

HEPBURN SHIRE COUNCIL

ORDINARY MEETING MINUTES

7pm Tuesday
16 October 2007
BULLARTO PUBLIC HALL

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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
BULLARTO PUBLIC HALL ON TUESDAY 16 OCTOBER 2007
COMMENCING AT 7 PM**

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CR DAVID SMITH, JP
MAYOR
17 OCTOBER 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.

PRESENT: Mayor, Cr David Smith JP; Councillors Janine Booth, Tim Hayes, Bill McClenaghan

IN ATTENDANCE: Chief Executive Officer, Victor Szwed; Director Infrastructure & Development, Rod Conway; Director Corporate Services, Chris Cowley; 33 Gallery and 1 press.

The Mayor opened the meeting 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:** Cr Heather Mutimer who has just returned from overseas and is still recovering from her illness and surgery.

Moved that the Apology be accepted.

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Carried.

2. **DECLARATION OF CONFLICTS OF INTEREST:**

Nil.

3. **CONFIRMATION OF MINUTES:**

3.1 **ORDINARY MEETING OF 18 September 2007**

3.2 **SPECIAL MEETING OF 2 October 2007**

Recommendation:

That item 3.1 Minutes of the Ordinary Meeting of Council held on [18 September 2007](#); item 3.2 Minutes of the Special Meeting of Council held on [2 October](#) and the [Special Meeting Confidential Minutes \(Attachment 1\)](#), be confirmed, as required under Section 93 (2) of the Local Government Act 1989.

Moved the Officer's Recommendation with the insertion of the word "he" in Item 2. ...declared that he had.....

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

Cr Bill McClenaghan requested that his opposition be recorded

4. PETITIONS AND PUBLIC QUESTION TIME

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:

1. **Bob Williams – Smeaton.**
On 2nd August did Council approve the dumping of toxic waste on Back Smeaton Road.
2. **Roy Kemp – Trentham.**
Watson Street / Bath Street Reserve. Will Council slash the reserve / remove the fire hazard.
3. **Bath Street Board Walk**
Why was this not supervised.
4. **Leighton Evans – Smeaton**
Swamp Road Bridge progress, blocked off with soil contaminated with fertilizer and blocking the creek.
5. **Arie Eyles**
Re Greyhound application.

5. GOVERNANCE AND STRATEGIC MATTERS

5.1 DAYLESFORD NEWSTEAD ROAD - UNUSED ROAD LICENCE

(A/O-Manager of Operations)

File Ref:58/02/03

Synopsis

This report provides information on a request from the Department of Sustainability and Environment for consideration of the issuance of an unused road licence on an unnamed road in Clydesdale.

Report

Council has received a request from the Department of Sustainability and Environment for the consideration of a licence over an unnamed and unused road reserve in the Parish of Yandoit in Clydesdale as shown on the attached plan.



This road reserve is currently unused, not maintained by Council and is fenced with a stone fence at its northern boundary and a conventional farm fence at its southern boundary.

This road reserve is not required for public traffic and therefore Council should support the issuance of an unused road license.

Relevant Policies / Council Plan implications:

Council Plan Objective 3

Asset and resource management-improve the management of assets through rationalisation of unused road reserves.

Community / Engagement / Communication / Consultation:

Communication with the Department of Sustainability and Environment, the State Government agency responsible for crown road reserve

Financial Implications

Nil

Recommendation:

That Council:

5.1.1 *Agree to the issuance of a unused road licence on the Government road located south of Crown Allotment 14, Section 2A pursuant to Section 400 of the Land Act 1958*

5. GOVERNANCE AND STRATEGIC MATTERS

Moved the Officer's Recommendation.

Moved: Cr Janine Booth

Seconded: Cr Tim Hayes

Carried.

5. GOVERNANCE AND STRATEGIC MATTERS

5. GOVERNANCE AND STRATEGIC MATTERS

5.2 MINOR PATCHING STABILISATION CONTRACT – H 186

(A/O-Manager of Operations)

File Ref: H186-2007

Synopsis

Tenders were invited for minor patching including stabilisation and sealing of existing pavement on various roads within the Hepburn Shire. This report provides information on the tenders received and awarding of the contract.

Report

This contract was developed to undertake pavement preparation works prior to reseals and other minor pavement failures on Councils local roads.

Tenders were advertised in the Ballarat Courier on the 19th and 22nd September 2007 and tenders were forwarded to prospective contractors.

The tender closed at 12 Noon on Wednesday the 3rd of October 2007 and the following tenders were received.

No.	Tenderer	Amount
1.	The Road Doctor	\$381,596
2.	The Road Doctor (non conforming – reduction in cement	\$374,225

Tenders were opened in accordance with Council policy in the presence of Richard Russell.and Rod Conway.

An evaluation panel assessed the tenders received using the following criteria;

- 1) Demonstrated past experience and ability to provide service.
- 2) Risk management and OH&S requirements
- 3) Financial cost
- 4) Availability and duration to undertake projects

The evaluation panel comprised of:

Mr Andrew Bourke - Manager of Operations.

Mr Richard Russell – Executive Engineer

From the evaluation of the requirements under this contract it is recommended that The Road Doctor be awarded this contract

The Road Doctor has undertaken these works previously for Council over the last 6 years and delivered within the specified timelines and budgets.

As the tenders received are close to the budget as outlined below, Contract H186 is recommended to be awarded to The Road Doctor. Further evaluation of the alternative of a reduced cement stabilisation rate has been completed and the specified amount included in the contract is not recommended to be changed. Accordingly the conforming tender is recommended for acceptance.

Relevant Policies / Council Plan implications:

Council Plan

Objective 3. Asset and Resource Management- Improve the management of assets through management of the budget

Community / Engagement / Communication / Consultation:

Tender advertised in papers that are available in municipality

5. GOVERNANCE AND STRATEGIC MATTERS

Financial Implications

Council's budgets for these works are:

Council Stabilisation	\$283,000.00
R2RII Stabilisation	\$56,000.00
Infrastructure Gap	\$41,000.00
Total	\$380,000.00

Recommendation:

That Council:

5.2.1 *Award Contract No. H186-2007 for Minor Patching Stabilisation the Road Doctor for the lump sum amount of Three Hundred and Eighty One Thousand Five Hundred and Ninety Six dollars (\$381,596) in accordance with the contract documents.*

5.2.2 *Sign and seal the contract documents.*

Additional Information was tabled at the meeting and follows:

Council's Executive Engineer advised the Director Infrastructure & Development that when opening the tender box on 12 October 2007, in relation to Swimming Pool tenders, that there was a tender for Contract H186/2007 in the tender box.

At the time of closing of tenders for H186/2007 on 3 October 2007 the tender box was fully cleared with only one tender being received for H186/2007.

In reviewing the envelope of "*the possible late tender*" for H186/2007 it had a Hepburn Shire received stamp dated 3 October 2007, with initials by Council's Records Department and also a written notation "Arrived Express Post." on the outside of the sealed envelope.

Based on the date stamp and also discussion with Council's Records Department the tender was received from Australia Post by Council in the morning of 3 October 2007 when mail is collected and opened. It was subsequently placed in the tender box in the afternoon via the normal internal delivery run, some time between 2-30pm and 3-00pm, after tenders closed.

Both the Director Infrastructure & Development and Executive Engineer have agreed that whilst the tenderer is responsible for ensuring the tender is placed in the tender box by the time of closing of tenders, the tenderer had posted the tender, which had been received by Council's Records Department in sufficient time, to have assumed it would have been placed in the tender box by the due closing time.

Accordingly the tender is to be received as it was not late. The tender was subsequently then opened and details of the tender were recorded, being:

Jasla Pty Ltd - Tender Amount \$517,532.69

As this tender is significantly higher than the lowest tenderer no further evaluation of the tender is required.

5. GOVERNANCE AND STRATEGIC MATTERS

Corrective Action already taken to address tenders via post.

The Records Department will now e-mail the Executive Engineer & Director Infrastructure & Development if any tender is received via post and to bring the tenders directly over and place in tender box at Duke Street office.

A telephone check by tender opening panel will also be made with Records Department prior to opening the tender box and a notice is to be placed on the tender box door as a procedural reminder.

The recommendation to award the contract to the Road Doctor remains unaltered.

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.3 CONTRACT H185-07/10 BITUMINOUS RESURFACING

(A/O – Manager of Operations)

File Ref:H185

Synopsis

Tenders were invited for the bituminous resurfacing of various local roads within the Hepburn Shire based on a 3 year contract term

This report provides information on, and a recommendation on the tenders received.

Report

Due to the completion of the Council's existing two year contract, tenders were invited for a three year contract for the bituminous resurfacing of various local roads throughout the Hepburn Shire.

TENDER SUBMISSIONS

Tenders were publicly advertised in the Age and Courier on the 1st and 8th September 2007 and 5 specifications and tender documents were forwarded to prospective tenderers

Tenders closed at 12 noon on Wednesday the 26th September 2007.

TENDERS RECEIVED

Downer EDI Works	\$2,098,777.00
Primal Surfacing Pty Ltd	\$2,081,593.00
Sprayline	\$2,406,209.00
Boral Resources (Vic)	\$2,361,814.00
Quality Roads Spraying	\$2,474,104.00

See confidential tender evaluation report for details.

EVALUATION OF TENDERS

The tenders were assessed using the following criteria:

- Financial benefit to Council
- Compliance with Contract requirements
- Experience and qualifications
- Quality assurance
- Business financial capability

The evaluation panel comprised of:

Mr Rod Conway	Director of Infrastructure and Development
Mr Andrew Bourke	Manager of Operations
Mr Richard Russell	Executive Engineer

The evaluation panel recommends the acceptance of the tender from Primal Sealing of 3 Oban Court, Laverton who have undertaken Councils sealing works over the last 2 years.

Relevant Policies / Council Plan Objectives

Tendering Policy

5. GOVERNANCE AND STRATEGIC MATTERS

Objective Three – Manage Council Resources and Finances

Objective Four – Plan Provide and Enable the range of services for the benefit of the community

Financial & Resource Implications Initial & Ongoing

The tender value from Primal Surfacing is within Council's 2007/2008 financial year budget. Balance projects listed for 2008/2009 and 2009/2010 will need adjustments to the current budgets to undertake the listed program.

Overall, the program will require delivery in order for Council to maintain its current sealed road asset infrastructure.

Funding program is as listed below:-

Financial Year	Council Reseals	R2R11 Reseals	Infrastructure Gap	Totals
2007/2008	\$339,000	\$255,000	\$61,000	\$655,000
2008/2009	\$350,000	\$255,000	\$115,000	\$720,000
2009/2010	\$360,000	\$255,000	\$115,000	\$730,000
Totals	\$1,049,000	\$765,000	\$291,000	\$2,105,000

Recommendation

That Council:

5.3.1 *Award contract "H185 – 07/10 3 year contract for Bituminous Surfacing of various sections of Local Roads within the Hepburn Shire to Primal Surfacing Pty Ltd, 3 Oban Court, Laverton Vic 3026 for the lump sum of two million, eighty one thousand, five hundred and ninety three dollars(\$2,081,593.00)in accordance with the contract documents.*

5.3.2 *Sign and seal the contract documents.*

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.4 OPERATION AND MANAGEMENT OF OUTDOOR SWIMMING POOLS (INCLUDING SUPERVISION OF DIVE TOWER AT CALEMBEEN PARK)

(A/O – Executive Engineer)

File Ref: H180-2007

Synopsis

Tenders were invited for the operation and management of the swimming pools at the Daylesford, Clunes and Trentham outdoor swimming pools and the supervision and control of the Diving Tower at Calemben Park, Creswick

Report

Tenders were publicly advertised in the Age and the Ballarat Courier on Saturday, 29th September 2007. Tenders closed at 12 noon Friday, 12th October 2007.

Selection Criteria

The selection criteria for the adjudication of this tender is listed below:

- Tenderers demonstrated ability to provide the Services including customer focus;
- Tenderers Experience and Qualifications;
- The total cost to Council for this tender;
- Risk Management and OH&S practices and performance.
- Plans for improving attendance at Pools

Tenders Received

Tenders were opened in accordance with Council policy in the presence of ...

The tenders received were:

- 1.
- 2.
- 3.
- 4.

The evaluation panel comprised of:
Mr Richard Russell, Executive Engineer; and

The remainder of the report will be presented to Council's 16 October 2007 meeting.

Relevant Policies / Council Plan Objectives

Council Plan - Servicing the Community

Community / Engagement / Communication / Consultation:

Recreation Plan

Financial Implications

Council has Budget Items for operational Expenses that allow contractor payments and utility payments for pools of \$173,230:

5. GOVERNANCE AND STRATEGIC MATTERS

Recommendation:

That Council:

- 5.4.1 *Award the tender for Contract H180-2007 to*
- 5.4.2 *That Council sign and seal the contract documents*

The following additional information was tabled at the meeting; all other information contained in the report remained unchanged..

Tenders Received were:

- 1. *YMCA Ballarat Pty Ltd*
- 2. *Belgravia Leisure Group Pty. Ltd.*

Recommendation:

That Council:

- 5.4.1 *Note that two tenders have been received and are currently being evaluated*
- 5.4.2 *Delegate to the Chief Executive Officer authority to award the contract and for the Chief Executive Officer to sign and seal the contract documents.*
- 5.4.3 *Be presented with a detailed report on the awarding of the contract to the November 2007 Ordinary Meeting of Council.*

Moved the Officer's Recommendation tabled at the meeting.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.5 GLENLYON WASTE MANAGEMENT SERVICES

(A/O – Director Infrastructure & Development)

File Ref: 68/08/03

Synopsis

Results of waste management survey for Glenlyon.

Report

Council at its Ordinary Meeting on 15 May 2007 resolved as follows:

- 6.7.1 That Council survey all ratepayers in the township of Glenlyon to identify their preference for:
 - 6.7.1.1 The current situation of a fortnightly recycling service only
OR
 - 6.7.1.2 A fortnightly garbage service (for the extra cost of \$75 pa plus the cost of a 240 litre MGB), in addition to the fortnightly recycling service at the stand fee
OR
 - 6.7.1.3 No waste management service (ie neither recycling nor garbage service)
- 6.7.2 That the survey take place as soon as possible but not before the proposals are outlined and explained in the local Glenlyon Newsletter.

The proposals were outlined and explained in the local Glenlyon Newsletter as well as at a Glenlyon Progress Association Meeting. Each ratepayer also received a letter explaining the proposals with a survey form, shown below, together with a pre-paid envelope for returning back to Council. It should be noted that for the 2007/8 financial year the garbage collection charge has been set by Council at \$73.

GLENLYON WASTE MANAGEMENT SURVEY

Please place a in one box only indicating your preference, and return in reply paid envelope by
31 August 2007.

Continuing with the current situation of a fortnightly recycling service only.

A new fortnightly garbage service (for the extra cost of \$73pa plus the cost of a 240 litre MGB), in addition to the fortnightly recycling service at the standard fee.

**No waste management service
(i.e. neither recycling nor garbage service).**

The total number of survey forms sent out were: 99
The number of survey forms completed and returned were: 71

The response rate was 72 % which is an extremely high rate of return for such a survey, probably due to the clear and concise letter and easily understood survey form.

5. GOVERNANCE AND STRATEGIC MATTERS

The results of the survey, being the number of households' preferences and the % of returns for each preference, based on the total number of returned surveys is shown below.

PREFERENCES	VOTES	% OF VOTES
Continuing with the current situation of a fortnightly recycling service only.	32	45%
A new fortnightly garbage service (for the extra cost of \$73pa plus the cost of a 240 litre MGB), in addition to the fortnightly recycling service at the standard fee.	30	42%
No waste management service (i.e. neither recycling nor garbage service).	9	13%

Council should note that a number of the households are already receiving a garbage collection service by a local contractor and that the opportunity is available for any household to avail themselves of this private service.

Relevant Policies / Council Plan Implications:

Council Plan – Objective Two – Service Delivery

Community / Engagement / Communication / Consultation:

A survey of households providing costs for garbage collection and seeking their preferences for waste management services has been completed to enable Council to determine what changes, if any, should be implemented to Council provided waste management services for Glenlyon.

As the waste management survey has demonstrated that there is no clear vote to change the current waste management services it is recommended that Council advise the ratepayers of the results of the survey and that no change is to occur to the current service being provided by Council.

Financial & Resource Implications Initial & Ongoing

The cost to delete recycling services to Glenlyon is estimated at approximately \$1400 plus bin recovery costs.

The cost for a fortnightly Garbage collection service is estimated to be \$106.50 p.a. per tenement.

Council has adopted a \$73 garbage collection charge for 2007/8.

5. GOVERNANCE AND STRATEGIC MATTERS

Recommendation:

That Council::

- 5.5.1 *Advise the ratepayers who were sent a survey form of the results of the survey and inform the ratepayers that Council will not be making any changes to the current waste management services provided by Council to Glenlyon.*

Motion put to the Meeting:

Moved: Cr Bill McClenaghan

That Waste Management Services being provided to Glenlyon remain as they are except those receiving or capable of receiving the service outside of the township area be given the option to opt-in or opt-out.

Motion Lost. (There being no seconder the Motion lapsed).

Motion Moved at the Meeting:

Moved the Officer's Recommendation:

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.6 MONTHLY FINANCIAL REPORT 1/7/07 – 30/09/07

(A/O – Director Corporate Services)

File Ref: 30/08/15

Synopsis

A summary report on the Council's financial performance for the financial year to the 30 September 2007 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 25%.

**Hepburn Shire Council
Monthly Financial Report September 2007
Percentage of year complete 25%**

	Annual Budget 000's	Actual Sept 07 000's	Percentage of Budget
1. Administration			
Expenditure	4984	1223	25%
Income	(11757)	(9488)	81%
1. Administration	(6773)	(8265)	
2. Human And Community Services			
Expenditure	2503	532	20%
Income	(1703)	(496)	27%
2. Human And Community Services	800	36	
3. Regional Development/promotion			
Expenditure	1932	455	24%
Income	(527)	(103)	20%
3. Regional Development/promotion	1405	352	
4. Public Safety			
Expenditure	641	143	22%
Income	(254)	(28)	11%
4. Public Safety	387	115	
5. Recreation			
Expenditure	1162	226	19%
Income	(125)	(7)	6%
5. Recreation	1037	219	
6. Infrastructure Development			
Expenditure	4904	733	15%
Income	(3227)	(683)	21%
6. Infrastructure Development	1677	50	

**Hepburn Shire Council
Monthly Financial Report September 2007
Percentage of year complete 25%**

5. GOVERNANCE AND STRATEGIC MATTERS

	Annual Budget 000's	Actual Sept-07 000's	Percentage of Budget
7. Waste & Environment			
Expenditure	1424	216	15%
Income	(1,469)	(1,384)	94%
7. Waste & Environment	(45)	(1,168)	
8. Unclassified			
Expenditure	18	1	8%
Income	(88)	(1)	1%
8. Unclassified	(70)	0	
9. Capital Works And Projects			
Expenditure	4518	728	16%
Income	(2938)	(478)	16%
9. Capital Works And Projects	1580	250	
Report Total	(2)	(8411)	

The report has been produced at a summary level to provide Council with a snap shot as at the end of September 2007. There are eight 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 September account is normally paid in October.

Public Safety – Income. This relates mainly to health regulation fees due in January 08 and animal registrations where virtually all income is received by the end of April. 08

Recreation.-Expenditure. Swimming Pool operations don't commence until Dec-March.

Recreation – Income. Bathhouse rent not expected to be received until March 2008.

Infrastructure Development - Expenditure. Majority of Road works takes place Nov-March

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

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.

5. GOVERNANCE AND STRATEGIC MATTERS

Capital & Projects – Expenditure & Income. Projects in this area are traditionally lumpy as such will be reported on separately at the October Forward Planning meeting.

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:

Financial & Resource Implications Initial & Ongoing

Nil.

Recommendation:

5.6 .1 *That the September 2007 finance report be received and noted.*

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.7 PROJECTS TO BE CARRIED FORWARD FROM 06/07 TO 07/08

(A/O –Director Corporate Services)

File Ref: 30/08/15

Synopsis

A review of the projected year end results to the budget has been undertaken to determine Council's cash result. This has identified projects that will need to be carried forward into the next budget period. **(Refer Attachment No 3)**

Report

As part of the process to prepare the Council's annual financial statement of accounts, a review has been undertaken of the Council's actual expenditure and income for the year.

At the March review the forecast surplus was \$107,025 however it was noted that this forecast was based on the assumption that the North St land would be sold before 30 June 2007 which unfortunately did not occur. The land has now been sold and has returned a net amount of \$83,600 in the 2007/08 financial year, removing this amount from the March forecast leaves a projected surplus of \$23,425 which compares favourably with the actual cash surplus of \$7,840 after allowing for projects that are recommended for carrying over into the 2007/08 financial year.

The attached summary report indicates a healthy cash position of \$1,174,441 prior to allowing for carry overs, the vast majority of this relates to the capital and projects area where there are a number of projects recommended for carrying forward.

The total value of projects recommended for carrying forward is \$1,166,601 (see attached list) which when deducted from the cash surplus of \$1,174,441 leaves a net cash surplus of \$7,840.

It is recommended that this amount be applied towards maintaining Council's working capital ratio.

It is interesting to note that the capital and projects contains three main components:-

- Projects carried forward from last year (75%)
- 2006/07 Budgeted projects (70%)
- New grant funded projects received during the year (31%)

The figures listed in brackets above indicate the percentage of projects completed during the 2006/07 financial year, the balance of these projects makes up largely the projects recommended to be carried forward into the 2007/08 financial year.

With respect to the projects carried forward from last year the major component of works still to be completed relates to the ARC project, the Creswick toilets/VIC and tip rehabilitation works.

Relevant Policies / Council Plan Objectives

The management of Council's finances is in line with objective 3.3 of the adopted Council Plan 2006-2011

Community / Engagement / Communication / Consultation:

Nil

5. GOVERNANCE AND STRATEGIC MATTERS

Financial & Resource Implications Initial & Ongoing

Projects were funded in the 2006/07 budget or by way of additional grants, therefore funding will be carried forward into the 2007/08 financial year.

Recommendation:

That Council:

5.7.1 *Note the 2006/07 end of year result*

5.7.2 *Carry forward the projects listed in the attachment to this report into the 2007/08 financial year.*

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.8 HACC POLICIES AND PROCEDURES

(A/O – Director Corporate Services)

File Ref: 34/12/01

Synopsis

The HACC policies and procedures have been reviewed and consolidated into one document, as per the requirements of the Department of Human Services

Report

The HACC program provides a range of high quality and responsive Home & Community Care support services to frail older people, people with disabilities and their carers who reside in the Hepburn Shire. The aim of these services is to support residents to remain as independent as possible, and connected to the community.

HACC support services provided by Hepburn Shire Council include:

- Housekeeping assistance
- Personal Care
- Respite Care
- Property Maintenance
- Planned Activity Groups
- Meals on Wheels
- Activities in Motion
- Assessment Services.

As part of the funding requirements of the Department of Human Services, they require that Council has policies (attached) in place to cover all aspects of its HACC program. The policies deal with:

- The Service
- Eligibility
- Referrals
- Assessment & Care Planning
- Waiting Lists
- Refusal of Service
- Rights & Responsibilities
- Individual Advocacy
- Authorised Representative
- Client Absences: Centre Bases Services
- Client Absences: In Home Services
- Discharge
- Communication
- Client Complaints
- Client / Carer Conflict
- Staff Training
- Pre-employment checks

The policies have been reviewed and updated to ensure that they comply with the requirements of the Department of Human Services as Council is required to have these policies in place to ensure that funding continues to be provided for these services.

Relevant Policies / Council Plan implications:

Council Plan 2.1 – Improve service delivery

5. GOVERNANCE AND STRATEGIC MATTERS

Community / Engagement / Communication / Consultation:

These policies will be available to clients and carers who are accessing the HACC services from Hepburn Shire Council.

Financial & Resource Implications Initial & Ongoing

Adoption of these policies will ensure ongoing funding is received from the Department of Human Services for the provision of HACC services to our community.

Recommendation:

That Council:

5.8.1 *Adopt the Home and Community Care Policies and Procedures as presented.*

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.9 RESOURCE SHARING SOUTH BULLARTO AREA

(A/O – Director Corporate Services)

File Ref: 16/22/05

Synopsis

Moorabool Shire Council have approached Council to investigate the opportunities that may exist for resource sharing regarding the south Bullarto area.

Report

At a public meeting held at Bullarto South in February 2007, in regard to boundary change in the Bullarto South area, it was agreed that resource sharing between neighbouring Councils be investigated, identified and favourably considered especially in the areas of remoteness within Municipalities.

Following on from this request from the Bullarto South residents, Moorabool Shire Council in now formally approaching Council with a view to establishing an agreement between the two Councils that Hepburn Shire would provide identified services and road maintenance in the Bullarto South area within the Moorabool Shire Council. The costs associated with the provision of these identified services would be at the cost of the Moorabool shire Council.

The two potential services that have been identified by Moorabool Shire Council are:

- Provision of tip passes to Bullarto South residents residing within the Moorabool Shire (8 properties identified)

Cost of service provision - \$11.00 per tip voucher (1/2 cubic metre)

- Grading of roads within the Moorabool Shire (once per year), namely Bobbys Lane, Camp Road and Lynchs Road (south section)

Cost of service provision - \$300 per hour, this includes a grader, water cart and a tractor roller with operators for each.

The provision of the grading service to the Moorabool Shire Council would not impinge on the ability of Council to deliver services to its community. However it is recommended that Council not provide tip passes as this is a service provided for the benefit of Hepburn Shire Residents.

There fore it is recommended that Council enter into a MOU only for the provision of grading services. With regard to the provision of tip passes, advise Moorabool Shire Council that Council is not prepared to provide tip vouchers the South Bullarto residents, however the residents in question are more than welcome to utilise our waste transfer station with payment of the prescribed fees.

Relevant Policies / Council Plan Objectives

Council Plan 1.3 – Enhance external relationships

Community / Engagement / Communication / Consultation:

This request came as a result of community meetings with the residents of the South Bullarto Area.

5. GOVERNANCE AND STRATEGIC MATTERS

Financial & Resource Implications Initial & Ongoing

All services provided would be costed to fully recovery any Hepburn Shire council costs incurred.

Recommendation:

That Council

5.9.1 *Enter into a memorandum of understanding or similar to enable the provision of grading services as mentioned above.*

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.10 SALE OF LAND – 140/142 VINCENT STREET, DAYLESFORD

(A/O – Director Corporate Services)

File Ref: 3/7300/09500

Synopsis

Council has been considering options for the future use of 140/142 Vincent Street Daylesford. This report provides the history of the considerations and provides a recommendation that Council proceed with giving public notice of its intention to sell the two blocks of land in question.

Report

The following aerial photograph indicates the location of two vacant parcels of land zoned residential that Council owns. The aerial photo and Council's GIS system doesn't exactly match but it provides sufficient information with respect to the location of the properties, 140 & 142 Vincent Street Daylesford.



Council has discussed this land on several occasions in the past, consulted the community about it becoming a park, but there was some opposition to this hence Council abandoned rezoning of land to public open space.

