion of the car park and pedestrian path works require a permit pursuant to **Clause 43.01-1** of the Heritage Overlay. The new buildings are outside the boundaries of the overlay.
- The buildings and works and the removal of vegetation require permission pursuant to **Clause 42.01-2** of the Environmental Significance Overlay Schedule 1 and 2.
- The extension of the general liquor license requires a permit under **Clause 52.27** Licensed premises.
- Re-alignment of the existing title boundaries of the land to create separate titles for the proposed Villas requires a permit under **Clause 32.01-2** of the Residential 1 Zone.
- A permit is also necessary for the re-subdivision under **Clause 43.04-1**, as it will be affecting titles associated with properties under a Heritage Overlay.

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## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

The land is located in a residential zone and is clearly intended to provide for a range and variety of land uses. The subject site, together with the adjoining land all around is generally used for accommodation related uses. The use enjoys 'existing use rights' as a residential hotel building for the last seventy years.

It is recognized that unless there are specific reasons that mitigate against more intense development, such as infrastructure or heritage constraints for example, residential areas should play their part in making provision for diverse building form and uses that respond to identified needs. Designing and siting new accommodation buildings to respect neighbourhood character is a fundamental objective of the residential development. Such an approach is consistent with the purpose of residential zones.

Such accommodation developments do not destroy the character and amenity of a street simply because it is an accommodation building. Rather, design needs to be assessed on its merits. State Planning Policy, the Planning Scheme and ResCode all allow for applications for accommodation housing to be made and encourage the achievement of urban consolidation through such development. It is acknowledged however, that these benefits should not accrue at the expense of the amenity of the existing residents.

Furthermore, describing neighbourhood character requires a qualitative assessment and the exercise of judgement about which features and characteristics determine the neighbourhood character of an area. For this reason, when considering 'neighbourhood character' issues, the generally density per se is not considered as one of the more important considerations. Factors such as setbacks, building siting, architectural/ design form and detail, building height and bulk, location of car parking, open space areas, overlooking and overshadowing and landscaping are usually far more important in determining whether or not a proposal is respectful of its neighbourhood context. For example, it may be that a fewer number of very large dwellings will have a greater impact on neighbourhood character and amenity than a greater number of smaller dwellings, despite the fact that the dwelling density in the former case is lower. It is overly simplistic to rely on a quantitative measure such as density to ensure that new residential infill development respects neighbourhood character.

The proposed hotel suites development is located at the rear of the 1930s hotel building. The design approach is modern. The proposed buildings will be set into the slope of the land and the style to reflect that of the new therapy building. The design is generally consistent with the provisions of **Clause 55** ResCode of the Hepburn Planning Scheme. The proposal will result in minimal overlooking of adjoining properties. The proposed new buildings have been designed to harmonise with the appearance, scale and fabric of the existing buildings on the site whilst minimising their bulk and have been designed to sit lower than the existing buildings on the land and will not be visible from Main Road. Punctuations have been provided through the building line to break up the mass and provide views in and around the buildings. The façade of the accommodation units, with its alternating design detail and massing, will articulate this elevation softening the impact of the two storey form. The proposed pool will be obscured by the existing and proposed buildings, however it is still considered to carry considerable and sympathetic architectural merit. The villa units and lodge

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

nearest to the road are modest in scale and highly articulated in elevation and materials. The tones and materials will be sympathetic to the existing buildings and the comprehensive landscaping regime is proposed, which will further soften the appearance of the buildings.

The extension of the day spa will continue the linear form of the existing day spa. Of note the mono-pitched roof that was included in previous iterations has been removed and a simple flat roof applied under the guidance of Council officers. The extension includes simple but effective feature posts in front of a glass/iron opening that will add visual interest to the existing carpark elevation. The external materials and tones are proposed to match those of the existing building.

As the proposed development includes extensive landscaping, it will assist in blending the building and works into the area.

It is noted that no buildings have been located near Villa Parma and the proposed suites are comfortably set away from the original hotel building without being inconveniently distanced from the building.

The proposal is also consistent with **Clause 19** – Particular Uses and Development of the Scheme. The objective of **Clause 19.03** - Design and Built form is to achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community, enhances livability, diversity, amenity and safety of the public realm, promotes attractiveness of towns and cities within broader strategic contexts. In relation to heritage, the Clause states “new development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations”. Policies of particular relevance to the proposal relate to promoting energy and resource efficiency architectural quality and quality landscape architecture.

The site is also affected by an Environment Significance Overlay Schedule 1 (ESO1). ESO 1 is titled Proclaimed Catchment Protection and seeks to protect quality of water within the catchment. It is a requirement of the overlay that all effluent disposal and stormwater must be managed and discharged to the satisfaction of the Responsible Authority.

The site is also affected by an Environment Significance Overlay Schedule 2 (ESO2). ESO 2 is titled Mineral Springs and Groundwater Protection and seeks to protect quality of water within the catchment. It is a requirement of the overlay to protect the mineral springs, their aquifers and their environs from the impacts of effluent and drainage and to protect water bores that provide town water supply.

### SUBDIVISION PROVISIONS

The existing titles that form the subject site to create separate titles for the proposed Villas and consolidate titles where existing buildings are built across title boundaries. The boundary realignment proposes to reduce the number of titles from 13 to 11. The proposed subdivision is considered to be generally consistent with the policy objectives of the Hepburn Planning Scheme. It is also consistent with other relevant policies including but not limiting to **Clause 19.01** – Subdivision. The subdivision and other development is also consistent with the environmental clauses of the Hepburn Planning Scheme (**Clause 15.01, 21.09 and 42.01**) and it is unlikely that it will result in a decline in the quality of groundwater, waterways or catchments.

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## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

#### HERITAGE OVERLAYS

**Heritage Overlay HO687** is associated with "Hepburn Mineral Springs Hotel" – Main Rd Hepburn Springs and external paint controls apply. It is noted that only the proposed alterations to the main carpark fall under the area covered by this Heritage Overlay Control.

**Heritage Overlay HO686** is associated with "Parma House" – 128 Main Rd, Hepburn Springs and external paint controls apply. The building is also included on the Victorian Heritage Register under the Heritage Act 1995 (Ref H608).

The design and subdivision has been discussed and prepared in consultation with Council's Heritage adviser and other officers with no concerns expressed.

#### CHANGE OF USE

The use of the existing building (Villa Parma) for therapeutic treatment rooms is considered consistent with the Planning Scheme provisions. This is a short term use and ancillary to an existing approved use on the site. The proposed use will not have any adverse impacts on the historic integrity of the existing building and will not have adverse impacts on the amenity of the area including car parking availability. Any renovation works to this building will be directly considered by Heritage Victoria.

