

HEPBURN SHIRE COUNCIL

ORDINARY MEETING MINUTES

7pm Tuesday
18 September 2007
Clunes Town Hall, Clunes.

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HEPBURN SHIRE COUNCIL – COUNCIL PLAN 2006-2011

VISION STATEMENT:

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

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

Objective One – Strengthening Communities

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

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

Objective Two – Service Delivery

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

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

Objective Three – Asset and Resource Management

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

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

Objective Four – Economic Development

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

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

Objective Five – Heritage and Environment

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

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

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

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

**NOTICE IS HEREBY GIVEN THAT AN ORDINARY MEETING
OF THE HEPBURN SHIRE COUNCIL WILL BE HELD AT
CLUNES TOWN HALL ON 18 SEPTEMBER 2007,
COMMENCING AT 7 PM**

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CLOSE OF MEETING:

ATTACHMENTS

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CR TIM HAYES, ACTING MAYOR
19 SEPTEMBER 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: Acting Mayor, Cr Tim Hayes; Councillors Janine Booth (Note: Cr Booth arrived at 7.05pm); Bill McClenaghan and Heather Mutimer.

IN ATTENDANCE: Victor Szwed, Chief Executive Officer; Chris Cowley, Director Corporate Services; Sylvester Tan, Manager Planning. 6 members of the public and 2 reporters.

The Acting Mayor opened the meeting with a reading of the Council prayer at 7.04pm..

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:** Mayor, Cr David Smith
Director Infrastructure & Development, Rod Conway

2. **DECLARATION OF PECUNIARY INTEREST:**

Cr Janine Booth – Item 6.1, Cr Booth disclosed that she is connected to one of the tenders received.

3. **CONFIRMATION OF MINUTES:**

3.1 **ORDINARY MEETING OF 21 August 2007**

3.2 **SPECIAL MEETING OF COUNCIL 28 August 2007**

Recommendation:

That item 3.1 Minutes of the Ordinary Meeting of Council held on 21 August 2007 and item 3.2 Minutes of the Special Meeting of Council held on 28 August 2007 (Attachment 1), be confirmed, as required under Section 93 (2) of the Local Government Act 1989.

Moved the Officer's Recommendation.

Moved: Cr Heather Mutimer
Seconded: Cr Bill McClenaghan

4. PETITIONS AND PUBLIC QUESTION TIME

This part of the Council Meeting allows 30 minutes for:

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

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

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

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

Nil Petitions received.

Public Question Time:

1. Mr Jim Elmsworth

14 May wrote to Council expressing concerns regarding a Council staff member and quoted a passage from the CEO's response.

5. COUNCILLOR REPORTS AND CONGRATULATIONS

5.1 CONGRATULATIONS:

1. That a letter of Congratulation be sent from Council to Robert and Nora Campbell on being awarded the Clunes Male and Female Citizens of the Year at the Annual Clunes Community Dinner held recently.

Moved: **Cr Tim Hayes**

Seconded: **Cr Heather Mutimer**

2. That the Daylesford Football & Netball Club be congratulated on their Grand Final Victory.

Moved: **Cr Heather Mutimer**

Seconded: **Cr Bill McClenaghan**

3. That the Hepburn Football & Netball Club Under 15's be congratulated on the Grand Final Victory.

Moved: **Cr Heather Mutimer**

Seconded: **Cr Bill McClenaghan**

The above three *Motions were Carried.*

COUNCILLOR REPORTS:

Cr. Bill McClenaghan

Holcombe Ward.

Another busy month commencing straight after the last Council meeting day with Minister Jacinta Allen visiting Daylesford and announcing funding for the Regional Producers Forum to be held at Lake House.....this week in fact. Another coup for the Shire.

The following week was busy with meetings about improved directional signage in Daylesford and Hepburn Springs, a meeting of the Glenlyon Progress Association, a special Council Meeting to approve the submission of the 2006/07 accounts to the Auditor General and our monthly Forward Planning Meeting, all taking us up till the end of only Tuesday in that week.

The next day was Bob Frost's funeral, which was one of the biggest I have seen, so highly was that humble man esteemed in this community and by his mates in the CFA. The funeral was followed by a moving brigade service at the graveside and a wake at the Royal Hotel where Bob's widow Robyn works, all generously donated by her boss and publican, Wayne Sharp.

That evening, I attended another Hepburn Events Forum at the Neighbourhood Centre run by Jon Stephens. The main events were all in attendance, including representatives from "Booktown" in Clunes. The theme was resource sharing, skills and volunteers. There is another events forum tomorrow night with the focus on "harnessing the community".

Other meetings attended included the Wombat Hill Botanic Gardens Advisory Committee, the Highlands Regional Waste Management Group and I would have attended the first meeting of the newly appointed ARC Advisory Committee had anybody told me that the meeting was on last night. Hence, the Chairman was absent. Well, these things do sometimes happen in a busy round of meetings & engagements. Today I've come direct

5. COUNCILLOR REPORTS AND CONGRATULATIONS

from a long Audit Committee meeting with a reformed Audit Committee where Mr Robert Taylor was elected as the independent Chair.

I am pleased to advise that the Hepburn Springs Bathhouse is progressing well with an open day is planned for Saturday 06 Oct 07 between 1.00 & 4.00pm. DSE is progressing well with the selection of the long term lessee with the announcement due in December. The expressions of interest process closed late August and a short list of preferred applicants have been invited to tender. The time frame will be very tight but we are now confident that the Bathhouse will open in March 2008 in time for the Easter holidays. (I don't think I've said anything confidential in this report.)

Last Thursday evening, I attended the AGM of Villages of the Old Goldfields Inc. There were significant changes on the committee with a strong Creswick representation and a more regional focus. The Association is growing into a more regional group by expanding its area of interest to include Avoca, Dunolly and even St Arnaud.

A highlight of the month was a visit to the School of Forest & Ecosystem Science (University of Melbourne) in Creswick last Friday when the School was also celebrating its third birthday. I was invited to this auspicious occasion as a Director of the Highlands Regional Waste Management Group to present the school with their framed bronze "Waste Wise" certificate but there was more on the agenda than just that. The State Minister for Agriculture, the Hon Joe Helper MLA, was there to officially launch a new course being the "Master of Forest Ecosystem Science" Other distinguished guests included various professors and officers of the University, our Federal Member Catherine King MP and Cr Janine Booth, Geoff Ryan & Martin Walmsley from Hepburn Shire. The University put on a splendid function with a large marquee tent keeping out the rain and cold (although the rain was very welcome), catering by our local "Spade to Blade Catering" from Daylesford, live musicians (jazz trio "Red") with a singer and a number of captivating speakers at the official program launch. I was included as one of the speakers and was pleased to outline the significance of going "Waste Wise" together with a few comments from a Monash graduate on how well the University of Melbourne does things. A touch on inter-varsity rivalry certainly sparked a very lively response from the gathering. There were tours of the campus looking at the various laboratory areas where cutting edge technology is being applied in various research projects, including the CRC microwave facility on the other side of town. The School of Forest and Ecosystem Science is indeed one of the finest schools of its type in the country and I expressed Council's delight and appreciation that we should have it here in Hepburn Shire.

In closing, I pass on one of the comments made by Professor Peter McPhee, the Deputy Vice Chancellor (Academic) who is not a forester but an historian. He spoke from his subject discipline of the concerns for the environment expressed long ago in the south of France at the time of the French Revolution. There the starving liberated peasants were seeking more farmland for food production by clearing the vast forests on the foothills of the Pyrenees when it became clear, even back then, that large scale de-forestation was environmentally hazardous as it led to erosion of hillsides, degradation of soils and farmland and siltation of streams and rivers. Challenges we still face in Hepburn Shire, half a world away and centuries later.

Cr Heather Mutimer
Coliban Ward

Councillor Mutimer read from written notes highlighting various aspects.

5. COUNCILLOR REPORTS AND CONGRATULATIONS

Cr Janine Booth Creswick Ward

Since last months meeting I have had the opportunity to represent Council at a number of functions. I, along with the Mayor CEO and Ward Councillor Tim Hayes attended the Clunes Community Dinner and listened to the guest speaker, Sally Duncan's talk about her time growing up in Clunes with a family that was always involved in Community events and how that provided the grounding for a lifelong career in sporting organization and volunteerism that has taken her all around the world. The night really was a celebration of Community and I congratulate Clunes on the success of the evening in recognizing the valuable contribution that volunteers make in their community.

I have had the pleasure along with Council Officers to meet with Senator Julian McGauran and The Minister for Tourism to discuss opportunities for funding for the Creswick Interpretive Centre. The discussions have been informative and useful and I would like to thank the CEO and our Manager Tourism, Recreation and Economic Development Geoff Ryan for arranging these meetings and including me in those discussions to speak on the importance of this project to my Community. And would particularly like to acknowledge the hours of research and preparation work that Geoff and his department have put into the Grant applications.

Last week I attended the launch of the Creswick District Hospital fundraiser – "it's a shoe thing" at the Creswick town Hall which has risen over \$2000 for our hospital and earlier tonight I attended the reopening of the Creswick Scout and Guide Hall in Creswick. The hall has been revamped after some yeas of neglect with the help of some grant money and a work for the dole program and the enthusiastic parents and friends committee is to be congratulated on the resurrection of both the hall and a failing scout and guide movement in Creswick.

Finally on Sunday I attended the opening of the Bowls season and 50th year. anniversary celebration of the Smeaton Bowling Club. Two founding members of the Club were able to attend Mr. Cluffy Dean and Mr. Tom Evans who many will remember was a local MLA for many years.

Both recognized that just like many other rural towns in our shire, over the past 50 years Smeaton had lost its post office, a milk bar a garage, a butcher, a baker and even a candlestick maker..But thankfully, the pub and the bowling cub had survived and both are very popular venues where the Community can come together.

