

# **HEPBURN SHIRE COUNCIL**

## **ORDINARY MEETING MINUTES**

7pm Tuesday  
17 April 2007

Trentham Mechanics Institute

*This Document is printed on 50% Australian recycled paper*

## 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 WILL BE HELD AT  
TRENTHAM MECHANICS INSTITUTE ON 17 APRIL 2007,  
COMMENCING AT 7 PM**

---

**AGENDA**

	<b>Page No</b>
<b>1. APOLOGIES:</b>	<b>1</b>
<b>2. DECLARATION OF PECUNIARY INTEREST:</b>	<b>1</b>
<b>3. CONFIRMATION OF MINUTES:</b>	<b>1</b>
<b>4. PETITIONS AND PUBLIC QUESTION TIME:</b>	<b>2</b>
<b>5. REPORTS FROM COUNCILLORS:</b>	<b>5</b>
<b>6. GOVERNANCE MATTERS:</b>	
6.1 Briefing State & Federal MP's .....	7
6.2 Funding Request – Bullboar, Macaroni & Mineral Water .....	9
6.3 General Revaluation 2008.....	11
6.4 Electoral Review .....	12
6.5 Clunes Community Homes Internal Loan .....	14
6.6 Clunes Caravan Park –Lease .....	16
6.7 Monthly Financial Report 1/7/06 – 31/03/07 .....	19
6.8 Mid Year Financial Review December 2007.....	22
6.9 Instrument of Delegation for New Planning Staff .....	24
6.10 Heritage Advisory Committee – Recommendation for Attendance of Council's Heritage Advisor at committee Meetings .....	26
6.11 Heritage Conservation Policy .....	27
<b>7. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND</b>	
<b>8. COUNCIL SECTION 86 ADVISORY AND COMMITTEES OF MANAGEMENT</b>	
8.1 Heritage Advisory Committee – Recommendation for National Heritage Listing of the wombat Hill Gardens, Daylesford .....	29
8.2 Section 86 Committee & Advisory Minutes.....	30
<b>9. STATUTORY MATTERS:</b>	
9.1 Application No 2006/9017, Proposed: Subdivision of the Land into Eight (8) Lots – 96 East Street, Daylesford.....	31
9.2 Section 173 Agreement between Hepburn Shire Council, and Cahoon Property Investments Pty Ltd, Planning Permit No 2006/9011 .....	44

9.3	Section 173 Agreement between Hepburn Shire Council, Goulburn-Murray Water and Mal Louis Wood, Planning Permit No 2004/8054 .....	45
9.4	Section 173 Agreement between Hepburn Shire Council, Karen Diane Royle and Gregory John Hardy, Planning Permit No 2004/8364 .....	46
<b>10.</b>	<b>STRATEGIC MATTERS:</b>	
10.1	Changes to the Provisions for Compensation under the Planning and Environment Act 1987 .....	47
<b>11.</b>	<b>ITEMS FOR NOTING:</b>	
11.1	Update of Building Department Statistics.....	49
<b>12.</b>	<b>CONGRATULATIONS / APPRECIATION:</b>	50
<b>13.</b>	<b>ORDINARY BUSINESS:</b>	51
<b>14.</b>	<b>NOTICE OF MOTION:</b>	
14.1	Central Highlands Water – Superpipeline.....	52

**CLOSE OF MEETING:**

**ATTACHMENTS**

---

**Cr David Smith JP**  
**Mayor 2006-07**  
**18 APRIL 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; Councillors, Janine Booth, Tim Hayes, Bill McClenaghan and Heather Mutimer.

**IN ATTENDANCE:** Chief Executive Officer, Victor Szwed; Director Infrastructure & Development, Rod Conway; Director Corporate Services, Chris Cowley. Three public and 1 media.

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

**OPENING PRAYER**

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

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

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

This we pray. Amen

1. **APOLOGIES:** Nil
2. **DECLARATION OF PECUNIARY INTEREST:** Nil
3. **CONFIRMATION OF MINUTES:**

**3.1 ORDINARY MEETING OF 20 March 2007**

**Recommendation:**

*That item 3.1 Minutes of the Ordinary Meeting of Council held on 20 March 2007 (Attachment 1), be confirmed, as required under Section 93 (2) of the Local Government Act 1989.*

**Moved the Officer's Recommendation**

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

#### 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.

#### PETITION:

##### 4.1 PETITION – “A” FRAMES, TABLES & CHAIRS

(A/O – Director Infrastructure & Development)

File Ref: 44/04/02

##### Synopsis

##### Report

Council at its Ordinary Meeting on 20 March 2007 received a petition signed by 17 retailers. The petition is headed:

*“Petition NOT to enforce Recommended Changes in Street Furniture for Fraser Street Clunes”.*

The covering letter from the Clunes Tourist & Development Association (CTDA) advises:

- *That the retailers do not support any regulation and charges for A-frames, tables and chairs or any other street furniture in the Cameron Ward.*
- *The CTDA believes that the footpaths of Clunes are wide enough to have street furniture and pedestrians without any concerns to the pedestrians.*
- *There has not ever been a problem with restrictions to pedestrians from any furniture even when special events such as the Clunes market are held.*
- *It would appear that the concern relates only to Daylesford.*

Council at its Ordinary Meeting on 15 August 2006 considered a report on amending Council's Policy No. 19 concerning Signs and Goods on Road Reservations. The report recommended that Council:

1. *Amend Policy 19 to meet the requirements of the DDA and advise traders of the requirement to keep a 2 metre clear pathway from the shop front.*
2. *That this change be effective from 1 October 2006 to allow time to inform businesses and the wider community.*

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

---

Council deferred the item so that Cr Mutimer could liaise with the Hepburn Disability Access Group and provide advice to Council on this matter.

The Hepburn Disability Access Group has met and discussed this matter and is to provide a report back.

Council's current policy states "*This policy has been formulated to complement General Local Law No. 6. In particular, the policy addresses the placing of signs, goods, tables and chairs on footpaths. It is important that Council have a set of consistent criteria to control these. Public liability, visual clutter and obstruction of footpaths are important issues for Council to consider. If thoughtfully addressed, signs, goods, tables and chairs can add to the vibrancy of a business area.*"

##### Fees for permits

The fees for placement of signs, tables and chairs are considered appropriate and have been in place for many years.

The standard fees for 2006/7 are:

Signs \$80/annum

Tables & two chairs \$110/set/annum for first tow table sets and \$370/set/annum thereafter.

Goods for sale \$110/set/annum.

Council Policy 19 actually states that:

*"The standard fees as determined by Council will relate to the areas below:*

- Daylesford*
- Vincent Street between Albert Street & Raglan Street.
  - Vincent Street between Stanbridge Street & Albert Street
  - Albert Street between Bridport Street & Duke Street
  - Howe Street between Raglan Street and Albert Street.

*A 50% reduced rate will apply to all areas outside the above."*

As Council is awaiting the report from the Hepburn Community Access Group on the issue of placement of signs, tables, chairs and goods it is suggested that Council advise the CDTA that at this stage there is no change to the current policy and should Council decide to change the policy then it will seek community comment prior to implementing any change.

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

Council Policy 19 – Signs and Goods on Road Reservations.

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

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

##### **Recommendation:**

*That Council:*

- 4.1 Advise the CDTA that the current policy remains and should Council decide to change the policy in the future then it will seek community comment prior to implementing any change.

---

**4. PETITIONS AND PUBLIC QUESTION TIME**

---

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

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

**Public Question Time:**

**1. Bath Street Reserve**

Council as Committee of Management was queried on Greencorp and ongoing maintenance.

**2.(a) Dog Registrations**

Question: Why not include with Rate Notices?

**2.(b) East Trentham not Trentham East.**

**3. Petition re Cosmopolitan Hotel subdivision proposal.**

Cr Heather Mutimer tabled Petition on behalf of Gael Elliot containing 164 signatures, re Cosmopolitan Hotel subdivision proposal.

***Motion moved at Meeting:***

***That Council receive the Petition.***

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



## 5. REPORTS FROM COUNCILLORS

---

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

Verbal report on various matters.

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

This month began with a very successful function in the Wombat Hill Botanic Gardens to recognise the efforts of our Shire's volunteers from all walks of life. It was pleasing to see so many people attend and have their service to their community recognised. The weather was perfect in an idyllic setting amongst century old trees and beautiful gardens.

Destination Daylesford is now up and running with the full steering committee now appointed. The synergy of meetings is very inspiring with everyone very enthusiastic towards this important initiative to create a destination plan for Daylesford and Hepburn Springs with dispersal across the Shire. A full day forum is planned for this Friday with various information packed sessions and noteworthy speakers.

The Hepburn Regional Tourism Association is now up and running also with a new admin assistant on board. Already improved communications have become evident. I attended the HRTA brunch meeting in Hepburn Springs at the re-opened Cosy Corner Café on 27 Mar 07 and the hot topic was of course "Destination Daylesford."

I am pleased to advise that a \$91,000 contract has now been awarded for safety works at the Hepburn Pool. The contractor is currently doing good works at Lake Daylesford on the Leggatt spring and also on the Glenlyon spring. We are on track to completing the Hepburn Pool project by the end of this financial year with a \$100,000 State Government grant.

I chaired another workshop meeting to plan the future of the Daylesford Playground, otherwise known as the skate park. We need to get things happening there soon and the priorities identified are the soundproofing of the hollow metal skate ramps, the construction of a playground area with seating for pre-school children and appropriately sited car parking. A further working group meeting will be held before taking the plans to the general public.