#### LICENSED PREMISES

It is proposed to vary the existing general liquor license to cover the remainder property associated with the acquisition of the Villa Parma. The extension of the license is necessary to enable the Hotel to continue functioning under its current conditions. The main benefit of the license will be allowing guest to consume alcohol in the Villas, within Villa Parma and within the proposed lodge.

#### CARPARKING

It is considered that the traffic and parking issues in relation to this project have been canvassed and addressed to a high level of detail in the supporting reports submitted to Council. These reports include a Traffic Report prepared by Andrew O'Brien and Associates P/L and a Planning Report prepared by THA Landscape Architects P/L. A total of 75 car parks (36 existing car parks + 39 new car parks) are proposed to be provided on site. Additionally adequate on street parking is also available. Provisions have been made for loading and unloading facilities within the site. In summary these reports indicate that the proposed parking provisions comfortably exceed the minimum standards set out in the Hepburn Planning Scheme and will not result in any unreasonable impacts on safety or operational impacts on the surrounding network. Other infrastructure provisions including water supply, power and drainage etc. have been found to be adequate.

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

#### ASSESSMENT

In making this assessment, the concerns of the objector have been noted and assessed the proposal against the various decision guidelines of the Hepburn Planning Scheme. Furthermore the planning related issues raised in the objections to the proposal have been adequately addressed in the body of this report and shall be further addressed by appropriate permit conditions where necessary.

Hence the issuing of these permit is considered appropriate and in accordance with the principles of land use and development planning. Therefore, having considered all relevant planning matters Notices of Decision to Grant a Permit should be issued in respect of these planning applications before Council.

The applications must be determined on their merits and how it supports the strategic framework of the Planning Scheme and should not be used as a precedent. Therefore any decision and/or conditions imposed must meet the tests of the Planning and Environment Act 1987, that being that they must be valid, certain, fair and relate to the application.

#### **Community/Engagement/Communication/Consultation**

The application(s) were notified/referred to all the relevant referral authorities in accordance with the provisions of Planning and Environment Act 1987 and no objections were received from the referral authorities. Public notification of the application(s) was undertaken by way of a letter to the landowners/occupiers of adjoining properties and advertisement in the newspaper. Council has received one (1) objection to date. The key issue that was raised in the objection relates to amenity and noise matters.

#### **Financial & Resource Implications Initial & Ongoing**

Nil.

#### **Recommendation 1.**

*That Council having caused notice of Planning Application No. 2006/9140 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 124-128 Main Road, Hepburn Springs for the use and development of the land for addition/alteration to an existing residential hotel including construction of additional accommodation & use of existing buildings for accommodation, lap pool, extension to day spa, car park, landscaping including associated building & works, extension to liquor license and realignment of boundaries in accordance with the endorsed plans, with the application dated 29/09/2006, subject to the following conditions:*

#### **USE & DEVELOPMENT**

1. *The various activities forming parts of the use, the layout of the site and the size, and internal layout of the buildings and works as shown on the endorsed plans and as described in "The Permit Allows" shall not be altered or modified (whether or not to comply with any Statute, Statutory Authority or Local Law or for any other reason) without the consent in writing of the Responsible Authority.*

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

2. *Before the development starts and/or subdivision plans can be certified, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:*
  - i. *waste/recycling collection area.*
  - ii. *landscaping plans in accordance with condition number 3 of this permit.*
  - iii. *changes required by Central Highlands Water condition number 9 of this permit.*
  - iv. *title boundaries, road layout and other requirements by condition number 7 of this permit.*
  
3. *Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must be generally in accordance with the landscape concept plan dated September 2006 Drawing No. 060421-2 prepared by THA Landscape Architects. The plan must show:*
  - i. *a survey (including botanical names) of all existing vegetation to be retained and/or removed,*
  - ii. *buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary,*
  - iii. *the proposed bed height above car-park surface.*
  - iv. *the identification of all areas where vehicle overhang will occur.*
  - v. *a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant,*
  - vi. *landscaping and planting within all open areas of the site,*
  - vii. *all species selected to the satisfaction of the Responsible Authority.*
  - viii. *the landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.*
  - ix. *the weed management program.*
  - x. *types of garden structures, retaining walls, paths, driveways, car parking, finishes and surfaces, stormwater drainage, edging, kerbs and gutters shall be prepared by a specialist landscape designer.*
  - xi. *The original boundary wall of stone set between intermittent rendered and painted masonry piers, of varying heights shall be continued around the property to define the private and public space. The main vehicular entrances shall be defined by the stone wall and piers.*
  - xii. *All external and garden lighting shall be submitted to Council for approval. Lighting may highlight the entrances to the vehicular access and pathways on site but may not be set at intervals around the boundary fencing.*
  - xiii. *All car parking surfaces shall be broken up by various paving finishes, using a combination of porous and non-porous materials. No white markings for parking bays maybe used. No standard concrete kerbs and gutters maybe used, the designs shall be soft and rural in character.*

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

xiv. *The colours and material finishes of the proposed buildings shall be submitted to Council for approval prior to finalising the specifications. No zincalume may be used.*

*screen planting along the eastern frontage of the site adjacent to the proposed lodge and screening within frontage and the road reserve where there are opportunities for such along Tenth Street and Main Road.*

4. *This permit shall be subject to the issue of an appropriate Liquor Licence by the Liquor Licensing Victoria and adherence to any conditions imposed by that body.*

5. *The liquor trading hours will be on the following days at the following times:  
TRADING HOURS*

*FOR CONSUMPTION OFF THE LICENSED PREMISES*

*Sunday Between 10 am and 11pm*

*Good Friday and Anzac day Between 12 noon and 11pm*

*On any other day Between 7 am and 11 pm*

*FOR CONSUMPTION ON THE PREMISES*

*After midnight trade is restricted to dining room and lounge areas*

*Sunday Between 10 am and 11pm*

*Good Friday Between 12 noon and 11pm*

*Anzac Day (not being a Sunday Between 12 noon and 1am the day following*

*On any other day Between 7 am and 1 am the day following except for the morning of Good Friday)*

6. *Prior to commencement of works associated with the development, the owner or developer must submit a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb & channel, footpath, seal, street lights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of this subject land must pay for any damage caused to the Council's assets/ public infrastructure caused as a result of the development or use permitted by this permit.*