In the memoirs on the day I was reminded how I as a young girl growing up in the area I joined in a walkathon from Kingston to Campbelltown to raise funds for a swimming pool that we thought should be built adjacent to the site of the bowling club at Smeaton. I along with other local kids used to swim in a defacto pool a little downstream from the Rubbish Tip just near Andersons Mill. Unfortunately the Shire of the day did not support our vision (I think they were planning to build one in Clunes at the time) and so we instead put our walkathon money into the current Community Hall facility at the Bowling Club so although on the day of their 50th year anniversary I was unable to play bowls, I did very much feel part of the history of the day and was proud to represent the current day Council.

5. COUNCILLOR REPORTS AND CONGRATULATIONS

Cr Tim Hayes Cameron Ward

Can I firstly start by offering my congratulations to the Daylesford Football Club in winning the 2007 Premiership Grand Final of the Central Highlands Football League last Saturday? Country sport plays a very important role in the social life of our communities and whilst participation is reward enough, the achievement of the optimum goal in any competition is something to be proud of. Those achievements should be recognized and I am delighted that the Council has agreed to afford a Civic Reception to the Club this coming Friday.

Since the last Council meeting I have had the pleasure of attending a number of functions and one that always gives the people of Clunes a chance to come together is the Annual Community Dinner held on Friday 24 August. As listed elsewhere on the Council Agenda, Norah and Robert Campbell were nominated as the Clunes Female and Male Citizens of the Year – an honour that perhaps understates their very significant involvement in the community over a period of many years.

Equally robust and cohesive is the smaller community of Ullina and on Wednesday 29 August I attended the Annual General Meeting of the Ullina Landcare Group at the Smeaton Bowling Club. This group is everything to the local community – not just a Landcare Group; it has participated in many discussions and forums over the years the most recent being the rate review process and the changes to the electoral boundaries, is acutely aware of the local heritage of the area and is currently in the process of publishing a local history of Ullina.

The other unsung heroes in our shire are the many volunteers who are members of the local CFA Brigades and on 5 September I was present at a very well attended meeting of the Shire's Municipal Fire Prevention Committee held in Daylesford and very ably chaired by Eric Wright. I left that meeting feeling very confident that our natural and built infrastructure could not be in better hands.

A good discussion took place on Thursday 6 September regarding the future of the Clunes Court House. Some good suggestions were made and the feedback obtained from this consultation will be considered by the Clunes Town Hall Committee prior to any further consideration by Council. Although one organization has been critical of the decision of Council to require a public consultation, I believe the process currently being undertaken is the correct one and is supported by the vast majority of Clunes residents.

I am sure all Councillors expect an update on the Creative Clunes project and the Back to Booktown event scheduled for May of next year. Since the last meeting, the Creative Clunes Working Party has met with representatives of the Central Highlands Area Consultative Committee, Regional Development Victoria and a potential corporate sponsor and the outcomes are looking very positive indeed. The Creative Clunes Business Plan, funded through a grant from the Department for Victorian Communities is nearing completion and I am hopeful of a presentation to Council in the near future. Last night, I chaired a meeting of more than 60 representatives of community groups in Clunes to discuss their involvement in Back to Booktown and it is clear that this event and the Creative Clunes concept is seen by the entire community as the best chance for a sustainable future.

On Thursday 30 August, along with the Mayor and Cr. Booth, I attended a dinner at the American Hotel in Creswick with senior staff and their partners. The occasion provided us with an opportunity to wish David and Rhonda Smith 'best of luck' on the eve of their departure to Europe for the International Ploughing Competition. More importantly the dinner was a token of Council's appreciation to officers and their partners for what at times must seem a thankless task. Team building is a challenge for any organization and

5. COUNCILLOR REPORTS AND CONGRATULATIONS

although there may be some truth in the old adage that 'Councillors come and go and Officers stay on forever', it is primarily our responsibility to ensure that the working relationship with officers is a healthy and productive one.

Recommendation:

That Council:

5.1 *Receive and note the reports of Councillors*

Moved the Recommendation:

Moved: *Cr Bill McClenaghan*

Seconded: *Cr Heather Mutimer*

Carried.

5.2 URGENT ITEMS OF BUSINESS:

That Council receive Items of Urgent Business.

Moved: *Cr Heather Mutimer*

Seconded: *Cr Bill McClenaghan*

Carried.

5.2.1 GLENLYON ELM TREES PRUNING.

Motion moved at meeting:

5.2.1 *Seek to have work halted temporarily. Receive as an Item of Urgent Business.*

Cease all works for approximately 4 weeks until after bud burst which is a more appropriate time.

Moved: *Cr Bill McClenaghan*

Seconded: *Cr Heather Mutimer*

5.2.2 GE CROPS

AO/Cr. Heather Mutimer

REPORT: The Victorian Government's Independent Inquiry into Canola which will determine if the moratorium currently in place will be lifted. The report is expected to handed to the Government by mid October and final decision made next February. The submission deadline has closed but late submissions are being accepted.

In March 2003 the Hepburn Shire facilitated a very successful Regional Forum on the subject with speakers from both sides of the debate. The Forum was held at the Creswick Town Hall. There was an overwhelming concern about the release of GM crops expressed at this Forum with Hepburn Shire farmers and general community in attendance worried about the impacts on their 'clean green' image export market. Letters to the local paper added to the concerns expressed at the Forum.

5. COUNCILLOR REPORTS AND CONGRATULATIONS

At the May 2003 Council meeting I moved 2 motions (attached for Councillor reference) which were carried. The second motion in regard to a public discussion to declare the Shire areas and food services GE free has to date not been acted upon.

It is important that Hepburn Shire reinforces its previous stance in regard to the release of GE crops and that extensive public consultation takes place as part of the latest review. It is still not too late for this to take place. Such a process could be done in only a number of weeks (2-3).

MOTION:

That Council write to the State Government with copies to local MP's requesting the following:

1. That as part of GM Canola Moratorium Review processes, the Review panel convene Regional Public Forums throughout the state to hear submissions and take evidence from all affected communities and community organisations, including local councils, farmers, food processors, and consumers.
2. That the State Government enact laws that enable local councils under their land use powers to regulate, prohibit or impose conditions on any dealing connected with a GM crop trial or commercial GM crop, proposed for cultivation within their jurisdiction.

(rationale: an exemption clause in Victoria's GM moratorium law allows GM trials for 'research' or development. However this exemption has allowed Bayer to grow GM canola seed on plots up to 10 hectares for export to Canada where it is sold commercially. Australia's GM Free environment is being used to produce pure, uncontaminated GM seed as it cannot be grown in Canada because the various GM canola varieties are mingled. These GM activities undermine a region's GM free status and branding of its food products as clean and green)

Motion Moved at Meeting in 2 parts:

That Council :

Write to the State Government with copies to local MP's requesting the following:

- 5.2.2(1) *That as part of GM Canola Moratorium Review processes, the Review panel convene regional public forums throughout the state to hear submissions and take evidence from all affected communities and community organisations, including local councils, farmers, food processors, and consumers.***

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

That Council :

Write to the State Government with copies to local MP's requesting the following:

- 5.2.2(2) *That the State Government enact laws that enable local councils under their land use powers to regulate, prohibit or impose conditions on any dealing connected with a GM crop trial or commercial GM crop, proposed for cultivation within their jurisdiction.***

5. COUNCILLOR REPORTS AND CONGRATULATIONS

Moved Cr Heather Mutimer

Seconded: Cr Bill McClenaghan

Motion Lost.

6. GOVERNANCE AND STRATEGIC MATTERS

6.1 TENDER H184-2007 REPLACEMENT OF LEONARD'S BRIDGE OVER KILKENNY CREEK, CLUNES MT. CAMERON ROAD

(A/O Director Infrastructure and Development)

File Ref: H184-2007

Synopsis

Tenders were invited for the replacement of Leonards Bridge over Kilkenny Creek. The bridge has reached the end of its useful life and is subject to restrictive load limits. The contract is for the replacement of the timber and steel bridge with a reinforced concrete structure.

Report

Public Notification

Tenders were publicly advertised in The Age and the Ballarat Courier on Saturday 11th and 18th of August 2007. Tenders closed at 12 noon Wednesday 5th September 2007.

Nine prospective tenderers requested documentation as the tender closed at 12noon on Wednesday the 5th of September 2007.

Tenders Received

The following Tenders were received:-

Bendigo Piling	Tendered Sum \$345,736
Bridge and Maine Constructions Pty Ltd	Tendered Sum \$607,300
Mid West Earthmoving	Tendered Sum \$454,441
FRH Group Pty Ltd	Tendered Sum \$484,540

Selection Criteria

- Tenderers demonstrated ability to provide the Services including customer focus;
- Tenderers reliability and experience;
- The total cost to Council for this tender;
- Industrial Relations Record and Policies; and
- Risk Management and OH&S practices and performance.

Report

The tender evaluation panel comprised of Andrew Bourke, Manager Operations, Richard Russell, Executive Engineer and Michael Neunhoffer, Asset Engineer. The Evaluation Panel has met and reviewed all tenders submitted.

The evaluation panel assessed multiple contractors as part of their evaluation and recommend the tender from Bendigo Piling be accepted on the basis of:

- They are the lowest tender;
- Previous dealings with them have been successful;
- They are highly regarded and recommended by other road managers that have had dealings with them on similar projects.

6. GOVERNANCE AND STRATEGIC MATTERS

The evaluation panel's ranking of tenders is:

1. Bendigo Piling
2. Bridge and Maine Constructions Pty Ltd
3. Mid West Earthmoving
4. FRH Group Pty Ltd

Therefore on this basis, it is recommended that the contract to reconstruct Leonard's Bridge over Kilkenny Creek on the Clunes Mt Cameron Road be awarded to Bendigo Piling

Relevant Policies / Council Plan implications:

Council Plan Objective 3: Asset and Resource Management- Improve the management of assets.

Community / Engagement / Communication / Consultation:

This contract retains the existing services and there have been no received requests for changes to the service provision levels.