At Council's Forward Planning Meeting in February 2007 it was decided that:

Use of this land as a formal car park is not supported. Provide further information on status of the land and encumbrances on the basis that sale may be contemplated.

In response to this direction the following information was provided:

- The land is freehold land, Zoned Residential 1 for which Council has two clear titles. CA's 14B and 14A.

5. GOVERNANCE AND STRATEGIC MATTERS

- 14A has recently been subdivided to take off about 77sqm which is to be added to the neighbouring residential property, leaving this lot at 606sqm. This lot was acquired in May 1907 - the reason is unclear.
- 14B was acquired as part of a deal with the former Daylesford Waterworks Trust - a swap for some land at Hepburn for a pre-treatment plant site in 1994. It is approx 735sqm in area.
- As far as encumbrances are concerned, there are no easements shown on title. There is a major Council drain running diagonally through the southern title. Relocation of the drain across the front of the property and then down the road reserve to the south would be ideal to maximise the land or alternatively leave the major drain where it is and place an easement over it and realign the title boundaries. There is a 'tunnel come mine shaft' which goes back up toward Wombat Hill and the land has probably been extensively filled.
- The Recreation Study has not identified this land for recreational purposes
- The land has been identified as not being required for Council use and therefore Council could proceed to sell the two titles.

In response to the information provided above and also with the knowledge that Council was struggling to identify any available land to provide as its local contribution to the Disability Housing Trust project to construct 2 homes in Daylesford for people with disabilities, Council requested at the April forward planning meeting that a report be provided on whether:

- a) 140/142 Vincent Street Daylesford might be suitable for community housing
- b) The sale proceeds of 140/142 Vincent Street Daylesford could be used for community housing elsewhere
- c) Council should use the land for something else; or
- d) The sale proceeds could be used for another appropriate purpose.

In light of the above request the following analysis was presented for consideration:

Is the site suitable for community housing?

The Manager of Community Services has investigated the site and has determined that it is not an appropriate site for community housing, due to accessibility issues.

If sold could the funds be used for community housing else where?

In late 2006 Council successfully submitted an Expression of Interest for funds from the Disability Housing Trust to establish two houses in Daylesford and one house in Creswick for people with disabilities. The total amount of funds sought was \$884,000.

Hepburn Shire Council was the only local government in Victoria to be successful. Our Project partners included Hepburn Health Service and the Daylesford Neighbourhood Centre.

As part of the funding arrangements, it is a requirement that land be provided as a local contribution. Following initial discussions, the Health Service agreed in principle to provide some of its vacant land in Daylesford. The Trust has now indicated that they would require the title of any land to enable it to borrow funds to provide additional housing. At this time the Health Service is unable to commit to these terms.

5. GOVERNANCE AND STRATEGIC MATTERS

A potential site (Council land) has been identified in Creswick, however at this stage there is no available land in Daylesford. Utilising the funds from the sale of the two blocks in question, could potentially allow the purchase of two suitable blocks of land elsewhere in Daylesford.

Could Council use the land for something else?

This has already been explored to some degree by Council at a previous forward planning meeting where discussion took place around the possibility of using the land for car parking. Also the previous idea of establishing a park received some objection and was not pursued. At this point in time Council does not have a need for this land.

Could the sale proceeds be used for something else?

At this point in time Council has not identified any major capital projects that the sale funds could be utilised. The funds would be placed in the development reserve, with Council investing the money and earn a return whilst a use for the funds is determined.

This action would be consistent with Councils adopted protocol which provides that where surplus assets are sold and are not tied to a specific matter then the sale proceeds are to be placed into Councils development reserve.

As a result of the above information Council decided at the July Forward Planning Meeting:

That Council supports in-principle the concept of selling the land with a prime use of the funds for community housing and the residue into the development reserve fund subject to further report to a Forward Planning Meeting covering details of ownership of the proposed community units, management responsibilities and other relevant matters.

The following details were provided to the September forward planning meeting:

- The role of the Disability Housing trust is to own, manage and maintain properties to accommodate people with disabilities. In building these community assets the Trust seeks private capital investment partnerships from families, community, local government, commercial, philanthropic and other sources.
- In our Expression of Interest to the Trust, we proposed to provide land as our contribution. The trust would seek title to enable further funds to be borrowed. Council's interest would be protected by a caveat. In holding the title, the Trust will assume responsibility for the ongoing asset management and property maintenance.
- Our Expression of Interest proposed that Council will be responsible for tenant selection and day to day tenancy management. The Trust would reimburse Council for these costs using rental income.
- This project is at the very early stage of development. As the project develops, there will be opportunities to negotiate the finer details with the Disability Housing Trust.

As a result of the above discussion Council gave direction at the September forward planning meeting that a report be presented to this meeting of Council to enable Council to resolve to give public notice of its intention to sell 140 & 142 Vincent Street Daylesford. The notice of intention to sell would be given on the understanding that

5. GOVERNANCE AND STRATEGIC MATTERS

\$250,000 of the sale proceeds be allocated towards the disability housing trust project and that the balance of the funds be placed in Councils development reserve.

Relevant Policies / Council Plan implications:

Section 189 of the Local Government Act 1989 places certain requirements that Council must comply with prior to selling any land.

Section 189 - Restriction on power to sell land

(1) Except where section 181 or 191 applies, if a Council sells or exchanges any land it must comply with this section.

(2) Before selling or exchanging the land the Council must-

(a) ensure that public notice of intention to do so is given at least 4 weeks prior to selling or exchanging the land; and

(b) obtain from a person who holds the qualifications or experience specified under [section 13DA\(1A\)](#) of the [Valuation of Land Act 1960](#) a valuation of the land which is made not more than 6 months prior to the sale or exchange.

(3) A person has a right to make a submission under section 223 on the proposed sale or exchange.

(4) Subsection (3) does not apply to the sale of land that formed part of a road that has been discontinued as the result of a Council exercising its powers under clause 3 of [Schedule 10](#).

Community / Engagement / Communication / Consultation:

As per section 189 of the Act Council will be seeking public submissions regarding its intention to sell the two blocks of land.

Financial & Resource Implications Initial & Ongoing

The intention is that \$250,000 of the sale proceeds be allocated towards the disability housing trust project and that the balance of the funds be placed in Councils development reserve.

Recommendation:

That Council:

5.10.1 *Advertise its intention to sell 140 & 142 Vincent Street Daylesford and seek public submission on this proposal as per section 189 of the Local government Act 1989.*

Moved the Officer's Recommendation.

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.11 INSTRUMENT OF DELEGATION FOR NEW PLANNING STAFF

(A/O – Manager Planning)

File Ref: 16/22/07 Personnel

Synopsis

Following the appointment of Council's new Statutory Planner Justin Fiddes, it is necessary to formally delegate appropriate powers under the Planning & Environment Act as well delegation under Division 5 Section 88 (Mediation) of the Victorian Civil and Administrative Tribunal 1998.

Formal authorisation under the Planning & Environment Act 1987 and the Local Government Act 1989 is also required to allow the officer to carry out their duties.

Report

Delegation to officers allows them to act on Council's behalf and make day-to-day decisions.

Section 98 of the Local Government Act 1989 provides that 'Council may by instrument of delegation delegate to a member of its staff any power, duty or function of a Council under this Act or any other Act other than.....'. Exemptions principally prevent delegating this power of delegation, or declaring special charges, borrowing money, and so on.

The Instrument of Delegation presented to Council for Mr Fiddes will enable them to make day-to-day decisions and perform duties on Council's behalf relating to statutory planning, planning enforcement and compliance matters.

Council's Statutory Planners have been provided with authorisation for the purpose of entering land to carry out inspections and enforce the Planning & Environment Act, as well as being authorised under Sections 224 and 232 (1) (b) of the Local Government Act. Such authorisations need to be provided to allow the efficient and effective operation of Council's Planning Department. The instruments of authorization for Justin Fiddes are included as attachments to this agenda.

Relevant Policies / Council Plan Objectives

Council Plan
Hepburn Planning Scheme

Financial & Resource Implications Initial & Ongoing

Nil

Recommendation

That Council:

- 5.11.1 *Signs and seals the Instrument of Delegation for Justin Fiddes as produced to this meeting relating to delegation under the Planning & Environment Act 1987, and delegation for the purposes of Division 5 Section 88 (Mediation) of the Victorian Civil and Administrative Tribunal 1998.*

5. GOVERNANCE AND STRATEGIC MATTERS

- 5.11.2 *Resolves to authorise Justin Fiddes under section 133 of the Planning & Environment Act 1987 and Sections 224 and 232 (1) (b) of the Local Government Act 1989 and that Council signs and seals the Instrument of Authorisation as produced to this meeting.*

Moved the Officer's Recommendation:

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.12 CREATIVE CLUNES

(A/O – Chief Executive Officer)

File Ref: 16/18/03

Synopsis

Councillors have been briefed a number of times regarding the success of the Clunes Booktown event and Creative Clunes. A further request for assistance is now being sought.

Report

At the 28th August Forward Planning Meeting Council agreed:

“ (i) That Council receive the written and verbal briefing and confirm its ongoing support for Clunes Booktown and Creative Clunes.

(ii) That Councillors agree to provide letters of support for Creative Clunes and Booktown.

(iii) Council will consider any requests for funding when they arise.”

The Creative Clunes Committee has been very busy talking with State and Federal Government agencies as well as other bodies who may be able to assist. Considerable support has been indicated and the Committee is currently applying for funding from the ANZ Trustees. It is understood that the State RDV officers have indicated that they prefer for the funding application to them to come via Council and also for Council to indicate its funding contribution. In discussions with CHACC, it has also been indicated that it would be preferable for Council to be the auspicing body. The Creative Clunes Committee has requested written advice from both agencies that they would prefer Council as the auspicing body should a grant application be successful.

Our Council has auspiced a number of other funding applications on behalf of community groupW in recent years where the government has indicated that is the preferred way to go or where the funding guidelines indicate funding is to be via a Council. Council has done this for groups such as the Daylesford Neighbourhood House extensions, Bullarto Hall refurbishment and Spa Country Railway Business Plan. While this does involve some time for the relevant officer to assist and “manage” the grant it should not be too onerous. The Creative Clunes Committee is preparing the application so most of the work is being done by them.

It would be appropriate for Council to assist through auspicing the application and managing the grant. Also, as indicated previously Council was prepared to consider funding requests. As Council is aware the State Government usually requires a component of local funds, allows a component of in-kind and often expects support from Council in part funding.

Within the 2007-08 Budget Council has the following components which may in part be considered:

- 9550 731 Shire Events – Advice & Resources \$10,000. As this covers the whole Shire a component from this could be considered.
- 9520 751 Marketing & Development Plans small Towns x 3 \$15,000.
- Community Grants Scheme \$50,000 which includes \$12,000 assistance for Arts & Culture under which Events organisation is included. The Scheme also includes \$33,000 for Community Strengthening.

5. GOVERNANCE AND STRATEGIC MATTERS

Further discussion was occurring with the relevant officers and Cr Tim Hayes leading to the Draft Agenda Meeting and the Council Meeting to further clarify recommended funding support.

The Creative Clunes Committee has almost completed a Business Plan regarding the feasibility of establishing a Creative Clunes Enterprise. This will be a 'not for profit' organisation headed by an Executive Officer and its main function will be to manage the 'Back to Booktown' annual event, work towards the establishment of Clunes as Australia's First Booktown and conduct a series of residential based 'ArtBreaks' as its main revenue stream. The Business Plan estimates that after an initial injection of funds from Government agencies, the enterprise will produce a surplus in its third year of operation.

A copy of the Business Plan (Draft) will be tabled at the Council meeting.

Relevant Policies / Council Plan Objectives

The Council Plan contains several relevant aspects relating to Community Strengthening, Economic Development and so on. Community Grants Scheme provides assistance. Council's current Events Policy supports promotion and assisting such local events driven from the community and providing major local benefits.

Community / Engagement / Communication / Consultation:

The Clunes Booktown Event and Creative Clunes have involved many Clunes people and organisations. Many local organisations assisted in the 2007 event and have agreed to support the May 2008 which will be held over a two day period. There will be considerable flow-on benefits to the Clunes community and businesses.

Financial & Resource Implications Initial & Ongoing

Budget details as listed in the report. Because Creative Clunes is a wider project that is intended to develop over a period of time other requests for assistance may come in the lead-up to the 2008-09 Budget.

Recommendation:

That Council:

- 5.12.1. *Agree to auspice the grant applications to the State and Federal Governments on behalf of the Creative Clunes project if required.*
- 5.12.2 *That Council agree to provide the following funding support: \$5,000 from the Marketing & Development for Small Town Account 9520 751 and \$2,000 from the Community Grants Scheme Account 1250 039 and \$3,000 from the Shire Events – Advice and Resources Account.9550 731*

Moved the Officer's Recommendation:

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

5. GOVERNANCE AND STRATEGIC MATTERS

5.13 ANNUAL REPORT 2006/2007

(A/O – Director Corporate Services)

File Ref: 30/08/11

Synopsis

Under section 134 of the Local Government Act 1989, Council is required to hold a meeting to consider the Annual Report. This meeting allows the community to become better informed about the Annual Report 2006/07 and fully meets Council's statutory obligations.

Report

Section 134 of the Local Government Act 1989 requires Council to consider its Annual Report at a meeting of Council. Public notice has been given of Council's intention to consider the Annual Report 06/07 at this meeting of Council.

A copy of the Annual Report 2006 – 2007 will be tabled at the meeting.

A copy of this Annual Report has been formally submitted to the Minister and has been audited by Hall Chadwick as agents of the Auditor General.

The format of the Annual report follows the enhanced format of last year to assist in the readability of the document.

Some of the key areas of the Annual Report are as follows:

- A performance overview is presented on pages 4-10.
- The Best Value report is presented on pages 15-22 which demonstrates that Council has complied with the target completion date for all services being reviewed by the 31 December 2005.
- The Local Government Improvement Incentive Program Statement which shows that Hepburn Shire Council is fully compliant with the requirements is on page 22.
- The performance statement on pages 27-31 lists the key indicators that Council determined were important to measure and be audited on.
- A Working Capital Ratio of 149.59% compared to \$149.91% in 2005/06 (Council's target ratio is \$140%).

Overall the past year has been a challenging yet exciting year for the Hepburn Shire Council. With a strong performance in 06/07, Council is placed well to consolidate on this to ensure that Council continues to provide high quality services whilst demonstrating sound financial management and responsible use of resources.

Relevant Policies / Council Plan implications:

2. Council will deliver responsive services to our community within available resources.
2.1 Improve service delivery

3. Asset and Resource Management

- 3.1 Improve the management of our assets
- 3.3 Responsible financial management

Community / Engagement / Communication / Consultation:

Public notice was given in *The Advocate* and *The Courier* advising the community of Council's intention to consider the Annual Report 06/07 this evening. Any interested parties were able to obtain a copy of the report from any Council office or from Council's website.

5. GOVERNANCE AND STRATEGIC MATTERS

Financial & Resource Implications Initial & Ongoing
Nil

Recommendation:

That Council:

5.13.1 *Receive and note the Annual Report 2006/07.*

Motion Moved at Meeting:

That Council:

5.13.1 Receive and note the Annual Report 2006/07 noting that some typographical correction to be made.

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

6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

6.1 BATH STREET BOARDWALK - TRENTHAM

(A/O-Manager of Operations)

File Ref: 4/0470/00100

Synopsis

This report provides information to Councillors on the boardwalk as constructed by Green Corp on the Bath Street Reserve in Trentham.

Report

Councillors are aware of the boardwalk as constructed within the Bath Street Reserve as inspected as part of the 2007/2008 Capital works and projects tour of the municipality.

Since that inspection, Council was issued with a PIN notice from Worksafe and the boardwalk was closed to public access as of the 29th June 2007.

Notice from Worksafe essentially requires Council to:-

- 1) Ensure boardwalk complies with relevant Australian standards;
- 2) Eliminate public access along boardwalk until actions to rectify current deficient structure is determined by Council.

An inspection of the structure to establish the current standard and structural construction has revealed that Green Corp constructed a domestic boardwalk for a commercial application.

The reasons behind this decision are unclear but Green Corp were advised by Council Officers prior to commencing the project of the standards required and Council officers were informed that Green Corp knew and were aware of the standards applicable for constructing this type of boardwalk.

Based on this information Council officers were of the belief that a compliant boardwalk would be constructed. This was not obviously the case.

The boardwalk does not comply to Australian Standards in:

- Standard minimum width;
- Decking type;
- Structural spans and bracing of supports;
- Required minimum design life;
- Overall construction methodology.

Currently the boardwalk width without the kerb edge railing does not meet the minimum requirement for pedestrian access. Current overall width is 1.5m whilst the minimum required is 1.7m.

At a width of 1.7m only pedestrians could use it. No disabled wheelchair or cyclists could use the boardwalk unless the width is increased to 1.85 metres including the addition of one handrail.

The commercial costing to rebuild the boardwalk is based on providing pedestrian access only and excluding cyclists and wheelchairs access. To provide this wheel chair and cyclist access requirement will cost significantly more than what is currently indicated below.

Therefore in order to move forward with the boardwalk in Bath Street there are three options that Council could decide to implement:-

- a) Rebuild the boardwalk to conform to an Australian Standard at a cost of \$54,180 (excl GST). Budget estimate as provided as part of Capital projects for the 2007/2008 financial year was \$55,000. Council allocated \$10,000;

6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

NOTE: This does not include the cost of any Handrails. No handrails are required for a pedestrian boardwalk.

- b) Demolish and remove the current boardwalk ;or
- c) Demolish and remove the current boardwalk and build a compliant small boardwalk shaped in a "T" at the Victoria Street entrance utilising the balance of the \$10,000 (i.e \$4,500 approximately after demolition of existing boardwalk) as allocated by Council in the 2007/2008 budget.

Follow up inspection is programmed by Worksafe for the 26th October 2007, to ascertain Council's determination on rectification works to this boardwalk.

Following discussions with Councillors on the boardwalk it was indicated that the Trentham township community should be canvassed on their views as to prioritising undertaking the rebuilding the entire boardwalk **OR**;
a new footpath section in the township **OR**;
a combination of a small section of boardwalk and small section of footpath.

It should be noted that Council officers as part of the Capital footpath program has already nominated the section of path along High Street commencing at the Trentham Recreation reserve to Quarry Street as the path to be installed in Trentham.

All residents abutting the proposed routes have been notified of the proposed works.

Relevant Policies / Council Plan implications:

Council Plan

Objective 2 – Further develop the range of facilities and programs

Communication Policy

Community / Engagement / Communication / Consultation:

Current closure of boardwalk was advertised in the Advocate in July 2007. Further notification of Council's determinations will be required in the Trentham area through the Advocate and TRATA newsletter.

All residents along High Street between the Recreation Reserve and Quarry Street have been notified of works intended to be implemented as part of the Capital Footpath works.

Financial Implications

Financially Council has allocated \$10,000 in the current budget for the boardwalk.

Option A - To remove current boardwalk and build compliant boardwalk to Australian Standards will cost \$54,180.

Option B - To remove and demolish the boardwalk will cost \$5,500.

Option C - Use the balance of the \$10,000 (i.e \$10,000-\$5,500) to build a small "T" shaped deck off the Victoria Street entry point after the current boardwalk is removed

6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

Recommendation:

That Council:

- 6.1.1 *Manually demolish the current boardwalk entirely;*
- 6.1.2 *Undertake a survey of the residents and ratepayers within the Trentham Township zone to canvas their preference for works on either the following three(3) options utilising the current money allocated to Trentham Township in the Capital works program to the value of \$55,000 comprising either:-*
- a) Rebuild the boardwalk in Bath Street to comply to Australian Standards;**OR***
 - b) Undertake footpath works along High Street as currently communicated to residents abutting the proposed route;**OR***
 - c) Undertake a combination of a small section of the boardwalk in Bath Street and a small section of the proposed footpath along High Street.*
- 6.1.3 *Provide a further report to Council once survey results are collated on the Trentham Township residents and ratepayers preference .*

Motions Moved at Meeting:

That Council:

- 6.1.1 ***Manually demolish the current boardwalk entirely.***

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

- 6.1.2 ***Undertake a survey of the residents and ratepayers within the Trentham Township zone to canvass if they want the boardwalk replaced or not. Note: Survey form should indicate the estimated cost of replacement boardwalk at \$55,000.***

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

- 6.1.3 ***Provide a further report to Council once survey results are collated on the Trentham Township residents and ratepayers preference.***

Moved: Cr Janine Booth
Seconded: Cr Tim Hayes

Carried.

6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

6.1.4 *That the Boardwalk be demolished by interest community groups and that those materials be donated to those interested groups.*

Moved: Cr Bill McClenaghan.
Motion Lapsed for want of a Secunder.

7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

**7.1 CLUNES MUNICIPAL PURPOSES RESERVE COMMITTEE –
APPOINTMENT OF NEW MEMBER**

(A/O – Director Corporate Services)

File Ref: 1/0320/00098

Synopsis

The Clunes Municipal Purposes Reserve Committee (Clunes Town Hall) asked Council to advertise seeking additional members to join the committee.

Report

In response to a request from the Clunes Municipal Purposes Reserve Committee Council placed advertisements in The Advocate on the 22 August 2007 seeking additional members to join the committee.

Council received one expression of interest from Chris Fenner.

Chris is a consulting Civil engineer and has recently been appointed Vice President of the Clunes Tourism and Development Association. After review of the expression of interest, consultation with Cr Hayes and the fact that the instrument of delegation for this committee does not prescribe a certain number of members, it is recommended that Chris Fenner be appointed to the committee.

Relevant Policies / Council Plan implications:

Council Plan 3.1 – Improve the management of our assets

Local Government Act 1989 (S86)

Community / Engagement / Communication / Consultation:

Advertisements calling for expressions of interest were placed in The Advocate

Financial & Resource Implications Initial & Ongoing

Nil

Recommendation:

That Council:

7.1.1 *Appoint Mr Chris Fenner as member of the Clunes Municipal Purposes Reserve Committee*

Moved the Officer's Recommendation.

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

7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

7.2 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 various Section 86 and Advisory Committees for your information:

- Minutes and Agenda of the Clunes Historic Medlyn Complex Committee dated 8 August 2007. (File Ref. 1/030/00070)(Section 86)
- Minutes of the Tourism Advisory Committee dated 24 September 2007(File Ref. 62/12/05) (Advisory)
- Minutes of the Creswick Museum & Gold Battery Committee dated 25 June 2007 (File Ref. 2/7350/02046) (Section 86)
- Minutes of the Wombat Hill Botanic Gardens Advisory Committee dated 30 August 2007 (File Ref. 56/08/04) (Advisory)
- Minutes of the Recreation Advisory Committee dated 23 August 2007 (File Ref.56/10/04) (Advisory)
- Minutes of the Doug Lindsay Recreation Reserve Committee dated 20 September 2007 (File Ref: 2/0340/01370) (Section 86)
- Unconfirmed Minutes of the Heritage Advisory Committee dated 21 September 2007 (File Ref: 66/08/01) (Advisory)

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

7.2.1 *Note the Minutes of the Committees listed above*

Moved the Officer's Recommendation:

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

7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

**7.3 HERITAGE ADVISORY COMMITTEE – COAT OF ARMS RELATING TO THE
FORMER SHIRE OF DAYLESFORD - GLENLYON**

(A/O – Manager Planning)

File Ref: 66/08/02

Synopsis

At its meeting of 21 September 2007, the Heritage Advisory Committee has recommended that Council prepares a report in relation to the Coat of Arms for the former Shire of Daylesford – Glenlyon.

Report

The Committee asked that Council prepares a report back to the Committee on the whereabouts of the former Shire of Daylesford – Glenlyon Coat of Arms, current conditions of the Coat of Arms and Council's intention for the Coat of Arms.

The Coat of Arms is held safely within the Daylesford Town Hall and is in fair condition.

It would appear that many years ago the Coat of Arms was removed from the Hepburn Shire Council Chamber, probably in recognition that the Council Chambers was now the Council Chambers for the entire Hepburn Shire. The honour boards which signify the local government history of the former Shire of Daylesford – Glenlyon have remained within the Council Chambers.

Relevant Policies / Council Plan Objectives

Corporate Plan
Hepburn Planning Scheme

Financial & Resource Implications Initial & Ongoing

No costs for the preparation of this report. There may be costs incurred as Council decides the future of the former Shire of Daylesford – Glenlyon Coat of Arms.

Recommendation

That Council:

7.3.1 *Advise the Heritage Advisory Committee that the former Shire of Daylesford – Glenlyon Coat of Arms is held safely within the Daylesford Town Hall and their current condition is considered to be fair.*

Moved the Officer's Recommendation.

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

7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

**7.4 HERITAGE ADVISORY COMMITTEE – INVENTORY OF HERITAGE ASSETS
FROM FORMER MUNICIPALITIES**

(A/O – Manager Planning)

File Ref: 66/08/02

Synopsis

At its meeting of 21 September 2007, the Heritage Advisory Committee recommended that Council prepares and provides the Committee with a current inventory of heritage assets.

Report

The Committee discussed the need to maintain a current inventory of heritage assets, affecting those of the former shires of Daylesford – Glenlyon, Creswick, Talbot/Clunes and Kyneton.

The inventory is essential for the Committee to better co-ordinate, manage and contribute to the conservation, restoration and reconstruction of heritage assets previously owned by the four shires that amalgamated into Hepburn Shire Council.

Relevant Policies / Council Plan Objectives

Corporate Plan
Hepburn Planning Scheme

Financial & Resource Implications Initial & Ongoing

Costs associated with the research, compilation and presentation of the inventory of heritage assets, considering that some of the assets may not be centrally stored.

Recommendation

That Council:

7.4.1 *Refer to the 2008/9 budget for consideration, the costs to prepare and provide an inventory of heritage assets, cataloguing the assets of former shire councils of Daylesford – Glenlyon, Creswick, Kyneton and Talbot/Clunes that have cultural heritage significance to that of the Hepburn Shire Council.*

7.4.2 *Advise the Heritage Advisory Committee of Council's decision on this matter.*

Moved the Officer's Recommendation.

Moved: **Cr Bill McClenaghan**

Seconded: **Cr Tim Hayes**

Carried.

8. STATUTORY MATTERS

8.1 7 GOLDEN SPRINGS AVENUE, HEPBURN SPRINGS

(A/O – Planning Compliance 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 three 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

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 and Building Departments regarding the need for a planning and 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 5th April 2005 with no satisfactory reply from the respondent.

On the 1st 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

8. STATUTORY MATTERS

demolition of the dwelling, outbuildings and reinstatement of the site and to serve the amended application on the respondent.

On 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;

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 receive 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. A recent inspection from the road side indicates that no works nor attempts to comply with VCAT Enforcement Order P170/2006 have been undertaken. 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 and 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

8. STATUTORY MATTERS

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.

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.

Council's Planning Compliance Officer has met with the owner of the property on site and inspected premises. The owner has agreed to have dwelling and outbuildings demolished at his own cost within 60 days and believes that he can get the job done for a lot less than \$8,500 the price quoted to Council.

Recommendation:

That Council:

- 1 *Give the owner of the property sixty (60) days to demolish the buildings. If this is not done, then Council is to engage contractor(s) to carry out the works required in VCAT Enforcement Order P170/2006 dated 19 July 2006, namely the 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,*

- 2 *That the cost of the work be levied as a charge against the property.*

Moved the Officer's Recommendation.