I also attended an M.A.V. regional planning meeting at Bannockburn where neighbouring Shires discussed the issues most important to them. The greatest concern was for the viability of individual Shires, especially small rural shires where three in Victoria have been determined as non-viable. We are not in that group but we do have issues with the adequate replacement of depreciating infrastructure.

Easter in Daylesford and Hepburn Springs was very busy but some businesses reported a slump in what people were prepared to spend this year. Competition for the tourist dollar is intense and we should not slacken our pace in this regard.

Also in the last month, I have attended the following committee meetings;

- Tourism Advisory Committee,
- Wombat Hill Botanic Gardens Advisory Committee and
- Hepburn Pool Advisory Committee.

Councillors and Officers are currently very busy finalising the Mid Year Financial Review, reviewing the Council Plan, formulating a new Ten Year Financial Plan and

---

**5. REPORTS FROM COUNCILLORS**

---

putting together the 2007/2008 Shire Budget. It's all go right now and thinking caps on.

**Cr Tim Hayes**  
**Cameron Ward**

No report.

**Cr Janine Booth**  
**Creswick Ward.**

Verbal report on various matters.

**Cr David Smith**  
**Birch Ward**

Spoke to a written report.

**Recommendation:**

*That Council:*

5.1 *Receive and note the reports of Councillors.*

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.1 BRIEFING STATE & FEDERAL MP'S

(A/O –Chief Executive Officer )

File Ref:

#### Synopsis

Council has various contacts with State and Federal Members of Parliament and has organised a forum most years to bring them together. Unfortunately, it has proven to be difficult to get them all or even most of them to attend even though various dates were offered. The Council Plan Action Plan includes under “1.3 *Enhance external relationships*” the following action:

“ 1.3.1 *Establish periodic meeting with State and Federal politicians, including candidates*”.

#### Report

In the lead-up to the State Election late last year we invited candidates to come and meet with Council to discuss issues of significance so that they would be better informed. Unfortunately only a couple of them took up the offer. One of the difficulties with “candidates” is that they are not officially “candidates” until they have formally nominated several weeks before the actual election and it would not be appropriate to earlier-on be inviting some individuals who publicly state that they will be nominating as that misses out others who will nominate and in some cases individuals do not actually proceed with their nomination.

A few years ago the Central Highlands Mayors and CEO's Forum invited candidates to meet with that forum and this was fairly well attended. It is recommended that we ask the CHMAC Forum to again organise such a meeting leading up to the Federal Election and that this again be open to other Councillors to attend.

Council maintains many contacts with sitting MPs throughout each year and also provides them with copies of media relevant releases and other information. Council had in the past sent them its regular community newsletters and Council Plan/Annual Report. In recent years Council's Advocate page has provided more current and relevant information.

While Action 1.3.1 was implemented late last year, it is an ongoing action and the following is proposed for the coming several months. In view of the timing and difficulties with candidates, it is proposed that once candidates have nominated for the Federal Election that we write to them enclosing details of key issues for our Shire particularly those relating to the federal level and also inviting each one to come and meet with Council. The report detailing key issues should be prepared and finalised earlier so that we have it ready and can also use it as the basis for Council to make public statements prior to nominations closing so that our concerns are out there earlier. That could be done by having a report go through our process to the August Council Meeting and then making media statements through various means.

With our State MPs, it would be worthwhile again attempting to get them together. As their election was last November it may be less difficult this time as there are fewer individuals to chase and they should not be as distracted with electioneering. Discussion is requested on the timing and how we run that. I suggest that we prepare an update on issues of importance and invite the State MPs to a “working dinner meeting” at around 6pm one evening well before the Federal Election as that may be a bit distracting.

## 6. GOVERNANCE MATTERS

---

The MAV has at forums such as their regional forum held at Ballan several weeks ago (attended by Cr Bill McClenaghan as MAV rep, Cr David Smith as Mayor and myself) emphasised that they are focussing on three key issues for the Federal Election: a new Infrastructure funding program for Councils similar to Roads To Recovery; proper indexation of annual Federal Assistance Grants through the Grants Commission and also continuation of Roads To Recovery. They had requested that while there will be individual issues for Councils to lobby on, that all Councils promote these three key issues that have long term benefits if achieved. It is recommended that we support this emphasis and also identify our specific issues by August to allow adequate time to lobby. There is a distinct possibility that the Federal Government will address one or two of these in its upcoming Budget and we can build our campaign taking that into account.

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

Council Plan Action Plan Action 1.3.1 refers as mentioned above as well as various other aspects of our Council Plan and Communication & Consultation Policy/Strategy.

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

Council identifies various priorities and issues through its extensive community processes such as Council Plan; Budget and strategies such as Hepburn Healthy Communities and Recreation.

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

Aim is to get a better deal financially from State and Federal Governmnets and have the support of MPs and candidates along the way.

### **Recommendation:**

*That Councillors discuss the issues covered and also raise other relevant matters so that actions can be agreed on including:*

- 6.1.1 *Request the Central Highlands Mayors & CEO's Forum to organise meetings with candidates leading upto the Federal election to discuss key issues.*
- 6.1.2 *Council to identify its key issues to be presented to Federal Candidates once they have nominated and invite them to meet with Council.*
- 6.1.3 *While supporting the major financial issues being promoted by the MAV and others, identify key federal issues around August so that they are ready and also promoted early publicly.*
- 6.1.4 *Work out timing to meet with State MPs and prior to that identify key issues to be presented.*

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.2. FUNDING REQUEST – BULLBOAR, MACARONI AND MINERAL WATER

(A/O – Chief Executive Officer )

File Ref: 30/14/03

#### Synopsis

In 2005 Council supported the publication of the book Bullboar, Macaroni and Mineral Water by Clare Gervasoni by forward purchasing 120 books for \$3000. Some books were retained by Council for “gifts/presentations” with the balance being sold through the Visitor Information Centre.

#### Report

The Swiss-Italian Festa Committee have written to Council seeking a loan of \$5,000 to reprint the book Bullboar, Macaroni and Mineral Water to be sold in conjunction with the exhibition being held at the Immigration Museum “Wine, Water and Stone” from 29 March until 14 July. The first print-run of 1,000 copies has sold very well. It is proposed to print 2,000 copies in the second print.

As the Committee are currently financing this year’s Festa, they are unable to fund the reprint. The first print-run had considerable up-front costs such as payment towards research and writing, set-up, photos and the like. Consequently it has not generated substantial funds. The second print-run being much less costly and having more copies should generate profits which could be used if future print-runs are required. Council assisting the second print-run would be appropriate but not any further print-runs

The Committee have committed in writing that Council will be the first to be repaid, and that all monies will be repaid by no later than June 30 2008.

#### Relevant Policies / Council Plan Objectives

In accordance with the Council Plan key objectives particularly :

1. Strengthening Communities
4. Economic Development
5. Heritage and Environment

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

The publication highlights one of the important aspects of our heritage which continues to have positive influence today.

#### Financial & Resource Implications Initial & Ongoing

Funding can be provided from A/C 1250.015 Council Promotion under Civic Activities which has a Budget of \$8,000 with \$2,893 expended to 31 March.

#### Recommendation:

*That Council*

6.2.1 *Agree to assist the Swiss-Italian Festa Committee by providing a loan of \$3,000 to be fully repaid by no later than 30 June 2008 and pre-purchase of books to the wholesale value of \$2,000 subject to suitable guarantees being provided by members of the Swiss-Italian Festa Committee.*

6.2.2 *Wish the Committee every success with the sales of the book and the forthcoming Swiss-Italian Festa.*

**6. GOVERNANCE MATTERS**

---

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.3 GENERAL REVALUATION 2008 (A/O – Director Corporate Services)

File Ref: 52/08/02

#### Synopsis

Council must resolve to cause a general revaluation to be made of all rateable property in the municipal district of the Hepburn Shire Council and notify interested rating authorities accordingly.

#### Report

Council is required under Section (6) of the Valuation of Land Act 1960 to conduct a general revaluation of all rateable properties within the municipality every two years and advise other interested rating authorities within the meaning of the Act. The following rating authorities have been identified as having an interest in the valuation of land within Hepburn Shire Council and will be advised of Council's resolution.

Valuer-General  
State Revenue Office  
Mt Alexander Shire Council  
Central Goldfields Shire Council  
Moorabool Shire Council  
Ballarat City Council  
Macedon Ranges Shire Council  
Pyrenees Shire Council

#### Relevant Policies / Council Plan Implications:

In accordance with Section 6 (1) of the Valuation of Land Act 1960, Council is required to cause a general revaluation to be made of all rateable properties.

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

#### Financial Implications:

Council must resolve to undertake a general revaluation in order to adopt rates and charges in future years.

#### Recommendation:

*That Council*

6.3.1 *That in accordance with Section 6 (1) of the Valuation of Land Act 1960 Council undertake a General Revaluation of all rateable properties within the Hepburn Shire council and that the valuation is to be returned at the levels of value as at 1 January 2008.*

6.3.2 *That the Valuer-General and other rating authorities within the meaning of Section 2 of the Valuation of Land Act 1960 interested in the valuation of land in the Hepburn Shire Council be notified accordingly.*

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.4 ELECTORAL REPRESENTATION REVIEW

(A/O – DCS)

File Ref:26/02/01

#### Synopsis

The Minister for Local Government has notified Hepburn Shire Council that a date has been set for the conduct of its electoral representation review. Council must appoint an independent reviewer by the 1<sup>st</sup> May 2007.

#### Report

As part of a range of reforms introduced by the Local Government (Democratic Reform) Act 2003, local government representation reviews must now be conducted independently by an electoral commission, rather than by councils themselves. This important reform was implemented to ensure that the reviews are undertaken at arm's length to enhance independence and probity in determining fair and equitable local representation.