The project will be advertised in locally circulating papers providing notification of the temporary road closure as well as the road being signed for alternate routes during the construction.

This road is also a bus route servicing the Clunes primary school, so extensive notification will be required to provide for alternate routes on this bus route

Financial Implications

The initial estimate to undertake the works as listed in the Capital Bridge program as provided to Council at the February 2007 Council meeting was \$260,000. During the design of the bridge, an evaluation to utilise components from the current bridge within the new bridge was deemed not be cost effective and it was recommended to build a new concrete structure rather than a steel and concrete composite structure. This is the basis of the tendered contract.

Therefore the financials to construct the bridge will be sourced from the following areas:-

1.) Road to Recovery Supplementary Allocation	\$75,800
2.) Bridge Maintenance	\$130,000
3.) Funding Gap Allocation (Total allocated \$250k) (balance funding to Road stabilisation projects)	\$140,000
4.) Total	\$345,800

Recommendation:

That Council:

6.1 .1 *Award contract H184-2007 to **Bendigo Piling** of 74 Butcher St Strathdale for the Replacement of Leonard's Bridge to the value of three hundred and forty five thousand, seven hundred and thirty six dollars \$345,736.*

6.1.2 *Sign and seal the documents.*

6. GOVERNANCE AND STRATEGIC MATTERS

8.01pm **Cr Janine Booth declared pecuniary interest and left the room..**

Moved the Officer's Recommendation:

Moved: ***Cr Bill McClenaghan***

Seconded: ***Cr Heather Mutimer***

Carried.

8.02pm **Cr Janine Booth returned to the room.**

6. GOVERNANCE AND STRATEGIC MATTERS

6.2 RENAMING OF THE CLUNES – DAYLESFORD ROAD

(A/O – Director Corporate Services)

File Ref: 58/02/03

Synopsis

This report proposes the renaming of the Clunes – Daylesford Road to the Clunes – Smeaton Road and the Smeaton – Blampied Road.

Report

At the May 2007 Council Meeting Mr John Toose brought to Council's attention the confusion that is caused by having the road from Blampied to Clunes simply named the Clunes – Daylesford Road. This road name is causing problems for the CFA, Australia Post and conceivably the Ambulance service in clearly identifying the location of properties along the length of this road.

Council resolved that a report be presented to the next appropriate Forward Planning Meeting, outlining the process that would be involved in renaming the road in question. At the August 2007 Forward Planning Meeting Council considered the issue and determined that they wished to initiate the process of renaming the Clunes – Daylesford road to the Clunes – Smeaton Road and the Smeaton – Blampied Road.

The process will involve Council placing an advertisement in the Advocate giving notice of intention to re-name the road and calling for submissions of the proposed name and advising that alternative names will be considered. Also to correspond with the newspaper advertisement, write to each owner/occupier of property along the road and place a notice at either end of the road to be renamed.

Relevant Policies / Council Plan implications:

Local Government Act 1989

Geographic Names Victoria Guidelines

Community / Engagement / Communication / Consultation:

Community consultation as per S223 of the Local Government Act 1989

Financial & Resource Implications Initial & Ongoing

There costs associated with buying and erecting new signage

Recommendation:

That Council:

6.2 .1 *Proceed with the proposed renaming of the Clunes – Daylesford Road to the Clunes – Smeaton Road and Smeaton – Blampied Road.*

Moved the Officer's Recommendation.

Moved: Cr Janine Booth

Seconded: Cr Bill McClenaghan

Carried.

6. GOVERNANCE AND STRATEGIC MATTERS

6.3 YOUTH ADVISORY COMMITTEE - APPOINTMENT OF ADVISORY COMMITTEE

(A/O – Manager Community Services)

File: 34/22/01

Synopsis

The purpose of this report is for Council to consider nominations for appointment to the Youth Advisory Committee.

Report

The purpose of the Youth Advisory Committee is to provide strategies and policy advice on planning, implementation and evaluation of the Hepburn Shire Social Plan 2005 – 2015 to Council, to ensure they benefit the local communities of the Shire.

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

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

Nominations for the Advisory Committee were advertised in the Advocate in June 2007.

Seven vacancies were created through resignation during 2007.

The following community members have nominated to be on the Youth Advisory Committee.

® - indicates reappointment for 2007

®Erin Dowling	Daylesford- Korweinguboorra
®Thomas Shaw	Newlyn
®Michael Bruce	Glenlyon
®Ruth Knowles	Eganstown
Rachael Coleman	Clunes
Morgan Kaye	Glenlyon
Huong Thai-Nguyen	Daylesford
Thomas Woodroofe	Daylesford- Maldon
Sebastian Klein	Hepburn Springs
Emma Martin	Wattle Flat
Cr. Janine Booth	

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

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

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

Under the Terms of Reference, the Advisory Committee will:

- Ensure that Council is fully informed as to the youth community's needs and priorities

6. GOVERNANCE AND STRATEGIC MATTERS

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

Relevant Policies/Council Plan Objectives

- Council Plan
- Hepburn Healthy Communities Project / Social Plan

Financial/Resource Implications Initial & Ongoing

Council has allocated resources within 2007/08 budget to support the Youth Advisory Committee.

Recommendation:

That Council:

- 6.3.1 Appoint Rachael Coleman; Morgan Kaye; Huong Thai-Nguyen; Thomas Woodroffe; Sebastian Klein and Emma Martin as members of the Youth Advisory Committee
- 6.4.2 *Re-appoint Erin Dowling; Thomas Shaw; Michael Bruce and Ruth Knowles to the Youth Advisory Committee for a period negotiated with the Youth Development Co-ordinator.*

Moved the Officer's Recommendation.

Moved: Cr Janine Booth
Seconded: Cr Heather Mutimer
Carried.

6. GOVERNANCE AND STRATEGIC MATTERS

6.4 WOMBAT HILL BOTANIC GARDENS KIOSK

(A/O – Director Corporate Services)

File Ref: 5/1330/01950

Synopsis

In order to gain approval to lease out the Wombat Hill Botanic Gardens Kiosk (WHBGK) for a period of greater than 6 months, Council requires the approval of the Department of Sustainability and Environment (DSE).

Report

As per Council's 28 August 2007 Forward Planning Meeting, Council agreed that although it does not want to pre-empt or commit itself to any specific actions concerning the WHBGK prior to the adoption of the Wombat Hill Botanic Gardens Daylesford Conservation Management Plan, it would be prudent to seek DSE approval to lease the WHBGK for a maximum term of 21 years.

The DSE process for giving this approval can take up to 6 months. Therefore it was deemed appropriate to set the approval process in motion so as to not hold up the process any longer than was necessary, in light of the fact that it will be some months until Council will be considering the adoption of the Management Plan.

It must be appreciated that this action will not lock Council into a 21 year lease. This action will give Council the option of entering into a lease of up to 21 years.

Council is firmly committed to ensuring that appropriate consultation occurs as part of the process. The next step in the process of considering the future use of the Kiosk is the adoption of the Conservation Management Plan as this document will give clear recommendations concerning the kiosk.

Relevant Policies / Council Plan implications:

Council Plan 3.1 – Improve the management of our assets

Community / Engagement / Communication / Consultation:

The Wombat Hill Botanic Gardens Advisory committee will be included in process at the appropriate time.

Financial & Resource Implications Initial & Ongoing

Nil

Recommendation:

That Council:

- 6.4.1 *Write to the Department of Sustainability and Environment seeking approval to lease the Wombat Hill Botanic Gardens Kiosk for a period of 21 years, on the understanding that this action will not lock Council into a 21 year lease but will give them the option of entering into a lease of up to 21 years*

6. GOVERNANCE AND STRATEGIC MATTERS

Moved the Officer's Recommendation with the following amendment:

6.4.1 Insert: *..... up to 21 years*

Moved: *Cr Bill McClenaghan (as amended)*

Seconded: *Cr Janine Booth*

Carried.

6. GOVERNANCE AND STRATEGIC MATTERS

6.5 COMMUNITY ECONOMIC DEVELOPMENT MODEL

(A/O – Manager Community Services)

File Ref: 50/12/05

Synopsis

The purpose of this report is to brief Council on the development of a community economic development model for Hepburn Shire, based on community participation and local relevance. A key component is conducting a community economic forum.

Report

Community members have initiated action on the development of a community economic development model for Hepburn Shire. Two community members have formed a small working group which includes the Hepburn Healthy Communities Project's Community Strengthening Co-ordinator. This action has been underway since March 2007. The working group has been investigating models of community economic development that might work for Hepburn Shire. They have networked with numerous groups from across the Shire. There has also been significant research and networking with other organisations and municipalities who are undertaking similar work. These include the Sirolli Institute, Bendigo Bank, City of Greater Bendigo, Ballarat University, several state government department representatives, MAV and interstate experts in the field.

The Chief Executive Officer, Manager Economic Development, Tourism and Recreation and the Tourism Officer have all been briefed on this work, with the expectation that this action will be supported by and compliment the economic development vision and actions for Hepburn Shire.

The working group is planning its next stage which is a community economic development forum with invited speakers from interstate and the possibility of international representation. There have been discussions with CHACC and MAV about support for this forum. It is planned to be a targeted four hour workshop of about 40-50 people with most people being from Hepburn Shire. The expected outcome, being the development of a specific model for Hepburn Shire. This work would be conducted in the months following the forum, based on the content and results of the forum.

Relevant Policies / Council Plan Objectives

Council Plan

1. Strengthening Communities
 - 1.2 Enhance community connectedness, capacity building, and leadership.

4. 4.3 Encourage and support diversity of economic development and employment

Social Plan

8. Employment
 - 8.1 Building the economic capacity of the communities
 - 8.2 Continue to promote opportunities through economic development
 - 8.3 Target the niche markets that may / have developed through the Shire
 - 8.4 Investigate complimentary enterprise
 - 8.5 Encourage light industry into the Shire

6. GOVERNANCE AND STRATEGIC MATTERS

Community / Engagement / Communication / Consultation:

This project has been generated by community members and has strong community leadership. The working group has briefed relevant community groups from across the Shire. Community participation will be an important part of the proposed forum and the subsequent community economic development.