Moved: Cr Bill McClenaghan

Seconded: Cr Janine Booth

Carried.

8. STATUTORY MATTERS

8.2 PLANNING APPLICATION NO. 2007/9326, PROPOSED: USE & DEVELOPMENT FOR A PLACE OF ASSEMBLY, CONSTRUCTION OF A MONASTERY, TREE REMOVAL & OLIVE GROVE AT 198 DEAN- BARKSTEAD ROAD, ROCKLYN

(A/O - Manager Planning)

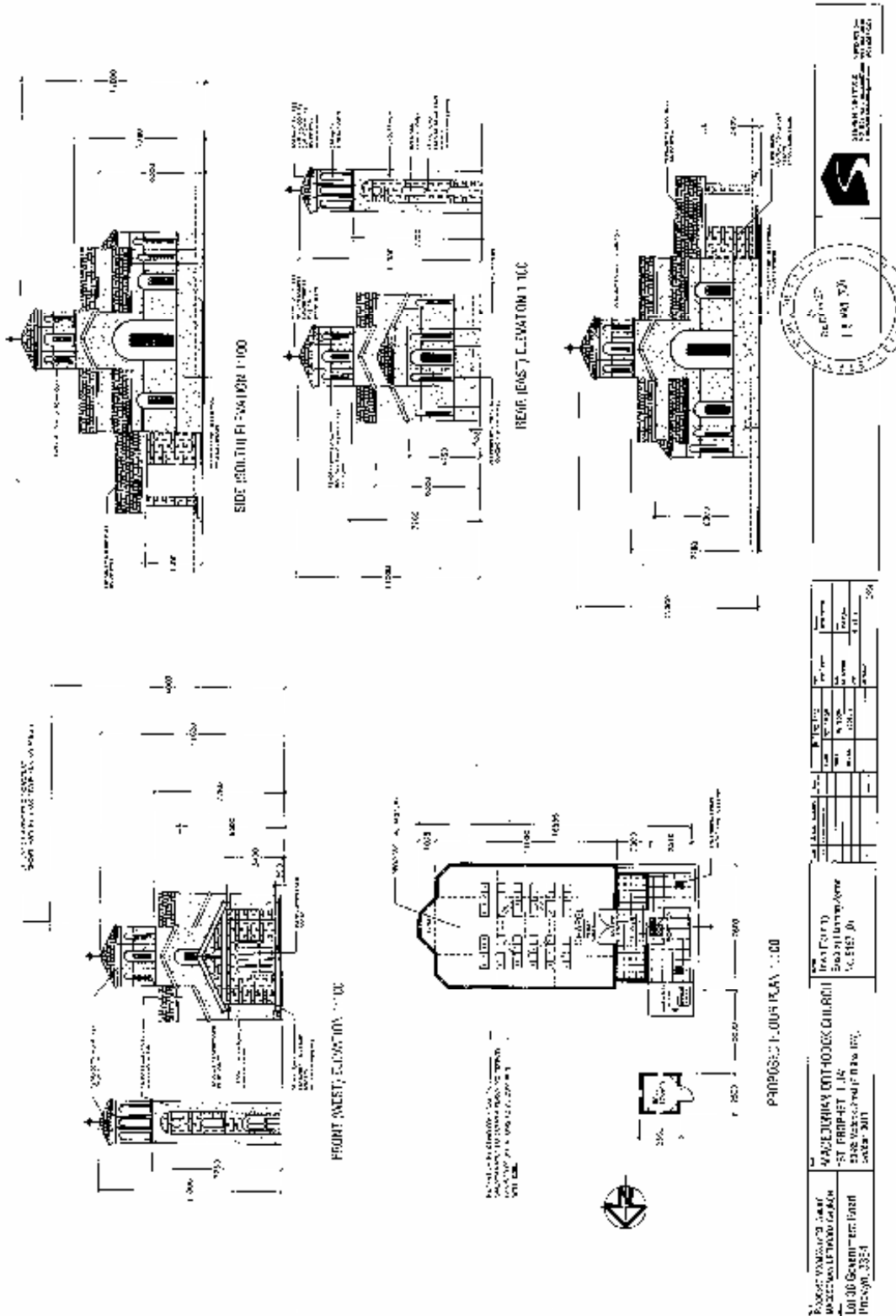
Ref: 3/1950/00420/P

Synopsis

Applicant:	Mr Romeo Georgiev for the Macedonian Orthodox Church
Location:	198 Dean-Barkstead Road, Rocklyn
Proposal:	Use and Development of a Place of Worship (Monastery), Associated Car Parking, Removal of twelve (12) trees & an Olive Farm.
Zoning:	Predominantly Farm Zone with a small portion in the NW corner in Township Zone
Overlay Controls:	Environmental Significance Overlay – Schedule 1 Catchment Protection.
No of Objections received	4
Recommendation	Refuse to Grant a Permit

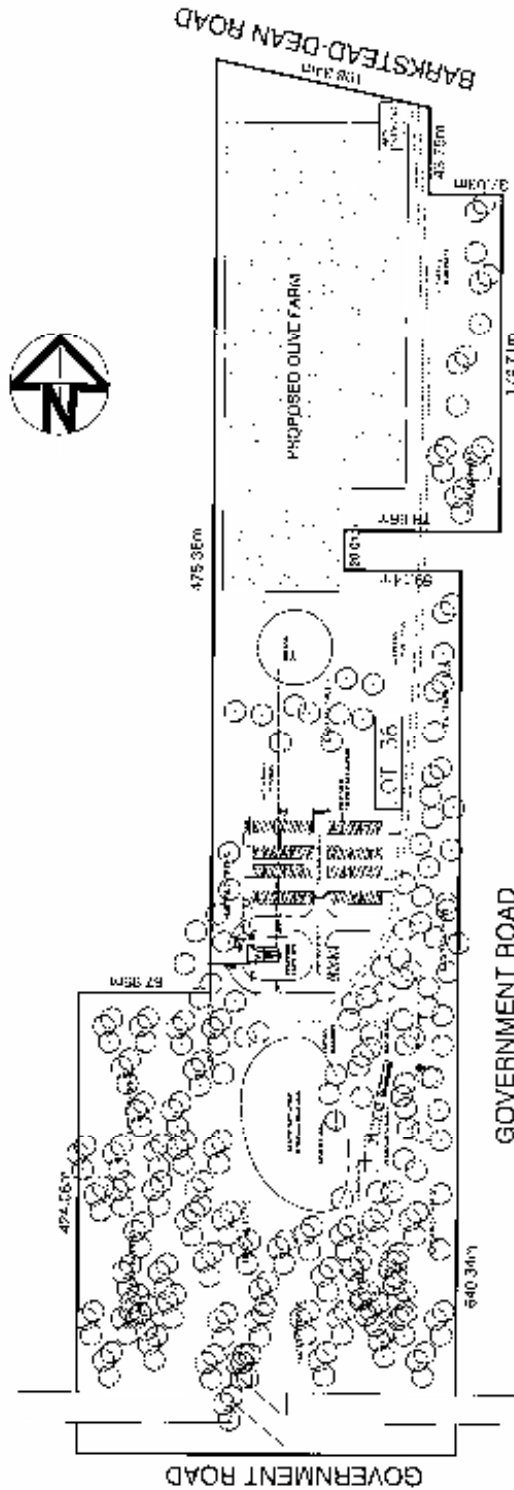


8. STATUTORY MATTERS



Project Name	Wakeburn Methodist Church
Client	Wakeburn Methodist Church
Address	111 Wakeburn Street, Wakeburn, Vic 3091
Date	11 Oct 2007
Scale	1:100
Sheet No	1 of 1
Drawn by	M. White
Checked by	M. White
Project Manager	M. White

8. STATUTORY MATTERS



PROPOSED SITE PLAN 1/1/00



Approved by: Councillor: [Name] Date: [Date]		Approved by: Councillor: [Name] Date: [Date]	
Approved by: Councillor: [Name] Date: [Date]		Approved by: Councillor: [Name] Date: [Date]	
Approved by: Councillor: [Name] Date: [Date]		Approved by: Councillor: [Name] Date: [Date]	



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Report

INTRODUCTION

This report is for Council to make a decision on Planning Application 2007/9326 lodged with Council 28th February 2007.

The Church has used the land for cultural and religious events since 1981 when they received permission to construct a toilet block, shed and garage. A development of a similar size was granted a permit in April 1998 which has been allowed to lapse.

A newspaper article from the mid 1980s reported a gathering of an estimate of 8000 people on one occasion and it was alleged illegal and unsafe fires were lit, toilets overflowed and litter was left behind. There are no recent reports of concern.

The irregular shaped block has a total area of 13.4 hectares over 4 titles. The site has a shed, cleared area, stage, toilet block and water tank. The balance of the land is dense forest.

PROPOSAL

The applicant wishes to construct a brick rendered building 7.6m x 16.6m, 126m². The proposed building will be 11m in height. The features are to be in classic Macedonian style, with terracotta tile roofs, also including a separate bell tower. It is to sit within the foundations of a previous project setback approximately 400 metres from the Dean-Barkstead Road. The minimum setback is approximately 200 metres from the western boundary.

It is stated in the application the site will be used for assemblies of 150 – 250 people ten (10) times a year however a monastery is defined as a residence for community (usually for monks). The application makes reference to a Place of Worship.

Twelve trees are proposed to be removed on CA38 for a car parking area. Eighty (80) car parking spaces are proposed.

An olive orchard is also planned including that part of the land zoned TZ adjacent to the Dean-Barkstead Road.

Several requests have been made for further information relating to the provision of effluent disposal management for the peak numbers of people expected on site and for the numbers of participants in the proposed Monastery. No details for the management of peak participation have been provided.

REFERRAL AUTHORITIES

The proposal was referred as follows:

Goulburn Murray Rural Water Corporation– Further information required
Department of Sustainability and Environment.- No objections, no conditions.

8. STATUTORY MATTERS

REFERRAL WITHIN COUNCIL

Engineering – No objections subject to conditions relating to stormwater and car park construction.

Environmental Health - Required further information.

ADVERTISING/NOTICE OF APPLICATION

The proposal was notified by way of notices to adjoining owners and occupiers, a notice on the land and a notice inserted in the Advocate Newspaper.

The statutory declaration was returned and four (4) objections were received including an objection from Central Highlands Water.

The basis for these objections are as follows

- The proposal is contrary to the purposes of the Farm Zone;
- The development will create a concentration of human activity in a domestic water supply catchment that is a risk to public health;
- The application is not consistent with the State and Local Planning Policy Framework;
- Insufficient toilet facilities;
- Potential for rubbish;
- Potential for fires;
- Inadequate roads for the numbers of people attending;
- Detriment to adjoining farming activities;
- Potential for vandalism.

The proposal is contrary to the purposes of the Farm Zone.

The purpose of the Farm Zone will be discussed in the Assessment Section of this report.

The development will create a concentration of human activity in a domestic water supply catchment that is a risk to public health.

The importance of domestic water supply catchments to the Shire is acknowledged.

The application is not consistent with the State and Local Planning Policy Framework.

The SPPF and LPPF are referred to in the Assessment Section of this report.

Insufficient toilet facilities.

This issue has been covered above.

Inadequate roads for the numbers of people attending.

The Dean – Barkstead Road is a single carriage way with a sealed surface. Councils' last Traffic Count indicates light use of on average 67 cars a day, 4 cars an hour use the road which indicates light use.

Detriment to adjoining farming activities.

The primary purpose of the Farming Zone is to support farming activities. The decision guidelines in the Farming Zone require the issue of compatibility of the proposal with farming activities

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Potential for vandalism, rubbish, and fires.

Council is required to consider the merits of the current application as presented. In the usual course of events conditions would be imposed on any permits that Council issues to control the management of a site.

Relevant Policies / Council Plan implications:

A permit is required:

- To use land in a Farm Zone for a Place of Assembly (Monastery), can only be used on 10 occasions per year. Any more intensive use is prohibited and therefore cannot be considered by Council;
- Buildings and works in the ES01 to develop land in an unsewered area;
- Native vegetation removal for a car park under Clause 52.17;
- Use of land in a Township Zone for agriculture.

STATE PLANNING POLICY FRAMEWORK (SPPF)

The following SPPF provisions are considered relevant:

**Clause 15.01 (Protection of catchments, waterways and groundwater;
Clause 15.09 (Conservation of native flora and fauna) and
Clause 17.05 (Agriculture)**

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

The MSS recognises the outstanding natural and built environment of the Shire and provides for their protection and enhancement. The vision for the future of the Shire emphasises the need for planning to respond sensitively to local characteristics, for sound and sustainable land management practices in both rural and urban environments and a commitment to sustainability. The following provisions are considered relevant:

Clause 21.03-3 Municipal Overview – Settlement,
Clause 21.07 Economic Development and
Clause 21.08 Rural Land Use & Agriculture.
Clause 22.01 relates to Catchment & Land Protection. The policy seeks to promote best practice soil and water management as well as bio-diversity and habitat protection.

The planning policies and controls recognize that a dwelling associated with a farming activity can be approved in certain circumstances. Approval of the current application would however be inconsistent with the above Clauses and objectives due to the absence of information sufficient to ensure an appropriate planning outcome is achieved in terms of environmental values (catchment and water quality). The concerns of Coliban Water and GMWA are significant and require that Council refuse the application. The applicant has had several months to respond to these concerns but has not taken up the opportunity.

It is not clear that the proposal will be consistent with the zone purpose (agricultural production).

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ESO1 - ENVIRONMENTAL SIGNIFICANCE OVERLAY – SCHEDULE 1

The planning controls relating to catchment issues require investigation and clarity with regards future impact. Without the provision of a suitable response, the merits of the application cannot be fully assessed and accordingly the application should be refused. Inadequate information has been provided about septic issues and therefore questions of impact on the catchment area cannot be resolved.

ZONE AND OVERLAY PROVISIONS

The purposes of the Farm Zone are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

The purposes of the Township Zone are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage residential development that respects the neighbourhood character.

Clause 52.06 Particular Provisions relating to car parking.

A place of assembly requires 0.3 spaces per seat or each m² of net floor area.

Clause 52.06 would require 40 car spaces for the use of the building. There is no detail relating to other cultural or religious events 150 -250 people as stated in the application.

80 car spaces are proposed.

ASSESSMENT

Without the significant concern about the extent of peak participation and effluent management required being addressed the whole issue of whether the building should

8. STATUTORY MATTERS

be approved cannot be resolved in favour of the proponent. From the lack of initiative from the applicant it can be assumed that they no longer wish to pursue the matter. The issue of septic treatment is considered to be of fundamental importance with respect to assessing the appropriateness or otherwise of this application.

The SPPF and LPPF along with the zoning provisions require an assessment be undertaken to ensure the proposal will not compromise the amenity of the area.

The Farming Zone places a greater onus on any applicant that they must satisfy the zoning purpose which essentially is that any proposed building is reasonably required for the productive agricultural use of the land.

Clause 52.17 Native Vegetation Framework

The extent of tree removal for the car parking area was clarified through the process of seeking further information regarding the application. The impact of the tree removal is minimal given that a large proportion of the site remains treed. The application was referred to Department of Sustainability and Environment who have no objections to the proposed building.

Community / Engagement / Communication / Consultation:

The applicant is based in Melbourne. There has been no formal community consultation beyond attempts to clarify the proposal and notification.

Financial & Resource Implications Initial & Ongoing

There would be financial implications if any appeal to VCAT results.

Recommendation

That Council having considered all the matters required under Section 60 of the Planning & Environment Act 1987 decide to Refuse to Grant a Permit under the provisions of the Hepburn Planning Scheme in respect of the land known and described as 198 Dean–Barkstead Road, Rocklyn for the purposes of constructing a building to be used as a Place of Assembly (Monastery) on the following grounds:

- 1 *A proper and complete assessment of the application is not possible as insufficient information has been submitted.*
- 2 *Goulburn Murray Rural Water Corporation and Central Highlands Region Water Authority have raised concerns about the proposed effluent management provision.*
- 3 *The proposal is inconsistent with Clause 15.01 of the SPPF (Protection of catchments, waterways and groundwater).*
- 4 *The proposal is inconsistent with Clauses 21 and 22 of the LPPF.*

Moved the Officer's Recommendation:

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

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Carried.

8. STATUTORY MATTERS

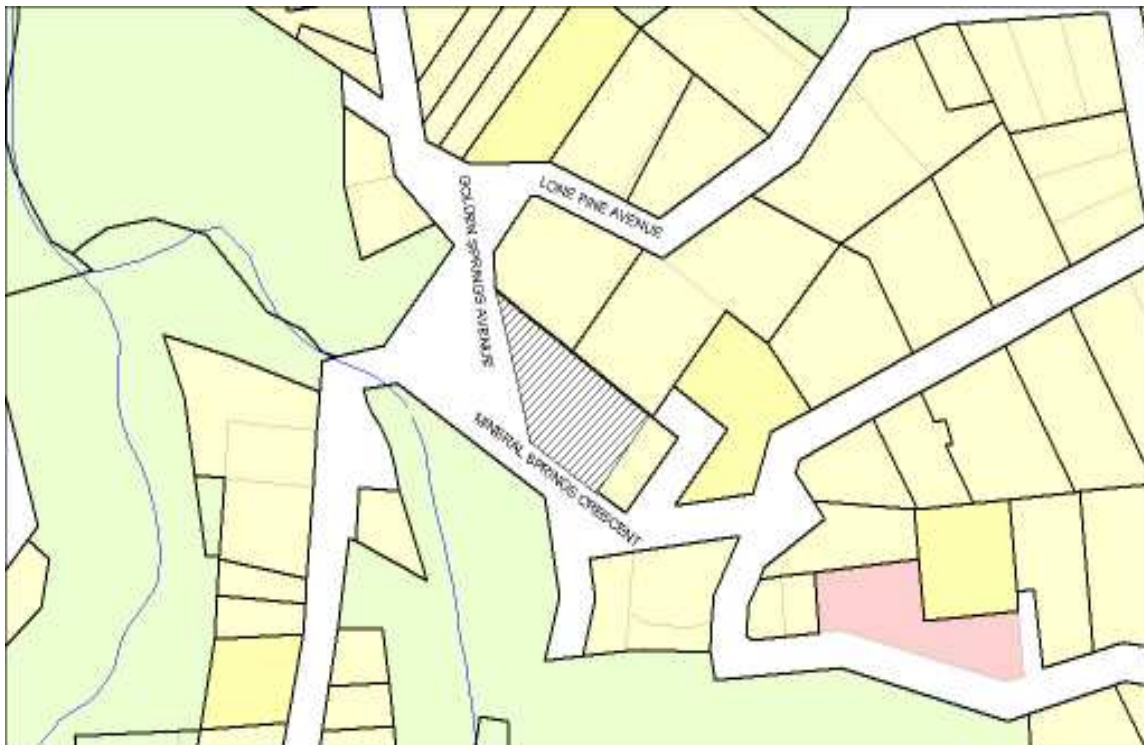
8.3 APPLICATION NO 2007/9340, PROPOSED: DEMOLITION OF EXISTING BED AND BREAKFAST BUILDING (LIBERTY HOUSE) AND CONSTRUCTION OF NEW GROUP ACCOMMODATION CONSISTING OF ELEVEN ONE BEDROOM CABINS.

(A/O – Planning Officer 3)

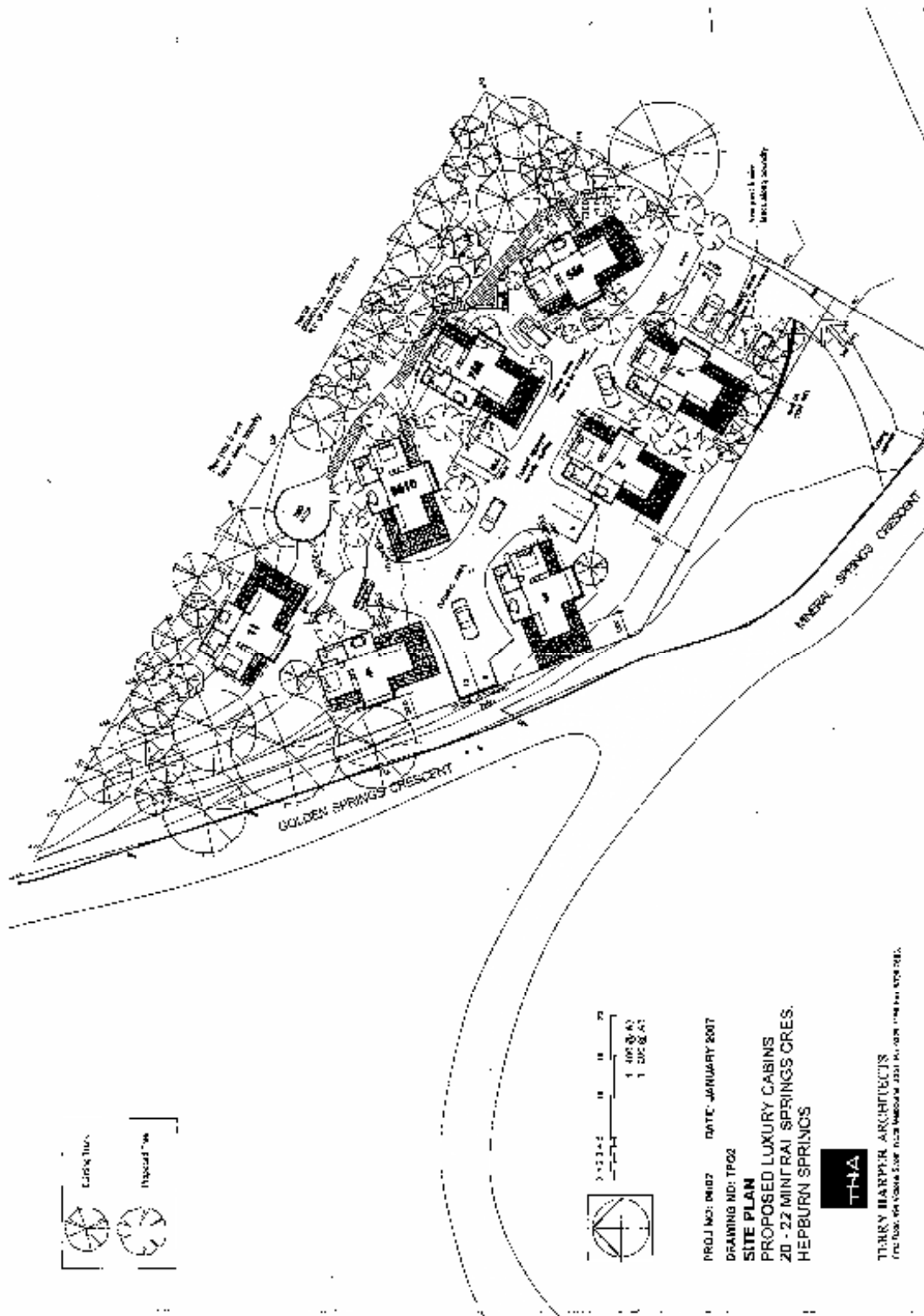
File Ref:3/4680/01300/P

Synopsis

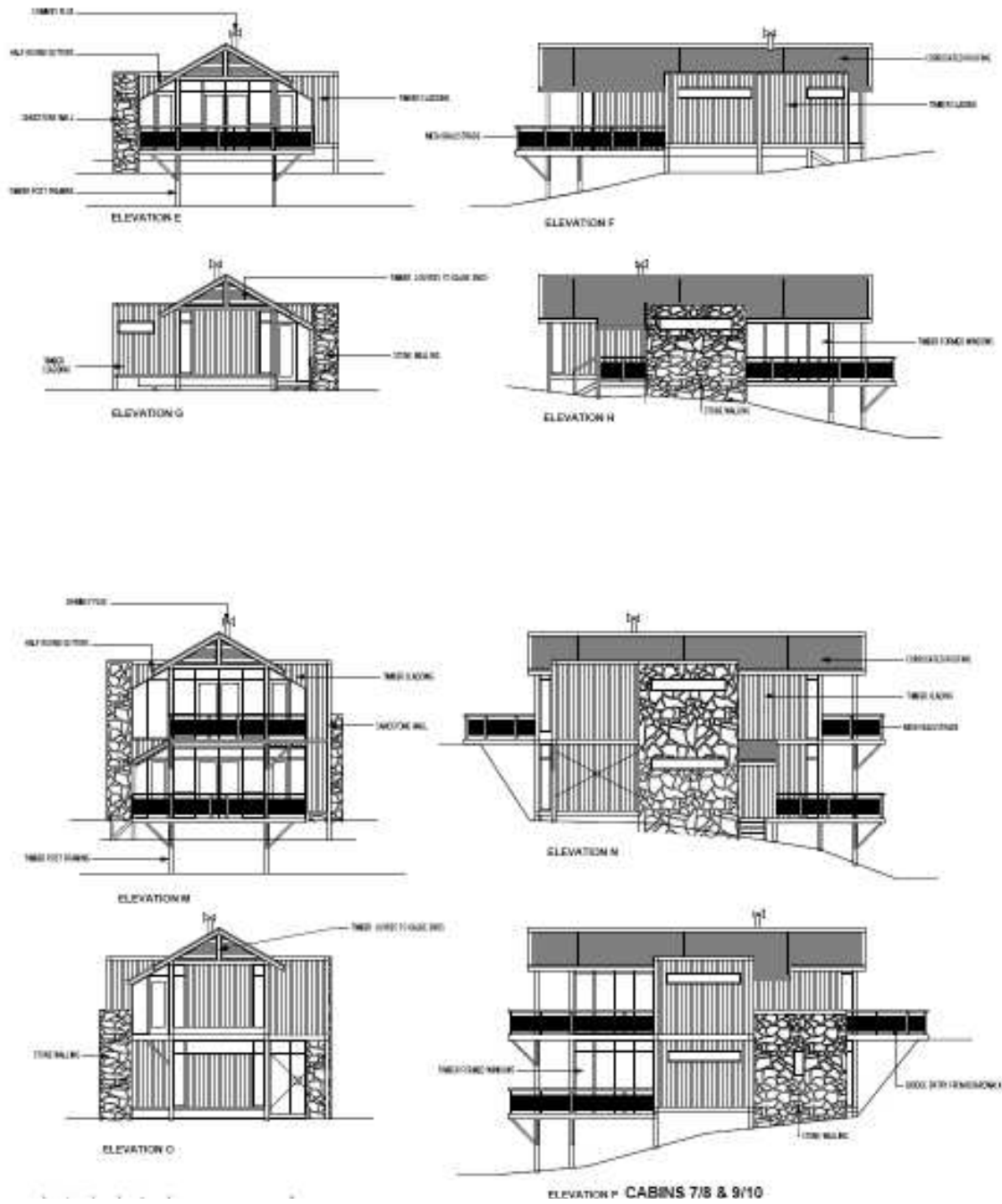
Applicant:	Terry Harper Architects
Location:	20-22 Mineral Springs Crescent, Hepburn Springs
Proposal:	To demolish existing building (Liberty House) and construct eleven one bedroom cabins to be used for group accommodation.
Zoning:	Residential One
Overlay Controls:	Environmental Significance Overlay - Schedules One and Two Wildfire Management Overlay
No of Objections Received:	Two
Recommendation:	To issue a Notice of Decision to Grant a Permit with conditions.