Dates for the first reviews for each council under the new provisions of the Local Government Act 1989 (the Act) are set by the Minister for Local Government. Subsequent reviews must be held before council's second general election within legislated time frames.

The Minister for Local Government, on the 19 March 2007 published a notice in the Victorian Government Gazette (special) specifying the time for the conduct of the first electoral representation review of your municipality under Section 219C(1)(a) of the Act.

The notice contains the following specific dates relating to the conduct of the review of the Hepburn Shire Council:

- Council must appoint a reviewer by 1 May 2007
- Council's review may commence on 1 May 2007

Under the provisions of the Act Council must appoint an electoral commission to conduct the review. The Victorian Electoral Commission has approached Council to express their interest in conducting the review. The Victorian Electoral commission have considerable experience in this area having completed 39 representation reviews through out Victoria.

The Victorian Electoral commission have indicated that they would be in a position to commence the review on the 1 May 2007 and ideally release a final report by the 18 August 2007.

The difficulty that arises from the timing of Ministers announcement is that Council is required to engage the services of an electoral commission prior to adopting a budget allocation for the project in the 07/08 budget.

It is envisaged that the review will cost around 35-40 thousand dollars, which Council will be required to pay out of the 07/08 budget allocation.

It is recommended that Council authorise the CEO to enter into a contact with the Victorian Electoral Commission for the provision of electoral review services and that Council allocate \$40,000 in its 07/08 budget to cover the cost of this service.



---

## 6. GOVERNANCE MATTERS

---

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

Local Government Act 1989  
Local Government (Democratic Reform) Act 2003

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

Significant community consultation will be undertaken as part of the process:

- Public notification of the review
- Public information sessions in Daylesford and Creswick
- Submissions will be sought
- Publication of notice of a preliminary report
- Submission will be sought on the preliminary report
- A public hearing will be held
- Final report released

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

\$35,000-40,000 to be allocated in the 07/08 financial year.

### **Recommendation:**

*That Council:*

6.5.1 *Authorise the CEO to enter into a contract with the Victorian Electoral Commission for the provision of electoral review services*

6.5.2 *Allocate \$40,000 in the 07/08 budget to cover the cost of this service.*

### **Motion moved at the meeting:**

*That Council:*

6.5.1 *Authorise the CEO to enter into a contract with the Victorian Electoral Commission for the provision of electoral review services*

6.5.2 *Provide an allocation in the 07/08 budget to cover the cost of this service.*

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

---

## 6. GOVERNANCE MATTERS

---

### 6.5 CLUNES COMMUNITY HOMES INTERNAL LOAN

(A/O – Director Corporate Services)

File Ref:

#### Synopsis

The Clunes Community Homes Management Committee have written to Council seeking an “in house” loan to build two additional units on Council owned land at Cameron Court, Clunes.

#### Report

The Clunes Community Homes Management Committee is a Section 86 Committee of Council and currently manage 6 units for people with low incomes.

On two previous occasions, the Committee has secured loan funds from Council to construct the existing properties and all loan funds have been repaid with interest.

The Committee has a rental reserve of approximately \$200,000+ and it is estimated that a loan of around \$100,000-\$150,000 would enable two additional units to be built.

Engineering staff are currently costing two additional units. It is envisaged that the cost will be approximately \$320,000.

The Clunes Community Homes Management Committee has demonstrated on two previous occasions their ability to develop additional Community Housing stock to meet local housing needs.

The Manager Community Services supports their proposal for capital expansion. It is also recommended that further discussion takes place with the Committee regarding tenancy administration arrangements to ensure that this falls within the Residential Tenancies Act (1997) and Office of Housing Guidelines.

#### Relevant Policies / Council Plan Objectives

Council Plan 2.1 – Improve Service Delivery  
2.3 – Further develop the range of facilities and programs

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

Clunes Community Homes Committee

#### Financial & Resource Implications Initial & Ongoing

The internal loan of \$100,000 - \$150,000 can be funded from Council’s unrestricted cash with out impacting negatively on the operations of Council.

The annual repayments for repaying the loan over 15 years will be approx. \$15,800

---

**6. GOVERNANCE MATTERS**

---

**Recommendation:**

*That Council*

- 6.5.1 *Provide an internal loan to a maximum of \$150,000 to assist in the construction of 2 additional units on council owned land in Clunes.*
- 6.5.2 *Set the interest rate applicable to the loan be equal to the opportunity cost to Council of providing the funds.*
- 6.5.3 *Require the loan to be repaid over a maximum period of 15 years.*

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.6 CLUNES CARAVAN PARK - LEASE

(Director Corporate Services)

File Ref: 1/5560/10000

#### Synopsis

A lease of the Clunes Caravan Park (CCP) had not been in place since termination by mutual agreement of the previous Lease early in 2006. Management of the CCP is being carried out through temporary arrangements. During this period boundary issues for the Park have also been addressed. Expressions of Interest for a new lease were publicly sought, based on a prepared Brief.

#### Report

The CCP has an area of approximately 1.6ha with 1 amenities block, 39 powered (metered) sites 15 non-powered and an open area for camping. There is also a small caretaker's residence/office, based on a moveable dwelling. The residence/office is not of high standard.

It was openly stated that Council's expectation for CCP was to ensure:

- capital investment for improvements; and
- it be operated and maintained to the highest possible standard for visiting tourists, those resident and for the community generally.

The Lease and operation of the caravan park are affected by the Local Government Act 1989, the Crown Land (Reserves) Act 1978 and the caravan parks and moveable dwellings provisions of the Residential Tenancies Act 1997. In this instance, CCP consists of both Council owned land and Crown land for which Council is being appointed committee of management following the completing of the boundary and road closure issues.

A minimum lease term of 16 years was advertised which should enable the 'caravan park owner' (the operator as defined in the legislation) has a reasonable term to recoup investment and to ensure appropriate exemption from retail leases legislation.

Expressions of interest were advertised widely (all local papers including Maryborough region and The Age) and closed on 28 February 2007. Significant initial enquiry/interest was received. Two proposals were received. This process satisfies Department of Sustainability and Environment (DSE) guideline requirements.

The Brief (including a copy of a draft lease) was publicly available, clearly set out what information was being sought and criteria under which Expressions of Interest would be analysed. These matters included:-

- Name, Address, ABN, Business/Company name
- Rent amount initially offered
- Provision of a bank guarantee to secure performance of lease obligations
- Insurance
- An acknowledgement of the Brief and agreement with its terms and conditions
- Compliance with information sought by the Brief
- Investment including the estimated value of proposed capital works
- Experience of the proprietors - their track record and people skills
- Sustainability and capacity to meet the proposed outcomes of the proposal.

---

## 6. GOVERNANCE MATTERS

---

David and Rebecca WARBY and Leslie R EASTCOTT both submitted proposals. Both were interviewed to seek information to clarify their respective submissions and to give them the opportunity to verbally add to their proposals.

With any exercise such as this, a great degree of 'commercial in confidence' exists and the rights of the respective persons is acknowledged and respected in this regard. To assist Councillors a 'confidential' paper which provides business detail, responses to analysis criteria and Expressions of Interest summaries is attached.

Interviews and consideration and analysis of Expressions of Interest were by Chris Cowley DCS, John Traill Finance Manager and Richard Pekin RO.

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

Council owns part of the site and as Committee of Management for the balance of the property operates under the direction and guidelines of DSE.

Policy# 9 deals with the management and control of Council owned property. This proposal to lease CCP is not prevented by this Policy.

The Hepburn Shire Council Plan 2006-2011 has key *Objectives* to: effectively manage assets and resources with identified strategies to improve asset management along with responsible financial management, promotion of innovation and professional administration; and

strengthen local economies by working in partnership with business and community with identified strategies to develop partnerships, promote and market and encourage a diversity of economic activity and employment.

Lease of the CCP along with stated capital investment will help meet these key Objectives.

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

During the period when Council has had to manage CCP, incurred costs have included certain debts from the previous operator as well as additional contract maintenance costs. Due to temporary management arrangements promotions and advertising have been at a low. Therefore a loss situation has been incurred and rent offers have commenced from a low base. The previous Lease arrangement initially returned \$4,800pa.

The Warby proposal offered \$9,000 for the first 2 years along with investment into the residence of up to \$50,000. During the Lease term, further investment specifically into onsite built cabins (3 in total and the first after year 3) and caravans with rigid annexes (5 in total and the first after year 3) would be made, however, while the offer stated minimum values, the investment was proposed long term over the life of the Lease.

The Eastcott proposal offers lesser initial rent - \$4,914 - for the first 2 years but with \$239,500 capital investment during the first 4 years plus \$9,000 marketing in year one. After year 3, rent is to be based on a given industry standard of 12% gross income. With higher investment and with investment and marketing expected to boost income, in the longer term, it is estimated rent will be higher from this proposal.

## 6. GOVERNANCE MATTERS

---

The lease provides for market review of rent each 2 years.

To give Council a level of surety that the proposed level of capital expenditure will occur the following actions will be taken:

1. The proposed expenditure schedule will be included in the lease document.
2. A clause will be included in the lease document requiring that 50% of the proposed expenditure in years 1 & 2 of the lease must occur or the tenant will be deemed to be in default of the lease.

The caravan park owner is responsible to maintain all assets at the CCP although major structural maintenance remains a 'landlord' responsibility.

Administration of the lease will be undertaken as a normal part of office functions.