Financial & Resource Implications Initial & Ongoing

To date this has been limited to the participation of the community strengthening coordinator. CHACC has been approached regarding resources for the forum. An in principal commitment has been made for partial funding. MAV have also expressed an interest in what is being done and are considering providing financial resources to support the forum. There is potentially a small contribution required by HSC toward support of the forum however sponsorship is being sought to off-set this. As Council is not driving this process it is envisaged that Council would not initially be approached for funding.

Ongoing costs are yet to be determined.

Recommendation:

That Council:

- 6.5.1 *Support investigating the development of a Community Economic Development model for Hepburn Shire. This includes participation in a local Community Economic Development Forum.*

Moved the Officer's Recommendation

Moved: **Cr Janine Booth**
Seconded: **Cr Heather Mutimer**
Carried.

6. GOVERNANCE AND STRATEGIC MATTERS

6.6 ARC – MONTHLY REPORT

(A/O – Director Infrastructure & Development)

File Ref: H164

Synopsis

Monthly report on the ARC project.

Report

Works are progressing as per program on-site except for stadium flooring.

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

- Gymnasium renovations;
- Canteen works;
- School change room renovations;
- Sewer & stormwater works;
- Structural steel frame, roof and wall cladding for 2 court stadium.
- Stumps, bearers & joists for flooring 2 court stadium.
- Theatre lighting and sound equipment.
- Internal wall framing and flooring for amenities, administration, canteen, etc.
- Brickwork
- Glazing
- Plastering

Works in progress:

- Flooring for stadium placed on hold due to moisture issues.
- Electrical fit out
- Vinyl floor laying
- Joinery
- Internal painting
- Plumbing fit out

The internal renovation works (school component) have been completed and handed back to School. The new building (Council component) hand-over is planned for December 2007 due to delay in laying stadium flooring because moisture content was not right for flooring timber.

Relevant Policies / Council Plan implications:

Council Plan – Service Delivery

Community / Engagement / Communication / Consultation:

Extensive community consultation and engagement has occurred with this project.

6. GOVERNANCE AND STRATEGIC MATTERS

Financial & Resource Implications Initial & Ongoing

As at 31 August 2007:

ARC - DAYLESFORD REC CENTRE BUDGET	REVISED BUDGET	ACTUALS 2007/2008	TOTAL ACTUAL 31-Aug-07	PROJECTIONS 31-Aug-07
EXPENDITURE - 9550 815	Dec-06			
Architect & Sub consultants	\$ 124,500		\$127,873	\$ 129,000
Contract Admin	\$ 5,500		\$12,487	\$ 15,000
Building 2 courts, entry, kiosk & amenities	\$ 1,529,228	73,864	\$960,058	\$ 1,529,228
Variations 2 courts,entry,kiosk, etc	\$ 75,000	40,174	\$46,594	\$ 75,000
Building School refurbishment	\$ 302,730		\$302,730	\$ 302,730
Variations School building refurbishment	\$ 257,270	11,200	\$184,322	\$ 257,270
Legals	\$ 1,500		\$0	\$ -
Planning Permit	\$ 2,100		\$2,071	\$ 2,100
Tender costs	\$ 1,500		\$676	\$ 700
Opening function & marketing	\$ 5,000	118	\$616	\$ 5,000
Fitout - equipment & furniture	\$ 25,000		\$0	\$ 25,000
Fundraising Committee	\$ 12,094		\$12,094	\$ 12,100
Carparking	\$ -		\$0	\$ -
Drainage & Authority Headworks Charges	\$ 70,000		\$66,646	\$ 66,700
Contingencies	\$ 30,578		\$237	\$ 22,172
TOTAL EXPENDITURE	\$ 2,442,000	\$ 125,356	\$1,716,403	\$ 2,442,000

INCOME - 9550948

SRV - (DVC)	\$ 500,000		\$375,000	\$ 500,000
COUNCIL	\$ 300,000	47,441	\$300,000	\$ 300,000
FEDERAL GRANT	\$ 120,000		\$96,000	\$ 120,000
COM FACILITIES GRANT (DET)	\$ 1,222,000	93,239	\$858,845	\$ 1,222,000
COMMUNITY FUNDRAISING	\$ 300,000	203,846	\$210,846	\$ 300,000
TOTAL INCOME	\$ 2,442,000	\$ 249,644	\$1,840,691	\$ 2,442,000

Progress payments to builder \$1, 457,444
Claims to be processed \$ 108,991

Approved variations to project to date:

School component of the building works \$ 184,322
Council component of the building works \$ 46,594

Recommendation:

That Council:

6.6.1 *Note & receive the report.*

Moved the Officer's Recommendation.

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

7. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

Nil reports

8. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

8.1 SECTION 86 COMMITTEE & ADVISORY COMMITTEE MINUTES

(A/O – Manager Administration)

File Ref: Various

Synopsis

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

Report

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

- Minutes of the Hepburn Healthy Communities dated 18 June 2007. (File Ref.97/000422) (Advisory)
- Minutes and Agenda of the Clunes Historic Medlyn Complex Committee dated 8 August 2007. (File Ref. 06/013539) (Section 86)
- Minutes of the Creswick Development Committee dated 18 June2007. (File Ref. 05/006972 (Advisory)
- Minutes of the Culture and Arts Committee dated 15 August 2007 (File. Ref. 07/010313 (Advisory)
- Minutes of the Creswick Info link Committee dated AGM: 15 Sept 2005, Annual Fin Report 9 August 2007, President Annual Report 9 August 2007 (File. Ref. 02/000969 (Section 86)
- Minutes of the Heritage Advisory Committee dated 17th August 2007 (File Ref. 07/021844 (Advisory)

Relevant Policies / Council Plan implications:

2.2 – Improve internal and external communication.

Community / Engagement / Communication / Consultation:

Members of the community are represented on these committees.

Financial Implications

Nil.

Recommendation:

That Council

8.1.1 *Note the Minutes of the Committees listed above.*

Moved the Officer's Recommendation.

Moved: Cr Heather Mutimer

Seconded: Cr Janine Booth

Carried.

8. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

8.2 HERITAGE ADVISORY COMMITTEE – DISPLAY OF THE STANBRIDGE HORSE DRAWN CART (KNOWN ALSO AS THE STANBRIDGE JINKER)

(A/O – Manager Planning)

File Ref: 66/08/02
06/02/01

Synopsis

At its meeting of 17 August 2007 the Heritage Advisory Committee has recommended that Council investigate the opportunity for the proper display of the Stanbridge horse drawn cart/ jinker.

Report

The Stanbridge horse drawn cart (known as the Stanbridge jinker) has been donated to the Hepburn Shire Council for its safekeeping.

The Committee discussed the significance of the Stanbridge jinker and that over the past years no budget has been allocated by Council to commence the process of restoring (if required) and displaying of the jinker.

The Committee has asked that Council consider the future of the Stanbridge jinker and progress this matter further.

Relevant Policies / Council Plan Objectives

Corporate Plan.
Hepburn Planning Scheme

Financial & Resource Implications Initial & Ongoing

There would be financial costs associated with preparing/restoring the Stanbridge jinker for display including the actual display area and the ongoing maintenance costs relating to the jinker display. Funding is required to facilitate this project.

Recommendation

That Council:

- 8.2.1 *Investigate the opportunity for the proper display of the Stanbridge jinker and identify the funding avenue to achieve this.*

Motion Moved at Meeting:

That Council:

- 8.2.1 ***Investigate the opportunity for the proper display of the Stanbridge jinker and identify the funding avenue to achieve this. The investigation to be reported back to Council for the 2008-09 Budget process.***

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

8. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

8.3 HERITAGE ADVISORY COMMITTEE REPORT – REMOVAL OF SECTION 86 COMMITTEE STATUS FROM THE HERITAGE ADVISORY COMMITTEE

(A/O – Manager Planning)

File Ref: 66/08/02

Synopsis

At its meeting of 17 August 2007, the Heritage Advisory Committee recommended that Council reconsider the removal of Section 86 Committee status from the Committee and introduce a new Instrument of Delegation.

Report

Discussions have been carried out at the Heritage Advisory Committee's meeting in relation to the removal of Section 86 Committee status.

The Heritage Advisory Committee questioned the requirement to maintain an Instrument of Delegation for it to operate as a Section 86 Committee. The Committee considered their role as stewardship of the Shire's heritage, built and natural, and their part in managing the heritage of the Shire.

The Heritage Advisory Committee expresses its displeasure to remove the Committee as a Section 86 Committee of Council. It is recommended that the Instrument of Delegation (if any) be revised and introduced.

In considering the recommendation of the Heritage Advisory Committee, the Guidelines for Section 86 Committees of Management and Advisory Committees was utilised. Given that the Heritage Advisory Committee is not a Committee of Management but rather an advisory committee, an Instrument of Delegation is not required. The Terms of Reference are considered sufficient to enable the Heritage Advisory Committee to carry out its advisory functions effectively.

The change in the status for the Heritage Advisory Committee is not considered to have an impact on its function as a Committee of Council.