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8. STATUTORY MATTERS



8. STATUTORY MATTERS

Report

INTRODUCTION

This report has been prepared to assist Council in reaching a determination on the application to redevelop the site at 20-22 Mineral Springs Crescent.

The site, which has an area of 3937 square metres, rises from a steep embankment on the South West abutting Golden Springs Crescent, and a gentler slope from Mineral Springs Crescent, to a relatively flat central area. This is the area from which it is proposed to access the new dwellings. The rear of the site rises steeply to the North East. There is an existing building on site, Liberty House guest house, which is serviced with a gravel driveway and car parking lot. Vegetation on the site comprises both native and exotics, with the main visual effect being of Pines, Eucalypts, Oaks and Cherries.

Properties immediately adjoining are generally vegetated and undeveloped, with the exception of 3 Lone Pine Avenue, which has a dwelling near the north west corner, about 38 metres from the common boundary with the subject site. Opposite, over the road is the Hepburn Mineral Springs Reserve and Bath House.

PROPOSAL

The proposal is to demolish the existing building. This is to be replaced by five single storey and three double storey buildings comprising eleven dwellings to be used for group accommodation. The proposed timber clad buildings with sandstone feature walls are to be constructed on raised timber post foundations to avoid significant disturbance to the ground, and also as a response to the slope constraints of the site.

A meeting with the applicant was held on site to discuss vegetation issues. Subsequently a Landscape Management Plan, detailing trees to be retained and new plantings proposed, was submitted as part of the application.

REFERRAL AUTHORITIES

Applications for buildings and works in areas covered by the Environmental Significance Overlay (schedules one and two) are to be referred to the DSE and the relevant water authority under section 55 of the Planning and Environment Act. In this instance however, memoranda of understanding with DSE and Goulburn Murray Rural Water Corporation indicate that the proposal not be referred to them. This relates to the small scale of any site cutting and vegetation removal involved, which is more than thirty metres from a watercourse, and the dwellings being connected to reticulated sewerage.

The application was referred under section 55 to the Country Fire Authority.

The application was referred under section 52 to DSE for their advice, and because they are the land management authority for the adjoining public land. Their response included a number of requested conditions for any permit. Those relating to native vegetation offset planting are considered inappropriate as a permit is not required for

the removal of native vegetation on a lot of less than 0.4Ha in one ownership. Conditions related to erosion control during and after construction are reasonable.

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REFERRAL WITHIN COUNCIL

Environment Officer – requested landscape management plan.

Heritage Adviser – no objection.

Environmental Health Department – requested one condition: registration of premises.

Engineering – no objection subject to conditions.

ADVERTISING/NOTICE OF APPLICATION

The application was advertised widely by post to neighbouring properties, by placing a sign on the site, and a notice in the “Advocate” newspaper. Two fairly detailed objections were received. A summary and response is included under the assessment below.

Relevant Policies / Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

Clause 15 - Environment and Clause 16 - Housing are considered relevant. Discussion of this would however be repetitive, as the objectives of these clauses are effectively expressed through the zone and overlay provisions covered below.

Clause 17.04–Tourism is relevant. The objective is to encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination. This gives clear policy support to the proposal.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

The MSS recognises the importance of tourism and its development role in towns such as Daylesford and Hepburn Springs at clause 21.01-7.

Clause 22.01 – Catchment and Land Protection. It is policy where a permit is required for use and development to ensure proposals minimise the removal, destruction and lopping of native vegetation, and include a schedule of replanting of local indigenous species. This can be achieved through suitable permit conditions.

ZONE AND OVERLAY PROVISIONS

Residential One Zone:

A permit is required under the provisions of the Zone for use as Group Accommodation. Though there is an existing use, this use is as a Bed and Breakfast, so what is proposed is a change of use due to accommodation taking place in a number of dwellings rather than a single dwelling. It should be noted however that the proposed use is no more intense than the current use in terms of how many people it is

proposed to accommodate away from their normal place of residence. The current building provides 13 bedrooms, and the proposal is for 11 single bedroom units. The purpose of the zone is:

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- (a) To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- (b) To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.
- (c) To encourage residential development that respects the neighbourhood character.
- (d) In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

Assessment against (a) has been considered above.

- (b) The proposal provides for residential development. The dwelling density, when viewed in the context of the surrounding residential area, provides for range of density and variety of dwellings.
- (c) Neighbourhood character demonstrates an eclectic mix of architectural styles, with a predominance of timber for cladding and corrugated iron roofing. Vegetation, both native and exotic, forms a major element in the surrounding area. The proposal is not out of keeping with this character in its built form and there has been provision made for the extensive retention of vegetation on the site.
- (d) is not relevant to the current proposal.

A permit is required under the provisions of the zone for more than one dwelling on a lot. In exercising discretion, consideration must be given to the State Planning Policy Provisions and the Local Planning Policy Provisions, already done. Consideration must also be given to the objectives, standards and decision guidelines of Clause 55. An analysis of the application against the requirements of Clause 55 of the planning scheme is attached below.

		Standard	Objective	
B1	Neighbourhood Character	✓	✓	Design responds to topography, vegetation and built form.
B2	Residential Policy	✓	✓	Meets relevant State and Local Planning Policies. Design response is appropriate.
B3	Dwelling Diversity	✓	✓	Mix of single and two storey. The cabins also represent diversity in the context of the surrounding neighbourhood.
B4	Infrastructure	✓	✓	Connected to existing reticulated services.

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B5	Integration with Street	✓	✓	Good vehicle and pedestrian links. No fencing at front. Dwellings at front visually address the street, though direct access is impractical due to steep embankment.
B6	Street setback	✓	✓	Meets requirements
B7	Building Height	✓	✓	Max. allowed, sloping site, 10m. Maximum in proposal 9.4m.
B8	Site coverage	✓	✓	19%
B9	Permeability	✓	✓	20%
B10	Energy efficiency	✓	✓	No impact on adjoining lots. It has not been practicable to locate all living areas on north of dwellings due to the orientation and slope of the site.
B11	Open space	✓	✓	Communal BBQ area provided meets objectives and standards.
B12	Safety	✓	✓	Layout allows for safety and security
B13	Landscaping	✓	✓	Minimal disturbance to existing landscape and vegetation. Management plan meets objectives.
B14	Access	✓	✓	Meets standards and objectives.
B15	Parking location	✓	✓	Reasonably convenient to dwellings, secure and allows for safe movement.
B16	Parking provision	✓	✓	One space provided for each single bedroom dwelling plus two visitor spaces on site.
B17	Side and Rear setbacks	✓	✓	Setbacks provided are greater than required.
B18	Walls on boundaries	✓	✓	No walls on boundaries
B19	Daylight to existing windows	N/A	N/A	Nearest neighbouring dwelling is over 40m away, so this is not a relevant consideration.

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B20	North facing windows	N/A	N/A	ditto
B21	Overshadowing	N/A	N/A	ditto
B22	Overlooking	N/A	N/A	ditto
B23	Internal views	✓	✓	Meets requirements, largely because of the extent of separation between the proposed dwellings.
B24	Noise impacts	✓	✓	No external noise sources.
B25	Accessibility	✓	✓	Ground floor dwellings could be made easily accessible to people of limited mobility through the provision of ramps.
B26	Dwelling entry	✓	✓	All dwellings will have identifiable access
B27	Daylight to new windows	✓	✓	Meets requirements
B28	Private open space	✓	✓	Raised timber decks ranging from 19 to 28m ² provide adequate private open space.
B29	Solar access to open space	X	✓	Site constraints make it unsuitable to locate private open space on north of dwellings. Adequate solar access is however achieved.
B30	Storage	X	✓	Internal storage is considered adequate for dwellings used for holiday accommodation.
B31	Design detail	✓	✓	Design is appropriate
B32	Front fence	N/A	N/A	No front fences proposed
B33	Common property	✓	✓	Common property is functional and easily managed.
B34	Site services	✓	✓	Central bin storage area.

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Environmental Significance Overlay

Under the overlay a permit is required to construct a building or carry out works, and to remove, destroy or lop any vegetation.

Schedule One – Proclaimed Catchment Protection: The environmental objective to be achieved is stated in the schedule as follows:

- To protect the quality of domestic water supplies within the Shire and the broader region.
- To maintain and where practicable enhance the quality and quantity of water within watercourses.
- To prevent increased runoff or concentration of surface water leading to erosion or siltation of watercourses.
- To prevent erosion of banks, streambeds adjoining land and siltation of watercourses, drains and other features.
- To prevent pollution and increased turbidity and nutrient levels of water in natural watercourses, water bodies and storages.

The proposed development will cause minimal ground disturbance due to the construction on stumps. Though some site cutting and earthworks are involved in the driveway and parking construction, these are not extensive. Permit conditions as suggested by DPCD will control erosion and sediment runoff. Vegetation removal is likewise minimal, and with the schedule of new plantings to be undertaken, the effect on water flows etc. will be negligible. The density of dwellings is not high, so stormwater will not be significant. All stormwater will be directed to an appropriate drainage system.

Schedule Two – Mineral Springs and Groundwater Protection: The environmental objective to be achieved is stated as follows:

- To protect the mineral springs, their aquifers and their environs from the impacts of effluent and drainage.
- To protect water bores that provide town water supply.

All effluent disposal is through reticulated sewerage. Drainage issues are the same as for ESO1, and the proposal will not have an adverse impact as detailed above. There is no conceivable impact on water bores from the proposal.

It is to be noted already that a permit for the removal of native vegetation under clause 52.17 is not required as the lot is less than 0.4Ha in area.

Wildfire Management Overlay: The views of the CFA have been sought through section 55 referral. Appropriate measures can be put in place through permit conditions to ensure an adequate response to the level of fire danger.

ASSESSMENT

Support for the proposal has been demonstrated by a detailed consideration against the relevant clauses of the planning scheme. That part of the proposal which involves the demolition of Liberty House has not been considered. Under clause 62.05 of the Hepburn Planning Scheme, a permit is not required for the demolition or removal of a building unless a permit is specifically required for demolition or removal. The Zone and Overlay controls applying to the subject site do not specifically require such a permit.

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Consideration must now be given to the objections to the proposal. The objections are summarised under eight headings, with responses following.

- 1 The development is too intensive for the site and not in keeping with the character and general amenity of the locality.
- 2 The set back of the proposed development (unit 11) from the rear boundary adjoining 3 Lone Pine Avenue is inadequate.
- 3 Lack of clarity as to whether there is any provision for private open space for each dwelling.
- 4 Double storey units not in keeping with streetscape and planning attributes of the locality (neighbourhood character).
- 5 Concern over use of water for spas, and how it relates to Shire Draft Water Policy.
- 6 Noise concerns, especially relating to spa motors and air conditioning units. Also noise emanating from hot tubs placed externally on balconies.
- 7 Heritage concerns relating to demolition of Liberty House.
- 8 Concern over energy efficiency of proposed dwellings.

Response:

- 1 The proposal is for eight separate dwellings on a site of 3971m². This is a density of 496m² per dwelling. This is not a particularly high density, especially as the five single storey dwellings have only one bedroom each, and the two storey buildings have two bedrooms each. As noted above, the proposal is not considered to be out of keeping with the neighbourhood character. It must be acknowledged that in the absence of a neighbourhood character overlay, the assessment of neighbourhood character can be somewhat subjective. General amenity of the locality is too vague a concept to objectively assess. Consideration of amenity has been made in the attached clause 55 assessment.
- 2 Unit 11 is set back 4.3m from the rear boundary. With a wall height of 4m, the minimum setback required under clause 55 is 1.12m. The dwelling on the neighbouring property is 38m from the common boundary.
- 3 Provision for private open space is made, and is considered in the attached clause 55 assessment.
- 4 There are a number of two storey buildings in the vicinity. Indeed Liberty House itself, which it is proposed to replace, is a substantial two storey building.
- 5 The Shire Draft Water Policy describes the role of Council as being one of influence and leadership in water sensitive urban design. However the control or restriction of water use within dwellings lies outside the ambit of planning discretion. It is worth noting in passing that the spas proposed are of a capacity that would be considered quite normal for a residential dwelling.
- 6 As with the spas themselves, the spa motors would be considered quite normal to a dwelling. No external air conditioning units are proposed. The six hot tubs proposed are unlikely to be the source of any more noise disturbance than normal recreational activities that take place in outdoor entertainment areas.
- 7 Heritage overlay controls apply to a large number of individual buildings and precincts identified throughout the Shire. Liberty House is not covered by such an overlay, so its demolition is not a matter that can be assessed against heritage considerations. Indeed, the demolition does not require a planning permit at all. This is not to say that heritage concerns are not genuine in the public mind. Consequently the Shire's Heritage Adviser was consulted informally on the matter.

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- 8 Energy efficiency of proposed buildings is a matter that will be addressed through the building code and its requirement for a 5 star House Energy Rating to be achieved.

Community / Engagement / Communication / Consultation:

Public notification of proposal and plans available for inspection.

At the time of writing the report the CFA had not replied. Any conditions received by the Responsible Authority, from the CFA as a referral authority, before making a decision would need to be included in the permit.

Financial & Resource Implications Initial & Ongoing

None foreseen.

Recommendation

That Council having caused notice of Planning Application No.2007/9340 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 Clauses 32.01, 42.01 and 44.06 of the Hepburn Planning Scheme in respect of the land known and described as 20-22 Mineral Springs Crescent, Hepburn Springs, for the Construction of Eleven One Bedroom Cabins to be Used For Group Accommodation in accordance with the endorsed plans, with the application date 14/03/2007, subject to the following conditions:

- 1 *Before the development starts, the applicant must submit a weed management plan for approval by the Responsible Authority. Once approved the plan will be endorsed and form part of the permit. This plan must show the following:*
 - *Identify environmental weed species existing on the site.*
 - *Detail measures to be taken to control weeds prior to commencement of construction.*
 - *Detail ongoing measures to be taken to avoid reinfestation.*
- 2 *Before the development starts, amended plans must be submitted to and approved by the Responsible Authority. These plans must be generally in accordance with the landscape plans submitted showing trees to be retained, but modified to show:*
 - *Schedule of species of proposed new tree and shrub plantings. [Council encourages the planting of locally indigenous and drought tolerant species].*
- 3 *Reasonable steps must be taken to ensure there is no damage during construction to trees identified for retention on the endorsed landscape plan. To this end, copies of endorsed plans must be kept on site during construction, and made available to contractors undertaking works.*
- 4 *The development as shown on the endorsed plans must not be altered.*

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Council's Engineering Department:

- 5 *Stormwater is to be directed to the legal point of discharge being the Mineral Springs Crescent drainage system.*
- 6 *All underground or 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 commencement of construction. Such drainage works shall include the provision of an on-site stormwater detention system designed to the satisfaction of the Responsible Authority and installed to transport run-off from the subject land and surrounding land or adjoining roads to the approved point of discharge. No stormwater shall drain or discharge from the land to adjoining properties.*
- 7 *Access and egress to the property shall be in a forward motion. Vehicle turn around access must be provided off-street within the property.*
- 8 *Parking to comply with AS 2890.1 Parking Facilities – Off-Street Car Parking.*
- 9 *Internal roads to be constructed for all weather access.*
- 10 *All costs incurred in complying with the above conditions shall be borne by the applicant.*

Council's Environmental Health Department

- 10 *If food of any sort is provided for guests, the following condition applies.*
- 10.1 *The premises must be registered with Council under the Food Act 1984.*

Department of Sustainability & Environment

- 11 *To prevent the spread of weeds and pathogens, all vehicles and machinery must be made free of soil, seed and plant material before being taken to the works site and again before being taken from the works site.*
- 12 *The access driveway must be provided with an all-weather surface, to the satisfaction of the Responsible Authority.*
- 13 *To avoid damage to waterways, all silt from earthworks, batters and drains must be retained on site during and after the construction stage of the project, to the satisfaction of the Responsible Authority. This must be achieved by:*
- a) establishing workable sediment traps;*
 - b) table drains and cut-off drains must be designed and constructed in such a manner to reduce water velocity and subsequent soil erosion;*
 - c) batters steeper than 3:1 (horizontal:vertical) must be avoided;*
 - d) topsoil must be spread over batters 70 to 100 millimetres thick;*
 - e) all exposed areas of soil must be stabilised to prevent soil erosion;*

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- f) *Vegetation comprising non-invasive species must be established as soon as possible upon completion of earthworks*
- 14 *This permit will expire if one of the following circumstances applies:*
- *The development is 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 these periods if a request is made in writing before the permit expires or within three months afterwards.*

Moved the Officer's Recommendation with Condition 15 added:

15. ***That prior to any demolition of the existing building (known as Liberty House), the applicant be required in consultation with the Heritage Advisor to provide to the Responsible Authority, a photographic record of that building (internally and externally).***

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

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8.4 APPLICATION NO. 2007/9425, PROPOSED: CONSTRUCT A NEW DWELLING AND ATTACHED GARAGE AND NATIVE VEGETATION REMOVAL.

(A/O – Planning Officer 1)

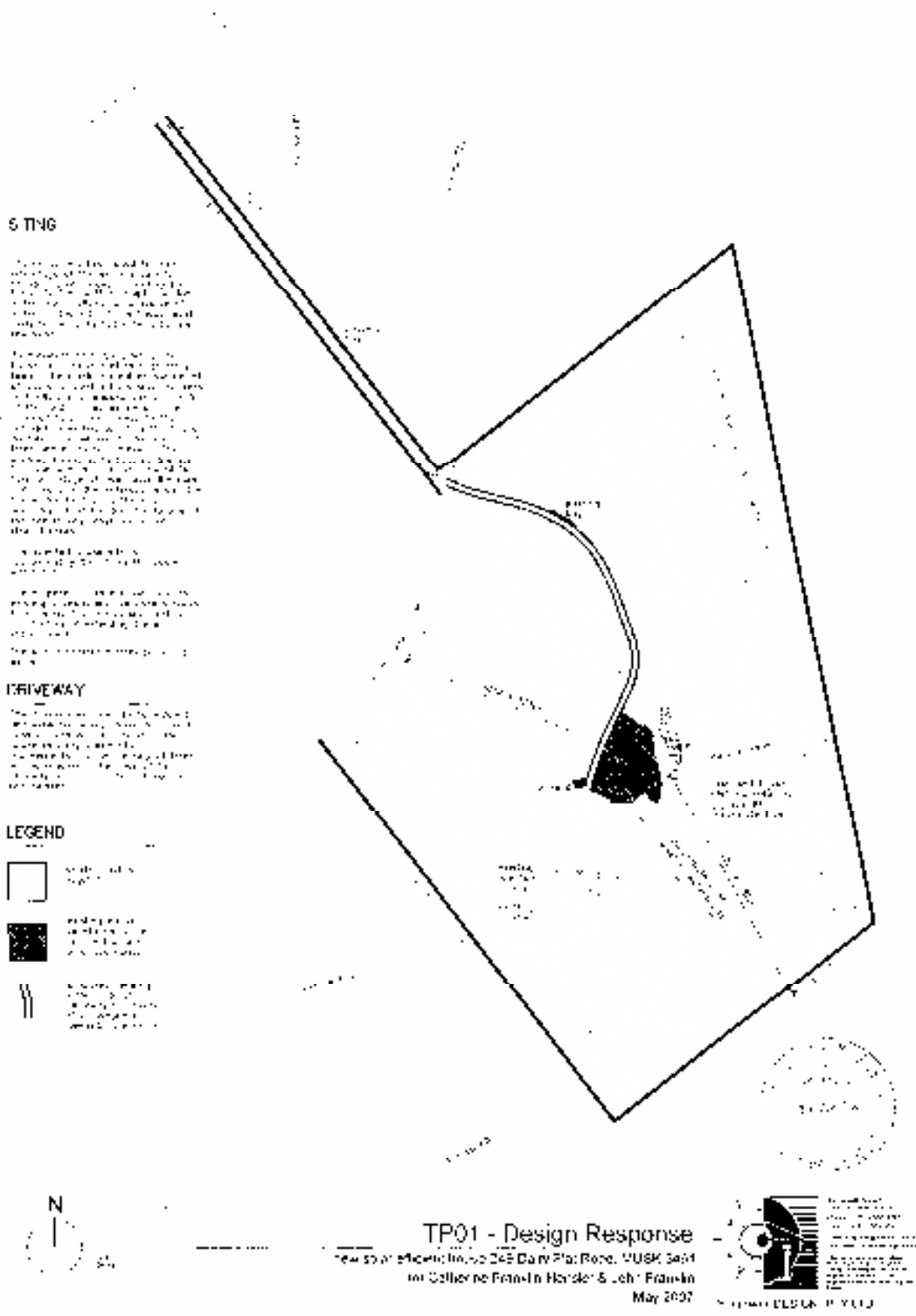
File Ref: 4/1875/00900/P

Synopsis

Applicant	Con Tsourounakis
Location	249 Dairy Flat Road, Musk
Proposal	Construction of a New Dwelling and attached garage and native vegetation removal
Zoning	Farming Zone – Area 3
Overlay Controls	ESO1, WMO
No of Objections received	Nil
Recommendation	Refuse to Grant a Permit



8. STATUTORY MATTERS



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Report

INTRODUCTION

A new application for a dwelling and shed on the land was received on 12th June 2007.

Planning approval (permit no. 4651(D)) for the use and development of a detached dwelling was issued by Hepburn Shire Council on 24 April 1996. However, this permit has since expired. The Farming Zone was introduced and applied to the land in October 2006.

PROPOSAL

It is proposed to construct a partly two-storey, 5 bedroom dwelling and shed on a Farming Zoned property of 15.21ha in accordance with the attached plans.

The land is contained in four parcels, is irregular shaped (battleaxe) and is on the southern side of Dairy Flat Road. Vehicle access is via a driveway on the property's north-western corner, Ford Creek forms part of the northwest boundary and Leitches Creek watercourse runs approximately 30 metres inside the property and generally parallel to the eastern boundary.

The property abuts the Wombat State Forest to the east and is covered in extensive native vegetation. A large horticultural property is located on land to the immediate west and other properties along and across Dairy Flat Rd are used for grazing and other agricultural activities.

There is an existing storage shed located at the centre of the property and a small dam. The property is serviced with electricity and telecom services. There are only 3 small cleared areas on the property.

The proposed dwelling site is approximately 177 square metres in area. The construction of the dwelling will require the removal of 400 m² of native vegetation including 62 Eucalypt trees, some reaching as high as 25 m, although most are around 20m tall.

The subject land is identified in Council's 'Rural Areas Review' as of 'Very High' quality towards the western boundary and 'Average' agricultural quality to the east. Surrounding land holdings are generally large grazing/horticultural properties. Daylesford is approximately 6 km to the west of the subject site. However, land zoned Rural Living – which would be suitable for dwellings - is located 2.2km away to the south at Bullarto.

REFERRAL AUTHORITIES

The application was referred as follows:

Section 55 Notification

Goulburn-Murray Rural Water Corporation (GMW) - advised there was no objection, subject to conditions regarding wastewater disposal.

Department of Sustainability and Environment(DSE) - advised there was no objection, subject to a condition regarding wastewater treatment.

Country Fire Authority (CFA) - advised there was no objection, subject to conditions regarding fire protection measures.

Section 52 Notification

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Central Highlands Region Water Authority (CHWA) - advised there was no objection.

REFERRAL WITHIN COUNCIL

The application was referred to Council's Environmental Health Department. There was no objection to the proposal subject to conditions regarding a septic tank permit.

ADVERTISING/NOTICE OF APPLICATION

The application was advertised to adjoining property owners/occupiers and by placing a sign on the land. The notification process was satisfactorily completed and no objections were received.

Relevant Policies / Council Plan implications:

Council Plan 2006-2011 – the relevant objective to this application is key objective no. 5 that 'Council, in partnership with our community will ensure that our cultural, natural and built environment is protected, conserved and enhanced for future generations.'

STATE PLANNING POLICY FRAMEWORK (SPPF)

Clause 11.03 - Principles of land use and development planning

Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and Safety;
- Prevention of pollution to land, water and air;
- Protection of environmentally sensitive areas and natural resources.

In order to uphold these principles, planning should prevent environmental problems created by siting incompatible land uses close together. In this case, the approval of a new dwelling on land which is

- a) identified as environmentally sensitive (ESO1 overlay), and which is
- b) without sufficient justification (no agricultural use is proposed),
- c) will lead to increased risk of pollution to land and water (due to on-site effluent disposal), and
- e) increased risk to life and property from wildfire (WMO overlay and adjacent Crown Land will contribute)

would not be in keeping with the objectives of planning in Victoria. As such, this proposal is not supported by this policy.

Clause 15.07 - Protection from wildfire

The objective of this policy is to assist the minimisation of risk to life, property, the natural environment and infrastructure from wildfire. The subject site is affected by the Wildfire Management Overlay and, as such, has been identified as being at risk from wildfire. The objective of this policy for local government is to avoid intensifying the risk of wildfire through inappropriately located uses or developments. The approval of this application would unnecessarily increase the risk to life and property from wildfire without any justification. As such, this proposal is not supported by this policy.

15.09 - Conservation of native flora and fauna – The objective of this policy is to assist the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals. This proposal to use the land for a dwelling (including the clearing of 400 m² of native vegetation) without sufficient justification is not supported by this policy.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

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22.04 Rural Land – the relevant objectives of this policy are to ensure that rural amenity is not adversely affected by use or development in rural areas, and to provide for the erection of dwellings on rural lots *where associated with and required to support a productive agricultural enterprise.*

This proposal for a dwelling fails to meet the objectives of this policy as the dwelling is not associated with or required to support a productive agricultural use on the land.

ZONE AND OVERLAY PROVISIONS

Farming Zone – the purpose of the zone is to provide for the use of the land for agriculture and to ensure that non-agricultural uses (especially dwellings) do not adversely affect the use of the land for agriculture. A planning permit is required to use and develop the land for a dwelling under Clause 35.07-1 as the land is less than 20 hectares in area.

Accordingly, pursuant to Clause 35.07-5 (Application requirements for dwellings) of the Planning Scheme, the applicant was requested to provide a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings. An assessment of the application against the relevant decision guidelines in the Farming Zone follows:

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.

The land is identified as of partly 'average' and partly 'very high' agricultural quality by Council's 'Rural Areas Review'. The property has previously been cleared but has remained uncleared since that time. The land still retains the potential to be used for agricultural production (e.g. timber production, horticulture or similar). The proposed dwelling does not relate to any proposed agricultural use on the property and as such, will result in the loss of potentially productive agricultural land.

- Whether the dwelling is reasonably required for the operation of the agricultural activity on the land.

The proposed dwelling does not relate to any proposed agricultural use on the property and as such is not reasonably required for agricultural operations.

- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.

Subject to appropriate siting of the dwelling, it is unlikely that the proposed dwelling will be adversely affected by surrounding agricultural uses.

- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

The use of the land for a dwelling will limit the possible expansion of nearby agricultural activities by removing the subject land from agricultural production and effectively pricing local farmers out of the market for the land.

- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

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There are a number of similarly sized, zoned and well-vegetated land parcels in and around Musk that are currently not used for dwellings. There are appropriately zoned (Rural Living and Township) and cleared land parcels approximately 2.2 km to the south at Bullarto. These parcels are not currently developed with dwellings.

Approval of this application on Farming Zoned land, not associated with agricultural uses, where there is sufficient local supply of undeveloped Rural Living and Township Zoned land, has a high potential to lead to a proliferation of dwellings in the surrounding Farming Zoned area which is mostly of average or very high agricultural quality and well-treed and should be protected from this sort of development.

- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.

The vegetation on the proposed dwelling site is classified as Herb-rich Foothill Forest (considered Depleted within this (Central Vic Uplands) Bioregion) or Shrubby Foothill Forest (considered of Least Concern within this Bioregion).

The Tree Assessment submitted with the application described the vegetation as follows:

“The subject land is almost completely covered in native vegetation, these trees are semi-mature in age, remnants and regrowth from previous land clearances. These trees are actively growing at the present time. The forest canopy is continuous across the main body of the property.”

“The eucalypt trees comprising the canopy are mostly Messmate mixed with others. The ground is open, mostly covered in native grasses with Heath, small Acacia species etc growing amongst the Eucalypt trees. There is minimal structural damage to the roots of the trees as the forest has remained mostly undisturbed since it was last cleared.”

“The health of most of the trees in the building envelope is mostly fair, typical for their age in this location.”

400 metres squared of native vegetation is required to be cleared to accommodate the proposed building envelope. The proposed dwelling site is located in the midst of the vegetated block and will result in the fragmentation of the existing native vegetation. There are other areas on the subject property which would cause less fragmentation to the vegetation (i.e. close to the front of the lot, on the edge of the forest), and, as such, the proposed siting of the development is contrary to this decision guideline.

- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.

As described above, the use and development of this land for a dwelling is likely to lead to the fragmentation and gradual incremental loss of native vegetation on the property. As there is no agricultural use proposed with this application, once the vegetation is lost the land is likely to remain vacant, become infested with local weeds and pests and may adversely affect the

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Crown Land abutting the property by becoming a source of pest plants and animals.

Environmental Significance Overlay – Schedule 1 (ESO1) – the purpose of this overlay is to protect and enhance the quality of water in the Shire's water catchments. This application was accompanied by an LCA that concluded all wastewater from the proposed dwelling could be adequately retained and treated on site. The application was referred to Council's Environmental Health department and there was no objection. The application was also referred to Goulburn-Murray Rural Water Corporation who advised that there were no objections to the granting of a permit. This proposal is considered to meet the objectives of this overlay.

Wildfire Management Overlay (WMO) - the purpose of this overlay is ensure that development which is likely to increase the number of people in the overlay area satisfies the specified fire protection objectives and does not significantly increase the threat to life and surrounding property from wildfire. The use and development of this heavily treed land for a dwelling is likely to increase the number of people in the overlay area and significantly increases the threat to life and surrounding property from wildfire. This proposal will not meet the objectives of this overlay.

ASSESSMENT

There is no agricultural use proposed on the land, although it has been cleared in the past. The proposed dwelling on approx. 15 hectares of Farming Zoned land which is not associated with or required for an agricultural use would result in the loss of that land from potentially productive agricultural use.

The proximity of the subject land to appropriately zoned Rural Living lots (in Bullarto) does not confer that Rural Living uses are desirable on nearby Farming Zoned land. In fact, the availability of appropriately zoned land for rural residential purposes reduces the requirement for a dwelling on inappropriately zoned land in its vicinity. Leaching of Rural Living uses into Farming Zoned land results in disorderly planning, affects the amenity of the farming area and prejudices the future use of land for farming. The dwelling is not reasonably required on Farming Zoned land when there are Rural Living Zoned lots available nearby in the Shire.

The proposal would set an unfavourable precedent of approving rural residential-type applications in agricultural areas in the Shire.

The proposal is not consistent with the purpose of the Farming Zone or the Wildfire Management Overlay, is not supported by State or Local Planning Policy and therefore should be refused.

Community / Engagement / Communication / Consultation:

Notification of the proposal was undertaken and plans available for inspection.

Financial & Resource Implications Initial & Ongoing

Potential cost of appeal to VCAT.

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Recommendation

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to Refuse to Grant a Permit under the provisions of Clause 35.07-1 and Clause 44.06-1 of the Hepburn Planning Scheme in respect of the land known and described as 249 Dairy Flat Road, Musk, for the Use and Development of a dwelling and shed and native vegetation removal in accordance with the attached plans, with the application dated 12/06/2007 on the following grounds:

- 1 *The application fails to meet the purpose and intent of the Farming Zone.*
- 2 *The application fails to meet the purpose and intent of the Wildfire Management Overlay.*
- 3 *The application is contrary to the principles contained in Clause 11.03 (Principles of land use and development planning) of the Hepburn Planning Scheme.*
- 4 *The application fails to meet the objectives and strategies of Clause 15.07 (Protection from Wildfire) and Clause 15.09 (Conservation of native flora and fauna) of the Hepburn Planning Scheme.*
- 5 *The application fails to meet the objectives and strategies of Clause 22.04 (Rural Land) of the Hepburn Planning Scheme.*
- 6 *The application fails to demonstrate that a dwelling is reasonably required on the land.*

Alternative Motion Moved at Meeting:

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to Grant a Permit under the provisions of Clause 35.07-1 and Clause 44.06-1 of the Hepburn Planning Scheme in respect of the land known and described as 249 Dairy Flat Road, Musk, for the Use and Development of a dwelling and shed and native vegetation removal in accordance with the attached plans, with the application dated 12/06/2007 subject to the following conditions:

1. **The layout of the site and the size and internal layout of the buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.**
2. **Before the use starts, an environmental management plan for the management and operation of the use which is to the satisfaction of the Responsible Authority and Department of Sustainability and Environment must be submitted to and approved by the Responsible Authority upon the**

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advice of DSE). When approved, the plan will be endorsed and will then form part of the permit. The environmental management plan must be reviewed and submitted to the Responsible Authority for further approval annually. The use must at all times be conducted in accordance with the endorsed plan. The environmental management plan must include:

- (a) overall environmental objectives for the operation of the use and techniques for their achievement;
- (b) procedures to ensure that no significant adverse environmental impacts occur as a result of the use;
- (c) proposed monitoring systems;
- (d) identification of possible risks of operational failure and response measures to be implemented;
- (e) day to day management requirements for the use.

Council's Environmental Health Department

3. An application to install a septic tank system must be submitted prior to any works commencing.
4. An EPA approved Aerobic Wastewater Treatment System capable of achieving the 20/30 standard must be installed in accordance with the Septic Tanks Code of Practice.
5. The effluent disposal field must be located in an area that is able to satisfy minimum setbacks from dams and waterways. A 60m setback must be satisfied from any proposed or existing dams and 100m from declared waterways.

Goulburn-Murray Water

6. No buildings must be constructed within 30m of any waterways and all native vegetation within this zone must be maintained.
7. All wastewater from the proposed dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be EPA approved and installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.
8. The wastewater disposal area must be located at least 100 metres from the nearest waterway and must not be constructed on any areas of fill material.
9. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.

Notation: A licence must be obtained from Goulburn-Murray Water where surface water or groundwater supplies are taken and used for commercial irrigation purposes or where a dam is to be constructed on a waterway as defined under the Water Act 1989. For further information, the applicant should contact Goulburn-Murray Water Diversion Inspector Mr Rob Fisher, on telephone (03) 5484 0415.

8. STATUTORY MATTERS

Country Fire Authority

10. Water Supply Requirements

A static water supply, such as a tank, must be provided.

A static water supply, must meet the following requirements:

A minimum of 10,000 litres on-site static storage must be provided on the lot and be maintained solely for fire fighting.

The water supply must be within 60 metres of the dwelling.

Fire brigade vehicles must be able to get to within four metres of the water outlet;

The water supply should be readily identifiable from the building or appropriate signage (see Appendix A: Figure 1) must point to water supply.

All below-ground water pipelines must be installed to the following depths:

- subject to vehicle traffic : 300 mm
- under houses or concrete slabs : 75 mm
- all other locations : 225 mm
- all fixed above-ground water pipelines and fittings, including water supply, must be constructed of non-corrosive and non-combustible materials or protected from the effects of radiant heat and flame.

If the static water supply is above ground, the following additional standards apply:

All above-ground static water supply must provide at least one 64 mm. 3 thread/25 mm x 50 mm nominal bore British Standard Pipe (BSP), round male coupling (see Appendix A : Figure 2).

All pipework and valving between the water supply and the outlet must be no less than 50 mm nominal bore.

If less than 20 metres from the building, each outlet must face away from the building to allow access during emergencies.

11. Access Requirements

Access to the dwelling must be designed to allow emergency vehicles access. The minimum design requirements are as follows:

curves in driveway must have a minimum radius of 10 metres;

the average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres;

dips must have no more than a 1 in 8 (12.5%) (7.1 deg) entry and exit angle

If the driveway from the road to the dwelling and water supply, including gates, bridges and culverts, is greater than 30 m long, the driveway:

- must be designed, constructed and maintained for a load limit of at least 15 tonnes,
- be all weather construction; and
- must provide a minimum trafficable width of four metres, and
- be clear of encroachments 4 metres vertically (see Appendix A : Figure 3).

If the driveway is longer than 100 metres a turning area for fire fighting vehicles close to the dwelling must be provided by either:

- a turning circle with a minimum radius of ten metres: or
- by the driveway encircling the dwelling: or
- a "T" head or "Y" head with a minimum formed surface of each leg being eight metres in length measured from the centre point of the head and
- four metres trafficable width (see Appendix A:Figure 4).

8. STATUTORY MATTERS

If the length of the driveway is greater than 200 metres, passing bays must be provided. Passing bays must be 20 metres long and must be provided every 200 metres, with a trafficable width of six metres (see Appendix A:Figure 5).

12. Vegetation Management Requirements:

- The wildfire management plan (17 June 2007) must be endorsed as part of the Permit.
- The vegetation management areas as indicated on the wildfire management plan be maintained to the following standard.

Inner zone:

A distance of 10 metres around the proposed dwelling or property boundary (whichever is the lesser) must be maintained to the following requirements during the declared "Fire Danger Period" to the satisfaction of the Responsible Authority:

Grass must be no more than 100 mm in height

Leaf litter must be less than 10 mm deep

There must be no elevated fuel on at least 50% of the area. On the remaining 50% the elevated fuel must be at most, sparse, with very little dead material.

Dry native shrubs must be isolated in small clumps more than 10 m away from the dwelling.

Trees must not overhang the roofline of the dwelling.

Outer Zones:

Vegetation in outer zones, as specified in the wildfire development plan must be maintained to the following requirements during the declared 'Fire Danger Period' to the satisfaction of the Responsible Authority.

Grass must be no more than 100 mm in height.

Leaf litter must be less than 20 mm deep.

There must be no elevated fuel on at least 50% of the outer zone area.

Clumps of dry native shrubs must be isolated from one another by at least ten metres.

NOTE: Non-flammable features such as tennis courts, swimming pools, dams, patios, driveways, or paths should be incorporated into the vegetation management plan, especially on the north and western sides of the proposed building.

Features with high flammability such as coir doormats and firewood stacks should not be located near the dwelling during the Fire Danger Period.

Clumps of hedges and shrubs with low flammability and/or high moisture content may be retained to act as a barrier to embers and radiant heat.

Note for Category of Bushfire Attack

The land is in a bushfire prone area designated under regulation 804 of the Building Regulations 2006, the planning permit conditions mean the building is located within 100 metres of vegetation with a high fuel load, which corresponds to a high category of bushfire attack under AS 3959

Department of Sustainability and Environment:

8. STATUTORY MATTERS

13. An Environment Protection Authority (EPA) approved waste water treatment system must be installed and all waste water must be disposed of within the boundaries of the allotment, in accordance with the Septic Tanks Code of Practice (EPA 2003).

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

- the development is not started within two (2) years of the date of this permit.
- the development is not completed within four (4) years of the date of this permit.
- the use is not started within two (2) years after the completion of the development.
- the use is discontinued for a period of two (2) years.

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.

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

8. STATUTORY MATTERS

8.5 APPLICATION NO. 2007/9456, PROPOSED: CONVENIENCE RESTAURANT AND ASSOCIATED PARKING, DEMOLITION OF TWO OUTBUILDINGS
(A/O – Planning Officer 1) File Ref: 5/5660/01700/P

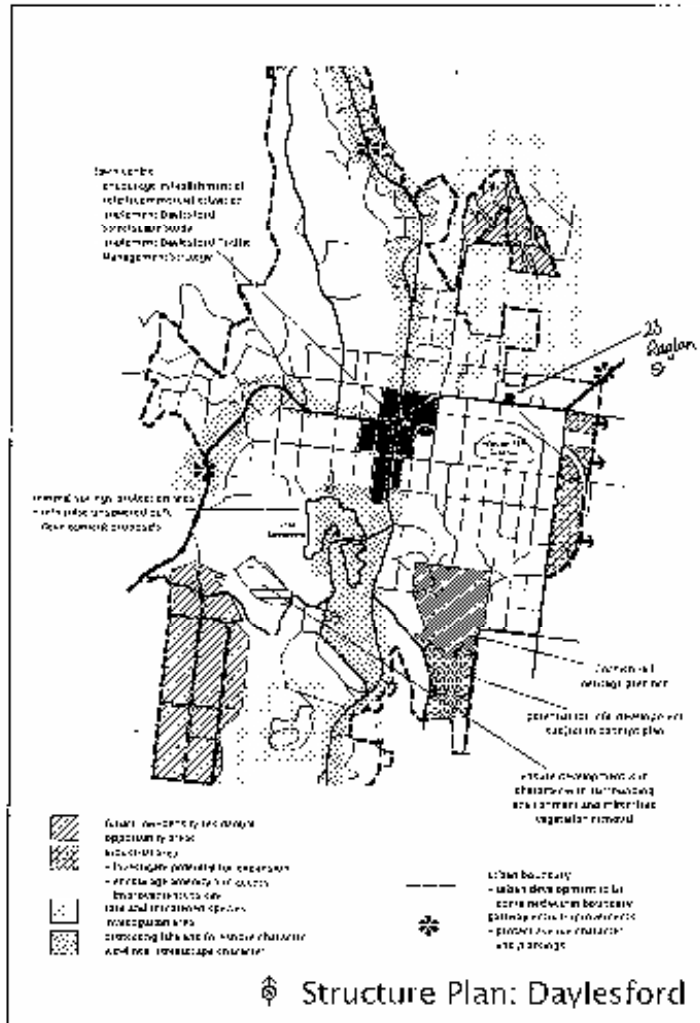
Synopsis

Applicant	Wayne Quinn
Location	23 Raglan Street, Daylesford
Proposal	Convenience Restaurant and associated parking, demolition of two outbuildings
Zoning	Residential 1 Zone
Overlay Controls	ESO1, ESO2, HO461 & HO698
No of Objections received	Nil
Recommendation	Notice of Refusal to Grant a Permit



8. STATUTORY MATTERS

HEPBURN PLANS/SH/03/0004P



8. STATUTORY MATTERS

Report

INTRODUCTION

An application was received on 11th July 2007 for the construction of a retail shop on the subject land.

The applicant was advised that the proposed use was prohibited under the Residential Zone and that Council could not consider the proposal in its current form. The applicant then amended the application on 20th August 2007 to reflect the use and development of the land for a convenience restaurant with associated carparking and the demolition of two outbuildings.

PROPOSAL

It is proposed to use and develop the land for a convenience restaurant. This will include the construction of a new restaurant building to the street frontage and demolition of two existing outbuildings.

The subject site is located on Raglan Street, a major entrance into the town of Daylesford, with an area of 2200m² and contains an existing heritage listed dwelling and associated garden.

The restaurant will operate from 10 a.m. to 11 p.m. on selected days (e.g. Thursday to Sunday) and reduced hours or closed shop on Monday to Wednesday. Approx. 3 to 5 staff will be required to manage the restaurant including managers.

REFERRAL AUTHORITIES

The application was referred as follows:

Section 55 Notification

VicRoads:

No objection subject to a condition regarding the crossover.

Section 52 Notification

Nil

REFERRAL WITHIN COUNCIL

The application was referred to Council's Engineering Department. There was no objection to the proposal subject to conditions regarding stormwater and carparking requirements.

The application was referred to Council's Heritage Advisor. There was no objection to the proposal subject to conditions requiring the re-siting of the buildings to ensure that oblique views of the existing house from the east are retained and that, as a consequence, the restaurant is set back from the frontage and modified in building form to a gabled structure.

ADVERTISING/NOTICE OF APPLICATION

The application was advertised to adjoining property owners/occupiers, notification in the Advocate newspaper and by placing a sign on the land. The notification process was satisfactorily completed and no objections were received.

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Relevant Policies / Council Plan implications:

Council Plan 2006-2011 – the relevant objective to this application is key objective no. 5 that ‘Council, in partnership with our community will ensure that our cultural, natural and built environment is protected, conserved and enhanced for future generations.’

STATE PLANNING POLICY FRAMEWORK (SPPF)

15.11 Heritage

The objective of this policy is to assist the conservation of places that have aesthetic, historic, cultural or social significance as a means of understanding our past. Responsible authorities should conserve and protect places of natural or cultural value from inappropriate development.

The subject property is individually identified by Heritage Overlay 461 as being of historic significance.

17.02 Business

The objective of this policy is to encourage developments which meet communities’ needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Commercial facilities should be located in existing or planned activity centres unless they are new developments in new residential areas or outlets of trade-related goods or services.

The subject property is adjacent to established residential areas of Daylesford as well as some minor tourism-related businesses. The area is not identified as an activity centre on the Daylesford Structure Plan.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

21.03-2 Key Land use themes

Support for local employment and investment that leads to value adding and processing opportunities

Support industrial and commercial in-fill opportunities and investigate the provision of new locations for industrial and commercial development that are compatible with the objectives and strategies of the MSS.

Ensure that future development is compatible with the quality, character, amenity and lifestyle of rural and urban communities and the development of the Shire’s tourism and recreational product.

21.03-3 Structure Plan: Daylesford

The subject site is not identified as part of the ‘town centre’ where the establishment of retail/commercial activities is encouraged. In fact, the subject site is located in close proximity to the urban boundary of Daylesford. As such, this proposal is not supported by this policy.

21.07 Economic Development

Objective 3 of this policy aims to improve local prosperity and quality of local environments within the Shire as identified in the MSS and other strategic reports. This is to be achieved by encouraging the consolidation of commercial activity in existing

8. STATUTORY MATTERS

commercial areas and supporting high quality development in mixed use and residential areas where local amenity impacts can be adequately addressed.

It is recommended that the structure plans should be used to identify the economic characteristics and potential of precincts and localities, with reference to potential land use conflicts, environmental constraints and infrastructure opportunities and to use the relevant neighbourhood character studies to provide guidance in design decisions in urban centres.

As described above, this subject site is located near the outskirts of Daylesford and away from the established commercial precinct of town. This proposal is not supported by this policy.

21.09 Environment and Heritage

Objective 1 of this policy aims to protect the cultural heritage of Hepburn Shire, while promoting appropriate development opportunities for areas and sites of cultural heritage significance and neighbourhoods of strong residential character. This is to be achieved by providing guidance for development to maintain the integrity of localities and precincts with important heritage character.

It is recommended that the Daylesford Neighbourhood Character policies be used to guide development decisions in areas with strong neighbourhood character significance.

The subject site is identified as being part of Precinct 10 and, as such, Clause 22.08 of the Planning Scheme applies to this proposal.

22.07 Settlement

This policy aims to ensure that new use and development is compatible with the underlying character of the surrounding built areas and to ensure that non-residential uses in residential areas do not adversely affect residential amenity. It is policy where a permit is required for use and development Daylesford to:

- Ensure that non-residential uses do not segregate a single dwelling or collection of dwellings.
- Ensure that non-residential uses do not adversely affect residential amenity.
- Ensure the scale, design, and appearance of any new buildings are in harmony with the character of the area.
- Ensure the non-residential use does not present a potential safety risk for nearby residents.
- Require any proposed conversion of a residential use to a non-residential use to demonstrate why the use would not be more appropriately located within a business zone.
- Ensure residential amenity is protected from:
 - Significant changes to traffic conditions in local streets including an increase in car parking demand.
 - Noise, light odours emitted from the site
 - Disturbance associated with the hours of operation.

The proposed use of the subject land, near the edge of Daylesford, is not supported by this policy as it:

- segregates the existing dwelling on site from surrounding dwellings by encircling it with a restaurant and its associated car parking.
- has the potential to detrimentally affect residential amenity by means of the hours of operation, number of car movements, noise, smell and deliveries.
- is not able to be sited such that it has minimal impact on the heritage significance or neighbourhood character of the area.
- is not adequately justified to be located outside the appropriate business zone and existing commercial centre of Daylesford.

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22.08 Daylesford Neighbourhood Character

This policy applies to all land within a Daylesford Neighbourhood Character Precinct shown on the map. The subject land is located within Precinct 10 on the attached map.

The objective of this policy is to maintain and enhance the character and amenity of residential areas in Daylesford.

22.12 Daylesford Neighbourhood Character Precinct Ten

The preferred neighbourhood character statement includes:

“The importance of the area as an entrance to the town, its vegetated and historic appearance will be retained and enhanced by ensuring new buildings are designed to reflect the form of buildings in the area.”

It appears that, in order to use and develop the land for a convenience restaurant and associated carparking on the subject land the constraints of the site (existing heritage house and garden, existing access point) would require the new building to be sited to the frontage of the site. The proposed siting of the building does not meet the objectives of this or the Daylesford Neighbourhood Character policy as it overcrowds the site, and does not protect the openness of the streetscape.

ZONE AND OVERLAY PROVISIONS

Residential 1 Zone – the purpose of the zone is to provide for residential development at a range of densities and in appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

Convenience Restaurant is defined as a section 2 (permit required) use in the Residential 1 Zone and pursuant to Clause 32.01-1 Council may consider this proposal.

As described above the proposal for a convenience restaurant on the edge of Daylesford is designed primarily to catch the tourist trade, especially on a weekend. The location is inappropriate, considering that there is appropriately-zoned land in the centre of town, less than 500m to the west.

This proposal does not meet the purpose of the Residential 1 Zone as the location is inappropriate for such a use and development (i.e. not within an activity centre) and it is not designed to meet or serve local community needs.

Heritage Overlay – Schedule 698 (Daylesford Railway Precinct) and 461 (23 Raglan St) – Under Clause 43.01-1 a permit is required to construct a building or carry out works or to demolish a building on land affected by a Heritage Overlay. This proposal was referred to Council’s Heritage Advisor for comment. It was confirmed that this precinct is presently subject to assessment as an important entry to the town, however, based on those controls presently applying to the land:

The proposal for a commercial style building is reasonably consistent with the character of the area and would not be intrusive subject to its appropriate design and siting.

HO 461 is directed to the existing house and its immediate setting (i.e. a developed garden layout defined at the front of the site but an early (possibly original) picket fence and hedge. The house remains symmetrically located on its fence and garden flanked by the side hedges.

The main heritage issue with this proposal is that the building is set forward sufficiently to obscure views of the dwelling, secondary concerns are that the pattern of the front

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garden is altered from a focus on the dwelling entry to a diagonal path, the loss of the east side hedge and inadequate screening of the parking at the west side of the site.

Nevertheless, based on heritage concerns no objection was received, however a number of conditions were recommended to be placed on any permit to issue.

Environmental Significance Overlay – Schedule 1 (ESO1) – no permit is required under the provisions of this overlay.

The following Particular Provisions also apply to the proposal:

Clause 52.20 – Convenience Restaurant.

Before deciding on an application to use land for a convenience restaurant, the responsible authority must consider, as appropriate; whether the location is appropriate for a convenience restaurant having regard to the amenity of the neighbourhood, proximity of the non to non-residential uses and zones, the effect of the use on heritage and environment features and the suitability of land for a residential use.

Whilst the subject land is appropriately located adjacent to land in the Road Zone Category 1, it is not considered that the location is appropriate for a convenience restaurant as:

- It is likely that neighbourhood amenity will be adversely impacted by noise, smell, hours of operation;
- There is appropriately zoned (business) land less than 500m to the west of the subject site, and
- The effect of the use (inc signage, carparking, rubbish, loss of landscaping) on the heritage features of the site and the precinct would be detrimental.

Clause 52.29 – Land adjacent to a Road Zone Category 1

Applications which create or alter access to land in a Road Zone Category 1 must be referred to VicRoads for comment under Section 55 of the Act. Accordingly, this application was referred to VicRoads and they advised that there was no objection subject to a condition regarding the proposed crossover to Raglan Street.

ASSESSMENT

The subject land is located near the edge of the residential area of Daylesford, opposite a number of existing semi-commercial tourism-related developments and less than 500m west of the existing commercial (Business 1 Zoned) precinct.

The proposal is not supported by State or Local Planning policy as it is not located within an existing or preferred activity/commercial centre and does not relate to services required in newly developed areas.

The proposal is not consistent with the purpose of the Residential 1 Zone as it does not meet the needs of the local community, it is instead targeted at the growing tourism market in Daylesford.

Council's Municipal Strategic Statement and local policies are clearly designed to prevent the creation of commercial sites outside of the precincts designated in the relevant Structure Plan.

The proposal would set an unfavourable precedent of approving commercial developments not designed to meet local community needs in existing residential areas in the Shire.

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Community / Engagement / Communication / Consultation:

No formal consultation was undertaken.

Financial & Resource Implications Initial & Ongoing

Potential cost of appeal to VCAT.

Recommendation:

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decide to Refuse to Grant a Permit under the provisions of Clause 32.01-1 and Clause 52.20 of the Hepburn Planning Scheme in respect of the land known and described as 23 Raglan Street, Daylesford, for the Use and Development of a Convenience Restaurant and associated parking, demolition of two outbuildings in accordance with the attached plans, with the application dated 20/08/200, on the following grounds..

- 1 *The application fails to meet the purpose and intent of the Residential 1 Zone.*
- 2 *The application fails to meet the objectives and strategies of Clause 21 (Municipal Strategic Statement) of the Hepburn Planning Scheme.*
- 3 *The application fails to meet the objectives and strategies of Clause 22.07 (Settlement) of the Hepburn Planning Scheme.*
- 4 *The application fails to meet the decision guidelines contained in Clause 52.20 (Convenience Restaurant and Take-Away Food Premises) of the Hepburn Planning Scheme.*
- 5 *The application fails to demonstrate that a convenience restaurant is reasonably required by the local community at this location.*
- 6 *The application would set an undesirable precedent for other commercial developments in residential areas in Daylesford.*

Noted that:

Letter tabled from applicant seeking a deferral for 1 month to allow more time to submit to Council.

Moved Cr Tim Hayes:

That Council agree to a deferral to the next Ordinary Meeting of Council.