7. *Council's Engineering Services Department:*

7.1 *Before the Plans for the use or Development are endorsed three (3) copies of amended plans must be submitted to and approved by the Responsible Authority. These plans must generally be in accordance with the original plans but must be amended to show:*

- *The actual land title boundaries superimposed on the development proposal, in particular in the area of the laneway and proposed Villas. The title boundaries are to be shown on the landscape Master Plans Drawing no 060241 and any other endorsed drawing that is relevant as part of this permit to the satisfaction of the Responsible Authority.*
- *Road layout for the Lane and any road widening required for tow way traffic to service the Villas and their car parking areas.*
- *Areas that may be proposed for road closure where the development utilises existing road/lane.*

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## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

*An endorsed copy of such plans will then form part of this permit.*

- 7.2 *All underground and surface drainage works that are considered necessary by the Responsible Authority shall be constructed in accordance with professionally prepared plans and computations to be provided by the developer and approved by the Responsible Authority prior to the commencement of construction. Such drainage works must include the provision of an onsite stormwater detention system designed to the satisfaction of the Responsible Authority and installed to transport stormwater runoff from the subject land and surrounding land or adjoining road(s) to an approved point of discharge. No stormwater shall drain or discharge from the land to adjoining properties.*

*Any detention system provided shall be designed to ensure that the post development runoff does not exceed pre development runoff from the development. The detention system shall be designed for a return period of 10 (ten) years. If there is no overland escape path for stormwater runoff the detention system must be designed for a return period of 1 in 100 years.*

- 7.3 *Professionally prepared plans for the road construction and any widening required must be supplied to Council by the Applicant. Construction shall not commence until the plans have been approved by the Responsible Authority. All road construction widening shall be carried out in accordance with the approved plans. Any deviation from the approved plans must be approved in writing by the Responsible Authority. The lane carriageway width must be at least 5.4 metres wide plus kerb and channel. A constructed concrete footpath of minimum width of 1.2 metres must connect the villa units to Tenth street constructed to professionally produced plans approved by the Responsible Authority.*

*The applicant shall carry out all survey on the road reserve creation to the satisfaction of the Responsible Authority. The applicant shall lodge road widening plans, with Council, for the proclamation of the widened road reserve. Applicant shall reimburse Council all costs for advertising and administration in undertaking the road creation plus creation of the widened road.*

- 7.4 *Prior to any use or development commencing as allowed by this permit a Section 173 agreement must be entered into by the Owner of the Land with the Responsible Authority for the construction of the laneway, footpath and any road closures required to service Villas numbered 3,4,5,6 & 7 to the satisfaction of the Responsible Authority. The Section 173 agreement is to require the works to be completed within 3 years from the issue date of this permit or before the development and use of any of the proposed Villa's numbered 3, 4, 5, 6 & 7, which ever occurs first.*

*The Owner of the Land is to bear the full costs of preparation and registration of the Section 173 agreement.*



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**9. STATUTORY MATTERS**

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**9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112**

7.5 *Parking to comply with AS2891.1-2004 Parking Facilities – Off Street Parking.*

7.6 *All costs incurred in complying with the above conditions shall be borne by the applicant.*

8. *Council's Environmental Health Officer:*

8.1 *The premises must be registered with Council under the Health (Prescribed Accommodation) Regulations 2001, for the accommodation of guests.*

8.2 *Beauty Treatment Rooms must be registered with Council under the Health Act 1958.*

8.3 *Any pools and/or spas must be maintained in accordance with the Health (Infectious Diseases) Regulations 2001, Part 7 – Public Spa Pools and Public Swimming Pools.*

8.4 *The premises must be registered with Council under the Food Act 1984.*

9. *Central Highlands Region Water Authority:*

9.1 *Any plan lodged for certification will be referred to the Central Highlands Region Water Authority pursuant to Section 8(1)(a) of the Subdivision Act.*

9.2 *Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Authority. This will include the construction of works and the payment of major works contributions by the applicant.*

9.3 *A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Authority. This will include the construction of works and the payment of major works contributions by the applicant.*

9.4 *The owner will provide easements to the satisfaction of the Central Highlands Region Water Authority, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Authority, over all existing and proposed sewerage facilities within the proposal.*

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

9.6 *The applicant shall provide sewer and water to each villa, the day spa and the hotel suites to the satisfaction of Central Highlands Water.*

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**9. STATUTORY MATTERS**

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**9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112**

- 9.7 *Prior to the commencement of any works, Villa No.5 shall be redesigned clear of the sewer main to the satisfaction of Central Highlands Water. A plan indicating the redesign must be submitted to Central Highlands Water for approval.*
- 10 *The development permitted by this permit must not be occupied until:*
- 10.1 *the parking areas shown on the endorsed plans have been constructed to the requirements and satisfaction of the Responsible Authority.*
- 10.2 *the exterior treatment of the building has been constructed and completed in accordance with the approved endorsed plans.*
- 10.3 *all storm and surface water has been conveyed to a legal point of discharge.*
- 10.4 *the garden and landscape area shown on the endorsed plans have been planted to the satisfaction of the Responsible Authority.*
11. *The lap pool facility shall only be open during the following times:-*
- Monday – Sunday 6:00am –10:00pm.*
- These hours must not be varied, changed or extended without the written consent of the Responsible Authority.*
12. *The external terrace facility attached to the Lodge shall only be used only during the following times:-*
- Monday – Sunday 8:00am –8:00pm.*
- These hours must not be varied, changed or extended without the written consent of the Responsible Authority.*
13. *Deliveries to and from the site (including waste collection) must only take place between 8:00 am and 5:00 pm Monday to Friday.*
14. *Boundary fencing along the sides the subject property abutting 136 Main Road, Hepburn Springs must maintain a height of 1.8m from finished floor level and be constructed to enhance the character of the development and to ensure the privacy of adjoining properties. In this respect, the height, material, type and extent of fencing is to be mutually agreed upon by all parties and shall be erected prior to occupation of the development. The cost of such fencing shall be borne by the developer unless otherwise agreed by the relevant parties. Depending on finished levels, where needed the applicant shall provide the appropriate screening to prevent overlooking of adjoining properties.*
15. *Maintenance of all buildings and surrounds shall be carried out by the Permit holder in such a manner to render the site to be neat, tidy and clean at all times to the satisfaction of the Responsible Authority.*