### **Recommendation**

That Council

- 6.6.1 Pursuant to Section 190 of the local Government Act 1989 and Section 17D of the Crown Land (Reserves) Act 1978 as land owner and Committee of Management, subject to finalisation of the appointment process by DSE:-

- confirm the reported actions taken;
- accept subject to final negotiations the proposal of Leslie R Eastcott for lease of the Clunes Caravan Park;
- authorise the sealing of the Lease; and
- directs that the lease be submitted to DSE for approval.

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

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

**6. GOVERNANCE MATTERS**

**6.7 MONTHLY FINANCIAL REPORT 1/7/06 – 31/03/07**

(A/O – Director Corporate Services)

File Ref: 30/08/14

**Synopsis**

A summary report on the Council's financial performance for the financial year to the 31 March 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 75%.

**Hepburn Shire Council  
Monthly Financial Report March 2007  
Percentage of year complete 75%**

	Annual Budget 000's	Actual Mar-07 000's	Percentage of Budget
<b>1. Administration</b>			
Expenditure	4,706	3386	72%
Income	(10,687)	(10102)	95%
<b>1. Administration</b>	<b>(5,981)</b>	<b>(6716)</b>	
<b>2. Human And Community Services</b>			
Expenditure	2,216	1565	71%
Income	(1,573)	(1200)	76%
<b>2. Human And Community Services</b>	<b>643</b>	<b>365</b>	
<b>3. Regional Development/promotion</b>			
Expenditure	1,750	1422	81%
Income	(466)	(480)	103%
<b>3. Regional Development/promotion</b>	<b>1,284</b>	<b>941</b>	
<b>4. Public Safety</b>			
Expenditure	586	404	69%
Income	(244)	(216)	88%
<b>4. Public Safety</b>	<b>342</b>	<b>181</b>	
<b>5. Recreation</b>			
Expenditure	1,124	978	87%
Income	(127)	(121)	96%
<b>5. Recreation</b>	<b>997</b>	<b>856</b>	
<b>6. Infrastructure Development</b>			
Expenditure	4,442	3392	76%
Income	(3,112)	(2416)	78%
<b>6. Infrastructure Development</b>	<b>1,330</b>	<b>975</b>	

**6. GOVERNANCE MATTERS**

**Hepburn Shire Council  
Monthly Financial Report March 2007  
Percentage of year complete 75%**

	Annual Budget 000's	Actual Mar-07 000's	Percentage of Budget
<b>7. Waste &amp; Environment</b>			
Expenditure	1,314	892	68%
Income	(1,410)	(1417)	101%
<b>7. Waste &amp; Environment</b>	<b>(95)</b>	<b>(525)</b>	
<b>8. Unclassified</b>			
Expenditure	86	6	6%
Income	(233)	0	0%
<b>8. Unclassified</b>	<b>(147)</b>	<b>6</b>	
<b>9. Capital Works And Projects</b>			
Expenditure	6,590	2584	39%
Income	(4,964)	(634)	13%
<b>9. Capital Works And Projects</b>	<b>1,626</b>	<b>1950</b>	
<b>Report Total</b>	<b>(0)</b>	<b>(1959)</b>	

The report has been produced at a summary level to provide Council with a snap shot as at the end of March 2007. There are a number of areas where the percentage varies significantly from the year completed percentage they are:-

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

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

Regional Development/Promotion - Income. 103% of budgeted planning permit fees already received.

Regional Development/Promotion – Expenditure higher due to the employment of additional resources.

Public Safety – Expenditure. Environmental officer commenced in Jan 07.

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

Recreation – Expenditure. The expenditure in this area is not generally expended evenly each month. We have completed most of our tree maintenance works for this year well ahead of time together with other works. This is in part due to the long run of fine and dry weather.

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



---

## 6. GOVERNANCE MATTERS

---

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

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

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

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

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

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

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

N/A

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

Nil.

### **Recommendation:**

6.7.1            *That the March 2007 finance report be received and noted.*

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.8 MID YEAR FINANCIAL REVIEW DECEMBER 2006

(A/O – Director Corporate Services)

File Ref: 30/08/14

#### Synopsis

A review of the Councils expenditure to the 31 December 2006 has been undertaken across the organisation which has shown that there will be a number of areas where it is expected that there will be variances from the original budget. The overall forecast at this stage indicates that the surplus will increase slightly to \$14, 275.

#### Report

The Mid Year review has now been completed with Councillors having considered this report in detail during the March forward planning meeting. As part of the review Councillors have requested that in the future that they be provided with a greater level of detail at the account level.

There are a number of areas that have been identified where there is likely to be a deviation from the original budget. With the exception of the Capital and projects section the variances are shown in the attached report along with comments on each.

The majority of adjustments are relatively small or relate to expenditure that is covered by additional income sources such as grants.

Some areas to note are an increase in rate revenue due to supplementary activity, increase in interest which is a combination of increased interest rates and funds available to invest. Other areas worth noting are planning where there has been a conscious decision to increase resources; this has been partly offset by increased fees in this area and the building area. The parks and reserves section has seen some reallocation of resources in areas such as mowing due to the drought however overall they are travelling reasonably well.

Both the mineral reserves and waste management sections have been reconciled and relatively small adjustments made to the transfers to/from reserves to ensure that they remain self funding.

The net result is forecast to be a small increase in the expected surplus from \$350 to \$14,275 (attachment to be tabled). Close monitoring of the budget will still be required to ensure that a surplus is achieved.

#### 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:

Nil

#### Financial & Resource Implications Initial & Ongoing

A minor surplus is forecast of \$14,275

---

## 6. GOVERNANCE MATTERS

---

### **Recommendation:**

That Council

- 6.8.1 *Receive and note the Mid Year Financial Review December 2006.*
- 6.8.2 *Refer the December Mid Year Financial Review to the internal audit committee for comment*
- 6.8.3 *Request that managers, prior to future quarterly reports being submitted to Council, comprehensively examine their program areas and report on any variations to the original budget*
- 6.8.4 *Require that where a program area and/or account is expected to be over- expended by \$5,000 or 5% of budget which ever is greater, the report be accompanied by a statement on the remedial action proposed.*

### ***Motion Moved at Meeting.***

That Council

- 6.8.1 *Refer the December Mid Year Financial Review to the internal audit committee for comment*
- 6.8.2 *Request that managers, prior to future quarterly reports being submitted to Council, comprehensively examine their program areas and report on any variations to the original budget*
- 6.8.3 *Require that where a program area and/or account is expected to be over- expended by \$5,000 or 5% of budget which ever is greater, the report be accompanied by a statement on the remedial action proposed.*
- 6.8.4 *In future, where there is to be an obvious & substantial over-run on the Budget that the Councillors be advised of the details and the reasons as soon as possible.*

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

---

## 6. GOVERNANCE MATTERS

---

### 6.9 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 Christine Halstead, 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 this officer to carry out her 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 Ms Halstead (*tabled*) will enable her to make day-to-day decisions and perform duties on Council's behalf relating to statutory planning, planning enforcement and compliance matters.

Council's Planning Officers and the Planning Compliance Officer 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 Town Planning section. The instruments of authorization for Christine Halstead are included as attachments to this agenda.

#### Relevant Policies / Council Plan Objectives

Council Plan.  
Hepburn Planning Scheme

#### Financial & Resource Implications Initial & Ongoing

Nil

---

## 6. GOVERNANCE MATTERS

---

### **Recommendation**

- 6.9.1 *That Council signs and seals the Instrument of Delegation for Christine Halstead 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.*
- 6.9.2 *That Council resolves to authorise Christine Halstead 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 Janine Booth***  
***Seconded:***                ***Cr Tim Hayes***  
***Carried.***

---

## 6. GOVERNANCE MATTERS

---

### 6.10 HERITAGE ADVISORY COMMITTEE – RECOMMENDATION FOR ATTENDANCE OF COUNCIL'S HERITAGE ADVISOR AT COMMITTEE MEETINGS

(A/O – Manager Planning)

File Ref: 66/08/02

#### Synopsis

At its meeting of 16<sup>th</sup> February 2007 the Heritage Advisory Committee has recommended for the Council's Heritage Advisor, Mr Trevor Westmore to attend at least two Committee meetings per annum.

#### Report

Mr Westmore has been appointed Council's Heritage Advisor for a period over twelve months and the Heritage Advisory Committee believed it is necessary that Mr Westmore be invited to attend two Committee meetings to discuss heritage related land use and development proposals.

The Heritage Advisory Committee agreed on that Mr Westmore is to attend the Committee Meeting of June and October, to be held in Daylesford.

#### Relevant Policies / Council Plan Objectives

Corporate Plan.  
Hepburn Planning Scheme

#### Financial & Resource Implications Initial & Ongoing

Pending the rescheduling of meeting dates (15<sup>th</sup> June and 19<sup>th</sup> October) from the current third Friday of the month to the third Tuesday of the month (12<sup>th</sup> June and 15<sup>th</sup> October), there will be no additional cost to request the Heritage Advisor to attend the two recommended Committee meetings. There would be an additional cost to the current contract if the meetings were to take place on a Friday, in the order of \$400-\$800 per meeting.

#### Recommendation

That Council:

- 6.10.1 *Advise the Heritage Advisory Committee that the Heritage Advisor, Mr Trevor Westmore will attend two Heritage Advisory Committee meetings per annum which are to be held in Daylesford on a his normal work day, being a Tuesday commencing with the June Meeting of 2007.*

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

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

---

## 6. GOVERNANCE MATTERS

---

### 6.11 HERITAGE CONSERVATION POLICY

(A/O – Director Infrastructure & Development)

File Ref: 66/08/02

#### Synopsis

The Heritage Conservation Policy has not been reviewed since it was first adopted on 15 October 1996.