Relevant Policies / Council Plan Objectives

Corporate Plan.
Hepburn Planning Scheme

Financial & Resource Implications Initial & Ongoing

Nil

Recommendation:

That Council:

8.3.1 Note the concern and recommendation of the Heritage Advisory Committee, and that no further action is required.

Moved the Officer's Recommendation

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

9. STATUTORY MATTERS

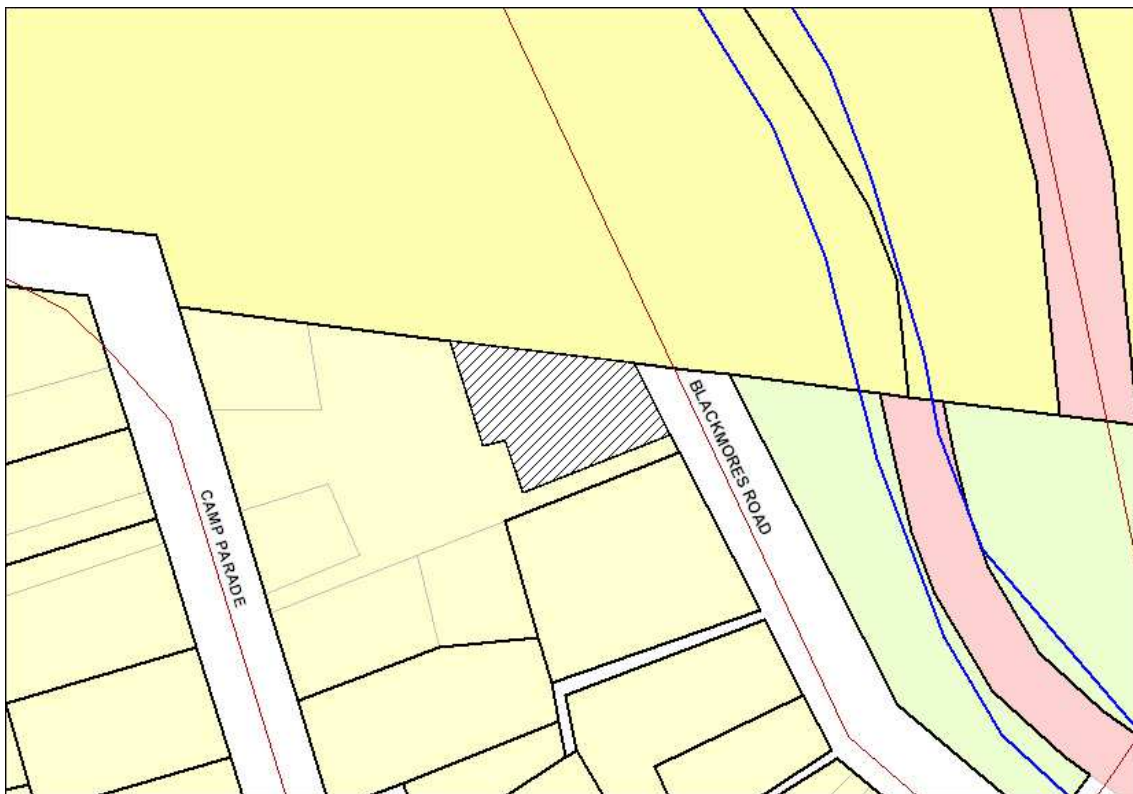
9.1 PLANNING PERMIT APPLICATION IN A HERITAGE OVERLAY

(A/O –Team Leader Planning)

File Ref: 1/0600/00018/P

Synopsis

Applicant	2007/9375
Location	18 Blackmores Road, Clunes
Proposal	Dwelling and Carport
Zoning	Township Zone
Overlay Controls	Environment Significance Overlay – Schedule 1 Heritage Overlay HO776- Clunes Conservation Precinct



9. STATUTORY MATTERS

9.1 PLANNING PERMIT APPLICATION IN A HERITAGE OVERLAY CONT'D..

Report

INTRODUCTION

Council at its Ordinary Meeting on 21 August 2007 resolved that Council:

1. Present a report to the next meeting of Council relating to the need to advise abutting owners of town planning permit applications lodged in respect of properties affected by a Heritage Overlay.
2. Seek legal advice as to its and the adjoining owners' liability as a result of the issue of the Planning Permit pertaining to 18 Blackmores Rd, Clunes.

BACKGROUND

Council received a planning application for a dwelling and carport at 18 Blackmores Road, Clunes on the 24 April 2007. When the applicant made initial enquiries a planning permit was not required in the Township Zone for a dwelling. Subsequently in February 2007 the Hepburn Shire Planning Scheme was amended by C39. The site was subject to a Heritage Overlay based on the precinct and the owner was very upset to find a planning permit was required after a dwelling had been contracted.

Council's Heritage Advisor was referred to informally and there were no concerns about the dwelling itself. The amount of site cutting was also deemed to be within the restrictions imposed by the Environmental Significant Overlay. The subject site adjoins larger sites. On the balance of considerations it was considered appropriate to issue a permit for the dwelling and carport subject to tree protection and erosion control conditions. The permit was issued on the 10 May 2007.

LEGISLATION

A dwelling is as of right in the Township Zone therefore no permit is required to use the land for a dwelling. The planning permit trigger is the buildings and works under the Heritage Overlay.

The Victorian Planning Provisions indicates that overlays apply to a single issue and make requirements for the development and do not change the intent of the zone.

Notice of the buildings and works was not given on this occasion.

The Planning & Environment 1987 Section 52 relates to the giving of notice for planning permit applications.

Section 52 states

(1) Unless the responsible authority requires the applicant to give notice, the responsible authority must give notice of an application in a prescribed form-

a) to the [owners](#) (except persons entitled to be registered under the [Transfer of Land Act 1958](#) as proprietor of an estate in fee simple) and [occupiers](#) of allotments or lots adjoining the [land](#) to which the application applies unless the responsible authority is satisfied that the grant of the permit would not cause material detriment to any person;

9. STATUTORY MATTERS

9.1 PLANNING PERMIT APPLICATION IN A HERITAGE OVERLAY CONT'D..

On the balance of considerations the discretion to grant a permit was exercised in this instance due to;

- The lot is 1186m² above average size for a residential lot and serviced;
- The proposed dwelling and carport is modest in size and scale;
- The development will not cause detriment to the heritage place being modest in scale, and located on the fringe of the precinct;
- Developments are screened from one another by mature vegetation; and
- Permit conditions can ensure tree protection and erosion control measures during construction.

LEGAL ADVICE

Legal advice as requested by Council is being obtained and will be provided to Council once received in writing.

Recommendation:

That Council:

9.1 .1 *Consider this matter again once written legal advice has been received.*

Moved the Officer's Recommendation

Moved: Cr Janine Booth

Seconded: Cr Bill McClenaghan

Carried.

9. STATUTORY MATTERS

9.2 APPLICATION NO. 2007/9392, PROPOSED: CONSTRUCT A DWELLING AND SHED

(A/O – Planning Officer 1)

File Ref: 1/0375/02971/P

Synopsis

Applicant	Mr Karl Schaefer
Location	2990 Ballarat-Maryborough Road, Clunes
Proposal	Construction of a Dwelling and Shed
Zoning	Farming Zone – Area 1
Overlay Controls	ESO1, SLO1 (part)
No of Objections received	Nil
Recommendation	Refusal to Grant a Permit



9. STATUTORY MATTERS

Report

INTRODUCTION

A previous planning permit (2000/6445) for a boundary realignment and dwelling on the land was issued in 2001. Condition 1 of that permit required amended plans be submitted to Council for approval prior to the use and development commencing. These plans were to show 'alteration of the building envelope to remove the area of the building envelope within the Significant Landscape Overlay (SLO1), no part of the building envelope must be above the 375 metre A.S.L. contour'. No plans were ever submitted to, or endorsed by Council and the planning permit has since expired.

The construction of a driveway and a significant site cut have been undertaken in accordance with the plans submitted for (but not endorsed under) planning permit 2000/6445. Also, planting of a significant number of blue gums has been undertaken along the road frontage of the property.

A new application for a dwelling and shed on the land was received on 11th April 2007. The same plans were submitted as for planning application 2000/6445 showing the dwelling site above the 375m contour and within the SLO1 area.

PROPOSAL

It is proposed to construct a dwelling (no plans yet supplied) and shed on a Farming Zoned property of 8.028ha in accordance with the attached plans.

The northern part of this property comprises the side of a volcanic cone, identified by the SLO1 on the property. Land outside the SLO1 area is less steep and less visible to surrounding properties, some lower lying parts of the property to the south tend to become waterlogged in wet weather. The land is currently covered in unimproved pasture and has been used for grazing in the past.

The subject land is identified in Council's 'Rural Areas Review' as of 'Low' agricultural quality on the slopes of the volcanic cone, but the surrounding plains are designated 'High' quality. Surrounding land holdings are generally large grazing properties. Clunes township is 2.6 km north along the Ballarat-Maryborough Road. However, land zoned Rural Living – which would be suitable for dwellings - is located 15m away across the Ballarat-Maryborough Road.

Further information about the proposal was requested and has not been received to Council's satisfaction. Council does not currently have a response to the decision guidelines under the Farming Zone or a copy of the Restrictive Covenant registered on the title of the land. The proposed dwelling is sited within the designated Significant Landscape Overlay area on the property and, despite requests for the dwelling to be re-sited out of that area; the dwelling site has not been moved.

REFERRAL AUTHORITIES

The application was referred as follows:

Section 55 Notification

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

Section 52 Notification

DSE advised there was no objection, subject to conditions regarding effluent treatment. National Trust - no response yet received.

9. STATUTORY MATTERS

REFERRAL WITHIN COUNCIL

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

ADVERTISING/NOTICE OF APPLICATION

Considering that the required further information has not been supplied and the proposal does not accord with State or Local Planning Policy, it was deemed that notification of the proposal was not required due to the likely recommendation for a refusal of a planning permit.

Relevant Policies / Council Plan implications:

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

STATE PLANNING POLICY FRAMEWORK (SPPF)

15.11 Heritage – the objective of this policy is to conserve places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance. The proposed site for the dwelling has been chosen such that it encroaches upon an area identified in the Hepburn Planning Scheme by the Significant Landscape Overlay – Schedule 1 (SLO1). The intent of this overlay is to identify an area of aesthetic and landscape significance, in this case, the higher slopes of a prominent volcanic cone, and to protect these areas from inappropriate development. There are other areas on the subject property (on the lower slopes of the volcanic cones) which are equally suitable for a dwelling site and therefore this application does not meet the objectives of this policy.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

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

This proposal for a dwelling fails to meet the objectives of this policy as it firstly, may adversely impact the rural amenity of the area by the siting of the dwelling so high up the volcanic cone and unnecessarily intruding on the rural landscape, and secondly, the dwelling is not associated with or required to support a productive agricultural use on the land.