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**9. STATUTORY MATTERS**

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16. *All goods and materials stored on the site must be stored out of view or in a manner so as not to cause unsightliness when viewed from nearby lands or roadways to the satisfaction of the Responsible Authority.*
17. *All waste materials produced shall be removed from the site and disposed of in accordance with the relevant Australian Standards, Acts and in such a manner as to avoid nuisance, pollution or loss of amenity to the surrounding area.*
18. *No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the Responsible Authority.*
19. *The level of noise emitted from the premises must not exceed the permissible levels specified in the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1/Environment Protection Authority Interim Guidelines for the Control of Noise from Industry in Country Victoria, Pub. No. N3/89.*
20. *No sound amplification equipment, juke boxes or loudspeakers shall be used for the purpose of announcements, broadcasts, playing of music (whether recorded or otherwise) or similar purposes so as to be audible on adjoining public or private land.*
21. *Noise emissions must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No N-2.*
22. *Prior to the commencement of use, any security alarm installed on the premises must be fitted with a 'cut-off' device limiting any sounding of the alarm to maximum duration of ten (10) minutes, with no repeat sounding until manually reset; and or 'silently wired' to a security firm or the Victoria Police.*
23. *Prior to use commencing, any new equipment required for refrigeration, air-conditioning, heating, pumps etc and the like must be located on the subject land and/ or must be suitably insulated for the purpose of reducing noise emissions and should not project beyond the roofline or from an external wall, to the satisfaction of the Responsible Authority.*
24. *Prior to use commencing, outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority such that no direct light is emitted outside the boundaries of the subject land.*
25. *A sign/ signs to the satisfaction of the Responsible Authority must be provided directing drivers to the area(s) set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority. The area of each sign must not exceed 0.3 square metres.*
26. *Access to the site shall only be at the nominated crossing shown on the endorsed plan. The crossing and road pavement works are to be constructed to the satisfaction of the Responsible Authority.*
27. *Prior to use commencing, protective kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas and to prevent direct vehicle access other than by a vehicle crossing.*

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**9. STATUTORY MATTERS**

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**9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112**

28. *Low intensity lighting must be provided to ensure that car parking areas, paths and vehicular access ways are adequately illuminated during evening periods and must be located so as to prevent the emission of direct light on to adjoining properties or roadways to the satisfaction of the Responsible Authority.*
29. *Loading and unloading of vehicles and delivery goods and merchandise and the like to and from the premises must be carried out within the land and be conducted as to cause minimum interference with other vehicular traffic.*
30. *The areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be kept available for these purposes at all times to the satisfaction of the Responsible Authority.*
31. *A minimum of two (2) car space(s) must be provided for the exclusive use of disabled persons. The car space(s) must be provided as close as practicable to (a) suitable entrance(s) of the buildings and must be clearly marked with a sign to indicate that the space(s) must only be utilized by disabled persons. The minimum dimensions of the car space(s) must be 3.2 metres wide by 4.9 metres long.*
32. *Car spaces within the land must be set aside and identified for employee parking to the satisfaction of the Responsible Authority. Vehicles under the control of the operator or the staff of the operator must not be parked on Main Road and Tenth Street.*
33. *The Owner must at its cost –*
- 33.1 *care for and maintain the car parks and private roads and keep them in good and proper repair,*
- 33.2 *ensure that the car parks private roads are kept open for use by patrons, visitors and other persons lawfully using the private roads.*
34. *All activities associated with the construction of the development permitted by this permit must be carried out to the satisfaction of the Responsible Authority and all care must be taken to minimise the effect of such activities on the amenity of the locality.*
35. *In the event of mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land during the construction phase, appropriate measures must be implemented to minimise the problem to the satisfaction of the Responsible Authority.*
36. *That all driveways and access roads, drains, banks, batter slopes, excavations and any other earthworks or structures appurtenant thereto associated with the development hereby permitted must be so constructed and maintained as not to create or increase soil erosions of the land, to the satisfaction of the Responsible Authority.*
37. *Erosion attenuation measures must be put in place during construction and to treat any exposed surfaces resulting from construction. These measures must be to the satisfaction of the Responsible Authority.*

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## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

38. *The landscaping shown on the landscape plan (including the nature strip abutting the land) must be maintained to the satisfaction of the Responsible Authority.*
39. *This permit will expire if the use and development hereby permitted is not commenced within two (2) years of the date of issue and completed within five (5) years from the date of issue. An extension of time may be sought in writing up to three months after the expiry of the permit.*

#### **SUBDIVISION**

40. *The subdivision as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.*
41. *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.*
42. *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.*
43. *The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, gas, sewerage facilities, electricity and telecommunications services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.*
44. *Powercor Australia Ltd:*
- 44.1 *The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd (Powercor) in accordance with Section 8 of that Act.*
- 44.2 *The applicant shall:*
- *Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd. That prospective purchasers will be so informed.*
  - *Where buildings or other installations existing on the land to be subdivided and are connected to electricity supply, they shall be brought into compliance with the Service and Installations Rules issued by the Victorian electricity Supply Industry.*
  - *Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.*

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

- *Alternatively, at the discretion of Powercor Australia Ltd. A lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be approved. Such a lease shall be for a period for 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia will register such lease on the title by way of caveat prior to the registration of the plan of subdivision.*
- *Provide easements satisfactory to Powercor Australia Ltd. Where easements have not been otherwise provided, for all existing Powercor Australia Ltd. Electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, to be located, on public roads set out on the plan. These easements shall be for the purpose of "power Line" in favour of Powercor Australia Ltd.*
- *Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.*
- *Adjust the position of any existing easement(s) of powerlines to accord with the position of the line(s) as determined by survey.*
- *Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.*
- *Provide to Powercor Australia Ltd's a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.*

Notation:

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

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

45. *Telstra:*

45.1 *That the plan of subdivision submitted for certification be referred to Telstra, in accordance with Section 8 of the Subdivision Act 1988.*

45.2 *That the applicant pay to Telstra, the reasonable cost of any works necessary, as a result of the subdivision, to remove, or alter the position of any existing facility on the subdivision, or on any adjacent land or Government Road, pursuant to Clause 53 of Schedule 3 of the Telecommunications Act 1997.*

*Refer Dial Before You Dig process - Ph: 1100.*

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## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

46. *Tenix*  
*Should gas be required to be either connected or disconnected to the existing or future properties please contact your local gas dealer.*
47. *This permit will expire if the subdivision hereby permitted is either not commenced within two (2) years of the date of this permit or not completed within five (5) years from the date of issue. An extension of time may be sought in writing up to 3 months after the expiry of the permit.*