**Seconded: Cr Janine Booth
Carried.**

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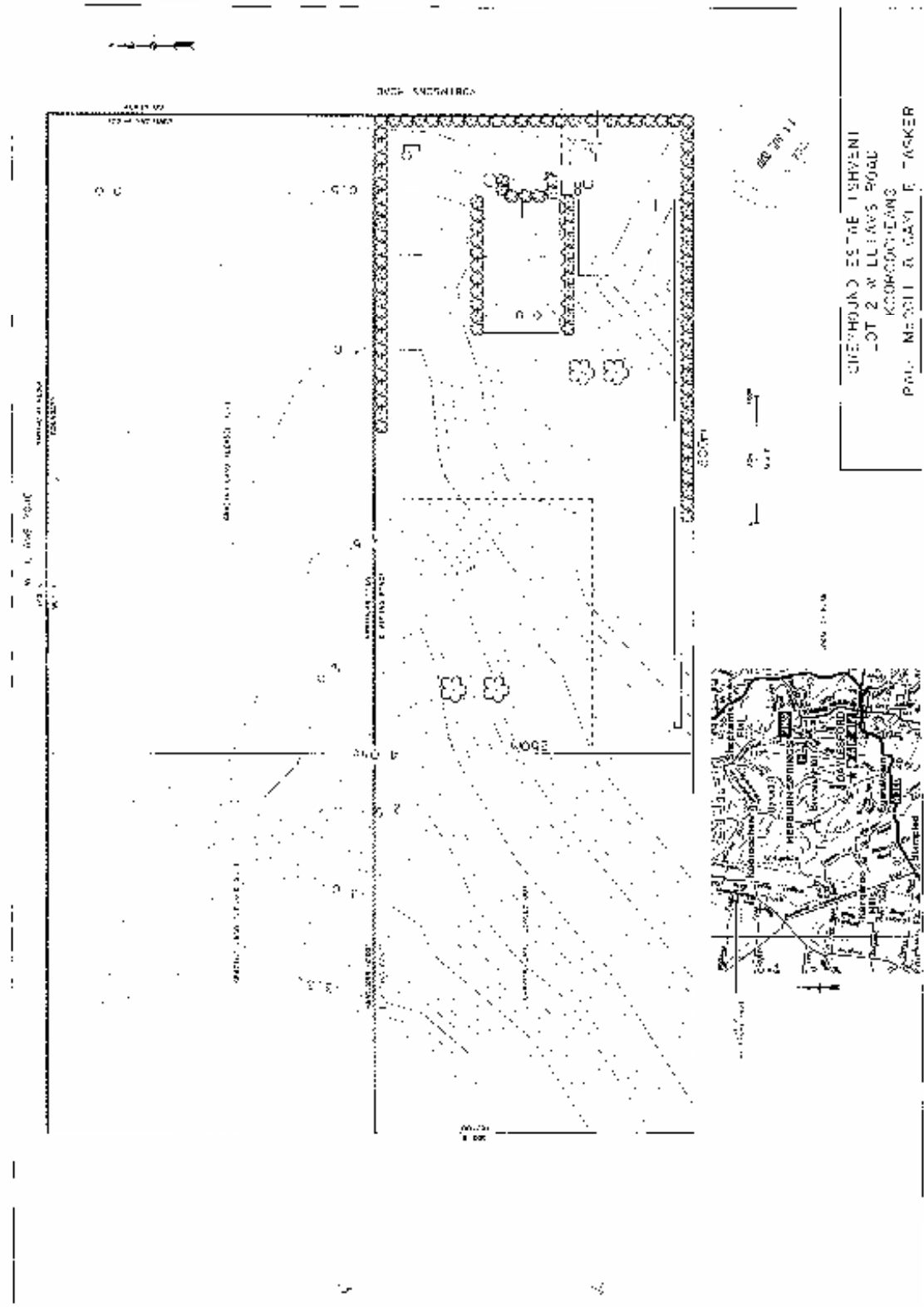
8.6 APPLICATION NO 2007/9457, PROPOSED: KEEPING, BREEDING AND TRAINING OF GREYHOUNDS (MAXIMUM 60 ADULTS (OVER 6MTHS))
(A/O – Planning Officer 1) File Ref: 1/7580/00670/P

Synopsis

Applicant: Paul McColl
Location: 670 Williams Road, Kooroocheang
Proposal: Keeping, breeding and training of Greyhounds (Maximum 60 adults (over 6 mths)).
Zoning: Farming Zone
Overlay Controls: Environmental Significance Overlay – Schedule 1
No of Objections Received: 19
Recommendation: Issue Notice of Decision to Grant a Permit



8. STATUTORY MATTERS



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Report

INTRODUCTION

An application to use and develop the land for keeping, breeding and training of Greyhounds (maximum 60 adults (over 6mths of age)) was received on 11th July 2007 and amended on 14th September 2007.

PROPOSAL

It is proposed to use and develop the land as a greyhound breeding, keeping and training facility including the construction of Racing Kennels, Whelping Kennels, Day/Spelling Yards, Rearing Yards, Exercise Yards, Slipping Track and Bullring.

It is proposed that all fencing related to the greyhound areas will be constructed as specified in the Greyhound Racing Victoria (GRV) Code of Practice. Minimal security lighting will be installed. Dog waste and wastewater will be disposed of using an appropriate effluent disposal system.

All recommended management practices and building specifications in the Code of Practice for Greyhound Establishments are proposed to be implemented/undertaken.

REFERRAL AUTHORITIES

Section 55 Notification

Goulburn-Murray Water (GMW): No objection, subject to conditions.

Section 52 Notification

Nil

REFERRAL WITHIN COUNCIL

Environmental Health Department - no objection to the proposal subject to conditions regarding a septic tank permit.

Engineering Department - There was no objection to the proposal subject to conditions.

ADVERTISING/NOTICE OF APPLICATION

Notification of the application was required to be undertaken by:

- Notice to adjoining/adjacent property owners and occupiers
- Notice in the newspaper

The notification process was undertaken satisfactorily. 19 Objections and 2 letters of support have been received to date.

Relevant Policies / Council Plan implications:

Key Objective 1. Strengthening Communities. Council will engage with and support our diverse communities to realise their potential and determine and achieve their aspirations.

Strategy 1.2 - Enhance community connectedness, capacity building and leadership

Key Objective 4. Council will strengthen our local economy by working in partnership with business and community.

Strategy 4.3 - Encourage and support diversity of economic activity and employment

8. STATUTORY MATTERS

STATE PLANNING POLICY FRAMEWORK (SPPF)

15.01 - Protection of catchments, waterways and groundwater

The objective of this policy is to assist the protection and, where possible, restoration of catchments, waterways and groundwater. Responsible authorities should consider the impacts of catchment management on downstream water quality and where possible should encourage measures to minimise the quantity and retard the flow of stormwater runoff from developed areas.

Responsible authorities should ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges.

Incompatible land use activities should be discouraged in areas subject to flooding. Subject to recommended conditions on any permit to issue, it is considered that this application is not contrary to this policy.

15.05 Noise Abatement

The objective of this policy is to assist the control of noise effects on sensitive land uses. Responsible authorities should ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design and land use separation techniques as appropriate to the land use functions and character of the area.

The land is of large area and has suitable scope to contain all noise impacts on site by the construction of noise abatement measures. Subject to recommended conditions it is considered that this application can meet the objectives of this policy.

17.05 Agriculture

The objective of this policy is to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of productive farmland which is of strategic significance in the local or regional context.

Planning should support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.

Planning and responsible authorities should encourage sustainable land use.

Planning should provide encouragement for sustainable agriculture and support and assist the development of innovative approaches to sustainable practices.

In assessing rural development proposals, responsible authorities must balance the potential off-site effects of rural land use proposals which might affect productive agricultural land against the benefits of the proposals.

The applicant has declared that the granting of a permit would allow (subject to conditions) a more productive, economically and environmentally sustainable land use than to retain the status quo grazing use. The benefits of the proposal for the local community and the local economy may include an increase in on-farm activity, an increase in locally generated income streams, increased diversity of agricultural activities protecting the local economy from downturns in livestock prices.

Local potentially adverse impacts may include, increase in noise from dogs during feeding times, possible impact on neighbouring livestock from visual and audio disturbance.

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In this case there is the potential that suitable, effective and reasonable measures can be required to be put in place ensuring surrounding agricultural enterprises and local amenity are not adversely affected.

On balance and subject to recommended conditions it is considered that this application will meet the purpose of this policy.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

21.01-7 Economic Development

Agriculture comprises a decreasing proportion of the employment structure, corresponding with a decrease in broad acre farm numbers in Hepburn Shire over time. Opportunities to value add to traditional agricultural activities and diversify the existing agricultural base need to be facilitated.

21.01-8 Rural land & agriculture

Overall, the number of farming enterprises in the Shire has declined in the past decade. This pattern of agriculture is consistent with the bulk of the peri-metropolitan or metropolitan fringe areas. The influence of lifestyle farming and property prices constrains the capacity of traditional farming enterprises to expand and re-invest.

However, Hepburn Shire has potential for diversification in traditional agricultural activity and encouraging newer types of agriculture. Emerging industries include viticulture, herb growing, specialised animal raising and seed production industries. It is expected that these enterprises will have a significant commercial role for the Shire and region into the future.

21.03-3 Strategic land use structure plans

Council's Economic Development Structure plan does not identify the subject land as being of high to very high quality agricultural land.

21.07 Economic Development

Objective 2. To promote traditional and new rural enterprises that provide for local value-adding opportunities while recognising the need to support existing enterprises. This is to be implemented by the use of the Rural Land Policy.

21.08 Rural Land Use & Agriculture

One of the key issues identified in this strategy is the maintenance of rural land holdings with a potential for productive agricultural uses, including new and emerging rural enterprises.

Objective 1. To protect areas of high – very high quality agricultural land and areas with demonstrated potential for productive agricultural activity from non-complementary land uses. The strategies to be implemented include:

- Promote the potential for new and innovative rural enterprises, including appropriate value-adding activity.
- Protect clusters of agricultural activity and other rural related enterprises.
- Encourage innovative forms of agricultural diversification, focussed on high value activities in areas with existing or planned capacity.
-

Objective 2. To ensure that development in rural areas address important local environmental and landscape issues. The strategies to be implemented include:

- Encourage development proposals that comprehensively address significant land and water management and resource needs.
- Discourage development in areas where environmental values, rural resource values and infrastructure requirements present limitations to development potential.

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This is to be implemented by the use of the structure plans to provide guidance regarding rural land uses and to mitigate rural land use conflicts and the use of the Rural Land Policy to maintain existing clusters of agricultural activity and to promote and maintain the potential for new rural enterprise.

22.01 Catchment and Land Protection

This policy aims to ensure that the use and development of land and water is undertaken with consideration of impacts on the long term resource quality and quantity. It is policy to encourage the inclusion of litter traps and artificial wetlands in development proposals to improve the quality of discharge from new development. Recommended conditions will require appropriate catchment protection measures are implemented. As such, this application meets the objective of this policy.

22.04 Rural Land

This policy aims to support local employment and value adding opportunities in rural areas, to ensure that rural amenity is not adversely affect by use or development in the rural areas and to ensure that the use and development of land does not conflict with adjoining and nearby agricultural uses.

In exercising discretion under this policy, the responsible authority should consider the impact of any new land use and development against the potential for continued agricultural activity and production on the subject land or adjoining or adjacent surrounding land.

As described above, the impacts of this establishment on the health and vitality of neighbouring livestock are unknown. Given the size of the site and the willingness of the applicant to follow recommended guidelines and the GRV Code of Practice for greyhound training, it is considered that a number of reasonable and effective measures of both management and development can be accommodated on the property. Such measures will ensure that the sustainability of surrounding agricultural uses is protected from adverse impacts. Subject to such conditions, this proposal can meet the objective of this policy.

ZONE AND OVERLAY PROVISIONS

Farming Zone. The purpose of the Farming Zone is to provide for the use of land for agriculture. The use of the land for animal keeping and animal training are Section 2 (permit required) uses in the Farming Zone.

The definition of animal keeping is:

Land used to: a) *breed or board domestic pets; or*
b) *keep, breed, or board racing dogs*
this includes *Racing Dog keeping*

The definition of animal training is:

Land used to train animals this includes *Racing Dog training*

Both animal keeping and animal training are terms that are nested within the parent term 'Animal husbandry' and, as such, are considered to be uses within the definition of 'Agriculture'. Therefore the proposal to use the land for racing dog training and keeping are designated in the Planning Scheme as agricultural uses.

The relevant decision guidelines for assessing this proposal in the Farming Zone are as follows:

- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.

8. STATUTORY MATTERS

It is considered that these concerns can be easily addressed as conditions of any permit to issue. Recommended conditions will require the ongoing maintenance of the effluent disposal system as required by both Goulburn-Murray Water and Council's Environmental Health Department.

- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

The site is large and contains very little native vegetation. The ground is flat and currently supports mostly unimproved pasture. Neighbouring dwellings are located at least 500m distant in each direction. There is capacity for the site to accommodate the proposed use and development subject to a number of conditions to minimise off-site amenity impacts including requirements for noise attenuation measures.

The adjoining and nearby land uses that may experience detriment from the proposed use are neighbouring grazing properties. It is possible that livestock on neighbouring/nearby properties could be spooked/disturbed by the motion and noise of dogs on the property. The applicant has addressed this concern in specifying the management techniques to be employed to minimise the possibility of excited barking and howling from the dogs. However, it is considered that conditions be placed on any permit to issue requiring the re-siting of the slipping track and the installation of screening around the dog kennels/yards to minimise the possibility that dog noise or motion be detrimental to surrounding livestock.

- Whether the use or development will support and enhance agricultural production.

The proposed use and development will allow the operation of a well-managed dog breeding/training operation on the land in cooperation with the continued use of the subject site for grazing. In accordance with Hepburn Shire's local strategies and policies, this enterprise will allow the landowners to explore an innovative and new business which can value-add to the local agricultural base.

- Whether the use or development will permanently remove land from agricultural production.

The proposal will involve the construction of approx. 1.27 hectares of yards/kennels and track. The use of the land for dog breeding/training is defined in the Planning Scheme as an agricultural use and, as such, this proposal does not permanently remove land from agricultural production.

- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

There is a potential for the proposed use to affect the livestock on neighbouring properties. However, with the imposition of suitable management and control mechanisms and recommended conditions on any permit to issue, it is considered that this application will not limit the operation or expansion of adjoining and nearby agricultural uses.

- The capacity of the site to sustain the agricultural use.

The site is large (approx. 40 ha) and contains very little native vegetation. The land is of sufficient size to contain all noise-attenuation measures such as screening, planting etc. on the property and not require any neighbouring properties to absorb adverse impacts.

- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.

The subject site has been used for grazing of livestock for many years and is not significantly degraded by such uses.

The land is serviced by a graded road. The property is locally identified as water-logged in winter, however, it has not been identified as being prone to flooding. The Land Capability Assessment submitted with the application describes the land as suitable for use of a combined septic tank and sub-soil absorption trench system.

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There is no access to reticulated water on the land, however, adequate power supply is available to the site.

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.

As described above, the proposal, subject to recommended conditions, will have minimal impact on the natural physical features and resources of the area, particularly on soil and water quality.

Environmental Significance Overlay – Schedule 1 (ESO1).

The environmental objective to be achieved in this overlay is to protect the quality of domestic water supplies within the Shire and the broader region, to prevent increased runoff or concentration of surface water leading to erosion or saltation of watercourses and to prevent pollution and increased turbidity and nutrient levels of water in natural watercourses and storages.

A permit is required to construct an unsewered dwelling on land affected by this overlay.

The application was referred to the relevant water authority (Goulburn-Murray Rural Water Corporation) who advised that there was no objection, subject to recommended conditions.

ASSESSMENT

19 objections have been received, the main points of objection are summarised as follows:

Impacts on surrounding agricultural activities

Adverse impact on grazing stock (sheep and cattle) on neighbouring properties, and Adversely affect the financial viability of nearby agricultural grazing property.

There is concern that the movement and noise of so many greyhounds close to neighbouring grazing properties will adversely affect these agricultural uses. The operators of these neighbouring grazing properties state that their livestock (mostly sheep/lambs and cattle) will become spooked and frightened by the quick dog movements and any barking/howling and are likely to have either adverse health outcomes (loss of condition, loss of lambs) or will cease to graze or otherwise use any land in the vicinity of the greyhound establishment.

There are a number of ways that these concerns may be addressed by way of conditions on any permit to issue. These methods would include – a. the re-siting of the slipping track to the internal side of the yards on the property, b. the requirement of solid fencing (not colourbond) to either side of the dwelling and surrounding the yards closest to property boundaries to ensure minimal visual contact between the dogs and surrounding livestock, c. all buildings and works associated with the greyhound establishment must be constructed incorporating noise attenuation measures and suitable noise masking or baffling techniques, as well as, d. appropriate management techniques to ensure that a maximum of 5 greyhounds are allowed outside the designated yards at any one time and that they must be always suitably supervised to minimise the potential for excitation, barking and sudden movements close to livestock.

Recent VCAT cases involving the interaction between livestock and greyhounds on neighbouring properties have found:

That “it is not considered that the location of a greyhound facility nearby will impact upon the horse training facilities of the locality. The dogs are to be well contained and will not be permitted to roam... Measures are to be taken to ensure the dogs are not over stimulated thereby causing frequent barking. If

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such measures are properly undertaken and conditions on a permit can ensure that this will be carried out, it is not expected that the barking of the dogs on occasions will result in any unreasonable impact on the other animals in the area.” *Galea v Melton SC* [2005] VCAT 2756 (21 December 2006).

That “the main impact (on livestock) is associated with the movement of dogs and that noise without movement would have less impact... the risk of abortion would be minimised by visually screening the greyhounds and that alpacas may become used to resident dogs but would be more stressed by the presence of unfamiliar dogs.” *Frankovic v Greater Geelong CC and Ors* [2003] VCAT 694 (16 June 2003).

In balancing the interests of existing agricultural uses with the proposed new use, it is clear that the proposed layout of the development is insufficient to ensure all adverse impacts of the use are contained within the boundaries of the subject land. Therefore, the first condition on any permit to issue will require the re-siting of the slipping track to increase the setback from livestock on surrounding properties and to include fencing in some form (e.g. brushed timber) to visually screen the dog areas from surrounding properties.

Stray dogs attracted to the area when bitches in heat – dangerous for sheep/lambs and spread of disease.

There is no way to substantiate either positively or negatively the likelihood of stray dogs being attracted to the area. Historically, through the case history at VCAT, it has been shown and deemed to be an unlikely outcome and in any case is not the responsibility of the proponent to take responsibility for the actions of stray dogs outside of their property as long as it is professionally managed and fenced.

Environmental Impact

Polluted stormwater and effluent runoff from the site (property is locally known to be water-logged)

There is no Land Subject to Inundation Overlay affecting the property or surrounding properties. However, an Erosion Management Overlay affects the property immediately east across Robinsons Road.

This application was referred to the relevant water authority for comment on the suitability of the site for satisfactory effluent disposal from both the dwelling and the greyhounds. No objection was received.

Inadequacy of water supply for the proposed use

There are no new dams or bores proposed as part of this application and hence the adequacy of the water supply has not been assessed. Should the operation fail at any point to achieve adequate water supply to comply with either the GRV Code of Practice or the obligations of their planning permit, the use of the land would need to cease until all conditions and management obligations could be met.

Amenity Impacts

*Noise: Tree planting insufficient and would take too long to be effective
No acoustic report
Existing houses have rights to peace and tranquillity
Too close to dwellings*

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Query whether management techniques will be sufficient to quell noise.

This is a common and valid concern about adverse amenity impacts from dog breeding and training facilities. For this purpose the EPA has produced a set of Guidelines for the Operation of Greyhound Establishments. Furthermore, Greyhound Racing Victoria (GRV) has also developed (in consultation with a wide range of government departments and statutory authorities) a Code of Practice for Greyhound Establishments.

The applicant has stated that all management techniques described in the Code of Practice for Greyhound Establishments and the EPA Guidelines will be adhered to in order to limit both the physical stimuli to the dogs as well as the outbreak of noise from the kennels. Where there is a discrepancy between the requirements of these two documents, the responsible authority will require that the EPA Guidelines be adhered to (i.e. time limits on times for feeding and exercise).

As the operation is to be a new use and not extension of an existing use, no acoustic report was required as part of this application. A recommended condition will require that the noise originating from the dog kennels adhere to the State Environment Protection Policy (Control of Noise from Commerce, Industry and trade) No. N-1 as specified in the EPA Guidelines.

Existing dwellings in the Farming zone may have an expectation that surrounding existing uses that are peaceful and quiet will continue that way. However, this expectation of rights to peace and tranquillity is not-founded in the planning scheme. Yes, the responsible authority must consider the amenity impacts of new uses and development on surrounding land uses. However, the prime purpose of the Farming Zone is to protect the amenity of surrounding agricultural uses and to ensure new uses are compatible with those surrounding.

The EPA Noise Control Guidelines describe problems of perpetual barking of dogs known to exist at distances as far as 500 metres from the actual source. This application is sited on the land such that all neighbouring dwellings are at least 500m from the kennels/yards. Arguments have been made to VCAT that large dog keeping/breeding establishments have a greater impact on rural areas due to the low level of background noise in these areas.

Kooroocheang would be considered to have a very low ambient background noise level, and hence, the impact of dog noise on the dwellings in the area might be felt to be of greater magnitude here than if the development was sited nearer to highways or industrial areas. In order to address this issue, a number of recommended conditions on the permit will require all the measures described in the EPA Guidelines be implemented and maintained to the satisfaction of the responsible authority.

Traffic management issues (feed deliveries etc, increased volume, noise and dust impacts (need to upgrade Robinsons Rd).

The proposal to use and develop the land for greyhound keeping, breeding and training will not necessarily impose any further increase in volume or heavy-truck traffic on local roads than the continued use of the land for grazing would impose.

Council's Engineering Department maintains the existing roads to a standard deemed adequate for farming properties in the area. This application was referred to Council's Engineering Department for comment and they advised that no upgrade to the existing road network would be required for this application.

Smell

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The management regime proposed by the applicant and to be imposed by conditions on any permit will ensure that the smell generated by the proposed use will not become detrimental to surrounding/neighbouring properties.

Security Lighting

The security lighting proposed in this application will not be greater than that which would be normal to a dwelling – a recommended condition on the permit will require that all lighting be suitably baffled so that it does not project beyond the boundaries of the property or cause any adverse amenity impacts on surrounding properties.

Visual/Landscape (attractiveness of nearby bed & breakfast establishment, creating an 'eyesore', existing shipping container on site, heritage significance and character of the area.)

There are two existing tourism/accommodation developments in the general area of Kooroocheang. Both take advantage of and promote the existing 'peaceful and quiet' farming uses around the area as part of the appeal of their establishments. As described above under 'Noise' the Farming Zone's primary concern is to protect the amenity of surrounding agricultural uses and to ensure new uses are compatible with those surrounding.

It is considered that the visual impact of the proposed development will be comparable to the visual impact of any new buildings on the site. The site is currently vacant and has been so for some time, used only for intermittent grazing activities. The subject site is relatively flat and can be seen from surrounding/neighbouring properties. There is relatively little vegetation on the property to visually screen any development on the land. Given that the issues of noise impact have been discussed above, it is considered that any adverse visual impact of the proposed development can be minimised by conditions on the permit requiring the building be constructed in muted tonings (including any fencing/screening) and that a landscape plan be submitted to show that the development will not be detrimental to the character and appearance of the area or features of natural scenic beauty or importance.

There is an existing shipping container on site. The shipping container is not part of the current application and has been on the land for some time. As such, the shipping container has not been assessed as part of the development. Should the applicant wish to obtain permission for that existing shipping container they may require further planning permission.

Whilst there are a number of buildings in the Kooroocheang area that are identified by individual Heritage Overlays, the subject site is neither covered by nor abutting any of these overlays. Under the Farming Zone and the Rural Land policy the responsible authority must consider the impact of the development on the character and appearance of the area – a recommended condition requiring a landscape plan will ensure that no material detriment occurs from the visual impact of the development.

Other (Affect the rights of neighbouring land owner to build a house, fear of trained and aggressive dogs escaping, Concern about the actual number of dogs (up to 150?), Which time limitations are to apply?, Responsible person on site 24 hours a day? Acoustic baffling and electronic masking noise device not mentioned.

The rights of other landowners to apply for new dwellings are not impacted by this application.

The management regime and requirements of any permit to issue will ensure that the risk of dog escape is minimal. The risk of a dog escaping the proposed establishment

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is likely less than the risk of an aggressive bull or domestic dog escaping neighbouring properties.

The number of dogs for which the applicant has applied is 60 adult dogs. A dog is considered an adult once it reaches 6 months of age.

As stated above, the time limitations for feeding and exercising the dogs will be those designated in the EPA Guidelines where there are discrepancies between the GRV Code of Practice and the Guidelines. All times specified will be Eastern Standard Time or Eastern Daylight Savings Time, whichever applies.

The applicant has stated that at low numbers of dogs he is disinclined to provide a responsible person on site 24 hours a day. It would be unreasonable to require a responsible person on site 24 hours where only a small number of dogs are on site. However, once the number of dogs reaches 5 or more, a responsible person on site would be required as a condition of any permit.

Contrary to the purpose of the zone

Commercial use should be in urban zones

The use of the land for keeping, breeding and training 60 greyhound dogs is considered an agricultural use in the Planning Scheme, and, is designed in order to turn a profit – as are most agricultural uses in the area. In this sense, the proposed use could be deemed commercial but no more so than surrounding uses. The commercial nature of the use is not considered a reasonable objection in and of itself considering surrounding commercial uses.

Dog training is not an agricultural pursuit

As described above, the use of the land is defined as nested within the Agriculture definition in the Planning Scheme. The proposed use is considered in the planning scheme as an agricultural pursuit.

Adverse impact on property values

VCAT has on many occasions reiterated that concerns about the loss of property values is not relevant to the consideration of the planning merits and are not something that can be taken into account in planning applications.

2 letters of support have been received, they are summarised as follows:

The owners' greyhounds on casual visits have not to date upset any of the ewes and lambs on the property.

The current Lessee of the subject site has witnessed the applicant's greyhounds interacting with his own ewes and lambs currently on the property on many occasions when they have visited the site. He witnessed the dogs showing "curiosity but no damaging intent to our flock".

The supporter felt that as long as the dogs were strictly supervised and contained at all times, were well-fed and contented, that they would not aggravate neighbours or pose any threat to stock.

There are a number of recommended conditions to this effect detailed below.

Mr McColl's Greyhounds are unlikely to cause any health risk and that adverse impacts of the greyhounds on stock are unlikely.

A qualified veterinarian, of which, Paul McColl is a client, writes to state that the applicant has extensive knowledge of greyhounds and his animal husbandry is very good (i.e. dogs are well wormed and vaccinated and any illnesses are treated

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promptly). He concludes that it is unlikely that the applicant's greyhounds could cause any health risk.

Furthermore, it is asserted that in more than 20 years of practice dealing with horses, cattle, sheep, goats and greyhounds, there has never been a case, in his experience, of greyhound noise adversely affecting stock fertility or stillbirths. He mentions cases he has known of greyhounds and sheep occupying the same land with no adverse impacts.

It is acknowledged that the actual impacts of this proposal on surrounding agricultural properties are unknown at this stage. There are some that insist it can only have negative results and others that assert that no harm will come. On balance, the recommended conditions (below) would ensure the maximum possible level of protection for surrounding properties from any probable impacts. Should the applicant fail at some time to properly manage or maintain the impact-reducing measures recommended below, Council or any other aggrieved parties can enforce the conditions on the permit until compliance is achieved.