It is stated policy that the scale, height and bulk of a dwelling respond positively to the landscape values and characteristics of the surrounding areas.

No floor plans or elevations for the proposed dwelling have yet been submitted to Council for assessment.

ZONE AND OVERLAY PROVISIONS

Farming Zone – the purpose of the zone is to provide for the use of the land for agriculture and to ensure that non-agricultural uses (especially dwellings) do not adversely affect the use of the land for agriculture. A planning permit is required to use and develop the land for a dwelling under Clause 35.07-1 as the land is less than 40 hectares in area.

9. STATUTORY MATTERS

Accordingly, pursuant to Clause 35.07-5 (Application requirements for dwellings) of the Planning Scheme, the applicant was requested to provide a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings. However, this information has not been supplied. Nevertheless, an assessment of the application against the relevant decision guidelines in the Farming Zone follows:

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

The land is identified as of low agricultural quality by Council's 'Rural Areas Review' (located as it is, mostly on the side of a volcanic cone). However, it has previously been used for grazing sheep as part of a larger holding. The proposed dwelling does not relate to any proposed agricultural use on the property and as such, will result in the loss of productive agricultural land.

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

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

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

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

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

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

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

There are a number of similarly sized and zoned land parcels along the Ballarat-Maryborough Road both to the north and south. However, there are, across the road to the west, a number of parcels of land (wedged between the rail line and the road) which have been zoned Rural Living. The majority of these land parcels are part of larger agricultural holdings and are not individually developed for dwellings. Approval of this application on Farming Zoned land, where there is sufficient local supply of Rural Living Zoned land, has a high potential to lead to a proliferation of dwellings in the surrounding Farming Zoned area which is mostly of high agricultural quality and should be protected from this sort of development.

9. STATUTORY MATTERS

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

The siting of the development within a Significant Landscape Overlay (on the side of a volcanic cone) was justified by the applicants through the beautiful view afforded by the site. However, it is considered that the siting of the dwelling within the area of the property designated to be of 'significant' landscape value where other areas are available on the property is contrary to this decision guideline in the Farming Zone.

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

The proposed dwelling site is cleared (as is most of the volcanic cone) and will be visible on the side, above the 375m A.S.L. contour, of the volcanic cone for many kilometres around the area. Similar volcanic cones in the area are protected from development by Significant Landscape Overlays and present important focal points for the local and regional landscape. The National Trust has identified the volcanic landscapes in Western Victoria as worthy of protection from unnecessary residential development.

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

Significant Landscape Overlay – Schedule 1 (SLO1) - the purpose of this overlay is to identify significant landscape and to conserve and enhance the character of these landscapes. The SLO1 relates specifically to the Volcanic Peaks Landscape Area, Ridges and Escarpments Area and Site of Geological Significance.

The Statement of Significance contains the following information:

"The volcanic peaks have significance for their prominence in the rural landscapes of the grasslands and woodlands in the Shire. The peaks and ridgelines of these features are important visual elements of the local rural landscapes and form a part of the significant grassy plains of western Victoria."

A permit is required to construct a building on land affected by the SLO1. As such, this application was assessed against the purpose of the overlay and found to be contrary to the intent of protecting the significant landscape area from intrusive and dominant development and is not considered to meet the objective of this overlay.

ASSESSMENT

A request for further information was issued by Council's Planning Officer regarding this application. However, this request was not issued within the statutory 28-day time-frame and, as such, Council does not have the ability to lapse the application under Section 54B(1) and must consider the application in its current form.

9. STATUTORY MATTERS

The proposed dwelling on approximately 8 hectares of productive grazing Farming Zoned land which is not associated with or required for an agricultural use would result in the loss of that land from productive agricultural use.

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

The proposal would set an unfavourable precedent of approving rural residential-type applications in agricultural areas and also of approving inappropriate developments within the SLO areas in the Shire.

There is no agricultural use proposed on the land, although it has been used for grazing in the past. The dwelling is not reasonably required on Farming Zoned land when there are Rural Living Zoned lots across the road. The proposal is not consistent with the purpose of the Farming Zone or the Significant Landscape Overlay, is not supported by State or Local Planning Policy and therefore should be refused.

Community / Engagement / Communication / Consultation:

Consultation was undertaken and included:

A meeting with the applicants held on site on 2nd July 2007 to discuss the issues with regards to siting of the dwelling. The applicant advised that he had received previous planning permission for the proposed house site and assured the Council Officer that the site was outside the SLO1 area and below the 375m contour. Subsequent further site plans received by Council show that this is untrue.

Financial & Resource Implications Initial & Ongoing

Potential cost of appeal to VCAT.

Recommendation:

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, resolve to Refuse to Grant a Permit under the provisions of Clause 35.07-1 and Clause 42.03-2 of the Hepburn Planning Scheme in respect of the land known and described as 2990 Ballarat-Maryborough Road, Clunes, for the use and development of a dwelling and shed in accordance with the attached plans, with the application dated 11/04/2007, on the following grounds:

- 1 *The application fails to meet the purpose and intent of the Farming Zone.*
- 2 *The application fails to meet the purpose and intent of the Significant Landscape Overlay.*
- 3 *The application fails to meet the objectives and strategies of Clause 15.11 (Heritage) of the Hepburn Planning Scheme.*

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- 4 *The application fails to meet the objectives and strategies of Clause 22.04 (Rural Land) of the Hepburn Planning Scheme.*
- 5 *The application fails to demonstrate that a dwelling is reasonably required on the land.*
- 6 *The application would set an undesirable precedent for other small Farming Zoned lots in the area.*

Motion moved at Meeting:

That Council is satisfied that the grant of a permit will not cause material detriment to any person and having considered all the matters required under Section 60 of the Planning and Environment Act 1987, resolves to Grant a Permit under the provisions of Clause 35.07-1 and Clause 42.03-2 of the Hepburn Planning Scheme in respect of the land known and described as 2990 Ballarat-Maryborough Road, Clunes, for the use and development of a dwelling and shed in accordance with the attached plans, with the application dated 11/04/2007, subject to the following conditions:

Further Plans

1. Prior to the commencement of the use/development hereby approved, three copies of amended plans must be submitted to and endorsed by the responsible authority. These plans must be generally in accordance with the plans already submitted with the application but modified to show:

a. the site of the dwelling outside the designated Significant Landscape Overlay area (which roughly equates to all land above the 375m A.S.L. contour).

b. Floor plans and elevations of the proposed dwelling and shed including a schedule of external materials, colours and finishes that demonstrates that the development's design, scale, height and bulk responds positively to the landscape values, cultural heritage values and characteristics of the surrounding areas.

c. Location, species and maintenance schedule of the landscape screen.

d. Construction techniques that will control stormwater and sediment pollution from the construction sites.

Once endorsed, these plans will form part of this permit.

Environmental Management Plan

2. Prior to the issue of an occupancy certificate for the dwelling hereby approved, three copies of a whole farm plan must be submitted to and endorsed by the responsible authority. This plan must show:

a. An assessment of physical and environmental hazards on the land (may include salinity, erosion, pest plants and animals, soil acidity, soil structure decline).

b. Measures that will be taken in association with the development and use to address physical and environmental hazards and include the retention of native vegetation, including a timetable for these actions.

Once endorsed, this plan will form part of this permit and any recommended measures or land management techniques must be undertaken in line with the recommended timetable.

No Change - Use/Development

3. The use of the premises, the layout of the site and the size, and internal layout of the buildings and works as shown on the endorsed plans must not be altered or modified.

No Adverse Amenity

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4. The amenity of the locality must not be adversely affected by the activity on the site, the appearance of any building, works or materials, emission from the premises or in any other way to the satisfaction of the responsible authority.

Landscape Screen

5. A landscape screen must be provided and maintained around the proposed structure to the satisfaction of the responsible authority.

6. The landscape screen must screen the dwelling from views from surrounding properties and roads to the satisfaction of the responsible authority.

No Tree Removal

7. No trees on the site shall be felled damaged, lopped or trimmed except those trees required to be removed, lopped or trimmed for the construction of the proposed dwelling.

Muted Tonings

8. All external materials to be used in the construction of the dwelling hereby permitted shall be of muted tonings and non-reflective and shall not result in any adverse visual impact on the amenity of the surrounding area.

Shed Only

9. The outbuilding on site must not be used for human habitation, and must not contain facilities that could be used for cooking, eating or sleeping.

Environmental Health Requirements

10. An application to install a septic tank system must be submitted prior to any works commencing.

11. An EPA approved Aerobic Wastewater Treatment System capable of achieving the 20/30 standard must be installed in accordance with the Septic Tanks Code of Practice.

Goulburn-Murray Water Requirements

12. All wastewater from the proposed dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be EPA approved and installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.

13. The wastewater disposal area must be located at least 100 metres from the nearest waterway (as measured from the bank or the normal high water mark if there is no bank.)

14. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximize its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.

Department of Sustainability and Environment Requirements

15. Effluent must be treated to a 20/30 standard prior to disposal.

Time Limit – Use/Development

16. This permit will expire if the development is not commenced within 2 years of the date of issue and completed within 4 years from the date of issue. An extension of time may be sought in writing up to three months after the expiry of the permit.