#### **Notations:**

- a) Development  
*The use and/ or development allowed by this permit shall be undertaken and completed in accordance with the standards and requirements outlined by the Hepburn Shire Council.*
- b) Building Approval Required  
*This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.*
- c) Vegetation Control  
*A planning permit is required to remove, destroy or lop vegetation on the land, except in accordance with an exemption specified in the State Section of the Planning Scheme; exemptions include the minimum area necessary for the construction of a dwelling and or buildings or vehicle access ways ancillary to a dwelling, or to comply with a fire prevention notice.*
- d) Access for People with Disabilities  
*The facilities approved by this permit must be constructed and maintained to accord with all relevant legislation (Federal or State), Australian Standards, or any other design requirements relating to access or other issues affecting people with disabilities to the satisfaction to the Responsible Authority.*
- e) Alcohol/Gambling  
*No alcoholic liquor is to be consumed and/ or gaming on or from the premises at any time unless the appropriate licence is held.*
- f) Industry Requirements  
*The use and development hereby permitted must at all times be carried out in accordance with the provisions of the relevant legislation and health legislation.*
- g) Change of Use  
*The use of the land for any purpose not specified in this permit will require the further permission of the Responsible Authority, by way of an approved planning permit. Any use of the land, without prior written consent of the Responsible Authority may necessitate enforcement proceedings to be undertaken.*

## 9. STATUTORY MATTERS

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### 9.4 APPLICATION NO 2006/9140 and APPLICATION NO 2006/9112

h) Health Requirements

*The premises shall comply with all State Legislation, in particular the Health (Eating House and Food Premises) Regulations 1984.*

*Trading must not commence without the approval of the Chief Environmental Health Officer, and until registration with the responsible authority under the Food Act 1984, has been completed.*

**Recommendation 2.**

*That Council having caused notice of Planning Application No. 2006/9211 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 124-128 Main Road, Hepburn Springs for the temporary use of an existing building (Villa Parma) for therapeutic treatment rooms for a period of two (2) years in accordance with the endorsed plans, with the application dated 04/08/2006, subject to the following conditions:*

1. *The use of the premises must not be altered without the written consent of the Responsible Authority.*
2. *No nuisance or annoyance must be caused by the operation of the use to persons beyond the site.*
3. *The premises must only be used for the use hereby permitted between the hours of:*  
  
*Monday – Sunday 6:00am – 10:00pm.*  
  
*These hours must not be varied, changed or extended without the written consent of the Responsible Authority.*
4. *Council's Environmental Health Officer*
  - 4.1 *The treatment rooms must be fitted out in accordance with the Health (Infectious Diseases) Regulations 2001.*
  - 4.2 *The rooms must be registered or form part of the existing registration of the premises under the Health Act 1958.*
5. *All waste materials produced shall be removed from the site and disposed of in accordance with the relevant Australian Standards, Acts and in such a manner as to avoid nuisance, pollution or loss of amenity to the surrounding area.*
6. *This permit will expire two (2) years from the date of issue. Prior to the expiry of this permit a fresh application for planning permit may be sought from the Responsible Authority to allow the use to continue.*

**Moved the Officer's Recommendation 1**

**Moved:** Cr Bill McClenaghan

**Seconded:** Cr Tim Hayes

**Carried**

**Against:** Cr Heather Mutimer (Cr Mutimer requested this be recorded).



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**9. STATUTORY MATTERS**

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***Moved the Officer's Recommendation 2***

***Moved: Cr Janine Booth***

***Seconded: Cr Tim Hayes***

***Carried.***

**10. STRATEGIC MATTERS**

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Nil .

**11. ITEMS FOR NOTING**

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Nil

**12. CONGRATULATIONS / APPRECIATION**

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Nil

**14. NOTICE OF MOTION**

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Cr Hayes referred to the Meeting timetable and the changes adopted to Forward Planning and Briefing Meetings.

***Motion Moved at Meeting:***

***Moved that Cr Bill McClenaghan be appointed Chair of the Forward Planning Meeting.***

***Moved: Cr Tim Hayes***  
***Seconded: Cr Heather Mutimer***  
***Carried.***

**14. NOTICE OF MOTION**

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**NOTICE OF MOTION            01/2007**

**Permit 2004/7911**

Cr Bill McClenaghan has submitted the following notice of motion:

**Motion**

**That Council substitutes the following Condition 5 in lieu of the existing Condition 5 in Permit 2004/7911 (54 Blacks Lane, Drummond North):**

Condition 5

- (a) The common property access road shall be constructed to a standard that will be fit for purpose and shall provide safe, all weather access to the allotments with reasonable riding comfort.
- (b) It shall be constructed to the satisfaction of Graeme O'Brien or other approved consulting engineer and shall be approved by the engineer in writing prior to the plan being sealed.
- (c) The pavement width shall be a minimum of 3.7 metres wide with shoulder widths to suit the available formation but a minimum of 4.0m wide.
- (d) A speed limit sign of 25 kph shall be installed near the entrance to the property.
- (e) The road shall be graded to provide a smooth transition at changes of grade.
- (f) The minimum radius for the cul-de-sac at the end of the road shall be 10 metres.
- (g) The pavement shall be a minimum of 100mm compacted thickness using an approved natural gravel.
- (h) Passing bays shall be 6 metres wide by 20 metres long and shall be provided at approximately 200 metre intervals.
- (i) Culverts shall be designed for 1 in 20 year Average Return Interval.
- (j) The formation shall provide lane separation or clear lines of sight between any two points each 1.15 metres above the road surface and 20 metres apart to the satisfaction of the engineer.
- (k) The road shall also comply with the requirements of the CFA.

**Note:            amendment to Motion show in bold:**

**(c)** *The pavement width shall be a minimum of 3.7 metres wide with shoulder widths to suit the available formation but a **minimum formation width** of 4.0 wide.*

**Moved:**                            **Cr Bill McClenaghan**  
**Seconded:**                        **Cr Tim Hayes**  
**Carried.**

**CLOSE OF MEETING:            *The Meeting closed at 9pm.***

**ATTACHMENTS**

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- ATTACHMENT 1** (Item 3.1)  
Minutes of Council Meeting of 19 December 2006
- ATTACHMENT 2** (Item 6.5 )  
HHCAC Terms of Reference
- ATTACHMENT 3** (Item 6.6 )  
Instrument of Delegation – Sylvester Tan

**ATTACHMENT 1**

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**Minutes of the Ordinary Meeting Of Council  
held On 19 December 2006**

The minutes will be tabled at the meeting.