#### Report

Council has a number of policies that have been reviewed and updated over the past few years. Policy No 16 – Heritage Conservation Policy has not been reviewed since it was first adopted on 15 October 1996 and should be reviewed/updated/re-written.

Council's Heritage Advisory Committee is the ideal group to conduct such a review and make suitable recommendations to Council on such a policy.

#### Relevant Policies / Council Plan implications:

Policy 16 – Heritage Conservation Policy

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

Council's Heritage Advisory Committee comprises community representatives who would be able to provide valuable advice on updating/replacing the policy.

#### Financial & Resource Implications Initial & Ongoing

Nil.

#### Recommendation:

*That Council:*

- 6.11.1 *Request the Heritage Advisory Committee to undertake a full review of Policy No. 16 and to subsequently make recommendations back to Council on an appropriate Heritage Conservation Policy*

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

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

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

---

Nil



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

---

**8.1 HERITAGE ADVISORY COMMITTEE – RECOMMENDATION FOR NATIONAL HERITAGE LISTING OF THE WOMBAT HILL GARDENS, DAYLESFORD**

(A/O – Manager Planning)

File Ref: 66/08/02

**Synopsis**

At its meeting of 16<sup>th</sup> February 2007 the Heritage Advisory Committee has recommended that the Wombat Hill Gardens Advisory Committee and Friends of the Wombat Hill Gardens support and assist the Committee in the recommendation to the relevant Commonwealth Government's department for inclusion of Wombat Hill Gardens in the National Heritage List.

**Report**

Councillor McClenaghan presented his report in relation to the first draft document of the Conservation Management Plan being prepared for Wombat Hill Gardens. In the report, Cr McClenaghan advised on the rarity of plantings within the Gardens and the possibility of national heritage significance.

Following the report, the Heritage Advisory Committee conducted discussions on the national heritage listing for the Wombat Hill Gardens and sought to advise Council of its recommendation to list the Gardens with the support and assistance from the Wombat Hill Gardens Advisory Committee and the Friends of Wombat Hill Gardens.

Given that a Conservation Management Plan is currently being prepared for Wombat Hill Gardens by a consultant on behalf of Council, it is considered reasonable to defer the recommendation to include the Gardens on the National Heritage List pending the finalisation of such Plan.

**Relevant Policies / Council Plan Objectives**

Corporate Plan.  
Hepburn Planning Scheme

**Financial & Resource Implications Initial & Ongoing**

Nil

**Recommendation**

8.1.1 *That Council defer the recommendation of the Heritage Advisory Committee to seek support and assistance from the Wombat Hill Gardens Advisory Committee and Friends of Wombat Hills for the inclusion of Wombat Hill Gardens on the National Heritage List, pending the finalisation of the Conservation Management Plan for Wombat Hill Gardens.*

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

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

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

---

### **8.2 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 of the Wombat Hill Gardens Advisory Committee meeting dated 7 March 2007. (File Ref. 5/1330/01950 & 56/08/04)
- Minutes of the Wombat Hill Gardens Advisory Committee meeting dated 28 March 2007. (File Ref. 5/1330/01950 & 56/08/04)
- Minutes of the Heritage Advisory Committee dated 16 February 2007. (File Ref. 66/08/02)
- Minutes of the Creswick Museum & Gold Battery Committee dated 5 February 2007. (File Ref. 2/7350/02046 & 2/6440/02296)
- Minutes of the Creswick Development Committee dated 19 February 2007 (File Ref. 22/15/03)

#### **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*

- 8.2.1 *Note the Minutes of the Wombat Hill **Botanic** Gardens Advisory Committee meeting held on 7 March 2007.*
- 8.2.2 *Note the Minutes of the Wombat Hill **Botanic** Gardens Advisory Committee meeting held on 28 March 2007.*
- 8.2.3 *Note the Minutes of the Heritage Advisory Committee meeting held on 16 February 2007.*
- 8.2.4 *Note the Minutes of the Creswick Museum & Gold Battery Committee meeting held on 5 February 2007.*
- 8.2.5 *Note the Minutes of the Creswick Development Committee meeting held on 19 February 2007.*

***Moved the Officer's Recommendation with the inclusion of the word Botanic***

***Moved:***

***Cr Janine Booth***

***Seconded:***

***Cr Bill McClenaghan***

***Carried.***

**9. STATUTORY MATTERS**

---

**9.1 APPLICATION NO 2006/9017, PROPOSED: SUBDIVISION OF THE LAND INTO EIGHT (8) LOTS – 96 EAST STREET, DAYLESFORD**

(A/O – Planning Officer 1)

File Ref: 4/2150/00200/P

**Synopsis**

Applicant: A & J Walsh Land Surveyors (on behalf of D & I Balharrie)

Location: 96 East Street, Daylesford

Proposal: Eight (8) Lot Subdivision

Zoning: Residential Zone (R1Z)

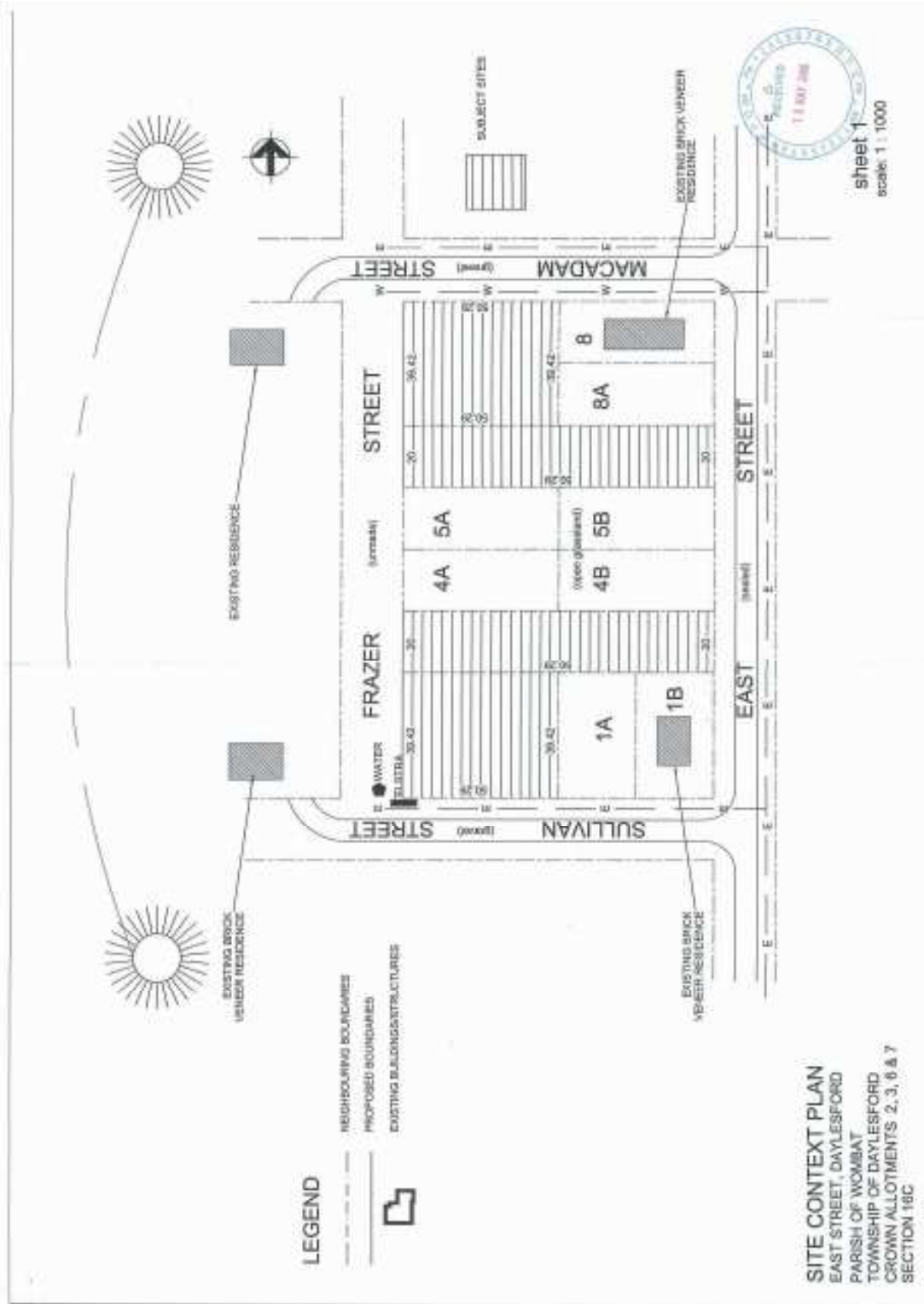
Overlay Controls: Environmental Significance Overlay - Schedule 1 (ESO1) & Schedule 2 (ESO2)

No of Objections Received: Four (4)