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

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

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9.3 APPLICATION NO 2007/9405, PROPOSED: USE AND DEVELOPMENT OF THE LAND FOR A CAR WASH

(A/O – Planning Officer 5)

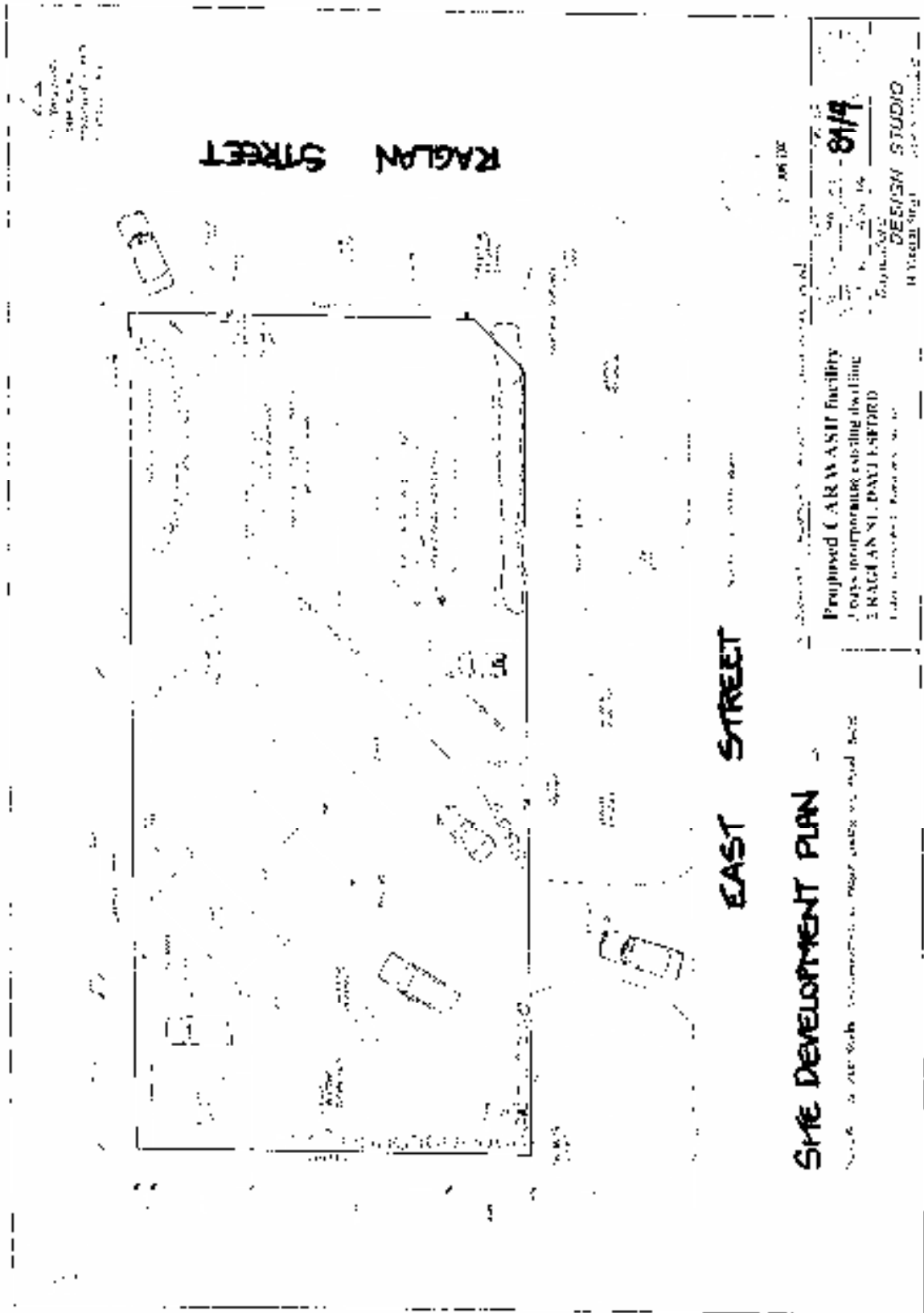
File Ref: 5/5660/90300/P

Synopsis

Applicant	Daylesford Design Studio
Location	2 Raglan Street, Daylesford
Proposal	Use and development of the land for a three (3) bay car wash, vacuum facilities, plant room, associated signage and tree removal.
Zoning	Residential 1 Zone
Overlay Controls	Heritage Overlay Environmental Significance Overlay 1 Environmental Significance Overlay 2
No of Objections received	11
Recommendation	Refuse to Grant a Permit



9. STATUTORY MATTERS



Report

9. STATUTORY MATTERS

INTRODUCTION

This application is for a car wash to be located on the south west corner of Raglan Street and East Street, Daylesford. The site is 1202 square metres in area and currently contains a dwelling, shed and a number of exotic trees, including one substantial oak tree. An application was lodged with Council in 2000 for a car wash on the site which involved the demolition of the existing dwelling. This application was refused by Council and the decision was upheld at VCAT.

The current proposal provides for the retention of most of the dwelling, with approximately 44 square metres of the rear to be demolished. 5 trees and a shed will also require removal. The car wash will be located to the rear of the dwelling. Details of associated signage have also been provided.

There are a number of existing commercial uses adjoining and opposite the site, including a garden supplies store to the west and a concrete batching plant to the rear. The Farmers Arms Hotel is located on the other side of East Street to the east of the site. To the north is farmland (zoned residential) whilst diagonally opposite on the Midland Highway / Daylesford - Trentham Road intersection are a group of shops. The balance of land in the immediate vicinity of the site is used for residential purposes.

PROPOSAL

It is proposed to construct a three bay car wash to be located under a canopy to the rear of the existing dwelling. A plant room will adjoin the wash bays and a two bay vacuum facility will be located in the south west corner of the site. Vehicular access will be provided from East Street and egress will be on to Raglan Street.

The dwelling and surrounding open space area will be fenced and retained as a manager's residence with 2 car spaces provided within the residential curtilage. Five trees, including a substantial old oak tree will be removed and new buffer planting provided.

The proposed hours of operation are from 7am to 9.30 pm (10.30pm during daylight saving).

REFERRAL AUTHORITIES

The application was referred to Goulburn Murray Water Authority under Section 55 of the Act and Central Highlands Region Water Authority under Section 52. Both authorities have requested the inclusion of conditions pertaining to waste water disposal.

The application was also referred to VicRoads as the site is adjacent to a Road Zone, Category 1, being the Midland Highway. VicRoads has required the inclusion of extensive permit conditions relating to the additional works required within the road reserve to enable safe vehicle egress on to Raglan Street.

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REFERRAL WITHIN COUNCIL

Council's Engineering Department also required that extensive conditions relating to drainage and driveway intersection treatment be included on any permit issued whilst the Health Department confirmed GMW's conditions.

The application was referred to Council's Heritage Adviser who supported the proposal in principle on the basis that the car wash could be made visually unobtrusive behind the existing dwelling. Permit conditions would then be included requiring the dwelling to be restored and enhanced to present an appropriate focus at this important entry to the town. He had strong concerns in respect to the loss of the oak tree and requested an arborists report on the health of the tree and modifications of the plan to retain the tree.

The Heritage Adviser noted that the location of the site adjacent to the various commercial uses and its proximity to the busy road means that the dwelling is unlikely to be adequately used and maintained as a residence and that for the purpose of streetscape improvement it would be better off as a commercial site where some leverage can be imposed to restore and maintain it.

ADVERTISING/NOTICE OF APPLICATION

Notice was required to be given by erecting a notice on the site, inserting a notice in the paper and a notice sent to all surrounding property owners. A total of 11 objections were received.

The key issues raised in the objections can be summarised as follows:

- The additional traffic generated by the proposal may create a traffic and pedestrian hazard;
- Although the development provides for the retention of the dwelling, it may be demolished in the future either through extensions to the car wash, fire or lack of repair;
- The development is detrimental to the streetscape at an important township entrance point;
- The existing commercial land uses adjoining the site does not justify the approval of an additional incompatible use;
- The development of a car wash in the town is supported, but not at the proposed location;
- The description of the car wash as low impact is contrary to commercial reality as the activity must be prominent if it is to be commercially viable;
- The proposal is contrary to the previous VCAT decision of 2001;
- The owner already has a permit for a car wash in an industrial area which is a much more suitable location;
- Pollution of water courses may result from the used wash water.

The applicant has provided a letter of support from a planning consultant for the application. The consultant discusses the previous VCAT decision and states that the retention of the existing dwelling overcomes the previous problems associated with the development. He believes that the proposal could be supported subject to the provision of the following:-

- The execution of a Section 173 agreement covering the renovation of the existing dwelling;
- Appropriate fencing;

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- Appropriate landscaping, particularly along East Street and the exit onto Raglan Street;
- Appropriate signage, including directional signs.

Relevant Policies / Council Plan implications:

A relevant objective is found in Section 5.2 of the Council Plan 2006 - 2011 which states that Council *will respect and honour our unique historical and cultural attributes.*

STATE PLANNING POLICY FRAMEWORK (SPPF)

Clause 15.11 – Heritage, states that Responsible Authorities should identify, conserve and protect places of natural or cultural value from inappropriate development. The objective of the clause is:

To assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Clause 21.03 of Council's MSS articulates the vision for the Shire which includes:

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

Clause 21.05 Settlement and Housing

The need to maintain and enhance the character and amenity of residential areas in Daylesford township.

Clause 21.09 Environment and Heritage

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.

Clause 22.07 Settlement

- *To ensure that new use and development is compatible with the underlying character of the surrounding built areas.*
- *To ensure that non-residential uses in residential areas do not adversely effect residential amenity*

ZONE AND OVERLAY PROVISIONS

The site is located within a Residential 1 Zone. The purpose of the Residential 1 Zone is as follows:

- *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*
- *To encourage residential development that respects the neighbourhood character.*

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- *In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.*

A car wash is a Section 2 “permit required use” under the Residential 1 Zone. Clause 32.01-6 requires that a permit is required to carry out buildings and works associated with a Section 2 use.

The site is also subject to three overlay controls. These are an Environmental Significant Overlay Schedule 1 and 2 and a Heritage Overlay.