**ATTACHMENT 2 (Item 6.5)**

**HEPBURN HEALTHY COMMUNITIES ADVISORY COMMITTEE**

***TERMS OF REFERENCE***

*Hepburn Shire will maintain, promote, protect and enhance the district's unique social, cultural, environmental and heritage characteristics through effective management and responsible government. We make a commitment to gain maximum advantage for our community from our natural and built assets.*

**Introduction**

***Hepburn Healthy Communities*** is fundamental to the overall strategic planning function of Council, and in informing State and Federal governments and other service providers about the needs and aspirations of communities within the Hepburn Shire. The plan identifies effective planning partnerships with the various communities, and government and non-government agencies. It contains the strategies identified at the local level for the communities and the Shire as a whole.

***Hepburn Healthy Communities*** is a long-term planning strategy from which local Community Plans, Specific Project Plans and the Municipal Public Health Plan provide the short term implementation action plans. This planning framework will ensure that Council makes its full contribution to building internal capacity and the capacity of the Hepburn Communities to meet the present and future needs.

**Committee Purpose**

The purpose of the Hepburn Healthy Communities Advisory Committee (The Advisory Committee) is to provide strategies and policy advice on planning, implementation and evaluation to the Chief Executive Officer, Hepburn Shire Council to ensure the Hepburn Municipal Public Health Plan 2005 – 2008, and the Hepburn Shire Social Plan, 2005 – 2015 benefit the local communities of the Shire.

**Underpinning Principles**

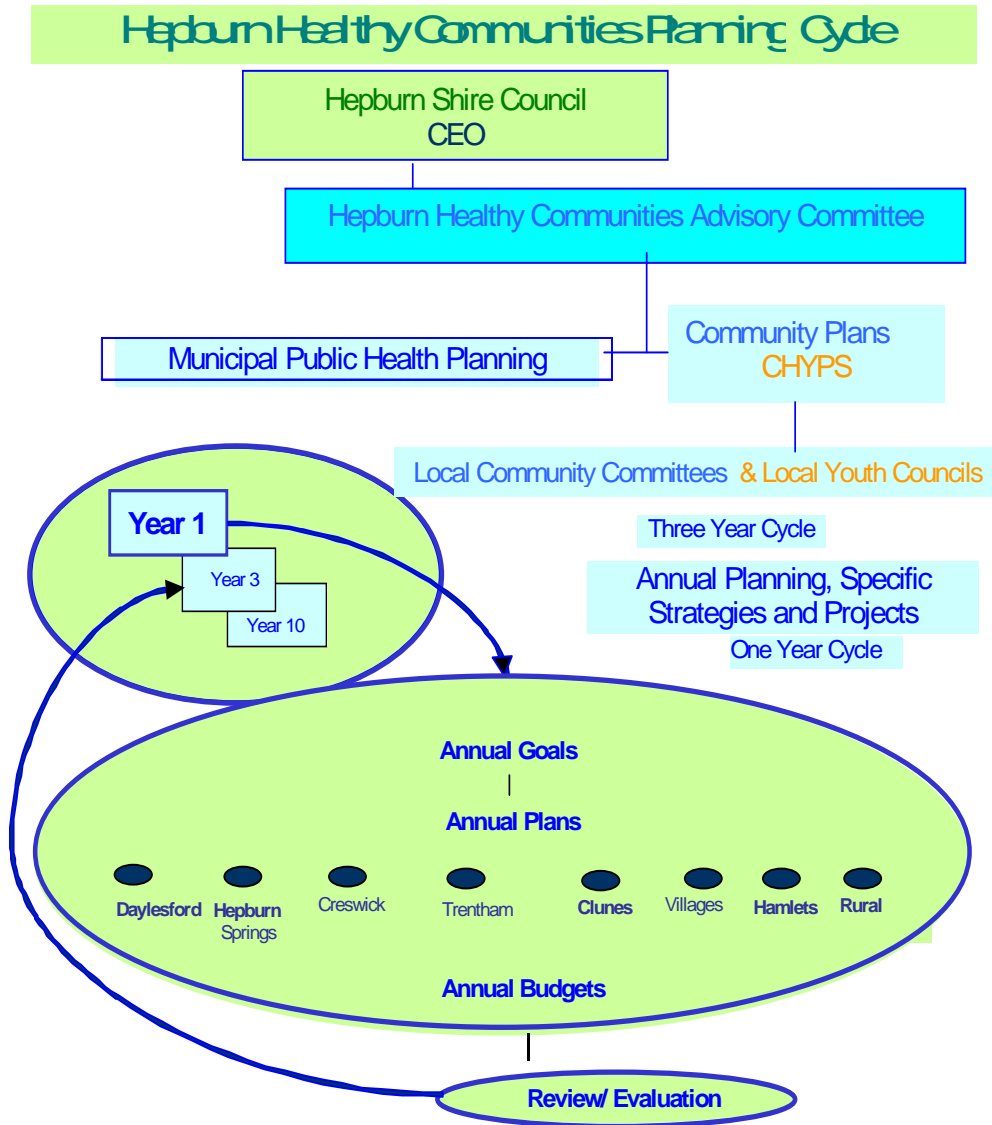
The success of good social planning and implementation is dependent on each strategy adding positively to each of the four cornerstones of the community being the social, economic, built and natural dimension.

Prioritisation of resources shall be based on ensuring the positive impacts across the dimensions of the community.

The Hepburn Shire Council is committed to maintain a cooperative relationship with the community through open, two-way communication with The Advisory Committee, supported by Senior Management and the Chief Executive Officer of the Shire.

**ATTACHMENT 2 (Item 6.5)**

**Planning Cycle**



**Entity**

The Advisory Committee will be a community based committee appointed by Council.

The Hepburn Shire Council will:

- Receive guidance and advice from The Advisory Committee
- Seek specific advice on policy and strategic issues
- Refer issues to The Advisory Committee

## **ATTACHMENT 2 (Item 6.5)**

### **Terms of Reference**

The Advisory Committee will:

- Ensure the Council is fully informed as to the community's needs and priorities
- Undertake the implementation and evaluation of outcomes of the Plans in a timely manner
- Evidence based research and evaluation of strategies and solutions for integrated local area planning.
- Advise Council on evidence-based findings that will add value and promote good practice to achieve effective and efficient outcomes for residents.
- Work to develop sustainable indicators and benchmarks based on Best Value, to grow capacity within Council and the Community.

### **Membership**

Nominations will be called for, and membership appointed by Council annually. The Advisory Committee membership to be a mix of community and skills based members reflective of various age groups.