Community / Engagement / Communication / Consultation:

A Planning Permit Consultation Meeting was convened on 10th September 2007 at Clunes Town Hall. 18 objectors, the applicant, a representative from Greyhound Racing Victoria, the Ward Councillor and Planning Officers were in attendance.

Following discussion of the many issues raised in the letters of objection already received, no changes were requested or proposed for the application. However, many points of clarification were offered by the applicant including:

- No other breeds will be housed, bred or trained at the facility
- There are unlikely to be visitors to the establishment as most of the dogs will be owned by the applicant.
- The prime ages for racing greyhounds is between 18 months and 4 years of age.
- The applicant's business plan includes about 15 – 20 racing dogs at any time, as well as 15-20 adolescent dogs, he applied for 60 in order to ensure he never exceeds that limit.
- The applicant believes that any impact on neighbouring livestock would be minimal – he plans to continue grazing the remainder of his land in conjunction with the greyhounds.
- The pups can be sold from after 3 months of age.
-

New issues of objection were raised as follows:

- When did the Farming Zone come in, how and why?

The process of the amendment introducing the Farming Zone was described to the audience's satisfaction.

- At what threshold number of dogs would the applicant be willing to have a person on site 24 hours?

The applicant advised that once the number of dogs exceeded 20 he would be happy to provide a responsible person on site for 24 hours / 7 days.

- Are there any studies (by the EPA or otherwise) on the effects of greyhounds on sheep or cattle?

There are no such studies available to Council at this time. However, many VCAT decisions (described above) have commented on the likely impacts and possible measures to reduce any adverse impacts.

- Why is there no acoustic report submitted with the application?

All nearby dwellings meet the 500m buffer zone designated in the EPA Guidelines and the proposed use is new, not existing, an acoustic report would not be a

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reasonable requirement. A condition on any permit would require that the use meet all appropriate EPA and SEPP noise limits.

- It is a known fact that wildlife and birds will leave the area.

Without any evidence to either prove or disprove this assumption the responsible authority is unable to assess the impacts this use and development may or may not have on local fauna.

- What is the definition of daylight hours?

As stated above, conditions on any permit to issue will specify that, where there is a conflicting definition of times, the times specified in the EPA Guidelines will overrule those within the GRV Code of Practice.

- What happens to the dogs in the event of wildfire? Will they be let out to run loose?

The applicant advised that, in the event of wildfire, should time permit, the dogs would be transported to other properties containing greyhounds for safety rather than being let outside the property.

Financial & Resource Implications Initial & Ongoing

Cost of potential appeal to VCAT

Recommendation:

That Council having caused notice of Planning Application No. 2007/9457 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 35.07-1 of the Hepburn Planning Scheme in respect of the land known and described as 670 Williams Road, Kooroocheang, for the Keeping, Breeding and Training of Greyhounds (maximum 60 adult dogs) in accordance with the endorsed plans, with the revised application dated 14/09/2007, subject to the following conditions:

- 1 *Before the use and development commences, three copies of amended site layout plans must be submitted to and endorsed by the responsible authority. Such a plan must be similar to those submitted with the application but modified to show:*
 - *the slipping track sited to the north of the proposed kennels/yards;*
 - *provision of a minimum 1200mm high solid screen between individual rearing/exercise yards.*

Once endorsed these plans will become part of this permit.

- 2 *Before the use and development commences, three copies of detailed building plans (elevations and floor plans) must be submitted to and endorsed by the Responsible Authority. Such plans must be generally in accordance with those submitted with the application but must show:*
 - *design features (inc materials of construction) of the complex to achieve acoustic baffling of the kennels and exercise areas in accordance with the EPA Noise Control Guidelines for Dog Kennels (TG302/92).*

Once endorsed these plans will become part of this permit.

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- 3 *Prior to the commencement of the use and development hereby approved, three copies of a landscape plan must be submitted to and approved by the Responsible Authority and must show:*
- a. *The location and dimensions of an immediately effective visual screen/fence designed to be sympathetic to the landscape values of the area to surround the kennels/yard complex. Note that these screens/fences must be in place prior to the commencement of the use hereby permitted and must be maintained to the satisfaction of the responsible authority unless or until alternative (e.g. screen planting) measures are demonstrably able to perform the same function.*
 - b. *The location of any plantings proposed to be undertaken to visually and/or acoustically screen the development site from surrounding properties and the road.*
 - c. *The method of maintenance, including irrigation and the replacement of dead plantings.*
 - d. *The species of the plantings must be locally indigenous.*
 - e. *A timeline for the proposed works.*

Once endorsed these plans will become part of this permit.

- 4 *Prior to the use and development commencing a Certificate of Occupancy must be issued for a dwelling on the land and a person responsible for the management of the site must be living in the dwelling.*

- 5 *The layout and use of the site and the size of the buildings and works as shown on the endorsed plans must not be altered or modified.*

- 6 *Not more than 60 dogs (over the age of 6 months) can be kept or trained on the site at any one time.*

- 7 *Before the use commences a Site Management Plan, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the site management plan will be endorsed and will then form part of the permit. The Site Management Plan must be in accordance with the Dept of Primary Industries Code of Practice for the operation of Greyhound Establishments (October 2006), EPA Noise Control Guidelines for Dog Kennels and, where applicable, may be in accordance with the Greyhound Racing Victoria Code (A Code of Practice for Greyhound Establishments – Feb 2005). The plan must include:*

- a. *Feeding arrangements.*
- b. *Management of visitors including a maximum number on site at any one time.*
- c. *Ongoing management of the facility (including the provision of an on-site manager 24 hours a day once the number of dogs exceeds 5).*
- d. *Access to dog holding areas by staff only.*
- e. *Noise management (including maximum number of dogs using the slipping track at any time, and maximum number of hours using the slipping track in per week).*
- f. *Waste management.*
- g. *Cleaning methods for the entire facility.*
- h. *Ventilation for the facility.*

Once endorsed these plans will become part of this permit.

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- 8 *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.*
- 9 *The use hereby permitted shall not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of drainage.*
- 10 *The amenity of the area must not be detrimentally affected by the use or development, through the:*
a. transport of materials, goods or commodities to or from the land;
b. appearance of any building, works or materials;
c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
d. presence of vermin;
- to the satisfaction of the Responsible Authority.*
- 11 *The operator of the premises must take all necessary steps to ensure that no noise including the unreasonable barking of dogs or other disturbance emanates from the premises which may cause a nuisance to adjoining occupiers or livestock or detriment to the amenity of surrounding agricultural uses or the neighbourhood to the satisfaction of the Responsible Authority. To this end the operator will take all steps to ensure dogs are not unnecessarily stimulated to ensure no persistent barking occurs.*
- 12 *Feeding of the dogs must only occur between the hours of 7.00 a.m. to 6.00 p.m. to the satisfaction of the Responsible Authority.*
- 13 *Where external lighting is provided it must be fitted with suitable baffles and located so as to prevent the emission of direct light onto adjoining properties or roadways to the satisfaction of the Responsible Authority.*
- 14 *The external cladding and trim of all walls and the roof of the proposed development must be of a non-reflective nature. Cladding materials must be in muted shades to the satisfaction of the Responsible Authority and must thereafter be maintained to the satisfaction of the Responsible Authority.*
- 15 *The floor of any area where dogs are enclosed must be paved with an impervious surface material to the satisfaction of the Responsible Authority.*
- 16 *A nominated person or persons responsible for the ongoing management of the site must be contactable at all times.*
- 17 *Exercise and training of dogs must only be undertaken between the hours of 7.00 a.m. to 6.00 p.m., and unless being exercised or trained, dogs must be contained or controlled by a handler.*
- 18 *Kennels and enclosures must be kept in a clean and satisfactory condition at all times to the satisfaction of the Responsible Authority.*
- 19 *Areas in which greyhounds are to be kept must be fenced to the satisfaction of the Responsible Authority and maintained thereafter in good order to prevent the escape of animals.*

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- 20 *Dog food must be stored in vermin proof containers to the satisfaction of the Responsible Authority.*

Council's Engineering Department

- 21 *Stormwater is to be directed to the legal point of discharge being the naturally occurring drainage line within the property.*
- 22 *All costs incurred in complying with the above conditions shall be borne by the applicant.*

Council's Environmental Health Department

- 23 *An application to install a septic tank system must be submitted prior to any works commencing.*
- 24 *An EPA approved Septic Tank System must be installed in accordance with the Septic Tanks Code of Practice.*

Goulburn-Murray Rural Water Corporation

- 25 *All buildings associated with the greyhound facility must be located at least 30m from any waterways.*
- 26 *All faecal waste material and washdown water from the pens must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval. The size of the tank and disposal area should be designed with consideration to the loading from both a future dwelling and the greyhound facility.*
- 27 *The wastewater disposal area must be located at least 100m from the nearest waterway, must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.*
- 28 *Stormwater must be diverted around the greyhound yards to ensure it does not become contaminated as a result of discharge through kennel, yard or training areas.*
- 298 *This permit will expire if:
The use or development is not commenced within two (2) years of the date of this permit.
The development is not completed within four (4) years of the date of this permit.
The use is not operational for a continuous period of 2 years.
The Responsible Authority may extend the periods referred to if a request is made in writing, before or within three months of the relevant expiry date.*

Notations:

Except where a permit is not required under the provisions of the Hepburn Planning Scheme, no sign or advertisement shall be constructed or displayed without the granting of a separate town planning permit by

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Council.

Noise emitted from the premises must at all times comply with State Environment Protection Policy (Control of Noise from Commerce Industry and Trade) No. N-1 to the satisfaction of the responsible authority.

The owner/operator is required to construct his Greyhound establishment in accordance with the Code of Practice for the operation of Greyhound Establishments.

It is suggested that at various stages of the construction, on site meetings take place between the applicant and Council's Local Laws/Compliance Officers to ensure that construction is in line with the relevant Code of Practice.

Once the Domestic animal business is operating, the applicant must apply for registration of the business under the Domestic (feral & nuisance) Animals Act 1994, Part 4, Division 1, Section 46.

Alternative Motion Moved at Meeting:

That Council having caused notice of Planning Application No. 2007/9457 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 Refuse to Grant a Permit under the provisions of Clause 35.07-1 of the Hepburn Planning Scheme in respect of the land known and described as 670 Williams Rd, Kooroocheang, for the Use and Development of land for Breeding, Keeping and Training of Greyhounds (maximum 60 adult dogs (over 6 mths)) in accordance with the attached plans, with the application dated 14/09/2007.

For the following reasons:

- ***The application fails to meet the purpose and intent of the Farming Zone***
- ***The application fails to meet the objectives and strategies of Clause 15.05 (Noise Abatement)***
- ***The application fails to meet the objectives and strategies of Clause 17.05 (Agriculture)***
- ***The application fails to meet the objectives and strategies of Clause 21.08 (Rural Land Use & Agriculture)***
- ***The application fails to meet the objectives and strategies of Clause 22.04 (Rural Land)***
- ***The application would be detrimental to the amenity of the area.***

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

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8.7 APPLICATION NO 2007/9458, PROPOSED: CONSTRUCTION OF A DWELLING

(A/O – Planning Officer 3)

File Ref:4/3800/01350/P

Synopsis

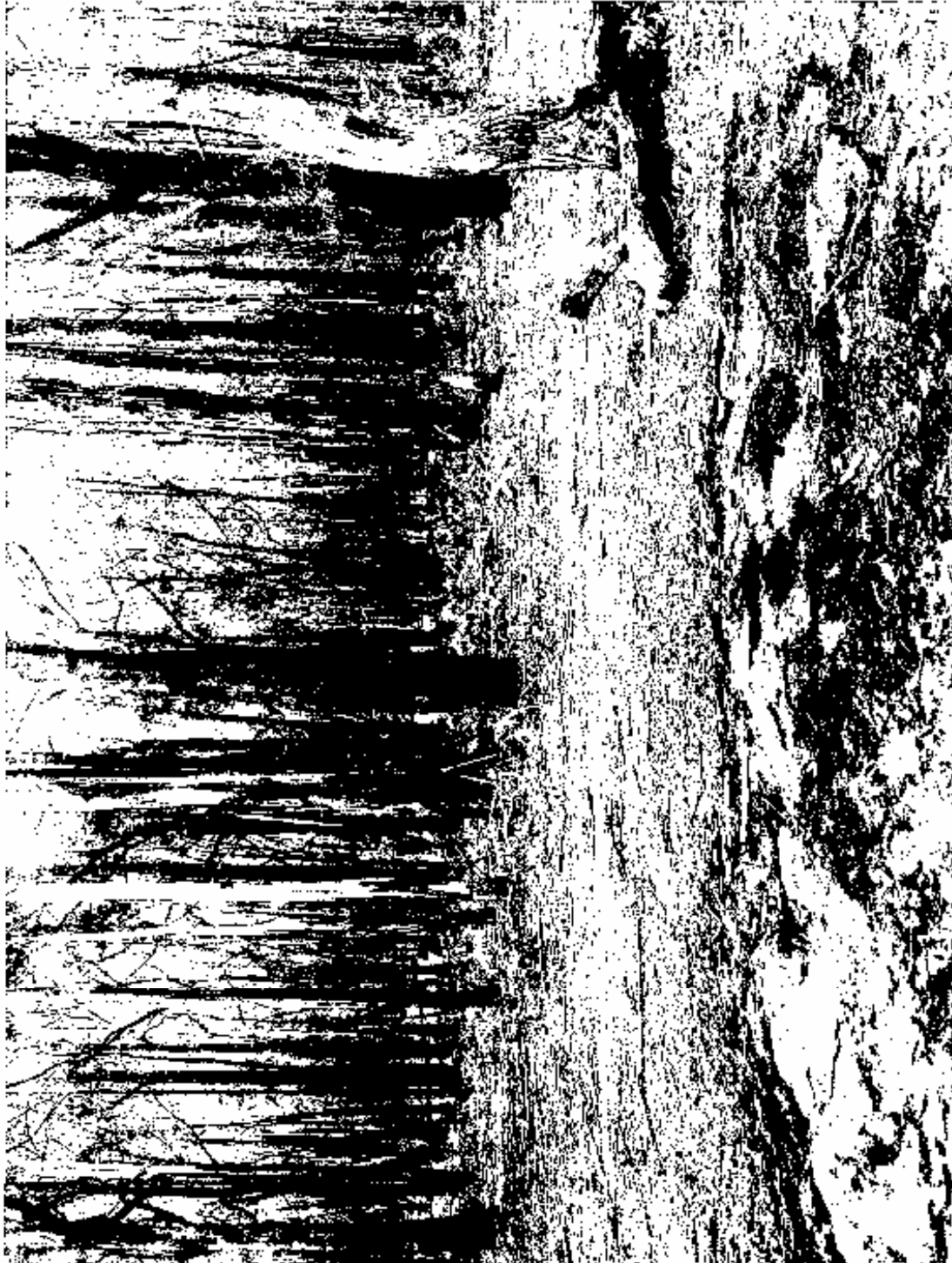
Applicant: Carly Meehan – Alternate Dwellings
Location: 75 Lakers Road, Trentham
Proposal: Construction of a Dwelling
Zoning: Farming Zone
Overlay Controls: Wildfire Management Overlay
Environmental Significance Overlay 1
Vegetation Protection Overlay
No of Objections Received: None
Recommendation: Refusal to Grant a Planning Permit



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Report

INTRODUCTION

The report is prepared to assist Council in making a determination on planning permit application 2007/9458 seeking approval for the construction of a dwelling at 75 Lakers Road Trentham.

PROPOSAL

Lakers Road is an unsealed road off Coliban Road, approximately 7.5km by road north of Trentham. The land in question is rectangular in shape, with an area of 12 hectares. There is evidence of previous timber harvesting, and a number of shed structures remain on the property. The block is extensively vegetated with native grasses, some shrubs and regrowth timber. A cleared strip approximately 12m wide runs from the entrance to the block down the length of the western boundary.

The application seeks approval to construct a single storey 3 bedroom dwelling. Access would be via the cleared strip of land mentioned above. The house site proposed appears to have been selected to minimise the requirement for tree removal. A number of trees would still need to be removed to allow for the construction of the dwelling.

The applicant was advised on the 25th May 2007 that, following a preliminary assessment, the proposal was unlikely to be supported. They were advised that if they still wished to proceed, further information would be required in order to assess the application. This information included a written statement demonstrating how the proposed dwelling meets the decision guidelines for dwellings in the farming zone, especially demonstrating that the dwelling is reasonably required for the operation of any agricultural activity conducted on the land.

The farm plan submitted described the agricultural activity as a hobby farm, which would support a family member's larger enterprise near Daylesford. It is proposed to use this smaller farm as a nursery for end of season lambs, and that a live-in presence, at least on a part time basis, is required for this activity.

REFERRAL AUTHORITIES

Coliban Water under section 55. – awaiting response
Department of Sustainability & Environment, under section 52 – awaiting response.
Country Fire Authority under section 55 – awaiting response.

REFERRAL WITHIN COUNCIL

Referral to the Environment Officer. In view of the recommendation for refusal, the Environment Officer had no comment to make.

ADVERTISING/NOTICE OF APPLICATION

The application was advertised to immediate neighbours. No objections have been received.

8. STATUTORY MATTERS

STATE PLANNING POLICY FRAMEWORK (SPPF)

Clause 17.05 – Agriculture – gives strategic direction for land use planning that ensures the protection of the State's agricultural base from unplanned loss of productive agricultural land. This is realised through the provisions of the applied zones and overlays.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Clause 22.04 sets out the Local Planning Policy on Rural Land. The relevant objective of the policy in regard to dwellings in rural zones is to provide for the erection of dwellings on rural lots where associated with and required to support a productive agricultural enterprise.

ZONE AND OVERLAY PROVISIONS

Farming Zone: The principal purpose of the Farming Zone is to provide for the use of land for agriculture, to encourage the retention of productive agricultural land, and to ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture. To this end, it is a requirement of clause 35.07 of the planning scheme when assessing an application for a dwelling in the farming zone to consider whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.

Environmental Significance Overlay 1 – Proclaimed Catchment Protection: In summary, the purpose of the overlay is to protect the quality and quantity of water within the catchment, and maintain the environmental health of the catchment. When considering applications for dwellings in unsewered areas, the principal issue is the proper management of effluent disposal. This is generally dealt with through conditions relating to septic tanks.

Vegetation Protection Overlay: The relevant purposes of the overlay are to ensure that development minimises loss of vegetation, and to preserve existing trees and other vegetation. The proposed siting of the dwelling ensures a minimal loss of vegetation.

Wildfire Management Overlay: The purpose of the overlay is to ensure that development which is likely to increase the number of people in the overlay area satisfies the specified fire protection objectives and does not significantly increase the threat to life and surrounding property from wildfire. This is normally achieved through permit conditions required by the CFA.

ASSESSMENT

Brief assessment under the overlays has been made above, and will not be elaborated here due to the overwhelming obstacles to the success of the application under the provisions of Local Planning Policy on Rural Land (clause 22.04) and the Zoning (clause 35.07).

The Local Planning Policy on Rural Land stipulates as an objective to provide for the erection of dwellings on rural lots where associated with and required to support a productive agricultural enterprise. It is also a requirement under the zoning to consider whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.

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Council must first consider whether a productive agricultural enterprise is being proposed. The proposal is to use the land for raising end of season lambs. As noted earlier, the block is covered in trees for the most part. The availability of pasture is likely to be patchy at best, with a probable carrying capacity similar to the more arid regions, of around 1 DSE/ha.[Hinton 1993]. On a 12ha lot, this translates to about 15 weaners without mothers, or 6 prime lamb breeding ewes with lambs [figures based on Hinton 1993 p.48]. In either case, the provision of high quality feed is recommended for the successful breeding of lambs and raising of weaners [Hinton 1993 p.87]. It is clear from this that we are not dealing with a productive agricultural enterprise.

Even if a case were to be made that the keeping of 15 weaner lambs on almost non-existent pasture was a productive agricultural enterprise, it could not be demonstrated that a dwelling was reasonably required for this operation.

Community / Engagement / Communication / Consultation:

Financial & Resource Implications Initial & Ongoing

Potential appeal costs

Recommendation:

That Council resolve to issue a Refusal to Grant a Planning Permit in respect of the land known and described as 75 Lakers Road, Trentham, for the Construction of a Dwelling in accordance with the submitted plans, with the application dated 11/07/2007, on the following grounds.

- 1 *The proposal fails to meet the relevant objectives of the Local Planning Policy Framework.*
- 2 *The proposal is not in accord with the purpose of the Farming Zone as the dwelling is not reasonably required for the operation of an agricultural activity.*

REFERENCES; Hinton 1993 – Running a Small Flock of Sheep by David Hinton Department of Agriculture, Agmedia, 3/166 Wellington Parade, East Melbourne 1993

Motion Moved at Meeting:

That Council having considered all matters under the Planning & Environment Act 1987 decides to grant a permit with conditions and delegates to officers the granting of a permit with suitable conditions as determined by the Director Infrastructure & Development.

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

8. STATUTORY MATTERS

8.8 PROPOSED: PLANNING SCHEME AMENDMENT C16 – CORRECTION OF MAPPING ERRORS

(A/O – Senior Strategic Planner)

File Ref: 66/20/04/C16

Synopsis

Applicant:	Council
Location:	Whole of Shire, mainly near State Forest
Proposal:	Re-zone parcels of land according to their ownership and main function
Zoning:	Mainly Farming Zone (FZ) to Public Conservation and Resource Zone (PCRZ)
Overlay Controls:	Not applicable
No of Submissions Received:	7 requesting revisions, numerous seeking informal verifications
Recommendation:	Agree to all requests, and advise Minister accordingly

Report

INTRODUCTION

When the Planning Scheme was translated into the new format in 1999-2000, information was mainly taken directly from the old scheme. It is understood that it was difficult to double-check details, given the resource constraints at the time. Over the years, necessary corrections have been recorded as they arose, and the Council rate base and GIS mapping have been further examined to produce this proposed amendment.

PROPOSAL

Many corrections involve Crown land that was left with the Rural Zones (which has since become the Farming Zone, FZ), like a 'default setting,' eg along creeks, only recently checking ownerships in detail. Many others are the reverse, privately owned properties accidentally zoned with surrounding Crown land. For example, a one hectare property on the Midland Hwy south of Creswick, was included in the PCRZ like the State forest around it; and it will now be in a Rural Living Zone, like other small privately-owned properties nearby. A smaller number of Crown land parcels in settled areas were originally crown allotments, included in private-ownership zones, like Residential 1 and Rural Living, but were never sold as private land, and are now to be in public land zones.

The amendment also included some stretches of main road which are not in the appropriate class of Road Zone. Most notably Vincent Street between Bourke Square and Hepburn Springs should be in Road Zone 1 as an arterial road, rather than its current secondary Road Zone 2 status. (There will be further similar re-zonings in other parts of the Shire as a consequence of the Structure Plan reviews and Rural Zone reviews.)

REFERRAL AUTHORITIES

There was consultation with the Dept Sustainability & Environment (DSE), the effective owner of most Crown land, although Council is sometimes the Committee of Management of certain public parklands, mainly in Public Park and Recreation Zones

8. STATUTORY MATTERS

(PPRZ). There was some confusion over the preferred application of PCRZ and PPRZ, discussed below.

Central Highlands Water (CHW) is also a prominent land owner of public land, and showed interest in correcting similar errors, but it was decided to re-zone its land to the more specific Public Use Zone 1-Service & Utility, in a future amendment.

REFERRAL WITHIN COUNCIL

The vexed question of PCRZ versus PPRZ was discussed at length with Engineering/Operations, mainly during the exhibition period, when DSE expressed concern over the correct preference for each for particular situations. In general, it was agreed that only public open space reserved for a particular type of recreation, carrying with it an expectation of regular maintenance for that purpose, should be in PPRZ. Most other Crown land should fall into the PCRZ, with the emphasis on 'Conservation,' referring to conservation of the most natural condition, mainly State Forests.

EXHIBITION OF AMENDMENT

The amendment was put on public exhibition for two months, from the end of June to the end of August. With so many properties involved (about 300), it was possible to

apply to the Minister for an exemption from giving direct notice to affected owners. However, it was decided to send direct notices to these properties, particularly given the proposed change of road status involved. Notices were also placed in the paper.

It is estimated that around half of the notice recipients (plus some other interested persons) made informal enquiries about the amendment. Most were satisfied when it was clear that the amendment changed circumstances very little, if at all. However, 7 submissions, either in writing, over the telephone or counter, identified situations that were still not correct. Each of these was investigated, and will be rectified in the submission to the Minister. They include:- Leaving the Dean Hall in FZ (unnecessarily complicated to change to another zone, for no apparent advantage to anyone); three private parcels which were to be publicly zoned, now to be removed from AmC16; and two public parcels which were to be left in private zones, now to be corrected, to be in public land zones.

One of these was from DSE, stating its preference for State forest land to be in PCRZ, whereas the amendment included any such land near settled areas to be in PPRZ. DSE is requesting that all such parcels of land, just over 200, be dropped from the amendment, and left with their existing zoning. Some more complex cases are identified, where DSE recommends alternative zonings, to be dealt with in a future amendment. Some of these will be CHW properties, responding to its submission, which has been advised that these will be dealt with in AmC42.

Letters are being sent to parties that made submissions to request further corrections (other than just simple enquiries), to verify relevant details of AmC16, as outlined above.

There are other pieces of public land which arose during exhibition that should be included in AmC42, eg one of the Eganstown cemeteries.

ASSESSMENT

If Council resolves to agree with them, the proposed amendment will be revised in accordance with the submissions, to be lodged with the Minister for approval.

8. STATUTORY MATTERS

Community / Engagement / Communication / Consultation:

The communications were discussed above; plus a further notice was placed in the Advocate to clarify the purpose of the AmC16, after several enquiries were made.