Recommendation: Grant a Notice of Decision to Grant a Permit

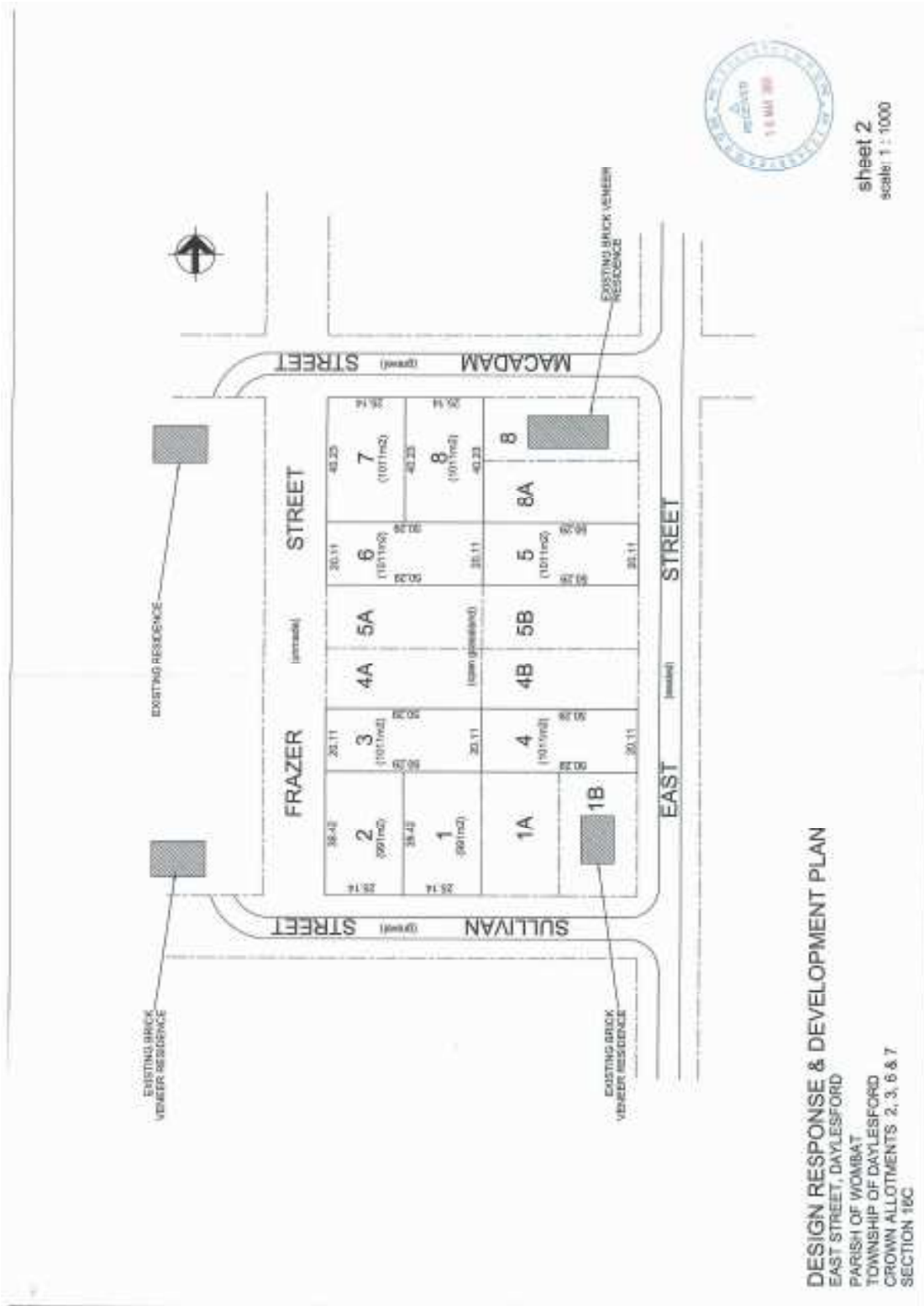


9. STATUTORY MATTERS



**SITE CONTEXT PLAN**  
 EAST STREET, DAYLESFORD  
 PARISH OF WOMBAT  
 TOWNSHIP OF DAYLESFORD  
 CROWN ALLOTMENTS 2, 3, 6 & 7  
 SECTION 18C

9. STATUTORY MATTERS



DESIGN RESPONSE & DEVELOPMENT PLAN  
 EAST STREET, DAYLESFORD  
 PARISH OF WOMBAT  
 TOWNSHIP OF DAYLESFORD  
 CROWN ALLOTMENTS 2, 3, 6 & 7  
 SECTION 18C

## 9. STATUTORY MATTERS

---

### BACKGROUND AND PROPOSAL IN DETAIL

The application has been made by A & J Walsh Land Surveyors on behalf of D & I Balharrie applies to land in Certificate of Title Vol.08783, Fol.781, TP757908J. The subject site is two (2) portions of a block of lots bordered by East Street, Macadam Street, Frazer Street and Sullivan Street. The site is of regular shape with an approximate area of 8048m<sup>2</sup>.

The application proposes an eight (8) lot subdivision. The lot sizes range between 991m<sup>2</sup> – 10110m<sup>2</sup>, averaging 1006m<sup>2</sup>. Most of the lots run in a west to east direction, with a couple running north to south in orientation. The site has no buildings on them. However, there are two dwellings situated at the corner of Sullivan & East Streets and East & Macadam Streets. Both are not part of the subject land.

The subject site is located about 1500m from the post office and CBD in the east area of Daylesford and is surrounded by sparse residential development. Both Sullivan and Macadam Streets are made gravel roads for most of their length. Frazer Street is an unmade road whilst East Street is a bitumen sealed pavement road. The property is level and predominantly vacant with sparse trees. The properties surrounding the site are mainly residential land with a variety of lot and tenement sizes.

### REFERRAL AUTHORITIES

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

**Goulburn-Murray Water** – no objection, requires the inclusion of permit conditions.

**Country Fire Authority** – no objection, requires the inclusion of permit conditions.

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

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

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

**SP AusNet (Gas) Pty Ltd** – no objection, requires the inclusion of permit conditions.

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

### REFERRAL WITHIN COUNCIL

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

### ADVERTISING/NOTICE OF APPLICATION

Public notification of the application was undertaken by way of a letter to the landowners/ occupiers of adjoining properties and advertisement in the newspaper.

---

## 9. STATUTORY MATTERS

---

### OBJECTIONS

Council has received four (4) objections. The objections raised in the submissions relate to sharing of the costs for the infrastructure upgrade.

Appropriate permit conditions are recommended in response to the objections.

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

#### STATE PLANNING POLICY FRAMEWORK (SPPF)

The SPPF contains the following key policies relevant to this application:

#### **Clause 14 Settlement**

*Planning for urban settlement - to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.*

#### **Clause 15.02 Protection of catchments, waterways and groundwater**

#### **Clause 15.12 Energy Efficiency**

#### **Clause 19.01 Subdivision**

Without further repeating the detail of these clauses, the following conclusions are made with reference to the proposal:

- The development is considered to be orderly development as it is consistent with the existing development in the area.
- The proposal will not jeopardise the quality of catchments, waterways and groundwater.
- The proposal does respect the existing character of the neighbourhood. As a result, it will not have a negative impact on the significance of the local character.
- The proposed subdivision will increase the lot yield on a relatively underutilised parcel of land adding to the current land supply.

#### LOCAL PLANNING POLICY FRAMEWORK (LPPF)

#### **Clause 21.01-3 Municipal Overview – Settlement**

Municipal Overview establishes a primary key influence in responding to land use issues which has an *Understanding of the urban fabric of townships and the need to maintain lifestyle and residential amenity is important.* The proposed development is keeping with the urban fabric of the established township. The development proposes a development pattern which is consistent with current pattern of development of the area. The current pattern of development consists of larger sized lots.

#### **Clause 21.01-9 Environment and Heritage Landscapes and Cultural Heritage**

The emphasis through this clause is based on the correlation between the spectacular physical and cultural landscape and the attractiveness of the area to visitors and residents alike. It is regarded that the proposal will maintain the integrity of this relationship as the proposed development is consistent with the current pattern of development.

---

## 9. STATUTORY MATTERS

---

### **Clause 21.05 Settlement and Housing**

Objective two of this clause states that it wishes *“To improve the character of development in established urban areas.* The proposed development contributes to the character of the area.

### **Clause 21.09 – Environment and Heritage**

Objective one of this clause aims *‘To protect the cultural heritage of Hepburn, while promoting appropriate development opportunities for areas and sites of cultural heritage significance and neighbourhoods of strong residential character.* While infill development in the area is encouraged, the design must be appropriate for the area.

### **Clause 22.01 – Catchment and Land Protection**

As the land is fully serviced, development of the land should not detrimentally affect water and soil quality, nor should flora and fauna be affected.

### **Clause 21.05 Settlement and Housing**

### **Clause 22.0 Settlement**

Furthermore Hepburn Planning Scheme emphasizes on urban in-fill opportunities that utilize existing infrastructure for urban development and growth in Daylesford. The subject site is well inside the boundary of the Residential Zone within serviced infill residential development opportunity area.

## ZONE AND OVERLAY PROVISIONS

The land is located within the Residential 1 Zone (R1Z) and is affected by the Environmental Significance Overlay - Schedule 1 & 2 (ESO -1, ESO -2). In accordance with clause 32.01-2 of the Hepburn Planning Scheme, all subdivisions require a permit. Furthermore in accordance with clause 42.01-2 and clause 43.02-3 of the Hepburn Planning Scheme, the overlay also triggers the requirement of a planning permit for the subdivision.

## ASSESSMENT

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

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

The proposed subdivision is considered to be generally consistent with the standards and objectives of clause 56 of the Hepburn Planning Scheme. The subdivision will add to the supply and lot diversity within an area where it has excellent proximity to existing



---

## 9. STATUTORY MATTERS

---

social, commercial and physical infrastructure. The development provides a good opportunity for transition between the urban and rural environments.