Nominees need to meet at least one of the criteria 1, 2 or 3, with 4 and 5 being mandatory:

1. Demonstrated experience and competency in at least one of the environmental dimensions; built, natural, economic, social
2. Location representative – urban and rural
3. Youth representatives (suggested two representatives from the Shire Youth Council and Network, plus co-opted representatives as required)
4. Capacity to objectively consider integrated health and social planning issues, and the impacts for the whole Shire
5. Demonstrated ability to work as a part of a team and be solution focused

Membership may not need to be larger than ten representatives (5 professionals / 5 community residents) supported by Shire Executive Officers.

The Advisory Committee to have the power to co-opt expertise and knowledge and establish working groups to manage specific priorities.

### **Terms of Office**

Appointment will be for two years with half The Advisory Committee being replaced each year. (The first appointments will involve half the Committee being appointed for a one-year term and half appointed for a two-year term).

Casual vacancies that occur are to be ratified by Council.

### **Chair**

Annually appointed by Council from The Advisory Committee for a one-year term.

## **ATTACHMENT 2 (Item 6.5)**

### **Meetings**

At least 4 meetings will be held annually.

The Advisory Committee members who fail to attend 2 consecutive meetings without explanation may be stood down from The Advisory Committee, following ratification by Council.

The Chair, in conjunction with the Manager Community Services, will be responsible for calling meetings and preparing agendas. At least three weeks notice will be given for each meeting.

### **Relationship with other Council Committees**

Joint working groups for specific projects may be created with members of The Advisory Committee and other Committees of Hepburn Shire Council, creating and improving information flow across the community.

### **Community Plans**

The Community Local Groups will feed into working parties of the Hepburn Health Communities Advisory Committee to provide strategies and local advice for planning, implementation and evaluation.

The scope of the Community Local Groups to be as per Community Development Plan or Strategy developed.

### **Connecting Hepburn Young People and Services (CHYPS)**

The Young People and Service Providers will be encouraged to form local area participatory groups according to local participation. Representatives will be encouraged to participate in the Hepburn Shire Youth Council and the Hepburn Youth Service Provider Network.

The Local CHYPS, the Hepburn Shire Youth Council and the Hepburn Youth Service Provider Network will feed into the working parties of the Hepburn Health Communities Advisory Committee to provide strategies and local advice for planning, implementation and evaluation.

### **Accountability**

The Advisory Committee is accountable to Council and to the Community.

The Advisory Committee is a committee appointed by Council to provide advice to Council on the implementation of integrated health and social planning.

Council is ultimately responsible for all delegated action of the committee and consequently Council is responsible to determine the outcomes and any recommendations made by the Committee.

### **Reporting**

The Advisory Committee will forward minutes of all meetings to the Council.

The Advisory Committee will make at least one formal presentation to Council annually.

The Council will report to The Advisory Committee on all matters relevant to integrated health and social planning in the Shire.

**ATTACHMENT 2 (Item 6.5)**

**Declaration of Interests**

To avoid any conflict of interest any person involved in a committee meeting must declare a direct or indirect pecuniary or vested interest that may arise with any business of the meeting and themselves.

Without limiting its meaning an interest will include any situation whereby an independent, third party upon looking at the circumstances would, on the balance of probabilities, believe a person so involved had a conflict between their private business and the business of the meeting.

**MARTIN WALMSLEY**  
**MANAGER COMMUNITY SERVICES**

**ATTACHMENT 3 (Item 6.6)**

**INSTRUMENT OF DELEGATION**

**DELEGATION UNDER THE PLANNING AND ENVIRONMENT ACT 1987,  
DELEGATION UNDER THE SUBDIVISION ACT 1988 AND DELEGATION UNDER  
SECTION 88 OF THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL ACT  
1998**

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In exercise of the power conferred by Section 98 of the Local Government Act 1989 and the Planning and Environment Act 1987 (the Act) and the Subdivision Act 1988 (the Act) and for the purposes of Division 5 Section 88 (Mediation) of the Victorian Civil and Administrative Tribunal Act 1998, the Hepburn Shire Council delegates to **SYLVESTER TAN** the powers, discretions, functions and duties set out in Schedules One, Two and Three and declares that:

- 1.1 This delegation is authorised by resolution of the Council dated 16 January 2007
- 1.2 The Delegations:
  - 1.2.1 Come into force immediately the Common Seal of the Council is affixed to the Instrument of Delegation.
  - 1.2.2 Remains in force until varied or revoked by resolution of the Council or upon the named officer ceasing employment with Council.
  - 1.2.3 Are subject to any conditions and limitations set out in the Schedules.
  - 1.2.4 Are to be exercised in accordance with any guideline.
- 1.3 References to sections of ‘the Act’ also include and mean references to Regulations made under the Act or affect or apply to those sections.

**IN WITNESS HERETO**  
**the Corporate Seal of HEPBURN SHIRE COUNCIL**  
**was affixed on authority of the Council pursuant to**  
**Local Law No. 1 in the presence of:**

.....  
...../...../.....

**Chief Executive Officer**  
**Date**

## SCHEDULE ONE

**TO INSTRUMENT OF DELEGATION**

The powers, discretions, functions and duties contained in the following sections of the Planning and Environment Act 1987:

	<b>SECTION OF ACT</b>	<b>SUBJECT MATTER</b>
1	17	Giving copies of an Amendment with any explanatory report and any agreement.
2	19	Giving notice of preparation of an agreement.
3	20	Applying to the Minister for exemption from the requirements of Section 19 and consulting with the Minister.
4	23 (1)(b) and 23 (2)	Referring a submission to a panel.
5	24	Presenting a submission on behalf of the Planning Authority at a Panel hearing.
6	28	Advising Minister in writing of abandonment of an Amendment.
7	31	Submit Amendment adopted by the Responsible Authority to the Minister with the prescribed information.
8	32, 33	Giving more notice of an Amendment if directed by the Minister.
9	35A	Requesting Certification by the Secretary of an Amendment adopted by the Planning Authority
10	35B	Approving and giving notice of an Amendment adopted by the Planning Authority and Certified by the Secretary
11	36	Giving notice of the approval of an Amendment.
12	38(5)	Giving notice of revocation of an Amendment by Parliament.
13	40	Lodging copies of an adopted Amendment with the Minister.
14	41	Keeping a copy of an approved Amendment.