The purpose of the ESO 1 is to protect water quality of the catchment areas, especially in respect to domestic water supply whilst the purpose of ESO 2 is to protect the water quality of the mineral springs and aquifers.

Heritage Overlay HO 698 applies to the land. This covers the Daylesford Railway Heritage Precinct. The citation for this precinct states that *“the precinct should be designated as area of special significance within the Council’s planning scheme, having regard to its historic importance.”*

The purpose of the Heritage Overlay is to:

- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

A permit is required for buildings and works under all of the overlays.

The proposed use and development are also subject to the provisions of Clause 52.13 which are the particular provisions of the “car wash”. The purpose of this Clause is to:

- *To ensure that amenity, site layout and design are considered when land is to be used for a car wash, especially if the site adjoins a residential zone.*
- *To ensure that use of land for a car wash does not impair traffic flow or road safety.*

The Clause specifies requirements relating to layout that must be met unless the Responsible Authority considers that a better design solution will result and grants a permit to vary the requirements. There are some areas of non-compliance which are discussed below.

ASSESSMENT

A permit is required for the use of the land for a car wash under the Residential Zone as well as for the buildings and works associated with a Section 2 use. Buildings and works approval is also required under the three overlays. Therefore both the use and development must be considered when assessing the application.

The layout does not meet the standards of Clause 52.13 – Car Wash in the following areas:

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- The crossover is less than 1.8 metres from a crossover on another property.
- The applicant has not provided a queuing lane on the site able to accommodate 10 vehicles before entry to a car wash.
- A 3metre landscape buffer has not been provided along the common residential zone boundaries.

Having regard to the existing commercial uses on both residential zone boundaries, this area of non-compliance is not considered detrimental. Minor amendments to the layout could achieve compliance.

Although the current proposal differs from the previous car wash application lodged in 2000; the VCAT decision in respect to that application provides helpful guidance in respect to assessing this application.

The importance of preserving the vista when entering Daylesford along the Midland Highway from the north-east was an important consideration in the previous appeal. The Tribunal stated that *"It would be desirable to retain the existing dwelling with appropriate landscaping."* The retention of the existing dwelling therefore goes a considerable way in addressing one of the previous areas of concern in respect to the impact of the development on the streetscape.

The Tribunal further found that the presence of the surrounding non-conforming uses (garden supplies and concrete plant) *"would probably make it undesirable and unattractive for the subject land to be used for a dwelling. It is therefore reasonable that the subject land should be used as an alternative use."* The tribunal concluded however that *"I do not consider that a car wash would be an appropriate use having regard to the Heritage Overlay. Any alternative use may or may not utilise the existing dwelling."*

When having regard to the Decision Guidelines set out in Clause 65.01, the Tribunal found that *"a car wash would simply be a third inappropriate use."*

It is clear that the retention of the house as proposed in the current application does not address all of the shortcomings identified in the VCAT decision. The impact on the streetscape is certainly reduced through locating the activity towards the rear of the site, partially screened by the dwelling. The applicant has emphasised the low impact nature of the proposal both in the accompanying submission and verbally at the consultative meeting.

Council's heritage adviser was concerned about the loss of the large oak tree on the site. The arborist's report found that the tree was a semi-mature specimen in good health with no major structural faults. Preservation of the root system is critical in retaining a tree within a development site. The report concluded that the proposal does not adequately accommodate the root protection zone and as a consequence the health of the tree is likely to be severely compromised, as is its stability in the ground and removal was therefore recommended. The location of the tree is in the central part of the site and even with substantial modifications to the layout it is difficult to see how it could realistically be retained.

The site is located in the Raglan Street section of the Midland Highway between the east of East Street and Camp Street which forms the eastern "gateway" to Daylesford township. This area already comprises a mix of residential and commercial uses, although single dwellings predominate. A number of non residential uses have utilised former dwellings (eg medical centres, tourist accommodation) such that the streetscape still retains its residential vista.

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Council recently approved the preparation of a planning scheme amendment to introduce a Design and Development Overlay to address the entrances to Daylesford. The report noted that limiting commercial sprawl and ad hoc unsympathetic redevelopment of key sites is crucial in achieving an attractive and inviting “gateway” to the town. However, this amendment has not commenced and thus has no weight in the consideration of this application as it has not reached the point where it can be considered to be “seriously entertained.”

Apart from the removal of the tree, comments from Council’s Heritage Adviser were generally favourable towards the proposal as it provided for the retention of the dwelling. However, there are other matters that must be addressed under the planning scheme apart from the retention of the dwelling; in particular the proposed location of the car wash. The site does not have an individual heritage overlay but is listed as part of the Daylesford Railway Heritage Precinct. Indeed, the previous VCAT decision indicated concern for the use at that location over and above the importance of retaining the dwelling. As previously stated, the Tribunal was not adverse to the use of the site for a **suitable** commercial activity and stated that “*any alternative use may or may not utilise the existing dwelling.*”

It is considered that the proposal does not accord with the provisions of the LPPF and the purpose of the zone. The Residential zone allows a limited range of non residential uses in **appropriate** locations whilst the LPPF refers to the need to maintain and enhance the character of residential areas. For the above reasons, the site is not considered **appropriate** and the development fails to enhance the area. In addition it is contrary to the purpose of the Heritage Overlay.

The current proposal has not satisfactorily addressed the previous problems identified in the VCAT decision and it is considered an inappropriate activity within this location. Accordingly, refusal is recommended.

Community / Engagement / Communication / Consultation:

A consultative meeting was held on 14 August 2007 between several of the objectors and the applicant and owner. The objectors’ areas of concern were identified and have been summarised above.

Financial & Resource Implications Initial & Ongoing

Potential VCAT appeal costs.

Recommendation:

That Council having caused notice of Planning Application No. 2007/9405 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 resolve to issue a Refusal to Grant a Permit under the provisions of the Hepburn Planning Scheme in respect of the land known and described as 2 Raglan Street Daylesford, for a car wash in accordance with the submitted plans, with the application dated 22 May 2007, on the following grounds:

- 1 *The proposal fails to meet the relevant objectives of both the State Planning Policy Framework and the Local Planning Policy Framework.*
- 2 *The proposal does not accord with the purposes of the Heritage Overlay*

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due to the adverse affect of the development on the character and appearance of the site and the heritage precinct.

- 3 *The proposal is contrary to the purpose of the Residential Zone as the site is not an appropriate location for the use.*

Moved the Officer's Recommendation.

Moved: Cr Bill McClenaghan

Seconded: Cr Janine Booth

Carried.

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9.4 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, GOULBURN-MURRAY WATER AND STEPHEN JOHN PARSONS AND JULIE MAY PARSONS, PLANNING PERMIT NO 2006/9263

(A/O – Planning Administration Officer)

File Ref: 3/5085/00350/P

Synopsis

This report concerns a Section 173 Agreement that provides for the installation, operation and maintenance of a wastewater treatment and disposal facility, and a total number of no more than four (4) bedrooms under Conditions 8.3 – 8.9 of Planning Permit 2006/9263, issued for building and works associated with a dwelling, dependent person's unit and outbuilding.

Applicant: STEPHEN JOHN PARSONS AND JULIE MAY PARSONS

Property: 155 OLD BALLARAT ROAD, SAILORS HILL
PC 356237, PARISH OF WOMBAT

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.

The agreement provides for the installation, operation and maintenance of a wastewater treatment and disposal facility, and a total number of no more than four (4) bedrooms (or rooms that can be used as bedrooms) in buildings on the land under Conditions 8.3 – 8.9 of Planning Permit 2006/9263.

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, Goulburn-Murray Water and Stephen John Parsons and Julie May Parsons as detailed under item 9.4.1.*

Moved the Officer's Recommendation

Moved: Cr Bill McClenaghan

Seconded: Cr Heather Mutimer

Carried.

9. STATUTORY MATTERS

9.5 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, GOULBURN-MURRAY WATER, J L MOTT AND P F MOTT, PLANNING PERMIT NO 2004/8153

(A/O – Planning Administration Officer)

File Ref: 3/3120/00400/P

Synopsis

This report concerns a Section 173 Agreement that places requirements for the inspection and maintenance of the effluent disposal system as a condition of a Planning Permit issued for two (2) group accommodation cabins.

Applicant: J L MOTT AND P F MOTT

Property: 239 HEPBURN-NEWSTEAD ROAD, ELEVATED PLAINS
CAS 2B, 2E, 6, SECTION 3C, PARISH OF FRANKLIN

Report

The land owner/applicant is to enter into an agreement with the Responsible Authority and pursuant to Section 173 and 174 of the Planning and Environment Act 1987, in accordance with the planning permit.

The agreement provides that owners enter into a Section 173 Agreement that places requirements for the inspection and maintenance of the effluent disposal system as a condition of a Planning Permit issued for two (2) group accommodation cabins as part of Planning Permit 2004/8153.

Relevant Policies / Council Plan Objectives

Nil

Financial Implications

Nil

Recommendation:

- 9.5.1 *That Council sign and seal the Section 173 Agreement between Hepburn Shire Council, Goulburn-Murray Water and JL Mott and PF Mott, as detailed under item 9.5.1.*

Moved the Officer's Recommendation

Moved: Cr Bill McClenaghan

Seconded: Cr Heather Mutimer

Carried.

CLOSE OF MEETING: **The Meeting closed at 8.23pm.**

ATTACHMENTS

ATTACHMENT 1 (Item 3) MINUTES OF :
3.1 THE ORDINARY MEETING OF COUNCIL HELD
ON 21 AUGUST 2007 ;
3.2 THE SPECIAL MEETING OF COUNCIL HELD ON
28 AUGUST 2007.

ATTACHMENT 1

**Minutes of The Ordinary Meeting Of Council
Held On 21 August 2007
and
Minutes of The Special Meeting of Council
Held on 28 August 2007.**

The minutes will be tabled at the meeting