The site is also affected by an Environment Significance Overlay (ESO 1 & 2). ESO 1 is titled Proclaimed Catchment Protection and seeks to protect quality of water within the catchment. It is a requirement of the overlay that all effluent disposal and stormwater must be managed and discharged to the satisfaction of the Responsible Authority. ESO 2 relates specifically to mineral springs and ground water protection and a permit is required under the overlay for the construction of building and construction of carrying out of works. Decision guidelines in the schedule to the overlay requires the Responsible Authority to consider as appropriate a number of matters relating to the use and development of the land and the potential threats these may pose to mineral springs water quality. The subdivision is also consistent with the environmental clauses of the Hepburn Planning Scheme (clause 15.01, 21.09 and 42.01) and it is unlikely that it will result in a decline in the quality of groundwater, waterways or catchments.

It is considered that the storm water drainage in relation to this project have been canvassed and assessed. In summary the provisions comfortably exceed the minimum standards set out in the Hepburn Planning Scheme and will not result in any unreasonable impacts on safety or operational impacts on the surrounding network. Other infrastructure provisions including water supply and power etc. have been found to be adequate.

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

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

The application must be determined on its merits and how it supports the strategic framework of the Planning Scheme. Therefore any decision and/or conditions imposed must meet the tests of the *Planning and Environment Act 1987 (as amended)*, that being that they must be valid, certain, fair and relate to the application.

### COMMUNITY/ENGAGEMENT/COMMUNICATION/CONSULTATION

Public notification of the application was undertaken by way of a letter to the landowners/ occupiers of adjoining properties and advertisement in the newspaper.

### FINANCIAL & RESOURCE IMPLICATIONS INITIAL & ONGOING

Nil.

## 9. STATUTORY MATTERS

---

### **Recommendation**

*That Council having caused notice of Planning Application No. 2006/9017 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to Grant a Notice of Decision to Grant a Permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 96 East Street, Daylesford for the use and development of the land for an eight (8) lot subdivision in accordance with the endorsed plans, with the application dated 10/05/2006, subject to the following conditions:*

1. *The subdivision as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.*
2. *The applicant must pay to the Responsible Authority a contribution equivalent to five per cent (5%) of the site value of all land in the subdivision for open space purposes in accordance with Clause 52.01 of the Hepburn Shire Planning Scheme. This payment must be paid prior to the issue of a Statement of Compliance*  
**Council's Engineering Department:**
3. *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 the commencement of construction. Such drainage works shall be designed and installed to transport stormwater runoff from the subject land and surrounding land or adjoining road(s) to an approved point of discharge. No stormwater shall drain or discharge from the land to adjoining properties.*
4. *Stormwater is to be directed to the legal point of discharge being the Grenville Street road reserve drain.*
5. *Three (3) metre drainage easement is to be created along the north boundary of Lot 2 in favour of Lot 1.*
6. *Vehicle access/crossing from East, Sullivan Frazer and Macadam Streets to the allotment is to be located and constructed of material to the satisfaction of the Responsible Authority. (Refer – attached) Permit No.: 494.*
7. *All easements deemed necessary by the Responsible Authority must be provided by the Applicant to protect existing and future drainage lines within the proposed development site and properties between the development site and the nominated point of discharge.*
8. *The Applicant shall enter into an agreement with Council to provide a road works contribution for the construction of East Street to service the development. The contribution must be based on the benefiting use of landowners that abut the street in accordance with the Council Policy for construction of streets in residential areas. The extent of road works contribution/road works shall be based on the benefiting use of landowners that abut East Street. The road works contribution will be based on road standard of 6.5m two coat sealed surface with pavement comprised of a sub-base of 200mm depth 20mm class 3 FCR, base 100mm class 2 FCR and 1 metre wide shoulders 100mm depth class 2*

## 9. STATUTORY MATTERS

---

*FCR.*

*The agreement shall be entered into to the satisfaction of the Responsible Authority prior to issue of statement of compliance.*

9. *The Applicant shall enter into an agreement with Council to provide a road works contribution for the construction of Frazer Street to service the development. The contribution must be based on the benefiting use of landowners that abut the street in accordance with the Council Policy for construction of streets in residential areas. The extent of road works contribution/road works shall be based on the benefiting use of landowners that abut Frazer Street. The road works contribution will be based on road standard of 6.5m two coat sealed surface with pavement comprised of a sub-base of 200mm depth 20mm class 3 FCR, base 100mm class 2 FCR and 1 metre wide shoulders 100mm depth class 2 FCR.*

*The agreement shall be entered into to the satisfaction of the Responsible Authority prior to issue of statement of compliance.*

10. *The Applicant shall enter into an agreement with Council to provide a road works contribution for the construction of Sullivan Street to service the development. The contribution must be based on the benefiting use of landowners that abut the street in accordance with the Council Policy for construction of streets in residential areas. The extent of road works contribution/road works shall be based on the benefiting use of landowners that abut Sullivan Street. The road works contribution will be based on road standard of 6.5m two coat sealed surface with pavement comprised of a sub-base of 200mm depth 20mm class 3 FCR, base 100mm class 2 FCR and 1 metre wide shoulders 100mm depth class 2 FCR.*

*The agreement shall be entered into to the satisfaction of the Responsible Authority prior to issue of statement of compliance.*

11. *The Applicant shall enter into an agreement with Council to provide a road works contribution for the construction of Macadam Street to service the development. The contribution must be based on the benefiting use of landowners that abut the street in accordance with the Council Policy for construction of streets in residential areas. The extent of road works contribution/road works shall be based on the benefiting use of landowners that abut Macadam Street. The road works contribution will be based on road standard of 6.5m two coat sealed surface with pavement comprised of a sub-base of 200mm depth 20mm class 3 FCR, base 100mm class 2 FCR and 1 metre wide shoulders 100mm depth class 2 FCR.*

*The agreement shall be entered into to the satisfaction of the Responsible Authority prior to issue of statement of compliance.*

---

## 9. STATUTORY MATTERS

---

12. *Plans are to be submitted to Council prior to construction. In accordance with the Subdivision Act 1989, Council requires the following fees for works undertaken on this stage of development. Plan checking fee of 0.75% of the value of works & Supervision fee of 2.5% of the value of works and must be paid prior to the issue of statement of compliance.*
13. *All costs incurred in complying with the above conditions shall be borne by the applicant.*

### **Country Fire Authority:**

#### *Hydrants*

14. *Operable hydrants, above or below ground must be provided to the satisfaction of CFA.*
15. *The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.*
16. *Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))*

### **Goulburn-Murray Water:**

17. *Each lot must be provided with connection to the reticulated sewerage system.*

### **Central Highlands Region Water Authority:**

18. *Any plan lodged for certification will be referred to the Central Highlands Region Water Authority pursuant to Section 8(1)(a) of the Subdivision Act.*
19. *Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Authority. This will include the construction of works and the payment of major works contributions by the applicant.*
20. *A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Authority. This will include the construction of works and the payment of major works contributions by the applicant.*
21. *The owner will provide easements to the satisfaction of the Central Highlands Region Water Authority, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Authority, over all existing and proposed sewerage facilities within the proposal*

## 9. STATUTORY MATTERS

---

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

**Powercor Australia Ltd:**

23. *The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.*

24. *The applicant shall:*

- *Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.*
- *Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.*
- *Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.*
- *Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.*
- *Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall be for the purpose of "Power Line" in favour of Powercor Australia Ltd.*
- *Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.*
- *Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.*

## 9. STATUTORY MATTERS

---

- Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

### **Telstra:**

25. That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988.
26. That the applicant pay to Telstra, the reasonable cost of any works necessary, as a result of the subdivision, to remove, or alter the position of any existing facility on the subdivision, or on any adjacent land or Government, pursuant to Clause 53 of Schedule 3 of the Telecommunications Act 1997. Refer - Dial Before You Dig process Ph. 1100.

### **SP AusNet (Gas) Pty Ltd:**

27. The plan of subdivision submitted for certification must be referred to SP AusNet (Gas) in accordance with Section 8 of the Subdivision Act 1988.
28. This permit will expire if one of the following circumstances applies:
- the plan of subdivision is not certified within two (2) years of the issue date of this permit.
  - the development is not completed within five (5) years of the certification of the plan of subdivision under the Subdivision Act 1988.

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.

### **Notations:**

#### **a) Development**

The use and/ or development allowed by this permit shall be undertaken and completed in accordance with the standards and requirements outlined by the Hepburn Shire Council.

#### **b) Building Approval Required**

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

#### **c) Vegetation Control**

A planning permit is required to remove, destroy or lop vegetation on the land, except in accordance with an exemption specified in the State Section of the Planning Scheme; exemptions include the minimum area necessary for the

---

**9. STATUTORY MATTERS**

---

*construction of a dwelling and or buildings or vehicle access ways ancillary to a dwelling, or to comply with a fire prevention notice.*

**d) Prior to Issue of Statement of Compliance**

*Prior to the Responsible Authority issuing a Statement of Compliance for the subdivision, all planning conditions and all other requirements of the Responsible Authority and the relevant referral authorities shall be completed or satisfactorily provided for, to the satisfaction of the Responsible Authority and the relevant referral authorities.*

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

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

---

**9. STATUTORY MATTERS**

---

**9.2 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, AND  
CAHOON PROPERTY INVESTMENTS PTY LTD, PLANNING PERMIT NO  
2006/9011.**

(A/O – Planning Administration Officer)

File Ref: 3/5660/00900/P

**Synopsis**

This report concerns a Section 173 Agreement that provides that the dwellings must be constructed within the building envelope and tree and shrub plantings established on the subject lot at Lot 1, TP 017577K, Parish of Wombat, under Condition 3 of Planning Permit 2006/9011, issued for the subdivision of the land into two (2) lots.