15	42	Keeping an up to date copy of the Planning Scheme.
16	49	Keeping a register of applications
17	50	Considering an applicants request to amend an application before notice is given, and making a note in the register if any amendment is made to application under this section of the Act.
18	50A	Making changes to an application, with agreement of the applicant and after giving notice to the owner, where changes are considered necessary before notice of the application is first given, as well as making a note in the register if any amendment is made to an application under this section of the Act.
19	51	Making applications available for public inspection.
20	52,53	Giving notice of an application or instructing applicant to provide notice of an application, considering whether an application may materially affect persons other than the applicant or any authority or other municipality.
21	54	Requiring an applicant to provide more information about an application and specifying the lapse date.
22	54A	Considering an application for an extension of time to give the additional information required and giving advice regarding the new lapse date for the application.
23	55	Giving a copy of an application to a referral authority or being satisfied that the referral authority has considered the application in the past three months and does not object to the granting of a permit.
24	57	Making copies of objections available.
25	57A	Consider a request by the applicant to amend an application after notice of the application is given under section 52 of the Act where the amendment is not so substantial that a new application for a permit should be made, as well as making a note in the register if any amendment is made to an application under this section of the Act.
26	57B	Determine whether or not notice should be given if an application is amended under the provisions of section 57A of the Act.
27	57C	Provide a copy of an amended application to every person or body that the planning scheme specifies as a referral authority for an application of that kind where the amendment would adversely affect the interests of the referral authority.
26	58, 59, & 60	Considering every application for a permit in accordance with the time for a decision as set out in section 59 and having regard to the matters that a responsible authority must consider under section 60 of the Act.



## SCHEDULE ONE

## TO INSTRUMENT OF DELEGATION CONTINUED

The powers, discretions, functions and duties contained in the following sections of the Planning and Environment Act 1987:

	SECTION OF ACT	SUBJECT MATTER
27	61 & 62	<p>The decision to grant a permit, or grant a permit subject to conditions after complying with requirements of section 58, 59, 60 &amp; 62 of the Act where:</p> <ul style="list-style-type: none"> <li>(a) The stated value of the proposed development is \$2,000,000 or below,</li> <li>(b) notice has or has not been given and where there are no objections to the granting of a permit, or</li> <li>(c) the objections received are of a minor nature in the opinion of the named officer, or</li> <li>(d) the objections can be satisfied through conditions on the permit, and.</li> <li>(e) where there are no other restrictions placed on the use of delegated powers in Council's adopted protocol for the use of delegated powers.</li> </ul> <p>The decision to refuse a permit where:</p> <ul style="list-style-type: none"> <li>• Where Notice of Refusal is being issued because a Referral Authority has objected to the issue of a Planning Permit.</li> <li>• Where there is substantial non-compliance with the prescriptive provisions of the Planning Scheme.</li> <li>• Where the use/development is prohibited.</li> </ul>
28	63, 64, 65 & 66	Issuing permits, notice of decision to grant a permit, once a decision has been made in accordance with Section 61 of the Act by the Responsible Authority.
29	69(2)	Consenting to extensions of time for permits issued under delegation.
30	70	Making available a copy of every permit for public inspection when required.
31	71	Corrections of mistakes in permits and instructing appropriate notes to be made in the register.

## SCHEDULE ONE

## TO INSTRUMENT OF DELEGATION CONTINUED

The powers, discretions, functions and duties contained in the following sections of the Planning and Environment Act 1987:

32	73	Making a decision to grant an amendment (minor) to a permit and including where appropriate including additional conditions in the permit which relate to the amendment
33	74	Issue an amended permit of no objectors
34	75	Determine to amend a permit if there are objectors and issue a Notice of Intention to Amend a Permit.
35	76	Give notice of decision to refuse to grant an amendment to a permit.
36	76A	Give each relevant referral authority a copy of an amended permit and a copy of any notice given under section 62 or 76 of the Act.
37	84(3)	Telling the Registrar of the Victorian Civil and Administrative Tribunal (VCAT) about a decision under Section 84(1).
38	86	Issuing a permit at the direction of the VCAT.
39	91, 92	Giving effect to VCAT directions and giving notice of these.
40	93(2)	Giving notice of a VCAT order to stop development.
41	95(3)	Referring applications to the Minister to accordance with Minister's discretion.
42	96	Obtain a permit from the Minister where no exemption is provided in planning scheme.
43	96A	Agree to consider an application for a permit concurrently with the preparation of a proposed amendment.
44	96C	Give notice of intention to prepare an amendment to the planning scheme and notice of application being considered concurrently with the amendment.
45	97C & 97D	Request the Minister to decide on an application, undertaking directions from the Minister in respect of an application.
46	97G(6)	Making a copy of a permit issued under Section 97F available to the public.

## SCHEDULE ONE

**TO INSTRUMENT OF DELEGATION CONTINUED**

The powers, discretions, functions and duties contained in the following sections of the Planning and Environment Act 1987:

47	97O	Consideration of applications for Certificate of Compliance and the issue or refusal to issue notices.
48	97P(2)	Issue certificate of compliance at the direction of VCAT.
49	97Q	Appear at VCAT to represent Council in respect of a request to cancel or amend a certificate of compliance.
50	98(4)	Informing a person which authority may be responsible for payment of compensation.
51	114	Making application to VCAT for an enforcement order.
52	120	Making application to VCAT for an interim enforcement order.
53	179	Lodging an agreement with the Minister and keeping a copy available at the office of the Responsible Authority.
54	181	Applying to register an agreement.
55	183	Telling registrar about ending an agreement.
56	199	Issue planning certificates
57	201	Making a declaration of underlying zoning.

**Schedule ends**

# SCHEDULE TWO

## TO INSTRUMENT OF DELEGATION

The powers, discretions, functions and duties contained in the following sections of the Subdivision Act 1988:

	SECTION	SUBJECT MATTER
1	6	Certification of plans of subdivision.
2	8	Referral of plans to a referral authority
3	10	Requiring alterations to plans to make the plans suitable for certification.
4	11	Consenting to the amendment of a certified plan.
5	11A	Referring requests by Council and referral authorities for further information.
6	18	Requiring Public Open Space to be provided or a payment to be made excepting 18(7).
7	19	Agreeing to the value of the site and seeking a further valuation if the site value is not agreed.
8	21	Issue Statements of compliance with statutory requirements
9	23	Lodging of certified plans in the Titles office for registration.

**Schedule ends**

# SCHEDULE THREE

## TO INSTRUMENT OF DELEGATION

The powers and discretions for the purpose of Division 5 Section 88 (Mediation) of the Victorian Civil and Administrative Tribunal Act 1998:

DELEGATION
<i>Authority to resolve matters on behalf of Council in mediations held in accordance with the provisions of the Victorian Civil and Administrative Tribunal Act 1998, in respect of Council decisions associated with the Planning and Environment Act 1987.</i>

**Schedule ends**