Financial & Resource Implications Initial & Ongoing

Nil

Recommendation:

That Council resolve:

- 1 *To accept all submissions for AmC16, revising it accordingly, and submit it to the Minister for approval; and*
- 2 *That those parcels of CHW, DSE and other land to be dropped from AmC16 for other specific re-zonings, be included in proposed AmC42.*

Moved the Officer's Recommendation:

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

8. STATUTORY MATTERS

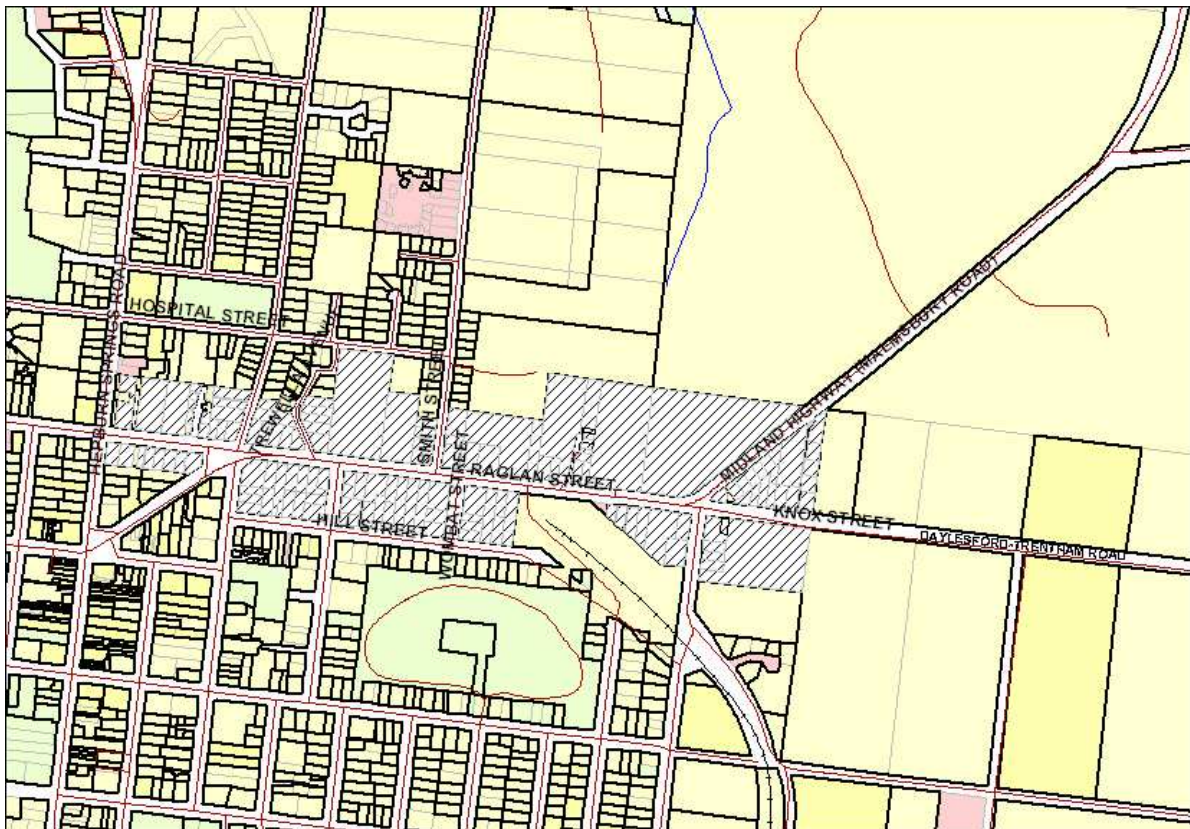
8.9 PROPOSED PLANNING SCHEME AMENDMENT – “GATEWAY” CONTROLS TO DAYLESFORD TOWNSHIP, AMC46

(A/O – Senior Strategic Planner)

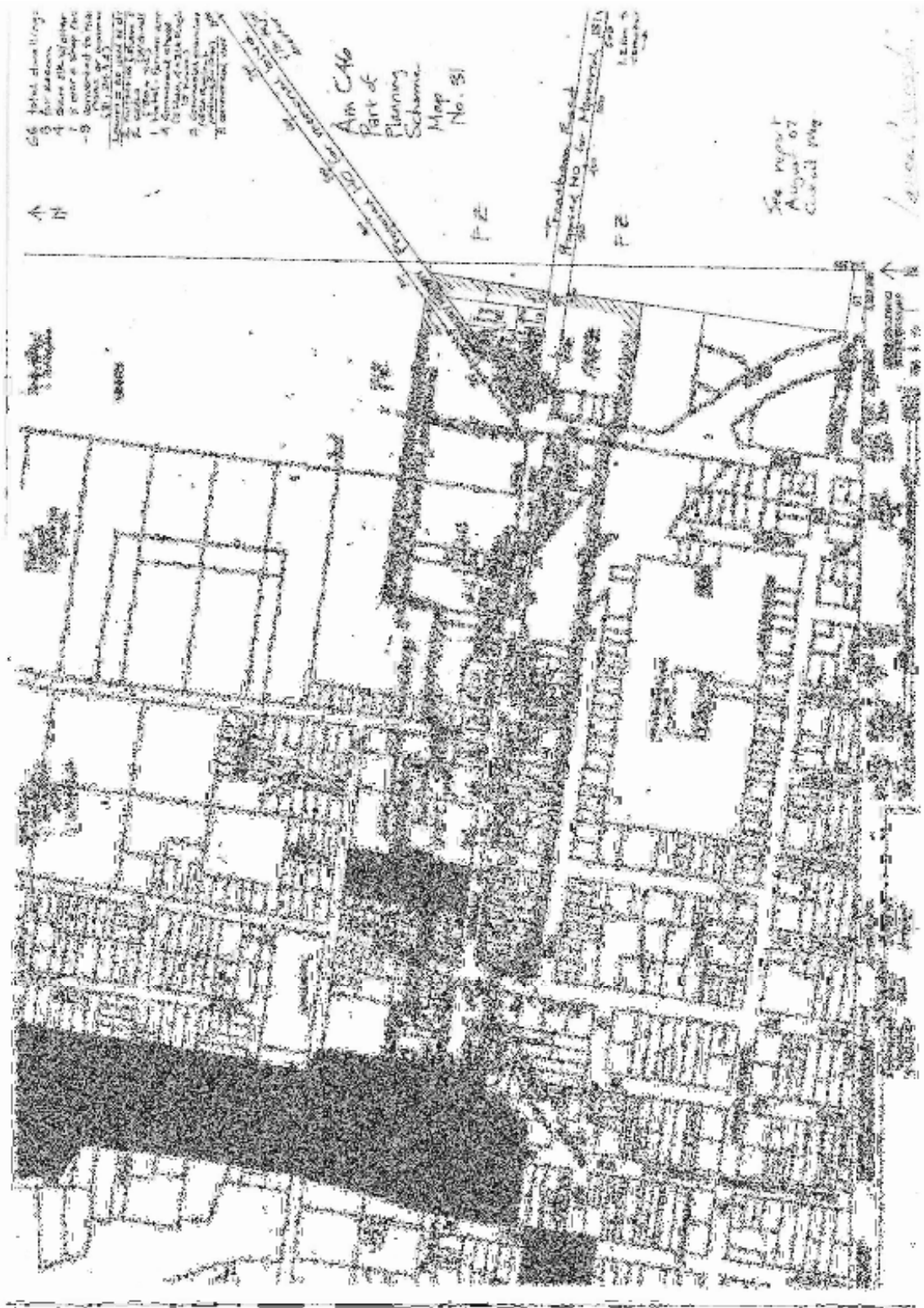
File Ref:66/20/04/C46

Synopsis

Applicant:	Council
Location:	From east, Malmsbury Road/Midland Highway and Trentham Road, becoming Raglan Street
Proposal:	Overlay and other controls to retain and enhance the existing character
Zoning:	Residential 1 Zone – R1Z
Overlay Controls:	Currently, Railway & Wills Square Heritage Precinct Overlays, plus several heritage overlays for individual properties



8. STATUTORY MATTERS



8. STATUTORY MATTERS

Report

INTRODUCTION

It was reported to the August Council Meeting that the eastern 'gateway' from Malmsbury Road/Midland Highway and Trentham Road, with their memorial avenues of trees, through Raglan Street to the town centre, is likely to come under re-development pressure, with particular concern about commercial uses which may be considered in the Residential 1 Zone (R1Z), such as convenience restaurants (cafes), which could detract from the heritage-residential character of this leafy corridor if not strictly controlled, eg with a Design and Development Overlay Control, DDO.

The corridor is dominated by dwellings, about 66, of which 4 share their sites with cafes and/or nurseries, 3 are fully converted to medical rooms or commercial use. There are 4 commercial sheds, 2 commercial premises and one hotel. There are some 6 sites that would be considered large enough for additional dwellings, but most have elaborate gardens with large trees. One property at the eastern end has about 2.6ha in R1Z, the other 180ha+ in Farming Zone.

There are 14 individual sites with heritage overlays, mostly dwellings, over which there are 2 heritage overlay precincts, Railway and Wills Square, covering the corridor west of East Street. Many other sites would be eligible for individual overlays, if deemed necessary.

The Daylesford-Ballan Road, which has been under pressure more from medium density residential development, particularly around the lakes, currently enjoys the DDO2 control, except for a small stretch between Grant Street and Macadam Street, which will also be in-filled as part of this amendment. The western entry, Albert Street/Midland Highway is similarly covered, as is the northern link to Hepburn.

The existing DDO's finish at the town centre Business 1 Zone, not wishing to unduly discourage commercial re-development, but the centre is protected by a heritage precinct and heritage overlays of some individual properties and premises.

PROPOSAL

The eastern entry is currently patchy with its development controls. Much of it is covered by the 2 heritage precincts, but not the easternmost approaches; and the memorial trees should be covered by heritage overlays, out to the cemetery for Trentham Road, and at least out to the Malmsbury Road junction of the Midland Highway.

A new DDO from the east to the town centre would complement the existing DDO's and tie the eastern corridor together. The 2.6ha property has a water course which will need environmental as well as visual attention in the controls, as may some of the other properties if further developed.

There is a small DDO existing off Raglan Street, which appears to have focussed on Trewhella Avenue, and should be deleted, except where it coincides with the new control, which is to become DDO6.

The Neighbourhood Character Overlay is further to the west; however, the Neighbourhood Character policies are to be considered in exercising discretion for proposed development in these precincts, Numbers 10 and 11.

8. STATUTORY MATTERS

The appropriateness of covering additional properties with individual heritage overlays will also be investigated as part of this process, which may overlap to some extent with identification of Significant Trees.

Relevant portions of the Structure Plan Review Report have been revised to set the scene for and enhance the relevance of this new overlay.

In discussions with the liaison officer of the Dept of Planning & Community Development (DPCD), Council is strongly urged to strengthen its controls for the development of this and other residential areas under commercial pressure to include in its local controls (Clause 22) a policy for discretionary uses in residential areas. This could be modelled after the one in the Moreland City Planning Scheme, to control non-residential uses in the R1Z. A draft of this and the DDO6 text should be available for the November Council Meeting.

REFERRAL AUTHORITIES

VicRoads will be consulted about these proposals, because it involves arterial Road Zones-1, although it is unlikely that there will be any concerns or comments.

REFERRAL WITHIN COUNCIL

These proposals have been discussed with Council's heritage adviser and conservation officer, who will continue to contribute to the process.

NOTICE and EXHIBITION of the AMENDMENT

Owner/occupiers of all properties within the proposed DDO will be notified, and notices will be placed in the local paper. Submissions will be open for two months.

Relevant Policies / Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

The objective of encouraging commercial development within the existing, compact town centre of Daylesford while preserving the character of the eastern entries to the town is consistent with:-

Settlement, planning for urban growth should encourage consolidation of existing urban areas while respecting neighbourhood character; historic buildings and precincts should be protected from development which would diminish their environmental values; to achieve this, preparation and review of structure plans is encouraged;

Activity centres, to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres, which provide a variety of land uses and are highly accessible to the community, as opposed to being scattered along the highway, through residential areas; and

Heritage, important buildings, structures, parks, gardens, sites associated with the historic and cultural development of Victoria, should be conserved.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

The proposals are similarly consistent with relevant local policies, in particular as addressed in the Daylesford Structure Plan review.

8. STATUTORY MATTERS

ZONE AND OVERLAY PROVISIONS

The policy proposed above for non-residential uses should limit the scope for the intrusion of commercial uses in this leafy R1Z, together with the proposed DDO and HO's.

ASSESSMENT

These measures should provide Council with the necessary controls to retain the existing heritage and park-like residential character on this eastern gateway to Daylesford, complementing the existing controls. The small gap in DDO2 will be in-filled, and the avenue of honour trees will be protected.

Council has already resolved to prepare this amendment for authorisation. It will be submitted to Department of Planning and Community Development in due course

Community / Engagement / Communication / Consultation:

Comment is to be sought as above; these proposals will also be raised at the Daylesford Structure Plan Review community meeting.

Financial & Resource Implications Initial & Ongoing

Much of the work is to be carried out by Council officers and heritage adviser.

Recommendation

That Council note the progress report on Amendment C46 – Gateway Controls to Daylesford Township.

Moved the Officer's Recommendation:

Moved: ***Cr Bill McClenaghan***

Seconded: ***Cr Janine Booth***

Carried.

8. STATUTORY MATTERS

8.10 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, PETER STRUCK, ALISON SPINK AND FIONA EDWARDS

(A/O – Planning Administration Officer)

File Ref: 3/2905/00372/P
3/2905/00372/P

Synopsis

This report concerns a Section 173 Agreement that provides that no further subdivision or construction of a second dwelling will be sought for the subject property at CA's 115, 116, 116c, 117, Section B, Parish of Bullarook, under Condition 9 of Planning Permit 2007/9286, issued for the subdivision, consolidation and construction of a dwelling and shed.

Applicants: PETER NEAL STRUCK, ALISON FAYE SPINK AND FIONA NICOLE EDWARDS

Properties: 70 GRAVES ROAD, LANGDONS HILL – CA 117, SECTION B, PARISH OF BULLAROOK &
30 GOVERNMENT ROAD, LANGDONS HILL – CA 115, 116, 116C SECTION B, PARISH OF BULLAROOK

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 no further subdivision of either lots will be created and no second dwelling on either lots will be erected at CA's 115, 116, 116C, 117, Section B, Parish of Bullarook, under Condition 9 of Planning Permit 2007/9286.

Relevant Policies / Council Plan implications:

Community / Engagement / Communication / Consultation:

Financial Implications

Nil

Recommendation:

That Council:

8.10.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, Peter Neal Struck, Alison Faye Spink and Fiona Nicole Edwards as detailed under item 8.10.*

Moved the Officer's Recommendation:

Moved: Cr Bill McClenaghan

Seconded: Cr Janine Booth

Carried.

8. STATUTORY MATTERS

8.11 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, CENTRAL HIGHLANDS REGION WATER CORPORATION AND H & S MCAULEY

(A/O – Senior Strategic Planner)

File Ref: 1/4260/00009/P

Synopsis

This report concerns a Section 173 Agreement that provides for obligations in operating sewage treatment equipment for the subject lots at 9-11 McDonalds Road, Clunes, existing lots to be connected to the system of Central Highlands Region Water Corporation (CHW).

APPLICANT H & S MCCAULEY

PROPERTY: 9-11 MCDONALD STREET, CLUNES

Report

The land owners are to enter into an agreement with the Responsible Authority and CHW pursuant to Section 173 of the Planning and Environment Act 1987. They own three (3) adjoining lots, 16000m² fronting the Creswick Road, which contains their own dwelling, and two (2) lots of 2500m² each fronting McDonald Street between Hickox and Lathlain Streets. The landowners wish to sell the two (2) smaller lots. As the land is in a Township Zone, a planning permit would only be required if it was sought to treat all waste on site. However, the owners have agreed to pump partially treated waste into CHW's system. The Section 173 agreement will obligate any owner of the lots to operate the systems to certain standards.

Relevant Policies / Council Plan implications:

This outcome allows the development of two (2) existing vacant lots within the Township development boundary of Clunes, in an area that has been difficult to fully service. This installation will help other owners in this area to develop vacant lots.

Community / Engagement / Communication / Consultation:

Not required

Financial Implications

No further costs to Council

Recommendation:

That Council:

8.11.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, Central Highlands Region Water Corporation, and H & S McAuley, for CA 8 and CA 16. Sec 34, Township of Clunes as detailed under item 8.11.*

Moved the Officer's Recommendation:

Moved: **Cr Bill McClenaghan**

Seconded: **Cr Janine Booth**

Carried

9. COUNCILLOR REPORTS AND CONGRATULATIONS

Cr Janine Booth Creswick Ward.

Cr Booth spoke to written report (follows) on various matters, including Good Governance of the Shire.

Tabled report:

I wish to provide the following report to Council on some of the duties I have attended to in my role of Creswick Ward Councillor over the past month. Although I have attended the usual forward planning meetings and briefings of Council I have to admit that this past month I have taken my eye off the ball as far as focusing and working on important issues that are of concern to my residents. My attention has been diverted by matters of concern which have only served to reinforce my belief in the need to have respect for and follow proper process and to commit to the protocols that I agreed to in coming to this office. I am confident that matters will soon be resolved and I can join with the CEO, Officers and fellow Councillors in focusing of the good governance of this Shire.

I would like to report that I did have the opportunity to attend our information night on grants currently available through Sport and Recreation Victoria which gave Members from a wide range of sporting organizations within our Shire detailed insight into what grants are available and their criteria.

Many organizations across the Shire availed themselves of this opportunity which is an indication of the valuable and diverse role recreation opportunities and facilities play in the lives of residents across the Shire.

I look forward in working with our Recreation advisory committee in assessing applications and work with these various organizations and their volunteers to ensure the success of attracting additional funds from external sources into our Shire to support recreation infrastructure and run programs..

Not as Ward Councillor but as a Director I attend the inaugural AGM of the Creswick and district Community Bank Branch of the Bendigo Bank. Whilst not a Council initiative I am sure that We all acknowledge my Communities foresight in developing this vision. The foundations have been laid to build not only a solid competitive Community owned Banking facility in Creswick but a Community facility that will have many commercial and social benefits already demonstrated by the fact that after less than 4 months of trading the Directors have granted their first community support monies of \$500 to the Creswick and District preschool. The Annual report indicates that doors opened on the 25th May this year and after 5 weeks of positive trading, the 30th June balances totaled 16 million dollars with \$11million as deposits and \$5 million as lending- exceeding all expectations and well on the way to our target of \$30 million in the first year of trading.

The Community Bank directors look forward to working for the future, together with Hepburn Shire to further develop this regions social and economic benefits for its residents.

Finally, I attended the AGM of the John Curtain Hostel Facility at Creswick.

This important aged care facility is one of the largest employer in the town and The nursing home facilities and the independent living units provide my community with the opportunity to have our aged relatives, including my Mum and the Mayors Mum, to be provided with supportive and exemplary care in their twilight years. But it is the new Dementia ward that I am most happy to support in anticipation of my potential need for such a facility in what I fear, and my children firmly believe, ..Is in the not too distant future.

9. COUNCILLOR REPORTS AND CONGRATULATIONS

Cr Bill McClenaghan Holcombe Ward.

Cr McClenaghan supported what Cr Janine Booth said and the restoration of effective control by the elected representatives. He then spoke to written report on various matters. Report tabled follows.

Firstly, I must say in response to Cr Booth that I too seek a resolution to the current difficulties on this Council and I look forward to seeing the people's elected representatives take charge of the situation. Its been another busy month with the usual round of meetings and committee engagements.

I have attended two more "Hepburn Events" forums run by Jon Stephens and funded by the State Government. These forums are valuable in assisting local events organiser in Hepburn Shire to grow their events and keep up the good work. Some events are based in Daylesford like Chillout, others like the Swiss Italian Festa are based in Hepburn Springs. Creswick has its Forestry Fiesta and Clunes has Booktown and "Creative Clunes". Trentham is working hard to develop new activities and events as well. Some events like "Words in Winter" and "Foto Biennale" are virtually Shire Wide. All events are fun by committed volunteers, passionate about what they do and all events bring tremendous benefit to the various Shire communities.

All events need help/ The bad news for Daylesford is that the organisers of the New Year's Eve Gala are unable to go on because of falling volunteer numbers, volunteer burnout and the lack of anyone coming forward to assist. If anyone is able to help, I believe that this event that we all love and take for granted can still be saved. I would encourage any prospective volunteers to contact myself or Council or Daylesford Rotary if they are able to spare a few hours that evening.

Events need help in other ways. Some sort of overall co-ordination, assistance or resourcing is required. Council has \$10,000 budgeted this year to assist but we have yet to decide how it will be best spent. Although the Hepburn Events forums have now concluded and funding has run out, we have agreed to keep in touch and a follow-up meeting has been planned in the Town Hall in late November so not to lose the initiative of having events organisers in the Shire meeting together and networking towards common goals. Maybe Council can consider other ways to assist out events that bring so much benefit to the shire every year.

Council hosted a congratulatory dinner for the Daylesford Football Club senior after their premiership win following decades in the doldrums. Two days later, I was asked to attend a presentation night at Hepburn Springs and present Council's Young Achiever Awards to three young recipients who have gone that extra mile for their club. It's great to see the tremendous club spirit evident in both places as well as keen rivalry between neighbours, the Burras and the Bulldogs. Great also to see local clubs that attract and nurture young people and families and given them something good to do in a caring mentoring environment.

On Thursday 27 September, the new Conservation Management Plan for the Wombat Hill Botanic Gardens was launched at a public meeting where consultant Lee Andrews (assisted by John Beetham) outline the exciting future development of one of Daylesford's most exotic treasures. Copies of CMP are available from Council on CD and submissions are welcome. It was good to see so many people at the meeting to show the love and care for the gardens from a wide cross-section of the community.

Another show and tell was two Saturdays ago at the Hepburn Springs Bathhouse where the redevelopment is starting to look like it just might be finished this year in time for a grand opening before next Easter. Public tours to the edge of the new building were

9. COUNCILLOR REPORTS AND CONGRATULATIONS

conducted and although no one got to go inside because of the risks within the building site, it was certainly clear to the 200 or so people who had a tour that progress is indeed being made, the quality of the finish is stunning and that our new \$10 million bathhouse will be spectacular.

Yesterday, I chaired the ARC Advisory Committee and met the newly appointed manager for "The ARC" or the Daylesford Recreation Centre being built at the secondary college. The project is nearly finished and is being fitted out with all new seating and equipment. It is the biggest single-span sports stadium in Victoria and a wonderful boost to the whole area. Many sports are on offer from basketball to badminton, indoor cricket to volleyball. Even out of two groups want to come here and use it like two martial arts clubs from Ballarat. User fees are very reasonable and it is cheaper than lesser facilities in Ballarat.

Also yesterday was a meeting of some of the user groups. I am confident that "The ARC" will be a wonderful addition to Daylesford * District and that its operation will be viable and no burden on Council and the ratepayers. The YMCA are Council's appointed contract managers for the facility and we can expect expert and efficient service from them. It is proposed to commence operations on 3 December 2007 with an official opening in early February next year that we hope will feature some basketball stars from the Ballarat Miners as well as the usual state and local dignitaries, not forgetting the many local people who have worked so hard to raise the \$300,000 plus as their contribution.

I commend the wonderful new development with Hepburn Shire to our residents, ratepayers and visitors. Despite our current difficulties, it really is a great place to be.

Cr Tim Hayes Cameron Ward.

Cr Hayes spoke to written report (follows) on various matters .

Tabled Report:

Since my last Council report I have attended a number of functions and meetings of various committees across the Shire.

On Friday 21 September I had the honour of hosting the Civic Reception for the Daylesford Football Club to recognize the Club's Grand Final victory in the Central Highlands Football League competition. It had been over 40 years since the Club last won a Premiership and it was good to see former players from the last Premiership team, as well as so many of the current players and supporters in attendance on the day. The Civic Reception was organized within a matter of only a few days and I would like to take the opportunity of expressing appreciation to the CEO and his staff for the work they did in making the arrangements for such a pleasurable day.

Later that evening I presented trophies at the Clunes Under 15 Football and Netball Club Presentation Night.

On the 27 September along with Councillor Booth and the Mayor, I attended a dinner with and prepared by the newly appointed members of the Youth Advisory Committee. We often underestimate the quality and talent of our young people but if these members are anything to go by, I am sure they will become leaders and decision makers in the next generation. They take their role very seriously and clearly understand the issues facing them today and in the future. Council's Youth Development Officer, Jane Barclay, is doing a fantastic job in her role and I was very impressed with the way in which she interacts with our young people.

9. COUNCILLOR REPORTS AND CONGRATULATIONS

The Cultural & Arts Advisory Committee met on 10 October and its first task will be to prepare a draft Arts Policy for consideration by Council in the near future. Artists represent a significant proportion of our communities but unlike other interest groups across the Shire, they lack co-ordination and leadership. I am hopeful that the Advisory Committee, under the guidance of Sue Jones, can provide some direction in these areas.

Mr Mayor, I feel compelled to comment on the recent remarks in State Parliament by the Honourable Peter Kavanagh, MLC for Western Victoria Province. On the 9 October, Mr Kavanagh spoke in Parliament and referred to unsubstantiated allegations that the Hepburn Shire is 'locked in conflict and is in danger of becoming dysfunctional'. Where he got this 'information' from, one can only surmise but it is a pity that he did not check his facts first before speaking under parliamentary privilege. Had he done so, he would soon realise that far from being 'locked in conflict and dysfunctional' this Council is focused on providing good governance and will not be distracted by the comments - being fuelled by the media - of a few disaffected antagonists. I ask the Chief Executive Officer to extend an invitation to Mr. Kavanagh to visit Clunes, Creswick and other small towns of the Hepburn Shire so that he can see first hand the work that is being undertaken, not only by this Council but by the many hundreds of residents and volunteers who make a valuable contribution in their communities.

Cr David Smith
Birch Ward.

Cr Smith spoke to written report (follows) on various matters.

Tabled report:

I returned from overseas on the 24th September and thank the Acting Mayor for his leadership while I was away representing my country at the World Ploughing Championships held in Lithuania. Ploughing is a registered sport with the I.A.S. in Canberra.

- Forward Planning Meeting
- Bathhouse inspection, called at very short notice by the Govt. who requested that the Mayor & C.E.O attend to meet Minister Theo Theophanous who was returning from up north and was on his way back to Melbourne.
- Tea with the Youth Advisory Committee at the Wesley College Campus.
- Together with Rhonda we attended the Daylesford Junior Football and Netball Presentation night at the Daylesford Town Hall and I presented the Shire Award Trophies.
- Special Council Meeting called for on 2nd October, 2007
Just once again I wish to advise the ratepayers of our Shire

"The law provides that Council meetings are generally to be open to the public for that reason. However, the law also provides that in some circumstances, the Council can resolve that a meeting is to be closed to the public, and that the discussion at the meeting is confidential."

- Attended the Bathhouse Site – Open Day. Well attended with a BBQ and our local Brass Band playing in the afternoon.
- On site meeting with Pam Manning and new residents to discuss some Landcare issues in the Rocklyn area.

9. COUNCILLOR REPORTS AND CONGRATULATIONS

- Chaired a meeting at the Newlyn Community Complex in regard to the Sutton Park Estate - Soldier Settlement - original settlers on the Estate.
- Last Tuesday night the Draft Agenda meeting. Large crowd attended.
- Some site inspections around the Shire.
- Mayors and C.E.O. meeting in Ballarat last Friday.
- The Annual Leonards Hill Ball. Disappointing crowd but everyone who attended all had a great time. President Ken Rae thanked the Council for their support given to the Leonards Hall Committee over the past twelve months and previous years.
- Annual Bullarto Tractor Trek, last Sunday.
- Welcomed the M.A.V. Members to Daylesford yesterday morning for their meeting held in Daylesford.

Recommendation:

That Council:

9.1 *Receive and note the reports of Councillors.*

Moved the Officer's Recommendation:

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

9.2 CEO ANNUAL APPRAISAL.

Motion Moved at Meeting:

That the Mayor and Councillors Booth and Hayes be appointed to undertake the annual review of the CEO.

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

Cr Bill McClenaghan requested that his opposition to the Motion be placed on record.

CLOSE OF MEETING

CLOSE OF MEETING: The Meeting closed at 8.31pm.

CLOSE OF MEETING