Applicant: CAHOON PROPERTY INVESTMENTS PTY LTD

Property: 80 RAGLAN STREET, DAYLESFORD  
LOT 1 TP 017577K, PARISH OF WOMBAT

**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 dwellings must be constructed within the building envelopes and any first floor level must occupy an attic space, tree and shrub plantings are to be established as specified on the endorsed plans for Lot 1, TP 017577K, Parish of Wombat, under Condition 3 of Planning Permit 2006/9011.

**Relevant Policies / Council Plan implications:**

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

**Financial Implications**

Nil

**Recommendation:**

9.2.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, and Cahoon Property Investments Pty Ltd, as detailed under item 9.2.*

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

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



---

**9. STATUTORY MATTERS**

---

**9.3 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL,  
GOULBURN-MURRAY WATER AND MAL LOUIS WOOD, PLANNING  
PERMIT NO 2004/8054**

(A/O – Planning Administration Officer)

File Ref: 1/2230/00757/P

**Synopsis**

This report concerns a Section 173 Agreement that provides that any dwelling erected on the site shall be limited in size to no more than two (2) bedrooms and one bathroom and that a waste water management plan be implemented on the subject lot at CA 3, Section 6, Parish of Spring Hill, under Conditions 7, 8 and 9 of Planning Permit 2004/8054, issued for the construction of a dwelling and outbuilding.

Applicant: MAL LOUIS WOOD

Property: 21 ELIZABETH STREET, SMEATON  
CA 3, SECTION 6, PARISH OF SPRING HILL

**Report**

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

The agreement provides that any dwelling constructed on the site must be limited to two bedrooms and one bathroom and the implementation of a waste water management plan as specified for CA 2, Section 6, Parish of Spring Hill, under Condition 9 of Planning Permit 2004/8054.

**Relevant Policies / Council Plan implications:**

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

**Financial Implications**

Nil

**Recommendation:**

- 9.3.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, Goulburn-Murray Water and MAL LOUIS WOOD, as detailed under item 9.3.*

***Move the Officer's Recommendation***

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

---

**9. STATUTORY MATTERS**

---

**9.4 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL,  
KAREN DIANE ROYLE AND GREGORY JOHN HARDY, PLANNING PERMIT  
NO 2004/8364**

(A/O – Planning Administration Officer)

File Ref: 3/1330/01500/P

**Synopsis**

This report concerns a Section 173 Agreement that the land owner of the subject lot at CA 11, Section 25, Parish of Wombat, under Planning Permit 2004/8364, issued for the subdivision of the land into four (4) lots and variation of drainage easement shall make contribution towards the construction of Tierneys Lane, Daylesford to service the development.

Applicant: KAREN DIANE ROYLE AND GREGORY JOHN HARDY

Property: 110 CENTRAL SPRINGS ROAD, DAYLESFORD  
CA 11. SECTION 25, PARISH OF WOMBAT

**Report**

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

The agreement provides that the land owner of the subject lot at CA 11, Section 25, Parish of Wombat, under Condition 7 of Planning Permit 2004/8364, issued for the subdivision of the land into four (4) lots and variation of drainage easement shall make contribution towards the construction of Tierneys Lane, Daylesford to service the development.

**Relevant Policies / Council Plan implications:**

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

**Financial Implications**

Nil

**Recommendation:**

9.4.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, and Karen Diane Royle and Gregory John Hardy, as detailed under item 9.4.*

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

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

---

## 10. STRATEGIC MATTERS

---

### 10.1 CHANGES TO THE PROVISIONS FOR COMPENSATION UNDER THE *PLANNING AND ENVIRONMENT ACT 1987*

(A/O – Manager Planning)

File Ref: 66/18/01

#### Synopsis

Moorabool Shire Council has written to Hepburn Shire Council requesting the support of Council to request the Minister of Planning to amend the provisions for compensation under the *Planning and Environment Act 1987*. This request was made as a result of a recent application made to the Victorian Civil and Administrative Tribunal (VCAT) to cancel a planning permit by two referral authorities. The referral authorities have admitted mistake in the processing of the planning permit. Moorabool Shire Council was subsequently advised that Council is liable to pay compensation to the affected landowners as they are the Responsible Authority under the Planning and Environment Act 1987.

Notwithstanding that VCAT has made a consent order and instead issued an amended permit, the concern for local government authorities in relation to the payment of compensation as defined under the legislation remains.

#### Report

Section 94 of the Planning and Environment Act 1987 relates to the Rights of Compensation, which accords with the principles of law in Victoria. The following part of the report is the extract from the Planning and Environment Act 1987:

- (1) If a permit is not cancelled or amended after a notice is given under section 93, the responsible authority or a person who has given an undertaking under section 93 is liable to pay compensation to the owner of the land and the occupier of the land and any other person who had an interest in the land for any loss or damage they suffer as a result of the giving of notice.*
- (2) If a permit is cancelled or amended under this Division the responsible authority is liable to pay compensation to any person who has incurred expenditure or liability for expenditure as a result of the issue of the permit in respect of—*
  - (a) any of that expenditure which is wasted because the permit is cancelled or amended; and*
  - (b) any additional expenditure or liability necessarily incurred in purchasing other land to use or develop in the required manner because the permit is cancelled or amended.*
- (3) There must be deducted from the amount of the additional expenditure or liability—*
  - (a) the market value of the land in respect of which the permit was cancelled or amended at the date when the claimant for compensation sold it; or*
  - (b) if the land has not been sold, the market value of that land at the date when the claimant bought the other land.*
- (4) Compensation is not payable if the permit is cancelled or amended—*

## 10. STRATEGIC MATTERS

---

- (a) on the ground that there has been a substantial failure to comply with the conditions of the permit; or
- (b) on the ground that the permit was granted following an application in relation to which a material mis-statement or concealment of fact was made; or
- (c) on the ground of any material mistake in relation to the grant of a permit if the Tribunal considers that the mistake arose from any act or omission by or on behalf of the applicant for the permit; or
- (d) on the ground referred to in section 87(2).

Part 2 of Section 94 of the Planning and Environment Act 1987 as highlighted obliges liability on the part of Council as the Responsible Authority to make payment of compensation irrespective of whether Council or referral authority/s has made the mistake in the issuance of planning permit.

Council is required by Section 55 of the Planning and Environment Act 1987 to make referrals to the relevant referral authorities and to rely on such advice prior to the determination of an application for planning permit. This includes the inclusion of specific planning permit conditions.

In the event of the referral authority making a mistake in the advice provided to Council, they should be held liable for the payment of compensation to person/s incurred expenditure or liability of expenditure, and not Council as currently stated in the legislation.

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

Corporate Plan.  
Hepburn Planning Scheme

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

Nil

### **Recommendation**

- 10.1 *That Council writes to the Minister for Planning in support of Moorabool Shire Council, requesting that Section 94 (2) of the Planning and Environment Act 1987 be amended that the authority(ies) responsible for advice upon which a Council is required to rely as a referral authority who mistakenly provide such advice, be made responsible for any compensation resulting in circumstances where a permit is issued by the Council as a Responsible Authority is subsequently cancelled and compensation is required to be made to affected parties.*

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

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

---

**11. ITEMS FOR NOTING**

---

**11.1 UPDATE OF BUILDING DEPARTMENT STATISTICS**

(A/O – Municipal Building Surveyor)

File Ref: 08/04/02

**Synopsis**

This report is to advise on the current level of activity of the Building Department and that the number of building permits issued in the month of March 2007 is the highest since September 2003.

**Report**

The number of building permits issued by Council is recorded each month and is a useful guide to the state of the building industry within the municipality. For the month of March 2007 the Council's Municipal Building Surveyor issued 26 building permits. A check of the monthly records indicates that the last time more permits were issued by Council in a month was in September 2003.

**Relevant Policies / Council Plan implications:**

N/A

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

N/A

**Financial & Resource Implications Initial & Ongoing**

N/A

**Recommendation:**

*That Council:*

11.1.1 *Note this report.*

***Moved the Officer's recommendation.***

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

**12. CONGRATULATIONS / APPRECIATION**

---

Nil .

**13. ORDINARY BUSINESS**

---

Nil .

**14. NOTICE OF MOTION**

---

**NOTICE OF MOTION**

**14. CENTRAL HIGHLANDS WATER – SUPERPIPE PROJECT**

(A/O – Mayor, Cr David Smith JP )

File Ref:

**Motion**

*That Council :*

*Write to Central Highlands Water requesting that the Superpipe be at a greater depth of 1.5 metres through the potato country of the Hepburn Shire so as to ensure that potato growers are not impeded in planting, growing and harvesting their crops and also that reinstatement be carried out properly to ensure that soil quality is maintained.*

**Moved:**

**Cr David Smith**

**Seconded:**

**Cr Heather Mutimer**

**Carried.**

**CLOSE OF MEETING:**

**The Meeting closed at 8.33pm.**



**ATTACHMENTS**

---

- ATTACHMENT 1**      **(Item 3.1)** Minutes of the Ordinary Meeting of Council held on 20 March 2007 (tabled)
- ATTACHMENT 2**      **CONFIDENTIAL - (Item 6.6)** Clunes Caravan Park – Lease
- ATTACHMENT 3**      **(Item 6.8)** Mid-Year Financial Review December 2007

**ATTACHMENTS**

---

**ATTACHMENT 1**

**(Item 3.1)** Minutes of the Ordinary Meeting of Council  
held on 20 March 2007 (tabled)

**ATTACHMENTS**

---

**ATTACHMENT 2**

**CONFIDENTIAL - (Item 6.6)** Clunes Caravan Park –  
Lease

**ATTACHMENTS**

---

**ATTACHMENT 3**      **(Item 6.8)** Mid-Year Financial Review December 2007

